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PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Thursday, May 24, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We anticipate Memorial Day, O gracious God, with praise for those who died that others might live. May the remembrance of their devotion be a beacon of light to their faithful deeds and a hope for the time when conflicts and wars will be put aside and we will celebrate together as one people the shared heritage of peace that is Your gift to every person. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from California [Mr. Bosco] will please come forward and lead the House in the Pledge of Allegiance.

Mr. BOSCO led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 644. An act to amend the Wild and Scenic Rivers Act by designating segments of the East Fork of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1159. An act to amend the National Trails System Act by designating the Juan Bautista de Anza National Historic Trail, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2088. An act to amend the Energy Policy and Conservation Act to extend the authority for titles I and II, and for other purposes;

S. 2354. An act to amend the Housing and Community Development Act of 1974 to make technical corrections for grants to Indian tribes, and for other purposes; and

S. 2388. An act to provide for the striking of medals in commemoration of the centennial of Yosemite National Park, and for other purposes.

SETTING THE RECORD STRAIGHT ON THE PLO

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, this week Congresswoman ROS-LEHTINEN and I begin the process of setting the record straight on the PLO.

Each week, Members of both parties are going to come to the floor to give evidence of the deadly hypocrisy practiced by the PLO.

In 1988, Arafat promised no more violence and to recognize Israel.

But while Arafat promises peace in English, when he speaks to audiences in the Arab world he blatantly urges violence.

The well-respected journalist Steve Emerson has found that in the past 14 months, constituent groups of the PLO have openly taken credit for 18 terrorist attacks.

Arafat is not shy about this. The French news agency recently reported on a speech in which he called for a holy war against the Soviet Jews coming to settle in Israel, in any part of Israel.

Knowing the facts, imagine what an Israeli must think, watching the Western world being duped by Arafat's crude con game.

Whether he speaks in New York or Geneva, for the world community to let this terrorist address the United Nations is an outrage. I hope that other Members who are interested in peace based on truth, not fiction, will come forward and make sure the facts are known before the next time the State Department certifies PLO compliance with their promises, or contemplates letting a terrorist have a U.S. visa.

CAPITAL GAINS TAX NEEDED TO SAVE JOBS

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, orders for durable goods are continuing to decline monthly. The seed corn for our growing economy in the 1990's is failing to be planted. Economists around the globe recognize that the tax, the discrimination, the burden on capital formation in America, is doing severe damage to a prosperous economy for the following decade.

Our competitors in Korea, Singapore, Hong Kong, West Germany, Japan, and elsewhere, recognize that tax on capital formation is wrong and have a virtual zero tax, 5, 15 percent at most. But in America we not only have a double taxation on dividends, but the highest capital formation tax of any place in the industrialized world.

When we increased the taxes to 33 percent on capital gains a year and a half ago, we set in motion what is appearing to be a disastrous undermining and destroying of the bedrock of our economy. We must in this Congress lower the taxes on capital gains before we destroy all the jobs of the next decade.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

RESIGNATION AS MEMBER AND APPOINTMENT AS MEMBER TO CERTAIN STANDING COMMITTEES OF THE HOUSE

The SPEAKER pro tempore (Mr. Bosco) laid before the House the following resignation as a member of the Committee on Banking, Finance and Urban Affairs and the Committee on the Budget:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 24, 1990.

Hon. THOMAS FOLEY,
Speaker, House of Representatives, H-204, The Capitol, Washington, DC.

DEAR MR. SPEAKER: I hereby resign my seats on the Banking, Finance and Urban Affairs Committee and the Budget Committee.

Sincerely,

MARCY KAPTUR.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

Mr. HOYER. Mr. Speaker, I offer a privileged resolution (H. Res. 401) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 401

Resolved, That the following Member be, and is hereby, elected to the following standing committee of the House of Representatives:

Committee on Appropriations, Marcy Kaptur, Ohio.

SEC. 2. Mr. Michael R. McNulty, of New York, shall rank after Mr. Charles A. Hayes, of Illinois, on the Committee on Post Office and Civil Service.

The resolution was agreed to.

A motion to reconsider was laid on the table.

BAN ON ASSAULT WEAPONS: A COURAGEOUS STEP

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I am proud to take the well today to salute the Members of the other body who yesterday voted for a ban on assault weapons. I think that was a symbol of courage on their part and a symbol of fortitude because I realize, personally, the difficulty of supporting such a ban—even a broader ban.

I would like to mention, Mr. Speaker, that under the excellent leadership of the gentleman from New Jersey [Mr. HUGHES], the chairman of the Subcommittee on Crime, on which I am proud to serve, of the Committee on the Judiciary, we have reported out a bill which is now before the full committee that would allow the same treatment to be given to domestically produced assault weapons as is today given to the imported versions.

In essence, you cannot import these automatic and assault type military-style weapons. They should not be manufactured domestically. That is the essence of our bill. It has been reported from our subcommittee and it is before the full committee.

I do hope that when we come back after the Memorial Day recess that we can take that bill up so we can show in this Chamber the same kind of courage and fortitude and devotion to safety in the streets that was exhibited yesterday in the other body.

IMPROVING RELATIONS WITH NORTH KOREA

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and exend his remarks.)

Mr. HASTERT. Mr. Speaker, today I would like to call to the attention of the House an extraordinary mission led by one of our fine colleagues on the other side of the aisle, the gentleman from Mississippi [Mr. MONTGOMERY].

On May 27, a delegation led by the distinguished chairman of the Veterans Affairs Committee, Congressman SONNY MONTGOMERY, will receive from the North Korean Government five sets of human remains. Officials of the Democratic People's Republic of Korea have stated that they believe these remains to be American soldiers who fought in the Korean conflict.

The repatriation of these remains is significant for a number of reasons. First, it will take place the day before our Nation's annual recognition of those men and women who fought so bravely and died giving their lives for our freedom. Also, it will be the first time since 1954 that North Korea has repatriated remains from the Korean conflict.

Although almost 40 years have passed since the fighting ended, there are American heros who went to Korea to fight for democracy still unaccounted for.

It is my hope that this humanitarian gesture, if followed by other meaningful gestures by the North Koreans, will foster goodwill between both countries allowing for more remains to be returned and lead to the improvement of relations between our two countries.

We wish the gentleman from Mississippi [Mr. MONTGOMERY] Godspeed.

CONGRESSIONAL FRANKING NOT A PARTISAN ISSUE

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, regrettably later on this afternoon Members can anticipate possibly an acrimonious, certainly a partisan battle, over funding the use of the frank, a privilege that Members of Congress have exercised since the beginning of the Republic. The impression will be given I am sure by the minority that this is simply something that benefits only the majority.

I would like to call the attention of Members to a news article that appeared within the last year. It says, "National Republican Campaign Committee newsletter urges incumbents to use perks. Members instructed on ways to use the frank."

Attached to it is a newsletter, the campaign newsletter for Republican Members of Congress, called Incumbent. The article says, "Plan a strategy to develop your image. A well thought out communications game plan is the key to a favorable image."

We learned last year by researching the files of the Franking Commission that of those Members of Congress who use, four, five, or six newsletters, an excessive amount that has since been limited, they were 2 to 1 Republican.

This is not a partisan issue, despite the way it will be debated today.

□ 1010

THE TIME IS NOW FOR A BALANCED BUDGET AMENDMENT

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, this morning several colleagues and I from both sides of the aisle will file a motion with the Clerk of the House to make available a discharge petition requiring the consideration of a balanced budget amendment to the Constitution.

During this Congress 247 Members have cosponsored legislation requiring a balanced budget. Despite this widespread bipartisan support, there has not been even committee consideration of the measure.

Polls show Americans overwhelmingly favor a balanced budget amendment to the Constitution. Most States already require that their budgets be balanced. Thirty-two States have called for a constitutional convention to consider passage of a balanced budget amendment.

It is time to debate the balanced budget amendment on the House floor, and then to have a rollcall vote on it. I urge my colleagues to sign the discharge petition when it is filed later this morning.

THE ADOLESCENT TOBACCO EDUCATION AND PREVENTION ACT

(Mr. ATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ATKINS. Mr. Speaker, Secretary Sullivan is testifying today before the Senate to support a ban on cigarette vending machine sales. But he says it is up to the States to pass the laws. I laud the Secretary's decision; however it is time for a reality check. We need Federal legislation.

We have seen how ineffectual the current State laws are at curtailing children's smoking. Despite laws in 44 States banning the sale of cigarettes to minors, 90 percent of all smokers begin their life-long addiction to cigarettes before the age of 20 and over half pick up this deadly habit by the age of 14.

We have heard great words from Secretary Sullivan, but it is time to get off the dime and take action. The administration is trying to have it both ways by placating American citizens with soothing words about health, while winking to the cigarette industry that no Federal action will be forthcoming.

I have introduced H.R. 665, the Adolescent Tobacco Education and Prevention Act, which will ban the sale of cigarettes through vending machines.

Secretary Sullivan, I applaud your effort, but I also say "in for a penny, in for a pound." We need Federal legislation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Bosco). The Chair will announce that he will accommodate four more 1-minute speeches on each side, and then we will proceed with the business of the day.

NATIONAL TEACHER APPRECIATION DAY

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, I am today joined by 166 of my colleagues in introducing legislation designating October 3, 1990 as National Teacher Appreciation Day.

There are over 2½ million teachers in the United States, and we commend them for the job they do in the forefront of our educational system. It is in their dedication and devotion to our children's education that America places its hopes for the future.

A teacher, many of us in this body know, teaches that a person is smart if he or she learns something good every day, perfect if they never make mistakes knowingly, content if they take action to make things happen, and happy by choosing to be happy.

Thus, it is with great admiration for the jobs our teachers perform and for the responsibility that they hold that we are introducing this legislation commemorating America's teachers.

THE PLO

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, in March of this year, the State Department issued its first report on the PLO's adherence to its promises to renounce terrorism and recognize Israel. That report omitted many important episodes in which the PLO has violated its commitments.

The State Department's next report is due in July. In the interests of making sure that this report is thorough and accurate, Representative CHARLES SCHUMER and I, and other colleagues will raise these PLO violations each week on the House floor.

In the weeks since the State Department's report, the PLO has stepped up its opposition to Soviet emigration. On April 7, an Agency France-Presse report stated that Arafat urged Muslims to launch a holy war against Soviet emigration. And, on May 11, the New York Times reported that Arab nations will convene a summit on the issue of the Soviet migration. Yasser Arafat has been instrumental in elevating this issue for other Arab leaders. Israel exists to be a homeland for Soviet Jews, as well as Jews from other places who are displaced.

Mr. Speaker, this is only one report of PLO actions which violate Arafat's commitments. It is my deep hope that the State Department will include this incident, and others that will be discussed on the floor in the coming weeks, in its upcoming report on the PLO.

CONGRATULATIONS TO THE SPRINGFIELD INDIANS, AMERICAN HOCKEY LEAGUE CHAMPIONS

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, it brings me great pleasure this morning to congratulate the Springfield Indians, champions of the American Hockey League. In a fitting end to an inspirational season, the Indians overcame a two goal deficit to defeat the Rochester Americans in overtime clinching the Calder Cup. Their victory is a testimony to hard work, discipline and teamwork.

At the beginning of the 1989-90 season, the Springfield Indians were looked upon as underdogs. After a slow start, the Tribe began to find their stride. They finished third in the Northern Division and with victories over Cape Brenton and Sherbrooke, they earned the right to play for the Calder Cup. When Jeff Rohlicek deflected Wayne McBean's slapshot into the net for the winning goal, the Indians gave the city of Springfield its sixth AHL championship. It was a thrill for me to be at the game with my family.

Mr. Speaker, I would like to send out my congratulations to the Indians Coach Jim Roberts for his dynamic leadership throughout this championship season. I would also like to commend Most Valuable Player Jeff Hackett for his outstanding goal tending during the playoffs. And finally, I would like to thank the team. From a fans perspective, you made the season a great one for Springfield.

FARM SUBSIDIES

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, after a spending frenzy at the subcommittee level, the House Agriculture Committee has decided to freeze target prices—the basic element that determines the amount of farm subsidies.

This is a welcome acknowledgment by the committee that the attitude of the House toward excessive farm spending has changed. The committee would have been unable to pass a more lavish bill.

We must, however, keep in mind an important point:

Target prices have been slowly declining since 1987, the year farm spending went off the charts and reached $26 billion. The committee has decided to terminate this trend. By voting to stop the reduction, the committee is voting to stop whatever progress has been made in recent years.

In effect, the Agriculture Committee is voting to halt the movement toward less government involvement in agriculture and halt the movement toward a freer farm economy. And it is congratulating itself merely because it did not change course completely and end up $14 billion over budget.

I think we should do better than this.

BOXING

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, last week the State of Wisconsin allowed boxer Aaron Pryor, diagnosed as legally blind in his left eye, to fight in Madison. How can a boxer who is legally blind in one eye continue to fight? Easy, find a State that has no boxing commission or weak health and

safety regulations—such as Wisconsin. Aaron Pryor got a license to fight through the Wisconsin Department of Regulations and Licensing which obviously is not qualified to regulate fighters. Boxing commissions around the country condemned the State for allowing Pryor to fight.

Adding to the controversy, the Wisconsin Department is now deciding whether to grant former heavyweight contender Jerry Quarry a license to fight on June 2. Quarry is 45 years old and has not fought in 7 years. Quarry's promoters, however, claim he is fit to fight. This decision should be made by a boxing commission with established health and safety standards. Unfortunately this is not the case in Wisconsin.

As a result, Governor Thompson is now urging creation of a three-member Wisconsin advisory boxing commission. While Governor Thompson is to be commended for his commitment to establish a boxing commission, it is clear that this is only part of the solution.

In today's boxing arena a frightening pattern exists. Boxers can go from State to State and fight unchecked. If a boxer cannot meet the health standards of one State he simply moves on to a State with little or no safety regulations. The result is an alarming number of deaths and injuries in the ring.

It is time to establish uniform health and safety standards in boxing. I have introduced legislation to establish a federally chartered, private nonprofit corporation to create and enforce minimum health and safety standards for professional boxers. Congress cannot continue to ignore this problem. Today let's cleanup our air. Tomorrow let's cleanup boxing.

BALANCED BUDGET AMENDMENT

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, this morning myself, the gentleman from Texas, Mr. CHARLIE STENHOLM, the gentleman from Delaware, Mr. CARPER, and the gentleman from Oregon, Mr. BOB SMITH, will be joining together to drop a discharge petition for House Joint Resolution 268, the balanced budget amendment. We are now is a budget summit. We are now as a body talking about raising taxes because we have no appetite to cut spending, or we have no appetite to control spending.

□ 1020

The reason is, Mr. Speaker, we have lost the political will to be fiscally responsible. Until we revise the budget process, until we build some absolute stops which would include a balanced budget amendment to our Constitution, to in fact require this body to balance the budget and be fiscally responsible, we cannot be.

It is time in this year of budget summits that we gain the reality that a balanced budget amendment would bring to this body.

We will move for discharge. We will gain that discharge this year. It is important that this year we vote on the balanced budget amendment on the floor of the House and gain some political reality and some fiscal responsibility.

SPEAK OUT TO PROMOTE PEACE AND JUSTICE FOR THE PALESTINIANS

(Mr. SAVAGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAVAGE. Mr. Speaker, I rise this morning to add my voice to the one or two who have dared rise on this floor to condemn the fatal gunning down of Palestinians by Israeli troops in the occupied Palestinian territories in the Middle East.

We express our concern about the lack of independence in Estonia or Latvia or Lithuania, the lack of independence in Afghanistan, but I tell you we are all God's children or none of us are.

I ask: Where are those voices of concern, of compassion, of courage and conscience? Why do we not have them come to this well to speak out to protect and promote peace and justice for the Palestinians as we should equally for all people on this Earth?

SECRETARY OF STATE BAKER SUPPORTS PASSAGE OF CONFERENCE REPORT ON H.R. 4404

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, since we have the observance out in front of the Capitol and the consideration of the rule on the conference report on H.R. 4404, let me at this juncture read into the RECORD quickly a letter from the Secretary of State, Mr. Baker, in which he says:

DEAR BOB: As you prepare to vote on both the rule and the Conference Report on H.R. 4404, the Dire Emergency Supplemental Appropriations Act, I want to express my strong support for expeditious passage. I thank you and your colleagues for substantially meeting the President's request for emergency assistance for Panama, Nicaragua, and for refugees. Furthermore, I wish to express my appreciation for your inclusion of the provision that repeals section 614 of the fiscal year 1990 Commerce, Justice, State Appropriations Act.

Over the last year, through a foreign policy based on bipartisanship, the United States has helped the people of Panama and Nicaragua win their freedom after years of dictatorship. Our emergency assistance will provide the political and economic support that these two new governments will need if the democratic process is to continue in these two countries. All of us should be proud and share jointly in those achievements.

It is critical that money begin to flow to Panama and Nicaragua before the coming recess. Your efforts to accomplish that goal are greatly appreciated.

Sincerely,

JAMES A. BAKER III.

RESPONSIBILITY FOR THE S&L SCANDAL SHOULD BE FAIRLY ALLOCATED

(Mr. SMITH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Vermont. Mr. Speaker, yesterday Congress received information from the Secretary of the Treasury Brady that the cost of the S&L bailout continues to escalate. Mr. Speaker, people in Vermont and people all over the country are angry and they have every right to be as they look at a bill that resembles a black hole in space that they and their children will pay, with apparently no responsibility.

I think now there are three things that this Congress can do and should do to keep its faith with the American people. First, is it not time that we had a special prosecutor to look into the seeds of this scandal and to make sure that responsibility is allocated fairly for it, to begin with?

Second, now that that committee has heard the Secretary of the Treasury and Neil Bush, son of the President, is it not time they heard from former Speaker James Wright, former Whip Tony Coelho and former Member of this body, Ferdinand St Germain, of Rhode Island, all of whom had that responsibility?

Third, Mr. Speaker, let us make sure that the bankers and employees who broke the law do their time and receive justice.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Bosco). The Chair will take one more 1-minute speech.

POWER STRUGGLE BETWEEN CHAIRMAN OF THE COMMITTEE ON ARMED SERVICES AND SECRETARY OF DEFENSE

(Mr. GINGRICH asked and was given permission to address the House for 1-minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, as an Army brat who grew up in a variety of military posts from Fort Reilly to Or-

leans, France, to Stuttgart, Germany, to Fort Benning, I was extremely saddened to see this morning's article about the Democratic chairman of the Committee on Armed Services blocking rational reprogramming.

Thousands of our men and women in uniform are going to suffer. Thousands of dependents, children, spouses are going to suffer because of a petty power struggle between the chairman of the Committee on Armed Services and the Secretary of Defense.

The Secretary of Defense should be allowed to manage the spending cuts to protect the men and women in uniform, and I think it is outrageous that the men and women in uniform and their families would be used as a hostage by the Democratic chairman of the Committee on Armed Services in a power struggle to impose his ideological values on how we cut spending.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3978

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

CONFERENCE REPORT ON H.R. 4404, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR DISASTER ASSISTANCE, FOOD STAMPS, UNEMPLOYMENT COMPENSATION ADMINISTRATION, AND OTHER URGENT NEEDS, AND TRANSFERS, AND REDUCING FUNDS BUDGETED FOR MILITARY SPENDING ACT OF 1990

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 400 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 400

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report and amendments reported from conference in disagreement on the bill (H.R. 4404) making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes. All points of order against consideration of the conference report and motions printed in the joint statement of the managers to dispose of amendments reported from conference in disagreement are hereby waived. The conference report, Senate amendments, and motions printed in the joint statement of the managers to dispose of amendments reported from conference in disagreement shall be considered as having been read when called up for consideration.

SEC. 2. H. Res. 112, H. Res. 155, H. Res. 291, and H. Res. 292 are hereby laid on the table.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 400 provides for the consideration of the conference report on H.R. 4404, the dire supplemental assistance bill. The rule waives all points of order against consideration of the conference report and motions printed in the joint statement of the managers to dispose of amendments reported from conference in disagreement. The conference report, Senate amendments, and motions printed in the joint statement of the managers to dispose of amendments reported from conference in disagreement are considered as having been read when called up for consideration.

Mr. Speaker, section 2 of the rule provides that House Resolution 112, House Resolution 155, House Resolution 291, and House Resolution 292 are laid on the table.

Mr. Speaker, I will not take much time on the conference report itself. We are all aware of the history of this bill. The conference agreement provides a net increase of $2.316 billion in new budget authority. The new domestic discretionary budget authority of $2.267 billion is offset by defense rescissions of $2.028 billion. The conference agreement also contains $2.007 billion in new mandatory spending budget authority.

Mr. Speaker, the conference agreement on H.R. 4404 contains the money for Panama and Nicaragua that the President has requested and provides the necessary authorities to obligate the funds.

Mr. Speaker, the conference agreement contains several controversial provisions and under this rule, the House will be able to work its will under the normal procedures of the House.

□ 1030

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule before Members is necessary for the reason as explained, funds for Nicaragua and Panama.

There are many amendments in disagreement, and I understand there is controversy on several of them, one which affects my hometown of Kingsport, TN. A fight will be made, I understand, to disagree with the Senate amendment.

I have some requests for time, and I urge the adoption of the rule. I think it is necessary to get down to debate the bill itself in the event there has to be another conference with the Senate, so we can bring the measure back to the floor and pass it at a reasonable hour this afternoon.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in opposition to the rule. I rise in opposition to the rule not out of opposition to the conference report or to the dire supplemental, or even for the rule itself overall. I rise in opposition to the rule because of the provision that the rule makes to waive all points of order against consideration of the motion printed in the joint statement.

There is one particular motion printed in the joint statement that this Congress, indeed, should be absolutely ashamed of itself were we to adopt. It is No. 124 and will be considered at a later time during the debate. I rise in opposition to the rule to call to the attention of the Members that as the rule waives all points order against the consideration of this amendment, the point of order that we would be waiving is a point of order that prohibits the Committee on Appropriations from authorizing on an appropriations language.

Let me read to Members what amendment No. 124 does in its opening sentence. It says, "Notwithstanding the repeal of section 107(b)(3) of the Housing and Community Development Act." The repeal of section 107(b)(3) of the Housing and Community Development Act, Mr. Speaker, was a section that this House adopted having been brought to the House floor by the authorizing committee, the Committee on Banking, Finance, and Urban Affairs, with the full concurrence of Republicans and Democrats alike on that committee, and adopted, and was signed by the President into law that repealed the Secretary's discretionary fund.

The Committee on Appropriations, asked for by the Senate and apparently gone along with by the House conferees, has, in fact, decided to repeal the authorizing language, the authorizing language repealed that discretionary fund to reinstate, over the objections of the authorizing legislation, 41 special earmarked projects by name. Therefore, I urge a no vote on the rule so that the only points of order that could be waived for consideration of this conference report would be points of order that, in fact, do no great damage to the process. It does great damage to the process to have the Congress as a whole follow the authorizing committee on housing, deauthorize the discretionary fund because of the scandals, and then turn back around and say, well, notwithstanding that repeal, the Committee

on Appropriations has decided to fund 41 special projects by name.

Let me talk about those 41 special projects for just a moment. There is no doubt in my mind that each of these 41 special projects that the Committee on Appropriations has instructed HUD to fund, there is no doubt that they are good projects. No doubt some are better than others. But they all have something in common. First of all, they have been deauthorized as a whole. Second, they have all competed for grants against other similar projects. Third, they have all lost. Not a single one of these 41 projects has been able to win its competition against other similar projects of like kind. Let me correct that just a moment. Perhaps there are some who never competed at all. So what they all have in common is they all either competed and lost the competition or they chose never to compete at all. They have one other thing in common, and it will come up in regular debate. Each of these 41 projects takes away from something else. It is right on page 53 of H.R. 4404 of the conference report.

On page 53, the conference report or the amendment No. 124 in this agreement would reinstate, in the top of the page, these 41 special projects, each by name, each designated, each identified with a separate member of the conference committee or the Committee on Appropriations, and on the bottom of the page, the conferees would delete that money from urban homesteading.

That means that some 1,400 families, low-income families, below 85 percent of the poverty level, would be denied their only opportunity in this world, to own a home. The conferees would have Members adopt 41 projects whose overall funding had been deauthorized in the discretionary grant, reauthorize those, instruct HUD to fund each one of these in precise amounts, no matter what other considerations there are, no matter what other problems there are, no matter what other competition there is, and take the money away from low-income families who otherwise would have received their only opportunity to buy a home.

I urge a no vote on the rule, send it back to the Committee on Rules to bring back only a waiver of those points of order that do no great damage to the process.

Mr. FROST. Mr. Speaker, for the purpose of debate only, I yield 4 minutes to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Speaker, we will have another opportunity, of course, when the issue comes before the Members after the conference report.

I do want to say, though, that this will be the third time the House has voted on this. The third time. Not once, not twice, but the third time. The first time it was defeated on the motion to take the money out for these projects. He lost. The second time it occurred was when we had the HUD reform bill before the Members, and the gentleman's committee, on which I think he is a ranking member on the Subcommittee on Housing and Community Development, specifically included these projects as being exempt from repeal. They were not repealed. They were specifically exempted by the committee.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I am delighted to yield to my good friend, the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I would inquire if the projects are, in fact, authorized, why on line 3, page 53, does the committee require itself to say the words "notwithstanding the repeal of section 103(b)"?

Mr. TRAXLER. So there would not be questions in the minds of other people outside of this floor. The gentleman and I know in the Reform Act that these projects are exempted from repeal. Later today, I will have the legislation that the gentleman supported, presumably helped draft in his important position on that committee.

We will discuss the other issues raised by the gentleman later in the day. It would be totally incorrect to say that this is something new, that there is something wrong, that these have never been heard of before, or that they are not authorized.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I wonder if the gentleman would help a moment. The gentleman suggested we are trying to make certain that people off of this floor might clearly understand. Is the gentleman suggesting there may be some bureaucrats around who sometimes interpret what they want to interpret, out of legislative language?

Mr. TRAXLER. The gentleman, of course, is totally correct.

Mr. LEWIS of California. If the gentleman will continue to yield, I had that problem not just in this bill but in many bills.

Mr. TRAXLER. I recognize the point the gentleman makes.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield for a point of clarification?

Mr. TRAXLER. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, we will vote the merits and demerits of the process of the projects. Let me suggest what the authorizing legislation does, which the Committee on Appropriations would seek to repeal by the words of their act. What it does is repeals the discretionary fund, but it allows, at the Secretary's discretion, the Secretary to fund these special projects, if he had wanted to, and he has chosen not to.

So this committee report language would then require each of these to be funded as opposed to allowing it to be funded in a discretionary program. I think that is an accurate reading of what the authorizing language did.

Mr. TRAXLER. Mr. Speaker, I thank the gentleman for the clarification, and I think we are moving closer to reality now. We will discuss that also, later today. I thank the gentleman for his contribution, and especially want to thank him for his keen interest in ever, ever observing the processes that go on in the appropriation bill. He makes significant contributions to that bill on most occasions.

□ 1040

Mr. QUILLEN. Mr. Speaker, I yield two minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it has come to my attention that there are going to be some Members who are going to fight the waivers in this bill when we get to the substance of the bill itself, based upon the fact that the authorization does not exist for the Panama and Nicaragua money. That is something I am extremely sympathetic with. It seems to me we ought to have authorizations in place before we bring bills to the floor.

I would suggest to some of those Members who are going to make their fight there, however, that they ought to be out here fighting this rule. I am somewhat surprised by the fact that they are not here fighting the rule that grants the waivers but instead are going to go after the waivers in the bill itself. That also puzzles me because the fact is that there is an authorization sitting at the desk that could have been passed last night that would have gotten us by the whole problem. The Senate has passed a foreign aid authorization bill. It is sitting at the desk. On our side, we were prepared to allow the Committee on Foreign Affairs by unanimous consent to pass that authorization and thereby put it in place to preserve the prerogatives of the House. That particular route was not chosen by the Committee on Foreign Affairs. So instead some Members tell me they are going to come to the floor and fight the waivers.

I would suggest that they have failed the House in two instances, then. They failed to bring the authorization bill to the floor, as was available to them last night, and, second, today they are failing to come to the floor and fight the rule which grants the waivers in the first place. I think that what we ought to do is require

Members to work the process the way the process should be worked.

I am just disappointed in this. I would urge Members to support this rule despite the fact it has waivers in it, because both leaderships agreed in this particular instance and it has been worked out as part of the process. And I would urge support for the appropriation bill itself. Then I would urge the House to vote down a lot of the amendments in disagreement which contain considerable pork so that we can move the process forward and get the Panama and Nicaragua money moving but to do so without the load-up of pork which was put in by the Appropriations Committee.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time. I urge adoption of the rule, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time. There are controversies that can be dealt with during the consideration of the conference report and the amendments in disagreement today. I urge adoption of the rule.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to section 2 of the House Resolution 400, the following House resolutions are laid on the table: House Resolution 112, House Resolution 155, House Resolution 291, and House Resolution 292.

Mr. WHITTEN. Mr. Speaker, pursuant to the House Resolution 400, just adopted, I call up the conference report on the bill (H.R. 4404) making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. Bosco). Pursuant to House Resolution 400, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, May 22, 1990, at page 11567.)

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on consideration of the conference report on the bill (H.R. 4404) making dire emergency supplemental appropriations for fiscal year ending September 30, 1990, and for other purposes, and that I may include extraneous and tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, this is a complex conference agreement because H.R. 4404 as it passed the House is a dire emergency supplemental, under Senate rules, it was increased by adding a number of items. With the support of the Appropriations Subcommittee chairmen, in order to preserve the right of the House to originate appropriations bills, I introduced H.R. 4828, which included numerous items added by the Senate to H.R. 4404, many of which the House conferees supported by which were not included in the original House bill as requested by the President. As introduced, H.R. 4828 included funds to meet needs identified after the House completed action on H.R. 4404 on April 3. These included funds to meet the needs resulting from floods in Arkansas, Louisiana, Oklahoma, and Texas; the full responses to the census; a need for food stamps required by law; the Older Americans Employment Service; measles immunization; Head Start; school dropout prevention; and emergency fire repairs for the Corps of Engineers headquarters building.

The conferees on H.R. 4404 considered these matters as well as the many other matters before the House added by the Senate.

Mr. Speaker, the course we follow here is necessary. I can fully understand the problems that our authorizing committees have, but in view of the time it takes them to act and in view of the fact that they have not been able to complete their work, the only way we can get these dire emergency needs met is to bring the bill up as we have. If we had not followed this course, we would have had to bring up a new bill in order to maintain the authority of the House in connection with appropriation bills. We were able to convince our colleagues on the other side and on the Rules Committee that it was better to do it this way than to delay it further by having to start over with a new bill, which I did introduce.

May I say that in this bill the funds for the discretionary programs included are more than offset by reductions in military spending of $2,028,461,000 in budget authority and $1,037,678,000 in outlays. We are under budget authority and authorized outlays.

The mandatory programs for food stamps, veterans pensions, veterans loan guarantees, and fire fighting are not required to be offset. In addition, the repeal of section 614 of the Commerce-Justice Act of fiscal year 1990 is not offset, with the concurrence of the Office of Management and Budget.

Mr. Speaker, funds in this supplemental are required now or else essential programs will be ended. This supplemental includes $50 million for disaster assistance, $20 million for flood control and coastal emergencies, $40 million for the Corps of Engineers to repair damages to Government facilities caused by the severe flooding in the Southeast and Southwest; $60 million for watershed and flood prevention operations in numerous States; $20 million for the emergency conservation programs; and $11 million for losses suffered by farmers as the result of the severe freeze in December.

The supplemental also includes $30,500,000 for the Measles Immunization Program; it includes $100 million to continue State Unemployment Service Administration programs; it includes $110 million to meet the poor response on the decennial census; it includes funds for the mandatory Food Stamp Program required by law; it includes $245 million for veteran loan guarantees; $190 million for veterans pensions required by law, and $94 million for veterans medical care. It includes $4,400,000 for the Food Safety and Inspection Service. Without these funds, meat and poultry processing plants will be forced to close down since the Department of Agriculture would be forced to furlough employees of the Food Safety and Inspection Service.

The bill includes $3,100,000 for the Commodity Supplemental Food Program. This will permit the program to continue the March 1990 actual participation levels through the end of the fiscal year.

The bill provides $720 million for economic support for Panama and Nicaragua requested by the President. It includes $50 million for the Low-Income Home Energy Assistance Program for the Nation. It includes $166 million authorized by law for the Head Start Program; $20 million for the School Dropout Prevention Program; and $72 million for the Low-Income Housing Program authorized by law.

This includes all these things, including the recommendations of the President in connection with Panama and Nicaragua. May I say again that we have reduced funds for military spending substantially above the amount for discretionary programs that is included here—except for repeal of section 614.

If this conference report is adopted, we will be late, because the House

acted on April 3 and the President requested this bill by April 5. We have been urged by the President and others involved to proceed before the Memorial Day district work period, and the only way again that we could proceed is to do as we have. Otherwise we would have to bring up a new bill and start with scratch.

Mr. Speaker, I ask my colleagues to stay with us and get this job done because delay would certainly be detrimental to the well-being of our country. It is true that in this bill many millions of dollars are in here for foreign aid, and I say again, as I have said many, many times, that we can only do these things in world affairs by taking care of our own country, because that is all we have to support our action. I urge our colleagues to stay with us and support us in the measure we have before us.

Mr. Speaker, I would like to insert two tables in the record that provide more detail on this conference agreement.

H.R. 4404—FISCAL YEAR 1990 SUPPLEMENTAL—MAY 24, 1990

[In millions of dollars]

	Budget authority	Outlays
Fiscal year 1990 (total mandatory and discretionary):		
President's request	1,699	1,041
House passed	616	502
Senate passed	827	691
Conference agreement	2,318	687

H.R. 4404—FISCAL YEAR 1990 SUPPLEMENTAL—MAY 24, 1990—Continued

[In millions of dollars]

	House passed		Senate passed		Conference agreement	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Disaster assistance	111	24	148	49	216	89
Foreign assistance	870	463	880	454	885	458
Unemployment Compensation Administration	(96)	96	(100)	100	(100)	100
Low-income energy assistance	50	46	50	46	50	46
VA-medical care	50	35	94	66	94	66
Census			110	80	110	80
FBI			185	2	185	2
Head Start			166	21	166	21
Community Service Employment for Older Americans			10	2	10	2
Health care for the homeless			2	1	2	1
Measles vaccination			32	18	30	17
School dropout prevention			23	3	20	3
Animal and plant health inspection			15	8	12	6
Refugee and entrant assistance					(6)	6
All other—miscellaneous	44	82	42	70	126	137
Subtotal—domestic	1,125	746	1,757	920	1,906	1,034
Defense recissions	−1,797	−588	−1,541	−920	−2,028	−1,038
Military personnel: Appropriations			+780	+749		
Reprogramming offsets			−2,114	−749		
Subtotal—discretionary	−672	+158	−1,118		−122	−4
Repeal of section 614			363	258	363	258
Total discretionary (net)	−672	+158	−755	+258	+241	+254
Mandatory appropriations: Firefighting	433	(1)	433	(1)	433	(1)
Food stamps	510	(1)	705	(1)	1,200	(1)
VA-compensation and pensions	190	190	190	190	190	190
VA-loan fund	150	150	245	238	245	238
Salaries of judges and witness fees	5	4	9	5	9	5
New mandatory spending	1,288	344	1,582	433	2,077	433
Bill total	+616	+502	+827	+691	+2,318	+687

[1] No outlays scored above, budget resolution assumptions.

DIRE EMERGENCY SUPPLEMENTAL, 1990 (H.R. 4404)

Doc No.		Supplemental Request	House	Senate	Conference	Conference compared with House	Conference compared with Senate
	TITLE I - DISASTER ASSISTANCE						
	DEPARTMENT OF DEFENSE - CIVIL						
	DEPARTMENT OF THE ARMY						
	Corps of Engineers - Civil						
.....	Flood control and coastal emergencies	.....	20,000,000	20,000,000	20,000,000	.....	.....
.....	General expenses	.....	.....	15,000,000	15,000,000	+15,000,000	.....
100-176	(By transfer)	(30,000,000)	.....	.....	.....	.....	.....
.....	Operation and maintenance, general	.....	.....	.....	40,000,000	+40,000,000	+40,000,000
	Total, Department of Defense - Civil	.....	20,000,000	35,000,000	75,000,000	+55,000,000	+40,000,000
	DEPARTMENT OF AGRICULTURE						
	Soil Conservation Service:						
.....	Watershed and flood prevention operations	.....	31,000,000	42,000,000	60,000,000	+29,000,000	+18,000,000
	Agricultural Stabilization and Conservation Service:						
.....	Salaries and expenses	.....	.....	11,000,000	11,000,000	+11,000,000	.....
.....	Emergency conservation program	.....	10,000,000	10,000,000	20,000,000	+10,000,000	+10,000,000
	Total, Department of Agriculture	.....	41,000,000	63,000,000	91,000,000	+50,000,000	+28,000,000
	INDEPENDENT AGENCIES						
	Federal Emergency Management Agency						
.....	Disaster relief	.....	50,000,000	50,000,000	50,000,000	.....	.....
	Total, Title I:						
	New budget (obligational) authority	.....	111,000,000	148,000,000	216,000,000	+105,000,000	+68,000,000
	(By transfer)	(30,000,000)	.....	.....	.....	.....	.....
	TITLE II - SUPPLEMENTAL APPROPRIATIONS						
	CHAPTER I						
	DEPARTMENT OF COMMERCE						
	Bureau of the Census						
.....	Periodic censuses and programs	.....	.....	110,000,000	110,000,000	+110,000,000	.....
100-176	(By transfer)	(110,000,000)	.....	.....	.....	.....	.....
	Economic Development Administration						
.....	Economic development assistance programs	.....	.....	.....	424,000	+424,000	+424,000
100-178	(Rescission)	-181,800,000	.....	.....	.....	.....	.....
	International Trade Administration						
.....	Operations and administration	.....	.....	.....	1,445,000	+1,445,000	+1,445,000
	National Oceanic and Atmospheric Administration						
.....	Operations, research and facilities	.....	.....	15,482,000	8,762,000	+8,762,000	-6,720,000
	Total, Department of Commerce	-181,800,000	.....	125,482,000	120,631,000	+120,631,000	-4,851,000
	DEPARTMENT OF JUSTICE						
	Legal Activities						
	Salaries and expenses, general legal activities						
100-122	(Vaccine injury compensation fund)	500,000	.....	.....	.....	.....	.....
.....	Salaries and expenses, antitrust division	.....	.....	2,500,000	.....	.....	-2,500,000
.....	(By transfer)	.....	.....	.....	(2,500,000)	(+2,500,000)	(+2,500,000)
	Salaries and expenses, United State Marshals Service						
.....	(by transfer)	.....	.....	(7,400,000)	(7,400,000)	(+7,400,000)	.....
.....	Fees and expenses of witnesses	.....	.....	2,600,000	2,600,000	+2,600,000	.....
	Total, Legal Activities	500,000	.....	5,100,000	2,600,000	+2,600,000	-2,500,000
	Federal Bureau of Investigation						
.....	Salaries and expenses	.....	.....	185,000,000	185,000,000	+185,000,000	.....
	Total, Department of Justice	500,000	.....	190,100,000	187,600,000	+187,600,000	-2,500,000
	DEPARTMENT OF STATE						
	Administration of Foreign Affairs						
	Secretary's special Lithuania Independence and						
.....	Recognition fund	.....	.....	10,000,000	.....	.....	-10,000,000
	Emergencies in the diplomatic and consular service						
100-122	(by transfer)	(3,000,000)	.....	.....	.....	.....	.....
	THE JUDICIARY						
	Supreme Court of the United States						
100-122	Salaries of justices	63,000	63,000	63,000	63,000	.....	.....

DIRE EMERGENCY SUPPLEMENTAL, 1990 (H.R. 4404), Continued

Doc No.		Supplemental Request	House	Senate	Conference	Conference compared with House	Conference compared with Senate
	Courts of Appeals, District Courts, and Other Judicial Services						
	Salaries and expenses:						
100-122	Salaries of judges	5,253,000	5,253,000	5,253,000	5,253,000	.....	.....
100-122	Other salaries and expenses	22,750,000	22,750,000	17,750,000	20,250,000	-2,500,000	+2,500,000
.....	(By transfer)	.....	.....	.....	(4,500,000)	(+4,500,000)	(+4,500,000)
	Total, salaries and expenses	28,003,000	28,003,000	23,003,000	25,503,000	-2,500,000	+2,500,000
	United States Sentencing Commission						
100-122	Salaries and expenses	700,000	700,000	700,000	700,000	.....	.....
	Total, Judiciary	28,766,000	28,766,000	23,766,000	26,266,000	-2,500,000	+2,500,000
	RELATED AGENCIES						
	DEPARTMENT OF TRANSPORTATION						
	Maritime Administration						
.....	Federal ship financing fund	.....	.....	.....	750,000	+750,000	+750,000
	Federal Trade Commission						
.....	Salaries and expenses	.....	.....	2,500,000	2,500,000	+2,500,000	.....
	Total, Chapter I:						
	New budget (obligational) authority	-152,534,000	28,766,000	351,848,000	337,747,000	+308,981,000	-14,101,000
	Appropriations	(29,266,000)	(28,766,000)	(351,848,000)	(337,747,000)	(+308,981,000)	(-14,101,000)
	Rescissions	(-181,800,000)	.....	.....	.....	.....	.....
	(By transfer)	(113,000,000)	.....	(7,400,000)	(14,400,000)	(+14,400,000)	(+7,000,000)
	CHAPTER II						
	DEPARTMENT OF DEFENSE - MILITARY						
	Procurement						
.....	Procurement of Ammunition, Army	.....	.....	238,000,000	238,000,000	+238,000,000	.....
.....	(Rescission)	.....	.....	-238,000,000	-238,000,000	-238,000,000	.....
	Research, Development, Test, and Evaluation						
.....	Research, development, test, and evaluation, Navy	.....	6,000,000	6,000,000	6,000,000	.....	.....
	Military Construction						
.....	Military Construction, Army Reserve	.....	.....	9,000,000	3,000,000	+3,000,000	-6,000,000
.....	Military Construction, Army National Guard	.....	.....	9,000,000	7,000,000	+7,000,000	-2,000,000
	Total, Military Construction	.....	.....	18,000,000	10,000,000	+10,000,000	-8,000,000
	General Provisions						
.....	Rescission	.....	-1,796,792,000	-1,540,974,000	-2,028,461,000	-231,669,000	-487,487,000
.....	Net effect of rescissions for personnel costs	.....	.....	-1,346,620,000	.....	.....	+1,346,620,000
	Total, Chapter II:						
	New budget (obligational) authority	.....	-1,790,792,000	-2,863,594,000	-2,012,461,000	-221,669,000	+851,133,000
	Appropriations	.....	(6,000,000)	(-1,084,620,000)	(254,000,000)	(+248,000,000)	(+1,338,620,000)
	Rescissions	.....	(-1,796,792,000)	(-1,778,974,000)	(-2,266,461,000)	(-469,669,000)	(-487,487,000)
	CHAPTER III						
	FUNDS APPROPRIATED TO THE PRESIDENT						
	Multilateral Economic Assistance						
	International Financial Institutions						
	Contribution to the International Bank for Reconstruction and Development:						
100-148	(Limitation on callable capital)	(1,609,671,408)	(1,609,671,408)	(1,609,671,408)	(1,609,671,408)	.....	.....
	Bilateral Economic Assistance						
	Agency for International Development						
.....	Development assistance	.....	.....	.....	5,000,000	+5,000,000	+5,000,000
.....	Sub-Saharan Africa, development assistance	.....	5,000,000	20,000,000	10,000,000	+5,000,000	-10,000,000
.....	Health development assistance	.....	.....	10,000,000	10,000,000	+10,000,000	.....
.....	Housing and other credit guaranty programs (limitation on guaranteed loans)	.....	(400,000,000)	(400,000,000)	(400,000,000)	.....	.....
.....	International disaster assistance	.....	.....	.....	5,000,000	+5,000,000	+5,000,000
	International Security Assistance						
.....	Economic support fund	.....	765,000,000	750,000,000	755,000,000	-10,000,000	+5,000,000
100-148							
100-157	(By transfer)	(800,000,000)	.....	.....	.....	.....	.....
.....	I-Match (guaranteed loans)	.....	.....	(200,000,000)	(200,000,000)	(+200,000,000)	.....
	DEPARTMENT OF STATE						
.....	Migration and refugee assistance	.....	75,000,000	75,000,000	75,000,000	.....	.....
100-148	(By transfer)	(70,000,000)	.....	.....	.....	.....	.....

DIRE EMERGENCY SUPPLEMENTAL, 1990 (H.R. 4404), Continued

Doc No.		Supplemental Request	House	Senate	Conference	Conference compared with House	Conference compared with Senate
.....	United States Emergency Refugee and Migration Assistance Fund	.....	25,000,000	25,000,000	25,000,000	.....	.....
	Total, Department of State	.....	100,000,000	100,000,000	100,000,000	.....	.....
	Total, Chapter III:						
	New budget (obligational) authority	.....	870,000,000	880,000,000	885,000,000	+15,000,000	+5,000,000
	(By transfer)	(870,000,000)	.....	.....	.....	.....	.....
	CHAPTER IV						
	DEPARTMENT OF THE INTERIOR						
	Bureau of Land Management						
.....	Firefighting	.....	176,800,000	176,800,000	176,800,000	.....	.....
	United States Fish and Wildlife Service						
.....	Resource management	.....	.....	1,000,000	827,000	+827,000	-173,000
.....	Land acquisition	.....	.....	.....	6,000,000	+6,000,000	+6,000,000
	Geological Survey						
.....	Surveys, investigations, and research	.....	.....	.....	6,246,000	+6,246,000	+6,246,000
	Departmental Offices						
.....	Oil spill emergency fund	.....	.....	.....	7,279,000	+7,279,000	+7,279,000
	Total, Department of Interior	.....	176,800,000	177,800,000	197,152,000	+20,352,000	+19,352,000
	DEPARTMENT OF AGRICULTURE						
	Forest Service						
.....	Forest research (by transfer)	.....	.....	(4,700,000)	(4,700,000)	(+4,700,000)	.....
.....	State and private forestry (by transfer)	.....	.....	(6,900,000)	(6,900,000)	(+6,900,000)	.....
.....	National forest system	.....	.....	.....	8,633,000	+8,633,000	+8,633,000
.....	(By transfer)	.....	.....	(4,440,000)	(4,440,000)	(+4,440,000)	.....
.....	Forest Service firefighting	.....	256,000,000	256,700,000	256,700,000	+700,000	.....
	Total, Forest Service	.....	256,000,000	256,700,000	265,333,000	+9,333,000	+8,633,000
	Total, Chapter IV:						
	New budget (obligational) authority	.....	432,800,000	434,500,000	462,485,000	+29,685,000	+27,985,000
	(By transfer)	.....	.....	(16,040,000)	(16,040,000)	(+16,040,000)	.....
	CHAPTER V						
	DEPARTMENT OF LABOR						
	Employment and Training Administration						
.....	Community service employment for older Americans	.....	.....	10,000,000	10,000,000	+10,000,000	.....
.....	State unemployment insurance and employment service operations (limitation on trust fund transfer)	.....	(96,000,000)	(99,600,000)	(99,600,000)	(+3,600,000)	.....
	Employments Standards Administration						
.....	Black Lung Disability trust fund	.....	.....	700,000	700,000	+700,000	.....
	Total, Department of Labor	.....	.....	10,700,000	10,700,000	+10,700,000	.....
	DEPARTMENT OF HEALTH AND HUMAN SERVICES						
	Health Resources and Service Administration						
.....	Program operations	.....	.....	2,300,000	2,300,000	+2,300,000	.....
	Centers for Disease Control						
.....	Disease control, research, and training	.....	.....	31,500,000	30,500,000	+30,500,000	-1,000,000
	Family Support Administration						
.....	Payments to States for AFDC work programs (rescission)	.....	.....	-7,880,000	.....	.....	+7,880,000
.....	Low income home energy assistance	.....	50,000,000	50,000,000	50,000,000	.....	.....
.....	Refugee and entrant assistance (by transfer)	.....	.....	.....	(6,000,000)	(+6,000,000)	(+6,000,000)
	Assistant Secretary for Human Development Services						
.....	Head Start program	.....	.....	165,685,000	165,685,000	+165,685,000	.....
	Total, Department of Health and Human Services	.....	50,000,000	241,605,000	248,485,000	+198,485,000	+6,880,000
	DEPARTMENT OF EDUCATION						
.....	School Improvement Program	.....	.....	22,609,000	18,425,000	+18,425,000	-4,184,000
.....	(By transfer)	.....	.....	(3,374,000)	(2,520,000)	(+2,520,000)	(-854,000)
	RELATED AGENCIES						
.....	National Commission on Children	.....	.....	500,000	400,000	+400,000	-100,000

DIRE EMERGENCY SUPPLEMENTAL, 1990 (H.R. 4404), Continued

Doc No.		Supplemental Request	House	Senate	Conference	Conference compared with House	Conference compared with Senate
.....	White House Conference on Library and Information Services	.....	.....	425,000	.....	.....	-425,000
	Total, Related Agencies	.....	.....	23,534,000	18,825,000	+18,825,000	-4,709,000
	Total, Chapter V:						
	New budget (obligational) authority	.....	50,000,000	275,839,000	278,010,000	+228,010,000	+2,171,000
	Appropriations	.....	(50,000,000)	(283,719,000)	(278,010,000)	(+228,010,000)	(-5,709,000)
	Rescissions	.....	.....	(-7,880,000)	.....	.....	(+7,880,000)
	(By transfer)	.....	.....	(3,374,000)	(8,520,000)	(+8,520,000)	(+5,146,000)
	CHAPTER VI						
	DEPARTMENT OF AGRICULTURE						
	Agricultural Research Service:						
100-178	Buildings and facilities (rescission)	-4,075,000	.....	.....	.....	.....	.....
	Cooperative State Research Service:						
100-178	Buildings and facilities (rescission)	-41,008,000	.....	.....	.....	.....	.....
	Animal and Plant Health Inspection Service:						
.....	Salaries and expenses	.....	.....	8,000,000	8,000,000	+8,000,000	.....
.....	Food Safety Inspection Service	.....	.....	6,884,000	4,400,000	+4,400,000	-2,484,000
	Federal Crop Insurance Corporation:						
100-176	Administration and operating expenses	15,000,000	.....	15,000,000	15,000,000	+15,000,000	.....
	Rural Electrification Administration:						
	Rural electrification & telephone revolving fund:						
	Direct loans:						
100-176	Electric	(-23,500,000)	.....	.....	.....	.....	.....
100-176	Telephone	(-105,900,000)	.....	.....	.....	.....	.....
	Food and Nutrition Service:						
.....	Commodity supplemental food program	.....	.....	4,700,000	3,100,000	+3,100,000	-1,600,000
.....	Food stamp program	1,200,000,000	510,000,000	705,000,000	1,200,000,000	+690,000,000	+495,000,000
	Total, Department of Agriculture	1,215,000,000	510,000,000	739,584,000	1,230,500,000	+720,500,000	+490,916,000
	DEPARTMENT OF HEALTH AND HUMAN SERVICES						
	Food and Drug Administration						
100-122	Salaries and expenses	13,900,000	13,900,000	13,900,000	13,900,000	.....	.....
100-122	Offsetting collections	-13,900,000	.....	.....	.....	.....	.....
	RELATED AGENCIES						
.....	Commodity Futures Trading Commission [1]	3,655,000	.....	3,655,000	2,000,000	+2,000,000	-1,655,000
	Total, Chapter VI:						
	New budget (obligational) authority	1,173,572,000	523,900,000	757,139,000	1,246,400,000	+722,500,000	+489,261,000
	Appropriations	(1,218,655,000)	(523,900,000)	(757,139,000)	(1,246,400,000)	(+722,500,000)	(+489,261,000)
	Rescissions	(-45,083,000)	.....	.....	.....	.....	.....
	CHAPTER VII						
	DEPARTMENT OF VETERANS AFFAIRS						
	Veterans Benefits Administration						
100-176	Compensation and pensions	190,000,000	190,000,000	190,000,000	190,000,000	.....	.....
100-176	Loan guaranty revolving fund	245,000,000	150,000,000	245,000,000	245,000,000	+95,000,000	.....
	Total, Veterans Benefits Administration	435,000,000	340,000,000	435,000,000	435,000,000	+95,000,000	.....
	Veterans Health Service and Research Administration						
.....	Medical care	.....	50,000,000	94,000,000	94,000,000	+44,000,000	.....
.....	Medical administration and miscellaneous operating expenses (by transfer)	.....	(1,300,000)	(1,300,000)	(1,300,000)	.....	.....
	Total, Department of Veterans Affairs	435,000,000	390,000,000	529,000,000	529,000,000	+139,000,000	.....
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT						
	Housing Programs						
	Annual contributions for assisted housing:						
.....	Housing development grant project (reappropriation)	.....	.....	2,469,000	2,469,000	+2,469,000	.....
.....	Payments for operation of low-income housing projects (by transfer)	.....	(72,000,000)	(72,000,000)	(72,000,000)	.....	.....
	Community Planning and Development						
100-122	Urban homesteading (by transfer)	(11,450,000)	(11,450,000)	.....	.....	(-11,450,000)	.....
.....	Community development block grants (by transfer)	.....	.....	.....	(11,450,000)	(+11,450,000)	(+11,450,000)

1 CFTC has submitted a request for this amount to the Office of Management and Budget. OMB has not acted on the request

DIRE EMERGENCY SUPPLEMENTAL, 1990 (H.R. 4404), Continued

Doc No.		Supplemental Request	House	Senate	Conference	Conference compared with House	Conference compared with Senate
	INDEPENDENT AGENCIES						
	American Battle Monuments Commission						
.....	Salaries and expenses	.....	.....	500,000	500,000	+500,000	.....
	Environmental Protection Agency						
.....	Abatement, control and compliance	.....	.....	.....	1,800,000	+1,800,000	+1,800,000
	Federal Emergency Management Agency						
.....	Emergency management planning and assistance	.....	.....	500,000	.....	.....	-500,000
	National Aeronautics and Space Administration						
.....	Space flight, control and data communications (rescission)	.....	.....	-36,077,000	.....	.....	+36,077,000
100-122	Research and program management (by transfer)	(32,970,000)	(32,970,000)	(45,000,000)	(32,970,000)	.....	(-12,030,000)
	National Commission on American Indian, Alaska Native, and Native Hawaiian Housing						
.....	Salaries and expenses (by transfer)	.....	.....	(500,000)	(500,000)	(+500,000)	.....
	National Commission on Severely Distressed Public Housing						
.....	Salaries and expenses (by transfer)	.....	.....	(2,000,000)	(2,000,000)	(+2,000,000)	.....
	Total, Chapter VII:						
	New budget (obligational) authority	435,000,000	390,000,000	496,392,000	533,769,000	+143,769,000	+37,377,000
	Appropriations	(435,000,000)	(390,000,000)	(530,000,000)	(531,300,000)	(+141,300,000)	(+1,300,000)
	Reappropriations	.....	.....	(2,469,000)	(2,469,000)	(+2,469,000)	.....
	Rescissions	.....	.....	(-36,077,000)	.....	.....	(+36,077,000)
	(By transfer)	(44,420,000)	(117,720,000)	(120,800,000)	(120,220,000)	(+2,500,000)	(-580,000)
	CHAPTER VIII						
	DEPARTMENT OF TRANSPORTATION						
	National Highway Traffic Safety Administration						
.....	Highway traffic safety grants (Highway Trust Fund) (liquidation of contract authorization)	.....	.....	(5,000,000)	(5,000,000)	(+5,000,000)	.....
.....	Alcohol safety incentive grants: (limitation on obligations)	.....	.....	(5,000,000)	(5,000,000)	(+5,000,000)	.....
	CHAPTER IX						
	DISTRICT OF COLUMBIA FUNDS						
	Operating Expenses						
100-186	Governmental direction and support	(99,000)	.....	(99,000)	(99,000)	(+99,000)	.....
100-186	(Rescission)	(-3,317,000)	.....	(-3,317,000)	(-3,317,000)	(-3,317,000)	.....
100-186	Economic development and regulation	(50,000)	.....	(50,000)	(50,000)	(+50,000)	.....
100-186	(Rescission)	(-10,498,000)	.....	(-10,478,000)	(-10,498,000)	(-10,498,000)	(-20,000)
100-186	Public safety and justice	(7,750,000)	.....	(7,750,000)	(7,750,000)	(+7,750,000)	.....
100-186	(Rescission)	(-5,739,000)	.....	(-5,739,000)	(-2,739,000)	(-2,739,000)	(+3,000,000)
100-186	Public education system	(3,461,000)	.....	.....	(3,461,000)	(+3,461,000)	(+3,461,000)
100-186	(Rescission)	(-10,044,000)	.....	(-6,583,000)	(-10,044,000)	(-10,044,000)	(-3,461,000)
100-186	Human support services	(4,840,000)	.....	(4,840,000)	(4,840,000)	(+4,840,000)	.....
100-186	(Rescission)	(-10,245,000)	.....	(-10,245,000)	(-10,245,000)	(-10,245,000)	.....
100-186	Public works (rescission)	(-8,810,000)	.....	(-8,810,000)	(-8,810,000)	(-8,810,000)	.....
100-186	Washington Convention Center Fund	(2,993,000)	.....	(2,993,000)	(2,993,000)	(+2,993,000)	.....
100-186	Repayment of loans and interest (rescission)	(-12,336,000)	.....	(-12,336,000)	(-12,336,000)	(-12,336,000)	.....
100-186	Repayment of general fund deficit (rescission)	(-19,558,000)	.....	(-19,558,000)	.....	.....	(+19,558,000)
100-186	Short-term borrowings	(3,349,000)	.....	(3,349,000)	(3,349,000)	(+3,349,000)	.....
100-186	Optical and dental benefits	(543,000)	.....	(543,000)	(543,000)	(+543,000)	.....
100-186	Energy adjustment	(2,000,000)	.....	(2,000,000)	(2,000,000)	(+2,000,000)	.....
100-186	Equipment adjustment	(6,100,000)	.....	(6,100,000)	(6,100,000)	(+6,100,000)	.....
100-186	Personal services adjustment	(31,550,000)	.....	(31,550,000)	(31,550,000)	(+31,550,000)	.....
100-186	Supply, energy and equipment adjustments (rescission)	(-2,000,000)	.....	.....	(-5,000,000)	(-5,000,000)	(-5,000,000)
	Total, Operating expenses, general fund (net)	(-19,812,000)	.....	(-17,792,000)	(-254,000)	(-254,000)	(+17,538,000)
	Capital Outlay						
100-186	General fund	(79,802,000)	.....	(76,102,000)	(79,802,000)	(+79,802,000)	(+3,700,000)
100-186	(Rescission)	(-27,915,000)	.....	(-24,215,000)	(-27,915,000)	(-27,915,000)	(-3,700,000)
	Enterprise Fund						
100-186	Water and Sewer Enterprise Fund	(12,026,000)	.....	(12,026,000)	(12,026,000)	(+12,026,000)	.....
100-186	(Rescission)	(-17,680,000)	.....	(-17,680,000)	(-17,680,000)	(-17,680,000)	.....
	CHAPTER X						
	FUNDS APPROPRIATED TO THE PRESIDENT						
.....	Unanticipated needs	.....	.....	5,000,000	5,000,000	+5,000,000	.....
	Total, Chapter X:						
	New budget (obligational) authority	.....	.....	5,000,000	5,000,000	+5,000,000	.....

DIRE EMERGENCY SUPPLEMENTAL, 1990 (H.R. 4404), Continued

Doc No.		Supplemental Request	House	Senate	Conference	Conference compared with House	Conference compared with Senate
	CHAPTER XI						
	LEGISLATIVE BRANCH						
	SENATE						
	Payments to Widows and Heirs of Deceased Members of Congress						
100-176	Gratuities, deceased Members	98,400		98,400	98,400	+98,400	
	Library of Congress						
100-176	Salaries and expenses	912,000					
	Total, Chapter XI:						
	New budget (obligational) authority	1,010,400		98,400	98,400	+98,400	
	Total, Title II:						
	New budget (obligational) authority	1,457,048,400	504,674,000	337,222,400	1,736,048,400	+1,231,374,400	+1,398,826,000
	Appropriations	(1,683,931,400)	(2,301,466,000)	(2,157,684,400)	(4,000,040,400)	(+1,698,574,400)	(+1,842,356,000)
	Reappropriations			(2,469,000)	(2,469,000)	(+2,469,000)	
	Rescissions	(-226,883,000)	(-1,796,792,000)	(-1,822,931,000)	(-2,266,461,000)	(-469,669,000)	(-443,530,000)
	(By transfer)	(1,027,420,000)	(117,720,000)	(147,614,000)	(159,180,000)	(+41,460,000)	(+11,566,000)
	TITLE III - GENERAL PROVISIONS						
	LEGISLATIVE BRANCH						
	SENATE						
	Contingent Expenses of the Senate						
	Sergeant at Arms and Doorkeeper of the Senate (Reappropriation)			1,500,000	1,500,000	+1,500,000	
	DEPARTMENT OF TRANSPORTATION						
	AMTRAK corridor improvement loans				10,000	+10,000	+10,000
	REPEAL OF SECTION 614						
	Repeal of Sec. 614 of P.L. 101-162	363,416,000		363,416,000	363,416,000	+363,416,000	
	Total, Title III:						
	New budget (obligational) authority	363,416,000		364,916,000	364,926,000	+364,926,000	+10,000
	Appropriations	(363,416,000)		(363,416,000)	(363,426,000)	(+363,426,000)	(+10,000)
	Reappropriations			(1,500,000)	(1,500,000)	(+1,500,000)	
	Grand total:						
	New budget (obligational) authority	1,820,464,400	615,674,000	850,138,400	2,316,974,400	+1,701,300,400	+1,466,836,000
	Appropriations	(2,047,347,400)	(2,412,466,000)	(2,669,100,400)	(4,579,466,400)	(+2,167,000,400)	(+1,910,366,000)
	Reappropriations			(3,969,000)	(3,969,000)	(+3,969,000)	
	Rescissions	(-226,883,000)	(-1,796,792,000)	(-1,822,931,000)	(-2,266,461,000)	(-469,669,000)	(-443,530,000)
	(By transfer)	(1,057,420,000)	(117,720,000)	(147,614,000)	(159,180,000)	(+41,460,000)	(+11,566,000)
	CONGRESSIONAL BUDGET RECAP						
	Scorekeeping adjustments:						
	Unanticipated needs (rescission)			-15,153,000	-15,153,000	-15,153,000	
	REA credit scoring	-121,270,000					
	Export Enhancement Program			-7,000,000	-9,100,000	-9,100,000	-2,100,000
	Legislative Branch (reappropriation)				25,200,000	+25,200,000	+25,200,000
	Total, adjustments	-121,270,000		-22,153,000	947,000	+947,000	+23,100,000
	Total (including adjustments)	1,699,194,400	615,674,000	827,985,400	2,317,921,400	+1,702,247,400	+1,489,936,000
	Amount in this bill	(1,820,464,400)	(615,674,000)	(850,138,400)	(2,316,974,400)	(+1,701,300,400)	(+1,466,836,000)
	Scorekeeping adjustments	(-121,270,000)		(-22,153,000)	(947,000)	(+947,000)	(+23,100,000)
	Total mandatory and discretionary	1,699,194,400	615,674,000	827,985,400	2,317,921,400	+1,702,247,400	+1,489,936,000
	Mandatory	(1,640,414,400)	(1,288,116,000)	(1,582,214,400)	(2,077,214,400)	(+789,098,400)	(+495,000,000)
	Discretionary	(58,780,000)	(-672,442,000)	(-754,229,000)	(240,707,000)	(+913,149,000)	(+994,936,000)

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this conference report and urge Members to support it.

Mr. Speaker, could it be? Could it be that, at long last, this Congress is going to provide assistance to the new democracies in Panama and Nicaragua and to the Soviet refugees? I must be dreaming.

□ 1050

It was only on February 6 that the President requested funding for Panama and the refugees. It was only on March 13 that the President requested $300 million for Nicaragua and asked for passage by Easter, April 15.

Here we are, on May 25, maybe in a position to provide this funding, funding that the new President of Nicaragua, Mrs. Chamorro, is begging for.

But it comes at a price. This House acted responsibly, passing a bill on April 3 that contained the foreign aid, necessary entitlements, and only four dire emergency items—floods, State unemployment offices, low-income energy, and VA medical care.

The Senate turned this bill into a circus, with 180 amendments, from ferryboats to fish farms. My motion to instruct the conferees to reject nondire items passed the House, 388 to 8. But that was not how the conference went. It wasn't helped by the administration saying it could accept most of what the Senate did. So, it should come as no surprise that this conference agreement contains most of what the Senate added and a few things on top.

I am not happy about it—not at all. But let me tell you why I will support the conference report. I had a choice, a choice of either working against the bill, or of trying to perfect it enough to get a bill the administration could sign to meet its promises to Nicaragua and Panama.

And that wasn't easy. But this agreement drops the Senate's DC abortion and death penalty provisions, one or the other or both of which gave lot of people problems. And it contains the authorization waivers necessary to allow the Central America money to be spent immediately. It may not be pretty, but this agreement will get the job done.

In addition, there are a number of worthwhile and necessary programs in here:

Food stamps, $1.2 billion;

VA compensation and benefits, $435 million;

VA medical care, $94 million;

Census, $110 million;

Flood disaster assistance, $216 million;

State unemployment operations, $100 million; and

Low-income energy assistance, $50 million—$50 million for low-income energy assistance, where we had a big funding shortfall because of the cold December and early January weather.

Head Start, $166 million. Mr. Speaker, my good chairman, the gentleman from Kentucky [Mr. NATCHER], and I have been in this program from the beginning. The gentleman from Kentucky [Mr. NATCHER] and I should be down at the White House at a Rose Garden ceremony right now, but we are here getting the money in the trenches for Head Start where we have always been since the beginning of Head Start.

Measles vaccines, another thing the gentleman from Kentucky and I worked on, $30 million. There was an epidemic out there, a measles epidemic. A lot of people do not know about it. In title V senior employment, $10 million.

Almost all of the discretionary spending in here, except for the so called section 614 repeal, is offset by reductions in defense spending, totaling $2 billion.

When we get to the amendments in disagreement, there is one amendment that I will fight, No. 171, which gives authority to reprogram up to $25 million in House of Representative funds to cover the overruns in the cost of congressional mailing. Here we go paying for the cost overruns of a troubled franking system, instead of figuring out what reforms are needed. This Member is not necessarily ready to "pay now, fix later."

But the first step, Mr. Speaker, is to adopt the conference report. I urge Members to support it. It may not be pretty, but it gets the job done.

As we approach Memorial Day, with Nicaragua at the brink for lack of funding, more than a month and a half after the President's target, let's get the job done.

At this point in the RECORD, I would like to insert a detailed description of the conference agreement.

TITLE I—DISASTER ASSISTANCE

DEPARTMENT OF AGRICULTURE

Soil Conservation Service: The conference provides $70,000,000 for emergency flood control needs related to agriculture; $60,000,000 is provided for emergency watershed and flood prevention operations of the Soil Conservation Service; and $10,000,000 is provided for the Emergency Conservation Program of the Agricultural Stabilization and Conservation Service. An initial $10,000,000 for the Emergency Conservation Program was provided in both House and Senate supplemental appropriations bills and was not subject to conference. A total of $20,000,000 is therefore provided in supplemental appropriations for the Emergency Conservation Program.

The Soil Conservation Service estimates that as a result of the flooding in Texas and Arkansas, supplemental needs have increased to $58,000,000. The Agricultural Stabilization and Conservation Service estimates that supplemental needs for the Emergency Conservation Program are now at $18,000,000.

The Emergency Watershed Protection Program provides funding for emergency assistance on watersheds to control runoffs and soil erosion which threaten life or property, and which are the result of natural disasters such as flood, fire, or drought; $20,000,000 was appropriated for this program for fiscal 1990. The Emergency Conservation Program provides Federal cost-share assistance to farmers to restore land damaged by natural disasters; $10,000,000 was originally appropriated for this program for fiscal 1990.

Agricultural Stabilization and Conservation Service: $11,000,000 is provided for Agricultural Stabilization and Conservation Service [ASCS] salaries and expenses to carry out disaster assistance under section 201(k)(2) of the Agricultural Act of 1949. The funds will provide disaster assistance for sugarcane growers who were hurt by a freeze in December, 1990.

TITLE II—SUPPLEMENTAL APPROPRIATIONS

CHAPTER VI—RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service: The conference report transfers $250,000 from the Cooperative State Research Service [CSRS] higher education grants account to the CSRS Federal administration account. The $250,000 is for a grant to the National Council for Vocational and Technical Education in Agriculture, for use in developing aquaculture educational materials.

Animal and Plant Health Inspection Service: $8 million is provided for the Animal and Plant Health Inspection Service [APHIS] including $6,800,000 for grasshopper control and $1,200,000 for pseudorabies eradication efforts. Funding will allow APHIS to pay one-third of the costs of grasshopper control in North Dakota, South Dakota, and Minnesota on Conservation Reserve Program [CRP] land. An additional $1,200,000 is provided for the pseudorabies eradication program. Pseudorabies is a herpes virus affecting reproduction of hogs. In January 1989, APHIS began a 10-year program to eradicate pseudorabies. The fiscal year 1990 appropriation for pseudorabies is $3,292,000.

Food Safety and Inspection Service: $4 million is provided for the Food Safety and Inspection Service [FSIS], with an offset from the Export Enhancement Program. The Department of Agriculture estimates that without the additional funds, FSIS will have to furlough personnel for up to 4 days at the end of the fiscal year as a result of

the sequester. An offset is provided from the Export Enhancement Program [EEP], which subsidizes the sale of agricultural exports. The offset reduces the amount available to the EEP from $566 to $553 million.

Federal Crop Insurance Corporation: $15 million is provided for administrative and operating expenses of the Federal Crop Insurance Corporation [FCIC]. The funds are to become available upon receipt of a specific budget request from the Department of Agriculture. Because crop insurance signups are higher than anticipated, FCIC is faced with an estimated $15 million shortfall. The administration requested the authority to use crop insurance premium payments to cover additional administrative expenses in fiscal year 1990. The conference report appropriates the $15 million to cover the shortfall, rather than give FCIC the authority to use premium payments for administrative expenses.

Food and Nutrition Service: Commodity Supplemental Food Program—$3,100,000 is provided for the Commodity Supplemental Food Program [CSFP]. CSFP provides food assistance for low-income children and elderly in 20 States. Four States increased caseloads above their fiscal year 1990 allocations from the Food and Nutrition Service. The $3,100,000 will enable those States to maintain CSFP caseloads at the March 1990, level.

Food and Nutrition Service: Food stamps—$1,200 million is provided for food stamps, available upon receipt of an official budget request for a specific dollar amount; $15,707,096,000 was originally appropriated for the Food Stamp Program for fiscal 1990. The Food and Nutrition Service reports that food stamp participation rates are running well above estimates. The current estimate puts the need for supplement funds at $1,200 million. Food stamps is a mandatory program.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration: $13,900,000 is provided for the generic drug activities of the Food and Drug Administration. The Administration requested legislative language to permit the collection of user fees for Federal costs associated with the review of generic drug applications. From the fees collected, $13,900,000 was proposed to be made available in fiscal 1990 for the generic drug activities. The committee rejected the user fee proposal and has instead provided an appropriation of $13,900,000 for those activities. The FDA has expanded investigation and surveillance of the generic drug industry in response to cases of bribery, fraud, and abuse in the industry and FDA; $4 million was appropriated for generic drug activities for fiscal 1990. The additional $13,900,000 will allow for 125 additional FTE's, laboratory equipment, and surveillance and testing costs of the generic drug activities.

INDEPENDENT AGENCY

Commodity Futures Trading Commission: $2 million is provided for the Commodity Futures Trading Commissioni [CFTC]. CFTC requested funding to increase monitoring and surveillance of trade practices on the Futures Exchange. The $2 million will be used for the purchase of a computer system and/or for additional staffing positions; $37,186,000 was appropriated for CFTC in fiscal year 1990.

COMMERCE, JUSTICE, THE JUDICIARY AND RELATED AGENCIES

The conference agreement provides $110 million in new budget authority plus $80 million from existing resources for the 1990 Decennial Census. It is clear that the mail response rate for the census has been disappointing and inadequate, and these additional funds are needed for personal follow-up visits.

The bill also repeals a section of the fiscal 1990 Commerce, Justice, State and Judiciary Appropriations Act which unintentionally extended a fiscal 1989 obligation ceiling on the State Department and the U.S. Information Agency. Primarily at stake were U.S. contributions to international peacekeeping and other organizations, which can now be provided at the enacted fiscal 1990 levels.

Supplemental funding is provided for the growing criminal justice workloads for the U.S. Marshals Service and the judiciary. Language is included authorizing the use of the Assets Forfeiture Fund for the construction of detention facilities of the Immigration and Naturalization Service, the U.S. Marshals Service, and for State and local facilities under the Cooperative Agreement Program.

House conferees agreed to revised language mandating a study by the Secretary of Commerce of the U.S. foreign assistance programs with the purpose of making those programs more helpful and responsive to U.S. export interests. The foreign aid programs of other major donor nations, such as France and Japan, are also to be evaluated and compared to United States programs.

Mr. Speaker, the defense chapter of title II of this conference report begins with $238 million for an RDX facility in Louisiana that is not needed by the DOD. This was an item that helped us get a conference agreement to present to you, but it is the first step in expending half a billion dollars that is not in the national interest.

We already make all the RDX we need at Holston Army Ammunition Plant. If there is any item in this conference that we should not be happy with this is high on the list.

We made $250 million worth of rescissions in military construction, virtually all of which is overseas construction. This was done to minimize the rescissions in readiness and training.

All told we made 2 billion dollars' worth of rescissions in the defense title in order to offset the appropriations in the rest of the bill. Every defense account was analyzed in conjunction with DOD to get rescissions that would take advantage of program savings and changes in those programs.

I think we did a good job of minimizing the damage to our defense with these rescissions. We owe a special note of thanks to Chairman MURTHA and the ranking member of the Defense Subcommittee, JOE MCDADE, for the yeoman effort they put forth to scrub the defense accounts for these rescissions.

There are a number of other projects that appeared on both sides of the Congress in this report that have merit, but don't necessarily apply to a dire emergency supplemental. We are told that these projects are the glue that holds the agreement together.

I'm not certain whether it's Elmer's or Crazy Glue, but they certainly do not merit our time holding up sending money to Panama and Nicaragua, two countries that are in a dire emergency condition.

DISTRICT OF COLUMBIA

The conference report includes rescission, supplementals, and transfers of district funds, as requested by the Government of the District of Columbia. No Federal funds are included in this conference report.

The conferees dropped two controversial amendments added by the Senate: the Adams abortion language and the Gramm death penatly provision. These amendments are not part of the conference report.

ENERGY AND WATER DEVELOPMENT

TITLE I

The conference agreement includes supplemental funds for domestic disaster assistance, including $15 million for the "General expenses" account of the U.S. Army Corps of Engineers. This appropriation is required for costs associated with a major fire at the Washington headquarters of the corps. The agreement also includes $40 million for the "Operation and maintenance, general" account of the crops. This funding is provided to repair damages to corps facilities resulting from recent flooding in the southeastern United States.

The conference agreement also includes $60 million to replenish the "Flood and Coastal Emergency" account of the Corps of Engineers. The emergency fund has been largely depleted due to flood emergencies in the southeastern United States and elsewhere.

Language contained in the Joint Explanatory Statement of the Committee of Conference directs the corps to construct, with available funds, the Fulton Historical Center near Fulton, MI. This center is an authorized feature of the Tennessee-Tombigbee Waterway system.

TITLE III

Section 319 of the bill directs the Secretary of the Army to execute a local cooperation agreement for modification of the Gulfport Harbor project in Mississippi prior to July 1, 1990. This provision is included to avoid the expiration of a $20 million contribution to the project provided by the State of Mississippi.

Secton 319 also authorizes the Secretary of the Interior to obligate up to $12 million in Bureau of Reclamation funds to commence with dam safety work at the Mormon Island Auxiliary Dam of the Central Valley project in California.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

The bill includes $420 million for Panama and $300 million for Nicaragua, which were provided in both the House and Senate bills. Language was adopted by the conferees to comply with the authorization bill with respect to the obligation of these funds.

Also as included in both the House and Senate bills, the conference agreement provides a total of $100 million for refugees. The major portion of these funds, or $75 million, is for refugees from the Soviet Union who are coming to the United States or going to Israel. Senate language was accepted directing that an equitable share of these funds be available for Pentecostals, Evangelicals, and Baptists from the Soviet Union, and to extend assistance to Burmese refugees in Burma or Thailand.

The $400 million in housing guarantees for Israel is provided to house some of the Soviet refugees now streaming into that nation. Assistance under this program can only be provided under existing AID program guidelines which limit the housing to within Israel's 1967 borders.

Sub-Saharan African programs receive $30 million, with a third going to Namibia and a third to National Endowment for Democracy grants to organizations in South Africa. The Caribbean receives $20 million, with earmarks for Haiti and Jamaica. In addition Haiti is earmarked for $10 million in previously appropriated funds. Health programs in Chile receive $10 million, and Armenia $5 million in disaster assistance. Earmarks from existing funds are provided to Bolivia and Peru for development assistance related to antinarcotics efforts. Earmarks are also included for child health activities in Romania and Cambodia.

Finally, this chapter includes the necessary waiver language to allow the Panama and Nicaragua aid to be obligated.

INTERIOR AND RELATED AGENCIES

The conference report provides $197,152,000 in new budget authority for the Department of the Interior, including $176.8 million for fiscal year 1990 firefighting costs; $827,000 for the ATTRA Program; $6.24 million for emergency costs associated with the ongoing eruptions of Mount Redoubt Volcano near Anchorage, AK; $7,279,000 for contingency planning, response and natural resource damage assessment related to the Prince William Sound oilspill.

The sum of $265,333,000 in new budget authority was provided for the U.S. Forest Service, including $256,700,000 for expenses relating to firefighting and $8,633,000 for expenses related to the Prince William Sound oilspill. Several other changes in amounts are made by transfer, with no net increase in budget authority.

The conference report also includes language with respect to the Clean Coal Technology Program, on provisions delaying the fourth and fifth solicitations to await the outcome of the Clean Air Act amendments and another proviso freeing the repayment provisions. The latter provision is bad public policy. The Energy Department had proposed revisions to the repayment provision in the Clean Coal Program to require a greater private sector repayment. I support their efforts and will work in the regular bill to remove this language.

1990 SUPPLEMENTAL APPROPRIATIONS BILL, CHAPTER V, LABOR/HHS/EDUCATION, MAY 1990

DEPARTMENT OF LABOR

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS ACT OF 1965, SECTION 506(A)

The supplemental bill provides $10 million to compensate for the Federal minimum wage increase and additional operational costs of the Senior Community Service Employment Program. The minimum wage will increase in two stages from $3.35 to $4.25 by April 1, 1991. The higher minimum wage and other increases will cause the average cost per CSEOA participant to rise from $5,225 in fiscal year 1989 to $5,562 in fiscal year 1990.

CSEOA is forward funded, receiving $357 million in fiscal year 1990, an increase of $13.1 million from the fiscal year 1989 appropriation of $343.8 million. This provides for 49,300 slots to 10 national sponsors, a decrease of 200 slots from 1989 and 13,900 State slots. CSEOA funds are allocated by formula with the national sponsors' portion operated through 9 nonprofit organizations and the Department of Forestry. Eighty percent of the program participants have incomes below the poverty level.

The offset for this program comes from the phaseout of the WIN Program in the Family Support Administration.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

The supplemental bill provides $99.6 million to cover the shortfall in funds for administering unemployment insurance and unemployment service programs. The shortfall resulted from Gramm-Rudman-Hollings cuts, increased demand for unemployment services, and an insufficient fiscal year 1990 appropration. If the additional funds aren't provided, 39 States will lose at least 5 percent of their unemployment program's base operating funds.

The $99.6 million will be taken out of the Unemployment Trust Fund, supported by a tax under the Federal Unemployment Tax Act [FUTA]. The trust fund was expressly created to provide for unemployment services and administration. The balance in the trust fund was $1.7 billion at the end of fiscal year 1989 and will be about $2.97 billion by the end of fiscal year 1990. It's dedicated solely to the administration of unemployment insurance and service programs.

Department of Labor estimates the shortfall to be $114.2 million.

EMPLOYMENT STANDARDS ADMINISTRATION—SPECIAL BENEFITS

The supplemental bill makes two technical changes to the Special Benefits account of the Employment Standards Administration. It first, changes the date when DOL can draw from the next year's appropriation from September 15 to August 15, and second, says unobligated balances at the end of a fiscal year will remain available for one additional year.

The first technical change, moving the date when borrowing authority can go into effect from September 15 to August 15, is necessary because of a projected shortfall in the ESA special benefits account that will result from the cumulative effect of rising medical costs, additional claims, and increased cases remaining on the compensation rolls none of which are anticipated in the fiscal year 1990 budget. Since benefits are paid retroactively DOL finds it difficult to make projections about the funds that will be needed. The change enables the agency to meet any immediate shortfall of funds. The DOL fiscal year 1991 budget anticipated $25 million in draw down authority for fiscal year 1990.

The second technical change allows for unobligated funds to remain in the special benefits account through September 30, 1991. It responds to the Postal Service's prepayment of their bill to offset compensation, medical and other benefits paid under the Federal Employees' Compensation Act [FECA]. In September 1990 the Postal Service will prepay their [FECA]. In September 1990 the Postal Service will prepay their FECA bill as specified under Public Law 101-239. This

change prevents the resulting balance in the FECA account from lapsing to the Treasury at the end of the current fiscal year.

The special benefits fund includes obligations for workers compensation, medical costs, vocational rehab and other benefits mandated by the Federal Employees' Compensation Act. Fiscal year 1990 obligations are expected to exceed $1.482 billion

BLACK LUNG DISABILITY TRUST FUND

The supplemental bill provides an additional $700 thousand for the adjudication of black lung appeals cases because the fiscal year 1990 appropriation was insufficient to allow the Benefits Review Board [BRB] to reduce the backlog of claims and to ensure black lung cases are heard on a current basis by the Office of Administrative Law Judges [OALJ].

If the amendment doesn't pass there will be no OALJ hearings in the fourth quarter and DOL says BRB staff will have to be furloughed.

Of the $700,000 to be transferred from the Black Lung Trust Fund, $20,000 goes to OALJ—$100k to contract writers and $100,000 for travel to hearing sites—and $500,000 goes to fully staff the BRB.

To prevent this situation from reoccurring the bill directs DOL to issue a report, describing the funding requirements for the Black Lung Program for fiscal year 1991, to the committee no later than June 15, 1990. This information will be used in determining the fiscal year 1991 appropriation.

HEALTH AND HUMAN SERVICES

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

The supplemental bill provides $50 million for the Low Income Home Energy Assistance Program [LIHEAP] in addition to the $1.393 billion provided in the fiscal year 1990 Labor/HHS appropriations bill. This past December was one of the coldest months on record in many parts of the country. Home heating oil prices skyrocketed to $1.50 a gallon or more. Thousands of low income families ran out of benefits for the year and many area energy assistance agencies could no longer provide assistance. Many eligible families were being turned away at the agency door.

The additional funds are intended to meet the dire emergency in those areas where an additional need for funds can be demonstrated. The Secretary of HHS is given authority to distribute these funds to the States on the basis of relative need and the capacity to expend the additional funds by October 31, 1990.

With a majority of the area energy assistance agencies already closed in my home State of Massachusetts, I would expect the Secretary to immediately, on the day of the bill's enactment, determine the amount needed to restore the shortfall and to disperse the funds as soon as the State files its application. The Secretary should immediately inform the States on the application process and on what information is necessary. The Secretary should establish criteria which takes into account factors relevant for fiscal year 1990 such as weather, increase in fuel prices and consumption, number of households applying for LIHEAP heating and crisis assistance and the number of unserved or underserved households.

The Secretary should also take into serious consideration making the funds available for States which are expanding or reopening summer initiatives for disconnected households and cooling assistance. The Secretary should also consider expanding eligibility criteria of these supplemental funds to include those States: First, which have closed their programs and are out of funds, or second, which have committed all of their fiscal year 1990 LIHEAP funds, or third, which have drawn down all funds except those reserved under provisions of the appropriations bills, or fourth, which have waiting list for assistance and/or households disconnected. These supplemental funds should be made available to as many States in need as possible in order to expend all monies by October 31, 1990.

At last, this bill can help those families who have run out of LIHEAP benefits and who are facing utility shutoffs over unpaid bills. It will also help keep area energy assistance agencies up and running.

HRSA HOMELESS HEALTH CARE

The supplemental bill provides $2.3 million for health care for the homeless program at the Health Resources and Services Administration. These additional funds will continue the 17 homeless health care clinics scheduled for termination and will sustain the remainder of the 109 clinics across the country. There are 7 projects in the city of Springfield, MA which provide much needed preventive and clinical care for homeless in the area, including families in District 1.

CDC MEASLES PREVENTION AND OUTBREAK CONTROL

The conference agreement appropriates $30.5 million for measles vaccines and outbreak control by the Centers for Disease Control. The recent outbreak of measles across the United States is the largest outbreak in recent years. There has been nearly 6,000 cases of measles spread over 21 States so far. $7 million of these funds would be devoted to acute measles outbreak control in those States with active epidemics. The remainder, $23.5 million, will provide a second dose of measles vaccinations for young children and adolescents. These vaccines will inoculate at-risk individuals and prevent the further spread of the epidemic in vulnerable populations. The conference also approved the reprogramming of $5 million of CDC funds for additional antimeasles activities. $2 million of the reprogramming will also be directed for hepatitis B screening among pregnant women.

ADAMHA TREATMENT WAITING PERIOD GRANTS

The conferees decided to make available again, until September 10, 1990, the $40 million for the treatment waiting period reduction grants provided from last year's antidrug abuse initiative. These funds were held in reserve pending reauthorization of the waiting list program. This agreement gives the authorizing committees additional time to reauthorize the waiting list program. If the program has not been reauthorized by September 10, 1990, the appropriations committees would expect the Department of Health and Human Services to submit a reprogramming request for other drug abuse treatment, prevention, and research activities. If reprogramming is needed, I would expect the Department to consider channeling these moneys into important, ongoing programs such as the medications development program, pregnant addicts prevention grants, and comorbidity—addiction and mental illness) research at the National Institute of Mental Health.

REFUGEE AND ENTRANCE ASSISTANCE

The bill provides an additional $6 million for the targeted assistance program at HHS, to be offset from a transfer from the Perkins loan teacher cancellation payments which are in excess of current requirements; $5 million of these funds will be devoted for health and educational services in areas affected by the massive influx of Cuban and Haitian entrants during the Mariel boatlift; $500,000 is made available for communities currently running a "Fish/Wilson" demonstration project in areas heavily impacted by the recent influx of Soviet Pentecostals. Another $500,000 is available for schools in areas heavily impacted by the influx of Indochinese refugees who entered the United States after October 1, 1979, in which the enrollment of students—including secondary migrants—is greater than 2,000, and who comprise no less than 20 percent of the overall school enrollment in such a locality with a general population of no less than 75,000 persons. These funds will help municipalities which are bearing the additional responsibilities associated with the rapid influx of refugees.

HEAD START

The bill provides an additional $165,685,000 to bring Head Start up to its full fiscal year 1990 authorization of $1,552,000,000. This funding would allow an estimated 60,000 more children to participate in Head Start. These funds are being made available through December 31, 1990, to allow

Head Start programs reasonable time to plan an expansion of services. In addition, the conferees are concerned with the length of time it has taken DHHS to disburse Head Start funds. The Department is directed to provide the committeee with a report, due by August 1, 1990, on the disbursement of funds for the expansion of Head Start provided by the regular fiscal year 1990 Appropriations Act and provide the committees with a timetable on the disbursement of the additional funds provided by this supplemental bill.

HEALTH CARE FINANCING ADMINISTRATION

The bill modifies supplemental language requested by the President which permits the crediting of clinical laboratory certification and inspection fees to the program management account. The Clinical Laboratory Improvement Amendments of 1988 require the assessment of these fees to offset the Federal costs of this activity.

EDUCATION

EDUCATION FOR THE HANDICAPPED

More than $11 million in the Preschool Grants Program of the Education of the Handicapped Act remains from the fiscal year 1989 appropriation. The supplemental bill extends the availability at the State level of the fiscal year 1989 preschool grant funds for 2 years, through fiscal year 1992.

Revisions to the Education for the Handicapped Act require States to serve preschool students. A grant program designed to help the States serve this previously unserved population was initiated to facilitate the process. It made awards to the States on a formula basis, $500 for each child served and $3,800 for each bonus child expected to be served by December 1, 1989. Of the money appropriated for this purpose in fiscal year 1989, $8 million remains unobligated by the States and $3 million has been recovered from the downward revision of the States' child counts. The bill allows States to continue using the funds until the end of fiscal year 1992.

The bill is consistent with provisions of EHA saying excess funds from 1 year are to remain eligible for 2 succeeding years. It doesn't need an offset since the funds are already obligated at the Federal level.

SCHOOL IMPROVEMENT PROGRAMS.

The bill provides for three changes in the School Improvement Programs of the Department of Education. They are: Continuation of the Dropout Demonstration Program; changes in the formula pertaining to Native Hawaiians and American Indian Youth; and expansion of the Javits Gifted and Talented Education Program.

First, Dropout Demonstration Programs: The bill provides for $19.9 million to be used for a 1-year extension of the Dropout Prevention Demonstration projects funded in fiscal year 1989.

The projects were originally authorized for 2 years and funded in fiscal year 1988 and fiscal year 1989. They were designed to help the DOE gather information about successful dropout prevention programs. The 1988 and 1989 projects currently receiving funds are due to expire in August 1990.

The bill provides $19.945 million to continue the program for 1 more year, after which the DOE has requested $45 million for a new program that will be completed.

The offsets for this supplemental appropriation will come from teacher cancellations grants under the Perkins loans.

Second, drug free schools: The supplemental appropriations bill provides for the higher matching rates for Indian and Native Hawaiian drug prevention programs as specified under the Drug-Free Schools and Communities Act Public Law 101-164, section 5133. Thus increasing the funding for American Indians and Native Hawaiians. If the authorizing law has been followed the amounts for Indians and Native Hawaiians would have been higher than was the case in the fiscal year 1990 appropriation. The bill restores the amounts they would have received under the original formula.

Third, Javits Gifted and Talented Program: The bill adds $1 million to the $8.888 million already available for the Javits Gifted and Talented Program. In the regular fiscal year 1990 appropriation the program received a $984,000, an 11-percent increase over the previous year. Current funding supports 27 continuation awards and 5 new awards. The bill expands the number of new awards.

Additional increases will be needed in future years for the continuation costs incurred as a result of the increased funding from this amendment. Funds for the second and third years of any awards made in 1990 will be provided in the fiscal year 1991 and fiscal year 1992 appropriations.

The offset for this amendment is the teacher cancellation grants of the Perkins Loan Program.

RELATED AGENCIES

NATIONAL COMMISSION ON CHILDREN

The supplemental bill provides an additional $400,000 for the National Commission on Children. The supplemental appropriation enables the Commission to complete its hearing schedule and to submit its final report by March 31, 1991.

The supplemental increase was made necessary because of a projected shortfall due to inadequate support for a commission of this size, level of participation, and mission. The Commission was created in 1987 and authorized through fiscal year 1990. It has 36 members with the Senate, House, and President each appointing 12 members. The Commission hired staff and held its first meeting in early 1989.

The request for fiscal year 1990 funding was prepared by GSA before the Commission had begun work on its legislatively mandated activities. Only four meetings and three field hearings were budgeted by GSA. The Commission determined 10 field events and 6 meetings would be needed in order to address the mandate from Congress. The total appropriation for fiscal year 1989 and 1990 was $1.719.

The Commission conducts studies and submits recommendations to Congress and the President on children's related issues, such as: Child health, infant mortality, support services for children, drug/alcohol abuse, education, and tax policy. Between September 1989 and September 1990 the Commission is scheduled to hold 11 hearings nationwide, none in Massachusetts.

CHAPTER VIII

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Administration: Provides an additional $5 million for Alcohol Safety Incentive Grants, a National Highway Traffic Safety Administration Program. The grant program uses Highway Trust Fund moneys. The fiscal year 1990 obligation limitation on this account was $10,967,000, and under the Conference Report will be raised to $15,967,000. The grant program encourages States to adopt measures to prevent drunk driving; 24 States have qualified for the grants by enacting drunk driving countermeasures.

GENERAL PROVISIONS

Section 319: General provision enabling $3 million in grant funds to be released for the Mid-Atlantic Aviation Training and Education Center in West Virginia and Minnesota. The $3 million was originally provided in the fiscal year 1990 Transportation Appropriations bill.

Section 320: General provision requiring Urban Mass Transportation Administration to release $31,500,000 to Project Break-Even in Portland, OR. Project Break-Even is a land acquisition and light rail station construction project of Portland's Tri-Met Transit Authority. The House and Senate have earmarked a total of $19,300,000 for the project in fiscal year 1989 and fiscal year 1990 appropriations reports.

Section 321: General provision allowing funds for a highway demo project in Las Vegas, New Mexico, to be used for construction. Also included is a directive to the Federal Railroad Administration to release a $3,500,000 railroad loan to the Chicago, Missouri, and Western Railroad, or its successor for track repairs; $1,500,000 was provided for preliminary engineering of a highway demo project for a railroad

overpass in Las Vegas, New Mexico in the fiscal year 1990 Transportation Appropriations bill. The preliminary engineering is complete, and the project is ready for construction. Bill language in the fiscal year 1990 Transportation Appropriation bill provided for a $3,500,000 loan to the Chicago, Missouri, and Western Railroad, which is now owned by the Southern Pacific Railroad, in order to repair tracks between Joliet, IL and Granite City, IL. The loan has not yet been released by the FRA.

TREASURY, POSTAL SERVICE, GENERAL GOVERNMENT

The conference report includes language which extends the availability of funds appropriated for the White House Conference on Indian Education; $5,000,000 for disaster assistance in Nebraska and Kansas; and a provision prohibiting the Department of the treasury to contract out security services for the U.S. Mint and the Bureau of Printing and Engraving. The statement of the managers also includes language with respect to a postal handling facility in Broome County, NY and a post office in Holly Springs, MS.

VA, HUD AND INDEPENDENT AGENCIES

TITLE I

The conference agreement includes $50 million for the disaster relief fund of the Federal Emergency Management Administration. These funds will be available until expended for the purpose of providing disaster relief in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

TITLE II

DEPARTMENT OF VETERANS AFFAIRS

The conference agreement includes $245 million for the Loan Guaranty Revolving Fund of the Department of Veterans Affairs. These mandatory funds were requested by the administration.

The agreement also appropriates $94 million for VA medical care and restores House language earmarking $7.227 billion for personnel benefits and objects classifications to support average employment of 194,638 by the end of fiscal year 1990. The agreement also raises the travel limitation of the VA operating expenses account by $1 million.

As passed by both Houses of Congress, H.R. 4404 includes an appropriation of $190 million for VA "Compensations and pensions" and a transfer of $1.3 million to the VA's "Medical Administration and Miscellaneous Operating Expenses" account from the "Construction minor" account.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The conference agreement contains language to make fiscal year 1990 direct loan authority for the housing for elderly or handicapped program available indefinitely.

The conference agreement contains three provisions pertaining to the Community Development Grant Program of HUD: First, reauthorizes the use of fiscal year 1990 community development grant funds for grants to Indian tribes; second, directs the Secretary of HUD, to fund special community development projects for which money was provided in the VA, HUD, and Independent Agencies appropriations bill for fiscal year 1990; and third, directs the transfer of funds recaptured by the Urban Development Action Grant Program at the end of fiscal year 1990 to the Community Development Grant Program. The agreement further permits the use of $14 million of technical assistance funds for community development activities.

As passed by both Houses of Congress, H.R. 4404 includes $72 million for public housing operating subsidies.

INDEPENDENT AGENCIES

The agreement provides $500,000 for the American Battle Monuments Commissions for expenses related to a fire at the commission's Washington headquarters.

The agreement provides $1.8 million in new budget authority to the Environmental Protection Agency to renovate a Great Lakes research vessel. The agreement also directs the EPA to spend $500,000 of available funds for a lead storage battery recycling pilot project for the State of New Jersey. Language in the joint explanatory statement of the Committee of Conference urges the EPA to allocate $900,000 of available resources to the State of Michigan for a zero waste sulfonation program. Other language in the joint statement directs the EPA to accelerate its lead-based paint abatement program.

The conference agreement also contains a provision exempting certain territorial and insular governments from the requirement that such governments establish State revolving funds in order to receive funds under EPA's Construction Grants/State Revolving Fund Program. These governments will be permitted to use allocated funds to make direct grants for wastewater treatment facilities.

The agreement transfers $32.97 million to the Research and Program Management account of the National Aeronautics and Space Administration from the space flight, control and data communications account and the research and development account of NASA.

The conference agreement transfers $500,000 and $2 million from the public housing modernization program of HUD to fund the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing and the National Commission on Severely Distressed Public Housing, respectively.

TITLE III

The conference agreement includes a general provision requiring the purchase of domestically produced sonal mapping equipment to be acquired for Antarctic research vessels of the National Science Foundation. The provision only applies if the acquisition costs are no more than $2.4 million and if the procurement is not covered by the GATT Agreement on Government Procurement.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I appreciate your strong defense of many of my constituents who work at the FBI fingerprinting facility discussed in this conference report.

The language makes clear that all current employees will be guaranteed a job either at the new facility or in Washington. It is my understanding that no employee would be forced to relocate to retain his or her job. Was it the conferees intent that every employee would have the choice of retaining his or her job at the new facility or retaining a job with the Bureau at the same pay grade in Washington?

Mr. SMITH of Iowa. Yes. The conferees provided that all current employees would be guaranteed employment and that relocation to the new site would be purely voluntary.

Mr. HOYER. I thank the chairman for his leadership and attention to this issue which is of great concern to many of my constituents.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. MCDADE], the ranking member of the Subcommittee on Defense of the Committee on Appropriations.

Mr. MCDADE. Mr. Speaker, I want to take just a few minutes to explain to the House why it is that I was unable to sign the conference report on the supplemental. I think it is important that the Members of the House know of a Sword of Damocles that hangs over the men and women of the uniformed services in the Nation. It hangs over them not because of anybody's activities on the Committee on Appropriations, not because of anybody's activities in the Senate, but indeed because of one Member who has chosen to pocket veto a reprogramming request. That request would have the impact of allowing some relief to the men and women who serve in our All-Volunteer Army, and, by the way, by everybody's account, the finest military organization that has ever been built in this

country. Deny the reprogramming request and thousands of men and women, mostly enlisted personnel, will face a future of broken contracts, canceled agreements, and ultimately, a procedure to fire some of our most faithful citizens from their chosen career in the military. And here we are approaching Memorial Day, about to give honor, just honor, just tribute, to the people who have served this Nation, indeed some who gave their lives, and because one Member has chosen to pocket veto a request for reprogramming since February, a Sword of Damocles hangs over those young men and women.

Mr. Speaker, for example this reprogramming affects CHAMPUS, a basic medical tool that ensures the quality of life for the people who serve in the military and their families. For the past couple of weeks the Navy has instructed its people "Don't pay the CHAMPUS bill. We have no money." Unless this problem is solved, and I did not sign this agreement because it was supposed to be solved before we brought up this appropriations conference report; unless this problem is solved, tens of thousands of people who served in the military, most of them, by the way, enlisted members and noncommissioned officers, face being fired. Youngsters who just went to Panama who acquitted themselves with distinction, cannot be promoted because of the freeze necessitated by the arbitrary nature of one man out of eight who has responsibility for managing the Department of Defense's budget.

Mr. Speaker, it seems to me that the House ought to consider, as we go through the day, whether we ought to complete action on this bill. I know why the chairman of the Committee on Armed Services does not convene that committee. It is because the majority of the committee would approve the actions that have been taken by the Senate Appropriations Committee, by the House Committee on Appropriations, by the Senate Armed Services Committee, but not by the House Committee on Armed Services because of the pocket veto exercised by the chairman of that committee. He is hiding. When democracy is breaking out all over the world, he is hiding behind a Berlin Wall in a bunker. He will not call the bill up on his own committee because he does not have the votes.

□ 1100

So like a child he takes his baseball bat and his glove and he says, "I am going home. Let the men and women of the service suffer."

Mr. Speaker, it is unconscionable.

Mr. WHITTEN. Mr. Speaker, I yield 7 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I should not get into an argument that I am not involved in, but in light of the remarks made by the gentleman from Pennsylvania, I would simply suggest in defense of the chairman of the Committee on Armed Services that what he is doing is simply pointing out the inconsistency that comes from those who were all too eager to impose Gramm-Rudman on this Congress and on the country when it impacted unfairly and nastily on domestic programs, but were at the same time looking for ways to mitigate and change its effect when it comes to the Pentagon side of the budget. I think what the chairman of the Committee on Armed Services is suggesting is "what is sauce for the goose is sauce for the gander." To suggest that his record in any way does not honor those in the Armed Services of the United States I think is not appropriate, not fair, and not correct.

Now let me make the statements that I wanted to make.

Mr. Speaker, there has been a lot of hand wringing about the delay accompanying the passage of this bill because a number of Members of the House are anxious, as is the White House, to get money down to Nicaragua and Panama.

I want to make quite clear I have supported the request of the administration on this. The committee moved the bill as quickly as we got it, and I agree that the Senate engaged in undue delay. But before we get too exercised about that, let me try and put it in perspective.

For those who are looking to the United States to fulfill our moral responsibility to Panama and Nicaragua through passage of this legislation, I would suggest that you are missing the boat. I want to point out a few things.

I did not criticize United States action in Panama. I felt that perhaps the President had no choice in the end. I did criticize the fact that for a number of years before that action was taken the United States followed policies which unfortunately made our invasion of Panama inevitable.

I think that the support of President Noriega by our Government for a long time was ill-advised. I think it is unfortunate that because we gave him the impression that we cared more about his support for our policy with respect to the Contras than we cared about his involvement in drugs, that in fact our policy made inevitable what happened when we finally invaded Panama.

But I did not object to the President's specific action, because I felt he probably in the end had no good choices.

But I do want to suggest that this package of aid to Panama is not all it is cracked up to be. We are very good in this place, and the White House seems to be very good, at focusing on our geopolitical responsibility. I think, unfortunately, we are also very good at ignoring our individual responsibilities. I want to bring a few to your attention.

Coleman McCarthy wrote I thought a most poignant article in the Washington Post last week. He pointed out, for instance, that on the afternoon of our invasion of Panama, Jose Salas was at his home in his living room in his apartment building in Colon. U.S. helicopters came over the building. His wife was in the kitchen cooking dinner, with two children elsewhere in the apartment.

U.S. helicopters came over the building and fired a missile into the structure. His wife died instantly. He was quoted as saying "her body was completely destroyed, her intestines hanging out, her legs shatterd." Both children were wounded.

After a period of bereavement and homelessness, that family has now lost all of its possessions.

Heriberto Pitti worked for Eastern Airlines for 19 years. He was on the night shift as a cargo attendant at the Eastern hangar when our troops attacked the airport.

Pitti, Pablo Diaz, and another colleague jumped into an Eastern pickup and raced out of the hangar. The truck took seven rounds through the windshield, killing all three. Pitti left a widow and two daughters. Diaz left a widow and 12 children.

I bring this to your attention to simply make this point: The response of the United States to those cases to date has simply been that Mr. Salas received one-paragraph rely from the U.S. Army which said, "We have received your report of your wife's death resulting from combat operations during Operation Just Cause. While the United States Government is aware of the damages and regrets your loss, there is no legal authority to compensate you for your loss."

That, unfortunately, is correct. But I would point out simply that when the United States invaded Grenada a few years back, a way was found to provide some response to individual claims which were recognized as being just. There was no legal basis for doing so, but we managed to provide a response to those claims.

I simply want to make the point that this bill deals with the macroeconomic problem caused by our policy with respect to Panama and Nicaragua. It does not deal with our individual responsibility to our fellow human beings on this Earth, who through no fault of their own were caught in a crossfire with incredibly devastating results to their families.

So I would suggest, I am curious to see whether or not the same Members

in this Congress who so eagerly supported Operation Just Cause will now also be just as eager in seeking a just result for some of the individual families who were so savaged by the action down there.

I do not criticize our troops in any way, because action like this is unavoidable. But I do think we have a responsibility to more than provide assistance to the Government so that it can meet its international responsibilities. That Government has a responsibility to their own citizens. I think we have a far way to go before we recognize our responsibility to those individuals.

Mr. Speaker, I hope to God that we are just as anxious to bring something like that to the floor as we apparently have been to bring this vehicle to the floor on this occasion.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I plan to support this bill, H.R. 4404, because of indeed the several items in the bill that are dire emergencies and require a supplemental. But I do confess, as many Members, that many of us will have to hold our nose to vote for the bill.

Let us review the facts on the bill overall for a moment, and then I want to pay particular attention to the amendments in disagreement.

First, as the President asked for earlier this January, $720 million of indeed dire emergency supplemental appropriations for the world's two newest democracies, Nicaragua and Panama. Neither of these countries had been democracies at the beginning of this appropriations year, and both of these countries are democracies in large part due to the help of the United States. So in fact we have an obligation to our brothers and sisters in these two countries to help them with their democracies.

What appears to have happened is the conference committee in both bodies have added items to the bill to make it total from $720 million to $4.3 billion. Some of those additional items have been offset by cuts. Some of those additional items are supplemental and could be used.

The difficulty is many of those items are neither dire, nor are they emergencies. They are simply looking for a vehicle to move along.

I do pay particular attention to the most egregious of those items, which is amendment No. 124, which I shall oppose the motion to receive and concur.

Amendment No. 124 in disagreement specifies 37 particular projects. Those 37 particular projects are related to community development types of projects. None of the 37 are dire, nor are they emergency, nor should they be categories for supplemental appropriations. They all existed in the last appropriation cycle and will all exist in the next appropriation cycle.

So when we vote, some would say that there is no doubt about the outcome of the vote, perhaps because with 37 projects spread out all over the country in Members' districts throughout the country and adjacent districts, perhaps the outcome is not in doubt.

I choose to think that the Congress will rise to the occasion and say enough is enough, that it is a shame on the conference committee that the conference committee would choose to attach 37 special interest projects to this otherwise dire emergency bill, but it will be a shame on us if we in fact go along with it.

I want to repeat some of the things that were said before and will be said during the debate.

□ 1110

These projects have several things in common. First, the entire program was deauthorized because of one of the most vicious and harmful scandals in HUD's history. Congress chose to deauthorize it.

Second, all 37 by name have either not been competed against other projects or they have lost their competition.

I urge a "no" vote on No. 124.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. Mr. Speaker, first and foremost I want to thank the gentleman from Mississippi [Mr. WHITTEN], chairman of the committee for his work, and the members of the committee on this dire emergency supplemental appropriation, H.R. 4404.

I rise in support of it specifically because this bill has in it, thanks to the chairman and the members of the committee in their wisdom, understanding and compassion, $216 million in disaster aid for recordbreaking disasters throughout the Southwest.

As a Member of Congress from Mississippi, Chairman WHITTEN knows full well the terrible damage that flooding can do. When I first talked to him about the disaster funding shortly after the flooding it was evident that he wanted to do everything he could to help.

I know in Oklahoma just 2 weeks ago I flew by helicopter over historic floodwaters, more than in the 1940's and worse than the flood of 1957 in that area. In short, they were the worst floods in history.

The only thing I can say Mr. Chairman, through your work and the work of others who have been here many years, is that I cannot even contemplate what the disaster would have been like if we had not had the upstream flood control projects of the Corps of Engineers, the Bureau of Reclamation and the upstream watershed projects of the Soil Conservation Service. I am deeply appreciative of the $60 million in here for the Corps of Engineers, the $91 million for the USDA and the watershed programs for the emergency, and also the $50 million for FEMA, which would bring it up to a total of $216 million for disaster aid. Combined with the $350 million left from the disaster funds appropriated last year after Hurricane Hugo and the San Francisco earthquake, that gives us something like $500 million to try to begin working with those who are in need.

I also say to the gentleman from Mississippi that I appreciate very much the report language that mentions Oklahoma along with other States in the Southwest, and that I appreciate all of the help.

Today in that area of the State of Oklahoma we have seen the raging waters that would probably have literally destroyed communities, but miracles do happen because of the wisdom of people. Only one person's life was lost. Most loss was in the form of a lot of property and livestock.

I couldn't be more pleased to see that the House has taken up this much needed legislation in a timely yet responsible manner. We all wished things could have moved along sooner but it's understandable that it takes time to gather all the information needed to make a decision. I'm optimistic that the Senate and the President will take speedy action on this bill so these disaster relief funds will get to the people who need them as quickly as possible.

So I say to the gentleman from Mississippi, Mr. Chairman, thank you very much for your work and for your help.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GREEN], a member of the committee.

Mr. GREEN. Mr. Speaker, I rise to respond to the remarks of the gentleman from Texas [Mr. BARTLETT].

The facts as to amendment No. 124 are quite clear. The House voted for those projects last year. We had a vote on them and those projects won.

Last fall when the committee of the gentleman from Texas [Mr. BARTLETT], the Committee on Banking, Finance and Urban Affairs, brought the HUD reform bill to the floor, his bill had a save (harmless for those projects) as the Secretary's discretionary fund authorization was repealed. So for a second time the House supported those projects.

Despite that, HUD's general counsel has said that because those projects were listed in the conference report last year, although the money for them was included in the bill itself, they do not constitute an appropria-

tion. We are simply in this bill trying to deal with that technical obstacle that HUD's counsel has thrown up.

Amendment No. 124 involves no new money because that money was already appropriated last year. It exists simply to clear up the roadblocks that HUD's counsel has thrown in the way of working the will of the House. I think that is exactly what a supplemental appropriation bill is for, and since these measures cost no new money, I urge my colleagues to support the action they have taken in the past, support the prerogatives of the House and approve amendment No. 124.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO], a member of the committee.

Mr. FAZIO. Mr. Speaker, it is so easy to cast a broadbrush attack on provisions of bills like this and raise the specter of pork, and then of course the media and many of our colleagues who do not take the time to read in detail become concerned and are made nervous about voting for something that perhaps they do not fully understand.

I would like to call attention to section 174 which appeared on the list that the gentleman from Pennsylvania [Mr. WALKER], has indicated he will oppose. There are two projects which I am sure in Mr. WALKER's terms might be called pork, but I would like to describe them and perhaps reassure our colleagues.

One was added by Senator COCHRAN and LOTT, two Members of the Republican Party in the other body, to force the Gulfport, MS dredging issue by getting a local cost-sharing agreement signed by July 1 so that the $20 million that the State of Mississippi has already provided will not revert to the treasury of that State, and so that project which has been authorized twice during the 1980's, which has the support of the OMB and the Corps of Engineers, can go forward. I think there is nothing here other than an attempt to make a process work.

Another project, which I have more direct interest in, is attached to that. That also is under section 174. It provides that in the drought environment in California we could fix an earthquake-related liquefaction problem at a part of the Folsom Dam in the Central Valley Project. If we are able to work this summer while the water is so low in the reservoir, we will save from $25 million to $75 million in lost water and power charges that the Bureau of Reclamation will not be able to collect if at some point in the future it has to evacuate the reservoir in order to fix the dam. We are taking advantage of a drought environment in order to make a cost-efficient decision to save the taxpayers from $25 million to $75 million by moving this year and appropriating money out of existing funds.

This is not pork. This is an appropriate action that should be taken on this supplemental to save the taxpayers a much greater loss.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I rise in opposition to H.R. 4404, the dire emergency supplemental appropriation bill, primarily because it contains a great deal of spending which does not address any emergency at all, dire or otherwise. It provides total new spending of $4.3 billion which is offset by defense reductions of about $2 billion, meaning that the new spending provided will be about $2.3 billion.

It does require waivers, which the Rules Committee has granted. Those waivers should not have been granted. The bill should have been handled in the regular processes.

Mr. Speaker, I would like to speak about some of the amendments. Amendment No. 114 deals with the REA. In the language of the committee report, not the language of the bill, the conferees state that certain REA funds should be used to the maximum extent possible. That is an interesting and pious hope by the conferees, but, since it is not in the law, I believe that there is no actual direction to spend, and that the money need not be spent. I think if the committee really intended that it should be spent, it would have put such language into the law.

Second, there is amendment No. 24 referring to a munitions plant which I believe should be eliminated. I shall ask that this body insist on its position and not recede to the Senate on that one.

There is amendment No. 167 dealing with information of expenditures of U.S. funds which are supposed to be placed in the CONGRESSIONAL RECORD, which would not be if that amendment were accepted.

Finally there is amendment No. 171 on mail which the Senate provision should prevail, not the House.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I am pleased that the gentleman from Minnesota brought up the language on the Rural Electrification Administration. It would have the effect I believe, and I am not sure whether the gentleman mentioned the figure, of increasing outlays by $336 million.

Mr. FRENZEL. Per year.

Mr. CONTE. Per year, and that is ridiculous when we face this enormous deficit and we are trying to iron it out, the gentleman and I together, in the budget summit in order to cut the deficit responsibly.

I am pleased that the statement of the managers is not binding law, because I cannot see any way in which we can afford this kind of backdoor spending.

□ 1120

Do you agree with me, that the language has no effect at all as part of the statement of managers.

Mr. FRENZEL. I agree with the gentleman that had the managers intended their language to be binding, they would have written it into the law.

Mr. CONTE. Good. I want that for legislative history.

Mr. FRENZEL. I thank the gentleman.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, if Members wonder why some of us get concerned when we get a conference report on the floor that has been worked over behind closed doors, one only has to look at page 70 of this conference report to understand why we have some pause.

On page 70 of the conference report we see the language:

> Furthermore, the conferees direct that the maximum amounts of loan funds authorized in the 1990 Rural Development, Agriculture, and Related Agencies Appropriations Act be made available for obligation.

What does that mean in terms of real money? Well, the funds available under that particular provision are either $1.8 or $3.3 billion.

Now, the administration has decided in these times of fiscal austerity that what the country can afford is $1.8 billion.

In that one little sentence in this conference report, the conferees are telling the administration, "No, you don't spend $1.8 billion, you spend $3.3 billion." The $1.5 billion more in loans than otherwise would be obligated, or $1.5 billion.

I doubt it is offset. I doubt that there is money to cover it. It is simply more obligations on the Federal Government, more debt for the Federal Government that is obligated in one little sentence on page 70 of the report.

Now I must tell you that this sentence has some problems with legislating, this one sentence gives us $1.5 billion more in debt for the country.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the gentleman from Minnesota and I just had a colloquy on that, and I do not want to muddy the waters on that. We have both

pointed out, and I think the gentleman in the well agrees with us, that the statement of managers is not binding law. I cannot see any way in which we can afford this kind of backdoor spending. The gentleman agrees it is not law.

Mr. WALKER. Yes.

Mr. CONTE. It is not worth the paper it is written on.

Mr. WALKER. Absolutely. I agree with the gentleman that it is; but, you know, to put language down there like that, then OMB gets concerned.

I appreciate the statement of the gentleman because I think that helps make it clear to the people at OMB that they do not have to do this, that this is troublesome language, but hopefully they will take this language as on the floor and say, "We are going to stick to $1.8 billion."

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to myself.

Mr. Speaker, I hope my colleagues will listen to me: We have, as you know, 435 Members of the House and 100 Senators.

The Committee on Appropriations considered the President's request and followed the President's request for the most part and came out with a supplemental. I think it had three amendments on the House floor. We held the line.

But we have two branches of Congress. The other side do not have rules similar to ours. They added 180 amendments, many of which were for the development of our own country.

Mr. Speaker, I have listened to all this debate. There is $700 million-odd in here for foreign aid. I have not heard a word of criticism about it. But the other things that we have gone along with which looks after our own country on which foreign aid depends is where the criticism is.

You cannot gain anything taking issue with the press, but many of them refer to anything as pork barrel if it is beyond sight of the Washington Monument. If it is foreign aid, it is a sound investment, according to them.

We have gone along with the President because he is our President, and he feels very deeply about money in here for foreign aid. But I say we had better look after our own country because that is what we have to look to before we can do these other things. And I speak from the heart.

May I say again, with 100 Senators, with the rules that they have, and 180 amendments, we have done a good job, in my opinion, in holding down.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I agree with the gentleman's point that we have a problem on the other side of the Capitol building that very often we come out of this Congress with a fairly clean bill and have a lot of amendments added on the Senate side. But I would suggest that part of our problem is that some amendments get added by our people as well. For example, I do not believe the Holly Springs, MS, post office amendment was one that came out of the Senate. I think that was probably one that the gentleman from Mississippi added to this bill on his own. That is our question, whether or not we ought to have a process where the Senate does the irresponsible thing and when we go to conference committee we just get even more irresponsible.

Mr. WHITTEN. May I say, in connection with the item that the gentleman mentioned, that was fixed by law some 2 or 3 years ago. So all we did was to uphold the law.

Mr. WALKER. If the gentleman would yield further, it was fixed by appropriations law, and it was another part of the same process.

I am simply saying to the gentleman that is our concern when you look at the reports.

Mr. WHITTEN. Mr. Speaker, I come from a small town district, and 3 or 4 years ago, and the gentleman I think went along with me, a law was passed that precluded moving the post office a mile and quarter from town because it did not make any sense. To move it now is in violation of the law which the gentleman helped pass.

Mr. WALKER. I thank the gentleman. But I would simply point out that that was not a Senate amendment, that was an amendment added by the House that does have consequence in the supplemental.

Mr. WHITTEN. If the gentleman picks up a little item like this, it sounds like he has read the bill rather closely.

Mr. FRENZEL. Mr. Speaker, I rise in opposition to H.R. 4404, the dire emergency supplemental appropriations bill primarily because it contains a great deal of spending which does not address any dire emergency. This bill provides total new spending of $4.3 billion which is offset by defense reductions of $2 billion. Therefore, the net new spending in the bill for fiscal year 1990 is $2.3 billion.

This bill does violate several sections of the Budget Act which have been waived in the rule. In particular, it violates section 302(f) because the Appropriations Committee has exceeded its fiscal year 1990 allocation of new discretionary budget authority, as well as its credit allocation. Congress has also already exceeded the total level of outlays permitted by the fiscal year 1990 budget resolution by $6.2 billion. This bill further adds to this overage.

I would like to mention a few items which I do not consider dire emergencies. This bill provides $185 million for the FBI to locate a fingerprint repository in West Virginia. It provides $238 million for an unnecessary RDX munitions plant in Louisiana which I will fight when amendment No. 24 is raised; $433 million is provided for past firefighting activities which should be taken care of through the regular appropriations process. The House has given itself authority to use unexpended balances for official mail. This issue will be discussed further when amendment No. 171 is disposed of. We are also spending $750,000 to transfer a ferry to the Samoan Government.

As the budget summit is trying to grapple with the deficit problem, Congress is continuing business as usual. I will vote against this conference agreement because it is time that Congress face its responsibility to the American taxpayer and stop spending tax dollars for special interests.

Mr. MONTGOMERY. Mr. Speaker, I rise in support of the conference report, and to commend the leadership of the committee, Mr. WHITTEN, Mr. CONTE, Mr. TRAXLER, and Mr. GREEN of New York, for the amounts contained in the bill for veterans compensation, pension, and health care programs. I'm grateful to all members of the committee.

With regard to the supplemental funds for medical care, the conference report states that at least $30 million is intended to increase medical staff. I hope that this will help eliminate some of the problems many veterans now face in getting outpatient care on a timely basis. Last year the appropriation bill passed by the House included $11.561 billion for VA medical care. This amount was intended to support a staffing level of 194,720 FTEE. Subsequently, the amount available to the Department for medical care was reduced by $236 million due to sequestration and across-the-board reductions in discretionary programs to fund the drug bill.

I am pleased that the bill includes $94 million for medical care, but I must warn my colleagues, however, that this amount will not allow the VA to reopen the nursing home beds it has closed during the past year, nor will it be enough to solve most of the problems veterans are experiencing in getting outpatient care. In addition, I am concerned that there are no funds to hire additional staff in the Veterans Benefits Administration. Disabled veterans must now wait 4 months for an initial appointment with a vocational rehabilitation counselor; there are long delays in processing claims for compensation and pension, and thousands of people are unable to obtain information they need to apply for benefits because of inadequate staffing in the Veterans Services Division.

I am hopeful that we can begin to correct some of these problems in the 1991 appropriation measure for veterans. For now, the amounts provided in this bill will help and I urge my colleagues to support the bill.

Mr. GRADISON. Mr. Speaker, the supplemental appropriations bill we have before the House is a sad commentary on the state of budgeting and fiscal policymaking in the Congress. At the very time the Congress and the executive branch are beginning summit negotiations to reduce the budget deficit, control outlays, and reassure nervous credit markets, this bill exposes to public view the "business as usual" attitude of the Congress about spending.

This legislation began as an important, but comparatively simple, request for $800 million in needed assistance for Panama and Nicaragua. Funding for the aid package was to be offset by unspecified reductions in the defense budget. From this humble beginning, the bill has quickly grown into a classic legislative Christmas tree with a cost of $4.4 billion. Many of the expensive add-ons are not "dire emergencies"; indeed, they are not emergencies at all. Consideration of them should be deferred until the 1991 appropriations bills are considered by the House, when these add-ons can compete with other spending proposals in the priority setting process which we should have in mind when we use the term "budgeting."

One especial outrage is a clever new gimmick, using expired funds, to pay for the House's uncontrolled and excessive use of the frank. This provision alone justifies defeat of the supplemental.

I realize the President has been waiting far too long for congressional action on his Panama and Nicaraguan requests. But this Member is unwilling to go along with a total breakdown of what little spending discipline we have around here in order to advance those few items which do indeed require urgent action.

Mr. SAWYER. Mr. Speaker, I want to draw the attention of my colleagues to a Senate amendment to H.R. 4404 that would give the Census Bureau a $110 million contingency fund to ensure the timely completion of the 1990 census.

The 1990 census is truly in a dire emergency situation. It is clear that the Census Bureau's early operational difficulties will strain the Bureau's personnel and financial resources and may jeopardize the accuracy of the census. The quality of the census is at risk if additional funds are not provided.

When the House of Representatives passed H.R. 4404, on April 3 of this year, the bill did not contain additional funds for the census. Census forms had just been delivered to households across the country, and the Census Bureau was optimistic about staying within its budget.

As the census has progressed, however, unanticipated problems emerged. The Bureau now faces a shortfall of $180 million. The Census Bureau based its decennial census budget on the assumption that 70 percent of American households would return their census forms through the mail. Unfortunately, the mail response rate has reached only 63 percent. The Bureau must hire an additional 56,000 enumerators to compensate for the increase in households that did not return a questionnaire by mail.

The Senate amendment to H.R. 4404 provides $110 million in new budget authority for the Census Bureau for fiscal year 1990. An administrative provision will allow the Census Bureau to spend $70 million already appropriated for unemployment compensation for current operations.

Failure to address the financial problems facing the Census Bureau will have serious and far-reaching consequences. The Census Bureau recently warned that the budget shortfall might force census district offices to close early, before all field activities are complete. If offices close early, the follow-up programs may be curtailed, limiting the Bureau's ability to reach those individuals and neighborhoods that are most difficult to count.

The Census Bureau also warned that the present budget shortfall may result in the cancellation of the post census local review. This program provides local governments with their only opportunity to review preliminary population and housing unit counts for accuracy before they become final.

Insufficient funding will seriously jeopardize the accuracy and timeliness of the decennial census. The funds we commit now to ensure thorough and timely census operations are an investment in the strength of our democracy, the competitiveness of our economy, and the progress and well-being of every community in the Nation.

For those reasons, I urge my colleagues to support the Senate amendment to H.R. 4404 that provides additional funds for the 1990 census, and urge the speedy passage of this bill.

Mr. PENNY. Mr. Speaker, I rise in opposition to the fiscal year 1990, supplemental conference report before us today. This measure appropriates a total of $4.3 billion—offset by $2 billion in DOD cuts—in new budget authority and almost $700 million in new outlays in the current fiscal year. This bill is a budget buster and will only make the task of reaching a budget summit agreement more difficult. And like all supplemental appropriations, this one touches almost every area of Federal spending, from foreign assistance, to low-income programs, to unemployment compensation, to disaster assistance, to Federal personnel, to the Census, to Agriculture, the EPA, FEMA, NASA, CFTC, congressional franking, the District of Columbia, Transportation, and housing guarantees for Israel.

The question I have is: What program did not receive new money? Better yet: What tough decisions were made? How can we justify these spending increases at this time?

Well, I don't expect an answer to these questions because as an institution, and the President shares as much of the blame as we do, we simply cannot say no.

But let's focus on the pork, the projects that have no real value except for political purposes. Mr. FRENZEL has questioned the need to spend $238 million for an Army RDX ammunition factory in Louisiana. The Department of Defense has never requested this project. As a matter of fact, the Army already has a RDX plant that is operating below its intended capacity. I urge my colleagues to support Mr. FRENZEL's opposition to amendment No. 24. The DOD budget must be cut, so why force on them unwanted programs?

Let me also list a few other items of pork.

+$510,000 for Dayton, WA downtown revitalization,

+$400,000 for Salisbury, NC collapsing utility tunnel,

+$500,000 for West Valley City, UT infrastructure, earmarked in bill language in Amendment No. 39,

+$3,000,000 for Roxborough/Logan, PA ground subsidence,

+$750,000 for district heating and cooling,

+$450,000 for integrated urban data based in seven cities,

+$186,000 for Newport, WA courthouse handicapped access,

+$390,000 for Mackinac Island, MI library/recreation center,

+$270,000 for Otsego County, MI regional education center,

+$2,000,000 for Ottumwa, IA site clearance,

+$1,200,000 for Hawaiian home lands infrastructure, earmarked in bill language in Amendment No. 38,

+$500,000 for New Orleans Covenant House,

+$1,200,000 for Newark, NJ performing arts center,

+$250,000 for the National Association for the Southern Poor,

+$1,000,000 for Provo, UT and Orem, UT revolving fund demonstration,

+$320,000 for Omaha, NE infant mortality project,

+$225,000 for Chattanooga, TN homeless shelter,

+$800,000 for Chattanooga, TN low income housing demonstration,

+$1,200,000 for Charleston, SC downtown revitalization,

+$1,200,000 for Burlington, VT Northgate apartments,

+$180,000 for Leake County, MS bridge project,

+$1,300,000 for Hawaiian sugar mills job retention,

+$249,000 for Rolling Fork, MS community hospital ugrading,

+$1,250,000 for Omaha, ME center for the disabled,

+$350,000 for Seattle, WA housing authority drug elimination,

+$16,000 for Parshall, ND and New Town, ND for municipal services to Indian housing, earmarked in bill language in Amendment No. 39,

+$140,000 for downtown economic revitalization in Holyoke, MA,

+$600,000 for the neighborhood challenge grant revolving fund in Toledo, OH,

+$1,025,000 for the Mutual Housing Association of New York City for the purchase of a private residential building,

+$600,000 for the low- and moderate-income housing development program in Saginaw, MI,

+$800,000 for the Cuyahoga Metropolitan Housing Authority for fighting drugs and improving security and maintenance in the Central Estates area on the east side of Cleveland, OH,

+$800,000 for economic revitalization activities through the East Texas Human Development Corporation in Marshall, TX,

+$990,000 for Middle Grounds Park and waterfront, improvements, bridge lighting, and property acquisition in Bay City, MI,

+$500,000 for site planning and land acquisition for Bethlehem House in Highland, CA,

+$250,000 for renovation of transitional housing facilities owned and operated by Lazarus House in Lawrence, MA,

+$970,000 for constructing, furnishing and equipping the job training and retraining center in Saginaw, MI,

+$500,000 for acquisition, clearance and relocation activities in the Norristown, PA redevelopment area,

+$550,000 for equipment and landscaping to deter crime and aid police surveillance at Kemp Street Park in Mount Clemons, MI,

+$529,000 for a facility for housing for homeless families and assisting recovering substance abusers in Fort Worth, TX,

+$200,000 for a technical assistance grant to Michigan State University for an urban afairs community development program.

Let's vote this budget-buster down as a sign of our resolve to reduce spending. Surely, we can bring another conference report to the floor that provides for real dire needs. Most of the spending in this measure is politically popular but not dire and on that basis this measure should be defeated.

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support for the dire supplemental appropriations bill for Panama and Nicaragua.

It is unconscionable that aid for the democratic governments in Panama and Nicaragua have been held hostage because liberal Democrats in this body have sought to punish another democratic government, El Salvador.

For years, critics of the administration have complained that the President only wanted a military solution to the crises in Central America. Yet, in the past few months, when those same critics had the chance to advance the cause of democracy in Nicaragua and Panama, they chose instead to obstruct, to condition and to delay urgently needed assistance vital to help stabilize newly emerging democratic administrations in Panama and Nicaragua.

President Violeta Chamorro, of Nicaragua, has had to send our President and this body urgent messages pleading for prompt, generous assistance to save her beleaguered government from the bankrupt legacy she inherited from the Sandinistas. The Democratic leadership of this House served as willing accomplices to those liberal Members who abandoned the cause of Nicaragua once the Sandinistas were no longer in power. It's almost as though they want to see Chamorro and democracy in Nicaragua fail. Certainly, if the aid that President Bush had requested for Nicaragua had been approved by April 5 as he urged, then President Chamorro might not have had to face the early and critical challenges she has already been confronted with.

It would seem that those in this House who did so much to counsel the Sandinistas on how to influence congressional action on Nicaragua have continued to try to influence events in favor of the Sandinistas.

Whether they are ultimately successful remains to be seen. But, one thing is clear, administration policy bringing pressure on the Sandinistas was the one constant factor that forced the Sandinistas to agree to and accept the need to hold free and fair elections and to honor the results.

The Sandinistas repressive, totalitarian policies created the Contras, and the very existence of the Contras, backed by those unwilling to let the Nicaraguan revolution be stolen, became the force that prevented the Sandinistas from perpetuating their stranglehold on the Government and people of Nicaragua.

Recent events in Nicaragua only continue to confirm the unrelenting objective of Daniel Ortega and the Sandinistas to try to make it impossible for the government of Violeta Chamorro to succeed. The Sandinistas are neither interested in the welfare of the Nicaraguan people nor the survival of Nicaraguan democracy. It is apparent that if they can't maintain power then they are going to make sure that no one else does either.

For that reason, it is all the more imperative that the United States extend significant financial and technical assistance to assure the survival and strengthening of democracy in Nicaragua. We owe it to the Nicaraguan people and we owe it to our own Nation's security.

The same is true for our support for the government of Gullermo Endara in Panama. The defense of both democracy and of United States national security interests in Panama deserve our strong support. We have both rights and obligations in Panama and in the Panama Canal. Because of those rights and obligations, it is imperative that we help the Endara administration in Panama strengthen its government institutions, its economy, and its control over the security forces.

In December, President Bush acted decisively and responsibly in sending American troops to Panama in response to the grave threat posed by Gen. Manuel Noriega to Americans and American interests in Panama. The President had shown remarkable restraint in the months prior to December as the United States faced a series of escalating provocations by Noriega. The President's decision to send troops was a necessary, last resort after exhausting all other peaceful means in an effort to remove Noriega from power in Panama.

No one should forget that the United States had consulted extensively with our Latin American allies following Noriega's decision to throw out the results of the democratic elections held in Panama on May 7, a year ago. I was a member of President Bush's observer delegation to those elections and personally witnessed the world class fraud Noriega attempted. The overwhelming vote by the Panamanian people in favor of Gullermo Endara was a decisive rejection of the continuation of Noriega's dictatorship.

Following the annulment by Noriega of those elections, the United States, in conjunction with actions by the Organization of American States, sought a negotiated solution between the democratic opposition in Panama and the Noriega regime. OAS efforts proved futile, as were the increasingly strong economic sanctions against Noriega.

After Americans were threatened, and one even killed, the President under the Constitution was obligated to protect American lives. President Bush acted to protect American lives, American interests in the Panama Canal, to restore democracy in Panama and to bring to justice Manuel Noriega, an indicted drug kingpin. He accomplished all of those objectives. A majority of the American people supported his action, and more importantly, a majority of Panamanians supported his decision.

For having made that kind of commitment, United States responsibility does not end simply with the return of United States combat troops from Panama. We are obligated to help the rebuilding process, and to do so promptly and with sufficient assistance to see that lasting results are accomplished. It is vital that we carry out our responsibilities now so that we do not face even greater crises later.

I am pleased to see that this body is finally acting on getting this much needed assistance to Nicaragua and Panama. It's late, but hopefully, not too late.

I urge my colleagues to support swift passage of this measure.

Mr. BRENNAN. Mr. Speaker, I am pleased with the conference committee's action on the supplemental appropriations bill. This measure recognizes domestic priorities, including the Head Start Program. As a cosponsor of a bill to reauthorize Head Start at a level which by 1994 would provide 100 percent of eligible youngsters with the health, education, social, and parental services offered by Head Start, I support the conference report's inclusion of $165 million to supplement current Head Start spending.

Over 90 percent of the 450,000 children nationwide who participate in Head Start live below the poverty line. In 1988, more than 75 percent of all Head Start families had family incomes below $9,000. I'm not sure Members of Congress can imagine raising a family on less than $9,000.

In my home State of Maine, where the average income falls below the national average, the nearly 1,700 children who participate in Head Start need these valuable services. Kids in Maine need to be a part of the educational and developmental success that has been demonstrated by Head Start. Head Start has been useful in teaching children to believe in themselves, and they enter school better prepared than many of their peers to meet the academic and social challenges that lie ahead.

Parents have said Head Start makes their children feel special, wanted, loved, and cared for. Others have stated that Head Start helped build their entire family's self-esteem. Statements like these clearly show the value of Head Start services for not only the child that gets a head start in life, but also for a single parent, an entire family, and the community as a whole.

Mr. Speaker, the fact that for every dollar spent on Head Start approximately $6 is saved on welfare benefits, high school dropout services, and costs associated with crime, means that the $165 million in this bill for Head Start is a cost-effective use of Federal dollars. I commend the conferees' efforts to meet the needs of lower income families and children in Maine, and throughout the Nation; and, I support this bill.

Mr. VENTO. Mr. Speaker, I rise in support of the conference report on H.R. 4404, the dire emergency supplemental appropriations for fiscal year 1990, and to especially thank the conferees for accepting the $2.3 million contained in the Senate bill for primary health for the homeless in addition to the direction in House report language to target fiscal year 1989 carryover funds to the clinics that had received only phaseout funding this year.

As many of my colleagues know, the need here is an emergency. Clinics were slated to be closed in a number of communities, others faced seemingly arbitrary cutbacks in their funding that forced them to cutback on their services. These are clinics that are providing for the basic health care needs of homeless Americans. This supplemental appropriation will not expand this program. It will not afford services for thousands upon thousands of homeless people who need it. It will, however, give currently operating clinics the opportunity

to remain in operation for the rest of this fiscal year.

Additionally, I support the inclusion of $72 million for public housing operating and maintenance funds that our public housing agencies so desperately need. That year after year, the PHA's must come to us and request supplemental funds just so they can pay the bills, it may speak to recognizing their great service and their requests from the outset.

Mr. Speaker, this conference agreement also provides needed funds for assisting emerging democracies in Central America and other important foreign aid projects. The $420 million included in this bill will help Panama rebuild and promote the establishment of the fractured democratic institutions. These funds will provide loans, credit, and contributions to an international account.

In addition, the bill provides $300 million for Nicaragua to help this beleaguered nation usher a new era of national reconciliation and economic renewal. The civil war took a devastating toll on human life, leaving at least 30,000 dead and many more injured, homeless, or orphaned. The war effort and the United States trade embargo left the Nicaraguan economy in shambles. We have an obligation to help Nicaragua rebuild its bankrupt economy.

I also support the funding provided in this bill to facilitate the continued emigration of Soviet Jews. This bill contains $400 million in loan guarantees to the Israeli Government to guarantee housing and infrastructure projects for newly arrived immigrants to Israel. In addition, the measure provides $75 million for emergency refugee admissions and assistance in Israel and the United States, principally for refugees coming from the Soviet Union and Eastern Europe. These funds respond to the dramatic changes which have occurred in the Soviet Union in the past year. The disturbing rise in anti-Semitism in the Soviet Union makes continued open emigration all the more important.

Finally, I support the supplemental appropriation of $433.5 million for firefighting programs in the Interior and Agriculture Departments. I am pleased that we have provided the funds to repay funding from other accounts that was used to cover firefighting costs for this year.

Mr. Speaker,. I urge my colleagues to support this conference report.

Mr. STARK. Mr. Speaker, the press reports the President is upset with the Congress for the delays in getting money to Panama and Nicaragua. He feels that we have been too slow.

Slow?

I'll tell him about slow. Slow is the Federal Emergency Management Administration providing help to the low-income and homeless of Oakland, CA after last Octcber's earthquake. That is slow.

Slow?

Slow is when it takes HUD over 6 months to provide housing vouchers to people displaced by the earthquake.

The President says it is our obligation to these two countries.

Obligation?

I have an obligation to answer the May 7 letter from Barbara Gaffield, the nutritionist of Children's Hospital in Oakland, CA. She tells me that because of cutbacks in the Women, Infants, and Children Supplemental Food Program, that they may not be able to feed children over the age of 12 months—that up to 14,000 children in just the counties of Alameda and Contra Costa could be denied WIC food vouchers.

I think that I have an obligation to find ways to help feed these young children, so that they will be healthy enough to break out of the cycle of poverty that their parents are in.

I didn't vote for the war that devastated the people of Nicaragua and I won't vote for this foreign aid when so many of our own people are hungry, homeless, and sick.

As for Panama, the whole world had a stake in deposing that drug nut. The whole world should pay for it through higher Panama Canal fees.

When people in my county face Third World infant mortality death rates, I won't vote for this foreign aid. There are appropriations in the bill for important domestic programs—but nevertheless we should defeat this bill and take the foreign aid money to more adequately fund our unmet domestic needs and reduce our Nation's deficit.

Mr. RIDGE. Mr. Speaker, I want to join with my colleague from Ohio in strong support of the supplemental appropriation for the Census Bureau. Although admittedly not the best tool for accomplishing this task, the Dire Emergency Supplemental Appropriation will enable the Census Bureau to complete a fair and accurate census on schedule.

Bureau bashing is becoming more prevalent as the census enters its second phase of operation. Concerns over a low response rate and its impact on the minority undercount as well as the budget are growing with each day. I state to you, my colleagues, that the census is by no means over. It has barely begun. We, in Congress, have a responsibility to make certain that the Bureau has the resources to continue and complete the most accurate census possible.

The census is not just a concern of representatives, it is the foundation of our representative form of government. Without an sufficient resources, there will be undercounts and overcounts. Without appropriate resources, no method, however efficient, could complete the count. Without appropriate resources, no amount of statistical manipulation could assure accuracy.

Again, I strongly support this supplement appropriation and urge my colleagues to do the same.

Mr. CONTE. Mr. Speaker, on that note, I have no further requests for time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quroum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 308, nays 108, not voting 16, as follows:

[Roll No. 138]

YEAS—308

Ackerman	Feighan	Madigan
Anderson	Fish	Manton
Andrews	Flake	Markey
Annunzio	Foglietta	Marlenee
Anthony	Ford (MI)	Martin (IL)
Aspin	Ford (TN)	Martin (NY)
Atkins	Frank	Martinez
AuCoin	Frost	Matsui
Ballenger	Gallegly	Mavroules
Bateman	Gallo	Mazzoli
Beilenson	Gejdenson	McCloskey
Bennett	Gephardt	McCollum
Bentley	Geren	McCrery
Bereuter	Gillmor	McCurdy
Berman	Gilman	McDade
Bevill	Gingrich	McDermott
Bilbray	Gonzalez	McGrath
Bilirakis	Goodling	McHugh
Boehlert	Gordon	McMillan (NC)
Boggs	Goss	McMillen (MD)
Bonior	Grandy	McNulty
Borski	Grant	Meyers
Bosco	Gray	Mfume
Boucher	Green	Michel
Boxer	Guarini	Miller (WA)
Brennan	Gunderson	Mineta
Brooks	Hall (OH)	Moakley
Broomfield	Hall (TX)	Molinari
Browder	Hamilton	Mollohan
Brown (CA)	Hammerschmidt	Montgomery
Brown (CO)	Harris	Morella
Bruce	Hatcher	Morrison (WA)
Bryant	Hayes (IL)	Mrazek
Buechner	Hefner	Murtha
Burton	Hertel	Nagle
Bustamante	Hiler	Natcher
Byron	Hoagland	Neal (MA)
Campbell (CO)	Hochbrueckner	Neal (NC)
Cardin	Holloway	Nowak
Carper	Horton	Oberstar
Carr	Houghton	Obey
Chandler	Hoyer	Olin
Chapman	Huckaby	Ortiz
Clarke	Hunter	Owens (NY)
Clay	Hutto	Owens (UT)
Clement	Hyde	Oxley
Coble	Jacobs	Pallone
Coleman (TX)	James	Parker
Collins	Johnson (CT)	Parris
Condit	Johnston	Patterson
Conte	Jones (GA)	Paxon
Conyers	Jones (NC)	Payne (NJ)
Costello	Kanjorski	Payne (VA)
Coughlin	Kaptur	Pelosi
Courter	Kennedy	Perkins
Coyne	Kildee	Pickle
Darden	Kleczka	Porter
Davis	Kolbe	Poshard
DeFazio	Kostmayer	Price
DeLay	Kyl	Pursell
Dellums	LaFalce	Rahall
Derrick	Lagomarsino	Rangel
DeWine	Lancaster	Ravenel
Dickinson	Lantos	Regula
Dicks	Leach (IA)	Rhodes
Dingell	Leath (TX)	Richardson
Dixon	Lehman (CA)	Ridge
Downey	Lehman (FL)	Rinaldo
Dreier	Lent	Ritter
Durbin	Levin (MI)	Roe
Dwyer	Levine (CA)	Rogers
Dyson	Lewis (CA)	Ros-Lehtinen
Early	Lewis (GA)	Rose
Edwards (CA)	Lightfoot	Roybal
Emerson	Lipinski	Sabo
English	Livingston	Saiki
Erdreich	Lloyd	Savage
Espy	Lowery (CA)	Sawyer
Evans	Lowey (NY)	Saxton
Fascell	Luken, Thomas	Scheuer
Fazio	Machtley	Schiff

Schneider	Stangeland	Walgren
Schuette	Stearns	Walsh
Schumer	Stokes	Washington
Serrano	Studds	Watkins
Shaw	Sundquist	Waxman
Shays	Swift	Weber
Sikorski	Synar	Weiss
Sisisky	Tanner	Weldon
Skaggs	Tauzin	Wheat
Skeen	Taylor	Whittaker
Skelton	Thomas (GA)	Whitten
Slaughter (NY)	Thomas (WY)	Williams
Smith (FL)	Torres	Wilson
Smith (IA)	Torricelli	Wise
Smith (NE)	Traxler	Wolf
Smith (NJ)	Udall	Wyden
Smith (TX)	Unsoeld	Wylie
Smith (VT)	Valentine	Yates
Solarz	Vento	Yatron
Spratt	Visclosky	Young (AK)
Staggers	Volkmer	Young (FL)
Stallings	Vucanovich	

NAYS—108

Applegate	Henry	Rohrabacher
Archer	Herger	Rostenkowski
Armey	Hopkins	Roth
Baker	Hubbard	Roukema
Bartlett	Hughes	Rowland (CT)
Barton	Inhofe	Rowland (GA)
Bates	Jenkins	Russo
Bliley	Johnson (SD)	Sangmeister
Callahan	Jontz	Sarpalius
Campbell (CA)	Kasich	Schaefer
Combest	Kastenmeier	Schroeder
Cooper	Kennelly	Schulze
Cox	Kolter	Sensenbrenner
Craig	Laughlin	Sharp
Crane	Lewis (FL)	Shumway
Crockett	Long	Shuster
Dannemeyer	McCandless	Slattery
Donnelly	McEwen	Slaughter (VA)
Dorgan (ND)	Miller (CA)	Smith, Denny (OR)
Dornan (CA)	Miller (OH)	Smith, Robert (NH)
Douglas	Moody	Smith, Robert (OR)
Duncan	Moorhead	Snowe
Eckart	Morrison (CT)	Solomon
Edwards (OK)	Murphy	Spence
Fawell	Myers	Stark
Fields	Nielson	Stenholm
Frenzel	Oakar	Stump
Gaydos	Packard	Tallon
Gekas	Panetta	Tauke
Glickman	Pashayan	Traficant
Gradison	Pease	Upton
Hancock	Penny	Vander Jagt
Hansen	Petri	Walker
Hastert	Pickett	Wolpe
Hawkins	Quillen	
Hayes (LA)	Ray	
Hefley	Roberts	

NOT VOTING—16

Alexander	Dymally	Nelson
Barnard	Engel	Robinson
Bunning	Flippo	Thomas (CA)
Clinger	Gibbons	Towns
Coleman (MO)	Ireland	
de la Garza	Lukens, Donald	

□ 1152

The Clerk announced the following pair:

On this vote:

Mr. Nelson of Florida for, with Mr. Barnard against.

Mrs. KENNELLY and Messrs. SARPALIUS, QUILLEN, HAWKINS, SLATTERY, CAMPBELL of California, ECKART, McEWEN, WOLPE, JENKINS, ROWLAND of Georgia, APPLEGATE, and BARTLETT changed their vote from "yea" to "nay."

Messrs. THOMAS of Wyoming, COURTER, HAYES of Illinois, and RAHALL changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL 6 P.M. FRIDAY, JUNE 1, 1990, TO FILE SUNDRY REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until 6 p.m., Friday, June 1, 1990, to file legislative reports.

The SPEAKER pro tempore (Mr. Bosco). Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 4404, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR DISASTER ASSISTANCE, FOOD STAMPS, UNEMPLOYMENT COMPENSATION ADMINISTRATION, AND OTHER URGENT NEEDS, AND TRANSFERS, AND REDUCING FUNDS BUDGETED FOR MILITARY SPENDING ACT OF 1990

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. Pursuant to House Resolution 400, the amendments in disagreement and the motions to dispose of the amendments are considered as having been read.

The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 1: Page 2, after line 7, insert:

For additional expenses to meet the present emergency needs for "General expenses," $15,000,000, to remain available until expended.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

GENERAL EXPENSES

For additional expenses to meet the present emergency needs for "General expenses," $15,000,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For additional expenses to meet the present emergency needs for "Operation and maintenance, general," $40,000,000, to remain available until expended.

And in title I of the House engrossed bill, strike the matter included under the heading Federal Emergency Management Agency, Disaster Relief (page 2), lines 24 and 25, and page 3, lines 1 and 2), and insert the following:

"For additional expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $50,000,000, to remain available until expended, which, together with $350,000,000 uncommitted and unobligated identified by the Federal Emergency Management Agency to be presently available, will provide over $400,000,000 for relief and assistance.".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 2: Page 2, line 13, strike out "$31,000,000" and insert "$42,000,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert: "$70,000,000, of which $10,000,000 shall be available for the Emergency Conservation Program of the Agricultural Stabilization and Conservation Service: *Provided*, That the Soil Conservation Service and the Agricultural Stabilization and Conservation Service are expected to address the needs arising from more recent disasters and, to the greatest extent possible, to continue to address the remaining needs from Hurricance Hugo: *Provided further*, That such funds are".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that Senate amendments numbered 3, 8, 15, 16, 23, 49, 59, 60, 63, 67, 69, 70, 71, 72, 82, 111, 113, 126, 127, 131, 136, 137, 138, 140, 147, 155, 157, 159, 160, 163, and 165 be considered en bloc, be considered as read, and be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. WALKER. Mr. Speaker, reserving the right to object, the unanimous consent is on the amendment listed on this page. I thought I heard the gentleman from Mississippi [Mr. WHITTEN] say 171, and that would be one we would have a problem with.

Mr. WHITTEN. I have been advised that it had been cleared on the side of the aisle of the gentleman from Pennsylvania [Mr. WALKER].

One hundred and seventy-one; no, I did not mention that one.

Mr. WALKER. That is fine.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The texts of the various Senate amendments referred to in the unanimous consent request are as follows:

Senate amendment No. 3: Page 2, after line 16, insert:

SALARIES AND EXPENSES

For expenses to carry out section 201(k)(2) of the Agricultural Act of 1949 for 1990 crops damaged by a natural disaster in 1989, $11,000,000; *Provided,* That the Secretary shall spend not less than the amount appropriated herein.

Senate amendment No. 8: Page 3, after line 11, insert:

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for "Periodic census and programs", $110,000,000, as a contingency reserve for the decennial census, to remain available until expended and to be available only to the extent that appropriations are insufficient to cover unanticipated expenses related to unforeseen events such as lower-than-expected response rates, lower-than-expected employee productivity rates, or natural disasters.

Senate amendment No. 15: Page 3, after line 12, insert:

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses, United States Marshals Service," $7,400,000 to be derived by transfer from "Salaries and Expenses, Federal Prison System".

Senate amendment No. 16: Page 3, after line 12, insert:

FEES AND EXPENSES OF WITNESSES

For an additional amount for "Fees and Expenses of Witnesses," $2,600,000 to remain available until expended.

Senate amendment No. 23: Page 4, after line 4, insert:

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,500,000.

Senate amendment No. 49: Page 9, after line 4, insert:

SEC. 203. Title VI of Public Law 101-165 is amended by striking the amount "$10,000,000" and inserting in lieu thereof the amount "$18,000,000".

Senate amendment No. 59: Page 11, line 10, after "Israel" insert: *Provided further,* That of the funds allocated in this account, an equitable share shall be made available to Pentecostals, Evangelicals, and Baptists to fund the existing two thousand semifunded refugee admissions numbers for the Soviet Union, unless sufficient unused refugee admissions numbers could be reallocated within this fiscal year to allow adequate funding and admission of this group".

Senate amendment No. 60: Page 11, line 11, after "expended" insert ": *Provided further,* That funds used pursuant to the last proviso (relating to assistance for Burmese students at camps on the border with Thailand) under the heading "MIGRATION AND REFUGEE ASSISTANCE" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) may be used to provide assistance to any Burmese person in Burma or Thailand who is displaced as a result of events relating to civil conflict".

Senate amendment No. 63: Page 11, after line 25, insert:

CHILE

For an additional amount for "Health, Development Assistance", $10,000,000, to remain available through September 30, 1991, which shall be made available only for assistance for Chile.

Senate amendment No. 67: Page 13, line 12 after "families" insert ": *Provided further,* That such assistance may be made available only to members of the Nicaraguan resistance who agree to and are abiding by the terms of the cease-fire agreement and the addendum to the Toncontin Agreement signed on April 19, 1990".

Senate amendment No. 69: Page 13, line 23, after "1990" insert ": *Provided further,* That up to $8,000,000 of the funds made available by this subsection may be used for environmental activities, including the preservation of typical forests, promotion of sustainable agriculture, control of pollution, and restoration of the natural resource base".

Senate amendment No. 70: Page 13, after line 23, insert:

FORESTRY PROTECTION

None of the funds appropriated in this Act for Nicaragua or Panama shall be used for any project that would result in any significant loss of tropical forests.

Senate amendment No. 71: Page 14, after line 3, insert:

EVALUATION AND AUDIT

In order to monitor the uses and evaluate the effectiveness of Economic Support Fund programs provided under this Act for Nicaragua and Panama—

(1) the Administrator of the Agency for International Development shall—

(A) submit periodic reports to the Committees on Appropriations, the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs on such assistance assessing compliance with specific program objectives with particular emphasis on monitoring commodity import programs and cash transfer for balance of payments and budget support programs;

(B) in cooperation with the governments and nongovernmental organizations receiving such assistance, establish appropriate administrative systems and controls to ensure that the assistance is being used for its intended purposes;

(2) the Inspector General of the Agency for International Development shall, at least semiannually beginning six months from the date of enactment of this Act, audit the Economic Support Fund programs provided under this Act for Nicaragua and Panama to assess the financial management and administrative systems established by the Agency to control such programs, and report to the Committees on Appropriations, the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs and the Administrator its findings; and

(3) the General Accounting Office shall submit a report to the Committees on Appropriations, the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs not later than January 15, 1992, assessing the effectiveness of the Economic Support Fund assistance provided under this Act for Panama and Nicaragua, emphasizing commodity import programs and cash transfers used for balance of payments and budget support, in meeting stated objectives, the effectiveness of fiscal and administrative controls, and the application of lessons learned from the implementation of these programs to other similar programs administered by the Agency.

Senate amendment No. 82: Page 16, after line 18, insert:

Title IV, "Export Assistance", of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, is amended by inserting after the fifth proviso under the heading "Limitation on Program Activity" the following: *"Provided further,* That the Bank shall use all amounts appropriated to carry out the interest subsidy program to make commitments to commercial lending institutions and other lenders, subject only to the availability of qualified lenders under the program:".

Senate amendment No. 111: Page 19, after line 15, insert:

Of the $6,004,000 provided in Public Law 101-161 for higher education grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)), $250,000 is transferred to Federal Administration for the necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department.

Senate amendment No. 113: Page 19, after line 15, insert;

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

For an additional amount for expenses for the Animal and Plant Health Inspection Service, $8,000,000, to remain available until expended.

Senate amendment No. 126: Page 23, after line 3, insert:

ADMINISTRATIVE PROVISION

Section 17(f) of the United States Housing Act of 1937 (42 U.S.C. 1437o(f) is amended by inserting after "or City of New York" the following: "or State of Vermont".

Senate amendment No. 127: Page 23, after line 3, insert:

Section 17(d)(4)(G) of the United States Housing Act of 1937 shall not be applicable to the Beechwood Towers Housing Development Grant project, number PA008HG401, through December 31, 1990, and any cancelation of the grant resulting from the application of section 17(d)(4)(G) prior to December 31, 1990, shall be rescinded and the grant restored to the project.

Senate amendment No. 131: Page 23, after line 4, insert:

CONSTRUCTION GRANTS

The last proviso under this heading in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (Public Law 101-144) is amended by inserting "heretofore, herein or hereafter" after the word "sums" and ", and sums appropriated in fiscal year 1989 shall remain available until September 30, 1992" after the word "entities", and by striking the words "Trust Territory" and inserting the word "Republic" before the words "of Palau".

Senate amendment No. 136: Page 23, after line 12, insert:

NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For necessary expenses of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, in carrying out their functions under title VI of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101-235, 103 Stat. 1987, 2052) $500,000, to remain available until expended, to be derived by transfer from amounts provided under the head "Annual contribution for assisted housing", and earmarked for modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937 (42 U.S.C. 14371), in Public Law 101-144 (approved November 9, 1989, 103 Stat. 839, 844).

Senate amendment No. 137: Page 23, after line 12, insert:

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For necessary expenses of the National Commission on Severely Distressed Public Housing, in carrying out their functions under title V of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101-235, 103 Stat. 1987, 2048) $2,000,000, to remain available until expended, to be derived by transfer from amounts provided under the head "Annual contributions for assisted housing", and earmarked for modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937 (42 U.S.C. 14371), in Public Law 101-144 (approved November 9, 1989, 103 Stat. 839, 844).

Senate amendment No. 138: Page 23, after line 12, insert:

CHAPTER VII

DEPARTMENT OF TRANSPORTATION

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of additional obligations incurred carrying out the provisions of 23 U.S.C. 408, to remain available until expended, $5,000,000, to be derived from the Highway Trust Fund: *Provided,* That none of the funds in this Act or any other Appropriations Act for fiscal year 1990 shall be available for the planning or execution of programs the total obligations for which are in excess of $15,967,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408.

Senate amendment No. 140: Page 23, after line 12, insert:

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $99,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1268 to 1269), $3,317,000 are rescinded for a net decrease of $3,218,000.

Senate amendment No. 147: Page 23, after line 12, insert:

REPAYMENT OF LOANS AND INTEREST

Of the funds appropriated under this heading for fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1272), $12,336,000 are rescinded.

Senate amendment No. 155: Page 23, after line 12, insert:

WATER AND SEWER ENTERPRISE FUND

(INCLUDING RESCISSION)

For an additional amount for "Water and sewer enterprise fund", $12,026,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1274), $17,680,000 are rescinded, including $697,000 for debt service and $13,951,000 for pay-as-you-go capital, for a net decrease of $5,654,000.

Senate amendment No. 157: Page 23, after line 12, insert:

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

Funds appropriated under this heading in the Treasury, Postal Service and General Government Appropriations Act, fiscal year 1990, Public Law 101-136, for the White House Conference on Indian Education shall remain available until expended.

Senate amendment No. 159: Page 23, after line 12, insert:

CHAPTER XI

LEGISLATIVE BRANCH

U.S. SENATE

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For a payment to Helene H. Matsunaga, widow of Spark M. Matsunaga, a late Senator from Hawaii, $98,400.

Senate amendment No.: 160: Page 24, after line 9, insert:

SEC. 306. Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162) is amended by adding the following subsection:

"(d) The term 'export license applications' includes requests for approval of technical assistance agreements or services that would serve to facilitate launch of such satellites.".

Senate amendment No.: 163: Page 24, after line 9, insert:

SEC. 309. Notwithstanding any other provision of law, within 60 days of enactment, the Secretary of Transportation is directed to make available to the Tri-County Metropolitan Transportation District of Oregon, $13,500,000 in funds previously appropriated for the acquisition of land in Gresham, Oregon, for the joint development project called "Project Break-Even".

Senate amendment No.: 165: Page 24, after line 9, insert:

SEC. 311. Of the funds appropriated in section 108(d) of Public Law 101-130 and remaining available for obligation as of April 16, 1990, $4,700,000 shall be made available to the Forest Service for "Forest Research," $6,900,000 to the Forest Service for "State and Private Forestry," and $4,440,000 to the Forest Service for "National Forest System," *Provided,* That $15,153,000 of remaining unobligated balances appropriated in section 108(d) of said law and which are not needed under the provisions of this Act are hereby rescinded.

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendments of the Senate numbered 3, 8, 15, 16, 23, 49, 59, 60, 63, 67, 69, 70, 71, 82, 111, 113, 126, 127, 131, 136, 137, 138, 140, 147, 155, 157, 159, 160, 163, and 165 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 6: Page 3, after line 11, insert:

DEPARTMENT OF COMMERCE

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 6, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic Development Assistance Programs", $424,000 for planning assistance for Economic Development Districts authorized by section 301(b) of the Public Works and Economic Development Act of 1965, as amended, which shall be obligated only for grants to maintain the level of assistance in effect on September 30, 1989, for each development district.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

The limitation on the use of prior year funds for the Trade Adjustment Assistance Program, enacted under this head in Public Law 101-162, is repealed and funds appropriated for this program for fiscal year 1990 and prior years are available for obligation.

For an additional amount for "Operations and Administration", $1,445,000 which shall be obligated only for the Trade Adjustment Assistance Program for grants to recipient organizations.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disgreement.

The text of the amendment is as follows:

Senate amendment No. 9: Page 3, after line 11, insert:

ADMINISTRATIVE PROVISION

Services performed by individuals appointed to temporary positions within the Bureau of the Census for purposes relating

to the 1990 decennial census of population (as determined under regulations prescribed by the Secretary of Commerce) shall not constitute "Federal service" for purposes of section 8501 of title 5, United States Code.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 9, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ADMINISTRATIVE PROVISION

Services performed after April 20, 1990 by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population shall not constitute "Federal service" for purposes of section 8501 of title 5, United States Code.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. WALKER. Mr. Speaker, reserving the right to object, can the Chair tell me what the number was on the amendment?

The SPEAKER pro tempore. We are considering amendment No. 9 at this point.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of the Whitten-Conte motion to Senate amendment No. 9 to recede and concur in the Senate amendment with an amendment.

The 1990 census is truly in a dire emergency situation. In recent oversight hearings, it was clear that early operational difficulties and lower than expected mail response rate will strain the Bureau's personnel and financial resources, and ultimately may jeopardize the accuracy of the census.

The lower than expected mail response rate will add approximately $70 million to census cost. The administrative provision in the supplemental would allow the Census Bureau to spend $70 million already appropriated for unemployment compensation for current operations.

Failure to address the financial problems facing the Census Bureau will have serious and far reaching consequences. If offices close early, followup programs may be curtailed as well as possible cancellation of the postcensus local review program, which provides local government with an opportunity to review preliminary population and housing counts for accuracy before they become final.

Inefficient funding will seriously jeopardize the accuracy and timeliness of the decennial census. The funds we commit now will ensure a complete census operation as well as the well-being of every community in our motion.

Accordingly, I urge my colleagues to support the Whitten-Conte motion to amendment No. 9.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 11: Page 3, after line 11, insert:

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $15,482,000 to remain available until expended.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 11, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $8,762,000, to remain available until expended.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follow:

Senate amendment No. 12: Page 3, after line 11, insert:

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, a procurement for the Stuttgart, Arkansas, Fish Farming Experimental Laboratory shall be issued by the Administrator of the National Oceanic and Atmospheric Administration or the Director of the United States Fish and Wildlife Service which includes the full scope of the work described in Department of the Interior Task Order No. 89-025, Contract No. 14-16-0009-86-007: *Provided*, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 12, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, a procurement for the Stuttgart, Arkansas, Fish Farming Experimental Laboratory shall be issued by the Administration or the Director of the United States Fish and Wildlife Service which includes the full scope of the work described in Department of the Interior Task Order No. 89-025, Contract No. 14-16-0009-86-007: *Provided*, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18; and also $6,000,000 is hereby appropriated to the United States Fish and Wildlife Service to procure a wildlife refuge site at no more than appraised market value and without the use of condemnation procedures at a location in Jasper and Marion Counties, Iowa, identified in a location map on file with the United States Fish and Wildlife Service and entitled "Walnut Creek National Wildlife Refuge".

The SPEAKER pro tempore. Does any Member seek recognition on this motion?

The Chair will recognize the gentleman from Mississippi [Mr. WHITTEN] for 30 minutes.

Mr. WHITTEN. Mr. Speaker, I have a motion at the desk.

The SPEAKER pro tempore. The motion has already been designated. For the purposes of debate, the Chair will recognize the gentleman from Mississippi [Mr. WHITTEN] for 30 minutes, and he may yield such time as he wants.

Mr. WHITTEN. Mr. Speaker, I reserve my time at this time.

The SPEAKER pro tempore. Does the gentleman from Massachusetts [Mr. CONTE] seek time?

Mr CONTE. Mr. Speaker, I am not in opposition. The gentleman from Pennsylvania [Mr. WALKER] is in opposition.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania [Mr. WALKER] seek time?

Mr. WALKER. Mr. Speaker, I seek 30 minutes.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The procedure is that the gentleman from Massachusetts [Mr. CONTE] will be recognized for 20 minutes, the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, these are times of fiscal austerity. They are times that Congress often does not appreciate because it keeps us from doing good and worthwhile things that we would like to do on behalf of our constituents, that many of our constituents would like us to do on behalf of the Nation. There are a lot of things in the bill that we have before us today that are nice things to do. There are a lot of things in this bill that are nice things to do. A lot of them show up as amendments in disagreement where we have specified items for particular congressional districts or for particular Members or for whatever reason. They have shown up in this confer-

ence report as things that we would like to be able to do. The problem is that they cost millions and millions and millions of dollars.

Over the next couple of hours here, some of my colleagues and I are going to identify about $26 million, almost $27 million worth of these projects that we think are nice things to do but at times of fiscal austerity we probably should do without.

The first of these amendments is before us right now. If I can refer the Members to page 14 of the report, we find that this particular amendment relates to two items. It relates to the Stuttgart, AR, Fish Farming Experimental Laboratory and to the Walnut Creek National Wildlife Refuge.

Both of these items, when I read the report, sound as though they are really very meritorious. I have no doubt about the merit of the projects. In the case of the Stuttgart Fish Farming Laboratory, it sounds like something that if we had all of the money in the world and the taxpayers were not taxed at rates that are way beyond their means to pay, if we did not have $150 billion worth of deficit, if we did not have $2 trillion worth of debt, it might be very, very nice to be able to help the Stuttgart Fish Farming Laboratory. It might be very nice to try to help the Walnut Creek National Wildlife Refuge in Iowa.

Mr. Speaker, the fact is, we cannot afford either one. We are talking in this particular amendment about $6 million in spending, $6 million that the Nation cannot afford.

When I checked on it, I found out that neither of these projects were requested by the administration. Both, in fact, are opposed by the administration. I also sought to check to find out whether or not either of these projects has ever been authorized. Neither project has ever been authorized. So this was something that was cooked up in the course of the committee's deliberations of a couple of things that we would like to be able to do.

I suggest that the House ought to vote on some of these things that the committee thinks we ought to be able to do, and we ought to say, "Does the House believe that these two items are a high enough priority to spend $6 million of the taxpayers' money?" My guess is that when the House evaluates that that at least a number of the Members will come to the conclusion that this is not a way that we ought to be spending deficit money, because every penny that we are spending on this comes out of the deficit.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, if I could have the attention of the Members for just a minute, because I am going to say something that applies not only to this amendment but to several amendments that are going to be coming up this afternoon.

Everything in this bill has been offset except for the additional money for the State Department, and the administration has requested those funds.

This is not a fire emergency supplemental anymore. This is a midyear revision. It is a combination of a supplemental and a series of rescissions. In a trillion-dollar budget that we have in the United States of America, surely once a year we ought to look at what we have appropriated and do some shifting, and that is what has been done in this bill. Everything has been offset in here except for the additional money for the State Department which the administration agrees to.

Let us look at the items that were added by the Senate and agreed to in conference: $1 billion for food stamps, $110 million for additional investigators to locate the people who did not respond to the 1990 census. Everyboby agrees these funds are needed. Child vaccine, Head Start were other items; there are a number of things that we need in this bill, and the only way to get them in fiscal year 1990 is to revise the budget that we passed here last fall, revise the appropriations, and that is what is being done in this bill.

To get down to this specific amendment, because it is just one example, the first part of it refers to the language provision for the Stuttgart, AR, fish farming research laboratory. If NOAA or the U.S. Fish and Wildlife Service can let one contract instead of two or three they tell us they can save $400,000. So by revising a little bit here, we can save $400,000 instead of spending more. Part of the money has already been appropriated. They need to let one contract, and they are ready to do it.

With regard to whether or not this project that is in Iowa is authorized, to start with, it is not all in my district. It is partly in the district of the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. Speaker, this is the type of project that is authorized in the general authorization for wildlife refuges. It does not need a specific authorization. This is the very type of project that the President referred to in his State of the Union Message when he said we ought to do more for the environment in this country, and specifically for these kinds of projects involving wetlands. This is a good project.

Next, this project comes up now because an unusual opportunity exists for acquiring the land that did not exist last fall. A power company was going to build a powerplant. They have now given up on that. They have acquired this property, and it is available. It is all highly erodible land in a State that has no national park, not one. Connecticut and Iowa are the only two States in the whole United States that do not have a national park.

Some of the Members could not appreciate that who live in States that have tens of thousands of acres dedicated to national parks where people can go and where wildlife can have refuge. We do not have any in Iowa, and so this is important to us. It is a small project. It is a good project. I will be glad to defend it anywhere. It is supported by both Republicans and Democrats, by everybody that I know of in the whole area out there. It is a wonderful opportunity for a wildlife laboratory.

Tens of thousands of schoolchildren will, for the first time, in that part of the country, and it is a heavily populated area out there, for the first time will have an opportunity to go out and see wildlife as it exists. Three hundred species of birds, and it is a migratory-fowl area, where the storks and the white pelicans, the ducks and the geese hold over for a period in the fall and again in the spring. This is a worthy thing and exactly the right kind of thing to do in a bill where we can revise the 1990 budget by supplementing in some programs and rescinding in other places to make up for it.

This is a supplemental and a rescission, and this is a good project. I am asking all of the Members to stick with us on this project.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, could the gentleman assist me? What does the gentleman mean by offset? Will the gentleman explain that to me, please?

Mr. SMITH of Iowa. The dollars in this bill are, except for the money for the State Department, are offset by rescissions in other appropriations that were made in previous bills. We have rescinded some programs to save that money in 1990, to make up for any additional money that is in this bill including the food stamp money, the Head Start money, and all the rest.

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Mr. TRAXLER. If I understand what the gentleman is then telling me, he is saying this money was appropriated for other purposes last year in the 1990 appropriations bills, and what we are doing in this supplemental then is taking that money and using a small portion of it for some of the purposes the gentleman from Iowa [Mr. SMITH] just described, such as this wildlife lands acquisition.

Mr. SMITH of Iowa. Mr. Speaker, reclaiming my time, that is right. We

are revising the 1990 budget. It is the only opportunity we will get, I imagine, and it certainly ought to be done. We ought to think of this as a regular thing to do in a $1 trillion budget.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Speaker, if I may ask the gentleman a question, were, much of these moneys taken out of the Defense appropriations budget?

Mr. SMITH of Iowa. Most of them were taken out of Defense.

Mr. TRAXLER. So in a sense, we are looking at some of the first peace dividends going toward acquisition of wildlife lands then?

Mr. SMITH of Iowa. Mr. Speaker, that is certainly true.

Mr. TRAXLER. I could not think of a better use for it, and I commend the gentleman.

Mr. SMITH of Iowa. Mr. Speaker, reclaiming my time, if we can do what we are doing in this bill for people in foreign countries, and I am going to vote for the bill and support it, if we can do those kinds of things, we certainly can do a little bit for wildlife refuges in the United States of America.

Mr. WALKER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I appreciate the remarks of the gentleman from Iowa [Mr. SMITH]. He says we have a $1 trillion budget and out of a $1 trillion budget we ought to be able to do all of these good things.

We have a $1 trillion budget that is $150 billion in deficit. We do not have the money.

The gentleman is absolutely right. He talks as though there is $1 trillion out there, and that all we have to do is play around with the figures.

We have a $1 trillion budget that is $150 billion in deficit. The deficit is what is being talked about in a bipartisan summit right now. We have people that are sitting around a table right now trying to figure out where they can save a few million here and a few million there until we can meet the Gramm-Rudman targets.

We talk on the House floor as though that is a meaningless kind of summit, that we have got millions of dollars that we can simply do nice things with. I am suggesting to the Congress we do not have that kind of money to do nice things, that we do not have any money at all, that there are no dollars floating around out there, that that $1 trillion budget is a massive deficit budget, and now is the place where we have got to stop the spending.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Illinois [Mr. Yates].

Mr. YATES. I take it that the gentleman from Pennsylvania [Mr. WALKER] did not hear the statement by the gentleman from Iowa [Mr. SMITH] that every dollar in this bill except for the amount attributable to the State Department at the request of the administration is offset by a corresponding reduction.

Mr. WALKER. Mr. Speaker, reclaiming my time, I assure the gentleman from Illinois [Mr. YATES] that I heard that, and I am just about to get to it.

Mr. YATES. OK, I can hardly wait.

Mr. WALKER. Because the issue of offsets is also rather interesting. I happen to serve on the authorizing committee that has jurisdiction over the National Oceanographic Administration. That is an administration that is struggling to find enough dollars to be able to do some of the basic things that this country needs in terms of research on weather, on hurricanes, on a lot of really important things.

They have practically no money. We have starved them for years. They are in dire straits.

Where is the offset that got the $6 million? It is from NOAA. NOAA is giving up the money so that we can do this $6 million.

Mr. SMITH of Iowa. If the gentleman will yield, the gentleman from Pennsylvania [Mr. WALKER] is mistaken. It does not come from NOAA. The money for the offsets comes from the Defense Department. It is in the total amount of the bill. The language is for NOAA or the U.S. Fish and Wildlife because NOAA was earlier involved in this research laboratory.

Mr. WALKER. Mr. Speaker, I have got to say to the gentleman from Iowa [Mr. SMITH] that when we look at the Stuttgart fish farm which is in here, the Stuttgart fish farm says it is going to be made out of available funds to the Administrator of NOAA. That means that some of NOAA's accounts are going to be drawn down in order to do the Stuttgart fish farm.

All I am saying is that I know of some very high priority that have to be done at NOAA. To have NOAA robbed in order to do the Stuttgart fish farm is probably not in the national interest.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. The fact of the matter is, and the gentleman from Pennsylvania [Mr. WALKER] knows this, I cooperate with the gentleman and his committee all the time on NOAA. We have approriated several million dollars a year more for NOAA than the administration has asked for the last several years. We have tried our best to take care of NOAA. One way or another, NOAA is going to be taken care of.

The reason this language provision affects NOAA is that NOAA was involved in the planning for this project. But it also affects the U.S. Fish and Wildlife Service because the facility is controlled by the Service. The money that is designated in here for the project in Iowa is appropriated to the U.S. Fish and Wildlife Service. They do $240 million a year of these kind of projects.

Mr. WALKER. Mr. Speaker, reclaiming my time, I would simply say to the gentleman from Iowa [Mr. SMITH] that the fact is when he reads his report, the administrator of NOAA is being required to come up with money to take care of the Stuttgart fish farm. I am simply suggesting to him that that is not enough. It is not enough for me to suggest we are going to get all of the money of the defense, that you offset it out of defense.

We had a discussion here earlier today about the fact we are starving Defense to the point that the CHAMPUS Program, the CHAMPUS Program that provides medical care for military families, cannot pay its bills at the present time because of the way in which we are treating the Defense Department right now.

Mr. Speaker, to suggest to me that you are going to further rob the military personnel of this country in order to do the wildlife refuge in Iowa probably also does not reflect an appropriate use of priority money at the present time.

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I appreciate the gentleman from Pennsylvania [Mr. WALKER] yielding, because there is a question I have to have answered. I do not think any Member is debating here whether or not the wildlife refuge in Iowa is or is not a nice place to spend some money. In June we are going to come back here and dealth with the regular supplementals.

My question is, What is the dire emergency that requires us to spend $6 million in this bill for something that ought to be dealt with next month when we come up here?

Mr. SMITH of Iowa. Will the gentleman yield?

Mr. WALKER. Mr. Speaker, I have the time. I might say to the gentleman from Wisconsin [Mr. GUNDERSON] the gentleman from Iowa [Mr. SMITH] explained that a few minutes ago. He said that what started off as a dire emergency supplemental has become something else now. Now it is a regular midyear correction.

Well, guess what? Once again we have been taken down the primrose path. We started off with a dire emergency supplemental that was meant to do a few things, and by the time it gets back out of the conference committee it has become a midyear appropriations correction where we can put all kinds of goodies into it.

I am suggesting that that is not an appropriate use of taxpayer money.

Mr. SMITH of Iowa. Mr. Speaker, if the gentleman will yield, I point out to the gentleman from Wisconsin [Mr. GUNDERSON] he is mistaken about a supplemental next month. There is no further supplemental. The bills he is referring to are the regular appropriations bills for 1991.

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. I agree with the gentleman from Iowa [Mr. SMITH]. God, I hope there is not another supplemental next month. Next month we begin the regular appropriations process. The Interior subcommittees will come forward with funding for the Fish and Wildlife Service at that time, and that is where this project ought to be, in the regular normal funding process. It ought not be in a dire emergency supplemental.

Mr. SMITH of Iowa. If the gentleman will yield further, perhaps the the gentleman from Wisconsin [Mr. GUNDERSON] was not here, but I explained the reason a number of things are in this bill that should not wait until 1991. I do not propose to go over it again.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, points have been made about dire emergency. May I say the House passed such a supplemental bill. The title was retained. But let me say we have got two branches of the Congress. The other side added 180 amendments. No one claims that all of these amendments are dire or emergency in nature, but there are many, many things in here that are. We do not say all of them are.

Mr. Speaker, we say we are faced with 180 amendments from the other side of the Capitol. We had to work it out or else start over with a new bill which I introduced which would take time. With flood waters in much of the United States worse than they have been since 1900, certainly dire emergencies exist in many cases.

Mr. Speaker, may I say the White House advises us there is a dire emergency on the foreign aid bill items that are in here. So I want to say again, we are doing the best we can, having to deal with our colleagues on the other side, who in turn have different rules and made 180 amendments. Doubtless, some of those amendments, many of them we agree with ourselves. We just did not consider them on this side.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I simply would like to make the point that I want to thank the committee for including in the Fish and Wildlife Service an item which is crucial to Wisconsin but which some people might suggest might not necessarily be an emergency. I think anybody who understands Wisconsin's situation knows it is quite important.

□ 1220

But I would also like to make this point with respect to the comment of the gentleman from Pennsylvania. He said that we should not be funding things that might be nice but are not crucial at this point. I would suggest that the cost of this item is $6 million; the gentleman from Pennsylvania has supported $6 billion financing of the super collider. I do not think that that is an emergency request either. But at a time of great budget crunch, he is supporting committing $6 billion to that. It seems to me that we ought to keep a sense of proportion when we are talking about the impact on the deficit.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I think a couple of points need to be made.

First, it is true that in amendment No. 12 the Senate added the language for the Stuttgart fish farm. But it is my understanding that the gentleman from Iowa [Mr. SMITH], one of the Members of our body, added the language to amendment No. 12 for the wildlife refuge in Iowa. So this is not purely a Senate problem I would say to the gentleman.

I would say to the gentleman from Wisconsin [Mr. OBEY] priorities with regard to the budget are set through the authorization process. What we did with the super collider was that we came to the floor with an authorization. We authorized that project. Neither of these two projects is authorized, and the Appropriations Committee has decided to take it on its own to simply spend the money.

That is what I am suggesting is probably not appropriate procedure.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, let me say to the gentleman from Pennsylvania I am sure he thinks of this as being individual projects that are authorized. This is the very specific kind of project that is already authorized for the Fish and Wildlife Service. They do not have to have separate authorizations for wildlife refugees like is necessary for national parks. This is the very kind of project that is specifically authorized in the general authorizing legislation.

Mr. WHITTEN. Mr. Speaker, I yield myself an additional 2 minutes.

Mr. Speaker, may I say we can all get into these hassles about this, that and the other. I take full responsibility for bringing this bill back so that the House could look after itself, since our colleagues on the other side have added all of these items. We had talked our colleagues into not doing it on this side. But since the otherside added it, I introduced a bill where we could take care of the things for our own country, and that which we believe in, so that it is neither dire nor emergency in many areas, but in those areas where it is the title applies.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding.

Let me simply point out that if we followed the logic just enunciated by the gentleman from Pennsylvania that we needed an authorization first, then we would not be here providing the money for Panama or Nicaragua which the gentleman supports, because the gentleman voted against that authorization 3 days ago, and there is no authorization for that money.

So why then does not the gentleman follow that on a $600 million item when he is worrying about it on a $6 million item? Where is your sense of proportion?

Mr. WALKER. Mr. Speaker, if the gentleman will yield, if he will look at my vote on the supplemental, I voted no. I voted no on the supplemental, so I did follow my own logic. The gentleman ought to look at the vote.

Mr. OBEY. So the gentleman from Pennsylvania thinks we should deny the President's request for money for Nicaragua and Panama?

Mr. WALKER. All I am saying is that the gentleman asked me to be consistent. I was and now the gentleman should be.

Mr. OBEY. Would you like us to deny the request to the President?

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Speaker, may I ask my friend from Pennsylvania a question? The gentleman from Pennsylvania [Mr. WALKER] is upset that this money has not been authorized but is being appropriated.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. That is one of the problems.

Mr. KOSTMAYER. I share that concern. Will the gentleman support my effort later on to spend none of this money unless it is authorized?

Mr. WALKER. I said in the debate on the rule that the gentleman had an opportunity last night to pass an authorization bill in the House. That is sitting at the Speaker's desk.

Mr. KOSTMAYER. We are going to try to do that.

Mr. WALKER. The gentleman chose not to do that, and I did not see the gentleman out here fighting the rule where he had a choice to do it.

Mr. KOSTMAYER. Reclaiming my time, I agree with the gentleman from Pennsylvania. I think we should bring up the Senate bill which authorizes the funds for Panama and Nicaragua. It is sitting at the House desk, and I think we ought to bring it up. I think the concern of the gentleman from Pennsylvania for consistency, if he is really concerned that we are going to spend money here that has not been authorized, then he ought to vote for my amendment in a couple of hours that allows none of these funds to be spent without an authorization. And I know the gentleman is concerned about inconsistency and he would never do anything that is inconsistent.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think I understand the problems that our legislative committees have. The reason we brought this matter here is that they have not had time to bring in the authorization bills. It happens every year, and each year we stand here having to waive the authorization, because under the circumstances we all face the authorization is not completed.

So I would suggest that we stay with the committee.

Mr. WALKER. Mr. Speaker, this is a fascinating debate. I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL] so he may be able to join in it.

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I consider myself just an ordinary Member of this House of Representatives, and I look at the spending that is being suggested here, and I see $870 million in a Presidential request, and then it jumps by $1.4 billion in discretionary spending, and I attempt to try to find out why this is occurring, and as a I sat and listened this morning I think I understand it.

The debate as I hear it here is talking about ducks and pelicans and wildlife, for instance, which projects locally I am sure are very good projects. But is seems to me we ought to be hearing this in a county board meeting someplace. What we are doing is spending our peace dividends or whatever money might be available, and as the gentleman from Wisconsin pointed out, we should be talking about priorities.

I still think we are talking about matters that are of dire emergency need. We ought to be, even if it is not on the title of the bill, because I just talked to the CBO, for instance, this morning, and they tell me that we are going to have a deficit that will be from $177 billion to $207 billion for 1990. That does not count $136 billion that we have to borrow from the trust funds. That adds up to a brandnew debt of $326 billion, and here we are talking about ducks and pelicans and about the fact that well, because the land is now available we are suddenly going to rush to a certain area out in the country in a certain place and tell the people of this great land to whom we are talking about raising taxes and so forth in regard to that, that we are going to be doing this. It does not make sense. I have not been a part of this budgetary process as much as I probably should have been, but I want to be more a part of it, and now when I look at this I can understand why it is. We are continually overspending. I have been in this Congress now for 5 years, and we ahve averaged better than a quarter of $1 trillion in brandnew debt every year. Do Members realize that?

I think this is why. They are good projects, good people, but we cannot say no. We just will not take it seriously, and maybe the people in this Nation will start taking it seriously.

Mr. WALKER. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I simply want to make sure that everybody here considering this issue has a chance to read the report language on this particular amendment. I want to just read it to my colleagues.

> The conference agreement also includes a new provision not in either the House or Senate bills appropriating $6 million to the Fish and Wildlife Service for procurement of a site for a wildlife refuge in central Iowa.

Now listen to this.

> An unusual and unexpected opportunity has arisen to acquire a site for a wildlife refuge and outdoor laboratory on a tributary of the Des Moines River in central Iowa. Iowa is one of only two states which has no national park. In addition, virtually all of the land in Iowa has been homesteaded, cleared, and cultivated since the middle of the nineteenth century. A block of land is now available which is located completely within one watershed and if returned to its indigenous state would offer an unusual opportunity for interpretive programs, wetlands, a habitat for some 300 species of indigenous and migratory birds, the regrowth of many acres of now scarce species of trees, buffalo and elk which were indigenous to the area, and the largest native prairie grass fields in Iowa.

Ladies and gentlemen, can we even keep a straight face when tis is the justification in the era of the budget deficit, to spend in an emergency, dire supplemental $6 million for this?

I guess I know why it is here, because it probably would not have been approved by Chairman YATES in a normal appropriation setting.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. GUNDERSON. Ladies and gentlemen, please, I do hope we reject this amendment.

Mr. YATES. Mr. Speaker, if the gentleman will yield, I have looked into this matter.

The SPEAKER pro tempore (Mr. Bosco). The gentleman from Pennsylvania [Mr. WALKER] controls the time.

Does the gentleman from Massachusetts [Mr. CONTE] seek time?

Mr. CONTE. No, Mr. Speaker.

□ 1230

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that I may reclaim my time. I had yielded back in the mistaken belief that we had no further speakers.

The SPEAKER pro tempore (Mr. Bosco). The Chair will advise that the gentleman from Mississippi [Mr. WHITTEN] has 6 minutes remaining; the gentleman from Pennsylvania [Mr. WALKER] has 6½ minutes remaining; and the gentleman from Massachusetts [Mr. CONTE] has 20 minutes remaining.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. GUNDERSON] for reading that. That was wonderful.

I wonder if he had a straight face when the President stood here last January and said he did not want to lose any wetlands, when he said he was for the environment. He was specifically talking about these kinds of projects. We do not want to lose any more of that land. We want to get closer to nature. We want to do some of these things.

It is interesting that some people want to spend this kind of money in foreign countries. We have $855 million in the bill for foreign countries. And you cannot do a little bit for the people of this country?

That is what you are faced with. Do you want to do something for the people in this country, or do we spend all of our money in foreign countries?

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALKER] is recognized.

Mr. WALKER. Mr. Speaker, I yield myself 2 minutes.

I guess when the arguments run out, then we resort to the argument that it is a nationalism theme, so on. This is $6 million worth of nationalism we are talking about.

Let me tell you, they admitted that they took the money out of the defense budget in order to do this: they said that earlier. Now all of a sudden it is an issue of nationalism.

Come on, let us understand what is going on here. This is not a wetlands issue. The wetlands issue would be resolved in the authorizing committees.

What the issue is here is whether or not you are going to have a few people go into a closed room and decide to carve up a little bit of money, and that everybody will get a little bit when they walk out of the room.

In this particular case, we are talking $6 million. As I have said all the way along, I am sure it is nice, I am sure it is wonderful. I think everybody should be pleased that there is this opportunity out there. Maybe the money would have to be raised privately in order to take care of this wonderful opportunity.

But the fact is the taxpayers cannot afford it. This is $6 million that we do not have.

We have got to start somewhere. What some of us have decided is we are going to start by trying to find $27 million worth of savings in this particular bill. This is the first $6 million. You can decide whether or not you want to vote to cut out $6 million worth of spending which is not essential or whether or not it is absolutely essential to the Nation that we spend this $6 million.

It seems to me that is what the issue is all about.

Mr. SMITH of Iowa. And I might add this on the end: It is interesting to me that I understand the gentlemen asked the Energy and Water Subcommittee for $5 million over the President's budget for wetlands.

Mr. WALKER. Mr. Speaker, who yielded? Mr. Speaker, who has the time here? I did not yield.

The SPEAKER pro tempore. The gentleman will suspend.

The Chair would advise that anyone requesting to speak address the Chair first and get time for the purpose.

Does the gentleman from Mississippi [Mr. WHITTEN] require or request any further time?

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, the question is: Is it true the gentleman asked the Subcommittee on Energy and Water for appropriations of $5 million over and above the President's request for wetlands?

Mr. GUNDERSON. For wetlands?

Mr. SMITH of Iowa. Yes, for wetlands.

Mr. GUNDERSON. Let us see: If I am correct, there were Congressmen from Iowa, Missouri, Illinois, and Wisconsin——

Mr. SMITH of Iowa. I don't care who they were.

Mr. GUNDERSON. Of which I was one, yes, for the upper Mississippi River project.

Now will you yield again?

Mr. SMITH of Iowa. Yes.

Mr. GUNDERSON. Will you explain to me why we are going to have emergency money to build a national park or a wildlife refuge on a site that a power company was going to build a powerplant on but now has abandoned?

Mr. SMITH of Iowa. Because they have abandoned it, it is now for sale. It will not be for sale probably next winter. That is the kind of thing you are supposed to take care of in supplemental bills.

Mr. GUNDERSON. But something does not give here. Either the land should never have been considered——

Mr. SMITH of Iowa. That is not my problem——

Mr. GUNDERSON. For a powerplant, or else it is not worth saving. I mean one or the other, it does not work.

Mr. SMITH of Iowa. This is not the first time a powerplant abandoned a site for a powerplant. It was a nuclear powerplant, they cannot build nuclear plants anymore so now they are going to sell the site. There is nothing unusual about that.

Is it true you are requesting $5 million over the President's budget for a wetlands and wildlife habitation project?

Mr. GUNDERSON. They were going to build a nuclear plant, and the land was unstable——

Mr. SMITH of Iowa. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman yields back the balance of his time.

The gentleman from Pennsylvania [Mr. WALKER] is recognized.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KYL].

PARLIAMENTARY INQUIRY

Mr. KYL. Actually, Mr. Speaker, I was going to ask the gentleman from Mississippi [Mr. WHITTEN] to yield to respond to a question. He still had some time.

Mr. Speaker, may I ask a parliamentary inquiry?

The SPEAKER pro tempore. The gentleman will state it.

Mr. KYL. Mr. Speaker, I would be pleased to understand how much time the gentleman from Mississippi had, if he still had time.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] has 3½ minutes remaining, the gentleman from Pennsylvania [Mr. WALKER] has 4½ minutes remaining, and the gentleman from Massachusetts [Mr. CONTE] has 20 minutes remaining. The gentleman from Arizona [Mr. KYL] has been recognized for 2 minutes.

Mr. KYL. On Mr. WALKER's time, then, Mr. Speaker, is that correct?

The SPEAKER pro tempore. The gentleman is correct.

Mr. KYL. I guess, then, I can try to get my question clarified in this fashion: We are right now in the Committee on Armed Services undergoing a very difficult process of trying to come up with a lot of money to fund the supplemental appropriation here. We have just had the additional challenge added of trying to find an additional $1.5 billion, to try to fund the personnel account, which was the subject of sequester last year.

Now, that is a very painful process that has not been worked out yet. So every one of these dollars matters a whole lot to us in trying to fund programs such as CHAMPUS, as the gentleman from Pennsylvania mentioned a while ago.

I am still unclear as to whether the funds for this particular project are coming out of NOAA or coming out of the Defense Department. We received information as to both. I would be happy to——

Mr. WALKER. I think the gentleman explained a little earlier, if I may respond to the gentleman, that the money originally came out of the Defense Department and is now being transmitted to the Fish and Wildlife Service and to NOAA for the couple of projects. So ultimately it came out of defense but it is going to these agencies who have other priorities.

What we are doing is we are going to specify that the money be used for these priorities rather than for other priorities that those agencies might have.

Mr. KYL. This is precisely the problem with the process.

I voted for the supplemental appropriations bill because I believe in most of the things we are doing here. But the process is all wrong.

How can we intelligently put together a defense budget and prioritize what we need for the defense of this country when every now and then somebody comes and grabs a pile of money to fund something here which we understand is not a dire emergency and which has not gone through the regular process? I would rather try to go through the regular process to get a program authorized and then appropriate it out of the general funds so that we understand where the money is coming from rather than going and dipping into the Defense Department at a time when we cannot figure out

how to come up with the money that we need just to handle the personnel account?

That is another objection to the process, the way we are handling it, Mr. Speaker.

For that reason I have a lot of concern about several of these amendments, including the amendment before us right now.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have lots of amendments here. May I point out that we have 435 House Members and the Senate has 100 and with equal standing and maybe more in some respects, with their rules. They added 180 amendments to our bill after we had refrained from looking after our own country at the request of the President. We passed this bill on April 3 and we have worked since then trying to bring out a composite of our original bill and the Senate bill that reflects our best judgment.

I would like to tell my colleagues on that side our Committee on Appropriations, since 1945, has been $173 billion below the recommendations of the Presidents. If you are going to straighten out this country, you will have to look somewhere else because our Appropriations Committee has held the line. But when you are faced with 180 amendments on the other side with the rules that they have, you have to bring back the best you can. I know you will never suit 435 people who will have a different viewpoint on many areas. I do not criticize them for it, but you have to bring back the best that you can. This represents our hard work, working 24 hours a day almost, and I ask for your support.

□ 1240

Mr. WALKER. Mr. Speaker, I yield myself the balance of my time.

I appreciate the last statement of the gentleman, and I know that the Committee on Appropriations does work hard. If we are able to save Members' money over the President's request, I think that is wonderful. I think that is great.

What we are suggesting is that the House may be able to help the Committee on Appropriations save even more money because the gentleman has defined responsibility as the fact that less than half the Members of the House got something in this bill. That is not my definition of responsibility. My definition of responsibility would be that we only fund those things that are absolutely essential for the country, and we do not apportion it out among 180 Members of the House, or 40 Members of the House, or whoever it happens to be.

Let Members do it right. In this particular case, what we are being asked to do, spend $6 million for a pristine wildlife refuge, that a few moments ago was going to be a nuclear powerplant site.

I would suggest that maybe this is, and maybe we need to look at this money and decide that this is not a high enough priority for the Nation to spend that sum of money.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I give the gentleman a very sound reason. If we change the bill, it goes back to conference, and we start all over again. The Senate will take as long as they see fit, if we change this bill now.

Mr. WALKER. Mr. Speaker, reclaiming my time, the gentleman knows this is an amendment in disagreement, that the House has its ability to work its own will on an amendment in disagreement. It can go back to conference. Hopefully, rationality will prevail in conference, and we decide not to load up something where we are dealing with dire emergencies, with lots of pork.

Mr. WHITTEN. If the gentleman will continue to yield, we sent this bill to the Senate on April 3, I believe, and the gentleman can see what time it is now. I say we run a risk if we send it back to the Senate.

The SPEAKER pro tempore (Mr. Bosco). The gentleman from Mississippi [Mr. WHITTEN] has 2 minutes remaining, and the gentleman from Massachusetts [Mr. CONTE], has 20 minutes remaining, and the gentleman from Pennsylvania [Mr. WALKER] has no time remaining.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I appreciate the gentleman from Massachusetts yielding time to me.

I wanted to close with this point. We are trying very, very hard to make some sense out of a defense budget these days. When we start at the beginning of the year and provide for these programs and authorize and then appropriate, we can make some sense out of it. But halfway through the year, in order to fund other programs that have not gone through that same process, and have not been justified on their own through the regular authorization and appropriation process, and instead have been offset by funds that we cannot even identify right now coming from the Defense Department, we do not have any idea where the $6 million is going to come from; it makes an absolute shambles of the entire planning process.

I just urge my colleagues here to understand that with all the difficulties we are having with the Defense Department, this is another headache we do not need, and does not present a logical situation for Members in developing either the defense budget or handling the merits of projects such as those before Members in this amendment.

Mr. CONTE. Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

Mr. WALKER. Mr. Speaker, I demand that the question be divided.

The SPEAKER pro tempore. The question will be divided.

The question is, Will the House recede from its disagreement to the amendment of the Senate number 12?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 246, nays 160, not voting 26, as follows:

[Roll No. 139]

YEAS—246

Ackerman	Donnelly	Kolter
Anderson	Dorgan (ND)	Kostmayer
Annunzio	Downey	LaFalce
Anthony	Durbin	Lancaster
Applegate	Dwyer	Lantos
Aspin	Dyson	Laughlin
Atkins	Early	Leach (IA)
AuCoin	Edwards (CA)	Leath (TX)
Beilenson	Emerson	Lehman (CA)
Bennett	Erdreich	Lehman (FL)
Berman	Espy	Levin (MI)
Bevill	Evans	Levine (CA)
Bilbray	Fascell	Lewis (CA)
Boggs	Fazio	Lewis (GA)
Bonior	Feighan	Lightfoot
Borski	Flake	Lipinski
Bosco	Foglietta	Livingston
Boucher	Ford (MI)	Lloyd
Boxer	Frank	Lowey (NY)
Brennan	Frost	Luken, Thomas
Brooks	Gallo	Machtley
Browder	Gaydos	Manton
Brown (CA)	Gejdenson	Markey
Bruce	Gephardt	Marlenee
Bryant	Geren	Martinez
Bustamante	Gillmor	Matsui
Byron	Gonzalez	Mavroules
Campbell (CO)	Gordon	Mazzoli
Cardin	Grandy	McCloskey
Carr	Gray	McDade
Chapman	Green	McDermott
Clarke	Guarini	McHugh
Clay	Hall (OH)	McMillen (MD)
Clement	Harris	McNulty
Coleman (TX)	Hawkins	Mfume
Collins	Hayes (IL)	Miller (CA)
Condit	Hayes (LA)	Mineta
Conte	Hefner	Moakley
Conyers	Hertel	Mollohan
Cooper	Hoagland	Montgomery
Costello	Hochbrueckner	Moody
Coughlin	Hoyer	Morrison (CT)
Courter	Hubbard	Murtha
Coyne	Hughes	Myers
Crockett	Jenkins	Nagle
Darden	Jones (GA)	Natcher
Davis	Jones (NC)	Neal (MA)
de la Garza	Jontz	Neal (NC)
DeFazio	Kanjorski	Nowak
DeLay	Kaptur	Oakar
Dellums	Kastenmeier	Oberstar
Derrick	Kennedy	Obey
Dicks	Kennelly	Olin
Dingell	Kildee	Ortiz
Dixon	Kleczka	Owens (NY)

Owens (UT)	Russo	Tanner
Pallone	Sabo	Tauke
Parker	Sangmeister	Tauzin
Pashayan	Savage	Taylor
Payne (NJ)	Sawyer	Thomas (GA)
Payne (VA)	Saxton	Torres
Pease	Scheuer	Torricelli
Pelosi	Schumer	Towns
Perkins	Serrano	Traficant
Pickett	Sharp	Traxler
Pickle	Sikorski	Unsoeld
Porter	Sisisky	Vento
Poshard	Skaggs	Visclosky
Price	Skeen	Volkmer
Pursell	Skelton	Walgren
Rahall	Smith (FL)	Watkins
Rangel	Smith (IA)	Waxman
Ravenel	Smith (NE)	Weiss
Ray	Solarz	Weldon
Regula	Spence	Wheat
Richardson	Staggers	Whitten
Rinaldo	Stallings	Williams
Roe	Stark	Wilson
Rogers	Stokes	Wise
Rose	Studds	Wyden
Rowland (GA)	Swift	Yates
Roybal	Synar	Young (AK)

NAYS—160

Andrews	Henry	Rohrabacher
Archer	Herger	Ros-Lehtinen
Armey	Hiler	Rostenkowski
Baker	Holloway	Roth
Bartlett	Hopkins	Roukema
Barton	Horton	Rowland (CT)
Bateman	Houghton	Saiki
Bates	Huckaby	Sarpalius
Bentley	Hunter	Schaefer
Bereuter	Hutto	Schiff
Bilirakis	Hyde	Schneider
Bliley	Inhofe	Schroeder
Boehlert	Jacobs	Schuette
Broomfield	James	Schulze
Brown (CO)	Johnson (CT)	Sensenbrenner
Buechner	Johnson (SD)	Shaw
Burton	Johnston	Shays
Campbell (CA)	Kasich	Shumway
Carper	Kolbe	Shuster
Chandler	Kyl	Slattery
Coble	Lagomarsino	Slaughter (NY)
Coleman (MO)	Lent	Slaughter (VA)
Combest	Long	Smith (NJ)
Cox	Madigan	Smith (TX)
Craig	Martin (IL)	Smith (VT)
Crane	Martin (NY)	Smith, Denny (OR)
Dannemeyer	McCandless	
DeWine	McCollum	Smith, Robert (NH)
Dickinson	McCrery	
Dornan (CA)	McCurdy	Smith, Robert (OR)
Douglas	McEwen	
Dreier	McGrath	Snowe
Duncan	McMillan (NC)	Solomon
Eckart	Meyers	Spratt
Edwards (OK)	Miller (OH)	Stangeland
English	Miller (WA)	Stearns
Fawell	Molinari	Stenholm
Fields	Moorhead	Stump
Fish	Morella	Sundquist
Gallegly	Morrison (WA)	Tallon
Gekas	Murphy	Thomas (WY)
Gilman	Nielson	Upton
Glickman	Oxley	Valentine
Goodling	Packard	Vander Jagt
Goss	Panetta	Vucanovich
Gradison	Parris	Walker
Grant	Patterson	Walsh
Gunderson	Paxon	Whittaker
Hall (TX)	Penny	Wolf
Hamilton	Petri	Wolpe
Hammerschmidt	Quillen	Wylie
Hancock	Rhodes	Yatron
Hansen	Ridge	Young (FL)
Hastert	Ritter	
Hefley	Roberts	

NOT VOTING—26

Alexander	Ford (TN)	Michel
Ballenger	Frenzel	Mrazek
Barnard	Gibbons	Nelson
Bunning	Gingrich	Robinson
Callahan	Hatcher	Thomas (CA)
Clinger	Ireland	Udall
Dymally	Lewis (FL)	Washington
Engel	Lowery (CA)	Weber
Flippo	Lukens, Donald	

□ 1305

Ms. ROS-LEHTINEN and Messrs. ROSTENKOWSKI, ROWLAND of Connecticut, GLICKMAN, and BATES changed their vote from "yea" to "nay."

Messrs. CARR, WEISS, and COUGHLIN changed their vote from "nay" to "yea."

So the House receded from its disagreement to the amendment of the Senate numbered 12.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. Bosco). The question is, will the House concur in the amendment of the Senate numbered 12 with an amendment?

The House concurred in the amendment of the Senate numbered 12 with an amendment.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Kalbaugh, one of his secretaries.

CONFERENCE REPORT ON H.R. 4404, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR DISASTER ASSISTANCE, FOOD STAMPS, UNEMPLOYMENT COMPENSATION ADMINISTRATION, AND OTHER URGENT NEEDS, AND TRANSFERS, AND REDUCING FUNDS BUDGETED FOR MILITARY SPENDING ACT OF 1990

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 14: Page 3, after line 12, insert:

SALARIES AND EXPENSES, ANTITRUST DIVISION

For an additional amount for "Salaries and expenses, antitrust division", $2,500,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 14, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SALARIES AND EXPENSES, ANTITRUST DIVISION

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, Antitrust Division", $2,500,000 to be dervived by transfer from "Salaries and expenses, Federal Prison System".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 17: Page 3, after line 12, insert:

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $185,000,000, to remain available until expended, to defray expenses for the automation of fingerprint identification services including planning, site acquisition, construction, and other associated costs.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion. The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 17, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $185,000,000, to remain available until expended, to defray expenses for the automation of fingerprint identification services including planning, site acquisition, construction, and other associated costs: Provided, That none of the funds included herein shall be available for automated system procurement prior to submission of an implementation plan thereon, pursuant to the notification procedures prescribed under Section 606 of Public Law 101-162, and a site shall not be selected or procure prior to notification of the appropriate Committees of the House of Representatives and the Senate.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 18: Page 3, after line 12, insert:

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

The language under this heading in the Departments of Commerce, Justice, and State, the Judiciary, and related Agencies Appropriations Act, 1990, is amended by adding the following: Deposits transferred from the Assets Forefeiture Fund to the Buildings and Facilities account of the Federal Prison System in 1989 may be used for the construction of correctional institutions, and the consruction, renovation and repair of Immigration and Naturalization Service

and United States Marshals service detention facilities.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 18, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

The language under this heading in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1000-1001), is amended by adding the following after the period, "Deposits transferred from the Assets Forfeiture Fund to the Buildings and Facilities account of the Federal Prison System in 1989 may be used for the construction of correctional institutions, and the construction and renovation of Immigration and Naturalization Service and United States Marshals Service detention facilities, and for the authorized purposes of the Support of United States Prisoners' Cooperative Agreement Program.".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 20: Page 3, line 25, strike out "$28,003,000" and insert "$23,003,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 20, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

$25,503,000, and in addition, $4,500,000 to be derived by transfer from "Defender Services".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 22: Page 4, after line 4, insert:

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, the Federal Maritime Administrator of the U.S. Department of Transportation shall transfer to the Government of the Territory of American Samoa a 112 foot vessel to be used by that Government for interisland transportation of cargo and passengers: *Provided*, That such transfer shall be at no cost to the Government of American Samoa: *Provided further*, That the Department of Defense shall transport such vessel to American Samoa without reimbursement and any appropriations available to the Department of Defense in the current fiscal year shall be available for this purpose.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 22, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

FEDERAL SHIP FINANCING FUND

For the "Federal Ship Financing Fund", $750,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, these funds shall be available to the Federal Maritime Administrator of the Department of Transportation only to acquire an appropriate vessel for transfer to the Government of the Territory of American Samoa to be used by that Government for inter-island transportation of cargo and passengers, and for repairs and maintenance necessary to provide for the United States Coast Guard's certification of such vessel: *Provided further*, That the Department of Defense shall transport such vessel to American Samoa without reimbursement and any appropriations available to the Department of Defense shall be available for this purpose.

□ 1310

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. WALKER. Mr. Speaker, I reserving the right to object. It is my intention that this particular amendment be debated, and I would ask that the time be divided.

The SPEAKER pro tempore (Mr. Bosco). The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and a Member in opposition will be recognized for 30 minutes.

Is the gentleman from Kentucky [Mr. ROGERS] opposed?

Mr. ROGERS. Mr. Speaker, I am opposed.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I reserve my time.

Mr. ROGERS. Mr. Speaker, I yield 7 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I think we found out on the last vote that trimming pork out of appropriation bills is, indeed, a difficult task. When I looked down through the votes the last time, I mean, I found only 30 Members of the majority party were willing to vote antipork, and we lost 32 Republicans when it came to voting pork, a lot of them who happened to serve on the committee that goes and carves it up. So it is not surprising.

On the other hand, it does tell us something about the difficulty of dealing with spending when we come to the House of Representatives. This item that is up before us right now is a little item, and now I suspect that maybe we are going to get some people voting for this because this will save the taxpayers all of $750,000. That is $750,000 which is big money in my district, but, you know, compared to that trillion-dollar economy that we heard about a little while ago, it is probably a small item.

Let me tell the Members what this one is. This one is a ferryboat for American Samoa. One might wonder if we get into minute details in supplemental appropriation bills, here we have got a real one. What we are doing here is we are transferring a ferryboat to Samoa, and we do not want the Defense Department to pay for it. That means that the taxpayers are out $750,000. We are just telling the Defense Department, "Give it away."

I would suggest that my taxpayers, your taxpayers would probably prefer that when the Government makes a trade of this kind that we get paid for what it is we are doing, and so this amendment would simply strike the provisions of the supplemental appropriation bill that give away a ferryboat and suggest that maybe we ought to be paid the $750,000 that the ferryboat is worth.

I think this is a modest amendment. Hopefully those who could not bring themselves to save $6 million can bring themselves to save $750,000. It would be one little gesture that, at least, the House recognizes we have some responsibility to the taxpayers when it comes to spending their money.

When we are dealing in massive deficits, somewhere along the line we have to draw the line. Maybe we can draw the line with a $750,000 item, at least as a start.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Arizona.

Mr. KYL. Mr. Speaker, I have a couple of questions, and I wonder if the gentleman could clarify for me.

First of all, the conference agreement also includes language requiring that the Department of Defense transport this vessel to American Samoa without reimbursement, and then makes appropriations to the Department of Defense in order to accomplish this purpose. Does the gentleman have any idea how much that is going to cost?

Mr. WALKER. I have no idea what we are talking about here. I mean, we are talking money. We heard in the last debate that all of this offset is coming out of the Defense Department anyhow, so I guess this is just another offset that comes out of the hide of the Defense Department, and we figure that they will figure out some way to pay for it despite the fact that we are slashing their accounts. I do not know. It is without explanation in the committee's report. One has to assume it may be kind of expensive.

Mr. KYL. If the gentleman will yield further, I understand, if I could ask the gentleman to answer another question for me, that from the language that appears in the report we would be reimbursing the Defense Department out of its own fund, which means we would be taking out of one pocket to put in the other pocket. In any event, it comes out of their pocket. Is that the gentleman's understanding?

Mr. WALKER. Reclaiming my time, that is my understanding of what it says. I guess what we are doing is taking the money out of the health care services that are now without funding and putting it into giving a $750,000 ferryboat fo Samoa. Some people may think that is a responsible action. I happen to have questions about it.

Mr. KYL. If the gentleman will yield further, that goes to my precise question here. Do we have any idea where this money comes out of the defense budget? The reason I ask that question right now is that we are trying to find about $1.4 billion to cover personnel costs that we are going to have to take out of other programs costs such as the CHAMPUS program, and it is awful hard to find this money anymore this late in the year. We need to know where this money is going to come from in order to make any sense out of the defense budget. Does the gentleman have any idea what accounts this money would be coming from?

Mr. WALKER. I have no idea. This is one of those midyear corrections that all of a sudden the money is going to magically appear, and we are going to have plenty of money to fund $750,000 here, $6 million there, $20 million here. It is one of those things that I cannot figure out, and certainly the committee has not explained it in its report.

Mr. KYL. If the gentleman would yield for one final question, I guess I could ask the gentleman the question, but he clearly does not know the answer, but if we could be edified by members of the Committee on Appropriations as to where this money is coming out of the defense budget, it would certainly make it a lot more understandable for us to know whether this is something we want to do or not.

Pending receiving an answer to that, again, whether the project is worthwhile or not, we do not know really what price we are paying for it and, therefore, it does not seem to me something we ought to be voting for.

Mr. WALKER. I would say to the gentleman, I think he is absolutely right. I just want to make the point that the administration evidently cannot answer those questions either. They oppose the amendment. They think this is a bad idea to put it in there. One would think that maybe the administration was the one coming forward with this transfer. It was not. I do not know where it came from. It must be one of those Senate amendments that magically appeared in the conference that we had to go along with, but in this particular case, I do know the administration is opposed.

Mr. COX. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from California.

Mr. COX. Mr. Speaker, in reading through the conference report, I found a number of examples such as this, and while I recognize it is only $750,000, it is, nonetheless, $750,000 of rather obvious pork.

I ask the gentleman whether he can shed some light for the rest of the Chamber on his understanding of dire emergency. Is interisland transportation at this point, in 1990, in American Samoa such a dire emergency that it should be stuck in here with emergency assistance for Panama and Nicaragua?

Mr. WALKER. The gentleman missed the debate, I think, a little earlier, because I am sure he was busy. He probably should have heard the debate.

We were told earlier that this is no longer a dire supplemental bill, that this has now become a midyear correction supplemental bill, that we no longer are dealing in only dire supplementals, that the dire supplemental that the administration sent up here for $850 million has all of a sudden become a midyear correction that we have added all kinds of goodies to, and so this is simply one in a long series of things that were added to what has now become the supplemental bill.

Of course, the gentleman will remember that when we were passing appropriation bills last year we were assured we would not have to do this, that all the spending was taken care of in those bills, that we would not have to have this kind of major supplemental, that the only thing we would have would be if we ran into emergencies, but now what we find out is that when we run into an emergency it becomes a midyear correction.

Mr. WHITTEN. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I hope the Members will listen to me about this situation.

Mr. Speaker, as I pointed out earlier, on April 3, we passed what was a dire emergency supplemental appropriation bill. I appreciate the willingness of my colleagues to hold the line in that bill. I think there were three minor amendments.

□ 1320

It went to the other side. They added 180 amendments.

We passed that bill on April the 3. We worked hard trying to get together with the Senate, and finally made it.

May I say that if you amend this bill, in the amending of it you are sending it back to conference where we spent about 2 months trying to work this out, and you risk it all over again.

Mr. Speaker, I never have been one to read letters of endorsement to any great degree, but let me read what the Secretary of State says. I am sure this is with the approval of the President. It is addressed to me as chairman of the Committee on Appropriations. I hope the gentleman from Pennsylvania [Mr. WALKER] will listen to this. This is from the Secretary of State, Mr. Baker, addressed to me as chairman of the Committee on Appropriations.

THE SECRETARY OF STATE,
Washington, DC, May 23, 1990.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, House of Representatives.

Dear Mr. Chairman: As you prepare to vote on both the rule and the Conference Report on H.R. 4404, the Dire Emergency Supplemental Appropriations Act, I want to express my strong support for expeditious passage. I thank you and your colleagues for substantially meeting the President's request for emergency assistance for Panama, Nicaragua, and for refugees. Furthermore, I wish to express my appreciation for your inclusion of the provision that repeals Section 614 of the FY90 Commerce, Justice, State Appropriations Act.

Over the last year, through a foreign policy based on bipartisanship, the United States has helped the people of Panama and Nicaragua win their freedom after years of dictatorship. Our emergency assistance will provide the political and economic support that these two new governments will need if the democratic process is to continue in these two countries. All of us should be proud and share jointly in those achievements.

It is critical that money begin to flow to Panama and Nicaragua before the coming

recess. Your efforts to accomplish that goal are greatly appreciated.

Sincerely,

JAMES A. BAKER III.

Mr. Speaker, we run the risk of dragging this out again. I just want the Members to know delaying this bill is not in line with the recommendations of the President nor the Secretary of State, and I do not think it is good business.

Mr. FALEOMAVAEGA. Mr. Speaker, will the gentleman yield time to me?

Mr. WHITTEN. Mr. Speaker, I yield 13 minutes to the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in support of H.R. 4404, a bill making emergency supplemental appropriations for the fiscal year ending September 30, 1990.

Mr. Speaker, I want to address amendment 22 as reported by the conference committee. This amendment appropriates $750,000 to the Maritime Administrator of the U.S. Department of Transportation to acquire a vessel for the interisland transportation of passengers and cargo in American Samoa.

Mr. Speaker, my district or the territory of American Samoa consists of a group of five islands and two atolls, with an exclusive economic zone of 160,000 square miles. Most of the people live on the main island of Tutuila. However, approximately 4,000 people live on 3 smaller islands known as the Manu'a group. These islands are approximately 60 miles by sea from the main island. The Island of Tutuila has an excellent deep water harbor and international airport and is serviced regularly by large cargo ships and commercial airliners; however, the outer islands are not as fortunate.

Some 4,000 people who live in Manu'a are completely dependent on an old, government-operated LCU, which until recently was under extensive repair, and two privately owned aircraft, with 9-passenger and 18-passenger capacities for their transportation and support. While the LCU was not operating, these people had no method of getting cargo to their homes and businesses. By cargo I include quantities of food larger than that which will fit in a suitcase, not to mention items we consider fundamental to decent living such as stoves and refrigerators.

Mr. Speaker, last January I informed Senator DANIEL INOUYE of Hawaii concerning Manu'a's need for a vessel, and as a result Senator INOUYE and I traveled to Manu'a and saw the difficult conditions under which these people are living. Hurricane Ofa, which struck Samoa in early February with winds in excess of 160 miles an hour, has only made a bad condition worse. As a result of our trip to Samoa, Senator INOUYE added a provision to H.R. 4404 to provide for a used 112-foot vessel, the repair of the vessel to meet Coast Guard certification, and the transportaton of the vessel to Samoa.

Given that there is no vessel available to transport passengers between Manu'a and Tutuila, and given the reconstruction which is needed in the aftermath of Hurricane Ofa which struck Samoa last February, the need for a vessel to help the people of Manu'a is most critical now.

I have heard that some officials of the American Samoa Government are opposed to the acquisition of this vessel. This criticism is that the vessel is too deep of draft, the vessel is too long for two of the harbors, and there is no crane on the vessel.

Mr. Speaker, in response to these criticisms, I have been in contact with the Honolulu District Office of the Army Corps of Engineers. The engineers from this office are also the engineers who designed the harbors in Manu'a. These engineers have assured me and Senator INOUYE that the vessel is not too long, and that a crane is not needed on the vessel to transport passengers and light cargo. The corps has recently completed a hydrographic survey of one of the harbors in Manu'a and found that because of the destruction caused by Hurricane Ofa earlier this year, the depth of one of the harbors in Manu'a is presently too shallow to receive this vessel; however, the corps will repair the harbor and that work is expected to begin late this year.

Mr. Speaker, I realize this matter of the vessel for my district has been a subject of criticism by the President's Budget Director, Mr. Richard Darman of OMB, and perhaps even being made as a subject of amusement by others. I do submit, Mr. Speaker, it is not funny at all—when the lives and welfare of this small island community are constantly at risk because of inadequate transportation that these people have been subjected to for the past several years. It is not at all funny when hundreds of young men and women from this small island group volunteer to serve and put their lives on the line in defense of this great nation of ours. Is it too much to ask when the appropriation requested in this measure is for a vessel to transport safely women and children between these islands? Is it too much to ask that the amount requested may not even be sufficient to purchase the wheels for one B-2 bomber?

Mr. Speaker, I did not come begging for this vessel. I came to ask my distinguished colleagues to understand and appreciate the circumstances surrounding this amendment—and for all of us to realize we are not asking for the world, I am requesting something that is sorely needed by the people of Manu'a. And I am confident my colleagues will understand this a bit more than before. I submit to my colleagues that this request is a dire emergency.

Mr. Speaker, I look forward to working with the Honorable Peter T. Coleman, Governor of American Samoa, and the director of port administration, Mr. Leroy Ledoux in moving this project through to completion.

Mr. Speaker, I cannot conclude a statement on this issue without expressing my gratitude to the many people who have supported the people of Manu's in their pursuit of minimal surface transportation between the Samoan islands. My deepest appreciation and thanks go to Senator INOUYE. In addition to his personal attention to this amendment, he has authorized Mr. Richard Collins and Mr. Scott Gudes on the Senate Appropriations Committee staff to devote much more time to this issue than it warranted. Others who have participated in the negotiations and whose assistance made this amendment possible are the distinguished chairman of the House Appropriations Committee, the gentleman from Mississippi, the Honorable JAMIE L. WHITTEN, the distinguished ranking minority member of the House Appropriations Committee, the gentleman from Massachusetts, the Honorable SILVIO O. CONTE, the distinguished chairman of the House Merchant Marine and Fisheries Committee, the gentleman from North Carolina, the Honorable WALTER B. JONES, and the distinguished chairman of the House Appropriations Subcommittee on Commerce, Justice, State, and Judiciary, the gentleman from Iowa, the Honorable NEAL SMITH.

Mr. Speaker, as a freshman Member of this distinguished body, I want my colleagues to know how gratifying it is for me to have the opportunity to meet with Chairman JONES and Chairman SMITH concerning this matter, and I sincerely appreciate their assistance and guidance in getting this legislation through so that the residents of Manu'a could receive adequate transportation via this vessel. I also want to personally thank their chief adminsitrative assistants Mr. John Osthaus and Mr. Gerald Seifert for their assistance in this matter.

Mr. Speaker, I also want to thank Mr. Warren G. Leback, Administrator, U.S. Martime Administration, and our Secretary of Transportation, the Honorable Samuel K. Skinner, for their support and assistance. Additionally, I want to thank Brig. Gen. Claire Gill, Commander, Pacific Ocean Division, U.S. Army Corps of Engineers, and Lt. Col. Donald T. Wynn and his staff for their cooperation and invaluable guidance and assistance concerning the situation with the harbors in the Manu'a islands.

Mr. Speaker, any statement I make on this issue would not be complete without noting my concern over the lack of support I received from the U.S. Department of the Interior, Office of Territorial and International Affairs. As the lead agency with direct responsibility for the well-being of the people of Samoa and with supervision over the use of Federal funds, I was disappointed that this office did not offer an encouragement nor support of this critical need for the residents of Manu'a.

Mr. Speaker, as I stated earlier, I want to again express my appreciation and gratitude to the distinguished chairman of the Senate Appropriations Subcommittee on Defense, the gentleman from the State of Hawaii, the honorable DANIEL K. INOUYE. And I want Senator INOUYE to know that Manu'a would have never obtained this vessel if it had not been for his tremendous efforts, and on behalf of all the people and traditional leaders of American Samoa—again, a humble thank you, fa'afetai tele, and mahalo nui loa.

Mr. Speaker, I urge my colleagues to support amendment 22 of this bill, and recommend final passage of H.R. 4404 as reported by the House-Senate Conference Committee.

Mr. Speaker, I submit for the RECORD the attached communications on this matter.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 16, 1990.

Hon. DANIEL K. INOUYE,
Chairman, Appropriations Subcommittee on Defense, Washington, DC.

DEAR SENATOR INOUYE: I am writing with regard to the provision in H.R. 4404 for a vessel for American Samoa.

I understand that there is a letter being circulated among the members of the Conference Committee which discusses the proposed boat for Samoa and the harbors available for use. I believe some of the statements contained in the letter are factually incorrect.

My staff has been in contact with the Honolulu Office of the Army Corps of Engineers, the office which designed the harbors in question, and has confirmed the following:

1. The 112 foot vessel proposed in H.R. 4404 can operate in the harbors in the Manu'a group. There are two harbors now in use in Manu'a. Faleasao supports the largest island in Manu'a and the vessel can operate in this harbor. Ofu Harbor, which serves the Islands of Ofu and Olosega is large enough for the vessel, but because of the damage done by Hurricane Ofa, is too shallow in parts. The Army Corps of Engineers has plans and is funded to repair this harbor. The Corps expects to begin this work in December, 1990.

2. A relief harbor for the island of Ta'u is being designed by Corps' engineers at Faleasao. Under current plans, the vessel could operate in and out of this harbor, but would be of little value because the harbor plan does not call for a dock, which the vessel needs. This would be true regardless of the boat, unless the boat has a drop ramp similar to the LCU currently in use by the local government. Boats of this nature are not certified by the U.S. Coast Guard to carry passengers.

I strongly support the provision in H.R. 4404 which appropriates funds for the vessel. I believe the vessel will meet the needs of the people in Manu'a for the transportation of people and light cargo.

I have requested a written confirmation of this information from the Army Corps and expect to receive it within a few days. I will forward that letter to you upon receipt.

Sincerely,

ENI F.H. FALEOMAVAEGA,
Member of Congress.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I asked that the gentleman from American Samoa [Mr. FALEOMAVAEGA] yield because I know that this is a dire emergency, and I think the tendency to criticize what has happened here with ridicule, as has happened on the other side, is unforgiving.

Samoa is a territory of the United States Government. The United States is responsible for the well-being of the people of Samoa. Transportation between the island is a vital necessity for the people in Samoa, particularly now when it is attempting to recover from the aftermath of a hurricane.

We have hurried to provide funds for the hurricane damage in the Carolinas. We have hurried to provide funds for the earthquake damage in California. Yet how can we refuse to provide the elemental need of transportation for the people of Samoa?

Mr. Speaker, I join with the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, I want to rise in the strongest possible support of the gentleman from American Samoa, a valuable member of the Committee on Foreign Affairs in the House.

Mr. Speaker, this is to ship a vessel to American Samoa from Texas where it was seized in a drug raid. It is to go to the Government of American Samoa. It is a government responsibility, a government obligation, a government duty. The people in Samoa need it. It is vital, and I hope that the House will support the distinguished gentleman from American Samoa [Mr. FALEOMAVAEGA] who is absolutely right in this request.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the distinguished gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I appeal to the sense of justice in this House on this amendment. The gentleman referred to World War II. I happen to have been there briefly in an emergency when I was on a trip fully paid for by the Government back when I was serving Uncle Sam in World War II under a condition of servitude. The loyal people of Samoa were important to us in World War II. We were mighty glad to have those islands out there, and we were mighty glad to have those loyal friends out there in American Samoa in World War II.

Mr. Speaker, this ship was reclaimed when the owner defaulted on a loan. After the California earthquake, we immediately passed an emergency bill to appropriate money to restore transportation facilities even though we were already over budget for the year, all of the extra money for California and Hurricane Hugo was over budget. Now we have this problem out there in American Samoa. They had a hurricane in January but there was no special supplemental. These good, loyal people out there have also had great need for a boat to go between the islands to deliver basic goods and people from one island to another. They have not had a sufficient boat for 20 years to go from the main island to those other four islands. Those people depend upon delivery of agricultural goods and upon fishing and they depend upon this kind of transportation.

How would any Member like to live on an island 60 miles from the main island and not have transportation? This is something we should have included in our bill when it left the House.

Mr. Speaker, I say vote for this motion to recede which is a vote for delivering this boat for the use of these good people.

□ 1330

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, my friends here know I am not the world's biggest spender, and I think my friends over there know the same thing.

I have been to American Samoa with my friend, Mr. FALEOMAVAEGA, and I sit on the Interior and Insular Affairs Committee. Being on that committee, I recognize our obligations to the citizens of the United States who do not happen to reside in the States. And having seen American Samoa as I have, I can tell Members that we do not live up to our obligations to our citizens in American Samoa, just as in many cases we do not live up to our obligations that we have to our citizens that happen to reside on Indian reservations.

This is needed and necessary, and to us here in Washington it may not be an emergency, but to the residents and

our citizens, and our service people, our veterans, our single parents and our friends in American Samoa, this is an emergency. This is absolutely necessary.

The House of Representatives and the Senate should have recognized this and other needs in American Samoa long ago, and I urge that we adopt the motion offered by the gentleman from Mississippi.

Mr. FALEOMAVAEGA. I thank the gentleman very much for his remarks.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I forgot to say something that I think is important, so I will take another 30 seconds.

One of the best deep water seaports in the world is in American Samoa. It is valuable to us.

We hear complaints from various countries where we have a military facility around the world even though several of them were rescued by U.S. troops in WWII, and we have to pay $100 million, $200 million, $500 million a year to those countries just to let us be there. We have not heard one complaint from the American Samoans about using Pago Pago and we have been there since 1898. We should appreciate that too.

Mr. FALEOMAVAEGA. I thank the gentleman for his remarks.

Mr. RICHARDSON. Mr. Speaker, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the gentleman from New Mexico, my good friend and colleague.

Mr. RICHARDSON. Mr. Speaker, I too want to stand behind my colleague from American Samoa.

I also want to point out to this body that I do not think there is any Member in the House who works harder, who goes back to his district an extremely long way off, who travels to hearings in this country with his committee assignments on the Committee on Interior and Insular Affairs and the Committee on Foreign Affairs, and no one is more diligent than the gentleman from American Samoa. He is an enormously respected Member in this body, and I just wanted him to know that I will be standing behind him.

Mr. FALEOMAVAEGA. I thank the gentleman from New Mexico. I want to say to my colleagues, Mr. Speaker, I certainly appreciate the concerns expressed.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding. I was determined to vote for this amendment, but I was not going to say anything. But I feel very ashamed of myself for not talking, so I have decided to come down here and lend my support.

I think the gentleman is right. This is an emergency. I think we should help out and I think it is appropriate.

As I understand it, we are using a vessel seized from drug dealers. What better use could we put it to? What better use could we put it to?

So I would urge my colleagues to go along with this.

Mr. FALEOMAVAEGA. Mr. Speaker, I thank the gentleman very much.

As I said earlier, I too join with the rest of our colleagues in the concern expressed by the gentleman from Pennsylvania for austerity and limited resources and funds that we have, and managing the needs of our country. But all I am requesting here, Mr. Speaker, is that this is a dire need, and there is that need for this vessel to be used by the residents of that small island community.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let me suggest to my colleagues, and I suspect I will not get the similar level of applause as was accorded to my good friend from Arizona, this is not an issue of whether the American Samoans need this vote or not. This is an issue of an orderly process of considering Federal taxpayers' dollars, Federal money, a boat that is owned by the Federal taxpayers, and what is the greatest need for that boat.

The fact is what the conference report says we will be voting on begins with the words "notwithstanding any other provision of the law." I want to suggest that with this conference report, in its entirety, this may not be the worst item of special interest, it may not be the best, but in its entirety we are rapidly becoming or allowing ourselves to become a Congress of men, not of laws, a nation of men, not of laws.

We should return to the concept that in setting the law we should go through an orderly process, set authorizing legislation for how to allocate the seizure of particular boats, and I would note that that is already in the law. Then we would encourage the American Samoans to apply for that boat, to apply for these $750,000 a taxpayer funds, have them apply in an orderly process, and then they get the boat if they demonstrate that this is the greatest need as opposed to a demonstration of knowing someone on the conference committee in the United States Congress for the dire urgent supplemental.

Now is it an emergency? I do not know that it is an emergency. In fact, American Samoa has requested this particular vessel I am told for some 20 years. Perhaps it is more of an emergency this year than it has been in others.

Mr. FALEOMAVAEGA. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. I am happy to yield to the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Speaker, has the gentleman from Texas ever been to American Samoa?

Mr. BARTLETT. No, I have not done that level of travel that my good friend does.

I would suggest that there are people in Pennsylvania, in Arizona, in Virginia, in West Virginia, and California that may also have a need for that $750,000 vessel. They should have the right to apply for it in an orderly process so we can return this Congress to a Congress of laws, not a Congress of individuals who sit on committees.

Mr. WHITTEN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I explained that we held the line on real emergencies. The other side put 180 amendments on it, many of which we agreed with. So we come to you now after being tied up about a month in conference with the Senate. We run the risk of getting tied up for another month if we change the conference agreement. I just read the letter from the Secretary of State.

This is an emergency that we pass this bill with these amendments. I do not question anybody's sincerity or their feelings, but this situation would not occur except that the rules permit it to be here under the circumstances which we face.

There is no way for us to control the other side of the Capitol. I just hope Members will go along with us and let us get through with this, which will keep the bill intact so it will become law quickly.

Mr. ROGERS. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding. I just want to point out that now in this amendment we are arguing that this is a dire emergency supplemental bill that has to be passed immediately and we cannot get in the way of it. On the last amendment we argued that it was not a dire emergency supplemental bill. At that point it had become a bill which is a midyear correction bill for purposes of supplemental appropriations.

We cannot have it all ways. Every time someone comes out with an amendment we cannot decide that the bill becomes something different. It is either a major supplemental bill or it is not. We either are dealing with real emergencies or we are not. We are dealing with pork or we are not.

I am suggesting that in this particular instance we started with an emer-

gency supplemental bill. There are a number of things in here which are not emergencies, that probably should go through the authorization process and then through the appropriation process that have not done so, that do not even have the approval of the administration, and where we are forcing down the throats of the administration spending that they do not want to do.

That is all that this suggestion is, and I think we ought to support amendments aimed at cleaning the bill up, and I thank the gentleman for yielding.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, may I point out that no one claims that every item in this bill is a dire emergency. I have told Members that 180 amendments were added on the other side.

I do feel that it is a dire emergency to get this through and not send it back for 2 more months in the other body for expansion, where we know that is exactly what will happen.

Mr. ROGERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Bosco). The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

Mr. WALKER. Mr. Speaker, I ask that the question be divided.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks that the question be divided. The question will be put first on receding from disagreement to the Senate amendment.

The question is, Will the House recede from its disagreement to the amendment of the Senate numbered 22?

□ 1340

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. Bosco). Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 284, nays 123, not voting 25, as follows:

[Roll No. 140]

YEAS—284

Ackerman	Aspin	Bereuter
Anderson	Atkins	Berman
Andrews	AuCoin	Bevill
Annunzio	Bateman	Bilbray
Anthony	Beilenson	Boggs
Applegate	Bennett	Bonior
Borski	Hoyer	Payne (VA)
Bosco	Hubbard	Pease
Boucher	Huckaby	Pelosi
Boxer	Hunter	Perkins
Brennan	Hutto	Pickett
Brooks	Hyde	Pickle
Broomfield	Jacobs	Porter
Browder	Jenkins	Poshard
Brown (CA)	Johnson (SD)	Price
Bruce	Johnston	Pursell
Bryant	Jones (GA)	Rahall
Burton	Jones (NC)	Rangel
Bustamante	Jontz	Ravenel
Byron	Kanjorski	Ray
Campbell (CO)	Kaptur	Regula
Cardin	Kastenmeier	Rhodes
Carper	Kennedy	Richardson
Carr	Kennelly	Roberts
Chapman	Kildee	Roe
Clarke	Kleczka	Rose
Clay	Kolter	Rostenkowski
Clement	Kostmayer	Rowland (GA)
Coleman (MO)	LaFalce	Roybal
Coleman (TX)	Lagomarsino	Russo
Collins	Lancaster	Sabo
Conyers	Lantos	Saiki
Cooper	Laughlin	Sangmeister
Costello	Leath (TX)	Sarpalius
Coughlin	Lehman (CA)	Savage
Courter	Lehman (FL)	Sawyer
Coyne	Lent	Scheuer
Crane	Levin (MI)	Schroeder
Darden	Levine (CA)	Schumer
Davis	Lewis (CA)	Serrano
DeFazio	Lewis (GA)	Sharp
Dellums	Lightfoot	Shaw
Derrick	Lipinski	Sikorski
Dicks	Lloyd	Sisisky
Dingell	Long	Skaggs
Dixon	Lowery (CA)	Skeen
Donnelly	Lowey (NY)	Skelton
Dorgan (ND)	Luken, Thomas	Slattery
Dornan (CA)	Machtley	Slaughter (NY)
Downey	Madigan	Smith (FL)
Durbin	Manton	Smith (IA)
Dwyer	Markey	Smith (NE)
Dyson	Marlenee	Smith (NJ)
Early	Martinez	Solarz
Eckart	Matsui	Spence
Edwards (CA)	Mavroules	Spratt
English	Mazzoli	Staggers
Erdreich	McCloskey	Stallings
Espy	McCrery	Stark
Evans	McCurdy	Stenholm
Fascell	McDade	Stokes
Fazio	McDermott	Studds
Feighan	McHugh	Swift
Flake	McMillen (MD)	Synar
Foglietta	McNulty	Tallon
Ford (TN)	Meyers	Tanner
Frank	Mfume	Tauzin
Frost	Miller (CA)	Taylor
Gallo	Mineta	Thomas (GA)
Gaydos	Moakley	Torres
Gejdenson	Mollohan	Torricelli
Gephardt	Montgomery	Towns
Geren	Morrison (CT)	Traficant
Gibbons	Morrison (WA)	Traxler
Glickman	Murphy	Unsoeld
Gonzalez	Murtha	Valentine
Gordon	Natcher	Vento
Goss	Neal (MA)	Visclosky
Grandy	Nielson	Volkmer
Gray	Nowak	Vucanovich
Green	Oakar	Walgren
Guarini	Oberstar	Waxman
Hall (OH)	Obey	Weiss
Hansen	Olin	Wheat
Harris	Ortiz	Whitten
Hatcher	Owens (NY)	Williams
Hawkins	Owens (UT)	Wilson
Hayes (IL)	Oxley	Wise
Hayes (LA)	Packard	Wolpe
Hefner	Pallone	Wyden
Hertel	Panetta	Yates
Hoagland	Parker	Yatron
Hochbrueckner	Pashayan	Young (AK)
Horton	Patterson	Young (FL)
Houghton	Payne (NJ)	

NAYS—123

Archer	Bartlett	Bilirakis
Armey	Barton	Bliley
Baker	Bates	Boehlert
Ballenger	Bentley	Brown (CO)
Buechner	Holloway	Roth
Campbell (CA)	Hopkins	Roukema
Chandler	Hughes	Rowland (CT)
Coble	Inhofe	Saxton
Combest	James	Schaefer
Conte	Johnson (CT)	Schiff
Cox	Kasich	Schneider
Craig	Kolbe	Schuette
Dannemeyer	Kyl	Schulze
DeLay	Leach (IA)	Sensenbrenner
DeWine	Livingston	Shays
Dickinson	Martin (IL)	Shumway
Douglas	Martin (NY)	Shuster
Dreier	McCandless	Slaughter (VA)
Duncan	McCollum	Smith (TX)
Edwards (OK)	McEwen	Smith (VT)
Emerson	McGrath	Smith, Denny (OR)
Fawell	McMillan (NC)	Smith, Robert (NH)
Fields	Michel	Smith, Robert (OR)
Fish	Miller (OH)	Snowe
Frenzel	Miller (WA)	Solomon
Gallegly	Molinari	Stangeland
Gekas	Moody	Stearns
Gillmor	Moorhead	Stump
Gilman	Morella	Sundquist
Gingrich	Myers	Tauke
Goodling	Neal (NC)	Thomas (WY)
Gradison	Parris	Upton
Grant	Paxon	Vander Jagt
Gunderson	Penny	Walker
Hall (TX)	Petri	Walsh
Hamilton	Quillen	Weldon
Hammerschmidt	Ridge	Whittaker
Hancock	Rinaldo	Wolf
Hastert	Ritter	Wylie
Hefley	Rogers	
Herger	Rohrabacher	
Hiler	Ros-Lehtinen	

NOT VOTING—25

Alexander	Engel	Nelson
Barnard	Flippo	Robinson
Bunning	Ford (MI)	Thomas (CA)
Callahan	Henry	Udall
Clinger	Ireland	Washington
Condit	Lewis (FL)	Watkins
Crockett	Lukens, Donald	Weber
de la Garza	Mrazek	
Dymally	Nagle	

□ 1358

Messrs. CHANDLER, NEAL of North Carolina, RITTER, and McCOLLUM changed their vote from "yea" to "nay."

Mr. COLEMAN of Missouri and Mr. STOKES changed their vote from "nay" to "yea."

So the House receded from its disagreement to the amendment of the Senate numbered 140.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. Bosco). The question is, Will the House concur in the amendment of the Senate numbered 140 with an amendment?

The House concurred in the amendment of the Senate numbered 140 with an amendment.

□ 1400

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 24: Page 4, after line 14, insert:

PROCUREMENT

PROCUREMENT OF AMMUNITION, ARMY

(INCLUDING RESCISSION)

For an additional amount for "Procurement of ammunition, Army", $238,000,000,

to be used only for the construction of the RDX production facility at the Louisiana Army Ammunition Plant to remain available for obligation until September 30, 1992: *Provided,* That the Secretary of the Army shall enter into a contract for construction of the RDX facility not later than August 1, 1990: *Provided further,* That of the funds appropriated under this heading in the Department of Defense Appropriations Act, 1988 (Public Law 100-202; 101 Stat. 1329-51), $238,000,000 are rescinded.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 24, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

PROCUREMENT

PROCUREMENT OF AMMUNITION, ARMY

(INCLUDING RESCISSION)

For an additional amount for "Procurement of Ammunition, Army", $238,000,000, to be used only for the construction of the RDX production facility at the Louisiana Army Ammunition Plant, to remain available for obligation until September 30, 1992: *Provided,* That of the funds appropriated under this heading in the Department of Defense Appropriations Act, 1988 (Public Law 100-202; 101 Stat. 1329-51), $238,000,000 are rescinded.

Mr. FRENZEL. Mr. Speaker, I ask that the motion be debated and that the time be divided.

The SPEAKER pro tempore (Mr. Bosco). The Chair will inquire, is the gentleman from Massachusetts [Mr. CONTE] opposed to the motion?

Mr. CONTE. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes, and the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes.

The Chair will first recognize the gentleman from New Jersey [Mr. ROE].

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY TO HAVE UNTIL 6 P.M., MAY 31, 1990 TO FILE REPORTS ON H.R. 2152 AND H.R. 4887

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology have until 6 p.m., on May 31, 1990, to file a report on H.R. 2152, the Inter-American Scientific Cooperation Act of 1990, and a report on H.R. 4887, the Aircraft Catastrophic Failure Prevention Research Act of 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, may I inquire of the distinguished gentleman whether this request has been cleared with the minority?

Mr. ROE. Mr. Speaker, if the gentleman will yield, yes, it has been cleared.

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I have asked that this question be severed because I am asking the House to defeat the motion offered by the gentleman from Mississippi [Mr. WHITTEN]. If that motion is defeated, I will ask that the House insist on its disagreement with the Senate.

Senate amendment No. 24 reappropriates $238 million of the taxpayers' money for an unnecessary RDX explosive production facility to be built, sometime, in Louisiana. About the same amount of money for this particular facility had been appropriated previously. The previous appropriation will expire at the end of this year, and this particular dire emergency bill provides that we reappropriate $238 million for this unnecessary plant.

I would invite the House's attention to the fact that even in the military buildup of the last decade, in the time of our wildest spending for national security, the Defense Department never asked for this plant. We already have a plant manufacturing this explosive in Tennessee. Its capabilities are some 15 times the expected need for this particular explosive.

We are now at at time when geopolitical events around the world make it favorable for us to reduce our defense expenditures, and many of us will have defense facilities in our districts that are going to have to be cutback or shut down. How ironical it is to have attached to a dire emergency supplemental $238 million, one of the largest items in the supplemental, for a plant that is undoubtedly not needed and probably is never going to be built. What a strange signal that is to us who voted for the House budget resolution, which provided more than $13 billion in defense outlay cuts, to be suddenly voting for a quarter of a billion dollars in additional appropriations for defense.

America does not need another RDX production facility. We have plenty now. If for some strange reason this plant would ever be built, it would have to be closed down anyway because the Government would opt to keep the one that it has in business.

There is absolutely no national cause for us to go ahead with this appropriation. The committee is doing so, I suspect, to save some face in the local area. I am sure no Member from Louisiana would ever want to be responsible for allowing a facility not to be built, even though it probably never will be built anyway. The members of the Appropriations Committee will, of course, insist on voting for their motion because that is the agreement they were obliged to make in the conference committee, and they are, of course, going to honor that position.

But it is a very small plant. It is not needed, even for wartime mobilization requirements. We cannot operate two plants anyway, and if it were built, the Army would mothball it right away.

The total funds to build the plant, if it were ever to be built, look now to be about a half a billion dollars. So we have here about a half an appropriation.

It is better to kill the first half. Then the second can never appear. We have, I am told, invested in the project so far $7.2 million. This is a wonderful time to cut our loss and run.

If we really believe in a defense build-down rather than a buildup, this is a wonderful opportunity. A no vote will offend no one except Representatives in Louisiana. We will offend no one by voting against a facility that almost nobody wants, that the military does not want, and certainly that none of our constituents want.

I think this is a great opportunity to strike the first blow in the military build-down, and I urge the Members to vote against the motion to recede, and for what I hope will be a subsequent motion reflecting what the House will insist upon as its position.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. AUCOIN. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Oregon.

PERSONAL EXPLANATION

Mr. AUCOIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, last Thursday I was unavoidably detained and missed the vote on the Chapman amendment to the Americans With Disabilities Act. Had I been present, I would have voted nay.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to enter them in the permanent RECORD immediately following my vote.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield 25 minutes to the gentleman from Pennsylvania [Mr. MURTHA], the chairman of the Defense Subcommittee of the Committee on Appropriations.

Mr. MURTHA. Mr. Speaker, I listened with interest to the gentleman from Minnesota [Mr. FRENZEL], and he makes some pertinent points. I talked to Secretary Dick Cheney about this very thing, and he agrees with a lot of what the gentleman from Minnesota says.

But in our conference, in our deliberations, in our arguments about the overall defense chapters of this bill, the Senate insisted on keeping the funding for this plant because of the potential need for mobilization. We recognize that there is an existing RDX plant, and that plant is operating and produces all the ammunition we need during peacetime. But as many Members have argued over the last few months, we want to be careful that we do not demobilize too quickly. It is my opinion that we should leave the money in for this plant, because of the agreement that we have with the Senate. One thing we did insist on in conference was to delete the requirement to go to contract in the very near future. We leave it completely up to the Secretary of Defense as to whether he wants to build this plant.

□ 1410

So, Mr. Speaker, this is not something that we are pushing. It is just something we think is important because the Senate insisted on it at the very end of the conference.

So, there is no question in my mind that it is not the greatest priority for the Defense Department. However, it is one of the highest priorities that the other body has, and, if we do not keep it in the bill, we may have a late evening.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to my dear and beloved friend, the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I appreciate the gentleman from Massachusetts [Mr. CONTE] yielding this time to me, and I rise to support and back up the remarks by the gentleman from Pennsylvania [Mr. MURTHA].

The fact is that mobilization is the key, and despite the remarks by the gentleman from Minnesota [Mr. FRENZEL], my friend, we do not have sufficient capacity at this time to make the RDX that might be needed if we were to go into war.

Yes, we have sufficient amounts of RDX in storage and being produced in Tennessee for peacetime. However, of course, not much RDX is consumed in peacetime. In war it is a little bit different, and under today's mobilization base requirements, the Army currently admits that we have a 41-million-pound shortfall of RDX in the event that we were to go to war.

Mr. Speaker, even a change in those requirements based on events that have happened in Europe would not reduce all of the shortfall we presently have in RDX. If we do what the Army says and stockpile the current supplies of RDX or use TNT as an alternative, even the Army's own current study, which advocated the disbandment of this facility, says that these alternatives will cost us from $200 to $300 million for stockpiling and nearly $886 million for going strictly to TNT.

Mr. Speaker, stockpiling really is not a solution at all. In fact, there are many problems with it. RDX has to be stored, immersed in a water and alcohol solution, and then packed in plastic bags and stored in fiber drums, and that is expensive. As I said, it costs from $200 to $300 million, but long-term storage will likely result in an agglomeration of RDX particles that will require drying of the material and subsequent grinding to reduce the material to its original particle size prior to use. Additional facilities would then be required to make the RDX liquid mixture, bag it, drum it, ship it, and store it.

So, Mr. Speaker, the bottom line is, notwithstanding our peacetime requirements, if this country goes to war with only one RDX manufacturer, we will have a shortfall of some 41 million pounds a month, and we need this facility, and I think that the conference agreement should be left intact.

My colleagues, we ought to go ahead and leave this provision in the bill so that we will have sufficient amounts of RDX if we need it.

Mr. CONTE. Mr. Speaker, I yield 7 minutes to the gentleman from Tennessee [Mr. QUILLEN].

Mr. QUILLEN. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. CONTE] for yielding.

As my colleagues know, they are talking about the RDX facility in Tennessee. That facility happens to be in my hometown of Kingsport, TN. The Holston Army Ammunition Plant was constructed at the beginning of World War II. It provided the ammunition all during that war, one of the greatest wars that we have had. The gentleman from Louisiana [Mr. LIVINGSTON] evidently does not have his facts correct because RDX manufacturers in Kingsport supplied RDX during World War II, Korea, Vietnam, and is still producing a sufficient volume, and they have laid off more than 50 percent of their employees. They have cut production.

Mr. Speaker, it does not make sense to me to go down in Louisiana for political reasons and build another plant when we do not need it. I thought we were in the process of a build down, as the gentleman from Minnesota [Mr. FRENZEL] said, not a buildup.

I have been assured that the plant would not actually be built in Louisiana, but look what this conference report does. It takes the $238 millions appropriates it, it is held for 2 years, and the Department of Defense cannot spend it other than on the construction of that plant. It simply does not make sense.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I appreciate the comments of the gentleman from Tennessee [Mr. QUILLEN], and I agree with him. The gentleman represents the company in Tennessee which has produced all our peacetime needs, and I certainly agree with that.

However, Mr. Speaker, I am referring to the memorandum from the Comptroller, Department of Defense, dated April 12, 1990, the entire report made about the RDX requirements review, and the conclusion specifically says that current mobilization planning shows an RDX shortfall of 41.2 million pounds per month, which may be less as the forestructure solidifies in the coming months.

So, Mr. Speaker, there is a shortfall.

Mr. QUILLEN. Mr. Speaker, the gentleman from Louisiana [Mr. LIVINGSTON] said the plant produced it in peacetime. That is also incorrect. They produced it during World War II, all that we needed. The number of employees was quadrupled from what it is now. The capacity is there. That plant produced it in the Korean war, in the Vietnam war, and is producing it now. The reasons that they are not producing any more is that they have been cut back.

Mr. Speaker, let me say this: I was there before I went into the Navy in World War II. I saw that plant go up piece by piece, working 24 hours a day in order to get it built, and, as my colleagues know, RDX is the most powerful explosive other than the atomic bomb. And we have the capacity. We have the acres. We have the number of acres to expand, if we need it.

So, Mr. Speaker, I am familiar with that plant. I know that the appropriation was made in 1988 to build a new plant in Louisiana, and it was not built, and this amendment rescinds that appropriation, but then reappropriates it for 1990, and that simply does not make sense.

Why hold this money in abeyance unless it can be spent?

Mr. Speaker, I have had conversations with Dick Cheney, our fine Secretary of Defense, and on May 23, he wrote to me that the Army currently produces RDX explosives at the Holston Army Ammunition Plant. The production capacity of the Holston facility is 15.4 million pounds per month, more than adequate to support our peacetime production requirements of 1.5 million pounds.

Mr. Speaker, that is all we have a need for, and why should another plant be built when our production is at a low ebb? Our production base for

ammunition currently has more capacity to produce RDX than it has facilities to load it into munitions.

The proposed Louisiana RDX plant would provide only a marginal increase in capacity at a significant cost. Thus, the administration has proposed that $238 million appropriated for the Louisiana RDX plant in fiscal year 1988 be rescinded. While the pending supplemental supports my request to rescind these funds, the conference agreement also appropriates unneeded new funds for construction of an RDX facility at the Louisiana Army Ammunition Plant.

Listen to this:

Constructing the Louisiana plant is not in the national interest. It could ultimately involve the expenditure of close to half a billion dollars to construct a plant we do not need. With the defense budget coming down, we cannot support obligation of scarce resources for marginal purposes.

I urge the Members of Congress to oppose construction of this unnecessary facility.

Sincerely,

DICK CHENEY.

□ 1420

I would like to present this for the RECORD and I urge the Members to defeat the motion of the gentleman from Mississippi.

THE SECRETARY OF DEFENSE,
Washington, DC, May 23, 1990.

Hon. JAMES H. QUILLEN,
House of Representatives,
Washington, DC.

DEAR JIMMY: The Army currently produces RDX explosive at the Holston Army Ammunition Plant. The production capacity of the Holston facility is 15.4 million pounds per month, more than adequate to support our peacetime production requirements of 1.5 million pounds per month. Our production base for ammunition currently has more capacity to produce RDX than it has facilities to load it into munitions.

The proposed Louisiana RDX plant would provide only a marginal increase in capacity at a significant cost. Thus, the Administration has proposed that $238.0 million appropriated for the Louisiana RDX plant in FY 1988 be rescinded. While the pending supplemental supports my request to rescind these funds, the conference agreement also appropriates unneeded new funds for construction of an RDX facility at the Louisiana Army Ammunition Plant.

Constructing the Louisiana RDX plant is not in the national interest. It could ultimately involve the expenditure of close to half a billion dollars to construct a plant we do not need. With the Defense budget coming down, we cannot support obligation of scarce resources for marginal purposes.

I urge the Members of Congress to oppose construction of this unnecessary facility.

Sincerely,

DICK CHENEY.

Mr. MURTHA. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Speaker, I rise in support of the motion of the gentleman from Mississippi.

RDX, research development explosives, as the gentleman from Tennessee has pointed out, is a high-powered explosive. It is used in Army ammunition, in the MX missiles, in the Trident II missiles, and many, many other uses.

We only have one source today. It appears now from everything that is happening in the world that we are headed in the next 5 years for significant reduction in military expenditures. I think this is a right course, and that we all want to be on this course.

We are going to be called upon to make many decisions during this process, and I think it is prudent, it behooves us, to not single-source items that can be extremely important in the future, because as the gentleman from Louisiana [Mr. LIVINGSTON], from New Orleans, just pointed out, the report shows that in the event of a mobilization we do not have sufficient capacity today, and certainly a new facility which would replace one that was originally constructed in 1943 could be significantly more efficient than the existing one, so I would urge my colleagues to support the gentleman from Mississippi.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I have been sitting here this morning just plain listening. I have a great deal of respect for the gentleman from Minnesota [Mr. FRENZEL], who has stood alone many times, as he has had the unpopular obligation as he sees it, and rightly so, to object when there are expenditures which just, I think, certainly do not, at least, fit the dire emergency that we are talking about right here. I have listened to the gentleman from Pennsylvania [Mr. MURTHA] as he began to set forth his reasons for this particular portion of the supplemental. I noticed he said basically, I think, and he emphasized most of all, the fact that the Senate insisted on this, and he said, "We are not pushing it from the House side. It certainly is not the greatest priority." These are his words.

What we are really looking at, it seems to me, is that the ultimate defense from a very practical viewpoint as to why this ought to be retained is the fact that we do not want to disturb the Senate. We all want to get up and go home and have some busy weekends planned and things of that sort.

The other body, as it has been pointed out, has put some 180 amendments on this supplemental, and we have it thus grow from, as far as discretionary spending is concerned, up to $1.4 billion. The President started with $250 million as his view of dire needs.

It is this kind of a system, and I do not want to be just overly righteous about it, but by gosh, it is because of a system like this that our national debt is growing and growing and growing. The estimated 1990 debt to which I made reference earlier today, we are going to have, according to CBO, will be possibly as high as $207 billion just on the deficit, which does not even begin to count, for instance, the trust fund borrowing, which is blooming and growing every year because we have all of these added funds basically from social security. That is another $136 billion. That is new debt of $343 billion for 1990 alone.

We can no longer afford this. I think there is nobody personally liable for what we are doing in Congress. We are all collectively guilty. One of these days the people in this Nation are going to collectively remove all of us, Democrats and Republicans alike, unless we are responsible.

I think I back fully the views of the gentleman from Minnesota on this.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I ask for this time in order that I might insert in the RECORD at this point a letter which was quoted from by the distinguished gentleman from Tennessee [Mr. QUILLEN] from the Secretary of Defense to himself, and I also insert a copy of a letter to the Honorable JAMIE WHITTEN from the Secretary of Defense written on May 7. I add now the further explanation that in the former-referenced letter the Secretary writes that the production base for ammunition currently has more capacity to produce RDX that it has facilities to load it into munitions, and that is in either war or peace.

The second letter indicates that a recently completed Army study found that the current RDX production capacity was adequate to satisfy our peacetime requirements, and that the Louisiana RDX facility would add a relatively insignificant 2.5 million pounds to the production capacity of 15.4 already on the books.

Mr. Speaker, I think I would simply say that here is a great opportunity for those people who believe in strong military to say, yes, let us spend our money where it is needed. And there is opportunity for those who believe it is time to build down in military to take the first tiny step by defeating this quarter of a billion dollar appropriation.

THE SECRETARY OF DEFENSE,
Washington, DC, May 23, 1990.

Hon. JAMES H. QUILLEN,
House of Representatives,
Washington, DC.

DEAR JIMMY: The Army currently produces RDX explosives at the Holston Army Ammunition Plant. The production capacity of the Holston facility is 15.4 million pounds per month, more than adequate to support our peacetime production requirements of 1.5 million pounds per month. Our production base for ammunition currently has

more capacity to produce RDX than it has facilities to load it into munitions.

The proposed Louisiana RDX plant would provide only a marginal increase in capacity at a significant cost. Thus, the Administration has proposed that $238.0 million appropriated for the Louisiana RDX plant in FY 1988 be rescinded. While the pending supplemental supports my request to rescind these funds, the conference agreement also appropriates unneeded new funds for construction of an RDX facility at the Louisiana Army Ammunition Plant.

Constructing the Louisiana RDX plant is not in the national interest. It could ultimately involve the expenditure of close to half a billion dollars to construct a plant we do not need. With the Defense budget coming down, we cannot support obligation of scarce resources for marginal purposes.

I urge the Members of Congress to oppose construction of this unnecessary facility.

Sincerely,

DICK CHENEY.

THE SECRETARY OF DEFENSE
Washington, DC, May 7, 1990.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As the conference on the FY 1990 Dire Emergency Supplemental begins, I would like to offer you my assessment of the House and Senate bills. Overall, I am pleased that both bodies are in general agreement on a critical aid package to Panama and Nicaragua. But I am concerned that some of the proposed reductions to the Department of Defense budget will seriously degrade our operations and military readiness.

To fund the $780 million shortfall in our Military Personnel accounts, DoD proposed offsetting program reductions that would minimize damage to our defense posture. We strongly believe this is still the best way to proceed. We are especially troubled by the Senate's proposal to offset the Personnel increase by an across-the-board reduction to all other DoD accounts. The Senate's across-the-board formula would require cuts of 1.8 percent, or $2.1 billion in FY 1990 budget authority and prior year balances. These accounts have already absorbed GRH reductions of $790 million and $1,932 million of higher than budgeted inflation. The Senate provision would be extremely disruptive in light of previous action and, with barely one third of the fiscal year remaining, the impact would be servere on the limited discretionary programs. The severe impact of this provision is particularly ironic since the Department's final FY 1990 sequester would have been $6 million less had we exempted military personnel.

Additional reductions to our investment programs at this point in program execution will cause quantity decreases, contract renegotiations, and schedule slippages. Especially hurt would be programs—such as shipbuilding—that must maintain large unobligated balances due to long construction periods.

The Senate's across-the-board cuts would fall most heavily on Operation and Maintenance (O&M) accounts. But DoD's FY 1990 O&M title is already facing unbudgeted costs of $1.9 billion. These unbudgeted costs result from increased health benefit payments, increased CHAMPUS costs, damage caused by Hurricane Hugo and the San Francisco earthquake, military operations in Panama, increased cost of foreign currency to support forces overseas, and Congress' previous direction to absorb 1.6 percent of the FY 1990 civilian pay raise. To manage existing funding shortfalls, the Department has reprogrammings in process to transfer $800 million into O&M. With the fiscal year nearly 60 percent complete, further reducing O&M would force a significant cut in ground, air, and sea operational training; deferral of ship, aircraft, combat vehicle, and facility maintenance and repair; decrease in the space launch program, and reduction in base services and quality of life programs. It also could require the imposition of far more severe hiring restrictions and a major reduction-in-force; this would be especially likely in our defense agencies because a higher proportion of their O&M funds are for civilian manpower. Thus in trying to solve the Department's military personnel problem, the Senate proposal could create a serious civilian personnel dilemma.

A combination of Senate provisions would force a total O&M reduction of $1.2 billion. The Senate has reestimated the savings from my January civilian hiring freeze at $436.6 million, $353.6 million more than the Department's estimate. Our initial projection was that our net workyear savings would be 2,400, not 13,300 as indicated by the Senate. Based on our January-March 1990 experience, the estimated savings of $83 million, accepted by the House, still looks reasonable. The Senate also recommended that $171 million of Air Force O&M funds for the SR-71 be used as an offset for the supplemental appropriation. However, $25 million of this will be expended for phase down costs of the SR-71, and the remaining $146 million has been reallocated to other critical O&M unfinanced requirements. Similarly, the Army flying hour savings, for which the Senate rescinded $18 million, has been reapplied to meet unbudgeted O&M costs.

Beyond the above concerns about O&M funding, I have some other thoughts I ask you to consider. I urge you to reject the Senate reappropriation of $238 million to construct an RDX facility at the Louisiana Army Ammuntion Plant, with a requirement to award a contract for construction by August 1, 1990. A recently completed Army study found that current RDX production capacity is adequate to satisfy our peacetime requirements, and that the Louisiana RDx facility would add a relatively insignificant 2.5 million pounds/month to our production capacity. The $300-400 million required to construct the Louisiana facility is not an economic investment compared to the relatively low cost of stockpiling the RDX that would be produced with existing excess capacity at the Holston Army Ammunition Plant in Tennessee.

I support the Senate position to rescind $60 million of the $90 million appropriated for M483 155mm artillary projectiles. The Army does not need to procure additional M483 projectiles because they are in long supply and being replaced by M864 Baseburner projectiles, which have a greater range. The Department has already commenced the orderly shutdown of the Mississippi Army Ammunition Plant, and it would be counterproductive to restart the production line.

I strongly support the House's repeal of the proviso requiring obligation of $50 million in Air Force RDT&E funds for cruise missile testing on the B-1B bomber. A failure to repeal would needlessly complicate the resolution of cruise missile issues in our strategic arms negotiations.

The Senate addition of $18 million to the Military Construction, Army National Guard and Army Reseve accounts is not justifiable. No cost increase for the Guard and Reserve construction programs can be shown to have accrued solely as a result of the construction moratorium.

I urge you to reject the Senate's $100 million reduction in a classified Air Force Missile Procurement program and endorse the House position that adjusts funding for another classified program in the RDT&E account. The Senate cut would significantly constrain vital and essential capability, and any activity to slow or reduce the scope of this system would be detrimental to our security posture.

With regard to MILSTAR, we are willing to undertake the planning activity desired by the Senate but this will require only $60 million of the $100 million at issue. Due to cuts in the basic development program it is currently underfunded and utilization of the remaining $40 million of the designated funds on the basic program would help alleviate this problem. Accordingly, I strongly urge the committee to approve $40 million for use on the basic program. This will permit both the basic program and the planning activity to proceed in a prudent and orderly manner.

I would further ask that you reject the Senate's proposal to transfer $25 million from the NATO Research and Development program to fund the Joint Technology Department program and advanced neural networks information processing technologies. DoD reconsidered these efforts based on previous direction by the Senate and took what we consider to be prudent action: we reprogrammed a total of $8 million of FY 1989 and 1990 funds into these programs. I do not recommend reprogramming additional funds. Cooperative programs with NATO allies are a critical part of our defense posture, and the United States should honor its commitment to joint programs. A $25 million reduction this late in the fiscal year would adversely impact ongoing cooperative programs with several allies. This would erode our credibility in NATO and inhibit future promising joint projects.

The Senate requirement to forward the test of proposed NATO cooperative R&D agreements to Congress 30 days before signature raises serious Constitutional issues. To require the Executive to submit texts of international agreements to Congress prior to their signature is a clear infringement on the Executive's Constitutional prerogatives to negotiate and conclude international agreements. Additionally, such a requirement is inconsistent with the already existing format of notifications to Congress on similar agreements required under Section 27 of the Arms Export Control Act. The President's signing statement for the National Defense Authorization Act for FY 1990/FY 1991 expressly stated his concern over legislative attempts to impose unconstitutional disclosure requirements upon information relating to negotiations with foreign nations or other privileged information. I urge the conferees to reject the Senate's provision.

We have no objection to the rescission of excess funds for the Follow-on-to-Lance program, given the President's decision to terminate the program. However, the excess available for rescission should be $12 million, not the Senate's $19 million, because of funding requirements to close out the program.

Another concern is the Senate prohibition against DOD proceeding with the Real Time Automated Personnel Identification System (RAPIDS) until an evaluation of Individually Carried Record (ICR) technologies is completed. As a result of extensive analysis, DOD determined that RAPIDS would provide the cost-effective ICR missions and would also provide many essential capabilities that would not be supported by the ICR program. I recommend that you allow RAPIDS to continue on schedule.

I also oppose the Senate's direction of a $912,000 reimbursement for the Library of Congress to support a reduction in force in the Federal Research Division. DOD notified the Library of Congress 2 years in advance that our external assistance contract would be terminated at the end of FY 1989. We cannot explain why the Library of Congress did not initiate appropriate management action at that time; however, no services were requested or received for which the Department has any finanical responsibility.

Finally, I appreciate the Senate's efforts to provide relief from several existing legislative restrictions. Specifically, I urge support for these Senate provisions: the granting to DOD of specific transfer authority to pay for the increased costs incurred in our Just Cause operation in Panama; the increase to the obligation limitation applicable to our program to retrograde chemical weapons from Europe; and the language allowing destruction of small arms.

I look forward to continued cooperation with you and your colleagues as we work to manage the builddown of our military forces without eroding their hard-won readiness and quality.

An identical letter has been sent to the Chairman, Committee on Appropriations, United States Senate.

Sincerely,

DICK CHENEY.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the cleanup hitter, the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Speaker, I rise in support of the conference report that approves extending the 1988 appropriation of $238 million for the Army's RDX facility. These moneys were authorized and appropriated in fiscal year 1988 and therefore are not scored against this year's Gramm-Rudman outlay target.

The RDX facility has been approved and supported by this body since 1984. The project has been fully funded. Only this year has the Department of Defense decreed that they have changed their minds and have elected to stockpile RDX rather than construct a new facility to satisfy their needs for excess capacity.

This excess capacity need was recently reaffirmed just this month by the Department of the Army in a 6-month study. This body has repeatedly denied the Army's desires for stockpiling and should do so again today by voting to approve the extension of RDX funds.

Stockpiling is a word that no one can define. How do you accomplish this? Where do you store the material? How do you store the material? What are the costs associated with storage? Do you need to construct a facility to remove the additives that are required for storage in a safe manner? No one has asked these questions of the Army, but more importantly, the Army has not asked themselves.

The estimates done by my office indicate that the costs for stockpiling may far exceed the $238 million that we are debating here today. Therefore, is not it in the taxpayers' interest to extend these funds until these questions can be answered?

I urge my colleagues to vote in favor of the conference committee position thereby giving us time to reevaluate and study what is the best solution for this requirement.

The SPEAKER pro tempore (Mr. Bosco). Are there further requests for time? If not, without objection, the previous question is ordered.

There was no objection.

Mr. FRENZEL. Mr. Speaker, I ask that the question be divided, and that the Chair repeat the question on which we will ultimately be voting.

The SPEAKER pro tempore. The question is, will the House recede from its disagreement to the amendment of the Senate numbered 24?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were yeas 33, nays 376, not voting 23, as follows:

[Roll No. 141]

YEAS—33

Baker	Hayes (LA)	Natcher
Bevill	Holloway	Owens (NY)
Boggs	Huckaby	Rahall
Brooks	Leath (TX)	Roybal
Bustamante	Lehman (FL)	Sabo
Chapman	Livingston	Smith (FL)
Coleman (TX)	Martinez	Smith (IA)
Fascell	McCrery	Tauzin
Fazio	Miller (OH)	Whitten
Geren	Mollohan	Wilson
Hayes (IL)	Murtha	Young (AK)

NAYS—376

Ackerman	Bereuter	Burton
Anderson	Berman	Byron
Andrews	Bilbray	Campbell (CA)
Annunzio	Bilirakis	Campbell (CO)
Anthony	Bliley	Cardin
Applegate	Boehlert	Carper
Archer	Bonior	Carr
Armey	Borski	Chandler
Aspin	Bosco	Clarke
Atkins	Boucher	Clay
AuCoin	Boxer	Clement
Ballenger	Brennan	Coble
Bartlett	Broomfield	Coleman (MO)
Barton	Browder	Collins
Bateman	Brown (CA)	Combest
Bates	Brown (CO)	Condit
Beilenson	Bruce	Conte
Bennett	Bryant	Conyers
Bentley	Buechner	Cooper
Costello	Hunter	Parris
Coughlin	Hutto	Pashayan
Courter	Hyde	Patterson
Cox	Inhofe	Paxon
Coyne	Jacobs	Payne (NJ)
Craig	James	Payne (VA)
Crane	Jenkins	Pease
Crockett	Johnson (CT)	Pelosi
Dannemeyer	Johnson (SD)	Penny
Darden	Johnston	Perkins
Davis	Jones (GA)	Petri
DeFazio	Jontz	Pickett
DeLay	Kanjorski	Pickle
Dellums	Kaptur	Porter
Derrick	Kasich	Poshard
DeWine	Kastenmeier	Price
Dickinson	Kennedy	Pursell
Dicks	Kennelly	Quillen
Dingell	Kildee	Rangel
Dixon	Kleczka	Ravenel
Donnelly	Kolbe	Ray
Dorgan (ND)	Kolter	Regula
Dornan (CA)	Kostmayer	Rhodes
Douglas	Kyl	Richardson
Downey	LaFalce	Ridge
Dreier	Lagomarsino	Rinaldo
Duncan	Lancaster	Ritter
Durbin	Lantos	Roberts
Dwyer	Laughlin	Rogers
Dyson	Leach (IA)	Rohrabacher
Early	Lehman (CA)	Ros-Lehtinen
Eckart	Lent	Rose
Edwards (CA)	Levin (MI)	Rostenkowski
Edwards (OK)	Levine (CA)	Roth
Emerson	Lewis (CA)	Roukema
English	Lewis (GA)	Rowland (CT)
Erdreich	Lightfoot	Rowland (GA)
Espy	Lipinski	Russo
Evans	Lloyd	Saiki
Fawell	Long	Sangmeister
Feighan	Lowery (CA)	Sarpalius
Fields	Lowey (NY)	Savage
Fish	Luken, Thomas	Sawyer
Flake	Machtley	Saxton
Foglietta	Madigan	Schaefer
Ford (MI)	Markey	Scheuer
Ford (TN)	Marlenee	Schiff
Frank	Martin (IL)	Schneider
Frenzel	Martin (NY)	Schroeder
Frost	Matsui	Schuette
Gallegly	Mavroules	Schulze
Gallo	Mazzoli	Schumer
Gaydos	McCandless	Sensenbrenner
Gejdenson	McCloskey	Serrano
Gekas	McCollum	Sharp
Gephardt	McCurdy	Shaw
Gibbons	McDade	Shays
Gillmor	McDermott	Shumway
Gilman	McEwen	Shuster
Gingrich	McGrath	Sikorski
Glickman	McHugh	Sisisky
Gonzalez	McMillan (NC)	Skaggs
Goodling	McMillen (MD)	Skeen
Gordon	McNulty	Skelton
Goss	Meyers	Slattery
Gradison	Mfume	Slaughter (NY)
Grandy	Michel	Slaughter (VA)
Grant	Miller (CA)	Smith (NE)
Gray	Miller (WA)	Smith (NJ)
Green	Mineta	Smith (TX)
Guarini	Moakley	Smith (VT)
Gunderson	Molinari	Smith, Denny (OR)
Hall (OH)	Montgomery	Smith, Robert (NH)
Hall (TX)	Moody	Smith, Robert (OR)
Hamilton	Moorhead	Snowe
Hammerschmidt	Morella	Solarz
Hancock	Morrison (CT)	Solomon
Hansen	Morrison (WA)	Spence
Harris	Murphy	Spratt
Hastert	Myers	Staggers
Hatcher	Nagle	Stallings
Hawkins	Neal (MA)	Stangeland
Hefley	Neal (NC)	Stark
Hefner	Nielson	Stearns
Henry	Nowak	Stenholm
Herger	Oakar	Stokes
Hertel	Oberstar	Studds
Hiler	Obey	Stump
Hoagland	Olin	Sundquist
Hochbrueckner	Ortiz	Swift
Hopkins	Owens (UT)	Synar
Horton	Oxley	Tallon
Houghton	Packard	Tanner
Hoyer	Pallone	
Hubbard	Panetta	
Hughes	Parker	

Tauke	Vander Jagt	Whittaker
Taylor	Vento	Williams
Thomas (GA)	Visclosky	Wise
Thomas (WY)	Volkmer	Wolf
Torres	Vucanovich	Wolpe
Torricelli	Walgren	Wyden
Towns	Walker	Wylie
Traficant	Walsh	Yates
Traxler	Weber	Yatron
Unsoeld	Weiss	Young (FL)
Upton	Weldon	
Valentine	Wheat	

NOT VOTING—23

Alexander	Flippo	Robinson
Barnard	Ireland	Roe
Bunning	Jones (NC)	Thomas (CA)
Callahan	Lewis (FL)	Udall
Clinger	Lukens, Donald	Washington
de la Garza	Manton	Watkins
Dymally	Mrazek	Waxman
Engel	Nelson	

□ 1450

Messrs. ROWLAND of Georgia, DWYER of New Jersey, HALL of Texas, ORTIZ, TORRES, TRAXLER, McNULTY, EVANS, DREIER of California, RICHARDSON, HEFNER, ESPY, OWENS of Utah, CROCKETT, DELLUMS, and AuCOIN changed their votes from "yea" to "nay."

Messrs. BEVILL, MOLLOHAN, and BAKER changed their votes from "nay" to "yea."

So the House refused to recede from its disagreement with the amendment of the Senate numbered 24.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. MURTHA

Mr. MURTHA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURTHA moves that the House insist on its disagreement to the amendment of the Senate numbered 24.

The SPEAKER pro tempore (Mr. Bosco). The question is on the motion offered by the gentleman from Pennsylvania [Mr. MURTHA].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 25: Page 4, after line 21, insert:

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For an additional amount for "Military Construction, Army National Guard", $9,000,000, to remain available until September 30, 1994.

MILITARY CONSTRUCTION, ARMY RESERVE

For an additional amount for "Military Construction, Army Reserve", $9,000,000, to remain available until September 30, 1994.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 25, and concur therein with an amendment, as follows:

In lieu of the first sum named in said amendment, insert: $7,000,000.

In lieu of the second sum named in said amendment, insert: $3,000,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 29: Page 5, line 9, strike out "$19,528,000" and insert "$289,308,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 29, and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$380,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 38: Page 7, line 4, strike out "$138,679,000" and insert "$30,700,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 38, and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert "$64,864,000; Missile Procurement, Air Force, 1988/1990, $34,900,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 39: Page 7, line 8, strike out "$110,820,000" and insert: "$176,000,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 39, and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$70,142,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 40: Page 7, strike out lines 13 to 16.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 40, and concur therein with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: Research, Development, Test and Evaluation, Army 1989/1990, $18,000,000;

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 41: Page 7, line 18 strike out "$35,000,000" and insert: $59,000,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 41, and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$64,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 43: Page 7, line 24, strike out "$19,900,000" and insert: "$34,900,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disageement to the amendment of the Senate numbered 43, and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$77,900,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 45: Page 8, line 4, strike out "$35,000,000" and insert: "$18,500,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 45, and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: "$25,000,000;

"Research, Development, Test and Evaluation, Defense Agencies, 1990/1991, $70,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 46: Page 8, after line 4, insert:

Navy Stock Fund, $11,000,000;
Air Force Stock Fund, $10,000,000;
Defense Stock Fund, $39,000,000;

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 46, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

Navy Stock Fund, $15,000,000;
Air Force Stock Fund, $15,000,000;
Defense Stock Fund, $78,100,000;

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 47: Page 8, line 20, strike out "$17,800,000" and insert: "$36,522,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 47, and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: "$36,522,000; Family Housing, Air Force, 1986/1990, $25,200,000; Military Construction, Army, 1986/1990, $2,850,000; Military Construction, Army, 1987/1991, $4,295,000; Military Construction, Army, 1988/1992, $10,470,000; Military Construction, Army, 1989/1993, $29,931,000; Military Construction, Army, 1990/1994, $27,700,000; Family Housing, Army, 1990/1994, $6,335,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 48: Page 8, strike out all after line 20 over to and including line 4 on page 9 and insert:

SEC. 202. Section 9080 of Public Law 101-165 is amended by inserting the following proviso before the period ": *Provided*, That this provision does not restrict the use of funds for the destruction and disposal of such firearms".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 48, and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

SEC. 202. Section 9080 of Public Law 101-165 is amended by inserting the following proviso before the period ": *Provided*, That except for M Garand and M1 carbine rifles, this provision does not restrict the use of funds for the destruction and disposal of other firearms".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 51: Page 9, line 5, strike out all after "203." over to and including "(d)" in line 5 on page 10.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 51, and concur therein with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

(a) The appropriation "Research, Development, Test and Evaluation, Air Force" contained in the Department of Defense Appropriations Act, 1990 (Public Law 101-165) is amended in the second proviso by striking out "1989" and inserting in lieu thereof "1990" and by striking the phrase "from the B-1B program that remain available for obligation".

(b) Section 8084 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463) is amended by striking out "$109,895,000" and inserting in lieu thereof "$79,895,000".

(c) Section 8115 of the Department of Defense Appropriations Act, 1988 (Public Law 100-202) is amended by striking out "$90,895,000" and inserting in lieu thereof "$67,895,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 53: Page 10, after line 7, insert:

SEC. 206. (a) Not less than 30 days before a cooperative project agreement is signed or amended on behalf of the United States in conjunction with the NATO Research and Development program, the President shall transmit to the Committees on Appropriations of the Senate and House of Representatives a numbered certification setting forth the text and providing an explanatory statement on the purposes of the proposed agreement or amendment.

(b) Any cooperative project agreement or amendment referred to in subsection (a) shall contain a provision stipulating that United States participation under the agreement or amendment is subject to the availability of appropriated funds.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 53, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 205. (a) Not less than 30 days before a cooperative project agreement is signed or amended on behalf of the United States in conjunction with the NATO Research and Development program, the President shall transmit to the Committees on Appropriations of the Senate and House of Representatives a numbered certification setting forth the text and providing an explanatory statement on the purposes of the proposed agreement or amendment.

(b) Any cooperative project agreement or amendment referred to in subsection (a) shall contain a provision stipulating that United States participation under the agreement or amendment is subject to the availability of appropriated funds.

SEC. 206. Of the $6,000,000 provided in this Act in "Research, development, test and evaluation, Navy" for the Navy Medical Research and Development Command to support the unrelated marrow donor program, not less than $4,500,000 shall be provided as a grant to the National Marrow Donor Program Foundation.

SEC. 207. The last proviso under the head "Research, Development, Test and Evaluation, Navy" contained in the Department of Defense Appropriations Act, 1990 (Public Law 101-165 (103 Stat. 1125)) is amended by deleting the phrase "to the Center" and inserting in lieu thereof "to the Mississippi Resource Development Corporation".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 54: Page 10, after line 7, insert:

SEC. 207. (a) Of funds available during fiscal year 1990 under the heading "Research, Development, Test and Evaluation, Defense Agencies", for the NATO Research and Development program—

(1) not less than $12,776,000 shall be transferred immediately upon enactment of this Act to the Defense Advanced Research Projects Agency to finance the advanced neural networks information processing technologies project; and

(2) not less than $12,224,000 shall be transferred immediately upon enactment of this Act to the Joint Technology Department program.

(b) None of the funds referred to in subsection (a) may be transferred from the AV-8(B) radar development, F/A-18 radar upgrade, medium surface-to-air missile, and multifunctional information distribution system projects.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 54, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 208. (a) Of funds available during fiscal year 1990 under the heading "Research, Development, Test and Evaluation, Defense Agencies", for the NATO Research and Development program—

(1) not less than $12,776,000 shall be transferred immediately upon enactment of this Act to the Defense Advanced Research Projects Agency to finance the advanced neural networks information processing technologies project; and

(2) not less than $12,224,000 shall be transferred immediately upon enactment of this Act to the Joint Department of Defense—Department of Energy Munitions Technology Development program.

(b) None of the funds referred to in subsection (a) may be transferred from the AV-8(B) radar development, F/A-18 radar upgrade, medium surface-to-air missile, and multifunctional information distribution system projects.

SEC. 209. None of the funds available to the Department of Defense may be used to purchase circuit breakers for U.S. Naval vessels unless the circuit breakers are manufactured in the United States from components which are substantially manufactured in the United States. For the purpose of this section, the manufacture of circuit breaker cradles in the United States by a foreign supplier shall not be deemed to constitute substantial U.S.-manufacture of circuit breakers. The Secretary of Defense may waive this provision if he determines that it is not in the national security interests of the United States or will have an adverse effect on a U.S. company.

SEC. 210. Notwithstanding any other provision of law, the Secretary of Defense shall participate in an infrastructure improvement demonstration program conducted by the Regional Equipment Center, Newport Township, Pennsylvania: *Provided*, That within 90 days following enactment of this Act, the Secretary shall provide directly such property within the control of the Department of Defense or any component thereof as mutually agreed to by the Regional Equipment Center and the Secretary and as necessary to carry out the provisions of this section.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. KYL. Mr. Speaker, reserving the right to object, I would like to request time for debate on this amendment.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes.

Is the gentleman from Massachusetts [Mr. CONTE] opposed to this motion?

Mr. CONTE. Mr. Speaker, no, I am not.

The SPEAKER pro tempore. Does the gentleman from Arizona [Mr. KYL] ask for one-third of the time?

Mr. KYL. Yes, Mr. Speaker, I would like one-third of the time, which I understand is 20 minutes.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 20 minutes, the gentleman from Massachusetts [Mr. CONTE] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. KYL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield my time to the gentleman from Pennsylvania [Mr. MURTHA].

The SPEAKER pro tempore. Without objection, the gentleman from Pennsylvania [Mr. MURTHA] will be recognized for 20 minutes.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, I yield myself such time as I may consume.

Let me explain what we tried to do here. Northeastern Pennsylvania has set up a program to provide heavy construction equipment and machinery to local municipalities, school districts, authorities and other public purpose organizations for infrastructure improvement programs such as road construction.

The Regional Equipment Center, Newport Township, has an inventory of equipment to loan to local communities who could not afford to purchase or lease maintenance vehicles for needed public works projects.

DOD has surplus and excess equipment to provide, by loan or transfer, to the center.

Title 40 prohibits Federal agencies from providing excess property to grantees unless it is a federally sponsored project.

This section provides the Secretary of Defense with such authority and allows him to provide equipment as mutually agreed to by the Department and the center.

So what we have done here is allow the Secretary of Defense to provide surplus equipment, if he agrees, to a center that loans equipment to municipalities instead of having to lease it.

Now, the advantage here is that DOD has excess equipment, they don't object to the program. We should just allow them to do it.

We are not spending any money here. It is a demonstration project. We put the money and language in the regular bill last year and we have to clarify the language. That is all we did.

Mr. KYL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman's explanation of the project, which, at least as described by our colleague, sounds like a reasonable way to use surplus Department of Defense equipment.

However, my concern with the proposal is twofold. If this is a good idea, as it seems to be from the gentleman's explanation, there are a lot of towns in my district, which has very large rural components to it—and I might say they are quite depressed and could certainly take advantage of this kind of a program—it seems to me that if this is such a good idea, it would be appropriate for us to have a bill brought to the floor through the committee process that would authorize this across the country pursuant to some kind of application process by which the Department of Defense could make equipment available. And they then can set up whatever kind of entity that would be appropriate to accept that surplus equipment as has been done in Pennsylvania.

So that is the first reason why it seems to me this is not the appropriate way to legislate this particular concept.

□ 1500

Now second, this is a question perhaps the gentleman can clarify for Members. My understanding of title 40, and perhaps some other Federal laws—but I am not certain about this—is that the normal way of dealing with surplus equipment from the Department of Defense or other agencies of the government is for the General Services Administration to deal with that on some kind of an auction or sale basis, and that way the Treasury can recoup whatever value there is. The reason for avoiding that process here is that these towns or communities are, at least allegedly, not able to afford to do this.

I am wondering what it is about this particular area that would qualify them for special treatment, particularly when there are a lot of other areas in the country, such as I indicated in the rural part of my district, which have a hard time making ends meet, and can use equipment like this. The Treasury is going to suffer from a lack of revenue from this at the expense of cities and towns, and that is fine if, in fact, we want to make that kind of transfer of assets and if it is made available to everyone in the country. Those are two of the questions that I have about this. If we could be further enlightened by our colleague, I would be delighted to hear.

Mr. MURTHA. Mr. Speaker, let me answer one part. This is a pilot project, a demonstration project. If this works, we will see how much farther we may want to expand.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI], who can go into some detail on this.

Mr. KANJORSKI. Mr. Speaker, for the gentleman's edification, this grows out of a concept of trying to move Federal equipment that will no longer be necessary, particularly in the Defense Department—down to the rural and suburban communities of the United States, and setting up the process to do that.

Right now we do have a process to move it to the States, but we have had a major failure in getting that from the State level to the local level, primarily because local levels of government do not have the capacity to maintain, store, and fix equipment that they may receive. So the demonstration project that we are talking about here is a project between local communities and the Commonwealth of Pennsylvania that has been ongoing now for approximately 2 years.

What we are attempting to do is set up the ideal model for the country so that we will know what legislation, if any, has to be changed in the future, or whatever methods will be made. We are working in conjunction with no more than 20 cities, and over 500 communities, not only in Pennsylvania but other areas of the country that eventually we hope to see a multibillion dollar, tens of thousands of pieces of heavy equipment, scattered on depots all over the United States, and indeed the world, that are no longer going to be necessary in the immediate future, for the military, and to find a method to get this down to the local level with the least cost to the Federal Government, and certainly the least cost to local government.

If anything, if I could explain it very simply, this is really taking Benjamin Franklin's concept of a lending library, putting it into a large entity that can make this equipment available on a need basis, to many communities, rather than having each individual community try and get this property, pay for transportation, pay for its maintenance, and find that it is needed at a limited time during the year.

What this is is a lending library of heavy equipment, and we want to take and use the existing Federal property now that can be used for this purpose, but it does not leave the title of the U.S. Government. Under the agreement it will go back to the Defense Department on a need basis. It will be perfectly maintained and operated. The only thing we are having them do now, rather than rot or go in storage all over this country and Europe, rather than sale for scrap at some time in the future, or shipped to a Third World country, we are trying to bring it back to the use of the taxpayer, and we are talking about literally hundreds of millions of dollars of equipment that ultimately in the next 2 or 3 years will be available for your district and every Member's district in this country, for the program is successful.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding, and I do respect the gentleman from Pennsylvania [Mr. KANJORSKI] very much. We serve on the Committee on Banking, Finance and Urban Affairs together.

My question is, Does Newport Township, PA, get paid for servicing this equipment?

Mr. KANJORSKI. No, the way this is structured, so that the gentleman understands, is they brought a consortium of about 100 communities together, that each contribute in. So this is a self-sustaining operation. The reason it is urgent to occur today, is the Commonwealth of Pennsylvania has just funded the demonstration for a year and a half, and we are a year into it, and we thought this equipment would be used along with the report language. It has not. The Defense Department needs the additional statutory language to accomplish it. If we were to delay this off until next year, it cannot occur because the problem exists.

Mr. BARTLETT. If the gentleman will yield. So that I understand, who pays for the cost of bringing the equipment up to be usable, converting the equipment? Who pays the cost?

Mr. KANJORSKI. This facility has all the maintenance, all the mechanics, and all the people in place.

Mr. KYL. Mr. Speaker, I yield myself 5 minutes, and I want to begin that 5 minutes by yielding to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I am trying to understand, from the explanation of the gentleman from Pennsylvania [Mr. KANJORSKI] if Newport Township does not pay for the cost of repairing this, and if DOD did not pay for the cost of repairing the equipment, who pays for the cost?

Mr. KYL. I yield to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. The center, the Regional Equipment Center is a nonprofit organization representing 100–150 communities. Each of the communities contribute on a per capita share approximately $1 per capita that goes into the central funds, which pays for the maintenance and operation of the facility.

Mr. KYL. Mr. Speaker, I yield to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, do each of these 100 townships pay to repair this equipment? What do they get out of it?

Mr. KYL. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. They get the use of the equipment on a need basis, and they get charged a minimal rental which they can use their contribution on that renting, and if they exceed the use of the equipment beyond the rental, they contribute additional amounts to cover.

Mr. BARTLETT. If the gentleman will continue to yield, I thank the gentleman for his explanation, and I did have a further question: Has DOD requested this operation?

Mr. KANJORSKI. If the gentleman will continue to yield, in the former report language we had, we negotiated everything down to final completion, and at that point it was the legal opinion of DOD's counsel that they needed statutory language, and not report language.

Mr. BARTLETT. If the gentleman will continue to yield to clarify the

questions, DOD requested this authorization to conduct this program?

Mr. MURTHA. If the gentleman would yield, we worked very closely with DOD to make sure that there was no problem with the program. They did not initially request it, but they are willing to work with it. We will have a lot of surplus equipment, as Members know. We think this is a good way to utilize the surplus equipment. We think he had a unique idea here which he presented to Members, and we worked with the Defense Department, trying to work out the details.

Mr. KYL. Mr. Speaker, reclaiming my time, I noted the gentleman carefully answered that question, because my office was informed, this was not initiated or requested by the Defense Department; it is true the gentleman has been working with the Defense Department, and they have indicated a lack of authority to proceed. My office was advised that the Defense Department objects to the bill, they have not requested it, and I would add further that it does not appear to me this is a dire emergency.

I recognize that there have been some local funds made available for this purpose, but I do not think that raises this to the point of a dire emergency.

Let me make something else clear here. What the gentleman has in Pennsylvania is a situation of some towns that are getting together and wanting to utilize some of the so-called surplus equipment. I see nothing wrong with that essential process. However, it is not necessarily the process that would work for other areas of the country, and so I am not quite sure how a demonstration project here with a group of small communities in Pennsylvania in solving their particular problem, is the answer to the problem for everybody else in the country. Why not have a study by GAO or GSA or the Defense Department and work up a piece of legislation applicable to everybody in the country? Why just this particular area?

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Speaker, first of all, it is a dire necessity because if we do not get this done now, the program will have a problem.

Mr. KYL. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, let me answer that before the gentleman responds. This we did in the fiscal year 1990 bill. This is not something we came up with in the dire emergency supplemental. We did it by report language. The Defense Department said "That is not enough." They wanted statutory language. So what we have done is clarify in the vehicle we had before the Members. That is what it amounts to. This is not something new that we are bringing up, we are just clarifying the language in this bill by statutory language.

We had already addressed this in the fiscal year 1990 DOD bill.

Mr. KYL. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. This is not a single project. This is a project that has been expanded from an initial area to about four congressional districts that it is operating in now. We are working with all 50 States to develop a model program that they can follow this example, and within 18 months to 2 years they can be in the same way, perhaps having as many as 80 or 100 of these centers around the country to provide rural and suburban America with the ability of having equipment on a small jurisdictional level that otherwise they could not afford, at no cost. We are using equipment now that is being sold.

If the gentleman remembers, on ABC News 2 years ago, we sold graders that were worth $200,000 to countries for $1.42 because we did not have the capacity to use it in America.

□ 1510

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, I just want to commend the gentleman from Pennsylvania [Mr. KANJORSKI]. I think what he is trying to do is creative in an era of build-down. As has been pointed out, we took action on this back in the 1990 bill, and the DOD has indicated to us that without some statutory relief, as the Chairman has said, nothing can happen.

What the gentleman is trying to do is make creative assets and have them used properly. He is trying to make creative use of them. I think he is doing the right thing.

Mr. Speaker, it seems to me that we have exhausted the debate, and I think we ought to move on.

Mr. KYL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have not quite exhausted the debate, as far as I am concerned, and I would like to make a further point.

Mr. Speaker, I agree with my colleague, the gentleman from Pennsylvania [Mr. McDADE], who just made the point. I think that this is an idea that has merit. My point is this: That we have in a dire supplemental a demonstration project that relates to just one part of the country, and the gentleman from Pennsylvania [Mr. MURTHA] has explained this to us.

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. KYL. I am happy to yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, I want to say to my dear friend, the gentleman from Arizona, that what we need to understand is that the action was taken in fiscal year 1990. Legal counsel says that title 40 of the United States Code must be changed. All that is carried in here is some bill language to enable that to occur. That is all it says. There is no money in this bill.

Mr. KYL. Mr. Speaker, let me reclaim my time.

I understand that point fully. I understand we are not appropriating money to this bill, but we are asking for authority that the Defense Department does not want and has not asked for. I am not sure that it is not a good idea. But the point I want to make is this: This is not the way to legislate a demonstration project. There is not really a dire emergency here.

If this is a good idea, the way we ought to do it is to bring it before an appropriate committee, the committee of jurisdiction, and have testimony on whether this might be a good idea for other parts of the country as well. And to see how it might work in other parts of the country which may not have the same kind of setup that exists in the State of Pennsylvania. Then if it is a good idea, we would have an opportunity to vote for it other than through the process that has been presented here.

I do not object to the concept or the idea. I certainly appreciate the explanation of the gentleman from Pennsylvania, but I hope that in the future, instead of trying to put these things in a bill—if I may disgress for a moment, in ways which do not necessarily look that good to the American people and which get a lot of adverse publicity, rather than legislating in that vein, it would be much preferable for us to bring these good ideas through the regular process where we have a lot more knowledge about it, where I do not have to stand here and be educated on it by asking questions of the gentleman on the floor, and therefor save time and do a better job of legislating.

So I would make the point before I withdraw my objection or conclude my remarks that if we can legislate these kinds of projects on a more sensible basis in the future, I think there will be a lot fewer questions about them and it will be a lot more sensible way to spend our time.

Mr. WHITTEN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would like to call attention to my colleagues on the other side of the aisle about what I mentioned earlier. We had a dire emergency supplemental bill on the House side. My colleagues in the other body,

with equal authority, if not superior in many ways, made a continuing resolution out of it. They added 180 amendments, many of which many Members in this body, including my colleagues on the gentleman's side of the aisle, agree with. So we have a hybrid here that is half supplemental and half continuing resolution.

I have had a little more experience trying to get along with our friends on the other side of the Capitol than some of my friends in this body. But they can stay there an unlimited time, and what frightens me is that if we send this bill back to conference, we may be inviting a whole lot of delay in some things that are really badly needed, and that includes foreign aid, quoting what the Secretary of State has said.

So I caution the Members. We do not run the other body, but we try our best to keep them from from running our body. So I hope we can go ahead with what we have here because it represents the very best that we had in a conference that lasted about 2 weeks. If we had to go back and have several weeks again, we might be inviting just a whole lot more amendments.

This is not to quibble with our friends. I just say as a practical matter that we need to go along and get along on this and get through with it.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are getting less than 2 cents on the dollar for our salvage defense equipment. There is no money in this bill for this pilot project. We have an opportunity with this project to make good use of excess government equipment, a lot of which may become available as we build down our defense. Here we have an opportunity to examine the possibilities of saving taxpayers money as well as an opportunity to get this equipment down to the localities that could have a need for it at no additional expense. So I say let this pilot project go forward and see how it goes. It intrigues me. If it works, I can see some benefits for the little municipalities in my district.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 55: Page 10, after line 7, insert:

SEC. 208. Funds available to the Department of Defense during the current fiscal year may be transferred to applicable appropriations or otherwise made available for obligation by the Secretary of Defense to fund the additional cost of pay and allowances, operational expenses and other costs associated with military operations in Panama known as Operation Just Cause: *Provided,* That funds transferred shall be available for the same purpose and the same time period as the appropriations to which transferred; Provided further, That the Secretary shall notify the Congress promptly of all transfers made pursuant to this authority and that such transfer authority shall be in addition to that provided elsewhere in this Act.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 55, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 211. Funds available to the Department of Defense during the current fiscal year may be transferred to applicable appropriations or otherwise made available for obligation by the Secretary of Defense to fund the additional cost of pay and allowances, operational expenses and other costs associated with military operations in Panama known as Operation Just Cause: *Provided,* That funds transferred shall be available for the same purpose and the same time period as the appropriations to which transferred: *Provided further,* That the Secretary shall notify the Congress promptly of all transfers made pursuant to this authority shall be in addition to that provided elsewhere in this Act.

SEC. 212. The Department of the Army shall explore the possibility of laying away and storing the equipment and hardware located at the Mississippi Army Ammunition Plant and make the buildings available for such other private use as may be possible.

SEC. 213. Of the funds available to the Department of Defense, $5,000,000 shall be made available only for the establishment of a National Defense Center for Environmental Excellence.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 56: Page 10, after line 7, insert:

SEC. 209. None of the funds made available by this or any other Act shall be used by the Department of Defense to conduct a Request for Proposal for the development or acquisition of the Real Time Automated Personnel Identification System (RAPIDS) until such time as an operational test and evaluation of Individually Carried Record (ICR) technologies is completed.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 56, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 214. Of the funds made available for Research, Development, Test and Evaluation, Defense Agencies, 1990/1991, $4,000,000 shall be available only to conduct an operational test and evaluation (OT&E) of Individually Carried Record (ICR) technologies to be completed not later than August 31, 1991.

SEC. 215. Of the funds appropriated in fiscal year 1990 for the Defense Advanced Research Projects Agency's nuclear monitoring program, $6,500,000 is available only for the U.S.-Eurasian Seismic Studies Program administered by the Incorporated Research Institutions for Seismology.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 57: Page 10, after line 7, insert:

SEC. 210. Of the amount appropriated in fiscal year 1990 for Air Force Operation and Maintenance, $29,000,000 shall not be obligated or expended until not less than $7,000,000 is expended as settlement for the pending dispute regarding Contract Numbered F29650-82-C-0201.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 57, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 216. Notwithstanding any further provision of law, the Secretary of the Air Force is authorized and directed to negotiate, compromise, and reach a determination with Shipco General, Inc. regarding contract dispute No. F29650-82-C-0201 prior to the end of fiscal year 1990. The Secretary is authorized to pay the agreed upon settlement amount from available funds.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 58: Page 10, after line 21, insert:

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Of the funds made available in Public Law 101-167, for "International Organizations and Programs", an additional $5,000,000 may be made available for payment to the United Nations Environmental Program Fund, to carry out the provisions of section

2 of the United Nations Environmental Program Participation Act of 1983.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 58, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Of the funds made available in Public Law 101-167, for "International Organizations and Programs", an additional $5,000,000 may be made available for payment to the United Nations Environment Program, to carry out the provisions of section 2 of the United Nations Environment Program Participation Act of 1973.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 62: Page 11, line 21, after "1961" insert "or pursuant to section 515 if such public law".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 62, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following ", development assistance funds contained in prior foreign assistance appropriations acts that were not made available for Haiti, or pursuant to section 515 of such public law".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 64: Page 11, after line 25, insert:

DEVELOPMENT ASSISTANCE FOR ANTI-NARCOTICS EFFORTS OF BOLIVIA AND PERU

(a) of the funds appropriated for fiscal year 1990 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance)—

(1) up to $25,000,000 should be available only for Bolivia, and

(2) up to $20,000,000 should be available only for Peru, for the purpose of—

(A) providing alternative income, employment, and social services for individuals involved in illicit coca and marijuana production,

(B) supporting investment in infrastructure, farm credit and extension services, and other development projects in non-coca production areas, and

(C) otherwise assisting such countries in continuing their anti-narcotics efforts.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 64, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

DEVELOPMENT ASSISTANCE FOR ANTI-NARCOTICS EFFORTS OF BOLIVIA AND PERU

Of the funds appropriated for fiscal year 1990 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), up to $25,000,000 should be available for Bolivia, and up to $20,000,000 should be available for Peru, for the following purposes—

(1) providing alternative income, employment, and social services for individuals involved in illicit coca and marijuana production.

(2) supporting investment in infrastructure, farm credit and extension services, and other development projects in non-coca production areas, and

(3) otherwise assisting, in accordance with chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), such countries in continuing their anti-narcotics efforts.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 65: Page 12, strike out lines 2 to 21 and insert:

(a) Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended in the undesignated paragraph under the heading "HOUSING AND OTHER CREDIT GUARANTY PROGRAMS"—

(1) by striking out "$100,000,000" and inserting in lieu thereof "$500,000,000"; and

(2) by inserting after "principal" in the last proviso under such heading the following: ", of which amount $400,000,000 in commitments shall be available during fiscal year 1990 or subsequent fiscal years only for the purpose of providing housing and infrastructure in Israel for Soviet refugees: *Provided further*, That with respect only to the $400,000,000 in commitments to be made for housing and infrastructure in Israel referred to in the preceding proviso—

"(1) the guarantees shall be made available for loans made during or after fiscal year 1990, notwithstanding the limitation contained in the third sentence of section 222(a) of the Foreign Assistance Act of 1961;

"(2) the guarantees shall be made available for loans in increments of at least $150,000,000 or the amount requested by the borrower, whichever is lesser, and that the Agency for International Development shall review the borrower's actual or planned expenditures to ascertain that such amounts have or will be expended in accordance with the preceding proviso;

"(3) section 223(j) of the Foreign Assistance Act of 1961 (22 U.S.C. 2183(j)) shall not apply to such commitments; and

"(4) fees charged by the Agency for International Development under section 223(a) of the Foreign Assistance Act of 1961 shall not exceed—

"(A) an initial fee of one-quarter of 1 percent of the total amount of commitment authority, and

"(B) an annual fee in an amount not more than one-half of 1 percent of the maximum face value of guarantees which may be issued for any one country in a fiscal year pursuant to the penultimate sentence of section 223(j) of such Act.".

(b) Section 222(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2182) is amended by striking out "$2,158,000,000" and inserting in lieu thereof "$2,558,000,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 65, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

(a) Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended in the undesignated paragraph under the heading "HOUSING AND OTHER CREDIT GUARANTY PROGRAMS"—

(1) by striking out "$100,000,000" and inserting in lieu thereof "$500,000,000"; and

(2) by inserting after "principal" in the last proviso under such heading the following: ", of which amount $400,000,000 in commitments shall be available during fiscal year 1990 or subsequent fiscal years, only for the purpose of providing housing and infrastructure in Israel for Soviet refugees: *Provided further*, That with respect only to the $400,000,000 in commitments to be made for housing and infrastructure in Israel referred to in the preceding proviso—

"(1) the guarantees shall be made available for loans made during or after fiscal year 1990, notwithstanding the limitation contained in the third sentence of section 222(a) of the Foreign Assistance Act of 1961;

"(2) the guarantees shall be made available for loans in increments of at least $150,000,000 or the amount requested by the borrower, whichever is lesser; and that the Agency for International Development shall review the borrower's actual or planned expenditures to ascertain that such amounts have or will be expended in accordance with the preceding proviso;

"(3) section 223(j) of the Foreign Assistance Act of 1961 (22 U.S.C. 2183(j)) shall not apply to such commitments; and

"(4) fees charged by the Agency for International Development under section 223(a) of the Foreign Assistance Act of 1961 shall be—

"(A) an initial fee of $2,800,000; and

"(B) an annual fee in an amount not more than one-half of 1 percent of the maximum face value of guarantees which may be

issued for any one country in a fiscal year pursuant to the penultimate sentence of section 223(j) of such Act.".

(b) Section 222(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2182) is amended by striking out "$2,158,000,000" and inserting in lieu thereof "$2,558,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 73: Page 14, line 8, strike out all after *"Provided,"* down to and including "country" in line 10 and insert "That of the funds made available under this heading not less than $3,000,000 shall be made available only for Haiti to support the democratic electoral process: *Provided further,* That of the funds made available under this heading not less than $10,000,000 shall be made available only for Jamaica".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 73, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "That of the funds made available under this heading not less than $3,000,000 shall be made available only for Haiti to support the democratic electoral process: *Provided further,* That of the funds made available under this heading not less than $8,750,000 shall be made available only for Jamaica".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 74: Page 14, strike out lines 11 to 18.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 74, and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

ASSISTANCE FOR THE EASTERN CARIBBEAN

For an additional amount to carry out the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961, $5,000,000, for assistance for countries of the Eastern Caribbean, to remain available through September 30, 1991.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 79: Page 15, after line 17, insert:

ESF/ARMENIAN EARTHQUAKE RELIEF

For an additional amount for the "Economic Support Fund", $5,000,000 to remain available until September 30, 1991, which sum shall be made available, notwithstanding any other provisions of law, for humanitarian relief, transportation of materials provided for such relief, medical treatment, and education and vocational training to the victims of the Armenian earthquake of December 7, 1988, which assistance shall be channeled through United States private and voluntary organizations and other United States nongovernmental organizations: *Provided,* That such funds are an addition to funds previously made available for such purposes: *Provided further,* That of the funds made available by this paragraph for assistance for Armenia, up to 1 percent may be used by the Agency for International Development for costs of administering such program.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 79, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

HUMANITARIAN ASSISTANCE FOR ARMENIA AND ROMANIA

(a) For an additional amount for "International Disaster Assistance", $5,000,000, to remain available until September 30, 1991, which sum shall be made available, notwithstanding any other provision of law, for humanitarian assistance, transportaton of materials provided for such assistance, medical treatment, and education and vocational training to the victims of the Armenian earthquake of December 7, 1988, which assistance shall be channeled through United States private and voluntary organizations and other United States nongovernmental organizations: *Provided,* That such funds are in addition to funds previously made available for such purposes: *Provided further,* That of the funds made available by this subsection for assistance for Armenia, up to 1 percent may be used by the Agency for International Development for costs of administering such program.

(b) Not less than $4,000,000 of the total amount of funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), which funds were—

(1) appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167);

(2) made available through the exercise of the authority contained in section 515 of that Act; or

(3) appropriated for development assistance in prior foreign assistance appropriations acts.

shall be made available, notwithstanding any other provision of law, through international relief agencies and nongovernmental organizations for health assistance for children in Romania.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 81: Page 16, line 3, after "1990" insert ", and the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs in accordance with the procedures contained in section 634A of the Foreign Assistance Act of 1961, as amended".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 81, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

WAIVERS AND AUTHORITIES

(a) Funds appropriated by this chapter for the "Economic Support Fund" for Panama shall be available as follows: (1) up to $1,200,000 may be provided to carry out the purposes of section 534(b)(3) of the Foreign Assistance Act of 1961 for countries in Latin America and the Caribbean other than Panama; (2) assistance may be provided for technical assistance, training, and commodities with the objective of creating a professional civilian police force notwithstanding section 660 of the Foreign Assistance Act of 1961, except that such assistance shall not include more than $5,000,000 for the procurement of equipment for law enforcement purposes in Panama, and shall not include lethal equipment; and (3) the limitations contained in the second sentence of section 534(e) of the Foreign Assistance Act of 1961 and the second sentence of section 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, shall not be applicable to assistance provided under this subsection.

(b) Funds appropriated under this chapter for Panama and Nicaragua, as well as during fiscal year 1990 funds otherwise available for economic assistance under other provisions of law and assistance under chapter 8 of part II of the Foreign Assistance Act of 1961, may be made available for Panama and Nicaragua notwithstanding section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, section 620(g) of the Foreign Assistance Act of 1961, or any similar provision of law relating to foreign assistance repayments.

(c) Funds appropriated under this Act may be made available notwithstanding section 10 of Public Law 91-672 and section 15

of the State Department Basic Authorities Act of 1956.

Mr. KOSTMAYER. Mr. Speaker, I rise in opposition to the motion, and I request that I be allocated one-third of the time for debate under clause (b) of rule XXVIII.

The SPEAKER pro tempore. The Chair will allocate the time.

The Chair will inquire first, Is the gentleman from Massachusetts [Mr. CONTE] opposed to this motion?

Mr. CONTE. Mr. Speaker, I am in agreement with the gentleman from Mississippi.

The SPEAKER pro tempore. In that event, we will allocate the time as follows:

The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 20 minutes, the gentleman from Massachusetts [Mr. CONTE] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. KOSTMAYER] will be recognized for 20 minutes.

Mr. WHITTEN. Mr. Speaker, I yield 15 minutes of my time to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I will reserve my time for the moment.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. KOSTMAYER] is recognized for 20 minutes.

Mr. KOSTMAYER. Mr. Speaker, I yield myself such time as I may consume, and I will take just a few minutes of my time.

I will begin by thanking the gentleman from Wisconsin [Mr. OBEY] who has as an appropriator worked very closely and very diligently with the authorizing committee, for which I am deeply grateful as a member of the authorizing committee.

This is not a quarrel with the Appropriations Committee. This is not a quarrel over a specific expenditure. Rather, there is a large principal at stake which we have been discussing all day here, and that principal is that we ought not to spend money that has not been authorized.

□ 1520

Mr. Speaker, this process, I think, makes hypocrites out of all of us, and it makes all of us act somewhat inconsistently.

I myself today, for example, have voted on these amendments in support of the Committee on Appropriations on some occasions and in support of the minority on other occasions. Those of us who are authorizers, who have difficulty bringing our bills to the floor and getting them passed, as we do in the House Committee on Foreign Affairs, often have no choice but to then go to the appropriators, such as the gentleman from Wisconsin [Mr. OBEY] and others, and seek their help. They generally have been very gracious and helpful to us, but I think we have got to try to change this process, and I do this only as a member of an authorizing committee. I do it only as a member of the House Committee on Foreign Affairs, and I stand here on behalf of my committee and urge that this be agreed to.

Mr. Speaker, I do not think that we are going to win today, and I understand that, but I think it would send an important message. In fact, it may be that the Senate authorization bill, which is now at the desk, authorizing funds for Panama and Nicaragua, will be brought up today. I hope that will be done. That means that we can pass an authorization bill for Panama and Nicaragua as well as an appropriations bill. I am still going to continue to support this appropriations bill.

So, let me say I do this with all due respect to my colleagues on the Committee on Appropriations. I do it in defense of my committee. I do it as an authorizer, and I recognize that we are probably not going to prevail although, I think, the more votes we get, the better it is.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. KOSTMAYER] for yielding.

Mr. Speaker, I would like to associate myself with the remarks of the distinguished gentleman from Pennsylvania [Mr. KOSTMAYER]. We are in a difficult and delicate situation here. This is not to raise a question with the Committee on Appropriations that has acted in good faith on these issues. But frankly the routine and almost unquestioned waiver of basic authorities, I believe, threatens to destroy the appropriation procedures established by the Congress, as well as to undermine completely the role of the authorizing committees in the legislative process.

Mr. Speaker, there is no reason to waive the authorization bill in this instance. The authorizing legislation for this conference report was marked up and reported in the most expeditious manner by the Committee on Foreign Affairs. The other body passed its authorizing bill even before its consideration of the supplemental appropriations.

The primary reason that that authorizing legislation is now in conference is because the repeated wavier of the need for authorization bills has made authorization bills irrelevant, and, therefore, very easy to vote against.

Mr. Speaker, I would just like to point to a specific example of this which occurred on the floor just 2 days ago. Many Members who purport to be staunch supporters, and I suspect are very sincerely staunch supporters, of aid to Panama and Nicaragua had no trouble voting against that very aid last Tuesday night simply because of their confidence that they could push the aid through without the benefit of authorizing language at all. They frankly, Mr. Speaker, simply voted against the aid rather than allow any additional——

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. LEVINE of California. Mr. Speaker, I do not know if we have a time problem here.

Mr. LEWIS of California. Just 30 seconds.

Mr. KOSTMAYER. Mr. Speaker, I object. We only have 20 mintues, and I ask the gentleman from California [Mr. LEWIS] to use his own time; OK?

Mr. Speaker, I say to the gentleman from California [Mr. LEWIS], "We have very little time. Use your own time."

Mr. LEWIS of California. Mr. Speaker, I am listening to this gentleman with care. I appreciate the courtesy.

Mr. LEVINE of California. Mr. Speaker, I would say to the gentleman from California [Mr. LEWIS], simply in summarizing this point that it is a frustrating point as a member of an authorizing committee. I do now want to take too much of the 20 minutes myself. The time is precious, but the principle is important.

Mr. Speaker, I join with the gentleman from Pennsylvania [Mr. KOSTMAYER], my colleague, in urging that we restore the authorization process back to where it should be.

Mr. Chairman, the routine and almost unquestioned waiver of basic authorities threatens to destroy the appropriations procedures established by the Congress and to undermine completely the role of the authorizing committees in this process.

There is no reason to waive the authorization bill in this instance. The authorizing legislation for this conference report was marked up and reported in the most expeditious manner by the Committee on Foreign Affairs. The other body passed their authorizing bill even before their consideration of the supplemental appropriations.

The primary reason that that authorizing legislation is not now in conference is because that repeated waiver of the need for authorization bills has made them irrelevant, and therefore, easy to vote against.

We saw a perfect example of this just 2 days ago. Many Members who purport to be staunch supporters of aid to Panama and Nicaragua had no trouble voting against such Tuesday night because of their confidence they could push the aid through without the benefit of authorizing language.

They cynically voted against such aid rather than hold back one gun or bullet destined for those responsible for the murder of six Jesuit priests in San Salvador last November.

As a result, a critical piece of foreign policy legislation, the product of countless hours of hard work and negotiation, was rendered moot.

This is not the way to make foreign policy, or any other policy.

We have frankly reached a complete impasse. It has become possible to legislate any foreign policy concern that is even slightly controversial on the regular authorization bill.

Two days ago, 250 Members of this body voted to cut military aid to the Armed Forces of El Salvador. Even with that strong majority clearly in favor of changing U.S. policy on this issue, that vote has now become merely symbolic.

The habit of waiving authorizaion bills has become so accepted that all the ardent supporters of Panama and Nicaragua aid who voted against that authorization bill just to kill the Salvador legislation are let off the hook.

If that's the way we want to do business, then at least we should have been permittted a vote on El Salvador on this conference report as well.

I understand that we might get another crack at the Salvador issue on the fiscal year 1991 authorization bill. But given the historical pattern, what possible assurance do we have that that bill won't be waived as well?

Mr. Chairman, this is a perennial problem which makes a mockery of the appropriations process. If the process needs to be fixed, then let's fix it. But we should stop the underhanded and unquestioned subversion of the established process for authorizing and appropriating funds.

I urge my colleagues not to concur with the Senate amendment as amended.

Mr. KOSTMAYER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. FASCELL], chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. KOSTMAYER] for taking this time and making this point, and I strongly support the position that we have taken here. We have got to get back to the regular process of authorizing, and legislating and appropriating, and this is the first opportunity where we have had everyone's attention, including the administration, in order to make that point.

Mr. Speaker, on the 1990 authorization, the supplemental, as the gentleman said, we acted in time for this appropriation. So did the other body. That is a rare case, believe me. On the regular authorization, that bill has been there since last year in the other body, and we have had no action on it. The 1991 authorization has already been out of committee, and already the Committee on Appropriations has got the responsibility of working on the 1991 authorization, and, despite the very, very wonderful cooperation we have had from the chairman of the appropriate subcommittee, the gentleman from Wisconsin [Mr. OBEY], who has consistently written into his bill that there should be no appropriation without an authorization following the law that now exists, every time it gets into conference with the other body, and the administration knows this, they simply go over there and get them to write the waiver in, and then at the last minute, in order to get the appropriation through, just like we are having to do right now, the House committee has to give in and agree to the waiver. Otherwise it would look like we were being obstructionist to whatever the administration program is.

So, Mr. Speaker, what has happened over the years is that both on regular bills, on supplemental bills and on continuing resolutions the necessity of authorizing committees has been less, and less and less. It has made our work almost irrelevant.

So, Mr. Speaker, I hope that what we will do tonight yet is bring up the 1990 authorization bill, which is here.

Mr. KOSTMAYER. Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I would like to point out for the Chair that the gentleman yielded back 15 minutes or so and would not yield me 30 seconds. I really appreciate his courtesy.

Mr. BROOMFIELD. Mr. Speaker, as the ranking Republican member of the authorizing committee, I am just as concerned as anyone by the increasing tendency of Congress to waive the need to authorize activities and funding thereby turning over the legitimate authority of the House Foreign Affairs Committee to the appropriations process.

Today, we are faced with another discouraging instance of this trend and frankly, I am discouraged by it. However, let's not lose sight of why this has happened.

On April 5, the Senate passed a clean bill authorizing the supplemental assistance package requested by the President for Panama and Nicaragua. After weeks of wrangling over the content of the Foreign Affairs Committee version of our companion measure, the Foreign Affairs Committee, on May 1, finally reported a bill to authorize the urgently needed funding for those two countries.

Sadly, and I suspect over the objections of Chairman FASCELL, some members of the committee insisted on attaching a legislative ball and chain to this measure. Not only was the Studds El Salvador language controversial, it was completely and utterly irrelevant to the urgent purposes for which the President had months before requested assistance for Panama and Nicaragua.

Congress has failed to approve a foreign aid authorization bill since 1985. If it is true that the authorization process is becoming irrelevant, it is not the fault of DANTE FASCELL or BILL BROOMFIELD. The fault lies at the doorstep of those who insist on extreme and unyielding positions on difficult issues such as El Salvador. The landslide vote against the authorization bill Tuesday is ample proof of this.

The irresponsible attempt to link the El Salvador issue to urgent assistance for emerging democracies has succeeded only in stalling our aid and harming United States interests while threatening the survival of those two fledgling democracies.

Enough is enough. We have engaged in this fruitless endeavor for too many months. We need to send this urgent supplemental appropriation to the President now—with or without authorization.

I urge my colleagues to oppose the Kostmayer motion and support the conference report.

□ 1530

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. CONTE. Mr. Speaker, I know that this is billed as a conflict between the authorizing and appropriating committees. We run into that mess with the Foreign Affairs and Foreign Relations Committees every year.

But this is more than that.

What is happening here is that Violeta Chamorro and President Endara are being held hostage.

They are being held hostage by the FMLN and the military in El Salvador. And they are being used cruely as political footballs here in the Congress.

Nobody is opposing this aid to Panama and Nicaragua; those amounts were not even in conference. We can all see the strikes, rampant inflation and bankruptcy in Nicaragua which threaten the Chamorro government. We know what the 25-percent unemployment rate in Panama could easily do to that fledgling democracy.

The President's initial request for Panama was sent up here on February 6. The Nicaragua request came up on March 13, right after the surprising election results there. Our committee reported out H.R. 4404, a considerably skinnier version of the bill before us today, on March 27.

The House passed the bill on April 3, and the Senate passed it on May 1.

But after all of that, this Panama and Nicaragua money cannot be spent without these waivers.

President Chamorro is a proud leader of her country, and I am sure she waited until there was no alternative before she wrote that emergency call for help to President Bush.

President Endara came up here himself to plead the case for the Panamanian people who suffered greatly under Noriega.

The United States has a special responsibility for the rebuilding of both of those nations. And make no mistake about it, other potential aid donors are watching us to see if we are going to respond in a responsible way to their needs.

Responsibility is the key here. We should sweep away all the petty parliamentary niceties and political games and do what we know we should do.

I support these waivers so that this critical assistance can finally get to those countries, and so that the wounds of years of hostility can begin to heal.

In my opinion, to vote otherwise would be irresponsible.

Mr. Speaker, I want to remind the gentleman from Pennsylvania that I supported the Moakley amendment. I sent out a "Dear Colleague" for the Moakley amendment together with a letter from Tip O'Neil in regard to El Salvador. And I will work, as I have for 32 years here, to accomplish the goals of the amendment in the coming months, whether it is on the authorization bill, whether it is on the appropriation bill, or any other bill. Everybody knows that my word is my bond in this House of Representatives. But this issue here should not be held up tonight.

Bring down another government? I do not think so.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am happy to yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, I thank the gentleman for yielding.

I just want to say to the gentleman that we are in absolute agreement on getting the money down there as soon as possible. We are not trying to stop the money. We are just trying to have it authorized, not just appropriated.

The Senate authorization containing this money without any of the controversial language on Salvador or drug laundering is at the House desk. Just bring it up and pass it, and you will have authorized the funds.

We are not against the money going down there. We want the money authorized. We agree with the gentleman.

Mr. CONTE. Let me tell the gentleman that I wish I was in that seat of power. I would bring it up. I would bring it up in 30 seconds. But I am not in the seat of power. You know, we have got to make it clear to all sides in El Salvador that we are outraged by the killing of the six Jesuit priests and the two churchwomen down there, and we are outraged at the delay in bringing those murderers to justice.

I have no compassion at all for them for not bringing them to justice. But by the same token, I do not want to see the Chamorro government going under.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am happy to yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Speaker, I thank the gentleman for yielding, and I know how sincere the gentleman is about this, and I know how outraged he is.

The problem I have is we are outraged so we are sending them $420 million. Just imagine what we would have sent them if we were not outraged. We are sending them $1 million a day. We have sent them over $4 billion over the last 10 years, and all they can tell us is they cannot do anything to find who murdered the Jesuit priests.

I am outraged we are even considering giving them $420 million for not doing anything.

Mr. CONTE. Maybe the gentleman does not have the record I have. I have never voted for one nickel, not one penny, for military assistance for El Salvador since I have been in the Congress. I do not think you could say that.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am happy to yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding. He and I differ obviously on what we should do about El Salvador, not over the outrage over what happened there.

But what I think the gentleman is saying, and I fully agree with him, is why should we hold President Chamorro, President Endara, and the democratic-seeking peoples of Panama and Nicaragua hostage and hold them up for blame for the sins of the Salvadoran military? That is what would happen if we adopted the gentleman's amendment.

Mr. CONTE. Exactly right. And the other thing is we cannot say that we should not appropriate this money because it is not authorized. Man, if you are going to do that, about 90 percent of this bill that we are passing here today is not authorized. There are more unauthorized things in there than Carter has liver pills.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am happy to yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, is the gentleman outraged about these killings in Salvador?

Mr. CONTE. You heard me. My God, if you didn't hear me, you better go down and see the ear guys downstairs.

Mr. OBEY. Mr. Speaker, I yield myself 7½ minutes.

Mr. Speaker, I have some comments to address to people on both sides of the aisle.

First of all, I have a great deal of respect and affection for the gentleman who just spoke, and I know that he feels as I do on the question of Salvador.

But I do want to say, lest there are any future speeches that lecture us on the delay associated with this bill, let me simply say that I do not think we need any lectures about delay, at least from the monority side in either the House or the Senate.

The House committee fulfilled its responsibilities. We brought the bill to the floor virtually immediately. When it got to the Senate, the very first amendment that was offered to this title was an amendment offered by the minority leader—who have on occasion said some rather correct things about the penchant of the Congress for earmarking every dollar in sight, and yet the very first amendment that was offered, which like others had the effect of delay, came from none other than the minority leader. I say that not in criticism. I say that as simply stating a matter of record.

But I do want to say that I oppose this amendment I can understand the frustration of members of the authorizing committee, but the fact is we have no choice but to proceed.

The Committee on Appropriations, if we did not proceed today with this bill, would simply be doing nothing, and that is precisely what most people do not want us to do. Sometime when one is President of the United States he has to take some actions that are not very popular, and when those actions are justified and in the interests of the United States, it is necessary for those of us in Congress to support those actions.

□ 1450

That is why this appropriation is here for Panama and for Nicaragua. We can differ about how we got here, but the fact is we have an obligation to provide this money, even if we do not like it.

The second thing I would simply point out is this: I would point out to the gentleman from Pennsylvania [Mr. KOSTMAYER] who offered the amendment that 27 members of the authorizing committee have at one time or another come to our committee asking us to attach language to the appropriations bill which is flat-out authorization language.

I would also point out that last year, after the President vetoed the foreign operations bill, I had a colloquy with the gentleman from Pennsylvania [Mr. KOSTMAYER] on page H9056 of the RECORD, because the gentleman was asking my assurances as to whether or not we would include authorization language which the President had just vetoed. The issue was population funding.

I would simply ask the gentleman: If we were to be consistent with his argu-

ment, would the gentleman therefore be suggesting that when we markup our regular appropriations bill in 2 weeks time, that we include zero money for population because it is not authorized this year?

Mr. KOSTMAYER. Mr. Speaker, would the gentleman yield?

Mr. OBEY. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, as I said to my friend, the gentleman from Wisconsin [Mr. OBEY], I and all of the other members of the authorizing committee appreciate the attitude that the gentleman has taken when we have come to him with requests. We have done it because we have no choice, not because we approve or because we like it.

We quite agree with the gentleman from Wisconsin [Mr. OBEY]. It is a bad way to do business, and we would like to get it back on track.

As I said in my opening remarks, I think it makes hypocrites of us all. It makes all of us inconsistent. I am as guilty as everyone else. But I think we ought to authorize before we appropriate. When we do not, we have no choice but to come and ask for help.

Mr. OBEY. Mr. Speaker, reclaiming my time, I would say the response of the gentleman from Pennsylvania [Mr. KOSTMAYER] is correct.

He did have no choice. But I would say our committee itself is in the same position today, and so is the House, I might add. Neither do we have a choice. We have to proceed today.

I fully intend to support the effort of the chairman of the authorizing committee to try to bring up the authorization bill after this is passed today, because I think that is the correct way to do business. The correct way to do business is also not to delay this legislation today. So I would ask Members not to support the amendment.

The other point I would direct to the minority is simply this: Again I need hear no lectures from anyone on the minority side with respect to delay of this bill, because all but a handful of minority Members in this House demonstrated 3 days ago that they had foreign policy priorities much higher than following through on the request of the President to get money to Nicaragua and Panama. They demostrated that they would much rather get money to El Salvador, no matter what their record is in butchering their own citizens. They would much rather do that than to get the money on a speedy basis down to Panama and Nicaragua.

So I would suggest, boys and girls, do not pose for holy pictures on that issue, because the halos do not fit.

I would also say to my friends on this side of the aisle that I guarantee when the regular appropriation bill is marked up in 2 weeks, as I guaranteed the chairman of the Committee on Rules yesterday, the language of the Salvador amendment will be in that bill at that time. We will have a vote on that issue on the House floor. The committee will carry that language.

That is a commitment we made to the Rules Committee when they waived the authorization requirement yesterday, and I intend to stick to that commitment through the conference process.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, I may come to the gentleman as I have in the past and ask that he put authorizing language in that appropriations bill, not because I approve or want to, but because so long as we are here in this situation, I do not think we have any choice. It is that situation I am trying to correct.

Mr. OBEY. Mr. Speaker, reclaiming my time, I understand that. All I would suggest is that the proper way to proceed is not to take the position of the gentleman from Pennsylvania [Mr. KOSTMAYER]. The proper way to proceed is to move this bill forward and then to have everyone do whatever they can to move the authorization process as well.

Mr. KOSTMAYER. If the gentleman will yield further, the more votes this gets today, the less likely that this situation will continue to persist.

Mr. OBEY. Mr. Speaker, reclaiming my time, the fact is, the gentleman from Pennsylvania [Mr. KOSTMAYER] knows while he would like to get a lot of votes, I doubt that he would even want to get 218, because that would bring us to a screeching halt. I do not think any Member wants to see that kind of result.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Speaker, let me say that I understand the concern of the gentleman from Pennsylvania [Mr. KOSTMAYER] about what has happened in the case of the Jesuits in El Salvador. I do not think that anybody in this Chamber fails to share that concern.

I do not know how much the gentleman from Pennsylvania [Mr. KOSTMAYER] has been to Latin America. We are certainly aware the gentleman has been to Nicaragua. But there is something inherently offensive about the assumption that the people of Nicaragua and the people of El Salvador and the people of Panama, because they have the same shade of skin and speak the same foreign language, are all alike.

What in the world does Nicaragua have to do with El Salvador? What in the world does Panama have to do with El Salvador?

The question is whether or not the people of Nicaragua and the people of Panama, who have lived under repression, who have lived under dictatorship, who now have an opportunity to experience democracy, are going to be helped by this country. We have to this point given them nothing but lipservice. We have helped to see to it that they have a chance to have free elections, to have free speech, to have all of the benefits of democracy that we in this country cherish.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, I agree 100 percent that we are not against the money going down there. Please do not think that. Panama, Nicaragua, El Salvador, none of that is at issue here I say to my friend the gentleman from Oklahoma [Mr. EDWARDS].

The issue is that we think the money ought to be authorized before it is appropriated. That is the only issue.

I agree with every single word the gentleman said. I voted for the conference report. I support President Bush on sending aid to Panama and Nicaragua. I am delighted Mrs. Chamorro won. I wish President Endara the best. None of that is at issue. The only issue is should we authorize the money before we appropriate it. That is the only issue.

Mr. EDWARDS of Oklahoma. Mr. Speaker, reclaiming my time, I may make a mistake by doing this, because you learn in law school not to ask a question unless you know the answer. Maybe the gentleman will surprise me.

I am curious how the gentleman from Pennsylvania [Mr. KOSTMAYER] voted on the previous votes we had on the floor today about knocking out things that were not authorized, and how the gentleman has voted in the past. Does the gentleman always oppose appropriating for unauthorized items?

Mr. KOSTMAYER. Mr. Speaker, if the gentleman will yield, no, no, I do not. As I said to the gentleman from Wisconsin [Mr. OBEY], we all have this problem. All of us are hypocrites. I am the biggest hypocrite of all. All of use are inconsistent. We have no choice but to go to the appropriators and ask that authorizing money be put in an appropriations bill because we did not get an authorizing bill. I do not dispute that. I do not dispute that.

We are simply trying to make the system work by authorizing first and appropriating second. What is the point of having authorizing commit-

tees in the Congress if we simply take up these appropriations bills?

Yesterday we passed tax policy on the Energy and Commerce bill. Where was the Committee on Ways and Means?

Mr. EDWARDS of Oklahoma. Mr. Speaker, if I may reclaim my time, I would say to the gentleman that if he wishes to get this House back where it is operating under proper procedures, authorizing first and then appropriating, doing away with closed rules, doing away with restrictive rules, doing away with continuing resolutions, making the place work, then as soon as this debate is over we will be glad to join with the gentleman in trying to make those things happen.

But do not suddenly rise to your feet. If the gentleman wants to say he is a hypocrite, that is fine. I am not going to say that about any of my colleagues. But I will say let us take this emergency supplemental which has been hanging around for weeks and weeks and weeks, and get it out of the way, and then indulge your passion for reforming the way Congress operates.

□ 1550

Mr. KOSTMAYER. If the gentleman will yield to me, we have the Senate bill at the House desk, the authorizing bill. It is clean. It has money for Panama and Nicaragua. We ought to bring it up and pass it, and then pass the appropriations bill.

Mr. EDWARDS of Oklahoma. It seems to me as soon as we get this out of the way so that the people in Nicaragua can get their planting season underway, and we can clear the desk of legislation that has been hanging around here for so long, I would be glad to join the gentleman in all of the reforms that he proposes, and I have a few that I would be glad to propose, and maybe he would join with me in those too.

Mr. KOSTMAYER. I will be happy to.

Mr. EDWARDS of Oklahoma. The issue right now is whether we are going to get this off the table and provide to the people of Panama and the people of Nicaragua the assistance they so desperately need to make their democracy work. That is the only issue here right now.

Mr. OBEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I do have to bring to the attention of the House one other problem with respect to Contra demobilization. I want to call attention of the House to the recent statement of the U.N. Secretary General on the pace of Contra demobilization. According to his statement, "The demobilization process is unfortunately not proceeding in the manner envisaged by the Security Council."

Of the 15,640 Contras who have assembled in security zones, only 1,404 had been demobilized as of May 21, 1990. The Contras signed an accord committing themselves to demobilize completely by June 10.

The Secretary General further reported:

The average number demobilized daily is thus about 100, whereas an average of 500-600 is required to complete demobilization by June 10. He further states therefore "there is no justification for delay in the demobilization by the resistance. Unless there is a rapid increase in the rate of demobilization, the deadline of 10 June 1990 for its completion will not be met. The result would be that the members of the Nicaraguan resistance would have established themselves, with their arms, in the security zones, in breach of the agreements which their leadership have entered into with the duly constituted Government of Nicaragua and on the basis of which the Security Council authorized ONUCA to play its part in the demobilization process.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding and would like to engage in a colloquy.

This conference agreement contains $30 million for assistance to demobilize and repatriate the Contras. These funds are to be administered through the UN-OAS, and may be made available only to members of the Nicaraguan resistance who agree to and are abiding by the terms of the cease-fire agreement. Is this a correct understanding?

Mr. OBEY. That is correct. The addendum to the Toncontin agreement states that the Contra demobilization will begin on April 25, and finish no later than June 10, 1990, and that the arms will be voluntarily delivered in the presence of personnel from the United Nations and Organization of American States.

Ms. PELOSI. I am pleased by the gentleman's response. Both the Secretary General of the United Nations and the President of Nicaragua have noted that demobilization of the Contras remains a problem, and we should be doing all we can to hasten a safe, effective demobilization.

Mr. OBEY. I want to clearly state that none of the funds provided in this bill for Nicaragua may be made available to provide assistance to members of the Nicaraguan resistance who have not disarmed as of June 10, 1990, in accordance with the terms of the ceasefire agreement.

Ms. PELOSI. I thank the gentleman for that understanding.

Mr. Speaker, I will include for the RECORD the full statement referred to by the gentleman made by the United Nations Secretary General, Perez de Cuellar, on May 22, regarding the demobilization process.

STATEMENT BY THE SECRETARY-GENERAL TO THE SECURITY COUNCIL

Mr. President, I am grateful to you for convening this meeting of the Security Council in informal consultations. I have requested this meeting because it seems necessary to draw the attention of the Security Council to disturbing aspects of the demobilization of the members of the Nicaraguan Resistance inside Nicaragua. The demobilization process is unfortunately not proceeding in the manner envisaged by the Security Council when it adopted its resolutions 650, 653 and 654, all of 1990. The members of the Council may wish to consider what action would be appropriate in these circumstances.

I last reported to the Security Council on this matter on 2 May 1990 in an addendum to my report of 27 April (S/21274). Since then, the ceasefire has in general continued to be maintained throughout Nicaragua. There have been a number of incidents, most of which have been succesfully defused by ONUCA personnel and none of which has been confirmed as a serious violation of the ceasefire. (There was however a serious incident on 14 May in the vicinity of security zone 5, when members of the Southern Front of the Nicaraguan Resistance, which is not a party to the agreements of 18 April and 4 May with the Government, ambushed a vehicle of the Nicaraguan Army, one of whose occupants remains missing and two of whom were seriously wounded).

According to the figures provided by the Nicaraguan Resistance, which do not differ substantially from ONUCA's own estimates, approximatley 15,640 member of the Nicaraguan Resistance, including 1,810 memberss of Yatema in Zones 6 and 7, had assembled in the security zones by the third week of May. The details are contained in the text of this statement which I am making available to the members of the Council.

The details are:

Zone 1	4,400
Zone 2	1,100
Zone 3	3,320
Zone 4	3,240
Zone 5	1,770
Zones 6-7	1,810
Total	15,640

It will be recalled that on 4 May the Nicaraguan Government and the leadership of the Nicaraguan Resistance issued the Managua Declaration in which, inter alia, the Nicaraguan Resistance declared that it would continue its voluntary demobilization, beginning at 1100 hours on 8 May, and that the process would be completed in all the security zones by 10 June at the latest. Demobilization duly began on 8 May in Zone 5 but has since continued at a very slow pace, with only 1,404 combatants having been demobilized by 21 May. Again the details are contained in the circulated text of this statement.

The details are:

Zone 1	54
Zone 2	37
Zone 3	328
Zone 4	590
Zone 5	297
Zone 6	98

The average number demobilized daily is thus about 100, whereas an average of 500-600 is required to complete demobilization by 10 June, in accordance with the various agreements between the Nicaraguan parties.

The attitude of the leadership of the Nicaraguan Resistance to the demobilization process has remained ambiguous. Their agreements of 18 April (B/21272) and 4 May with the Nicaraguan Government clearly commit them to complete demobilization by 10 June. I have been advised that the Nicaraguan Government is complying with the agreements which it has signed with the Nicaraguan Resistance. There is no justification for any further delay in the demobilization. However, some public statements by certain leaders of the Nicaraguan Resistance have indicated that some new conditions will have to be fulfilled by the Government before they will honour their commitments. Repeated efforts by the Chief Military Observer of ONUCA to obtain from the leadership of the Nicaraguan Resistance a timetable for the completion of demobilization by 10 June have been fruitless. Moreover, ONUCA has noticed that visits by senior leaders of the Nicaraguan Resistance to security zones have not necessarily helped to accelerate the pace of demobilization. In fact, the opposite has been noted on some occasions. Doubts inevitably, therefore, persist about the intention of the leadership to implement in good faith the undertakings which they have entered into. These doubts have been increased by contradictory statements by some leaders of the Nicaraguan Resistance during last weekend.

Unless there is a rapid increase in the rate of demobilization, the deadline of 10 June 1990 for its completion will not be met. The result would be that the members of the Nicaraguan Resistance would have established themselves, with their arms, in the security zones, in breach of the agreements which their leadership have entered into with the duly constituted Government of Nicaragua and on the basis of which the Security Council authorized ONUCA to play its part in the demobilization process.

In these circumstances, an exceptionally difficult choice would face the Security Council, which is responsible for ONUCA, the Organization of American States, which is responsible for CIAV support to members of the Nicaraguan Resistance demobilized inside Nicaragua, the five Central American Presidents, at whose request ONUCA and CIAV were established, the particularly the Government of Nicaragua. On the one hand, continuation of the present arrangements under which ONUCA monitors the ceasefire and the security zones and CIAV/OAS provides food and medical assistance, would mean that the United Nations and the OAS would in effect be put in the position of assisting the Nicaraguan Resistance in its defiance of its commitment to the Nicaraguan Government to be demobilized and to participate peacefully in the political and economic life of that country. On the other hand, the withdrawal of ONUCA and CIAV after 10 June could precipitate a crisis inside Nicargua which in the worst case, could lead to a resumption of civil conflicts.

There is still time for this dangerous dilemma to be avoided. Even if the deadline of 10 June for the completion of demobilization may now be difficult to attain in full, an immediate increase in the rate of demobilization to 500 or more a day would restore confidence in the good faith of the leadership of the Nicaraguan Resistance and would calm growing disquiet about ONUCA's involvement in this process. The Security Council may accordingly wish to consider ways of ensuring that demobilization now proceeds rapidly and in particular that the 10 June deadline is respected.

The members of the Security Council may also wish me to convey their concerns to the Secretary-General of the OAS and to consult urgently with him about the action which the United Nations and the OAS should take with regard to CIAV if demobilization is not rapidly completed.

Mr. President, I have thought it right to describe frankly to the Council the dangers which exist in the present situation and to invite the Council to take early action to ensure that the assumptions on which it decided to authorise ONUCA's participation in the demobilization process are not undermined.

Mr. KOSTMAYER. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Speaker, concurring with the Senate amendments on this question is another attempt to evade the normal House rules. I think we are setting some dangerous trends here. This is not the first time it has happened, but I think the sooner we start becoming uncomfortable about this, the better off the legislative process will be and the better it will serve us.

Appropriating funds in advance of authorization bills is a dangerous trend. These precedents ultimately demean the legislative process. When I first entered the House, one of the first lessons that I learned was that the authorization comes first, and then the appropriation. That really is our institutional system of checks and balances on spending.

We ignore procedural rules and responsibilities at our peril. There are always good reasons to bend the rules.

Mr. Speaker, I would love to say yes every time somebody asked me to bend the rules. I am sure that the chairman of this committee and the ranking member have been approached on many occasions. There are always compelling reasons. There are the pressures of the calendar. There is the need to avoid further legislative mischief. There is pressure to get the job done. There is the pressure to go home for the recess.

I really believe it is more important, more important for all of us to observe our institutional rules and precedents.

Efficiency should not be the exclusive goal. Every time we work in crisis or in haste we are inevitably back in this well, just as we will be back here with the savings and loan debacle.

My colleagues, I think it is essential that we start living by the rules of this House. If we continue to embrace efforts to shortcut or short-circuit the process—the institution of the House of Representatives—will suffer. I think we should get back to the old-fashioned way of legislating, doing our jobs, and insisting that authorization bills be adopted prior to the appropriation.

Mr. KOSTMAYER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PANETTA], chairman of the Budget Committee.

Mr. PANETTA. Mr. Speaker, I have just left the summit where we are negotiating in the hopes of trying to develop a budget that will confront the problems that face this Nation with regard to our economy.

But do Members know what the biggest problems are? The biggest problems really are not what is happening on the economic assumptions, as depressing as that may be, and it is not what is happening with the thrift savings area, as depressing as that may be, and it is not what is happening with the thrift savings area, as depressing as that may be, and it is really not what is happening with inflation or interest rates generally in the economy, which also concerns us greatly. The biggest problem we face in the negotiations that are now taking place is the fact that we lack credibility with the public with whatever we do. That is really the most depressing part of the efforts that are going on at the present time, it is the lack of credibility.

Every time, every time we try to bypass the process, every time we try to slide by, every time we try to go around the rules, every time we try to avoid the process the way it was established by our forefathers, we continue to undermine our credibility with the American public.

I realize there are always legitimate excuses. Let me say that the arguments presented here for the reason why this is taking place are legitimate. We hear it. We understand it. Yet every time we do that we further undermine our credibility with the American people.

There is a process here that is supposed to be followed, and the process is that we need to set policy, and that policy needs to be set where? In the authorizing committees. They are the ones that determine how the funds should be provided, where they should go, and under what conditions they should be provided. That is where we under our constitutional system have set the responsibility, and every time we bypass that we further undermine our credibility with the American people.

There is a point at which we have to stand by the principles that we swore to when we become Members of this institution. Now is the time to do that, to stand by the process the way it was established so that we can truly provide a democratic process that people will believe in in terms of what we do.

□ 1600

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER pro tempore (Mr. Bosco). The gentleman is recognized for 5 minutes.

Mr. WHITTEN. Mr. Speaker, I agree with my colleagues who just spoke. We do need to change.

Years ago I appeared, at the instance of Mr. Mahon, at a reorganizing committee and urged that the authorizations be for 2 years. That was a good proposal because during 1 year could do authorizations and the next year appropriations. Unfortunately, we did not get very far.

The speeches made today should be directed to the legislative committees, not our committee. We included these authorizations only when requested by the leadership because the legislative committees could not get through with their work. We had continuing resolutions 2 years ago. It was not because of the House, it was because of our colleagues in the Senate. What we are talking about here should be addressed to the other side of the Capitol. Their Appropriations Committee has equal, if not superior, jurisdiction as we do. Because they go home 1 week out of 4 their authorizing committees request their Appropriations Committee to include authorizations more often.

As I said, on this side we passed this bill April 3. I have tried and tried today to say that if you slow us down here, you are inviting the same thing to happen all over again. I agree thoroughly that we need authorizations, but even now as my friend LEON PANETTA knows, we have been asked to go ahead with bringing bills to the floor even though they cannot get a budget resolution through the Senate. We are caught with that all the time. We do not like it. May I say that we have done our very best. We work with the Budget Committee.

I will say another thing that I probably shouldn't: Mr. Darman down there in the deficit reduction talks is having fun. If you will just change your projections or your assumptions, you can come up with any answer. But we work with them. But we just run out of elbow room to continue to cooperate.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Illinois [Mr. YATES].

Mr. YATES. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is exactly right. We would like very much to have our authorizations before we bring out our appropriations bills. Yet, if I were to bring out the appropriations bill for the Department of the Interior and not ask for a rule for unauthorized agencies, there would be no money for the Bureau of Land Management, there would be no money for the Department of Energy.

We in our reports have said, "Please, authorizing committees, authorize the Bureau of Land Management, do the same for the Department of Energy."

It has been 3 years since we have made that request, and that legislation has not been passed.

If we did not do what we are doing and ask for a rule to bring that legislation to the floor, there would not be any money for the Bureau of Land Management and there would not be any money for the Department of Energy.

Mr. WHITTEN. Our colleagues on the legislative committees are the finest people, my good friends. They are looking at the wrong place. They ought to be looking inward a little bit.

Mr. KOSTMAYER. Mr. Speaker, I yield 1½ minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I support the aid to El Salvador, I support the aid to Panama, I support aid to Nicaragua. But the issue right now is whether we authorize first and then appropriate second.

I think a salient point was just made by the chairman of the Committee on Appropriations about the Senate. And now, if that is the problem, then let us hold their feet to the fire. I mean, the arrogance that I see from some of those people over there is unbelievable. But we never hold their feet to the fire. Why don't we do it?

The SPEAKER pro tempore. The gentleman will suspend.

Mr. BURTON of Indiana. All right, the other body.

The SPEAKER pro tempore. The gentleman will suspend.

Mr. BURTON of Indiana. Let's hold their feet to the fire.

The SPEAKER pro tempore. The gentleman will suspend.

The Chair would advise that under our rules, the Senate, or the other body, is not to be referred to disparagingly.

Mr. BURTON of Indiana. All right, I apologize, I apologize. I will not say they are arrogant, but I may think it.

But let me just say I think we really should hold their feet to the fire and get back on the right process around here.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield to me?

Mr. BURTON of Indiana. I yield to the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. I thank the gentleman for yielding.

Mr. Speaker, it would take too long here, but would the gentleman in the well write me a letter and tell me how to do it?

Mr. BURTON of Indiana. I think if we kept them here a few extra days or weeks, maybe they will get the message.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

You know, I love all these guys that are posing for holy pictures, if I may be guilty or plagiarism, because I hear that every other day.

But let me say the chairman is absolutely right and Chairman YATES is absolutely right. I just jotted down a few things here that have not been authorized: Department of Justice, 10 years it has not been authorized; Federal Trade Commission, at least 5 years has not been authorized; Economic Development Administration, 5 to 10 years; Legal Services has not been authorized; Family Planning has not been authorized for 5 years.

Please do not come up and ask me to put money for these things into the budget.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Illinois [Mr. YATES].

Mr. YATES. I thank the gentleman for yielding.

Mr. Speaker, we have chairmen of legislative committees come before our Committee on Appropriations and tell us to put money into programs that have not been authorized.

Mr. CONTE. Ask us? They come on bended knees, begging to "put that demonstration project in for me, put this in for me, put that in," providing it affects their districts. Then it is all right. But here today it is all wrong.

Mr. Speaker, I yield 2 minutes to the gentleman from Claremont, CA.

Mr. DREIER of California. I thank the distinguished gentleman from Pittsfield for yielding to me.

Mr. Speaker, it is really a very interesting commentary that I have been observing here for the last few minutes. I am sorry, I say to my friend from Pittsfield, but I was not here when he called on me earlier.

I have to say this is clearly a struggle over the authorization-appropriations process, one which has been going on for the 10 years that I have been here.

But it seems to me as we all looked at the authorization bill which some people have been talking about that took place just 48 hours ago, it was not simply defeated by the Republicans. Ninety-four Democrats voted against that authorization process.

We also have to recognize that the President of the United States is in an emergency situation; as my friend from Pennsylvania [Mr. MURTHA] knows, and a wide range of other people on both sides of the aisle know, this is an emergency situation.

We have seen Mrs. Chamorro ask for $40 million in a bridge loan.

A year ago, as I said the other day, we all would have been ecstatic if we thought that Daniel Ortega and Manuel Noriega would have been ousted. At that time we would have all said that we would be working totally together to bring about a package that

would assist these emerging democracies.

I think from our perspective it is an interesting commentary from these emerging democracies' perspective that we are struggling over process here; but we want them to have the opportunity in Nicaragua and in Panama to fight over the appropriations process versus the authorization process. I think they should have that chance.

But you know what? Mr. Speaker, they are not going to have that chance unless we get the assistance they need down there just as soon as possible, and I urge all of us to do just that.

Mr. Speaker, I thank my friend for yielding.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I simply want to point out that I think that every Member on the minority side of the aisle who voted against the authorization legislation earlier this week, if they really are for the delivery of money to Panama and Nicaragua, has an obligation to vote for the motion made by the gentleman from Mississippi. That is the only way that you can avoid further delay of the aid that people seem to say they want to send.

I want to point out the administration is clearly on record in favor of this waiver. They called me about it in the Rules Committee yesterday.

Usually, we hear voices from the Republican side of the aisle asking Members on the Democratic side of the aisle to support the President. Today, I am asking, as a Democrat, I am asking every Republican to support the President and support the gentleman from Mississippi's motion if you want that aid to actually be delivered.

Mr. KOSTMAYER. Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

□ 1610

Mr. HYDE. Mr. Speaker, I was listening to the gentleman from California [Mr. PANETTA], and he said some very wise things. He said our credibility is affected when we bypass the rules. Well, I have seen the rules twisted, and I have seen them emasculated, depending on whose ox was about to be gored.

So that is not the most impressive argument, although the rules are important, and they are designed to protect the minority when they are properly observed. However, our credibility is shattered when Panama, which struggles to achieve a modicum of democracy, and they look to the United States for help, and we keep them waiting 5 months while the majority ties their essential needs into the very controversial situation in El Salvador, and then, Nicaragua wins an election. A miracle of democracy occurs, and yet Mrs. Chamorro takes over an empty house with nothing in it. The treasury is looted. The Sandinista unions go on strike, and we stand up here waiting and hemming and hawing. Some friend we are. Some ally we are. Because we tie their survival in with the unfortunately politicized situation in El Salvador.

Then our cure for El Salvador is punish the people of El Salvador by denying resources to the constitutionally elected government because of an atrocity which needs to be investigated and needs to be solved. I wish we could bring Noriega to justice as quickly as the gentleman from Pennsylvania who is dedicated to a strict observance of the rules, wants the Jesuit's murders solved. His dedication to strict observance of the rules is heartwarming.

However, our credibility is affected when Nicaragua looks to the United States for help, and we say, "Sorry, it is tied in with El Salvador." When Panama looks to the United States for help, we say, "Sorry, it is tied into El Salvador." Indeed our credibility is affected.

I hope the chairman of the committee, the gentleman from Mississippi, Mr. WHITTEN's motion is adopted, and the gentleman from Pennsylvania can carry on his struggle elsewhere.

Mr. KOSTMAYER. Mr. Speaker, I yield myself 15 seconds. I guess the gentleman from Illinois [Mr. HYDE] came in late. We are not discussing El Salvador. We are discussing, for the gentleman, whether or not the money ought to be authorized and then appropriated. I guess the gentleman was not here. I just wanted to straighten that out for the gentleman. All Members are for sending the money to Mrs. Chamorro. All Members are for sending the money to Mr. Endara. El Salvador is not an issue. It will be in a few weeks.

Mr. CONTE. I yield myself such time as I may consume.

All you are saying is that you do not want to get a waiver on these two, but you are ready to go along with the 190 other things in this bill that are not authorized. Why did the gentleman not stand up on every one and say "Let us knock this out because it is not authorized?"

The SPEAKER per tempore (Mr. Bosco). The gentleman from Pennsylvania [Mr. KOSTMAYER] has 6¼ minutes remaining, the gentleman from Wisconsin [Mr. OBEY] has 3½ minutes, and the gentleman from Mississippi [Mr. WHITTEN] has 3 minutes remaining.

Mr. KOSTMAYER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I am not quite sure where I fit into this debate after listening to it, but it is that particular waiver for this particular money that does bother me. We all know that the appropriations process cannot function without waivers, cannot function by going ahead sometimes because of stalled authorizations, and that does not bother me a great deal. I guess it bothers me when I think one is bad, and I like it when I think it is good.

However, this bothers me for this reason. We had the authorization bill in the other day and the money going to Panama by agreement by the committees would have restrictions placed on it, so that we could have forced that government into getting into a treaty with the United States on the laundering of drug money. I just think we kind of owe it to the American people that if we are going to take $400 million of their money and send it to the foreign government, that the least we could have said is, "Will you stop laundering the drug money for the kingpins in Bolivia and Peru and Colombia, so that our kids will have a better chance of staying off of drugs." We will give them America's money, but why do they not help the United States in the war on drugs?

This morning I woke up to the news that another car bomb went off in Colombia. People were killed in the war on drugs. Yet the new Government of Panama tells Members they do not want to change their bank laws. It is not my allegation that they are involved in drug laundering, it is the allegation of the DEA and of the FBI, and it just seems to me that we have some obligation as stewards of the Treasury to ask them to help. Ask them to enter into an agreement that so many other countries have entered into with the United States, a voluntary agreement. However, what we see now is, we have people who are in positions of power in this government who have been on boards of directors of banks that have been implicated in drug laundering, who have connections. We are asking them, will they break that? Is that not a fair trade? That is why this waiver hurts. It hurts because we are taking people's hard-earned tax dollars, we are giving it to this foreign country, and they will not even enter into an agreement to help the United States out. Not in the shooting drug war, just in the white collar drug war that enables a drug kingpin to continue to exist.

Mr. EDWARDS of Oklahoma. If the gentleman will yield, I want to compliment the gentleman for making it clear that that is the issue: Panama and Nicaragua.

Mr. MILLER of California. For me it hurts that we will take $400 million of the people's money, and not get something back for it in terms of the drug war. We are spending billions of dollars trying to tell pepole we are making every effort.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

I agree with the concerns expressed by the gentleman from California, but I do not agree with his conclusion.

Let me simply point out that the reason that there is no language in the appropriation bill on this question is because in this area, as in virtually every other area in this title of the bill, we were responding to the request of the authorization committee to keep authorizing language off our bill. What, in fact, the gentleman is objecting to is the fact that we do not contain authorization legislation in our bill that demonstrates the wisdom of the gentleman from Mississippi, Mr. WHITTEN's motion, that demonstrates the error of the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I think it ought to be very clearly stated that far from being upset with the Committee on Appropriations, the gentleman from Pennsylvania has taken great pains to compliment the Committee on Appropriations. The problems that we face are not the doing of the Committee on Appropriations. The problems are the fault of the other body who tagged 170 amendments onto this measure. The problems arise also from the fact that the executive branch of Government and the minority in this body would like to exercise control over Congress in spite of their lack of a majority. That is really why we are in this situation.

To characterize the position of the gentleman from Massachusetts [Mr. CONTE] for example as regards El Salvador as extremist, as was done in essence by the ranking minority member of the Committee on Foreign Affairs, is a disservice. A majority of the Members of this body voted for the amendment regarding El Salvador. There is no way to escape that. That was not an extreme position. That was the majority position of this House, reflecting the majority sentiment of this Nation.

I urge a no vote.

Mr. Speaker, this conference report appropriates $30 million to support the demobilization, repatriation,and resettlement of the Nicaraguan Contras. The bill makes clear, however, that these funds will only be provided to members of the Nicaraguan resistance "who agree to and are abiding by the terms of the cease-fire agreement and the addendum to the Toncontin Agreement signed on April 19, 1990." The addendum to the Toncontin agreement explicitly requires the complete demobilization of Contra forces by no later than June 10, 1990.

In this regard, I am sure many of my colleagues have been dismayed in recent days by statements from Contra leaders which suggest that the demobilization process has been suspended. Senior Contra commanders have publicly indicated that they may not honor their commitment to disarm, and thus the process overseen by the United Nations and the Organization of the American States has reduced to a trickle.

In short, the Contra demobilization effort—which never reached a pace suitable to meet the June 10 deadline—has now nearly drawn to a halt.

Some Contra leaders, including "Commander Ganso" of the Contras' Southern Front, have refused to sign the cease-fire accord altogether. In fact, Southern Front troops are reportedly still involved in combat, and have wounded more than 15 people in the last week. Clearly, funds authorized in this supplemental appropriation could not be used for Contra forces who participate in such flagrant violations of existing agreements.

The disarming and demobilization of the Contras is now being conducted by the United Nations and the Organization of American States. U.N. Secretary General Javier Perez de Cuellar told the U.N. Security Council last Tuesday that "doubts inevitably persist about the intention of the [Contra] leadership to implement in good faith the undertakings they have entered into." OAS Secretary General Joao Baena Soares said just yesterday that if the rate of demobilization is not "substantially increased," the June 10th deadline—and the OAS operation to feed and maintain the Contras during the demobilization period—are endangered.

Mr. Speaker, this Supplemental Appropriation clearly and bluntly states that the United States will not finance the Contras as an armed force after June 10. I hope that our diplomatic personnel in Managua will be equally blunt in making this point to the intransigent Contra leadership.

Mr. KOSTMAYER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. RUSSO].

(Mr. RUSSO asked and was given permission to revise and extend his remarks.)

Mr. RUSSO. Mr. Speaker, at one time or another we all tend to bend the rules a little bit. We are for waivers and against waivers when it suits our purpose. So I do not think that ought to be the issue here today.

The issue is, What is the dire emergency? The dire emergency is the plague of drugs through our society. That is the dire emergency that we ought to be addressing in this Congress.

□ 1620

What happens? The president of Panama Central Bank has admitted that as much as 10 percent of Panama's banks are involved in money laundering. This is a problem that is not addressed by this appropriation bill. President Endara has stated that his administration will not change the rules that regulate banking transactions, even though the rules that have existed made Panama a haven for money laundering and drug lords.

These facts have been expressed to this committee a long time ago. What have we done about it? Absolutely nothing. Money is being laundered in Panama, and we are sitting here arguing over rules and procedures while our kids are dying on drugs. What we ought to be addressing is the drug issue and make Panama sign an agreement that they are going to help us find out who the launderers are. That is what we ought to be doing in this Congress.

Mr. KOSTMAYER. Mr. Speaker, may I inquire as to how much time we have left?

The SPEAKER pro tempore (Mr. Bosco). The gentleman from Pennsylvania [Mr. KOSTMAYER] has 1½ minutes remaining, the gentleman from Wisconsin [Mr. OBEY] has 2½ minutes remaining, and the gentleman from Mississippi [Mr. WHITTEN] has 3 minutes remaining.

Mr. KOSTMAYER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in conclusion, I would say to my friend, the gentleman from Massachusetts, that we picked these waivers because I am on the Foreign Affairs Committee. That is the only reason. I am trying to stand up and defend my committee. The Appropriations Committee is not the problem. I went to the gentleman from Illinois [Mr. YATES] a few weeks ago, and he has always given me everything I have had to ask for. I hope he will again.

Mr. Speaker, we love the House, and we love the rules of the House. We want this House to live by the rules, that is all.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume simply to say that our friend is talking sense now. I hope the Members will vote for this motion.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KOSTMAYER. Mr. Speaker, I demand a recorded vote.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. KOSTMAYER] demands a recorded vote. All those Members in favor of taking this vote by a rollcall vote please rise and remain standing.

An insufficient number has arisen.

So a recorded vote was refused.

Mr. KOSTMAYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 277, nays 126, not voting 29, as follows:

[Roll No. 142]

YEAS—277

Ackerman	Geren	McNulty
Anderson	Gibbons	Meyers
Andrews	Gillmor	Michel
Annunzio	Gilman	Miller (OH)
Archer	Gingrich	Miller (WA)
Armey	Glickman	Mineta
Aspin	Gonzalez	Molinari
Baker	Goodling	Mollohan
Ballenger	Gordon	Montgomery
Bartlett	Goss	Moorhead
Barton	Gradison	Morella
Bateman	Grandy	Morrison (WA)
Beilenson	Grant	Murtha
Bennett	Gray	Myers
Bentley	Green	Natcher
Bereuter	Gunderson	Nielson
Bevill	Hall (OH)	Nowak
Bilirakis	Hammerschmidt	Oberstar
Bliley	Hancock	Obey
Boehlert	Harris	Olin
Boggs	Hastert	Ortiz
Bonior	Hatcher	Packard
Bosco	Hayes (LA)	Pallone
Boucher	Hefley	Parker
Brennan	Hefner	Parris
Brooks	Henry	Pashayan
Broomfield	Herger	Paxon
Browder	Hiler	Payne (VA)
Brown (CA)	Hoagland	Perkins
Burton	Holloway	Petri
Bustamante	Horton	Pickett
Byron	Houghton	Porter
Campbell (CA)	Hoyer	Price
Carr	Huckaby	Pursell
Chandler	Hunter	Quillen
Chapman	Hutto	Ravenel
Clarke	Hyde	Regula
Coble	Inhofe	Rhodes
Coleman (MO)	James	Richardson
Coleman (TX)	Jenkins	Rinaldo
Collins	Johnson (CT)	Ritter
Combest	Jones (GA)	Roberts
Conte	Jones (NC)	Rogers
Cooper	Kanjorski	Rohrabacher
Coughlin	Kaptur	Ros-Lehtinen
Courter	Kasich	Rose
Cox	Kildee	Roth
Craig	Kleczka	Rowland (CT)
Dannemeyer	Kolbe	Rowland (GA)
Darden	Kolter	Sabo
Davis	Kyl	Saiki
de la Garza	Lagomarsino	Saxton
DeLay	Lancaster	Schaefer
Derrick	Laughlin	Schiff
DeWine	Leach (IA)	Schneider
Dickinson	Leath (TX)	Schuette
Dingell	Lehman (FL)	Schulze
Dornan (CA)	Lent	Schumer
Douglas	Levin (MI)	Sensenbrenner
Dreier	Lewis (CA)	Serrano
Durbin	Lightfoot	Sharp
Dwyer	Lipinski	Shaw
Dyson	Livingston	Shays
Early	Lloyd	Shumway
Eckart	Long	Shuster
Edwards (OK)	Lowery (CA)	Sisisky
Emerson	Lowey (NY)	Skeen
Engel	Machtley	Skelton
English	Madigan	Slaughter (VA)
Erdreich	Marlenee	Smith (FL)
Espy	Martin (IL)	Smith (IA)
Fawell	Martin (NY)	Smith (NE)
Fazio	Mazzoli	Smith (NJ)
Fields	McCandless	Smith (TX)
Fish	McCollum	Smith (VT)
Foglietta	McCrery	Smith, Denny (OR)
Frenzel	McCurdy	Smith, Robert (NH)
Frost	McDade	Smith, Robert (OR)
Gallegly	McEwen	Solomon
Gallo	McGrath	Spence
Gaydos	McHugh	Spratt
Gekas	McMillan (NC)	Stallings
Gephardt	McMillen (MD)	Stangeland
		Stearns
		Stump
		Sundquist
		Synar
		Tanner
		Tauke
		Tauzin
		Thomas (GA)
		Thomas (WY)
		Torres
		Torricelli
		Traxler
		Upton
		Valentine
		Vander Jagt
		Volkmer
		Vucanovich
		Walsh
		Weber
		Weldon
		Whittaker
		Whitten
		Wilson
		Wise
		Wolf
		Wylie
		Yates
		Young (FL)

NAYS—126

Anthony	Hertel	Poshard
Applegate	Hochbrueckner	Rahall
Atkins	Hopkins	Rangel
AuCoin	Hubbard	Ray
Bates	Hughes	Ridge
Berman	Jacobs	Rostenkowski
Bilbray	Johnson (SD)	Roukema
Borski	Johnston	Roybal
Boxer	Jontz	Russo
Brown (CO)	Kastenmeier	Sangmeister
Bruce	Kennedy	Sarpalius
Bryant	Kennelly	Savage
Campbell (CO)	Kostmayer	Sawyer
Cardin	LaFalce	Schroeder
Carper	Lantos	Sikorski
Clay	Lehman (CA)	Skaggs
Clement	Levine (CA)	Slattery
Condit	Lewis (GA)	Slaughter (NY)
Conyers	Luken, Thomas	Snowe
Costello	Markey	Solarz
Coyne	Martinez	Staggers
Crane	Matsui	Stark
Crockett	Mavroules	Stenholm
DeFazio	McCloskey	Stokes
Dellums	McDermott	Studds
Dicks	Mfume	Swift
Dixon	Miller (CA)	Tallon
Donnelly	Moody	Taylor
Downey	Mrazek	Towns
Duncan	Murphy	Traficant
Evans	Neal (MA)	Unsoeld
Fascell	Neal (NC)	Vento
Feighan	Oakar	Visclosky
Flake	Owens (NY)	Walgren
Ford (MI)	Owens (UT)	Walker
Ford (TN)	Panetta	Waxman
Frank	Patterson	Weiss
Gejdenson	Payne (NJ)	Wheat
Guarini	Pease	Williams
Hall (TX)	Pelosi	Wolpe
Hamilton	Penny	Wyden
Hayes (IL)	Pickle	Yatron

NOT VOTING—29

Alexander	Hansen	Oxley
Barnard	Hawkins	Robinson
Buechner	Ireland	Roe
Bunning	Lewis (FL)	Scheuer
Callahan	Lukens, Donald	Thomas (CA)
Clinger	Manton	Udall
Dorgan (ND)	Moakley	Washington
Dymally	Morrison (CT)	Watkins
Edwards (CA)	Nagle	Young (AK)
Flippo	Nelson	

□ 1642

The Clerk announced the following pair:

On this vote:

Mr. Bunning for, with Mr. Dymally against.

Mr. HALL of Texas changed his vote form "yea" to "nay."

Messrs. ACKERMAN, VOLKMER, GONZALEZ, and ENGEL changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ENGEL. Mr. Speaker, earlier in the day, due to illness I was not present for rollcall votes: roll 138, agreeing to the conference report to bill 4404; roll 139 motion to recede from disagreement to Senate amendment No. 12; roll 140 motion to recede from disagreement to Senate amendment No. 22; roll 141 motion to recede from disagreement to Senate amendment No. 24.

Had I been present, I would have voted "aye" on all of them.

The SPEAKER pro tempore (Mr. Bosco). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 83: Page 17, line 8, after "$176,800,000" insert ": *Provided*, That these funds shall be obligated fully prior to use of any other funds which may remain available from previous appropriations under this head".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following ": *Provided*, That these funds also shall be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes and shall be obligated fully prior to use of any other funds for wildlife suppression and emergency rehabilitation and shall remain available until December 31, 1990".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 84: Page 17, after line 8, insert:

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource Management", $1,000,000: *Provided*, That the Secretary, acting through the United States Fish and Wildlife Service, is authorized to enter into renewable contracts for the payment of reasonable and customary costs for delivery of Newlands Project water rights acquired by the Service to benefit the Federal and State wildlife areas in the Lahontan Valley and the Fernley Sink in Nevada; *Provided further*, That the costs for delivery shall be those costs normally associated with the delivery of water to Newlands Project lands: *Provided further*, That the contracts shall be of a term not exceeding 40 years: *Provided further*, That any such contract shall provide that upon the failure of the service to pay such charges, the United States shall be liable for their payment and other costs provided for in applicable provisions of the contract subject to availability of appropriations and, the Secretary, acting through the United States Fish and Wildlife Service, in accordance with applicable State law, use water diversion, storage, and conveyance systems of Federal Reclamation Projects to benefit Federal and State wildlife areas in the La-

hontan Valley and the Fernley Sink in Nevada.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER, pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource Management", $827,000: *Provided*, That the Secretary, acting through the United States Fish and Wildlife Service, is authorized to enter into renewable contracts for the payment of reasonable and customary costs for delivery of Newlands Project water rights acquired by the Service to benefit the Federal and State wildlife areas in the Lahontan Valley and the Fernley Sink in Nevada: *Provided further*, That the costs for delivery shall be those costs normally associated with the delivery of water to Newlands Project lands: *Provided further*, That the contracts shall be of a term not exceeding 40 years; *Provided further*, That any such contract shall provide that upon the failure of the service to pay such charges, the United States shall be liable for their payment and other costs provided for in applicable provisions of the contract subject to availability of appropriations: *Provided further*, That the Secretary, acting through the United States Fish and Wildlife Service, in accordance with applicable State law, may use water diversion, storage, and conveyance systems of Federal Reclamation Projects to benefit Federal and State wildlife area in the Lahontan Valley and the Fernley Sink in Nevada.

The SPEAKER pro tempore. Does any Member desire time on this motion?

Mr. WALKER. Mr. Speaker, on this one I would ask that the time be divided.

The SPEAKER pro tempore. The Chair will ask if the gentleman from Massachusetts [Mr. CONTE] is opposed to this motion.

Mr. CONTE. Mr. Speaker, I am waiting to hear the debate on this one. I ask that the time be divided 20, 20, 20.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 20 minutes, the gentleman from Massachusetts [Mr. CONTE] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I reserve my time.

Mr. WALKER. Mr. Speaker, before proceeding with the debate on this, I yield 1 minute to the gentleman from New York [Mr. SOLOMON] for the purpose of speaking out of order.

(By unanimous consent Mr. SOLOMON was allowed to speak out of order.)

INTRODUCTION OF RESOLUTION OF DISAPPROVAL OF PRIVILEGED TARIFF TREATMENT TO IMPORTS FROM PEOPLE'S REPUBLIC OF CHINA

Mr. SOLOMON. Mr. Speaker, my colleagues, if I could have the Members' attention for a moment, I know that many of us here in this body have been greatly concerned over the issue of human rights abuses committed by the People's Republic of China since the Tiananmen Square massacre last June.

Mr. Speaker, the question of whether we should continue to provide privileged tariff treatment to imports from the People's Republic of China in light of the abuses of the past year now lies before this Congress and this country. President Bush today decided to extend the privilege for 1 more year.

There are those of us here in this Congress who respectfully, but strongly, disagree with that decision, who believe that the strongest possible signal of disapproval sent now is really in the best interests of our two countries, for the relations, and more importantly, in the best interests of, the long-term interests, of the Chinese people.

Mr. Speaker, with the bipartisan sponsorship of the gentleman from Massachusetts [Mr. MARKEY], the gentleman from North Carolina [Mr. ROSE], and the gentleman from Pennsylvania [Mr. SCHULZE], I am now introducing, in a few minutes, a resolution of disapproval of the President's decision.

I want to take this opportunity to invite all of those Members who are concerned over the future of the Chinese people to join us in sponsoring this very important resolution, the clearest signal we can send that America cannot and will not condone the abuses that continue today in the People's Republic of China.

Mr. WALKER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, on this amendment, if we go to the report of the committee, it is very difficult to figure out what it is that the committee is doing. If we go to the report, what it says about this money is that the amendment provides $827,000 for the appropriate technology for rural areas program instead of the $1 million proposed by the Senate. That is the only thing we know about this program. It is absolutely undefinable from the committee report as to what is going on here, but I did find out from the Department of the Interior that they are willing to reprogram all of the money necessary in order to take care of these costs, that this is add-on money that is not needed, because the Department says in a letter directed to the gentleman from Illinois [Mr. YATES], the chairman of the subcommittee, that they are willing to program every dime of this money in order to meet the needs of this program.

I am a little puzzled as to why we would have to spend $827,000 of money that the Department of Interior says that they are willing to fund out of lower priority projects.

It seems to me that here is a place where we can save some money, do no harm to the high priorities the committee sees, and that the Interior Department sees, and maybe save the taxpayers about $827,000.

□ 1650

Mr YATES. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, if the motion of the gentleman from Pennsylvania [Mr. WALKER] were to prevail, we would not be saving any money, because, as the gentleman points out, there is a reprogram from other accounts. In the event the motion of the gentleman prevails, the money stays in those accounts and will not be reprogrammed. So there is no savings for the taxpayer.

Mr. WALKER. Mr. Speaker, reclaiming my time, I would ask the gentleman from Illinois [Mr. YATES] why does the report not reflect that? The report reflects an additional $827,000 that is going to be spent.

Mr. YATES. No, it will not be spent. It will be taken from other accounts within the Department of Fish and Wildlife.

Mr. WALKER. No, that has not been written. That is what the Department of Interior would like to do. What you have done is provided another $827,000 over and above.

Mr. YATES. If we had written that, that is wrong. I do not interpret that the same way.

Mr. WALKER. Let me say to the gentleman from Illinois [Mr. YATES], up here it says, "for an additional amount for resource management, $827,000."

That is add-on money. If what the gentleman is telling me is he did not intend for this to be add-on money, then the gentleman should be in support of my motion so that we can get to the point that the Department of Interior will reprogram the money.

Mr. Speaker, I am terribly confused, because what I am trying to do is make certain that there is no further money spent.

Mr. YATES. Mr. Speaker, if the gentleman from Pennsylvania [Mr. WALKER] will yield further, let me correct the statement I made. Originally the gentleman is correct, that this is additional funding to pay other accounts in the Fish and Wildlife Service from which funds had been borrowed

for the purpose of keeping this institution going.

Let me tell the gentleman from Pennsylvania [Mr. WALKER] some history, if the gentleman will permit me.

Mr. WHITTEN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, this was originally a program in the Department of Agriculture. It was located in Tennessee. It was subsequently moved to Arkansas. When it was moved to Arkansas it was moved out of the Department of Agriculture and was sought to be moved into the Department of the Interior in the Fish and Wildlife Service.

Its function is to serve both the cause of agriculture and the cause of the Fish and Wildlife Service because we have a very serious problem in fish and wildlife refugees throughout the country as the result of runoff from farms that are using chemicals and pesticides. Kesterton Refuge in California, for example, has been closed, as one example.

I would think that the gentleman from Pennsylvania [Mr. WALKER], like myself, would be interested in trying to find ways of using less chemicals and less pesticides in connection with farming operations. That is the purpose of this program.

Mr. Speaker, I originally opposed funding this agency through the Department of the Interior. It was proposed when the original bill was in conference to provide funds for this agency, and I opposed it at that time.

I subsequently had an opportunity to look at the operations of this agency, and I think it serves a very useful purpose. Not only for the farmers, but for the consumers of the country. We the consumers want foods that are not tainted by pesticides or by chemicals.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I do not disagree with a thing the gentleman from Illinois [Mr. YATES] just said. The point that has to be made here is the Department of Interior has told the gentleman in a letter that they are willing to accommodate the needs of this agency and they say, "To accommodate the $1 million needed to support ATRA, the Service will defer lower priority maintenance projects at refuges, hatcheries, and research facilities."

They are saying this is a high priority with them. They are willing to fund it. They are willing to do all the things the gentleman from Illinois [Mr. YATES] said. There are lower priority projects they can take the money from and the taxpayers thereby are whole.

Mr. YATES. Mr. Speaker, reclaiming my time, what happened here, if the gentleman from Pennsylvania [Mr. WALKER] will note, the letter is dated December 21. At that time the agency was taking funds from maintenance accounts in order to sustain the operations of this agency.

What is sought to be done at the present time is to obtain an appropriation which will permit the repayment to the accounts from which funds were borrowed.

Mr. WALKER. If the gentleman will yield, I understand that. Again, then I come back to my original point: this is in fact add-on money.

Mr. YATES. That is correct.

Mr. WALKER. Where we have not decided that we are going to add on money, and so therefore the report is not correct because the report says then the amendment provides $827,000 for this program.

What the gentleman from Illinois [Mr. YATES] is telling me is it is money that is going to go into accounts other than this program.

Mr. YATES. Mr. Speaker, if I may reclaim my time, the money is for this program, because funds have been advanced for this program and there will be a replacement of those funds.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Those funds have already been spent. So you do not say in your report that this is money for low priority projects from which money was taken in order to keep this high priority alive. What you say is you are going to spend the money on this project. I am saying that is not something that Congress probably wants to do with the money at the present time. We do not have the money to spend.

Mr. YATES. Mr. Speaker, reclaiming my time, apparently the report is not as thorough an explanation of this as it should have been. The explanation that I am now making to the gentleman from Pennsylvania [Mr. WALKER] is in accordance I think with his understanding, and that is funds were originally taken through reprogramming measures in order to pay for the operations of this agency. The money which is the subject of this appropriation will be used to repay that money, just as we do in firefighting.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, I think the gentleman from Pennsylvania [Mr. WALKER] is making a point. But you have to understand that part of this has been reprogrammed and part of it is funds that have been borrowed in effect from other funds that need to be repaid. They are in the maintenance accounts, which are desperately needed. In terms of priority, the maintenance of Fish and Wildlife has a backlog of a couple hundred million dollars.

The SPEAKER pro tempore. The time of the gentleman from Illinois [Mr. YATES] has expired.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I think the gentleman from Pennsylvania [Mr. WALKER] has always been in support of using the private sector wherever possible. This is a classic example of doing that, because this group that is getting the money are doing a lot of research on the effect of toxics from agriculture lands that flows into streams and in terms of the impact that it has on the fish in our streams and in water quality.

Obviously, if this were done by a Government agency, it would probably cost three times as much as using these funds through the private sector. I think this approach is in keeping with the gentleman from Pennsylvania [Mr. WALKER] who is a strong supporter of private sector usage wherever possible in accomplishing objectives of Government.

So basically it is either we do it this way or we penalize the operation and maintenance and probably end up having Fish and Wildlife do it at three times the cost.

Mr. WALKER. Mr. Speaker, I do not want to spend a lot of time on this amendment. What I am hoping to do here is just make the point that when Members have to do the business of spending money, the only thing we can rely upon is the report that comes out of the Committee on Managers.

Now, obviously this report is pretty incomplete on this particular project. I got one explanation earlier from the gentleman from Illinois [Mr. YATES]. Now I have received a variety of other explanations, none of which are reflected in the report.

This gentleman has worked reasonably hard to try to find places where there is add-on spending.

Mr. Speaker, if I understand correctly, we are still talking about add-on spending here because we are talking about $827,000 that could come out of lower priority areas. I am simply assuming the House may want to decide that everything that the gentleman from Ohio [Mr. REGULA] and the gentleman from Illinois [Mr. YATES] have told us is absolutely correct. This is a high priority agency, but why not let the Department of Interior do what they say they are willing to do, and that is take it out of lower priority accounts, rather than spending the money which is money we do not have.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, we are the policymakers, not the Department. They can make one statement. We have to make the policy. Our policy is the maintenance projects have an equal priority. This is a valuable service, and therefore we are willing to fund it.

□ 1700

Mr. WALKER. I understand that, but I will say to the gentleman our policy seems to be to spend money, that regardless of what the administrators who are running these programs tell us, if they say there are lower priority efforts where we can find the money, we say no, you cannot, you have to spend more money.

All I am saying is somewhere along the line we have to take the taxpayer into account in all of this too. This is $827,000. This is more money than the average worker will earn in his entire lifetime. He will spend his entire lifetime in work and never make this much money, and yet in one fell swoop we are simply saying we do not care if you can find the money somewhere else, we want to spend it anyway, and I do not think we can afford that at the present time. I think we ought to take a stand here, and let us do what ATRA wants us to do, but let us do it out of the money that is already programmed.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the gentleman is correct in his statement that there should have been a much more thorough explanation in the report. Had there been a more thorough explanation I am sure that the gentleman would not have made his motion, because I think it is a very necessary service that this agency is performing, not only for the farmers but for the consumers of the country. The question of how to eliminate as many toxins as possible from agriculture and to clean up our food, to clean up the fish and wildlife refuges, I think, is of superlative importance, and I would hope that the gentleman would withdraw his objection.

Mr. WALKER. I thank the gentleman. But I think if I had had a more thorough explanation I still would have had concerns.

But, Mr. Speaker, if other Members are willing to yield back the balance of their time, I will yield back the balance of my time.

The SPEAKER pro tempore. (Mr. Bosco). Does the gentleman from Pennsylvania maintain his objection?

Mr. WALKER. I do, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

Mr. WALKER. Mr. Speaker, I ask that the question be divided.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks that the question be divided.

The question is, Will the House recede from its disagreement to the amendment of the Senate numbered 84?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 231, nays 165, not voting 36, as follows:

[Roll No. 143]

YEAS—231

Ackerman	Espy	Lightfoot
Anderson	Evans	Lipinski
Annunzio	Fascell	Livingston
Anthony	Fazio	Lloyd
Applegate	Feighan	Long
Aspin	Flake	Lowery (CA)
Atkins	Foglietta	Lowey (NY)
AuCoin	Ford (MI)	Luken, Thomas
Bates	Ford (TN)	Markey
Beilenson	Frank	Marlenee
Bennett	Frost	Matsui
Bentley	Gallo	Mavroules
Bereuter	Gaydos	Mazzoli
Berman	Gejdenson	McCloskey
Bevill	Gephardt	McDade
Bilbray	Geren	McDermott
Boggs	Gibbons	McHugh
Bonior	Glickman	McMillen (MD)
Borski	Gonzalez	McNulty
Bosco	Gordon	Miller (CA)
Boucher	Gray	Miller (OH)
Boxer	Green	Mineta
Brennan	Guarini	Moakley
Brooks	Hall (OH)	Mollohan
Browder	Harris	Montgomery
Bruce	Hatcher	Moody
Bryant	Hayes (IL)	Morrison (WA)
Bustamante	Hayes (LA)	Mrazek
Campbell (CO)	Hefner	Murtha
Cardin	Hertel	Natcher
Carr	Hoagland	Neal (MA)
Chapman	Hochbrueckner	Neal (NC)
Clarke	Horton	Nowak
Clement	Hoyer	Oakar
Coleman (TX)	Hubbard	Oberstar
Collins	Huckaby	Obey
Condit	Johnson (SD)	Olin
Conte	Johnston	Ortiz
Conyers	Jones (GA)	Owens (NY)
Cooper	Jones (NC)	Owens (UT)
Costello	Jontz	Oxley
Coyne	Kanjorski	Parker
Crockett	Kaptur	Pashayan
Darden	Kastenmeier	Payne (NJ)
Davis	Kennedy	Payne (VA)
de la Garza	Kildee	Pelosi
DeFazio	Kleczka	Perkins
Dellums	Kolter	Pickett
Derrick	Kostmayer	Pickle
Dicks	LaFalce	Poshard
Dixon	Lagomarsino	Price
Downey	Lancaster	Rahall
Dreier	Lantos	Ravenel
Durbin	Leach (IA)	Ray
Dwyer	Leath (TX)	Regula
Dyson	Lehman (CA)	Richardson
Early	Lehman (FL)	Rose
Eckart	Levin (MI)	Rowland (GA)
Engel	Levine (CA)	Roybal
English	Lewis (CA)	Sabo
Erdreich	Lewis (GA)	Saiki
Sangmeister	Staggers	Unsoeld
Savage	Stangeland	Vento
Sawyer	Stark	Visclosky
Schumer	Stokes	Volkmer
Serrano	Studds	Vucanovich
Sharp	Swift	Waxman
Sikorski	Synar	Weiss
Sisisky	Tanner	Weldon
Skaggs	Tauzin	Wheat
Skelton	Thomas (GA)	Whitten
Slaughter (NY)	Thomas (WY)	Williams
Smith (FL)	Torres	Wilson
Smith (IA)	Torricelli	Wise
Solarz	Towns	Wolpe
Spence	Traficant	Wyden
Spratt	Traxler	Yates

NAYS—165

Andrews	Henry	Ritter
Archer	Herger	Roberts
Armey	Hiler	Rogers
Baker	Holloway	Rohrabacher
Ballenger	Hopkins	Ros-Lehtinen
Bartlett	Houghton	Rostenkowski
Barton	Hughes	Roth
Bateman	Hunter	Roukema
Bilirakis	Hutto	Rowland (CT)
Billey	Hyde	Russo
Boehlert	Inhofe	Sarpalius
Broomfield	Jacobs	Saxton
Brown (CO)	James	Schaefer
Burton	Jenkins	Schiff
Byron	Johnson (CT)	Schneider
Campbell (CA)	Kasich	Schroeder
Carper	Kennelly	Schuette
Chandler	Kolbe	Schulze
Coble	Kyl	Sensenbrenner
Coleman (MO)	Laughlin	Shaw
Combest	Lent	Shays
Coughlin	Machtley	Shumway
Courter	Martin (IL)	Shuster
Cox	Martin (NY)	Skeen
Craig	McCandless	Slattery
Crane	McCollum	Slaughter (VA)
Dannemeyer	McCrery	Smith (NE)
DeLay	McCurdy	Smith (NJ)
DeWine	McEwen	Smith (TX)
Dickinson	McGrath	Smith (VT)
Donnelly	McMillan (NC)	Smith, Robert (NH)
Dornan (CA)	Meyers	Smith, Robert (OR)
Douglas	Mfume	Snowe
Duncan	Michel	Solomon
Edwards (OK)	Miller (WA)	Stearns
Emerson	Molinari	Stenholm
Fawell	Moorhead	Stump
Fields	Morella	Sundquist
Fish	Murphy	Tallon
Frenzel	Myers	Tauke
Gallegly	Nielson	Taylor
Gekas	Packard	Upton
Gillmor	Pallone	Valentine
Gilman	Panetta	Vander Jagt
Gingrich	Parris	Walgren
Goodling	Patterson	Walker
Goss	Paxon	Walsh
Gradison	Pease	Weber
Grandy	Penny	Whittaker
Grant	Petri	Wolf
Gunderson	Porter	Wylie
Hall (TX)	Pursell	Yatron
Hamilton	Quillen	Young (FL)
Hammerschmidt	Rhodes	
Hancock	Ridge	
Hastert	Rinaldo	

NOT VOTING—36

Alexander	Hansen	Robinson
Barnard	Hawkins	Roe
Brown (CA)	Hefley	Scheuer
Buechner	Ireland	Smith, Denny (OR)
Bunning	Lewis (FL)	Stallings
Callahan	Lukens, Donald	Thomas (CA)
Clay	Madigan	Udall
Clinger	Manton	Washington
Dingell	Martinez	Watkins
Dorgan (ND)	Morrison (CT)	Young (AK)
Dymally	Nagle	
Edwards (CA)	Nelson	
Flippo	Rangel	

□ 1721

Mr. WALGREN and Mr. BROWN of Colorado changed their vote from "yea" to "nay."

Mr. LAGOMARSINO and Mr. SKAGGS changed their vote from "nay" to "yea."

So the House receded from its disagreement to the amendment of the Senate numbered 84.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. Bosco). The question is, Will the House concur in the amendment of the Senate numbered 84 with an amendment.

The House concurred in the amendment of the Senate numbered 84 with an amendment.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 85: Page 17, after line 8, insert:

NATIONAL PARK SERVICE

CONSTRUCTION

Of the funds made available under this head in the Department of the Interior and Related Agencies Appropriation Act, 1990 (Public Law 101-121), not less than $5,852,000 shall be made available immediately for design and construction activities associated with the Franklin Delano Roosevelt Memorial.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 85, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

NATIONAL PARK SERVICE

HISTORIC PRESERVATION FUND

Funds appropriated under this head in Public Law 101-121 shall remain available for obligation until September 30, 1991.

CONSTRUCTION

Of the funds made available under this head in the Department of the Interior and Related Agencies Appropriations Act, 1990 (Public Law 101-121), not less than $5,852,000 shall be made available immediately for design and construction activities associated with the Franklin Delano Roosevelt Memorial.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, Investigations, and Research", $6,246,000, to remain available until expended.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

The paragraph under this head in Public Law 101-121 is amended by inserting in front of $54,000,000 the words "up to": *Provided,* That none of the funds available to the Bureau of Indian Affairs in this or any other Act shall be used to transfer, through agreement, memorandum of understanding, demonstration project or other method, the Safety of Dams program of the Bureau of Indian Affairs to the Bureau of Reclamation.

DEPARTMENT OFFICES

OIL SPILL EMERGENCY FUND

For an additional amount for the Department of the Interior for contingency planning, response and natural resource damage assessment related to the discharge of oil from the tanker Exxon Valdez into Prince William Sound, Alaska, and for other purposes authorized under this head in P.L. 101-45, $7,279,000: *Provided,* That all authorities associated with, and funds in, the Oil Spill Emergency Fund shall remain available until September 30, 1994: *Provided further,* That none of the funds made available by this or any other Act with respect to any fiscal year may be used by the Department of the Interior to make any reimbursements to any other Federal department for litigation costs associated with the Prince William Sound oil spill.

The SPEAKER pro tempore. Without objection, the motion was agreed to.

Mr. COX. Mr. Speaker, reserving the right to object, I request time to debate the motion.

The SPEAKER pro tempore. Does the Chair understand the gentleman from California [Mr. Cox] is opposed to the motion?

Mr. COX. Mr. Speaker, I am opposed to the motion.

Mr. GREEN. Mr. Speaker, I am not opposed to the motion.

The SPEAKER pro tempore. The Chair will divide the time three ways. The gentleman from Mississippi [Mr. WHITTEN] will be allocated 20 minutes, the gentleman from California [Mr. Cox] will be allocated 20 minutes, and the gentleman from New York [Mr. GREEN] will be allocated 20 minutes.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume. Although I am not on the Subcommittee on Interior appropriations. I am very familiar with this because I am a member of and secretary of the Franklin Roosevelt Memorial Commission.

Essentially, this is money that was appropriated last year to begin construction work on the Franklin Roosevelt Memorial, which was authorized several years ago. This is a fully authorized project. The Interior Department has held up on spending the money, and essentially this is an instruction that we go ahead in accordance with the authorization and the appropriation.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I am happy to yield to the gentleman from Illinois.

Mr. YATES. The gentleman is exactly right, it is just a restatement of an appropriation for a project that was authorized many years ago.

Mr. COX. I object solely for the purpose of drawing attention to the fact that included in the dire emergency supplemental appropriations is $5.8 million for the design and construction of the Franklin Delano Roosevelt Memorial. I appreciate the clarification from my colleagues concerning the manner in which this appropriation was included in the dire emergency supplemental.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. COX. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, this is not a new appropriation. These funds were previously appropriated. It is not new money added. It is a continuation of an existing appropriation.

Mr. COX. Mr. Speaker, I understand these moneys have, however, been earmarked in a dire emergency supplemental appropriations.

Mr. GREEN. Mr. Speaker, if the gentleman will yield, they are long since earmarked. They were in the 1990 Interior appropriation bill. They are existing money. They have been appropriated for this specific project and no other. This part of the appropriation bill, the supplemental appropriation bill, makes no change in that respect whatsoever.

Mr. COX. Mr. Speaker, reclaiming my time to receive clarification, if all of this was accomplished before the dire emergency supplemental, what is it doing in here?

Mr. GREEN. If the gentleman will continue to yield, the Department of Interior had been holding up on spending it. Essentially, we are telling them that yes we need it. Please go ahead and spend it.

Mr. COX. Is it the case, then, that Interior had decided not to spend the money, and the purpose of this is to force them to do that?

Mr. YATES. If the gentleman will yield, essentially, yes. It tells Interior to make the money available to begin the necessary construction of the memorial.

Mr. COX. This money, in other words, $5.2 million, but for the dire emergency appropriations would not have been spent on the Franklin Delano Roosevelt Memorial?

Mr. GREEN. If the gentleman will continue to yield, that is something that is not true. There is the Budget and Impoundment Control Act of 1974 making it illegal for the executive branch to impound funds appropriated by Congress and signed into law by the President, unless Congress approves such an impoundment, which has not occurred in this case. So the executive branch is under an obligation to spend that money, whether there is language in this appropriation bill or not.

Mr. YATES. If the gentleman will yield further, it is not the Department of the Interior that has been holding it up. It is the Office of Management and Budget that decided that the money should not be spent on a memorial for Franklin Delano Roosevelt. That is the reason.

Mr. COX. Mr. Speaker, if I may reclaim my time, is it your sense of the

purpose of OMB's action is to save the taxpayer money?

Mr. YATES. If the gentleman will continue to yield, I think it will be spent. No question it will be spent. I do not know why OMB did it. Who knows why? OMB does many things.

Mr. GREEN. If the gentleman will continue to yield, I should explain to the gentleman that that appropriation last year followed a request by President Reagan in his budget submission for fiscal year 1990, and in fact, the appropriation was in a lesser amount than President Reagan's request, which as I recall was $19 million. Therefore, I cannot tell Members what is going on at OMB, but this was a Republican President's request. Obviously, it orginated in OMB, and we are simply trying to see that President Reagan's final budget request, which we approved, is obeyed.

Mr. COX. Reclaiming my time, and having worked and served with President Reagan, I assure Members that I am as loyal a fan as any Member here. Indeed, I wish we were spending $5.8 million on the memorial to President Reagan, but I am glad for the sake of the taxpayer that indeed we are not.

It seems to me that in the context of a dire emergency supplemental appropriations bill it is irony in the extreme that we are hastening the expenditure of $4.8 million on a memorial for a President who, whatever else might be said about him, has been dead for quite some time.

Mr. Speaker, in the interest of moving Members along this evening, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield to the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, let me point out to the gentleman that William McKinley has been dead for a long time and we appropriated money to rehabilitate the home of William McKinley. Herbert Hoover has been dead for a long time. We appropriated money to rehabilitate the home of Herbert Hoover. We have appropriated money for the Herbert Hoover Library in Palo Alto, so it is not a question of partisanship. It is a memorial for a very good President, and it deserves Members' approval.

□ 1730

Mr. WHITTEN. Mr. Speaker, I reserve the balance of my time.

Mr. GREEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Cox] to wrap up the debate.

Mr. COX. Mr. Speaker, I do not think there is any question that we have had a lot of great Presidents; a lot of great men and women served America. The only question is whether or not $5.8 million of additional pork belongs in this appropriations bill. I appreciate that it is an earmark. I appreciate the money was already destined to be spent.

However, Mr. Speaker, we are trying to save money, and indeed this looks like it would have been a nice place.

As a matter of fact, I will not request a vote on this: I do not know whether others will, because there is something in amendment 85 that is very important, our oilspill cleanup for the *Exxon Valdez.*

Mr. GREEN. Mr. Speaker, I yield such time as he may consume to my colleague on the Franklin Roosevelt Memorial Commission, the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I would just like to say to my colleagues that it is unfortunate this money is with us now, but moving with all deliberate speed is not the sole prerogative of the judiciary. I have served on this Commission for 20 years, and it has taken us this long to get to this point.

I would add also that I would concur in the remarks about President Reagan. I think he would approve also. I have heard him say frequently that he voted for Franklin Roosevelt four times for President.

Mr. GREEN. Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Bosco). The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 87: Page 17, after line 13, insert:

ADMINISTRATIVE PROVISION, FOREST SERVICE

Notwithstanding any other provision of law, funds originally appropriated under this head in Public Law 101-121, the Department of the Interior and Related Agencies Appropriations Act, 1990, in the amount of $371,000 for the Forest Service for the construction of an addition to the Starkville, Mississippi, research office shall be available for a grant to Mississippi State University as the Federal share in the construction of a new university facility: *Provided,* That comparable space shall be provided to the Forest Service without charge for a reasonable period.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

NATIONAL FOREST SYSTEM

For additional expenses associated with assessment or recovery on National Forest System lands from Hurricane Hugo and the *Exxon Valdez* oil spill of March 24, 1989, or for assessment and recovery on associated lands affected by the *Exxon Valdez* oil spill, $8,633,000, to remain available until September 30, 1991: *Provided,* That none of the funds made available by this or any other Act with respect to any fiscal year may be used by the Forest Service to make any reimbursements to any other Federal department for litigation costs associated with the Prince Williams Sound oil spill.

CONSTRUCTION

Notwithstanding any other provision of law, funds originally appropriated under this head in P.L. 101-121, the Department of the Interior and Related Agencies Appropriations Act, 1990, in the amount of $371,000 for the Forest Service for the construction of an addition to the Starkville, Mississippi research office shall be available for a grant to Mississippi State University as the Federal share in the construction of a new University facility: *Provided,* That comparable space shall be provided to the Forest Service without charge for a reasonable period.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follow: Senate amendment No. 88: Page 17, after line 13, insert:

SETTLEMENT OF CLAIMS, FOREST SERVICE

The Forest Service is hereby authorized and directed to negotiate, compromise and settle certain claims against the United States resulting from the Mink Fire (bridger-Teton National Forest and Yellowstone National Park), Clover-Mist Fire (Yellowstone National Park and Shoshone National Forest), Storm Creek Fire (Yellowstone National Park and Gallatin-Custer National Forests), and Canyon Creek Fire (Lolo, Helena, Lewis and Clark National Forests) which were originally classified as prescribed fires but subsequently became wildfires. The Forest Service is directed to nogotiate, compromise and settle the original claims, or the claims filed by an insurer subrogated to the rights of a claimant, and to negotiate any other claims filed within ninety days of the date of enactment of this Act. Notwithstanding any other provision of the law, the Secretary of the Treasury is authorized and directed to pay the amount of each settlement from the Claims, Judgments, and Relief Act Fund (Public Law 95-26): *Provided,* That the Secretary of the Treasury shall make no payments for claims which are determined by the Forest Service or the Department of Justice to be invalid under current law.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

SETTLEMENT OF CLAIMS, FOREST SERVICE

The Forest Service is hereby authorized and directed to negotiate, compromise, and reach a determination on certain claims against the United States resulting from the Mink Fire (Bridger-Teton National Forest and Yellowstone National Park), Clover-Mist Fire (Yellowstone National Park and Shoshone National Forest), Storm Creek Fire (Yellowstone National Park and Gallatin-Custer National Forests), and Canyon Creek Fire (Lolo, Helena, Lewis and Clark National Forests) which were originally classified as prescribed fires but subsequently became wildfires. The Forest Service is directed to negotiate, compromise, and reach a determination on the original claims, or the claims filed by an insurer subrogated to the rights of a claimant, and to negotiate any other claims filed within ninety days of the date of enactment of this Act. Notwithstanding any other provision of the law, the Secretary of the Treasury is authorized and directed to pay the amount of each determination from the Claims, Judgments, and Relief Act Fund (Public Law 95-26): *Provided*, That the Secretary of the Treasury shall make no payments for claims which are determined by the Forest Service or the Department of Justice to be invalid under current law: *Provided further*, That nothing in this section shall prohibit any claimant from filing an appeal of any determination made by the Forest Service, Department of Agriculture, or Department of Justice pursuant to current law.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 89: Page 17 after line 13, insert:

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

Funds previously appropriated under this head for clean coal technology solicitations to be issued no later than June 1, 1990, and no later than September 1, 1991, respectively, shall not be obligated until September 1, 1991: *Provided*, That the aforementioned solicitations shall not be conducted prior to the ability to obligate these funds: *Provided further*, That pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 89 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

Funds previously appropriated under this head for clean coal technology solicitations to be issued no later than June 1, 1990, and no later than September 1, 1991, respectively, shall not be obligated until September 1, 1991: *Provided*, That the aforementioned solicitations shall not be conducted prior to the ability to obligate these funds: *Provided further*, That pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That for the clean coal solicitations identified herein, provisions included for the repayment of government contributions to individual projects shall be identical to those included in the Program Opportunity Notice (PON) for Clean Coal Technology III (CCT-III) Demonstration Projects (solicitation number DE-PSO1-89 FE 61825), issued by the Department of Energy on May 1, 1989.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 93: Page 18, after line 7, insert:

SPECIAL BENEFITS

Such amounts, in addition to appropriations provided under this heading in Public Law 101-166, as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to June 15 of the current year: *Provided*, That balances of reimbursements from Federal Government agencies under this heading unobligated on September 30, 1990, shall remain available for the payment of compensation, benefits, and expenses through September 30, 1991.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 93 and concur therein with an amendment, as follows: In lieu of the date "June 15" named in said statement insert the following: "August 15".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 96: Page 18, after line 9, insert:

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for "Disease control, research, and training", $31,500,000, of which $7,000,000 is for measles outbreak control under section 317 of the Public Health Service Act, and of which $23,500,000, to remain available until expended, is for the purchase of a second vaccination for measles immunization.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 96 and concur therein with an amendment, as follows: In lieu of the first sum named in said amendment insert: "$30,500,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 97: Page 18, after line 9, insert:

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

The second proviso under the heading "Alcohol, Drug Abuse, and Mental Health" in title IV of Public Law 101-164 is repealed and the amount provided in the first proviso for block grants under the Public Health Service Act is increased by $40,000,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 97 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

The second proviso under the heading "Alcohol, Drug Abuse, and Mental Health" in title IV of Public Law 101-164 is repealed effective September 10, 1990 if the treatment waiting period reduction grants are not specifically authorized prior to that date.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 99: Page 18, after line 17, insert:

PAYMENTS TO STATES FOR AFDC WORK PROGRAMS

(RESCISSION)

Of the amounts available under this head in Public Law 101-166, the Departments of Labor, Health and Human Services, and

Education, and Related Agencies Appropriations Act, 1990, to carry out part C of title IV of the Social Security Act, $7,880,000 are rescinded.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 99 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

REFUGEE AND ENTRANT ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For additional amount for "Refugee and Entrant Assistance" $6,000,000, to be distributed under the targeted assistance program, of which $5,000,000 shall be for health and educational services in areas affected as a result of the massive influx of Cuban and Haitian entrants during the Mariel boatlift, $500,000 shall be available for communities currently conducting a "Fish/Wilson" demonstration project and which have been heavily impacted by the recent influx of Soviet Pentecostals for health and employmnent services, and $500,000 shall be available for schools in areas impacted by the influx of Indochinese refugees who entered the United States after October 1, 1979, in which the enrollment of Indochinese students (including secondary migrants) is greater than 2,000, and who comprise no less than 20 percent of the overall school enrollment in such a locality with a general population of no less than 75,000 persons: *Provided*, That the amount provided herein shall be derived by transfer from funds appropriated in Public Law 101-166 for Student Financial Assistance for carrying out activities authorized under part E, section 465 of Higher Education Act, as amended.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 100: Page 19, after line 2, insert:

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

For an additional amount for carrying out the Head Start Act, $165,685,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 100 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

For an additional amount for carrying out the Head Start Act, $165,685,000, which shall remain available until December 31, 1990.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 101: Page 19, after line 3, insert:

SCHOOL IMPROVEMENT PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "School Improvement Programs", $19,945,000, to remain available until September 30, 1991, for continued funding of existing dropout prevention demonstration projects funded in 1989, as authorized by title VI-A of the Elementary and Secondary Education Act of 1965, as amended: *Provided*, That $2,400,000 of the amount provided herein shall be derived by transfer from funds appropriated in Public Law 100-436 for part E, section 465, of the Higher Education Act, as amended.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 101 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SCHOOL IMPROVEMENT PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "School Improvement Programs", $20,945,000, to remain available until September 30, 1991, of which $19,945,000 shall be to continue funding of existing School Dropout Demonstration programs as authorized under title VI, Part A and $1,000,000 shall be for carrying out the Javits Gifted and Talented Education Program as authorized under title IV, Part B of the Elementary and Secondary Education Act of 1965, as amended: *Provided*, That $2,520,000 of the amount provided herein shall be derived by transfer from funds appropriated in Public Law 100-436 for Student Financial Assistance for carrying out activities authorized by Part E, section 465 of the Higher Education Act, as amended: *Provided further*, That funds available under Public Law 101-164 for grants to States under the Drug-Free Schools and Communities Act shall also be available for Indian Youth under sections 5112(a)(2) and 5133, and for Hawaiian Natives under sections 5112(a)(3) and 5134.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 104: Page 19, after line 3, insert:

EDUCATION FOR THE HANDICAPPED

Funds appropriated under section 619 of the Education of the Handicapped Act for fiscal year 1989 shall remain available for obligation through September 30, 1992.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of th Senate numbered 104 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

EDUCATION FOR THE HANDICAPPED

Funds appropriated under section 619 of the Education of the Handicapped Act for fiscal year 1989 shall remain available for obligation by States through September 30, 1992.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 107: Page 19, after line 11, insert:

NATIONAL COMMISSION ON CHILDREN

For an additional amount for the National Commission on Children established by section 9136 of Public Law 100-203, $500,000, which shall remain available until expended.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 107 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$400,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 114: Page 19, after line 15, insert:

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $6,884,000: *Provided,* That none of the funds appropriated or otherwise made available by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990, Public Law 101-161, shall be used to pay the salaries of personnel who carry out an export enhancement program if the aggregate amount of funds and/or commodities under such program exceeds $556,000,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 114 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $4,400,000: *Provided,* That none of the funds appropriated or otherwise made available by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990, Public Law 101-161, shall be used to pay the salaries of personnel who carry out an export enhancement program if the aggregate amount of funds and/or commodities under such program exceeds $553,000,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 115: Page 19, after line 15, insert:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For an additional amount for administrative and operating expenses, as authorized by the Federal Crop Insurance Corporation Act, as amended (7 U.S.C. 1516), $15,000,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 115 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For an additional amount for administrative and operating expenses, as authorized by the Federal Crop Insurance Corporation Act, as amended (7 U.S.C. 1516), $15,000,000: *Provided,* That these funds shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress.

Mr. CONTE. Mr. Speaker, as the author of the wetlands language in the statement of the managers, I want to take a moment to clarify what the language does. It protects wetlands, reconfirms longstanding Federal policy and highlights the President's goal of no net loss of wetlands. It stresses that wetlands as described in Executive Order 11990 shall be aggressively protected by the Farmers Home Administration working with the Fish and Wildlife Service.

The second sentence of the language is designed to emphasize the need to protect as much wetlands as possible, as opposed to those lands that are not wetlands or that never were wetlands. By foreclosed farmland, the language refers to farmland which has become part of the Farmers Home Administration inventory as a result of a Farmers Home Administration foreclosure. Such farmland, when sold to the original owner or family member who had been foreclosed, sometimes contains easements on wetlands established by the Farmers Home Administration under Executive Order 11990.

Wetlands are those lands which, under Executive Order 11990, are wet enough to support wetlands vegetation once plowing, spraying of herbicides, or other seasonal disturbance is no longer present. Wetlands easements are those easements placed upon wetlands as described in Executive Order 11990. Farmland which under Executive Order 11990 does not qualify as wetland can still be part of a valid buffer zone necessary for the protection of wetlands.

The language is included to ensure that wetlands are protected. It does not change existing law or practices. When wetlands easements have been established through existing programs, they should remain part of the land.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 117: Page 19, line 20, strike our "$510,000,000" and insert: "$705,000,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 117, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

"$1,200,000,000, which shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 118: Page 20, after line 6, insert:

INDEPENDENT AGENCY

COMMODITY FUTURES TRADING COMMISSION

For an additional amount for necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), $3,655,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment to the Senate numbered 118, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$2,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 123: Page 21, after line 16, insert:

HOUSING FOR THE ELDERLY AND HANDICAPPED FUND

Of the amount provided for direct loan obligations under this head in title II, Public Law 101-144 (103 Stat. 839, 847), and subject to the provisos under that head, any part of such amount that is not obligated during fiscal year 1990 may be used for direct loan obligations thereafter.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 123, and concur therein with an amendment, as follows: In heading "Housing for the elderly and handicapped fund", strike the word "and" and insert "or".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 124: Page 22, after line 4, insert:

COMMUNITY DEVELOPMENT GRANTS

Notwithstanding the repeal of section 107(b)(3) of the Housing and Community Development Act of 1974 by section 105(b) of the Department of Housing and Urban Development Act of 1989, funds appropriated under the Community Development Grants heading of the Departments of Veterans Affairs, Housing and Urban Development, and Independent Agencies Appropriations Act, 1990, pursuant to such section 107 shall be available for grants to Indian tribes.

The paragraph under this head in title II of Public Law 101-144 (approved November 9, 1989) (103 Stat. 839, 849-850) is hereby amended by inserting, immediately before the final colon in the third proviso, a semicolon and the following: "and, the amounts set forth for the 27 other projects and purposes specified at page 19, and for the first 10 projects specified on page 20, of the Joint Explanatory Statement of the Committee of Conference on H.R. 2916 (House Report 101-297), shall be made available for such projects and purposes".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 124, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

COMMUNITY DEVELOPMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding the repeal of section 107(b)(3) of the Housing and Community Development Act of 1974 by section 105(b) of the Department of Housing and Urban Development Reform Act of 1989, funds appropriated under the Community Development Grants heading of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990, pursuant to such section 107 shall be available for grants to Indian tribes.

The paragraph under this head in title II of Public Law 101-144 (approved November 9, 1989) (103 Stat. 839, 849-850) is hereby amended by inserting, immediately before the final colon in the third proviso, a semicolon and the following: "and the amounts set forth for the 27 projects and purposes specificed at page 19 (other than those three projects specific in this and the immediately preceeding proviso) and for the first 10 projects specified on page 20, of the Joint Explanatory Statement of the Committee of Conference on H.R. 2916 (House Report 101-297), shall be made available for such projects and purposes".

The amount to be derived by transfer from the urban development action grants account to this head under Public Law 101-144 shall include all unobligated balances available at the end of fiscal year 1989: *Provided,* That such unobligated balances shall be made available for purposes authorized by section 106 of the Housing and Community Development Act of 1974: *Provided further,* That those amounts that are required to fund urban development action grant projects which have received preliminary approval in accordance with regulations promulgated by the Department of Housing and Urban Development shall not be transferred: *Provided further,* That the Secretary of Housing and Urban Development shall withhold from the amount subject to transfer such funds as may be necessary to comply with orders of United States Courts which direct the Secretary to set aside funds for possible future approval of grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301).

Of the amount that otherwise would be available under this head under Public Law 101-144 for technical assistance activities to be allocated at the discretion of the Secretary, under section 107(b)(4) of the Housing and Community Development Act of 1974, $14,000,000 shall be made available under section 106 of such Act.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 139, No. 140, and No. 142 and "nay" on rollcall No. 141.

Mr. BARTLETT. Mr. Speaker, I oppose the amendment and ask for time.

The SPEAKER pro tempore. Is the gentleman from New York [Mr. GREEN] opposed to the motion?

Mr. GREEN. Mr. Speaker, I am not.

The SPEAKER pro tempore. In that event, the Chair yields time, as follows: the gentleman from Mississippi [Mr. WHITTEN] will be allocated 20 minutes, the gentleman from New York [Mr. GREEN] will be allocated 20 minutes, and the gentleman from Texas [Mr. BARTLETT] will be allocated 20 minutes.

Mr. WHITTEN. Mr. Speaker, I yield 15 minutes to the gentleman from Michigan [Mr. TRAXLER].

The SPEAKER pro tempore. Without objection, the gentleman from Michigan will control 15 of the 20 minutes allotted to the gentleman from Mississippi [Mr. WHITTEN].

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BARTLETT] is recognized for 20 minutes.

Mr. BARTLETT. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in very strong opposition to the Senate amendment No. 124.

Mr. Speaker, I want to note for the House that this sum, $38 million of expenditures, these 37 special purpose projects that are designated by name, rank, serial number, Member of Congress representing them and specific entity that receives them, that this is not the largest bit of pork barrel that this Congress has seen this session, or perhaps even on this bill. It is perhaps not the largest or the longest number, but what this represents, this list, is the worst type of special interest pork barrel this Congress can adjust.

Mr. Speaker, it is not easy to stand here and to oppose the Committee on Appropriations, and I would say I commend both the gentleman from Michigan [Mr. TRAXLER], who is a subcommittee chairman, and the gentleman from New York [Mr. GREEN], the ranking Republican, and the gentleman from Mississippi [Mr. WHITTEN], the chairman of the Committee on Appropriations. I commend them for their work.

□ 1740

I think, by and large, they have struggled hard to bring us a bill they wish us to pass, but I would suggest that these 37 individual projects that have been turned down by every competitive process that they have ever been put through brings shame on the conference report, and if we pass Senate amendment No. 124 and if the floor of the House adopts these 37 individual projects by name without competition, without authorization for the underlying fund, then I would suggest that that would bring shame on this Congress as a whole.

This has been a long debate, and this is the third time we have brought it and seen it on the floor of the House. I hope to goodness that it is the last.

I want to try to put some of the issues in clarification. The first is that I am not, and no one, as far as I know, is against any of these individual projects. So far as I know, they are good projects, but they have not been competed. Oh, indeed, some have been competed, some have applied in competition against other good projects and lost, not been funded, because someone else's project was better. Some have not been competed at all.

I would suggest that the House at this point needs to put the process behind us and go to the substance.

Let me begin with a discussion of where this money came from for these 37 projects. The House, in the House appropriations report, sent to conference on page 53 of the conference report, sent to conference $11 million for urban homesteading. What we came back with was the $11 million for urban homesteading that the House put in deleted that would have provided several thousand young families with the only opportunity they will ever have to buy a home; the $11 million was deleted, and in its place came $30 million of special-interest items, by Members of Congress and by specific district.

I want to tell the Members what that homesteading money would have gone to. The fact is that the Federal Government, through urban homesteading, can purchase one house for every $18,000 and place a low-income family in that house who otherwise would never own a home; 95 percent of those families make less than $26,000

a year. A quarter of them make less than $17,000 a year.

Mr. Speaker, the extraneous material I will enter into the RECORD at this point is a list of seven such families from Lubbock, TX, last year, including Josephine Davila. She had been paying $430 a month in rent, and under the urban homesteading program, which under their conference report would be deleted for additional funding, she will now pay $280 per month in a mortgage for her own home. She is a single head of household with four children, and she makes less than $17,000 per year.

Now, lest you ever think that it is a free ride, lest you ever think that the Salisbury, NC, collapsing utility company repair does not cost anyone anything, I would suggest that it will cost people like Josephine Davila a chance for her home.

The list follows:

CITY OF LUBBOCK 1989–90 URBAN HOMESTEADING PROGRAM PARTICIPANTS

Homesteader	Property address	Cost of property	Previous housing expense	Type of rehab assist	312 loan amount	Current housing expense	Head of household	Family size	Children	Race	Income
Rachel Rodriguez	2307 29th St	24,435.00	$375.00	312	29,500	$243.00	F	S	1	H	[1] L
Sharon Denney	2315 28th St	17,100.00	150.00	Self-help	N/A	155.00	F	S	1	A	L
Joe and Mary Lou Hernandez	2622 1st Pl	17,325.00	50.00	312	21,900	210.00	M	L	3	H	L
Myrtle Mannix	1605 23d St	13,680.00	245.00	312	22,850	196.00	F	S	0	B	L
Jorge and Donna Arredondo	1608 24th St	13,050.00	185.00	312	22,050	225.00	M	S	1	H	L
Josephine Davila	2108 30th St	21,600.00	430.00	312	33,500	281.00	F	L	4	H	[2] VL
Alice Segovia	2820 2d Pl	12,825.00	100.00	312	22,200	205.00	F	S	3	H	L

[1] Less $26,000.
[2] Less $1,717.
Note: Low Income—80 percent of median; very low income—50 percent of median; median income in Lubbock is $33,000 for a family of 4.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. I am happy to yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, just for clarification, is the gentleman saying to us that if these projects remain that the young lady that he mentioned, because of these projects, she is going to have to pay $200 more? Is that what the gentleman is saying?

Mr. BARTLETT. Reclaiming my time, no. I am suggesting that next year's Josephine Davila will not be able to own her home if we replace the $11 million of urban homesteading that we sent to the conference committee with the 37 projects that came back. I am suggesting that next year's Josephine Davila will, in fact, not own a home. I will not know her. The gentleman will not know her. But she will still be without a home.

Mr. GREEN. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, on this point, I cannot address the projects the gentleman has outlined in detail. I do have a battered wives' and children's program in Redlands that is in this package. I did not put it in the package. I do know that there is $500,000 for those wives and children that they are expecting to get that would be taken away by the gentleman's amendment, and I must tell him that I am unhappy about that. Battered wives and children have little to do with what the gentleman is talking about, so I am not going to judge the other programs, but I can tell the gentleman about this one.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it would be well for my colleagues to understand the history of this, because it is not like most of the other things we have been considering this afternoon. If it is like anything, it is like that Pennsylvania project in the DOD Appropriations subcommittee's section of the bill. We appropriated this money last year in the fiscal year 1990 VA-HUD-Independent Agencies appropriation bill. So this is not new money. It is not transferred from the Defense Department. It is not transferred from urban homesteading. It is not transferred from anywhere else. It was appropriated, and it remains appropriated under the fiscal year 1990 appropriation bill.

In that conference report, we then listed the projects on which that appropriated money was to be spent.

The gentleman from Texas objected to that. We had a healthy debate here on the floor, and the House, by a substantial margin, voted to appropriate the funds for those projects. Not only that, but later on in the year when the HUD reform bill came to the floor, the House once again specifically exempted these projects from the abolition of the Secretary's discretionary fund within the community development block grant.

At that time, in authorizing legislation, the House specifically approved of these projects and wanted them to go forward. At this point, we face exactly the same problems as our colleagues from Pennsylvania faced in the DOD section of this supplemental, where we have heard informally that the counsel of HUD is saying, "Yes, you appropriated the money. Yes, you authorized the money. But because you put the list in the conference report instead of in the appropriation bill language itself, we cannot go forward."

So just as we did in the case of the Pennsylvania project where this House, after hearing this story, went ahead with it, I think without a vote, so we included these items in the conference report so as to clear up that legal problem that the counsel at HUD is raising.

Let me mention a couple of other things that I think are not quite what the gentleman from Texas represents them to be. The fact of the matter is that overwhelmingly community development block grant dollars are not competitive dollars. Under the Community Development Block Grant Program, the majority of the money is allocated to local governments, and those local governments pick the projects that they want through a political process not very different from what is going on here today. Those projects then go down to the Department of Housing and Urban Development. The Department of Housing and Urban Development does not perform any sort of competitive review of those projects. Those projects are simply reviewed for legal sufficiency, and if the application is legally sufficient, they are then approved.

The result is that, like these projects, the overwhelming bulk of the projects that are funded under the Community Development Block Grant Program are not competitive projects.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, the gentleman has twice as much time, so I thank the gentleman.

Mr. Speaker, I think the gentleman is just simply factually incorrect. The community development block grant funds are, in fact, competitively bid through the city governments, through a process that is dictated by law.

Mr. GREEN. I reclaim my time. There is no requirement for a competitive bidding process in the Community Development Block Grant Program. There is a requirement for public hearings. There is a requirement for

community participation, but in the end, the projects are those approved through the normal municipal process. In my hometown, which consumes a fair amount of the community development block grant dollars, in essence it has been folded into our regular capital budget process, and I doubt that there is one community in a hundred that has any sort of competitive bidding or peer review or that kind of process in developing its Community Development Block Grant Program.

Mr. BARTLETT. If the gentleman will yield just briefly again, I think that the gentleman would agree that each local government is required to weigh the relative merits of each project one against another.

Mr. GREEN. To reclaim my time, I know of no competitive process that is imposed on the municipalities. That weighing is done through their political processes just as we have weighed the merits of projects through our political processes and included them or not included them, so that the argument that community development block grant funds are generally competitively bid is simply not true.

□ 1750

In short, I think this is a very simple case. These funds were appropriated last year. The authorizing legislation that came through after the appropriation specifically said these projects could go forward, so we have authorizing legislation. All we have is the concern at this time of HUD's counsel that they want the projects spelled out in an appropriations bill and not just in the conference report, even though the money has already been appropriated for them. We are obligating HUD's counsel by including them. I hope that that will end the matter.

I do not know why we have to be put through this process still a third time when the House has twice approved these.

Mr. TRAXLER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Tennessee [Mrs. LLOYD]. Before I do that, I would like to say how much I appreciate the effort that the gentlewoman put in to describe to the committee the need for the $225,000 for the Chattanooga, TN, homeless shelter for women and children. The gentlewoman personally made an eloquently presentation and plea.

We had discussed it at some length, and it was through the efforts of the gentlewoman from Tennessee that that money is in this bill.

Mrs. LLOYD. Mr. Speaker, I want to thank the gentleman from Michigan [Mr. TRAXLER] for his help, for his concern about the needs of communities across this country in face of much criticism.

Mr. Speaker, a lot has been said about the merits of these projects. I would like to tell you about two of these projects in Chattanooga, TN. One is to provide funding for a joint program where communities, the private sector, and public sector, to provide relief for those in substandard housing.

The project Room in the Inn certainly merits our support. I would say to my colleagues, this is to provide a permanent shelter for women, some of them with children, some of them pregnant. They go from church to church on a rotating basis with their bags, their plastic bags, without a permanent day shelter that they need.

I would also like to tell Members we are not as successful with our CDBG's as we would like to be. This very worthy project has been trying for a CDBG for a long time. Why can they not get their CDBG? They do not have a roof over their head.

Mr. Speaker, this may be pork barrel to some Members on the other side of the aisle, but let me tell you, this is humane, it is just, and it is right for those homeless women that I know need the help.

I do urge my colleagues to support this amendment. It is right. Again I thank the gentleman from Michigan [Mr. TRAXLER] for his help.

Mr. TRAXLER. Mr. Speaker, let me just make a couple of observations. We have been over this ground before so I want to be very brief.

First, I know you will be pleased to know that there are 40 projects. Their cost is $28 million, not $38 million.

Members will also be pleased to know that the two transfers that are contained in the committee amendment do not go for these special projects. Indeed, the one transfer, the 1989 unobligated balance in the UDAG program, approximately $11 million, goes to section 106, the entitlement part of the CDBG program.

The other transfer, $14 million from technical assistance, also goes to section 106, which is the entitlement part of the CDBG program.

Now, listen to this. This is very important, because some people are saying that the money for these projects is coming out of homeless programs or something of that sort, and that is just not correct.

The Secretary, by letter dated May 7, asked the committee to transfer UDAG and technical assistance funds to the regular entitlement part of the CDBG program to make up for funding lost due to sequestration and a shortfall in the transfer of 1990 UDAG recaptures.

Let me tell you what he said. This is from the Secretary, a letter of May 7.

To make up this shortfall, the Department proposes that the funds be made available out of the Technical Assistance Fund [TA] Fund. Under normal circumstances, a shortfall in CDBG funding would be spread *pro rata* among all of the various categories within the account. In fact, the Department understands that the committee may consider taking this approach. The Department would be opposed to such a measure. If the Department were to make up the shortfall through pro rata reductions to the entitlement and State programs, it would require recapturing funds previously allocated to the grantees. This would occur in addition to reductions already made to reflect Gramm-Rudman-Hollings sequestrations and the $28.3 million already withheld from the CDBG grantees. The Department believes further reduction in funds to the States and the cities is harmful and unnecessary. As an alternative, the committee may want to consider using the $11.4 million in 1989 UDAG carryover funds with $1.5 million in reprogrammed TA funds to make up the shortfall.

Frankly, that is exactly what we did at the request of the Secretary.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Texas.

Mr. BARTLETT. I am quite unclear on what the gentleman from Michigan [Mr. TRAXLER] thinks or is saying that the letter means. I have a letter here from Secretary Kemp and talked with his office this morning that says he, first, opposes these 37 programs. Second, he hopes that the House turns down Amendment No. 124 that we are considering. Third, he wrote a letter last October in which he said in part, and this was to BARBARA MIKULSKI, the chairman of the subcommittee in the other body, he says in part, "I seek the conferees consideration in its funding priorities, as identified in this letter."

In his letter, he discusses these 37 projects.

Further, the Secretary has the current discretion to fund these projects if he believes they are worthwhile and chooses not to.

Mr. TRAXLER. Mr. Speaker, reclaiming my time, I appreciate that. Could the gentleman from Texas [Mr. BARTLETT] see that I get a copy of that letter? It is rather surprising to me. We look forward to it with some eagerness.

Mr. Speaker, let me say that these projects, of course, have been before us three times. This is the third time. In fact, the projects are now authorized, as the gentleman from Texas [Mr. BARTLETT] knows, by his Committee on Banking, Finance and Urban Affairs. We are very appreciative of that fact, that in the HUD reform bill they made specific reference, saving them for repeal.

I would refer Members to section 105 of Public Law 101-235 of December of last year. It is kind of nice that we got the cooperation of the Committee on Banking, Finance and Urban Affairs. We are very appreciative of the fact that you did not repeal these projects. You specifically exempted them from the repeal. We appreciate that sup-

port. With your good assistance, we put the money in for them.

Mr. BARTLETT. Mr. Speaker, would the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, just for purposes of clarification, so we are debating the same thing, is it the contention of the gentleman from Michigan [Mr. TRAXLER] that these projects are authorized, and, if so, then what are we doing with amendment No. 124 on the floor?

Mr. TRAXLER. Mr. Speaker, reclaiming my time, what we are doing with 124 is we are funding them in addition to the authorization. The authorization provides for funding. We put the money in an account. Then what we did was, in the report of last year accompanying the money, we said spend it in these areas. We put in a whole lot of areas, not just these, where we gave direction to the Secretary as to what to do.

What then took place was the Secretary said, "I have some reservations about this, and since the report is not law, we are not going to do that."

Now, what then subsequently happended was that the Committee on Banking, Finance and Urban Affairs, in repealing the discretionary account in the CDBG program, said we are not repealing the grants "referred to in House Report No. 101-297 pursuant to the amount appropriated for use under section 107 by the enactment of H.R. 2916, of the 101st Congress." We are grateful for that.

What you did there was you authorized these projects. You do not repeal them. They are there, and we are funding them.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I do appreciate the courtesy of the gentleman from Michigan [Mr. TRAXLER].

So if they are already authorized and they were already appropriated last year, then they are already appropriated and authorized. What are we doing?

Mr. TRAXLER. Mr. Speaker, reclaiming my time, the gentleman from Texas [Mr. BARTLETT] asked a question. Let me answer it. Very specifically, what occurred was the money was set in the fund. The authorization for it was in the report. There is a lump sum in the Secretary's discretionary fund that included technical assistance as well. There were several things there, including these.

Now, what then happened was that the Secretary said, "No, we are not going to do that." You then saved the projects, for which I told the gentleman from Texas [Mr. BARTLETT] three times today I am very grateful and I want to say it again, because I am.

What we are doing now is we are saying Mr. Secretary, use that money and fund these projects.

Mr. BARTLETT. Mr. Speaker, if the gentleman will yield one last time?

Mr. TRAXLER. I yield to the gentleman from Texas.

Mr. BARTLETT. So, as I understand it, in the opinion of the gentleman from Michigan [Mr. TRAXLER], they are authorized and they are appropriated at the discretion of the Secretary, and this committee report then is instructing the Secretary to spend it this way.

□ 1800

Mr. TRAXLER. No. sir. You authorized them. There was a pot of money, and what we are saying now is out of that pot of money you are to spend it on these authorized projects.

Mr. BARTLETT. Are to spend it, if the gentleman will yield, you are to spend it?

Mr. TRAXLER. Yes, absolutely correct.

Mr. BARTLETT. So the change is now we are saying, or the gentleman is saying that the Secretary has to spend it on this project?

Mr. TRAXLER. The gentleman is correct.

Mr. BARTLETT. I thank the gentleman for his answer.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume to engage in a brief colloquy with the distinguished chairman of the subcommittee.

Mr. TRAXLER. If the gentleman will yield, I am happy to engage in a colloquy with the distinguished gentleman from New York, the ranking minority member of the subcommittee.

Mr. GREEN. In the amendment under consideration, is it your understanding that the amount for the mutual housing association of New York may be used for the purchase of any manner of residential property, should they so choose?

Mr. TRAXLER. The gentleman is correct, and that is my understanding.

Mr. GREEN. I thank the chairman.

Mr. BARTLETT. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. WYLIE], the ranking Republican on the authorizing committee.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of the gentleman from Texas in opposition to amendment No. 124 reported in technical disagreement. Mr. Speaker, this is certainly one instance in which the House should reject the Senate amendment.

The gentleman from Texas [Mr GONZALEZ], who is the chairman of the full Committee on Banking, Finance and Urban Affairs, would be here on the floor and speak likewise except he is conducting a hearing, and he has authorized me to say that he would urge a no vote on this motion to recede and concur.

Mr. Speaker, I do not intend to go into any great detail about amendment No. 124. I simply want to make one thing clear. If we have learned anything about HUD in the last year, it is, Mr. Speaker, that discretionary funds are primary candidates for programmatic waste, fraud and abuse. For that reason, the Congress and the administration acting jointly in the HUD Reform Act of 1990 terminated the Secretary's discretionary fund.

The Senate amendment proposes funding of 41 earmarked projects grandfathered under the HUD reform bill.

I appreciate the position of the gentlewoman from Tennessee [Mrs. LLOYD] and her desire to get homeless funding for her district. But we will have over $1 billion in the authorization bill for homeless projects, and it seems to me that we all ought to be on the same competitive basis for these funds.

There are two strong reasons why Members should vote against the motion to recede to the Senate on this amendment. First, the HUD Reform Act, by virtually unanimous opinion, was intended to put a stop to influence peddling and misuse of funds at HUD. If we, therefore, mandated that HUD get its own house in order, we in the Congress should set an example and stop the practice of doling out discretionary funds to projects with totally unproven merit.

Second, this practice is made all the more disappointing, even shameful in the context of a dire emergency supplemental appropriation bill. I dare say that these 41 projects do not constitute anything resembling a dire emergency. Library/recreation centers, urban data bases and performing arts centers are laudable, but hardly dire needs when compared to the needs of peoples of the emerging democracies in Panama and Nicaragua. There is absolutely no justification for enacting emergency Federal funds for these reasons, Mr. Speaker.

The gentleman from Texas [Mr. GONZALEZ] and I along with Mrs. ROUKEMA, Mr. BARNARD, Mr. MORRISON, Mr. BARTLETT, and Mr. SHAYS signed a letter which said, "asking us to fund these special projects as part of a dire, emergency supplemental is beyond the bounds of reason." There is no justification for enacting this in this emergency piece of legislation, and I urge Members to use their good judgment and oppose the motion to recede and concur with the Senate amendment.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume. I should like to make two brief points with respect to the remarks of the distinguished ranking minority member

of the Banking, Finance and Urban Affairs Committee.

First of all, I think we should very clearly understand the difference between these projects and the projects that were abused at HUD. Those were housing projects where funds went to private developers, and those private developers employed expensive consultants, who happened to have political access to HUD and who were paid very highly for that access. There is no showing of that in the case of any of these projects, where all of the money goes to municipalities rather than private developers.

Second, I think we have thrown the words "dire emergency" around here today without much understanding of where that language comes from. That language comes from a "summit agreement" which provides certain rules as to how new monies can be appropriated in supplemental appropriation bills. Those rules do not apply to amendment 124 at all simply because this is not new money. It is already appropriated money, so it is not subject to those summit requirements, and the thought that this is subject to the dire emergency provisions of the summit is just totally incorrect.

So I think that it is just wrong to lump this kind of activity, grants to municipalities, into the kind of housing problems that HUD had, and it is wrong to confuse this situation with the situations under the summit agreements where a dire emergency is required for a supplemental appropriation.

Mr. Speaker, I yield 2 minutes to my colleague on the subcommittee, the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, I strongly urge the approval of the motion of the gentleman from Mississippi [Mr. WHITTEN], the distinguished chairman of the full Appropriations Committee. Let me make four very brief points.

First, as has been pointed out, these projects have essentially been approved by this body, by this House by a vote twice before, once by a direct vote by the same gentleman from Texas who is here today, and once as part of the HUD reform bill that was approved by this body.

Second, these are good projects. These are projects for the homeless. They are projects for battered women, they are projects for infant mortality, they are projects for infrastructure in the poorest parts of our country and the poorest parts of our cities. They are good projects.

Third, this money, as has been pointed out by the distinguished ranking member, the gentleman from New York [Mr. GREEN] goes not to developers, not to individuals, but to communities for development of these very important projects.

Finally, Mr. Speaker, let me just say that the repository of all wisdom is not in some faceless bureaucrat downtown. I suggest that Members of this body have priorities for their own districts that they can judge just as well as someone else, and I very strongly suggest that we approve the motion of the gentleman from Mississippi.

Mr. BARTLETT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding the time to me.

Mr. Speaker, my good friend from New York made a statement a minute ago that I just beg to differ with.

Of course this is the same kind of process that went on at HUD when they were politically selecting projects in these various cities. It is exactly the same process. It is just done in a different venue.

It is precisely the thing we are holding hearings about now in the Congress that we said was wrong, because if we take a look at the list of where all of these meritorious projects went, 28 of the 37 go to either people who were in the conference, people who serve on the subcommittee or serve on the committee.

That is all well and good, but let us not kid ourselves. These were not picked because they are the most meritorious projects in the country. They were picked because people who were sitting in the room had the political clout to get something in that they wanted, and that is all that it is.

That is exactly the process that was going on down at HUD. We had the Secretary sitting there and people coming in who happened to have clout with the Secretary, who was apportioning projects to them. If you had the political clout, you got the project. If you did not have the political clout, you did not get the project. That is exactly what is happening here. If you have the political clout you get the project. If you do not have the political clout, you do not get the project.

So let us not kid ourselves. If it is corrupt at HUD, it is corrupt here, and we ought to stop it, and the way to stop it is by voting tonight to take these projects out of this bill. We cannot allow a process to move forward and kid ourselves that these things only go on in the administrative branch. It is going on right here tonight. These 41 projects or 37 projects simply do not merit the consideration of the House of Representatives given what we know has already gone on at HUD over the last several years.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, is my good friend suggesting that I ought not to put the language in a bill this year that he has requested to forgive the indebtedness on that urban renewal project? You would not want me to do that. I want to help you.

Mr. WALKER. That does not cost the Government a dime, and the gentleman knows that.

Mr. TRAXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say to my good friend from Pennsylvania that these matters come about because people frequently ask other Members of this Congress, in committee, on the floor, in conferences, out of conferences, and talk with them and communicate with them about what the needs are of their district and of this Nation.

□ 1810

As a consequence of those kinds of conversations, oftentimes legislation becomes enacted. That is about how this came to occur. There are no apoligies for it; it is part of the normal legislative process, the appropriations process.

They are all good projects. No one disputes that, no one disputes that. Many people visited with us, and, out of concern for them, we included in the bill many of the requests we had. We were not able to honor all of them, I regret to tell you. We will try harder next time.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

First of all, obviously when we forgive repayment of debts owed the Federal Government, it costs the Federal Government the amount of money that was due it. I think we all understand that. The gentleman from Pennsylvania is not asking anything unusual or improper. We have done it for many other communities, and I should not be surprised if we should do it for him.

But, therefore, I do not think the gentleman from Pennsylvania should impugn the morality of the process by which these other projects that Members are interested in are funded.

Last year, the gentleman from Texas [Mr. BARTLETT] came to us and asked us for some funding so we could do an environmental study for a VA cemetery that would serve his constituents or soon-to-be-deceased constituents, and we thought there was merit in his argument, and we funded the request of the gentleman for this special project that happened to come from the Department of Veterans Affairs, not HUD. But we did it.

So I do not see why people get very holy when it is other Members' projects, but somehow their projects do not cost anything and are wonderful projects and great national goods.

I think we ought to have a little common sense about this. We have approved these projects twice. I do not

know why we keep repeating the process.

Mr. PURCELL. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Michigan [Mr. PURCELL].

Mr. PURCELL. I thank the gentleman for yielding.

You know, we have not authorized fully and signed into law the super collider for Texas. And as a member of the DOE appropriations committee, I am beginning to question whether we should appropriate that since it has not been authorized. You are talking 8, 9, 10 billion bucks for one project.

Looking at defense and the space program, I am a little disappointed that we are spending an hour here on some very small projects that are policy-driven by elected Members of Congress and not looking at some of the bigger pictures, particularly in a State that needs some additional funding for a bailout for S&L's.

So I think we ought to refocus our national priorities here and concentrate congressional time on some of the bigger issues.

Mr. BARTLETT. Mr. Speaker, I yield myself such time as I may consume to respond briefly to the last two comments.

I guess I have to say I am constantly amazed at the sensitivities that Members have when they bring projects like this out, with some good, some bad, but have not been competed, and then compare them to projects that have been competed.

I think what this Congress needs to learn how to do is to consider these policy matters on their policies.

The fact is there is not a Member of this body who would not agree with the stipulation that we ought to fund—we ought to consider policy based on policy. We ought to provide funding based on the amount of funding that we could afford for that program, and then we ought to compete that funding.

But most I hear some Members contend that the funding competition sometimes does not favor their particular projects, and perhaps they have some good reason. But I would suggest we need to keep this on the project.

I did take note of the VA cemetery. The fact is on that particular cemetery the Veterans' Administration has considered the need for cemeteries and concluded that there ought to be one in north Texas. The Veterans' Committee furthermore said to me and other Congressmen from north Texas that in fact all of the money gets soaked up by designated cemeteries in the Appropriations Committee. So they said, "You will have to also convince the Appropriations Committee."

But it was considered on its merits, and it was reviewed by the Veterans' Administration.

The superconducting super collider was competed by every State in this country who competed for that project.

The fact is that the Chattanooga, TN, homeless shelter may well be a wonderful homeless shelter, and if it is, we spend $1 billion a year in the McKinney homeless grant program to compete for those very projects. I think that is the process that we ought to use.

Mr. Speaker, if I still have time, I yield 2 minutes to the gentleman from Arizona.

Mr. KYL. I thank the gentleman for yielding.

Mr. Speaker, it was earlier said in reference to another amendment that this body is hypocritical. I daresay that is true. I think the American people would view us as hypocritical anyway, because we say that what is good for the executive branch is not good for the legislative branch.

I have to tell you I am saddened. I spent hundreds of hours sitting on Mr. LANTOS' subcommittee investigating the so-called HUD scandal. By the way, CDBG grants were a part of what we looked at, and there were abuses of those CDBG grant programs.

It is true that those programs are not put out to bid, that is to say there is no requirement for bidding. That is the problem. Political influence can then be used, was used in some of those projects. And I daresay political influence is the reason for the majority of these projects coming before us.

Are they bad projects? Undoubtedly not. There are undoubtedly a lot of good projects here.

By the way, most of the projects that came before our HUD subcommittee were good projects. The problem is they were competing for scarce resources. Our committee concluded that merit, not political influence, should be the deciding factor as to which projects were funded.

That is not the process that was used for the projects that are in this bill.

As our colleague from Pennsylvania said, and I know what he meant, we have priorities for our own districts and should exercise our discretion rather than allow faceless bureaucrats to do so. I would submit that it is faceless bureaucrats who ought to be making these decisions, rather than those of us who have special interests and who have the ability to use our political clout to get funding for those projects in our own districts.

It is not fair to everybody else in the Congress. These things ought to be based on merit.

So I come back to the proposition that the gentleman from Ohio [Mr. WYLIE] point out; they both, both he and Mr. GONZALEZ signed the letter indicating that these projects should not go forward. It would be hypocritical for us to say that as far as the executive branch is concerned they must base their decisions on merit but we can base our decisions on politics.

I think it is wrong and we should vote "no."

Mr. TRAXLER. Mr. Speaker, May I ask how much time I have remaining?

The SPEAKER pro tempore (Mr. Bosco). The gentleman from Michigan [Mr. TRAXLER] has 4 minutes remaining.

Mr. TRAXLER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. HEFNER], a member of the committee.

Mr. HEFNER. I think it is a little bit unfortunate that we get into probably what amounts to a political argument.

Mr. Speaker, you talk about the super collider, we were in the running for the super collider. We did not get it. But members of the North Carolina delegation voted for the funding for it.

I guess if you really look real close, you would be led to believe that it was not entirely a level playing field on the super collider. The deck was stacked just a little bit against us. But we understand how that is played.

Also, if you talk about what would comprise an urgent supplemental, I would suspect that if I went to a Concord School or Rodell School in North Carolina and I asked them if it was an urgent supplemental that we appropriate money for Panama and Nicaragua, they would not consider that a real urgent supplemental for my district.

But nevertheless there are good projects here. It seems to me this is the third time we have been over this ground and been over this ground and been over this ground, and it seems to me it is time to put it to rest.

Now, I am chairman of the Subcommittee on Military Construction, and there is not a day passes that somebody does not come to me and wants to help him with an armory, help keep from getting the bases closed or help to get a day care center. We accommodate people. We try to do it on the basis of where we feel the need is there. I have looked these projects over. I do not see any boondoggles. You certainly cannot put the same criteria to it as you talked about at HUD. Nobody is going to make a lot of money off of these projects like that did at HUD.

So you cannot put it in the same category as that. I think it is time we put this to rest. We have been over it once, we have been over it twice, three times and sold; let us pass this and get on to the other funding.

Mr. BARTLETT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL].

□ 1820

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding time to me.

This is a rather difficult bill for an outsider to try to figure out, but as I said several times today, when I look at the $1.4 billion in discretional funding and realize the President talked about $250 million, we know that a lot of things are happening, and that amount is swelling greatly.

We talked about the fact that this is the third time, apparently, we have debated this, and there must be some reason it keeps coming back like a bad penny. We should be talking about dire supplemental appropriations. We are talking about appropriations where Gramm-Rudman does not control, and that is one big reason, of course, why we have this swelling deficit and the increasing debt in this country of ours—the Federal debt.

It is not new money, as some Member said. But money is money, and it needs an appropriation. The reason I guess, is because as I understand it, we have a scandal-plagued discretionary fund. Last year we voted to appropriate these projects, and the Secretary did not want them. We gave them authority, and suggested, I gather not in the statute but in the record, and he said he did not want to exercise that authority. Now we are coming back, and we are saying to the Secretary, like it or not, you have to come through and have to order this.

This is no longer a discretionary fund. It is a mandate from Congress or certain people within Congress. It is not a dire emergency, obviously. It is not even relevant, basically, to the Department of Housing and Urban Development, funding that normally would be involved, and it is something that, as I indicated, the Secretary says he does not want. Apparently, we will eliminate $11 million for the urban homestead for low income, is what this started out as being.

Of course, what it does is ignore the fact that we are going to have to give to the taxpayer of this country about a $300 billion added debt this year. One of these days we have simply got to reform and become serious about the supplemental appropriations process.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume, and I should like to say to the gentleman from Illinois [Mr. FAWELL] that I have no quarrel with his comments on the supplemental appropriation process in general.

I should simply point out to him that this is not new money at all. It was money that was appropriated last year. It was authorized by the authorizing committee through a hold harmless, when the HUD Reform Act was passed. The only reason we are here today is that the HUD counsel—as happened in the case of the DOD general counsel in the Pennsylvania projects we discussed earlier—even though the money was appropriated, said he wanted the list of projects in bill language rather than just in conference report language. So we are accommodating that legal requirement of the HUD counsel, rather than filing a bunch of impoundment lawsuits in order to get the job done.

We voted on those projects once, and the House approved them 250 to 170. It was unanimously passed in the HUD Reform Act, and I thank my colleagues on the Committee on Banking, Finance and Urban Affairs for that hold harmless.

We are now simply trying to meet a technical objection of the HUD counsel, and I hope our colleagues will support us in this today and vote yes.

Mr. BARTLETT. Mr. Speaker, I yield myself the remaining 6 minutes.

I want to take a few minutes at the close of the debate to try to put the debate into perspective of a number of things that have been said during the debate. First, and we all know it, there is no free lunch on appropriations. Under Gramm-Rudman, every dollar that we fund one project for, whatever good reasons or bad reasons we have, it takes away from someone else.

In this case, that money takes away, specifically, from urban homesteading, in which low-income families would otherwise be able to own a home at a cost of no more than $18,000 per home to the Government.

Second, the process, it is true, Mr. Speaker, that this is the third time around. It is the third time around because last year the authorizing committee, the Committee on Banking, Finance and Urban Affairs, chose to deauthorize the entire program from which this is funded, the Secretary's discretionary grant. In doing that, we grandfathered these 37 projects at the Secretary's discretion. These are not legal objections or technical objections. In fact, we said that after the Secretary reviews these projects, if he believes they have more merit than spending the money somewhere else at his discretion. The fact is, the Secretary does not believe they have those merits. Whatever review he gave, he concluded not to fund them on their merits. So it is the third time around not because I enjoy coming up here and going against the Committee on Appropriations and all that implies, but because the Committee on Appropriations is now seeking to instruct, to instruct HUD to do what it would otherwise not to choose to do on the merits.

Third, there is a difference. In fact, we said there is no difference between the politics of these projects and the politics of the HUD scandal. In fact, there is no difference. We do not know whether any or all of this money goes to private developers. No one has done a review on the merits. Some of these have not even been applied for with an application filled out, Mr. Speaker. The fact is, as perhaps in Ottumwa, IA, the $2 million going for site clearance could well be going to a private developer, but no one knows because there is no application, no competitive bid process, no hearing, no markup, no authorizing legislation. Perhaps the $1.2 million in downtown revitalization in Charleston, SC, is going to a private developer. Perhaps it is going to the library. Who knows. There has been no review of these projects on the merit.

The other part of this is what happens with these projects, the reason that they are funded, are the same reasons that the scandal hit HUD in the first place, because they are funded not on what we know, not on what we can do to help someone, but who we know. And what do these things have in common? All these projects knew someone on the conference committee or on the subcommittee of the Committee on Appropriations, or perhaps someone in leadership. They do not have merit in common. Some may be more meritorious. The Chattanooga, TN, homeless shelter I am sure is a wonderful project, but may not be better or worse than the Nashville homeless shelter or the Phoenix homeless shelter or the New York City homeless shelter.

We have heard, Mr. Speaker, a lot of objections to my proposal that we defeat amendment No. 124. Let me take some of those objections one at a time. The first objection, well, it is a good project, we hear. I would respond to that and say, how do we know if it is such a good project, and that good project can and ought to apply for the money under the ordinary course of events. If it is such a worthwhile set of projects, it seems to be middlin' curious that the one thing all these projects have in common is knowing someone on the conference committee. The other objection we hear, this is not much money, $400,000 for this, $1.2 million for that, $3 million for that. It is only a small amount of money, just a little bit. Eighteen thousand dollars per home for low-income family, a single head of household, single head of household with three children is not much money, but it is more money than she has. If we want to continue to go down the road of pork barrel projects, the urban homesteading types of programs, or the WIC programs, or the Head Start type of programs will automatically be defunded under the Gramm-Rudman process that we have here today.

In fact, I will enter into the RECORD as extraneous material at this point what I have prepared, a list of the number of families that would otherwise receive their home, of low-income families who would otherwise receive a home if this project were not funded.

Amount, project and number of families

$510,000 for Dayton, WA downtown revitalization, 28.

$400,000 for Salisbury, NC collapsing utility tunnel, 22.

$500,000 for West Valley City, UT infrastructure, earmarked in bill language in Amendment No. 39, 28.

$3,000,000 for Roxborough/Logan, PA ground subsidence, 167.

$750,000 for district heating and cooling, 42.

$450,000 for integrated urban data based in seven cities, 25.

$186,000 for Newport, WA courthouse handicapped access, 10.

$390,000 for Mackinac Island, MI library/recreation center, 22.

$270,000 for Otsego County, MI regional education center, 15.

$2,000,000 for Ottumwa, IA site clearance, 111.

$1,200,000 for Hawaiian home lands infrastructure, earmarked in bill language in Amendment No. 38, 67.

$500,000 for New Orleans Covenant House, 28.

$1,200,000 for Newark, NJ performing arts center, 67.

$200,000 for the National Association for the Southern Poor, 11.

$1,000,000 for Provo, UT and Orem, UT revolving fund demonstration, 56.

$320,000 for Omaha, NE infant mortality project, 18.

$225,000 for Chattanooga, TN homeless shelter, 13.

$800,000 for Chattanooga, TN low income housing demonstration, 44.

$1,200,000 for Charleston, SC downtown revitalization, 67.

$1,200,000 for Burlington, VT Northgate apartments, 67.

$180,000 for Leake County, MS bridge project, 10.

$1,300,000 for Hawaiian sugar mills job retention, 72.

$249,000 for Rolling Fork, MS community hospital upgrading, 14.

$1,250,000 for Omaha, NE center for the disabled, 69.

$350,000 for Seattle, WA housing authority drug elimination, 19.

$16,000 for Parshall, ND and New Town, ND for municipal services to Indian housing, earmarked in bill language in Amendment No. 39, 1.

$440,000 for downtown economic revitalization in Holyoke, MA, 24.

$600,000 for the neighborhood challenge grant revolving fund in Toledo, OH, 33.

$1,025,000 for the Mutual Housing Association of New York City for the purchase of a private residential building, 57.

$600,000 for the low- and moderate-income housing development program in Saginaw, MI, 33.

$800,000 for the Cuyahoga Metropolitan Housing Authority for fighting drugs and improving security and maintenance in the Central Estates area on the east side of Cleveland, OH, 44.

$800,000 for economic revitalization activities through the East Texas Human Development Corporation in Marshall, TX, 44.

$990,000 for Middle Grounds Park and waterfront, improvements, bridge lighting, and property acquisition in Bay City, MI, 55.

$500,000 for site planning and land acquisition for Bethlehem House in Highland, CA, 28.

$250,000 for renovation of transitional housing facilities owned and operated by Lazarus House in Lawrence, MA, 14.

$970,000 for constructing, furnishing and equipping the job training and retraining center in Saginaw, MI, 54.

$500,000 for acquisition, clearance and relocation activities in the Norristown, PA redevelopment area, 28.

$550,000 for equipment and landscaping to deter crime and aid police surveillance at Kemp Street Park in Mount Clemens, MI, 31.

$529,000 for a facility for housing for homeless families and assisting recovering substance abusers in Forth Worth, TX, 29.

$200,000 for a technical assistance grant to Michigan State University for an urban affairs community development program, 11.

The above list comprises $25.9 million and 1,440 families.

In the case of Dayton, WA, downtown revitalization, Mr. Speaker, we could provide a home for 28 urban homesteading families. In the case of Newark, NJ Performing Arts Center we could provide homes for 67 low-income families who never, otherwise, will buy a home. That is the dedication that we have to make. Today in the case of the Bethlehem House in Highland, CA, no doubt it is a good project, but it replaces 28 single heads of households who would otherwise be able to get out of some housing, to be able to get out of some apartments, and buy a home that they would own, close to jobs, close to education, a way to build a new life.

Last, Mr. Speaker, there is no emergency here. There is no dire urgency emergency. If we are to believe the subcommittee chairman is an honorable man, if, in fact, it has already been appropriated, then we do not need to appropriate again. If we believe the subcommittee chairman, and he is an honorable man, and if it is already authorized, we do not need to authorize again. This is pork in its purest form. These are honorable gentlemen, but it is a dishonorable act.

Mr. TRAXLER. Mr. Speaker, I yield myself such time as I may consume. The Constitution clearly places the responsibility for the appropriation of public funds on the Congress of the United States. Not the President, and not the Secretary of HUD nor any other Secretary.

□ 1830

My colleagues' responsibility under the Constitution of the United States of America is to appropriate public money, and that we are doing, and I ask for their support in that effort.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

Again, Mr. Speaker, the gentleman from Texas [Mr. BARTLETT] is trying to create an impression that somehow this money got taken from the Urban Homesteading Program. That is not true.

The fact of the matter is that this money was appropriated in the appropriation bill that was passed last year, and not a penny of it got transferred from any other program in the supplemental appropriation bill. It is true that we had hoped to find some money to transfer from other programs to the Urban Homesteading Program as this bill made its way throught the House. Unfortunately, between here and the conference the Secretary of HUD made it clear that the money which we had hoped to reprogram was not going to be available because there was a shortfall in the entitlement part of the Community Development Block Grant Program, and that is where it got put, not into these projects.

So, when the gentleman tells my colleagues that this money is coming from urban homesteading, that just is not the history of what happened here.

Second, Mr. Speaker, the gentleman talks about competing. But I get back to the fact that, even after the HUD Reform Act, community development block grants by and large do not get competed. No one at HUD compares the projects that New York City decides to fund with those that New York City decides not to fund. No one at HUD compares the projects that Chicago funds with those that New York City funds, and the projects they do not fund with those someone else funds or does not fund. There is no such competition at all, so there is nothing unusual as far as the Community Development Block Grant Program is concerned in this section of the supplemental appropriation bill.

Again, Mr. Speaker, the only reason we are here today at all is that the HUD counsel has raised some questions as to whether we should not list these projects in the bill itself instead of the way we did last year in the conference report. We are satisfying the HUD counsel's requirement, just as earlier we have satisfied the requirements of the Department of Defense counsel.

Vote "yes."

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take this time knowing folks are tired and ready to conclude. I think I should correct a whole lot of things being said about the Committee on Appropriations.

Certainly, Mr. Speaker, in my years as chairman of the Committee on Appropriations by election of my Democratic colleagues, our committee has been a bipartisan committee, and we have got a staff who are trained budget people who really select and fill their own vacancies. In busy times, we borrow folks from downtown, and when we have a vacancy, we listen to our staff as to who we recommend to fill that vacancy.

May I say that our committee with its 13 subcommittees, is open to all our colleagues and their constituents. Not

only that, but we have hearings, day, after day, after day, listening to our colleagues, many of those that are doing most of the talking today. I doubt that they have been before many of the subcommittees and asked for help or talked about the conditions in their area.

In the calendar year 1990, we had 424 colleagues to testify in person before our subcommittees. We had 132 statements filed with them. We received 4,525 letters. May I say that since 1934, when we started meeting local problems with national programs, our wealth has increased 41 times; since 1940, 36 times. May I say that we have done this even though we operate under a ceiling imposed by our colleagues in the Congress. Mr. Speaker, as soon as we can, the committee will meet this year and divide what they call section 302(b) allocation, a division between the various subcommittees of our fiscal year 1991 ceiling.

We welcome our colleagues to come before us and we seek their input. Mr. Speaker, the 435 Members represent their many districts, and I personally deplore this idea of charging anything that is done for our own country as pork barrel.

I have frequently said that if a project is for something where you can't see the Washington Monument, a whole lot of our friends call it pork barrel. It's not. It is looking after your own country, and may I say to you again that the fix we are in today is not from what you have spent on your own country. Can you imagine, with all the financial system problems that we have today, coming out and saying, "We're going to have no new starts. We're not going to look after our own country?"

Mr. Speaker, it is ridiculous. Our country is our wealth. Unfortunately, our paper money is getting where it will not buy much. We have a $3 trillion debt; a $2 trillion increase since 1981. Somebody said in a meeting I had down at the White House, "We're in a real serious situation now." They could have added, "Since Japan loaned us most recently $12 billion to get by and pay current operating expenses."

So, Mr. Speaker, we better look after our country. Now we have a committee here that does that, and those who are doing the most talking, come before the committee, and tell us what your problems are and give us a chance to help.

Mr. PAYNE of New Jersey. Mr. Speaker, I rise in strong support of the supplemental appropriations bill. I commend the distinguished chairman of the House Appropriations Committee, Chairman JAMIE WHITTEN, for the outstanding job he has done in crafting this measure to address important national priorities.

Mr. Speaker, I take issue with those who rush to pin the label "pork barrel" on every new construction project. In my opinion, our Nation is made stronger by sound investment in our local communities. Over the past decade, we have allocated billions of dollars for military expenditures. Surely, we can afford to enhance the quality of life in our local communities by funding worthy projects which will stimulate economic growth and development.

The $1.2 million approved for planning, design, and construction work for outdoor spaces throughout the Performing Arts Center in Newark would bring enormous benefits not only to the residents of the 10th Congressional District, but to visitors as well.

I would like to point out that this project is fully consistent with the primary objectives of the Community Development Block Grant Program, which benefits low- and moderate-income residents.

The city of Newark is one of the most economically distressed cities in the Nation; 72.5 percent of the city's residents are defined as low or moderate income by HUD. I do not think it is fair to label as pork barrel an effort to bring economic revitalization to a city like Newark.

The project is an excellent example of cooperation between government and private enterprise. The State of New Jersey has committed $20 million in financing from the Economic Development Authority, and the private sector has pledged over $33 million toward development of the first phase concert hall.

Residents of our city would benefit from the provision of urgently needed outdoor open space in a heavily congested urban center.

The Arts Center site is at the heart of the city's Urban Enterprise Zone, and will therefore help to increase the benefits that this program provides to the city.

An economic impact study prepared by the New Jersey Center for the Performing Arts Corp. in March 1990 estimated impressive benefits for the city of Newark, including 6,700 construction jobs in the city, and an additional 3,700 in the State; 380 new permanent jobs in Newark alone with an additional 90 jobs in the State; $12 million increase in local spending; $28 million in new spending generated in the Newark economy.

About $19 million in tax benefits will accrue to the city during the construction period, which will provide additional financial resources for the city's programs which assist low- and moderate-income residents. Approximately $1.8 million in taxes will be generated annually by the arts center itself, and a total of $3.4 million in taxes will be produced by the arts center and the cultural district surrounding the center.

In addition to the arts center itself, we are involved in other related economic development projects in the downtown areas which will generate millions of dollars of revenue for the city. The arts center's development will also remove vacant and deteriorated buildings which presently discourage private development. Newark's low- and moderate-income residents will gain urgently needed job opportunities accessible by mass transportation from the city's neighborhoods.

Mr. Speaker, this is a sound economic investment and I urge my colleagues to vote for the conference report on H.R. 4404, the supplemental appropriations for fiscal year 1990.

The SPEAKER pro tempore (Mr. Bosco). The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BARTLETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 166, not voting 36, as follows:

[Roll No. 144]

YEAS—230

Anderson	Frost	Mollohan
Annunzio	Gallo	Montgomery
Anthony	Gejdenson	Mrazek
Applegate	Gephardt	Murtha
Aspin	Geren	Myers
Atkins	Gordon	Natcher
AuCoin	Gray	Neal (MA)
Bateman	Green	Neal (NC)
Beilenson	Guarini	Nielson
Berman	Hall (OH)	Nowak
Bevill	Harris	Oakar
Bilbray	Hatcher	Oberstar
Bilirakis	Hayes (IL)	Obey
Boehlert	Hayes (LA)	Olin
Boggs	Hefner	Ortiz
Bonior	Hertel	Owens (NY)
Borski	Hoagland	Owens (UT)
Bosco	Hochbrueckner	Oxley
Boucher	Horton	Pallone
Boxer	Houghton	Parker
Brennan	Hoyer	Pashayan
Brooks	Jenkins	Payne (NJ)
Browder	Johnston	Payne (VA)
Bruce	Jones (GA)	Pelosi
Bryant	Jones (NC)	Perkins
Bustamante	Jontz	Pickett
Cardin	Kanjorski	Pickle
Carr	Kaptur	Poshard
Chapman	Kastenmeier	Price
Clarke	Kennedy	Pursell
Clay	Kennelly	Quillen
Clement	Kildee	Rahall
Coleman (TX)	Kleczka	Rangel
Collins	Kolter	Ravenel
Condit	LaFalce	Richardson
Conte	Lancaster	Rogers
Conyers	Laughlin	Rose
Cooper	Leach (IA)	Rowland (GA)
Costello	Leath (TX)	Roybal
Coughlin	Lehman (CA)	Russo
Coyne	Lehman (FL)	Sabo
Darden	Lent	Saiki
Davis	Levin (MI)	Sangmeister
de la Garza	Levine (CA)	Savage
DeFazio	Lewis (CA)	Sawyer
DeLay	Lewis (GA)	Schroeder
Derrick	Lipinski	Schuette
DeWine	Livingston	Serrano
Dicks	Lloyd	Sharp
Dingell	Lowery (CA)	Sisisky
Dixon	Lowey (NY)	Skaggs
Donnelly	Luken, Thomas	Skeen
Downey	Markey	Skelton
Duncan	Matsui	Smith (FL)
Durbin	Mavroules	Smith (IA)
Dwyer	Mazzoli	Smith (NE)
Dyson	McCloskey	Smith (VT)
Early	McCrery	Solarz
Eckart	McDade	Spence
Engel	McDermott	Spratt
English	McGrath	Staggers
Fascell	McHugh	Stark
Fazio	McNulty	Stokes
Feighan	Michel	Sundquist
Flake	Miller (CA)	Swift
Foglietta	Mineta	Synar
Ford (MI)	Moakley	Tanner
Ford (TN)	Molinari	Tauke

Taylor	Vander Jagt	Williams
Thomas (GA)	Vento	Wilson
Torricelli	Visclosky	Wise
Towns	Walgren	Wolf
Traficant	Walsh	Wolpe
Traxler	Waxman	Wyden
Udall	Weiss	Yates
Unsoeld	Wheat	Young (FL)
Valentine	Whitten	

NAYS—166

Andrews	Hamilton	Ray
Archer	Hammerschmidt	Regula
Armey	Hancock	Rhodes
Baker	Hastert	Ridge
Bartlett	Henry	Rinaldo
Barton	Herger	Ritter
Bates	Hiler	Roberts
Bennett	Holloway	Rohrabacher
Bentley	Hopkins	Ros-Lehtinen
Bereuter	Hubbard	Rostenkowski
Bliley	Huckaby	Roth
Broomfield	Hughes	Roukema
Brown (CO)	Hunter	Rowland (CT)
Burton	Hutto	Sarpalius
Byron	Hyde	Saxton
Campbell (CA)	Inhofe	Schaefer
Campbell (CO)	Jacobs	Schiff
Carper	James	Schneider
Chandler	Johnson (CT)	Schulze
Coble	Johnson (SD)	Schumer
Coleman (MO)	Kasich	Sensenbrenner
Combest	Kolbe	Shaw
Courter	Kostmayer	Shays
Cox	Kyl	Shumway
Craig	Lagomarsino	Shuster
Crane	Lantos	Sikorski
Dannemeyer	Lightfoot	Slattery
Dickinson	Long	Slaughter (NY)
Dorgan (ND)	Machtley	Slaughter (VA)
Dornan (CA)	Madigan	Smith (NJ)
Douglas	Marlenee	Smith (TX)
Dreier	Martin (IL)	Smith, Denny (OR)
Edwards (OK)	Martin (NY)	
Emerson	McCandless	Smith, Robert (NH)
Erdreich	McCollum	
Evans	McCurdy	Smith, Robert (OR)
Fawell	McEwen	
Fields	McMillan (NC)	Snowe
Fish	McMillen (MD)	Solomon
Frank	Meyers	Stangeland
Frenzel	Mfume	Stearns
Gallegly	Miller (OH)	Stenholm
Gaydos	Miller (WA)	Stump
Gekas	Moody	Tallon
Gibbons	Moorhead	Tauzin
Gillmor	Morella	Thomas (WY)
Gilman	Morrison (WA)	Torres
Gingrich	Murphy	Upton
Glickman	Packard	Volkmer
Gonzalez	Panetta	Walker
Goodling	Parris	Weber
Goss	Patterson	Weldon
Gradison	Paxon	Whittaker
Grandy	Pease	Wylie
Grant	Penny	Yatron
Gunderson	Petri	
Hall (TX)	Porter	

NOT VOTING—36

Ackerman	Edwards (CA)	Nagle
Alexander	Espy	Nelson
Ballenger	Flippo	Robinson
Barnard	Hansen	Roe
Brown (CA)	Hawkins	Scheuer
Buechner	Hefley	Stallings
Bunning	Ireland	Studds
Callahan	Lewis (FL)	Thomas (CA)
Clinger	Lukens, Donald	Vucanovich
Crockett	Manton	Washington
Dellums	Martinez	Watkins
Dymally	Morrison (CT)	Young (AK)

□ 1855

Messrs. BATES, HALL of Texas, PORTER, and RINALDO changed their vote from "yea" to "nay."

Mr. SAVAGE changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL 5 P.M. THURSDAY, MAY 31, 1990, TO FILE REPORT ON H.R. 4785, AIDS PREVENTION ACT OF 1990

Mr. WAXMAN. I ask unanimous consent that the Committee on Energy and Commerce have until 5 p.m. on Thursday, May 31, to file its report on H.R. 4785, the AIDS Prevention Act of 1990.

For Members who are interested in the contents of the bill, I would also ask unanimous consent that I be allowed to insert in the RECORD an outline of the bill, as amended. The full text of the bill, as amended, has been introduced as a clean bill, H.R. 4874. That bill is in print and available to Members.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The outline of the bill referred to is as follows:

AIDS PREVENTION ACT OF 1990

I. GRANTS FOR AIDS PREVENTION SERVICES

A. Required services to be provided include:

1. Pre-test counseling.

2. ELISA, Western Blot, and T-Cell diagnostics (and technologies that may succeed these).

3. Post-test counseling for sero-positive and sero-negative patients.

4. Preventive health services for sero-positive patients:

a. Outpatient diagnostics.

b. Outpatient prescription drugs.

c. Referral for inpatient services.

5. All services must be performed by all grantees, directly or through financial contract.

B. Eligible grantees include:

1. Public and private non-profits:

a. Community and migrant health centers.

b. VD/STD clinics.

c. Drug abuse clinics.

d. TB clinics.

e. Family planning clinics.

f. Hemophilia centers.

g. Homeless health clinics.

h. Nonprofit hospitals.

i. Others providing outpatient AIDS services.

2. State health departments.

C. Restrictions on all grantees: No money can be provided unless grantee assures:

1. Informed consent in all testing conducted by grantee.

2. No conditioning of health care services upon agreement to be tested, unless test results are needed for appropriate provision of services.

3. Confidentiality, in accordance with applicable laws.

4. Substantial opportunity, as permitted by State law, for anonymous and pseudonym services.

5. Funds will be used to increase availability of counseling and testing, not to divert existing funds.

6. No patient will be turned away from services because of inability to pay; patients below poverty will not be charged.

7. Grantees will be Medicaid providers.

D. Restrictions applicable only to States: No money can be provided unless State assures:

1. Reporting of statistical and epidemiological data to State.

2. A system of contact tracing, as determined appropriate by the State health officer.

E. Authorization of appropriations:

1. $500 million in each of FY 91 through FY 95.

2. Half of appropriations to clinics:

a. Funds allocated by application.

b. Preference to areas of increasing incidence, with emphasis on rural areas.

3. Half of appropriations to State health departments:

a. Funds allocated by formula.

b. Formula based on incidence of AIDS.

4. Authorization of additional grants program for States to perform prison programs:

a. Programs are limited to prisons determined to have high incidence of infection.

b. Programs must include mandatory testing, diagnostics, and provision of early intervention treatment.

c. Authorization of such sums as may be necessary.

5. Authorization of additional grants programs for high-incidence hospitals to provide early intervention services:

a. Eligible hospitals limited to those with more than having 250 AIDS admissions per year at 20% AIDS admissions per year.

b. Services must include the offering and encouragement of counseling, testing, diagnostics, and early intervention treatment.

c. Authorization of such sums as may be necessary.

II. GRANTS FOR EMERGENCY ASSISTANCE TO AREAS WITH SUBSTANTIAL NEED FOR SERVICES FOR AIDS

A. Services to be provided include:

1. Increase and improvement of outpatient services to low-income individuals and families with AIDS and HIV.

2. Prevention of unnecessary inpatient services.

3. Expediting of provision of most medically appropriate level of service.

B. Eligible grantees are metropolitan areas reporting more than 2,000 cases of AIDS or a per capita incidence greater than .0025.

C. Requirements:

1. Establishment of HIV services planning council representing service providers, community leaders, and State government.

2. Establishment of intergovernmental agreements with health authorities in metropolitan area.

3. Assurance that funds will be used to supplement, not supplant, other State and local efforts.

D. Funding:

1. Authorization of $300 million a year for FY 1991 through FY 1995.

2. Half of funds to be allocated (within 90 days of appropriations becoming available) on basis of incidence and prevalence of AIDS cases reported to CDC.

3. Half of funds to be allocated on the basis of project applications.

III. NOTIFICATION OF EMERGENCY RESPONSE EMPLOYEES

A. Establishment of grants program to State and local governments to implement guidelines and model curriculum on occupational exposure to infectious diseases.

B. Establishment of program of notification for emergency workers occupationally exposed to infectious diseases.

IV. AUTHORIZATION OF AIDS HEALTH CARE SERVICES PROGRAMS

A. Authorization of demonstration projects to provide comprehensive treatment services for AIDS and HIV; authorization of $30 million for FY 1991 and such sums as may be necessary for FY 1992 through 1995.

B. Authorization of grants to States for provision of AIDS therapeutic drugs to persons with no other source of payment; authorization of $30 million for FY 1991 and such sums as may be necessary for FY 1992 through 1995.

V. AUTHORIZATION OF PEDIATRIC AIDS RESEARCH DEMONSTRATION PROGRAM

A. Establishment of joint NIH-HRSA demonstration program to develop experimental drugs for pediatric AIDS patients.

B. Eligible grantees include community health centers and other outpatient providers of health care to pregnant women and children.

C. Grantees are to make cooperative agreements with entities with experience in the design of research protocols.

D. Grantees are to perform research trials and to provide ancillary health and social services to pediatric AIDS patients and their families.

E. NIH is to analyze data.

VI. STUDY OF AIDS IN RURAL AREAS

HHS, acting through the Office of Rural Health Policy is to conduct a study to estimate the incidence and prevalence of AIDS in rural areas and to determine the adequacy of services in such areas.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 130: Page 23, after line 4, insert:

ABATEMENT, CONTROL AND COMPLIANCE

Of the funds appropriated under this head in the Departments of Veterans Affairs, and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (Public Law 101-144), $500,000 shall be available for a lead storage battery recycling pilot project for the State of New Jersey, to remain available until expended.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 130, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ABATEMENT, CONTROL, AND COMPLIANCE

For an additional amount for "Abatement, control, and compliance", $1,800,000, to remain available until September 30, 1991: *Provided*, That of the funds appropriated under this head in the Departments of Veterans Affairs and Housing and Urban Development, and Indpendent Agencies Appropriations Act, 1990 (Public Law 101-144), $500,000 shall be available for a lead storage battery recycling pilot project for the State of New Jersey, to remain available until expended.

Mr. WALKER. Mr. Speaker, I ask that the time be divided on this amendment.

The SPEAKER pro tempore. The Chair will inquire of the gentleman from Massachusetts [Mr. CONTE], is the gentleman opposed to the motion?

Mr. CONTE. No, Mr. Speaker, I am not opposed.

The SPEAKER pro tempore. Is the gentleman from Pennsylvania opposed to the motion?

Mr. WALKER. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Chair will allocate 20 minutes to the gentleman from Mississippi [Mr. WHITTEN], 20 minutes to the gentleman from Massachusetts [Mr. CONTE], and 20 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I would inform the House on this amendment and the next two to follow that I do not intend to get a vote on them. I want to raise the issues involved. It would be my intention to take about 2 or 3 minutes and yield back, in hopes others could do the same thing and we could move the process forward.

The amendment we have before us here is an earmark of money for lead storage battery recycling in the State of New Jersey, $500,000, and an appropriation for the cost of renovating a Great Lakes research vessel for $1.8 million.

□ 1900

Again, the question here is whether or not these are high priority projects that have to be funded outside the normal range of spending. I do not think so. I think in this supplemental bill we have gone overboard with spending that we cannot afford. These are two more examples of spending that we cannot afford that have been dumped into this bill. I would suggest that the House of Representatives ought to turn down this pork.

Mr. Speaker, I just wanted to note that those Members who are into the conspiracy theories might want to take note of the fact that when I went down to lunch today and was eating in the cafeteria, I could not help but notice that the chef's special was pork, and I had pork. I figured if I could not get rid of it any other way, I would eat it.

Mr. Speaker, anyhow, these are a couple more items that are items which we can probably do without at the present time, and I would urge the House not to recede to the Senate.

Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Speaker, in the interest of noninflammatory statements I am not going to say anything except about lead batteries. I am not going to talk about requests or projects of Members. I am only going to talk about lead storage batteries and ships.

Mr. Speaker, let me say that the lead storage battery recycling pilot project was a Senate amendment. An important public health accomplishment of the last two decades has been the reduction of the levels of lead in our blood. Even minute quantities of lead have been correlated with reduced intellectual capacity.

Nationally an estimated 200 to 400 million pounds of lead end up in the waste stream every year. In New Jersey, where they have more and more incineration, this means more dirty and more toxic ash. Batteries are highly toxic. This good State program could easily close the gap. It will provide a safe technique for recycling batteries.

Now, on the ship let me say we received a fax from the EPA headquarters on May 9, 1990. They said the contracts for the overhaul of a research vessel is expected to be awarded on May 14 for $4.2 million. The amount is $1.8 million higher than the estimate provided to region V's naval architect. Therefore, they need an additional $1.8 million right now because they are doing the work right now. The ship is just going into the yard. They are just going to be signing the conract. We cannot wait for the regular appropriation. This is dire, necessary, and immediate. I am pleased all Members are supporting it.

Let me just add that some reference was made earlier this afternoon, and I will close in a second, to put some things in the 1991 appropriation bills. I think all Members ought to be aware that it is the best judgment of everyone I have talked with, certainly my best judgment, that we are not going to see a 1991 appropriations bill going to the President of the United States until probably December. Probably December. We are going to operate under a continuing resolution, we are going to suspend Gramm-Rudman, and we are all going to be here singing Christmas carols.

So it is appropriate that we put a number of items in this supplemental that are dire and necessary—and maybe not so necessary—because of the tardiness in getting the 1991 appropriation bills to the President due to the budget negotiations that are going forward.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume just to make the observation that if we do not wind this supplemental up soon, we will have to recharge our batteries.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Bosco). The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 141: Page 23, after line 12, insert:

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $50,000: *Provided*, That of the funds appropriated under this heading for fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1269), $10,478,000 are rescinded for a net decrease of $10,428,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numered 141, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $50,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1269), $10,498,000 are rescinded for a net decrease of $10,448,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 142: Page 23, after line 12, insert:

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $7,750,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1269 to 1271), $5,739,000 are rescinded for a net increase of $2,011,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 142, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $7,750,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168,; 103 Stat. 1269 to 1271), $2,739,000 are rescinded for a net increase of $5,011,000: *Provided further*, That of the $50,000,000 previously appropriated under the heading "Criminal Justice Initiative", $10,000,000 shall be paid to the District of Columbia government to pay amounts due to the Federal Bureau of Prisons and State governments and facilities for the housing of District of Columbia Code violators: *Provided further*, That by November 30, 1990, the District of Columbia government shall pay $10,000,000 (from current operating revenues collected during fiscal year 1991 and not from the proceeds of borrowed funds) to the United States Treasury, and such payment shall be credited to and be available for the purposes of the "Criminal Justice Initiative" for the construction of the Correctional Treatment Facility: *Provided further*, That no actions taken pursuant to any of the provisions of this heading may be carried out in a manner that will delay the construction of such Correctional Treatment Facility.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 143: Page 23, after line 12, insert:

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

Of the funds appropriated under this heading for fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271), $6,583,000 are rescinded.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 143, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $3,461,000, including $2,682,000 for the D.C. Public Schools and $779,000 for the Public Library: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271), $7,882,000 for the D.C. Public Schools, $730,000 for the University of the District of Columbia, $779,000 for the Public Library, $643,000 for the Commission on the Arts and Humanities, and $10,000 for the Education Licensure Commission are rescinded for a net decrease of $6,583,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 144: Page 23, after line 12, insert:

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $4,840,000: *Provided*, That $640,000 of this appropriation, to remain available until expended, shall be available solely for the District of Columbia employees' disability compensation: Provided further, That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriation Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271), $10,245,000 are rescinded for a net increase of $5,405,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN. Moves that the House recede from its disagreement to the amendment of the Senate numbered 144, and concur there in with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $4,840,000 *Provided* That $640,00 of this appropriation, to remain available until expended, shall be available solely for district of Columbia employees' disability compensation: *Provided further* That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271), $10,245,000 are rescinded for a net decrease of $5,405,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 145: Page 23, after line 12, insert:

PUBLIC WORKS

(RESCISSION)

Of the funds appropriated under this heading for fiscal year ending September 30, 1990 in the District of Columbia Appro-

priations Act, 1990, approved November 21, 1989 (Public Law 101-168; Stat. 1271 to 1272), $8,810,000 are rescinded.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 145, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

PUBLIC WORKS

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271 and 1272), $8,810,000 are rescinded: *Provided*, That none of the funds contained in this Act or any other Act shall be obligated or expended by the District of Columbia government to remove the safety fences at the Duke Ellington Memorial Bridge until—

(a) the Mayor's Agent, following an evidentiary determination, has found that the evidence indicates that the circumstances have changed to nullify the 1987 findings of the Mayor's Agent, HPA No. 87-377 (August 20, 1987), as to the benefits of the fences; and

(b) the Mayor has provided a detailed statement to the Committees on Appropriations of the House of Representatives and the Senate explaining the basis for the decision to remove the safety fences.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 151: Page 23, after line 12, insert:

ENERGY ADJUSTMENT

The provisions of the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), relating to "Energy Adjustment", a reduction of $2,000,000, are hereby repealed.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement 151, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ENERGY ADJUSTMENT

The paragraph under the heading "Energy Adjustment" in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 152: Page 23, after line 12, insert:

EQUIPMENT ADJUSTMENT

The provisions of the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), relating to "Equipment Adjustment", a reduction of $6,100,000, are hereby repealed.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 152, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

EQUIPMENT ADJUSTMENT

The paragraph under the heading "Equipment Adjustment" in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 153: Page 23, after line 12, insert:

PERSONAL SERVICES ADJUSTMENTS

The provisions of the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), relating to "Personal Services Adjustment", a reduction of $31,550,000, are hereby repealed.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 153, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

PERSONAL SERVICES ADJUSTMENT

The paragraph under the heading "Personal Services Adjustment" in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.

SUPPLY, ENERGY AND EQUIPMENT ADJUSTMENTS

The Mayor shall reduce authorized supply, energy, and equipment appropriations and expenditures within object classes 20 (supplies), 30a (energy), and 70 (equipment) in the aggregate amount of $5,000,000 within one or several of the various appropriation headings in this chapter: *Provided*, That notwithstanding any other provision of law, such reductions shall not be allocated to any activities or programs of the Metropolitan Police Department.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 154: Page 23, after line 12, insert:

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $76,102,000 to remain available until expended: *Provided*, That $24,215,000 of prior year authority is rescinded for a net increase of $51,887,000: *Provided further*, That $2,362,000 shall be available for project management and $2,116,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 154, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

CAPITAL OUTLAY

(INCLUDING RESCISSION)

For an additional amount for "Capital outlay", $79,802,000, to remain available until expended: *Provided*, That $27,915,000 of prior year authority is rescinded for a net increase of $51,887,000: *Provided further*, That $2,362,000 shall be available for project management and $2,116,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 148: Page 23, after line 12, insert:

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS FOR NATURAL DISASTERS

For an additional amount for "Unanticipated Needs for Natural Disasters", $5,000,000, to remain available until expend-

ed, to enable the President to meet unanticipated needs arising from natural disasters occurring on March 13, 1990: *Provided*, That notwithstanding any other provision of law, $2,500,000 of such additional amount shall be available to meet disaster assistance needs in the State of Nebraska, and $2,500,000 shall be available to meet disaster assistance needs in the State of Kansas.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 158, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS FOR NATURAL DISASTERS

For an additional amount for "Unanticipated Needs for Natural Disasters", $5,000,000, to remain available until expended, to enable the President to meet unanticipated needs arising from natural disasters occurring on March 13, 1990: *Provided*, That, notwithstanding any other provision of law, not less than $2,500,000 of such additional amount shall be available to meet disaster assistance needs in the State of Nebraska, and not less than $2,500,000 shall be available to meet disaster assistance needs in the State of Kansas.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 161: Page 24, after line 9, insert:

SEC. 307. None of the funds appropriated by this or any other Act with respect to any fiscal year for Antarctic research may be obligated for procurement of Multibeam Bathymetric Sonar Mapping Systems manufactured outside of the United States.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 161, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 307. None of the funds appropriated by this or any other Act with respect to any fiscal year for contractual services support of the U.S. Antarctic Program may be obligated for procurement of a multibeam bathymetric sonar mapping system manufactured outside of the United States: *Provided*, That not to exceed $2,400,000 shall be available for the total cost of such procurement, including software: *Provided further*, That this section shall not be applicable to any procurement covered by the GATT Agreement on Government Procurement.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 162: Page 24, after line 9, insert:

SEC. 308. Section 319 of Public Law 101-164 is amended by inserting "training, salaries" after the word "reports" inserting the words "including site acquisition, construction and equipment" after the word "expenses"; and inserting the word "grants" after the word "contracts".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 162 and concur therein.

Mr. WALKER. Mr. Speaker, I ask the time be divided.

The SPEAKER pro tempore. Is the gentleman from Pennsylvania [Mr. WALKER] opposed to the motion?

Mr. WALKER. Mr. Speaker, I am.

The SPEAKER pro tempore. Is the gentleman from Massachusetts [Mr. CONTE] opposed to the motion?

Mr. CONTE. Mr. Speaker, I am not opposed to it.

The SPEAKER pro tempore. In that event, the time will be allocated as follows: the gentleman from Mississippi [Mr. WHITTEN] will have 20 minutes, the gentleman from Massachusetts [Mr. CONTE] will have 20 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will have 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Speaker, this amendment is merely a technical clarification of language that was in the 1990 Transportation appropriation bill. It was added by the other body. It was agreed to in the negotiations in conference. The amendment does not add any additional funding for the bill.

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Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again I inform the House that I do not intend to get a record vote on this amendment and will be brief in the hopes of moving the process forward.

Mr. Speaker, the gentleman from Florida [Mr. LEHMAN] has described this technical amendment correctly. The problem is this, that while it corrects a technical problem it will result in $3 million in money being spent that would not otherwise be spent.

All my point is on this one is that as a country we are faced with this dire economic circumstance and we ought to be seeking places where we can save money. One of the places where we might be able to save some money is where agencies have money that they are not now required to spend, that they can hold on to the money, and use it for other priority needs.

In this particular instance, we have some money that might be able to be saved. I agree, it was previously appropriated. I agree, this is a technical problem being corrected here. But the fact is that with this correction we are going to free up $3 million that would otherwise not be spent.

So I would suggest to the House that if we really do believe that there are dire economic circumstances in this country, here is a place to save a little bit of money, and in my estimation it is not a little bit, it is a lot of money, it is $3 million, and we ought to do so.

Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I thank the gentleman for yielding the time.

My friend from Pennsylvania I think does mislabel this particular issue. This is not going to increase the Federal deficit. The fact is this money was appropriated last year. This was in last year's appropriation bill. This was a determination by Congress to appropriate some money to do some things that include among other things educating air traffic controllers and ground and air personnel in the airway system.

This makes awfully good sense. The money could not be spent simply because of a technical problem. This is really a technical correction of sorts that allows the money to be used for the purpose for which it was appropriated.

So the failure to do this is not going to save $3 million. It is not going to reduce the Federal deficit. This is not appropriating $3 million. This is money that was appropriated last year for someting that is very good, and I hope that that is clear, and we move ahead and approve this.

Again I thank the chairman for yielding this time to me.

Mr. CONTE. Mr. Speaker, I yield back my 20 minutes.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Speaker, I would like to echo the sentiments of my colleague who preceded me.

This changes no policy and appropriates no money. This is purely technical in scope, and I hope that the

House will approve the chairman's amendment.

Mr. Speaker, I rise in support of the motion to recede to Senate amendment 162.

I am frankly, a little bemused about why we are even debating the amendment. Purely technical in nature, this amendment appropriates no money that was not appropriated last year. It effects no policy changes. It does absolutely nothing that this Congress has not already agreed to, without even a voice in dissent.

Let me explain briefly my interest in this question. The report accompanying last year's Senate transportation appropriations bill specified that $3 million be reserved for the Mid-Atlantic Aviation Training and Education Center. The committee included this language specifically because it recognized the need to train qualified personnel to operate and maintain the equipment that is absolutely essential to operation of a safe air transportation network. This is a laudable goal, Mr. Speaker, and I defy anyone to suggest that the Appropriations Committee has no business directing money into projects that will improve the safety of air travel.

What happened to the language in this report? It was brought to the floor of the Senate. It was debated. It was voted upon. It was accepted. Subsequently, the conference report on the Transportation bill was debated on the floor of the House. It was adopted. It was signed into law by the President. To my knowledge, no one raised a voice in opposition to the Mid-Atlantic Training Center.

If you were going to raise an objection to this congressional decision, the appropriate time to do so was during debate on the conference report. That was when we made the policy decisions. That was when we debated whether it was appropriate to spend this money.

Amendment 162 changes no policy, it spends no money, it is purely a technical amendment to allow appropriations for projects that were previously debated and previously agreed upon. I urge the adoption of the motion.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Bosco). The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 164: page 24, after line 9, insert:

SEC. 310. Funds appropriated under Public Law 101-164, the Department of Transportation and Related Agencies Appropriations Act, 1990, for Highway Demonstration Projects involving railroad overpasses in Las Vegas, New Mexico, may be used for construction.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 164 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 310. Funds appropriated under Public Law 101-164, the Department of Transportation and Related Agencies Appropriations Act, 1990, for Highway Demonstration Projects involving railroad overpasses in Las Vegas, New Mexico, may be used for construction: *Provided*, That for loans to the Chicago, Missouri and Western Railroad, or its successors, authorized in Public Law 101-164, $3,500,000: *Provided further*, That such loans shall be made available no later than thirty days after enactment of this Act.

Mr. WALKER. Mr. Speaker, I ask that the time be divided.

The SPEAKER pro tempore. Is the gentleman from Pennsylvania opposed to the motion?

Mr. WALKER. I am, Mr. Speaker.

The SPEAKER pro tempore. Is the gentleman from Massachusetts [Mr. CONTE] opposed to the motion?

Mr. CONTE. No, I am not objecting, Mr. Speaker.

The SPEAKER pro tempore. The Chair will allocate the time as follows:

The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 20 minutes, the gentleman from Massachusetts [Mr. CONTE] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Speaker, this is another technical change to last year's appropriation act. The funds have already been provided. It does not add anymore money.

The problem is that the department lawyers are confused about what the congressional intent was, and this merely straightens this out. Both the Federal Railroad Administration and Amtrak agree that these loans are needed.

The 30-day time limit is needed to meet the spring construction schedule, and it should not be difficult for the department to meet the time.

These loans were approved last year by the House, and this provision has bipartisan support.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I thank the gentleman from Mississippi for yielding, and I believe that the gentleman from Florida [Mr. LEHMAN], chairman of the subcommittee, has accurately described this project.

This is not an expenditure directly. It is an amount of money that was appropriated last year, and it is being given to the railroad in the form of a loan to be repaid.

We have run into some technical difficulties, but the Federal Railroad Administration and Amtrak are solidly behind this project. I believe it is in the nature of a technical correction, and I hope that the gentleman from Pennsylvania will not object.

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the two gentleman who have previously spoken have described this amendment accurately, except that they did make the point that there are not direct appropriations involved here, but in fact there are indirect appropriations. This allows funds being appropriated for a highway demonstration project in Las Vegas, NM, to be used for construction, which means they are going to go ahead and spend the money. That is somewhat troublesome.

It also directs a loan to the Chicago, Missouri, and Western Railroad for repair of the tracks to be released within 30 days of enactment, which means they are going to be spending the money incurred by the taxpayers for this particular project.

I think that this amendment also points out something which is somewhat troublesome in what the Appropriations Committee is doing. In these two amendments they have combined up Las Vegas, NM, with the Chicago, Missouri, and Western Railroad and its successors. Somehow the two of those do not exactly mesh, and it does cause a good deal of confusion from people as to why we would be dealing with these two subjects in one amendment. One can only guess that there is an attempt to put popular things together with unpopular things. I do not know. But I would hope in the future that maybe the committee could give us amendments that focus on singular subjects so that at least we could have a kind of an honest dialog about the material that is in these particular amendments.

With that, Mr. Speaker, I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I yield back my 20 minutes of time.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Let me just say, Mr. Speaker, that what I am trying to do in this project is very clear. This was a provision put in by my colleague, Senator DOMENICI, that simply moved planning funds to construction funds.

This project was already appropriated. We are talking about an overpass, and the purpose of it was simply to prevent a little town in northern New Mexico from getting nuclear waste down in its main street. The waste will go around.

This is strictly technical. It has been approved before, and I would hope that the gentleman would not object. I think it is a good project.

Mr. Speaker, I want to thank the gentleman from Florida [Mr. LEHMAN] and chairman of the committee.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 167: Page 24, after line 9, insert:

SEC. 313. (a) Section 802(b)(1) of the Arizona-Idaho Conservation Act of 1988 is amended to read as follows:

"(1) in consultation with the Joint Committee on the Library, the Senate Commission on Art, or the House of Representatives Fine Arts Board, as the case may be, transfer such property to the entity consulted;".

(b) Section 803(b) of the Arizona-Idaho Conservation Act of 1988 is amended—

(1) by striking "subject" and all that follows through "respectively"; and

(2) in paragraph (2) by inserting "subject to the approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, after "(2)".

(c) Section 8(c) of the Bicentennial of the United States Congress Commemorative Coin Act is amended to read as follows:

"(c) REPORT REQUIRED.—The Commission shall submit an annual report of expenditures to the Congress.".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 167, and concur therein with an amendment, as follows: In lieu of the section number "313", insert "312".

Mr. FRENZEL. Mr. Speaker, I ask that the question be divided and that I be allotted 20 minutes of the time.

The SPEAKER pro tempore. Is the gentleman from Minnesota opposed to the motion?

Mr. FRENZEL. I am, Mr. Speaker.

The SPEAKER pro tempore. Is the gentleman from Massachusetts [Mr. CONTE] opposed to the motion?

Mr. CONTE. I am not, Mr. Speaker.

The SPEAKER pro tempore. The Chair will allocate the time as follows:

The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 20 minutes, the gentleman from Massachusetts [Mr. CONTE] will be recognized for 20 minutes, and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield 15 minutes to my colleague, the gentleman from California [Mr. FAZIO], who handles this matter in his subcommittee.

Mr. FAZIO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, amendment No. 167 was added by the Senate and was requested by the Capitol Preservation Commission leadership: the Speaker, and the Senate President pro tempore.

The provision clarifies and simplifies the work of the U.S. Capitol Preservation Committee. That Commission and a Capitol preservation fund were established by the Arizona-Idaho Conservation Act of 1988 to provide for the acquisition of fine arts and antiques—through donations and gifts, and revenues generated by the sale of bicentennial coins—for display in the Capitol Buildings.

The Commission has a broad bipartisan membership, including the appropriate House and Senate leaders, committee chairmen and ranking minorities.

Specifically, the Senate provision does three things:

First. Provides that works of fine art or other property may be transferred to the Joint Committee on the Library, the Senate Commission on Art, or the House Fine Arts Board, after consultation with any of these entities.

Current law requires an agreement with these entities. It was felt that consultation was a less formal or formidable relationship between our leaders and those internal entities, whose function is to receive these fine arts and to act as their custodian.

Second. It clarifies the role of the Appropriations Committees of House and Senate in approving certain uses of the Capital preservation fund. Specfically, it was always intended by the original act that the committee review any effort to construct, alter, renovate, or otherwise change the physical features of the Capitol Building and Grounds. We are told that the original, act, however, went far beyond that to require committee approval for all Commission transactions.

That was not the intent, and this provision clarifies that intent by requiring Appropriation Committee approval of fund transactions for "improvement and preservation projects."

Third. The last subsection of the provision eliminates and unusual reporting requirement in the Commemorative Coin Act. That act required that any expenditures from coin sales surcharges deposited with the Commission be reported to the Clerk of the House and printed in the CONGRESSIONAL RECORD.

Such a report and its printing are almost without precedent. We do not use the CONGRESSIONAL RECORD to print the individual transactions of Federal programs. The CONGRESSIONAL RECORD is not an accounting document.

Moreover, this report is misleading in any event. Only expenditures from the surcharge are reported, and other Commission transactions are missing—expenditures supported by gifts, sales, and so forth. That results in an incomplete report in a document—the CONGRESSIONAL RECORD—that is not a financial tool to begin with.

The conference agreement still requires an expenditure report from the Commission to be submitted annually to the Congress. It won't be printed in the CONGRESSIONAL RECORD, but it will be referred to the appropriate committee or committees. It will be available for review by the committee or any member who has an interest.

Also, it should be understood that the Library of Congress does all of the accounting for the preservation fund. It maintains all of the receipts, expenditures, and transaction records. If the Commission, an appropriate committee, or the General Accounting Office needs transaction records, they are available from the Library of Congress.

Finally, it should be noted that the Commission's activities are annually audited by the General Accounting Office.

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Mr. FRENZEL. Mr. Speaker, I yield myself 9 minutes.

Mr. Speaker, this seems rather an obscure part of the supplemental to be calling into question, and I hope Members will suffer with me for a few minutes on this.

Many of them have never heard of the U.S. Capitol Preservation Commission. I wish that I had never heard of it.

Two years ago, when we approved the Bicentennial gold coin, we promised, when we passed the bill in this House, that the approximately $40 million profit we thought it would earn would be used to reduce the deficit. We reckoned, of course, without the other body.

When the bill went to the other body, the then-majority leader convinced the Senate that the U.S. Capitol Preservation Commission, which was his creation, should be given half of the expected profits of the minting of this gold coin.

The House was somewhat resistant to this effort by the Senate but eventually, however, the Senate prevailed, as is usual when there are these kinds of confrontations.

What eventually happened was the House was given a few crumbs from the table. One of those crumbs was that the House, through its Appropriations Committee, was going to have to have approval over the trans-

actions of the U.S. Capitol Preservation Commission. A second one was that they were going to have to get the House's approval when they exchanged certain works of art or historical articles.

The third one, which I deem to be the most important, was that the House would have the assurance that in the expenditures of these public moneys there would be an accounting rendered in the CONGRESSIONAL RECORD twice a year. On being given these assurances by the Senate, the House approved the bill that included the U.S. Capitol Preservation Commission.

I suspect that many of the Members do not know what the U.S. Capitol Preservation Commission is. It operates mostly under the aegis of the now-chairman of the Senate Appropriations Committee. It has a very flossy membership, and I am going to read to you who the membership is.

It is the President pro tempore of the Senate, the Speaker of the House, the chairman and vice chairman of the Joint Committee on Library, the chairman and ranking member of the Committees on Rules and House Administration, the majority leader and minority leader of the Senate, the majority leader and minority leader of the House of Representatives, the chairman of the Bicentennial Commission of the Senate and of the House and one Senator to be appointed by the President pro tempore of the Senate and one by the minority leader and one Member from the House of Representatives appointed by the minority leader and so on.

Now this august group, as far as I know, has never met and probably never will meet.

However, its designated managers are going to spend $20 million of the public's money if this amendment is accepted without the CONGRESSIONAL RECORD accountability, and without report to us other than in the manner specified by the distinguished legislative appropriations subcommittee chairman.

This amendment, which is attached to a dire emergency supplemental, is totally nongermane. What it does is it takes the House out of approving transaction costs.

The gentleman from California indicated that these were minor things. Well, the House can only approve projects and restorations to the Capitol. Those we will all see. We will know them anyway. Those will be prominent.

Do you know what transaction costs are? Those are parties, banquets and balls, sports fans. Those are the costs of raising private money, those are the coffee klatches, the travel to go inspect the artifacts that we may in fact bring to the capital sometime.

Probably those funds will be spent with great care. Nevertheless it seems to me that our responsibility to the taxpayers, $20 million of whose money we are giving away, demands the accountability of publication in the RECORD.

A GAO audit is to be conducted of this Commission sometime, I suppose. I know not when it may be conducted. It may never be conducted.

Anyway, the GAO does not send me reports of their audits. I do not know how I would get hold of them.

There is also a report made to Congress. I do not know where that report goes. Perhaps it disappears into the Speaker's inside coat pocket.

Mr. Speaker, I normally do not get reports to Congress. I do, however, every day get a CONGRESSIONAL RECORD, and the press gets CONGRESSIONAL RECORDS. It is much safer that the reports of these expenditures be filed and be reported biennially in the CONGRESSIONAL RECORD as we promised the taxpayers of this country 2 years ago.

It seems to me that this is probably in the scope of things here a very small item. But what it amounts to is the tyranny of a very small group of people who believe they are doing wonderful things for our Republic and, indeed, probably are. And yet they want to do it with minimum interference, either from us or from the public. I believe it is our job to make life a little less convenient for them if our obligations to people seem to require it.

It seems to me that the Committee on Appropriations, distinguished and powerful and wise as it is, makes a mistake, a real mistake, when it gives up its ability to approve the transactions of their Commissions, and again when it gives up its ability to approve the transfers of these artifacts to which this particular part of the bill refers.

□ 1930

Therefore, I would ask Members of this House to reject the motion which will be made by the distinguished chairman of the Committee on Appropriations, and to restore the House's position in maintaining some approval over the actions of this Commission. Its actions will be carried out by a very small group of people, and they need a little review by the public, no matter how highly motivated the Commissioners may be, and no matter how wonderful are their actions.

I think as I said earlier that the more important matter is the CONGRESSIONAL RECORD. To take away the disclosure of expenditures is of doubtful wisdom and breaks the promise we made 2 years ago to the taxpayers.

Mr. Speaker, I said before that this is a tiny matter. Most Members of the House have never heard of his Commission. I will wager that most of them do not care about it. I wager that the members of the Commission do not know they are on the Commission. I further wager any person a dinner here tonight, that the Commission has never met. I would even go so far as to wager somebody a doughnut that it never will meet.

Nevertheless, I think it is important for the procedures of the House and for Members to exercise our responsibility. The amendment should be defeated. I urge the House to do so.

Mr. WHITTEN. Mr. Speaker, I yield myself 3 minutes. I hope my colleagues will vote for my motion.

May I point out again, our Committee on Appropriations handled this with Member support as a dire emergency supplemental appropriation bill. It went to the colleagues across the Capitol. They treated it as a continuing resolution. What has resulted is a hybrid. From time to time today Members point out this item or that item is not a dire supplemental. Some are not. But all of them are in the same bill, and passage of the bill is an absolute necessity. It is urgent.

I am resisting what is being talked about today. Changes will cause the other body to delay what is a dire emergency which we so classify. Again, I repeat those things that are being complained about by my colleagues on the other side, many which we have agreed with in conference, were left out at my request in the original bill, and I appreciated your cooperation.

I want to say again that we have a hybrid here, and under our rules and the difference between the House rules and the Senate rules, I think we have done a good job of bringing this to Members. To protect ourself on the House side where appropriations have to originate, I introduced a clean bill. If we had not been able to get together on this, we would have to bring the other bill up which keeps power in the House where it belongs. I hope we can proceed. I hope Members vote with me on this motion.

Mr. CONTE. Mr. Speaker, I yield back the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Bosco). The question is, Will the House recede from its disagreement to the amendment of the Senate numbered 167?

The question was taken; and the Speaker pro tempore being in doubt, the House divided and there were—yeas 16; nays 9.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidentialy a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 208, nays 163, not voting 61, as follows:

[Roll No. 145]

YEAS—208

Anderson	Gonzalez	Obey
Andrews	Gordon	Olin
Annunzio	Gray	Owens (NY)
Anthony	Guarini	Owens (UT)
Applegate	Hall (OH)	Pallone
Aspin	Hall (TX)	Parker
Atkins	Harris	Patterson
AuCoin	Hatcher	Payne (NJ)
Bates	Hayes (IL)	Payne (VA)
Beilenson	Hayes (LA)	Pelosi
Berman	Hefner	Perkins
Bevill	Hertel	Pickett
Bilbray	Hoagland	Pickle
Boggs	Hochbrueckner	Poshard
Bonior	Hoyer	Price
Borski	Hubbard	Rahall
Bosco	Huckaby	Rangel
Boucher	Hughes	Ray
Boxer	Hutto	Richardson
Brennan	Jenkins	Rose
Brooks	Johnson (SD)	Roybal
Browder	Jones (GA)	Russo
Bruce	Jones (NC)	Sabo
Bryant	Jontz	Sangmeister
Bustamante	Kanjorski	Sarpalius
Byron	Kaptur	Savage
Campbell (CO)	Kastenmeier	Sawyer
Cardin	Kennedy	Schumer
Carper	Kennelly	Serrano
Carr	Kildee	Sharp
Chapman	Kleczka	Sisisky
Clarke	Kolter	Skaggs
Clay	Kostmayer	Skelton
Coleman (TX)	LaFalce	Slaughter (NY)
Collins	Lantos	Smith (IA)
Condit	Laughlin	Solarz
Cooper	Lehman (CA)	Spratt
Costello	Lehman (FL)	Staggers
Coyne	Levin (MI)	Stenholm
Darden	Levine (CA)	Stokes
de la Garza	Lewis (GA)	Studds
Dellums	Lloyd	Swift
Derrick	Long	Synar
Dicks	Lowey (NY)	Tallon
Dingell	Luken, Thomas	Tanner
Dixon	Markey	Taylor
Donnelly	Matsui	Thomas (GA)
Dorgan (ND)	Mavroules	Torres
Downey	Mazzoli	Torricelli
Durbin	McCloskey	Towns
Dwyer	McCurdy	Traficant
Dyson	McDermott	Traxler
Engel	McHugh	Udall
English	McMillen (MD)	Unsoeld
Erdreich	McNulty	Valentine
Evans	Mfume	Vento
Fascell	Miller (CA)	Visclosky
Fazio	Mineta	Volkmer
Feighan	Moakley	Walgren
Flake	Mollohan	Weiss
Foglietta	Moody	Wheat
Ford (TN)	Mrazek	Whitten
Frank	Murphy	Williams
Frost	Murtha	Wise
Gaydos	Natcher	Wolpe
Gejdenson	Neal (MA)	Wyden
Gephardt	Neal (NC)	Yates
Geren	Nowak	Yatron
Gibbons	Oakar	
Glickman	Oberstar	

NAYS—163

Archer	Bliley	Courter
Armey	Boehlert	Cox
Baker	Broomfield	Crane
Ballenger	Burton	Dannemeyer
Bartlett	Campbell (CA)	Davis
Barton	Chandler	DeLay
Bateman	Clement	DeWine
Bennett	Coble	Dornan (CA)
Bentley	Combest	Douglas
Bereuter	Conte	Dreier
Bilirakis	Coughlin	Duncan
Early	Lowery (CA)	Schaefer
Eckart	Machtley	Schiff
Edwards (OK)	Marlenee	Schneider
Emerson	Martin (IL)	Schroeder
Fawell	McCandless	Schuette
Fields	McCollum	Schulze
Fish	McCrery	Sensenbrenner
Frenzel	McEwen	Shaw
Gallegly	McGrath	Shays
Gallo	McMillan (NC)	Shumway
Gekas	Meyers	Shuster
Gillmor	Michel	Skeen
Gilman	Miller (OH)	Slaughter (VA)
Gingrich	Miller (WA)	Smith (NE)
Goodling	Molinari	Smith (NJ)
Goss	Moorhead	Smith (TX)
Gradison	Morella	Smith (VT)
Grandy	Morrison (WA)	Smith, Denny (OR)
Grant	Myers	
Green	Nielson	Smith, Robert (NH)
Gunderson	Oxley	
Hamilton	Packard	Smith, Robert (OR)
Hammerschmidt	Panetta	
Hancock	Parris	Snowe
Hastert	Pashayan	Solomon
Henry	Paxon	Spence
Herger	Penny	Stangeland
Hiler	Petri	Stark
Hopkins	Porter	Stearns
Houghton	Pursell	Stump
Hunter	Quillen	Sundquist
Hyde	Ravenel	Tauke
Inhofe	Regula	Thomas (WY)
Jacobs	Rhodes	Upton
James	Ridge	Vander Jagt
Johnson (CT)	Rinaldo	Walker
Kasich	Ritter	Walsh
Kolbe	Roberts	Weber
Kyl	Rogers	Weldon
Lagomarsino	Rohrabacher	Whittaker
Leach (IA)	Ros-Lehtinen	Wolf
Lent	Rostenkowski	Wylie
Lewis (CA)	Roukema	Young (FL)
Lightfoot	Saiki	
Livingston	Saxton	

NOT VOTING—61

Ackerman	Hawkins	Pease
Alexander	Hefley	Robinson
Barnard	Holloway	Roe
Brown (CA)	Horton	Roth
Brown (CO)	Ireland	Rowland (CT)
Buechner	Johnston	Rowland (GA)
Bunning	Lancaster	Scheuer
Callahan	Leath (TX)	Sikorski
Clinger	Lewis (FL)	Slattery
Coleman (MO)	Lipinski	Smith (FL)
Conyers	Lukens, Donald	Stallings
Craig	Madigan	Tauzin
Crockett	Manton	Thomas (CA)
DeFazio	Martin (NY)	Vucanovich
Dickinson	Martinez	Washington
Dymally	McDade	Watkins
Edwards (CA)	Montgomery	Waxman
Espy	Morrison (CT)	Wilson
Flippo	Nagle	Young (AK)
Ford (MI)	Nelson	
Hansen	Ortiz	

□ 1954

Mr. SPENCE changed his vote from "yea" to "nay."

Messrs. JENKINS, STENHOLM, CAMPBELL of Colorado, LAUGHLIN, HALL of Texas, and RAY changed their vote from "nay" to "yea."

So the House receded from its disagreement to the amendment of the Senate numbered 167.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is, will the House concur in the amendment of the Senate numbered 167 with an amendment?

The House concurred in the amendment of the Senate numbered 167 with an amendment.

The SPEAKER pro tempore. The Clerk will designate the amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 168: Page 24, after line 9, insert:

SEC. 314. (a) The supervision and jurisdiction of the United States Capitol Police shall extend over any area with respect to which the Architect of the Capitol has contracted, or otherwise entered into an agreement, for parking space in the Union Station parking garage to accommodate personnel of the United States Senate whose parking privileges have been affected by the construction of the Judiciary Annex Building, and over any area and streets necessary to carry out such supervision and to travel between such parking area and the United States Capitol Grounds.

(b) In carrying out such supervision, the United States Capitol Police shall have, within any such area or street, jurisdiction, concurrent with that of the Metropolitan Police of the District of Columbia, to provide security for such personnel and property of such personnel and of the United States Senate within such area or street, and to make arrests for the violation of the laws and regulations of the United States and the District of Columbia.

(c) The provisions of subsections (a) and (b) shall be effective only during the period that there is in effect a contract or other agreement as referred to in subsection (a).

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 168, and concur therein with an amendment, as follows: In lieu of the section number "314", insert "313".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 169: Page 24, after line 9, insert:

SEC. 315. (a) Section 101 of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h-6) is amended—

(1) by inserting "(a)" immediately after "SEC. 101.", and

(2) by adding at the end thereof the following new subsection:

"(b) The Majority Leader, the Minority Leader, and the President pro tempore of the Senate, in appointing individuals to consultant positions under authority of this section, may appoint one such individual to such position at an annual rate of compensation rather than at a daily rate of compensation, but such annual rate shall not be in excess of the highest gross rate of annual compensation which may be paid to employees of a standing committee of the Senate.".

(b) The amendments made by this section shall be effective in the case of appoint-

ments made after the date of enactment of this Act.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 169, and concur therein with an amendment, as follows: In lieu of the section number "315", insert "314".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

□ 2000

The SPEAKER pro tempore (Mr. Bosco). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 170: Page 24, after line 9, insert:

SEC. 316. (a) Consistent with the purposes of Senate Concurrent Resolution 74 of the 101st Congress (agreed to October 26, 1989), and until October 1, 1992, the Sergeant at Arms and Doorkeeper of the Senate, upon the approval of the Committee on Rules and Administration of the Senate, from funds authorized to be expended by subsection (b) of this section, is authorized to provide for the donation of equipment and training to the Senat and Sejm of Poland by—

(1) purchasing and donating new equipment;

(2) donating used or surplus equipment of the United States Senate, notwithstanding section 103 of the Legislative Branch Appropriations Act, 1978 (2 U.S.C. 117b);

(3) arranging for the preparation, delivery, installation, servicing, modification, and adjustment of, and the training, accessories, and supplies for any items donated under paragraphs (1) and (2);

(4) replacing in the United States Senate used or surplus equipment that is donated under paragraph (2); and

(5) conducting such other transactions as necessary to carry out the purposes of section 2(c) of Senate Concurrent Resolution 74 of the 101st Congress.

(b) Of the unexpended and unobligated funds in the appropriation account for the Sergeant at Arms and Doorkeeper of the Senate within the contingent fund of the Senate which were appropriated for fiscal years prior to October 1, 1989, not more than $1,500,000 shall be available to the Sergeant at Arms and Doorkeeper of the Senate to carry out the provisions of subsection (a).

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate Numbered 170, and concur therein with an amendment, as follows: In lieu of the section number "316", insert "315".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 171: Page 24, after line 9, insert:

SEC. 317. (a) Effective with the fiscal year ending September 30, 1990, and each fiscal year thereafter, any unexpended and unobligated funds in the appropriation account for the "Secretary of the Senate" within the contingent fund of the Senate which have not been withdrawn in accordance with the paragraph under the heading "General Provisions" of Chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 102a), shall be available for expenses incurred, without regard to the fiscal year in which incurred, for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the Senate wing of the United States Capitol, any Senate Office Building, or within any room, corridor, or other space therein.

In the case of replication or replacement of such items, the funds available under this subsection shall be available for any such items previously contained within the Senate wing of the Capitol, or an item historically accurate.

(b) All such items of art referred to in subsection (a) shall be known as the "United States Senate Collection".

(c) Disbursements for expenses incurred for the purposes in subsection (a) shall be made upon vouchers approved by the Chairman of the Senate Commission on Art or the Executive Secretary of the Senate Commission on Art.

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

Mr. CONTE. Mr. Speaker, I reserve a point of order on the motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. FAZIO moves that the House recede and concur in the amendment of the Senate numbered 171, with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 316. (a) Effective with the fiscal year ending September 30, 1990, and each fiscal year thereafter, subject to the approval of the Committee on Appropriations of the Senate, any unexpended and unobligated funds in the appropriation account for the "Secretary of the Senate" within the contingent fund of the Senate in the case of the Senate and, subject to the approval of the Committee on Appropriations of the House of Representatives, any unexpended and unobligated funds in any appropriation account disbursed by the Clerk of the House in the case of the House of Representatives, which have not been withdrawn in accordance with the paragraph under the heading "General Provisions" of Chapter XI of the Third supplemental Appropriation Act, 1957 (2 U.S.C. 102a), shall be available for the expenses incurred, without regard to the fiscal year in which incurred, for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the Senate wing of the United States Capitol, any Senate Office Building, or any room, corridor, or other space therein in the case of the Senate and for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the House wing of the United States Capitol, any House Office Building, or any room, corridor, or other space therein or for other purposes as authorized by law in the case of the House of Representatives.

In the case of replication or replacement of such items, the funds available under this subsection shall be available for any such items previously contained within the Capitol, or an item historically accurate.

(b) All such items of art, fine art, or historical items referred to in subsection (a) shall be known as the United States Senate Collection" in the case of the Senate and the "United States House of Representatives Collection" in the case of the House of Representatives.

(c) Disbursements for expenses incurred for the purposes related to the United States Senate Collection shall be made upon vouchers approved by the Chairman of the Senate Commission on Art or the Executive Secretary of the Senate Commission on Art in the case of the Senate and disbursements for expenses incurred for the purposes related to the United States House of Representatives Collection shall be made upon vouchers approved by the House Office Building Commission in the case of the House of Representatives.

(d) The Committee on House Administration and the Committee on Rules, by July 15, 1990, shall use such unexpended funds as necessary to study and report to the House of Representatives the feasibility of implementing the provisions of H. Res. 386 and H. Res. 387.

Mr. FAZIO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

POINT OF ORDER

The SPEAKER pro tempore. Does the gentleman from Massachusetts [Mr. CONTE] insist on his point of order?

PARLIAMENTARY INQUIRY

Mr. CONTE. Mr. Speaker, reserving my point of order, I make a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. CONTE. Is the motion offered by the gentleman the motion that was presented, that was printed, in the joint statement of the managers?

Mr. FAZIO. If the gentleman will yield, no, this has been modified slightly to include some language which would allow for a study and report to the House of Representatives on the feasibility of implementing provisions of House Resolution 386 and House Resolution 387 which are legislation introduced by the gentleman from Minnesota [Mr. FRENZEL]

and the gentleman from Illinois [Mr. MICHEL] to consider a new method of handling congressional frank mail. We felt those measures had sufficient validity that we ought to ask the Committee on House Administration as well as the Committee on Rules to review those bills and report back by July 15 on the feasibility of implementing them.

I would urge that the gentleman from Massachusetts [Mr. CONTE] not insist on his point of order, because I think this is legislation that modifies and enhances the basic motion that I have made.

The SPEAKER pro tempore. Does the gentleman from Massachusetts [Mr. CONTE] insist on his point of order?

Mr. CONTE. Mr. Speaker, yes, I do. The motion is not protected against points of order under the rule. The motion contains reference to funds of the House of Representatives. The Senate amendment pertains only to matters of the Senate. Further, the motion makes reference to a study by the Committee on House Administration in two House resolutions, none of which are mentioned in the Senate amendment. These items and the motion are clearly nongermane to the Senate amendment, and the motion is, therefore, subject to a point of order.

The SPEAKER pro tempore. Does the gentleman from California [Mr. FAZIO] wish to be heard on this point of order?

Mr. FAZIO. Mr. Speaker, I must regretfully concede the point of order. I do so very regretfully, because I think this was an effort to reach out to the minority and meet them halfway on what is obviously a very contentious issue.

If we are not allowed to do that tonight, I would have to concede.

Mr. CONTE. Mr. Speaker, I appreciate the statement of the gentleman from California. I am not objecting to the study under the gentleman's new motion. The House fund is not protected, and I object to the fund, the slush fund, and that is what we want to knock out, and it should be knocked out.

The SPEAKER pro tempore (Mr. Bosco). The point of order is conceded and sustained.

Mr. WHITTEN. Mr. Speaker, may I be heard on this matter, the point of order?

The SPEAKER pro tempore. Does the gentleman from Mississippi have a motion?

Mr. WHITTEN. My understanding is that funds that are available are those that are unused.

The SPEAKER pro tempore. Does the gentleman from Mississippi have a motion?

Mr. WHITTEN. Mr. Speaker, I would like to be heard prior to my motion if I might.

The SPEAKER pro tempore. Without objection, the gentleman from Mississippi is recognized.

There was no objection.

Mr. WHITTEN. Mr. Speaker, I would like to make a statement. May I say that my understanding is that the funds that would be made available are unused funds and available now. The amendment would only make them available in case the House should need to use them for authorized purposes but would not distribute them to any specific area.

We should not refuse to let that go ahead. This would leave us where the funds that are remaining are not automatically spent but are made available.

That being true, I offer my motion now which I have at the desk, but I do point out that the funds that are made available by this amendment are made available only but not distributed.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 171, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 316. (a) Effective with the fiscal year ending September 30, 1990, and each fiscal year thereafter, subject to the approval of the Committee on Appropriations of the Senate, any unexpended and unobligated funds in the appropriation account for the "Secretary of the Senate" within the contingent fund of the Senate in the case of the Senate and, subject to the approval of the Committee on Appropriations of the House of Representatives, any unexpended and unobligated funds in any appropriation account disbursed by the Clerk of the House in the case of the House of Representatives, which have not been withdrawn in accordance with the paragraph under the heading "General Provisions" of Chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 102a), shall be available for the expenses incurred, without regard to the fiscal year in which incurred, for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the Senate wing of the United States Capitol, any Senate Office Building, or any room, corridor, or other space therein in the case of the Senate and for the conservation, restoration, and replication or replacement, in whole or in part, or items of art, fine art, and historical items within the House wing of the United States Capitol, any House Office Building, or any room, corridor, or other space therein or for other purposes as authorized by law in the case of the House of Representatives.

In the case of replication or replacement of such items, the funds available under this subsection shall be available for any such items previously contained within the Capitol, or an item historically accurate.

(b) All such items of art, fine art, or historical items referred to in subsection (a) shall be known as the "United States Senate Collection" in the case of the Senate and the "United States House of Representatives Collection" in the case of the House of Representatives.

(c) Disbursements of expenses incurred for the purposes related to the United States Senate Collection shall be made upon vouchers approved by the Chairman of the Senate Commission on Art or the Executive Secretary of the Senate Commission on Art in the case of the Senate and disbursements for expenses incurred for the purposes related to the United States House of Representatives Collection shall be made upon vouchers approved by the House Office Building Commission in the case of the House of Representatives.

The SPEAKER pro tempore. Does any Member wish to be heard on the motion?

Mr. CONTE. Mr. Speaker, I ask that the time be divided.

The SPEAKER pro tempore. Does the gentleman from Mississippi [Mr. WHITTEN] wish time at this point?

Mr. WHITTEN. Yes, Mr. Speaker, I ask for time.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield 10 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, I guess it is my purpose at this time to explain the effect of amendment No. 171, which was inserted by the Senate and modified in conference by the House.

As the chairman said earlier, this is an attempt to use unobligated prior appropriations, appropriations which were made in fiscal year 1988 and 1989, in this fiscal year to deal with some of the problems that we face during the latter part of this fiscal year in meeting a number of needs of the House of Representatives, the most important of which, and I will go right to the heart of the debate, of course, is House mail.

We feel it is appropriate to use these prior appropriations to deal with the current estimated under funding for postage, because, in fact, it was the intent of this committee to fund our congressional franking privilege at a figure that is, indeed, much higher than is available today.

That figure was reduced in terms of the total appropriation both here on the House floor, certainly by the Senate, and, again, on a point of order on the conference report when we came back last year to enact the legislative branch appropriations bill.

Had we continued to appropriate the amount we brought originally from

committee, we today would not be behind in terms of funding the frank that all the Members of this body in both parties have used thus far this year. But we are.

I think it appropriate for us to use this opportunity on a supplemental piece of legislation to make headway against the arrearage, which is estimated to be perhaps as high as $35 million to $45 million.

I might inform the Members that at most we could from prior appropriations, find $25 million, should we choose to reprogram the unobligated funds that I have mentioned earlier in my discussion. I think it is most important to point out that this postage bill will be paid at some point. The House of Representatives has never failed to pay its postage bill.

Mr. Speaker, I think we ought to use this opportunity to begin to make payment on our bill. I think it is important to point out to many of our colleagues who have forgotten that we have taken steps in the last year to reform the way in which we use the frank. Both the House and the Senate acted last year to split accounts between the two bodies to have a better accounting of the funds. Effective in January of this year we reduced the number of newsletters that go out under postal patron mail. That is a permanent change in law. It reduces the number of pieces of mail that could go out from six to three. This is the first year that reform has been implemented.

We have also limited the number of newsletter pages to two from a multitude of pages that were mailed in some cases in prior years.

We have enforced and strengthened the restriction on mass mailings 30 days before elections, therefore, tightened up considerably the procedures that used to operate. In effect, we now have a 60-day moratorium before the primary and the general election, ruling 4 months out of 10 before the general election out of bounds for mass mailings.

The Postal Service was tasked with estimating our congressional mail usage every 3 months, and the House Administration Committee and the Franking Commission were directed to issue appropriate regulations to try to get some control on our postage costs.

But I think it is most important to point out we have not really understood the effects of those reforms that have only recently been enacted. I believe that our coverage this year will be far less than some people have estimated, which, as I indicated, is in the $35 million to $45 million range. I hope that Members will find, at the end of this fiscal year, that the amount we have spent is far less than that, but I regret it will still be more than has been appropriated.

I believe that if we can make this decision today to use these funds that otherwise would revert to the Treasury as unexpended, we will make an effort at the same time to send a message that we do intend to make some changes and make some reforms in the way in which we use the frank.

I think it is difficult to decide what they are going to be. Even the legislation introduced by the gentleman from Minnesota [Mr. FRENZEL] and the minority leader, the gentleman from Illinois [Mr. MICHEL] does not spell them out. They simply delegate to the Committee on House Administration the responsibility of coming up with a new system.

The language I offered earlier which was stricken on a point of order would have given impetus, I think, to the effort to use the authorizing committees to give us some new direction as to how we can be more restrained in the use of the frank.

But the frank is a fundamental right. Members on both sides of the aisle use it, and I think, in fact, if people still study the record they will determine that the minority historically has used it even more effectively than the majority, which is today forced to carry the political load on this issue.

Last year when we looked at the records of the Franking Commission, we determined that those Members who mailed four, five and six newsletters, which today are no longer allowed, were by a 2-to-1 margin Republican Members, even though they are obviously well outnumbered in this body. I am not at this point going to get into more partisan debate, but I think this problem has to be addressed in a bipartisan manner, because until we face it as a group, we will not get control of the expenditures, and we will continue to have the partisan recriminations even while we continue to mail the frank to our districts with reckless abandon.

□ 2010

The major problem we have today is that we are the Appropriations Committee. We are not an authorizing committee, we are simply paying the bills for the Members who have used the frank as they have traditionally, with some modification last year, as I indicated.

Let me say this is not a slush fund that we are creating here today as has been alleged. Every dollar that will be spent would be spent only in prior authorized programs. Somebody said, for example, that we could authorize new limousines for purchase.

Well, I think it is important to point out that we only have automobiles for the leadership, and only five of them have drivers. If we are going to provide any more cars for anyone around here, an authorization would need to be passed first.

Mr. Speaker, this is not a slush fund. It leaves the Committee on Appropriations and its reprogramming authority firmly in charge.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if the pending motion is defeated, then my motion would strip from the bill the language added in the conference which creates a fund in the House from existing unobligated funds available for any purpose which is authorized, subject only to the approval of the Committee on Appropriations.

Well, that is the extent of the language, but with a $38 million shortfall in fiscal year 1990 in official mail cost funding and approximately $25 million available in unobligated balances, it does not take a rocket scientist to figure out. What this is all about is the inability and the unwillingness of this House to enact effective franking reforms.

Last year when the House considered the legislative branch appropriations bill I offered a motion to instruct the conferees to agree to a Senate amendment which would have eliminated all mass mailings and use the money instead for the prevention of crack babies.

The House agreed to my motion by a vote of 244 to 137. Then the conferees went right upstairs and ignored the House instructions, and the fix was on.

All we got out of that whole deal was a measly cut in the number of newsletters allowed per year from 6 to 3, and no limits on town meeting notices.

So now where do we find ourselves tonight? We have a deficit in the mail account of at least $38 million this year. This language my motion would strike from the bill would pay off $25 million of that deficit. That language was added without any consultation, I might say, and sometimes people will learn it is better to consult with the minority members in the conference.

Mr. Speaker, it is obvious that these deficits and these "frankingsteins" will hound us until we get real reform in the mailing regulations which govern Members of the House.

I very seldom, as the gentleman from California [Mr. FAZIO] knows, have a kind word for the other body. But the fact is they have gone further than the House in this regard. I am not without hope. The distinguished majority leader, the gentleman from Illinois [Mr. MICHEL] and the soon-to-be retiring conscience of the frank, the gentleman from Minnesota [Mr. FRENZEL], have introduced bills to bring real reform to our mailing practices. I will let them describe the provisions of their bills. But I want to make the

point we will never get reforms as long as we continue to put up the supplemental appropriations or find funds elsewhere to pay for the existing abuses. We have got to stop paying the bills for the increased use of the mail, or let me use the word "overuse" of the mail. The place to do it is right here.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I just want to make a couple of points. First of all, we are not seeing an excessive use of the frank. Most of the increases, in fact all of them, really reflect the increasing cost of mailing what we have traditionally mailed here.

We have increased our outflow of mail, since the early 1980's about 1 percent a year. The costs, however, as we all know, for all forms of mail have gone up all during that period, and that really reflects why the House of Representatives has had to pay more, to really stand still in our total mailing program.

Now, 132 percent is the figure that reflects the increase in incoming mail. as the gentleman knows, we had a number of Members come to us this year pleading for more timely delivery of mail to their offices after it arrived on Capitol Hill and we ultimately hired 35 more people to work in the post office simply because we were not getting the incoming mail in our offices in a timely fashion.

There has been in the same period when we have had an almost minuscule increase in outgoing mail a 132-percent increase in incoming mail.

It is not the newsletters that go out on postal patron that are really the problem. I think all Members know that since we have cut back from six to three in that area and still have a sizeable bill, the cost is the mail going out of individual letters, often on first-class postage. We are all guilty of using our word processors to serve our constituents.

Mr. CONTE. Mr. Speaker, if I may reclaim my time, I do not want to be rude because I am always a gentleman with the gentleman from California [Mr. FAZIO], but the gentleman is taking all my time.

Mr. FAZIO. Mr. Speaker, if the gentleman will yield further, I did not mean to take this time, except I have one further point I would like to make. I wanted to apologize to the ranking Member for perhaps not doing an adequate job of consultation. It was certainly not our intent. I think we had communicated, but not effectively enough, and in that regard I do want to apologize. I am sure had I been in touch with the gentleman from Massachusetts [Mr. CONTE] earlier, it would have allayed this entire debate tonight, because I am sure the gentleman would not have insisted on this motion.

Mr. CONTE. Mr. Speaker, reclaiming my time, I appreciate the apology of the gentleman from California [Mr. FAZIO] and I hope that from here on in we can have better communication. But it is just like the garage attendants. I have been fighting that now for how long, and I cannot get rid of one garage attendants. In the morning it is dangerous to drive into that garage. You are going to run over somebody. I cannot get anywhere.

Mr. Speaker, you cannot get anywhere here on the mail. I think this is one way that we will get the attention of the House.

It seems awfully strange that in an election year the mail costs go way up. There is something strange there. I do not know why that happens.

But now let me tell the House the parliamentary situation. You first must vote against the pending motion. A no vote is a vote against the $25 million fund for the runaway Congressional mail costs.

So If Members are watching this on the tube, if they want to be for cutting $25 million out of the slush fund, vote no when you come over here, because I will not have time to talk to all Members.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I want to speak for just a few minutes by way of laying some foundation in response to the gentleman from California [Mr. FAZIO]. I know I will be hearing further from both my ranking Member and the gentleman from Illinois [Mr. MICHEL] as well.

The reality is that this discussion focuses around the fact that we have been attempting seriously to go about reforming our mail processes around here. We have had some success at cutting back the postal patrons, which really is the junk mail that people are now throwing away in truckloads anyway.

But also it is only fair to say that has been replaced by computer mail. That is almost entirely self-generated by our offices. The increase in volume that the gentleman from California [Mr. FAZIO] mentions is a reflection of two things. One, the endless questionnaires that we send to our constituents to get their mail back so we can write to them, and the petitions that come in that we feel cause us to have some reason to write to every name on every list.

The reality is that the computer systems are used as an incumbency reelection device, and the reality is that the minority is in a considerable minority, and we do not like it.

There is the further fact that we are going to pay for the mail. We will pay for it in this fashion, in this special bill, or we will pay for it later in the regular process.

Mr. Speaker, I suppose the strongest argument that could be made is that we probably ought to, since it is not urgent, put it in that regular process, and with that decision go about further trying to revise what is senseless expenditure involving our own reelection.

Mr. Speaker, this amendment is neither dire nor is it an emergency. But then again, this legislation is no longer referred to as the "Dire Emergency Supplemental." What is a dire emergency is the urgent need for real franking reform. The last thing we need is to throw more money, $25 million to be exact, at the problem. I oppose this amendment and move that we sit down and work out real reforms which will eliminate congressional junk mail. We all recognize the constitutional mandate to communicate with those who elect us to represent them in this great institution. However, blanketing our States with smiling pictures and weekly update letters regarding National Tap Dancing Day is a grand waste of taxpayer funds. We made some progress last year, however, I am appealing to you Mr. Speaker, to admit the problem is convene the appropriate members to work out a solution.

□ 2020

Mr. WHITTEN. Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I appreciate the distinguished subcommittee chairman's efforts to ensure a review of the bills introduced by myself and the distinguished minority leader by two committees of this House. I would note, however, that those committees could have reviewed those bills ever since they were introduced. They have had plenty of time to do so.

Unfortunately, the only time that the attention of the House is ever directed to mail reform is when we have items in appropriation bills relating to the frank. The outrageous use of the people's money to aggrandize the Members of the House through the use of the frank is conveniently forgotten on other occasions.

It is not the intention of myself or my colleague, the gentleman from Illinois [Mr. MICHEL], to be mean-spirited. We know that when we incur the bills we have to pay them, and when one has danced, one must pay the piper.

Our belief is, however, whenever you give into the distinguished gentleman from California and always pay these bills in arrears without demanding postal reform you will never get reform. The House will continue to ignore postal reform as long as we let it.

The only way to get reform is to deny the gentleman the wherewithal

to pay those excessive mailing costs. When you get his attention, you will get some restraint on the use of the frank.

We have had modest, extremely modest, even feeble restrictions on the frank. As soon as we restrict postal patrons, we have Members using town meeting notices wantonly. We had one Member in the last 5-month period, and that record is available in my office who sent town meeting notices to every person in his district four times within the 5-month period. That tactic is more effective than the use of a newsletter to put the incumbent's name in the mailboxes. I recall only one, but there are many more.

Our use of first class postage is wonderful too. We mail out many more letters than are ever received or phone calls are received. We mail automated lists which are maintained at Federal Government expense. "Thank you, Mrs. Hooverdeuce, for suggesting the marigold as the national flower. I continue to support your efforts as a result of the letter you wrote me 20 years ago, and I am writing you as I have every 3 months ever since that."

That is the kind of thing that the public is getting very tired of, and it is pretty apparent when the expenses in an election year soar well above those expenses in other years when Members do not feel a great urge to communicate. In the off years, Mr. Speaker, we are not driven to communicate. In even numbered years, we do not have to tell our constituents how much they need us, and how badly they need to see our names in their mailboxes. It is only in the election years that we bomb them with first class mail, with postal patron mail, and with town meeting notices.

The House can continue to do what it has done, and many Members will hold that they have some unalienable right to mail whatever they darn please. However, the public is getting a little tired of it, the press is getting a little tired of it, and sooner or later the piper is going to be paid again, not with the taxpayers' money, but with defeat of a couple of Congressmen who do not make it because it has been revealed they have been overusing the frank.

The gentleman from Illinois [Mr. MICHEL] and I do not have all of the answers. A lot of other people have great ideas, too. Maybe somebody can make a better bill, and I hope that they can, but at least we are asking for personal accountability.

The Senate did that, and when it did that, its bill, its franking costs have gone way below the estimates, while ours, without personal accountability, have soared well above it.

We also seek to limit those town meeting notices, to limit newsletters further, to require a disclaimer and disclosure of personal use of the frank by Members. We do not know if that is the best way to do it. We are suggesting that is one way to do it.

If we can finally make some of these changes, I believe that we will save the public a lot of money, and we will save ourselves a lot of trouble from apologizing that we are abusing our constituents by giving them mail that they do not want.

I have never had a complaint from a constituent that I sent them too few letters, as long as I responded to the ones that they sent me.

Mr. Speaker, I think that we should defeat the motion of the gentleman from Mississippi and begin to make some progress in postal franking reform.

Mr. WHITTEN. Mr. Speaker, I yield 8 minutes to my colleague, the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I would like to bring some facts to the attention of the Members.

It has been suggested that we have runaway mail. I would suggest that if we have runaway mail, it is incoming mail. I would urge Members to read this chart from the bottom to the top. This little bar graph represents 1972. Our constituents mailed 14.5 million pieces to us in 1972. Today, by contrast, we received some 262 million pieces of mail. I am not a mathematician, so I do not know how many more times that is than 14 million, but it is a whole lot.

Second, if we adjust for postal rates, as the gentleman from California [Mr. FAZIO] has indicated, the fact is that our use of the mail, our expenditures for the mail have increased by roughly 1 percent a year. I would say that is fairly restrained.

Third, the House share of mail has declined since 1974.

Fourth, we mailed last year 15 million pieces of mail less than we mailed in 1988. I do not think that indicates a huge expansion of mail. It indicates quite the contrary.

I would never suggest that anyone in this House has engaged or would engage in hypocrisy. But I looked at Webster's Dictionary and it defines hypocrisy as "feigning to be what one is not, or to believe what one does not." It defines feign as "meaning to make a pretense of, not genuine or real, to give a false impression or to fake."

I would not want to accuse any Member of the House of ever being a fake. But the fact is while we have heard from some of our good friends on the Republican side of the aisle some concerns about the use of the frank, I have in my hand, as a Senator from Wisconsin used to say, an eight-page letter. It is called the Campaign Newsletter for Republican Members of Congress, mailed from the Republican Congressional Campaign Committee. Roll Call in its article describing that brochure says, "In public, Republican leaders denounce existing laws that they claim favor the Democratic majority. But, privately, they urge GOP incumbents to take full advantage of these opportunities."

The Republican newsletter then contains eight pages of suggestions about now to use congressional mail. It has some of these quotations:

"Let your imagination run free."

"Develop a data base."

"Put your plan in motion."

"Encourage the use of mail like meeting notices in order to escape postal patron limitations."

I would suggest that we just may have a case here where somebody just may be wanting to, as I often say, pose for "political holy pictures" by making a public pitch against a practice which they all too much enjoy under the table.

So what I would simply suggest is that we put partisanship aside, we recognize that we are fundamentally superior to the Senate in terms of the ethics associated with our mail, because we have remained true to the reform that we passed in 1975, when we drew a financial wall between official and campaign expenses. We said then no more may you use your campaign expenses to supplement your office accounts, because that means your private campaign contributors are helping to run your congressional office, and that is a conflict of interest.

□ 2030

Now, we got rid of honoraria. I do not want us, as we have gotten rid of honoraria, I do not want us to slip into the practice of relying on private interests to find official accounts. That is what is allowed under the way the Senate handles their mailing because they can use campaign funds from private sources to fund official duties. That, in my judgment, is not nearly so upright as honestly taking the heat for providing funding for public purposes, doing it honestly rather than trying to slip in private sources which can often be suspect.

I would urge you to support the gentleman from Mississippi's motion.

Mr. Speaker, I would simply ask Members on the Republican side this question: Would any Republican who wrote a letter to the Republican campaign committee objecting to their suggestions for ginning up congressional mail please stand? I thought so. No one stands.

Mr. CONTE. Mr. Speaker, will the gentleman repeat that?

Mr. OBEY. Yes, I would be happy to. I say: Would anyone who has written the Republican campaign committee objecting to their eight pages of suggestions on how to increase mail-

ing, how to increase franking, would they please stand?

Mr. CONTE. How can I object? I never read it.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, is the gentleman referring to this publication headlined "Incumbent"? Is that the one that he has?

Mr. OBEY. Yes, that is the one that I have.

Mr. FAZIO. Is this the one that includes an article, "Targeting Your Message: Effective Uses of the Frank Can Help Republicans, Especially Freshmen, Reach a Larger Audience"? Is that the one?

Mr. OBEY. That is correct. It also has another section, "Targeting Checklist."

Mr. FAZIO. Well, I think this is a very innovative newsletter. I am frankly glad it fell into the hands of our campaign committee because, frankly, they need these suggestions in order to be competitive.

Mr. OBEY. It also has another bracketed section, which says, "Ideas for List Development. Every effective mail program begins with an effective mailing list."

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. OBEY. Yes, I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I must say some of those ideas were generated just as a result of my being in my colleague's office on the other side of the aisle, and hearing the computer going all night long. I had not thought about that.

Mr. OBEY. I would simply suggest that, as is normally the case, no party has a monopoly on virtue, no party has a monopoly on morality. I would hope that there are certain issues which are beyond partisan sniping, for the good of the institution.

I recognize the correctness of the view that there needs to be franking reform. I have participated in that in the past as has the gentleman from California on this side of the aisle and on that side of the aisle. We will all participate in more of it.

But let us not take cheap shots at each other. This institution ought to be above that. This institution has taken enough unfair pummeling.

Mr. Speaker, I would urge you to support the motion of the gentleman from Mississippi. It is the only responsible motion that we can take, given the fact that we owe the money.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume, just to answer my dear and beloved friend from Wisconsin: If you do not like the Republican overuse of the frank, as you said, you ought to be for my position to bring reform to the system.

The gentleman and Mr. FAZIO keep talking about partisan politics. I do not know if you were here or heard my statement. There was nothing partisan about it, not a word.

Hey, there are abuses on both sides of the aisle. But there is an abuse of the frank.

I was just handed this piece of paper: In 1989, we spent $57.2 million for mail.

And do you know what the projection is for 1990? $78.9 million.

Do you know what happens in 1990? An election year.

Do you think there is any relationship between this tremendous increase and that fact?

Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I do not rise to take any cheap shots here. I really rise in support of an effort to try to save $25 million.

Let me say quite frankly to my friend from California, I suppose this may not have come up in this fashion had there been a little better communication, as he acknowledges, because the gentleman from California on a number of issues has gone to bat for all the Members; on some issues we have differed and on others we have worked together.

I also see the gentleman from my home State [Mr. ANNUNZIO] on the committee on which he gets petitioned an awful lot for doing things for Members. It is pretty difficult to have to sit there day after day and listen to requests for more and more when, frankly, you have to say "no."

On occasion that has been done, any number of times. So I applaud you for that.

My point is, however, that in my supporting the position of the distinguished gentleman from Massachusetts and my distinguished colleague from Minnesota is that what we do here is set a dangerous procedural precedent, and second, it is a band-aid solution to the franking problem that does really need radical surgery.

It is bad policy, as I have said, to establish whatever you want to call it; some would say it is a slush fund, a rainy-day reserve, or whatever you want to call it. But $25 million is still a very significant amount, even in this body.

I guess for those of us over the last several days who have been wrestling to the summit for matters in which we are going to have to really come to grips with far bigger figures, why, if we can take a $25 million cut here and there, it will all then add up. And if we have savings from our appropriations, it seems to me it should be going to reducing the deficit and not to Members' pet projects.

Now, if you look at the bill, the Senate would use limited moneys specifically for art restoration and the House would use it for that and for other reasons. This year we are told it would be or could be used or will be used for the frank. But what about next year?

Will it be used for renovations or more Capitol police? Who knows?

The distinguished gentleman from Massachusetts made the point that he has made an effort in times past with respect to perks in this area around here having to do, yes, all the way from elevator operators to garage attendants to the police force itself. I also oppose it because it is supposedly a remedy to the franking problem. But this is not the time or the place or the manner to deal with the abuse of the frank.

Mr. Speaker, we have become, I think, quite frankly, addicted to free mail and maybe become franking junkies around here.

If present trends continue, the House will be mailing almost two letters to every man, woman, and child in the country of four letters per eligible voter.

I just do not happend to think, and I have been monitoring my mail for some 34 years, and while the distinguished gentleman from Wisconsin makes mention and as the graphs will show, volumes and volumes, many times over of incoming mail that also has to be addressed. But I would suggest that a good measure of that incoming mail, as I have come in on a weekend to preliminary run the cut on it, I will tell you there is an awful, awful lot of that incoming mail that is not going to see the light of day from the standpoint of it just being, in a sense, junk mail coming in. Specific letters and petitions, requests, that is another thing.

But I will tell you we are just about the recipients, as the general public is, of so-called junk mail probably in spades.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Speaker, I open my first mail every day in my office, and I find that about a quarter of my mail is mail that we send ourselves; it is "dear colleagues" to each other.

□ 2040

Most of the rest is junk and catalogs. That 162 million increase in the volume over the years has not been mail from our constituents that is coming in at the same level. I may get

less because I suspect by now my constitutents feel I am beyond redemption, but in general, the increase in mail has nothing to do with mail to which we must respond as a matter of our legislative duties.

If a member sends me a "Dear Colleague" letter, I do not respond to it usually.

Mr. MICHEL. Mr. Speaker, I am happy to yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. In terms of incoming mail, we have today 17 times the amount we had in the 1970's incoming mail. It is not "Dear Colleagues" and catalogs. We all know, as people in political life, that groups of citizens the right and left, have bombarded this place with postcards and computer letters. We are caught up in dueling computer with special interests that we are all part of, that impact Members. That is one reason Members become influential here. They ally with outside groups to bombard their colleagues.

We are all part of the problem, and we have to be part of the solution. I simply would say there is no way to excuse away the fact we are getting a lot more mail and we are responding a lot more. We have to get a handle on it. I think that the gentleman from Minnesota [Mr. FRENZEL] and the gentleman from Illinois [Mr. MICHEL] have some creative ideas. I think we would all want to have far more details, though, before this body, before we would agree to changes in what is a historic system. I think every Member knows public opinion polls shows an overwhelming 3 to 1 margin in support of the use of the frank. I do not think we are committing any illegal or unethical action when we communicate with our constituents. They seem to want more of it.

I am for finding an answer for the fiscal problem that besets this committee and this House. I want to do it in a bipartisan way. I look forward to working with the gentleman from Illinois [Mr. MICHEL] and the gentleman from Minnesota [Mr. FRENZEL] to find that solution. But, lets not deny the fact that the problem exists.

Mr. MICHEL. Mr. Speaker, reclaiming my time, it seems to me that I do not know why we cannot reduce the number of postal mailings or meeting notices. That has bugged me for many, many years. Why not require disclosure of Members, by Members' office, of what is mailed out at taxpayer expense. I have to say quite frankly, along with my friend, the gentleman from Minnesota [Mr. FRENZEL], that we intend to make franking reform part of our campaign reform package, because it has gotten to that degree where it does need reform. Maybe even when we get to the legislative appropriation bill itself, if there is not a move before that time, to make a move in that area.

My point is, again, that I think we have become franking junkies around here, and abused the privilege to the degree that we have an opportunity here to stop it in its tracks and make some points for ourselves in the process. That certainly is not going to be all that injurious to the institutions. I would certainly ask Members to support the effort of the gentleman from Massachusetts [Mr. CONTE] by voting "no." Then we will see where we go from there.

Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I would like to ask a couple of questions. I am a little bit confused. Now, what happens if we do not have the money here? What is the story here? Are we going to be able to keep mailing, and will the minority be able to continue to mail the frank? And will every Member that travels over this break, be able to come back and send out a letter to the constituents about the important trips they made?

Mr. FAZIO. If the gentleman will yield, all Members on this floor know we will continue to mail, and the bill that is unpaid will continue to accrue. At some point, as we have always done in the past, we will have to responsibly pay it.

Mr. HEFNER. Mr. Speaker, under the gentleman from Massachusetts Mr. CONTE's proposal, will that pay the bill?

Mr. FAZIO. If the gentleman will continue to yield, the gentleman from Massachusetts, Mr. CONTE's proposal, simply defers the day of reckoning, requires Members to pay an additional supplemental out of the 1991 fiscal year, which will be on the floor in several months.

I say let Members use already appropriated leftover funds, which are unobligated from 1988 and 1989, to help work down this problem, and when we come to the floor, later on this summer, hopefully we will have a bipartisan consensus for reform in the future.

Mr. HEFNER. Mr. Speaker, I would like to disagree to some extent about what generates mail here. A lot of things generate mail. We get these little cards, and they come from people that have picked them up at malls where they work, or the shopping center saying, "Please do not allow them to take our religious broadcasting off the air." Some person has put out a newsletter that says we will take religious broadcasting off. "Please do not let them take our guns away from us," and these sort of things. We get thousands and thousands of letters which we are expected to answer.

Another thing that generates a lot of mail around here, and I do not know who pays for the time when we have special orders that run all night around here, and people go on CNN and ESPN and all these networks and harangue the Congress. We get thousands of letters when this takes place. I do not know who pays for the time of the TV, and to keep these people here, but if Members want to talk about reform, it seems to me we ought to talk about a lot of reform. We ought to talk about a lot of reform, how we do things around this House. We ought to talk about reform on how people travel. If we discuss how much we mail, I think we ought to disclose where we travel and why we travel and what benefit it is to the people—your constituents. To do that, we will have to be able to send a letter to tell them how important it is that we travel to Germany or England or the South Seas or wherever. There is a lot of reform that needs to be done.

Mr. CONTE. Mr. Speaker, I have to say one thing about my good friend who just took the well. His mind is in the right place—ESPN. That is my favorite station, too. Pay now, pay now. Reform later. That is what it is all about.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, I rise in support of the motion of the gentleman from Massachusetts, Mr. CONTE.

Mrs. MARTIN of Illinois. Mr. Speaker, once again we are not being frank about the frank. Year in and year out, the House of Representatives continues to overspend our franking budget. And year in and year out we appropriate more money to cover our overspending.

The House has already spent most of our $44 million franking allowance in fiscal year 1990. And now, magically, out of thin air, we are finding $25 million more for our franking needs, or maybe I should say greed.

Any of our constituents who have read a congressional newsletter realize that they are no great medium of intellectual or information exchange. Franked newsletters have become little more than taxpayer funded political advertisements for incumbents.

So now we are asked to add $25 million to our franking account. The amendment in question may be technically drafted to appear innocuous, but the bottom line remains that it represents another overspending by a Congress that can't address our deficit.

If we can't address that deficit, let's not address more unwanted, unneeded and unnecessary mail to the mailboxes of our constituents. I urge the Members of the House to vote "no" on this amendment.

Mr. CONTE. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I will take advantage to invite the attention of the House to a letter that many Members got today. It says, "The citizens' groups below represent over 800,000 taxpayers who are concerned with the waste of tax dollars." It concludes, "We urge you to support Representative CONTE's motion to strike this language and demonstrate to your colleagues and constituents your commitment to fiscal responsibility." It is signed by the Citizens for a Sound Economy, Council for Citizens Against Government Waste, and the National Taxpayers' Union.

We will not have to answer if we vote yes on the motion of the gentleman from Mississippi. On the other hand, if we would like to tell our constituents that we are for postal reform, and want to reduce the mailing costs of the Congress, I am sure we will be glad to write these folks and tell them we voted no, so we could support the gentleman from Massachusetts [Mr. CONTE].

Mr. FAZIO. Mr. Speaker, I yield myself 30 seconds. In conclusion, let me simply give the Members the results of a recent national poll that was done by a very reputable firm, Melvin-Lazarus. They say:

A plurality of voters think they get too little mail from their congressmen. Only a tiny handful believe they get too much. Moreover, voters see keeping the electorate informed about government as a central responsibility of Members. When arguments on both sides of the issue were presented, voters favored continued use of the frank by more than a 3 to 1 majority.

I think we need to pay our bills. I think what we are doing in providing of our democracy. I urge that we accept this language added in the conference.

Mr. CONTE. Mr. Speaker, in conclusion, and not to take any more time, I urge my colleagues to vote no as they come to the floor. I also want to compliment both sides for the high level of the debate that took place today. It was very commendable. Vote no.

The SPEAKER pro tempore (Mr. Bosco). The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 161, nays 208, not voting 63, as follows:

[Roll No. 146]

YEAS—161

Annunzio	Gephardt	Natcher
Anthony	Geren	Neal (MA)
Aspin	Gibbons	Neal (NC)
Atkins	Gonzalez	Oakar
AuCoin	Gordon	Oberstar
Beilenson	Gray	Obey
Berman	Hall (OH)	Owens (NY)
Bevill	Hatcher	Owens (UT)
Bilbray	Hayes (IL)	Payne (NJ)
Boggs	Hertel	Payne (VA)
Bonior	Hoyer	Pelosi
Borski	Hubbard	Perkins
Bosco	Hughes	Price
Boucher	Jones (GA)	Rangel
Boxer	Jones (NC)	Richardson
Brooks	Jontz	Rose
Bruce	Kanjorski	Roybal
Bustamante	Kaptur	Russo
Campbell (CO)	Kastenmeier	Sabo
Cardin	Kennedy	Savage
Carr	Kildee	Sawyer
Chapman	Kleczka	Schumer
Clay	Kolter	Serrano
Clement	Kostmayer	Skaggs
Coleman (TX)	LaFalce	Skelton
Collins	Lantos	Smith (IA)
Condit	Leath (TX)	Smith (NJ)
Cooper	Lehman (CA)	Solarz
Coyne	Lehman (FL)	Spratt
de la Garza	Levin (MI)	Staggers
DeFazio	Levine (CA)	Stark
Dellums	Lewis (GA)	Stokes
Derrick	Lowey (NY)	Studds
Dicks	Luken, Thomas	Swift
Dingell	Markey	Synar
Dixon	Matsui	Tanner
Donnelly	Mavroules	Torres
Dorgan (ND)	Mazzoli	Torricelli
Downey	McCloskey	Towns
Durbin	McCurdy	Traficant
Dwyer	McDermott	Traxler
Eckart	McHugh	Udall
Engel	McMillen (MD)	Unsoeld
Evans	McNulty	Vento
Fascell	Mfume	Visclosky
Fazio	Miller (CA)	Volkmer
Feighan	Mineta	Weiss
Flake	Moakley	Wheat
Foglietta	Mollohan	Whitten
Ford (MI)	Montgomery	Wise
Ford (TN)	Moody	Wolpe
Frank	Mrazek	Wyden
Frost	Murphy	Yates
Gejdenson	Murtha	

NAYS—208

Anderson	DeLay	Hayes (LA)
Andrews	DeWine	Hefner
Applegate	Dornan (CA)	Henry
Archer	Douglas	Herger
Armey	Dreier	Hiler
Baker	Duncan	Hoagland
Ballenger	Dyson	Hochbrueckner
Bartlett	Emerson	Holloway
Barton	English	Hopkins
Bates	Erdreich	Houghton
Bennett	Fawell	Huckaby
Bentley	Fields	Hunter
Bereuter	Fish	Hutto
Bliley	Frenzel	Hyde
Brennan	Gallegly	Inhofe
Broomfield	Gallo	Jacobs
Browder	Gaydos	James
Bryant	Gekas	Jenkins
Burton	Gillmor	Johnson (CT)
Byron	Gilman	Johnson (SD)
Campbell (CA)	Gingrich	Kasich
Carper	Glickman	Kennelly
Chandler	Goodling	Kolbe
Clarke	Goss	Kyl
Coble	Gradison	Lagomarsino
Coleman (MO)	Grandy	Laughlin
Combest	Grant	Leach (IA)
Conte	Green	Lewis (CA)
Costello	Guarini	Lightfoot
Coughlin	Gunderson	Livingston
Courter	Hall (TX)	Lloyd
Cox	Hamilton	Long
Crane	Hammerschmidt	Lowery (CA)
Dannemeyer	Hancock	Machtley
Darden	Harris	Marlenee
Davis	Hastert	Martin (IL)
McCandless	Ravenel	Smith (VT)
McCollum	Ray	Smith, Robert (NH)
McCrery	Regula	
McEwen	Rhodes	Smith, Robert (OR)
McGrath	Ridge	Snowe
McMillan (NC)	Rinaldo	Solomon
Meyers	Ritter	Spence
Michel	Roberts	Stangeland
Miller (OH)	Rogers	Stearns
Miller (WA)	Rohrabacher	Stenholm
Molinari	Ros-Lehtinen	Stump
Moorhead	Roth	Sundquist
Morella	Roukema	Tallon
Morrison (WA)	Saiki	Tauke
Myers	Sangmeister	Tauzin
Nielson	Sarpalius	Taylor
Olin	Saxton	Thomas (GA)
Oxley	Schaefer	Thomas (WY)
Packard	Schiff	Upton
Pallone	Schneider	Valentine
Panetta	Schroeder	Vander Jagt
Parker	Schuette	Vucanovich
Parris	Schulze	Walgren
Pashayan	Sensenbrenner	Walker
Patterson	Sharp	Walsh
Paxon	Shaw	Weber
Penny	Shays	Weldon
Petri	Shumway	Whittaker
Pickett	Shuster	Williams
Pickle	Skeen	Wolf
Porter	Slaughter (NY)	Wylie
Poshard	Slaughter (VA)	Yatron
Pursell	Smith (NE)	Young (FL)
Rahall	Smith (TX)	

NOT VOTING—63

Ackerman	Hansen	Quillen
Alexander	Hawkins	Robinson
Barnard	Hefley	Roe
Bateman	Horton	Rostenkowski
Bilirakis	Ireland	Rowland (CT)
Boehlert	Johnston	Rowland (GA)
Brown (CA)	Lancaster	Scheuer
Brown (CO)	Lent	Sikorski
Buechner	Lewis (FL)	Sisisky
Bunning	Lipinski	Slattery
Callahan	Lukens, Donald	Smith (FL)
Clinger	Madigan	Smith, Denny (OR)
Conyers	Manton	
Craig	Martin (NY)	Stallings
Crockett	Martinez	Thomas (CA)
Dickinson	McDade	Washington
Dymally	Morrison (CT)	Watkins
Early	Nagle	Waxman
Edwards (CA)	Nelson	Wilson
Edwards (OK)	Nowak	Young (AK)
Espy	Ortiz	
Flippo	Pease	

The Clerk announced the following pairs:

On this vote:

Mr. Lancaster for with Mr. Pease against.

Mr. Johnston for with Mr. Rowland of Georgia against.

Mr. Sikorski for with Mr. Sisisky against.

Mr. COLEMAN of Missouri, Mrs. LLOYD, Mr. DYSON, and Mr. HEFNER changed their votes from "yea" to "nay."

Mr. OWENS of Utah changed his vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

□ 2117

MOTION OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion. The Clerk read as follows:

Mr. CONTE moves that the House recede from its disagreement to the amendment of the Senate numbered 171, and concur therein with an amendment, as follows: In lieu of

the matter inserted by said amendment, insert the following:

SEC. 316. (a) Effective with the fiscal year ending September 30, 1990, and each fiscal year thereafter, subject to the approval of the Committee on Appropriations of the Senate, any unexpended and unobligated funds in the appropriation account for the "Secretary of the Senate" within the contingent fund of the Senate which have not been withdrawn in accordance with the paragraph under the heading "General Provisions" of Chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 102a), shall be available for the expenses incurred, without regard to the fiscal year in which incurred, for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the Senate wing of the United States Capitol, any Senate Office Building, or any room, corridor, or other space therein.

In the case of replication or replacement of such items, the funds available under this subsection shall be available for any such items previously contained within the Senate wing of the Capitol, or an item historically accurate.

(b) All such items of art referred to in subsection (a) shall be known as the "United States Senate Collection."

(c) Disbursement for expenses incurred for the purposes in subsection (a) shall be made upon vouchers approved by the Chairman of the Senate Commission on Art or the Executive Secretary of the Senate Commission on Art.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Does the gentleman wish time to be heard on the motion?

Mr. CONTE. Mr. Speaker, just for a second, yes.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes, and the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I hope we dispose of this in about 30 seconds.

The motion that I have at the desk strips from the bill the $25 million fund for mail costs. We just had a very thorough debate on that, so I will not take any more time.

Vote aye for reform of the congressional mail practice.

Mr. WHITTEN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I have in front of me a copy of the motion made by my colleague, the gentleman from Massachusetts [Mr. CONTE], ranking member of the committee, which basically restores the language for the Senate as passed in the Senate. I support it.

Mr. Speaker, I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. CONTE].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 172: Page 24, after line 9, insert:

SEC. 318. Subsection (a) of section 3 of the Legislative Appropriations Act, 1989 (2 U.S.C. 68-6(a)) is amended—

(1) by striking out "during any fiscal year," and inserting in lieu thereof "during any fiscal year (1)"; and

(2) by striking out "; and" and inserting in lieu thereof ", and (2) from the Senate appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Secretary" to the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Secretary of the Senate, such sums as he shall specify; and".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 172, and concur therein with an amendment, as follows: In lieu of the section number "318", insert: "317".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 173: Page 24, after line 9, insert:

SEC. 319. None of the funds appropriated or otherwise made available to the Department of the Treasury by this or any other Act shall be obligated or expended to contract out positions in, or downgrade the position classifications of, members of the United States Mint Police Force or the Bureau of Engraving and Printing Police Force, or for studying the feasibility of contracting out such positions.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 173, and concur therein with an amendment, as follows: In lieu of the section number named in said amendment insert: "318".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

□ 2120

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 174: Page 24, after line 9, insert:

SEC. 320. The Secretary of the Army is directed to execute a local cooperation agreement prior to July 1, 1990, for construction of a modification of the existing Gulfport Harbor project in Mississippi as authorized by the Supplemental Appropriations Act, 1985, (Public Law 99-88), section 202(a) of the Water Resources Development Act of 1986 (Public Law 99-662), and section 4(n) of the Water Resources Development Act of 1988 (Public Law 100-676).

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 174 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 319. The Secretary of the Army is directed to execute a local cooperation agreement prior to July 1, 1990, for construction of a modification of the existing Gulfport Harbor project in Mississippi as authorized by the Supplemental Appropriations Act, 1985, (Public Law 99-88), section 202(a) of the Water Resources Development Act of 1986 (Public Law 99-662), and section 4(n) of the Water Resoures Development Act of 1988 (Public Law 100-676).

Within available funds, the Secretary of the Interior is authorized to obligate up to $12,000,000 to initiate safety of dams modifications at Mormon Island Auxiliary Dam (Folsom Dam and related facilities) of the Central Valley Project, California, authorized under Public Law 95-578, as amended, absent the transmission of the report described in the proviso of section 5 of Public Law 95-578, as amended.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 175: Page 24, after line 9, insert:

SEC. 321. (a) The following provisions of law are repealed:

(1) Section 614 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162).

(2) Section 302 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246).

(b)(1) Section 127(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246) is amended by striking out "February 3, 1990" and inserting in lieu thereof "120 days after the date of enactment of this Act".

(2) Section 153(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, is amended by striking out "January 1, 1990" and inserting in lieu thereof "January 1, 1991".

(3) Section 161(a) of that Act is amended in the second sentence by striking out "February 1, 1990," and inserting in lieu thereof "120 days after the date of enactment of this Act".

(4) Section 162 of that Act is amended by striking out "December 31, 1989" and inserting in lieu thereof "120 days after the date of enactment of this Act".

(5) Section 1005(b)(2) of that Act is amended by striking out "by December 31, 1989" and inserting in lieu thereof "not later than 120 days after the date of enactment of this Act".

(c)(1) Section 506(a) of part E of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3756(a)), as amended by the third proviso under the heading "Organized Crime Drug Enforcement" of title II of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162) and by section 212 of Public Law 101-162, is further amended—

(A) in the text above paragraph (1), by inserting "required" after "setting aside the amount"; and

(B) in paragraph (1), by striking out "0.4 percent" and inserting in lieu thereof "$500,000 or 0.25 percent, whichever is greater,".

(2) Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162) is amended under the heading "Educational and Cultural Exchange Programs" of the United States Information Agency by striking out "$160,300,000" and inserting in lieu thereof "$156,506,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 175, and concur therein with an amendment, as follows: In lieu of the first section number named in said amendment, insert: "320".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 176: Page 24, after line 9, insert:

SEC. 322. COMMERCIAL ASPECTS OF UNITED STATES FOREIGN ASSISTANCE.—(a) The Secretary of Commerce, after consulting with the Administrator of the Agency for International Development, the Secretary of Agriculture, the Secretary of Energy, the Secretary of State, and appropriate United States business organizations, shall conduct a study which examines and explores the foreign assistance programs currently engaged in by the United States through the Agency for International Development and other appropriate departments and agencies of the United States Government and explores mechanisms by which the international economic competitiveness of the United States may be enhanced through such programs. In undertaking this study, the Secretary shall

(1) examine the foreign assistance programs of Japan, Germany, France, the United Kingdom, and such other international aid donors as the Secretary may designate, for the purpose of determining what mechanisms are in use to tie foreign assistance to the industrial and commercial interests of the donor nations, in particular, the programs currently being engaged in and planned by such countries in the East European countries of East Germany, Poland, Czechoslovakia, and Hungary; and

(2) determine, as far as possible, for each of fiscal years 1989 and 1990, and requested for fiscal year 1991, the dollar amounts and percentages of current United States programs which include United States business investment, exports, or other business-related activities, and shall compare that assessment with a similar assessment made for each of the other international aid donors examined by this study, on a region-by-region basis, with particular attention paid to the comparable efforts in the East European countries referred to in paragraph (1).

(b) Not later than September 1, 1990, the Secretary of Commerce shall prepare and transmit to the Committees on Foreign Relations and Appropriations of the Senate and the Committee on Foreign Affairs and Appropriations of the House of Representatives a report setting forth the findings of the study conducted under subsection (a).

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 176, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 321. COMMERCIAL ASPECTS OF UNITED STATES FOREIGN ASSISTANCE.—(a) The Secretary of Commerce, after consulting with the Administrator of the Agency for International Development, the Secretary of Agriculture, the Secretary of Energy, the Secretary of Treasury, the Secretary of State, other appropriate agencies of the United States Government, and United States business organizations, shall conduct a study which examines and explores the foreign assistance programs currently engaged in by the United States Government and major international financing programs of the United States Government, through the Agency for International Development and other appropriate departments and agencies of the United States Government and explores mechanisms and ways by which the international economic competitiveness of the United States may be enhanced through such programs. In undertaking this study, the Secretary shall—

(1) examine the foreign assistance and major financing programs of Japan, West Germany, France, the United Kingdom, and such other international aid donors as the Secretary may designate, for the purpose of determining what mechanisms are in use to tie foreign assistance to, and advance the industrial and commercial interests of, the donor nations, in particular, the programs currently being engaged in and planned by such countries in the Eastern European countries of East Germany, Poland, Czechoslovakia, and Hungary; and

(2) determine, as far as possible, for each of fiscal years 1989 and 1990, and requested for fiscal year 1991, the dollar amounts and percentages of current United States programs which support United States business investment, exports, or other business-related activities, and shall compare that assessment with a similar assessment made for each of the other international aid donors examined by this study, on a region-by-region basis, with particular attention paid to the comparable efforts in the Eastern European countries referred to in paragraph (1).

(b) Not later than September 20, 1990, the Secretary of Commerce shall prepare and transmit to the Committees on Foreign Relations and Appropriations of the Senate and the Committees on Foreign Affairs and Appropriations of the House of Representatives, a report setting forth the findings of the study conducted under subsection (a).

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 178: Page 24, after line 9, insert:

SEC. 324. (a) Notwithstanding any other provision of law, up to $5,000,000 of the total amount of funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), which funds were—

(1) appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), or

(2) otherwise made available through the exercise of the authority contained in section 515 of that Act,

may be made available to the President to provide emergency assistance through international relief agencies to children within Cambodia.

(b) None of the funds made available pursuant to subsection (a) may be made available, directly or indirectly, for the Khmer Rouge.

Page 24, after line 9, insert:

SEC. 325. LEASE OF MARINE CORPS HELICOPTERS.—(a) Upon entry into force of any lease agreement with the Government of Colombia which is consistent with the authorities of chapter 6 of the Arms Export Control Act, the President shall exercise his authority under section 61 of that Act—

(1) to lease to the Government of Colombia four AH-1J Cobra helicopters from the current stocks of the Marine Corps for use by the Colombian National Police in carrying out anti-drug interdiction operations in Colombia; and

(2) to provide training of Colombian personnel by Department of Defense personnel

(before transfer of the helicopters is made) in the operation, maintenance, logistics support, and deployment of such helicopters, such training to be carried out in consultation with the Director of National Drug Control Policy.

(b) For purposes of this section, the determinations required by paragraphs (1) and (2) of section 61(a) of that Act shall be deemed to have been made as of the entry into force of the lease agreement described in subsection (a) of this section.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 178, and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert: "322".

Mr. MOAKLEY. Mr. Speaker, I rise in support of the motion to recede and concur in Senate amendment No. 178, which would make available $5 million for humanitarian relief in Cambodia.

The adoption of this amendment is a singular victory for my able friend from Massachusetts [Mr. ATKINS]. Equally, however, it is a victory for a tragic people whose cause he has championed with courage, energy, and eloquence.

Mr. Speaker, the Cambodian people have suffered unimaginable harm under the genocidal Khmer Rouge during the years they ruled Cambodia. They continue to suffer from warfare in their country, made possible by the willingness of the administration to turn a blind eye to the destination and purposes of lethal aid the U.S. supplies to their allies in the coalition our Govenment supports.

I commend the gentleman from Massachusetts for his leadership on this issue, and I commend the managers on the part of the House on this bill for providing us with this opportunity to accept the amendment.

Mr. FRENZEL. Mr. Speaker, at a time when we claim to be fighting to reduce deficits, House amendment No. 171, is more than a bit of an embarrassment. It is a very dangerous precedent.

This devious language would actually permit the House to set up an annual multipurpose, open-ended fund, with tens of millions of taxpayer dollars to be used for any purpose. This year, it was reportedly intended for a franking bailout. Next year's benefactor would be anyone's guess.

The real dire emergency here is the projected $42 million overdraft in the House franking account. I have included at the end of my remarks a copy of a letter I received from Senators REID and NICKLES reminding us that the fiscal year 1990 legislative branch bill legally requires both bodies to examine new measures needed to control shortfalls upon receipt of the second-quarter spending figures for franking. The Senate has since taken those steps which has resulted in a surplus in their franking account. The letter is a reminder that more serious steps are needed and points to S. 1869, which the Senate adopted and the House rejected. The House continues to resist real franking reform opportunities.

One opportunity presents itself today—another will come when this House considers the fiscal year 1991 legislative branch appropriations bill. At that time, I intend to offer my franking reform resolution, House Resolution 386, as an amendment. It is a bare bones bill. Primarily it sets up an official mail account, limits newsletters to one, limits town meeting notices to one, and requires a disclaimer and disclosure.

The real answer to the franking deficit is accountability and disclosure. Only when each Member's mailing expenses are disclosed and analyzed will this body find the self-control it needs. When actual mailing expenses are assigned to Members, and individual expenses compared with other Members, will we suddenly see frugality. House Resolution 386 will encourage such frugality, but it will treat all Members equally and fairly.

My first choice is for my resolution to proceed through the normal hearing and committee process, a request I made some time ago. It would appear, however, that the appropriations process will offer the soonest opportunity.

Therefore, at a time when the Senate mailing reforms have caused a surplus in its mail accounts, the House has sneaked a nongermane amendment into this dire emergency bill to feed its mailing insatiable mailing appetite. Lets seize this opportunity to strike the slush fund now. Thats the only way to force mail reform.

U.S. SENATE,
Washington, DC, April 27, 1990.

Hon. BILL FRENZEL,
Ranking Member, House Commission on Congressional Mailing Standards, House of Representatives, Washington, DC.

DEAR BILL: The most recent projections by the U.S. Postal Service indicate the House of Representatives will exceed its fiscal year 1990 postage budget by $38 million. Meanwhile, due to the adoption of franking reforms, the Senate is expected to have a $6 million surplus.

It goes without saying that taxpayers will likely be outraged if the House exceeds its budget by an amount greater than the Senate's total costs for the fiscal year. The FY90 funds available for House and Senate postage are $40.7 million and $23.7 million respectively. Based on second quarter figures, the Postal Service estimates the House will spend $79 million and the Senate $18 million during this fiscal year.

As Chairman and Ranking member of the Senate Legislative Branch Appropriations Subcommittee, we are notably concerned about this cost overrun on the part of the House. We are also concerned that the overrun could be much higher. Following the first quarter, the Postal Service estimated the House would exceed its postage budget by approximately $27 million. The more recent $38 million House overrun estimate demonstrates an alarming trend which could continue to escalate through this fiscal year if left unchecked.

As you are aware, the FY1990 Legislative Branch spending bill requires the House and Senate to examine whether any new measures need to be taken to prevent shortfalls upon receipt of the second-quarter spending figures. In light of this requirement, we again urge you and your colleagues to consider adopting proposals we authorized which would, by law, keep the House and Senate within their respective postage budgets.

Specifically, the reform measure, S. 1869, would require public disclosure of each individual member's mass mail costs and would prohibit any mass mailings once a chamber's appropriation has been exhausted. The Senate has adopted a rule implementing our bill's provisions.

As you recall, these positive reforms, among others, were passed by the full Senate but then were rejected by the House-Senate conference on the FY90 Legislative Branch appropriations measure. Following passage of the conference report on November 9, 1989, we introduced S. 1869.

We certainly commend you for encouraging your colleagues to adopt various cost-cutting measures. However, we do not believe the serious nature of the problem will be addressed without taking the more stringent steps called for in S. 1869.

Sincerely,

HARRY REID,
Chairman, Subcommittee on the Legislative Branch.
DON NICKLES,
Ranking Member, Subcommittee on the Legislative Branch.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions and on the conference report was laid on the table.

PERSONAL EXPLANATION

Mr. CLINGER. Mr. Speaker, I was absent from the Chamber so that I would attend a meeting with representatives of U.S. air carriers to review their efforts to protect the traveling public from terrorists since the tragedy over Lockerbie, Scotland. Had I been present I would have voted "yea" on rollcall 138; "nay" on rollcal 139; "nay" on rollcall 140; "nay" on rollcall 141; "yea" on rollcall 142; "nay" on rollcall 143; "nay" on rollcall 144; "nay" on rollcall 145; and "nay" on rollcall 146.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 143, No. 144, and No. 145. "nay" on rollcall No. 146.

PERSONAL EXPLANATION

Mr. LEWIS of Florida. Mr. Speaker, due to previously scheduled commitments in my district, I was forced to miss eight recorded votes.

Had I been in Washington, I would have voted "no" on all eight of these rollcall votes. These votes were all amendments to H.R. 4404, a supplemental appropriations bill.

Of particular concern to me was rollcall No. 146. This amendment would have allowed $25 million to be used for additional use of the congressional mailing frank.

Mr. Speaker, in these times of budget deficits, I find it appalling that this proposal was even considered. If Congress is serious about cutting the budget, we must be willing to cut some of own luxuries such as the use of the frank.

To conclude, I take great pride in my voting record which was over 99 percent last year. I do not take my voting responsibilities lightly, however, these commitments were scheduled well before it became apparent that the House would be in session well into the evening.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall votes 142–146. Had I been here I would have voted in the following manner: may on rollcall 142; aye on rollcall 143; nay on rollcall 144; aye on rollcall 145; and nay on rollcall 146.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4653, EXPORT FACILITATIONS ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-498) on the resolution (H. Res. 403) providing for the consideration of the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS ON H.R. 4785, AIDS PREVENTION ACT OF 1990

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, the Committee on Rules is scheduled to meet on Wednesday, June 6, on H.R. 4785, the AIDS Prevention Act of 1990. In its request to the Rules Committee, the Committee on Energy and Commerce has asked for a modified open rule.

As a result, Members interested in proposing amendments to the bill should submit 55 copies to the Committee on Rules no later than 5 p.m. on Tuesday, June 5.

The bill and report will be available during the recess. However, as a convenience to Members, the gentleman from California [Mr. WAXMAN] has introduced H.R. 4874, which contains the text of the substitute which was ordered reported from the Energy and Commerce Committee on May 15. Pending the printing of the bill, amendments may be prepared using H.R. 4874.

ANNOUNCEMENT REGARDING PREPRINTING OF AMENDMENTS ON H.R. 4653, EXPORT FACILITATION ACT OF 1990

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore. Without objection, the gentleman from Massachusetts is recognized for 1 minute.

There was no objection.

Mr. MOAKLEY. Mr. Speaker, the Rules Committee has granted a rule to H.R. 4653, reauthorizing the Export Administration Act of 1979, that would require amendments to be printed in the CONGRESSIONAL RECORD at least 1 legislative day prior to their consideration.

The tentative schedule of the House would seem to indicate that, to ensure Member's rights to offer amendments under the contemplated rule, they should have those amendments appear in the CONGRESSIONAL RECORD by Tuesday, June 5, 1990.

EMERGENCY SUPPLEMENTAL ASSISTANCE FOR PANAMA, NICARAGUA, AND SUB-SAHARAN AFRICA ACT OF 1990

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2364) to authorize supplemental economic assistance to support democracy in Panama, Nicaragua, and sub-Saharan Africa, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Minnesota?

Mr. WALKER. Mr. Speaker, reserving the right to object, I just want to make certain where we are. At the present time the gentleman from Florida [Mr. FASCELL] has asked only to take from the desk the bill as passed by the Senate authorizing money for Nicaragua and Panama, is that correct?

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, that is my request right now. But I will tell the gentleman from Pennsylvania [Mr. WALKER] that I propose to offer an amendment to the bill which would incorporate the House language except for the El Salvador language and the Kostmayer amendment on drug laundering.

Mr. WALKER. Mr. Speaker, further reserving the right to object, it was my understanding that the process that was going to be used here was to take the clean Senate bill and allow us to consider the clean Senate bill and pass it. I would say to the gentleman from Florida [Mr. FASCELL] that I do not think we would want to amend that bill here on the floor this evening. That would not be something this gentleman would regard as appropriate.

Mr. FASCELL. Mr. Speaker, will the gentleman yield further?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I would not want to amend it either. I will say to the gentleman from Pennsylvania that what we are saying here is we would strike out everything after the enacting clause in the Senate bill, send to the Senate the House-agreed language that was acted upon prior to the time the bill was defeated, except for the El Salvador language and the Kostmayer amendment on money laundering.

Mr. WALKER. Mr. Speaker, further reserving the right to object, the fact is we have a bill that was overwhelmingly disagreed to by the House that we are now trying to bring up and pass. I do not think that is something the House would want to do. I think our best solution would be to simply take the Senate bill up and move the Senate bill. We would give agreement to allow the Senate bill to be brought to the floor and move forward, but I would not agree to the amending of the Senate bill.

Mr. FASCELL. Mr. Speaker, that is my motion. That is my request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. GINGRICH. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman will state his objection.

Mr. GINGRICH. Mr. Speaker, I withdraw my objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Emergency Supplemental Assistance for Panama, Nicaragua, and Sub-Saharan Africa Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Assistance for Panama.
Sec. 3. Assistance for Nicaragua.
Sec. 4. Administrative uses of funds for Panama and Nicaragua.
Sec. 5. Environmental authorities and limitations.
Sec. 6. Assistance for refugees.
Sec. 7. Assistance for sub-Saharan Africa.

Sec. 8. Housing guarantee program for new immigrants to Israel.

SEC. 2. ASSISTANCE FOR PANAMA.

(a) ECONOMIC SUPPORT FUND ASSISTANCE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In order to support the efforts of Panama to restructure and restore its economy, restore relations with international financial institutions, and strengthen democratic institutions, there are authorized to be appropriated $470,000,000 as supplemental appropriations for fiscal year 1990 for assistance in accordance with this section under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(2) OBJECTIVES OF ASSISTANCE.—The assistance authorized by this subsection shall be used to encourage and assist the Government of Panama in taking the necessary steps to restructure government policy and administration in order to allow the proper functioning of a market economy and political democracy. Among these steps should be the formulation and execution of sound economic policies and improved public sector management, with special attention to such areas as fiscal policy, the financial sector, budget planning and implementation, privatization of public enterprise, trade policy, and regulatory policy.

(3) ALLOCATIONS OF ASSISTANCE.—Except as provided in paragraph (5), the funds authorized to be appropriated by paragraph (1) shall be allocated and used as follows:

(A) PRIVATE SECTOR REVITALIZATION.—

(i) IN GENERAL.—Up to $170,000,000 shall be for assistance to revitalize the private sector in Panama. Such assistance shall include the following:

(I) BUSINESS INVESTMENT AND INVENTORY.—Assistance to help business finance a resumption of investment expenditures and restock inventories. Priority should be given to those businesses that suffered from looting in late December 1989 and for which a rapid resumption of economic activity would generate substantial employment.

(II) EXPORT PROMOTION.—Assistance for export promotion activities.

(ii) CREDIT ASSISTANCE.—Except for the assistance described in clause (i)(II), assistance under this subparagraph shall be provided through the commercial banking system and other financial intermediaries.

(B) PUBLIC INVESTMENT PROGRAM.—Up to $125,000,000 shall be for assistance to revitalize public investment in Panama. Such assistance shall be provided as budget support to the Government of Panama to finance construction and other activities in such sectors as transportation, education, agriculture, and health. This assistance shall be administered by the Government of Panama and by nongovernmental organizations, with implementation to be carried out for the most part by private contractors.

(C) PAYMENT OF ARREARAGES TO INTERNATIONAL FINANCIAL INSTITUTIONS.—Up to $130,000,000 shall be for assistance to assist Panama in paying its arrearages to international financial institutions. Such assistance shall be provided as part of a package of assistance for such purpose that includes the participation of the Government of Panama and other donor nations and multilateral institutions. This effort should be accompanied by a rescheduling of official bilateral and commercial debt.

(D) STRENGTHENING PUBLIC ADMINISTRATION.—Except as provided in paragraph (4)(D), up to $45,000,000 shall be for—

(i) assistance to strengthen the administrative and management capabilities of the Government of Panama, including the National Banking Commission;

(ii) assistance to promote environmental protection and natural resource management, with special attention to protection of the Panama Canal watershed;

(iii) assistance under section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c) to strengthen the administration of justice in Panama, including the Office of the Attorney General; and

(iv) notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance for law enforcement forces)—

(I) training for the Public Forces and other civilian law enforcement forces of Panama in human rights, civil law, and investigative and civilian law enforcement techniques;

(II) assistance in developing a curriculum and faculty for a civilian police training academy in Panama; and

(III) assistance to finance the procurement for civilian law enforcement forces in Panama of equipment that are appropriate for standard civilian law enforcement requirements.

(4) LAW ENFORCEMENT ASSISTANCE.—

(A) PROHIBITION ON LETHAL EQUIPMENT.—Only equipment that is nonlethal may be provided under paragraph (3)(D).

(B) LIMITATION ON EQUIPMENT.—Not more than $5,000,000 of the funds made available under paragraph (3)(D) may be used for the procurement of equipment for law enforcement of Panama.

(C) DEFINITION OF EQUIPMENT.—For purposes of this paragraph and paragraph (3)(D), the term "equipment" has the same meaning as is given the term "commodities" by section 644(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(c)).

(D) ASSISTANCE FOR OTHER COUNTRIES.—Up to $1,200,000 of the amount allocated pursuant to paragraph (3)(D) may be used under section 534(b)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346(b)(3)) for countries in Latin America and the Caribbean other than Panama.

(E) LIMITATIONS NOT APPLICABLE.—The second sentence of section 534(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c(e)) and the second sentence of section 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), shall not apply with respect to assistance provided under paragraph (3)(D), including assistance under subparagraph (D) of this paragraph.

(5) REALLOCATIONS.—Funds allocated pursuant to any subparagraph of paragraph (3) may be reallocated for use under any other such subparagraph if, at least fifteen days before such reallocation, the President notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(b) MONEY LAUNDERING AND MUTUAL LEGAL ASSISTANCE.—

(1) COOPERATION BY THE ENDARA GOVERNMENT.—The Congress commends the Endara government for—

(A) its cooperation and assistance in freezing Panamanian bank accounts believed to be used for laundering narcotics proceeds;

(B) signing a counter-narcotics agreement;

(C) taking the initiative to establish legal requirements to ensure the availability of currency and other financial transaction information to regulatory and law enforcement authorities;

(D) signing the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; and

(E) initiating discussions with the United States on information sharing and other law enforcement agreements, including agreements regarding narcotics and money laundering.

(2) UNITED STATES POLICY.—It is the policy of the United States to support the efforts of the Government of Panama to ensure that abuse of Panama's private and public institutions by drug traffickers and money launderers will not again be permitted to occur. To this end, the United States should—

(A) pursue to a prompt conclusion the discussions initiated by the Government of Panama concerning arrangements for information sharing and other law enforcement agreements with a view toward formalizing appropriate arrangements, to include—

(i) a mechanism for exchanging adequate records (as defined in section 4702(f)(2) of the Anti-Drug Abuse Act of 1988) on currency transactions in connection with narcotics investigations and proceedings;

(ii) mutual access to records of financial transactions for purposes of law enforcement investigations; and

(iii) efficient mechanisms for each government to obtain from the other country, in judicially admissible form, bank records and other evidence for use in criminal proceedings;

(B) utilize funds appropriated under this and other acts to provide appropriate training, materials and equipment requested by the Government of Panama to facilitate implementation of such agreed arrangements;

(C) utilize funds appropriated pursuant to this and other acts to provide appropriate training, materials and equipment requested by the Government of Panama to ensure effective implementation of its recently adopted financial transaction requirements; and

(D) utilize funds appropriated pursuant to this and other acts to assist the office of the Attorney General of Panama in obtaining appropriate training, materials and equipment requested by the Government of Panama to ensure effective implementation of its declared policy of prosecuting drug traffickers and money launderers, and seizing their assets.

(3) APPLICABILITY OF KERRY AMENDMENT TO PANAMA.—Panama shall be considered to be a country described in the second sentence of section 4702(c)(1) of the International Narcotics Control Act of 1988 (31 U.S.C. 5311 note; relating to "highest priority" countries for purposes of negotiations concerning laundering of United States currency).

(4) BANK RECORD SHARING AGREEMENT.—Not more than 80 percent of the funds appropriated pursuant to the authorization of appropriations provided in this section may be expended until—

(A)(i) the Secretary of the Treasury reports to the Congress that the Government of the United States and the Government of Panama have reached an agreement for exchanging adequate records (as defined in section 4702(f)(2) of the International Narcotics Control Act of 1988) on international currency transactions in connection with narcotics investigations and proceedings, and

(ii) the Secretary of State, in consultation with the Attorney General, reports that

progress is being made towards signing a Mutual Legal Assistance Treaty; or

(B) if a report has not been submitted under subparagraph (A)(i) as of the time the Secretary of the Treasury submits the final report required by section 4702(d) of that Act, the Secretary of the Treasury reports to the Congress that Panama is negotiating in good faith to reach such agreement.

(5) 1991 NARCOTICS CERTIFICATION.—

(A) SEPARATE CERTIFICATIONS FOR BILATERAL AND MULTILATERAL ASSISTANCE.—In the case of the certification requirements of section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)), the President shall submit separate certifications with respect to Panama for fiscal year 1991 for purposes of paragraphs (1)(A) and (1)(B) of that section.

(B) REQUIREMENT FOR BILATERAL ASSISTANCE CERTIFICATION.—The President may make a certification with respect to Panama for fiscal year 1991 for purposes of paragraph (1)(A) of that section under paragraph (2)(A)(i) of that section (relating to countries which are fully cooperating with respect to illicit drug production, trafficking, and money laundering) only if an agreement has been signed between the Government of the United States and the Government of Panama that provides for—

(i) mutual access to records of financial transactions for purposes of drug-related law enforcement investigations, and

(ii) efficient mechanisms for each government to obtain from the other country, in judicially admissible form, bank records for use in drug-related proceedings.

(c) CONGRESSIONAL NOTIFICATIONS.—At least fifteen days before each obligation of funds for assistance under this section (including assistance authorized by subsection (e)), the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to repprogramming procedures) in accordance with the procedures applicable under that section.

(d) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorizations of apropriations contained in this section may be made available for obligation until September 30, 1991.

(e) OTHER ASSISTANCE.—In addition to the funds authorized to be appropriated by this section for assistance for Panama, funds available for fiscal year 1990 under other provisions of law may be used to provide the economic assistance for Panama authorized by this section notwithstanding the provisions of law cited in subsection (f).

(f) WAIVER OF BROOKE/ALEXANDER AMENDMENT.—The assistance authorized for Panama by this section may be provided for a period of twelve months after the date of enactment of this Act notwithstanding section 518 of the Foreign Operations, Export Financing, and Related Program Appropriations Act, 1990 (Public Law 101-167), section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)), and any similar provision of law relating to foreign assistance repayments.

SEC. 3. ASSISTANCE FOR NICARAGUA.

(a) AUTHORIZATION OF APPROPRIATIONS.—In order to help restore the productive capacity of the Nicaraguan economy, restore Nicaragua's relations with international financial institutions, provide support for long-term economic growth and development in Nicaragua, and provide assistance for the repatriation and reconciliation process in Nicaragua, there are authorized to be appropriated $300,000,000 as supplemental appropriations for fiscal year 1990 for assistance in accordance with this section under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(b) OBJECTIVES OF ASSISTANCE.—The assistance authorized by this section shall be used to encourage and assist the Government of Nicaragua in taking necessary steps to restructure government policy and administration in order to allow the proper functioning of a market economy and political democracy. Among these steps should be the formulation and execution of sound economic policies and improved public sector management, with special attention to such areas as fiscal policy, the financial sector, budget planning and implementation, privatization of public enterprise, trade policy, and regulatory policy.

(c) ALLOCATIONS OF ASSISTANCE.—Except as provided in subsection (c), the funds authorized to be appropriated by subsection (a) shall be allocated and used as follows:

(1) RESTORING THE PRODUCTIVE CAPACITY OF THE NICARAGUAN ECONOMY.—Up to $128,000,000 shall be for assistance to support the efforts of the Government of Nicaragua and the private sector in Nicaragua to restore the productive capacity of the Nicaraguan economy. Such assistance may include support for public and private sector imports of—

(A) agricultural equipment, spare parts, fertilizer, and other inputs needed to restore the agricultural sector;

(B) petroleum and oil products; and

(C) raw materials, equipment, intermediate goods, and spare parts to rehabilitate existing facilities and stimulate new productive enterprise in the industrial and agricultural sectors.

(2) PAYMENT OF ARREARAGES TO INTERNATIONAL FINANCIAL INSTITUTIONS.—Up to $50,000,000 shall be for assistance to assist Nicaragua in paying its arrearages to international financial institutions. Such assistance shall be provided as part of a package of assistance for such purpose that includes the participation of the Government of Nicaragua and other donor nations and multilateral institutions. This effort should be accompanied by a rescheduling of official bilateral and commercial debt.

(3) ECONOMIC GROWTH AND DEVELOPMENT.—Up to $75,000,000 shall be for assistance to assist Nicaragua to meet its longer-term economic growth and development needs, directly or through regional and other international institutions, through support for—

(A) programs to repair, improve, and maintain existing public infrastructures, such as schools, health clinics, roads, and community facilities;

(B) provision of medical equipment, commodities, training, and other support for the health sector;

(C) provision of assistance and training to improve government administration and strengthen democratic institutions;

(D) provision of technical assistance and training to the private sector to permit the rehabilitation and modernization of private enterprise in Nicaragua;

(E) support for primary school education and university level scholarships and training;

(F) support for the agricultural sector through small farmer credit activities and improvement of input supply and production marketing systems; and

(G) programs to protect and manage the environment and natural resources.

(4) DEMOBILIZATION AND REPATRIATION; ASSISTANCE FOR REFUGEES AND DISPLACED PERSONS.—Up to $47,000,000 shall be for assistance to support the demobilization and demilitarization process and to reintegrate former combatants (including members of the Nicaraguan Resistance), as well as Nicaraguan refugees and other Nicaraguans who have been displaced by the conflict, into the social, economic, and political life of Nicaragua, as follows:

(A) DEMOBILIZATION, REPATRIATION, AND RESETTLEMENT OF MEMBERS OF THE NICARAGUAN RESISTANCE.—

(i) Not more than $30,000,000 shall be used to support the voluntary demobilization, repatriation, and resettlement of members of the Nicaraguan Resistance and their families.

(ii) Such assistance shall be provided—

(I) through the International Commission of Support and Verification (CIAV) established by the Secretary General of the United Nations and the Secretary General of the Organization of American States pursuant to the agreement of the Central American Presidents at Tela, Honduras, on August 7, 1989, and

(II) in coordination with the Government of Nicaragua,

unless the President notifies the Congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(iii) Assistance may be provided under this subparagraph for members of the Nicaraguan Resistance only if there is agreement that such members will give up their weapons as part of the demobilization process.

(B) ONUCA.—Up to $2,000,000 shall be used to support the Observer Group for Central America (ONUCA) if, with the consent of the United Nations Security Council, it plays a role in supporting the voluntary demobilization of former combatants and supporting safe conditions in Nicaragua in accord with the Central American peace process.

(C) REPATRIATION AND RESETTLEMENT OF REFUGEES AND DISPLACED PERSONS.—Up to $15,000,000 shall be used for the repatriation and resettlement in Nicaragua of Nicaraguan refugees and other Nicaraguans who have been displaced by the conflict in Nicaragua (without regard to whether they are within or outside Nicaragua). Such repatriation and resettlement shall be carried out under international auspices, including through the United Nations High Commissioner for Refugees (UNHCR) and the International Conference of Central American refugees (CIREFCA), in coordination with the Government of Nicaragua. Assistance under this subparagraph may be provided under the authorities of the Migration and Refugee Assistance Act of 1962 (U.S.C. 2601 and following).

(d) CHANGES IN ALLOCATIONS.—Funds authorized pursuant to any paragraph of subsection (b), or any subparagraph of paragraph (4) of that subsection, may be reallocated for use under any other such paragraph or subparagraph (except that assistance made available pursuant to subparagraph (4)(A)(i) may not exceed $40,000,000) if, at least fifteen days before such reallocation, the President notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(e) CONGRESSIONAL NOTIFICATIONS.—At least fifteen days before each obligation of funds for assistance under this section (including assistance pursuant to the amendments made by subsection (f) and assistance provided pursuant to subsection (h)), the President shall notify the Congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(f) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATIONS.—Funds appropriated pursuant to the authorizations of appropriations contained in this section may be made available for obligation until September 30, 1991.

(g) EXPANDING USES OF SURVIVAL ASSISTANCE FOR VICTIMS OF CIVIL STRIFE IN CENTRAL AMERICA.—Section 1 of the Act entitled "An Act to provide survival assistance to victims of civil strife in Central America", approved December 11, 1989 (Public Law 101-215), is amended—

(1) in the first sentence of subsection (a), by striking out "noncombatant";

(2) in the second sentence of subsection (a), by striking out "noncombatants" and inserting in lieu thereof "those"; and

(3) by repealing subsection (c).

(h) TRADE BENEFITS AND OPIC PROGRAMS.—OPIC DETERMINATION.—OPIC programs may be made available in Nicaragua notwithstanding the provisions of section 231A of the Foreign Assistance Act of 1961, as amended, until such time as a determination shall be made pursuant to section 2462(b)(7) of title 19, United States Code. If that determination is positive, Nicaragua shall be considered in compliance with the requirements of section 231A of the Foreign Assistance Act of 1961, as amended. If the determination is negative, OPIC shall cease offering new insurance, finance or guaranties pursuant to this provision.

(i) OTHER ASSISTANCE.—In addition to the funds made available by this section for assistance for Nicaragua, funds available for fiscal year 1990 under other provisions of law may be used to provide the economic assistance for Nicaragua authorized by this section, and to provide otherwise authorized training and services provided by the Office of Security of the Department of State for law enforcement personnel of Nicaragua for VIP protection and the physical protection of internationally protected persons and related facilities, notwithstanding the provisions of law cited in subsection (i).

(j) WAIVER OF BROOKE/ALEXANDER AMENDMENT.—The assistance authorized for Nicaragua by this section may be provided notwithstanding section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-165), and section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) and any similar provision of law relating to foreign assistance repayments.

SEC. 4. ADMINISTRATIVE USES OF FUNDS FOR PANAMA AND NICARAGUA.

Up to $10,000,000 of the funds authorized to be appropriated by sections 2 and 3 of this Act may be used for the purpose of paying administrative expenses incurred by the Agency for International Development in connection with carrying out its functions under those sections or under the Act entitled "An Act to Implement the Bipartisan Accord on Central America of March 24, 1989", approved April 18, 1989 (Public Law 101-14), provided that not more than $60,000 of any such administrative funds may be used in connection with administrative expenses incurred in concluding activities under Public Law 101-14.

SEC. 5. ENVIRONMENTAL AUTHORITIES AND LIMITATIONS.

(a) POLICY.—The Congress recognizes the significant environmental challenges facing Panama and Nicaragua, including the preservation of tropical forests, promotion of sustainable agriculture, control of pollution and restoration of the natural resource base on which a sustainable, healthy economy depends. Therefore, the President is directed to give a high priority to addressing these problems by all United States agencies in implementing assistance to Panama and Nicaragua under this Act.

(b) LIMITATION.—None of the funds made available for Nicaragua or Panama under this Act shall be used for any project that would result in the destruction of tropical forests, including their colonization, unless for a project for which the Administrator of the Agency for International Development, in consultation with the appropriate environmental institutions of the Governments of Nicaragua or Panama and the appropriate non-governmental environmental organizations in Nicaragua or Panama, makes a written finding to the Senate Committee on Foreign Relations and the Speaker of the House of Representatives that such project—

(1) is consistent with long-term, environmentally sustainable development;

(2) results in no significant destruction of primary tropical forests; and

(3) results in no significant net loss of other tropical forest.

(c) AUTHORIZATION OF ENVIRONMENTAL ACTIVITIES.—

(1) In consultation with the Environmental Protection Agency, the Agency for International Development is authorized to undertake such educational, policy training, research, technical and financial assistance, monitoring, coordination and other activities as may be requested by the Governments of Nicaragua and Panama to protect the environment and to strengthen government and non-government environmental institutions.

(2) Of the amounts authorized to be appropriated under sections 2 and 3 of this Act, there are authorized to be available for the purposes of subsection (c)(1) $4,000,000.

(d) SI-A-PAZ PROJECT.—In order to help reverse the rapid decline in tropical forests and other natural resources in Central America, the Congress supports the ongoing efforts of Nicaraguan and Costa Rican environmentalists to create the International System of Protected Areas for Peace (the SI-A-PAZ program) on their shared border. Congress shares the hope that such an integrated development project, which aims to protect precious natural resources on both sides of the border while promoting economic development in surrounding zones, will help raise the standard of living of people in the zone and contribute to peace in the region.

SEC. 6. ASSISTANCE FOR REFUGEES.

Section 104(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), is amended by striking out "$415,000,000" and inserting in lieu thereof "$438,409,000".

SEC. 7. ASSISTANCE FOR SUB-SAHARAN AFRICA.

(a) ASSISTANCE FOR NAMIBIA.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 as supplemental appropriations for fiscal year 1990 for assistance in accordance with this subsection under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), which shall be for assistance for Namibia. Funds appropriated pursuant to the authorization of appropriations contained in this paragraph may be made available for obligation until September 30, 1991.

(2) OBJECTIVES OF ASSISTANCE.—The assistance authorized by this subsection shall be used to encourage and assist the Government of Namibia in taking necessary steps to restructure government policy and administration in order to allow the proper functioning of a market economy and political democracy. Among these steps should be the formulation and execution of sound economic policies and improved public sector management, with special attention to such areas as fiscal policy, the financial sector, budget planning and implementation, privatization of public enterprise, trade policy, and regulatory policy.

(3) USES OF ASSISTANCE.—Except as provided in paragraph (3), funds appropriated under this subsection shall be provided to the Government of Namibia for budgetary support and to nongovernmental organizations to finance development activities in the priority sectors of agriculture, health, education, and housing.

(4) AID MISSION.—Up to $1,000,000 of the funds appropriated under this subsection shall be used for the expenses of establishing and maintaining an Agency for International Development Mission in Namibia.

(b) DEVELOPMENT ASSISTANCE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 as supplemental appropriations for fiscal year 1990 for the "SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE" account under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C 2151 and following; relating to development assistance), which shall be for additional assistance for countries for which assistance under that account is allocated for fiscal year 1990 in the report submitted to the Congress pursuant to section 653 of the Act (22 U.S.C. 2413).

(2) AVAILABILITY OF FUNDS.—Funds appropriated under this subsection may be made available for obligation through September 30, 1991.

SEC. 8. HOUSING GUARANTEE PROGRAM FOR NEW IMMIGRANTS TO ISRAEL.

(a) ESTABLISHMENT OF PROGRAM.—Title III of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by inserting after section 222A (22 U.S.C. 2182a) the following new section:

"SEC. 222B. GUARANTY PROGRAM FOR HOUSING FOR NEW IMMIGRANTS TO ISRAEL.

"(a) AUTHORITY.—The President is authorized to issue guaranties on an expedited basis to eligible investors (as defined in section 238(c)) assuring against losses incurred in connection with loans made for housing projects in Israel for newly arrived immigrants in that country.

"(b) LIMITATION.—The total principal amount of guaranties issued under this section that are outstanding at any one time may not exceed $400,000,000. The limitation established by the second sentence of section 222(a) does not apply with respect to guaranties issued under this section.

"(c) TERMS AND CONDITIONS.—Guaranties hereunder shall be issued upon review solely to ascertain whether Israel's planned or actual expenditures have or will be expend-

ed for the purposes set forth in this section and to assure that guaranties will be utilized in a manner that improves the efficiency and increases the privatization of the housing sector in Israel, provided that such guaranties shall be issued only in conformity with AID policies governing assistance to Israel in effect on the date of enactment of this Act.

"(d) FEES.—Notwithstanding subsection (c) of this section, the only guaranty fee to be charged pursuant to section 223(a) or otherwise shall be an initial fee of one quarter of 1 percent of the principal amount of such loan."

(b) CONFORMING AMENDMENTS.—Section 223 of that Act (22 U.S.C. 2183) is amended—

(1) in subsection (a), by inserting a comma after "222A" and by inserting ", of for each guaranty issued under section 222B" after "President";

(2) in subsection (b)—

(A) by inserting "or 222B" after "222" the first and third places it appears, and

(B) by inserting "and 222B" after "222" the second place it appears;

(3) in subsection (c), by inserting "or 222B" after "222";

(4) in subsection (d), by striking out "or 222A" and inserting ", 222A, or 222B";

(5) in subsection (f), by inserting "or 222B" after "222"; and

(6) in subsection (j)—

(A) in the second sentence, by striking out "this title" and inserting in lieu thereof "section 222", and

(B) in the third sentence, by inserting "under section 222" after "issued" both places it appears.

(c) COMPLIANCE WITH THE BUDGET ACT.—New credit authority provided in this section is to be effective only to such extent or in such amounts as is provided in advance in appropriation Acts.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. FASCELL: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Supplemental Assistance for Emerging Democracies Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Section 1. Short title and table of contents.
TITLE I—SUPPLEMENTAL ASSISTANCE FOR FISCAL YEAR 1990
Sec. 101. Assistance for Panama.
Sec. 102. Assistance for Nicaragua.
Sec. 103. Administrative uses of funds for Panama and Nicaragua.
Sec. 104. Assistance for Haiti.
Sec. 105. Assistance for the Caribbean.
Sec. 106. Migration and refugee assistance.
Sec. 107. Assistance for sub-Saharan Africa.
Sec. 108. Assistance to encourage negotiations leading to a peaceful transition to democracy in South Africa.
Sec. 109. Housing investment guarantee program for new immigrants to Israel.
Sec. 110. Authority to transfer FY 1990 military assistance funds to economic assistance accounts.
Sec. 111. Requirement that certain aircraft be leased rather than sold.
TITLE II—OTHER AUTHORIZATIONS
Sec. 201. Claude and Mildred Pepper Scholarship Program.
Sec. 202. Certain international affairs activities.
Sec. 203. Gorgas Memorial Institute.
Sec. 204. Extension of au pair programs.
Sec. 205. Funding for certain international expositions.
Sec. 206. Center for Cultural and Technical Interchange Between North and South.
TITLE III—DEVELOPMENT FUND FOR AFRICA
Sec. 301. Short title.
Sec. 302. Development Fund for Africa.
TITLE IV—CARIBBEAN REGIONAL DEVELOPMENT
Sec. 401. United States policies.
Sec. 402. Priority areas for assistance.
Sec. 403. Protection of worker rights.
Sec. 404. Protection of public health.
Sec. 405. Support for women's role in development.
Sec. 406. Consultation, monitoring, evaluation, and reporting.
Sec. 407. Definition of Caribbean.

TITLE I—SUPPLEMENTAL ASSISTANCE FOR FISCAL YEAR 1990

SEC. 101. ASSISTANCE FOR PANAMA.

(a) ECONOMIC ASSISTANCE.—In order to support the efforts of Panama to restructure and restore its economy, restore relations with international financial institutions, address specific development problems, and strengthen democratic institutions, there are authorized to be appropriated $470,000,000 as supplemental appropriations for fiscal year 1990 for assistance in accordance with this section under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support of fund).

(b) OBJECTIVES OF ASSISTANCE.—The assistance authorized by this section shall be used to encourage and assist the Government of Panama in taking the necessary steps to restructure government policy and administration in order to allow the proper functioning of a market economy and political democracy. Among these steps should be the formulation and execution of sound economic policies and improved public sector management, with special attention to such areas as fiscal policy, the financial sector, budget planning and implementation, privatization of public enterprise, trade policy, and regulatory policy.

(c) ALLOCATIONS OF ASSISTANCE.—Except as provided in subsection (e), the funds authorized to be appropriated by subsection (a) shall be allocated and used as follows:

(1) DEVELOPMENT ASSISTANCE.—$50,000,000 shall be for assistance, consistent with the authorities and policies of chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance)—

(A) to meet priority needs of the poorest people of Panama, including assistance for rural development, health, family planning, and education; and

(B) to address immediate environmental needs and other environmental problems, including through means such as debt-for-nature swaps.

Assistance under this paragraph may be provided directly or through regional or international institutions.

(2) PRIVATE SECTOR REVITALIZATION.—

(A) IN GENERAL.—$150,000,000 shall be for assistance to revitalize the private sector in Panama. Such assistance shall include the following:

(i) BUSINESS INVESTMENT AND INVENTORY.—Assistance to help business finance a resumption of investment expenditures and restock inventories. Priority should be given to those businesses that suffered from looting in late December 1989 and for which a rapid resumption of economic activity would generate substantial employment.

(ii) EXPORT PROMOTION.—Assistance for export promotion activities.

(B) TRADE AND DEVELOPMENT PROGRAM.—Of the funds allocated to carry out this paragraph, $3,000,000 shall be transferred to the Trade and Development Program for use under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421), except that this subparagraph applies only to such extent as is provided in advance in an appropriations Act.

(C) CREDIT ASSISTANCE.—Except for the assistance described in subparagraphs (A)(ii) and (B), assistance under this paragraph shall be provided through the commercial banking system and other financial intermediaries.

(3) PUBLIC INVESTMENT PROGRAM.—$110,000,000 shall be for assistance to revitalize public investment in Panama. Such assistance shall be provided as budget support to the Government of Panama to finance construction and other activities in such sectors as transportation, education, agricultural, and health. This assistance shall be administered by the Government of Panama and by nongovernmental organizations, with implementation to be carried out for the most part by private contractors.

(4) PAYMENT OF ARREARAGES TO INTERNATIONAL FINANCIAL INSTITUTIONS.—$130,000,000 shall be for assistance to assist Panama in paying its arrearages to international financial institutions. Such assistance shall be provided as part of a package of assistance for such purpose that includes the participation of the Government of Panama and other donor nations and multilateral institutions. This effort should be accompanied by a rescheduling of official bilateral and commercial debt.

(5) STRENGTHENING PUBLIC ADMINISTRATION.—Except as provided in subsection (d)(4), $30,000,000 shall be for—

(A) assistance to strengthen the administrative and management capabilities of the Government of Panama, including the National Banking Commission;

(B) assistance under section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c) to strengthen the administration of justice in Panama, including the Office of the Attorney General; and

(C) notwithstanding section 660 of that Act (22 U.S.C. 2420; relating to the prohibition on assistance for law enforcement forces)—

(i) training for the Public Forces and other civilian law enforcement forces of Panama in human rights, civil law, and investigative and civilian law enforcement techniques,

(ii) assistance in developing a civilian police training academy in Panama, and

(iii) assistance to finance the procurement for civilian law enforcement forces in Panama of equipment that are appropriate for standard civilian law enforcement requirements.

(d) LAW ENFORCEMENT ASSISTANCE.—

(1) PROHIBITION ON LETHAL EQUIPMENT.—Only equipment that is nonlethal may be provided under subsection (c)(5).

(2) LIMITATION ON EQUIPMENT.—Not more than $5,000,000 of the funds used under subsection (c)(5) may be used for the procurement of equipment for law enforcement forces of Panama.

(3) DEFINITION OF EQUIPMENT.—For purposes of this subsection and subsection (c)(5), the term "equipment" has the same meaning as is given the term "commodities" by section 644(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(c)).

(4) ASSISTANCE FOR OTHER COUNTRIES.—Up to $1,200,000 of the amount allocated pursuant to subsection (c)(5) may be used under section 534(b)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346(b)(3)) for countries in Latin America and the Caribbean other than Panama.

(5) LIMITATIONS NOT APPLICABLE.—The second sentence of section 534(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c(e)) and the second sentence of section 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), shall not apply with respect to assistance provided under subsection (c)(5), including assistance under paragraph (4) of this subsection.

(e) CHANGES IN ALLOCATIONS.—

(1) REDUCTION OF ALLOCATION IF APPROPRIATIONS ARE LESS THAN SUM OF SPECIFIED ALLOCATION AMOUNTS.—If the aggregate amount appropriated pursuant to the authorization of appropriations provided by this section is less than the amount authorized, then the amount allocated pursuant to each paragraph of subsection (c) shall be the amount which bears the same ratio to the amount specified in that paragraph as the amount appropriated bears to the amount authorized.

(2) REALLOCATIONS.—Funds allocated pursuant to any paragraph of subsection (c) may be reallocated for use under any other such paragraph if, at least 15 days before such reallocation, the President notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(f) MONEY LAUNDERING.—

(1) CURRENT COOPERATION BY ENDARA GOVERNMENT.—The Congress—

(A) again commends the Endara government for its cooperation and assistance in freezing Panamanian bank accounts believed to be implicated in narcotics-related and other illegal financial transactions;

(B) notes the willingness of the Endara government to enter into negotiations with the United States on information sharing regarding narcotics-related financial transactions; and

(C) commends the Endara Government for—

(i) signing a counter-narcotics agreement;

(ii) taking the initiative to establish legal requirements to ensure the availability of currency and other financial transaction information to regulatory and law enforcement authorities; and.

(iii) signing the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

(2) UNITED STATES POLICY.—It is the policy of the United States to support the efforts of the Government of Panama to ensure that abuse of Panama's private and public institutions by drug traffickers and money launderers will not again be permitted to occur. To this end, the United States should—

(A) pursue to a prompt conclusion the discussions initiated by the Government of Panama concerning arrangements for information sharing and other law enforcement agreements with a view toward formalizing appropriate arrangements to include—

(i) a mechanism for exchanging adequate records (as defined in section 4702(f)(2) of the International Narcotics Control Act of 1988) on international currency transactions in connection with narcotics investigations and proceedings;

(ii) mutual access to records of financial transactions for purposes of law enforcement investigations; and

(iii) efficient mechanisms for each government to obtain from the other country, in judicially admissible form, bank records and other evidence for use in criminal proceedings;

(B) utilize funds appropriated under this and other Acts to provide appropriate training, materials, and equipment requested by the Government of Panama to facilitate implementation of such agreed arrangements;

(C) utilize funds appropriated pursuant to this and other Acts to provide appropriate training, materials, and equipment requested by the Government of Panama to ensure effective implementation of its recently adopted financial transaction requirements; and

(D) utilize funds appropriated pursuant to this and other Acts to assist the office of the Attorney General of Panama in obtaining appropriate training, materials, and equipment requested by the Government of Panama to ensure effective implementation of its declared policy of prosecuting drug traffickers and money launderers, and seizing their assets.

(3) APPLICABILITY OF KERRY AMENDMENT TO PANAMA.—Panama shall be considered to be a country described in the second sentence of section 4702(c)(1) of the International Narcotics Control Act of 1988 (31 U.S.C. 5311 note; relating to "higher priority" countries for purposes of negotiations concerning laundering of United States currency).

(4) BANK RECORD SHARING AGREEMENT.—Not more than half of the funds appropriated pursuant to the authorization of appropriations provided in this section may be expended until—

(A) the Secretary of the Treasury reports to the Congress that the Government of the United States and the Government of Panama have reached an agreement for exchanging adequate records (as defined in section 4702(f)(2) of the International Narcotics Control Act of 1988) on international currency transactions in connection with narcotics investigations and proceedings; or

(B) if a report has not been submitted under subparagraph (A) as of the time the Secretary of the Treasury submits the final report required by section 4702(d) of that Act, the Secretary reports to the Congress that Panama is negotiating in good faith to reach such an agreement.

(5) 1991 NARCOTICS CERTIFICATION.—.

(A) SEPARATE CERTIFICATIONS FOR BILATERAL AND MULTILATERAL ASSISTANCE.—In the case of the certification requirements of section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)), the President shall submit separate certifications with respect to Panama for fiscal year 1991 for purposes of paragraphs (1)(A) and (1)(B) of that section.

(b) REQUIREMENT FOR BILATERAL ASSISTANCE CERTIFICATION.—The President may make a certification with respect to Panama for fiscal year 1991 for purposes of paragraph (1)(A) of that section under paragraph (2)(A)(i) of that section (relating to countries which are fully cooperating with respect to illicit drug production, trafficking, and money laundering) only if an agreement has been signed by the Government of the United States and the Government of Panama that provides for—

(i) mutual access to records of financial transactions for purposes of drug-related law enforcement investigations, and

(ii) efficient mechanisms for each government to obtain from the other country, in judicially admissible form, bank records for use in drug-related proceedings.

(6) EXPLANATORY NOTE REGARDING STATUTORY REFERENCE.—The International Narcotics Control Act of 1988 is title IV of the Anti-Drug Abuse Act of 1988.

(g) CONGRESSIONAL NOTIFICATIONS.—At least 15 days before each obligation of funds for assistance under this section (including assistance authorized by subsection (j)), the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(h) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorization of appropriations contained in this section may be made available for obligation until expended.

(i) WAIVER OF BROOKS-ALEXANDER AMENDMENT.—The assistance authorized for Panama by this section may be provided notwithstanding section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), section 620(g) of the Foreign Assistance of law relating to foreign assistance repayments.

(j) OTHER ASSISTANCE.—In addition to the funds authorized to be appropriated by this section for assistance for Panama, funds available for fiscal year 1990 under other provisions of law may be used to provide the economic assistance for Panama authorized by this section notwithstanding the provisions of law cited in subsection (i).

SEC. 102. ASSISTANCE FOR NICARAGUA.

(a) AUTHORIZATION OF APPROPRIATIONS.—In order to help restore the productive capacity of the Nicaraguan economy, restore Nicaragua's relations with international financial institutions, provide support for long-term economic growth and development in Nicaragua, strengthen democratic institutions in Nicaragua, and provide assistance for the repatriation and reconciliation process in Nicaragua, there are authorized to be appropriated $340,000,000 as supplemental appropriations for fiscal year 1990 for assistance in accordance with this section under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(b) ALLOCATIONS OF ASSISTANCE.—Except as provided in subsection (c), the funds authorized to be appropriated by subsection (a) shall be allocated and used as follows:

(1) RESTORING THE PRODUCTIVE CAPACITY OF THE NICARAGUAN ECONOMY.—$128,000,000 shall be for assistance to support the efforts of the Government of Nicaragua and the private sector in Nicaragua to restore the productive capacity of the Nicaraguan econ-

omy. Such assistance may include support for public and private sector imports of:

(A) agricultural equipment, spare parts, fertilizer, and other inputs needed to restore the agriculture sector;

(B) petroleum and oil products; and

(C) raw materials, equipment, intermediate goods, and spare parts to rehabilitate existing facilities and stimulate new productive enterprise in the industrial and agricultural sectors.

(2) PAYMENT OF ARREARAGES TO INTERNATIONAL FINANCIAL INSTITUTIONS.—$50,000,000 shall be for assistance to assist Nicaragua in paying its arrearages to international financial institutions. Such assistance shall be provided as part of a package of assistance for such purpose that includes the participation of the Government of Nicaragua and other honor nations and multilateral institutions. This effort should be accompanied by a rescheduling of official bilateral and commercial debt.

(3) ECONOMIC GROWTH AND DEVELOPMENT.—$75,000,000 shall be for assistance to assist Nicaragua to meet its longer-term economic growth and development needs, directly or through regional and other international institutions. Such assistance may include support for such activities as—

(A) programs to repair, improve, and maintain existing public infrastructure such as schools, health clinics, roads, and community facilities;

(B) provision of medical equipment, commodities, training, and other support for the health and family planning sectors;

(C) provision of assistance and training to improve government administration and strengthen democratic institutions;

(D) provision of technical assistance and training to the private sector to permit the rehabilitation and modernization of private enterprise in Nicaragua;

(E) support for primary school education and university level scholarships and training; and

(F) support for the agricultural sector through small farmer credit activities and improvement of input supply production marketing systems.

(4) DEMOBILIZATION AND REPATRIATION; ASSISTANCE FOR REFUGEES AND DISPLACED PERSONS.—$87,000,000 shall be for assistance to support the demobilization and demilitarization process and to reintegrate former combatants (including members of the Nicaraguan Resistance), as well as Nicaraguan refugees and other Nicaraguans who have been displaced by the conflict, into the social, economic, and political life of Nicaragua, as follows:

(A) DEMOBILIZATION, REPATRIATION, AND RESETTLEMENT OF MEMBERS OF THE NICARAGUAN RESISTANCE.—(i) $30,000,000 shall be used to support the voluntary demobilization, repatriation, and resettlement of members of the Nicaraguan Resistance and their families.

(ii) Such assistance shall be provided—

(I) through the International Commission of Support and Verification (CIAV) established by the Secretary General of the United Nations and the Secretary General of the Organization of American States pursuant to the agreement of the Central American Presidents at Tela, Honduras, on August 7, 1989, and

(II) in coordination with the Government of Nicaragua,

unless the President notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(iii) Assistance may be provided under this subparagraph for members of the Nicaraguan Resistance only if there is agreement that such members will give up their weapons as part of the demobilization process.

(B) ONUCA.—$2,000,000 shall be used to support the Observer Group for Central America (ONUCA), if, with the consent of the United Nations Security Council, it plays a role in supporting the voluntary demobilization of former combatants and supporting safe conditions in Nicaragua in accord with the Central American peace process.

(C) REPATRIATION AND RESETTLEMENT OF REFUGEES AND DISPLACED PERSONS.—$55,000,000 shall be used for the repatriation and resettlement in Nicaragua of Nicaraguan refugees and other Nicaraguans who have been displaced by the conflict in Nicaragua (without regard to whether they are within or outside Nicaragua). Such repatriation and resettlement shall be carried out under international auspices, including through the United Nations High Commissioner for Refugees (UNHCR) and the International Conference of Central American Refugees (CIREFCA), in coordination with the Government of Nicaragua. Assistance under this subparagraph may be provided under the authorities of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601 and following).

(c) CHANGES IN ALLOCATIONS.—

(1) REDUCTION OF ALLOCATIONS IF APPROPRIATIONS ARE LESS THAN SUM OF SPECIFIED ALLOCATION AMOUNTS.—If the aggregate amount appropriated pursuant to the authorization of appropriations provided by subsection (a) is less than the amount authorized, then the amount allocated pursuant to each paragraph of subsection (b) and each subparagraph of paragraph (4) of that subsection shall be the amount which bears the same ratio to the amount specified in that paragraph or subparagraph (as the case may be) as the amount appropriated bears to the amount authorized.

(2) REALLOCATIONS.—Funds allocated pursuant to any paragraph of subsection (b), or any subparagraph of paragraph (4) of that subsection, may be reallocated for use under any other such paragraph or subparagraph (as the case may be) if, at least 15 days before such reallocation, the President notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(d) CONGRESSIONAL NOTIFICATIONS.—At least 15 days before each obligation of funds for assistance under this section (including assistance pursuant to subsections (g) and (h)), the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(e) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorization of appropriations contained in this section may be made available for obligation until expended.

(f) WAIVER OF BROOKE-ALEXANDER AMENDMENT.—The assistance authorized for Nicaragua by this section may be provided notwithstanding section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), section 620(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)), and any similar provision of law relating to foreign assistance repayments.

(g) EXPANDING USES OF SURVIVAL ASSISTANCE FOR VICTIMS OF CIVIL STRIFE IN CENTRAL AMERICA.—Section 1 of the Act entitled "An Act to provide survival assistance to victims of civil strife in Central America", approved December 11, 1989 (Public Law 101-215), is amended—

(1) in the first sentence of subsection (a), by striking out "noncombatant";

(2) in the second sentence of subsection (a), by striking out "noncombatants" and inserting in lieu thereof " those"; and

(3) by repealing subsection (c).

(h) OTHER ASSISTANCE.—In addition to the funds made available by this section for assistance for Nicaragua, funds available for fiscal year 1990 under other provisions of law may be used to provide the economic assistance for Nicaragua authorized by this section, and to provide otherwise authorized training and services provided by the Office of Security of the Department of State for law enforcement personnel of Nicaragua for VIP protection and the physical protection of internationally protected persons and related facilities, notwithstanding the provisions of law cited in subsection (5).

(i) TRANSITION TO DEMOCRATIC GOVERNMENT.—

(1) SUSPENSION OF ASSISTANCE.—The President may suspend the provision of any assistance pursuant to this section if he determines that—

(A) there is not an orderly, peaceful, and complete transition from the existing Sandinista government to the duly elected democratic government in Nicaragua; or

(B) it is in the interest of the United States to suspend such assistance.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the President should work toward an orderly, peaceful, and complete transfer of power to the duly elected democratic government in Nicaragua.

SEC. 103. ADMINISTRATIVE USES OF FUNDS FOR PANAMA AND NICARAGUA.

Up to $10,000,000 of the funds authorized to be appropriated by sections 101 and 102 may be used for the purpose of paying administrative expenses incurred by the Agency for International Development in connection with carrying out its functions under those sections or under the Act entitled "An Act to implement the Bipartisan Accord on Central America of March 24, 1989", approved April 18, 1989 (Public Law 101-14).

SEC. 104. ASSISTANCE FOR HAITI.

(a) ASSISTANCE FOR FISCAL YEAR 1990.—

(1) ASSISTANCE FOR ELECTIONS AND CRITICAL IMPORTS.—There are authorized to be appropriated $20,000,000 as supplemental appropriations for fiscal year 1990 for assistance for Haiti under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), of which—

(A) up to $5,000,000 may be used for election assistance; and

(B) the remainder shall be used to finance critical imports.

Funds appropriated pursuant to the authorization of appropriations contained in this paragraph may be made available for obligation until expended.

(2) ANTI-TERRORISM ASSISTANCE.—Assistance may be provided for Haiti for fiscal year 1990 under chapter 8 of part II of the

Foreign Assistance Act of 1961 (22 U.S.C. 2349aa and following).

(b) CONDITIONS ON ASSISTANCE.—The assistance authorized by subsection (a) shall be subject to the requirements of section 560(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), except that paragraph (1) of that section does not apply with respect to such assistance.

(c) CONGRESSIONAL NOTIFICATIONS.—Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) applies to the assistance authorized by subsection (a).

SEC. 105. ASSISTANCE FOR THE CARIBBEAN.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 as supplemental appropriations for fiscal year 1990 for assistance for the Caribbean under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund). Of that amount, $5,000,000 is authorized to be appropriated only for assistance for the Eastern Caribbean.

(b) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorization of appropriations contained in this section may be made available for obligation until expended.

SEC. 106. MIGRATION AND REFUGEE ASSISTANCE.

(a) FY 1990 SUPPLEMENTAL AUTHORIZATION.—Section 104(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), is amended by striking out "$415,000,000" and inserting in lieu thereof "$458,409,000".

(b) EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND.—

(1) INCREASED AUTHORIZATION.—Section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)(2)) is amended by striking out "$50,000,000" and inserting in lieu thereof "$125,000,000".

(2) MIGRANT IMPACT ASSISTANCE.—If at any time during fiscal year 1990 the unobligated amount available to carry out section 2(c) of that Act exceeds $50,000,000 pursuant to the amendment made by paragraph (1), not less than one-third of the amount in excess of $50,000,000 shall be transferred under section 4(b) of that Act (22 U.S.C. 2603(b)) to appropriate Government agencies for use in providing migrant impact assistance to State and local governments to reimburse them for expenses they are legally required to incur with respect to migrants.

(3) AFRICAN AMERICAN HEBREW COMMUNITY IN ISRAEL.—Subject to paragraph (2), if at any time during fiscal year 1990 the unobligated amount available to carry out section 2(c) of that Act exceed $50,000,000 pursuant to the amendment made by paragraph (1), up to $5,000,000 of that amount is authorized to be made available (without regard to paragraph (1) of that section) for assistance to address the needs of the African-American Hebrew community in Israel in accordance with an agreement among representatives of that community, the Government of Israel, and the Government of the United States.

(4) UNITED NATIONS RELIEF AND WORKS AGENCY.—Subject to paragraph (2), if at any time during fiscal year 1990 the unobligated amount available to carry out section 2(c) of that Act exceeds $50,000,000 pursuant to the amendment made by paragraph (1), up to $10,000,000 of that amount is authorized to be made available for a United States contribution to the United Nations Relief and Works Agency for Palestinian Refugees in the Near East.

SEC. 107. ASSISTANCE FOR SUB-SAHARAN AFRICA.

(a) ASSISTANCE FOR NAMIBIA.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 as supplemental appropriations for fiscal year 1990 for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), which shall be for assistance for Namibia following its transition to an independent democratic country.

(2) USES OF ASSISTANCE.—Except as provided in paragraph (3), funds appropriated under this subsection shall be provided to the Government of Namibia for budgetary support to nongovernmental organizations to finance development activities in the priority sectors of agriculture, health, education, and housing.

(3) AID MISSION.—Up to $1,000,000 of the funds appropriated under this subsection shall be used for the expenses of establishing and maintaining an Agency for International Development mission in Namibia.

(b) DEVELOPMENT ASSISTANCE.—There are authorized to be appropriated $5,000,000 as supplemental appropriations for fiscal year 1990 for the "SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE" account under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance), which shall be for additional assistance for countries for which assistance under that account is allocated for fiscal year 1990 in the report submitted to the Congress pursuant to section 653 of the Act (22 U.S.C. 2413).

(c) ECONOMIC SUPPORT FUND ASSISTANCE.—There are authorized to be appropriated $5,000,000 as supplemental appropriations for fiscal year 1990 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support), which shall be for assistance for countries for which assistance is allocated under the "SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE" account for fiscal year 1990 in the report submitted to the Congress pursuant to section 653 of the Act (22 U.S.C. 2413).

(d) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorizations of appropriations contained in this section may be made available for obligation until expended.

(e) NAMIBIA AND THE COMPREHENSIVE ANTI-APARTHEID ACT.—It is the sense of the Congress that as of March 21, 1990, when Namibia became self-governing, the definition of South Africa in the Comprehensive Anti-Apartheid Act of 1986 ceased to apply to Namibia.

SEC. 108. ASSISTANCE TO ENCOURAGE NEGOTIATIONS LEADING TO A PEACEFUL TRANSITION TO DEMOCRACY IN SOUTH AFRICA.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 as supplemental appropriations for fiscal year 1990 chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), which shall be used to provide assistance, through the National Endowment for Democracy and other groups, to support programs and activities of organizations to encourage negotiations leading to a peaceful transition to a genuine democracy based on universal suffrage within a united South Africa.

(b) SUSPENSION OF VIOLENCE.—An organization which has engaged in armed struggle or other acts of violence shall be eligible for assistance under this section only if that organization is committed to a suspension of violence in the context of negotiations to establish a democratic system of government in South Africa.

(c) PROHIBITION ON USING FUNDS TO SUPPORT VIOLENCE.—In order to receive assistance udner this section, an organization must agree that it will not use any of the funds made available to it under this section for the purpose of supporting physical violence by an individual, group, or government.

(d) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorization of appropriations contained in this section may be made available for obligation until expended.

SEC. 109. HOUSING INVESTMENT GUARANTEE PROGRAM FOR NEW IMMIGRANTS TO ISRAEL.

(a) ESTABLISHMENT OF PROGRAM.—Title III of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by inserting after section 222A (22 U.S.C. 2182a) the following new section:

"SEC. 222B. GUARANTY PROGRAM FOR HOUSING FOR NEW IMMIGRANTS TO ISRAEL.

"(a) AUTHORITY.—The President is authorized to issued guaranties to eligible investors (as defined in section 238(c)) assuring against losses incurred in connection with loans made for housing projects in Israel for newly arrived immigrants in that country.

"(b) LIMITATION.—The total principal amount of guaranties issued under this section that are outstanding at any one time may not exceed $400,000,000. The limitation established by the second sentence of section 222(a) does not apply with respect to guaranties issued under this section.

"(c) TERMS AND CONDITIONS.—The President may issue regulations from time to time with regard to the terms and conditions upon which such guaranties shall be issued and the eligibility of lenders.

"(d) FEES.—For each loan guaranteed under this section, the fee charged pursuant to section 223(a) shall be an initial fee of one quarter of 1 percent of the principal amount of such loan and an annual fee of one half of 1 percent of the outstanding principal balance of such loan, except that the total of all annual fees charged under this subsection each year shall not exceed $150,000.

"(e) APPROPRIATIONS ACTION REQUIRED.—The authority of this section may be exercised only to such extent or in such amount as may be provided in advance in appropriations Acts.".

(b) CONFORMING AMENDMENTS.—Section 223 of that Act (22 U.S.C. 2183) is amended—

(1) in subsection (a), by striking out "or 222A" and inserting ", 222A, or 222B";

(2) in subsection (b)—

(A) by inserting "or 222B" after "222" the first and third places it appears, and

(B) by inserting "and 222B" after "222" the second places it appears;

(3) in subsection (c), by inserting "or 222B" after "222";

(4) in subsection (d), by striking out "or 222A" and inserting ", 222A, or 222B";

(5) in subsection (f), by inserting "or 222B" after "222"; and

(6) in subsection (j)—

(A) in the second sentence, by striking out "this title" and inserting in lieu thereof "section 222", and

(B) in the third sentence, by inserting "under section 222" after "issued" both places it appears.

SEC. 110. AUTHORITY TO TRANSFER FY 1990 MILITARY ASSISTANCE FUNDS TO ECONOMIC ASSISTANCE ACCOUNTS.

For purposes of section 610(a) of the Foreign Assistance Act of 1961, funds made available for fiscal year 1990 to carry out section 23 of the Arms Export Control Act shall be deemed to be funds made available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961.

SEC. 111. REQUIREMENT THAT CERTAIN AIRCRAFT BE LEASED RATHER THAN SOLD.

(a) AVAILABILITY OF CERTAIN FUNDS TO SATISFY REQUIREMENT.—For purposes of satisfying the requirement of section 484 of the Foreign Assistance Act of 1961, funds appropriated for counter-narcotics programs by section 602 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) that are allocated for assistance for Bolivia and Peru may be used to finance the leasing to those countries, under chapter 6 of the Arms Export Control Act, of up to 11 UH-1H helicopters.

(b) COST OF LEASES.—Section 61(a)(3) of the Arms Export Control Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the helicopters if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

(c) REIMBURSEMENT OF SDAF.—To the extent that helicopters so leased were aquired under chapter 5 of the Arms Export Control Act, funds used pursuant to this section to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.

(d) CERTAIN REPORTING REQUIREMENTS.—Leases financed under this section may be entered into without regard to the requirement of section 62 of the Arms Export Control Act for advance certification to the Congress; that section applies, however, to any renewal of any such lease.

TITLE II—OTHER AUTHORIZATIONS

SEC. 201. CLAUDE AND MILDRED PEPPER SCHOLARSHIP PROGRAM.

(a) FINDINGS AND PURPOSE.—The Congress finds that freedom and movement towards democratic government reform are increasing worldwide and that thousands of high school and college students from foreign countries visit the United States each year to live and study. It is the purpose of this section to provide Federal financial assistance to facilitate a program to enable such students to spend from one to two weeks in Washington, District of Columbia, observing and studying the workings and operations of the democratic form of government of the United States.

(b) GRANTS.—The Director of the United States Information Agency is authorized to make grants to the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation to carry out the purpose specified in subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000 for the fiscal year 1990 to carry out this section.

SEC. 202. CERTAIN INTERNATIONAL AFFAIRS ACTIVITIES.

(a) CANADA.—Section 2 of Public Laws 86-42 is amended—

(1) by striking out "$50,000" and inserting in lieu thereof "$100,000"; and

(2) by striking out "$25,000" both places it appears and inserting in lieu thereof "$50,000".

(b) MEXICO.—Section 2 of Public Law 86-420 is amended—

(1) by striking out "$50,000" and inserting in lieu thereof "$100,000"; and

(2) by striking out "$25,000" both places it appears and inserting in lieu thereof "$50,000".

(c) TRANSITION RULE.—Funds appropriated by section 303 of the Department of State Appropriations Act, 1988, shall be available for use pursuant to the amendments made by subsections (a) and (b) only to the extent that that section is amended in order to appropriate additional funds pursuant to those amendments.

SEC. 203. GORGAS MEMORIAL INSTITUTE.

(a) FINDINGS.—The Congress finds that the purposes and activities of the Gorgas Memorial Institute of Tropical and Preventive Medicine, Incorporated (hereafter in this section referred to as the "Institute") can be most effectively achieved through incorporation of the Institute with the Pan American Health Organization.

(b) NEGOTIATIONS.—The Secretary of State is urged to enter into negotiations with the Republic of Panama and the Pan American Health Organization to assure a transition of control of the Institute and its laboratories to the Pan American Health Organization that is satisfactory to the interested parties.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,500,000 for each of the fiscal years 1991, 1992, and 1993 for payment of a voluntary contribution by the United States to the Pan American Health Organization to provide continued support for the Institute.

SEC. 204. EXTENSION OF AU PAIR PROGRAMS.

The au pair programs which are designated, as of the date of enactment of this Act, by the Director of the United States Information Agency may be continued in effect until such time as another agency of the United States is authorized to implement such programs.

SEC. 205. FUNDING FOR CERTAIN INTERNATIONAL EXPOSITIONS.

Section 201(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, is amended—

(1) by striking out "SEVILLE WORLD'S FAIR" and inserting in lieu thereof "INTERNATIONAL EXPOSITIONS"; and

(2) by striking out "for fiscal year 1990 $7,300,000 for United States participation in the World's Fair in Seville, Spain" and inserting in lieu thereof "$7,300,000 for United States participation in the International Expositions in Seville, Spain and Genoa, Italy".

SEC. 206. CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.

(a) SHORT TITLE.—This section may be cited as the "Center for Cultural and Technical Interchange between North and South Act of 1990".

(b) PURPOSE.—The purpose of this section is to promote better relations between the United States and the nations of Latin America and the Caribbean and Canada through cooperative study, training, and research, by supporting in Florida a Center for Cultural and Technical Interchange Between North and South where scholars and students in various fields from the nations of the Hemisphere may study, give and receive training, exchange ideas and views, and conduct other activities primarily in support of the objectives of the United States Information and Educational Exchange Act of 1948 and other Acts promoting international, educational, cultural, scientific, and related activities of the United States.

(c) NORTH-SOUTH CENTER.—In order to carry out the purpose of this section, the Director of the United States Information Agency shall provide for the operation in Florida of an educational institution to be known as the North-South Center, through arrangements with public, educational, or other nonprofit institutions.

(d) AUTHORITIES.—The Director of the United States Information Agency, in carrying out this section, may utilize the authorities of the United States Information and Educational Exchange Act of 1948. Section 704(b) of Mutual Security Act of 1960 (22 U.S.C. 2056(b) shall apply in the administration of this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1991 to carry out this section. Amounts appropriated under this section are authorized to be made available until expended.

TITLE III—DEVELOPMENT FUND FOR AFRICA

SEC. 301. SHORT TITLE.

This title may be cited as the "Development Fund for Africa Act".

SEC. 302. DEVELOPMENT FUND FOR AFRICA.

(a) ENACTMENT OF AUTHORIZATION FOR DEVELOPMENT FUND.—Part I of the Foreign Assistance Act of 1961 is amended by adding after chapter 9 the following new chapter:

"CHAPTER 10—DEVELOPMENT FUND FOR AFRICA

"SEC. 496. LONG-TERM DEVELOPMENT ASSISTANCE FOR SUB-SAHARAN AFRICA.

"(a) FINDINGS.—The Congress finds that—

"(1) drought and famine have caused countless deaths and untold suffering among the people of sub-Saharan Africa;

"(2) drought and famine in combination with other factors such as desertification, government neglect of the agriculture sector, and inappropriate economic policies have severely affected long-term development in sub-Saharan Africa; and

"(3) the most cost-effective and efficient way of overcoming Africa's vulnerability to drought and famine is to address Africa's long-term development needs through a process that builds upon the needs and capabilities of the African people, promotes sustained and equitable economic growth, preserves the environment, and protects the rights of the individual.

"(b) AUTHORITY TO FURNISH ASSISTANCE.—The President is authorized to furnish project and program assistance, on such terms and conditions as he may determine in accordance with the policies contained in this section, for long-term development in sub-Saharan Africa.

"(c) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section is to help the poor majority of men and women in sub-Saharan Africa to participate in a proc-

ess of long-term development through economic growth that is—

"(1) equitable, in that it enables the poor to increase their incomes and their access to productive resources and services so that they can satisfy their basic needs and lead lives of decency, dignity, and hope;

"(2) participatory, in that it enables the poor to contribute knowledge and other resources and to make and influence decisions that affect their lives;

"(3) environmentally sustainable, in that it maintains and restores the renewable natural resource base of the economy and wisely uses nonrenewable resources; and

"(4) self-reliant, in that it is based on indigenous institutions, private and public, local and national, that have the capacity (including the human resources and finances) to carry out development policies.

Assistance provided under this section should also, in a manner consistent with the preceding provisions of this subsection, encourage private sector development, promote individual initiatives, and help to reduce the role of central governments in areas more appropriate for the private sector.

"(d) APPLICATION OF DEVELOPMENT ASSISTANCE GENERAL AUTHORITIES AND POLICIES.—Except to the extent inconsistent with this section—

"(1) any reference in law to chapter 1 of this part (including references to section 103 through 106) shall be deemed to include a reference to this section; and

"(2) assistance under this section shall be provided consistent with the policies contained in section 102.

"(e) PRIVATE AND VOLUNTARY ORGANIZATIONS.—

"(1) CONSULTATION TO ENSURE LOCAL PERSPECTIVES.—The Agency for International Development shall take into account the local-level perspectives of the rural and urban poor in sub-Saharan Africa, including women, during the planning process for project and program assistance under this section. In order to gain that perspective the Agency for International Development should consult closely with African, United States, and other private and voluntary organizations that have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of long-term development in sub-Saharan Africa as described in subsection (c).

"(2) FUNDING FOR STRENGTHENING OF DEVELOPMENT EFFORTS.—In carrying out this section, the Agency for International Development should make available funds for the strengthening of development efforts by African, United States, and other private and voluntary organizations which have demonstrated effectiveness in or a commitment to the promotion of local grassroots activities on behalf of long-term development in sub-Saharan Africa as described in subsection (c).

"(3) DEFINITION OF PRIVATE AND VOLUNTARY ORGANIZATION.—For the purposes of this section, the term 'private and voluntary organization' includes (in addition to entities traditionally considered to be private and voluntary organizations) cooperatives, credit unions, trade unions, women's groups, higher education institutions, nonprofit development research institutions, other intermediaries, and indigenous local organizations, which are private and nonprofit.

"(f) LOCAL INVOLVEMENT IN PROJECT IMPLEMENTATION.—Local people, including women, shall be closely consulted and involved in the implementation of every project under this section which has a local focus.

"(g) PARTICIPATION OF AFRICAN WOMEN.—The administering agency shall ensure that development activities assisted under this section incorporate a significant expansion of the participation (including decision-making) and integration of African women in each of the critical sectors described in subsection (i).

"(h) TYPES OF ASSISTANCE.—

"(1) PROJECTS AND PROGRAMS TO ADDRESS CRITICAL SECTORAL PRIORITIES.—Assistance under this section shall emphasize primarily projects and progrms to address critical sectoral priorities for long-term development described in subsection (i).

"(2) REFORM OF NATIONAL ECONOMIC POLICIES.—

"(A) USE OF PROGRAM ASSISTANCE.—Assistance under this section may also include program assistance to promote reform of national economic policies affecting long-term development in sub-Saharan Africa as described in subsection (c), with primary emphasis on reform of national economic policies to support the critical sectoral priorities described in subsection (i).

"(B) PROTECTION OF VULNERABLE GROUPS.—Assisted policy reforms shall also include provisions to protect vulnerable groups (especially poor, isolated, and female farmers and the urban poor) and long-term environmental interests from possible negative consequences of the reforms.

"(3) OTHER ASSISTANCE.—Funds made available to carry out this section shall be used almost exclusively for assistance in accordance with paragraphs (1) and (2). Limited amounts of assistance, however, may be furnished under this section to address other priorities for long-term development in sub-Saharan Africa as described in subsection (c).

"(i) CRITICAL SECTORAL PRIORITIES.—The critical sectoral priorities for long-term development, as described in subsection (c), are the following:

"(1) AGRICULTURAL PRODUCTION AND NATURAL RESOURCES.—

"(A) AGRICULTURAL PRODUCTION.—Increasing agricultural production in ways which protect and restore the natural resource base, especially food production, through agricultural policy changes at the macroeconomic and sector levels, agricultural research (including participatory research directly involving small farmers) and extension, development and promotion of agriculture marketing activities, credit facilities, and appropriate production packages, and the construction and improvment of needed production-related infrastructure such as farm-to-market roads, small-scale irrigation, and rural electrification. Within this process, emphasis shall be given to promoting increased equity in rural income distribution, recognizing the role of small farmers.

"(B) NATURAL RESOURCE BASE.—Maintaining and restoring the renewable natural resource base in ways which increase agricultural production, through the following:

"(i) Small-scale, affordable, resource-conserving, low-risk local projects, using appropriate technologies (including traditional agricultural methods) suited to local environmental, resource, and climatic conditions, and featuring close consultation with and involvement of local people at all stages of project design and implementation. Emphasis shall be given to grants for African local government organizations, international or African nongovernmental organizations, and United States private and voluntary organizations.

"(ii) Support for efforts at national and regional levels to provide technical and other support for projects of the kinds described in clause (i) and to strengthen the capacities of African countries to provide effective extension and other services in support of environmentally sustainable increases in food production.

"(iii) Support for special training and education efforts to improve the capacity of countries in sub-Saharan Africa to manage their own environments and natural resources.

"(iv) Support for low-cost desalination activities in order to increase the availability of fresh water sources in sub-Saharan Africa.

"(2) HEALTH.—Improving health conditions, with special emphasis on meeting the health needs of mothers and children through the establishment of self-sustaining primary health care systems that give priority to preventive health.

"(3) VOLUNTARY FAMILY PLANNING SERVICES.—Providing increased access to voluntary family planning services, including encouragement of private, community, and local government initiatives.

"(4) EDUCATION.—Improving the relevance, equity, and efficiency of education, with special emphasis on improving primary education.

"(5) INCOME-GENERATING OPPORTUNITIES.—Developing income-generating opportunties for the unemployed and underemployed in urban and rural areas through, among other things, support for off-farm employment opportunties in micro- and small scale labor-intensive enterprises.

"(j) MINIMUM LEVELS OF ASSISTANCE FOR CERTAIN CRITICAL SECTORS.—The Agency for International Development shall target the equivalent of not less than 10 percent of the amount authorized to be appropriated for each fiscal year to carry out this chapter for each of the following:

"(1) The activities described in subsection (i)(1)(B), including identifiable components of agricultural production projects.

"(2) The activities described in subsection (i)(2).

"(3) The activities described in subsection (i)(3).

"(k) EFFECTIVE USE OF ASSISTANCE.—Assistance provided under this section shall be concentrated in countries which will make the most effective use of such assistance in order to fulfill the purpose specified in subsection (c), especially those countries (including those of the Sahel region) having the greatest need for outside assistance.

"(l) PROMOTION OF REGIONAL INTEGRATION.—Assistance under this section shall, to the extent consistent with this section, include assistance to promote the regional and subregional integration of African production structures, markets, and infrastructure.

"(m) GENERATED LOCAL CURRENCIES.—

"(1) GENERATED UNDER THIS SECTION.—Local currencies generated under this section by the sale of imports or foreign exchange by the government of a country in sub-Saharan Africa shall be deposited in a special account established by that government. These local currencies shall be available only for use, in accordance with an agreement with the United States, for development activities which would be eligible for assistance under this section, except that the agreement shall require that the government of the country make available to the United States Government such portion of the amount deposited in the special account as may be determined by the Presi-

dent to be necessary for requirements of the United States Government. The Agency for International Development shall carefully monitor the deposit of local currencies and the use of such local currencies or their equivalent for specific developmental activities in accordance with this paragraph.

"(2) GENERATED UNDER OTHER AUTHORITIES.—Local currencies generated in sub-Saharan Africa under chapter 4 of part II of this Act or under section 106(b)(2), section 206, or title III of the Agricultural Trade Development and Assistance Act of 1954 that are to be used for development activities shall be used only for activities which would be eligible for assistance under this section.

"(n) DONOR COORDINATION MECHANISM.—Funds made available to carry out this section may be used to assist the governments of countries in sub-Saharan Africa to increase their capacity to participate effectively in donor coordination mechanisms at the country, regional, and sector levels.

"(o) POLICY ON USE OF FUNDS FOR PAYMENT OF OFFICIAL DEBT.—It shall be the policy of the United States that funds made available to carry out this section not be used to make payments with respect to any official debt owed to the United States Government, any foreign government, or any multilateral lending institution. Exceptions to this policy may be made—

"(1) only in certain instances where the recipient country's debt service is a significant barrier to development and where such payments would have a significant effect in leveraging additional flows of development finance; and

"(2) only after consultation with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(p) RELATION TO OTHER AUTHORITIES.—

"(1) ASSISTANCE UNDER OTHER AUTHORITIES.—The authority granted by this section to provide assistance for long-term development in sub-Saharan Africa is not intended to preclude the use of other authorities for that purpose. Centrally-funded programs which benefit sub-Saharan Africa shall continue to be funded under chapter 1 of part I of this Act.

"(2) TRANSFER AUTHORITIES.—(A) The transfer authority contained in section 109 of this Act shall not apply with respect to this section.

"(B) The transfer authority contained in section 610(a) of this Act may not be used to transfer funds made available to carry out this section in order to allow them to be used in carrying out any other provision of this Act.

"(3) REPROGRAMMING NOTIFICATIONS.—Section 634A of this Act does not apply with respect to funds made available to carry out this section.

"(4) PROCUREMENT OF GOODS AND SERVICES.—In order to allow the assistance authorized by this section to be furnished as effectively and expeditiously as possible, section 604(a) of this Act, and similar provisions relating to the procurement of goods and services, shall not apply with respect to goods and services procured for use in carrying out this section. The exemption provided by this paragraph shall not be construed to apply to the Comprehensive Anti-Apartheid Act of 1986.

"(q) SUPPORT FOR SADCC PROJECTS.—

"(1) AUTHORITY TO PROVIDE ASSISTANCE.—To the extent funds are provided for such purpose in the annual Foreign Operations, Export Financing, and Related Programs Appropriations act, funds made available to carry out this chapter may be used to assist sector projects, in the sectors specified in paragraph (2), that are supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the 9 member states forming that regional institution.

"(2) SECTORS.—The sectors with respect to which assistance may be provided under this subsection are the following: transportation; manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives).

"(3) RELATION TO DFA POLICIES AND AUTHORITIES.—To the maximum extent feasible, the assistance authorized by this subsection shall be provided consistent with the policies and authorities contained in the preceding subsections of this section.

"SEC. 497. AUTHORIZATIONS OF APPROPRIATIONS FOR THE DEVELOPMENT FUND FOR AFRICA.

"(a) AUTHORIZATIONS.—The Congress will authorize appropriations to carry out this chapter.

"(b) EXTENDED AVAILABILITY OF FUNDS.—Funds appropriated to carry out this chapter are authorized to be made available until expended. It is the sense of the Congress that the authority of this subsection should be used to extend the period of availability of those funds whenever appropriate to improve the quality of assistance provided under section 496.

"SEC. 498. FUNDING FOR INCREASED A.I.D. ORGANIZATIONAL RESOURCES FOR SUB-SAHARAN AFRICA.

The Administrator of the Agency for International Development may transfer up to 5 percent of the funds made available each fiscal year to carry out this chapter to the appropriations account for the operating expenses of the Agency for International Development for use in increasing (above the level of resources available for fiscal year 1989) the organizational resources which the agency has available for development assistance activities for sub-Saharan Africa. These funds shall be in addition to amounts otherwise allocated to the agency's Bureau for Africa.".

(b) EVALUATIONS.—The Administrator of the Agency for International Development shall periodically evaluate the progress of the agency in achieving the purpose specified in section 496(c) of the Foreign Assistance Act of 1961, as enacted by this section. The Administrator shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate—

(1) an interim evaluation by October 1, 1992; and

(2) a summary evaluation by February 1, 1997.

(c) REPORTS TO CONGRESS.—As part of the annual Congressional presentation materials for economic assistance, the Administrator of the Agency for International Development shall include a description of the progress made during the previous fiscal year in carrying out chapter 10 of part I of the Foreign Assistance Act of 1961, including for each sub-Saharan African country a brief description of—

(1) the nature of extent of consultation to ensure local perspectives, as described in subsection (e)(1) and (f) of section 496;

(2) the degree of involvement of local people in the implementation of projects having a lcoal focus;

(3) the assistance provided to private and voluntary organizations pursuant to section 496(e)(2), specifying the amounts obligated for such assistance and comparing these amounts with those provided for the previous fiscal year;

(4) the extent to which there has been expansion of the participation and integration of African women in each of the critical sectors specified in section 496(i);

(5) program assistance provided to promote national economic policy reforms, including the amounts obligated, the criteria used for assisting national reforms, and the provisions made pursuant to section 496(h)(2)(B) to protect vulnerable groups from possible negative consequences of the reforms; and

(6) assistance for the critical sector priorities specified in section 496(i), by sector, including the amounts obligated.

Each report shall also describe organizational changes undertaken pursuant to section 498 and the amounts obligated and the amounts expended for these changes.

(d) CONFORMING AMENDMENTS.—

(1) FOREIGN ASSISTANCE ACT.—The Foreign Assistance Act of 1961 is amended—

(A) in section 105(b)—

(i) by striking out "(b)(1)" and inserting in lieu thereof "(b)"; and

(ii) by striking out paragraph (2);

(B) in section 116(e)(1), by adding at the end thereof "Funds made available to carry out section 496 of this Act may only be used under this subsection with respect to countries in Sub-Saharan Africa.";

(C) by repealing section 121;

(D) in section 123(f), by striking out "121, and 491" and inserting in lieu thereof "491, and 496"; and

(E) in section 123(g), by striking out "121, or 491" and inserting in lieu thereof "491, or 496".

(2) PUBLIC LAW 480.—The Agricultural Trade Development and Assistance Act of 1954 is amended—

(A) in section 106(b)(2), by inserting "(or, in the case of sub-Saharan Africa, programs directed at comparable objectives contained in section 496" after "Foreign Assistance Act of 1961";

(B) in clause (3)(A) of section 206(a), by inserting "(or, in the case of sub-Saharan Africa, comparable objectives contained in section 496 of that Act)" after "section 103 of the Foreign Assistance Act of 1961";

(C) in section 301(b), by inserting "(or, in the case of sub-Saharan Africa, programs directed at comparable objectives contained in section 496)" after "Foreign Assistance Act of 1961"; and

(D) in section 303(b), by inserting "(or, in the case of sub-Saharan Africa, under section 496)" afer "section 103 of the Foreign Assistance Act of 1961".

TITLE IV—CARIBBEAN REGIONAL DEVELOPMENT

SEC. 401. UNITED STATES POLICIES.

(a) IN GENERAL.—It shall be the policy of the United States in providing development and other economic assistance to the Caribbean—

(1) to help the poor (including women, the landless, subsistence food producers, urban workers, the unemployed, and indigenous populations) to participate in the develop-

ment of their societies through a process of equitable economic growth that enables them to increase their incomes and their access to productive resources and services, to protect and advance their rights, and to influence decisions that affect their lives;

(2) to support development that is environmentally sustainable;

(3) to promote Caribbean self-reliance by providing assistance to indigenous national and regional governmental and nongovernmental institutions that have the capacity or potential to carry out development programs effectively;

(4) to support food production for national and regional consumption;

(5) to promote the diversification of industrial and agricultural production, the development of new products, and the integration of agricultural production with the development of industry and tourism;

(6) to help advance the process of regional economic integration by channeling assistance through regional organizations to the maximum extent possible;

(7) to support those national programs of economic adjustment that promote the policies enumerated in this section in order to help ensure that the burdens created by adjustment are not borne by the poor;

(8) to support employment generation while avoiding the displacement of traditional lines of small-scale production; and

(9) to preserve and reinforce traditional Caribbean culture and social values.

(b) DEVELOPMENT ASSISTANCE.—

(1) SUPPORTING INDIGENOUS DEMOCRATIC INSTITUTIONS.—Priority in providing assistance to the Caribbean under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) shall be given to supporting indigenous democratic Caribbean institutions (including farmers' unions, cooperatives, trade unions and other labor organizations, women's groups, and community organizations) that represent, work with, and benefit the poor, and through which the poor participate in making the decisions that affect their lives and their development. Such assistance shall be channeled to the maximum extent possible through the United States institutions and Caribbean regional and national institutions that directly fund such democratic Caribbean institutions.

(2) PER CAPITA INCOME ELIGIBILITY CRITERIA.—In determining the eligibility of any country in the Caribbean for development assistance, the per capita income of that country shall be deemed to be no greater than the per capita income for the Caribbean as a whole.

(c) ECONOMIC SUPPORT FUND.--To the extent that assistance made available for the Caribbean under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) is used to promote national economic policy reforms, such reforms shall be consistent with the policies enumerated in sections 402 through 405 of this Act.

SEC. 402. PRIORITY AREAS FOR ASSISTANCE.

To implement the policies set forth in section 401, priority in the allocation of funds for assistance for the Caribbean under chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to development assistance and the economic support fund, respectively), and in the allocation of the local currencies accruing as a result of the use of those funds, shall be given to the following:

(1) FOOD SELF-SUFFICIENCY.—Support to national ministries of agriculture, the appropriate specialized agencies of the Caribbean Community (CARICOM) and the Organization of Eastern Caribbean States, the Caribbean Development Bank, and indigenous nongovernmental organizations for efforts to achieve greater food self-sufficiency through increased staple food production for domestic consumption, including support for—

(A) the gathering of agricultural data;

(B) the coordination of agricultural research;

(C) the improvement of marketing, storage, and transportation systems;

(D) the provision of credit to agricultural producers; and

(E) improved coordination of regional planning for food self-sufficiency.

(2) RURAL DEVELOPMENT.—Support, principally through regional institutions, for rural development efforts designed to increase rural employment opportunities, enhance the quality of rural life, and retard rural-to-urban migration, including programs that provide access to land and necessary assistance to small producers and cooperatives.

(3) COMMUNITY-BASED AGRO-INDUSTRIES.—Support for locally owned cooperative and other small- and medium-scale industries engaged in the processing of indigenous resources, including support for the establishment of a marketing network to facilitate intraregional trade in food through programs that incorporate or serve small producers.

(4) FINANCIAL RESOURCES FOR SMALL- AND MEDIUM-SIZED FARM AND MANUFACTURING ENTERPRISES.—Provision of financial resources to small- and medium-sized farm and manufacturing enterprises through—

(A) the creation and capitalization of appropriate financial mechanisms; and

(B) measures to encourage Caribbean commercial banks and credit unions to provide risk capital to such enterprises.

(5) EXPANSION OF TOURISM.—Support for the expansion of tourism in the Caribbean through its fuller integration into the local economy, by providing assistance—

(A) to appropriate governmental and nongovernmental regional organizations for the design and coordination of programs for—

(i) the expansion of the use of local goods and services;

(ii) the development and implementation of a marketing strategy for tourism in the Caribbean; and

(iii) the promotion of investments in tourism integrated with the local economy; and

(B) for training and utilizing local expertise in hotel and restaurant management and other necessary skills.

(6) REGIONAL INTEGRATION.—Support for regional integration and institutions, including seeking the cooperation of other donor countries in promoting regional development in the Caribbean and including support for—

(A) efforts to regionalize and coordinate activities and prevent the proliferation and duplication of regional bureaucracies;

((B) the efforts of governmental and nongovernmental regional institutions to strengthen the infrastructure necessary to promote regional commercial activity and economic and social development;

(C) regional research institutes; and

(D) inter-island transportation and communication links, roads, and port facilities.

(7) UPGRADING TECHNICAL AND MANAGERIAL SKILLS.—Support for efforts of the countries of the Caribbean to upgrade the technical and managerial skills of their people, through—

(A) the increased utilization of local personnel, knowledge, technologies, and expertise in all development-related activities;

(B) support, including scholarships, for training in appropriate technical fields, including administration, finance, marketing, science, technology, environmental protection, and tourism; and

(C) support for increasing the capacity of Caribbean institutions to provide training in such fields.

(8) NATURAL RESOURCE BASE.—Promoting those small-scale, affordable, agricultural and industrial methods suited to local environmental, resource, and climatic conditions, and supporting such actions as the establishment of protected areas, the development of environmental curricula, and programs of public education and dialogue designed to sustain and enhance the renewable natural resource base of the Caribbean.

(9) PRIVATE SECTOR DEVELOPMENT.—Support for the diversification and promotion of Caribbean exports, for investments in the Caribbean that are appropriate to the needs of the region, and for the strengthening of private sector institutions, that would further the policy set forth in section 401(a)(5), and particularly that would strengthen the sector referred to in paragraph (3) of this section.

(10) DEMOCRATIC DEVELOPMENT AND THE ADMINISTRATION OF JUSTICE.—Support to broaden and deepen democratic institutions and values in the Caribbean and to assist countries in areas such as the administration of justice where requested by the recipient governments.

(11) ACCESS TO HUMAN SERVICES AND ASSISTANCE FOR HUMAN RESOURCES DEVELOPMENT.—Support for the provision of basic services to the citizens of the Caribbean using, as appropriate, governmental and non-governmental entities, with emphasis on sustainability of service delivery in areas such as basic education, primary health care, child survival, family planning, and prevention and control of acquired immune deficiency syndrome. (AIDS).

SEC. 403. PROTECTION OF WORKER RIGHTS.

(a) DENIAL OF ASSISTANCE.—

(1) IN GENERAL.—Assistance under the Foreign Assistance Act of 1961 and the Arms Export Control Act—

(A) may not be provided to the government of any country in the Caribbean if that government does not extend, protect, and enforce internationally recognized worker rights for workers in that country (including workers within any designated zone); and

(B) may not otherwise be provided for a country in the Caribbean if the provision of that assistance would be inconsistent with promoting respect for internationally recognized worker rights.

(2) ASSISTANCE IF CERTAIN STEPS TAKEN.—Assistance may be provided to a government notwithstanding paragraph (1)(A) if that government is taking steps to adopt and implement laws that demonstrate significant, tangible, and measurable overall advancement in providing internationally recognized worker rights throughout the country (including in any designated zone).

(3) EXEMPTIONS.—Paragraph (1) does not apply with respect to development assistance or narcotics control assistance provided under this Act.

(b) ANNUAL REPORTS.—Each human rights report required by sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 shall address how the provisions of this

section were implemented during the preceding fiscal year.

(c) DEFINITIONS.—As used in this section—

(1) the term "designated zone" has the same meaning it has for purposes of the Trade Act of 1974; and

(2) the term "internationally recognized worker rights" has the same meaning as is given that term by section 502(a)(4) of the Trade Act of 1974.

SEC. 404. PROTECTION OF PUBLIC HEALTH.

The Agency for International Development shall not provide any assistance, directly or indirectly, for the use of any chemical or other substance in a country in the Caribbean if—

(1) that use is not permitted under laws of that country relating to protection of public health, or

(2) that use would not be permitted in the United States under laws of the United States relating to protection of public health.

SEC. 405. SUPPORT FOR WOMEN'S ROLE IN DEVELOPMENT.

In providing assistance to the Caribbean, the Agency for International Development shall place emphasis on ensuring the active participation of Caribbean women in the development process, particularly through—

(1) the promotion of greater access by women to productive resources and services, such as land, credit, and markets, thereby increasing the economic security of women and their dependents;

(2) programs that respond to and support women's domestic needs and activities, including the strengthening of community-based education, health, and childcare programs and other critical social services identified by poor women; and

(3) the involvement of Caribbean women in research of the factors that contribute to their economically vulnerable situation, in programs that address these factors, and in the design and implementation of development projects.

SEC. 406. CONSULTATION, MONITORING, EVALUATION, AND REPORTING.

(a) CONSULTATION.—In all stages of the design and implementation of assistance policies, programs, and projects in the Caribbean, the Agency for International Development shall take into account the perspectives of the rural and urban poor through close and regular consultation with Caribbean organizations that work with the poor and that have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of long-term development in the Carribbean, as described in section 401(a). The Agency for International Development shall reflect the results of such consultations in its annual planning documents.

(b) MONITORING.—The Agency for International Development shall monitor socioeconomic conditions in the Carribean and the effect of United States economic assistance programs and policies on those conditions. The Agency for International Development shall involve Caribbean governments, and Caribbean nongovernmental organizations that work at the grassroots level, in such monitoring.

(c) EVALUATION.—Not later than 3 years after the date of enactment of this Act, the Office of Technology Assessment—

(1) shall conduct an evaluation of the performance of the Agency for International Development in carrying out this title; and

(2) shall report the results of the evaluation to the Congress.

(d) ANNUAL REPORTS TO CONGRESS.—The Administrator of the Agency for International Development shall submit to the Congress, at the same time as the annual congressional presentation materials for economic assistance are submitted, an analysis of—

(1) the effectiveness of the programs conducted under this title in furthering the policies set forth in section 401 and in carrying out each of the priorities on each such program;

(2) the nature and results of consultations under subsection (a), and the impact of such consultations on the programs undertaken to carry out this title; and

(3) the results of the monitoring under subsection (b).

SEC. 407. DEFINITION OF CARIBBEAN.

As used in this title, the term "Caribbean" includes Anguillia, Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Cayman Islands, Montserrat, Netherlands Antilles, Saint Christopher-Nevis, Turks and Caicos Islands, and the British Virgin Islands.

Mr. FASCELL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Speaker, reserving the right to object, I will be glad to yield to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, as I said earlier, what this does, if this amendment is agreed to, we would send the Senate bill back with the House language, except for El Salvador and the Kostmayer amendment on money laundering, and ask for a conference. That is all it would do. We have plenty of time to do this. We are not going to do it tonight. It would at least keep the authorization process in line with the appropriations.

Mr. WALKER. Mr. Speaker, further reserving the right to object, as I understand it it would not include the money laundering language on Panama?

Mr. FASCELL. Mr. Speaker, if the gentleman will yield further, I do not want to mislead the gentleman from Pennsylvania. In the original House bill there was money-laundering language, but it had a Presidential waiver. The Kostmayer amendment struck out the Presidential waiver. What this would do is restore the original language for the Presidential waiver.

Mr. WALKER. All right. So the language with regard to El Salvador would be stricken?

Mr. FASCELL. It would be stricken out.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Florida?

Mr. MILLER of California. Mr Speaker, reserving the right to object, could the gentleman from Florida explain to me the language that is in this bill with respect to the money laundering? I assume that this is money laundering in Panama?

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, this is the exact language, the Kostmayer language that came out of the committee.

Mr. MILLER of California. This is not the language that was agreed to on the floor of the House the other day?

Mr. FASCELL. The gentleman is correct.

What the Kostmayer amendment did on the House floor was strike out the provision in the bill which allowed for the Presidential waiver.

Mr. MILLER of California. Mr. Speaker, I object.

Mr. FASCELL. Mr. Speaker, I do not know at this point if there is anything to object to.

Mr. MILLER of California. Mr. Speaker, the gentleman asked unanimous consent to substitute that language, did he not?

Mr. FASCELL. No; I did not. I just asked for the immediate consideration of the Senate bill and tried to get a conference on this.

The SPEAKER pro tempore (Mr. KILDEE). The gentleman from Florida has asked unanimous consent to dispense with the reading of the amendment. Does the gentleman from California [Mr. MILLER] object to dispensing with the reading of the amendment in the nature of a substitute?

Mr. MILLER of California. No, Mr. Speaker. I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. FASCELL].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2364

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to S. 2364 and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from

Florida? The Chair hears none, and appoints the following conferees: Messrs. FASCELL, HAMILTON, YATRON, SOLARZ, WOLPE, BROOMFIELD, GILMAN, and LAGOMARSINO.

Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

APPOINTMENT OF CONFEREES ON S. 933, AMERICANS WITH DISABILITIES ACT OF 1990

Mr. HOYER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, with a House amendment thereto, insist on the House amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. FISH

Mr. FISH. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. FISH moves that the conferees on the part of the House be instructed to insist on the inclusion of the provisions of section 310(B) of the House amendment relating to the date when civil actions may be taken against certain private entities in title III.

The SPEAKER. The gentleman from New York [Mr. FISH] will be recognized for 30 minutes, and the gentleman from Maryland [Mr. HOYER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion instructs the conferees to insist on the amendment, offered by Congressman LAFALCE and Congressman CAMPBELL, which was adopted by the House during consideration of H.R. 2273. This amendment provided that during the first 6 months after the effective date businesses that employ 25 or fewer employees could not be subject to civil action and that during the first year after the effective date, businesses that employ 10 or fewer employees could not be subject to civil action. This amendment provides important time for small business to adjust to their responsibilities under the ADA. It was an excellent addition to the bill and the House must insist on its position.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. FISH. I am glad to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding.

I would just like to seek to clarify the gentleman's intent. Is it the gentleman's intent by insisting on the Campbell-LaFalce amendment that should the conferees choose to clarify the statutory drafting of the amendment to be certain that the intent that was contained in the Campbell colloquy, a business could not be subjected, subsequent to the 12 months or to the transition period, for actions taken during the transition period, that such clarifying language could be considered by the conferees under this motion to instruct?

Mr. FISH. I would certainly think that clarifying language, where appropriate, would be very much in keeping with the spirit of what we are attempting.

Mr. CAMPBELL of California. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the author of the amendment, the gentleman from California.

Mr. CAMPBELL of California. Mr. Speaker, I would say to the gentleman that the intent is expressly what the authors of the amendment would have wished, and that the colloquy of the gentleman from New York [Mr. LAFALCE] and myself ought to be replicated in the discussions of the conferees.

Mr. FISH. Mr. Speaker, I thank the gentleman.

Mr. HOYER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas [Mr. BROOKS], the chairman of the Judiciary Committee, who has been so critical to the passage of this legislation through the House of Representatives.

Mr. BROOKS. Mr. Speaker, I rise in support of the motion to instruct conferees on S. 933 offered by my friend, the gentleman from New York [Mr. FISH], the ranking minority member of the Committee on the Judiciary.

In passing the Americans With Disabilities Act this week, the House recognized that small businesses in particular need consideration as they undertake their responsibilities under the act. In order to address this concern, the House amended the ADA to provide additional time to small businesses to learn about the act's requirements and to properly implement the act in the conduct of their business.

As amended, the bill now provides that businesses with 25 or fewer employees that have gross receipts of $1 million or less will not, for 2 years after the President signs the bill, be subject to a civil action based on failure to implement it. Businesses with 10 or fewer employees with gross receipts of $500,000 or less are given 2½ years before a civil action can be filed for failure to implement the act.

These time periods are fair and reasonable for small firms—many of them are struggling to provide services that are needed by everyone in the community. Small businesses both need and deserve this extra consideration. This amendment merely recognizes the pressures that small business owners, more than others, experience in attempting to comply in good faith with the rules and regulations imposed on them by the ADA.

I commend the gentleman for his motion and I urge an affirmative vote on the motion to instruct.

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I too rise in support of the motion to instruct to stay with the House position in the debate that occurred on the House floor.

Mr. Speaker, I believe the motion to instruct offered by the gentleman from New York, the ranking member of the Judiciary Committee, is a good motion.

The Americans With Disabilities Act, as passed by the Senate, did not contain any phase-in for smaller businesses covered under the public accommodations section of title III. During the markup of the legislation in the House Judiciary Committee an amendment was offered to provide for a small business phasein. This amendment was not adopted in committee. However, during House consideration of the Americans With Disabilities Act, we adopted an amendment offered by Congressmen LAFALCE and CAMPBELL which gave the smallest businesses a longer time period to adjust to the ADA. The amendment provided that during the first 6 months after the effective date, no civil action can be brought against an employer with 25 or fewer employees. And, during the first year, no civil action can be brought against any businesses that employ 10 or fewer employees. Thus, although the bill goes into effect 18 months after the date of enactment, these businesses have an extra 6 months to a year to comply with the law, or 2½ years after the date of enactment.

By phasing in the time when civil actions can be brought against public accommodations, the LaFalce-Campbell amendment allows smaller businesses to learn from the experience of larger businesses and gives them adequate time to familiarize themselves with the law. The amendment also allows a reasonable time period during which shop owners and shoppers can talk and consult with each other regarding their needs and resources.

I believe this will be of great benefit to both public accommodations with responsibilities under the act and people with disabilities. I urge my colleagues to support the motion.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HOYER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from New York [Mr. FISH].

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees:

From the Committee on Education and Labor, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. HAWKINS, OWENS of New York, MARTINEZ, BARTLETT, and FAWELL.

From the Committee on Energy and Commerce, for consideration of the Senate bill, and the House amendment, and modifications committee to conference: Messrs. DINGELL, MARKEY, THOMAS A. LUKEN, LENT, and WHITTAKER.

Except that: For consideration of title IV of the Senate bill, and title IV of the House amendment, Mr. RINALDO is appointed in lieu of Mr. WHITTAKER.

From the Committee on Public Works and Transportation, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. ANDERSON, ROE, MINETA, HAMMERSCHMIDT, and SHUSTER.

From the Committee on the Judiciary, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. BROOKS, EDWARDS of California, KASTENMEIER, FISH, and SENSENBRENNER.

As an additional conferee, on the Senate bill, and the House amendment, and modifications committed to conference: Mr. HOYER.

As an additional conferee, on consideration of section 103(d) of the House amendment, and modifications committed to conference: Mr. CHAPMAN.

Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

AMTRAK REAUTHORIZATION IMPROVEMENT ACT OF 1990—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 197)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 2364, the "Amtrak Reauthorization and Improvement Act of 1990."

H.R. 2364 contains an unprecedented new regulatory review requirement and represents a step backward for the entire rail industry.

This new regulatory burden would interfere with the ability of the Nation's largest freight railroads to obtain needed capital or to change existing capital structure. The provision would institute for the first time, and for the railroad industry alone, Government review and approval of acquisitions by entities that are not actual or potential competitors, including a carrier's own management or employees. This requirement is a unwarranted regulatory roadblock to financial restructuring of the railroad industry.

There is already adequate authority to protect the public interest in acquisition situations. Acquisitions of railroads by other railroads are now closely scrutinized under existing law to prevent reductions in competition. Dispositions of rail line segments are also subject to scrutiny when appropriate. Any financing of an acquisition, whether or not by another carrier, that involves the issuance of securities or new obligations by the target carrier is subject to review as well. This review focuses on the acquisition's effect on the public interest and on the carrier's ability to provide service. Current law is therefore more than sufficient to protect shippers and the general public.

The rejuvenation of the rail industry since 1980 is due in large part to the Congress' decision to lift outdated and counterproductive Government oversight from the railroads. The result was the creation of a favorable environment for capital investment for the first time in decades. The new regulatory hurdle in H.R. 2364 would counter this progress by adding uncertainty to refinancing and by delaying the infusion of cash when it may be most needed. Further, this delay and uncertainty would likely drive up the railroad industry's cost of capital, which could utimately jeopardize the industry's financial stability and endanger needed rail service. For no justifiable reason, the bill could inhibit the future flexibility of Class I freight railroads to use capital restructuring to adapt to ever-changing markets and economic circumstances.

Existing law is adequate to ensure protection of the public interest when railroad acquisitions are being proposed. Because H.R. 2364 would impose a new, unprecedented, and unjustified regulatory review requirement for railroad acquisitions, I am compelled to veto the bill.

GEORGE BUSH.

THE WHITE HOUSE, *May 24, 1990.*

□ 2140

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the veto message and the bill will be printed as a House document.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that further consideration of the veto message on H.R. 2364, the Amtrak Reauthorization and Improvement Act of 1990, be postponed until Thursday, June 7, 1990. This request has been cleared with the minority side.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time so that I may inquire of the distinguished majority leader the program for the balance of this evening and after we return from our Memorial Day recess, if I might.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. I thank the gentleman for yielding.

Mr. Speaker, it is still unclear as to whether or not there will be other votes this evening or even possibly tomorrow because the Senate is still in session. They have to consider the actions that we have taken here on the appropriations bill. But I am doubtful that there will be other votes, but I cannot guarantee Members that there will not be votes later this evening or even into tomorrow.

However, when that is cleared, we will immediately here have an adjournment resolution and that will be considered, once the appropriation bill is cleared, and that is the end of our business. Obviously, we are out next week for the Memorial Day recess—district work period.

The following week, on Monday, June 4, the House will not be in session. On Tuesday, the 5th, the House will meet at noon to consider 15 suspension bills. Recorded votes on the suspensions will be postponed until Wednesday, June 6. They will be:

H.R. 4611, National Cooperative Production Amendments of 1990;

H.R. 1620, regarding judicial discipline and removal;

H.R. 2690, visual artists rights;

H.R. 3406, Multiparty and Multiforum Jurisdiction Act;

H.R. 4148, to authorize the Secretary of the Interior to acquire certain water rights for the settlement of Indian rights;

H.R. 1454, Student Right To Know and Security Act;

S. 1999, clarifying procedures of the National Commission on Responsibility for Financing Post-Secondary Education;

H.R. 4283, Panama Canal Commission authorization for fiscal year 1991;

H.R. 3657, Securities Market Stabilization Act;

H.R. 2372, Radiation Exposure Compensation Act;

H.J. Res. 520, Washington Metro Transit Regulation Compact;

H.R. 3897, administrative conference authorization;

H.R. 4757, Supreme Court Police Authority;

H.R. 2497, Administrative Dispute Resolution Act; and

H.R. 4314, Inter-American Convention on International Commercial Arbitration.

On Wednesday, June 6, and Thursday, June 7, the House will meet at 10 in the morning. Recorded votes on suspensions, again, will be on Wednesday.

We will consider then H.R. 4653, the Export Facilitation Act of 1990, H.R. 4785, to establish a program of grants to provide preventive health services with respect to acquired immune deficiency syndrome, as amended, and a House resolution providing special budget procedures for the fiscal year 1991 congressional budget process.

Friday, June 8, the House will not be in session.

Mr. MICHEL. Might I inquire of the distinguished gentleman when that vote—in view of the unanimous-consent request of the gentleman from Michigan—when we would have the vote on the veto override on Amtrak, Thursday; would that come at the beginning of business on that day?

Mr. GEPHARDT. We are thinking that vote would come on June 7, Thursday.

Mr. MICHEL. All right. And then may I inquire about that House resolution providing special budget procedures for the fiscal year 1991 congressional budget process. What is that all about?

Mr. GEPHARDT. If the gentleman would yield further, it is a matter of original jurisdiction for the Committee on Rules. The resolution will deem the House-passed budget resolution as the final budget resolution for appropriations and other spending bills assumed in the budget, it will require the appropriations and other spending committees to subdivide their budget allocation among subcommittees or programs and file a 302(b) report on those allocations, and require appropriation bills other spending bills, and amendments thereto, to comply with the committee's allocation.

Mr. MICHEL. I thank the gentleman.

Mr. FAZIO. Mr. Speaker, will the gentleman from Illinois yield to me?

Mr. MICHEL. I yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Speaker, I would like to inquire of the distinguished majority leader of the possibility of rolling the suspensions until the end of the day on Wednesday. I realize the gentleman has already indicated that suspensions will be postponed from Tuesday to Wednesday. Is it possible they might be voted on toward the end of the day on Wednesday? A number of people have primaries on Tuesday. Many people will be coming back from the west coast and can get here for a late afternoon vote.

We may have the possibility, of course, of missing some earlier votes. I was wondering what the leadership might do to accommodate that particular group.

Mr. GEPHARDT. Mr. Speaker, if the gentleman from Illinois will continue to yield, we will inquire and explore into the possibility of being able to do that to accommodate Members on the west coast who have a primary on Tuesday and need to be in their districts until late Tuesday night.

Mr. FAZIO. We appreciate that.

Mr. MICHEL. Mr. Speaker, I yield back the balance of my time.

PROVIDING FOR AN ADJOURNMENT OF THE HOUSE FROM MAY 24, OR MAY 25, 1990, AND A RECESS OR ADJOURNMENT OF THE SENATE FROM MAY 24, MAY 25, OR MAY 26, 1990, TO JUNE 5, 1990

Mr. GEPHARDT. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 334) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 334

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, May 24, 1990, or Friday, May 25, 1990, pursuant to a motion made by the Majority Leader, or his designee, it stand adjourned until 12 o'clock meridian on Tuesday, June 5, 1990, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, May 24, 1990, Friday, May 25, 1990, or Saturday, May 26, 1990, pursuant to a motion made by the Majority Leader, or his designee, it stand in recess or stand adjourned until 11 o'clock ante meridiem on Tuesday, June 5, 1990, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 2150

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON THIS LEGISLATIVE DAY

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses on the legislative day of Thursday, May 24, 1990, subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, June 5, 1990, the Speaker and the minority leader be authorized to accept resignations and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JUNE 6, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule be dispensed with on Wednesday, June 6, 1990.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

EXTENSION OF WAIVER AUTHORITY UNDER TRADE ACT OF 1974—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 196)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means, and ordered to be printed. (For message, see proceedings of the Senate of today, Thursday, May 24, 1990.)

DESIGNATION OF HON. STENY H. HOYER TO ACT AS SPEAKER PRO TEMPORE AND SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JUNE 6, 1990

The SPEAKER laid before the House the following communication:

THE SPEAKER'S ROOMS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, May 24, 1990.

I hereby designate the Honorable Steny H. Hoyer to act as Speaker pro tempore and to sign enrolled bills and joint resolutions through June 6, 1990.

THOMAS J. FOLEY,
Speaker of the House of Representatives.

COMMEMORATING BICENTENNIAL OF ENACTMENT OF LAW WHICH PROVIDED CIVIL GOVERNMENT FOR TERRITORY FROM WHICH STATE OF TENNESSEE WAS FORMED

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 555) to commemorate the bicentennial of the enactment of the law which provided civil government for the territory from which the State of Tennessee was formed, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. (Mr. NEAL of North Carolina). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I simply reserve the right to object to recognize the work of our colleague, the gentleman from Tennessee [Mr. QUILLEN].

Mr. QUILLEN. Mr. Speaker, 200 years ago on May 26, 1790, then President George Washington signed into law "an act for the government of the territory of the United States, south of the river Ohio".

Later in 1796, Tennessee was admitted to the Union from this territory, the first State admitted from territorial status. This established a process for most other States which followed.

Now, on the bicentennial of that occasion, it is fitting that we take time to commemorate that important step in our national history.

The event is of special significance to me, because the first capitol of the territory, a log cabin called Rocky Mount, is in my district and in my home county. The first Governor of the territory, Gov. William Blount, lived from 1790 to 1792 at Rocky Mount.

Rocky Mount today is the third most visited historic site in Tennessee. Over 50,000 people yearly come to see the site and museum. It provides a chance to learn about our national heritage.

I introduced this joint resolution along with all the Members of the Tennessee delegation. I am pleased to note that a majority of my House colleagues have now joined as cosponsors.

This joint resolution is a fitting way to commemorate an important event in the Nation's history and I thank my colleagues for their support.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 555

Whereas on May 26, 1790, President George Washington signed into law the Act entitled "An Act for the government of the territory of the United States, south of the river Ohio";

Whereas the State of Tennessee, which was formed from such territory, was the first State to be admitted to the Union from territorial status;

Whereas, from 1790 to 1792, a log cabin known as "Rocky Mount" served as that territory's first territorial capitol; and

Whereas William Blount, the first governor of that territory, resided at Rocky Mount during the period of time referred to in the preceding clause: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation calling on the people of the United States to observe May 26, 1990, with appropriate ceremonies and activities to mark the bicentennial of the enactment of the Act entitled "An Act for the government of the territory of the United States, south of the river Ohio".

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL PHYSICAL FITNESS AND SPORTS MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 267).

To authorize and request the President to designate May 1990 as "National Physical Fitness and Sports Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I simply reserve the right to acknowledge the work of our colleague, Mr. LEWIS, who is the prime sponsor of this measure in the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 267

Whereas there is an increase in the number of adults in our country who regularly participate in exercise and sports;

Whereas the number of physically active men and women continues to grow rapidly, especially since the 1970s;

Whereas there is great support for the importance of daily exercise for youth and children regardless of physical capabilities or limitations;

Whereas there is continued growth in senior citizens' physical activity participation which increases their enjoyment and quality of life;

Whereas today we recognize that physical activity is an important part of daily life for children, adults, and senior citizens of both sexes;

Whereas physical activity is vital to good health and is a rich source of pleasure and personnal satisfaction;

Whereas our physical fitness and sports programs are one of the primary means by which we strengthen our bodies and refresh our spirits; and

Whereas it is essential that we make fitness and sports programs increasingly available in the schools, at the workplace, and during leisure time so that all of our citizens will be able to experience the joys and benefits they offer: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the month of May 1990 as "National Physical Fitness and Sports Month", and to call upon Federal, State, and local government agencies, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL POW/MIA RECOGNITION DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 467) designating September 21, 1990, as "National POW/MIA Recognition Day," and recognizing the National League of Families POW/MIA flag, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I would like to, under my reservation, acknowledge the work of our colleague, the gentleman from New York [Mr. SOLARZ] who is the prime sponsor of this legislation, and to remind my colleagues that it is a fitting tribute on the eve of the Memorial Day Weekend to recognize nationally the POW's and MIA's, and the National League of Families. I might just share a few thoughts with my colleagues.

Many Members have forgotten, but in World War II and as a result of World War II, we still have in excess of 50,000 who could be considered as missing in action. With the Korean conflict, we have well in excess of 8,000 men. We are fortunate, clearly, after the Vietnam war that number has been reduced to 2,200.

Under the previous administration, and followed on by President Bush himself, we will continue to operate in our effort to identify or to get as full

an accounting as possible for all 2,200 of these men. Those Members who are familiar with these individual cases know full well that in the case of most of these men who were killed in action, their bodies could not possibly be recovered in the circumstances under which their death occurred. Clearly, there are probably 300 that were termed as discrepancy cases. General Vessey who has been our special envoy, came out of retirement to offer this country continued service, with all his good work as special envoy to Hanoi in order to press forward on the POW/MIA issue, clearly with the strong support of the National League of Families.

However, those Members who would take a look at the Vietnam war and remember the 2,200, approximately, that are still listed as POW/MIA's, should be mindful of the fact that we will never have an absolute, complete accounting for every single one, that we are really pressing forward on several hundred discrepancy cases. At the same time we often discuss and memorialize the POW/MIA's from the Vietnam war, I think we should also remember those men who are still missing, still unaccounted for, from the Korean war as well as World War II.

Mr. SOLARZ. Mr. Speaker, I rise today in strong support of House Joint Resolution 467, a joint resolution which I introduced with my good friends and colleagues in the leadership of the Foreign Affairs Task Force on Prisoners of War and Missing in Action, Mr. LAGOMARSINO, Mr. CLARKE, and Mr. GILMAN.

This resolution, which I hope will be signed by the President after consideration by the Senate, would designate September 21, 1990, as "National POW/MIA Recognition Day," and call on the American people to remember those Americans still missing in Indochina with appropriate ceremonies.

Let me say that this resolution is further proof, if any was needed, of the broad bipartisan support in the Congress for the efforts of the families of our missing men to receive the answers to the questions which have haunted them for so many years. As a demonstration of that bipartisan commitment, I should note that my good friend from California, Mr. LAGOMARSINO, who serves as chairman of the POW/MIA task force, is the only Republican in the House of Representatives who chairs a task force or committee.

I think BOB LAGOMARSINO has done a tremendous job in keeping this issue on the front burner in the Congress and in the administration, as well as in the hearts and minds of the American people. More than almost any American, my friend from California has been instrumental in delivering a message to the Governments of Vietnam, Laos, and Cambodia that we, the American people and their elected Representatives, have not forgotten our missing men and we will continue our efforts to seek answers until we get the fullest possible accounting for our POW/MIA's.

Clearly, it is impossible to express how much we as a nation still owe to those whose fate has yet to be determined, those 2,303 courageous men—husbands, fathers, brothers, and sons—who answered the call and faithfully served—and may still be serving—this country.

As Chairman of the Subcommittee on Asian and Pacific Affairs, which has primary jurisdiction over the POW/MIA issue, my efforts to attempt to resolve the fate of our POW/MIA's include convening a multitude of hearings on this issue over the past 10 years, remaining up to date on the most recent intelligence reports and traveling to Vietnam three times—most recently in January 1989—to take up this issue with senior Vietnamese Government officials.

Although the Subcommittee on Asian and Pacific Affairs is responsible for many issues other than American POW/MIA's, we consider this issue to be of such critical importance that we have held over 50 public hearings and briefings, received testimony from over 120 witnesses, and compiled over 3,000 pages of testimony. In fact, over the 10 years while I have chaired the subcommittee, it has held more hearings on the POW/MIA issue than on any other issue in the Asian region.

My involvement in seeking answers to the questions the families have concerning their missing loved ones dates back to the mid-seventies. I was one of the few Congressmen willing to meet with the families at the time when most Americans wanted to forget anything to do with the Vietnam war. I disagreed with the conclusions of the Montgomery and Woodcock Commissions, which had concluded no American prisoners were being held in Indochina after Operation Homecoming, and was one of the founding members of the House Task Force on POW/MIA's.

My work, and that of many of my colleagues, was fundamental in raising consciousness of this issue to the current high level it enjoys in the Halls of Congress and the highest national priority status it is given by the Bush administration.

In the final analysis, however, it must be remembered that the numerous questions surrounding the fate of our missing men can be answered only by the Governments of Vietnam, Laos, and Cambodia. It must be remembered that it takes two to tango and for years. Hanoi consistently refused to even discuss the cases of many men who we have reason to believe were held as prisoners of war but were never returned in Operation Homecoming. I believe we must keep this issue before the American people, and let the the Vietnamese, know that we have not forgotten and they had better come up with the answers we know they have.

Because, while progress has increased with Laos, and to a lesser extent, with Vietnam, it is still much too slow. The American people are frustrated, and they have a right to be.

The fact that we are here talking about this issue, 15 years after the fall of Saigon, attests to the long trial that the families of our missing Americans have cruelly been forced to endure. Their bravery and persistence in seeking the answers which are rightfully theirs is a testament to a rare strength of will which deserves our special commendation.

In fact, I would argue that we must redouble our efforts on this humanitarian matter of highest national importance—and clearly convey to the Vietnamese that failure to continue to cooperate with us will affect the pace and scope of the normalization of relations between our two countries.

To the Vietnamese and Lao Governments, let me just say this. We want to conduct more joint field surveys, investigations, and excavations. We want to see the information on the discrepancy cases—those cases where we know these Indochinese governments at one time knew where missing men were—that we know the Vietnamese have but haven't shared with us.

The Vietnamese must also be aware that we're looking for concrete actions on their part, and not just words and flurries of activities without clear results.

We as Americans will not be divided on this issue of highest humanitarian importance. We must and we will continue to work together so that the Vietnamese clearly realize that our patience will not be diminished, and our unity and resolve to learn the truth about our missing men will not be broken.

The adoption of this resolution will send a signal of that commitment. So, I urge all my colleagues to support this resolution.

Mr. LAGOMARSINO. Mr. Speaker, as the chairman of the Bipartisan House POW/MIA Task Force, I rise in strong support of House Joint Resolution 467, the resolution introduced by Asia Subcommittee Chairman STEVE SOLARZ, BEN GILMAN, JAMIE CLARKE, and I proclaiming September 21, 1990, as "National POW/MIA Recognition Day." This national day of remembrance is a very important signal to the Vietnamese and the rest of the world that we care about the fate of our 3,303 missing servicemen in Indochina and will not let this issue die.

Sadly, the fates of these missing servicemen and the unresolved questions of their longing families have remained unanswered for so long. Part of this situation can be blamed on ourselves. Some, in their efforts to forget the Vietnam war also forgot about those who did not come home. Others, like the Woodcock Commission, claimed there were no live Americans being held in Southeast Asia. I clearly remember the congressional mission of which I was a part that visited Hanoi in August 1979. In response to our questions regarding the POA/MIA's, now foreign minister Nguyen Cao Thach said, "We didn't think you cared." We do care. I care, my constituents care, the POW/MIA families care, the Congressional POW/MIA Task Force cares, millions of concerned American citizens care and our Government cares.

Today, under the Bush administration, as before under the Reagan administration, the POW/MIA situation has been made a top national priority. New energies and initiatives have been devoted to our POW/MIA's clearly signaling that America has not forgotten its missing men in Indochina and that we are ready and willing—at the highest national levels—to take the actions necessary to achieve a fullest possible accounting.

The real reason we still have so many unresolved POW/MIA cases, though, rests with the Vietnamese. The obstacles to progress and the answers to our questions lie with Hanoi, not Washington. The Vietnamese have

agreed to treat the POW/MIA issue as a separate, humanitarian issued divorced from other political matters, like diplomatic recognition and so on. We will hold the Vietnamese to this pledge.

I am very encouraged that since General Vessey's mission to Hanoi in August 1987, additional progress toward achieving the fullest possible accounting of our missing men has been made. General Vessely, who was reappointed by President Bush as the President's special POW/MIA emissary, has presented the Vietnamese with a number of discrepancy cases—cases about which we know the Vietnamese have more information. The speed and cornprehensiveness with which Vietnam helps satisfactorily resolve these cases will, I believe, determine how long until we are able to achieve the fullest possible accounting of these men. While I am encouraged by the increased level of activity, it is not a substitute for results. Unfortunately, results over the past 6 months have been disappointing. More needs to be done by the Vietnamese and the Lao at a much faster pace.

I am absolutely 100 percent convinced that the Vietnamese maintain a stockpile of American servicemen's remains. I am strongly convinced that there are live, unaccounted for Americans in Vietnam. I also believe that there could be live POW's in Southeast Asia—or could have been. The Vietnamese could easily help resolve some our accounting by releasing the remains they have stored and giving us unrestricted access to investigate other cases. The ball is in their court.

Despite these obstacles, progress has been made. We have recently concluded some joint crash-site investigations and additional remains have been repatriated. We continue to work with Laos on similar projects. Technical teams have and continue to meet frequently with both the Lao and the Vietnamese. But, this progress is too slow. I hope the Vietnamese will realize that they have nothing to gain by dragging their feet on this issue. While the POW/MIA issue is a separate humanitarian one, progress on it—or the lack of progress on it—will have an impact on the resolution of other bilateral concerns.

Mr. Speaker, House Joint Resolution 467 provides concerned citizens with a foundation from which to hold programs and awareness projects on behalf of America's POW/MIA's. Many of these programs are being sponsored by the National League of Families—the only national organization comprised solely of family members. Their work deserves much praise. Through this recognition day America is officially broadcasting that it will remain steadfast with our POW/MIA families and will keep the faith. We will use the symbol of this day of recognition to underscore our commitment and reaffirm that "we will not forget."

I urge my colleagues to join me in continuing to keep the POW/MIA issue at the forefront of public concern on this special day and the days that follow until we achieve the fullest possible accounting of these missing men. I also urge my colleagues to join me in supporting this worthy resolution.

Mr. GILMAN. Mr. Speaker, I rise in support of this worthy POW/MIA resolution (H. Con. Res. 467), and thank our colleagues, the distinguished subcommittee chairman, Mr. SOLARZ, and the chairman of our House Task Force on POW's and MIA's, Mr. LAGOMARSINO, for bringing this matter to our attention.

I am pleased once again to cosponsor our resolution (H. Con. Res. 467) establishing a POW/MIA Recognition Day on September 21, 1990. I have either authored or cosponsored each POW/MIA recognition day resolution since I first came to Congress in 1973. I must admit, Mr. Speaker, that I keep hoping that each resolution will prove to be the last one necessary—that within the following calendar year, we will have obtained a full accounting of our missing American heroes.

It is one of the ironies of American history that we are so concerned about the fates of our American heroes. No war in our Nation's history ever ended with less Americans unaccounted for than did the Vietnam conflict.

But the mere nature of that conflict was such that in no war was the outcry for justice more pronounced. No conflict in American history was fought in more hostile terrain than was the Vietnam conflict, and no prior war in our history ever ended with the theater of conflict in hostile control. Yet this was the legacy of the Southeast Asian war, a legacy which the loved ones and families of our missing live with until this very day.

Mr. Speaker, we in Congress should lead the American people in commending the administration for its tireless efforts to resolve this controversy. President Bush and his team continue to treat the POW/MIA issue as a highest national priority, maintaining the kind of attention and resources that the issue deserves.

In recent years, Gen. John W. Vessey, the President's Special Emissary to Hanoi on the POW/MIA issue, has made it clear again and again that the United States is united in its desire for a full accounting. And the work and the waiting continues.

The National League of Families, the premier organization concerned with the POW/MIA issue, has continually prodded the Government to action and has spearheaded educational efforts to educate the American people regarding the complexity of the issue. They maintain an informational "hot line," at (202) 659-0133, which provides updated POW/MIA information to callers.

Although the obstacles still remaining seem insurmountable, we have made unbelievable, unpredictable progress on the POW/MIA issue. To continue this progress, we must remain united in our determination to obtain a full accounting. We must remind the American people that the problems we still encounter regarding a full accounting rest in the laps of Government officials in Hanoi and not Government officials in Washington.

President Bush has pledged to "do all that a government can" to resolve the POW/MIA issue. United behind his leadership, we cannot fail.

Mr. Speaker, this resolution proclaims September 21, 1990, to be "National POW/MIA Recognition Day." We in the Congress must not be content with merely approving this resolution. We should take this opportunity to inform our schools, our churches, our veterans groups, our social organizations, and all interested Americans of the efforts our Government is undertaking to bring our boys home.

During the past 2 years, from Tienanmen Square to Czechoslovakia, from Lithuania to Manila, and from Nicaragua to the Kremlin itself, the winds of freedom have swept the world. Why not demand freedom for those who most deserve it—for the 2,300 American heroes and their captive families, for whom freedom is most precious. We can do no less for those who gave so much.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection of the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 467

Whereas the United States has fought in many wars;

Whereas thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;

Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;

Whereas many of these Americans are still missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer acute hardship; and

Whereas the sacrifices of Americans still missing and unaccounted for and their families are deserving of national recognition and support for continued priority efforts to determine the fate of those missing Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NATIONAL POW/MIA RECOGNITION DAY.

September 21, 1990, is hereby designated as "National POW/MIA Recognition Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to recognize that day with appropriate ceremonies and activities.

SEC. 2. RECOGNITION OF NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG.

The National League of Families POW/MIA flag is hereby recognized officially and designated as the symbol of our Nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner, missing and unaccounted for in Southeast Asia, thus ending the uncertainty for their families and the Nation.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous

material on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE CRITICAL SITUATION IN KASHMIR, INDIA

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FALEOMAVAEGA. Mr. Speaker, again I want to share with my colleagues a critical situation now occurring in the province of Kashmir in India.

A couple of days ago the top leader of the Kashmiri people, Mr. Farooq, was assassinated by assailants who are suspected to be extremist Hindus who are not supportive of the idea of granting freedom and human rights to the people of Kashmir.

Mr. Speaker, I call upon our President and Secretary Baker to take appropriate measures to avert another possible armed conflict between the countries of India and Pakistan.

Mr. Speaker, I submit the world community and especially India and Pakistan should give the opportunity to the citizens and people of Kashmir and Punjab to decide for themselves their own future and destiny.

Mr. Speaker, I submit attached articles on the issue.

[From the New York Times, Apr. 22, 1990]

INDIA AND PAKISTAN MAKE THE MOST OF HARD FEELINGS

(By Barbara Crossette)

ISLAMABAD, PAKISTAN.—Heirs of a shared ancient history, products of the same colonial administration and home to similar peoples and languages, Pakistan and India might be expected to understand and communicate with each other in times of crisis. Yet more than 40 years after their simultaneous creation, their differences have them once again polishing the words and weapons of war.

The crisis, once again, is over Kashmir, the predominantly Muslim region long disputed between Islamic Pakistan and Hindu-dominated India.

Indians and Pakistanis are drifting toward what many of them feel instinctively is a dangerous state of belligerence because grandstanding is politically useful to two beleaguered Prime Ministers, V.P. Singh and Benazir Bhutto.

There probably will not be a war, at least not in the near future, experienced diplomats and officials say. But this kind of peace is disturbing.

Democracy's normal brakes are failing, as most news organizations in both countries trumpet the government line rather than examine it. Neither the Pakistani nor the Indian Parliament is debating the issue in any productive way. Myths are thrown around: Pakistan is run by generals. India is out to conquer the region. Neither side seems interested in negotiating.

"South Asians, all of us, seem to have a fatal problem in politics," a Pakistani official said. "We do not analyze and we don't seem to understand where things are taking us. We are driven by events."

Pakistan and India have fought three times over the picturesque Kashimr Valley: in 1947, in 1965 and as part of a larger war in 1971. The last, inconclusive talks on Kashmir followed in 1972. Now, no questions are asked more frequently on both sides of the border than these: Will there be another war? And why?

India says Pakistan is behind a secessionist movement blazing out of control in the Indian part of Kashmir. Indians produce "evidence" of Pakistani training camps and official plots, but diplomats say much of this does not stand up to investigation.

Pakistan, with better evidence and a stronger legal position—New Delhi won't allow a United Nations-mandated plebiscite in the valley—accuses India of suppressing Kashmiri self-determination.

Separatism began to grow dramatically in India's Jammu and Kashmir state in 1987, when the Congress Party of former Prime Minister Rajiv Gandhi co-opted the last independent, mainstream Kashmiri party and rigged elections there. In his first crisis after taking office in November, Prime Minister Singh, Mr. Gandhi's successor, freed jailed separatists to secure the release of the abducted daughter of his Home Minister, a Kashmiri Muslim.

With Kashmiris emboldened by the militant's victory, unrest grew, New Delhi cracked down and since late January scores of people have been killed in clashes with the police. Srinagar, the summer capital, remains under curfew.

The cause of a beleaguered Muslim people is a powerful one in Pakistan, and Ms. Bhutto, her administration drifting from crisis to crisis, has made the most of it. A diplomat said "there is no other single issue that has consolidated her position here as much as Kashmir." Pakistanis say that Ms. Bhutto's emotive language recalls the style of her father, the late Zulfikar Ali Bhutto, when he fanned the flames that led to the 1971 war with India.

Mr. Singh's brinksmanship is also a matter of political survival. His precarious minority Government depends on support from the Hindu right and the ideological left, neither of which wants to concede power to Muslims in Kashmir.

As threats grow harsher, military forces on both sides are getting prepared. Still, the overwhelming military superiority of India would seem a deterrent to conflict. Diplomats here say that the Pakistani military leadership, wary of this, might try to step in to cool the civilian Government's language.

Ms. Bhutto plans a speaking tour of Pakistani Kashmir, a semi-autonomous region, soon to back her party's candidates in elections on May 21. Tension is high there, as Indian Kashmiris arrive from across the cease-fire line with accounts of Indian brutality.

In India, there is also reported to be a cautious attitude among military leaders, some of whom were bruised by getting into the wrong kind of war in Sri Lanka. There are also concerns about a more advanced Pakistani Army growing out of its pivotal role in supplying the Afghan rebels.

In a candid interview with the news magazine India Today, Gen. Krishnaswami Sundarji, a former army chief, suggested that India's military edge may have eroded slightly. He also took issue with his Government's assertion that the war of secession in Kashmir was created in Islamabad.

"The current conditions are not something that they have engineered," he said of Pakistan. "It's something we've also done or not done in the last few years in Kashmir."

A LEGACY OF CONFLICT

1947—When British India is partitioned into India and Pakistan, a Muslim revolt backed by tribesmen from Pakistan flares up against the maharaja governing the state of Jammu and Kashmir, or simply Kashmir. Indian forces are dispatched to suppress the uprising and Pakistan sends troops to back the rebels.

1949—Fighting ends with a United Nations cease-fire. Kashmir is divided between Pakistan and India along the cease-fire line. Pakistan controls roughly a third of the region, in the west and northwest, and India the rest. Repeated clashes break out along the cease-fire line.

1956—A vote by the assembly in the Indian-controlled part of Kashmir leads to the formation of the Indian state of Jammu and Kashmir. India spurns Pakistani protests, backed by United Nations resolutions for a plebiscite on the future of the entire region. Azad Kashmir, or Free Kashmir, remains under the control of Pakistan.

1962—Indian and Chinese forces clash over a portion of northeastern Kashmir where China has built a road of strategic importance.

1965—War breaks out again between India and Pakistan over Kashmir. A United Nations cease-fire ends the fighting.

1971—Indian again fights Pakistan, wrestling independent Bangladesh from what was East Pakistan. A secondary front in the war is Kashmir, where India makes some gains.

1972—India and Pakistan agree to a new cease-fire along positions held at the end of the 1971 war.

[From the Statesman of Calcutta and New Delhi, May 12, 1990]

HUMAN RIGHTS VIOLATED IN PUNJAB

(From Sanjeev Gaur)

CHANDIGARH, May 8.—The U.N. Centre for Defense of Human Rights has passed several strictures against India for the violation of human rights in Punjab. Its recent report, "Violations of Human Rights of the Sikh Community in India," has been sent to the Punjab Government by the Union Home Ministry for comments. The report has been prepared by the president of the organization.

In its introduction, the report says: "It (the situation in Punjab) provides a lamentable catalogue of the atrocities being committed by the Government of a country which prides itself on being the largest democracy in the world. Those of us who have an intimate association with Punjab know only too well that as the Indian authorities fail to contain the militant elements in the Sikh community, they are resorting to state terrorism of the worst kind to suppress a brave community and its just aspirations."

The report goes on to add: "In the so-called free world, the whole area of human rights has in recent times become completely politicized. It is now all about spheres of influence . . . In the world of international politics, the argument about human rights in any country always revolves around political expediency and trade contracts, with human beings used as barters or bargaining counters."

Using this as the background, the report says: "In this climate it is not, therefore,

surprising that Sikhs have lost out entirely in the propaganda war which the Government of India is waging relentlessly as cover up for its dastardly record of human rights and to malign a brave community."

Commenting on the subversion of Constitutional safeguards, the report says: "Within the short space of 42 years, India has amended its Constitution 64 times. A country's Constitution represents a sacred pact between the rulers and the ruled. Tinkering with India's Constitution in this way raises a serious doubt about its sanctity. India has a comprehensive network of legislation to deal with those who threaten its security and integrity. The notorious National Security Act is being used to curb all legitimate opposition and to hold without charge or trial an indefinite number of Sikhs and members of other minority communities whom the Government finds unpalatable."

"The Terrorist and Disruptive Activities (Prevention) Act is being used indiscriminately to deny fundamental rights and legal safeguards to detainees and defendants. Allegations of torture, deaths in custody and 'disappearances' are commonplace. Punjab is a police state where all civil and legal rights have been abrogated and where extra-judicial killings in false police encounters are the order of the day."

The report concludes with the observation: "As yet not a single Hindu has been detained under these draconian laws. Is there then one law for the minorities and another for the Hindu majority? Can a Hindu never be a militant, terrorist or secessionist under Indian law? Is the mass murder of Sikhs, rape of Sikh women and pillage of Sikh properties in the post-Indira Gandhi assassination riots and since to remain forever unpunished under India's secular laws? Will the international community never speak out against these outrages? For the sake of Punjab, these questions must be answered with utmost urgency."

The report has highlighted seven separate cases of violation of human rights in Punjab in 1989 during the Rajiv Gandhi regime. The following are some of them:

The first relates to the detention of 780 people without trial in Amritsar Central Jail in 1989.

"Undertrials complained that when they were granted bail by court, the police would rearrest them in some new cases. Other undertrials, though granted bail, chose not to leave the jail as they could not meet the demands for money made by the police. Several undertrials were languishing in jail because the police had delayed issuing challans against them."

The second case relates to the "torture of a 50-year-old woman, Surjit Kaur, by the Amritsar police in July 1989 on charges of harbouring some suspected men." The report points out: "Though charges against her are yet to be proved, no case was registered against her after nine days of illegal detention while she was put through inhuman torture—boxes on the head, hit on the head and forced into shock treatment."

The third case relates to the torture of two young women: Gurdev Kaur and Gurmeet Kaur of Amritsar. "The detention, torture and subsequent release of Gurdev Kaur and Gurmeet Kaur by the police focuses attention on a growing problem in the State—the problem of police excesses. At the same time, the episode unfolds the extreme suffering of these women whose only crime is that they are married to men who are alleged to be members of the Babbar Khalsa group.

According to sources in the Punjab Government, the report of the U.N. organization has been received by the Government from the Union Home Ministry. It is understood that top officers of the Punjab Police are at present engaged in preparing a reply to be sent to the Centre on the specific cases highlighted in the report.

[From the India Road, May 18, 1990]

DELHI HIT IN HOUSE ON RIGHTS—CONSERVATIVE REPUBLICANS CHARGE ABUSES IN NORTH

(By Aziz Haniffa)

WASHINGTON.—A slew of conservative Republicans, known for their acerbic criticism of India over the years, took to the House floor last week for more than an hour to assail New Delhi for alleged violations of human rights in Punjab and Kashmir.

Obviously well briefed by the pro-Khalistani and pro-Kashmiri independence lobbies here, the legislators accused India of numerous abuses, punctuating their remarks by inserting into the record several articles from the Western and Indian press and the comments of Dr. Gurmit Singh Aulakh.

Aulakh is president of the Council of Khalistan, the leading pro-Sikh lobbying group in the United States.

SECESSION ADVOCATED

One Congressman even went so far as to advocate secession, stating that the establishment of a separate state of Khalistan is the only solution to the problem in Punjab.

Rep. Ben Blaz, Republican from Guam, a former general and a decorated war hero, said, "The Sikh nation has every reason for their freedom [and] I am on record as saying that Khalistan is the only solution to the Punjab problem."

"Apparently," Blaz added, "Prime Minister Singh would rather blame Pakistan and fan the flames of war."

He said he believed that "Khalistan would like to settle the issue peacefully, by sitting down with the Singh government and negotiating the boundary between Khalistan and India."

CURFEW, BOYCOTT CITED

Blaz also took India to task for its actions in Kashmir, castigating New Delhi's imposition of "a permanent curfew and an economic boycott more stringent than that which the Soviets recently imposed on Lithuania."

Blaz said Prime Minister Singh, instead of issuing statements urging the Indian people to "prepare psychologically" for war with Pakistan over Kashmir, "should prepare to end any repression and grant freedom to the Sikhs and Kashmirs."

He said Washington should "help achieve freedom for Khalistan and self-determination for Kashmir by peaceful means."

NO DOUBLE STANDARDS

Rep. Robert Lagomarsino, a California Republican who is a ranking member of the Foreign Affairs Committee, said there should be no double standards on human rights and those who support the protection of human rights should "speak out about abuses and repression wherever they occur."

"Being an ally or being a democracy should not grant a nation immunity from criticism for rights abuses," Lagomarsino declared.

"Such is the case with India. In terms of population, it is considered to be the largest democracy in the world. Yet human-rights abuses do occur in India, particularly in the state of Kashmir and in the Punjab among the Sikh and Muslin populations."

Lagomarsino urged India to allow independent observers such as Amnesty International to "assess the human-rights situation" in Kashmir and Punjab and thus help "to develop an impartial basis on which to advance a dialogue between the groups in conflict."

"Only through peaceful dialogue will it ultimately be possible to resolve the differences confronting those who are being persecuted and those who are abusing the rights of a significant minority," he said.

Rep. Dan Burton, Republican of Indiana, another member of the Foreign Affairs Committee, has introduced legislation calling for a cutoff in U.S. development assistance to India unless New Delhi allows Amnesty International and other rights groups into the country to monitor alleged violations. He enumerated examples of atrocities allegedly committed by Indian security forces in Kashmir and Punjab.

BURTON "MYSTIFIED"

Burton declared, "We in America live in a democracy supposedly not unlike the democracy that exists in India, and we believe in human rights and we believe that atrocities like this should not take place anywhere in the world, but especially not in a country that purports to have a democracy."

Burton said that apart from not admitting Amnesty International or any other human-rights group, "What really mystifies me is the fact that they [the Indian government] will not even let the Red Cross in there. That is a very humanitarian organization that has no political ties to anybody."

He added that barring rights organizations is an indictment of the Indian government, and not admitting the Red Cross is an even greater indictment.

"DOING AWAY WITH TERROR"

Burton said the Indian Prime Minister has a "tremendous opportunity to bring about positive change in creating a new human-rights image for India" and to become one of the most popular Indian leaders "if he would forthrightly say to the people of that country. 'We're going to do away with terror, we are going to do away with these human rights atrocities and human rights violations and make sure that everybody is treated humanely'."

However, he asserted, "I would just say to our friends in the Punjab and Kashmir that we will not give up this fight until things change over there. We are going to be on this floor for as long as we are in Congress, fighting for human rights . . . in other parts of the world [and] in Kashmir and Punjab."

Rep. Wally Herger, a California Republican who last year introduced legislation similar to Burton's only to see it defeated by a seven-vote margin, said, "It's time for glasnost to reach India. Even the Soviet Union and Cuba have allowed Amnesty International to conduct its investigations within their borders, [and] it's time for Amnesty International to be allowed inside the world's largest democracy."

If New Delhi is correct about religious radicals being the source of terrorism, "it should have nothing to hid and therefore should . . . allow Amnesty International and other private human-rights groups to conduct their investigations," Herger said.

CALLS FOR WORLD OUTCRY

Herger bemoaned the absence of a "worldwide outcry over the behavior of the Indian

military" in Kashmir, unlike the "justifiable outrage throughout the free world" when Chinese troops fired on unarmed demonstrators last summer in its crackdown on pro-democracy demonstrators in Tiananmen Square.

Herger said he hopes the "international community that seems to have ignored the events in Kashmir" will in the future give the "kind of attention to India that it has given to China."

The world's largest democracy deserve the same level of scrutiny that is given to the world's most populous nation," he said.

Rep. David Dreier, California Republican who obtaining a special order from the Speaker of the House that gave the India-bashers time to vent their anger, said the U.S. must "work to ensure strong relations with the government of India" but need not shy away from its "obligation to challenge violations of human rights."

"We want to see India live up to the claims of democracy and to give every single Indian individual the opportunity to determine his or her fate and to feel that they are free of the worries of human rights violations," Dreier said.

Despite the legislators who took to the floor being regular critics of India, what was significant was that they obtained a special order and were willing to stay on until late in the evening to make their remarks.

That showed that the pro-Khalistani and pro-Kashmiri independence lobbies had succeeded in persuading these legislators to commit themselves to their cause and to go beyond inserting remarks in the Congressional Record or introducing resolutions.

Consequently, the Indian Embassy here will have its work cut out to debunk these charges and make sure the efforts of the regular India critics don't become contagious on Capitol Hill and lead to a general assault on New Delhi's policies, akin to the consensus that built up against China when Beijing smothered the democracy movement.

[From the Indian Express, May 12, 1990]

HUMAN RIGHTS VIOLATIONS— CONGRESSMEN ATTACK INDIA

(By A. Balu)

WASHINGTON, May 11.—It is nothing unusual for a U.S. Congressman to take the floor of the House under the one-minute "free for all" rule to indulge a quick bashing of a foreign country for its acts of commission and omission. What was unusual in the proceedings of the House of Representatives on Tuesday was that the V.P. Singh Government was the target of a concerted one-hour attack by as many as six law-makers for alleged human rights violations in Punjab and Kashmir.

In recent weeks, Lithuania with its demand for independence from the Soviet Union had been the preoccupation of the Congressmen, but suddenly the focus has shifted to New Delhi and they have turned into champions of freedom and self-determination for the "oppressed" people of the two States, ignoring the fact that they are integral part of India.

One of the Congressmen, Mr. Ben Blaz, a delegate without voting rights, representing Guam, a self-governing unincorporated US territory in the Pacific Islands (population: 127,675), confessed that when he told some of his friends that he was going to speak on behalf of the Sikhs and the Kashmiris, "somebody asked me what I was doing in that part of the world."

Mr. Blaz said his repsonse was that, having experienced violations of human rights himself and his own people not long ago, he felt an "obligation" to champion the cause of political self-determination and freedom.

Mr. Blaz let the cat out of the bag as to who had lobbied him to raise the issue of "Khalistan" and of Kashmir, when he put on record of the House an "open letter" written by the "President" of the so-called council of Khalistan, Mr. G.S. Aulakh, to Prime Minister V.P. Singh. The letter had said in the event of a war between Indian and Pakistan, the Singhs and the Kashmiris "will fight along side of Pakistan." That would be a "disaster" for India and for the sub-continent, Mr. Blaz told the House.

Mr. Blaz then went on to catalogue what he termed "atrocities" by Indian authorities in Punjab and Kashmir and to suggest to Mr. V.P. Singh that "Khalistan" would like to settle the issue "peacefully by sitting down with the Singh Government and negotiate the boundary between Khalistan and India."

After the one-hour discussion initiated by Mr. David Dreier, a Republican from California, under a special order motion, Mr. Aulakh called the event a "major breakthrough for our cause." He said in a statement: "We are very pleased that Mr. Blaz and other members of the Congress have spoken out forcefully for our freedom."

It may be no more than a coincidence that the obviously Aulakh-inspired India-bashing took place as the new Ambassador, Mr. Abid Hussain, arrived in Washington to take charge of his assignemnt. One of his priorities will necessarily be Capitol Hill where biased and ill-informed debates concerning India are becoming a frequent feature and need to be corrected.

Mr. Abid Hussain met Democrat Congressman Stephen Solarz, Chairman of the House Sub-Committee on Asian and Pacific Affairs, on Teusday, and discussed the Kashmir situation. Mr. Solarz is visiting the sub-continent later this month.

Four of the participants in the House discussion on Punjab and Kashmir on Tuesday are from California which has a large Sikh community. They are Mr. Dreier, Mr. Wally Herger, Mr. Rohrabacher and Mr. Lagomarsino.

All the speakers strongly criticized the Government of India for not allowing human rights groups like Amnesty International to review the situation in Punjab and Kashmir.

Mr. Dan Burton from Indiana said it was an "indictment" of the Indian Government that they were keeping human rights groups out, and more so that they were not letting the Red Cross to help people suffering in Punjab and Kashmir. Mr. V.P. Singh had a "tremendous opportunity" to bring about a positive change in creating a new human rights image for India.

Mr. Herger said even the Soviet Union and Cuba had allowed the Amnesty International to conduct investigations within their borders and "it is time for glasnost to reach India." If the Indian Government was correct about the source of terrorism, it should have nothing to hide and therefore should change its policy.

Mr. Herger lamented that the international community seemed to have ignored the events in Kashmir. "When the Government of China fired on unarmed demonstrators last summer, there was justifiable outrage throughout the free world. But when India fires on unarmed demonstrators and removes the news media from Kashmir, the world is silent."

Mr. Dreier said it was very important that the United States worked to ensure strong relations with India, but "we also have an obligation to challenge violations of human rights."

In a slightly less strident speech, Mr. Rohrabacher expressed the hope that both India and Pakistan would begin to deal with some of the problems in Kashmir in a spirit of goodwill "that has been absent until this time." Both countries should try to solve the issue peacefully.

[From the News India, May 4, 1990]

IN WASHINGTON, A WEEK OF INDIA-BASHING BILL AIMED AT CUTTING U.S. DEVELOPMENT AID BILL IS SPONSORED TO HALT AID

(By Narayan Keshavan)

WASHINGTON.—In a surprise, if not inexplicable, move on the Hill, Representative Dan Burton (R-IN) introduced legislation last week that aims at halting United States development aid to India. Burton, an articulate and conservative lawmaker, has often appeared to be a supporter of the extremist Sikh lobby that is pressing for the creation of a nation called Khalistan in the north Indian state of Punjab.

A former insurance and real estate agent, the 52-year-old Burton wants American aid cut off to New Delhi until the Indian government permits human-rights organizations such as Amnesty International to enter the South Asian giant to monitor the human-rights situation.

At press time there was no official comment on the move from the Bush Administration.

Burton's bill, H.R. 4641, would necessitate the President to report to Congress within 60 days of enactment whether the Indian government is denying visas to human-rights monitors.

Development assistance to India would be cut off if the President reports that such visas are being denied. Exempt from the provisions of the bill are the Child Survival Health Support Project, Vaccine and Immunodiagnostic Development Project, and private and voluntary organizations for health projects.

Burton, a member of both the Congressional Human Rights Caucus and the House Foreign Affairs Committee, filed his bill April 27 with a bipartisan group of 24 other sponsors on the Hill (please see accompanying story for details.)

NEWS ANALYSIS

A preliminary *News India* investigation reveals that the Burton bill is essentially a product of a very effective lobbying effort by a small group of extremist Sikhs in this country.

A similar effort was made some six months ago when Wally Herger, a California Republican, tried to attach a resolution to the Foreign Assistance Bill, seeking an aid cut-off to India. That move was thwarted at the last minute on the House floor in a high legislative drama, mainly because of the untiring efforts of Representative Stephen J. Solarz, a NY Democrat from Brooklyn, who heads a sub-committee that oversees South Asian affairs in the House Foreign Affairs Committee.

The Herger move too was at the behest of extremist Sikhs, especially the wealthy ones living in California.

The man behind the Burton bill appears to be Dr. Gurmit Singh Aulakh, the hard-

working and never-say-no President of the Council of Khalistan, an organization that is a first-rate lobbying shop in this town promoting Sikh and Kashmiri separatism much to the annoyance of Indian diplomats.

Aulakh, in a telephone interview, acknowledged that his organization had pushed for the introduction of the bill against India. "We are very pleased that Congressman Burton is introducing this bill . . . What is particularly encouraging is the fact that 11 of the co-sponsors of the bill are on the [House] Foreign Affairs Committee, which indicates the propriety and the urgency of this important legislation," he said.

"Sikhs worldwide are grateful that America is taking notice of our plight. This bill makes it clear that America will not stand idly by while the world's largest democracy oppresses and murders its minorities. This bill serves as a signal that India must stop its policy of genocide."

One cannot expect any better polemics from Aulakh than that, who incessantly pounds the corridors of Congresses to present his outlandish cause and arguments to lawmakers and their aids. He is not only good at what he does, but appears to be effective as well in his efforts against India.

NO INDIAN COUNTER MOVE

The legitimate question that is being asked by several experienced observers is: have counter-arguments been presented against Aulakh's vituperations by Indian authorities who are based here—especially the senior ones—at Indian taxpayers' expense? Has the Asian Indian community done anything?

The answer: Zilch. Nothing effective so far.

News India's interviews indicate that the Indian embassy, which does not have a full-fledged ambassador at the present time, doesn't seem to understand how things work on the Hill. "They have no clue," one observer said, adding, "Most probably they [the Indian embassy] would have come to know of the Burton bill from members of the press, not on their own."

Despite a request by News India, Indian authorities—at press time—have not provided a position paper on why New Delhi prohibits overseas human-rights organizations from investigating in the country.

BURTON'S RATIONALE

Introducing the bill, Burton said, "It is extremely unfortunate that India will not allow Amnesty International into the country, but it is easy to understand why. Thousands of government critics are being held without charge under the Terrorist and Disruptive Activities Act. Amnesty has received numerous reports of torture in Indian prisons and prisoners dying under mysterious circumstances."

"Indian security forces have been accused of committing serious human-rights abuses in the Punjab, in Kashmir, and in other provinces [states]. It is very important that independent human-rights monitors be allowed to travel to these areas to report to the world what is happening. If India will not submit its human-rights record to outside scrutiny like most of the rest of the world does, then they are not deserving of our financial assistance."

Wonderful rhetoric indeed, and very appealing, because after all, Amnesty International, a decidedly leftwing organization, was injudiciously awarded the Nobel Peace Prize.

BURTON MISSES SIMPLE FACTS

But what the Burton assertions totally miss are simple facts: that India is a democracy; that it has a noisy and lively free print media [the television and radio are government-owned]; that India has a fiercely independent judicial system; that the problem in Punjab and Jammu & Kashmir is not merely one of law and order, but of terrorism supported by overseas powers including perhaps funds from the United States, an issue which actually deserves a congressional probe; that terrorism is an undeclared

* * *

AMNESTY PLAYS NO ROLE AT ALL

Apparently, Amnesty was embarrassed with the Burton move and tried its best to distance itself from the bill.

In a statement issued to News India, Amnesty International's Executive Director in the US, John G. Healy, said, "Amnesty International played no role in the drafting of the proposed legislation."

"The policies and practices of Amnesty International are governed by our mandate. The mandate prohibits us from supporting or opposing any economic sanctions that are linked to an improvement in the human-rights situation in any country," Healy said in response to repeated phone calls by this publication.

"Amnesty International has been seeking a constructive dialogue with the government of India on the question of access and the possibility of sending a mission to India. Our latest request is still before the government," Healy said.

One observer noted that Amnesty International could have issued the statement because a close, former aid of a present Indian cabinet minister is currently employed at the organization's London headquarters. "I think the Indian government must have pulled some strings," this observer said during a private conversation.

Of the 25 Representatives sponsoring the anti-India bill is the breakdown: 15 Republicans and 10 Democrats. The statewide tally is: California—six; New Jersey and Illinois—three each; Ohio—two; and one each from Indiana, Texas, Michigan, Massachusetts, Maryland, Wisconsin, Kansas, Idaho, Oregon, American Samoa and Guam.

The support of the bill was built up by a 'Dear Colleague' letter from Burton to his House colleagues, a usual legislative practice. That letter was written by Burton April 23, a copy of which was made available to this writer. "While I hope that Prime Minister Vishwanath Pratap Singh's government can bring peace in India, there can be little progress until all groups inside India regain the basic freedoms that people all over the world are striving for," a part of the letter says.

□ 2200

THE GROUND WATER MANAGEMENT AND WATER QUALITY CONTROL ACT OF 1990

The SPEAKER pro tempore (Mr. NEAL of North Carolina). Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, today this Member introduced the Ground Water Management and Water Quality Control Act of 1990. In the past 2 years administration officials have indicated an interest in shifting the focus of the Bureau of Reclamation from one primarily of being a reservoir building entity to that of a Bureau responsible for the management generally of ground water and surface water. This bill is the first congressional attempt directed toward authorizing and defining that larger role for the Bureau.

The bill introduced by this Member would provide Federal assistance in the form of loans, grants, and technical assistance for ground water resource and quality control projects. Projects potentially included under this bill would: provide water to rural and municipal water systems, prevent ground water contamination from toxic spills and other pollution, clean up contaminated ground water, develop surface facilities to conserve water that would otherwise be wasted, and restore and enhance wetlands.

These programs will encourage State and local participation in the development and management of these systems through cost share and other participation requirements.

The potential importance of this bill is underscored by the fact that ground water provides the majority of the water supply throughout the western United States. Indeed, the economic base for much of rural America is dependent upon ground water sources. In many areas underground supplies are not only being mined at an alarming rate, but the overall quality is being threatened by contamination from various pollution sources or intrusion of brackish waters. Marginal domestic supplies continue to be used and developed for other purposes despite lowering water tables and increasing difficulties in meeting minimum acceptable drinking water standards.

Established irrigated agricultural economies are also being threatened by higher operating costs and a lower level of crop production because of ground water overdrafts. Such overdrafts cause higher pump lifts and associated water quality and return-flow problems. Therefore, colleagues this bill establishes a program through which the Bureau of Reclamation can respond to these ground water problems and implement programs and projects to correct or reduce them. I urge my colleagues to examine and cosponsor this legislation. A section-by-section summary follows:

SECTION-BY-SECTION SUMMARY OF PROPOSED GROUND WATER MANAGEMENT AND WATER QUALITY CONTROL ACT OF 1990

Purpose: To provide Federal assistance for groundwater resource and quality control projects, with emphasis on rural domestic and municipal water supplies, and to encourage State and local participation in the development and management of groundwater aquifer systems.

Section 1: Title—Ground Water Management and Water Quality Control Act of 1990.

Section 2: Authorizes Interior Department, acting through the Bureau of Reclamation, to provide loans and grants, as well as technical assistance, to non-federal organizations for the following purposes:

a. Maintain groundwater pumping levels and prevent long-term overdraft of aquifers.

b. Provide water supplies to rural domestic and municipal systems.

c. Prevent groundwater contamination from toxic spills and other sources of pollution.

d. Clean up and treat already contaminated groundwater.

e. Develop surface and groundwater conjunctive use facilities to conserve water that might otherwise be wasted, or used less efficiently, and to store water for seasonal or long-term recovery.

f. Restore, create, and enhance wetlands and other environmental resources.

Section 3: Provides for short-term emergency projects for relief of drought or water quality problems.

Section 4: Outlines the terms and conditions for Federal financial assistance through loans and grants for groundwater management, water quality, and water supply projects. A non-federal cost share of 25% or more would be required. Grants could be made: (a) to cover portions of the project which do not produce revenue, or (b) to provide for public benefits for which the sponsors do not have adequate ability to repay loans.

Section 5: Sets forth requirements for project approval, including: technical, financial and environmental feasibility; assurance that loans could be repaid; and required concurrence of appropriate state officials.

Section 6: Outlines contract requirements including maximum loan and grant amounts, length of loan, applicable interest rate, and other terms of the contract.

Section 7: Requires coordination of proposed project with the Fish and Wildlife Coordination Act, National Environmental Policy Act, and Endangered Species Act.

Section 8: Requires that all non-federal project works and facilities remain under the jurisdiction and control of local organizations.

Section 9: Defines terms "organization" (eligible for aid under the Act) and "Secretary".

Section 10: Authorizes $750,000 to carry out the Act and up to $10,000,000 per year for emergency aid.

Background: Groundwater provides most of the water supply throughout the western United States. The economic base for much of rural America is dependent upon these water supplies. In many areas these underground supplies are not only being mined at an alarming rate, but the overall quality is being threatened by contamination from various pollution sources or intrusion of brackish waters. Marginal domestic supplies continue to be used and developed despite lowering water tables and increasing difficulties in meeting minimum acceptable drinking water standards. Established irrigated agricultural economies are also being threatened by higher operating costs and possible lower crop production resulting from increased groundwater overdraft which causes higher pump lifts and associated water quality and return-flow problems.

INTRODUCTION OF THE PUBLIC INTEREST RISK PROTECTION ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, I am pleased to introduce today the Public Protection Act of 1990. I take great pride in announcing that this important legislation is cosponsored by my good friend and the ranking minority member of the House Judiciary Committee, HAMILTON FISH. We recognize the importance of the private sector in providing high risk services to the Federal Government and hope that this bill can move forward to provide a fair allocation of the risks involved.

BACKGROUND

The design professional firms that provide architectural and engineering [AE] services to the Federal Government share a sense of alarm and frustration at the escalating liability exposure they are asked to assume under Federal contracts for activities that have a substantial risk of injury. Under current Federal law, the indemnification protection available to the design professional is extremely limited. This statement outlines the nature of the risks, the key elements of this bill that is a response to deal with those risks, and the benefit/disadvantages to the public and industry that accompany such a response.

I. NATURE OF UNACCEPTABLE RISKS

Mr. Speaker, the Federal Government has a need for and requires the assistance of design professional firms to address activities that have a substantial risk of injury. These activities include safety inspections, bridge inspections, asbestos removal, hazardous wastes, mixed wastes, testing, evaluation, and so forth. While contracting for design professional services to address the technical aspects of these activities that have a substantial risk of injury, the Government fails to address the risk sharing and public safety aspects of the responsibilities which the contractor is asked to assume. Without adequate protection, the Government leaves the contractor significantly exposed to catastrophic loss and the public with severe apprehension with respect to the ability of victims to recover from contractors who perform the work assigned in the event of such a loss. Failure to provide a reasonable limitation on liability through an indemnification provision will result in further erosion of the contractor base. In the past 10 years, there has been a significant decline in the participation of responsible contractors in Federal activities that have a substantial risk of injury. As a result, the contractors who remain in the available pool will tend to be those with few assets who simply count on their ability to declare bankruptcy to avoid liability in the event of a disaster or catastrophic loss. The impact on the public is enormous.

As the citizens of Kansas are aware, in certain limited circumstances, the Government has recognized the need for indemnification to obtain the participation of highly skilled, technically superior contractors in selected activities that have a substantial risk of injury. For example, indemnification has been provided in legislation and implementing regulations for nuclear powerplant contractors, space shuttle contractors, military research and development contractors, Federal aviation traffic control system contractors and selected vaccine manufacturers.

In each instance cited above, our colleagues in the Congress recognized the potential for a catastrophic loss. Members also saw the need for public confidence in the ability of the contractor to perform the contract and to develop an effective solution to meet the Government's requirements without fear of exposure to unlimited liability.

Parallel activities that have a substantial risk of injury with potential for catastrophic loss are present when a design professional is asked to perform the tasks related to the projects that have a substantial risk of injury as outlined above.

II. LIMITATION OF RISKS

To combat the reluctance of responsible design profession firms to participate in activities that have a substantial risk of injury and public fears about the consequences of catastrophic loss, the Congress must narrow the liability exposure of the design professional. This goal can be met best by a series of simple steps designed to share the risk between the design professional and the Government.

Indemnification of contractors who provide design professional services for activities that have a substantial risk of injury over the amount of reasonably priced and available insurance up to a cap of $10 billion or 10 times the contract value, whichever is greater.

Coverage of all defined activities that have a substantial risk of injury performed by design professionals clearly acknowledged with contract clause.

Standard: Liability standard for design professionals: claimant must establish by a preponderance of the evidence that design professional services are the proximate cause of the injury.

Statute of repose: If suit brought within 10 years of date claimant knew or should have known of injury but no later than 5 years after a problem in performance of services arises or public use of project.

Exclusion: Gross negligence, intentional misconduct, or bad faith of any director, officer, or managing official.

Contractor liable for proven claims up to amount of insurance coverage—if coverage available at fair and reasonable costs. Government liable for payments under proven claims up to $10 billion.

Presumption of indemnification in the absence of insurance availability at fair and reasonable price at time contract signed.

Define scope of activities that have substantial risk of injury to include design professional activities to promote, facilitate or support human health or safety, including emergency preparedness or response, environmental protection or cleanup, health or safety regulation and related activities if the activities involve participation in, support of or assistance to that activity, including, but not limited to, activity that constitutes conceiving, designing, planning, testing, analyzing, evaluating, advising, preparing, assembling, manufacturing, constructing, collecting, producing, combining, conducting, performing, controlling, managing, storing, transporting, supplying, disseminating, using, applying, operating, maintaining, repairing, replacing, or disposing.

III. IMPACT ON PUBLIC GOVERNMENT, AND DESIGN PROFESSIONALS

I would now like to share with my colleagues some of the benefits and advantages to the public, to the Federal Government and to the design professionals industry that I anticipate will derive from this act. If an indemnification bill for Federal design professionals who contract to perform services that have a substantial risk of injury is adopted, the impact on the interested parties will be significant.

This impact can be summarized in the following highlights.

The public will benefit in several ways. First, there will be increased confidence in the quality of design professionals who perform activities that have substantial risk of injury with the predictable assurance that victims of a disaster will receive reasonable compensation.

Although there is a potential limitation on recovery of victims because of the cap, the $10 billion figure is high enough so that only the most catastrophic incidents might not be fully covered.

For the Government there are also enormous benefits. The improved quality of design professional firms expands the available pool and reduces potential for catastrophe. There is a limitation on Government exposure because of the cap on liability. Appropriately, the government is required to share risk with design professional firm. Since the Government is only responsible for payment of the proven claims differential between insurance coverage and cap, any potential drain on Treasury is kept to a minimum.

From the perspective of the design professional firms the bill would remove the burden of unlimited liability. With predictable coverage identified at the time of contract award the design professional firm will have an incentive to increase its participation in activities that have a substantial risk of injury.

Design professional firms recognize that the bill leaves to the discretion of the OFPP and the contracting officer the determination of the availability of insurance coverage. This is a vast improvement over current law since it requires that contract be identified as an activity that has substantial risk of injury in contract clause prior to award.

Mr. Speaker, I urge my colleagues to give careful consideration to this important measure and to join me in addressing this most serious problem for the members of the design professional community and for the public.

CHAIRMAN ANNUNZIO SUPPORTS LONG-TERM HEALTH CARE, ESPECIALLY FOR THE ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, most Americans are healthy but many are not so lucky. And, unfortunately, there are too many Americans who do not have health insurance. Currently 37 million Americans lack health insurance and 40 million Americans have severely inadequate coverage. A recent study done by the House Committee on Aging documents that the elderly, as well any other group of people with relatively fixed incomes and substantial care costs, have a problem now and are likely to have a bigger problem in the future.

The lack of health insurance can be expected to become an even greater problem. The U.S. Census Bureau has said that in 1910 less than 5 percent of the American population was 65 years or older. That proportion jumped to 12 percent this year and is projected to rise to 20 percent by 2030.

The Congressional Research Service, a component of the Library of Congress, reported that expenditures for long-term care services, principally nursing home care, strain the private resources as well as the budgets of public programs. The CRS said nearly all private spending for nursing home care is paid directly by the consumer out-of-pocket, since only very limited third party insurance is available to cover this care.

With average annual nursing home care costs about $25,000, out-of-pocket spending for long-term care services of an extended duration can represent an expenditure beyond the financial reach for most elderly persons.

It is for this reason that I have cosponsored and strongly support legislation introduced by Congresswoman MARY ROSE OAKAR of Ohio to provide affordable and comprehensive quality health care for every American man, woman and child.

The centerpiece of the legislation is a State-Federal partnership consisting of State delivery of services with Federal oversight and contributions.

Under the legislation, Americans will receive comprehensive health care, receive home health care, at least 6 months of nursing home care, prevention through State-based education programs to change unhealthy lifestyles and preventive care through increased scientific research to prevent long-term care illnesses.

Mr. Speaker, the bill emphasize comprehensive coverage of inpatient and outpatient services, universal access to home-based and community-based acute and long-term care and preventive health services such as prenatal care, child vaccinations, regular mammograms and other cancer screenings and regular physical examinations.

It also calls for increased funding for research into the causes of long-term illnesses such as alzheimer's disease.

This is legislation that is needed. Recently, the Washington Post reported that some of the Nation's largest corporations, including Ford Motor Co., Du Pont Co., Eastman Kodak Co. and Ameritech, have joined with a number of the Nation's largest labor unions in an effort aimed at enacting some form of national health insurance.

The group, formed in March, voted at its first meeting to focus its attention on government solutions to the Nation's health care problems caused by rapidly rising costs and a growing pool of Americans without any health insurance.

Organized labor has long been an advocate of national insurance but it has been only in the past few years that a number of business organizations have come to the conclusion that some form of government health program is necessary.

It is time we take care of the health needs of all Americans, especially the elderly.

COMING TO GRIPS WITH THE ISSUES AT THE HEART OF THE S&L CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. MCMILLEN] is recognized for 30 minutes.

Mr. MCMILLEN of Maryland. Mr. Speaker, the Bush administration yesterday dramatically increased its estimates of the cost of rescuing the savings and loan industry, based on a new forecast that as many as 1,030 institutions will fail.

The administration is now telling the American people that the Government will need to borrow between $90 billion and $130 billion to clean up the S&L mess, far higher than the $50 billion in long-term borrowing authority included in the S&L bailout bill passed by Congress last year.

Of course these estimates do not include the cost of paying interest on the borrowings. When that figure is included, the S&L bailout cost is expected to top $300 billion.

This news is not surprising, many of us last year questioned the assumptions made by the Treasury Department when they calculated the cost of the thrift bailout legislation. Included among these "reasonable assumptions":

There will be no recession over the next 10 years.

Savings and loans, despite record withdrawals, will have a deposit growth rate of 7 percent per year.

No inflation will occur.

Short-term Treasury bills will fall to 4.4 percent by 1994 from the current 7.5 percent.

No matter how one looks at it, the Bush administration's efforts to resolve the savings and loan crisis is mired in an unmitigated disaster.

Just the other day I ran across an article in the Texas lawyer, which highlights how the agencies charged with resolving the S&L crisis are failing to make "business decisions" in their handling of the bailout. I would like to take this opportunity to insert this article in the CONGRESSIONAL RECORD.

Let me take a moment to describe another situation in my home State of Maryland, which I believe underscores the broader failure of the Bush approach to the savings and loan crisis.

After 2 years of searching, the Federal Government, finally found a buyer for Baltimore Federal Financial [BFF], one of the largest savings and loans in terms of assets in the State of Maryland, as well as one of the most troubled institutions in the State.

This delay caused a significant decline in the franchise value of Baltimore Federal. Household Bank of Maryland, which was the lowest bidder, paid the Government only $7.3 million for Baltimore Federal's $871 million in deposits. Furthermore, the Government agreed to be responsible for getting rid of Baltimore Federal's bad loans and troubled assets. One would be hard-pressed to argue that the Government got the best deal possible.

Unfortunately, the Baltimore Federal case is not unusual, but rather common these days as the Federal Government tries to unload troubled S&Ls at "bargain basement" prices. While the Resolution Trust Corporation [RTC], the administration's creation to solve the S&L crisis, has gobbled up 350 thrifts, the agency has only been able to sell 54. The delay in moving these thrifts is costly, since it has been estimated that 30 to 35 percent of core depositors close their accounts once an insti-

tution is taken over by the Government and because of the massive deterioration of the assets held by the Federal Government.

The Baltimore Federal case underscores what is wrong with the Federal Government's approach to putting an end, once and for all, to the thrift crisis. By functioning as a Federal Government "Pac Man," warehousing huge sums of assets into the governments hands, the RTC not only risks increasing the cost of the bailout, but also further delays the recovery of our financial institutions and the real estate industry. This policy has resulted in a severe credit crunch hurting businesses throughout the United States. This credit crunch has been exacerbated by an overreaction to publicity surrounding the thrift crisis and to an overcorrection of the regulatory laxness of the past, both of which have led to the practice of "just say no" regulation by the Federal banking agencies. While close supervision is essential, regulators must make certain that adequate credit is available to good companies.

But the credit crunch is only part of the fallout from the savings and loan bill. When the Bush administration introduced their thrift legislation last year, their proposal failed to address what many of us felt was the key to reducing the cost of the S&L crisis: How to sell effectively the billions in assets of failed thrifts. Recognizing that the Government has trouble selling anything, let alone "junk bonds" and complicated real estate portfolios, the Congress placed into the bill language requiring the private sector to manage the sale of these assets. This measure was added to ensure that the Government got the highest rate of return on failed thrift assets, which in turn would ultimately lower the cost of the bailout.

Yet 10 months later, the RTC has made virtually no progress in the utilization of the private sector in asset management.

My colleagues, never have I witnessed an agency spend so much time preparing to go, but never leave. The RTC is in state paralysis of analysis.

It's time to put an end to this economic nuclear holocaust, which is escalating beyond comprehension.

The administration needs to stop jumping from policy to policy and face the problem head on. First we need to quickly bury the dead institutions that don't have any franchise value and sell their deposits to healthy commercial banks and thrifts and contract their assets out to the private sector. Second, for the potentially salvageable, we can use as a model Franklin Roosevelt's approach during the Depression, of purchasing preferred stock in troubled banks in order to keep as many of them as possible in the hands of competent private sector management.

Soon after Franklin Roosevelt took office, the Congress passed the Emergency Banking Act of 1933, which authorized the Reconstruction Finance Corporation [RFC] to invest in the preferred stock and capital notes of commercial banks. By mid-1935, when this program ended, almost half the banks in the country—7,115 in all—had been strengthened to the tune of $1.1 billion. By providing a source of capital to financial institutions, Roosevelt's RFC played a major role in recreating a safe and sound banking industry while ensuring a speedier economic recovery.

Finally, we must come to grips with the issues that are at the heart of the S&L crisis, such as deposit insurance reform and risk-based premiums. When Federal deposit insurance was first contemplated, Franklin Roosevelt expressed grave reservations about the concept. He feared that the creation of Federal deposit insurance would require a government bailout of the system every few years. His concerns have been borne out. While I believe that deposit insurance is here to stay, serious reforms must be put into place that reduce the liability of the Federal Government. All together, these changes will lead to a swifter recovery, and a safer, sounder, and more vibrant industry.

MEMORIAL DAY 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 10 minutes.

Mrs. LOWEY of New York. Mr. Speaker, as Memorial Day approaches, I rise to honor the fallen heroes of the fight to preserve liberty.

Memorial Day is about freedom—that precious right that Americans treasure above all else.

And it is also about the Americans who were willing to make the ultimate sacrifice to preserve that liberty.

In every different age, there arose a threat to the freedoms we hold dear. And in every different age, Americans from every part of the country responded to the threat by standing on the field of battle.

So many of them—1.1 million—never returned. Today, in an age of peace and a time of prosperity, it is sometimes difficult to remember the sacrifices that were made to keep this Republic alive.

But we must remember. There is nothing that we can do to ever repay the fallen heroes of democracy. But we must remember their courage, their valor, their selflessness, their patriotism, their ability to sacrifice for the common good.

We have a responsibility to ourselves and to our children to ensure that their deeds live on—today, tomorrow, and forever.

The United States is the greatest Nation in the world. Our system of democratic government remains a shining example to the rest of the world and a tribute to those who fought to preserve our freedoms. Our economy still dwarfs those of other nations. Our young people have opportunities of which young people in other nations only dream.

But we would not be able to sing our Nation's praises if it were not for our Nation's veterans. Everything we have today—freedom, peace, and prosperity—we owe to the brave Americans who fought for this country.

New York State has a special role to play in the observance of Memorial Day. In fact, New York is where Memorial Day was born, following the Civil war.

On May 5, 1866, the village of Waterloo, NY, honored its Civil war dead by closing businesses for the day, flying the flag at half-mast, and decorating the graves of fallen soldiers. In 1967, President Lyndon Johnson issued a proclamation officially recognizing New York as the birthplace of Memorial Day.

On Memorial Day in Westchester County, we join in the same rituals in remembrance of the fallen heroes from our local communities—the fallen heroes of the First World War, the Second World War, the Korean war, the Vietnam war, and other conflicts.

We will never forget our Nation's heroes, and we will never forget what they did for our country. They will occupy a place in our hearts throughout our lives.

We must pay our respects to the heroes of yesteryear. But we must also look ahead as well. We must pledge to continue the fight to preserve democracy here and around the globe. And we must not forget our living veterans, who also gave so much for this Nation.

Our Nation's veterans deserve more than our appreciation. They deserve our support. So many of our Nation's programs for veterans are in crisis. The Department of Veterans Affairs is not adequately responding to veterans' needs. Veterans hospitals are not delivering adequate health care.

There is a shortage of staff, inadequate equipment, and a lack of medical supplies. In fact, urgently needed services have been terminated, and more and more veterans are being turned away.

This situation cannot be tolerated. That is why I have repeatedly voted for additional, emergency funds for key veterans programs, including veterans' medical care. Most recently, I voted for $390 million in emergency funds for veterans' compensation and pensions, and $50 million for veterans' medical care. I am hopeful that these emergency funds will soon receive final approval.

Veterans are not asking for special treatment. They are simply asking for what is their due. Now that the Veterans Department has been made part of the President's Cabinet, this should be more readily achieved.

As a Member of Congress, I have set up an advisory committee of local veterans to advise me on improving services for veterans. And I am proud to say that I will be a strong voice in Congress, fighting for fair treatment of Westchester's veterans.

Memorial Day 1990. It is not a time of sorrow, but more appropriately a time to reflect, to thank God that we live in a country that produces a spirit, a pride, a level of courage that would have an individual lay down his life in the defense of his country and what he knows is right.

There is an inscription on a war memorial in Arlington National Cemetery that reads: "Not for fame or reward, not for place or for rank, not lured by ambition or goaded by necessity, but in simple obedience to duty as they understood it."

We, the survivors, have a duty as well. To teach the children. To shirk this responsibility would be to surrender their heritage to the wind and to relinquish their future to perilous uncertainty.

Mr. Speaker, on this Memorial Day, let us resolve that our children will always be able to say, "I know why I'm free, and I know who gave me freedom."

WARNING ON H.R. 3699

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. FRENZEL] is recognized for 20 minutes.

Mr. FRENZEL. Mr. Speaker, I want to alert my colleagues to H.R. 3699, a bill which would require reciprocity in investment opportunities. At first blush, this bill sounds fairly innocent, even appealing. The United States would provide investment opportunities to countries equal to what they grant us.

That sounds good—why should we provide investment opportunities here when others restrict U.S. investment in their countries. It sounds even better to those who resent Japanese asset acquisitions in the United States, or to those who believe United States attempts to acquire Japanese assets are restricted. Cosponsorship of a bill like that is easy.

Complaints from constituents are minor, or nonexistent. And, if confronted by the U.S. need for foreign capital, sponsorship can be rationalized by the thought that H.R. 3699's purpose is only to send a message and that it will not become law.

The problem is that sometimes this kind of bill does become law.

Mr. Speaker, I do not condone investment barriers by other countries. I support our U.S. position in the multinational GATT negotiations. It is to require open investment in accordance with international rules through the mechanisms of the GATT. The basic rule is national treatment for foreign investors.

Congressional efforts to make investment in certain sectors more difficult, such as under the Exon-Florio law, now on the books, or the Bryant amendment which is threatening in the House, are imprudent and counterproductive. Many countries which do not restrict U.S. investment have complained loudly about this legislation, and they continue to be concerned about the way the regulations have been drafted to implement the Exon-Florio law.

My main reason for opposing this bill is that it has no real purpose other than to badger Japan. The administration already has enough authority to pursue investment barriers. We actually need, and welcome foreign investment in the United States. Without substantial—$150 billion—foreign investment each year, our interest rates could be as much as 3 percent higher.

We have already used this authority against Brazil and India. Japan has responded to our efforts to reduce its investment barriers by making some changes.

The administration has also been aggressively pursuing investment barriers multilaterally by seeking to negotiate a trade-related investment code under the GATT at the Uruguay round. The GATT currently does not cover investment. It may be difficult to achieve 100 percent of our goals in the negotiations, but I am optimistic that some progress will be achieved to enable us to address many investment barriers.

Our problems in the GATT on investment discipline is not Japan. It is less developed countries led by Brazil and India. The use of H.R. 3699 would not be helpful against less developed countries where the real investment problems lie, because they have little to invest in the United States anyway. The threat of reciprocal restrictions would be no threat at all.

H.R. 3699 has not helped us pursue the United States proposal in the Uruguay round. It sends the wrong signal—one which gives the impression that we want to pursue only a few of our trade problems, and those unilaterally. We are still criticized for some of the changes we made in the 1988 trade bill, which includes reciprocity provisions, albeit milder than this one, and other unilateral authorities.

Passage of this bill will promote retaliation or mirror legislation. I don't think I need to remind many of my colleagues how close we came to seeing the EC adopt, using our Trade Act of 1988 as an excuse, a reciprocity in financial services directive as part of its EC'92 effort. H.R. 3699 is the exact opposite philosophy as we used in keeping the banking directive down.

Reciprocity underlies our world trading system, but the entire concept of specific sectoral, or national, reciprocity is flawed. We always seek a rough reciprocity with individual countries on overall access. That is, we expect to receive about the same access in other countries as we provide to them. But each country tries for maximum access for the products it feels are most competitive and tries to defend necessary, but less competitive industries and companies.

But even rough reciprocity is an inexact science. In our relationships with other sovereign nations, it is unlikely that we will, at any given time, have exact reciprocity with each. We will have reciprocity in some areas with a country, but not in other areas. Or, we will receive reciprocal treatment overall with some countries, but not others.

The United States is perceived as not providing investment reciprocity by its trading partners. We have barriers of our own in several areas including investment. Our problem with the EC on its banking directive is that a bank investment in Europe carries wider operating authority than a similar investment in the United States. We invariably seek national treatment, not direct reciprocity.

There is no way to fix individual sectors of our economy without causing injury to others. We must work toward the overall reduction of trade barriers multilaterally, rather than passing reciprocity legislation in each area that creates a problem. This bill would deny national treatment to some of our trading partners, which would threaten one of the basic principals of the GATT, and threaten our goals in the current negotiations.

While this bill applies generally, one of its main purposes seems to be to restrict Japanese investment in the United States. Therefore, much of my comment relates to United States-Japan investment issues. Compared to our own system, Japan's whole business culture discourages foreign investment. Japanese companies form loyal, long-term relationships with other companies, their companies tend to be stable and productive. Those conditions do not provide a wonderful climate for investment there.

The decline of the dollar versus the yen has made United States investment attractive to Japanese investors. United States interest rates are high, raw material costs are lower, and fears of United States protectionist legislation promote investment in the United States. In the United States, many companies seek out foreign buyers, or foreign capital infusion to improve their competitive position.

States compete against one another for foreign investment which promises new jobs and economic activity. Takeovers have become relatively easy, much to the concern of many Members of Congress.

Japan is not a totally closed market for United States investment. Many United States companies have invested in Japan, and some have become very successful. It is not easy to gain a foothold in Japan, but some progress has been made, and there are some notable success stories of successful American investment. We cannot expect to do business in other countries in the same way as we can here. As there are differences in doing business in other countries, there are differences in investment opportunities.

Part of the Japanese problem has just been negotiated in the SII [Structural Impeditives Initiative] talks. We have been requesting Japan to modify some of its informal trade barriers which would facilitate access for United States goods, services, and investment. The traditional and cultural barriers cannot be brought down immediately, but the results of the SII talks are encouraging.

The critical question on H.R. 3699, is whether it is in our country's best interests. Considering the fact that it is unlikely that all investment barriers can be removed in accordance with the bill's timetable, we would be required to restrict investment into the United States. In addition to Japan, there are major investors here, such as Britain, the Netherlands and Canada who may, or may not, meet the test of the bill. But Japan has most of the money to invest abroad and investment incentives lead it to our country.

Japan has largely been involved in what I would call positive United States investments. Capital infusion has helped U.S. companies become more competitive. New investments have created new jobs and are increasingly purchasing locally serviced parts and components. Acquisitions have enabled many companies to stay in business, and many of those acquisitions have actually sought foreign investors. No prominent unfriendly takeovers have occurred. Japan has also not been active in the takeover arena. I have not heard of any complaints about Japanese ownership once the transfer has occurred, and initial fears are erased.

In addition, we would be hard put to finance our Federal deficit without Japanese Treasury bond purchases. Speculation that rising interest rates in Japan might cause Japanese institutional investors to stop buying, or to sell, U.S. bonds have cast a pall over the credit market. Foreign interests hold 26 percent of our Federal debt, and Japan is the largest investor. It is estimated that Japan currently owns $90 billion in Treasury securities. Japan owns or controls 1.7 percent of total United States assets, hardly a figure to inspire the intensity of concern that causes support of H.R. 3699.

Mr. Speaker, for all these reasons, H.R. 3699 is simply not in this country's best interests. It should neither be pursued as a bill, nor as a stick to force more investment opportunities abroad. Whatever its real purpose, it is not likely to open investment abroad. The most likely instrument for new opportunities in investment is successful competition of the Uruguay round. Rather H.R. 3699 is more likely to close investment opportunities in the United States, and mainly to those countries which have markedly increased their investment here in the last few years, when we needed it. Foreign investment is 6 percent of total United States wealth, about half the percentage in the EC. Our problem is not foreign investment. It is high deficits, low savings rates, and reliance on foreign capital.

I would urge my colleagues to avoid any support of this bill, the Byrant bill, or any other bill which in some way seeks to limit needed foreign investment.

NATIONAL AMERICAN INDIAN HERITAGE MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to introduce a House joint resolution designating the month of November 1990 as National American Indian Heritage Month.

As we near the 500th anniversary of the year in which Columbus visited America, I am pleased to introduce this legislation honoring the original inhabitants of our land.

Mr. Speaker, I want to say that I am very much appreciative of the support that I have received from our colleagues here in the House in that well. Over 160 Members have so far cosponsored this legislation.

In past years Congress has enacted legislation designating 1 week a year in honor of American Indians. I believe it is now time that this acknowledgment be extended to one full month. This will give ample time for American Indians throughout our land to show other Americans the rich and diverse cultural heritage of their ancestry.

The resolution acknowledges some of the advancements provided to America's European settlers, including: the prehistoric cultivation of corn and sweet potatoes; and concepts such as freedom of speech and separation of powers in government.

The resolution also recognizes the assistance given to this country's Founding Fathers by the ancestors of today's American Indians, including the support the original inhabitants provided to George Washington and his troops during the winter of 1777-78, which they spent at Valley Forge.

The month designated is near the time fall harvest ceremonies are conducted by American Indians to give thanks for the year's harvest. This is noteworthy because it provides we non-American Indians an opportunity to give thanks to these people who have suffered so much over the years.

Mr. Speaker, I want to share with my colleagues a unique aspect of Indian life that many non-Indians, or many of us in our country do not appreciate nor understand. I was quite taken by a book written by a native-American Indian some 20 years ago. The book is entitled, "Custer Died For Your Sins," and is written by Mr. Vine Deloria, Jr., a member of the Standing Rock Sioux Tribe.

Mr. Speaker, Mr. Deloria devoted an entire chapter of his book on the question of humor and satire among native-American Indians. Yet, despite the social, political, and economic sufferings that have plagued Native American Indians since their discovery by Columbus, it is interesting to note and I am personally struck by the fact that humor and wit have always maintained a positive perspective for native-American Indians about life. Despite the hardships native Americans face today, their wit and humor are qualities I want to share with my colleagues. I want to quote Mr. Deloria's writings on this matter:

One of the best ways to understand a people is to know what makes them laugh. Laughter encompasses the limits of the soul. In humor life is redefined and accepted. Irony and satire provide much keener insights into a group's collective psyche and values than do years of research.

It has always been a great disappointment to Indian people that the humorous side of Indian life has not been mentioned by professed experts on Indian Affairs. Rather the image of the granite-faced grunting redskin has been perpetuated by American mythology.

People have little sympathy with stolid groups. Dick Gregory did much more than is believed when he introduced humor into the Civil Rights struggle. He enabled nonblacks to enter into the thought world of the black community and experience the hurt it suffered. When all people shared the humorous but ironic situation of the black, the urgency and morality of Civil Rights was communicated.

The Indian people are exactly opposite of the popular stereotype. I sometimes wonder how anything is accomplished by Indians because of the apparent overemphasis on humor within the Indian world. Indians have found a humorous side of nearly every problem and the experiences of life have generally been so well defined through jokes and stories that they have become a thing in themselves.

For centuries before the white invasion, teasing was a method of control of social situations by Indian people. Rather than embarrass members of the tribe publicly, people used to tease individuals they considered out of step with the concensus of tribal opinion. In this way egos were preserved and disputes within the tribe of a personal nature were held to a minimum.

Gradually people learned to anticipate testing and began to tease themselves as a means of showing humility and at the same time advocating a course of action they deeply believed in. Men would depreciate their feats to show they were not trying to run roughshod over tribal desires. This method of behavior served to highlight their true virtues and gain them a place of influence in tribal policy-making circles.

Humor has come to occupy such a prominent place in national Indian affairs that any kind of movement is impossible without it. Tribes are being brought together by sharing humor of the past. Columbus jokes gain great sympathy among all tribes, yet there are no tribes extent who had anything to do with Columbus.

But the fact of white invasion from which all tribes have suffered has created a common bond in relation to Columbus jokes that gives a solid feeling of unity and purpose to the tribes.

Often people are awakened and brought to a militant edge through funny remarks. I often counseled people to run for the Bureau of Indian Affairs in case of an earthquake because nothing could shake the BIA. And I would watch as younger Indians set their jaws, determined that they, if nobody else, would shake it. We also have a saying that in case of fire call the BIA and they would handle it because they put a wet blanket on everything. This also got a warm reception from people.

Columbus and Custer jokes are the best for penetration into the heart of the matter, however. Rumor has it that Columbus began his journey with four ships. But one went over the edge so he arrived in the new world with only three. Another version states that Columbus didn't know where he was going, didn't know where he had been, and did it all on someone else's money. And the white man has been following Columbus ever since.

It is said that when Columbus landed, one Indian turned to another and said, "Well there goes the neighborhood." Another version has two Indians watching Columbus land and one saying to the other, "Maybe if we leave them alone they will go away." A favorite cartoon in Indian country a few years back showed a flying saucer landing while an Indian watched. The caption was "Oh, no, not again."

Since the battle of the Little Big Horn it has been a favorite technique to boost the numbers on the Indian side and reduce the numbers of the white side so that Custer stands out as a man fighting against insurmountable odds. One question no pseudo-historian has attempted to answer, when changing the odds to make the little boy in blue more heroic, is how what they say were twenty thousand Indians could be fed when gathered into one camp. What a tremendous pony herd must have been gathered there, what a fantastic herd of buffalo must have been nearby to feed that amount of Indians, what an incredible source of drinking water must have been available for fifty thousand animals and some twenty thousand Indians.

In a short time the Army had a company of scouts who were very efficient but didn't know enough English to understand a complete sentence. Washington, finding out about the situation, as bureaucracies occasionally do, sent an inspector to check on the situation. While he was en route, orders to disband the scouts arrived, and so his task became one of closing the unit and making the mustering-out payments.

The scouts had lined up outside the command officer's quarters and were interviewed one by one. They were given their choice of taking money, horses, or a combi-

nation of the two as their final severance pay from the Army. Those who could not speak English were severely reprimanded and tended to get poorer horses in payment because of their obvious disregard of the regulations.

One young scout, who was obviously in violation of both requirements, was very worried about his interview. He quizzed the scouts who came from the room about the interview. To a man they repeated the same story: "You will be asked three questions, how old you are, how long you have been with the scouts, and whether you want money or horses for your mustering-out pay."

The young scout memorized the appropriate answers and prepared himself for his turn with the inspector. When his turn came he entered the room, scared to death but determined to do his best. He stood at attention before the man from Washington, eager to give his answers and get out of there.

The inspector, tired after a number of interviews, wearily looked up and inquired:

"How long have you been in the scouts?"

"Twenty years," the Indian replied with a grin.

The inspector stopped short and looked at the young man. Here was a man who looked only eighteen or twenty, yet he had served some twenty years in the scouts. He must have been one of the earliest recruits. It just didn't seem possible. Yet, the inspector thought, you can't tell an Indian's age from the way he looks, they sure can fool you sometimes. Or was he losing his mind after interviewing so many people in so short a time? Perhaps it was the Dakota heat. At any rate, he continued the interview.

"How old are you?" he continued.

"Three years."

A look of shock rippled across the inspector's face. Could this be some mysterious Indian way of keeping time? Or was he now delirious?

"Am I crazy or are you?" he angrily asked the scout.

"Both" was the reply and the scout relaxed, smiled, and leaned over the desk, reaching out to receive his money.

□ 2210

Mr. Speaker, the statements by this great writer that I am very much in admiration of continue by saying:

The problems of the missionaries in the early days provided stories which have become classics in Indian country. They are retold over and over again wherever Indians gather.

One story concerns a very obnoxious missionary who delighted in scaring the people with tales of hell, eternal fires, and everlasting damnation. This man was very unpopular and people went out of their way to avoid him. But he persisted to contrast heaven and hell as a carrot-and-stick technique of conversion.

One Sunday after a particularly fearful description of hell he asked an old chief, the main holdout of the tribe against Christianity, where he wanted to go. The old chief asked the missionary where *he* was going. And the missionary replied that, of course, he as a missionary of the gospel was going to heaven.

"Then I'll go to hell," the old chief said, intent on having peace in the world to come if not in this world.

On the Standing Rock reservation in South Dakota my grandfather served as the Episcopal missionary for years after his conversion to Christianity. He spent a great deal of his time trying to convert old Chief Gall, one of the strategists of Custer's demise, and a very famous and influential member of the tribe.

My grandfather gave Gall every argument in the book and some outside the book but the old man was adamant in keeping his old Indian ways. Neither the joys of heaven nor the perils of hell would sway the old man. But finally, because he was fond of my grandfather, he decided to become an Episcopalian.

He was baptized and by Christmas of that year was ready to take his first communion. He fasted all day and attended the Christmas Eve services that evening.

The weather was bitterly cold and the little church was heated by an old wood stove placed in the center of the church. Gall, as the most respected member of the community, was given the seat of honor next to the stove where he could keep warm.

In deference to the old man, my grandfather offered him communion first. Gall took the chalice and drained the entire supply of wine before returning to his seat. The wine had been intended for the entire congregation and so the old man had a substantial amount of spiritual refreshment.

Upon returning to his warm seat by the stove, it was not long before the wine took its toll on the old man who by now had had nothing to eat for nearly a day.

"Grandson," he called to my grandfather, "now I see why you wanted me to become a Christian. I feel fine, so nice and warm and happy. Why didn't you tell me that Christians did this every Sunday. If you had told me about this before, I would have joined your church years ago."

Needless to say, the service was concluded as rapidly as possible and attendance skyrocketed the following Sunday.

Perhaps the most disastrous policy, outside of termination, ever undertaken by the Bureau of Indian Affairs was a program called Relocation. It began as a policy of the Eisenhower administration as a means of getting Indians off the reservation and into the city slums where they could fade away.

Considerable pressure was put on reservation Indians to move into the cities. Reservation people were continually harassed by bureau officials until they agreed to enter the program. Sometimes the BIA relocation officer was so eager to get the Indians moved off the reservation that he would take the entire family into the city himself.

□ 2220

But the Indians came back to the reservation as soon as they learned what the city had to offer. Many is the story by BIA people of how Indians got back to the reservation before the BIA officials who had taken them to the city returned.

When the space program began, there was a great deal of talk about sending men to the Moon. Discussion often centered about the difficulty of returning the men from the Moon to the Earth, as reentry procedures were considered to be very tricky. One Indian suggested that they send an Indian to the Moon on relocation: "He'll find out some way to get back."

One solution to the "Indian problem" advocated in the Eisenhower years was closing the rolls of Indians eligible to receive federal services. Instead of federal services, each Indian would receive a set per capita share of the total budget. As each Indian died off, the total budget would be reduced. When all of the eligible Indians died off, that would be the end of federal-Indian relationships.

This plan was the favorite solution of Commissioner Glenn Emmons, who was heading the bureau at that time. But try as he might, he couldn't sell the program to anyone.

All of 1966 a secret Presidential Task Force surveyed Indian Affairs. By late December of that year they had compiled their report which, among other things, advocated a transfer of the Bureau of Indian Affairs from Interior to Health, Education and Welfare. Rumors began to fly in Indian country about the impending transfer and so the administration sent John Gardner, then Secretary of HEW, to Kansas City to present the idea to the assembled tribes.

In spite of all we could do to get HEW to advance the idea to a series of small conferences made up of influential tribal leaders, HEW insisted on presenting the idea to the entire group of assembled tribes—cold. So Gardner embarked for Kansas City with the usual entourage of high officialdom to present the message.

The tribal chairmen were greatly concerned about the possible loss of treaty rights which might occur during the transfer. When Gardner finished his presentation he opened the floor for questions, and the concerned chairmen began.

The first man wanted to know if all treaty rights would be protected. The Secretary of HEW assured him that treaty rights would be protected by law. The second man said that he had had such assurances before and now he wanted Gardner to give him his personal assurance so he could go back and talk with his people. Gardner gave him the personal assurances he wanted.

The next chairman wanted Gardner's assurance that nothing would be changed in the method of operations. The third wanted Gardner's assurance that no part of the existing structure would be changed, but that only the name plates would be different. The man following again wanted assurance that nothing would be changed, absolutely nothing. Wearily Gardner explained that nothing would be changed, everything would remain the same, all personnel would remain the same.

Eight straight chairmen questioned Gardner, asking for assurances that the basic structure would remain absolutely as it had been under Interior. Not a jot or tittle, according to Gardner, would be changed at all. There was no possible way that anything could be changed. Everything was to remain just as it was.

The ninth questioner brought down the house. "Why," he inquired, "if there are to be no changes at all, do you want to transfer the bureau to HEW? It would be the same as it is now," he concluded.

It suddenly occurred to everyone that the chairmen had successfully trapped Gardner in a neat box from which there was no escape. Suffice it to say, there was no transfer.

When the War on Poverty was announced, Indians were justly skeptical about the extravagant promises of the bureaucrats. The private organizations in the Indian field, organized as the Council on Indian Affairs, sponsored a Capital Conference on Poverty in Washington in May of 1966 to ensure that Indian poverty would be

highlighted just prior to the passage of the poverty program in Congress.

Tribes from all over the nation attended the conference to present papers on the poverty existing on their reservations. Two Indians from the plains area were asked about their feelings on the proposed program.

"Well," one said, "if they bring that War on Poverty to our reservation, they'll know they've been in a fight."

At the same conference, Alex Chasing Hawk, a nationally famous Indian leader from Cheyenne River and a classic storyteller, related the following tale about poverty.

It seemed that a white man was introduced to an old chief in New York City. Taking a liking to the old man, the white man invited him to dinner. The old chief hadn't eaten a good steak in a long time and eagerly accepted. He finished one steak in no time and still looked hungry. So the white man offered to buy him another steak.

As they were waiting for the steak, the white man said, "Chief, I sure wish I had your appetite."

"I don't doubt it, white man," the chief said. "You took my land, you took my mountains and streams, you took my salmon and my buffalo. You took everything I had except my appetite and now you want that. Aren't you ever going to be satisfied?"

People are always puzzled when they learn that Indians are not involved in the Civil Rights struggle. Many expect Indians to be marching up and down like other people, feeling that all problems of poor groups are basically the same.

But Indian people, having treaty rights of long standing, rightly feel that protection of existing rights is much more important to them. Yet intra-group jokes have been increasing since the beginning of the Civil Rights movement and few Indians do not wryly comment on movements among the other groups.

Whether Indian jokes eventually come to have more significance that that, I cannot speculate. Humor, all Indians will agree, is the cement by which the coming Indian movement is held together. When a people can laugh at themselves and laugh at others and hold all aspects of life together without letting anybody drive them to extremes, then it seems to me that that people can survive.

In a more serious note, Mr. Speaker, I want to share this gentleman's comments with my colleagues, because I think it bears notice, it bears an understanding, how it feels from a native American Indian who writes from the soul, his heart, and to share this with my colleagues. I want to reiterate, again, the statements from this gentleman, Mr. Deloria.

The primary problem, as far as I could ascertain it, was that policies and laws made years ago had handicapped these people for decades. Laws such as the Indian Reorganization Act, while quite effective for larger tribes, had had little influence on the lives of these people. It was as if they had been placed in an isolation ward for the last half century.

I believe that the solution to many problems affecting Indian people can only come through intensive work with such small tribes. They are basically one community unit, whereas larger tribes may consist of a number of small communities. If a course of action can be shown to work with a small tribe, chances of its succeeding with a larger tribe are much greater.

Many people deride attempts to create one national Indian voice. Many of those who ridicule us do so because they have a large vested interest in maintaining the myth that Indians are confused and don't know what is "best" for them. Others get a satisfaction out of being the person who "understands" Indians.

This book has been hardest on those people in whom I place the greatest amount of hope for the future-Congress, the anthropologists, and the churches. They have been largely spinning their wheels either emotionally or programmatically. And it's past time when people who have that amount of influence can afford to spin their wheels.

If I were asked to make a list of the useful anthropologists, it would be very short. But this group of people could be critical in helping American society to understand the concepts involved in equality—real equality. I believe that they should offer themselves as volunteers to the various tribes and apply their skills in reserach to real problems. Who really gives a damn if the Oglalas were a great warrior band of the Sioux? That won't help to solve the problems that exist today. I would like to see anthropologists volunteer to appear before Congressional committees on behalf of the tribes when serious legislation is being considered and bring the special skills they claim to have to the defense of the tribe involved.

I can also see that we are getting more and more favorable voices in both the Senate and House committees that pass Indian legislation.

Above all I am hopeful that the churches will give up this passionate desire to steal sheep from each other's folds and get down to the business of helping Indian people. If, as they claim, Christianity is for all people, why not let the Indian people worship God after their own conceptions of Him? Why insist on making Indian people conform to a type of Christianity that went out with King Arthur?

As long as white missionaries continue to preach stilted abstractions learned in seminary while our people starve, the churches occupy a demonic role in the life of the Indian people. We must have immediate termination of the religious trusteeship into which we were placed a century ago.

But I have never been able to recall when the churches understood the world in which they lived. I remember arguments against integration in 1964 and in favor of self-determination. In 1968 churchmen try to argue self-determination when we are talking recapitalization. The same churchmen who were angry at me for questioning God's will for integration now berate me for suggesting a different course today.

I have no realistic hopes that the churches will become real. It is tragic because they could do so much to alter the confusion that exists today among the minority communities.

I worry more and more about the Indian people. It seems as if our leadership is severely handicapped in facing the modern world. Representation of Indian people should be a post of heavy responsibility. Yet so many of our younger leaders appear to relish only the publicity and shun the arduous tasks of organization from which real power and influence come.

The modern world appears to be more than a match for our present leadership. The temptation to be militant overcomes the necessity to be nationalistic. Anyone can get into the headlines by making wild threats and militant statements. It takes a lot of hard work to raise an entire group to a new conception of themselves. And that is the difference between the nationalists and the militants.

Clyde Warrior, who died in 1968, was a true Indian nationalist. He was a gentle person who attempted to use shock treatment to get Indian people to stand up for themselves. Few Indians understood him. The white press used Clyde as an example of an Indian Stokely Carmichael. Perhaps the world will never know to what extent Clyde was able to influence Indian people. But Clyde refused to join the Poor People's March because he knew the difference between nationalism and militancy. I hope that other Indian people will understand the difference in time.

I make no claim that this book represents what all Indian people are really thinking. Or that Indian people should follow the ideas presented in this book. But many things I have written have been logical extensions of things I have heard other Indian people say. I have tried to cull out of my experience in Indian Affairs the various spheres of influence which appear to manipulate Indian people. I have taken extreme positions in regard to them because too often Indian people are so polite that they refuse to insult anyone by bringing up the fact that he is giving them a hard time.

Robert Thomas tells a famous story concerning the Cherokee who had a white man kill his children, steal his wife, sell his cattle, and burn his farm. The Cherokee chased the man for ten years and finally caught him. "Are you the guy who did all those things," the Cherokee asked. Yes, the white man admitted, he was the one.

"Well, you better watch that crap," the Cherokee warned.

And that is my greatest concern for the Indian people. That we will be so damn polite that we will lose everything for fear of hurting someone's feelings if we object to the way things are going.

I believe that as Indian people we should leave the past glories to historians and embark on an aggressive program of rebuilding our tribes. Thus I do not intend to spend much time speaking to YMCA's, women's groups, and conferences in the future. Other people can do this job much better than I.

I want to search out the sheep missing from out national Indian fold and help them to get moving with the rest of the tribes. Perhaps we will not finish the job of rebuilding in my lifetime. Certainly Clye Warrior, Quentin Markistum, Arvid Miller, and many of the great Indian leaders of our times have not seen the final victory. But it is our duty to do what we can while we are here.

Interested white people often ask what they can do to help Indians. Many have done a great deal for Indian people. And many more would help if they knew how. Indians, I believe, have passed the point where they reject assistance because of their nationalistic momentum. I would suggest that the best help non-Indians could render would be to support the two most important national Indian organizations. If we could be assured that we have adequate financial resources to determine our own future by receiving strong support for our work, then it would be up to us to provide our own solutions.

These Indian organizations are the National Congress of American Indians and

the League of Nations-Pan Am Indians. These organizations represent opposite points of view. The NCAI supports the modern tribal council as organized under various federal laws. The League of Nations-Pan Am Indians works for tribal government by traditional Indian chiefs and clans. Until we resolve the two opposing points of view we will not be able to move forward as a united people. It is critical that we finally arrive at a universal understanding of what an Indian tribe is or should be.

I conclude my comments by reminding the Indian people of the great war chief of the Oglala Sioux—Crazy Horse. Crazy Horse never drafted anyone to follow him. People recognized that what Crazy Horse did was for the best and was for the people. Crazy Horse never had his name on the stationery. He never had business cards. He never even received a per diem.

When he was dying, having been bayoneted in the back at Fort Robinson, Nebraska, Crazy Horse said to his father, "Tell the people it is no use to depend on me any more now." Until we can once again produce people like Crazy Horse all the money and help in the world will not save us. It is up to us to write the final chapter of the American Indian upon this continent.

□ 2230

Mr. Speaker, I quote these statements because I want to share what is the burning desire of this great young native American Indian, a Sioux, and hopefully so this resolution will be a constructive measure and will bear upon the conscience of this great country of ours, as certainly the native American Indians have not been treated fairly. Hopefully in the coming months and years the Congress and the members of the executive branch of the Government will take an interest and see that we do more to help the native American Indians.

RECESS

The SPEAKER pro tempore (Mr. NEAL of North Carolina). Pursuant to the order of the House of today, Thursday, May 24, 1990, the House will now stand in recess subject to the call of the Chair.

Bells will be rung 15 minutes prior to reconvening.

The House is now in recess.

Accordingly (at 10 o'clock and 34 minutes p.m.) the House stood in recess subject to the call of the Chair.

□ 0036

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock and 36 minutes a.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 334. Concurrent resolution providing for an adjournment of the House from May 24 or May 25, 1990 to June 5, 1990 and a recess or adjournment of the Senate from May 24, May 25, or May 26, 1990, to June 5, 1990.

The message also announced that the Senate agrees to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4404) "An Act making appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 1, 2, 6, 9, 11, 12, 14, 17, 18, 20, 22, 25, 29, 38, 39, 40, 41, 43, 45, 46, 47, 48, 51, 53, 54, 55, 56, 57, 58, 62, 64, 65, 73, 74, 79, 81, 83, 84, 85, 87, 88, 89, 93, 96, 97, 99, 100, 101, 104, 107, 114, 115, 117, 118, 123, 124, 130, 141, 142, 143, 144, 145, 151, 152, 153, 154, 158, 161, 164, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, and 178 to the above-entitled bill.

The message also announced that the Senate recedes from its amendment numbered 24 to the above-entitled bill.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1413. An act to settle all claims of the Aroostook Band of Micmacs resulting from the band's omission from the Maine Indian Claims Settlement Act of 1980, and for other purposes; and

S. 2075. An act to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ALEXANDER (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. CALLAHAN (at the request of Mr. MICHEL) from 12:30 p.m. and for the balance of the day on account of attending his son's graduation.

Mr. ENGEL (at the request of Mr. GEPHARDT) for today between 11 a.m. and 3 p.m. on account of illness.

Mr. IRELAND (at the request of Mr. MICHEL) on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. SAXTON, for 60 minutes, on June 6.

Mr. BEREUTER, for 5 minutes, today.

Mr. FRENZEL, for 20 minutes, today.

Mr. BENTLEY, for 60 minutes, on June 6 and 7.

Mr. BENTLEY, for 60 minutes, June 12, 13, and 14.

Mr. DELAY, for 60 minutes, on June 6.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. GLICKMAN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LOWEY of New York, for 10 minutes, today.

Mr. FALEOMAVAEGA, for 60 minutes, today.

Mr. SKELTON, for 30 minutes, on June 5.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mr. RHODES.

Mr. GALLO in two instances.

Mr. GRADISON.

Mr. SCHUETTE in three instances.

Mr. PORTER.

Mr. MCEWEN in two instances.

Mr. BALLENGER.

Mr. INHOFE.

Mr. DANNEMEYER.

Mr. SUNDQUIST.

Mr. MACHTLEY in four instances.

Mr. WOLF.

Mr. GILMAN in two instances.

Mr. RITTER.

Mr. RIDGE in two instances.

Mr. BUECHNER.

Mr. HORTON.

Mrs. MARTIN of Illinois.

Mr. SKEEN.

Mr. GREEN in two instances.

Mr. YOUNG of Alaska.

Mr. NIELSON of Utah.

Mr. RINALDO.

Mr. WEBER.

Mr. MARLENEE.

Mr. SHAW.

Mr. GINGRICH in two instances.

Mr. CONTE.

Mrs. SAIKI.

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. MURTHA in two instances.

Mr. DINGELL.

Mr. FLIPPO.

Mr. SMITH of Florida.

Mr. DARDEN.

Mr. NELSON of Florida in two instances.

Mr. FEIGHAN.

Mr. KOLTER in two instances.

Mr. MATSUI in two instances.
Mr. TORRES.
Ms. PELOSI.
Mr. ATKINS.
Mr. LANTOS in three instances.
Mr. MONTGOMERY.
Mr. FASCELL in two instances.
Mr. STOKES.
Mr. ROE.
Mr. TRAFICANT.
Mr. WOLPE.
Mr. SIKORSKI.
Mr. RANGEL.
Mr. ROWLAND of Georgia.
Mr. HAMILTON.
Mr. MILLER of California.
Mr. MAZZOLI.
Mr. SLATTERY.
Mr. KENNEDY.
Mr. LEVINE of California.
Mr. APPLEGATE.
Mrs. LOWEY of New York.
Mr. SWIFT.
Mr. DYSON.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1413. An act to settle all claims of the Aroostook Band of Micmacs resulting from the band's omission from the Maine Indian Claims Settlement Act of 1980, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2075. An act to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality; to the Committee on Interior and Insular Affairs.

S. 2354. An act to amend the Housing and Community Development Act of 1974 to make technical corrections for grants to Indian tribes, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. Pursuant to the provisions of House Concurrent Resolutin 334, 101st Congress, the House stands adjourned until noon, Tuesday, June 5, 1990.

Thereupon (at 12 o'clock and 37 minutes a.m.), pursuant to House Concurrent Resolution 334, the House adjourned until Tuesday, June 5, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3237. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Italy for defense articles (Transmittal No. 90-41), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3238. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on the tied-aid and partially untied-aid credits offers by the Bank, pursuant to Public Law 99-472, section 19 (100 Stat. 1207); to the Committee on Banking, Finance and Urban Affairs.

3239. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend and amend the Emergency Community Services Homeless Grant Program under the Stewart B. McKinney Homeless Assistance Act; to the Committee on Banking, Finance and Urban Affairs.

3240. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled "Clinical Laboratory Improvement Amendments of 1988 Studies," pursuant to 42 U.S.C. 263a nt.; to the Committee on Energy and Commerce.

3241. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting a copy of their annual report for fiscal year 1989; to the Committee on Energy and Commerce.

3242. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission in Finance Docket No. 31530, "Wilmington Terminal Railroad, Inc.—Purchase and Lease—CSX Transportation, Inc. Lines Between Savannah and Rhine, and Vidalis and Macon, Georgia" has extended the time period for issuing a final decision by 31 days, pursuant to 49 U.S.C. 11345(e); to the Committee on Energy and Commerce.

3243. A letter from the Secretary of Energy, transmitting a report entitled "Strategic Petroleum Reserve Sulphur Mines Decommissioning and Big Hill Expansion"; to the Committee on Energy and Commerce.

3244. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Italy for defense articles and services (Transmittal No. 90-41), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3245. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Japan for defense articles and services (Transmittal No. 90-39), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3246. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of James Daniel Phillips, of Kansas, to be Ambassador to the People's Republic of the Congo, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3247. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of William B. Milam, of California, to be Ambassador to the People's Republic of Bangladesh, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3248. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Thomas W. Simons, Jr., of the District of Columbia, to be Ambassador to the Republic of Poland, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3249. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Harry W. Shlaudeman, of California, to be Ambassador to the Republic of Nicaragua, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3250. A letter from the Assistant Secretary of State for Legislative Affairs, Department of State, transmitting the 19th 90-day report of progress of case on the investigation into the death of Enrique Camarena, the investigations of the disappearance of U.S. citizens in the State of Jalisco, Mexico, and the general safety of U.S. tourists in Mexico, pursuant to Public Law 99-93, section 134(c) (99 Stat. 421); to the Committee on Foreign Affairs.

3251. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a letter of invitation from the Prime Minister of Bulgaria to attend that country's elections on June 10 and June 17; to the Committee on Foreign Affairs.

3252. A letter from the Assistant Comptroller General, General Accounting Office, transmitting the results of the review of Federal agencies' implementation of OMB's nine-point Credit Management Program an an analyses of changes in the Federal Government's loans receivable information between fiscal years 1985 and 1988 (GAO/AFMD-90-12, April 1990); to the Committee on Government Operations.

3253. A letter from the President, Inter-American Foundation, transmitting a report on its activities under the Freedom of Information Act for calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3254. A letter from the Chaiman, National Science Foundation, transmitting the Board's review of the report from the Inspector General covering activities of the Office of Inspector General for the period October 1, 1989-March 31, 1990, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

3255. A letter from the Chairman, Merit Systems Protection Board, transmitting the 10th annual report of the Board's case decisions during fiscal year 1989, pursuant to 5 U.S.C. 7701(i)(2); to the Committee on Post Office and Civil Service.

3256. A letter from the Comptroller General, General Accounting Office, transmitting a report on the Rural Telephone Bank's financial statements for the fiscal year ended September 30, 1988, pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Agriculture and Government Operations.

3257. A letter from the Chief, Forest Service, transmitting the final 1989 report of the Forest Service; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4148. A bill to authorize the Secretary of the Interior to acquire certain water rights for the settlement of Indian water rights claims in the State of Arizona; with an amendment (Rept. 101-496). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4145. A bill to designate certain lands in the State of Maine as wilderness; with an amendment (Rept. 101-497, Pt. 1). Ordered to be printed.

Ms. SLAUGHTER: Committee on Rules. House Resolution 403. Resolution providing for the consideration of H.R. 4653, a bill to reauthorize the Export Administration Act of 1979, and for other purposes (Rept. 101-498). Referred to the House Calendar.

Mr. ASPIN: Committee on Armed Services. H.R. 4736. A bill to reduce the number of reports that the Department of Defense is required by law to submit to Congress, and for other purposes (Rept. 101-499). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON:

H.R. 4911. A bill to provide that receipts and disbursements of the harbor maintenance trust fund not be included in the totals of the budget of the U.S. Government as submitted by the President or the congressional budget, and for other purposes; jointly, to the Committees on Public Works and Transportation, Government Operations, and Rules.

By Mr. ATKINS:

H.R. 4912. A bill to authorize the Secretary of the Interior to revise the boundary of the Minute Man National Historical Park in the State of Massachusetts; to the Committee on Interior and Insular Affairs.

By Mr. BEREUTER:

H.R. 4913. A bill to provide Federal assistance for groundwater resource and quality control projects, with emphasis on rural domestic and municipal water supply projects, and to encourage State and local participation in the development and management of groundwater aquifer systems, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BERMAN (for himself, Mrs. VUCANOVICH, Mr. LEVINE of California, and Mr. WAXMAN):

H.R. 4914. A bill to amend the National Parks and Recreation Act of 1978 to authorize the Secretary of the Interior to exchange city-owned lands in Los Angeles, CA, with public lands managed by the Bureau of Land Management in Nevada; to the Committee on Interior and Insular Affairs.

By Mr. BROWN of California (for himself, Mr. ROE, and Mr. BOEHLERT):

H.R. 4915. A bill to amend the Earthquake Hazards Reduction Act of 1977 in order to encourage implementation of research results and other loss reduction measures; jointly, to the Committees on Banking, Finance and Urban Affairs and Science, Space, and Technology.

By Mr. BROWN of Colorado (for himself, Mr. BATES, Mr. EMERSON, Mr. HEFLEY, Mr. SCHAEFER, Mr. SHAW, and Mr. PENNY):

H.R. 4916. A bill to amend part F of title IV of the Social Security Act to allow States to assign participants in work supplementation programs to existing unfilled jobs, and to amend such part and the Food Stamp Act of 1977 to allow States to use the sums that would otherwise be expended on food stamp benefits to subsidize jobs for participants in work supplementatioin programs, and to provide financial incentives for States and localities to use such programs; jointly, to the Committees on Ways and Means, Education and Labor, and Agriculture.

By Mr. BURTON of Indiana (for himself, Mr. DOUGLAS, and Mr. GILLMOR):

H.R. 4917. A bill concerning the status of the Soviet Union in the International Monetary Fund and the World Bank; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BURTON of Indiana (for himself and Mr. DOUGLAS):

H.R. 4918. A bill to restrict United States assistance for the Republic of Iraq; jointly, to the Committees on Foreign Affairs, Banking, Finance and Urban Affairs, Public Works and Transportation, and Ways and Means.

By Mr. CLAY:

H.R. 4919. A bill to provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes; to the Committee on House Administration.

By Mr. CONTE:

H.R. 4920. A bill to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances; to the Committee on Post Office and Civil Service.

By Mr. CRAIG:

H.R. 4921. A bill to amend the Federal Power Act to clarify that States have primacy over water and water rights; to the Committee on Energy and Commerce.

By Mr. DORNAN of California:

H.R. 4922. A bill to amend the Internal Revenue Code of 1986 to provide that tax-exempt bonds may not be used to provide a hospital or other health care facility if the facility performs abortions; to the Committee on Ways and Means.

By Mr. FRANK:

H.R. 4923. A bill to amend title 5, United States Code, to provide higher rates of basic pay for Federal employees within certain geographic areas; to the Committee on Post Office and Civil Service.

By Mr. FRANK (for himself and Mr. JAMES):

H.R. 4924. A bill to increase the authority of the military departments to settle administrative tort claims under the Federal Tort Claims Act; to the Committee on the Judiciary.

By Mr. GLICKMAN (for himself, Mr. FISH, and Mr. DURBIN):

H.R. 4925. A bill to provide a comprehensive system for assuring compensation to injured parties through indemnifications by the United States of its design professionals for liability in excess of reasonably available financial protection; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H.R. 4926. A bill to provide disaster assistance to agricultural producers, and for other purposes; jointly to the Committees on Agriculture and Public Works and Transportation.

By Mr. HATCHER:

H.R. 4927. A bill to reduce the duty on diuron and linuron; to the Committee on Ways and Means.

By Mr. HAYES of Illinois (for himself and Mr. MCCLOSKEY):

H.R. 4928. A bill to amend the Occupational Safety and Health Act of 1970 to expand the rights of victims of occupational safety and health hazards, and for other purposes; to the Committee on Education and Labor.

By Mr. HUNTER (for himself, Mrs. BENTLEY, Mr. HORTON, Mr. KYL, and Mr. NIELSON of Utah):

H.R. 4929. A bill to extend the Export Administration Act of 1979 and to authorize appropriations under that act for fiscal year 1991; to the Committee on Foreign Affairs.

By Mr. INHOFE (for himself, Mr. ARMEY, Mr. BALLENGER, Mr. BLILEY, Mr. BOEHLERT, Mr. CLINGER, Mr. COBLE, Mr. CRANE, Mr. DANNEMEYER, Mr. DEWINE, Mr. DORNAN of California, Mr. DOUGLAS, Mr. DUNCAN, Mr. FAWELL, Mr. FUSTER, Mr. GRANDY, Mr. GUNDERSON, Mr. HALL of Texas, Mr. HANCOCK, Mr. HASTERT, Mr. HENRY, Mr. HERGER, Mr. HOPKINS, Mr. HORTON, Mr. HUBBARD, Mr. IRELAND, Mr. JAMES, Mr. JONES of Georgia, Mr. LAUGHLIN, Mr. LEWIS of Florida, Mr. LIGHTFOOT, Mr. DONALD E. LUKENS, Mr. MARTIN of New York, Mr. MCMILLAN of North Carolina, Mr. Miller of Washington, Ms. MOLINARI, Mr. NELSON of Florida, Mr. OXLEY, Mr. PACKARD, Mr. PASHAYAN, Mr. PAYNE of Virginia, Mr. PAXON, Mr. PETRI, Mr. PICKETT, Mr. QUILLEN, Mr. RHODES, Mr. ROGERS, Mr. ROWLAND of Connecticut, Mr. ROTH, Mr. SAXTON, Mr. SCHIFF, Mr. ROBERT F. SMITH, Mr. DENNY SMITH, Mr. STUMP, Mr. SUNDQUIST, Mr. THOMAS of Wyoming, Mr. TOWNS, Mr. UPTON, Mr. WHITTAKER, Mr. SOLOMON, Mr. RIDGE, Mr. RITTER, Mr. HYDE, Mr. BARNARD, Mr. LAGOMARSINO, Mr. EMERSON, Mr. BROWN of Colorado, Mr. VANDER JAGT, Mr. BROOMFIELD, Mr. WELDON, Mr. ROE, and Mr. SLAUGHTER of Virginia):

H.R. 4930. A bill to provide that receipts and disbursements of the airport and airway trust fund shall not be included in the totals of the budget of the U.S. Government as submitted by the President or the congressional budget; jointly, to the Committees on Public Works and Transportation, Government Operations, and Rules.

By Mr. KOSTMAYER (for himself, Mr. BERMAN, and Mr. BARTON of Texas):

H.R. 4931. A bill regarding the further extension of nondiscriminatory treatment (most-favored-nation treatment) to the People's Republic of China; to the Committee on Ways and Means.

By Mr. MACHTLEY:

H.R. 4932. A bill to amend title 10, United States Code, to establish in the Office of the Secretary of Defense the position of Assistant Secretary of Defense for Drug Enforcement Policy; to the Committee on Armed Services.

By Mr. MARKEY (for himself, Mr. DINGELL, Mr. LENT, Mr. RINALDO, Mr. COOPER, Mr. ECKART, Mr. HALL of Texas, and Mr. RITTER):

H.R. 4933. A bill to promote the development and deployment of advanced television standards and technologies, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MILLER of Washington:

H.R. 4934. A bill to amend the Stewart B. McKinney Homeless Assistance Act to

expand and improve the program of grants for State activities for the education of homeless children and youths, to establish a program of grants for local activities for the education of such children and youths, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Education and Labor.

By Mr. MONTGOMERY (for himself and Mr. STUMP) (both by request):

H.R. 4935. A bill to amend title 38, United States Code, to provide for recovery by the United States of the cost of medical care and services furnished for a nonservice-connected disability, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MURTHA:

H.R. 4936. A bill to authorize the Secretary the Interior to permit an exchange of Laurel Hill recreation demonstration area land located in Somerset County, PA, for public park, recreational, or conservation purposes; to the Committee on Interior and Insular Affairs.

By Mr. OWENS of New York (for himself, Mr. CLAY, Mr. HAYES of Illinois, Mr. PAYNE of New Jersey, Mr. PERKINS, Mr. RAHALL, Mr. SERRANO, Mr. CONYERS, Mr. CROCKETT, Mr. DELLUMS, Mr. FAUNTROY, Mr. FORD of Tennessee, Mr. GONZALEZ, Mr. LEWIS of Georgia, Mr. MFUME, Mr. RANGEL, and Mr. TOWNS):

H.R. 4937. A bill to amend the Job Training Partnership Act to guarantee access to education and job training assistance for youth residing in high-poverty areas of urban and rural communities, and for other purposes; to the Committee on Education and Labor.

By Mr. PANETTA:

H.R. 4938. A bill to amend title II of the Social Security Act to provide that a child's insurance benefit shall not be payable to an insured individual's stepchild or stepgrandchild, after such child's parents are divorced, for any period during which such child is receiving support from another source; to the Committee on Ways and Means.

By Mr. PEASE (for himself, Mr. ANDREWS, Mr. ANTHONY, Mr. CARDIN, Mr. DONNELLY, Mr. ECKART, Mr. SABO, Mr. SPRATT, Mr. RICHARDSON, Mr. SAWYER, and Mr. MOODY):

H.R. 4939. A bill regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; to the Committee on Ways and Means.

By Mr. RINALDO (for himself and Mr. SMITH of New Jersey):

H.R. 4940. A bill to amend the Internal Revenue Code of 1986 to deny the deduction for expenses paid by an employer for a group health plan if the plan discriminates against adopted children; to the Committee on Ways and Means.

By Mr. ROWLAND of Georgia (for himself, Mr. MONTGOMERY, Mr. STUMP, Mr. EDWARDS of California, Mr. HAMMERSCHMIDT, Mr. EVANS, Mr. MCEWEN, Mr. STAGGERS, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mr. BILIRAKIS, Mr. STENHOLM, Mr. RIDGE, Mr. HARRIS, Mr. ROWLAND of Connecticut, Mr. KENNEDY, Mr. SMITH of New Hampshire, Mrs. PATTERSON, Mr. JAMES, Mr. STEARNS, Mr. JONTZ, Mr. PAXON, Mr. PAYNE of Virignia, Mr. MORRISON of Connecticut, Mr. SANGMEISTER, Mr. JONES of Georgia, Ms. LONG, Mr. GEREN, Mr. HOCHBRUECKNER, Mr. PARKER, and Mr. APPLEGATE):

H.R. 4941. A bill to amend title 38, United States Code, to change from 30 years to 40 years the period during which the disease of leukemia occurring in a veteran after exposure (while serving on active duty) to nuclear radiation as a result of participation in certain radiation-risk activities shall be presumed to be service connected for purposes of compensation paid by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. SIKORSKI (for himself, Mr. WAXMAN, Mr. PALLONE, Mr. ROE, Mr. TORRICELLI, Mr. PAYNE of New Jersey, and Mr. DWYER of New Jersey):

H.R. 4942. A bill to promote the recycling of valuable materials contained in municipal refuse, and for other purposes; to the Committee on Energy and Commerce.

H.R. 4943. A bill to require the Secretary of Commerce to make grants to accredited institutions of higher education to establish and operate recycling research centers; to the Committee on Science, Space, and Technology.

By Mr. SIKORSKI:

H.R. 4944. A bill to amend the Internal Revenue Code of 1986 to treat recycling facilities like solid waste disposal facilities under the tax-exempt bond rules and to provide a credit for investment in remanufacturing equipment used to produce certain recycled products; to the Committee on Ways and Means.

By Mr. SKEEN:

H.R. 4945. A bill to authorize a study of methods to protect and interpret the nationally significant fossil trackways found in the Robledo Mountains near Las Cruces, NM; to the Committee on Interior and Insular Affairs.

By Mr. SMITH of New Hampshire:

H.R. 4946. A bill to amend section 5517 of title 5, United States Code, to prohibit the mandatory withholding of State income taxes by a Federal agency in the case of employees whose regular place of employment is located within a disputed area; to the Committee on Post Office and Civil Service.

By Mr. SOLOMON:

H.R. 4947. A bill to amend the Internal Revenue Code of 1954 to provide a refundable income tax credit for the recycling of hazardous wastes; to the Committee on Ways and Means.

By Mr. STUDDS:

H.R. 4948. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve management of the National Wildlife Refuge System, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. TORRICELLI (for himself, Mr. ROE, Mr. LEWIS of Florida, Mr. GLICKMAN, Mr. MCCURDY, Mr. MCMILLEN of Maryland, Mr. BROWN of California, and Mr. ROHRABACHER):

H.R. 4949. A bill to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for aviation research, engineering and development, and demonstrations for fiscal years 1991 and 1992, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. TORRICELLI (for himself, Mr. ROE, Mr. LEWIS of Florida, Mr. GLICKMAN, Mr. MCCURDY, Mr. MCMILLEN of Maryland, Mr. VALENTINE, Mr. BROWN of California, and Mr. ROHRABACHER):

H.R. 4950. A bill to authorize the Federal Aviation Administration to conduct research, development, and demonstrations of alternative technologies and methodologies for enhancing the training of air traffic controllers and electronics maintenance technicians while reducing the costs to the Federal Government; to the Committee on Science, Space, and Technology.

By Mr. WALGREN:

H.R. 4951. A bill to amend title XVIII of the Social Security Act to provide for payment under the Medicare Program for the services of home dialysis aides who provide medical assistance during hemodialysis treatment at the homes of end stage renal disease patients, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. WALGREN (for himself, Mr. RITTER, Mr. WAXMAN, Mr. BARTON of Texas, Mr. SHARP, Mr. SLATTERY, Mr. SIKORSKI, Mr. ECKART, Mr. SYNAR, Mr. WYDEN, Mr. RINALDO, Mr. BOUCHER, Mr. BATES, and Mr. NIELSON of Utah):

H.R. 4952. A bill to amend the Consumer Product Safety Act to reauthorize the Consumer Product Safety Commission and to improve the Commission's regulatory process and for other purposes; to the Committee on Energy and Commerce.

By Mr. WOLF:

H.R. 4953. A bill to amend title 5, United States Code, to allow Federal employees to use sick leave for purposes relating to the adoption of a child; to the Committee on Post Office and Civil Service.

By Mr. FALEOMAVAEGA (for himself, Mr. ACKERMAN, Mr. ANTHONY, Mr. COLEMAN of Texas, Mr. DE LA GARZA, Mr. HOYER, Mr. LAUGHLIN, Mr. MFUME, Mr. MONTGOMERY, Mr. PICKLE, Mr. RAVENEL, Mr. SAVAGE, Mr. SCHUMER, Mr. STOKES, Mr. TRAXLER, Mr. SOLARZ, Mr. CARR, Mr. COYNE, Mr. FLAKE, Mr. FRENZEL, Mr. HALL of Ohio, Mr. JONES of Georgia, Mr. OBERSTAR, Mr. NOWAK, Mrs. PATTERSON, Mr. ROTH, Mr. RUSSO, Mr. SOLOMON, Mr. STARK, Mr. SYNAR, Mr. TAUZIN, Mr. WHEAT, Mr. YATRON, Mr. BARTLETT, Mr. GUNDERSON, Mr. CAMPBELL of Colorado, Mr. UDALL, Mr. FUSTER, Mr. DYMALLY, Mr. BLAZ, Mr. GONZALEZ, Mr. FAUNTROY, Mr. NATCHER, Mr. MCEWEN, Mr. SLATTERY, Mr. SAWYER, Mr. FROST, Mr. DORGAN of North Dakota, Mr. HANSEN, Mr. TOWNS, Mr. ANNUNZIO, Mr. CROCKETT, Mr. RHODES, Mr. MACHTLEY, Mr. EMERSON, Mr. HARRIS, Mr. VENTO, Mr. WEISS, Mr. RAHALL, Mr. BENNETT, Mr. SISISKY, Mr. GEJDENSON, Mr. ROE, Mr. MCDERMOTT, Mr. GORDON, Mr. EVANS, Mr. RANGEL, Mr. HUNTER, Mr. DOUGLAS, Mr. LEHMAN of California, Mr. BAKER, Mr. GILMAN, Mr. LANTOS, Mr. THOMAS of Wyoming, Mr. BERMAN, Mr. JOHNSON of South Dakota, Mr. KOSTMAYER, Mr. SMITH of Florida, Mr. HORTON, Mr. YOUNG of Alaska, Ms. KAPTUR, Mr. LEHMAN of Florida, Ms. PELOSI, Mr. WHITTEN, Mr. JENKINS, Mr. ANDERSON, Mr. RICHARDSON, Mrs. BOXER, Mr. BATES, Mr. BOEHLERT, Mr. PARKER, Mr. WEBER, Mr. PANETTA, Mr. BURTON of Indiana, Mr. HUGHES, Mr. GRAY, Mr. SPRATT, Mr. MCNULTY, Mr. NIELSON of Utah, Mr. DEFAZIO, Mr. ATKINS, Mr. CRAIG, Mr. FORD of Tennessee, Mrs. UNSOELD, Mr. BOSCO, Mr. PAYNE of New Jersey, Mr. CLEMENT, Mr. LAGOMARSINO, Mr. MRAZEK, Mr.

SCHEUER, Mr. BEVILL, Mr. BEREUTER, Mr. CLAY, Mr. CONYERS, Mr. COSTELLO, Mr. DARDEN, Mr. DORNAN of California, Mr. DREIER of California, Mr. DURBIN, Mr. ENGEL, Mr. FAZIO, Mr. FRANK, Mr. GALLEGLY, Mr. GOSS, Mr. HAMILTON, Mr. HAYES of Illinois, Mr. HOAGLAND, Mr. JACOBS, Mr. JONTZ, Mr. KENNEDY, Mr. LEVINE of California, Mr. LEWIS of Georgia, Mr. MILLER of California, Mr. MILLER of Washington, Mr. MINETA, Mr. NEAL of Massachusetts, Ms. OAKAR, Mr. ORTIZ, Mr. OWENS of New York, Mr. POSHARD, Mr. SANGMEISTER, Mr. SARPALIUS, Ms. SLAUGHTER of New York, Mr. STALLINGS, Mr. TANNER, Mr. TAYLOR, Mr. WATKINS, Mr. WASHINGTON, Mr. LANCASTER, Mr. BUSTAMANTE, Mr. DWYER of New Jersey, Mr. FEIGHAN, Mr. BILIRAKIS, Mr. GRANDY, Mr. HENRY, Mr. CONTE, Mr. LEVIN of Michigan, Mr. CLARKE, Mr. TALLON, Mr. OWENS of Utah, Mr. HOCHBRUECKNER, Mrs. COLLINS, Mr. INHOFE, Mr. HAMMERSCHMIDT, and Mr. STANGELAND):

H.J. Res. 577. Joint resolution to authorize and request the President to proclaim the month of November 1990, and thereafter as "Native American Indian Heritage Month"; to the Committee on Post Office and Civil Service.

By Mr. FRANK (for himself, Mr. HEFNER, Mr. COBLE, Mr. BALLENGER, Mr. PAYNE of Virginia, Mrs. PATTERSON, Mrs. LLOYD, Mr. STUDDS, Mr. MCMILLAN of North Carolina, Mr. SPRATT, Mr. NEAL of North Carolina, Mr. VALENTINE, and Mr. SOLOMON):

H.J. Res. 578. Joint resolution disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China; to the Committee on Ways and Means.

By Mr. HORTON (for himself, Mr. ROE, Mr. SCHEUER, Mr. GREEN, Mr. RINALDO, and Mr. GUARINI):

H.J. Res. 579. Joint resolution designating October 28, 1990, as "Statue of Liberty Day"; to the Committee on Post Office and Civil Service.

By Mr. HUGHES:

H.J. Res. 580. Joint resolution designating October 28, 1990, as "National Immigrants Day"; to the Committee on Post Office and Civil Service.

By Mr. LANTOS (for himself, Mr. PORTER, Mr. ACKERMAN, Mr. APPLEGATE, Mr. BUSTAMANTE, Mr. CHAPMAN, Mr. DELLUMS, Mr. ECKART, Mr. FAUNTROY, Mr. LIPINSKI, Mr. MORRISON of Connecticut, and Mr. SCHUMER):

H.J. Res. 581. Joint resolution to disapprove the renewal of most-favored-nation status for the People's Republic of China; to the Committee on Ways and Means.

By Mr. ROE:

H.J. Res. 582. Joint resolution designating the oak as the national arboreal emblem; to the Committee on Post Office and Civil Service.

H.J. Res. 583. Joint resolution to designate the week of October 14, 1990, through October 20, 1990, as "National Radon Action Week"; to the Committee on Post Office and Civil Service.

By Mr. ROE (for himself and Mr. FAWELL):

H.J. Res. 584. Joint resolution designating the week of October 14, 1990, as "National Standards Week"; to the Committee on Post Office and Civil Service.

By Mr. ROTH (for himself, Mr. ANNUNZIO, Mr. APPLEGATE, Mr. ARCHER, Mr. ATKINS, Mr. BALLENGER, Mr. BATES, Mr. BENNETT, Mrs. BENTLEY, Mr. BEVILL, Mr. BILBRAY, Mr. BLAZ, Mr. BLILEY, Mr. BORSKI, Mr. BOSCO, Mr. BOUCHER, Mrs. BOXER, Mr. BROWDER, Mr. BROWN of California, Mr. BUECHNER, Mr. BUSTAMANTE, Mr. CLARKE, Mr. CLEMENT, Mr. CLINGER, Mrs. COLLINS, Mr. CONTE, Mr. CROCKETT, Mr. DARDEN, Mr. DEFAZIO, Mr. DE LA GARZA, Mr. DE LUGO, Mr. DEWINE, Mr. DICKS, Mr. DORNAN of California, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. EARLY, Mr. EMERSON, Mr. ERDREICH, Mr. ESPY, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FASCELL, Mr. FAUNTROY, Mr. FAWELL, Mr. FAZIO, Mr. FISH, Mr. FLIPPO, Mr. LEHMAN of California, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. LIPINSKI, Mr. LIVINGSTON, Mr. THOMAS A. LUKEN, Mr. MCCRERY, Mr. MCDADE, Mr. MCEWEN, Mr. MCGRATH, Mr. MCNULTY, Mr. MACHTLEY, Mr. MADIGAN, Mr. MARTIN of New York, Mr. MARTINEZ, Mr. MAVROULES, Mrs. MEYERS of Kansas, Mr. MICHEL, Mr. MILLER of Washington, Mr. MONTGOMERY, Mr. MURPHY, Mr. NEAL of Massachusetts, Mr. NEAL of North Carolina, Mr. NIELSON of Utah, Ms. OAKAR, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. OXLEY, Mr. PALLONE, Mr. PARRIS, Mr. PASHAYAN, Mr. PAXON, Mr. PAYNE of New Jersey, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. POSHARD, Mr. PURSELL, Mr. QUILLEN, Mr. RAHALL, Mr. RANGEL, Mr. RAVENEL, Mr. REGULA, Mr. RICHARDSON, Mr. RITTER, Mr. ROBERTS, Mr. ROBINSON, Mr. ROE, Mr. FOGLIETTA, Mr. FRENZEL, Mr. FROST, Mr. FUSTER, Mr. GALLEGLY, Mr. GALLO, Mr. GEJDENSON, Mr. GINGRICH, Mr. GONZALEZ, Mr. GOODLING, Mr. GORDON, Mr. GRANDY, Mr. GUARINI, Mr. HANSEN, Mr. HARRIS, Mr. HASTERT, Mr. HATCHER, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HEFNER, Mr. HILER, Mr. HORTON, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. HYDE, Mr. INHOFE, Mrs. JOHNSON of Connecticut, Mr. JONES of Georgia, Mr. JONTZ, Ms. KAPTUR, Mr. KASICH, Mr. KASTENMEIER, Mr. KILDEE, Mr. KOLTER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LANTOS, Mr. LEACH of Iowa, Mr. ROGERS, Mr. ROHRABACHER, Mr. ROWLAND of Georgia, Mrs. SAIKI, Mr. SARPALIUS, Mr. SAXTON, Mr. SCHUMER, Mr. SERRANO, Mr. SHAW, Mr. SISISKY, Mr. SKAGGS, Mr. SKEEN, Mr. SKELTON, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. SMITH of Vermont, Mr. TAUKE, Mr. THOMAS of Wyoming, Mr. TOWNS, Mr. TRAFICANT, Mr. TRAXLER, Mr. VALENTINE, Mr. VANDER JAGT, Mr. VENTO, Mr. WALGREN, Mr. WALSH, Mr. WAXMAN, Mr. WEBER, Mr. WEISS, Mr. WHITTAKER, Mr. WHITTEN, Mr. WILSON, Mr. WISE, Mr. WOLF, Mr. WYDEN, Mr. WYLIE, Mr. YATES, Mr. YATRON, and Mr. YOUNG of Alaska):

H.J. Res. 585. Joint resolution designating October 3, 1990, as "National Teacher Appreciation Day"; to the Committee on Post Office and Civil Service.

By Mr. SOLOMON (for himself, Mr. MARKEY, Mr. ROSE, Mr. SCHULZE, Mr. HUNTER, Mr. MCCANDLESS, Mr. LEVINE of California, Mr. FRANK, Mr. COBLE, Mr. RAVENEL, Mr. BENNETT, Mr. MCMILLAN of North Carolina, and Mr. RHODES):

H.J. Res. 586. Joint resolution disapproving the recommendation of the President to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China; to the Committee on Ways and Means.

By Mr. GEPHARDT:

H. Con. Res. 334. Concurrent resolution providing for an adjournment of the House from May 24 or May 25, 1990, to June 5, 1990, and a recess or adjournment of the Senate from May 24, May 25, or May 26, 1990, to June 5, 1990; considered and agreed to.

By Mr. BURTON of Indiana (for himself, Mr. DOUGLAS, and Mr. GILLMOR):

H. Con. Res. 335. Concurrent resolution concerning the relationship between Cuba and the Soviet Union; to the Committee on Foreign Affairs.

By Mr. SCHEUER (for himself, Mr. HENRY, Mr. OBEY, Mr. JONTZ, and Mr. VALENTINE):

H. Con. Res. 336. Concurrent resolution expressing the sense of Congress regarding the outcome of the Uruguay round of trade negotiations under the General Agreement on Tariffs and Trade; to the Committee on Ways and Means.

By Mr. SMITH of New Hampshire:

H. Con. Res. 337. Concurrent resolution granting the consent of Congress to the States of New Hampshire and Maine to negotiate and enter into a compact for the purpose of ascertaining and establishing the true jurisdictional boundary line between the two States in the Piscataqua River and inner Portsmouth Harbor; to the Committee on the Judiciary.

By Mr. HOYER:

H. Res. 401. Resolution electing Representative Kaptur to the Committee on Appropriations and establishing the order of membership on the Committee on Post Office and Civil Service; considered and agreed to.

By Mr. SHAW (for himself, Mr. MOAKLEY, Mr. BROOMFIELD, Mr. VANDER JAGT, Mr. TRAXLER, Mr. MAVROULES, Mr. HENRY, Mr. ATKINS, Mr. KENNEDY, Mr. NEAL of Massachusetts, Mr. HAMMERSCHMIDT, Mr. BOSCO, Mr. PETRI, Mr. MINETA, Mr. CLINGER, Mr. RAHALL, Mr. SKAGGS, Mr. DEFAZIO, Ms. SLAUGHTER of New York, Mr. WALSH, Mr. BATES, Mr. GEJDENSON, Mr. DERRICK, Mr. WHEAT, Mr. BRENNAN, Mr. FUSTER, Mr. MCDADE, Mr. LANTOS, Mr. PENNY, Mr. MANTON, Mr. FASCELL, Mr. MURTHA, Mr. LIVINGSTON, Mr. DONNELLY, Mr. HUTTO, Mr. BERMAN, Mr. NIELSON of Utah, Mr. FAWELL, Mr. FRANK, Mr. CRANE, Mr. LENT, Mr. SPENCE, Mr. HUGHES, Mr. SCHULZE, Mr. DAVIS, Mr. BEREUTER, Mr. MCCANDLESS, Mr. SLATTERY, Mrs. BOXER, Mr. SCHUETTE, Mr. BLAZ, Mr. HORTON, Mr. IRELAND, Mr. HERTEL, Mr. GEKAS, Mr. MORRISON of Connecticut, Ms. KAPTUR, Mr. MARKEY, Ms. PELOSI, Mrs. KENNELLY, Mr. ESPY, Mr. SMITH of Florida, Mr. FAUNTROY, Mr. GRANT, Mr. LAGOMARSINO, Mrs. VUCANOVICH, Mr. MCNULTY, and Mr. SABO):

H. Res. 402. Resolution designating two House of Representatives office buildings as the "Thomas P. O'Neill, Jr. House of Repre-

sentatives Office Building" and the "Gerald R. Ford House of Representatives Office Building", respectively, and for other purposes.

By Mr. TRAFICANT:

H. Res. 404. Resolution expressing the sense of the House of Representatives that the House Judiciary Committee should hold hearings for the purpose of evaluating all evidence relative to the Arthur Rudolph case and upon conclusion of such investigation determine whether the Office of Special Investigation of the Department of Justice was justified in its actions or violated the rights of Arthur Rudolph; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

400. By the SPEAKER: Memorial of the Senate of the State of Hawaii, relative to building homes and developing native Hawaiian communities; to the Committee on Banking, Finance and Urban Affairs.

401. Also, memorial of the Legislature of the State of Alaska, relative to the eradication of the sources of opium in Burma; to the Committee on Foreign Affairs.

402. Also, memorial of the Legislature of the State of Tennessee, relative to the desecration of the flag of the United States; to the Committee on the Judiciary.

403. Also, memorial of the Legislature of the State of Colorado, relative to the Agricultural Wetlands Exemption Act; to the Committee on Public Works and Transportation.

404. Also, memorial of the Assembly of the State of California, relative to the ocean disposal of dredged material; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 101: Mr. DOWNEY.

H.R. 118: Mr. LIGHTFOOT, Mr. KYL, Mr. ROHRABACHER, and Mr. FLIPPO.

H.R. 220: Mr. SHAW, Mr. MACHTLEY, and Ms. ROS-LEHTINEN.

H.R. 381: Ms. MOLINARI and Mr. JOHNSON of South Dakota.

H.R. 488: Mr. CRANE.

H.R. 529: Mr. BEVILL.

H.R. 530: Mr. LEWIS of California and Mr. BEVILL.

H.R. 671: Mr. WALGREN.

H.R. 711: Mr. THOMAS A. LUKEN.

H.R. 778: Mr. FROST, Mr. LENT, Mrs. BENTLEY, Ms. PELOSI, Mr. SISISKY, Mrs. VUCANOVICH, Mr. PALLONE, Mr. SCHUMER, Mr. HORTON, and Mr. HYDE.

H.R. 857: Mr. MACHTLEY.

H.R. 930: Mr. WASHINGTON.

H.R. 956: Mr. BURTON of Indiana.

H.R. 995: Mr. HAYES of Louisiana, Mr. ROWLAND of Connecticut, Mr. FUSTER, Mr. HORTON, and Mr. VALENTINE.

H.R. 1068: Mr. MCCRERY, Mr. GILLMOR, Mr. PARKER, Mr. COX, and Mr. ENGEL.

H.R. 1085: Mr. HOCHBRUECKNER.

H.R. 1197: Mr. BARTLETT, Mr. JAMES, and Mr. PAXON.

H.R. 1205: Mr. SUNDQUIST.

H.R. 1287: Mr. YOUNG of Alaska and Mr. KOLBE.

H.R. 1317: Mr. ANNUNZIO and Mr. HYDE.

H.R. 1400: Mr. BATEMAN.

H.R. 1500: Mr. ROWLAND of Connecticut, Mr. OLIN, Mr. MARKEY, Mr. SANGMEISTER, Mr. LANCASTER, Mrs. UNSOELD, Mr. KOLTER, and Mr. WOLPE.

H.R. 1730: Mr. DREIER of California.

H.R. 1784: Mr. TALLON and Mr. LANCASTER.

H.R. 2166: Mr. HALL of Texas, Mr. GOSS, and Mr. INHOFE.

H.R. 2265: Mr. MORRISON of Connecticut, Mr. GALLEGLY, and Mr. MILLER of Washington.

H.R. 2380: Mr. TOWNS.

H.R. 2460: Mr. ROWLAND of Georgia, Ms. MOLINARI, and Mr. GIBBONS.

H.R. 2647: Mr. VALENTINE.

H.R. 2700: Mr. EDWARDS of Oklahoma.

H.R. 2732: Mr. SMITH of Vermont.

H.R. 2781: Mr. MACHTLEY.

H.R. 2816: Mr. SMITH of New Jersey.

H.R. 3080: Mr. CLINGER.

H.R. 3256: Mr. FALEOMAVAEGA, Mr. LIPINSKI, Mr. SMITH of Vermont, Ms. SLAUGHTER of New York, Mr. FRANK, and Mr. ROE.

H.R. 3344: Mr. FROST, Mr. ECKART, Mr. DE LUGO, and Mr. PALLONE.

H.R. 3500: Mr. SYNAR.

H.R. 3673: Mr. PETRI, Mr. OLIN, Mr. MAVROULES, Mr. HATCHER, Mr. FRANK, Mr. MACHTLEY, and Mr. NEAL of Massachusetts.

H.R. 3684: Mr. MCNULTY.

H.R. 3705: Mr. TOWNS.

H.R. 3719: Mr. MINETA, Mr. MRAZEK, Mr. PANETTA, Mr. GIBBONS, and Mr. BENNETT.

H.R. 3732: Mr. HUBBARD, Mr. SOLOMON, Mr. HOPKINS, Mr. LENT, and Mr. RIDGE.

H.R. 3734: Mr. KLECZKA and Mr. RAY.

H.R. 3745: Mr. MINETA.

H.R. 3772: Mr. STALLINGS and Mr. BILIRAKIS.

H.R. 3800: Mr. MCCURDY, Mrs. ROUKEMA, Mr. HOUGHTON, and Mr. TAUKE.

H.R. 3859: Mr. ROYBAL.

H.R. 3880: Mr. STAGGERS, Mr. SISISKY, and Mr. FLAKE.

H.R. 3914: Mr. RITTER, Mr. THOMAS of Wyoming, Mr. MYERS of Indiana, Mr. FLAKE, Ms. SLAUGHTER of New York, and Mrs. KENNELLY.

H.R. 3940: Mr. ENGLISH and Mrs. MARTIN of Illinois.

H.R. 3966: Mr. ARMEY, Mr. NIELSON of Utah, Mr. GINGRICH, Mr. SHUMWAY, Mr. BALLENGER, and Mr. COX.

H.R. 3970: Mr. SMITH of Vermont.

H.R. 3979: Mr. DYSON, Mr. COLEMAN of Texas, and Mr. BORSKI.

H.R. 4003: Mr. ROE and Mr. MACHTLEY.

H.R. 4014: Mr. MCGRATH.

H.R. 4080: Mrs. BOGGS.

H.R. 4084: Ms. SCHNEIDER, Mr. MOODY, Mr. FOGLIETTA, Mr. SERRANO, Mr. MATSUI, Mr. HATCHER, Mr. MACHTLEY, and Mr. ROE.

H.R. 4118: Mr. OBERSTAR.

H.R. 4147: Mr. GEREN.

H.R. 4208: Mrs. BOXER.

H.R. 4224: Mr. BOSCO, Mr. JOHNSTON of Florida, Mrs. MEYERS of Kansas, Mr. PACKARD, AND Mr. TOWNS.

H.R. 4254: Mr. DUNCAN.

H.R. 4258: Mr. CLARKE, Mr. BURTON of Indiana Mr. DEFAZIO, Mr. ROE, Mr. SMITH of New Jersey, and Mr. NEAL of North Carolina.

H.R. 4261: Mr. RITTER.

H.R. 4264: Mr. CONDIT, Mr. MCMILLEN of Maryland, Mr. TALLON, Mr. WATKINS, Mr. GRANDY, Mr. HORTON, Mr. OWENS of Utah, Mr. BONIOR, and Mr. LEVINE of California.

H.R. 4268: Mr. RINALDO and Mrs. BOXER.

H.R. 4300: Mr. SIKORSKI.

H.R. 4311: Mr. FRANK.

H.R. 4314: Mrs. KENNELLY.

H.R. 4374: Mr. JOHNSTON of Florida.

H.R. 4427: Mr. DORNAN of California and Mr. ECKART.

H.R. 4443: Mr. BERMAN, Mr. BLAZ, Mrs. BOGGS, Mr. BOSCO, Mrs. BOXER, Mr. BUSTAMANTE, Mr. COLEMAN of Texas, Mr. DE LUGO, Mr. FALEOMAVAEGA, Mr. FAZIO, Mr. FEIGHAN, Mr. FUSTER, Mr. THOMAS A. LUKEN, Mr. MCHUGH, Mrs. MORELLA, Ms. PELOSI, Mr. RICHARDSON, Mr. ROYBAL, Mr. SERRANO, Mr. TORRES, Mrs. UNSOELD, and Mr. WALSH.

H.R. 4475: Mr. CALLAHAN, Mr. BILIRAKIS, Mr. SCHAEFER, Mr. MCNULTY, Mr. HASTERT, Mrs. BOGGS, Mr. COMBEST, Mr. BAKER, Mr. LEWIS of Florida, Mr. BUNNING, Mr. PEASE, and Mr. Barnard.

H.R. 4485: Mr. LIPINSKI, Mr. DICKINSON, Mr. GEREN, Mr. GRANDY, Mr. PERKINS, and Mr. JONTZ.

H.R. 4493: Mr. OWENS of Utah and Mr. VALENTINE.

H.R. 4494: Mr. MOAKLEY, Mr. MURPHY, Mr. MYERS of Indiana, Mr. HANCOCK, Ms. SCHNEIDER, Mr. SARPALIUS, Mr. MFUME, Mr. RITTER, Mr. SABO, and Mr. Horton.

H.R. 4498: Mr. DEFAZIO.

H.R. 4516: Mr. KILDEE, Mr. HORTON, Mr. LAFALCE, Mrs. BOXER, Mr. ROE, Mrs. LOWEY of New York, Mr. FROST, and Mr. TOWNS.

H.R. 4530: Mr. SMITH of Florida and Mr. TOWNS.

H.R. 4531: Mr. CHAPMAN, Mr. PARRIS, Mr. FLIPPO, and Mr. DYSON.

H.R. 4565: Mr. JONES of North Carolina, Mr. COUGHLIN, Mr. RINALDO, Mr. LEHMAN of Florida, Mr. HALL of Ohio, Mr. DWYER of New Jersey, Mr. ROE, Mr. MCEWEN, Mr. MONTGOMERY, Mr. PASHAYAN, Mr. SMITH of New Jersey, Mr. CALLAHAN, Mr. COURTER, and Mr. HANSEN.

H.R. 4571: Mr. MCNULTY, Mr. HERTEL, Mr. SUNDQUIST, Mrs. VUCANOVICH, Mr. POSHARD, Mr. BATEMAN, Ms. SCHNEIDER, Mr. FAZIO, Mr. ROE, Mr. BEVILL, Mr. HUTTO, Mr. LAGOMARSINO, Mr. HUNTER, Mr. KOLBE, Mr. SWIFT, and Mr. HORTON.

H.R. 4573: Mr. ECKART, Mr. TOWNS, Mr. GEJDENSON, and Mr. PAYNE of Virginia.

H.R. 4578: Mr. BURTON of Indiana, Ms. KAPTUR, Mr. RINALDO, Mr. GAYDOS, and Mr. LIPINSKI.

H.R. 4595: Mr. TOWNS.

H.R. 4604: Mr. SCHUMER, Mr. HYDE, Mr. CLAY, Mr. SMITH of Florida, Mr. DORNAN of California, Mr. GUARINI, Mr. MORRISON of Connecticut, Mr. LEVINE of California, Mr. CARPER, Mr. MARTINEZ, Mr. DWYER of New Jersey, Mr. GIBBONS, Mr. LEVIN of Michigan, Mr. TRAFICANT, Mr. AUCOIN, Mr. TOWNS, Mr. BEILENSON, Mr. GEJDENSON, Ms. PELOSI, Mr. MOODY, Mr. BATES, Mr. FEIGHAN, Mr. MACHTLEY, and Mrs. MEYERS of Kansas.

H.R. 4613: Mr. PRICE.

H.R. 4625: Mr. CLARKE, Mr. GRANDY, and Mr. CONDIT.

H.R. 4641: Mr. GOSS, Mr. PACKARD, Mr. DELAY, and Mrs. VUCANOVICH.

H.R. 4657: Mr. GORDON.

H.R. 4669: Mr. BONIOR, Mr. LANCASTER, Mrs. PATTERSON, Mrs. SAIKI, and Mr. TOWNS.

H.R. 4690: Mr. HOCHBRUECKNER, Mr. MCNULTY, Mr. MACHTLEY, and Ms. SLAUGHTER of New York.

H.R. 4719: Mr. HYDE, Mr. PORTER, Mr. DREIER of California, and Mr. LAGOMARSINO.

H.R. 4740: Mr. LOWERY of California, Mr. RAVENEL, and Mr. ANDERSON.

H.R. 4773: Mr. SMITH of Iowa, Mr. RAY, Mr. BILBRAY, Mr. MFUME, Mr. LANCASTER, Mr. SARPALIUS, Mr. NEAL of Massachusetts, Mr. HILER, and Mr. HEFLEY.

H.R. 4776: Mr. COSTELLO, Mr. DURBIN, Mr. EVANS, and Mrs. MARTIN of Illinois.

H.R. 4785: Mr. PAYNE of New Jersey, Mr. MAVROULES, Mr. MINETA, Mrs. BOGGS, and Mr. FUSTER.

H.R. 4786: Mr. AUCOIN, Mr. MILLER of Washington, Mrs. UNSOELD, and Mr. MCDERMOTT.

H.R. 4790: Ms. ROS-LEHTINEN.

H.R. 4793: Mr. RAY, Mr. BILBRAY, Mr. POSHARD, Mr. BAKER, Mr. LANCASTER, Mr. TORRES, Mr. GORDON, Mr. SCHUETTE, Mr. HORTON, Mr. WILSON, Mr. MCNULTY, Mr. FRANK, Ms. PELOSI, Mr. CONTE, Mr. RANGEL, Mr. DEFAZIO, Mr. MAVROULES, Mr. ENGEL, Mr. MILLER of Washington, Mr. SISISKY, Mrs. VUCANOVICH, Mr. LAGOMARSINO, and Mr. WOLPE.

H.R. 4795: Mr. MARKEY, Mr. TOWNS, and Mrs. UNSOELD.

H.R. 4845: Mrs. ROUKEMA, Mr. FRANK, Mr. DOWNEY, Mr. CONTE, Mr. GRADISON, Mr. FAWELL, Ms. SCHNEIDER, Mr. WALKER, Mr. COX, Mr. GALLO, Mr. HYDE, Mr. PORTER, Mr. ARCHER, Mr. HUNTER, Mr. GOODLING, Mr. IRELAND, Mr. REGULA, Mr. RITTER, Mr. MCCANDLESS, Mr. BURTON of Indiana, Mr. DANNEMEYER, Mr. COUGHLIN, Mr. ROHRABACHER, Mr. FOGLIETTA, Mr. DREIER of California, Mr. NIELSON of Utah, Mr. CAMPBELL of California, Mr. COURTER, Mr. FRENZEL, Mr. FEIGHAN, Mr. PETRI, Mr. TORRICELLI, Mr. SHARP, Mr. ECKART, Mr. SHAW, Mr. DORNAN of California, Mr. HANSEN, Mr. SMITH of New Jersey, Mr. BATES, Mr. DOUGLAS, Mr. DELLUMS, Mr. SHUMWAY, and Mr. CARPER.

H.R. 4857: Mr. Walsh and Mr. JONTZ.

H.R. 4864: Mr. ROYBAL, Mrs. MARTIN of Illinois, Mr. RANGEL, Ms. KAPTUR, Mr. TAUKE, Ms. SLAUGHTER of New York, and Ms. PELOSI.

H.R. 4865: Mr. ROYBAL, Mrs. MARTIN of Illinois, Mr. RANGEL, Mr. MCDERMOTT, Ms. KAPTUR, Ms. SLAUGHTER of New York, and Ms. PELOSI.

H.R. 4903: Mr. WALKER, Mr. PETRI, Mr. MCCLOSKEY, Mr. SCHIFF, Mr. POSHARD, Mrs. KENNELLY, Mr. SCHULZE, Mr. BORSKI, Mr. COLEMAN of Texas, Mr. ECKART, Mr. NOWAK, Mr. VALENTINE, and Mr. FUSTER.

H.J. Res. 110: Mr. SCHIFF.

H.J. Res. 459: Mr. JENKINS, Mr. MCDERMOTT, Mr. PAXON, Mr. REGULA, and Mr. VENTO.

H.J. Res. 467: Mr. CALLAHAN, Mr. DOUGLAS, Mr. REGULA, Mr. VANDER JAGT, Mr. GRADISON, Mr. HERGER, Mr. EMERSON, Mr. BARTLETT, Mr. PARRIS, Mr. ROSE, Mr. GREEN, Mr. YOUNG of Alaska, Mr. KOLBE, Mr. DANNEMEYER, Mr. YOUNG of Florida, Mr. BARNARD, Mr. ANDERSON, Mr. HUBBARD, Mr. HOUGHTON, Mr. MARLENEE, Mr. UPTON, Mr. STUMP, Mr. HOPKINS, Mr. BAKER, Mr. MCCRERY, Mr. CRAIG, Mr. COOPER, Mr. CARPER, Mr. TAUZIN, Mr. NATCHER, Mr. SKEEN, Mr. MORRISON of Washington, Ms. ROS-LEHTINEN, Mr. RAHALL, Mrs. BYRON, Mr. DAVIS, Mr. EDWARDS of Oklahoma, Mr. PASHAYAN, and Mr. LIVINGSTON.

H.J. Res. 476: Mr. KASICH, Mr. SPENCE, and Mrs. UNSOELD.

H.J. Res. 493: Mr. CONTE, Mr. JONES of Georgia, Mr. LAFALACE, Mr. LEACH of Iowa, Mr. LEVIN of Michigan, Mr. LIPINSKI, Mr. MCDERMOTT, Mr. UPTON, Mr. WAXMAN, Mr. STUDDS, Mr. TRAFICANT, Mr. SCHUETTE, Mr. MFUME, Mr. HUBBARD, Mr. KYL, Mr. LANCASTER, Mr. LENT, Mr. LEWIS of Georgia, Mr. DONALD E. LUKENS, Mr. THOMAS of Georgia, Mr. WALGREN, Mr. WELDON, Mr. VALENTINE, Mr. HANSEN, Mr. LEWIS of California, and Mr. MCEWEN.

H.J. Res. 496: Mr. HARRIS, Mr. WILSON, Mr. QUILLEN, and Mr. BLILEY.

H.J. Res. 497: Mr. STANGELAND, Mr. CARDIN, Mr. OWENS of New York, Mr. DAVIS, Mr. GRADISON, Mr. LEWIS of California, Mr. BILIRAKIS, Mr. MONTGOMERY, Mr. FROST, Mr. RAVENEL, Mr. LIVINGSTON, Mr. TALLON, Mr. SPENCE, Mr. JONES of Georgia, Mr. MATSUI, Mr. ERDREICH, Mr. DERRICK, Mr. PARKER, Mr. BROWDER, Mr. CALLAHAN, Mr. LEVIN of Michigan, Mr. PRICE, Mr. TAYLOR, Mr. BORSKI, Mr. STARK, Mr. DELAY, Mr. BLAZ, Mr. BOSCO, Mr. LANTOS, Mr. ECKART, Mr. SCHAEFER, Mr. SHUMWAY, Mr. PALLONE, Mr. LIPINSKI, Mr. GEREN, Mr. MILLER of California, Mr. FOGLIETTA, Mr. SKAGGS, Mr. DE LA GARZA, Mr. BATES, Mr. RITTER, Mr. FAZIO, Mr. BROWN of California, Mr. QUILLEN, Ms. PELOSI, Mr. BUSTAMANTE, Mr. HUNTER, and Mr. MURPHY.

H.J. Res. 507: Mr. FAZIO, Mr. MCNULTY, Mr. WYDEN, Mrs. BOXER, and Mr. MOAKLEY.

H.J. Res. 509: Mr. Bosco and Mr. QUILLEN.

H.J. Res. 516: Mr. LEVINE of California, Ms. OAKAR, Mr. SPENCE, Mr. SHAW, Mr. SAXTON, Mr. GEREN, Mr. MANTON, Mrs. JOHNSON of Connecticut, Mr. KANJORSKI, Mr. SMITH of New Jersey, Mr. KASTENMEIER, and Mr. FAWELL.

H.J. Res. 517: Mr. WILSON, Mrs. MORELLA, Mr. MFUME, Mr. MCMILLEN of Maryland, Mr. HOYER, Mr. SAXTON, Mr. ROWLAND of Georgia, Mr. ROHRABACHER, Mr. CARR, Mr. WHITTAKER, Mr. MCCOLLUM, Mr. YOUNG of Florida, Mr. TAUKE, Mr. LEWIS of Florida, Mr. LEHMAN of California, Ms. SNOWE, Mr. DUNCAN, Mr. GORDON, Mr. MATSUI, Mr. HOPKINS, Mrs. COLLINS, and Mr. SHUMWAY.

H.J. Res. 519: Mrs. BENTLEY.

H.J. Res. 525: Mr. BUSTAMANTE, Mr. COLEMAN of Texas, Mr. ATKINS, Mr. DYMALLY, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. DEFAZIO, Mr. DONNELLY, Mr. LEWIS of Georgia, Mr. DOUGLAS, Mr. MINETA, Mr. NATCHER, Mr. VOLKMER, and Mr. TOWNS.

H.J. Res. 530: Mr. RAY, Mr. ASPIN, Mr. VANDER JAGT, Mr. ANTHONY, Mr. HENRY, Mr. BUECHNER, Mr. DICKS, Mr. HOAGLAND, Mr. LAUGHLIN, Mr. MCDERMOTT, Mr. MINETA, Mr. NEAL of Massachusetts, Mr. SAXTON, Mr. SOLARZ, Mr. TANNER, Mr. WAXMAN, Mr. WEISS, Mr. WISE, Mr. VENTO, Mr. SHAYS, Mr. FAWELL, Mr. BONIOR, Mr. FAZIO, Mr. GEJDENSON, Mr. SMITH of Vermont, Mr. VALENTINE, Mr. LEHMAN of California, Mr. GEREN, Mr. QUILLEN, Mr. GALLO, Mr. COUGHLIN, and Mr. MOODY.

H.J. Res. 533: Mr. KASICH, Mr. MADIGAN, Mr. COYNE, and Mr. COUGHLIN.

H.J. Res. 540: Mr. CLARKE, Mr. BOUCHER, Mr. SMITH of New Jersey, Mr. SHUMWAY, Mr. GUNDERSON, Mr. KASTENMEIER, Mr. HUNTER, Mr. VENTO, Mr. KENNEDY, Mr. HANSEN, Mr. BROWN of Colorado, Mr. CRANE, Mr. HAYES of Illinois, and Mrs. BYRON.

H.J. Res. 559: Mr. ROBERT F. SMITH, Mr. LIGHTFOOT, Mr. DELAY, Mr. BAKER, Mr. DYSON, Mr. PARRIS, Mr. JAMES, Mr. OXLEY, Mr. YATRON, Mr. ROHRABACHER, and Mr. RITTER.

H.J. Res. 565: Mr. HARRIS, Mr. SAWYER, Mr. GINGRICH, Mr. WOLF, Mr. PICKETT, Mr. HORTON, Mr. FAWELL, Mr. LAGOMARSINO, Mr. HAYES of Louisiana, Mr. LEWIS of Florida, Mr. DE LUGO, Mr. OBERSTAR, Mr. APPLEGATE, Mr. SAVAGE, Mr. BORSKI, Mr. TOWNS, Mr. CLEMENT, Mr. MURPHY, Mr. MARTINEZ, Mr. MCDERMOTT, and Mr. LIVINGSTON.

H. Con. Res. 252: Mr. BRYANT.

H. Con. Res. 265: Mr. COUGHLIN, Mr. BLILEY, Mr. MFUME, and Mr. BUNNING.

H. Con. Res. 273: Mr. LAFALCE, Mr. FROST, and Mr. APPLEGATE.

H. Con. Res. 291: Mr. GEREN, Ms. SLAUGHTER of New York, Mr. RICHARDSON, Mr. NIELSON of Utah, Mr. SYNAR, and Mr. VALENTINE.

H. Con. Res. 300: Mr. SOLOMON, Mr. SCHUMER, Ms. KAPTUR, Mr. FROST, Mr. DEFAZIO, Mr. FASCELL, Mr. OWENS of Utah, Mr. PANETTA, Mr. TANNER, Mr. SKELTON, Mr. SISISKY, Mr. CAMPBELL of Colorado, Mr. BRENNAN, Mr. ASPIN, Mrs. BOXER, Mr. DELLUMS, Mr. FAZIO, Mr. JONES of Georgia, Mr. BUSTAMANTE, Mr. ORTIZ, Mr. WAXMAN, Mr. MAVROULES, Mr. SPRATT, Mr. BROWDER, Mr. ACKERMAN, Mr. RUSSO, Mr. EVANS, and Mr. KOSTMAYER.

H. Con. Res. 315: Mr. GONZALEZ, Mr. JACOBS, Mr. DELLUMS, and Mr. FAWELL.

H. Con. Res. 330: Mr. HYDE, Mr. GALLEGLY, Mr. PENNY, and Mr. DEWINE.

H. Res. 134: Mr. VALENTINE.

H. Res. 240: Mr. HEFLEY, Mr. HUBBARD, Mr. LEVIN of Michigan, Mr. DE LUGO, Mr. BATES, Mr. KLECZKA, Mr. FROST, Mr. FAWELL, Mr. FAZIO, Mr. HYDE, Mr. FEIGHAN, Mr. BURTON of Indiana, Mr. HALL of Ohio, Mr. LANCASTER, Mr. MACHTLEY, and Mr. BROWN of California.

H. Res. 374: Mr. MACHTLEY.

H. Res. 387: Mr. PACKARD, Mr. RITTER, Mr. BLILEY, and Mr. SMITH of New Hampshire.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3978: Mr. PERKINS.

PETITIONS, ETC.

Under clause 1 of rule XXII,

179. The SPEAKER presented a petition of Mr. Michael Baldigo, Santa Rosa, CA, relative to Sonoma County's new hospital; which was referred to the Committee on House Administration.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4653

By Mr. AUCOIN:

—Page 10, strike line 14 and insert the following: "export license applications for all categories of goods and technology, including computers,".

—Page 10, line 18, strike "any country" and all that follows through "and that" in line 21 and insert the following:

"(I) any country in Eastern Europe that was a controlled country as of January 1, 1990, and that meets the criteria set forth in subparagraph (D), or

"(II) Poland, Hungary, Czechoslovakia, and any other country that becomes eligible for assistance under the Support for East European Democracy (SEED) Act of 1989,

if such country".

—Page 12, line 14, strike, "of Eastern Europe described in" and insert "described in subclauses (I) and (II) of".

—Page 12, line 16, stirke "(A)(ii)" and insert "(A)(ii)(I)".

—Page 15, line 21, insert after "Committee" the following: ", and with those countries described in subparagraph (A)(ii)(II),".

—Page 16, strike lines 8 through 10 and insert the following:

"(ii) a list of those countries eligible for favorable consideration under subparagraph (A)(ii), pursuant to the proposal.

—Page 16, insert the following after line 10:

"(J) For purposes of this paragraph, the term 'favorable consideration' means a procedure for the review of export license applications in which—

"(i) the Secretary is not required to consult with any other department or agency with respect to any such application,

"(ii) the Coordinating Committee may review any such application for not more than 30 calendar days and may not make its approval of such application conditioned on any technical modifications in the proposed export, and

"(iii) the Coordinating Committee may deny any such application only if reliable evidence has been presented to the Committee demonstrating that the item proposed for export is destined for an unauthorized, non-civilian end use or end user.".

—Page 18, line 8, insert "referred to in paragraph (4)(A)(ii)(I))" after "Europe".

—Page 18, line 10, insert after "(4)(E)," the following: "and the progress of each country referred to in paragraph (4)(A)(ii)(II) with respect to the safeguards described in paragraph (4)(E),".

SENATE—*Thursday, May 24, 1990*

(Legislative day of Wednesday, April 18, 1990)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore.

The PRESIDENT pro tempore. The Senate will come to order. As we prepare to reverence Him who hast been our dwelling place in all generations, the Senate Chaplain will deliver the prayer, Dr. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The son of our man who presides at the guard desk, Art Fleming, will have surgery tomorrow. Let us just have a moment of silent prayer remembering him.

The Lord is thy keeper: the Lord is thy shade upon thy right hand. The sun shall not smite thee by day, nor the moon by night. The Lord shall preserve thee from all evil: He shall preserve thy soul. The Lord shall preserve thy going out and thy coming in from this time forth, and even for evermore.—Psalm 121:5-8.

Eternal God, omnipotent, omniscient, and omnipresent, as the Senators disperse for their varied activities during this recess, may this promise of the Psalmist be fulfilled in their lives. Bless their time with their families and opportunities with constituents and whatever responsibilities fall to them. Help them to find time for rest and recreation and renewal. And bring them safely back to the tasks which await them.

"The Lord bless you, and keep you: The Lord make His face to shine upon thee, and be gracious unto thee: The Lord lift up His countenance upon thee, and give thee peace." Amen.

The PRESIDENT pro tempore. The Senate will be in order.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order the leadership time is reserved.

OMNIBUS CRIME BILL

The PRESIDENT pro tempore. The Senate will now resume consideration of S. 1970, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Thurmond amendment No. 1690, to add a "right versus wrong" standard to the term mentally retarded.

The PRESIDENT pro tempore. The pending amendment is the amendment by Mr. THURMOND, amendment No. 1690, on which there will be 90 minutes of debate equally divided and controlled by Mr. THURMOND and Mr. BIDEN. Mr. THURMOND is recognized.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, the underlying bill contains as title I, a modified version of the Federal Death Penalty Act, which I introduced. There are several serious problems with this version of the death penalty and this amendment addresses one of them.

I am opposed to the provision in the underlying bill, S. 1970, which would categorically prohibit the execution of a capital defendant solely because he claims he is mentally retarded without regard to whether the defendant knew the difference between right and wrong.

The amendment I am offering to the bill modifies the underlying death penalty language and is based upon the constitutionally recognized principle that punishment must be directly related to the defendant's personal culpability. It would require that no person could be executed who was mentally retarded and who wholly lacks the capacity to appreciate the wrongfulness of his actions. In other words, it would prohibit the execution of mentally retarded persons who do not know the difference between right and wrong.

This principle was recently affirmed by the Supreme Court of the United States in the case of Penry versus Lynaugh. In this case, Mr. Penry was sentenced to death in Texas for having brutally raped, beaten, and stabbed to death, with a pair of scissors, Pamela Carpenter, the sister of former Redskins kicker Mark Moseley.

The issue before the Supreme Court was whether Penry was sentenced to death in violation of the eighth amendment because the jury was not instructed that it could consider and give effect to mitigating evidence related to his moderate mental retardation when deciding whether the death penalty should be imposed.

The Court held that the jury, in a capital case, must be allowed to consider and give effect to mitigating evidence of mental retardation. In fact, the Court remanded the case to the Texas State court for a new sentencing hearing.

Mr. President, the Penry decision appropriately recognized that it is cruel and unusual punishment to execute severely retarded persons and those lacking in the capacity to appreciate the wrongfulness of their actions.

I do not dispute this holding. The Court went on to note that such retarded persons would not be convicted today since the modern insanity defense generally includes "mental defect" as part of the legal definition of insanity.

In addition, retarded persons would not be considered since the case of Ford versus Wainwright prohibits the execution of persons who are unaware of their punishment and why they are being punished. Proponents of this amendment would have the Nation believe the Supreme Court has authorized the execution of severely retarded individuals. This is not the case.

Where the Supreme Court and this bill's proponents part company is on the issue of whether the eighth amendment categorically prohibits the execution of all mentally retarded capital murderers regardless of whether the murderer knew the difference between right and wrong and was capable of conforming his conduct to the requirements of law.

The Supreme Court held that the eighth amendment does not prohibit the execution of such individuals. The Court concluded that it cannot be said that all mentally retarded people, by virtue of their mental retardation alone, inevitably lack the ability to understand the difference between right and wrong and conduct themselves accordingly.

Mr. President, the Court went on to hold that the concept of "mental age" or "intelligence quotient" is an insufficient basis for the eighth amendment rule since it is imprecise, and does not

adequately account for individuals' varying abilities.

I would like to repeat that because I think that is a very key point in this matter.

The Court went on to hold that the concept of "mental age" or "intelligence quotient" is an unsufficient basis for an eighth amendment rule since it is imprecise, and does not adequately account for individuals' varying abilities. Proponents of this legislation would have an IQ test, or a mental age determination by a partisan witness, determine whether a sentence of death is appropriate rather than the determination of jurors and judges sworn to uphold the law. The issue of whether these defendants knew right from wrong would be tossed aside.

Finally, opponents of this amendment suggest that there is a national consensus against executing any, and all, capital murderers who are retarded. Yet, the Supreme Court in Penry found this not to be the case. In fact, only one in three States currently have categorical prohibitions against the execution of the mentally retarded.

In closing, the decision whether to sentence a capital murderer to death should not rest on the imprecise findings of psychologists. Every Senator here today knows that all death row inmates will claim they are mentally retarded and will be able to hire unlimited psychologists who will agree with them. The decision whether to give a particular defendant the death penalty should rest upon the—whether he knew right from wrong and could conform his behavior to the law. The more Congress takes away these decisions from the juries and gives them to statisticians and psychologists, the more we throw into serious question the principles that underlie our criminal justice system.

For these reasons, I urge my colleagues to vote for this amendment.

Mr. President, no right thinking human being wants to execute a person who does not know right from wrong. But just to claim that they are mentally deficient without an appropriate standard does not make sense. In other words, if a man goes out here and kills seven or eight people and then tries to go in court and claim mental retardation without the question being decided as to whether he knew what he was doing—and knew right from wrong, then the Supreme Court says that he can be held responsible for his actions. If he did not know right from wrong, then he would not be held legally responsible. That is the issue here today.

Are we going to follow the Supreme Court's ruling when a man is charged with a crime to say whether he knew right from wrong? If he did not know right from wrong, that is one thing. If he did know right from wrong and he knew what he was doing when he murdered the innocent, why should he not be held responsible? We feel that is the only sensible course to take.

This matter has gone on for years and years in different States and different courts. The Supreme Court has ruled that you will not hold a man responsible if he does not know right from wrong. You will hold him responsible if he does know right from wrong. What fairer test could you have?

This is the standard in most States, it is the standard the Supreme Court of the United States has held is a proper test. We feel that this amendment that I have offered should be adopted.

I urge my colleagues to take the view the Supreme Court has taken, and the courts in most of the States have taken, and follow this course.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I would like to make it clear what I think this debate and this amendment is all about. This is not about being against the death penalty. So I think it is important we start off there.

I have introduced a bill with the cosponsorship of many of my colleagues that increases the number of offenses for which death is a possible penalty. But I have always believed when we are talking about the death penalty that we should be sure that when that ultimate sanction is being imposed we are as reasonable, we are as fair, and we are as judicious as we possibly can be. And, as a society, once having decided that that ultimate sanction will be applied, we should at least have it reflect, in the process of deciding that, the values that we as a nation and we as civilized people stand for.

I realize there are many among us who disagree with me and with the Presiding Officer and others in this body and suggest that the death penalty under any circumstances for any reason is not a legitimate reflection of what the values of this society should be, and there is healthy and honest disagreement on that point. But I happen to think that there are certain crimes and acts for which society has the right to impose the ultimate sanction.

But, Mr. President, when one concludes that that sanction should be imposed, there are limits upon which one would consider imposing it. For example, no one would consider, to take the extreme—and I do not think anyone disagrees with this—no one would consider that if a 6-year-old or a 5-year-old child committed murder, that we would go out to the public gallows and string up a 6-year-old.

I do not think anyone, on the other hand, would suggest if anyone who was clearly mentally retarded, clearly lacking the intelligence quotient to be able to comport themselves in any way remotely like what we in society would think would be normal behavior—not because of anything they did themselves, not because of anything that they intended, just because they were born that way—that that person should be strung up or sat in an electric chair or given a lethal injection.

So I suspect as we debate this issue and as we come to resolution on it shortly, we are all going to have to reach down inside and decide are there circumstances under which we would need to put someone away because they are such a threat to society, because they are dangerous—are there circumstances where we would put them away, but conclude that we should not put them to death; whereas, someone else, a different age, with a different mental capacity, we might very well conclude they should be put to death? So, what we are talking about here is not death penalty versus no death penalty. We will have that argument later.

We have outstanding colleagues on this floor who believe with every fiber in their being the death penalty is immoral, a negative reflection of the values of Judeo-Christian ethics, and others do not. That is the debate on death. This is a debate on humanity. This is not about death. This is about measuring ourselves in the degree to which we are humane.

It seems to me my distinguished colleague, Senator THURMOND, and I have reached a compromise—at least he and I have—on the death penalty bill. He and I agree on the number of crimes to which the death penalty shall be extended. He and I agree that we should not put someone to death for having committed a crime while they are a minor. We may put them in jail for the rest of their lives, but we do not put them to death. He agrees with that.

What we are disagreeing about here is whether or not someone who is not criminally insane, not the victim of temporary insanity, not someone who acted in the heat of passion, but someone who is mentally retarded, who does not have the mental capacity to achieve the ability to act, ever, as an adult. We all know people that way. We all know families into which people are born who do not have a

high enough intelligence quotient to ever achieve a degree of maturation about which society would say we can justly and fairly measure their actions against every other person in society, notwithstanding they do not have the mental capacity. Nothing in the world that they can do—nothing—can bring them to the point where they will be able to achieve the degree of maturity that their brothers and sisters in the same families, that their mothers or fathers, or that anyone else can.

As I said, some antideath people may think if we are going to have the death penalty the retarded should be eligible, too, as well as those prodeath people who think that as well. But I think we are being incredibly naive, and saying so much about ourselves as a nation that is negative, if we cannot distinguish, if we cannot understand that there are graduations of culpability, and that there should be circumstances under which we as a civilized nation say, my God, am I going to put to death someone with a 45 or a 50 I.Q., who can barely walk and talk, because they committed an offense that resulted in the death of someone else?

We may have to take that person and say take them off the street and they will be put away forever and a day. But, my God, I cannot fathom the notion of strapping down someone with a 60 I.Q. in a chair and saying now you are going to die for your sins against humanity. From their perspective there has already been a sin against humanity committed and it was one committed on them when they were born.

Let me tell my colleagues what else this is not about, and I make this point again: It is not about mental insanity, it is not about instability, it is not about emotional upset; this amendment has nothing to do with John Hinckley; this amendment has nothing to do with the insanity defense; this has nothing to do with temporary insanity or mental derangement. This is about mental retardation, a permanent condition of being stunted in your mental growth. That is what it is about.

If we say here it is humane not to put to death a 15-year-old person who commits an offense, why would we put to death a 30-year-old person, a 40-year-old person, with the mental capacity and growth of a 14-year-old? Why would we do that? Why do we say that if a child commits an offense we will not hang him, but if it is done by a 50-year-old man or a 50-year-old woman with a mental capacity less than that child, oh, we will hang that one?

(Mr. REID assumed the chair.)

Mr. BIDEN. Mr. President, is physical maturation a test of one's ability to function in society? If we do that, then we should go along with a tape measure and decide everybody who is 6 feet should be held at a higher standard, no pun intended, than someone 5 foot 10; someone who is 6 foot 3 at a higher standard than someone 5 foot 7.

This is crazy. What are we? What possible benefit do we get as a nation? What do we say about ourselves when, for the possible one person in probably 20 years who will fall under this Federal death penalty provision for the mentally retarded, we insist as a nation to write on our books that we are going to put mentally retarded people to death.

What I am about to say I think is very important. There is no dispute over what the meaning of retardation is, no dispute. Even the Supreme Court, who said you can execute the retarded, recognize we all know the definition of retarded. The definition is a person with an IQ of 70 or less, or put another way, with a mental capacity, with a mental age of 12 or less.

Think about how incongruous we are about to become if we vote for this amendment. We are going to say we cannot put to death someone who is less than 17 years old at the time they committed the offense, yet every psychologist, psychiatrist, every physician, everyone agrees that someone lacking the IQ of 70 cannot and does not achieve the socialization, the maturity, the intellectual capability of anyone over the age of 12. We all agree to that. We all understand that.

So we are going to say in the same bill, put them to death at age 12, in terms of their capability. Keep in mind, now, we are not talking about some sort of artsy craftsy liberal notion of was this person insane at the moment. I have 14 psychiatrists who say he is, and 12 that say he is not. I have nine that say what triggered him was his flashback at a moment to an event when he was 7 years old that caused him great pain, and all that malarkey.

We are not talking about that. We are not saying that at all. We are saying if you march into a courtroom a child who happens to be 40 years old, you can look at him, you can talk to him, you can tell that person has an exceedingly low IQ. We are saying we are going to put that person to death.

Senator THURMOND and I are not fighting over the definition of mental retardation. We both know what it means. Our debate is over whether or not we should execute the retarded. Senator THURMOND says that if the retarded person knows the difference between right and wrong, they should be eligible for the death penalty.

I say that we should ban the execution of the retarded, period. It is barbaric. Keep in mind, a 15-year-old knows the difference between right and wrong, and we are all agreeing we are not going to put a 15-year-old to death.

A 10-year-old can know the difference between right and wrong. There is no dispute about that. But we are agreeing, whether they do or not, we are not going to put them to death as a society. We are not going to say, "Ten-year-old kid, you did it; you're dead." Everyone in here is saying we are not going to do that. We are talking about someone who is not insane, not temporarily insane, not temporarily deranged. What we are saying now is very basic and very simple: If you are so mentally stunted in your growth, and observably so; if you have the inability because of your diminished mental capability of ever achieving a level of maturation above the age of someone who is 10 of 12 or 14—we do not even get that high—we are not going to put you to death. We will put you in prison for life with no possibility of probation or parole, but we are just not going to do that.

This is coming from a guy who supports the death penalty. Let my colleagues who are listening to this make no mistake. It is the Biden death penalty bill that we are voting for. It is the Biden death penalty bill that increases the number of offenses for which someone can be put to death. And it is Biden who is saying, but for God's sake, if we acknowledge you should not put children to death, acknowledge we should not as a nation put to death the mentally retarded.

One other point I want to make to my colleagues, this is not a case about dueling experts. Now we are each going to bring into court our experts. It is kind of hard to fake your IQ. You have to be awfully smart to be able to fake for your whole life that your IQ is below 70. I never could quite understand the rationale for trying to do that your whole life, because that is what we are talking about.

It is not someone who walks in and says, "By the way, my client, look at her; she has an IQ of 70. She took a test in the pyschologists's office and she flunked."

They roll in five people who say, "How come I saw that kid go through high school with me? How come that person was able to do—"

A person is not going to fake having an IQ below 70. So this is not about dueling experts: My expert says this person is insane; my expert says this person is not insane. Forget the experts. They are out of it. This is simple common sense and humanity.

By the way, let us talk about what the Supreme Court said, because we all around here, myself included, my colleague Senator THURMOND and my colleague Senator HATCH, quote the Supreme Court in tones of reverence when we agree with them. And when we do not agree with them, like Senator DANFORTH does not, and others do not, on their ruling relative to segrega-

tion, we intone them about nine arrogant people sitting on the bench. We can do it all in the same day, in the same breath.

Right now, you will hear the Supreme Court intoned. The Supreme Court says it is all right to put mentally retarded people to death. Just because the Supreme Court said we can, that does not mean we should, because what the Supreme Court went on to say was that the decision is not up to them.

All the Court said was we could execute a retarded person if we wished; that the moral decision was ours because we in this body, and our colleagues in the House, are supposed to reflect the moral values of the Nation. The Court said, if you do not think there is a moral value consequence, we cannot write it into the law.

Or conversely: Because you did not express whether or not there should be a moral prohibition and a legal prohibition as a society from executing 12-year-olds, mental 12-year-olds and physical 12-year-olds, because of that, the Court said you can do it.

Last year when we passed the death penalty for drug kingpins, we prohibited the execution of the retarded. We made that choice. We did it last year.

For all those of my colleagues going around with good reason and saying they supported that bill that Biden and many others had in there last year that included death for drug kingpins—the thing the President keeps saying he wants and he forgets he has—when my colleagues voted for that, they voted to say we are not going to execute someone who is mentally retarded.

We made that choice once already. My colleagues have already voted once for sanity, for social sanity. Let us make that same choice again.

Let us show that our support for the death penalty is bounded by humanity, that we support the death penalty, but it is bounded by humanity. Let us forbid the execution of people who mentally, under a measure agreed upon by all, are children under the age of 12. We do not execute children. Let us not execute people who never get beyond that stage in their life through absolutely no fault of their own.

In conclusion, there are other death penalty States that ban execution of the retarded, I might add for my colleagues. This is not something wacky. This is not something crazy. This is not something that some of my liberal friends have come to me and said, "Joe, I can support your death penalty ban, but put this in so we can show it up." I never heard anybody talk about the border States in the South being particularly antideath. The State of Georgia says hang them unless they are mentally retarded. The State of Maryland says death unless they are mentally retarded—not insane, mentally retarded. The State of Kentucky says death but not for mentally retarded. The State of Tennessee says death but not for the mentally retarded.

I believe the reason why many more States have not passed such a law is there is the implicit assumption that we would not put to death people who are under the age of 12 in their capability by any measure. These are people who from the time they were born, in most cases, were never able to achieve, never able, through no fault of their own, to reach any degree of maturity. I only hope that they will resist the Thurmond amendment and support the Biden death penalty bill with which the Senator from South Carolina is now only in disagreement on two points, this being one of them.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield the distinguished Senator from Utah as much time as he requires.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I think it is time to put this in perspective. If the Biden amendment stays in the way it is and we do not vote for the Thurmond amendment, then I guarantee that in every case they are going to claim mental retardation. Seventy percent of all of the convicted murderers in this country today claim mental retardation, maybe not even at trial but long after trial because of the suffering and pain that they have experienced.

All the distinguished Senator from South Carolina would like to do is allow the mental retardation defense for defendants who do not know right from wrong. But his point is this: If they know right from wrong, they ought to face the consequences. The majority of prisoners on death row today claim that they are retarded, not that they do not know right from wrong, not that they did not commit the murder or murders as is the case; as many, I understand, as 70 percent of them. I can bet you that almost 100 percent will claim it if S. 1970 is enacted and the Thurmond amendment is not added to it.

Let us understand something. The trial comes up. Defendants can raise any issue about mental capacity, disability, or retardation they want. The jury will determine whether that person is mentally retarded enough to not know right from wrong in most jurisdictions in this country. They have a full at bat for showing mental retardation and influencing the jury. They can bring in all the psychiatrists they want, all the social workers, friends and family, all the associates. They can bring in experts galore. The jury then decides, "No, you knew what you were doing. You cold-bloodedly murdered that person, and we find you guilty."

Then the sentencing comes up. They have a right to come in and do it all over again. They can then go completely through it again with psychiatrists, social workers, all the experts they want to bring in to show mitigation. The jury says, "No, you knew what you were doing. You killed these people. You did it in cold blood. It was a cold-blooded murder, and we find, after all of this testimony"—this is a jury of peers—"death is the sentence you should have."

The Biden amendment in this bill then goes and gives them a third time, only it says it a little bit differently. It says, if you can show you are mentally retarded, you cannot be executed. You will stay in jail the rest of your life, but do you not have to suffer the death penalty. This is better than habeas corpus for prisoners. They can raise it at any time.

We went through habeas corpus yesterday, and we are going to vote on it again today, but we went through habeas corpus yesterday and we know that just the appeal process in the Gacy case took 9 years. The trial started in 1980, as I recall, and it went 9 years, to 1989, before the Supreme Court rejected the appeal on the matters affecting the trial. The habeas process starts this year, and, if it is like William Andrews in Utah, you can count on 10 more years after this year and maybe way beyond that if the current Graham habeas language is kept in this bill. That is about 27 years at that point, and he is still not executed. I can guarantee you in that 27 years they will be back in time and time again, time and time again claiming mental retardation. And if they can find a sympathetic forum, they are going to get off from what the jury of their peers decided, what the Court decided, what the appellate process decided, what the habeas process decided, in countless appeals, even if the Graham habeas amendment is what we wind up with in this bill.

All the distinguished Senator from South Carolina is saying is, look, we will give consideration to mental retardation, but, if they know right from wrong, they should not be able to use that ad infinitum and they should not be able to use that over and over again until they finally are able to convince somebody down the road, be it a 27-year period, or 17-year period as in the case of Andrews, or 9-year period as in the case of Gacy that is going on forever—if they find some sympathy in that 27 years, they can then get off from the heinous murder that they have caused.

This is a soft, artsy, liberal approach that is for one reason and one reason only, and that is—and it is a legitimate reason if you believe this way—the

folks who advocate it do not want the death penalty under any circumstances, and this is just another way that they can prevent the death penalty.

Mr. BIDEN. Will the Senator yield for a question, a very short one?

Mr. HATCH. Go ahead, on the Senator's time.

Mr. BIDEN. On my own time. Does the Senator think we should put to death a 12-year-old child who knows right from wrong and says, "Daddy, I'm shooting you," boom? I do not think we should put to death a person who is mentally retarded.

I yield the floor.

Mr. HATCH. Wait. Who does not know the difference between right and wrong?

Mr. BIDEN. What is the distinction, if I may ask my friend?

Mr. HATCH. The distinction is that the law takes empathy and has sympathy for children and the law does not have the same degree of sympathy for adults who know right from wrong even though they might not be geniuses.

Mr. BIDEN. Even though they are mentally retarded?

Mr. HATCH. Mental retardation, who determines that? Are we going to determine it by objective tests, because there are none. Are we going to determine that because there is some scientific way of determining mental retardation? There is no way of doing that. It comes down to what experts say, and you have experts on both sides of that question. And, if they can, in that 27-year period I have just outlined, find some sympathetic group, liberal, if you will, they are going to get off. It is that simple. The American people say, we are sick of it. We have jails competely full of these people who have committed cold-blooded, premeditated murder who are adults who know right from wrong, and the majority of them claim they are mentally retarded.

Seventy percent have made claims at one time or another, as I understand it. Look at S. 1970, the Supreme Court ruling in the recent case of Penry versus Lynaugh. In that case, the Court held that the eighth amendment does not categorically prohibit the execution of mentally retarded capital murderers. The Court stated that it may indeed be cruel and unusual punishment to execute persons who are wholly lacking in the capacity to appreciate the wrongfulness of their actions. Such persons, however, are not likely to be convicted or face the prospect of punishment today, since the modern insanity defense generally excludes mental defect as part of the legal definition of insanity.

Ford versus Wainwright prohibits the execution of persons who are unaware of their punishment. They should not suffer.

There are plenty protections for mental retardation in the law today. I agree with those. I would even go farther. If the crime is not heinous, if it is not willfully meditated, heinous, vicious crimes, I would have a difficult time using the death penalty under those circumstances. But where you have a heinous, vicious, willful, premeditated crime, where the person knows right from wrong, they should not escape from the consequences just because somebody else claims they are mentally retarded.

I remember when people felt that Steinmetz, the greatest mathematician in the world at the time—because he did not make good grades in certain areas of schooling—was mentally retarded. He turned out to be one of the greatest geniuses in the history of the world.

We all know that every criminal claims that he is not responsible for what happened because of what happened in his past. The court has provided guidance in each case. A criminal cannot be executed if he or she was insane at the time the murder took place, or at the time of trial. The language of the amendment of the Senator from South Carolina follows the courts' criteria. As such, the defendant's mental condition will not be ignored. It has to be considered as a mitigating factor.

So, to summarize, I believe truly mentally retarded people who do not know what they were doing should not be sentenced to death. I agree with that. Any humane person would. But there has to be a standard. That standard ought to be, if they know right from wrong, they should not be able to escape the responsibility for it.

Dalton Prejean willfully and premeditatedly killed a police officer, a Louisiana State trooper. What was his defense? He was mentally retarded.

I have to admit, if he was truly mentally retarded and did not know right from wrong and the jury determined that, he should have gotten life in prison or have been put in a mental institution. But he knew right from wrong. The jury knew he knew right from wrong. The jury knew that he knew what he was doing. He was not mentally retarded enough to not know what he was doing.

That is all the distinguished Senator from South Carolina is saying. If they are mentally retarded, they do not know what they are doing, you are right, Senator BIDEN. But, if they are mentally retarded or claimed they are, they know what they are doing, they did it in a willful, vicious, premeditated way, by gosh, society ought to be able to have this option to prevent it in the future, because mentally retarded people who know right from wrong can be deterred from doing these things if they know there is an ultimate sanction against what they are doing.

But the real issue is this. People who are not mentally retarded, but who will act like they are, who will claim that they are, and who can get any kind of a psychiatrist they want to say that they are, these people will be making these claims ad infinitum, long after the trial where they are protected on the insanity defense, long after the sentences where they are protected on the insanity defense, and long after any mitigating circumstances thereafter, or all of these repetitive habeas appeals or petitions in accordance with the Graham amendment, if that is what we adopt here today.

The fact of the matter is, we have to set some standards that society can live with, that protects society. That is all the distinguished Senator from South Carolina is doing. He is not saying we are insensitive to mental retardation, nor that we are insensitive to murder, nor that we are insensitive to our fellow human beings being killed in a premeditated way, nor that we are insensitive to not doing what we can for those people by stopping it and deterring it. That is why we have the death penalty. It works. Prejean is never going to kill another trooper again.

There are all kinds of other illustrations just like it. In every case, you are going to find these people claiming mental retardation, except where it is patently clear that they cannot. It is just another way of trying to prevent the death penalty. It is clear that is what it is.

I ask my colleagues to listen to the distinguished Senator from South Carolina. He is right on this issue. We ought to support him. Those who are totally against the death penalty, they are going to vote the other way. We understand that. They are principled in doing so. Wrong, but principled.

The fact of the matter is, let us not be misled by this type of an argument that these mentally retarded people are all going to claim. Many, many more are going to get off. There are going to be other Prejeans who kill troopers. People will say, why were we not doing something about it when we had the chance. This is the time to do it. The only way you can do anything about it is to vote for the Thurmond amendment.

I reserve the remainder of our time.

The PRESIDING OFFICER. Without objection, the Senator from Massachusetts is recognized for 10 minutes, the time to be charged to Senator BIDEN.

Mr. KENNEDY. Thank you very much, Mr. President.

I want to state at the outset that I do not come to this debate without strong personal feelings since I have a

sister who is mentally retarded. So I have spent some time learning about the affliction and I have strong feelings about this particular amendment.

It is truly amazing to me, Mr. President, that we would be addressing this particular amendment of the Senator from South Carolina on this measure. In 1988, we passed the drug bill containing the first Federal death penalty provision since Furman and Gregg. In that law we excluded from the possible application of the death penalty those with mental retardation. I have to ask my colleagues who are supporting this particular proposal: What has happened in this country over the period of the last 2 years that should lead us now to make sure that we are going to be able to give the ultimate penalty, the ultimate penalty to those who have mental retardation? Where is the crime wave by the mentally retarded? Where is it, Mr. President? What has happened in the last 2 years since the Senate went on record in the 1988 omnibus drug bill against execution of the retarded? That bill did not say we will not punish the retarded; it did not say we could not give lifetime in prison to those individuals who have the mental capacity of a 12-year-old. It did not say that.

But the pending amendment says that if they have retardation but can tell the difference between right and wrong, they are going to be eligible for the ultimate penalty of death.

In fact, Mr. President, this is not just a little add-on to the mental retardation provision in S. 1970. Include those words of the Senator from South Carolina, and you change the ball game in a very dramatic and significant way. The reason is that the Thurmond amendment describes an empty set. We ought to understand that from various court holdings. If you cannot tell the difference between right and wrong, you probably will not be tried in the first place, whether you are mentally retarded or not. You are probably criminally insane or incompetent to stand trial.

So let us understand the significance of the few little words, the difference between right and wrong. Generally speaking, maybe with rare exceptions, if you cannot tell the difference between right and wrong, you do not go to trial, mentally retarded or not.

So, Mr. President, these few words about telling the difference between right and wrong added to the words that exist in the current proposal effectively say you can go ahead and execute just about anyone, mentally retarded or not.

Mr. President, an argument has been made here on the floor of the U.S. Senate that all criminals are going to say that they are mentally retarded, and therefore escape blame. This is ridiculous on its face and the argument would not be made by anyone who understands mental retardation. Under the existing legislation, the burden of persuasion is upon the defendant to demonstrate that he is mentally retarded and lacks the IQ of 70, part of the definition which has been accepted by the Supreme Court of the United States. We heard just now that there is no definition. That is not so.

The Supreme Court of the United States has recognized that there is a definition, and referenced it in the Penry case. That is the same kind of definition that is included and referred to in the Biden bill currently. It has been accepted by the American Psychiatric Association and by the American Association on Mental Retardation.

Effectively, if you are going to be able to qualify as mentally retarded, you have to demonstrate over the course of a lifetime that you have needed treatment. You cannot just go in and say I am mentally retarded. Any court would throw you out. You have to demonstrate over a lifetime of examinations or medical treatment, over a lifetime, that you have these deficiencies.

So anyone that says that, well, you are going to be found guilty and then you are going to say mental retardation, does not understand what mental retardation is about, has no idea what it is about. None.

Mr. President, it is extraordinary to me that we say on the one hand we will not apply the death penalty to someone who is 16 years old, on one part of the bill, and say, OK, over here someone who only has the mental capability and intelligence of a 12-year-old, we are going to fry them. I cannot understand the logic of that. I just cannot understand that, Mr. President.

This is really a proud moment in the U.S. Senate as we are about to enter the 21st century, about the only democracy in the world that has the death penalty, and we are debating now whether we are going to execute the mentally retarded. That says a lot about our society, about the United States of America. Where are we? Where are we, Mr. President?

The proponents of the amendment say: Let us go ahead and execute those individuals. Let us go ahead. But what are we trying to accomplish? Are we going to try to deter with the punishment of the death penalty, that we are going to take individuals of 70 IQ or less, and we are going to deter them because we here in the United States are passing a death penalty? Does anybody believe that is going to deter the mentally retarded? Of course, it is not. Are we declaring here in the U.S. Senate that we want retribution on those mentally retarded, so we are going to execute them? That is real retribution for our society. Mr. President, that says more about our society today than anything else.

I hope that we will accept the challenge of the Supreme Court in the Penry case, which is very clear. The Court in that particular decision was inviting legislatures to act and respond. A number of the legislatures have done it. Four States have acted and responded, and we have a responsibility to act and respond as well with the criteria that we want in terms of the death penalty.

I believe that what is included in the current legislation, its definition of mentally retardation, is a definition that has been accepted by the Association of Mental Retardation, the American Bar Association, referenced by the Supreme Court of the United States, and would, I believe, be accepted by the broad scope of American public opinion. By adding the language of the Senator from South Carolina, we are effectively gutting any kind of effective protection for the mentally retarded. I hope that the amendment will be rejected. I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

Mr. SIMPSON. Mr. President, I have listened to my friend from Massachusetts, who I work with in so many areas and who I enjoy so very much. He is a spirited legislator, and I was off the floor the other day musing in the library when I suddenly heard this ringing voice coming from inside the Chamber—as if the very pillars were to be pulled in upon each other. It was my friend from Massachusetts.

He and I have had spirited debates like that, and he speaks with great passion. He speaks from a source that none of us will really ever know in these areas, because of the loss of two dear and stalwart brothers at the hands of two really sick people. So, that is something we have to weigh and consider always when we hear our friend from Massachusetts speak. That passion is something none of us would ever even perceive.

With that in perspective, to get back to this issue—and it is tough one—for we are talking about killing people. But we are also talking about killing people who have killed other people. And we are talking about people who did it in a hideous, vicious, brutal, and foul way. That is what we are talking about.

My friend says, "What has happened in America? What has happened at this time of our life as a Nation?" I guess the answer is, and it has to be heard, "Too many people are getting away with murder." It is that

simple. Too many people are getting away with murder. They are clever. They have a battery of attorneys who join them. We fund attorneys in this country to help the poor and the destitute with divorce, and rent, and problems of everyday life, and for some reason, they all gravitate to these screwballs. They help them petition, and petition, and petition, ad infinitum. That is a sick part of what has happened in society. We set up a system to take care of people and all those funds and energies have been subverted by people who just cannot wait to get in and see if we can find another Birdman or somebody else. At best, you get about 1 out of 1,000.

But I tell you, we must remember that before you can be charged for first degree murder, you must have known the difference between right and wrong. The prosecution must prove it to a jury. The Government must prove that the defendant did the act and did it knowing right from wrong. That is the law. Also, to be convicted of first-degree murder and be sentenced to death, the defendant had to have committed the murder in an especially cruel and beastly and vicious manner. That is now the law.

It is not like the 8-year-old or the 12-year-old shooting his dad and going, "Zap, you are gone, dad." That is not it. Maybe I am the only one that ever was involved in a couple of first degree murders. I have dealt with heavy lidded, slack jawed people, who sat there after raping and pounding some woman to pieces and I said, "Why did you do that?" And he said, "I like it." And I said; "You sick slob."

I remember doing that with one man, and the "shrink" ran in from the other room and said, "You cannot call him a sick slob." I said, "I just did." And he said, "Oh, now we are going to have to go now and repair 283 hours of psychotherapy."

I said, "I am not sorry that I did that, but since I was court appointed here, I thought I would ask that. Now I have another question, Doctor. What is there to make us feel certain that he won't do it again?" Then the doctor said, "Oh, I hope you would have asked that question outside of his presence. That will set him back another 10 years."

Well, it must have.

Anyway, he was released and he went back into society and he got a job and his roommate did not know what his past was—thank heavens. He got through that period of his life, and then he married. Then he came home 1 day after a day at his job and he sliced his wife up into 83 sections and plastered her on the wall.

So for every story you have to tell me, I have one to tell you. That is what often irritates people on the other side. There are some people in life who are humans only in the name of anatomical essence. Other than that, they are bums, animals, and beasts, and they ought to be salted away.

Mr. President, I support capital punishment. This is crucial to meaningful crime control. I understand, though, that this is a deep and personal moral issue, too—my own father stands exactly and diametrically apart from me on this issue. When he was Governor of Wyoming, he refused to carry out the final act of capital punishment—he commuted the sentences of several on death row. So I understand fully the reasons of those who honestly and openly oppose capital punishment.

I, on the other hand, feel that capital punishment is an important deterrent to crime. I support that concept—there is also an important factor of "social retribution" served by capital punishment.

We should not allow our compassion for the life of a convicted man to dilute our revulsion and disgust at what that individual has done. Capital punishment is reserved for only the most heinous of crimes. These are crimes so brutal, so devious, so evil, that even the strongest-willed individual is sickened by the act.

These murderers are human only biologically—they are animals in terms of behavior. Too many of these individuals commit their atrocities, are apprehended, and sit smugly in court laughing at society and the judicial system—they know that they will likely die of old age before society has its due. They have no remorse or regret. There is no atonement in these people. They are evil through and through, and society is better off without them.

By their own actions, these individuals have let it be known that they will kill again if given the chance—either while in prison or out on parole, they will kill again. The only certain method to assure that these persons do not kill again is through the use of capital punishment.

Government has another role in this issue. The families of the victims of these atrocities are now looking to Government to keep its end of the contract. The victims' families are following the rule of law, they are asking society—Government—us—to do what we promised and mete justice out where this particular form of justice is warranted.

Think very carefully about the kind of beings that are subject to the ultimate sanction. We are not talking about, as prosecuters say: the "garden variety murderer." What we are talking about in capital murders are the most cruel, the most vicious, the most beastly acts of inhumanity imaginable.

These murderers have made their views of the value of human life very clear: to them, human life has no value; to these murderers, human life is beneath contempt, it is something to be "snuffed out" with absolutely no remorse what so ever. Many of these murderers enjoy killing; they may even delight in it! Many want to do it again. Many have. And some of those who are interminably delaying their executions with countless frivolous appeals will kill again, even while they are in prison.

As long as these particular individuals live, society is at risk. We should not waste our compassion on these individuals.

Direct your compassion, instead, to the families and loved ones of the victims of these heinous acts. Consider the suffering that is with them every time an execution is delayed on a string of frivolous appeals. Have compassion for these people, if you have no compassion for the suffering of the victim.

Juries may not consider the suffering of the victim during the guilt phase of a murder trial. Consider also, and have special compassion for, the families and loved ones of future victims. Even if those are the families and loved ones of prisoners who, themselves, are at risk during their terms of incarceration.

We constantly talk about the rights of individuals. A criminal trial is carefully conducted to ensure that the rights of a defendant are guaranteed and scrupulously protected. Great pains are taken to make very sure that a conviction is based purely on the evidence—a great deal of potential evidence is never presented to a jury because of the overwhelming concern for the defendant's rights.

That is why the Thurmond amendment is important—crucial—if we are going to enact meaningful legislation. This amendment clarifies language that would frustrate the desires of the American people.

Many are going to suggest that we are going to be executing mental incompetents if this amendment is passed. That is simply not true. The crafters of the language we are trying to amend know that and the opponents of the Thurmond amendment know that.

The simple fact is this: mental competency must be proven, not argued, but proven, at the beginning of the trial stage. It must also be proven during the sentencing phase. That is already the law.

As the language currently stands, the most heinous, devious, clever and deceptive butchers on death row will be able to fake mental retardation to avoid the only penalty which is appropriate for their acts of butchery. That is what we are talking about. Insidiously clever butchers, and only those kinds of people, get the death penalty. All that we are trying to do with this amendment is to make it clear that

the death penalty will not be imposed if it can be proven to the court that the murderer, at the time of execution was completely and wholly "lacking in the [mental] capacity to appreciate the wrongfulness of his act."

Do not allow yourselves to be duped into believing that such a person could ever be convicted of murder in the first degree, a person must be proven to have acted with the knowledge and intent of killing. Planned, premeditated, and carefully orchestrated acts of butchery. As the law is today, a convicted murderer can not be given the death penalty if they do not comprehend right from wrong.

Society has rights, too. Society's concerns are not voiced in a criminal trial. The courts are charged with the duty of enforcing the law and protecting individual rights. It is only here, in Congress, that the rights of society are considered. It is in this body where the rights of society must be debated.

We are charged with the duty of protecting the rights of society. So far, I fear, we have fallen behind in ensuring the right of society to be protected from vicious crime. We have a constitutional and moral obligation to the law-abiding citizens of this country to make sure that they are not put at risk of life and limb needlessly. We now have a unique opportunity to partially fulfill that obligation and enact tough, meaningful, and constitutional criminal law reform. By voting for the Thurmond amendment, we are telling the country that we do, indeed, take our responsibilities seriously.

The PRESIDING OFFICER. The time has expired.

Who yields time?

Mr. THURMOND. Mr. President, I yield 5 minutes to the able Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 5 minutes.

Mr. LOTT. Thank you, Mr. President, and I thank Senator THURMOND for yielding me this time.

I say to my colleagues, over the past 40 years we have lost control of crime in this country. Society is suffering because of what is happening over all these past 40 years. The courts have made it impossible for us to do the job we need to do in fighting crime in this country. Victims are being ignored. The people who have to pay the true penalty for these crimes that we are talking about and law enforcement officials have been damned with laws that make it impossible for them to do their job.

We have set up procedures to protect the criminals and not just the petty criminal, the hardened, repetitive raper, murderer, drug pusher, the system is set up to protect their rights. What about the rights of society? What about the rights of the victims? What about the ability of law enforcement officials to do their job?

The court systems is collapsing, prisons are bulging, overcrowded with courts saying you cannot have the systems where the jails are not adequate for prisoners.

I had a situation recently in my own State where we were housing some Federal prisoners and the Federal officials called and said, "We are not going to allow them to stay any longer because the jails are not air-conditioned." We are worried about prisoners not having air-conditioning when people out in society working and paying the bills do not always have air-conditioning.

We have a cost of $1.1 billion a year just to house these prisoners. It was asked earlier this morning what has happened to this country. I will tell you what has happened to this country. Crime has happened to this country and the people are fed up with it. They want something done.

What does this amendment do? Is it so dastardly? It says, "and is wholly lacking in the capacity to appreciate the wrongfulness of his actions." Is that asking too much? What is mentally retarded? I still think there is a world of question about where that level is. Is it a 20 IQ, 50? Maybe 70? The Senator referred earlier here as 70 being the magic mark. Or is it 90?

Let us just follow what the Supreme Court and what the law has been interpreted to mean. In the Penry decision, if these criminals have the ability to understand right from wrong, the wrongfulness of their act, they should pay for these ghastly, heinous crimes that they have committed. We have a court system. They can make these decisions.

When we have a person that is only moderately retarded, can he appreciate the wrongfulness of his acts? We can all cite these crimes that have been committed that will turn your stomach. People have had enough in this country. In State after State where for years they could not have capital punishment, they are now going back to it.

There was this recent case in Louisiana where for months, years, there was a fight to prevent the execution of a criminal who had been repetitive in his actions, but the Governor made the decision and the appellate courts made the decision they should go forward with this execution.

We need a minimal standard. Yes, we should consider mental retardation. It is a factor that should be considered and the courts can do that. But if they know what they are doing they should pay the price.

It is time I say to my colleagues, the American people demand that we do more in fighting crime in this country. We have an opportunity with this legislation to address a myriad of questions to put criminals in jail and to excute those criminals who need to be executed.

We cannot have the insanity plea or mental retardation plea or, gee wheez, I am sorry, suffice to punish these criminals that are causing so many problems in this country.

So I say to my colleagues, I urge the adoption of this minimal standard that the Senator from South Carolina has proposed here this morning.

I yield my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield 2 minutes to the distinghished Senator from Utah.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. HATCH. Mr. President, why does not the other side just admit that they are against the death penalty? They have a principled position there. I disagree with it but it is principled. They use anything to get rid of the death penalty in any way, in any instance.

As a matter of fact, there will be a big loophole if S. 1970 stays the way it is, if we do not put the Thurmond "right or wrong" language in. That language is better than current law or habeas because it means that after they have had a full trial and they brought up all the psychiatrists, social workers, and everybody else they can, to show the person really did not know what that person was doing or was mentally retarded or whatever, and the jury rejects that, and then they have a full hearing on sentencing with all the mitigation brought out and the jury rejects that and sentences the person to death, then from that point on, anytime a capital defendant can show any change, they can raise the point that the person is mentally retarded. As soon as they find, during those years and years and decades under current law, one group that will say he is mentally retarded for any reason, then they can stop the death penalty in that case.

All Senator THURMOND is trying to say is look, and this is the bottom line—neither Senator THURMOND nor I, nor anyone else who is supportive of Senator THURMOND's position, none of us want mentally retarded persons to be sentenced to death, none of us do if they do not know right from wrong, and if a jury of their peers agree, that is the botton line.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. THURMOND. How much time do we have remaining?

The PRESIDING OFFICER. Three and a half minutes.

Mr. THURMOND. Mr. President, say this: We want to keep the present law. They want to change the present

law. If a man is charged with a crime—and I am told according to the statistics about 70 percent of those who are charged with murder claim they are mental retarded—if they are truly mentally retarded and do not know right from wrong, we do not want them executed.

Our amendment does not do that. The amendment says if they do know right from wrong and they have committed a serious murder, a vicious, heinous murder, they should face the ultimate punishment. Under this bill, they would not face capital punishment.

I thought we were going to pass a tough crime bill. If this amendment is adopted, you will have a tougher crime bill on this subject. Make up your minds. Do you want a tougher crime bill or not? Do you favor the death penalty or not?

I have a feeling some of the people taking a position against this amendment do not favor the death penalty under any condition. If a defendant knows right from wrong and commits a serious crime, he should have to pay the ultimate penalty. That is all we are asking. The Supreme Court has decided that. That is the law now. It is the law in most States. Why do the opponents want to undo it?

I say a man who is guilty should not be allowed to claim mental retardation when the facts do show he knew right from wrong. Why should we just pass a law that categorically under all circumstances makes one who is mentally retarded but knows right from wrong, not responsible?

Mr. President, that does not make sense. This Senate knows it does not make sense. Again, if he is truly mentally retarded, does not know right from wrong, our bill does not affect that person at all. But if an individual claims mental retardation when he knows right from wrong, if sentenced to the ultimate punishment, then we feel that decision should stand.

I say let us stand by the present law on this. Do not weaken the law. Why pass a crime bill if you are going to come in here and weaken current law? We thought we were going to pass a stronger crime bill. This will be a weaker crime bill.

Mr. President, it would be a great mistake not to adopt this amendment. The Supreme Court of the United States has laid down the rule. All we are asking is to stand by that rule. They have approved it. Let us stand by it. Let us protect the law abiding people. Those who are guilty cannot be allowed to avoid appropriate punishment by claiming they are mentally deficient when they are not, when the courts have found they know right from wrong. If they know right from wrong, they are responsible; if they do not know right from wrong, they are not responsible. That is all my amendment does, Mr. President.

The PRESIDING OFFICER. The Senator's time has expired. All time controlled by the Senator from South Carolina has expired.

The Senator from Delaware has 8½ minutes.

Mr. BIDEN. Mr. President, I yield myself 3 minutes.

Everyone gets emotional on this subject, but it is time I think we set a few facts straight. First, this does not change the law. The only Federal law on the books relating to death says you cannot put a mentally retarded person to death. That is the law. Boom, point one.

Second, they do not go free. Nobody, nobody, nobody is suggesting that anyone, mentally retarded or not, will go free.

Third, my friend from Mississippi, the home of Faulkner, would have, in the "Sound and the Fury," put Ben to death. Ben knew right from wrong. But he was mentally retarded.

Under this law, if it is changed, if we changed the Federal law now, we say we can put a mentally retarded person to death. If you watch "L.A. Law," old Benny, he is right for the block. He knows right from wrong. He knows you put your hand on the copy machine, instead of your nose or ears. He knows you do not go and knock people down. But he is mentally retarded as portrayed. Just like the 12-year-old kid and the 16-year-old kid who work in that office knows right from wrong.

We are saying here, all my colleagues looking very smug on this, and saying we are going to get tough. Well, if it is get tough, let us eliminate the provision saying you do not put children to death, you do not put children to death. Lay them out there, too; smack them up against the wall. Strap them in, I say to my friend from Wyoming; let them fry. Let us do that, too. They know right from wrong.

Is anyone here suggesting a 16-year-old does not know right from wrong? But we are agreeing in this bill, even though they know right from wrong, they cannot be put to death. Anyone suggesting a 17-year-old does not know right from wrong? But we are agreeing, in this tough bill, we will not put them to death. And you all are voting for that.

Anybody suggesting that a 14-year-old, any of these pages, do not know right from wrong? But you are agreeing that none of them can be put to death. So you are either having a double standard here or you just do not like mentally retarded people, you have some kind of prejudice or something. I do not know what else it is.

Because you are saying, you are acknowledging, a 12-year-old knows right from wrong, but we are not going to put him to death. You are acknowledging, in your own bill, a 17-year-old knows right from wrong, a 16-year-old knows right from wrong, but we are not going to put them to death. No, we say we are not going to do that because they are 16, because they are 15, because they are 12, because they are 10. But you are saying that if someone—and, by the way, faking mental retardation is a lifetime's work. That is a good one. Faking mental retardation. Fake your way through an IQ of 60. It is easily rebuttable. Come in and say they have an IQ of 60. You can present evidence and say, by the way, how come this guy graduated at the top of our class; how come this guy holds a job as an assistance to Senator BIDEN or Senator SIMPSON; how do they do that?

What are we talking about? You do not fake mental retardation. You either are or you are not.

And so I say to my friend from Mississippi, we have to get tough, we have to start helping victims. I agree. That is why I hope he will agree to put more money in the victims fund in the bill this year, which he does not like to do, I might add. Let us help victims.

We also want to go out and help law enforcement. Well, I say to my friend from Mississippi, let us help them. Vote for the Biden amendment for $900 million for them. Vote to take away those guns that are killing them. Let us help law enforcement.

What is all this stuff? This is about a simple proposition, and that is as a society we have collectively in here and in this Nation made a judgment: we will not put children to death, even though they know right from wrong, even though they may commit a heinous crime, even though they may be an ax murderer; that is what these gentleman and I are voting for.

Now if we say that, what is this tremendous leap? If I can quote in another context, for another reason, a Supreme Court Justice talking about pornography said, "I cannot define it, but I know it when I have seen it." Have any of you never seen a mentally retarded person? They know right from wrong; most know right from wrong. But, nonetheless, they are mentally retarded. Which means not that they are psychotic, not that they are insane, not that they have antisocial behavior that puts them in a category that says they should be not guilty of by reason of mental insanity but because they simply do not have enough gray matter to be able to ever in their entirety of their life, in their whole life, to achieve an ability to operate in society beyond that of a 12-year-old. My God, what have we come to?

I yield what remaining time I have, if I do, to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. I cannot improve on the case that the Senator from Delaware has made, Mr. President.

I yield back to him or yield the balance of the time.

Mr. BIDEN. Is there any time left?

The PRESIDING OFFICER. Two minutes.

Mr. BIDEN. Does the opposition have any time?

The PRESIDING OFFICER. No.

Mr. BIDEN. I yield back my time.

The PRESIDING OFFICER. Both sides have yielded their time. Under the agreement, at 10 a.m., the question will recur on the motion to reconsider the vote by which amendment No. 1687 was defeated.

Mr. GRASSLEY. Mr. President, I rise to support the amendment offered by my colleague from South Carolina [Mr. THURMOND].

Societies are created for the mutual protection of the individuals who are the elements of any given society. Where the safety of its citizenry can no longer be guaranteed, a society can no longer justify its reason for existing.

In providing its individual members protection, society must do what is necessary within its legal framework to deter those who would break its laws and to punish, in an appropriate manner, those who choose to do so.

Along with controlling behavior, a criminal law structure worth enforcing must promote respect for life, moral integrity, and property rights.

In a country that cherishes a separation between the state and any officially sanctioned religious practice, the criminal law is one of the few available institutions through which society can make a moral statement and hope to promote the goals I have just mentioned above.

A society makes a moral statement when it punishes. Therefore, to be successful, a society must establish punishments appropriate to what has been offended.

As the scholar Walter Berns once wrote:

> If human life is to be held in awe, the law forbidding the taking of it must be held in awe; and the only way it can be made to be awful or awe inspiring is to entitle society to inflict the penalty of death.

Mr. President, it is not enough to proclaim the sanctity and importance of innocent life. Innocent life must be—and can only be—secured by a society that is willing to impose its severest penalty upon those who threaten such life.

As Professor Berns observed:

> We think that some criminals must be made to pay for their crimes with their lives, and we think that we, the survivors of the world they violated, may legitimately extract that payment because we, too, are their victims. By punishing them, we demonstrate that there may be laws that bind men across generations as well as across and within nations, that we are not simply isolated individuals, each pursuing his selfish interests.

Consequently, imposition of the death penalty may be necessary, in certain circumstances, to adequately protect society in the future from the possible actions of those who have already committed capital crimes.

Mr. President, by an overwhelming majority, the American public supports the imposition of capital punishment. The American people are usually out in front of politicians on the issues that matter the most—issues of basic fairness, equality, and true justice.

As for the ultimate criminal sanction—the death penalty—the American people are not out to fill some psychological blood lust.

However, they do know that when it comes to heinous, outrageous, and abominable criminal acts, the death penalty is necessary, appropriate, and in these certain circumstances the only just punishment.

To attach a lesser sanction against such criminal acts would, in my view, undermine our system of justice and its ability to deter crimes.

Worse, the lack of the capital sentencing option is an abdication of one of our most fundamental duties: the protection of the people.

To advocate the use of society's ultimate criminal sanction is not something I take lightly. But the Constitution permits us the option to end a convicted criminal's life if certain prescribed procedures are followed, including appropriate and constitutional due process procedural safeguards.

As a longstanding and strong supporter of the death penalty, I do not believe in an across-the-board absolute prohibition against imposing the death penalty based solely on mental impairment.

I opposed a similar provision in the Judiciary Committee because the issue should not simply be one of whether a capital defendant is mentally retarded, but whether or not the defendant understands the difference between right and wrong.

This issue was considered by the Supreme Court in Penry versus Lynaugh, in 1989. In this case, the Court, when addressing the issue of imposing the death penalty on an individual who is mildly retarded articulated a standard of whether the defendant knows the difference between right and wrong.

The Court held that if a mentally retarded individual has the cognitive and moral capacity to act with a degree of culpability associated with the death penalty, it may be imposed.

It should be acknowledged that proponents of the categorical prohibition against the execution of mentally deficient capital murderers are also, for the most part, against the death penalty.

As a part of their campaign against the death penalty, they would have us believe the Supreme Court has authorized the execution of severely retarded individuals. This simply is not true. In fact, the Court noted that retarded persons would not be convicted today because the modern insanity defense includes "mental defect" as part of the legal definition of insanity.

Further, the case of Ford versus Wainwright prohibits the execution of those who are unaware of their punishment and why they might suffer its consequences. True insanity is and should be a valid mitigating factor in the fact finder's deliberations.

Therefore, it would be inappropriate to find that all mentally impaired people—by virtue of their mental impairment alone—inevitably lack the ability to understand the difference between right and wrong, nor do they understand the ultimate consequences of their choice of conduct.

The Thurmond amendment now before us embodies the holding of the Court in its decision in Penry. Senator THURMOND offered similar language, which I supported, to the general Federal death penalty bill during its consideration by the Senate Judiciary Committee.

The effect of the Thurmond amendment would be to prohibit the execution of those who are mentally deficient and who lack the ability to appreciate the wrongfulness of their actions.

I believe this provision should be a part of any general Federal death penalty statute because it recognizes that severely mentally deficient individuals who do not understand the difference between right and wrong should not and would not be subject to society's ultimate criminal sanction.

The Thurmond amendment is humanitarian. It protects the valid rights of the mentally deficient who do not know the wrongfulness of their actions. It allows the finder of fact to consider the ability of the defendant to know the difference between right and wrong.

However, it also recognizes when Congress seeks to categorically limit or totally eliminate important fact determinations from juries, it tends to give these decisions to statisticians and psychologists. I believe to do so throws into serious question the principles that underlie the operation of our criminal justice system.

Mr. President, in our system of justice, computers do not hand down sentences. So there is no role for statisticians or social scientists in the courtroom. Rather, for more than 200 years, our system has dispensed justice through the efforts of prosecutors,

judges, and juries. They take an oath to serve the ends of justice.

Lady Justice, unlike the social scientists, is blind. She dispenses justice without regard to color, race, religion, gender, or national origin. Lady Justice hears only the facts of the case. She serves the facts, not some political agenda.

The Congress should not impose an arbitrary, across-the-board, and blanket standard—against the valid will and common sense of the people—upon prosecutors, judges, and juries.

If a defendant knows the difference between right and wrong, and commits a heinous and abominable crime of murder, he is responsible for the consequences of his own actions. And he should be liable to society's ultimate criminal sanction.

I urge my colleagues to support the Thurmond amendment.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

VOTE ON MOTION TO RECONSIDER

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the amendment numbered 1687 was defeated.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. AKAKA] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 52, nays 46, as follows:

[Rollcall Vote No. 106 Leg.]

YEAS—52

Armstrong	Gorton	Murkowski
Bond	Gramm	Nickles
Boren	Grassley	Nunn
Boschwitz	Hatch	Pressler
Breaux	Heflin	Rockefeller
Burns	Heinz	Roth
Byrd	Helms	Rudman
Coats	Hollings	Shelby
Cochran	Humphrey	Simpson
Cohen	Johnston	Specter
D'Amato	Kassebaum	Stevens
Danforth	Kasten	Symms
Dixon	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Durenberger	McCain	Wilson
Exon	McClure	
Garn	McConnell	

NAYS—46

Adams	Glenn	Mikulski
Baucus	Gore	Mitchell
Bentsen	Graham	Moynihan
Biden	Harkin	Packwood
Bingaman	Hatfield	Pell
Bradley	Inouye	Pryor
Bryan	Jeffords	Reid
Bumpers	Kennedy	Riegle
Burdick	Kerrey	Robb
Conrad	Kerry	Sanford
Cranston	Kohl	Sarbanes
Daschle	Lautenberg	Sasser
DeConcini	Leahy	Simon
Dodd	Levin	Wirth
Ford	Lieberman	
Fowler	Metzenbaum	

NOT VOTING—2

Akaka	Chafee

So the motion was agreed to.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. I ask unanimous consent that the vote on the Thurmond amendment, No. 1687, occur at 11 a.m. this morning, and that the vote now scheduled to occur at 11, occur immediately following the disposition of the Thurmond amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Reserving the right to object, Mr. President, I do not understand. What time would the vote be on the underlying amendment?

Mr. MITCHELL. At 11 o'clock this morning.

Mr. President, I withdraw my request and I ask that we have a voice vote on the question.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Reserving the right to object, I did not hear what the Senator said.

Mr. MITCHELL. I asked to be done what the Senator just asked me to do.

Mr. SPECTER. Then I will not object.

AMENDMENT NO. 1687

The PRESIDING OFFICER. The question is now on agreeing to amendment No. 1687.

The amendment (No. 1687) was agreed to.

Mr. HATCH. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, may I have the attention of Members of the Senate.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, the Senate is about to recess to permit Senators to attend the ceremony outside on the Capitol steps honoring 40 years of American military heroism. These are the men and women who, in the post World War II period, have given their lives and their limbs to defend our Nation. I hope that as many Members of the Senate as possible will take the time and trouble to just walk a few steps outside of this Senate Chamber to help us pay tribute to these courageous men and women. That is the reason the Senate will go into recess momentarily, and I urge and encourage my colleagues to attend.

RECESS UNTIL 11 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 11 a.m.

Thereupon, the Senate, at 10:26 a.m., recessed until 11:01 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CRANSTON].

AMENDMENT NO. 1690

The PRESIDING OFFICER. The question occurs now on the Thurmond amendment, No. 1690.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina [Mr. THURMOND].

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BOREN (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Hawaii [Mr. AKAKA]. If he were present and voting, he would vote "nay." If I were at libety to vote, would vote "yea." I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. AKAKA], is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], is necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. CHAFEE], would vote "nay."

The PRESIDING OFFICER (Mr. KERREY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 38, nays 59, as follows:

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

BOREN, for

[Rollcall Vote No. 107 Leg.]

YEAS—38

Armstrong	Heflin	Nickles
Bond	Helms	Pressler
Burns	Hollings	Robb
Byrd	Humphrey	Roth
Coats	Kasten	Rudman
Cochran	Lieberman	Shelby
Dixon	Lott	Simpson
Exon	Lugar	Symms
Garn	Mack	Thurmond
Gorton	McCain	Wallop
Gramm	McClure	Warner
Grassley	McConnell	Wilson
Hatch	Murkowski	

NAYS—59

Adams	Domenici	Levin
Baucus	Durenberger	Metzenbaum
Bentsen	Ford	Mikulski
Biden	Fowler	Mitchell
Bingaman	Glenn	Moynihan
Boschwitz	Gore	Nunn
Bradley	Graham	Packwood
Breaux	Harkin	Pell
Bryan	Hatfield	Pryor
Bumpers	Heinz	Reid
Burdick	Inouye	Riegle
Cohen	Jeffords	Rockefeller
Conrad	Johnston	Sanford
Cranston	Kassebaum	Sarbanes
D'Amato	Kennedy	Sasser
Danforth	Kerrey	Simon
Daschle	Kerry	Specter
DeConcini	Kohl	Stevens
Dodd	Lautenberg	Wirth
Dole	Leahy	

NOT VOTING—2

Akaka Chafee

So, the amendment (No. 1690) was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Florida is to be recognized to offer an amendment on which debate is limited to 2 hours equally divided and controlled by the Senator from Florida and the Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be given 1 minute to make a brief explanation of something said earlier in the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, during the debate on the last amendment I said:

> We are saying here, all my colleagues looking very smug on this, and saying we are going to get tough. Well, if it is get tough, let us eliminate the provision saying you do not put children to death, you do not put children to death. Lay them out there, too; smack them up against the wall. Strap them in, I say to my friend from Wyoming; let them fry. Let us do that, too. They know right from wrong.

My friend from Wyoming and others may have thought I was implying that I thought he wished to see children who committed a capital offense put to death. That was not my intention. That is not what I meant to say. I do not think I did say that. I know better, as well as anyone here, my friend from Wyoming has a great deal of compassion and wisdom. I would not even remotely suggest that that is what he had in mind.

It was by way of trying to compare the law saying minors do not get put to death, to what we would be saying had we voted the other way. I thank my colleague.

The PRESIDING OFFICER (Mr. FORD). The time of the Senator has expired.

Mr. BIDEN. Mr. President, I ask unanimous consent my friend from Wyoming be able to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, the Senator may proceed for 1 minute.

Mr. SIMPSON. Mr. President, that is a very kind gesture on behalf of the Senator from Delaware. It is much appreciated and relieved. It was not quite necessary. I understood the spirit and the energy of the debate, and he is a spirited and energetic leader. I know him well. I do appreciate it and it is clear. We move forward now.

He has done a very superb job, along with Senator THURMOND, and it is my hope we can direct our energies to complete it shortly. I thank him profusely and am very appreciative.

The PRESIDING OFFICER. Under the previous order, the Senator from Florida is to be recognized to offer an amendment on which debate is limited to 2 hours, equally divided, and controlled by the Senator from Florida [Mr. GRAHAM] and the Senator from Delaware [Mr. BIDEN]. The Senator from Florida is recognized to offer his amendment.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

Mr. BIDEN. Mr. President, how much time is left under the unanimous-consent agreement?

The PRESIDING OFFICER. The time has not begun to run.

Mr. BIDEN. I ask unanimous consent that the time allowed for debate on the Graham amendment be reduced from 2 hours, equally divided, to 1½ hours, equally divided.

Mr. GRAHAM. Mr. President, I have a relatively brief opening statement in support of my amendment. The Senator from Massachusetts will have a statement in defense of the position that is currently in the bill. I suggest that at the conclusion of those two statements we determine how many of our colleagues would like to speak on this and then make a judgment as to what time is required. I believe that, in fact, the amount of time may be less than the time the Senator has now suggested.

Mr. BIDEN. I withdraw the request.

The PRESIDING OFFICER. The Senator from Florida is recognized.

AMENDMENT NO. 1694

(Purpose: To strike section 107)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 1964.
>
> In title I, strike section 107 through the end of the title.

Mr. GRAHAM. Mr. President, the amendment which I have offered would strike from the bill title I, section 107, which begins on page 25, line 22, and is styled as the Racial Justice Act of 1989.

This section of the bill will not effectively end discrimination in the criminal justice system, which is its intended purpose. Rather, by enacting section 107, the Congress will destroy the right of States to impose the death penalty in a constitutional manner.

Section 107, the Racial Justice Act of 1989, might more appropriately be called the Death Penalty Abolition Act of 1989. Never has a proposed Federal law gone so far as to unravel some basic tenets of our American criminal justice system: One, the State's interest in protecting its citizens from murderers; two, prosecutorial discretion recognized in every State; and, three, the jury system in general.

For the past several months, I have studied this act in great detail. I have asked for assistance from people on both sides of this issue. I am more convinced than ever that the Racial Justice Act in its current form is a bad idea.

This is not the first time that the Senate has considered this issue. On October 13, 1988, as an amendment to the Omnibus Drug Initiative Act of 1988, essentially this same proposal was offered. It was defeated in the Senate by a vote of 52 to 35. Nothing that has occurred in the months between October 1988 and today have made this a more desirable proposal.

This act, as part of legislation establishing a Federal death penalty, prohibits States from imposing the death penalty in a "racially discriminatory pattern." An inmate must only show that death sentences are being imposed disproportionately on members of one race or on persons who commit crimes against members of one race by using "ordinary methods of statistical proof."

Once that occurs, then the burden of proof shifts to the State to "establish by clear and convincing evidence that identifiable and pertinent nonracial factors persuasively explain the observable racial disparities comprising the pattern." In other words, simply by using statistical evidence to show a disproportionate application of

the death penalty, the proponent is able to shift to the State the almost impossible burden of showing, by clear and convincing evidence, reasons for the statistical disparity.

A number of people have spoken on this provision. One of those was Georgia Deputy Attorney General Mr. Bill Hill in testimony before the Judiciary Committee. In that testimony, he stated that this bill requires a criminal justice system not susceptible to mathematical predictability to produce mathematically predictable results.

The very nature of the criminal justice process does not lend itself to such statistical analysis. Every death eligible decision is inherently individualized and not necessarily subject to being categorized.

Proponents of this legislation point to the use of statistical evidence in the area of employment discrimination as the basis for this legislation.

Mr. President, I am proud to state that just last week I joined my distinguished colleague from Massachusetts in supporting the Civil Rights Act of 1990. At the heart of the debate about the Civil Rights Act of 1990 is the fear that once you use statistical evidence to establish a discriminatory pattern, employers would revert to a quota system of hiring.

The compromise announced last week, a compromise which was developed with the great efforts of the Senator from Massachusetts and Senator DANFORTH, of Missouri, will ensure that quotas will not be the unintended result from enactment of the Civil Rights Act of 1990.

However, the criminal justice system is inherently different from the employment process. As the Supreme Court has said, the very nature of the capital sentencing decision, and the relationship of statistics to that decision, are fundamentally different from the corresponding elements of a title VII employment discrimination case.

Mr. President, I also feel that public policy consideration strongly call for the defeat of section 107. Historically, prosecutors have been entrusted with wide discretionary powers. These powers include the decision to seek the death penalty where the law permits. Prosecutors are also given the power to recommend various forms of leniency.

This power is inherent in our criminal justice system. To adopt this bill would call for a complete overhaul of that system, an overhaul which I do not believe this Senate should be prepared to impose on every State in this Nation. If the Racial Justice Act, section 107, is the proper response, we should be prepared—and I believe we should insist—that the methodology formulated in this act be used not just in capital cases but in all aspects of the criminal justice system.

Just think for a moment about the mass confusion our States would face as they attempted to deal with the ever increasing problems of crime if the concept of section 107 were applied to all criminal acts. The same confusion will result in the death penalty area if this legislation becomes law. I am convinced that this bill will make the system much more arbitrary and capricious than even the proponents of this bill would argue it is today.

Currently the decision to execute is an individualized decisionmaking process. The courts have repeatedly stressed that the Constitution requires an individualized determination as to the appropriateness of the death penalty, taking into account the character and record of the murderer and the circumstances of the offense.

This bill would substitute a different mode of analysis: No State may execute a murderer who deserves execution if other murderers, who equally are deserving of execution, have somehow managed to obtain undeserved mercy. This, Mr. President, is an absurd result. It is akin to prohibiting prison sentences for burglars because some burglars never get caught. That would be an arbitrary and capricious system of justice.

In summary, I agree with the Georgia Deputy Attorney General, Mr. Hill, who said that the proposed Racial Justice Act seeks three goals. First, the act is designed to shift the focus of judicial inquiry from the defendant of a case-by-case basis, to the State government on a systemwide basis. A second objective of section 107 is, because of the inadaptability of statistical evidence to the criminal justice system, the act guarantees almost all criminal defendants a prima facie case. Third, and finally, by requiring that the criminal justice system, which is not susceptible to mathematically predictable results, produce such mathematically predictable results, this act would effectively end the ability of States to constitutionally apply the death penalty.

Mr. President, I urge my colleagues to oppose section 107 and to support the amendment to strike which I have offered. However, I want to take this opportunity to thank the distinguished Senator from Massachusetts for his efforts to abolish discrimination in all aspects of our society, a goal that I endorse and a goal I am certain is endorsed by all of our colleagues.

With this common goal in mind, Mr. President, I will offer an amendment which is, in my judgment, a proper response to the issue of potential discrimination in our entire justice system. In analyzing the issue of discrimination in the justice system, I have three goals in mind. First, the Congress should do nothing to disrupt the discretionary nature of an essentially discretionary criminal justice system; that is an attempt to substitute a law of categories for a law of individual justice. Second, our States should not be prohibited from applying their laws in a constitutional manner. Third, we should attempt to analyze this issue of not only potential discrimination in the capital sentencing process, but also potential bias in the entire judicial system, from our law schools to our law courts.

I am convinced an analysis of these issues can best be conducted in the individual States. In fact, the Florida Supreme Court has established a statewide commission to study the issue of racial and ethnic bias in the Florida criminal justice system. This study is being conducted under the leadership of the very able chairman, Mr. Frank Scruggs. I understand several other States have taken steps to establish similar commissions.

Mr. President, the proper role of Congress is to encourage our States to look at their entire justice systems and for the States to formulate their own responses to any racial or ethnic bias.

There is a certain arrogance in this issue, Mr. President, which is that it is only the Federal Government that is concerned about a just, nondiscriminatory criminal justice system. The States have as much an interest in this issue as does this level of government. I believe they should be encouraged to express that interest.

Therefore, I will be proposing an amendment that calls for an authorization of $2 million per year for each of the next 5 years to make grants to States for such studies. The grants would be administered by the Attorney General through the Bureau of Justice Assistance. Any such plans would have to be established by either the highest court of the State, the State legislature, or the chief executive of the State. In awarding grants, the Attorney General would give priority to those States which impose the sentence of death for certain crimes. In establishing criteria for awarding the grants, the Attorney General would take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rate of the States.

Mr. President, it is my hope that States will use these funds as a stimulus to look at their entire justice systems, to develop innovative methods of not only dealing with discrimination, but also of encouraging participation in our justice system by all members of society.

I will be encouraging the adoption of this amendment as an alternative to the well intended but misguided section 107.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, at the appropriate time when the amendment pertaining to the study of discrimination is offered by the Senator from Florida, I welcome the opportunity to support it. But that does not lessen the responsibility that we have at this time to maintain the Racial Justice Act.

Mr. President, as the Members of this body know, I am against the death penalty. But the issue of the death penalty has been effectively resolved. It has been reinstituted. We will be debating the expansion of capital punishment later on in the course of the discussion of this legislation and the Senate will make its determination on that. Earlier today the Senate decided not to permit execution of defendants suffering from mental retardation.

But what we are talking about at this time, Mr. President is the Racial Justice Act. The issue is racism in the application of the death penalty: Racism. Discrimination in the application of the penalty, that is what is at issue. Make no mistake about it.

As someone who has had the opportunity over the past 27 years to vote and to speak to eliminate discrimination in our society, I believe this discrimination issue is the most important because it applies to the ultimate penalty, the issue of life and death.

Mr. President, we found back in the early 1960's there was discrimination in employment, Federal programs, public accommodations, and we took action here in the U.S. Senate, to try to deal with that. We found there was discrimination in voting, so we took corresponding action to try to deal with that. We found there was discrimination in housing and we initially passed the 1968 Housing Act, and then we came back to enhance those protections in 1988. In 1973 we found there was discrimination against those with disabilities, and we addressed that issue this year with the Americans With Disabilities Act.

In just about every one of those cases, Mr. President, we built into the system, to determine whether there was discrimination, the same kind of process and procedure that exists in the Racial Justice Act. So, when we start off saying, can we use the formula, the statistics, whether these really count—we are using the same models, Mr. President, that we use in just about every other piece of legislation to eliminate discrimination. That is what this is about.

I think this issue was brought into sharp focus by Justice Blackmun in the McCleskey case. He was in the minority. It was a 5-4 decision. He made this comment:

> The Court today seems to give a new meaning to our recognition that death is different. Rather than requiring a correspondingly greater degree of scrutiny of the capital sentencing determination, the Court relies on the very fact that this is a case involving capital punishment to apply a lesser standard of scrutiny. * * *

We use the various modalities to determine discrimination in housing, on the job, in public accommodations, with regards to the disabled, and, as Justice Blackmun says:

> The Court relies on the very fact that this is a case involving capital punishment to apply a lesser standard of scrutiny. * * *

This amendment addresses that, Mr. President. I believe that the case is clear that in many, many jurisdictions that the death penalty is applied in a discriminatory manner.

There is compelling evidence that race discrimination infects capital sentencing decisions in jurisdictions throughout the country.

In study after study, experts have found that those who kill white people are many times more likely to receive the death penalty than those who kill blacks.

And there is disturbing evidence that black defendants are more likely to be given a death sentence than white defendants.

Perhaps the best example, but by no means the only one, is the evidence before the Supreme Court last year in the case of McCleskey versus Kemp.

Warren McCleskey, the defendant in that case, was a black man charged with killing a white police officer in Fulton County, GA. McCleskey was charged with a brutal crime. In fact, between 1973 and 1980, seventeen defendants were charged with killing police officers in Fulton County, but McCleskey was the defendant who receive a death sentence. In only one other murder was the death penalty sought, and in that case, the defendant was convicted of killing a black police officer and received a life sentence.

In challenging his death sentence, McCleskey placed into evidence two studies conducted by teams led by professor David Baldus. Those studies analyzed over 2,400 homicide cases in Georgia between 1973 and 1979.

From official State records, the studies collected data about more than 500 factors in each case—information relating to the characteristics of the defendant and the victim, the circumstances of the crime, the strength of the evidence, and the mitigating and aggravating factors in each case.

Using sophisticated statistical techniques, the studies then took account of the effects of up to 230 nonracial sentencing factors in their analysis.

Their conclusions are striking: When the characteristics of the crime and the defendant were controlled for, those who kill whites were 4.3 times more likely to receive the death penalty than were killers of blacks. The importance of the data was well summarized in the dissent of Justice Brennan in the McCleskey case.

> At some point in this case, Warren McCleskey doubtless asked his lawyer whether a jury was likely to sentence him to die. A candid reply to this question would have been disturbing. First, counsel would have to tell McCleskey that few of the details of the crime or of McCleskey's past criminal conduct were more important than the fact that his victim was white.
>
> Furthermore, counsel would feel bound to tell McCleskey that defendants charged with killing white victims in Georgia are 4.3 times as likely to be sentenced with death as defendants charged with killing blacks.

Commenting on McCleskey's sentence itself, Justice Brennan wrote that:

> [T]he Baldus study indicates that, after taking into account some 230 nonracial factors that might legitimately influence a sentencer, the jury more likely than not would have spared McCleskey's life had his victim been black.

This pattern of race considerations affecting sentencing is repeated in jurisdiction after jurisdiction after jurisdiction around the country.

In Florida, a study published in the Stanford Law Review found that defendants convicted of killing whites were eight times more likely to receive a death sentence as those convicted of murdering blacks. Another study found that blacks who kill whites received the death penalty 22 percent of the time, while whites who kill whites received the death penalty only 4.6 percent of the time.

In Georgia, blacks who kill whites received the death penalty 16.7 percent of the time, while whites who killed whites received the death penalty only 4.2 percent of the time.

In Illinois, that same study found that killers of whites were six times as likely to receive a death sentence as killers of blacks.

In Maryland, defendants convicted of murdering whites received the death sentence eight times more frequently than killers of blacks.

In Ohio, a 1980 study found that blacks who kill whites received the death penalty 25 percent of the time, while whites who kill whites received the death penalty only 4.6 percent of the time.

In Texas, one 1980 study found that killers of whites were 20 times more likely to receive a death sentence, while a 1985 study found that they were over four times more likely to do so. Meanwhile, blacks who kill whites received the death penalty 8.7 percent of the time, while whites who killed whites received the death penalty only 1.5 percent of the time.

This pattern also appears in California and Pennsylvania, and nationally as well. A 1985 study of capital sentencing conducted by a Dallas newspaper found that a killer of a white was nearly three times more likely to get a death sentence than a killer of a black.

The Senate had that evidence before it in 1988, when we first debated a similar proposal. Rather than adopting that proposal, however, the Senate passed legislation requiring the General Accounting Office to conduct a study of race discrimination in capital sentencing.

The GAO has now completed its study. After exhaustively reviewing the research literature, the GAO carefully reviewed all 28 studies of the issue whether race has played a role in capital sentencing since the Supreme Court's 1972 decision in Furman versus Georgia. The GAO's conclusion was clear:

> Our synthesis of the 28 studies shows a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty after the Furman decision.
>
> In 82 percent of the studies, race of victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty—those who murdered whites were found to be more likely to be sentenced to death than those who murdered blacks.
>
> This finding was remarkably consistent across data sets, states, data collection methods, and analytic techniques.
>
> The race of victim influence was found at all stages of the criminal justice process.
>
> Legally relevant variables, such as aggravating circumstances, were influential but did not explain the racial disparities researchers found. * * *
>
> After controlling statistically for legally relevant variables and other factors thought to influence death penalty sentencing * * *, differences remain in the likelihood of receiving the death penalty based on race of victim.

The conclusions of the GAO's independent, unbiased appraisal of the studies of race discrimination in capital sentencing are clear: There is a pattern of evidence indicating racial disparities in the charging, sentencing, imposition of the death penalty in jurisdictions throughout the country.

That pattern should be unacceptable to each and every Member of the Senate.

Well then, you may ask, what about the McCleskey case? The Supreme Court did not throw out McCleskey's sentence. What about that?

The five members of the Court who voted to affirm McCleskey's sentence did not dispute the accuracy of the studies. And they admitted that statistical evidence of the kind contained in the studies would be sufficient to prove intentional race discrimination in other areas, such as housing discrimination and discrimination in jury selection, and sufficient to establish employment discrimination claims under title VII of the Civil Rights Act of 1964.

A majority of the Justices found that the methodology that was used would have been sufficient in those other civil rights contexts.

But the majority concluded that capital sentencing was different, because individual juries and prosecutors made sentencing decisions, and because it would be inappropriate to require the State to call on these individuals to rebut a showing of discrimination. The Court said that the evidence of widespread race discrimination in capital sentencing is best presented to the legislative bodies.

In other words, a majority of the Court held that if the plaintiffs had alleged discrimination in one of the other civil rights areas where Congress acted, a court could use these statistics to make a finding of intentional discrimination. But, the Court said, unlike these other areas, Congress has not acted to remedy discrimination in capital sentencing. We have an opportunity to act now. The Racial Justice Act has been included in the Biden bill, having been voted on by the Judiciary Committee members and found by a majority of the members of the Judiciary Committee to be a vitally important mechanism to guard against racism and safeguard rights guaranteed by the equal protection clause of the Constitution.

I believe that the McCleskey decision was wrongly decided, and that the compelling evidence that McCleskey's sentence was affected by racial considerations should have been sufficient to set aside his sentence.

But regardless of whether the Supreme Court was right or wrong in the decision it reached in the McCleskey case, the Members of the Senate have the authority, and the responsibility, to ensure that gross racial disparities of the kind I have described do not occur in State or Federal death penalty cases. The Racial Justice Act now before us is intended to meet that responsibility.

The act would prohibit imposing or carrying out a death sentence under State or Federal law if that sentence furthers a "racially disproportionate pattern."

Under the act, if such a discriminatory pattern does exist—if a defendant can establish with real evidence, including statistical evidence, that the race of defendants, or of victims, is playing a role in sentencing decisions—then the Government will have to show by clear and convincing evidence that the racial disparities are not the result of discrimination, but instead simply reflect pertinent nonracial factors, such as the presence or absence of mitigating or aggravating circumstances.

For example, if a criminal defendant offers statistical evidence that demonstrates that blacks receive death sentences in a particular State at a rate that is far higher than whites in that State, and the defendant shows that his or her death sentence was imposed in furtherance of such a racially disproportionate pattern, then the State must show by clear and convincing evidence that the statistical disparity results from other, nonracial factors, such as differences in the nature of the crimes or in the conviction records of the defendants.

If the Government cannot meet that burden, the death sentence must be vacated. If we are truly serious about ending race discrimination in capital sentencing, no other result can be acceptable. By permitting statistical evidence of a pattern of racial disparities to be used to establish a claim of race discrimination, the act would make the standard of proof in capital-sentencing cases analagous to that under Federal antidiscrimination statutes like title VII.

Contrary to arguments made by opponents of the Racial Justice Act, the measure will not result in quotas in death sentences. Under the act, the mere fact that blacks may receive the death penalty more frequently that whites would not even create a prima facie case of discrimination. To establish a prima facie case, a defendant must show that blacks, or killers of whites for example, receive the death penalty with a frequency that is disproportionate to their representation among those arrested, or charged with, or convicted of capital crimes under the bill. And even if a prima facie case is established, the Government can rebut such a claim by showing by clear and convincing evidence that any disparity is the result of nonracial factors.

Thus, the act is simply intended to eliminate racism in capital sentencing. It would not create quotas of any kind.

In order to ensure that adequate data are available to determine whether or not race discrimination is taking place within a particular jurisdiction, the act would require jurisdictions which have the death penalty to collect and maintain data about the nature of crimes for which the death penalty may be imposed, the details of those crimes, and the demographic characteristics of the victims and the defendants.

The Racial Justice Act is supported by a number of leading organizations, including the American Bar Association, the United States Catholic Conference, the Leadership Conference on Civil Rights, and many others.

In closing, let me say to my colleagues that we are obviously divided about whether or not there should be a Federal death penalty at all. But all of us are united in the belief that racial considerations can and should play no role whatsoever in the decision of who shall live and who shall die.

If we are to live up to our responsibility to the Constitution's promise of equal justice for all, then we must ensure that race discrimination has no place in capital punishment. The Racial Justice Act is needed to help us

achieve that goal, and I urge my colleagues to support it.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in strong support of the motion to strike the Racial Justice Act from this bill. I oppose the racial quota provisions and urge my colleagues to vote to strike them. The Kennedy Racial Justice Act was narrowly adopted by the Judiciary Committee as an amendment, which I strongly opposed, to S. 32, the Federal Death Penalty Act of 1989, by a 7 to 6 vote. One Senator did not vote. However, a similar amendment was soundly defeated by the full Senate when it was offered as an amendment to the 1988 drug bill. The earlier amendment was defeated by a vote of 52 to 35. This version of the Kennedy amendment is vastly different and much more onerous than the 1988 amendment because it not only applies to the Federal Government, but to the States as well.

The Federal Death Penalty Act, which I introduced, clearly comports with the constitutional requirements outlined by the Supreme Court and establishes the procedures for the imposition of the death penalty for the numerous Federal crimes that currently authorize a sentence of death and other vicious crimes. Clearly, there is no constitutional requirement that this amendment be a part of any death penalty legislation.

Let me make one point crystal clear from the start: A vote to keep the Kennedy amendment in this bill is a vote against the death penalty. Just so no one is confused, the Kennedy amendment is a killer amendment. It must be removed from the bill. The language is identical to S. 1696, which was introduced by the Senator from Massachusetts, Senator KENNEDY. If anyone has any question about the intent of the Kennedy amendment, most of the proponents of this legislation are adamantly opposed to the death penalty.

Mr. President, the Racial Justice Act would amend Federal law to invalidate the death penalty, both in the Federal Government and in every State, whenever statistics show a racially disproportionate pattern without regard to the brutality of the crime committed. Supporters of the Kennedy racial quota provisions would have statistics used to determine the sentence of a capital defendant as opposed to the rational judgment of honest judges and juries after a full examination of the heinous facts in a particular case.

It is important to note that the Supreme Court examined the issue of using past statistical data to invalidate the death penalty in the case of McCleskey versus Kemp. The Court rejected this proposal and noted that to take this proposal "to its logical conclusion, throws into serious question the principles that underlie our entire criminal justice system. * * *" The unconstitutionality of such a quota system under the equal protection clause is clear. The Supreme Court's death penalty decisions seek to minimize the role of race in capital sentencing. But the Kennedy racial quota provisions would; make racial considerations paramount and conclusive with little emphasis on the nature of the heinous crime committed.

Aside from question of the Kennedy racial quota provisions' constitutionality, the death penalty would be rendered ineffective, and impossible to impose, if the Racial Justice Act were a part of this bill. It would impose statistical quotas for both victims and killers, thereby dispensing justice by mathematical computation based upon statistics from other cases, rather than by a jury in each particular case. Computers doing computations should not determine the punishment of an individual who has committed a ruthless offense. Judges and juries who are sworn to uphold the law and be impartial should be the final arbitrators of appropriate punishment.

The Judiciary Committees recently held hearings on the Racial Justice Act. I think it is important to note that every witness who testified in support of the Racial Justice Act, when asked, stated that they are personally opposed to the death penalty.

Several witnesses who testified against the Racial Justice Act pointed out critical problems with the amendment. For example, William B. Hill, deputy attorney general for the State of Georgia, put it best when he said, "The Racial Justice Act simply abolishes the death penalty." He noted that the amendment disregards the principles of equal protection and years of eighth amendment jurisprudence.

In addition, the Department of Justice strongly opposes the Kennedy provisions. I recently received a letter from the Department of Justice which clearly sets forth the administration's strong opposition to the Kennedy racial provisions. The Department takes the position that the Kennedy provision is itself constitutionally problematic and threatens both to lessen the effectiveness of capital punishment and reinject racial considerations into its imposition. For this reason, the Department of Justice strongly opposes any legislation which contains it. In fact, were any legislation presented to the President for his signature which contained the Racial Justice Act in its present form, the Department of Justice would be compelled to urge that it be vetoed.

Further, the racial quota provisions are based upon the premise that the death penalty is currently imposed in a racially biased manner. Proponents of the amendment like to cite a study by Prof. David Baldus as evidence of this racial sentencing. However, the Baldus study was rejected by numerous witnesses and rejected as invalid and unreliable by every court which has examined it.

The Supreme Court did not adopt the conclusions of the Baldus study. In fact, the Supreme Court did not question the decision of a Federal district court which found the study was seriously flawed. One witness before the committee, Dr. Joseph Katz, testified that the conclusions reached in the Baldus study were based upon faulty data and premises.

Mr. President, I think supporters of the Kennedy racial quota provisions would agree with the following statement: "Race should play no role whatsoever insofar as the death penalty is concerned." Yet, the Racial Justice Act would do just that. It would permit vicious murderers to avoid a death sentence by invoking the race of their victims as a shield and it would put prosecutors in the position of seeking the death penalty based upon a racial quota system. In fact, death row inmates will use statistics to overturn all death sentences without having to show any racism in their own cases.

For example, a Federal court would be required to overturn every death sentence in a particular State if a study is presented to the court which shows the death penalty is applied in a disproportionate manner. Every death sentence—including the death sentence of a white defendant, who murdered a white victim, found guilty by an all white jury, and sentenced by a white judge—would be overturned. The same would hold true if every person involved in the case was black. This makes no sense whatsoever.

Mr. President, I believe the President will veto this legislation if the Kennedy racial quota language is included. I recently received a letter from the Department of Justice which clearly sets forth the administration's strong opposition to the Kennedy racial provisions. Because the Racial Justice Act is itself constitutionally problematic, and threatens both to lessen the effectiveness of capital punishment and reinject racial considerations into its imposition, the administration is strongly opposed to any legislation which contains it. In addition, a majority of our Nation's State attorneys general oppose the Racial Justice Act.

I repeat, a majority of the Nation's State attorneys general oppose the Racial Justice Act.

Mr. President, the Senate should give the President a crime package he can sign into law. When Congress chooses to act upon comprehensive death penalty legislation, it should take steps to ensure that the legislation can be effectively implemented. For Congress to pass a death penalty which includes such a provision which, in effect, would eliminate the death penalty would be a disservice to the American people.

In summary, let me make one thing clear. The Federal Death Penalty Act, to which the racial justice provision was added, applies to those who commit heinous, depraved offenses. The legislation applies equally, across the board, to anyone who commits such a crime. This death penalty legislation is based on the nature of the offense committed, not on the race of the capital defendant or the victim.

Finally, I want to restate the following so that there can be no doubt in anyone's mind. A vote today in favor of the motion to strike the Kennedy racial quota provisions is a vote for the Federal death penalty. A vote against the motion to strike is a vote to kill, not only this bill, but every State death penalty as well. A vote against this motion to strike is a vote to kill the death penalty in the 37 States which now have it.

For these reasons, I strongly urge my colleagues to vote for the motion to strike.

Mr. President, the attorneys general from the following States have written to express their strong opposition to the Racial Justice Act: Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Georgia, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Nebraska, New Hampshire, Nevada, New Jersey, New Mexico, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Utah, Washington, and Wyoming.

Mr. President, those have gone to the trouble to write that they are opposed. There are many others that I am sure are opposed too. As I said a majority of the State attorneys general of this Nation are opposed to this legislation.

Why do we want to pass such a provision that will destroy the death penalty? My opinion is that those who propose and support this Racial Justice Act are opposed to the death penalty, and will pursue most any step they can to prevent the death penalty from passing.

Later we will be voting on and considering the death penalty. But I think that ought to be made clear at this time.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 40 minutes and 21 seconds.

Mr. KENNEDY. Mr. President, just for the benefit of and for the information of the Members, I do not believe that I will be using all that time. I do not know about the Senator from Florida. I expect we will yield back some or a good part of that time.

Mr. President, first of all, a number of those Members of this body who are strong supporters of the death penalty are cosponsors of the Racial Justice Act or voted for the act in 1988. They know who they are. They include the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from New York [Mr. MOYNIHAN], and the Senator from Oregon [Mr. PACKWOOD].

The idea that there are Members who are strongly committed to the death penalty and who somehow feel that this will undermine it just does not hold up as an argument. It just does not hold up. I have indicated my own opposition to the death penalty. But what this is all about is racism in the application of the death penalty.

Even those who support the death penalty, support the Racial Justice Act.

The American Bar Association has taken no position on the death penalty but has indicated strong support for the Racial Justice Act.

Mr. President, I include as part of the RECORD the General Accounting Office assessment as the validity of these various studies. In reviewing the literature, the General Accounting Office has made a finding that the methodology used in the various studies is valid, worthwhile, and useful. I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[U.S. General Accounting Office, Report to Senate and House Committees on the Judiciary, February 1990]

DEATH PENALTY SENTENCING—RESEARCH INDICATES PATTERN OF RACIAL DISPARITIES

APPROACH

An evaluation synthesis is a critical integration of findings from existing empirical research on a given topic—in this case death penalty sentencing after the Furman decision.[1] First, we identified and collected all potentially relevant studies done at national, state, and local levels from both published and unpublished sources. Computer-generated bibliographic searches and manual reviews of the bibliographies of studies that we obtained contributed to our list of potentially relevant material. We also surveyed 21 criminal justice researchers and directors of relevant organizations whose work relates to death penalty sentencing to identify additional research. We screened more than 200 annotated citations and references to determine relevance to our review. We excluded studies that (1) were based primarily on data collected prior to the Furman decision and (2) did not examine race as a factor that might influence death penalty sentencing. From this initial screening we obtained 53 studies that we determined to be relevant.

We then reviewed each of the 53 studies to determine both appropriateness and overall quality of the research. We excluded studies that did not contain empirical data or were duplicative (a few researchers published several articles, with the most current including data and findings cited in earlier versions). Twenty-eight studies remained after this assessment. The information included in these studies forms the basis for our findings.

Next, we rated the 28 studies according to research quality. Two social science analysts independently rated each study in five dimensions: (1) study design, (2) sampling, (3) measurement, (4) data collection, and (5) analysis techniques. A rating for overall quality was also given. A third analyst reviewed the raters' assessments to ensure consistency. In addition, a statistician reviewed the studies that used specialized analytic techniques to assess whether the techniques were applied correctly and whether the analyses fully supported the researchers' conclusions.

Finally, we extracted all relevant information on the relationship of race to death penalty sentencing from each of the studies. This information was compared and contrasted across studies to identify similarities and differences in the findings.

Evaluation synthesis has benefits and limitations. The major benefit is that evidence from multiple studies can provide greater support for a finding than evidence from an individual study. The major limitation is that this approach depends on the quantity and quality of the design and methodology of available studies and the comprehensiveness of their reporting. In this case, the body of research concerning discrimination in death penalty sentencing is both of sufficient quality and quantity to warrant the evaluation synthesis approach.

DESCRIPTION OF THE STUDIES

We evaluated 28 studies which were done by 21 sets of researchers.[2] The studies covered homicide cases for different time periods through 1988, many states that have the death penalty, and different geographic regions of the country. In three instances, two or more articles were generated from a single database, with each article focusing on a different aspect of the sentencing process. A few researchers used data from other studies in their analyses. Overall, the 28 studies constitute 23 different data set.

We rated almost half of the studies as high or medium quality; the remainder were rated as low. It is important to evaluate re-

[1] In *Furman* v. *Georgia*, 408 U.S. 238 (1972), the Supreme Court found unconstitutional death sentences imposed under state statutes which allowed juries to impose these sentences in an arbitrary or capricious manner. In response to this decision, states adopted new statues that addressed the concerns raised by the Court.

[2] Appendix I includes a list of studies we used in the synthesis.

search quality for two reasons: (1) the results of the synthesis should be based on a sufficient number of medium or high quality studies; and (2) it is important to note differences in studies' findings if any by the quality of the studies. By quality we mean the strength of the design and the rigor of the analytic technique that leads to a level fo confidence we have in the study findings. We judged a study to be high quality if it: was characterized by a sound design that analyzed homicide cases throughout the sentencing process; included legally relevant variables (aggravating and mitigating circumstances); and used statistical analysis techniques to control for variables that correlate with race and/or capital sentencing.

We judged a study as medium quality if we found it to be lacking in one or more or the above characteristics. However, the medium quality studies generally were more similar to high quality studies than to low quality studies. Low quality studies typically had weak or flawed designs, relied on less reliable statistical analysis, and were simplistic in interpretation of the data. Studies published before 1985 comprised a larger proportion of lower quality studies than those published subsequently. This coincides with the relatively recent development and use of a more sophisticated statistical technique appropriate for use with data such as those in death penalty studies.

LIMITATIONS OF THE STUDIES

We critiqued all of the studies to identify methodological limitations in the design an analysis of the research. We identified three major limitations among these studies: (1) the threat of sample selection bias, (2) the problem of omitted variables, and (3) the small sample sizes.

Sample selection bias implies that the cases under consideration are not representative of all the cases of interest. The criminal justice system is characterized by discretionary processes of selection at different points in the system. Racial factors may influence decisions at different stages of the process. A study that considered only whether persons convicted were sentenced to death was especially prone to the biasing effect of sample selection. Racial factors may have influenced decisions earlier in the process, such as whether the prosecutor requested that an offender be charged with capital murder. This discretion exercised early in the process may have the effect of concealing (masking) race effects if analysis is limited only to the later stages.

We found sample selection bias in more than half of the low quality studies; these studies typically analyzed only those cases in which the defendant was convicted of capital murder or received the death penalty. Studies that included all reported homicides and followed the disposition of these defendants from initial charge through subsequent stages of the judicial process are not likely to have been affected by this bias. More than two-thirds of the studies we rated high or medium quality picked up cases prior to conviction and followed these cases through the judicial process.

Another limitation is the problem of omitted variables. This limitation is especially important in studies examining racial discrimination. This is because the effect of race is considered the residual—after all relevant and important variables have been controlled, the effect that remains, the residual, is interpreted to be racial disparity. Omitting relevant variables can affect results by failing to reduce the residual appropriately, thus enhancing the perceived racial disparity. Omitted variables in death penalty research are potentially of two types: (1) variables that were known and were believed to be correlated with race or the death penalty and (2) variables that were not known and may be correlated with race or the death penalty outcome.

Several of the higher quality studies controlled for many variables. For example, one high quality study controlled for more than 200 variables. Only a few variables are shown to be highly explanatory. Most of these are controlled for in the better quality studies. However, there are variables such as strength of evidence or socioeconomic status of the victim and defendant which are difficult to measure or obtain. If there are important omitted variables (either because they are difficult to measure or because they are unknown), other explanations for the differences in death penalty outcomes cannot be excluded. But for another variable to influence the existing disparity it would have to (1) be jointly correlated with both race and the death penalty outcome and (2) operate independently of the factors already included in the analysis.

A third limitation relates to the consequences of the small sample sizes in the analyses of dealth penatly imposition. The imposition of the death penalty is a relatively rare event. As such, in most studies there were very few cases at the end of the process—the sentencing and imposition stages. The small sample size places limits on the usefulness of statistical techniques for analysis at the final stages and thus limits the rigor of analyses at these stages.

While the severity of the limitations varied, as reflected in the studies' ratings, these limitations do not preclude a meaningful analysis of the studies. We have considered quality in evaluating the studies and arriving at our findings.

FINDINGS

Our synthesis of the 28 studies shows a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty after the Furman decision.

In 82 percent of the studies, race of victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty, i.e., those who murdered whites were found to be more likely to be sentenced to death than those who murdered blacks.[a] This finding was remarkably consistent across data sets, states, data collection methods, and analytic techniques. The finding held for high, medium, and low quality studies.

The race of victim influence was found at all stages of the criminal justice system process, although there were variations among studies as to whether there was a race of victim influence at specific stages. The evidence for the race of victim influence was stronger for the earlier stages of the judicial process (e.g., prosecutorial decision to charge defendant with a capital offense, decision to proceed to trial rather than plea bargain) than in later stages. This was because the earlier stages were comprised of larger samples allowing for more rigorous analyses. However, decisions made at every stage of the process necessarily affect an individual's likelihood of being sentenced to death.

[a] When we refer to a finding of racial disparities at the sentencing and imposition stages we are, in fact, including disparities that occurred in earlier stages of the judicial process, e.g., charging and decision to proceed to trial.

Legally relevant variables, such as aggravating circumstances, were influential but did not explain fully the racial disparities researchers found. In the high or medium quality studies, researchers used appropriate statistical techniques to control for legally relevant factors, e.g., prior criminal record, culpability level, heinousness of the crime, and number of victims. The analyses show that after controlling statistically for legally relevant variables and other factors thought to influence death penalty sentencing (e.g., region, jurisdiction), differences remain in the likelihood of receiving the death penalty based on race of victim.

The evidence for the influence of the race of defendant on death penalty outcomes was equivocal. Although more than half of the studies found that race of defendant influenced the likelihood of being charged with a capital crime or receiving the death penalty,[1] the relationship between race of defendant and outcome varied across studies. For example, sometimes the race of defendant interacted with another factor. In one study researchers found that in rural areas black defendants were more likely to receive death sentences, and in urban areas white defendants were more likely to receive death sentences. In a few studies, analyses revealed that the black defendant/white victim combination was the most likely to receive the death penalty. However, the extent to which the finding was influenced by race of victim rather than race of defendant was unclear.

Finally, more than three-fourths of the studies that identified a race of defendant effect found that black defendants were more likely to receive the death penalty. However, the remaining studies found that white defendants were more likely to be sentenced to death.

To summarize, the synthesis supports a strong race of victim influence. The race of offender influence is not as clear cut and varies across a number of dimensions. Although there are limitations to the studies' methodologies, the are of sufficient quality to support the synthesis fundings.

We are sending copies of this report to cognizant congressional committees, the Attorney General, and other interested parties.

Major contributors to this report are listed in appendix II. Please call me at 275-8389 if you have any questions.

LOWELL DODGE,
Director, Administration of Justice Issues.

APPENDIX I—LIST OF STUDIES

Arkin, Stephen. "Discrimination and Arbitrariness in Capital Punishment: An Analysis of Post-Furman Murder Cases in Dade County, Florida, 1973-1976." Stanford Law Review, Vol. 33 (November 1980) 75-101.

Baldus, David, George Woodworth, and Charles Pulaski. "Equal Justice and the Death Penalty: A Legal and Empirical Analysis." Boston: Northeastern University Press, 1990.

Barnett, Arnold. "Some Distribution Patterns for the Georgia Death Sentence." University of California Davis Law Review, Vol. 18, No. 4 (Summer 1985) 1327-1374.

Berk, Richard and Joseph Lowery. "Factors Affecting Death Penalty Decisions in Mississippi," (unpublished manuscript, June 1985).

Bienen, Leigh et al. "The Reimpositon of Capital Punishment in New Jersey: The

[1] About two-thirds of these studies were of high or medium quality.

Role of Prosecutorial Discretion." Rutgers Law Review (Fall 1988) 27-372.

Bowers, William. "The Pervasiveness of Arbitrariness and Discrimination Under Post-Furman Capital Statutes." Journal of Criminal Law & Criminology, Vol 74. No. 3 (Fall 1983) 1067-1100.

Bowers, William and Glenn Pierce. "Arbitrariness and Discrimination under Post-Furman Capital Statutes." Crime and Delinquency (October 1980) 563-635.

Elkland-Olson, Sheldon. "Structured Discretion, Racial Bias and the Death Penalty: The First Decade After Furman in Texas." Social Science Quarterly, Vol. 69 (December 1988) 853-873.

Foley, Linda. "Florida After the Furman Decision: The Effect of Extralegal Factors on the Processing of Capital Offense Cases." Behavioral Sciences & the Law, Vol. 5, No. 4 (Autumn 1987) 457-465.

Foley, Linda and Richard Powell. "The Discretion of Prosecutors, Judges, and Juries in Capital Cases." Criminal Justice Review Vol. 7, No. 2 (1982) 16-22.

Gross, Samuel and Robert Mauro. "Patterns of Death: An Analysis of Racial Disparities in Capital Sentencing and Homicide Victimization." Stanford Law Review, Vol. 37 (1984) 27-153.

Keil, Thomas and Gennaro Vito. "Race and the Death Penalty in Kentucky Murder Trials: An Analysis of Post-Gregg Outcomes." Forthcoming in Justice Quarterly.

Keil, Thomas and Gennaro Vito. "Race, Homicide Severity, and Application of the Death Penalty: A Consideration of the Barnett Scale." Criminology, Vol. 27, No. 3 (1989) 511-535.

Kleck, Gary. "Racial Discrimination in Criminal Sentencing: A Critical Evaluation of the Evidence with Additional Evidence on the Death Penalty." American Sociological Review, Vol. 46 (1981) 783-805.

Klein, Stephen, Allen Abrahamse, and John Rolph. "Racial Equity in Prosecutor Requests for the Death Penalty." Unpublished manuscript, The Rand Corporation (1987).

Klein, Stephen. "Relationship of Offender and Victim Race to Death Penalty Sentences in California." Unpublished manuscript, The Rand Corporation (1989).

Klemm, Margaret F. "The Determinants of Capital Sentencing in Louisiana, 1975-1984." Dissertation, University of New Orleans (1986).

Lewis, Peter, Henry Mannle, and Harold Vetter. "A Post-Furman Profile of Florida's Condemned-A Question of Discrimination in Terms of Race of the Victim and a Comment on Spenkelink v. Wainwright." Stetson Law Review, Vol. IX, No. 1 (1979) 1-45.

Murphy, Elizabeth. "The Application of the Death Penalty in Cook County." Illinois Bar Journal, Vol. 93 (1984) 90-95.

Nakell, Barry and Kenneth Hardy. "The Arbitrariness of the Death Penalty." Philadelphia: Temple University Press, 1987.

Paternoster, Raymond and Ann Marie Kazyaka. "The Administration of the Death Penalty in South Carolina: Experiences Over the First Few Years." South Carolina Law Review, Vol. 39, No. 2 (1988) 245-414.

Radelet, Michael and Margaret Vandiver. "The Florida Supreme Court and Death Penalty Appeals." Journal of Criminal Law and Criminology, Vol. 74, No. 3 (1983) 913-926.

Radelet, Michael and Glenn Pierce. "Race and Prosecutorial Discretion in Homicide Cases." Law and Society Review, Vol. 19, No. 4, (1985) 587-621.

Radelet, Michael. "Racial Characteristics and the Imposition of the Death Penalty." American Sociological Review, Vol. 46, (1981) 918-927.

Riedel, Marc. "Discrimination in the Imposition of the Death Penalty: A Comparison of the Characteristics of Offenders Sentenced Pre-Furman and Post-Furman." Temple Law Quarterly, Vol. 49, No. 2 (1976) 261-287.

Smith, Dwayne M. "Patterns of Discrimination in Assessments of the Death Penalty: The Case of Louisiana." Journal of Criminal Justice, Vol. 15 (1987) 279-286.

Vito, Gennaro and Thomas Keil. "Capital Sentencing in Kentucky: An Analysis of the Factors Influencing Decision Making in the Post-Gregg Period." The Journal of Criminal Law & Criminology, Vol. 79, No. 2 (Summer 1988) 483-508.

Zeisel, Hans. "Race Bias in the Administration of the Death Penalty: The Florida Experience." Harvard Law Review, Vol. 95, No. 2 (December 1981) 456-468.

APPENDIX II—MAJOR CONTRIBUTORS TO THIS REPORT

GENERAL GOVERNMENT DIVISION, WASHINGTON, DC

Laurie E. Ekstrand, Chief Social Scientist, Harriet C. Ganson, Analyst-in-Charge, Lisa Cassady, Social Science Analyst, James L. Fremming, Consultant, Douglas M. Sloane, Statistical Consultant.

Mr. KENNEDY. Mr. President, I would like to briefly address the issue of this institution's responsibility. The question has been raised whether we have a responsibility to act or not to act. I believe we must act in light of the available evidence of racial discrimination.

The information and the statistics which have been reviewed by the General Accounting Office are valid. We are presented with that information as a result of the Judiciary Committee's action, putting to rest the concerns that were raised during the debate in 1988 regarding the validity of these various studies.

These concerns led us to ask the General Accounting Office to review the studies, to give us an evaluation of their effectiveness, and to draw conclusions, and they did. Their conclusion is a fundamental factor in the application of the death penalty.

Mr. President, we understand that it is not just the application of the death penalty as a final judgment of the jury. It is, to a significant extent, the manner in which the prosecutor applies death penalty statutes. Is the prosecutor going to prosecute for crimes that have the death penalty? There is discretion there. Will the prosecutor enter into plea bargaining? There is discretion there. Will the prosecutor ask for the death penalty? There is discretion there. That all falls within the issue before us.

Ultimately, using the various statistical modalities and methods, the final result is that the death penalty is used in a discriminatory way, and we may require the States to take action to ensure that this pattern will not continue. And there are a number of States which have been studied in which there has been no evidence that the death penalty has been applied in a discriminatory way. But there are other jurisdictions that demonstrate the unacceptable pattern of racism.

So I say to any of those attorneys general, if you are concerned, if your State is not applying the death penalty in a discriminatory way, you have nothing to worry about. But you should be concerned if it can be demonstrated by the defendant that it is being so applied.

Mr. President, the question was put to us: Does Congress have the constitutional authority to invalidate State death sentences in circumstances like the McCleskey case, in which the Supreme Court found no constitutional violation?

The answer to that question is in the affirmative, Mr. President.

In McCleskey itself, the Supreme Court recognized that the evidence of widespread, systemic race discrimination in capital sentencing is "best presented to the legislative bodies."

Under the 14th amendment, it is Congress' responsibility to enact legislation to ensure that the Constitution's guarantee of equal protection of the laws is not just an empty promise.

As former Chief Justice Warren Burger wrote in the 1980 Fullilove case:

> In no organ of government, State or Federal, does there repose a more comprehensive remedial authority than in the Congress, expressly charged by the Constitution with competence and authority to enforce equal protection guarantees.

I also want to read a short passage from the Supreme Court's decision by Justice O'Connor in the Richmond versus Croson case.

> Congress, unlike any State or political subdivision, has a specific constitutional mandate to enforce the dictates of the Fourteenth amendment. The power to "enforce" may at times also include the power to define situations which Congress determines threaten principles of equality and to adopt prophylactic rules to deal with those situations.

Exactly what is before us here this afternoon? Are we going to eliminate racism in the application of the death penalty? Congress clearly has the authority to consider the extensive evidence of racial discrimination found to exist in jurisdictions throughout the country, and to fashion a remedy designed to wipe out that discrimination wherever it exists.

The Supreme Court, in McCleskey, recognized that evidence of the kind presented to the court there challenged the operation of many State capital punishment systems, and the Court understood that sensitive lines would have to be drawn. Those kind of judgments are Congress' job, and it is our responsibility to resolve them in a way that wipes out race discrimination, especially in an area as awesome-

ly important as death sentence decisions.

I ask unanimous consent to have printed in the RECORD a memorandum prepared by the distinguished Harvard Law School professor, Laurence H. Tribe, which concludes that:

There is ample reason to believe that Congress has constitutional authority to enact the Racial Justice Act, S. 1696.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

To: Senator Edward M. Kennedy.
From: Laurence H. Tribe.
Subject: Congress' Constitutional Authority to Enact the Racial Justice Act of 1989, S. 1696.
Date: November, 1989.

Here are my views about whether Congress has the constitutional authority to enact S. 1696, the Racial Justice Act of 1989. My conclusion is that Congress has this authority, based on its broad remedial powers under §5 of the Fourteenth Amendment and §2 of the Thirteenth Amendment.

Congress' authority embraces the ability to identify situations that require appropriate legislation to remedy, or to prevent, violations of the Thirteenth and Fourteenth Amendments. In *Katzenbach v. Morgan*, 384, U.S. 641 (1966), the Supreme Court held that Congress could, in the exercise of its recognized factfinding capacity, discover patterns of discrimination not discerned by the Court. This interpretation of *Morgan* appears to be widely accepted. Thus, last Term, in *City of Richmond v. J.A. Croson Co.*, 109 S. Ct. 706, 719 (1989), Justice O'Connor reaffirmed that "[T]he power to 'enforce' [the 14th Amendment] may at times also include the power to define situations which *Congress* determines threaten principles of equality and to adopt prophylactic rules to deal with those situations." (emphasis in original). *See generally* L. Tribe, *American Constitutional Law* § 5-14, at 345-46 (2d ed. 1988).

Congress having found that "the death penalty is being administered in a pattern that evidences a significant risk that the race of the defendant, or the race of the victim against whom the crime is committed, influence the likelihood that the defendant will be sentenced to death," (b) (3), S. 1696 fits within the contours defined by *Morgan*.

Likewise, for purposes of identifying violations of the 13th Amendment, Congress can "rationally [ ] determine what are the badges and the incidents of slavery." *Jones v. Afred H. Mayer Co.*, 392 U.S. 409, 440 (1968). Indeed, the Court has accepted the view that racial disparity in criminal penalties bears the emblem of slavery. *Civil Rights Cases*, 109 U.S. 3, 22 (1883). Here, Congress has concluded that "the interest in ensuring equal justice under law may be harmed, not only by decisions motivated by explicit racial bias, but also by government rules, policies, and practices that operate to reinforce the subordinate status to which racial minorities were relegated to our society," (b) (6). *See also McCleskey v. Kemp*, 481 U.S. 279, 1786 (1987) (Brennan, J., dissenting).

The Court's ruling in *McCleskey* that the defendant had failed to prove discriminatory intent forbidden by the Fourteenth Amendment presents no constitutional obstacle to Congress' authority. While a showing of discriminatory intent in a particular instance is required by a court that is asked to find an outright violation of the Fourteenth Amendment, Congress need not make any such finding in order to *enforce* the amendment in its own right.

This proposition appears clear under any reading of *Morgan*. In *Morgan*, the Court upheld a section of the Voting Rights Act of 1965 that overrode an English literacy voting requirement notwithstanding the fact that the Supreme Court had previously ruled in *Lassiter v. Northampton County Board of Elections*, 360 U.S. 45 (1959), that such a requirement did not in itself violate the Fourteenth Amendment. In short, "congressional authority extends beyond the prohibition of purposeful discrimination to encompass state action that has discriminatory impact perpetuating the effects of past discrimination." *Fullilove v. Klutznick*, 448 U.S. 338, 477 (1980). *See generally* L. Tribe, *supra*, § 5-14 at 337.

Indeed, the *McCleskey* opinion can be read as having invited Congress, in the exercise of its enforcement power under § 5 of the Fourteenth Amendment, to regulate death penalty procedures that discriminated against black murderers of white victims and against black victims of white murderers. As the Court stated, "[i]t is not the responsibility of this Court to determine the appropriate punishment for particular crimes." Such a role belongs to "the legislatures, the elected representatives of the people." *McCleskey* at 1780. Moreover, "[l]egislatures also are better qualified to weight and 'evaluate the results of the statistical studies . . .'" *Id.* (quoting *Gregg v. Georgia*, 428 US at 186).

Insofar as the remedial aspect is concerned, S. 1966 also clearly falls within the boundaries of Supreme Court precedent. The requirement that Congress enact "appropriate legislation," *Morgan* at 651, is a loose one. As stated by the Court, "[w]hatever legislation is appropriate, that is, adopted to carry out the objects the amendments have in view, whatever tends to enforce submission to the prohibition they contain and to secure to all persons the enjoyment of perfect equality of civil rights and the equal protection of the laws against State denial or invasions, if not prohibited, is brought within the domain of congressional power." *Ex Parte Virginia*, 100 U.S. at 345-46. *See also Morgan* at 653. The same standard applies in the Thirteenth Amendment context where § 2 "clothed 'Congress with power to pass all laws necessary and proper for abolishing all badges and incidents of slavery in the United States.'" *Jones*, 392 U.S. at 439.

Again, the Court's ruling in *McCleskey* does not bar Congress from acting. The proposed bill targets official behavior that even the Court's most conservative members agree falls within suitable legislative reach. Although there is disagreement regarding the scope of Congress's authority to make its own interpretation of the *substance* of a constitutional violation, it is undisputed that Congress may choose its own board *remedial scheme* to root out, and minimize the risk of, what the Court would concede are constitutional violations.

The question that has divided the Court is whether Congress has the authority to prohibit practices that have a discriminatory impact notwithstanding a judicial determination that only discriminatory intent violates the Constitution. For instance, in *City of Rome v. United States*, 446 U.S. 156 (1980), the majority held that given the "risk of purposeful discrimination, it was proper [for Congress] to prohibit [electoral] changes that have a discriminatory impact." *Id.*, at 177 (footnote omitted). In his dissent, then Justice Rehnquist objected that Congress had in effect established an "irrebuttable presumption" of discriminatory purpose which, he claimed, would amount to a substantive change in the law. *Id.*, at 215 (Rehnquist, J., dissenting).

In contrast, the proposed bill is immune to such criticism. The bill does not suggest that discriminatory effects in sentencing amount to constitutional violations *per se*. The bill falls squarely within the bounds of the Court's ruling in *McCleskey* that only "purposeful discrimination" is unlawful. *McCleskey* at 1766 (citation omitted). Simply, following a finding of discriminatory impact, the bill attacks deliberate discrimination by establishing a *rebuttable* presumption that death penalty practices were undertaken for discriminatory reasons. The bill does not establish a conclusory presumption of intent but circumvents a problem of proof peculiar to the judicial setting. It thus satisfies Chief Justice Rehnquist's objections to congressional attempts to identify as violative of the Constitution practices which the Court does not view as such. In sum, S. 1696 not put Congress in conflict the Court's reading of the Fourteenth Amendment.

The nexus between Congress's finding of discriminatory enforcement that is likely to be the result of discriminatory motivation, and Congress's prophylactic rule—as it were, an evidentiary shift in the burden of proof—is sufficient under *Morgan* and its progeny. Where individuals are being sentenced to death based on their race or of that of their victims, Congress may properly decide—precisely *because* courts find it institutionally difficult to discern racial motivation and to fashion adequate relief even if they do discern such motivation—to act legislatively to remedy the inequity.

Of course, the Supreme Court remains divided over the scope of congressional power regarding certain types of discriminatory practices. Some Justices reject the view that Congress may expand the guarantees secured by the Fourteenth Amendment beyond those recognized by the Supreme Court. For example, in *Oregon v. Mitchell*, 400 U.S. 112 (1970), four Justices concluded that Congress could not determine independently that a state's disenfranchising of 18-year-olds violated the Equal Protection Clause. To grant Congress this authority, they believed, would improperly allow Congress "to determine as a matter of substantive constitutional law what situations fall within the ambit of the [Equal Protection] Clause," *id.*, at 296 (opinion of Stewart, J). Likewise, in *EEOC v. Wyoming*, 460 U.S. 226 (1983), four Justices viewed Congress's extension of the Age Discrimination in Employment Act to cover state and local governments as an improper legislative attempt to expand the reach of the Equal Protection Clause because the Supreme Court had never found that age discrimination was proscribed by the Fourteenth Amendment. *Id.*, at 259-65 (Burger, C.J., dissenting). *But see Mississippi University for Women v. Hogan*, 458 U.S. 718, 732-33 (1982) (stating that in assessing Congress's § 5 power, the Court "give[s] great deferrence to congressional decisions and classifications," so long as Congress does not "validate a law that denies the rights guaranteed by the Fourteenth Amendment").

On any of the theories of congressional power under the Fourteenth Amendment,

however, the Racial Justice Act is an appropriate exercise of Congress's authority. No case has ever challenged the view that Congress may fashion its own *remedies* to shield individuals from violations of a federal right on the basis of *race*. Both Justice Black's opinion in *Oregon* and Chief Justice Burger's dissent in *EEOC* contrasted legislative actions regarding age discrimination—which they found improper—with actions concerned with constitutionally protected classes—which they found legitimate. Although "[t]he Fourteenth Amendment was surely not intended to make every discrimination between groups a constitutional denial of equal protection . . . the Civil War Amendments were unquestionably designed to condemn and forbid every distinction, however trifling, on account of race." *Oregon*, at 127 (opinion of Black, J.); *see also id.*, at 128-30; *EEOC*, at 260-62 (Burger, C.J., dissenting).

Within this frame of reference, there are three separate rationales justifying S. 1696.

The *first* is that the criminal justice system discriminates against *black defendants* who, under the equal protection clause of the Fourteenth Amendment, are entitled to redress. This basis is suggested in § 2922, (c) (A).

A *second* rationale focuses on the race of *the victim*. § 2922, (c) (B). Where a specific "public good" is being unevenly distributed on the basis of race, Congress has a Fourteenth Amendment mandate to remedy the situation. In this instance, the relevant public good can be viewed as the capital sentence, seen by many as a useful deterrent to the most serious crimes. As Professor Randall Kennedy writes, "blacks * * * are quite literally being denied the equal *protection* of the laws." Kennedy, McCleskey v. Kemp: *Race, Capital Punishment, And The Supreme Court*, 101 Harv. L. Rev. 1388, 1422 (1988). No such claim of black *victims' rights* was rejected by *McCleskey*—nor could it have been, since no party had standing to press any such claim there.

This rationale suggests a *third* powerful justification for the proposed congressional remedy. The uneven enforcement of the death penalty depending on the race of the victim manifests society's demeaning vision of blacks as second-class citizens. Such unequal treatment must in turn "generate[] a feeling of inferiority as to their status in the community." *Brown v. Board of Education*, 347 U.S. 483, 494 (1954). *See also* L. Tribe, § 16-21, at 1515-16. This situation provides a strong argument that Congress may constitutionally intervene to prevent this debasing image of a minority group from having gravely debilitating effects in other spheres of life.

The *Morgan* opinion suggested precisely this type of justification when it stated that congressional activity may be necessary to provide "enhanced political power" to "gain[] nondiscriminatory treatment . . . for the entire community." *Morgan* at 652. In a similar vein, the Fourteenth Amendment must confer on Congress the power to enhance the currently inferior status of blacks in the most dramatically visible of criminal contexts if they are ever to gain a full measure of human dignity in all realms of social life.

In sum, there is ample reason to believe that Congress has constitutional authority to enact S. 1696.

LAURENCE H. TRIBE.

Mr. KENNEDY. Mr. President, we have both the authority and the responsibility. The Racial Justice Act is in the legislation, and I hope the Senate will resist the attempt to remove it.

I reserve the remainder of my time.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Florida.

Mr. GRAHAM. Mr. President, I yield myself such time as is required for a brief statement.

Mr. President, the statement was made that there would be some states which would avoid the designation of being racially discriminatory in the application of their capital punishment law. There may be such a State, but I doubt it.

The definition of a prima facie case of a racially discriminatory pattern is found at the bottom of page 29 and the top of page 30, where it states that:

To establish such a showing of a racially discriminatory pattern for the purposes of this chapter, it shall suffice that death sentences are being imposed or executed under these two conditions: One, upon persons of one race with a frequency that is disproportionate to their representation among the numbers of persons arrested for, charged with, or convicted of death-eligible crimes.

I seriously doubt that, by a statistical measurement, there is any State in the Nation or in the District of Columbia or in the Federal system which can meet that test of showing that there is a statistical congruance of precision between the number of people in a race in that State's population of persons arrested for, charged with, or convicted of death-eligible crimes.

The second standard raises an even greater unlikelihood that it can be met. That is, punishment for crimes against persons of one race with a frequency that is disproportionate to their representation among persons against whom death-eligible crimes have been committed.

We are now going to be in a position of having to keep statistics on all of the persons against whom death-eligible crimes have been committed for purposes of presentation in court under challenge under this law, whether those crimes resulted in a perpetrator being identified and brought to justice, and then determining as against that pool of individuals, whether there is a statistical disparity based on the race of the individual against whom the crime has been committed, vis-a-vis that person who is charged in an individual case.

I submit that every jurisdiction to whom this law would apply would be subject to a finding of a statistical imperfection, and the first place it would happen, Mr. President, is going to be in the Federal system, since we have such a narrowly constructed Federal death penalty law applying to such a limited number of cases.

The prospects that in those few instances we are going to end up with mathematical precision as applied on a race-by-race basis, vis-a-vis those who committed crimes or those against whom crimes were committed, is so unlikely that the Federal system's death penalty would almost immediately be subject to this prima facie case of being a racially discriminatory pattern of justice.

I think what is really at stake here and particularly what differentiates this issue from the issue of job discrimination is the question of a system of accountability and control or a system of individual justice.

In the typical employment discrimination case you are dealing with an entity, a corporation, which has control over its total employment practices, control in terms of the standards that are set, control in terms of who within the organizations will carry out those standards, and the ability to monitor to see that those standards were, in fact, complied with. In those cases it could be argued that looking at the statistics of how a corporation actually functions would be an indication of whether there was a racial aspect to employment, promotion, or on-the-job treatment issues.

The criminal justice system is not intended to be an accountability control system. We would not, as Americans, accept the premise that our criminal justice system is to have some czar who is overseeing it with a chart, breaking down those persons who come in contact with the criminal justice system based on their race and based on the race of a pool of persons who had been subjected to criminal acts to assure that there was a mathematical balance, that at the end of each day the proper number of people in category A or category D are placed into the box. That would be a fundamental, basic overturning, and, I suggest, a practice that would be dismissed as abhorrent to our basic standards of individualized justice.

What is significant here is that in these cases in which the courts generally, through a minority dissenting opinion, have pointed to these statistics, in those very cases, through an elaborate process of justice, which included a decision by a prosecutor as to whether to bring the case, a trial by a jury, a judicial review through the highest court of the State and then, generally, by a request for certiorari by the United States Supreme Court and a process of State habeas corpus and then a process, typically repetitive process, of Federal habeas corpus.

These cases have been reviewed by all of those judicial forums and have been found, as an individual matter, to not be subject to the charge of racial discrimination. If there were any evidence in the individual case that that had occurred, the case would be dismissed or the individual would be afforded some new opportunity for justice.

In all of these cases, almost by definition, there has been no evidence of racial discrimination on the facts of the individual case that would warrant such relief, and so the look turns not to the individual, but rather to the system, to try to find that the system contains some invidious racial discriminatory pattern.

I do not believe that we can convert our justice system into a machine, that we can remove the individual judgment of prosecutors, of judges, of the citizens in the community who sit as jurors and substitute some statistical czar who will orchestrate, choreograph, direct our criminal justice system.

As I indicated, Mr. President, it is my intention to offer an amendment which will encourage and support the States in a State-by-State examination of the individual application of justice within their States. If there is an appropriate Federal role in this area, I believe it is in that area that that role lies rather than in the attempt to convert an individualized system of justice into a predictable machine to produce statistical results, not necessarily just results.

The PRESIDING OFFICER. The Senator from Masachusetts.

Mr. KENNEDY. Mr. President, it is my intention to yield to the Senator from Washington, but I would like to just take one moment to respond to the points that have ben raised by the Senator from Florida.

On the one hand, he says that this kind of statistical information is readily understandable in terms of employment, but it is not clear in the context of capital punishment.

Where I differ with the Senator from Florida is on the issue of responsibility. Just as you have corporate responsibility, district attorneys have their responsibility. We cannot say that the district attorney's office is not a system. It is a system. District attorneys make decisions as to who they are going to prosecute, what the terms of plea bargaining are going to be, whether they are going to ask for the death penalty, and in what types of cases. That is the system. The DA does that.

As a matter of fact, the GAO study points out that the evidence of racial impact was stronger in the earlier stages of the judicial process: for example, a prosecutorial decision to charge a defendant with a capital offense and to proceed to trial rather than to plea bargain in the later states. These decisions are being made in the early part of the process, and it sems to me that we cannot say that the judicial system can escape all responsibility for the type of discrimination which has ben found.

Mr. President, I yield 10 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, as the subject of the death penalty comes before the U.S. Senate once again, I am reminded of the role that rhetoric plays in the deliberations of this great body. A national consensus has developed regarding the imposition of the death penalty under certain circumstances, and votes in the Senate regarding the appropriateness of that ultimate criminal sanction have reflected that fact.

In recent years, the subject of the death penalty has become so popular that candidates from both parties have elevated it to the level of maximum political importance: the 30-and 60-second campaign message. Thus we are treated to a seemingly endless barrage of political hyperbole concerning who is "tougher on crime" or who is more for or against the death penalty. Like so much of what we hear during the campaign season, talk is cheap. Those of us who have the responsibility to vote in this Chamber should hold ourselves to a higher standard when we pass laws that might ultimately have society determine who will live and who will die.

I am not aware how many of my colleagues have stood before a jury and asked that the death penalty be imposed upon a defendant, but I have. As U.S. attorney for the western district of Washington, I asked for the death penalty in a case involving the cold-blooded murder of police officers that occurred during a bank robbery. They were shot in cold blood by a professional bank robber who stood with a .45 automatic and shot them between the eyes. Asking a jury to impose the death penalty is a responsibility that is not taken lightly by a fair-minded prosecutor.

I agonized a long time before I made that decision. I made it. I felt it was the correct decision, and I would do it again.

Voting to authorize the death penalty is a legislative responsibility of similar gravity and importance.

As one who supports the imposition of the death penalty under certain circumstances, I am in strong support of including the Racial Justice Act in the Omnibus Crime Act of 1990. On February 26, 1990, the General Accounting Office released its report following an exhaustive and thorough review of death penalty sentences issued since the U.S. Supreme Court's 1972 decision in Furman versus Georgia. The GAO found that studies showed "a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty."

The GAO further concluded that "in 82 percent of the studies, race of victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty, that is those who murdered whites were found to be more likely to be sentenced to death than those who murdered blacks. This finding was remarkably consistent across data sets, States, data collection methods, and analytical techniques."

The most sophisticated statistical study ever done regarding this issue was assembled by Dr. David Baldus, professor at the University of Iowa. His studies established conclusively that the race of a victim was statistically significant in the application of the death penalty at the 0.05 percent level, the generally accepted statistical test.

In other words, within the range of statistical error, his study showed that the race of the victim was statistically significant.

That study and its findings were accepted by the U.S. Supreme Court in the McCleskey versus Kemp case. Even though the Court ruled 5 to 4 in that case on statistics, it referred the matter of statistics to the legislative bodies. And that is why Senator KENNEDY and others included this in this bill in the committee and it is a part of the bill that is before us now and should not be stricken.

The Supreme Court stated in McCleskey versus Kemp:

> Even a sophisticated multiple—regression analysis such as the Baldus study can demonstrate a risk that the factor of race entered into some capital sentencing decisions.

Dr. Baldus examined sentencings in the state of Georgia over a 5-year period utilizing 2,500 cases. His study showed that if the victim was white, the defendant's odds of receiving a death sentence were 4.3 times higher than if the victim was black. Despite the assertions made by the distinguished Senator from South Carolina there clearly are valid statistical studies showing that race is a factor in death sentences.

For example, in Bay County, FL, between 1975 and 1987 there were 119 homicides. Forty percent of the victims were minorities, almost all black. Seventeen death sentences were imposed, and all of the death sentences involved cases where the victims were white. In that one county, white-victim homicides are prosecuted as capital cases, black-victim homicides are not.

A recent editorial in my hometown paper, the Seattle Times, referred to this disparity in death penalty sentencing, as "an American disgrace." I agree with that assessment, and ask unanimous consent that the full text of that editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Seattle Times, Apr. 23, 1990]

RACE STILL FACTOR IN CAPITAL PUNISHMENT

A bill sponsored by Sen. Strom Thurmond, R-S.C. expands capital punishment to more than 20 federal crimes. An amendment tacked on by Sen. Edward Kennedy, D-Mass., prohibits racial discrmination in applying the death penalty.

The bill probably will be defeated when it reaches the Senate floor in May. Neither foes nor advocates of the death penalty are satisfied.

The Kennedy measure standing alone, however, deserves passage. Even those who believe capital punishment is proper and necessary should support the effort to ensure justice in meting out the sentence.

The ugly truth is, race is still the most significant factor in determining who lives and who dies. Even controlling for legitmate nonracial factors (such as aggravating circumstances), a defendant is six times more likely to receive the death penalty if the murder victim is white than if the victim is black. The disparity worsens if the defendant is black.

The U.S. Supreme Court (by a 5-4 margin) has refused to allow statistical evidence in death penalty appeals, even though states cannot refute the evidence. Instead, the court places the burden on the defendant to prove specific racial discrimination. That's almost impossible, since few jurors would admit to illegal bias.

The Kennedy measure would shift the burden to the state once a defendant presents clear numerical evidence demonstrating a pattern of discrimination.

That is a minimum standard of justice. When a state seeks to execute, it should show that the sentence is related to the crime, not the skin color of the victim or the defendant.

Civil-rights laws made racism illegal in most arenas of life. Racism is doubly heinous in the arena of death. Congressional action is needed now. The appalling numbers—sure to worsen as executions increase—are an American disgrace.

Mr. ADAMS. Mr. President, I find it disappointing that a number of attorneys general, including the attorney general of my own State, have asserted that the Racial Justice Act is "designed to do nothing less than end the dealth penalty in this country." That is certainly not my intent, and, as I have already indicated, I support the death penalty under certain circumstances. I have had to face the decision of whether or not to ask for it in a very difficult case and did so.

The American Bar Association and nearly 100 other groups support the Racial Justice Act, not because they want to end the death penalty, but because they believe, as I do, that equal justice under law demands that we end this pattern of discriminatory imposition of the death penalty where it exists. The Racial Justice Act will improve the administration of our criminal justice system by eliminating race as a factor in death penalty cases. I urge my colleagues to keep the Racial Justice Act provisions in S. 1970.

I thank the Chair and I thank Senator KENNEDY for yielding me the time.

Mr. KENNEDY. Mr. President, how much time does the Senator desire?

Mr. BRADLEY. Seven minutes.

Mr. KENNEDY. I yield 7 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, capital punishment has been used in New Jersey almost continuously since colonial times.

In August 1982 the legislature reenacted capital punishment. Since then, the New Jersey Supreme Court has gone further than any other court in the country in beginning the process of collecting the systematic data needed to develop a comparative, proportionality review that would ensure similar results in similar cases.

It is my hope and expectation that New Jersey's experience will demonstrate that efforts to determine if discrimination exists are not, as many opponents of the Racial Justice Act allege, to get rid of the death penalty; rather they are to make capital punishment work by reducing the risk of racial bias.

The New Jersey Supreme Court in its 1988 decision in State versus Ramseur stated "Discrimination on the basis of race, sex or other suspect characteristic cannot be tolerated." The court also appointed Prof. David Baldus as special master to develop a public data file that would enable the supreme court to perform the proportionality review required by the New Jersey capital punishment statute.

I bring this to the attention of my colleagues here today because the New Jersey Supreme Court has begun the process of data collection envisioned in the Racial Justice Act provisions. There are many reasons why a person is convicted of a serious crime and receives the death sentence, the most serious and final of all judgments that society can deliver. But race should not be the reason for a person to be executed.

The statistical evidence developed since the U.S. Supreme Court's 1972 decision in Furman versus Georgia clearly reveals a widespread pattern of discrimination in the application of the death penalty. This evidence has been reviewed and studied by the General Accounting Office, referred to a number of times in this debate, which concluded that there was evidence of racial discrimination in capital sentencing.

The imposition of the death penalty is the result of a long series of actions and decisions taken by the prosecutor. Each decision greatly determines whether the death penalty will be imposed. Each step thus acts as a filter in a funnel that reduces the potential of a death penalty outcome.

The prosecutor has the option not to charge the defendant, or to charge him or her with a nonhomicide offense, a lesser offense, or a homicide offense which does not carry the possibility of the death penalty. The prosecutor also acts unilaterally in the framing of the homicide charge, which homicide offense to charge or the specific wording of the charge. A separate, but related, decision by the prosecutor is whether to proceed by indictment or accusation. Indictments must be returned by a majority vote of a grand jury while an accusation is simply drawn up by the prosecutor and filed. In New Jersey, capital cases must proceed by indictment, not an accusation. The decision to accuse thus precludes the death penalty.

Prosecutors have almost unfettered discretion and apply different standards in prosecuting capital cases. This led the New Jersey Supreme Court in State versus Koedatich to urge county prosecutors to develop guidelines for the selection of capital cases.

It is my hope and expectation that the use of such guidelines throughout the State should reduce the potential for discrimination. In this event, far from undermining capital punishment, they could, by reducing the risk of racial bias, give capital punishment the legitimacy that some believe it lacks, precisely because of concerns about discrimination.

It has been suggested by various Senators in this debate that the type of statistical evidence required by the Racial Justice Act would be extremely expensive. It has also been argued that the courts are not competent to analyze data. Mr. President, this has not been the case in New Jersey. The costs of the New Jersey proportionality review project have been far less than the costs of capital trials and appeals.

I suggest that Senators consider the minor costs of the Racial Justice Act with the costs and difficulties involved in governing in a society where the court system is perceived to be unfair or racist, by a significant part of the population.

Mr. President, I urge opposition to this amendment to strike the Racial Justice Act.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. BRADLEY. I will.

Mr. KENNEDY. I understand, from the statement of the Senator from New Jersey, that he supports the death penalty but that his State initiated a proportionality review and a data collection process along the lines of what is contemplated by this legislation. Is that correct?

Mr. BRADLEY. That is correct. That is the intent.

Mr. KENNEDY. And that this has not inhibited the State from the application of the death penalty, in accordance with the State law?

Mr. BRADLEY. It has not.

Mr. KENNEDY. I think this is enormously interesting, Mr. President. It is invaluable to learn that we have a State which has in effect the kinds of

procedures that might be prompted by this legislation; that they are not onerous requirements.

This body has accepted sentencing guidelines, and approved them overwhelmingly. So we attempted to eliminate disparity in the sentencing process. What we are trying to do with the Racial Justice Act is to ensure that there will not be race discrimination in the application of the death penalty.

I reserve the remainder of my time. How much time remains?

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Massachusetts has 13 minutes 10 seconds, the Senator from Florida has 28 minutes.

Who yields time?

Mr. GRAHAM. Mr. President, I yield 7 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 7 minutes.

Mr. HUMPHREY. Mr. President, I strongly support the amendment offered by Senator GRAHAM. This amendment would strike the falsely named "Racial Justice Act" section of the bill, which would impose an unjust and unachievable standard of strict racial parity in the imposition of State and Federal death sentences. If the Graham amendment is rejected and if the race-based sentencing section is adopted, Congress will effectively abolish the death penalties in the 36 States which have chosen to adopt them as part of their criminal justice systems.

That is the key consideration, Mr. President. That is the bottom line. Adoption of this language, rejection of the Graham amendment, means that Congress will have effectively abolished the death penalty in those 36 States which impose capital punishment. There is no justification whatsoever for such a radical Federal interference with the States' efforts to punish violent crime.

Proponents of the racial sentencing provision hoped to avoid defending its innumerable flaws and fallacies by giving it an attractive title. They call it the "Racial Justice Act." The reality is that this provision is an affront to the strong sense of justice and fairness which abides in Americans of all races.

Under this provision, the imposition of the death penalty in any given case would depend upon the race of the murderer or the race of the victim—without regard to the fairness of the trial or the depravity of the crime. The goal of criminal sentencing in any just society is to make the punishment fit the crime. But under the racial sentencing section of S. 1970, the sentence will be determined by factors which have absolutely nothing to do with the severity of the crime—namely, the statistical breakdown by race of past sentences and the race of the perpetrator and his victim. I am sure that most Americans would be shocked and amazed to learn that we are even considering such an unjust and arbitrary method of capital sentencing.

The racial sentencing provision also has a false premise, and I would like to note some facts which bear this out. The proponents of the Racial Justice Act contend it is necessary based on their argument that the death penalty discriminates against blacks. Here are the facts, as set forth in the Bureau of Justice Statistics Official Report, "Capital Punishment 1988."

During 1988, 66 percent of those sentenced to death were white, while only 31 percent of those sentenced to death were black. More than twice as many white murderers were sentenced to death row than black murderers. The statistics also show that roughly 50 percent of those arrested for murder are white, and about 48 percent are black. So even though the pool of murderers is almost evenly split between blacks and whites, the great majority of those getting the death sentence are white. These facts refute the claim that the death penalty discriminates against black defendants.

William Hill, the deputy attorney general of the State of Georgia, forcefully testified against the racial death penalty provision before the Senate Judiciary Committee. He states that it is a surreptitious attempt to abolish State and Federal death penalties. And no one can claim that Mr. Hill is insensitive to the racial issues surrounding the death penalty. Mr. Hill is himself a member of the black race.

In a letter dated January 24, 1990, the Attorney General of the United States stated that this racial sentencing provision would "have the practical effect of abolishing capital punishment in the United States—at both the State and Federal levels."

That is the practical effect, Mr. President. And perhaps that is the principal purpose of this language. That is certainly its practical effect.

State attorneys general from throughout the United States have also condemned the fallacies of this deceptive attempt to outlaw the death penalty. Twenty-three State attorneys general have submitted a joint letter expressing their strong opposition to the racial death penalty provision of S. 1970. They firmly endorse Attorney General Thornburgh's view that the RJA would effectively abolish capital punishment at both the State and Federal levels. Numerous other State attorneys general—including the attorney general from my State of New Hampshire—have written separately stating their opposition to the racial justice act provision on the same grounds.

All Senators, therefore, it seems to me, should be keenly aware of this fact: A vote against the Graham amendment, which is to say a vote to retain existing language, is a vote to abolish the duly enacted constitutional death penalties of some 36 States.

Even for Senators who do not personally advocate the death penalty, this aspect of the bill should be unacceptable. While we in Congress have impinged on many areas of State jurisdiction, we have always respected State government's traditional jurisdiction over State criminal law. This measure, however, would constitute a truly radical impingement on the States' fundamental power to punish violent crime.

The State death penalty laws have all been carefully drafted to comply with the strict standards of fairness required by the Supreme Court's decisions. In case after case, the High Court has upheld those death penalty laws against constitutional challenges of every kind. And in the leading case of McCleskey versus Kemp, the Supreme Court upheld the Georgia death penalty against the very claim that underlies this legislation—namely, that the death penalty was infected by race discrimination. In an opinion by Justice Powell, the Court held that the scrupulous safeguards provided by the State death penalty procedures where more than adequate to guard against unconstitutional discrimination.

But this bill tells the States that the scrupulously fair procedures upheld by the Supreme Court are not good enough. It even specifically states that the absence of any discriminatory motive or intent in a given case is insufficient to overcome a race-based challenge to a death sentence. Instead, the bill effectively bars any use of the death penalty by requiring the States to guaranteee strict racial proportionality in the collective results of past death penalty cases.

Clearly, it is legally impossible for the States to control the racial breakdown of sentencing outcomes. The only way they could possibly do so would be to deliberately use race as the decisive factor in choosing to seek the death penalty or not in each case. In other words, a bill which calls itself the "Racial Justice Act" would actually require the death sentence to be allocated precisely on the basis of race. That is both unconstitutional and immoral.

But the absurdities of this measure do not even end there. The bill's requirement for racial proportionality in sentencing is retroactive. A defendant can conclusively avoid the death penalty by selecting any past period of years which produces sentencing statistics that do not conform with the standard of strict racial parity. It won't matter if the State's capital sentencing statistics are perfectly balanced along racial lines for, say, the

past 5 or 10 years. If the statistics going back 15 or 20 years reveal some racial imbalance, the defendant can select that period for statistical analysis and seize on any imbalance as a bar to the death penalty.

Mr. President, the Supreme Court has established a system of extremely rigorous standards and procedures to prevent arbitrary or discriminatory imposition of the death penalty. In case after case, the Court has carefully reviewed the State death penalty procedures and held that they are fair and nondiscriminatory. This bill would substitute a statistical standard of racial proportionality—a system of racial quotas—in order to achieve its hidden agenda of abolishing the States' constitutional death penalty laws. It is unfair to Americans of all races—especially to the victims of violent crime. I urge my colleagues to reject this radical and misguided measure.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. I yield 5 minutes to the Senator from Utah.

Mr. HATCH. Mr. President, this week's debate so far has not been about crime. It has been about reversing Supreme Court cases—good, tough Supreme Court cases that those of the liberal persuasion in this Chamber do not like. The original Biden bill wanted to reverse Wainwright versus Sykes on procedural defaults. Yesterday, some Senators wanted to reverse Teague versus Lane on retroactivity. This morning's debate on mental retardation was about Penry versus Lynaugh, saying it should be reversed. Now we are told that McCleskey versus Kemp should be overturned.

Mr. President, is our Supreme Court that bad? I think they do a remarkable job. Nobody doubts that the Rehnquist court has been tougher on crime than any court in our memory. But all this week long, we have been told to reverse one after another of that court's decisions.

Mr. President, Justices Brennan and Marshall, though I like them both and they are both very strong, noble people, they are not the entire Supreme Court. What we are being asked to do this week is to elevate one after another of their dissenting opinions to make them the majority opinion of the United States Supreme Court when they are a distinct minority in these matters because they are consistently, almost without fail, taking care of the criminals' rights but not very concerned about the victims' rights. They lost these cases. They lost them because they were wrong; they were not tough enough on the criminal elements in our society that are eating us alive. And the majority of Justices on our Supreme Court recognized that.

Enactment of this bill would mean an end to the death penalty in this country, both Federal and State. It is advanced not so much by concern for racial justice as by opposition to the death penalty. The bill prohibits imposition of the death penalty where either more or fewer death penalties are being imposed where the victims were either white or black. No reliable study has ever found a correlation based on the victim's race.

The bill also prohibits the penalty where the number of blacks or whites receiving the penalty is disproportionate to the number of blacks or whites arrested for, charged with, or convicted of capital offenses. But everyone knows that more whites receive the death penalty, so the bill can never be satisfied. It does away with the death penalty.

Obviously, when you are only measuring for two variables, black versus white, one or the other is going to be disproportionately represented. The theoretical possibility that the death sentences or the races of the victims will exactly match the racial proportions against which the bill will measure them is about as likely as a coin toss landing on its edge.

The bill is nonsensical. Who are the victims of treason? Are we all not? Who are the victims of airline hijacking? Does it really matter what the racial composition of the passengers of a hijacked airplane might be?

The bill tries to enact into law findings of statistics that the death penalty has been unfairly applied based on the race of the victim of the crime.

This argument only surfaced after courts rejected the argument that there was a statistical imbalance showing discrimination based on the race of the defendant. The courts have unanimously rejected such studies characterizing them as misleading, unreliable and not relevant.

The PRESIDING OFFICER. The time allocated to the Senator has expired.

Mr. HATCH. Mr. President, the distinguished Senator from Pennsylvania has kindly consented to give me 5 minutes of his time.

Mr. METZENBAUM. Will the Senator yield?

Mr. HATCH. I cannot yield because I do not have enough time to get through what I need to get through unless it is on his time.

Mr. GRAHAM. If it is agreeable with the Senator from Pennsylvania, I will allocate an additional 5 minutes to the Senator from Utah.

Mr. SPECTER. That is agreeable.

Mr. GRAHAM. I allocate 5 minutes to the Senator from Utah.

Mr. SPECTER. That leaves approximately 10 minutes remaining for me?

Mr. GRAHAM. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. There is 15 minutes, 15 seconds.

Mr. GRAHAM. As I understand the Senator from Pennsylvania, I intend to reserve 4 minutes for myself to close. That will leave 6 minutes for the Senator from Pennsylvania.

Mr. METZENBAUM. Mr. President, I hate to do this to my colleagues but I will object to any extension. I must leave the floor of the Senate. I want to vote on this particular amendment. I made my position clear earlier.

The PRESIDING OFFICER. The objection of the Senator from Ohio is not in order. The Senator from Florida controls the time. He may yield the time at his discretion.

Mr. METZENBAUM. This is out of the Senator's own time?

Mr. GRAHAM. This is out of the time that is available under the unanimous-consent agreement.

Mr. METZENBAUM. I cannot object.

Mr. HATCH. The Senator from Pennsylvania has kindly consented: he will give me 3 minutes of his time.

Mr. GRAHAM. I yield an additional 3 minutes to the Senator from Utah.

Mr. HATCH. Mr. President, we do not advance racial justice by pitting one race against another in meaningless statistical head counts. All that this bill guarantees is the abolition of the death penalty.

I was surprised to hear Senator BRADLEY, when he stood up, suggest that the New Jersey death penalty contains language similar to the Racial Justice Act. That is odd because if that is so, then why would the attorney general of New Jersey, Robert Del Tufo, write the Senate Judiciary Committee to oppose this bill and to tell us that he believes it would be the end of the death penalty in New Jersey? The fact of the matter is that General Del Tufo is an expert on this matter, and he is right. We all need to know that.

Enactment of section 107 of title I of S. 1970 would mean the end to the death penalty—both Federal and State. That is a sweeping claim, and I do not make it lightly. But this is the only conclusion that is possible for one who has studied the provisions of this legislation. It is the conclusion reached by the Justice Department, by many of my Judiciary Committee colleagues, four of whom joined with me in signing the recent dear colleague letter on this subject, and by many others active in the field of criminal law.

Most significantly, this is the view of the attorneys general of the various States. I do not have time to list here all of the different State attorneys general who have written the Judiciary Committee to alert us to the fact that the so-called Racial Justice Act will, if enacted, void his State's death penalty. I am sure that many of my

colleagues have been contacted by the attorney general of his or her own State. I know I have been. I have also been contacted by the attorneys general of Arizona, Alabama, Idaho, Georgia, and over 30 other States, all concluding that the Racial Justice Act means the end of the death penalty.

If there is any Senator that has not yet received the opinion of your own State's attorney general on this point, I urge you to do so—to find out precisely what this bill will mean to your State. I have not heard of any State attorney general who denies that this bill will end the death penalty in his or her State. Maybe there is one, but I doubt it.

Section 107, the so-called Racial Justice Act, is not about achieving racial justice in capital sentencing. It is about abolishing the death penalty, pure and simple. Any Senator who votes for this bill votes to outlaw the death penalty in America.

Any Senator who votes against this amendment votes to abolish the death penalty. The Racial Justice Act is motivated not by concern for racial justice so much as by opposition to the death penalty. Make no mistake. A vote against this amendment to strike is a vote to eliminate the death penalty at the Federal level and in every State. The word has gotten out—and will get out among our constituents. Support for the death penalty has never been higher. The people will hold each and every one of us accountable for this transparent effort to elimimate the death penalty and thwart the will of the people.

I say to my colleagues, the label on this bill will not insulate us on this vote. The so-called Racial Justice Act is not about race and it is certainly not about justice. It must be defeated. We must strike it from this bill.

The act is objectionable on innumerable grounds: it is illogical, some of its provisons are nonsensical, and, the entire bill is, I believe, plain unconstitutional.

Section 107 prohibits the imposition or execution of a death sentence in a "racially discriminatory pattern." Such pattern is said to exist whenever death sentences are imposed more frequently "upon persons of one race than upon persons of another race" or more frequently "as punishment for crimes against person of one race than as punishment for crimes against persons of another race." A prima facie case of discrimination is established under this bill by showing that death sentences are being imposed on persons of one race—black or white—with a frequency that is disproportionate to that race's representation among: First, the numbers of persons arrested for, charged with, or convicted of, death-eligible crimes; or second, the numbers of persons "against whom death-eligible crimes have been committed."

The bill applies to both Federal and State death sentences.

In addition, the bill requires State and Federal agencies to maintain pertinent data on the charging, disposition, and sentencing by race for all defendants in and "victims" of cases of death-eligible crimes. It is a significant failing of this bill that it does not indicate how this calculation is to be done as I asked before, who are the victims of treason? Are we not all? Who are the victims of airline hijacking or of drug-kingpin activity? This bill, if enacted, would force the criminal justice system to consider these things. It would inject the factor of race into the operation of the criminal justice system in cases, such as prosecutions for treason, where no one has ever even alleged that race is a problem. Is that "racial justice?" Is that progress in our Nation's long-standing effort to remove racial consideration from public policy? Of course not.

I submit that this provision promises one of the most significant steps backward in race relations that this Congress has ever considered. It would not only impede our progress toward a color-blind society; it would guarantee that we never get there. That it would accomplish all of this under the guise of the fine-sounding phrase "racial justice" is nothing more than a cynical hoax on those who have fought so long for genuine racial justice in this country.

Consider what the Justice Department has said about this bill:

> The Racial Justice Act cannot fairly be characterized as in any sense a civil rights measure. The practical abolition of capital punishment that would flow from the Act would gravely harm the security of the American people, including minoirity groups who often experience at first hand the most devastating effects of violent crime. For example, close to one-half of all victims of murders and willful homicides are black. Thus, the Act would make no contribution to the cause of civil rights, but would deal a heavy blow to the most fundamental of all civil rights—the right of all citizens to governmental protection against lethal criminal violence. (DOJ Talking Points on the Racial Justice Act, May 16, 1990).

I note that S. 1971, Senator Thurmond's crime bill, contains a workable procedure to safeguard against the influence of racial factors in capital cases. So does S. 1970. That safeguard is the certificate procedure known as the "Special Precaution to Assure Against Discrimination." Proposed Section 3593(f). I urge anyone who feels that present law does not adequately protect the criminal sentencing process from the infection of prejudice to examine this important section. Maybe we cannot legislatively ensure that discrimination will never exist; but I believe that the certificate procedure required by Section 102 is the most effective means we have of requiring that each capital sentencing jury carefully and soberly reflects upon the importance of race-neutral sentencing.

The certificate approach is forward-looking. The Racial Justice Act, by contrast, does not in any way seek to prevent discrimination in the future—its only goal is to remedy discrimination that may have occurred in the past, but which cannot be proved—by prohibiting all executions. That is no remedy. The certificate approach is precisely the sort of guarantee that the Supreme Court in McClesky versus Kemp suggested as a meaningful attempt to address the discrimination which some would say is inherent in death penalty procedures. Unlike the scattershot approach of the Racial Justice Act, the certificate provides that alleged discrimination is addressed in the individual case, which the Court has recognized is the only place where it can logically be remedied.

Section 102's "Special Precaution To Assure Against Discrimination" seeks to achieve justice; Section 107's Racial Justice Act only seeks to prevent executions—regardless of whether justice is achieved or thwarted by that result.

Let us consider the specifics of the so-called Racial Justice Act. It attempts, basically, to enact into law the findings of the poorly regarded study by Prof. David Baldus of the University of Iowa that the death penalty has been unfairly applied based on the race of the victim of the crime. It should first be noted that this argument, focusing on the victim of the crime, only surfaced after death penalty opponents were unsuccessful in making the argument that statistical imbalances in death penalty cases might turn on the race of the perpetrator of the crime. But courts throughout the country rejected that argument. The facts showed just the opposite: whites guilty of capital crimes were more likely than blacks to receive the death penalty and to be executed. In fact, a Department of Justice study employing nationwide figures indicated that white defendants arrested for serious homicidal offenses had a probability of being sentenced to death that is more than 35 percent higher than the probability for black defendants. See, U.S. Department of Justice, Bureau of Justice Statistics, Capital Punishment 1984, at 9.

So death penalty opponents came up with the Baldus theory, which says: "Don't look at the race of the criminal, look at the race of his victim." We are to believe that a jury which might harbor no animus toward a black defendant because of his race still is more likely than not to discriminate against that defendant should it turn out that his victim was white.

The Baldus study has been widely ridiculed. It was dismissed by the United States Supreme Court and characterized by a Federal district judge—who heard all of the evidence on this point—as not trustworthy. Others who have examined the study in detail point out numerous methodological irregularities and other problems which make its conclusion wholly unreliable. Indeed, on close examination, it turns out that the best models under the study produced no statistically significant evidence of discrimination based on the race of the victim or the race of the offender. There was no discrimination present in the prosecutorial decisions of the prosecutors, nor was there any discrimination present in the decisions by juries to impose the death penalty. All of this was noted by the Supreme Court in their decision in the case of *McCleskey* v. *Kemp*, 481 U.S. 279, at 286 (1987).

So I find Racial Justice Act objectionable not simply because it attempts to enact fuzzy social science concepts into the criminal law, but becasue it actually tries to codify a study that has been repeatedly rejected by the courts. It asks us, here, in the Senate of the United States, to enact into law the theory of this faulty study when everyone who has carefully examined it has determined that the research does not document or support the conclusions of Baldus and his researchers. Why should our legislative judgments be swayed by evidence which no court views as probative, which the Supreme Court finds unreliable, and which scholars have found to be untrustworthy?

It is important to remember two other points. As the Supreme Court noted in the McCleskey case, even if the Baldus study was correct, its conclusions do not undermine the constitutionality of the death penalty, so long as that sentence is geared to the circumstances and culpability of a particular defendant. It simply does not undermine the validity of one prisoner's sentence that other prisoners in unidentified, theoretically imaginable cases might have been discriminated against.

Second, I note that section 107 goes far beyond the Baldus study. The study only condemned the situation in which more death sentences are allegedly being imposed where the victims are white than where the victims are black. So does the Racial Justice Act. But it also prohibits the death penalty if fewer death sentences are being imposed in white-victim crimes than in black—victim crimes. The states cannot win: whether the statistics favor blacks or favor whites, this bill says there shall be no death penalty.

There is more. Section 107 would also prohibit the death penalty where the number of blacks or whites receiving the penalty is disproportionate to the number of blacks or whites arrested for, charged with, or convicted of capital offenses. But we already know that that latter disproportion exists and is likely to continue. More important, as defined, the disproportion can never be cured: there will always be either more or fewer blacks or whites receiving the death penalty. It has to be one or the other.

By making it equally bad whether the disproportion favors—or disfavors—blacks or whites, section 107 guarantees that its prohibition can never be satisfied—except in the extremely unlikely event that the exact number of blacks arrested for, charged with, and convicted of capital offenses precisely matches the exact number of whites receiving the penalty. That cannot happen in real life: it never happens, in any jurisdiction, that everyone arrested for a crime is later charged with the offense, nor is everyone tried for a crime ultimately convicted. A statistician could tell you the exact odds against all four of these numbers turning out to be identical, but any of us can see that the odds must be less than the chance of a coin toss landing on its edge. This is Alice in Wonderland stuff. It does not reflect a true concern for adopting a legislative solution to a national problem.

When we decree that it is equally bad for either race to receive more or fewer death sentences, as the Racial Justice Act does, then we guarantee that discrimination, so defined, will exist in the future, even if it does not exist now. We do not advance racial justice by pitting one race against another in meaningless statistical head counts. All that this bill guarantees is the abolition of the death penalty.

These extra added portions of the Racial Justice Act should not be overlooked. Despite what its supporters may say, we never had hearings on this bill. When hearings were held on the subject of racial justice this bill had not been introduced. The sole subject of those hearings was the issue of whether the race of the victims of crime was a factor in capital sentencing. There was no discussion or debate on the issue of whether the race of the perpetrator of the crime might be a factor in sentencing or execution. That is entirely new and unexamined.

It is clearly not accidental that the new issue of the race of the criminal has been interjected by the Racial Justice Act at this time. It has been well-known for some time that a disproportionate and growing percentage of whites charged with and tried for capital charges were receiving death sentences. As the report states, "This data shows that the likelihood of whites arrested for murder being sentenced to death is substantially higher than in the case of blacks arrested for murder, and that this tendency increased very substantially in 1988." Thus everyone knows—it is common knowledge—that the race of the perpetrator of most capital offenses is not proportionate to the racial balance in our society. Requiring that it be so before a death sentence can be carried out is simply a back-door way of forbidding the carrying out of any death sentence.

The Supreme Court cases in which racial bias in capital punishment has been alleged never are based on the race of the perpetrator—they are based on the race of the victim. Why? Because the opponents of capital punishment know that they cannot show any adverse impact on blacks, statistical or othewise, based on the race of the criminal. Consider this fact from the Justice Department's 1988 Death Penalty Report: "The percentage of death sentences imposed on whites—66 percent—far exceeds the percentage of murders committed by whites—50 percent." On the other hand, blacks, who committed 48 percent of the murders nationwide last year, received only 30 percent of the death sentences.

Because the fact of this disproportion does not impact adversely on blacks; it has not and should not be a cause for concern. But the Racial Justice Act would have such a disproportionate result in the invalidating of every death sentence, because under the act death sentences can not be carried out if the sentences are being returned in disproportionate numbers, regardless of whether blacks or whites are being overrepresented.

JUDICIAL CONSIDERATION OF PERTINENT NONRACIAL CIRCUMSTANCES

I would like to consider another aspect of section 107. It does purport to allow the death penalty in certain cases by providing that certain disproportions can be explained away by proof of pertinent non-racial circumstances. But this approach is wholly illusory and would, if permitted, involve the courts in the most cynical, race-directed judgments imaginable. Do we really want courts recognizing—ratifying almost—the nonracial explanations that may exist for discriminatory patterns in the imposition of the death sentence?

Death penalty opponents have historically argued that imposition of the death penalty is related to all of the conditions which cause crime: the educational background of the defendants; their opportunities for a productive life; improper nutrition; poverty, poor home environment. Studies have shown that the location in which a case is tried affects the probability that a defendant will receive a death penalty. Does the proof of any one of these nonracial circumstances permit a court to say it is all right to execute a black man while sparing the life of a white defendant, or vise versa? The

racial proportionality act, if it is to be taken as seriously meaning what it purports to say, would inject just this sort of racism into the criminal justice system. It must be soundly rejected.

STATISTICAL JUSTICE IS NO JUSTICE

In 1987, the Supreme Court decided the case of *McCleskey* v. *Kemp*, 481 U.S. 279 (1987). There the claim was made that past statistical evidence of racial discrimination—although wholly unrelated to the defendant's own murder of a police officer—should invalidate the death penalty. The Supreme Court responded summarily: "We agree with the Court of Appeals, and every other court that has considered such a challenge, that this claim must fail." 481 U.S. at 292. Reliance upon statistical evidence of discrimination in capital sentencing had also been rejected in the 4th, 5th, and 11th Circuits. The courts have veen unanimous: statistical justice is no justice. Murderers wreak their havoc without regard to racial statistics and ought to be brought to justice without regard to racial statistics.

Despite this recent authoritative judgment of the Supreme Court, the Racial Justice Act proposes to invalidate the death penalty whenever statistics tend to show a racially discriminatory pattern. Proposed section 2922(a). The linchpin of this bill is the statistics. In the words of the act, to establish a racially disproportionate pattern, "ordinary methods of statistical proof shall suffice." Proposed section 2922(b)(1).

A further provision of section 107 is even more astounding. It states that "it shall not be necessary to show discriminatory motive, intent, or purpose on the part of any individual or institution." In other words, actual discriminatory purpose on the part of a juror, prosecutor, or judge is irrelevant—it's not even to be considered. Think about this a moment. If true discrimination occurs in the criminal justice system, it occurs because a judge, juror, or prosecutor harbors and puts into effect a racial bias. Yet the motives and intent of these people are specifically written out of the so-called Racial Justice Act. It is only concerned with statistical evidence about past murders that have nothing to do with the current case before the court.

Statistics about other cases, however, say nothing about whether racial bias played a role in a particular case. There are not employment discrimination cases we are talking about, these are criminal acts and the response of the criminal justice system to them must be judged in the individual case.

Can you imagine going to the mother of a murdered child and explaining to her that her child's murderer will be sentenced based on past statistics, rather than according to the circumstances of his crime? I am sure some bold attorney could try to explain that the defendant's lenient sentence is an appropriate response to past racial discrimination. The mother would be entitled to respond: "Which juror or judge or prosecutor ever demonstrated the slighest bit of racial animus?" At that point, I would like to hear the bold attorney explain that past statistics are more relevant to sentencing this murderer than is any evidence of criminality or any evidence of discriminatory intent on the part of the jurors.

SECTION 107 IS UNNECESSARY TO ERADICATE DISCRIMINATION

Section 107 is advanced on the assumption that racial discrimination must not be allowed to taint a process that considers implementing the death penalty. On that point, namely that racial discrimination must not be allowed to influence capital sentencing, I entirely agree. Even more important, the Supreme Court agrees.

The *McCleskey* v. *Kemp* decision itself establishes the proposition that racial animus will not be allowed to taint the criminal justice system. At the very outset of its opinion, the Supreme Court noted that McCleskey would prevail under the equal protection clause and would escape the death penalty if he could show "that the decisionmakers in his case acted with discriminatory purpose." 481 U.S. at 292. That is still the law. The slighest evidence that a single juror, prosecutor, or judge acted with discriminatory purpose will invalidate the sentence. As the Supreme Court said in McCleskey, if a defendant can produce any evidence at all of discrimination "specific to his own case," he will prevail. This should be ample protection against any racial prejudice creeping into the sensitive processes of our criminal justice system.

Section 107 would enact into law a faulty, logically defective position; one already soundly rejected by the courts. That position, and this bill, requires no evidence "specific to the case." Instead McCleskey and section 107 rely solely upon statistics about other cases.

As I have repeatedly stated, the current capital sentencing jurisprudence contains adequate safeguards against racial discrimination. This provision is simply unnecessary. The slightest evidence of discrimination that actually relates to the defendant's case will receive the strictest judicial attention. If there is any possibility that an individual has been discriminated against, his death sentence will be invalidated. There is no greater guarantee that our Constitution or this Congress can provide.

To those who fear that jurors might harbor some unspoken racial animus, the criminal justice system once again provides a safeguard. Defendants are constitutionally entitled to an unbiased jury. Possible racial aminus, therefore, is a regular subject of juror voir dire, and prosecutors are prohibited from employing any racial factors in exercising preemptory challenges to jurors. *Batson* v. *Kentucky*, 476 U.S. 79 (1986). These protections are double and triple guarantees that a jury will be fully devoid of any bias that might influence its determination. As the Supreme Court has stated, the jury is the defendant's fundamental "protection of life or liberty against racial or color prejudice. "*Strauder* v. *W.V.*, 100 U.S. (10 Otto) 303 (1880). The Supreme Court has ensured that this fundamental protection against racial bias will itself be unbiased.

But there is more. Even these numerous protections are backed up and reinforced wth additional protections against bias in the implementation of the death penalty. The current procedures for implementation of the dealth penalty ensure that racial animus will not creep into the process. In the words of the 5th Circuit in the Spinkellink case, "the allegation that Florida's death penalty is being discriminatorily applied * * * is nothing more than an allegation that the death penalty is being imposed arbitrarily and capriciously, a contention we previously have considered and rejected." *Spinkellink* v. *Wainwright*, 578F. 2d 582, 613 5th Cir. 1978).

After all, current capital sentencing in the wake of Furman verus Georgia, is a very demanding process. For instance, the new Georgia statute, like that in effect in most States, requires: First a bifurcation of guilt and sentencing proceedings: second, a narrowing of the class of crimes to which capital punishment applies; third, a requirement that the jury find aggravating cricumstances justifying a death sentence; fourth, a requirement that the defendant be permitted to offer mitigating evidence; fifth, an automatic appeal to the State supreme court to review all the evidence, and much more beyond these. Many of these requirements are imposed by Supreme Court jurisprudence. All of these requirements and more ensure that the death penalty will not be imposed arbitrarily, that racial bias will not enter into the process, and that any suspected discriminatory influence will be quickly detected and extirpated.

There are simply no other questions in our public life about which we demand that the answers be so definitely and absolutely certain as the three questions necessary to the carrying out of a death sentence:

(1) Was the defendant guilty of the crime?

(2) Was the sentence of death appropriate? and

(3) Was the trial and sentencing free from prejudice and discrimination?

In addition, if the Special Precaution to Assure Against Discrimination is enacted—section 102 of S. 1970, which is also contained in the Thurmond bill—then every juror in a capitol case will be required to ask a third question: has a racial bias entered into my decision in the case before me? Only when every juror answers that additional question in the negative will the sentence be permitted to stand.

In sum, there are so many layers of protection against racial bias affecting capital sentencing that any statistical tinkering with the process, particularly tinkering as wrong-headed and unreliable as that proposed by section 107, would be wholy unjustified.

THE POTENTIAL HARM OF STATISTICAL JUSTICE

A recent Michigan Law Review article states clearly that this attempt at statistical justice would not only be unnecessary, but would also be dangerous to the criminal justice system. Prof. Robert Burt of Yale University states that danger in these terms:

> The complainants in McCleskey claimed to have documented the persistence of extensive racial bias in the administration of the death penalty. If the Court had validated this claim, if it had acknowledged that such racism persists notwithstanding almost a generation's effort at judicially sponsored reform, the Court would have virtually pronounced (in Justice White's words) 'an indictment' that would tend (in Justice Rehnquist's words) to 'undermine the integrity of the entire criminal justice system.'

This is a weighty assertion. This distinguished Yale law professor asserts that sentencing by past statistics rather than the facts of the individual case would "undermine the integrity of the entire criminal justice system." Yet the Supreme Court itself said almost as much in Justice Powell's opinion in the McCleskey case:

> First, McCleskey's claim, taken to its logical conclusion, throws into serious question the principles that underlie our entire criminal justice system . . . if we accepted [his] . . . claim that racial bias has impermissibly tainted the capital sentencing decision, we could soon be faced with similar claims as to other types of penalty. Moreover, the claim that his sentence rests on the irrelevant factor of race easily could be extended to apply to claims based on unexplained discrepancies that correlate to membership in other minority groups . . . such as the defendant's facial characteristics or the physical attractiveness of the defendant or the victim that some statistical study indicates might be very influential in jury decisionmaking. As these examples illustrate, there is no limiting principle to the type of challenge brought by McCleskey. 481 U.S. at 315-18.

The reason for the Supreme Court's alarm—and I repeat that these alarming words are found in the opinion of the Supreme Court rejecting statistical justice—is that validating the charge of racial bias would also validate doubts about the fairness of the entire criminal justice system. But the truth is that alleged statistical discrepancies, even if assumed valid, do not prove that a single judge, juror, or prosecutor was influenced by racial animus. Statistics are simply not evidence of any relevance to the specific case before the judge and jury.

As the Supreme Court noted, this notion of statistical justice could be applied elsewhere as well. Can you imagine statistics about racial factors in drug busts overturning our war on drugs? Can you imagine statistics about racial factors in burglary convictions invalidating those prosecutions? And, if racial factors are accepted despite their lack of relevancy, what happens when statistics tend to show that physical attractiveness influences some prosecutions? The proposed bill does not extend that far, but the Supreme Court is on target when it states that there is simply no limiting principle with regard to the type of challenge created by this provision.

So far, Mr. President, I have discussed the question of race and capital punishment in abstract, statistical terms. But we should never forget the human dimensions of this subject. Mr. President, I could discuss the crimes committed by John Spinkellink, who—after escaping from prison in Florida—murdered his traveling companion by shooting him in the back as the victim lay sleeping. Although Mr. Spinkellink was the white murderer of a white victim, he still appealed time after time attempting to show that courts discriminate against the murderers of white victims as opposed to murderers of black victims. Before Spinkellink was ultimately executed, he had succeeded in having his death sentence reviewed on 24 separate occasions. (National Law Journal, 12/22/80, p. 22).

I could also discuss Frieda Mueller, Esther Sepmeyer, and Charles Biebel, each of them aged, infirm middle-American farm residents of rural, central Illinois. Each of them had their life ended, in separate incidents, by Girvies Davis and Ricky Holman, two murderers who specialized in robbing isolated farms and didn't want to leave any witnesses behind. Though Davis confessed to his crimes, was twice sentenced to death in separate trials, and requested execution nearly 10 years ago, Federal courts have delayed the carrying out of his sentence.

I could also discuss the tragic death of a fine Georgia police officer who was shot in the face by Mr. McCleskey. McCleskey appealed all the way to the Supreme Court contending that the death penalty treated some murderers differently from other murderers on the basis of race. The Supreme Court rejected his contention and upheld the death penalty in the face of this equal protection attack.

The tragedy in each of these cases is, in fact, the heinous murders of innocent victims: five shoppers who were tortured before death in Utah, a sleeping traveler in Florida, retired farmers in central Illinois seeking to live out their lives in peace, and a Georgia police officer who walked in on a robbery.

Before I return to a consideration of the legal arguments against statistical justice, I think we need to remember that these wrongs that some professors and statisticians would have us classify as nonjusticiable—beyond the reach of the courts to remedy—have real consequences. Those consequences include the deaths, the shattered lives of those left behind, the families who must go on without a father. No the judicial system can bring back those loved ones, but it can do justice.

At least in the cases discussed above, we know who the victims were. Their families at least know of the fate of their loved ones. That can't be said of at least a dozen of the victims of John Wayne Gacy, the infamous "killer clown" of northern Illinois. At his trial for murdering over 30 young men, it was not even possible to identify many of the victims; they were simply referred to as victim A, victim B, and so forth. Although Gacy received 21 death sentences, his appeals, being only 10 years old, are, under our absurd habeas rules, only in their infancy.

Another factor that should be considered is the Racial Justice Act's potential for worsening the status of minorities in the criminal justice system. This possibility has been noted by Prof. Richard Lempert of the University of Michigan, a leading advocate of abolishing the death penalty. He has argued as follows:

> If prosecutors seek to resolve those racial disparities that turn on the victim's race by consciously suppressing this factor in deciding whether to seek death, the overwhelming number of those who suffer for it will be blacks. The reason is that most killers with black victims are themselves blacks, so any increase in the death penalty rate for those who kills blacks will fall disporportionately on black defendants. This is likely to be true even if discrimination on the basis of the defendant's race is at the same time eliminated.

SECTION 107 IS UNCONSTITUTIONAL

We must also consider the constitutional objections that have been raised against the bill. I have concluded that the bill is unconstitutional on two entirely independent grounds: As the Department of Justice has observed, section 107 violates the 14th amendment by injecting insidious racial considerations into the death penalty sentencing. I would also agrue that the bill violates article I and the 10th amendment because there is no legislative power granted anywhere in the Constitution for Congress to enact this sort of legislation as it relates to the States.

The Justice Department has presented its argument at length in the letter to Chairman BIDEN dated November 14, 1989. I will not repeat those arguments here but would comment that well-researched document to your attention and ask that it be entered in the RECORD at the end of my remarks. I will, however, quote its conclusion: "The approach taken by the proposed Racial Justice Act clearly and directly conflicts with both the constitutional requirement of individualized justice in the capital context and the goal of the elimination of racial considerations in any aspect of enforcement of the criminal law." Letter of Carol T. Crawford, November 14, 1989, page 7.

For this and other reasons, the Justice Department strongly opposes this proposal and has stated that, "Were it to be presented to the President for his signature, either alone or as part of a larger legislative package, the Department would be compelled to urge that it be vetoed." Id., at 2.

Consider the remarks of a leading opponent of the death penalty, Prof. Richard Lempert of the University of Michigan, on the effect which the adoption of a statistics-based sentencing scheme would have. He said: "In such a system people will be killed not because those who hear their case think they deserve to die but because the sentencers think that others do." To me that is the very definition of an unconstitutional application of the death penalty as laid down by the Supreme Court 18 years ago in Furman versus Georgia.

The other constitutional objection to the Racial Justice Act is really quite simple. I ask, as we must always ask, where is Congress' power to legislate in this area?

Section 107 pins its legitimacy entirely on section 5 of the 14th amendment. It correctly notes that "section 5 of the 14th amendment of the United States Constitution calls upon Congress to enforce the Constitution's promise of equality under law." Section 107(b)(1).

But this bill is not concerned with equality: It mandates proportionality, not equality. The provision not only fails to fulfill the 14th amendment's mandate, it would operate in direct opposition to that landmark provision of our law.

The 14th amendment prohibits any State from denying "to any person within its jurisdiction the equal protection of the laws." Section 107, by contract, mandates the proportional treatment of the races, even if the races are thereby treated unequally. It bases justice not on equal treatment, but on a proportional ratio derived from arrest and conviction statistics. It is not concerned with equality; it seeks out and promotes proportionality which is, by logic and dictionary definition, inequality.

So let us be clear about what this bill is. It should be called the Racial Proportionality or Racial Inequality Act of 1990, for that is the clear aim of all of its provisions. But everything in the 14th amendment speaks of individual equality; there is nothing there about proportional justice.

There is simply no provision of the 14th amendment that this bill can be said to enforce. Nor is there any other legislative power of Congress on which it can be based, and no one has claimed any other constitutional basis for it. Congress simply has no power to pass this legislation, at least to the extent that it deals with non-Federal crimes.

CONCLUSION

Statistics are not justice. Our justice system provides layer after layer of protections against all forms of racial bias in jurors, judges, and prosecutors. Even assuming their validity, the statistics prove little or nothing. Yet when these statistics are examined, they reveal no racial bias in the criminal justice system which is not explained by other factors. Introducing statistics into the criminal justice system can only, in the words of the Supreme Court, "throw into serious question the principles that underlie our entire criminal justice system."

As Justice Powell, writing for the Court in the McCleskey case, noted, "[T]here is no limiting principle to the type of challenge brought by McCleskey." The so-called Racial Justice Act is nothing more than McClesky's faulty theory regurgitating as legislation. And the same result follows: There is no limiting principle whereby section 107 can have any result except that total elimination of the death penalty as an acceptable penalty for the most heinous crimes known to man.

I am aware that this result—the abolition of the death penalty—is pleasing to some, but I am equally aware that it is not desired by the great majority of Americans. Abolition of the death penalty is clearly not desired by the State legislators who, in 39 different States, have adopted death penalty statutes since 1976. Abolition of the death penalty is clearly not desired by the voters in States such as Illinois and California who in popular referenda have voted overwhelmingly to adopt or retain capital punishment. Not is abolition of capital punishment desired by the typical 80 percent or more of the respondents whom pollsters regularly report favor the penalty.

Mr. President, I urge my coleagues to support the amendment.

FAULTINESS OF THE STATISTICS

In the McCleskey case, the Supreme Court assumed that the statistics were valid. By no means did the Court decide the statistics were valid, but it assumed that hypothesis and rejected the statistics as a matter of law. That assumption, however, is far from established.

The bill now before us states that certain forms of statistical evidence "shall suffice" to show a "disproportionate pattern." Yet these very forms of evidence are flawed. An excellent case can be made that the statistical evidence "blessed" by this bill does not explain at all why "black victim" murderers receive lighter sentences than white victim murderers, if in fact they do.

In the Spinkellink case, the fifth circuit took a closer look at the statistics. Spinkellink's statistical expert was wholly unable to explain away other pertinent variables which explained the difference between black victim and white victim crimes.

The State of Florida demonstrated that most black victim murders involved unpremeditated domestic quarrels and hot blood crimes. These unpremeditated crimes, of course, do not generally draw a death penalty; at common law they were considered murder in the second degree. Thus, most black victim murders may simply not be appropriate to be included in the same count with most white victim murders.

The State of Florida also demonstrated that white victim murders generally involve premeditated crimes which were linked to robbery and rape—additional aggravating factors that call for the death penalty. The point is, in this case, that murders involving black victims have in the past been qualitatively different from murders involving white victims; accordingly, it is no surprise that white victim murders more often produced a death penalty.

The State of Florida demonstrated that the statistics lied. Racial animus in the jury was not the reason for the difference. Instead, the difference was caused by the varying types of crimes that were committed against blacks and as against whites.

To confirm this conclusion, the Stanford Law Review did a detailed study of all the murders in Dade County, FL. This study confirmed that there was "no conclusive evidence of racial discrimination when the difference between felony murders and nonfelony murders is taken into account. The significantly greater proportion of felony murders in interracial killings and the predominance of white victims in these killings explains apparent disparities in capital sentencing."

The point here is evident. Statistics are not justice. The statistics which appear to show a difference based on race are actually explained by differences in the types of crimes committed against whites as opposed to the types of crimes committed against blacks.

Authoritative studies simply do not support the conclusion drawn by some of the sponsors of this bill; namely, that racial animus is distorting the capital sentencing system. If such animus exists, however, adequate safeguards exist to prevent and eliminate it.

These same points were reiterated last fall in testimony before the Judiciary Committee by Georgia Deputy Attorney General William Hill, who was intimately involved in litigating the McCleskey case. His testimony denounced the Racial Justice Act in the most categorical terms as a fraud. Bill Hill has been there—in the courtroom—when defendants of both races have been sentenced to death. Bill Hill has defended those death sentences on appeal in dozens of cases. If there was a scintilla of evidence to support the view that the race of the victim—or any other racial factor—had contributed to a defendant's receiving the death sentence, I believe that Bill Hill would not have come to Washington and testified before us as he did. I would also note that Bill Hill—like Assistant Attorney General Ed Dennis, who also testified on this issue—is a black attorney who cannot be accused of being insensitive to the issues raised by this legislation. The testimony of these two attorneys says more to me on this issue than does the combined opinions of all the academics and statisticians that the death penalty abolitionists can muster.

The McCleskey case was the most detailed attempt to show some racial bias was infecting the criminal justice system. The statistical study in that case covered over 1,000 murder cases in Georgia. The raw numbers showed that defendants who murdered a white person received the death penalty 11 percent of the time, while defendants who murdered a black person received the death penalty only 1 percent of the time.

Once again, this might seem to be a disparity based on race. In fact, this discrepancy might well be expected in light of the nonracial factors discussed by the Stanford Law Review. White persons are more often killed in crimes involving rape and robbery. These aggravating factors would be expected to produce more capital sentences.

The Baldus study in the McCleskey case, in its own terms, is far from conclusive. The raw numbers in that study also showed that only 4 percent of black defendants received the death penalty, while 7 percent of white defendants received the death penalty. These numbers indicate that white defendants are more likely to get the death penalty overall. In other words, on the basis of this detailed study, a white defendant might well argue that the system is racially biased against him! This is not far-fetched. This is precisely what Spinkellink argued. This only demonstrates again the silliness of relying on inconclusive statistics.

In light of these flaws in statistical justice, the conclusion of the 11th circuit sounds even more authoritative: "The lesson from these and other cases must be that generalized statistical studies are of little use in deciding whether a particular defendant has been unconstitutionally sentenced to death." *McCleskey* v. *Kemp*, 753 F.2d 877 at 893 (1985).

As long as the proponents of section 107 have such confidence in statistical justice, let us look at another study. The 1985 Department of Justice study entitled "Capital Punishment" established that, rather than discriminating against blacks, captal punishment has been disproportionately inflicted upon white defendants:

While only 12 blacks were sent to death row for every 1,000 blacks arrested for murder and manslaughter, 16 out of every 1,000 whites arrested in similar siutations were sent to death row. A white killer, according to the DOJ study, has a 33 percent greater likelihood of winding up on death row than a black murderer.

While only 1.1 percent of black inmates on death row actually were executed, 1.7 percent of whites were executied. Once again, whites are more often executed.

While 37 percent of black inmates were released from death row by court rulings, a lower percentage—35 percent—of whites escaped the ultimate sanction.

According to the DOJ statistics, whites are more likely to be sentenced to death, more likely to be actually executed, and less likely to be released from death row. In fact, seven of the first eight prisoners executed after Gregg versus Georgia reestablished the death penalty were white.

Because statistics about the race of defendants are not helpful to eliminate the death penalty, the opponents of capital punishment now concentrate more on the race of the victims. Yet as indicated by the Stanford Law Review analysis, this approach too is flawed. According to this analysis for Dade County, FL, whites are simply more often the victims of aggravated murders that result in death sentences. The 1948 DOJ crime studies show that whites are 77 percent and 89 percent, respectively, the victims of rape and robbery. Therefore, it is only to be expected that a higher number of whites would be killed during a rape or robbery.

The point remains, however, that if racial animus exists in the criminal justice system, it would appear most directly in prejudice against a black defendant. In truth, however, the statistics—faulty as they may be—show that whites more than blacks suffer a disparate impact under application of the death penalty.

But this demonstrates nothing more than that statistics have no place in the criminal justice equation. Murderers must be judged and sentenced without regard to statistics. Murderers must be sentenced according to the facts of their own particular case. Aggravating and mitigating factors must be fully weighted by an impartial jury. This is what juries now do. Statistical justice, however, would take the determination out of the hands of juries and leave it in the hands of a battery of experts.

The efforts of these experts will be entirely futile, because statistics do not measure the culpability of the defendant. Statistics do not measure the suffering of the victims. Statistics do not even measure racial bias, as shown by the evidence that whites more often than blacks suffer the death penalty. Statistics have no place in the sentencing courtroom.

I would like to end by saying, look, this whole week has been an exercise in weakening the criminal laws of this country. In overruling tough criminal cases by the Supreme Court of the United States of America, one right after the other, when are we going to get tough on criminal activity? No matter what the high-sounding phrases or the yelling and the emotion that comes out on these issues, we are making it more difficult to get crime under control.

I reserve the remainder of the time of the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. How much time remains?

The PRESIDING OFFICER. There are 12 minutes 21 seconds remaining.

Mr. GRAHAM. I yield 8 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank my distinguished colleague.

Mr. President, after considerable analysis, study, and reflection, I have concluded that the so-called Racial Justice Act is not appropriate legislation for the Federal system because it takes away the individualization of criminal justice which is the essence of our system—looking at the individual and what has occurred—and seeks to impose a statistical system which this Senator believes is unworkable and simply cannot be applied in a meaningful, realistic, and fair manner.

Mr. President, I say that even though I have consistently advocated the maximum of societal restraint on the use of the death penalty, in order to be fair to the individual and in

order to preserve the application of the death penalty.

Mr. President, I have consistently voted in favor of restricting the application of the death penalty—for example, that it should not apply to those who are 17 and 16. I have voted in favor of excluding those who are mentally retarded earlier today. But when this measure is subjected to very careful analysis, it is my conclusion that it cannot be applied. When we deal with an individual, the facts of his case, and deal with the mitigating circumstances and the aggravating circumstances, then I believe we deal with the essence of justice and apply it in accordance with traditional American principles.

At the same time, Mr. President, let me say that I am not satisfied with the application by the Supreme Court of the United States, and not only the Court headed by Chief Justice Rehnquist but the Courts in the past have been subjected to criticism, and I believe it is appropriate for the Congress of the United States to entertain changes in decisions which do not involve constitutional principles and constitutional amendments where we disagree with what the Court has done.

This Senator intends to file an amendment later today, if it is within the scope of an appropriate amendment under the unanimous-consent agreement, to change the law on excluding blacks from juries, where the Supreme Court has said that a systematic exclusion of blacks from juries violates the equal protection clause of the 14th amendment, but they do not apply it retroactively. So you have the anomalous situation where it is a constitutional right, but someone on his way to the gas chamber is not entitled to the benefit of that constitutional right because it was established after his initial appeal was concluded.

This is a very weighty subject and it will involve—I had hoped to speak longer, but there are many people who have sought time. I originally sought 25 minutes, and the distinguished Senator from Florida has allocated the time as best he can. But I mention this in the context of the Racial Justice Act because I believe we ought to look at cases like systematic exclusion of blacks from juries as they raise the potential prejudice to the defendant in that case, and we ought to apply a fair standard of decency without going through the contortions—and I will go into this in some detail—as to how the Supreme Court of the United States imposes a group of standards such as the purpose to be served, the extent of reliance, the effect on the administration of justice, considerations of fundamental fairness and accuracy, all of which seem to me to apply when blacks are excluded from a jury where a black is tried, convicted, and sentenced to death.

I believe, Mr. President, that that is the way to deal with the administration of criminal justice, on an individual basis. We cannot have some broad exclusions—those who are 16 and 17, even though there are many hardened criminals, those who are mentally retarded, although the facts may be very compelling and I think guilt may be established, long sentences may be imposed, life sentences may be imposed, but when it comes to the death penalty we ought to be very, very careful.

But my careful reading and analysis of the proposed amendment now pending involving an elaborate statistical study does not reach the interests of justice in dealing with the act committed by the individual defendant, the circumstances and the background of his life, the aggravating circumstances, the mitigating circumstances, and therefore I conclude that it has no appropriate place in the administration of criminal justice.

I might add in conclusion, Mr. President, that this is a shift in my original thinking because when it was presented to the Judiciary Committee in a somewhat abbreviated form, I voted in favor of it in accordance with my general standard of being as restrictive as possible in the application of the death penalty. But, as I say, on further analysis and reflection it is my studied judgment that this act simply is unworkable and does not reach individualization, which is the essence of the American criminal justice system.

I think I have saved some time for the distinguished Senator from Florida, and I yield back any remaining time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

Mr. President, I regret very much the change of heart of the Senator from Pennsylvania because he was a cosponsor of this legislation; he supported it when it was reported out of the Judiciary Committee.

I would just mention for those who are following the debate, this is identical to what was voted on in that committee; not only in the committee but it is identical to what was introduced. During the course of the consideration of the racial justice provisions, in the course of the committee discussion, no one disputed the importance of individualized justice in our society. That is not the issue. The issue is when there is a pattern in the application of the death penalty in a racially discriminatory way, the burden goes back on the State to demonstrate that the application of the death penalty, if it is being applied in that particular way, is not as a result of racial discrimination but is the result of other factors. The act basically shifts the burden.

I regret that we were unable to continue to persuade my friend from Pennsylvania. He was persuaded for a period of time and now is dissuaded. But hopefully somewhere along the line we will be able to gain his help and support.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 11 minutes and 20 seconds remaining.

Mr. KENNEDY. Mr. President, I yield such time as the Senator from Delaware wishes.

Mr. BIDEN. I thank my colleague from Massachusetts.

Mr. President, a good deal has been said on this. Let me begin by saying I strongly support the provisions in the bill, the so-called Racial Justice Act, that really has been the work and the ambition of the Senator from Massachusetts for some time now. I think they are important. I think they are very important.

I support the Racial Justice Act because it furthers one goal that I have had as a supporter of the death penalty. I still have one goal, and that goal is to put adequate safeguards into the ultimate sanction that a society can impose, the death penalty. Federal law already provides for statistical proof of racial discrimination, that if statistical proof of racial discrimination is adequate to obtain a relief where the right to housing or employment has been infringed, no less protection it seems to me should be provided when you are going to apply the death penalty.

Racial discrimination should pay no role in the decisions as to who shall live and who shall die. The Justice Department's criticisms of the Racial Justice Act are all based on a simple premise, that there is no need to act because there is no racial discrimination in death sentencing. They say there is no need to act because there is no racial discrimination in death sentencing.

That factual premise, I believe, is seriously flawed. As a matter of fact, I think it is flat wrong. There are very real discrimination problems. Study after study shows that those who kill white people are far more likely to receive death than those who kill black people. One of the most extensive studies done controlling for 230 nonracial factors has concluded that 6 out of every 11 defendants convicted of killing a white person would not have received the dealth penalty if their victim had been black. Some remedy for that disparity is clearly necessary, Mr. President. It is not enough to simply say, as does the Justice Department, that "there is no problem here."

The Justice Department also argues that the Racial Justice Act would kill the death penalty through the back door, as they say, because it would be

impossible for the States to meet the burden under the statute.

But if a defendant can show that racial discrimination has occurred, why should the death penalty apply? We are always asking it the other way. Ask it the right way. If it can be shown that there is racial discrimination in its application, why should it apply?

There is some showing, the same showing would allow the defendant to win a housing discrimination suit. If you can show discrimination, they win the suit in a housing matter or a job discrimination suit. No one here argues that if you can show that there is racial discrimination relating to the job, that the plaintiff should prevail. Why should it not prevail here? I do not understand.

The Racial Justice Act simply provides death sentence prisoners the same remedies available under other Federal antidiscrimination laws.

I could go on about that. But it seems to me it gets reduced to that sort of simple proposition. We have other laws, obviously much less serious in terms of their consequences, individuals who are staking a claim under them other than death provisions, that say if you can show racial discrimination, then such and such does not happen.

In housing, in job discrimination, all the Senator from Massachusetts is suggesting is the same should apply for death. A white man would not be put to death for the same crime a black man committed. Why should the black man be put to death?

We do not want this to be arbitrary. Those of us who support the death penalty also understand the history of our country; we also understand the way in which the rights of black Americans and others have been abused.

This will provide for some difficulty, if you will, on the part of the State. But what is the price we are asking them to pay? To assure their State, to assure the Nation, that the death penalty is being applied fairly and across the board. That is what the Kennedy Racial Justice Act attempts to do. I hope we will not vote to take it out of the core bill.

Therefore, I hope we will reject the amendment of my good friend from Florida, who is obviously very sincere and knowledgeable about this matter.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Pennsylvania [Mr. SPECTER].

Mr. SPECTER. Mr. President, I ask for 2 minutes, if I might, to reply to what Senator KENNEDY has to say, since it was addressed to this Senator in particular.

Mr. GRAHAM. I yield 2 minutes.

Mr. SPECTER. I thank my colleague.

Mr. President, I had said in my opening comments that I had supported this measure in the committee because of my view that we ought to restrict the death penalty as a matter of fairness, as a matter of serving society.

But in going into the details of the proposal, I have analyzed a great volume of material up until yesterday presented by the Senator from Massachusetts. It applies statistics that do not apply to the cases before the courts, to an individual case before a court.

It is put perhaps best in what the chairman of the Judiciary Committee just articulated when he said if a white man is not sentenced to death for the same crime for which a black man was sentenced to death, then the black man should not be put to death. I agree with that, but that is a matter of application for a jury.

Men are not the same. Women are not the same. And the facts are not the same. We have labored strenuously to have an application of the death penalty which is not discriminatory, where you take up the nature of the offense, the individual, the specific mitigating circumstances or the specific aggravating circumstances. And a particular black man is not the same as a particular white man for many reasons other than the skin; each is an individual, with specific characteristics all his own. As well, the crimes are never the same.

That is why our system of justice is so wonderful, because it is individualized. This measure contradicts that directly and conclusively.

I thank the Chair.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Five minutes and twenty-five seconds are left to the Senator.

Mr. KENNEDY. Mr. President, I will use this time.

Just very briefly, to respond to the Senator from Pennsylvania, what we are pointing out, what the studies have pointed out, and which GAO has pointed out, is that there are different options that are available to prosecutors.

They can decide which cases they are doing to prosecute; they can decide what the charges are going to be; they can decide when to plea bargain; and they can decide when to ask for the death penalty. The jury, of course, makes a final judgment.

The GAO report finds that the greatest incidence of discrimination comes early in the system.

Mr. President, this problem has to be considered in its totality. It has to be approached comprehensively, and that is what this legislation does.

We are in the final moments of debate and discussion. We have been on the floor now 2 hours debating this issue. What has not been challenged is the fact of the studies, the GAO studies that have affirmed that the death penalty, in jurisdiction after jurisdiction, is applied in a racially discriminatory way. That has not been challenged.

It is a fact that three of those that have supporters in favor of the Racial Justice Act have been strong advocates of the death penalty. One of those Senators pointed out that the types of protections which are recommended by the Racial Justice Act are already in application, in the State of New Jersey, and it has not compromised the death penalty statute in that State.

The issue is racial discrimination, fundamentally. That is the issue. We have an opportunity to take action on that issue as it applies to the most important aspect of our lives, the incidence of death. This body has acted to eliminate discrimination in voting, in housing, in employment, in public accommodations, in so many other areas.

In those instances, the courts invited the Congress of the United States, as the appropriate protector of the equal protection clause, to take action. In the McCleskey case, we were invited to take action again. We are taking action.

The case, I believe, has been made, and not disputed, that racial discrimination occurs in too many cases. We have offered a means to address it. I hope that the Senate will support it.

Mr. President, I reserve the remainder of the time.

Mr. METZENBAUM. Mr. President, I rise to oppose any effort to remove the Racial Justice Act amendments from the death penalty provisions of the crime bill. When the death penalty bill was before the Senate Judiciary Committee, I and others on the committee fought hard to see that this amendment was added to what is otherwise an overbroad and constitutionally suspect death penalty bill. By a vote of 8 to 6 these important provisions were added to the bill. Although I oppose the death penalty provisions in this bill, I fear there is some chance they will pass this body. If that is to be the case it is critical we deal with the obvious discriminatory nature of death penalty sentences.

Discrimination in sentencing further exacerbates what I consider to be the most significant problem with the death penalty: that it is too often applied in error.

Our criminal justice system is far from infallible. Since the turn of the century there have been over 350 instances in which defendants in this country were wrongly convicted of homicide and rape and sentenced to death. At least 23 of these innocent people were actually sent to their

death by our Government. These mistakes were made for a number of reasons. Adding racial discrimination to the equation only increases the likelihood that juries will send some innocent black to his death.

I find killing any innocent person intolerable. We must be careful that we decrease the possibility that innocent people are executed by the State. Dealing with discrimination in sentencing is one very important way to alleviate that possibility.

Any discussion of this issue cannot ignore the shameful history of this country's treatment of blacks. In particular there is a long history of discriminatory treatment in the enforcement and prosecution of criminal laws and the application of the death penalty. Beginning with the slave codes of colonial days, blacks faced criminal penalties for conduct which was legal for whites and more severe punishment than whites when both committed the same offense. Some offenses constituted capital crimes only when committed by blacks. With the passage of the 13th amendment, the slave codes were replaced by black codes which continued these racially discriminatory practices. The 14th amendment abolished the black codes and supposedly guaranteed equal treatment under the law for blacks but as we all know that goal has not been fulfilled. Unfortunately, discriminatory treatment continues to occur, only now it works through the racial biases of prosecutors, judges, and juries.

We in Congress have repeatedly sought to remedy racially discriminatory behavior when it occurs, whether it be in hiring, housing, or in education. For too long, however, we have ignored bias where it is a matter of life or death. When blacks are being sent to their death by our criminal justice system for conduct which would not result in capital punishment for a similarly situated white; when killing a white is 11 times more likely to result in a death sentence than killing a black, then it is time we acted. The Racial Justice Act amendments to the crime bill are an important step toward remedying these injustices.

There can be little doubt that the death penalty is applied in a racially discriminatory manner. This discrimination takes two forms, one kind is race of victim discrimination and the other is race of defendant discrimination. As to the first, the unfortunate fact of life is that juries in this country do not value the life of a black as highly as they value that of a white. Since 1976, when the death penalty was reinstituted, 85.3 percent of the time that a person was executed, it was for killing a white person. Only 11 percent of the executions were for killing a black and then only where the defendant was also black. Incredibly, there is not a single instance of a white being executed for killing a black! Even more stark are some of the individual State statistics. A study of the Georgia system showed that white-victim cases were almost 11 times more likely to produce a death sentence than black-victim cases.

The other type of discrimination in capital sentencing, involves discrimination against black defendants. Since 1977, 41 percent of those executed have been black. Of those sentenced to die about the same percentage are black. This percentage is far in excess of the percentage of blacks in the United States and is a disturbing figure.

Let me give you one example of the kind of racial bias that taints the justice system.

Last December Clarence Brandley was released from a Texas prison where he had been on death row for the last 9 years. By all accounts he was innocent of the murder he was accused of but had been convicted because of blatant racial bias. In fact the Court of Appeals was so concerned about allegations of bias in his case that they appointed a special judge to review the case.

That judge had the following to say after reviewing Brandley's case:

> In the over 30 years this court has presided over matters in the judicial system no case has presented a more shocking scenario of the effects of racial prejudice.

Brandley was convicted of raping and murdering a white high school girl. An all white jury convicted him based on the testimony of three white fellow employees. The chief investigator allowed these three to get together to get their stories straight before being interrogated. There were no eye witnesses and the prosecution offered no forensic evidence or motive. In fact, Caucasian pubic hair and blood not matching Brandley's was found on the victim but was lost before trial. A court reporter for the judge presiding said the judge and prosecutor met secretly to decide how to testify about the missing evidence. She was told to keep her mouth shut and was later fired.

I could go on and on about how this case was mishandled and how Brandley was victimized because he was black, but let it suffice that his is not a unique case. If anything, the fact that he is still alive and out of jail is what makes him unique.

I could cite other specific examples where racial bias has clearly tainted a particular death sentence.

For example, Roosevelt Wilson, a black man, was sentenced to death for rape in Alabama. Despite claims that the victim consented and despite the fact that the jurors later said they believed the act was consensual, the jury still found that Wilson deserved to die simply for "messing around" with a white woman.

Another example comes from Louisiana, where Edgar Labat and Clinton Poret, two black men, were sentenced to death for raping a white woman and robbing her male friend. After a dozen stays of execution and 16 years on death row, they were released because witnesses' testimony unraveled, alibi witnesses came forward, and evidence showed that one of the defendants had been beaten into confessing.

Two black men, Robert Shuler and Jerry Chatman were sentenced to death in Florida in 1960 for raping a white woman. They were freed in 1972 after it was proved that police had suppressed evidence and that plaster footcasts introduced at trial had been made in the deputy sheriff's backyard.

I could cite other such miscarriages of justice, but the fact is that racial bias is often not as blatant as it was in the case of Brandley or these others.

We cannot know what is inside the jurors' minds when they sentence someone to death. We can't know that their decisions are racially motivated. That is exactly why we need Federal legislation. You can't separate decisions based on the facts presented from those based on racial bias in a particular case. That does not mean that bias doesn't enter into the decision making process. It clearly does as is shown by the statistics I cited earlier. Because we know racial bias exists and we also know that defendants victimized by bias will be unlikely to prove it in court, we need the Racial Justice Act amendments.

We need the Racial Justice Act amendments to correct the injustice wrought by the Supreme Court in the McCleskey decision. In that decision the Court required that the condemned, in order to prove racial bias, must prove that the decisionmakers in his case acted with discriminatory purpose. As I just explained, defendants will be hard pressed to meet the burden of proving that the jury or the prosecutor was personally motivated by racial considerations. In many instances those individuals themselves won't know that they were racially motivated.

In the McClesky case, the Supreme Court concluded that legislative action, not a constitutional ruling, would be the appropriate way to address this problem. The Racial Justice Act is the appropriate solution.

The Racial Justice Act prevents the use of the death penalty where it can be shown that the penalty has been applied in a racially disproportionate way and there are no pertinent nonracial explanations for this disproportionate appplication. In so doing it gets at the results of discrimination rather than trying to pinpoint the

causes which, as we know, are often too subtle to identify.

This amendment also requires the compilation by State and Federal agencies of data on death penalty cases which can be used to determine racially disproportionate application. Compiling such information is not too burdensome and will provide useful information.

Mr. LEVIN. Mr. President, the death penalty is unique among criminal penalties in that it does not allow us to correct for a mistaken conviction of an innocent person. In the past, I have brought to the Senate floor case after case in which an innocent person was sentenced to death only to find out later that another person had actually committed the crime.

The committee bill before us today includes in it language which was embodied in the Racial Justice Act. This provision does not remove the possibility and irreversibility of error which is inherent in the death penalty. However, it reduces somewhat the arbitrariness with which the death penalty can be imposed by making it unlawful to impose or execute sentences of death in a racially discriminatory pattern. The race of the person convicted and of the victim would be taken into consideration in determining whether the death penalty is being applied in a racially discriminatory pattern.

Those who oppose the racial justice provision of this bill argue that it would undercut the existing death penalty statutes of the States as well as those of the Federal Government. It is ironic that most of those same people argue that there should be a Federal death penalty because it is important to have—to use their words—the "ultimate penalty" in order to appropriately punish people who commit certain heinous crimes. Shouldn't those who want to protect death penalty statutes be among the most interested in there being safeguards against this ultimate weapon from being applied in a racially discriminatory pattern?

Mr. President, the racial justice provision of the bill before us is a matter of simple justice. Our Nation risks losing its moral authority to review the human rights practices in other countries if it does not safeguard against racial factors affecting the imposition of the death penalty here at home. At a time when millions of people in other countries are looking to the United States for guidance on how to reorganize their political systems, what kind of signal does it send to the world community for the U.S. Senate to strike from a death penalty bill a prohibition on the application of the death penalty in a racially discriminatory pattern? Why do we risk sullying our image at the time when it is most attractive to the forces of freedom throughout the world? Mr. President, we should not take that risk, and we should vote to retain the racial justice provision as part of the bill before us today.

Mr. HELMS. Mr. President, when I heard about the so-called Racial Justice Act, I was eager to read it. In fact, I am always careful to read the fine print on any proposal by the distinguished Senator from Massachusetts. But when I did examine the fine print it became clear that this is not a Racial Justice Act. It is a criminal quota bill, an affirmative action plan for murderers.

I thought I had seen everything in my nearly 18 years in this body, but as a lady in my hometown used to say, "if this don't beat all."

Mr. President, if the American people were not already fed up with quotas in their daily lives, they should brace themselves for this so-called Racial Justice Act that establishes quotas for imposition of the death penalty.

This provision would prohibit the death penalty if there is any racial statistical difference between the number of persons receiving the death penalty and the number of persons arrested for, charged with or convicted of death-eligible crimes. The same applies if there is any statistical difference in death penalty cases based on the race of the victim.

Mr. President, basically this means that it will be impossible to impose the death penalty. Let me give an example: A BJS study states that whites arrested for murder are 35 percent more likely to get a death penalty sentence than blacks.

So under the racial justice "quota" bill, executions of white murderers would be prohibited until enough black murderers had been executed to end the racial statistical difference. Now what kind of civil rights law is that?

Mr. President, this legislation would also destroy every State death penalty law. It would apply this ridiculous numbers game to every State defendant on death row.

Many of the experts that deal with the criminal system have stated their opposition to this legislation; namely, the Department of Justice, many of the State attorney generals, and many local district attorneys.

As a matter of fact, the attorney general from North Carolina joined 22 other attorney generals in a letter in opposition to the Racial Justice Act. The letter states that the Racial Justice Act is "designed to do nothing less than end the death penalty in this country."

The North Carolina Association of District Attorneys also passed a resolution opposing the Racial Justice Act. They concluded that this legislation would "effectively abolish the death penalty in the States * * *."

Mr. President, the Racial Justice Act in the Biden bill is nothing more than a charade. We need a real death penalty, one that will actually work. We must make murderers aware that they will receive punishment to fit their crime.

Take a look at what is happening on the streets of the District of Columbia. Government has lost control. Last year, there were 443 murders in the Nation's Capital. The number is already on its way to passing that horrific total this year. Why? Because the murderers know punishment is delayed and it is not permanent.

But, if you read the papers or listen to the forgive-and-forget crowd here you would think that the killers and thugs are never to blame for their actions. It is somebody else's fault, it is society's fault, it is the middle class' fault; in other words we are responsible for criminals being criminals.

Mr. President, the forgive-and-forget crowd hides behind uncipherable laws, misleading studies, and a condescending attitude toward the millions of Americans.

But the American people say that when it comes to crime, they have had enough. They have had enough of excuses, enough of statistics, and enough of civil-liberties lawyers and ivy-league professors running around the country saying the criminal comes first.

I think that it is time for us to protect the victims and innocent Americans instead of the murderers. I urge my colleagues to support this amendment to delete the Racial Justice "quota" Act.

Mr. GRASSLEY. Mr. President, I rise to support the amendment by the Senator from Florida. I voted against what I call the Racial Proportionality Act in the Judiciary Committee; because my position did not prevail in committee on this issue, I could not cast a favorable vote for the Federal Death Penalty Act that the Judiciary Committee approved in October 1989.

Mr. President, to advocate the use of society's ultimate criminal sanction is not something I take lightly.

But, I believe that capital punishment should be a sentencing option for those crimes the people deem to be contemptible and abominable.

After much thought and study, I conclude that capital punishment remains an appropriate punishment for these offenses. The public supports the imposition of capital punishment in such circumstances because it is necessary, appropriate—and in certain circumstances—the only just punishment.

I believe that our pre-eminent responsibility as elected representatives is to protect the people.

We swear to uphold the Constitution by—among other things—insuring domestic tranquility.

Consequently, I believe the welfare of the people must always be our supreme law.

As a matter of constitutional law, capital punishment is a presumably available remedy for the States and Federal Government.

As a matter of criminal law policy, the death sentence should be available for those convicted of the most heinous crimes.

Of course, before a State or the Federal Government imposes this sanction, the convicted capital defendant must be afforded all appropriate constitutional due process procedural safeguards.

If after certain prescribed procedures are followed to insure that mitigating and aggravating factors are taken into account, our Constitution permits society the right to end a constitutionally convicted criminal's life.

Since 1976, the evidence is overwhelming that in the United States, the death sentence has been imposed with full and ample civil and constitutional rights being afforded to the convicted defendant.

However, the inclusion of what I call the Racial Proportionality Act as a part of a Federal death penalty will not only undermine our system of justice, it will result in the abdication of the Government's duty to protect the people.

Let me also add at the outset that the Department of Justice has stated in a letter to the chairman of the Senate Judiciary Committee—dated November 14, 1989—that it strongly opposes this provision as a part of a general Federal death penalty bill.

Moreover, were it to be presented to the President for his signature, either alone or as part of a larger legislative package, the Department would be compelled to urge it be vetoed.

Let there be no mistake: Enactment of the Racial Proportionality Act as a part of a death penalty bill will effectively abolish the death penalty in the United States.

My colleagues heard me correctly: The Racial Proportionality Act will make it impossible to impose not only a general Federal death penalty statute, but any similar State death penalty statute.

You cannot support the availability of capital punishment, while supporting the Racial Proportionality Act.

Let me repeat it again: this legislation will make it impossible for not only the Federal Government—but also those States that presently have the death penalty option—to impose the death penalty.

In McCleskey versus Kemp—the case that the Racial Proportionality Act attempts to overturn—the Supreme Court said:

> A defendant who alleges an equal protection violation has the burden of proving "the existence of purposeful discrimination." A corollary to this is that a criminal defendant must prove that the purposeful discrimination "had a discriminatory effect" on him.
>
> Thus, to prevail under the equal protection clause, McCleskey must prove that the decisionmakers in his case acted with discriminatory purpose.

As even the proponents of the Racial Proportionality Act know—or should know—the Supreme Court concluded that McCleskey did not prove he was the victim of discrimination.

Yet, the proposed Racial Proportionality Act—in total disregard of accepted principles of equal protection jurisprudence—imposes no burden on a criminal defendant in a capital case—nor a petitioner in collateral proceedings—"to show discriminatory motive, intent or purpose on the part of any individual or institution." (Quote from the act.)

Under the death penalty provision in this bill proposed by the chairman of the Judiciary Committee—all that a convicted capital defendant need show is a statistical disparity—based on race—among defendants sentenced to death or among the victims of capital defendants.

Let me repeat: All that the act's required statistics need show is "a racially discriminatory pattern."

There is no requirement that a capital defendant prove prosecutors and juries acted with racially discriminatory intent.

This pattern could be established simply by showing a disproportion between the number of persons in a racial group who are sentenced to death or executed, in comparison with the representation of persons from that group in the pool of individuals who are arrested for, charged with, or convicted of crimes that are punishable by death.

A pattern may also be established on the basis of a disproportion between the racial composition of the class of victims of crimes for which the death penalty is actually imposed or carried out, and the racial composition of the class of persons against whom crimes are committed that may be punished by death.

The prosecution will be forced to establish "by clear and convincing evidence that identifiable and pertinent nonracial factors persuasively explain the observable racial disparities comprising the pattern."

Perhaps even worse, by its own terms, the act is retroactive.

Consequently, if the act becomes law, it would apply to every State capital defendant on death row, whether or not these defendants raised any claim of racial discrimination in the past or even if such a claim was raised and rejected in prior proceedings.

Among its many provisions, the act requires every jurisdiction that allows for the capital punishment option to maintain racial data through elaborate records and reports.

However, since, according to the Justice Department, no jurisdiction currently maintains records on the race of victims and defendants and reasons for various prosecutorial and jury decisions—this title may likely result in the invalidation of every capital sentence now in effect.

Consequently, every prosecutor would be required to relitigate every previous capital case in the jurisdiction—justifying decisions made by long-ago prosecutors, judges, and juries.

Unless the act's required statistical equality can be maintained as a kind of death-by-racial-quota—then the death penalty will no longer be a criminal law sentencing option.

How can any reasonable person believe that violent antisocial behavior takes place with a neat and clean statistical precision?

Proponents of the racial proportionality act contend that killers of black victims do not receive the death sentence as often as the killers of white victims.

Even if this is true, do the proponents rectify this alleged disparity by increasing the imposition of the death penalty for killers of black victims?

No.

Rather, they would write the death penalty out of existence no matter the race of the victim. What consolation is this to the families and friends of black murder victims.

None.

Consequently, the racial proportionality act can in no way be characterized in any sense as a civil rights measure.

The act's abolition of the death penalty would gravely threaten the security of the American people—including members of minority communities who know firsthand the most devastating effects of violent crime—by inhibiting the ability of the criminal justice system to protect the people and insure domestic tranquility.

Make no mistake: The exact aim of this act is to eliminate the death penalty as a possible sanction against criminals convicted of the most heinous and abominable crimes.

Worse, it cynically ignores the present safeguards in our criminal law.

I defy anyone to dispute the fact that an individual defendant charged in our present criminal justice system and who can demonstrate that race motivated either—the prosecutor's decision to charge him with a capital crime—or the jury's decision to impose the death penalty—has a constitutional claim for relief.

Current Supreme Court constitutional decisions safeguard capital defendants from all actual racial discrimination during any stage of the crimi-

nal justice process. The Supreme Court's decisions also ensure that convictions and sentences will not stand if any discrimination has occurred at any stage of the process.

This fact was confirmed in testimony before the Senate Judiciary Committee, Assistant Attorney General Ed Dennis stated:

Insofar as a question of whether or not a defendant is even going to be deprived of his liberty or his property—much less his life—we have erected the most highly scrutinized procedures that I am aware of in human institutions.

Continuing to quote Mr. Dennis:

An individual defendant in an individual case has procedural safeguards insofar as the charge is concerned, insofar as the question of guilt or innocence is concerned. That has to be proven beyond a reasonable doubt.

The judges of that particular decision are brought from without the community who have no involvement or stake in the outcome of the case. That particular decision is reviewed by courts who review the record.

Still quoting Mr. Dennis:

Insofar as the criminal justice system is concerned, we do not believe that the jurors or judges should make their judgments regarding the guilt or innocence of a particular defendant, based upon a statistical survey of what has happened in cases across the State or what has happened in cases in that particular region or around the country.

And I think the approach of the Racial Proportionality Act really invites that.

Mr. President, in our system of justice, computers do not hand down sentences. So there is no role for statisticians or social scientists in the courtroom. Rather, for more than 200 years, our system has dispensed justice through the efforts of prosecutors, judges, and juries. They take an oath to serve the ends of justice.

Lady Justice, unlike the social scientists, is blind. She dispenses justice without regard to color, race, religion, gender, or national origin. Lady Justice hears only the facts of the case. She serves the facts—not some political agenda.

The Congress cannot exercise discretion for prosecutors, judges and juries. And, prosecutors and judges cannot decide for juries—based on some arbitrary racial quota—who is to receive the death penalty and who is not.

More importantly, elimination of the death penalty as a means to fulfill the Government's role of protecting the people from violence is no solution to any valid concerns about possible race disparities.

In testimony before our committee, William B. Hil' Jr., the deputy attorney general of Georgia, stated:

The inherent lack of predictability of jury decisions does not justify their condemnation. On the contrary, it is the jury's function to make the difficult and uniquely human judgments that defy codification and that build discretion, equity, and flexibility into a legal system.

Mr. President, the proposed Racial Proportionality Act is completely contrary to our criminal sentencing system.

Again, all that is required to establish discriminatory impact, is proof of nothing more than the acknowledged fact that as a result of unique human judgments that defy codification, a jury's collective sentencing judgment lacks mathematical predictability.

Under such a minimal burden, a defendant is guaranteed a ready-made prima facie case; however, the presentation of a successful rebuttal case by the Government would be virtually impossible. Prosecutors would be required to reproduce and present evidence sufficient to explain the race neutral factors that motivated jurors to return sentences of death were race neutral.

If the prosecution fails to meet the burden of the act's requirement—then the capital defendant wins.

Even if these factors could be produced in rebuttal, only by examination of individual jurors regarding their mental processes and emotional reactions could it ever be known what race neutral factors were actually relied upon by the jurors.

Only then could proof of these relevant race neutral factors serve to persuasively explain any observable racial disparity.

The Government would also have to present proof of lack of discriminatory intent and purpose on the part of every decision-maker involved in the capital sentencing process: Prosecutors, grand jurors, trial and appellate court judges, and legislators.

All this is calculated to shift the judicial focus away from the guilt or innocence of individual criminal defendants and to focus on the collective guilt of society's criminal justice system.

Instead of determining whether the defendant received due process safeguards, the proposed act engages in diversionary tactics:

First, it shifts the focus to the Government on a systemwide basis;

Second, it guarantees a prima facie case against execution for any capital defendant; and

Third, it requires the criminal justice system to produce mathematically predictable results.

The result of enacting the Racial Proportionality Act as a provision of a general Federal death penalty statute is the abolition of the death penalty.

I appreciate that this is the true goal of the proponents of the Racial Proportionality Act.

But we should not and we cannot insure a statistically exact proportion of black and white defendants receiving the death penalty.

Such a statutorily compelled course of conduct is not only contrary to current law, it runs counter to hundreds of years of Anglo-American jurisprudence.

The Racial Proportionately Act is grounded in the proposition that courts and juries have less value for the lives of members of one race, or another.

Mr. President, as a strong supporter of a true death penalty statute, I for one, cannot support such a proposition.

Therefore, for this and the other reasons I have stated previously, I cannot support the Racial Proportionality Act.

I urge my colleagues to support the amendment to strike.

Mr. DIXON. Mr. President, one of the most important, and contentious, aspects of the omnibus crime package has to do with the death penalty. There are few issues in this country on which people have such strong opinions. The taking of one human life, in response to the murder of an innocent victim, is an extraordinary measure for society to support. And yet it does.

S. 1970 and S. 1971 add six Federal offenses for which the death penalty would be authorized: provide procedural safeguards so the death penalty may be used for Federal offenses for which it already exists; and make it an offense, punishable by death, for a Federal prisoner, serving a life sentence, to commit murder.

Mr. President, I support those provisions. I think Senator BIDEN and Senator THURMOND has acted responsibly and reasonably in this area. I have always believed that there are crimes so heinous that the sentence of death should be an available option. The expansion of the death penalty contained in S. 1970 and S. 1971 is warranted.

One of the reasons it is warranted is that it serves as a deterrent. I know there are studies that claim that the death penalty does not deter crime, but there are studies that show that it does.

Surely it is difficult to determine how many other criminals think along those same lines. But in that instance, the prospect of the death penalty saved a policeman's life. Is that not worth something? I believe it is.

The death penalty has been applied in ways that suggest that the race of the victim influences the likelihood of being charged with capital murder or receiving the death penalty. Persons who murder whites are more likely to be sentenced to death than those that murder blacks.

A study of 194 death-eligible murder convictions in Cook County, IL, from 1977 to 1980 showed a strong, statistically significant race-of-victim effect. The GAO, in a review of 28 studies, found a pattern of evidence indicating racial disparities in the charging, sen-

tencing, and imposition of the death penalty in the past 18 years.

Recognizing that, what should our response be? I am as consistent a supporter of the death penalty as anyone in this body, but I surely do not want the death penalty to be imposed in a racially discriminatory manner. I have stood against discrimination in all its forms throughout my career, whether in hiring, in promotion, in distribution of benefits, or in the imposition of capital punishment.

But I am also a supporter of the death penalty, and a firm believer in the judicial system's ability to remedy wrongs. Senator KENNEDY has offered the Racial Justice Act as a remedy to what he sees as racial discrimination in the imposition of the death penalty. It is a far-reaching approach to an acknowledged problem.

But it is too far reaching and will make the imposition of the death penalty too difficult, if not impossible. Where on the one hand we are trying to limit habeas corpus, on the other hand we will open up the appeals process through an individual's contention that his or her sentence of death contributed to a pattern of discrimination.

First, the act allows the introduction of statistics in capital sentencing hearings which show that past capital sentences handed down in that State have been imposed in a racially discriminatory manner. The burden of proof then rests on the State to prove by clear and convincing evidence that a death sentence in an individual case is warranted on "identifiable and pertinent nonracial factors."

Should the State fail in its burden to present clear and convincing evidence that a sentence of death can be imposed based on identifiable and pertinent nonracial factors, that individual may not receive a sentence of death. The question should be: "Does the crime committed by this individual merit the death penalty, or does it now?" It clouds the issue to ask instead, "Does the sentence of death imposed upon the accused further a past pattern?"

Second, should such a pattern be shown, those cases in which the sentence of death was imposed, and which contributed to a pattern of racially discriminatory sentencing, would be eligible for a rehearing of their sentence.

It constitutes another bite of an often-chewed apple. The habeas corpus process allows for numerous appeals based on new evidence and other reasons. Even with any of the proposed limits on habeas, we would add a powerful new weapon to further delay the implementation of a sentence of death.

Under the act, all decisions as to the merits of a factual issue made by a State pertinent to any claim under section 2922 of the bill "shall be presumed to be correct unless" the State has complied with the section mandating the creation of a State clearinghouse and has distributed forms, collected data, alphabetically indexed files of all police and investigative reports, and so forth.

Such a burden affords the defendant's counsel fertile soil for dismissal of a sentence on a technicality.

Mr. President, I read with interest the testimony of Mr. Ronald J. Tabak, chairman of the American Bar Association's Death Penalty Committee of the ABA Section of Individual Rights and Responsibilities. The ABA supports the Racial Justice Act.

Mr. Ronald J. Tabak, testifying on behalf of the American Bar Association, offers a number of interesting ideas as to how the States can reduce the opportunity for race to play a factor in these cases, without the adoption of the Racial Justice Act.

It seems to me that if the States adopted the suggestions Mr. Tabak makes, these would not be a need for the Racial Justice Act. For instance, Mr. Tabak suggestsd that States could "take various measures to make it less likely that juries will act in a racially discriminatory manner." Continuing, he states, "For example, States could take steps to make trial attorneys more likely to ask potential jurors questions 'on the issue of racial bias.' " Further, Mr. Tabak suggests that States could "provide clearer guidance to prosecutors as to when it is appropirate to seek the death penalty." A third suggestion Mr. Tabak makes is that "States could require private, individualized voir dire of each prospective juror in capital cases of *All* questions related to possible bias or prejudice * * *" (Italics not added.)

I support the death penalty. I oppose racial discrimination in all its forms. And I support efforts to reduce the incidence of verifiable, clean and convincing evidence discrimination in the imposition of the death penalty. Mr. President, we already have one tool available to flight this problem.

Section 7001(o)(1) of the Omnibus Anti-Substance Abuse Act of 1988—Public Law 100-690—bars a jury from considering the race, religious beliefs, color, national origin, or sex of the defendant or victim in determining whether to impose the death penalty. Each member of the jury must sign a certificate attesting that consideration of those factors was not involved in reaching his or her decision, and that the individual juror would have come to the same recommendation regardless of the race, religious beliefs, color, national origin, or sex of the defendant or victim.

Section 7001(o)(1) has been on the books less than 2 years. It has hardly had time to work. Yet we are already seeking to reremedy a problem before our initial effort has developed a statistically relevant base on which to judge its effectiveness.

Mr. President, we should adopt the provisions of S. 1970 and S. 1971 which adds six crimes for which the death penalty will be eligible, and provide the procedural safeguards for the 23 other Federal offenses. But we should not adopt the Racial Justice Act. It is not a remedy. It will, in the long run, be an impediment to carrying out a sentence of death, and as such, should be stricken from the bill.

I thank my colleagues.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Could I ask how much time remains on each side?

The PRESIDING OFFICER. The Senator from Florida has 4 minutes remaining. The Senator from Massachusetts has 2 minutes.

Mr. GRAHAM. Mr. President, I yield to myself such time as necessary for closing.

I wish to make three points. The fundamental issue here is whether we see justice as being a process applied in a highly individualized case to all of that range of special circumstances, with the law attempting to arrive at a just conclusion for that particular plaintiff and defendant, the State and the accused.

The alternative that is suggested in the Racial Justice Act is to convert our individualized system into corporate justice, assuming that there is some central force that is able to oversee and direct the actions of literally thousands of individuals, from the policeman who makes the initial arrest, to the prosecutor who makes prosecutorial judgments, to a jury of citizens, to judges at the trial and appellate level in both the State and the Federal system

The assumption that we can have a system of justice that is that controlled, that direct, would represent a fundamental revolution on our basic concept of justice. While the Senator from Massachusetts has focused on statistical issues, and in his legislation would say that if, for instance, in a particular State the number of persons arrested, charged, and convicted of death-eligible crimes were in the ratio of 50 percent white and 50 percent black and, yet, there were 60 percent whites who were sentenced or executed, that that would create a presumption that you operated in a racially discriminatory manner, and then, in order to overcome that presumption, by clear and convincing evidence they had to be able to establish pertinent nonracial factors which persuasively explained the observable racial disparities comprising that pattern; that is the standard that a State would have to meet in order to have a

capital punishment process, should this proposal become law.

What is missing is that in each of these individual cases where the issue of statistical imbalance has been raised, in those very cases the courts, and typically multiple courts at the State and Federal level, have found there was no racial discrimination in that individual case. Had they found it in that case, relief would have been afforded. The only discrimination is alleged to occur in a systemic look at statistics, not at the application of justice to that individual case.

Second, Mr. President, is a fundamental issue of State and Federal responsibility for the criminal justice system. I do not believe that the only place in the world that cares about justice is here in our Nation's Capital. I believe there is a thirst for justice and fairness that exists across this land and is expressed in State judicial systems, as well as the Federal judicial system.

As the Senator from New Jersey, speaking against the amendment, pointed out, it was his State of New Jersey which has taken action in order to see if there are any racial factors in the way in which individual justice is applied in that State. As I mentioned in my opening remarks, in our State of Florida, the Supreme Court has established a commission to look at that issue for our State.

I will be proposing an amendment to encourage other States to do as New Jersey and Florida have done. I believe that we should respect the fact that the quest for justice, a difficult quest, but one to which we are all committed, is a quest that is shared broadly in this land.

In conclusion, the reality is that the adoption of this provision, that is, the failure to adopt the amendment which would strike section 107, will have the practical consequence of repealing capital punishment at the Federal level and in each of our States and in the District of Columbia, because no jurisdiction can meet the standards of this proposal. No jurisdiction should attempt to meet the provisions of the standard, because to do so would require a fundamental shift from a law of individual justice to a law of dictatorial control.

Mr. President, I urge the adoption of the amendment to strike.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. KENNEDY. Mr. President, just in winding up, there has been no disputing the evidence which has been presented here that there is widespread discrimination in a variety of jurisdictions across the country. And there is no other explanation than racism. We are attempting to deal with that.

We have heard, as I mentioned earlier, the testimony of how States have dealt with it in ways which have freed the death penalty from that kind of a stigma, and we want to make sure that in the system of justice in this country we are going to free all aspects of this system of justice relevant to the death penalty. That is what this amendment does.

Mr. President, I yield back the remainder of my time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAHAM. Mr. President, do I have any remaining time?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAHAM. I thank the Chair.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DECONCINI. Mr. President, on this vote, I have a pair with the junior Senator from Hawaii [Mr. AKAKA]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. METZENBAUM] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 38, as follows:

[Rollcall Vote No. 108 Leg.]

YEAS—58

Armstrong	Garn	McConnell
Baucus	Gorton	Murkowski
Bentsen	Graham	Nickles
Bingaman	Gramm	Nunn
Bond	Grassley	Pressler
Boschwitz	Hatch	Pryor
Breaux	Heflin	Robb
Bryan	Heinz	Roth
Bumpers	Helms	Rudman
Burns	Hollings	Shelby
Byrd	Humphrey	Simpson
Coats	Johnston	Specter
Cochran	Kassebaum	Stevens
D'Amato	Kasten	Symms
Dixon	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Exon	Mack	Wilson
Ford	McCain	
Fowler	McClure	

NAYS—38

Adams	Gore	Mitchell
Biden	Harkin	Moynihan
Boren	Hatfield	Packwood
Bradley	Inouye	Pell
Burdick	Jeffords	Reid
Cohen	Kennedy	Riegle
Conrad	Kerrey	Rockefeller
Cranston	Kerry	Sanford
Danforth	Kohl	Sarbanes
Daschle	Lautenberg	Sasser
Dodd	Leahy	Simon
Durenberger	Levin	Wirth
Glenn	Mikulski	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

DeConcini, for

NOT VOTING—3

Akaka Chafee Metzenbaum

So the amendment (No. 1694) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina [Mr. THURMOND] is recognized to offer an amendment on which there will be 4 hours of debate equally divided and controlled in the usual form.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, for some time now the managers of the pending bill, Senator BIDEN and Senator THURMOND, have been discussing with interested Senators and with myself and the distinguished Republican leader the manner in which to best proceed on the pending legislation. Both staffs, majority and minority, have now sent out a hotline to their Members asking that any Member who has an amendment to immediately notify the respective majority or minority staffs, as we now hope to prepare a finite list of remaining amendments to the bill.

I hope in the very near future to have ready a proposed list, to propound a unanimous-consent request to limit consideration of the bill to those amendments.

Then we will have a finite list and know, hopefully, that once we complete action on those, we will be through the bill. But we will not have a certainty as to time by then. It is my hope we can do that. That will help us in planning the schedule for the remainder of this week and the time we return from the upcoming recess.

I will also inform Senators that the supplemental appropriations bill, on which we must act prior to the recess, is still being debated and voted on in the House of Representatives and is expected to continue to be debated and voted on in the House for some continuing time this evening. I do not yet know when we will receive that bill or, for that matter, what will be in it when we receive it. That is right now being decided in the House. But Senators should be aware that we hope to complete action on that legislation before we leave on recess.

To repeat and summarize, if any Senator intends to offer an amendment to the pending legislation, he or she should immediately notify the respective majority and minority staffs

and be prepared to have that amendment here ready for filing as soon as possible, so that we can identify the amendments and proceed to establish a process by which we can complete action on this important bill.

Mr. COHEN. Mr. President, I ask unanimous consent that I may now proceed for 3 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine?

Mr. BIDEN. Reserving the right to object, and I will not object. Mr. President, I do not object.

The PRESIDING OFFICER. The Senator from Maine is recognized for 3 minutes.

THE MIDDLE EAST

Mr. COHEN. Mr. President, this week a madman took to the streets of Israel and killed a number of innocent Palestinians. That man—an Israeli—has been apprehended and is in the custody of Israeli authorities who have condemned the wanton slaughter of innocent people.

Arab leaders—who have ignored similar acts when the perpetrator was an Arab—now insist on pouring fuel on an already explosive situation.

As Steve Emerson noted in an article that appeared in the Wall Street Journal:

> In 1985, when an Egyptian soldier on active duty shot to death several Israeli tourists, including four children in the Sinai, many Egyptians and Palestinians celebrated the deaths of the Israelis. The killer, who subsequently died under mysterious circumstances in an Egyptian prison, has since become a folk hero in Egypt and the Arab world, enshrined in Arab mythology. Last year, when 15 Israelis and one American were killed when a fundamentalist Palestinian caused an Israeli bus to crash in a ravine, many Palestinians openly justified the killings; some even rejoiced.
>
> When terrorists opened fire on an Israeli tour bus outside Cairo and killed nine Israelis, why didn't human-rights activists and commentators charge that the event was fostered by the climate of hate against Jews in Egypt? Palestinian leaders openly justified the killings. Instead, the U.S. media focused on the apologies issued by Egyptian President Hosni Mubarak to foster the notion that the attack was an "abberation" in Egypt's attitude toward Israelis.

They condemn an entire nation as the result of one man's madness and seek to unite all Arabs in echoing the incendiary rhetoric against what they call a Zionist conspiracy.

Mr. President, it is one thing for those who have a political objective of eliminating the existence of Israel to engage in such practices. It is reprehensible but predictable.

But it is quite another for the State Department to use the tragedy as an excuse to bludgeon the Israelis into submission by suggesting it is willing to consider lending support to a U.N. peacekeeping mission in Israel. Before Secretary Baker gives serious consideration to Yasser Arafat's proposal, he might first call for a U.N. peacekeeping force to patrol the streets of Washington, DC, or Bensonhurst, NY, or Bedford-Stuyvesant or east Los Angeles.

Whites are turning on blacks, blacks on Asians, Klan members are parading around in their new white sheets and skinheads are spreading the gospel of nazism. There are children dying who are caught in the gunsights of drug dealers or hate mongers and they are dying at a rate that far exceeds the cruel casualties of the Middle East.

Before we rush to condemn a nation because of the act of one individual or because there exists a climate of hatred that encourages acts of violence, we should take care that our own house is in order.

We should speak out against racism and heal our own civil rights wounds before we lecture an ally that is besieged by those who demand a state but refuse to end their declared state of war.

If we are to pursue a policy of evenhandedness in the Middle East, let us with equal fervor condemn the stone throwing, the terrorist murders of propeace Palestinians by Palestinians who promote war, as well as Israeli violence against the Palestinians.

Mr. President, I ask unanimous consent that two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 22, 1990]

WRONG REACTION TO ISRAELI GUNMAN

(By Steven Emerson)

Hours after an Israeli gunman went mad and mowed down a group of Arabs on Sunday, human-rights activists and American commentrators publicly charged the government of Israel with "responsibility for and complicity with the killings of Palestinians." Why? The Israeli government had already arrested the disturbed man and already begun to investigate the matter. Because, as one commentator said, "Israel has encouraged this by creating a climate of hate and violence." Some Palestinian leaders went further: They charged that the killings were a premeditated act of murder by Israel. The American media uncritically repeated these charges. The U.N. will likely convene in the next few days to ram through a resolution accusing Israel.

The attack on Israel is part of a trend. Lately, American journalists, commentators, and political activists with ideological agendas have begun ascribing collective national guilt as the culprit for acts of violence carried out in society. In fact, a more honest test of a society's values and conscience would be to examine how it reacts to such violence. Does it act swiftly to condemn the violence? Does it ignore it? Or does it revel in the violence? The Sunday murders are a case in point. They provide a critical basis to examine how Arab society (and the U.S. media) reacted to similar acts of violence against Jews.

In Israel, there was instant, unanimous condemnation of the killings. Within minutes after news of the killings was broadcast, Israeli leaders—from the entire political specum—bitterly condemned the killings and expressed their sympathies to the Palestinians. There was no equivocation or excuses. Israeli citizens expressed their shock, horror and revulsion at the killings. The Israeli reaction was similar to the massive demonstration of 400,000 that came in response to the Phalangist massacre of Palestinians at Sabra and Shatila in 1982.

The Arab world's reaction to the murder of innocent Israelis has been very different. In 1985, when an Egyptian soldier on active duty shot to death seven Israeli tourists, including four children in the Sinai many Egyptians and Palestinians celebrated the deaths of the Israelis. The killer, who subsequently died under mysterious circumstances in an Egyptian prison, has since become a folk hero in Egypt and the Arab world, enshrined in Arab mythology. Last year, when 15 Israelis and one American were killed when a fundamentalist Palestinian caused an Israeli bus to crash in a ravine, many Palestinians openly justified the killings; some even rejoiced.

Not only have Palestinians routinely celebrated the killings of Israelis. They have consistently subscribed to conspiracies, including their charge that the violent deaths of Palestinians are part of a deliberate Israel plot to kill all Palestinians. This conspiratorial accusation, not insignificantly, is similar to the way the intifada may have started. After a traffic accident in Gaza in December 1987 in which four Palestinians were killed, Palestinians immediately charged that the traffic accident was a deliberate act of premeditated murder by the Israeli government. In fact, it was just a traffic accident.

While Palestinian exaggerations, conspiracies and distortions may be understandable given the difficult circumstances under which the Palestinians live, the U.S. media and human-rights organizations have a responsibility not to report them blindly. When Palestinian schoolchildren several years ago claimed they were being poisoned by Israel, the accusation was uncritically broadcast all over the world. Later a team of international scientists determined that there was no poisoning whatsoever. The children at best were suffering from some form of mass hysteria, and at worst were being manipulated by their parents.

The response of the media and human-rights organizations in the U.S. to the killings of innocent Israelis by the Arabs has been just as skewed. When terrorists opened fire on an Israeli tour bus outside Cairo and killed nine Israelis, why didn't human-rights activists and commentators charge that the event was fostered by the climate of hate against Jews in Egypt? Palestinian leaders openly justified the killings. Instead, the U.S. media focused on the apologies issued by Egyptian President Hosni Mubarak to foster the notion that the attack was an "abberation" in Egypt's attitude toward Israelis.

Whether the attack was an abberation is, in fact, debatable. An examination of broadcasts and publications in Egypt in the weeks after the killings indicates, however, that some Egyptians approved of the killings. Yet, at the same time, the Egyptian government forcefully condemned the attack. (In Egypt, the semi-controlled press has been bashing Israel and Jews for years now, routinely comparing Jews to Nazis and endors-

ing the worst conspiratorial accusations against Jews from the notorious anti-Semitic forgery, the Protocols of the Elders and Zion.)

Perhaps even worse is how human-rights organizations and the U.S. media treat the killings of Arabs by Arabs: There is virtually no coverage or criticism. Two weeks ago, Egyptian police opened fire on "fundamentalists" southwest of Cairo, killing 14 Egyptians. The massacre was ignored by nearly all American newspapers and television networks. The Associated Press ran a small three-paragraph story—but quoted only the version offered by the Egyptian police, who alleged they were provoked. The media's indifference to inter-Arab killings is similar to the media's racism in generally ignoring killings by American blacks against fellow blacks while at the same time hyping killings of whites by blacks.

In the days to come, there will be the predictable orgy of Israel-bashing by the media, human-rights organizations and American supporters of the Palestinians. We will hear that Israel's soul has been poisoned, that it is responsible for the killings on Sunday.

Ultimately, the true test of a nation's soul is how it reacts in the face of such violence. France reacted with widespread popular revulsion at the desecration of Jewish cemeteries earlier this month. Israel has moved swiftly and appropriately. If only the Arab world and the Palestinians would react similarly.

[From the Washington Post, May 22, 1990]

MADNESS AND MALICE

(By Richard Cohen)

In 1985 an Egyptian soldier stationed in the Sinai went berserk, killing his own commander and seven unarmed Israeli tourists. A number of the tourists, including a 10-year-old boy, apparently bled to death because other Egyptian soldiers would not permit an Israeli medical team to aid the victims. For a moment, the Middle East tensed up and then relaxed. In essence, Israel said that one soldier is not a nation. The peace with Egypt was never in doubt.

Now, though, something similar has happened within Israel. There, a former soldier also has gone berserk, killing seven Palestinians. The gunman has been characterized as deranged, attributing his action to the loss of a girlfriend and an alleged rape by Arabs when he was a boy. Nonetheless, both the Palestine Liberation Organization and several Arab governments have not hesitated to use this horrible incident in their propaganda war against Israel.

Kuwait simply labeled the killer a "Zionist" and said his actions would "lead to a new cycle of violence in the region." A PLO spokesman called the killings "a message to the Arab summit" about to begin in Baghdad, and PLO official, Yasser Abed Rabbo, asked Egypt to close the Israeli Embassy in Cairo. "What is happening in the occupied territories is an act of organized crime carried out under the supervision and planning of the Israeli government," he said. From Damascus and Amman have come similar statements.

Well, first of all, the killings did not take place in the Occupied Territories, but in Israel proper. (The victims were, however, residents of the occupied Gaza Strip who had come to Israel seeking work.) In the second place, there is not a scintilla of evidence that the Israeli government had anything to do with the killings. If it had, then possibly the gunman would have been allowed to escape and not have been arrested. The current Israeli government is capable of doing some bonehead things, but not even its severest critic would suspect it of wanting to foment the riots in the Occupied Territories and Israel proper that followed the killings.

Maybe it's understandable that Arab leaders (and non-Arab ones in Tehran) would overreact to the recent massacre. After all, both the West Bank and Gaza Strip are under military occupation, and from time to time it's a harsh one. The intifada procedes, and with it comes a daily loss of life, including, of course, children. To some Israelis (and others), these deaths are the inevitable result of rebellious activity, such as stone throwing. To Arabs though, the victims are just kids who want to live in a Palestinian state. It's the occupation that's killed them, not their behavior.

Palestinians long ago made the point that they are entitled to their own state. But they have not yet made another and possibly more important point: that if they get that state they will not continue their war against Israel. Very likely, Arab leaders know that the rampage of a single Israeli does not represent government policy. Yet their followers are a different matter. They are quite willing to believe—indeed, for generations they have been taught—that the so-called Zionists are ruthless killers. Until recently, for instance, the PLO itself did not stoop to distinguish between soldiers and, say, women and children on a kibbutz.

Now both the PLO and certain Arab governments will not distinguish between state policy and a single man who went berserk. By inflaming populations in their own countries and within Greater Israel (Israel plus the Occupied Territories) they show themselves to be more passionate than logical and hardly punctilious when it comes to truth. By claiming that the massacre is anything more than a tragedy, they are propagating a lie.

But there is yet another issue that has to be dealt with. Washington has been putting pressure on Israel to come to the bargaining table and deal with the Palestinians. So far that hasn't happened. But if someday it should, Israel has to be assured that the Palestinian leadership can sell some sort of compromise to its people. Given the performance of the leadership following the shooting, any compromise will be a harder sell. Indeed, Israelis can argue that when it counts, the PLO leadership reverts to the same old rhetoric—and maybe the same old terrorism.

It would have been wonderful if the shootings had been followed by efforts on the part of Arab leaders to calm the situation. It would have been wonderful if they had said that an Egyptian had done something similar. It would have been wonderful if any Arab leader, including Egypt's Hosni Mubarak, had repeated what Mubarak himself said following the 1985 massacre in Sinai: "a limited incident that can happen anywhere, carried out by an insane man."

Anywhere, by definition, includes even Israel.

OMNIBUS CRIME BILL

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from South Carolina is recognized to offer an amendment.

Mr. HATCH. Mr. President, will the Senator from South Carolina yield me 30 seconds.

Mr. THURMOND. I yield to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I commend the distinguished Senator from Maine for what I think is a very appropriate and very important statement. I want to be associated with his remarks.

I think there is far too much of this going on by representatives of our Government. I think they are making some very bad decisions with regard to what needs to be done in this particular area. I do not want to see it appear in any way that they are using an unjustifiable situation, that basically would have happened because of emotional unbalance, to justify some of the approaches that they are taking.

I believe the distinguished Senator from Maine has done us all a favor in making the comments that he has made here today. I commend him for those comments.

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina, [Mr. THURMOND], is recognized to offer an amendment on which there is to be 4 hours of debate to be controlled and divided in the usual manner.

AMENDMENT NO 1698

Mr. THURMOND. Mr. President, the distinguished chairman of the committee and I have agreed on the rest of the capital punishment language and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself and Mr. BIDEN, proposes an amendment numbered 1698.

On page 4, line 24, strike "18" and insert "17".

On page 6, strike lines 1-2, and strike lines 7-8.

The PRESIDING OFFICER. The chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, I thank the Senator from South Carolina and my Republican friends on the Judiciary Committee. We had a number of amendments. There are a number of amendment provisions in S. 1970, the bill at the desk, relating to instructions that judges can and cannot give to the jury in death cases relating to what constitutes mitigating circumstances, or what can be offered as mitigating circumstances. We have, over the past week or so, negotiated those. We have reached a legitimate compromise and one that we, on this side, fully accept and subscribe to.

So I do not know there is a need for debate. There is total agreement.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent I may proceed as in morning business.

Mr. BIDEN. Will the Senator yield for a moment?

Mr. HATFIELD. I will be happy to yield.

MORNING BUSINESS

Mr. BIDEN. Is there objection to my asking unanimous consent that we go into morning business for the next 30 minutes?

Mr. President, I ask unanimous consent there be a period for morning business not to extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE COLUMBIA RIVER BASIN

Mr. HATFIELD. Mr. President, I am delighted to see the Senator from California, my close friend, Senator Wilson, on the floor, because I want to make a few remarks about an area of his State.

Two weeks ago, Los Angeles County Supervisor Kenneth Hahn caused a bit of a media sensation by publicly suggesting the diversion of water from the Columbia River Basin as a solution to southern California's persistent water shortages. As the Washington Post reported on Sunday, "the gasps from the Pacific Northwest were quite audible"—and with good reason. This idea is outrageous, irresponsible, and downright ridiculous.

Having stated an ambivalent position on the issue, I would like to proceed to say that this has gone a step further: On Tuesday, the entire Los Angeles County Board of Supervisors passed a resolution he offered calling for Federal cooperation on a feasibility study of aqueducts to divert the water. They are in for a great disappointment: The idea is sheer nonsense.

To those of my colleagues who are not familiar with the history and current status of this issue, perhaps the rationale of the county supervisors sounds reasonable. "I'm only asking for 3 billion gallons of water a day for the people of southern California from an area that is dumping 90 billion gallons of water in the Pacific Ocean," Hahn said 2 weeks ago. "I'm saying be a good neighbor."

No, sir, that is not what you are saying. The implicit suggestions that we in the Pacific Northwest have water to spare flies in the face of several obvious facts.

First of all, adequate waterflow at the mouth of any coastal river is imperative to assure that salt water intrusion does not contaminate fertile coastal plains and community water supplies. Moreover, sustained waterflow at the mouth of any navigable river creates a natural dredging action which is critical to keeping sediments away from the navigation channel.

But of course in this case we are not just talking about any river. We are talking about this country's third largest river: The mighty Columbia. Far from "dumping 90 billion gallons of water in the Pacific Ocean" each day, the water in the Columbia River Basin produces hydroelectric power—some of which is sold to California—provides irrigation for agriculture which not only employs tens of thousands of people but also feeds hundreds of thousands of people, and supports important and sensitive fish runs. And all of these uses are being directly threatened at this very moment.

Although media attention has focused on the effects of the drought in California, Oregon, Washington and Idaho—indeed all of the Western United States—have suffered from it as well. As of the first week of May, reservoirs on the Columbia River system were only 42 percent full—up from 26 percent a year ago, but still significantly below normal. Even in those months in which precipitation has been near normal levels, the water has replenished depleted groundwater supplies rather than increasing river flows.

Mr. President, Californians ought to be sensitive to all the different effects of the drought in the Pacific Northwest, but one has already directly affected them too; and that is, electricity sales to California from the Bonneville Power Administration have fallen by 75 percent over the past 5 years because of the water shortage in the Columbia and Snake rivers.

Mr. President, I want to be sure that my colleagues understand the interrelationship between hydroelectric power generated at the Bonneville Power Administration and the power needs of California. As many of my colleagues know, hydroelectric power is cheaper than power generated by fossil fuels and nuclear plants. Indeed, the hydroelectric power generated by the Bonneville Power Administration and used in California is 20 to 50 percent less expensive than power generated by other sources for California consumers.

In addition to being cheaper than power generated by fossil fuels and nuclear plants, hydroelectric power also has less of an environmental impact. Hydroelectric power—unlike power generated by fossil fuels—does not contribute to global warming. We spent 2 months earlier this year debating the Clean Air Act. I said then and will say again now: fossil fuels can never be clean. They can only be made to be cleaner. And while making them cleaner is critically important, developing power sources which are inherently clean ought to be a top priority. That is what hydroelectric power is all about.

Moreover, California defers the operation of the equivalent of two nuclear powerplants running at 70 percent capacity a year—on average—by buying about 6 million megawatt-hours of electricity generated in the Pacific Northwest through the intertidal system. And while the debate rages in California over offshore oil drilling, it is hydroelectric power and renewable energy which offer alternatives.

As I noted earlier, hydroelectric power sales to California are down because water levels in the Columbia River basin are down. But rather than supporting the diversion of water from the Columbia and Snake Rivers to southern California, that fact simply underscores the shortsighted and ludicrous nature of this suggestion.

The low water levels in the Columbia River basin have not only affected our hydroelectric capacity, Mr. President. They have also affected our salmon runs—runs which I must note are already strained by the Columbia River's hydroelectric system. The suggestion that these rivers have water to spare directly contradicts recent scientific data which suggest that low water levels now may threaten several different salmon runs. In the lower part of the Columbia River, the coho salmon; in the upper parts of the Columbia and Snake Rivers, the chinook slamon. In fact, a listing petition has been filed already for one species of salmon on the Snake River—the Columbia River's largest tributary—and several additional petitions could be filed by the end of the month. That would set into motion the potential of an endangered specie.

As some of my colleagues may know, I have asked the National Marine Fisheries Service and the Oregon Department of Fish and Wildlife to prepare an initial status report on these salmon runs by June 1. Anyone who has followed the ongoing debate over future forest management in the Pacific Northwest and the northern spotted owl knows that informed and responsible decisions cannot be made in the absence of reliable scientific data—and valuable time can be lost quibbling over disputed numbers and facts. This soon-to-be-completed report will help us determine—sooner rather than later—whether the runs are indeed threatened or endangered. If they are, this report also will see us down the

path toward developing a comprehensive recovery strategy.

The Columbia River basin does not have water to spare. Supporting a diversion plan would not make us "good neighbors." It would make us irresponsible stewards of a precious natural resource. And that simply is not going to happen.

It is not going to happen because it is not a good idea—and it is not going to happen because it is prohibited by law. In 1968, a 10-year prohibition on any studies by the Secretary of the Interior of the feasibility of importing water into the Colorado River basin was attached to the Colorado River Basin Project Act. In 1978, a provision in the Reclamation Safety of Damns Act extended that prohibition for another 10 years. Two years later, when Enviornmental Protection Agency officials began talking about pumping Columbia River water into the Colorado River to dilute its salinity, the prohibition was expanded to cover studies by any Federal official or agency. And in 1986, an amendment offered by our colleague Senator SYMMS to the Water Resources Development Act made that prohibition permanent. The only exception to this law involves an agreement by all the Governors of all the affected States—something that simply is not going to happen.

Again, the bottom line: diverting water from the Columbia River basin is not a topic for debate. It is not open for discussion.

Throughout this century, Mr. President, water has been to the Western United States what people are to the Eastern United States: the basis of political power. Lest anyone think the suggestion made by the Los Angeles County Superviser is something new, consider this passage from David Halberstram's Pulitzer Prize-winning book "The Powers That Be:"

> The rape of Owens Valley, for what happened is nothing less than that, it is the story of a very shrewd, very rich power elite in a major city determined, in its desperate need for more water, to let nothing stand in its way, particularly the water rights of a separate, distant, smaller community. For that was the key to Los Angeles' growth—water. The climate was wonderful, land was plentiful, the only limit imposed by nature was water; it was thus a powerful political issue. "If you don't get the water," William Mulholland, the city's water superintendent, used to say of additional sources of supply, "you won't need it."

The year, Mr. President, was 1905. The names and times have changed—indeed, almost a century has passed—but the issue remains the same: water.

Like the dispute now raging in Federal court between North Dakota, South Dakota and Montana and the Corps of Engineers over the management of the Missouri River system, the persistent water shortages in southern California are symptomatic of a much larger issue: the lack of a comprehensive and coordinated Federal water policy. At least 13 congressional committees, 8 Cabinet-level departments, 6 independent agencies and 2 White House offices are responsible for various elements of water policy today. None of them, however, oversees a national water policy for the simple reason that one does not exist.

Unlike other resource shortages, a water shortage cannot be solved by the development of an alternative. There are organisms on this Earth that can live without oxygen, but none can live without water.

Avoiding such a shortage through the wise use and conservation of existing supplies, therefore, offers the only viable option. That is why I introduced the Western Water Policy Review Act last fall, calling for a comprehensive review by the Secretary of the Interior of westen water resource problems and existing programs. I hope to see that expanded so that we can take a national view to the same subject.

I must point out, Mr. President, those existing programs include the single largest project in this country today, the $1.2 billion Santa Ana Flood Control Program. This year alone, the Federal Government is spending $65 million on that program, and well over $300 million for water projects throughout California alone.

If those projects are insufficient, if California is indeed facing a water crisis, that fact simply underscores my call for the development of a comprehensive national water policy. And the solution of California's water shortage does not involve diverting water from other areas hit by drought. It should not and it will not.

In addition to the inaccurate assumptions on which they were based, the Los Angeles County supervisor's comments corrupted one of the Nation's most sacred concepts, and that is this Nation, this Union of States and counties, of interwoven communities, works because we all try to be good neighbors. Particularly in the Western United States, neighbors, be they individuals, communities, or States, come to those in need and give aid to those who have need. In times of adversity we come together.

But, Mr. President, being a good neighbor has never involved, and never will involve, shooting yourself in the foot. If Californians want those of us from the Pacific Northwest to be good neighbors, perhaps I can offer an alternative.

As I told Gov. Pat Brown when I was Governor of Oregon more than two decades ago, we would be happy to fill California's grocery list. Most of my colleagues know that the majority of water used in California then as well as today was used for agriculture.

Instead of diverting our water for California agriculture, we would be happy to grow the necessary food and ship it down south to California instead. And it may surprise some of my colleagues to know that half of the Nation's wheat export already passes through the Columbia River Basin on its way to nations throughout the Pacific Rim.

In the meantime, Mr. President, the solution to California's water shortage involves the wise use and conservation of existing supplies in the context of a national water policy.

The Ogallala aquifer, the largest aquifer of this country, covering 13 Midwestern States, has been falling at a very, very rapid rate. Water tables throughout the country have also had a similar drop in supplies that will threaten in some communities even today the need of water for people, municipal use, agriculture, and all the other uses.

We must face up to the fact that this country has reached a dangerous crisis in not having a national water policy and a plan. Now is really somewhat late in the day but certainly better than waiting further.

Instead of wasting time considering this outlandish proposal, I certainly hope my colleagues from California and other States will add their voices to my call for the creation of such a national policy on matters of water sooner rather than later.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 2699 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

KENTUCKY'S S&L'S

Mr. FORD. Mr. President, in the morning paper we read a great deal about the tens of billions of additional dollars it will cost the taxpayers of this country as relates to the S&L bailout. I have an article from the Courier Journal in Kentucky which shows how strong our S&L's are; that they have had no failures; that they are the envy of the country. Yet, this year they will pay millions and millions of dollars, next year millions and millions of dollars, for something they did not cause.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Courier Journal, May 18, 1990]

KENTUCKY'S S&L'S IN ENVIABLE SHAPE, EXECUTIVES ARE TOLD

(By Ken Berzof)

Kentucky's savings-and-loan associations are "the envy of the thrift industry," the

state's S&L executives were told yesterday at their annual convention.

The state's 62 thrifts reported an overall 1989 profit of $47 million, with a return on assets of 0.61 percent, the "best of the decade," said Charles Lee Thiemann, president of the Federal Home Loan Bank of Cincinnati, whose district includes Kentucky, Ohio and Tennessee.

Kentucky's thrifts "have prudently managed the trade-off between risk and expected return," said Thiemann, who addressed about 150 people at the 95th annual meeting of the Kentucky League of Savings Institutions.

While praising the state's thrifts, however, he attacked last summer's S&L bailout legislation.

"Many provisions are not consistent with the thrift industry, and some are more punitive than constructive," Thiemann said.

One flaw, he said, is the amount of premiums that thrifts must pay for federal deposit insurance.

He said Kentucky thrifts will pay $6 million more in premiums than banks for the same amount of deposits. In 1991, he added, thrifts will pay an extra $5 million.

"You're indeed paying for the sins of others," said Thiemann, who believes premiums should be based on how much risk a thrift is taking.

Another "onerous, unfair and unproductive" aspect of the legislation, he said, is a provision that limits how much a thrift can lend to a single borrower. The imposed limit is 15 percent of a thrift's net worth. Thiemann said in an interview before his speech that the figure should be at least 25 percent, although not more than 50 percent.

In the future, Thiemann sees further consolidations and fewer thrifts. "Healthy thrifts won't get caught up in that," he said, "as long as they stick to basics."

Kentucky's thrifts also drew praise from James W. Christian, chief economist with the Washington-based U.S. League of Savings Institutions.

Christian said only 17 states had a positive return on assets—the equivalent of a profit margin—in 1989, and that Kentucky ranked fourth.

He also said the state had the sixth highest net-worth ratio, a measure of financial strength.

Christian warned the S&L officials that inflation is a factor that they "need to continue to worry about," because of lower rates of productivity and increasing labor costs.

The final speaker at yesterday's business session was Edward B. Hatchett Jr., commissioner of the Kentucky Department of Financial Institutions.

Hatchett, who has held the post since 1988, spoke of a "new period of involvement" within the department, and said the state would support any efforts of mutual thrifts to convert to stock-owned thrifts if done on a state level.

Kentucky regulates only two state-chartered thrifts; the remainder in the state are federally chartered.

The three-day convention, at the Hyatt Regency-Louisville, ends today.

SENATOR HEFLIN'S AHI KEYNOTE SPEECH

Mr. PRESSLER. Mr. President, in February the American Hellenic Institute held its 15th anniversary dinner here in Washington, DC.

The Institute's program included the presentation of Lifetime Achievement Awards to Mrs. Deena Clark and Dr. George T. Economos. National Leadership Awards were presented to Dr. John Brademas, president of New York University; Edward Derwinski, Secretary of the Department of Veterans Affairs; Congressman WILLIAM BROOMFIELD; and our colleagues, Senator JOSEPH BIDEN, Senator HOWELL HEFLIN, and myself. A special presentation also was made to Gen. James A. Van Fleet, U.S.A., retired.

I was delighted to be honored by the American Hellenic Institute. The highlight of the evening's program was the stirring keynote address delivered by my good friend, Senator HOWELL HEFLIN, the distinguished senior Senator from Alabama.

Senator HEFLIN eloquently described the historic ties between the United States and Greece. His remarks concerning our bill regarding Cyprus, S. 22, were particularly enlightening.

Mr. President, Senator HEFLIN's full address at the American Hellenic Institute dinner deserves wider circulation, and I therefore include it at this point as the conclusion of my remarks.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

AMERICAN HELLENIC INSTITUTE SPEECH, SENATOR HOWELL HEFLIN, FEBRUARY 3, 1990

It is a great honor to come before this group on the occasion of their first dinner in 15 years. I must confess that, as a United States Senator, it is a humbling experience to address a society which takes its name and ideals from the great flowering of democracy in ancient Athens and Sparta. The vast majority of the ideals which I was elected to uphold have come directly from the thinkers and lawgivers of Greece.

The founding fathers of the United States, as they sought to construct a government which was completely different from anything which then existed, leaned heavily on the model of the Greeks. "Death is a milder fate than tyranny," was said by Aeschylus some four centuries before the birth of Christ. Yet it was echoed almost exactly some 2400 years later, when Patrick Henry declared on the eve of this country's war of independence, "Give me liberty or give me death."

It is no accident of history that Jefferson, the primary author of the Declaration of Independence, was an ardent student of all things Greek, extending even to Montecello, the home he designed for himself which he based on a Greek temple. And it is in another building which echoes the temples of the ancient Greeks, the United States Capitol, that the laws of this country are still debated.

But the bond between the United States and Greece goes deeper. The Greeks were inspired by the success of the American Revolution when, in 1824, the Greek nation threw off the tyranny of the Ottoman Empire. In the 1990's, Greeks migrated to the United States in vast numbers; one out of every four Greek males between the ages of 15 and 45 immigrated to this country. Today, over three million people of Greek descent reside in the United States, and most families in Greece can claim at least one relative who is an American citizen.

Greeks and Americans fought side by side in World War II to defeat Hitler. In the years following the war, the Greek nation defeated a Communist revolution fomented and sustained by the Soviet Union and its client state, Yugoslavia. These two cataclysms, which together accounted for almost ten years of struggle, resulted in the death of a staggering ten percent of the Greek population.

Today, Greece plays a crucial role in the dismantling of the Iron Curtain. Yugoslavia is on the brink of civil war; Greece must help to prevent chaos and foster democracy in that country.

Greece will also play a major role in the democratization of Cyprus, which for 16 years has been under Turkish occupation. Today, there are 35,000 Turkish troops in Cyprus holding over 40 percent of the island by force. Four out of every five people in Cyprus are of Greek lineage. Greece and Cyprus even have the same national anthem. That anthem declares, "It was the Greeks of old whose dying/Brought to birth our spirit free." Yet the island continues to be virtually a Turkish colony, deprived of the rights of liberty and self-determination.

I am sad to say that the United States Government's role in the Cyprus situation has not been exemplary. U.S. State Department sources estimate that it costs Turkey $9,000 per year to keep one soldier in the field. Thus, Turkey's occupation forces in Cyprus cost $315 million a year. In 1989, the United States gave Turkey half a billion dollars in military aid.

It is no exaggeration that the United States, through its NATO contributions to Turkey, is financing the occupation of Cyprus. Yet Turkey breached the NATO charter by invading Cyprus.Turkey also violated the charter of the UN, and broke the Geneva Convention of 1949 which prohibits colonization by an occupying power. All this on top of the fact that Turkey renounced all rights to Cyprus in the Lausanne Treaty of 1923.

Turkey not only violated international law, it ignored the conditions the United States placed upon its military aid. Military equipment given to Turkey is to be used only for defensive purposes. Turkey used U.S. equipment in its 1974 invasion and continues to use it in its occupation of Cyprus.

It was to redress these crimes that I cosponsored Senate Bill 22 in 1989. This bill prohibits all United States military and economic aid to Turkey until Turkey takes strong action to resolve the situation in Cyprus. Specifically, under my bill Turkey must:

First, withdraw all military forces and illegal colonists from Cyprus.

Second, return the Greek-Cypriot areas to the government of Cyprus for the immediate resettlement of refugees who lost their homes in the invasion.

Third, return the five Americans abducted by the Turkish invasion forces in 1974 and the 1,614 Greek Cypriots missing since the invasion.

Fourth, Turkey must make significant progress in the United Nations negotiations on establishing a democracy in Cyprus, with a Constitution guaranteeing majority rule, fair laws and the protection of minority rights.

And finally, Turkey must renounce and dissolve the illegal declaration of an independent state in northern Cyprus.

When I stand in this nation's capitol building, with its friezes and columns modeled on the Parthanon, with its sculptures of our founding fathers in poses copied from statues of the Olympian gods, with its tile floors inspired by Greecian mosaics—when I stand there, it is impossible not to reflect on the irony of United States support for Turkey in Cyprus. I pledge I will continue to work for the freedom of all Cypriots.

It is high time the United States excercised all of its influence to ensure that Cyprus enjoys the Greek ideals of freedom and democracy. It is shameful for this nation to betray its heritage, passed on from the Athenians, of self determination and the rule of law.

As Aristotle said, "The basis of a democratic state is liberty." I look forward to working with The American Hellenic Institute to ensure that there is liberty throughout the world, and that the ideals which Greeks and Americans share will triumph.

The theme of this meeting is to keep the spirit alive. That spirit is indeed alive and healthy. That spirit has been fueled by the recent events in Eastern Europe. The overthrow of tyrannical governments, the desire for individual rights and freedoms and the movements towards the rule of law and the right of self-determination have characterized the events of the "Revolution of the Year 1989." The word "liberty" has taken on new meaning for millions of Eastern Europeans. I hope and pray that it can take on a new meaning for Cypriots.

The national anthem of Greece and Cyprus ends with these words:

"Now, with ancient valor rising,

Let us hail you, oh liberty."

The spirit for Greek Americans and lovers of freedom around the world should be that we all want to hail liberty in Cyprus.

Our national anthem, "The Star Spangled Banner," has the theme that our flag shall wave over the land of the free and the home of the brave.

In closing, let me say that I believe I speak for all present when I say that our hope is that a flag chosen by the Cypriots through self-determination shall fly over a land of the free and the home of the brave in the island of Cyprus.

CONCERN IN THE U.S. FERTILIZER INDUSTRY

Mr. BURDICK. Mr. President, I have learned recently that the Canadian Province of Saskatchewan is involved with the construction of a major nitrogen fertilizer facility in Belle Plaine, SK. For reasons I will outline below, this project is causing a great deal of concern in the U.S. fertilizer industry and has begun to attract the attention of many Members of the Senate.

Earlier this year, the Provincial government of Saskatchewan announced its planned investment of $64 million in a $435 million project—known as "Saferco". The Province also intends to guarantee $305 million in loans for the project and a private company also has agreed to invest $65 million in return for exclusive marketing rights. From the information I have received, it appears that the project can go forward only with massive government involvement because the project is not commercially viable without substantial government assistance.

The Provincial government intends to create jobs through this project, and no one can fault that effort. However, the volume of fertilizer that is projected to be produced by this plant cannot be absorbed sufficiently by the Canadian market and invariably would find its way into the United States market, displacing much of the United States product. The jobs created by this project would come at the expense of many U.S. workers and would be the result of government-subsidized production, not true competition.

I have other concerns about this project, specifically the fact that the government of Saskatchewan apparently has waived the requirement for an environmental impact statement for this project. Since I represent a State that shares a common border with Canada, I am concerned about the precedent that would be set by this decision.

These and other concerns have been included in a letter to Ambassador Carla Hills, U.S. Trade Representative, that was signed by myself and 10 of my colleagues. I ask unanimous consent that a copy of this letter be inserted in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, May 14, 1990.

HON. CARLA HILLS,
U.S. Trade Representative, Washington, DC.

DEAR AMBASSADOR HILLS: On March 8 a letter was forwarded to you from a number of our Senate colleagues expressing concern about the massive nitrogen fertilizer facility to be constructed in Belle Plaine, Saskatchewan with the heavy financial involvement of the Province.[1] We are writing to add our expression of concern to those already registered, and to respectfully request that you address this very troubling matter in discussions with your Canadian counterparts.

The United States boasts a modern and efficient nitrogen fertilizer industry which provides a very high quality product to farmers throughout the nation. U.S. producers of nitrogen fertilizer operate without subsidies or government assistance of any kind. We are proud of the contribution of this industry to the agricultural economy of our nation. Information has recently come to our attention, however, concerning the planned world scale nitrogen fertilizer facility—"Saferco"—to be built in Saskatchewan, Canada. We are extremely concerned that this Provincial project is proceeding without consideration of economic realities or environmental concerns. The economic impact on U.S. producers promises to be quite serious. The environmental impacts are simply unknown.

With respect to the environmental assessment of the Saferco plant, Saskatchewan claims that the plant will meet environmental standards and that it has conducted necessary reviews. The simple fact is, however, that the project has *not* been subject to a full public environmental impact assessment. Furthermore, the Provincial government—which is not a neutral party—has refused to release to the public any report of its allegedly thorough internal environmental assessment of the plant. The approach, particularly where it is part of a broader program to provide support for a production facility that is not commercially justified and has all the earmarks of political pork barrel. We respectfully request that our concern about the lack of a full environmental review of this huge chemical complex be raised in the Provincial legislature.

Not only are the environmental questions quite troubling, but the fair trade implications of Saferco are serious ones. Information provided by our constituents, reported in one Canadian press and raised in the Canadian Parliament presents a very convincing case that the Saferco venture is not commercially sound. This information presents grave questions about the impact of the facility on U.S. markets. Neither existing U.S. producers nor respected industry analysts perceive a need for a new world-scale nitrogen facility in Saskatchewan. Currently, the U.S. nitrogen market is weaker than it has been in several years. Ammonia and urea prices are well below the expected spring "peak" and U.S. industry profitability has declined. Indeed, as proponents of the plant concede, some U.S. nitrogen capacity has been closed in recent years. These plant closures and the absence of new investment were a direct response to market conditions. Low-priced imports from other sources are already an important factor in this market. It has been suggested, nonetheless, that the Saferco project is needed to replace the offshore imports into North-America. When the situation is examined in terms of the United States market, the misleading nature of this argument is obvious.

Of the 1.0 to 1.2 million tons of urea (the intended principal Saferco product) imported into the U.S. in 1988 and 1989, more than half was produced in Canada. Of the remaining imported tonnage, 65-75% entered at U.S. Gulf Coast ports. The Saferco plant will simply not be in a position, given transportation costs, to replace Gulf Coast imports. The truth is that the Canadian and U.S. markets that will be served by Saferco are currently well-supplied by existing U.S. and Canadian producers, with only a very small percentage coming from offshore material. As a result, the additional Saferco supply will not reduce import levels, but serve to increase supply and, necessarily, depress prices.

Given the market situation, there is simply no "economic need" for the Saferco plant. Indeed, it seems fairly clear to us that if the market required this supply, a private investor would undertake the venture without Provincial equity participation, loan guarantees or incentives in the form of special marketing arrangements. It has also been rumored that the project may receive preferential treatment in terms of its supplies of natural gas, the input which typically accounts for well over 70% of the cost for producing nitrogen fertilizer. Such preferences, while not confirmed at this time, would not be necessary were the enterprise commercially viable.

Further, the limited participation of a private company in the project does not prove that a commercially-motivated entity would invest in Saferco. Private sector involvement in this project is limited to a $65 million investment—a mere 15% of the total $435 million cost of the plant. The private sector will neither incur nor guarantee the huge debt required for the project. In return, the lone private participant will re-

ceive exclusive marketing rights for Saferco's production.

It is reported that the private company involved has been guaranteed a per ton commission or mark-up on the tons it will distribute, assuring it a return on its relatively small investment even if the plant is not profitable. It should be noted that Saskatchewan has refused to make public the details of this marketing agreement. It is clear, however, that limited private participation in the project, given the separate incentives provided, is no evidence of the plant's commercial viability.

It has also been argued that Saferco's cost of borrowing (including the guarantee fee) will be higher than the interest rate available to either the private participant or the Province. One must question, in the case, why neither party would choose to borrow directly and take advantage of such allegedly lower rates. Perhaps the private "investor" chose not to assume the risk of such heavy debt on this project or, equally as likely, no lender would make $305 million available for Saferco without a government guarantee.

Rhetoric notwithstanding, we have seen enough to be convinced that this project is a major new subsidy which is exceptionally ill-conceived. It promises major disruption to U.S. markets. U.S. producers are extremely alarmed over the prospect of this additional unnecessary and subsidized capacity. Our review of the facts available suggests that they are alarmed for good reason.

We respectfully request, therefore, that you seek a review of the Saferco project by your Canadian counterparts, from both the environmental and unfair trade perspectives. It should be made quite clear to our Canadian trading partners that these practices are not taken lightly by the United States. Free, fair and responsible trade leaves no room for such practices.

We would appreciate hearing from you at your earliest convenience concerning your intended actions with regard to this matter.

Sincerely,

Quentin N. Burdick, John B. Breaux, Frank H. Murkowski, Pete Wilson, Kent Conrad, Dale Bumpers, Charles S. Robb, Conrad Burns, John W. Warner, Dan Coats, Ted Stevens.

[1]The March 8 letter was signed by Senators Daschle, Cochran, Dixon, Pryor, Boren, McClure, Lott, and Symms.

SUSAN Y. LONG RETIRES FROM SENATE

Mr. HATFIELD. Mr. President, in a few days my staff and I will experience one of those events that we would rather avoid: the departure from my Senate staff of a long-time friend and colleague. June 8 will be the last day of the Senate service of Susan Youngman Long.

Susan began her career in the Senate on April 19, 1975, as the staff receptionist in our old Russell Senate Office Building suite. Reviewing some of the letters of recommendation that were written on Susan's behalf at that time, I have noted one that refers to her effervescent personality—and that is a perfect description of this gifted woman.

Over the years, Susan progressed to positions of increasing responsibility. In 1978 she was promoted to minority staff director for the Select Committee on Indian Affairs. She became an expert on Indian-related matters and a great advocate for causes advancing the health and welfare of native Americans. When as a result of the elections of 1980, I became chairman of the Senate Appropriations Committee, Susan followed me there to serve on the full Appropriatons Committee staff handling many Oregon-related appropriations projects.

Another interest finally took here away from the banks of the Potomac in 1982: she and her husband returned to Oregon in connection with his work and we bid adieu to her for brief period of time.

However, within a few months, we were able to convince Susan that her talents were needed in my Portland, OR, home office. Susan became a field representative and has served in that capacity, and as office manager of the Portland office, since then. I attribute much of our ability to anticipate the needs of my constituency to the work of Susan's and her colleagues in my Oregon offices.

Mr. President, while the breadth and tenure of Susan's experience in the Senate speaks for itself, Susan will not be missed for her subject expertise alone.

In business that attracts some of the most able and ambitious men and women in the country, Susan championed her causes not only with her expertise but with a kind of quiet professionalism that distinguished her among her peers. For example, it was never Susan's style to speak up in a meeting just to demonstrate her knowledge of a subject rather she would reserve her comments unless she truly has something to contribute. Susan never was known to be boastful of her many accomplishments, nor did she engage in the not-so-subtle games of congressional power brokering. But when the need would arise, Susan's sword was always ready for battle.

For those congressional staff who had the opportunity to work with Susan. I am sure they will recognize these qualities and they could be served well by following in her example.

Mr. President, I very much appreciate the opportunity to recognize Susan Long for her 15 years of distinguished service. Having served for nearly 24 years myself, Susan has been been with me for over half of my entire tenure in the Senate. With this much time together, more than an employer-employee relationship develops.

A bond arises out of the memories that are shared and that have shaped both our lives; staff sack lunches in my former office in 463 Russell; stories about unusual events and former staff colleagues; watching Susan's romance with Mark, another Senate staffer, blossom into marriage; and the birth of her two daughters, Lindsay and Molly. These are just a few things I will remember.

We wish you the best, Susan, and hope that the memories for which you are now planning will be as precious as the ones we already share.

ARMS CONTROL AND THE ART OF COMPROMISE

Mr. BIDEN. Mr. President, 1 week from today Soviet President Mikhail Gorbachev arrives in the United States for extensive meetings with President Bush. The administration has announced that, unlike Malta, these meetings can be considered a superpower summit. Indeed, President Bush has gone further, labeling this "the arms control summit."

By giving arms control top billing, the President has established that the success of the summit can fairly be judged by the arms control progress achieved next week. The two leaders will discuss three principal areas of arms control: Strategic nuclear arms, NATO and Warsaw Pact conventional forces, and chemical weapons.

It is therefore appropriate to consider each of these three areas, while asking what progress we can expect, what lessons we can draw from the runup to this summit, and what steps the administration could take to maximize the chances for a successful summit.

I. START: THE MAIN EVENT

The showpiece of the summit will be START. After 8 years of negotiations, a treaty is finally at hand. The deadline of the summit has led both sides to make a number of compromises on air and sea-launched cruise missiles, such that an "agreement in principle" has now been reached.

The outlines of the START Treaty have been clear since December 1987, when President Gorbachev last came to Washington. The framework compromises an overall ceiling of 6,000 weapons on 1,600 ballistic missiles and long-range bombers, a subceiling of 4,900 ballistic missile warheads, a limit of 1,540 warheads on so-called heavy ICBM's, and a separate limit set last weekend of 880 on nuclear armed sea-launched cruise missiles, or SLCM's.

Let me say at the outset that I strongly support a START Treaty, and I commend the Bush administration for deciding to complete the treaty along the lines established by President Reagan rather than seeking to make drastic changes that could have caused extensive delay. This was clearly a temptation, as several top officials seemed inclined to place a Bush stamp on the treaty rather than finishing START on the basis of the Reagan framework. Indeed, I suspect that the existence of this internal opposition explains why it took some 18

months for the administration to resolve the cruise missile issue and reach this moment. Fortunately, a decision was finally made, and President Bush deserves praise for making it. Assuming that final details are resolved, the treaty will be a monumental arms control achievement. Given the skill of our negotiator, Ambassador Burt, I am confident that the remaining issues—primarily ones of definition and verification—will be settled in a manner that serves U.S. interests.

START AND FALSE ADVERTISING

It is fair to point out that this treaty will not cut superpower strategic arms by 50 percent, as the American public was told repeatedly in recent years. That was false advertising by the Reagan administration. The reduction will be more like 25 to 35 percent, depending on how one does the accounting.

But this reality does not undermine the treaty's significance. For this START agreement will require the Soviet Union to eliminate a full 50 percent of its warheads carried by ICBM's and SLBM's; to cut its overall throw-weight in half; and to destroy 50 percent of its existing heavy ICBM's—the infamous SS-18's. Meanwhile, the U.S. ballistic force will only be cut by about one-third. For the first time, the most dangerous weapons on both sides—ballistic missiles—will be drastically reduced, and the Soviet numerical advantage in this area will be permanently erased. Therein lies the treaty's principal achievment.

Meanwhile, because the treaty counts only a small fraction of the weapons carrier by long-range bombers, and because such a large portion of our own weapons will be deployed on these bombers, START will mean an overall American reduction of only about 30 percent—from some 12,000 to 13,000 weapons to some 9,000 to 10,000. These counting rules favorable to bombers do mean that under START the Soviet bomber force could, at least theoretically, grow considerably. But as of now, most analysts predict otherwise, particularly given the obvious Kremlin interest in reducing Soviet defense expenditures.

START AND DEFENSE DEBATE

It is thus fair to conclude that American negotiators in START did a superb job—following, I should add, in the footsteps of their distinguished predecessors in the Nixon, Ford, and Carter administrations. Let me repeat that: START will require the Soviets to make much deeper cuts in their forces than the treaty will require of us. Indeed, our negotiators did such a superb job that the United States will be in a position to deploy every strategic system we have planned—and in approximately the numbers originally envisioned. We can keep the 50 MX missiles now in silos, or we can put them on railcars. We can field hundreds of new Midgetman missiles. We can build 20 Trident submarines, each with 24 new Trident D-5 missiles. We can keep all 98 B-1 bombers, deploy more than 1,000 air-launched cruise missiles, and build 75 new B-2 bombers.

But his virtue could also be a liability. Indeed, what concerns me about START is not whether the Soviet negotiators managed to eke dangerous concessions from American negotiators; they did not. What concerns me is that the START Treaty may be used by the Bush administration to extract concessions from Congress in the budget debate, specifically that Congress will be asked to fund new programs that take us to the upper limit of forces allowed by the treaty. I simply do not believe Congress need approve every new weapon system the President is seeking in order for START to serve the U.S. interest. For example, I do not view the building of 75 B-2 bombers as essential in order for the United States to exploit the counting rules of the START Treaty. More generally, I do not accept the position taken by some in the Pentagon that under START the United States must deploy an irreducible minimum of 9,000 to 10,000 nuclear weapons. This number strikes me as ridiculously high, and we would distinguish ourselves only for foolishness and profligate spending if we pursued that number solely because the START Treaty permits us to do so.

A SIOP REVIEW: THE KEY TO START II

I am quite aware that the Joint Chiefs of Staff have indicated that under a START Treaty they will need this entire array of new weapons in order to carry out U.S. operational plans in the event of war. Insofar as existing operational plans require this unnecessarily large number of weapons, I recognize the Chiefs' dilemma. But the solution is not to build weapons mindlessly without a reassessment of need. The solution is for the President to undertake a comprehensive top-to-bottom review of U.S. nuclear employment policy—the single integrated operational plan, or the SIOP—in order to determine whether the revolutionary changes in Eastern Europe and the Soviet Union now permit us to make changes, perhaps radical changes, in our targeting doctrine, and thereby allow deterrence to be assured at a greatly reduced level of weapons.

Without such Presidential involvement, I fear that the Pentagon will not undertake the kind of fundamental review our current situation demands. Such a review is essential. For it could result, even using highly prudent assumptions, in a reduction in our self-imposed nuclear force requirements to a level as low as the 3,000 weapons suggested by former Secretary of Defense Harold Brown. Such a review would be the crucial catalyst in permitting us to move quickly into a START II negotiation soon after the START I Treaty is completed. This is critically important, for it is only through such additional achievement—building on the foundation of START I—that we will attain the real budgetary savings the American people quite reasonably expect from arms control agreements in the post-cold war era.

Mr. President, I have three specific concerns directly related to the emerging treaty: One related to the President's recent proposal to ban MIRV'd mobile ICBM's; a second is based on the still unresolved question of whether both sides can conduct extensive testing of strategic defenses during the term of START; and a third relates to the exact status of the agreement to cap nuclear SLCM's at 880. But I will elaborate on these treaty issues in a separate statement after the Memorial Day recess.

COMPROMISE IN MOSCOW

I would, however, like to discuss the runup to the summit and the lessons we might draw from Secretary of State Baker's recent trip to Moscow.

Over the last several weeks, we heard much speculation as to whether the Soviet Union was backtracking in the arms talks. Some suggested that the Soviet military had taken control of the strategic and conventional arms talks, causing the Soviet side to harden its demands at the negotiating table and walk back from previous positions taken on the thorny issue of cruise missiles. Based on this premise, some have suggested that it was only the heroics of Secretary Baker and the intervention of President Gorbachev that saved START from stalemate. The supposed lesson is that similar actions will be needed to put the conventional arms talks back on track.

My own guess is that this new conventional wisdom is, as usual, flawed. For if we examine the cruise missile issue carefully, it is apparent that a breakthrough occurred as the result of simple compromise. Let us review that compromise briefly.

The United States has long sought to exclude SLCM's from START, arguing strenuously against any numerical SLCM limit. The administration was also concerned that any verification measures associated with a SLCM limit would be overly intrusive, allowing Soviet inspectors too much access to American ships and naval facilities and generally interfering with naval operations.

Earlier this year the administration took a small step in the direction of SLCM control—or at least SLCM predictability—by offering to provide a politically binding declaration, such that every year each side would provide the other with a 5-year plan for its SLCM deloyments, even though no

verification procedures would be established for checking these declarations. The Soviet side, however, objected to this arrangement, arguing that it would permit the United States to deploy as many SLCM's as it wanted. Instead, the Soviets sought an actual limit of 600 nuclear SLCM's with associated verification measures.

The eventual compromise? An actual limit of 880 nuclear SLCM's but no verification. Our longstanding objection to a formal SLCM limit evaporated and in exchange the Soviet side withdrew its demand for intrusive verification.

A similar trade was made on the ALCM issue. Prior to the Moscow meeting, the two sides had agreed that ALCM's—an area of U.S. strength—would be counted at a heavily discounted rate. For example, a U.S. bomber that could carry up to 20 ALCM's would only count as having 10 for the purposes of START. In exchange, the Soviet side sought a limit on the number of bombers that could use this discount rule and a definition that made all ALCM's with ranges greater than 600 kilometers START accountable. The administration complained that this was a backtrack. But our real concern has now been made public: A 600-kilometer range limit could encompass a secret missile program called Tacit Rainbow, which is a conventional missile designed to destroy enemy radar.

The compromise? We accept the 600-kilometer range definition and the limit on the number of heavy bombers that can use the discount rule, and the Soviets agree to exclude all Tacit Rainbow missiles.

Mr. President, I mention these details to make a larger point. With the advent of President Gorbachev's "just say yes" diplomacy, many observers in the United States seem to have gotten a bit spoiled, forgetting that negotiations are a two-way street. Both sides must make compromises if a deal is to be struck. Certainly the Soviets have made their share. Indeed, it is important to recall that the START negotiations have been characterized by a long series of Soviet concessions: A bomber counting rule that favors the United States; a 50-percent cut in Soviet SS-18 missiles; a delinking of SDI for START; a removal of SLCM's from the START Treaty; and now a favorable ALCM counting rule.

After so many Soviet concessions, a conventional wisdom had begun to develop that Gorbachev has no bottom line; that he'll say yes to anything that we find desirable. But this is a false and naive expectation. It is simply not reasonable, during the current endgame of negotiations to accuse the Soviets of intransigence every time they seek a concession from us. It is also dangerous for the administration to deny the need for compromise. Reportedly, top administration officials bragged to the press after Secretary Baker's trip to Moscow about their heroic effort to force the Soviets to accept certain United States positions. Although such an attempt at spin control may work in the short-term, eventually the quid pro quo will become apparent. Quid pro quos are fine. The danger lies in denying that they exist, and that they represent the very essence of negotiated agreements.

Today's newspaper reports of right-wing criticism of the administration's Moscow START proposals clearly demonstrate this point. Even after the revolutionary changes in Eastern Europe and the revolution in Kremlin thinking on security issues, a handful of pseudo-tough guy cold warriors has reappeared to tell us that the Bush administration is selling out. It is not enough, they warn us, that the Soviet Union agreed to cut its SS-18 missiles in half—in a START treaty that is structured to limit numbers and types of weapons but not prohibit their modernization. The administration has given away the store, they say, because some modernization of the SS-18 is to be permitted. One must suppose that they expect the Soviets to accept a complete prohibition on SS-18 modernization—or on the SS-18 itself—or perhaps complete unilateral disarmament, although even that would probably be branded an ominous ploy.

This little flap over the SS-18 is just the beginning. For I predict that in the days ahead, as the art of compromise in arms control is pursued by both sides, these flaps will continue to arise. And they will recede only if the administration is prepared to confront the critics directly by comparing the immense value to the United States of the overall treaty as against the minor impact of any particular concession.

Yesterday, Secretary Baker stepped up to the plate and defended START against these misguided critics, I commend him for that action and hope the administration continues its strong defense of a worthwhile agreement.

II. CFE: IN NEED OF A JUMP-START

Turning to conventional arms, Mr. President, I hope and expect that the Bush administration will apply the lessons learned from START when it comes to the CFE talks. By most accounts, CFE is now stalled. Because this is a negotiation involving 23 nations, the Washington summit cannot be the right venue for a detailed negotiation. But the United States can, while consulting with our allies explore ways to overcome the key remaining issues. As in START, no heroics will be required; but compromise will. Mr. President, let me repeat, no heroics will be required; but compromise will.

One reason I am comfortable with the administration's endgame compromises in START is that the overall effect of START is so advantageous to the United States. This is doubly true in the case of CFR. It is no overstatement to project that consummation of the prospective CFE treaty will constitute a historic event, enabling the West to achieve a 40-year-old goal of equal conventional arms in Europe and accelerating the Soviet withdrawal from Eastern Europe.

Indeed, the ratio of reductions could be called astounding. Countries in the rapidly disintegrating Warsaw Pact will be forced to cut several times as much equipment and personnel as NATO. Specifically, they will have to destroy roughly 100,000 tanks, artillery pieces and armored vehicles—and withdraw some 400,000 troops from Eastern Europe. By comparison, NATO will only have to destroy some 10,000 pieces of equipment; and some 100,000 U.S. troops will be brought home.

Mr. President, administration officials are now suggesting that the CFE talks have stalled because the Soviets are stonewalling. Several theories have emerged to explain the Soviet-inspired slowdown. According to an article in the New York Times earlier this week, some officals speculate that the Soviets may believe that by slowing CFE they can retain a modicum of military influence in Central and Eastern Europe—or, at least, maintain their leverage in the two plus four talks on German unification. Others make more practical arguments, speculating that the Soviets may be slowing CFE because they simply are not in a position to provide housing and jobs for all the troops who would return home from Eastern Europe—or given the combination of the economic crisis, the nationalities crisis, and the disintegration of the Warsaw Pact, the Soviet leadership may simply be unable to focus on conventional arms control.

One or all of these theories may be on the mark. But it is also possible that Soviet leaders have concluded, as they did earlier this spring in START, that the time has come for the United States to make some compromises. After all, the Soviets have already agreed to a CFE framework that will require the Eastern countries to reduce 10 times as much equipment as NATO.

As of now, the two principal stumbling blocks are aircraft and limits on German military forces. With creative diplomacy at the summit, I believe that CFE could be put back on track—toward the historic achievement it will represent.

In the case of aircraft, the West should remember that it was the Soviets who originally sought limits on aircraft, while we sought to exclude

them. Now, we reject the Soviet proposed aircraft limit of 7,700 as too high to have anything more than a marginal effect on their systems even though it would have no effect whatsoever on ours.

I would urge President Bush and Secretary Baker not to get caught up in theology here. Previously, we were prepared to enter into a CFE treaty without any aircraft limits. What would be the risk of accepting the higher Soviet limit when it would have no effect on Western aircraft? If that's what it would take to put CFE on a fast-track and increase the chances of getting the achieving the drastic cuts in Soviet ground forces, what is the danger? Simply put, we must keep our eye on the main ball—creating equal levels of conventional forces in Europe—and heed Voltaire's warning not to make the best enemy of the good.

One approach would be to defer the issue of aircraft to a later stage of negotiations. Recent Soviet actions suggest they might accept such a deferral, having discovered that the aircraft limits likely to come out of the CFE treaty will affect their aircraft more than ours. Unfortunately, the Pentagon has apparently become enamored of aircraft limits and is resisting attempts to defer the issue.

Perhaps the most controversial CFE issue is the Soviet demand for a limit of 750,000 on each side's troops in Central Europe, which is clearly intended to restrict the size of a unified Germany's military forces. Here again, creative diplomacy might solve the Soviet concern without harming United States interests. For example, when NATO decides how to allocate the forces permitted under CFE, it could make clear that the allotments would not change even after the unification of East and West Germany. Such an assurance would mean a de facto cut in the combined German Army.

Yesterday, West German Foreign Minister Genscher met with Soviet Foreign Minister Shevardnadze. After the meeting, Minister Shevardnadze indicated that CFE was not deadlocked and the Soviet side was prepared to move forward. Perhaps some assurances along the lines I suggested were made. If so, I hope those assurances are sufficient to remove this stumbling block.

I offer these suggestions not as the best possible solution but merely to illustrate ways in which the CFE logjam might be broken so that we can move closer to achieving a 40-year-old objective. Creative compromises, business-like agreements, requiring no heroics, can advance us toward our goals.

III. CHEMICAL WEAPONS: TWO STEPS FORWARD, ONE STEP BACK?

In the area of chemical weapons, I believe a major breakthrough is about to be achieved. Secretary Baker may have exaggerated a bit when he described the prospective accord as a trail-blazing agreement; but his enthusiasm is understandable.

After a decade of American debate over the production of new binary chemical weapons, the Bush administration has decided that we can cancel our program to build several thousand tons of new binary artillery shells, Bigeye bombs, and short-range missiles. During the 1988 election, President Bush promised to make chemical arms control a top priority and he has done so.

At the summit, Presidents Bush and Gorbachev will likely sign an accord that will slash United States and Soviet chemical arsenals to a level of 5,000 tons and prohibit new production of chemical weapons. Here again, we see how arms control can work successfully, so long as it is a two-way street. Essentially, we acceded to the Soviet demand for a production ban in exchange for their commitment to deep reductions—reductions that will require a United States cut of some 20,000 tons and a Soviet cut of at least 45,000 tons.

This agreement will indeed demonstrate the superpowers' commitment to a ban on chemical weapons. And when the protocols on destruction and verification are finished, they will no doubt serve as important precedents for the 40-nation Conference on Disarmament in Geneva, which is now negotiating a worldwide ban on the possession of chemical arms. Because the Soviet Union lacks the proper facilities to destroy chemical arms, an agreement must be reached whereby we transfer the appropriate technology to the Soviets. Such a technology transfer—serving both sides interests—would signal a new phase of cooperation. Several years ago it would have been hard to imagine the Soviets accepting our help in destroying their chemical weapons.

But one aspect of the recent agreements in Moscow may come back to haunt the President. In the 1988 campaign, candidate Bush said he hoped his grandchildren would live in a world without chemical weapons. And yet in Moscow the administration pursued its demand that even in the context of a multilateral treaty banning chemical weapons, generally, the United States would reserve the right to retain 500 tons of such weapons as a so-called security stockpile. I am seriously concerned that this rather bizarre formulation—retaining chemical weapons in the context of a treaty designed to ban them—could jeopardize the very prospect of a treaty. Apparently, the Soviet side accepted the notion that until every nation capable of making chemical weapons signs up to the multilateral ban, the United States and the Soviet Union should be permitted to retain 500 tons of chemical arms.

The administration believes that keeping 500 tons of chemical weapons will increase the chances that an Iraq or a Libya will sign the multilateral ban. I remain skeptical. What seems more likely is that other countries who do not now possess chemical weapons will hesitate to sign an accord that prohibits them from building such weapons while enshrining the superpower right to a 500-ton security stockpile.

Moreover, this so-called security stockpile represents a threat not just to the treaty but in and of itself. For years, the Pentagon has been telling Congress that the existing unitary weapons are so dangerous to handle that new binary weapons must be produced. But the accord to be signed next week will prohibit new production. Does that mean we should retain 500 tons of dangerous unitary weapons until the day that every single nation signs up to a ban on chemical weapons? I expect the administration will have a difficult time persuading Congress of the wisdom of such a position.

In conclusion, I wish to commend President Bush and Secretary Baker for pursuing the art of compromise to bring the START Treaty one step closer to completion. I hope that the lessons of the last few weeks are now applied to the CFE Treaty, so that historic document can be signed this year—in keeping with the deadline set by President Bush last June.

During the coming summit and beyond, many more decisions must be made to resolve the remaining details. When contemplating what steps are needed, I urge the President not to fear criticism from the right. For to be fearful of that inevitable criticism is to be immobilized. No matter what steps he takes there will always be those who will step forward—mindlessly, automatically, and opportunistically—to criticize him for caving in to Kremlin pressure.

Let me emphasize that this is far more than an academic concern. Earlier this year the administration suffered considerable criticism for a hastily conceived agreement in Ottawa setting a limit of 195,000 United States and Soviet troops in Central Europe and 30,000 United States troops on the flanks. In my own judgment, the Ottawa agreement would serve United States interests, as I stated on the Senate floor at that time. But I also pointed out that the administration's rationale for entering into that arrangement was partially to rebut an attack from the far right on the CFE Treaty. The lesson is simple: In trying to appease the right, there is no end—and it is a dangerous path to follow.

Mr. President, it is my sincere hope that the Bush administration is prepared to exploit fully the opportunity we have before us and will not fear the

inevitable criticism from the far right. Timidity will make it difficult if not impossible to complete the kind of arms control agreements that serve U.S. interests.

One thing that the history of arms control has taught us is that many who oppose arms control will use any method to make their case. They are the people who call compromise a sell-out and label cooperation as collaboration.

Unfortunately, 40 years of cold war thinking has taken its toll in Washington. Despite the collapse of communism in Eastern Europe and the Soviet Union, some still find it difficult to accept the art of compromise in arms control negotiations. And some who are prepared to practice the art of compromise are still afraid to defend it, for fear of being tarred as craven and weak-kneed.

As I said earlier, I commend Secretary Baker for confronting his critics so forcefully. I hope this response will be repeated whenever such scurrilous charges are made.

THE MOTOR FUELS TAX

Mr. SYMMS. Mr. President, some Senators have said that the motor fuels tax should be increased to help balance the budget. About the only argument I have heard from anyone in support of this idea is that other governments impose a higher motor fuels tax than the United States.

This argument does not make any sense to me, Mr. President. If the United States is not doing something bad that other governments are doing, that cannot be an argument that the United States should start doing some bad thing also, just to keep up.

Most nations on Earth do not have the same Bill of Rights as we have—but does that mean we should reduce the protections we enjoy? The argument in favor of higher motor fuels taxes is absurd.

Because higher taxes on motor fuels would have a number of adverse economic effects, the Government revenues claimed for such taxes are often overstated. These harmful effects include slower economic growth, higher inflation, and increased unemployment.

A weakened economy means lower revenues from other taxes and increased Government spending for unemployment compensation and other safety net programs. As a result, the net revenues to the Government would be substantially less than the money collected from a motor fuels tax hike.

In a recent study for the American Petroleum Institute, Data Resources [DRI] looked at the consequences of several hypothetical increases. They found that a 50-cent-a-gallon gasoline tax would reduce the U.S. gross national product [GNP] by between 1.4 and 2 percent within 1 year. This would amount to a loss of as much as $100 billion in GNP. In addition, the Consumer Price Index would increase by more than 2 percent.

Within 2 years of a 50-cent-a-gallon tax increase, DRI estimates that there would be 1.4 million fewer jobs than otherwise. The job losses would be greatest in petroleum refining and in the automobile industry and its supliers, but would be distributed throughout the economy.

These negative impacts on the economy would reduce net revenue gains to the Government from the 50-cent tax. For each dollar collected, from 30 cents to more than 60 cents would be lost because of lower collections from other taxes.

If impacts of a comparable magnitude are applied to the 15-cent-a-gallon tax, such as the chairman of the House Ways and Means Committee recently proposed, the result is a decline in GNP growth of some $30 billion. After 3 years, the 15-cent tax would produce 400,000 fewer jobs and add a full percentage point to the consumer price index.

Once the adverse economic impacts of the 15-cent tax are calculated, the net to the Government is reduced from the $12 billion estimated by gasoline tax proponents to as little as $5 billion.

A number of other studies have also found that gasoline tax increases would have negative economic consequences. Wharton Econometric Forecasting Associates found that for each 1-cent-a gallon increase in the gasoline tax, the GNP would decline by nearly $1 billion a year.

The U.S. Department of Energy in 1987 concluded that a 25-cent-a-gallon tax increase would result in a nearly $23 billion annual loss in the GNP. DOE also found that a 10-cent-a-gallon tax would result in a nearly $10 billion annual loss in GNP.

Mr. President, I would like to have printed in the RECORD at this point a summary of the report by DRI/McGraw-Hill, entitled "The Income Distributional Effects of an Increase in the Federal Tax on Gasoline."

The summary follows:

THE MACROECONOMIC EFFECTS OF AN INCREASE IN THE FEDERAL TAX ON GASOLINE

Data Resources/McGraw-Hill has undertaken a study of the macroeconomic effects of a gasoline tax increase, using the DRI Model of the U.S. Economy.

The policy analyzed consisted of a three-stage increase in the federal gasoline tax—by 20 cents in 1989, a further 20 cents in 1990, and a further 10 cents in 1991. The tax on diesel fuel is increased by a similar amount.

The analysis was carried out by taking Data Resources' baseline projection of the U.S. economy through to 1995, altering inputs as necessary to change the gasoline tax, and then re-solving the model. The effects of the tax increase are measured by comparing the model solution thus obtained with the baseline projection.

The critical question in analyzing such a policy is: how would the Federal Reserve Board react? Will it treat the increase in gasoline taxes as a potential cause of inflation and thus let interest rates drift upwards, or will it treat the increase as a deficit-fixing device and thus move in the direction of ease?

This study assumes a range of responses by the Federal Reserve—from nonaccommodating to accommodating. For the purpose of this study, we define nonaccommodating monetary policy as maintaining the same real short-term interest rate as in the baseline. This requires that the federal funds rate (the key short-term rate in the DRI model) rise by 67 basis points, relative to the baseline in 1989, and by 67 and 29 basis points, respectively in 1990 and 1991. Thereafter, the federal funds rate falls below its baseline path, because inflation is lower than in the baseline (though the price level is still higher).

An accommodating monetary stance acknowledges the impact effect (but not the feedthrough effects) of the tax increase on the price level, and permits sufficient expansion of the nonborrowed reserves of the banking system to accommodate this effect. Nominal GNP in 1991 is close to $5.8 trillion, and the effect of the tax in that year is $52 billion (about 0.9% of GNP). Accordingly, nonborrowed reserves are raised by 0.9% relative to the baseline by 1991, with the absolute differential in that year being maintained in subsequent years.

An intermediate case, which might be termed semi-accommodating, assumes that the federal funds rate is held at its baseline levels.

The results for these three cases are shown in the attached Tables 1-3.

RESULTS

The most notable macroeconomic characteristic of a gasoline tax increase is its effect on the CPI. Including indirect effects, the three-stage hike in the tax raises the CPI by 2.0%-2.1% in 1991.[1] Such an increase in prices paid by consumers not only cuts their real income, but also has a major effect on consumer confidence. As a result, consumers cut their purchases of other goods and services, as well as gasoline. Mainly as a result of this cut in consumption spending, as Tables 1-3 illustrate, real GNP is reduced by 1.4%-2.0% by 1991. Business fixed investment is also reduced significantly as corporations see markets for their products growing less rapidly.

The macroeconomic effects peak in 1991. Beyond that year, the real effect of the increased tax begins to diminish and business investment begins to return to its baseline path—a typical stock-adjustment response. Thus the reduction in real GNP is only 0.1%-0.7% by 1995. Meanwhile, the prolonged period of diminished economic activity has offset some of the effects of the shock to the price level; from 1993 on, the rate of inflation is reduced below that in the baseline. The CPI in 1995 is 0.9-1.7% higher than in the baseline.

The federal deficit is unquestionably improved by the gasoline tax increase, but by an amount significantly less than the revenues raised by the gasoline tax itself. There are two principal reasons: the weaker economy reduces other tax receipts, and some

[1] Here and elsewhere, the range of results encompasses all three possible monetary policy responses.

federal spending components (notable transfer payments) are increased by the gasoline tax. Thus in the semi-accommodating case, the first-year federal deficit is improved by just one-half the revenues raised by the gasoline tax. This proportion is reduced to a little more than one-third by the third year, when the increase in the gasoline tax is fully implemented. Thereafter, the effect on the deficit improves, partly because the economy is beginning to move back towards its baseline path and partly because the lower deficit in earlier years begins to have an effect on federal interest payments.

For the seven-year period 1989-95, the deficit is improved by an average of 33-71 cents for every extra dollar of gasoline tax revenues, with the higher figure being consistent with accommodating monetary policy.

Mr. SYMMS. In addition, Mr. President, A higher gasoline tax is an unfair way to reduce the deficit.

A gasoline tax increase would be regressive; it would fall more heavily on lower income families than on higher income families. U.S. Department of Labor statistics show that families living on $10,000 a year spend twice as large a share of their income on gasoline as families living on $50,000 or more a year. An economic study by the consulting firm Data Resources [DRI] also indicates that an increase in the gasoline tax would bear more heavily on lower income people.

An increase in the gasoline tax would also treat different areas of the country differently. An American Petroleum Institute study shows that the tax would fall more heavily on lower income States in the South and Great Plains than on higher income States in the Northeast and Far West. The study also shows that it would hit suburban residents harder than city dwellers, who often can avoid the tax entirely by taking mass transportation.

A study by Auburn University economists Robert B. Eklund, Jr. and James E. Long indicates that a gasoline tax increase would hit rural households especially hard. That is not surprising because many rural residents have little or no access to mass transportation. Also, rural residents generally travel more miles between home and work than do urban residents.

Reducing the Federal deficit by bringing the Federal Government's spending into closer balance with its revenues is an important national goal that would benefit Americans generally. Therefore, the burdens of reaching that goal should also be broadly based.

An increase in the gasoline tax, however, would bear far more heavily on some Americans—particularly on Americans with lower incomes—than it would on others. Therefore, an increase in the gasoline tax would be an unfair way to reduce the deficit.

Mr. President, I would like to have printed in the RECORD at this point a summary of the report by Professors Ekelund and Long of Auburn University entitled "The Impact of Excise Taxes on Rural Americans."

The summary follows:

THE IMPACT OF EXCISE TAXES ON RURAL AMERICANS

(By Robert B. Ekelund, Jr., and James E. Long, Auburn University, May 1989)

INTRODUCTION

Difficult economic choices must be made at the macroeconomic level in the America of the 1990s. Fiscal deficits of the 1980s and the debt they engendered are forcing difficult spending and taxing choices on Congress and the new Administration. Specifically, if taxes are to be raised, which taxes will be affected? If President Bush and certain Congressional leaders are successful in limiting or completely avoiding changes in the income tax rates instituted in the Tax Reform Act of 1986, other candidates for increases become prominent. Although the proceeds of excise taxes have fallen in relative importance as a source of federal revenue over the 1980s, these taxes are now most often mentioned by government officials as probable targets for dramatic increases. Federal excise taxes are imposed on cigarettes and other tobacco products, distilled spirits, beer, gasoline, diesel fuel, tires, telephone service, and other commodities and services. In addition, new federal "user charges" (for example, airport fees, transport charges, and highway fees) are being debated and contemplated.

While it is generally accepted among economists that excise taxes are highly regressive when individual incomes or income classes are taken as a base, virtually no work has been done which explains or analyzes the relative impact of excise taxes on urban versus rural Americans, including farmers. Do farmers and other citizens of rural American pay a disproportinate share of total excise tax receipts of local, state and federal governments? The answer to this question is critical from a number of perspectives. If, as appears to be the case, a disproportionate number of low-income Americans reside in rural America, tax policies and government programs that improve the conditions of these groups are working at cross purposes. Increases in excise taxes by governments at all levels will merely exacerbate the problem of poverty and inequality. Deficit reduction through increased excise taxes may well have the effect of balancing the budget, in disproportionate fashion, on the backs of farmers and the rural disadvantaged.

One piece of empirical evidence pertaining to the rural/urban breakdown of the burden of the higher user fees and tariffs can be generated from the following facts. The expenditure data show that, excluding outlays for housing, charitable contributions, insurance and pensions, rural Americans spent an average of $12,638 in 1984. The corresponding expenditure amount for urban residents was $15,153. Suppose that proposed increases in user fees and customs duties would make the cost of buying goods and services rise by 1 percent, in much the same manner as a national sales tax (which has also been proposed to deal with the Federal deficit) might increase the price level. As a consequence, the additional burden on rural and urban households would equal $126 and $152, respectively. However, the effective "tax" rate in this case would equal 0.68 percent for rural households and 0.62 percent for urban ones. This suggests a burden that is about 9 percent higher on rural Americans than urban residents.

As noted in section II, one theory of tax equity, which dates back to Adam Smith and earlier economists, is that taxes should vary according to the benefits an individual receives from public services. A general benefit tax at the federal level is hardly feasible, given that the majority of federal expenditures are for public goods like national defense, whose benefits to individual taxpayers cannot easily be measured, or for social welfare and income redistribution programs. Practical applications of the benefit principle of taxation can be found in the practice of imposing user fees and charges or levying taxes in lieu of charges. For example, campers and vistors at state and national parks pay fees which go to maintain and operate the parks; motorists pay taxes on gasoline, motor fuel, and automobiles which are used to finance highway construction and maintenance.

Raising user fees or taxes in lieu of charges, in order to expand or improve government services, may be consistent with the benefit principle of taxation. For example, Medicare premiums have recently been increased to finance an expansion of federal medical insurance for the elderly. In contrast, hiking user fees and excise taxes in order to reduce the federal deficit clearly violates the principle that tax payments should depend on benefits received. These actions should not be construed as anything other than "plain old tax increases." U.S. Representative Ronnie G. Flippo, Democrat from Alabama, must understand this because, when discussing a recently proposed user fee on electric utilities, he quipped, "It sure looks like a tax, walks like a tax, quacks like a tax. While a user fee is a nice term to look at conceptually, it has the same economic impact as a tax." And according to our findings, such taxes will extract a relatively greater payment from rural Americans than urban ones.

CONCLUSIONS

Euphemisms and masquerade have clearly found their way into the contemporary political environment. Until they become overused, terms like "revenue enhancement" are employed to reassure the naive that policies that really are tax increases do not sound like tax increases. Such sleight-of-hand is reaching new heights in the Bush administration. OMB director Richard Darman, cheered on by Rep. Leon Panetta (D-Calif.) and Sen. Jim Sasser (D-Tenn.), the two top budget leaders in Congress, are in clear favor of such redefinitions. "Revenue enhancers" mean anything other than a tax-rate increase; "loophole closers" imply wiping out tax breaks for certain groups of taxpayers; "base broadeners" mean applying an existing tax to more income or individuals, and; "user fees" have come to mean charges for government services or, often taxes dedicated for a single purpose. A number of tax increases are being discussed by Congress and the Administration under such subterfuge. Chief among these are excise tax increases on gasoline, alcohol and tobacco, which are taxes, not "user fees" if used to reduce the deficit, and oil import fees, which are special kind of taxes called tariffs.

As demonstrated in this and in many other studies, excise taxes and so-called user fees (when used to address a federal budget deficit) are regressive. This conclusion is, of course, not new and would not surprise most Members of Congress. Indeed, Senator Sasser has opposed a hike in the federal gas tax (though not in other excises and "user

fees") as regressive in effect. (Some estimate that a 1-cent gas tax increase would raise $1 billion dollars). The results of the present study are even more dramatic in implication.

We have established that rural consumers (including farmers) bear a disproportionate burden of excise taxes and would most certainly be even more disadvantaged by increases in excise taxes or "user fees." This conclusion is based on both aggregate statistics on expenditures, tax payments, income, and on our own calculations of the effective tax burden between rural and urban households by levels of income. Our calculations show, utlizing data for 1984, that the tax burden for families earning less than $20,000 per year (the lowest two income categories) is a full 25 percent higher for rural families. In the aggregate, the excise burden on rural farm and other families is 49 percent higher on gasoline and motor oil, 41 percent higher on tobacco products, and 21 percent higher on utilities, fuels, and public services when compared to urban families. While our statistics show a lower rural burden on alcoholic beverages (7 percent lower), that difference would likely be reversed when weighted for beer consumption. Overall, our statistics show an aggregate 33 percent higher burden when all four items are considered. This data, and those calculated by income category, show that any attempts to reduce the federal deficit by imposing new excise taxes or user fees would contradict the stated goals of federal poverty policies as well as policies (such as the farm support programs) specifically designed to aid farmers and the rural poor.

FEDERAL AND STATE MOTOR FUEL TAX BURDEN PER HOUSEHOLD

State	State motor fuel tax rates (cents per gal.)	Current Federal tax burden	Current State tax burden	Current Federal and State tax burdens	Federal and State tax burden with additional 50 cent motor fuel tax	Personal income per capita	Persons per household
Tennessee	20	$166	365	530	$1,442	12,880	2.77
Montana	20	156	342	498	1,354	12,347	2.60
Wyoming	9	243	241	484	1,821	12,709	2.72
Nebraska	23	137	344	481	1,235	14,328	2.54
Utah	19	152	317	469	1,304	11,366	3.19
North Carolina	22	138	330	468	1,228	13,314	2.60
Mississippi	18	156	308	464	1,320	10,292	2.97
North Dakota	17	162	302	463	1,351	13,004	2.62
South Dakota	18	155	306	461	1,310	12,550	2.59
New Mexico	16	164	292	456	1,356	11,875	2.77
Louisiana	20	134	295	429	1,165	11,473	2.78
Iowa	20	133	293	426	1,159	14,236	2.55
Washington	22	123	298	422	1,099	15,599	2.51
Wisconsin	22	124	293	417	1,099	14,742	2.77
Nevada	16	149	266	415	1,232	16,366	2.49
Maine	17	144	270	414	1,207	13,954	2.57
Virginia	18	140	269	408	1,176	16,517	2.63
Minnesota	20	127	280	407	1,107	15,927	2.60
Delaware	16	145	256	401	1,200	16,696	2.64
Idaho	18	134	266	400	1,138	11,868	2.74
Arizona	17	139	259	398	1,159	14,315	2.68
South Carolina	16	141	247	388	1,161	12,004	2.77
Texas	15	146	241	388	1,192	13,866	2.75
Oklahoma	16	140	247	387	1,159	12,551	2.55
Kentucky	15	146	240	386	1,188	12,059	2.82
Colorado	20	120	264	384	1,045	15,584	2.56
Maryland	19	126	256	382	1,075	18,124	2.68
Kansas	15	143	236	380	1,168	15,126	2.54
Oregon	18	127	252	380	1,080	14,041	2.48
Arkansas	14	152	225	377	1,212	11,507	2.61
Indiana	15	141	232	372	1,145	13,914	2.63
Ohio	18	125	247	372	1,059	14,612	2.61
Connecticut	20	116	256	372	1,011	21,266	2.62
Vermont	15	135	223	359	1,103	14,302	2.58
Illinois	19	112	233	345	960	16,442	2.65
New Hampshire	16	124	218	341	1,021	17,529	2.61
Alabama	11	154	186	341	1,188	11,940	2.84
Rhode Island	20	104	230	334	908	15,555	2.57
Michigan	15	123	202	325	999	15,393	2.68
Hawaii	22	94	228	322	841	15,679	3.02
Missouri	11	145	176	321	1,120	14,687	2.56
West Virginia	16	116	198	314	951	11,020	2.63
Georgia	8	163	134	297	1,190	14,300	2.69
New Jersey	11	132	152	284	1,008	20,352	2.84
Pennsylvania	12	112	147	259	872	15,212	2.74
California	9	123	121	244	919	17,821	2.68
Massachusetts	11	109	131	240	838	19,142	2.58
Alaska	8	125	110	235	921	18,230	2.89
District of Columbia	18	67	133	201	571	20,457	2.35
Florida	4	120	53	172	829	15,584	2.46
New York	8	91	80	171	672	18,004	2.70
U.S. average	16	126	237	372	1,115	15,481	2.67

Source: Federal Highway Administration, Highway Statistics 1987, Table MF-21, column 4, p.5; Population by state: Statistical Abstract of the United States, 1989, Table 22, p.18; Household size by state: Statistical Abstract of the United States, 1989, Table 63, p.48; State tax rates: Commerce Clearing House, Inc., State Tax Guide, 2nd Edition, March 1990, p.4015; Per capita income: Satistical Abstract of the United States, 1989, Table 701, p.433; and API calculations.

Note: Tax burdens reflect current tax rates multiplied by 1987 patterns of motor fuel consumption, the latest data available.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,895th day that Terry Anderson has been held in captivity in Beirut.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I ask unanimous consent that I be allowed to speak for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, as we consider the omnibus crime legislation, it is important that we look for the most effective and efficient ways to fight crime and drugs in this country.

We all know that Federal funds devoted to the war on drugs are inadequate for the enormous task before us. It is, therefore, imperative that those moneys which are available be used as efficiently and as effectively as possible. We cannot and should not tolerate inefficiency. We cannot accept needless duplication among our law enforcement agencies, and we should not tolerate lack of cooperation and coordination among them. In other words, we cannot afford interagency drug wars. Yet this is exactly what we have today—a series of drug wars being fought within the Justice Department.

Today, Senator GLENN and I are releasing a GAO report which documents the lack of coordination between the FBI and the DEA—the Nation's leading drug law enforcement agencies. This report clearly demonstrates that we could get more bang for our buck in fighting the war on

drugs—one of the most critical challenges facing our Nation today.

We are spending a lot of money to fight the drug war. The FBI spends $130 million a year for its drug program; DEA spends another $535 million. But unless we spend every dollar as efficiently as possible, we are doing the American people a true disservice. They deserve a better return on their investment.

Because of persistent reports and rumors from the front lines that each agency is fighting its own drug war, Senator GLENN asked the GAO to examine how well they work together. What they found was disturbing. Let me read just one excerpt from the GAO report:

For the most part, the two agencies, FBI and DEA, operate independently. Each agency independently establishes investigative strategies and priorities, collects and stores intelligence, and targets drug trafficking organizations. Generally, the two agencies separately initiate and conduct investigations, using different investigative philosophies and techniques.

Is this any way to win a drug war?

Let us be clear on one thing—DEA and the FBI have exactly the same goal in the war on drugs: to identify, investigate, and arrest members of high-level drug trafficking organizations and to destroy the operations of those organizations. Their agents are exceedingly professional and dedicated. But why do they operate under two totally separate drug strategies when their ultimate goal is identical? We do not need to merge the DEA and the FBI, but just the same, we don't need to pay for two drug wars.

I want to commend Senator GLENN for recognizing this serious problem, and for requesting the GAO report. His work on this issue is yet another example of his dedication to improving Government efficiency, and his strong commitment to an effective war against drugs.

Mr. President, this report is not a panacea for solving the Nation's drug problem. But I do believe that the administration could learn some valuable lessons from reading the report, and taking aggressive action to improve coordination among our drug agencies. If the problem cannot be solved through greater leadership within the administration and the Department of Justice, legislation may be necessary to curb the wasteful duplication in our drug enforcement activities.

When President Bush named Secretary Bennett as Director of the Office of National Drug Control Policy, we all had high hopes that the Nation's drug war would be fought with a unified front. This report tells us that much more needs to be done if we are serious about fighting the war on drugs—and winning it together.

DUPLICATION AND LACK OF COORDINATION AMONG OUR PREMIER DRUG LAW ENFORCEMENT AGENCIES

Mr. President, we all know that Federal funds devoted to the war on drugs are clearly not enough for the enormous task before us. It is, therefore, imperative that those moneys which are available be used as efficiently and as effectively as possible. We cannot, should not, and will not tolerate inefficiency. We cannot accept needless duplication among our drug law enforcement agencies, nor can we tolerate lack of cooperation and coordination among them. We can't afford drug wars. Yet, this is exactly what we have today—drug wars—plural. We have a series of wars being fought by different agencies and programs.

WE ARE FIGHTING TWO DRUG WARS

While there are many Federal agencies involved in the drug war—the Customs Service in the Treasury Department, the Coast Guard in the Transportation Department, the Bureau of Alcohol, Tobacco and Firearms in Treasury—our two premier agencies are the Federal Bureau of Investigations [FBI] and the Drug Enforcement Agency [DEA].

Mr. President, today, I would like to talk about the sad state of cooperation among Federal law enforcement agencies by focusing upon these two premier agencies involved in the war on drugs—the FBI and the DEA—both located in the Department of Justice. As a result of the lack of management attention to requiring coordination and cooperation, each is fighting its own drug war and the public is paying for both. We can't afford this.

POOR COORDINATION AND COOPERATION IS PERVASIVE

The FBI's resources and investigative expertise were brought into the drug arena 8 years ago for the clear purpose of working with and adding to DEA's investigative resources. The FBI now has over 1,500 special agents investigating drug law violations out of a total agent population of 9,600 and the DEA has over 2,500 special agents all devoted to fighting drug trafficking. The FBI spends $130 million a year for its drug program; DEA spends another $535 million. Then Attorney General Smith considered coordination and cooperation between DEA and the FBI so crucial that he issued bureaucratic orders for the DEA's Administrator to report to the FBI's Director, an order never followed by either agency.

There have been persistent reports that the two agencies do not cooperate well and there are reports that each is fighting its own drug war. One hears this as a matter of anecdotes and individual problems in one city or another. As a result, I asked the General Accounting Office to examine how well the FBI and DEA work together. Today, I would like to discuss what I believe are some of the inferences that we can take from this report. The bottom line is that we are, in fact, paying for two drug wars—the FBI's drug war and the DEA's drug war. Because each agency operates in very different ways with different measurement systems, we cannot tell which agency is the most effective or efficient.

Let me read you an excerpt from the GAO report I requested:

For the most part, the two agencies [FBI and DEA] operate independently. Each agency independently establishes investigative strategies and priorities, collects and stores intelligence, and targets drug trafficking organizations. Generally, the two agencies separately initiate and conduct investigations, using different investigative philosophies and techniques. The agencies also differ in the way they measure performance.

Let us be clear on one thing—DEA and the FBI have exactly the same goal in the war on drugs: To identify, investigate, and arrest members of high-level drug trafficking organizations and to destroy the operations of those organizations. Both are exceedingly professional and dedicated. But why do they create and operate under two totally separate drug strategies when their ultimate goal is identical? Why do they not operate in concert to achieve this mutual goal? Why are we paying for two drug wars?

The GAO audit report also notes that in 1984, then FBI Director Webster asked that an executive level DEA-FBI committee be formed to "avoid duplication, effect economy, and make the operations of the FBI and DEA more effective and efficient." This committee eventually undertook 56 projects aimed at integrating functions of the two agencies. Yet, according to the GAO, only 9 of the 56 initiatives were successfully implemented. When Attorney General Meese decided in 1987 against merging the drug enforcement functions of DEA and the FBI, the coordinating committee abandoned all but eight of the initiatives, and since then work on these has all but stopped. Why? Why should a mechanism for reducing redundancies with potential for saving resources be abandoned simply because the agencies weren't going to merge? The absence of a merger, which was problematical from the beginning, is not a reason not to work together.

I do not believe the foregoing is a reflection of a coordinated national focus on drugs. The 1989 National Drug Control Strategy prepared by Dr. Bennett, the administration's Director of National Drug Control Policy, states that "a truly integrated, effective, and efficient national strategy requires that various law enforcement authorities coordinate their efforts when drugs are involved. And, in

fact, drug enforcement in the United States has enjoyed some of its greatest successes when Federal authorities have worked together." Are DEA's and the FBI's actions illustrative that our national strategy talks one game but plays another?

Mr. President, let me give you some specific examples to more clearly show the need for focused management attention to assuring better coordination and cooperation. These, too, are from the GAO report.

First, FBI and DEA counterpart field offices are required to notify each other when a drug investigation is opened. DEA field offices are to transmit the information to DEA headquarters for input to their computer system. This is important so that subjects of drug investigations can be disclosed to authorized users of this information. However, FBI officials told GAO that many new FBI cases were never entered into the computer system. According to GAO, "Neither the FBI or DEA could determine where the breakdown occurred." Let me paraphrase what they said. Two of our top investigative agencies said they could not figure out what went wrong. Does this reflect a commitment to work together?

Second, in 1988, a joint DEA/FBI Drug Intelligence Unit was established at DEA headquarters to provide intelligence support to some major DEA and FBI investigations. The FBI said it had provided a unit chief, two supervisory agents, and four intelligence analysts and could have productively used DEA analysts, but DEA had not assigned full-time staff to the unit. DEA claimed that the analysts were not yet needed on a full-time basis, but according to the FBI, DEA was unwilling to use FBI intelligence analysis techniques. Here we have a national drug crisis which needs the full support and cooperation of our drug law enforcement agencies, but we have these types of problems.

Third, the GAO report details a joint effort, called the joint drug plan, which is experiencing coordination and cooperation problems. The purpose of the plan is for DEA and the FBI to work together in investigating and attacking the most significant national and international drug trafficking organizations in six principal drug distribution cities. Both agencies consider the joint efforts in Chicago and Houston to be successful. In Miami, New York, and San Diego however, there are squabbles over staffing commitments and differing DEA/FBI guidelines regarding undercover operations and the use of informants. In the sixth city, Los Angeles, DEA and the FBI have completely opted out of the program. The FBI claims that DEA withdrew from the joint drug plan because of a reorganization of investigative priorities. DEA asserts that there were severe personality conflicts among the agents assigned to the cases, that the FBI agents did not share vital information with their DEA counterparts, and that operations were seriously jeopardized by actions of the FBI agents.

Finally, a fourth example noted in the GAO report revolves around international investigations. DEA and the FBI agreed in 1982 that DEA would be the single point of contact abroad for drug investigations, intelligence and liaison. For the most part, the FBI must go through DEA to obtain information from foreign drug enforcement officials regarding the international aspects of its drug investigations. Usually, DEA country attaches investigate leads and gather intelligence for FBI drug cases, then transmit the information back to the FBI. Despite their agreement, the FBI now believes it must have authority equivalent to DEA's, and in 1987 unsuccessfully petitioned the Attorney general for an expanded international presence. The FBI has said that as many as 80 percent of its drug cases have international aspects, and investigations of these cases involve the gathering of considerable amounts of intelligence abroad. However, the FBI complains that the DEA country attaches do not provide the FBI timely or sufficiently detailed intelligence from foreign drug source countries. According to DEA, there is no evidence that current procedures restrict or harm FBI operations in any way. DEA is adamantly opposed to an expanded FBI presence abroad, and, in fact, believes that an expanded FBI presence might actually impair foreign authorities' cooperation on drug investigations. This is just another example of the low-intensity conflict despite a working agreement designed to promote better cooperation.

NEED FOR BETTER INTELLIGENCE SHARING

Another area where the DEA and FBI could benefit is intelligence sharing. As the GAO report pointed out, each agency has its own system. DEA lets the FBI access its intelligence system, but the FBI will not let DEA or any other law enforcement agency have access to its system. Why? Because the FBI believes the intelligence in its system is too sensitive. DEA is the lead Federal agency for drug law enforcement, but they are not allowed to touch the FBI's drug information because it is too sensitive. Does this make sense? Is this cooperation?

Another incident came to my attention recently which disturbs me very much. The FBI is developing a brand-new, state-of-the-art intelligence system to replace what it uses now. The FBI says the new drug information system will allow users to collect, analyze, and use tactical, strategic and operational intelligence in real time to provide direction for its drug cases. In what appears to be a true spirit of cooperation, the FBI invited DEA to join in their new system, combining DEA's intelligence with the FBI's. DEA said no. DEA said it would be happy to modify its system to the FBI's needs, but it had no intention of participating in the FBI's new system.

Both the 1989 and 1990 national drug control strategies call for improving and unifying drug intelligence systems, and increasing their accessibility to law enforcement agencies. These sound like worthwhile goals to me. It makes a lot of sense that the better and more unified your intelligence base is, and the more everybody works together to share this intelligence, the better your results are going to be. So why do DEA and the FBI steadfastly refuse to combine their intelligence operations to the degree they can? Why does not the Director of NDCP or the Attorney General require this? They obviously understand the benefits of doing so. But neither one of them wants to lose control of what it considers to be the best system. Does this make sense? Is this cooperation, or is it parochialism at its worst?

CENTRAL JUSTICE DEPARTMENT GUIDANCE IS MISSING

A major reason for the coordination problems, as I see it, is the consistent historical pattern of lack of management or central guidance by the Attorney General. GAO has pointed out that until December 1989, the office of the Attorney General had never designated a top-level Justice executive or entity to oversee the two agencies' activities. This accounts in large part for the autonomy—and lack of accountability—the FBI and DEA have enjoyed. It wasn't until this past December, or roughly 8 years since the FBI got authority to work drug cases, that the Deputy Attorney General was assigned responsibility for overseeing DEA and the FBI. It took the Justice Department 8 years to make this assignment. Why? In 1986, GAO recommended that the Justice Department provide greater central direction and oversight over its component agencies—including DEA and the FBI. Justice agreed with the recommendation. So why did it take almost another 4 years for Justice to act on it. Perhaps, the Department can provide the answer.

The previous lack of a clearly designated Justice Department manager is also reflected in the absence of formal written guidelines and policy documents governing how the two agencies will coordinate their drug law enforcement operations. Little wonder the DEA and FBI, left to forge their own operating parameters, experience the coordination problems they do.

As I mentioned earlier, the Attorney General ordered DEA's Administrator to report to the FBI Director for the express purpose of fostering coordina-

tion. Unsurprisingly, the Attorney General's mandate was never followed. The DEA Administrator has traditionally reported directly to the Attorney General, bypassing the Director as desired.

USE OF DIFFERENT MEASUREMENT SYSTEMS PRECLUDES COMPARING PERFORMANCE

The Justice Department has also allowed DEA and the FBI to use separate and totally different systems for measuring their respective performance and accomplishments. DEA uses its Geographic-Drug Enforcement Program [G-DEP], a violator classification system which clearly distinguishes between major traffickers and minor violators. The FBI does not have a violator classification system; it tracks cases by the type of major drug trafficking organizations it considers priorities. In fact, while DEA at least uses a system that contains qualitative and quantitative criteria—such as the amount of drugs involved, and the violator's role in the drug trafficking organization—the FBI simply says that it dismantled x many trafficking organizations in any given year. The FBI simply says that it toppled x many top echelon traffickers.

Second, the Justice Department is letting DEA and the FBI use two totally different performance measurement systems. The two agencies themselves agreed way back in 1982 to come up with a common system, but 8 years later, they are still worlds apart. They have no intention of coming up with a uniform system. Why? Each thinks its system is the best. So where does that leave the Justice Department? Where does that leave the Congress? How can we know how well these agencies are doing if we do not have a common basis for comparison? How can we make intelligent choices about resources? How can we make informed decisions about funding? We can't.

I AM NOT ADVOCATING THAT THE FBI AND DEA MERGE

The merger question comes up every so often. Should there be a single drug agency? Should it be DEA or the FBI? I do not advocate a merger at this time. The GAO report says that the Attorney General doesn't believe that a merger makes sense right now because the two agencies' missions are too different and the FBI has too many other priority programs. But the Attorney General is not ruling out a merger if the need arises in the future. My question is this: When the time comes, how can the Attorney General or the Congress possibly make a judicious decision about a merger when he has so little information on which to base his decision? Because DEA's and the FBI's reporting systems use such widely varying criteria, it is impossible to reliably measure and compare their performance, results and effectiveness. And without this vital information, how can the Attorney General make the best decision? Without this vital information, how can the Congress decide how to best allocate severely limited resources for drug enforcement? How do we know we're getting what we paid for?

FBI AND DEA CAN WORK TOGETHER IF THEY WANT TO

The FBI and DEA can and have successfully worked together. In fact, DEA and the FBI can point to some of their major joint operations as shining examples of coordination. The now-famous Pizza Connection case was a joint effort that resulted in the indictment of 38 high-level trafficers in the United States and an additional 175 Mafia members and associates in Italy for drug trafficking and money laundering operations. In Operation Polar Cap, DEA, and the FBI—along with other Federal and State and local agencies—pooled intelligence and resources against a large-scale money laundering organization with direct links to the Colombian Medellin cartel. Ultimately, 127 defendants were charged with the sale and distribution of cocaine and with illegally laundering $1 billion generated from cocaine sales. More than one-half ton of cocaine and over $45 million in cash, jewelry, and real estate was seized. Another jointly conducted investigation—Operation Starbank—resulted in the indictment of Gen. Manuel Noriega. Shining examples indeed. DEA and FBI agents have demonstrated that they can work together when they want to. So why are only 6 percent of DEA's total cases and 16 percent of the FBI's total cases joint efforts? They should be able to do better. DEA and FBI managers must support and provide incentives for agents to work together.

CONCLUSIONS

Mr. President, I wish to commend the dedicated agents of DEA and the FBI who daily risk their lives in an effort to control the spread of illegal drugs. Today, we are addressing the organizations and structures which make these efforts less than they can be. It is about the lack of management and it is about the need for stronger leadership from this and future Attorneys General and the Director of National Drug Control Policy, the so-called drug czar. It is difficult to objectively demonstrate the effect of poor leadership and lack of coordination. How many cases go unsolved? How much more drugs enter the country? I cannot tell you how many or how much, except that one less drug case made and one less drug shipment stopped is too high a price to pay for lack of organizational coherence.

When we, the Congress, enacted the Anti-Drug Abuse Act of 1988, we required that the Mr. Bennett, the current drug czar to submit a report to the Congress on the need to better coordinate and consolidate agencies and functions of the Federal Government involved in the drug war. This report was released earlier this year. While the report recognizes the need for improved coordination and takes some positive steps to centralizing intelligence gathering, it does not specifically address the coordination and cooperation problems between the FBI and DEA. I urge the Director of National Drug Control Policy working with the Attorney General to take immediate steps to improve the coordination and cooperation among these agencies.

Mr. President, clearly, one of the most critical issues facing our country today is the scourge of illegal drugs. In fact, recent public opinion polls show drug abuse to be our nation's number one concern. It is clearly a national epidemic. Illegal drug trafficking alone costs American society an estimated $110 billion annually. Drugs affect the lives of millions of Americans—adults as well as children, including, sadly, new-born babies. Unless we get a handle on drug abuse, its future costs to American society will be staggering, both in financial terms and in human suffering. We already see its ugly mark on our lives every day. The senseless drug killings, the emergency rooms filled beyond capacity with the innocent and not-so-innocent victims of drugs, the infants born to drug addicts who are relegated to a life of bare and painful existence, children sitting in school classrooms oblivious to what is taking place, a social services system overwhelmed by drug abusing families, child abuse and neglect, and on, and on, and on.

Mr. President, we cannot afford to fight and pay for two drug wars. We need to get a better return on our investment. Yes, both the FBI and the DEA do a fine job helping to rid our country of the scourge of drugs, and yes, they both bring in a lot of revenue from the assets they seize. But we're losing the drug war. Everyone knows this. We cannot afford to lose more ground in this battle. We cannot afford to let our Federal agencies continue to go their separate ways when a truly coordinated, cohesive effort could make a tangible difference in the drug war. We can no longer fund separate and potentially inconsistent drug wars. We also need a comparable measurement system so that we, the Congress, can best decide how to allocate the limited resources available to fight the drug war.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. KOHL. Mr. President, I ask unanimous consent that the time for morning business be extended to not beyond 3:45 p.m. today with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 2699 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MEDICARE REIMBURSEMENT PROCESS

Mr. PRESSLER. Mr. President, for nearly 2 years I have heard from and spoken with numerous South Dakota physicians and clinic administrators about problems with the Medicare carrier for South Dakota—Blue Cross and Blue Shield of North Dakota. The Medicare carrier processes reimbursement claims for Part B physician services.

Mr. President, my constituents are extremely frustrated and angry about the lack of communication, lack of responsiveness to their concerns and numerous other problems encountered when seeking Medicare payment for services rendered. I held a meeting with my constituents in February 1990. Officials of the Health Care Financing Administration's Denver office, Blue Cross and Blue Shield of Sioux City, IA, and Blue Cross and Blue Shield of North Dakota were invited to discuss these issues with physicians and others. The meeting was frank and productive.

Following that meeting, I met with Dr. Gail Wilensky, Administrator, Health Care Financing Administration. That meeting also was productive. Dr. Wilensky assured me that South Dakota's Medicare reimbursement problems were being addressed. Further, Dr. Wilensky stated that improving the procedures used by Medicare carriers was a personal priority of hers.

Three months after the meeting in Sioux Falls, problems continue to surface. These are very frustrating to physicians and clinic administrators. It is financially costly for physicians and their staffs to appeal reimbursement decisions, not to mention the huge amount of time spent on clearing up mistakes. It is evident that a better system is needed. I believe the best solution would be to establish a Medicare claims office in South Dakota. I am working to achieve that goal in order to eliminate the technical and communication problems health care providers are experiencing in obtaining Medicare reimbursement.

Mr. President, I have written to Dr. Wilensky to ask that she support my request for the designation of a South Dakota-based Medicare claims office. Providers should not be burdened by costly, time-consuming and avoidable bureaucratic problems. They are here to serve the medical needs of their patients, not to do battle with Medicare reimbursement processors. We need a Medicare claims process that responds to the needs of physicians, other health-care providers and their patients. I ask that my letter to Dr. Wilensky be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC, May 22, 1990.

GAIL R. WILENSKY, Ph.D.,
Administrator, Health Care Financing Administration, Hubert H. Humphrey Building, Washington, DC.

DEAR DR. WILENSKY: Recently I held listening meetings in South Dakota with physicians and health care administrators to learn about their concerns. One issue repeatedly brought to my attention was the need for South Dakota to have its own carrier for Medicare Part B and fiscal intermediary for Medicare Part A.

After evaluating the concerns I heard, I am requesting that the Health Care Financing Administration allow South Dakota companies to negotiate a contract with HCFA to be a part A intermediary or part B carrier to keep its own Medicare claims office in South Dakota. I continue to receive complaints, even after our latest appeals. Recently I spoke with a group of laboratory managers who stated that the Fargo office is less than responsive to their needs.

As you may recall, on February 15, 1990, I held a meeting during which doctors and South Dakota Medicare recipients drove through a snowstorm to bring me their complaints about the performance of the part B carrier in Fargo, ND. While the current carrier has been more responsive and its performance has improved in some areas, problems persist.

For example, the Fargo computer system appears to be troubled with numerous flaws. As a result, South Dakota beneficiaries and providers wait several months for Medicare reimbursement payments. Most providers who work on assignment indicate that their cash flow from Medicare has dropped 60 percent to 70 percent in recent months. This makes it impossible for any beneficiary to file a supplemental insurance claim, which further reduces the cash flow of nonassignment providers. This, coupled with the fact that Medicare beneficiaries represent over 70 percent of the rural providers' cash flow, has created a crisis.

More fundamentally, problems persist in the basic matters relating to claims, reimbursement differentials, communication breakdowns, and lack of responsiveness. All of these examples share the common and, I believe, underlying problem in that the carrier and intermediary are too remote to South Dakota providers to provide equal service. These problems need to be solved immediately. The limited success of good faith efforts by out of state administrators in improving the system convinces me that a fundamental change is needed to better serve the interests of South Dakota's Medicare recipients.

To alleviate future problems and provide the people of South Dakota with greater control of their own destiny, I respectfully request that an office be established in South Dakota to process claims for both Medicare Part A and Part B. I would like to begin meetings to discuss this proposal at your earliest convenience.

I thank you, Dr. Wilensky, for considering this request and ask for your support in developing a better relationship between those who process Medicare claims and my South Dakota constituents. A copy of this letter will be placed in the Congressional Record. Should you need any assistance or additional information in your consideration of my request, please do not hestiate to contact me.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

THE CRISIS IN KASHMIR

Mr. KENNEDY. Mr. President, many of us in the Senate are increasingly disturbed by the continuing cycle of violence and bloodshed in Kashmir. Since January, hundreds of people have lost their lives and hundreds more have been injured during bloody confrontations—and the number of casualties continues to climb. The assassination last week of Maulvi Farooq, one of Kashmir's hereditary leaders, has escalated the violence in recent days.

This tragic cycle of violence must be brought to an end, and I hope that all sides will redouble their efforts to achieve a peaceful resolution to this festering conflict before further escalation results.

Since 1947, when the Indian subcontinent was partitioned, the continuing dispute over the status of Kashmir has led to two military confrontations between India and Pakistan. A fragile peace between India and Pakistan has existed since 1972, but the intensification of the conflict in recent weeks gives all of us concern that more must be done to ease these tensions before they boil over again. The current crisis threatens the stability of the subcontinent and undermines the democratic governments in India and Pakistan. It must be brought to an end.

Violence begets violence. A just and lasting solution to the problems in Kashmir can only be reached through a peaceful and open political dialog.

I encourage all parties to this controversy to take immediate steps to initiate a dialog and to end this sense-

less killing. I commend the administration for its recent decision to send United States officials to India and Pakistan, and I hope that the good offices of the United States will be effective in this critical time as we search for a peaceful settlement.

Tragically, the people of this region have a long history of conflict and antagonism. But they also share the same goals—peace, justice, and a better life. Working together, they can achieve these common goals. Working against one another, there is little hope for the progress they seek. Peace in Kashmir is in the highest interest of peoples of all religions and all nationalities and all nations in the subcontinent. It is also in the highest interest of every nation on our planet. We should do all we can to see that it is attained.

MEN AGAINST THE MOUNTAIN

Mr. NUNN. Mr. President, the May 1990 issue of the highly respected Armed Forces Journal International included an article by James C. Hyde entitled "Men Against the Mountain: Marines Learn To Conquer Cold." The article is about the U.S. Marine Corps' Mountain Warfare Training Center at Bridgeport, CA.

I am aware of the very important mission of this cold-weather training center and of the challenging and rigorous nature of the training that goes on here. The center is commanded by an outstanding military officer, Col. Phillip Tucker, USMC, who in a previous job worked closely with the Senate in Marine Corps legislative affairs. The Mountain Warfare Training Center is one of our Nation's premier military training areas in terms of the rugged cold weather environment and the extreme difficulty of the various courses.

The committee has taken a keen interest in this area and has pushed the Department of the Navy and the Marine Corps to ensure that the facilities at Bridgeport are structurally sound, safe, and sanitary—although austere—for the hundreds of military personnel who train there. I have been concerned, and the committee has shared this concern, as has the Congress, about ensuring that the proper construction is underway to support this very important training activity.

I ask unanimous consent that the excellent article from Armed Forces Journal be reprinted in the RECORD and following that a copy of our committee's report language concerning the need to provide modern facilities support for the extremely important and outstanding training that is conducted there.

I would encourage my colleagues to read this article to get a first-hand impression of the outstanding nature of the Bridgeport center and also to have a feel for the facility's needs.

During last year's Defense authorization conference, 33 units of new military family housing were allotted to Bridgeport. Despite additional guidance from the conferees that the Department of the Navy allocate $2.3 million during this year for minor facility construction and repairs, these funds have not been released and the brief construction season is quickly slipping away. Likewise, the conferees' guidance that $8.0 million in more permanent construction be programmed to fiscal year 1991 was ignored. I regret that the Navy and Marine Corps appear less concerned with the health and welfare of young Marines living and training at the Mountain Warfare Training Center than does the Congress.

I hope this situation will be recitified promptly.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Armed Forces Journal, May 1990]

MEN AGAINST THE MOUNTAIN: MARINES LEARN TO CONQUER COLD

(By James C. Hyde)

Snow, ice, subzero-degree temperatures, and high winds can be as deadly an opponent as a highly skilled, heavily supported military force. The US armed services understand the problems that arise because of cold weather. As the temperature drops, everyday activities become logistical nightmares. Exposed flesh bonds to metal. Aircraft and vehicles relied upon to transport and support troops in the field are left immobilized because of strong winds and freezing temperatures. Neither man nor machine can function properly, no matter how well trained or maintained, at certain temperature. The unforgiving nature of the cold weather environment requires specialized training for combat units.

In order to get firsthand exposure to the effects cold weather can have on troops in the field, AFJI spent a week in the Sierra Nevada mountains, at the USMC's Mountain Warfare Training Center (MWTC), with the 1st Battalion, 2nd Marine Regiment, from Camp Lejeune, NC. With its combination of deep snow, high altitude, and rugged terrain, the area resembles parts of Norway, where USMC has the major reinforcing role and has prepositioned equipment and 30 days of supplies for a 13,000-man Marine Expeditionary Bridgade. Cold weather training is also relevant to contingencies in Korea and Northeast Asia, as well as to unexpected scenarios, such as that which the British encountered in the Falklands War.

Located 100 miles south of Reno, NV, in Pickle Meadows, CA, MWTC is a year-around training facility that specializes in cold weather survival and tactical operations training during the winter months. (It features extensive mountaineering and alpine operations training during the summer months.) The facility was opened in 1951, after US experiences in Korea had revealed the need for such training. Lessons learned from the Russo-Finnish War (1939-1940), in which vastly outnumbered but highly mobile Finns repulsed Soviet invaders, helped shape MWTC's curriculum.

Closed between 1967-1973, during the height of and final US withdrawal from the Vietnam War, and open only for limited operations between 1973-1976, MWTC is now training Marines 12 months a year. Annually, more than 10,000 troops train at MWTC. Between December and April, one reserve and four active-duty USMC battalions each attend separate 28-day training exercises. In 1990, two battalions from Fleet Marine Force Atlantic and two battalions from Fleet Marine Force Pacific will train at MWTC during the winter months.

MAN AGAINST MOUNTAIN

During AFJI's recent visit to MWTC, 1st Battalion spent its first three days at MWTC's base camp undergoing orientation, during which its members were instructed in basic survival, use of cross-country skis, and how to properly set up the Norwegian tent sheets they would be living in on the mountain. (Tent sheets are large squares of canvas that can be attached to one another to make different size tents.) They were also instructed on the benefits of the ECWCS (Extended Cold Weather Clothing System) they are issued. ECWCS is a four-layer system that includes polypropylene underwear, polyester fiber pile jacket and pants, quilted polyester jacket and pants, and a camouflage hooded parka and pants made of Gore-Tex fabric. (See box, page 72.)

Following orientation, most of the battalion's next three-and-a-half weeks were spent on the mountain, where during evening hours the temperature stayed in the teens. During daylight hours the temperature reached the mid-30s. Strong winds accompanied nightfall most evenings, pushing the windchill factor to below zero. Throughout AFJI's stay at MWTC there was no snowfall, but three to four feet of packed powder were on the ground upon our arrival. "In this kind of environment, just surviving the elements is difficult." USMC Col. Phil Tucker, MWTC's commanding officer, told AFJI.

The battalion was scheduled for "five days on the mountain/two days off" for its first two weeks of training. Instruction on basic survival, cross-country sking, avalanche search, tactical movement, and troop withdrawal was given by MWTC instructors while on the mountain. The first two days of instruction consisted of 12 hours of cross-country skiing each day. On the evening of the second day of ski intruction, there was a two-hour ski march (Fewer than 10% of the Marines had been on cross-country skis before going to MWTC. By the time AFJI left the mountain, nearly all the Marines were proficient on skis.) While off the mountain (at the base camp 6,700 ft above sea level), the Marines spend time doing maintenance on equipment, doing laundry, and resting, preparing for their next hike up the 9,400-ft mountain.

Training at MWTC is incremental. "It's a building-block approach here. When we leave, everyone will be well trained and well-conditioned," Capt. Rick Colvard, Air Operations Officer, told AFJI.

The battalion's first hike up the mountain was a four-mile journey, without packs, to a camp site 8,500 ft above sea level. (Their equipment was brought up the mountain by over-the-snow vehicles.)

The second hike, one week later, was six miles with light packs weighting 30 to 40 lbs. The third and final hike, two weeks after the initial hump, covered nearly nine

miles and put the battalion at 9,200 ft above sea level. Full packs, weighing between 50 and 70 lbs, were carried.

"We progressively acclimatize the units [to the altitude and severe weather conditions] when they arrive here. We teach them survival, mobility, and how to function in the mountains. Then we say 'Show us what you can do.'" Tucker told AFJI.

According to Maj. Tom Linn, Executive Officer, "During the final 13 days of the battalion's deployment to MWTC we conducted sustained operations while maneuvering over a large area of the mountain as part of our field training exercise. Mobility and logistical support were extremely difficult."

MWTC trainers unanimously agreed that cold weather training is the most difficult they have encountered. USMC Col. Robert Fawcett, 1st Battalion Commander, told AFJI, "We may have been in the field for longer periods of time during Team Spirit and Market Square [exercises held in Korea and North Carolina, respectively], but this is the toughest."

"Training here is very difficult, mentally and physically. But this is not a cold weather boot camp. It's not us [the instructors] against them [the battalion]. It's all of us against the mountain," Tucker explained.

According to Lt. Alex Chavez, Battalion surgeon, "During the battalion's three-week deployment, the number-one injury we ran into was frost nip. Unlike frostbite, where tissue is actually frozen, nip just causes pain, redness, and swelling. It is not as severe. We did have two bad cases of frostbite where we had to medevac the personnel back to Lejeune. Acute mountain sickness (AMS) [brought on by altitude, speed of ascent, and physical exertion] was also a problem. The symptoms include intense headaches, nausea, and sharp chest pains. We had about 20 cases of AMS," Chavez said. "There were two stable fractured backs, caused from falling backwards with heavy packs on, and some sprained ankles here and there." He concluded that the best way to ensure good health while in the mountains was to "eat at least 4,200 calories and drink four liters of water daily" and to avoid exposing skin to the elements.

OVER-THE-SNOW MOBILITY

MWTC currently relies on 10 Hagglunds BV-206 tracked vehicles for logistical support and over-the-snow mobility. MWTC will be receiving an additional 15 vehicles in September on loan from the US Army. According to USMC Lt. Col. Ron Stokes, public affairs spokesman, "We are borrowing those vehicles so that we can train the drivers at MWTC instead of training them in Norway. With only 10 vehicles at MWTC, mostly used for logistical support of the Marines on the mountain, we need the extra vehicles for driver training."

HOW THE OTHER SERVICES DO IT

The US Army Northern Warfare Training Center (NWTC), Ft. Greely, AK, trains both individuals and units how to survive and operate in mountainous and cold weather regions. According to an NWTC statement, there are disadvantages to training units: time constraints limit the quality and quantity of training, personnel turnover within the units degrades long-term unit proficiency, and financial constraints limit training resources for large numbers of personnel. Therefore, NWTC offers a thirteen-week Military Mountaineering Instructor Course (MMIC) that enables graduates of the course to plan, conduct, and supervise mountain operations and training. Individuals that pass MMIC can return to their units and give that unit an "organic" training capability to prepare for mountain operations.

Fairchild AFB, WA, is USAF's Air Training Command headquarters for survival training. A 17-day "Global Survival Course" teaches survival skills for all climates. All USAF active-duty, reserve, and Air National Guard pilots and crew members must attend. Most of the cold weather survival instruction is given in the classroom. Pilots and crew members are taught that the proper use of clothing, fire, and shelter is the key element of survival. Water and food are of secondary concern. On average, 4,500 personnel complete the course each year. Pilots and crew members stationed in and around Alaska attend Arctic Survival School at Eilson AFB, Fairbanks, AK, where cold weather survival training is mandatory.

Personnel from the US Coast Guard's 17th District Headquarters, Juneau, AK, rely on Alaskan State Troopers for their cold weather training, according to Lt. Ray Massey at USCG headquarters. Troopers instruct USCG aviators and search and rescue unit personnel how to survive the elements for a short period of time. "Other Coast Guard Districts that engage in cold weather operations are the 9th and 13th, which patrol the Great Lakes and Pacific Northwest waters, respectively," Massey told AFJI.

[Excerpt from House of Representatives Report 101-331 conference report to accompany H.R. 2461, National Defense Authorization Act for Fiscal Year 1990]

MARINE CORPS MOUNTAIN WARFARE TRAINING CENTER

The conferees understand that the condition of facilities at the Marine Corps Mountain Warfare Training Center (MCMWTC), Bridgeport, California, constitutes a significant hazard to the health and safety of personnel assigned to this activity. The operational facilities, trainee barracks, and support facilities for the permanent party personnel are all in poor repair. Many lack the minimum services and structural integrity to ensure the well-being of their occupants.

For these reasons, the conferees direct that not more than $2.3 million of the Navy's minor construction and repair and maintenance authorization be used to make appropriate repairs and improvements to this complex. The conferees also direct that 33 of the 295 units of family housing authorized for Camp Pendleton, California, the support base for the MCMWTC, be used to provide adequate family housing for this remote site. Finally, the conferees authorize a total of $8 million for fiscal year 1991 for the provision of utilities and foundations for the erection of modular structures to provide austere, yet safe facilities for the training and support of the Center's students.

TWENTIETH ANNIVERSARY OF THE NATIONAL LEAGUE OF FAMILIES

Mr. DOLE. Mr. President, since Memorial Day, May 28, 1970, the League of Families has worked to ensure that the brave Americans who have sacrificed so much for our Nation are not forgotten.

As we approach Memorial Day, I believe we should take the time to remember those who have served, but who never came home. I am speaking of the thousands of MIA's who are still unaccounted for in Southeast Asia. We as a nation must continue to press for answers. We must continue to demand an accounting with a strong unified voice.

Over the past 20 years, one such voice has been the National League of Families of American Prisoners and Missing in Southeast Asia. This nonpartisan organization, financed wholly through private contributions, has for 20 years continuously supported the goal of a full accounting for our missing Americans. Tireless in its efforts, the National League of Families woke up America to the harsh realities of the families missing a loved one.

Last year I was proud to introduce legislation to display the POW/MIA flag in the Capitol rotunda as a reminder of our missing Americans. Through the National League of Families' determination and efforts, we will continue to remember those brave Americans who sacrified so greatly for this Nation—those who have been denied a homecoming—and the families that they left behind.

CLARIFYING DEDUCTIBILITY OF CERTAIN LIABILITIES

Mr. RIEGLE. Mr. President, yesterday I introduced S. 2678, a bill to clarify the deductibility under the Internal Revenue Code of 1986 of liabilities incurred in connection with minimum premium plans. I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2678

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTIBILITY OF LIABILITIES UNDER MINIMUM PREMIUM PLANS.

For purposes of section 832(b)(4) of the Internal Revenue Code of 1986 (or any corresponding provision of prior law), the term "unearned premiums" shall include any reserve maintained pursuant to State law (or any rules or regulations thereunder) by an insurance company for future claims payments upon the termination of any minimum premium plan to the extent a premium or other consideration corresponding to such reserve has been included in the gross income of such company.

SEC. 2. EFFECTIVE DATE.

The provisions of section 1 shall apply to taxable years beginning before, on, or after the date of enactment of this Act.

OPPOSING PRESIDENT BUSH'S DECISION TO RENEW MOST-FAVORED-NATION STATUS FOR CHINA

Mr. KENNEDY. Mr. President, President Bush's ill-advised decision to

renew most-favored-nation status for China once again puts the United States on the wrong side of human rights. We have no business continuing in the business of aiding that repressive regime. It is a mockery of free enterprise to give favored trade status to nations that deny basic freedoms to their people. I join in urging Congress to reject the President's decision.

Time and again since the brutal massacre at Tiananmen Square a year ago, President Bush's China policy has tilted toward the tyrants and against the courageous forces of democracy and freedom. Now, the President is doing it once again—and once again, it is time for Congress to take a stand for the principles of human rights.

The leadership in Beijing has snubbed each of President Bush's overtures since last July. Two secret U.S. high level missions to China, public toasts by U.S. officials of the ringleaders of the Tiananmen Square massacre, the veto of legislation to protect Chinese students, the waiver of sanctions imposed by Congress on satellites and Exim credits—and now renewal of MFN.

Nearly a year has passed with little reaction from the Chinese. The Beijing Government has made it clear it will not change—it is time President Bush understand that basic fact.

The Chinese Government itself admits it still holds over 400 political prisoners. They have refused to release the numbers or names of those still held—some estimate that thousands are still incarcerated. Prominent dissidents are held, and Fang Lizhi remains a hostage in his own country. Reports persist of summary and secret executions, and torture by security forces and prison officials. A human rights group estimates that nearly 50 Catholic leaders, including 13 bishops, are currently held in prison.

Chinese Government intimidation of Chinese students in this country continues, including revoking passports, intrusive surveillance, termination of government stipends, restricting contact with family members, firing those with jobs back home, and revoking their special student status.

MFN is technically linked to emigration. Jackson-Vanik requires the President to certify that emigration in China is reasonably free. While the numbers of emigrants from China may not have yet dropped, the Government has recently imposed restrictions on immigration that should mandate a withdrawal of MFN from China—as they will no doubt limit emigration. Students wishing to do graduate study abroad must first work in China for 5 years or repay the Government for the cost of their education—a condition which most Chinese students will be unable to meet. In addition, stiffer exit procedures have been imposed.

These are the very kinds of restrictions imposed by the Soviet Union in the 1970's that prompted the passage of the Jackson-Vanik law. In spite of all the changes and reforms that the Soviet Union has made, we have still not seen fit to restore MFN for Moscow. It would be proposterous to continue MFN for Beijing. I urge Congress to move swiftly to overturn the President's ill-advised decision to renew MFN.

MARCH 1990 RECORD MONTHLY DEFICIT

Mr. MOYNIHAN. Mr. President, there are no doubt many views on why the President, late last month, finally acknowledged the fact that the projections for the deficit made by the administration in January were unrealistically, indeed hopelessly, optimistic. But I believe there is especially significant event.

Each month, on the 15th working day after the close of the preceding month, the Treasury Department releases its Monthly Treasury Statement of Receipts and Outlays of the U.S. Government covering the previous month's accounts. This document is the U.S. Government's monthly bank statement, if you will, showing the net of checks paid out versus receipts received, along with a cumulative total for the fiscal year to date.

The Monthly Treasury Statement for March 1990 was duly released on April 20, 1990, and was chilling. It revealed that the deficit for the month of March was $53.3 billion, the largest monthly total in the history of the republic, and almost half again as high as the monthly shortfall for the previous March. This boosted the cumulative deficit for the first 6 months of fiscal year 1990 to $151 billion—equal to the entire deficit for fiscal year 1989—$152 billion—and more than 50 percent above the Gramm-Rudman mandated $100 billion for fiscal year 1990. And we were only halfway through the year.

Twelve days later, the congressional leaders were asked if they could come to the White House on Sunday, May 6, to discuss the deficit.

Mr. President, I ask unanimous consent that tables 1 and 2 from the Monthly Treasury Statement through March 31, 1990, be included in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—SUMMARY OF RECEIPTS, OUTLAYS, AND THE DEFICIT/SURPLUS OF THE U.S. GOVERNMENT, FISCAL YEARS 1989 AND 1990, BY MONTH

[In millions of dollars]

Period	Receipts	Outlays	Deficit/surplus(—)
Fiscal year 1989:			
October	63,582	90,590	27,009
November	64,320	93,454	29,134
December	93,655	105,097	11,442
January	89,306	86,500	—2,806
February	61,897	89,769	27,871
March	68,205	103,984	35,779
April	128,892	88,320	—40,572
May	71,025	96,491	25,466
June	108,249	100,460	—7,739
July	66,191	84,430	19,239
August	76,136	98,285	22,150
September	99,233	105,299	6,066
Year-to-date	990,691	1,142,680	151,988
Fiscal year 1990:			
October	68,426	94,428	26,002
November	71,213	100,958	29,746
December	89,130	103,903	14,774
January	99,538	91,271	—8,267
February	65,170	100,434	35,264
March	64,819	118,155	53,336
Year-to-date	458,295	609,150	150,854

TABLE 2.—SUMMARY OF BUDGET AND OFF-BUDGET RESULTS AND FINANCING OF THE U.S. GOVERNMENT, MARCH 1990 AND OTHER PERIODS

[In millions of dollars]

Classification	This month	Current fiscal year to date	Budget estimates full fiscal year	Prior fiscal year to date (1989)	Budget estimates next fiscal year (1991)
Total on-budget and off-budget results:					
Total receipts	64,819	458,295	1,073,451	440,965	1,170,232
On-budget receipts	36,989	326,529	788,017	315,445	855,691
Off-budget receipts	25,829	129,766	285,434	125,520	314,541
Total outlays	118,155	609,150	1,197,238	569,394	1,233,331
On-budget outlays	97,631	499,460	971,452	466,563	997,374
Off-budget outlays	20,524	109,690	225,784	102,831	235,957
Total surplus (+) or deficit (—)	53,336	150,854	123,785	126,429	63,099
On-budget surplus (+) or deficit (—)	58,642	170,931	183,435	151,118	141,683
Off-budget surplus (+) or deficit (—)	+ 5,306	+ 20,076	+ 59,650	+ 22,689	+ 78,584

TABLE 2.—SUMMARY OF BUDGET AND OFF-BUDGET RESULTS AND FINANCING OF THE U.S. GOVERNMENT, MARCH 1990 AND OTHER PERIODS—Continued

[In millions of dollars]

Classification	This month	Current fiscal year to date	Budget estimates full fiscal year	Prior fiscal year to date (1989)	Budget estimates next fiscal year (1991)
Total on-budget and off-budget financing	53,336	150,854	123,785	126,429	63,099
Means of financing:					
Borrowing from the public	56,090	154,784	109,324	91,784	58,635
Reduction of operating cash, increase (—)	1,123	22,507	10,973	29,726	
By other means	—3,876	—26,438	3,488	6,919	4,464

THE DECOLONIZATION OF PUERTO RICO

Mr. MOYNIHAN. Mr. President, yesterday's Washington Post carried an important article by Mr. Ruben Berrios-Martinez, the president of the Puerto Rican Independence Party. It is entitled, "Puerto Rico—Lithuania in Reverse?" It appears to me to raise many of the issues I addressed here on the Senate floor on April 27 in a statement which appears in the RECORD under this title, "The Decolonization of Puerto Rico."

May I first say that Mr. Berrios-Martinez' views deserve a most respectful hearing. Puerto Rico was acquired as a U.S. colony almost a century ago—91 years to be exact—in a classic colonial war. Nothing is more normal in our time than for colonies acquired in the 17th, 18th, or 19th century to demand independence in the 20th century. Indeed, all but tiny remnants have done so in what must now be called the aftermath of the age of decolonization. Puerto Rico is a singular exception.

The doctrine, for it is nothing less, of American exceptionalism leads us to think otherwise. We will note, for example, that since 1917 Puerto Ricans have been citizens of the United States. What is one to say? Algerians were free to be citizens of France. The cause of independence marches to a different drummer. In truth, when the Senate Committee on Energy and Natural Resources held hearings in San Juan a year ago June, by far the most impressive demonstration came on a Saturday morning when some 40,000 independence supporters peacefully marched past the site of our hearings—I was present as a guest of the committee—chanting, "Yankees go home."

I have related before, and will not dwell on it here, my own involvement with this subject. In the Kennedy years I came to know the advocates of Commonwealth status—Estado Libre Asociado, as the term is in Spanish. I acquired them, and still held the impression, it can be little more given my very limited knowledge, that Monoz and his followers were at heart nationalists. They did not see Commonwealth as a kind of way station on the road to full statehood. To the contrary, many saw it as an acceptable variation of independence. Later, as U.S. Representative to the United Nations, I had to deal with a Cuban resolution in the United Nation's Decolonization Committee dealing with the "inalienable right of the people of Puerto Rico to self-determination and independence." Our view, stated with some force to the members of the Decolonization Committee, was that every President since Harry S. Truman had affirmed that right, and that we needed no advice from a Communist dictator on the subject of our political arrangements. Yet, note that it was thought a considerable "victory for common sense," as the New York Times observed in an editorial, when a motion not to take up the resolution carried by 11 votes to 9. For the word is made up of ex-colonies. Not least of which, of course, is the United States itself.

May I restate my own view that our relationship has, in fact, changed over the course of 91 years. On June 17 last year, the final day of our hearings, the issue of Puerto Rico's status was raised. I offered the comment: "Is Puerto Rico a colony? We can say it was a colony * * * but have things not changed?" This remark was widely reported and, I believe, is legitimate.

Even so, I quite understand the position of the independentistas who hold that there is no alternative save to establish a Puerto Rican nation. Mr. Berrios-Martinez writes:

[W]hat is wrong with statehood, the traditional solution for dealing with territories peopled with settlers moving west, or with ethnic minorities coalescing around the American way of life?

Just this: Puerto Rico, a distinct Latin American nationality 60 percent of whose people do not speak English, presents a radically different situation. We Puerto Rican independentistas will never give up our inalienable right to struggle for independence, even under statehood. Minorities and majorities come and go; but nationalities remain. The United States is a unitary, not a multinational, country, and statehood was made for Americans, not for Puerto Ricans or other distinct nationalities.

Then this, with a touch of sarcasm not undeserved:

A recent study by the Congressional Budget Office has calculated the additional cost to the American taxpayer of Puerto Rico as a state at $25.6 billion in the first nine years. That is why the Puerto Rican statehooders' battle cry is "Statehood is for the poor"—a far cry from "Give me liberty or give me death!" Not to be outdone, Commonwealth leaders have petitioned the U.S. Senate for parity with the states in federal funding, but without Puerto Rican's paying federal taxes.

That is why in an opening statement at the Finance Committee hearing on April 26, I pleaded that at the rate we were moving—especially with no action in the House whatever—we were not going to get a bill to the President by the end of this Congress. Without intending we were going to break his promise of a free plebiscite in 1991. I reviewed the assorted economic forecasts and analyses. But concluded:

In the end, the great issues involved here are civic, not economic. Do the people of Puerto Rico wish to become Americans? For that is what statehood ineluctably implies. That is what statehood brings. Or do they wish to retain a separate identity? Of, but not in, the American union. This could be a perfectly intelligent choice, and of course, the option of eventual statehood or independence remains.

But to say again, the Congress must act. It is almost a century now since William Graham Sumner composed his better epitaph on the Spanish American War entitled, "The Conquest of the United States by Spain." His thesis, of course, was that by entering the colonial lists, we would become like other imperial nations, and suffer all their decadence and decline. Well, that hasn't happened. But we won't know until it is made perfectly clear that our offer to Puerto Rico of choice is in fact a far-mined and efficacious offer. Which is to say, an offer which will shortly issue in an actual choice being made.

Since then, things have got both better and worse. Better in the House where at long last there is some legislative activity. Worse on the island, where a recent visit of White House representatives produced a storm of controversy, having evidently given the appearance that statehood was the cause of the Republican Party in the United States. Whereupon Gov. Hernandez Colon accused "President Bush * * * of wanting self-determination for Puerto Rico the way the Soviet Premier Mikhail Gorbachev wants self-determination for Lithuania" (The San Juan Star, May 17, 1990).

As for the Senate, the Finance Committee will shortly be reporting our section of the plebiscite legislation which deals with taxes, tariffs, and social welfare benefits. In this respect, I believe three general observations are possible.

First, under independence, there will be none of the above. A parting gift, to

be sure. A continuing relationship of some kind—Mr. Berrios-Martinez suggests some form of "sovereign free association option, as defined by international law." But no taxes, no tariffs, no Social Security benefits, save those already earned.

Second, under statehood, there will be full taxes, no refunding of tariffs—as is now partially the case—and full Social Security and other benefits. There may be a symmetrical phasein of taxes and benefits, but at the end of the decade, the situation of Puerto Rico will be undistinguishable from that of Idaho, with just possibly—and why not—a few tax benefits such as Hawaii still enjoys.

It is inevitable that statehood will bring a huge increase in per capita Federal transfers to Puerto Ricans. I have recently received from the Congressional Budget Office an estimate of this increase.

CBO estimated federal transfers in 1995, as specified in S. 712, for four entitlement programs—Food Stamps, Aid to Families with Dependent Children, Medicaid, and Supplemental Security Income (Aid to the Aged, Blind, and Disabled under commonwealth status). These are the major federal entitlement programs funded by general revenues. CBO estimates that per capita federal spending for these programs under commonwealth status would be about $400. Under statehood, this figure would rise to about $1,250. These figures compare with estimated per capita federal spending of $475 for these programs on the mainland in 1995. (May 15, 1990 Letter to Senator Moynihan from Robert D. Reischauer, Director, Congressional Budget Office.)

Note that at present, under Commonwealth status, Puerto Ricans receive almost as much in per capita transfers as do residents of the 50 States. About $400 in the case of Puerto Rico, $475 for the mainland. Statehood almost triples this amount.

Let us consider what this implies. The only figures I have at hand at this moment were prepared last year by the Congressional Research Service. They show that in 1980 median family income in Puerto Rico was $6,080. Let us increase this by half, to allow for inflation and some growth in real income—the latter having been quite low in the United States as a whole. This gives us a current median family income in Puerto Rico of, say, $9,000. The difference between transfers under Commonwealth and those assumed under statehood is $850 per capita. For a hypothetical family of four this would come to an increase of $3,400. Bear in mind that median family income is only about $9,000. Clearly these dimensions—I mean only to be suggestive—constitute a considerable attraction.

In this context it is altogether understandable that advocates of continued Commonwealth status are asking that the present arrangements be enhanced. Which, in part, is to say that Federal assistance to the island population be increased. It appears to me that this case is unassailable, and that the Finance Committee must promptly assess what is possible in our present budgetary situation.

UNITED NATIONS OBSERVERS

Mr. MOYNIHAN. Mr. President, I am concerned by reports that the United States is willing to consider supporting a plan to send United Nations' observers to the West Bank and the Gaza Strip. I have grave doubts as to whether this would be a constructive step at this time. Any observer mission presumes a certain neutrality on the part of the observers themselves. Yet one inevitably wonders whether the institution which declared Zionism to be a form of racism and racial discrimination can in any sense be considered an impartial party. To the contrary. It has, as an institution, firmly allied itself with the most odious propagandistic claim of one party to this conflict.

I have further concerns that such an observer mission would prove to be a catalyst for violence. It seems almost inevitable that those who oppose dialog and accord would use the occasion of an observer mission to engage in provocative acts, hoping thereby to cause the very violence which they claim to abhor.

Finally, I would urge the administration to consider carefully the implications of embracing an initiative being promoted by those who claim that the State of Israel is guilty of "the crime of collective murder." That is the term used by the Government of Bahrain in requesting a special session of the Security Council.

The violence and ongoing crisis in the West Bank and Gaza are matters of deep concern to friends of Israel. They do not always agree with Israel about the proper way to handle the situation. Some abuses have occurred. And the recent murders of seven Palestinian workers by a lone Israeli is an event which all persons will lament and condemn. But the accusation of collective murder is an inaccurate and outrageous attempt to obtain political advantage from the tragic act of a single, deranged individual. The United States should vigorously reject and oppose all such efforts.

THE 72D ANNIVERSARY OF ARMENIAN INDEPENDENCE DAY

Mr. RIEGLE. Mr. President, May 28 commemorates the 72d anniversary of the proclamation of independence by the Armenian people. It is a day when Armenians throughout the world renew their call for an independent Armenia—one not marred by the abusive rule and oppression of the past.

For 2,000 years the Armenian people controlled their own destiny, having developed a rich and productive society. With the fall of the Byzantine empire in the early 16th century, however, the door to the Trans-Caucasus was open to foreign invaders. The Ottoman Turks conquered the Armenian homeland and controlled the country for the next 400 years.

Despite a history of oppressive rule, the Ottomans were never able to break the back of the enduring Armenian spirit. But, in the waning days of the 19th century, Turkish attempts to silence the proud nation grew brutal. Literally, hundreds of thousands of Armenian men, women, and children were slaughtered or starved to death in vicious attempts to quell the Armenian drive for self-determination in the years prior to World War I.

In 1915, with the world occupied by war, Turkish leaders intensified their brutality against the Armenian people and perpetrated one of the worst genocidal acts of the 20th century. Between that year and 1923, approximately 1.5 million Armenians were killed, tortured, or starved to death in massive death marches to Iraq and Syria. These deliberately executed horrors virtually eliminated the entire Armenian community of the Ottoman empire. Despite these efforts by the Turks to exterminate their race, the Armenians persevered. They were able to survive and save their culture, language, and heritage through the strength and cohesiveness of their community. Undoubtedly, hundreds of years of oppression created a solidarity among the people of Armenia which enabled them to survive the Turkish atrocities.

Even in the wake of the deaths of more than 1 million of their people, however, the Armenians managed to create an independent homeland. When an army of refugees and volunteers from abroad defeated an attacking Turkish force, Armenians had the opportunity it had coveted for hundreds of years. On May 28, 1918, Armenia declared itself a free and independent state. It is this event that we recall and celebrate today.

Unfortunately, the existence of this democratic, free state was short lived as Turkish and Soviet forces attacked and defeated the young nation in only its second year of existence. Again the Armenian people were forced into subjugation. Because they are a minority group in both Turkey and in the Soviet Union, the Armenian people have had to endure continuing hardships as their voices for independence have gone unheeded for the last seventy years. Nevertheless, we must commemorate this day of Armenian independence, because people around the world must never forget the plight of the Armenian people and must continue to advocate their rights of self-determination.

More recently the Armenian people have had to endure new difficulties inflicted by both man and nature. On December 7, 1988, a catastrophic earthquake devastated Soviet Armenia. Between 50,000 and 100,000 people died and over 500,000 were left homeless when most structures in the area collapsed under the force of the quake. Even today, Armenia has not totally recovered from the devastation.

The fate of the Armenian community in Azerbaijan and Nagorno-Karabagh, who have been the target of savage attacks by organized groups of Azerbaijanis, is also of great concern to me. During the Armenian-Azerbaijani conflict of 1989, Armenian efforts to escape Azerbaijan and rejoin their brothers in Soviet Armenia were ruthlessly put down, often leading to fatal attacks on innocent Armenian citizens. Fortunately, in recent months, this confrontation has eased.

Tragically, the last 2 years are representative of the plight endured by Armenians throughout the ages. But the fact Armenians have persevered is a true testimony to their fortitude and courage as a people. Their continued existence in the face of such horrible oppression and genocidal acts demonstrates that the Armenian people deserve our active support in their fight to gain their freedom and to determine the future of their lands.

So today, as we commemorate the creation of the sovereign Armenian Republic 72 years ago, it is important to remember the difficulties surmounted by the Armenian people and the determination with which they have confronted their destiny. As the great Armenian poet, William Saroyan, once wrote:

Go ahead, destroy Armenia.
See if you can do it.
Send them into the desert
Without bread or water.
Burn their homes and churches.
Then see if they will not laugh.
Sing, and pray again.
For when two of them meet anywhere in the world,
See if they will not create a new Armenia.

MEMORIAL DAY

Mr. CRANSTON. Mr. President, as Memorial Day nears, Americans across the Nation will be looking forward to family picnics, community parades, outdoor concerts, and a 3-day weekend. Yet, it is important to remember that this holiday is more than a chance to rest and celebrate with friends and family; it is a day set aside for all Americans to remember and pay tribute to the men and women who have given their lives so selflessly in the defense of our country.

We should pause this Memorial Day to remember that over 1 million Americans have died in service to our country since its inception over 200 years ago. These Americans made the ultimate sacrifice for freedom—freedom we too often take for granted. Ask the thousands of families across our country who have had to live with the pain of losing a loved one; ask the children who have grown up without fathers; ask the spouses who have had to rebuild their lives—they know full well the price of freedom. Few can be expected to understand the uncommon suffering that comes with saying goodbye to a young soldier for the last time; but we should all understand, and appreciate, the dignity of the soldier's sacrifice.

Every service member who dies on active duty deserves to be honored for having answered the call to maintain the defense of our country and to encourage and safeguard the principles of democracy around our globe.

We remember the families and loved ones of all the military personnel who have died on active duty this year. We especially extend our condolences to the families, close friends and coworkers of the servicemen who were killed during military operations in Panama late last fall as well as to the service members who were shot in the Philippines just a few weeks ago. These tragedies serve as a sobering reminder of the difficulty and danger involved in military service. We commend those who have been willing to accept the challenges that come with military duty.

We are grateful for the men and women who believed so deeply in the cause of freedom that they courageously laid down their lives for their country—and the value of their sacrifice has never been more evident than now. We live in an amazing epoch in which we are witness to the unparalleled shakings of nondemocratic governments around the globe, most unprecedented in the crumbling of Communist rule in Eastern Europe. The United States has symbolized freedom and hope to oppressed peoples throughout the world. Many have dreamed that one day they could freely worship, listen to propaganda-free news reports, live in countrysides free of guerrilla warfare, and have equal opportunities in the workplace regardless of sex, race, creed, age, or disability. Many have never known the freedoms and opportunities that Americans have by birthright.

We are a unique people because we live in a Nation that was founded in hope and on the ideals of freedom for every man, woman, and child. Our forebearers understood the eminent value of free thinking, speaking, and the right to worship and assemble without governmental interference. No other nation in the world has been so privileged to know and experience these common liberties over so many years. Yet, we must as a nation not only give patriotic allegiance to our democratic values, but continue to fully embody them into the fabric of our society.

If more Americans aspired to the honorable values characterized by military service by coming to the assistance of their neighbor in need, many Americans would be liberated from the bondage of homelessness, from alcohol and drug addictions, from inadequate education and housing, from the loneliness of aging, from dying of AIDS without compassionate care. We are a great Nation and we will remain a great Nation but only if we continue to live according to the high standards set by those who have gone before us.

Each of us must do our part in demonstrating our personal commitment to those who have and do serve in the defense of our Nation. On a personal level, I have worked in the Senate for the past 21 years on behalf of veterans, diligently seeking Congress' continued support for the benefits and services our 27.1 million living veterans and their 46 million dependents and survivors need and deserve. In my capacity as chairman of the Veterans' Affairs Committee, I have closely monitored the activities of the new Department of Veterans Affairs—which employs about a quarter of a million people—to ensure that health care and compensation for those with service-connected disabilities, and that educational support, counseling, and employment assistance programs for those readjusting to civilian life, are adequately provided.

I have made efforts to restore funding for the VA health care system—the largest health care system in the free world, serving a daily average of almost 100,000 inpatients and even more outpatients at its 172 VA medical centers, nursing homes, domiciliaries, and readjustment counseling Vet Centers—a top priority since a serious budget shortfall threatened VA's ability to provide necessary medical services to veterans. My efforts helped to secure a $345 million fiscal 1989 million supplement appropriation for VA medical care and a $94 million VA supplemental for this fiscal year.

Mr. President, I am pleased that VA Secretary Edward Derwinski's successful advocacy resulted in the President submitting a $31.7 million fiscal year 1991 VA budget request—the highest request submitted by a President in over a decade. Although this request would allow restoration of over 2,000 full-time employee positions—including 800 nursing positions—and of other important VA programs, some essential veterans' services remain underfunded. The Committee on Veterans' Affairs adopted on a bipartisan 8-to-3 vote my proposal to recommend to the Senate Budget Committee that $336.8 million be added to the adminis-

tration's budget request for veterans suffering from posttraumatic stress disorder, for extended care and geriatric programs, for innovative ambulatory care approaches to avoid institutionalization, for increased utilization of community nursing home care, for reducing the replacement-equipment backlog, and for direct funding of AIDS care. The committee also recommended an additional $40 million for medical and prosthetic research.

However, ensuring that our Nation's veterans receive the Government benefits to which they are entitled is only part of what honoring them entails. It is every American's job to appreciate the sacrifices that have been made by the soldiers who have gone to war, many of whom are among the 2.2 million veterans who suffer from service-connected disabilities. Expressing that gratitude can begin with a simple thank you to both those who have served and to the families who have supported them throughout their terms of service and welcomed them home.

We can also take the time to listen to and learn from the experiences of our veterans. When I reached the Senate in 1969, the war in Vietnam was the defining issue in American society. Its savage fury, played out every night on our Nation's television screens, left no person untouched. Recent dramatic films such as "Born on the Fourth of July" and "Glory" have again thrust us onto battlefields where the normal rules of conduct and behavior no longer apply. But no matter how affected we are by what we see or read from the media, the truth is most of us have never been asked to raise a gun in defense of this Nation and thus we can only imagine the horror that American soldiers have confronted during wartime.

Although the U.S. Government bears full responsibility for the well-being of its veterans, we can all still play a part, even if it is something as simple as opening our hearts to the stories from those still suffering from wounds of the mind. Perhaps, then, understanding and healing will finally come to pass.

We can also say thank you by getting tangibly involved in assisting our wounded soldiers or otherwise needy veterans. Opportunities to provide assistance to sick, unemployed, elderly, or homeless veterans, many suffering from chronic mental illness of AIDS, exist in every community throughout our Nation. I applaud the veterans' service organizations for their tireless efforts in recruiting thousands of volunteers to offer personal and financial support to veterans in their diverse circumstances and needs.

This Memorial Day, as we see the American flag waving over tombstones, paraded through the streets, and hung outside so many homes, let us remember that our freedoms rest on the sacrifices of those brave warriors who have gone before us. Let us not only believe in the cause of freedom and the hope of peace, but let us live lives that will ensure that our children will proudly inherit the liberties which those before us provided at such great cost.

Mr. HOLLINGS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

Mr. HOLLINGS. Madam President, as I understand, the parties are negotiating further procedure with respect to the crime bill.

I ask unanimous consent, pending their coming back and being ready to go, I be allowed to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRUTH IN BUDGETING

Mr. HOLLINGS. Madam President, we are making progress. I have encouraged our friends in the news media to please be more probing and deliberate in their coverage of the deficit problem. And the media are, indeed, at long last, beginning to grasp and report the ugly truth.

Yesterday in the New York Times, Ms. Susan F. Rasky wrote an article that highlighted the fact that we confront a $337-billion deficit right now at the outset of the so-called summit, and it is our responsibility to solve it this year in drafting a budget for fiscal year 1991.

That is tremendous progress. I never have seen that figure reported in a news article. Yet, even that $337 billion figure must be considered minimal when we resort to truth in budgeting.

The simple fact is that any responsible source, the Congressional Budget Office or otherwise, would estimate a deficit for 1991 at $175 billion. Add to that the $125 billion we are embezzling from the trust funds, and you are already to $300 billion.

In addition, we must consider two imponderables: the S&L bailout and the treatment of Social Security. If you add on $10 billion to $60 billion for the S&L bailout, called necessary by Secretary Brady yesterday, then you are up to $360 billion. If you add in the Moynihan initiative to roll back the Social Security payroll tax, then you are up to a $400 billion deficit.

We are gradually edging toward the truth and we are actually seeing responsible writers report the full scale and nature of the deficit.

I ask unanimous consent, Madam President, to print in the RECORD today's Washington Post editorial by George F. Will, entitled "For the Budget, Try the Truth."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 24, 1990]

FOR THE BUDGET, TRY THE TRUTH

(By George F. Will)

If you blinked, you missed it, although you did not miss anything much. The budget drama was as surreal as "Twin Peaks," but had a shorter run. It is over. The four essentials of the probable agreement are apparent.

Gramm-Rudman will be changed; the costs of the savings-and-loan debacle will not be counted in deficit calculations; there will be a small bow toward honest accounting regarding Social Security, but no change in the use of the money; and Congress and the president will announce themselves too responsible to cut the deficit by more than, oh, 17 percent.

Gramm-Rudman deficit-reduction "requirements" (rarely met) will be relaxed, yet again, to make them easier to meet. Or, to be precise, the targets will be moved so that they will not be missed by such ludicrous amounts. An administration official says, solemnly, that because of the Gramm-Rudman requirements, "We are condemned to succeed." Rubbish. They will succeed by semantic fiat—by redefining success.

This will be done to serve the single imperative governing the budget process, the political convenience of the participants. But it will be justified with reference to what will be done with Social Security. Sen. Pat Moynihan has inconveniently proposed honestly. The budget deal will use just enough honesty to facilitate a larger larceny.

Moynihan proposes putting Social Security pretty much on a pay-as-you-go bais, cutting the payroll tax that is producing a gusher of surplus revenues. They are sloshing around with the general revenues and sloshing out from the government in spending of all sorts, disguising the real operating deficit.

The budget deal may well take Social Security out of the deficit calculation, thereby revealing the deficit to be more than $60 billion higher than current bookkeeping makes it seem. This $60 billion swerve toward honesty (only toward: we will not be there until other trust funds—highway, airport, military and civil-service retirement—are removed from the calculation) will be used to justify despairing about, and hence relaxing, those Gramm-Rudman requirements.

But the Social Security revenues will still be spent, as usual. Neat, no? Honesty, used sparingly in dribs and drabs, can be politically useful: by removing these revenues from the deficit calculation, the budget-makers will justify relaxing the deficit-cutting requirements, without interfering with the fun of spending the money. But Moynihan's proposal for real reform—not using a regressive payroll tax to run the government—stands little chance in a Washington reform contest. (Charlie Chaplin once entered a Charlie Chaplin look-alike contest in Monte Carlo. He finished third.)

Next, the budgeters will agree to keep the costs of the savings-and-loan bailout out of the deficit calculations, lest anyone get an alarming inkling of the leaching away of America's future. Finally, both sides will become most awfully solemn in saying that

there is a consensus that, with the economy softening, this is not the time to cut the deficit by more than, say, $50 billion (about 17 percent of the honestly calculated deficit of $280 billion).

Hmmm. We went, in a blink, from "The deficit doesn't matter and, besides, it is evaporating in the heat of economic health" to "The deficit is so damn big we dare not do more than prune it, lest grass grow in the streets of America's cities."

What caused this shift from pianissimo to fortissimo? From time to time, astronomers have correctly postulated the existence of heavenly bodies that were not (yet) observable. They have done so by inferences from the behavior of bodies that were observable: those bodies were behaving in ways best explained by gravitational effects of bodies as yet unseen. So: what can we infer, from this changed behavior, that President Bush has seen? Or: what is he inferring on the basis of changes he has seen in the economy?

President Bush says he does not want to frighten us. (Said Fred Astaire to a new dancing partner, "Don't be nervous. Just don't make any mistakes." Reassuring.) That is why he will not say what he has seen that caused him, just a few months after saying that everything is hunky-dory, to say that the deficit problem is "urgent."

To be precise (more precise than he is about economic projections), what he says is: he is reticent lest he "inadvertently" frighten financial markets by exaggerating the budget problem. Is the budget the "urgent" problem he has in mind? Oh, well, then, try this: do not exaggerate, inadvertently or otherwise.

Here is a suggestion for the budgeters: try the truth. It is not cocaine. It is not illegal and not habit-forming. They can be occasional users, and this would be a good occasion.

Mr. HOLLINGS. Madam President, Mr. Will's is a very erudite analysis of the situation that we are in. Madam President, I also ask unanimous consent that Steve Mufson's article from last Sunday's Post entitled "The Death of Gramm-Rudman," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 20, 1990]

THE DEATH OF GRAMM-RUDMAN?

(By Steven Mufson)

In 1885, Samuel Randall, chairman of the powerful Appropriations Committee and a former Speaker of the House, took the floor of the chamber to inveigh against a proposal to splinter his budget-making power.

Railing against giving spending authority to new committees, Randall warned that "if you undertake to divide all these appropriations and have many committees where there ought to be but one, you will enter upon a path of extravagance you cannot foresee the length or depth of until we find the treasury of the country bankrupt."

Randall lost the debate.

Ever since, lawmakers have skirmished over the issue of "budget process" and its connection to fiscal discipline. For 90 years before Randall's futile stand, the United States had run as many budget surpluses as shortfalls. For the past century, however, the country has run more and more consistent budget deficits as spending authority has been parceled out to more and more legislative panels.

In the last 16 years, there have been several attempts to redistribute budget-making power—and responsibility. Reforms in 1974 created budget committees to bring greater coordination and priority-setting to the congressional spending process. In the early 1980s, a "reconciliation" process was grafted on. And in 1985, frightened by the specter of rising deficits, Congress passed the Gramm-Rudman-Hollings deficit reduction act.

It is doubtful whether the Bush administration and Congress would ever have been forced to hold their budget summit this year were it not for the threat of automatic budget cuts that would go into effect in October under Gramm-Rudman-Hollings. And even as they seem to fade from reality, the law's annual deficit targets continue to serve, at least in public, as the benchmarks for the budget negotiators.

And yet, the deficit reduction law is widely regarded as a failure. Originally, the act required the budget now being negotiated to have a deficit of zero. Instead, next year's budget deficit could weigh in at anywhere between $123 billion and $246 billion. And it now appears that Gramm-Rudman-Hollings is destined for its second major overhaul in five years, if it is not scrapped altogether.

"Gramm-Rudman in private conversation is considered a farce," said Jim Jones, former Oklahoma congressman and budget committee chairman who voted for the legislation. Jones, now chairman of the American Stock Exchange, said the bill "puts up public numbers, but most members I talk to realize that it is a farce."

"It is time for us to look at some basic reforms in the process of how we spend money in this country," said Treasury Secretary Nicholas F. Brady in a speech earlier this month. "I'm not blaming any party in particular," Brady said. "I'm talking about a process which is a shell game, a game of three-card monte instead of a direct process where the American people can understand what their money is being spent for."

The two centerpieces of Gramm-Rudman were a schedule of deficit targets designed to balance the budget by the 1991 fiscal year and a mechanism for automatic budget cuts that would take effect if Congress and the administration failed to hit those targets.

The targets were originally designed to be easy enough to avoid too much damage to the economy or treasured programs in a single year. And yet the Gramm-Rudman legislation has failed to force the administration and Congress to meet the long-range targets for deficit reduction, a failure that one Republican strategist said was like missing the broad side of a barn.

One reason the targets were missed is that they encouraged the administration and Congress to do anything necessary to meet the nearest target without worrying about attacking the underlying problems of the deficit.

Among the "gimmicks" used were moving a military pay day from one fiscal year back to the previous one, moving the money-losing U.S. Postal Service off budget and financing the savings and loan cleanup with debt securities that were significantly more expensive than Treasury borrowings but that appeared off the budget.

The need to meet the nearest target also tempts lawmakers to adopt measures like the capital gains tax cut, which would bring in additional revenue in its first year but which some economists believe would cost the Treasury revenue in later years.

"Gramm-Rudman created incentives for sleight of hand and budgetary gimmickry," said Alice Rivlin, a senior fellow at the Brookings Institution and former director of the Congressional Budget Office. Rivlin believes budgeting should be reformed so that three-year projections are used to show the longer-term impact on the budget.

The other major mechanism of the deficit reduction legislation was the so-called "sequestration" device for automatic budget cuts in the event the administration and Congress missed the targets. Though the law shielded certain entitlement programs from the automatic cuts, the consequences of sequestration for defense and domestic discretionary programs could be devastating.

This year, for example, if the administration and Congress don't agree on a budget package, automatic cuts could take 20 percent bites out of those programs. Because Republicans were supposed to be as concerned about protecting defense as Democrats were about protecting domestic programs, it was considered an equal threat.

* * * * *

"Sequestration is almost like a game of chicken," said one Republican strategist, referring to the deadly game when two automobile drivers head straight toward each other to see which one turns away first. "Only instead of heading toward each other, Congress and the administration are heading away from each other."

As a result, the Republican strategist said, the threat of sequestration is "a joke."

Moreover, he added, the political consequences of missing the targets or revising the targets are small. "After five years, no one outside Washington understands what Gramm-Rudman is supposed to be or whether it works. It is just more Washington in-speak and that defangs it as a political tool."

Even if a budget pact hits the Gramm-Rudman fiscal year targets, a major loophole in the legislation allows Congress and the administration to pass supplemental appropriations bills two weeks after the start of the fiscal year that can put spending well above the supposedly sacred targets. Such a bill, with a price tag of $3 billion, is currently on its way through both houses of Congress.

To get a handle on this mid-year spending, Office of Management and Budget Director Richard G. Darman has advocated a second "snapshot" that would look at the budget deficit half way through the year and threaten to impose automatic budget cuts then if supplemental appropriations break through the Gramm-Rudman target levels.

The idea is part of yet another package of "budget process reforms" that the administration is pressing for in its current talks with congressional leaders.

Yet the failure of Gramm-Rudman raises the question of whether any process can force people to do what they resolutely do not want to do.

"If the President and the Congress genuinely want to reduce the deficit, they do not need procedural reform to do so," Rivlin said.

"The only requirements are political will and the willingness to compromise with each other."

Mr. HOLLINGS. Madam President, I also ask unanimous consent to print in the RECORD another Steve Mufson ar-

ticle, which I commend him for, that appeared in the Washington Post on May 3, "Indirect Costs of S&L Bailout Rise—Treasury Borrowing Seen Boosting Rates," by Steven Mufson.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 3, 1990]

INDIRECT COSTS OF S&L BAILOUT RISE—TREASURY BORROWING SEEN BOOSTING RATES

(By Steven Mufson)

Even though the Bush administration has not raised taxes to pay for the cleanup of the savings and loan industry, Americans are already paying for the S&L bailout in other ways.

Bond traders, economists and government officials agree that the bailout costs are forcing the Treasury to borrow more, pushing up interest rates for the government and consumers alike.

"We're paying for it in higher interest rates," said Lawrence Chimerine, an economic consultant. "Higher interest rates will mean lower investment, lower productivity growth and ultimately lower living standards." Even if the president sticks to his "no new taxes" campaign pledge, Chimerine said, "We pay for it [the bailout] one way or another."

Administration sources concede that the need to borrow money for the savings and loan cleanup is already having "a noticeable effect on interest rates." At a press conference yesterday announcing the government's regular quarterly auction of Treasury bills to cover the deficit, Treasury Undersecretary Robert Glauber said that the cost of the thrift bailout "is obviously a demand on the market for funds."

This comes at a time when interest rates are already being pushed up by a variety of factors other than the bailout.

Since the last Treasury refinancing auction, interest rates in the United States have climbed by more than 1 percentage point, increasing the cost of financing the federal deficit by more than $100 million a year just for next week's $10 billion offering of 30-year Treasury notes. Platt estimated. Mortgage rates have also increased for homeowners.

The need to raise money for the Resolution Trust Corp., the agency responsible for running insolvent thrifts, is "adding to the overall demand for credit and contributing to higher interest rates," agreed Richard Peach, an economist for the Mortgage Bankers Association of America.

Because so many other factors have contributed to rising interest rates recently, however, it makes it difficult for economists—or voters—to pinpoint the price paid for the thrift cleanup. This muffles the political effect.

"It is hard to quantify," said the head government bond trader for a major New York-based securities firm.

Elliott Platt, an economist in the government bond department of Donaldson Lufkin & Jenrette, estimated that $500 million of the $10 billion auction of one-year Treasury bills today will go to finance the RTC. The head trader of another firm estimated that the size of the auctions of one-year Treasury bills would rise by $400 million every four weeks in order to cover the working capital needs of the RTC.

By the end of the year, the Treasury will need to borrow $42.7 billion to cover costs of taking over insolvent thrifts, Glauber said.

Economists caution that much of the money raised for the savings and loan bailout will go back into the nation's savings pool and need not lead to an increase in interest rates. That also makes it difficult to measure the impact of savings and loan bailout borrowing on interest rates. "It is hard to factor out," Glauber said.

But Chimerine said "it would be optimistic to assume there will be no impact whatsoever. Not all of the money goes back to the nation's savings pool, and besides, it has a negative effect on the psychology of the market."

The government bond market is usually a leading indicator for much of the rest of the market, and Peach said the "mood and tone of the market is quite negative."

In a speech at Harvard University's John F. Kennedy School of Government on Tuesday night, the Bush administration's budget director, Richard G. Darman, also mentioned government borrowing for the savings and loan cleanup as one factor raising interest rates.

In the last three months, interest rates overseas have risen to levels that rival U.S. rates and will mean the United States will have to compete more vigorously with other countries for investment funds.

Mr. HOLLINGS. You can see, Madam President, the May 3 article is quite to the point that the S&L bailout carries a tremendous cost. There is an indirect tax, as has been noted by many economists and fiscal experts quoted in that particular article, in terms of higher interest cost and greater inflationary pressure.

I appreciate Mufson's article in that particular regard. However, Madam President, his more recent article last Sunday was, in my view, more or less an advertisement for the deal emerging from the summit. The idea is to prepare and condition the public for the abandonment of Gramm-Rudman-Hollings.

I am the only author who does not want to extend Gramm-Rudman-Hollings or falsify it or finesse it, because my other two colleagues have been engaged in such shenanigans since they voted last year to put S&L bailout moneys off budget. They knew they were violating the cardinal principle of Gramm-Rudman-Hollings.

The idea of the summit ostensibly is that we are not going to get anywhere and get majority support from our colleagues on both sides of the aisle and in both Houses of Congress and the President himself unless everything is on top of the table. That is exactly what they are talking about at the summit: Everything on top of the table.

But they have a different meaning all of a sudden when they get to the table, because it turns out they want to get all the painful things off the table: Get the Post Office off; get the S&L bailout off; and so. If we get them off the table, the problem solves itself. We simply put the entire deficit off budget.

Another approach, of course, as quoted in this article, is that of my distinguished colleague from Texas, Senator GRAMM, who would like to extend Gramm-Rudman-Hollings into the next century. I disagree, I think it can be complied with in the next 3 or 4 years. Of course, no one thinks we can get down to the $64 billion target in 1 year, or that we should. To be fiscally responsible, we do not want to throw the economy into a recession.

Yet, at the same time, we are trying to adhere to that true principle, and if we do, then taxes are mandated. You do not have to worry whether taxes are on the table, in the table, out the door, in the window, or wherever else they want to put it; they cannot avoid it. You cannot cut enough to reach the target without new taxes.

Let me embellish that statement. If you take defense at $307 billion; if you take Social Security at $263 billion; if you take interest costs at $272 billion; if you take health costs at $194 billion—and those are the figures for 1991; just those four items—we already have over a trillion dollars in spending.

No one expects that we are going to be cutting interest payments or health or entitlements costs, Social Security and so on. Yes, you can save $17 billion, $15 billion, maybe, off defense and the so-called peace dividend. But that still leaves you with a budget exceeding a trillion dollars.

Senators constantly hear this refrain at the chamber of commerce, the Rotary, the Lions, the Kiwanis, when you go to these civic clubs: "You are going to have to cut spending; cut spending, but don't raise taxes"

Along that same line of argument, I just received a letter which my distinguished colleague from Colorado, Senator ARMSTRONG, cosigned by Representative HANK BROWN of Colorado. I ask unanimous consent to print that letter and its endorsees in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, May 17, 1990.

DEAR COLLEAGUE: On Wednesday, all Republican members of the Colorado delegation held a press conference voicing our opposition to tax increases. Many of our colleagues have also expressed concern that tax increases instead of spending restraint appears to be the order of the day.

We are not alone. In case there are any among us who still believe the American people will accept yet another tax increase in order to pay for congressional overspending, we think you will find the attached letter and its 69 signatories "food for thought."

Best regards.

Sincerely,

HANK BROWN,
U.S. Representative.
WILLIAM ARMSTRONG,
U.S. Senate.

COALITION FOR FISCAL RESTRAINT,
Washington, DC, May 16, 1990.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: This letter is written on behalf of the attached member-organizations of the Coalition for Fiscal Restraint [COFIRE], formed in late 1988 to support deficit reduction through spending restraints and to oppose any further increase in federal taxes.

We have strongly supported your pledge not to raise taxes on grounds that, like you, we are concerned that increasing taxes would have an adverse affect on continued economic growth.

We are equally concerned about the burden which continuing large federal deficits places on future generations, and we are convinced that revenues generated by increased taxation will not be used to reduce these deficits.

We urge you to stand firm in the current budget negotiations for deficit reduction through restraints on the growth of federal spending and, for reasons stated above, to resist all pressures for new or increased taxation.

We will support you in these efforts.

Respectfully,

MICHAEL MONRONEY,
Chairman, COFIRE.

COALITION FOR FISCAL RESTRAINT,
Washington, DC, May 16, 1990.

The following member-organizations of the Coalition for Fiscal Restraint [COFIRE] endorse the message to President Bush in the attached letter:

Aluminum Association.
American Bus Association.
American Cyanamid Company.
American Farm Bureau Federation.
American Furniture Manufacturers Association.
American Legislative Exchange Council.
American Pulpwood Association.
American Rental Association.
American Trucking Association.
Americans for Tax Reform.
Amway Corporation.
Armstrong World Industries.
Associated Builders and Contractors.
Association of Wall and Ceiling Industries International.
Automotive Service Association.
Chamber of Commerce of the United States.
Chevron U.S.A., Inc.
Chocolate Manufacturers Association.
Citizens Against Government Waste.
Citizens for a Sound Economy.
Commercial Weather Services Association.
Committee for Private Offshore Rescue and Towing.
Composite Can and the Tube Institute.
Consumer Alert.
Contract Services Association.
Coors and Company, Adolph.
Dairy and Food Industries Supply Association.
Dayton Hudson Corporation.
Distilled Spirits Council of the U.S.
Entrepreneurs of America.
The Gap, Inc.
Georgia-Pacific Corporation.
Grace and Co., W.R.
Grocery Manufacturers of America.
Helicopters Association International.
Independent Bakers Association.
International Ice Cream Association.
K mart Corp.
Koch Industries.
Marriott Corporation.
Milk Industry Foundation.
National-American Wholesale Grocers' Association.
National Association of Brick Distributors.
National Association of Convenience Stores.
National Association of Manufacturers.
National Association of Realtors.
National Association of Truck Stop Operators.
National Candy Wholesalers Association.
National Cattlemen's Association.
National Federation of Independent Business.
National Food Brokers Association.
National Grange.
National Independent Dairy-Food Association.
National Limousine Association.
National Printing Equipment and Supply Association.
National Tax Equality Association.
National Tax Limitation Committee.
National Taxpayers Union.
NL Industries.
Printing Industries of America.
Recreation Vehicle Industry Association.
Reynolds Metals Co.
Savers and Investors League.
Sears, Roebuck and Co.
Sun Company.
United Bus Owners of America.
U.S. Business and Industrial Council.
U.S. Federation of Small Businesses.
The Walgreen Company.

Mr. HOLLINGS. Madam President, my point is that this letter is not just deluded, it is irresponsible. It claims that we can and should end the deficit strictly by spending cuts. Yet the truth is that you can literally eliminate all the rest of the Government—the Congress, the courts, the President, the FBI, the FDA, EPA, the farm program, welfare, foreign aid, you name it—just eliminate the rest of Government and you are still left with a deficit.

I did not say anything about reducing the rest of Government. I said just eliminate it in toto. That would be crazy. We have to bring America into the real world, confronting the problem that we face.

Having said that, I am obliged to resist and expose these advertisements for fiscal irresponsibility. Specifically, when you read this article about the death of Gramm-Rudman-Hollings, that it has not worked, that it is a farce and ought to be gotten rid of, let us just remember what the strategy is. The strategy of the administration, and of a substantial number of the conferees or summiteers, is to say: Look, put the S&L bailout off budget. That solves $60 billion of your problem; maybe $100 billion of your problem.

Next, they say extend Gramm-Rudman-Hollings for 1 year, and you solve another $40 billion of your problem. That is exactly what we did, as the President knows, last Thanksgiving, last November. We said the deficit was $100 billion, but by January it was already $158 billion. The latest estimate of the 1990 deficit is $175 billion.

But specifically, if you extend Gramm-Rudman-Hollings a year, then you pick up another $40 billion. So now you are down to only a $100 billion deficit problem, and then all the summiteers need do is say to the Congress, look, we will take the House, the Senate, and the President's revenue number, user-fee number, and entitlement cuts, and read our lips, taxes are not necessary. The problem is solved without pain and without really doing anything.

It doesn't take a rocket scientist to see what their game is. And they will all crow, look, we have done our job. We do not have to raise taxes. We all worked hard. We worked late hours into the night on this thing. We have been summiting and trying to get together since May. The country is in the very best of hands. Then we all go home and have a Merry Christmas. What a farce.

Now, specifically with respect to the Mufson article, it is an advertisement for the murder of Gramm-Rudman-Hollings. When we get down to the sixth paragraph commencing, "The deficit reduction law is widely regarded as a failure. Originally, the act required the budget now being negotiated to have a deficit of zero," Later on in the article it is very amusing because Alice Rivlin, senior fellow of Brookings Institution, is quoted as urging that to get really serious about the process—"3-year projections are used to show the longer term impact on the budget." Well, Gramm-Rudman-Hollings had a longer term than 3 years. It had 5 years. So you can see the inconsistencies here as they attempt to paint a particular picture that is not factual. In fact, when they make the statement that Gramm-Rudman-Hollings is widely regarded as a failure, that is wrong because it is widely regarded as a success. Go to the previous paragraph and read that first sentence:

> It is doubtful whether the Bush administration and Congress would ever have been forced to hold their budget summit this year were it not for the threat of automatic budget cuts that would go into effect in October under Gramm-Rudman-Hollings.

Let us take another statement by Jim Jones, the former Oklahoma Congressman who was the Budget Committee chairman. They quote him, "Gramm-Rudman in private conversation is considered a farce," said Jim Jones.

Now, that statement is in itself a farce, in this Senator's opinion, because it is precisely in private conversation that everyone speaks with horror of the threat of sequestration. It is in public conversations that, in order to try to maneuver around Gramm-Rudman-Hollings, we say, oh, it is merely process; we have to amend the process; the process just is not

working and everything else of that kind. I never heard such nonsense. Gramm-Rudman-Hollings is working, except when you amend it as has already been done one time de jure, by law, or de facto, by fact, as when you extend out under false economic assumptions as we did last Thanksgiving.

Also in the article, Madam President, it said, "One reason the targets were missed is that they encouraged the administration and Congress to do anything necessary to meet the target." Well, just because people violate the 10 commandments, circumvent them, does not mean the 10 commandments are not valid. That is the illogic here. In fact, another sentence here by Alice Rivlin says, "Gramm-Rudman created incentives for sleight of hand and budgetary gimmickry."

By the same illogic, the 55-mile-an-hour speed limit on the Washington Beltway encourages everybody to go 64 miles an hour because that is the average speed on that beltway. No, no, no, not at all. In fact, no one suggests that we do away with the 55-mile-an-hour speed limit. It is the only restraint we have.

The law, the provision, the commandment, the requirement of Gramm-Rudman-Hollings is clear. It does not encourage any of these negative things they are talking about. As George Will said in his morning Post article, if they would only resort to a little bit of truth, then we can see the enormity of the problem, the enormity of the responsibility, and the positive need for a substantial tax or revenue program, and we will quit wasting the time of the Congress and the people trying to extend out under the charade that we have to wait until the lame duck session. They ought to get together before July 4. They are all grown men.

The Secretary of the Treasury has already testified, and we know now they have a full court press on to go ahead with the budget on the Senate side. I can make a categorical statement without dispute. You can pass the Senate budget as reported by the Senate Budget Committee, you can pass the House budget as reported by the House Budget Committee, or you can pass the President's budget as submitted by the President, and all three of them, we know, would call for anywhere from a $30 billion to $40 billion sequester. On August 15, Mr. Darman has to make a snapshot, and then we have to comply with that particular snapshot on August 15. But mind you me, the full court press is on to get away from the responsibility and not sustain any momentum.

They do not need any more momentum. All you have to do is tell the summiteers that the S&L bailout shall not pass off budget; we are going to keep it on budget. We are going to keep truth in budgeting and everything on the table. We insist on keeping the S&L bailout on budget by pointing out that other programs involving working capital are on budget. Farmer's home loans are on budget. REA is on budget. Student loans are on budget. And so on. So if we are going to start off-budget shenanigans for working capital programs, then we are going to have to go whole hog and put the entire budget off budget; then go on home and face the music.

If we are not going to have truth in budgeting in the news media, the public will never know what's going on. The politicans do not want the public to know. We can all just finesse the particular problem and go on home.

Reports of Gramm-Rudman-Hollings death are greatly exaggerated. It is very much alive. It brought them to the summit. I hope it gets them to realism. I hope it gets them to the truth. When we talk in terms of a deficit of $300 billion to $400 billion, then the irresponsibility and absurdity of "read my lips" is plain to see.

We have to get serious about the budget mess and come up with a substantial tax program of a consumption nature that will satisfy our revenue needs and take advantage of opportunities in Europe and down in Central America. We have a glorious chance to move from the cold war to the trade war, move from military security to economic security. We need a mini-Marshall Plan for Europe and Latin America. We need a maxi-Marshall Plan for our own country.

Everybody wants to take care of the nuclear cleanup. The House passed last night an expensive clean air bill; we have a child care bill on the griddle; we have increases in education; we have increases in research; we have increases in drug enforcement. All of these increases are valid ones, should be passed, and should be paid for.

I yield the floor.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. I ask unanimous consent that the underlying business be suspended, and that I might proceed as though in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota is recognized.

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER pertaining to the introduction of S. 2686 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CLEAN AIR LEGISLATION

Mr. DURENBERGER. Madam President, I rise now to thank my colleagues in the House of Representatives for the action they took in the last 2 days first for the Americans With Disability Act which all of us were very much a part of during 1989 in this body. The vote was so overwhelming as to be an indication to everybody in America that finally civil rights for 43 million disabled Americans will be a reality.

It is one of those times when your emotions speak better than your words, for all of us who were so deeply involved on this side, on the other side, and in our own communities, learning the abilities of persons with disabilities.

I congratulate my colleagues over there. They had a tougher job than we did because there are four different committees they had to go to. I am very proud of my subcommittee chair, TOM HARKIN—I was the ranking Republican—of my full committee chair, TED KENNEDY, and of my ranking Republican on our committee, ORRIN HATCH, of the senior Senator from Maryland, who currently occupies the Chair, and the other members of that committee who gave life originally to this important piece of legislation.

I congratulate the House also on its swift action with respect to the Clean Air Act. Here was an area in which we took an awful lot of time on this side, and they passed that bill in a spirit of bipartisan and regional compromise which was almost without parallel, on the House floor yesterday.

That was a great achievement for the members of that body. It is evidence that the American people want a strong bill sent to President Bush.

Unlike our experience here in the Senate, the amendments which were adopted on the House floor generally strenghened the bill that was reported by the committee. Provisions to protect visibility, require clean fuels and cleaner cars, prevent chemical accidents, lengthen consumer warranties and regulate offshore emissions were approved by the House in a single day of debate.

I was especially pleased by the amendments on reformulated gasoline and chemical accidents which the House adopted.

Members of the other body were not intimidated by the multimillion dollar public relations campaign conducted by the oil industry against government gas.

In their advertising, the oil industry claimed that its chemists and engineers are on the trail of cleaner fuels and left alone they will find a better fuel at a lesser cost. The sad fact is that fuels have gotten dirtier over the past 20 years and will continue in that

direction absent action by the Federal Government.

We have made great strides under the Clean Air Act since 1970 in cleaning up the automobile by requiring that pollution control technology like catalytic converters and evaporative canisters be installed. This has come at considerable expense to the automobile owner. There is perhaps $1,000 of emissions control equipment on today's cars.

But much of the air quality improvement which should have been gained by this investment has been undercut by the declining quality of the fuels that we put in our cars. We have taken lead out of gas at the Government's behest. But the oil companies replaced that lead with a class of chemicals called aromatics which are potent cancer-causing substances. In 1970, the aromatic content of gasoline averaged 20 percent. Today, the average is 38 percent with some fuels being up to 54 percent aromatic hydrocarbons.

The oil industry sells highly toxic fuels at premium prices and suggest that America's cars will perform better with the extra octane that aromatics provide. Thirty percent of the public is paying as much as 15 to 20 cents per gallon to buy these high-test fuels. In point of fact only cars that knock require higher octane gas. And only 8 percent of the cars on the road knock with regular unleaded. If your car doesn't knock, you get no benefit for the extra 20 cents per gallon. In fact, in addition to more exposure to benezene and the other aromatics, the consumer buying high-test fuel may well be reducing engine performance as aromatics in fuel contribute to valve deposits in engines.

The House followed the Senate in recognizing that there is another means to replace the octane that was lost when lead was phased down. The alcohol additives—ethanol and methanol—and ether derivatives—MTBE and ETBE—made from these alcohols can get the octane without the toxic side effects.

Fuel has become dirtier over the past 20 years in another way. The oil companies have been adding large quantities of butane to their gasoline blends. Butane is cheaper than natural gasoline and the other components and has helped refiners hold costs down.

But butane is highly volatile meaning that it evaporates rapidly to the atmosphere where it can combine with sunlight and nitrogen oxides to form ozone, the summertime smog which plagues more than 100 of our major cities. The volatility of a fuel, a critical factor in determining its ozone-forming potential, is measured as Reid vapor pressure or RVP. The RVP of gasoline in 1970 averaged about 9 pounds per square inch. In the summer of 1988, the average was 11.5 pounds. Just that difference in the RVP of fuels contributed 8 percent of all the ozone-forming emissions in the summer of 1988.

The bills passed by the House and Senate will require that all fuels be returned to the 9 pound per square inch RVP. But the reformulated gasoline provisions of the bills will require an additional reduction of 15 percent in ozone-forming emissions in the cities with the worst smog problems.

Looking at these combined requirements—a limit on aromatics and further reductions in RVP—I believe that the additive ETBE which is made from ethanol and a chemical ether will play a large role. ETBE can add the octane necessary to replace aromatics. And it has a much lower RVP than the base gasoline. It is rated at about 4 pounds per square inch RVP. Although ETBE has not played a big role in the fuel market to date, it appears to be the additive best able to satisfy the reformulated gas requirements of the House and Senate bills.

I was also very pleased that the House strengthened the accident prevention provisions of their air toxics title. In the first 5 years of the 1980's, the United States experienced over 11,000 chemical accidents which killed more than 300, seriously injured 11,000 and forced hundreds of thousands to evacuate jobs and homes temporarily. We were fortunate that no event had an impact like that which occurred in Bhopal in 1984. But we were chilled to read the 1989 EPA report which concluded that 17 of these U.S. accidents had the potential to do even more damage than was experienced in the Bhopal event.

I believe that hazard assessments and risk management plans must be developed by all industries handling extremely hazardous substances to reduce the risk of catastrophic releases. Yesterday, the House moved in the direction of the Senate bill by adding these requirements and I commend the principal author of those provisions, Congressman RICHARDSON, for his foresight and determination in pressing the amendment.

Madam President, I would comment on one final issue in the House bill. That is the residual risk program in the air toxics title. The conference between the House and the Senate will need to close a considerable gap in this area as the provisions in the two bills are very different.

The Senate bill requires that the excess risk of cancer from any source be reduced to no more than 1 in 10,000 with an ultimate goal of reducing risk to no more than 1 in 1,000,000. The Senate bill allows sources to apply for alternative emissions limitations on a site-specific basis.

The House bill reverts to current law in the second phase of the air toxics program. Current law requires EPA to set standards which "provide an ample margin of safety to protect public health." The meaning of this phrase has been amplified recently in decisions of the D.C. Circuit Court of Appeals and rulemakings for the hazardous air pollutants, benzene and radionuclides.

It is reported in the press that both the environmental community and the industrial community prefer the House approach to residual risk over that which is contained in the Senate bill. Some have concluded from that preference that the House bill would provide more protection for public health at a lower cost. But that seems to me quite unlikely, since the standards we are considering are emissions rates. How a standard, expressed as emissions in pounds per hour, can be both more stringent and less costly is beyond my comprehension.

More likely the desire of the outside interests for the House language is based on their optimistic assessment of their influence on the regulatory process in the future. It is clear that neither the industry nor the environmental community like the Senate language. Industry thinks it too tough and expensive; the environmentalist believe that it compromises too much with the actual conditions which obtain at a particular site.

The great advantage in the House language to both groups is that the precise meaning of "ample margin of safety to protect public health" still isn't pinned down, despite the court decision and the rulemakings. Each group believes that the wiggle room provided by returning to current law will allow them to move the ultimate standard further in their own direction than could be accomplished under the very precise Senate language.

Quite often in the legislative process, language which is imprecise and admits of a wide range of interpretations is of great advantage. It makes the process of compromise and consensus building easier to accomplish. But there is also frequently a penalty to be paid. Laws which have the potential to impose large costs stated in vague terms are often not implemented by the agencies responsible for their administration. That has certainly been the case with the language in section 112 of the Clean Air Act. And there is no way that a citizen or a Member of the Congress can force action, because there is no objective yardstick against which the Agency's shortcomings can be measured.

I believe that any citizen group competent in the areas of law and toxicology or ecology could, under the language of the Senate bill, bring suit against the Administrator of the Environmental Protection Agency if he or she fails to implement the second phase of the Air Toxics Program

which the Senate has prescribed. That is one function of a bright line standard.

Under the House bill, the prospects of a successful suit against an EPA reluctant to protect public health would be very unlikely. The House proposes that we return to current law. And under that law, the nation has for 20 years failed to make any significant progress on the air toxics problem.

Another real difficulty with the language of current law is that it does not consider the environmental effects of these toxic air pollutants. As we learn more about the impact of air toxics on the Great Lakes on the Chesapeake Bay and on coastal waters, I believe that controls beyond those required to protect humans from exposure to direct emissions may well be necessary. The authority to take those steps to protect important environmental resources might be sacrificed, if we were to rely solely on the language of current law to carry out the residual risk portion of the air toxics program.

With that caution, Madam President, I want to say again how pleased I am that the House has completed action on its bill. It is a good bill.

All of the Members who put in long hours at hearings and markups in developing the floor amendments over the past few weeks deserve our praise, the thanks of the American people for the effort they have made, and our commitment in conference to deal fairly with them, as they have with the Senate product. I trust that all sections of the bill, including the incinerator title, which I added on the Senate side, will be included in the conference, and in the final result that this bill is sent to the President. I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. BIDEN. Madam President, I ask unanimous consent that the time for morning business be extended an additional hour and that any Senator be entitled to speak up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON addressed the chair.

The PRESIDING OFFICER. The Senator from Illinois.

DENIAL OF MOST-FAVORED-NATION STATUS FOR THE PEOPLE'S REPUBLIC OF CHINA

Mr. DIXON. Madam President, the administration will recommend today the renewal of most-favored-nation status for the people's Republic of China. The Administration is dead wrong on this policy.

I recall vividly the brutality of the Chinese military as it mowed down unarmed Chinese workers and students. I further recall the Chinese Government denying the massacre ever happened. I remember the administration toasting the Chinese Government in Beijing while the Chinese army's weapons were still warm and the blood still stained the square and I remember the President assuring the Nation that his policy for dealing with the Chinese was to encourage them to liberalize.

Rather than restore respect for human rights in China, the Government of the PRC has once again turned inward and decided first to teach its populace a lesson and then deal with the rest of the world. Church men and women have been silenced. Strict rules against foreign study have been implemented. Dissident Fang Lizhi, his wife and son are still living in the United States Embassy in Beijing, since the Chinese Government will not let them exist the country until he signs a statement that he is guilty of criminal activity and will not speak out against the Chinese Government outside of China. He has committed no crime. He wanted to live, think and speak freely in his own country.

My distinguished colleague from New York, Senator ALFONSE D'AMATO, and I have offered Joint Resolution 325, denying most-favored-nation status to the PRC for 1 year. While we want the PRC to know how strongly Congress feels about its human rights abuses and policies, we also are open to considering changes in this resolution which would reflect our steadfast commitment to genuine improvements in human rights in China.

There is a poster in my office with the famous picture of the Chinese gentleman standing in front of a convoy of tanks. On the poster are these words, "One man, standing against madness, kindles anew the sparks of freedom and elevates the spirit of man. How can we not stand with him?"

Indeed, Madam President, how can we not stand with him? If we truly stand with him, then we must deny renewing MFN status. If the Chinese regime wants the trade benefits of this country, then it must change its present course. If they do change their course, then they will deserve MFN status. They will deserve it then, but they do not deserve it now.

Madam President, I ask unanimous consent to print Senate Joint Resolution 325 at this point in the RECORD, and it will be a reprint since I introduced the resolution last night without these remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 325

Whereas the People's Republic of China has been a beneficiary of most-favored-nation status since it was first granted in 1980;

Whereas the Government of the People's Republic of China brutally attacked and killed thousands of unarmed prodemocracy students in Tiananmen Square on June 3, 1989;

Whereas the Government of the People's Republic of China steadfastly refused to acknowledge the deaths or the Chinese military's direct involvement in the massacre;

Whereas the Government of the People's Republic of China has stepped up the persecution of the Roman Catholic Church and other religious groups;

Whereas the Government of the People's Republic of China has purged or persecuted Chinese academics, journalists, police, and government officials who expressed any support for the democracy movement, and has placed new restrictions on international travel and study on any of its citizens suspected of supporting democratic ideals;

Whereas the Government of the People's Republic of China refuses to provide the names of those arrested and the crimes they are charged with, and conducts most of the trials of those accused in secret;

Whereas the Government of the People's Republic of China refuses to allow dissident Fang Lizhi and his wife Li Shuxian free passage out of country;

Whereas the Government of the People's Republic of China continues to repress and imprison voices of democracy within China;

Whereas the Government of the People's Republic of China has introduced new measures intended to suppress freedom of thought and speech against the populace;

Whereas the Government of the People's Republic of China continues to intimidate Chinese students in the United States, and their families in the People's Republic of China for their prodemocracy activities;

Whereas such actions stand in defiant contrast to the values, principles, and policies of the United States;

Whereas most-favored-nation status has enabled the People's Republic of China to develop a growing trade surplus with the United States, amounting to 9.7 billion dollars between 1988 and 1990; and

Whereas renewal of most-favored-nation status would show United States support for a brutal, murderous regime and ignore the actions taken by the Government of the People's Republic of China against Chinese students and others who believe in and fight for democracy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, products of the People's Republic of China shall not receive nondiscriminatory treatment (most-favored-nation treatment) during the one-year period beginning on the date of the enactment of this joint resolution.

Mr. DIXON. Madam President, may I further make this observation: Our distinguished majority leader, Senator MITCHELL, will introduce a bill with a number of cosponsors and I will ask unanimous consent to be listed as a cosponsor of that worthy legislation at the appropriate time.

Madam President, I have no particular pride of authorship in this Senate joint resolution which I have crafted on a bipartisan basis with my friend from New York State.

I would hope that men and women of goodwill on both sides of the aisle

would come together and send a message to the administration about this issue.

In view of the fact that no one else has come to ask for time, I will indulge myself only a moment longer by making this observation: When this most-favored-nation status legislation was passed years ago, the object of it was to reward our friends and civilized nations and to be considerate of those who were considerate of human rights and believed in democratic institutions and sound civilized policies.

It really bothers me that this legislation is losing its meaning. Here we are contemplating MFN status for China with all of these egregious, outrageous acts that have taken place in that country.

The President is discussing most-favored-nation status for the Soviet Union and indicating he wants the Soviets to be present at the next round of GATT talks, notwithstanding the outrageous treatment accorded Lithuania, Estonia, and Latvia. Those countries are in dire circumstance—medical supplies in short supply, food in short supply, clothing in short supply, and petroleum in short supply. Now the people cannot even buy the modest, necessary amount of gasoline to use their automobiles on a limited basis.

I think it is a tragedy that we have so little regard for the work we have done in the past in passing significant legislation to address this kind of a problem.

I thank the Chair, and I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE COST OF THE SAVINGS AND LOAN RESCUE

Mr. KERREY. Madam President, I rise today to discuss once again the continuing revelations about the mounting costs of the savings and loan bailout. In particular, I feel as if I have been kept in the dark. I feel, particularly as I go into recess, as I go home to face my taxpayers, as if I am poorly equipped to answer the questions they are going to ask, that I simply do not have all the information I need.

I have pointed out previously and feel strongly, in fact the President has organized this particular program of his so to be able to control the flow of information, and what we want to do in fact is to reorganize so that we can bring more light upon the subject so that we can discuss a variety of policy options so we can tell our people what is going on. Today we cannot. Today we depend upon the Secretary of the Treasury to come occasionally to Congress and reveal additional bits of information according to the dictates of the law.

In fact, in the House of Representatives now there is a bill there that has been introduced, as I understand it, on behalf of the Secretary of the Treasury to further consolidate his power so as to be able to control the information even more.

To give you a sense of how I feel at the moment, I would like to review four separate events that occurred yesterday and give my colleagues the sense of how we are limited in our capacity to understand what is going on.

There were four separate events yesterday, three committee hearings, and one press conference that presented different aspects of the problem.

Secretaries Brady, Kemp, and Chairman Greenspan, three men who have little real time for the enormous oversight responsibilities they have been given, appeared before the Senate Banking Committee in their capacity as members of the Oversight Board for the Resolution Trust Corporation.

Mr. William Seidman, concurrently chairman of the FDIC and the RTC, the Resolution Trust Corporation, appeared before the Senate Appropriations VA-HUD, and Independent Agencies Subcommittee in his capacity as Chairman of the FDIC.

Mr. Richard Darman, Director of the Office of Management and Budget, appeared before the Senate Appropriations, Treasury, Postal Service and General Government Subcommittee.

Mr. Timothy Ryan, the newly confirmed head of the Office of Thrift Supervision, the agency responsible for regulating the non-Federal savings and loan industry, that is that industry that has not been seized by the Federal Government and not being operated by our Federal Government, commented before the press on new cost calculations by the Office of Thrift Supervision.

The facts that were revealed in their testimony were merely summarized in the news reports this morning. I do not know how many of my colleagues have had the opportunity, but just the summary of these four events is not an easy read. Just trying to sort out the complexities of these summaries, not the details that were offered in each one of these four encounters, but just the summaries that are in the press, are difficult in fact for us to sort out.

From Secretaries Brady and Kemp and Chairman Greenspan we learned that the savings and loan program expenditures will be much more than was estimated last year or was included in the President's budget at the beginning of this year.

We are being told now that instead of $50 billion, the program will cost $130 billion. That does not include the savings and loans that were shut down in 1988, and that does not include interest as well as other expenses that are now estimated to approach $300 billion over the next 10 years, although we are not even sure if that is the correct figure. Secretaries Brady and Kemp and Chairman Greenspan said in fact in the hearings that most of this was as a consequence of the decline in real estate values, that they had a greater difficulty, they said, of selling the savings and loans than what they had thought.

Madam President, last year when this bill was debated it was a bit more than just overestimating the real estate values. Last year, when this bill was debated, the administration was asserting against all other testimony that deposits would actually increase in the seized institutions, that in fact interest rates were going to decline in the United States of America, and that the franchise value of these seized institutions would be so great that they would have no difficulty at all finding entrepreneurs that would come and purchase them whole, in the face of all kind of evidence from witnesses who said that in fact the damaged assets, the assets that were impaired by all kinds of liens, would be difficult to sell. In fact, they have only been able to sell three or four of these savings and loans.

The Chairman of the FDIC, Mr. Seidman, testified in front of the Presiding Officer's subcommittee that the deals done in 1988 has also increased. Mr. Seidman, who has perhaps been the most honest of all the people—in fact, so honest the administration has decided they have to get somebody else to take his place—has said, as the Presiding Officer offered, under question that he essentially has a blank check that he has been given from Congress.

I point out to my colleagues that the President is constantly reminding the American people that it is we in the Congress who have the responsibility for expenditures. Mr. Seidman is saying that this blank check will now require an additional $4 billion in fiscal 1991 for the institutions that were closed prior to the passage of the savings and loan legislation last year.

From Mr. Darman we were told that he knew this was going to happen all along, that in fact he even warned us on page A-21 of his budget manifesto; though Mr. Darman, in his budget, only asks for $7.4 billion in the January budget presentation made by the President.

From Mr. Ryan we learned that the suspicions of many taxpayers have

been confirmed and that the prosecution of wrongdoers has not proceeded at a reasonable pace. However, he did not provide much detail beyond the simple admission of the obvious.

Mr. Ryan's office did release new calculations dividing the savings and loan industry into four categories of comparative health. And I urge my colleagues to at least absorb that amount of information so that you have a sense of the requirement that we have, I believe, to ask for more oversight than we currently have, to ask for better accounting than we currently have. Otherwise, it is going to be difficult for us to face our taxpayers and say we are doing our job.

In group No. 1, there are 1,267 well capitalized and profitable institutions with assets of $399 billion.

In group No. 2, there are 621 institutions with $327 billion in assets that are expected to meet the new capital requirements. Few, if any, of these institutions are expected at the moment to fail.

In group No. 3, there are 315 associations with total assets of $152 billion that are troubled by poor earnings and low capital levels.

In group No. 4, there are 299 institutions with $193 billion in assets that are fully expected to fail.

In group No. 5, there are 423 institutions that have already collapsed.

I ask my colleagues to consider that what we have done with these 423 institutions is we have taken them over. We are operating them. They are open for business. They are taking deposits that the taxpayers are guaranteeing up to $100,000 and we are paying the operating losses every single day for these 423 institutions.

It is estimated by some, in fact warned in rather dire fashion by most of the witnesses yesterday, that there is a possibility that group 3 and group 4 could join the group 5 that have been collapsed and seized by the Federal Government. And if that happened the Federal Government would have 1,037 thrifts with $530 billion in assets.

Both Mr. Brady and Mr. Greenspan referred to these numbers and seemed to confirm that even the estimates they had previously discounted as exaggerated may actually be correct. Mr. Greenspan stated that GAO's most recent projections that the eventual cost will range somewhere between $320 billion and a half a trillion dollars may actually be surpassed.

Mr. Greenspan also, under questioning by the Banking Committee, almost miraculously, in my mind, asserted that he did not believe in and of itself that this would have much of an affect upon interest rates; clearly not only in conflict with common sense but also in conflict with what Mr. Darman told the Appropriations Committee insofar as the administration is concerned and the need to schedule the current budget summit that we are watching.

Although I welcome a more honest assessment of the extent of the problem, I find it strange that this assessment comes only 3 months after the administration had suggested that only $7.4 billion was necessary in 1991. On the surface it would lead one to suspect that the administration probably knew better in January, but felt politically constrained not to square with the American people least the President would have to sacrifice some of his stated objectives: going to Mars, being the first in math and science by the year 2000, and so forth, or worse, that the administration organization was physically incapable of discovering what that number was until this late a date.

I am also concerned, as I said at the beginning, about the vehicle we have in place to tackle the savings and loan rescue. The Resolution Trust Corporation and the overall structure of the bailout mechanism is poorly designed. Simply, with all due respect for his capacity and his skills and his integrity, I reject the Treasury Secretary's assertion that we should not tinker with it. Congress should not tinker with this, the Treasury Secretary said. What Congress should do is simply give him more money. That is what we ought to do. If we just give him some more money he is going to be able to solve this problem.

I suggest, Madam President, the track record thus far does not support that.

The Resolution Trust Corporation and the overall structure of the bailout mechanism is poorly designed. It is characterized by overlapping jurisdictions, political infighting and confused lines of authority. I maintain that we need a restructuring of the bailout machine in order to open up the process—to democratize the proceedings and streamline the lines of authority—so that the American people know what is happening.

At this point the Americans people are numb and angry. They hear conflicting numbers and stories. They hear a President who so underestimates the cost of his program that he must 4 months later ask for an additional $56 billion. As with the deficit, we are delaying the bad news until the next generation when it will be too obvious that we have neglected to invest in our children's future.

Madam President, I simply ask my colleagues these questions:

When you go home on recess, are you going to be able to explain to the citizens of your State how much of their money is going to be needed this year and next?

Are you going to be able to tell them where the money is going?

Are you going to be able to read all the testimony—or even the newspaper accounts—let alone the detailed documents provided by each one of the witnesses?

As a representative responsible for going to the people for their tax dollars, are you comfortable the money is being well spent? Are you comfortable with the statement made by Chairman Greenspan that this will have no impact on interest rates? Are you comfortable about the amount of oversight you have over policy decisions relating to housing, the operation of healthy institutions, or the disposition of seized property?

Madam President, I answer all of these questions with a resounding no, and I believe strongly this Congress needs to ask these questions.

The executive branch—which has organized this bailout so there is a minimal amount of public oversight—has covered itself by warning us the cost will exceed by a considerable amount their earlier estimates. They have the requisite staff and time to fully analyze all the data and information available. I do not.

The executive branch is essentially saying to each of us: Trust me. Give us the money and then trust that we will do what is right.

Madam President, I was not elected to operate this way, and I am growing weary of being kept in the dark.

In the process of answering, I believe that we will discover the need to reorganize this effort, principally to get additional oversight, and principally so we can discover, in fact, what is going on so we have the confidence we are going to need when we face the taxpayers to say to them what is going on and that, in fact, the money is all accounted for and people who took that money have been accounted for, as well.

I yield to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. First of all, let me congratulate my friend, the distinguished Senator from Nebraska, for his cogent remarks, which I believe are remarks that should be carefully considered by every Member of the United States Senate.

I mentioned to him a moment before he was prepared to make his remarks that I was anxious to follow up his remarks by reading a column in the Chicago Tribune of Thursday, May 24, 1990, section 1, page 3, by one of the great columnists in this country, Mike Royko, who writes daily in the Chicago Tribune.

The headlines is "S&L Looters Should be Deposited in Jail."

The column says

Our Washington financial wizards are now saying that it's going to cost us about $250 billion to clean up the savings and loan dis-

aster. Or maybe it's $300 billion. Nobody is sure what the final loss will be because so many thrift institutions, as they are laughably called, are staggering and might go under at any moment, upping the tab.

This means that those of us who pay taxes will be digging deep for years. The losses might be so big that our kids could be paying after we're gone.

And we're not talking pocket change. It will probably be at least $1,000 from every man, woman and child in this country. But because not every man, woman and child pays taxes, it's going to cost those who do several thousand.

So we've been had. We've been fleeced. We've been taken. All we can do is pay and hope it doesn't happen again, right?

No, that isn't right. It's one thing to be fleeced. It's another to get nothing in return.

This isn't the first time we've been taken. But in most cases, we have some little thing to show for it.

If the Pentagon spends billions to develop a tank that can't make a left turn or an airplane that can't fly, we have some tanks that can't turn left and planes that don't fly. You never know—some day the Japanese might want to buy them as souvenirs.

When a federal agency spends money on scholarly studies to determine what percentage of urban pigeon droppings land on people's hats, the studies give a laugh or a moan. That's not much, but it's something.

So we should demand that we get some small token of appreciation for the hundreds of billions we're going to fork over because of the mismanagement, bumbling and outright theft that brought about the S&L scandal.

And that small token should be revenge. Vengeance is mine, sayeth the clobbered taxpayers. At least that's what this taxpayer sayeth.

Since the scandal began, we've heard all sorts of excuses. The sagging real estate market did it. Regulations did it. Deregulation did it. And it was nobody's fault.

Nobody's fault. That was the copout tossed at Congress this week by George Bush's son, who served on the board of a failed Colorado S&L. It was sort of like being hit by lightning, to hear him tell it. Of course, his S&L made goofy loans to some of his business associates. But what are friends for?

Nobody's fault? While Ronald Reagan napped and his administration opened the vault, the pinstripe bandits rushed in and started stuffing their pockets. With mere strokes of their gold-tipped pens, they pulled off heists that made John Dillinger look like a hubcap thief.

So what are the federal lawmen doing about the biggest collective swindle in our history?

They're telling us that they would really like to track down all the thieves and bring them to justice, but they just don't have the manpower. They sigh and say there are so many suspected crooks, so much looting, so many bad paper trails to pursue, but so few to pursue them.

If that's the case, then to heck with it—spend a few billion more and hire enough sleuths to do the job. At this point, what's an extra billion or two if it will provide us with the satisfaction of seeing the cell doors slam shut on a few thousand big-time looters.

After all, we pay a fortune to people who eyeball our tax returns so they can haul us before auditors who say: "Aha, you don't have a receipt for this TV set you gave to the Salvation Army? Pay, you rascal."

So why not spend what it takes to haul every S&L dipper into court. Maybe they won't all be convicted, but at least they'll sweat, develop ulcers and have to resign from their country clubs to pay their legal fees.

Hire the needed lawyers, the accountants, the paperwork bloodhounds who can sniff out the scams. Drag the hustle-bucks before grand juries. Let us hear them tearfully plead with a judge for mercy because they are good family men, never got a moving violation and have a character reference from a U.S. senator.

Remember, Jesse James took a bullet in the back. Dillinger was sprayed with so much lead that mining stocks jumped 3 points.

But in their entire careers, our two most legendary bank robbers didn't steal enough to furnish the offices of some of the S&L swindlers.

This is no time to skimp. I'll pick up my share of the tab, but in return I want to hear the sweet, satisfying sound of those ulcers popping.

(Mr. GRAHAM assumed the chair.)

Mr. DIXON. Mr. President, that is Mike Royko and he speaks for the streets of the cities like Chicago all over America and the rural areas as well.

I just want to conclude by saying this, Mr. President. We tried to take $3 million out of the supplemental to hire additional prosecuting attorneys and additional investigators. We were defeated 50 to 48 on a close rollcall. The occupant of the chair, this Senator, and many others, I am sure the Senator from Nebraska, will join us in attempting to get authorization ultimately in bills pending before us under strike force types of legislative mandates for more prosecutors and for more investigators.

My friend from Nebraska refers to Bill Seidman, a sound, decent man. He was on "Larry King Live" last night. What did he say to Larry King? He said they ought to sue everybody with a deep pocket that is responsible for any of this, and they ought to put anybody in jail that is guilty of fraud and criminality. I agree.

Mr. President, I say to my colleagues that if this is not done in this session of the Congress, it is the greatest outrage in the history of this country. My friend, the Secretary of the Treasury, appeared before our committee yesterday, and in the course of his remarks, he said, it just did not happen yesterday; it crept up on us over 10 years.

Mr. President, I remind this administration it was their 10 years. It was their 10 years, Mr. President. It was their watch. And now I say to them: Cooperate with the Congress and send every scoundrel to jail that stole one nickel of these hundreds of billions of dollars and sue every person with a deep pocket in America under the reasonably prudent man rule who has one-quarter that can contribute to this before we say to the taxpayers of America, you are at risk to this extent. That is what I think.

Mr. President, I ask unanimous consent that this wonderful article by Mike Royko, that tells it like it is, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

S&L LOOTERS SHOULD BE DEPOSITED IN JAIL

Our Washington financial wizards are now saying that it's going to cost us about $250 billion to clean up the savings and loan disaster. Or maybe it's $300 billion. Nobody is sure what the final loss will be because so many thrift institutions, as they are laughably called, are staggering and might go under at any moment, upping the tab.

This means that those of us who pay taxes will be digging deep for years. The losses might be so big that our kids could be paying after we're gone.

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Nobody's fault? While Ronald Reagan napped and his administration opened the vault, the pinstripe bandits rushed in and started stuffing their pockets. With mere strokes of their gold-tipped pens, they pulled off heists that made John Dillinger look like a hubcap thief.

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them to justice, but they just don't have the manpower. They sigh and say there are so many suspected crooks, so much looting, so many bad paper trails to pursue, but so few to pursue them.

If that's the case, then to heck with it—spend a few billion more and hire enough sleuths to do the job. At this point, what's an extra billion or two if it will provide us with the satisfaction of seeing the cell doors slam shut on a few thousand big-time looters.

After all, we pay a fortune to people who eyeball our tax returns so they can haul us before auditors who say: "Aha, you don't have a receipt for this TV set you gave to the Salvation Army? Pay, you rascal."

So why not spend what it takes to haul every S&L dipper into court. Maybe they won't all be convicted, but at least they'll sweat, develop ulcers and have to resign from their country clubs to pay their legal fees.

Hire the needed lawyers, the accountants, the paperwork bloodhounds who can sniff out the scams. Drag the hustle-bucks before grand juries. Let us hear them tearfully plead with a judge for mercy because they are good family men, never got a moving violation and have a character reference from a U.S. senator.

Remember, Jesse James took a bullet in the back. Dillinger was sprayed with so much lead that mining stocks jumped 3 points.

But in their entire careers, our two most legendary bank robbers didn't steal enough to furnish the offices of some of the S&L swindlers.

This is no time to skimp. I'll pick up my share of the tab, but in return I want to hear the sweet, satisfying sound of those ulcers popping.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended to 6 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Pennsylvania.

WHITE HOUSE CONFERENCE ON AGING

Mr. HEINZ. Mr. President, I would like to bring to the attention of our colleagues legislation which I introduced yesterday, together with 16 Senators, all of whom are members of the U.S. Senate Special Committee on Aging. It is legislation that we believe is important to all generations of Americans, in spite of the fact it purports to deal with a subject that is only of interest to the elderly; namely, legislation to hasten the convening of a 1991 White House Conference on Aging.

We say, and we believe, that it is important to Americans of all ages, not only because we will all be old someday—that goes without saying, if we are reasonably lucky—but because nearly all of us have at least one loved one who is already old. We are all, of course, aware that with age often come certain disabilities, needs, and changes of status. It has been traditional for many decades now to have a decennial White House Conference on Aging to take into account the changing needs of our society as we become a grayer America.

Our legislation is a concurrent resolution asking the President to call, without delay, for a 1991 White House Conference on Aging and to immediately commence planning and preparation for it.

At the previous White House Conferences on Aging, in 1961, 1971, and 1981, scholars, advocates, and policymakers established a rich tradition of effective nonpartisan dialog. Society has reaped the benefits of that dialog and new strategies for addressing the concerns and difficulties of a population that grows both more numerous as well as older. Mr. President, we believe the time has come to meet again in 1991 on the issues affecting older persons—income security, health, housing, social services, among the most pressing. These issues have reached unprecedented complexity and are in urgent need of new solutions.

An important example of an issue needing solution is that of long-term care. We know that a growing portion of our population is in need of community-based care, including home health care or even nursing home care. Indeed, the number of very elderly people who are three times more likely to need personal care than younger retirees, is growing almost twice as fast as the general population. We must develop a policy and a clear vision of the way we will fund and deliver long-term care to meet the needs of this population.

The need for a national policy on long-term care illustrates well the fact that aging issues affect not only the elderly themselves but all generations of Americans. According to a recent poll, four out of five Americans in the past 4 years have faced the need for long-term care for someone close to them. Those who carry a heavy share of the burden are women of the so-called sandwich generation, with growing children and aging parents, who frequently must leave jobs and forgo opportunities in order to cope with the demand of care from loved ones.

Mr. President, I share with many aging advocates, a growing concern that further delay in authorization of a White House Conference on Aging will jeopardize the very purpose and usefulness of that Conference. For past White House Conferences, the Chief Executive has signaled the time for preparation at least a year in advance, a deadline which will soon have passed us by. As advocates for solutions to aging issues my cosponsors and I stand ready to start the race to gather excellent minds in a meaningful discourse of these issues. We believe the President should, and we believe the President will, take up this opportunity to authorize the White House Conference on Aging for 1991. We urge immediate action.

The PRESIDING OFFICER (Mr. DIXON). The Senator from Pennsylvania is recognized.

Mr. HEINZ. I thank the Chair.

(The remarks of Mr. HEINZ pertaining to the introduction of S. 2689 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. I thank the Chair.

(The remarks of Mr. McCAIN pertaining to the introduction of S. 2689 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

ORDER OF PROCEDURE

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida, Mr. GRAHAM.

Mr. HUMPHREY. Mr. President, parliamentary inquiry. Did the Chair hear the Senator from New Hampshire seeking recognition?

The PRESIDING OFFICER. It was the Chair's understanding that the Senator from Florida was to be recognized next; that he had been seeking recognition previous to this time.

Mr. HUMPHREY. Further parliamentary inquiry. I do not wish to be sticky about this, but I have been standing here for close to half an hour. I think I arrived before the Senator from Florida. In any event, that is not the rule by which we proceed, whichever arrived first, unless the Senator is in a hurry, in which case I would yield to him, but I have been standing here for almost a half an hour.

Mr. GRAHAM. Mr. President, if I could ask the indulgence of the Senator from New Hampshire, my remarks will be brief. Then I will assume the chair, and he can have a high level of optimism as to the next person who will be recognized at that time.

Mr. HUMPHREY. Mr. President, if I may, I ask unanimous consent that following the remarks of the Senator from Florida, the Senator from New Hampshire be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 2688 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order, the Senator from

New Hampshire, Mr. Humphrey, is recognized.

MOST-FAVORED-NATION STATUS FOR CHINA

Mr. HUMPHREY. I thank the Chair.

Mr. President, this morning, President Bush announced that he intends to extend the most-favored-nation trading status to the People's Republic of China. I listened to the President's remarks. Among other things, the President declared that this extension of MFN is "not a special favor, it is not a concession. It is the basis," he said, "of everyday trade."

I agree with the President on that point. He is right. MFN is the basis of everyday trade. And everyday trade will now continue.

So notwithstanding the brutal slaughter a year ago in Tiananmen Square, it is to be business as usual, notwithstanding the continued massive human rights violations on the part of the Peking Government. It is to be business as usual. Business first, and human rights may take the hindmost.

Mr. President, that is a shameful way to conduct foreign policy, in the view of this Senator. For over 40 years the Soviet Union and nearly every East Bloc country has been denied the trade advantages with the United States which MFN status conveys. Vietnam does not have MFN. Poland and Romania had MFN and lost it. They lost it because the leaders of those nations abused their own people. There were no excuses then about everyday trade. There were no excuses.

One year ago, the Chinese Government brutally suppressed a student and citizen-led prodemocracy movement. The world watched in horror as tanks and troops fired on unarmed, peaceful demonstrators in Beijing. Over 10,000 Chinese were arrested, according to human rights organizations such as Asia Watch. Nearly all of these prisoners are still being detained, notwithstanding the release of a token 200-some-old prisoners last week. In addition, the Chinese Government has escalated persecution of religious groups, continues to use forced labor, jams the Voice of America, restricts the media, and harasses Chinese students in the United States. Notwithstanding the heinous actions of the Peking regime, however, President Bush has refused to withdraw most-favored-nation status for China.

In lobbying for a renewal of MFN for China, President Bush has allied himself with those here and abroad who do business with that country. That is unfortunate, because no business interest, no financial investment is more important than basic human rights. When President Reagan withdrew Poland's MFN status, he sent a clear message to Polish hardliners that repression carries a price. Last year, Poland had its first free elections.

Tragically, President Bush is sending a different message to the Chinese hardliners. He is sending the message that crime against humanity pays. He is sending the message that there is virtually nothing they cannot get away with. And President Bush is sending a message to the next generation of Chinese leaders, who will surely embrace democracy. He is sending the message that the United States is long on rhetoric, but short on principle.

When the Communist regime in Poland cracked down on solidarity and jailed its leaders, including Lech Walesa, President Reagan canceled Poland's most-favored-nation trade status. When the Communist regime in Peking slaughtered the students in Tiananmen Square and hounded the survivors for the next year, President Bush renewed most-favored-nation status.

Apparently, the difference between the two cases is that we have substantial trade with China, but we did not with Poland. Are we to conclude then that the criterion is commercial interests?

We cancelled MFN for Poland because we did not have much to lose financially. We upheld a high standard of human rights in 1982, when it cost us nothing. But in 1990, when it would cost us significantly, why human rights just have to take a back seat.

Mr. President, surely this is a mistaken policy. Surely, it is mistaken foreign policy. And may I say, as a Republican, it is bad domestic politics, as well. It will give ammunition to the President's opponents who wish to pain the Republican Party as the party of big business.

Section 2432 of title 19 of the United States Code states, and I quote:

> To assure the continued dedication of the United States to fundamental human rights, and notwithstanding any other provision of law, on or after January 3, 1975, products from any nonmarket economy country shall not be eligible to receive nondiscriminatory treatment (most-favored-nation treatment). * * *

This is the law, and the law goes on to cite specific actions which prevent those nonmarket economy countries from receiving MFN trade status.

Mr. President, China has violated those conditions, in letter and in spirit. The very purpose of that statute is to promote human rights abroad. It says that only nations which meet a minimum standard of conduct may have the trading privileges of most-favored-nation status.

Since June 4, 1989, the Chinese leadership has retreated from the very reforms that prompted the United States to grant China MFN in 1980. China has recentralized significant portions of its foreign trade, banking, and credit system, as well as its production planning, material allocation, and pricing systems.

Since June 4, 1989, China has also embarked on a ruthless campaign of political repression, publicly executing three dozen prodemocracy demonstrators, jailing thousands of participants in the prodemocracy movement without charges or trials, forcing Chinese students still at liberty to write confessions and to denounce their fellow students, and imposing severe restrictions on students who wish to study abroad. The dissident Fang Lizhi and his wife are also very public reminders that emigration is not free in China.

Mr. President, China's actions do not justify renewing MFN. If we, as a nation, stand for human rights and have codified that stance in law, we must stand for human rights in China as well as in Eastern Europe and the Soviet Union.

I listened to the President's remarks this morning. I have read the transcript.

Among other things, the President asserts that withdrawing MFN would hurt Hong Kong and that it would undermine the reformers in China. I am one who cannot see the logic of that statement. The situation in fact is just the opposite. Renewing MFN hurts the reformers, renewing MFN proves to the hard liners that their brutality carries no penalty. It will prolong their ruthless grip on the Chinese people. And the longer the old men in Beijing retain power, the more damaging it will be to Hong Kong. How is it in Hong Kong's interest to gird up the despots in Peking? Surely, instead, it is in Hong Kong's interest to see those superannuated relics punished, not rewarded.

The President claims that 20,000 Hong Kong jobs will be lost if MFN for China is not renewed. Every 20 weeks, Hong Kong hemorrhages 20,000 of its citizens who flee to other nations fearing the very hardline leadership in Peking whom the President proposes to reward. The long-term consequences for Hong Kong of keeping the hardline regime in power are far more devastating than the short-term ones caused by not renewing MFN.

The President has argued that the United States has already sanctions in place. If they can still be called sanctions, those measures have been consistently undermined until they have become almost meaningless. Under the so-called sanctions military exchanges were supposed to have been stopped, but United States defense firms continue to work on arms sales projects for the Chinese Government. Export licenses for three satellites were issued in December. Commercial airline sales

have resumed, even though their navigational systems have potential military uses, even though planes were used to transport troops to Beijing last spring to help carry out the massacre.

We have resumed Eximbank lending to China. Next week, on May 29, the World Bank will consider a $450 million loan package to Peking and, while the United States may make a big deal out of opposing such loans, our opposition means nothing since we control only one-fifth of the votes in that organization. That is yet another meaningless sanction to which the White House points in making excuses for its mistake on MFN.

Secretary of State Baker has met with the Chinese foreign minister; Vice President Quayle has met with the Chinese ambassador. These are actions which fit into the context of pretty nearly business as usual. The Peking regime has felt no real pressure at all from the United States. President Bush's remarks this morning confirm Peking will continue to feel no real pressure. That is unfortunate for the people of China and it is unfortunate for us, because it makes us look like cynics and money grubbers.

Contrast President Reagan's withdrawal of MFN from Poland in 1982, with President Bush's extension of MFN to the bloody regime in Peking in 1990. What must the youth of China think of us today? What must those young people who adopted the symbol of the Statue of Liberty think of us now? What must those students who erected in Tiananmen Square a statue they named the Goddess of Liberty think of America today, after President Bush's statement this morning.

Haiching Zhao, a post-doctorate student at Harvard University and chairman of the National Committee on Chinese Students Affairs, asks, "why toss the Chinese people to the wolves? Are they less human than others around the world for whom America has stood on principle?"

Mr. President, of course they are not. Yet that unfortunately is the implicit message that accompanies the President's remarks this morning, and they will be heard clearly and much appreciated by the hard-liners in Peking.

In testimony before a House Foreign Affairs Subcommittee, Mr. Zhao stated:

> We are not asking you to require that China adopt democratic values before MFN status is extended. All we are asking is that the most basic of human rights be respected.

That is certainly not too much to ask.

Another Chinese student, the vice president of the Independent Federation of Chinese Students, has said:

> We do not have the money, the sophisticated lobbying, the power of business groups in the United States and Hong Kong. But we ask that on the choice between human rights versus business, Congress will side with the principles of democracy and human liberty.

Mr. President, as I speak, in a jail outside of Beijing, groups of 30 prisoners share single, 20-square-foot cells. The prisoners are not allowed to talk. Once a day, they are allowed to get up off their mats to use the toilet. The prisoners cannot bathe. Each day, they receive only one small bowl of water. They can either wash with it or drink it. This grisly picture is reported in "Into the Bamboo Gulag," in the June edition of the Reader's Digest.

Many of the prisoners incarcerated in this brutal jail peacefully marched for democracy 1 year ago. Their release is nowhere in sight. I must agree with Haiching Zhao when he said that to continue MFN for China is "morally indefensible."

Revoking MFN for Poland produced results. Eight years ago, in the case of Poland, the United States acted on principle. The time has come for us to act on principle again.

Mr. President, I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

MOST-FAVORED-NATION TRADE STATUS FOR CHINA

Mr. PELL. Mr. President, the issue of whether China should continue to receive nondiscriminatory trade benefits is one of the most difficult we have had to face in a year of debate on China policy. We do not want to harm the outward-looking, reformist areas of the Chinese coastal and southern provinces or Hong Kong. But, we must give the hardliners in Beijing reasons to alter their policy of wanton disregard for human rights.

If we do continue to extend nondiscriminatory trade benefits to China, we must be sure to uphold a policy of "no business as usual" with the Chinese leadership. We must maintain a suspension of military ties with Beijing. World bank loans should be suspended unless they serve basic human needs.

We must clearly state to the Chinese leadership that improvements in our relations will depend upon the release of political prisoners in China and Tibet, upon ending of torture, upon an end to the jamming of the Voice of America and other sources of unbiased information for the Chinese people, and upon an end to arms supplies to the Khmer Rouge in Cambodia. Future granting of most-favored-nation status, should depend on progress on these issues.

Many of these ideas have been eloquently expressed by our former Ambassador to China, Winston Lord, in an article he wrote in the New York Times on May 9. Mr. President, I ask unanimous consent that Ambassador Lord's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 9, 1990]

BUSH'S SECOND CHANCE ON CHINA

(By Winston Lord)

June 3 marks the first anniversary of the massacre of innocents in the streets of Beijing. It is also the deadline for President Bush to decide whether to recommend continued most-favored-nation trade treatment of China.

This irony poses a dilemma—and offers a major opportunity—for the Administration. In one stroke, President Bush can close the breach between Capitol Hill and the White House on China policy, forge a common American front and promote Chinese human rights and U.S. national interests.

He should invite Congress to join him in crafting a joint statement for the first weekend in June. The essential components:

An eloquent tribute to the Chinese who demonstrated and died for the aspirations America has supported elsewhere in the world.

Extension of most-favored-nation trade status for one year, with the openly expressed purpose of supporting progressive forces in China, protecting concrete American interests and maintaining the framework for future American-Chinese relations. (This status entitles China to the standard treatment that the U.S. grants almost all other trading partners.)

Explicit reaffirmation of such existing measures as the suspension of military ties, the freeze on liberalization of technology exports and the postponement of World Bank loans.

Determination to move ahead on related issues, such as positive consideration of Taiwan's application to the General Agreement on Tariffs and Trade and enlarging future immigration opportunities for Hong Kong citizens.

A substantial increase in Voice of America funding to overcome jamming of programs beamed to China.

A meeting between President Bush and selected Chinese studying in America to exchange views on China and American policy.

There are solid grounds for revoking most-favored-nation status.

Both the preamble to the relevant statute and its legislative history include concerns for human rights.

The situation in China has greatly deteriorated this past year: executions, purges, imprisonment, surveillance, political indoctrination, the rollback of many economic reforms—all cloaked in the Big Lie.

The xenophobic regime has launched attacks on Western values and crude invective against the U.S. It muzzles foreign correspondents and jams the Voice of America.

Revoking most-favored-nation treatment, which would increase pressures on Beijing, would be the strongest signal of censure to date.

There is also the specific legislative criterion of free emigration. While many are still allowed to leave China, new restrictions have curtailed others, including students and scholars. Obviously, both dissidents in our embassy and tens of thousands in jail cannot move. Countless Chinese have no

chance of getting exit papers or dare not even try.

In any case, the most potent argument for revocation is that extension of most-favored-nation status could be misconstrued by China's hardliners. In internal policy debates, they could argue that they can repress and reap commercial benefits, too.

Unfortunately, this view has been reinforced by Bush Administration actions: its unrequited conciliatory gestures; the double standard between China and support for democracy in Eastern Europe, Latin America and South Africa.

Beijing might conclude that there is no limit to our toleration of its abuses. So might Mikhail Gorbachev, as he contemplates his policies toward the Baltic states and his summit meeting with Mr. Bush on the eve of June 3.

For these reasons, simply extending most-favored-nation treatment would be a grave mistake. If the other steps outlined above are not undertaken, this trade status should be ended.

On balance, the arguments favor extension of most-favored-nation treatment—if imbedded in a larger package. Termination would trigger serious consequences.

First, it would hurt the wrong people in China, reducing their leverage in the struggle for its future.

The most severe impact would be on the sectors we wish to support—entrepreneurs, business people, Chinese in the coastal areas and open cities. They are the ones most dependent on foreign trade and investment and most committed to reform and contact with the outside world.

The regime, meanwhile, would use America as a handy scapegoat for China's floundering economy.

Second, termination would undermine Hong Kong. Seventy percent of China's $12 billion in exports to the U.S. passes through there. Millions working in Hong Kong and southern China would be affected. As Hong Kong residents look with trepidation toward 1997, when Britain turns Hong Kong over to China, this is no time to deal them additional economic and psychological blows.

Third, it would harm many Americans. Consumers would pay more for certain products; importers would need to look elsewhere; exporters would face retaliation by China. Business people in China and Hong Kong would lose markets and investments, perhaps permanently. Competitors in Japan, Europe, South Korea, Taiwan and elsewhere—where governments would not follow our lead—would profit, at America's expense.

Fourth, it would undercut our long-term objectives. While granting China new privileges would be wrong, we should be wary of dismantling frameworks like most-favored-nation treatment and the related overall trade agreement that were carefully constructed during the 1980's.

Once commercial and personal links with progressive forces are severed repairing them would be difficult. We will need them in place when a more moderate regime allows us to resume full cooperation. That time is not far away.

President Bush as an opportunity to heal wounds on the single foreign policy issue where he has provoked heated debate and about which he may care most deeply. He can align himself solidly with the Chinese people for the first time and restore the bipartisan approach that marked our China policy for two decades through five Administrations. Congress, torn on the trade issue, would respond positively to a Bush initiative that made clear where this nation stood. Together, the President and Congress can send a powerful message to the transitional leaders in Beijing and to the Chinese peope who herald a more hopeful future for their country.

THE NEW GOVERNMENT OF HAITI DESERVES SUPPORT FOR A FREE AND FAIR DEMOCRATIC ELECTORAL PROCESS

Mr. PELL. Mr. President, yesterday evening I had the distinct honor to personally meet with President Ertha Pascal-Trouillot who has come to Washington to meet President Bush, Secretary of State Baker, other key officials in the administration, and Members of the House and Senate. With the ouster of Gen. Prosper Avril, after 18 months of turbulent rule, President Pascal-Trouillot, a former justice of the Supreme Court, was chosen to rule as head of an interim government on March 13, along with a 19-member Council of State. She immediately pledged to prepare for free and democratic elections as soon as possible, perhaps as soon as September.

President Pascal-Trouillot has assumed a tremendous responsibility—to finally break the legacy of the brutal reign of the Duvaliers and the sadistic Ton Tons Macoutes which has plagued Haiti to this day. She will need all the support possible from democratic political leaders inside Haiti as well as from the Haitian Armed Forces. Significantly, Army Chief of Staff Gen. Herald Abraham on inauguration day, saluted President Pascal-Trouillot and pledged that the armed forces were at her command. He immediately ordered the army to return to its barracks.

The new president will need help from outside if the electoral process is to proceed on course. She is looking for help from the United States and the Organization of American States to assure that the electoral process reaches a successful conclusion in establishing a freely elected democratic government for the first time in Haiti's history. The administration has proposed funds for the electoral process, a request that is supported by many in the Congress. Hopefully, funds can be provided so that the Organization of American States and other internationally recognized election specialists can help the new Haitian Government set up and maintain a structure that will ensure a free and fair election. As one who saw the value of election observers as a member of the election observer team of former President Carter in Nicaragua, I enthusiastically recommend that the process include internationally recognized observers.

President Pascal-Trouillot and the long-suffering people of Haiti deserve our support, and I am confident that it will be forthcoming from the administration and the United States Congress.

THE PROUD HERITAGE OF CHRISTOPHER COLUMBUS

Mr. PELL. Mr. President, I was very pleased recently to add my name as a cosponsor of Senate Joint Resolution 195, a joint resolution proclaiming Christopher Columbus to be an honorary citizen of the United States.

As we all learned as children, in 1492 Christopher Columbus sailed from Spain in search of new, shorter trade routes to the West Indies. Instead, Columbus and his crew discovered a new world; our world. This was not an easy journey. Before even setting sail, Columbus unsuccessfully sought backing from France, England, and Portugal before finally convincing Queen Isabella of Spain to fund his journey. In reality, Columbus never really attained his goal. His discovery, however, made up for that failure in ways that Columbus and his crew and patron could never have imagined.

Once beginning the trip, Columbus and his crew endured months and months of difficult and life-threatening travel across the Atlantic. Deprivation and hopelessness marked the passage of Columbus and his crew, but they pressed on.

It is this spirit of dedication and persistence that we honor in this Resolution.

The 500th anniversary of the first crossing by Christopher Columbus is only 2 years away. What more fitting beginning to the many observances and celebration that will take place on both sides of the Atlantic then to make Columbus posthumously an honorary citizen of the United States.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBB assumed the Chair.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Republican leader is recognized.

Mr. DOLE. Mr. President, I ask that I may proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MFN STATUS FOR CHINA

Mr. DOLE. Mr. President, earlier today, the President announced his decision to extend most-favored-nation [MFN] status to the People's Republic of China for 1 year.

In announcing the decision, the President stressed his continuing deep concern about the human rights environment in China. But he argued—and in my view argued persuasively—that terminating MFN for China at this point would not be in our national interest.

I think the President is right, for a number of reasons.

In the first place, as I said last week, in extending MFN—the President is in no sense rewarding the PRC; is not extending some new benefit to China. What he is doing is continuing the status quo. China has MFN status right now. The President's action would simply continue that status for an additional year.

One thing a decision to terminate MFN would do—is severely damage the economy of Hong Kong. Hong Kong is critically dependent on the flow of United States-China trade for its economic vitality. It would be a real tragedy if we pulled the plug on Hong Kong's economy just as it is beginning to grapple seriously with the many problems it will encounter, as it approaches the date when it will revert to Chinese control.

Another sure result is to damage our own economic interests. Last year, our exports to China totaled nearly $6 billion. Major sectors of the American economy—agriculture, aviation, chemicals—depend importantly on exports to China. Some individual American companies live or die by the Chinese market.

Some will say: This is a matter of morality—and we cannot put a price tag on that.

But the real question then is: will a termination of MFN help or hurt the very forces inside China we want to see flourish—the reformist, prodemocracy elements who won our admiration a year ago in Tiananmen Square?

I think a good case can be made that one of the worst things we can do for those forces is to cut them off—isolate them further—from contacts with the United States. I have had young Chinese now resident in the United States tell me of the importance they attached to the impact of the United States on Chinese society; how it helped keep their hopes up, and their minds open, at a time when China was far less open than it is now.

Would it help them to go back to these days of isolation now? It is something we have to think about.

Mr. President, this has been a tough decision for the President. It has been a tough decision—a close call—for me. And I believe it is going to be a close call for many Senators.

But let me stress again: This is not a question of whether or not you want—insist on—improved human rights practices from the Chinese Government.

Earlier today, the assistant Republican leader, Senator SIMPSON, and I met with the Chinese Ambassador. We told him that we intended to support the President's decision. But we also told him that we very much needed some real signs from Beijing, that the Chinese Government was responding to the legitimate and serious human rights concerns that exist in this country, and this Congress. We told him candidly that the clock is ticking on United States-Chinese relations, and unless we see some real action from the PRC soon, the political support would just not be there in Congress for the status quo in our relationship.

That is where we are. I do not believe we help democracy in China, or help the United States, by terminating MFN now. Equally, I do not think political opinion in this country will tolerate much longer the kind of human rights policies that exist in China today.

Mr. President, in conclusion, I ask unanimous consent to have printed in the RECORD a document provided to me today by the White House—outlining the reasons for the President's decision.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACTSHEET ON CONTINUATION OF MFN FOR CHINA

China Meets the Emigration Requirements of Jackson-Vanik.—Approximately 17,000 Chinese nationals received U.S. immigration visas to travel from the mainland in 1989. Chinese immigration continues to meet U.S.-imposed limits. Other visa levels are about the same as the previous year's, with privately sponsored students up sharply and government sponsored students down.

U.S. Business Would Be Hurt.—Investments of $4 billion in China would be put at risk, as would U.S. exports to China which totaled nearly $6 billion in 1989. The Chinese would retaliate for loss of MFN with higher duties, particularly on products where the U.S. has serious competition. Major exports at stake are:

Wheat.—$1.1 billion (20% of U.S. exports)

Aircraft/Aerospace Equipment.—(Current prospects of $1 billion per year with big contracts pending)

Fertilizer.—$487 million.

Cotton.—$259 million.

Timber/paper.—$262 million (10-20% of U.S. log exports)

Computers/machinery.—$342 million.

Acids.—$162 million.

U.S. Consumers Would Be Hurt.—China supplies about one-third of U.S. toy consumption, 9% of footwear, 13% of imported apparel, and a rapidly increasing volume of electronic products. Non-MFN duties would raise landed costs an average of 40%.

Hong Kong Would Be Hurt.—Already shaken by the events in China, MFN loss would damage the colony by costing as many as 20,000 jobs and as much as 2.5% of GNP growth.

Denial of MFN Will Harm Reformers and Strengthen Hardliners.—In China, the advocates of political and economic reform and of greater human rights depend on outside contacts and support. Cutting them off will weaken them while giving hardliners a nationalistic scapegoat for their failing policies.

Sanctions Remain in Place.—U.S. pressure for reform is contained in the sanctions already enacted. The Administration will continue to press for progress on our human rights and other concerns. MFN status is not a concession; it is the basis of everyday trade. Our competitors will not follow us in denying MFN.

Engagement Pays Off in the Long Run.—Western involvement in China has helped produce the major social and economic changes behind the Tiananmen demonstrations. Despite the past year's repression, greater interaction will lead ultimately to greater influence.

MOST-FAVORED-NATION (MFN) TRADE STATUS FOR CHINA

The Administration and Congress both share the same goals in China—make clear our deeply held views on human rights and encourage conciliatory policies and a reinvigoration of political and economic reform.

The President, after careful consideration, decided to extend China's most-favored-nation (MFN) trade status for another year. In reaching this determination, the President weighed not only the requirements of the Jackson-Vanik amendment, which obligate him to consider whether MFN renewal would substantially promote freedom of emigration, but also the broader question of whether MFN would advance the cause of human rights and reform in China. On balance, the President concluded that extending MFN would promote U.S. objectives in both these areas and protect other vital U.S. interests as well.

Emigration.—Approximately 17,000 Chinese emigrate from the mainland to the United States every year. This emigration flow has continued since the military crackdown in June 1989. While the Chinese Government has imposed some new travel restrictions on students, it has continued to permit emigration travel since Tiananmen. U.S. numerical limitations, and not Chinese restrictions, limit the number of Chinese who emigrate to the United States.

In our judgment, continuation of MFN status will help to preserve the gains already achieved on freedom of emigration and encourage further progress in the future. Thousands of Chinese families have been reunited in the United States through emigration. The contacts which these immigrants maintain with friends and relatives in China helps to encourage positive change there and promote friendly relations with the U.S. Denying China MFN status removes an important incentive for permitting emigration and invites retaliation in the form of new travel restrictions.

Broad Human Rights.—The President believes that a continuation of MFN for China is vital to advancing the cause of human rights and in supporting those Chinese who seek a modern, progressive China.

Granting China MFN status, which is the tariff treatment the U.S. accords all but a small number of its trading partners, was one of the key elements in a package normalizing diplomatic relations in 1979-80. It signaled that the U.S. would treat China as an equal with other countries and facilitated a major expansion in our economic relations. But MFN's impact extended far beyond commerce and trade.

The prospect of rapid modernization through increased trade and investment

with the U.S. encouraged a broader opening to the West, gave further impetus to market-oriented economic reforms, created expanded opportunities for people-to-people contacts, and justified the sending of thousands of China's best and brightest students to the U.S. for higher education where they were exposed to Western values and democratic ideals.

Denying MFN status would adversely affect our ability to maintain those contacts and thereby to help sustain the impetus for internal reform.

China would view MFN denial as a hostile act, and a further deterioration in the relationship would result.

In this strained atmosphere, Chinese contacts with Americans across the board—business, academic and scientific—would be more difficult and may be severely curtailed. Those Chinese with an interest in furthering China's opening to the West and seeking positive change would be most affected.

MFN denial would likely bolster the position of conservatives in the leadership who want to restrict Western influence, give internal policies a more ideological orientation and maintain strict government controls on society and the economy. On the other hand, reformers, who could up until now point to substantial benefits from good relations with the U.S. and a deepening of market-oriented policies, would be put on the defensive.

MFN denial would remove an important incentive for China to take into account a broad range of U.S. interests—on human rights, missile and arms sales, fair trade practices abroad, and cooperation on regional issues, such as Cambodia and Korea.

Allied Solidarity.—The U.S. and its G-7 allies (France, Germany, UK, Japan, Canada and Italy) have thus far maintained a united position on China policy. Since the Paris Summit in July 1989, there has been a G-7 consensus against a general resumption of World Bank lending to China. Other G-7 countries have also suspended arms exports to China and are limiting high-level contacts.

While our allies all agree China should do more to improve the human rights situation, they also believe that MFN is important and plan to continue this trade status for China. The U.S. would be the only Western country to withdraw MFN if the President did not renew the waiver. We believe a united G-7 position puts more pressure on China than unilateral U.S. actions.

Economic Implications.—The economic consequences of removing China's MFN status would also be severe—for U.S. business, U.S. consumers, Hong Kong and workers in export industries in China.

Since receiving MFN status in 1980, U.S.-China trade has nearly quadrupled, reaching $18 billion in 1989. U.S. exports totalled $6 million, and China remains a potentially large market for a broad range of U.S. products. Major U.S. exports are: wheat, commercial aircraft, phosphate fertilizer and high-tech equipment, such as computers and scientific instrumentation. (See attached fact sheet for details.)

The U.S. has become China's largest market, absorbing 25 percent of China's total exports. China's top 20 exports to the U.S. value would face average duty rates of nearly 60 percent if MFN status is revoked—in some cases ten-times higher than with MFN privileges.

Retaliation is a certainty. China would apply its higher non-MFN duty rates to imports from the U.S. and could use a variety of administrative measures to restrict market access by U.S. companies (e.g., through foreign exchange allocations, import licenses, quality standards and restrictions on imports competing with local production).

U.S. firms that have worked hard over the last ten years to develop business ties and market share within China would lose that business—perhaps permanently—to other suppliers in Europe and Japan. No other Western country is planning to deny China MFN status. Retaliation therefore would be on focused U.S. firms.

Effect on Consumers.—U.S. consumers would also suffer. MFN denial would lead to sharply higher prices on imports from China. Chinese manufacturers currently supply one-third of American toy consumption, 10 percent of footwear consumption, close to 15 percent of imported apparel consumption and a rapidly increasing value of consumer electronic products. According to the U.S.-China Business Council, non-MFN tariffs would increase the landed cost of Chinese products by 40 percent. Given the mix of Chinese exports to the U.S., the impact of increased prices is likely to fall disproportionately on low-income consumers.

Hong Kong Impact.—Revoking MFN status would also have long-term negative effects on Hong Kong, threatening the island's stability and prosperity in the run-up to 1997 when Beijing reassumes control.

Hong Kong entrepreneurs have invested in thousands of Chinese enterprises, particularly in Guangdong's Pearl River delta region in South China, to take advantage of low-cost manufacturing. Hong-Kong-invested enterprises in South China employ some 2 million Chinese. An additional 10,000-15,000 South China enterprises do processing and assembly work for Hong Kong companies.

Of a total of $25 billion in Chinese exports to Hong Kong in 1989, $24 billion were reexported to other countries. The United States is by far the largest market for Chinese reexports through Hong Kong, taking more than $8.5 billion in 1989.

The dropoff in Chinese exports to the U.S. would have a direct impact on Hong Kong firms involved in transshipment of goods to the U.S., including banking, insurance, shipping, and legal services.

MFN withdrawal would be a serious blow to confidence in Hong Kong. Net emigration from Hong Kong is now running about 40,000-50,000 annually, resulting in a serious shortage of skilled labor and mid-level managers. A sharp deterioration in U.S.-China trade relations would heighten concerns about Hong Kong's future at a time when confidence is already weak because of Beijing's heavy-handed suppression of dissent on the mainland.

In short, the President has decided to extend China's MFN status because it serves clear U.S. interests in several important areas—emigration and human rights, the need for reform in China, U.S. business, U.S. consumers and Hong Kong's stability and confidence.

Need for Further Human Rights Improvements.—In notifying Congress of his determination to renew MFN for China, the President emphasized that he remains seriously concerned about human rights violations in China and is personally disappointed that the Chinese Government has not taken more decisive steps to demonstrate a commitment to internationally accepted human rights, despite repeated expressions of concern by the U.S. and many other Western countries. The President has also indicated that the U.S. Government intends to press vigorously during the coming year for significant improvement in China's human rights practices.

Sanctions to Continue.—The extensions does not signal a return to business as usual with China. The President has reaffirmed that he will maintain the sanctions against China he authorized in June 1989 on arms exports, high-level government exchanges and postponement of multilateral development loans.

We should not let our frustration with Beijing's slow response to our concerns lead us to take unilateral actions which, in the end, only serve to undercut our long-term objectives. Denying MFN would do just this. It would also result in the United States losing the leverage it has gained over the last decade to influence positively the course of human rights developments in China.

CHINA SANCTIONS

In the years prior to Tiananmen, there were frequent, regular exchanges of high-level visits, involving White House/State Department banquets, major speeches, meetings with senior U.S. businessmen and the press, with travel around the U.S. For example, President Yang Shangkun in '87 Vice Premiers Wu Xueqian and Tian Jiyun in '88, Politburo member Wan Li in '89, George Shultz to the PRC in '87 and '88, President Bush to China in February '89. With the exception of the Scowcroft-Eagleburger special missions, which I will discuss later, this process has been halted.

There were regular visits annually to and from China by the Director of ACDA, State Department's Under Secretary for Political Affairs, Assistant Secretary for EAP, PM Director, equivalents from other agencies. These have halted.

The JEC and JCCT, headed by Treasury and Commerce Secretaries, were annual events. They are now halted.

We had four ongoing FMS programs. Deliveries on them have been halted.

We were discussing future FMS programs in other areas. Those discussions have been halted.

There were commercial sales of weapons to China, and sales of items such as helicopters made by Sikorsky (and plans for Boeings) to the PLA. Since June, there have been no commercial sales of weapons to China, and no sales to the PLA or Chinese security forces.

China was proceeding apace toward accession to the GATT. That process has now effectively stalled.

China was recipient of major assistance from the World Bank. About $1 billion in loans were frozen last June. Only basic human needs loans have been authorized since January, consistent with the letter and spirit of U.S. statute. Other loans remain frozen.

China has been the beneficiary of a succession of liberalizations by COCOM since 1984. A major liberalization was under discussion for 1989. It was shelved.

Chinese naval ships visited U.S. ports in early 1989. There have been no visits since, and none is under discussion or contemplated.

The Science & Technology Agreement is due for a five-year extension, which was to be done at a meeting of a joint commission at the ministerial level last year. That com-

mission meeting was postponed, and the Agreement has not been renewed, though it has been extended on an interim basis. S&T exchanges continue on a markedly reduced basis.

OPIC has provided no insurance for investors in China since June, where they were actively involved prior to that.

We have admitted scores of refugees escaping China seeking asylum into the U.S., and the number of asylum requests granted is up sharply.

PEOPLE'S REPUBLIC OF CHINA EMIGRATION AND STUDENT, BUSINESS, AND OTHER TRAVEL

EMIGRATION

The Chinese Government has continued to permit its nationals to emigrate to the United States. New Chinese travel regulations appear to be aimed at regulating nonemigrant travel and not emigration.

In FY 1989, the number of U.S. immigrant visas issued in China increased 9.5 percent to 16,920. The annual numerical limit for Chinese immigrants to the United States was fully met. In the first five months of FY 1990, U.S. officials issued 7,932 immigrant visas, which is about the same number issued during the period one year earlier.

U.S. immigration law restricts the number of immigrants from China, as from other countries, (aside from parents, children and spouses of U.S. citizens) allowed to enter the United States. There has recently been a marked increase in the number of parents of U.S. citizens who have received immigrant visas.

BUSINESS, STUDENT AND OTHER TRAVEL

The total number of U.S. visa applications of all categories other than emigration has remained about the same although the composition of applicants has changed in the last year.

Applications for private travel, which includes tourists, have increased significantly. For example, in Beijing applications for private travel increased 94 percent to 3,226 in the October 1989-March 1990 period, compared with 1,662 in October 1988-March 1989.

Applications for privately sponsored student visas and their dependents have also risen sharply. Beijing recorded increases of 86 to 110 percent respectively in these two categories in the period October 1989-March 1990, compared with October 1988-March 1989. Student applications increaed to 3,398 from 1,828. Their dependents' applications increased to 1,409 from 671.

Since late 1988, Beijing visa applications of government officials and state enterprise personnel traveling for business have declined by 30 percent from 12,364 in October 1988-March 1989 to 8,651 in October 1989-March 1990. We believe this decline is due mainly to the government's economic retrenchment policy and cutbacks in travel funds rather than political restrictions on travel.

UNITED STATES-CHINA TRADE DATA AND MFN/NON-MFN DUTY RATES

[United States-China trade (Billions)]

	1979[1]	1980	Percent change	1988	1989	Percent change	Percent change 79-89
Total trade	2.3	4.8	109	13.5	17.8	32	674
U.S. exports	1.7	3.7	118	5.0	5.8	16	241
U.S. imports	.6	1.0	67	9.3	12.0	29	1,900
Trade balance	1.1	2.7	145	(3.5)	(6.2)	(77)	(664)

[1] Last year before United States MFN status to China.

LEADING U.S. EXPORTS TO CHINA IN 1989 (FAS VALUE)

Wheat—$1.1 billion.
Fertilizer—$487 million.
Aircraft, spacecraft, launch vehicles—$366 million.
Cotton—$259 million.
Rough wood—$175 million.
Parts of aircraft, spacecraft—$170 million.
Polycarboxylic acids, etc.—$162 million.
Automatic data processing machines—$126 million.
Turbojets, Turbopropellers, turbines—$116 million.
Machinery parts—$112 million.
Various machines—$104 million.
Kraft paper and paperboard—$87 million.

SELECTED PRC IMPORT TARIFFS

[In percent]

Community	MFN tariff	Non-MFN tariff
Wheat	0	0
Aircraft and parts	6	11
Fertilizers	30	40
Cotton	30	40
Rough wood	3	8
Polycarboxylic acids	15	20
Specialized machinery	20	30

LEADING CHINESE EXPORTS TO THE UNITED STATES IN 1989 (CUSTOM VALUE)

Baby carriages, toys, games, sporting goods—$1.76 billion.
Articles of apparel NES—$1.3 billion.
Women/girls coats, non-knit—$88 million.
Footwear—$721 million.
Trunks/suitcases—$555 million.
Mens/boys coats, non-knit—$485 million.
Radiobroadcast receivers—$476 million.
Crude Oil—$460 million.

SELECTED U.S. IMPORT TARIFFS

[In percent]

Commodity category	MFN duty	Non-MFN tariff
Manufactured articles	0-32	0-110
Apparel, clothing items	0-34.6	25-90
Telecommunications, sound	2.4-8.5	35
Footwear	0-48	10-84
Travel goods/handbags	4.6-20	35-90
Petroleum, oils	$.105/bbl	$.21/bbl

ECONOMIC IMPACT OF DENYING CHINA MFN STATUS

Impact on China

Foreign Exchange: Estimates range from a drop of between $3 billion to as high as $6 billion, depending on how China would react. Due to large portion (25 percent) of export sales to the U.S. market, Beijing would likely try to maintain a portion of its current sales to the United States. It would also try to shift high-duty exports to other markets such as Japan and Europe, but this would be difficult because market access is more restrictive.

Debt Repayment: Could seriously affect China's ability to repay its foreign debt, estimated at $42-44 billion. Debt repayment will peak during 1992-1993, when China will need to repay $10 billion annually, up from $4-$6 billion in 1990. Changed trade outlook could force a reevaluation of China's debt servicing capacity and consequent lowering of its creditworthiness. New commercial lending would become more costly and difficult to arrange.

Employment: Difficult to determine. Most severe impact would be regional, concentrated in coastal provinces (e.g., Guangdong and Fujian) and open cities. These provinces are the most dependent on foreign trade and overseas investment, particularly from Hong Kong and Taiwan.

Economy: Would complicate Beijing's efforts to pull its economy out of its current slump. GNP growth rate plummeted to 4 percent in 1989 form 11 percent in 1988.

Impact on Hong Kong

Trade: Almost 19 percent ($8.4 million) of Hong Kong's $44 billion of reexports were labor-intensive goods made in China destined for the U.S. market. Tariff rates would jump tenfold on many of these products, resulting in an estimated export decline between 25-50 percent.

Employment: Preliminary Hong Kong estimates indicate that a 50-percent drop in Hong Kong reexports of Chinese goods to the United States would throw 20,300 employees out of work in a labor force of 2.8 million and cause Hong Kong's GDP to fall by $590 million, reducing expected GDP growth by about 1 percentage point to 1.6 percent.

Impact on the United States

Trade Retaliation: Should the United States withdraw MFN status from China, the Chinese would retaliate, increasing tariffs on imports from the United States and using administrative measures to reduce imports from the United States. Major U.S. exports which could be affected include cereals, power generating machinery, aircraft, and fertilizer products.

Chinese Non-MFN Duties: The higher non-MFN tariff rates would increase the cost of U.S. exports to China by up to 30 percent, depending on category. Chemicals, cotton yarns and fabrics, and electrical machinery would be more significantly affected.

Export Loss: The annual loss in U.S. exports to China could be in the range of $2 billion to $3 billion, or about 33-50 percent of 1989 export levels. With a bumper harvest this year and increased imports from Canada, China could reduce significantly its grain imports from the United States. Japan and West Germany are poised to displace U.S. firms in contracts for industrial machinery and steel products. South Korea and Taiwan could move to pick up chemical and fertilizer business.

Effect on U.S. Investment: U.S.-invested joint ventures in China would be forced to pay higher duties on imported components. Their exports to the United States would also be subject to non-MFN tariffs, in some cases ten-times higher than MFN rates, thereby undermining their economic and financial viability. According to Chinese statistics, at the end of 1989 there were 949 U.S.-invested firms in China with a pledged investment of $4.1 billion.

Effects on Consumers: Removal of MFN for China would lead to higher prices for American consumers. Non-MFN tariffs would increase U.S. landed costs by an average of 40 percent and duty rates would average approximately 60 percent. Given the mix of Chinese consumer exports to the United States, the impact will be disproportionately felt by low-income consumers. Duty increases will be high on low-margin consumer goods, such as shoes, clothing, electronic products, and toys.

Mr. DOLE. Mr. President, I say as an aside, that I have had the opportu-

nity to read all the information contained in this document. It is called a facts sheet. I believe it is something that all of us should read. We understand that they have met the Jackson-Vanik requirements on emigration, 17,000.

We can take a look at how businesses would be hurt in the United States, and how United States consumers would be hurt. How Hong Kong would be hurt, and how denial of MFN will harm reformers and strengthen hardliners. Also, keep in mind that the sanctions remain in place, which were imposed by the President, and I think all these things are contained in the information that I am putting in the RECORD. I hope my colleagues will have an opportunity during the recess to examine it carefully.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

The Senator may proceed.

Mr. SIMON. Mr. President, I ask unanimous consent to proceed for a few minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROBLEM AREAS

Mr. SIMON. Mr. President, I am concerned with what is happening in the policies of this administration in two parts of the world. One is in China where we have I think fairly consistently played a very weak hand. If there is one thing the United States ought to stand for clearly without any mistake on the part of anyone anywhere in the world it ought to be for freedom. That ought to be true in South Africa; it ought to be true in the Soviet Union, Poland, Hungary, Lithuania, everywhere; and it ought to be true in China.

Unfortunately, we have time after time after time, since a year ago, when the tragedy at Tiananmen Square occurred conveyed weakness. And to give China the most-favored-nation status in terms of trade conveys the wrong message to the people of China. It conveys the wrong message to the Government of China, and it conveys the wrong message to people all over the world.

The other area where I am concerned is what is happening in the Baltic States and specifically Lithuania. We act best when we act in concert, the administration and Congress.

Part of what is wrong with the way we responded to the China situation is the President went one way, the Congress went another. I would like to see us act in concert in the Lithuanian situation. We have never recognized the occupancy of Lithuania as well as the two other Baltic States, Estonia and Latvia.

But again, we are not sending strong signals to the Soviet leadership: sit down and negotiate. Because of the blockage or semiblockade of Lithuania, they are having serious shortages. We have read about the gasoline shortage. Less dramatic is the shortage of medicines and medical supplies. One nation has volunteered $2 million worth of medical supplies to Lithuania. I would love to tell you that one nation is the United States of America. Unfortunately, that is not the case. It is France. And I commend France for doing it.

But the leader for freedom in this world should not be France. It should be the United States of America. Beyond the problem of medicine, Lithuania soon could face problems with food. I hope the United States is more forthcoming.

Again, I want to work with the administration. We are most effective when Congress and the administration work together. But we ought to be working together for freedom. And that is not happening in China; that is not happening in Lithuania.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS CRIME BILL

The Senate continued with the consideration of the bill.

Mr. KERRY. Mr. President, this week we have been debating the crime bill. We have discussed some very important issues relating to assault weapons, habeas corpus and now the death penalty. My understanding is that we will continue this debate after the recess next week. However, before we leave the crime bill today, I want to discuss at some length some of the vitally important issues I hope we will be debating in 2 weeks time.

I want to commend the Senator from Delaware, the chairman of the Senate Judiciary Committee, on his important work in the area of drugs and crime. He is an expert on these issues and he has done much to help identify the enormous problems that we face in this country. More importantly, he has shown himself to be creative and tireless in his efforts to confront our Nation's problems. Senator BIDEN has helped us pass some of the key legislation to fight the war on drugs.

Mr. President, George Bush has been President for nearly 18 months now. I remember well that cold, clear January day when he was inaugurated. I sat on the Capitol portico and listened as our new President characterized drugs as a scourge and promised that it would stop. It was a dramatic moment. At the time we were all filled with great hope.

But the scourge has not stopped and our patience is being tried. Drug use continues, virtually unabated in this country. Moreover, violent crime, a sinister byproduct of drug use, continues to ravage our neighborhoods, communities, and cities.

The American people want to know why this is still happening and why our Government, despite all the rhetoric, seems so powerless. They have been patient. They have understood that this war will not be won overnight. But they have also been promised results and few have been delivered. The American people have been told that there is light at the end of the tunnel, but so far they have only seen a government that seems to be groping, sometimes blindly, apparently directionless.

The problem, of course, becomes one of credibility. We keep declaring war—keep raising expectations. But we fail to provide the resources necessary to meet these expections.

In the war on drugs we are told that we are making progress because middle-class, suburban, white high school seniors do not use drugs to the extent they did 5 years ago. But kids are dying in the streets of our cities. Go to a crack neighborhood in Washington, or New York or Boston and then try to tell me about the positive direction in which we are heading.

What frustrates me the most is the lack of resources committed to this so-called war. Instead of putting cops on the streets, building more prisons when they matter, and dealing with the economic realities of drug abuse, the President is concerned with how many variations on the death penalty can be run up the congressional flagpole for a salute.

We do not really need a whole coterie of new laws. We need to enforce the ones we have.

We do not need political symbolism. We need concrete action.

We do not need a lot more talk about who is the toughest on crime. We need leaders who are willing to make tough choices about how to tackle crime.

The issue of drugs and crime does not break down along partisan lines. It is not an issue that is Republican or Democrat, or liberal or conservative.

But as far as I can tell the only member of the administration who is talking seriously about trying to take some action to confront the drug problem is Jack Kemp, the Secretary of Housing and Urban Development. Secretary Kemp has spoken out forcefully for community activism, for tenant owned public housing and for enterprise zones. He is making tough choices. He is taking action.

I wish I could be as positive about the strategy coming from Secretary Bennett. In the national drug strategy he says that he is confident and encouraged that there is a national conversation about drugs and drug policy. I would suggest there is not so much a national conversation as a national cry for help.

Last summer while I criss-crossed the State of Massachusetts I heard cries for help from both public officials and the citizens.

Again and again, I heard about the damage that drugs are causing the people of Massachusetts. Let me read you a few examples that I recorded in a report to the Subcommittee on Narcotics of the Foreign Relations Committee this January.

Mayor John K. Bullard of New Bedford told me:

Lives are ruined through addiction. Antisocietal subcultures flourish. Housing and neighborhoods are destroyed. Police courts and prisons are clogged, and every day young people are continually recruited into a destructive lifestyle.

In the city of Framingham, according to Police Chief Brent B. Larrabee:

Drug use and abuse permeates every neighborhood in our community, regardless of economic or ethnic composition. We have also found that the majority of crimes in our community are committed by drug users or addicts. * * * We have also noticed an alarming increase in child and spouse abuse, both physical and psychological, which is directly attributable to drug use. Drugs tear at the fabric of the family unit, and often create a cycle in which children follow parents into a life of crime and drugs.

In Springfield, there has been "an overwhelming increase in the number of drug related cases in the last year and a half," according to the district attorney's office. Worse, the increase in drug use has included a disproportionate number of young people. According to the Springfield DA's office:

Oftentimes these juvenile defendants come from single parent households where the sole source of support is welfare. The family income many times is supplemented by the proceeds of drug sales, in essence these juveniles become the breadwinners of the family. Another frightening aspect of this trend is the age of the juveniles involved. Many of these defendants are no more than ten or twelve years of age. These juveniles are very well organized and have a network of younger children who run the drugs from one location to another. * * *

In Springfield District Court alone the statistics show that the number of defendants charged with drug offenses has exactly doubled in the past year.

Mr. President, my constituents write me to report individual horror stories connected with drugs, describing case after case of personal tragedy resulting from the ready availability of narcotics in their communities.

As Bob Flagg of Westfield, MA, wrote:

I am one of 15 children out of the Boston area and have 5 children of my own. I have been a teacher, coach and sports official for over 50 years. Drugs have drastically affected all of the above mentioned family and social groups with which I have been associated. Two of my sons went the whole route—alcohol, grass, cocaine, etc., and believe me it was hell. One of my married sisters was killed by a drug addict driving his pickup truck up onto a sidewalk in Portland, Maine. She left five young children behind. Kids I have taught and coached over the years have been contaminated by drugs—some as early as the age of 12.

Margaret Darling of Worcester lives in a neighborhood which she describes as an open market for narcotics dealing, which public officials have sought not to eradicate, but to confine within a small number of blocks.

We are subjected to open drug deals, the dealers themselves, the customers, the prostitutes, their customers, the pimps, and all the bizarre crimes that accompany such dealings.

She wrote the subcommittee, describing herself and her neighbors as robbed of our rights as the result.

Jeannie M. Chadwick of New Bedford wrote a lengthy letter describing the effect of drugs in New Bedford which summarized:

The destruction of a neighborhood, due exclusively to the introduction of cocaine: what had once been a close-knit, but poor neighborhood, evolved into an eye sore of destruction both physically and spiritually. The "drug dealers" took over the streets and brought with them violence in the form of shootings, stabbing and numerous gang fights. The drug dealers decimated the physical landscape—destroying grass and trees. * * * Mothers began keeping their children indoors more often, out of fear of their children getting caught in a crossfire of violence and foul language. On the other end, there were those mothers who were caught up in the scene, and their children soon showed signs of neglect—lack of supervision, unfed, improperly clothed, the sound of babies wailing—a mournful cry—the loss of their parents to this beckoning devil cocaine * * * People are now afraid to go outdoors or to leave their homes for any period of time. One never knows what they will find upon returning—a break-in, or 10 young men hanging outside your door, threatening, intimidating, causing fear in the simple act of leaving or entering your home. * * * Cocaine causes every hurtful thing we can imagine.

But nowhere in Massachusetts has the problem of drugs and crime been more acute than in the city of Boston. People are frightened and they are angry.

People are frightened and angry that crime appears to be spiraling out of control. Consider that:

In 1989, the Boston Police Department reported more than 8,000 drug arrests for a 10-percent increase over 1988 figures.

Citywide drug arrests have increased 133 percent—(3,534 to 8,244)—from 1984 to 1989.

In Boston, people are frightened and angry because the city has a particularly serious problem with drug related gang violence. Consider that:

Boston has experienced dramatic increases in juvenile drug arrests. From 1980 to 1989 juvenile drug arrests in the city of Boston have increased by 30 percent. Last year alone juvenile arrests jumped 22 percent.

There has been a dramatic increase in juvenile firearms violations which increased 350 percent from 1980 to 1989. In just 1 year, from 1988 to 1989, juvenile firearms violations increased 73 percent.

It is estimated that 50 percent to 60 percent of the youth violence cases brought before the Dorchester District are dismissed because of witness initimidation.

In Boston, people are frightened and angry because the courts are so clogged they can barely function. Consider that:

The Boston Municipal Court began its fiscal year 1988 with 917 jury case pending and ended the year with 1,885 cases pending.

In the district court the situation is not much better. The district court at the end of fiscal year 1988 there were 6,871 jury requests awaiting action by the district court, up 1,724 requests from the start of the fiscal year.

The district courts received 7,687 narcotics complaints which represent 18 percent of the statewide narcotics cases.

Mr. President, the mayor of the city of Boston has developed a strategy, the "Safe Neighborhoods Plan," which I believe offers genuine hope to the residents of Boston.

Along with other public officials and law enforcement representatives, I attended several criminal justice summits that the mayor called during the course of this last year. During those meetings we worked hard to hammer out a strategy that combines law enforcement with community cooperation and economic development. The mayor also sought the advice of countless residents from virtually every neighborhood of the city. We worked hard to do what we could to find additional resources and commitment at the State level—an important part of a drug war.

Let me share with you some of the ideas set forth:

In order to address the problem of gang violence, the plan calls for the establishment of an antigang violence unit within the Boston Police Depart-

ment. The mission of this unit is the disruption of organized gang activity.

The plan recognizes that kids need positive alternatives to gang involvement. The plan offers young people the opportunity to be involved with organized actitivies that are off the streets.

The plan recognizes that strong law enforcement requires the full support and confidence of the community. As Mayor Flynn said, "the community is the police department's greatest ally." The mayor includes in his plan an emphasis on ensuring that new officers are trained on how to work with all the residents of a community.

The safe neighborhoods plan also emphasizes that action must occur at the family and neighborhood level. The mayor advocates measures that can be implemented by communities such as neighborhood block watches.

The economic opportunity component of the mayor's plan focuses on educational and employment opportunities for the youth of Boston. That means increased involvement of Boston's business community in a very direct way to address the city's problems.

We also need to get businesses involved in rebuilding our inner cities. With this goal in mind, last year I introduced legislation that would automatically allow high-intensity drug zones to qualify for the benefits of enterprise zones.

Mr. President, I believe Mayor Flynn's plan can and should be adopted as a model for the Nation. Our cities are under seige and this comprehensive strategy offers hope and reclamation.

It will not be easy. We understand that. This plan requires cooperation on many levels. On the most fundamental level the plan requires the commitment of the people—those who live and work in the city of Boston. I believe that commitment is there. The people of Boston have already shown themselves willing to organize and ready to work for a better and safer city.

The plan also requires the commitment of the city government. There is no doubt about Mayor Flynn's commitment. He is in the neighborhoods. He has been listening to police, victims, to critics and supporters.

Nor can there be any doubt about the commitment of the Boston Police Department whose members put their lives on the line every day. Not long ago, I went out on night patrol with a Boston Police mobile unit. As a former prosecutor I thought I had a pretty good sense of what these guys are up against. But I was shocked to see how bad things have become. Usually the police have to choose between emergency calls. Often they are outgunned. Always they are at risk.

Mayor Flynn's plan also requires the commitment of the State. Again, I believe the political will is there—even in this difficult time of limited resources.

In my State, 60 percent of the public school students receive comprehensive drug and alcohol education—that is well above the national average though obviously not enough. Massachusetts also has one of the highest per capita amounts spent on treatment of any State in the country. And Massachusetts is addressing the prison overcrowding problem. We have added 3,000 new prison beds and there are another 3,000 underway. It is not enough, but it is a start.

Most importantly, for those of us here today Mayor Flynn's safe neighborhoods plan will require the commitment of the Federal Government. To date, that commitment, sadly, has not been forthcoming. We simply do not have the leadership or commitment which says we will do whatever it takes constitutionally and morally to win this war.

Some may argue that the budget for the war on drugs has doubled since George Bush became President. But the increase must be put in perspective.

First of all, remember that Ronald Reagan declared a war on drugs in 1983 and then proceeded to cut every program that might have helped our Nation fight that war. I am not just talking about social programs. President Reagan consistently zeroed the budget for State and local assistance. His drug strategy was a disaster.

Despite the opposition of the President, Congress passed drug bills in 1986 and 1988 and, we increased funding for virtually all drug-related programs. But we did not fully fund the 1988 drug bill until last summer—the summer of 1989. And it took the threat of an amendment to transfer funds out of the star wars account and into the drug wars account to make that happen.

At the time the Senator from West Virginia made a commitment to find the money and we delivered. In fact, recognizing the need for more treatment and education resources, he actually increased funding over 1988 authorization levels. As a member of the Byrd drug task force that carried on the negotiations with our Republican conterparts, I remember that we had to fight tooth and nail with the administration to get more money. We would suggest more money for treatment, or for education, or for State and local assistance, and the Republicans would say "Wait a moment, we need to check with the White House. And they would come back and say the President doesn't want to spend the money." We eventually squeezed out another $100 million for education and treatment and another $50 million for State and local assistance.

After those negotiations, I couldn't help but ask—where is the administration's commitment?

Where is the commitment when we educate only half of our students about the dangers of drugs?

Where is the commitment when we treat only 20 percent of the addicts in this country?

Where is the commitment when we allow too few police to fight against heavily armed criminals?

The answer, of course, is that the President has made the commitment only rhetorically. There is still no real drug war.

Mr. President, the "safe neighborhoods" plan is overwhelmingly a city initiative, but the city cannot bear the burden alone. The city can and must build the framework for safe neighborhoods and for economic opportunity, but the State and the Federal Government must ultimately provide an important share of resources.

Mayor Flynn's plan contains a number of Federal components and I would like to take just a few minutes to discuss these important issues.

The first Federal area of the plan concerns gun control. Mayor Flynn knows that we must ban all assault weapons and he knows that we must work harder to remove handguns from the street. Mayor Flynn also knows that real gun control cannot be achieved by any one city or single State. We must address this issue at the Federal level.

We need to deal with the gangs that use assault weapons to turn our streets into war zones.

In Boston, the Bureau of Alcohol, Tobacco, and Firearms has witnessed an increase in firearms seizures in the last few years. An increasing number of seized firearms have been purchased from out of State. More of these weapons are better made and more costly than several years ago—Saturday night specials are becoming part of the past.

I sympathize with the concern of law-abiding citizens who share my view that the right to bear arms for hunting, sport, and self defense is fundamental and must be protected, but who can argue that we do not need to do more to reduce the carnage in our streets resulting from drug related crimes.

Yesterday, we took an important step to reduce the arsenal that is available to the drug thugs when we rejected attempts to gut the language in Senator DECONCINI's assault weapons bill, S. 747.

In the provisions on firearms, Senator BIDEN has included a section on banning the export of assault weapons. Again, it is my understanding that the administration opposes this provision.

Let us not forget that President Barco of Colombia, a man who presides over an embattled nation, has specifically asked the President for such a ban. But despite all the rhetoric about the law and order in this country the administration seems content to allow Colombian drug traffickers to murder innocent citizens in that country using American made weapons.

It is long past time that we take necessary and decisive steps to combat a clear and present danger: the unacceptable level of violence in our streets. Our police forces, the men and women who are on the front lines of our Nation's war on drugs, support legislation on assault weapons. As Sgt. William Pattison of the National Association of Police Organizations stated, "Why is law enforcement so united on this issue: assault weapons are a life-and-death issue to police officers."

As part of the safe neighborhoods plan, Mayor Flynn advocates the passage of the Brady amendment. I, too, am in favor of a 7-day waiting period which would make handguns less accessible to criminals and would provide a cooling off period for individuals in a hurry to obtain a handgun. I have supported Senator METZENBAUM'S initiatives on this in the past, and I am a cosponsor of the Brady Handgun Violence Prevention Act.

Handguns pose an ever increasing danger to the safety and welfare of the American public. According to the most recent figures, over 25 Americans are killed each day by handguns. If it is true that people kill people, it is certainly the case that they most frequently do so with handguns.

Most of the American public and virtually every major law enforcement organization believes that stricter handgun legislation would significantly add to the general public safety. But, the administration opposes the Brady amendment. It seems clear that on this issue the President is more interested in helping the NRA than the DEA.

Another extremely important component of the mayor's safe neighborhood plan is the call for treatment of demand. Mr. President, I have been joined by a number of my colleagues in pressing for this for some time now. But the administration has consistently resisted more money for treatment.

Part of the problem may be that the administration simply does not understand what we are up against in this country. Recently, the chairman of the Judiciary Committee, Senator BIDEN, released a report on drug use that may help to put the issue of treatment in perspective.

Senator BIDEN'S report makes it clear that the administration has underestimated the problem of hardcore addiction in this country. According to the Biden report:

There are at least 2.2 million hardcore cocaine addicts in America—almost triple the number revealed by the NIDA Survey.

The President's point man on this issue, William Bennett, the Director of the Office of Drug Control Policy, wrote in the January 1990 drug control strategy:

Four months after launching a new and ambitious Drug Control strategy, we are more keenly aware of the dimensions of the problem. But the Biden report makes you wonder how well the President and the Secretary understand the dimensions of this problem.

The administration has been relying on National Institute for Drug Abuse statistics. But the Institute has not taken into account the criminal population in this country. How can you measure drug use, which is, after all, illegal, when you don't even take into consideration those that have been convicted for using drugs, or those that have committed drug-related crimes.

In the 1990 Drug Control Strategy, Secretary Bennett also talks about an unprecedented commitment to treatment expansion and improvement.

But the Biden report notes that our drug treatment system reaches only about 1 in 10 hardcore cocaine addicts—and while most others are arrested at some point in time, they are almost always back on the streets shortly.

I do not understand why only about $1.4 billion of the administration's $10.6 billion antidrug budget for fiscal year 1990 is directed toward drug treatment. That is equivalent to what the Pentagon is spending in the drug war.

We have over 2 million hardcore cocaine addicts in this country and yet we are spending over $1 billion a year to allow the military to conduct unauthorized blockades off the coast of Columbia, float untethered balloons around our southwest border and embark on the training of the Peruvian military for antinarcotics activities even though our own military has had relatively little antinarcotics training. Of course, the Pentagon has a role to play in the war on drugs, but our highest priority in this war has to be treatment and education.

According to the Office of the Director of Drug Policy, the solution to more treatment space lies in the fact that private treatment centers are on average, only 55 percent full and can accommodate a good portion of the largest addict population: employed 18- to 40-year-olds.

There are some problems with this analysis. First, there are millions of adult-working Americans that do not have medical insurance, let alone coverage that would afford them access to drug treatment facilities. Second, private treatment is expensive, and while casual drug use seems to be declining among the middle class, it is rampant among the poorer segments of our society.

We must begin to treat the addicts in our cities. Drug czar Bennett's national drug control strategy report estimates that 50 percent of the Federal prison system inmates and nearly 80 percent of State prison inmates have had experience with drug use or addiction. This widespread level of drug use among criminals and suspects is reconfirmed by drug testing performed by police at the time of arrest.

The Federal Bureau of Prisons will devote $8 million to treatment services in fiscal year 1991, a $2 million increase from last year. This is obviously insufficient to adequately provide treatment services to cover the system's 60,000 inmates.

I will join several colleagues in offering amendments to the crime bill that provide more treatment services. These measures are needed to provide drug-addicted Americans with opportunities for rehabilitation, but they are not enough. Those who joined me on the Democratic drug task force in 1988, remember that we issued a strategy paper called Epidemic. And in that strategy we called for treatment on request. That was 2 years ago—that goal has yet to be adopted by the administration as policy. Let's stop avoiding the issue of this Nation's drug addiction. We need a national policy that has treatment on demand as its goal and we need to have a policy to achieve that goal.

Mr. President, the major focus of Mayor's Flynn's Safe Neighborhood's Program is just that—making our neighborhoods safe again.

Drug violence is becomingly increasingly synonymous with gang violence. The pattern of organized gang efforts to secure and maintain local drug markets has become all too common throughout our country. The gang-related violence in Boston's, Dorchester, Roxbury, and Mattapan communities is indicative of an increasing trend of violence in America.

Major crack cocaine distributing gangs such as the Los Angeles based Crips and Bloods have been migrating throughout the country in search of new markets. These gangs are well organized and heavily armed with modern weapons.

I have joined Mayor Flynn in proposing that the Government begin more vigorous prosecution of gang members under the Federal RICO laws. That makes sense to me. Gangs are increasingly operating like organized crime: Establishing distribution networks in markets deemed favorable for cocaine and it derivative crack.

Mr. President, as a member of the Democratic Drug Task Force I fought hard in 1988 for reauthorization of the Juvenile Justice and Delinquency Act for another 4 years. I also pushed for language in that bill to establish an Office of Juvenile Justice and Delin-

quency Prevention. That was a beginning.

But we need the antigang provisions contained on S. 1972 and we need even to strengthen those provisions. We need to protect our citizens from becoming the prey of gangs. We need tough laws, more enforcement, and more emphasis on prevention if we are going to halt the alarming street violence that is tearing apart our cities.

Finally, as I mentioned earlier, the Flynn plan relies on a commitment of Federal dollars. Last fall, I introduced the Drug Intelligence Assistance Act which would have authorized $120 million in new funds to help States and localities impacted by narcotics-related crime to improve their drug intelligence operations. Though the administration opposed my bill, I am glad that the Senate Judiciary Committee has moved in the direction that I have been advocating by doubling State and local assistance from $450 to $900 million and my initial effort of last year will be enacted.

Mr. President, the Federal Crime Control Act takes an important step toward changing the direction of spiraling crime in this country. This bill can make a difference. And strategies such as Mayor Flynn's safe neighborhood plan can make a difference. But we need to commit the resources. We need to have the political will. We need to have the courage.

HABEAS CORPUS

Mr. KENNEDY. Mr. President, I intend to vote against the amendment of the Senator from South Carolina. I prefer the Graham-Biden alternative, although I continue to favor additional measures in several areas to protect constitutional rights.

Stronger counsel standards and compensation modeled on the work of the American Bar Association should be guaranteed to capital defendants and habeas petitioners; more protection should be provided to habeas petitioners whose claims fall victim to unfair procedural default rules which allow ignorance, neglect, or incompetence of counsel to extinguish constitutional rights; and more should be done to undo recent Supreme Court retroactivity decisions that virtually eliminate the ability of habeas petitioners to obtain full and fair review of many potentially meritorious claims. These issues go to the heart of our system of justice and its ability to ensure access to equal justice for all. Nevertheless, the Graham-Biden alternative contains worthwhile provisions to secure counsel for capital defendants and habeas petitioners, and it deserves the support of the Senate.

The writ of habeas corpus is one of the great historical bulwarks of Anglo-American jurisprudence, and it continues to play a fundamental and unique role in our modern system of justice. Habeas corpus review of death sentences is the principal means of relief available to a wrongfully convicted individual facing execution. It has spared the lives of many innocent persons who were unconstitutionally convicted and sentenced to death. The rights at issue include the right to a fair and speedy trial, a fairly constituted jury, competent counsel, and access to evidence and witnesses, are essential attributes of fairness in our system of justice. Habeas petitions have saved many individuals from constitutional violations of their rights and ultimately spared their lives, often after repeated denials of relief in State court systems.

I oppose the death penalty, because capital punishment is wrong in principle and wrong in practice. The death penalty is fundamentally flawed, because of the likelihood that innocent people will be executed. No system of justice, however wise or resourceful its judges and juries may be, can eliminate this risk. That is a risk we accept when the punishment is imprisonment, because a jailed defendant can always be set free when innocence is proved. But that is a burden we cannot tolerate when the punishment is death.

The risk of executing innocent persons is no theoretical, hypothetical, proposition. A recent Stanford Law Review study lists 350 cases in which defendants convicted of capital or potential capital crimes in this century have later been found innocent.

If it is to be applied at all, capital punishment ought to be applied only where notions of fairness are given priority. Despite procedural safeguards, mistakes are often made in criminal prosecutions; in the first 6 months of 1987, for example, eight men were released in four States because their innocence was finally determined after many years on death row.

Habeas corpus review of death sentences is virtually the only means of relief available to a wrongfully convicted individual facing execution whose constitutional rights have been violated.

In 1983, an inmate in a Florida prison was within 15 hours of his scheduled execution and had been fitted for his burial suit when the Federal court of appeals issued a last-minute stay. His conviction was later overturned, and the main prosecution witness subsequently recanted his testimony. The defendant was never retried.

In 1967, a habeas petitioner came within hours of execution before the granting of his petition led to the discovery that the prosecutor claimed that the petitioner's clothing was stained with the victim's blood and induced a witness to testify to that effect, despite the fact that the prosecutor knew that the stains were paint, rather than blood.

In 1982, the eleventh circuit remanded a capital case where defense lawyers repeatedly stressed to the jury that they were only representing the defendant because they had to, and that their client, who his counsel described to the jury as "a little old nigger boy," was not unlike "the kind of people that we have historically put to death here in Georgia."

In 1988, the Supreme Court remanded for a new trial a case in which the defendant was sentenced to death by a jury that was selected after the prosecutor secretly induced the jury commission to underrepresent blacks and women in jury pools.

In 1985, a conviction and death sentence of a mentally retarded defendant were reversed after it was established that the prosecutor had withheld evidence that a key eyewitness—who at trial had positively identified the defendant as the assailant had told the police shortly after the arrest that he could not identify the perpetrator.

A 1976 conviction was overturned on retrial in Arizona after it was determined by five expert witnesses that the victim had not been murdered but had died instead of pneumonia.

A 1978 Indiana conviction and death sentence were overturned when, on retrial, it was shown that his conviction had rested on perjured testimony.

In 1988, a defendant was released from prison in Florida after it was determined that he had been convicted on the basis of testimony the prosecutors knew to be false.

All of these violations were revealed on habeas. The list goes on and on. How can any of us shut the door to relief in cases such as these?

The need for counsel in capital cases is a protection that former Justice Lewis F. Powell, who chaired the Habeas Corpus Study Committee, and others have advocated for years. The Powell committee proposal, as modified recently by the Judicial Conference, would provide counsel for State habeas proceedings and this proposal is a starting point. But I believe that meaningful representation by counsel must include minimum attorney competence standards based on experience, as well as adequate compensation, monitoring, and investigative resources where necessary.

The Graham-Biden democratic proposal goes farther than the Thurmond-Specter proposal and it should be supported.

The Thurmond-Specter alternative errs in favor of swifter review of constitutional claims, at the expense of fair and adequate representation of those claims. To reduce a habeas petitioner's ability to obtain review of constitutional claims in Federal court in

exchange for representation by counsel, is a lopsided bargain without additional guarantees as to the adequacy of the counsel's representation and adequate procedural opportunity to be heard. Habeas corpus review necessarily entails consideration of complex constitutional and procedural issues, and often requires experienced investigation. The stakes facing a habeas petitioner in a capital case leave no room for error.

At every stage in a capital proceeding, whether at trial or on postconviction review, counsel must be familiar with the arcane procedures that apply in death penalty cases. Meaningful representation by counsel at the trial level, in particular, in capital proceedings would go even farther to assure fairness and render the postconviction review process more manageable.

Inevitably, the death penalty is applied to minorities and to the poorest, the least popular, and the least powerful members of society. Consequently, too many defendants facing the death penalty at trial are represented by attorneys who are poorly prepared, unpaid, overworked. The result is often only minimal legal assistance.

The infliction of death at the hands of Government brutalizes our society instead of atoning for crime. To short change individuals charged with capital offenses, in terms of the quality of their representation or their ability to obtain meaningful review of their constitutional claims, unfairly prejudices them. I urge the Senate to support the Graham-Biden alternative and oppose the Thurmond-Specter amendment and to recognize that further reform is needed to ensure that if capital punishment is inflicted at all, at least it is inflicted fairly.

AMENDMENT NO. 1698

Mr. THURMOND. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Do the Senators yield back time?

Mr. BIDEN. We yield back time.

DEATH PENALTY

Mr. ROTH. Mr. President, I rise today in support of the amendment introduced by my distinguished colleague from South Carolina, and supported by President Bush as well as many of my colleagues here.

Title I of this bill, which creates the Federal death penalty and preserves the State death penalty statutes, strikes an appropriate balance between the need for society to provide procedural safeguards for criminal defendants and the need for society to have a moral symmetry between crime and punishment.

There are numerous reasons to support the death penalty. Perhaps one of the clearest reasons to support the death penalty is preservation of the community's sense of justice. We cannot live in a civilized society in the absence of a shared sense of justice, in the absence of a brief by most citizens that the criminal justice system will work. The American people need to believe that the criminal justice system will work, that it will protect their lives, liberty, and property. Unfortunately, the public has lost faith in our criminal justice system. We need to restore their confidence in that system. Senator THURMOND's amendment restores confidence in the criminal justice system to the American people.

Unfortunately, the death penalty language in S. 1970 will erode whatever confidence remains in the public perception of the criminal justice system. The so-called racial justice portion of this bill has an appealing, but misleading, title. This section will not advance racial justice, but would abolish not only the Federal death penalty, it would also invalidate existing State death penalty statutes. This intrusion into the jurisprudence of the several States must be recognized for what it is and not be allowed to pass this chamber.

The so-called Racial Justice Act does not allow the court or jury to consider the individual facts and circumstances of a particular capital defendant. The jury's ability to consider the individual facts and circumstances of the defendant's case—whether they be mitigating factors or aggravating factors—is one of the aspects of the criminal justice system that gives it credibility.

This act, however, would nullify a jury verdict of guilty if the convicted killer can show with simple statistics that he or she is of a race that has the death sentence imposed with a frequency disproportionate to its representation among persons arrested for, charged with, or convicted of death-eligible crimes. No discriminatory motive, intent or purpose need be shown—just simple statistics are sufficient for a prima facie showing. Federal and State authorities, on the other hand, must show by clear and convincing evidence that identifiable and pertinent nonracial factors persuasively explain the statistical pattern. This provision makes the jury verdict, rendered unanimously by 12 disinterested individuals, a useless exercise.

The people of the United States, in overwhelming numbers, want the enactment of a workable Federal death penalty. They will not be fooled by a cleverly disguised effort to eliminate the death penalty.

I urge my colleagues to join me in supporting Senator THURMOND's amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 1698) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I wish to have a colloquy with the distinguished chairman of the committee, the distinguished ranking member, and myself.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I have filed two amendments, 1699 and 1702, seeking to add an amendment to this bill which would permit defendants on death row to challenge the death sentence where there is a factual situation, a systematic exclusion of blacks from juries.

The Supreme Court of the United States has held that it is a constitutional right to be tried by a jury where there has not been a systematic exclusion of blacks, but that rule has not been held applicable to cases on a retroactive basis.

In reviewing the case law on this subject, it seems to me that there is a fundamental right involved here and that someone on death row, who is black and who has been tried by a jury where blacks have been systematically excluded, that a defendant ought to be entitled to have his case reviewed by the Federal courts under habeas corpus.

I intend to speak on this point at some length after the distinguished majority leader and the distinguished Republican leader outline the process for the remainder of this bill. The purpose of making these preliminary remarks now is to have a colloquy, which I have alluded to.

I have decided, Mr. President, not to press this amendment because there are a number of my colleagues who feel that although this amendment may not be excluded under the unanimous-consent agreement, that it might violate the spirit of the unanimous-consent agreement. I do not want to tread anywhere near the line of violating the spirit of the unanimous-consent agreement.

I believe when we talk about a writ of coram nobis, it is separate from habeas corpus. That is amendment 1699. I submit further that amend-

ment 1702, dealing with the All Writs Act, is also different. But where there is a consideration raised about intent. I do not want to get near the line, so I will not press these amendments, but later, after the business at hand is concluded, I will make a statement as in "evening business," really. The Chamber, doubtless, will be deserted.

There are some comments I want to make about the unfairness of what is going on at the present time. The purpose of this colloquy is to put on the record the willingness of the distinguished chairman and the ranking member to have prompt hearings on this issue because I intend to file a new bill on the matter.

I submit that it is very important that the Congress of the United States take a look at what the Supreme Court of the United States is doing on this issue of finality of review and the issue of retroactivity because I believe that, as a matter of public policy, if somebody is on his way to the gas chamber who is black, and blacks have been systematically excluded from a jury, we are talking about a fundamental right. The Court makes a distinction between what is equal protection under the 14th amendment and what is a fundamental right as the due process clause picks up enumerated amendments in the Bill of Rights.

Where you have a situation, as in Pennsylvania, for example, if the jury is 11 to 1 for death, 11 for death, 1 for life, the conclusion is it is a life sentence. Where you talk about a jury finding facts and not a fundamental right, it is not a matter of finding facts when the judgment is made as to the death penalty.

A person's background and a person's approach, a person's judgment may be well influenced along the lines of a juror having been excluded. As I say, I will speak at some length at a later moment, but I would like to get the statement on the record from the distinguished chairman that these hearings will be promptly accorded.

Mr. BIDEN. Mr. President, let me say several things. First of all, one of the reasons why I think the Judiciary Committee functions as well as it does, and maybe I am presumptuous in saying that, is because of the personal relationships in the sense of comity and honor that is always met and acknowledged on our committee.

With regard to the two amendments that the Senator from Pennsylvania has, arguably, and beyond argument, technically, they both, in fact, fall in an area that I believe would be appropriate to rule would be in order. But, as I told my friend from Pennsylvania, Senator THURMOND and I both understood the spirit of our unanimous-consent agreement to be broad enough to encompass what was the intention of the Senator from Pennsylvania to accomplish. He is a gentleman enough to have immediately upon hearing that withdrawn those amendments or foregone the opportunity to pursue those amendments now. I thank him for that.

The second point I would like to raise is that on the substance of his amendments, I agree with him absolutely, completely, fully.

A third thing I would like to mention is that I think it would be useful for the committee and, in turn, the entire Congress, to learn as much about what the Court has not been doing, as the Senator from Pennsylvania has apprised himself.

He is one of the most fastidious and, I suggest, thoughtful Members of the Senate.

When this matter came up this morning—and I say this by way of illustration——I said, "Do you want to go forward with these amendments now?" He said, "I have to go back and read every one of these cases because I am just beginning to learn more about what in fact has happened."

As a consequence of him doing just what he did, going back and reading all these cases, with the fine legal mind he has, he has reached the conclusion that, although I do not have the depth of knowledge he now possesses on the subject, I think is correct.

I think it is important that the Judiciary Committee hold the hearing that the Senator is requesting.

I personally commit to the Senator as chairman of the committee that I will schedule those hearings. I will work with the Senator from Pennsylvania to schedule them as promptly as is reasonably possible.

Now, he knows I cannot say whether that will be in 1 week, 2 weeks, 4 weeks. I do not know that. But I give him my assurance that I will move as quickly as I possibly can. I would even attempt to do it at full committee rather than subcommittee, but we can make that judgment. I will work with him and the ranking member on that to move quickly.

So I thank him for not moving forward, even though he would have been operating in good faith because he was not in on the detail of the agreement, on all of it. So it would be perfectly appropriate for him to say I did not understand the spirit to be that. I thank him for that.

I also thank him for calling to the attention of the Senate what is in fact I think a serious negative turn of events on the part of the Court over the last several years with regard to what constitutes a fundamental right. I will not pursue it beyond that except to say I will hold the hearings; I will set them up with the Senator. I thank him.

Mr. SPECTER. I thank the distinguished chairman.

Mr. MITCHELL. Mr. President, I now wish to report to Senators on the status of the pending legislation and plans for the evening with respect to this bill and the supplemental appropriations bill which is currently being considered by the House.

I am advised that those involved in the House hope that action will be completed there sometime around 9:30 p.m., or possibly a little later—no one can be certain at this point—following which the measure will be sent to the Senate for action.

It is premature for us now to ask Senators whether or not anyone will insist on a rollcall vote because Senators are not yet aware of what the final provisions of that measure will be. We hope it will be possible to enact that measure promptly and without a rollcall vote, but I do not now make that request for the reason just stated. At an appropriate time, I will do so.

With respect to the pending bill, about 4 hours ago, following consultation with the distinguished Republican leader and the managers of the bill, both the majority and minority staffs asked Senators to identify which amendments they intended to offer to this measure. It was then our hope we could prepare a finite list of amendments that could reasonably be considered and would permit us to complete action on this bill within a reasonable period of time.

I regret to report to the Senate that I now have before me two lists, one of known Republican amendments and one of known Democratic amendments, as indicated by Senators. The Republican list includes 184 amendments, the Democratic list 87 amendments, for a total of 271 possible amendments to the bill, almost all of which are potential first-degree amendments. Since each of them would be subject to an unlimited number of second-degree amendments, what we had hoped would be a finite list is really not a finite list.

I will shortly ask that the lists be printed in the RECORD. But I think it clear, merely from the numbers involved, that it is simply not possible to foresee, as we had earlier hoped, to proceed. There is simply no way to complete action on this bill when we face at least the possibility of several hundred amendments to this pending bill.

Accordingly, following consultation with the distinguished Republican leader and the managers who have devoted an enormous amount of time and energy and effort to this bill and have managed it with perseverance and resourcefulness—and by that I include both the distinguished chairman of the committee, Senator BIDEN, and the former chairman of the committee, Senator THURMOND—it is my judgment that there is no alternative other

than to file cloture and to discontinue action on this bill at this time and to have a cloture vote as soon as the Senate returns on June 5 following the Memorial Day recess.

Accordingly, Mr. President, I will now propound a unanimous-consent request in that regard which, as I indicated, has been developed in consultation with the distinguished Republican leader and the managers of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on S. 1970, the pending crime bill, the motion for which I will file shortly, occur immediately following the party conferences on Tuesday, June 5, at 2:15 p.m.; that tomorrow, Friday, be counted as the intervening day pursuant to the provisions of rule XXII; that Senators be permitted to file amendments to this bill until 1 p.m. on tomorrow, Friday, with the Senate Journal Clerk in room S-220; that the live quorum under rule XXII be waived; and that second-degree amendments may be filed until 12:30 p.m. on Tuesday, June 5.

The PRESIDING OFFICER (Mr. DASCHLE). Is there an objection?

The Chair hears none, and it is so ordered.

Mr. MITCHELL. Mr. President, if I might at this point, I ask unanimous consent that the list of amendments to which I earlier referred be printed in the RECORD.

There being no objection, the lists were ordered to be printed in the RECORD, as follows:

DEMOCRATIC AMENDMENTS FOR S. 1970

Adams:
(1) Abortion.
Cranston: (1) Second degree to abortion.
Akaka:
(1) Methamphetamine (Ice).
Baucus:
(1) Methamphetamine.
(2) Waiting period for ephredine.
Bentsen:
(1) Judges.
Biden:
(1) Second degree to judges.
Biden:
(1) S. 1972 or any portion(s) thereof.
(2) Omnibus Anti-crime amendment or any portion(s) thereof.
(3) Child abuse.
(4) Drug intelligence center.
(5) Pharmocotherapy for drug treatment.
(6) Omnibus drug treatment.
(7) Drug education.
(8) Drunk driving penalties.
(9) Drunk driving bankruptcy.
(10) S. 2568, Technology and Research for Law Enforcement.
(11) International drug control.
(12) Steroids.
(13) Interdiction.
(14) Drug Strategy, S. 2650.
(15) Technical amendments.
(16) Regional prisons.
Cranston:
(1) Clinic violence.
Adams:
(1) Second degree to clinic violence.
DeConcini:
(1) Law enforcement pay reform.
(2) Justice Department forfeiture administrative costs.
(3) DEA paraphenalia advertising.
(4) $9 million authorization border patrol vehicles.
(5) Technical change to Title IV.
(6) Customs forfeiture.
Dixon:
(1) Prison industries.
Glenn:
(1) DOJ ruling on Inspector General.
Gore:
(1) Campus crime reporting.
Graham:
(1) Money laundering.
(2) Money laundering.
(3) Money laundering.
(4) Money laundering.
(5) Money laundering.
(6) Regional prisons.
(7) Race and ethnic study grants.
(8) Savings and Loan strike forces.
(9) Police corps.
(10) Alien felons (federal reimbursement?)
(11) Federal/State corrections.
(12) Treatment data collection.
Heflin:
(1) Federal day in court.
(2) Bureau of Justice Assistance.
(3) Relevant.
Inouye:
(1) Death penalty relating to Indians.
Kennedy:
(1) Money laundering.
(2) Drug treatment (S. 2649).
(3) Penalties and sentencing.
(4) Drug weights.
Kerry:
(1) High intensity drug areas qualify as enterprise zones.
(2) Drug enforcement grants.
(3) Chemicals.
(4) Police corps.
(5) Sense of Congress: Treatment on demand is a goal of national drug policy.
Kohl:
(1) Gun-free school zone 1,000 feet of school.
(2) Second degree child abuse (Biden).
(3) Women in prisons program.
(4) Drug prevention and treatment.
Lautenberg:
(1) Revocation of drivers' licenses (S. 1804).
Levin:
(1) State-run boot camps.
(2) School yard drug law redefining playground.
(3) Definitional disaster drug zone.
(4) Increase victim restitution.
Lieberman:
(1) Secret Service investigation of S&L.
Metzenbaum:
(1) OSHA criminal penalty.
(2) Second degree to any assault weapon.
Mikulski:
(1) Federal employee retirement.
(2) Second degree to Ried prison amendment.
Pryor:
(1) Rural drug enforcement.
(2) Wiretaps.
Ried:
(1) Base closures—prisons.
(2) Child testimony.
Sasser:
(1) Prison industry.
Shelby:
(1) State/local priority federal prison.
Simon:
(1) Television violence/anti-trust.
Kohl:
(1) Second degree to anti-trust.
Heflin:
(1) Second degree to anti-trust.
Wirth:
(1) Crimes connected within purview of S&L.
(2) Add'l fines cover prison costs.
(3) Gangs.
(4) Prisoners pay for incarceration.
(5) Create a financial services criminal division within DOJ.

KNOWN REPUBLICAN AMENDMENTS TO THE CRIME BILL

Wilson: Death penalty to be considered on Thursday, June 7.
Helms: (10) Relevant amdts.
Specter: Campus crime reporting
Specter: Police corps
Specter: Habitual offenders, No. 1684
Specter: Death penalty
Specter: National violent crime program, No. 1685
Specter: Presidential appointment of magistrates
Specter: Rule 6E reform
Specter: Mandatory minimum for lying to Congress
Specter: Drug court
Specter: Correctional education.
Specter: Correctional education.
Specter: Correctional education.
Roth: Possible 2d degree to Glenn IG.
Gorton: Precursor chemicals.
Burns: Rewards for information leading to drug arrests.
McConnell: Sexual crimes.
McConnell: Chemicals used in manufacturing drugs.
McConnell: Bill of Rights for law enforcement officers.
McConnell: Missing persons under 18 years of age.
McConnell: Protect the elderly from crime.
Coats: Drug paraphernalia.
Coats: Boot camp prisons.
Coats-Burns: Use of kids under 18 in drug operations.
Coats: Testing in jails.
Gramm: Declaration of drug crime, emergency, with plan.
Gramm: Prisoner work requirements.
Gramm: Prisoners Federal benefits.
Gramm: Prison drug use-testing.
Gramm: Mandatory sentences, with death penalties, for firearms violations.
Gramm: 3d conviction sentences.
Gramm: Drug violations re: minors.
Gramm: Criminal aliens and deportation.
Gramm: Prisons and special masters.
Gramm: Drug profit identification.
Gramm: Drug user penalties.
Gramm: State wide drug treatment plan.
Gramm: Drug free schools.
Gramm: Drug free transportation.
Gramm: Relevant.
Gramm: Citizen involvement in drug war.
Gramm: Federal bounties for drug kingpins.
Gramm: Exclusionary rule reform.
Gramm: Drug users and drivers licenses.
Gramm: Death penalty.
D'Amato: Money laundering.
D'Amato: Death penalty for drug kingpins.
D'Amato: Department of Defense drug interdiction.
D'Amato: Drug testing.

D'Amato: Volunteer contribution by taxpayer to drug funds.
D'Amato: International drug treatment assistance.
Grassley: Title 1, victim impact statement.
Grassley: Relevant.
Grassley: Relevant.
Grassley: Relevant.
Mack: Snatch authority.
Mack: Miami jail.
Hatfield: Mandatory life versus death penalty.
Wallop: Life imprisonment for a 3d drug trafficking conviction or 2d conviction of violent crime.
Wallop: Relevant.
McCain: Restrict death penalty on Indian Reservations.
Nickles: 2d degree to Metzenbaum on OSHA criminal penalties.
Nickles: Life imprisonment for rapist with AIDS.
Nickles: Victims rights.
Lott: Mandate work requirements for prisons.
Lott: Withhold Federal benefits for prisoners.
Thurmond: Child pornography.
Thurmond: Child victims.
Thurmond: Forfeiture Amendments Act.
Thurmond: Steroids.
Thurmond: Supreme Court police.
Thurmond: Sexually explicit mail.
Thurmond: Federal charter 82d airborne.
Thurmond: Debt collection.
Thurmond: Technical Amendments to the criminal code.
Thurmond: Presidential drug strategy.
Thurmond: Public corruption.
Thurmond: Relevant.
Thurmond: Exclusionary rule.
Thurmond: Exclusionary rule.
Thurmond: Drunk driving.
Thurmond: DOJ reorganization.
Thurmond: Drug testifying.
Thurmond: Undercover operations.
Thurmond: Money laundering corrections.
Thurmond: Substitute.
Thurmond: Firearms.
Danforth: Drunk driving video tapes.
Danforth: Hazardous material transportation.
McClure: Guns/death penalty.
McClure: BLM law enforcement authority.
McClure: Indian country from death penalty.
McClure: Relevant.
McClure: Relevant.
McClure: Relevant.
Roth: National Drug Intelligence Center.
Boschwitz: Drug user penalties.
Boschwitz: National drug and crime emergency.
Boschwitz: Prisoner work requirements.
Boschwitz: Licensing.
Boschwitz: Citizen involvement.
Boschwitz: Drug use in prisons.
Boschwitz: Kidnapping.
Boschwitz: Food Stamp trafficking.
Wilson: Dare.
Wilson: Boarder checkpoint.
Wilson: Death penalty.
Wilson: Boarder crossing fee.
Wilson: Priority for disposition of surplus Federal property.
Wilson: Aid for States housing illegal aliens convicted of felonies.
Wilson: International air interdiction.
Wilson: Family Services.
Wilson: Civil penalties.
Wilson: Evidence study.
Wilson: Prison work program.
Wilson: Mandatory sentencing.
Wilson: Asset forfeiture resolution.
McCain: Relevant.
Hatch: Mini-drug bill.
Hatch: Interstate transportation of people for drugs.
Hatch: Title 4.
Hatch: Title 4.
Hatch: Title 4.
Hatch: Title 4.
Hatch: Foreign Precursor Chemical Program.
Hatch: Andean trade.
Hatch: National Drug tip hotline.
Hatch: Rural law enforcement.
Hatch: Multi-agency tactical narcotic teams.
Hatch: Alien witnesses in drug cases.
Armstrong: Relevant.
Armstrong: Relevant.
Armstrong: Relevant.
Helms: Loss of benefits.
Dole: Leadership.
Dole: Leadership.
Dole: Leadership.
Dole: Bankruptcy.
Dole: Guns.
Dole: Guns.
Dole: Guns.
Humphrey: Relevant.
Humphrey: Relevant.
Humphrey: Relevant.
Humphrey: Relevant.
Humphrey: Relevant.
Heinz: Criminals in Public Housing.
Heinz: Savings and Loan crisis.
Heinz: Savings and Loans.
Heinz: Savings and Loans.
Heinz: Savings and Loans.
Heinz: RTC priority status.
Heinz: Fast track litigation for savings and loan civil claims.
Heinz: No bankruptcy to protect assets.
Heinz: All of Rico predicates against bank fraud.
Rudman: Exclusionary rule.
Rudman: Exclusionary rule.
Rudman: Unlimited 2d degrees to any amendment re: Prisons.
Rudman: 2d degree to any Rico amendment.
Rudman: Relevant.
Rudman: Relevant.
Rudman: Relevant.
Kasten: Drug profit sunshine.
Bond: Kids safety seats in airplanes.
Bond: Drug testing.
Bond: Child abuse victims.
Symms: Guns.
Domenici: Regulate private detention facilities.
Domenici: Grants for alternative schools for drug informed youths.
Domenici: Study for a center for law enforcement tech.
Gorton: Precursor chemical.
Gorton: Relevant.
Gorton: Relevant.
Simpson: Aliens.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, the only business that we will conduct prior to going out on recess this evening will be to complete action on the supplemental appropriations bill. We cannot now know and do not now know precisely when the House will complete action on that bill and send it to the Senate for consideration, and we cannot now know and do not now know what will be in the bill as the House is at this moment considering the measure.

I am shortly going to ask unanimous consent that Senator SPECTER be permitted to address the Senate, following which the Senate will stand in recess until 9:30 p.m. If at that time we have the measure from the House, we will then be in a position to look at the measure, and each Senator will be in the position to determine whether anyone wants to request a rollcall vote or to offer amendments thereto.

If the answer to both of these questions is in the negative, it will be my intention to ask that the measure be disposed of promptly without a rollcall vote. I have discussed this also with the distinguished Republican leader. We agree that is the best course of action, but it is premature to request that course of action now.

Accordingly, Mr. President, if the distinguished Republican leader has nothing further, I will ask consent and place the Senate in recess following Senator SPECTER's remarks.

Mr. DOLE. Just to comment on what the majority leader said earlier, I do not know any other course to follow, either. It seems to me with 270-some amendments pending, unlimited second-degree amendments, unless cloture can be invoked and even if cloture is invoked—many of these amendments are germane—it still means it would be a difficult task to finish it very quickly.

But, as the majority leader knows, the manager on this side, the distinguished Senator from South Carolina, Senator THURMOND, is in agreement that this is the best course to pursue. As the majority leader has indicated, both he and the Senator from Delaware have worked hard on this matter. I certainly join with the majority leader; if there is any way to dispose of all of the amendments without a cloture. I am not certain cloture can be involved. It seems to me there would be great pressures from certain groups not to invoke cloture; in effect kill the bill. There may be pressures from others to do just the opposite. I will not want to even guess as to whether or not cloture could be invoked. I think it would be very close.

Mr. MITCHELL. Mr. President, I might say that I take this action reluctantly, but only after concluding that this is the only feasible course of action to permit us to complete action on the bill. The President has stressed repeatedly in public his desire for action on this legislation, as recently as this week. It is obvious, with 184 potential Republican amendments and 87 potential Democratic amendments, with unlimited second-degree amendments thereto, that following that course of action would lead us nowhere; and, of course, none of us know how many amendments might be generated between now and the time we return after the recess. If we have this

many in about an hour after requesting, who knows what we would get in a week and a half.

So I hope this is the course of action that permits the prompt action on this bill. That certainly is my intention in taking this course of action.

Mr. President, I now ask unanimous consent that the Senator from Pennsylvania be recognized to address the Senate for not to exceed 1 hour, and that upon the completion of his remarks the Senate stand in recess until the hour of 9:30 p.m. this evening.

Mr. President, I withhold my request and I notice the distinguished manager here and would like to yield to him before I put the request.

Mr. BIDEN. Mr. President, I would at some time like to ask the Senator from Pennsylvania, before he starts, if he would yield to me for 3 minutes for the purpose of introducing an unrelated piece of legislation.

Mr. SPECTER. I do.

Mr. MITCHELL. Mr. President, I amend my request to ask that the Senator from Delaware be recognized for 3 minutes following which the Senator from Pennsylvania is to be recognized for not to exceed 1 hour and at the conclusion of the remarks of the Senator from Pennsylvania the Senate stand in recess until the hour of 9:30 p.m. this evening.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

Mr. BIDEN. Mr. President, thank you. I thank the leader. I thank my colleague from Pennsylvania.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. I thank the Chair.

(The remarks of Mr. BIDEN pertaining to the introduction of S. 2696 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BIDEN. Thank you. I yield the floor. I anxiously await the Senator's comments.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania, Mr. Specter.

OMNIBUS CRIME BILL

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, I thank the Chair. I say at the outset, reserving 1 hour, I do not intend to take that much time. But when the distinguished majority asked for the outside limit of time, that was my response.

I think it important to speak about the subject that I alluded to briefly before and in a colloquy on hearings on the bill which I will introduce which will be that same substantively as the amendments that I had filed on the pending crime bill.

Mr. President, these amendments provide in essence that the Federal courts, under post conviction proceedings, would review the justification for the imposition of the death penalty in the context where a member of a racial minority was tried by a jury where members of that racial minority were systematically excluded.

The background on the right to be tried by a jury which does not exclude, for example, blacks where there is a black defendant originates in the case of Strauder versus West Virginia, which is more than 100 years old, having been decided in 1880, where the Supreme Court of the United States said that a defendant was denied equal protection under the law when he was put on trial before a jury from which members of his race had been purposefully excluded.

The Court went on to point out that the exclusion of black citizens from service as jurors constituted a primary example of the evil the 14th amendment was designed to cure.

At that time, in the State of West Virginia, Mr. President, only white men could serve as jurors. When the Supreme Court in Strauder made that declaration of law it added that it did not necessarily mean that a defendant had a right to have a petit jury composed in whole or in part of persons of his own race because he could be tried by others, but the equal protection clause did not permit members of his own race to be systematically excluded.

The next development on this principle, Mr. President, came in the case of Swain versus Alabama, decided 25 years ago in 1965, when the court ruled that an inference of purposeful discrimination could be raised on evidence that a prosecutor, in case after case, whatever the circumstances, whatever the crime, whoever the defendant or victim may be, is responsible for the removal of Negroes—this is the language of the court, using the word "Negroes"—who have been selected as qualified jurors by the jury commissioners and who have survived challenges of cause, with the result that no Negroes ever served on petit juries.

The court went on to point out that evidence offered by the defendant in the Swain case did not meet that standard. While the defendant in the Swain case did not meet that standard. While the defendant showed the prosecutors in the jurisdiction had exercised their strikes to exclude blacks from the jury, he offered no proof of the circumstances under which prosecutors were responsible for striking black jurors beyond the facts of his own case.

The next development, Mr. President, arose in Batson versus Kentucky, decided by the Supreme Court of the United States in 1986, where the Court said:

> These principles establish our conclusion that a defendant may establish a prima facie case of purposeful discrimination in selection of the petit jury solely on evidence concerning the prosecutor's exercise of peremptory challenge at the defendant's trial.
>
> To establish such a case, the defendant first must show that he is a member of a cognizable racial group.

So, Mr. President, in essence, over the 106 years before Batson, the Supreme Court of the United States had decided that a defendant had a right to be tried by a jury where members of his own racial group were not excluded on the basis of their race, and then said that you have to show it in a large pattern of cases, not only the one at trail.

Finally, in Batson, 4 years ago, they said that it is sufficient to establish the violation prima facie, which has to be rebutted by the prosecutor, and it is sufficient to establish the violation that there is a systematic exclusion of black jurors in the case at hand where there is a black defendant.

Two months later, Mr. President, the Supreme Court of the United States decided that this rule was not to be applied retroactively to a case that was "final." What that means, Mr. President, as noted in a footnote to Allen versus Hardy, the case which ruled retroactively did not apply:

> By "final," we mean where the judgment of conviction was renedered, the availability of appeal exhausted, and the time for petition for certiorari had elasped before our decision in the Batson case.

Mr. President, in reading the decision of the Supreme Court not to apply this very important rule of law retroactively, it is a very surprising decision indeed. In the case of Allen v. Hardy, they took up the conviction of Earl Allen, a black man, where the prosecutor exercised 9 of the State's 17 peremptory challenges to strike 7 blacks and 2 Hispanics from the jury panel.

Mr. President, just a word of explanation. It is the common practice to give both sides peremptory challenges. That means they can make the challenge without showing any reason at all, as distinguished from a challenge for cause when, as that denominates, there has to be good cause shown for excusing a juror.

In Pennsylvania, for example, in a murder case, each side has 20 peremptory challenges. The Supreme Court ruled that the right under the Constitution established in Batson was not to be applied retroactively on this reasoning:

> In deciding the extent to which a decision announcing a new constitutional rule of criminal procedure should be given retroactive effect, the court traditionally has weighted three factors.

They are, (A) the purpose to be served by the new standard; (B) the extent of the reliance by law enforcement authorities on the old standards; and (C) the effect on the administration of justice of a retroactive application of the new standards.

The court in Allen went on to say:

The first factor concerns the purpose to be served by the new rule. Retroactive effect is appropriate where a new constitutional principle is designed to enhance the accuracy of criminal trials.

But the fact that a rule may have some impact on the accuracy of a trial does not compel the finding of retroactivity.

I pause there, Mr. President, to note the anomaly for this questionable application of the law, which says that retroactivity is appropriate where the principle is designed to enhance the accuracy of a criminal trail. Immediately, that is taken away with the statement that it does not apply if there is "some impact on the accuracy of a trail."

The court then continues by saying:

The purpose to be served turns on going to the heart of the truth-finding function.

Mr. President, the difficulty with this analysis is that where you have a concern about the fact-finding process, it is one thing. But where you have the judgment of the death penalty, it is something very different. And this is obviously a significant factor in excluding someone of the race of the defendant in a death penalty case, where that judgment is to be applied in terms of background and understanding. It is just a different approach.

In Pennsylvania, when the verdict is 11 for death and 1 for life imprisonment, that results in a sentence of life imprisonment. So it is difficult to say that the exclusion of seven black jurors and two Hispanics, as in the Allen case, would not have some very significant impact.

Mr. President, the Supreme Court of the United States has gone further in restricting the retroactivity in the case of Saffle versus Parks, decided this year, where there are now only two exceptions, and they are defined in a more restrictive manner, "watershed rules of criminal procedure implicating the fundamental fairness and accuracy of the criminal proceeding."

It is difficult to understand, Mr. President, how the exclusion of blacks systematically from a jury would not satisfy that test. Where there is a black defendant, when you talk about fundamental fairness and accuracy of the criminal proceeding, the logic, so-called, of the Supreme Court of the United States, I suggest, Mr. President, is highly questionable when the justices make their determination that retroactivity does not apply if the constitutional right is determined by equal protection of the 14th amendment, but it does apply as a fundamental right if it arises from the due process clause of the 14th amendment as it incorporates rights from the Bill of Rights.

That is somewhat technical legalese, but let me amplify it for just a moment. The Supreme Court has said that there is a constitutional right from the equal protection clause for a defendant not to be tried by a jury where his racial group has been systematically excluded. That is not the kind of a right which is applied retroactively. But if the Court, on the other hand, had said that the constitutional right arises from the due process clause of the 14th amendment, which would incorporate the right to jury trial from the sixth amendment, then that would be a fundamental right that would be applied retroactively.

When we are talking about executing people on death row and we are talking about the impact of a jury's verdict on the sense, feeling, or conclusion, or judgment of the death penalty, I submit that this kind of a distinction is simply not warranted. The Congress of the United States has the authority to define what the jurisdiction is of the Federal courts, including the Supreme Court of the United States. The Congress of the United States further has the authority to legislate in effectuating the purposes of the 14th amendment, both the due process clause and the equal protection clause, so that it is well within the purview of the Congress of the United States to take a look at what the Supreme Court of the United States has done on these cases and to make a decision as to whether the Congress agrees with the public policy which the Supreme Court has articulated.

The Supreme Court set forth at some length the standards of retroactivity in the case of Teague versus Lane decided last year, in 1989, and listen to the Supreme Court's own view of the retroactivity principles: "Retroactivity is properly treated as a threshold question, for, once a new rule is applied to the defendant in the case announcing the rule, evenhanded justice requires that it be applied retroactively to all who are similarly situated." The Court goes on to say, "* * * we believe that our approach * * * requires modification."

Then the Court says, "It is admittedly often difficult to determine when a case announces a new rule, and we do not attempt to define the spectrum of what may or may not constitute a new rule for retroactivity purposes."

So at the outset the Court, in effect, says we do not have a generalized rule. Then the Court goes on to say, "Not all rules have been uniformly treated for retroactivity purposes."

A bit beyond the Court says, "The Linkletter retroactivity standard has not led to consistent results. Instead, it has been used to limit application of certain new rules to cases on direct review, other new cases only to the defendants in the cases announcing such rules, and still other new rules to cases in which trials have not yet commenced."

And the Court later notes that, "the Court's refusal to give Mapp"—that is a search and seizure case—"retroactive effect resulted in unequal treatment. * * *"

Later, the Court points out, "In the interim, several lower Federal courts had come to the opposite conclusion and had applied Edwards to cases that had become final before that decision was announced.

Without amplifying on that, what happened in effect was the principle was applied retroactively in some cases and not in others by different decisions of the Federal courts.

The Court then pointed out further in the opinion, "a new rule should be applied retroactively if it requires the observance of 'those procedures' that * * * are 'implicit in the concept of ordered liberty.'"

It seems hard to postulate a procedure more implicit in the concept of ordered liberty than that a defendant should not have jurors excluded from his trial systematically members of his own race because of their race.

The Court then points out further in the opinion: "This Court has not 'always followed an unwavering line in its conclusions as to the availability of the Great Writ. Our development of the law on Federal habeas corpus has been attended, seemingly, with some backing and filling.'"

That is why I believe that it is very important that the Congress of the United States should take a very close look at the application of the rules of retroactivity and especially from a context of a situation where blacks are systematically excluded from a jury where a black is the defendant.

Mr. President, as applied by the Court of Appeals for the Fifth Circuit in the case of Esquivel versus McCotter, the court of appeals comes to these conclusions:

A telling indication that Batson does not implicate the enhancement of the accuracy of criminal trials is reflected by the fact that it was decided under the equal protection clause. The Court expressly pretermitted consideration of Batson's sixth amendment claims.

This is an amplification of a lower Federal court articulating the distinction between the two clauses of the Constitution which results in not giving a defendant who is a minority an opportunity to assert this rule because it is an equal protection constitutional right as opposed to a due process constitutional right. And where death is applied that makes no sense at all.

The Fifth Circuit goes on to say: "The disruptive effect on the administration of justice requires scant comment."

Bear in mind that the effect on the administration of justice is one of the standards to be considered. The Fifth Circuit says, "the disruptive effect on the administration of justice requires scant comment. Nearly 100 of the prisoners on death row in Texas belong to recognized minorities."

Mr. President, it is hardly a reason not to have Federal court review because there are 100 cases involved. If the Fifth Circuit is saying that they would give Federal court review if there was only one case involved because it would not affect the administration of criminal justice, it seems to this Senator that it is 100 times worse to deny review to 100 inmates on death row than it is to deny review to one inmate on death row. I do not think that is a very complicated proposition.

The court does not say here how many of those inmates would be affected by the particular right in question. It really cannot be articulated at this time how many of the 2,500 inmates on death row would be affected by retroactive application of Batson to cases on Federal habeas corpus review. Some have placed the estimate as low as six cases. Frankly, I doubt that that is accurate. But for a court of the United States to say that the administration of justice would be unduly disrupted because there are 100 people on death row seems to me just to be wrong as a matter of public policy, and I think it is time the Congress of the United States took a look at these matters to make that determination.

Mr. President, we currently have on death row some 2,500 inmates, and that is a problem, because there has been a logjam on the application of the death penalty, and that is a situation which I think we will remedy by final passage of this bill and the amendment which we passed today, the so-called Thurmond-Specter amendment which establishes a timetable so that these cases can be handled in an orderly way and inmates not have repetitive applications for habeas corpus, which take forever. But in establishing that principle, the defendant in a death case ought to have one opportunity to go to the Federal court and vindicate and have applied his constitutional right to be tried by a jury which did not systematically exclude on account of race members of his own race.

So I think ultimately we will be dealing with this issue and, by abbreviating the timeframe, work out a system that there is one review by the Federal court in the absence of some newly discovered evidence of the type procedures in the Specter-Thurmond amendment.

But to say that we will avoid this kind of review because there are 100 minority prisoners on death row and that, if only one was present, it would not be an administrative problem, that is just 100 times worse.

Mr. President, I have spoken at some length on this subject because, as I said earlier, I will not be pursuing this amendment because the unanimous-consent agreement may have foreclosed it in spirit, if not technically, and the distinguished chairman of the Judiciary Committee has agreed to prompt hearings. But as you look at the standards applied by the Supreme Court of the United States, it has an approach which does not satisfy basic considerations of public policy and basic considerations of fairness.

It is illustrated very forcefully where the Supreme Court concludes that there is a constitutional right not to be tried by a jury which systematically excludes members of your own race, but says because it comes under the equal protection clause as opposed to the due process clause, it will not be applied in the most compelling of circumstances when someone is on their way to the gas chamber.

I have taken the time of the Senate, although not the time of too many people. I thank the distinguished Presiding Officer, the Senator from Tennessee, for staying.

That concludes my remarks this evening. But I believe that even on C-SPAN II more will be heard on this subject as the Judiciary Committee moves forward to hearings and later to action on the floor of the Senate.

I thank the Chair and I yield the floor.

RECESS UNTIL 9:30 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 9:30 p.m.

Thereupon, the Senate, at 8:21 p.m., recessed until 9:29 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BURDICK].

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DASCHLE). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, the House has acted on the Americans With Disabilities Act, landmark civil rights legislation for the disabled in our society. And it is my desire to move promptly on this matter, to have the Senate disagree to the House amendment, request a conference with the House on disagreeing votes of the two bodies, and authorize the Chair to appoint conferees on the part of the Senate. This matter has been cleared on the Democratic side, and I would like very much to proceed in this regard.

I inquire of my colleague, the distinguished Republican leader, whether or not it is possible for the Senate to act on this matter this evening so the conference can proceed promptly on this matter.

Mr. DOLE. Mr. President, we have checked on this side. I understand there are three objections—not mine. But there are three objections on this side. So we will not be able to accommodate the majority leader.

Mr. MITCHELL. Mr. President, I regret that very much. I know, given the outstanding record of leadership of the distinguished Republican leader, that he is not objecting to this matter, but, unfortunately, has objections from others on the Republican side. I could proceed to have this matter brought up, but that would, under the circumstances, result in a lengthy delay. I think it best not to do so under the circumstances.

I deeply regret the objections made by Republican Senators. I hope very much that when we return from the recess we can resolve the objections. If not, I have advised the distinguished Republican leader it is my intention to proceed as promptly as possible to bring this matter up and to dispose of it at that time so the conferees can begin to move on something I think we all agree, and I know the distinguished Republican leader agrees because he has been such a leader in this area on this landmark civil rights legislation for disabled Americans.

Mr. DOLE. This is important legislation. I regret we cannot get consent. But I hope when we return we can move on it very quickly. The House has acted in an overwhelming majority, as we did in the Senate. There is no doubt about it. The conferees will get together and this will become law in the very near future. The sooner the better. We both understand.

Mr. MITCHELL. I thank my colleague.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1990—CONFERENCE REPORT

Mr. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 4404 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4404) making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of May 22, 1990.)

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the report.

Mr. BYRD. Mr. President, this conference agreement on H.R. 4404, the fiscal year 1990 supplemental appropriations bill preserves the Senate position on most of the amendments that were in conference. In addition, the conferees agreed to increase funding for the disaster assistance programs contained in title I of the bill. This additional funding was added in order to address the problems caused by massive flooding in Texas, Arkansas, Louisiana, and Oklahoma in recent days.

Specifically, the conference agreement adds $40 million for the flood control programs of the Corps of Engineers; $18 million for the Emergency Watershed Protection Program of the Department of Agriculture; and $10 million for the Emergency Conservation Program of the Soil Conservation Service. These amounts are in addition to the amounts provided in the Senate passed bill.

The conference recommendation includes $216 million for disaster assistance, $885 million for foreign aid assistance, and $789 million for domestic discretionary programs, for a total of $1.890 billion in the Department of Defense spending. These appropriations are offset by net reductions of $2.012 billion in Department of Defense spending. These portions of the bill are deficit neutral with respect to both budget authority and outlays.

Among the mandatory items funded in the bill are: $1.2 billion for food stamps; $433,500,000 for forest fire fighting; $245 million for the VA loan guaranty fund; and $190 million for the VA compensation and pension programs.

Mr. President, I ask unanimous consent that a table setting forth in detail the recommendations of the conference be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. Mr. President, I wish to thank all Senate conferees for their participation and support in the difficult negotiations that were necessary to complete this conference. I particularly appreciate the efforts of Senator HATFIELD, who, as the ranking minority member of the Appropriations Committee, was most helpful in moving along several of the contentious issues that we faced. I also appreciate the efforts of Mr. WHITTEN, the chairman of the House Appropriations Committee, for his diligence in finding ways to support the amendments of the Senate, as well as to provide the House conferees an opportunity to get consideration for programs of importance to them.

I express my strong hope that Senators will restrain themselves from offering amendments to this conference agreement. The House of Representatives has spent the entire day on the amendments in disagreement, most of which were Senate amendments, to which the House ultimately agreed. I know that there are Senators who have amendments which address issues that are very meritorious and which deserve attention. And some of which at least I sympathize with and am supportive of. But I hope that such amendments will not be offered, because I do not want to see this bill go back to the House tonight. I do not know what will happen to it there. I do not know how long the Senate would have to be in session tomorrow or whether the action on the bill would be completed before the break.

We hope to be in a position in the coming weeks to bring our fiscal year 1991 appropriations bills to the Senate floor. There will be ample opportunities for Senators to offer their amendments on those fiscal year 1991 appropriations bills. This is not a time for an epidemic of amendments to break out on the floor.

The Senate has debated this supplemental bill 6 days and adopted 180 amendments to the House-passed bill. We successfully defended the Senate position on the overwhelming majority of those amendments. It is now time to expeditiously complete action on this conference agreement, without further amendments to it and get this measure to the President for his signature.

EXHIBIT 1

1990 SUPPLEMENTAL BILL (H.R. 4404)

Doc. No.		Supplemental Request	House	Senate	Conference	Conference vs. Requests	Conference vs. House	Conference vs. Senate
	TITLE I - DISASTER ASSISTANCE							
	DEPARTMENT OF DEFENSE - CIVIL							
	DEPARTMENT OF THE ARMY							
	Corps of Engineers - Civil							
---	Flood control and coastal emergencies	---	20,000,000	20,000,000	20,000,000	+20,000,000	---	---
---	General expenses	---	---	15,000,000	15,000,000	+15,000,000	+15,000,000	---
101-176	(By transfer)	(30,000,000)	---	---	---	(-30,000,000)	---	---
---	Operation and maintenence, general	---	---	---	40,000,000	+40,000,000	+40,000,000	+40,000,000
	Total, Department of Defense - Civil	---	20,000,000	35,000,000	75,000,000	+75,000,000	+55,000,000	+40,000,000
	DEPARTMENT OF AGRICULTURE							
	Soil Conservation Service:							
---	Watershed and flood prevention operations	---	31,000,000	42,000,000	60,000,000	+60,000,000	+29,000,000	+18,000,000
	Agricultural Stabilization and Conservation Service:							
---	Salaries and expenses	---	---	11,000,000	11,000,000	+11,000,000	+11,000,000	---
---	Emergency conservation program	---	10,000,000	10,000,000	20,000,000	+20,000,000	+10,000,000	+10,000,000
	Total, Department of Agriculture	---	41,000,000	63,000,000	91,000,000	+91,000,000	+50,000,000	+28,000,000
	INDEPENDENT AGENCIES							
	Federal Emergency Management Agency							
---	Disaster relief	---	50,000,000	50,000,000	50,000,000	+50,000,000	---	---
	Total, Title I:							
	New budget (obligational) authority	---	111,000,000	148,000,000	216,000,000	+216,000,000	+105,000,000	+68,000,000
	(By transfer)	(30,000,000)	---	---	---	(-30,000,000)	---	---
	TITLE II - SUPPLEMENTAL APPROPRIATIONS							
	CHAPTER I							
	DEPARTMENT OF COMMERCE							
	Bureau of the Census							
---	Periodic censuses and programs	---	---	110,000,000	110,000,000	+110,000,000	+110,000,000	---
101-176	(By transfer)	(110,000,000)	---	---	---	(-110,000,000)	---	---
	Economic Development Administration							
---	Economic development assistance programs	---	---	---	424,000	+424,000	+424,000	+424,000
101-178	(Rescission)	-181,800,000	---	---	---	+181,800,000	---	---
	International Trade Administration							
---	Operations and administration	---	---	---	1,445,000	+1,445,000	+1,445,000	+1,445,000
	National Oceanic and Atmospheric Administration							
---	Operations, research and facilities	---	---	15,482,000	8,762,000	+8,762,000	+8,762,000	-6,720,000
	Total, Department of Commerce	-181,800,000	---	125,482,000	120,631,000	+302,431,000	+120,631,000	-4,851,000
	DEPARTMENT OF JUSTICE							
	Legal Activities							
	Salaries and expenses, general legal activities							
101-122	(Vaccine injury compensation fund)	500,000	---	---	---	-500,000	---	---
---	Salaries and expenses, antitrust division	---	---	2,500,000	---	---	---	-2,500,000
---	(By transfer)	---	---	---	(2,500,000)	(+2,500,000)	(+2,500,000)	(+2,500,000)
	Salaries and expenses, United State Marshals Service							
---	(by transfer)	---	---	(7,400,000)	(7,400,000)	(+7,400,000)	(+7,400,000)	---
---	Fees and expenses of witnesses	---	---	2,600,000	2,600,000	+2,600,000	+2,600,000	---
	Total, Legal Activities	500,000	---	5,100,000	2,600,000	+2,100,000	+2,600,000	-2,500,000
	Federal Bureau of Investigation							
---	Salaries and expenses	---	---	185,000,000	185,000,000	+185,000,000	+185,000,000	---
	Total, Department of Justice	500,000	---	190,100,000	187,600,000	+187,100,000	+187,600,000	-2,500,000
	DEPARTMENT OF STATE							
	Administration of Foreign Affairs							
	Secretary's special Lithuania Independence and							
---	Recognition fund	---	---	10,000,000	---	---	---	-10,000,000
	Emergencies in the diplomatic and consular service							
101-122	(by transfer)	(3,000,000)	---	---	---	(-3,000,000)	---	---
	THE JUDICIARY							
	Supreme Court of the United States							
101-122	Salaries of justices	63,000	63,000	63,000	63,000	---	---	---
	Courts of Appeals, District Courts, and Other Judicial Services							
	Salaries and expenses:							
101-122	Salaries of judges	5,253,000	5,253,000	5,253,000	5,253,000	---	---	---
101-122	Other salaries and expenses	22,750,000	22,750,000	17,750,000	20,250,000	-2,500,000	-2,500,000	+2,500,000
---	(By transfer)	---	---	---	(4,500,000)	(+4,500,000)	(+4,500,000)	(+4,500,000)
	Total, salaries and expenses	28,003,000	28,003,000	23,003,000	25,503,000	-2,500,000	-2,500,000	+2,500,000
	United States Sentencing Commission							
101-122	Salaries and expenses	700,000	700,000	700,000	700,000	---	---	---
	Total, Judiciary	28,766,000	28,766,000	23,766,000	26,266,000	-2,500,000	-2,500,000	+2,500,000

1990 SUPPLEMENTAL BILL (H.R. 4404)

Doc. No.		Supplemental Request	House	Senate	Conference	Conference vs. Requests	Conference vs. House	Conference vs. Senate
	RELATED AGENCIES							
	DEPARTMENT OF THE INTERIOR							
	United States Fish and Wildlife Service							
---	Land acquisition	---	---	---	6,000,000	+6,000,000	+6,000,000	+6,000,000
	DEPARTMENT OF TRANSPORTATION							
	Maritime Adminstration							
---	Federal ship financing fund	---	---	---	750,000	+750,000	+750,000	+750,000
	Federal Trade Commission							
---	Salaries and expenses	---	---	2,500,000	2,500,000	+2,500,000	+2,500,000	---
	Total, Chapter I:							
	New budget (obligational) authority	-152,534,000	28,766,000	351,848,000	343,747,000	+496,281,000	+314,981,000	-8,101,000
	Appropriations	(29,266,000)	(28,766,000)	(351,848,000)	(343,747,000)	(+314,481,000)	(+314,981,000)	(-8,101,000)
	Rescissions	(-181,800,000)	---	---	---	(+181,800,000)	---	---
	(By transfer)	(113,000,000)	---	(7,400,000)	(14,400,000)	(-98,600,000)	(+14,400,000)	(+7,000,000)
	CHAPTER II							
	DEPARTMENT OF DEFENSE - MILITARY							
	Procurement							
---	Procurement of Ammunition, Army	---	---	238,000,000	238,000,000	+238,000,000	+238,000,000	---
---	(Rescission)	---	---	-238,000,000	-238,000,000	-238,000,000	-238,000,000	---
	Research, Development, Test, and Evaluation							
---	Research, development, test, and evaluation, Navy	---	6,000,000	6,000,000	6,000,000	+6,000,000	---	---
	Military Construction							
---	Military Construction, Army Reserve	---	---	9,000,000	3,000,000	+3,000,000	+3,000,000	-6,000,000
---	Military Construction, Army National Guard	---	---	9,000,000	7,000,000	+7,000,000	+7,000,000	-2,000,000
	Total, Military Construction	---	---	18,000,000	10,000,000	+10,000,000	+10,000,000	-8,000,000
	General Provisions							
---	Rescission	---	-1,796,792,000	-1,540,974,000	-2,028,461,000	-2,028,461,000	-231,669,000	-487,487,000
---	Net effect of rescissions for personnel costs	---	---	-1,346,620,000	---	---	---	+1,346,620,000
	Total, Chapter II:							
	New budget (obligational) authority	---	-1,790,792,000	-2,863,594,000	-2,012,461,000	-2,012,461,000	-221,669,000	+851,133,000
	Appropriations	---	(6,000,000)	(-1,084,620,000)	(254,000,000)	(+254,000,000)	(+248,000,000)	(+1,338,620,000)
	Rescissions	---	(-1,796,792,000)	(-1,778,974,000)	(-2,266,461,000)	(-2,266,461,000)	(-469,669,000)	(-487,487,000)
	CHAPTER III							
	FUNDS APPROPRIATED TO THE PRESIDENT							
	Multilateral Economic Assistance							
	International Financial Institutions							
101-148	Contribution to the International Bank for Reconstruction and Development: (Limitation on callable capital)	(1,609,671,408)	(1,609,671,408)	(1,609,671,408)	(1,609,671,408)	---	---	---
	Bilateral Economic Assistance							
	Agency for International Development							
---	Development assistance	---	---	---	5,000,000	+5,000,000	+5,000,000	+5,000,000
---	Sub-Saharan Africa, development assistance	---	5,000,000	20,000,000	10,000,000	+10,000,000	+5,000,000	-10,000,000
---	Health development assistance	---	---	10,000,000	10,000,000	+10,000,000	+10,000,000	---
---	Housing and other credit guaranty programs (limitation on guaranteed loans)	---	(400,000,000)	(400,000,000)	(400,000,000)	(+400,000,000)	---	---
---	International disaster assistance	---	---	---	5,000,000	+5,000,000	+5,000,000	+5,000,000
	International Security Assistance							
---	Economic support fund	---	765,000,000	750,000,000	755,000,000	+755,000,000	-10,000,000	+5,000,000
101-148								
101-157	(By transfer)	(800,000,000)	---	---	---	(-800,000,000)	---	---
---	I-Match (guaranteed loans)	---	---	(200,000,000)	(200,000,000)	(+200,000,000)	(+200,000,000)	---
	DEPARTMENT OF STATE							
---	Migration and refugee assistance	---	75,000,000	75,000,000	75,000,000	+75,000,000	---	---
101-148	(By transfer)	(70,000,000)	---	---	---	(-70,000,000)	---	---
---	United States Emergency Refugee and Migration Assistance Fund	---	25,000,000	25,000,000	25,000,000	+25,000,000	---	---
	Total, Department of State	---	100,000,000	100,000,000	100,000,000	+100,000,000	---	---
	Total, Chapter III:							
	New budget (obligational) authority	---	870,000,000	880,000,000	885,000,000	+885,000,000	+15,000,000	+5,000,000
	(By transfer)	(870,000,000)	---	---	---	(-870,000,000)	---	---
	CHAPTER IV							
	DEPARTMENT OF THE INTERIOR							
	Bureau of Land Management							
---	Firefighting	---	176,800,000	176,800,000	176,800,000	+176,800,000	---	---
	United States Fish and Wildlife Service							
---	Resource management	---	---	1,000,000	827,000	+827,000	+827,000	-173,000
	Geological Survey							
---	Surveys, investigations, and research	---	---	---	6,246,000	+6,246,000	+6,246,000	+6,246,000
	Departmental Offices							
---	Oil spill emergency fund	---	---	---	7,279,000	+7,279,000	+7,279,000	+7,279,000
	Total, Department of Interior	---	176,800,000	177,800,000	191,152,000	+191,152,000	+14,352,000	+13,352,000

1990 SUPPLEMENTAL BILL (H.R. 4404)

Doc. No.		Supplemental Request	House	Senate	Conference	Conference vs. Requests	Conference vs. House	Conference vs. Senate
	DEPARTMENT OF AGRICULTURE							
	Forest Service							
---	Forest research (by transfer)	---	---	(4,700,000)	(4,700,000)	(+4,700,000)	(+4,700,000)	---
---	State and private forestry (by transfer)	---	---	(6,900,000)	(6,900,000)	(+6,900,000)	(+6,900,000)	---
---	National forest system	---	---	---	8,633,000	+8,633,000	+8,633,000	+8,633,000
---	(By transfer)	---	---	(4,440,000)	(4,440,000)	(+4,440,000)	(+4,440,000)	---
---	Forest Service firefighting	---	256,000,000	256,700,000	256,700,000	+256,700,000	+700,000	---
	Total, Forest Service	---	256,000,000	256,700,000	265,333,000	+265,333,000	+9,333,000	+8,633,000
	Total, Chapter IV:							
	New budget (obligational) authority	---	432,800,000	434,500,000	456,485,000	+456,485,000	+23,685,000	+21,985,000
	(By transfer)	---	---	(16,040,000)	(16,040,000)	(+16,040,000)	(+16,040,000)	---
	CHAPTER V							
	DEPARTMENT OF LABOR							
	Employment and Training Administration							
---	Community service employment for older Americans	---	---	10,000,000	10,000,000	+10,000,000	+10,000,000	---
---	State unemployment insurance and employment service operations (limitation on trust fund transfer)	---	(96,000,000)	(99,600,000)	(99,600,000)	(+99,600,000)	(+3,600,000)	---
	Employments Standards Administration							
---	Black Lung Disability trust fund	---	---	700,000	700,000	+700,000	+700,000	---
	Total, Department of Labor	---	---	10,700,000	10,700,000	+10,700,000	+10,700,000	---
	DEPARTMENT OF HEALTH AND HUMAN SERVICES							
	Health Resources and Service Administration							
---	Program operations	---	---	2,300,000	2,300,000	+2,300,000	+2,300,000	---
	Centers for Disease Control							
---	Disease control, research, and training	---	---	31,500,000	30,500,000	+30,500,000	+30,500,000	-1,000,000
	Family Support Administration							
---	Payments to States for AFDC work programs (rescission)	---	---	-7,880,000	---	---	---	+7,880,000
---	Low income home energy assistance	---	50,000,000	50,000,000	50,000,000	+50,000,000	---	---
---	Refugee and entrant assistance (by transfer)	---	---	---	(6,000,000)	(+6,000,000)	(+6,000,000)	(+6,000,000)
	Assistant Secretary for Human Development Services							
---	Head Start program	---	---	165,685,000	165,685,000	+165,685,000	+165,685,000	---
	Total, Department of Health and Human Services	---	50,000,000	241,605,000	248,485,000	+248,485,000	+198,485,000	+6,880,000
	DEPARTMENT OF EDUCATION							
---	School Improvement Program	---	---	22,609,000	18,425,000	+18,425,000	+18,425,000	-4,184,000
---	(By transfer)	---	---	(3,374,000)	(2,520,000)	(+2,520,000)	(+2,520,000)	(-854,000)
	RELATED AGENCIES							
---	National Commission on Children	---	---	500,000	400,000	+400,000	+400,000	-100,000
---	White House Conference on Library and Information Services	---	---	425,000	---	---	---	-425,000
	Total, Related Agencies	---	---	23,534,000	18,825,000	+18,825,000	+18,825,000	-4,709,000
	Total, Chapter V:							
	New budget (obligational) authority	---	50,000,000	275,839,000	278,010,000	+278,010,000	+228,010,000	+2,171,000
	Appropriations	---	(50,000,000)	(283,719,000)	(278,010,000)	(+278,010,000)	(+228,010,000)	(-5,709,000)
	Rescissions	---	---	(-7,880,000)	---	---	---	(+7,880,000)
	(By transfer)	---	---	(3,374,000)	(8,520,000)	(+8,520,000)	(+8,520,000)	(+5,146,000)
	CHAPTER VI							
	DEPARTMENT OF AGRICULTURE							
	Agricultural Research Service:							
101-178	Buildings and facilities (rescission)	-4,075,000	---	---	---	+4,075,000	---	---
	Cooperative State Research Service:							
101-178	Buildings and facilities (rescission)	-41,008,000	---	---	---	+41,008,000	---	---
	Animal and Plant Health Inspection Service:							
---	Salaries and expenses	---	---	8,000,000	8,000,000	+8,000,000	+8,000,000	---
---	Food Safety Inspection Service	---	---	6,884,000	4,400,000	+4,400,000	+4,400,000	-2,484,000
	Federal Crop Insurance Corporation:							
101-176	Administration and operating expenses	15,000,000	---	15,000,000	15,000,000	---	+15,000,000	---
	Rural Electrification Administration:							
	Rural electrification & telephone revolving fund:							
	Direct loans:							
101-176	Electric	(-23,500,000)	---	---	---	(+23,500,000)	---	---
101-176	Telephone	(-105,900,000)	---	---	---	(+105,900,000)	---	---
	Food and Nutrition Service:							
---	Commodity supplemental food program	---	---	4,700,000	3,100,000	+3,100,000	+3,100,000	-1,600,000
---	Food stamp program	1,200,000,000	510,000,000	705,000,000	1,200,000,000	---	+690,000,000	+495,000,000
	Total, Department of Agriculture	1,215,000,000	510,000,000	739,584,000	1,230,500,000	+15,500,000	+720,500,000	+490,916,000
	DEPARTMENT OF HEALTH AND HUMAN SERVICES							
	Food and Drug Administration							
101-122	Salaries and expenses	13,900,000	13,900,000	13,900,000	13,900,000	---	---	---
101-122	Offsetting collections	-13,900,000	---	---	---	+13,900,000	---	---
	RELATED AGENCIES							
---	Commodity Futures Trading Commission 1/	3,655,000	---	3,655,000	2,000,000	-1,655,000	+2,000,000	-1,655,000
	Total, Chapter VI:							
	New budget (obligational) authority	1,173,572,000	523,900,000	757,139,000	1,246,400,000	+72,828,000	+722,500,000	+489,261,000
	Appropriations	(1,218,655,000)	(523,900,000)	(757,139,000)	(1,246,400,000)	(+27,745,000)	(+722,500,000)	(+489,261,000)
	Rescissions	(-45,083,000)	---	---	---	(+45,083,000)	---	---

1/ CFTC has submitted a request for this amount to the Office of Management and Budget. OMB has not acted on the request.

1990 SUPPLEMENTAL BILL (H.R. 4404)

Doc. No.		Supplemental Request	House	Senate	Conference	Conference vs. Requests	Conference vs. House	Conference vs. Senate
	CHAPTER VII							
	DEPARTMENT OF VETERANS AFFAIRS							
	Veterans Benefits Administration							
101-176	Compensation and pensions	190,000,000	190,000,000	190,000,000	190,000,000	---	---	---
101-176	Loan guaranty revolving fund	245,000,000	150,000,000	245,000,000	245,000,000	---	+95,000,000	---
	Total, Veterans Benefits Administration	435,000,000	340,000,000	435,000,000	435,000,000	---	+95,000,000	---
	Veterans Health Service and Research Administration							
---	Medical care	---	50,000,000	94,000,000	94,000,000	+94,000,000	+44,000,000	---
---	Medical administration and miscellaneous operating expenses (by transfer)	---	(1,300,000)	(1,300,000)	(1,300,000)	(+1,300,000)	---	---
	Total, Department of Veterans Affairs	435,000,000	390,000,000	529,000,000	529,000,000	+94,000,000	+139,000,000	---
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
	Housing Programs							
---	Annual contributions for assisted housing: Housing development grant proj (reappropriation)	---	---	2,469,000	2,469,000	+2,469,000	+2,469,000	---
---	Payments for operation of low-income housing projects (by transfer)	---	(72,000,000)	(72,000,000)	(72,000,000)	(+72,000,000)	---	---
	Community Planning and Development							
101-122	Urban homesteading (by transfer)	(11,450,000)	(11,450,000)	---	---	(-11,450,000)	(-11,450,000)	---
---	Community development block grants (by transfer)	---	---	---	(11,450,000)	(+11,450,000)	(+11,450,000)	(+11,450,000)
	INDEPENDENT AGENCIES							
	American Battle Monuments Commission							
---	Salaries and expenses	---	---	500,000	500,000	+500,000	+500,000	---
	Environmental Protection Agency							
---	Abatement, control and compliance	---	---	---	1,800,000	+1,800,000	+1,800,000	+1,800,000
	Federal Emergency Management Agency							
---	Emergency management planning and assistance	---	---	500,000	---	---	---	-500,000
	National Aeronautics and Space Administration							
---	Space flight, control and data communications (rescission)	---	---	-36,077,000	---	---	---	+36,077,000
101-122	Research and program management (by transfer)	(32,970,000)	(32,970,000)	(45,000,000)	(32,970,000)	---	---	(-12,030,000)
	National Commission on American Indian, Alaska Native, and Native Hawaiian Housing							
---	Salaries and expenses (by transfer)	---	---	(500,000)	(500,000)	(+500,000)	(+500,000)	---
	National Commission on Severely Distressed Public Housing							
---	Salaries and expenses (by transfer)	---	---	(2,000,000)	(2,000,000)	(+2,000,000)	(+2,000,000)	---
	Total, Chapter VII:							
	New budget (obligational) authority	435,000,000	390,000,000	496,392,000	533,769,000	+98,769,000	+143,769,000	+37,377,000
	Appropriations	(435,000,000)	(390,000,000)	(530,000,000)	(531,300,000)	(+96,300,000)	(+141,300,000)	(+1,300,000)
	Reappropriations	---	---	(2,469,000)	(2,469,000)	(+2,469,000)	(+2,469,000)	---
	Rescissions	---	---	(-36,077,000)	---	---	---	(+36,077,000)
	(By transfer)	(44,420,000)	(117,720,000)	(120,800,000)	(120,220,000)	(+75,800,000)	(+2,500,000)	(-580,000)
	CHAPTER VIII							
	DEPARTMENT OF TRANSPORTATION							
	National Highway Traffic Safety Administration							
---	Highway traffic safety grants (Highway Trust Fund) (liquidation of contract authorization)	---	---	(5,000,000)	(5,000,000)	(+5,000,000)	(+5,000,000)	---
---	Alcohol safety incentive grants: (limitation on obligations)	---	---	(5,000,000)	(5,000,000)	(+5,000,000)	(+5,000,000)	---
	CHAPTER IX							
	DISTRICT OF COLUMBIA FUNDS							
	Operating Expenses							
101-186	Governmental direction and support	(99,000)	---	(99,000)	(99,000)	---	(+99,000)	---
101-186	(Rescission)	(-3,317,000)	---	(-3,317,000)	(-3,317,000)	---	(-3,317,000)	---
101-186	Economic development and regulation	(50,000)	---	(50,000)	(50,000)	---	(+50,000)	---
101-186	(Rescission)	(-10,498,000)	---	(-10,478,000)	(-10,498,000)	---	(-10,498,000)	(-20,000)
101-186	Public safety and justice	(7,750,000)	---	(7,750,000)	(7,750,000)	---	(+7,750,000)	---
101-186	(Rescission)	(-5,739,000)	---	(-5,739,000)	(-2,739,000)	(+3,000,000)	(-2,739,000)	(+3,000,000)
101-186	Public education system	(3,461,000)	---	---	(3,461,000)	---	(+3,461,000)	(+3,461,000)
101-186	(Rescission)	(-10,044,000)	---	(-6,583,000)	(-10,044,000)	---	(-10,044,000)	(-3,461,000)
101-186	Human support services	(4,840,000)	---	(4,840,000)	(4,840,000)	---	(+4,840,000)	---
101-186	(Rescission)	(-10,245,000)	---	(-10,245,000)	(-10,245,000)	---	(-10,245,000)	---
101-186	Public works (rescission)	(-8,810,000)	---	(-8,810,000)	(-8,810,000)	---	(-8,810,000)	---
101-186	Washington Convention Center Fund	(2,993,000)	---	(2,993,000)	(2,993,000)	---	(+2,993,000)	---
101-186	Repayment of loans and interest (rescission)	(-12,336,000)	---	(-12,336,000)	(-12,336,000)	---	(-12,336,000)	---
101-186	Repayment of general fund deficit (rescission)	(-19,558,000)	---	(-19,558,000)	---	(+19,558,000)	---	(+19,558,000)
101-186	Short-term borrowings	(3,349,000)	---	(3,349,000)	(3,349,000)	---	(+3,349,000)	---
101-186	Optical and dental benefits	(543,000)	---	(543,000)	(543,000)	---	(+543,000)	---
101-186	Energy adjustment	(2,000,000)	---	(2,000,000)	(2,000,000)	---	(+2,000,000)	---
101-186	Equipment adjustment	(6,100,000)	---	(6,100,000)	(6,100,000)	---	(+6,100,000)	---
101-186	Personal services adjustment	(31,550,000)	---	(31,550,000)	(31,550,000)	---	(+31,550,000)	---
101-186	Supply, energy and equipment adjustments (rescission)	(-2,000,000)	---	---	(-5,000,000)	(-3,000,000)	(-5,000,000)	(-5,000,000)
	Total, Operating expenses, general fund (net)	(-19,812,000)	---	(-17,792,000)	(-254,000)	(+19,558,000)	(-254,000)	(+17,538,000)
	Capital Outlay							
101-186	General fund	(79,802,000)	---	(76,102,000)	(79,802,000)	---	(+79,802,000)	(+3,700,000)
101-186	(Rescission)	(-27,915,000)	---	(-24,215,000)	(-27,915,000)	---	(-27,915,000)	(-3,700,000)
	Enterprise Fund							
101-186	Water and Sewer Enterprise Fund	(12,026,000)	---	(12,026,000)	(12,026,000)	---	(+12,026,000)	---
101-186	(Rescission)	(-17,680,000)	---	(-17,680,000)	(-17,680,000)	---	(-17,680,000)	---

1990 SUPPLEMENTAL BILL (H.R. 4404)

Doc. No.		Supplemental Request	House	Senate	Conference	Conference vs. Requests	Conference vs. House	Conference vs. Senate
	CHAPTER X							
	FUNDS APPROPRIATED TO THE PRESIDENT							
---	Unanticipated needs	---	---	5,000,000	5,000,000	+5,000,000	+5,000,000	---
	Total, Chapter X: New budget (obligational) authority	---	---	5,000,000	5,000,000	+5,000,000	+5,000,000	---
	CHAPTER XI							
	LEGISLATIVE BRANCH							
	SENATE							
	Payments to Widows and Heirs of Deceased Members of Congress							
101-176	Gratuities, deceased Members	98,400	---	98,400	98,400	---	+98,400	---
	Library of Congress							
101-176	Salaries and expenses	912,000	---	---	---	-912,000	---	---
	Total, Chapter XI: New budget (obligational) authority	1,010,400	---	98,400	98,400	-912,000	+98,400	---
	Total, Title II: New budget (obligational) authority	1,457,048,400	504,674,000	337,222,400	1,736,048,400	+279,000,000	+1,231,374,400	+1,398,826,000
	Appropriations	(1,683,931,400)	(2,301,466,000)	(2,157,684,400)	(4,000,040,400)	(+2,316,109,000)	(+1,698,574,400)	(+1,842,356,000)
	Reappropriations	---	---	(2,469,000)	(2,469,000)	(+2,469,000)	(+2,469,000)	---
	Rescissions	(-226,883,000)	(-1,796,792,000)	(-1,822,931,000)	(-2,266,461,000)	(-2,039,578,000)	(-469,669,000)	(-443,530,000)
	(By transfer)	(1,027,420,000)	(117,720,000)	(147,614,000)	(159,180,000)	(-868,240,000)	(+41,460,000)	(+11,566,000)
	TITLE III - GENERAL PROVISIONS							
	LEGISLATIVE BRANCH							
	SENATE							
	Contingent Expenses of the Senate							
---	Sergeant at Arms and Doorkeeper of the Senate (Reappropriation)	---	---	1,500,000	1,500,000	+1,500,000	+1,500,000	---
	DEPARTMENT OF TRANSPORTATION							
---	AMTRAK corridor improvement loans	---	---	---	10,000	+10,000	+10,000	+10,000
	REPEAL OF SECTION 614							
---	Repeal of Sec. 614 of P.L. 101-162	363,416,000	---	363,416,000	363,416,000	---	+363,416,000	---
	Total, Title III: New budget (obligational) authority	363,416,000	---	364,916,000	364,926,000	+1,510,000	+364,926,000	+10,000
	Appropriations	(363,416,000)	---	(363,416,000)	(363,426,000)	(+10,000)	(+363,426,000)	(+10,000)
	Reappropriations	---	---	(1,500,000)	(1,500,000)	(+1,500,000)	(+1,500,000)	---
	Grand total: New budget (obligational) authority	1,820,464,400	615,674,000	850,138,400	2,316,974,400	+496,510,000	+1,701,300,400	+1,466,836,000
	Appropriations	(2,047,347,400)	(2,412,466,000)	(2,669,100,400)	(4,579,466,400)	(+2,532,119,000)	(+2,167,000,400)	(+1,910,366,000)
	Reappropriations	---	---	(3,969,000)	(3,969,000)	(+3,969,000)	(+3,969,000)	---
	Rescissions	(-226,883,000)	(-1,796,792,000)	(-1,822,931,000)	(-2,266,461,000)	(-2,039,578,000)	(-469,669,000)	(-443,530,000)
	(By transfer)	(1,057,420,000)	(117,720,000)	(147,614,000)	(159,180,000)	(-898,240,000)	(+41,460,000)	(+11,566,000)
	CONGRESSIONAL BUDGET RECAP							
	Scorekeeping adjustments:							
	Unanticipated needs (rescission)	---	---	-15,153,000	-15,153,000	-15,153,000	-15,153,000	---
	REA credit scoring	-121,270,000	---	---	---	+121,270,000	---	---
	Export Enhancement Program	---	---	-7,000,000	-9,100,000	-9,100,000	-9,100,000	-2,100,000
	Legislative Branch (reappropriation)	---	---	---	25,200,000	+25,200,000	+25,200,000	+25,200,000
	Total, adjustments	-121,270,000	---	-22,153,000	947,000	+122,217,000	+947,000	+23,100,000
	Total (including adjustments)	1,699,194,400	615,674,000	827,985,400	2,317,921,400	+618,727,000	+1,702,247,400	+1,489,936,000
	Amount in this bill	(1,820,464,400)	(615,674,000)	(850,138,400)	(2,316,974,400)	(+496,510,000)	(+1,701,300,400)	(+1,466,836,000)
	Scorekeeping adjustments	(-121,270,000)	---	(-22,153,000)	(947,000)	(+122,217,000)	(+947,000)	(+23,100,000)
	Total mandatory and discretionary	1,699,194,400	615,674,000	827,985,400	2,317,921,400	+618,727,000	+1,702,247,400	+1,489,936,000
	Mandatory	(1,640,414,400)	(1,288,116,000)	(1,582,214,400)	(2,077,214,400)	(+436,800,000)	(+789,098,400)	(+495,000,000)
	Discretionary	(58,780,000)	(-672,442,000)	(-754,229,000)	(240,707,000)	(+181,927,000)	(+913,149,000)	(+994,936,000)

Mr. BYRD. Mr. President, the Identification Division of the Federal Bureau of Investigation serves as the Nation's Fingerprint Repository, and compiles and disseminates criminal history records for over 62,000 authorized users. The identification criminal file contains over 25 million subjects, with an additional 37 million persons represented in civil or applicant-type records to assist in Federal and State/local job applications clearances, and similar identification purposes. The identification division serves all of the law enforcement organizations, as well as licensing and other regulatory agencies at the Federal, State, and local levels.

Despite a major automation investment in 1984, the FBI's Identification Division remains a very manpower-intensive operation characterized by high turnover of low-paid, unskilled personnel in a high cost-of-living area, turnover was as high as 36 percent and is presently 15 percent. Moreover, technological advances are rapidly making the current semi-automated system outmoded. In fact, the FBI is falling behind the States in the automation of fingerprint files, and is now not compatible with many State fingerprint systems. The current FBI system cannot adequately service State and local law enforcement agencies and cannot address the backlog of criminal history record information. For example, about 700,000 fingerprint cards, 2 million dispositions, and 30,000 pieces of correspondence are backlogged. The FBI estimates that the fingerprint backlog could reach

system cannot adequately service State and local law enforcement agencies and cannot address the backlog of criminal history record information. For example, about 700,000 fingerprint cards, 2 million dispositions, and 30,000 pieces of correspondence are backlogged. The FBI estimates that the fingerprint backlog could reach 800,000 by the end of calendar year 1990.

Consequently, the committee and Congress, in recognition of these problems, during the processing of the fiscal year 1990 appropriations for the FBI, provided new authority to permit the FBI to establish user fees to be charged to State and local agencies for noncriminal justice fingerprint identification and name check services, at an amount which would help defray the costs of a new automated fingerprint identification system and associated costs.

However, additional steps must be taken now in order for the FBI to regain its leadership and serve as the national repository for all fingerprints, and provide the necessary law enforcement support to States in concert with the President's initiatives to combat violent crime and drug trafficking. The FBI must initiate a program to automate the fingerprint files and establish a computer system to support the automation process. Increased demands in the areas of narcotics trafficking, violent crime, and felons seeking firearms must be met with the recognition that only a new and revitalized automated fingerprint identification system can provide.

If effective action is not taken now, backlogs will grow, States will continue to head off in different directions, and the Nation will no longer have the ability to check fingerprints on a national scale. As things stand now, law enforcement officials cannot find out if someone arrested in their jurisdiction is wanted in another State. I am told that people are being arrested and released because the arresting officials in a State cannot check on a nationwide basis to find out if the individual is wanted in another State. Moreover, when police uncover a latent fingerprint from a crime scene, such as in the case of the recent murder of the Maryland State trooper, there is no way to check that latent fingerprint against an updated national file. With regard to the Maryland incident, good investigative work led police to believe the fugitives were heading to New York, which has an automated fingerprint system, and the print led to the identification of one of the parties. All of this is an intolerable situation. Something needs to be done about this now, and that is one of the reasons that these funds are included in this supplemental appropriations bill.

The automated fingerprint identification system at the FBI is needed so that law enforcement officials do not continue to release wanted felons to rape, murder, and rob, again and again. Surely, such a situation constitutes the kind of emergency which should be addressed in this bill, and it has been addressed.

The effective operation of the national repository for all fingerprints at the FBI's Identification Division is a crucial element in effective law enforcement in the United States. The current situation in which various States are splintering off in different directions, embarking upon incompatible fingerprint identification systems, is inefficient and not conducive to effective law enforcement. Not only are many States far outdistancing the FBI in the utilization of new automated fingerprint identification system technology, but the resulting splintering of fingerprint systems is akin to embarking upon the development of a national railroad system in which each State has a different gage of track. Moreover, the FBI has indicated that prominent State and local law enforcement officials have expressed alarm that the FBI no longer can support the fingerprint identification needs of local law enforcement.

The Identification Division can make over 100,000 identifications of wanted persons a year. This is in the face of an estimated backlog of 6 weeks. The implementation of an automated system would increase the number of identifications of wanted persons, as well as result in an increase in the number of suspects identified through crime-scene latent fingerprints.

Currently, an arrested person, for whom prints have been submitted, may be released from custody long before an identification is made, and the person has absconded. With automation, this could be prevented.

An automated system will produce a significantly larger number of print checks, thus increasing the probability of the identification of wanted persons.

An automated sysem will also facilitate the processing of latent prints from crime scenes, and thus increase the identification of suspects from latent prints. It would also involve the capability to have comparisons made of unidentified latent prints from previous crime scenes, against those prints submitted through the NCIC 2000 system, when that program is implemented.

Currently, it is surmised that a large number of prints of arrested individuals are never submitted to the FBI Identification Division by law enforcement organizations due to known delays in the proceeding of the prints, or the fact that the person may be released prior to a response. Automation solves this delay, and begins to rebuild the cooperative partnership with the FBI and the law enforcement community.

Automation gives the prospect of identifying a highly wanted person through what would otherwise be a routine police encounter.

The net result of automation is a higher rate of identification of both wanted persons and suspects, and translates into more efficient and effective use of existing police resources.

Investigative time is saved in those investigations where an identification is made through latent prints as opposed to manpower intensive investigations and coverage of numerous leads.

If a wanted person is identified at the time of a routine police encounter or arrest, the person will not walk away, necessitating a continuing fugitive investigation.

Most crimes are committed by a small percentage of the population. It makes sense to attempt to remove those persons from the street in the most effective means available. Automation significantly improves this process. The most wanted criminals are multiple offenders, thus arrested or detained individuals are apt to have prior violations and also to be wanted on other charges. Automation allows for the speedy identification of the very criminal that society most wants off of the streets.

In summary, in order to facilitate and accelerate the automation project, for the many reasons which I have indicated above, the House-Senate conferees have agreed to the $185,000,000 in the bill so that the FBI may retain an architectural and engineering firm for design and drawings for the required facility and automation project, initiate the pilot automation project, and negotiate a contract for site acquisition and construction of the facility. It is of the highest priority to the FBI Director, and is so important and so urgently needed by the law enforcement community in their efforts to identify and apprehend wanted criminals, including that small group of multiple offenders which society most wants off the streets.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I want to associate myself with the remarks made by our chairman, the Senator from West Virginia, who once again has ably steered and guided this appropriation supplemental through a very complex process and has brought it down to the Senate for final consideration. I also would underscore his admonition to understand that this bill has had such a long history upon the Hill. It is time to get it to the White House for the President's signa-

ture. I hope that our colleagues will make that a high priority.

The conference agreement is not dramatically different, Mr. President, from the bill that we passed here in the Senate. There are some significant differences that I want to just make brief mention of.

The mandatory spending in the bill has increased by $495 million, attributable entirely to yet another increase in the estimate of food stamps, now up to $1.2 billion.

Discretionary spending was increased by $147 million, of which the single largest component was an additional $68 million dollars for disaster assistance in response to the recent severe flooding in Texas, Oklahoma, Louisiana, and Arkansas.

All of the discretionary spending in the bill, with the exception of $314 million attributable to State Department salaries and expenses for which a Budget Act waiver has already been granted, is offset by rescissions in defense accounts.

Assistance for Panama and Nicaragua, the primary purpose for which this supplemental was requested by the White House, remains at the levels passed by the Senate.

At the urging of the Department of Defense, the conferees dropped the Senate's provision providing necessary funding for military personnel accounts offset by an across-the-board reduction against unobligated balances, and agreed instead to a reprogramming that will allow DOD to transfer the necessary funds from 37 procurement and R&D accounts. This reprogramming proposal has also been agreed to by the Senate Armed Services Committee. It is very important that the additional funds be provided for military personnel so that drastic and dangerous reductions in uniformed military personnel can be avoided. I am no supporter of excessive defense budgets, but we absolutely must maintain our commitment to the all-volunteer force and the men and women who serve in that force who have entered in good faith and have received contracts with our Government.

Also at the urging of the Department of Defense, the conferees agreed to reduce the cuts in certain O&M accounts, notably the civilian personnel funding. Of the O&M reductions remaining, the great majority recommended by the Department of Defense, including $200 million in fuel cost saving, $11 million for USS *Iowa* turret repair, and $83 million in savings attributable to the civilian hiring freeze.

On another defense-related item, the conferees agreed to modified language on the Shipco contract dispute that I believe is responsive to the concerns expressed during Senate debate, and I hope will be acceptable.

Mr. President, I have gone longer than I had promised, but nevetheless I would like to make clear that we are not going home for the recess until this bill is on its way to the President, so I hope we will move quickly and get our work done.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate recede from its amendment No. 24, that the Senate consider the amendments of the House to the amendments of the Senate and concur therein en bloc, and that the motion to reconsider be laid on the table with the exception of amendments numbered 1, 53, 54, 55, 56, and 57.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, unfortunately I shall object. We have not been able to see this report yet. We would like to have a copy of it before we proceed.

The PRESIDING OFFICER. The Chair informs the Senator from West Virginia that we have not yet disposed of the conference report.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, I have not yielded the floor yet.

The PRESIDING OFFICER. The Senator keeps the floor during a unanimous-consent request.

Mr. BYRD. Yes.

The PRESIDING OFFICER. The Chair would also inform all Senators that we have not yet disposed of the conference report.

Mr. STEVENS. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. The objection is withdrawn.

Mr. BYRD. So the request is granted?

The PRESIDING OFFICER. The Chair would inform the Senators that the conference report has not been disposed of.

Was the adoption of the conference report intended to be part of the agreement offered by the Senator from West Virginia? The conference report has not yet been agreed to.

Mr. BYRD. Yes.

The PRESIDING OFFICER. That is part of the request?

Mr. BYRD. Yes.

The PRESIDING OFFICER. Hearing no objection, the request is granted and the conference report is agreed to. The clerk will report.

The assistant legislative clerk read as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4404) entitled "An Act making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes.".

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 3, 8, 15, 16, 23, 49, 59, 60, 63, 67, 69, 70, 71, 82, 111, 113, 126, 127, 131, 136, 137, 138, 140, 147, 155, 157, 159, 160, 162, 163, and 165.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with amendments as follows: In lieu of the matter inserted by said amendment, insert:

GENERAL EXPENSES

For additional expenses to meet the present emergency needs for "General expenses", $415,000,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For additional expenses to meet the present emergency needs for "Operation and maintenance, general", $40,000,000, to remain available until expended.

In title I of the House engrossed bill, strike out the matter included under the heading Federal Emergency Management Agency, Disaster Relief (page 2, lines 24 and 25, and page 3, lines 1 and 2), and insert:

For additional expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $50,000,000, to remain available until expended, which, together with $350,000,000 uncommitted and unobligated identified by the Federal Emergency Management Agency to be presently available, will provide over $400,000,000 for relief and assistance.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert: "$70,000,000, of which $10,000,000 shall be available for the Emergency Conservation Program of the Agricultural Stabilization and Conservation Service: *Provided,* That the Soil Conservation Service and the Agricultural Stabilization and Conservation Service are expected to address the needs arising from more recent disasters and, to the greatest extent possible, to continue to address the remaining needs from Hurricane Hugo: *Provided further,* That such funds are".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic Development Assistance Programs", $424,000 for planning assistance for Economic Development Districts authorized by section 301(b) of the Public Works and Economic Development Act of 1965, as amended, which shall be obligated only for grants to maintain the level of assistance in effect on September 30, 1989, for each development district.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

The limitation on the use of prior year funds for the Trade Adjustment Assistance Program, enacted under this head in Public

Law 101-162, is repealed and funds appropriated for this program for fiscal year 1990 and prior years are available for obligation.

For an additional amount for "Operations and Administration", $1,445,000 which shall be obligated only for the Trade Adjustment Assistance Program for grants to recipient organizations.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

ADMINISTRATIVE PROVISION

Services performed after April 20, 1990 by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population shall not constitute "Federal service" for purposes of section 8501 of title 5, United States Code.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $8,762,000, to remain available until expended.

Resolved, That that House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, a procurement for the Stuttgart, Arkansas, Fish Farming Experimental Laboratory shall be issued by the Administrator of the National Oceanic and Atmospheric Administration or the Director of the United States Fish and Wildlife Service which includes the full scope of the work described in Department of the Interior Task Order No. 89-025, Contract No. 14-16-0009-86-007: *Provided*, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18; and also $6,000,000 is hereby appropriated to the United States Fish and Wildlife Service to procure a wildlife refuge site at no more than appraised market value and without the use of condemnation procedures at a location in Jasper and Marion Counties, Iowa, identified in a location map on file with the United States Fish and Wildlife Service and entitled "Walnut Creek National Wildlife Refuge".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 14 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SALARIES AND EXPENSES, ANTITRUST DIVISION
(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, Antitrust Division", $2,500,000 to be derived by transfer from "Salaries and expenses, Federal Prison System".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $185,000,000, to remain available until expended, to defray expenses for the automation of fingerprint identification services including planning, site acquisition, construction, and other associated costs: *Provided*, That none of the funds included herein shall be available for automated system procurement prior to submission of an implementation plan thereon, pursuant to the notification procedures prescribed under Section 606 of Public Law 101-162, and a site shall not be selected or procured prior to notification of the appropriate Committees of the House of Representatives and the Senate.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

The language under this heading in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1000-1001), is amended by adding the following after the period, "Deposits transferred from the Assets Forfeiture Fund to the Building and Facilities account of the Federal Prison System in 1989 may be used for the construction of correctional institutions, and the construction and renovation of Immigration and Naturalization Service and United States Marshals Service detention facilities, and for the authorized purposes of the Support of United States Prisoners' Cooperative Agreement Program.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows: In lien of the matter stricken and inserted by said amendment, insert "$25,503,000, and in addition, $4,500,000 to be derived by transfer from 'Defender Services' ".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

FEDERAL SHIP FINANCING FUND

For the "Federal Ship Financing Fund", $750,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, these funds shall be available to the Federal Maritime Administrator of the Department of Transportation only to acquire an appropriate vessel for transfer to the Government of the Territory of American Samoa to be used by that Government for inter-island transportation of cargo and passengers, and for repairs and maintenance necessary to provide for the United States Coast Guard's certification of such vessel: *Provided further*, That the Department of Defense shall transport such vessel to American Samoa without reimbursement and any appropriations available to the Department of Defense shall be available for this purpose.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with amendments as follow:

In lieu of the first sum named in said amendment, insert: "$7,000,000".

In lieu of the second sum named in said amendment, insert: "$3,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert: "$380,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

"64,864,000;

Missile Procurement, Air Force, 1988/1990, $34,900,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$70,142,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

Research, Development, Test and Evaluation, Army, 1989/1990, $18,000,000;

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 41 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "64,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$77,900,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

"$25,000,000;

Research, Development, Test and Evaluation, Defense Agencies, 1990/1991, $70,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

Navy Stock Fund, $15,000,000;

Air Force Stock Fund, $15,000,000;

Defense Stock Fund, $78,100,000;

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert: "$36,522,000; Family Housing, Air Force, 1986/1990, $25,200,000; Military Construction, Army, 1986/1990, $2,850,000; Military Construction, Army, 1987/1991, $4,295,000; Military Construction, Army, 1988/1992, $10,470,000; Military Construction, Army, 1989/1993, $29,931,000; Military Construction, Army, 1990/1994, $27,700,000; Family Housing, Army, 1990/1994, $6,335,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 202. Section 9080 of Pubic Law 101-165 is amended by inserting the following proviso before the period ": *Provided,* That except for M1 Garand and M1 carbine rifles, this provision does not restrict the use of funds for the destruction and disposal of other firearms".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 51 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

(a) The appropriation "Research, Development, Test and Evaluation, Air Force" contained in the Department of Defense Appropriations Act, 1990 (Public Law 101-165) is amended in the second proviso by striking out "1989" and inserting in lieu thereof "1990" and by striking the phrase "from the B-1B program that remain available for obligation".

(b) Section 8081 of the Department of Defense Appropriations Act, 1989 (Public Law 101-463) is amended by striking out "$109,895,000" and inserting in lieu thereof "$79,895,000".

(c) Section 8115 of the Department of Defense Appropriations Act, 1988 (Public Law 100-202) is amended by striking out "$90,895,000" and inserting in lieu thereof "$67,895,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 205. (a) Not less than 30 days before a cooperative project agreement is signed or amended on behalf of the United States in conjunction with the NATO Research and Development program, the President shall transmit to the committees on Appropriations of the Senate and House of Representatives a numbered certification setting forth the text and providing an explanatory statement on the purposes of the proposed agreement or amendment.

(b) Any cooperative project agreement or amendment referred to in subsection (a) shall contain a provision stipulating that United States participation under the agreement or amendment is subject to the availability of appropriated funds.

SEC. 206. Of the $6,000,000 provided in this Act in "Research, development test and evaluation, Navy" for the Navy Medical Research and Development Command to support the unrelated marrow donor program, not less than $4,500,000 shall be provided as a grant to the National Marrow Donor Program Foundation.

SEC. 207. The last proviso under the head "Research, Development, Test and Evaluation, Navy" contained in the Department of Defense Appropriations Act, 1990 (Public Law 101-165 (103 Stat. 1125)) is amended by deleting the phrase "to the Center" and inserting in lieu thereof "to the Mississippi Resource Development Corporation".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 54 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 208. (a) Of funds available during fiscal year 1990 under the heading "Research, Development, Test and Evaluation, Defense Agencies", for the NATO Research and Development program—

(1) not less than $12,776,000 shall be transferred immediately upon enactment of this Act to the Defense Advanced Research Projects Agency to finance the advanced neutral networks information processing technologies project; and

(2) not less than $12,224,000 shall be transferred immediately upon enactment of this Act to the Joint Department of Defense—Department of Energy Munitions Technology Development program.

(b) None of the funds referred to in subsection (a) may be transferred from the AV-8 (B) radar development. F/A-18 radar upgrade, medium surface-to-air missile, and multifunctional information distribution system projects.

SEC. 209. None of the funds available to the Department of Defense may be used to purchase circuit breakers for U.S. Naval vessels unless the circuit breakers are manufactured in the United States from components which are substantially manufactured in the United States. For the purpose of this section, the manufacture of circuit breaker cradles in the United States by a foreign supplier shall not be deemed to constitute substantial U.S.-manufacture of circuit breakers. The Secretary of Defense may waive this provision if he determines that it is not in the national security interests of the United States or will have an adverse effect on a U.S. company.

SEC. 210. Nothwithstanding any other provision of law, the Secretary of Defense shall participate in an infrastructure improvement demonstration program conducted by the Regional Equipment Center, Newport Township, Pennsylvania: *Provided,* That within 90 days following enactment of this Act, the Secretary shall provide directly such property within the control of the Department of Defense or any component thereof as mutually agreed to by the Regional Equipment Center and the Secretary and as necessary to carry out the provisions of this section.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 55 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 211. Funds available to the Department of Defense during the current fiscal year may be transferred to applicable appropriations or otherwise made available for obligation by the Secretary of Defense to fund the additional cost of pay and allowances, operational expenses and other costs associated with military operations in Panama known as Operation Just Cause: *Provided,* That funds transferred shall be available for the same purpose and the same time period as the appropriations to which transferred: *Provided further,* That the Secretary shall notify the Congress promptly of all transfers made pursuant to this authority and that such transfer authority shall be in addition to that provided elsewhere in this Act.

SEC. 212. The Department of the Army shall explore the possibility of laying away and storing the equipment and hardware located at the Mississippi Army Ammunition Plant and make the buildings available for such other private use as may be possible.

SEC. 213. Of the funds available to the Department of Defense, $5,000,000 shall be made available only for the establishment of a National Defense Center for Environmental Excellence.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 56 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 214. Of the funds made available for Research, Development, Test and Evaluation, Defense Agencies, 1990/1991, $4,000,000 shall be available only to conduct an operational test and evaluation (OT&E) of Individually Carried Record (ICR) technologies to be completed not later than August 31, 1991.

SEC. 215. Of the funds appropriated in fiscal year 1990 for the Defense Advanced Research Projects Agency's nuclear monitoring program, $6,500,000 is available only for the U.S.-Eurasian Seismic Studies Program administered by the Incorporated Research Institutions for Seismology.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 216. Notwithstanding any other provision of law, the Secretary of the Air Force is authorized and directed to negotiate, compromise, and reach a determination with Shipco General, Inc. regarding contract dispute No. F29650-82-C-0201 prior to the end of fiscal year 1990. The Secretary is authorized to pay the agreed upon settlement amount from available funds.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 58 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Of the funds made available in Public Law 101-167, for "International Organizations and Programs", an additional $5,000,000 may be made available for payment to the United Nations Environment Program, to carry out the provisions of section 2 of the United Nations Environment Program Participation Act of 1973.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 62 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert ", development assistance funds contained in prior foreign assistance appropriations acts that were not made available for Haiti, or pursuant to section 515 of such public law".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 64 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

DEVELOPMENT ASSISTANCE FOR ANTI-NARCOTICS EFFORTS OF BOLIVIA AND PERU

Of the funds appropriated for fiscal year 1990 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), up to $25,000,000 should be available for Bolivia, and up to $20,000,000 should be available for Peru, for the following purposes—

(1) providing alternative income, employment, and social services for individuals involved in illicit coca and marijuana production.

(2) supporting investment in infrastructure, farm credit and extension services, and

other development projects in non-coca production areas, and

(3) otherwise assisting, in accordance with chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), such countries in continuing their anti-narcotics efforts.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 65 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

(a) Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended in the undesignated paragraph under the heading "HOUSING AND OTHER CREDIT GUARANTY PROGRAMS"—

(1) by striking out "$100,000,000" and inserting in lieu thereof "$500,000,000"; and

(2) by inserting after "principal" in the last proviso under such heading the following: ", of which amount $400,000,000 in commitments shall be available during fiscal year 1990 or subsequent fiscal years only for the purpose of providing housing and infrastructure in Israel for Soviet refugees: *Provided further*, That with respect only to the $400,000,000 in commitments to be made for housing and infrastructure in Israel referred to in the preceding proviso—

"(1) the guarantees shall be made available for loans made during or after fiscal year 1990, notwithstanding the limitation contained in the third sentence of section 222(a) of the Foreign Assistance Act of 1961;

"(2) the guarantees shall be made available for loans in increments of at least $150,000,000 or the amount requested by the borrower, whichever is lesser; and that the Agency for International Development shall review the borrower's actual or planned expenditures to ascertain that such amounts have or will be expended in accordance with the preceding proviso;

"(3) section 223(j) of the Foreign Assistance Act of 1961 (22 U.S.C. 2183(j)) shall not apply to such commitments; and

"(4) fees charged by the Agency for International Development under section 223(a) of the Foreign Assistance Act of 1961 shall be—

"(A) an initial fee of $2,800,000; and

"(B) an annual fee in an amount not more than one-half of 1 percent of the maximum face value of guarantees which may be issued for any one country in a fiscal year pursuant to the penultimate sentence of section 223(j) of such Act.".

(b) Section 222(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2182) is amended by striking out "$2,158,000,000" and inserting in lieu thereof "$2,558,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 73 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

"That of the funds made available under this heading not less than $3,000,000 shall be made available only for Haiti to support the democractic electoral process: *Provided further*, That of the funds made available under this heading not less than $8,750,000 shall be made available only for Jamaica".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken by said amendment, insert:

ASSISTANCE FOR THE EASTERN CARIBBEAN

For an additional amount to carry out the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961, $5,000,000, for assistance for countries of the Eastern Caribbean, to remain available through September 30, 1991.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 79 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken by said amendment, insert:

HUMANITARIAN ASSISTANCE FOR ARMENIA AND ROMANIA

(a) For an additional amount for "International Disaster Assistance", $5,000,000, to remain available until September 30, 1991, which sum shall be made available, notwithstanding any other provision of law, for humanitarian assistance, transportation of materials provided for such assistance, medical treatment, and education and vocational training to the victims of the Armenian earthquake of December 7, 1988, which assistance shall be channeled through United States private and voluntary organizations and other United States nongovernmental organizations: *Provided*, That such funds are in addition to funds previously made available for such purposes: *Provided further*, That of the funds made available by this subsection for assistance for Armenia, up to 1 percent may be used by the Agency for International Development for costs of administering such program.

(b) Not less than $4,000,000 of the total amount of funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), which funds were—

(1) appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167);

(2) made available through the exercise of the authority contained in section 515 of that Act; or

(3) appropriated for development assistance in prior foreign assistance appropriations Acts,

shall be made available, notwithstanding any other provision of law, through international relief agencies and nongovernmental organizations for health assistance for children in Romania.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 81 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

WAIVERS AND AUTHORITIES

(a) funds appropriated by this chapter for the "Economic Support Fund" for Panama shall be available as follows: (1) up to $1,200,000 may be provided to carry out the purposes of section 534(b)(3) of the Foreign Assistance Act of 1961 for countries in Latin America and the Caribbean other than Panama; (2) assistance may be provided for technical assistance, training, and commodities with the objective of creating a professional civilian police force notwithstanding section 660 of the Foreign Assistance Act of 1961, except that such assistance shall not include more than $5,000,000 for the procurement of equipment for law enforcement purposes in Panama, and shall not include lethal equipment; and (3) the limitations contained in the second sentence of section 534(e) of the Foreign Assistance Act of 1961 and the second sentence of section 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, shall not be applicable to assistance provided under this subsection.

(b) Funds appropriated under this chapter for Panama and Nicaragua, as well as during fiscal year 1990 funds otherwise available for economic assistance under other provisions of law and assistance under chapter 8 of part II of the Foreign Assistance Act of 1961, may be made available for Panama and Nicaragua notwithstanding section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, section 620(q) of the Foreign Assistance Act of 1961, or any similar provision of law relating to foreign assistance repayments.

(c) Funds appropriated under this Act may be made available notwithstanding section 10 of P.L. 91-672 and section 15 of the State Department Basic Authorities Act of 1956.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 83 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert: *Provided*, That these funds also shall be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes and shall be obligated fully prior to use of any other funds for wildfire suppression and emergency rehabilitation and shall remain available until December 31, 1990".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource Management", $827,000: *Provided*, That the Secretary acting through the United States Fish and Wildlife Service, is authorized to enter into renewable contracts for the payment of reasonable and customary costs for delivery of Newlands Project water rights acquired by the Service to benefit the Federal and State wildlife areas in the Lahontan Valley and the Fernley Sink in Nevada: *Provided further*, That the costs for delivery shall be those costs normally associated with the delivery of water to Newlands Project lands: *Provided further*, That the contracts shall be of a term not exceeding 40 years: *Provided further*, That any such contract shall provide that upon the failure of the service to pay such charges, the United States shall be liable for their payment and other costs provided for in applicable provisions of the contract subject to availability of appropriations: *Provided further*, That the Secretary, acting through the United States Fish and Wildlife Service, in accordance with applicable State law, may use water diversion, storage, and conveyance systems of Federal Reclamation Projects to benefit Federal and State wildlife areas in the Lahontan Valley and the Fernley Sink in Nevada.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 85 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

NATIONAL PARK SERVICE

HISTORIC PRESERVATION FUND

Funds appropriated under this head in Public Law 101-121 shall remain available for obligation until September 30, 1991.

CONSTRUCTION

Of the funds made available under this head in the Department of the Interior and Related Agencies Appropriations Act, 1990 (Public Law 101-121), not less than $5,852,000 shall be made available immediately for design and construction activities associated with the Franklin Delano Roosevelt Memorial.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, Investigations, and Research", $6,246,000, to remain available until expended.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

The paragraph under this head in Public Law 101-121 is amended by inserting in front of $54,000,000 the words "up to": *Provided*, That none of the funds available to the Bureau of Indian Affairs in this or any other Act shall be used to transfer, through agreement, memorandum of understanding, demonstration project or other method, the Safety of Dams program of the Bureau of Indian Affairs to the Bureau of Reclamation.

DEPARTMENTAL OFFICES

OIL SPILL EMERGENCY FUND

For an additional amount for the Department of the Interior for contingency planning, response and natural resource damage assessment related to the discharge of oil from the tanker Exxon Valdez into Prince William Sound, Alaska, and for other purposes authorized under this head in P.L. 101-45, $7,279,000: *Provided*, That all authorities associated with, and funds in, the Oil Spill Emergency Fund shall remain available until September 30, 1994: *Provided further*, That none of the funds made available by this or any other Act with respect to any fiscal year may be used by the Department of the Interior to make any reimbursements to any other Federal department for litigation costs associated with the Prince William Sound oil spill.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

NATIONAL FOREST SYSTEM

For additional expenses associated with assessment or recovery on National Forest System lands from Hurricane Hugo and the Exxon Valdez oil spill of March 24, 1989, or for assessment and recovery on associated lands affected by the Exxon Valdez oil spill, $8,633,000, to remain available until September 30, 1991: *Provided*, That none of the funds made available by this or any other Act with respect to any fiscal year may be used by the Forest Service to make any reimbursements to any other Federal department for litigation costs associated with the Prince William Sound oil spill.

CONSTRUCTION

Notwithstanding any other provision of law, funds originally appropriated under this head in Public Law 101-121, the Department of the Interior and Related Agencies Appropriations Act, 1990, in the amount of $371,000 for the Forest Service for the construction of an addition to the Starkville, Mississippi research office shall be available for a grant to Mississippi State University as the Federal share in the construction of a new University facility: *Provided*, That comparable space shall be provided to the Forest Service without charge for a reasonable period.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 88 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

SETTLEMENT OF CLAIMS, FOREST SERVICE

The Forest Service is hereby authorized and directed to negotiate, compromise, and reach a determination on certain claims against the United States resulting from the Mink Fire (Bridger-Teton National Forest and Yellowstone National Park), Clover-Mist Fire (Yellowstone National Park and Shoshone National Forest), Storm Creek Fire (Yellowstone National Park and Gallatin-Custer National Forests), and Canyon Creek Fire (Lolo, Helena, Lewis and Clark National Forests) which were originally classified as prescribed fires but subsequently became wildfires. The Forest Service is directed to negotiate, compromise, and reach a determination on the original claims, or the claims filed by an insurer subrogated to the rights of a claimant, and to negotiate any other claims filed within ninety days of the date of enactment of this Act. Notwithstanding any other provision of the law, the Secretary of the Treasury is authorized and directed to pay the amount of each determination from the Claims, Judgments, and Relief Act Fund (Public Law 95-26): *Provided*, That the Secretary of the Treasury shall make no payments for claims which are determined by the Forest Service or the Department of Justice to be invalid under current law: *Provided further*, That nothing in this section shall prohibit any claimant from filing an appeal of any determination made by the Forest Service, Department of Agriculture, or Department of Justice pursuant to current law.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 89 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

Funds previously appropriated under this head for clean coal technology solicitations to be issued no later than June 1, 1990, and no later than September 1, 1991, respectively, shall not be obligated until September 1, 1991: *Provided*, That the aforementioned solicitations shall not be conducted prior to the ability to obligate these funds: *Provided further*, That pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this section is a necessary (but secondary) result of a significant policy change: *Provided further*, That for the clean coal solicitations identified herein, provisions included for the repayment of government contributions to individual projects shall be identical to those included in the Program Opportunity Notice (PON) for Clean Coal Technology III (CCT-III) Demonstration Projects (solicitation number DE-PSO1-89 FE 61825), issued by the Department of Energy on May 1, 1989.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 96 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the date "June 15" named in said amendment, insert "August 15".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 93 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the first sum named in said amendment, insert "$30,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 97 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

The second proviso under the heading "Alcohol, Drug Abuse, and Mental Health" in title IV of Public Law 101-164 is repealed effective September 10, 1990 if the treatment waiting period reduction grants are not specifically authorized prior to that date.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 99 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

REFUGEE AND ENTRANT ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Refugee and Entrant Assistance", $6,000,000, to be distributed under the targeted assistance program, of which $5,000,000 shall be for health and educational services in areas affected as a result of the massive influx of Cuban and Haitian entrants during the Mariel boatlift, $500,000 shall be available for communities currently conducting a "Fish/Wilson" demonstration project and which have been heavily impacted by the recent influx of Soviet Pentecostals for health and employment services, and $500,000 shall be available for schools in areas impacted by the influx of Indochinese refugees who entered the United States after October 1, 1979, in which the enrollment of Indochinese students (including secondary migrants) is greater than 2,000, and who comprise no less than 20 percent of the overall school enrollment in such a locality with a general population of no less than 75,000 persons: *Provided*, That the amount provided herein shall be derived by transfer from funds appropriated in Public Law 101-166 for Students Financial Assistance for carrying out activities authorized under part E, section 465 of the Higher Education Act, as amended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 100 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

For an additional amount for carrying out the Head Start Act, $165,685,000, which shall remain available until December 31, 1990.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 101 to the aforesaid bill, and concur therein with an amendment as

follows: In lieu of the matter inserted by said amendment, insert:

SCHOOL IMPROVEMENT PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "School Improvement Programs", $20,945,000, to remain available until September 30, 1991, of which $19,945,000 shall be to continue funding of existing School Dropout Demonstration programs as authorized under title VI, Part A, and $1,000,000 shall be for carrying out the Javits Gifted and Talented Education Program as authorized under title IV, Part B of the Elementary and Secondary Education Act of 1965, as amended: *Provided*, That $2,520,000 of the amount provided herein shall be derived by transfer from funds appropriated in Public Law 100-436 for Student Financial Assistance for carrying out activities authorized by Part E, section 465 of the Higher Education Act, as amended: *Provided further*, That funds available under Public Law 101-164 for grants to States under the Drug-Free Schools and Communities Act shall also be available for Indian Youth under sections 5112(a)(2) and 5133, and for Hawaiian Natives under sections 5112(a)(3) and 5134.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 104 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

EDUCATION FOR THE HANDICAPPED

Funds appropriated under section 619 of the Education of the Handicapped Act for fiscal year 1989 shall remain available for obligation by States through September 30, 1992.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 107 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$400,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 114 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $4,400,000: *Provided*, That none of the funds appropriated or otherwise made available by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990, Public Law 101-161, shall be used to pay the salaries of personnel who carry out an export enhancement program if the aggregate amount of funds and/or commodities under such program exceeds $553,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 115 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For an additional amount for administrative and operating expenses, as authorized by the Federal Crop Insurance Corporation Act, as amended (7 U.S.C. 1516), $15,000,000: *Provided*, That these funds shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 117 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "$1,200,000,000, which shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 118 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$2,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 123 to the aforesaid bill, and concur therein with an amendment as follows: In the heading "Housing for the elderly and handicapped fund", strike the word [and], and insert "or".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 124 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

COMMUNITY DEVELOPMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding the repeal of section 107(b)(3) of the Housing and Community Development Act of 1974 by section 105(b) of the Department of Housing and Urban Development Reform Act of 1989, funds appropriated under the Community Development Grants heading of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990, pursuant to such section 107 shall be available for grants to Indian tribes.

The paragraph under this head in title II of Public Law 101-144 (approved November 9, 1989) (103 Stat. 839, 849-850) is hereby amended by inserting, immediately before the final colon in the third proviso, a semicolon and the following: "and the amounts set forth for the 27 projects and purposes specified at page 19 (other than those three projects specified in this and the immediately preceeding proviso) and for the first 10 projects specified on page 20, of the Joint Explanatory Statement of the Committee of Conference on H.R. 2916 (House Report 101-297), shall be made available for such projects and purposes".

The amount to be derived by transfer from the urban development action grants account to this head under Public Law 101-144 shall include all unobligated balances available at the end of fiscal year 1989: *Provided*, That such unobligated balances shall be made available for purposes authorized by section 106 of the Housing and Community Development Act of 1974: *Provided further*, That those amounts that are required to fund urban development action grant projects which have received preliminary approval in accordance with regulations promulgated by the Department of Housing and Urban Development shall not be transferred: *Provided further*, That the Secretary of Housing and Urban Development shall withhold from the amount subject to transfer such funds as may be necessary to comply with orders of United States Courts which direct the Secretary to set aside funds for possible future approval of grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301).

Of the amount that otherwise would be available under this head under Public Law 101-144 for technical assistance activities to be allocated at the discretion of the Secretary, under section 107(b)(4) of the Housing and Community Development Act of 1974, $14,000,000 shall be made available under section 106 of such Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 130 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

ABATEMENT, CONTROL, AND COMPLIANCE

For an additional amount for "Abatement, control and compliance", $1,800,000, to remain available until September 30, 1991: *Provided*, That of the funds appropriated under this head in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (Public Law 101-144), $500,000 shall be available for a lead storage battery recycling pilot project for the State of New Jersey, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 141 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $50,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1269), $10,498,000 are rescinded for a net decrease of $10,448,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 142 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $7,750,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriations Act, 1990 approved November 21, 1989 (Public Law 101-168; 103 Stat. 1269 to 1271), $2,739,000 are rescinded for a net increase of $5,011,000: *Provided further*, That of the $50,000,000 previously appropriated under the heading "Criminal Justice Initiative", $10,000,000 shall be paid to the District of Columbia government to pay amounts due to the Federal Bureau of Prisons and State governments and facilities for the housing of District of Columbia Code violators: *Provided further*, That by November 30, 1990, the District of Columbia government shall pay $10,000,000 (from current operating revenues collected during fiscal year 1991 and not from the proceeds of borrowed funds) to the United States Treasury, and such payment shall be credited to and be available for the purposes of the "Criminal Justice Initiative" for the construction of the Correctional Treatment Facility: *Provided further*, That no actions taken pursuant to any of the provisions of this heading may be car-

ried out in a manner that will delay the construction of such Correctional Treatment Facility.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 143 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $3,461,000, including $2,682,000 for the D.C. Public Schools and $779,000 for the Public Library: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271), $7,882,000 for the D.C. Public Schools, $730,000 for the University of the District of Columbia, $779,000 for the Public Library, $643,000 for the Commission on the Arts and Humanities, and $10,000 for the Education Licensure Commission are rescinded for a net decrease of $6,583,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 144 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $4,840,000: *Provided*, That $640,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271), $10,245,000 are rescinded for a net decrease of $5,405,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 145 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

PUBLIC WORKS

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271 and 1272), $8,810,000 are rescinded: *Provided*, That none of the funds contained in this Act or any other Act shall be obligated or expended by the District of Columbia government to remove the safety fences at the Duke Ellington Memorial Bridge until—

(a) the Mayor's Agent, following an evidentiary determination, has found that the evidence indicates that the circumstances have changed to nullify the 1987 findings of the Mayor's Agent, HPA No. 87-377 (August 20, 1987), as to the benefits of the fences; and

(b) the Mayor has provided a detailed statement to the Committees on Appropriations of the House of Representatives and the Senate explaining the basis for the decision to remove the safety fences.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 151 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

ENERGY ADJUSTMENT

The paragraph under the heading "Energy Adjustment" in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 152 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

EQUIPMENT ADJUSTMENT

The paragraph under the heading "Equipment Adjustment" in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 153 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

PERSONAL SERVICES ADJUSTMENT

The paragraph under the heading "Personal Services Adjustment" in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.

SUPPLY, ENERGY AND EQUIPMENT ADJUSTMENTS

The Mayor shall reduce authorized supply, energy, and equipment appropriations and expenditures within object classes 20 (supplies), 30a (energy), and 70 (equipment) in the aggregate amount of $5,000,000 within one or several of the various appropriation headings in this chapter: *Provided*, That notwithstanding any other provision of law, such reductions shall not be allocated to any activities or programs of the Metropolitan Police Department.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 154 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

CAPITAL OUTLAY

(INCLUDING RESCISSION)

For an additional amount for "Capital outlay", $79,802,000, to remain available until expended: *Provided*, That $27,915,000 of prior year authority is rescinded for a net increase of $51,887,000: *Provided further*, That $2,362,000 shall be available for project management and $2,116,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 158 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS FOR NATURAL DISASTERS

For an additional amount for "Unanticipated Needs for Natural Disasters", $5,000,000, to remain available until expended, to enable the President to meet unanticipated needs arising from natural disasters occurring on March 13, 1990: *Provided*, That, notwithstanding any other provision of law, not less than $2,500,000 of such additional amount shall be available to meet disaster assistance needs in the State of Nebraska, and not less than $2,500,000 shall be available to meet disaster assistance needs in the State of Kansas.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 161 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 307. None of the funds appropriated by this or any other Act with respect to any fiscal year for contractual services support of the U.S. Antarctic Program my be obligated for procurement of a multibeam bathymetric sonar mapping system manufactured outside of the United States: *Provided*, That not to exceed $2,400,000 shall be available for the total cost of such procurement, including software: *Provided further*, That this section shall not be applicable to any procurement covered by the GATT Agreement on Government Procurement.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 164 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 310. Funds appropriated under Public Law 101-164, the Department of Transportation and Related Agencies Appropriations Act, for Highway Demonstration Projects involving railroad overpasses in Las Vagas, New Mexico, may be used for construction: *Provided*, That for loans to Chicago, Missouri and Western Railroad, or its successors, authorized in Public Law 101-164, $3,500,000: *Provided further*, That such loans shall be made available no later than thirty days after enactment of this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 167 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "313", insert "312".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 168 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "314", insert "313".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 169 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "315", insert "314".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 170 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "316", insert "315".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 171 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 316. (a) Effective with the fiscal year ending September 30, 1990, and each fiscal year thereafter, subject to the approval of the Committee on Appropriations of the Senate, any unexpended and unobligated funds in the appropriation account for the "Secretary of the Senate" within the contingent fund of the Senate which have not been withdrawn in accordance with the paragraph under the heading "General Provisions" of Chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 102a), shall be available for the expenses in-

curred, without regard to the fiscal year in which incurred, for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the Senate wing of the United States Capitol, any Senate Office Building, or any room, corridor, or other space therein.

In the case of replication or replacement of such items, the funds available under this subsection shall be available for any such items previously contained within the Senate wing of the Capitol, or an item historically accurate.

(b) All such items of art referred to in subsection (a) shall be known as the "United States Senate Collection."

(c) Disbursements for expenses incurred for the purposes in subsection (a) shall be made upon vouchers approved by the Chairman of the Senate Commisson on Art or the Executive Secretary of the Senate Commission on Art.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 172 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "318", insert: "317".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 173 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number named in said amendment, insert "318".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 174 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 319. The Secretary of the Army is directed to execute a local cooperation agreement prior to July 1, 1990, for construction of a modification of the existing Gulfport Harbor project in Mississippi as authorized by the Supplemental Appropriations Act, 1985, (Public Law 99-88), section 202(a) of the Water Resources Development Act of 1986 (Public Law 99-662), and section 4(n) of the Water Resources Development Act of 1988 (Public Law 100-676).

Within available funds, the Secretary of the Interior is authorized to obligate up to $12,000,000 to initiate safety of dams modifications at Mormon Island Auxiliary Dam (Folsom Dam and related facilities) of the Central Valley Project, California, authorized under Public Law 95-578, as amended, absent the transmission of the report described in the proviso of section 5 of Public Law 95-678, as amended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 175 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the first number named in said amendment, insert "320".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 176 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

SEC. 321. COMMERCIAL ASPECTS OF UNITED STATES FOREIGN ASSISTANCE.—(a) The Secretary of Commerce, after consulting with the Administrator of the Agency for International Development, the Secretary of Agriculture, the Secretary of Energy, the Secretary of Treasury, the Secretary of State, other appropriate agencies of the United States Government, and United States business organizations, shall conduct a study which examines and explores the foreign assistance programs currently engaged in by the United States Government and major international financing programs of the United States Government, through the Agency for International Development and other appropriate departments and agencies of the United States Government and explores mechanisms and ways by which the international economic competitiveness of the United States may be enhanced through such programs. In undertaking this study, the Secretary shall—

(1) examine the foreign assistance and major financing programs of Japan, West Germany, France, the United Kingdom, and such other international aid donors as the Secretary may designate, for the purpose of determining what mechanisms are in use to tie foreign assistance to, and advance the industrial and commercial interests of, the donor nations, in particular, the programs currently being engaged in and planned by such countries in the Eastern European countries of East Germany, Poland, Czechoslovakia, and Hungary; and

(2) determine, as far as possible, for each of fiscal years 1989 and 1990, and requested for fiscal year 1991, the dollar amounts and percentages of current United States programs which support United States business investment, exports, or other business-related activities, and shall compare that assessment with a similar assessment made for each of the other international aid donors examined by this study, on a region-by-region basis, with particular attention paid to the comparable efforts in the Eastern European countries referred to in paragraph (1).

(b) Not later than September 20, 1990, the Secretary of Commerce shall prepare and transmit to the Committees on Foreign Relations and Appropriations of the Senate and the Committees on Foreign Affairs and Appropriations of the House of Representatives, a report setting forth the findings of the study conducted under subsection (a).

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 178 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number named in said amendment, insert "322".

Resolved, That the House insist on its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I ask unanimous consent that we proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, first before I make my remarks, I realize we are waiting for legislation and for some of the amendments to be presented here on the floor. Senator BYRD, I believe, had the right to the floor and was waiting for his amendment. If the situation is such that he wishes to proceed I will be glad to yield the floor and put the remainder of my statement in the RECORD.

THREE CHEERS FOR EXPORT CONTROLS

Mr. GLENN. Mr. President, last Wednesday the U.S. Customs Commissioner, Carol Hallet, announced the arrest of two company executives on charges of illegally attempting to export a supercomputer to Bulgaria—a false destination used in the sting operation.

According to the Customs Service, this action breaks up a multi-million-dollar supercomputer smuggling ring—the specific supercomputer, a CDC ETA 10, was described by Customs as "one of the most powerful main frame supercomputers that exists today," and as having "ultra-sophisticated military and civilian applications." These uses include applications in designing new or improved nuclear weapons, missiles for delivering weapons of mass destruction, various applications in the field of cryptography, and other sensitive uses.

It is noteworty in this context that the official symbol used by the Customs Service's export program called EXODUS contains images of the atom, a missile, and a computer.

In making the announcement, Commissioner Hallet stated that "It is true that the Berlin Wall has come down, that the era of glasnost is upon us and legitimate trade with the Eastern bloc is increasing. However, the laws of the United States are clear; we simply will not allow American high technology to be stolen."

I am sure that I am speaking for many of my colleagues, and indeed for citizens everywhere who are concerned about illicit uses of American high technology exports, when I offer my congratulations to the Customs Service on yet another job well done.

A SUPERCOMPUTER SUPERMARKET?

Last October, I spoke here about the dangers of letting our legitimate and growing desire for export markets overcome our duty to conduct our governmental affairs in a manner consistent with our global security responsibilities. I was referring to U.S. laws and regulations that seek to prohibit the export of sophisticated high technology to nations that do not measure up to our most fundamental trade control standards.

According to some well-meaning commentators, the "horses are out of the barn" on supercomputer export controls—they would have us believe that there is a virtual global supermarket for these sophisticated computers. I am hearing the tired old self-serving argument: "If we don't sell, we will just lose the business to foreign competitors." Some would even have us

unilaterally index our international trade controls over these computers in accordance with technical capabilities that exist here in the United States, rather than pursue multilateral restraints based more on the capabilities, budgets, expertise, policies, intentions and other such characteristics of the nations that may purchase such machines for military uses—uses that would jeopardize not just regional stability, but world order.

What exactly are our nuclear nonproliferation standards? Since these details are not often discussed, I would like to take just a minute to describe just how straightforward these controls are.

According to the Nuclear Non-Proliferation Act, the Nation is supposed to have export controls over items "which could be, if used for purposes other than those which the export is intended, of significance for nuclear explosive purposes"—Public Law 95-242, section 309-c.

To implement this legal standard, the Commerce Department has issued in its export administration regulations a list of factors it is supposed to consider in reviewing individual export license applications. These regulations include the following six measures of the nonproliferation credentials of the importing country:

First, a country's status as a party to the Treaty on the Non-Proliferation of Nuclear Weapons or the Treaty for the Prohibition of Nuclear Weapons in Latin America;

Second, whether the country has all its nuclear activities under International Atomic Energy Agency safeguards or equivalent full scope safeguards;

Third, whether there is an agreement for cooperation in the civil uses of atomic energy between the United States and the country concerned;

Fourth, the country's public statements and policies concerning nuclear developments and nonproliferation;

Fifth, the extent of cooperation in nonproliferation policy generally—indications such as willingness to consult on international non-proliferation issues; and

Sixth, intelligence data on a country's nuclear intentions and activities.

Fortunately, it is now apparent that supercomputers are not quite as easily obtainable on the open market as some would claim. And so far at least, Japan and other potential future suppliers of these computers are not exactly beating a path to the doors of nations that have poor nuclear nonproliferation credentials. As I said in my statement last October, this situation may not last forever—we should therefore be pursuing reasonable multilateral limitations on international sales of these supercomputers. Surely it is wiser for us to negotiate some limits on this trade rather than to export like crazy and then cite the foreign availability problem as a reason for even more exports. Now is the time to call upon the skills of the diplomat, not the huckster. The recent sting operation by Customs only underscores this point.

CONTROLLING FOR REEXPORTS AND END-USERS

But Customs is not the only agency trying to implement our national trade controls.

On March 28, the Commerce Department's Bureau of Export Administration announced that a huge West German firm, Degussa A.G. has been fined $800,000 for reexporting—without United States approval—United States-origin nuclear-related materials to North Korea, India, and other destinations in both Eastern and Western Europe.

According to the Commerce Department, Degussa reexported beryllium—a special, neutron-reflecting metal used in nuclear weapons—from West Germany to India without the required United States approvals. Degussa also reportedly reexported United States-origin zirconium—a metal used as cladding for nuclear reactor fuel—from West Germany to North Korea, a nation that has been internationally accused of building an unsafeguarded reprocessing plant for plutonium separation and pursuing other nuclear weapon development activities.

Beryllium and zirconium are old friends to those of us who follow the daily business of nuclear proliferation. In November 1981, the Commerce Department announced the seizure in New York City of 5,000 pounds of zirconium that an airline passenger had checked as excess baggage and labeled for Customs purposes as climbing equipment. The destination of that zirconium would have been Pakistan—the nation to which France now wants to sell a nuclear reactor—a sale that led me to introduce Senate Concurrent Resolution 113 on March 30, 1990, a resolution now being considered by the Foreign Relations Committee.

And beryllium? That was the metal that the notorious Mr. Arshad Pervez tried to acquire for Pakistan in a celebrated export control sting operation in Philadelphia back in 1987. The strategic significance of this metal is unquestionable. In announcing the Degussa fine, Under Secretary of Commerce Dennis Kloske said that: "Because beryllium is an important element of nuclear weapons, unrestricted access poses serious risks to world security."

Yet despite this recognition of the serious security risks associated with unrestricted trade in beryllium and other controlled commodities and technology, I am now hearing voices calling for the complete elimination of export licensing to all destinations in Cocom. Despite all of the illicit diversions, all of the unauthorized reexports, all of the bad apple companies in Cocom nations that anyone can find in the Commerce Department's publication, "Denial Orders Currently Affecting Export Privileges"—despite all of this evidence that we clearly need to retain vigilance over all of our exports, we are still hearing that we need to roll back our export controls to Cocom, the region where most of our high technology diversions and unauthorized reexports have occurred.

CONGRATULATIONS

I want to conclude here today with three cheers for our system of export controls.

Cheers to the Customs Service for their obvious dedication to protecting sensitive U.S. goods and technology from illicit export, and for their recent demonstration that supercomputers truly deserve to be watched closely as commodities in international commerce.

Cheers to the enforcement office in the Commerce Department for its imposition of a stiff fine on one of West Germany's most chronic contributors to the global process of nuclear proliferation.

And cheers to our current export control system as a whole, which—while far from perfect—is recognizing the continuing relevance of reexport, end-use and end-user controls that are vital for our national security and for world order.

Although export controls are never going to succeed by themselves in halting proliferation or other threats to our security, they will serve these interests far better than the invisible hand of Mr. Adam Smith. Do we need to reform our export controls? Sure we do. But do we really want a laissez-faire global market in the technology for building weapons of mass destruction? The answer is a resounding no.

As a footnote to my statement, I would like to announce that last Friday, May 18, marked the 16th anniversary of India's nuclear explosion. Although we are fortunate in not having witnessed any more such explosions by India or additional nations, no one should think that this problem of nuclear proliferation is under control. As the administration decision makers contemplate pending applications for supercomputer exports, I hope they give appropriate weight to this sobering fact of international life.

Mr. President, I ask unanimous consent to have printed in the RECORD two news releases from the Commerce Department and the Customs Service, along with some articles relating to these most recent enforcement activities.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Department of the Treasury, U.S. Customs Service, May 16, 1990]

U.S. CUSTOMS BREAKS-UP MULTI-MILLION DOLLAR SUPERCOMPUTER SMUGGLING RING MOVING MOST SOPHISTICATED MACHINERY IN U.S. HISTORY

MONTEREY.—U.S. Customs Commissioner Carol Hallett today announced the arrest of the President of C.I.D. Corporation, Long Beach, California, and the President of American Technology Trading Group Ltd., of San Francisco, in a scheme to illegally export one of America's most highly sophisticated supercomputers out of the U.S.

In making today's announcement, Commissioner Hallett said "It is true that the Berlin Wall has come down, that the era of Glasnost is upon us and legitimate trade with the Eastern Bloc is increasing. However, the laws of the United States are clear; we simply will not allow American high technology to be stolen."

"The investigation of high technology smuggling cases remains one of our top priorities. These investigations are extremely sensitive and complex, but our job is to beat the bad guys to the punch," Commissioner Hallett said.

Arrested in Charleston yesterday at 2:30 p.m. was: Robert Wheeler, 44, of California, President of American Technology Trading Group, Ltd., of San Francisco, California. Arrested in Miami yesterday at 4:30 p.m. was: Nick Spiliotis, 44, of California, President of C.I.D. Corporation of Long Beach, California. Seized at the port of Charleston yesterday at 2:30 p.m. was one Control Data Corporation (CDC) ETA 10 supercomputer.

The CDC ETA 10 supercomputer is generally considered to be one of the most powerful main frame supercomputer that exists today. The supercomputer, which was seized with its associated spare parts kit, all of which weighs 18,000 pounds, was packed within two forty-foot commercial cargo containers, at the Port of Charleston. The CDC ETA 10 has ultra-sophisticated military and civilian applications.

Throughout all subsequent negotiations, it was constantly noted by the Customs source that it was illegal to sell such critical technology to Eastern Bloc countries and that any foreign sale of such technology would require a substantial amount of documentation and Department of Commerce approval. Customs alleges that Spiliotis and Wheeler stated that they knew these requirements and would, therefore, produce false documentation.

Customs alleges that Spiliotis and Wheeler devised a ruse to export the supercomputer to France, using an address in Paris as the end user. It was then decided to use the Port of Charleston to export the supercomputer due to its direct cargo traffic to the Port of Marseilles, France.

The supercomputer was delivered to the Port of Charleston on May 14. Though this supercomputer is valued at $6 million, Customs alleges Spiliotis and Wheeler were willing to sell it for $1 million due to the machinery's European wiring and their desire to sell the machinery quickly and profit from the sale.

Spiliotis was arrested at 4:30 p.m. yesterday afternoon after arriving at Miami International Airport on a flight from Charleston. He was coming to Miami to receive the $1 million payment for the supercomputer.

In addition to yesterday's arrests and seizure, a search warrant was executed at the California computer company ran by Spiliotis. Additional warrants and seizures are anticipated.

The CDC ETA 10 supercomputer was seized at the Port of Charleston while being transported on 21 pallets stored within two forty-foot commercial cargo containers. The supercomputer has 513 megabytes of internal memory and 1.4 gigabytes of external memory. The spare parts kit which was included with the supercomputer could provide an additional 513 megabytes of internal memory.

This investigation was coordinated under the Customs Service's Operation EXODUS. Operation EXODUS targets the illegal exportation of critical technology and munitions to prohibited destinations.

For further information contact: Dennis Shimkowski at (202) 566-5286.

On Tuesday, May 15, 1990, Robert Wheeler, President of American Technology Trading Group, Ltd., San Francisco, California, was arrested in Charleston, South Carolina, and Nick Spiliotis, President of C.I.D. Corporation, Long Beach, California, arrested in Miami for attempt to export an ETA10 Supercomputer.

The ETA10 is one of the most highly sophisticated supercomputers in existence and one of the most state of the art computers to be the subject of a scheme to be illegally exported out of the United States in violation of the Export Administration Act.

On this date, May 15, 1990, the ETA10 supercomputer, manufactured by Control Data Corporation (CDC), was seized at the port of Charleston, South Carolina. The ETA10 supercomputer, one of the most powerful main frame supercomputers, has ultra-sophisticated military and civilian applications.

In January 1990, a confidential source controlled by the Special Agent in Charge, Miami, was approached by Wheeler and Spiliotis seeking to sell the ETA10.

Relative to the investigation, the source contacted Wheeler and Spiliotis and informed them that the source was not interested in the supercomputer, but that it had contacts in the Eastern Bloc who would be interested in this item.

Throughout all the following negotiations it was constantly noted, by the Customs source, that it was illegal to sell such critical technology to Eastern Bloc countries and that any foreign sale of such technology would require a substantial amount of documentation and Department of Commerce approval. Wheeler and Spiliotis stated that they knew these requirements and would therefore produce false documentation.

Wheeler and Spiliotis devised a ruse to export the supercomputer to France, using an address in Paris as the end user. It was then decided to use the port of Charleston to export the supercomputer due to its direct cargo traffic to the port of Marseilles, France.

Though the supercomputer is valued at $6 million, Wheeler and Spiliotis were willing to sell it for $1 million due to the machinery's European wiring and their desire to sell the machinery quickly and profit from the sale.

[From the Journal of Commerce, May 17, 1990]

CUSTOMS FOILS PLAN TO SMUGGLE SUPERCOMPUTER

(By Charles Thurston)

Special agents of the U.S. Customs Service sprang a sting operation Tuesday on two California computer brokers, who allegedly believed they were exporting a $6 million Control Data Corp. supercomputer to Bulgaria.

Customs agents in Charleston, S.C., arrested Robert Wheeler, president of San Francisco-based American Technology Trading Group Ltd., just after his partner, Nick Spiliotis, president of Long Beach, Calif.-based CID Corp., boarded a plane for Miami.

When he landed in Miami, Mr. Spiliotis allegedly was expecting to collect a $1 million payoff from his intermediary buyer. He was met instead by arresting Customs agents. The 18,000-pound ETA10 supercomputer, made by Minneapolis-based Control Data, was seized from two 40-foot containers at the Port of Charleston.

"Without a doubt, this is the most sophisticated computer ever involved in a smuggling effort that we have been aware of," said Michael Sheehan, a Customs official in Miami. He said the investigation, which involved Customs special agents in Miami, Charleston, Los Angeles, San Franciso, Minneapolis and Washington, has been underway since January.

The operation is part of Customs' Operation Exodus program, established in 1981 to enforce U.S. export control regulations. According to the agency, the program has resulted in more than 1,000 arrests since its inception, with about $450 million worth of goods seized.

"Control Data no longer produces the ETA supercomputer," said Rick Bergland, a manager of corporate relations in Minneapolis. The company's ETA Systems subsidiary closed down in April 1989 and independent computer brokers were used to sell off excess inventory.

The ETA computer is primarily used by universities, research facilities and oil companies for seizmic activities, Mr. Bergland said. A Customs official suggested that the ETA10 is the second most sophisticated computer on the U.S. market.

Customs' Mr. Sheehan said that the sting was planned after the two suspects approached a Customs source offering to sell the computer. When the source informed Customs, the special agents decided that the source would act as an intermediary for Bulgarian interests. The computer was shipped from Minneapolis to Charleston for export to Paris, where a false receiver was listed as the end user.

"The only motive in this case was profit." Mr. Sheehan said. "There was no element of nationalism involved." The computer was wired for the European market—50 hertz—so the brokers were willing to sell it for less, he said. They wanted to do it quickly, he suggested.

International export controls on goods with both civilian and military uses that are destined for East bloc countries are regulated through the Paris-based Coordinating Committee for Multilateral Export Controls, or Cocom.

While the United States has been one of the more conservative members of Cocom, President Bush has been moving toward a step-by-step relaxation of controls on some exports—like telecommunications equipment—to some East European countries.

One search warrant has been issued and others will follow, Mr. Sheehan said, to determine whether all previous exports by the two brokers' companies were legitimate.

While there is no indication of illegal activity by Control Data, one Customs official said, "This is their biggest, fastest computer. When one of these moves, bells and whistles should go off."

[From the U.S. Department of Commerce News]

COMMERCE IMPOSES $800,000 FINE ON A WEST GERMAN FIRM FOR ALLEGED ILLEGAL RE-EXPORTS

The Commerce Department's Bureau of Export Administration today announced that Degussa A.G., a West German firm, has been fined $800,000 for alleged illegal re-exports of U.S.-origin nuclear-related materials from West Germany to Czechoslovakia, India, North Korea, Italy and Great Britain.

The department alleged that between Dec. 5, 1984 and Oct. 15, 1987 Degussa re-exported three shipments of U.S.-origin beryllium powder, beryllium lumps, and beryllium nitrate from West Germany to India and Great Britain; Also that between Sept. 15, 1986 and Oct. 15, 1987 Degussa re-exported three shipments of U.S.-origin zerconium from West Germany to North Korea, Czechoslovakia, and Italy.

Degussa shipped the nuclear-related materials without re-export authorization from the Commerce Department. Nuclear-related materials such as beryllium powder, beryllium lumps, and beryllium nitrate can be used in designing, developing, fabricating, or testing nuclear explosives. Zirconium can be used for encasing uranium in rods so that the fuel can be used in nuclear reactors. Exports of the materials are controlled for national security and nuclear non-proliferation reasons.

Under Secretary for Export Administration Dennis Kloske said that "Because beryllium is an important element of nuclear weapons, unrestricted access poses serious risks to world security.

"We believe the company knew that re-exporting U.S.-origin nuclear-related materials required authorization from Commerce, Kloske said. "Authorization of the shipments to India and North Korea would have been denied. All companies receiving U.S.-origin goods are expected to adhere scrupulously to the regulations concerning re-exports. Degussa's failure to obtain re-export authorization violated the regulations."

Under the order, Degussa will:

Pay the $800,000 civil penalty.

Implement and maintain in its special metals business unit an internal compliance program to ensure the company's compliance with U.S. export/re-export laws and regulations.

For six months, report to the Commerce Department's office of export enforcement all proposed domestic sales, purchases, or other transactions during this period involving controlled forms and quantities of U.S.-origin beryllium, zirconium, and other metals.

Permit unannounced inspection of its special metals business unit facilities in West Germany by agents of the Commerce Department to ensure compliance with U.S. export administration laws and regulations, consistent with West German laws.

Degussa acknowledged that the shipments occurred and voluntarily disclosed the violations to the Commerce Department. Degussa has cooperated with the investigation conducted by Commerce's office of export enforcement and has taken steps to prevent future violations. The $800,000 civil penalty is one of the largest imposed for export control violations.

The Commerce Department administers and enforces the Export Administration Act and regulations, which control exports and re-exports of dual-use items for reasons of national security and nuclear non-proliferation.

[From Nuclear Fuel, Vol., 15, No. 7, Apr. 2, 1990]

U.S. FINES GERMANY'S DEGUSSA $800,000 FOR ILLEGAL EXPORTS TO INDIA, NORTH KOREA

Degussa AG, the West Germany chemicals and metals group, was fined $800,000 by the U.S. Department of Commerce March 28 in connection with illegal re-exports of two U.S.-origin dual-use metals between 1984 and 1987. Degussa has agreed to pay the fine. The two parties discussed the matter for nearly a year before reaching the agreement.

Degussa disclosed the violations after Nuclear Fuel reported last year that the company re-exported 95 kilograms of U.S.-origin beryllium metal to India's Bhabba Atomic Research Center (BARC) in 1984 (NF, Special Report, 30 Jan. '89). Documents showed that West German authorities authorized the exports to India after the Indian Atomic Energy Commission told Bonn it "had no program for making any nuclear weapon nor any intention of using the ordered beryllium for any other military purpose."

Re-export of U.S.-origin dual-use metals, such as beryllium and zirconium by foreign firms, requires authorization by the Department of Commerce.

Contrary to written statements from the Federal Ministry of Research & Technology (BMFT), U.S. officials stated that the beryllium metal exported by BARC, which was 98%-99% pure, could have been used for nuclear weapons purposes. "Nuclear-related materials such as beryllium powder, beryllium lumps, and beryllium nitrate can be used in designing, developing, fabricating, or testing nuclear explosives," the Commerce Department's Bureau of Export Administration said in a March 28 statement. "Exports of the materials are controlled for national security and nuclear nonproliferation reasons."

Degussa, in addition to paying the fine, agreed to set up in its special metals business unit an internal program to ensure the company's compliance with U.S. export and re-export laws and regulations, according to the Commerce Department statement. In addition, Degussa agreed that for six months, it would report to Commerce all proposed domestic sales, purchases, or other transactions involving controlled forms and quantities of U.S.-origin beryllium, zirconium, and other metals. The company also agreed to permit unannounced inspections of its special metals business unit facilities in West Germany by Commerce Department agents.

Intelligence sources in Europe said that the U.S. government had blocked further beryllium purchases by Degussa before the Commerce Department ruling. The agreement allows Degussa to resume buying beryllium in the U.S. and re-export it unless Commerce denies re-exportation.

"Because beryllium is an important element of nuclear weapons, unrestricted access poses serious risks to world security," Under Secretary for Export Administration Dennis Kloske said in a prepared statement. "We believe the company knew that re-exporting U.S.-origin nuclear-related materials required authorization from Commerce. Authorization of the shipments to India and North Korea would have been denied. All companies receiving U.S.-origin goods are expected to adhere scrupulously to the regulations concerning re-exports. Degussa's failure to obtain re-export authorization violated the regulations."

The beryllium was apparently obtained by Degussa from Brush-Wellman Inc., a U.S. firm which supplies most of the Western world's beryllium. Commerce said that in addition to the illegal beryllium re-exports, Degussa had re-exported, without U.S. permission, three shipments of U.S.-origin zirconium from West Germany to North Korea, Czechoslovakia, and Italy. Commerce said those shipments occured between September 15, 1986 and October 15, 1987.

Edward K. Dyson, a lawyer in the U.S. representing Degussa, said the large fine showed that the U.S. government "wanted to make a statement" about how serious it considered the violations. However, Dyson said, the fact that Commerce had not taken away from Degussa its privileges to export materials from the U.S. showed that the U.S. recognizes that Degussa is a "reliable exporter" and that the violations were an aberration.

Dyson also said that the special metals business unit is a small department within a large company and that officials within that department were unaware that they needed U.S. permission to re-export the materials.

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GERMAN FIRM'S BERYLLIUM EXPORTS TO INDIA MAY HAVE VIOLATED U.S. LAW

Exports to India of U.S.-origin beryllium, a metal useful in nuclear weapons and missile systems, but with civilian uses as well, likely were approved by West Germany without the consent of U.S. officials and, therefore, in violation of U.S. law.

In early 1984, according to documents made available to Nucleonics Week/Nuclear Fuel and other news organizations, the West German Federal Office of Economics issued export licenses to the German firm Degussa AG for two shipments of beryllium (Be)—one for 50 kilograms of Be lumps with a purity of 99% and the other for 45 kg of Be powder with a purity between 98% and 98.5%—to India's Bhabha Atomic Reseach Center (BARC). For the 45 kg shipment, the country of origin of the Be was given as the U.S. on the export license application. The country of origin for the other Be shipment was not given, although there is a strong possibility, say a number of U.S. sources, that it, too, was of U.S. origin, given that the U.S. supplies almost all the Western world's Be. The end use given on the export applications was "research and development for vacuum induction smelting, sintering, and casting of metals." U.S. experts said they consider that end-use statement inadequate.

Under U.S. Commerce Department regulations (10 CFR 374), the re-export of U.S.-origin Be must be specifically authorized. U.S. officials in several government agencies—officials who in 1984 would have been involved in the review of a Be export application to India—were surprised to learn of the West German export licenses. (Since Commerce Department export records before 1986 are in the department's archives, a definitive determination as to whether the U.S. approved the Be export to India could not be made immediately.)

But both the U.S. industry and government sources say it would not surprise them if no re-export authorization was sought. "Whether that regulations can be enforced or not is an open question," said an official

at Brush-Wellman Inc., the principal U.S. exporter of Be. Added a government official, "Almost no efforts goes into checking to see if dual-Use items like Be are retransferred." If a foreign firm violates U.S. regulations, one consequence could be the denial of future validated export licenses, sources said.

Officials from Degussa in Hanau confirmed that they exported the Be in 1984, but declined to give additional information about either the country of origin of the material or the licensing process. "We had the export permits" before sending the Be to India, said Hans-Joachim Nimtz, the Degussa spokesman. The export permits, Nimtz, said were given according to the German export list (Part I, section B/0109) for dual-use materials.

According to U.S. government officials, it is very likely that the U.S. would have denied approval for Degussa to re-export Be to India, especially without further details as to its ultimate use.

The U.S. controls the export of Be for nonproliferation and national security reasons. In the U.S., an application to export almost pure Be to a country like India would be analyzed by the interagency Subgroup on Nuclear Export Coordination Among the factors considered in the licensing review are whether the country of destination has signed the Nonproliferation Treaty (NPT), accepts full-scope safeguards, has an agreement for nuclear cooperation with the U.S., and cooperates on nonproliferation policy generally, Intelligence data are also considered, as well as the country's public statements on nuclear development and nonproliferation.

With regard to U.S. policy for exporting dual-use items to India, a State Department official explained that in general the U.S. will not allow the export of an item if it could assist the Indian nuclear program For instance, he said if the export is a computer for a bank in India and there is no reason to suspect that it may be diverted, then it almost certainly would be licensed. "If it were going to BARC in support of the Indian nuclear program, the answer is it almost certainly would not be licensed. If the computer were going to the Indian army and you had no reason to suspect that it would be diverted, then it most probably would be licensed. If it were going to BARC for supposedly nonnuclear use, now you have a tougher case, but I suspect that even with an assurance that if was for nonnuclear use, the location would be sufficient to probably lead to a denial of the license."

Often with dual-use items sent to certain countries, the U.S. makes pre-installation or post-installation checks, or both. The State Department official said that in two recent cases, the U.S. made post-installation checks of computers sent to Pakistan.

Last week, West German Economics Minister Helmut Haussmann—whose officials are in charge of signing off on exports—told Nuclear Fuel and Nucleonics Week that since "we are especially careful about exports to non-NPT countries like India," a U.S.-style inspection of end-use after delivery for sensitive goods is not necessary. Moreover, he claimed, because of "inadequate international cooperation" in this regard, such controls would not be workable.

Although West German officials approved the licenses for the export of 95 kg of Be to India, they did so only after some review. In a telex, part of the licensing file in this case, an Indian official told Degussa: "At the outset we would like to emphasize that we have no program of making any nuclear weapon nor do we have any intention of using the ordered Be for any other military purpose." He explained that BARC ordered the high purity Be powder and lumps because "we feel that 500 grams per batch of material will be needed for carrying out the studies. Fifty kilograms of Be lumps will therefore provide us enough material for about 100 melts; similarly, 45 kg of Be powder will give us 90 pellets for studies."

He went on to say that "if your authorities feel that the ordered quantities are in excess of the material that may be actually needed for these types of studies, we would appreciate if you would obtain your export license for whatever maximum quantities that may be permitted for export. If quantities are inadequate for our work we can again come back to you for additional quantities."

In another document, the West German Foreign Office said in regard to the export of the 45 kg of Be powder: "Application concerns Be powder with a purity of 98%-98.5%. For nuclear uses Be with this degree of purity plays no role." Is said that the German Federal Ministry of Research & Technology "confirmed the plausibility of the reported end use, such that the Foreign Office has no objections to the granting of an export permit."

A Be expert at Oak Ridge National Laboratory said it "was categorically false" that Be with a purity of 98% had no nuclear uses. "It depends on the impurities. If it is boron, that is one thing. If the main impurity is oxygen, then it can still have nuclear uses," he said.

This expert described the end-use statements on the license applications "as grossly inadequate." They leave one "with no information about what the end-use is." The quantities of Be approved for export "could be useful for the kinds of components their physicists might want to experiment with in a nuclear weapon," he said. (According to one published source, quoted in a 1985 congressional nuclear proliferation factbook, using Be as a reflector in a nuclear explosive reduces the amount of plutonium needed by about 73%.) Be, he said, also has applications for missile guidance systems and the upper stages of rockets. "All the applications are pretty advanced," he said, "and most have something to do with military activity."

Be, however, can also be used as a moderator in a small nuclear reactor, and in the future, may be used in fusion reactors to breed lots of tritium from lithium, the ORNL expert explained. The primary commercial use of Be—in copper-beryllium alloys (containing 0.5%-2% Be)—is in electronic and electrical products.

India's BARC says that it has studied Be metallurgy extensively and that it was its work which served as the "precursor" of the Beryllium Plant at New Bombay. That plant, BARC says in a printed report, has "facilities for the production of Be blocks and for machining Be into desired components." These products, BARC says, "are used in the nuclear and space programs."

In February 1988, India successfully test-fired its first surface-to-surface missile, the Prithvi. According to proliferation expert Leonard Spector, in his most recent book, *The Undeclared Bomb*, this missile with modifications could be made into "a nuclear capable" missile under the standards of the missile technology control regime set up by seven Western nations in 1987.

In December 1987, a Pakistani native, Arshad Pervez, was convicted by a U.S. district court jury of trying to illegally export a 70-kg bar of Be to Pakistan.

—Michael Knapik, Washington; Mark Hibbs, Bonn.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1990—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. NUNN. Mr. President, when the appropriate amendment in disagreement is pending, I plan to send to the desk, at the direction of the Senate Armed Services Committee, on behalf of Senator WARNER and myself, an amendment which will provide a fail-safe mechanism to ensure that the Defense Department can avoid very large layoffs of military personnel and other adverse personnel actions before the end of the fiscal year.

This provision would reinstate the provision to reduce unobligated balances in DOD accounts and transfer the funds to the military personnel accounts. This is the same provision that was passed by the Senate in the supplemental appropriations bill, with one important modification. This reduction of unobligated balances and transfer of funds to the military personnel accounts would take place only if a reprogramming request to transfer these funds has not been approved by June 15.

For reasons I will describe in a moment, the Defense Department has a shortage of funds in the military personnel account in the current fiscal year. In my view, this is a problem that originated last August and September when the Defense Department did not recommend to the President that he should exercise his authority under the Gramm-Rudman-Hollings legislation to exempt other military personnel from the sequester.

So I think this problem started with that, and I think the Defense Department made a fundamental error in not doing that. But only the Congress can solve this problem now and if we do not solve it, the consequences for the military men and women will be immediate and will be very severe. Unless approximately $800 million are transferred into the military personnel accounts in the next several weeks:

The military services will have to involuntarily separate—which is a polite term for fire—40,000 active duty military personnel;

Promotions will be frozen for the rest of this fiscal year, affecting 50,000 personnel;

All rotational moves will be suspended until the next fiscal year, seriously disrupting the personnel plans of the military services and the personal plans of 30,000 military families; and

All new accessions, new people coming into the services, will be stopped for the rest of this fiscal year—a total of 90,000 people.

All together, Mr. President, failure to transfer these funds into the military personnel accounts will adversely and immediately affect approximately 210,000 individual military members, not to mention their families. Failing to solve this problem will also have a negative impact on the morale of all our military personnel and their families, and could very well influence young people who are in the process of deciding whether or not to enlist in the military.

I want to take a few minutes to describe how we got to this point; why this provision is necessary; and how it would work if it goes into effect.

I guess the question everyone would ask would be: How did we get into such a predicament?

Last year, in the face of an impending sequester under Gramm-Rudman, the administration decided not to invoke the President's authority to exempt the military personnel accounts from the sequester. Frankly Mr. President, this ill-advised and shortsighted decision by the administration last fall has gotten us where we are today. Of course there are other reasons that have been added to that.

After the sequester went into effect, the Defense Department realized that the impact on the military personnel accounts would be very severe. As a result, in February, DOD submitted reprogramming proposals to transfer funds from other areas of the Defense budget into the military personnel accounts to reduce the impact of the sequester on military personnel programs this year.

The Defense Department mounted a full court press on the Congress to approve these reprogramming requests. If these requests were not approved—we were told—thousands of military personnel would be involuntarily separated from the military services, promotions would be frozen for the rest of the year, and military people serving overseas would not be able to come home on schedule.

Members of the Armed Services Committee on both sides of the aisle—and I think also members of the Appropriations Committee and the Budget Committee—were very critical of the administration's original decision not to exempt the military personnel accounts. That decision by the administration caused a great deal of uncertainty and concern among military members and their families. It created the very real possibility that large numbers of military members and their families would be hurt by layoffs or other adverse personnel actions as a result of the sequester.

Because of our concerns for the men and women in uniform, the Senate Armed Services Committee approved the transfer of $795 million into the military personnel accounts on March 8, which was 85 percent of the amount requested by the Pentagon. That approval by our committee occurred almost 3 months ago.

In late March, the Defense Department seemed to shift gears. The Department was involved in and endorsed the action by the House Appropriations Committee to use the funds for the military personnel reprogrammings to pay for aid to Panama and Nicaragua in this supplemental. In other words, the funds DOD originally asked to shift to cover the military personnel shortfall were used to pay for aid to Panama and Nicaragua. I support some aid to Panama and Nicaragua—I think it is needed; I think it is vitally needed—but I do not support using DOD funds which were supposed to address shortfalls in the military personnel accounts to pay for foreign aid without solving the military personnel funding problem at the same time.

The actions of the Defense Department on the supplemental and the actions of the House Appropriations Committee left military personnel out in the cold until our Appropriations Committee in the Senate came up with what I felt and still feel was a very good solution to the problem. The Senate-passed bill that we now have back in the form of a conference report included a provision that imposed an across-the-board reduction on DOD unobligated balances to offset the outlay impact of the increase for military personnel. Our Appropriations Committee noted in their report, quoting them:

> * * * the committee does not believe the Defense Department should be permitted to minimize its overall reduction by including military personnel accounts in the sequester, only to then use reprogrammings to restore the sequestered funding to those accounts.

I think the Appropriations Committee was exactly right on that and I think they had a good solution. However, as the conference on the supplemental bill was being completed this week, the Defense Department proposed another set of funding sources for military personnel reprogrammings. The Appropriations Committees in the House and Senate, reviewed these new sources for the personnel reprogrammings, and then dropped the sequester provision in the Senate bill from the final conference agreement.

Mr. President, we have to finally ask the question: Why is this amendment necessary? Well, both the Appropriations Committees and also the Senate Armed Services Committee approved the military personnel reprogrammings. Then why is it necessary tonight to take any further action? The short answer, Mr. President, is that under long established procedures, reprogrammings in the Defense Department require the approval of four committees, the two Armed Services Committees as well as the two Appropriations Committees.

The important point is that the current regulations require that all four of these committees must approve a Defense Department reprogramming before it can be carried out. If one committee objects, the reprogramming cannot take place, even if the other three committees give their approval.

As of tonight the two Appropriations Committees and the Senate Armed Services Committees have approved the military personnel reprogramming. The House Armed Services Committee has not acted. I hope they will approve these reprogrammings. I have talked to Chairman ASPIN on several occasions. But, until they do, the Defense Department cannot reprogram these funds and solve the military personnel funding problem in this fiscal year.

The amendment that I plan to offer tonight on behalf of myself and Senator WARNER would delay the effective date of the across-the-board reduction of DOD unobligated balances until June 15. The reduction would not take place even then if the Secretary of Defense certifies that he has carried out the reprogrammings. In other words, if the House Armed Services Committee approves these military personnel reprogrammings by June 15, a reduction of DOD unobligated balances in this amendment would be nullified.

Mr. President, I will not take much more time of the Senate. But I want to briefy describe the way this amendment would work if the contingency goes into effect on June 15. The Appropriations Committee noted that across-the-board reductions would be approximately 1.6 percent on May 1. That is on May 1, if we had taken this action, it would have taken a 1.6-percent across-the-board reduction in unobligated balances to be able to pay for the personnel reprogramming. However, every day that goes by that percentage increases because the fiscal year is coming closer and the amount of money remaining unobligated decreases. So, by June 15, the date specified for implementation in our amendment, the across-the-board reduction to DOD unobligated balances would be approximately 2.1 percent, or $2.1 billion.

Mr. President, the sponsors of this amendment hope the reduction of unobligated balances does not take place. I hope the Armed Services Committee on the House side will approve the military personnel reprogrammings, and I hope this provision is not

needed. Until the reprogrammings are actually carried out, however, the majority of the members of the Senate Armed Services Committee feels very strongly that we must provide a guaranteed mechanism for solving the military personnel funding problem this year and avoiding some very adverse personnel actions that would otherwise seriously disrupt the careers of hundreds of thousands of military members. The Senate-passed version of this supplemental included this guaranteed fail-safe provision. We believe it is important this conference report contain this provision also.

This supplemental that we have before us rescinds over $2 billion in DOD funds to pay for foreign aid to Panama and for many worthy and important domestic programs. I believe this bill should also provide for our military members and provide some assurance that their needs are going to be taken care of. That is what this amendment is designed to do.

Mr. President, I understand very well the dilemma the Appropriations Committtee has. I know they have struggled long and hard to pass this supplemental appropriation. I am loath to put on any amendment that causes them any additional problem because I know how difficult it is.

My dilemma and the dilemma of our committee, I think I speak for Senator WARNER and myself on this, is we do not know of any other way we can approach this, if we get back here in June and find that this reprogramming has not occurred.

I had a conversation with Secretary Cheney on the telephone around 7 p.m. tonight. At that time he informed me that he was not going to drop the ax, so to speak, on these personnel actions, until we got back—that is a week or 10 days from now—and that he was, in the meantime, going to continue to work with the House Armed Services Committee to determine if there could be some satisfactory reprogramming.

I understand, also from the House aside, having talked with Congressman ASPIN, he is going to be willing to contiue to talk about this.

We have no assurances, though, they are going to be able to come to any agreement.

The other dilemma is, once the Secretary of Defense, if he does, ever satisfies Congressman ASPIN, he might not then satisfy the other three committees or any one of those committees. There may be programs that have to be cut then that would not be acceptable to another committee. We could be right back where we are now.

My dilemma is this. I, again, am reluctant to even pose this amendment, but I am also not going to stand by and watch 200,000 military people be hurt when they are innocent of this. No matter who you blame, whether you blame the House Armed Services Committee now for not going along with reprogramming or whether you go back 9 months and blame the administration, the President, and the Secretary of Defense, for not exempting military personnel which the Gramm-Rudman-Hollings law permitted—it does not really matter to the military people out there who we point the finger at. The question is: What happens to them?

I do not, in any way, relish having to propose this kind of amendment tonight at this late hour, but I also do not want to stand still and be quiet when I see this kind of injustice take place.

Mr. President, I would pose a question to the chairman of the Appropriations Committee. I know this is one he is probably not going to be able to answer with any certainty. But if we had some vehicle that we would be able to possibly take action on in the month of June in the event all else fails, even if the Senate did not agree or even if the House did not agree, if we had some vehicle where we could at least make the effort and explain to our colleagues what is about to transpire, it would make a difference tonight.

Is there any other appropriations bill the Senator from West Virginia sees coming through in the first couple of weeks, the first 3 or 4 weeks of June? Is that possible?

Mr. BYRD. Mr. President, I do not at the moment see such an appropriations bill. Let me explain this. The House will be moving appropriations bills soon, when we return from the break. The House does not have the problem that the Senate has with 302(b) points of order, when the Senate does not have a budget resolution that has been enacted.

After a certain date—I believe it is May 15—the House may proceed to call up appropriations bills, even though a budget resolution has not been agreed upon. The Senate cannot do that without being confronted with a Budget Act point of order.

The leader has indicated that as soon as we get back he hopes to be able to proceed with the budget resolution. I have talked with him about that. Senator SASSER has. We discussed it in our conference this week.

So, I would hope that the Senate could pass a budget resolution, it could go to conference and, under the expedited rules, it be acted upon and enacted into final form by both Houses. Then we could proceed with House bills that have passed the other body and been sent over here.

The Senate subcommittees are proceeding with their hearings, on subcommittees, and will be able to move quickly, once there is a budget resolution that has passed and the allocations can be made to the various subcommittees.

So, I have taken a long way and a long time to say that in the month of June it is possible, depending on how fast the two Houses can move, and particularly this body, on a budget resolution. I think we come to the floor early, fairly rapidly, with appropriations bills.

Whether there would be some other vehicle in the month of June, I do not know.

I can only say to the Senator that I support his amendment. I would have to vote against it tonight. I think he is right, so my vote would not be where my heart is. I would vote against it because of the circumstances we find ourselves in at this late hour, having to go back to the House with an amendment, not knowing what will happen there and what kind of a predicament that puts us all in, without having solved the dilemma that the distinguished Senator has presented to the Senate quite forcefully and persuasively.

I hope that we can find some kind of vehicle, because I do not want to be a party to seeing 200,000 pink slips go either, but I think the press is going to be on the other body to do something about this when we get back.

What I am saying is I hope we will be able to agree to this conference report tonight and send it on down to the President. I will do everything I possibly can—I do not know what that is—I will do everything I possibly can. I hope the leadership will help us when we get back in working with the other body, to get the other body to move on something.

Mr. NUNN. Will the Senator from West Virginia yield?

Mr. President, I do not ask for the impossible, and I know the Senator from West Virginia cannot give me a guarantee there is going to be a vehicle. I knew that before I asked the question. I think he has given a very forthright, candid answer as he always does.

If I simply have the assurance of the leadership of the Appropriations Committee, and I know I have talked to the Senators from Hawaii, Oregon, and Alaska, and understand this dilemma and the significance of it. If they can tell me, even though it is going to be a tough job to get some vehicle, that if worse comes to worse that they would make an effort to get some vehicle here from the House, or whatever vehicle is required.

Mr. BYRD. I certainly will make that effort and I will be happy to talk with the House leadership. I feel that our own leaders will do that to try to get something over there. I assume it will have to move over there first. That would help us through this dilemma.

If we were not at the point where we are, and I know the distinguished Sen-

ator could not see this forthcoming at the time the bill was before the Senate, I would support the Senator and would support him tonight if it was under different circumstances, because he is right. He is right. I have said as much to him.

It would just seem to me that both bodies would be constrained to do something about the dilemma when we get back. I think we stand as good a chance of doing something about it when we get back as we would tonight, because we may send this back over to the House and they may find that they will not have enough people over there to act on it, and we may find that we will not be able to finish this at all this weekend.

Mr. NUNN. I thank the Senator from West Virginia.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia retains the floor.

Mr. BYRD. I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I join with the distinguished chairman of the Armed Services Committee.

I wish to point out that in the conference report of the two authorizing committees, at page 578, we directed the Secretary of Defense as follows:

> The conferees further expect the Secretary of Defense to submit reprogramming requests for additional military personnel fund as he deems appropriate.

Essentially, that is what he has done. He has worked for some 3 months now with the committees of Congress to achieve this end. He worked in good faith.

I have had the opportunity to talk with Secretary Cheney a number of times in the past day or so on this question, recognizing it was going to come. I asked the distinguished chairman from Georgia to convene our committee today. It was a joint request, of course. He brought together our committee, and we discussed this problem.

Three committees of the Congress of the United States have approved the reprogramming action and one committee—and it is questionable whether it is a committee action, it may very well be the action of a single man, the chairman of the committee. So far as I can determine, the House committee has not been convened on this question.

In essence, the men and women of the Armed Forces of the United States, together with their dependents, are being held hostage—hostage—by virtue of this action.

I commend the chairman of our committee, together with the distinguished chairman of the Appropriations Committee and the chairman of the Subcommittee on Appropriations of Defense and ranking member and others who have worked together cooperatively on this side to try and avoid this problem.

The Secretary of Defense in good faith, time and time again has tried to sit down and reason with those in authorities in the House of Representatives to resolve this problem. Just a matter of minutes ago I had the opportunity to talk with Secretary Cheney and his negotiations are continuing.

It is vital that this matter not only be settled on behalf of the men and women in uniform, their dependents, but also here we are on the eve of the summit when our President and this Nation will be hosting a conference with the General Secretary and the President of the Soviet Union to resolve a wide range of issues relating to national defense. It is a great misfortune that this matter rests unanswered at this hour. I join with the chairman in his recommended action.

Mr. THURMOND. Mr. President, I rise in support of the amendment being considered by the able chairman of the Senate Armed Services Committee, Senator NUNN, and the able ranking minority member, Senator WARNER.

My distinguished colleagues on the committee have eloquently detailed the need for this amendment. I will not take the Senate's time to repeat those details.

Although I fully support the amendment, I hope that if adopted its provisions will not come to fruition and that reason will prevail. The careers of our soldiers, airmen, sailors, and marines are placed in jeopardy by the inaction of one Member of the other body. We cannot allow our military men to be penalized because of the mistakes of their leaders. Their lives are filled with daily uncertainties due to the nature of their profession. The amendment proposed by the Armed Services Committee will resolve that uncertainty by June 15 and allow them to continue leading normal lives.

Mr. President, this amendment is for those same men and women who fought so bravely in Panama and who risk their lives in the defense of our Nation on a daily basis. They are not responsible for the circumstances surrounding this amendment, they are the victims.

I urge my colleagues to support this amendment.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I rise to support the amendment. Unless the Congress bails out the Department of Defense to provide funding relief for military personnel this fiscal year, military forces will have to take draconian personnel actions that would adversely affect over 210,000 men and women in uniform and their families.

As Chairman NUNN has indicated, the situation results from failure of the administration to exempt the military personnel accounts from its Gramm-Rudman sequester decision last year. Had the administration chosen to exempt military personnel from the sequester as previous administrations have done faced with a sequester we would not be dealing with this problem today.

So the deep hole our men and women in uniform find themselves in right now was dug for them by the administration.

Mr. President, I always respect my distinguished colleague from Virginia who just spoke, but I have to point out to him that it came out at the hearings I conducted that the Secretary of Defense did not even recommend to the administration that this sequester take place.

So the fact is that he is belatedly now very concerned about the chairman of the House Armed Services Committee, and I too am concerned about the chairman of the House Armed Services Committee, but the Secretary of Defense did not even recommend to the admininistration that military personnel be exempt. That came out at the hearing for the first time.

Then the administration did not pick it up. So our men and women in uniform and their families are the ones who are going to suffer unless Congress now acts to rescue it. One way for Congress to do this is for the Committee on Armed Services and the Committees on Appropriations of both Houses to approve the reprogramming of funds from other accounts in DOD to cover the military personnel funding deficit.

The Senate Armed Services Committee prefers this option. It was the first committee to approve the reprogramming of $795 million for the military personnel accounts on March 8, 1990, following a hearing I chaired of the Subcommittee on Manpower and Personnel on March 5 at which DOD witnesses testified of the urgent need for approval of this reprogramming.

The committee subsequently approved on May 22 a revised request from the DOD for reprogramming of $800 million for military personnel. On the same date, the Senate and House Appropriations Committee also approved the military personnel reprogramming of $800 million. However, the House Armed Services Committee has not acted on the DOD military personnel reprogramming request thus far.

I join my colleague from Virginia in being critical of them for not doing that. I hope the House Armed Services Committee can resolve whatever prob-

lems it has with the reprogramming and approve it as the other three committees have already done.

Mr. President, it is obvious to me we should not leave on our Memorial Day recess without giving our men and women in uniform a safety net, and that is what this amendment does. It gives the House Armed Services Committee time to approve the manpower reprogramming, and failing that, the amendment would require the DOD to levy an across-the-board percentage cut on its other accounts to cover the manpower funding deficit. Quite frankly, this is what the DOD would have done in the first place if military personnel had been exempt from the administration's original Gramm-Rudman sequester decision.

Mr. President, if we do not adopt this amendment, we will leave over 210,000 of our men and women in uniform and their families out there dangling. The consequences would get worse every day that a decision is not reached. Right now, to make up the military personnel funding deficit, the military services would start passing out pink slips to at least 40,000 military personnel. It could start as early as June 1. The distinguished chairman, Senator NUNN, has said from his conversation with Secretary Cheney that that could be delayed a few days. But it is supposed to start on June 1.

It could also involve immediately stopping all promotions. That would adversely affect at least 50,000 military people. It would delay until the next fiscal year all rotational moves, which would adversely affect at least 30,000 military people and immediately cease bringing any new people in, cease the accession of personnel, which would adversely affect at least 90,000 personnel with orders to report for active duty.

Briefly, let me expand on what this means for each category of action I just described. Handing out 40,000 pink slips means putting military personnel and their families out on the street to find other employment starting June 1. We were told originally, before Senator NUNN's statement this evening, that is exactly what they planned to do. A lot of these people were planning to leave the service. That is true. However, their plans will be abruptly changed. They will have to leave right now. This will obviously involve a great deal of hardship and family turmoil. Over 40,000 people will be "struck out of the blue" with having to uproot right now.

The question we have to ask is, Is this fair? The answer obviously is, of course not. Unless there is money to pay for their continued services, those 40,000 pink slips will have to be issued. The ranks of the unemployed will swell by that full 40,000, no doubt about it, between June 1 and the first of October.

Stopping all promotions immediately means disrupting the plans of at least 50,000 service members who are literally banking on their advancement in grade. These are people who have already been notified that they will be promoted during the remaining 4 months of this fiscal year. Many of them, of course, have made financial and other commitments assuming that the military would keep its word, that the military and their Government would keep their word on when they would be promoted. We are not going to do that unless we pass this amendment tonight.

In this regard, they are behaving no differently than most people would. They are just planning for the future based on promised employment benefits. Unless we bail out the military personnel accounts, military services will have to take money out of the pockets of 50,000 people by stopping their promotions to make up the military personnel funding deficit.

Delaying rotational moves means disrupting the relocation plans of at least 30,000 men and women in uniform and their families. People with orders in hand to move to and from overseas assignments will have to be frozen in place until the next fiscal year because there would be no funds available to move them in the next 4 months as planned. Many of these people have already terminated leases and will be hard pressed to find affordable temporary accommodations. School arrangements for children will be disrupted. Many people who are on leave en route to new assignments will have to be put into a holding pattern. The financial costs to the 30,000 people affected and their families and the unsettling family turmoil of being jerked around are obvious.

Finally, stopping all remaining accessions for the remainder of the fiscal year means that at least 90,000 recruits who have already been ordered to active duty over the next 4 months will have to make plans for other employment, if possible, at least temporarily. This is certain to have a negative effect on recruiting which is still important even though the force is coming down.

Mr. President, to sum up, we are in a situation where a vote for this amendment is a vote for our men and women in uniform and their families. There is no simpler way to put it. If we do not adopt this amendment, we put the welfare of over 210,000 men and women in uniform and their families at risk, and that is not fair.

Mr. President, I know a few of my colleagues may have some misgivings about how the across-the-board cuts would affect some of the programs in which they are interested if the manpower programming is not approved by the House Armed Services Committee and the across-the-board cuts take effect to fund the military personnel dollar deficit as provided for in this amendment.

I hope the House Armed Services Committee will approve the manpower reprogramming in the time allotted and that the across-the-board cuts will not be necessary. However, if the House Armed Services Committee does not approve the reprogramming in the time allotted, we will have a safety net for our men and women in uniform and their families. I think this is a responsible way for us to match our concern for their welfare with committed action.

Mr. President, I therefore urge my colleagues to vote for this amendment.

Mr. INOUYE. Mr. President, I have listened very carefully to the wise words of the chairman of the Senate Armed Services Committee. I have heard the words of frustration as expressed by the distinguished Senators from Virginia and from Ohio. I, too, am frustrated, but after many months of careful deliberation, after many months of careful negotiation, after many months of thoughtful examination and options, much as we are tempted to, I do not think we should succumb to frustration.

The measure we have before us, the result of many, many hours of tough negotiations, will avert the military personnel crisis. The reprogramming scheme that we have worked out after careful consideration in effect does carry out the sequester but we did the sequester at this late date in the year.

I would like to assure my distinguished friend from Georgia, the chairman of the Armed Services Committee, that I will do everything within my power to convince our friends in the House Armed Services Committee to join us, members of the Senate Armed Services Committee, members of the House and Senate Appropriations Committee, to approve this reprogramming program to avert the crisis that will come upon military personnel.

I think we should also keep in mind that if the House Armed Services Committee refuses to go along with the reprogramming, and if we are compelled to use the sequestering route, it will mean that we will avert a military personnel crisis but we will have another crisis, a civilian personnel. We would have spent nearly $300 billion to maintain the defense structure, but we will tell our Marines, our soldiers, our sailors that they may not fly, they may not sail, they may not drive their trucks or fire their tanks because the moneys will have to come out of the operation and maintenance account. We will have hospitals, but we will have to fire nurses and doctors. I am certain the distinguished chairman of the House Armed Services Committee is well aware of this, and I will do my

best to convince him that together we must avert this crisis.

As the Members of this body are well aware, the members of the Appropriations Committee worked diligently with the members of the Armed Services Committee to craft the sequestering proposal that we had placed in the Senate bill.

But, the way it worked out, this was the best we could get. It is not a bad bill. I sincerely feel that the conferees did their job and did it well. But like all conference reports, it is not a perfect one. It is not one that is completely to our liking.

I would urge my friend from Georgia to withhold his amendment, and I wish to join my chairman from West Virginia to give him the full assurance that we will do our best to convince our House colleagues to go along with us. If that is not possible, we can find a proper vehicle so that his plan to sequester the funds may be carried out.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I join the Senator from Hawaii in making the request that this amendment not be pursued. I would like to be heard a little bit in defense of the Secretary of Defense.

I think that Secretary Cheney, if we look at this with hindsight, he properly would be charged as he has been now, as at the time he did not exempt military personnel from the sequester. It was before the winter revolution, really, in Europe, in October 1989. He sent to us a series of deferrals, some of which I opposed and others opposed. The amount of that money involved in this dispute is roughly $1.5 billion. That was roughly the amount he sought to ask us to reconsider in the period of time that we are talking about.

The Armed Services Committee reviewed many of the things that the Appropriations Committee did and decided to, in effect, authorize the changes that we had made in the appropriations bill in the fall of 1989.

Now we are at the situation where we had a series of meetings, we had one here in this building I recall, with all of the eight participants regarding reprogramming, including the chairman of the House Armed Services Committee. We discussed the question of how to handle this in view of the changes that have taken place in the world and the different approach that we have now.

We have refused to approve the deferrals in rescissions that came from the Secretary until this bill. A portion of them are handled in this bill. But what we did in conference was to move a portion of the disputed amounts out into the reprogramming area. That freed up additional outlay numbers for this year in this bill. That took care of a series of problems the House Members raised with us.

This Senator would not have gone along with this bill had it not been for the assurance that came to us from the conferees from the House, that the reprogramming would be approved by the Members of the House that have the authority to deny or approve a reprogramming. It takes four Members of the House, and four Members of the Senate to do that. Seven of the eight approved the reprogramming.

The House numbers, the House special projects that they wanted and their high priority projects are in this bill. They could not have been in this bill but for the action we took in approving the action of taking care of part of the sequester problem with reprogramming.

I commend the Senate Armed Services Committee for once again looking over this problem and the way we have resolved it. The bill is before us and the reprogramming. They did approve the reprogramming. We have all approved that. But I urge that this amendment not be offered because, again I state, there are items in this bill that could not have been in there had we proceeded without the reprogramming plan. If the reprogramming plan is not to be approved, when we come back, if we have to deal with it again, this Senator is going to seek to take out of the bill the items we agreed to for the House that could not have been funded otherwise. We are not going to be in the position of working out an arrangement that accommodates the Members of the House on the one hand, and on the other hand denies us the opportunity to halfway, part way meet the Secretary of Defense's objectives.

I happen to be one of those that caused quite a problem, with the icebreaker. I am sure everybody knows, although it merely operates in my area, it will be built somewhere else. We are still keeping some money to start an icebreaker, which is vitally necessary for the protection, I believe, of those people who are going to sea in submarines and are operating in the areas that are affected by the icepack.

The Secretary of Defense personally talked to me about that and asked us not to include those moneys in this bill. They are part of the $1.5 billion deferral problem. I am the first to admit it. We disagree in the judgment as to the necessity for that item. But we have taken care of that by virtue of meeting this part way with the reprogramming that seven out of the eight of us have approved.

I say it is time for us to all join together to do what the Senator from Hawaii suggested. We talked to our good friend. We all work with him. We were going to work with him again in the balance of this year.

I believe that the chairman of the House Armed Services Committee should approve the reprogramming as we were told he would do. I must admit he never told me he would do it, but the report we had in conference was that the House Armed Services Committee and the House Appropriations Subcommittee would approve this plan.

I urge that this amendment not be brought forward, because I think it tilts the scales once again. It tilts the scales because there are items in this bill that could not be there, including the icebreaker, unless we use the reprogramming procedure. I believe that the bill is a sound one. Without the amendment, it will be signed, and I think all it needs is a signature of one person to make the whole program work and to avoid all of the things that the Senator from Ohio has mentioned, and rightfully.

If this sequester has to fall, it is going to really hurt people in uniform. There are some Members of the House who said there ought to be some pain as a result of the failure of the Secretary of Defense to exempt the military personnel at the time of the original sequester acts.

The pain, if there is any to be felt, is going to be felt by people who cannot move at the time they are scheduled to move and put their children in new schools. As the Senator from Hawaii mentioned, there are going to be people going into hospitals who cannot find nurses, or who cannot find the money to run or buy gasoline to run trucks and airplanes and to fuel our vessels.

I think it is wrong for us to be here at this time to try to make a change because one person has not done what seven out of eight of us have done.

I urge the Senator from Georgia not to offer that amendment. I join with the Senator from Hawaii in making this commitment. If we have to, when we get back, we will work it out. If we have to, the pain is going to fall on the House. It is not going to fall on the people in the armed services, in uniform.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I will take just 20 seconds.

I have heard my colleague from West Virginia and I have heard the assurances. I know him. Therefore, I know that even though there are no guarantees he will do what he can when we get back if all else fails, and reprogramming does not go through. I hope it will. That is what my friend from Hawaii has said. I respect him tremendously; my friend from Alaska. I know they are men of their word. I

know they will work with us in trying to work this out.

I felt it absolutely essential to bring this matter to the Senate even though it is a late hour. But, I know that if we pass the amendment tonight—I think it is very doubtful we would pass it, based on the late hour, based on the consequences of the supplemental—but if we pass it, we still would not have any assurance that the matter would be concluded any time soon based on the House and the situation therein.

Therefore, I will not propose the amendment. I thank my colleagues.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. NUNN. I yield.

Mr. BYRD. I thank the distinguished Senator from Georgia. He has made a good case. He has made a right case. He has taken the right position. I support this amendment.

Under the circumstances I want to thank him for not offering it. I would have, under the circumstances, voted against it. I have explained that to him.

Again, I want to assure him that while I cannot guarantee, as he has indicated he would not expect me to try to guarantee because he knows I would be doing something that I cannot carry out. But I assure him at this moment that I will do everything I can to help bring about a solution to the matter, and I believe that the precedent is going to be set that others who at the moment may not be constrained to see the Senator's viewpoint and to cooperate with him in it, I think the pressures will be, by that time, such that there may be all heads in agreement that something has to be done. I hope that will be the case.

Mr. NUNN. I thank my friend from West Virginia.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Parliamentary inquiry. Is the first amendment in disagreement the matter before the body?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 1722

(Purpose: To forgive producers who have been adversely affected by a major disaster or emergency occurring in 1990 from repaying certain advance deficiency payments, with an offset)

Mr. CONRAD. Mr. President, I move to concur in the amendment of the House to the amendment of the Senate with the following amendment which I send to the desk for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 1722.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . (a) Section 14 of Public Law 101-220 (7 U.S.C. 1421 note) is amended by striking "refunded, such refund shall not be required to be made prior to July 31, 1990." and inserting "refunded—

"(1) the refund shall not be required to be made prior to July 31, 1990;

"(2) in the case of producers on a farm that is located in a county that is affected by a major disaster or emergency in 1990 declared by the President under the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.), the refund shall not be required, for that portion of the crop for which a disaster payment is made under section 201(a) of the Disaster Assistance Act of 1988 or section 101(a) of the Disaster Assistance Act of 1989; and

"(3) in the case of producers on a farm that is located in a county with respect to which the Governor of the affected State has a request pending for such a declaration, the refund shall not be required prior to the date the President makes a decision on the request, for that portion of the crop for which a disaster payment is made under section 201(a) of the Disaster Assistance Act of 1988 or section 101(a) of the Disaster Assistance Act of 1989.".

(b) None of the funds appropriated or otherwise made available by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990 (Public Law 101-161) shall be used to pay the salaries of officers and employees who carry out the export enhancement program established by section 1127 of the Food Security Act of 1985 (7 U.S.C. 1736v) to the extent that the aggregate amount of funds, and the value of commodities, used to carry out the program during fiscal year 1990 exceeds $509,000,000.

HOUSE AMENDMENTS TO SENATE AMENDMENTS NUMBERED 53, 54, 55, 56, AND 57

Mr. BYRD. Mr. President, this has nothing to do with the Senator's amendment. I would like to get the other amendments agreed to.

I ask unanimous consent that the House amendments to Senate amendments numbered 53, 54, 55, 56, and 57 be considered and agreed to en bloc, and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection? Without objection, the amendments are agreed to en bloc.

The House amendments to Senate amendments (Nos. 53, 54, 55, 56, and 57) were agreed to en bloc.

AMENDMENT NO. 1722

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, the amendment that I have offered is very simple, but it is critically important, critically important to my State, but beyond that, critically important to other States that continue to be affected by one type of disaster or another.

Mr. President, I will be very brief so that I do not take more time of my colleagues than is necessary. This amendment would forgive farmers advanced deficiency payments that are due to be paid back by July 31 of this year. The only reason that I stand to offer the amendment at this time is that there is no other vehicle, I am informed, that is likely to be able to move through the whole process and be signed by the President by July 31. So I have no alternative, if we are to succeed in accomplishing the objective, other than to move on this amendment.

Mr. President, very simply, this amendment would forgive advanced deficiency payments for those that suffered disaster losses in 1988 or 1989, only if there is a Presidential declaration of disaster in 1990. In other words, Mr. President, the person would have had to have a disaster in 1988 or 1989 and have a Presidentially-declared disaster in 1990 in order to get relief.

What is the relief that we seek, Mr. President? It is the relief from the payback of advanced deficiency payments on bushels that were never produced because of disaster.

In my State, for example, as well as the States of Minnesota, South Dakota, Montana, and now I understand in the Southern States that are suffering from flooding, farmers are being told to make repayments of advanced deficiencies they received on bushels that were never produced. They are also being asked to repay advanced deficiency on bushels that they did produce.

Mr. President, that is certainly fair. They expect to make those payments, and they will make those payments. But on bushels that were never produced, on which they never got the advantage of the price increase that occurred because production never occurred due to the disaster, they simply do not have the funds to repay.

Again, I alert my colleagues that this is only if you suffered a disaster in 1988 or 1989 and again suffered a disaster in 1990. We pay for this by shifting money out of the export enhancement program, another agricultural account, $44 million of budget authority to produce $30.8 million of outlays, which is the amount necessary to cover the cost of this amendment, $30.8 million.

CBO says only $100 million of the EEP money will be used this year. We leave under my amendment, $509 million in that account, enough to cover all of the anticipated spending from EEP, according to the Congressional Budget Office.

Mr. President, my State has suffered the worst drought in 100 years. My

State has just had the driest winter in 100 years. Farmers, by July 31, are being asked to pay back an advanced deficiency payment they received on bushels that were never produced because of disaster. They simply cannot do it. That is the reason for this amendment. It affects not only my State, but my State that has a Presidentially declared disaster. I ask for the yeas and nays.

Mr. DASCHLE. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. DASCHLE. Mr. President, I rise to associate myself with the remarks of the Senator from North Dakota and applaud him enthusiastically for the effort that he is making tonight.

Mr. President, I want to express my strong support for the amendment offered by the Senator from North Dakota. The hour is late. Reference was just made by the Senator from Georgia and the Senator from Hawaii and the Senator from Alaska and others about the difficulties created in another part of this bill with regard to military personnel and the problems that may result as a result of the sequester which has been ordered. But that problem may be resolved.

We will not have another vehicle to resolve the problem of that the Senator from North Dakota addresses with this amendment. The fact is that in some parts of the country we face the third year of drought and a disaster in a proportion beyond that which they have had in more than 100 years. As late as it is, and as difficult as I know problems are for the managers of this bill, to deal with it and to get it successfully considered, the fact is we do not have any other vehicle with which to deal with this issue effectively before the deadline in July.

This amendment would only effect people who have experienced droughts in the last 3 years. Many of these people virtually have no opportunity to pay back the advanced deficiency payments which they have received. They, frankly, do not have operating money to go in the fields this spring. It is a very desperate situation. There is an offset in the amendment, so it is not going to require any additional cost to the budget. The fact is that in this case, the way the amendment has been offered, it is a very sensible approach to assist only those who have been the hardest hit by not one but three natural disasters. We really have no other alternative.

I again applaud the Senator from North Dakota for his willingness to offer the amendment at this time. I really would hope that Senators would take great care in considering this legislation and making it part of the supplemental.

If we do not do it tonight, if we do not offer them this form of assistance, if we cannot assure that in some way we can address this problem effectively, the fact is some of these people just are not going to be around a year from now.

I ask unanimous consent to be a cosponsor of the amendment and certainly urge its adoption tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I appreciate the desperate situation that has been described by the two Senators. I can understand the frustrations that have been visited upon the Senators from the areas that are affected. But we are into a situation here tonight where many Members have gone home, and we can get them back, if there is a call for a quorum put out. But if they come back they are not going to be in a very good mood.

I feel that the amendment will not be adopted. I could be wrong. The Senator certainly has the right to offer the amendment. I do not question that right. He has a right to ask for the yeas and nays on it. But I would hope that the Senator would not press this to a vote, at least a rollcall vote. If he would be willing to have a voice vote, that would be fine.

But here is the situation that I think we are confronted with: This amendment was offered on April 30, when we had the bill before the Senate. It was defeated by a vote of 52 to 43.

If we are going to have amendments called up to an appropriations bill and the amendments are defeated, and then the conference report comes back to the body with amendments in disagreement and those same amendments are offered again—the process has been very slow already—if we are going to start doing that, there will be other Senators who will want to offer their amendment, which had been offered and not agreed to, feeling that this is an opportunity in which somehow or other a miracle will work, and I just have to oppose the amendment.

I admire the Senator for offering it. I admire him for his courage and his determination. He is trying to do what he feels he has to do. He has to answer to his constituents. I try to put myself into that situation. But I say to the Senator, I hope he will not press this to a rollcall vote. If he does, I do not believe he will win. I could be proved wrong. I do not believe he will win.

There will be other Senators who will have to come from their homes, and we will just be delayed that much further. Let us say if he were to win, let us say if the amendment were to carry, it would go back to the House. They probably will not be able to deal with it tonight. They would have to come in tomorrow. They will have lost a quorum by then. Then we may not see this bill pass before the recess.

I am afraid that in the long run, whichever way the Senator would proceed, if he is determined to go through with this one way or the other, I think that in the final analysis, he will not be successful.

I would hope that he would either let us have a voice on it or not press it at this time. There will be appropriations bills coming along, as I explained to the Senator from Georgia, at a time when we can have the budget resolution enacted because our subcommittees are ready to bring the House bills to the floor once the allocations are made. They are ready to move quickly.

I would hope that there will be one or more appropriations bills before the Senate, at least during the month of July, and it seems to me that the Senator's chances would be better if they are good at all, and they may not be, at that time rather than attempt here to add an amendment to an amendment in disagreement and send it back to the House.

I know that the Senator feels that he should not leave any stone unturned. But I would be very careful to look at the stone before moving. I hope the Senator will not press the amendment to a vote.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, let me say I have deep respect for the chairman of the Appropriations Committee.

I have only been a Member of this body for something less than 4 years. But I have learned a great deal from watching the chairman of the Appropriations Committee. He talked about requiring a miracle, and I must say to my dear friend that my people need a miracle. I have never seen such a disaster as has befallen my State.

Two weeks ago, I flew in a light plane over my State at 3,500 feet and could not see the ground because of the dirt, and we have had a return to the dirty thirties and the economic impact upon my State is enormous. We had hoped and hoped and hoped that the rains would come and they have not come. So I find myself in the most difficult situation that I could imagine in standing before my colleagues at a quarter of midnight and knowing that I really only have this one opportunity to attempt to accomplish something that is critically important to my State.

Before I make that decision, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be allowed to speak as though in morning business for a couple of minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CABLE REREGULATION

Mr. STEVENS. Mr. President, over the weekend I had the occasion to see our great friend, the former Senator from Arizona, Senator Barry Goldwater. In discussing many things with him, I found that he does sit late at night once in awhile and watch the Senate when it is in session. I hope my friend is watching back there in Arizona now again because after the conversation with him we started thinking about some of the things we worked on, and in particular I started thinking about the cable deregulation bill that Senator Goldwater managed here on the floor 6 years ago.

Mr. President, 6 years ago, Congress initiated a dramatic change in national telecommunications by enacting legislation to substantially deregulate the cable television industry.

At the time of the passage of the Cable Communications Policy Act, many experts felt that the cable industry was in decline—its effort to wire America's big cities was in disarray and cable programming services were failing because of low ratings and revenues. some went so far as to suggest that cable faced an impossible catch 22—it couldn't attract more subscribers without better programming, and it couldn't afford to develop better programming without more subscribers.

Many doubters that the cable act would resolve these problems. They were wrong.

Over the past 6 years, cable has grown enormously. The number of basic cable subscribers has grown from 37 million in 1984 to 49 million in 1989. Those subscribers enjoy a far wider variety of programming services than they did in the early 1980's. Unlike over-the-air broadcasting, cable has been able to provide specialized services so a subscriber can get more of the specific kind of programming he or she wants—whether it be coverage of the proceedings of the Senate and the House, home shopping, 24-hour news, documentaries, music videos, or classic movies.

These major advances haven't come without a cost. According to the General Accounting Office, the average subscriber's monthly bill rose 14 percent—8 percent in constant dollars—during the period of 1986 through 1988, with an increase of 26 percent in basic rates.

All of us are concerned about the rates our constituents pay for important services, particularly this Senator. My State has very high basic cable rates.

Before we conclude, however, that the cable industry has been systematically gouging the consumer, let's look at a few additional facts. First, in 1972 the average monthly basic cable rates was $5.85. If basic cable rates had kept exact pace with inflation since that time, the average monthly price in 1988 would have been $16.54. The actual average price was $14.77—12 percent less. This strongly suggests that much of the post-cable act rate increase was related to cable's effort to catch up with inflation after years of local regulation that kept both cable prices and cable services artifically low.

Second, the average basic cable subscriber in 1972 received five to six channels. The average basic cable subscriber in 1988 received more than 30 channels—a 500-to-600-percent increase in service without a corresponding increase in price.

Third, the latest price information indicates that cable rates are stabilizing. In 1989, average cable prices went up only 3.8 percent while the overall Consumer Price Index rose 4.6 percent.

Mr. President, the cable industry isn't perfect—some cable operators have gouged their subscribers, the industry as a whole has had major customer service problems over the past 6 years, and there is continuing concern over the fairness of its relations with current and potential competitors. In dealing with an industry that has begun to mature in a real sense only in the past 6 years, however, Congress should move with caution.

We need to distinguish between transitory problems and long-term problems. We need to make sure that in reacting to today's complaints, we don't sacrifice the benefits that a strong cable industry can offer to tomorrow's consumer.

I want to express my appreciation to Senator HOLLINGS, the chairman of the Commerce Committee, Senator DANFORTH, the ranking Republican on Commerce, and Senator INOUYE, the chairman of the committee's Communications Subcommittee for their efforts over the past several months to examine complaints about the cable industry and evaluate possible changes to the 1984 cable act. I believe that it is important for the committee to move forward with a moderate cable bill this year. Continued uncertainty over the fate of cable legislation does not serve the interest of the general public, which wants and needs additional mass media services.

With regard to a potential cable bill, there are some issues that deserve special mention.

First, after deregulation, most cable systems eliminated the so-called purchase option that had allowed subscribers to receive—at a fairly low price—local over-the-air broadcast television signals and public, educational, and governmental access channels. This forced subscribers to purchase either a larger and more expensive basic service package or terminate cable service altogether.

This inexpensive option—perhaps with the addition of C-SPAN I and II—should be restored, and the Federal Communications Commission should be authorized to set up a system to regulate the rate charged for this service. Not everyone wants all the programming offered by the cable industry, and they shouldn't be forced to pay for what they don't want.

Restoration of the purchase option—I sometimes call it basic-basic service—would give all residents of a given cable franchise area access to the cable system at a reasonable rate. It would also help discipline the pricing of the other services offered by the cable operator. If those services are too expensive, subscribers could opt for basic-basic service without having to terminate cable access altogether.

Representatives DINGELL, LENT, and RINALDO have proposed one version of a basic-basic service package in a staff draft that has been circulated over the past couple of weeks. I recommend that Members of the Senate review their proposal.

Second, as a long-time supporter of must carry—the mandatory carriage of local commercial and public broadcast stations by cable systems—I believe that any cable bill should include codification of the must carry concept. The courts have struck down the FCC's efforts to require must carry by regulation. Congress should act to help preserve the essential services that free over-the-air broadcasting provides in rural and urban America. There is no reason to delay action on this important issue.

Third, there has been a lot of discussion of the question of programming access. In its strongest form, programming access would require all video programmers, whether or not affiliated with cable system operators, to make their programming available to any and all multichannel video distributors. Price differentials would be almost wholly prohibited.

The underlying premise for this concept appears to be that there is a limited, static block of programming available in America and that it is the task of Congress to dole out this limited resource to various delivery services. This premise doesn't sustain analysis.

Over the past decade, programming choices have mushroomed. The cable industry has more than doubled the number of specialized cable networks, and neighborhood stores offer for sale or rental videocassettes of everything

from movies to exercise programs to financial planning seminars. Unless Congress throws a monkey wrench into the market, programming choices will continue to expand.

The recent versions of programming access are just such a monkey wrench. It would overturn decades of public policy. Prohibiting exclusive programming contracts will radically reduce the upside for the developers of programming. It means that when they have a success, they'll have to share the benefits in a way that will drastically reduce the return on their investment of time, talent, and capital. When they have a failure, and programming is a notoriously risky business, they'll continue to bear the burden alone.

It doesn't take an economic wizard to figure out that given this change in incentives, programmers and the people who finance them will spend less on programming development and will be more conservative about what projects they pursue. I don't see the benefit to consumers from reduced and less diverse programming, and I certainly don't see the Federal Government's stepping in to replace the capital that the private sector pulls out of programming.

I'm as concerned about making programming available to rural Americans and encouraging the development of new technologies as anyone in the Senate. A large part of my career has been spent working to ensure that rural Alaska is not left behind as our Nation's telecommunications system moves into the 21st century. But, the programming access proposal is much more likely to retard the development of new programming and reduce incentives to meet rural America's needs. I think Congress should think very carefully before it grants what amounts to a major public subsidy to selected programming distributors and technologies.

Mr. President, in this debate, the cable industry's interest isn't paramount. Neither are the interests of the broadcasting industry or any other specific party. We have an obligation to fashion communications policy that furthers the general public's interest in more programming choices at reasonable rates. I believe that we have an opportunity this year to make progress toward this goal, but only if we forego the temptation to make radical policy changes without understanding their consequences. The cable industry needs guidance, and the broadcasting industry needs fair access to the consumer. We can provide both without sacrificing the progress made over the past 6 years.

But I am one who believes that Congress should take some time to act upon a bill to eliminate some of the uncertainties that exist in the cable field today. There are changes that we need to make if we are going to continue to make progress in that area.

I welcome any comments that my colleagues have to make concerning the suggestions I have made, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS CRIME BILL

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, the Senator from North Dakota has the floor. I just want to make an inquiry whether or not we are going to have a vote. It is now 5 after 12. We need to advise people who are scattered all over town, many of whom are in bed, which is not a problem.

The Senator from North Dakota just has to give us some notice if there is going to be a vote. We would like to know right now.

Mr. CONRAD. Mr. President, after having consulted with my colleagues on this question, and in deference to the lateness of the hour, I would accept a voice vote on this question, and I ask my colleagues for their indulgence at a later time on another vehicle to give careful consideration to the issue that I have raised here, and perhaps the chairman of the Appropriations Committee would speak to that.

But I would be willing to take a voice vote.

Mr. BYRD. Mr. President, if the Senator will yield?

Mr. CONRAD. I am happy to yield.

Mr. BYRD. Mr. President, I thank the Senator for his willingness to have a voice vote. I will certainly be happy to sit down and talk with Senators upon our return. I do not know what the possibilities may be. I voted against his amendment when it was offered to this same bill on April 30. I probably would be against his amendment when we return.

But the Senator has always been very fair with me, and I want to be fair with him. I will be happy to sit down and discuss this amendment with him and see if there is a vehicle on which he could attempt to offer his amendment. I would not guarantee that there would be. I cannot guarantee such, as I said to the distinguished Senator from Georgia earlier.

But there may very well be an appropriations vehicle that will come along, if the Senate and House can agree on a budget resolution in the meantime, and if he had in his amendment that it would take effect upon enactment of the legislation, and if he could get the amendment adopted, why, that would help him with respect to the time bind he is in.

Again, I do not want to say anything that would raise the Senator's expectations of my support for this amendment. I recognize his problem. I have empathy for him. But empathy without a vote does not necessarily help.

But I certainly will be glad to look at the matter with the Senator and discuss it, see if there is a vehicle. And I hope there will be a vehicle to which he can at least offer his amendment and get another rollcall vote on it, because he is entitled to ask for a rollcall vote tonight, if he wants one. But I urge him not to, and I think he is doing the right thing in accepting a voice vote on the matter.

But let me say again, I understand the Senator's problem. I would like to be helpful. I wish I could be helpful. Who knows, I may be able to be helpful. But I may not be able to, as far as supporting the amendment is concerned.

But let us look at it on another day. I have a feeling the Senator's chances will be at least better on another day than they would be this evening, at which time Senators would be very much inconvenienced and the Senate itself would be inconvenienced by a rollcall vote. The matter would ultimately not succeed, and it would result in a delay of final action and signature by the President.

I thank the Senator, if he is willing to proceed with a voice vote.

Mr. CONRAD. Will the Chair answer a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state his parliamentry inquiry.

Mr. CONRAD. Does the Senator from North Dakota have any alternative, other than a voice vote? Would a standing vote be an alternative that would be open to the Senator?

The PRESIDING OFFICER (Mr. KERRY). The Senator could request a division vote.

Mr. CONRAD. I would request a standing vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from North Dakota—putting the question.

Mr. CONRAD. A division, Mr. President.

The PRESIDING OFFICER. A division is requested.

Senators in favor of the amendment will rise and stand until counted.

Is the Senator from Minnesota standing and being counted?

Mr. BOSCHWITZ. The Senator from Minnesota seems to be standing up.

The PRESIDING OFFICER. The Senator is indeed standing. The Chair was not aware of whether he was being counted.

(After a pause.)

Those opposed will rise and stand until counted.

On a division, the amendment is rejected.

HOUSE AMENDMENT TO SENATE AMENDMENT NO. 1

Mr. BYRD. Mr. President, that only leaves action on amendment No. 1. I move that the Senate agree to the House amendment to the Senate amendment No. 1.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. May I ask the Senator, the distinguished chairman of the Appropriations Committee, if he expects any rollcall votes? If there is a possibility of rollcall votes this evening?

Mr. BYRD. No. This is the only remaining action before the Senate completes its work on this bill.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank the distinguished Senator for allowing the Senate to work its will on a division vote, and I certainly will carry out my assurance to him. Whenever he wishes to discuss this further, I will be happy to discuss it.

And if an appropriations bill comes along as a vehicle, certainly he will have his day in court, and be able to offer his amendment and get a rollcall vote on it, and let the whole Senate speak to it.

Mr. LEAHY. Mr. President, I am delighted that at last the Senate is preparing to adopt the conference report on H.R. 4404, the supplemental appropriation for fiscal 1990. At times over the last month I have wondered if we would ever get to this point. Now that we are about to send this bill to the President, I want to compliment the distinguished chairman of the Appropriations Committee, and my good friend from West Virginia, Senator BYRD, for his strong leadership. He has skillfully guided this supplemental through the long and ardous journey to the Senate floor today.

As is well known, Mr. President, I felt that the $800 million requested for Panama and Nicaragua in the emergency supplemental was too much too fast. While I agreed Panama and Nicaragua need this much assistance, and eventually even more, I did not, and still do not, believe either country can effectively manage, control and use such huge amounts in the 4 months remaining in this fiscal year. The distinguished chairman and I proposed a lower level for Panama and the full amount for Nicaragua in the Appropriations Committee. We also proposed to increase substantially funding available to support United States exports and investments in the newly opening markets of Eastern Europe. By one vote, our proposals lost. On the floor, the distinguished chairman and others proposed a lower level for Panama and increases in domestic social programs. This proposal also narrowly was defeated.

The will of the Senate was clear. It wished to provide not less than the House-passed level for Panama, $420 million, and the full request, $300 million, for Nicaragua. From that moment, my goal was rapid enactment of the supplemental to get this money down to President Chamorro and President Endara to protect and strengthen the processes of democracy and economic recovery. In the conference with the House, I worked for expeditious action to resolve differences in the foreign aid portion of the supplemental and get this bill back as quickly as possible to the Senate.

I am pleased with the conference result, and I want to thank my good friend and ranking member on the Foreign Operations Subcommittee, Senator KASTEN. As always, it is a pleasure to work with him to find reasonable solutions to differences. I also want to thank our colleagues in the House, especiallly my counterpart, Congressman DAVE OBEY, chairman of the Foreign Operations Subcommittee. His role throughout the conference was constructive and cooperative, and I commend his leadership.

Mr. President, before I describe some of the main features of the conference report on the Foreign Operations chapter of the supplemental, I want to praise the House for its strong and courageous vote on the supplemental authorization to withhold 50 percent of military aid for El Salvador until conditions relating to the peace negotiations and human rights behavior by the security forces are met. An unmistakable signal has been sent to the administration and the Salvadoran Government that fundamental changes in El Salvador and a negotiated end to this bloody and futile war are absolutely necessary. Unlimited, unconditioned, uncritical American financial backing is at an end.

The House provision also signals the FMLN that it, too, shares the responsibility for ending this war and curbing its own human rights abuses. Although we do not provide aid to the FMLN and have little influence over its policies or actions, it is a part of the equation that cannot be ignored. The House measure also puts pressures on the FMLN as well as the Government.

Let me state to Senators that, as chairman of the Foreign Operations Subcommittee, I intend to include a similar provision reducing, limiting and conditioning military aid to El Salvador on the fiscal 1991 Foreign Operations Appropriations bill which I hope to present in not too many weeks. The Senate must join the House in telling the administration, the Salvadoran Government and the FMLN that the war must end through negotiations—and this year.

Secretary of State James Baker testified before my subcommittee that he believes the war in El Salvador can be ended this year and that he is prepared to work out a bipartisan approach with Congress to pressure the parties to negotiate a workable peace settlement. I welcome the Secretary's statement and stand ready to meet with him at any time to discuss how we might shape such a bipartisan agreement.

Now, Mr. President, let me briefly describe some of the features of our chapter of this supplemental conference report, as it differs from the Senate-passed bill.

We have provided $420 million for Panama and $300 million for Nicaragua, with no subearmarks specifying particular uses. We give the President the flexibility he requests, and we expect him to use the money wisely to support democracy and economic recovery. At the same time, because of my strong concerns about risks of misuse and mismanagement by the weak Panamanian and Nicaraguan bureaucracies, and because of inadequate United States AID missions in both countries to oversee these funds, I included in the supplemental requirements for regular audits of the programs by the GAO and AID's Inspector General, with regular reports to our committee. To reduce pressures to shovel money out the door, we have also made these funds available through the next fiscal year, and required the administration to notify our committee of every obligation in advance. This will help keep a check on waste, fraud, and abuse.

Mr. President, our subcommittee continues to be concerned about the problem of drug money laundering in Panama. I believe the new leadership is committed to major reforms in the banking system to clean it up. There are negotiations now in progress on money laundering between the administration and the Panamanian Government. At the initiative of Senator CARL LEVIN, the conference included strong language in its report on the importance of concluding an effective money laundering agreement with Panama and significant progress is made toward a new Mutual Legal Assistance Treaty. At Senator LEVIN'S urging, we have called on the adminis-

tration to withhold 20 percent of the aid package for Panama until these conditions are met. I commend Senator LEVIN's leadership on the Panama drug money laundering problem, and I will be looking to him for further advice on this issue when I began drafting the fiscal 1991 foreign aid bill to present to the Appropriations Committee.

Haiti now has perhaps the best hope it has ever had to establish a democratic government. We agreed to a House provision to provide $10 million in emergency aid to the provisional government to help it manage until elections of a permanent government. Because of my concern about Haiti's transition to democracy, I also put in $3 million to help Haiti conduct free, fair, and open elections.

There is now democratic government in Chile. We included $10 million in the supplemental to help the new government rebuild the shattered health system for the poor, with special attention to poor mothers and children. I want to commend the leadership of Senator KENNEDY and Senator HARKIN for this provision. They worked hard in support of it, and it would have been more difficult without their constant lobbying of House and Senate conferees.

The eastern Caribbean is still suffering from the ravages of Hurricane Hugo, and from deep, enduring poverty. This supplemental contains $5 million in development assistance to help the tiny island nations of the eastern Caribbean. We have an important interest in helping these poor neighbors achieve some measure of economic opportunity for their people.

Mr. President, the supplemental restores the $30 million to sub-Saharan Africa that the President took from it for Panama last February. In discussions with Deputy Secretary of State Lawrence Eagleburger last February, I made restoration of that $30 million to Africa a condition of moving ahead with this supplemental. This administration has a bad habit of taking money away from Africa to meet needs in other parts of the world, a habit which I intend to help it break. This $30 million is desperately needed in sub-Saharan Africa, where we provide about $1 per capita in development aid. I am pleased that $10 million of this money will go to help the newly independent democracy of Namibia, free at last of South African colonial rule.

We have also made funds available to assist abandoned and orphaned Romanian children, the legacy of the savage Ceaucescu dictatorship, which refused to permit family planning.

The conference agreed to increase the initial administrative fee charged Israel under the Housing Investment Guaranty Program. This is equitable, and I supported increasing the fee. I am also pleased that this supplemental will provide an additional $75 million to the Refugee Program at the Department of State. Senator KASTEN and I wrote the President early this year about the urgency of providing additional funds to the Refugee Program because it was clear the administration's request in the fiscal 1990 foreign operations appropriation was far too low to meet refugee needs this year. This supplemental is coming just in time to prevent exhaustion of funds in the Refugee Program.

Mr. President, one of the themes I pressed hard when this supplemental first came forward from the President was the need to strengthen U.S. economic competitiveness abroad, especially in Eastern Europe. We have made one important step in this bill. At the initiative of Senator KASTEN and me, the supplemental contains language providing for an Interest Equalization Program at the Export-Import Bank. This program, for which Senator KASTEN and I provided funding in last year's bill, enables the Eximbank to help U.S. export businesses obtain financing on a par with officially subsidized financing available for foreign competitors through their own governments. Compared to the massive government export assistance programs in Japan and Western Europe, this is a small amount. But it is a step in the right direction, and one on which we intend to build in the fiscal 1991 Foreign Operations bill.

Mr. President, those are the main provisions of our chapter of this supplemental. Before concluding my statement, I want to thank the majority and minority staff of the Foreign Operations Subcommittee for their hard work on chapter III of this supplemental. Eric Newsom, the subcommittee staff director, did his usual skillful job in resolving issues and moving the bill throughout the process in the Senate and in conference, as did the senior Republican staffer, Jim Bond. Tim Rieser worked tirelessly, and the whole team was superbly supported by Fred Kenney and Juanita Rilling.

Again, I want to thank my close friend and colleague, Senator KASTEN, for all his hard work and cooperation in getting this supplemental ready for final action. I urge its adoption by the Senate.

Mr. SARBANES. Would the distinguished chairman yield for the purpose of a colloquy with Senator MIKULSKI and myself regarding a matter of great concern to many of our constituents—the relocation out of FBI headquarters of the FBI identification facility which is included in this bill?

Mr. BYRD. I would be happy to yield.

Mr. SARBANES. Mr. President, the conference report language states,

The conferees also agree, regardless of the location of the proposed site, that current ID employees should be guaranteed employment either at the new site or with other FBI organizations in the greater metropolitan Washington, DC area.

We wish to confirm that it is the intent of the committee that:

First, no current FBI ID employee would be forced to relocate; and

Second, any employee choosing not to relocate would be guaranteed a job with the Bureau at the same pay grade in the Washington metropolitan area.

Ms. MIKULSKI. It is our understanding, under the conference agreement, that every employee would have the choice of retaining his or her job at the new facility or retaining a job with the Bureau at the same pay grade in the Washington area.

Mr. BYRD. The Senators are correct. The intent of the committee is that all current employees would be guaranteed employment and that relocation to the new site would be purely voluntary.

Mr. SARBANES. I thank the chairman for these assurances.

Ms. MIKULSKI. I commend the chairman for his leadership and attention to this matter.

Mr. DOMENICI. Mr. President, the Senate is now considering the conference report accompanying H.R. 4404, the supplemental appropriations bill for fiscal year 1990.

I am pleased that the Congress is moving toward final passage of this bill, which will significantly aid the reconstruction of our newly liberated neighbors in Panama and Nicaragua. I am, of course, referring the $420 million that will help the people of Panama rebuild their vibrant economy that was wrecked by the dictator Noriega, and the $300 million approved to help the Nicaraguan people and President Violetta Chamorro finance the beginning of their recovery from a decade of misguided Marxist rule and war.

Our Appropriations Committees' decision to sustain the President's request for this aid package sends an important message to our neighbors in this hemisphere: The giant democracy to your North will not forget you. We will continue to work with you to build just and free societies that are sustained by strong, market economies. We will not allow ourselves to be diverted from that task by more distant events.

Many Members wanted to use this bill to tell the army of El Salvador that all of us abhor their involvement in the killings of six Jesuit priests last year. I will work with Secretary Baker to limit aid to that army when next year's appropriations for foreign aid comes before the Senate.

Mr. President, every year about this time Congress turns to two fiscal

tasks. The first is consideration of a supplemental appropriations bill to accommodate matters that were not foreseen when the regular appropriations bills were done for the current fiscal year. The second is the adoption of the budget resolution for the approaching fiscal year. I would say to my colleagues that these tasks are not necessarily compatible. This bill includes $2.2 billion in additional spending for discretionary programs—both foreign and domestic—and offsets this new spending with rescissions and reductions in programs and projects of the Department of Defense.

In the meantime, the bipartisan leadership of the Congress and the President have set themselves to the task of fashioning a multiyear budget agreement that will significantly reduce the deficit and keep the American economy on its growth path.

Bold action is needed to avoid an automatic and significant sequester under the Gramm-Rudman-Hollings Act later this fall. The Appropriations Committee is very familiar with the burdens of a budget sequester. Yet, the enactment of supplementals at this point in the fiscal year generates outlays that make next year's regular appropriations bills that much more difficult to fit in the budget. Outlays from the spending approved in this bill that is not urgent will limit the flexibility of the Appropriations Subcommittees in fashioning their fiscal year 1991 bills, as will the utilization of the various defense funds used as offsets for the near-term, fiscal year 1990 outlays associated with the bill. I believe we should be mindful that our actions today will have a definite impact on our deliberations on the fiscal year 1991 budget.

Aside from that, I know there are many immediate needs that the committee felt compelled to meet. I thank the distinguished chairman and ranking member for the consideration they gave to me on three matters in the bill. I especially thank the chairman and ranking member of the Labor, Health and Human Services and Education Appropriations Subcommittee for finding the resources needed to prevent serious disruptions in the health care for the homeless program. The directive to the Department of HHS to reprogram $2.3 million in available funding, with the addition of $2.3 million in the bill, will target an additional $4.6 million to the program for this fiscal year.

These funds are absolutely essential to prevent the termination of 17 health care for the homeless programs and to ensure that all grantees receive an increase over the original fiscal year 1990 award level. These funds will allow us to continue to provide basic health care to those who are homeless, and I thank the committee for their efforts.

Finally, I would like to thank my committee colleagues and the Secretary of the Senate for providing a small amount to fund the Senate's share of a gift of democracy for Poland. Last year I introduced a concurrent resolution to provide for congressional aid to Poland's new parliament, and this bill enables us to implement the transfers of computers and other equipment to our counterpart institution in Poland.

PROJECT BREAK-EVEN

Mr. HATFIELD. I would like to take a few minutes with the chairman of the Senate Appropriations Subcommittee on Transportation to clarify the intent of Congress with respect to the bill language contained in H.R. 4404 directing the Urban Mass Transit Administration to expend $13.5 million in previously appropriated funds for the acquisition of land for the joint development project known as Project Break-Even.

First of all, is it the Senator's understanding that while Congress intended that the $13.5 million appropriated must be spent for the acquisition of land, there is nothing in this bill language that precludes the expenditure of funds for site preparation and site improvements locally for the purposes of the local match for the project?

Mr. LAUTENBERG. That is correct. There is nothing in the language of this provision that would bar funds being spent on site preparation and site improvements to provide the local match for this project.

Mr. HATFIELD. A second element of this project is achieving operational break-even through a combination of increased ridership and the return of lease revenues. Is it the Senator's understanding that it is the intent of Congress that these revenues be retained by the Tri-County Metropolitan Transportation District of Oregon [Tri-Met]?

Mr. LAUTENBERG. Yes. The report language in the conference report that accompanied the fiscal year 1989 transportation appropriations bill (H. Rept. 100-957), as well as the report language in the House Appropriations Committee report that accompanied the House version of the fiscal year 1990 transportation and related agencies appropriations bill (H. Rept. 101-183) clearly expected that the lease revenues be returned to Tri-Met. In the conference report accompanying the fiscal year 1989 bill, the conferees stated:

> The conferees expect that, based on preliminary information, the combination of increased ridership and the return to the light rail system of lease revenues will enable the system to substantially reduce its reliance upon operating assistance. (Page 33)

Similarly, the House Appropriations Committee Report No. 101-183 accompanying the fiscal year 1990 bill stated:

> The Committee expects that the combination of the return to Tri-Met of all lease revenues derived from the project and increased ridership will enable the system to substantially reduce its reliance upon operating assistance. (Page 126)

Mr. HATFIELD. Is it the interpretation of the subcommittee chairman that the project definition would encompass the acquisition of land and may include site preparation and site improvements, but would not include the private development which would not be built with Federal funds?

Mr. LAUTENBERG. As stated in the Senate report on the 1990 bill, the project would fund a joint development effort which includes the purchase of land, site development, and other development contiguous to and/or on either side of the existing rail line.

Mr. HATFIELD. I thank the chairman for his time in clarifying this matter.

Mr. BOSCHWITZ. Mr. President, I am pleased that this supplemental appropriations conference report includes $400 million in authority for additional housing guarantees for Israel.

However, the housing scene in Israel today is beset with poor policies that create terrible overpricing of land, periods of up to 2 years to get needed construction permits, and enormous import fees, taxes, and other charges. Cartels or monopolies control the supply of many building materials.

I am pleased that the conference report on H.R. 4404 cites the conferees' belief that Israel should make extensive use of American housing technologies and contractors, and that the conferees expressed concern over Israeli tariffs that impede the importation into Israel of American housing materials.

I wish, however, that the conference report language would have gone farther and stated our expectation that Israel would, in the housing sector and other areas, consciously open up its economy more to the play of free market forces.

Now that this new guarantee authority is being approved, I expect that the Israeli Government will quickly take the initiative, with the active help and support of the Agency for International Development and other advisors and interested parties, such as Operation Independence, to achieve observable, significant reforms in its economy. Agreement on such reforms would revitalize Israel's housing industry, and would considerably improve the likelihood that these guarantees will help provide shelter as quickly and as effectively as possible to this new wave of Soviet immigrants.

SECTION 209

Mr. NICKLES. Mr. President, I rise today to discuss section 209 of H.R. 4404, the dire emergency supplemental appropriations bill. The section requires the Navy to purchase U.S. manufactured circuit breakers for U.S. Navy vessels, unless the Secretary of Defense waives the provision.

Section 209 effectively mandates sole source procurement from a single U.S. company in many cases. I have been informed by the Navy that they are strongly opposed to being forced to purchase circuit breakers from a single company, because it would raise prices by as much as 50 percent for some circuit breakers. That could add up to as much as $1 million per ship. On the new Navy ship program, the DDG-51, the *Arleigh Burke* class destroyer, the provision could add $20 million to the cost of the program.

Fortunately, the conferees have included a provision which allows the Secretary of Defense to waive section 209 if he determines that it is not in the national security interest of the United States, or if it has an adverse effect on a U.S. company.

I would like to take this opportunity to enquire of the Senator from Hawaii, and the Senator from Alaska whether their understanding of the provision is that it would allow the Secretary of Defense to issue a general, one-time waiver, which would be effective for the remainder of the fiscal year if he determines that either of the two allowable conditions have been met.

Mr. INOUYE. Mr. President, if I could respond to my colleague from Oklahoma, it is the committee's interpretation that nothing in the language of the waiver provision would preclude the Secretary of Defense from issuing a one-time, general waiver if he believes that it is either in the national security interest of the United States of if it would have an adverse effect on a U.S. company.

I understand that the Navy is concerned that a requirement to consider each separate procurement on a case-by-case basis could be particularly burdensome, particularly because the provision appears to apply to existing contracts. Therefore, if a company with an existing contract were to submit an invoice for progress payments on a piece of equipment containing a foreign made circuit breaker, the Navy would be prevented from fulfilling its contractual obligations absent a waiver. I would like to make clear that if the Secretary of Defense determines that the need for a waiver is frequent, he is not precluded from granting a general waiver of section 209.

Mr. STEVENS. Mr. President, if I could also respond to the Senator from Oklahoma, as I read the waiver language of section 209, I agree that nothing should prevent the Secretary of Defense from granting a general waiver if he determines that either of the two waiver conditions have been met.

AGRICULTURE PROVISIONS

Mr. BURDICK. Mr. President, I am pleased that the Senate will complete action on H.R. 4404, the 1990 supplemental appropriations conference report this evening. This legislation includes numerous urgent provisions meant to avert and alleviate disaster and to meet emergency needs not contemplated at the time our original 1990 appropriations bills were adopted. Senate Appropriations Committee Chairman ROBERT C. BYRD should be commended for his tireless efforts in drafting this legislation and negotiating the conference agreement before us at this time.

The conference report to H.R. 4404 contains several provisions of immediate concern. As a result of recent floods, Hurricane Hugo, and other climatic disasters, additional funds are needed for emergency watershed protection and conservation assistance. This bill provides $60,000,000 to the Soil Conservation Service, and $20,000,000 to the Emergency Conservation Program to meet these urgent unanticipated needs.

As chairman of the Subcommittee on Agriculture, Rural Development, and Related Agencies, I find it imperative that additional funds be provided to protect, inspect, and assist farmers and consumers who rely on America's safe and abundant food supply. In this regard, the conference report includes $8,000,000 for the animal and plant health to step up immediate grasshopper control and pseudorabies eradication efforts.

The final bill provides $4,400,000 to maintain full-scale meat and poultry inspections, $2,000,000 for commodity futures trading monitoring and enforcement, $3,100,000 for the Commodity Supplemental Food Program, and $13,900,000 for Generic Drug Program reviews at FDA. Subject to an official budget submission, the conference agreement provides $1,200,000,000 for the Food Stamp Program and $15,000,000 for operating expenses of the Federal Crop Insurance Corporation. The conference report directs the administration to provide that the maximum amounts of loan funds authorized under the Rural Electrification Administration be made available for obligation.

In sum, I believe that the recommendations by the agriculture subcommittee are necessary components of this dire emergency supplemental bill. I am pleased to have participated in the conference and recommend passage of H.R. 4404 by the Senate.

Ms. MIKULSKI. Mr. President, I rise in support of the conference report to H.R. 4404, the 1990 supplemental appropriations bill.

The chairman of our full committee, Senator ROBERT BYRD, has done an outstanding job in bringing together the diverse elements of this bill.

As chair of the VA, HUD, and Independent Agencies Subcommittee, there are a number of important programs I would like to mention.

DISASTER RELIEF

In title I of the bill, $50 million is provided to the Federal Emergency Management Agency for disaster relief payments to victims of recent storms, floods, and tornadoes in the Southeastern United States.

The $50 million appropriation, when coupled with the $350 million that remains currently unobligated in the disaster relief fund, will provide badly needed assistance in Arkansas, Louisiana, Oklahoma, Texas, Georgia, Mississippi, Tennessee, and Alabama.

VETERANS PROGRAMS

For America's veterans, the bill provides new appropriations totaling $529 million; $435 million of this amount is for mandatory programs. These are in areas like VA pensions and the VA loan guaranty revolving fund, which have experienced greater than anticipated need since action on the regular 1990 VA appropriations bill.

In addition, the bill provides $94 million for VA medical care. These funds are needed to increase its medical care staff by about 1,000, bringing it to 194,638 full-time equivalent employees by yearend. This is the same number of staff requested in the administration's fiscal year 1991 budget proposal.

These medical care dollars will also go to partially reduce the VA's $600 million medical care equipment backlog. At many VA facilities, equipment such as x ray machines are in short supply, and this will help alleviate the worst situations confronting the VA in this area.

HOUSING PROGRAMS

The bill contains a number of provisions related to the Department of Housing and Urban Development.

Most important among these is $72 million to meet a shortfall in the operating subsidy account for the Nation's 3,000 public housing authorities.

HUD has now admitted that there is a shortfall of $122 million in the operating subsidy as a result of higher than expected heating and insurance costs over the past year.

While less than the full amount needed to meet this shortfall, the funds in the bill will go a long way to guarantee that the public housing stock will not deteriorate from lack of routine maintenance and security.

MISCELLANEOUS INDEPENDENT AGENCIES

Finally, the bill contains several provisions important to key Federal, independent agencies.

American Battle Monuments Commission: $500,000 so they can rebuild

their headquarters' office which was recently destroyed by fire.

NASA: $33 million for additional funds in salaries and expenses so they can meet important personnel needs in the shuttle program and as they prepare for beginning the mission to planet Earth initiative in 1991.

Housing Commissions: $2.5 million is included to fund two independent commissions authorized by the HUD Reform Act of 1989. One commission deals with native American housing and the other with severely distressed public housing. Both are to take up their tasks promptly upon receiving startup funds and develop plans of action for the Secretary of Housing within 12 months of their creation.

In closing, I urge my colleagues to support this bill so these and other important programs can receive badly needed funds.

Mr. KASTEN. Mr. President, I am gratified that we are finally at the point where the urgent supplementals for Panama and Nicaragua, and Soviet refugees is about to be sent to the President.

This aid comes not a minute too soon. The refugee program, especially funds available to private voluntary agencies which pick up most of the expenses for this program have run out of money. Nicaragua, as we know from recent press reports, is under severe pressure. Part of the assistance we provide will be for crucial agriculture inputs needed for the current planting season, like seeds, fertilizer, appropriate crop protection chemicals, and other necessary commodities.

The situation in Panama is likewise desperate, and the assistance provided by this legislation will come at a very important point during which this country is trying to reestablish democracy.

Mr. President, I would like to mention another matter with reference to South Africa which is contained in the conference report.

The pace of change in South Africa today is very promising. It is in our interest to provide assistance to sustain the momentum toward negotiations and help build a stable postapartheid society. I believe our fundamental goal should be to promote negotiations leading to a multiparty democracy and a market-based economy.

An enormous challenge faces previously disenfranchised blacks as they begin the process of negotiating South Africa's future. Many of them have been living as refugees in other countries and may need resettlement assistance. All of them will be making the transition from nonperson under the apartheid system to citizen in a postapartheid society. Not only will they want to organize themselves to be effective politically, but they must prepare to confront an array of fundamental economic and political issues at the bargaining table.

We should be ready to provide appropriate assistance to further the process of democratization. Such assistance could include training and the sharing of expertise in constitutional and legal issues, negotiations techniques, and economic questions such as the linkages between economic productivity and employment or the tradeoffs between redistribution and wealth.

One thing we should not do, however, is be in the business of choosing sides in this process. Our help should be available to all legitimate players. Otherwise our role will be divisive and we will undermine the goal we all share—political reconciliation among all South Africans.

Mr. President, I hope that the Senate will act speedily on this measure.

NONACOUSTIC ANTISUBMARINE WARFARE PROGRAM

Mr. EXON. Mr. President, Senator BINGAMAN and I would like to engage the distinguished chairman of the Defense Appropriations Subcommittee in a colloquy on a program of considerable mutual interest.

The Appropriations Committee was forced to make some very painful cuts in fashioning this supplemental. We all appreciate the difficulty of your task and understand that no program is sacrosanct.

There is one program reduction in particular, however, that merits some clarification. For several years running, Congress has insisted that there be an independent research program in nonacoustic antisubmarine warfare [ASW]. Support for this effort has come from both sides of the aisle in both Houses of Congress. Indeed, last year it was the Appropriations Committees that provided $30 million for this program for fiscal year 1990 and directed that the Office of the Secretary of Defense [OSD] ensure wide participation by our allies and other U.S. Government laboratories and agencies, in addition to the U.S. Navy.

I understand that the appropriations conferees, with great reluctance, rescinded $10 million from this program in fiscal year 1990. This action was taken because we are so far into the fiscal year that the appropriations conferees concluded that a $10 million reduction could be managed without seriously impacting the program.

None of us would quarrel with this assessment. The program still has $20 million to spend between now and the end of the fiscal year, and I am assured by the program office that the most important, core tasks can be accomplished.

My concern lies in a different area. I am concerned about sending the wrong signal to the Department about the degree of support in the Congress for this program. Congress has struggled for years to convince DOD and the Navy Department that we must ensure against technological surprises and search aggressively and imaginatively for innovative and effective nonacoustic ASW technologies.

At last, it appears that we are making progress. The plan that DOD has sent over to the Congress illustrates that OSD, the Navy, the National Labs, and our intelligence agencies are taking this issue seriously and can work together. Furthermore, I have it on good authority that substantial funds have been proposed for this program within DOD for the next 6-year defense plan. The last thing we want to do is unintentionally convey the impression that we have lost interest in this program or feel that DOD is going off on the wrong track.

I would ask the distinguished chairman of the Defense Appropriations Subcommittee, Senator INOUYE, whether he agrees that DOD should fund nonacoustic ASW research and development on a long-term basis in the fiscal year 1992 6-year defense plan? I would ask him also whether he agrees that the Armed Services, Intelligence, and Appropriations Committees should work together to ensure that such R&D is adequately funded in fiscal year 1991? Finally, I would ask the chairman whether he agrees that OSD has taken a positive step forward by putting this nonacoustic ASW plan together?

Mr. INOUYE. I thank the chairman of the Strategic Forces and Nuclear Deterrence Subcommittee of the Armed Services Committee for his remarks. They are on the mark and most appropriate. We made this modest reduction for the reason he has expressed. Our action was taken reluctantly and without prejudice, and our support for this program within the Office of the Secretary of Defense remains strong.

We agree that this is potentially a very significant program. We fully expect DOD to budget for nonacoustic ASW R&D in the new 6-year defense plan. We look forward to working with the Armed Services and Intelligence Committees to ensure adequate funding in fiscal year 1991. It appears that all parties necessary for success—the Navy, the National Labs, the CIA, DARPA, and some ouf our key allies—are working cooperatively under OSD auspices.

Mr. BINGAMAN. Mr. President, if I may add my perspective as chairman of the Defense Industry and Technology Subcommittee of the Armed Services Committee. ASW problems are significantly, and I doubt that passive acoustics will provide a complete answer to them. We must pursue innovations in other technology areas, par-

ticularly nonacoustics and active sonar.

In this regard, I believe it is imperative that we bring to bear the best minds and organizational talents available. I am heartened that Congress and now the Department of Defense recognize this necessity. I believe in particular that the National Labs possess technical abilities and fresh perspectives on ASW problems that will prove to be instrumental in determining the potential of nonacoustic technologies. To ensure that these talents and perspectives are exploited, I believe it is appropriate for OSD to retain decisionmaking authority over program direction and funding, as the appropriations conferees stipulated in last year's conference report.

I ask Chairman INOUYE whether he shares my view of the importance, at this time, of ensuring that independent efforts within the National Labs continue? I would also ask whether it is the committee's intention that the reduction of the Supplemental Act be allocated in a balanced manner?

Mr. INOUYE. Independent contributions and an objective review of the Navy's efforts are an essential aspect of this program for all the reasons you discussed. At the same time, OSD must strive for the maximum degree of cooperation between the various parties and the Navy. In the end, it is the Navy which must step up to these problems and issues. It is the Navy which will have to live with the consequences of its actions and decisions.

Moreover, we must keep in mind that a comprehensive understanding of the technical limits of nonacoustic systems is necessary for the intelligence community to understand what future threats might face our Navy. In turn, our Navy must understand what these threats might be in order to develop appropriate countermeasures within its submarine programs. Finally, investigating the potential of nonacoustic technologies is important for our ASW forces. Thus, there are many priorities and perspectives to balance, and difficult program management decisions to be made.

I agree that the reduction to the program should be implemented in a balanced manner.

Mr. President, Congress and the executive branch have an important responsibility to fulfill in considering the fiscal year 1991 defense budget request and in shaping the fiscal years 1992-97 6-year defense spending plan. We must create a truly national nonacoustic ASW program that is independent of institutional biases and capable of forward-looking research and development. I look forward to working with my colleagues on the other relevant committees on this important effort.

Mr. DIXON. When this supplemental appropriation bill was originally reported to the Senate in April, it contained a provision that precluded the Air Force from expending $29 million in O&M until not less than $7 million is paid to Shipco General, Inc., a construction company, to settle a claim. The Secretary of the Air Force wrote me a letter, in my capacity as chairman of the Subcommittee on Readiness, Sustainability and Support of the Armed Services Committee, which strongly opposed the proposed interference with an ongoing contract dispute.

I opposed that provision because it sought to interface with established procurement law and dictate a specific minimum settlement to a contract. I offered an amendment, cosponsored by the chairman of the Armed Services Committee, Senator NUNN, to nullify that provision, and the Senate agreed to do so by a vote of 57 to 39.

The conference report contains a different provision, which directs the Secretary of the Air Force to resolve this matter by the end of fiscal year 1990. I would like to ask the manager of the bill, the distinguished chairman of the Appropriations Committee, a number of questions about this new provision.

Mr. BYRD. I appreciate the opportunity to discuss this matter with the Senator from Illinois. I agreed with his amendment to nullify the original opinion, and I worked in conference to develop language that would be consistent with the spirit of his amendment.

Mr. DIXON. First, the original provision guaranteed Shipco a minimum payment. Does this provision contain any such guarantee?

Mr. BYRD. No, there is no guaranteed minimum payment.

Mr. DIXON. Second, does this provision require the Air Force to contravene established legal precedent in resolving this matter, including the decisions that have been rendered by the Armed Services Board of Contract Appeals?

Mr. BYRD. No, we have not required the Air Force to make a settlement that would not otherwise be authorized under established law.

Mr. NUNN. I appreciate the responses that the manager of the bill has made to the questions from the Senator from Illinois. As I understand this provision, its purpose is to require that the matter be resolved this year. Any resolution must be in accord with existing legal precedent. The direction in the statement of managers authorizing the Air Force to reach a "mutually satisfactory" settlement with Shipco not only requires good faith negotiations on the part of the Air Force, but also assumes that Shipco will negotiate in good faith, within the bounds of established legal precedent.

Mr. BYRD. I agree with the Senator's observations.

Mr. NUNN. I would prefer that we not legislate timeframes for resolving contract claims, particularly on appropriations bills. Given the particular circumstances of this matter, however, and the fact that the provision does not restrict the discretion of the Secretary of the Air Force to resolve this matter in accordance with established legal precedent, I will not oppose this provision.

ARMED SERVICES PROVISIONS

Mr. WALLOP. Mr. President, one must agree with the Senator from Georgia in his expressed concerns about the consequences of a failure to act on behalf of the men and women of our armed services. One must also agree with the Senators from Virginia and Alaska in their defense of the Secretary of Defense whose options in October drove his decision not to exempt personnel from the effects of sequester.

Mr. President, many faults can be cited but none greater than the obstinacy of the chairman of the House Armed Services Committee. His refusal to deal with the earnest efforts of the Secretary of Defense and those of the Senate Appropriations Committee, the Senate Armed Services Committee, and the House Appropriations Committee.

Despite all these faults, Mr. President, we in the Congress bear some blame as well.

The case for reprogramming is not driven by sequestration alone. Perhaps to some of my colleagues' surprise, the Congress added upward of $310 million—$310.4—worth of personnel entitlements such as pilot, doctor, and nurse incentives to the fiscal year 1990 bill, but failed to add the funds to pay for them.

Mr. President, none of our actions are without consequences as these concerns have so clearly demonstrated. Those whose lives depend on our responsible behavior are threatened by our lack of it.

FIRE CLAIMS AMENDMENT

Mr. BURNS. I first want to thank you and Senators BAUCUS and WALLOP for all of the work and effort we did together to get our amendment on fire claims for the Yellowstone fires included in this piece of legislation and to ensure that it remained in the bill during the conference. It was a strong joint effort. At this point, however, I think that it is important for us to establish what we believe we have accomplished with this amendment.

Mr. SIMPSON. I agree, and I think that is important to reiterate the key points. We intended to accomplish two things with this provision: First, providing a system for the fair, equitable, and expeditious compensation to those who suffered property damage during the fires; and second, avoiding, at the recommendation of the U.S. Forest

Service, the casting of blame upon that agency for the tragic results of the "Let It Burn" policy—for that was the Park Service's policy. Is that your understanding as well?

Mr. BURNS. Yes, it is. These folks were victims—not only of horrendous fires, but also of a faulty Federal policy which has now been amended. It was the intent of this amendment to direct the Forest Service to settle those legitimate claims. Furthermore, I think that it is important to emphasize the fact that we expect the Forest Service to act expeditiously and in good faith in negotiating and finalizing these claims.

Mr. SIMPSON. I think we make that very clear. We have authorized and directed the Forest Service to take this action on the claims that have been filed, or that may be filed in the next 90 days or so, in relation to the four fires as described in the amendment.

Mr. BURNS. In reviewing the conversation you had with Senator BYRD when this amendment was considered and passed by the Senate, I remember that you emphasized the fact that the language states that no payments should be made which are determined to be invalid under current law. What did you mean in using that phrase?

Mr. SIMPSON. That language was added in order to avoid even the potential for abuse. We are only interested in the expeditious settlement of the valid, meritorious claims which have resulted from these fires. We do not intend to force the Forest Service to pay a claim or any portion of a claim which does not reflect an accurate estimate or appraisal of the property lost or damaged as a result of the fires. In short, we do not expect the Forest Service to pay a single "bogus" claim.

Mr. BURNS. Good, that is my understanding of this language as well. Finally, I understand that your office has received assurances from the Forest Service that this language provides them with adequate authority to negotiate and settle these claims.

Mr. SIMPSON. Yes, that is correct. My staff has been in contact with the Forest Service on any number of occasions regarding this amendment. In fact, after the conference committee approved of this language, we again contacted the Forest Service. They too interpret this language as giving them full and adequate authority to now reach a determination on the various claims and in the manner we have outlined here today. Of course, we shall be carefully monitoring this matter to be certain that these words and the legislative intent is followed up with action. However, I am quite confident that the U.S. Forest Service will be quite true to their word.

Mr. BURNS. I want to reiterate the importance of this matter to all of the sponsors of this legislation. It is high time that the folks who suffered damage as a result of these fires are justly compensated. We are going to watch very carefully that the agencies involved comply with the intent of this provision. I also want to thank my good friend and colleague for having this discussion with me. I think that it has been very productive.

Mr. SIMPSON. I agree, and thank my fine friend from Montana, Senator BURNS.

Mr. STEVENS. Mr. President, I want to commend and thank the distinguished chairman of the Appropriations Committee and our ranking member for the manner in which they have handled this matter. It could have seen a highly contentious issue. I go home praying that we are going to see a resolution for reprogramming before we return.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alaksa for his kind comments. He is always so very thoughtful and considerate. I thank him for the cooperation that he has given this very evening in helping to move the conference report along.

I thank my ranking member, Mr. HATFIELD, for his usual good advice, his wisdom, his support, and cooperation.

I also thank, again, Senator NUNN and Senator CONRAD for their consideration and for the concerns that they expressed and for their willingness to trust to the leadership that the leadership will endeavor to do whatever is within our power to move the House in relation to the matter that Mr. NUNN raised.

I thank our Members in the conference on both sides who worked so diligently and so long.

Mr. President, I yield the floor.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

GEORGE J. MITCHELL, CHARLES S. ROBB, J.R. BIDEN, BROCK ADAMS, CHRISTOPHER DODD, WYCHE FOWLER, AL GORE, EDWARD M. KENNEDY, RICHARD H. BRYAN, PATRICK LEAHY, DAVID BOREN, DANIEL P. MOYNIHAN, FRANK R. LAUTENBERG, DANIEL K. INOUYE, JAY ROCKEFELLER, HERB KOHL, and ALAN CRANSTON.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISCUSSIONS ON EL SALVADOR

Mr. DOLE. Mr. President, earlier this month, the distinguished majority leader, a number of other Senators, and I met with Secretary of State Baker—to discuss El Salvador.

All of us came to the table with the same purpose—to explore whether there might be some way to reach bipartisan agreement on this important, and often divisive, issue.

We agreed that it would be worth a try to continue our discussions, initially through a small working group, in the coming weeks. We also agreed that we were coming to these discussions with no preconditions on any side.

I understand that in the course of today's session the majority leader will announce to the Senate those Democratic Senators he has selected to make up that side of the working group.

I want to inform the Senate now that I have selected the Republican members, as follows: Senator MCCAIN, as our coordinator; Senator LUGAR, Senator KASSEBAUM, Senator KASTEN, Senator MACK, Senator BOND, and Senator SYMMS.

I and my staff will also participate in the discussions. And, as I indicated, Secretary Baker and his staff, and others from the administration, will also be involved.

I think we have a good group on the Republican side. We have a fair representation of the spectrum of opinion on this issue. We have representatives from our Central American observer group and the Foreign Relations Committee. We have a number of Senators who have been real students of the situation in Central America and, specifically, in El Salvador.

We look forward to meeting with Senator MITCHELL and his group, presumably soon after the recess.

On our side, we will do all we can to help reach a bipartisan agreement that results in good legislation; and that meets the national security needs of our country, while keeping faith with those Salvadorans who have risked their lives and worked so hard to bring democracy and lasting peace to El Salvador.

EMERGENCY SUPPLEMENTAL FUNDS FOR PANAMA AND NICARAGUA

Mr. ARMSTRONG. Mr. President, President Bush submitted his request for emergency supplemental funds for Panama and Nicaragua in March. Congress has taken 2 months to tinker around with the bill and, in the proc-

ess, has larded the legislation with hundreds of millions of add on items.

If Senators would like to do something about curtailing the federal budget deficit, while avoiding a tax increase, cutting back on this bill would be a good place to start.

It is called a dire emergency supplemental appropriations bill. But can we really claim these are emergency items: $424,000 for planning assistance for the Economic Development Administration; $2.3 million for a ground satellite station and computer for the National Weather Service; $6 million to buy land for a wildlife refuge in Iowa; $185 million for an automated fingerprint identification facility for the FBI—final site has not been selected, West Virginia is the most likely site; $750,000 to acquire an appropriate vessel for the government of the Territory of American Samoa to provide interisland transportation of cargo and passengers. Also, the Department of Defense is supposed to transport this vessel without reimbursement from American Samoa; $5 million for the establishment of a National Defense Center for Environmental Excellence in Johnstown, PA; $4 million to conduct an operational test and evaluation of individually carried record technologies; $6.5 million for the United States-Eurasian Seismic Studies Program; $5 million for the United Nation's Environment Fund; $10 million in development assistance to Haiti; $10 million in health-related development assistance for Chile;

Up to $25 million for Bolivia and up to $20 million for Peru to, in part, provide alternative income, employment, and social services for individuals involved in illicit coca and marijuana production; $8.7 million in aid for no specified reason to Jamaica; $5 million in development assistance funds for countries of the eastern Caribbean; $20 million for the Economic Support Fund for assistance to sub-Saharan Africa; $10 million for development assistance to sub-Saharan Africa; $5.8 million for the design and construction work on the Franklin Delano Roosevelt Memorial; $300,000 for an independent assessment of the status of fishery resources in Wisconsin; $100,000 for peace forums and charter employment for the St. Regis Mohawk Tribe; $150,000 for a feasibility study for an Abraham Lincoln Research and Interpretive Center in Illinois; unspecified amounts of Department of the Interior money for a new forestry building at Mississippi State University; $6.8 million for grasshopper control efforts; $1.2 million for pseudorabies eradication; $1 million for travel expenses to the Veterans' Administration; $500,000 for a lead storage battery recycling pilot project in New Jersey; $900,000 for a zero waste sulfonation program in Michigan.

Mr. President, these are not emergency items; they are at best routine or marginal appropriations, the kind of spending that could be curtailed if we really think there is a dire emergency. We ought to do so.

CAPITOL SALUTE TO 40 YEARS OF AMERICAN MILITARY HEROES; LONG OVERDUE TRIBUTE TO COLD WAR WARRIORS AND THEIR FAMILIES

Mr. DOLE. Mr. President, today I was honored to cohost along with my leadership colleagues an outstanding tribute to some very special Americans. They were the men and women in uniform—and their families—who have sacrificed so much during the past 40 years to keep America safe and to help bring peace and freedom to the world's dark corners of tyranny.

I would like to thank Mr. Ross Perot for his leadership on this patriotic project. He is right—for too long our cold war warriors have not received the kind of recognition and thanks that they deserve. For Korea and Vietnam; for the invasions of Panama and Grenada; for the courageous Iranian rescue mission and the peacekeeping mission in Lebanon; for the bombing raid over Libya, and for all those brave men and women who have stood tall against terrorism, dictators and Communist aggression, America says thank you. We will never forget.

Working with Mr. Perot, the congressional leadership put together a remarkable outdoor tribute, a day blessed by magnificent weather and an audience full of true American heroes.

Senate Majority Leader GEORGE MITCHELL, Speaker of the House TOM FOLEY, House Republican Leader BOB MICHEL, and House Majority Leader RICHARD GEPHARDT all delivered superb remarks. I ask unanimous consent to have the full text of those remarks and a copy of the program printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL SALUTE TO FOUR DECADES OF AMERICAN MILITARY HEROISM, MAY 24, 1990

Time: 10:30 a.m. at the U.S. Capitol East Front.

Pre-Ceremony Concert (10-15 a.m.)

Presentation of Colors (10:30 announce members).

Invocation: House Chaplain James D. Ford.

Speaker of the House of Representatives: Honorable Thomas Foley.

Majority Leader of the U.S. Senate: Honorable George Mitchell.

Musical selection.

Minority Leader of the U.S. Senate: Honorable Robert Dole.

Minority Leader of the U.S. House of Representatives: Honorable Bob Michel.

Musical selection.

Majority Leader of the U.S. House of Representatives: Honorable Dick Gephardt.

National Anthem.

Benediction: Senate Chaplain Richard C. Halverson.

STATEMENT OF SENATE MAJORITY LEADER GEORGE J. MITCHELL

FORTY YEARS OF AMERICAN MILITARY HEROISM

In what we all pray will be a new and more peaceful world, it is appropriate to pay tribute and give recognition to the Americans whose personal sacrifices helped pave the way for today's hopeful climate.

The men and woman who served in the military forces in the postwar years, and their families who waited for them at home, often faced the same dangers, endured the same hardships and suffered the same losses as the men and women of World War II.

But because they served their nation in what we called the postwar years, their sacrifices and service were given without fanfare, without public acclaim and, too often, without public recognition.

It is time to finally begin the task of acknowledging what every American should know: That without the dedication of these men and women, without their patriotism, in uniform and out, overseas and quietly at home, we might not today be looking forward to a world further from the threat of global war.

Our nation was formed out of conflict with its mother country, Great Britain. Throughout our history, American lives have been at risk in one or another national enterprise. Every generation of Americans has had its heroes. Every generation of Americans has lost some of its sons and daughters.

But of no other generation did the nation demand the role of world guardianship that fell on the shoulders of those who served after the midpoint of our century.

No other generation bore the burden of defending the future freedom of the entire Western world, not their own nation alone.

And no generation acquitted itself more honorably, more courageously than this generation.

From the harsh landscapes of the Korean War to the far-flung military bases of our alliances, Americans of the postwar years bore the burden and, all too often, they paid a heavy personal price.

Americans suffered in prison camps; they endured freezing cold and equatorial heat; they suffered and they died to bring the gift of freedom to nations of which many Americans are barely aware.

This has been called the American Century, because our nation reached great military and economic power in the years.

But I believe it has been and remains the American Century not only because of our military might and our economic power.

I believe it is the American Century because of the ideals and the sacrifices of all our military forces and their families, who showed the whole world the true depths of heroism of the ordinary American.

And because of you, the best American centuries are yet to come.

Let us today thank God for the privilege of being Americans, citizens of the most free, the most open, the most just society of all of human birth.

STATEMENT OF HOUSE SPEAKER THOMAS FOLEY

Secretary Cheney, Senator Mitchell, Senator Dole, Rep. Gephardt, Rep. Michel, Honored Guests, Ladies and Gentlemen:

I am proud and honored to participate in this salute and to express the thanks to a nation at peace to those who for forty years have borne the burden and the glory of freedom, especially to the 25 million men and women who have served in the Armed Forces since World War II and the 350 thousand who have been wounded or lost their lives.

Because of your struggle, American ideals and the western alliance survived forty years of the most sustained and aggressive threat to liberty in modern history.

Because of your sacrifice, a new generation of Americans can pursue its dreams unthreatened by totalitarian aggression and force.

Because of your examples of courage and commitment, untold millions the world over are inspired to seize their own destiny.

America is a blessed nation, blessed by circumstances of history and geography. But our greatest wealth lies in the willingness, the enthusiasm of generation after generation of Americans to create a nation of continuing hope and opportunity.

Our efforts take many forms. But none is so selfless or noble or—as the last forty years show—as essential as the willingness to bear arms in the defense of our liberty.

The nation and the world owe you a debt of gratitude.

Thank you. God bless you. God bless our country.

CONGRESS SALUTES FOUR DECADES OF AMERICAN MILITARY HEROISM

(By House Republican Leader Robert H. Michel)

In honoring forty years of American military heroism, we are reminded of three essential truths of international life:

Without sacrifice, there is no freedom.

Without freedom, there is no justice.

Without justice, there is no lasting peace.

For forty years, from Korea to Panama, from Vietnam to Libya, from Desert One to Grenada, the American military has lived by those truths.

Forty years of American resolve helped to bring about the current democratic revolution around the world.

We have every reason to be proud of the role our military played in bringing about this trend toward democracy.

But our pride should not allow us to forget the harsh facts of international life.

Too often Americans go through the following ritual concerning national security:

In war—resolution.

In victory—euphoria.

And in peace—amnesia.

As we re-structure our military, let's not forget why we depend on them.

Perhaps it is easier for me to remember the need for constant vigilance in an often unfriendly world.

I learned that lesson in a tough school, more than forty-five years ago, on the beaches and in the hedgerows of Normandy.

It was a school whose tuition was high, whose drop-out rate was horrendous, but whose lessons were indelible.

For the past forty years the American military have made it possible for other Americans to avoid personally learning the cruel lessons of war.

For this, and for so much else, we today salute those whose bravery speaks more eloquently than our rhetoric.

We owe them our praise. But more importantly, we owe them our support.

It is fitting that we honor them from the steps of the Capitol Building.

It symbolizes the American freedom they have done so much to preserve, and which so many nations want to emulate.

Thank you, men and women of our armed forces, for your bravery, your patriotism, and your faith in America.

SALUTE TO 40 YEARS OF MILITARY HEROES—"YOU HAVE WON THE COLD WAR" SENATOR TELLS COURAGEOUS SOLDIERS AND FAMILIES

It is a pleasure for me to be here today to help honor four decades of American Heroism—and in my view, four decades of underappreciated valor.

Throughout our proud history, Americans have never failed to put their lives on the line in the defense of freedom and democracy, whenever and wherever tyranny was on the march. Nowhere is that dedication more evident than in this courageous audience.

The two great wars of this century, we were told, where "the wars to end all wars". But as the men and women here today know too well, the wars never really ended.

Since 1950 it may have been called the "cold war", but for the Americans who were fighting on the front lines of freedom for 40 years, it still was all about uncommon courage and sacrifice.

Whether it was the frozen hilltops of Korea, or the steaming jungles of Viet Nam; whether it was a daring bombing raid over Tripoli or the toppling of dictators in Panama and Grenada, you are the people who made the difference—you are the heroes of the cold war: The men and women in combat, and their loving families back home.

It has been your sacrifice that has helped oppressed millions the world over smash down the walls of tyranny. We don't have to wait for the historians to tell us. We can say it right now—you have won the cold war.

To the critics, the doomsayers and the cynics who told us it couldn't be done, we say look at Poland. Look at Panama. Look at Czechoslavakia. Look at the Berlin Wall. And look at this audience.

For the past four decades the world behind the Iron Curtain—the world beneath the fist of the tyrants and the terrorists—looked To America for hope.

And America looked to you to get the job done.

Today, the free world says thank you. And so do I.

STATEMENT OF HOUSE MAJORITY LEADER GEPHARDT

Since the beginning of nations, grateful citizens have tried to find the words to thank and venerate the men and women who fight to defend their countries.

With the singular exception of Abraham Lincoln's three minutes on a central Pennsylvania battlefield, every one of those countless speakers has failed.

Even the great Gettysburg Address met with mixed reviews. One newspaper, reporting on the address and its author, said:

"The cheek of every American must tingle with shame as he reads the silly, flat, and dish-watery utterances of the man who has to be pointed out to intelligent foreigners as President of the United States."

I know I stand here today in the lengthy shadow of those remarks and reviews.

But I am honored to join the ranks of public officials who have tried to express the thanks of a grateful nation, and acknowledge the debt of a people at peace.

We stand today at freedom's front door to recognize those who have stood guard for our independence; who have borne arms for democracy; and who have given so much to ensure the blessings of liberty for their compatriots for four decades.

Some of you have lost a husband or a father; others, a son, a daughter, or a loved one.

Always the question is: Why? Why have so many had to sacrifice so much?

I do not pretend to have the answer. But I do know this: America is different and America is special. You have made it special.

Because of you, America shines as a beacon of freedom and opportunity.

Because of you, America has lived up to Lincoln's challenge of being the "last, best hope of the world."

When this Capitol buiding was first completed, James Madison said with pride to a foreign visitor, "Here, sir, the people rule."

Today, those of us entrusted to work in this great building are proud to stand on its steps and say to all of our people: Here, my fellow Americans, are the courageous soldiers who have purchased your freedom.

Here are the men—and the women—who have carried high the torch: the heroes of Inchon and Da Nang and Grenada.

Here are the unsung patriots who gave their lives in the windswept desert in Iran, the Marine barracks in Lebanon, and the streets of Panama.

By coming here today, you honor us, and we thank you.

Today, somewhere in Kansas, children are at Little League practice. God willing, your sacrifice will mean they will never have to drop their bats and gloves and take up rifles and bayonets.

Somewhere in Los Angeles a young girl dreams of public service, maybe even of being President. Because you put your dreams on hold to fight for freedom, her dream may come true.

Somewhere in Chicago, an elderly woman who fled foreign madness proudly calls herself an American, and registers to vote in a real election—all because of you.

And somewhere nearly 300 feet above us, the Statue of Freedom stands atop the Capitol Dome and says a silent prayer for the guardians of freedom's front door.

May God bless each and every one of you. And may God bless America. Thank you.

EL SALVADOR WORKING GROUP

Mr. MITCHELL. Mr. President, today I am pleased to announce the formation of a working group to conduct a careful study of the appropriate policy options available in regard to the situation in El Salvador.

The Senate will be called on soon to make decisions regarding further assistance to the Government of El Salvador. Accordingly, I have asked Senators DODD, BOREN, KENNEDY, LEAHY, PELL, SANFORD, and SASSER to serve as members of this group to formulate a policy by which the United States promotes a negotiated settlement to the 10-year civil war in El Salvador.

Senator DODD will serve as chairman of the Democratic members of the group.

VLADIMIR TSIVKIN

Mr. LAUTENBERG. Mr. President, I rise to again draw my colleagues' at-

tention to the case of Vladimir Tsivkin, a Soviet refusenik from Leningrad. On the eve of the summit, he continues to be denied permission to emigrate.

Mr. President, I spoke about this case last week on the Senate floor. I urge the Soviet Union to resolve this case and grant Vladimir permission to leave the Soviet Union. I cannot see what purpose is served in keeping him there against his will.

Vladimir Tsivkin's story is an all too typical one. He told it to me personally when I visited Moscow. Although Vladimir lives in Leningrad, he traveled to Moscow in the hope that I could help him. I was impressed by his keen intelligence and by the desperation of his plight. More than anything, he wants to join his wife and daughter in the United States.

Vladimir Tsivkin is one of the few remaining hardcore refuseniks. He has been in refusal for more than 10 years, making him one of the longest remaining Soviet Jews in refusal.

Vladimir's wife and daughter left the Soviet Union on a tourist visa and now live in the United States. It is very hard on him to be separated from his family, especially since he is in ill health. He suffers from an an endocrine disorder and needs an operation. Since applying to leave the Soviet Union, Vladimir has lost his military card, and therefore he has no way to earn a living. This situation makes him liable to criminal prosecution.

Vladimir has been repeatedly refused permission to emigrate since 1979 on the grounds of state secrets. But what secrets he could possibly possess is beyond me. He has not worked at the Defense Ministry since 1978. My staff and I spent days with Vladimir in the Soviet Union, and I can attest that he possesses no such secrets.

Despite repeated refusals, the Tsivkin family received official permission to emigrate on March 14, 1989. Based on this permission, they relinquished their jobs, sold almost all their belongings, and returned their official documents. Eight days later the visa department called to inform the family that the permission had been granted by mistake. No additional information was given.

Mr. President, the continued denial of Vladimir Tsivkin serves no rational purpose. It is inhumane. It is an irritant in the Soviet-American relationship. He cannot work. His family is gone. Through no fault of his own, he is not a productive member of Soviet society any longer. Quite simply, the Soviets have nothing to lose and everything to gain by resolving this case.

I believe that Mr. Tsivkin's emigration has been blocked due to a vendetta of a petty bureaucrat at his former workplace who is flexing his muscles and trying to prevent Vladimir's departure for reasons that have nothing to do with state secrecy.

Mr. President, the Subcommittee on Humanitarian, Scientific, and Culture Cooperation of the Committee on International Affairs of the Supreme Soviet is a special commission in the Soviet Union set up to resolve difficult cases such as this one. When I was in the Soviet Union, Yuri Reshetov, head of the Human Rights Division of the Foreign Ministry, told me that this commission might be a good forum for resolving Vladimir's case. I have been told Mr. Reshetov is considering Vladimir's case right now. It is my fervent hope that either Mr. Reshetov or the commission can lift the roadblocks that have so far impeded Vladimir's exit.

I have raised this case repeatedly with various Soviet officials, including former Soviet Ambassador to the United States Yuri Dubinin, and have also urged the President to add Vladimir Tsivkin to his personal list of refuseniks. Secretary Baker met with Vladimir Tsivkin on his recent visit to Moscow, underscoring the importance our Government and our people attach to Vladimir's freedom.

As a result of that meeting, Vladimir was able to meet with Mr. Reshetov, a very influential person in these matters. I am also told that Mr. Reshetov has promised to look into Vladimir's case and call him this week.

I know that if the Soviets make the determination to release him, it will happen very quickly. I urge them to make that determination.

As we move toward the summit, it becomes even more critical to resolve cases such as Mr. Tsivkin's and others unfairly denied permission to leave. He must not continue to wait in vain.

Mr. President, every effort should be made to resolve this case before the summit.

A BROADER AGENDA FOR THE SUMMIT

Mr. NUNN. Mr. President, on May 30 President Gorbachev will return to Washington to conduct his second summit conference in this city. Much has changed, however, since President Gorbachev and President Reagan met here in December 1987 to sign the INF Treaty.

The Berlin Wall has fallen and Communist regimes throughout Eastern Europe have been replaced by freely elected governments.

The Warsaw Pact has disintegrated as an effective military alliance and with it has gone the threat of a short-warning Soviet attack against Western Europe.

East and West Germany have raced toward unification, with full economic integration now only weeks away.

The Soviet Union has completed its withdrawal from Afghanistan and has increasingly turned its gaze inward as it wrestles with profound, if not overwhelming, economic, political, national and ethnic strains.

The Baltic Republics in the U.S.S.R. have resolutely embarked down an extremely difficult road toward secession.

Against this backdrop, the leaders of both nations must tackle an agenda for the upcoming summit of extraordinary scope and complexity. For the United States, the following agenda items should clearly be at the top of the list of discussion topics:

German unification within a broader European security context that maintains Germany's valued position within NATO, provides a clear transitional path toward a complete withdrawal of all Soviet forces from Eastern Europe, including what is now the German Democratic Republic, and strengthens the role the Conference on Security and Cooperation in Europe [CSCE] can play in dealing with potential instabilities in the region.

Global concerns of mutual interest, especially those related to nuclear risk reduction, the environment, poverty, health, economic development, and trade, and the growing proliferation of chemical, biological, and nuclear weapons and the means of delivering them at long ranges.

Regional issues, including Soviet aid to Cuba and those conflicts which involve or threaten to involve hostilities, such as the Indian-Pakistani confrontation over Kashmir.

Human rights, including our interest in early Soviet enactment of legislation providing for increased emigration.

Lithuania and the priority we attach to the establishment of good-faith negotiations between Moscow and Vilnius that lead irrevocably to independence.

And last, but certainly not least, arms control.

Over the past several months, the expectations for this summit have ridden a roller coaster. Following the Malta summit at the end of last year, President Bush announced that the Washington summer summit would be "the arms control summit." Hopes were voiced that agreement in principle could be reached on all remaining issues in the negotiations on a new Strategic Arms Reductions Treaty [START] and that progress toward an accord reducing Conventional Armed Forces in Europe [CFE] could be sufficiently advanced by the summit to allow the 23 NATO and Warsaw Pact nations to sign the CFE treaty by the end of the year. The two sides also forecast summit agreements establishing new limitations in the areas of nuclear testing and chemical weapons.

This optimism was reinforced by several breakthroughs recorded at the February ministerial meetings between Secretary Baker and Soviet Foreign Minister Shevardnadze. However, Soviet reversals at the April ministerials led to a far more guarded prognosis. Now, on the eve of the summit, the signals from last week's ministerial meetings in Moscow are mixed, with renewed progress in the areas of START and chemical weapons standing in sharp contrast to apparent Soviet delay on CFE. However, even within START, while the May meetings achieved apparent breakthroughs on the troublesome and complex issues of air- and sea-launched cruise missiles, the Soviets rejected United States proposals on heavy ICBM modernizations and flight testing, the Backfire bomber, restrictions on mobile ICBM's, and verification.

Mr. President, as the two Presidents and their respective negotiating teams get down to business on arms control, two realities will be apparent. First, in any negotiation the hardest issues are almost always saved for last. Second, the devil is truly in the detail. Whether next week's summit records significant progress in this area will depend on how a number of critical questions are answered.

In CFE, the overriding question is which is more important to the Soviets, to continue to hold these negotiations in abeyance until the West accepts its security demands in the two plus four talks on German unification or to move quickly to complete CFE in order to realize much-needed economic relief in the area of excessive military spending?

In START, the Soviets must decide whether they are willing to jeopardize final agreement by continuing to reject United States efforts to establish some meaningful restrictions on the continued deployment on the rail-based SS-24, the truck-mounted SS-25, and the latest version—Mod 5—of the mammoth SS-18 heavy ICBM. For the United States, the key question is whether the administration can devise creative solutions to the remaining unresolved issues while avoiding concessions which could complicate or perhaps even threaten Senate approval of the treaty during ratification.

On nuclear testing, the signature of essentially non-controversial verification protocols to the long-pending Threshold Test Ban Treaty and Peaceful Nuclear Explosions Treaty [TTBT/PNE] is a foregone conclusion. The challenge in this area lies in reaching agreement in principle on what comes next. For the Soviets, the question is whether they will demand that the two sides move directly to a negotiation on a comprehensive test ban [CTB] or whether they will agree to seek a more realistic step-by-step approach toward this objective. For the United States, the question for the administration is whether it will live up to President Reagan's 1986 pledge to immediately enter new negotiations on further limitations on nuclear testing or whether it will take the counsel of the Department of Energy, which recently advised Congress that it will be 10 years before it can even decide whether any further limitations should be pursued.

In chemical weapons, the main outstanding question is whether the two sides can agree on effective verification procedures to accompany the bilateral agreement on an immediate halt to further chemical weapons production and reductions to equal low ceilings. Since submission of the new chemical weapons agreement to Congress is required by section 33 of the Arms Control and Disarmament Act—preferably as a treaty—the verification regime for this accord can be expected to receive careful scrutiny.

As the two sides grapple with these daunting challenges, there is unfortunately a danger that they will lose sight of the forest for the trees. The goal is to achieve stability at lower levels of all categories of weaponry, and not to achieve reductions for reductions sake alone on arms control agreements for the sake of agreement alone. For this reason, the two Presidents must take care to ensure that a broader agenda is established, one which looks past the immediate details of on-going negotiations and focuses on longer-term goals and opportunities.

This objective could be advanced by agreeing at the summit to establish an offficial United States-Soviet experts group which would be asked to develop options which otherwise will most likely have to be reserved for a distant future phase of the conventional talks or the strategic talks or some other formal arms control negotiation. As I have noted on other occasions, this group would be tasked, in the jargon of design engineers, with "pushing the envelope" in arms control. It would explore possible revolutionary leapfrog advances in arms control but would not attempt to negotiate specific agreements—an important distinction.

I believe this group's agenda could conceivably include—but not be limited to—exploratory discussions on the following topics.

One, setting an objectives for START II of achieving a significant deMIRVing of each side's ballistic missile inventories, to include a ban on all land-based multiple warhead missiles. This discussion was set in motion when President Bush proposed in April that the two sides agree in START to ban all mobile MIRV'd ICBM's—a suggestion President Gorbachev countered by insisting that highly MIRV'd and accurate U.S. SLBM's, such as the Trident D-5, would have to be included as well. It is clear that moving substantially down the road toward deMIRVing will be difficult, but it is time to start considering some basic conceptual options for achieving this goal.

Two, a ban or limitations on nuclear sea-launched cruise missiles. The SLCM issue has apparently been finessed for now in START, with the Soviets agreeing to accept our existing deployment plans. In the long run, however, the United States has an interest in continuing to explore whether effectively verifiable limitations could be established in this area.

Three, limitations on anti-satellite systems [Asat's] to include, perhaps, a ban on high-altitude Asat's. In light of the greater United States reliance on space for communications and intelligence systems, I believe it is in our interest to explore stabilizing and verifiable limitations on Asat's with the Soviet Union.

Four, limitations on nuclear testing beyond those required by TTBT/PNE—a subject I have already mentioned.

Five, the experts group could, in close consultation with our NATO allies, begin exploring a mandate for negotiations on short-range nuclear forces [SNF] in Europe. On May 3, President Bush proposed that such talks begin shortly after a CFE Treaty is signed. It is not too early to start a dialog with the Soviets on the scope and content of these prospective negotiations.

Six, the second tier could explore the outlines of a follow-on to the current CFE talks, both in terms of its organization, membership and objectives, as with SNF, this very important far-reaching step would entail profound implications for NATO security and would, of course, require close consultations with our allies in CFE.

Mr. President, the recent developments in Eastern Europe and the Soviet Union continue to present the West with unprecedented opportunities for revolutionary advances on arms control. Last year the then-Chairman of the U.S. Joint Chiefs of Staff, Admiral Crowe, said somewhat jokingly—but somewhat seriously—before our committee: "negotiating arms control agreements is like eating horse meat; the more you chew, the bigger it gets." I would suggest that President Bush and President Gorbachev use the occasion of this summit to do more than chew the horse meat in the existing arms control areas. By agreeing to establish a high-level group of experts to consider longer-term arms control goals and opportunities, they can also begin considering a broader, more far-reaching, more visionary menu.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

WAIVER OF CERTAIN TRADE ACT PROVISIONS WITH RESPECT TO THE PEOPLE'S REPUBLIC OF CHINA—MESSAGE FROM THE PRESIDENT—PM 121

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Finance:

To the Congress of the United States:

I hereby transmit documentation referred to in subsection 402(d)(5) of the Trade Act of 1974 with respect to a further 12-month extension of the authority to waive subsections (a) and (b) of section 402 of the act. These documents constitute my decision to continue in effect this waiver authority for a further 12-month period.

I include as part of these documents my determination that further extension of the waiver authority will substantially promote the objectives of section 402. I also include my determination that continuation of the waiver applicable to the People's Republic of China will substantially promote the objectives of section 402. The attached documents also include my reasons for extension of the waiver authority and for my determination that continuation of the waiver currently in effect for the People's Republic of China will substantially promote the objectives of section 402.

An additional document and determination with respect to Czechoslovakia will be forwarded under separate cover.

GEORGE BUSH.

THE WHITE HOUSE, *May 24, 1990.*

MESSAGES FROM THE HOUSE

At 10:01 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4404) making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 3, 8, 15, 16, 23, 49, 59, 60, 63, 67, 69, 70, 71, 82, 111, 113, 126, 127, 131, 136, 137, 138, 140, 147, 155, 157, 159, 160, 162, 163, and 165 to the bill, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 1, 2, 6, 9, 11, 12, 14, 17, 18, 20, 22, 25, 29, 38, 39, 40, 41, 43, 45, 46, 47, 48, 51, 53, 54, 55, 56, 57, 58, 62, 64, 65, 73, 74, 79, 81, 83, 84, 85, 87, 88, 89, 93, 96, 97, 100, 101, 104, 107, 114, 115, 117, 118, 123, 129, 130, 141, 142, 143, 144, 145, 151, 152, 153, 154, 158, 161, 164, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, and 178 to the bill, and agrees thereto, each with an amendment in which it requests the concurrence of the Senate; and that the House insists upon its disagreement to the amendment of the Senate numbered 24 to the bill.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 231. Joint resolution to designate the week of June 10, 1990 through June 16, 1990, as "State-Supported Homes for Veterans Week."

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

At 11:29 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, with an amendment, it insists upon its amendment to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereof, and appoints the following as managers of the conference on the part of the House:

From the Committee on Education and Labor, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Mr. HAWKINS, Mr. OWENS of New York, Mr. MARTINEZ, Mr. BARTLETT, and Mr. FAWELL.

From the Committee on Energy and Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Mr. DINGELL, Mr. MARKEY, Mr. THOMAS A. LUKEN, Mr. LENT, and Mr. WHITTAKER: Except that for consideration of title IV of the Senate bill, and title IV of the House amendment, Mr. RINALDO is appointed in lieu of Mr. WHITTAKER.

From the Committee on Public Works and Transportation, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Mr. ANDERSON, Mr. ROE, Mr. MINETA, Mr. HAMMERSCHMIDT, and Mr. SHUSTER.

From the Committee on the Judiciary, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Mr. BROOKS, Mr. EDWARDS of California, Mr. KASTENMEIER, Mr. FISH, and Mr. SENSENBRENNER.

As an additional conferee, on the Senate bill, and the House amendment, and modifications committed to conference: Mr. HOYER.

As an additional conferee, for consideration of section 103(d) of the House amendment, and modifications committed to conference: Mr. CHAPMAN.

The message also announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 267. Joint resolution to authorize and request the President to designate May 1990 as "National Physical Fitness and Sports Month."

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 133. Concurrent resolution providing for the use of the Capitol rotunda.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 555. Joint resolution to commemorate the bicentennial of the enactment of the law which provided civil government for the territory from which the State of Tennessee was formed.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests that concurrence of the Senate:

H. Con. Res. 334. A concurrent resolution providing for an adjournment of the House from May 24 or May 25, 1990 to June 5, 1990 and a recess or adjournment of the Senate from May 24, May 25, or May 26, 1990, to June 5, 1990.

MEASURES REFERRED

The following joint resolution was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 555. Joint resolution to commemorate the bicentennial of the enactment of the law which provided civil government for the territory from which the State of Tennessee was formed; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with

accompanying papers, reports, and documents, which were referred as indicated:

EC-3020. A communication from the Under Secretary of Agriculture (International Affairs and Commodity Programs), transmitting, pursuant to law, the third quarterly country and commodity allocation table showing current programming plans for food assistance under Public Law 480 for fiscal year 1990; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3021. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on passenger metal detectors; to the Committee on Commerce, Science, and Transportation.

EC-3022. A communication from the Secretary of Transportation, transmitting, pursuant to law, the National Transportation Strategic Planning Study; to the Committee on Commerce, Science, and Transportation.

EC-3023. A communication from the Secretary to the Interstate Commerce Commission, transmitting, pursuant to law, notice of the extension of time for issuing a final decision in Finance Docket No. 31530—Wilmington Terminal Railroad, Inc.—Purchase and Lease—CSX Transportation, Inc. Lines Between Savannah and Rhine, and Vidalia and Macon, Georgia; to the Committee on Commerce, Science, and Transportation.

EC-3024. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the annual report of the Federal Trade Commission for fiscal year 1988; to the Committee on Commerce, Science, and Transportation.

EC-3025. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a progress report on rulemaking proceedings for the period January through June 1990; to the Committee on Commerce, Science, and Transportation.

EC-3026. A communication from the Vice President of the Tennessee Valley Authority (Communications), transmitting, pursuant to law, statistical summaries to accompany the annual report of the Authority for fiscal year 1989; to the Committee on Environment and Public Works.

EC-3027. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the annual report on competition advocacy for fiscal year 1989; to the Committee on Governmental Affairs.

EC-3028. A communication from the Employee Benefits Manager of the Farm Credit Bank of Columbia, transmitting, pursuant to law, the audited financial statement of the Bank as of August 31, 1989; to the Committee on Governmental Affairs.

EC-3029. A communication from the Plan Administrator of the Eighth Farm Credit District Employee Benefit Trust, transmitting, pursuant to law, the annual report for the Eighth Farm Credit District Savings Plan for the year ended December 31, 1989; to the Committee on Governmental Affairs.

EC-3030. A communication from the Chief Judge of the United States Tax Court, transmitting, pursuant to law, the actuarial reports for the U.S. Tax Court Judges' Retirement and Survivor Annuity Plans for calendar year 1988; to the Committee on Governmental Affairs.

EC-3031. A communication from the Director of the Administrative Office of the United States Courts, transmitting, for the information of the Senate, an opinion of a provision in S. 1972, the Federal Crime Control Act of 1990; to the Committee on the Judiciary.

EC-3032. A communication from the Assistant Secretary of the Non Commissioned Officers Association of the United States of America, transmitting, pursuant to law, the financial report of the Association for calendar years 1988 and 1989; to the Committee on the Judiciary.

EC-3033. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the National School Lunch Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3034. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of reports issued by the General Accounting Office in April 1990; to the Committee on Governmental Affairs.

EC-3035. A communication from the Acting Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, the fiscal year 1989 report on direct and indirect costs associated with contracting under the Indian Self Determination and Education Assistance Act; to the Select Committee on Indian Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-498. A resolution adopted by the Board of County Commissioners of Brevard County, Florida, relative to the interstate allocation of grant funds relative to the payment of Florida taxes; to the Committee on Appropriations.

POM-499. A resolution adopted by the Board of County Commissioners of Levy County, Florida, relative to the distribution of grant funds relative to the amount of federal tax dollars paid by Florida taxpayers to the Federal Government; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 657. A bill to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors (Rept. No. 101-304).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of April 19, April 25, and May 10, 1990 at the end of the Senate proceedings.)

* Brig. Gen. Samuel A. Leffler, USA to be major general. (Reference No. 531-2)

* Maj. Gen. Marvin D. Brailsford, USA, for appointment to the grade of lieutenant general (Reference No. 1113)

* Rear Adm. (lower half) William C. Miller, USN, to be rear admiral and Chief of Naval Research (Reference No. 1124)

** In the Air Force and Air Force Reserve there are 29 promotions and appointments to the grade of colonel and below (list begins with William T. Gormley), (Reference No. 1185)

** In the Air Force Reserve there are 28 promotions to the grade of lieutenant colonel (list begins with Major Robert C. Genner), (Reference No. 1186)

** In the Army there are six promotions to the grade of lieutenant colonel and below (list begins with William R. Reehm), (Reference No. 1187)

** In the Marine Corps there is one appointment to the grade of captain (Dennis R. Burian) (Reference No. 1188)

** In the Navy and Naval Reserve there are 32 appointments to the grade of commander and below (list begins with R.W. Below), (Reference No. 1189)

** In the Army Reserve there are 102 promotions to the grade of colonel and below (list begins with Phillip R. Bell), (Reference No. 1190)

* Gen. Gordon R. Sullivan, USA, to be general and to be Vice Chief of Staff of the Army, (Reference No. 1195)

* Gen. Robert W. RisCassi, USA, to be reassigned in the grade of general, (Reference No. 1196)

* Maj. Gen. Alonzo E. Short, Jr., USA, to be lieutenant general (Reference No. 1199)

* Gen. Monroe W. Hatch, Jr., USAF, to be placed on the retired list in the grade of general (Reference No. 1219)

* Lt. Gen. John M. Loh, USAF, to be general and vice chief of staff, (Reference No. 1220)

** In the Air Force Reserve there are 20 promotions to the grade of lieutenant colonel (list begins with Dan B. Belcher), (Reference No. 1224)

* Maj. Gen. Dennis J. Reimer, USA, to be lieutenant general and to be Senior Army Member of the Military Staff Committee of the United Nations (Reference No. 1226)

** In the Air Force Reserve there is 1 appointment to the grade of lieutenant colonel (Felipe G. Videla), (Reference No. 1247)

** In the Air Force there are four appointments to the grade of second lieutenant (list begins with David H. Foglesong). (Reference No. 1248)

** In the Army Reserve there are 31 appointments to the grade of colonel and below (list begins with Roy T. Bergman). (Reference No. 1250)

** In the Marine Corps there is 1 appointment to the grade of major (Mitchell A. Cook). (Reference No. 1251)

** In the Navy there are three astronauts for promotion to the grade of captain and below (list begins with Michael J. McCulley). (Reference No. 1252)

** In the Navy there are seven appointments to the grade of ensign (list begins with James M. Beeker). (Reference No. 1253)

* Gen. Louis C. Menetrey, USA, to be placed on the retired list in the grade of general. (Reference No. 1264)

* Lt. Gen. Thomas R. Ferguson, Jr., USAF, to be lieutenant general. (Reference No. 1279)

* Maj. Gen. John E. Jaquish, USAF, to be lieutenant general. (Reference No. 1280)

Total: 277.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATFIELD:

S. 2681. A bill to amend the Military Selective Service Act to prohibit registration and to halt the activities of civilian local boards, civilian appeal boards, and similar agencies of the Selective Service System; to the Committee on Armed Services.

By Mr. COATS:

S. 2682. A bill to amend the Internal Revenue Code of 1986 to preserve critical elements of the United States defense industrial base during a time of significant reductions in defense spending, to facilitate where necessary the conversion of defense industrial firms to civilian uses, to minimize the dislocation of workers during this transition, to protect United States industrial and technological competitiveness, and to promote wider employee ownership; to the Committee on Finance.

By HATCH (for himself and Mr. THURMOND) (by request):

S. 2683. A bill to enhance the ability of the Secretary of Health and Human Services to protect the integrity of the process of review and approval of products subject to regulation by the Food and Drug Administration, by authorizing the imposition of sanctions including debarment, civil penalties, and suspension of product approvals for improper activities, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2684. A bill to authorize a study of methods to protect and interpret the nationally significant fossil trackways found in the Robledo Mountains near Las Cruces, New Mexico; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO:

S. 2685. A bill to provide for the regulation of exports from the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DURENBERGER:

S. 2686. A bill to amend title XIX of the Social Security Act to provide medicaid coverage for personal care services outside the home; to the Committee on Finance.

By Mr. BOSCHWITZ:

S. 2687. A bill to expedite the naturalization of aliens who served with special guerilla units in Laos; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself and Mr. KERREY):

S. 2688. A bill to amend section 21B of the Federal Home Loan Bank Act to provide for Resolution Funding Corporation borrowing from the Treasury; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HEINZ (for myself, Mr. MOYNIHAN, Mr. MCCAIN, and Mr. LEVIN):

S. 2689. A bill to amend title XVIII of the Social Security Act to provide for medicare coverage of the cost of home hemodialysis staff assistance, and for other purposes; to the Committee on Finance.

By Mr. BUMPERS:

S. 2690. A bill for the relief of Oded and Sharon Grenman and their family; to the Committee on the Judiciary.

By Mr. MCCONNELL (for himself, Mr. ROCKEFELLER, Mr. COATS, Mr. DOMENICI, and Mr. FORD):

S. 2691. A bill to authorize each of the several States to impose fees in connection with solid waste treated or disposed of in such State; to the Committee on Environment and Public Works.

By Mr. THURMOND (by request):

S. 2692. A bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States; to the Committee on the Judiciary.

By Mr. CONRAD (for himself and Mr. BURDICK):

S. 2693. A bill to amend section 7 of the Mineral Leasing Act governing Federal coal lease royalty rates; to the Committee on Energy and Natural Resources.

By Mr. METZENBAUM:

S. 2694. A bill to amend the Federal Deposit Insurance Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH:

S. 2695. A bill to eliminate the scourge of illegal drugs and fight drug abuse; to the Committee on the Judiciary.

By Mr. BIDEN:

S. 2696. A bill to authorize the Secretary of the Army to convey a certain parcel of real property at Cape Henlopen, Delaware, to the State of Delaware; to the Committee on Armed Services.

By Mr. RIEGLE:

S. 2697. A bill to amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor; to the Committee on Labor and Human Resources.

S. 2698. A bill to prohibit the importation of goods produced abroad with child labor, and for other purposes; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. GRASSLEY, and Mr. SYMMS):

S. 2699. A bill to amend title 31 of the United States Code to restrict the use of appropriations amounts available for definite periods; to the Committee on Governmental Affairs

By Mr. CRANSTON (for himself, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. AKAKA, Mr. MURKOWSKI, Mr. SIMPSON, Mr. THURMOND, and Mr. SPECTER):

S. 2700. A bill to authorize the Secretary of Veterans Affairs to proceed with a proposed administrative reorganization of the regional field offices of the Veterans Health Services and Research Administration of the Department of Veterans Affairs notwithstanding the notice-and-wait provisions in section 210(b) of title 38, United States Code; read the first time.

By Mr. CRANSTON:

S. 2701. A bill to amend title 38, United States Code, to improve the capability of the Department of Veterans Affairs to recruit and retain physicians and dentists through increases in, and modifications of, special pay authorities, and for other purposes; to the Committee on Veterans Affairs.

By Mr. KERRY:

S. 2702. A bill to reauthorize the Export Administration Act of 1979, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MURKOWSKI (for himself, Mr. DOLE, Mr. DURENBERGER, Mr. BURNS, Mr. BOREN, Mrs. KASSEBAUM, Mr. WILSON, Mr. GORTON, Mr. REID, Mr. WARNER, Mr. LUGAR, Mr. SIMON, Mr. ARMSTRONG, Mr. COCHRAN, Mr. BIDEN, Mr. BOSCHWITZ, Mr. GRAMM, Mr. MACK, Mr. BRYAN, Mr. BURDICK, Mr. PELL, Mr. BENTSEN, Mr. BINGAMAN, Mr. COHEN, Mr. DECONCINI, Mr. BREAUX, and Mr. HATCH):

S.J. Res. 327. Joint resolution designating September 21, 1990, as "National POW/MIA Recognition Day," and recognizing the National League of Families POW/MIA flag; to the Committee on the Judiciary.

By Mr. SPECTER (for himself and Ms. MIKULSKI):

S.J. Res. 328. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month"; to the Committee on the Judiciary.

By Mr. KASTEN (for himself and Mr. DECONCINI):

S.J. Res. 329. Joint resolution to designate the week of June 17, 1990 through June 23, 1990 as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-1933," and to commemorate the Ukrainian famine of 1932-1933 and the policies of Russification to suppress Ukrainian identity; to the Committee on Foreign Relations.

By Mr. SASSER (for himself, Mr. GORE, Mr. BURNS, Mr. CHAFEE, Mr. CRANSTON, Mr. DECONCINI, Mr. DIXON, Mr. DURENBERGER, Mr. HATCH, Mr. HEFLIN, Mr. SHELBY, Mr. THURMOND, Mr. NUNN, Mr. INOUYE, Mr. MCCLURE, Mr. BOSCHWITZ, Mr. DOMENICI, Mr. WILSON, Mr. LAUTENBERG, Mrs. KASSEBAUM, Mr. HEINZ, Mr. PELL, Mr. PRYOR, Mr. ROBB, Mr. BOREN, Mr. COATS, Mr. GLENN, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KERRY, Mr. ROCKEFELLER, Mr. SYMMS, Mr. HELMS, and Mr. SPECTER):

S.J. Res. 330. Joint resolution to commemorate the bicentennial of the enactment of the law which provided civil government for the territory from which the State of Tennessee was formed; to the Committee on the Judiciary.

By Mr. PELL (for himself, Mr. CHAFEE, Mr. ADAMS, Mr. BENTSEN, Mr. BRADLEY, Mr. BURDICK, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. DIXON, Mr. GORE, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HOLLINGS, Mr. INOUYE, Mr. KERRY, Mr. LEVIN, Mr. LUGAR, Mr. MCCLURE, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. WARNER, Mr. CRANSTON, Mr. SPECTER, Mr. STEVENS, Ms. MIKULSKI, Mr. SIMON, and Mr. D'AMATO):

S.J. Res. 331. Joint resolution to designate the week of September 23 through 29, 1990, as "Religious Freedom Week"; to the Committee on the Judiciary.

By Mr. HATFIELD (for Mr. DOLE):

S.J. Res. 332. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS (for himself and Mr. ARMSTRONG):

S. Res. 290. Resolution commending Judge William Constangy; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 291. Resolution to direct the Senate Legal Counsel to represent a Congressional Research Service legislative attorney in James B. Smith, et al. v. Commissioner of Internal Revenue, No. 3778-89 (T.C.); considered and agreed to.

S. Res. 292. Resolution to direct the Senate Legal Counsel to provide representation in the case of State of Connecticut v. Patricia L. Nuelsen, and in related cases, and to authorize testimony and the production of documents; considered and agreed to.

By Mr. HATCH (for himself, Mr. BURNS, Mr. KASTEN, and Mr. GRASSLEY):

S. Con. Res. 135. Concurrent resolution urging the President of the United States to analyze trade-related and other barriers to American investment in Japanese companies, and to establish a timetable for their removal; to the Committee on Finance.

By Mr. DODD (for himself, Mr. COATS, Mr. KENNEDY, and Mr. HATCH):

S. Con Res. 136. Concurrent resolution expressing the sense of the Congress with respect to the 25th anniversary of the Foster Grandparent Program; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD:

S. 2681. A bill to amend the Military Selective Service Act to prohibit registration and to halt the activities of civilian local boards, civilian appeal boards, and similar local agencies of the Selective Service System; to the Committee on Armed Services.

SELECTIVE SERVICE STANDBY ACT

● Mr. HATFIELD. Mr. President, the arguments for draft registration have not fared any better than the Berlin Wall. As that obstacle to reconciliation crumbles, so too should the irrational pretense we have created for the continuation of draft registration. Our military readiness steadily increased throughout these past 10 years, according to a recently-released General Accounting Office report. And the current discussions of troop reduction levels have necessarily included consideration of how best to transition Active duty personnel to Reserve and civilian activities. We already have adequate troop levels comprised of trained and skilled men and women. If there was ever a time to put this program on hold, it is now. The Selective Standby Act would terminate this program.

It was 10 years ago that this body debated then-President Jimmy Carter's decision to reinstate draft registration. Many of my colleagues will remember that I vehemently opposed the President's decision, and organized an extended debate on the matter. But that effort failed and for the last 10 years our young men have been required to register.

Much has changed during these last 10 years. Our new relationship with the Soviet Union and the unleashing of Eastern Europe have ushered in an end to the cold war. Military and political analysts now are charged with the development of new requirements for national security. We are challenging old thinking about our troop levels, about our weapons systems, and about our foreign assistance programs. The changes in the world bring the promise of a peace dividend, but we realize that new expenses will come from peace. Newly emerging democracies are in desperate need of our help, and our enormous domestic deficit is urgently demanding attention. So it is in this time of reduced tensions and heightened challenges that I offer of this legislation to sweep away an unnecessary expense and outdated relic of the past.

Ten years ago I oppossed draft registration because I felt that the system was inherently discriminatory and would do little to improve our military readiness capabilities. Further, I believed that enforcement of registration would be difficult and would likely be achieved with tactics which chipped away at our youths' right to privacy. To me, the registration for the draft implies cynicism about our Nation's willingness to serve in times of crisis. It also reveals a tacit willingness to consider peacetime conscription, despite repeated protests to the contrary. In our debate a decade ago, I questioned how it was that a nation founded upon a system of protections of personal liberty could cast off these ideals in order to serve its military requirements.

A decade ago my colleagues who supported the registration program argued that it was vital to compile the list of names because the world had become more dangerous and registration was the best way to show our firm resolve. Further, the draft registration program was said to be the ideal way to remind our young people—young men, they should have said—of their obligation to serve their country. The registration program also was justified on the grounds that it was supported by elected leaders—a statement which did not reflect that fact that the draft was opposed by the public and at that time was opposed by the man who 5 months later would become President: Ronald Reagan.

I fully realize that some will argue that it makes no sense to terminate the Selective Service System because, in fact, it is working. But high percentages of registration should not be confused with success. These lists of young men become outdated and useless so quickly that we might as well be counting cars on the highway. These lists have nothing to do with the success of our All-Volunteer Force. We have been able to maintain adequate forces because we are making a concerted effort to bring fairness and equity to the Armed Forces, so that those women and men who choose to serve will receive the kind of compensation they deserve.

Mr. President, I believe that continuing the draft registration process would be continuing the mindset that all too often poisons our military-industry complex. That mindset rejects attempts to reform our National Security Program because "we are too far along to stop now" or "the program is too expensive to kill." This program is far along: thanks to a budget which has doubled in only 10 years. But that is not the point. The Selective Service Administration—which has been diligently implementing this program at our request—should not become a part of the military monolith. Its job is done.●

By Mr. COATS:

S. 2682. A bill to amend the Internal Revenue Code of 1986 to preserve critical elements of the U.S. defense industrial base during a time of significant reductions in defense spending, to facilitate where necessary the conversion of defense industrial firms to civilian uses, to minimize the dislocation of workers during this transition, to protect U.S. industrial and technological competitiveness, and to promote wider employee ownership; to the Committee on Finance.

DEFENSE INDUSTRY ESOP ACT

● Mr. COATS. Mr. President, for 45 years America has faced the challenges of potential war. It has raised a shield of sophisticated weapons to defend against an armed and resolute aggressor. It has spent the coin of its Treasury and the blood of young soldiers to check an advancing tyranny.

In these decades of struggle, we refused to be blackmailed by threats or seduced by promises. Administrations, both Democratic and Repubican, defended our commitments and maintained our strength. It was their resolution and preparation that forced the changes we see.

Today we have found the promise of peace—the peace of overwhelming victory. For decades we faced and mastered the stern disciplines of war. Now we accept the happy challenges of peaceful transition.

As the threat of crossing swords in Europe rapidly recedes, and as the United States adjusts its defense, it is clear that fewer defense dollars will be necessary. It is equally clear that U.S.

industry will suffer. And this will certainly affect employment, competitiveness, and our technology base.

So today I rise to introduce the Defense Industry ESOP Act of 1990. This measure, in technical language, will encourage the use of leveraged employee stock ownership plan [ESOP] financing in restructuring military contractors. Simply put, it will help defense industries adjust to a changing world. The choices they face are severely limited. Many companies will have to become more efficient and competitive, diversity into nondefense products and services, or face extinction.

Leveraged ESOP's allow employees to buy shares of their company's stock by borrowing against the future earnings of the firm. Leveraged ESOP financing has become a well established practice in America's business landscape since Louis Kelso put together the first ESOP buyout over 30 years ago. Many firms, in virtually all sectors of American industry, have already turned to ESOP's. Now there are over 10,000 ESOP companies in the United States, representing more than 10 million employee-owners.

Under current law, lenders making ESOP buyout loans benefit from a 50-percent tax exclusion on the interest. The tax-exclusion allows the lender to pass the benefit of this substantial tax-savings on to the ESOP borrowers in the form of a much lower interest rate on the loan. If not for access to such favorable financing terms, the employees of many smaller companies might never have had the opportunity to join an ESOP and become an owner.

My proposal would allow for a 100-percent tax-exclusion on interest to lenders on loans made to defense contractors who sell at least 30 percent of their stock to their employees through an ESPO buyout. This legislation would also provide defense contractors with a 10-year tax deferral on the sale of stock to an ESOP, thereby creating a strong financial incentive for companies to sell to their employees.

By encouraging ESOP formation among defense contractors, this legislation would accomplish several important things:

First, protect our defense industrial base by making available low-cost financing for defense contractors who are important to the Nation's defense but who might not otherwise survive defense cuts;

Second, help "turn swords into plough shares" and save thousands of jobs by helping defense contractors gain access to the financing many will need in order to begin producing nonmilitary production and services;

Third, enourage the growth of employee ownership in the United States, and with it a broader ownership of capital, increased competitiveness, and a renewal of entrepreneurship.

It is inevitable that some redundant defence contractors will be forced out of business by defense cuts. Unfortunately, this fate also threatens vital sectors of our defense industrial base, not because of their inefficiency or unimportance, but because these firms have difficulty raising new capital or attracting corporate buyouts. In these cases, ESOP's could offer attractive alternatives, keeping afloat critical defense contractors who might otherwise be forced to close. And this, I am convinced, is essential to preserving our defense industrial base and technological competitiveness.

Mr. President, we must ensure that the process of restructuring our defense industries does not cause unnecessary economic suffering. My ESOP proposal would help blunt this pain, aiding the transition into civilian research, development, and production. A firm would first need to qualify as "defense contractors" before receiving favorable ESOP financing, but they need not remain in the defense business. My measure is a vehicle for defense companies to get through near-term difficulties and move into civilian markets.

This proposal is not merely designed to help large defense contractors. Rather, it is intended to help a range of companies. It will include subsidiaries and corporate divisions that may be sold separately to their employees. It will extend to all subcontractors and vendors who may qualify under language of this legislation.

This bill is also not intended to artificially maintain the status quo within the defense industry. It contains a 10-year sunset provision designed to ensure that it serves as a transitional device, not a benefit to be exploited on a permanent basis.

Mr. President, the Congress is currently considering several pieces of legislation designed to ease the impact of reductions in defense spending. The Defense Industry ESOP Act of 1990 can make an important contribution to this effort. Its philosophy is simple: where possible, we should seek to transform defense industries, rather than build civilian companies on their rubble. Also, since the United States must remain a gobal power with global responsibilities, it is essential that our defense industrial base remain intact. Even if the Soviet threat entirely disappears, we will need to preserve the technological advantages that we have so painstakingly developed over the last decades. While our military forces get smaller, we will need to rely more and more on our technological superiority.

For all these reasons, Mr. President—for the sake of American workers, for the sake of U.S. industrial and technological competitiveness, and for the sake of American security in the uncertain years ahead—I hope that my colleagues in the Congress will seriously consider and support the Defense Industry ESOP Act of 1990.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defense Industry ESOP Act of 1990".

SEC. 2. EXCLUSION OF INTEREST ON LOANS USED TO ENABLE EMPLOYEES TO ACQUIRE EMPLOYER SECURITIES OF CERTAIN DEFENSE CONTRACTORS.

(a) IN GENERAL.—Section 133 of the Internal Revenue Code of 1986 (relating to interest on certain loans used to acquire employer securities) is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF LOANS USED TO ENABLE EMPLOYEES TO ACQUIRE EMPLOYER SECURITIES OF DEFENSE CONTRACTORS.—

"(1) IN GENERAL.—In the case of a qualified employee defense securities acquisition loan, the following rules shall apply—

"(A) TOTAL EXCLUSION.—Subsection (a) shall be applied by substituting '100 percent' for '50 percent'.

"(B) PLAN STOCK REQUIREMENT REDUCED.—Subsection (b)(6) and section 4978B(c)(1)(B) shall be applied by substituting '30 percent' for '50 percent' each place it appears.

"(C) LENDER EXCEPTION.—Notwithstanding subsection (a) or (b)(2), subsection (a) shall apply to interest received on such loan by a corporation not described in any paragraph of subsection (a) if—

"(i) such loan is described in subsection (b)(1)(A); and

"(ii) either—

"(I) the employer securities were acquired from such corporation (or a member of the same controlled group of corporations), or

"(II) assets were acquired from such corporation by another corporation which enabled such other corporation to be treated as an eligible corporation under paragraph (3)(D).

This subparagraph shall apply only to the extent of interest on an aggregate principal amount which is not in excess of the minimum amount necessary to meet the requirements of paragraph (4).

"(2) QUALIFIED EMPLOYEE DEFENSE SECURITIES ACQUISITION LOAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified employee defense securities acquisition loan' means any securities acquisition loan (determined after application of subparagraphs (B), (C), and (D) of paragraph (1)) with respect to which—

"(i) the corporation issuing the employer securities acquired for, or transferred to, the plan is a qualified defense contractor, and

"(ii) the requirements of paragraph (4) are met.

"(B) DOLLAR LIMITATION.—A loan shall be treated as a qualified employee defense securities acquisition loan only to the extent that the principal amount of such loan does not exceed $1,000,000,000.

"(3) QUALIFIED DEFENSE CONTRACTOR.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified defense contractor' means any corporation at least 51 percent of the aggregate gross receipts of which for all taxable years ending during the testing period were gross receipts from qualified defense contracts.

"(B) TESTING PERIOD.—For purposes of this paragraph, the term 'testing period' means the 5-year period ending on the last day of the calendar quarter preceding the calendar quarter in which the securities acquisition loan was entered into.

"(C) SPECIAL RULES FOR SPINOFFS OF DIVISIONS, ETC.—

"(i) IN GENERAL.—In the case of an eligible corporation—

"(I) this paragraph shall be applied separately to such corporation as if it was in existence at all times during the testing period, and

"(II) the gross receipts of such corporation shall be the gross receipts properly allocable to the assets of the trade or business or to the corporation described in clause (ii), whichever is applicable.

"(ii) ELIGIBLE CORPORATION.—For purposes of this subparagraph, the term 'eligible corporation' means a newly formed corporation which was organized (as part of a transaction in which 1 or more qualified employee defense securities acquisition loans were made) to purchase—

"(I) substantially all of the assets of a trade or business which was actively conducted during the testing period, or

"(II) stock representing control (as defined in section 368(c)) of another corporation substantially all of the assets of which are assets described in subclause (I).

"(D) ALLOCATION OF GROSS RECEIPTS.—For purposes of this paragraph—

"(i) all corporations which, after the transaction in which 1 or more qualified employee defense securities acquisition loans were made, are members of a controlled group of corporations (within the meaning of section 409(l)(4)) shall be treated as 1 corporation, and

"(ii) gross receipts shall be allocated under rules prescribed by the Secretary.

"(4) SELLERS MUST RETAIN 20 PERCENT DEBT OR EQUITY INTEREST.—

"(A) IN GENERAL.—The requirements of this paragraph are met if, immediately after the sale, the seller owns (after application of section 318(a))—

"(i) at least 20 percent of the total value of all outstanding stock of the corporation;

"(ii) obligations (issued in connection with the transaction in which 1 or more qualified employee defense securities acquisition loans were made) having an aggregate principal amount of at least 20 percent of the total value of all outstanding stock of the corporation; or

"(iii) stock and obligations described in clause (ii) with a combined value and aggregate principal amount of at least 20 percent of the total value of all outstanding stock of the corporation.

"(B) FAILURE TO RETAIN MINIMUM VALUE.—

"(i) IN GENERAL.—Subsection (a) shall not apply to any interest received with respect to a qualified employee defense securities acquisition loan which is allocable to any portion of the 5-year period beginning on the date such loan was entered into during which the seller does not retain stock or obligations meeting the requirements of subparagraph (A). For purposes of this clause, a rule similar to the rule under subsection (b)(6)(B) shall apply.

"(ii) EXCEPTIONS.—To the extent provided by the Secretary, clause (i) shall not apply to the extent that—

"(I) the seller receives annual payments of principal on an obligation at a cumulative rate that is not more rapid at any time than level annual repayments of such principal over 5 years; or

"(II) the seller disposes of the stock at a cumulative rate not greater than a level reduction of 5 percent each year, except that the seller must retain stock representing at least 1 percent of the total value of all outstanding stock of the corporation during the last year of the 5-year period.

"(C) SELLER.—For purposes of this paragraph, the term 'seller' means the person—

"(i) from whom the stock in the qualified defense contractor was acquired, or

"(ii) from whom the assets described in paragraph (3)(D) were acquired.

"(5) QUALIFIED DEFENSE CONTRACTS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified defense contract' means—

"(i) a contract awarded by the Department of Defense,

"(ii) a contract awarded as part of program activities included in budget function 050 of the Federal budget, or

"(iii) a contract awarded by the National Aeronautics and Space Administration or the Coast Guard in carrying out national security programs.

"(B) SPECIAL RULE FOR SUBCONTRACTORS AND VENDORS.—The term 'qualified defense contract' shall include—

"(i) a subcontract of a contract described in subparagraph (A) or this subparagraph, or

"(ii) a contract to provide supplies or services in connection with a contract described in subparagraph (A) or this subparagraph.

"(6) TERMINATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection shall not apply to loans made after December 31, 1999.

"(B) REFINANCING LOANS.—This subsection shall apply to a loan made after December 31, 1999, to refinance a loan made on or before such date or to refinance a loan to which this subparagraph applies."

(b) CONSTRUCTION OF STATUTE.—Nothing in this section (or the amendments made by it) shall be construed as reducing or eliminating the exclusion under section 133 of the Internal Revenue Code of 1986 determined without regard to this section and such amendments.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to loans made after September 30, 1990.

SEC. 3. EXTENSION OF TIME FOR PAYMENT OF TAX ATTRIBUTABLE TO SALE OF EMPLOYER SECURITIES IN DEFENSE CONTRACTORS.

(a) IN GENERAL.—Subchapter B of chapter 62 of the Internal Revenue Code of 1986 (relating to extensions of time for payment of tax) is amended by adding at the end thereof the following new section:

"SEC. 6168. EXTENSION OF TIME FOR PAYMENT OF TAX ATTRIBUTABLE TO SALE OF EMPLOYER SECURITIES IN DEFENSE CONTRACTORS.

"(a) EXTENSION OF TIME.—

"(1) IN GENERAL.—If the taxpayer or executor elects the application of this section, then the tax attributable to any qualified sale of qualified defense contractor securities shall be payable as of the close of the deferral period.

"(2) EFFECT OF ELECTION.—If an election is made under paragraph (1), the provisions of this subtitle shall apply as though the Secretary were extending the time for payment of tax, except that interest shall not accrue during the deferral period.

"(b) QUALIFIED SALE.—For purposes of this section, the term 'qualified sale' means a sale with respect to which the following requirements are met:

"(1) SALE TO ESOP.—The qualified defense contractor securities are sold to an employee stock ownership plan.

"(2) SECTION 133 REQUIREMENT MUST BE MET.—The following requirements of section 133 are met immediately after the sale:

"(A) Section 133(b)(6) (relating to requirement that plans hold certain amount of stock after sale), as modified by section 133(f)(1)(B).

"(B) Section 133(b)(7) (relating to voting rights).

"(3) SELLERS MUST RETAIN 20 PERCENT DEBT OR EQUITY INTEREST.—

"(A) IN GENERAL.—The requirements of this paragraph are met if, immediately after the sale, the seller owns (after application of section 318(a))—

"(i) at least 20 percent of the total value of all outstanding stock of the corporation;

"(ii) obligations (issued in connection with the transaction in which 1 or more qualified employee defense securities acquisition loans were made) having an aggregate principal amount of at least 20 percent of the total value of all outstanding stock of the corporation; or

"(iii) stock and obligations described in clause (ii) with a combined value and aggregate principal amount of at least 20 percent of the total value of all outstanding stock of the corporation.

"(B) FAILURE TO RETAIN MINIMUM VALUE.—

"(i) IN GENERAL.—The deferral period shall end with respect to any qualified sale on the first day during the 5-year period beginning on the date of such sale on which the seller does not retain stock or obligations meeting the requirements of subparagraph (A). For purposes of this clause, a rule similar to the rule of subsection (b)(6) shall apply.

"(ii) EXCEPTIONS.—Clause (i) shall not apply to the extent provided under section 133(f)(4)(B).

"(c) QUALIFIED DEFENSE CONTRACTOR SECURITIES.—For purposes of this section, the term 'qualified defense contractor securities' means employer securities (as defined in section 409(l)) which are issued by a qualified defense contractor (as defined in section 133(f)(2)).

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) TAX ATTRIBUTABLE TO QUALIFIED SALE.—The term 'tax attributable to qualified sale' means, with respect to any taxable year, the excess (if any) of—

"(A) the tax imposed by chapter 1 for the taxable year determined without regard to this section, over

"(B) such tax determined without regard to gain or loss from qualified sales within such taxable year.

"(2) DEFERRAL PERIOD.—

"(A) IN GENERAL.—The term 'deferral period' means the period—

"(i) beginning on the due date (without regard to extensions) for filing the return of tax imposed by chapter 1 for the taxable year of the qualified sale, and

"(ii) ending on the earliest of—

"(I) the date which is 10 years from the date determined under clause (i),

"(II) the date determined under subsection (b)(3)(B)(i), or

"(III) the first date on which an employee stock ownership plan fails to meet the requirements of subsection (b)(2)(A).

"(3) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7).

"(e) CROSS REFERENCE.—

"(1) Security.—For authority of the Secretary to acquire security in the case of an extension under this section, see section 6165.

"(2) Period of limitation.—For extension of the period of limitation in the case of an extension under this section, see section 6503(e)."

(b) CONFORMING AMENDMENTS.—

(1) Section 6503(e) of such Code is amended by—

(A) by inserting "or tax attributable to a qualified sale of qualified defense contractor security (within the meaning of section 6168)" after "section 6167(f))",

(B) by inserting "or section 6168(a)" after "subsection (a) or (b) of section 6167", and

(C) by inserting "OR SALES OF QUALIFIED SECURITIES" after "LOSSES" in the heading thereof.●

By Mr. HATCH (for himself and Mr. THURMOND) (by request):

S. 2683. A bill to enhance the ability of the Secretary of Health and Human Services to protect the integrity of the procedure of review and approval of products subject to regulation by the Food and Drug Administration, by authorizing the imposition of sanctions including debarment, civil penalties, and suspension of product approvals for improper activities; to the Committee on Labor and Human Resources.

FOOD, DRUG, AND DEVICE FRAUD AND ABUSE PREVENTION ACT

Mr. HATCH. Mr. President, today I am pleased to introduce, by request, legislation proposed by the Bush administration which is entitled the "Food, Drug, and Device Fraud and Abuse Prevention Act of 1990." I am also pleased that my distinguished colleague from South Carolina, Senator THURMOND, is joining me in this introduction. This legislation would give the Department of Health and Human Services [HHS] and its Food and Drug Administration [FDA] urgently needed authority to take quick and effective action against individuals and companies who: First, attempt to subvert the approval process for products subject to FDA regulation; second, engage in gross violations of laws and regulations administered by FDA which could threaten the safety of the Nation's supply of food, drugs, and medical supplies; or third, undermine the effectiveness of FDA in ensuring the safety of those products.

In introducing this bill by request, I want to stress that this is by no means a perfect product. It is my hope that the Senate Committee on Labor and Human Resources will promptly review this bill and support many of its provisions. It is an excellent starting point, but I want to make clear that I support certain modifications to the bill's language. Despite these reservations, I applaud the administration for preparing legislation that would provide strong sanctions against those who would abuse the FDA's approval process. I would also like to acknowledge the fine work of my colleague from Michigan, chairman of the Energy and Commerce Committee, Congressman DINGELL, for his tireless effort at uncovering fraudulent activities in the generic drug industry. He, along with Congressman BLILEY, has introduced similar legislation, and I am committed to working with them to see some form of this legislation enacted.

The administration's bill develops new sanctions to provide strong deterrents against the types of improper activity that came to light recently in connection with generic drugs. It would also enable the Department to remedy the harm to the approval process by withdrawing approvals improperly obtained, and to bar individuals and companies found to have engaged in such wrongful acts from further involvement in the approval process.

Specific authorities added by the bill include—

First, debarment: This provides for debarment of persons who have committed acts that could threaten the integrity of the FDA product approval process from involvement in that process. First, the Secretary would be required to debar any person convicted of a criminal offense in connection with the development or approval of any product subject to FDA regulation. Second, the Secretary would be permitted to debar any person convicted of certain other criminal offenses—including any offense related to a product or activity regulated by FDA, or of bribery, fraud, false statement, extortion, or a similar felony offense, or of obstruction of an investigation—or found by the Secretary to have committed a similar offense, or to have endangered the public health or safety through knowing violation of a statute or regulation administered by FDA.

A person would be entitled to a hearing prior to debarment. The determination to debar would be subject to judicial review, but debarment would not be stayed pending that review. The minimum period of debarment would be set by the Secretary, taking into account the nature and seriousness of the offense; a debarment based on a conviction could not be for less than 3 years. A debarment could be terminated at the end of the minimum period upon application of the debarred person if the Secretary determined that there was no basis for its continuation and that there were reasonable assurances that the grounds for debarment had not recurred and would not recur.

Second, sanction of applicants for FDA approval employing a debarred person: The bill requires FDA to refuse to review or approve any application for approval with respect to a regulated product submitted by a sponsor that is debarred. This includes a sponsor who employs or otherwise uses the services of a debarred person in any capacity in which the debarred person has or might have any control over or involvement with the development or application for approval of any such product. The Secretary is given discretion to waive application of this sanction with respect to any product when he finds such waiver necessary to protect the public health. This sanction authority could only be applied prospectively to persons that were themselves debarred or who used a debarred person's services after the debarment became effective.

Third, civil money penalties: The bill provides authority for civil money penalties of up to $100,000 per incident in the case of an individual and up to $5,000,000 per incident in the case of any other person for certain wrongful acts seriously threatening FDA's effectiveness. These acts include false statements in connection with a product approval application, bribery, coercion or improper influence, destruction or alteration of documents or evidence, failure to disclose a material fact, obstruction of an investigation in connection with matters subject to regulation by FDA, violations of the prohibition on use of debarred persons in the FDA product approval process, failure to report required information concerning events subject to sanction or debarment, or endangering the public health and safety through knowing violation of a statute or regulation administered by FDA. Penalties would be assessed after a hearing and are subject to judicial review.

Fourth, suspension of product approvals: The bill requires the Secretary, in cases where a product sponsor or its officer, employee, contractor, consultant, or other agent has been convicted of fraud, false statement, bribery, coercion, or other improper influence in connection with the sponsor's application for FDA approval, to suspend for 2 years from the date of conviction all applications approved between the date of the first transaction or occurrence named in the indictment and the date of conviction of the sponsor or termination of employment of the agent. The bill also provides parallel authority to suspend approval of applications in the case of debarment of a sponsor or its agent on the basis of the same group of improper acts. The sponsor would be entitled to a hearing, but suspension would not be stayed pending the outcome of the hearing. The suspension would remain in effect until the Secretary was satisfied that the approval was not tainted

by the illegal activity or until the Secretary redetermined that the product nevertheless meets the conditions for approval The Secretary would be authorized to waive any mandatory product suspension where he found such waiver ncesssary to protect the public health. This authority would apply to convictions and product approvals occurring prior to enactment. However, since the affected applications would be suspended for only 2 years from the date of conviction, the retroactive effect of this provision is limited to cases where conviction occurred less than 2 years prior to enactment. I intend to review this retroactivity proposal very closely to ensure its compliance with constitutional provisions.

Fifth, withdrawal of approval of applications involving exercise of improper influence: The bill requires the Secretary to withdraw approval of a product, after notice of an opportunity for a hearing, when he finds reasonable grounds to believe that the application was approved, expedited, or otherwise facilitated through bribery, coercion, or other exercise of improper influence, or that the application was the subject of attempted bribery, coercion, or other improper influence.

In summary, this legislation addresses many of the key legislative needs of the FDA in order to take quick and decisive action against those who commit crimes in the FDA approval process. I will work with my colleagues to refine this legislative initiative, and I look forward to comments by all interested parties. It is imperative that all Americans trust the safety of their foods, drugs, and cosmetics. This bill is intended to guard that trust.

I ask unanimous consent that the test of the bill and a summary be included in the RECORD.

There being no objection, the bill was orderd to be printed in the RECORD, as follows:

S. 2683

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food, Drug, and Device Fraud and Abuse Prevention Act of 1990".

AUTHORITY TO DENY REVIEW OR APPROVAL OF APPLICATIONS

SEC. 2. The Federal Food, Drug, and Cosmetic Act is amended by redesignating sections 305, 306, and 307 as sections 308, 309, and 310, respectively, and by adding after section 304 the following new section:

"DEBARMENT; DENIAL OF REVIEW OR APPROVAL OF APPLICATIONS

"SEC. 305. (a) MANDATORY DEBARMENT FOR CONVICTION IN CONNECTION WITH DEVELOPMENT OR APPROVAL OF A PRODUCT SUBJECT TO REGULATION BY THE FOOD AND DRUG ADMINISTRATION.—The Secretary shall debar from involvement in the process for approval (as defined in subsection (k)(2)) of any application (as defined in subsection (k)(1)) any person that has been convicted of a criminal offense in connection with an activity relating directly or indirectly to the development or approval, or the process for development or approval, or any product subject to regulaton by the Food and Drug Administration.

"(b) PERMISSIVE DEBARMENT.—The Secretary may debar the following persons (including parents and subsidaries of corporations) from involvement in the process for approval (as defined in subsection (k)(2)) of any application (as defined in subsection (k)(1)):

"(1) CONVICTION RELATED TO AN ACTIVITY REGULATED BY THE FOOD AND DRUG ADMINISTRATION OR A COMPARABLE STATE AGENCY.—Any person that has been convicted, under Federal or State law, of a criminal offense related to any product or activity subject to regulation under this act, any other act administered by the Food and Drug Administration, or any State statute regulating the same types of products or activities.

"(2) CONVICTION FOR BRIBERY, FRAUD, OR SIMILAR CRIME.—Any person that has been convicted, under Federal or State law, of a felony of bribery, fraud, perjury, false statement, racketeering blackmail, extortion, falsification or destruction of records, or a similarly felony offense.

"(3) CONVICTION RELATED TO OBSTRUCTION OF JUSTICE.—law, or a criminal offense related to the interference with or obstruction of the investigation into or prosecution of any criminal offense.

"(4) BRIBERY OR ATTEMPTED BRIBERY.—Any person that the Secretary determines has bribed or attempted to bribe, or has induced or attempted to induce another person to bribe, any officer, employee, or agent of the Department of Health and Human Services in connection with any matter subject to regulation by the Food and Drug Administration.

"(5) COERCION.—Any person that the Secretary determines has, through the use of threats, physical force, or intimidation, corruptly coerced or attempted to coerce any officer, employee, or agent of the Department of Health and Human Services, with the intention of interfering with the Food and Drug Administration's lawful discharge of its responsibilities under this or any other act.

"(6) FALSE STATEMENT OR REPRESENTATION.—Any person that the Secretary determines has knowingly made or caused to be made any false statement or representation with respect to a material fact relating to any matter subject to regulation by the Food and Drug Administration to any officer, employee, or agent of the Department of Health and Human Services.

"(7) FAILURE TO MAKE A REQUIRED DISCLOSURE.—Any person that the Secretary finds has knowingly failed to disclose, to an officer or employee of the Department of Health and Human Services, a material fact which such person has an obligation to disclose relating to any matter subject to regulation by the Food and Drug Administration.

"(8) ENDANGERING PUBLIC HEALTH OR SAFETY THROUGH VIOLATION OF LAW ADMINISTERED BY FOOD AND DRUG ADMINISTRATION.—Any person that the Secretary finds has endangered the public health or safety through knowing violation of any statute or regulation administered by the Food and Drug Administration.

"(c) NOTICE, PROPOSED EFFECTIVE DATE, PERIOD OF DEBARMENT, SUSPENSION PENDING RESOLUTION.—

(1) INDIVIDUAL NOTICE OF PROPOSED DEBARMENT, SUSPENSION.—At least 60 days prior to debarring a person pursuant to subsection (a) or (b), the Secretary shall provide the person with notice of the proposed debarment, of the reasons for the debarment, of the proposed effective date and minimum period of debarment, and of the opportunity for a hearing under subsection (e) on the proposed debarment. If the person fails to request a hearing in accordance with subsection (e)(2), the proposed debarment shall become final on the proposed effective date. In connection with or subsequent to the notice of proposed debarment, the Secretary, in his discretion, may suspend the person from involvement in the process for approval (as defined in subsection (k)(2)) of any application (as defined in subsection (k)(1)). The suspension shall be effective immediately upon issuance of notice thereof by the Secretary to the person and shall remain in effect pending final resolution of the proposed debarment.

"(2) MINIMUM PERIOD OF DEBARMENT.—In establishing the minimum period of debarment under subsection (a) or (b), the Secretary shall take into account the nature and seriousness of the offenses. The minimum period of debarment under subsection (a) and paragraphs (1), (2), and (3) of subsection (b), shall not be less than three years, may be established by the Secretary in regulations, and may be different with respect to different grounds for conviction.

"(3) EFFECTIVE PERIOD OF DEBARMENT.—Any debarment under subsection (a) or (b) shall become effective at such time and upon such reasonable notice to the public and to the person debarred as may be specified in regulations, and shall remain in effect unless and until it is terminated pursuant to subsection (g).

"(d) DENIAL OF REVIEW OR APPROVAL OF APPLICATIONS. (1) SANCTION.—Except as provided in paragraph (3), the Secretary shall sanction a person, by refusing to accept, review, or approve any application (as defined in subsection (k)(1)) by such person (other than an application to amend or supplement a previously approved application which does not seek approval for a different or additional use of a product) for approval (as defined in subsection (k)(2)), during any period with respect to which—

"(A) the person is debarred, pursuant to this section, from seeking such approval, or

"(B) the person employs, retains as a consultant or contractor, or otherwise uses (in any capacity in which such person has or might have any control over or involvement with the development or application for such approval of any product subject to such approval) the services of another person that the person knows or should know is debarred, pursuant to this section, from involvement in the process of seeking such approval.

"(2) NOTICE.—The Secretary shall notify the person sanctioned under paragraph (1) of the reasons for the determination under paragraph (1), of the effective date of the sanction and the period during which the sanction will remain in effect, and of the opportunity for a hearing pursuant to subsection (e).

"(3) PUBLIC HEALTH WAIVER.—Notwithstanding paragraph (1), the Secretary may waive application of the sanction under such paragraph (1) with respect to any product described in that paragraph where he finds that such waiver is necessary to protect the public health. The determination whether to waive application of the sanction shall not be subject to administrative or judicial review.

"(e) HEARING.—(1) RIGHT TO HEARING.—Any person that the Secretary proposes to

debar under subsection (a) or (b) or that the Secretary sanctions under subsection (d) shall be given the opportunity for a prompt hearing, in accordance with regulations promulgated by the Secretary, at which the person is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person, and at which the Secretary shall, on the record of the hearing, on the basis of evidence adduced at the hearing, determine whether to impose the proposed debarment or to affirm, modify, or reverse the sanction.

"(2) TIME FOR FILING REQUEST.—Any request for a hearing with respect to a proposed debarment under subsection (a) or (b) must be filed within 60 days after receipt by the person of notice of the proposed debarment. Any request for a hearing with respect to a sanction under subsection (d) must be filed within 60 days after the effective date of such sanction.

"(3) SECRETARY'S AUTHORITY WITH RESPECT TO CONDUCT OF HEARING.—In the course of such hearing (and of any investigation or proceeding in connection with such hearing) the Secretary may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation. Evidence may be received at any such hearing even though inadmissible under rules of evidence applicable to court procedure.

"(4) AUTHORITY FOR SANCTIONS IN CONNECTION WITH CONDUCT OF HEARING.—The official conducting a hearing under this subsection may sanction a person, including any party or attorney, for failing to comply with an order or procedure, failing to defend an action, or other misconduct that would interfere with the speedy orderly, or fair conduct of the hearing. Such sanction shall reasonably relate to the severity and nature of the failure or misconduct. Such sanction may include—

"(A) in the case of refusal to provide or permit discovery, drawing negative factual inferences or treating such refusal as an admission by deeming the matter, or certain facts, to be established,

"(B) prohibiting a party from introducing certain evidence or otherwise supporting a particular claim or defense,

"(C) striking pleadings, in whole or in part,

"(D) staying the proceedings,

"(E) dismissal of the action,

"(F) entering a default judgment,

"(G) ordering the party or attorney to pay attorneys' fees and other costs caused by the failure or misconduct, and

"(H) refusing to consider any motion or other action which is not filed in a timely manner.

"(5) NO DELAY OF DEBARMENT PENDING JUDICIAL REVIEW OR OF SANCTION PENDING HEARING OR JUDICIAL REVIEW.—The effective date of the debarment shall not be delayed pending the outcome of judicial review pursuant to subsection (f). The effective date of the sanction shall not be delayed pending the outcome of a hearing pursuant to this subsection or of judicial review pursuant to subsection (f).

"(6) COMBINED HEARING AUTHORIZED.—The Secretary may combine in a single proceeding any hearing provided a person under this section, and any hearing provided such person under section 303(e) or 306 with respect to the same offense or offenses.

"(f) JUDICIAL REVIEW.—

"(1) RIGHT TO JUDICIAL REVIEW; PROCEDURES.—Any person that is the subject of an adverse decision in a hearing pursuant to subsection (e) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the person resides, by filing in such court (within sixty days following the date the person is notified of the Secretary's decision) a written petition requesting that the decision be modified or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceeding set forth in such record a decree affirming, modifying, remanding for futher consideration, or setting aside, in whole or in part, the decision of the Secretary and enforcing the same to the extent that such order is affirmed or modified.

"(2) SCOPE OF REVIEW.—No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file with the court such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and his recommendations, if any, for the modification or setting aside of his original order. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision.

"(3) JUDGMENT; SUPREME COURT REVIEW.—Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

"(g) APPLICATION FOR TERMINATION OF DEPARTMENT.—

"(1) APPLICATION.—Any person that is debarred under subsection (a) or (b) may apply to the Secretary, in the manner specified by the Secretary in regulations, at the end of the minimum period of debarment applicable to such person and at each other times as the Secretary may provide, for termination of the debarment.

"(2) TERMINATION.—The Secretary may terminate the debarment, after the expiration of the minimum period, if he determines that—

"(A) there is no basis under subsection (a) or (b) for continuation of the debarment, and

"(B) there are reasonable assurances that the types of actions which formed the basis for the original debarment have not recurred and will not recur.

The Secretary's decision whether to terminate a debarment shall not be subject to administrative or judicial review.

"(h) LIST OF DEBARRED AND SANCTIONED PERSONS.—The Secretary shall maintain and make available to the public a list, updated no less often than quarterly, of—

"(1) persons currently debarred pursuant to subsection (a) or (b), who have been so notified pursuant to subsection (c)(1), including the effective date and minimum period of debarment, and

"(2) persons currently subject to sanction pursuant to subsection (d).

"(i) REPORTING TO SECRETARY OF EVENTS SUBJECT TO DEBARMENT OR SANCTION.—

"(1) REPORTING BY PERSON SUBJECT TO SANCTION.—Any person that files with the Secretary an application for approval of any product by the Food and Drug Administration (whether or not such application has been approved) shall report to the Secretary—

"(A) to the extent and at such intervals as the Secretary may require, such information as the Secretary may find necessary to enable him to determine whether the person has used, in any capacity that would subject the person to sanction pursuant to subsection (d), the services of any debarred person, and

"(B) within 30 days after gaining knowledge thereof, any information that could subject the person to sanction pursuant to subsection (d).

"(2) REPORTING BY PERSON SUBJECT TO DEBARMENT.—Any person used in any capacity described in subsection (d)(1)(B) shall report to the Secretary, within 30 days after gaining knowledge thereof, any information that could subject such person to debarment pursuant to subsection (a) or (b).

"(j) APPLICABILITY TO ACTIONS PRIOR TO ENACTMENT.—The provisions of this section shall apply to acts or omissions which occurred prior to enactment of this section.

"(k) DEFINITIONS.—For purposes of this section and sections 303(e), 306, and 307—

"(1) The terms 'application' and 'application for approval' include—

"(A) a petition pursuant to section 409(b) proposing the issuance of a regulation pursuant to section 409(c) with respect to a food additive,

"(B) an application pursuant to subsection (b) or (j) of section 505 with respect to a new drug,

"(C) an application for certification pursuant to section 507 of an antibiotic drug,

"(D) an application pursuant to section 512(b) with respect to a new animal drug,

"(E) a premarket notification pursuant to section 510(k) of an intent to introduce into interstate commerce for commercial distribution a device intended for human use,

"(F) an application for premarket approval pursuant to section 515 with respect to a class III device,

"(G) a petition for the issuance of a regulation pursuant to subsection (b) or (c) of section 706 with respect to a color additive, or

"(H) an application for licensing pursuant to section 351 of the Public Health Service Act with respect to a biological product.

"(2) The term 'approval' includes—

"(A) a regulation pursuant to section 409(c) with respect to a food additive,

"(B) approval pursuant to subsection (b) or (j) of section 505 of an application with respect to a new drug,

"(C) certification pursuant to section 507 of an antibiotic drug,

"(D) approval pursuant to section 512(b) of an application with respect to a new animal drug,

"(E) a determination pursuant to section 510(k) of substantial equivalence to another device,

"(F) premarket approval pursuant to section 515 with respect to a class III device,

"(G) a regulation pursuant to subsection (b) or (c) of section 706 with respect to a color additive, or

"(H) a license pursuant to section 351 of the Public Health Service Act with respect to a biological product.

"(3) A person is considered to have been 'convicted' of a criminal offense—

"(A) when a judgment of conviction has been entered against the person by a Federal, State, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged,

"(B) when there has been a finding of guilt against the person by a Federal, State, or local court,

"(C) when a plea of guilty or nolo contendere by the person has been accepted by a Federal, State, or local court, or

"(D) when the person has entered into participation in a first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld.

"(4) The term 'development', as used with respect to a product or substance subject to approval (as defined in paragraph (2)) by the Food and Drug Administration, includes all steps necessary to process or complete the application and secure its approval, including—

"(A) designing of protocols for, and conduct of, scientific, medical, engineering, and any other research, experimentation, testing, and analysis (including animal research and preclinical and clinical trials) with respect to the product or substance or its precursors or component elements;

"(B) designing and testing of manufacturing controls and procedures with respect to the product or substance;

"(C) designing and preparation of packaging and labeling for the product or substance; and

"(D) preparation of the application for approval, and of data or documentation supporting such application, and of any other data upon which the application or its approval is based; and

"(5) The term 'knowingly' means that a person, with respect to information—

"(A) has actual knowledge of the information, or

"(B) acts in deliberate ignorance or reckless disregard of the truth or falsity of the information.".

CIVIL MONEY PENALTIES

SEC. 3. Section 303 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new subsection:

"(e)(1) PENALTY.—Any person that—

"(A) knowingly makes or causes to be made, to any officer, employee, or agent of the Department of Health and Human Services, a false statement or representation with relation to a material fact in connection with an application for approval (as defined in section 305(k));

"(B) bribes or attempts to bribe, corruptly coerces or attempts to coerce, induces or attempts to induce any other person to bribe or coerce, or otherwise exerts or attempts to exert improper influence upon, any officer, employee, or agent of the Department of Health and Human Services in connection with any matter subject to regulation by the Food and Drug Administration;

"(C) destroys, alters, removes, or secretes, or procures the destruction, alteration, removal, or secretion of, any document or other evidence which is the property of or in the possession of the Department of Health and Human Services, for the purpose of interfering with that Department's discharge of its responsibilities in connection with any matter subject to regulation by the Food and Drug Administration;

"(D) knowingly fails to disclose, to an officer or employee of the Department of Health and Human Services, a material fact which such person has an obligation to disclose relating to any matter subject to regulation by the Food and Drug Administration;

"(E) knowingly obstructs an investigation of the Department of Health and Human Services into any matter subject to regulation by the Food and Drug Administration;

"(F) fails to report information required to be reported pursuant to section 305(i);

"(G) has filed with the Secretary at any time an application for approval (as defined in section 305(k)) (whether or not such application has been approved), and employs, retains as a consultant or contractor, or otherwise uses (in any capacity in which such person has or might have any control over or involvement with the development of or application with respect to any such product) the services of a person that the person knows or should know is debarred pursuant to section 305;

"(H) is debarred pursuant to section 305 (a) or (b), and provides services to a person described in subparagraph (G) that could subject such other person to sanctions under section 305 or to civil money penalties under this subsection; or

"(I) has endangered the public health or safety through knowing violation of any statute or regulation administered by the Food and Drug Administration

shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $100,000, in the case of an individual, and $5,000,000, in the case of any other person, for each such act.

"(2) CONSIDERATIONS AFFECTING AMOUNT OF PENALTY.—In determining the amount of any penalty imposed pursuant to paragraph (1), the Secretary shall take into account the nature of the act subject to penalty, the degree of culpability, history of prior offenses, and financial condition of the person subject to penalty, and such other matters as justice may require.

"(3) COORDINATION WITH DEPARTMENT OF JUSTICE.—The Secretary shall notify the Attorney General of his intent to initiate an action under this subsection. The Secretary shall not initiate such an action until after—

"(A) the Attorney General authorizes the Secretary to initiate the action, or

"(B) 60 days have elapsed without a decision by the Attorney General.

"(4) PROCEDURAL REQUIREMENTS; NOTICE AND HEARING.—(A) The Secretary may not initiate an action under this subsection with respect to any act described in paragraph (1)—

"(i) later than six years after the date on which the act took place, or

"(ii) more than three years after the date when facts material to the right of action are known or reasonably should have been known by the Secretary, but in no event more than ten years after the date on which the act took place,

whichever occurs last. The Secretary may initiate an action to assess a penalty against a person under this subsection by serving notice of the action in any manner authorized by Rule 4 of the Federal Rules of Civil Procedure.

"(B) The Secretary shall not make a determination adverse to any person under paragraph (1) until the person has been given written notice and an opportunity for the determination to be made on the record after a hearing in accordance with the provisions of section 305(e).

"(5) JUDICIAL REVIEW.—Any person that is the subject of an adverse decision in a hearing pursuant to paragraph (3) may obtain a review of such decision in accordance with the provisions of section 305(f). The effective date of the penalty under this subsection shall not be delayed pending the outcome of such judicial review.

"(6) REWARD TO WHISTLEBLOWERS.—In special circumstances and in his sole discretion, the Secretary may award to any individual (other than an officer or employee of the Federal Government) who provides information leading to the imposition of a civil money penalty under this subsection an amount not exceeding the lesser of $100,000 or one half of the penalty so imposed and collected.".

AUTHORITY TO SUSPEND APPROVALS OF PRODUCTS FOR CONVICTION OR DEBARMENT INVOLVING SUBVERSION OR ATTEMPTED SUBVERSION OF THE APPROVAL PROCESS

SEC. 4. The Federal Food, and Drug, and Cosmetic Act is amended by adding after section 305 the following new section:

"AUTHORITY TO SUSPEND APPROVALS OF PRODUCTS FOR CONVICTION OR DEBARMENT INVOLVING SUBVERSION OR ATTEMPTED SUBVERSION OF THE APPROVAL PROCESS

"SEC. 306. (a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

"(A) Wrongful acts by or on behalf of persons regulated by the Food and Drug Administration seeking to subvert the process for approval of regulated products endanger the safety of the nation's food, drugs, and other regulated products, in that products may be approved for marketing which do not meet the conditions for approval;

"(B) Such wrongful acts also destroy public confidence in the integrity of the Food and Drug Administration, and in the safety and efficacy of drugs and other regulated products;

(C) It is reasonable to presume that a person or its agent convicted of specific acts intended to circumvent or improperly influence the approval process, and personnel of the Federal Government found to be involved in such improper acts, also committed similar acts intended to interfere with the approval process;

"(D) It is essential, in order to protect the public health, and to maintain the integrity of the approval process and the confidence of the public in drugs and other regulated products, that the Secretary have the authority to remove from the market any and all products regulated by the Food and Drug Administration whose approval may have been tainted by such improper activity.

"(2) PURPOSE.—It is the purpose of this section to authorize and require the Secretary to suspend approval of any product regulated by the Food and Drug Administration whose approval may have been tainted by fraud, false statements, or improper influence, until such time as the Secretary is satisfied that the approval was not so tainted, or until the Secretary redetermines that the product nevertheless meets the conditions for approval.

"(b) SUSPENSION AUTHORITY.—

(1) REQUIREMENT TO SUSPEND APPROVAL IN CASE OF CONVICTION.—

(A) Whenever any person, or any officer, employee, consultant, contractor, or agent of a person, has been convicted (as defined in section 305(k)(3)) of a criminal offense in connection with such person's application (as defined in section 305(k)(1)) for approval (as defined in section 305(k)(2))—

"(i) for fraud or false statements, or

"(ii) for bribing or coercing, or attempting to bribe or coerce, or otherwise improperly influencing or attempting to improperly influence an officer, employee, or agent of the Department of Health and Human Services,

except as provided in subsection (b), the Secretary shall suspend, in accordance with subparagraph (B), approval of applications of such person described n subparagraph (B).

"(B) After giving notice to the person of the proposed suspension, affording the person an opportunity to respond in writing, and advising the person of the opportunity for a hearing, the Secretary shall suspend, for two years from the date of conviction, approval of all applications granted—

"(i) in the case of conviction of a person, between (I) the date of the first transaction or occurrence named in the indictment or information that was the basis for conviction and (II) the date of conviction, and

"(ii) in the case of conviction of an officer, employee, consultant, contractor, or agent of a person, between (I) the date of the first transaction or occurrence named in the indictment or information that was the basis for conviction and (II) the date on which the convicted person ceases to be an officer, employee, consultant, contractor, or agent of such person.

"(2) AUTHORITY TO SUSPEND APPROVAL IN CASE OF DEBARMENT.—(A) Whenever any person, or any officer, employee, consultant, contractor, or agent of a person, has been debarred, pursuant to section 305, for fraud or false statements, or for bribing or coercing, or attempting to bribe or coerce, or otherwise improperly influencing or attempting to influence an officer, employee, or agent of the Department of Health and Human Services in connection with such person's application (as defined in section 305(k)(1)) for approval (as defined in section 305(k)(2)), except as provided in subsection (b), the Secretary may suspend, in accordance with subparagraph (B), approval of any or all applications of such person described in subparagraph (B).

"(B) After giving notice to the person of the proposed suspension, affording the person an opportunity to respond in writing, and advising the person of the opportunity for a hearing, the Secretary may suspend, for two years from the date of debarment, approval of any or all applications granted—

"(i) In the case of debarment of a person, between (I) the date of the first transaction or occurrence found to be part of the grounds for debarment and (II) the effective date of debarment, and

"(ii) In the case of debarment of an officer, employee, consultant, contractor, or agent of a person, between (I) the date of the first transaction or occurrence found to be part of the grounds for debarment and (II) the date on which the debarred person ceases to be an officer, employee, consultant, contractor, or agent of such person.

"(3) NO STAY PENDING HEARING.—Suspension of approval of an application pursuant to this section shall not be stayed pending the outcome of a hearing.

"(c) PUBLIC HEALTH WAIVER.—The Secretary may waive the suspension of approval under subsection (b)(1) with respect to any application where he finds that such waiver is necessary to protect the public health. The determination whether to waive the suspension of approval shall not be subject to administrative or judicial review.

"(d) WITHDRAWAL OF SUSPENSION.—

(1) GROUNDS FOR WITHDRAWAL.—The Secretary shall withdraw the suspension under subsection (b) of approval of an application of a person (including a person debarred under section 305)—

"(A) if the person files with the Secretary, at any time after the date of suspension, a new application for approval, and the Secretary determines that the application meets the conditions for approval; or

"(B) if the person demonstrates to the satisfaction of the Secretary that neither (i) the convicted or debarred person, nor (ii) any officer, employee, or agent of the Department of Health and Human Services whom the convicted or debarred person was found to have improperly influenced or attempted to influence, had any involvement with or control over such application; or

"(C) if the person files with the Secretary, on or after the date two years after the effective date of the suspension, a request that the Secretary withdraw the suspension of approval of the application, and the Secretary determines that the application meets the conditions for approval.

"(2) SECRETARY'S ACCESS TO RECORDS; COSTS OF DETERMINATION.—(A) A person seeking to obtain withdrawal of a suspension of approval of an application pursuant to paragraph (1)(B) shall, upon request of an officer or employee of the Secretary, permit such officer or employee at all reasonable times to have access to, and to copy and verify, all records of the person which the Secretary may need to review to determine whether the convicted or debarred person had any involvement with or control over such application.

"(B) The person shall reimburse the Secretary for all costs incurred in making a determination, in accordance with paragraph (1)(B), as to whether a suspension should be withdrawn, including any costs incurred for inspection of records pursuant to paragraph (A).

"(e) APPLICABILITY TO EVENTS PRIOR TO ENACTMENT.—The provisions of this section shall apply with respect to convictions and approvals of applications occurring prior to enactment of this section.".

AUTHORITY TO WITHDRAW APPROVAL OF APPLICATIONS INVOLVING THE EXERCISE OR ATTEMPTED EXERCISE OF IMPROPER INFLUENCE

SEC. 5. The Federal Food, Drug, and Cosmetic Act is amended by adding after section 306 the following new section:

"AUTHORITY TO WITHDRAW APPROVAL OF APPLICATIONS INVOLVING THE EXERCISE OR ATTEMPTED EXERCISE OF IMPROPER INFLUENCE

"SEC. 307. The Secretary shall withdraw approval (as defined in section 305(k)(2)) of an application (as defined in section 305(k)(1)), after due notice and opportunity for hearing to the applicant, if he finds that there are reasonable grounds to believe that the application was approved, expedited, or otherwise facilitated in whole or in part through bribery, coercion, or other exercise of improper influence, or that the application was the subject of attempted bribery, coercion, or other attempt to exercise improper influence.".

DISCLOSURE OF MATTERS BEFORE GRAND JURY

SEC. 6. The Federal Food, Drug, and Cosmetic Act is amended by adding after section 307 the following new section:

"DISCLOSURE OF MATTERS BEFORE GRAND JURY

"SEC. 308. (a) DISCLOSURE PERMITTED.—A person who is privy to grand jury information concerning a violation of this Act or any other Act administered by the Food and Drug Administration may disclose that information to an attorney for the government, or to identified personnel of the Department of Health and Human Services, for use in relation to any matter within the jurisdiction of the Food and Drug Administration.

"(b) DISCLOSURE DIRECTED UPON MOTION.—(1) Upon motion of an attorney for the government, a court may direct disclosure of matters occurring before a grand jury during an investigation of a violation of this Act or any other Act administered by the Food and Drug Administration to an attorney for the government, or to identified personnel of the Department of Health and Human Services, for use in relation to any matter within the jurisdiction of the Food and Drug Administration.

"(2) A court may issue an order under paragraph (1) upon a finding of a substantial need.

"(c) RESTRICTION ON USE OF DISCLOSED MATTER.—A person to whom matter has been disclosed under this section shall not use such matter other than for the purpose for which such disclosure was authorized.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'attorney for the government' has the meaning given such term in the Federal Rules of Criminal Procedure; and

"(2) the term 'grand jury information' means matters occurring before a grand jury other than the deliberations of the grand jury or the vote of any grand juror.".

EFFECT ON OTHER LAWS

SEC. 7. No provision of or amendment made by this Act shall preclude any other criminal or civil remedy provided under Federal or State law, including any private right of action against any person for the same action subject to any sanction or penalty under the provisions of this Act.

SEVERABILITY

SEC. 8. If any provision of or amendment made by this Act, or application thereof to any individual or circumstance, is held invalid, the invalidity shall not affect other provisions of or amendments made by this Act, or applications thereof, which can be given effect without regard to the invalid provision, amendment, or application, and to this end the provisions of this Act shall be severable.

FOOD, DRUG, AND DEVICE FRAUD AND ABUSE PREVENTION ACT OF 1990—SECTION-BY-SECTION SUMMARY

AUTHORITY TO DENY REVIEW OR APPROVAL OF APPLICATIONS

Section 2 of the draft bill redesignates sections 305, 306, 307, and 308 of the Federal Food, Drug, and Cosmetic Act (the Act) as sections 309, 310, 311, and 312, respectively, and adds a new section 305, entitled "Debarment; Denial of Review or Approval of Applications", to—

(1) authorize the Secretary to debar from involvement in the process for approval of products subject to regulation by the Food and Drug Administration (FDA) persons[1] who had committed certain acts, and

(2) require the Secretary to refuse to act on applications for approval for any of those products filed by a person that was itself debarred or that knowingly employed the services of a debarred person.

The provisions of section 305 are as follows:

Mandatory debarment

Section 305(a) requires the Secretary to debar any person convicted of a criminal offense in connection with the development or approval of any product subject to regulation by FDA.

Permissive debarment

Section 305(b) permits the Secretary to debar the following persons (including parents and subsidiaries of corporations):

(1) persons convicted, under Federal or State law, of a criminal offense related to any product or activity subject to regulation under the Act, any other act administered by FDA, or any State statute regulating the same types of products or activities;

(2) persons convicted, under Federal or State law, of a felony of bribery, fraud, perjury, false statement, racketeering, blackmail, extortion, falsification or destruction of records, or similar felony offense;

(3) persons convicted, under Federal or State law, of a criminal offense related to interference with or obstruction of the investigation of or prosecution of any criminal offense;

(4) persons found by the Secretary to have bribed or attempted to bribe, or induced or attempted to induce another person to bribe, any officer, employee or agent of the Department of Health and Human Services (HHS) in connection with any matter subject to regulation by FDA;

(5) persons found by the Secretary to have, through the use of threats, physical force, or intimidation, corruptly coerced or attempted to coerce any officer, employee, or agent of HHS, with the intention of interfering with the FDA's lawful discharge of its responsibilities;

(6) persons found by the Secretary knowingly to have made or caused to be made any false statement or representation with respect to a material fact relating to any matter subject to regulation by FDA to any officer, employee, or agent of HHS;

(7) persons found by the Secretary knowingly to have failed to disclose, to an officer or employee of HHS, a material fact which such person has an obligation to disclose relating to any matter subject to regulation by FDA; and

(8) persons found by the Secretary to have endangered the public health or safety through knowing violation of any statute or regulation administered by FDA.

NOTICE, PROPOSED EFFECTIVE DATE, PERIOD OF DEBARMENT, SUSPENSION PENDING RESOLUTION

Individual notice of proposed debarment, suspension

Section 305(c)(1) requires the Secretary, at least 60 days prior to debarring a person, to notify the person of the proposed debarment, the reasons for, proposed effective date, and minimum period of the debarment, and of the opportunity for a hearing under subsection (e) on the proposed debarment. If the person fails to request a hearing in accordance with subsection (e)(2), the debarment becomes effective on the proposed effective date. In connection with or subsequent to the notice of proposed debarment, the Secretary may suspend the person from involvement in the process for approval of product regulated by FDA, effective from issuance of the notice of suspension until final resolution of the proposed debarment.

Minimum period of debarment

Section 305(c)(2) requires the Secretary, in establishing the minimum period of debarment, to take into account the nature and seriousness of the offenses. In the case of debarments based on convictions, the minimum period may not be less than three years, may be established by the Secretary in regulations, and may be different with respect to different grounds for conviction.

Effective period of debarment

Section 305(c)(3) provides that any debarment shall become effective at such times and upon such reasonable notice to the public and to the person debarred as may be specified in regulations, and shall remain in effect unless terminated pursuant to subsection (g).

DENIAL OF REVIEW OF APPLICATIONS

Sanction

Section 305(d)(1) requires the Secretary, except as provided in paragraph (3), to refuse to accept, review, or approve any application (other than an application to amend or supplement a previously approved application which does not seek approval for a different or additional use) for approval of any product subject to regulation by FDA by a person that is debarred, or that employs, retains as a consultant or contractor, or otherwise uses another person that the person knows or should know is debarred, in any capacity in which such debarred person has or might have any control over or involvement with the development or application for approval of any such product.

Notice

Section 305(d)(2) requires the Secretary to notify a person sanctioned under paragraph (1) of the reasons for the determination to sanction, the effective date of the sanction and the period during which the sanction will remain in effect, and the opportunity for a hearing pursuant to subsection (e).

Public health waiver

Section 305(d)(3) authorizes the Secretary to waive application of the sanction under paragraph (1) with respect to any product, where he finds such waiver necessary to protect the public health. Determination whether to waive the sanction is committed to the Secretary's discretion, and is not within the scope of a hearing under subsection (e) of judicial review under subsection (f).

HEARING

Section 305(e) entitles any person that the Secretary proposes to debar, or that the Secretary has sanctioned, to a prompt hearing on the record, in accordance with regulations promulgated by the Secretary, with the right to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person. Paragraph (5) of this subsection provides that the effective date of debarment shall not be stayed pending judicial review under subsection (f), and that the effective date of sanction shall not be delayed pending the outcome of the hearing or of judicial review under subsection (f). Paragraph (6) authorizes the Secretary to combine in a single proceeding any debarment or sanction hearing under this section and any civil money penalty or suspension hearing afforded the same person or entity with respect to the same offense or offenses.

JUDICIAL REVIEW

Section 305(f) provides for review of an adverse determination in a hearing under subsection (e) by the United States Court of Appeals, with appeal to the Supreme Court. In such judicial review, the Secretary's findings of fact in the hearing would be conclusive, if supported by substantial evidence.

APPLICATION FOR TERMINATION OF DEBARMENT

Section 305(g) entitles a debarred person, at the end of the minimum period of debarment and at such other times as the Secretary may provide, to apply to the Secretary for termination of the debarment. The Secretary may terminate the debarment if he determines that there is no basis for its continuation, and that there are reasonable assurances that the actions forming the basis for the original debarment have not recurred and will not recur. The Secretary's decision whether to terminate a debarment would not be subject to administrative or judicial review.

LIST OF DEBARRED AND SANCTIONED PERSONS

Section 305(h) requires the Secretary to maintain and make available to the public a list, updated at least quarterly, of debarred persons who have received a notice pursuant to subsection (c)(1) (including the effective date and minimum period of debarment), and of persons subject to sanction.

REPORTING TO SECRETARY OF EVENTS SUBJECT TO DEBARMENT OR SANCTION

Reporting by person subject to sanction

Section 305(i)(1) requires any person that files with the Secretary an application for approval of any product subject to regulation by FDA to report to the Secretary (A) to the extent and at such intervals as the Secretary may require, such information as the Secretary may find necessary to enable him to determine whether the person has used, in any capacity that would subject such person to sanction under subsection (d), the services of any debarred person, and (B) within 30 days after gaining knowledge thereof, any information that could subject the person to sanction under subsection (d).

Reporting by person subject to debarment

Section 305(i)(2) requires any person used in any capacity described in subsection (d)(1)(B) to report to the Secretary, within 30 days after gaining knowledge thereof, any information that could subject such person to debarment under subsection (a) or (b).

[1] The Federal Food, Drug, and Cosmetic Act defines the term "person" to include an individual, partnership, corporation, and association.

APPLICABILITY TO ACTIONS PRIOR TO ENACTMENT

Section 305(j) provides that this section shall apply to acts or omissions which occurred prior to enactment of this section. This provision would permit the Secretary to debar persons from involvement in the FDA approval process for acts done before enactment of the bill. The sanction of refusal to act on applications for product approval could only be applied prospectively, to persons that were themselves debarred or that used a debarred person's services in connection with the FDA approval process after the debarment became effective.

DEFINITIONS

Section 305(k) provides that, with respect to this section and proposed sections 303(e) (concerning civil money penalties), 306 (concerning suspension of product approvals for convictions involving improper influence in the FDA approval process), and 307 (concerning withdrawal of product approvals involving improper influence)—

(1) the terms "application" and "application for approval" include—

(A) a petition pursuant to section 409(b) proposing the issuance of a regulation pursuant to section 409(c) with respect to a food additive,

(B) an application pursuant to subsection (b) or (j) of section 505 with respect to a new drug,

(C) an application for certification pursuant to section 507 of an antibiotic drug,

(D) an application pursuant to section 512(b) with respect to a new animal drug,

(E) a premarket notification pursuant to section 510(k) of intent to introduce into interstate commerce for commercial distribution a device intended for human use,

(F) an application for premarket approval pursuant to section 515 with respect to a class III device,

(G) a petition for the issuance of a regulation pursuant to subsection (b) or (c) of section 706 with respect to a color additive, or

(H) an application for licensing pursuant to section 351 of the Public Health Service Act with respect to biological product.

(2) The term "approval" includes—

(A) A regulation pursuant to section 409(c) with respect to a food additive,

(B) approval pursuant to subsection (b) or (j) of section 505 of an application with respect to a new drug,

(C) certification pursuant to section 507 of an antibiotic drug,

(D) approval pursuant to section 512(b) of an application with respect to a new animal drug,

(E) a determination pursuant to section 510(k) of substantial equivalence to another device,

(F) premarket approval pursuant to section 515 with respect to a class III device,

(G) a regulation pursuant to subsection (b) or (c) of section 706 with respect to a color additive, or

(H) a license pursuant to section 351 of the Public Health Service Act with respect to a biological product.

(3) a person is considered to have been "convicted" of a criminal offense (A) when a judgment of conviction has been entered by a Federal, State, or local court, regardless of whether an appeal is pending or the judgment or record has been expunged; (B) when a finding of guilt has been made by such court; (C) when a plea of guilty or nolo contendere has been accepted by such court; or (D) when the person has entered into an arrangement where judgment of conviction is withheld;

(4) the term "development", as used with respect to a product or substance subject to approval (as defined in paragraph (2)) by the Food and Drug Administration, includes all steps necessary to process or complete the application and secure its approval, including—

(A) designing of protocols for, and conduct of, scientific, medical, engineering, and any other research, experimentation, testing, and analysis (including animal research and preclinical and clinical trials) with respect to the product or substance or its precursors or component elements;

(B) designing and testing of manufacturing controls and procedures with respect to the product or substance;

(C) designing and preparation of packaging and labeling for the product or substance; and

(D) preparation of the application for approval, and of data or documentation supporting such application, and of any other data upon which the application or its approval is based; and

(5) the term "knowingly" means that a person has actual knowledge of information, or acts in deliberate ignorance or reckless disregard of the truth or falsity of the information.

CIVIL MONEY PENALTIES

Section 3 of the draft bill adds to section 303 of the Act a new subsection (e), providing as follows:

PENALTY

Section 303(e)(1) subject to a civil money penalty of not more than $100,000 per incident, in the case of an individual, and $5,000,000 per incident, in the case of any other person, in addition to any other penalties prescribed by law, any person that—

(A) knowingly makes or causes to be made, to any officer, employee, or agent of HHS, a false statement or representation with relation to a material fact in connection with an application for approval of any product;

(B) bribes or attempts to bribe, corruptly coerces or attempts to coerce, induces or attempts to induce any other person to bribe or coerce, or otherwise exerts or attempts to exert improper influence upon, any officer, employee, or agent of HHS in connection with any matter subject to regulation by FDA;

(C) destroys, alters, removes, or secretes, or procures the destruction, alteration, removal, or secretion of, any document or other evidence which is the property of or in the possession of HHS, for the purpose of interfering with HHS's discharge of its responsibilities in connection with any matter subject to regulation by FDA;

(D) knowingly fails to disclose, to an officer of employee of HHS, a material fact which the person has an obligation to disclose relating to any matter subject to regulation by FDA;

(E) knowingly obstructs an investigation of HHS into any matter subject to regulation by FDA;

(F) fails to report information required to be reported pursuant to section 305(i) (concerning events subject to debarment or sanction);

(G) has filed with the Secretary at any time an application for approval of any product, and which employs, retains as a consultant or contractor, or otherwise uses (in any capacity in which such person has or might have any control over or involvement with the development of or application with respect to any such product) the services of a person that the person knows or should know is debarred under section 305;

(H) is debarred, and provides services to a person described in subparagraph (G) that could subject such other person to sanction under section 305 or to civil money penalties under this section; or

(I) has endangered the public health and safety through knowing violation of any statute or regulation administered by FDA.

Considerations affecting amount of penalty

Section 303(e)(2) requires the Secretary, in determining the amount of any penalty under paragraph (1), to take into account the nature of the act subject to penalty, the degree of culpability, history of prior offenses, and financial condition of the person subject to penalty, and such other matters as justice may require.

Coordination with Department of Justice

Section 303(e)(3) requires the Secretary, before initiating a civil money penalty action under this subsection, to advise the Attorney General of his intent to do so, and to wait until either the Attorney General authorizes the Secretary to initiate the action, or until 60 days have elapsed without a decision by the Attorney General.

Procedural requirements; notice and hearing

Section 303(e)(4) provides that the Secretary may not initiate an action under this subsection with respect to any act subject to penalty later than (i) six years after the date on which the act took place, or (ii) three years after the date when material facts are known or should have been known by the Secretary (but not more than ten years after the act took place), whichever occurs last. This paragraph also provides that the Secretary shall not make a determination under this subsection without providing written notice and an opportunity for a hearing as provided in section 305(e).

Judicial review

Section 303(e)(5) provides for review of an adverse determination after a hearing as provided in section 305(f). The effective date of the civil money penalty would not be delayed pending the outcome of judicial review.

Reward to whistleblowers

Section 303(e)(6) authorizes the Secretary, in special circumstances and in his sole discretion, to award, to an individual (other than an officer or employee of the Federal Government) who provides information leading to the imposition of a civil penalty under this subsection, not more than the lesser of $100,000 or one half of the penalty so imposed and collected.

AUTHORITY TO SUSPEND APPROVALS OF PRODUCTS FOR CONVICTION OR DEBARMENT INVOLVING SUBVERSION OR ATTEMPTED SUBVERSION OF THE APPROVAL PROCESS

Section 4 of the draft bill adds after section 305 of the Act a new section 306, providing as follows:

Findings and purposes

Section 306(b)(1) declares Congress' findings that wrongful acts by or on behalf of persons regulated by FDA seeking to subvert the product approval process endanger the safety of and public confidence in the nation's food, drugs, and other regulated products, that where a person or its agent has been convicted of such acts it is likely that other such acts were committed but undetected, and that it is essential that the Secretary be able to suspend approval of all

products which may have been tainted by such improper acts.

Section 306(a)(2) declares the purpose of this section to authorize and require the Secretary to suspend FDA approval of any product which may have been tainted by such wrongful activity until he is satisfied that the approval was not so tainted or until he redetermines that the product nevertheless meets the conditions for approval.

Suspension authority

Section 306(b) requires the Secretary, upon conviction (and authorizes the Secretary, upon debarment) of a person or any officer, employee, consultant, contractor, or agent of a person, in connection with such person's application for FDA approval of a product, for fraud or false statements or for bribing or coercing, or attempting to bribe or coerce, or otherwise improperly influencing or attempting to influence an officer, employee, or agent of HHS, to suspend for two years from the date of conviction or debarment, as applicable, all applications (or, in the case of suspension based on debarment, any or all applications) of such person approved under such sections—

(i) in the case of conviction or debarment of a person, between (1) the date of the first transaction or occurrence named in the indictment or information that was the basis for the conviction (or found to be part of the grounds for debarment) and (2) the date of conviction (or debarment), and

(ii) in the case of conviction or debarment of an officer, employee, consultant, contractor or agent of a person, between (1) the date of the first transaction or occurrence named in the indictment or information that was the basis for the conviction (or found to be part of the grounds for debarment) and (2) the date on which such person ceases to be an officer, employee, consultant, contractor, or agent of such person.

The person would be given notice of the proposed suspension, afforded an opportunity to respond in writing, and advised of the opportunity for a hearing, but the suspension would not be stayed pending the outcome of the hearing.

PUBLIC HEALTH WAIVER

Section 306(c) authorizes the Secretary to waive the suspension under subsection (b)(1) with respect to any application where he finds such waiver necessary to protect the public health. The determination whether to waive suspension is within the Secretary's sole discretion, and is not subject to administrative or judicial review.

WITHDRAWAL OF SUSPENSION

Grounds for withdrawal

Section 306(d)(1) requires the Secretary to withdraw suspension of approval for a product either—

(A) if the concerned person files, at any time after the date of suspension, a new application for approval, and the Secretary determines that the application meets the conditions for approval,

(B) if the concerned person demonstrates to the Secretary's satisfaction that neither the convicted or debarred person nor any implicated HHS personnel had any involvement with or control over such application; or

(C) if the concerned person files, on or after the end of the two-year suspension period, a request for withdrawal of the suspension, and the Secretary determines that the application meets the conditions for approval.

Secretary's access to records; costs of determination

Section 306(d)(2) provides that a person seeking withdrawal of a suspension in accordance with paragraph (1)(B) must give the Secretary access to, and permit him to copy and verify, all records of the person which the Secretary may need to review to make the requested determination, and must reimburse the Secretary for all costs of making the determination, including costs for inspection of records.

Applicability to events prior to enactment

Section 306(e) provides that this subsection shall apply with respect to convictions and approvals of applications occurring prior to enactment of this subsection. (Since the affected applications would be suspended for two years from the date of conviction, the retroactive effect of this section is limited to cases where conviction occurred two years or less prior to enactment.)

AUTHORITY TO WITHDRAW APPROVAL OF APPLICATIONS INVOLVING THE EXERCISE OR ATTEMPTED EXERCISE OF IMPROPER INFLUENCE

Section 5 of the draft bill adds a new section 307 of the Act to require the Secretary to withdraw approval of an application (as defined in section 305(k)), after notice and opportunity for a hearing, where he finds reasonable grounds to believe that the application was approved, expedited, or otherwise facilitated through bribery, coercion, or other exercise of improper influence, or that the application was the subject of attempted bribery, coercion, or other exercise of improper influence.

DISCLOSURE OF MATTERS BEFORE GRAND JURY

Section 6 of the draft bill adds after section 307 of the Act a new section 308, providing as follows:

Disclosure permitted

Section 308(a) provides that a person privy to grand jury information concerning a violation of the Act or any other Act administered by FDA may disclose that information to an attorney for the government, or to identified HHS personnel, for use in relation to any matter within the jurisdiction of the Food and Drug Administration.

Disclosure directed upon motion

Section 308(b) authorizes a court, upon motion of an attorney for the government, to direct disclosure, to an attorney for the government or to identified HHS personnel, of matters occurring before a grand jury during an investigation of a violation of the Act or another act administered by FDA, for use in relation to any matter within FDA's jurisdiction.

Restriction on use of disclosed matter

Section 308(c) provides that a person to whom matter has been disclosed under this section shall not use such matter other than for the purpose for which disclosure was authorized.

Definitions

Section 308(d) defines "attorney for the government" as having the meaning given in the Federal Rules of Criminal Procedure, and defines "grand jury information" to mean matters occurring before a grand jury other than the deliberations of the grand jury or the vote of any grand juror.

EFFECT ON OTHER LAWS

Section 7 of the draft bill provides that no provision of or amendment made by the bill shall preclude any other criminal or civil remedy provided under Federal or State law, including any private right of action against any person for the same action subject to any sanction or penalty under the provisions of the bill.

SEVERABILITY

Section 8 of the draft bill provides that, if any provision of or amendment made by the bill (or application thereof) is held invalid, its invalidity shall not affect other provisions of or amendments made by the bill (or applications thereof) which can be given effect without regard to the invalid provision, amendment, or application.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2684. A bill to authorize a study of methods to protect and interpret the nationally significant fossil trackways found in the Robledo Mountains near Las Cruces, NM; to the Committee on Energy and Natural Resources.

PREHISTORIC TRACKWAYS STUDY ACT

● Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to study and protect a significant discovery of fossil trackways located near Las Cruces, NM. I am pleased to be joined by Senator DOMENICI in introducing this legislation.

Fossils provide a critical link to the past and allow scientists to explore the planet as it existed millions of years ago. Although fossils can be found around the world, only a few sites contain information which the scientific community considers significant. One such site has recently been discoverd in the Robledo Mountains near Las Cruces.

The significance of this find are the spectacular fossilized trackways of amphibians, reptiles, arthropods and insects made 280 millon years ago. The trackways are unique in length and include prints of animals previously known. This discovery has the attention of the scientific community which has confirmed the significance of the discovery.

Trackways are fossilized foot-hard prints which preserve a record of the activity of an animal during a portion of its life. Trackways reveal information on how the animal walked, length of their limbs, and the animal's feeding and social habits.

The trackways are also an important education tool. They provide a dramatic illustration of animal and plant life which once existed on Earth. Standing where an animal 12 feet long and weighing 600 pounds once walked is enough to stir the imagination in anyone, especially children. Allowing children to see fossils can only increase their interest in science and desire to learn more.

This legislation would direct the Secretary of the Interior to conduct a study of the fossil trackways to: determine the importance of the discovery; evaluate how to curate, display, and interpret the fossils found in the area; and recommend the proper adminis-

trative designation and agency for management of the site.

The legislation would also provide for an interim withdrawal of the area from operation of public land laws. The withdrawal would extend for 2 years after the conclusion of the study. This will assure that the area is protected until Congress can determine what permanent protection actions would be appropriate.

Similar legislation is being introduced in the House of Representatives by Congressman JOE SKEEN.

Mr. President, I urge my colleagues to support this important legislation.

I ask unanimous consent that the text of this bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prehistoric Trackways Study Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) fossils are important for scientific studies of prehistoric life on earth;

(2) lands administered by the Bureau of Land Management in the Robledo Mountains in New Mexico contain one of the most important fossil discoveries of the 20th century;

(3) discoveries have included prehistoric tracks of amphibians, reptiles, arthropods, and insects; extensive plant fossils; and clues to the weather and climate of the period;

(4) fossil footprints that form trackways help scientists recreate the environment and habitat that supported prehistoric life;

(5) nearly 100 trackways from the Permian Age have been uncovered in the Robledo Mountains;

(6) the trackways are over 280,000,000 years old, and they document the emergence of life from water to land;

(7) the trackways are unique in length and represent most taxonomic groups, including many prints of previously unknown animals;

(8) the trackways and other fossils are being lost for scientific study through unsupervised collecting and commercial quarrying; and

(9) the trackways and fossils found in the Robledo Mountains and surrounding areas should be evaluated for their potential protection and value for scientific interpretation and education.

(b) PURPOSES.—The purposes of this Act are—

(1) to require that a study be conducted to consider appropriate means to protect the discoveries and identify the scientific, interpretive, and public education values associated with these fossils; and

(2) to provide for interim protection of the fossils.

SEC. 3. INTERIM WITHDRAWAL OF THE SENDEROS PREHISTORICOS PROTECTION AREA.

(a) WITHDRAWAL.—The areas of important discoveries, consisting of approximately 40 acres, as depicted on the map described in subsection (b), are withdrawn from the operation of public land laws except for mineral leasing for not to exceed 2 years after conclusion of the study.

(b) MAP.—The withdrawal area is depicted on the map entitled "Prehistoric Trackways Protection Area", numbered and dated 1990, which shall be on file and available for public inspection in the New Mexico State Office of the Bureau of Land Management.

SEC. 4. STUDY AND REPORT.

(a) STUDY.—The Secretary of the Interior, in cooperation with State and local governments and institutions of higher education, shall conduct a study of the alternatives for the protection and interpretation of the fossil resoures of the Robledo Mountains.

(b) REPORT.—Not later than 1 year after the date that funds are made available for the study required by subsection (a), the Secretary of the Interior shall transmit the study of the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(c) CONTENTS OF STUDY.—(1) The study required by subsection (a) shall include an analysis of the importance of the discoveries at the site and an evaluation of the feasibility of developing a facility in New Mexico that would evaluate, curate, display, and interpret a portion of the fossils found in the area.

(2) The study required by subsection (a) shall recommend the proper administrative designation for the area and the agency that should be designated to manage the area.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.●

By Mr. D'AMATO:

S. 2685. A bill to provide for regulation of exports from the United States; to the Committee on Finance.

EXPORT PROMOTION AND CONTROL ACT

Mr. D'AMATO. Mr. President, for the first 150 years of its history, the United States imposed no controls on exports. This changed in 1940 in order to conduct economic warfare against the Axis powers in World War II. The controls were lifted after the war but reimposed with the arrival of the cold war.

Today, every export from the United States by any citizen requires express permission of the U.S. Government, sometimes on a blanket-approval basis, but most frequently under an individual license which must be sought by U.S. manufacturers on a case-by-case basis. No citizen has any right to export, except under such a license.

The world has changed. The United States no longer controls the world's technology. The national economy and the adverse trade balance have made exports a national priority. American companies face massive competition in world markets and also within the United States.

Even before the recent monumental changes in Eastern Europe, a panel organized by the National Academy of Sciences and other groups reported in 1987 that, in spite of these changes, the U.S. export control system has remained virtually unchanged since the 1940's. The panel reported that U.S. control policies and procedures are in danger now of overcorrecting in that they fail to promote both military security and economic vitality. The panel said that this system is complex and confusing and unnecessarily impedes U.S. high-technology exports to other countries of the free world.

Over the last 15 to 20 years the rising chorus of criticism against these unrealistic export restrictions has caused the Congress to attempt to reform the system on four separate occasions: 1979, 1983, 1985, and 1988. Unfortunately, these attempts have failed. An oversensitivity to national security claims has resulted in continued control of exports to the entire world of a vast number of commercial products, to the commercial detriment of numerous American companies.

Current controls are not limited to military products or to the so-called U.S. Munitions List: They apply to a mass of commercially produced items sold freely within the United States and in much of the outside world which are said to be dual use. Anything which can be used by the military, whether it is commercial or not, can be put on the list as a dual-use item.

The list of commercial products deemed to be dual use is so extensive that the control list has become a monstrosity. The NAS panel estimated that 40 percent of nonmilitary exports in 1985—approximately $62 billion—required an export license. Ninety percent of individual license applications covered exports to free world countries, not the East bloc. The panel concluded that roughly two-thirds of the license applications are for items sufficiently lacking in military importance that they may be shipped to the People's Republic of China without prior Cocom approval, and only about 13 percent are very sensitive items.

Past attempts to reform export controls have failed because exports are not treated as a right but only a privilege to be given by Government, or denied without explanation or recourse.

The decision as to whether products go on the list or not is made by the Federal Government. The exporting public has no right to participate in the decision. No published criteria exist for the determination whether a particular product will be controlled. A prior license for the same products to the same country is not relevant in determining whether a future license will be issued. Each case is decided separately from scratch, resulting in wholly unnecessary delays.

Our foreign competitors have no such problem. The Cocom agreements do not even apply to exports to free world countries.

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It is time to make a drastic change. Although some controls are necessary, most of the present controls are not. At least with respect to nonmilitary items shipped to the over 100 free world countries, exports must be promoted. The requirements for individual export licenses, administrative and procedural delays, and the confusion and uncertainty of the control system must be eliminated, and controls on such West-West trade can be justified only upon some reasonable showing by the administrative authorities that the products delivered to these free world countries in fact do create a significant national security risk.

Mr. President, today I am introducing the Export Promotion and Control Act of 1990. This measure will replace the existing export license regime instituted by the expiring Export Administration Act of 1979. The centerpiece of this legislation is its recognition of a fundamental right to export. The burden will be on the Government to make the case for export restrictions rather than on the exporter to make the case for export.

This measure will streamline the list of goods subject to license requirements to reflect current technological realities, by phasing out the current commodity control list and munitions list over an 18-month period; during which time a new, more narrow list will be established.

My bill will also help shorten the time required to obtain a license. By vesting final authority to grant or deny a license to the Secretary of Commerce, it will end the interagency jurisdictional squabble that marks the present process.

Mr. President, if American industry is to remain competitive as we move into the 21st century, we must eliminate barriers to trade that we impose on ourself. This is a timely measure that recognizes the imperatives of the new world within which we live. I urge my colleagues to join me in this endeavor.

Thank you, Mr. President.

Mr. President I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2685

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Export Promotion and Control Act of 1990".

(b) TABLE OF CONTENTS.—

TABLE OF CONTENTS

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Sec. 17. Termination date.
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FINDINGS

SEC. 2. The Congress makes the following findings:

(1) The ability of United States citizens to engage in international commerce is a fundamental concern of United States policy.

(2) Exports contribute significantly to the economic well-being of the United States and the stability of the world economy by increasing employment and production in the United States, and by earning foreign exchange, thereby contributing favorably to the trade balance. The restriction of exports from the United States can have serious adverse effects upon domestic employment and upon the balance of payments, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

(3) Development of the world economy and the industrial and technological capabilities of other nations, the creation of a world market for most products, and the need for American producers to compete effectively worldwide in order to maintain their technical and industrial capabilities, requires that current restrictions on exports be relaxed to the maximum extent consistent with protection against the existing Soviet Bloc military threat.

(4) Controls on exports to Soviet-Bloc nations which have been maintained since World War II and during the "Cold War" have contributed significantly to the national security of the United States, particularly during the early years of this period and, to the extent necessary to preserve the national security, the United States in conjunction with cooperating foreign nations should continue controls on exports of critical technologies and products which can be used by the Soviet Bloc to enhance its military capabilities or which disclose critical technologies not otherwise available to the Soviet Bloc.

(5) Controls as presently administered under existing laws have significantly retarded reasonable and necessary exports, reduced the worldwide competitiveness of American manufacturers and are now threatening the industrial base of the United States so as to seriously impair the long-term national security of the United States.

(6) Exports of most products to destinations other than the Soviet Bloc pose no significant national security risks in most instances and controls on such exports are on balance harmful to both national security and to the economy of the nation.

(7) Where similar products are available to the destination nation from other sources, control of exports for strategic and foreign policy purposes is not an effective means for achieving such purposes.

(8) Export controls to be effective must be applied cooperatively and equally by all potential producing and supplying nations. Unilateral controls imposed by the United States have little economic impact upon the country which is the object of such controls.

(9) Enhancement of exports is a national priority, and export controls and similar administrative obstacles to export should be eliminated, excepting only as continued controls are essential to achieve some overriding purpose which is clearly identified.

DECLARATION OF POLICY

SEC. 3. The Congress makes the following declarations of policy:

(1) Exports of goods and services by United States citizens are a national priority, exports should be encouraged to the maximum feasible extent, and the right to export shall be maintained except to the extent that restriction and controls are dictated by a clear national policy established by prescribed public legislative and administrative procedures.

(2) It is the policy of the United States to maintain controls on exports to Soviet-Bloc nations of critical technologies and products to the extent necessary to preserve the national security but to relax controls to the extent and at such times as national security permits.

(3) Exports outside the Soviet Bloc should be encouraged, and such exports should be permitted without licenses in most circumstances.

ELIMINATION OF EXCESSIVE LICENSE REQUIREMENTS

SEC. 4. (a) IN GENERAL.—All licensing requirements and other restrictions on exports imposed pursuant to the Export Administration Act of 1979, other pertinent statutes and agreements, and cooperative arrangements with other nations shall terminate 6 months after the effective date of this Act, except that—

(1) controls on technology transfers may be continued pursuant to section 5;

(2) exports to Soviet-Bloc nations designated as "controlled countries" shall be maintained as provided in section 6;

(3) controls in furtherance of designated foreign policies of the United States shall continue or may be established as provided in section 7; and

(4) controls on nuclear goods and technology shall be continued pursuant to section 11.

(b) CONTINUATION OF CONTROLS.—Notwithstanding the provisions of subsection (a) of this section, the Secretary of Commerce (hereinafter referred to in this Act as "the Secretary") may continue export controls heretofore maintained pursuant to the Export Administration Act of 1979 and the Arms Export Controls Act for a period not to exceed 18 months after the effective date of this Act pursuant to, and in accordance with, sections 5, 6, 7 and 8 of this Act.

(c) IEEPA AND OTHER POWERS.—Emergency powers of the President pursuant to the International Emergency Economic Powers Act shall continue subject to cooperative reviews and approvals as provided therein. The constitutional powers of the President are not affected by any provision of this Act.

PROTECTION OF CRITICAL TECHNOLOGIES

SEC. 5. (a) IN GENERAL.—In order to preserve the national security from development in controlled countries of weapons and other military devices, the Secretary shall maintain control on transfers of technol-

ogies and information as provided in this Act.

(b) TRANSITION RULE.—For a period of not more than 18 months after the effective date of this Act, controls may be maintained as previously established pursuant to the Export Administration Act of 1979 and the Arms Export Control Act to the extent necessary for national security to prevent transfers to Soviet-Bloc countries of militarily critical technologies, but within such period the Secretary shall replace such controls with regulations established in conformance with this section. The "Militarily Critical Technologies List" maintained and established pursuant to the Export Administration Act of 1979 may be applied on an interim basis for such 18-month period.

(c) REVIEW BOARD.—(1) Within 180 days after the effective date of this Act, the Secretary of Commerce, with the advice of the Secretaries of State, Defense, and Agriculture, the United States Trade Representative, and the Director of the National Science Foundation, shall establish a Critical Technologies Review Board in accordance with this subsection.

(2) The Review Board shall consist of no more than 9 members, at least 5 of whom shall be employed by the Federal Government, or have been so employed within 4 years. No more than two such members shall be, or have been within 4 years, employed within the Departments of State or Defense, and at least three members shall have been employed for no less than 4 years in a capacity related to exports by an American owned and controlled business corporation. The Secretary shall designate a Director of the Review Board who shall also serve as chairperson and shall submit the name of such designee to the respective chairpersons of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives at least 60 days before the date upon which the Board shall commence operations.

(3) Prior to the expiration of 18 months after the date of enactment of this Act, the Technology Review Board shall establish a "Technology Control List" which shall be utilized for control of technology exports as provided in this Act. Technologies shall be included on the Technology Control List only if—

(A) United States business organizations and universities, research laboratories and other American institutions have substantially exclusive knowledge and ability to utilize such technology, or

(B) all nations having access to such technology agree to inclusion on such list of such technology and have included such technology in a schedule or other document which imposes export controls on exports from such countries to controlled countries.

(d) USE OF LIST.—Export of products which incorporate any such technology included in the Technology Control List or which are produced by such technology and any data and technical information relating to such products shall be subject to controls only if (1) substantially identical controls are applied by all nations in the group known as the Coordinating Committee (hereinafter in this Act referred to as "COCOM"), and (2) the Secretary has determined that the national security of the United States will be significantly impaired because either—

(A) examination of the exported product, including examination by reverse engineering, will disclose such technology in a manner which permits its reproducibility, and such technology is not reasonably available to the Soviet Bloc because of such factors as small size, easy concealment and transportability and general availability of such product in the United States or in other nations, or

(B) the Secretary determines after open and objective proceedings that—

(i) use of such product by controlled countries will enhance significantly the military capabilities of the Soviet Bloc;

(ii) controlled countries cannot otherwise obtain such product; and

(iii) receipt by a controlled country of a single unit of such product will enhance such military capabilities significantly or the export when taken with other exports to controlled countries will result in receipt by controlled countries of a sufficient quantity of such products to be incorporated in or used effectively in connection with Soviet-Bloc military equipment.

EXPORTS TO CONTROLLED COUNTRIES

SEC. 6. (a) THE NATIONAL SECURITY EXPORT CONTROL LIST.—

(1) Commencing no later than 6 months after the effective date of this Act, control of exports of products, goods, materials, information and services from the United States, or by United States citizens, to controlled countries shall be governed by the provisions of this Act.

(2) Within 6 months after the effective date of this Act, the Secretary of Commerce with the advice and consent of the Secretary of Defense and the Secretary of State shall establish a National Security Control List (hereafter in this Act referred to as the "Control List") which shall identify the goods which shall be subject to export controls and shall supersede the United States Munitions List, except as provided in section 11 of this Act, the Commodity Control List established pursuant to the Export Administration Act of 1979 and any and all other lists of goods, commodities and materials maintained and utilized by the United States Government for regulation and control of exports.

(3) Except as otherwise provided in this section, the Control List shall consist of—

(A) a list or lists of items identical to the list or lists of items controlled for export by agreement of the group known as the Coordination Committee or "COCOM."

(B) goods presently included in the United States Munitions List which are not included in the COCOM lists, provided that such additional items shall be separately listed in the Control List and shall be included in the Control List for no more than one year after the date of enactment of this Act, except and unless such goods are expressly retained on the Control List pursuant to the provisions of paragraph (4) of this subsection.

(C) Additional goods included in the list pursuant to paragraph 4 of this subsection.

(4) The Secretary, in cooperation with the Director of the Critical Technologies Review Board established pursuant to section 5, the Secretary of Defense and the Secretary of State, shall review the United States Munitions List, the Commodity Control List, the Militarily Critical Technologies List and the Technology Control List to be established by the Review Board and shall further review any other information submitted for consideration and shall thereupon determine which goods shall be included in the Control List. In making such determination, the Secretary shall be governed by the following requirements:

(A) No item shall be included on the Control List which is not included in the COCOM lists unless—

(i) the Secretary has published in the Federal Register a notice proposing that such item be included in the Control List, allowing not less than 60 days for comment, and only after a public hearing if such hearing is requested by a United States producer of such item; and

(ii) the Secretary has reported to the chairperson of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that the item or items are proposed for inclusion on the Control List, and the Congress by joint resolution or otherwise has either approved such inclusion with respect to each such item or has taken no action with respect to such a report, or 90 days has elapsed, subsequent to such reports to the Congress.

(B) No item shall be included on the Control List unless the Secretary shall determine either—

(i) that export of the product creates a high probability that a technology listed on the Critical Technology Control List will be disclosed to a controlled country as a result of such export, or

(ii) the product itself is usable by a controlled country in a manner which will significantly enhance the military capabilities of a controlled country.

(C) In the event that certain goods which do not themselves disclose to any significant extent any controlled technology are usable in a manner to significantly enhance the military capabilities of controlled countries only when used in significant quantities, the Control List shall designate that exports of the item shall be controlled only for quantities in excess of a designated amount.

(5) In accordance with the provisions of this section, the Secretary shall establish and publish in the Federal Register the types of licenses provided for in section 10 of this Act which shall be applied to exports to controlled countries.

(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In administering export controls for national security purposes under this section, the President shall establish as a list of controlled countries those countries set forth in section 620(f) of the Foreign Assistance Act of 1961, except that the President may add any country to or remove any country from such list of controlled countries if he determines that the export of goods or technology to such country would or would not (as the case may be) make a significant contribution to the military potential of such country or a combination of countries which would prove detrimental to the national security of the United States. In determining whether a country is added to or removed from the list of controlled countries, the President shall take into account—

(1) the extent to which the country's policies are adverse to the national security interests of the United States;

(2) the country's Communist or non-Communist status;

(3) the present and potential relationship of the country with the United States;

(4) the present and potential relationship of the country with countries friendly or hostile to the United States;

(5) the country's nuclear weapons capability and the country's compliance record with respect to multilateral nuclear weapons agreements to which the United States is a party; and

(6) such other factors as the President considers appropriate.

Nothing in the preceding sentence shall be interpreted to limit the authority of the President provided in this Act to prohibit or curtail the export of any goods or technology to any country to which exports are controlled for national security purposes other than countries on the list of controlled countries specified in this paragraph. The President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors set forth in this paragraph.

(c) COCOM.—

(1) It is the intent of Congress that—

(A) except in the event of emergencies, or extraordinary circumstances as set forth in this Act, export controls shall be maintained only in cooperation with COCOM and such other countries as agree to conform to the rules and procedures of COCOM (hereinafter referred to as 5(k) countries as designated in the Export Administration Act of 1979); and

(B) the United States Government should negotiate with the governments of COCOM and 5(k) countries to establish, maintain and enforce exports to controlled countries of technologies and products which would enhance significantly the military or intelligence-gathering capacity of controlled countries; and

(C) except as otherwise expressly set forth in this section, exports shall not be prohibited, licensed or otherwise regulated, unless such goods are controlled by other COCOM and 5(k) countries to the same extent; and

(D) exports to COCOM and 5(k) countries shall not be subject to any licensing requirements or other controls on export or reexport, or any requirements imposed upon distributors or consignees.

(2) In consultation with the Secretaries of State, Defense and Agriculture and the Director of the Technology Review Board, the Secretary of Commerce shall determine separately which technologies and which products which are not subject to controls by other COCOM governments should be subject to export controls to controlled countries, and the President shall thereupon initiate negotiations with the governments of other COCOM and 5(k) countries with the objective of obtaining appropriate controls on exports of such items to controlled countries. The President shall report to the Congress at least quarterly with respect to the status of such negotiations and shall designate which nations have declined to initiate such controls and which have agreed to include such goods in the COCOM Control List.

(3) Within 6 months after the effective date of this Act, the President shall report to the Congress with respect to the enforcement policies and procedures employed by the governments of COCOM and 5(k) countries, including any deficiencies in such enforcement and shall describe in such report the efforts which have been made by the United States Government to improve enforcement by any governments where enforcement has been deficient.

(4) After 6 months after the effective date of this Act, the Secretary may not require a license or otherwise control the export of any good or technology to any country which maintains export controls on such goods and technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement with a 5(k) country.

FOREIGN POLICY CONTROLS

SEC. 7. (a) AUTHORITY.—The President may prohibit or curtail the exportation of any goods or technology subject to the jurisdiction of the United States, or exported by any persons subject to the jurisdiction of the United States, to the extent necessary to further significantly the foreign policy of the United States or to fulfill its international obligations, as set forth in this section of the Act. The authority granted by this section shall be exercised by the Secretary of Commerce, in consultation with the Secretary of State, the United States Trade Representative and such other departments and agencies as the Secretary considers appropriate and shall be implemented by means of export licenses issued by the Secretary.

(b) TERMINATION.—Any export control imposed under this section for foreign policy purposes shall be established with respect to specific countries designated by the President as set forth in subsection (c) of this section and shall expire with respect to each country and each purpose no later than one year after the authorization and designation. Foreign policy controls may be extended with respect to any country by law.

(c) PRESIDENTIAL DETERMINATION.—Prohibition, curtailment or regulation of exports for foreign policy purposes shall be authorized only if the President determines in writing that a foreign policy of the United States with respect to a designated nation or nations requires affirmative action by the United States Government.

(d) CRITERIA.—The Secretary shall publish in the Federal Register such determination and proposed regulations setting forth the prohibition, curtailment or regulatory action proposed to be taken to carry out the designated foreign policy objective with respect to the designated nation or nations and shall allow a period of not less than 30 days for public comment with respect thereto. Such publication in the Federal Register shall include a report by the Secretary, prepared in cooperation with the Secretary of State, the United States Trade Representative and other appropriate agencies of the government, which shall include the following:

(1) the specific policy problems, issues or objectives to which the proposed action is directed;

(2) the estimated foreign policy benefits which the proposed regulations are expected to provide;

(3) an evaluation of the adverse impact upon the economy of the United States and respective industries in the United States;

(4) specific actions which will be taken by the government to minimize any adverse impact and to alleviate the adverse effect upon the industry and individual business entities and employees;

(5) a description of the efforts of the United States Government to obtain cooperation from other countries, including a list of the nations which have agreed to take similar action; and

(6) the extent to which any goods or services, export of which will be prohibited, curtailed or regulated, will be available to each and all of the designated nations from the internal sources of such nations or from other nations.

(e) FOREIGN AVAILABILITY.—Controls under this section shall not be imposed, or further maintained, if a foreign availability determination has been made with respect to any products, goods or service pursuant to section 9 of this Act unless the Congress, after at least 60 days have been available for public comment, has expressly declared the necessity for such controls as applied to such products, goods or service and has approved establishment or continuance of such controls.

(f) NOTICE OF DENIAL.—Whenever the Secretary determines that an export license should be denied under this subsection, the Secretary shall promptly notify the applicant and specify in the notice to the applicant that the license would be denied under the authority contained in this subsection, and the reasons for such denial with reference to the criteria set forth in subsection (d) of this section. The Secretary shall also include in such notice what, if any, modifications in our restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls implemented under this section, and the Secretary shall indicate in such notice which officers and employees of the Departments of Commerce, State and Defense who are familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions, if appropriate.

(g) EFFECT ON OTHER LAWS.—Nothing in this Act shall be interpreted as—

(1) curtailing or modifying any authority of the President under the International Emergency Economic Powers Act; or

(2) curtailing or modifying any obligation of the United States or the treaty-making powers and authorities of the President.

(h) CONTRACT SANCTITY.—Under this section, the President may not prohibit or curtail any export or re-export made—

(1) in performance of a contract or agreement entered into before the date on which the President reported publicly his determination to impose controls, or

(2) under a validated license or other authorization issued under this Act,

unless and until the President determines and certifies to the Congress that—

(A) a breach of the peace poses a serious and direct threat to the strategic interests of the United States;

(B) the prohibition or curtailment of such contracts, agreements, licenses or authorizations will be instrumental in remedying the situation posing the direct threat; and

(C) the export controls will continue only so long as that direct threat persists.

(i) EFFECT ON PARTS OR COMPONENTS.—No controls imposed under this section shall apply to spare or replacement parts or components for products previously exported, or exported under existing contracts or licenses pursuant to subsection (h) of this section unless and until the President expressly makes such controls apply to such spare and replacement parts.

FREEDOM FOR EXPORTS TO NONCONTROLLED COUNTRIES

SEC. 8. (a) 18-MONTH PHASEOUT.—Within 18 months after the effective date of this Act, except as authorized by sections 5, 6, and 7 of this Act and this section, the Secretary shall discontinue controls on exports other than exports to controlled countries.

(b) PROCEDURES.—Within 4 months after the effective date of this Act, the Secretary shall put into effect the following procedures for eliminating export controls to noncontrolled countries, or conforming any

continuing controls to the requirements of this Act:

(1) The Secretary shall immediately initiate such action as may be necessary to determine whether any goods shall be subject to controls on exports to noncontrolled countries, taking into consideration the following criteria.

(A) the extent to which export of a product discloses to a significant extent a critical technology in a manner which permits the reproducibility of the product as determined pursuant to section 5.

(B) whether in reasonable anticipation the product could be diverted to controlled countries and, if so, whether the use of the products by controlled countries would significantly enhance the military or intelligence-gathering capability of such countries.

(C) whether export of the product can be permitted to noncontrolled countries under circumstances and in quantities involving no significant risk of diversion to controlled countries in quantities sufficient to enhance their military capabilities.

(D) the extent to which the products are available internally or from other sources to (i) controlled countries, (ii) COCOM and 5(k) countries, and (iii) other noncontrolled countries, and the extent to which any COCOM or 5(k) countries impose controls on export of such products to noncontrolled countries.

(2) Controls on exports of products to noncontrolled countries shall be eliminated on or before expiration of the 18-month period prescribed in subsection (a) of this section, except as controls are maintained for foreign policy purposes in accordance with section 7 of this Act or specifically identified products are made subject to controls pursuant to the procedures prescribed in this subsection and the criteria, conditions and limitations prescribed in subsection (c) of this section.

(c) NOTICE AND COMMENT.—(1) the Secretary shall publish in the Federal Register proposed regulations setting forth—

(A) specific criteria to be utilized in determining whether goods should be made subject to continuing controls,

(B) procedures for notifying producers and potential exporters before any product is subjected to any controls,

(C) the methods for conducting hearings to examine the specific reason for continuing controls on any product,

(D) identification of the decisionmaking officials or offices designated to make relevant decisions,

(E) the departments and agencies of government and the offices therein which will be consulted or will provide comments or advice on the issues, and

(F) procedures for appeal of any such decisions.

(2) A minimum of 60 days shall be allowed for comment concerning the regulations proposed pursuant to paragraph (1) of this subsection and, upon written request of two or more industry associations or 5 or more exporters, the Secretary shall conduct a public hearing in a manner sufficient to hear all relevant comments, answer all relevant questions and permit full public debate on the merit of such regulations and the necessity for the specific provisions thereof.

(3) Not less than 90 days before the effective date of any such regulations, and after the period for comment and any hearings held pursuant to this subsection, the Secretary shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives, setting forth the proposed regulations, describing the significant features thereof, outlining all the procedures taken pursuant to this subsection, describing the comments received and questions raised by the public and in any hearings and explaining what action the Secretary intends to take with respect thereto and the reasons for such action.

(d) NOTICE AND COMMENT.—The Secretary shall not impose or continue controls under this section on exports of any product or class or category of products unless the Secretary determines for each such product or class or category thereof, after public notices, hearings, and reporting to Congress in a manner which conforms to subsection (c) of this section, that—

(1) such export controls are essential for national security,

(2) imposition of such controls meets all of the following criteria:

(A) The products are not available to controlled countries as determined in compliance with section 9 of this Act.

(B) Export of the products to controlled countries are subject to controls under section 6 of this Act.

(C) The products are included in the list of products which are controlled by COCOM, and exports thereof to controlled countries are subject to effective and enforced export controls by other COCOM countries.

(D) The products are not available in noncontrolled countries as determined in compliance with section 9 of this Act, or, if available in some countries, that all such countries maintain and enforce effective controls of exports of the products to controlled countries (including diversion of such products received from the United States).

(E) A real risk exists of diversion of the exported products to controlled countries if exported in designated quantities to specified countries, and the controls will be applied only to exports to such countries in such quantities that successive shipments which might be diverted may be reasonably cumulated into amounts which are significant when cumulated.

(3) No reasonable and effective means are available, other than the proposed controls, for protecting the national security and preventing diversion of the products to controlled countries, and the controls are limited to the maximum feasible extent.

(4) Licenses have been made available to permit continuous shipments of products, including components, spare and replacement parts and technical data for installation, maintenance, service and operations, in compliance with section 10 of this Act.

(e) INCORPORATED GOODS.—Controls on exports to noncontrolled countries of goods customarily incorporated in, sold with or attached to assembled products, including components, subsystems, auxiliary equipment and replacement parts, shall be imposed only according to the procedures and after the determinations by the Secretary specified in subsections (c) and (d) of this section, and, in addition, only after the Secretary determines in accordance with the procedures and criteria set forth in such subsections that—

(1) even if such goods would otherwise be subject to controls because of such factors as the absence of foreign availability, denial of an export license is not likely to cause development and production of such goods in using nations; and

(2) controls on exports of such goods will not have a significant adverse effect upon American manufacturers of assembled products by reason of possible foreign development of the components; and

(3) the risk of diversion to controlled countries with a significant adverse effect upon national security exists with respect to the quantities and countries to which the proposed controls would apply.

(f) SALES AND OPERATING LITERATURE.—If any goods are exportable to noncontrolled countries without a license pursuant to this section or under a license pursuant to section 10, the Secretary shall permit export without a license, or additional license, of information and data applicable to such goods, such as manuals, sales brochures, performance specifications and application and operative software, necessary to inform potential customers as to the performance capabilities and competitive advantage of the goods and for installation, operation, maintenance, service, and repair, unless the Secretary determines in the manner and according to the criteria and procedures set forth in this section that export of such information and data to the designated country of destination will impair the national security of the United States.

(g) SEIZURE.—The authorities concerning enforcement of export control laws set forth in section 12 of this Act notwithstanding, the Customs Service shall not seize, nor may not detain for more than ten days, any goods which are cosigned to a noncontrolled country and which the Service has no credible evidence indicating that the goods will be diverted to a controlled country, if the Secretary has determined that such goods are eligible for export under a general license or under any other license issued pursuant to this section. If the Customs Service has seized or detained any shipment of goods or technology and is notified by the Secretary that such shipment or any part thereof may be exported under general license or any other license which is applicable to such shipment or such part thereof, the Customs Service shall release such shipment, or such part, within 5 days after such notification without application of any forfeiture of any property. In the event of any such seizure or detention, if the Secretary has determined that a portion of such shipment requires a validated or additional license, and such portion does not exceed 50 percent of the value of such shipment, the Customs Service shall, within 10 days after notice of such determination, allow the exporter to remove and ship the remaining portion of the goods which do not require any license or any additional license, and shall release the remaining portion within 5 days if and when a valid license is obtained for such portion, provided, however, that any such release shall not foreclose any remedies (other than forefeiture) which may be available to the service for violation of export control laws.

FOREIGN AVAILABILITY

SEC. 9. (a) IN GENERAL.—The Secretary may not require a validated license for, or otherwise control, export of any good or technology after 12 months from the effective date of this Act unless the Secretary has determined in accordance with this section that the good or technology is not, in fact, available to the country of destination from sources other than the United States.

(b) ELIMINATION OF LICENSING REQUIREMENT.—Except with respect to foreign availability determinations for controlled coun-

tries, upon certification by an exporter that it possesses credible evidence that a good or technology which is subject to a validated license or other license controlling exports is available in a designated country or generally in countries other than controlled countries from sources outside the United States, the Secretary shall eliminate the requirement for a license for such good or technology unless, within two months after receipt of such certificate the Secretary has reviewed such evidence, conducted an investigation, held open hearings and determined on the basis of identified credible evidence that—

(1) such good or technology is not available from any source other than the United States in reasonably comparable quantities and with generally comparable quality, or, if available from a COCOM or 5(k) country that the specific goods or technology are available to such country or countries pursuant to a validated license or other authorization from such country, and such country maintains controls on exports of such good or technology to the destination country or countries which are directly comparable to the United States controls, including without limitation comparability with respect to the criteria applied in issuing or denying a license, any qualifications on the license, control of the use or reexport of the good, or restrictions or obligations imposed upon the exporter, consignee or a foreign government relating to the good of technology;

(2) the good is not available in or to controlled countries;

(3) significant risk of diversion of the good to a controlled country exists;

(4) diversion of the good in the quantity to be exported to a controlled country would enhance significantly the military capabilities of such country;

(5) the export controls, procedures and restrictions required by the Secretary are reasonably likely to prevent acquisition of the good by a controlled country in an amount sufficient to endanger the national security of the United States;

(6) the Secretary has considered alternate means for protecting the national security other than controlling the export of the good; and

(7) the controls imposed by the Secretary on the export of the good constitute and encompass the minimum amount of control on such export which is necessary to preserve the national security.

(c) ANNUAL REVIEWS.—Within one year after the effective date of this Act, and at least once every year thereafter, the Secretary shall review the goods and technologies which are subject to United States export controls to determine whether or not each such good or technology is available in fact to controlled countries and to countries other than controlled countries from any source other than the United States or a country maintaining export controls comparable to those maintained by the United States as determined pursuant to the standards set forth in subsection (b)(1) of this section. The Secretary shall remove controls on exports of each item, or shall limit controls with respect to quantities, qualities, or other criteria specified by the Secretary, unless the Secretary determines, on the basis of such review, that the item is not available in fact to controlled countries as determined pursuant to the standard set forth in subsection (b)(1) of this section or, in case the Secretary continues to impose controls limited with respect to quantities or other criteria, that the items are not available in sufficient quantities or in other respects such that the continued controls are necessary to protect the national security of the United States.

(d) STANDARD.—The Secretary shall not determine that a good is not available in any country or countries unless the Secretary determines in accordance with the criteria and procedures set forth in subsection (f) of this section that, as a matter of fact, the good is not available in such country or countries and not available in countries other than countries maintaining export controls on the good comparable to United States controls as determined in accordance with subsection (b)(1) of this section.

(e) EVIDENCE.—If the Secretary receives any evidence that a good is available to a designated noncontrolled country or countries, the Secretary shall not determine that such good is not available to such country or countries unless the Secretary determines that such evidence is not credible because of contrary evidence and makes all the evidence available to the public. Evidence that only a limited quantity of the good is available to a country shall not be the basis for a determination that foreign availability does not exist unless the Secretary determines that additional exports from the United States to such country would significantly increase the risk of diversion of the good to controlled countries in a manner which would enhance significantly the military capabilities of a controlled country.

(f) CRITERIA.—Within 180 days after the effective date of this Act, the Secretary shall publish in the Federal Register the criteria proposed to be used in determining foreign availability both to controlled countries and to countries other than controlled countries and the procedures to be utilized in making and reviewing such determination. No criteria shall be utilized to determine that a good or technology is not available to a foreign country other than criteria set forth in this section or criteria adopted in accordance with this paragraph. Procedures for determining foreign availability shall include—

(1) notices of each proposed action, hearing and decision directed to each known producer and exporter of goods and technologies subject to controls on the good or technology;

(2) opportunity for such producers and exporters to present evidence to the decision making authority directly or at hearings;

(3) hearings, including an opportunity to challenge witnesses and other evidence;

(4) publication and notice to producers and exporters of the criteria and other basis for any determination and a summary of the evidence upon which the determination was predicated and any contrary evidence which was not found to be prevailing; and

(5) procedures for reconsideration of any determination that foreign availability does not exist, with appeal to the Secretary directly or to an independent review board established by the Secretary.

(g) REVIEW.—In the event that the Secretary finds that foreign availability of a good or technology does not exist, any producer or exporter of such good or technology may bring an action in the United States District Court for the District of Columbia to challenge the Secretary's findings and, in such action, the issue as to whether or not foreign availability exists as a matter of fact shall be subject to trial de novo.

LICENSES

Sec. 10. (a) NONCONTROL LIST GOODS.—Goods and information not included on the Control List shall not be subject to any license but shall be exported with declarations to the Customs Service equivalent to the procedures utilized under "G-Dest" licenses authorized by the Secretary under the Export Administration Act of 1979.

(b) TYPES OF LICENSES.—The types of licenses to be authorized by the Secretary shall include the following:

(1) a validated license authorizing a specific export issued pursuant to an application by the exporter which describes the products and the destination including both interim and ultimate consignees.

(2) a "multiple export license" issued pursuant to an application by the exporter in lieu of an individual validated license for each such export, for successive shipments of a product or class of related products, including spare parts, replacement parts and related equipment, relevant training, application and operating software, and technical data for installation, operation, service and repair, covering one or more of the following:

(A) goods and data to be supplied in successive shipments over a period of time on a single contract, extensions thereof, and maintenance, operation and repair contracts related thereto;

(B) equipment of various types as designated in the application and related information to be utilized in establishment of a manufacturing facility or in connection with a construction project.

(C) successive shipments to a single consignee or for a single project, not pursuant to a single contract, but to be supplied in individual orders over a period of time up to a maximum number of shipments for a specified number of months or years.

(3) a distribution license authorizing export of goods to approved distributors or users of the goods in countries other than controlled countries, except that the Secretary may establish a type of distribution license appropriate for consignees in the People's Republic of China or selected controlled countries other than the Soviet Union. The Secretary shall grant the distribution license primarily on the basis of the reliability of the applicant and foreign consignees with respect to the prevention of diversion of goods to specific controlled countries. The Secretary shall have the responsibility of determining, with the assistance of all appropriate agencies, the reliability of applicants and their immediate consignees. The Secretary's determination shall be based upon appropriate investigations of each applicant and reasonable periodic reviews of licensees and their compliance with the terms of licenses issued under this Act. Factors such as the applicant's products or volume of business, or the consignees' geographic location, sales distribution area, or degree of foreign ownership, which may be relevant with respect to individual cases, shall not be determinative in creating categories or general criteria for the denial of applications or withdrawal of a distribution license. Upon request of the applicant, any denial, revocation or threat of revocation by the Secretary shall entitle the applicant to a hearing.

(4) A comprehensive operations license, authorizing exports and reexports of technology and related goods from a domestic concern to and among its foreign subsidiaries, affiliates, joint venturers, and licensees

that have long-term, documented relationships with the exporter, are located in countries other than controlled countries (except the People's Republic of China), and are approved by the Secretary. The Secretary shall grant the license to manufacturing, laboratory, or related operations on the basis of approval of the exporter's systems of control, including internal proprietary controls, applicable to the technology and related goods to be exported rather than approval of individual export transactions. The Secretary and the Commissioner of Customs, consistent with their authorities, and with the assistance of all appropriate agencies, shall periodically, but not more frequently than annually, perform audits of licensing procedures under this subparagraph in order to assure the integrity and effectiveness of those procedures.

(5) a "general term license" to be applicable to a specific product or group or classification of related products, or technical data or software, for a designated country or countries in accordance with the following:

(A) an applicant for export to countries other than controlled countries may apply to the Bureau of Export Administration, Department of Commerce, for a license to export a designated product or group or classification of products and information for a term of three years, subject to termination by the Secretary as set forth in subsection D of this subsection.

(B) a general term license shall be issued by the Secretary unless the Secretary determines, after notice to the applicant and an opportunity for the applicant to present evidence and have a public hearing and states the reasons for such determination, that export of the products to the destination would adversely affect the national security of the United States or a foreign policy objective established pursuant to section 7 of this Act.

(C) a general term license shall not be denied for any reason not stated and not identified by the Secretary pursuant to subparagraph (B) or because of the belief or possibility that conditions and circumstances may change or that other and significantly different facts or objectives may arise or be discovered in the future.

(D) a general term license issued pursuant to this subsection may be terminated prior to expiration of the term of such license if the Secretary determines that continuation of such license endangers the national security and no longer meets the criteria established for such licenses. The Secretary shall notify the holder of such license of any proposed termination and shall hold a hearing upon request to review such termination.

(E) irrespective of whether or not components of such a product may be included in the Control List or otherwise be subject to export controls, export of such components and materials as spare parts or replacement parts, or for inclusion in an inventory of spare or replacement parts to be maintained in the destination country, shall be included in the general term license, and determination as to the extent of any necessary control over exports of such components separate from export of the assembled product shall be made at the time of action upon the application for the general term license.

(F) export of information, such as manuals, application and operative software, and other information for installation, training, maintenance, service, repair and operation of products shall be included within the general term license, and any necessary control of such items shall be determined as a part of the action with respect to the general term license.

(c) ADVISORY OPINIONS.—(1) In order to facilitate the conduct of business overseas by United States exporters, the Secretary shall establish a procedure to provide an exporter with an advisory opinion or a commitment for the issuance of a license prior to the submission of the application for an export license under this Act. All advisory opinions and commitments for the issuance of a license shall be made by the Secretary, subject to the procedures provided in this subsection.

(2) Within 15 days after the date on which an exporter submits a request to the Secretary for an advisory opinion or commitment for the issuance of a license pursuant to subsection (c)(1), the Secretary shall notify the exporter of the advisory opinion or commitment for the issuance of a license. The notification shall include information on the following:

(A) whether the export would be approved in its present form, and if not, the specific information or modifications necessary to cause the export to be approved; and

(B) the number of days that would be required to process the application and issue an export license.

(d) PRECEDENT.—Prior issuance of a license for the same good for the same country or group of countries shall constitute a precedent for the issuance of further licenses as provided in this subsection.

(1) the Secretary shall issue a license within 5 days after filing of an application if a license has been issued within 2 years previously for the same good for the same country or group of countries unless the Secretary determines, or has previously determined, that changes or differences in the circumstances require more restrictive controls, in which case the Secretary shall publish in the Federal Register the criteria for such determination.

(2) Within one year after the effective date of this Act, the Secretary shall establish procedures to eliminate case-by-case evaluation of applications for export licenses and to create an export licensing system whereby producers and exporters can obtain reliable information as to the exportability of

(A) a good or technology to identified countries;

(B) prior licenses which can serve as a precedent for issuance of a license; and

(C) The criteria to be applied by the Secretary in acting upon license applications.

(3) The Secretary shall establish a register of licenses which have been issued, indexed by country and item, in order to facilitate determination by the Secretary of prior licenses, commitments or advisory opinions which will serve as a precedent for prompt issuance of licenses for the same or similar goods to the same or similar destinations.

(4) At least once during each three-month period, the Secretary shall review the register established pursuant to subparagraph (3) of this paragraph to determine whether goods on the Control List should be decontrolled.

CONTROL OF MUNITIONS, MISSILES, CHEMICAL WEAPONS, BIOLOGICAL WEAPONS, AND NUCLEAR GOODS AND TECHNOLOGY

SEC. 11. (a) IN GENERAL.—All controls on exports of technology, including technology relating to missiles and components and auxiliary and other equipment related thereto, chemical weapons, biological weapons, and nuclear technology, shall be controlled solely as set forth in section 5 of this Act, except that the Secretary shall consult with and receive advice and comments from the Department of Energy with respect to nuclear technology to be included on the Technology Control List established pursuant to subsection (e) of section 5 of this Act.

(b) EXCLUSIVENESS.—All goods subject to export controls, including munitions, so-called "dual-use," missile and nuclear goods, and goods subject to licensing requirements under the Arms Export Control Act, shall be controlled only pursuant to this Act, subject to the provisions of subsection (c) of this section.

(c) USE OF MUNITIONS LIST.—The United States Munitions list of items designated as defense articles and defense services shall be maintained to the extent necessary by the Secretary of State in consultation with the Secretary of Defense, and shall be utilized by the Secretary to the extent applicable in administration of sections 5, 6, 7 and 8 of this Act in accordance with the following requirements:

(1) The United States Munitions List shall be revised to include only weapons, instruments of death or destruction and items developed under contract with the United States Department of Defense or by allied governments in cooperation with the Department of Defense for direct military purposes.

(2) Munitions list items may be included on the Control List established pursuant to section 6 of this Act to the extent that any such inclusion complies with the requirements of section 6 and if so included may be subject to export controls under that section.

FOREIGN BOYCOTTS

SEC. 12. (a) PROHIBITIONS AND EXCEPTIONS.—(1) The President shall issue regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary.

(E) Furnishing information about whether any person is a member of, has made contribution to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotted country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipment as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such regulations.

(3) Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust, or civil rights laws of the United States.

(5) This section shall apply to any transaction or activity undertaken, by or through a United States person or any other person, with intent to evade the provisions of this section as implemented by the regulations issued pursuant to this subsection, and such regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b) FOREIGN POLICY CONTROLS.—(1) In addition to the regulations issued pursuant to subsection (a) of this section, regulations issued under section 7 of this Act shall implement this section.

(2) Such regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in subsection (a) shall report that fact to the Secretary, together with such other information concerning such request as the Secretary may require for such action as the Secretary considers appropriate for carrying out the policies of that section. Such person shall also report to the Secretary whether such person intends to comply and whether such person has complied with such request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary, considers appropriate for carrying out this section.

(c) PREEMPTION.—The provisions of this section and the regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, or any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

ENFORCEMENT

SEC. 13. (a) GENERAL AUTHORITY.—(1) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the Export Administration Act of 1969, or the Export Administration Act of 1979, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations within the United States, and the Commissioner of Customs (and officers or employees of the United States Customs Service specifically designated by the Commissioner) may make such investigations outside of the United States, and the head of such department or agency (and such officers or employees) may obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpena issued to, any such person, a district court of the United States, after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof. In addition to the authority conferred by this paragraph, the Secretary (and officers or employees of the Department of Commerce designated by the Secretary) may conduct, outside the United States, pre-license investigations and post-shipment verifications of items licensed for export, and investigations in the enforcement of section 8 of this Act.

(2)(A) Subject to subparagraph (B) of this paragraph, the United States Customs Service is authorized, in the enforcement of this Act, to search, detain (after search), and seize goods or technology at those ports of entry or exit from the United States where officers of the Customs Service are authorized by law to conduct such searches, detentions, and seizures, and at those places outside the United States where the Customs Service, pursuant to agreements or other arrangements with other countries, is authorized to perform enforcement activities.

(B) An officer of the United States Customs Service may do the following in carrying out enforcement authority under this Act:

(i) Stop, search, and examine a vehicle, vessel, aircraft, or person on which or whom such officer has reasonable cause to suspect there are any goods or technology that has been, is being, or is about to be exported from the United States in violation of this Act.

(ii) Search any package or container in which such officer has reasonable cause to suspect there are any goods or technology that has been, is being, or is about to be exported from the United States in violation of this Act.

(iii) Detain (after search) or seize and secure for trial any goods or technology on or about such vehicle, vessel, aircraft, or person, or in such package or container, if

such officer has probable cause to believe the goods or technology has been, is being, or is about to be exported from the United States in violation of this Act.

(iv) Make arrests without warrant for any violation of this Act committed in his or her presence or view or if the officer has probable cause to believe that the person to be arrested has committed or is committing such a violation.

The arrest authority conferred by clause (iv) of this subparagraph is in addition to any arrest authority under other laws. The Customs Service may not detain for more than 20 days any shipment of goods or technology eligible for export under a general license under section 4(a)(3). In a case in which such detention is on account of a disagreement between the Secretary and the head of any other department or agency with export license authority under other provisions of law concerning the export license requirements for such goods or technology, such disagreement shall be resolved within that 20-day period. At the end of that 20-day period, the Customs Service shall either release the goods or technology, or seize the goods or technology as authorized by other provisions of law.

(3)(A) Subject to subparagraph (B) of this paragraph, the Secretary shall have the responsibility for the enforcement of section 8 of this Act and, in the enforcement of the other provisions of this Act, the Secretary is authorized to search, detain (after search), and seize goods or technology at those places within the United States other than those ports specified in paragraph (2)(A) of this subsection. The search, detention (after search), or seizure of goods or technology at those ports and places specified in paragraph (2)(A) may be conducted by officers or employees of the Department of Commerce designated by the Secretary with the concurrence of the Commissioner of Customs or a person designated by the Commissioner.

(B) The Secretary may designate any employee of the Office of Export Enforcement of the Department of Commerce to do the following in carrying out enforcement authority under this Act:

(i) Execute any warrant or other process issued by a court or officer of competent jurisdiction with respect to the enforcement of the provisions of this Act.

(ii) Make arrests without warrant for any violation of this Act committed in his or her presence or view, or if the officer or employee has probable cause to believe that the person to be arrested has committed or is committing such a violation.

(iii) Carry firearms in carrying out any activity described in clause (i) or (ii).

(4) The authorities first conferred by the Export Administration Amendments Act of 1985 under paragraph (3) shall be exercised pursuant to guidelines approved by the Attorney General.

(5) All cases involving violations of this Act shall be referred to the Secretary for purposes of determining civil penalties and administrative sanctions under section 11(c) of this Act, or to the Attorney General for criminal action in accordance with this Act.

(6) The Secretary, with the concurrence of the Secretary of the Treasury, shall publish in the Federal Register procedures setting forth, in accordance with this subsection, the responsibilities of the Department of Commerce and the United States Customs Service in the enforcement of this Act. In addition, the Secretary, with the concurrence of the Secretary of the Treasury, may publish procedures for the sharing of information in accordance with subsection (c)(3) of this section, and procedures for the submission to the appropriate departments and agencies by private persons of information relating to the enforcement of this Act.

(7) For purposes of this section, a reference to the enforcement of this Act or to a violation of this Act includes a reference to the enforcement or a violation of any regulation, order, or license issued under this Act.

(b) IMMUNITY.—No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of section 6002 of title 18, United States Code, shall apply with respect to any individual who specifically claims such privilege.

(c) CONFIDENTIALITY.—(1) Except as otherwise provided by the third sentence of section 8(b)(2) and by section 11(c)(2)(C) of this Act, information obtained under this Act on or before June 30, 1980, which is deemed confidential, including Shippers' Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest. Information obtained under this Act after June 30, 1980, may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act shall be withheld from public disclosure unless the release of such information is determined by the Secretary to be in the national interest. Enactment of this subsection shall not affect any judicial proceeding commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act had not been enacted.

(2) Nothing in this Act shall be construed as authorizing the withholding of information from the Congress or from the General Accounting Office. All information at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon request of the chairman or ranking minority member of such committee or subcommittee. No such committee or subcommittee, or member thereof, shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding of that information is contrary to the national interest. Notwithstanding paragraph (1) of this subsection, information referred to in the second sentence of this paragraph shall, consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, as determined by the agency that originally obtained the information, and consistent with the provisions of section 716 of title 31, United States Code, be made available only by that agency, upon request, to the Comptroller General of the United States or to any officer or employee of the General Accounting Office who is authorized by the Comptroller General to have access to such information. No officer or employee of the General Accounting Office shall disclose, except to the Congress in accordance with this paragraph, any such information which is submitted on a confidential basis and from which any individual can be identified.

(3) Any department or agency which obtains information which is relevant to the enforcement of this Act, including information pertaining to any investigation, shall furnish such information to each department or agency with enforcement responsibilities under this Act to the extent consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities. The provisions of this paragraph shall not apply to information subject to the restrictions set forth in section 9 of title 13, United States Code; and return information, as defined in subsection (b) of section 6103 of the Internal Revenue Code of 1954, may be disclosed only as authorized by such section. The Secretary and the Commissioner of Customs, upon request, shall exchange any licensing and enforcement information with each other which is necessary to facilitate enforcement efforts and effective license decisions. The Secretary, the Attorney General, and the Commissioner of Customs shall consult on a continuing basis with one another and with the heads of other departments and agencies which obtain information subject to this paragraph, in order to facilitate the exchange of such information.

(d) REPORTING REQUIREMENTS.—In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

(e) SIMPLIFICATION OF REGULATIONS.—The Secretary, in consultation with appropriate United States Government departments and agencies and with appropriate technical advisory committees established under section 5(h), shall review the regulations issued under this Act and the commodity control list in order to determine how compliance with the provisions of this Act can be facilitated by simplifying such regulations, by simplifying or clarifying such list, or by any other means.

EFFECT ON OTHER ACTS

SEC. 14. (a) IN GENERAL.—Except as otherwise provided in this Act, nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) COORDINATION OF CONTROLS.—The authority granted to the President under this Act shall supersede in such manner as the President may prescribe the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(c) CIVIL AIRCRAFT EQUIPMENT.—Notwithstanding any other provision of law, any product (1) which is standard equipment certified by the Federal Aviation Administration, in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under this Act. Any such product shall not be subject to controls

under section 38(b)(2) of the Arms Export Control Act.

(d) NONPROLIFERATION CONTROLS.—This Act shall not be construed to supersede the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

(e) TERMINATION OF OTHER AUTHORITY.—On October 1, 1979, the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611-1613d) is superseded.

(f) AGRICULTURAL ACT OF 1970.—Nothing in this Act shall affect the provisions of the last sentence of section 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3).

AUTHORIZATION OF APPROPRIATIONS

SEC. 15. (a) REQUIREMENT OF AUTHORIZING LEGISLATION.—(1) Notwithstanding any other provisions of law, money appropriated to the Department of Commerce for expenses to carry out the purposes of this Act may be obligated or expended only if—

(A) the appropriation thereof has been previously authorized by law; or

(B) the amount of all such obligations and expenditures does not exceed an amount previously prescribed by law.

(2) To the extent that legislation enacted after the making of an appropriation to carry out the purposes of this Act authorizes the obligation or expenditure thereof, the limitation contained in paragraph (1) shall have no effect.

(3) The provisions of this subsection shall not be superseded except by a provision of law enacted after the date of the enactment of the Export Administration Amendments Act of 1985 which specifically repeals, modifies, or supersedes the provisions of this subsection.

(b) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act such sums as may be necessary.

DEFINITIONS

SEC. 16. As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term "good" means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, and excluding technical data;

(4) the term "technology" means the information and knowhow (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves;

(5) the term "export" means—

(A) an actual shipment, transfer, or transmission of goods or technology out of the United States;

(B) a transfer of goods or technology in the United States to an embassy or affiliate of a controlled country; or

(C) a transfer to any person of goods or technology either within the United States or outside of the United States with the knowledge or intent that the goods or technology will be shipped, transferred, or transmitted to an unauthorized recipient;

(6) the term "controlled country" means a controlled country under section 6 of this Act;

(7) the term "United States" means the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and

(8) the term "Secretary" means the Secretary of Commerce.

EFFECTIVE DATE

SEC. 17. This Act shall take effect upon the expiration of the Export Administration Act of 1979.

TERMINATION DATE

SEC. 18. The authority granted by this Act terminates on September 30, 2000.

SAVINGS PROVISIONS

SEC. 19. (a) IN GENERAL.—All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under the Export Control Act of 1949, the Export Administration Act of 1969, or the Export Administration Act of 1979, and which are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act.

(b) ADMINISTRATIVE PROCEEDINGS.—This Act shall not apply to any administrative proceedings commenced or any application for a license made, under the Export Administration Act of 1979, which is pending at the time this Act takes effect.

EXPORT PROMOTION AND CONTROL ACT—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The Export Promotion and Control Act of 1990.

SECTION 2. FINDINGS

Sets forth as findings of Congress that international commerce is a fundamental concern of the United States. Controls on exports to the Soviet Union and potential enemies should be maintained, and exports to the rest of the world should not be restricted, except as truly necessary for the national security. Exports are essential to preserve the industrial base of the United States, both for economic reasons and for long-term national security.

SECTION 3. DECLARATION OF POLICY

Declares as the policy of the United States that exports are a national priority. That although controls on exports to potential enemy countries should continue and short-term controls for foreign policy purposes may be appropriate as determined by the President and Congress, exports to Free World countries should normally be permitted without licenses.

SECTION 4. ELIMINATION OF EXCESSIVE LICENSE REQUIREMENTS

Eliminates most licensing requirements for exports to most of the world. Controls are maintained as provided in succeeding sections of the Act which would treat separately technology controls (Section 5), exports to "controlled countries" (Section 6), foreign policy controls (Section 7) and exports to non-controlled (Free World) countries (Section 8). The Act recognizes that the President retains power to impose export controls during emergencies pursuant to the International Emergency Economic Powers Act (IEEPA).

SECTION 5. PROTECTION OF CRITICAL TECHNOLOGIES

Continues control on critical technologies which should not be transferrable to the Soviet Union and other controlled countries. Establishes a distinction between controls on a technology itself and export controls on products which may have been produced by use of such technologies but where export of the product itself does not create a realistic security risk, either because the product itself is realistically not military. A Technology Review Board is established with broad representation of government and industry designed to eliminate dominance by any individual agencies of the Federal Government. The Review Board is directed to establish a new Technology Control List.

SECTION 6. EXPORTS TO CONTROLLED COUNTRIES

Existing controls under the Commodity Control List and the Munitions List (ITAR) are continued for up to 18 months, during which time a new Control List shall be established. The National Security Control List will supersede existing lists and will be administered by the Secretary of Commerce and shall be the only export control list except for a limited list of true weapons as set forth in Section 11. The new list is limited to goods and technologies on lists maintained by the cooperating countries known as "COCOM" unless the Secretary of Commerce, in consultation with the Secretary of State and Defense, includes other items following procedures for publications in the Federal Register, notice to Congress and a determination of a high probability that export of a product will enhance Soviet Bloc military capabilities. This section also declares the intent of Congress that export controls should be maintained cooperatively with other countries, rather than unilaterally by the United States. It directs the President to seek cooperation by COCOM and other countries to maintain and enforce appropriate controls on exports to the Soviet Bloc. Reports to Congress of these negotiations are required.

SECTION 7. FOREIGN POLICY CONTROLS

Foreign policy controls may be established and maintained for one year with respect to specific foreign policy objectives and specific foreign countries. Sets forth procedural requirements for public notice, giving an extensive evaluation of the objectives, proposed benefits and a description of governmental efforts to obtain cooperation from other countries. Requires an evaluation of the adverse effect upon the U.S. economy and announcement of specific actions the Federal Government will take to alleviate the impact upon the economy and companies and their employees.

SECTION 8. FREEDOM FOR EXPORTS TO NON-CONTROLLED COUNTRIES

1. Establishes a general presumption that exports to non-controlled countries should be free from controls after 18 months unless the Secretary determines that identified products should be subject to export controls as applied to designated countries. The

Secretary is directed to propose regulations and publish specific criteria for making the determination. Upon request, the Secretary shall conduct public hearings and shall report the results to the Congress.

2. Exports to COCOM and 5(k) countries having export control agreements with the United States would be license-free, with no controls on reexport or regulation of distributors or consignees.

3. Establishes that the Secretary shall not impose controls on exports to Free World countries unless foreign availability does not apply, the products are controlled by COCOM countries, and a real risk exists of diversion to controlled countries.

4. Controls are limited for components normally included in or sold with assembled products, auxiliary equipment and replacement parts and for sales brochures, operation and service manuals and application software. The Secretary must determine whether denial of an export license for components (such as semiconductors) is likely to cause development and production of such goods in using nations. Revisions of customs service procedures relating to seizure and detention are also included.

SECTION 9. FOREIGN AVAILABILITY

Provides generally that if foreign availability exists as a fact, exports to non-controlled countries will be permitted without license. A United States producer who submits evidence of foreign availability or certifies that credible evidence exists may request a hearing. Detailed procedures are included and designed to require the government to demonstrate a real national security need for controls where evidence is presented to indicate that equivalent products are available in foreign countries from non-U.S. sources. The American exporter may appeal an adverse decision of foreign availability to the Federal District Court which shall determine the issue de novo.

SECTION 10. TYPES OF LICENSES

This section provides that products not included on the Control List shall not be subject to license but shall be exported with declarations equivalent to the current "G-Dest" licenses. Where items are on the Control List, available licenses shall include, in addition to the existing validated distribution and comprehensive operations license, the following additional licenses:

(1) a multiple export license for successive shipments of products (including spare parts and related equipment and installation and operational data) relating to a single contract, to establish a facility or in connection with a construction project, to a single consignee or for a single project; and

(2) a general term license for a term up to 3 years for a designated product or category of products for designated countries. This would allow unrestricted shipments of such products during the three-year term to any cosignees in the designated nations without controls on the cosignee. The license would be revocable by the Secretary for cause.

SECTION 11. CONTROL OF MUNITIONS, MISSILE AND NUCLEAR GOODS AND TECHNOLOGY

This section is a conforming section to designate the Secretary of Commerce as the sole authority for licensing of technology, munitions and auxiliary equipment. Provides for continuation of the United States Munitions List to be utilized in administering controls under this Act. The Munitions List is limited to truly military items, such as weapons of death and destruction.

Additional sections

A variety of provisions of the Export Administration Act relating to foreign boycotts, enforcement and other matters are preserved, in addition to conforming amendments with respect to various other statutes, including the Arms Export Control Act and nuclear regulation. 90[S24MY0-T2]{S7023}egulation.

By Mr. DURENBERGER:

S. 2686. A bill to amend title XIX of the Social Security Act to provide Medicaid coverage for personal care services outside the home; to the Committee on Finance.

COVERAGE OF PERSONAL CARE SERVICES OUTSIDE THE HOME

Mr. DURENBERGER. Mr. President, I rise to introduce legislation that would affirm the intent of Congress concerning the provision of personal care attendant services to disabled Medicaid beneficiaries.

As a result of my cochairmanship of the Pepper Commission, I have gained particular insight into the importance of maintaining severely disabled citizens in the setting of their own homes. The alternative to home care is placement in a nursing home, which robs the disabled individual of dignity and may, in fact, be more costly to society, since family members provide much of the assistance at home.

A substantial number of severely disabled Medicaid beneficiaries in this country receive extra help from specially trained paramedical personnel called personal care attendants. Personal care attendants are paraprofessionals who are supervised by registered nurses; they cannot be members of the disabled individual's family. Personal care attendants provide living assistance for the disabled and also assist with managing their medical conditions. An example of a common service performed by a personal care attendant is airway suctioning of disabled individuals with tracheostomies and ventilators. Quite often, personal care attendants assist disabled individuals who are young. Many of these young disabled individuals would like to improve themselves by attending school, and by contributing to the economy by working at least part time; they would also like to perform such basic social activities as shopping for themselves, or going to public events. To accomplish this, it is necesary for the disabled individual, and hence a personal care attendant, to be able to temporarily travel outside the four walls of the home.

It was therefore disappointing for me to learn that the Health Care Financing Administration recently changed its mind about paying for such services. Previously, HCFA had been reimbursing States providing this coverage of personal care attendant services incurred during temporary travel outside the home. HCFA subsequently decided not to do so, and in a January 1990 HCFA hearing requested by the Department of Human Services in my home State of Minnesota, the presiding officer expressed his apology for this decision, but nonetheless interpreted the HCFA regulations as not covering that type of service.

Mr. President, in submitting my Medicaid personal care attendant bill, I wish to affirm the intent of Congress to provide financial coverage for personal services performed during temporary excursions outside the four walls of the home. I have taken due care in drafting this bill to accomplish this purpose without incurring any new expenses to the Medicaid system. I believe the legislation I propose is in the best interest of both the individual Medicaid recipients and the Medicaid Program as a whole, and for this reason I urge my colleagues to cosponsor this legislation.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICAID COVERAGE OF PERSONAL CARE SERVICES OUTSIDE THE HOME.

(a) IN GENERAL.—Section 1905(a)(7) of the Social Security Act (42 U.S.C. 1396d(a)(7)) is amended by striking "services" and inserting "services including personal care services (A) prescribed by a physician for an individual in accordance with a plan of treatment, (B) provided by an individual who is qualified to provide such services and who is not a member of the individual's family, (C) supervised by a registered nurse, and (D) furnished in a home or other location; but not including such services furnished to an inpatient or resident of a nursing facility, such as adult day care settings or congregate living arrangements".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective with respect to home health care services provided on or after January 1, 1991.

By Mr. BOSCHWITZ:

S. 2687. A bill to expedite the naturalization of aliens who served with special guerrilla units in Laos; to the Committee on the Judiciary.

HMONG VETERANS' NATURALIZATION ACT OF 1990

● Mr. BOSCHWITZ. Mr. President, today I am introducing legislation to recognize the efforts of the Hmong during the Vietnam war and to help reunite Hmong families.

This bill recognizes the efforts of the Hmong and other highland and lowland Lao groups who served in special guerrilla units during the Vietnam war. Thousands of these men, serving alongside U.S. forces, sacrificed their lives.

My bill would make it easier for those who served with the special guerrilla units and their spouses or widows to attain citizenship. For this group, the English language requirement would be waived. Because their

language was an oral one, most Hmong came to the United States unable to read or write in their own language and find that learning the English language is extremely difficult. Therefore, the English test prevents many Hmong, especially the middle aged and elderly, from becoming naturalized.

In an effort to reunite Hmong families, my bill also waives the residency and physical presence requirements for those who served with the special guerrilla units. Many Hmong refugees who are living in the United States are still separated from family members. Because of the importance of family to the Hmong, it is indeed a hardship for families to have members scattered throughout the world without much chance for reunification.

Once refugees have resettled in other countries, they can only come here as immediate relatives of U.S. citizens or according to the preference system under immigration law. Permanent residents can sponsor spouses and unmarried sons and daughters. However, other relatives who want to come to the United States as immigrants must be sponsored by U.S. citizens. Thus, attainment of citizenship is the key to family reunification.

As the only refugee serving in the Senate, I have a deep concern for the plight of refugees and immigrants. When I was only 5 years old, I came to this country as a refugee fleeing Nazi Germany. During my time in the Senate, I have worked hard to give others the same chance I had—to find refuge and opportunity within the United States.

Our country's heritage has been enriched by the flow of refugees and immigrants into our Nation. If there is one thing that distinguishes us from other countries, it is that virtually all of us are refugees and immigrants—refugees and immigrants who energize the United States culturally and intellectually and who help fuel the economy.

I urge my colleagues to support this important legislation.●

By Mr. GRAHAM (for himself and Mr. KERREY):

S. 2688. A bill to amend section 21B of the Federal Home Loan Bank Act to provide for Resolution Funding Corporation borrowing from the Treasury; to the Committee on Banking, Housing, and Urban Affairs.

RESOLUTION FUNDING CORPORATION BORROWING

Mr. GRAHAM. Mr. President, I would first like to be associated with the remarks made earlier this hour by the Senator from Nebraska and the Senator from Illinois relative to the burgeoning S&L crisis. It is my purpose to add some additional texture to our understanding of that crisis and then submit legislation.

Mr. President, yesterday in the Senate Banking Committee we heard testimony from a number of the key Federal regulators on the status of the S&L debacle, including the Secretary of the Treasury, Mr. Nicholas Brady. Mr. Brady brought us some very sobering news. Among other facts submitted to the committee, so far the Resolution Trust Corporation, the Federal agency created in 1989 to assume responsibility for the disposition of assets of failed institutions, has 402 institutions with over $215 billion in assets under its jurisdiction; that since August 1989, RTC has resolved 93 cases, and it hopes to resolve an additional 141 cases with assets totaling $50 billion between the end of April and the end of June of the year.

Last year Congress authorized $50 billion for RTC. Another $23 billion in funds, present value, was authorized to the Federal Deposit Insurance Corporation, and this would be used to resolve thrift cases after the RTC stopped taking new cases. That is, after 1992.

So for a period that commenced in 1989 that was to run deep into the 1990's we had authorized $73 billion. At the current spending rate RTC will likely run through the entire $50 billion by the end of this year or early into the next fiscal year. The cost could be as estimated by the Secretary of the Treasury on the low $90 billion; on the high side in excess of is $130 billion.

This does not include any of the cost of interest to borrow those funds which are now being borrowed in issues that reach out as much as 40 years. The Office of Thrift Supervision indicates that there will be an additional 299 institutions with assets totaling $193 billion that are likely candidates for takeover by the RTC and another 315 institutions with assets of $152 billion which are in the category of an uncertain future. Over 1,000 institutions either having been taken over, appear to be likely to be taken over, or are in the possible-to-be-taken-over category.

Mr. President, I admire the Secretary of the Treasury for having come forward and given us such a candid, if gloomy, projection of the future. There is quite a contrast, Mr. President, to what we were hearing just a short while ago.

On May 26, 1988, the then-Chairman of the Federal Home Loan Bank Board, Mr. Danny Wall, appeared, as the Secretary of the Treasury appeared yesterday before the Senate Banking Committee. At that time questioned about the status of the program, Mr. Wall, under a heading in the RECORD which is now almost ironically described as "No Taxpayer Bailout Foreseen"—that was the head note of his testimony—stated "We believe we have the resources available that put us within striking distance of the problem, barring any unforeseen shifts in the economy."

That was the information which the chief physician, the resident surgeon of the savings and loan industry, the key regulator in May 1988 was telling the board of directors, the Congress, as to what the condition of the patient was.

A few weeks later, August 2, 1988, we move up from the chief of surgery to the administrator of the hospital, or at least the administrator's assistant, Mr. George Gould, Under Secretary of the Treasury, the No. 2 person in the Treasury, with not only general responsibility for financial institutions but for the general review of the economic well being of the Nation.

Mr. Gould in his statement to the Senate Banking Committee said this:

"In closing, I urge this committee in the strongest possible terms to resist mounting pleas for an unnecessary, budget busting bailout of FSLIC." [The Federal Savings and Loan Insurance Corporation] "The precious resources of our taxpayers should not be tapped until the existing plan has had a chance to work and all other reasonably available resources have been used."

That was the message which the Congress was receiving less than 24 months ago, first from the key regulator for the Home Loan Bank Board, and then from the Under Secretary of the Treasury.

In the face of that, we now see that a problem that was described as being in hand, resources available, and for heaven's sakes do not tell anybody or even suggest that we may be about to have a problem. From that state of affairs we now reach May of 1990 with the worst economic debacle in the history of America on our hands and getting worse.

Mr. President, there are some lessons that I have learned from this that I would like to suggest in closing. First is the absolute necessity for honesty. If this situation had been faced in its true dimensions as recently as 24 months ago it would have been a crisis, but it would have been a manageable crisis. It would have been a fire in the kitchen. Now we have a fire which has enveloped the entire structure.

Second, we need to have competent people managing these complex programs. It is in this light that I am very concerned about the suggestion that Mr. William Seidman, who is probably the most respected person with responsibility in the S&L area, is being pushed, first with some grace, now almost being bodily removed from the stage, out of his position as the head of the Federal Deposit Insurance Corporation and a participant in virtually every one of the other agencies that

have responsibility for the S&L cleanup.

The removal of a competent man like Mr. Seidman without explanation, or without the apparent necessity of an explanation about his service but the serious suspicion that he is being done in because he is too candid and too honest, is very disturbing, and is going to put a new spotlight on the people that already have been selected and may in the future be selected to carry out these important responsibilities.

Third, this is the time to stop the coverup. No more statements like Mr. Wall's 24 months ago, no more statements like Mr. Gould's 21 months ago, telling us that the situation was all right, when either they knew they were not providing the Congress with the true information or their failure to know what the true facts were was so disabling as to their ability to serve that they should have submitted their resignation.

Finally, we need to face this issue aboveboard for the taxpayers of this and the citizens of future generations of Americans. I believe that says we should keep this matter on budget and on Gramm-Rudman-Hollings—no pushing it under the rug so that out of sight, out of mind, out of concern.

Mr. President, when I conclude my remarks I will send to the desk a bill which will have the effect of putting all of the remaining funding and all future funding of this bailout on budget. By including this on budget, we will have the benefit of a full, clear, open and public understanding of the real cost of this matter.

As you may remember, in 1989 I offered an amendment to the FIRREA, Financial Institutions Reform Recovery and Enforcement Act of 1989 which would have placed all $50 billion that was then authorized on budget. The final conference resolution was to put $20 billion on budget and $30 billion off budget.

The Resolution Trust Corporation does not categorize its disbursements by source of funds, so it is impossible to know for sure just how much from these two funds, the $20 billion on budget and the $30 billion off budget has been disbursed. But the Senate Budget Committee assumes that it is likely that the entire $20 billion of on-budget borrowing has now been utilized.

Of the $30 billion off-budget borrowing which was authorized, Refcorp has borrowed and disbursed $13 billion: $4.5 billion in October of 1989, $5 billion in January of 1990, $3.5 billion in April of 1990, a total of $13 billion to date. Therefore, $17 billion remains to be borrowed.

My bill would place this $17 billion and any future borrowings on budget.

It would increase the deficit by approximately $17 billion. Yes, less $600 million, which is raised from the Federal Home Loan Bank's bond defeasance, and it would impact the deficit reduction targets by being counted under Gramm-Rudman-Hollings.

During the January 1989 floor debate on the savings and loan bill, I offered this amendment. It was said at the time that we should not put this $50 billion on budget, because to do so would cause us to have to waive Gramm-Rudman-Hollings, and that would have horrendous negative aspects in terms of the credibility of Congress in the financial marketplace.

Mr. President, I could not conceive of a pattern of behavior that would bring less credit to all those involved than what we have done over the past many years as it relates to the savings and loan crisis, now debacle.

The cost of this bailout is rising every day. It is rising because of changes in the original budget assumptions which were clearly inaccurate. It is rising because of higher rates, in part, because of the increasing costs of the S&L bailout. To keep the costs down for current taxpayers, to have a more honest budget system and to avoid heavier debt loads for future generations, I believe we should place this full responsibility in the most open method possible. Let us finance it on budget. Let us have it count under Gramm-Rudman-Hollings. Let us be honest to ourselves and to future generations of Americans.

By Mr. HEINZ (for himself, Mr. MOYNIHAN, Mr. MCCAIN, and Mr. LEVIN):

S. 2689. A bill to amend title XVIII of the Social Security Act to provide for Medicare coverage of the costs of home dialysis staff assistance, and for other purposes; to the Committee on Finance.

MEDICARE HOME HEMODIALYSIS ACT OF 1990

Mr. HEINZ. Mr. President, I rise today on behalf of one group of our most disadvantaged citizens—patients with end stage renal disease who cannot leave their homes and need assistance with life-saving dialysis treatments.

Dialysis is a critical, life-sustaining treatment required to remove toxins, salt, and water that accumulate in the blood of patients whose kidneys have ceased to function. Treatment is required three times a week, year in and year out.

Eighteen years ago, the Federal Government undertook the care of patients with end stage renal disease under the Medicare Program. In 1989, more than 115,000 patients received dialysis under the Medicare Program. This number is expected to reach 198,500 by 1995 and as high as 245,000 by the year 2000 as more and more patients with diabetes and high blood pressure face the loss of their kidney function.

Most of these patients will be cared for in hospitals or outpatient dialysis facilities. However, home care has long been encouraged for dialysis patients. It is safe, convenient, and cost-effective for many patients. Of the more than 20,000 patients who receive dialysis at home, most receive treatments which they can administer themselves. They are well cared for within the current Medicare ESRD Program.

There remains, however, a small number of patients who cannot leave their home or nursing facility for medical reasons and who require a particular form of dialysis, hemodialysis. Since hemodialysis includes the circulation of blood through a filter outside of the body, it can be performed only with assistance.

In past years, Mr. President, many of these patients were cared for by for-profit suppliers of dialysis equipment, who could realize enough of a profit from inflated prices to more than finance the cost of an assistant. Congress acted to cut the fat out of the program in 1989, with OBRA provisions to restrict reimbursement under the so-called Method II.

My fear is that in our zeal to cut waste we also cut out the option for home-based care altogether for as many as 1,000 of the most vulnerable, needy patients. These patients are those with multiple serious medical problems which further complicate the dialysis process. Depending on their age, these patients stand as much as one chance in four of dying within 1 year in the best of circumstances. The emotional and physical trauma of long hours in commuting and long sessions in a clinic can literally kill them.

A case in point, Mr. President, is a 67-year-old gentleman who lived in western Pennsylvania. Charles Seglowich suffered from diabetes and heart failure in addition to renal disease. He had already suffered a heart attack. Charles had received staff assisted dialysis successfully in his home—with his wife there to support him—until February. With the changes in Medicare reimbursement, Charles was forced to travel 40 miles roundtrip in a taxi, 3 days a week, to the closest dialysis center. The trips involved considerable physical hardship to this patient. After only three dialysis treatments at the facility, he arrived home one evening, told his wife he could no longer stand the exertion and stress of the trip, and died within 5 minutes.

That is why I am here today, Mr. President, to introduce the Medicare Home Hemodialysis Improvement Act of 1990. I am pleased to have Senators MOYNIHAN, MCCAIN, and LEVIN as original cosponsors. This act is de-

signed specifically to close the gap in Medicare coverage for seriously ill patients with end stage renal disease who medically need dialysis with a paid assistant at home. It provides for a specific payment, made only to a hospital or renal dialysis facility, to meet the extra costs of sending a dialysis technician into a patient's home for 5 hours a day, 3 days each week. This payment will allow the patient to safely receive hemodialysis at home.

To provide assisted home dialysis care to the relatively few patients who truly need it, and at the same time to maintain tight control of the costs of the ESRD Program, the act that I am introducing today carefully defines the key characteristics of the staff-assisted home hemodialysis program:

First, it clearly defines the patients who are eligible for the added benefit, tying eligibility tightly to medical need or to the expense of ambulance transportation to the Medicare system.

Second, it clearly outlines the requirement that payment for the services of a staff assistant can only be made to an active hospital or outpatient renal dialysis facility with the resources to provide total care of each patient and to assure training and quality of care provided by the staff assistant.

Third, it specifies a method of calculating the additional benefit for paid staff assistance which will cover the costs of the added service but at the same time provide a slight disincentive to facilities to use this somewhat more expensive form of therapy.

Fourth, it includes a provision for ongoing study of the effectiveness of the benefit and the need for further reform of the entire mechanism of reimbursement for home dialysis care.

The safety and ease of dialysis at home can be provided at an annual cost of approximately $8,000 per patient. If an estimated 1,000 patients are eligible for this benefit, the total annual cost of the benefit would be approximately $8 million. Offsetting savings from two sources within the ESRD Program itself would more than cover the cost of the program. First, some of the approximately 2,000 patients who now must make use of ambulance transportation to go to and from dialysis would be able to use the less expensive staff assisted home care. Second, extension of the period during which Medicare is the secondary rather than the primary insurer for new ESRD beneficiaries, as proposed in the President's budget, is expected to save $45 million, according to CBO estimates.

In the best circumstances, living with kidney failure is traumatic. It means existing one day at a time, plagued with weakness, nausea, and itching. It means dialysis 4 hours a day, 3 days a week, 52 weeks a year. For the amputee who cannot leave his bed without assistance, or for the patient with heart disease who gets chest pain when he leaves his home on a cold morning, dialysis in the home is not a luxury, it is a necessity. The bill I introduce today will continue this service for deserving patients. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2689

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Home Hemodialysis Improvement Act of 1990".

SEC. 2. COVERAGE OF COSTS OF A STAFF ASSISTANT TO ASSIST DURING HOME HEMODIALYSIS FOR ESRD PATIENTS.

(a) IN GENERAL.—Section 1861(s)(2)(F) of the Social Security Act (42 U.S.C. 1395x(s)(2)(F)) is amended by striking "self-care" and all that follows through "and institutional" and inserting "home dialysis support services, home hemodialysis staff assistance, and institutional".

(b) PAYMENT FOR COSTS OF ASSISTANT SERVICES.—

(1) IN GENERAL.—Section 1881(b) of such Act (42 U.S.C. 1395rr(b)(1)) is amended—

(A) in paragraph (1)—

(i) by striking "self-care home dialysis support services" and inserting "home dialysis support services"; and

(ii) by striking "and routine" and inserting "services of a staff assistant provided to an individual described in subsection (h)(3) which are furnished by a provider of services or facility, and routine";

(B) in paragraph (4), by amending subparagraph (A) to read as follows: "Pursuant to agreements with approved providers of services and renal dialysis facilities, the Secretary may make payments to such providers and facilities for the cost of home dialysis supplies and equipment and home dialysis support services furnished to patients whose home dialysis is under the direct supervision of such provider or facility, and home hemodialysis staff assistance furnished to patients described in subsection (h)(3) whose home hemodialysis is under the direct supervision of a provider of services or a renal dialysis facility on the basis of the method established under paragraph (7).''; and

(C) in paragraph (5)—

(i) by inserting "(A)" after "paragraph (4)"; and

(ii) by amending clause (iv) to read as follows:

"(iv) the services of a trained home hemodialysis staff assistant (as described in subsection (h)(2)) to individuals described in subsection (h)(3);".

(2) ESTABLISHING PAYMENT RATE.—Section 1881(b)(7) of such Act (42 U.S.C. 1395rr(b)(7)) is amended—

(A) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(B) by inserting "(A)" after the paragraph designation; and

(C) by adding at the end the following new subparagraph:

"(B)(i) The Secretary shall provide by regulation for a method of determining prospectively the amount of payment to be made for home hemodialysis staff assistance furnished by a provider of services or a renal dialysis facility with respect to a maintenance dialysis episode.

"(ii) The amount of payment determined under clause (i) shall be in addition to the amount determined under subparagraph (A) on the basis of a rate based on a single composite weighted formula (in this subparagraph referred to as the 'composite rate').

"(iii) The amount of payment determined under clause (i) shall be the product of the rate determined under clause (iv) with respect to a provider of services or a renal dialysis facility and the factor by which the labor portion of the rate determined under subparagraph (A) is adjusted for area differences in wage levels.

"(iv) The rate determined under this clause, with respect to a provider of services or renal dialysis facility, shall equal the amount obtained by subtracting—

"(I) 2/3 of the labor portion of the composite rate applicable to the provider or facility (as adjusted to reflect area differences in wage levels), from

"(II) the product of the national median hourly wage for a home hemodialysis staff assistant and the national median time expended in the provision of home hemodialysis staff assistant services (taking into account time expended in travel and pre and post dialysis patient care).

"(v) For purposes of clause (iv)(II)—

"(I) the national median hourly wage for a home hemodialysis staff assistant and the national median average time expended for home hemodialysis staff assistant services shall be determined annually on the basis of the most recent data available, and

"(II) the national median hourly wage for a home hemodialysis staff assistant shall be the sum of 65 percent of the national median hourly wage for a licensed practical nurse and 35 percent of the national median hourly wage for a registered nurse.".

(c) DEFINITION AND CRITERIA RELATED TO STAFF ASSISTED HOME HEMODIALYSIS SERVICES.—Section 1881 of such Act (42 U.S.C. 1395rr) is further amended by adding at the end the following new subsection:

"(h)(1) For purposes of this title, the term 'home hemodialysis staff assistance' means the following services provided by a home hemodialysis staff assistant (as described in paragraph (2)) through a provider of services or a renal dialysis facility to an eligible patient (as described in paragraph (3)):

"(A) Technical assistance with the operation of a hemodialysis machine in the patient's home and with such patient's care during in-home hemodialysis.

"(B) Administration of medications within the patient's home to maintain the patency of the extra corporeal circuit.

"(2) For purposes of this title, the term 'home hemodialysis staff assistant' means those individuals who—

"(A) have met minimum qualifications as specified by the Secretary; and

"(B) meet the minimum qualifications as specified under the law of the State in which the home hemodialysis staff assistant is providing services.

"(3) For purposes of this title, an 'eligible patient' means those individuals who—

"(A) a physician certifies as being confined to a bed or wheelchair and who cannot

transfer themselves from a bed to a chair; or

"(B) have serious medical conditions (as specified by the Secretary) which would be exacerbated by traveling to and from a dialysis facility; or

"(C) are eligible, under regulations promulgated under this title, for ambulance transportation to and from a dialysis facility or provider of services and the cost under this title of such transportation can reasonably be expected to meet or exceed the cost of home hemodialysis staff assistance as provided by the Medicare Home Hemodialysis Improvement Act of 1990; and

"(D) have no spouse, relative, or other caregiver who either lives with the individual or comes to such individual's home periodically and who is willing and able to assist the individual with home hemodialysis; and

"(E) the Secretary certifies annually as meeting the requirements of this paragraph.".

(d) CONFORMING AMENDMENT.—Section 1881(b)(9) of such Act (42 U.S.C. 1395rr(b)(9)) is amended by striking "self-care".

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to home hemodialysis support services furnished on or after January 1, 1991.

SEC. 3. STUDY AND REPORT ON HOME DIALYSIS.

The Secretary of Health and Human Services shall conduct a study and issue a report to Congress no later than July 1, 1993, on the costs and the effectiveness of home dialysis care for which payment is made under title XVIII of the Social Security Act. Such report shall include recommendations on the most appropriate and cost efficient manner to provide home dialysis services and supplies to individuals receiving such services and supplies under title XVIII of the Social Security Act.

Mr. McCAIN. Mr. President, it is with great pleasure that I join my distinguished colleague and good friend from Pennsylvania, who has been a tireless advocate of end stage renal disease issues, in introducing the Medicare Home Hemodialysis Improvement Act of 1990.

This bill will restore the critical lifeline for that portion of our Nation's 106,000 end stage renal disease patients who, without staff assisted home dialysis, would perish—a lifeline which was severed last year. This is important legislation for a segment of our population who will truly suffer without our assistance.

It was 1973 that Medicare first began reimbursing for services provided to individuals stricken with end stage renal disease. Dialysis services are a critical lifeline, so to speak, for individuals with end stage renal disease.

Today, 106,000 rely on dialysis treatments on a regular basis. The majority of those receiving dialysis treatments go to a facility, but some opt to be dialyzed at home. For some, however, not going to a facility—and receiving the service at home—is not a matter of choice; it is a matter of necessity. These are individuals who are either physically or mentally disabled, or live too far from a facility to obtain the service, and do not have a family member or friend to assist them.

For those who get dialyzed at home, Medicare reimburses for the cost of the equipment used for the treatments. In the case of those individuals who are unable to receive dialysis treatments in a facility, and are not able to get assistance from a friend or family member in performing the service, Medicare would reimburse for a medical staff person to provide assistance. That was, until last year.

A provision was inserted in last year's Budget Reconciliation Act to eliminate Medicare reimbursement for the staff assistance provided to some of those receiving dialysis at home. This was done, in large part, because it was perceived that at least one national company was abusing the system for the purpose of making money. In effect, it was alleged that this service was being marketed by some as an option of convenience rather than a necessity for a small group of individuals stricken with end stage renal disease.

While I shared the view of the authors of this provision that we should not permit the abuse of the staff-assisted alternative, I was deeply concerned at the door being completely closed on this alternative. Rather than deal with the direct problem, the authors of this provision slammed the door, apparently failing to realize the effect that this action would have on those legitimately in need of this service.

For several weeks during the beginning of this year, my staff and I spent numerous hours working with the Secretary of Health and Human Services, Dr. Sullivan, and his staff to make sure that no one fell through the cracks. We were assisted greatly by Jennie Underwood, president of the Arizona Kidney Patients Association, who did a wonderful job of assisting us in identifying those individuals for whom there was a serious and legitimate need. It was tense there for a while trying to secure services for a handful of individuals who legitimately needed this staff assistance but could no longer get it as a result of the provision in the Reconciliation Act. Fortunately, we were able to get services for all who legitimately needed them, and actually had to bend the rules to avoid losing the lives of a couple of patients.

Through this experience, I came to the conclusion that while—for most—dialysis services delivered in a facility is perfectly appropriate medically and otherwise, in a handful of cases it is not. Certainly, home care is always an option. But for some, it is a necessity. And for some of those individuals for who it is a necessity, it is impossible without the assistance of medical personnel. For these individuals, there needs to be an exception to the current policy, so that they can get the staff assistance they need. But there needs to be very tight controls on who is eligible for the service so that it is not abused as it supposedly was before.

The legislation I am joining Senator HEINZ in offering today, the Medicare Home Hemodialysis Improvement Act of 1990, would offer access to staff-assisted home hemodialysis for those who, without such a service, would lose the critical lifeline that dialysis provides.

In short, this legislation requires that one meet strict eligibility requirements before they receive the service.

First, the individual must either be nonambulatory, have a serious medical condition that would be exacerbated by traveling to and from a dialysis facility, or the cost of ambulance transportation to and from a facility meets or exceeds the cost of home hemodialysis staff assistance.

Second, the individual needing service has no spouse, relative, or other potential caregiver who could provide the home hemodialysis.

If an individual is deemed to be eligible for the service and does receive it under this bill, the Secretary of Health and Human Services must periodically review whether the service continues to be necessary and appropriate for the individual in question.

The legislation also has provisions requiring that the attendant meet specific qualifications before they deliver services, as a means to assure the highest level of quality. And the legislation requires that the Department of Health and Human Services study the costs and effectiveness of home dialysis care.

I believe this is an important and necessary response to the action taken in the Budget Reconciliation Act last year. I do not believe we can, or should, be severing the critical lifeline of home dialysis on which some who are stricken with end stage renal disease rely. This legislation seeks to restore the important and necessary staff-assisted home dialysis option, but only for those who truly cannot survive without it.

Again, Mr. President, I applaud the leadership my good friend from Pennsylvania has given to this issue, and am pleased to join him in introducing this legislation. I believe it represents a responsible approach to correcting the problem, and hope that our colleagues will seriously consider joining us as cosponsors of this legislation.

By Mr. McCONNELL (for himself, Mr. ROCKEFELLER, Mr. COATS, Mr. DOMENICI, and Mr. FORD):

S. 2691. A bill to authorize each of the several States to impose fees in

connection with solid waste treated or disposed of in such State; to the Committee on Environment and Public Works.

SOLID WASTE TREATMENT AND DISPOSITION FEE ACT OF 1990

● Mr. McCONNELL. Mr. President, I rise today to introduce legislation which addresses a pressing issue in Kentucky and many other States: the inability to control or regulate out-of-State garbage.

The magnitude of the out-of-State waste problem is reflected by the number of bills introduced this Congress dealing with the issue. Each of these bills approaches the problem in a slightly different way, but all have a common purpose: grant States the authority to somehow control the garbage flowing over their borders.

I support most of these approaches. However, I believe my bill has perhaps the best chance of passing this year and is the one most likely to withstand constitutional scrutiny. The bill I am introducing today grants States the authority to distinguish between in-State and out-of-State garbage and to discriminate against out-of-State waste by imposing higher fees on such garbage.

Under my bill, these fees are imposed on the hauler bringing the waste into the State or the landfill operator accepting the waste. Ultimately, though, the cost is passed back to the generator of the waste in the form of higher fees to dump in the receiving State.

This approach ensures that if other States want to send their garbage to Kentucky, the residents of those States, and not Kentuckians, pay the true costs of disposing of it. It does not raise the cost of waste disposal for Kentuckians. In fact, my bill creates a useful revenue source for county governments.

Like the bill introduced last year by my distinguished colleague from Indiana, my bill also sets up a registration system and creates a data base to help local officials better track exactly where waste is coming from, what exactly is in that waste, and in what amounts that waste is being delivered.

MAXIMUM FLEXIBILITY

In some cases, States may find it economically attractive to have selected landfills import garbage. My bill recognizes this fact and grants the flexibility to account for it. Officials are free to impose the fee on whomever they choose and in whatever amount they believe is appropriate.

My bill also recognizes the importance of recycling centers and refuse-derived-fuel facilities and exempts them from the fee.

USES FOR THE REVENUES RAISED FROM THE FEE

Revenues created by this fee could be used for a variety of purposes: To offset road wear; to make landfills safer by helping landfill operators meet new, more stringent landfill regulations; to lower the county's tax rate; or to create a trust fund to be used to mitigate possible environmental contamination from the landfill.

GOVERNOR MAY PASS FEE AUTHORITY TO THE COUNTY LEVEL

While my bill grants the fee authority to the State, it authorizes the State to pass that authority on to the county governments. I encourage the Governors to seriously consider doing so. County officials are closer to the issue of solid waste treatment within their jurisdictions and know best whether or not and in what amount to levy the fee.

NOT THE TOTAL SOLUTION

This bill attempts to help States deal with the immediate problem of controlling out-of-State waste. It is not intended as the final solution to the national garbage crisis. Federal, State, and local officials must work together to develop a comprehensive strategy for dealing with solid waste management. Ultimately, this problem will be solved only through a responsible strategy which relies on a combination of source reduction, recycling, combustion, and landfilling.●

By Mr. THURMOND (by request):

S. 2692. A bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadershp of the United States; to the Committee on the Judiciary.

COOPERATIVE PRODUCTION ACT OF 1990

Mr. THURMOND. Mr. President, I am pleased to introduce, at the request of the administration, the Cooperative Production Act of 1990. This bill amends the National Cooperative Research Act of 1984, and extends its coverage beyond joint research and development to include joint production.

Mr. President, all of us know that American firms today face unprecedented challenges in the worldwide markets of high-technology products. Innovations in many fields, such as superconductivity, high-definition television, robotics, and computer-aided design and manufacturing, are occurring with dazzling speed in laboratories and experimental facilities in the United States and throughout the world. If American companies are to compete successfully in these high-technology industries, they must be in a position to respond to these challenges.

The costs of developing new technologies, and of efficiently producing the products and services they promise, can be very high, exceeding the resources of any single firm. Cooperative production ventures can allow separate firms to share these costs and risks. Cooperation can also significantly increase efficiency by allowing firms to benefit from economies of scale or scope, that result from combining complementary assets or skills.

Although U.S. antitrust laws should pose little threat to procompetitive joint ventures, antitrust uncertainty, especially the threat of treble damages, may discourage firms in the same industry from entering such ventures. The perception of serious antitrust risk may make firms hesitant to build joint facilities to exploit new technology.

Mr. President, in 1984, Congress responded to many of these same concerns by enacting the National Cooperative Research Act of 1984. This act has two major features: First, it guarantees that joint research and development ventures, if ever called into question, will be analyzed under the "rule of reason" standard, so that the competitive benefits of the joint venture may be considered; and second, it provides that any antitrust liability of a research and development joint venture that is disclosed to the Government will be limited to actual damages, rather than treble damages. Mr. President, the legislation which I am introducing today, will extend these provisions to production joint ventures.

Mr. President, last year Senator LEAHY and I introduced legislation which is similar to that which I am now introducing. In fact, S. 1006, the National Cooperative Research Act Extension of 1989, differs little in substance from this bill. Nevertheless, to the extent the two bills do differ, it is my hope that we can take the best from both bills, and fashion legislation that will be in the best interest of U.S. consumers and U.S. competitiveness.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows.

S. 2692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Cooperative Production Act of 1990".

SEC. 2. The National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.) is amended—

(a) in section 1, by striking "National Cooperative Research Act of 1984" and inserting in lieu thereof "National Cooperative Research, Development, and Production Act";

(b) by striking "joint research and development venture" each place it appears and inserting in each place in lieu thereof "joint research, development, or production venture";

(c) in section 2(a)(6)—

(1) by striking "or" in subparagraph (D),

(2) by striking subparagraph (E) and inserting in lieu thereof the following—

"(E) the production of any product, process, or service, or

"(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E),", and

(3) by inserting "development, or production," after "the conducting of research,";

(d) in section 2(b)(1), by striking "conduct the research and development that is" and inserting in lieu thereof "carry out";

(e) by striking sections 2(b)(2) and 2(b)(3) and inserting in lieu thereof the following:

"(2) entering into any agreement or engaging in any other conduct restricting, requiring, or otherwise involving the marketing by such venture or by any person who is a party to such venture of any product, process, or service developed through or produced by such venture, other than—

"(A) the marketing by such venture of any product, process, or service to any person who is a party to such venture, or

"(B) the marketing of proprietary information such as patents, rights in mask works protected under title 17 of the United States Code, known-how, and trade secrets, and

"(3) entering into any agreement or engaging in any other conduct—

"(A) to restrict or require the sale, licensing, or sharing by any person who is a party to such venture of inventions, developments, products, processes, or services not developed through or produced by such venture, or

"(B) to restrict or require participation by such a party in other unilateral or joint research, development, or production activities,

that is not reasonably required to prevent misappropriation of proprietary information contributed by any person who is a party to such venture or of the results of such venture.";

(f) in section 3, by striking "research and development markets" and inserting in lieu thereof "research, development, product, process, or service markets";

(g) in the heading to section 6, by striking "JOINT RESEARCH AND DEVELOPMENT VENTURE" and inserting in lieu thereof "JOINT RESEARCH DEVELOPMENT, OR PRODUCTION VENTURE"; and

(h) in section 6(a), by inserting "(or, with respect to a venture involving the production of any product, process, or service, not later than 90 days after the effective date of the Cooperative Production Act of 1990)" after "Act".

SEC. 3. This Act shall take effect on the date of enactment.

By Mr. CONRAD (for himself and Mr. BURDICK):

S. 2693. A bill to amend section 7 of the Mineral Leasing Act governing Federal coal lease royalty rates; to the Committee on Energy and Natural Resources.

AMENDING THE MINERAL LEASING ACT

● Mr. CONRAD. Mr. President, I rise today to introduce legislation that would grant authority to the Secretary of the Interior to set Federal coal royalty rates based upon the heating value of coal. Specifically, the legislation is designed to match the royalty on Federal coal to the unique properties of lignite. I am pleased that the senior Senator from North Dakota [Mr. BURDICK] has joined me as an original cosponsor of this legislation.

North Dakota has vast deposits of lignite coal, and the lignite industry is a very significant part of the North Dakota economy. At current production levels, we have 35 billion tons of recoverable reserves, enough to last more than 1,000 years. There are 3,550 direct jobs and 14,300 indirect jobs associated with the industry, and lignite related expenditures generated $1.1 billion in business volume during 1989. It is important to North Dakota, therefore, that lignite be competitive in the marketplace for fossil fuels.

Lignite is the fuel source for North Dakota's large electrical generating industry, and coal is the major cost component of the power generated by lignite's major customers. Lignite faces strong competition from low-cost Canadian hydropower and Canadian fossil fuel based generation that is not subject to the same stringent environmental standards we have in this country. If lignite loses the ability to compete in the power pool, sales of this important North Dakota resource are affected adversely.

There are several properties of lignite that make it a unique resource worthy of appropriate recognition by the laws that govern its production. First, it is a low grade—low Btu—fossil fuel that has only two-thirds the heating value of sub-bituminous coal.

Second, lignite has a very high moisture content. It is therefore not economical to transport the mineral long distances. To minimize transportation expenses, North Dakota operators have developed mine mouth operations, meaning that electrical generating plants are located at or near a mine.

Third, the cost of mining lignite is greater than the higher quality sub-bituminous coals in the West because lignite occurs in relatively thin seams under deep overburden. In Montana and Wyoming, for example, sub-bituminous coal seams are 50 to 100 feet thick. In North Dakota lignite seams are 5 to 15 feet thick.

Because of the thicker coal seams in other States, North Dakota operators move 5 to 7 times more overburden on a per-ton basis than Montana and Wyoming operators. Consequently, stripping and reclamation costs for lignite are high compared to the same costs for better quality sub-bituminous coal in the West. The selling price of lignite reflects the higher operating costs.

Presently, about 25 percent of North Dakota's lignite coal reserves consist of Federal ownership, and the remaining 75 percent of the reserves consist of private and State ownership. The coal reserves fall in a checkerboard pattern of private, State, and Federal ownership.

Because Federal ownership is the smaller interest and the Federal coal tracts are often 40 to 80 acres in size, operators attempt to avoid mining Federal coal because of the statutory minimum 12½ percent Federal royalty. This compares to a statutory minimum 6 percent State royalty, and lesser royalties in most cases for private coal owners. In short, the higher Federal royalty can and does discourage mining of Federal lignite coal.

Basically, coal is sold on the basis of its heating value, or Btu content. Because lignite is a low Btu coal, a ton of lignite coal has a lower heating value than a ton of sub-bituminous coal. The fixed percentage of Federal coal royalty therefore results in an effective royalty rate that is significantly higher for lignite than it is for other western coals. In other words, lignite is placed at a competitive disadvantage by a Federal percentage royalty that does not recognize the difference in coal qualities or mining costs.

Mr. President, the bill that Senator BURDICK and I are introducing today would attempt to rectify this inequity and put lignite on a level playing field with other coals. The legislation grants authority to the Secretary of the Interior to consider the heating value of coal in setting the Federal royalty rate. The bill is drafted narrowly to achieve a specific purpose, and the reduction contemplated in this legislation is not a mandatory reduction. Further, the measure is of limited applicability. Mining of federally owned lignite coal is limited to North Dakota except for one small mine operating in Montana, near the North Dakota border.

The justification for treating lignite coal differently from sub-bituminous and bituminous coals has previously been recognized by Congress in the Federal Surface Mining Act, 30 U.S.C. 1232(a). Based upon the unique properties of lignite, the act sets the Federal reclamation fee at only 10 cents per ton for lignite as compared to 35 cents per ton for other coals. A similar recognition is needed for lignite with respect to the royalty rate on Federal coal.●

By Mr. METZENBAUM (for himself and Mr. GARN):

S. 2694. A bill to amend the Federal Deposit Insurance Act; to the Committee on Banking, Housing, and Urban Affairs.

DEFERRED COMPENSATION PLAN PARTICIPANT PROTECTION ACT OF 1990

● Mr. METZENBAUM. Mr. President, I am pleased to introduce the Deferred Compensation Plan Participant Act of 1990. I am especially pleased to be joined by Senator JAKE GARN, the ranking Republican on the Committee on Banking, Housing, and Urban Affairs as an original cosponsor of this important legislation. This bill will protect the retirement plans of thousands of State and local government

workers. It assures these teachers, policemen, sanitation workers, and other civil servants that the money they have set aside for retirement will be there for them when they need it most.

Some State and local governments have deferred compensation plans for their employees that are known as 457 plans, named after the applicable Internal Revenue Code section. These plans provide supplemental retirement benefits for eligible employees on a tax deferred basis. This bill will give the Federal Deposit Insurance Corporation [FDIC] the authority to insure in an amount up to $100,000 per participant, any deposits in an insured depository institution made pursuant to a qualified 457 deferred compensation plan.

Prior to the passage of the Financial Institutions Reform Recovery, and Enforcement Act of 1989 [FIRREA], thrifts were allowed to insure 457 plans deposits up to $100,000 per participant-employee, known as passthrough insurance. In contrast, the FDIC has no specific rule, but its policy has been not to insure 457 plan deposits on a per participant basis but rather to aggregate those deposits with other deposits of like kind maintained by the employer at the bank and insure the employer's combined deposits for up to $100,000. Thus in short, 457 plans at commercial banks were only covered by the FDIC for up to $100,000 per account, instead of the $100,000 per participant insurance coverage given by thrifts.

The FDIC, pursuant to a mandate in FIRREA to provide uniform insurance rules for both thrifts and banks, recently voted to apply to thrifts the more restrictive 457 plan rules for banks. Consequently, thousands of State and local workers will no longer have their 457 plans insured. They will be forced to find other less attractive retirement vehicles that would not have Government insured protection.

The FDIC rule is based on a finding that the FDIC lacks the statutory authority to provide the higher coverage formerly granted to 457 plans by the Federal Savings and Loan Insurance Corporation. The FDIC decided however to extend the existing rules for thrifts until January 1992 for both current and new participants in order, "To maintain liquidity at the institutions and to give Congress time to consider whether to allow the FDIC to provide the higher coverage." In the FDIC's view, there is no economic or policy reasons to deny passthrough insurance coverage to 457 plan participants.

The Deferred Compensation Plan Participant Act of 1990, would give the FDIC the statutory authority to provide both banks and thrifts the higher coverage.

The average 457 plan participant earns between $10,000 and $24,000. These employees—the firemen, policemen, teachers, and other civil servants—are not sophisticated investors. They simply want to know that the little bit of money that they struggle to set aside for retirement is going to be there for them when they eventually do retire. Government insured deposit accounts give them that insurance.

By analogy, it is a longstanding position of the FDIC that each participant's share of funds placed in a retirement plan established by private employers—401(k) plans—are separately insured for up to $100,000. No public policy reason exists to treat small Government savers, saving for their retirements through 457 plans, any differently than small savers employed by the private industry who use 401(k) plans as their retirement vehicle. Equity demands that all deferred compensation plans, including 457 plans, be insured on a per participant basis. Even credit unions insure their 457 plan accounts on a per participant basis.

I urge my colleagues to join me in cosponsoring this important legislation.●

● Mr. GARN. Mr. President, I join today with my colleague from Ohio, Senator METZENBAUM, in sponsoring this legislation to give the FDIC the discretion to give public sector employees the same deposit insurance coverage already available to private sector employees participating in retirement plans.

This bill should not be viewed as expanding deposit insurance coverage. Prior to 1989, the FSLIC provided deposit insurance coverage for participants in public employee retirement funds, for up to $100,000 per participant. After the FDIC took over FSLIC's insurance responsibilities, it was directed to promulgate a new regulation in order to resolve the differences between the FDIC's and FSLIC's insurance coverage. The FDIC determined that it lacked the statutory authority to continue covering public sector employee retirement plans up to $100,000 per participant, and therefore decided it had no choice but to phase out this coverage by 1992. Thus, public sector employees are already covered by Federal deposit insurance, but will lose their protection if this legislation is not enacted. Rather than extending deposit insurance coverage, this bill simply seeks to maintain the level of coverage currently available.

Further, under the FDIC's ruling, public employees will be adversely treated compared to private sector employees. I do not believe that such discrimination serves any sound public policy objective. In fact, I believe that terminating insurance coverage for our State, county, and municipal employees may have adverse consequences for both the individuals involved and the public in general.

Just about all of these insured deposits are in savings associations. Terminating the insurance coverage will leave billions of dollars in deposits uninsured, effectively forcing those dollars to leave the industry. The effects on individual institutions could be devastating, potentially increasing the cost of resolving the savings and loan problem.

Overall, there are substantial public policy reasons for insuring these deposits. William Seidman, the Chairman of the FDIC, stated that he knows of "no economic or policy reasons why the deposits of 457 plans should not be afforded the same passthrough insurance coverage that is provided for the deposits of most other trusted employee benefit plans." In light of this statement, the legitimate concerns of the public-sector employees adversely affected by the FDIC's action, and the possible adverse effects on the thrift industry, I decided to support this legislation.

Nevertheless, I am also aware that the Treasury Department is currently undertaking a comprehensive study of our deposit insurance system. This study will include the question of passthrough insurance to participants in pension plans. My actions today should not be construed as prejudging the findings of that study. Should the Treasury Department recommend terminating pass-through insurance protection for all retirement plans, I would certainly consider that recommendation. However, regardless of the conclusions drawn in the study, I would hope to see public and private-sector pension plans treated equally, which is not the case today, but would be if this legislation were passed.●

By Mr. HATCH:

S. 2695. A bill to eliminate the scourge of illegal drugs and fight drug abuse; to the Committee on the Judiciary.

ANTI-DRUG ABUSE ACT

Mr. HATCH. Mr. President, today, I am introducing the Anti-Drug Abuse Act of 1990. This legislation is a comprehensive package designed to address the production, trafficking, and use of illicit narcotics.

The bill achieves its objectives by enhancing our Nation's capabilities. The bill will complement the priorities outlined in the President's September 1989 national drug control strategy by incorporating many of the President's legislative initiatives.

In putting this package together, one lesson was clear; no single initiative by itself can work to contain or reduce illicit drug use. Only by approaching the problem on a multitude of levels can we make progress. The

legislation I am introducing today addresses the needs of the coca growing composinos in the Andes, the sophisticated methods of drug trafficking, the demands placed on the United States criminal justice and correctional facilities, the needs of local and State law enforcement, and the priorities for improved drug treatment and education programs. Each of these areas is addressed in a substantive manner by this legislation.

In the international area, this bill seeks to give the countries of Peru, Bolivia, and Colombia incentives to wean their economies from the effects of the coca trade and bolster legal forms of agricultural production and manufacturing by enhancing trade benefits. Moreover, the bill embraces and builds upon the agreement reached in Cartagena, Colombia, this past February between President Bush and his Andeannation counterparts. United States military, law enforcement, and economic and development assistance will be conditioned on efforts to combat the production and trafficking of illicit narcotics, and will be further dependent upon cooperation in combating the laundering of illegal drug profits and in enhancing and strengthening judicial and law enforcement systems.

As drug traffickers continue to employ increasingly sophisticated means to bring drugs into this country, our drug interdiction program and joint law enforcement operations must meet these demands. This bill seeks to expand drug interdiction resources along our Southwest border while enhancing our capability to interdict drug shipments throughout the Caribbean. Moreover, the bill would provide assets to enhance and expand our joint law enforcement operations with drug producing and trafficking countries.

In the criminal justice and law enforcement areas, this bill includes sections to provide constitutional procedures for carrying out the death penalty. It would reform the Federal habeas corpus statutes, limiting the endless appeals to the Federal courts now enjoyed by convicted felons. Moreover, it would repeal the exclusionary rule, which is so often used to keep probative evidence out of a criminal trial simply because of a technical error by a law enforcement officer who was acting under a good faith belief that the search or seizure was in compliance with constitutional requirements. The bill also includes language to make illegal the interstate transportation of persons for the purpose of cultivating, producing, or manufacturing illegal narcotics.

In an effort to boost our criminal justice program and law enforcement system, this bill will provide for additional Federal attorneys, and prison facilities, and increase assistance to rural law enforcement agencies and local agencies in the high-intensity drug areas.

In the area of prevention, treatment, and education this bill contains many important provisions, including a private sector drug testing act similar to S. 1903, legislation that was introduced by Senator BOREN and myself during the last session.

In addition, the bill includes several provisions for support of local law enforcement agencies to develop and operate community based programs. These programs will offer an alternative for children who are at risk of drug abuse. This program will be supported by the asset forfeiture fund. In this same section, authority is provided for the DEA and the FDA to enter into agreements with those in the salvage business to retrieve controlled substances that are obtained through salvage activities. This will stop one of the leaks of legal products into the illegal street market.

This bill also provides for additional support for the Department of Education and additional funds for the States through the ADAMHA block grant to be used for program expansion. The capstone of the bill is the inclusion of a requirement that States develop statewide drug treatment plans. This last portion was agreed to by the Senate during the first sesion of this Congress.

In 1988, Congress formally committed the Department of Defense [DOD] into the war against drugs. Since that time, DOD has provided valuable assistance and support to our civilian law enforcement agencies, and they have become an integral part of this Nation's drug control strategy. The bill being introduced today will facilitate their ability to assist and support the civilian agencies in law enforcement operations and in providing equipment, training and logistical and technical support for joint law enforcement operations with foreign governments.

Finally, this legislation contains provisions to implement the President's 1990 National Drug Control Strategy. Included are provisions to increase accountability in the drug treatment community, improvements to the Federal criminal justice system, and technical amendments to implement the Andean initiative.

Mr. President, eliminating illicit narcotics from our society poses a great challenge and demands an even greater commitment. By working together and by implementing an integrated approach that hits the source, the transit, and the abuse of drugs in our society, we can have an impact. I believe this comprehensive package introduced troday will better assist those on the frontlines; in our schools, on the streets, in the jungles, and on the border, who have dedicated their lives to deal with this problem. The future of our children, American's fountain of youth, is worthy of such a commitment.

By Mr. BIDEN:

S. 2696. A bill to authorize the Secretary of the Army to convey a certain parcel of real property at Cape Henlopen, DE, to the State of Delaware; to the Committee on Armed Services.

CONVEYING THE FORT MEADE RECREATION AREA TO THE STATE OF DELAWARE

Mr. BIDEN. Mr. President, today I am introducing legislation to require the Secretary of the Army to convey to the State of Delaware the Fort Meade Recreation Area, located at Cape Henlopen in Lewes, DE.

This bill represents the beginning of the end to a long struggle by the citizens of Delaware to recover what is rightfully theirs—a parcel of land located at Cape Henlopen, DE, which for the last five decades has been owned by the Department of Defense. The current occupant of the land, which consists of 96 acres—including 1,700 feet of beachfront—is the Army, which uses the property as a recreation center for military personnel.

I'd like to take a few minutes to review the history of this land. Before the Defense Department acquired the parcel at Cape Henlopen, it was considered public property. In fact, the history of Cape Henlopen's dedication to the citizens of the area predates by a century our history as a nation.

In 1682, William Penn—the proprietor of Pennsylvania and Delaware—granted the lands at Cape Henlopen to a local official, Edward Warner; the property was to be held in trust for the common use of the people of the area. The Warner land grant trust was reaffirmed by Penn's heirs, and when Delaware became the first State in 1787, control of the lands in trust was inherited by the State of Delaware. Except for parcels ceded to the Federal Government for specific purposes, the State and the city of Lewes have protected the integrity of the land grant for the common use of all citizens.

At the beginning of World War II, the Department of War condemned and seized over 1,000 acres at Cape Henlopen—which sits at the foot of the Delaware Bay—for use in coastal defense. The State of Delaware readily agreed to this, provided that the land would be returned when the national defense requirements no longer existed. In fact, in 1945, the Delaware General Assembly ceded jurisdiction over these lands to the Federal Government. The State legislature added an important condition—that the land would revert to State ownership once it was no longer used for national defense purposes.

Fourteen years after the war ended, the Army deactivated the post, then known as Fort Miles. Soon after, a three decade odyssey to have the land returned to the State began.

Since the early 1960's, members of the Delaware congressional delegation have sought the return of the military land to the State. Slowly but surely, this effort has succeeded. Delaware has regained all of the land, save two parcels—a 16-acre Naval Reserve site, and a 96-acre Army recreation area that would be conveyed to Delaware under this legislation.

Like all Delawareans, I have been frustrated by the slow pace of this process. The effort to regain the 96-acre Army parcel, for example, has dragged on for two decades.

In the early 1970's, the Army—then holding 190 acres—told my predecessor, Senator J. Caleb Boggs, that this land would be returned. Unfortunately, this was just the first of many promises, most of them unfulfilled, which the Army has made during the last 20 years.

In 1976, still holding the entire 190 acres, the Army told me it would declare as excess 172 acres, and would retain title to the remaining 18 acres for recreational use. In 1977, another revision: rather than return 172 acres to Delaware, the Army decided that just 130 to 140 acres would do. This shell game proceeded for another 2 years until 1980, when the Army returned 94.24 acres to the State. While the residents of Delaware and I were pleased that the Army returned roughly half the property, it remained a hollow victory.

The people of Delaware are tired of hollow victories. They want all of the Army land at Cape Henlopen returned to the State.

Mr. President, Delawareans support our Nation's Armed Forces. They are well aware of the sacrifices made by our men and women in uniform and do not begrudge them reasonable fringe benefits. But they are distinctly unhappy about the continued presence of the Army at Cape Henlopen. And quite frankly, so am I, for many reasons.

First, the presence of the military represents an intrusion into the State park that surrounds the recreation area, creating undue administrative and security burdens. The military personnel come and go as they please, with little interference from park officials. State officials have long been concerned about their diminished ability to monitor the vehicular traffic entering this delicate environment.

Second, the continued presence of the Army, as I have outlined, is simply unfair, and breaks a deal that was made five decades ago. With the imminence of World War II, Delawareans recognized the War Department's requirement for this land, and gladly turned it over to the Federal Government. But in doing so, it was never their intention that the deal would be indefinite. And it was certainly never their understanding that the land would ultimately serve as an exclusive playground for Defense Department personnel, civilian or military.

Let me repeat: This post is no longer used for military training, nor is it used for coastal defense. Instead, it is used as an exclusive recreation area for military personnel, including civilians working for the Defense Department. That's right—DOD personnel, including civilians, have their own private beach in Delaware.

Third, the continued presence of the Army poses a threat to the fragile ecosystem of Cape Henlopen. To be sure, the Army has not been a model resident of the site. In 1970, for example—in the middle of Earth Week—the Army began an operation to level a 70-foot high sand dune covering 13 acres in area, in order to create a parking place for between 5 and 10 trailers.

The citizens of Delaware were outraged at the Army's attempted destruction of this outstanding natural area. Fortunately, the Delaware congressional delegation, with the assistance of the Governor, Russell Peterson, persuaded the Army to halt the destruction of the Great Dune. Unfortunately, they were too late to prevent the damage that had already occurred.

Mr. President, as I said at the outset, the return of this land has been long in coming; to be honest, I thought it might never happen. In fact, I have been working on this project for the last 17 years.

Since coming to the Senate in 1973, I have continually urged the Defense Department to return the land it held at Cape Henlopen to the State of Delaware. My efforts, which followed on the work of Senators J. Caleb Boggs and John Williams, have been largely successful. In 1976, at my urging, the Army Reserve ceased its training operations at Cape Henlopen, operations which were seriously destructive to the fragile environment of the site. The same year, I also convinced the Navy to stop using heavy military equipment which was causing damage to the dunes at Cape Henlopen. In the early 1980's, the Department of the Navy agreed to my request to return all of its holdings—some 352 acres of land—to the State of Delaware. And in 1989, the Army Corps of Engineers returned 141 acres which border the park.

Last year, with the advent of a new administration, I decided to make another attempt at convincing the Army to return the 96 acres it owns. In April 1989 I wrote to Defense Secretary Cheney to seek his support. Following two unsatisfactory replies from the Army, I successfully proposed an amendment to the 1990 Defense Authorization bill which required the Army to report to Congress on the feasibility of returning the land to Delaware.

In February of this year, Army officials agreed in principle to return the land to the State of Delaware. Following 3 months of negotiations between the Army, the State of Delaware, and my office, I believe we have reached agreement on the final outline of the land transfer.

Therefore, today I am introducing this bill to convey the Fort Miles property to Delaware. This legislation will make the land available for all citizens, civilian and military. In fact, as a condition for the transfer of this land, the State of Delaware has agreed to admit all active duty military personnel to State parks at in-State resident rates, a recreation opportunity which far and away exceeds the opportunity available to the privileged few who use the Fort Miles facility each year.

In addition, the State of Delaware has agreed to reimburse the Army Morale, Welfare, and Recreation Fund for investments made in the property in the last 5 years. Finally, the State will indemnify the United States against all liability in connection with any hazardous material discovered on the property.

With the assistance of the Armed Services Committee and the Department of the Army, I am hopeful that it will be enacted this year. While a few minor details remain to be worked out, I am confident that this land can be transferred to Delaware in the near future.

When that occurs, the 30-year odyssey will be nearly over, and the land held by the Army at Cape Henlopen will be restored for the use of everyone, as William Penn envisioned over 300 years ago. All Delawareans, including this one, look forward to that day.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCE, CAPE HENLOPEN, DELAWARE

(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to subsections (b) through (e), the Secretary of the Army (hereafter in this section referred to as the "Secretary") shall convey to the State of Delaware all right, title, and interest of the United States in and to a parcel of real property located at Cape Henlopen, in Sussex County, Delaware, consisting of approximately 96 acres and known as the Fort Meade Recreation Area. The conveyance made pursuant to this Act shall be without consideration except that required by subsection (b)(3).

(b) CONDITIONS OF CONVEYANCE.—The conveyance authorized by this Act shall be subject to the following conditions:

(1) The State of Delaware shall indemnify the United States against all liability in connection with any hazardous materials, substances, or conditions which may be found on the property to be conveyed pursuant to this Act.

(2) The State of Delaware shall permit members of the Armed Forces of the United States serving on active duty, their spouses, and their dependents to purchase each year, for a price not greater than the price charged residents of the State of Delaware, an annual pass to all Delaware State parks.

(3) The State of Delaware shall pay to the Secretary for credit to the Army Morale, Welfare, and Recreation Fund, the sum of $14,369, to reimburse the fund for sums expended to improve the property.

(c) USE OF PROPERTY; REVERSION.—(1) The real property conveyed pursuant to this Act may be used by the State of Delaware only for public park or recreational purposes.

(2) If the Secretary of the Interior determines at any time that the real property conveyed pursuant to this Act is not being used for a purpose specified in paragraph (1) all right, title and interest in and to such real property shall revert to the United States and the United States shall have the right of immediate entry thereon.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed pursuant to this Act shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the State of Delaware.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance pursuant to this Act as the Secretary determines appropriate to protect the interests of the United States.

By Mr. RIEGLE:

S. 2697. A bill to amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor; to the Committee on Labor and Human Resources.

YOUNG AMERICAN WORKERS' BILL OF RIGHTS

● Mr. RIEGLE. Mr. President, I rise today to express my concern about widespread and increasing violations of our child labor laws and to introduce legislation that would, I hope, drastically reduce these violations. The legislation would toughen penalties for employers who violate child labor laws, strengthen Government reporting requirements regarding work-related injuries and deaths of minors, insist on better coordination among Federal and State agencies, improve documentation of violations of wage and hour, minimum age and hazardous order laws, and educate teachers, parents, employers, and working teens about the jobs teens can legally hold and the hours they can legally work.

Child labor laws were passed in the United States in 1938 to protect children from working at too young an age, for excessive hours, and in hazardous occupations. These laws along with societal values, for the most part, have prevented the repugnant exploitation of young children that still occurs in many developing countries. In contrast, most American children spend their growing years going to school, and it is not until they are 15 or 16 that many start working.

Still, too many children under age 14 work, and too many teens work beyond the legal number of hours, which interfers with their ability to learn in school. In addition, too many work in hazardous jobs that are legally prohibited for them. They are driving forklifts, operating meat slicing machines and chainsaws, handling pesticides and other hazardous substances, working in coal mines, and toiling in garment industry sweatshops.

Inadequate enforcement of current laws and the woeful penalties attached to them render violations little more than a cost of doing business. In fact, under current law, employers who violate child labor laws and whose negligence results in injury or even death to a youth receive little more than a slap on the wrist. Two examples from an April 1990 report on increases in detected child labor violations by the General Accounting Office [GAO] illustrate the crucial need to bolster current penalties:

The 17-year-old employee was banding logs loaded into metal racks. The employee had banded one end of the load and was crimping the sleeve on the second when a log loader approached the load. The loader slid its forks under the load of logs and lowered the log clamps (tusks) to secure the load, entrapping the employee between the log tusk and the log, crushing the employee.

This Juneau, AK, employer violated two Alaska occupation safety and health regulations and one Federal child labor hazardous order which prohibits minors from working in logging jobs. One of these violations was a repeat violation. Two of the violations contributed directly to the death of the child. For its violations and the death of the child, the employer paid a fine of $3,200.

In the second case:

A 17-year-old employee entered a sanitary sewer trench to clean out the end of a pipe laid previously. The trench was about 15 feet long, 3 feet wide, and 12 feet deep. The walls were vertical without shoring. The south wall caved in, covering him completely. He was killed instantly from multiple injuries, which included massive skull fractures, crushed chest, broken pelvis, and broken right arm. * * * Weather conditions were clear * * * he apparently did not recognize the hazardous conditions.

The Woodstock, GA, construction company was cited for three serious violations and paid a total of $1,600 in fines. The violations included the illegal employment of a minor for the excavation job and failure to provide adequate safety protections, including proper training of the minor in avoiding and preventing unsafe conditions.

Although violations of child labor and health and safety laws infrequently lead to the death of children, they do result in injuries and disabilities. Many children suffer only minor lacerations, but others have lost limbs in farm machinery accidents, sustained burns in fast food restaurants, had arms amputated in butcher shops, and become highway fatalities while delivering pizza under time pressure. According to the April GAO report, 33 States reported 48 minors killed and 128,000 others injured in work-related accidents during 1987 and 1988.

Overall, reported child labor violations spiraled 150 percent between 1983 and 1989 from 10,000 to 25,000. Violations of all types of child labor standards increased in all parts of the country. Nationwide, the number of work-hour violations tripled between 1983 and 1989, and the number of minimum age and hazardous order violations doubled. More alarming is that no one knows exactly how extensive the problem of child labor violations is because there are no Federal reporting requirements of violations or injuries and deaths and few investigations by the Department of Labor.

While the bulk of child labor violations do not lead to injury or death, they can have harmful effects on children's performance and interest in school. Various studies document the connection between excessive work demands and difficulties in school. Researchers from the Universities of California and Wisconsin found that working teens have lower grades, do less homework, miss school more often and enjoy school less than their unemployed classmates. It also was found that if work consumes too much time—more than 14 hours a week for sophomores and 19 hours a week for seniors—grades fall by one-half to three-quarters of a point. These findings are particularly distressing given that more than a third of 10th graders hold paying jobs and three out of every five seniors are employed an average of 20 hours per week. Thus, 60 percent of our seniors are endangering their educational future and the future of this Nation's ability to compete in world markets by working too many hours.

Having a job can be a very positive experience for young people. They can earn spending money or save for further education. They learn the importance of punctuality, following through on a task, working well with others, and learning to be responsible for mistakes as well as a job well done. Nonetheless, we must ensure that our children who do work are also educated in school and not exploited in the workplace. A child's No. 1 job is gaining a basic education.

Under increasing criticism and complaints from child welfare advocates and others about the Department of Labor's lax enforcement of child labor

laws, the Department conducted a high profile, 3-day national investigation of workplaces called "Operation Child Watch" from March 12 through 14—500 investigators examined 3,900 workplaces and uncovered 11,000 child labor violations, including 7,000 children working under illegal conditions. They found violations affecting children in roughly half the workplaces and assessed $2.9 million in fines. More than 1,800 of the children were 14- to 17-years-olds working in hazardous occupations, about 450 were 13 or under and too young to work, and the remainder, more than 10,500, were 14- and 15-year-olds working later or longer than is legally allowed during the school week. Of these, 38 violations involved serious injuries or disabilities.

While the Labor Department and Secretary Dole should be commended for their improved efforts to enforce child labor laws, a 3-day sweep is not a substitute for ongoing, vigorous enforcement of the laws. Furthermore, their findings demonstrate that child labor laws are frequently violated and that we need a dramatic increase in enforcement. The Labor Department currently has 1,000 officers who enforce all provisions of the Fair Labor Standards Act, but only 4 percent of the Department's enforcement activities are devoted to child labor laws. In 1989, these officers investigated only 1.5 percent of all business concerns, yet Secretary Dole claims no more inspectors are needed.

In addition to the urgent need to bolster enforcement is an equally important need to strengthen penalties for child labor law violations and to improve reporting requirements. Furthermore, I believe that the Secretary of Labor should publish the names of violators thereby publicly exposing their behavior. Shame can be a powerful deterrent.

Under current law, the maximum fine that may be imposed per violation is $1,000; however, this is usually reduced according to the violation and the size of the business in violation. In fact, the average fine assessed per minor was $165 in 1989. Furthermore, the cost of violations to violators has declined over time; the average fine in 1983 was $164, $1 less than in 1989.

Clearly, current laws are inadequate to protect children in the workplace. Because they are so weak, they tell potential violators that exploitation of children is not that big of a deal. My bill would increase penalties on multiple child labor violators up to a $100,000 fine or 6-12 months in jail or both, up to a $250,000 fine or 7 years in jail or both for serious bodily injury, and up to $250,000 or 14 years in jail or both for death. It also denies eligibility to violators for 5 years to bid on Federal contracts, receive any direct or indirect Federal grant or guaranteed loan and pay anyone the subminimum wage.

Current Federal law sets a basic minimum working age of 16 for nonfarm labor. Children who are 14 and 15 may work in certain retail, food service, and other jobs. While school is in session, they are limited to working no more than 3 hours per day outside of school hours and no more than 18 hours during a school week. They cannot work before 7 a.m. and can work no later than 7 p.m., except in the summer when they can work until 9 p.m. All workers under 18 are prohibited from working in certain hazardous jobs and industries, such as logging and meat packing. The bill further safeguards children engaged in delivery driving, cleaning machinery in fast food shops, poultry and seafood processing, paper baling, power-driven meat slicing, and handling pesticides by limiting or prohibiting children from working in these hazardous occupations.

The bill enhances reporting and recordkeeping requirements. It requires the Department of Labor and the Census Bureau to compile yearly data on the types of industries and the occupations in which those under 18 work and on the number of child labor violations. It creates a nationwide reporting system for illnesses and injuries incurred by working children, and it requires a work certificate for any minor who is not a high school graduate that is approved by the youth's parent(s) or guardian, a physician and school or employment agency officials and that declares that the youth is fit for the job, the job is safe, the job will not interfere with the child's schooling, and the child will work limited hours.

Finally, the bill requires greater investigation, coordination and referral of child labor cases among enforcement officers at the Occupational Safety and Health Administration, Department of Labor, Immigration Service and in appropriate State agencies, and as I mentioned earlier, it requires the Secretary of Labor to publish the names, addresses, and offenses of violators.

Our child labor laws must reflect what most Americans believe, that children should not be exposed to hazardous working conditions, that work should not interfere with school, and that employers that exploit children or allow them to work in unsafe conditions should be properly punished.

I would like to commend my colleagues, Senators METZENBAUM and DODD, for their previous work on this very important concern. I would also like to acknowledge the tireless efforts of Congressman DONALD PEASE of Ohio, CHARLES SCHUMER of New York, and TOM LANTOS of California who introduced companion legislation, H.R. 4733, in the House of Representatives.

Mr. President, I ask unanimous consent that the full text of the bill be included in the RECORD upon completion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2697

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Young American Workers' Bill of Rights".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), except to the extent otherwise specifically provided.

SEC. 2. REPORTING AND RECORDKEEPING.

(a) CHILD-LABOR LAWS.—Section 12 (29 U.S.C. 212) is amended by adding at the end the following new subsections:

"(e)(1) The Secretary and the United States Census Bureau shall compile annually data from respective State employment security agencies in all the States (A) on the types of industries and occupations in which children under the age of 18 are employed, and (B) on cases in which it was determined that children were employed in violation of this section.

"(2) Each employer who employs an individual in a State under the age of 18 shall report to the State employment security agency in the State on any lost-time injury to the individual or any illness the individual incurred while at work. The report shall include the age of the individual, the nature of the job in which the individual is employed, the circumstances surrounding the injury or illness to the individual, and the report of the physician and health care facility that dealt with the injury or illness.

"(3) The Secretary of Health and Human Services, in conjunction with the Secretary of Labor, shall issue an annual report on the status of child labor in the United States and its attendant safety and health hazards.

"(f)(1) No person may employ an individual under the age of 18 who is not a high school graduate unless the person has in effect a certificate for the employment issued annually with the approval of the minor's parents or guardian, family physician, and appropriate local school or State employment security agency official. Such a certificate may be issued on a written determination that—

"(A) the individual is physically fit for the employment;

"(B) the employment will not interfere with the schooling of the individual;

"(C) the proposed employment is safe and does not pose any long-term hazards to the health of the individual; and

"(D) the individual, unless not enrolled in school, will not be employed more than—

"(i) 3 hours per day or more than 15 hours per week and shall be prohibited from working before 7:00 A.M. and after 7:00 P.M. when school is in session, if the individual is more than 14, but less than 16, years of age; and

"(ii) 5 hours per day or more than 28 hours per week and shall be prohibited from working before 6:00 A.M. and after 10:00 P.M. when school is in session, if the indi-

vidual is 16 years of age or more, but less than 18 years of age.

A copy of each certificate shall be kept on file in the local school district or the local office of the State employment security agency, as appropriate, in the State in which the employment is proposed.

"(2) When a certificate is issued under paragraph (1), the individual for whom the certificate is issued and the parents or guardian of the individual shall be informed of the requirements of this Act relating to child labor and the individual's rights under the requirements.

"(3) Each employer shall post a copy of the provisions of this Act relating to child labor at each premise of a worksite where child labor is employed.

"(4) Notwithstanding any other provision of this Act, subsection (e) and this subsection shall apply to an employer regardless of the annual dollar volume of sales under which certain enterprises are exempted from coverage under section 3(s).".

(b) IMPACT AID.—Any school district in which a persistent pattern is established for the issuance of illegal work certificates to minors may not receive any financial assistance under the Act of September 30, 1950 (20 U.S.C. 236 et seq.), other than section 7 of such Act (20 U.S.C. 241-1), or the Act of September 23, 1950 (20 U.S.C. 631 et seq.).

SEC. 3. REVISIONS OF ORDERS AND REGULATIONS.

(a) ORDERS.—

(1) IN GENERAL.—In the case of child labor orders issued by the Secretary of Labor (hereinafter in this Act referred to as the "Secretary") under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), and subpart E of part 570 of title 29, Code of Federal Regulations:

(A) MOTOR-VEHICLE DRIVERS AND OUTSIDE HELPERS.—The exemption provided in Order No. 2 (29 C.F.R. 570.52) shall apply to minors who are at least 17 years of age and to driving that is secondary and incidental to the minor's main occupation. The exemption shall be limited to 20 percent of the minor's work in any workday and may not exceed 5 percent of the minor's work in any workweek.

(B) OCCUPATIONS INVOLVING SLAUGHTERING, MEAT PACKING OR PROCESSING, OR RENDERING.—Order No. 10 (29 C.F.R. 570.61) shall apply with respect to restaurants and fast food establishments. The order shall prohibit individuals under the age of 18 from cleaning any machinery irrespective of who has disassembled the machinery.

(2) HAZARDOUS OCCUPATIONS.—In the administration of the Fair Labor Standards Act of 1938, the Secretary shall find and declare that poultry processing, seafood processing, paper baling, power driven meat slicing, and pesticide handling are occupations that are particularly hazardous for the employment of children who are more than 16, but less than 18, years of age, for purposes of section 3(l) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(l)).

(b) CHILD LABOR REGULATIONS.—In the administration of child labor regulation No. 3 (subpart C of 29 C.F.R. 570), the Secretary—

(1) shall prohibit individuals under 16 years of age from making door-to-door sales for profit;

(2) shall prohibit individuals under 16 years of age from using fryers, baking equipment, and cooking equipment in food service establishments; and

(3) shall not except cooking done at soda fountains, lunch counters, snack bars, or cafeteria serving counters from section 570.34(b)(5) of title 29, Code of Federal Regulations.

SEC. 4. PENALTIES.

Section 16(e) (29 U.S.C. 216(e)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking "$1,000" and inserting "$10,000"; and

(3) by adding at the end the following new paragraphs:

"(2)(A) Except as provided in subparagraph (B) or (C), any person who willfully violates the provisions of section 12 relating to child labor or any regulation issued under such section more than once shall, on conviction, be subject to a fine of not more than $100,000 or to imprisonment for not less than 6 months and not more than 1 year, or both.

"(B) Any person who willfully violates the provisions of section 12 relating to child labor or any regulation issued under such section shall, on conviction, be subject to a fine of not more than $250,000 or to imprisonment for not more than 7 years, or both, if the violation resulted in serious bodily injury to the minor employee.

"(C) Any person who willfully violates the provisions of section 12 relating to child labor or any regulation issued under such section shall, on conviction, be subject to a fine of not more than $250,000 or to imprisonment for not more than 14 years, or both, if the violation resulted in the death of the minor employee.

"(3) Any person who willfully violates the provisions of section 12 relating to child labor or any regulation issued under such section more than once—

"(A) may not compete for any Federal contract for a period of 5 years after the date of the last conviction for the violation;

"(B) may not be eligible for any direct or indirect Federal grant or Federal guaranteed loan, for a period of 5 years after the date of the latest conviction for the violation; and

"(C) may not employ any individual at the wage authorized by section 6 of the Fair Labor Standards Amendments of 1989 (29 U.S.C. 206 note) for a period of 5 years after the date of the last conviction for the violation.

"(4) Notwithstanding any other provision of this Act, paragraphs (2) and (3) shall apply to an employer regardless of the annual dollar volume of sales under which certain enterprises are exempted from coverage under section 3(s).".

SEC. 5. COORDINATION.

(a) IN GENERAL.—The Secretary shall establish and encourage closer working relationships among Federal and State agencies having responsibility for enforcing labor, safety and health, and immigration laws.

(b) REFERRALS.—

(1) WAGE AND HOUR DIVISION AND OSHA.—The Secretary shall establish a referral system under which employees engaged in the enforcement of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) and the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) shall—

(A) exchange information about suspected violators of the Acts and monitor the results of referrals to each other; and

(B) provide basic training to each other's staffs concerning the requirements of such Acts.

(2) INS AND STATE DEPARTMENTS OF LABOR.—The Secretary shall require employees engaged in the enforcement of the Fair Labor Standards Act of 1938 and the Occupational Safety and Health Act of 1970 to establish a referral system with—

(A) employees of the Immigration and Naturalization Service engaged in the enforcement of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) employees of Departments of Labor of the States engaged in the enforcement of State minimum wage and occupational safety and health laws.

The Immigration and Naturalization Service and the State Departments of Labor shall each be encouraged by the Secretary to establish information exchanges and, to the extent practicable, provided training to each other's staffs concerning the requirements of the Acts enforced by the respective agencies.

(c) ADVICE FROM PRIVATE OR PUBLIC SECTOR.—The Secretary shall seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to the provisions of the Fair Labor Standards Act of 1938 and corresponding regulations as the regulations pertain to the employment of minors.

(d) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary shall establish an Advisory Committee for Child Labor to provide overall policy advice on matters referred to in subsection (c).

(2) COMPOSITION.—The Committee shall be composed of not more than 21 individuals, and shall include representatives of government, labor, industry, education, agriculture, small business, youth, service industries, retailers, consumer interests, human rights, child welfare, and the general public.

(3) MEETINGS.—The Committee shall meet at the call of the Secretary or on the call of a majority of the Committee, a quorum being present.

(4) CHAIRPERSON.—The Chairperson of the Committee shall be elected by the Committee from among its members.

(5) APPOINTMENTS.—Members of the Committee shall be appointed by the President for a period of 5 years and may be reappointed for one or more additional periods.

(6) ASSISTANCE.—The Secretary shall make available to the Committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

SEC. 6. PUBLICATION OF VIOLATORS.

Section 12 (29 U.S.C. 212) (as amended by section 2 of this Act) is further amended by adding at the end the following new subsection:

"(g)(1) The Secretary shall publish the names and addresses of each person who willfully violates this section, or any regulation issued to carry out this section, and the types of violations committed by the person and shall distribute the publication regionally.

"(2) The Secretary shall post and otherwise make available to affected school districts the name of each person who violates this section, or any regulation issued to carry out this section, together with a description of the location and nature of the violation.".

SEC. 7. EFFECTIVE DATE.

This Act and the amendments shall become effective on October 1, 1990, or the date of enactment of this Act, whichever is later.●

By Mr. RIEGLE:

S. 2698. A bill to prohibit the importation of goods produced abroad with

child labor, and for other purposes; to the Committee on Finance.

THE INTERNATIONAL CHILD LABOR DETERRENCE ACT OF 1990

● Mr. RIEGLE. Mr. President, I am alarmed by reports of increased exploitation of children in the workplace around the world. The Geneva-based advocacy group Defense for Children International defines child exploitation as the extraction of excessive profits from a child's labor; using child labor in a way that could inflict physical or mental suffering or damage; or denying a child liberty or access to his or her family.

In 1979, the U.N. International Labor Organization [ILO] estimated that 56 million children between the ages of 11 and 15 served in the world's work force. In 1986, the ILO raised that estimate to 88 million. This figure represents a 57-percent increase in the number of 11- to 15-year-olds in the global work force in only a 7-year period. To make matters more disturbing, the 88 million ILO figure is a very conservative estimate of the number of children who are being cheated of an education and robbed of their youth. This estimate does not include many forms of children's work, such as piecework in the home or street peddling. Nor does it count any children under 11 years of age. By adding these informal categories of working children to the ILO worldwide total, the number reaches a staggering 200 million.

In some Asian countries, children constitute as much as 15 percent of the work force. Worse yet, that percentage rises to 17 percent in some African countries and as high as 26 percent in some Latin American countries. Millions of children work in various dangerous industries such as mining, metal works, glass and fireworks manufacturing, commonly without any protection or awareness of health risks. They work in the sort of barbaric conditions that we in the United States have long since considered inhumane and totally incomprehensible for children. Yet these practices persist in many developing nations with the tacit approval of local government officials who prefer to look the other way rather than enforce the child labor laws that already exist in most of their countries.

In 1987, Cox newspapers in a series called Stolen Childhood and the Christian Science Monitor in a series called Children in Darkness documented the deplorable conditions many children around the world face and the scope of their exploitation in the workplace. Let me give you a couple examples of what they found.

The carpet industry is well known for its use of child labor. As one Moroccan carpet factory employer told Cox News Service reporters:

> We prefer to get them when they are about seven. Children's hands are nimbler and their eyes are better too. They are faster when they are small.

This employer oversees a barren one-room carpet factory where the sweet, sickly odor of wool dust hangs over a corps of 250 girls and young women who sit elbow to elbow at hand looms for 55 hours a week working for pennies an hour.

Hiyat is 11 and she makes rugs for Morocco's largest carpet manufacturer, Mocary SA, in the capital city of Rabat. Perched on a low wooden bench in front of a loom, Hiyat knots rugs 6 days a week with 200 weavers in a concrete box of a factory. Because of her work she is unable to attend school even though she says she would rather go to school. Instead she toils away in tedium for at most 15 cents per hour without reprieve.

In the Philippines, 15-year-old Eliza earns 13 cents an hour working a high-speed sewing machine 90 to 110 hours per week. She is one of hundreds of thousands of 13-, 14-, and 15-year-old Asian children who work marathon hours of drudgery in the same sweatshops where they sleep. Factories, such as the one where Eliza works, are supposed to register with the Government and obey national labor laws. But they don't. On top of that, governments straining for economic development do not enforce these laws. It's a formula for exploitation of children that applies not only in the Philippines but in sweatshops by the thousands in Bangladesh, India, Indonesia, Malaysia, Pakistan, Sri Lanka, and Thialand.

In today's global marketplace, the failure of governments to abide by international conventions for the restriction of child labor in the workplace also constitutes an unfair trade practice. For all intents and purposes, foreign governments give implicit subsidies to their exporters when they fail to enforce international labor conventions and their own child labor laws. Because of this exploitation of child labor, foreign producers are allowed to pay children as little as one-third of what adults earn to do virtually the same work. Most of these countries already enjoy a major labor cost advantage over U.S. producers and are very competitive in the U.S. market without employing children. The added advantage they derive from employing children is an unfair advantage. I don't think it is fair to ask American workers to compete with imports from low wage countries made even more inequitable by the brutal employment of children making slave wages.

Like most other Americans, I look back with abhorrence on the sordid history of child labor in this country. I fervently oppose the exploitation of children in the workplace either in this country or anywhere else. Sadly, despite the existence of more than 20 ILO conventions on child labor, and an abundance of national legislation in many countries designed to regulate the employment of children under the age of 15, the number of child laborers increases yearly along with the pain, suffering, and exploitation. Clearly, more needs to be done to stop the exploitation of children in the workplace.

Ironically, although most Americans deplore the types of inhumane labor practices I have mentioned, we play an important role through our trade practices in assuring that the exploitation of children will continue. Many of the goods we import such as garments, carpets, furniture, and an array of others come from producers who rely heavily on the use of child labor. As long as the profits associated with using children to produce these items keep rolling into the producers' pockets, the horrors of child labor will continue. I think this is wrong.

It is time for America to do something to change the horrendous child labor practices which exist around the world today. Since the use of international conventions has been ineffective in curbing abuses of child labor laws, America's only recourse is to dry up the trading markets for goods produced by exploited children. Clearly, the basic human rights for children worldwide justify such an action.

Therefore, I am pleased to sponsor the Child Labor Deterrence Act of 1990. Similar to H.R. 2485 which is sponsored by Congressmen DONALD PEASE and TONY HALL in the House of Representatives, this bill prohibits the importation of goods produced abroad with child labor. The act also encourages other nations to join in a ban on trade-in products produced by child laborers. Specifically, the bill requires the U.S. Secretary of Labor to compile and maintain a list of foreign countries and industries within those countries that use child labor in industry and mining for the production of exports. In addition, it requires importers to sign certifications of origin to affirm that they took reasonable steps to make sure that their imported products from industries identified by the Secretary of Labor were not made by children under age 15 working in industry or mining. In the absence of such certificates, products from listed industries of listed countries would not be permitted to enter the United States.

I recognize that the elimination of exploitative child labor practices is a giant undertaking. However, I believe that concrete measures should be taken to try to reverse the current trend in exploitative child labor practices around the world. Also, in the interest of protecting American labor from unfair practices abroad, this act

will effectively communicate American displeasure that many governments indirectly subsidize their local exporters by failing to abide by their own laws and international child labor conventions. As a major importer of goods, the U.S. marketplace provides powerful leverage to achieve these goals.

We can no longer sit back and watch children around the world be exploited. In addition, we can no longer contribute to this process by importing the very goods which result from this exploitation. It's time for us to act on behalf of the 200 million powerless children around the world by prohibiting entry of imports made by children so shamelessly exploited in the work force.

Mr. President, I ask unanimous consent that the full text of the bill be included in the RECORD upon completion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Child Labor Deterrence Act of 1990".

SEC. 2. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) Principle 9 of the Declaration of the Rights of the Child proclaimed by the General Assembly of the United Nations on November 20, 1959, states that ". . . the child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental, or moral development . . .".

(2) According to the International Labor Organization, worldwide an estimated 200,000,000 children under age 15 are working, many of them in dangerous industries like mining and fireworks.

(3) Children under age 15 constitute approximately 11 percent of the workforce in some Asian countries, 17 percent in parts of Africa, and a reported 12-26 percent in many countries in Latin America.

(4) The number of children under age 15 who are working, and the scale of their suffering, increase every year, despite the existence of more than 20 International Labor Organization conventions on child labor and laws in many countries which purportedly prohibit the employment of underage children.

(5) In many countries, children under age 15 lack either the legal standing or means to protect themselves from exploitation in the workplace.

(6) The employment of children under age 15 commonly deprives the children of the opportunity for basic education and also denies gainful employment to millions of adults.

(7) The prevalence of child labor in many developing countries is rooted in widespread poverty that is attributable to unemployment and underemployment, precarious incomes, low living standards, and insufficient education and training opportunities.

(8) The employment of children under age 15, often at pitifully low wages, undermines the stability of families and ignores the importance of increasing jobs, aggregate demand, and purchasing power among adults as a catalyst to the development of internal markets and the achievement of broad-based, self-reliant economic development in many developing countries.

(9) Adult workers in the United States and other developed countries should not have their jobs imperiled by imports produced by child labor in developing countries.

(b) PURPOSE.—The purpose of this Act is to curtail worldwide employment of children under age 15 by—

(1) eliminating the role of the United States in providing a market for foreign products made by underage children; and

(2) encouraging other nations to join in a ban on trade in such products.

(c) POLICY.—It is the policy of the United States—

(1) to discourage actively the employment of children under age 15 in the production of goods for export or domestic consumption;

(2) to strengthen and supplement international trading rules with a view to renouncing the use of underage children in production as a means of competing in international trade;

(3) to amend United States law to prohibit the entry into commerce of products resulting from the labor of underage children; and

(4) to offer assistance to foreign countries to improve the enforcement of national laws prohibiting the employment of children under age 15 and to alleviate the underlying poverty that is often the cause of the commercial exploitation of children under age 15.

SEC. 3. UNITED STATES INITIATIVE TO CURTAIL INTERNATIONAL TRADE IN PRODUCTS OF CHILD LABOR.

In pursuit of the policy set forth in this Act, the President is urged to propose, as soon as possible, to the United Nations Economic and Social Rights Committee that the Convention for the Rights of the Child, which is to be submitted to the General Assembly of the United Nations, include a worldwide ban on trade in products of child labor.

SEC. 4. IDENTIFICATION OF FOREIGN COUNTRIES PERMITTING USE OF CHILD LABOR.

(a) IDENTIFICATION OF FOREIGN COUNTRIES.—The Secretary of Labor (hereafter in this section referred to as the "Secretary") shall undertake periodic reviews (and the first such review shall be undertaken within 180 days after the date of the enactment of this Act) to identify any foreign country that—

(1) has not adopted, or is not enforcing effectively, prohibitions against the use of child labor in the production of products within the country (including designated zones therein); and

(2) has on a continuing basis exported products of child labor of the country to the United States.

(b) PETITIONS REQUESTING IDENTIFICATION.—

(1) Any person may file a petition with the Secretary requesting that a particular foreign country be identified under subsection (a). The petition must set forth the allegations in support of the request.

(2) Within 90 days after receiving a petition under paragraph (1), the Secretary shall—

(A) decide whether or not the allegations in petition warrant further action by the Secretary in regard to the foreign country under subsection (a); and

(B) notify the petitioner of the decision under subparagraph (A) and the facts and reasons supporting the decision.

(c) CONSULTATION AND COMMENT.—Before identifying a foreign country under subsection (a), the Secretary shall—

(1) consult with the United States Trade Representative, the Secretary of State, and the Secretary of the Treasury regarding such an action;

(2) publish notice in the Federal Register that such an identification is being considered and inviting the submission within a reasonable time of written comment from the public; and

(3) take into account the information obtained under paragraphs (1) and (2).

(d) REVOCATION OF IDENTIFICATION.—

(1) Subject to paragraph (2), the Secretary may revoke the identification of any foreign country under subsection (a) if information available to the Secretary indicates that such action is appropriate.

(2) No revocation under paragraph (1) may take effect earlier than the 60th day after the date on which the Secretary submits to the Congress a written report—

(A) stating that in the opinion of the Secretary the foreign country concerned has adopted, and is effectively enforcing, laws prohibiting the production of products with child labor within the country (including designated zones therein); and

(B) stating the facts on which such opinion is based and any other reason why the Secretary considers the revocation appropriate.

(3) No revocation under paragraph (1) may take effect unless the Secretary—

(A) publishes notice in the Federal Register that such a revocation is under consideration and inviting the submission within a reasonable time of written comment from the public on the revocation; and

(B) takes into account the information received under subparagraph (A) before preparing the report required under paragraph (2).

(e) PUBLICATION.—The Secretary shall—

(1) promptly publish in the Federal Register—

(A) the name of each foreign country identified under subsection (a),

(B) the text of each decision made under subsection (b)(2)(A) and a statement of the facts and reasons supporting the decision, and

(C) the name of each foreign country regarding which an identification is revoked under subsection (d); and

(2) maintain in the Federal Register a current list of all foreign countries identified under subsection (a).

(f) ANNUAL REPORT ON CHILD LABOR LAWS AND PRACTICES.—In furtherance of subsection (a), the Secretary shall transmit to the Congress, within 180 days after the date of enactment of this Act, and not later than March 1 of each subsequent year, a full and complete report with respect to the national laws and practices of foreign countries (including those listed in subsection (a)(1)) pertaining to the commercial exploitation of children. In preparing such a report, the Secretary shall consult with those officials listed in subsection (c). The Secretary shall also use all available information regarding the commercial exploitation of children, including information made available by the International Labor Organization, interna-

tional trade union secretariats, trade unions, children's advocacy organizations, religious groups, and human rights organizations. Each report shall include entries on all foreign countries, shall describe which countries condone the commercial exploitation of children by law or in practice, and shall describe which countries by law and in practice effectively discourage the commercial exploitation of children, including the domestic mechanisms for the enforcement of laws and penalties intended to deter the commercial exploitation of children. Wherever possible, each report shall also identify those industries within particular foreign countries in which there is demonstrable evidence of commercial exploitation of children.

SEC. 5. PROHIBITION ON ENTRY.

(a) IN GENERAL.—

(1) Except as provided in paragraph (2), during the effective identification period for a foreign country the Secretary may not permit the entry of any manufactured article that is a product of an industry in which there is demonstrable evidence of commercial exploitation of children within that country.

(2) Paragraph (1) does not apply to the entry of a manufactured article—

(A) for which a certification that meets the requirements of subsection (b) is provided;

(B) that is entered under any subheading in subchapter IV or VI of chapter 98 (relating to personal exemptions) of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007); or

(C) that was exported from the foreign country and was en route to the United States before the first day of the effective identification period for such country.

(b) CERTIFICATION THAT ARTICLE IS NOT A PRODUCT OF CHILD LABOR.—

(1) The Secretary shall prescribe the form and content of documentation, for submission in connection with the entry of a manufactured article, that satisfies the Secretary that the importer of the article has undertaken reasonable steps to ensure, to the extent practicable, that the article is not a product of child labor.

(2) The documentation required by the Secretary under paragraph (1) shall include written evidence that the agreement setting forth the terms and conditions of the acquisition or provision of the imported article includes the condition that the article not be a product of child labor.

SEC. 6. PENALTIES.

(a) UNLAWFUL ACTS.—It is unlawful—

(1) during the effective identification period applicable to a foreign country, to attempt to enter any manufactured article that is a product of that country if the entry is prohibited under section 5(a)(1); or

(2) to violate any regulation prescribed under section 7.

(b) CIVIL PENALTY.—Any person who commits any unlawful act set forth in subsection (a) is liable for a civil penalty of not to exceed $25,000.

(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any person who intentionally commits any unlawful act set forth in subsection (a) is, upon conviction, liable for a fine of not less than $10,000 and not more than $35,000, or imprisonment for 1 year, or both.

(d) CONSTRUCTION.—The violations set forth in subsection (a) shall be treated as violations of the customs laws for purposes of applying the enforcement provisions of the Tariff Act of 1930, including—

(1) the search, seizure, and forfeiture provisions;

(2) section 592 (relating to penalties for entry by fraud, gross negligence, or negligence); and

(3) section 619 (relating to compensation to informers).

SEC. 7. REGULATIONS.

The Secretary shall prescribe regulations that are necessary or appropriate to carry out this Act.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) A manufactured article shall be treated as being a product of child labor if the article—

(A) was fabricated, assembled, or processed, in whole or part;

(B) contains any part that was fabricated, assembled, or processed, in whole or part; or

(C) was mined, quarried, pumped, or otherwise extracted;

by one or more children who engaged in the fabrication, assembly, processing, or extraction—

(i) in exchange for remuneration (regardless to whom paid), subsistence, goods or services, or any combination of the foregoing;

(ii) under circumstances tantamount to involuntary servitude; or

(iii) under exposure to toxic substances or working conditions otherwise posing serious health hazards.

(2) The term "child" means an individual who has not attained age 15.

(3) The term "effective identification period" means, with respect to a foreign country, the period that—

(A) begins on the date of that issue of the Federal Register in which the identification of the country is published under section 4(e)(1)(A); and

(B) terminates on the date of that issue of the Federal Register in which the revocation of the identification referred to in subparagraph (A) is published under section 4(d)(3).

(4) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(5) The term "foreign country" includes any foreign instrumentality. Any possession or territory of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(6) The term "manufactured article" means any good that is fabricated, assembled, or processed. The term also includes any mineral resource (including any mineral fuel) that is entered in a crude state. Any mineral resource that at entry has been subjected to only washing, crushing, grinding, powdering, levigation, sifting, screening, or concentration by flotation, magnetic separation, or other mechanical or physical processes shall be treated as having been processed for the purposes of this Act.

(7) The term "Secretary", except for purposes of section 4, means the Secretary of the Treasury.●

By Mr. ROTH (for himself, Mr. GRASSLEY, and Mr. SYMMS):

S. 2699. A bill to amend title 31 of the United States Code to restrict the use of appropriations amounts available for definite periods; to the Committee on Governmental Affairs.

RESTRICTIONS ON USE OF CERTAIN APPROPRIATIONS ACCOUNTS

Mr. ROTH. Mr. President, while the White House and Congress are engaged in a summit on reducing the Federal deficit, the Federal agencies appeared to have started dipping into multibillion dollar slush funds that will result in higher deficits.

The slush funds are to Federal agencies facing spending restrictions like a hidden flask of whiskey is to an alcoholic entering a detox clinic. As a result, regardless of this year's budget cuts associated with a peace dividend, DOD contracts can expand significantly during the early 1990's.

The story is the same across the Federal Government. Senator GRASSLEY and I have discovered multibillion dollar slush funds of expenditure authority and these funds may be used to extend current programs.

Innovative budgeteers within the Federal agencies have developed methods to access the slush funds, all complying with the current law. A major part of the problem is that the pertinent sections of the United States Code are ambiguous and open to interpretation; and if the code is not clarified, we may face large, uncontrollable increases in outlays and the deficit. Therefore, today I am introducing with Senator GRASSLEY, as the other primary cosponsor, legislation that clarifies the United States Code. It would keep the agencies from getting high off these funds by taking them away from agency control.

In the jargon of the Federal bureaucracy, these slush funds are referred to as the M account. Many call this the mañana account because it is available for use today, but you do not have to pay the bill until tomorrow.

How big is the mañana account? Well, in the case of just one agency, DOD, it is in excess of $50 billion. In the case of just one program at the Department of State, the Agency for International Development, it is an $11 billion problem. Last year the International Monetary Fund, not even a part of the U.S. Government, received funds from the mañana account totaling $1.6 billion; at EPA the problem is much smaller, only $52 million.

Without getting bogged down in the arcane world of Government accounting rules, it is worthwhile understanding how this problem arose. Simply stated, a Government accounting rule defined in 1956 became a pot of funds for Government agencies, accessible in time of tight budgets. The relevant rule, 31 United States Code 1552 and 1553 was established to give Government agencies guidance on how to account for unliquidated Federal obligations such as very old Government contracts and how to keep track of

unused appropriations many years after their useful life.

These rules have been used by Government agencies to write more contracts than Government or, rather, Congress intended for a given year's appropriation, to circumvent the contracting process and to keep current efforts alive.

Budget authority is obligated by a Federal agency entering into a contract within a time period specified by the Congress, generally between 1 and 3 years. After this time period, the budget authority is said to expire, which means that it is no longer available for a new contract. At the end of the second expired year, the budget authority that has been obligated to a contract, loses its fiscal year identifier and is transferred into the so-called M account. If expenditures exceed the value of the M account, then the agency can increase the size of the M account by restoring unobligated budget authority from an account called the merged surplus.

The merged surplus account is made up of unobligated budget authority that has passed the 2-year expiration period. For example, according to the 1989 Federal Government's balance sheet, the International Monetary Fund restored $1.6 billion. It is sort of like having a checking account with automatic overdraft protection, except the bills get paid by increasing the Federal deficit. For just DOD, the GAO says that the total amount available through the M account could exceed $50 billion.

The problem is that the mañana account is used to play a version of the old con game of pyramid. For example, a DOD program manager gets $100 million of fiscal year 1990 budget authority for a 5-year R&D contract. He plans for the contract consuming $20 million per year from 1990 through 1994.

Under Federal appropriations law, R&D funds are available for obligation for 2 years and can be used to pay bills for 4 years. And any remaining obligation rolls over to the mañana account. In other words, the fifth year of the program manager's contract will be funded out of the mañana account.

So a sharp budget analyst who knows this, calls up the program manager in 1991, and tells him not to worry about setting aside the $20 million for 1994 for bills, since there is plenty of surplus in the mañana account, write another contract. The program manager catches on, writes a 4-year, $20 million contract that would use $5 million on mañana account funds in 1994, and he asks the budget analyst if there is enough surplus in the mañana account to cover the $5 million, which the budget analyst confirms. The program manager then writes a third contract for $5 million. He now has 125 million dollars' worth of contracts from the original $100 million appropriation.

This can continue as long as there is sufficient surplus in the mañana account which is now, as I said, over $50 billion in DOD, at least $11 billion at the Agency for International Development, $52 million at the Environmental Protection Agency and probably as large elsewhere in the Federal Government.

LEGITIMATE M ACCOUNT NEEDS

There are legitimate needs for the M account, such as paying for contract incentive awards after the end of a contract. In addition, provision needs to be made for claims resulting from suits against the Government and Severance Funds for Foreign National Employees of the U.S. Government.

SOLUTION

The Roth-Grassley bill is straight forward and only 14 lines. It requires Federal agencies to limit the length of contracts to the time period that the money is available, including the expiration period. It thereby prevents the practices of pyramiding and extending contracts.

Second, the bill allows agencies to keep only a reasonable balance in the mañana account, to be used for severance pay, contract incentive awards, and suits against the Government.

Third, the bill prohibits the use of M account funds for increasing the value of contracts, which removes an agency's ability to circumvent either the contracting process or congressional efforts to kill programs.

Fourth, the bill removes an agency head's access to the merged surplus account, which is used to fund shortfalls in the M account. This fourth item removes an agency's ability to access the mañana account when the budget is tight.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1552(a) of title 31, United States Code, is amended—

(1) in paragraph (1) by inserting "(A)" after "(1)";

(2) in paragraph (1) by adding at the end thereof the following:

"(B) Amounts merged into an account for paying obligations pursuant to subparagraph (A)—

"(i) shall not be available beyond the period specified in law, plus the 2 year expiration period provided in this section and section 1553; and

"(ii) shall be retained in amounts reasonably necessary for the purpose of paying—

"(I) severance pay;

"(II) contract incentive awards; and

"(III) contingent liabilities as a result of law suits.

Such amounts shall not be available to increase the value of an existing obligation."; and

(3) in paragraph (2) by striking the last sentence.

(b) The amendments made by this Act shall apply with respect to fiscal years beginning with fiscal year 1991.

Mr. GRASSLEY. Mr. President, I am pleased to join my colleague, Senator ROTH, who is the ranking member of the Senate Committee on Governmental Affairs, in introducing this bill to correct the M account and merged surplus account abuses. I would like to commend my colleague from Delaware for his active leadership on this issue, and for his ongoing efforts in general to improve the way our Government operates.

This is a taxpayer issue, Mr. President. We address it in the wake of the mushrooming cost of bailing out the S&L industry, and of cleaning up nuclear waste. Together, these price tags will amount to hundreds of billions of dollars to the taxpayers over the coming years.

There is another mushroom that has been growing in the dark corners of the Government's bureaucracy whose total cost could add tens of billions of dollars to the taxpayers' already crippling burden. It is the Defense Department's M account and merged surplus account, which some have described as slush funds.

These accounts contain as much as $50 billion, perhaps more, of laundered, no-year money that is used to maximize the number of contracts the Government enters into, and is used to fund cost-overruns. The contracting issue has led to pyramiding, whereby, for example, $100 million of appropriations is used to write 125 million dollars' worth of contracts.

These Defense Department accounts are by no means the only ones. There are other smaller mushrooms whose totals are unknown that are growing in other corners of other departments and agencies in the Government. The M account alone for the Agency for International Development, for instance, is over $10 billion. I do not wish to suggest that this money is entirely surplus or slush, because it may exist in these accounts to cover a legitimate contingent liability.

However, at least in the Department of Defense's accounts, it is clear that these funds far exceed the sum total needed for such liabilities. And that is quite an understatement on my part, I might add.

My distinguished colleague from Delaware has explained the purpose of this bill and what problems it is intended to address.

He has also explained how these problems came about—the creation of the account in 1956 combined with the creation of multiyear contracting in 1972 allows the system, or should I say

wiley bureaucrats with green eyeshades, to create a very large and very flexible checking and savings account for writing lots of contracts and underwriting lots of cost overruns. A cynic might suggest that whoever dreamed this scheme up over at DOD must have gotten a large bonus.

Mr. President, let me just touch on a couple of significant points with respect to this issue, as they relate to the budget. The first is that the huge size of the merged surplus account in DOD, which contains $30 billion or more in unobligated balances, is the result of the excessively large build-up of the Defense budget during the 1980's.

My colleagues may recall, Mr. President, that I brought to their attention back in 1986 the fact that DOD could not physically obligate more than 96 percent of its budget, on average, and that the remaining 4 percent of the budget—that is, the unobligated balance—was being squirreled away to cushion against future budget squeezes. DOD was socking this money away for a rainy day.

It ended up in the merged surplus account, which can only be accessed by the M account. It is for that reason that I have termed this the mañana account. M stands for mañana. The defense buildup during the 1980's was so large that much of it is just waiting to be tapped by wiley bureaucrats looking to maximize contracts or fund cost overruns.

The second point I wish to make is the impact this account will have on the deficit. Roth-Grassley has the potential to save the taxpayers tens of billions of dollars. But let me clarify a point with respect to the deficit. This is not to say our bill will lower the deficit. Rather, it would prevent the deficit from ballooning further. If we do not pass this Roth-Grassley legislation, then the deficit is underestimated.

The tens of billions of dollars in these accounts will soon begin spending out, and the deficit will increase. This is because current DOD outlay estimates and our deficit projections do not take the effects of these accounts into consideration.

In the weeks ahead, I will work with Senator ROTH and others to pass this badly-needed legislation. I intend to amend the budget resolution with such language. In these times of rising deficits and rising costs for S&L's and waste clean-up, we cannot afford more costly surprises mushrooming up all over the Government. Roth-Grassley is a necessary remedy to a time bomb of outlays ready to explode on the taxpayers.

Thank you, Mr. President.

By Mr. CRANSTON:

S. 2701. A bill to amend title 38, United States Code, to improve the capability of the Department of Veterans Affairs to recruit and retain physicians and dentists through increases in, and modifications of, special pay authorities, and for other purposes; to the Committee on Veterans' Affairs.

DEPARTMENT OF VETERANS AFFAIRS PHYSICIANS' AND DENTISTS' COMPENSATION ACT

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am today introducing S. 2701, the proposed Physicians' and Dentists' Compensation Act of 1990. Similar legislation, H.R. 4557, was introduced on April 19, 1990, in the House by my counterpart on the House Veterans' Affairs Committee, Chairman SONNY MONTGOMERY. On April 26, 1990, the House committee favorably reported the bill, and the House of Representatives passed H.R. 4557 on May 1, 1990.

Mr. President, I believe the widespread support in the Congress for legislation to reform pay for physicians and dentists in the Veterans Health Services and Research Administration of the Department of Veterans Affairs [VA] demonstrates a shared recognition of the vital need to address the pay disincentives confronting VA-employed physicians and dentists and to provide corrections and adjustments so that VA can continue to recruit and retain top-caliber doctors who can provide high-quality and timely care to veterans seeking care at VA facilities.

Mr. President, in addition to the many Members of Congress who are supporting such legislation, there is strong administration support for physician and dentist special pay modifications to improve recruitment and retention. Both the bill I am introducing today and the House-passed bill rely heavily on the deliberations and recommendations of a VA Task Force report which is part of the Quadrennial Report to the President on the Adequacy of Special Pay for Physicians and Dentists submitted to the Office of Management and Budget on October 10, 1989. That task force report, in turn, relied on data and recommendations contained in an analysis done by a private firm—the Klemm Analysis Group—with which VA had contracted to carry out an analysis of the adequacy of VA physician and dentist pay compared to the compensation of those working in non-VA facilities. Although the administration has not yet sent to the Congress proposed physician pay legislation as it had indicated it would do in materials submitted in connection with the VA budget for fiscal year 1991, I anticipate that there will be some differences in approach or breadth, particularly in light of the cost estimate for such legislation—$38.6 million for fiscal year 1991—which was provided in those budget materials.

Mr. President, I am confident that the general consensus on the need to improve physician recruitment and retention in VA will enable us to enact appropriate legislation this session. I have scheduled a committee hearing on this bill and H.R. 4557 for June 14, 1990, and look forward to hearing views and suggestions on the legislation from a broad spectrum of witnesses. The committee is scheduled to mark up, on June 28, the bill I am introducing today.

Mr. President, I want to acknowledge at the outset the debt I owe in developing this bill to the excellent work of the House committee and its leadership, Chairman SONNY MONTGOMERY and ranking minority member BOB STUMP, in developing H.R. 4557. I was in the enviable position of having the advantage of the invaluable spade work done by the staff of the House committee, and I profited greatly from their efforts and was able to build on the strong foundation established by the other body in passing its bill.

BACKGROUND

Mr. President, the concern of the Congress with levels of compensation available to VA physicians and dentists was reflected in the legislation enacted in 1975 and 1980 and in oversight activity since 1980. Significant strides were made in correcting major inequities and pay disincentives in 1975 and then in 1980; however, in the 10 years since the last adjustment to physician and dentist special pay authorities, two elements have changed. First, and most obviously, inflation has eroded to a great extent the gains achieved by the 1980 legislation. Purchasing power of the median VA physician salary has greatly diminished over the past 10 years. Second, the greater amount of detailed information now available about physician pay elsewhere in the Federal and non-Federal sectors allows us to make more rational decisions about which characteristics of physician skills and experience VA must focus on most in terms of special pay.

The 1975 enactment of Public Law 94-123, the Veterans' Administration Physician and Dentist Pay Comparability Act, established a temporary special pay mechanism for VA physicians and dentists. The administration's plan at the time was to develop a permanent unified salary structure applicable to all Federal physicians. However, on August 6, 1979, in response to my repeated inquiries, the then-Director of the Office of Management and Budget, James T. McIntyre, Jr., wrote me that:

> We have gradually come to believe that it is not feasible to design a unified salary system that would successfully address the varying problems faced by agencies in the recruitment and retention of Federal physicians. Consequently, we think the best solution is to recognize the very different attraction and retention problems of various groups of physicians by having individual

bonus authorities specifically tailored to each group.

In response, our committee then developed S. 2534; provisions derived from that legislation were included in H.R. 7102, which was enacted over a Presidential veto in 1980 as Public Law 96-330, the Veterans' Administration Health-Care Amendments of 1980.

At that time, the committee took great pains in S. 2534 to provide VA with the flexibility and pay authorities it needed to recruit and retain competent, dedicated employees, and the bill I am introducing today would build a number of new structures on the successful foundation established in 1980. Public Law 96-330 requires the head of VA—then the Administration of Veterans Affairs, now the Secretary of Veterans Affairs—to submit regular reports to the President recommending appropriate amounts of special pay to ensure that VA physicians' and dentists' pay are at levels reasonably comparable with the compensation of both physicians and dentists in other Federal agencies and physicians and dentists in non-Federal positions. Although greatly delayed in its release—until October 10, 1989, even though it was completed in March 1989 despite its being due in December 1988—the most current report, the Secretary's Quadrennial Report to the President on the Adequacy of VA Physician and Dentist Special Pay, is a very useful document in its breadth of scope and detail. All parties now considering changes in VA special pay for physicians and dentists are using the report, particularly the data and analysis of the Klemm Analysis Group.

The purpose of Congress in requiring regular reports to the President and the Congress was to ensure that difficulties in recruitment and retention would be tracked and the levels of success of various techniques to ameliorate those difficulties would be assessed periodically. The recent Quadrennial Report succeeds in fulfilling this purpose. It clearly points out the areas of current and anticipated problems. The analysis made by the Klemm Analysis Group and the recommendations made by the VA Task Force on Physician Pay which reviewed the Klemm report provide a sound basis for major rethinking of the special pay structure, for a major restructuring of categories of special pay, as well as providing the justification for VA to pay substantially higher amounts of special pay.

Mr. President, the bill I am introducing today will, I hope, make a valuable addition to the discussion of how best to maintain the type of top-notch, high-quality physician and dentist staffing that our Nation's veterans deserve.

NEED TO ADDRESS PHYSICIAN PAY

Mr. President, the Klemm report and the VA Task Force analyses make manifest that VA has a doctor recruitment and retention problem. Such problems are clear to patients, physicians, nurses, administrators, and others in the medical center setting even though quantifying that sense may not always be possible. Traditionally, analysts look at numbers such as vacancy rates, time until an open position is filled, turnover rates, and the like. These data are useful; however, equally important in a correct analysis are the assumptions on which the numbers rest.

For example, a hospital which has a total ceiling for 10 doctors in some specialty and has 3 of those 10 slots unfilled has a 30-percent vacancy rate. If that situation continues long enough, however, workload will be diminished so that the seven doctors on staff can handle the demand, very often leading to an eventual reduction of the total ceiling to seven. Hence, the vacancy rate becomes zero even though the facility has not recruited replacements for its three missing physicians.

One physician who recently contacted the committee expressed the view that at times the applicants hired to fill VA positions are not the cream of the crop. Another physician pointed out that VA may be hiring good internists to care for patients who could better benefit from a specialist, such as a psychiatrist or gastroenterologist. Does a psychiatric hospital with a physician vacancy rate of zero but with no board-certified psychiatrists on staff have a recruitment and retention problem? I think the answer must clearly be yes.

In addition to the data, analysis, and recommendations provided by the Klemm Analysis Group, recent data are available to the committee in the Annual Report on Special Pay, dated May 1, 1990, from the Secretary to the two Veterans' Affairs Committees.

These reports present statistics which clearly show the need for physician pay reform. For example, the overall turnover rate for full-time physicians was 6.7, 10.5, and 9.7 percent in 1985, 1986, and 1987, respectively. The problem continues to be more pronounced in the less complex medical centers which are not affiliated with medical schools. The replacement rate of full-time physicians decreased over those 3 years from 108.9 percent to 88.5 percent to 89.9 percent. However, when looking more specifically at the qualifications of the physicians being replaced, Klemm noted that the replacement rate for similarly qualified physicians was lower. The replacement rates of full-time board-certified physicians from 1985 to 1987 were 102.9, 81.8, and 77.8 percent. Only 77.8 percent of the positions vacated by full-time, board-certified physicians were filled with full-time, board-certified physicians. The Klemm report described the increasing vacancy rate in psychiatry, for example, from 4.5 percent in 1985 to 8.9 percent in 1987. Others have pointed out that these average rates even those that are specialty specific such as these, describe ranges from perhaps zero percent in highly affiliated medical centers to over 20 percent vacancy rates in the unaffiliated facilities.

In addition, there are many costs borne by VA which can be attributed to physician recruitment and retention problems. Substantial additional costs are incurred because of the necessity to pay non-VA physicians to care for VA patients under contract. The Klemm report presents VA data which show that contract care is considerably more expensive per FTE than is VA staff care—for example, by factors of 13 percent for internal medicine and 73 percent for anesthesiology.

Moreover, there are serious morale costs when physicians and nurses need to take up the slack caused by vacancies. Shortages also have an adverse impact on the number of patients served and what services these patients can receive.

In turn, all of these factors influence the relationship between a VA medical center and its affiliated medical school. The symbiotic relationships between VA facilities and their affiliates are threatened, by definition, when either party diminishes its contribution. And there is the ever-threatening potential cost—human and economic—of inferior care. VA must not reach that point.

SUMMARY OF PROVISIONS

Mr. President, provisions of this bill would modify existing special pay for VA physicians and dentists, primarily by increasing the upper bounds of allowed ranges of pay for physicians and dentists in the various categories. Specifically, provisions of the bill would:

First, remove the cap on special pay, currently $22,500 for a full-time physician and $10,000 for a full-time dentist.

Second, eliminate primary special pay, currently $7,000 for a full-time physician and $2,500 for a full-time dentist.

Third, increase the amount of special pay for full-time status for a physician from $6,000 to $9,000 and for a full-time dentist from $1,000 to $3,500.

Fourth, increase the amounts of special pay for varying lengths of tenure (a) for a full-time physician from the current structure of $1,000 for 2 to 5 years, $2,000 for 5 to 8 years, and $3,000 for 8 or more years to a range of $4,000 to $6,000 for 2 to 4 years, a range of $6,000 to $12,000 for 4 to 8 years, and a range of $12,000 to $25,000 for 8 or more years; and (b) for

a full-time dentist from $500 for 2 to 7 years and $1,000 for 7 or more years to a range of $500 to $800 for 2 to 7 years and a range of $1,000 to $1,600 for 7 or more years. The bill also would authorize the Chief Medical Director [CMD] to establish specific levels of tenure pay for ranges of years of service for physicians with over 8 years of service and dentists with over 7 years of service.

Fifth, increase the maximum amount of special pay for specialties for which VA has extraordinary difficulty in recruiting and retaining qualified doctors for full-time physicians from a range of $4,000 to $15,500 to a range of $4,000 to $40,000, and for full-time dentists from a range of $2,000 to $7,500 to a range of $2,000 to $20,000.

Sixth, increase the amounts paid for executive or administrative medicine positions.

Seventh, establish special pay for specialty certification for full-time dentists—$2,000 for the first certification and an additional $500 for the second—and continue such pay for physicians.

Eighth, increase the amount of special pay for full-time physicians in geographic locations with exceptional recruitment and retention difficulties from a range of $0 to $5,000 to a range of $2,000 to $15,000, and for full-time dentists from a range of $1,750 to $2,500 to a range of $1,750 to $5,000.

Ninth, establish a new category of special pay, called exceptional qualifications, under which VA may pay up to $15,000 to a full-time physician and up to $5,000 to a full-time dentist, to the extent that the overall total pay allowed for other factors—full-time status, tenure, scarce specialty, serving in an executive medicine position, board certification, and pay for service in specific geographic areas—is not exceeded.

Tenth, direct that a physician or dentist working at least half-time but less than full-time be paid special pay for the same factors—except for full-time service—in proportion to hours worked.

Eleventh, authorize the CMD to pay a physician or dentist employed less than half-time special pay—except for full-time pay—in proportion to hours worked when that is shown to be the most cost-effective alternative for VA to acquire the services in question.

Twelfth, direct the Secretary, after receiving the recommendations of the CMD, to issue regulations implementing the Revised Special Pay Program.

Thirteenth, direct the CMD, or the CMD's designee, to decide what amount of special pay—within ranges specified in the bill—shall actually be paid, except for approval of special pay for "exceptional qualifications," for which the CMD's personal approval would be required.

Fourteenth, provide for local VA facility directors to make, if deemed necessary, requests to the CMD for authorization to pay special pay for scarce specialty and for recruitment in specific geographic areas.

Fifteenth, direct that the special-pay agreements that VA enters with physicians and dentists be for terms of 1 to 4 years and provide for certain penalties for breaking an agreement before the end of the first year.

Sixteenth, specify criteria for counting special pay toward retirement pay whereby (a) 50 percent of the increases under this bill could be counted for those who retire on or after the date 5 years after the date of enactment with at least 15 years of full-time service, and (b) 100 percent of such increases could be counted for those who retire on or after the date 10 years after the date of enactment with at least 15 years of full-time service.

Seventeenth, require that the CMD reimburse full-time, board-certified physicians and dentists for up to $1,000 for continuing education and authorize the CMD to reimburse such physicians and dentists for more than $1,000 and to reimburse other physicians and dentists as well.

Eighteenth, direct that future quadrennial reports compare VA physician and dentist total remuneration with non-VA physician and dentist total remuneration.

Nineteenth, require that the Secretary submit to the House and Senate Committees on Veterans' Affairs reports which describe special pay actions and explain, in the case of payment for specialties, which were designated as scarce and why, and which were not and why—using defined criteria and comparing those not designated to those which were designated.

COSTS OF PHYSICIAN AND DENTIST SPECIAL PAY REFORM

There are now before Congress a number of cost estimates for physician and dentist special pay reform. CBO estimated the cost of the physician and dentist special pay provisions in the House bill, H.R. 4557, at $66 million for the first year—fiscal year 1991—and a total of $511 million over the first 5 years. The recommendations of the Klemm Analysis Group as accepted by the VA task force were costed by VA at $100.2 million for the first year; however, $25 million of that cost has already been borne by virtue of administrative action in October 1989—as would have been required by the Senate-passed legislation—S. 13—still pending in the House in H.R. 901—to rescind the cap on special pay established by former Administrator Nimmo. Our committee proposed in its bipartisan budget views and estimates submitted to the Senate Budget Committee on March 12 that $75.2 million be provided for this special pay reform for fiscal year 1991, $36.6 million more than the amount in the administration budget request.

The missing estimate is the analysis that would cost out the administrator's own—not yet submitted—proposal. At the time the Secretary submitted his Quadrennial Report to the President, he also submitted a legislative proposal. That proposal has been under review with OMB since late October. The Congress has an inkling of the cost estimate because $38.6 million was included in the President's proposed fiscal year 1991 budget for VA physician and dentist pay reform. What is not clear is for what package that money would pay. There has been more than ample opportunity for the administration proposal to be transmitted to us. The Congress cannot wait any longer for it if we are to enact legislation in this year, as I believe we must. I look forward to the administration's testimony at our June 14 hearing.

NURSE PAY REFORM

Mr. President, before closing, I want to bring my colleagues up to date with respect to our committee's efforts to address another very difficult VA recruitment and retention problem—namely, VA's problems in attracting and keeping sufficient numbers of nurses. In the next several weeks, I will be presenting to my colleagues on the committee a revised plan for nurse pay reform which has been worked out with the House committee, based on the nurse pay provisions passed by the House on June 27, 1989, in H.R. 1199 and the Senate on October 3, 1989, in its amendment to H.R. 901 which was derived from S. 13. We have been working very intensively with the House committee over the last many months in developing a compromise, and I believe we are very close to finalizing the details of this compromise.

CONCLUSIONS

Mr. President, with the introduction of this bill today, our committee is beginning the effort to revise the VA Physician and Dentist Special Pay Program. The goal I hope to achieve through this legislation is to give the Secretary and the Chief Medical Director of the Department of Veterans Affairs the tools with which to act with flexibility, speed, and discretion in setting levels of pay for physicians and dentists that are necessary to ensure the smooth functioning of VA facilities and the high quality of care that we all desire VA to provide. This bill would establish new upper limits on the categorical and total amounts of special pay that could be paid to a VA physician or dentist that are much higher than those that currently exist. The intent is that VA would use the ranges of pay proposed in the bill so that it can recruit and retain clinicians of high quality, while not paying more than it must in order to do that. I con-

tinue to be of the view, as our committee was, in crafting the nurse remuneration provisions of S. 13, that VA should not be the pay leader in a particular geographic or specialty area.

This bill includes provisions to encourage physicians and dentists to stay with VA; to provide incentives for clinicians in difficult to recruit and retain specialties to come to VA; to make VA more attractive in certain localities where recruitment and retention have been difficult, such as high-priced urban centers of isolated rural communities; to reward board-certification as part of our scheme to maintain high-quality care; to provide reimbursement to physicians and dentists for certain continuing education expenses; to compensate those physicians and dentists in administrative positions in ways that would help VA retain able executives; and last, to allow the possibility of reward for exceptional skill or qualification.

Mr. President, many highly skilled doctors work for VA; not all of them can be rewarded financially at a level that would match what some physicians and dentists can earn in the private market. What we should be able to offer to all of them, however, is pride in VA and trust that VA and Congress are trying their best to treat them fairly and appropriately. I believe the bill I am introducing today meets this prescription.

Mr. President, I ask unanimous consent that a chart which shows the differences between what I am proposing and current law as well as the text of the bill be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows;

S. 2701

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Physicians' and Dentists' Compensation Act of 1990".

SEC. 2. REVISION AND REORGANIZATION OF THE SPECIAL PAY FOR PHYSICIANS AND DENTISTS.

(a) REDESIGNATION OF SUBCHAPTERS.—Chapter 73 of title 38, United States Code, is amended—

(1) by redesignating subchapters II and III as subchapters III and IV, respectively;

(2) by redesignating sections 4121 through 4124 as sections 4131 through 4134, respectively; and

(3) by redesignating sections 4131 through 4134 as sections 4141 through 4144, respectively.

(b) NEW SPECIAL PAY AUTHORITY.—Such chapter is further amended by inserting after subchapter I the following new subchapter:

"Subchapter II—Special Pay for Physicians and Dentists

"§ 4121. Special pay: authority

"(a)(1) In order to recruit and retain highly qualified physicians and dentists in the Veterans Health Services and Research Administration, the Secretary may pay special pay to physicians and dentists as provided in this subchapter. Special pay under this subchapter shall be paid under regulations prescribed by the Secretary after the Secretary has received the recommendations of the Chief Medical Director.

"(2) The Secretary may delegate the authority to prescribe the regulations required under paragraph (1) only to the Chief Medical Director. The Chief Medical Director may not redelegate that authority.

"(b) Special pay may be paid to a physician or dentist under this subchapter only pursuant to a written agreement entered into by the physician or dentist with the Department of Veterans Affairs under section 4122 of this title.

"(c) A physician or dentist serving a period of obligated service pursuant to chapter 76 of this title is not eligible for special pay under this subchapter during the first three years of that obligated service, except that, at the discretion of the Chief Medical Director, such a physician or dentist may be paid special pay for full-time status during all or any portion of those three years.

"(d)(1) The Chief Medical Director may designate categories of positions of physicians and dentists in the Veterans Health Services and Research Administration with respect to which the Chief Medical Director determines there is no significant recruitment or retention problem. Physicians and dentists serving in positions so designated shall not be eligible for special pay under this subchapter.

"(2) The Chief Medical Director shall review each year each category of positions that have been designated as ineligible for special pay under this subchapter with a view to determining whether the category of positions continues to present no significant recruitment or retention problem. The Chief Medical Director may withdraw the designation made with respect to any category of positions if the Chief Medical Director determines, on the basis of the review, that such category of positions represents a significant recruitment or retention problem. Upon the withdrawal of a designation with respect to a category of positions, that category of positions becomes eligible for special pay under this subchapter. The specification of categories of positions for purposes of this subchapter shall be made in accordance with regulations prescribed by the Secretary under subsection (a) of this section.

"§ 4122. Special pay: agreements

"(a) A physician or dentist who enters into an agreement under this subchapter shall agree to serve in the Veterans Health Services and Research Administration for not less than one nor more than four years in exchange for special pay for the period of the obligated service.

"(b) A physician or dentist who voluntarily, or because of misconduct, fails to complete at least one year of obligated service pursuant to an agreement entered into under this subchapter shall be required to refund the total amount of special pay received under this subchapter unless the Chief Medical Director determines, in accordance with regulations prescribed under section 4121(a) of this title, that the failure was the result of circumstances beyond the control of the physician or dentist.

"(c) A physician or dentist who entered into a previous agreement under this subchapter and has refunded the full amount, if any, which the physician or dentist became obligated to refund under the agreement shall be eligible to enter into a subsequent agreement under this section.

"(d) Each agreement entered into under this subchapter shall specify the terms under which the Secretary and the physician or dentist may terminate the agreement.

"§ 4123. Special pay: full-time physicians

"(a) The Secretary shall provide special pay under this subchapter to eligible physicians who enter into an agreement under this subchapter. In the case of physicians employed on a full-time basis, such pay shall be based on the annual rates and the factors specified in subsection (b) of this section.

"(b) The annual rates and other special pay factors applicable to full-time physicians are as follows:

"(1) For full-time status, $9,000.

"(2)(A) The annual rates for tenure of service within the Veterans Health Services and Research Administration are as follows:

"Tenure	Amount	
	Minimum	Maximum
2 years but less than 4 years	$4,000	$6,000
4 years but less than 8 years	6,000	12,000
8 years or more	12,000	25,000

"(B) For tenure of service in the Veterans Health Services and Research Administration, the Chief Medical Director shall specify a uniform national rate for each range of years of service established under this subparagraph. The Chief Medical Director may, as to tenure in excess of eight years, establish uniform rates for such ranges of years of service as the Chief Medical Director considers appropriate.

"(3) For service in a medical specialty with respect to which the Chief Medical Director has determined (on a nationwide or other geographic basis or on an individual facility basis) that there are extraordinary difficulties in the recruitment or retention of qualified physicians, an amount not less than $4,000 and not more than $40,000.

"(4)(A) For service in the executive position or grade specified in the table below, an amount not more than the amount specified for that position or grade as follows:

"Position or Grade	Maximum Amount
Chief of Staff or Executive Director Grade.	$25,000
Service Chief (or in a comparable position as determined by the Chief Medical Director).	15,000

"(B) For service in an executive position specified in the table below, the amount specified for that position as follows:

"Position	Amount
Chief Medical Director	$45,000
Deputy Chief Medical Director	40,000
Associate Deputy Chief Medical Director.	35,000
Assistant Chief Medical Director	30,000
Deputy Assistant Chief Medical Director.	27,500
Service Director	25,000

"(5) For specialty certification or first board certification, $2,000, and for subspe-

cialty certification or secondary board certification, an additional $500.

"(6) For service in a specific geographic location with respect to which the Chief Medical Director has determined that there are extraordinary difficulties in the recruitment or retention of qualified physicians generally, or in the recruitment or retention of a specific category of physicians, an amount not less than $2,000 nor more than $15,000.

"(7) For service by an individual physician with exceptional qualifications within a specialty, not more than $15,000, except that payment under this paragraph may be made only to the extent that the amount paid under this paragraph, when added to the total of the amounts paid to the physician under paragraphs (1) through (6) of this subsection, does not exceed the total amount that may be paid under those paragraphs to a physician with the same tenure, specialty, and position as the physician concerned.

"(c)(1) Special pay under subsection (b)(7) of this section must be personally approved by the Chief Medical Director on a case-by-case basis.

"(2)(A) If special pay is paid under subsection (b)(3) of this section to physicians serving in a specified geographic area, all physicians with the same medical specialty serving in that geographic area shall be paid the same rate of such pay. If special pay is paid under that subsection for a particular medical specialty on a nationwide basis, the Chief Medical Director may permit, in the case of an individual facility, the payment of special pay under that subsection at a rate higher than the nationwide rate if the director of the facility requests a higher rate for that facility and the maximum amount of special pay permitted under subsection (b)(6) of this section is being paid physicians at such facility.

"(B) In no event may the amount paid to a physician under the authority of subparagraph (A) exceed the sum of the maximum amount specified in subsection (b)(3) of this section and the maximum amount specified in subsection (b)(6) of this section.

"§ 4124. Special pay: part-time physicians

"(a) Subject to section 4127(e) of this title and subsection (b) of this section, the Secretary shall provide special pay to eligible physicians who are employed on a part-time basis and who enter into an agreement under this subchapter. Such pay shall be based upon the factors and the annual rates specified in subsection (b) of section 4123 of this title.

"(b) The amount paid to a physician employed on a part-time basis shall bear the same ratio to the amount the physician would be paid under section 4123 (other than for full-time status) if the physician were employed on a full-time basis as the amount of part-time employment by the physician bears to full-time employment by a physician.

"§ 4125. Special pay: full-time dentists

"(a) The Secretary shall provide special pay under this subchapter to eligible dentists who enter into an agreement under this subchapter. In the case of dentists employed on a full-time basis, such pay shall be based upon the annual rates and the factors specified in subsection (b) of this section.

"(b) The annual rates and other special pay factors applicable to full-time dentists are as follows:

"(1) For full-time status, $3,500.

"(2)(A) For tenure of service within the Veterans Health Services and Research Administration—

"Tenure	Amount	
	Minimum	Maximum
2 years but less than 7 years.....	$500	$800
7 years or more.....	1,000	1,600

"(B) For tenure of service in the Veterans Health Services and Research Administration, the Chief Medical Director shall specify a uniform national rate for each range of years of service under this subparagraph. The Chief Medical Director may, as to tenure in excess of seven years, establish uniform rates for such ranges of years of service as the Chief Medical Director considers appropriate.

"(3) For services in a dental specialty with respect to which the Chief Medical Director has determined (on a nationwide or other geographic basis or on an individual facility basis) that there are extraordinary difficulties in the recruitment or retention of qualified dentists, an amount not less than $2,000 nor more than $20,000.

"(4)(A) For service in an executive position or grade specified in the table below, an amount not more than the amount applicable to that position or grade as follows:

"Position or Grade	Maximum Amount
Chief of Staff or Executive Director Grade.	$8,000
Service Chief (or in a comparable position as determined by the Chief Medical Director).	5,000

"(B) For service in an executive position specified in the table below, the amount specified for that position as follows:

"Position	Amount
Assistant Chief Medical Director	$10,000
Deputy Assistant Chief Medical Director.	10,000
Service Director	9,000

"(5) For specialty certification or first board certification, $2,000, and for subspecialty certification or secondary board certification, an additional $500.

"(6) For service in a specific geographic location with respect to which the Chief Medical Director has determined there are extraordinary difficulties in the recruitment or retention of qualified dentists generally, or in the recruitment or retention of a specific category of dentists, an amount not less than $1,750 nor more than $5,000.

"(7) For service by an individual dentist with exceptional qualifications within a specialty, not more than $5,000, except that payment under this paragraph may be made only to the extent that the amount paid under this paragraph, when added to the total of the amounts paid to the dentist, under paragraphs (1) through (6), does not exceed the total amount that may be paid under those paragraphs to a dentist with the same tenure, specialty, and position as the dentist concerned.

"(c)(1) Special pay under subsection (b)(7) of this section must be personally approved by the Chief Medical Director on a case-by-case basis.

"(2)(A) If special pay is paid under subsection (b)(3) of this section to dentists serving in a specified geographic area, all dentists with the same medical specialty serving in that geographic area shall be paid the same rate of such pay. If special pay is paid under that subsection for a particular dental specialty on a nationwide basis, the Chief Medical Director may permit the payment of special pay under that subsection, in the case of an individual facility, at a rate higher than the nationwide rate if the director of the facility requests a higher rate for that facility and the maximum amount of special pay permitted under subsection (b)(6) of this section is being paid to dentists at such facility.

"(B) In no event may the amount paid to a dentist under the authority of subparagraph (A) exceed the sum of the maximum amount specified in subsection (b)(3) of this section and the maximum amount specified in subsection (b)(6) of this section.

"§ 4126. Special pay: part-time dentists

"(a) Subject to section 4127(e) of this title and subsection (b) of this section, the Secretary shall provide special pay to eligible dentists who are employed on a part-time basis and who enter into an agreement under this subchapter. Such pay shall be based upon the factors and at the annual rates specified in subsection (b) of section 4125 of this title.

"(b) The amount paid to a dentist employed on a part-time basis shall bear the same ratio to the amount the dentist would be paid under section 4125 (other than for full-time status) if the dentist were employed on a full-time basis as the amount of part-time employment by the dentist bears to full-time employment by a dentist.

"§ 4127. Special pay: general provisions

"(a)(1) A physician may not be paid special pay under paragraph (3) of section 4123(b) of this title for any period for which the physician is paid special pay for service in an executive position under paragraph (4)(B) of that section. A dentist may not be paid special pay under paragraph (3) of section 4125(b) of this title for any period for which the dentist is paid special pay for service in an executive position under paragraph (4)(B) of that section.

"(2) Scarce specialty pay may be paid to a physician or dentist serving as a Chief of Staff only if the Chief Medical Director determines that such pay is necessary for the purpose of recruitment and retention of highly qualified physicians or dentists to serve as Chiefs of Staff in the Veterans Health Services and Research Administration and the Chief Medical Director personally approves the payment of such pay in the case of such physician or dentist.

"(b) A determination under paragraph (1) or (2) of this subsection shall be made pursuant to regulations prescribed under section 4121(a) of this title as follows:

"(1) A determination that there are extraordinary difficulties (on a nationwide or other geographic basis or on an individual facility basis) in the recruitment or retention of qualified physicians in a medical specialty or in the recruitment or retention of qualified dentists in a dental specialty.

"(2) A determination of whether there are extraordinary difficulties in the recruitment or retention of qualified physicians generally, or in the recruitment or retention of a specific category of physicians in a specific geographic location or in the recruitment or retention of qualified dentists generally, or in the recruitment or retention of a specific category of dentists, in a specific geographic location.

"(c)(1) A determination for the purposes of this subchapter that there are extraordi-

nary difficulties in the recruitment or retention of qualified physicians in a medical specialty, or in the recruitment or retention of qualified dentists in a dental specialty, with regard to the needs of an individual medical facility may be made only upon the request of the director of that facility.

"(2)(A) If the director of a Department of Veterans Affairs medical facility determines that the facility is unable to recruit or retain physicians or dentists in a specific category for that facility under paragraphs (3) and (6) of section 4123(b), section 4124(b), paragraphs (3) and (6) of section 4125(b), or section 4126(b) of this title, the director shall notify the Chief Medical Director and recommend the payment of special pay or an increase in the payment of special pay, as appropriate, for that category of physicians or dentists.

"(B) The special pay (or the increase in special pay) recommended by the director shall become effective with respect to that facility 45 days after the date on which the Chief Medical Director receives the notification of the director unless, before the expiration of the 45 days, the Chief Medical Director disapproves the recommendations of the director. The recommendations may become effective before the expiration of the 45 days, at the discretion of the director of the facility, if the Chief Medical Director approves the recommendations before the expiration of the 45 days.

"(C) The approval or disapproval under this subsection of the recommendations of a director of a facility may be delegated or redelegated to any officer or employee of the Veterans Health Services and Research Administration who holds a position in the direct line of authority between the Chief Medical Director and the director of the facility higher than the one held by the director making the recommendations, as determined by the Chief Medical Director.

"(d) Special pay may not be paid to a physician or dentist under section 4123(b)(3), 4124(b), 4125(b)(3), or 4126(b) of this title (as the case may be) based on the needs of an individual medical facility unless the Chief Medical Director determines that special pay provided under section 4123(b)(6), 4124(b), 4125(b)(6) or 4126(b) of this title (relating to shortages in a specific geographic location of physicians and dentists generally, or shortages in a specific category in such location) is insufficient to meet the needs of that facility for qualified physicians or dentists in that specific category of physicians or dentists, as the case may be.

"(e)(1) Except as provided in paragraph (2) of this subsection, special pay may not be paid under this section to a physician or dentist who—

"(A) is employed on less than a half-time basis or on an intermittent basis;

"(B) occupies an internship or residency training position; or

"(C) is a reemployed annuitant.

"(2) If the Chief Medical Director determines that payment of special pay to a physician or dentist who is employed on a less than half-time basis is the most cost-effective way of providing needed medical or dental specialist services at a Department facility, the Chief Medical Director may authorize the payment of such special pay to that physician or dentist at a rate computed on the basis of the proportion that the part-time employment of the physician or dentist bears to full-time employment.

"(f)(1) A physician or dentist who—

"(A) is employed on a full-time basis in the Veterans Health Services and Research Administration,

"(B) was employed as a physician or dentist on a full-time basis in the Veterans Health Services and Research Administration on the day before the effective date of this subchapter, and

"(C) was being paid only in the special pay categories of primary, full-time, and tenure,

shall be paid special pay under this subchapter in an amount not less than the amount of special pay the physician was paid under section 4118 of this title on the day before the effective date of the repeal of that section.

"(2) A physician or dentist who—

"(A) is employed on a part-time basis in the Veterans Health Services and Research Administration,

"(B) was employed as a physician or dentist on a part-time basis in the Veterans Health Services and Research Administration on the day before the effective date of this subchapter, and

"(C) was being paid only in the special pay categories of primary and tenure,

shall be paid special pay under this subchapter in an amount not less than the amount of special pay the physician was paid under section 4118 of this title on the day before the effective date of the repeal of that section.

"(g) Special pay under this subchapter shall be paid in equal installments in accordance with regularly established pay periods.

"§ 4128. Special pay: coordination with other benefit laws

"(a) Special pay under this subchapter shall be in addition to any other pay or allowances to which a physician or dentist is entitled.

"(b)(1) Special pay paid under this subchapter to a new physician or dentist who has completed not less than 15 years full-time service as a physician or dentist in the Veterans Health Services and Research Administration shall be considered basic pay for the purposes of chapter 83 or 84, as appropriate, of title 5.

"(2) Special pay paid under this subchapter to an old physician or dentist who has completed a total of not less than 15 years full-time service as a physician or dentist in the Department of Medicine and Surgery of the Department of Veterans Affairs (or its predecessor) and the Veterans Health Services and Research Administration shall be considered basic pay for the purposes of chapter 83 or 84, as appropriate, of title 5 as follows:

"(A) In an amount equal to the amount that would have been considered or included for such purposes under section 4118 of this title on the day before the effective date of this section based on the rates of special pay the physician or dentist was entitled to receive under that section on the day before such effective date.

"(B) With respect to any amount of special pay received under this subchapter in excess of the amount the old physician or dentist received under section 4118 of this title on the day before the effective date of this section—

"(i) in an amount equal to 50 percent of such excess amount if the physician or dentist has completed at least five years of full-time service as a physician or dentist in the Veterans Health Services and Research Administration after the effective date of this section; or

"(ii) in the full amount of such excess amount if the old physician or dentist has completed at least 10 years of full-time service as a physician or dentist in the Veterans Health Services and Research Administration after the effective date of this section.

"(3) Special pay paid under this subchapter to an old physician or dentist or to a new physician or dentist shall be included in average pay (as defined in sections 8331(4) or 8401(3) of title 5, as appropriate) for purposes of computing benefits paid under section 8337, 8341(d) or (e), 8443 or 8351 of such title.

"(4) Special pay paid to an old physician or dentist under section 4118 of this title as in effect before the effective date of this section shall be credited to the physician or dentist for the same purposes and in the same manner and to the same extent that such special pay was credited to the physician or dentist before such effective date.

"(5) For purposes of this subsection:

"(A) The term 'new physician or dentist' means a physician or dentist employed as a full-time physician or dentist in the Veterans Health Services and Research Administration who has no previous full-time service as a physician or dentist in the Department of Medicine and Surgery of the Department of Veterans Affairs (or its predecessor) before the effective date of this section.

"(B) The term 'old physician or dentist' means a physician or dentist employed as a full-time physician or dentist in the Veterans Health Services and Research Administration who has previous full-time service as a physician or dentist in the Department of Medicine and Surgery of the Department of Veterans Affairs (or its predecessor) or in the Veterans Health Services and Research Administration before the effective date of this section.".

"§ 4129. Periodic review of pay of physicians and dentists; quadrennial report

"(a) In order to make possible the recruitment and retention of a well-qualified work force of physicians and dentists capable of providing a high quality of care for eligible veterans, it is the policy of Congress to ensure that the levels of total pay for physicians and dentists of the Veterans Health Services and Research Administration are set at levels reasonably comparable—

"(1) with levels of total pay of physicians and dentists employed by or serving in other departments and agencies of the Federal Government; and

"(2) with the incomes received by non-Federal physicians and dentists for the performance of services as physicians or dentists.

"(b)(1) To assist Congress and the President in carrying out the policy stated in subsection (a) of this section, the Secretary shall—

"(A) define the bases for pay distinctions, if any, among various categories of physicians and dentists, including distinctions between physicians and dentists employed by the Veterans Health Services and Research Administration and physicians and dentists employed by other departments and agencies of the Federal Government and between all Federal sector and non-Federal sector physicians and dentists; and

"(B) obtain measures of income from the employment or practice of physicians and dentists outside the Department, including both the Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting the amounts of special pay for Department physicians and dentists.

"(2) The Secretary shall submit to the President a report, on such date as the

President may designate but not later than December 31, 1992, and once every four years thereafter, recommending appropriate amounts of special pay to carry out the policy set forth in subsection (a) of this section with respect to the pay of physicians and dentists of the Veterans Health Services and Research Administration. The Secretary shall include in such report, when considered appropriate and necessary by the Secretary, recommendations for modifications of the special pay levels set forth in this subchapter whenever—

"(A) the Department is unable to recruit or retain a sufficient work force of well-qualified physicians and dentists because the total income and other employment benefits received by physicians and dentists for the performance of services as physicians and dentists outside the Department who perform comparable types of duties is significantly in excess of the levels of total compensation (including basic pay, special pay, and other employment benefits) of physicians and dentists of the Department; or

"(B) other extraordinary circumstances are such that special pay levels need to be modified in order to recruit and retain a sufficient number of well-qualified physicians and dentists.

"(c) The President shall specify in the budget next transmitted to the Congress under section 1105 of title 31 after the submission of each report of the Secretary under subsection (b)(2) of this section the exact rates of special pay recommended for physicians and dentists under this subchapter and the cost of those rates compared with the cost of the special rates in effect under this subchapter at the time the budget is transmitted.

"§ 4130. Annual report

"The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives an annual report on the use of the special pay authority provided in this subchapter. The Secretary shall submit the report each year as part of the budget justification documents submitted in support of the budget for that year (submitted pursuant to section 1105 of title 31). Each such report shall include the following:

"(1) A review of the use of the authorities provided in this subchapter (including the Secretary's and Chief Medical Director's actions, findings, recommendations, and other activities under this subchapter) during the fiscal year preceding the fiscal year in which the report is submitted and for so much of the current fiscal year as may be practicable.

"(2) The Department's plans for the use of the authorities provided in this subchapter for the current and next fiscal years.

"(3) A description of the amounts of special pay paid in each category of special pay during the preceding fiscal year, shown by category of pay.

"(4) A list of the geographic areas and the scarce medical and dental specialties for which special pay was paid during the preceding fiscal year, a list of the geographic areas and scarce specialties for which special pay is being paid during the current fiscal year, and a list of the geographic areas and scarce specialties for which special pay is expected to be paid during the next fiscal year, together with a summary of any differences among the three lists.

"(5) The number of physicians and dentists who left employment with the Veterans Health Services and Research Administration during the preceding fiscal year, the number who changed from full-time status to part-time status during the preceding fiscal year, and the number who changed from part-time status to full-time status during the preceding fiscal year, and summaries of the reasons for such actions.

"(6) The number of unfilled physician and dentist positions in each specialty in the Veterans Health Service and Research Administration, the average and maximum lengths of time that such positions have been unfilled, and a summary of the reasons that such positions remain unfilled and, in the case of any specialty not designated as a scarce specialty for purposes of special pay under this subchapter, an explanation (including comparisons with other specialties that have been so designated) of why the specialty has not been so designated.".

SEC. 3. CONFORMING AND TECHNICAL AMENDMENTS.

(a) REPEAL OF SECTION 4118.—Section 4118 of title 38, United States Code, is repealed.

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 73 is amended—

(1) by redesignating the subchapter designation pertaining to subchapter II as subchapter III and redesignating the section numbers pertaining to sections 4121 through 4124 as sections 4131 through 4134, respectively;

(2) by redesignating the subchapter designation pertaining to subchapter III as subchapter IV and by redesignating the section numbers pertaining to sections 4131 through 4134 as sections 4141 through 4144, respectively; and

(3) by inserting after the matter relating to subchapter I the following:

"Subchapter II—Special Pay for Physicians and Dentists

"4121. Special pay: authority.
"4122. Special pay: agreements.
"4123. Special pay: full-time physicians.
"4124. Special pay: part-time physicians.
"4125. Special pay: full-time dentists.
"4126. Special pay: part-time dentists.
"4127. Special pay: general provisions.
"4128. Special pay: coordination with other benefit laws.
"4129. Periodic review of pay of physicians and dentists; quadrennial report.
"4130. Annual report.".

(c) CROSS-REFERENCE AMENDMENTS.—(1) Section 4107 of such title is amended—

(A) in subsection (c), by striking out "section 4118 of this title" and inserting in lieu thereof "subchapter II of this chapter"; and

(B) in subsection (d), by striking out "sections 4118 and 4120 of this title" and inserting in lieu thereof "section 4120 of this title and subchapter II of this chapter".

(2) Section 4120(f) of such title is amended by striking out "section 4118 of this title" and inserting in lieu thereof "subchapter II of this chapter".

(d) TECHNICAL AND CONFORMING AMENDMENTS TO REDESIGNATED SUBCHAPTERS.—(1) Subchapters III and IV (as redesignated by section 2) and subchapters V and VI of chapter 73 of such title are each amended—

(A) by striking out "Administrator" and "Administrator's" each place they appear and inserting in lieu thereof "Secretary" and "Secretary's", respectively;

(B) by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Department"; and

(C) by striking out "Department of Medicine and Surgery" each place it appears and inserting in lieu thereof "Veterans' Health Services and Research Administration".

(2) Sections 4141 and 4143(b) of such title (as redesignated by section 2) are each amended by striking out "section 4134" and inserting in lieu thereof "section 4144".

(3) Section 4144 of such title (as redesignated by section 2) is amended—

(A) in subsection (a), by striking out "section 4131", "section 4132", and "section 4133" and inserting in lieu thereof "section 4141", "section 4142", and "section 4143", respectively; and

(B) in subsection (c)—

(i) by striking out "sections 4131, 4132, and 4133" and inserting in lieu thereof "sections 4141, 4142, and 4143"; and

(ii) by striking out "section 4132(b)(2)(C)" and inserting in lieu thereof "section 4142(b)(2)(C)".

(4) Sections 629(d) and 653(b) of such title are each amended by striking out "4132" and inserting in lieu thereof "4142".

SEC. 4. REIMBURSEMENT OF CONTINUING PROFESSIONAL EDUCATION EXPENSES FOR PHYSICIANS AND DENTISTS.

(a) IN GENERAL.—Section 4113 of title 38, United States Code, is amended—

(A) by inserting "(a)" before "The" at the beginning of such section; and

(B) by adding at the end the following:

"(b) The Chief Medical Director shall reimburse any full-time board-certified physician or dentist appointed under section 4104(1) of this title for expenses incurred for continuing professional education activities approved under criteria prescribed by the Chief Medical Director. The maximum amount of the reimbursement may not exceed $1,000 per year, except as otherwise determined by the Chief Medical Director.

"(c) The Chief Medical Director may also reimburse a physician or dentist not described in subsection (b) of this section for expenses described in that subsection. The maximum amount that may be reimbursed in the case of any physician or dentist in any year is $1,000 unless a higher amount is specifically authorized by the Chief Medical Director.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 4113. Travel expenses of certain employees; continuing professional education of physicians".

(2) The table of sections at the beginning of chapter 73 of such title is amended by striking out the item relating to section 4113 and inserting in lieu thereof the following:

"4113. Travel expenses of certain employees; continuing professional education of physicians.".

SEC. 5. EFFECTIVE DATE AND TRANSITION.

(a) EFFECTIVE DATES.—(1) The amendments made by sections 2 and 3 shall apply with respect to pay periods beginning more than 180 days after the date of the enactment of this Act.

(2) The amendments made by section 4 shall apply with respect to expenses incurred after September 30, 1990.

(b) SAVINGS PROVISION.—Except as provided in subsection (c), an agreement entered into under section 4118 of title 38, United States Code, before the effective date of the repeal of that section shall remain in effect in accordance with the terms of that agreement and the provisions of such section shall continue to apply to such agreement as if such section had not been repealed.

(c) TRANSITION FOR CERTAIN MULTIYEAR AGREEMENTS.—(1) The Secretary of Veterans Affairs shall terminate an agreement that was entered into under section 4118 of title 38, United States Code, before the effective date of the repeal of that section if—

(A) the agreement covers a period in excess of one year;

(B) the agreement expires more than one year after that effective date;

(C) the physician or dentist concerned requests termination of the agreement; and

(D) the agreement is terminated for the purpose of permitting the physician or dentist concerned to enter into a new agreement under subchapter II of chapter 73 of title 38, United States Code, as added by section 2.

(2) The termination of an agreement under paragraph (1) may take effect only after the physician or dentist has completed the first year of service under the agreement.

(d) PROHIBITION OF RETROACTIVE AGREEMENTS.—An agreement entered into under subchapter II of chapter 73 of title 38, United States Code, as added by section 2, may not provide special pay with respect to a period before the date on which the agreement is entered into.

SEC. 6. ELECTION FOR CREDITING OF SPECIAL PAY FOR RETIREMENT ANNUITY AND INSURANCE PURPOSES.

Each employee of the Department of Veterans Affairs (or its predecessor) described in paragraph (1) of section 103(b) of the Veterans' Administration Health-Care Amendments of 1980 (38 U.S.C. 4118) who elected not to have compensation provided such employee as special pay under section 4118 of title 38, United States Code (as in effect on the day before the effective date of the repeal of such section by section 3), included as basic pay for purposes of chapter 83 or 84 of title 5, United States Code, as the case may be, may elect to have special pay paid to such employee under subchapter II (as amended by section 2 of this Act) of chapter 73 of title 38, United States Code, on and after the effective date of the amendments made to that chapter by this Act considered basic pay for purposes of chapter 83 or 84, as appropriate, of title 5, United States Code, and included in average pay for the purposes of sections 8331(4) or 8401(3) of such title (as appropriate) in the same manner and to the same extent as provided in section 4128 of title 38, United States Code, as added by section 2 of this Act. An election under this section must be made in writing by the physician or dentist at the time the physician or dentist first enters into an agreement under such subchapter. An election under this section is irrevocable.

CHART COMPARING PROVISIONS OF SENATE BILL ENTITLED "PHYSICIANS' AND DENTISTS' COMPENSATION ACT OF 1990", H.R. 4557 (AS PASSED 5/1/90), AND CURRENT LAW

TABLE 1A.—FULL-TIME PHYSICIANS

[Provisions are presented in juxtaposition to provisions of similar topics in both current law (section 4118 of title 38) and H.R. 4557, the recently passed House bill which includes a physician and dentist pay title]

Issue	Current law (thousands)	SVAC draft
Overal cap to special pay	$22.5	Total of provisions listed below except for Exceptional Qualifications.
Primary	7.0	None.[1]
Full time	6.0	9.[1]
Tenure Years (dollars)	2-2.51 5-8.22	2-4.4-6.[1 2] 4-8.6-12.[2]

TABLE 1A.—FULL-TIME PHYSICIANS—Continued

[Provisions are presented in juxtaposition to provisions of similar topics in both current law (section 4118 of title 38) and H.R. 4557, the recently passed House bill which includes a physician and dentist pay title]

Issue	Current law (thousands)	SVAC draft
	8+.3 4-15.5	8+.12-25.[3] 4-40.[4]
Executive (or administrative)		
Medicine at Facility:		
Service chief	9.9	0-15.
Chief of staff	12.6	0-25.
In central office:[5]		
Dep. serv. dir	13	
Service dir	13.5	25.0.
Dep. ACMD	14.4	27.5.
ACMD	15.3	30.0.
ADCMD	15.3	35.0.
Dep. CMD		40.0.
CMD		45.0.
Speciality certification		
First	2	2.0.
Plus second	0.5	0.5.
Geographic/locality	0-5	2-15.
Exceptional qualifications	None	0-15.[6]

[1] Grandparent existing special pay if only received in the categories of primary, full time, and tenure.

[2] CMD may not alter the year ranges and must set a single dollar level for each range.

[3] CMD may set year ranges over 8 years and a single dollar level for each specialized range of years.

[4] (1) Entry-level could be designated as "scarce" if such physicians are determined to be difficult to recruit and retain. (2) CMD must set a single amount for a speciality throughout the region or locality designated. If CMD designates a speciality nationally, CMD may still pay more than that national amount (up to $40,000 maximum in total) in a particular region if the geographical category has been used in full.

[5] In H.R. 4557 and SVAC draft, if a physician in Central Office receives Executive Medicine pay, cannot also receive "scarce speciality" pay.

[6] Exceptional Qualifications special pay (not more than $15,000) can be paid to a physician only to the extent that the total allowed for (1) full time; (2) tenure; (3) scarce specialty; (4) executive medicine; (5) board certification; and (6) geographic is not exceeded.

Note: Physicians working at least half time but less than full time are paid special pay, except for full-time pay, in proportion to the number of hours worked in relation to full-time employment.

TABLE 1B.—FULL-TIME DENTISTS

[Provisions are presented in juxtaposition to provisions of similar topics in both current law (section 4118 of title 38) and H.R. 4557, the recently passed House bill which includes a physician and dentist pay title.]

Issue	Current law (thousands)	SVAC draft
Overall cap to special pay	$10.0	Total of provisions listed below except for exceptional qualifications.
Primary	2.5	None.[1]
Fulltime	1.0	3.5.[1]
Tenure: Years (dollars)	2-7.0.5 7+.1.0	2-7.0.5-0.8.[1 2] 7+1.0-1.6.[1]
Scarce specialty	2-7.5	2-20.[4]
Executive (or adminstrative) medicine at facility:		
Service chief	2.75	0-5.
Chief of staff	3.5	0-8.
In Central Office:[5]		
Dep. serv. dir	3.625	
Service dir	3.75	9.0.
Dep. ACMD	4.0	10.0.
ACMD	4.25	10.0.
ADCMD		
Dep. CMD		
CMD		
Specialty certification:		
First		2.0.
Plus second		0.5.
Geographic/locality	1.75-2.5	1.75-5.0.
Exceptional qualifications	None	0-5.[6]

[1] Grandparent existing special pay if only received in the categories of primary, fulltime, and tenure.

[2] CMD may not alter the year ranges and must set a single dollar level for the range.

[3] CMD may set year ranges over 7 years and a single dollar level for each specified range of years.

[4] (1) Entry-level could be designated as "scarce" if such dentists are determined to be difficult to recruit and retain. (2) CMD must set a single amount for a specialty throughout the region or locality designated. If CMD designates a specialty nationally, CMD may still pay more than that national amount (up to $20,000 maximum in total) in a particular region if the geographic category has been used in full.

[5] In H.R. 4557 and SVAC draft, if a dentist in Central Office receives Executive Medicine pay, cannot also receive "scarce specialty" pay.

[6] Exceptional Qualifications special pay (not more than $5,000) can be paid to a dentist only to the extent that the total allowed for (1) fulltime; (2) tenure; (3) scarce specialty; (4) executive medicine; (5) board certification; and (6) geographic is not exceeded.

Note.—Dentists working at least halftime but less than fulltime are paid special pay, except for fulltime pay, in proportion to the number of hours worked in relation to fulltime employment.

TABLE 2

[This table lays out the differences (and similarities) among the current law, H.R. 4557, and the SVAC bill draft in various, nondollar amount, concepts]

Issue	Current law	SVAC draft
Special pay regulations	Administrator	Secretary, after receiving the recommendations of the CMD. Secretary may delegate only to the CMD.
Discretion re amounts	CMD	CMD or CMD may delegate to person in line below the CMD and above the local facility director, except for approval of special pay for "exceptional qualifications" for which CMD's personal approval is required.
Local director participation	Not specified	Make request to CMD; 45-day provision for CMD response for scarce specialty and geographic.
Agreements: (1) term; (2) penalties; (3) betw. doc.	1-4 years; for first year; unspecified.	1-4 years; for first year; the Department.
Retirement:		
(1)	Must work 15 yrs before doctor can retire with special pay's counting toward retirement pay. Special pay between 9/30/80 and 10/1/85 is not credited at all; special pay between 10/1/85 and 10/1/90 is credited at 50 percent; special pay after 10/1/90 is credited at 100 percent.	Special pay from 1980 through the start date of the provisions of this bill is treated as under current law; from the amounts above what would have been rec'd. (new special pay minus current special pay), doc (this applies to new hires also) must have worked 15 yrs full-time in DM&S/VHS&RA to count the new special pay and then must work 5 years under the new pay to get 50 percent of the retirement benefit of the additional pay and 10 years for 100 percent (same concept as under old law).
(2)	Physicians and dentists were given a one-time opportunity to choose not to include their special pay in deduction calculations for retirement benefits.	Gives those who chose not to include their special pay in retirement calculations another chance to do so prospectively.
Continuing educaton reimbursement	Not specified	Shall: Up to $1,000 for board certif.; full-time physicians and dentists. May: exceed $1,000. May: Reimburse other physicians and dentists.
Part-time special pay:		
(1) If less than half time	None	In proportion to hours worked when shown to be the most cost-effective alternative.
(2) Limit	None	None.
Quadrennial report: Non-VA-comparison	Income	Remuneration.
Annual report to committees: Info vs. justification	Describe special pay actions.	Describe special pay actions and explain, in the case of specialties, which were designated as scarce, and why; and which were not, and why, using defined criteria in the discussion and comparing those not designated to those that are designated.

By Mr. KERRY:

S. 2702. A bill to reauthorize the Export Administration Act of 1979, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EXPORT ADMINISTRATION REFORM ACT

● Mr. KERRY. Mr. President, the Export Administration Act, the President's basic authority to control exports for national security and foreign policy purposes, expires at the end of September. The reauthorization comes at a time when dramatic changes have altered the strategic landscape of Eastern Europe, and the Soviet military threat has receded. West and East Germany will soon be one nation, and in less than 2 years, the West European nations will become a single commercial and trading entity.

The United States no longer enjoys technological preeminence or unquestioned leadership in the global economy. Our allies now challenge us in 55 percent of the 22 technologies identified by the Defense Department as most critical to our economic security. We can no longer dictate the rules of technology transfer at Cocom, the allies' Multilateral Export Control Coordinating Committee. Yet, the Bush administration, like its predecessor, continues to insist on placing cold warera constraints on American companies. American exporters simply cannot compete the world economy of the 1990's with an export control regime that belongs to the 1950's.

The administration recently announced the proposal it will take to the high-level Cocom meeting in early June in Paris. At best, this is a modest step on the path of bringing the export control regime into the 21st century. At worst, the administration's resistance to liberalization of controls beyond those contained in the package could cause the breakup of Cocom. The disintegration of Cocom would inflict permanent damage on American exporters, leaving them unilaterally bound by the Bush administration's controls while our European and Japanese competitors establish market presence and freely sell their products to eager East European and Soviet customers.

The cost of our export control policy is enormous and has a strong impact on the creation of jobs and income to the United States. In fact, in Massachusetts alone, the direct cost to the economy in 1985 was estimated at between $250 million and $1 billion in lost income and between 6,000 and 24,000 in lost jobs. These costs, of course, do not even include the immeasurable impact of such things as lost market position, underdesigned products, and management distraction. Nor is the indirect impact of lost exports on the overall economy included.

In the face of the disappointment expressed by the computer, telecommunications and other industries at the administration's proposal and the uncertainties surrounding the administration's negotiating flexibility at the June Cocom session, it is incumbent upon Congress to chart the course of our export control policy. The Banking Committee, on which I serve, is responsible for the reauthorization of the Export Administration Act, and will hold hearings on legislation in the coming weeks. As one who has been deeply involved in this issue because of its importance to the high-technology industry and workers of Massachusetts, I am introducing the Export Administration Reform Act of 1990. This legislation is intended to bring our export control regime into the 21st century.

The bill, modeled on the EAA reauthorization measure reported, unanimously on May 3 by the House Foreign Affairs Committee, offers an aggressive and realistic approach to the export control problems confronting our exporters. The legislation addresses the following areas: licensing requirements to and among Cocom countries; shipments to Eastern Europe; supercomputer and telecommunications exports; and the respective authorities of the Commerce and State Departments in export licensing.

With respect to our Cocom partners, the bill would eliminate more than 30,000 licenses our exporters must obtain each year to ship items to our Cocom allies. Our Cocom allies impose no similar burdens on their companies. This will save our exporters countless hours wasted in the licensing process, the equivalent of approximately $45 million and prevent the Europeans and the Japanese from using licensing delays as an excuse to design-out American products.

The bill would enable American exporters to sell civilian-use products to Eastern Europe with a technology level on par with those we may now sell to China, subject to certain safeguards against diversion to the U.S.S.R. While the administration's proposal would enable the United States to veto license applications by American exporters at Cocom, my bill would require the United States to support license applications to sell civilian products across the board to certified East European nations. Under Cocom's national discretion policy, our competitors allow their companies to sell certain computers, telecommunications equipment and other products to Eastern Europe, but the Bush administration unilaterally denies our firms the same right. My legislation would eliminate the administration's double export control standard and place our companies on equal footing with West European and Japanese firms.

For supercomputers, my legislation would establish a performance-based indexing system. This system would eliminate the requirement for security safeguards for noncontrolled destinations for supercomputers with a peak performance below 25 percent of the average of the two most powerful supercomputers available commercially.

Finally, the legislation would clarify for exporters once and for all which agency of the Federal Government is responsible for licensing their products. The bill would place all dual-use items under Commerce Department authority and all items designed strictly for military application under State Department authority. Disputes between the two agencies would be resolved expeditiously, eliminating yet another bureaucratic obstacle exporters face when seeking licenses.

Together, these provisions offer a progressive and rational course for the future of United States and multilateral export control policy. The bill will eliminate a significant portion of current licensing requirements, while retaining multilateral controls on those items which could truly harm United States and allied security. It presents a balanced but aggressive response to the challenge of a new European equation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2702

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Export Administration Reform Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there has been an extraordinary movement toward democracy and free markets in the countries of Eastern Europe;

(2) it is in the national security and economic interest of the United States to solidify the changes that have taken place and to promote additional progress;

(3) advanced technology that is committed to civilian purposes will facilitate the economic development of those countries of Eastern Europe, and broaden lines of communication with western countries;

(4) those countries of Eastern Europe that are committed to and capable of protecting against improper diversion should receive the technology that will help foster democracy and free market economies;

(5) by requiring licenses for exports to its closest allies, the United States spends a disproportionate amount of its limited resources on controlling exports to friendly countries;

(6) the export control system has been unable or unwilling to reduce the number of items controlled for national security purposes;

(7) the export control system is mired in bureaucratic redundancy and inefficiency; and

(8) the export control system hampers the competitiveness of United States industries and has a negative effect on employment in the United States' high tech sector and other industries.

(b) PURPOSES.—It is the purpose of this Act—

(1) to improve the efficiency of the export control system of the United States;

(2) to promote democracy and free enterprise in Eastern Europe by allowing for the export of goods and technology that will facilitate or assist in their economic development;

(3) to make Federal agencies that administer export controls accountable for their actions, and afford due process to those subject to such controls; and

(4) to contribute to the competitiveness of American exporters and to expand employment in the United States export sector.

SEC. 3. REFERENCE TO THE EXPORT ADMINISTRATION ACT OF 1979.

Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following).

SEC. 4. EXPORTS TO COCOM.

(a) EXPORTS TO AND FROM COCOM.—Section 5(b)(2) (50 U.S.C. App. 2404(b)(2)) is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), as of September 30, 1991, no authority or permission is required under this section for the export or reexport of goods or technology to, or the reexport of goods or technology from, a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k)(1).

"(B)(i) The Secretary may require authority or permission to export or reexport goods or technology, which are otherwise eligible for export under subparagraph (A), to such unreliable end users as the Secretary may specify by regulation.

"(ii) If the Secretary, in consultation with the Secretary of State, determines that a country referred to in subparagraph (A) is engaging in a pattern and practice of noncompliance with the agreement of the Coordinating Committee or other applicable agreement, the Secretary shall, during the period in which that determination is in effect, and to the extent determined by the Secretary, require authority or permission to export or reexport goods or technology to that country, and to reexport goods or technology from that country. Any such determination shall not take effect until 30 days after the Secretary notifies the Coordinating Committee of the determination and requests the cooperation of the Coordinating Committee in imposing comparable export controls. The Secretary shall review each determination made under this clause at least once in each 1-year period for the purpose of determining whether the country involved continues to engage in a pattern and practice of noncompliance with the applicable agreement.

"(iii) The provisions of section 10(o) shall apply to exports for which licenses may be required under this subparagraph.".

(b) CONFORMING AMENDMENTS.—Section 5(a) (50 U.S.C. App. 2404(a)) is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(3) in paragraph (5), as so redesignated, by striking "paragraphs (4) and (5)" and inserting "paragraph (4)".

SEC. 5. REEXPORTS AND SUPERCOMPUTER EXPORTS.

(a) REEXPORTS OF TECHNOLOGY.—Section 5(a)(4) (as redesignated by section 5(b) of this Act) is amended—

(1) in subparagraph (A) by striking "(B)" and inserting "(C)";

(2) in subparagraph (B)—

(A) by redesignating such subparagraph as subparagraph (C); and

(B) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(3) by inserting after subparagraph (A) the following:

"(B) Except as provided in subparagraph (C), no authority or permission may be required under this section to reexport technology subject to the jurisdiction of the United States from any country when the technology to be reexported is incorporated in other technology and—

"(i) the value of the technology subject to the jurisdiction of the United States that is incorporated in that other technology and, at the time of the reexport, would, if exported from the United States, require a validated license, is 25 percent or less of the total value of that other technology; or

"(ii) the export to a controlled country of the technology subject to the jurisdiction of the United States would require only notification of the participating governments of the Coordinating Committee.".

(b) SUPERCOMPUTER EXPORTS AND REEXPORTS.—Section 5(a) (50 U.S.C. 2404(a)), as amended by section 5(b), is further amended by adding at the end the following:

"(6)(A) With respect to the definition of 'supercomputer' under paragraph (5), the Secretary shall, not later than 6 months after the date of the enactment of this paragraph, publish in the Federal Register a performance-based indexing system in order to ensure that such definition and all controls and security safeguard procedures on supercomputer exports and reexports are commensurate with technological advances in the supercomputer industry. Such indexing system shall be based upon a provision that for destinations other than in countries which maintain export controls cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k)(1), or other than in controlled countries, no security safeguard procedures may be required in connection with any export or reexport of a supercomputer with a theoretical peak performance at or below approximately 25 percent of the theoretical peak performance of the average of the two most powerful supercomputers currently available commercially in the United States or elsewhere.

"(B) Before publishing the performance-based indexing system under subparagraph (A), the Secretary shall seek the views of the appropriate technical advisory committees and other interested parties. Not later than 2 weeks after publication of such system in the Federal Register, the Secretary shall submit a written report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the United States Senate, that includes—

"(i) the text of the Federal Register notice,

"(ii) a summary of the views expressed by the technical advisory committees and other interested parties with respect to the performance-based indexing system, and

"(iii) a description of how the performance-based indexing system addresses the views of the technical advisory committees and other interested parties.

"(C) For purposes of this paragraph, the term 'security safeguard procedures' means procedures that are required by the Department of Commerce, as a condition to an authorization to export or reexport a supercomputer, primarily to restrict access to and resale of such supercomputer.".

SEC. 6. EXPORTS TO EASTERN EUROPEAN AND OTHER COUNTRIES.

(a) EXPORTS.—Section 5(b) (50 U.S.C. App. 2404(b)) is amended by adding at the end the following new paragraphs:

"(4)(A) Not later than 90 days after the date of the enactment of this paragraph, the Secretary of State shall, subject to subparagraph (C), seek the approval of the Coordinating Committee of at least the following:

"(i) That no authority or permission may be required to export goods or technology described in subparagraph (B) to any country.

"(ii) That there shall be presumption of approval of any license application to export goods and technology at a technical level exceeding the technical level of goods or technology described in subparagraph (B), for civil end uses to Czechoslovakia, Poland, and Hungary and to any other country in Eastern Europe that was a controlled country as of January 1, 1990, that meets the criteria and has made commitments to enforce safeguards set forth in subparagraph (D).

"(B) Goods or technology referred to in subparagraph (A)(i) are goods or technology the export of which to the People's Republic of China on the date of the enactment of the Export Enhancement Act of 1988, would require only notification of the participating governments of the Coordinating Committee.

"(C)(i) Notwithstanding any other provision of this Act, the Secretary shall, within 60 days after the date of the enactment of this paragraph, determine whether the goods or technology for which no authority or permission to export would be required under subparagraph (A)(i) are, in the civilian sectors described in clause (ii), at a sufficiently high technical level to promote the economic development of those countries of Eastern Europe described in subparagraph (A)(ii) while protecting the national security of the United States. In determining the effect on the national security of the United States of an increase in such technical level, the Secretary shall consult with the heads of other appropriate agencies. If the Secretary determines that the technical level is not sufficiently high, the Secretary shall determine the appropriate new technical levels for goods or technology in those sectors determined by the Secretary. Not later than 90 days after the date of the enactment of this paragraph, the Secretary shall report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on any determination of new technical levels under the preceding sentence, including what these technical levels are, and shall publish the new technical levels in the Federal Register. The Secretary of State shall modify the proposal to the Coordinating Committee under subparagraph (A) so that presumption of approval under subparagraph (A)(ii) shall apply to goods or technology exceeding such new technical levels in those sectors, and no authority or permission would be required to

export to any country goods or technology below such technical levels in those sectors.

"(ii) The civilian sectors referred to in clause (i) are the following: agriculture, banking, transportation, health care, broadcasting, telecommunications, education, retailing, environmental protection, and energy. The Secretary may identify other such sectors on the basis that they are important to economic development, enhancement of democracy, or free enterprise in those countries of Eastern Europe described in subparagraph (A)(ii).

"(D) The criteria and safeguards referred to in subparagraph (A)(ii) to be met by a country are the following:

"(i) The country's policies are not adverse to the security interests of the United States or other country participating in the Coordinating Committee.

"(ii) The country does not pose a significant military risk to the United States or other country participating in the Coordinating Committee.

"(iii) The country will impose and enforce controls to protect against the reexport, without the prior written approval of the country from which the goods or technology are exported pursuant to the export license, to controlled countries of the goods or technology.

"(iv) The country will impose and enforce controls to prevent the transfer of the goods or technology involved to an unauthorized use or consignee.

"(v) The country does not pose a significant risk of diversion to an unauthorized use or consignee and any such diversion can be verified by any of the following means:

"(I) Inherent functional limitations of the goods or technology.

"(II) The extent to which the goods or technology can be used only for the proposed end use.

"(III) Allowance of random onsite inspections.

"(IV) Adequacy of computer use logs and software access controls.

"(V) Participation by countries other than controlled countries in the management or application of the goods or technology.

"(vi) The stated end use is civil.

"(E) Upon the approval by the Coordinating Committee of the proposal of the United States under subparagraph (A), together with any modifications thereto by the Coordinating Committee, the Secretary of State, in consultation with the Secretary, shall initiate negotiations with those countries meeting the criteria and safeguards set forth in subparagraph (D) as modified and approved by the Coordinating Committee to conclude bilateral agreements providing for the implementation of the safeguards described in subparagraph (D).

"(F) Not later than 30 days after the date on which the Coordinating Committee approves the proposal made by the United States under subparagraph (A), as modified by the Coordinating Committee, the Secretary shall publish—

"(i) those changes in the goods and technology subject to controls, and the changes in those controls, made pursuant to the proposal; and

"(ii) a list of those countries in Eastern Europe that meet the criteria and safeguards set forth in subparagraph (D).

"(5) Before the effective date established by the Coordinating Committee for implementing the proposal made by the United States under paragraph (4)(A), as modified by the Coordinating Committee, the Secretary shall publish those changes in the regulations issued under this Act that are necessary to implement such proposal, including those changes in goods and technology referred to in paragraph (4)(F)(i) and the countries in Eastern Europe referred to paragraph (4)(F)(ii).

"(6)(A) Not later than the effective date established by the Coordinating Committee for implementing the proposal made by the United States under paragraph (4)(A), as modified by the Coordinating Committee, the Secretary shall—

"(i) cease to require authority or permission to export any goods or technology for which the Coordinating Committee has ceased to require authority or permission to export under such proposal; and

"(ii) implement presumption of approval of export license applications described in paragraph (4)(A)(ii), as modified by the Coordinating Committee.

When this subparagraph takes effect, subsection (b)(3) shall no longer apply, except to the extent that the Coordinating Committee imposes the requirements of such subsection with respect to a country.

"(B) Notwithstanding any other provision of this Act, the Secretary shall develop and employ procedures that will ensure that, within 30 days after the date on which any export license application is submitted—

"(i) for presumption of approval under paragraph (4)(A)(ii), either the license application, if it qualifies for such presumption of approval will be submitted to the Coordinating Committee for approval, or the license applicant will be informed why the application does not qualify for such presumption of approval, or

"(ii) for exports which require a license but do not require the approval of the Coordinating Committee, action on the license by the United States is completed.

"(7) Subject to the review of the Coordinating Committee when required, export license applications for exports or reexports to the Soviet Union may be approved only for goods or technology for civil uses. Such approval shall be based on the following criteria:

"(A) Whether the civil application of the goods or technology is well established in countries other than controlled countries.

"(B) Whether the goods or technology proposed for export or reexport are reasonable in quantity and quality for the proposed end use.

"(C) Whether the goods or technology proposed for export or reexport are critical elements of Soviet or United States military systems and have direct and immediate application in such systems.

"(D) The risk of diversion to an unauthorized use or consignee and whether such diversion can be verified by any of the following means:

"(i) Inherent functional limitations of the goods or technology.

"(ii) The extent to which the goods or technology can be used only for the proposed end use.

"(iii) Allowance of random onsite inspections.

"(iv) Adequacy of computer use logs and software access controls.

"(v) Participation by countries other than controlled countries in the management or application of the goods or technology.

"(E) Whether the Government of the Soviet Union has provided to the United States Government assurances that the proposed export will be used only for the end use stated in the export license application.

"(F) Whether the stated end use is civil.".

(b) STATEMENT OF POLICY.—Section 3 (50 U.S.C. App. 2402) is amended by striking paragraph (15) and inserting the following:

"(15) It is the policy of the United States—

"(A) to actively consider and to approve general exceptions, on behalf of United States exporters, to the Industrial List portion of the International Control List of the group known as the Coordinating Committee, and to support identical exceptions for exporters from other countries participating in the Coordinating Committee; and

"(B) to provide specific guidelines to United States exporters, through the publication of regulations, public notices, and advisory opinions, with respect to goods, sectors, and end users eligible for such general exceptions, and to fully and promptly notify United States exporters of all agreements and decisions adopted by the Coordinating Committee with respect to such exceptions.".

SEC. 7. CONTROLS ON INFORMATION AND TELECOMMUNICATIONS.

Section 5 (50 U.S.C. App. 2404(b)) is amended by adding at the end the following:

"(r) CONTROLS ON INFORMATION AND TELECOMMUNICATIONS.—(1) Notwithstanding any other provision of law, export controls may not be imposed under this section on the transmission, broadcast, or distribution to or in any country of any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, or periodical publication, or on any equipment used for such transmission, broadcast, or distribution.

"(2) Not later than 30 days after the date of enactment of this Act, the President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the 'Committee') to accomplish the following objectives:

"(A) Agreement to allow exports to Eastern Europe of all telecommunications products used in civilian applications without either notification to or review by the Committee; and

"(B) Agreement to allow, upon notification to the Committee, exports to Eastern Europe of all telecommunications technologies used in or related to civilian applications.

"(C) Agreement to allow exports to the Soviet Union of the following items without either notification to or review by the Committee:

"(i) All telecommunications products that, as of the date of enactment, require only notification to the Committee for export to the People's Republic of China;

"(ii) All optical fibers, optical cables, other telecommunications cables, components and accessories subject to controls by the Committee; and

"(iii) All telecommunications technology relating to the items described in subparagraphs (A) and (B) above.

"(D) Agreement to allow, upon notification to the Committee, exports to the Soviet Union of all other telecommunications products for civilian end-uses; and

"(E) Agreement to allow exports to the Soviet Union of all other telecommunications technology for civilian application, upon review by the Committee.

"(3)(A) Not later than 90 days after the date of enactment of this subsection and once every 90 days thereafter, the Secretary shall submit to the Committee on Foreign

Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report which describes in detail for each objective required by paragraph (2) the current status of negotiations in the Coordinating Committee, including an explanation for any delay in reaching agreement.

"(B) Not later than 30 days after the Coordinating Committee reaches agreement on an objective required by paragraph (2), the Secretary shall publish in the Federal Register notice of the agreement.

"(C) Not later than 60 days after the Coordinating Committee reaches agreement on an objective required by paragraph (2), the Secretary shall publish in the Federal Register final regulations implementing the agreement.

"(4) Not later than 30 days after the date of enactment of this subsection, the Secretary shall publish in the Federal Register final regulations allowing the export under a General License of any telecommunications product or technology that does not require either notification of or review by the Coordinating Committee. The Secretary shall update these regulations as required by subparagraph (3).

"(5) In reviewing any application to export telecommunications products or technology to Eastern Europe or the Soviet Union, the Secretary shall consult with other departments and agencies only in cases where the product or technology would be used in a military application.

"(6) As used in this subsection—

"(A) the term 'Eastern Europe' means Albania, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania and Yugoslavia;

"(B) the term 'Soviet Union' means the Union of Soviet Socialist Republics, including Estonia, Latvia, Lithuania, and all other constituent republics;

"(C) the term 'telecommunications product' means all equipment and technology relating to civilian telecommunications projects or applications, including but not limited to:

"(i) telephone switching systems, stored program controlled communications switching systems including technology features and related components that provide enhanced services and efficient management of telecommunications networks;

"(ii) telecommunications transmission equipment;

"(iii) microwave and other radio relay and transmitting equipment;

"(iv) optical fibers, optical cables and other telecommunications cables and components;

"(v) equipment containing frequency synthesizers when used in land-based mobile communications systems;

"(vi) telecommunications equipment containing lasers; and

"(vii) all spare parts, components, and measuring and test equipment related to the items described in this paragraph;

"(D) the term 'telecommunications technology' means the information and knowledge (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services), that can be used to design, produce, manufacture, utilize or reconstruct goods, including computer software and technical data, but not the goods themselves;

"(E) the term 'military application' means only those situations where a purchaser, operating authority or subscriber is a military agency comparable to the United States Department of Defense, the Army, the Navy, the Air Force, or the United States Marine Corps, the National Guard, the Coast Guard, or intelligence agencies; and

"(F) the term 'civilian application' means all situations other than the military applications described in subparagraph (E).".

SEC. 8. COMMODITY JURISDICTION.

Section 5(c) (50 U.S.C. App. 2404(c)) is amended by adding at the end the following new paragraph:

"(8)(A) Notwithstanding any other provision of law, no item may be included on both the control list and the United States Munitions List.

"(B) Notwithstanding any other provision of law—

"(i) an item agreed for control on the International Munitions List of the group known as the Coordinating Committee shall be subject to control under the Arms Export Control Act and not under this Act;

"(ii) except as provided in subparagraph (C), an item not agreed for control on the International Munitions List of the group known as the Coordinating Committee shall be subject to control under this Act and not under the Arms Export Control Act; and

"(iii) an item that either is not specially designed, developed, configured, adapted or modified for military application or is specially designed, developed, configured, adapted or modified for military application but is used predominately in one or more civilian applications shall be subject to control exclusively under this Act and the control list established and maintained under section 4(b) of this Act.

"(C) An item not on the International Munitions List may remain subject to control under the Arms Export Control Act, and a new or newly designed item that is not on the International Munitions List may become subject to control under the Arms Export Control Act—

"(i) for a period of 9 months after the date of the enactment of this paragraph (in the case of items remaining subject to such control) or 9 months after the date on which the item becomes subject to such control (in the case of a new or newly designed item), but only if—

"(I) the item is not an item described in subparagraph (B)(iii); and

"(II) the United States, within that 9-month period, proposes to the Coordinating Committee that the item be added to the International Munitions List.

"(D)(i)(I) Within 3 months after the date of the enactment of this paragraph, the Secretary shall publish the control list and the Industrial List of the group known as the Coordinating Committee and the Secretary of State shall publish the United States Munitions List and the International Munitions List of the group known as the Coordinating Committee, with all revisions that have been made in accordance with this paragraph.

"(II) Within 3 months after the date of the enactment of this paragraph, the Secretary of State shall publish in a separate list those items remaining subject to control under the Arms Export Control Act under subparagraph (C).

"(ii) Should either the Secretary or the Secretary of State fail to publish a revised list in accordance with clause (i)(I), there shall be excluded from the list of the Secretary that did not so publish a revised list, any item included on the list of the Secretary that did so publish a revised list.

"(iii) Should an item be included on both lists published under clause (i)(I), should an item appearing on the list of one Secretary under clause (i)(I) be considered by the other Secretary to be under the jurisdiction of that other Secretary, or should the Secretary disagree with the inclusion of an item on the list published under clause (i)(II), the 2 Secretaries shall use the procedure set forth in subparagraph (F) with respect to that item. The Secretary objecting to a particular item shall initiate such procedure, except that the 2 Secretaries shall attempt to resolve the dispute for a period of 2 months before the procedure is initiated.

"(E) With respect to any item described in subparagraph (C) which has not been placed on the International Munitions List pursuant to a proposal of the United States under subparagraph (C), the Secretary of State, in consultation with the Secretary, may identify such item for control under section 6 of this Act if the President makes the determinations required by section 6(b)(1). The provisions of the third and fourth sentences of section 6(l) shall not apply to export controls imposed pursuant to this subparagraph.

"(F)(i) Whenever the Secretary or the Secretary of State receives a request to determine whether an item is subject to control under this Act or the Arms Export Control Act, or whenever either Secretary makes such a determination on such Secretary's own initiative, the Secretary or Secretary of State, as the case may be, shall, within 3 days after receiving such request, or upon making an initial determination on such Secretary's own initiative, refer to the other Secretary a copy of the request or determination, and any information relevant to the request or determination.

"(ii) Within 7 days after a request or determination is referred under clause (i), the Secretary receiving the referral shall transmit in writing to the other Secretary his or her position regarding whether the item in question is subject to control under this Act or the Arms Export Control Act.

"(iii) In the event of a disagreement under this subparagraph between the 2 Secretaries with respect to an item, the 2 Secretaries shall, within 10 days after the transmittal in writing under clause (ii), provide the President with all relevant information in support of their respective positions. The President shall, within 10 days after receiving the transmittal under the preceding sentence, notify the 2 Secretaries of his determination with respect to the item involved. The Secretary of the department that has been given jurisdiction of the item under the President's determination shall, within 5 days after receiving notice from the President under the preceding sentence, notify any person who requested the determination under clause (i), of the jurisdiction of the item.

"(iv) In the event that either the Secretary or the Secretary of State does not comply with the procedures prescribed in this subparagraph, the Secretary that did not so comply shall be deemed to concur with the other Secretary on the matter involved.".

SEC. 9. EXPORTS OF RELATED TECHNICAL DATA AND REPLACEMENT PARTS.—Section 5(e) (50 U.S.C. 2404(e)), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

"(8)(A) Any general or validated license authorizing the export of any goods or technology shall also authorize the export of operation technical data or replacement parts

related to such goods or technology, whether or not such data or replacement part is specifically referenced in the license or license application.

"(B) For purposes of this paragraph, the term 'operation technical data' includes—

"(i) original and updated manuals, instructions, bulletins, notices, blueprints, or software concerning the assembly, installation, maintenance, repair, or operation of goods or technology;

"(ii) training and training materials; and

"(iii) other similar data which is provided, in accordance with established business practice, to permit the safe and efficient use of goods or technology for their intended purpose.".

By Mr. MURKOWSKI (for himself, Mr. DOLE, Mr. DURENBERGER, Mr. BURNS, Mr. BOREN, Mrs. KASSEBAUM, Mr. WILSON, Mr. GORTON, Mr. REID, Mr. WARNER, Mr. LUGAR, Mr. SIMON, Mr. ARMSTRONG, Mr. COCHRAN, Mr. BIDEN, Mr. BOSCHWITZ, Mr. GRAMM, Mr. MACK, Mr. BRYAN, Mr. BURDICK, Mr. PELL, Mr. BENTSEN, Mr. BINGAMAN, Mr. COHEN, Mr. DECONCINI, Mr. BREAUX, and Mr. HATCH):

S.J. Res. 327. Joint resolution designating September 21, 1990, as "National POW/MIA Recognition Day," and recognizing the National League of Families POW/MIA flag; to the Committee on the Judiciary.

NATIONAL POW/MIA RECOGNITION DAY

● Mr. MURKOWSKI. Mr. President, I rise today, with the distinguished Senator from Kansas and 25 of our colleagues, to introduce a resolution which would designate September 21, 1990 as "National POW/MIA Recognition Day" and formally recognize the POW/MIA flag of the National League of Families of American Prisoners and Missing in Southeast Asia as the symbol of our Nation's concern and commitment to resolution of the fate of the Americans still unaccounted for in Southeast Asia.

A complete accounting of the men still missing in action is, and must remain, a priority for our Government and our people.

In past years, the Congress has designated one day in September as the focus of this ongoing priority. This resolution would call upon the American people to observe September 21, 1990 as that day; our Nation's day of recognition to those still missing.

The POW/MIA flag has become a tangible emblem of our national commitment to those still missing. In addition to designating a day of recognition for our MIA's, the resolution would also acknowledge the POW/MIA flag by officially designating it as the symbol of our Nation's concern and commitment.

I urge the Members of the Senate to join with us in support of the 2,303 Americans still missing in Southeast Asia. In doing so, we also stand in support of their families and all Americans who join us in a commitment to the return of any American service members still held prisoner as well as a complete accounting of those still missing. I urge my colleagues to join in support of this resolution.

I ask unanimous consent that the text of the resolution be printed in the RECORD at the conclusion of this statement.

There being no objection, the joint resolution ordered to be printed in the RECORD, as follows:

S.J. RES. 327

Whereas the United States has fought in many wars;

Whereas thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;

Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;

Whereas many of these Americans are still missing and unaccounted-for, and the uncertainty surrounding their fates has caused their families to suffer acute hardship; and

Whereas the sacrifices of Americans still missing and unaccounted-for and their families are deserving of national recognition and support for continued priority efforts to determine the fate of those missing Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NATIONAL POW/MIA RECOGNITION DAY.

September 21, 1990, is hereby designated as "National POW/MIA Recognition Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to recognize that day with appropriate ceremonies and activities.

SEC. 2. RECOGNITION OF NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG.

The National League of Families POW/MIA flag is hereby recognized officially and designated as the symbol of our Nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner, missing and unaccounted-for in Southeast Asia, thus ending the uncertainty for their families and the Nation.●

By Mr. SPECTER (for himself and Ms. MIKULSKI):

S.J. Res. 328. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month"; to the Committee on the Judiciary.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Mr. SPECTER. Mr. President, today I join Senator MIKULSKI in introducing a joint resolution to designate October 1990 as "National Domestic Violence Awareness Month." This resolution is the successor of Senate Joint Resolution 133, which I introduced in the 101st Congress with Senator MIKULSKI on May 16, 1989, and which was signed into law by the President on October 6, 1989.

According to the U.S. Department of Justice, 93 percent of the victims of violent crimes from 1982–84 where the offender is a relative were females. In 1984, former U.S. Surgeon General C. Everett Koop reported that domestic violence is the single largest cause of injury to women in the United States.

Domestic violence affects urban and rural women of all racial, social, religious, ethnic, and economic groups, and of all ages, physical abilities, and lifestyles. Therefore, it is fitting that we focus attention on the growing national tragedy of domestic violence, and demonstrate our support for those individuals and organizations working to address it.

Mr. President, the incidence of domestic violence nationwide is staggering. According to the National Coalition Against Domestic Violence, over 50 percent of all married women experience some form of physical abuse in their relationships. But the violence does not end there. A 1984 independent study by Ms. Lenore, Walker, author of "The Battered Woman Syndrome," found that 53 percent of abusive husbands beat their children as well as their wives, and that this violence is frequently repeated. During 1987, the National Coalition members provided shelter to more than 375,000 women and children from their unsafe homes. More disconcerting, however, is that 40 percent of women and children seeking shelter in 1987 were turned away due to a lack of space.

In my own State of Pennsylvania, the incidence of domestic violence is especially acute. In 1989, hotlines throughout the Commonwealth handled 141,383 abuse-related calls. The Pennsylvania Coalition Against Domestic Violence, headquartered in Harrisburg, PA, operates 44 shelters, 6 counseling centers and safe homes, and 57 hotlines throughout the Commonwealth. The Pennsylvania coalition reports that in 1989, these facilities provided services to 70,031 persons, 57,912 of whom were victims of domestic abuse. The coalition members also provided 408,037 hours of counseling to victims and their children, and 166,175 shelter days to battered individuals.

Statistics show that there is a growing need for such facilities. The Pennsylvania coalition reported an 11-percent increase in the number of shelter recipients in 1989. The total number of victims seeking aid is expected to continue increasing.

Many groups throughout the country are working to prevent domestic violence and to protect its victims. For example, the Junior League of York was involved in building a shelter for abused women and children. In addition, to make the public aware of the increasing incidence of domestic violence, the league handed out purple

ribbons to members of the York community to tie on their cars during the National Domestic Violence Awareness Month last October.

Unfortunately, despite these extensive efforts, existing shelters are as yet unable to meet the needs of all the victims. The Pennsylvania Coalition reported that in 1989, shelters were forced to turn away 8,940 women and children—an increase of 11.1 percent over last year's rejection rate. According to national statistics provided by the National Coalition Against Domestic Violence, for every woman sheltered, two women in need of shelter must be turned away due to lack of space.

Mr. President, I long have been concerned about the devastating effects of domestic violence on American families. As the former district attorney of Philadelphia. I have witnessed firsthand the tragic consequences of domestic abuse cases. Accordingly, I commend the efforts of the Pennsylvania Coalition Against Domestic Violence the National Coalition Against Domestic Violence, the National Network for Victims of Sexual Assault, the Pennsylvania Junior League, and similar organizations that take such an active role in combating domestic abuse.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the first resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 328

Whereas it is estimated that a woman is battered every fifteen seconds in America;

Whereas domestic violence is the single largest caused of injury to women in the United States, affecting six million women;

Whereas urban and rural women of all racial, social, religious, ethnic, and economic groups, and of all ages, physician abilities, and lifestyles are affected by domestic violence;

Whereas 31 percent of female homicide victims in 1988 were killed by their husbands or boyfriends;

Whereas one-third of the domestic violence incidents involve felonies, specifically, rape, robbery and aggravated assault;

Whereas in 50 percent of families where the wife is being abused, the children of that family are also abused;

Whereas some individuals in our law enforcement and judicial systems continue to think of spousal abuse as a "private" matter and are hesitant to intervene and treat domestic assault as a crime;

Whereas in 1987, over 375,000 women, plus their children, were provided emergency shelter in domestic violence shelters and safehomes, and the number of women and children that were sheltered by domestic violence programs increased by 164,000 between 1983 and 1987;

Whereas 40 percent of women in need of shelter may be turned away due to a lack of shelter space;

Whereas the nationwide efforts to help the victims of domestic violence need to be expanded and coordinated;

Whereas there is a need to increase the public awareness and understanding of domestic violence and the needs of battered women and their children; and

Whereas the dedication and successes of those working to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved by the Senate and House of Representative of the United States of American in Congress assembled, That October 1990 is designated as "National Domestic Violence Awareness Month." The President is authorized and requested to issue a proclamation calling on the people of the United States to observe this month by becoming more aware of the tragedy of domestic violence, supporting those who are working to end domestic violence, and participating in other appropriate efforts.

By Mr. KASTEN (for himself and Mr. DECONCINI):

S.J. Res. 329. Joint resolution to designate the week of June 17, 1990, through June 23, 1990, as "National Week To Commemorate the Victims of the Famine in Ukraine, 1932-33," and to commemorate the Ukraine Famine of 1932-33 and the policies of Russification to suppress Ukrainian identity; to the Committee on Foreign Relations.

NATIONAL WEEK TO COMMEMORATE THE VICTIMS OF THE FAMINE IN THE UKRAINE, 1932-1933

Mr. KASTEN. Mr. President, I rise today to introduce a joint resolution designating June 17-23, 1990, as the National Week To Commemorate the Victims of the 1932-33 Ukrainian Famine.

Less than 2 weeks from today, President Bush and President Gorbachev will meet in Washington to discuss United States-Soviet relations. This is a time to look forward, but it is also a time to remember the past.

In 1932-33, over 7 million Ukrainians in the Ukrainian Soviet Socialist Republic died of starvation. This starvation was due to Stalin's deliberate policy of destroying the political, cultural, and basic human rights of the Ukrainian people.

The congressionally created Commission on the Ukraine Famine has found that Stalin's government was in fact in complete control of the entire food supply within its borders—contrary to the official Soviet propaganda line which claimed that this was a naturally produced famine.

Fact: The Soviet Government failed to take relief measures to check the famine or to alleviate this suffering of the victims.

Fact: The Soviet Government ignored the appeals of the international community to help those 7 million starving Ukrainians.

Mr. President, the United States Government's Commission on the Ukraine Famine has documentation which shows that the Ukraine famine was the result of a deliberate policy on the part of the U.S.S.R.

This past February, the Central Committee of the Communist Party of the Ukraine acknowledged for the first time that the Ukrainian famine was artificially created by the policies of Joseph Stalin and his closest associates.

Now is the golden opportunity to express to Mr. Gorbachev our displeasure with Mr. Stalin's brutal policy of forced starvation. This resolution will send a message to Mr. Gorbachev—that the American people will not accept Communist propaganda at face value, but will only welcome a truly openminded and candid approach to bilateral relations.

I urge my colleagues to join Senator DECONCINI and myself in remembering this tragic event in human history.

We are asking the President to urge the American people to observe the week of June 17 through 23 by holding ceremonies, activities, and programs to commemorate this awful event. Only through memory can we hope to prevent the repetition of this kind of horrible crime.

I strongly urge my colleagues to join me in condemning this past atrocity and encouraging a future in which human rights and the sanctity of life reign supreme.

Mr. President, I ask for unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 329

Whereas more than 7 million Ukrainians in the Ukrainian Soviet Socialist Republic, one of the member republics of the Union of Soviet Socialist Republics, died of starvation during the years 1932-1933;

Whereas the famine of 1932-1933 was the consequence of deliberate policies of the Government of the Union of Soviet Socialist Republics aiming to destroy the political, cultural, and human rights of the Ukrainian people;

Whereas the economic, social, and political consequences of the famine of 1932-33 are still manifest among the Ukrainian population;

Whereas the Government of the Union of Soviet Socialist Republics, although aware of the famine in Ukraine and having complete control of the entire food supplies within the borders of the Union of Soviet Socialist Republics, nevertheless failed to take relief measures to check the famine of 1932-33 or to alleviate the catastrophic conditions resulting from it;

Whereas the Government of the Union of Soviet Socialist Republics ignored the appeals of international organizations and other nations;

Whereas the United States Commission on the Ukraine Famine, legislated to study and expand world knowledge of the famine, has substantiated, through hearings, eyewitness testimony, and documentation, that the Ukrainian famine of 1932-33 was the result of a deliberate policy by the Government of the Union of Soviet Socialist Republics, and has published those findings;

Whereas on February 7, 1990, the Central Committee of the Communist Party of the Ukraine acknowledged that the Ukrainian famine of 1932-33 was artificially created by the policies of Stalin and his closest associates;

Whereas the Government of the Union of Soviet Socialist Republics has a long history of suppression of Ukrainian aspirations for the exercise of legitimate human rights and the expression of the cultural and social heritage of Ukrainians; and

Whereas the United States has made intercessions at various times during the course of its history on behalf of citizens of other countries who are oppressed or persecuted by their governments, reflecting the traditional policy of the United States to take cognizance of such abuses of human rights and liberties: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That—

(1) the week of June 17, 1990, through June 23, 1990, is designated as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-1933"; and

(2) the President is requested to issue a proclamation calling on the people of the United States, State and local government agencies, and interested organizations to observe the week with appropriate ceremonies, activities, and programs.

SEC. 2. Congress condemns the systematic disregard for human life, human rights, and liberties that characterized the policies of the Government of the Union of Soviet Socialist Republics during the Ukrainian famine of 1932-1933 and expresses sympathy for the millions of victims of the famine.

SEC. 3. The President is requested to use public and diplomatic channels to call the attention of the world to the policies of the Union of Soviet Socialist Republics that—

(1) caused the slow death by famine of 7 million Ukrainians during 1932 and 1933; and

(2) for much of the modern history of Ukraine, have suppressed Ukrainian aspirations for the exercise of human rights and the expression of the cultural and social heritage of Ukrainians.

SEC. 4. Congress recognizes the reforms underway in Ukraine and strongly urges the Government of the Union of Soviet Socialist Republics to—

(1) continue to move forward toward democratization and restructuring; and

(2) provide a framework for the realization of the legitimate rights and aspirations of the people of Ukraine.

By Mr. PELL (for himself, Mr. CHAFEE, Mr. ADAMS, Mr. BENTSEN, Mr. BRADLEY, Mr. BURDICK, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. DIXON, Mr. GORE, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HOLLINGS, Mr. INOUYE, Mr. KERRY, Mr. LEVIN, Mr. LUGAR, Mr. MCCLURE, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. WARNER, Mr. CRANSTON, Mr. SPECTER, Mr. STEVENS, Ms. MIKULSKI, Mr. SIMON, and Mr. D'AMATO):

S.J. Res. 331. Joint resolution to designate the week of September 23 through 29, 1990, as "Religious Freedom Week"; to the Committee on the Judiciary.

RELIGIOUS FREEDOM WEEK

Mr. PELL. Mr. President, I am pleased to introduce today a joint resolution to designate the week of September 23-29, 1990, as "Religious Freedom Week."

This year marks the bicentennial anniversary of the issuance of President George Washington's famous letter declaring "to bigotry no sanction, to persecution no assistance." Washington issued this letter at the Touro Synagogue in Newport, RI, shortly before the ratification of the Bill of Rights was completed in 1791.

While the first amendment to the U.S. Constitution would soon guarantee religious liberty for all, George Washington went one step further and proposed a doctrine of mutual respect and understanding for individuals of all faiths and religious backgrounds.

As a result, Washington's letter and the Touro Synagogue have become national symbols of our country's commitment to religious freedom. Therefore, at a time when we are honoring the Bill of Rights, it seems entirely appropriate that we should also commemorate George Washington's statement on religious freedom, the symbolic importance of the Touro Synagogue, and our country's deep commitment to religious freedom for all.

Mr. President, I am pleased to be joined today in introducing this resolution by a distinguished group of Senators: Senators CHAFEE, ADAMS, BENTSEN, BRADLEY, BURDICK, BURNS, COATS, COCHRAN, CRANSTON, D'AMATO, DIXON, GORE, GRASSLEY, HATCH, HEFLIN, HOLLINGS, INOUYE, KERRY, LEVIN, LUGAR, MCCLURE, MIKULSKI, MOYNIHAN, PACKWOOD, SIMON, SPECTER, STEVENS, and WARNER have all joined with me today to celebrate our national commitment to religious freedom, and specifically freedom from religious persecution, intolerance, and indoctrination. I appreciate their interest and support, and hope that my other colleagues in the Senate will join with us in ensuring the swift passage of this important resolution.

Mr. President, I ask that the text of the resolution be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 331

Whereas the principle of religious liberty was an essential part of the founding of the Nation, and must be safeguarded with eternal vigilance by all men and women of goodwill;

Whereas religious liberty has been endangered throughout history by bigotry and indifference;

Whereas the first amendment to the Constitution guarantees the inalienable rights of individuals to worship freely or not be religious, as they choose, without interference from governmental or other agencies;

Whereas the Constitution ensures religious freedom to all of the people of the United States;

Whereas at Touro Synagogue in 1790, President George Washington issued his famous letter declaring "to bigotry no sanction, to persecution no assistance";

Whereas the Touro Synagogue letter advocating the doctrine of mutual respect and understanding was issued more than 1 year before the adoption of the Bill of Rights;

Whereas the letter of President Washington and the Touro Synagogue have become national symbols of the commitment of the United States to religious freedom;

Whereas throughout the history of the Nation, religion has contributed to the welfare of believers and of society generally, and has been a force for maintaining high standards for morality, ethics, and justice;

Whereas religion is most free when it is observed voluntarily at private initiative, uncontaminated by Government interference and unconstrained by majority preference; and

Whereas religious liberty can be protected only through the efforts of all persons of goodwill in a united commitment: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the week of September 23 through 29, 1990, is designated as "Religious Freedom Week"; and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States, including members of all faiths or none, to join together in support of religious tolerance and religious liberty for all, and to observe the week with appropriate activities.

ADDITIONAL COSPONSORS

S. 1245

At the request of Mr. MITCHELL, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1245, a bill to amend the Federal Meat Inspection Act to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes.

S. 1330

At the request of Mr. BRYAN, his name was added as a cosponsor of S. 1330, a bill to provide protections to farm animal facilities engaging in food production or agricultural research from illegal acts, and for other purposes.

S. 1511

At the request of Mr. PRYOR, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1890

At the request of Mr. THURMOND, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1890, a bill to amend title 5, United States Code, to provide relief

from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

S. 2003

At the request of Mr. HOLLINGS, the names of the Senator from Nevada [Mr. REID], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 2003, a bill to establish a commission to advise the President on proposals for national commemorative events.

S. 2044

At the request of Mr. BIDEN, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes.

S. 2111

At the request of Mr. INOUYE, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2111, a bill designating the month of May as "Asian/Pacific American Heritage Month."

S. 2222

At the request of Mr. BRADLEY, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Montana [Mr. BURNS], the Senator from Vermont [Mr. JEFFORDS] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 2222, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 2288

At the request of Mr. DOMENICI, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2288, a bill to amend the Internal Revenue Code of 1986 to extend for 2 years the application of credits for qualified nonconventional fuels, to equalize the treatment of tight formation natural gas, and to restore tax credits denied by operation of decisions by the Federal Energy Regulatory Commission.

S. 2310

At the request of Mr. SASSER, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2310, a bill to improve certain food programs through the expansion and reauthorization of such programs, and for other purposes.

S. 2437

At the request of Mr. JOHNSTON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2437, a bill to authorize the acquisition of certain lands in the State of Louisiana for inclusion in the Vicksburg National Military Park.

S. 2517

At the request of Mr. LEVIN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2517, a bill to provide that any distribution permitted under the Internal Revenue Code of 1986 to a first time homebuyer from the individual retirement account of the homebuyer, or the homebuyer's parents or grandparents be free from the 10 percent penalty for early distributions.

S. 2653

At the request of Mr. BURNS, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 2653, a bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

S. 2663

At the request of Mr. MCCAIN, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 2663, a bill to provide increased and special benefits to individuals involuntarily separated from the Armed Forces, and for other purposes.

S. 2679

At the request of Mr. BURNS, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2679, a bill to protect irrigation, power, and recreation on the Missouri River.

SENATE JOINT RESOLUTION 274

At the request of Mr. LAUTENBERG, the names of the Senator from Maine [Mr. COHEN], the Senator from Tennessee [Mr. SASSER], the Senator from Ohio [Mr. GLENN], the Senator from Wisconsin [Mr. KOHL], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 274, a joint resolution to designate the week beginning June 10, 1990 as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 276

At the request of Mr. LIEBERMAN, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Arkansas [Mr. PRYOR], the Senator from Alaska [Mr. STEVENS], and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Joint Resolution 276, a joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 285

At the request of Mr. THURMOND, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Oklahoma [Mr. BOREN], the Senator from North Carolina [Mr. HELMS], the Senator from New York [Mr. D'AMATO], the Senator from Texas [Mr. GRAMM], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 285, a joint resolution to designate the period commencing September 9, 1990, and ending on September 15, 1990, as "National Historically Black Colleges Week."

SENATE JOINT RESOLUTION 293

At the request of Mr. RIEGLE, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of Senate Joint Resolution 293, a joint resolution to designate November 6, 1990, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 298

At the request of Mr. THURMOND, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Joint Resolution 298, a joint resolution to provide for the erection of a memorial in the Arlington National Cemetery to honor United States combat glider pilots of World War II.

SENATE JOINT RESOLUTION 301

At the request of Mr. PELL, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Montana [Mr. BAUCUS], the Senator from Georgia [Mr. NUNN], the Senator from Montana [Mr. BURNS], the Senator from Tennessee [Mr. SASSER], the Senator from Kentucky [Mr. FORD], the Senator from Washington [Mr. GORTON], the Senator from Maine [Mr. COHEN], and the Senator from Texas [Mr. GRAMM] were added as cosponsors of Senate Joint Resolution 301, a joint resolution designating October 1990 as "National Breast Cancer Awareness Month."

SENATE JOINT RESOLUTION 306

At the request of Mr. SIMON, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution to designate the period commencing October 21, 1990, and ending October 27, 1990, as "National Humanities Week."

SENATE JOINT RESOLUTION 308

At the request of Mrs. KASSEBAUM, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from New York [Mr. D'AMATO], the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 308, a joint resolution to designate the month of June 1990, as "National Huntington's Disease Awareness Month."

SENATE JOINT RESOLUTION 310

At the request of Mr. CRANSTON, the names of the Senator from Illinois [Mr. DIXON], the Senator from South Dakota [Mr. DASCHLE], the Senator from Alabama [Mr. SHELBY], the Senator from North Dakota [Mr. BURDICK], the Senator from Wisconsin [Mr.

KOHL], the Senator from Massachusetts [Mr. KERRY], the Senator from Virginia [Mr. WARNER], the Senator from Nevada [Mr. BRYAN], the Senator from Colorado [Mr. WIRTH], the Senator from Indiana [Mr. LUGAR], the Senator from Mississippi [Mr. COCHRAN], the Senator from Indiana [Mr. COATS], the Senator from Oklahoma [Mr. BOREN], the Senator from New York [Mr. MOYNIHAN], the Senator from Maine [Mr. COHEN], the Senator from Texas [Mr. BENTSEN], the Senator from Louisiana [Mr. BREAUX], the Senator from Rhode Island [Mr. PELL], the Senator from Georgia [Mr. FOWLER], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 310, a joint resolution to designate June 25, 1990, as "Korean War Remembrance Day."

SENATE JOINT RESOLUTION 311

At the request of Mr. INOUYE, the names of the Senator from Idaho [Mr. MCCLURE] and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 311, a joint resolution to designate the month of November 1990 as "National American Indian and Alaska Native Heritage Month."

SENATE JOINT RESOLUTION 316

At the request of Mr. HATFIELD, the names of the Senator from Missouri [Mr. BOND], the Senator from Washington [Mr. ADAMS], the Senator from Idaho [Mr. MCCLURE], the Senator from Indiana [Mr. LUGAR], the Senator from South Dakota [Mr. PRESSLER], the Senator from North Dakota [Mr. CONRAD], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Alabama [Mr. SHELBY], the Senator from Arizona [Mr. DECONCINI], the Senator from Nebraska [Mr. KERREY], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Michigan [Mr. LEVIN], the Senator from Hawaii [Mr. AKAKA], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Joint Resolution 316, a joint resolution to designate the second Sunday in October of 1990 as "National Children's Day."

SENATE JOINT RESOLUTION 319

At the request of Mr. DOMENICI, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Washington [Mr. ADAMS], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Missouri [Mr. BOND], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Arizona [Mr. DECONCINI], the Senator from Kentucky [Mr. FORD], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. HATFIELD], the Senator from Alabama [Mr. HEFLIN], the Senator from North Carolina [Mr. HELMS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Arkansas [Mr. PRYOR], the Senator from Nevada [Mr. REID], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Tennessee [Mr. SASSER], the Senator from Alabama [Mr. SHELBY], the Senator from Idaho [Mr. SYMMS], the Senator from South Carolina [Mr. THURMOND], the Senator from Wyoming [Mr. WALLOP], the Senator from California [Mr. WILSON], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 319, a joint resolution designating May 1990 as "Take Pride in America Month."

SENATE JOINT RESOLUTION 320

At the request of Mr. LAUTENBERG, the names of the Senator from Connecticut [Mr. DODD], the Senator from Alaska [Mr. STEVENS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Nevada [Mr. BRYAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Oregon [Mr. PACKWOOD], the Senator from California [Mr. WILSON], the Senator from Illinois [Mr. SIMON], the Senator from Alabama [Mr. SHELBY], the Senator from Rhode Island [Mr. PELL], the Senator from Maryland [Mr. SARBANES], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Hawaii [Mr. INOUYE], the Senator from New Mexico [Mr. DOMENICI], the Senator from New York [Mr. D'AMATO], the Senator from Tennessee [Mr. GORE], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of Senate Joint Resolution 320, a joint resolution designating July 2, 1990, as "National Literacy Day."

SENATE JOINT RESOLUTION 326

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Joint Resolution 326, a joint resolution to designate December 21, 1990, as a "Day of Observance for the Victims of Terrorism."

SENATE CONCURRENT RESOLUTION 123

At the request of Mr. PELL, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Mr. SARBANES], the Senator from Virginia [Mr. WARNER], and the Senator from New Mexico [Mr. DOMENICI], were added as cosponsors of Senate Concurrent Resolution 123, a concurrent resolution to encourage State governments, local governments, and local educational agencies to adopt a comprehensive curricular program which provides elementary and secondary students with a thorough knowledge of the history and principles of the Constitution and the Bill of Rights and which fosters civic competence and civic responsibility.

SENATE RESOLUTION 231

At the request of Mr. BRADLEY, the names of the Senator from Georgia [Mr. NUNN] and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Resolution 231, a resolution urging the submission of the Convention on the Rights of the Child to the Senate for its advice and consent to ratification.

SENATE RESOLUTION 282

At the request of Mr. KENNEDY, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Resolution 282, a resolution expressing the sense of the Senate regarding United States military assistance for the Republic of Liberia and human rights abuses in Liberia.

AMENDMENT NO. 1690

At the request of Mr. THURMOND, the names of the Senator from Utah [Mr. HATCH] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of amendment No. 1690 proposed to S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

SENATE CONCURRENT RESOLUTION 135—RELATIVE TO TRADE-RELATED CUSTOMS AND OTHER BARRIERS TO TRADE WITH JAPAN

Mr. HATCH (for himself, Mr. BURNS, Mr. KASTEN, and Mr. GRASSLEY) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 135

Whereas the General Agreement on Tariffs and Trade (GATT) has, despite a 20-year effort, failed to encourage Japan to adapt its trade-related customs, traditions, rules, regulations, laws and other social, cultural, legal and political practices to true reciprocity in the global trade environment on which the Japanese economy is now largely dependent;

Whereas the Structural Impediments Initiative has identified major Japanese obstacles to reciprocity in trade with the United States; and

Whereas, although Japanese citizens have a majority interest in over 700 important American manufacturing companies, and a seat on the boards of directors of many other important manufacturing companies in which they hold a minority interest, significantly different corporate governance laws and company policies deny American investors in Japanese companies the same type of rights enjoyed by Japanese investors in the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States hereby urges the President—

(1) to conduct a complete analysis of all trade-related barriers inhibiting investment by Americans in Japan; and

(2) to establish a timetable for the removal of such barriers, either through cooperative bilateral agreement, or by multilateral agreement allowed under the General Agreement on Tariffs and Trade (GATT).

SEC. 2. It is further the sense of the Congress that the analysis described in the first section of this resolution—

(1) not be limited to the six issues under discussion within the framework of the Structural Impediments Initiative: savings, investment and capital market access policies; land use policies; distribution systems; exclusionary and anticompetitive business practices; pricing mechanisms, and keiretsus cross-shareholding and interlocking arrangements; and

(2) provide, as a criterion of reciprocity between Japanese and American trade-related investment practices, a rationale way Japanese investors in American companies ought to receive and exercise fundamental shareholder rights under the American doctrine of corporate law when such rights are expressly denied American investors in Japanese companies.

● Mr. HATCH. Mr. President, I am happy to be joined on this concurrent resolution by Senators BURNS, KASTEN, and GRASSLEY.

Japan cannot survive if it is isolated from international society. The spirit of this statement, Mr. President, has been heard frequently in this Chamber. It has been repeated by the media, by private and public sector leaders in the foreign trade community, and by many others who want to preserve the United States-Japanese relationship that was carefully cultivated after World War II.

That statement is a direct quote from the new Japanese Prime Minister, Toshiki Kaifu. Following his meeting with President Bush in March, Prime Minister Kaifu warned his Cabinet that changes in Japan's structural impediments to foreign investment had to be made.

On April 5, the United States Trade Representative concluded talks with Japanese trade officials in Washington. I delayed introduction of this resolution hoping that the issues we raise here would be addressed in the recent negotiations.

Mr. President, I was disappointed. Although the talks were far-reaching, addressing discriminatory business practices, savings and investment policy, export controls, and the issue of greatest concern to me, the keiretsus, there was no mention of the element of most concern to Congress—in a single word: "When?"

The talks laid out had no timetable. Serious planning requires goals with a series of benchmark events, milestones, or other finite or flexible phases. Once again, we have no firm commitments from the Japanese as to when we can expect to see results; therefore, I am proceeding with this resolution.

For over 20 years, through the General Agreement on Tariffs and Trade, and more recently, within the framework of the bilateral United States-Japanese structural impediments initiative talks, we have been urging Japan to allow for nothing more than the privileges that Japanese investors can expect from the United States.

The Japanese resist internal reforms necessary to fair trade. Again and again, negotiations are stillborn. American investors complain to congressional offices about the inability to penetrate the Japanese market. At the same time, the community of Japanese-supported lobbyists in Washington works the Hill, attempting to rebut each grievance. But, as Prime Minister Kaifu himself stated, and as his Minister for International Trade and Industry, Kabun Muto, also conceded during this same Cabinet session, "We should realize that these issues amount to crisis management of United States-Japan relations." This is because, as Minister Muto later said to the press, there are various groups within Japan opposing any changes in the status quo.

The concurrent resolution that I am submitting today seeks to avert an American-Japanese crisis. I also want to make it clear that we Americans understand that Japanese society is reluctant, in places, to make changes. But, Mr. President, change is what the Japanese have demanded and received from us as well as others in the global trading climate.

The globalization of business enterprises cannot and must not take place on a one-way street. In this instance, I am making a significant departure from my past position on trade. I am no longer going to assume that change will occur and then patiently wait another 20 or even 40 years.

I want full, fair, and open competition on the global level, especially between Japan and the United States, now. This resolution urges the President to provide Congress with a full analysis of trade-related and other investment barriers, as well as a timetable for their removal. I am not interfering with nor preempting the President's authority. I support the President's role as chief diplomat and chief negotiator under the Constitution. But I want to bring to the President's negotiation agenda the full weight of congressional dissatisfaction with the slow progress that Japan has made in opening its domestic economic doors to foreign investment.

CONCURRENT RESOLUTION BRINGS ATTENTION TO PRESIDENT'S OWN GOALS

In fact, Mr. President, I'm not asking the President to do anything more than to accomplish his own trade goals. In the last USTR Annual Report, the objective is clearly stated:

> To ensure that Japan, the world's second largest market, is open and operates in a truly competitive fashion * * * [which means] no exclusionary business relationships.

Across party lines in both the House and the Senate, letters go forth, resolutions and bills are drafted and introduced, and the decibel level of complaints is rising. I fear that there will be a crisis in our relations with Japan unless something is done soon, not in 5 years, as House Majority Leader DICK GEPHARDT called for earlier this month, but much, much sooner. Even Secretary of Defense Dick Cheney in his recent Far East tour properly warned the Japanese that their stonewalling on fair trade will spill over into our critical defense relationship in the Pacific.

The goals of the President's SII agenda are clear and compelling. To retain their important relationship with us, the Japanese must:

Undertake land reform allowing for foreign purchases;

Create more and larger retail outlets which will allow for the wider introduction of United States goods into Japanese society;

Change their intercorporate relationships that preclude participation by U.S. investors; and

Strengthen their antitrust laws, rather than immunize from predatory pricing practices along with other monopsonistic activities their keiretsu, or interlocking corporate conspiracies, that are crippling our friendship and mutual economic progress.

Carla Hills, widely respected among the Japanese, has issued a personal and public plea:

> If the Japanese do not open their market to our entrepreneurs to the extent that our market is open to Japanese entrepreneurs, they risk having our market closed or at least greatly limited. * * * They risk killing the goose that laid the golden eggs.

MANY EXAMPLES OF UNFAIR JAPANESE INVESTMENT BARRIERS

Too many examples exist of nonreciprocity in our investment relationships. And the numbers grow. For example, a recent survey of 800 manufacturing companies in the United States, of which Japanese citizens hold a greater than 50 percent interest in 776, including 24 cases where a minority Japanese interest is held, shows the Japanese have a seat on the board of directors with full voting authority. No Americans have equivalent directorate authority in all such investments made in Japan. In one ironic case, a Japanese company, holding a 39-percent interest in an American company, has one of four seats on the American company's board, even though the same Japanese company has denied an American investor, holding a 26-percent interest, the same level of board representation and access to financial records in Japan.

But let me be very fair on this issue. These restrictions often apply to all board members. Each company can codify its own standard. Many Japanese themselves have acknowledged

this glaring difference between the two societies' basic laws of corporate governance and seek to change them.

The situation is not 100 percent negative, Mr. President. There is some basis for hope. But where hope exists in opening up Japanese society, the need for assuring American access as soon as possible becomes all the more compelling.

There have been, for example, some attempts at tax reform, the first in the 40 years since U.S. occupation forces left the country. These reforms could add a net stimulus of about $20 billion to domestic consumption. This is a very adequate incentive for American companies. But, even here, there is a caveat unique to Japanese-style reforms: income taxes are reduced, but a consumption tax of 3 percent is imposed. In other words, the marginal propensity of the Japanese to consume is increased by making more disposable income available, but reduced by imposing a tax on such spending.

Nonetheless, in certain sectoral areas, such as alcoholic beverages, U.S. suppliers could enter more freely. But, as in many other societies, such products are usually subject to consumption or luxury taxes, or both. We would like to see reduced taxes on domestic as well as imported products for which our manufacturers would be competitive.

But we are encouraged by the removal of Japanese excise taxes on larger autos. The next step is to bring American-made automobiles into Japan. There are no major United States automobile manufacturing operations in Japan, although we host such major Japanese automobile manufacturers as Mazda, Toyota, Nissan, Honda, Mitsubishi, Fuji, and Isuzu. Approximately 60 percent of our exports to Japan are made by these and other Japanese interests in the United States.

JAPANESE DISTRIBUTION SYSTEM A MAJOR BARRIER

The Japanese distribution system should be give a high priority in the reform program. In the modern network corporate structure, suppliers can control the manufacturing process. Without access to this subsystem, there is little chance of success.

However, Japanese corporations are currently enjoying virtual antitrust immunity in a manner that is outlawed in the United States. Companies can collude to pass through taxes to their product or service consumers as part of their pricing strategy. The flip side of this strategy is to be able to price products artificially low so that competition outside the network, usually a classical keiretsu organization, is precluded. Some evidence indicates that these same practices have been brought to the U.S. marketplace.

The keiretsu effect has another insidious side. Large corporations will send their senior executives to management positions in the supplier network, usually smaller firms, which completes their dependency on the larger corporations, allowing for virtually complete, closed-ended price and supplier control.

Japan's powerful Ministry of International Trade and Industry has thoroughly studied the occlusive distribution system practices and concurred with the findings and experiences of American industry. However, as the Japan Economic Journal recently reported, "MITI's problem is that it may not have the power to carry out its liberalization plan," since, among other reasons, each community generally has its own ordinances and restrict the opening of new retail outlets.

And the keiretsu situation is not getting better. On March 19, 1990, the Japanese announced a number of trade concessions that would be given high priority. The announcement followed a meeting between Prime Minister Kaifu and his key aides, in response to promises made during his meeting with President Bush. Unfortunately, the list expressly cited keiretsu reforms as unlikely since, because as one Japanese official said, "There's very little the government can do in that regard." This situation, Mr. President, makes it all the more evident that only encouragement from the United States, Japan's largest overseas market is likely to produce real change.

I fully recognize that small shopkeepers, the backbone of the Japanese distribution system, require their businesses to sustain them in old age. However, Japanese export earnings can provide such persons with an enhanced social insurance program. The use of these earnings to exploit more overseas markets through real property investment and manufacturing facility purchases is sensed as greed when compared to the social and consumer needs of the Japanese people. This situation becomes even more unfavorable when we realize that Japan lets many small businesses fail annually.

Of course, there are many counterarguments to my statements. But I most emphatically reject the rebuttals of those who say that there would be no change in the United States-Japanese trade picture even if these reforms were effected. Let me answer that argument with an ancedote.

The Bostonian Shoe Co., a Pennsylvania company making golf shoes, managed to sell 10,000 pairs last year in Japan. The Bostonian wholesale price was $60 a pair. The retail price to the Japanese consumer was $265. The question to me is how many more pairs could have been sold if the markup from wholesale had been only 100 percent, providing a retail price of $120?

Mr. President, let me bring my statement to a conclusion with a heartfelt plea. We must avoid a crisis with the Japanese. No one wants a trade war. No one wants to interrupt the promise of expanded trade now made so much brighter by what appears to be a change in the military threat worldwide. I ask the leaders of Japan not to underestimate the American sense of fairness and not to misjudge the incredible patience of the American people and their representatives as something that will remain permanent.●

Mr. KASTEN. Mr. President, it gives me great pleasure to rise today as an original cosponsor of this important concurrent resolution. We need to avoid a trade policy based on misconceptions and sterile threats—and implement instead a policy of intelligence and firmness.

This resolution calls for an important step toward such a policy. It calls on the President to establish a firm timetable for the lowering of trade and other barriers by Japan.

For too long, we have allowed the debate on this issue to be sidetracked by Japanese delays. A United States timetable would impress upon the Japanese the great seriousness with which the American people view these barriers to free trade.

Only through this kind of firmness can we realistically hope to persuade the Japanese of the inherent economic superiority of a global trading regime based on the principle of free trade. The purpose of this resolution is to bring down barriers, not raise them—and that's why I encourage all Senators to support this worthwhile initiative by our distinguished colleague, the senior Senator from Utah.

SENATE CONCURRENT RESOLUTION 136 REGARDING THE 25TH ANNIVERSARY OF THE FOSTER GRANDPARENT PROGRAM

Mr. DODD (for himself, Mr. COATS, Mr. KENNEDY, and Mr. HATCH) submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 136

Whereas 1990 marks the 25th anniversary of the Foster Grandparent Program;

Whereas the Foster Grandparent Program is one of the most successful volunteer programs ever launched in the United States;

Whereas the program has provided immeasurable opportunities for thousands of low-income older persons to volunteer their time for the benefit of children who have special needs;

Whereas thousands of children with special needs, including those who are mentally or physically disabled, emotionally disturbed, learning disabled, or who suffer from abuse and neglect or drug or alcohol

dependencies, have benefited from the time and attention of older persons who choose to serve as foster grandparents;

Whereas in fiscal year 1990, 27,000 older persons will volunteer their time for the benefit of these children;

Whereas foster grandparents provide person-to-person assistance every day to more than 70,000 children with special needs;

Whereas foster grandparents serve four hours a day, five days a week in all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands;

Whereas volunteer services of foster grandparents are provided every day to children in hundreds of volunteer stations, including schools, hospitals, juvenile detention centers, Head Start programs, shelters for neglected children, and drug rehabilitation centers; and

Whereas Federal funds to support the Foster Grandparent Program are significantly augmented through contributions of State and local governments and the private sector: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Congress recognizes the enormous contributions made by older persons who have volunteered as foster grandparents to benefit children who are faced with special challenges;

(2) the Congress commends the thousands of volunteers who have served and continue to serve the children in our society with special needs;

(3) on the 25th anniversary of the Foster Grandparent Program, the Congress reaffirms its strong support for the Foster Grandparent Program.

Mr. DODD. Mr. President, today I am introducing a resolution to commemorate the 25th anniversary of the Foster Grandparent Program. I am pleased to be joined by my colleagues, Senators KENNEDY, COATS, and HATCH, all of whom are long-time supporters of this program.

Volunteering as foster grandparents, thousands of older Americans give of their time and their love every year to help children who are in need. These volunteers provide the support, guidance, and caring so important to children with special and exceptional needs. In my home State of Connecticut, for example, foster grandparents work with children in hospitals, child care centers, Head Start programs, schools, and homeless shelters. You will also find them working with teenage parents and their babies, with children who have been abused, and with children who are mentally retarded. The list goes on and on. In almost every setting where children are in need of care and assistance, you will find foster grandparents.

This program has been a remarkable success in the quarter of a century since it was signed into law in August 1965. The Foster Grandparent Program was the first federally sponsored intergenerational program, intended to benefit both seniors and children. We can take pride in the fact that this Federal program has fulfilled its mandate. Through the ACTION Agency, the Foster Grandparent Program effectively combines a national sense of mission, structure and resources. When reauthorizing the Domestic Volunteer Service Act last year, my Subcommittee on Children, Family, Drugs, and Alcoholism, and my colleagues in the Senate as a whole, gave the Foster Grandparent Program a strong vote of confidence by expanding the list of volunteer activities and by significantly increasing the authorization level.

But the greatest recognition and credit for success must go to the volunteers themselves. The 27,000 seniors who are volunteering this year, and the hundreds of thousands who have come forward since 1965 have made a great difference to millions of children. Advice, love, guidance, and continuity are among the many labels that can be attached to the exceptional gift made by foster grandparents to the children in their communities. Whatever the label, I am confident that my colleagues will join me in saluting these volunteers for their outstanding service. I look forward to many more years of success for this program as it puts older Americans in touch with the children who gain so much from their care and assistance.

Mr. HATCH. Mr. President, I am proud to be a cosponsor of this concurrent resolution to honor the Foster Grandparent Program. For 25 years, this volunteer program has helped bring joy to seniors and children alike.

The Foster Grandparent Program takes advantage of two realities. First, numerous Americans in their golden years want to continue doing worthwhile things. Second, thousands of children and youth are ill, abused, disabled, or troubled are looking for someone to believe in and to be there for them.

The Foster Grandparent Program brought these needs and individuals together. The impact of this program on both the young people and the foster grandparents was immediately felt and continues today. Currently, the program involves approximately 19,000 volunteers who are low-income seniors. They serve about 66,500 children and youth throughout the country.

Most of us can recall the significant role loving grandparents have played in our lives. Seniors have a lifetime of experience and knowledge to share with others. And, many can afford to give the valuable resource of time.

One specific program has foster grandparents work with young or expectant mothers who are frightened and feel they have no one to trust. A foster grandparent becomes a solid resource to teach young people about parenting and loving a newborn. This support is a calming influence for a mother and her new baby.

Additionally, foster grandparent volunteers will tell you of the joy and accomplishment they have felt through their participation. These volunteers truly understand the importance of helping the next generation cope in a world that is in some ways a lot tougher. Foster grandparents are very dedicated to their work, as evidenced from the reports by the ACTION Agency and the very low turnover rate.

In Utah, stories abound about the efforts of these foster grandparents. A couple of years ago, after a training meeting, a van driver was taking a couple of the grandmothers home. One of them asked to drive by the school in which she was working. She didn't know why, but felt that she needed to go there. When she and the driver arrived, at 10 p.m., they found one of the young girls this foster grandmother had been working with who had been abused. This little girl simply said she knew that if she went to school her "grandma" would come and get her.

Mr. President, this is the type of relationship this program is building. It has brought joy and purpose to so many in our society.

I strongly support this program and am proud to cosponsor this resolution. I hope that my colleagues will join me in honoring this wonderful program on its 25th anniversary.

Mr. KENNEDY. Mr. President, the 25th anniversary of the Foster Grandparent Program is an appropriate occasion to salute the thousands of older Americans who have served as foster grandparents since the program's inception. I join my colleague Senator DODD in applauding the enormous contribution made by these older men and women to provide care and attention to children with special needs.

The Foster Grandparent Program began in 1965 as an income supplement program for low-income senior citizens to work in institutional settings and provide one-to-one, ongoing and consistent relationships with youngsters who are mentally or physically impaired, emotionally disturbed, or neglected. The program recognized that older Americans could provide needy children with the kind of special relationship that no amount of money can buy.

Today, more than 27,000 older persons volunteer their time to serve more than 70,000 children throughout the 50 States, Puerto Rico, the Virgin Islands, and the District of Columbia. Foster grandparents work in hundreds of volunter stations, including schools, hospitals, juvenile detention centers, Head Start programs, shelters for neglected children and drug rehabilitation centers. By directing the energy and talents of older citizens, Foster grandparents make a vital contribu-

tion toward meeting some of our Nation's most pressing needs.

The Foster Grandparent Program recognizes that becoming old does not mean becoming useless. Rather, the program celebrates the remarkable benefits that can result from intergenerational exchange. Grandparents gain self-esteem and renewed meaning for their lives, knowing they are needed and providing such valuable services. Youngsters benefit from this one-on-one attention, as blighted lives suddenly find hope and help. Today, I join my colleagues in commending the thousands of foster grandparents who have served America so well. This inspiring Federal program has had a great 25 years. May the next 25 years be even greater than the first.

SENATE RESOLUTION 290—COMMENDATION OF JUDGE WILLIAM CONSTANGY

Mr. HELMS (for himself and Mr. ARMSTRONG) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 290

Whereas calling upon God's guidance through prayer has always been a hallmark of the United States of America;

Whereas the Continental Congress opened its sessions in prayer beginning in 1774;

Whereas July 20, 1775, was designated as a day of fasting and prayer for the united colonies;

Whereas the first day of prayer for the fledgling American republic was proclaimed on December 18, 1777;

Whereas national emergencies and national crises have often been cause for prayer as a nation, including the proclamation of a day of prayer by President Lincoln during the Civil War;

Whereas both the United States Senate and House of Representatives open each day's session with prayer, continuing an unbroken tradition that extends back to the first Congress in 1789;

Whereas many State Legislatures, including the North Carolina State House of Representatives and the North Carolina State Senate open their sessions in prayer;

Whereas Judge William Constangy, a State district court judge in Charlotte, North Carolina, is being sued for opening each day's session of his court with a prayer;

Whereas Judge Constangy's actions are consistent with other branches of the United States Federal Government and the Government of North Carolina;

Whereas May 28, 1990, is a Memorial Day set aside for the purpose of prayer and remembrance for world peace: Now, therefore, be it

Resolved, That Judge William Constangy be commended, on the eve of Memorial Day, for his courage in practicing the traditions of America's moral and religious heritage.

Mr. HELMS. Mr. President, I join my distinguished friend from Colorado [Mr. ARMSTRONG] in offering a Joint Resolution commending Judge H. William Constangy, a State district court judge in Charlotte.

Judge Constangy is currently a defendant in Federal court. His transgression? He is being sued by the North Carolina Civil Liberties Union because he chooses to open each session of his court with a prayer.

Mr. President, let me read to you the prayer he recites:

O Lord, our God, our Father in Heaven, we pray this morning that You will place Your divine guiding hand on this courtroom and that with Your mighty, outstretched arm You will protect the innocent, give justice to those who have been harmed and mercy to us all. Let truth be heard and wisdom be reflected in the light of Your presence here with us today. Amen.

Mr. President, isn't it a bit ironic that a State court judge, or any judge, can wind up being sued in Federal court when, in this U.S. Senate, we begin each day with a prayer? In fact, it has been the tradition of this country, since its inception, that prayer is a source of inspiration for legislative bodies and during times of national crises or mourning.

Mr. President, Senator ARMSTRONG and I believe that Judge Constangy should be commended for bringing prayer to his courtroom. That is the purpose of this resolution.

SENATE RESOLUTION 291—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 291

Whereas, the petitioners in James B. Smith, et al. v. Commissioner of Internal Revenue, No. 3778-89, pending in the United States Tax Court, have caused a subpoena for testimony and documents to be issued to John R. Luckey, a legislative attorney on the staff of the American Law Division of the Congressional Research Service;

Whereas, the documents that have been subpoenaed include those used in preparing a memorandum for a Member of the Senate;

Whereas, the Director of the Congressional Research Service has requested the Senate to assist the Congressional Research Service in protecting the confidentiality of its communications to Members and committees of Congress;

Whereas, pursuant to section 708(c) of the Ethics in Government Act of 1978, 2 U.S.C. 228g(c)(1988), the Senate Legal Counsel shall perform such duties consistent with the purposes and limitations of title VII of that Act as the Senate may direct; Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent John R. Luckey in the case of James B. Smith, et al. v. Commissioner of Internal Revenue.

SENATE RESOLUTION 292—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 292

Whereas, in the case of State of Connecticut v. Patricia L. Nuelsen, and in related cases, pending in the Superior Court of the State of Connecticut, in New Britain, Connecticut, subpoenas for testimony and documents have been issued to Stanley Isarelite, Lise Heintz, and Edward Mann, employees of the Senate on the staff of Senator Christopher J. Dodd;

Whereas, by the privileges of the Senate of the United States and Rule XI of the standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to section 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2)(1988), the Senate may direct its counsel to represent Members and employees of the Senate with respect to requests for testimony made to, or subpoenas issued to, them in their offical capacity: Now, therefore be it

Resolved, That Stanley Israelite, Lise Heintz, and Edward Mann are authorized to testify and to provide documents in the case of State of Connecticut v. Patricia L. Nuelsen, and in related cases, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent any Member or employee of the Senate who is subpoenaed to testify or to produce documents in the case of State of Connecticut v. Patricia L. Nuelsen, and in related cases.

AMENDMENTS SUBMITTED

CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

REID (AND OTHERS) AMENDMENT NO. 1691

(Ordered to lie on the table.)

Mr. REID (for himself, Mr. EXON, and Mr. D'AMATO) submitted an amendment intended to be proposed by them to the bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes, as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL BUREAU OF PRISONS PRIORITY.

Section 204(b)(3) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) is amended to read as follows:

"(3)(A) Before any action is taken with respect to the disposal or transfer of any real property or facility located at a military installation to be closed or realigned under this title—

"(i) the Secretary shall notify all departments and other instrumentalities (including nonappropriated fund instrumentalities) within the Department of Defense of the availability of such property or facility, or portion thereof, and may transfer such property, facility, or portion, without reimbursement, to any such department or instrumentality; and

"(ii) after adequate notification under clause (i), the Secretary shall—

"(I) notify the Attorney General of the availability of such property or facility, or portion thereof; and

"(II) if the Attorney General certifies that such property will be used primarily in the incarceration of prisoners convicted of controlled substances offenses and that such property is essential to the Bureau of Prisons program objectives and that the acquisition of such property, facility, or portion thereof by the Bureau of Prisons will save substantial amounts of money in new prison construction, transfer such property, facility, or portion thereof to the Bureau of Prisons.

"(B) In carrying out subparagraph (A)(i), the Secretary shall give a priority, and shall transfer, to any such department or other instrumentality that agrees to pay fair market value for the property or facility, or portion thereof. For purposes of subparagraph (A)(i), fair market value shall be determined on the basis of the use of the property or facility on December 31, 1988.

"(C) This paragraph shall take precedence over any other provision of this title or other provision of law with respect to the disposal or transfer of real property or facility located at a military installation to be closed or realigned under this title.".

REID AMENDMENT NO. 1692

(Ordered to lie on the table.)

Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place insert the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—IMPROVING INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES

SEC. 101. FINDINGS.

The Congress finds that—

(1) over 2,000,000 children are abused or neglected each year;

(2) the investigation and prosecution of child abuse cases is extremely complex, involving numerous agencies and dozens of personnel;

(3) in such cases, too often the system does not pay sufficient attention to the needs and welfare of the child victim, aggravating the trauma that the child victim has already experienced;

(4) multidisciplinary child abuse investigation and prosecution programs have been developed that increase the reporting of child abuse cases, reduce the trauma to the child victim, and increase the successful prosecution of child abuse offenders; and

(5) such programs have proven effective, and with targeted Federal assistance, could be duplicated in many jurisdictions throughout the country.

SEC. 102. AUTHORITY OF THE ADMINISTRATOR TO MAKE GRANTS.

(a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention (referred to as the "Administrator"), in consultation with officials of the Department of Health and Human Services, shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to develop and implement multidisciplinary child abuse investigation and prosecution programs.

(b) GRANT CRITERIA.—(1) The Administrator shall establish the criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a program—

(A) include a written agreement between local law enforcement, social service, health, and other related agencies to coordinate child abuse investigation, prosecution, treatment, and counseling services;

(B) identify an appropriate site for referring, interviewing, treating, and counseling child victims of sexual and serious physical abuse and neglect (referred to as the "counseling center");

(C) refer all sexual and serious physical abuse and neglect cases to the counseling center not later than 24 hours after notification of an incident of abuse;

(D) conduct all initial interviews jointly by personnel from law enforcement, health, and social service agencies;

(E) require, to the extent practicable, the same agency representative who conducts an initial interview to conduct all subsequent interviews;

(F) require, to the extent practicable, that all interviews and meetings with a child victim occur at the counseling center;

(G) coordinate each step of the investigation process to minimize the number of interviews that a child victim must attend;

(H) designate a director for the multidisciplinary program;

(I) assign a volunteer or staff advocate to each child in order to assist the child and, when appropriate, the child's family, throughout each step of judicial proceedings; and

(J) meet such other criteria as the Administrator shall establish by regulation.

(c) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Administrator shall ensure that grants are distributed to both large and small states and to rural, suburban, and urban jurisdictions.

SEC. 103. GRANTS FOR SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et. seq.) to national organizations to provide technical assistance and training to attorneys and others instrumental to the criminal prosecution of child abuse cases in State or Federal courts, for the purpose of improving the quality of criminal prosecution of such cases.

(b) GRANTEE ORGANIZATIONS.—An organization to which a grant is made pursuant to subsection (a) shall be one that has, or is affiliated with one that has, broad membership among attorneys who prosecute criminal cases in State courts and has demonstrated experience in providing training and technical assistance for prosecutors.

SEC. 104. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

(1) $20,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this title in each of fiscal years 1992 and 1993.

(b) USE OF FUNDS.—Of the amounts appropriated under subsection (a), not less than 90 percent shall be used for grants under section 102.

TITLE II—COURT-APPOINTED SPECIAL ADVOCATE PROGRAM

SEC. 201. FINDINGS.

The Congress finds that—

(1) the National Court-Appointed Special Advocate provides training and technical assistance to a network of 13,000 volunteers in 377 programs operating in 47 States; and

(2) in 1988, these volunteers represented 40,000 children, representing approximately 15 percent of the estimated 270,000 cases of child abuse and neglect in juvenile and family courts.

SEC. 202. PURPOSE.

The purpose of this title is to ensure that by January 1, 1995, a court-appointed special advocate shall be available to every victim of child abuse or neglect in the United States that needs such an advocate.

SEC. 203. STRENGTHENING OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to expand the court-appointed special advocate program.

(b) GRANT CRITERIA.—(1) The Administrator shall establish criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a court-appointed special advocate program provide screening, training, and supervision of court-appointed special advocates in accordance with standards developed by the National Court-Appointed Special Advocate Association, including the requirements that—

(A) a court-appointed special advocate association program have a mission and purpose in keeping with the mission and purpose of the National Court-Appointed Special Advocate Association and that it abide by the National Court-Appointed Special Advocate Association Code of Ethics;

(B) a court-appointed special advocate association program operate with access to legal counsel;

(C) the management and operation of a court-appointed special advocate program assure adequate supervision of court-appointed special advocate volunteers;

(D) a court-appointed special advocate program keep written records on the operation of the program in general and on each applicant, volunteer, and case;

(E) a court-appointed special advocate program have written management and personnel policies and procedures, screening requirements, and training curriculum;

(F) a court-appointed special advocate program not accept volunteers who have been convicted of, have charges pending for, or have in the past been charged with, a felony or misdemeanor involving a sex offense, violent act, child abuse or neglect, or related acts that would pose risks to children or to the court-appointed special advocate program's credibility;

(G) a court-appointed special advocate program have an established procedure to allow the immediate reporting to a court or appropriate agency of a situation in which a

court-appointed special advocate volunteer has reason to believe that a child is in imminent danger;

(H) a court-appointed special advocate volunteer be an individual who has been screened and trained by a recognized court-appointed special advocate program and appointed by the court to advocate for children who come into the court system primarily as a result of abuse or neglect; and

(I) a court-appointed special advocate volunteer serve the function of reviewing records, facilitating prompt, thorough review of cases, and interviewing appropriate parties in order to make recommendations on what would be in the best interests of the child.

(3) In awarding grants under this section, the Administrator shall ensure that grants are distributed to localities that have no existing court-appointed special advocate program and to programs in need of expansion.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

(1) $5,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this title in each of fiscal years 1992 and 1993.

TITLE III—CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS

SEC. 301. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a large number of juvenile and family courts are inundated with increasing numbers of cases due to increased reports of abuse and neglect, increasing drug-related maltreatment, and insufficient court resources;

(2) the amendments made to the Social Security Act by the Adoption Assistance and Child Welfare Act of 1980 make substantial demands on the courts handling abuse and neglect cases, but provide no assistance to the courts to meet those demands;

(3) the Adoption and Child Welfare Act of 1980 requires courts to—

(A) determine whether the agency made reasonable efforts to prevent foster care placement;

(B) approve voluntary nonjudicial placement; and

(C) provide procedural safeguards for parents when their parent-child relationship is affected;

(4) social welfare agencies press the courts to meet such requirements, yet scarce resources often dictate that courts comply pro forma without undertaking the meaningful judicial inquiry contemplated by Congress in the Adoption and Child Welfare Act of 1980;

(5) compliance with the Adoption and Child Welfare Act of 1980 and overall improvements in the judicial response to abuse and neglect cases can best come about through action by top level court administrators and judges with administrative functions who understand the unique aspects of decisions required in child abuse and neglect cases; and

(6) the Adoption and Child Welfare Act of 1980 provides financial incentives to train welfare agency staff to meet the requirements, but provides no resources to train judges.

(b) PURPOSE.—The purpose of this title is to provide expanded technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts, to improve the judicial system's handling of child abuse and neglect cases with specific emphasis on the role of the courts in addressing reasonable efforts that can safely avoid unnecessary and unnecessarily prolonged foster care placement.

SEC. 302. GRANTS FOR JUVENILE AND FAMILY COURT PERSONNEL.

In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) for the purpose of providing—

(1) technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts; and

(2) administrative reform in juvenile and family courts.

SEC. 303. SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) GRANTS TO DEVELOP MODEL PROGRAMS.—(1) The Administrator shall make grants to national organizations to develop 1 or more model technical assistance and training programs to improve the judicial system's handling of child abuse and neglect cases.

(2) An organization to which a grant is made pursuant to paragraph (1) shall be one that has broad membership among juvenile and family court judges and has demonstrated experience in providing training and technical assistance for judges, attorneys, child welfare personnel, and lay child advocates.

(b) GRANTS TO JUVENILE AND FAMILY COURTS.—(1) In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants to State courts or judicial administrators for programs that provide, contract for, or implement—

(A) training and technical assistance to judicial personnel and attorneys in juvenile and family courts; and

(B) administrative reform in juvenile and family courts.

(2) The criteria established for the making of grants pursuant to paragraph (1) shall give priority to programs that improve—

(A) procedures for determining whether child service agencies have made reasonable efforts to prevent placement of children in foster care;

(B) procedures for determining whether child service agencies have, after placement of children in foster care, made reasonable efforts to reunite the family; and

(C) procedures for coordinating information and services among health professionals, social workers, law enforcement professionals, prosecutors, defense attorneys, and juvenile and family court personnel, consistent with title I.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

(1) $10,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this title in each of fiscal years 1992, 1993, and 1994.

(b) USE OF FUNDS.—Of the amounts appropriated in paragraph (a), not less than 80 percent shall be used for grants under section 303(b).

TITLE IV—FEDERAL CHILD VICTIMS' PROTECTIONS AND RIGHTS

SEC. 101. CHILD VICTIMS' RIGHTS.

(a) CRIMINAL PROCEDURE.—The Federal Rules of Criminal Procedure are amended by inserting after rule 52 the following new rule:

"Rule 52.1 Child Victims' and Child Witnesses' Rights

"(a) DEFINITIONS.—For purposes of this rule—

"(1) the term 'adult attendant' means an adult described in subdivision (i) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, who is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

"(4) the term 'exploitation' means child pornography or child prostitution;

"(5) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

"(6) the term 'sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of children to engage in, or assist another person to engage in, sexually explicit conduct, or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(7) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(8) the term 'sexual contact' means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; and

"(9) the term 'sex crime' means an act of sexual abuse that is a criminal act.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.

"(1) *Child's Live Testimony by 2-way Closed Circuit Television.*

"(A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for the government, the child's attorney, or a guardian ad litem appointed under subdivision (h) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, jury, judge, and public, for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(iv) The child suffers a mental or other infirmity.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record.

"(D) If the court orders the taking of testimony by television, the attorney for the government and the attorney for the defendant shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (h);

"(ii) persons necessary to operate the closed-circuit television equipment; and

"(iii) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the defendant, jury, judge, and public. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall relay into the room in which the child is testifying the defendant's image, in view of the child, and the voice of the judge.

"(2) *Videotaped Deposition of Child.* (A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for the government, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (h) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, and public for any of the following reasons:

"(I) The child will refuse to testify despite the court's request to do so.

"(II) The child will be unable to testify because of fear, failure of memory, or similar circumstances.

"(III) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(IV) The child suffers a mental or other infirmity.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are

"(I) the attorney for the government;

"(II) the attorney for the defendant;

"(III) the child's attorney or guardian ad litem appointed under subdivision (h);

"(IV) persons necessary to operate the videotape equipment;

"(V) subject to clause (iv), the defendant; and

"(VI) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against the defendant, and the right to cross-examine the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that 2-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, in view of the child, and the child's testimony into the room in which the defendant is viewing the proceeding, and that the defendant be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal. The videotape shall become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.

"(1) *Effect of Federal Rules of Evidence.* Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) *Presumption.* A child is presumed to be competent.

"(3) *Requirement of Written Motion.* A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) *Requirement of Compelling Reasons.* A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) *Persons Permitted to be Present.* The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorney for the government;

"(C) the attorney for the defendant;

"(D) a court reporter; and

"(E) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) *Not Before Jury.* A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

"(7) *Direct Examination of Child.* Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorney for the government and the attorney for the defendant. The court may permit an attorney to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) *Appropriate Questions.* The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(9) *Psychological and Psychiatric Examinations.* Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.

"(1) *Confidentiality of Information.* (A) A person acting in a capacity described in subparagraph (B) in connection with a criminal proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of the government connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the defendant and employees of the defendant, including the attorney for the defendant and persons hired by the defendant or the attorney for the defendant to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) *Filing Under Seal.* All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

"(3) *Protective Orders.* (A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there

is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) *Disclosure of Information.* This subdivision does not prohibit disclosure of the name of or other information concerning a child to the defendant, the attorney for the defendant, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM. When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate. Such an order shall be narrowly tailored to serve the government's specific compelling interest.

"(f) VICTIM IMPACT STATEMENT. In preparing the presentence report pursuant to rule 32(c), the probation officer shall request information from the multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the child victim and any other children who may have been affected. A guardian ad litem appointed under subdivision (h) shall make every effort to obtain and report information that accurately expresses the child's and the family's views concerning the child's victimization. A guardian ad litem shall use forms that permit the child to express the child's views concerning the personal consequences of the child's victimization, at a level and in a form of communication commensurate with the child's age and ability.

"(g) USE OF MULTIDISCIPLINARY CHILD ABUSE TEAMS.

"(1) *In General.* A multidisciplinary child abuse team shall be used when it is feasible to do so. The court shall work with State and local governments that have established multidisciplinary child abuse teams designed to assist child victims and child witnesses, and the court and the attorney for the government shall consult with the a multidisciplinary child abuse team as appropriate.

"(2) *Role of Multidisciplinary Child Abuse Teams.* The role of the multidisciplinary child abuse team shall be to provide for a child services that the members of the team in their professional roles are capable of providing, including—

"(A) medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;

"(B) telephone consultation services in emergencies and in other situations;

"(C) medical evaluations related to abuse or neglect;

"(D) psychological and psychiatric diagnoses and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case;

"(E) expert medical, psychological, and related professional testimony;

"(F) case service coordination and assistance, including the location of services available from public and private agencies in the community; and

"(G) training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses.

"(h) GUARDIAN AD LITEM.

"(1) *In General.* The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) *Duties of Guardian Ad Litem.* A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) *Immunities.* A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties.

"(i) ADULT ATTENDANT. A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child.

"(j) SPEEDY TRIAL. In a proceeding in which a child is called to give testimony, on motion by the attorney for the government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal process. When deciding whether to grant a continuance, the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.

"(k) EXTENSION OF PERIOD OF LIMITATIONS.—There is no limitation of time within which a prosecution must be commenced for a sex crime involving a child victim, regardless whether the crime involved force or resulted in serious physical injury or death. If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the time during which the criminal action is pending shall not be counted as part of the time limited for the commencement of the civil action. As used in this subdivision, a criminal action is pending until its final adjudication in the trial court.".

(b) CIVIL PROCEDURE.—The Federal Rules of Civil Procedure are amended by inserting after rule 43 the following new rule:

"Rule 43.1 Child Victims' and Child Witnesses' Rights

"(a) DEFINITIONS. For purposes of this rule—

"(1) the term 'adult attendant' means an adult described in subdivision (g) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, who is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

"(4) the term 'exploitation' means child pornography or child prostitution;

"(5) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

"(6) the term 'sexual abuse' includes the employment, use, persuasion, inducement, **enticement, or coercion of children to engage in, or assist another person to engage in, sexually explicit conduct, or the rape,** molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(7) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral anal contact, whether between persons of the same or of opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(8) the term 'sexual contact' means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; and

"(9) the term 'sex crime' means an act of sexual abuse that is a criminal act.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.

"(1) *Child's Live Testimony by 2-way Closed Circuit Television.*

"(A) In a proceeding involving an alleged offense against a child or involving a child witness, the child's attorney or a guardian ad litem appointed under subdivision (f) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the parties, jury, judge, and public, for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(iv) The child suffers a mental or other infirmity.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record.

"(D) If the court orders the taking of testimony by television, the attorneys for the parties shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (f);

"(ii) persons necessary to operate the closed-circuit television equipment; and

"(iii) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the parties, jury, judge, and public. The parties shall be provided with the means of private, contemporaneous communication with their attorneys during the testimony. The closed circuit television transmission shall relay the child's testimony into the courtroom and the judge's voice into the room in which the child is testifying.

"(2) *Videotaped Deposition of Child.* (A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for a party, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (f) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the parties, jury, judge, and public for any of the following reasons:

"(I) The child will refuse to testify despite the court's request to do so.

"(II) The child will be unable to testify because of fear, failure of memory, or similar circumstances.

"(III) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(IV) The child suffers a mental or other infirmity.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are

"(I) the attorneys for the parties;

"(II) the child's attorney or guardian ad litem appointed under subdivision (f);

"(III) persons necessary to operate the videotape equipment;

"(IV) subject to clause (iv), the parties; and

"(V) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of one of the parties, the court may order that the party, including a party represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that a party be excluded from the deposition room, the court shall order that the party be provided with a means of private, contemporaneous communication with the party's attorney during the deposition.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal. The videotape shall become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.

"(1) *Effect of Federal Rules of Evidence.* Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) *Presumption.* A child is presumed to be competent.

"(3) *Requirement of Written Motion.* A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) *Requirement of Compelling Reasons.* A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) *Persons Permitted to be Present.* The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorneys for the parties;

"(C) a court reporter; and

"(D) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) *Not Before Jury.* A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

"(7) *Direct Examination of Child.* Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorneys for the parties. The court may permit an attorney to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) *Appropriate Questions.* The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(9) *Psychological and Psychiatric Examinations.* Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.

"(1) *Confidentiality of Information.* (A) A person acting in a capacity described in subparagraph (B) in connection with a civil proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of any government agency that may become connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the parties and employees of the parties, including the attorneys for the parties and persons hired by the parties or an attorney for a party to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) *Filing Under Seal.* All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

"(3) *Protective Orders.* (A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) *Disclosure of Information.* This subdivision does not prohibit disclosure of the name of or other information concerning a child to a party, an attorney for a party, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM. When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate.

"(f) GUARDIAN AD LITEM.

"(1) *In General.* The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) *Duties of Guardian Ad Litem.* A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) *Immunities.* A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties.

"(g) ADULT ATTENDANT. A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child.".

(c) EVIDENCE.—The Federal Rules of Evidence are amended by inserting after rule 803 the following new rule:

"Rule 803.1 Child Victims' and Child Witnesses' Testimony

"(a) Hearsay exception for out-of-court statements.—

"(1) In general.—An out-of-court statement made by a child of less than 13 years of age concerning conduct related to alleged completed or attempted crimes of sexual abuse, physical abuse, or exploitation of the child or concerning a crime against another person witnessed by the child that is not otherwise admissible in a judicial proceeding is not excluded by the hearsay rule if—

"(A) the child testifies at the proceeding, or testifies by means of videotaped deposition or closed-circuit television, and at the time of the taking of the testimony is subject to cross-examination concerning the out-of-court statement;

"(B) the court finds that the child's out-of-court statement possesses particularized guarantees of trustworthiness; or

"(C) the court finds that the child is unable to testify effectively for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court or by means of videotaped deposition or closed-circuit television.

"(iv) The child suffers a mental or other infirmity.

"(v) A privilege precludes taking the child's testimony in open court or by means of videotaped deposition or closed-circuit television.

"(vi) The child has died or is absent from the jurisdiction.

"(2) Guarantees of trustworthiness.—In determining whether a statement possesses particularized guarantees of trustworthiness under paragraph (1)(B), the court may consider—

"(i) the child's knowledge of the event;

"(ii) the age and maturity of the child;

"(iii) the degree of certainty that the statement was in fact made by the child;

"(iv) any apparent motive the child may have had to falsify or distort the event, including bias, corruption, or coercion;

"(v) the timing of the child's statement;

"(vi) whether more than one person heard the statement;

"(vii) whether the child was suffering pain or distress when making the statement;

"(viii) the nature and duration of any alleged abuse;

"(ix) whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's experience;

"(x) whether the statement has internal consistency or coherence and uses terminology appropriate to the child's age;

"(xi) whether the statement is spontaneous or directly responsive to questions;

"(xii) whether the statement is suggestive due to improperly leading questions; and

"(xiii) whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement.

"(3) Notice.—The proponent of the admission of an out-of-court statement shall notify the adverse party of the proponent's intention to offer the statement and of the content of the statement sufficiently in advance of the proceeding to provide the adverse party with a fair opportunity to prepare a response to the statement before the proceeding at which it is to be offered.

"(4) Findings.—The court shall support with findings on the record any rulings pertaining to the child's inability and the trustworthiness of an out-of-court statement.

"(b) Testimonial aids.—The court may permit a child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.".

(d) VIOLATION OF RULE REGARDING DISCLOSURE.—

(1) PUNISHMENT AS CONTEMPT.—Chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 403. Protection of the privacy of child victims and child witnesses

"A violation of rule 43.1(d)(1) of the Federal Rules of Civil Procedure or rule 52.1(d)(1) of the Federal Rules of Criminal Procedure shall constitute a criminal contempt classified as a Class A misdemeanor.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 21, United States Code, is amended by adding at the end thereof the following new item:

"403. Protection of the privacy of child victims and child witnesses.".

SEC. 102. CHILD ABUSE REPORTING.

(a) IN GENERAL.—A person who, while engaged in a professional capacity or activity described in subsection (b) on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d).

(b) COVERED PROFESSIONALS.—Persons engaged in the following professions and activities are subject to the requirements of subsection (a):

(1) Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, and alcohol or drug treatment personnel.

(2) Religious healers, persons rendering spiritual treatment through prayer, and persons licensed to practice the healing arts.

(3) Psychologists, psychiatrists, and mental health professionals.

(4) Social workers, licensed or unlicensed marriage, family, or individual counselors, and clergy performing counseling roles.

(5) Teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials, and school administrators.

(6) Child care workers and administrators.

(7) Law enforcement personnel, judges, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.

(8) Foster parents.

(9) Commercial film and photo processors.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

(2) the term "exploitation" means child pornography or child prostitution;

(3) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(4) the term "sexually explicit conduct" means actual or simulated—

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral anal contact, whether between persons of the same or of opposite sex;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse; and

(5) the term "sexual contact" means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person.

(d) AGENCY DESIGNATED TO RECEIVE REPORT AND ACTION TO BE TAKEN.—For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a). By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

(e) REPORTING FORM.—In every federally operated (or contracted) facility, and on all Federal lands, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. Use of the form shall be encouraged, but its use shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

(f) IMMUNITY FOR REPORTING AND ASSOCIATED ACTIONS.—All persons who, acting in good faith, make a report by subsection (a), or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the defendant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses.

(g) CRIMINAL PENALTY FOR FAILURE TO REPORT.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2258. Failure to report child abuse

"A person who, while engaged in a professional capacity or activity described in subsection (b) of section 502 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be guilty of a Class B misdemeanor.".

(2) The chapter analysis for chapter 110, United States Code, is amended—

(A) by amending the catchline to read as follows:

"CHAPTER 110—SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN";

and

(B) by adding at the end thereof the following new item:

"2258. Failure to report child abuse.".

(3) The item relating to chapter 110 in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"110. Sexual exploitation and other abuse of children ..... 2251".

(h) CIVIL LIABILITY FOR FAILURE TO REPORT.—(1) A person who fails to make a report when required under subsection (a) shall be liable to a child who, after the time at which the person learns the facts that give rise to the requirement to report, suffers an incident of child abuse.

(2) In an action brought under paragraph (1), the plaintiff shall have the burden of showing that—

(A) the defendant learned of facts that did give or reasonably should have given the defendant reason to suspect that the child on whose behalf suit is brought had suffered an incident of child abuse; and

(B) after the time that the defendant learned of such facts—

(i) the defendant failed to make a timely report as required by subsection (a); and

(ii) the child suffered an incident of child abuse.

(3) In an action brought under paragraph (1), the plaintiff may recover damages for physical, mental, and emotional injury caused by incidents of child abuse that occur after the time that the defendant learned of the facts described in subparagraph (A), without regard to whether any other person learned of such facts and failed to make a report.

(4) A plaintiff who makes the showing described in paragraph (2) shall be entitled to recover unless the defendant shows that—

(A) the defendant made a report to the agency as soon as it was possible to do so;

(B) the agency to which the report was required to be made acquired knowledge of the facts of which the defendant had learned, or of the incident of child abuse whose occurrence was suggested by those facts, at a time prior to the occurrence of the incident of child abuse for which recovery is sought sufficient to have allowed the agency to take action that might have prevented the incident; or

(C) the agency could not have prevented the incident of child abuse for which recovery is sought.

(i) PRIVILEGES ABROGATED.—For the purposes of this section, and in any investigations or judicial actions resulting from a report of abuse or neglect, the privileged nature of any communications between physician and patient, psychotherapist and patient, psychologist and client, social worker and client, any other health care provider and patient, and husband and wife are abrogated.

(j) TRAINING OF PROSPECTIVE REPORTERS.—All individuals in the occupations listed in subsection (b)(1) who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

TITLE V—CHILD CARE WORKER EMPLOYEE BACKGROUND CHECKS

SEC. 501. REQUIREMENT FOR BACKGROUND CHECKS.

(a) IN GENERAL.—(1) Each agency of the Federal Government, and every facility operated by the Federal Government (or operated under contract with the Federal Government), that hires (or contracts for hire) individuals involved with the provision to children under the age of 18 of child care services shall assure that all existing and newly-hired employees undergo a criminal history background check. All existing staff shall receive such checks not later than 6 months after the date of enactment of this Act, and no additional staff shall be hired without a check having been completed.

(2) For the purposes of this section, the term "child care services" means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

(b) CRIMINAL HISTORY CHECK.—(1) A background check required by subsection (a) shall be—

(A) based on a set of the employee's fingerprints obtained by a law enforcement officer and on other identifying information;

(B) conducted through the Identification Division of the Federal Bureau of Investigation and through the State criminal history repositories of all States that an employee or prospective employee lists as current and former residences in an employment application; and

(C) initiated through the personnel programs of the applicable Federal agencies.

(2) The results of the background check shall be communicated to the employing agency.

(c) APPLICABLE CRIMINAL HISTORIES.—Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be grounds for denying employment or for dismissal of an employee in any of the positions listed in subsection (a)(2). In the case of an incident in which an individual has been charged with one of those offenses, when the charge has not yet been disposed of, an employer may suspend an employee from having any contact with children while on the job until the case is resolved. Conviction of a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children.

(d) EMPLOYMENT APPLICATIONS.—(1) Employment applications for individuals who are seeking work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, in any of the positions listed in subsection (a)(1), shall contain a question asking whether the

individual has ever been arrested for or charged with a crime involving a child, and if so requiring a description of the disposition of the arrest or charge. An application shall state that it is being signed under penalty of perjury, with the applicable Federal punishment for perjury stated on the application.

(2) A Federal agency seeking a criminal history record check shall first obtain the signature of the employee or prospective employee indicating that the employee or prospective employee has been notified of the employer's obligation to require a record check as a condition of employment and the employee's right to obtain a copy of the criminal history report made available to the employing Federal agency and the right to challenge the accuracy and completeness of any information contained in the report.

(e) ENCOURAGEMENT OF VOLUNTARY CRIMINAL HISTORY CHECKS FOR OTHERS WHO MAY HAVE CONTACT WITH CHILDREN.—Federal agencies and facilities are encouraged to submit identifying information for criminal history checks on volunteers working in any of the positions listed in subsection (a) and on adult household members in places where child care or foster care services are being provided in a home.

HONORING THE SERVICE OF WILL HILL TANKERSLEY TO THE NATION

HEFLIN AMENDMENT NO. 1693

(Ordered referred to the Committee on Armed Services.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the resolution (S. Res. 261) to honor the dedicated service of Will Hill Tankersley to the people of this Nation, as follows:

The preamble is amended—

(1) by inserting between the third and fourth clause the following new clauses:

"Whereas Will Hill Tankersley studied at some of the finest academic institutions in this Nation, including Marion Institute and the Citadel, before he graduated from the United States Military Academy at West Point in 1950;

"Whereas Will Hill Tankersley subsequently studied at the Colgate Darden School at the University of Virginia and the Kennedy School at Harvard University, and earned a Master of Science degree in economics from the School of Business of Auburn University;

"Whereas Will Hill Tankersley graduated from the Institute of Investment Banking at the Wharton School of the University of Pennsylvania;"; and

(2) by inserting between the first and second clause, the following new clause:

"Whereas Will Hill Tankersley served as Deputy Assistant Secretary of Defense for Reserve Affairs from September 5, 1974, through July 1, 1977;".

(3) by deleting from the fourth clause, the following words: "a graduate of West Point,".

CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

GRAHAM AMENDMENT NO. 1694

Mr. GRAHAM proposed an amendment to the bill S. 1970, supra, as follows:

In title I, strike section 107 through the end of the title.

KERRY AMENDMENTS NOS. 1695 THROUGH 1697

(Ordered to lie on the table.)

Mr. KERRY submitted three amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDENT No. 1695

At the appropriate place in the bill, insert the following new section:

Section 1005(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504) is amended by inserting the following new subsection:

(3) any area designated as a high intensity drug trafficking area as defined in subsection (c) above, shall automatically qualify for designation as an enterprise zone as defined under section 701 of the Housing and Community Development Act of 1987 (42 U.S.C. 11501).

AMENDMENT No. 1696

At the appropriate place in the bill, insert the following new section:

BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS

Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $1,200,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993 to carry out the programs under parts D and E of this title."

AMENDMENT No. 1697

At the appropriate place, insert the following:

SEC. . SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) treatment on demand is a goal of our National drug control policy; and

(2) a strategy to achieve treatment on demand should be included in the next National Drug Strategy report issued by the President.

THURMOND (AND BIDEN) AMENDMENT NO. 1698

Mr. THURMOND (for himself and Mr. BIDEN) proposed an amendment to the bill S. 1970, supra, as follows:

On page 4, line 24, strike "18" and insert "17".

On page 6, strike lines 1-2, and strike lines 7-8.

SPECTER AMENDMENT NO. 1699

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place insert:

SEC. . The Federal courts shall have jurisdiction to entertain a petition for a writ coram nobis to consider a claim of discrimination on the basis of race in jury selection presented by a person under sentence of death imposed by a Federal court or a court of any State brought at any time after exhaustion of any direct appeals and shall determine such a claim on the merits in accordance with current substantive law.

WIRTH AMENDMENTS NOS. 1700 AND 1701

(Ordered to lie on the table.)

Mr. WIRTH submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1700

In the appropriate place, insert the following:

That the Office of the National Drug Control Policy is directed to develop a coordinated policy in conjunction with State and local governments to counteract youth gang involvement in the distribution, sale and use of illegal drugs;

That the coordinated policy to be developed, as referenced above, include, though not be limited to, programs or means to prevent young people from joining a gang and methods to reform, rehabilitate, educate or train gang members and turn them away from illegal gang activities.

That this policy be implemented as soon as practical but no later than 1 year after enactment of this bill.

AMENDMENT No. 1701

At the end of the bill, add the following:

SEC. . FINES TO COVER THE COST OF INCARCERATION.

Section 3571 of title 18, United States Code, is amended—

(1) in subsection (a) by striking "subsection (e)" and inserting "subsections (e) and (f)"; and

(2) by adding at the end thereof the following new subsection:

"(f) FINES TO COVER THE COST OF INCARCERATION.—(1) Under guidelines issued by the United States Sentencing Commission, a defendant may be fined not to exceed the annual cost to the United States of incarcerating the defendant, for each year or part of a year that the defendant is to be imprisoned.

"(2) The fine authorized by paragraph (1) is in addition to any other fine or term of imprisonment that is authorized in or imposed under this chapter or the law setting forth the offense of which the defendant was found guilty.".

SPECTER AMENDMENT NO. 1702

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill, S. 1970, as follows:

At the appropriate place, insert the following:

SEC. . Section 1651 of title 28 of the United States Code is amended by adding thereto the following:

"(c) The Federal courts shall have jurisdiction to entertain a petition for a writ coram nobis to consider a claim of discrimination on the basis of race in jury selection presented by a person under sentence of death imposed by a Federal court or a court

of any State brought at any time after the petitioner has exhausted all available direct appeals and shall determine such a claim on the merits in accordance with current substantive law.".

SHELBY AMENDMENT NO. 1703

(Ordered to lie on the table.)

Mr. SHELBY submitted an amendment intended to be proposed by him to the bill, S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . STATE OR LOCAL GOVERNMENT INITIATIVES TO CONSTRUCT AND OPERATE FEDERAL PRISONS.

(a) IN GENERAL.—Chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 4014. State and local government initiatives to construct and operate Federal prisons

"If a State or territory, or political subdivision thereof—

"(1) contacts the Department of Justice requesting consideration as a site for the imprisonment, subsistence, care, or proper employment of United States prisoners;

"(2) demonstrates that the residents of the proposed area for the site support the proposal; and

"(3) demonstrates a willingness and capacity to share the cost of constructing and operating the Federal prison so that the facility can be made available at reasonable cost.

the Attorney General shall consider such demonstrations as prioritized criteria during consideration of sites for Federal prison expansion and may contract with the proper authorities of the State or territory, or political subdivision thereof, for the imprisonment, subsistence, care, and proper employment of United States prisoners.".

(b) TABLE OF CONTENTS.—The table of contents for chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"§ 4014. State and local government initiatives to construct and operate Federal prisons.".

DOMENICI AMENDMENTS NO.'S 1704 THROUGH 1706

(Ordered to lie on the table.)

Mr. DOMENICI submitted three amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1704

At the appropriate place in the bill, insert the following:

SEC. . SUPPORT OF FEDERAL PRISONERS IN NON-FEDERAL INSTITUTIONS.

Section 4013 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(b)(1) The United States Marshals Service may designate districts that need additional support from private detention entities under subsection (a)(3) based on—

"(A) the number of Federal detainees in the district; and

"(B) the availability of Federal, State, and local government detention facilities.

"(2) In order to be eligible for a contract for the housing, care, and security of persons held in custody of the United States Marshal pursuant to Federal law and funding under subsection (a)(3), a private entity shall—

"(A) be located in a district that has been designated as needing additional Federal detention facilities pursuant to paragraph (1);

"(B) meet the standards of the American Correctional Association;

"(C) comply with all applicable State and local laws and regulations;

"(D) have approved fire, security, escape, and riot plans; and

"(E) comply with any other regulations that the Marshals Service deems appropriate.".

"(3) The United States Marshals Service shall provide an opportunity for public comment on a contract under subsection (a)(3).".

AMENDMENT NO. 1705

At the appropriate place in the bill, insert the following:

SEC. . ALTERNATIVE SCHOOLS FOR YOUTHS WITH DRUG PROBLEMS.

(a) STATE PROGRAMS.—Section 5122 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (7);

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by adding after paragraph (7) the following new paragraph:

"(8) model alternative schools for youths with drug problems that address the special needs of such students through education, and counseling."

AMENDMENT NO. 1706

At the appropriate place in the bill, insert the following:

SEC. . STUDY OF THE FEASIBILITY OF ESTABLISHING A FEDERAL CENTER FOR LAW ENFORCEMENT TECHNOLOGY.

IN GENERAL.—(1) The Secretary of Energy, in consultation with the Attorney General, the Secretary of the Interior, the Secretary of Transportation, the Secretary of the Treasury, and the Director of the Office of National Drug Control Policy, shall conduct a study to determine the feasibility of establishing a Center for Law Enforcement Technology at an existing national laboratory.

(2) The study shall examine—

(A) the need for innovative technologies in law enforcement, with particular emphasis on security, surveillance, analysis technologies, and materials research that would assist in law enforcement, particularly in curbing the supply of drugs in the United States;

(B) the capabilities of the national laboratories to develop such technologies in a coordinated manner; and

(C) the existing programs of the national laboratories.

(b) RECOMMENDATIONS.—The study shall include a recommendation on whether a Center for Law Enforcement Technology should be established and, if so, where such a center should be located and the proposed mission and management structure of the center.

(c) REPORT.—The Secretary of Energy shall report the results and recommendations of the study authorized by this Act to the Congress and the President not later than 6 months after the date of enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

MIKULSKI AMENDMENT NO. 1707

(Ordered to lie on the table.)

Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . CERTAIN LAW ENFORCEMENT OFFICERS AND THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331 of title 5, United States Code, is amended—

(1) in paragraph (20) by inserting after the first sentence "Law enforcement officer shall include any employee who is a revenue officer as defined under paragraph (26), a customs inspector as defined under paragraph (27), a customs canine enforcement officer as defined under paragraph (28), or an immigration and naturalization inspector as defined under paragraph (29).";

(2) in paragraph (24) by striking out "and" at the end thereof;

(3) in paragraph (25) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new paragraphs:

"(26) 'revenue officer' means an employee of the Internal Revenue Service, the duties of whose position are primarily the collection of delinquent taxes and the securing of delinquent returns, including an employee engaged in this activity who is transferred to a supervisory or administrative position;

"(27) 'customs inspector' means an employee of the United States Customs Service, the duties of whose position are primarily to—

"(A) enforce laws and regulations governing the importing and exporting of merchandise;

"(B) process and control passengers and baggage;

"(C) interdict smuggled merchandise and contraband; and

"(D) apprehend, if warranted, persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position;

"(28) 'customs canine enforcement officer' means an employee of the United States Customs Service, the duties of whose position are primarily to work directly with a dog in an effort to—

"(A) enforce laws and regulations governing the importing and exporting of merchandise;

"(B) process and control passengers and baggage;

"(C) interdict smuggled merchandise and contraband; and

"(D) apprehend, if warranted, persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position; and

"(29) 'immigration and naturalization inspector' means an employee of the Immigration and Naturalization Service, the duties of whose position are primarily the controlling and guarding of the boundaries and borders of the United States against the illegal entry of aliens, including an employee engaged in this activity who is transferred to a supervisory or administrative position.".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8401 of title 5, United States Code, is amended in paragraph (17)—

(1) in subparagraph (C)—

(A) by striking out "subparagraph (A) and (B)" and inserting in lieu thereof "subparagraph (A), (B), or (C)"; and

(B) by striking out "and" at the end thereof;

(2) in subparagraph (D) by adding "and" at the end thereof; and

(3) by adding at the end thereof the following new subparagraph:

"(E) an employee who is—

"(i) a revenue officer of the Internal Revenue Service, the duties of whose position are primarily the collection of delinquent taxes and the securing of delinquent returns;

"(ii) a customs inspector of the United States Customs Service, the duties of whose position are primarily to—

"(I) enforce laws and regulations governing the importing and exporting of merchandise;

"(II) process and control passengers and baggage;

"(III) interdict smuggled merchandise and contraband; and

"(IV) apprehend, if warranted, persons involved in violations of customs laws;

"(iii) a customs canine enforcement officer of the United States Customs Service, the duties of whose position are primarily to work directly with a dog in an effort to—

"(I) enforce laws and regulations governing the importing and exporting of merchandise;

"(II) process and control passengers and baggage;

"(III) interdict smuggled merchandise and contraband; and

"(IV) apprehend, if warranted, persons involved in violations of customs laws; and

"(iv) an immigration and naturalizaion inspector of the Immigration and Naturalization Service, the duties of whose position are primarily the controlling and guarding of the boundaries and borders of the United States against the illegal entry of aliens.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to all persons employed as revenue officers of the Internal Revenue Service, customs inspectors and canine enforcement officers of the United States Customs Service, and inspectors of the Immigration and Naturalization Service on the first day of the first applicable pay period for each such person which begins after the 90-day period following the date of the enactment of this section.

SPECTER-GORE AMENDMENT NO. 1708

(Ordered to lie on the table.)

Mr. SPECTER (for himself and Mr. GORE) submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

CRIME AWARENESS AND CAMPUS SECURITY

SEC. . SHORT TITLE.

This title may be cited as the "Crime Awareness and Campus Security Act of 1990.

SEC. . FINDINGS.

The Congress finds that—

(1) the reported incidence of crime on some college campuses has steadily risen in recent years, particularly violent crimes;

(2) while annual "National Campus Violence Surveys" indicate that roughly 80 percent of campus crimes are committed by a student upon another student and that approximately 95 percent of the campus crimes which are violent are alcohol or drug related, there are currently no comprehensive data on campus crimes;

(3) out of 8,000 postsecondary institutions participating in Federal student aid programs, only 352 colleges and universities voluntarily provide crime statistics directly through the Federal Bureau of Investigation's uniform Crime Report and other institutions report data indirectly, through local police agencies or States, in a manner that does not permit campus statistics to be separated out;

(4) several State legislatures have adopted or are considering legislation to require reporting of campus crime statistics and dissemination of security practices and procedures, but the bills are not uniform in their requirements and standards;

(5) students and employees of institutions of higher education should be aware of the occurrence of crime on campus and policies and procedures to prevent crime or to report occurrences of crime;

(6) applicants for enrollment at a college or university, and their parents, should have access to information about that institution's crime statistics and its security policies and procedures;

(7) while many institutions have established crime preventive measures to increase the safety of campuses, there is a clear need—

(A) to encourage the development on all campuses of security policies and procedures; and

(B) for uniformity and consistency in the reporting of crimes on campus.

SEC. . AMENDMENTS.

(a) PROGRAM PARTICIPATION AGREEMENT REQUIREMENTS.—Section 487(a) of the Higher Education Act of 1965 is amended by adding at the end thereof the following new paragraph:

"(11) The institution certifies that—

"(A) the institution has established a campus security policy; and

"(B) the institution has complied with the disclosure requirements of section 485(f).".

(b) DISCLOSURE REQUIREMENTS.—Section 485 of the Higher Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(f) DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS.—(1) Each eligible institution participating in any program under this title shall prepare, publish, and distribute, through appropriate publications and mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, and submit to the Secretary, an annually revised and updated report containing the following information with respect to its campus security policies and campus crime statistics:

"(A) a description of current campus security procedures and practices, including procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports;

"(B) a statement of current policies concerning security and access to campus facilities, and security considerations used in the maintenance of campus facilities;

"(C) a 'statement' of current policies concerning security in campus residences and access to campus residences by students and guests, including a description of the type and frequency of programs designed to inform students and student housing residents about housing security and enforcement procedures;

"(D) a statement of current policies concerning campus law enforcement, including—

"(i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

"(ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies; and

"(E) statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary;

"(vi) larceny;

"(vii) motor vehicle theft; and

"(viii) arson;

"(F) statistics concerning the number of arrests for the following crimes occurring on campus:

"(i) liquor law violations;

"(ii) drug abuse violations;

"(iii) vandalism;

"(iv) weapons possessions; and

"(v) disorderly conduct;

"(G) a statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a description of any alcohol abuse education programs provided by the institution;

"(H) a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug abuse education programs provided by the institution; and

"(I) a statement of policy concerning the monitoring through local police agencies and recording of criminal activity at off-campus fraternities and other student organizations which are recognized by the institution.

"(2) Each institution participating in any program under this title shall make reports on crimes described in subparagraphs (E) and (F) of paragraph (1) that are reported to campus security or local law police agencies. Such reports shall be distributed through appropriate publications and media to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences.

"(3) The Secretary shall—

"(A) regularly review annual reports by institutions of higher education and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on campus crime statistics by September 1, 1995; and

"(B) in coordination with representatives of institutions of higher education, periodically survey campus security policies, procedures, and practices implemented by institutions of higher education and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

"(4) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education

with respect to campus crimes or campus security.

"(5) For purposes of this subsection, the term 'campus' includes—

"(A) any building or property owned or controlled by the institution of higher education and used by the institution for its educational purposes; or

"(B) any building or property owned or controlled by student organizations recognized by the institution.

"(6) The statistics required by subparagraphs (E) and (F) of paragraph (1) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Justice Department, Federal Bureau of Investigation. Such statistics shall reflect modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act.".

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on July 1, 1991, except that the requirement of section 485(f)(1) (E) and (F) of the Higher Education Act of 1965 (as amended by this Act) shall be applied to require statistics with respect to school years preceding the date of enactment of this act only to the extent that data concerning such years is reasonably available.

SEC. . DISCLOSURE OF DISCIPLINARY PROCEEDING OUTCOMES TO CRIME VICTIMS.

Section 438(b) of the General Education Provisions Act (20 U.S.C. 1232g(b)) is amended by adding at the end thereof the following new paragraph:

"(6) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing, to an alleged victim of any crime of violence (as that term is defined in section 16 of title 18, United States Code), the results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime with respect to such crime.".

HEINZ AMENDMENTS NOS. 1709 THROUGH 1712

(Ordered to lie on the table.)

Mr. HEINZ submitted four amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1709

At the appropriate place insert the following:

SEC. . PRIORITY OF CERTAIN CLAIMS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following:

"(p) PRIORITY OF CERTAIN CLAIMS.—In any proceeding related to any claim acquired under section 11 or 13 of this Act against an insured financial institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured financial institution, any suit, claim, or cause of action brought by the Corporation shall have priority over any other such suit, claim, or cause of action asserted by depositors, creditors, or shareholders of the insured financial institution, except for claims of Federal agencies as provided in section 6321 of the Internal Revenue Code of 1986 and section 3713 of title 31, United States Code. This priority shall apply to both the prosecution of any suit, claim, or cause of action, and to the execution of any subsequent judgments resulting from such suit.".

AMENDMENT NO. 1710

At the appropriate place insert the following:

SEC. . BREACH OF FIDUCIARY DUTIES.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following:

"(p) BREACH OF FIDUCIARY DUTIES.—A finding by a Federal bankruptcy or district court that a director or an officer of an insured financial institution has breached any of his or her fiduciary duties to that institution shall constitute a defalcation while acting in a fiduciary capacity within the meaning of section 523(a)(4) of title 11, United States Code. The liability arising from such breach shall constitute a debt not dischargeable in bankruptcy.".

AMENDMENT NO. 1711

At the appropriate place insert the following:

SEC. . RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS.

Section 1961(1)(B) of title 18, United States Code, is amended—

(1) by inserting "section 215 (relating to receipt of commissions or gifts for proving loans)," after "Section 201 (relating to bribery),";

(2) by inserting "sections 656 and 657 (relating to financial institution embezzlement)," after "473 (relating to counterfeiting),";

(3) by inserting "sections 1004, 1005, 1006, 1007, and 1014 (relating to fraud and false statements)," after "section 894 (relating to extortionate credit transactions),".

AMENDMENT NO. 1712

At the appropriate place insert the following:

SEC. . EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following:

"(p) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—

"(1) TIME FOR FILING NOTICE OF APPEAL.—The notice of any appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against an insured institution's officers, directors, employee, attorneys, accountants, or other agents shall be filed within 10 days of the entry of that order. Hearing of the appeal shall be within 30 days of the filing of the notice. The appeal shall be decided within 90 days of the filing of the notice.

"(2) SCHEDULING.—Consistent with section 1647 of title 28, United States Code, the courts of the United States shall expedite the consideration of any case brought by the Corporation against an insured institution's officers, directors, attorneys, accountants, or other agents. As far as practicable, the courts will give such cases priority on their dockets.

"(3) JUDICIAL DISCRETION.—Any judge may modify the schedule and limitations of paragraphs (1) and (2) as applied to a specific case, based on a specific finding that the ends of justice served by making such a modification outweight the best interest of the public in having the case resolved expeditiously.".

LEVIN AMENDMENT NO. 1713

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended—

(1) in subsection (a) by—

(A) striking "playground,"; and

(B) inserting "or a public or private playground," after "university,"; and

(2) in subsection (b) by—

(A) striking "playground,"; and

(B) inserting "or a public or private playground," after "university,".

WILSON AMENDMENTS NOS. 1714 AND 1715

(Ordered to lie on the table.)

Mr. WILSON submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1714

At the appropriate place, insert the following:

SEC. . (a) The Congress finds that—

(1) The historic province of the jury in a criminal trial is solely to determine the issue of guilt or innocence of a defendant;

(2) The historic province of the court in a criminal case is, upon conviction, to impose sentence as provided by law; and

(3) Any provision to a jury of information relating to what sentence may be imposed subverts the historic role of the jury and undermines our system of justice as provided by the Constitution.

(b)(1) The punishment provided by law for the offense or offenses charged in an indictment or information is a matter exclusively within the province of the court, as provided by law, and no information concerning the length of incarceration which may or must be imposed upon conviction may be made available to the jury at any time.

(2) Notwithstanding the provisions of paragraph (1), the court shall act pursuant to the provisions of law regarding the imposition of punishment in capital cases.

AMENDMENT NO. 1715

At the appropriate place, insert the following:

TITLE—CIVIL RIGHTS

SEC. 01. SHORT TITLE.

This title may be cited as the "Civil Rights Protection Act of 1990."

SEC. 02. DEATH PENALTY FOR MURDER DURING THE COMMISSION OF AN ACT IN VIOLATION OF CIVIL RIGHTS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELI-

GIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

KENNEDY AMENDMENTS NOS. 1716 AND 1717

(Ordered to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1716

At the appropriate place in the bill insert the following:

SEC. . CLARIFICATION OF "MIXTURE OR SUBSTANCE."

Section 841(b)(1) of title 21, United States Code, is amended by inserting the following new subsection at the end thereof:

"(E) In determining the weight of a 'mixture or substance' under this section, the court shall not include the weight of the carrier upon which the controlled substance is placed, or by which it is transported."

AMENDMENT NO. 1717

At the appropriate place in the bill, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Abuse Treatment and Prevention Improvement Act of 1990".

SEC. 2. TABLE OF CONTENTS.

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TITLE IV—MISCELLANEOUS PROVISIONS
Sec. 401. Study on the relationship between the consumption of legal and illegal drugs.
Sec. 402. Omnibus Crime Control and Safe Streets Act of 1986.
Sec. 403. Drug-Free Schools and Communities Act of 1986.

TITLE I—IMPROVEMENT AND EXPANSION OF GRANT PROGRAMS

SEC. 101. ESTABLISHMENT OF OFFICE FOR TREATMENT IMPROVEMENT.

Title V of the Public Health Service Act (hereafter in this Act referred to as the "Act") (42 U.S.C. 290aa et seq.) is amended by inserting after section 507 the following new section:

"SEC. 507A. OFFICE FOR TREATMENT IMPROVEMENT.

"(a) IN GENERAL.—There is established in the Administration an Office for Treatment Improvement (hereafter in this section referred to as the "Treatment Office"). The Treatment Office shall be headed by a Director appointed by the Secretary from among individuals with extensive experience or academic qualifications in the treatment of drug or alcohol abuse. The Secretary, acting through the Director of the Treatment Office, shall carry out this section.

"(b) ALCOHOL AND DRUG ABUSE RESPONSIBILITIES.—With respect to alcohol and drug abuse, the Director of the Treatment Office shall—

"(1) collaborate with the Director of the Office for Substance Abuse Prevention in order to provide outreach services to identify individuals in need of treatment services, with emphasis on the provision of such services to racial and ethnic minorities, to adolescents, to pregnant and postpartum women and their infants, to individuals who abuse drugs intravenously, and to residents of publicly-assisted housing;

"(2) collaborate with the Director of the National Institute on Drug Abuse and with the States to promote the study of the outcomes of treatment services in order to identify the manner in which such treatment services can most effectively be provided;

"(3) collaborate with the Director of the National Institute on Drug Abuse in order to promote the dissemination and implementation of research findings that will improve the delivery and effectiveness of treatment services;

"(4) evaluate plans submitted by the States pursuant to section 1916B in order to advise the Administrator on whether the plans adequately provide for the allocation of the treatment resources of the States;

"(5) carry out the grant programs established in sections 509E, 509G(b), 509H, 509I, and 509J;

"(6) sponsor regional workshops on improving the quality and availability of treatment services;

"(7) provide technical assistance to public and nonprofit private entities that provide prevention and treatment services, including technical assistance with respect to the process of submitting to the Director applications for any program of grants carried out by the Director;

"(8) after consultation with organizations that represent providers of prehospital emergency medical services, carry out programs to train such providers with respect to responding to any emergency involving special problems that arise as a result of the abuse of alcohol or drugs by the victim of the emergency, including the problem of interacting with victims who are violent as a result of such abuse;

"(9) encourage State and Federal agencies offering treatment opportunities for individuals addicted to drugs or alcohol to utilize and establish self-run, self-supported recovery homes based on the Oxford House Model, as described in section 1916A;

"(10) provide treatment services by making grants to public and nonprofit private entities under any of sections 329, 330, and 340, and in making such grants, shall ensure that the grants are equitably allocated among the principal geographic regions of the United States, and between urban and rural areas, subject to the availability of qualified applicants for the grants;

"(11) improve coordination of the treatment resources of communities in order to ensure that the resources are applied in the manner most consistent with the needs of the communities, including referring individuals to the most appropriate provider of treatment services;

"(12) improve coordination between treatment facilities and agencies providing health, social, and employment services in order to assist, in a comprehensive manner, individuals undergoing treatment;

"(13) carry out activities to educate communities on the need for establishing treatment facilities within the communities;

"(14) encourage public and private entities that provide health insurance to provide benefits for drug treatment services; and

"(15) develop programs to increase the number of health professionals providing treatment services and to promote the increased integration into the health care system of the United States of programs for providing treatment services.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (10) of subsection (b), there is authorized to be appropriated $50,000,000 for each of the fiscal years 1991 and 1992.".

SEC. 102. REVISION IN PROGRAM FOR REDUCTION OF WAITING PERIOD FOR DRUG ABUSE TREATMENT.

(a) ADMINISTRATOR OF PROGRAM.—Section 509E(a) of the Act (42 U.S.C. 290aa-12(a)) is amended by striking "the Administrator" and inserting "the Director of the Office for Treatment Improvement".

(b) IMPROVEMENT OF PROGRAM.—Section 509E of the Act (42 U.S.C. 290aa-12) is amended by—

(1) striking subsection (d) and redesignating subsection (c) as subsection (d);

(2) inserting after subsection (b) the following new subsection:

"(c) Subject to the availability of qualified applicants, in awarding grants under subsection (a), the Secretary shall give priority to applicants that provide, directly or through arrangements with public and nonprofit entities—

"(1) drug treatment services to pregnant and postpartum women; or

"(2) after-care services to prevent renewed substance abuse by individuals to whom a substance abuse program that receives assistance under this section has provided

treatment services, except that a grantee shall not expend more than 50 percent of such grant to develop and provide such services.";

(3) redesignating paragraph (3) of subsection (e) as paragraph (4);

(4) striking "and" at the end of paragraph (2) of subsection (e); and

(5) inserting after paragraph (2) of subsection (e) the following new paragraph:

"(3) in the case of an applicant that is not a State, an agency of the State in which the applicant is located certifies that the applicant satisfies the conditions described in subsection (b); and".

(c) FUNDING.—Section 509E(f) of the Act (42 U.S.C. 290aa-12(f)) is amended—

(1) in paragraph (1), by striking "$100,000,000." and inserting "$140,000,000."; and

(2) in paragraph (3), by striking "$100,000,000" and inserting "$140,000,000".

(d) REPORT.—Not later than 6 months after the enactment of this Act, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration shall prepare and submit, to the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce, a report concerning the waiting period reduction grant program under section 509E of the Act (42 U.S.C. 290aa-12). Such report shall include—

(1) a list and description of the programs that have been awarded grants under this section;

(2) a description of the process by which funds awarded under such section are expended for treatment services, including a description of the process by which grantees obligate and draw-down funds received under such section;

(3) an assessment of the validity of waiting lists as a measure of treatment need and, if the report concludes that waiting lists are not the most accurate measure of treatment need, a description of other, more accurate means of measuring treatment need;

(4) the views of State, local and nongovernmental treatment experts with respect to—

(A) the validity of waiting lists as a measure of treatment need; and

(B) the efficacy of the waiting period reduction grant program; and

(5) any other information that the Administrator deems to be necessary to a thorough appraisal of the efficacy of the program under such section.

SEC. 103. REVISION IN PROGRAM OF MODEL PROJECTS FOR REDUCING INCIDENCE OF ALCOHOL AND DRUG ABUSE AMONG PREGNANT AND POSTPARTUM WOMEN AND THEIR INFANTS.

(a) IN GENERAL.—Section 509F of the Act (42 U.S.C. 290aa-13) is amended by striking subsections (b) through (e) and inserting the following:

"(b) In making grants under subsection (a), the Director of the Office shall give priority to projects—

"(1) that will provide treatment services; and

"(2) that include one or more of the following components:

"(A) Service delivery strategies and outreach services in the community involved to identify such women who are abusing alcohol or drugs and to encourage such women to undergo treatment for such abuse.

"(B) Prenatal and postpartum health care for women undergoing such treatment.

"(C) With respect to the infants and children of such women, ongoing pediatric health care.

"(D) Child care, transportation, and other support services with respect to such treatment.

"(E) As appropriate, referrals to facilities for necessary hospital services.

"(F) Employment counseling, skill building and other appropriate follow-up services to help prevent a relapse of alcohol or drug abuse.

"(G) Case management services, including assistance in establishing eligibility for assistance under Federal, State, and local programs providing health services, mental health services, or social services.

"(H) Efforts to preserve and support the family unit.

"(I) Direct intervention, treatment, or rehabilitation of infants, which may include other siblings, to reduce or prevent the impact of maternal substance abuse on such children.

"(J) Supportive services for biologic or foster parents of infants affected by maternal substance abuse.

"(K) Strategies for providing treatment resources to low-income pregnant and postpartum women.

"(L) Strategies for providing treatment resources to pregnant and postpartum women under criminal justice supervision.

"(M) Other services that will tend to improve pregnancy outcomes, reduce substance abuse among women of childbearing age, and increase the stability of the family home environment.

"(c) With respect to any health service under this section that is covered by the appropriate State plan approved under title XIX of the Social Security Act, the Director of the Office may not make a grant under subsection (a) unless—

"(1) the applicant for the grant will provide the health service directly, and the applicant has entered into a participation agreement under the appropriate State plan and is qualified to receive payments under such plan; or

"(2) the applicant for the grant has entered into a contract with an entity for the entity to provide the health service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(d) The Director of the Office may not make a grant under subsection (a) unless the applicant for the grant agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income and resources of the woman involved; and

"(3) will not be imposed on any woman with an income of less than 100 percent of the official poverty line, as established by the Director of the Office for Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(e) In making grants under subsection (a) for the provision of treatment services for alcohol and drug abuse, the Director of the Office shall ensure that the grants are distributed among projects that provide outpatient treatment and projects that provide residential treatment, in a manner that reflects the general desirability of residential treatment programs for pregnant addicts.

"(f) The Director of the Office may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) the applicant for the grant agrees to submit to the Secretary an annual report that describes the number of women served, the number of infants served, the type and costs of services provided, and such other information as the Secretary determines to be appropriate;

"(3) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section; and

"(5) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is not less than 10 percent of the amount of the grant under subsection (a).

"(g) The period during which payments are made by the Director of the Office under a grant under subsection (a) may not exceed 5 years, except that the Director of the Office may establish a procedure for renewal of grants under subsection (a).

"(h) Nothing in this section shall be construed to permit the Secretary to discriminate in the awarding of grants under subsection (a) against applicants that propose or provide residential or outpatient rehabilitation services under applicable requirements of State law, including applicants that provide services to substance abusing pregnant and postpartum women that receive treatment by order of a court or other appropriate public agency, so long as all such applications include measures that encourage substance abusing pregnant and postpartum women to seek prenatal care and rehabilitation.

"(i) The Director of the Office shall, after consultation with the Director of the National Institute on Drug Abuse, periodically conduct evaluations to determine the effectiveness of projects supported under subsection (a).

"(j) The Director of the Office shall annually submit to the Congress a report describing programs carried out pursuant to this section. Each such report shall include any evaluations conducted under subsection (i) during the preceding fiscal year.

"(k)(1) In making grants under subsection (a), the Director of the Office shall make a grant to an institution of the type described in paragraph (2) for the establishment of a National Resource and Information Center for Perinatal Addiction, unless the Director finds that the Office is performing each of the functions set forth in paragraph (3) and certifies such finding to the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce.

"(2) The grant described in paragraph (1) shall be awarded, after a competitive search, to a private nonprofit institution that has an extensive background and experience in performing research on maternal substance abuse and in disseminating such information to professionals, policymakers, the general public and the media, as well as experience in providing educational services to maternal substance abusers and their exposed infants.

"(3) The Center established under subsection (a) shall—

"(A) coordinate and disseminate research on maternal substance abuse, treatment op-

tions for such women and infants of such women, and prevention strategies;

"(B) develop and distribute training and educational information and materials concerning maternal substance abuse;

"(C) act as a clearinghouse for information on treatment programs for pregnant women who are addicted to illegal substances;

"(D) develop and manage a national toll free hotline to provide information and referrals;

"(E) provide policy analysis and program evaluation to the Secretary of Health and Human Services; and

"(F) provide any other services designed to carry out the purposes of this subsection.

"(l) For the purpose of carrying out this section, there is authorized to be appropriated $75,000,000 for each of the fiscal years 1991 and 1992.".

(b) GRANTEES.—Section 509F(a) of such Act (42 U.S.C. 290aa-13(a)) is amended by inserting at the end thereof the following new sentence: "Such grants may be made only to public and nonprofit private entities and to appropriately qualified Indian tribes and tribal organizations (as defined in section 1913(b)(5)).".

SEC. 104. REVISIONS IN PROGRAM FOR DRUG ABUSE PROJECTS OF NATIONAL SIGNIFICANCE.

Section 509G of the Act (42 U.S.C. 290aa-14) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by striking "the Administrator" and inserting "the Director of the National Institute on Drug Abuse"; and

(B)(i) by inserting "and" at the end of subparagraph (A);

(ii) by striking "; and" at the end of subparagraph (B) and inserting a period; and

(iii) by striking subparagraph (C);

(2) in subsection (a)(2), by inserting "a" before "result";

(3) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting after "Secretary" the following: ", acting through the Director of the Office for Treatment Improvement,";

(ii) by striking "States" the first place such term appears and inserting "States and other public or nonprofit private entities"; and

(iii) by striking "States" the second place such term appears and inserting "such entities"; and

(B) in paragraph (4), by striking "State" and inserting "public or nonprofit private entity"; and

(4) by amending subsection (c)(1) to read as follows:

"(c)(1) For the purpose of carrying out this section, there are authorized to be appropriated $80,000,000 for each of the fiscal years 1991 and 1992.".

SEC. 105. DRUG ABUSE TREATMENT GRANT PROGRAMS.

Part A of title V of the Act (42 U.S.C. 290aa et seq.) is amended by inserting at the end thereof the following new sections:

"SEC. 509H. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

"(a) ESTABLISHMENT.—The Director of the Office for Treatment Improvement (hereafter in this section referred to as the 'Director') shall establish a program to provide grants to eligible institutions to enable such institutions to provide training services to increase the supply of drug treatment professionals.

"(b) ELIGIBLE INSTITUTIONS.—Institutions eligible to receive a grant under this section shall include government agencies, medical schools, schools of osteopathy, schools of nursing, schools of public health, schools of chiropractic services, schools of social work, and other appropriate institutions that submit an application in accordance with subsection (c).

"(c) APPLICATIONS.—To be eligible to receive a grant under this section, an eligible institution shall submit an application to the Director at such time, in such manner, and containing such information as the Director may reasonably require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 and 1992.

"SEC. 509I. GRANTS FOR DRUG TREATMENT IN THE CRIMINAL JUSTICE SYSTEM.

"(a) PROGRAM ESTABLISHED.—The Director of the Office for Treatment Improvement (hereafter in this section referred to as the 'Director') shall establish a program to provide grants to public and nonprofit private entities that provide drug treatment services to individuals under criminal justice supervision.

"(b) ELIGIBILITY.—In awarding grants under subsection (a), the Director shall ensure that the grants are reasonably distributed among projects that provide treatment services to individuals who are—

"(1) incarcerated in prisons, jails or community correctional settings; or

"(2) not incarcerated but under criminal justice supervision because of their status as pre-trial releases, post-trial releases, probationers, parolees, or supervised releases.

"(c) PRIORITY.—In awarding grants under subsection (a), the Director shall give priority to programs that provide—

"(1) a continuum of services for offenders as they proceed through and out of the criminal justice system, including identification and assessment, drug treatment, employment counseling, pre-release counseling and pre-release referrals with respect to housing and treatment;

"(2) referrals to treatment programs in the community for individuals soon to be released from incarceration;

"(3) treatment services for juvenile offenders;

"(4) treatment services for female offenders;

"(5) outreach services to identify individuals under criminal justice supervision who would benefit from drug treatment and to encourage such individuals to seek treatment; or

"(6) treatment services that function as an alternative to incarceration for appropriate categories of offenders or that otherwise enable individuals to remain under criminal justice supervision in the least restrictive setting consistent with public safety.

"(d) APPLICATION.—The Director of the Office may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary; and

"(2) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines necessary to carry out this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 and 1992.

"SEC. 509J. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (hereafter in this section referred to as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED GRANT APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Director may establish a procedure for renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—Subject to the availability of qualified applicants, the Director shall ensure that grants awarded under this section shall be equitably allocated among the principal geographic regions of the United States.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section

there are authorized to be appropriated $25,000,000 for fiscal years 1991 and 1992.

"SEC. 509K. MODEL RESIDENTIAL PROJECTS FOR ALCOHOL AND DRUG ABUSING WOMEN AND THEIR CHILDREN.

"(a) PROJECT AUTHORIZED.—

"(1) IN GENERAL.—The Secretary, through the Director of the Office, shall make grants to establish not less than 5 projects in which addicted mothers in residential drug abuse treatment facilities are allowed to have their children reside with them during the course of such treatment. Such residential drug abuse treatment and prevention projects shall target economically disadvantaged addicted women and their children (age 10 years and younger) and shall offer child care, parenting and jobs skills, nutrition, and other health, social, education, and employment services as necessary.

"(2) DURATION.—The Secretary, through the Director of the Office, shall only award grants under this section for projects which will be operated for a period of at least 3 years.

"(b) APPLICATION.—Each entity desiring a grant under this section shall submit an application to the Director of the Office at such time, in such manner and accompanied by such information as the Director of the Office may reasonably require. Each such application shall include assurances that the mothers selected for participation in such project have been evaluated to ensure that such mothers are committed to remaining in drug abuse treatment and prevention projects assisted under this section.

"(c) EVALUATION.—The Director of the Office shall conduct evaluations to determine the effectiveness of the projects assisted under this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,000,000 for fiscal year 1991, and such sums as may be necessary for each fiscal year thereafter to carry out the provisions of this section.

"SEC. 509L. NATIONAL CAPITAL AREA DRUG ABUSE TREATMENT DEMONSTRATION PROGRAM.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Office for Treatment Improvement shall make a demonstration grant for the establishment, within the national capital area, of a model program for providing comprehensive treatment services for drug abuse.

"(b) PURPOSES.—The Secretary may not make a grant under subsection (a) unless, with respect to the comprehensive treatment services to be offered by the program under such subsection, the applicant for the grant agrees—

"(1) to ensure, to the extent practicable that the program has the capacity to provide the services to all individuals who seek and would benefit from the services;

"(2) as appropriate, to provide aftercare, employment counseling and other services designed to prevent treated substance abusers from relapsing;

"(3) to provide services in locations accessible to drug abusers and, to the extent practicable, to provide services through mobile facilities;

"(4) to give priority to providing services to individuals who abuse drugs ravenously to pregnant women, to homeless individuals, and to residents of publicly-assisted housing;

"(5) with respect to women with dependent children, to provide child care to such women seeking treatment services for drug abuse;

"(6) to conduct outreach activities to inform individuals of the availability of the services of the program;

"(7) to conduct appropriate activities for the prevention of the abuse of drugs;

"(8) to provide case management services, including services to determine eligibility for assistance under Federal, State, and local programs providing health services, mental health services, or social services;

"(9) to ensure the establishment of one or more offices to oversee the coordination of the activities of the program, to ensure that treatment is available to those seeking it, to ensure that the program is administered efficiently, and to ensure that the public is informed that the offices are the locations at which individuals may make inquires concerning the program, including the location of available treatment services within the national capital area; and

"(10) to develop and utilize standards for certifying the knowledge and training of individuals, and the quality of programs, to provide treatment services for drug abuse.

"(c) CERTAIN REQUIREMENTS.—

"(1) REGARDING ELIGIBILITY FOR GRANT.—

"(A) The Secretary may not make the grant under subsection (a) unless the applicant for the grant is an organization of the general-purpose local governments within the national capital area, or another public or nonprofit private entity, and the applicant submits to the Secretary assurances satisfactory to the Secretary that, with respect to the communities in which services will be offered, the local governments of the communities will participate in the program.

"(B) The Secretary may not make a grant under subsection (a) unless—

"(i) an application for the grant is submitted to the Secretary;

"(ii) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(iii) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(2) AUTHORITY FOR COOPERATIVE ARRANGEMENTS.—The grantee under subsection (a) may provide the services required by such subsection directly or through arrangements with public and nonprofit private entities.

"(d) REQUIREMENT OF NON-FEDERAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(e) EVALUATION.—The Secretary shall provide for an independent evaluation of the effectiveness of the program carried out under subsection (a). In conducting the evaluation, the Secretary shall evaluate the extent to which the program has effectively utilized innovative methods for overcoming the resistance of the residents of communities to the establishment of treatment facilities within the communities.

"(f) REPORTS.—

"(1) INITIAL CRITERIA.—The Secretary shall make a determination of the appropriate criteria for carrying out the program required in subsection (a), including the anticipated need for, and range of, services under the program in the communities involved and the anticipated costs of the program. Not later than 90 days after the date of the enactment of the Drug Abuse Treatment and Prevention Improvement Act of 1990, the Secretary shall submit to the Congress a report describing the findings made as a result of the determination.

"(2) ANNUAL REPORTS.—Not later than 1 year after the date on which the grant is made under subsection (a), and annually thereafter, the Secretary shall submit to the Congress a report describing the extent to which the program carried out under subsection (a) has been effective in carrying out the purposes of the program.

"(g) DEFINITION.—For purposes of this section, the term 'national capital area' means the metropolitan Washington area, including the District of Columbia, the cities of Alexandria, Falls Church, and Fairfax in the State of Virginia, the counties of Arlington and Fairfax in such State (and the political subdivisions of such State located in such counties), and the counties of Montgomery and Prince George's in the State of Maryland (and the political subdivisions of such State located in such counties).

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $35,000,000 for fiscal year 1991 to carry out the provisions of this section.".

SEC. 106. DRUG ABUSE PREVENTION GRANT PROGRAMS.

Part A of title V of the Act (as amended in section 105) (42 U.S.C. 290aa et seq.) is further amended by inserting at the end thereof the following new sections:

"SEC. 509M. COMMUNITY COALITIONS ON SUBSTANCE ABUSE.

"(a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) at least three representatives of nongovernmental interested parties such as the clergy, academia, business, parents, youth, the media, and civic and fraternal groups.

"(b) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Office, shall make grants to eligible coalitions in order to—

"(A) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(B) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(C) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(D) develop a consensus regarding the priorities of a community concerning substance abuse;

"(E) develop a plan to implement such priorities; and

"(F) coordinate substance abuse services and activities, including prevention activities in the schools and communities and substance abuse treatment programs.

"(2) SPECIAL RULE.—In making grants pursuant to paragraph (1), the Secretary shall award at least 35 percent of the amount appropriated pursuant to the authority of subsection (f) in each fiscal year to communities with populations of no more than 250,000 individuals that have made substance abuse prevention a high priority, as determined by the Secretary.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under paragraph (1) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Secretary in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem in the community in question;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5); and

"(6) contain such additional information and assurances as the Secretary may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities; and

"(4) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years 1991 and 1992.

"SEC. 509N. SUBSTANCE ABUSE PREVENTION TRAINING.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Office, shall establish a National Substance Abuse Prevention Training Program (hereinafter in this section referred to as the 'Program').

"(b) PROGRAM DIRECTOR.—The Program shall be headed by a Director who has extensive experience in substance abuse prevention (hereinafter in this section referred to as the 'Program Director').

"(c) DUTIES.—The Program Director shall—

"(1) develop a substance abuse prevention training curriculum for community groups in organizational development, program operation, prevention concepts, and models;

"(2) provide technical assistance and support for community training on substance abuse prevention, including organizing the community, developing skills, and establishing program goals;

"(3) develop specific training modules for problem areas such as substance abuse, teen pregnancy, and acquired immune deficiency syndrome and for professional groups that work with children and adolescents, such as juvenile court judges, pediatricians, coaches, and counselors;

"(4) provide substance abuse prevention outreach and support to communities with substantial minority populations through workshops and collaborative initiatives with organizations serving such populations;

"(5) disseminate successful curricula and training practices in substance abuse prevention in communities through involvement with parents, civic groups, members of the business community, clergy, law enforcement representatives, and community leaders; and

"(6) evaluate the appropriateness and effectiveness of substance abuse prevention training.

"(d) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to States, local agencies, and community organizations in order to—

"(1) provide substance abuse prevention training to representatives of such organizations and agencies;

"(2) provide substance abuse prevention training to parents, teachers, clergy, the business community, and civic groups;

"(3) coordinate with other community resources and programs; and

"(4) provide specialized training programs for professional groups that work with children and adolescents, or that are targeted to specific population groups.

"(e) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $30,000,000 for fiscal years 1991 and 1992, of which at least 50 percent shall be used to carry out the provisions of subsection (d).".

SEC. 107. TECHNICAL AND CONFORMING AMENDMENTS.

Part A of title V of the Act (42 U.S.C. 290aa et seq.) is further amended—

(1) in section 508(d)(1), by striking "sections 509, 509A, and 509F," and inserting "sections 509 and 509A,"; and

(2) in section 509F—

(A) in the heading, by striking "PREGNANT" and all that follows through "WOMEN" and inserting "PREGNANT AND POSTPARTUM WOMEN"; and

(B) in subsection (a), by striking "pregnant" and all that follows through "women" and inserting "pregnant and postpartum women".

TITLE II—REVISION OF THE ADAMHA BLOCK GRANT PROGRAM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 1911(a) of the Act (42 U.S.C. 300x) is amended by striking "$1,500,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991" and inserting "$2,000,000,000 for fiscal year 1991".

SEC. 202. REVISION OF BLOCK GRANT FORMULA.

Section 1912A of the Act (42 U.S.C. 300x-1a) is amended—

(1) in subsection (a)(4)(B)(i)—

(A) by striking "0.4" in subclause (I), and inserting "0.34"; and

(B) by striking "indicated by the most recent data collected by the Bureau of the Census" in subclause (II), and inserting "determined by multiplying the total population of the State, as indicated by the most recently available data, by a percentage equal to the percentage that, under data from the most recent decennial census conducted by the Bureau of the Census, is constituted by the ratio of the population of the State living in urbanized areas to the total population of the State";

(2) in subsection (a)(4)(B)(ii)(I), by striking "0.2" and inserting "0.22";

(3) in subsection (a)(4)(B)(iii)(I), by striking "0.2" and inserting "0.22";

(4) in subsection (a)(4)(B)(iv)(I), by striking "0.2" and inserting "0.22";

(5) in subsection (b)(1), by striking "$7,000,000" and inserting "$8,000,000";

(6) by amending subsection (b)(2) to read as follows:

"(2) an amount determined in accordance with the following formula:

$R \times (1 + (.25 \times E))$,

where "R" equals the amount the State received under this section in fiscal year 1989 and "E" equals the cumulative percentage by which the total amount appropriated under section 1911 has changed since fiscal year 1989.";

(7) in subsection (c)(1)(B)(i), by inserting "civilian" before "population";

(8) by inserting after subsection (c)(1)(B)(ii) the following flush sentence:

"In the absence of reliable recent population data with respect to a given territory, it shall be assumed that the population of that territory has changed at the same rate as the population of the territories generally."; and

(9) by amending subsection (f) to read as follows:

"(f) For purposes of subsection (e), the applicable amount for each fiscal year is $250,000,000.".

SEC. 203. REVISION WITH RESPECT TO THE USE OF ALLOTMENTS.

Section 1915 of the Act (42 U.S.C. 300x-3) is amended—

(1) in subsection (b)—

(A) by inserting after the comma in paragraph (1), the following: "except that funds may be used to pay for inpatient hospital drug treatment services pursuant to a contractual arrangement with a hospital if—

"(A) needed residential treatment services could not otherwise be provided; and

"(B) the rates paid for such services do not exceed 125 percent of the cost of the rates typically required for comparable residential services."; and

(B) by inserting after the fifth sentence in the matter following paragraph (5), the following new sentence: "The Secretary may waive or reduce the matching rate requirement of the preceding sentence if the State requests such a waiver and the Secretary determines that a failure to grant such a request would result in a reduction in the resources that would otherwise be used to provide direct treatment services and that are essential to implementation of the State drug abuse plan.";

(2) in subsection (c)(1)—

(A) by inserting "including social and health services necessary to improve treat-

ment outcomes," after "drug abuse," in subparagraph (A);

(B) by striking "and" at the end of subparagraph (B);

(C) by striking the period and inserting a semicolon at the end of subparagraph (C); and

(D) by inserting at the end thereof the following new subparagraphs:

"(D) to provide counseling to family members of drug abusers, including such family members in group and family counseling service settings for the treatment of drug abusers; and

"(E) to develop, implement, and operate programs of treatment for adult and juvenile substance abusers in State and local criminal and juvenile justice systems, including treatment programs for individuals in prisons and jails and those on probation, parole, supervised release, and pretrial release."; and

(3) by inserting at the end of subsection (d) the following new sentence: "Expenses incurred for the training of individuals as required under this subpart shall not be included in determining the costs of administering funds made available under section 1914.".

SEC. 204. ESTABLISHMENT OF REQUIREMENT.

Title XIX of the Act (42 U.S.C. 300z et seq.) is amended by inserting after section 1916A (42 U.S.C. 300x-4a) the following new section:

"SEC. 1916B. STATEWIDE SUBSTANCE ABUSE TREATMENT PLAN.

"(a) NATURE OF THE PLAN.—To receive its allotment for a fiscal year under section 1912A, a State shall develop, implement, and submit as part of the application required by section 1916(a), an approved statewide Substance Abuse Treatment Plan, prepared according to standards issued by the Secretary, that shall—

"(1) contain a single, designated State agency for formulating and implementing the Statewide Substance Abuse Treatment Plan;

"(2) contain a description of the mechanism that shall be used to assess the needs for substance abuse treatment in localities throughout the State including the presentation of relevant data;

"(3) contain a description of a statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) contain a description of performance-based criteria that shall be used to assist in the allocation of funds to substance abuse treatment facilities receiving assistance under this subpart;

"(5) contain a description of the mechanism that shall be used to make funding allocations under this subpart;

"(6) contain a description of the actions that shall be taken to improve the referral of substance abusers to treatment facilities that offer the most appropriate treatment modality;

"(7) contain a description of the program of training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques;

"(8) contain a description of the plan that shall be implemented to coordinate substance abuse treatment facilities with other social, health, correctional and vocational services in order to assist or properly refer those patients in need of such additional services;

"(9) contain a description of the plan that shall be implemented to expand drug treatment opportunities for individuals under criminal justice supervision;

"(10) contain a description of the plan that will be implemented to expand and improve efforts to deter women from knowingly abusing drugs during pregnancy, to contact and treat pregnant women who abuse drugs, and to provide appropriate follow-up services to their affected newborns;

"(11) provide for the targeting of funds toward areas of the greatest need in the State, using such criteria as the State may establish for determining such areas, including criteria for focusing on—

"(A) the current unmet treatment needs in the State including both the inpatient, outpatient, and long- and short-term substance abuse treatment service needs of defined populations and the availability of essential ancillary services;

"(B) the incidence of deliveries of infants who are adversely affected by maternal substance abuse;

"(C) the incidence of criminal activities related to substance abuse; and

"(D) the incidence of communicable diseases transmitted by substance abuse;

"(12) provide for the periodic testing of patients as appropriate for various treatment populations to determine the patients compliance with treatment regimens and the establishment of clinically appropriate policies for dealing with patients who fail such tests and provide that such testing conducted not be required to be more frequent than is necessary to achieve treatment objectives;

"(13) provide for aftercare or follow-up, either directly or through arrangements with other individuals or entities, for patients who have ended a course of treatment provided by the facility, that shall include periodic contacts with the patient to monitor the patient's progress and provide services or additional treatment as needed;

"(14) increase, if necessary, the availability of specialized services and facilities necessary to meet the needs of female and minority drug abusers; and

"(15) provide for the establishment of a program of interim assistance for individuals who apply for treatment, and who must wait for the availability of treatment opportunities, such as—

"(A) education and counseling concerning drug abuse; and

"(B) the referral to, or provision of, other necessary health and social services that may include primary health care, education, and vocational services.

"(b) SUBMISSION OF THE PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove such State plans, and to propose changes to such plans.

"(c) GUIDELINES.—(1) The Secretary, in consultation with the States, shall develop guidelines for each area to be covered by the State plan prepared under subsection (a).

"(2) Beginning in fiscal year 1992, no payment shall be made to a State from its allotment under section 1912A unless such State has submitted a plan under this section that is in reasonable conformance with the guidelines developed under paragraph (1), except that with respect to the performance criteria for treatment facilities described in subsection (a)(4), the State plan shall provide a reasonable time for such conformance.

"(3) The Secretary shall monitor the compliance of the State with the plan submitted under this section and provide technical assistance to assist in achieving such compliance.

"(d) REPORTS.—Each State shall submit reports, in such form, and containing such information as the Secretary may, from time to time, require, and shall comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports.

"(e) WAIVER OF PLAN REQUIREMENT.—At the discretion of the Secretary, the Secretary may waive any or all of the requirements of this section on the written request of a State, except that such waiver shall not be granted unless the State implements an alternative treatment plan that fulfills the objectives of this section.

"(f) MODEL STATE PLAN.—The Director of the Office for Treatment Improvement shall establish a model State substance abuse treatment plan to guide States in establishing State plans under subsection (a), and shall provide technical assistance to assist States in complying with such plan.

"(g) ADMINISTRATIVE EXPENSES.—Expenses incurred for the training of individuals as required under any plans submitted under this section shall not be included in determining the costs of administering funds made available under section 1914 with respect to alcohol and drug abuse.".

TITLE III—PHARMACOTHERAPY DEVELOPMENT

SEC. 301. SHORT TITLE.

This title may be cited as the "Pharmacotherapy Development Act of 1990".

SEC. 302. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) drug addiction is a disease of epidemic proportions in the United States;

(2) current efforts to treat the disease of addiction are inadequate; and

(3) pharmacotherapy, the use of medicines to treat the disease of addiction, is one promising method of drug treatment, and the development of such medicines must be more aggressively promoted by the Federal Government.

(b) PURPOSE.—It is the purpose of this title to promote research, development, and production of pharmacotherapeutics used to reduce the prevalence of drug addiction in the United States.

PART A—FEDERAL MEDICATION DEVELOPMENT PROGRAM

SEC. 311. ESTABLISHMENT OF MEDICATION DEVELOPMENT DIVISION.

Section 515 of the Public Health Service Act (42 U.S.C. 290cc) is amended to read as follows:

"SEC. 515. PHARMACOTHERAPEUTICS DEVELOPMENT DIVISION.

"(a) ESTABLISHMENT.—There is established in the National Institute on Drug Abuse a Division to be known as the 'Medications Development Division' (hereinafter in this section and section 515A referred to as the 'Division').

"(b) ORGANIZATION.—

"(1) DIRECTOR.—The Division shall be headed by a Director appointed by the Director of the National Institute on Drug Abuse on the basis of scientific merit.

"(2) STAFFING.—The Director of the Division (hereinafter in this section and section 515A referred to as the 'Director') may ap-

point one or more Deputy Directors and shall employ administrators and researchers on the basis of scientific merit.

"(c) DUTIES.—The Director shall—

"(1) in consultation with the Commissioner of Food and Drugs, establish, not later than 1 year after the date of enactment of this section, new guidelines for the safety and efficacy trials of medications to treat drug addiction, with such guidelines to be implemented by the Commissioner of Food and Drugs in accordance with subchapter C of chapter V of the Federal Food, Drug and Cosmetic Act;

"(2) conduct periodic meetings with the Commissioner of Food and Drugs to discuss other measures that may facilitate the approval process of drug addiction treatments;

"(3) encourage and promote (through grants, contracts, or otherwise) expanded research programs, investigations, experiments, and studies, into the development of medications to treat drug addiction;

"(4) establish, or provide for the establishment of, clinical research facilities to carry out this section;

"(5) track the activities of the National Institutes of Health relating to the development and use of pharmacotherapeutic treatments for drug addiction;

"(6) collect, analyze, and disseminate data useful in the development and use of pharmacotherapeutic treatments for drug addiction and seek the establishment of an international research data bank to collect, catalog, analyze, and disseminate through international channels, the results of research undertaken in any country concerning pharmacotherapeutic treatments for drug addiction; and

"(7) support training in the fundamental sciences and clinical disciplines related to the pharmacotherapeutic treatment of drug addiction, including the use of training stipends, fellowships, and awards where appropriate.

"(d) ADMINISTRATION.—In carrying out the activities described in subsection (c), the Director may—

"(1) collect and disseminate through publications and other appropriate means, information pertaining to the research and other activities under this section;

"(2) make grants to or enter into contracts and cooperative agreements with individuals and public and private entities to further the goals of the Division;

"(3) acquire, construct, improve, repair, operate, and maintain pharmacotherapeutic centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary;

"(4) acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of the General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Division for a period not to exceed 10 years;

"(5) accept voluntary and uncompensated services;

"(6) accept gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"(7) take necessary action to ensure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Division and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"(e) REPORTS.—

"(1) IN GENERAL.—Not later than December 31, 1990, and each December 31 thereafter, the Director shall submit to the Office of National Drug Control Policy established under section 1002 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501) a report, in accordance with paragraph (3), that describes the objectives and activities of the Division.

"(2) INCORPORATION INTO NATIONAL DRUG CONTROL STRATEGY.—The Director of National Drug Control Policy shall incorporate, by reference or otherwise, each report submitted under this subsection in the National Drug Control Strategy submitted the following February 1 under section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504).

"(3) ADDITIONAL REPORTS.—The Director may prepare additional reports as appropriate.

"(f) PEER REVIEW.—The Director shall, by regulation, provide for the proper scientific review of all research grants, cooperative agreements, and contracts over which the Director has authority by—

"(1) utilizing, to the extent practicable, appropriate peer review groups established within the National Institute on Drug Abuse and composed primarily of non-Federal scientists and other experts in the scientific and disease fields; and

"(2) when appropriate, by establishing, with the approval of the Director of the National Institute on Drug Abuse, other formal peer review groups as may be required.".

SEC. 312. AUTHORIZATION OF APPROPRIATIONS.

Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended to read as follows:

"SEC. 517. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out section 515—

"(1) $60,000,000 for fiscal year 1991;

"(2) $70,000,000 for fiscal year 1992;

"(3) $85,000,000 for fiscal year 1993;

"(4) $100,000,000 for fiscal year 1994;

"(5) $110,000,000 for fiscal year 1995; and

"(6) $115,000,000 for each of the fiscal years 1996 through 2000.".

PART B—PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPEUTICS

SEC. 321. DRUGS FOR THE TREATMENT OF ADDICTIONS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER C—DRUGS FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS

"SEC. 529A. RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF ADDICTIONS TO ILLEGAL DRUGS.

"(a) IN GENERAL.—The sponsor of a drug for the treatment of addiction to illegal drugs may request the Secretary to provide written recommendations for the nonclinical and clinical investigations that must be conducted with the drug before—

"(1) it may be approved for treatment of such addiction under section 505;

"(2) if the drug is an antibiotic, it may be certified for treatment of such addiction under section 507; or

"(3) if the drug is a biological product, it may be licensed for treatment of such addiction under section 351 of the Public Health Service Act.

"(b) RECOMMENDATIONS FOR INVESTIGATIONS.—If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for the treatment of addiction to illegal drugs, the Secretary shall provide the person making the request with written recommendations for the nonclinical and clinical investigations that the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for treatment of such addiction under section 505, certification of such drug under section 507, or licensing of such drug under section 351 of the Public Health Service Act.

"(c) REGULATIONS.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a) and (b).

"SEC. 529B. DESIGNATION OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—

"(1) REQUEST.—The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for the treatment of addiction to illegal drugs. A request for designation of a drug shall be made before the submission of an application under section 505(b) for the drug, the submission of an application for certification of the drug under section 507, or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for the treatment of addiction to illegal drugs and—

"(A) if an application for such drug is approved under section 505;

"(B) if a certification for such drug is issued under section 507; or

"(C) if a license for such drug is issued under section 351 of the Public Health Service Act;

the approval, certification, or license would be for use for treatment of such addiction, the Secretary may designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (c) respecting the designation of the drug.

"(2) DEFINITION.—As used in paragraph (1)—

"(A) the term 'drugs for the treatment' means those pharmacological agents or medications that—

"(i) block the effects of abused drugs;

"(ii) reduce the craving for abused drugs;

"(iii) moderate or eliminate withdrawal symptoms;

"(iv) block or reverse the toxic effects of abused drugs; or

"(v) prevent, under certain conditions, the initiation of drug abuse;

"(B) the term 'addiction' means the state of an individual where that individual habitually uses an illegal drug in a manner that endangers the public morals, health, safety, or welfare, or who is so addicted to the use of illegal drugs that such individual loses the power of self-control with reference to such the addiction of such individual; and

"(C) the term 'illegal drugs' means a controlled substance, as defined in section 202 of the Controlled Substance Act (21 U.S.C. 812) the possession or distribution of which is unlawful under such Act.

"(b) CONDITIONS.—A designation of a drug under subsection (a) shall be subject to the condition that—

"(1) if an application was approved for the drug under section 505(b), a certificate was issued for the drug under section 507, or a license was issued for the drug under section

351 of the Public Health Service Act, the manufacturer of the drug will notify the Secretary of any discontinuance of the production of the drug at least one year before discontinuance, and

"(2) if an application has not been approved for the drug under section 505(b), a certificate has not been issued for the drug under section 507, or a license has not been issued for the drug under section 351 of the Public Health Service Act and if preclinical investigations or investigations under section 505(i) are being conducted with the drug, the manufacturer or sponsor of the drug will notify the Secretary of any decision to discontinue active pursuit of approval of an application under section 505(b), approval of an application for certification under section 507, or approval of a license under section 351 of the Public Health Service Act.

"(c) NOTICE.—Notice respecting the designation of a drug under subsection (a) shall be made available to the public.

"(d) REGULATION.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a), (b), and (c).

"SEC. 529C. PROTECTION FOR DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—Except as provided in subsection (b), if the Secretary—

"(1) approves an application filed pursuant to section 505;

"(2) issues a certification under section 507; or

"(3) issues a license under section 351 of the Public Health Service Act;

for a drug designated under section 529A for the treatment of addiction to illegal drugs, the Secretary may not approve another application under section 505, issue another certification under section 507, or issue another license under section 351 of the Public Health Service Act for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license until the expiration of 7 years from the date of the approval of the approved application, the issuance of the certification, or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

"(b) ISSUANCE OF ANOTHER LICENSE, APPLICATION, OR CERTIFICATION.—If an application filed pursuant to section 505 is approved for a drug designated under section 529A for the treatment of addiction to illegal drugs, if a certification is issued under section 507 for such a drug, or if a license is issued under section 351 of the Public Health Service Act for such a drug, the Secretary may, during the 7-year period beginning on the date of the application approval, of the issuance of the certification under section 507, or of the issuance of the license, approve another application under section 505, issue another certification under section 507, or issue a license under section 351 of the Public Health Service Act, for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license if—

"(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the holder of the approved application, of the certification, or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with such addictions for which the drug was designated; or

"(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications, issuance of other certifications, or the issuance of other licenses before the expiration of such 7-year period.

"SEC. 529D. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"If a drug is designated under section 529A as a drug for the treatment of addiction to illegal drugs and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary may encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with such addictions who need the drug to treat such addiction and who cannot be satisfactorily treated by available alternative drugs.

"SEC. 529E. ENFORCEMENT.

"The provisions of title III relating to the breach of an exclusive marketing agreement shall apply to this subchapter.

"SEC. 529F. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of the fiscal years 1990 through 1992.".

PART C—MEDICATIONS REVIEW PROCESS REFORM

SEC. 331. INVESTIGATIONAL NEW DRUGS.

(a) SUBMISSION OF APPLICATION.—Notwithstanding subpart B of part 312 of title 21, Code of Federal Regulations, in implementing the procedures required under subsection (b), the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may permit an entity submitting an investigational new drug application or protocol for medications to treat drug addiction to provide the information required by the Secretary as such information becomes available to such entity. The Secretary may permit such applications or protocols to be submitted in parts. If the Secretary withholds approval of any part of such application or protocol, the Secretary may require that the applying entity resubmit only that portion of such application or protocol that was not approved. Not later than 30 days after an entity submits such an application or protocol or part thereof, the Secretary shall notify such entity concerning the approval or rejection of such application or protocol or part thereof, and if such notification is not provided approval will be automatic.

(b) APPLICATION OF PROCEDURES.—The Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, shall apply investigational new drug procedures under part 312 of title 21, Code of Federal Regulations, to encourage the development and use of medications to treat drug addiction. The Secretary may waive the requirements contained in part 312.34(b)(1)(ii) of title 21, Code of Federal Regulations, if the Secretary determines that such a waiver is appropriate.

SEC. 332. PARALLEL TRACK TRIALS FOR MEDICATIONS TO TREAT DRUG ADDICTION.

(a) IN GENERAL.—In encouraging the development and marketing approval of medications to treat drug addiction, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may permit parallel track trials to be used to permit access to such drugs in a manner similar to that applied to certain medications to treat individuals infected with the human immunodeficiency virus.

(b) DEFINITION.—As used in this section the term "parallel track trials" means the procedures used by the Food and Drug Administration under part 312.35 of title 21, Code of Federal Regulations.

SEC. 333. WAIVER OF MECHANISM OF ACTION REQUIREMENT.

Notwithstanding any other provision of law, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may waive the application of the mechanism of action requirement for marketing approval of medications to treat drug addiction.

SEC. 334. DEFINITION.

As used in this title, the term "pharmacotherapeutics" means medications used to treat the symptoms and disease of drug addiction, including medications to—

(1) block the effects of abused drugs;

(2) reduce the craving for abused drugs;

(3) moderate or eliminate withdrawal symptoms;

(4) block or reverse the toxic effect of abused drugs; and

(5) prevent, under certain conditions, the initiation of drug abuse.

PART D—HIGH PRIORITY RESEARCH AREAS

SEC. 341. SENSE OF CONGRESS.

It is the sense of Congress that the Medications Development Division of the National Institute on Drug Abuse shall devote special attention and adequate resources to achieve the following urgent goals—

(1) the development of a methadone alternative;

(2) the development of a long-acting narcotic antagonist;

(3) the development of a cocaine-blocking treatment;

(4) the development of a cocaine-blocker/narcotic antagonist treatment;

(5) the development of medications to treat addiction to drugs that are becoming increasingly prevalent, such as methamphetamine; and

(6) the development of medications to treat pregnant addicts and their fetuses.

PART E—REPORT BY THE SURGEON GENERAL

SEC. 351. REPORT BY THE SURGEON GENERAL.

(a) PHARMACOTHERAPY REVIEW PANEL.—Not later than 120 days after the date of enactment of this Act, the Director of the Division established under section 515 of the Public Health Service Act (as amended by section 7011) shall establish a panel of independent experts in the field of pharmacotherapeutic treatment of drug addiction to assess the national strategy for developing such treatments and to make appropriate recommendations for the improvement of such strategy.

(b) REPORT.—Not later than January 1, 1992, the Surgeon General of the United States shall prepare and submit, to the appropriate Committees of Congress, a report that sets forth—

(1) the recommendations of the panel established under subsection (a);

(2) the state of the scientific knowledge with respect to pharmacotherapeutic treatment of drug addiction;

(3) the assessment of the Surgeon General of the progress of the nation toward the development of safe, efficacious pharmacological treatments for drug addiction; and

(4) any other information determined appropriate by the Surgeon General.

(c) AVAILABILITY.—The report prepared under subsection (b) shall be made available for use by the general public.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. STUDY ON THE RELATIONSHIP BETWEEN THE CONSUMPTION OF LEGAL AND ILLEGAL DRUGS.

(a) IN GENERAL.—For assistance in designing prevention programs to reduce the likelihood of drug abuse, the Secretary of Health and Human Services shall conduct a study concerning the relationship between an individual's receptivity to use or consume legal drugs and the consumption or abuse by the individual of illegal drugs.

(b) CONTENTS.—The study conducted under subsection (a) shall contain information concerning—

(1) the effect of advertising and marketing campaigns that promote the use of legal drugs on the public;

(2) the correlation of legal drug abuse with illegal drug abuse; and

(3) other matters that the Secretary of Health and Human Services determines appropriate.

(c) DATA AND RESEARCH.—In conducting the study under subsection (a), the Secretary of Health and Human Services shall consider data collected and current research concerning drug abuse and gateway drugs.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report containing the results of the study conducted under subsection (a).

SEC. 402. OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1986.

Subpart 3 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1986 (42 U.S.C. 3766 et seq.) is amended by inserting at the end thereof the following new section:

"SEC. 523. DRUG TREATMENT PROGRAMS.

"(a) IN GENERAL.—Notwithstanding any other provision of law at least 20 percent of the amounts appropriated to carry out the provisions of this part shall be used for drug treatment programs in the criminal justice system.

"(b) PRIORITY RULES.—In carrying out the provisions of subsection (a), the Director shall give priority to programs that provide—

"(1) a continuum of services for offenders as they proceed through and out of the criminal justice system;

"(2) referrals to treatment programs in the community for individuals soon to be released from incarceration;

"(3) treatment services for juvenile offenders;

"(4) treatment services for female offenders;

"(5) outreach services to identify individuals under criminal justice supervision who would benefit from drug treatment and to encourage such individuals to seek treatment; or

"(6) treatment services that function as an alternative to incarceration for appropriate categories of offenders or that otherwise enable individuals to remain under criminal justice supervision in the least restrictive setting consistent with public safety.".

SEC. 403. DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986.

Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3181) is amended by striking "such sums as may be necessary" and inserting "$1,200,000,000.".

DECONCINI AMENDMENTS NOS. 1718 THROUGH 1721

(Ordered to lie on the table.)

Mr. DECONCINI submitted four amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1718

At the end of the bill add the following new title:

TITLE—FEDERAL LAW ENFORCEMENT PAY REFORM

SEC. . SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Pay Reform Act of 1990".

SEC. . PAY FOR LAW ENFORCEMENT OFFICERS.

(a) AMENDMENTS.—

(1) IN GENERAL.—Subchapter VII of chapter 53 of title 5, United States Code, is amended by adding at the end the following:

"§ 5376. Pay for law enforcement officers

"(a) For the purpose of this section, the term 'law enforcement officer' means any law enforcement officer within the meaning of section 8331(20) or section 8401(17) with respect to whom the provisions of subchapter III of chapter 53 apply (or would apply, but for this section).

"(b) Except as otherwise provided in subsection (c)—

"(1) effective for pay periods beginning on or after October 1, 1990, and until otherwise provided for under this subsection—

"(A) the minimum rate of basic pay for a law enforcement officer whose position is classified at a grade above GS-2 and below GS-11 shall be determined in accordance with the following table:

"If classified at the following grade:	The minimum rate of basic pay shall be the rate payable for the following step of that grade (determined using the rates of basic pay in effect as of September 30, 1990):
GS-3	step 10;
GS-4	step 10;
GS-5	step 10;
GS-6	step 8;
GS-7	step 6;
GS-8	step 6;
GS-9	step 4;
GS-10	step 3; and

"(B) the rate for each step above the minimum rate for each grade under subparagraph (A) shall, for any law enforcement officer, be the rate prescribed by the Office of Personnel Management, taking into consideration the minimum rates set forth in subparagraph (A) and the need to provide for appropriate pay relationships within and between grades;

"(2) in order to ensure the continued competitiveness of the rates of pay established under this subsection—

"(A) the Office of Personnel Management shall prescribe regulations under which the Office shall—

"(i) compare rates paid to law enforcement officers under this subsection with the rates generally being paid to individuals performing the same levels of work for State and local governments (determined on a nationwide basis); and

"(ii) determine whether an increase should be made under this paragraph as of the next opportunity allowable under subparagraph (B) and, if so, the size of that increase; and

"(B) whenever the Office makes an affirmative determination under the provisions of subparagraph (A)(ii), provide for any pay increase determined under those provisions to be appropriate, effective beginning with the first applicable pay period beginning on or after October 1, 1993, or October 1 of any third year thereafter (whichever occurs next);

"(3) effective at the beginning of the first applicable pay period beginning on or after the first day of the month in which an adjustment takes effect under section 5305 in the rates of pay under the General Schedule, the rates of pay in effect under this subsection shall be adjusted by the overall average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustment in the rates of pay under the General Schedule; and

"(4) the Office shall prescribe such regulations as may be necessary for the coordination of paragraphs (2) and (3).

"(c)(1) The purpose of this subsection is to establish a pay-adjustment mechanism for law enforcement officers which takes into account the fact—

"(A) that the cost of living in certain parts of the United States is appreciably higher than in others; and

"(B) that the Government's success in recruiting and retaining the best-qualified individuals to serve as law enforcement officers, particularly in areas having higher living costs, will in large part depend on its ability to keep rates of pay at levels that are competitive with those offered by State and local governments.

"(2) To carry out the purpose of this subsection, the Office of Personnel Management shall prescribe regulations which shall provide for the following:

"(A) The establishment of an appropriate number of geographic regions (established using consolidated metropolitan statistical areas, as defined by the Office of Management and Budget) with respect to which pay comparisons shall be made, special pay rates for law enforcement officers may be established or adjusted, and the provisions of this subsection shall otherwise be carried out.

"(B)(i) Procedures for identifying those regions for which higher pay rates are needed, as identified under clause (ii).

"(ii) A region shall be considered to satisfy the requirements for higher pay rates if, using the average of—

"(I) a value (determined by the Office, and expressed as a percentage) representing that region's relative cost of living, as compared with the cost of living in the United States as a whole, and

"(II) a value (determined by the Office, and expressed as a percentage) representing the relative size of the average salary for State and local law enforcement officers within that region (expressed as a single weighted average salary), as compared with the average salary for State and local law enforcement officers in the United States as a whole (expressed as a single weighted average salary),

such region is determined to be at least 5 percent above the national average (which, for purposes of this clause, shall be deemed to be equal to 100 percent).

"(C) Procedures under which higher rates of pay for law enforcement officers within a particular region shall be established or adjusted under this subsection.

"(3)(A) A rate of basic pay payable to a law enforcement officer under this subsection may not be less than the rate to which such officer would otherwise be entitled if this subsection had not been enacted.

"(B) A rate of basic pay payable to a law enforcement officer under this subsection, based on such officer's serving in a particular region, shall cease to apply if such officer is transferred or reassigned to a place outside of such region.

"(4) The first rates of pay established under this subsection shall be effective for pay periods beginning on or after April 1, 1991, and, notwithstanding any other provision of this subsection, shall be based on pay data compiled by the National Advisory Commission on Law Enforcement, as contained in its report under section 6160(h) of the Anti-Drug Abuse Act of 1988. Subsequent adjustments under this subsection may be made, effective for applicable pay periods beginning on or after October 1, 1993, and October 1 of any third year thereafter, subject to the preceding paragraphs of this subsection.

"(d)(1) The Bureau of Labor Statistics shall conduct such pay surveys as may be necessary in order to compile any data (relating to rates of pay being paid by State or local governments) which may be necessary to carry out this section. To the extent practicable, data so compiled shall reflect rates of pay in effect as of January 1, 1993, and January 1 of every third year thereafter.

"(2) Except as otherwise expressly provided for in this section, any comparisons or determinations under this section shall, to the extent that they involve rates of pay or other data relating to State or local government, be based solely on data compiled under this subsection.

"(e)(1) If higher rates of basic pay under subsection (c) are in effect for any law enforcement officers within a geographic region (as established under subsection (c)(2)(A)), the head of the agency concerned (or designee thereof) may, with respect to any employees described in paragraph (2), provide for such higher rates of basic pay as the agency head (or designee) considers appropriate.

"(2) Authority under this subsection may be exercised with respect to any employees of the agency who—

"(A) are assigned to the same organizational unit or component, and the same geographic region (as established under subsection (c)(2)(A)), as the law enforcement officers receiving the higher rates of basic pay; and

"(B) perform services ancillary to or in support of those performed by law enforcement officers within that unit or component.

"(3) The head of each agency (or designee thereof) shall prescribe such regulations as may be necessary to carry this subsection out within such agency.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 5, United States Code, is amended by adding after the item relating to section 5375 the following:

"5376. Pay for law enforcement officers.".

(b) SAME BENEFITS FOR OTHER LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—The appropriate agency head (as defined in paragraph (3)) shall prescribe regulations under which the purposes of the amendments made by subsection (a) shall be carried out with respect to individuals holding positions described in paragraph (2) (and appropriate support personnel under the jurisdiction of such agency head).

(2) APPLICABILITY.—This subsection applies with respect to any—

(A) member of the United States Secret Service Uniformed Division;

(B) member of the United States Park Police;

(C) special agent within the Diplomatic Security Service;

(D) postal inspector;

(E) probation officer (referred to in section 3672 of title 18, United States Code); or

(F) pretrial services officer (referred to in section 3155 of title 18, United States Code).

(3) DEFINITION.—For the purpose of this subsection, the term "appropriate agency head" means—

(A) with respect to any individual under paragraph (2)(A), the Secretary of the Treasury;

(B) with respect to any individual under paragraph (2)(B), the Secretary of the Interior;

(C) with respect to any individual under paragraph (2)(C), the Secretary of State;

(D) with respect to any individual under paragraph (2)(D), the Postmaster General; and

(E) with respect to any individual under paragraph (2)(E) or (2)(F), the Director of the Administrative Office of the United States Courts.

(c) REPORT TO CONGRESS.—Not later than January 1, 1993, the Office of Personnel Management, in consultation with Federal law enforcement agencies and law enforcement employee groups, shall submit to Congress, in writing, a plan to establish a separate pay and classification system for law enforcement officers and specifications for legislation to implement such plan.

SEC. . RETENTION ALLOWANCES.

(a) IN GENERAL.—Subchapter IV of chapter 59 of title 5, United States Code, is amended by adding at the end the following:

§ 5949. Retention allowances for law enforcement officers

"(a) For the purpose of this section, the term 'law enforcement officer' means—

"(1) a law enforcement officer within the meaning of section 5376(a);

"(2) a member of the United States Secret Service Uniformed Division;

"(3) a member of the United States Park Police;

"(4) a special agent within the Diplomatic Security Service;

"(5) a postal inspector;

"(6) a probation officer (referred to in section 3672 of title 18, United States Code); and

"(7) a pretrial services officer (referred to in section 3153 of title 18, United States Code).

"(b)(1) Notwithstanding any other provision of law, and in order to retain highly qualified law enforcement officers who possess special skills or experience or whose continued services are particularly important due to factors associated with the geographic area to which they are assigned, the head of an agency, subject to the provisions of this section and such regulations as the President or his designee may prescribe, may enter into a service agreement with a law enforcement officer.

"(2) Under any such agreement, the law enforcement officer shall agree to complete a specified period of service in such agency in return for an allowance, for the duration of such agreement, in an amount determined by the agency head and specified in the agreement, but not to exceed $10,000 per year.

"(c) In order to be eligible for an allowance under this section, a law enforcement officer must then satisfy the age and service requirements under section 8336 or 8412, as the case may be, for entitlement to an annuity.

"(d) Any agreement entered into by a law enforcement officer under this section shall be for a period of 1 year of service in the agency involved unless the officer requests an agreement for a longer period of service.

"(e) Unless otherwise provided for in the agreement under subsection (f), an agreement under this section shall provide that the law enforcement officer, in the event that such officer voluntarily, or because of misconduct, fails to complete at least 1 year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of the agency, pursuant to such regulations as may be prescribed under this section by the President or his designee, determines that such failure is necessitated by circumstances beyond the control of the officer.

"(f) Any agreement under this section shall specify, subject to such regulations as the President or his designee may prescribe, the terms under which the head of the agency and the law enforcement officer may elect to terminate such agreement, and the amounts, if any, required to be refunded by the law enforcement officer for each reason for termination.

"(g)(1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, 84, or 87, or other benefits related to basic pay.

"(2) Any allowance under this section for a law enforcement officer shall be paid in the same manner and at the same time as the officer's basic pay is paid.

"(h) An agency head may delegate, in whole or in part, any functions vested in such agency head under this section."

(b) TABLE OF SECTIONS.—The table of sections for chapter 59 of title 5, United States Code, is amended by adding after item relating to section 5948 the following:

"5949. Retention allowances for law enforcement officers.".

SEC. . RELOCATION PAYMENTS.

(a) IN GENERAL.—Subchapter II of chapter 57 of the United States Code, is amended by inserting after section 5724c the following:

§ 5724d. Relocation payments for law enforcement officers

"(a) For the purpose of this section, the term 'law enforcement officer' has the same meaning as under section 5949(a).

"(b) Under such regulations as the head of an agency (or designed thereof) may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to such agency for administrative expenses are available for payments under this section.

"(c) Payments under this section—

"(1) may be paid to any law enforcement officer within the agency who is transferred or reassigned, in the interest of the Government, to an area or region (not within a for-

eign country) having higher than average housing costs (as determined under the regulations); and

"(2) may not be made to a law enforcement officer if, or to the extent that, such payment would cause the total amount paid to such officer under this section to exceed $20,000 (including, in the case of any individual who is married to another law enforcement officer, any amounts paid under this section to the spouse).

"(d) An agency may make a payment under this section only after the law enforcement officer selected agrees in writing to remain a law enforcement officer for a period of time (not to exceed 3 years) specified in the agreement, unless separated for reasons beyond the officer's control which are acceptable to the agency. If the individual violates the agreement, any money paid to the individual under the agreement is recoverable from the individual as a debt due the United States.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5724c the following:

"5724d. Relocation payments for law enforcement officers.".

SEC. . OTHER AMENDMENTS TO TITLE 5, UNITED STATES CODE.

(a) MINIMUM RATE FOR NEW APPOINTMENTS.—

(1) IN GENERAL.—Section 5333 of title 5, United States Code, is amended by adding at the end the following:

"(c) In applying subsection (a) with respect to a law enforcement officer (within the meaning of section 5376(a)), the reference in such subsection to 'GS-11' shall be deemed to read 'GS-3'.".

(2) OTHER OFFICERS.—Each of the appropriate agency heads (as defined in section) shall prescribe regulations under which the purpose of the amendment made by paragraph (1) shall be carried out with respect to individuals under section under the jurisdiction of such agency head.

(b) INCENTIVE BONUS FOR FOREIGN LANGUAGE CAPABILITIES.—

(1) IN GENERAL.—Chapter 45 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—AWARDS TO LAW ENFORCEMENT OFFICERS FOR FOREIGN LANGUAGE CAPABILITIES

"§ 4521. Definition

"For the purpose of this subchapter, the term 'law enforcement officer' has the same meaning as under section 5949(a).

"§ 4522. General provision

"An award under this subchapter is in addition to the basic pay of the recipient.

"§ 4523. Award authority

"(a) An agency may pay a cash award, up to 25 percent of basic pay, to any law enforcement officer employed in or under such agency who possesses and makes substantial use of 1 or more languages (other than English) in the performance of official duties.

"(b) Awards under this section shall be paid under regulations prescribed by the head of the agency involved (or designee thereof). Regulations prescribed by an agency head (or designee) under this subsection shall include—

"(1) procedures under which foreign language proficiency shall be ascertained;

"(2) criteria for the selection of individuals for recognition under this section; and

"(3) any other provisions which may be necessary to carry out the purposes of this subchapter.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 45 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—AWARDS TO LAW ENFORCEMENT OFFICERS FOR FOREIGN LANGUAGE CAPABILITIES

"4521. Definition.
"4522. General provision.
"4523. Award authority.".

(c) AGE FOR MANDATORY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8335(b) of title 5, United States Code is amended—

(A) in the first sentence, by striking "law enforcement officer or a"; and

(B) by inserting after the first sentence the following: "A law enforcement officer who is otherwise eligible for immediate retirement under section 8336(c) of this title shall be separated from the service on the last day of the month in which he becomes 57 years of age or completes 20 years of service if then over that age."

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8425(b) of title 5, United States Code, is amended—

(A) in the first sentence, by striking "law enforcement officer or" each place it appears; and

(B) by inserting after the first sentence the following: "A law enforcement officer who is otherwise eligible for immediate retirement under section 8412(d) shall be separated from the service on the last day of the month in which that law enforcement officer becomes 57 years of age or completes 20 years of service if then over that age."

(d) OVERTIME RATES.—Section 5542(a) of title 5, United States Code, is amended by adding at the end the following:

"**(4) Notwithstanding paragraphs (1) and** (2) of this subsection, for an employee who is a law enforcement officer (within the meaning of section 5949(a) of this title), the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.".

(e) LIMITATION ON PREMIUM PAY.—Section 5547 of title 5, United States Code, is amended by adding at the end the following:

"(c)(1) The provisions of subsection (a) shall not apply to the pay of a law enforcement officer for any pay period in which such officer is required to perform overtime under section 5542(a) or administratively uncontrolable overtime under section 5545(c)(2).

"(2) Notwithstanding the provisions of paragraph (1), no law enforcement officer may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the scheduled rate of pay for level V of the Executive Schedule.

'(3) For purposes of this subsection, the term "law enforcement officer' has the same meaning as under section 5949(a).".

(f) DEFINITIONAL AMENDMENT.—Section 5541(2)(iv) of title 5, United States Code, is amended to read as follows:

"(iv) a member of—

"(I) the Metropolitan Police or the Fire Department of the District of Columbia; or

"(II) a member of the United States Secret Service Uniformed Division, a member of the United States Park Police, a special agent within the Diplomatic Security Service, a postal inspector, a probation officer (referred to in section 3153 of title 18), or a pretrial services officer (referred to in section 3153 of title 18), other than for purposes of sections 5545(a) and 5546;".

On page 2, add at the end of the matter related to the table of contents the following:

TITLE —FEDERAL LAW ENFORCEMENT PAY REFORM

Sec. . Short title.
Sec. . Pay for law enforcement officers.
Sec. . Retention allowances.
Sec. . Relocation payments.
Sec. . Other amendments to title 5, United States Code.

AMENDMENT NO. 1719

At the appropriate place, insert the following:

SEC. . ADMINISTRATIVE EXPENSES.

Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended by adding at the end thereof the following: "In determining the equitable share of proceeds for a State or local law enforcement agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 10 percent of the total proceeds to cover the costs of administrative expenses."

AMENDMENT NO. 1720

At the appropriate place, insert:

Section 613A, subsection (a)(3)(F), of the Tariff Act of 1930 (19 U.S.C. 1613(b) is amended to read as follows: "Payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting the United States Customs Service in law enforcement activities.".

AMENDMENT NO. 1721

At the appropriate place, insert the following:

SEC. . PROHIBITION OF CERTAIN DRUG ADVERTISEMENTS.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting a new subsection (c) as follows:

"(c)(1) It shall be unlawful for any person to print, publish, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any direct or indirect advertisement, knowing, or under circumstances where one reasonably should know that the purpose of the advertisement, in whole or in part, is to promote or facilitate the distribution or transfer of a Schedule I controlled substance.

"(2) As used in this section, the term 'indirect advertisement' means an advertisement for a catalogue of Schedule I controlled substances, the name, address, phone number, or similar information relating to a contact for obtaining a Schedule I controlled substance, and any similar advertisement whose purpose is to indirectly promote or facilitate the transfer or distribution of a Schedule I controlled substance.".

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1990

CONRAD (AND DASCHLE) AMENDMENT NO. 1722

Mr. CONRAD (for himself and Mr. DASCHLE) proposed an amendment to the amendment of the House to the amendment of the Senate numbered 1 to the bill (H.R. 4404) making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes, as follows:

At the end of the bill, add the following new section:

SEC. . (a) Section 14 of Public Law 101-220 (7 U.S.C. 1421 note) is amended by striking "refunded, such refund shall not be required to be made prior to July 31, 1990." and inserting "refunded—

"(1) the refund shall not be required to be made prior to July 31, 1990;

"(2) in the case of producers on a farm that is located in a county that is affected by a major disaster or emergency in 1990 declared by the President under the Disaster Relief Act of 1974 (42 U.S.C. 4121 et seq.), the refund shall not be required, for that portion of the crop for which a disaster payment is made under section 201(a) of the Disaster Assistance Act of 1988 or section 101(a) of the Disaster Assistance Act of 1989; and

"(3) in the case of producers on a farm that is located in a county with respect to which the Governor of the affected State has a request pending for such a declaration, the refund shall not be required prior to the date the President makes a decision on the request, for that portion of the crop for which a disaster payment is made under section 201(a) of the Disaster Assistance Act of 1988 or section 101(a) of the Disaster Assistance Act of 1989.".

(b) None of the funds appropriated or otherwise made available by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990 (Public Law 101-161) shall be used to pay the salaries of officers and employees who carry out the export enhancement program established by section 1127 of the Food Security Act of 1985 (7 U.S.C. 1736v) to the extent that the aggregate amount of funds, and the value of commodities, used to carry out the program during fiscal year 1990 exceeds $509,000,000.

CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

INOUYE AMENDMENT NO. 1723

(Ordered to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert:

SEC. 3598. NONAPPLICATION IN CERTAIN PORTIONS OF INDIAN COUNTRY.

"Notwithstanding sections 1152 and 1153, the provisions of this chapter (other than this section) shall apply with respect to an offense of murder in the first degree that is committed by an Indian, or against an Indian, in any portion of Indian country (within the meaning of section 1151) only if the governing body of the Indian tribe that has jurisdiction over such portion of Indian country elects, by no later than the date that is 1 year after the date of enactment of the Federal Death Penalty Act of 1989, to have the other provisions of this chapter apply with respect to such offenses.".

NOTICES OF HEARINGS

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, I announce, for the information of Senators, that the Committee on Veterans' Affairs, which I am privileged to chair, has, at the request of the ranking minority member, Mr. MURKOWSKI, rescheduled for 9:30 a.m., Friday, June 15, 1990, in SR-418 its May 22, 1990, hearing, which had previously been postponed at his request to June 6, on the nominations of Donald L. Ivers and Jonathan R. Steinberg to be associated judges on the U.S. Court of Veterans Appeals.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 24, 1990, at 9 a.m. to receive testimony on management strategies for the defense build down in review of S. 2171, the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 24, 1990 at 1 p.m. to receive testimony on the space launch and command, control, communications, and intelligence programs in review of S. 2171, the Department of Defense Authorization Act for Fiscal Year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, May 24, 1990, at 10 a.m. to conduct a markup of pending legislation including reauthorization of the Defense Production Act; fair trade in financial services; securities; and other miscellaneous measures.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 24, 1990, at 10 a.m. to hold a hearing on the effect of smoking, including how it affects children.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Commerce and Tourism, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 24, 1990, at 10 a.m. on export promotion.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, and the National Ocean Policy Study, be authorized to meet during the session of the Senate on May 24, 1990, at 9:15 a.m. on S. 2228, the Consumer Seafood and Quality Assurance Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on May 24, 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DARE STUDENTS IN ST. CLAIR COUNTY

● Mr. LEVIN. Mr. President, I rise today to make special mention of the achievements of two classes of students from St. Clair County in Michigan.

The fifth-grade students of Pte. Tremble Elementary and Fair Haven Elementary on May 30, join the growing ranks of young people who have been armed with the facts about drugs. As graduates of the DARE Program each of these boys and girls moves on with the tools to be the leaders of their schools and examples to the children who look up to them.

Across our State and across the United States, the word is out; drug free is the way to be. Families deserve

the lion's share of the credit for the new awareness and the new attitude. There never will be a substitute for the active involvement of the parents. But families have an important ally in the DARE Program.

Mr. President, I would like to note Trooper Tim Heideman, of the Michigan State Police post in St. Clair, MI. His work with students is the front line of the Nation's war on drugs. His dedication and that of other men and women in law enforcement is building a relationship between police and community that will last a lifetime. I congratulate him, the students and the families on this important day.●

MARKING 75 YEARS OF SERVICE TO DULUTH

● Mr. DURENBERGER. Mr. President, the community of Duluth, MN, is celebrating the 75th anniversary of a long and trusted area institution. The Duluth Clinic currently ranks as Minnesota's third largest clinic and carries with it a reputation for excellence and service of which we are all quite proud.

As the "big city" of the north, Duluth serves the Great Lakes region and northern tier of Minnesota in a number of ways. The University of Minnesota at Duluth stands as a fine institution of higher education, and folks drive from miles around for entertainment and shopping.

Perhaps most importantly, Duluth offers state of the art medical service and technology to a population that stretches miles into the north country wilderness.

For the Duluth Clinic to have survived—and prospered to the size it is now, it has survived the many economic upswings and depressions of the region. Shipping and mining no longer dominate the economy of the Arrowhead Region.

A service oriented work force, complimented by a record setting tourism trade has produced an environment of growth in Duluth, which should last well into the nineties. The Duluth Clinic represents the commitment to full service health care delivery that a city of this size and make-up needs.

In 1990, over 53 percent of Duluth's doctors are affiliated with the Duluth Clinic. And, unlike many of its urban counterparts, the Duluth Clinic offers medical care to all who enters its doors, regardless of the person's ability to pay. That kind of dedication, in light of swelling losses in revenue, reflects the commitment of the founding doctors and their successors to the delivery of treatment to all.

The Duluth News-Tribune recently ran a profile of the Duluth Clinic, examining its history and future. If there are no objections, it would be an honor to submit those two articles to the RECORD, as a tribute to three quarters of a century of service to the people of Minnesota and Wisconsin.

The articles follow:

[From the Duluth News-Tribune, March 18, 1990]

CLINIC MARKS ITS PROGRESS

(By Tom Dennis)

The Duluth Clinic's past 20 years can be summed up in one word: growth. The clinic pulled in patients like a medical Wal-Mart, quadrupling in size to become the third largest clinic in the state.

But as downtown merchants discover wherever Wal-Marts open: Such growth can hurt, too.

The clinic's growth carries both promise and threat, observers say. The promise is fulfilled daily. Duluth has become a major regional medical center, attracting thousands for top-quality care every year.

The threat lurks in the clinic's potential to become a monopoly. Independent doctors in Duluth say the clinic could drive them out of business. That would fundamentally change the face of the Northland's health care system.

This year marks the Duluth Clinic's 75th anniversary. The birthday provides a chance to reflect on the clinic's growth and on what it means to the region.

Today's Duluth Clinic numbers 160 doctors and 725 employees. But 75 years ago, the staff could almost squeeze into a Model T.

Five doctors are credited with founding the clinic in 1915. The organization grew at a slow, relatively steady rate for decades. The clinic outgrew its original downtown office in 1927, then occupied its next building for 48 years.

By the early 1970's, that building on Second Street—now called Arrowhead Place—had grown crowded at last, said Dr. Bob Bergan, a retired Duluth Clinic pediatrician. Partitions divided offices in two. Waiting lists to see overworked doctors grew to several weeks.

In hindsight, the decision to build the clinic's current building seems obvious. It wasn't at the time.

Many doctors opposed the move at first, Bergan said. The old building was cozy, familiar and paid for. Staying put and staying small seemed far safer.

"I was against it myself," he said. "Luckily, I was wrong." The clinic moved to its new building in 1975.

And something else besides the decor had changed.

The move brought new leadership to the clinic, and a new management style, said Dr. Gerald Cotton, president of the St. Louis County Medical Society and a Duluth Clinic doctor from 1970 to 1975.

The old leaders preferred slow, leisurely growth. The new leaders didn't.

The change sparked more than a decade of aggressive growth, Cotton said.

New programs flourished, among them heart surgery, state-of-the-art brain surgery, newborn intensive care and child neurology. Dozens of specialists were hired to handle "tertiary" or super-specialized care.

At the same time, administrators opened or took over nine satellite clinics around the region—two in Duluth, one in Superior, one in Ely and five elsewhere. That helped ensure a steady stream of patients to the specialists.

Economic trends favored clinic growth in the '70s and '80s, said Dennis Barnhardt, communications director for the Medical Group Management Association in Denver, Colo.

For example, the Marshfield Clinic in Marshfield, Wis., grew from 87 doctors in 1970 to 325 today. The Fargo Clinic in Fargo, N.D., grew from 52 to 245 doctors in the same period. Today, both clinics nibble at the Northland's fringes, competing for patients with, among others, the Duluth Clinic.

But many other clinics didn't grow. Duluth Clinic administrators were smart enough to seize the opportunity, and today the clinic ranks 42nd in size among the 4,220 private clinics in the association, Barnhardt said. Minnesota's Mayo Clinic, with 1,670 doctors, is the nation's largest.

The growth helped make Duluth a regional medical center. Northland patients visit by the hundreds for treatments that once would have taken them to the Twin Cities.

And those patients get top-quality care, agree doctors, consumer groups and most other medical observers.

"I'd match the doctors in this community, clinic and non-clinic, against those anywhere else in the state," said Dr. Thomas Stolee, pathologist at Miller-Dwan Medical Center in Duluth, and chairman of the Minnesota Foundation for Health Care Evaluation. The foundation reviews care given by doctors throughout Minnesota.

And the clinic must be commended for keeping its doors open to the poor, said Dorothy Cederberg, president of the Senior Citizen Coalition of Northeastern Minnesota.

The clinic loses millions every year by treating everyone who comes through its doors, regardless of their ability to pay. Duluth is indeed fortunate, Cederberg said.

But the rapid growth came at a price. Despite the clinic's unquestioned quality, its aggressive business tactics alienated and troubled many non-clinic physicians, Cotton said.

Among those doctors, "the clinic became one of an all-devouring monster that's going to eat everything else up," he said.

In its 25-year history, the Duluth Urology Group has never been sued for malpractice. In the 1980s, all four of the group's doctors were elected Fellows of the American College of Surgeons, one of medicine's highest honors.

But when the Duluth Clinic took over the Lakeside and West Duluth family-practice centers, referrals to the group dried up.

Being good was no longer enough. By, in effect, cutting off referrals, "the clinic was cutting our lifeblood," said Dr. Malcolm Fifield, retired founder of the group. "That was a stab and a turn of the knife."

The fall-off didn't stop. Every Duluth Clinic satellite represents a population of patients essentially lost to the area's 50 or more independent specialists, he said. That threatens those doctors' survival—and, by extension, the hospital they favor, St. Luke's in Duluth.

"For non-clinic people, the clinic represents a nemesis, a cloud," Fifield said. "They've already got ¾ of the pie. But they seem to want the whole darn thing."

Fifield's partner, who still practices with the Urology Group, agrees. "I call it the Juggernaut Syndrome," said Dr. Warren Brooker.

Clinic officials insist they have no such designs.

In fact, the clinic benefits from a strong independent community, said Dr. Philip Eckman, clinic president. The competition

helps keep both sets of doctors sharp—and that's no small matter, he said.

In any event, the independents' worries may be unfounded, said Stan Salzman, clinic executive director. Despite the clinic's growth, Duluth retains an independent community that's about the same size as it was in 1970. That community remains strong and vibrant, he said.

"And I fully expect it to stay that way on a permanent basis," he said.

But a new development compounds the threat to independent surgeons, observers say.

On Jan. 1, Blue Cross and Blue Shield of Minnesota changed the health coverage it gives to state employees. The old policy let patients and doctors choose their specialty surgeons. The new policy seldom covers patients in full unless they choose the Duluth Clinic.

With the stroke of a pen, many non-clinic doctors lost almost 1,500 patients, including the staff of the University of Minnesota-Duluth. And St. Louis County and other government officials are considering similar policies, said Tony Orman, executive director of Council 96 of the American Federation of State, County and Municipal Employees.

Clinic administrators say the issue is out of their hands. But they again pledged themselves to maintaining a strong network of independent doctors in Duluth.

In fact, should the insurance restrictions go too far, the clinic itself might set up a program to support independent doctors, Salzman said. Preserving an alternative for patients is that important, he said.

The clinic's growth could slow in the future, Eckman said. Enough doctors are on hand to give Duluth 24-hour coverage, seven days a week, in almost every medical specialty.

But board members have consistently refused to set a maximum size for the clinic, he said.

"You never know," he said. "New technology comes along. New treatments become available. And when they do, we're in there."

EARLY TRADITIONS—DOCTORS' ARGUMENTS SOMETIMES SETTLED WITH FISTICUFFS

Fist fights between doctors, 6½-day work weeks and medicine in the elegant tradition of Europe were all part of the Duluth Clinic's early days.

The year was 1915; the scene, the fifth floor of the Fidelity Building, a structure where Minnesota Power's headquarters now stand. Nine doctors informally sharing office space there formed the "nucleus" of the early Duluth Clinic, writes Duluth author Bill Beck in a new history of the clinic.

Five of those doctors came to be considered the clinic's founders. All had trained in their specialties in Europe, then the world's capital of medical education.

And, like the Mayo brothers of Rochester, Minn., all five had returned to the United States intrigued with the European concept of group practice.

The five founders included Dr. William A. Coventry, an obstetrician and gynecologist. Coventry delivered more than 5,200 babies in his career, Beck writes. By the time of his death, in other words, he may have helped about one in every 25 people in Duluth come into the world.

Silver-haired, impeccably dressed, Coventry looked like the very movie prototype of a doctor, Beck writes. He didn't keep moviestar hours, though.

"I especially remember how hard my father used to work," said Coventry's son Mark, 77, the retired chief of orthopedic surgery at the Mayo Clinic, in a telephone interview.

Duluth Clinic doctors used to work six days a week and make hospital rounds on Sunday mornings. "In fact, in all of my childhood, I remember getting ready for only one vacation," Coventry said. "But my father stopped in at the clinic on our way out of town.

"That was a mistake." A patient was in labor.

"There went that vacation," Coventry said.

Another founder was Dr. Ed Tuohy, perhaps the dominant member of the group. Tuohy's devout Catholicism drew him toward Duluth's Catholic hospital, St. Mary's. That helps account for the clinic's long and continuing association with St. Mary's, said Dr. Vernon Harrington, a retired internist and past president of the clinic's board.

All five founders had strong personalities; so strong, legend has it, that they engaged in fisticuffs on occasion, said Dr. Bob Bergan, retired pediatrician.

As a young doctor, Bergan met Tuohy, then 69, shortly after joining the clinic in 1947.

"He looked at me and demanded, 'Are you a good doctor?' " Bergan recalled.

"I said, 'I got good grades in medical school.' "

Tuohy grumbled and replied, "Well, remember: A clinic is only as strong as its weakest link. Just don't be that weakest link."●

TRIBUTE TO STEVE LACY, WASHINGTON COUNTY, TN

● Mr. SASSER. Mr. President, I rise today to pay tribute to Mr. Steve Lacy of Washington County, TN, on the occasion of his induction into the Tennessee Sports Hall of Fame. Steve's election to this prestigious group is the result of his valuable contributions to Milligan College's athletic program. During his tenure, he was the only coach in the Smokey Mountain Athletic Conference to win championships in four sports—basketball, football, baseball, and track.

Steve's contributions to his community have not been limited to the playing field. His civic involvement includes helping secure the medical school at East Tennessee State University, coauthoring the Tennessee Student Assistance Grant Program and leading the effort to build the Volunteer Parkway and create the Greene Valley Development Center. In addition, Steve's ardent support of Milligan College—where he served as dean and chairman of the board of trustees—has continued undaunted throughout the years. In light of these achievements, it is easy to see why Steve Lacy is one of the most respected community leaders in the State of Tennessee.

Mr. President, I join my fellow Tennesseans in congratulating Steve for this latest honor and expressing our appreciation for his years of selfless devotion and contributions to the Tri-Cities area and the entire State.●

PENNSYLVANIA'S BEST

● Mr. HEINZ. Mr. President, I would like to take the opportunity to recognize and commend the Pennsylvania hospitals which were recently honored in the April 30, 1990, issue of U.S. News & World Report as some of America's best in their respective medical fields.

As Bob Dylan once wrote, "The times, they are a-changing." I remember when, not so long ago, the family doctor made many of the medical decisions for most Americans. Once, it was the exclusive domain of our family doctors to diagnose our illnesses, prescribe our medicines, splint our sprains, calm our fears, and in those special cases choose the hospital and the specialist we should see there. That image of the kindly, white-haired doctor is now just a memory from a fading past, occasionally rekindled by television's old movies and reruns of doctors Kildare, Casey, and Welby during an insomnious, late-night reverie.

Now, Americans more than ever are involved in choosing, not only their doctor, but their treatment and hospital as well. No longer is the hospital down the street always a person's first or only choice. People are willing to travel hundreds, even thousands, of miles to receive medical care from this country's renown physicians and equally noteworthy hospitals and medical centers. And Pennsylvania is blessed with some of this Nation's finest doctors and medical institutions.

No longer just heads of foreign nations, America's medical travelers are of all stripes. Many head to Philadelphia to receive some of the finest cancer treatment and cardiac care from the University of Pennsylvania's Medical Center, some of the top pediatric care from the Children's Hospital of Philadelphia, and some of the best eye care from the Wills Eye Hospital. Others travel west to Pittsburgh to take advantage of my hometown's Children's Hospital of Pittsburgh, another of our Nation's outstanding providers of medical care for children; and the Presbyterian-University Hospital, highly rated in the treatment of nose and throat conditions and neurological and neuromuscular disorders.

At a time when many decry America's decline in industrial might, we should proudly recognize that our physicians, nurses, medical support staff, hospitals and medical centers, medical research, and overall health care are the finest in the world. Whether provided by a large, downtown teaching medical center with

thousands of patients or by a small, rural hospital with only a dozen or so beds, our Nation's health care is the envy of all, equaled by none.

And at a time when some look to Europe or the Far East for manufactured goods, people from every corner of the globe come to this country expressly to receive treatment or learn medicine from the world's finest doctors practicing at America's best medical facilities. I am proud that five of these facilities are in the Commonwealth of Pennsylvania.●

FIVE CHICAGO AREA POINTS OF LIGHT

● Mr. SIMON. Mr. President, every month, the Lerner Newspaper Groups in Illinois select an outstanding community volunteer in their distribution area. There are five Lerner newspaper groups: the Skokie Life; the Lincolnwood Life; the Niles Life; the Morton Grove Life and; the Week-end Life/Sunday Star.

Out of these 60 volunteers each year, a panel made up of representatives from the newspapers selects 5 to be awarded the "Citizens of the Year" award. These awards recognize the importance of volunteer service and each of the recipients has demonstrated how one individual, giving of his or her free time, can make such a difference in the lives of individuals or communities.

I would like to salute this year's winners:

Marge Forrest, of Bensenville has assisted the poor, working both at a homeless shelter and a medical clinic. Marge also founded the Dupage County Court Watchers, a group that monitors driving under the influence of alcohol [DUI] cases.

Ann Kor, of Chicago works diligently and with spirit to brighten the lives of the patients at St. Francis Hospital and to provide a listening ear and a shoulder to lean on at the Howard Area Community Center.

Al Wardell, of Chicago has worked to increase understanding and support for gay and lesbian residents of Chicago. His efforts helped achieve passage of the Chicago Human Rights Ordinance.

Virginia Lamermayer, of Morton Grove has been a foster mother to 29 children and now provides emergency foster care relief. She is also the founder of "Infants, Inc.", a nonprofit organization providing baby formula to low income families.

David Lindley, of Chicago, has volunteered with Christ In Action, which, among many activities, sponsors a youth center in an area of the city that is home to a number of youth gangs. He is also involved with City Limits Urban Ministries and their summer camp for poor, inner-city children.

I salute these five compassionate and creative people who make time in their busy lives to reach out to those who need their help.●

REFORMING ISRAEL'S ELECTORAL SYSTEM

● Mr. BOSCHWITZ. Mr. President, many of Israel's friends in this country are looking at its ongong internal political crisis with increasing concern and dismay. With the collapse of the National Unity Government in March; extensive, and fruitless, political maneuvering since then; and the specter of a caretaker government remaining in power perhaps until the fall, Israelis are being distracted from the important political, economic, defense, and foreign policy problems needing urgent attention.

Israel's value as the foremost democracy in the troubled and turbulent Middle East, along with its ongoing commitment to democracy's values and principles, is well known. However, it is more evident now than ever before that Israel needs electoral reform—and fast. The political system now in place, Israel's particular system of democracy, has led the country into the extended political gridlock that has been the norm for most of the last decade, and the time has come for it to be changed.

The basic problems with Israel's political system are well known. First, the rule of nearly absolute proportional representation allows far too many political parties to win seats in the Knesset, Israel's parliament. A party with just 1 percent of the popular vote can win representation in the Knesset. Because of the political realities in Israel, this forces majority coalitions to be forged by bowing to the demands of small—sometimes very small—minority parties. As a result, the "tyranny of the minority" holds sway over the political fortunes of the country when the minority does not have the electoral support that would justify its role.

In addition, there is a lack of individual accountability by members of the Knesset to the electorate. Right now, Knesset members represent political parties, not constituencies. They are chosen by the electorate from lists prepared by party leaders. The voters have no say in choosing candidates. In a democracy, it is plain as day that the voters, not the party bosses, should have the first loyalty of the politicans.

Another basic problem is that the Prime Minister's office is too weak. Prime Ministers need to expend enormous time and energy to create and maintain governing coalitions. This distracts them from the urgent tasks involved in running the country. Without change, this problem will also plague the next Prime Minister.

Many proposals have been made for reforming Israel's political system. A number of interested individuals have proposed changes for effecting change. There is also a Bipartisan Committee on Political Reform in the Israeli Knesset that has addressed this issue and come up with suggestions for change. In addition, the Israel Diaspora Institute under the leadership of Dr. Arye Karmon has done extensive work in defining the problem raised by Israel's political system and presenting policy options. I applaud all of these efforts, and urge that change be effected soon as Israel simply can no longer afford to delay electoral reform.

The journal Moment published, in its June, 1990, issue an article by the distinguished political scientist and writer Dr. Daniel J. Elazar of Temple University in Philadelphia and the Jerusalem Center for Public Affairs, proposing direct election of the Prime Minister and reform of elections to the Knesset. This article makes a valuable contribution to the debate on electoral change in Israel, and I ask that it be printed in the RECORD at this point.

The article follows:

NOT WHETHER, BUT HOW TO REFORM ISRAEL'S ELECTORAL SYSTEM

(By Daniel J. Elazar)

The call for electoral reform for Israel has not become public on both sides of the ocean, as the Jewish state's "deadlock of democracy" takes on the characteristics of paralysis. But if the goal of electoral reform is governmental stability and rule by a party with a majority, then electoral reform—currently focusing on reform in the way Knesset members are elected—will not do the job. What Israel needs is direct election of the prime minister.

The expectation in much of the current debate is that once Israel accomplishes Knesset electoral reform, the minor parties—especially the extreme Orthodox—will no longer be able to block the formation of a stable government.

Reform of Knesset elections is truly a necessity for Israel. But it is not enough. Knesset election reformers recognize that it is important to link more closely the representatives to the citizens who elect them. It is also vital to break down the exclusive power of the party oligarchies to determine candidates for the Knesset via party lists, a practice which stifles the entry of new blood and new ideas into the country's government. But even as we press for *this* electoral reform, we must understand that it is not enough.

Israel is not like the United States where differences of opinion fall within a relatively narrow spectrum, so that two parties, each a coalition of groups, are enough. As in continental Europe, divisions of opinion and ideology in Israel are far broader and more intense. (As we have seen in recent years, even Great Britian has had a hard time holding onto the two-party system. The Conservatives and Labourites must now contend with the Liberals and Social Democrats.)

Democracy requires that the permanent, widely differing groups in Israeli society—clearly exceeding two—be appropriately rep-

resented in the country's legislature; Israelis would not have it otherwise. Electoral reform can be achieved in several ways but none should change the reality that at least two permanent groups—the Orthodox Jews and the Israeli-Arab minority—will continue to hold the balance of power in the legislature. Even if all the small parties were eliminated, the Orthodox and the Israeli-Arabs would coalesce into two medium-size parties, each with a potential 15-20 percent of the vote behind it.

With respect to the ability of either of the two major parties—Labor and Likud—to form and maintain a stable government, it makes little difference whether each has approximately 40 seats, with the other 40 divided among the small parties—or each has approximately 55 seats, with the small parties sharing the remaining 10. The lack of a majority is still the lack of a majority. The two principal subgroups—the ultra-Orthodox and the Israeli-Arabs—are likely to have at least 25-30 seats between them, especially if they organize into unified blocks in order to get seats at all, as is likely under most of the proposed reforms.

These minorities constitute significant percentages of the total population and are sufficiently concentrated geographically to win seats even in a territorially based system. They can exercise this leverage as long as Israel maintains the present parliamentary system.

The only way out of this dilemma is to embrace the other major constitutional reform proposed in Israel in the last two years—namely the direct election of the head of government (prime minister). Several proposals have been offered. The best of them call for popular voting for individual candidates; the winner, whoever received at least 45 percent of the votes, would be the chief executive and would head the government for a four-year term.

Israeli voters would then cast at least two ballots; one for the head of the government and the other for the Knesset. Since only a candidate backed by one of the two major parties could get elected as head of government, the smaller parties probably would develop coalitions with one of the two large parties and agree upon a candidate for head of government in advance. Even so, it might be necessary to have runoff elections between the two leading vote-getters if no candidate for head of government received 45 percent of the votes. This is the way it is done in France.

Some proposals call for full separation of powers between the executive and legislative branches, with the head of government appointing a cabinet that would be subordinate to him, as in the United States, and the Knesset receiving augmented powers. Other proposals are similar to the French model, requiring the cabinet to win the confidence of the legislature. Under the latter arrangement—which might be more appropriate for Israel—the head of government would be elected to office in his/her own right for a fixed four-year term and would sit there whether or not his/her party has the largest number of seats in the Knesset. This would give the head of government strong bargaining power and would introduce a substantial measure of stability into the government.

Some proposals provide that the Knesset could remove the head of government by a two-thirds—or greater—no-confidence vote. In such a vote, the Knesset also would be dissolved and there would be new elections. This would provide protection against a runaway chief executive; it also could encourage the head of government to provide a legislative basis for proposals, knowing that the Knesset could unseat him/her.

What of reform of elections to the Knesset? With the direct election of the head of government, it would be possible to have an electoral reform that would allow full representation of all permanent groupings, giving them a vote but not a veto. The best system under consideration is that used in several Spanish-speaking countries in Europe and the Americas and in some of the Scandinavian countries. The country is divided into permanent districts—say, 12—whose boundaries would follow present administrative subdistrict lines to prevent gerrymandering. Every 10 years, the 120 Knesset seats would be reapportioned among the districts based on population, so each district would have the number of seats appropriate to its share of the country's total population. Under this system, each voter would cast as many votes as there were seats in their district. They could either vote for a party list—a straight ticket—or could choose among the candidates on different party lists. This latter alternative would encourage the parties to nominate more attractive candidates with closer ties to the people in their districts.

This system of Knesset elections would allow representation of permanent groupings in the society that deserve to be represented. On the other hand, this system would prevent smaller groups from exercising inordinate power in determining who would govern.

Where does all of this stand today? During the past two years Israeli politicians have increasingly favored reform that would first secure the direct election of the head of government. The first time this proposal became more than a slogan was in December 1988, after the agonizing and distasteful process of forming the Yitzhak Shamir-led National Unity Government. At that point, Knesset members introduced four private bills for election reform in the Knesset, three by Likud members with the tacit agreement of Prime Minister Shamir.

As the National Unity government settled in, reform got lost. But with the latest government crisis leading to a collapse of that broad coalition—and another round of distasteful maneuvering by the leaders of the two major parties to secure the requisite majority to form a government—and the resultant public disgust, the bills have been re-introduced. Again, there seems to be some likelihood that both major parties will support change, out of desperation if not out of conviction. Thus the prognosis for a step in that direction is mildly favorable.

Israel needs a system of checks and balances that will strengthen the Knesset as a legislature even while it strengthens the prime minister as head of government. Unfortunately, it is just as easy (or difficult) to reform badly as it is to do it well. So those of us supporting reform have two obstacles to overcome. We must win agreement to make these far-reaching changes and we must design changes that will strengthen Israeli democracy.●

TRIBUTE TO REV. EDDIE K. EDWARDS

● Mr. LEVIN. Mr. President, I rise to recognize the accomplishments of the Reverend Eddie K. Edwards, a minister who preaches by example and action, not just exhortation.

Reverend Edwards' good works have not gone unnoticed in my home State, and elsewhere. He is one of 12 "Michiganians of the Year" selected by the Detroit News, and has been profiled at length in the Wall Street Journal. The reason for the attention is simple: Reverend Edwards is waging war against urban blight, gaining ground where too much ground has been lost.

In 1987, Edwards and a small flock of followers decided to reclaim their neighborhood with sweat equity, community participation, and as much other support as they could muster. What emerged was Ravendale, a 38-block biracial area now organized into over 20 block clubs. Edwards and his band have completely rehabilitated nine homes, seven of which have been sold. They are nearly finished with 10 more.

Ravendale is not the only focus for Edwards' attention. He is founder and director of the interdenominational Joy of Jesus youth ministry, which has been operating since 1983 in what was a boarded-up building. A full-time school and after-hours recreational and tutoring programs are incorporated in the mission.

With each project, Reverend Edwards' philosophy remains the same: "A hand up, not a handout". His message of help, hope, and self-reliance is a beacon for his neighborhood, and a bright spot for us all.●

"DEAR MOM"

● Mr. ARMSTRONG. Mr. President, every Senator really receives thousands of letters every year. Millions of letters, tens of millions of letters, come pouring into the Senate from all over the world.

I have received many interesting, thought provoking communications. But I have rarely received anything that had as much impact as the following letter, which I want to share with my colleagues. It bears the unusual date of January 22, 2023. It is so relevant and important that I strongly encourage my colleagues to consider its significance.

The letter follows:

JANUARY 22, 2023.

DEAR MOM, Gosh, can you believe it's 2023 already? I'm still writing '22 on nearly everything. Seems like just yesterday I was sitting in first grade celebrating the century change!

I know we haven't really chatted since Christmas. Sorry. Anyway, I have some difficult news and I really didn't want to call and talk face-to-face.

Ted's had a promotion, and I should be up for a hefty raise this year if I keep putting in those crazy hours. You know how I work at it. Yes, we're still struggling with the bills.

Timmy's been "okay" at kindergarten although he complains about going. But then he wasn't happy about day care either, so what can I do?

He's been a real problem, Mom. He's a good kid but quite honestly, he's an unfair burden at this time in our lives. Ted and I have talked this through and through and finally made a choice. Plenty of other families have made it and are much better off.

Our pastor is supportive and says hard decisions sometimes are necessary. The family is a "system" and the demands of one member shouldn't be allowed to ruin the whole. He told us to be prayerful, consider ALL the factors and do what is right to make the family work. He says that even though he probably wouldn't do it himself, the decision really is ours. He was kind enough to refer us to a children's clinic near here, so at least that part's easy.

I'm not an uncaring mother. I do feel sorry for the little guy. I think he overheard Ted and me talking about "it" the other night. I turned around and saw him standing at the bottom step in his pj's and the little bear you gave him under his arm and his eyes sort of welling up.

Mom, the way he looked at me just about broke my heart. But I honestly believe this is better for Timmy too. It's not fair to force him to live in a family that can't give him the time and attention he deserves. And PLEASE don't give me the kind of grief Grandma gave you over your abortions. It is the same thing, you know.

We've told him he's just going in for a vaccination. Anyway, they say the termination procedure is painless.

I guess it's just as well you haven't seen that much of him. Love to Dad.

JANE.●

TWO OUTSTANDING FLORIDIANS: JAMES AND NAN FARQUHAR

● Mr. GRAHAM. Mr. President, today, I would like to commend two outstanding Floridians, James and Nan Farquhar.

The Farquhars, from Fort Lauderdale, have made significant contributions of time and financial assistance toward furthering education, the arts, and the quality of life for people living in Fort Lauderdale and Broward County.

Among those contributions has been their support for Nova University in Fort Lauderdale. James and Nan Farquhar helped found Nova University and have continued to support its development during the last 25 years.

On June 1, 1990, Nova University will honor Mr. and Mrs. Farquhar by renaming its undergraduate program the Farquhar Center for Undergraduate Studies.

The Farquhars' vision, shared by a handful of other community leaders, led to Nova University's creation. Mr. Farquhar's decade-long chairmanship of the university's board of trustees and his continuing financial contributions have enabled Nova to grow from infancy into an innovative leader of higher education.

Because of that support, Nova University has become the second largest independent university in the State of Florida.

But the Farquhars' support for education extends well beyond their involvement in Nova. Their appreciation for the arts and history has led to their support of and participation in the development and expansion of the Fort Lauderdale Symphony/Philharmonic Orchestra of South Florida, and the Florida Museum of Art.

Through their efforts, the cultural experience of thousands of Floridians has been enriched and broadened.

They have generously shared ideas and their idealism with our State. Their determination to improve and enrich their community has enriched us all. By giving the gift of knowledge, they have given a gift that will last for generations to come. I am honored to commend them today.●

I AM AN AMERICAN

● Mr. McCONNELL. Mr. President, in a few days our country will observe Memorial Day—a time when we honor and pay tribute to those who have given their lives in the defense of our Nation.

A short while ago I received a letter from the commander of Post 6095, Veterans of Foreign Wars, Latonia, KY. Michael W. Hess wrote to me: "I remember my comrades buried on some lonely island in the South Pacific. Islands where American blood was spilled and untold American lives were sacrificed so that those in the United States of America and those in the free world could live in peace and freedom." Mr. President, Michael Hess fought for America and correctly points out the great sacrifices all veterans have made for democracy and freedom.

Also included in his correspondence was a composition entitled "I Am An American." Writing from the perspective of our deceased servicemen and women, Commander Hess offers what they might say to us during Memorial Day. While he touches upon our great heritage and spirit and tradition of democracy, I think Michael Hess' message is clear: we can never forget the ultimate sacrifices many Americans have made so that others could enjoy freedom.

I hope my colleagues will take a moment on Memorial Day to think of those who have fallen for America: "On the green at Lexington and the snow at Valley Forge * * * on the bare bleak hills the servicemen and women called "Pork Chop" and "Old Baldy * * *." Let us also remember our POW/MIA's and their families.

Mr. President, I ask that "I Am An American" appear in the RECORD so that all my colleagues may appreciate this tribute to America's soldiers.

The article follows:

As Commander of Veterans Of Foreign Wars, Post 6095, Located in Latonia, KY, I was asked what I thought our deceased members would say if they could speak to us about "Memorial Day", November 30, 1990. I worried with that question for a long time and finally came up with words that they might say to us: I Am An American.

Listen to my words, listen well for my country is a strong country, and my message is a strong message.

I Am An American, I speak for democracy and the dignity of the individual.

I Am An American, and my ancestors have given their blood for freedom—on the green at Lexington and the snow at Valley Forge—on the walls at Fort Sumpter and the fields at Gettysburg—on the waters at La Mans and the shadows of the Argonne—on the beach heads of Salerno and Normandy and the sands of Okinawa—in Vietnam-Chu Lai, Da Nang, Dong Ha, Qui Nhon, Hue, Phu Bai, Quang Tri—in Korea—Pusan perimeter, Inchon Seoul, Chosin Reservoir, east central front—western front—on the bare bleak hills the service men and women called "Pork Chop" and "Old Baldy" and "Heartbreak Ridge" a million and more, many more of my countrymen have died for peace.

I Am An American, and my country is their eternal gift and their monument.

I Am An American, and my ancesters have bequeathed to me the laughter of a small boy who watches the circus clowns antics—the sweet delicious coldness of the first bite of peppermint ice cream on the Fourth of July—the little tenseness of a baseball crowd, when the umpire shouts "play ball"—the high school bands rendition of "Stars and Stripes Forever" in a Memorial Day parade—the clear sharp ring of a school bell on a crisp fall morning—these and many other things they fought and died for—and left me.

I Am An American, and the fruits of my thoughts and labor are mine and yours to enjoy.

I Am An American, and my happy land is a land of many realms and mansions—it is a land of Ohio corn and potatoes and green pastures—it is the realm of hundreds of acres of golden wheat stretching across the flat miles of Kansas—it is the land of precision assembly lines in Detroit—it is the realm of mooing cattle in the stock yards of Chicago—it is the land of glowing skylines of Pittsburgh and Birmingham—of San Francisco and New York—and the many churches at home are the mansions of heaven.

I Am An American, and the love of God has made me free.

I Am An American, and in my churches and homes everyone worships God in his own way—the young Jewish boy sings, heroes there the Lord is one—the Catholic girl prays; hail Mary full of grace, the Lord is with thee—the Protestant boy sings—a mighty fortress is our God, each one praying and believing in the universal prayer—"Our Father who are in Heaven"—with the voice and the soul of every human being that cries out to be free.

I Am An American, and I believe that America has answered that voice.

I Am An American, and my country offers freedom and opportunity such as no land before her has ever done—freedom to worship, mechanical commerce, merchants or truck drivers—freedom to teach, as a chemist or lawyer, or doctor, or freedom to love a child, a parent, sweetheart, husband or wife—freedom to speak, to pray, to read, to argue, to praise, to criticize, to eat and sleep, to work and slave as he must without fear—freedom to live 100 or 200 million different lives.

I Am An American, and my heritage is of the land and of the spirit of the heart and of the soul—show me a country greater than my country, a people happier than my people—I speak for democracy and the dignity of the individual.

I Am An American, so on this Memorial Day remember us who gave our all and count your blessings, and thank your God, that you have been spared to enjoy this land of freedom that cost so much.

I Am An American, I want the POW's brought home, I want the MIA's accounted for—we believe that when one American is not worth the effort to be found, we as Americans have lost and our shame will show.

I Am An American.●

DEPARTMENT OF ENERGY'S SCIENCE AND MATHEMATICS EDUCATION INITIATIVES

● Mr. SIMON. Mr. President, the Secretary of Energy today announced several new initiatives in math and science education, including two in Illinois. I would like to commend Admiral Watkins for his commitment and leadership in this area. On behalf of parents, teachers, and students, I would also like to thank the managers and scientists at the Department of Energy's laboratories for their enthusiastic participation in education programs.

Now more than ever, the real test of our Nation's strength as a world power is our ability to compete in a global economy. The economic competitiveness of the United States is dependent upon our ability to educate our young people to prepare for the challenges of the future. Our educational achievements, however, do not bode well for the future. In international comparisons, U.S. students rank well below the average in math and science skills. Even our best students ranked next to last in a test involving 13 nations.

Our great research institutions, public and private, need to take greater responsibility for promoting scientific literacy and for educating America's next generation of engineers, scientists, and mathematicians. In meeting that challenge, universities and businesses should look to the education programs at the Department of Energy as models of good corporate citizenship.

At Fermilab alone, just west of Chicago, one can count no fewer than 20 precollege education programs—and today's report includes a new Science Education Center. This and the other eight new initiatives being announced by the Secretary of Energy today provide hope that we can meet the science and math education challenge.

These education programs are not peripheral to the Department of Energy's responsibilities. Indeed, they are perhaps their most important activities. Particularly important are the many new activities focused on minorities in science. Blacks, who make up about 10 percent of all employment and 7 percent of professionals and related workers, account for only 2.6 percent of scientists and engineers. The new Chicago Science Explorers Project, developed by the Argonne National Laboratory, is at least a start in addressing these problems. It combines exciting videotaped programs, hands-on activities, and museum field trips to encourage minority students to consider science-related careers. At least 250 of the Chicago public schools will be participating in this program beginning this fall.

In addition to programs and activities, minority students need good role models in math and science. While any teacher can be a good role model, it is natural for minority students, bombarded with negative racial stereotypes in the mass media, to look for a teacher who looks like them, and who might sometimes feel the way they do about being a woman or a racial or ethnic minority. In a statement I presented to the Department of Education earlier this month, I noted that in Illinois, a State with a more than 8 percent Hispanic student population, less than 2 percent of the teachers are Hispanic. In Chicago, with an almost 25 percent Hispanic student population, less than 6 percent of the teachers are Hispanic. Two numbers, from an Illinois State Board of Education report for the 1986-87 school year, I found especially alarming:

Of the 5,007 science teachers in Illinois, 40 were Hispanic. That is only 1 in 125.

There was not one Hispanic physics teacher to be found in all of Illinois.

For these reasons, it is essential that all teachers be confident and skilled in the teaching of mathematical and scientific concepts. Under the leadership of Nobel prize winner Leon Lederman, and with the support of Admiral Watkins, a broad coalition of groups in the Chicago area have developed a model approach to addressing our science and math education deficit. By tapping the human and technological resources of the Department of Energy's labs, the Academy for Mathematics and Science Teachers will help to ensure that teachers in the Chicago public schools are able to provide their students with insightful and up-to-date science and mathematics instruction.

While this project had not received all of the approvals necessary to be announced at today's press conference, it will be, if approved, perhaps the most exciting, and the most comprehensive, education program sponsored by the Department of Energy. Indeed, its scope may be greater than any Federal science education effort. Over a 5-year period, the academy hopes to provide intensive math and science training to every teacher in the Chicago public schools who has any responsibility for math and science education, about 15,000 teachers. As a member of the Senate Education Subcommittee, I am working to ensure that the academy receives the support that it needs to begin operation.

Again, I would like to commend Admiral Watkins, the Department of Energy, and the managers and scientists at the laboratories for their commitment to science and mathematics education. I ask that a summary of the Department's new education initiatives, announced today, be included in the RECORD.

The summary follows:

SUMMARY OF NEW EDUCATIONAL INITIATIVES

PNL's "Options" is a program which connects middle school students and teachers with PNL scientists to stimulate interest in science and engineering careers. The focus of "Options" will be on schools with a high percentage of minortiy students (Hispanic, Native American or Black American). Utilizing the staff scientists as mentors, teams of students and teachers will meet together on a regular basis.

The purpose of the Bay Area Science and Technology Educational Collaboration is to improve the teaching and learning of mathematics, science and technology in grades K-12. This will be accomplished through a collaboration of the Oakland Unified School District with educational and research institutions, community organizations, national laboratories and businesses and will involve implementation of a comprehensive science/mathematics/technology curriculum aligned with state guidelines and fundamental concepts in science, mathematics and technology. Two components for teachers are summer workshops and research participation.

The Rural Teacher Training Program by Los Alamos and SNL is a teacher enhancement program for middle school teachers in the rural areas of New Mexico with a large Hispanic population. The program is comprised of a summer institute, academic year followup workshops and classroom visits. Teachers will be required to establish a Mathematics Engineering Science Achievement (MESA) chapter. The summer institute will involve hands-on activities with materials for classroom use and instruction in science and mathematics content.

DOE and the Department of the Interior will work together to help improve science and mathematics education in Native American schools in New Mexico and Arizona. DOE's assistance comes in the form of the "loan" of scientists and engineers from the Sandia and Los Alamos National Labs to serve as science consultants to science and mathematics teachers in Native American schools.

The "Science and Mathematics Action for Revitalized Teaching" (SMART) Program by ORAU and ORNL is a partnership of school systems and National Laboratories in Tennessee with Roane State Community College, the Chattanooga Public Schools and the Roane County Public Schools in a collaborative effort to enhance science and mathematics education. The SMART School Partnership Program is designed to combine the resources of the DOE's facilities in Oak Ridge, Tennessee, with the eductional resources of the school systems. It is designed to increase the effectiveness of K-12 science and mathematics education in partnership with local businesses.

Also in the Oak Ridge area is the University of Tennessee/Oak Ridge National Laboratory initiative on Alternative Certification of Science and Mathematics Teachers. The program is designed to encourage and support scientifically and technically trained professionals (second career, retired persons, etc.) to pursue new careers as precollege science and mathematics teachers. The goal of this program is to expand the pool of potential teachers available in areas of critical shortage in Tennessee and elsewhere.

Brookhaven National Laboratory's "Gallaudet College Program" is a partnership through which hearing impaired students from Gallaudet College will participate in summer research appointments at BNL. These same opportunities will also be made available to Gallaudet's faculty. During the appointment, participants will take part in an intensive research experience under the guidance of BNL scientists.

The DOE Chicago "Science Explorers" Program is a joint Argonne National Laboratory, Fermilab project. The foundation of the program is a unique series of excellent television programs called, "The New Explorers," which captures the wonder and excitement of scientists and their work. These programs were created by Bill Kurtis, news anchor of WBBM-TV (CBS) in Chicago.

Through the "Science Explorers" program, teachers and scientists will develop special classroom activities which highlight the principles and elements of the scientific process illustrated by these programs. Supporting activities and materials will be developed at organizations in the Chicago area involved in science, including Argonne National Lab, Fermi National Accelerator Laboratory, the major museums, zoos, industries, universities, and planetarium and the aquarium. Activities will include "hands-on" laboratory experiences, demonstrations, special classes, and meetings with prominent scientists.

Also at Fermilab, a new Science Education Center has been proposed that will be primarily dedicated to support science education and related public information programs.●

MINNESOTAN ISSUE BALLOT

● Mr. DURENBERGER. Mr. President, democracy is the reason we are here—in two different senses. Democracy is responsible for putting each of us here in the Senate, and we are here to promote the ideals of democracy.

A wise observer once said that if you want to understand democracy, spend less time in the library with Plato, and more time on the bus with people. I think that each of us in this Chamber could benefit from spending more time on the bus. That's the reason that I sent out an opinion ballot to many of my constituents earlier this year—so that I would benefit from the good advice and input of the people I'm here to serve. Almost 1,000 of my constituents responded. I thought that my colleagues might be interested in what I learned on my "bus ride."

I asked them to answer four questions on the issue ballot: First, what the top priorities of the Federal Government should be; second, where they felt we should take action to reduce the deficit; third, now to improve public confidence and participation in government; and fourth, what approach we should take toward Mikhail Gorbachev and the Soviet Union at this point.

Overwhelmingly, my constituents answered the first question by naming the budget deficit as the No. 1 issue for us to address. The second place finisher was the problem of crime and drugs, which is coincidentally a matter that is now before the Senate in the form of an omnibus crime package. Close on the heels of crime, my constituents named health care as the next most urgent national priority. Making quality health care affordable and available to every American has been a goal of mine ever since I came to the Senate, so this concern of my constituents really hits home to me.

Next, Minnesotans identified environmental protection as a top priority of the Federal Government. Last month, I was pleased to work with my colleagues in the Senate to pass the Clean Air Act, which will go a long way toward guaranteeing Americans safer, cleaner air. In June, as the conference committee on clean air will work out the differences between the Senate-passed and House-passed bills, I hope that the committee will listen to the clear voice of public opinion on the importance of meaningful environmental protection.

Not surprisingly, education also made the list of the top priorities of the Federal Government. Ignoring the plight of our educational system not only violates basic principles of justice and fairness, but also weakens this country's ability to compete internationally. I do not believe there is a better investment of our tax dollars than the investment made in developing the human mind. In fact, it is hard to think of any area on which the destiny of our Nation depends more. The dedication of State and local governments to developing quality education is essential, but the role of the Federal Government is also a crucial one.

The second question on the issue ballot coincidentally relates to what my constituents selected as the Government's top priority in the first question—the budget deficit. When asked how the Government should take action to reduce the deficit, cutting defense spending and reducing foreign aid were the most popular choices. In this time of emerging democracies and lessening world tensions, targeting the peace dividend toward reducing the deficit and urgent domestic problems has a great deal of appeal. While we should not slash our defense budget recklessly, the battle to reduce wasteful defense spending is gradually being won. Congress has been doing a fair job of imposing a degree of budgetary realism on the Defense Department. I firmly believe that we should continue devoting our time and efforts to this cause, and closely scrutinize the actual contents of each budget request.

My constituents also recommended the use of across-the-board cuts to reduce the Federal deficit. Clearly, the people are sending us a message to learn to curb our appetite for spending and fairly spread the burden of sacrifice.

Public concern about the national debt should remind all of us in Congress that the Federal deficit isn't just a number; it is people. It is farmers and seniors and small businesses who worry that someone in Washington is about to cut their benefits or raise their taxes. It's associations and companies who worry that the weight of Government debt will put the whole economy down. It is taxpayers across the country who pay a month of taxes each year for the finance charge alone on the national debt. And it is a generation of kids, being saddled for a lifetime with our debts. Many of us in this body have worked and voted to bring the deficit down, and we have made some progress. But we need to make more tough decisions to bring the deficit down to zero. We owe it to the people of America, and to the next generation of Americans.

The third question on my issue ballot addresses the crisis of declining public confidence and participation in government. My constituents recommended a limit on campaign spending as the No. 1 way to restore public confidence in elected officials. The next most popular recommendation was a limit on the role of Political Action Committees [PAC's] in elections. These are matters that will soon be addressed by the full Senate when we consider campaign finance reform legislation. The elimination of PAC contributions to candidates is certainly an issue that already has bipartisan support in the Senate.

The last question asked for my constituents' advice on how we should relate to Mikhail Gorbachev and the Soviet Union at this point. When I sent out my issue ballot earlier this year, I had no idea how significant the this question would become to Minnesotans. As many of you know, Mikhail Gorbachev will be stopping in Minnesota for a visit after the United States and Soviet summit in June.

My constituents seemed to be split about the approach we should take toward the Soviet Union. About 24 percent of Minnesotans believed we should proceed cautiously on relations; 22 percent felt we should establish normal economic ties; 22 percent believed that we should seek early treaties on arms control. About 18 percent recommended that we stress human rights reforms. And about 14 percent of Minnesotans thought we should

support and push for greater reforms. As my constituents' answers indicate, there is no "silver bullet" approach to United States-Soviet relations, and many approaches should be scrutinized. All of us will be following the June summit and the Gorbachev visit with interest and profound hope.

Mr. President, I thank my colleagues for listening to the input of Minnesotans on the urgent issues of our democracy, and I especially thank those Minnesotans who shared their views with me in this special way.●

CALIFORNIA COMMUNITY RESIDENTIAL CARE MONTH

● Mr. WILSON. Mr. President, I rise today to pay due tribute to California's community residential care providers.

I would like to commend California's Governor and State legislature in proclaiming the month of May 1990 as "California Community Residential Care Month."

This year's theme, "Quality Care and Services in a Quality Neighborhood," appropriately recognizes the high quality of service California's community care industry provides to those individuals who either do not wish to care for themselves at home or who are unable to do so.

I join my friends in Sacramento in saluting the dedicated personnel who provide much needed social, nutritional, and personal services. These committed professionals give high-quality care to the elderly, developmentally disabled, and mentally ill population of California.

Mr. President, I ask that the proclamations of California Gov. George Deukmejian, State Senator William Craven, and State Assemblyman Tim Leslie be included in the RECORD.

The material follows:

GOVERNOR DEUKMEJIAN PAYS TRIBUTE TO COMMUNITY RESIDENTIAL CARE PROFESSIONALS IN OBSERVANCE OF "CALIFORNIA COMMUNITY RESIDENTIAL CARE MONTH"

Whereas, the community residential care industry is staffed by committed, hardworking professionals who dedicate their working lives to the care of the elderly, developmentally disabled, the mentally ill and foster care; and

Whereas, the community residential care industry provides a uniquely workable and comfortable environment for those unable to care for themselves at home; and

Whereas, this industry allows those cared for to have the dignity of doing for themselves what they can, as well as the security of knowing that what they cannot do will not be left undone; and

Whereas, the care provided in community residential facilities covers a wide range of services, meeting social, nutritional, emotional and personal needs; and

Whereas, those involved in providing that care have filled a serious community void with effective, realistic and commendable solutions; and

Whereas, the need for community residential care continues to grow, which necessitates an increase in the number of competent providers to care for clientele; and

Whereas, the community residential care providers, the Community Residential Care Association of California and all city, county, state and national agencies that have provided the leadership in this program are deserving of recognition and appreciation;

Now therefore, I, George Deukmejian, Governor of the State of California, do hereby proclaim the month of May 1990 as California Community Residential Care Month and commend the Community Residential Care Association of California for their efforts to further the education and training of community care residential care providers and wish them well in their first annual conference in Sacramento, and encourage all citizens to express appreciation to community residential care providers for the hard work and dedication they demonstrate to their clientele.

NATIONAL COMMUNITY RESIDENTIAL CARE MONTH

Whereas, the community residential care industry has become a vital component in the lives of individuals who are unable to assume responsibility for their complete care; and

Whereas, the community residential care industry is staffed by committed, hardworking professionals who dedicate their working lives to the care of the elderly, the developmentally disabled, and the mentally ill; and

Whereas, those individuals providing services in community residential care facilities must meet stringent licensing requirements; and

Whereas, the community residential care industry provides a uniquely workable and homelike environment for those persons who are unable to care for themselves at home; and

Whereas, this industry allows those persons cared for to have the dignity of doing for themselves what they can and the security of knowing that what they cannot do will not be left undone; and

Whereas, the care provided in community residential facilities covers a wide range of services, meeting medical, social, nutritional, and personal needs; and

Whereas, those persons involved in providing community residential care fill a serious community void with effective, realistic, and commendable solutions; now, therefore, be it

Resolved by the Senate Rules Committee, That the Members draw special public attention to the Community Residential Care Association of California and to all city, county, state, and national agencies that provide community residential care, and recognizes the month of May 1990 as "National Community Residential Care Month."

ASSEMBLYMAN TIM LESLIE PRESENTS C.R.C.A.C. WITH ASSEMBLY RESOLUTION IN OBSERVANCE OF "NATIONAL COMMUNITY RESIDENTIAL CARE MONTH"

Whereas, the community residential care industry is staffed by committed, hardworking professionals who dedicate their working lives to the care of the elderly, the developmentally disabled, and the mentally ill; and

Whereas, those providing services in community residential care facilities must meet stringent licensing requirements; and

Whereas, the community residential care industry provides a uniquely workable and homelike environment for those unable to care for themselves at home; and

Whereas, the community residential care industry allows those cared for to have the dignity of doing for themselves what they can as well as the security of knowing that what they cannot do will not be left undone; and

Whereas, the care provided in community residential facilities covers a wide range of services, which meet medical, social, and personal needs; and

Whereas, those involved in providing that care have filled a serious community void with effective, realistic, and commendable solutions; now, therefore, be it

Resolved by assembly member Tim Leslie, That he takes great pleasure in designating May 1990 as "Community Residential Care Month" in the State of California and commends the Community Residential Care Association of California, as well as all city, county, state, and national agencies that have provided effective leadership in the provision of community residential care.●

SALZMAN PACES CLINIC FOR SUCCESS

● Mr. DURENBERGER. Mr. President, in my 11 years as a Senator, I have come to know the personalities and energies behind Minnesota's success in the field of health care. One important lesson I learned early on was that health care is propelled by doctors and a host of health care professionals—from lab technicians, to home health care nurses, to therapists.

Without the clinic business manager, many health delivery operations would not be in business today. For, as much as doctors and nurses care about medicine and maintaining a successful practice, they chose their field of interest, not business, as careers.

One of the best examples of such a valuable hands on manager is Stan Salzman, of the Duluth Clinic. The clinic is now celebrating its 75th anniversary, and Salzman has had a great role in the success and growth of the clinic's last two decades.

He has long been a source of sound advice to me and in honor of the clinic's 75th anniversary, I would like to submit to the RECORD a tribute to Salzman that appeared in the Duluth News-Tribune.

The article follows:

[From the Duluth News-Tribune, March 18, 1990]

CLINIC'S CHIEF MAINTAINS LOW PROFILE HIGH STANDARDS

(By Tom Dennis)

You may never have heard of Stan Salzman, executive director of the Duluth Clinic, but you can bet your doctor has.

No other name arouses such strong feelings in Duluth's medical community as Salzman's. "Brilliant" and "visionary" are terms used to describe him—as well as "arrogant," "ruthless" and some words even more colorful.

The reason for the dichotomy is clear. Salzman's term as executive director corre-

sponds with the most astonishing period of growth in the clinic's history.

It's a period Salzman compares to "walking through an atomic minefield."

And he didn't lead the business to market dominance by being a nice guy.

"Stan has the style of an autocrat," said Tom Evans, former director of St. Luke's Hospital in Duluth. He's someone who'd have no difficulty pounding a table, or bargaining so hard as to bring opponents to tears, Evans said.

"But you've got to admire the results."

A Wisconsin native, Salzman graduated from Wisconsin State University with a degree in economics. Among his first jobs was the directorship of a two-doctor orthopedic group in Tulsa, Okla.

Before he left, he foreshadowed his Duluth Clinic experience by building the group into a regional center, tripling its physician staff—to six.

After earning a master's degree in business administration from the University of Tulsa, Salzman joined the Duluth Clinic as assistant director in 1971, assuming the directorship four years later.

The Duluth Clinic's doctors own the clinic, and the nine doctors elected to the board run the show. Salzman, 49, a nonphysician, answers to the board. He'd be the first to give them credit for the organization's growth.

He'd be modest in doing so, said Dr. Philip Eckman, board president, "Much of what you see at the clinic today is there because of Stan."

Dr. Bob Bergan, a former board member and retired pediatrician, agreed. "If any one person deserves credit for the clinic's success, it's Stan."

Salzman masterminded the acquisition of satellite clinics, scoured top residency programs for new doctors; and insisted throughout that the clinic live up to its obligation to serve the poor, observers say.

He also proved adept at the clinic's unique politics. Clinic administrators must supervise the very doctors—strong-willed professionals all—who own the business, said Dennis Barnhardt, communications director for the Medical Group Management Association in Denver, Colo.

Finely tuned instincts are called for. Salzman shows his when he stays out of the limelight.

But the discretion hasn't kept him from becoming well known in his field, Barnhardt said. Salzman served as president of the association's Midwest section in 1986-87. Out of 10,000 association members, he is one of 200 honored as Fellows.

"That's the height of achievement in his profession," Barnhardt said. "He has garnered national recognition."

That said . . .

"I worked for Stan for eight years," said Joel Koemptgen, the clinic's former director of regional services. "I'd characterize him as a very complex individual.

"He is one of the most strategically brilliant people I have ever met." He's totally committed to making the clinic a top-quality center, Koemptgen added.

"But his manner makes him very difficult to work for."

Salzman enters negotiations with a "need to win," Koemptgen said. "That means somebody else has to lose. It's very much a style issue."

His intensity is such that if Salzman gets angry, others may even feel a bit afraid of him, Koemptgen said. "He's imposing. And either purposefully or not, he uses that to get his way."

Salzman does indeed show many "rough social attributes," said Dr. Vern Harrington, a retired internist and past board president. "He can be a bull in a china shop. But he's so bright. Ideas just flow out of him."

Salzman makes few apologies for his straight-ahead style. "Wouldn't you rather negotiate with someone who knows what he wants?" he asked.

At the same time, he regrets causing any hard feelings, especially toward the clinic.

"If I was impatient or discourteous, that was never my intent," he said. But health care changed so fast and dramatically in recent years, forcing administrators to run so hard to keep up, that little time seemed left for social niceties.

"In any event, I've always tried to be honest and straightforward," he said.

Salzman counts the day he joined the clinic as one of the luckiest in his life. His philosophy and the institution's fit perfectly, and he hopes the clinic benefited from his presence, he said.

The future? Duluth doctors may not believe it, but there's talk of a kinder, gentler Stan Salzman.

The Duluth Clinic seems to be entering a stabilization phase, Salzman said. That may call for a less confrontational, more relaxed style.

Salzman wouldn't mind the change.

"The last 10 years were something like walking through an atomic minefield," he said with a laugh." Anything less ought to be a piece of cake."●

CONVENTION ON THE RIGHTS OF THE CHILD

● Mr. BRADLEY. Mr. President, perhaps no one understands the problems facing the youth of this country better than the 97,000 school board members serving in the Nation's 15,350 public school districts. They see the best of our children, the potential. But they also see the problems—broken families, drugs, delinquency, and despair. They know all too well that just giving students the right books and lecturing to them are not sufficient to overcome these problems, to make sure that our kids make the best of their lives.

My colleagues might therefore be interested to know that the representatives from the school boards associations from every State in the Union unanimously passed a resolution endorsing the UN Convention on the Rights of the Child at their national conference in New Orleans on April 21. The National School Boards Association believes strongly that problems outside the schools have to be addressed if the mission of educating our children is to succeed. NSBA sees the convention—with its emphasis on the family, political and civil rights, health, education and a whole host of other issues affecting the daily lives of kids—as an important tool for improving the general environment in which our children are raised. I couldn't agree more.

Mr. President, I ask that the text of the NSBA resolution, of the debate on it, and of the NSBA statement on the results of the conference be inserted into the RECORD.

The material follows:

NATIONAL SCHOOL BOARDS ASSOCIATION RESOLUTION ON THE CONVENTION ON THE RIGHTS OF THE CHILD

NSBA supports the Convention on the Rights of the Child that was unanimously adopted by the General Assembly of the United Nations, and NSBA supports Senate Resolution 231 urging submission of the convention to the United States Senate for ratification.

DEBATE

President OGLESBY. We have one issue that's still at bay at this point. Yesterday we passed out a document to you that focused on the United Nations convention document that was approved focusing on children. For the last year I have been, and hopefully you have been, and I know Marian Wright-Edelman has been, really talking about this nation and what we can do to help our children.

There has been research data that's pointed out this year that our children are one of the worst underclassed in this country. They are that way, and nothing seems to be done, or going on, to improve that. It has become such a national issue that the United Nations has taken a position on that. It's been a relatively new position in terms of time, and what I believe that the National School Boards Association should do is to deliberate and endorse this position and go forward with that position and not wait until next year's Delegate Assembly before we try to take some positive focus and action on behalf of children. And believe me, I believe that it is in our best interest.

So with the resolution that you received yesterday, I have basically two options now. Number one, for those of you that maybe didn't get a chance to read it and study it as we should have, I had asked Tom Shannon to look over it for us. Tom has gone over this document and has indicated that there's nothing in the convention articles that is in conflict with any of the beliefs, policies and resolutions of the National School Boards Association.

Further, the Association's taking a position on this through your body will enable the staff to work collectively in the executive branch, in the Senate and in the House, to forward this document, as well as the issues, to support that on behalf of this national organization.

The second part is, we can either do this on Monday, if you don't feel comfortable with doing it today. If we don't do it today, and save it for Monday, that will be one additional item that we will have to do on Monday with the Policies and Resolutions Committee. If you chose to deal with it today, then the chair would entertain a motion. Thank you.

(Microphone 2.)

Ms. DIMARCO. Mr. Chairman, I would like to move that the National School Boards Assocation support the convention on the rights of the child that was unanimously adopted by the General Assembly of the United Nations, and that we support Senate resolution 231 urging submission of the convention to the United States Senate for ratification. Maureen DiMarco, California.

President OGLESBY. Maureen has made the motion and there's been a seconder from New York or Florida, several seconds. If I

could get a copy of that, I would appreciate——

Is there anyone that would like to be speak in favor or against the motion? And I'm looking at microphone 7.

Mr. SCHOFIELD. Mr. Chairman, I'm Bill Schofield from Pennsylvania. I rise in support of this motion. I would comment to the Delegate Assembly that those of us have had the privilege of attending the leadership conference in Washington at the turn of the year had the experience of hearing, visiting with Marian Wright-Edelman. Her presentation in that forum was one of the most profound and thrilling experiences I have ever had in my years of involvement with public education, and I submit to the chair that if you will recall, when she finished her presentation, the entire body was on its feet in the kind of a total commitment that I have never seen equaled in this gathering. And I feel that this motion puts us in the position of making a statement for the world that NSBA is leadership in its finest form.

President OGLESBY. Thank you.

Mr. MARIO GANGI. Mr. President, Mario Gangi, New Jersey School Boards Association. I would like to support what has been said about this, in particular since it was one of the strongest issues of our Senator Bradley of New Jersey. Thank you.

President OGLESBY. Thank you. Seeing no one else approaching the microphone, the resolution on the floor for support by this delegate body, all of those in favor of support please raise your frisbees. Thank you. Those opposed, please raise your frisbees. Let's go on record as saying that that one was unanimous. Thank you. [Applause.]

NSBA RELEASE ON THE RESULTS OF ITS CONFERENCE

NEW ORLEANS.—Martha C. Fricke, of Ashland, Neb., is the new president of the National School Boards Association (NSBA) for 1990-91, succeeding James R. Oglesby, of Columbia, Mo. Fricke, a school board member since 1969, took office during NSBA's annual convention in New Orleans, April 21-24.

A major focus of the convention was on resolving concerns and strengthening policies of school boards across the nation in their continuing efforts to achieve excellence and bring about needed improvements in public education.

One result is that greater NSBA emphasis will be put on a more holistic approach by expanding beyond a concern for children in the schools to also address all societal factors affecting the whole child.

During the convention, outgoing President Oglesby applauded "current bipartisan national efforts" by President Bush and the nation's governors "to forge a needed national consensus on how to lead education successfully into the 21st Century." But he said "the roles of neither the federal or state governments are clearly enough defined to bring about the 'sweeping fundamental changes' that have been proposed." Oglesby also stressed that a "far greater federal and state financial commitment will be needed to make those changes a reality."

To help provide specific direction, NSBA's 150-member, policy-making Delegate Assembly adopted resolutions on a variety of education and societal issues affecting the public schools.

One resolution urges that the federal government give "first priority" to the full funding of education programs, and that education be the first priority for any reallocation of funds within the federal budget. It cautions that funding for any new or existing educational program "should not be made at the expense" of successful existing programs.

Another resolution supports the "creation of a high-level commission to coordinate all federal programs that serve children and youth, including the U.S. Department of Education, to assure efficient and effective delivery of services."

In the same context, NSBA urges all local school boards to adopt "comprehensive health education programs" for all public school students to assure their "physical, psychological and social well-being." Such "planned, sequential instruction" should focus on such concerns as substance abuse, disease prevention and control, nutrition, environmental health and personal health.

Adopted was a resolution in support of Senate Resolution 231, calling on President Bush to submit to the Senate for ratification the United Nation's draft treaty on the rights of the child, which attempts to establish basic rights for children across the world.

The association stated its support for "developmentally appropriate" prekindergarten education, especially for children at risk. Specifically cited is support for the reauthorization and full funding by Congress of the Head Start program, as well as prekindergarten education provided by other public and private agencies "where public school programs are not available to serve all children."

Also supported is federal legislation for child care programs that "permits local school districts to participate if they choose to do so" and "does not divert federal funding from elementary and secondary education." Opposed, however, is federal funding for sectarian programs or programs that "discriminate in the selection of children or employees on the basis of race or religion."

NSBA urges that "student needs and educational improvement" should be the paramount consideration in any restructuring of local public schools, and that such restructuring should be "consistent with local priorities." To achieve those objectives, NSBA urges adequate provision for local flexibility, ongoing evaluation, sufficient state and federal financing to support restructuring efforts, and that school boards retain accountability for results, along with state policymakers.

On the issue of parental choice of schools their children may attend, NSBA believes that "locally developed policies and program options" should be considered "among a variety of possible educational strategies." Stressing that choice should be "strictly a local option," NSBA opposes federal or state efforts to mandate choice, as well as all voucher or tuition tax credit plans.

With regard to teachers, NSBA urges Congress and the administration to "adopt a program of federal grants and loans for increasing the supply of qualified teachers, including minorities." The program should include funding for teacher education, scholarships, incentive awards, alternative certification, and research on the teaching profession.

In another resolution, NSBA expressed its support for President Bush in his fight against alcohol and other drug abuse, as well as federal and state legislation to allocate new resources to fight drugs and to inform the public of the dangers of drug abuse.

New president-elect of NSBA is Arlene R. Penfield, a school board member in Rouses Point, N.Y. Other officers elected are E. Harold Fisher, of Blue Mountain, Miss., vice president, and William M. Soult, of Longmont, Colo., secretary-treasurer.

Newly-elected members of the Board of Directors for three-year terms are G. Holmes Braddock, Miami, Fla.; Robert E. Colville, Maryville, Mo.; Sammy J. Quintana, Santa Fe, N.M., and Robert G. Whittemore, Sparks, Nev.

Newly-elected to a two-year term is Thomas R. Wright, of Newcastle, Wyo.

Re-elected to the Board of Directors for a three-year term is Mario A. Watlington, of St. Thomas, U.S. Virgin Islands.

Thomas A. Shannon is executive director of NSBA, which is headquartered in Alexandria, Va. NSBA represents the 97,000 school board members serving the nation's 15,350 public school districts that are members of the 49 state school boards associations and the school boards of Hawaii, the District of Columbia and the U.S. Virgin Islands.●

SMALL BUSINESS ADMINISTRATION HONORS TOM SAWYER OF BANGOR

● Mr. COHEN. Mr. President, in 1972, Tom Sawyer of Bangor, ME, joined his father's trash collection service as its third employee. Today, he is the president of the Sawyer Cos. specializing in waste management. He has 218 employees and did $20 million of business in 1988.

This exceptional Maine businessman was honored recently by the Small Business Administration [SBA], which rewarded him the National Enterpreneurial Success Award. This first-time citation recognizes his company for its dramatic growth in sales and unit volume, its continued financial strength, and its innovative products and services.

The story of Tom Sawyer and his company is in many ways the story of the success of small businesses throughout the country. Nationwide, according to the SBA, small firms employ 6 of every 10 people and provide 2 out of every 3 workers with their first job. They also have been responsible for more than half of all innovations developed during the 20th century.

Not only has Mr. Sawyer proven himself to be a good businessman, but also a good citizen. He serves in my former job as mayor of Bangor and chaired the United Way Campaign of Penobscot Valley, which raised more than $1.5 million for local groups. Recently, he donated $500,000 to establish the Sawyer Environmental Research Lab at the University of Maine's Orono campus devoted to study of acid rain issues.

Mr. Sawyer also has a strong commitment to his employees and has made employee benefits an important part of his business. For every $1 in wages, the firm pays an additional 56 cents in benefits.

Maine is lucky to have a businessman and citizen like Tom Sawyer. I

congratulate him and ask that his biography, prepared by the SBA, be printed in the RECORD.

The biography follows:

THE ENTREPRENEURIAL SUCCESS AWARD WINNER

W. Tom Sawyer is committed to people and to the environment. Nothing illustrates his commitment better than the time, energy and imagination he has invested in the employees of the Sawyer Companies, the citizens of Bangor, Maine, and in the cleanup of the environment.

In 1962, Wally Sawyer established Truck-A-Way Systems, a garbage collection business serving the Bangor area. Tom Sawyer joined his father's company in 1972 upon graduation from college.

By 1973, the Sawyers recognized the need to develop new ways of disposing of garbage to meet environmental requirements. Working with the Small Business Administration, the Sawyers obtained SBA 502 loans in 1975 amounting to $142,000 to finance an expansion of services and construct Maine's first sanitary landfill.

Since 1975, employment in the Sawyer Companies has increased from fewer than a dozen workers to 218. Sales have increased dramatically, from under $300,000 in 1984 to over $20 million in 1988.

In 1974, Sawyer was granted a permit to build and operate a sanitary landfill. Since then, the Sawyer Companies have continued to pioneer landfill technology and have diversified into a variety of other services in the environmental field. These include recycling facilities for paper, metal, wood debris and scrap tires; and Sawyer Industrial Services, which provide industrial cleaning services such as hydroblasting and wet or dry vacuuming.

Employee benefits are an important part of the package the company offers its workers; for every $1 in wages, the firms pays an additional $.56 in benefits.

Sawyer has instituted a scholarship program for the sons and daughters of employees. Training and safety programs are provided and a human resources team focuses on employees' needs.

Tom Sawyer contributes in many ways to the health and vitality of his community. He is a member of the City Council and is serving as mayor of Bangor. He chaired the United Way Campaign of Penobscot Valley, which raised more than $1.5 million for local groups. He and his company provide generous financial support to private, community and environmental organizations such as the Sawyer Environmental Research Lab, the YMCA Foundation, the Marine Maritime Academy, Bangor Youth Hockey and and the Edith Dyer Library.

His company's outstanding success and his own contributions to his community and environment make W. Tom Sawyer and exemplary winner of the Small Business Administration's first Entrepreneurial Success Award.●

HONORING THE 25TH ANNIVERSARY OF THE FOSTER GRANDPARENTS PROGRAM

● Mr. COATS. Mr. President, I offer this statement on behalf of myself and Senator LUGAR. Each year we celebrate May as the month honoring older Americans, which now include approximately 40 million seniors over the age of 60 years old. It is appropriate that we set aside a month to recognize, not only the past contributions of the senior citizens of our country, but the continuing contributions they make through their work, their families, and their volunteer efforts. The idea of what older people have to offer has changed substantially in recent decades. We no longer view them as a drain on society, but as potential resources, enriching the lives of others in our communities through their life experiences, talents, and willingness to share.

I can think of no better program that reflects this attitude of giving and sharing on the part of our seniors than the Foster Grandparents Program, which is celebrating 1990 as the 25th anniversary of its founding. The Foster Grandparents Program was initially developed in 1965 as a cooperative effort between the Office of Economic Opportunity and the Administration on Aging. It is now authorized under title II of the Domestic Volunteer Service Act of 1989, providing numerous opportunities for part-time volunteers who are low-income persons aged 60 and over.

The Foster Grandparents Program is an excellent example of intergenerational support for those who can truly benefit from the care, concern, and compassion which older and younger individuals can provide one another. In particular, foster grandparents provide supportive services to children with physical, mental and emotional, or social disabilities, and are placed with nonprofit sponsoring agencies, such as schools, hospitals, child care centers, and institutions for the physically and mentally handicapped. Generally, volunteers provide individualized assistance to three or four children and serve 20 hours per week.

I believe that one of the strengths of the program is that the participating seniors not only benefit others, but that they have the opportunity to benefit themselves as well. In addition to receiving a stipend for their work, foster grandparents obtain the satisfaction that they are reaching out to a child with special needs—in schools, hospitals, juvenile detention centers, Head Start Programs, shelters for neglected children, and drug rehabilitation centers—and making a difference in helping that child cope with his or her disability or affliction.

In 1990, nationwide more than 27,000 older persons will volunteer their time for the benefit of these children, providing person-to-person assistance to more than 70,000 children with special needs in approximately 260 community-based projects. In Indiana alone, there are currently seven projects, involving approximately 450 older seniors, with a total of more than $1.5 million in Federal and private funds supporting these projects.

One of these projects is sponsored by the Western Indiana Community Services, Inc. in Terre Haute, IN. Of the 62 foster grandparents in the program, 4 presently work with the students at the Gibault School for Boys. Many of these boys are runaways and juvenile delinquents assigned to the school through the criminal justice system. Here foster grandparents serve as positive role models, praising the boys and helping them with basic skills such as reading and writing. As Sandy Schroeder, project director, conveyed to my staff, "It's hard to put into words the bond that is created between the boys and the [foster] grandparents."

An excellent example of an individual's contribution through the Foster Grandparents Program is Margaret Smith, who has served as a foster grandparent since 1965 in Fort Wayne, IN. The Fort Wayne project, sponsored by the Allen County Council on Aging, is one of the original projects funded in 1965. Margaret Smith, now 87 tutors educationally disadvantaged children at the Benet Learning Center. During her many years as a foster grandparent, she has also worked with children in a pediatric unit in a community hospital and with developmentally disabled children at the Johnny Appleseed School. Jeanette Monroe, director of the Fort Wayne Foster Grandparent Program, summed up Margarets' contributions very well recently, when she said that Margaret "is a very small women in stature, but she is tough. But she also believes in the kids and after a while they start to believe in themselves." Obviously Margaret's work is an inspiration to all of us, not just to octogenarians.

Mr. President, I am proud to be a cosponsor of today's Senate resolution honoring the Foster Grandparent Program. It is a program which well reflects a successful public-private partnership. The Foster Grandparent Program has performed a valuable service to thousands of senior citizen participants, disadvantaged youths, and our Nation. I thank you for the opportunity to bring the excellent work of this program to the Senate's attention in recognition of its 25 years of outstanding service.●

PARTNERS IN EDUCATION

● Mr. GRASSLEY. Mr. President, I rise today to praise the noteworthy accomplishments of the Partners in Education Program of the Waterloo, IA, School District.

It has been just 4 years since this nationally recognized program began in Waterloo.

They currently have over 1,200 business volunteers assisting educators in developing activities which address a

variety of concerns including: Assisting at risk youth, increasing career awareness, providing positive role models, providing tutors and business educators to assist teachers and enhance curricula, and assisting students with opportunities to learn civic and community responsibilities.

This exceptional program currently has 350 business employees and educators meeting monthly in their individual partnerships to voluntarily combine resources and expertise.

All of the 21 Waterloo schools plus the early childhood programs are benefiting from the 55 business and community agencies involvement.

Some of these are: Hawkeye Tech, University of Northern Iowa, University of Iowa, financial institutions, human service agencies, large and small businesses, Allen and Covenant Medical Centers and the several branches of John Deere.

Mr. President, as you can tell, this is an exciting partnership program based on the investment of human resources.

Individual schools and business are matched according to the needs, expertise, talents, and interests of those involved.

It is a reciprocal relationship that benefits everyone involved—students, teachers, businesses, and the community at large.

I congratulate the Waterloo Partners in Education Program for their success and extend my best wishes to them for a job well done.●

"CHANGING MINDS, FEEDING KIDS"

● Mr. BOSCHWITZ. Mr. President, this spring the League of Women Voters Education Fund published a hunger action guide to help volunteers develop community projects to fight hunger. I was pleased to see that efforts to expand the School Breakfast Program in two Minnesota cities—Minneapolis and Duluth—were described in the guide as model projects.

As the senior Republican on the Nutrition Subcommitte, I have been a strong supporter of the School Breakfast Program. Indeed, we've seen increasing attention focused on the School Breakfast Program over the past few years.

I have led efforts to increase school participation in the School Breakfast Program. For example, a provision I offered to increase reimbursement for school breakfast was included in the Hunger Prevention Act enacted in 1988. The Child Nutrition and WIC Reauthorization Act of 1989, which I coauthored, provided funding for one-time expenses in starting up a School Breakfast Program. These funds will be awarded to States on a competitive basis.

I will continue to lend my support to initiatives that encourage more schools to offer breakfast to their students. The federally funded School Breakfast Program has been an excellent investment in preparing today's children to be tomorrow's strong, healthy, and well-educated leaders.

I ask that the descriptions of the Duluth and Minneapolis projects from "Fighting Hunger in Your Community" be printed in the RECORD.

The articles follow:

CHANGING MINDS, FEEDING KIDS

Members of the LWV of Duluth knew they had their work cut out when they decided to mount a school breakfast campaign in that city. The League wasn't battling the usual bureaucracy; in fact, the school superintendent and school board welcomed the support of the League of Women's Voters. However, the League was up against deeply held beliefs in the community that children ought be fed at home and that a school breakfast program was one program the schools just didn't need. While a few elementary school principals had enthusiastically endorsed the program, other schools—many of them serving the low-income children who could benefit the most from a school breakfast—raised strenuous opposition.

Long before the League developed its campaign, the Duluth Food and Nutrition Council had been trying to get the breakfast program into all of the city's elementary schools. The League worked closely with the council, and the League's credibility and prestige in the community seemed to provide the added leverage necessary to neutralize the opposition.

To implement its project, the League identified target schools, met with principals, staff and PTAs and publicized the new breakfast opportunity in the target schools. The League developed and mailed a brochure to each family in the targeted schools and helped secure school board passage of a morning nutrition policy resolution.

The Duluth School District provided some printing and in-kind clerical time and helped the League produce a video about the breakfast program for use as an educational tool.

To reach the children, the League designed special materials, including breakfast mugs with the inscription, "Be Smart . . . Eat Breakfast." At the same time, the League used its own meetings to educate its members about the school breakfast program and the need to expand it throughout Duluth.

The League's efforts were well worth the time and energy invested. In the fall of 1989, the school breakfast program was instituted in all of the Duluth public elementary schools, way ahead of the timetable first envisioned by the League.

Terese Harwood, the project manager, was delighted with the project's outcome. "It's very difficult for children to participate and concentrate in classroom activities if they're hungry because they haven't had breakfast. It's critical to stress the importance of breakfast, whether the children eat in school or at home. We're removing roadblocks to learning by feeding hungry children."

SERVING UP BREAKFAST

In 1988, just one quarter of the Minneapolis public schools were serving breakfast to their students. This was in sharp contrast to the school lunch program, which was available in all of the city's public schools. Following up on a study conducted by the Minnesota Food Education and Resource Center, a program of the Urban Coalition of Minneapolis, the LWV of Minneapolis began working to expand the school breakfast program throughout the city.

The League recognized that a major publicity campaign was needed both to promote the benefits of a good breakfast for children and to push for expansion of the federally funded school breakfast program. The League began by serving up a breakfast for school principals to promote the breakfast program. The next step was to encourage families to participate once the program got under way.

The League's carefully orchestrated campaign included a colorful brochure for parents and a puppet show for children that was performed and taped by students from the Minneapolis high school for the visual and performing arts. The project's theme was "Break for breakfast to be your best."

Bright posters and stickers for the students were used to draw attention to the League's major publicity event, "School Breakfast Program Week," early in the 1989-90 school year. The posters also were displayed in health clinics throughout the city. The mayor, superintendent of schools, city council members, state elected and agency officials attended a kickoff breakfast with the children at an elementary school.

The League's efforts were supported by the superintendent of schools, the Urban Coalition and one of the city's major corporations—the Pillsbury Company, whose foundation gave the Minneapolis League an additional $5,000 grant to supplement the $3,000 from the LWVEF. The funding allowed the League to hire an advertising consultant who helped design the materials.

One year later, school participation in the breakfast program had jumped to 80 percent, with 100 percent participation anticipated in the fall of 1991. Karlynn Fronek, the project manager, believes that these statistics indicate that the project has been an unqualified success.●

ROY JOHNSON—GIVING BACK TO THE COMMUNITY

● Mr. SHELBY. Mr. President, I rise today to pay tribute to a man who has worked for several years to make a difference in Alabama on many fronts. Roy W. Johnson, a native of Tuscaloosa County, is retiring after 16 years in the Alabama House of Representatives. Through those many years of dedicated service, he has come to be known as a man who can get things done—and as anyone who has worked in the political process knows—that indeed is high praise.

Mr. President, Roy says that the principle that has guided him through his political career and through all facets of his life is his belief that all of us have a responsibility to make our community a better place to live. Simply put, Roy believes we should put back into the community more than we take out and this belief has stayed with him in his work both in the Alabama Legislature and in the

Tuscaloosa County School System, as well as in his service to his country, his State and his community.

A veteran of the Vietnam war, Roy Johnson did not allow his service to his country to end with his military accomplishments. Roy chose instead to serve his State as a member of the Alabama State Legislature. Roy was subsequently selected as the Most Outstanding Member of the house of representatives by his peers in 1984—he was nominated for the same honor in 1982, 1983, 1985, and 1988.

Roy credits a lot of his political success—he served from 1982 to 1986 as the speaker pro tempore of the Alabama House of Representatives—to his education. A graduate of Holt High School who later received a bachelor of science in education and a masters in public school administration from the University of Alabama, Roy's belief in the possibilities of a good education propelled him to also make a career in this field. From 1969 to 1975, Roy worked as a secondary schoolteacher and since 1975 he has served as Hillcrest High School's principal.

The linking of his strong interest in education in Alabama and his service for four terms in the Alabama Legislature has meant one thing for Alabama—things have gotten better. Having had the opportunity to serve with him in the legislature, I have seen first hand Roy's seemingly endless commitment to his district and to our State. From increased funding for Alabama's schools to efforts for statewide health initiatives, Roy Johnson believes that an investment in our young is an investment in our future. Roy led efforts to establish a statewide perinatal health care program that has reduced Alabama's infant mortality rate. Roy also sponsored and passed legislation to establish and fund regional Emergency Medical Training Programs and CPR training of all high school graduates.

Roy was honored in Tuscaloosa recently for all of his efforts on behalf of the county. Roy is repeatedly referred to as a "friend of the county" and appropriately, "Roy Johnson Day" was declared in Tuscaloosa. In addition, the Tuscaloosa County Bar Association awarded Roy their Annual Liberty Bell Award. This honor is the highest award given by local attorneys to a nonlawyer.

Through the years Roy's accomplishments have been recognized by many state organizations and groups. In 1989, the Alabama Journal-Montgomery Advertiser selected Roy as the recipient of their Meritorious Public Service Award. Roy was selected by a secret panel of citizens who were looking for the qualities of integrity, effectiveness, vision, trustworthiness, commitment, and diligence. Roy has also received the John F. Kennedy Profiles in Courage Award which was presented to him this year by the Alabama Democratic Conference. These are just two of the honors bestowed on a man who has worked tirelessly on behalf of others.

To say that Roy will be missed in the legislature is an understatement. But I have a feeling that although Roy's career in politics is ending, he will continue to be a force for progress in Alabama. Mr. President, Roy was an outstanding representative for Alabama House District 63—and as a constituent from this district, I thank him for his dedication, his diligence, and his desire for change. I am proud to serve as one of his Senators in Washington.●

"WHAT BEING AN AMERICAN MEANS TO ME"

● Mr. BOSCHWITZ. Mr. President, recently the Immigration and Naturalization Service [INS] announced the results of its national citizenship poster contest on "What Being An American Means To Me."

I am proud to report to my Senate colleagues that the first place national winner, Peter Cornforth, hails from Evansville, MN. Peter was recently in Washington to receive his award. Following the award ceremony, Peter, along with his parents and principal, stopped by my office to show it to me.

INS sponsored this contest as part of its ongoing campaign to educate the public about the benefits of U.S. citizenship and to encourage those eligible to apply for naturalization.

Hundreds of students from throughout the Nation entered this national contest. The children each drew a poster and wrote a short essay about "What Being An American Means To Me." Peter's message was moving. He wrote, "America is a country made up of people from all different countries. My great grandparents came from places like the hot deserts of Syria to the green forests of Germany. They came to America because here it is OK to be different. People are free to follow their dreams. You may be black, you may be disabled, but we're all the same inside. We have the freedom of doing or being anything we want. Most people come here to have a whole new life. Freedom is for each individual person and that makes me proud to be American."

Reading Peter's essay makes me proud to be an American. I came to this country as a refugee fleeing Nazi Germany. As the only refugee serving in the Senate, I have a deep concern for the plight of refugees and immigrants. During my time in the Senate, I have worked hard to give others the same chance I had—to find refuge and opportunity within the United States.

Our country's heritage has been enriched by the flow of refugees and immigrants into our Nation. If there is one thing that distinguishes us from other countries, it is that virtually all of us are refugees and immigrants—refugees and immigrants who energize the United States culturally and intellectually and who help fuel the economy.

I again congratulate Peter Cornforth for his fine work.●

NUCLEAR ENERGY—ONE KEY TO A CLEAN FUTURE

● Mr. WALLOP. Mr. President, the House of Representatives has finished its version of the Clean Air Act, and we now begin the interesting task of reconciling the two versions in a conference committee. One of the ultimate objectives of this reauthorization is to limit pollution from electric powerplants. Pollution, some argue, contributes to acid rain and to the global climate change popularly known as the greenhouse effect.

Other legislation is also beginning to move through the legislative process as a response to various air pollution and climate change issues. Last week, the Senate Energy and Natural Resources Committee reported S. 324, the National Energy Policy Act of 1990. This legislation mandates a number of studies on carbon dioxide and its relation to global climate change.

With all this concern over air pollution and carbon dioxide, it is time for us to give more attention to a source of electricity which does not produce any air toxins, does not release any sulfur dioxide, nitrogen oxides, or carbon dioxide. No greenhouse effect or ozone pollution results from this power source. That source of electricity is nuclear energy.

I recently received two articles that dramatically demonstrate the importance of nuclear energy as part of an environmentally sensitive energy policy.

The first is an analysis by Science Concepts, an economic consulting firm, that calculates the pollution avoided by America's 112 nuclear energy plants. Let me give you just a few highlights:

U.S. nuclear plants reduce emissions of sulfur oxides by 5 million tons a year.

U.S. nuclear plants reduce emissions of nitrogen oxides by 2 million tons a year.

Without our nuclear plants, carbon dioxide emissions by U.S. utilities would be 20 percent higher.

The second item is an article by Power Engineering magazine, which shows the tremendous success enjoyed by the French in cutting air polution. How did they do it? Again, nuclear energy.

In the mid-1970's, nuclear energy represented only about 10 percent of

France's electricity production; fossil fuels accounted for more than 50 percent. Today, nuclear energy produces more than 70 percent of France's electricity; coal accounts for about 10 percent, and oil has been eliminated completely. The result? Drastic reductions in the amount of pollution.

Sulfur dioxide emissions have dropped from 978,000 tons in 1979 to 83,000 tons in 1987.

Nitrogen oxide emissions dropped from 208,000 tons to 34,000 tons in the same period.

Carbon dioxide emissions dropped from 82 million tons in 1979 to 13 million tons in 1987.

The lesson is clear: Reliance on nuclear energy allowed the French to cut their dependence on imported oil and clean up their environment at the same time. Thanks to nuclear energy, pollution from French powerplants is one-sixth to one-tenth what it was in 1980.

I will ask that the analysis by Science Concepts, "Reducing Airborne Emissions with Nuclear Energy," and the reprint from Power Engineering be included in the RECORD at the conclusion of my remarks.

I urge my colleagues, as we consider the clean air reauthorization and the global climate change bill, to remember that nuclear energy plays a vital role in preserving the quality of our air and maintaining our energy independence.

The United States must realize that we cannot solve world air pollution problems by ourselves. We have to push forward with advanced nuclear reactor designs, because America will have to adopt such technology in the next two decades to meet our energy needs without contributing to world pollution problems.

As a nation, we must provide environmental space to lesser developed countries who will have to rely on fossil fuels for electric generation. Nuclear energy will allow the hopes and dreams of the Third World to come to pass without damaging the world ecology. Furthermore, nuclear energy is the only readily available technology to deal with global climate change in a significant way.

We must help provide the stable regulatory regime that is needed before electric utilities can build new nuclear powerplants. We must continue to provide Federal funding, in partnership with industry, for the development of advanced reactors. And we must make certain the Department of Energy discharges its responsibility under the Nuclear Waste Policy Act to develop a safe solution to the disposal of spent nuclear fuel.

Mr. President, if we fail to take these steps, we are depriving the American people of an energy source that can, in a single stroke, reduce our dangerous dependence on foreign oil while preserving our air and natural resources.

The material follows:

REDUCING AIRBORNE EMISSIONS WITH NUCLEAR ELECTRICITY

SUMMARY

Nuclear electricity is the nation's largest, proven source of energy that has virtually no impact on the atmosphere. Evaluation of the historic and potential role for nuclear electricity to reduce atmospheric emissions while supplying the rising demand for electricity created by economic growth should indicate the urgency of increasing reliance on nuclear energy.

This paper presents the results of a detailed regional analysis of the actual reductions of sulfur and nitrogen oxide emissions arising from the use of nuclear energy today. The report also compares the emissions of sulfur and nitrogen oxides, carbon dioxide, methane, particulates, carbon monoxide and volatile organic compounds for five principal energy sources in terms of emissions per 1,000 MWe power plant per year.

A model of the U.S. electric system is used to determine the actual regional displacement of various fuels and emissions by nuclear energy. The analysis finds that U.S. nuclear energy plants currently reduce national emissions of sulfur oxides by 5 million tons a year. This reduction can be compared to the proposed goal of the amendments to the Clear Air Act which call for reducing total annual sulfur oxide emissions by 10 million tons by the 2000.

One interesting proposal associated with the Clean Air Act is to allow the sale of "emissions credits" for reducing sulfur emissions below specified targets. The nuclear industry's current sulfur emissions reductions would have an estimated $5-7 billion value under such a scheme.

The Administration also proposes that the Clean Air Act mandate a 2 million ton per year reduction in nitrogen oxide emissions by 2000. This analysis finds that nuclear electricity already reduces national emissions of nitrogen oxides by 2 million tons a year.

Nuclear electricity also currently reduces by 20 percent emissions of carbon dioxide from electricity generation, and by millions of tons per year four other categories of emissions identified by the Environmental Protection agency: particulates, carbon monoxide, volatile organic compounds (nonmethane) and methane.

Nuclear electricity significantly reduces the amount of airborne emissions associated with the generation of electricity. This analysis highlights nuclear electricity's role in the reduction of those emissions which are the primary target of the 1989 proposed amendments to the Clean Air Act. We also explore the reduction of carbon dioxide emissions, as well as the reduction of four other pollutants identified by the Environmental Protection Agency: Particulates, carbon monoxide, volatile organic compounds (non-methane), and Methane.

Part I: Nuclear reduction of pollutants identified in the proposed amendments to the Clean Air Act

A. Sulfur Dioxide [1]

A primary objective of the proposed amendments to the Clean Air Act is to reduce the amount of sulfur dioxide emitted into the atmosphere. The currently proposed objective of the act is to reduce annual sulfur dioxide emissions by 10 million tons by the year 2000, cutting annual emissions in half.

Nuclear electricity has already caused a substantial reduction in sulfur dioxide emissions in the electric sector. Our analysis finds that nuclear electricity currently reduces electric sector sulfur dioxide emissions by 5 million tons annually. This emissions reduction can be compared to the year 2000 goal of the 1989 Clean Air Act amendments which propose reducing annual sulfur oxide emissions by 10 million tons. Figure 1 shows, by region, the total reduction of sulfur dioxide emissions attributable to nuclear electricity.

(Figures referred to in article are not reproducible in the Record.)

The amount of sulfur dioxide displaced by nuclear electricity in the various regions is a function of three key factors:

The amount of nuclear electricity generated in the region.

The amount of fuel—coal, oil, or natural gas—displaced by the nuclear electricity (determined by a detailed regional model of the electric grid).[2]

The average content of sulfur in the coal and oil used in each region.

Figure 2 shows the reduction in sulfur dioxide emission from a single nuclear generating unit in each of the regions. The results reflect the regional fuel mix and the average percentage sulfur for the fuels actually displaced by a nuclear plant in that region.

Clearly, those areas most dependent on coal for the electricity supply gain the most in terms of sulfur reduction by nuclear electricity.

The proposed Clean Air Act amendments would allow individual utilities to accumulate emission "credits" or "offsets" for emission reductions below a specified threshold. The threshold for the year 2000 is 1.2 pounds of sulfur dioxide emitted per one million btu. For a generating station the size of a typical nuclear station the threshold would be 34,000 tons of sulfur dioxide per year.[3] No market yet exists for the sale of emission credits, but a calculation of the cost of achieving those emissions reductions by other means gives a cost estimate per ton of sulfur reduced of $1,500 to $2,000. Thus in terms of the value implied by the prospective rules of the Clean Air Act amendments, a nuclear plant owner could sell the sulfur emission credits of the plant for a full value of the 34,000 tons, or for $51 to $68 million.

It is interesting to note that were credits for nuclear's sulfur dioxide reductions marketable, just as it is intended that other reductions credits could be sold, then nuclear plant operators would have a substantial asset in sulfur dioxide credits. Preliminary estimates of the value of the sulfur dioxide reductions brought about by nuclear electricity range from $5 to $7 billion. That amount is based on the costs of achieving the same sulfur reductions at coal and oil-fired plants. The value could prove to be much higher since nuclear electricity reduces all the sulfur dioxide emissions from a plant, a goal which would be very expensive at a coal- or oil-fired plant.

Studies have put the total cost of meeting the Clean Air Act amendments Phase II (Year 2000) targets at $5-7 billion levelized over 20 years. Other estimates maintain that the costs of complying with the Clean

Footnotes at end of article.

Air Act amendments would mean electric rate increases of between 7 and 20 percent.[4]

As a final indicator of the role of nuclear electricity in reducing the emission of sulfur dioxide, Figure 3 compares five sources of fuel for electricity generation and typical sulfur dioxide emissions. Not that the amount of sulfur dioxide emitted by coal and oil depends on the amount of sulfur in the fuel. This chart uses the national (weighted average of sulfur content of fuels used in the regions where nuclear generating stations are located. [5]

Note also that the chart shows some emissions effect for nuclear-generated electricity. While nuclear electricity emits no airborne pollutants at the point of generation, significant amounts of electricity are required to produce the nuclear fuel. This electricity is largely generated by coal. Thus the emissions associated with the production of the nuclear fuel are included here.[6]

B. Nitrogen Oxides [7]

The reduction of nitrogen oxide emissions is a second goal of the Clean Air Act amendments. Nitrogen oxides are an important contributor to the formation of ozone, a significant health hazard in urban areas. The administration's proposal calls for NO_x to be reduced by 2 million tons per year by the year 2000.

Nuclear electricity already makes a significant contribution to NO_x reductions. Each year existing nuclear electricity plants reduce NO_x emissions by 2 million tons, the full amount of the reductions called for in the administration's plan. Figure 4 below shows the reduction by regions.

Figure 5 shows the reductions for a typical nuclear plan in each region.

Figure 6 shows the amount of nitrogen oxides emitted by various fuel sources.

Part II: Other airborne emissions

A. Carbon Dioxide

Electric generating plants produce other emissions in addition to those identified in recent legislation. The most important of those may be carbon dioxide. Carbon dioxide has been identified as potentially responsible for approximately one half of the potential "Greenhouse Effect," the hypothesis of the gradual warming of the Earth caused by increased emissions of certain gases into the atmosphere. Carbon dioxide is estimated to be responsible for about one half of the Greenhouse Effect.

Nuclear electricity makes a substantial contribution to the reduction of the carbon dioxide emissions. In 1988 the 527 billion kilowatt hours of nuclear electricity reduced the amount of carbon dioxide emitted by 128 million short tons (measured by the weight of the carbon).[8] This reduced 1988 utility emissions of carbon dioxide by 20 percent. (It is useful to note, in a broader context, that U.S. utilities account for only 7.5 percent of global carbon dioxide emissions.) [9]

Figure 7 shows the annual amount of carbon dioxide emitted by a typical 1,000 MW generating station.[10]

A small amount of carbon dioxide is shown to arise from nuclear electricity because of the coal-fired electricity consumed to make nuclear fuel.

B. Other emissions

The Environmental Protection Agency identifies four other emissions from electric generating stations. In figure 8 we show the comparative emissions by fuels for a 1,000 MW plant.

AIRBORNE EMISSIONS PER 1,000 MW GENERATING CAPACITY

[Tons per year]

	SO_x	NO_x	Particulates	CO	VOC	Methane
Coal	69,000	25,000	120,000	700	80	30
Natural gas	17	15,000	83	1,100	40	8
Residual oil	31,000	13,000	600	1,000	150	55
Wood	250	6,500	31,000	60,000	3,300	700
Nuclear	2,500	1,000	4,000	30	3	1

[Thousand tons per years: measured by the weight of the carbon]

	CO_2
Coal	1,600
Natural gas	900
Residual oil	1,300
Wood	1,300
Nuclear	60

FOOTNOTES

[1] Includes SO_2, SO_3, and gaseous sulfates. On average for bituminous coal, 97% of fuel sulfur is emitted as SO_2.

[2] See: Science Concepts, Inc., "An Analysis of the Role of Nuclear Power in Reducing U.S. Oil Imports," June 1989, for methodology and detailed fuel displacement by region.

[3] Assuming the plant produces 5.5 billion kwh per year (5.5 billion kwh represents a capacity factor of 62.8%). A coal plant with an average heat rate of 10,300 btu per kwh would require 5.665×10^{13} btu, at 1.2 pounds per million btu. 34,000 tons sulfur dioxide.

[4] Estimates of the cost of compliance with the amendments to the Clean Air Act vary widely. The senior energy policy advisor of the state of Ohio argues that rates in that state would increase 7.7 to 12.7 percent. Mr. William G. Rosenburg of the Environmental Protection Agency argued that the cost per ton of sulfur reduction would be some $1,500 per ton. See the hearings of the Energy and Power Sub-Committee of the House Energy and Commerce Committee, October 18, 1989. A study commissioned by the EEI finds that the cost would be $5.5 billion per year to the year 2000. "Public Utilities Fortnightly," September 28, 1989.

[5] Average sulfur content for coal is 1.5%, for oil 1%. Actual national averages for coal for electric generation is 1.32%, for oil 0.91%.

[6] Each 1,000 MW of nuclear capacity requires approximately 120,000 SWU per year. Each SWU requires 2,500 kilowatt hours of electricity. Thus the electricity required annually for the fuel for the country's approximately 100,000 megawatts of nuclear capacity is some 30 billion kilowatt hours. In the SERC region where uranium is enriched, 65% of the electricity is generated by coal, 6% by gas, the rest is non-combustion nuclear and hydro. Thus nuclear generation produces emissions at the rate of about 4% that of coal combustion.

A complete fuel-cycle calculation would include all the emissions from the construction of the plant and component parts. We have not undertaken this compilation, which would increase the emissions cost of nuclear since construction equipment driven by fossil combustion is used to build a nuclear electricity plant. The total effect would be small because the construction emissions would be "amortized" over 30-50 years of electricity production, and would represent little penalty relative to similar construction emissions for coal or hydro-electric plants.

[7] Generally 95-99% of the volume in combustion exhaust is in the form of NO, the rest is NO_2.

[8] The conventional measure of carbon dioxide emissions is the mass of the carbon released via the combustion process into the atmosphere. Thus for a typical coal plant which burns some 2 and ½ million tons of coal per year, somewhat more than 1 and ½ million tons of carbon are released into the atmosphere in the form of carbon dioxide. In total the weight of the carbon in the carbon dioxide emissions worldwide from man-made emissions each year exceeds 5 billion tons.

One can also measure the full weight of the carbon dioxide. Since carbon dioxide contains 2 oxygen atoms for each carbon atom, the total mass of carbon dioxide is 44/12 or 3.67 times that of carbon (12 + 2X16 = 44). Thus the typical coal plant releases some 5.8 million tons of carbon dioxide, measured by the weight of the carbon dioxide.

[9] Primary fuel used for U.S. electricity generation, 1988:

		CO_2 emitted
Coal	[1] 15.8	[2] 397
Natural gas	[1] 2.7	[2] 39
Oil	[1] 1.6	[2] 32
Total	[1] 20.1	[2] 468

[1] Q Btu.
[2] Million metric tons.

[10] Operating at 62.8 percent capacity factor, producing 5.5 billion kwh per year.●

[From Power Engineering, June 1989]

FRENCH CO_2 EMISSIONS FALL AS NUCLEAR OUTPUT RISES

Conversion of electricity production in France from fossil fuels to nuclear power in the 1980s is associated with a near elimination of carbon dioxide, sulfur dioxide, and nitrogen oxide emissions from power plants, according to a paper presented at the recent American Power Conference by Electricité de France, the French national electric utility ("Nuclear power stations and air quality improvement, EDF experience" by E. Bauer and J. Fabre, Electricité de France, 1989).

The series of tables from the paper reproduced here graphically demonstrates the air quality effect of France's commitment to nuclear power. The conversion to nuclear is shown in Figure 1. In the early and middle '70s nuclear power accounted for only 10% of France's electricity production and fossil fuels accounted for more than 50%, with hydro accounting for the balance.

COMMITMENT TO NUCLEAR POWER

After the oil embargo of 1973 France started its large-scale nuclear program. It built a series of standardized pressurized water reactors based on the Westinghouse design which were supplied by the French firm Framatome. Average construction time was less than six years and new nuclear units started going on line in large numbers in the late 1970s.

By 1988 France had a total of 54 nuclear power stations with a capacity of 50 GW. They include 47 PWRs, four gas-cooled graphite-moderated reactors, and two liquid-metal-cooled fast breeder reactors.

As shown in Figure 1 these nuclear plants produced more than 70% of France's electricity by 1988. Oil was completely eliminated as a power plant fuel and coal accounted for only 10%, with hydro providing the balance. Electricity consumption in France grew by about 50% between 1980 and 1988.

EMISSIONS DECLINE

The accompanying trend in power plant emissions of sulfur dioxide and nitrogen oxides in the 1970s and 1980s is shown in Figure 2. Emissions of CO_2 and particulates are shown in Figure 3.

Sulfur dioxide declined from 978,000 tons in 1979 to 83,000 tons in 1987.

Nitrogen oxides declined from 208,000 tons in 1979 to 34,000 tons in 1987.

Carbon dioxide emissions declined from 82 million tons in 1980 to 13 million tons in 1987.

Particulate emissions declined from 77,000 tons in 1980 to 1,900 tons in 1987.

Overall, emissions of air pollutants from EDF power plants range from one-sixth to one-tenth of what they were in 1980.

France remains committed to nuclear power, but the pace of its construction pro-

gram has slowed. As happened earlier in the U.S., growth in electricity production capacity in France outstripped demand and capacity margins climbed. France has increased electricity exports to its neighbors in recent years, but the French government has slowed plans for new nuclear plants.

The plan had been to order one new nuclear plant annually, but that has slowed to a new commitment every 18 months.

Four new nuclear units were added to the French grid in 1987: the 1265-MW Cattenom Unit 2, the 870-MW Chinon Unit B4, the 1275-MW Nogent sur Seine, and the 1275-MW Belleville Unit 1, all PWRs.

Even with the slowdown, nuclear capacity in France is expected to grow from 50 GW to 67.7 GW in 2000 and 76.8 GW in 2010, according to a projection by the U.S. Department of Energy. Nuclear's share of electricity output is expected to climb from 70% now to 77% in 2010 while electricity generation is expected to grow at a rate of 2.5% per year.

Says the U.S. DOE, "At a time when many European countries are questioning their commitment to nuclear power, France has remained firmly committed to its use. Both the French government and citizens believe in the economy of an aggressive nuclear program. The accident at Chernobyl resulted in no pause in the construction schedules of French plants either planned or in the construction pipeline."

THE ROUGE RIVER CLEAN UP

● Mr. RIEGLE. Mr. President, I rise today to commend the many volunteers in the Detroit area who will participate in the annual Rouge River cleanup effort. On June 2, 1990, people living near the Rouge will once again take 1 day to remove refuse that has accumulated in the river. Every year, thousands of people work on this grassroots effort to improve a waterway that travels through one of the most highly industrialized areas of the world. As recently as 20 years ago, the Rouge was considered an example of the devastation of industrial pollution. Lake Erie, the final destination of the Rouge's waters, was considered a "dead" lake. The river was seen by many as an open sewer and a threat to public health.

But the Rouge River is coming back. While Federal and State efforts to clean up the river have improved water quality, the thousands of volunteers who have worked to remove tires, trash, and other debris have played an important role in the comeback. By working together, people from throughout the Detroit area have helped restore this valuable natural resource in their own community.

The people who care about the Rouge and work to clean it up know that they can have an impact in their own neighborhood. Their commitment demonstrates that individuals can make a difference in improving our environment. Government action alone cannot solve all the environmental challenges we face. But we can all do something. Cleaning up a polluted river is not the only way to improve our communities. Recycling efforts need local support; composting of organic waste can be successful if local residents participate and parks can be beautiful and litter-free if we all do our part to protect and preserve them.

Once again, I want to praise the volunteers who will work in the cleanup on June 2. They are an example of the kind of effort we need to make a difference in our environment.●

VLADIMIR AND LIA MILMAN

● Mr. MACK. Mr. President, as a participant in the Congressional Call to Conscience Vigil, I would like to present the case of Mr. and Mrs. Lev Milman who are Soviet Jewish refuseniks living in Moscow.

Vladimir and Lia, 77 and 68 years old, respectively, are both seriously ill and in need of medical attention and the constant care only family can provide. Vladimir is almost blind due to glaucoma. He also suffered a massive heart attack and has auricular fibrillation and high blood pressure.

Although Vladimir retired from his work at the Research Institute of the Ministry of Shipbuilding 15 years ago, he continues to be refused permission to emigrate on grounds of "secrecy". In February, 1990, Lev was told that he cannot get permission until 1995. His daughter, Maria, believes "he is being made an example by the Shipbuilding Ministry, which ascribes to Lev a classified position and classified work which are completely false."

This refusal violates the Helsinki Review of January 1989 in which the Soviets are signatories of, as well, acts such as these illustrates just how far the Soviet Union must go before it can join the ranks of democratic governments.

The real risk is that the Milmans will not live to see 1995 is too great to deny them the opportunity to be cared for by their family during their declining years. Allowing the Milman's to emigrate is neither a political or a security issue; it is a matter of human rights and family reunification.

Mr. President, I urge President Bush to present this case to President Gorbachev on next weeks summit on the basis of the humanitarian action which this situation calls for, by allowing the Milmans to live out their lives under the loving care of their family.●

MEMORIAL DAY

● Mr. RIEGLE. Mr. President, on Memorial Day, this Nation unites to honor those who have given their lives in defense of the ideals and principles of our country. They made the ultimate sacrifice so that we may live in a land free from oppression. In keeping with our dedication to democracy, America has come to the defense of peoples of other nations so that they, too, may live in a free land. It is the men and women who have died in defense of democracy at home and abroad to whom we pay tribute on Memorial Day.

Memorial Day, in its original conception, was created "for the purpose of strewing with flowers or otherwise decorating the graves of those who have died in defense of their country." Beginning in the American South, citizens of individual towns gathered to honor their friends and relatives who died fighting the Civil War.

From its origins as a local celebration, Memorial Day evolved into a holiday commemorated in towns and cities across the country. On May 30, 1868, the first national Memorial Day, Americans celebrated at over 100 events throughout the reunited Nation. Over the last century, Memorial Day has evolved into a day during which we recall the nearly half-million service people who died in the line of duty in World War I, World War II, the Korean war, Vietnam, and several other conflicts.

On that first Memorial Day in 1868, the largest ceremony was held at Arlington National Cemetery. The keynote speaker and future President, General James A. Garfield, expressed the attitude of the Nation, stating, "[the fallen] summed up and perfected, by one supreme act, the highest virtues of men and citizens. For love of country, they accepted death, and thus resolved all doubts, and made immortal their patriotism and virtue."

While on Memorial Day, we commemorate the patriotism of the men and women who have selflessly made the highest sacrifice so that we may remain free, their deaths also remind us that war is by definition a horrible event, causing pain, suffering, and loss of life to military personnel and civilians alike.

It is this thought that should also be engrained on the national consciousness each Memorial Day. Let us honor those who fought and died in the past by doing our utmost to prevent the horrors of war from ever befalling our Nation again. We must work to resolve conflicts through negotiations and to encourage international cooperation and diplomacy instead of armed military confrontation.

On Memorial Day, America joins with the families of the men and women who have died in the service of our country for a time of remembrance and consolation. Today, my thoughts and sympathies are with the relatives and friends of our country's fallen. So that their memories shall not be in vain, let us all work together to prevent war from stealing America's youth. Only in that way will we do justice to their sacrifice.●

FORMER MEMBER OF CONGRESS BYRON L. JOHNSON ENDORSES CONGRESSIONAL TERM LIMITATION

● Mr. HUMPHREY. Mr. President, I would like to share another letter I have recently received from a former Member of Congress, endorsing term limitation. I urge all Senators to take note, and sign on to Senate Joint Resolution 235, a proposed constitutional amendment to limit congressional terms.

I ask that a letter from former Member Byron L. Johnson, appear in the RECORD immediately following my remarks. Mr. Johnson represented the Second District of Colorado in the 86th Congress.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 27, 1990.

Hon. GORDON J. HUMPHREY,
U.S. Senate,
Washington, DC.

MY DEAR SENATOR: I welcome your introduction of S.J. Res. 235. The Nation has been well served by amateurs. We do not run risks by requiring some further turnover in office. By the time I had served two six-year terms on the University of Colorado Board of Regents (an elective office), I felt it was time to move on. We have all seen many members of the House and Senate who have shifted to other forms of public service, to good advantage. I served under Edwin C. Johnson after he left the Senate, and became Governor of Colorado.

Best wishes,

BYRON L. JOHNSON.●

CENTENARY OF THE FIRST PORTUGUESE IN HAWAII

● Mr. INOUYE. Mr. President, this year marks the 200th anniversary of the arrival of the first Portuguese in Hawaii.

The Portuguese brought to the islands their way of life, a cultural gift which contributed greatly to the unique lifestyle the people of Hawaii are known for today. The Portuguese were industrious, thrifty, and deeply religious. They were open to the cultures of their new neighbors, joining the families of the Hawaiian people, so that today many of the people of Hawaii can trace their ethnic heritage back to a long-ago marriage between a native Hawaiian and a Portuguese immigrant.

The first Portuguese came to Hawaii late in the 18th century. These men were sailors who, intead of returning to Europe after a brief furlough in Hawaii, stayed in the islands and made it their home. It is these sailors who are being recognized this year.

Concurrently, the Portuguese of Hawaii are joining Portuguese around the world in a 12-year celebration commemorating the 500th anniversary of the discoveries of great Portuguese navigators; navigators such as Bartolomeu Dias, the first explorer to round the Cape of Good Hope, Prince Henry the navigator, who created in Lisbon the most advanced academy of navigation of the time, and Christopher Columbus, who studied at the prince's academy before embarking on his voyage to the New World.

The Portuguese sailors who came to Hawaii married Hawaiian women and after several generations, it was difficult to find any trace of these first Portuguese except in the surnames of their descendants, and occasionally a child with fair skin or light hair.

The second chapter in the history of the Portuguese in Hawaii occurred in 1878 and 1887, when 17 ships sailed from the Islands of Madeira and the Azores, through the Straits of Magellan at the southern extreme of South America, and across the Pacific to the islands of Hawaii. Unlike the sailor-settlers, this second wave of Portuguese people purposely left Europe, which was wracked with blight-driven hunger, to look for a better life on the sugar plantations of Hawaii.

Nonetheless, the decision to leave must have been difficult. Many were young married couples and their children. Given the far distance, the decision to look for a better life, on a shore they know little about, was irreversible.

However, the Portuguese were promised opportunity and opportunity they found and wrote of in letters home. So favorable were the reports that by 1913, 13,000 Portuguese men, women, and children made the trip and settled in the Hawaiian Islands.

In Hawaii, they worked on the sugar plantations. Like other immigrants already there and yet to come, the Portuguese were indentured servants bound to spend their first years in the red soil of the sugarcane fields. Although they could have spent their entire lives working in the fields, a large number of the Portuguese worked off their debt and then looked outside of the plantation.

They sought their own land and their old way of life—ranching. Many of the Portuguese became ranchers and dairy farmers, supplying meat and milk to Hawaii's markets and homes.

Although the Portuguese work ethic was important to the islands, their endeavors outside of the workplace hold their most enduring contributions. The Portuguese were committed to their community. Not only did they want a better way of life for themselves, but their aspirations extended beyond their families to the people with whom they lived and worked. To help other Portuguese, they joined in Old World fraternal service organizations known as Holy Ghost societies. The societies came to the aid of widows, orphans, and families in need.

The Portuguese also took on political offices. Secretary and advisor to the first ruler to unify the Hawaiian Islands, King Kamehameha I, was a Portuguese immigrant, Dr. Joao, d'Castro. Much later when Hawaii passed from the Kamehameha monarchy to the United States, men from the Portuguese community filled the seats of the legislature as well as other offices in the territorial government, including that of the Chief Justice of the Supreme Court, which was held by Antonio J. Bishop.

Today, men and women of Portuguese descent have stepped forward. Maui County Mayor Hannibal Tavares, State Representative Whitney Anderson and former Maui Mayor Elmer Carvalho are of Portuguese heritage.

The way the Portuguese approached work and community may have been rooted in their religion—Catholicism. Many of the Portuguese who came to Hawaii were devout Catholics and their churches were central features in their lives. Accordingly, the arrival of the Portuguese in Hawaii led to the tremendous growth in the Catholic Church.

But the Portuguese certainly were not all work and no play. In the islands they were, and still are, well known for their humor and good times.

The Portuguese loved music and perhaps their best-known contribution to Hawaii was an instrument they brought with them—the string cavaquina. It became known in the islands as the ukulele, an isntrument that has come to symbolize Hawaii in the minds of people around the world. The ukulele became a central feature of Hawaiian music and remains so today. Almost every daughter of a local family has taken hula lessons at one time or another, and it is likely that their most vivid memory of those lessons is their hula teacher, playing the ukulele, singing and instructing at the same time.

And then there is the Portuguese cuisine. The Portuguese people introduced to Hawaii a number of recipes that have become Island favorites enjoyed by all ethnic races. Malasadas, sugar-covered doughnuts eaten hot out of the deep fryer, get longer lines at carnivals than hot dogs and cotton candy. Portuguese sweet bread has grown into more than a local favorite. Known as Hawaiian bread, it is now marketed and enjoyed on breakfast tables across this Nation.

For all that has remained of the Portuguese, such has been lost as they readily assimilated with people of other ethnic backgrounds in the islands. However, at the centennial celebration of the arrival of the first Portuguese in Hawaii, people of Portuguese heritage came together to and revive their culture so that today, the Portuguese are again active as a group, with their festivities, their church, their work, and their commu-

nity service. Their culture has enriched the lives of all Hawaii residents.

Mr. President, I am proud to join in commemorating the 200th anniversary of the arrival of the first Portuguese in Hawaii.●

COMPOSER LIBBY LARSEN'S "FRANKENSTEIN"

● Mr. DURENBERGER. Mr. President, tomorrow night marks the world premiere of "Frankenstein, the Modern Prometheus," put on by the Minnesota Opera at the World Theater in St. Paul.

The Frankenstein production, composed by Minnesotan Libby Larsen, is designed to bring new light to a familier story. Larsen's production of Frankenstein brings today's cinematic techniques to the opera. It is this innovative and creative spirit in her work that made her the recipient of a $65,000 New American Works grant from the National Endowment for the Arts.

As we prepare for the opening of this new opera and as we prepare for reauthorization of the National Endowment for the Arts here in Congress, I think it is time to reflect on the national purpose for Federal funding of the arts. The NEA is more than simple Federal funding for the arts. It raises awareness and reflects a sense of national recognition for the arts. With all the negative publicity recently on the NEA, I think it is important for my colleagues and for all Americans to take note of all the positive work like the Frankenstein production that comes out of NEA funding.

I have known Libby Larsen since she lived half a block away from me in Minneapolis. She has always had the ambition and the talent to become a composer and executive director of her own music. For her the challenge was being a women in a male dominated profession. It is here that the NEA has played such a vital role and where the national purpose for the NEA comes to light. The NEA fosters young artist and artists who may otherwise not receive funds through individual contributions. In other words, artists like Libby Larsen.

The recognition brought on by the NEA is also reflected in the fact that the World Theater who is putting on the Frankenstein production received its first NEA grant this year, and the fact that the Minnesota Opera will receive $220,000 in NEA funding this year. The support and national recognition they receive from the NEA also helps foster local and community support. For every dollar spent through the NEA an estimate of $3.50 are raised at the State and local level.

It is helpful for me, Mr. President, to take notice of the thousands of performances and works of art that result from NEA funding, and so I am proud to share with you and my fellow colleagues here in the Senate a new and exciting opera that is truly an example of what can be accomplished through Federal funding of the arts. Mr. President, I ask to submit an article from today's Washington Post describing Libby Larsen's production of Frankenstein, the Modern Prometheus.

The article follows:

[From the Washington Post, May 24, 1990]

CREATING "FRANKENSTEIN"—MINNESOTA COMPOSER LIBBY LARSEN AND HER MONSTER MUSIC

(By Joseph McLellan)

Who says there is nothing new in classical music? Friday night, in the World Theater in St. Paul, Minn., one of the world's most familiar stories will have its world premiere as an opera: "Frankenstein, the Modern Prometheus," with music by Minnesota composer Libby Larsen.

The premiere will be given by the Minnesota Opera—the 36th world premiere in this imaginative, energetic company's 27-year history—with a cast whose previous credits range from "The Best Little Whorehouse in Texas" to "Don Giovanni" and "Nixon in China." There will also be video screens, and the composer-librettist hopes that in some ways her opera will be experienced like a movie. She studied film writing to prepare for this assignment, because she thinks opera today needs to include cinematic techniques. "Frankenstein" is her ninth opera but, she says, "only the fourth I am now willing to claim."

Like nearly everyone in her generation (she will be 40 next Christmas Eve), Libby Larsen first met Victor Frankenstein, his bride, Elizabeth, and his monster "when I was a young kid, watching television, seeing the Boris Karloff movie," she says. "At that time, I felt horror; I was really scared—not of the monster, actually but of the whole situation.

Another, even more decisive encounter came in the late 1970s when she "ran into the book"—Mary Wollstonecraft Shelley's novel in the definitive edition with commentary by Leonard Woolf published by Clarkson N. Potter as "The Annotated Frankenstein." I picked it up and was intrigued immediately," she says. "I am surprised that so many people have not read the book. . . . Everyone knows the name, and it's amazing to me that it's not on the required school reading lists, right next to 'Ivanhoe,' "

The final step came in 1985, after her last opera, "Clair de Lune," had its premiere. She discussed various possibilities (including "The Bridge of San Luis Rey") with David Gockley of the Houston Grand Opera. Afterward, taking a walk alone to sort out her thoughts, she says, "It hit me that 'Frankenstein' was the opera that I wanted to do next, even if it took me 20 years. I had been interested in the book, but I didn't think of it as an opera. Then I really became passionate about it and I still am."

Larsen's treatment will be quite different in some ways both from the movie and the book. Unlike in the movie, the monster will have dialogue; but except for one spoken sentence it will be sung by an offstage chorus with its sound electronically altered. In Shelley's "Frankenstein," the monster talks your ear off. His autobiography, given in quite ummonstrous cadences and syntax ("It is with considerable difficulty that I remember . . .") and ending with his plea for the creation of a mate "as deformed and horrible as myself," fills nearly 70 pages. He also has other passages of thunderous rhetoric: "I may die' but first you, my tyrant and tormentor, shall curse the sun that gazes on your misery. Beware; for I am fearless and therefore powerful," Surely the stuff of opera, but not of 20th-century opera. In Larsen's opera, nobody will have lines like that and words will generally be kept to a minimum.

While she was working on "Clair de Lune," Larsen began to consider the possibility that "people who had grown up with television and movies as our major source of dramatic entertainment" had evolved new ways of taking emotional content—ways influenced by visual media "more than we in the opera and symphony business care to think about."

"The dramatic moments are the unsung moments; one problem in too many contemporary libretti is that there are too many words; they are really plays set to music. . . . So I decided to study screenwriting and create an opera that would be . . . perceived on one level as a cinematic experience. I mean in the timing of the scenes, the timing of the transitions between scenes, the way the characters enter and leave; they don't come and go through doors. There are none of the conventional entrances and exits; it's all done with lighting."

The most radical innovation will be the presentation of the monster. He will be portrayed by a mime and the video screens will show a running soundless collage representing what he sees, thinks he feels. The monster's life is presented as "a plea for wholeness," a theme close to the heart of Shelly's book, Larsen says, and she and her colleagues have made "some arbitrary decisions" about how the monster was put together that influence the pictures on the screens. "It has someone's brain, and presumably that brain has a memory even though the memory may not be hooked up quite correctly or may not be quite in gear yet. Every now and then you see a little tiny flash of something on the video—you don't know what it is, but something that was part of this brain's memory. We made the arbitrary decision that the monster has eyes from two different people, so he sees things two different ways, and possibly Dr. Frankenstein has not attached them quite correctly, and they are connected to a third party's brain and all three of those parts have past histories and patterns of their own. And yet they're coming together as a newborn."

What the opera is about will not really be a monster that goes around scaring and killing people, Larsen says. Besides the need for wholeness, she has found other themes. Perhaps the most significant, in the book and the opera, is that of consequences; Frankenstein unleashes a monster on the world and his life and his loved ones are destroyed as a consequence. Victor Frankenstein is probably (though there is some disagreement) the "Prometheus" in the subtitle of the novel and the opera. Prometheus, in Greek legend, was a Titan, a giant who rebelled against the gods, stole fire from heaven, gave it to humanity, raising the human race above the animals, and was horribly punished by Zeus. "The Promethean myth is a myth about consequences," Larsen says. "But the question is who is defying the gods and what are the consequences, who pays the consequences?" It could be modern humanity, which sacrifices human values "for an abstract notion—in this case, the notion

of progress. But it's easier to say it's just Victor." In any case, she adds, "I think I've found my subject, my reason for writing opera: consequences. It's not a completely new idea—'Rigoletto' is about consequences—but it hasn't been used so much lately."

Larsen was born in Delaware but grew up in Minneapolis and studied at the University of Minnesota with Dominick Argento, receiving her PhD in 1978. She has been married (to a trial lawyer) since 1975 and has a 3-year-old daughter. She has four sisters and no brothers—a fact that she thinks may have kept her from accepting the traditional women's roles.

"I have always thought of myself as just a composer," she says, "but in graduate school a colleague pointed out to me that I was a woman composer. I was so naive, it just never occurred to me that it was an issue. But we were talking about our next assignment, which was, I think, to write a . . . piece of chamber music, and this fellow said, you can't do that, and I said, what do you mean, and he said, well, you can't write in a longer form because you're a woman. I honestly had never heard anything like that before.

"But now I know that women and men are socialized differently in our society, no matter what profession you choose, so it's very hard for a man to, say, become a nurse; he feels outside that society, and for a woman to become a composer—you feel yourself outside the club," she says.

Examining the situation, she concluded that "women are socialized to be the keepers of the details that hold our lives together, and in order to do that, there is part of your mind that is constantly taken up with cataloguing details—we're out of salt; this one is allergic to that kind of soap; where the spoons are; all that stuff is in part of your brain. That's also the part of the brain, I'm finding, that catalogues the details of composition. I must remember to put that forte in the 620th measure of Act 3; it's the same kind of mental detailing. I have that part of my brain exercised and ready for use if I can clear it of other details, and that means certain things in my domestic life: Somebody does all my shopping for me, I keep all my lists on a computer, somebody asks me what I'm doing at 5 o'clock, almost any woman could tell you but I can't; it's out of my brain, just like a man.

"Also, because you're the keeper of details, life for women tends not to have large blocks of uninterrupted time. You're always being consulted. So I have had to . . . find ways to give myself large blocks of uninterrupted time without appearing to be cantankerous and unapproachable to my family."

She says that "the politics pf performance," in this country and probably around the world, is based largely on human relationships. "Women have been socialized not to make themselves noticed. But if you are a composer, male or female, you must be a knight for your own music, you must champion your music, defend it and introduce it to people and really go on the stump for it, be proud of it and let people know. Women are socialized to be quietly proud, not verbally. I have learned. . . . It's still hard, really hard; every year it's part of my New Year's resolution, just to become the executive director of my own music, to get out there and do what needs to be done. I don't know many women who are comfortable with this kind of confidence in any profession. I do know some who are stunning and I use them for role models. But I still feel like a street-tough kid; I feel somehow not feminine, because all of the socializations are still toward the passive and quiet woman."●

ICE ENFORCEMENT AND PREVENTION ACT

● Mr. INOUYE. Mr. President, yesterday my colleague, Senator DANIEL AKAKA, proposed an amendment to S. 1970, Senator BIDEN's omnibus crime bill, entitled "The Ice Enforcement and Prevention Act." I am a cosponsor to Senator AKAKA's amendment.

In the past few years, the use of crystal meth, or to use its street term, "ice," has drastically increased in the State of Hawaii. "Ice" has become a household word in our islands. Hawaii leaders and community members have organized an effort to deter the young people in Hawaii from the use of ice. Hawaii's law enforcement leaders have formed a coalition on ice comprised of the prosecutor's office, the State and Federal Attorney General, local police and the DEA to address this issue of critical importance to our people. We have a serious problem in paradise which threatens future generations.

This amendment is a significant step toward addressing the concerns of the people in Hawaii. This amendment will double the prison term for major ice dealers. It sends a message to drug dealers who ruin lives with ice that their activities will no longer be tolerated. The message we are sending is "if you sell ice, pack your bags and sell your house because you are going to jail for a long time."

This amendment requires the Department of Education to establish a model program in Hawaii to educate young people about ice. This amendment also provides that research and treatment be implemented to help babies who are addicted to methamphetamine.

I commend Senator AKAKA for proposing this amendment. The ice problem is not only a problem for Hawaii, it is a national problem. Hawaii, however, must be targeted because of our experience with serious methamphetamine abuse problems. This amendent is vital to Hawaii's efforts to rid ice from its islands.

I urge my colleagues to support this important amendment.●

THE FUTURE OF NUCLEAR POWER

● Mr. McCLURE. Mr. President, I recently had the opportunity to participate in the 15th Nuclear Power Assembly sponsored by the American Nuclear Energy Council entitled "Nuclear Energy in the Nineties: The Decade for Progress." It is clear to me from the conference that in light of the increasing demand for electricity and the rising concern over global climate change, the prospects for a revival of nuclear power are growing in the United States. The industry is aggressively working to lay the foundation for the next generation of nuclear plants so that advanced reactor designs will be available when needed in this decade. The opportunity to revive the nuclear option is not—not whether—but when, where, and how. We must all exert leadership in restoring public confidence in the need for nuclear energy to meet this Nation's requirements for safe, clean, and economic electricity.

My view of the need for nuclear energy is shared by Presidnt Bush and Energy Secretary James D. Watkins. President Bush in his greeting to the Nuclear Power Assembly stated:

> In this decade we can move forward on safer, more economic advanced nuclear reactors through a coherent regulatory process—the 1990's can see the revitalization of nuclear energy.

Admiral Watkins in his keynote speech before the assembly also stressed the revitalization of nuclear energy in this decade. He is reported as saying that, resolving the nuclear waste issue is a critical consideration in the revitalization of nuclear options, and we must demonstrate that we can make significant progress on a resolution to this problem before potential owners and the public will support new powerplants.

Admiral Watkins optimistically noted that we may not be faced with the current problems of waste disposal if we design the next generation of reactor systems properly. He specifically mentioned the ongoing research and development program at the Idaho National Engineering Laboratory [INEL] on the liquid metal reactor and its potential to burn the actinites in spent fuel. I also believe that the integral fast reactor at INEL holds a promising future for nuclear power.

I urge my colleagues as we continue to consider clean air and other environmental legislation, to assume the leadership and responsibility to the American people and to our environment in pursuing safe, reliable, and economic nuclear power so that this nation can avert our dependence on foreign oil, preserve the air, and maintain our economic growth for our children in the years to come.

Mr. President, I ask that President Bush's message be included in the RECORD.

The message follows:

THE WHITE HOUSE,
Washington, DC, May 18, 1990.

I am pleased to send my greetings to the participants in the 1990 Nuclear Power Assembly as you gather in the Nation's Capital.

Just as America gave birth to nuclear technology in the 1940's, we can lead the world into a new era of safe, reliable, economical, and environmentally clean nuclear

power in the 1990s. This clean, domestic source of power lessens the risk of energy dependence on foreign sources. At the same time, environmentally harmful emissions are reduced and economic growth is fostered.

"Nuclear Energy and the Nineties: The Decade for Progress" is an appropriate theme for your meeting. In this decade we can move forward on safer, more economically advanced reactors through a coherent regulatory progress. We must also move forward in resolving the nuclear waste issue.

The 1990's can see the revitalization of nuclear energy. With emphasis on the highest safety standards, nuclear power will become an important source of energy.

Barbara joins me in sending best wishes for a successful conference.

GEORGE BUSH.●

COMMUNITY INFORMATION EXCHANGE

● Ms. MIKULSKI. Mr. President, I would like to take this opportunity to introduce an organization that has provided meaningful services to a number of organizations in my home State of Maryland: the Community Information Exchange, the national information network for community development.

When the Episcopal Diocese of Easton, MD needed to find sources of support for their newly created low-income housing development corporation, they called the Exchange. The Exchange was able to provide the diocese with printouts describing 10 local and national grant and loan programs tailored to their needs. When the Baltimore-based Citizens Planning and Housing Association needed information on how to get a city-owned community center deeded to a community group, they turned to the Exchange. The Exchange supplied them with examples of cases where the strategy had been employed successfully elsewhere, several publications on the topic and a reference to an expert in the field. The State of Maryland's Housing Development Advisory Service thinks so highly of the Exchange's monthly resource checklist that they reprint it in its entirety in their own newsletter, which is circulated to hundreds of townships and community groups across the State.

Simply put, the Community Information Exchange is a short cut to solutions.

Over the past 25 years, America has witnessed an unprecedented growth of interest in community development. In these years, local partnerships have managed to turn abandoned buildings into affordable housing and create new enterprises and jobs for unemployed youth and adults. Whole neighborhoods have been transformed from distressed areas ravaged by the twin evils of drugs and crime to thriving communities with parks, day care centers, and shopping.

Despite these success stories, many communities are faced with a continual struggle just to survive. Without a solid base of knowledge, this struggle is all the more difficult. In today's world, information is a critical tool capable of empowering and enabling self-help efforts. In this high technology "information age" of computer technology and telecommunications, banks, corporations and sophisticated city planning departments have access to all the information they can handle. Most communities, however, have not benefited from this explosion of information.

The Community Information Exchange exists to help local initiatives utilize the power of information for the common good. By calling the Exchange, either by phone or computer, a community can gain access to all of the information it needs to plan, finance, and develop revitalization projects.

At a time when tens of millions of Americans live in substandard housing and millions more are homeless, the Community Information Exchange is engaged in a particularly vital mission to help renew our communities.●

SMALL BUSINESS ADMINISTRATION HONORS TOM HACKETT OF AUBURN

● Mr. COHEN. Mr. President, in 1967, Tom Hackett of Auburn, ME, began performing bookkeeping and payroll services for clients at home after dinner. In 1990, his after-hours work has expanded into full-time supervision of his 67-employee firm and the franchises through which it provides financial service to 3,200 businesses in 20 States.

This outstanding Maine businessman was honored recently by the Small Business Administration [SBA], which named him Maine Small Business Person of the Year.

The story of Tom Hackett's success is in many ways the story of the success of small businesses throughout the country. Nationwide, according to SBA, small firms employ 6 of every 10 people and provide two out of every three workers with their first job. They also have been responsible for more than half of all the innovations developed during the 20th century.

Not only has Mr. Hackett proven himself to be a good businessman, but also a good citizen. The day before he was honored as Small Business Man of the Year, Mr. Hackett received the Citizen of the Year award from the Auburn Business Association for his contributions to the community. He has served as president and campaign chairman of the United Way and as a board member of Androscoggin Home Health Services and as director of the State and local Chamber of Commerce.

Maine is blessed to have such a person and businessman. I congratulate him and ask that his biography, prepared by the SBA, be printed in the RECORD.

The biography follows.

THOMAS N. HACKETT, CHAIRMAN, ADVANTAGE BUSINESS SERVICES, INC.

Thomas Hackett founded his company 23 years ago. Since then it has grown from a backroom operation to one of the New England's largest payroll and bookkeeping companies.

When he started in 1967, Hackett was employed as a public accountant and began performing bookkeeping and payroll services for clients after hours. Then, as today, the company's clients were small local businesses struggling with recording and payroll.

In 1974, Hackett made a decision to leave the public accounting field in favor of devoting full-time attention to his growing bookkeeping and payroll practice. The company purchased its first computer and the first two members of top management's corporate planning staff were brought on board, signaling that the company was indeed poising itself for bigger and better products and markets. The company has diversified considerably and grown to a 67-employee firm.

Today, Advantage Business Services has 23 associate offices in Maine and New Hampshire. It provides management, bookkeeping and payroll services to over 3,200 small businesses throughout the United States. Annual sales have grown from $86,500 in 1973 to $3 million in 1989.●

TRIBUTE TO HEALTH UNIT COORDINATORS

● Mr. D'AMATO. Mr. President, I rise today to congratulate the members of the National Association of Health Unit Coordinators as they approach their 10-year anniversary on August 23, 1990.

The first meeting of the National Association of Health Unit Coordinators was attended by 10 dedicated unit clerks and instructors who began the effort to transform unit coordinating into a recognized health profession. In the decade since its first meeting, however, the National Health Unit Coordinators Association has expended its organization to include thousands of members whose commitment and professionalism make efficient and effective health care possible. Moreover, the association has initiated a national voluntary certification program, and is also developing an accreditation process for educational programs.

Health Unit Coordinators perform a variety of tasks that are indispensible to the smooth functioning of medical facilities. They transcribe physicians' orders, enter data into computer systems, greet patients and visitors, and coordinate patients' care between various departments. Health Unit Coordinators also order unit supplies, answer telephones, and keep both paperwork and overall communication flowing.

August 23, 1990 not only marks the 10th anniversary of the National Health Unit Coordinators Association, but also the first anniversary of the Mid-Hudson Chapter in New York. For this reason, it gives me great pleasure to congratulate the Health Unit Coordinators in my State and others on their vital contribution to our Nation's health.●

LEGION OF VALOR HONORS TOM BOUCHARD, VIETNAM WAR HERO

● Mr. COHEN. Mr. President, it has been said that genuine heroes are those who do not seek out glory but who, acting in the moment, unwittingly achieve their distinction.

Mr. President, Tom Bouchard is a genuine hero.

On December 7, 1967, U.S. Army troops began an assault on a heavily fortified North Vietnamese post. As the battle begun, an American armored personnel carrier was struck by enemy fire, wounding all of the crewmembers. According to the Army's official report on the action, this 19-year-old private "fearlessly raced 20 meters, through an intense hail of bullets, to the stricken vehicle. Under withering fire, he put all the casualties aboard, took the controls and drove the vehicle to safety, plowing through a North Vietnamese machinegun bunker, killing the occupants."

Three months later, the Army awarded Bouchard the Distinguished Service Cross "for dauntless courage in close combat that inspired his fellow soldiers to an overwhelming victory."

Now, more than two decades later, Tom Bouchard's heroism is again being recognized through induction into the Legion of Valor. This century-old brotherhood consists of the elite of the elite. Membership is limited to Americans awarded one of the Nation's two highest military honors: the Medal of Honor or the Distinguished Service Cross.

On Independence Day, in celebration of its 100th anniversary, the Legion of Valor will be dedicating a new wing of its museum devoted to the Distinguished Service Cross. Tom Bouchard will be among those honored at this historic ceremony.

Twenty-two years ago, Tom Bouchard stepped into action to save his fellow soldiers and, in doing so, became a hero. Today, Tom continues to follow this same path, serving his fellow veterans as a volunteer service officer for the Disabled American Veterans in eastern Maine, helping to ensure that veterans receive the medical care and benefits they have earned.

Mr. President, I know Tom Bouchard personally, having worked with him over the years on veterans' issues, and I can say with all sincerity that Tom continues to inspire those around him as much today as he did on that faraway battlefield two decades ago.

Mr. President, I ask that an article from the Bangor Daily News discussing Tom Bouchard's induction into the Legion of Valor be printed in the RECORD.

[From the Bangor Daily News, May 16, 1990]

VIETNAM VET'S HEROISM TO BE CITED—MAINE MAN LISTED FOR INDUCTION INTO LEGION OF VALOR

(By Bruce Kyle)

PERRY.—While most of the country celebrates this Fourth of July with picnics and parades, Thomas Bouchard will be in Chattanooga, Tenn., for a more solemn ceremony: his induction into the Legion of Valor, a century-old organization with a most exclusive membership. The organization is limited to those who have won either the Medal of Honor or the Distinguished Service Cross, the nation's two highest medals for heroism.

Bouchard was a 19-year-old private on Dec. 7, 1967, serving in Vietnam with the 8th Cavalry near the village of Dai Dong, when he heard that his former company was engaged in a fierce firefight. He left the security of headquarters, where he had been assigned as a cook, boarded a helicopter and flew to the battlefield.

According to the U.S. Army's official report, Bouchard joined the unit as it began an assault on a heavily fortified enemy position. In the first minutes of the attack, one of the company's armored personnel carriers was hit, and the entire crew was wounded. Bouchard, the report reads, "fearlessly raced 20 meters, through an intense hail of bullets, to the stricken vehicle. Under withering fire, he put all the casualties aboard, took the controls and drove the vehicle to safety, plowing through a North Vietnamese machine gun bunker, killing the occupants."

Bouchard returned to the front when a second assault was unleashed, personally charging several enemy bunkers, destroying them with granades and rifle fire. At one point, he engaged in face-to-face combat with three North Vietnamese soldiers.

In March 1968, he was awarded the Distinguished Service Cross, "for dauntless courage in close combat that inspired his fellow soldiers to an overwhelming victory." For that action, he also received the Cross of Gallantry, the Republic of Vietnam's highest military honor.

During his two tours of duty in Vietnam, Bouchard also received the Silver Star, two Bronze Stars, the Air Medal, and finally the Purple Heart, for shrapnel wounds that have left him disabled.

The Legion of Valor was formed in 1890 by Civil War recipients of the Medal of Honor. The Army's Distinguished Service Cross was added in 1918, joined later by the Navy Cross and the Air Force Cross. To commemorate its 100th year, the Legion will open a special wing this Fourth of July in its Chattanooga museum for the Distinguished Service Cross. The new section will include a copy of Bouchard's citation, a photograph of his decoration ceremony and his biography.

Bouchard, a native of Eastport who now lives in Perry, presently devotes his time as a volunteer for two special causes: the Disabled American Veterans (DAV) and the National League of Families of American Prisoners and Missing in Southeast Asia.

As the DAV's service officer for Eastern Maine, Bouchard's job is to advise veterans of the benefits available to them, especially medical care. "There's a lot of veterans who need help getting prescriptions filled, getting to a doctor, getting to the (Veteran's Administration) hospital in Togus. We're all volunteers, doing what the government should be doing, but the important thing is that it gets done."

The DAV bought a van last year to transport veterans to Togus. In one year, volunteers put more than 120,000 miles on the van, and contributed more than 6,200 hours of their time. Bouchard and John Leighton of Pembroke are the volunteer drivers for this area. "That van's been all over the state, wherever it's needed," Bouchard said. "There's a lot of veterans out there, from World War II to Vietnam, who never asked their government for anything. They're proud people, but they need help." The DAV added a second van last month.

The POW-MIA issue is a personal one for Bouchard. "One of my best friends when I was a kid in Eastport—John Huntley—was shot down over Laos in '69; he's one of Maine's 17 POW-MIAs. They might never come home; we might never know what happened to them; but we'll never forget them.

"There's 2,317 unaccounted for," Bouchard said, "and a lot of families who wonder every day what happened to their sons, their fathers, their brothers. All we can do is keep people aware."

Thinking back to that day at Dai Dong more than 22 years ago, Bouchard said, "I was just a kid. I didn't plan anything, I just acted, reacted, just like a lot of other guys. There just happened to be other people around to write down what I did. One thing I do remember: Afterwards, an officer asked me how I knew how to operate an APC (armored personnel carrier). I didn't. If it had been a stick shift instead of an automatic, I'd still be out there."●

LT. COL. DONALD W. FRAZEE

● Mr. WILSON. Mr. President, I rise today to salute a loyal and dedicated American, Air Force Lt. Col. Donald W. Frazee, who suddenly passed away earlier this month.

Born on September 20, 1944, in Oceanside, CA, to a career Air Force officer, Lieutenant Colonel Frazee enlisted in the Air Force 24 years ago and received his commission by 1971. He was a navigator and flew AC-130 gunships during the Vietnam conflict. After the war, he retrained into the Air Rescue business and served as a standardization and evaluation officer at McClellan Air Force Base in Sacramento, CA.

Lieutenant Colonel Frazee spent one tour in the Pentagon from 1979 to 1983 coordinating Rapid Deployment Force activities while also managing other Western Hemisphere bases. After attending intermediate service school, he returned to Mather where he first led a flying squadron and then became the deputy base commander. His most recent assignment took him back to Air Force headquarters as the deputy division chief of the Installa-

tions and Management Division in the Directorate of Programs and Evaluations.

Donald W. Frazee was promoted 1 year ahead of his contemporaries to both major and lieutenant colonel, an indicator of the supreme confidence that he had earned from senior Air Force leaders. He was also a distinguished graduate from every professional military school that he attended.

His only son, Michael, will graduate from Chico State University next year. His wife Jeanne still lives in the Washington, DC, metropolitan area.

On Monday, May 21, 1990, Lt. Col. Donald W. Frazee was interred with full military honors at Arlington National Cemetery.

As a disciplined and accomplished professional, Lieutenant Colonel Frazee represented the best that the U.S. Air Force could offer to our Nation. I am proud that he came from California, and I remain confident that his example of quiet but persevering heroism will continue to live in the hearts and minds of his fellow officers.●

THE AGRICULTURAL SATELLITE CORP.

● Mr. EXON. Mr. President, agriculture is the leading sector of the U.S. economy, accounting for 21 million jobs and sales of nearly 20 percent—$701 billion—of gross national product, according to USDA's 1989 Fact Book of Agriculture. Yet, as vital as agriculture is to our domestic economy and to the U.S. balance of trade, U.S. farmers, ranchers, and others involved in food and fiber production, processing, distribution, and research face growing, often subsidized, competition from abroad. Just at the time when the need to foster agricultural innovations, new technologies, and competitiveness is peaking, the ability of our land grant universities to fully prepare a new generation of agricultural professionals and upgrade the skills of the current generation is threatened by a serious and growing shortage in agricultural facility and extension agents and decreased public funding.

The answer to this dilemma is a national system of shared resources.

Recognizing the need and the solution, 30 of our 72 land grant universities representing 29 States joined together to create the Agricultural Satellite Corp. or Ag*Sat. All land grant schools have been invited to join, and it is my hope that all will do so.

The 30 initial Ag*Sat affiliate schools are the Universities of Arizona, California, Georgia, Illinois, Kentucky, Minnesota, Missouri, Nebraska, and Wisconsin; Clemson, Colorado State, Cornell, Iowa State, Kansas State, Louisiana State, Michigan State, Mississippi State, North Carolina A&T, North Carolina State, Ohio State, Oklahoma State, Oregon State, Pennsylvania State, Purdue, Rutgers, Texas A&M, Tuskegee, Utah State; and Washington State University and Virginia Polytechnic Institute and State University.

Mr. President, I am particularly proud that this vital task has been initiated by the University of Nebraska which will be the operations center for Ag*Sat.

Ag*Sat has applied for a Department of Commerce matching grant to help fund the construction of a national network that ultimately will join together by satellite all 72 schools, all extension stations, all research stations, many of our agribusinesses and, perhaps, foreign countries.

Ag*Sat's mission is to share limited agricultural facility and financial resources by delivering credit and noncredit courses, seminars, and other instructional and educational programs directly to the students on campus, farmers and ranchers at extension stations, and researchers in their laboratories.

Indeed, farmers and ranchers with their own backyard satellite dishes ultimately will be able to view this programming in their own homes.

This sharing of resources by satellite will enable Ag*Sat affiliates to help U.S. farmers, ranchers, and agribusiness maintain and increase competitiveness and profitability by increasing agricultural education opportunities; supplementing and broadening college curricula by providing courses not otherwise available; providing specialized information for rural and urban audiences; exchanging the latest agricultural and agribusiness research information; enhancing food safety; and improving the environment, all by providing quality information by satellite at lower cost to a wide range of users.

On the international scale, Ag*Sat programs can be transmitted by satellite to developing countries to help boost food production and safety, combat drought, improve health, and protect the environment. In fact, the Assistant Secretary of Commerce for communications and information has asked Ag*Sat to participate in an innovative spacebridge with Poland to address that country's pressing agricultural problems.

Mr. President, I am convinced that the success of Ag*Sat is essential to the continued competitiveness of U.S. agriculture. The success of the 5-year old National Technological University, a satellite-based university providing state-of-the-art engineering and scientific programming directly to scientists and engineers at 300 receiving sites across the country, provides the great value of satellite delivered distance learning.

I commend the Department of Commerce for assisting NTU with startup grants and have urged Secretary Mosbacher to fully support Ag*Sat's grant application. I also urge my colleagues to support the inclusion of a new USDA matching grant program in the current farm bill reauthorization. These grants will assist land grant schools to produce and distribute competitivensss enhancing agricultural courses and similar programs via the Ag*Sat network.

Ag*Sat is an unparalleled collaboration of schools from across the country which have recognized the critical value of agriculture to the Nation and the critical need to maintain and enhance its competitiveness. This is a national effort that deserves Federal financial support, especially in the early stages of its development.●

RECENT DEVELOPMENTS IN MOROCCO

● Mr. KASTEN. Mr. President, I would like to take a few moments to bring to the attention of my colleagues a few developments affecting one of our closest friends, Morocco. First, Mr. President, I would like to congratulate the administration and the Government of Morocco for their recent success in negotiating an initial agreement that will allow Morocco to benefit from the Brady plan. After lengthy discussions that included our Treasury Department, the Moroccan Ministry of Finance, and the commercial creditor banks, an agreement was reached to reschedule $3.2 billion of Morocco's debt immediately, and to apply a Brady-style arrangement during a second phase, which would allow Morocco to buy back some of this debt. The Brady plan phase remains contingent upon Morocco's winning the approval of the International Monetary Fund for a new 3-year lending program. While the agreement is tentative, it is a courageous start.

I would also like to express my appreciation to the administration for recognizing the importance of Morocco's friendship to the United States and for advancing the Brady plan discussions on this basis. I would note that last year in our report to the fiscal year 1990 foreign aid appropriations bill, we in the Senate Appropriations Committee encouraged the administration to make Morocco a priority for Brady plan negotiations, and I am pleased to see the administration's decision to follow up on that directive.

In addition, I would like to take a moment to highlight some remarks concerning Morocco made by our colleague from New York, Mr. MOYNIHAN, his trip to the country earlier this year. As usual, Mr. MOYNIHAN's eloquence was matched only by his perspicacity. In particular, I was pleased by my esteemed colleague's strong expression of support for Morocco and

his hope that the United Nations will renew and invigorate its efforts to resolve the conflict in the Western Sahara. I look forward to working with him to see that a United Nations referendum is organized and funded.

Mr. President, I too have traveled both to Morocco and the Western Sahara, and have been equally impressed by the enormous investment the government of King Hassan II has made in the territory of the Western Sahara. In the city of Layounne alone, Morocco has contributed almost $1 billion to building infrastructure and providing social services, such as financing the construction of public buildings, hotels, a sports stadium, and a major highway and providing the inhabitants with free health care and education. I would answer a resounding "yes" when my colleague asks whether the Moroccan Government's generosity toward the citizens of the Western Sahara and its eagerness to settle this dispute through a United Nations-supervised referendum constitutes a "principled position, fully defensible in terms of law and equity." I would also observe that this beneficence offers strong evidence that the Sahrawi population would be quite easily and justly integrated into the rest of Morocco—which is the most likely outcome of the referendum.

I would also concur with my colleague that it would be in the best interest of the international community—as well as of the residents of this poorly-endowed desert territory—for this area to be incorporated into Morocco. In light of the competition for scarce foreign aid resources, I agree that it would be tragic to witness the creation of another desperately poor African country that will not have the means to support itself. United with a Morocco freed from the costs of war and primed, with the help of solid economic policies, for take-off, the Saharawis stand a chance not simply to survive, but to prosper.

To remind my colleagues of Senator MOYNIHAN'S remarks, I would ask to insert his statement in the RECORD at this time.

The remarks follow:

TIME TO RESOLVE THE STATUS OF THE WESTERN SAHARA

Mr. MOYNIHAN. Mr. President, I serve as chairman of the Subcommittee on Near Eastern and South Asian Affairs of the Foreign Relations Committee, a region that stretches from Morocco to Bangladesh. During the January recess I traveled in the region: stopping first in Morocco. In recent months our attention has been held by the dramatic developments in Eastern Europe and the Soviet Union; unfortunately there has been no comparable change in the persistent problems of North Africa and the Middle East.

One exceptionally persistent problem is that of the conflict in the Western Sahara. It is a war that has lasted 15 years, has cost the participants thousands of lives, and has consumed several billions of dollars of resources. Much of this toll, both human and material, has fallen on the Kingdom of Morocco, a nation with which we have had our longest continuous treaty relationship, dating back to the administration of President Washington, and which has been our closest and most consistent friend in the Arab world.

As part of my visit to Morocco, through the courtesy of the Moroccan Government which provided an aircraft for this purpose, I spent a day traveling to the Western Sahara, visiting the towns of Layoune and Smarra and seeing much of the territory's terrain from the air. The Western Sahara encompasses some 120,000 square miles on the Atlantic coast of Africa. To the north is Morocco; to the east and south are Algeria and Mauritania. The territory's 186,000 people occupy a land that is almost exclusively desert, even the coastal areas, which lack any natural habitation.

The Western Sahara has one significant natural resource, phosphates, of which it holds a sizable percentage of the Earth's total. Following the 1973 oil shocks the prices of phosphates—which are a substitute for petroleum-based fertilizers—soared and the territory had a brief moment as a valued strategic asset. Since then, however, phosphate prices have collapsed and the Sahara territory has returned to an economically marginal condition.

From 1860 to 1974, the Western Sahara was governed by Spain which, even in the face of U.N. General Assembly resolutions and a newly created insurgent movement, seemed to be determined to make the territory one of the last colonies in Africa. However, on August 20 of that year, General Francisco Franco, until the end a politician canny enough to sense the political winds, announced a referendum on the territory's future. Because of Morocco's claims to the territory, the General Assembly requested an International Court of Justice ruling on the legal status of the territory. Specifically, the Court was asked whether, prior to colonization, the Spanish Sahara had been part of Morocco—to which it might then be returned—or "terra nullius," a no man's land which might then exercise a valid act of self-determination. In October 1975, the Court ruled that the territory had not been terra nullius and had enjoyed an historical connection with Morocco. However, the Court also stated that this connections were not sufficient to deny the Saharouwi—or Saharan—people the right to vote on their own future.

At this point, Morocco's Monarch King Hassan II announced Morocco would peaceably occupy the territory through a "Green March" of 350,000 unarmed citizens. Spain abandoned its referendum plans and instead, via the treaty of Madrid, turned administrative control of the territory over to Morocco and Mauritania. These two nations then partitioned the territory with Morocco holding two-thirds of the land and more than 80 percent of the scattered population.

The Treaty of Madrid was immediately contested by the Polisario, the indigenous liberation organization founded to oppose Spanish rule. More importantly, Morocco's regional rival Algeria moved to support the Polisario materially.

It happens that I was the U.S. Representative to the United Nations at the time of these events. On that occasion the United States sided with Morocco—and, I suppose, with Mauritania. I later set down in writing my view that we were insufficiently attentive to the advisory opinion of the International Court of Justice. The General Assembly's clear intent in requesting the opinion, so far as I could assess the matter, had been to press Spain into granting independence to the region in the same matter that almost all African colonies had been granted independence. As I recall, at this time only Djibouti, under French dominion, remained under European rule. Briefly, the Court found that "at the time of Spanish colonization * * * [there were] * * * legal ties of allegiance between the Sultan of Morocco and some of the tribes living in the territory of Western Sahara."

However, as I have stated, the Court did not consider these ties to be of sufficient weight to overcome "the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory. * * *" That is to say, the right of the peoples of Western Sahara to form an independent nation. It was in my personal view at the time that in the case of Western Sahara, and also in the case of East Timor, just then become free of Portuguese rule, the United States was rather too complacent in the face of actions by neighboring states. However, in the case of Western Sahara—not in the case of East Timor—the neighboring state has shown itself more than generous to the peoples involved, fully capable of protecting them, and fully prepared to abide by the outcome of a United Nations referendum. Is that not a principled position, fully defensible in terms of law and equity? I submit to the Senate that it is such, and the position of Morocco ought to not only be supported by the United States, but pressed by the United States. I would recall that we were actively on Morocco's side in 1975 when the rights of the matter were far from clear. Can we be less supportive in the present moment, given the events of the past decade?

On the military front, the Polisario scored early successes against both occupiers and was, by 1979, able to force Mauritania to abandon its portion of the territory. While Morocco then took over the Mauritanian sector, it found itself very hard-pressed. While the absorption of the Western Sahara enjoyed very broad support in Morocco proper—where it was seen as the restoration of historic Moroccan lands—the costs of the war coupled with a series of military setbacks seemed to threaten Moroccan stability and even the monarchy.

Polisario military success was based on an ability to use fast moving transport—mostly landrovers—to stage hit and run attacks on isolated Moroccan outposts. In response to this latter day cavalry attack, Morocco resorted to an even more ancient military device—it built a wall. Or rather a series of walls.

The first earthen wall, or berm, protected the coastal city of Layoune, the administrative capital of the territory and its principal population center. Subsequent walls encompassed other population centers and even larger chuncks of real estate. Today the berm runs near the other borders of the territory. While not impenetrable, the wall now effectively keeps the conflict far from any Shararan population centers or economic assets. During my visit to Layoune and the interior town of Smarra, I saw no evidence of the war or, indeed, any particular anxiety about the war.

Estimates of the cost of the war to Morocco range from the Government's claim of $100,000 a day to outside estimates of $1,000,000 a day. Further, these efforts have been accompanied by vast expenditures on

economic and social development activities. During my day-long visit, I saw new schools, hospitals, employment training centers, housing, sports facilities, and so on. All such services were, I am told, provided free to the Saharouwi people in the town. The Saharouwis may well be the best provided for populace in all Africa.

Almost a decade ago in 1981, King Hassan II agreed to permit a U.N. supervised referendum on the future of the Sahara. For a number of years, disputes over the nature of the referendum—the wording of the question and the all-important issue of who gets to vote—delayed the holding of a ballot.

These questions have now been resolved. The voters will constitute those Saharouwis registered in the 1974 Spanish census, or about 70,000 people who are still living. Both the enumerated who live in the territory and in the Tindouf—Algeria—refugee camps will be eligible to vote. In total, we might assume an actual electorate of 30,000 to 40,000, with a decision made by 15,000 to 20,000.

While the verification of individuals as those listed in the Spanish census is critical, the overall conduct of this election should not be a costly or complex affair. It has not yet occurred because the U.N. Secretary General has not had the resources to conduct the vote.

One reason for the shortfall of U.N. resources is the extraordinary press of peacekeeping activities—Namibia, Iran-Iraq, Afghanistan. Another is the repeated failure of one country—the United States—to pay its assessed obligations.

For whatever reason, the Sahara War has dragged on to long. It is time to help an old and loyal friend by facilitating an internationally recognized act of self-determination in the Sahara territory.

I also think the international community would be well served by the incorporation of the Western Sahara into Morocco. The last thing we need—the last thing Africa needs—is another impoverished microstate of 180,000. However, this is a decision that is to be made by the Saharouwi people. Morocco has agreed to a vote; the Polisario have agreed to a vote; Algeria has agreed to a vote. Now is the time to hold the referendum on the future of the Sahara and put this issue behind us. Morocco needs to move on and the international community has more pressing challenges, and greater opportunities, with which it must deal.●

PROVIDING FOR ADJOURNMENT OR RECESS OF BOTH HOUSES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 334, now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 334) providing for an adjournment of the House from May 24 or May 25, 1990, to June 5, 1990, and a recess or adjournment of the Senate from May 24, May 25, or May 26, 1990, to June 5, 1990.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 334) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar item Nos. 784 and 785, all military nominations in the Army, Air Force, Navy, and Marines reported today by the Committee on Armed Services.

I further ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of the nomination of Harry W. Shlaudeman, to be Ambassador to the Republic of Nicaragua.

I further ask unanimous consent that these nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed, en bloc, are as follows:

THE JUDICIARY

Annice M. Wagner, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of 15 years.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Jerry D. Jennings, of Michigan, to be Deputy Director of the Federal Emergency Management Agency.

IN THE MILITARY

Brig. Gen. Samuel A. Leffler, USA to be major general (Reference No. 531-2).

Maj. Gen. Marvin D. Brailsford, USA, for appointment to the grade of lieutenant general (Reference No. 1113).

Rear Admiral (lower half) William C. Miller, USN, to be rear admiral and Chief of Naval Research (Reference No. 1124).

In the Air Force and Air Force Reserve there are 29 promotions and appointments to the grade of colonel and below (list begins with William T. Gormley) (Reference No. 1185).

In the Air Force Reserve there are 28 promotions to the grade of lieutenant colonel (list begins with Major Robert C. Benner) (Reference No. 1186).

In the Army there are 6 promotions to the grade of lieutenant colonel and below (list begins with William R. Reehm) (Reference No. 1187).

In the Marine Corps there is one appointment to the grade of captain (Dennis R. Burian) (Reference No. 1188).

In the Navy and Naval Reserve there are 32 appointments to the grade of commander and below (list begins with R.W. Below) (Reference No. 1189).

In the Army Reserve there are 102 promotions to the grade of colonel and below (list begins with Phillip R. Bell) (Reference No. 1190).

General Gordon R. Sullivan, USA, to be general and to be Vice Chief of Staff of the Army (Reference No. 1195).

General Robert W. RisCassi, USA, to be reassigned in the grade of general (Reference No. 1196).

Maj. Gen. Alonzo E. Short, Jr., USA, to be lieutenant general (Reference No. 1199).

General Monroe W. Hatch, Jr., USAF, to be placed on the retired list in the grade of general (Reference No. 1219).

Lieut. Gen. John M. Loh, USAF, to be general and vice chief of staff (Reference No. 1220).

In the Air Force Reserve there are 20 promotions to the grade of lieutenant colonel (list begins with Dan B. Belcher) (Reference No. 1224).

Maj. Gen. Dennis J. Reimer, USA, to be lieutenant general and to be Senior Army Member of the Military Staff Committee of the United Nations (Reference No. 1226).

In the Air Force Reserve there is 1 appointment to the grade of lieutenant colonel (Felipe G. Videla) (Reference No. 1247).

In the Air Force there are 4 appointments to the grade of second lieutenant (list begins with David H. Foglesong) (Reference No. 1248).

In the Army Reserve there are 31 appointments to the grade of colonel and below (list begins with Roy R. Bergman) (Reference No. 1250).

In the Marine Corps there is 1 appointment to the grade of major (Mitchell A. Cook) (Reference No. 1251).

In the Navy there are 3 astronauts for promotion to the grade of captain and below (list begins with Michael J. McCulley) (Reference No. 1252).

In the Navy there are 7 appointments to the grade of ensign (list begins with James M. Beeker) (Reference No. 1253).

General Louis C. Menetrey, USA, to be placed on the retired list in the grade of general (Reference No. 1224).

Lieut. Gen. Thomas R. Ferguson, Jr., USAF, to be lieutenant general (Reference No. 1279).

Maj. Gen. John E. Jaquish, USAF, to be lieutenant general (Reference No. 1280).

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

PROPOSING AN AMENDMENT TO THE CONSTITUTION

Mr. HATFIELD. Mr. President, I send a joint resolution to the desk and ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 332) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

Mr. HATFIELD. Mr. President, on behalf of Senator DOLE, I ask now for a second reading.

The PRESIDING OFFICER. Is there objection to the second reading?

Mr. MITCHELL. Mr. President, I object.

The PRESIDING OFFICER. There is objection. Objection is heard. The joint resolution will remain at the desk.

REORGANIZATION OF VETERANS HEALTH SERVICES

Mr. MITCHELL. Mr. President, on behalf of Senator CRANSTON, I ask that the bill S. 2700 be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2700) to authorize the Secretary of Veterans Affairs to proceed with a proposed administrative reorganization of the regional field officers of the Veterans Health Services and Research Administration of the Department of Veterans Affairs notwithstanding the notice-and-wait provisions in section 210(b) of title 38, United States Code.

Mr. MITCHELL. Mr. President, I now ask for the bill's second reading.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Mr. President, I will object.

The PRESIDING OFFICER. Objection is heard and it will remain at the desk. Both foregoing resolutions will remain at the desk pending the second reading or next legislative day.

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am introducing S. 2700, a measure which would waive the notice-and-wait requirements of section 210(b) of title 38, United States Code, with respect to a proposed reorganization of the field structure of the Veterans Health Services and Research Administration [VHS&RA] of the Department of Veterans Affairs. This bill will allow the reorganization to go forward upon the date of enactment and would thus override the requirement in section 210(b) that VA wait until October 1 to implement it. Joining me as cosponsors of this bill are committee members Senators DECONCINI, ROCKEFELLER, AKAKA, MURKOWSKI, SIMPSON, THURMOND, and SPECTER.

Because the swift enactment of this measure is eagerly sought by VA and is necessary to provide for as smooth and efficient a transition as possible, yesterday afternoon I initiated an effort to seek unanimous consent to have the bill taken up and passed immediately. This effort was aimed at providing an opportunity for passage in both Houses before the Memorial Day recess. Unfortunately, such consent could not be obtained. Thus, I am seeking to have the bill placed on the calendar in order to provide a basis for action as quickly as possible after the Senate returns after the recess.

Mr. President, section 210(b) of title 38 requires VA to submit to Congress a detailed plan and justification for any administrative reorganization involving a reduction during any fiscal year by 10 percent or more in the number of FTE at a VA office or facility which is the permanent duty station for 25 or more employees. In order to carry out such a reorganization in a fiscal year, VA must submit the notification not later than when the President's budget for that fiscal year is submitted. Thus, VA generally must wait from a date in January to October 1 of that year before carrying out the proposed change.

At the time the President's budget for fiscal year 1991 was sent forward on January 22, VA submitted detailed plans and justifications for a proposed reorganization of the field structure of VHS&RA. Under this proposed reorganization the existing VHS&RA regions—with offices located in Albany, NY; Durham, NC; Gainesville, FL; Ann Arbor, MI; St. Louis, MO; San Francisco, CA; and Dallas, TX—would be reduced to four—with offices in Baltimore, MD; Jackson, MS; Ann Arbor, MI; and San Francisco, CA. In a related action, not covered by section 210(b), VA on March 1990, abolished the 27 existing medical districts, an organization level located between the regional directors and individual VA health-care facilities.

On February 7, I introduced by request S. 2103, the administration's proposed bill to waive the waiting-period requirement for the planned VHS&RA reorganization. The committee heard testimony on this reorganization and on the administration's proposal to waive section 210(b) at a February 23, 1990, hearing.

Following that hearing, the committee staff, at my request, entered upon extended negotiations with VA on the specifics of the Department's plans for the VHS&RA reorganization. This effort resulted in significant clarification of VA's plans which were set forth in an April 17, 1990 letter which supplemented the original detailed plan and justification for this reorganization as set forth in the January 22, 1990 letter. In response to a separate request from me, VA, in a letter dated March 21 1990, provided more detailed information about the action abolishing the medical districts, including significant information about VA's plans to place individuals who had worked on medical district staffs.

Mr. President, I am now satisfied that the reorganization will be structured in such a way as to retain some medical management or coordinative presence in each State, both by outstationing some of the staff of the four new regional offices in locations throughout each of the regions and by designating one medical center director in each State to serve as the principal VHS&RA liaison in the State. Thus, I am prepared to move forward with this bill, which is derived from S. 2103, so as to allow the reorganization to proceed prior to October 1, 1990. I note that the House acted on a similar waiver when it passed H.R. 4557 on May 1, 1990, and I am hopeful that the two Houses will be able to enact agreed upon legislation in the near future.

Mr. President, I ask unanimous consent that the three letters I mentioned earlier—dated January 22, March 21, and April 17, 1990—and the text of the bill we are introducing be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Veterans Affairs may proceed with the administrative reorganization described in subsection (b) of this Act without regard to section 210(b) of title 38, United States Code.

(b) The administrative reorganization referred to in subsection (a) is the reorganization of the regional field offices of the Veterans Health Services and Research Administration of the Department of Veterans Affairs as that reorganization and related activity are described in (1) letters dated January 22, 1990, and the detailed plan and justification enclosed therewith, submitted by the Secretary to the Committees on Veterans' Affairs of the Senate and the House of Representatives pursuant to such section 210(b), and (2) letters dated April 17, 1990, submitted in suplementation thereof by the Secretary to such Committees.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, January 22, 1990.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate Washington, DC.

DEAR MR. CHAIRMAN: From my earliest days as Secretary of Veterans Affairs, I have received many reports of inconsistency in veterans' access to VA health care.

On virtually a daily basis, elected representatives from across the country have written and called me to document the existence of differing "VA" policies—from region to region and even among hospitals within close proximity—which affect whether or not a veteran will or will not receive needed care. My travels to VA facilities and meetings with medical administrators at all levels have borne out these accounts. My responsibilities to our veterans, to the President, and to the Congress demand that VA do a better job at achieving greater operational uniformity in our health care system.

Wide-ranging consultations, which included discussions with the Chief Medical Director and the Regional Directors, led me to the judgment that a substantial reorganization of the management structure of our Veterans Health Services and Research Administration (VHS&RA) field operations was needed to attain the consistency in health care delivery that our veterans deserve.

Consequently, I directed the Chief Medical Director, last August, to prepare to implement a reorganization with which I know you are familiar. That directive generally called for phasing out district offices and cutting the number of medical regions. Certainly, that step was not taken lightly or without careful regard for the dislocation it might mean for many dedicated VHS&RA employees.

In my judgment, however, this step is necesssary to assure that our health care system remains viable over the long term. Medical districts represent an extra layer of management which I simply cannot justify. Larger issues of VHS&RA management and accountability underlie the proposed reorganization of our medical regions. That administrative reorganization is the subject of the enclosed report, required under 38 U.S.C. 210(b).

In submitting that report, let me underscore the critical goals it sets out to achieve. Rather than simply consolidating and realigning offices, this reorganization seeks to remedy the unacceptable variation in policy interpretation and implementation that has emerged under a seven-region structure. Reducing the number of regions and the number of regional directors will facilitate a return to strong, centralized policy-making and will reinforce management accountability. The restructuring aims, therefore, to strike a better balance between our needs for *management* flexibility at our local facilities and system-wide operational uniformity based on *national policy*.

In my judgment, the streamlined organization described in our report—while not the only approach I considered—will best carry out my management goals. This structure will encourage greater emphasis on centralized policy-making and operational implementation of those policies by the regional directors. In my view, reducing the number of regions and regional directors from seven to four is critical to achieving greater consistency.

Our plan to phase out the 27 medical districts by March 31, 1990, does not constitute an administrative reorganization subject to the requirements of Section 210(b). I believe it is important, nevertheless, to assure you and Congress generally that eliminating this administrative layer will serve the best interests of our patients and will not diminish VA's responsiveness to congressional concerns. To the contrary, it is a critical component of a restructuring which, I believe, will make VHS&RA more responsive. Moreover, the administrative savings we hope to achieve once the restructuring is completed offer the opportunity to augment staffing for direct patient care.

Finally, let me acknowledge that in enacting the provisions of law codified at Section 210(b) of 38 U.S.C., Congress established a mechanism to permit itself the opportunity to oversee certain proposed administrative reorganizations. While respectful of that important function, I intend to submit draft legislation to permit us to reorganize as soon as possible. The enactment of such legislation will be critical to permit VA to set in motion the many steps involved in restructuring the new regions—particularly in helping dedicated employes find new positions as soon as possible. Such steps can really only begin after the law's waiting period is lifted. I request your support for this draft legislation.

We hope we have earned your support of our important effort to strengthen management of our medical care system, and trust that our enclosed report will answer such questions as you may have.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report and legislative proposal to the Congress.

Sincerely yours,

EDWARD J. DERWINSKI.

Enclosure.

REORGANIZATION OF VHS&RA REGIONS, 1989, REPORT TO CONGRESS, TITLE 38, UNITED STATES CODE, SECTIONS 210(b)(2)

I. PURPOSE

The purpose of this report is to describe the planned reorganization of the Veterans Health Services and Research Administration's (VHS&RA) regional structure and its impact on service delivery and resource utilization.

II. BACKGROUND

A pressing concern which has confronted the VA throughout this adminsitration is the degree to which access to VA health care is determined or influenced by the policy or practice of the particular health care facility at which a veteran seeks care rather than by national policy. This inconsistency and unpredictability are untenable in themselves and at odds with sound management principles as well as with VA's responsibilities under law. Wide-ranging examination of the management of VA's health care system in light of this concern led to the conclusion that the lack of uniformity in access to VA health care in inextricably linked to a pattern of decentralization decision-making within VHS&RA that is reinforced by the organization of its field operations.

It was determined on the basis of extensive consultations, including discussions with the Chief Medical Director, that a reorganization of VHS&RA's field operations was necessary to achieve the desired improvements in the uniformity of policy implementation and equity of access to medical care. Accordingly, the Secretary's memorandum of August 25, 1989 (Appendix A), to the Chief Medical Director (CMD), establishes the rationale and parameters for a reorganization of VHS&RA field operations. The reorganization phases out the 27 Medical Districts by March 31, 1990, and reduces the number of regions from seven to three. The August 25 memorandum describes the benefits to be achieved as follows:

Greater balance between the operational uniformity of the system and management flexibility for individual facilities;

More efficient use of resources and improved communications by removing duplicative functions and administrative layers;

Redeployment of resources, including personnel to support direct patient care;

Increased accountability for implementation of centralized policy; and

Greater uniformity among regions of access to health care services.

The Secretary indicated that the proposed reorganization would be reported to Congress, in compliance with requirements of 38 U.S.C. 210(b)(2), with the FY 1991 budget submission. The CMD was asked to develop an implementation plan, including potential regional boundaries and field office locations, staffing requirements for field offices and VACO Regional Director's (RD) offices, and an estimate of recovered resources that could be redirected to patient care. These features of the reorganization are described in subsequent sections of this report.

III. DISCUSSION

1. Description of the Current Organization.

In accordance with 38 U.S.C., Section 4103, the current VHS&RA organization is headed by the CMD, who is directly responsible to the Secretary for operation of the Agency. To assist the CMD in carrying out operational responsibilities there are two line officials: the Deputy Chief Medical Director (DCMD), who serves as FHS&RA's Chief Operating Officer, and the Associate Deputy Chief Medical Director (ADCMD), who reports to the DCMD and is responsible for integrating line and program management responsibilities. A staff of approximately 557 (cumulative FTEE as of November 4, 1989) assist in the program, staff and operational functions of Central Office.

VHS&RA field elements consist of 172 medical centers (VAMCs), 233 outpatient clinics, 119 nursing home care units, 29 domiciliaries, 194 Vietnam Veteran Outreach Centers and various support units (ISCs, RMECs, etc.). The VHS&RA field elements are assigned to seven regions which are further divided into 27 medical districts. Each Region/Medical District encompasses specific geographic areas comprising all medical facilities available to the VA (including VA-operated facilities, State Veterans Homes and contracted services) within those areas.

a. Regional Directors

The Regional Directors (RDs) report directly to the ADCMD. Each RD is physically located in the field and directly oversees a field office and staff of between 21 and 29 FTEE. The authorized core ceiling for the regional field offices is 196 FTEE. Although some regions are larger geographically than others, they are organized so that patient population, staff and financial resources are distributed equally among them. A Deputy Regional Director and approximately 4 FTEE provide the RD with an operational arm in VACO.

On several occasions since 1979, increased authority and responsibility have been delegated from central office to the regions and field facilities, most notably in the areas of program planning (MEDIPP), resource management (RAM), and quality assurance (SERP/MEDIPRO). Conversely, responsibility for information resources management (IRM) support (ISCs) has been centralized from the RDs to the Director, MIRMO in a 1987 realignment.

The RDs are delegated authority and responsibility for operations and the management of quality in field facilities. In addition to directing the activities of their immediate offices, the RDs are responsible for the specific functions that follow:

(1) *Facility Operations*—This function encompasses the following programmatic areas that are operational in nature:

Resource Management—Budget development and execution, financial planning and analysis, resource management site visits, data validation, monthly financial status reports, workload and employment monitoring, cost screens, reporting systems, funding transactions.

Planning—Regional strategic and implementation plans, mission analysis, demographic/market analysis, VA/DOD contingency planning, program planning, workload projection methodologies, needs assessments, facility development planning, planning board activities.

Construction—Construction program prioritization, facility five-year plans, allocations and tracking of project resources, activations, liaison with Office of Facilities, facility development planning, review and allocation of the Non-Recurring Maintenance (NRM) program.

Medical Center/Patient Communications—Responding to Congressional and consumer inquiries, public relations, news releases and publications, special events planning.

Human Resources—Personnel activities, Directors' performance monitoring, disciplinary actions, position descriptions, recruitment, commendations/awards programs, Equal Employment Opportunity (EEO) consultation and resolution, education and development activities, liaison with Regional Medical Education Centers (RMECs).

Information Resources Management (IRM)—Network development, decentralized Hospital Computer Program (DHCP) functions, IRM security, regional office data processing, data collection and analysis, regional IRM initiatives, special projects, programmatic support.

(2) *Quality Management*—This function encompasses the following programmatic areas.

Risk Management—Patient Injury Control Program, tort claims analysis, OMB Circular A-123 oversight, occurrence screening.

Internal and External Review—Credentialing and privileging compliance, oversight and consultation for all Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and other external review field activities, Regional Review Program, participation in all surveys.

Nursing—Staff development, Nursing Service personnel issues, special salary rates, policy guidance.

Safety and Health—Employee safety programs are required by P.L. 91-596. Annual inspections, compliance with Occupational Safety and Health Administration (OSHA) and Environmental Protection Agency (EPA) regulations, waste management, accident statistics, JCAHO Fire and Safety critiera, review of construction projects.

b. Medical Districts

The seven regions are further divided into 27 medical districts each comprised of four to seven VA Medical Centers (VAMCs) and headed by a Medical District Director (MDD) appointed by the CMD from among Medical Center Directors in a given district. Historically, the MDD's role has been to advise the RD on distribution of resources and planning of the district's healthcare services. However, MDDs exercise no line authority over the district VAMCs. The medical district operates as a consortium in planning (MEDIPP), quality assurance (MEDIPRO), and environmental management programs, and joint program sharing/service delivery efforts. District staffs of eight to ten FTEE support these programs and have had a significant role in data collection, analysis and development of recommendations for management review at both the district and regional levels.

Figure 1 below depicts the current VHS&RA organization and Figure 2 displays the current geographical boundaries of VHS&RA regions and medical districts.

[Figures are not reproducible in the RECORD].

2. Description of the Proposed Organization.

a. Geographic Boundaries

After careful analysis, the CMD recommended, and the Secretary approved, a four-region structure as the best of considered alternatives to achieve improvements in policy implementation, accountability and equity of access to VHS&RA services. The following criteria were used to define regional boundaries: drawing regional boundaries consistent with State lines; structuring regional boundaries that include natural patient referral patterns in each region; achieving the best possible balance of facilities, veterans population, and resources in each region; and retaining, where possible, existing regional office facilities.

b. Location of Field Offices

Potential sites for the location of the four regional field offices were compared against significant demographic, travel, cost data and other considerations. Based on these analyses the following sites were selected for the Regional Directors' field offices: Region 1: Baltimore, Maryland; Region 2: Ann Arbor, Michigan; Region 3: Jackson, Mississippi; and Region 4: San Francisco, California.

Figure 3 depicts the reconfigured region boundaries and the Regional Directors' field office locations.

c. Functions

Four region headquarters offices will be established to perform the major functions of facility operations and quality management, as described for the current organization. These functions will essentially remain unchanged except for the addition of some planning, peer review and fire, safety and industrial hygiene functions that were previously performed by the Medical Districts. The added regional functions are described as follows:

Planning—the district planning process will be replaced by a regional planning process. Central Office will provide overall direction, while the region oversees facility-based grass roots planning activities. Functioning as planning units grouped by common referral patterns, facilities will collectively plan for the vertical integration of services. Regional planners, the majority of whom will be located at the medical centers, will be responsible for data collection and analysis and coordinating planning efforts among facilities. Regional Planning Boards will continue to review plans, establish priorities and identify opportunities to share resources. Planning and construction responsibilities will be combined in one position, located at a planning unit site, to oversee planning, Facility Development Plans (FDP), and construction management.

Quality Management—Congress has mandated VHS&RA to implement objective, criteria-based, physician-directed peer reviews, which have been the responsibility of Medical District Peer Review Organization (MEDIPRO) Boards. Studies are designed by the Boards, data collected by clinical evaluators based in VAMC's, and analysis and reporting are performed by the Boards. Existing district- and region-based quality assurance activities, including peer review, monitoring implementation of and compliance with QA policies, and technical assistance activities will be integrated into a total quality management approach. Under the new structure, clinical evaluators, reporting to the RD, but housed in VAMCs, will collect peer review data. Analysis will be performed by regional peer review boards organized to conform with the quality management structure.

Safety and Health—Responsibilities will continue to include employee safety programs as required by P.L. 91-596 and other monitoring activities, such as, annual inspections, compliance with Occupation Safety and Health Administration (OSHA) and Environmental Protection Agency (EPA) regulations, waste management, accident statistics, JCAHO Fire and Safety criteria, and review of construction projects. District-based staff performing these functions will be located in RD offices and VAMCs.

d. Staffing

The accretion of medical district functions, coupled with the reduction in the number of regions from seven to four, will result in an increase in the staffing of each regional office from an average of 28 FTEE to a range of 91 to 97, allowing for variations in management style and program requirements. The number of certain categories of personnel, for example planners, is based on the ratio of staff to facility groupings as determined by patient referral patterns, medical center complexities, and transportation factors. Staffing levels for other categories of personnel, for example resource management specialists, are less dependent on the number and configuration of facilities. The estimated staff required to perform designated functions in a given region are indicated below.

(1) Field Office Staffing

Top Management. This includes the Regional Director and a Deputy RD in the field, and their immediate staff.

Estimated staffing—6 FTEE (not including the RD and VACO-based Deputy).

Quality Management. Includes peer review, risk management, internal and external review, nursing, safety, and health.

Estimated staffing—45-49 FTEE (approximately 28 of this number will be located in VAMCs).

Facility operations. Includes resource management, planning, construction, medical center/patient communications, human resources, and IRM.

Estimated staffing: 40-42 FTEE (8 of this number will be located in VAMCs).

(2) VACO Staffing

Staffing of RD offices in VACO will essentially remain unchanged. A second Deputy RD, for each of the four regions, will be located in VACO to represent the RD and perform as a full assistant. The number of health system specialists is facility dependent, therefore the same number is required as presently exists. Support staff requirements will not change.

e. Collateral Programs

The Regional Medical Education Centers (RMEC), Information System Centers (ISC) and the Regional Manager Offices (RMO) for Readjustment Counseling Service are also regionally based. However, these programs serve individual medical facilities and their effectiveness is not tied to regional configurations. Respectively, the ACMD for Academic Affairs, the Director, MIRMO and the Director, Readjustment Counseling Service have line responsibility for these field elements. The present structure of these organizations will be retained, but they will be reviewed at a later date to ensure that they continue to provide appropriate service and are responsive to needs emerging from the regional restructuring.

Overall the reorganization will result in significant cost recovery over a five year period of $8.4 milion. This recovery results from a major reduction in total district/regional (field) staffing. The reorganization will redirect approximately 85 FTEE now employed in the medical districts and/or regions to perform functions at VA medical centers in support of VHS&RA's patient care missions. In FY 1990 approximately $2.4 million will be recovered from a combination of sources, including: $2.0 million (personal services funds for 85 FTEE as described above); $.25 million (costs avoided in closing RD offices in such accounts as leases, maintenance agreements, telecommunications expenses, etc.); and, $.2 million (recovery of two SES positions). In the outyears 1991-4 the reorganization will recover approximately $16.1 million. Below is a summary of the projected costs and recoveries of the reorganization.

SUMMARY START-UP AND OUTYEAR COST OF REORGANIZATION

[In thousands of dollars]

	Fiscal year—				
	1990	1991	1992	1993	1994
Costs	10,169				
Recoveries	(2,444)	(4,034)	(4,034)	(4,034)	(4,034)
Net cost/recovery	7,725	(4,034)	(4,034)	(4,034)	(4,034)

Appendix B contains a more detailed analysis of costs and recoveries associated with the reorganization.

V. JUSTIFICATION

The reorganization of VHS&RA's field operations is determined to be appropriate and advisable in terms of the statutory missions and long term goals of the Department of Veterans Affairs. It will enhance accomplishment of VHS&RA's primary mission: to provide the highest quality of healthcare services to eligible veterans, while also maintaining the continuity of structures and systems that support the other missions of education, research and Department of Defense contingency.

The purpose of the reorganization is to improve service to veterans. Rather than **simply consolidating and realigning offices, this reorganization will remedy the variation** in policy interpretation and implementation that has emerged under a seven-region structure. Reducing the number of regions and the number of regional directors will result in strengthened centralized policy-making, more uniform policy implementation and greater management accountability. The new organization will create a better balance between management flexibility at the medical centers and **system-wide operational uniformity based** on national policy.

Reducing the number of regions is critical to achieving consistency and equity of access to services throughout the VA **healthcare system. An additional benefit of reducing the number of regional field offices**, when coupled with the elimination of the 27 medical districts, is the opportunity to recover resources from these administrative activities and redirect them to support patient care. The streamlined organization described in this report will best carry out these management goals.

[From the Veterans' Administration, Aug. 25, 1989]

APPENDIX A—MEMORANDUM

VHS&RA FIELD STRUCTURE

1. Veterans' medical programs must be operated on a consistent basis nationwide, and the issuance of policy from Central Office cannot alone accomplish that end. A responsive management structure in the Veterans Health Services and Research Administration is equally critical to success in our system of geographically dispersed, largely independent medical facilities.

2. As we have discussed numerous times, I am not convinced we are currently achieving the proper balance between two needs: (1) operational uniformity for the system as a whole, and (2) local management flexibility for individual facilities. Budgets that call for greater efficiency at a time of increasing demands upon the system make the need to address these matters even more pressing.

3. Over the past several months, we have consulted with knowledgeable parties on the management of VHS&RA field operations, both in and outside VA. We found near consensus regarding the medical districts whose functions as defined are seen as duplicative in view of the regions' line authority and accordingly creates administrative layering which is costly and impedes communication between Central Office and the medical centers. It is also evident the regions themselves have developed considerable variation in their management processes despite the existence of centralized policy guidance and directives. The result has been insufficient management accountability—an unacceptable price to pay for permitting greater regional and local discretion in operations. We must strive for greater uniformity especially in the area of access to care for our nation's veterans irrespective of the region where they reside.

4. After weighing many factors, I have made the following decisions:

(a) That we should begin to phase out the Districts, folding certain elements of grassroots planning and MEDIPRO into Regions. This should begin immediately, and end no later than March 31, 1990.

(b) That we should cut the number of Regions from seven to three, along the lines of the attached map. This proposal will be repoted to the appropriate Congressional committees with the transmittal of the fiscal year 91 Budget. However, planning for this should begin immediately so we are able to implement this change as soon as Congressional clearance is obtained.

5. Please submit to me within 30 days an implementation plan for the new three-region structure for VHS&RA which would address the following considerations:

(a) Resource savings that will result, and will be used to provide additional direct patient care in the respective regions.

(b) Site location, bearing in mind logical demographics and ease of travel.

(c) Staffing patterns for each Region for both Central Office and the field, assuming the Regional Directors will remain in the field.

6. Within the next two weeks I would like to meet with you to discuss selection of the three Regional Directors and the geographic locations of their offices.

EDWARD J. DERWINSKI.

APPENDIX B

DEPARTMENT OF VETERANS AFFAIRS VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION SUMMARY OF REORGANIZATION COSTS/RECOVERIES

ASSUMPTIONS

1. Reorganization will result in a four region structure. Existing region offices will be closed in Albany, NY; Durham, NC; Gainesville, FL; Dallas, TX; and St. Louis, MO.

2. New regional offices will be activated in Baltimore, MD and Jackson, MS. Structure and staffing of these offices will be as recommended in the CMD's November 6, 1989 proposal to the Secretary.

3. Two Regional Offices in Ann Arbor and San Francisco, CA will be expanded. Structure and staffing of these offices will be as recommended in the CMD's November 6, 1989, proposal to the Secretary.

4. Twenty-seven Medical Districts will be phased out NLT March 31, 1990. Activation of the new four region structure will occur on March 31, 1990. Assumes that a waiver to 210(b) will be granted early in CY 1990.

5. The projected costs of this reorganization are one-time, non-recurring expenses. The resources associated with recovery of 85 FTEE from total region and district staff are recurring (per FTEE salary/benefits is $47,453).

6. The new regions will have a staffing complement of approximately 94 FTEE (fifty-eight will be located at the regional field office and thirty-six will VAMC based; journalized to the region). As a result of the reorganization approximately 216 employees will be relocated throughout the system. The average cost per relocation is $40,000.

7. Two SES positions will be recovered from the reorganization (7-region structure requires 14 SES positions; 4-region structure requires 12 SES positions).

SUMMARY OF REORGANIZATION COST/RECOVERIES—FISCAL YEAR 1990-94

FISCAL YEAR 1990 START-UP

	Cost	Recovery
CLOSURES		
Region field offices in Albany, NY; Durham, NC; St. Louis, MO; Dallas, TX; Gainesville, FL and VACO SEC positions.		
Personal Services (Separations) (salary and benefits)	[1] $136,436	[2] $172,500
All others		[3] 254,249
Total regional closure	136,436	426,749
District offices		
Total district recovery		[4] 2,016,753
Total for all closures	136,436	2,443,502
ACTIVATION OF NEW REGIONS (BALTIMORE AND JACKSON)		
Personal services (relocations)	[5] 4,640,000	
All Other	[6] 1,442,940	
Total for activation	6,082,940	
EXPANSIONS		
Expansion of existing field offices in Ann Arbor, MI and San Francisco, CA.		
Personal services (relocations)	2,400,000	
All others	1,549,940	
Total for expansion	3,949,940	
Fiscal year 1990 reorganization total	10,169,316	2,443,502
Total fiscal year 1990 costs	7,725,814	

[1] Separation Pay (terminal leave, severance pay, etc.)
[2] Recoveries of Two Senior Executive Positions (pay and benefits)

[3] Recoveries achieved through regional phase out. Includes rental space, contractual agreements, equipment rentals, telephone service, ADP maint. mail (parcel post and express), etc.

[4] Recovery achieved through redirecting 85 FTEE at approximately an annual salary benefit of $42,453 to VAMCs at (½ year FY 1990).

[5] Cost of relocating 116 FTEE at approximately $40,000 per FTEE to establish the Baltimore and Jackson RD offices.

[6] Cost of establishing RD office includes: rental space, furniture, ADP and other equipment, maintenance agreements, telecommunications, vehicle rentals, etc.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, March 21, 1990.

Hon. ALAN CRANSTON,

Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter is to provide additional information concerning the closing of the medical district offices of the Veterans Health Services and Research Administration (VHS&RA).

As you know, we reported, by letter of January 22, 1990, the planned administrative reorganization and consolidation of the VHS&RA medical regions. That report includes our detailed plan and justification for the consolidation of the medical regions in accordance with the Congressional report requirements of 38 U.S.C. § 210(b)(2). In addition to reporting the planned consolidation of the medical regions, the report letter also provided certain information concerning the closing of the medical district offices. In doing so, we indicated that the closings of the medical district offices were not in our view an administrative reorganization of the type subject to the statutory reporting requirements of section 210(b). As indicated in the enclosed, October 3, 1989, opinion of our General Counsel, none of the medical district offices is a covered field office or facility as defined in 38 U.S.C. § 210(b)(2)(D)(iii), due to the size of the district offices. Nevertheless, this letter and the enclosures are intended to provide you with additional information concerning the closing of the medical district offices.

As I indicated in my January 22, 1990 letter to you, and in my August 25, 1989 memorandum (Appendix A), I strongly believe that eliminating this extra VHS&RA administrative layer will serve the best interests of our patients without reducing VA's responsiveness to Congressional concerns. It is a critical part of the overall VHS&RA restructuring which I believe will improve system-wide VHS&RA uniformity in the implementation of national policy. In addition, it will enable us to transfer some resources to direct patient medical care.

I hope this letter provides the additional information which you need concerning our closing of the VHS&RA medical district offices. Please let us know if you have any additional questions concerning this matter.

Sincerely yours,

EDWARD J. DERWINSKI.

Enclosures.

[From the Veterans' Administration, Oct. 3, 1989]

MEMORANDUM—O.G.C. ADVISORY 64-89

From: Acting General Counsel (02).

Subj: Applicability of the Prior Cong. Rept. Requirements of 38 U.S.C. § 210(b)(2) to Certain Changes Involving the VHS&RA Medical Districts and Regions.

To: Secretary (00).

QUESTION PRESENTED

Whether closing the Medical District Offices and consolidating the Medical Regions would be an administrative reorganization subject to 38 U.S.C. § 210(b)(2) requirements.

COMMENTS

1. This confirms our prior oral advice, and responds to your request for our written opinion as to whether either closing the Veterans Health Services and Research Administration (VHS&RA) Medical District Offices, or consolidating or otherwise reducing the number of the seven Regional Directors' Offices in the field would constitute an "administrative reorganization" subject to the prior Congressional report-and-wait requirements of 38 U.S.C. § 210(b)(2), as amended by section 15 of the Department of Veterans Affairs Act, Pub. L. No. 100-527, 102 Stat. 2635, 2644 (1988).

2. As we understand the facts, VHS&RA field operations have been managed through a network of 7 Regional Directors' Offices and 27 Medical District Offices with each having management and coordination responsibility for all VHS&RA field facilities within its geographic Medical Region or Medical District. The VA Organization Manual, M-00-1, Chapter 10, section 1000.8D, (copy attached), describes the functions of the Regional Directors as including: direct line supervision of Directors of all field facilities in the Region; coordination and integration of the mission of each field facility; budget management including monitoring and adjusting fund utilization and work loads at each facility; rating Medical Center Directors; and providing liaison between a Region's facilities and VACO. We understand that several years ago most of the staff of each Region Director were relocated to the Regional Director's Office within each Region. However, the Deputy and some staff of each Region continue to be located at VACO to facilitate the Regional Director's VACO liaison function. The Regional Director himself ordinarily divides his time between the Regional Director's Office in his geographic Region and VACO. We also understand that 5 of the 7 Regional Directors' Offices have 25 or more employees, but that all of the Medical District Offices have fewer than 25 employees. (See attached charts.)

3. As can be seen from the above, the function of this network includes liaison between field facilities and VHS&RA operations and management at VACO. Nevertheless, the Regional Directors and Medical District Offices are autonomous field offices which perform field management and coordination functions in their areas of responsibility, separate from VACO. Obviously, these offices must be viewed as separate VA "field offices" in the sense that they are geographically remote from and outside of the VACO. Moreover, we understand that the FTEE for all Medical District staff and for Medical Region staff in the field are funded from the Medical Care Appropriation Account, whereas the Medical Region staff located at VACO are funded from the Medical Administration and Miscellaneous Operating Expense (MAMOE) Appropriation. This fact would also appear to support the conclusion that Medical District Offices and the Offices of the Regional Directors in the field are autonomous field offices, separate from VACO. Therefore, it is our opinion that each of these field offices is a separate field office which meets the first part of the definition of a section 210(b)(2) "covered field office or facility." This definition covers a VA "office or facility outside the Department of Veterans Affairs Central Office that is the permanent duty station for 25 or more employees, or that is a free-standing out-patient clinic." (38 U.S.C. § 210(b)(2)(D)(iii).)

4. However, because all of the Medical District offices have fewer than 25 employees and because they are not freestanding outpatient clinics, none of them qualify as a "covered field office or facility" under the second half of the above definition. Also, the attached chart shows that 2 of the 7 Regional Directors' Offices in the field have fewer than the requisite 25 employees under the above definition. Hence, those two Regional Directors' Offices (Regions 3 and 7) also do not qualify as a "covered field office or facility" as defined in and made subject to the provisions of section 210(b)(2).

HELD

Based upon the above, it is our opinion that none of the 27 Medical District Offices, and neither the Regional Director's Office for Region 3 nor Region 7 constitute a "covered field office or facility." Consequently, the consolidation, elimination, abolition, or redistribution of the functions of any of those offices would not be subject to section 210(b)(2) reporting requirements since it would not be an administrative reorganization of a "covered field office or facility" under 38 U.S.C. § 210(b)(2)(B)(ii). However, since each of the other five Regional Directors' Offices is outside of VACO, and otherwise meets the definition of a "covered field office or facility," such a reorganization of any of those Offices would be subject to section 210(b)(2) prior reporting requirements, if the reorganization involved the requisite staffing cuts at such a covered office; that is, an administrative reorganization involving loss of function at any of those five Regional Directors' Offices would be covered if either a 10 percent FTEE staff reduction in 1 fiscal year, or a 15 percent FTEE reduction over 2 consecutive fiscal years would result at the affected office.

DONALD L. IVERS.

Attachment.

NUMBER OF MEDICAL DISTRICT OFFICE EMPLOYEES BY GRADE

Grades	District 1 (Bedford)	District 2 (Buffalo)	District 3 (Castle Pt)	District 4 (Philadelphia)	District 5 (Pittsburgh)	District 6 (Washington, DC)	District 7 (Richmond)	District 8 (Durham)	District 9 (Atlanta)
AD-15		1							
VN-15									
VN-14								1	
VN-13		1			1				
VN-12	2			1	2	1	1	1	

NUMBER OF MEDICAL DISTRICT OFFICE EMPLOYEES BY GRADE—Continued

Grades	District 1 (Bedford)	District 2 (Buffalo)	District 3 (Castle Pt)	District 4 (Philadelphia)	District 5 (Pittsburgh)	District 6 (Washington, DC)	District 7 (Richmond)	District 8 (Durham)	District 9 (Atlanta)
VN-11				1					
GM-15									
GM-14	1	1	1	1	1	1	1	1	1
GM-13	2	2	3	3	1	3	3	2	3
GS-13						1			
GS-12			1		1		1	1	3
All other	2	4	5	4	3	3	3	3	2
Total	7	9	10	10	9	9	9	9	9

Grades	District 10 (Birmingham)	District 11 (Memphis)	District 12 (Gainsville)	District 13 (Columbus)	District 14 (Ann Arbor)	District 15 (Indianapolis)	District 16 (Milwaukee)	District 17 (Chicago)	District 18 (Minneapolis)
AD-15 (physician)									
VN-15									
VN-14									
VN-13	1		1				1		
VN-12	1	1	3		1		1		1
VN-11	1			1			1		1
GM-15									
GM-14	1	1		1	1	1	1	1	1
GM-13	1	1	1	2		2	1	3	2
GS-13					1				
GS-12	1	1		1		3		1	
All other	4	5	4	4	5	3	4	5	4
Total	10	9	9	9	8	9	9	10	9

Grades	District 19 (Little Rock)	District 20 (Waco)	District 21 (St. Louis)	District 22 (Omaha)	District 23 (Salt Lake City)	District 24 (Phoenix)	District 25 (Los Angeles)	District 26 (Palo Alto)	District 27 (Portland)
AD-15 (physician)									
VN-15									
VN-14									
VN-13							1		
VN-12	1	3			1	1	2	2	
VN-11					1	1		1	1
GM-15									
GM-14	1	1		1	1	1	1	1	1
GM-13	2	1	2	2	2	2	2	3	2
GS-13		2							
GS-12	3	1	2	1	2		1		1
All other	4	2	2	4	3	3	3	2	4
Total	11	10	6	8	10	8	10	9	9

[From the Veterans' Administration, Aug. 25, 1989]

Subject: VHS&RA Field Structure.

Chief Medical Director (10).

1. Veterans' medical programs must be operated on a consistent basis nationwide, and the issuance of policy from Central Office cannot alone accomplish that end. A responsive management structure in the Veterans Health Services and Research Administration is equally critical to success in our system of geographically dispersed, largely independent medical facilities.

2. As we have discussed numerous times, I am not convinced we are currently achieving the proper balance between two needs: (1) operational uniformity for the system as a whole, and (2) local management flexibility for individual facilities. Budgets that call for greater efficiency at a time of increasing demands upon the system make the need to address these matters even more pressing.

3. Over the past several months, we have consulted with knowledgeable parties on the management of VHS&RA field operations, both in and outside VA. We found near consensus regarding the medical districts whose functions as defined are seen as duplicative in view of the regions' line authority and accordingly creates administrative layering which is costly and impedes communication between Central Office and the medical centers. It is also evident the regions themselves have developed considerable variation in their management processes despite the existence of centralized policy guidance and directives. The result has been insufficient management accountability—an unacceptable price to pay for permitting greater regional and local discretion in operations. We must strive for greater uniformity especially in the area of access to care for our nation's veterans irrespective of the region where they reside.

4. After weighing many factors, I have made the following decisions:

(a) That we should begin to phase out the Districts, folding certain elements of grassroots planning and MEDIPRO into the Regions. This should begin immediately, and end no later than March 31, 1990.

(b) That we should cut the number of Regions from seven to three, along the lines of the attached map. This proposal will be reported to the appropriate Congressional committees with the transmittal of the FY 91 Budget. However, planning for this should begin immediately so we are able to implement this change as soon as Congressional clearance is obtained.

5. Please submit to me within 30 days an implementation plan for the new three-region structure for VHS&RA which would address the following considerations:

(a) Resource savings that will result, and will be used to provide additional direct patient care in the respective regions.

(b) Site location, bearing in mind logical demographics and ease of travel.

(c) Staffing patterns for each Region for both Central Office and the field, assuming the Regional Directors will remain in the field.

6. Within the next two weeks I would like to meet with you to discuss selection of the three Regional Directors and the geographic locations of their offices.

EDWARD J. DERWINSKI.

Attachment.

[Enclosure 1]

REORGANIZATION OF VHS&RA FIELD OPERATIONS—MEDICAL DISTRICT CLOSURES

I. PURPOSE

The purpose of this report is to describe the planned closure of the medical district component of the Veterans Health Services and Research Administration's (VHS&RA) field operations.

II. BACKGROUND

The Secretary determined, on the basis of extensive consultations with health care experts and external to VHS&RA, that a reorganization of field operations was necessary to achieve improvements in the uniformity of policy implementation and equity of access to medical care. Accordingly, the Secretary's memorandum of August 25, 1989 (Appendix A), to the Chief Medical Director (CMD), establishes the rationale and parameters for a reorganization of field operations, including elimination of the 27 medical districts by March 31, 1990. The August 25 memorandum states that there is "near consensus regarding the medical districts whose functions as defined are duplicative" and further that they create additional administrative layering that is both costly and an impediment to communication between

Central Office and the medical centers. The CMD appointed a Task Force, chaired by the Deputy Chief Medical Director, with full involvement of Department staff offices, to plan and implement the reorganization including the disposition of staff and property assigned to the medical district offices.

III. DISCUSSION

1. Description of the Current Organization.—In accordance with 38 U.S.C., Section 4103, the current VHS&RA organization is headed by the CMD, who is directly responsible to the Secretary for operation of the Administration. Two line officials: the Deputy CMD and Associate Deputy CMD assist in carrying out VHS&RA's operational responsibilities. VHS&RA field elements consist of 172 medical centers (VAMCs), 233 outpatient clinics, 119 nursing home care units, 29 domiciliaries, 194 Vietnam Veteran Outreach Centers and various support units, such as the Regional Medical Education Centers (RMECs). VHS&RA field elements are assigned to seven geographically determined regions, each headed by a Regional Director (RD).

a. Medical District Structure

The seven regions are further subdivided into 27 medical districts, each comprised of four to seven VAMCs and headed by a Medical District Director (MDD) appointed by the CMD from among Medical Center Directors in a given district. Historically, the MDD's role has been to advise the RD on distribution of resources and planning of the district's healthcare services. However, MDDs exercise no line authority over the district VAMCs. Each district office has a staff of approximately seven to eleven FTEE and the total authorized FTEE for all districts is 265.

b. Medical District Functions

The medical district operates as a consortium in planning (MEDIPP), quality assurance (MEDIPRO), and environmental management programs, and joint program sharing/service delivery efforts. District staffs have a significant role in supporting these programs and also perform data collection, analysis and development of recommendations for management review at both district and regional levels.

(1) MEDIPP.—The medical district has been the focal point of the Medical District Initiated Program Planning (MEDIPP) process, in which planning is carried out at the grass roots, medical center level, with medical district staff performing data collection, analysis, and coordinating functions.

(2) MEDIPRO.—The Department of Veterans Affairs has been charged by Congress to implement objective, criteria-based, physician-directed peer review. Currently, specific quality of care studies are designed by Medical District Peer Review Organization (MEDIPRO) Boards, with information collected from medical centers by clinical evaluators. Information is analyzed by the MEDIPRO Boards and reported back to the facilities and to the regions.

(3) Safety and Health.—Employee safety programs are required by Public Law 91-596. Annual inspections; compliance with Occupational Safety and Health Administration (OSHA) and Environmental Protection Agency (EPA) regulations and Joint Commission on Accreditation of Healthcare Organizations (JCAHO) Fire and Safety criteria; waste management; accident statistics; and review of construction projects comprise these functions.

2. Disposition of medical district functions under the new organization.—The Secretary has approved a prototypical regional organization with approximately 91 to 97 FTEE per region; 30 to 40 percent of the FTEE will be decentralized to three or four VAMCs within the region to perform functions that require close proximity to the healthcare facilities. Certain functions have been identified, specifically MEDIPP, MEDIPRO, Safety and Fire Protection, and Industrial Hygiene, that should be decentralized to be effective or because of specific legislative or policy mandates. The FTEE performing these functions, while physically located in VAMCs, will report directly to the RDs. The following describes how key functions of the current medical districts will be carried out under the new region structure.

MEDIPP.—The district planning process will be replaced by a regional planning process; regions will initiate and oversee the grass roots planning activities and implementation of VACO planning guidance. The focus of planning will be vertical integration of services among facilities that have established referral relationships. District planners will be replaced by regional planners who will be responsible for data collection and analysis and coordination of planning activities among assigned facilities. Some planners will be assigned to the RD's immediate office, however, the majority will be placed in selected medical centers, where they can most effectively provide support to grass roots planning activities. Regional planning boards will continue to review all regional plans to establish priorities and identify areas for shared resources. Planning and construction responsibilities will be combined in one position to oversee planning, Facility Development Plans (FDPs), and construction management for major projects.

MEDIPRO.—Under the new region structure, quality assurance activities will be integrated into a total quality management approach at the region level. RDs will assume operational responsibility to implement quality assurance policies and programs, monitor quality management and policy compliance, and provide education and consultation to the medical centers. PRO reviews required by 38 CFR, Part 17.514; criteria development; preparation of PRO reports and follow-up; and coordination of PRO Boards and Technical Advisory Groups will become regional office responsibilities. Existing MEDIPRO Boards will be replaced by review boards organized in a manner consistent with the new quality management organization. Clinical evaluators will report to the RD but will be housed in the medical centers, permitting them to remain in close proximity to their area of responsibility.

Safety and Health.—Functions remain essentially unchanged. As with MEDIPP and MEDIPRO staff, some safety and fire protection engineers and industrial hygienists will be assigned to the RD's office and others will be located in medical centers.

3. Disposition of medical district property.—The Reorganization Task Force has developed plans to vacate the space occupied by district offices and dispose of property by March 31, 1990.

4. Impact on Resources of Abolishment of Medical Districts.—There are, in FY 1990, 461 authorized FTEE in the combined regional and district offices. The new regions will assimilate approximately 376 FTEE (an average of 94 FTEE per region). The reorganization will, therefore, essentially redirect approximately 85 FTEE from administrative activities to perform functions at VA medical centers in support of VHS&RA's patient care missions. Therefore, at an average annual salary of $47,453, approximately $2 million in personal services funds will be recovered during the remainder of FY 1990 that can be redirected to patient care. A recovery of approximately $4 million will be realized annually thereafter.

5. *Personnel Management Strategy.*—Options and opportunities for displaced district and region employees.

The staffs of the 27 district and five regional offices are affected by the reorganization and VA management is committed to minimizing the adverse impact on all of these individuals. Employees have been surveyed and an inventory developed of all incumbents, including occupational title, grade, pay plan, years of service and mobility. A special placement program was instituted for all displaced district employees in November. This program will be expanded to include the displaced employees in the regional locations, once the reorganization can be implemented. In addition, many of the positions in the new regions will be staffed by displaced district and regional employees. Grade and pay retention and discontinued service retirement have been made available to all qualified employees and all employees will be eligible to use relocation services. The Department is also planning to implement a nationwide hiring freeze for selected occupations to ensure there are vacant positions that can be offered as placement opportunities. In spite of these efforts, it is anticipated that there may be a very limited number of employees who will not be able to be placed because of their grades or occupations and in these few instances limited reduction-in-force (RIF) authority may be required to accomplish their placement. The impact of the district closures on the small number of bargaining unit employees will be a subject of union negotiations scheduled for March 9, 1990.

THE SECRETARY OF VETERANS AFFAIRS
Washington, DC, April 17, 1990.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to provide additional information in response to your letter about our proposed administrative reorganizations in the Veterans Benefits Administration (VBA) and the Veterans Health Services and Research Administration (VHS&RA). I appreciate your continuing assistance so we will be able to proceed as soon as possible with implementation.

In an effort to resolve Senator Mitchell's concerns, I recently met with him regarding consolidation of VBA's Loan Guaranty operations from Togus to Manchester. We are preparing additional information on this matter and will provide it to both you and Senator Mitchell in the near future. Likewise, on the reorganization of VHS&RA's regional structure, we will provide information as necessary to resolve the concerns of Senators Graham and Mack, and the Texas Congressional delegation.

Regarding the medical districts, my decision to close the 27 offices is based on a broad consensus within VHS&RA and the Department that these organizations represent an unnecessary administrative layer. This extra layer is costly, and an impediment to communication between Central Office and the medical centers. My letter to

you of March 21, 1990, provides additional information on the elimination of the medical districts and the impact on functions, employees, and resources. That letter, along with this one, supplements the information we submitted to Congress on January 22, 1990.

Necessary functions previously performed at the medical district offices will continue to be carried out under the four-region structure. After extensive discussion, we have general agreement that certain functions will be performed most effectively if they are carried out by region staff located close to the medical centers they support. These Regional Division Offices (RDOs) will be at the Regional Director's office or at medical centers within each region (see Enclosure 1).

Selection of RDO sites is based on the following criteria:

Minimizing time and cost of travel to medical centers and RD office;

Using existing office space in RD offices or medical centers;

Incorporating natural patient referral patterns; and

Minimizing relocation of personnel.

RDOs will be the base of operation for **planners, clinical evaluations, fire protection** and safety engineers, and industrial hygienists whose responsibilities include frequent on-site contact with medical centers. RDO staff will continue functions formerly performed by the medical districts including planning, sharing, and peer review initiatives. Unlike in medical districts, RDO staff **will report directly to program managers in the RD's office, eliminating the need for an** administrative layer below the RD.

Sixteen RDOs are planned, four for each region. Each RDO will serve a group of 8 to 13 medical centers and be staffed with 8 to 10 FTEE. Thus approximately 38 FTEE in each region will work in RDOs: a nationwide total of 152 FTEE. The RDOs would perform the same essential functions with 16 rather than 27 units, and 152 FFTE as opposed to 265 in the medical district offices. As I advised you in my earlier letters, the reorganization overall will recover approximately 85 FTEE and transfer approximately $4 million from administrative functions to direct support of patient care.

In their letter, Senators Graham and Mack referred to the important role of the medical district offices in providing liaison in the field with VA's various constituencies. It is true that the medical districts, in addition to their administrative responsibilities, served informally as liaison among veterans' service organizations, medical center directors or personnel, VA Central Office, and Congressional offices. We recognize such rapport is important to strategic planning and development and helps ensure local and regional concerns are factored into national policy decisions. We will continue this important activity at the regional level by designating a VHS&RA representative from each State to continue to perform this liaison function (see Enclosure 2).

As we reported to Congress in January 1990, the reorganization of VHS&RA field operations is necessary to ensure equitable access to VA health care throughout the system and balance more efficiently the competing management objectives of uniformity and flexibility. We are confident the new organizational framework will enable VA to improve administration and efficiency of VA health care services throughout the nation without diminishing the attention given local concerns or the access of veterans' service organizations to those in Central Office and Congress who make national VA health care policy decisions.

I would greatly appreciate your further advice and support for our efforts to achieve enactment of S. 2103, concerning this restructuring in VHS&RA. Additional information in support of S. 2101, the VBA Loan Guaranty consolidation, will be provided shortly.

Sincerely yours,

EDWARD J. DERWINSKI.

Enclosures.

[Enclosure 1]

REGIONAL DIVISION OFFICE

(RDO) LOCATIONS

Region 1: Eastern Region—

Regional Director's Office: Baltimore, Maryland.

Regional Division Offices: Albany, New York, Baltimore, Maryland*, Bedford, Massachusetts, Pittsburgh, Pennsylvania.

Region 2: Central Region—

Regional Director's Office: Ann Arbor, Michigan.

Regional Division Offices: Ann Arbor, Michigan*, Indianapolis, Indiana, Minneapolis, Minnesota, St. Louis, Missouri.

Region 3: Southern Region—

Regional Director's Office: Jackson, Mississippi.

Regional Division Offices: Atlanta, Georgia, Dallas, Texas, Jackson, Mississippi*, Tampa Bay area, Florida.

Region 4: Western Region—

Regional Director's Office: San Francisco, California.

Regional Division Offices: Palo Alto, California, Phoenix, Arizona, Portland, Oregon, Salt Lake City, Utah.

*RDO colocated with Regional Director's Office.

[Enclosure 2]

VHS&RA STATE REPRESENTATIVES

State	Representative	Facility	Region	New region
Connecticut	Norman E. Browne	VAMC West Haven	1	1
Maine	Vacant	VAM&ROC Togus	1	1
Massachusetts	Wallace M. Hopkins	VAMC Brockton/WRoxbury	1	1
New Hampshire	William H. Kelleher	VAMC Manchester	1	1
New York	Richard S. Droske	VAMC Buffalo	1	1
Puerto Rico/Virgin Is.	Dewey Robbiano, Jr., MD	VAMC San Juan	1	3
Rhode Island	Edward H. Seiler	VAMC Providence	1	1
Vermont	Gary M. DeGasta	VAM&ROC White River Jct.	1	1
Delaware	Vacant		2	1
District of Columbia	Timothy B. Williams	VAMC Washington, DC	2	1
Maryland	Barbara L. Gallagher	VAMC Baltimore	2	1
New Jersey	A. Paul Kidd	VAMC Lyons	2	1
North Carolina	Thomas L. Ayres	VAMC Salisbury	2	3
Pennsylvania	Thomas A. Giglotti	VAMC Pittsburgh (UD)	2	1
Virginia	Allan S. Goss	VAMC Hampton	2	1
West Virginia	William G. Wright	VAMC Clarksburg	2	1
Alabama	Robert P. Blair	VAMC Tuscaloosa	3	3
Florida	Malcom Randall	VAMC Gainesville	3	3
Georgia	Glenn Alred, Jr	VAMC Atlanta	3	3
Kentucky	Larry Sander	VAMC Louisville	3	2
Mississippi	J. L. Warnock	VAMC Jackson	3	3
South Carolina	Robert M. Athey	VAMC Columbia	3	3
Tennessee	Larry E. Deters	VAMC Nashville	3	3
Illinois	Joseph L. Moore	VAMC Lakeside-Chicago	4	2
Indiana	Terrence L. Johnson	VAMC Indianapolis	4	2
Michigan	Jule D. Moravec, Ph.D.	VAMC Ann Arbor	4	2
Ohio	Alan G. Harper	VAMC Dayton	4	2
Wisconsin	Russell E. Struble	VAMC Milwaukee	4	2
Wyoming	George H. Andries, Jr.	VAMC&ROC Cheyene	4	4
Colorado	Fred F. Salas	VAMC Denver	5	4
Iowa	Gary L. Wilkinson	VAMC Iowa City	5	2
Kansas	James H. Cuer	VAMC Leavenworth	5	2
Minnesota	T. P. Mullon	VAMC Minneapolis	5	2
Missouri	John T. Carson	VAMC St. Louis	5	2
Montana	Charles A. Milbrandt	VAMC&ROC Ft. Harrison	5	4
Nebraska	Roderick L. Turcotte	VAMC Omaha	5	2
North Dakota	Donald H. Colston	VAMC Fargo	5	2
South Dakota	Carl J. Gerber, MD	VAMC Ft. Meade	5	2
Utah	Willaim L. Hodson	VAMC Salt Lake City	5	4
Alaska	Robert M. S. Anderson	VAOPC Anchorage	6	4
California	Thomas A. Trujillo	VAMC San Diego	6	4
Hawaii	Barry J. Raff	VAOPC Honolulu	6	4
Idaho	James A. Goff	VAMC Boise	6	4
Nevada	Kenneth J. Clark	VAMC Reno	6	4
Oregon	Barry L. Bell	VAMC Portland	6	4
Philippines	David Smith	VAOPC/RO Manila	6	4
Washington	James T. Krajeck	VAMC Seattle	6	4

VHS&RA STATE REPRESENTATIVES

Arizona	Ray L. Bourne	VAMC Phoenix	7	4
Arkansas	Robert T. Patton	VAMC Little Rock	7	3
Louisiana	John D. Church	VAMC New Orleans	7	3
New Mexico	R. Michael Harwell	VAMC Albuquerque	7	4
Oklahoma	Steven J. Gentling	VAMC Oklahoma City	7	3
Texas	C. Wayne Hawkins	VAMC Dallas	7	3

Mr. MURKOWSKI. Mr. President, as ranking Republican member on the Committee on Veterans' Affairs, I rise in support of this legislation which would waive the notice-and-wait provision of title 38, United States Code, to permit the Department of Veterans Affairs to move forward with its planned reorganization of the field office structure of the Veterans Health Services and Research Administration [VHS&RA].

Mr. President, this legislation has been requested by VA Secretary Ed Derwinski. In January VA submitted to the Congress its proposed VHS&RA field reorganization plan. The committee heard testimony on this plan during hearings on the VA's proposed fiscal year 1991 budget request.

The Secretary's original plan called for the reduction of VHS&RA medical regions from 7 to 4 and for the elimination of the 27 medical districts. The Secretary stated that this reorganization would ensure consistency of veterans access to health care and would eliminate unnecessary layers of bureaucracy. I strongly supported this proposal.

However, as a result of some concerns raised by certain Members of the Congress, I was notified on March 16 of the Secretary's decision to modify his plan. The new proposal would keep intact the four medical regions as originally proposed but rename them "Corporate Offices." Most significant-

ly, the new plan would keep 16 district offices—but renamed "Regional Division Offices." Therefore, the number of district offices would be reduced by 11.

Although the Secretary stated that the new "Regional Division Offices" should not be construed as recreating the medical districts, I fail to understand how these RDO's will differ from the medical district structure

I informed the Secretary of my concerns. Nonetheless, I commend Secretary Derwinski for his strong interest in addressing the often inconsistent manner in which services are available and provided. I applaud his efforts to look for and implement more cost-effective ways to run his Department.

Enactment of this bill will permit the Secretary to promptly move forward with the current reorganization plan. I believe that the Senate should permit the Secretary to determine the best and most efficient way to organize his Department. I have urged my colleagues to support this bill, however, unanimous consent could not be granted for immediate consideration tonight. It was, therefore, necessary to begin the process by which the bill will be placed on the calendar and it is my hope that prompt action will be taken on the bill.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have two resolutions authorizing representation of Senate employees and an employee of the Congressional Research Service by the Senate legal counsel. On behalf of myself and the distinguished Republican leader, I send the resolutions to the desk, and I ask unanimous consent that they be considered and agreed to, en bloc; that the motion to reconsider the adoption of each resolution be laid on the table; that a statement I have with respect to each resolution be inserted at the appropriate place in the RECORD; and that the passage of each resolution appear separately in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIRECTING SENATE LEGAL COUNSEL TO TAKE CERTAIN ACTIONS

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 291) directing the Senate legal counsel to represent a Congressional Research Service legislative attorney in *James B. Smith, et al.*, v. *Commissioner of Internal Revenue*, No. 3778-89(T.C.)

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, the petitioners in James B. Smith, et al. versus Commissioner of Internal Revenue, pending in the U.S. Tax Court, have caused a subpoena for testimony and documents to be issued to John R. Luckey, a legislative attorney in the American Law Division of the Congressional Research Service. The documentary portion of the subpoena seeks documents Mr. Luckey relied upon in preparing a memorandum on tax issues for Senator JAMES A. MCCLURE. Senator MCCLURE sent the memorandum to one of the petitioners, who had submitted a number of written questions to the Senator. The Director of the Congressional Research Service has requested the assistance of the Senate in protecting the work done by CRS in preparing communications to the Members and committees of Congress.

Section 166(d)(5) of title 2 of the United States Code provides that upon request, the Congressional Research Service shall "provide information, research, and reference materials and services to committees and Members of the Senate and House of Representatives and joint committees of Congress to assist them in their legislative and representative functions." Pursuant to this mandate, the Congressional Research Service provides a service to the Members and committees of Congress that is equivalent to that performed by the staffs of committees and Members.

When subpoenas are directed to the staff of the Congressional Research Service, as in this case, the true parties in interest are the committees and Members of the Congress. Section 708(c) of the Ethics in Government Act of 1978, 2 U.S.C. 288g(c) (1988), provides that the Senate Legal Counsel shall perform duties consistent with the purposes and limitations of title VII of that act as the Senate may direct. Under this authority, the Senate has previously directed the Senate legal counsel to represent the Congressional Research Service with respect to a subpoena issued to it for its communications to committees and Members of the Senate.

A committee or Member of the Senate, of course, may determine to make available to the public a report or memorandum which the Congressional Research Service has provided to the committee or Senator. Senator MCCLURE, in this case, sought to assist his constituent in that way. Nevertheless, even when a final product prepared by CRS is released to the public, it is important to protect the confidentiality of CRS's preparatory work in order to encourage the freest possible exploration by CRS of issues about which committees or Members seek information or advice. It would be detrimental to the free flow of information and advice within the Congress to subject lawyers and other analysts at CRS to examination outside of the Congress about the basis of their communications to committees and Members.

This resolution would authorize the Senate legal counsel to represent CRS legislative attorney John Luckey in this matter in moving to quash the subpoena.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 291) was agreed to, as follows:

S. RES. 291

Whereas, the petitioners in *James B. Smith, et al.* v. *Commissioner of Internal Revenue*, No. 3778-89, pending in the United States Tax Court, have caused a subpoena for testimony and documents to be issued to John R. Luckey, a legislative attorney on the staff of the American Law Division of the Congressional Research Service;

Whereas, the documents that have been subpoenaed include those used in preparing a memorandum for a Member of the Senate;

Whereas, the Director of the Congressional Research Service has requested the Senate to assist the Congressional Research Service in protecting the confidentiality of its communications to Members and committees of Congress;

Whereas, pursuant to section 708(c) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288g(c)(1988), the Senate Legal Counsel shall perform such duties consistent with the purposes and limitations of title VII of that Act as the Senate may direct: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent John R. Luckey in the case of *James B. Smith, et al.* v. *Commissioner of Internal Revenue.*

DIRECTING SENATE LEGAL COUNSEL TO TAKE CERTAIN ACTIONS

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 292) directing the Senate legal counsel to provide representation in the case of *State of Connecticut* v. *Patricia L. Nuelsen*, and in related cases, and to authorize testimony and the production of documents.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, on three occasions in October, November, and December of last year, arrests were made at Senator DODD's Wethersfield, CT office of demonstrators who refused to leave when the office closed at the end of the day. The State of Connecticut has brought trespass charges against the demonstrators.

Stanley Israelite, Senator DODD's State director, and Lise Heintz and Edward Mann, who are employed in the State office, have been subpoenaed by the prosecution or the defense, or in some cases by both, to tes-

tify and, with respect to the defense subpoenas, to produce documents. The following resolution would authorize them to testify and to produce relevant documents, except concerning matters for which a Senate privilege should be asserted, and also directs the Senate legal counsel to represent them.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 292) was agreed to, as follows:

S. RES. 292

Whereas, in the case of *State of Connecticut* v. *Patricia L. Nuelsen*, and in related cases, pending in the Superior Court of the State of Connecticut, in New Britain, Connecticut, subpoenas for testimony and documents have been issued to Stanley Israelite, Lise Heintz, and Edward Mann, employees of the Senate on the staff of Senator Christopher J. Dodd;

Whereas, by the privileges of the Senate of the United States and Rule XI of the standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to section 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2) (1988), the Senate may direct its counsel to represent Members and employees of the Senate with respect to requests for testimony made to, or subpoenas issued to, them in their official capacity: Now, therefore be it

Resolved, That Stanley Israelite, Lise Heintz, and Edward Mann are authorized to testify and to provide documents in the case of *State of Connecticut* v. *Patricia L. Nuelsen*, and in related cases, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent any Member or employee of the Senate who is subpoenaed to testify or to produce documents in the case of *State of Connecticut* v. *Patricia L. Nuelsen*, and in related cases.

ORDERS FOR TUESDAY, JUNE 5, 1990, AT 11 A.M.

RECESS UNTIL 11 A.M.; MORNING BUSINESS; RECESS FROM 12:30 P.M. TO 2:15 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate recesses, pursuant to provisions of House Concurrent Resolution 334, it stand in recess until 11 a.m. on Tuesday, June 5; that following the time for the two leaders, there be a period for morning business not to extend beyond 12:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

I further ask unanimous consent that on Tuesday, June 5, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, as a reminder to Senators, when we return to session on Tuesday, June 5, there will be a cloture vote on the crime bill, S. 1970. This vote is slated to occur immediately after the party conferences, at 2:15 p.m.

RECESS UNTIL 11 A.M., TUESDAY, JUNE 5, 1990

Mr. MITCHELL. Mr. President, if the distinguished acting Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, pursuant to the provisions of House Concurrent Resolution 334, until 11 a.m. on Tuesday, June 5.

There being no objection, the Senate, at 12:19 a.m., recessed until Tuesday, June 5, 1990, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate May 24, 1990:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. JOSEPH W. ASHY, xxx-xx-xxxx, U.S. AIR FORCE.
MAJ. GEN. RONALD R. FOGLEMAN, xxx-xx-xxxx, U.S. AIR FORCE.

DEPARTMENT OF STATE

ROGER GRAN HARRISON, OF COLORADO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE HASHEMITE KINGDOM OF JORDAN.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. THOMAS A. BAKER, xxx-xx-xxxx, U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. AUGUST M. CIANCIOLO, xxx-xx-xxxx, U.S. ARMY.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. (SEL) DUANE A. WILLS, xxx-xx-xx..., USMC.

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:
MAJ. GEN. ROBERT J. WINGLASS, xxx-xx-xxxx, USMC.

DEPARTMENT OF JUSTICE

WILLIAM PELHAM BARR, OF VIRGINIA, TO BE DEPUTY ATTORNEY GENERAL, VICE DONALD BELTON AYER.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate May 25, 1990:

THE JUDICIARY

ANNICE M. WAGNER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF FIFTEEN YEARS.

FEDERAL EMERGENCY MANAGEMENT AGENCY

JERRY D. JENNINGS, OF MICHIGAN, TO BE DEPUTY DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF STATE

HARRY W. SHLAUDEMAN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NICARAGUA.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF STAFF, U.S. AIR FORCE AND APPOINTED TO THE GRADE OF GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601 AND SECTION 8034:

To be general

LT. GEN. JOHN M. LOH, xxx-xx-xxxx, U.S. AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. MONROE W. HATCH, JR., xxx-xx-xxxx, U.S. AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. THOMAS R. FERGUSON, JR., xxx-xx-xxxx, U.S. AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN E. JAQUISH, xxx-xx-xxxx, U.S. AIR FORCE

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 611(A) AND 614:

To be permanent major general

BRIG. GEN. SAMUEL A. LEFFLER, xxx-xx-xxxx, U.S. ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. MARVIN D. BRAILSFORD, xxx-xx-xxxx, U.S. ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF STAFF OF THE ARMY AND APPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 3034:

To be general

GEN. GORDON R. SULLIVAN, xxx-xx-xxxx, U.S. ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

GEN. ROBERT W. RISCASSI, [redacted], U.S. ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. ALONZO E. SHORT, JR., [redacted] U.S. ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), AND TO BE APPOINTED AS SENIOR ARMY MEMBER OF THE MILITARY STAFF COMMITTEE OF THE UNITED NATIONS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 711:

To be senior Army member of the Military Staff Committee of the United Nations

MAJ. GEN. DENNIS J. REIMER, [redacted], U.S. ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. LOUIS C. MENETREY, [redacted], U.S. ARMY

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL AND APPOINTMENT AS CHIEF OF NAVAL RESEARCH UNDER TITLE 10, UNITED STATES CODE, SECTIONS 5021 AND 5133:

To be chief of naval research

REAR ADM. (1H) WILLIAM C. MILLER, U.S. NAVY, [redacted]/1210

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WILLIAM T. GORMLEY AND ENDING HUBERT C. WALKER, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 19, 1990.

AIR FORCE NOMINATIONS BEGINNING ROBERT C. BENNER AND ENDING JOSEPH R. ROSS, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 19, 1990. AIR FORCE NOMINATIONS BEGINNING DAN BY BELCHER AND ENDING RONALD STANICH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 25, 1990.

AIR FORCE NOMINATION OF FELIPE G. VIDELA, WHICH NOMINATION WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 10, 1990.

AIR FORCE NOMINATIONS BEGINNING DAVID H. FOGLESONG AND ENDING TYLER W. SHEPPERD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 10, 1990.

IN THE ARMY

ARMY NOMINATIONS BEGINNING WILLIAM R. REEHM AND ENDING JOHN G. THOMAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 19, 1990.

ARMY NOMINATIONS BEGINNING PHILLIP R. BELL AND ENDING MILTON R. SCHOLZE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 19, 1990.

ARMY NOMINATIONS BEGINNING ROY T. BERGMAN AND ENDING PETER K. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 10, 1990.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF DENNIS R. BURIAN, WHICH NOMINATION WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 19, 1990.

MARINE CORPS NOMINATION OF MITCHELL A. COOK, WHICH NOMINATION WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 10, 1990.

IN THE NAVY

NAVY NOMINATIONS BEGINNING R.W. BELOW AND ENDING PAUL E. STOBIE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 19, 1990.

NAVY NOMINATIONS BEGINNING MICHAEL J. MCCULLEY AND ENDING JAMES D. WETHERBEE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 10, 1990.

NAVY NOMINATIONS BEGINNING JAMES M. BEEKER AND ENDING THOR H. OSTEBOE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 10, 1990.

EXTENSIONS OF REMARKS

MEASURING UP FOR 1992

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. VALENTINE. Mr. Speaker, section 5164 of the Omnibus Trade and Competitiveness Act of 1988 sets a target date of December 31, 1992, for our Government to convert its grants, procurements, and business-related activities to the metric [SI] system of measurement. That is also the time when the European Community [EC] will become a unified market with common metric-based standards for goods traded within the EC. If our businesses want to sell to Europe after 1992, they will have to manufacture to metric standards, and the Federal Government must be in a position to help and encourage U.S. businesses to meet this competitive challenge.

Recently, an informative article on Federal metrication appeared in the May 1990 issue of Government Executive, which I commend to my colleagues' attention.

[From the Government Executive, May 1990]

MEASURING UP FOR 1992

(By Lorna Williams)

When the designer of a Navy destroyer showed his plan for the new vessel to the admiral supervising the project, he was asked, "Why is it such a teeny ship?" Told that the ship had been designed in metric units, the admiral sent the designer back to the drawing board with orders to redraw the plans in the customary inch-pound units, so that he could understand them.

Like the admiral, some high-level government managers still have no love for the metric system and don't understand its elegant simplicity. But their ranks are shrinking, and will have to shrink even further. Two provisions of the 1988 Omnibus Trade and Competitiveness Act have given new impetus to the move to the metric system. The first establishes the metric unit as the preferred measurement system for U.S. trade and commerce. The second requires federal agencies to use the metric system in their procurements and other business dealings by the end of 1992, except where impractical. Until they have fully implemented this provision, agencies are required to report on their progress as part of their annual budget submissions to Congresss.

Together, these provisions add up to "the strongest pro-metric legislation enacted in U.S. history," according to Rep. George Brown, D-Calif., a supporter of the bill. Indeed, the federal government's commitment to the metric system could well be the most significant influence in finally tipping the scale toward general acceptance of the metric system, after a false start in the 1970s.

The metric movement stalled at that time because the 1975 Metric Conversion Act called for voluntary use of the metric system and established no deadline for transtion from the inch-pound system. More importantly, the act did not distinguish between the urgent need for industrial metric change and the less urgent need for changes that affect consumers.

The switch to metric was perceived as hostile to consumers. "Arguments that we were losing our export markets in an increasingly metric world got mixed up with protests from people who didn't want to cook in metric," says Gerald T. Underwood, director of the Office of Metric Programs in the Department of Commerce.

The public objected loudly to road signs showing distances in kilometers, to temperatures in Celsius and to gasoline sold in liters. (On the other hand, millions of Americans went on buying soft drinks in liter and two liter bottles, taking photos with 35 millimeter film and driving cars whose parts are nearly all measured in metric.)

This time around, the law makes a clear distinction between the industrial need for switching to metric and the social. While Congress declared the metric system, "the preferred system of weights and measures for United States *trade and commerce*" [emphasis added] in the 1988 trade act, it permits the use of traditional weights and measures in non-business activities.

The deadline for federal agencies to begin using the metric system in "procurements, grants and other business-related activities," is the end of 1992. Coincidentally, by Dec. 31, 1992, the 12 nations of the European Community will become one market, accepting only metrically labeled imports.

The metric system, formally known as the *Système Internationale d'Unités* (International System of Units), was developed by the French in the 18th century and is used today in every country in the world except the United States, Burma and Liberia. The intent of the metric provision of the trade act is "to put American industry on equal footing with our foreign trading partners and encourage a conversion to metric as one way of achieving this end," says Rep. Brown. So government agencies are charged with helping industry, especially small business, make the transition to metric.

Laying down the law is one thing; implementing it—in purchasing goods and supplies worth some $90 billion annually for the vast federal bureaucracy—is another. The chief instrument for the transition to metric is the Interagency Committee for Metric Policy, whose members are senior-level policy-makers from 39 departments and agencies. The committee has a working arm, the Metrication Operating Committee, composed of managers from the same agencies.

Commerce's Office of Metric Programs does a heroic job of spearheading the metric transition, but with only three employees, its resources are stretched. Under Underwood's chairmanship, the operating committee meets once a quarter but, even so, 20 months after passage of the trade act, only a handful of agencies had drawn up to the required transition guidelines. The reasons? "Bureaucratic inertia," according to a Commerce Department source. "Lack of leadership at the highest level," was another reason cited by several agencies.

THE MILITARY GOES METRIC

Ironically, the best bureaucracy of them all, the Department of Defense, has been in the vanguard of the movement toward metric since the 1970s. Two major factors drive DoD's active metric policy: a commitment to providing weapons systems that are interchangeable with those of its NATO partners, all of whom use the metric system, and the likelihood of long-term savings. "Companies tend to reduce the number and variety of part sizes on going metric, standardization that could result in major savings in DoD's supply system," explains John Tascher, DoD metric coordinator, who works in the Defense Quality and Standardization Office.

The Army's decision in 1986 to build the Light Helicopter Experimental (LHX) with a metric engine and airframe has served as a catalyst for change in the defense industry. The LHX is the first entirely U.S.-designed large weapons program to specify the metric system. In 1987, DoD announced that all new weapons systems and development work on the Strategic Defense Initiative—the "Star Wars" space-based missile defense system—would be designed and built in metric units. In addition, the Army has nine more metric weapons systems in the production phase, the Navy, eight.

"Where we can call the shots as in new weapons systems, we're pushing metric," says Tascher. "In areas were we can't call the shots, we're working with industry to help them make the transition." Tascher cites as an example a data base of some 6,000 specifications and standards for metric weapons systems that DoD is compiling with the help of major defense contractors. The data base began operating in January and is available to government agencies, contractors and other interested parties.

The business-supported American National Metric Council, which works closely with government on metric matters affecting its members, is also developing a data base of suppliers of metric parts.

In January 1989, DoD became the first government department to publish a metric transition plan. Other federal agencies are using the 21-page plan as a model.

One reason for the success of DoD's gradual implementation of the metric system is that it has separated the social from the industrial applications from the start. "We're not weighing out potatoes in kilos at the commissary," says Tascher.

NASA: INCHING BACK

The metric system is still up in the air at NASA, which has pulled back from its one-time intention to use a metric baseline measurement system for the space station program. Citing cost and safety reasons, NASA now says the baseline system for the space station will be inch-pound with some metric components—principally the metric modules to be supplied by the European Space Agency and Japan.

"The space station was too far along to make another change in the base measurement system," says Richard Weinstein, NASA's metric coordinator and engineering standards manager. "But the future will

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

probably see NASA going in the direction of metric."

Weinstein expects NASA to announce its metric policy and guidelines for metric transition in the first half of 1990. "There'll be a lot of discussion along the lines of, 'if space programs go metric, will we be able to buy the parts?'" Weinstein predicts. "But there are manufacturers out there whose attitude is, "Give us a big enough order for metric parts, and we'll be happy to make them."

GSA'S METRIC PLAN

To policy advisor Lawrence Rizzi, who chairs the General Services Administration's metric steering group, the main obstacle to switching to the metric system is the sheer size of the operation.

As government's landlord, housekeeper and business manager, GSA spends more than $2 billion a year on procurement, and its shopping list includes office buildings as well as supplies and furniture, utilities, security and garbage collection.

"Transition to the metric system involves so many things and so many people," says Rizzi. "We have 18,000 employees, and we deal with thousands of vendors." He also notes that GSA will have to coordinate with the other agencies for which it orders supplies in order to ensure a uniform government-wide procurement system.

GSA announced its metric transition plan in the *Federal Register* last October. "Our plan accommodates the commercial market we deal in," says Rizzi. "Specs and standards for federal and GSA procurement will be developed in metric as metric becomes the accepted measurement system. The plan should not bend very many of our suppliers out of shape, especially since dual dimensioning may be used in the transition.

"Purists say dual dimensioning should not be allowed, but the reality is that it's all around us," Rizzi continues. "A lot of our suppliers use dual-dimensioning or hybrid systems already." With dual dimensioning, all measurements are expressed in both metric and inch-pound units; in a hybrid system, some measurements are expressed in metric and others aren't. As Rizzi notes, "My 'metric' car has 14-inch wheels."

All 18,000 GSA employees, beginning with top management, will receive some metric education, ranging from a brief orientation to extensive training. The agency will also assist small and medium-sized businesses who need help in making the transition. "The complexities are endless," notes Rizzi, "but I'm optimistic that we'll have our act together by the end of 1992."

METRIC: THE LANGUAGE OF SCIENCE

Several agencies have large numbers of employees—chiefly scientists and engineers—who have worked in metric for years because it is the worldwide language of science. These agencies include the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration, the Department of Energy, the National Institutes of Health, the Food and Drug Administration and the Nuclear Regulatory Commission.

Fear of metric is not an obstacle at such science-oriented agencies, but nonetheless, the metric transition is expected to take "several years," according to Frank Tooper, director of the Operational Standards and Analysis Division at Energy.

Even before it announces a transition plan sometime later this year, Energy is planning to build the multibillion-dollar superconducting supercollider, one of the largest and most complicated U.S. science projects ever conceived, partly in metric. At one time the idea of building the entire project in metric was discussed, but because of the need for compatibility with existing measurement systems such as the U.S. Geological Survey's national grid, all buildings, tunnels and surveying will be done in inch-pound units. However, the superconducting magnets, which represent one-quarter of the cost of the entire project, will be measured in metric, and other technical components may be metric as well.

Procurement in metric will go in tandem with Energy's first metric project. "When we reach that point we'll familiarize our non-scientific employees with the metric system," says Tooper. "We'll also help our contractors who are not already using metric make the switch." Tooper doesn't foresee any problems. "There is top-level awareness here of what the law requires and a commitment to addressing the issue," he says.

Such commitment is not universal. Some federal agencies have not addressed the metric issue because they assume it will fade away again as it did in the 1970s. Others are dragging their feet because they see no particular benefit in making the transition. Still others wonder about costs.

"Some agencies have asked if there is funding for the change, but we have to tell them to plan for it out of their existing budgets," says Commerce's Underwood. "In the area of procurement, however, it may be necessary to supply funding for small businesses to meet initial conversion costs." Underwood notes that the Small Business Administration grants loans for the purchase of metric tools and gauges.

At the Defense Department, the cost issue was addressed in a memo, dated Aug. 7, 1986, from then-undersecretary of the Army James R. Andrews, who was reviewing the status of the LHX engine program. Two teams of contractors reported that the cost of being required to go metric was "at most, 1 to 2 percent," wrote Andrews, adding: "I suspect that a proper accounting would show that there was really no added cost except the one-time training of personnel in what the metric system was."

To those agencies who have yet to start the meter running, Rep. Brown suggested a simple, three-point plan at a recent meeting of the Interagency Committee on Metric Policy: Develop a timetable for transition then follow it; provide assistance to companies that need it; and report agency progress to Congress once a year.

Says Al Navas, former president of the American National Metric Council, "One thing's for sure; this time metric isn't going to fade away."

DEMAND GOOD-FAITH PLANNING TO COMBAT OIL SPILL DISASTERS: ANOTHER "EXXON VALDEZ" CATASTROPHE LIKELY WITHOUT REALISTIC CIVIL, CRIMINAL PENALTIES

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. WYDEN. Mr. Speaker, today I and two of my Oregon colleagues, Mr. AUCOIN and Mr. DEFAZIO, introduce the Oil Spill Disaster Act of 1990. This legislation provides much-needed muscle to mandated contingency planning focused on disastrous oilspills—a problem which now threatens virtually every major port and estuary in this Nation.

And despite the fact that colleagues in both Houses of Congress have done much good work producing strong omnibus oilspill bills, this is one area of preventive medicine that seems to have been overlooked. I hope that conference will measure this get-tough proposal and include it in the conference report.

Mr. Speaker, a year ago the tanker *Exxon Valdez* foundered in Alaska's Prince William Sound, creating the largest oilspill in U.S. history. The effects of that spill were considerably increased thanks to absence of onsite cleanup equipment to deal with the oil.

In April, the U.S. Coast Guard issued a report which stated that no Coast Guard district in this country has the equipment and people available to control a worst-case spill.

These are environmental tragedies waiting to happen. It is predictable that as long as we ship oil by sea, tankers will spill. But the effects of those spills will be needlessly intensified unless we change our laws to demand realistic planning that includes standby resources to combat these spills before they spread as they did in the Prince William Sound incident.

Our bill, which is endorsed by leading environmental organizations such as the National Audubon Society, the National Wildlife Federation, and the Natural Resources Defense Council, addresses a very primary fallacy in our current efforts to combat future spills. And it strikes at the heart of the problem reflected by the *Exxon Valdez* disaster.

We already demand that oil drillers and carriers make plans to control possible spills. But this law is toothless in its enforceability. Planners can promise anything, but deliver little. In the case of *Exxon Valdez,* for example, cleanup assets prescribed in the plan had been withdrawn from the Sound years prior to the spill. There was no hope of cleaning up the oil before its damaging spread to miles of Alaskan beach.

The Environmental Protection Agency is empowered to audit such plans, point out deficiencies, and demand improvements. But penalties which could have been doled out by planners in Alaska, for example, are limited to a one-time, $5,000 fine. This slap-on-the-wrist is not likely to get the attention of the multibillion-dollar, multinational corporation.

Proper spill planning, including provision of equipment and personnel, can decrease both costs of cleanup and the extent of damage likely to occur. And it is only reasonable that those who must plan for these problems—including companies making billions of dollars per year in petroleum profits—do so in good faith, providing the equipment and manpower needed to combat these environmental disasters.

Our bill makes several simple changes to current law. It gives EPA an administrative avenue to assess daily fines against companies and others who do bad-faith planning. It allows EPA to assess substantive fines, fines of up to $25,000 per day. And finally, it creates criminal penalties for planners who knowingly deceive EPA auditors.

Mr. Speaker, these are stern measures. But we are convinced that without such penalties, bad situations will be made worse. Spills which are already environmental tragedies will become environmental disasters.

This bill brings good faith back into the calculus of oilspill planning. It requires only that planners live up to their promises. In the words of Jay D. Hair, president of the National Wildlife Federation, "the bill provides EPA with badly needed enforcement authority and would substantially improve environmental protections by preventing disasters rather than waiting for them to happen and then penalizing them when it is too late."

In that sense, it is a modest proposal and we urge our colleagues to support it.

Mr. Speaker, I insert a copy of Mr. Hair's letter to me, regarding this legislation, in the RECORD:

NATIONAL WILDLIFE FEDERATION,
Washington, DC, May 18, 1990.

Hon. RON L. WYDEN,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN WYDEN: The *Exxon Valdez* and *American Trader* oil spills tragically taught us that prevention must be the guiding principle of any legislation addressing oil spills, for once the oil reaches the water, it is too late. The National Wildlife Federation strongly supports your legislation to give the Environmental Protection Agency (EPA) the enforcement powers it needs to ensure that effective oil spill and hazardous substances contingency plans are in place before a spill occurs.

The bill enables EPA to issue compliance orders and penalties when its investigators find that a vessel, onshore facility, or offshore facility is in violation of its contingency plan. The agency can levy civil penalties of up to $25,000 per day on any person who fails or refuses to comply with the plan. If the violator is obstinate, EPA can go directly to court to get an injunction to force compliance. EPA also may require such a person to conduct an environmental audit of the affected or related facilities to ensure that further problems do not exist.

The National Wildlife Federation believes the bill provides EPA with badly-needed enforcement authority and would substantially improve environmental protections by preventing disasters rather than waiting for them to happen and then penalizing them when it is too late.

Sincerely, JAY D. HAIR.

YOUNG WRITERS HONORED IN NORTHERN ILLINOIS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. HYDE. Mr. Speaker, it is my privilege annually to honor young writers from northern Illinois, representing both high school and junior high school age groups, who submit winning essays in a contest sponsored jointly by my office and schools in the Sixth Congressional District. This year's essays focused on the scourge of illegal drugs among our youth.

Addison, IL, resident Dennis J. Hearst, a graduating senior at Fenton High School in Bensenville, IL, won first place among high school participants for his essay entitled, "A Student's Perspective on the Problem of Drugs in Schools."

Eighth grader Jim Rohrich, a Villa Park, IL, resident and student at St. Alexander School in Villa Park, placed first in the junior division with his essay entitled, "What I Can Do To Combat the Scourge of Drugs in Our Schools."

Bensenville resident Soon Jae Hwang, a senior at Fenton High School, won second place among high school students with an essay also entitled, "A Student's Perspective on the Problem of Drugs in Schools." Two students tied for third place. Tracy Stephens of Chicago, a student at Addison Trail High School, wrote "The Battle Rages On" and Mary Lo Galbo, a student at Addison Trail High School, authored "Behind the Mask of Drugs."

In the junior division, Michelle Smolinski of Roselle, IL, an eighth grader at Spring Wood Junior High School in Roselle, placed second with her essay in the junior high school division; Cori Bradley and Trisha Stankiewicz, both of Park Ridge, who are students at Mary Seat of Wisdom School in Park Ridge tied for third place. All junior winners used the same essay title.

I congratulate these and other participants who took the time to research, write, and edit their papers. It is through programs such as this one that students strengthen their communication skills, and learn the tragic perils of drug use and addiction.

A special note of thanks also to Mrs. Vivian Turner, former principal of Blackhawk Junior High School, who coordinates this annual event.

I commend the following winning essays to my colleagues for their study:

A STUDENT'S PERSPECTIVE ON THE PROBLEM OF DRUGS IN SCHOOLS

(By Dennis J. Hearst)

When I was approached by my high school principal to speak to junior high school students about drug awareness, my first thoughts was how great this would look on my college applications. It was not until I spoke with a D.A.R.E. [Drug Abuse Resistance Education] officer that I realized the importance of my job. D.A.R.E. is an actual class that every sixth grader in the area is required to take. It is taught by a police officer rather than a teacher and deals solely with the importance of staying away from drugs.

I was amazed that a drug awareness program would begin at such an early age, but the officer explained to me that this is the age at which many kids are first approached by drug dealers, and that by the eighth grade, a large percentage of these kids will already have tried drugs. He went on to explain that the results from a recent survey of sixth grade students showed that they saw high school as a place where "everyone" did drugs. As a result of this alarming survey, he was looking for a high school student who could act as a role model, someone who was good in sports, had good grades, and could speak well in front of people. Part of my job was to introduce myself as a student of Fenton High School, inform the kids about my accomplishments in school, my plans for college and my aspirations for later life. I was to be a living example that not "everyone" in high school does drugs, and that you can be successful, and still be "cool", as a non-drug user.

While the sixth graders' ideas about drugs in high school surprised me, it was the misconceptions of the police officer whose job it was to educate the children that alarmed me the most. Each of the officers that I worked with, as my involvement in D.A.R.E. continued, told the students that drug users were a shady group of long haired "hippie" types that could be spotted a mile away. The typical drug user, in the eyes of most police officers, is a dirty kid with ripped jeans who listens to heavy metal music. While it is true that many drug users fit this description, the problem as I see it lies with a whole different group of drug abusers, the kind that you would let your daughter go out with.

My high school experience has been an enjoyable and drug-free one, and I say that with a great deal of pride. I am proud of this fact because I, like most high school students, have been offered, exposed to, and tempted by drugs. As a senior awaiting letters of acceptance or rejection from several of the nation's top universities, I often wish that I had spent the last four years of my life with my face buried in a book as several of my classmates with superior G.P.A.'s have done. However, aside from my athletic endeavors, I lived the life of an average American teen-ager. I went to the parties, dated the girls and can now offer some interesting insight into the drug problem that faces America's teens. My biggest concern with the police officer's idea of a drug user was that he was not preparing these sixth graders to go to their first high school party and see the captain of the wrestling team smoking marijuana in the corner. I have found that the stereotypes of yesterday do not apply to the teen-agers of today. I do not believe that any administration, local, statewide, or nationwide really has its finger on the pulse of today's youth.

The following Friday morning I stood before the sixth grade class at Junior High with a pile of note cards, ready to do my thing. Then, I looked out at the class and I realized who I was talking to. They were eleven year old children, and I could not believe I was going to talk to them about drug abuse. I put the cards back into my pocket and began speaking. I dispelled a lot of misconceptions they had about high school and about how only the sleezy kids do drugs. I tried to be honest and optimistic at the same time. I told them that most of them would be offered or pressured to do drugs by the time they graduated from high school. I did my best to tell them that drugs are a problem among football players, baseball players, and honor roll students alike, but that it is possible to lead a "normal" life through your teen years and stay drug free. I just hope I was telling the truth.

When the period was over, the class, in unison, gave me a big Thank You! and I walked out of the building feeling as good as I ever have. Since that Friday morning I have worked with various D.A.R.E. officers and spoken to several classes. I feel that if I can inspire one kid to do anything which may keep him away from drugs, it will be my greatest accomplishment.

WHAT I CAN DO TO COMBAT THE SCOURGE OF DRUGS IN OUR SCHOOLS

(By Jim Rohrich)

"Just Say No!" to drugs may be a fabulous slogan but slogans are only words and words alone do not produce results. We, as young

people, are faced with endless lists of do's and don'ts from parents and teachers and this slogan can easily become another item on this list. Saying "No to Drugs" cannot be something we view as another demand made on us by adults. We must assume personal responsibility for our stand on drugs. If we are going to wage war on drugs, we need ideas and not just words. These ideas need to be implemented in elementary school and carried on through high school. We must enlist the help of parents and the school in carrying out our ideas but we still must assume the responsibility as ours and not our parents' or the school's.

We, as young people, should not be spared from the real and horrible effects of all drugs. Drugs, at best, impair judgment and at worst can kill. Movies should be shown in the schools showing the horror of drugs and the lasting effects they have on users. Films depicting a heroin addict's death, the damage caused to the nose from extended cocaine usage or an addict's withdrawal symptoms can leave a lasting impression on the young.

At school, we can form drug awareness organizations. If our school does not already have classes on drugs and their effects, we should request them. These programs should enable us to learn exactly how to respond when situations involving drugs arise. We should learn how to say, "No!"

Even though we are young, we have more "clout" in fighting the drug war than people imagine. Working through our school organizations, we can set up student/parent "hot lines" that can be called by kids having drug problems. We can have flyers printed with the names and numbers of organizations that can help our peers already involved with drugs. We could also encourage parents to come to meetings with the teachers, to learn now to confront their children and be able to talk more openly about drugs and their usage.

We should also find ways to establish negative viewpoints about drug usage in the different mediums used by the children of today. For instance, we could discuss the danger of drugs in short paragraphs on fast food containers, in baseball card packets and on the labels of cassette tapes. We could even incorporate a warning about drugs into different television shows, comic books, and cartoon strips in the newspaper. We can enlist our peers in actively boycotting rock groups that glorify drugs in their music.

Hopefully, these ideas might help. In addition, however, we must show our drug-using peers love and compassion when they need it while still letting them know that we will not condone their drug usage. I think after making the fight on drugs our fight, we would find our slogan to be, "Saying No to Drugs Is Saying Yes to Life!"

TOBACCO VERY GOOD AT KILLING PEOPLE

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. JACOBS. Mr. Speaker, the actor, Charlton Heston, seems to have a strange affinity for the Firearms and Tobacco Section of the U.S. Treasury Department.

Mr. Heston's fascination with guns is well known.

With this advertisement for the Philip Morris Co., Mr. Heston has added tobacco or money from the sale of it as another object of his affection.

You will note that his concluding quotation here is " 'It's powerful stuff.' " So is tobacco. Like handguns, it is very good at killing people.

Following the text of the advertisement, I also insert brilliant Colman McCarthy's Washington Post column for May 19, 1990.

"When it comes to the Bill of Rights, I'm proud to play a supporting role."—Charlton Heston, actor.

"Regretfully, one of the things I didn't learn until after I had finished school was that history is not only the most important subject, in a certain sense it's the only subject. I kind of make up for it now by speaking out on the Bill of Rights every chance I get.

"I see the Bill of Rights as one of the cornerstones of this country. It's one of several acts of genius created by our founding fathers.

"You could say that the Bill of Rights constitutes their considered thoughts and feelings about the absolute protections necessary for the individual citizens.

"It's powerful stuff."

Philip Morris Companies Inc., Kraft General Foods, Miller Brewing Company, Philip Morris USA.

THEODORE HESBURGH, MARLBORO MAN

(By Colman McCarthy)

A new Marlboro Man, Theodore Hesburgh, president emeritus of Notre Dame, rides the cancer range. He is appearing in full-page ads that are part of a $30 million national campaign sponsored by Philip Morris, the nation's largest tobacco company. Hesburgh isn't atop a bronco in Marlboro country, nor is he puffing a cigarette while roping dogies. Instead, he's in the promotional saddle with Philip Morris and its advertising fantasies to celebrate the coming 200th anniversary of the Bill of Rights.

A close-up photo of photogenic Hesburgh—square jaw, silver hair and Roman collar—runs next to his sermonette on the Bill of Rights: the document "did not automatically guarantee life, liberty and the pursuit of happiness for all Americans. We have had to enlarge our freedoms, promote human dignity and eliminate injustice during all 200 years of the Bill of Rights. The ideal is there, but the reality has always needed enlarging. It still does."

Philip Morris's game is figurable. A company prowling for profits through sales of the addictive and lethal nicotine drug needs a cover of respectability. What do do? Buy it. Who's as respectable as good Father Ted of Notre Dame? Maybe only Benjamin Hooks, executive director of the NAACP, whose visage appears in similar Philip Morris Bill of Rights ads. Or Charlton Heston, last seen shilling for the National Rifle Association and National Review, and now on board for Philip Morris. Or Judith Jamison of the Alvin Ailey American Dance Theater, who says for Philip Morris that "we must keep a watchful eye" to protect the Bill of Rights.

This is a corporation, with $4.6 billion in tobacco revenues worldwide, that deserves to be treated as a social and moral pariah. Nearly 1,000 smokers and ex-smokers die every day of tobacco diseases. That cigarettes are legal is a side issue to the main one: the absence of marketplace ethics as Philip Morris advertises its Marlboros, Virginia Slims, Merits, Parliaments and Benson & Hedges as life-enhancing products when, by medical fact, they are death-inducing.

What kind of naivete overtook Hesburgh? Is the lure—or need—of full-page publicity and money so powerful that he couldn't resist selling his name to Philip Morris' low-grade hucksters? Hesburgh, long a letterhead liberal who routinely lends his name to advisory boards of noble-cause groups, has been in enough corporate boardrooms raising money for his university to know what Philip Morris is up to. The sellers of cancer are laying out $30 million as an investment in public approval for the company's seeming civic idealism. Hesburgh, whose university has taken money from Philip Morris, aligns himself with the cigarette makers.

In a Los Angeles Times interview, the priest stresses that his appearance in the ad was not an endorsement of tobacco products: "Nobody could think that without having a wild imagination," he said. "I figured any way I can get a good word in for the Bill of Rights, that's fine."

Hesburgh's willingness to join Philip Morris as fellow lovers of liberty raises the question of who else he would appear with in his "any way I can" zeal for the Bill of Rights. What about the Playboy Foundation, run by Hugh Hefner, another Bill of Rights buff who awards First Amendment prizes to stalwarts of free speech?

The Philip Morris ads, with the subtlety of a smoker's cough, hawk the notion that the Bill of Rights is in peril. What's actually under siege is the Bill of Smokers' Rights. Cigarettes are now banned by airlines on nearly all domestic flights. Restrictions in restaurants, work sites and public places abound, with more limits ahead. Federal legislation—the Tobacco Education and Control Act—is being introduced. It would prohibit vending-machine sales (a mother lode of the youth market), eliminate pictures in ads and stop the dispensing of free samples.

Philip Morris has been a power in the smokers' rights cause, a big loser in the 1980s. Three years ago it came up with "American Voices: Prize Winning Essays on Freedom of Speech, Censorship and Advertising Bans." The self-published, self-serving 444-page book, heavier than a carton of Marlboros and twice as fumy, was presented, according to the president of Philip Morris, as "a refutation of censorship." Proposed advertising bans against cigarettes are a threat to free speech, he believed. With tens of millions of Americans dead, dying or gasping from cigarette smoking—what C. Everett Koop called the most documented cause of disease in history—here is Philip Morris huckstering the bizarre notion that it is a victim.

In a companion crusade to that lunacy, the company now suckers Hesburgh, Hooks and crew into spouting cliches on the Bill of Rights. They aren't in bed with Philip Morris, only with its ashtray.

PUERTO RICO—A SOVEREIGN PEOPLE?

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. DELLUMS. Mr. Speaker, I would like to call the attention of the membership to an astute analysis of the situation in Puerto Rico, written by Mr. Ruben Berrios-Martinez, the president of the Puerto Rican Independence Party. This article, which I am entering into the body of the RECORD, appeared in the Washington Post on Wednesday, May 23, 1990.

PUERTO RICO—LITHUANIA IN REVERSE?

(By Ruben Berrios-Martinez)

The Senate Energy and Natural Resources Committee has favorably recommended a bill, S. 712, to authorize a referendum of Puerto Rico's political status. The full Senate is expected to approve it shortly. Then it will be up to the House, which has already held extensive hearings on the matter, to act accordingly. It is urgent that Congress act soon. Puerto Rico's unresolved status constitutes a potentially explosive and disruptive national problem in the United States.

Puerto Rico, a U.S. possession as a consequence of the Spanish-American War of 1898, has been known since 1952 by the ambiguous if more respectable term "Commonwealth." Profound changes have taken place since, but the colonial relationship remains unaltered. More than one third of the Puerto Rican population has migrated to the United States. Puerto Rico's economy has become an appendage of the United States. Federal transfer payments have increased from negligible amounts to around $6 billion annually, and more than 40 percent of the families receive federal nutritional assistance.

As federal power has expanded, the already limited local authority of the Commonwealth has shrunk steadily, for U.S. laws and regulations apply to Puerto Rico, even though the island has no voting representation in Congress. Support for Commonwealth has declined substantially, and the United States is likely to soon be faced with an embarrassing statehood petition.

Is this a case of Lithuania in reverse? Over the years, economic integration, coupled with persecution of independentistas, overwhelming Americanization campaigns and massive federal subsidies have managed to divert Puerto Ricans from their natural path toward independence—a path once favored by a majority—and toward statehood.

So what is wrong with statehood, the traditional solution for dealing with territories peopled with settlers moving west, or with ethnic minorities coalescing around the American way of life?

Just this: Puerto Rico, a distinct Latin American nationality 60 percent of whose people do not speak English, presents a radically different situation. We Puerto Rican independentistas will never give up our inalienable right to struggle for independence, even under statehood. Minorities and majorities come and go; but nationalites remain. The United States is a unitary, not a multinational, country, and statehood was made for Americans, not for Puerto Ricans or other distinct nationalities.

Moreover, under statehood, Puerto Rico would lack fiscal, trade, and other powers to protect and develop its economy. We would be condemned to be a permanently underdeveloped region of the United States.

Puerto Rico's basic problem is dependence—not only juridical and political but also economic, cultural, social, and psychological. Although statehood might juridically appear as a solution to the colonial problem, in reality, for Puerto Rico it is just another form of subordination and dependence, colonialism in another guise. For statehood would only make economic, social, cultural and psychological dependence more acute, and its political power would serve primarily to press for increased federal subsidies.

A recent study by the Congressional Budget Office has calculated the additional cost to the American taxpayer of Puerto Rico as a state at $25.6 billion in the first nine years. That is why the Puerto Rican statehooders' battle cry is "Statehood is for the poor"—a far cry from "Give me liberty or give me death!" Not to be outdone, Commonwealth leaders have petitioned the U.S. Senate for parity with the states in federal funding, but without Puerto Ricans' paying federal taxes.

The way out for the United States and Puerto Rico is to start moving away from dependence and statehood toward independence.

There is still time. After 92 years of colonialism, the basic constituent element of independence—primary loyalty to one's own national identity—is unanimously postulated by Puerto Ricans, including statehooders, as a nonnegotiable value. The president of the statehood party recently told a House subcommittee that he is, and feels, first Puerto Rican and then American. Independentistas, of course, are nothing but Puerto Rican.

The seed of independent nationhood is present. How can it be helped to blossom?

First, the United States must face the Puerto Rican status problem immediately. A plebiscite should be held in 1991 as proposed in S. 712 (and in a recently introduced House bill). To postpone the plebiscite would be a shortsighted tactic based on the false premise that the statehood petition can be wished away. But such a course can only relinquish the initiative to statehooders, who, with time, will gain more strength. The tough decisions concerning statehood cannot be avoided.

But the U.S. Congress should spell out now the conditions it deems necessary to consider statehood, or it should eliminate the statehood alternative altogether. Congress should specify what Puerto Ricans can expect, whichever way they vote.

Congress should stipulate what it knows—that it will not seriously consider statehood until Puerto Rico at least reaches the per-capita level of the poorest state (Mississippi) and is thus no longer considered an unacceptable drain on the U.S. Treasury. Congress should also articulate the unexpressed position of the immense majority of its members—that from the perspective of national loyalty, in order to be accepted as a state Puerto Rico must abide by the U.S. motto of "E Pluribus Unum," not by "E Pluribus Duum."

The United States should also discard colonial alternatives such as Commonwealth, "enhanced" or not. Commonwealth is the problem. It cannot therefore be the solution. Its continuation will only serve to multiply dependence and therefore continue to broaden support for statehood.

After 92 years of promoting colonialism, Congress has an obligation to exercise affirmative action as regards independence. This can be done directly through an independence option with fair and generous economic terms and indirectly by also offering an associated republic or sovereign free association option as defined by international law.

Only by relinquishing its sovereignty over the island—by fulfilling its duty to decolonize—will the United States solve its colonial problem in Puerto Rico. Only by assuming our full responsibility as a mature nationality can Puerto Ricans break the vicious circle of dependence and hopelessness.

THE ADVERSE IMPACT OF THE CLEAN AIR ACT AMENDMENTS ON THE STEEL INDUSTRY AND INTERNATIONAL COMPETITIVENESS AND INVESTMENT

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. SCHULZE. Mr. Speaker, I would like to raise an issue that is vital to the future of the United States. The issue is how certain Clean Air Act amendments could impose severe, and possibly devastating, limitations on America's manufacturing base and our Nation's ability to compete in the global marketplace. I'd like to first mention steel as one example.

Because of the way some proposals for pending clean air legislation would deal with coke oven emissions in the bill's section on air toxics, the American steel industry faces at a minimum, very negative impacts on its international competitiveness and in the worst case, the potential shutdown of substantial integrated production. Having substantially improved its international competitive position in recent years through massive and costly investments in new plants and equipment, our domestic steel industry could see these competitive gains eliminated and its competitive momentum reversed if these proposals were to become law.

The United States, in my view, cannot afford to enact domestic regulations without first considering their impact on international competitiveness. In fact, the Omnibus Trade and Competitiveness Act of 1988 requires that such an impact be considered in cases of proposed new environmental regulations. Accordingly, here are a few observations on how the pending clean air bill could affect steel's competitiveness and investments.

First, in terms of the House clean air bill, Mr. Speaker, I am very gratified that the Energy and Commerce Committee unanimously approved the amendment on competitiveness that was offered by Congressman MCMILLAN. This amendment is a good first step. It simply asks the President, within 18 months of the bill's passage: First to report back to Congress on the significant differences between this act's standards and controls and those of our major trading partners; and second, to develop a strategy for addressing any significant differences in economic effects by encouraging our trading partners, through bilateral and multilateral negotiations, to adopt and enforce substantially

equivalent environmental standards or, as an alternative, negotiating trade adjustment measures to offset competitive vulnerabilities.

This last point specifically brings steel to mind. The executive branch has provided the Congress with clear evidence that many of the domestic steel industry's foreign competitors receive enormous government subsidies both to modernize and to control pollution. Our steel producers, in contrast, continue to oppose such subsidies. Our firms must absorb all costs in both areas.

Still, the American steel industry remains committed to further essential modernization and to a cleaner environment. It has already spent $4 billion to control air pollution. And having eliminated about 90 percent of coke oven emissions, it is fully prepared to do more.

For example, the domestic steel industry has not objected to the application of reasonable standards of Maximum Achievable Control Technology or [MACT] to coke ovens within a reasonable period to time. It took this position at a time when EPA was estimating that a stringent interpretation of MACT alone could cost America's steel producers up to an additional $5 billion to control coke oven emissions. Mr. Speaker, this is like adding another $15 per ton to the cost of raw steel produced in the United States. And any additional amounts spent on air toxics pollution control will inevitably only take away from what is available for essential steel industry modernization.

Let's put the anti-competitiveness impact of MACT alone into perspective. As required by VRA legislation, our steel industry has been committing back into steel reinvestment substantially all of its net cash flow from steel. In recent years, steel capital expenditures have averaged around $2 billion a year. That's roughly two-thirds of what is needed to keep up with the industry's major foreign competitors. But of this amount, approximately half—or about $1 billion—has gone into nondiscretionary items—such as the relining of blast furnaces or legislated compliance with environmental regulations. That leaves only $1 billion a year for essential modernization. This is less than what is needed to maintain the industry's present competitive position. And yet now, our steelmakers face billions of dollars in additional expenses under MACT over the next 5 years—costs which could virtually wipe out steel's available resources for modernization.

Yet, pending legislation does not stop at requiring installation of costly MACT. Both the House and Senate bills also aim to control the "residual risk" from air toxics.

Mr. Speaker, if we decide that, as a nation, it is essential to move up from the MACT level of, say 96-percent elimination of coke oven emissions to some higher level of pollution control, I believe that—if we want to have a steel industry in the United States—we need to ask ourselves three questions.

First, will U.S. steelmakers still be able to compete with foreign steel producers?

Second, if there are automatic shutdown standards of the kind that still exist in the revised Senate bill, will our steel producers even be able to continue operations? And third, what will the adverse impacts be on steel industry investments in continuing modernization?

On the positive side, both the House and the Senate bill ask for a study of risk assessment methodology. This step is essential if we're to make public policy recommendations based on science. Unfortunately, both bills have a default mechanism that would allow Congress simply to ignore the results of good science.

In the House bill, if Congress doesn't act, EPA has the authority and flexibility to apply current law to ensure that an ample margin of safety is provided to the exposed population. But in the Senate bill, arbitrary numerical residual risk standards would be automatically imposed in the event Congress does not act on the recommendations of the scientific study.

Mr. Speaker, I applaud my colleagues in the Energy and Commerce Committee for having the wisdom not to impose a single bright line standard for air toxics residual risks on coke ovens. However, automatic shutdown, standards still remain in the Senate bill, and those standards would cause many domestic coke ovens to close within 10 years. They would do this without any scientific basis. And that is why I hope such standards will not be part of the bill that is finaly enacted.

In fact, the mere threat of coke oven shutdowns will have a major adverse impact on domestic steel industry investment. Coke will remain an essential ingredient in integrated steelmaking well into the next century. Our integrated steelmakers account for some 65 percent of total U.S. production, and there is no current or near term technology available anywhere in the world to replace coke. Given that reality, why would steel company boards—who are responsible to their shareholders for bottom-line results—be willing to make major new investments in steel in the face of such a quantum increase in the level of risks and uncertainty?

In my view, steel boards would have trouble justifying any major new investments in steel modernization if they're looking at: (1) Up to $5 billion in additional costs to rebuild coke ovens, under MACT; (2) rebuilt ovens, that could then be shutdown (under an arbitrary residual risk standard); and (3) a final outcome where they'd be totally dependent on foreign competitors for both the price and availability of an essential steelmaking input.

That, in essence is the dilemma we face as a nation. In our pursuit of cleaner air, we must not ignore the adverse impacts that certain Clean Air Act amendments will have on U.S. competitiveness and investment. We must move instead toward scientific and balanced amendments in the area of air toxics that would ensure both a viable domestic manufacturing base and a cleaner environment. We must ensure that the final bill rejects any proposed standards that would result in the automatic shutdown of domestic coke ovens. Such proposals are based on unsound science. And they threaten the future viability of integrated steel production in the United States.

Mr. Speaker, I urge my colleagues in the upcoming Conference Committee to support only changes in existing legislation that would produce both cleaner air and a healthier U.S. manufacturing base.

INTRODUCTION OF FAIR EMPLOYMENT REFORM AND CONSOLIDATION ACT

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. BARTLETT. Mr. Speaker, today I am introducing the Fair Employment Reform and Consolidation Act of 1990, which will unify the diverse array of employment antidiscrimination laws into a single, unified law with streamlined resolution of disputes.

Under the current system, people who have been discriminated against in the workplace have been too often forced to wait several years before their cases are resolved. Employment discrimination cases in the Federal courts alone have increased over 2,000 percent over the past 20 years. This means that employees who have suffered discrimination and employers who have been wrongly accused of discrimination have to expend considerable time, effort, and money before receiving justice. This legislation is intended to provide all parties with an efficient mechanism for resolution of employment discrimination charges.

A quarter of a century ago, the country correctly decided that employment discrimination against individuals on the basis of factors which are extraneous to their own individual abilities—race, color, religion, sex, national origin—is an injustice both to the individual and to society as a whole. For that reason we enacted title VII of the Civil Rights Act to protect against employment discrimination based on any of those factors.

In the ensuing years, we realized we had failed to fully define the entire field of intolerable discrimination. Hence, additional antidiscrimination statutes were enacted. In 1967, we enacted the Age Discrimination in Employment Act [ADEA], and amended it in 1978 and 1986. In 1973, we enacted the Rehabilitation Act prohibiting discrimination based on disability where the employer is under a Federal grant or contract. In 1978, we enacted the Pregnancy Discrimination Act. And yesterday the House passed the Americans With Disabilities Act, which will shortly become law.

During the same 25 years, the States have been active as well. Currently, 51 States and Federal jurisdictions have laws prohibiting discrimination in employment based on race, religion, sex, age, or disability. Many cities and counties have their own fair employment laws, and a large number of States and localities have fair employment commissions to administer antidiscrimination laws. Federal and State laws alone total 264, and these explicit laws do not include available tort action or city or county ordinances.

Congress should no longer ignore this patchwork system. We should not continue shoving discrimination cases into the State and Federal courts and expect wrongs to be remedied in a timely fashion. We must recognize the limits on the judiciary's capacity to solve workplace disputes. And we must establish a single set of rules governing antidiscrimination for all to abide by.

Such unification is a proven concept. In 1935, we decided uniformity is essential to the protection of collective bargaining activities. Hence, the National Labor Relations Act provides a single national approach in that area and the States have generally been preempted from interfering with the collective-bargaining process.

In reforming the administration of fair employment laws in this country, my bill basically adopts the same approach as exists under the National Labor Relations Act. That law has worked relatively smoothly, primarily because of two of its fundamental precepts: Near-absolute national uniformity and exclusivity of procedures and remedies. Over 60 percent of all cases filed with the NLRB are resolved quickly—they are either withdrawn because of changed circumstances or are dismissed because they are without merit. Of the cases with merit, 80 to 90 percent are settled by the NLRB with the parties without going through an administrative hearing. Only the remaining cases, roughly 5 percent of all claims filed, proceed further through the process and, more often than not, these involve complicated or uncertain factual or legal issues. In short, 95 percent of the claims filed with the NLRB are resolved expeditiously.

By patterning the EEOC after the NLRB this legislation will expedite justice in employment discrimination cases. The legislation also strengthens the role of alternative dispute resolution [ADR] mechanisms established by the parties. According to the Administrative Conference of the United States, these mechanisms have yielded decisions that are "faster, cheaper, more accurate or otherwise more acceptable, and less contentious."

While alternative dispute resolution mechanisms have grown and become more sophisticated, there is still one major drawback. They are not always conclusive. A party who is dissatisfied with the resolution of the ADR is still allowed to file a complaint with an agency or in Federal court. This bill will make those determinations final and binding on both parties, so long as ADR was voluntary for both parties.

In addition, the legislation ensures that the focus of our antidiscrimination laws is to eliminate discriminatory practices and restore victims to the same position they would have been in had those practices never existed. Unfortunately, this goal has become perverted by the availability of huge sums of money for "pain and suffering" or punitive damages under State laws or, more significantly, section 1981, a law enacted right after the Civil War and which was not applied to employment cases until 100 years after it was enacted.

The Fair Employment Reform and Consolidated Act puts all of the various fair employment laws—the Equal Pay Act, title VII, the Rehabilitation Act, the Americans With Disabilities Act, the Age Discrimination in Employment Act—into a single forum. In doing so, the role of the EEOC is strengthened in a way that will facilitate its conciliation function.

In addition to establishing a uniform Federal antidiscrimination law, the legislation will:

Facilitate mediation by requiring parties to submit statements to the EEOC describing their positions;

Eliminate litigation over meritless claims by patterning EEOC enforcement after the NLRB, with a strong general counsel;

Clarify the statute of limitations by establishing a uniform 180-day limit and precluding untimely claims from being "piggy-backed" onto timely claims;

Provide coverage for congressional employees under the same civil rights laws that protect other employees;

Provide mandatory attorney's fees standard for the prevailing parties regardless of whether it is the plaintiff or defendant; and

Strengthen confidentiality protections involving nondisclosure of information by EEOC and State officials to third parties.

Title VII has only been open for amendment in Congress—once in 1964 and again in 1972. H.R. 4000 gives Congress the opportunity and the responsibility to examine the process and improve it for all parties.

A SPECIAL REPORT, "TRIBAL COLLEGES: SHAPING THE FUTURE OF NATIVE AMERICA"

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. CAMPBELL of Colorado. Mr. Speaker, a very important report on the status of tribally controlled community colleges was recently released by the Carnegie Foundation for the Advancement of Teaching. This report confirmed what many of us already knew: These small grassrooted colleges, numbering 24 across Indian country, are playing a significant role in the development of Indian people, tribes, reservations, and reservation economies. For the benefit of my colleagues, I request that the foreword and chapter 1 from that report be reprinted immediately following my remarks. I'd like to also publicly acknowledge the unfailing dedication and hard work of the tribally controlled college presidents and the American Indian Higher Education Consortium.

TRIBAL COLLEGES—SHAPING THE FUTURE OF NATIVE AMERICA

FOREWORD BY ERNEST L. BOYER

Twenty years ago in Arizona, Native Americans created a new institution—the first tribally controlled college. Today twenty-four higher learning institutions, founded and controlled by Indians, are serving Native communities from Michigan to Washington State. While most of these colleges are no more than a decade old—a blink in time for higher education—they have undergone dramatic growth, expanding and gaining recognition in spite of conditions others would regard as impossible.

Researchers from The Carnegie Foundation for the Advancement of Teaching spent two years studying these remarkable institutions. We reviewed the federal government's past attempts to "educate" the Indians and discovered how, in the desert left by a long history of failed policies, the Navajos in 1968 created Navajo Community College, inspiring a movement that now offers to Native Americans a door of hope.

Viewed by the numbers alone, tribal colleges add up to only a small fraction of the total higher education picture—the equivalent perhaps of a small branch of a single state university. But using conventional yardsticks to measure these colleges misses the significance of their work. Tribally controlled colleges can be understood only in the historical context of Indian education and in the spiritual role they play in bringing renewal to their people. When viewed from these perspectives, tribal colleges assume a mission of great consequence to Native Americans and to the nation.

During the conduct of this study, we were struck by the capacity of tribal colleges to cope with resources that are painfully restricted. At almost all of the institutions, salaries are far too low, libraries are shockingly underfunded, and administrators struggle to operate with day-to-day budget constraints that other higher learning institutions would totally reject. Although a few of the colleges have accommodating campuses, many are getting by with mismatched trailers or unsuitable buildings converted from other uses. Still, faced with difficult conditions, tribal colleges have managed not only to stay alive, but also to expand their services and creatively serve their students and their communities.

These young, vital colleges, primarily two-year institutions, offer first a conventional collegiate curriculum for students who can not only complete formal degrees but also prepare themselves for transfer to four-year institutions. They enroll, as well, older students who cannot leave their home, and serve as re-entering institutions for those who may have dropped out. Tribal colleges also provide enrichment for the secondary schools that surround them.

Tribal colleges are truly community institutions. After years of brutal physical hardship and disorienting cultural loss, Native Americans—through the tribal college movement—are building new communities based on shared traditions. They are challenging the conditions that plague their societies and continue to threaten their survival.

For many decades American Indian reservations have been demoralized by the seemingly permanent condition of extreme poverty. In some tribal communities, unemployment reaches 80 percent. The disease of alcoholism has taken a severe toll on Indians since its introduction into their culture, and today requires the most serious immediate attention. Health care is of the most critical concern. Infant mortality rates on some of the reservations are at shocking levels—as high as double the national average. The tragedy of early death from illness or suicide has touched all members of these family-oriented communities. These crises require urgent attention, and tribal colleges are working to provide the leadership, programs, and resources to meet the challenge.

At the heart of the tribal college movement is a commitment by Native Americans to reclaim their cultural heritage. The commitment to reaffirm traditions is a driving force fed by a spirit based on shared history passed down through generations, and on common goals. Some tribes have lost much of their tradition, and feel, with a sense of urgency, that they must reclaim all they can from the past even as they confront problems of the present. The obstacles in this endeavor are enormous but, again, Indians are determined to reaffirm their heritage, and tribal colleges, through their curriculum and campus climate, are places of great promise.

As we completed our study we were forced to reflect on how the tribal college move-

ment relates to our history, to the rest of higher education—and to the future of our country.

Well-intentioned people from the earliest white "settlers" have sought to share white civilization, through education, with the natives of this land and attempts have repeatedly been made to separate young Indian students from their culture "for their own good." The boarding school approach described in this report continues, in some places, to this very day. Throughout the years Indians have been blamed for their resistance to these efforts at assimilation, which many whites believed was essential if Native Americans were to make "progress."

But if we have learned anything from our relationship with the American Indian, it is that people cannot be torn from their cultural roots without harm. To the extent that we fail to assist Native Americans, through their own institutions, to reclaim their past and secure their future, we are compounding the costly errors of the past.

No one can reasonably deny that the United States has accumulated over the years large moral and legal obligations to the Indians. But past policy disasters have occurred, and continue to occur, largely because the prevailing white population for the most part can only see the relationship as a one-way street. If we would like the American Indian to benefit from what we have to give, we might begin by learning to appreciate and benefit from what the Indian has to give us.

We believe that a good place to start learning from American Indians is the tribal college, where we can learn about survival, about hope and determination in the face of extreme adversity, about renewal of community, about reclaiming the individual and the society from dependencies of all sorts, and about creatively connecting education to the larger world. Clearly American society as a whole has a great deal to gain by supporting the tribal college movement—and learning from the first Americans.

It is in this spirit that we make our recommendations. The need of the colleges for more financial support is a vital part of what we found, but it is only a part. Equally important is the need for more connections between the larger American society and the Native American communities through support of the tribal colleges. Native Americans have laid the groundwork by dint of sheer determination and conviction. They are on the threshold of a new era. Building on this remarkable beginning will serve us all.

TRIBAL COLLEGES: A NEW ERA

The story of the Native American experience has been described, almost always, in the language of despair. Indian life is filled with images of poverty, and government policy has consistently been called a failure. We often speak of "the plight of the Indians" and conclude with resignation that little can be done. But there is in fact a lot that can be done. We report here on some of the great beginnings that have been accomplished by Indians for themselves, and offer recommendations for support that should be offered to help assure their continued growth.

At the heart of the spirit of renewal among Indians is a network of Native American colleges providing education and community service in a climate of self-determination. Although the oldest "tribal college" was started just two decades ago, these fledgling institutions are creatively changing the educational and social landscape of the reservations.

Learning is the key. Native Americans are now being educated in large numbers—and they are being heard. They are challenging the economic stagnation in reservation communities, and they are aggressively confronting the devastating impact of alcoholism and drug abuse. Of equal importance, they are reaffirming tribal traditions that were slipping away.

The general population's perception is rooted in some reality. Indian reservations are isolated, chronically neglected places that have benefited little from the nation's wealth. Unemployment and alcoholism are depressingly persistent problems in these forgotten regions, and statistics on life expectancy, infant mortality, family income and educational opportunities among Native Americans parallel those of Third World countries.

But after years of physical hardship and cultural neglect, Indians themselves are again gaining the confidence and skills needed to lead their nations. A new mood of optimism and self-respect among native people is beginning to emerge.

The first tribal college opened in 1968 on the Navajo Reservation in northern Arizona. As Navajos began to assert their rights more aggressively, there was frustration that few tribal members had the skills needed to provide leadership for an Indian nation of more than a hundred thousand people. Leaders recognized higher education as a key to self-determination.

Twenty years later, Navajo Community College has over one thousand students enrolled on a sprawling modern campus on the high desert plateau west of Gallup, New Mexico. Located in the geographic center of the reservation, the college also remains at the heart of the Navajo people's efforts to control their own destinies.

Today, there are twenty-four tribally controlled colleges scattered in eleven Western and Midwestern states—from California to Michigan, and from Arizona to North Dakota. Together these institutions have a full-time equivalent enrollment of more than 4,400 students and serve over 10,000 Native American individuals.

The Carnegie Foundation spent two years studying these colleges and the ideas they represent. During our visits, we were greatly impressed by the educational opportunities tribal colleges provide and by the pride these institutions inspire in both students and tribal members. In their cultural rootedness and powerfully considered purposes, tribal colleges are unparalleled.

At the same time, the challenges these institutions confront cannot be overstated. A typical tribal college necessarily charges low tuition but lacks a tax base to support the full education costs. Meanwhile, the limited federal support these colleges receive—the backbone of their funding—fails to keep pace with their enrollment growth.

Classes at tribal colleges frequently are held in shabby buldings, even trailers, and students often use books and laboratory equipment that are embarrassingly obsolete. At the same time, the colleges are educating many first-generation students who usually have important but competing obligations to their families and local communities.

Tribal colleges also offer vital community services—family counseling, alcohol abuse programs and job training—with little financial or administrative support. Successful programs frequently end abruptly because of budget cuts.

Considering the enormously difficult conditions tribal colleges endure, with resources most collegiate institutions would find unacceptably restrictive, their impact is remarkable. It became unmistakably clear during tour visits that, even as they struggle to fulfill their urgent mandates, tribal colleges are crucial to the future of Native Americans, and our nation.

First, tribal colleges establish a learning environment that encourages participation by and builds self-confidence in students who have come to view failure as the norm. The attrition rate among Indian students, at both the school and college levels, greatly exceeds the rate for white students.[1] Isolated by distance and culture, many have come to accept that they cannot complete school. College seems to many Native Americans an impossible dream. Tribal colleges offer hope in this climate of despair.

Most of these colleges offer tutoring programs that build basic skills and have active counseling programs for their students. At one tribal college, for example, the president even takes time to go to the homes of students who start missing classes. Education is viewed as a door of opportunity, not a cul-de-sac for failure.

Second, tribal colleges celebrate and help sustain the rich Native American traditions. For many Americans, Indian culture is little more than images of teepees, peace pipes, and brightly colored rugs. But in many reservation communities, traditional cultural values remain a vital part of the social fabric. Tribal languages are still spoken, and traditional arts and craft and spiritual beliefs are respected.

While non-Indian schools and colleges have long ignored Indian culture, tribal colleges view it as their curricular center. They argue that it is through a reconnection to these long-standing cultural skills and beliefs that Indians can build a strong self-image and participate, with confidence, in the dominant society. Each of the tribal colleges offers courses, sometimes taught by tribal elders, in native language, story-telling history, and arts.

Beyond the classroom, traditional values also are embedded in the very spirit of these institutions. Cooperation is valued, for example. Respect for elders is encouraged. Differing ideas about how time should be managed and how people should interact with each other are understood and accepted. In mainstream, institutions, Indians find their own values undermined; tribal colleges reinforce the values of the Indian culture.

Third, tribal colleges provide essential services that enrich the communities surrounding them. These colleges are, in the truest sense, community institutions. Located on reservations, nearly all colleges offer social and economic programs for tribal advancement. Some offer adult education, including literacy tutoring, high school equivalency programs, and vocational training. Others work cooperatively with local business and industries to build a stronger economic base. At one college, seminars for tribal leaders have been held to address a variety of leadership and management issues. Administrators of this college have also successfully challenged, in court, discrimination against tribal members by the state in drawing voting district lines and by the country in its hiring practices.

Fourth, the colleges are often centers for research and scholarship. Several have established cooperative programs with state universities to conduct scientific research,

while others sponsor seminars and studies about economic development needs.

To cite just one measure of achievement, twelve of the colleges are now fully accredited and eight others are now candidates for accreditation, a remarkable feat considering how young the colleges are and how thoroughly they have been scrutinized by the regional accrediting agencies, as well as by federal administrators and auditors. Within a three-year period, all the colleges are audited by the General Accounting Office and, at one point, one fully accredited college had more outside evaluators than staff on campus. Clearly, tribal colleges are not marginal institutions that have been "given a break."

These institutions have taken on a breathtaking array of responsibilities. As they move beyond their infancy, successes are now clearly visible; their value is well documented. But recognition and acceptance happened despite the federal government's benign neglect and a lack of national awareness of their merits.

Relative to enrollment, federal support to tribal colleges has, in fact, declined for nearly a decade. Private support, while expanding, cannot fill the gap. Even with a twenty-year history, the tribal colleges are known to only a few Americans, and they continue to be ignored by much of the higher education community.

Tribal colleges have moved through a painful period in which they have struggled to secure even minimum support. We believe, however, that a decade of unprecedented opportunity is emerging, one in which tribally controlled colleges can achieve maturity and bring vitality to the reservations. America must affirm and aggressively support these institutions as they prepare to meet, in a new century, the needs of their communities.

THE AMERICANS WITH DISABILITIES ACT

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. MARLENEE. Mr. Speaker, the Americans With Disabilities Act [ADA] is one of the most emotional pieces of legislation to hit the House floor this session. This legislation hits a very personal note for me because I have pushed a wheelchair for many miles, and I understand the obstacles of architecture and misunderstanding these people must face.

Most peole with disabilities are just as qualified, intelligent, and capable as the nondisabled. I agree that it is time we allow them an equal place in the American work force. I strongly believe it is time that the nondisabled American public is educated on how to eliminate barriers of discrimination against the handicapped. Disability does not mean inability.

But I do not believe the Americans With Disabilities Act is the solution. While the intention behind this legislation is good, the technicalities of this bill are horribly misguided. Good intentions do not necessarily translate into good public policy.

It is simply wrong to believe that one legislative remedy can be a panacea for the problems faced by such a diverse group including every disability from dyslexia and obesity to quadraplegia, tuberculosis and AIDS. Astonishingly, anyone who has "a relationship or association with someone who has a physical or mental impairment" is also granted Federal disability status under the ADA. The vague and far-reaching language grants an AIDS victim's mother, sister, and neighbor the ability to sue for discrimination by association. This is not included in any other civil rights legislation, and I believe it goes far beyond the scope of logic and reality.

This legislation has been touted as a civil rights bill for the disabled, but it will impose excessive rules, regulations, and costs. The Congressional Budget Office has estimated that the establishment of regulations and the implementation of this legislation will cost $92 million in its first 5 years. This amount will add to our Nation's deficit and tax our productivity and competitive ability.

The original ADA bill contained a provision that allowed the disabled to seek compensatory and punitive damages for discrimination up to $100,000. Fortunately, this language was struck from the bill in committee, and the normal remedies in title VII of the Civil Rights Act of 1964 are referenced. Title VII stresses mediation, conciliation, and prompt resolution of disputes. This type of remedy is appropriate for a major law like the ADA because it would not unduly punish employers as they learn of and attempt to comply with its provisions. But, the threat of punitive and compensatory damages remains.

Recently, another bill, the Civil Rights Act of 1990 (H.R. 4000) would greatly expand the remedies in title VII. Many civil rights leaders have pressured President Bush to support this bill, which is expected to pass Congress this summer. If this legislation passes, the referenced section will be amended to include the punitive and compensatory damages for all discrimination lawsuits, including cases resulting from the ADA bill. This will violate the intention of Congress to limit the damage awards under these lawsuits.

My good friend, Representative F. JAMES SENSENBRENNER of Wisconsin introduced an amendment to the ADA that would cite title VII specifically, rather than reference it. In other words, if this amendment had been successful, the remedies in title VII would remain regardless of action on H.R. 4000. Unfortunately, the Sensenbrenner amendment failed 192 to 227 on the House floor.

The ADA is also different from any other civil rights legislation because the entire burden of proof is placed on the business, employer, and private school administration to demonstrate they are not guilty of discrimination. In other words, under the ADA, the employers and business owners must show that they are innocent. What ever happened to "innocent until proven guilty?" The avalanche of costly legal expenses and litigation would crush small- and medium-sized businesses, and private schools.

The Equal Employment Opportunities Commission, the Attorney General, the Secretary of Transportation, the Architectural and Transportation Barriers Compliance Board, and the Federal Communications Commission are all required to develop and issue nationwide regulations and standards for implementation and enforcement of this act.

Under the ADA, each community must provide accessible public transportation for the disabled. The cost of a new transit bus is approximately $150,000 to $175,000. For a transit agency to equip that bus with a wheelchair lift will require another $12,000 to $15,000. The total cost to implement the lift mandate will amount to approximately $30 million a year. While many Montana towns cannot afford public transportation now, this added expense threatens the existence of the ones we do have because transit agencies must cope with the onerous financial burdens imposed upon them by the ADA. This will also create increased costs for all transit riders for equipment and facilities that will be used rarely or not at all.

Another amendment offered by Representative BUD SHUSTER of Pennsylvania would have permitted greater flexibility to local transit authorities to cities with a population less than 200,000 regarding bus lift purchase requirements. In other words, the Shuster amendment would have allowed all cities in Montana to select which transit system is best for the disabled in their community. It may be more cost effective to provide on-call door-to-door service in handicapped accessible minibuses for the disabled in small towns rather than spending funds on placing lifts on every city bus. Unfortunately, this commonsense amendment was defeated by a vote of 148 to 266.

In the area of communications, telephone companies and television stations must provide relay services so speech- and hearing-impaired people can use their systems. What about the small rural telephone co-op, which may not be able to afford this service? What about the impact on small independent television stations and cable companies? Will Congress divert money from urban areas to help offset the burdensome costs to these industries? I doubt these funds will be forthcoming. Once again, Congress did not look before it leaped. Everyone must pay for the benefits of a few, and I ask you, "who is being discriminated against?"

The ADA also mandates job accommodation financed by employers. Employers will be forced to restructure existing facilities, restructure jobs, hire readers, signers, and assistants in order to accommodate over 900 physical and mental impairments. This converts a civil rights measure into a mandated benefits program for the disabled. It is time we ask ourselves what "reasonable accommodation" means for American businesses. The real cost to the Nation would be higher costs of production, fewer jobs, lower real wage rates, lower levels of output and income, and a weaker competitive position for the U.S. business in the world market place.

I must admit that I was pleased that so many of the flaws in the original bill have been addressed, but not all have been corrected. For example, the House passed an amendment, by only 12 votes, allowing food services to discriminate against workers with contagious diseases. But all other types of employers, including hospitals, must make ac-

commodations to keep the infected on the job.

Sloppy legislative work will only come back to haunt us, just like the Medicare Catastrophic Coverage Act. Local communities must be able to decide what method of accessibility works best for them. A Federal mandate requiring one solution for Scobey, MT and another for Washington, DC, is long on theory and short on reality.

I believe disabilities should elicit compassion and courtesy, but they do not entitle victims to special treatment that negates others property rights.

The idea behind this legislation is admirable, but the scope and applicability is unreasonable and inappropriate. There were many positive changes made in committee and on the House floor, but they did not go far enough. I regret that I was left with no other option than to vote against this well-intended, but flawed bill.

INTRODUCING THE NINTH CIRCUIT COURT OF APPEALS REORGANIZATION ACT OF 1990

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. MORRISON of Washington. Mr. Speaker, I am proud today to introduce the Ninth Circuit Court of Appeals Reorganization Act of 1990. This bill would create a U.S. Court of Appeals for the Twelfth Circuit, consisting of the States of Alaska, Idaho, Montana, Oregon, and Washington. The new ninth circuit would be comprised of Arizona, California, Hawaii, Nevada, as well as Guam and the Northern Mariana Islands.

Whether measured by geography, population, number of judges or caseload, the existing ninth circuit is by far the largest circuit in the country. Its sheer size and the resulting management difficulties argue eloquently for the division called for by this bill. The circuit contains nine States and two territories covering approximately 1.4 million square miles. This huge expanse forces judges to spend much of their time traveling and increases costs to both taxpayers and litigants. Travel expenses for the ninth circuit judges are the highest in the Federal court system.

According to 1988 Census Bureau estimates, the ninth circuit contains over 43 million people. The next largest circuit—the sixth—serves fewer than 29 million. No other circuit serves more than 24 million. Furthermore, the population of the area contained within the ninth circuit is growing rapidly and this disparity will only get worse as time goes on.

The vast size of the circuit gives rise to serious caseload and management problems. Of the 37,963 cases filed in the regional courts of appeals last year, 6,305 were filed in the ninth circuit—1 out of every 6 appeals filed nationwide. To handle this enormous caseload, 28 judges have been appointed. The average number of judges in the other 10 circuits is 12.

All of the above factors contribute to serious problems in management and ensuring judicial consistency. The size and diversity of the circuit to some extent limits a judge's knowledge of the circumstances and legal practice in various areas of the circuit. The large number of decisions, especially unpublished decisions, makes it difficult for attorneys and judges alike to remain current on the development of the law. This problem is exacerbated by the increasing inconsistency between panels within the circuit. As the law becomes less clear, it becomes more difficult for citizens to know how to conform to the law.

The ever-increasing caseload has led to procedural changes designed to expedite cases while not necessarily preserving safeguards crucial to preserving the rights of litigants or the integrity of the judicial process. Notwithstanding these improvisations, the ninth circuit is fighting a constant battle to keep a case backlog from forming. Last year, it took an average of over 15 months to dispose of a case from filing notice of appeal to final decision on its merits in the ninth circuit. This filing time is the longest in the Nation.

I believe that this legislation will help solve the above problems. Creating two manageable circuits will improve the administration and efficiency of the court, promote uniformity in circuit law, and provide citizens with the strong court system to which they are entitled.

Mr. Speaker, I included the bill in the RECORD.

H.R. 4900

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ninth Circuit Court of Appeals Reorganization Act of 1990".

SEC. 2. DIVISION OF NINTH JUDICIAL CIRCUIT.

Section 41 of title 28, United States Code, is amended—

(1) in the text before the table, by striking "thirteen" and inserting "fourteen"; and

(2) in the table—

(A) by striking the item relating to the ninth circuit and inserting the following:

"Ninth.....Arizona, California, Nevada, Hawaii, Guam, Northern Mariana Islands.";

and

(B) by inserting after the item relating to the eleventh circuit the following new item:

"Twelfth.....Alaska, Idaho, Montana, Oregon, Washington.".

SEC. 3. APPOINTMENT OF JUDGES.

The table contained in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

"Ninth..... 19";

and

(2) by inserting after the item relating to the eleventh circuit the following new item:

"Twelfth..... 9".

SEC. 4. PLACES FOR THE HOLDING COURT.

The table contained in section 48(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

"Ninth.....San Francisco, Los Angeles.";

and

(2) by inserting after the item relating to the eleventh circuit the following new item:

"Twelfth.....Portland, Seattle.".

SEC. 5 ALLOCATION OF INCUMBENT JUDGES.

Each circuit judge in regular active service of the former ninth circuit whose official station on the day before the effective date of this Act—

(1) is in Arizona, California, Nevada, Hawaii, Guam, or the Northern Mariana Islands is assigned as a circuit judge of the new ninth circuit as of such effective date; and

(2) is in Alaska, Idaho, Montana, Oregon, Washington, is assigned as a circuit judge of the twelfth circuit as of such effective date.

SEC. 6. ASSIGNMENT OF SENIOR JUDGES.

Each judge who is a senior judge of the former ninth circuit on the day before the effective date of this Act may elect to be assigned on or after such date to the new ninth circuit or to the twelfth circuit, and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 7. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 5; or

(2) who elects to be assigned under section 6;

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 8. TREATMENT OF PENDING CASES.

The provisions of the following paragraphs of this section apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings with respect to the matter shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which it would have gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings with respect to the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this Act, or submitted before the effective date of this Act and decided on or after the effective date as provided in paragraph (1), shall be treated in the same manner and with the same effect as if this Act had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as if this Act had not been enacted.

SEC. 9. DEFINITIONS.

As used in sections 5, 6, 7, and 8, the term—

(1) "former ninth circuit" means the ninth judicial circuit of the United States as in existence on the day before the effective date of this Act;

(2) the term "new ninth circuit" means the ninth judicial circuit of the United States established by the amendment made by section 2(2) of this Act; and

(3) the term "twelfth circuit" means the twelfth judicial circuit of the United States established by the amendment made by section 2(3) of this Act.

SEC. 10. ADMINISTRATIVE ACTIONS OF FORMER NINTH CIRCUIT.

The court of appeals for the ninth circuit as constituted on the day before the effective date of this Act may take such administrative action as may be required to carry out this Act. Such court shall cease to exist for such administrative purposes on July 1, 1991.

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 1990.

NINTH CIRCUIT COURT OF APPEALS REORGANIZATION ACT

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. CRAIG. Mr. Speaker, I rise today to join my Northwest colleagues in introducing a much needed and overdue piece of legislation, the Ninth Circuit Court of Appeals Reorganization Act. The bill would divide the Nation's largest Federal appellate court into two separate circuits.

There are currently 28 judges sitting on the ninth circuit. It encompasses a vast geographic area including California, Nevada, Arizona, Oregon, Washington, Idaho, Montana, Alaska, Hawaii, Guam, and the Northern Marianas Islands. These factors combine to make it difficult for all judges to meet to decide cases and results in inconsistent decisions. The circuit is simply too large to guarantee any legal uniformity or judicial stability.

That is why I have joined in introducing this legislation. It would create a new Twelfth Circuit Court of Appeals composed of Idaho, Montana, Washington, Oregon, and Alaska. The other areas would remain in the ninth circuit.

What will result is a smaller and more manageable caseload for judges, less travel, and the development of a concentrated area of law upon which to draw for future decisions. These are all great advantages enjoyed by all Federal circuits outside of the ninth circuit. It is high time to fix this inequity.

It is worth noting that dividing the ninth circuit is an action supported by chambers of commerce, community development associations, and local governments throughout Idaho. In addition, members of the Northwest delegation, including Idaho Senators MCCLURE and SYMMS, have introduced similar legislation in the U.S. Senate.

Mr. Speaker, the people of Idaho and the Northwest have a right to fair hearings, conducted by a court which is equal to the those of the rest of the Nation. I urge my colleagues to recognize this fact and help correct the current problem by cosponsoring the Ninth Circuit Court of Appeals Reorganization Act.

LEGAL REMEDIES FOR VICTIMS OF COPYRIGHT INFRINGEMENTS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. WALGREN. Mr. Speaker, I want to share with my colleagues a letter from a constituent of mine, William Byham, which I have reproduced below. Mr. Byham's experiences with the unauthorized reproduction of his copyrighted training films have convinced me to join Congressman BERMAN as a cosponsor of H.R. 671. We should do all we can to protect the product of our thought process, our intellectual property, for it represents some of the most important economic interests we have. I urge my colleagues to join me in support of this important legislation.

DEAR CONGRESSMAN WALGREN: There is a bill (H.R. 671) pending before the House Subcommittee on Courts, Intellectual Property and the Administration of Justice that is very important to my company and to the entire training media industry. I am writing to ask you to cosponsor this bill.

Development Dimensions International produces and distributes copyrighted audiovisual training materials which are generally distributed on videocassette. These materials (known as "training media") are used by business and industry, government institutions, and others to provide cost-effective training to employees in important skills.

Most of the 500 or so U.S. companies that produce and distribute training media are small business. My company is one of the largest with 350 employees.

The training media industry provides a valuable service to American business and government. But our financial viability is jeopardized by rampant unauthorized copying of our copyrighted materials.

It is so easy and inexpensive to duplicate a prerecorded videocassette. Many companies and agencies that purchase a copy of a training cassette will succumb to the temptation to run off additional "free" copies rather than pay the market value for a legitimate copy. Every time an unauthorized copy is made, it hurts us right in the pocketbook. Recent studies indicate that our industry loses as much as one-third of potential sales to unauthorized copying. Our industry cannot long survive this kind of loss.

The training media industry has done everything we can to stop such copying. We conduct public education on copyright laws. Our trade association has instituted a reward program to encourage disclosure of unauthorized copying. We have experimented with various technologies to foil copying. But all of our best efforts have not succeeded. We need the help of the Congress.

We need to deter the destructive practice of unauthorized copying, and to improve our ability to enforce our rights against infringers. That is why we support H.R. 671, which will require that courts award reasonable attorney's fees when small businesses like ours prevail in suits against those who make illegal copies of our works.

WILLIAM BYHAM,
Mt. Lebanon, PA.

HUMAN RIGHTS AND PERESTROIKA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. GILMAN. Mr. Speaker, I wish to call to the attention of my colleagues a speech on Human Rights and Perestroika, recently delivered by the State Department's Assistant Secretary of Human Rights and Humanitarian Affairs, Richard Schifter. His remarks provide a timely overview of the astonishing progress achieved in the international human rights field over the past few years. But it is equally remarkable and significant that Ambassador Schifter's speech was delivered in Moscow, at a seminar sponsored by the Helsinki Commission of the Soviet Friendship Societies.

This year, 1990, is the 15th anniversary of the signing of the Helsinki Final Act. As Ambassador Schifter emphasizes in his speech, the fact that such a meeting could take place in Moscow speaks volumes regarding the key role played by human rights in improving our relations with the Soviet Union and Eastern Europe, and in advancing the cause of world peace. Secretary Schifter congratulates the Helsinki Commission of the Soviet Friendship Societies for organizing the Moscow meeting. I second those commendations and I invite my colleagues to read this speech, which I request be inserted at this point in the RECORD.

HUMAN RIGHTS AND PERESTROIKA

(Remarks by Assistant Secretary of State for Human Rights and Humanitarian Affairs Richard Schifter)

This is the year in which we shall mark the 15th anniversary of the signing of the Helsinki Final Act. It is a document which has played an extraordinarily important role in the changes which have occurred all around us in recent years. And it can make a critically important positive contribution to the future relations between the participating states. That is why this meeting, on the role of public opinion in the context of the human dimension of the Helsinki process, is of special significance and the organizers, the Helsinki Commission of the Union of Friendship Societies and Madame Tereshkova, do indeed deserve to be congratulated.

It is not only the fact of the meeting and the timing which are significant. It is also the place. Would such a meeting have been called in Moscow in the year of the 10th anniversary of the Helsinki Final Act? If it had been called, would anyone have taken it seriously? I leave it to you to answer these questions. But times have changed, changed significantly for the better, and this meeting, as we can see, is taking place and it is being taken seriously.

There was a time when it was argued that we have differing ideas about the human dimension, that we have differing notions as to what the words "human rights" mean. What many have come to recognize and acknowledge is that we are all part of the same civilization, that our notions about the ideal relationship between governments and the people are quite similar, even though they may not be identical.

We should not be surprised by this similarity. Cultural exchange is not a new invention. Even though it was in the past not run

by government agencies, it did take place. It has taken place for centuries. Irrespective of the religious label which we affix to ourselves, including the label "atheist", we draw our ethical values from the same religious tradition. We read each other's literature. We benefit from each other's contributions to science and technology. And we have also exchanged political ideas. Ideas, as they say, do not know any borders.

As I have earlier suggested, a meeting such as this one would not have taken place in Moscow five years ago. But that does not mean that the principles on which this meeting is based were then foreign to this soil. To be sure, there were those who concluded that the ideas of freedom propagated by the Enlightenment of the 18th Century were inappropriate for what was called the Soviet social system. These defenders of the old order, I submit, were betraying the heritage of this country's great exponents of freedom, such as Pushkin and Tolstoy, and denying to the Soviet people a role among those nations of the world which were committed to social progress. What they desired for the Soviet Union was the perpetuation of the social philosophy of Ivan the Terrible.

I have mentioned Pushkin and Tolstoy because not only their names but also their writings are part of the heritage of the civilization to which we belong. But they did not stand alone in their affirmation of a belief in a free and open society. There are many others who kept the spark of a belief in liberty alive even under the most adverse circumstances. It is, therefore, appropriate on this occasion to pay tribute to those courageous people, both in Czarist Russia and the Soviet Union, who risked imprisonment and exile, who sacrificed their careers, sometimes even their lives, to stand up for the principles of liberty and against the rule of autocrats, both of the pre-1917 and the post-1917 variety.

And I also want to pay tribute to those who hold high office in this country today, beginning with the man who has captured the world's imagination, the Chairman of the Presidium of the Supreme Soviet. Perhaps some historians will be able to point out a similar set of circumstances. I, for one, do not know of any other example in history in which a leadership group in which absolute power and a capability of total repression was vested, voluntarily relinquished its power and instead of governing by coercion resorted to use of the power of persuasion.

It is probably fair to say that Kim Il Soong and Fidel Castro cannot be counted among the most fervent admirers of Perestroika. There may even be a few other persons outside the Soviet Union who hold similar views. But with these few exceptions, the world outside your country fervently wishes for the success of Perestroika. This, too, is a historic first. I cannot recall another situation in which the world was so unanimous in applauding the leadership of a country as it tries to effect domestic change. One of the revolutions of recent times has been the revolution in attitudes toward the Soviet Union. You now have friends in many places.

One factor in this revolution of attitudes has been the personality of Mikhail Gorbachev. But another factor has been the policy change which he has effected. The Soviet Union is recognized in the world as a powerful military force. That is why the world has responded so enthusiastically to Soviet domestic changes which have logically gone hand in hand with changes in foreign policy and which have thus caused the threat of international conflict to recede significantly. As has often been said, a government which is not a threat to its own people is not likely to be a threat to its neighbors. But the opposite is true as well. A country which mistreats its own citizens is likely to be a threat to international peace.

Yet, we all must recognize that a basic change in approach at the highest level of government is only the first step. It is necessary for the "new thinking" at the highest level to permeate the bureaucracy and for institutions to be created that guarantee the operation of government on the basis of "new thinking". Bringing the bureaucracy along is a challenge to any government in any country and the Soviet Union is no exception. It takes time. So does the creation of new institutions.

And that is not all. We have come to know the term "command economy". We should also recognize that there can exist a mind set of what we can term a "command society". What is critically important is to help the average citizen move from his role in a command society to the assumption of a role in a voluntary society, in which he asserts his rights but also voluntarily recognizes and discharges his responsibilities.

In all these undertakings, calling attention to the problems of bureaucracy, building institutions to protect individual rights, educating citizens as to their rights and their moral responsibilities in a free society, nongovernmental organizations can play an invaluable role.

I said at the outset that the people of the Soviet Union have the world's good wishes for the success of Perestroika. Good wishes, you might say, are insufficient in these difficult times and you are undoubtedly right. Let me, therefore, say that you also have the sincere willingess of others to cooperate so as to help Perestroika succeed. President Bush has pledged the cooperation of the Government of the United States. But it is not only the Government that is willing to cooperate. Over and over again do I receive inquiries from private groups and individuals who want to know how they can be of assistance. You would be truly amazed at how many people are interested in giving tangible expression to their attitude of good will toward the new Soviet Union, the Soviet Union led by Gorbachev. Here, too, nongovernmental organizations can be of help by finding ways for such volunteers to play a useful role.

But, as we all know, the success of Perestroika will ultimately depend not on outsiders but on the energies and the spirit of the people of the Soviet Union themselves. As a veteran of World War II, I am well aware of the fact that you have triumphed in times of adversity before. I am confident that in this peaceful struggle for a better life you will triumph again. Your goal, as the goal of all of us, is in Pushkin's words,

Narodnov vol'nost i pokoy.

[People's liberty and peace.]

A TRIBUTE TO ARTHUR S. ROBBINS

SPEECH OF

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor a member of my community who is being recognized for his exemplary community leadership in Rhode Island.

Arthur S. Robbins, of Providence, RI, is this year's recipient of the Rhode Island Distinguished Citizen Award given by the Rotary Club of Providence. Mr. Robbins is a well-known and respected businessman in the Providence and Worcester, MA, areas. His activities within these communities are equally impresssive and respected. He presently serves as the chairman of the Greater Providence Convention Authority and is a member of the board of directors for the Jewish Federation of Rhode Island, the Old Stone Business Development Council, and the Worcester Business Development Corp. He is also a member of the board of trustees of the Providence Foundation.

Mr. Robbins is especially committed to education in Rhode Island. He has served as secondary school chairman of the University of Pennsylvania in the Rhode Island area and as director for the Rhode Island Council on Economic Education. He is currently the treasurer of the Providence Hebrew Day School, chairman of the Schools to Work Program for the Greater Providence Chamber of Commerce, and a member of the board of trustees for the Community College of Rhode island.

Besides his involvement in education, Mr. Robbins has numerous directorships on many civic organizations. They include the Big Brothers of Rhode Island, from whom he has received the Big Brother of the Year Award for 1975 and the Humanitarian of the Year for 1988. In addition, he is a director for the Providence Chamber and the Convention and Visitors Bureau, the Leukemia Society of Rhode Island, the Jewish Community Center of Rhode Island, Hospice Care of Rhode Island, Inc., the John Hope Settlement House, and Miriam Hospital.

During his lifetime, Mr. Robbins has received many awards and accolades for his community service. Among these are the National Jewish Hospital of Denver Humanitarian Award, the Shalom Peace Award by State of Israel Bonds, the Amudim Award by the Providence Hebrew Day School, and Businessperson of the Year, Worcester, for 1982. In addition, he has received an honorary doctor of business administration from Johnson and Wales University in May 1987.

Mr. Robbins is also a wonderful father and husband. He has shared his success and good fortune with his wife Judy, three children, and one grandson.

It is with great pleasure that I congratulate Arthur Robbins for his years of dedicated and outstanding community service. His commitment to helping others is a tribute to his love for his community. I wish him and his family all the best and continued success in the future.

A TRIBUTE TO ELIZABETH HAVEN LINEN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Elizabeth Haven Linen, of Summit, NJ, this year's recipient of the Congressman Ronald K. Machtley Academic and Leadership Excellence Award for St. George's School in Middletown, RI.

This award is presented to the student, chosen by St. George's School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Elizabeth has certainly met these criteria while at St. George's. She has made the honor roll every semester while at St. George's. Elizabeth was inducted into the Cum Laude Society during her junior year as one of the top 15 scholars at St. George's. Elizabeth also spends many hours at the Martin Luther King Center as a volunteer performing community service.

I commend Elizabeth for her outstanding achievements and wish her all the best in her future endeavors.

A TRIBUTE TO SHIRLEY HERSEY

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. MACHTLEY. Mr. Speaker, I rise to pay tribute to Shirley Hersey, who has been named as the "1990 Middletown Teacher of the Year."

Ms. Hersey was chosen by her colleagues for her innovative teaching techniques and her special way of dealing with her students. She has taught in Middletown, RI, since 1966 and has taught first through fourth graders. Her favorite grade, however, is the second grade. In her own words, "in second grade the students will make you feel wonderful everyday."

Ms. Hersey's innovative techniques help her students get excited about education. She uses hands-on education with her students such as daily experiments to help them understand their world. She assures her students that it is all right to think about things and that they do not have the right answer to answer a question.

I would like to thank Shirley Hersey for her devotion to her job. Her love for her work and her students transcends the classroom and challenges her students to learn the world around them. At a time when education is so vital to our Nation's future, it is reassuring to know teachers like Shirley are guiding and educating our Nation's youth.

A TRIBUTE TO CAPT. ROGER D. GRADY

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Capt. Roger D. Grady, U.S. Navy (retired), for his exceptional leadership and exemplary efforts in his community.

Captain Grady, of Newport, RI, has been selected as the 1990 Civilian Volunteer of the Year by the Armed Services YMCA of the United States of America. He has been instrumental in the planning of a new Armed Services YMCA to provide programs and services to young military personnel and their families. As the chairman of the branch board of management, he has been involved in all aspects of this project, from negotiating a memorandum of agreement with the Navy to developing and implementing a capital fundraising campaign. In addition, he has greatly expanded the volunteer program and its services. Captain Grady has clearly demonstrated a tremendous devotion and commitment to this project and under his dynamic leadership, this project is certain to be a success.

I would Ike to thank Captain Grady for his exemplary community service. I wish him all the best and continued success in the future.

A TRIBUTE TO CYNTHIA OVIEDO

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Cynthia Oviedo, of Central Falls, RI, this year's recipient of the Congressman Ronald K. Machtley Academic and Leadership Excellence Award for Central Falls Jr./Sr. High School, in Central Falls, RI.

This award is presented to the student, chosen by Central Falls Jr./Sr. High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Cynthia has certainly had an outstanding career and has overcome a language barrier while at Central Falls Jr./Sr. High School. Cynthia is Columbian by birth and Spanish is her native language. Despite the difficulties of learning another language, Cynthia has shown the drive and determination to be the best student she can be. She has a C plus average in college preparatory courses and participates in the Upward Bound Program at Rhode Island College. Cynthia is a member of the executive committee on the student council, the racial discussions panel, and the senior buddy mentor project. In addition, she is a member of her school's and her church's chorus and is very active in drama. Cynthia also played an integral part in the drama club's community-based intergenerational Hispanic video project.

I commend Cynthia for her outstanding achievements and wish her all the best in her future endeavors.

TRIBUTE TO THE ROCKPORT FULTON JUNIOR AND SENIOR HIGH SCHOOL CHOIR FOR RECEIVING "BEST IN CLASS" HONORS AT THE ADJUDICATOR NATIONAL INVITATIONAL FESTIVAL OF MUSIC AT THE JOHN F. KENNEDY CENTER FOR PERFORMING ARTS

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. LAUGHLIN. Mr. Speaker, it is with great pride that I come before you to announce that a high school choir in the 14th District has attained national recognition in an exclusive musical competition.

The Rockport Fulton Junior and Senior High School Choir received "best in class" honors in the small school category of the Adjudicators National Invitational Festival of Music at the John F. Kennedy Center for Performing Arts. The Educational Tour Consultants sponsors this festival each year, and the Adjudicators Committee nominates and invites the groups to participate in this national competition.

Any group chosen to participate may consider the invitation alone a pinnacle of achievement, and groups who become "best in class" winners at the Adjudicators National Invitational Festival may consider themselves to have won the super bowl of music festivals. Of the 50 participants in this choir, 39 were freshmen and sophomore students who were commended by the judges on their tone quality and showmanship.

I congratulate Ms. Martha Luigi, director of choral activities, and her assistant Ms. Yvonne Jaggard, for having such an outstanding group of students whose hard work and dedication has brought a prestigious honor to their school. The students achieving this honor are: Rebekah Ballou, Shannon Bennett, Harry Bowers, Shannon Brandenburg, Marsha Brasher, William Buckley, Stephanie Casterline, Michelle Cessac, William Childers, Lisa Chupe, Robert Hattenbach, Roland Herrera, Ronald Hewes, Tracy Hicklin, Jody James, Staci Keller, Christine Kelly, Shannon Kennedy, Regina Lawerence, Tasha Lyman, Tonya Mason, Elizabeth McMillan, Melanie Mills, Tina Monroe, Amy Moore, Sherrie Mundine, Sherry Naquin, Serenity Naylor, Tam Nguyen, Samuel Padilla, Robert Patteson, Lisa Pina, Kimberly Rivera, Eva Rollins, John Roth, Charles Ruhman, Michelle Schibi, Sara Schmidt, Eric Scott, Scott Seawright, Yvetta Segovia, Robert Solis, Samuel Spears, Saundra Stephens, Kimberly Terry, Nicola Thomas, Angela Trehern, Shane White, Janet Wolfe, and Thomas Woodman,

I urge you to join me in congratulating these fine students and their instructors for this accomplishment, which is most impressive and deserves recognition.

H.R. 4888, A BILL TO REQUIRE BURIAL OF UNDERWATER PIPELINES IN THE NAVIGABLE WATERS OF OUR NATION

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. TAUZIN. Mr. Speaker, today I introduce a bill that will require oil and natural gas pipelines in shallow navigable waters to be properly buried in an effort to secure safety for our maritime and fishing industries and marine environment.

On October 3 of last year, 11 men were killed when their fishing vessel struck an exposed natural gas pipeline in shallow waters off the coast of Texas. Three years earlier, two additional lives were lost in an identical accident south of New Orleans. More recently, our Nation suffered tragic environmental damage involving an Exxon underwater pipeline in the New Jersey and New York areas. All of these accidents stemmed from aged hazardous liquid pipelines and the lack of inspection requirements.

There now exists no requirement by the Department of Transportation, the Department of the Interior, or the U.S. Army Corps of Engineers which call for underwater inspections by pipeline owners or operators.

We have presently in the Gulf of Mexico and elsewhere, pipelines which are 15 and 20 years old and older which lie exposed in waters commonly navigated. These pipelines are not inspected and are allowed to sit waiting for a navigating vessel to hit it, explode, and lose lives because the industry has not been called upon to take action.

The oil and gas industry, like any industry using public waters for the transportation of goods must provide that their transportation does not, in any way, present a danger to others utilizing the same waterways.

Had routine underwater inspections been a requirement prior to these recent tragedies and had the pipeline industry been required to rebury exposed pipelines, there is no doubt that these 13 lives would not have been lost and the fear that exists in our maritime and fishing industries would not be so prevalent.

I urge my colleagues to support this bill and require that underwater pipelines carrying hazardous substances be routinely inspected.

TRIBUTE TO ROBERT (BOB) ALAN RICHEY

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. CONTE. Mr. Speaker, I want to pay tribute today to a dedicated friend of Alaska and its wildlife resources. Robert (Bob) Alan Richey will retire from the U.S. Fish and Wildlife Service on June 1, 1990, after serving 26 years at the Kenai National Wildlife Refuge. More than just a great wildlife biologist, Bob was also one of Alaska's and the Service's premier pilots. During his career he introduced so many to the great beauty and the bountiful wildlife resources of this magnificent refuge.

Bob began his career in 1948, working summers with the National Forest Service in California. After a tour with the U.S. Navy from 1954 to 1956, Bob's strong interest in the outdoors and wildlife led him to get a degree in wildlife biology. In 1961, he began summer work in Alaska with the National Park Service, as a naturalist in McKinley National Park.

Bob's career with the Service began as a seasonal wildlife aide at the Kenai National Moose Range in 1964. The Service quickly recognized Bob's knowledge and enthusiasm, and offered him full-time employment as a recreational specialist. His true career had started. He advanced quickly through the system, being appointed a refuge biologist and then assistant refuge manager, and pilot, within a year. With his love of wildlife and flying, he was in a perfect position.

During his early career, Bob was instrumental in development of the refuge canoe trail system, considered one of the best in the country. After passage of the Alaska National Interest Lands Conservation Act in 1980, the Kenai Moose Range was renamed the Kenai National Wildlife Refuge and Bob assumed the responsibility of monitoring the oil and gas development on the refuge. Thanks to his efforts, oil and gas development, the public, and the natural habitat have been able to coexist.

Bob was invaluable in planning and monitoring a PCB cleanup operation in the oilfield that continues to this time. His efforts were recognized with the Service awarding him a special achievement award in 1988.

Bob Richey has accomplished a great deal during his distinguished career, but above all, he will be remembered as Bob, the pilot who escorted people around the refuge and made the tour more interesting because of his knowledge, interest, and enthusiasm for the refuge. Bob was routinely requested as the tour guide by many officials that visited the refuge and his love for his work never failed to rub off on his guests and passengers. That's how I met Bob, as I was privileged to have flown with him several times.

Bob flew a Grumman "Goose" for many years and showed the same affection for that plane as any parent would a favorite pet. Every passenger, regardless of their stature, was also expected to show that plane proper respect. His attention to the Goose was typical of the approach Bob took to his work. Each flight was a memorable experience and I returned with renewed conviction to help conserve America's great natural resources. Bob Richey is a great friend and a dedicated public servant. His institutional knowledge, his personality, and his hard work are going to be sorely missed after his retirement. I wish him the best.

THE HUBBLE SPACE TELESCOPE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, May 23, 1990, into the CONGRESSIONAL RECORD:

THE HUBBLE SPACE TELESCOPE

As the National Aeronautics and Space Administration (NASA) fine tunes the operations of the Hubble Space Telescope, Americans are eagerly awaiting its first pictures. Launched by the space shuttle Discovery in late April, the Space Telescope is the single most expensive scientific instrument ever made. Yet supporters say it will provide the biggest advance in our ability to see the stars since Galileo first peered through his telescope almost 400 years ago.

CAPABILITIES

The Hubble Space Telescope should significantly expand our ability to survey and understand the universe. The 12½ ton, 43-foot-long telescope was put into orbit 380 miles above the Earth's surface in order to get it above the distorting effect of the atmosphere. Ground-based telescopes are limited by atmospheric turbulence and "light pollution" that distorts their view of the stars. The Space Telescope should allow us to see known objects 10-30 times sharper than before. Moreover, while the human eye can glimpse at best some 6,000 stars and other objects in the sky at night, and while the best ground-based telescope can view as many as 40 billion, the Space Telescope will bring into focus 5-10 trillion objects.

The telescope is a marvel of modern engineering. Its mirror is so precise that it could pick out the writing on a dime located 100 miles away. It has a sophisticated guidance system pointing the telescope and keeping it fixed on a target. Its computer software, which schedules and records the telescope's observations, is one of the most complex created for civilian purposes. Signals from the telescope will be transferred by communications satellites and ground links to the Space Telescope Science Institute located in Baltimore. The Institute will process the flood of data—up to a million bits per second—and relay it to researchers. Instruments in the Space Telescope will be serviced and upgraded by astronauts every 3-5 years over the anticipated 15-year span of the mission.

The telescope is named after American astronomer Edwin Hubble, best known for his discovery in 1929 that the universe is expanding at a very rapid rate. In his younger days, Hubble was a teacher and basketball coach at New Albany High School.

HISTORY OF THE PROJECT

Originally scheduled for launch in 1983, technical problems and the 1986 explosion of the space shuttle Challenger delayed the project. Major problems have included upgrading the computer software, crafting the mirror, and fixing inadequacies in the power system. Some feel that many of the delays were caused by making the telescope more complex than necessary and by poor coordination between engineers and astronomers and among various NASA branches.

While initial estimates put the project cost at $600 million, the cost through launch, spread over 13 years, turned out to be $2 billion. Operating the telescope in space will take about $200 million per year. Although large, such sums represent only a fraction of one percent of what is spent each year on social security, and are far less than we spend on military uses of space and on various defense systems. The Strategic Defense Initiative, for example, could cost up to $25 billion over the next five years.

WHAT WE WILL LEARN

The Space Telescope will not only bring into sharper focus other planets in our solar system and allow astronomers to study them for extended periods of time, it will look toward the edge of the universe and observe distant stars, galaxies, and quasars, the brightest objects known. The telescope should help answer questions about the age of the universe, the processes by which galaxies evolve, and whether the universe will continue to expand or ultimatley collapse back. It should help determine the life cycle of stars like our own sun. Scientists will also look for evidence of black holes, regions where gravity is so strong that not even light can escape, and will search for evidence of planets around other stars, a key to the search for extraterrestrial life.

Yet many people feel that the greatest achievements of the Space Telescope will lie not in answering today's questions but in discovering entirely new phenomena. The Space Telescope will likely introduce us to a variety of objects not even imagined by scientists today.

WHAT'S NEXT

The Hubble Space Telescope is the first of the four "Great Observatories" that NASA plans to put in orbit during the 1990s. The telescopes will be making observations at different wavelengths of light, with the next one, the Gamma Ray Observatory, scheduled for launch later this year.

Despite its technical sophistication, the Space Telescope is by no means the last word in optical telescopes. Because of the production and launch delays, the Space Telescope uses a large amount of 1970s technology. In recent years, various advances in optics and design have led to increasingly sensitive ground-based telescopes. Some will be several times larger than the Space Telescope, though they will not be as good in discerning the structure of the faintest objects. One ground-based system being researched would use complex feedback mechanisms to adjust the telescope's mirrors to help offset fluctuations in the Earth's atmosphere. And for the next leap in telescope capabilities, NASA is developing plans to locate a major observatory on the far side of the Moon, because of its quiet and dark surroundings.

It will be years before we can fully gauge the value of the Hubble Space Telescope. It has already shown us some of the pitfalls of complex "big science" undertakings, and it has seen more than its share of compromises and disappointments. Yet, if it lives up to its promise, the Space Telescope has the potential to vastly expand our understanding of the universe, while lifting our spirits and broadening our perspective.

SALUTE TO THE MONTCLAIR, NJ-GRAZ SISTER CITY PROGRAM

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. ROE. Mr. Speaker, it is with the greatest pride that I rise today to salute an outstanding municipality in my Eighth Congressional District which, for more than four decades, has participated in a program that has been critical to world peace and understanding.

I am speaking of the township of Montclair, which in 1990 is celebating the 40th anniversary of its participation in the Overseas Neighbors Program and its role as a sister city with the city of Graz, Austria. This important anniversary is being celebrated during the week of May 28 when the township of Montclair will host a 30-member delegation from Graz in recognition of the long-running, close-knit relationship between these two cities on two different continents.

I know that hosting these dignitaries from Graz will be a great source of pride to the township of Montclair, its distinguished mayor, the Honorable Clifford J. Lindholm, to the State of New Jersey and to our Nation because of all that this program stands for. I know that the township of Montclair is eager to welcome Graz Burgermeister Alfred Stingl and his delegation of city officials and share with them the many unique things that Montclair, the State of New Jersey and our Nation have to offer.

Mr. Speaker, for the RECORD, I would like to insert historical information about the Overseas Neighbor Program and the Montclair-Graz sister city relationship. I know it will be of great interest to you and our colleagues:

The Montclair-Graz Sister City bond of friendship was formed in 1949, under the world peace efforts pioneered by former U.S. President Dwight D. Eisenhower. He created the world wide "People-to-People" program, and we, the cities of Montclair and Graz, were among the first to participate.

Later President Eisenhower called us the "cornerstone of the people-to-people diplomacy." He said: "If people by the millions can reach out their hands in friendship and communicate directly, the warmth of personal interest and mutual respect is the real and true bond between people for world peace."

Montclair-Graz has done just that. Over the years, hundreds of people from the USA have visited Graz and several hundreds from Austria have visited us in Montclair. In fact, it was agreed from the beginning that not only do we visit each others' country to sponosr diverse programs and foster better cultural understanding, but we also exchange official delegations every ten years on an alternating basis. This means that every five years a delegation of about 35 to 40 people from Montclair travel to Graz, while five years later a similar delegation from Graz arrives in Montclair.

The relationship has resulted in the still active exchange of students, prominent business people, government officials, academics, scientists, engineers and representatives of almost all facets of the vast cultural field, from individual singers to huge orchestras. Many Austrian physicians have interned at Mountainside Hospital. On the other hand, directly after the war, Mountainside Hospital sent to the bombed-out hospital in Graz a much needed X-ray machine and an incubator. Many professionals from Montclair, and from New Jersey in general, have visited Graz.

Graz is Austria's second largest city, with just over 350,000 inhabitants. It is about an hour and a half's drive south of Vienna. Graz is some 900 years old.

Overseas neighbors sponsors yearly two students from Montclair State College to study in Graz. Conversely, the University of Graz sends two Austrian students to study at Montclair State. Over a hundred young adults have thus been educated, have had a very fruitful, international experience, and have had the opportunity to broaden their world perspective, to gain a much better understanding of the other country's culture and people. Many have gone on to become prominent leaders in their countries and recall today that their year as exchange student has given them a lasting, unforgettable experience.

The Montclair-Graz Sister-city union has many "firsts" to its credit. For instance, when the TELSTAR satellite became functional, the two mayors' voices were the first to be transmitted with "Hello America" and "Hello Austria".

Mr. Speaker, I appreciate this opportunity to present a brief profile of the participation of Montclair, NJ, in the Overseas Neighbor Program, and to extend my most sincere best wishes to Graz Burgermeister Alfred Stingl and his distinguished delegation as they join their American counterparts in celebrating 40 years as sister cities.

COUNTING OVERSEAS MILITARY IN THE 1990 CENSUS

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. SAWYER. Mr. Speaker, I am pleased to join my colleague on the Subcommittee on Census and Population, Mr. RIDGE, in introducing legislation to ensure that members of the Armed Forces and their dependents stationed overseas during the 1990 census are included in the population of their home State for apportionment purposes.

Last summer, the Department of Commerce decided to include overseas military personnel in the State population totals used for apportionment purposes. That decision was based, in part, on the assumption that the Department of Defense would conduct an actual enumeration on overseas military bases, thereby facilitating the collection of information relating to personnel.

In December of 1989, however, the Defense Department determined that it could not carry out the overseas enumeration, as originally planned. Therefore, the method for collecting the information necessary to place overseas personnel in an appropriate State was not available.

At that juncture, Congressman RIDGE and I, along with the distinguished chairman and ranking minority member of the Committee on Post Office and Civil Service, Mr. FORD and Mr. GILMAN, advised the Commerce Department that the most equitable allocation of overseas military personnel to a State would be according to home of record. That term refers to the location at which a member of the Armed Forces enlisted in the service. It most closely approximates the home State of individuals who are highly mobile not by choice, but by virtue of their service to our Nation.

Last week, the Commerce Department decided that overseas military personnel and their dependents would be counted for the purpose of apportionment in the State where they last resided for 6 consecutive months or

longer before being stationed abroad. That decision appears to ignore previous direction by Congress on this issue. In the 100th Congress, the House overwhelmingly defeated legislation that would have required the inclusion of overseas military personnel in the State in which they last resided for 6 months.

Congressional intent should be an important factor in this decision. It is Congress that is charged with the responsibility for taking a census under the Constitution.

Furthermore, in 1970, the only census in which military personnel stationed overseas were included in the apportionment counts, home of record served as the basis for allocating those individuals to a State.

I applaud the Commerce Department for its decision to include military personnel and their dependents stationed abroad in the census counts used for apportionment. These men and women are temporarily absent from the United States in the service of their country. We can recognize their sacrifices by making them a part of the population fabric that forms the basis for the fair distribution of political representation in our democracy.

But the decision should have been made in consultation with Congress. It is Congress that has the authority to take the census. It is Congress that is affected by the process of apportionment, the only constitutional purpose of the decennial census.

Despite the clear expressions of support for home of record by many Members of both the House and Senate, including key members of the oversight committees, the Commerce Department did not consult with us in making its decision. In fact, the Director of the Census Bureau informed us of the decision last week, even though the decision was not made by the Bureau, but by the Department.

The Department believes that the 6-month rule approximates the Census Bureau's concept of usual place of residence, the basis for determining where people residing in the United States are counted. I am a strong supporter of consistent application of the usual-place-of-residence concept.

However, military personnel stationed overseas are not residing in the United States during the census. Their inclusion in the population base used for apportionment is the result of a policy decision by the Secretary of Commerce, exercising the authority delegated to him by Congress to take the census. The consistent application of usual place of residence is not undermined by using home of record because we are dealing with a unique situation involving individuals who are not living here at the time of the census.

The Commerce Department also believes that the information relating to last 6 months of residency is superior to that of home of record. We are not convinced on this point. The Congressional Research Service advised us that the Defense Department must take several steps to ensure that data on last 6 months of residency does not contain errors. Similar steps could be taken to ensure the validity of data on home of record, which is available on current personnel records for every member of the Armed Forces.

I regret that the Commerce Department made its decision without carefully considering the wishes of Congress. But that oversight makes our legislation necessary.

The use of home of record information to place overseas military personnel and their dependents in the proper State for apportionment purposes is not inconsistent with the Constitution and does not undermine well-established census rules. It will result in the most equitable distribution of this population group for apportionment purposes.

I urge my colleagues to support our effort.

THE SENIOR CITIZENS' TAX FAIRNESS ACT OF 1990

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. RITTER. Mr. Speaker, today, I introduced the Senior Citizens' Tax Fairness Act of 1990 [SCTF]. The SCTF addresses several inequities in current law that result in an unfair tax rate for seniors, oftentimes causing seniors to pay an astronomically high percentage of their income in taxes. For instance, a working senior who earns as little as $10,000 in addition to social security benefits can end up paying 56 percent of his or her earnings in taxes. With added earned income or pension income, the marginal tax rates can climb as high as an astronomical 90 percent. No one else in America pays such tax rates.

Perhaps the most inequitable and antiquated law that disadvantages seniors is the earnings test. Seniors between the ages of 65 and 70 are allowed to earn only $9,360 of income outside their Social Security benefits before the unfair seniors tax burden is triggered. They must pay back Social Security $1 for every $3 they earn over that amount. Many seniors, capable of entering the work force and being productive, are prevented from doing so because of the devastating tax burden. This law was enacted during the depression to make sure older workers retired so that younger workers would have jobs. We do not face the same types of job shortages today. There are help wanted signs on almost every street corner. The withdrawal of the elderly from the work force is coming at a time when the Department of Labor predicts a future labor shortage in the United States.

In order to reduce this burden, the SCTF raises the earning limit to $39,360 from the current level of $9,360. This would give many seniors the incentive to work, creating more net taxes. The National Center for Policy Analysis estimates that there will be a new revenue gain to the Federal Treasury of $3.2 billion—net work-related taxes minus additional Social Security benefits.

As a sponsor of Representative HASTERT's Older Americans' Freedom to Work Act, H.R. 2460, I still believe that the earnings test should be repealed in its entirety. However, my compromise, capping the earnings limit at $39,360, has the dual benefit of leaving the Social Security penalty in place for those who earn more than $39,360 and really do not need to rely on Social Security at this time, and maximizing the benefit to the Federal Government. Although I still support total repeal of the earnings test, my solution is a good compromise.

The SCTF also brings down the senior's tax rate by eliminating the marriage penalty for seniors two places in the Tax Code. Currently, an individual taxpayer is allowed a standard deduction of $3,100. A married couple, filing jointly, is allowed a standard deduction of $5,200 and a married person filing separately is allowed a deduction of $2,600. This essentially amounts to a $1,000 penalty for couples. Under the SCTF, if a married couple is filing jointly and one spouse is over age 65, the couple will be allowed a standard deduction of $5,700. If both spouses are over 65, the couple will be allowed a standard deduction of $6,200, equal to that amount of two unmarried individuals filing separately.

Additionally, the SCTF also eliminates the marriage penalty in determining how much Social Security or equivalent railroad retirement benefits are taxable. Generally, a single taxpayer's retirement benefits are not taxable if that taxpayer earned less than $25,000—including retirement benefits. For a married couple, filing jointly, that amount is $32,000. Under the SCTF, the marriage penallty is repealed for seniors. If one spouse is over 65, the couple is allowed to earn $41,000 before retirement benefits are taxable. If both spouses are over 65, the figure will be $50,000.

Senior citizens currently have an economic disincentive to get married. That is not the kind of example we wish to set for the rest of society. When we hear senior citizen couples tell us that they will not get married because they can not afford the change in tax status, we should all be saddened. We in Congress, by not changing this law, continue to provide disincentives for seniors to marry.

Before the Social Security System and its earnings limit were enacted in 1930, 54 percent of men 65 and over were in the labor force. We don't want to go back to a system where seniors, across the board, were forced to work until they dropped Today, however, only about 16 percent of our seniors work—something particularly disturbing when you realize that the average life expectancy for a male was 58.1 years in 1930 and has risen to almost 72 years today. Americans today are living longer and healthier, we face severe labor shortages in key skill areas, yet we have not adjusted our Social Security and tax systems to encompass those facts. While age discrimination in the workplace is outlawed, discrimination against seniors still exists in our tax system.

It is about time Congress recognizes that we are wasting a valuable resource. Our seniors are our most experienced workers. They can bring real skill, wisdom, and professionalism to the workplace. It is bad policy to force our most experienced workers out of the work force when they still desire to work and society needs them.

TOTALITARIANISM AS A POLITICAL MOVEMENT

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. DYMALLY. Mr. Speaker, I bring to the Members' attention an article on "totalitarianism as a political movement."

The article follows:

HANNAH ARENDT'S VIEW OF TOTALITARIANISM AS A POLITICAL MOVEMENT—HOW HER THEORY APPLIES TO THE POLITICAL CULTS OF LAROUCHE, NEWMAN AND PERENTE

(Memo by Chip Berlet)

The propaganda and organizing techniques used by the internally-authoritarian psychologically-manipulative cult groups run by Lyndon LaRouche, Fred Newman, and Geno Parente (and others) mirror a zealous form of political organization new to this century's mass society—totalitarianism. The style, strategies, tactics, and internal organizing practices of the totalitarian group were outlined by historian-philosopher Hannah Arendt in her book "The Origins of Totalitarianism."

In recent years there has been a revisionist interpretation of Arendt's work, linking nazism and communism as two sides of the same political coin, or claiming that all communist or Marxist movements are totalitarian, or that only Nazi and communist ideologies can become totalitarian. Arendt specifically repudiates this simplistic interpretation of her work when she writes ". . . ideologies of the nineteenth century are not in themselves totalitarian," and that although fascism and communism became "the decisive ideologies of the twentieth century they were not, in principle, any 'more totalitarian' than others." According to Arendt, the ideological victory of fascism and communism over other twentieth century belief structures was "decided before the totalitarian movements took hold of precisely these ideologies" as a vehicle for seizing and holding state power.

Totalitarian movements historically have shared a number of similarities:

A methodological link between the psychological and the political which forms both a theoretical world-view and a justification for indoctrinating members in an effort to create a new consciousness through a unique and exclusive technique understood only by the group's leaders.

Psychologically coercive techniques to manipulate members' views and actions.

Attempts to establish hegemonic relationships with other similar political groups, and, failing that, attempts to undermine the group and establish parallel organizations.

Virulent and unprincipled attacks on critics, including insults, agent-baiting, threats by attorneys and defamation lawsuits.

Re-writing of the group's political and organizational history to meet current needs.

A closed and covert hierarchical internal structure that is not necessary congruent with the public organizational structure.

Differentiation between internal in-group and external out-group reality, use of propaganda, and implementation of a "secret-society" style.

These similarities do not change the fact that the totalitarian LaRouchite philosophy is apparently neo-fascist while the totalitarian Newman and Parente philosophies are apparently left-progressive, but it does mean that internally, all these groups have an authoritarian hierarchy whose existence is denied, they rely on psychologically-manipulative practices to control core members. These political groups match a cult paradigm and are far from democratic, despite outward claims and appearances.

It is crucial to note the relationship of LaRouche, Parente, and Newman during the early 1970's in light of their subsequent activities. All three white male political leaders viewed Marxist revolution through an egocentric prism which pre-supposed the centrality of one special individual's will in shaping history. All three used psychologically manipulative techniques to enforce obedience in the institutions they have built—institutions which sought political hegemony over other groups. All three groups share many elements of the totalitarian movement which is correctly defined by its style, structure and methods not by its stated or apparent ideology.

Arendt's theories were first published in the 1950's, long before people like LaRouche, Newman and Parente arrived on the political scene, yet her analysis reads as if it were a study of the Executive Committee of the National Caucus of Labor Committees (the secret core leadership of the LaRouche network), the International Workers Party (the secret core leadership of the New Alliance Party, the Rainbow Lobby and the Institutes for Social Therapy), and the Communist Party (Provisional) (the secret core leadership of the National Labor Federation and its related fronts, the Eastern Service Workers, California Homemakers, etc).

Arendt discusses how totalitarian movements are built around a central fiction of a powerful conspiracy, (in the case of the Nazis, a conspiracy of Jews which dominates the world,) that requires a secretive counter-conspiracy be organized. Totalitarian groups organize the counter-compiracy in a hierarchical manner which mimics the levels of membership and rituals of social and religious secret societies.

According to Arendt, most people get their first glimpse of a totalitarian movement through its front organizations:

"Sympathisers, who are to all appearances still innocuous fellow citizens in a nontotalitarian society, can hardly be called single-minded fanatics; through them, the movements make their lies more generally acceptable, can spread their propaganda in milder, more respectable forms, until the whole atmosphere is poisoned with totalitarian elements which are hardly recognizable as such but appear to be normal political reactions or opinions." (p. 367)

LaRouche, Newman and Parente have spawned dozens of front organizations, each designed around some issue of mass appeal. For instance, LaRouche followers used the front device of Proposition 64 in California to take a generalized fear over the spread of AIDS and steer it towards an acceptance of authoritarian methods such as quarantine isolation of suspected carriers and job discrimination.

Arendt also explains that different constituencies react to propaganda messages from totalitarian groups in different ways:

"The whole hierarchical structure of totalitarian movements, from naive fellow-travellers to party members, elite formations, and the intimate circle around the Leader, and the Leader himself, could be described in terms of a curiously varying mixture of gullibility and cynicism with which each member, depending upon his rank and standing in the movement, is expected to react to the changing lying statements of the leaders and the central unchanging ideological fiction of the movement." (p. 382)

Arendt explains that average members of totalitarian groups need not believe all the statements made for public consumption, but they do believe "all the more fervently the standard cliches of ideological explanation." (p. 348) If a lie is detected by the mass of people or even the average member, it is dismissed as having been a tactical necessity which only further proves the cunning and wisdom of the leader.

For the elite members, even the basic ideological explanations of the group are not necessarily believed, but are seen as "fabricated to answer a quest for truth" among the lower ranking followers. For the elite, facts are immaterial. Their loyalty is to the leader who embodies truth, and they require neither demonstration nor explanation of the leader's assertions:

"Their superiority consists in their ability to dissolve every statement of fact into a declaration of purpose. In distinction to the mass membership which, for instance, needs some demonstration of the inferiority of the Jewish race before it can safely be asked to kill Jews, the elite formations understand that the statement, all Jews are inferior, means, all Jews should be killed." (p. 385)

At the top is "the initimate circle around the Leader" for whom all statements are "mere devices to organize the masses, and they feel no compunction about changing them according to the needs of circumstances." (p. 385)

The ultimate goal of a totalitarian movement, of course, is to propel the totalitarian leader toward total, ruthless, world domination. Political issues and positions are transitory tactical tools that move the organization and its leader toward power. Historically, when power is attained, the political allies and issues are betrayed.

THE NEW ALLIANCE PARTY/RAINBOW LOBBY

For U.S. Progressive activities, it sounded too good to be true. A dynamic Black woman runs for President on a progressive platform that calls for peace, social justice, multi-racial harmony, and an end to discrimination against gay men and lesbians.

It is, sadly, too good to be true Dr. Lenora Fulani deserves tremendous credit for gaining ballot status in all 50 states; and the issues she and her polticial party raises deserve more attention, not only across America but also in the American progressive movement where too often the reality fails to match the ideal when it comes to issues of gender, race, class, handicaps, and sexual identity.

But the type of political organization that Dr. Fulani represents has already left its mark on this century—and the vast majority of progressives around the world have learned an important lesson from the disasterous consequences, and have rejected the siren call of totalitarianism.

The core of people who control the New Alliance Party have evolved into a totalitarian organization that at this point mirrors the early stages of the European national socialist movement in the 1930's. The allure of undeniably efficient and expedient totalitarianism is what Stalin succumbed to in his rush to create a socialist society. Not totalitarianism as defined by cynical philosophical revisionists such as Jeane Kirkpatrick and Henry Kissinger, but totalitarianism in the original definition as an organizational form characterized by centralized control by

an autocratic leader or hierarchy. Under totalitarianism there is strict control of all aspects of the life of the individual through the use of physical and or emotional coercive measures.

There are two interlocking control mechanisms inside the core of the New Alliance Party: a secret cadre organization that enforces a distorted form of democratic centralism, and a manipulative type of psychological therapy in which all members of the core NAP hierarchy must participate. At the apex of the NAP hierarchy sits Dr. Fred Newman, chief theoretician for the New Alliance Party, campaign manager for Dr. Lenora Fulani, playwright, scholar, activist, and the person who invented the form of therapy practiced by those who have come to be known as the "Newmanites."

Wherever the New Alliance Party has a major organizing effort underway, there is a related "therapy" group reaching out to persons with progressive politics who are also seeking emotional or psychological counseling. The therapy groups use a technique they call "Social Therapy" or "Crisis Normalization"—the invention of Dr. Newman. According to former members, including several former therapists, the Social Therapy is consciously used as a recruitment tool for the NAP and Rainbow Lobby.

HONORING THE PEIRCE MIDDLE SCHOOL SCIENCE OLYMPIAD TEAM

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. SCHULZE. Mr. Speaker, members of the Peirce Middle School Science Olympiad Team, of West Chester, PA, have a reason to be proud. In fact, the entire community is proud of the Olympiad Team's accomplishment: winning the Pennsylvania State championship. Even more impressive, the Pierce Science Olympiad Team won third place overall in the national competition, which had been entered by about 3,000 schools around the country.

The Science Olympiad is an international nonprofit organization devoted to improving the quality of science education, increasing interest in science, and providing recognition for outstanding achievement in science education by both students and teachers.

The members of the team are Matt Arrison, James Bewley, Karolyn Broody, Mark Borowski, Justin Carroll, Casey Frantz, Jesse Frantz, Thatcher Gearhart, Justin Ging, Eric Helble, Matt Feller, Cathy Kovaiesky, Ken Lidie, Jared Lillywhite, Luke Lorenz, Andrew Lonsberry, Peter Lu, Josh Rea, Michelle Romanoski, Willie Scott, Carly Silvesti, Gwen Staub-Leifeld, Mary Thorne, Phillip Thorne, Steve Whittam, and Mark Wiening. Special recognition must also go to the excellent job the coaches, Charlotte Knighten and Paul Wojcik, have done in helping the students to win.

I offer my congratulations to the team for a job well done. Excellence in education is thriving in West Chester, PA, and it is my pleasure to recognize such extraordinary efforts.

TRIBUTE TO JAMES C. HARRISON

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to an outstanding citizen of the 16th Congressional District of California, Dr. James Harrison. I am pleased to take this opportunity to recognize the dedication which Jim has demonstrated to the education of our Nation's youth for over 45 years.

Jim has truly devoted his life to the enlightenmnent and advancement of the young. He began his career in education as a high school teacher in Springfield, MO. Jim came to California in 1958, where he commenced over four decades of service to our great State. He has served as superintendent of the Monterey Peninsula Unified School District since 1973, after having served 5 years as associate superintendent.

I have come to know and respect Jim for his commitment to the betterment of the young people of Monterey County. Throughout his life, Jim has furthered his knowledge of education and administration in order to make himself the best teacher and administrator he can be. He is a member of the Association of California School Administrators, the American Association of School Administrators, and has served as chairman of California City School Superintendents. Jim's community and civic involvement include membership in the Monterey Peninsula Sierra Club, Monterey Kiwanis Club, Executive Committee of the United Way, Monterey Diocese Vocations Commission, and St. Frances Xavier Parish Council, These are but a few examples of his efforts on behalf of the Monterey area community.

Jim will be retiring at the end of this school year. He is leaving a legacy of effective and compassionate leadership in the education of the youth of the Monterey Peninsula. Those who know and have worked with Jim will sorely miss his presence and leadership in the educational system.

Mr. Speaker, I ask my colleagues to join me now in congratulating a man who is leaving his mark in the most important of professions. It us with great pride and respect that I rise to pay tribute to Jim Harrision.

LEAD PAINT

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. SCHEUER. Mr. Speaker, there is a silent epidemic raging among our Nation's children. According to the Agency for Toxic Substances and Disease Registry, one out of five children suffers the effects of this insidious and totally preventable disease—lead poisoning.

Lead has no biological value. Very low levels in young children have been correlated with irreversible neurotoxic effects including a reduction in intelligence.

Today, I am introducing a bill which will eradicate the root cause of childhood lead poisoning—the ingestion of lead containing dust and paint chips—by promoting research into effective abatement methods.

Since the early 1970's, the Federal Government has taken a variety of steps to reduce sources of toxic lead pollution. The total amount of lead used as additives to gasoline and interior paint has been significantly decreased.

Unfortunately, there is still a tremendous amount of lead dust in the environment. The combustion of leaded-gasoline has left the soil in our cities highly contaminated with lead. Similarly, peeling and deteriorating paint in our housing stock provides a continued source of lead exposure for our Nation's children.

We lack readily available, effective ways to abate lead contamination in houses. In cases where, well intended but unskilled persons have attempted to remove lead-based paint by burning or sanding, the result has been to actually increase the lead dust in the environment.

Lead-poisoned children who have been treated in hospitals and returned to homes which have been subjected to ineffective lead removal techniques, actually puts these children at greater threat for increased neurological impairment.

The American Academy of Pediatrics has testified that even when other intelligence limiting factors are considered—such as malnutrition—low levels of lead exposure can dramatically effect a child's intelligence. While the reduction of one child's intelligence is tragic, the cumultive effect of lead exposure on our population is disastrous and may result in quadrupling the number of children scoring below the normal level. Adolescents who received low lead exposures some 11 years prior, showed a sevenfold greater high school dropout rate than their peers' and were six times more likely to have reading disabilities.

This is a matter of paramount importance to the future of our Nation.

The bill which I am introducing today, authorizes research and evaluation programs for monitoring, detecting, and abating lead based paint and other lead exposure hazards in housing. This research will advance our ability to deal with the totally preventable problem of childhood lead poisoning.

I urge my colleagues to support this measure.

COMMENDING THE ACTIVITIES OF THE SPINA BIFIDA ASSOCIATION OF TEXAS

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. de la GARZA. Mr. Speaker, recently in Hebbronville, TX, a young girl died after fighting her whole life—12 years—to live. Her name was Maria Canales and she had spina bifida.

Spina bifida is a defect of the spinal column that results from the failure of the spine to close properly in the first weeks of pregnancy.

More commonly known as "open spine," spina bifida is the Nation's leading disabler of newborn infants and occurs in 1 out of every 1,000 live births nationwide. That makes the incidence of this birth defect greater than that of muscular dystrophy and cystic fibrosis combined.

Presently, medical researchers do not know exactly what causes this birth defect although it appears the condition results from a combination of environmental and genetic factors.

Medical technology developed in the last 20 years has made it possible for the vast majority of children born with spina bifida to grow to adulthood. However, longer life spans often create a new set of secondary physical disabilities or psychosociological difficulties for these individuals.

This year I have the honor of serving as the honorary chairman of the Spina Bifada Association of Texas [SBAT]. This volunteer organization is a leader in tackling the medical needs of the growing generation of adults with spina bifida. SBAT provides information, parent support, and advocacy for spina bifida families in Texas.

I would like to commend and thank all the organizations and the individuals that have provided volunteer time and financial support to the Spina Bifida Association of Texas and its president, Paul Day of Austin.

Mr. Speaker, we cannot bring little Maria Canales back to life. But through organizations like the Spina Bifida Association we can make life better for the thousands of other Americans who have spina bifida. These kind of organizations need and deserve our volunteer support. I am proud to be associated with this organization's exceptional activities.

LEGISLATION TO AMEND THE SECOND MORRILL ACT

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. LEWIS of Georgia. Mr. Speaker, during the 98th Congress, the late Congressman Mickey Leland introduced legislation to amend the Second Morrill Act. The Second Morrill Act enshrines the unconstitutional separate-but-equal doctrine and refers to institutions for colored students. It provides as follows:

[T]he establishment and maintenance of [agricultural] colleges separately for white and colored students shall be held to be a compliance with the provisions of this act if the funds received in such State or Territory be equitably divided as hereinafter set forth * * * for the education of colored students * * * one college for white students and one institution for colored students * * * separate colleges for white and colored students.

Congressman Leland's legislation would have gotten rid of the racist and the prosegregationist language in the Second Morrill Act.

Today, I am reintroducing this legislation.

This legislation would not harm historically black colleges and universities that receive funds under the Second Morrill Act or under any other law. It would not cost the Federal Government. It would simply put the Second Morrill Act in line with Brown against Board of Education, Bolling against Sharpe, and the Civil Rights Act of 1964.

Without this legislation, the United States Code will continue to contain unconstitutional language which slights the civil freedoms of the citizens of this Nation.

I urge my colleagues to join me in striking these offensive references from the United States Code.

LET US REMEMBER THOSE BRAVE CHINESE WHO REMAIN IMPRISONED IN CHINA

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. FEIGHAN. Mr. Speaker, 1 year ago thousands of brave, youthful, Chinese peacefully demonstrated in Tiananmen Square in Beijing. Far from attempting to be disruptive, they wanted nothing more than to engage in dialog with those who claimed to rule in the name of the people. The demonstrators wanted to offer their input into solving the corruption that permeates the Chinese leadership; they wanted to offer their support for reformist elements in that leadership. They merely expressed their desire that the leadership of their country be more responsive to the expressed needs of the people.

As we are so painfully aware, their peaceful and reasonable demands were met with a brutal and unconscionable reaction by the Chinese leadership. Hundreds were slaughtered; many thousands more were hunted down and arrested. "Confessions" and self-incriminations were extracted and the "guilty" were executed or thrown into prison, where many languish to this day.

Last week, the Human Rights, Asia and Pacific and International Economic Policy and Trade Subcommittees of the Foreign Affairs Committee heard testimony from many reputable sources concerning the current human rights situation in China. All agreed that in the year since the crackdown in Tiananmen Square, the situation has gotten worse. To now, the Chinese leadership has been unresponsive to United States' efforts to encourage them to improve their human rights record. Now, Congress must increase the pressure on the leadership of China to do so.

To this end, I would like to draw attention to the case of Su Ding. Su is dean of the East-West Art Institute of the Sichuan Academy of Social Sciences and was arrested last August while trying to leave China to serve as a visiting scholar this year at Arizona State University. He was charged with having engaged in "anti-party" activities during the time of the Tiananmen Square demonstrations and with favorably recommending a book that was labeled "anti-party." Su is believed held incommunicado.

I became aware of this case through the efforts of my distinguished colleagues, Mr. TED WEISS and Mr. JOHN MILLER. They have initiated an "adopt-a-prisoner" crusade to draw attention to individual cases of repression in China. I commend the efforts of Mr. WEISS and Mr. MILLER and I encourage all my colleagues to join us in remembering those Chinese who remain imprisoned for expressing a desire for freedom in their country.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. THOMAS A. LUKEN. Mr. Speaker, I rise today in conjunction with the Congressional Call to Conscience Vigil for Soviet Jews to express my concern about the current atmosphere of rising anti-semitism in the Soviet Union and to bring the case of Vladimir Tsivkin to the attention of my colleagues.

With the President of the Soviet Union, Mikhail Gorbachev due to meet with President Bush on May 30, I believe the Congress should seize this opportunity to let Mr. Gorbachev know that we are deeply concerned about the rising tide of anti-semitism throughout the Soviet Union. Although the policy of glasnost has helped to introduce ideas of democracy into Soviet political discussion, it has also made it possible for blatantly anti-Semitic groups such as the ultranationalist group Pamyat to spread their hateful message. Pamyat has even publicly threatened to carry out pogroms against the Jewish people in Russia. With these developments in mind, it is incumbent upon the United States to urge the Soviet Government to allow all Jews who wish to emigrate out of the Soviet Union to do so without delay. Unfortunately, there has been much delay and many excuses waiting for Jews who wish to leave. The case of Vladimir Tsivkin is a prime example.

After originally being denied permission to leave because of secrecy status, he was later told that his secrecy was lifted and that he and his family could apply for permission to leave. He even received—in writing—his permission. One week later however, they were refused by the Supreme Soviet again, for secrecy. Since then they have been sent back and forth from the visas and registrations offices in Moscow and Leningrad. They continue to wait.

Mr. Speaker, I would also like to take this time to recognize the hard work done on behalf of Vladimir Tsivkin's family and others like his by the Cincinnati Council for Soviet Jews. Among other things, the council maintains regular phone contact with many refusnik families as they try to persuade the Soviet Government to let these people go to the country of their choice. The council's work is vital to the cause of Soviet Jews and deserves continued recognition.

I urge my colleagues to call on President Gorbachev as he visits our country shortly, to make the departure of Soviet Jews wishing to emigrate a truly free decision unrestrained by political or bureaucratic delays. Mr. Gorbachev should know that the treatment of the Jewish people in the Soviet Union is and will continue to be a deep concern to the American people and their Government.

SANTA MONICA'S TRUE LIFE NIGHTINGALE

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. LEVINE of California. Mr. Speaker, it is with distinct pleasure that I rise today to express my admiration, respect, and gratitude to a good friend and a devoted public citizen. Duane Nightingale is a thoughtful and caring person who labors tirelessly to improve the quality of life for the people of Santa Monica. On June 2, 1990, Duane Nightingale will conclude his term of office as president of Santa Monica's 1,400 member Chamber of Commerce at a gala installation dinner/dance at the Loews Santa Monica Beach Hotel.

In addition to Duane's numerous duties as Santa Monica district manager for General Telephone, he currently serves our community by working with countless volunteer organizations. Among his many important activities, Duane works doggedly on behalf of the United Way, Santa Monica College, Alternative Living for the Aged, the National Conference of Christians and Jews, and the Boys and Girls Clubs of Santa Monica. He has also served as president or chairman of many important groups including the Salvation Army Advisory Board, the Santa Monica Kiwanis, and the Santa Monica Family YMCA.

Duane Nightingale has been the recipient of numerous awards from the California Legislature, the city of Los Angeles, and the Los Angeles County Board of Supervisors. Not to be outdone by the public sector, private organizations have also lauded Duane by presenting him with various awards and honors. A winner of the Outstanding Service Award from Lions International, Duane was named Citizen of the Year by the Santa Monica Board of Realtors in 1989 and Navy Leaguer of the Year in 1983.

An avid skier and golfer, Duane ostensibly lives in Westlake Village although anyone who knows him would swear that he spends 25 hours a day in Santa Monica. A devoted husband, father of three, and grandfather of four, Duane manages to successfully juggle his family, personal hobbies, and the voluminous workload he carries for GTE and the Santa Monica Chamber.

Beginning his long tenure at GTE as a lineman, Duane has been district manager in Santa Monica since 1983. An innovator who has been extremely effective at bridging the gap between public and private sectors, Duane Nightingale has been one of the most effective chamber presidents in memory. Mr. Speaker, it is for all of these reasons that I salute my good friend Duane Nightingale. I strongly urge my colleagues in the U.S. House of Representatives to join me in honoring one of Santa Monica's finest citizens for the many years he has selflessly devoted to our community.

CRISIS IN KASHMIR

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. FALEOMAVAEGA. Mr. Speaker, I want to share with my House colleagues another well-written newspaper article that appeared in the editorial page of the Los Angeles Times, dated May 20, 1990, reference the crisis in Kashmir.

Mr. Speaker, the crisis in Kashmir is more acute than ever now, since it was just reported yesterday that the chief Kashmir leader, Mr. Moulvi Mohammed Farooq, was assassinated by two unknown assailants. It appears India and Pakistan will likely go to war again, and it is a sad commentary on the history and political relationship existing between these two countries.

[From the Los Angeles Times, May 20, 1990]

IN THE VALLEY OF KASHMIR, A STRUGGLE FOR FREEDOM AMID FEARS OF WAR

(By G.H. Jansen)

SRINAGAR, KASHMIR.—Anyone walking the streets of the capital of Kashmir cannot fail to notice, at this time of year, the still snow-capped hills surrounding the town—some just beyond its outskirts, some farther away. Those hills have helped produce the Kashmir problem.

And no one could fail to notice the presence on the streets of very large numbers of heavily armed men of the Indian army and paramilitary forces: In some places on guard every 100 or even every 50 yards, behind sandbagged bunkers, both stationary and in trucks. They are the Kashmir problem today, as India and Pakistan move ominously closer to war over this disputed area.

Over the centuries, the hills have cut off the already remote Valley of Kashmir from the rest of the Indian subcontinent—especially for the three or four months of winter when the passes across the hills are snowbound.

This isolation has helped produce what is called Kashmiriat—a close sense of a community, of a people—which has its own distinctive identity and culture and tradition. This goes back to the centuries before Christ; when the Kashmiri Hindus adopted Buddhism, they did so in masse, then returned to Hinduism en masse and later accepted Islam en masse: Now less than 5% of the Kashmiris are Hindus.

Today Kashmiriat solidarity is all too evident in the political sphere. The region was divided between Pakistan and India following fighting in 1947-48; their troops now face each other along a cease-fire line.

I have been meeting with Kashmiri journalists, lawyers, social workers and doctors, engineers, hoteliers and the inevitable taxi drivers. With one accord of heart and voice—an angry voice—they say they want nothing more to do with India. Finito. Unanimously, and only a little less vehemently, they say they want azadi—independence—with equally friendly relations with both India and Pakistan. When a people, even if only 3 million or 4 million strong, say with unanimity that they want to run their own affairs, the jinni is out of the bottle and it would be almost impossible to get it back in.

Kashmiriat is seen in action, peaceably, when a demonstration is called and hundreds of thousands of people turn out, sometimes half the population of Srinagar, and most significantly for this conservative society, with women in the vanguard. And it is seen in action, violently, in the guerrilla war being waged by the militants, the fish swimming freely in the water of their people. The Kashmir resistance has already settled into the pattern of the Palestinian intifada, ongoing violence with incidents of some sort every day: And the intifada has lasted for 2½ years now.

In short, however many troops India puts into the valley—20,000 so far—it will never be able to end the azadi movement. It may suppress it for a time, but only for a time. The firm Kashmiri determination to be free is now a fact that is, or should be, as obvious as the surrounding hills.

As in other struggles, repression only toughens the resistance. The Kashmiris I talked to all spoke with special bitterness of the 17-day-long, round-the-clock curfew imposed on the valley last month—the holy month of Ramadan—by Jagmohan, the appointed Hindu governor who uses a single name. During that period not even the seriously ill, women in labor (500 births a day), the starving who had run out of food—no one was allowed to leave the house: Only the dead and a few mourners were allowed out. Yet the Kashmiris say "We are thankful to Jagmohan; he toughened us and united us in hardship and suffering and he fully revealed the ugly face of the Indian government." In extremis they fall back on the inbred stoicism of Islam.

The ineptitude of the Indian regime's military doctrine, and its inability to cope with armed insurgency, is being displayed once again in Kashmir, as earlier in Sri Lanka. A typical incident: In the sprawling, congested and slum-filled area of the town, a couple of militants emerge from a narrow alley and snipe at a passing patrol, then dive back into cover. The patrol whistles up reinforcement, finds no one when it arrives and in frustration roams the locality, killing civilians of all ages. This is called "killed in cross-fire." Or a "combing" operation is mounted with house-to-house searches: It has been estimated that three out of every 10 houses searched are trashed. There are random arrests, followed by torture. I have seen gruesome color photographs of torture victims.

Since January, about 350 civilians have been confirmed as killed by the Indian forces; the number of casualties inflicted by the militants among the forces is never revealed, but range upward of 1,200; 100 civilians—40 Hindus, 60 Muslims, suspected of being traitors or informers—have been killed by the militants.

Those last figures, set against the routine assumption that the Muslims would, at the first opportunity, take it out on the much smaller Hindu community, emphasize an aspect of Kashmiriat of which the Kashmiris are particularly proud: Kashmiri secularism. The state has always been singularly free of what are called "communal incidents."

Kashmiris accuse Gov. Jagmohan of trying to drive a wedge between Muslims and Hindus who, though small in number, virtually monopolize the higher ranks of the bureaucracy in business and commercial life. Mysterious rumors were floated of a Hindu program, and the government then provided official transport to take the "refugees" to Hindu-majority Jammu, where facilities were generously provided for them. Individual Muslims and the militant groups, in advertisement and newspapers, pleaded

with the Hindus not to leave, because Hindus in fact had not been attacked. The houses they left behind, often looked after by Muslim neighbors, have not been sacked.

Only when the summer heat of Jammu became too much for the Kashmiri Hindus did the bureaucrats return to this capital city, leaving their families behind in Jammu. The bachelor returnees are now housed in government hostels and are ferried to the heavily guarded Secretariat in guarded buses along roads cleared of all other traffic—a visible symbol of the Jagmohan regime's total alienation from the Kashmiri man-in-the-street.

"Whatever the authorities say, this is a nationalist, not an Islamic, struggle," said the supreme spiritual head of the Kashmiri Muslim community. In an interview, he conceded that about half the militants are in groups with Islamic names and call for an Islamic state linked to Pakistan. But the other half are members of the Jammu and Kashmir Liberation Front, which is militantly secular.

Jagmohan's harsh policy is killing off any hope of a negotiated political settlement. This, the Kashmiris say, could be deliberate, because Jagmohan is receiving strong political support from a right-wing Hindu party in India, which has talked of changing the Kashmiri Muslim majority into a minority by bringing in Hindu settlers.

Jagmohan has seen to it that the news is doctored in his favor. Foreign correspondents have been banned from Kashmir, 11 local daily newspapers shut down, the two national news agencies of India frightened into moving their bureau from Srinagar to Jammu (akin to covering the Vietnam War from Bangkok). Radio and TV are government departments and consistently fudge the casualty figures. The Indian media are just beginning to assert their critical independence.

Here is one case where it might be a good thing for the United States to "interfere" in what India obdurately claims is a domestic matter—as blasphemous as that might seem coming from this Indian correspondent. It would be better still if the United States did so in conjunction with the Soviet Union. Because India and Pakistan have painted themselves into corners: Jagmohan, by arresting all the leading figures, has left him and India with no one to talk to.

What the Kashmiris want is a plebiscite on independence, leading to a tripartite confederation. It could lead to the partitioning of the present state of Jammu and Kashmir, because Hindu Jammu and Buddhist Ladakh would prefer to stay with India.

But even that would be much the lesser of two evils—less evil than the endless bickering over an issue that has led to two Indo-Pakistan wars and could lead to a third.

Washington should capitalize on the current fluidity in the Kashmir situation and try to save India and Pakistan from themselves. But the United States must grasp one reality—the Kashmiris will never settle for anything less than self-government. They plaintively ask "Why can't the two sides just leave us alone?"

Good question.

[From the New York Times, May 22, 1990]

MUSLIM LEADER OF KASHMIR SLAIN; 30 DIE AS POLICE FIRE ON MOURNERS

(By Barbara Crossette)

NEW DELHI, May 1.—A hereditary Islamic leader, the most senior and influential opponent of Indian rule in Kashmir, was assassinated in his home in the state's capital today. When 100,000 angry mourners followed his body through the streets of the city, security forces opened fire, killing at least 30 people and wounding some 200, according to hospital doctors.

The assassination of the 45-year-old leader, Maulvi Mohammed Farooq, and the shootings that followed inflamed an already tense and deteriorating political situation.

Since January, New Delhi has ordered increasing numbers of army and paramilitary troops into the state of Jammu and Kashmir to crush separatist protests and to enforce long periods of curfew. At the same time, in Pakistan, the Government of Prime Minister Benazir Bhutto has again raised slogans challenging New Delhi's control of the only Indian state that has a Muslim majority. Pakistan also controls an adjacent part of the Kashmir region.

Mr. Farooq, who was also known by the religious title Mirwaiz of Kashmir, was killed by three young men. According to police reports, they calmly signed the vistors' book before entering the leader's study in the city of Srinagar and firing many rounds. Doctors said Mr. Farooq was hit with 15 bullets. The killers fled, and the police did not give out the names they used to sign the vistors' book nor disclose their religious affiliation.

However, representatives of the Jammu-Kashmir Liberation Front, which is leading the fight for Kashmiri secession, charge that the Indian army had plotted Mr. Farooq's death in league with Hindu fundamentalists.

This afternoon, an Indian Government spokesman seemed to link the killing with Pakistani-inspired terrorism by saying that when this kind of militancy is encouraged, innocent people die. He recalled the recent murders of the head of Kashmir University, one of his aides and a local business leader, who were apparently targeted as Indian sympathizers.

But some Farooq family members are skeptical of blaming either Pakistan or local militants. At least one relateive of Mr. Farooq said he did not think the attackers were Kashmiris.

MOURNERS ARE FIRED ON

Despite the curfew that was in effect, tens of thousands of people assembled at the hospital. They formed a procession of wailing and breast-beating mourners that set out escorting the coffin back to the dead man's office six miles away.

Reports of the shooting that followed vary. According to some Muslim mourners, the procession had walked some six miles, gathering more people, when members of the Central Police force opened fire. These sources say that in the barrage, Mr. Farooq's coffin was hit and that the body fell out and incurred fresh wounds. It was reportedly placed back in the coffin and mourners ran with it down back alleys, bringing it to the office. This account could not be confirmed or dismissed.

Hospital doctors said 30 people were killed and at least 200 others wounded.

Some Government sources in New Delhi said the police had opened fire only after having been fired upon by militants among the mourners.

Mr. Farooq had been a moving force of Kashmiri secessionism since the late 1960's, when as a man in his 20s he headed the pro-Pakistani Awami Action Committee, which he founded as a Muslim self-defense group. At that time he was overshadowed in influence and stature by Sheik Abdullah, the secular nationalist figure known as the Lion of Kashmir. But for the last decade, since the death of the Sheik in 1982, Mr. Farooq was the best-known living link to an old struggle that has led to fighting between India and Pakistan in 1947, 1965 and 1971.

COMPLAINED OF RIGHTS VIOLATIONS

In recent months he often berated Western journalists for what he saw as a reluctance to report on human rights violations against Muslims.

"Tell the West," he said in his last interview with this reporter, "that a million people are being held hostage here by India." He was referring to the curfews that kept people bound to their homes for long periods.

The recently mounting tensions between Pakistan and India led President Bush last week to send a three-man mission led by Robert M. Gates, his deputy national security adviser, to urge India and Pakistan to settle their differences over Kashmir with dialogue.

Mr. Gates, who arrived here from Islamabad today, was told by Indian leaders before news of the killings had spread that there could be no dialogue with Islamabad until Pakistan stopped fomenting terrorism in Kashmir.

Mr. Farooq founded the Awami Action Committee in 1964 in the wake of the theft of a holy relic—a hair of the prophet Mohammed—from a local Muslim shrine, the Hazratbal. The next year, he was imprisoned without trial for two years.

[From the New York Times, Apr. 22, 1990]

AT THE BRINK IN KASHMIR

The most dangerous threat to world peace is boiling up between India and Pakistan.

Two countries capable of producing nuclear weapons are waging an escalating war of threats over an issue—Kashmir—that has twice before sparked all out war. Both the United States and the Soviet Union have good reason to attempt preventive diplomacy. Ideally, they would act in concert.

War could be a calamity for Pakistan, India and the region. Democratic experiments in both countries are directly at stake. So, too, are superpower efforts to contain nuclear proliferation. And neighborng countries have reason to fear heightened religious antagonism.

India and Pakistan first fought over Kashmir in 1947, after the subcontinent was partitioned along religious lines. A Hindu maharajah then ruled the Muslim-majority state. A cease-fire sponsored by the United Nations left India controlling part of Kashmir and called for a plebiscite to determine the inhabitants' will.

India never permitted that vote, citing Pakistani noncompliance with some cease-fire terms. Pakistan invaded again in 1965, and was driven back. After India defeated Pakistan for a third time in the 1971 Bangladesh war, both countries agreed to resolve future diferences by peaceful means and to avoid inflammatory rhetoric.

But that agreement did not bind Kashmir's inhabitants. Spurred on by a militant secessionist movement, they have again brought New Delhi and Islamabad to the brink. Neither government appears to want a conflict. But both are being pushed by passions and politics toward a point of no return.

Law and order have all but broken down. Indian troops have killed hundreds of Kashmiris, but have failed to re-establish control. Secessionist violence intimidates Kashmir's moderates. Neither Pakistan's Prime Minis-

ter, Benazir Bhutto, nor India's,V.P. Singh, has solid parliamentary support. Neither can afford to be outshouted by opposition parties. Washington and Moscow have some obligation to steer their strategic allies away from the abyss. Quietly, they have begun to try.

Representative Stephen Solarz of New York, one of Washington's wiser voices on Asia, suggests a joint U.S.-Soviet effort. The two powers might propose a series of tension-reducing steps. If either India or Pakistan proved recalcitrant, it would risk international isolation.

The effort might begin at this week's special U.N. session in New York, which will draw high-level diplomats from all relevant countries. It could continue next month at summit preparation talks between Secretary of State Baker and Soviet Foreign Minister Shevardnadze.

The dangers are great. So is the opportunity. A joint effort could deflate the dangers in this case—and set a valuable precedent for others.

[From the Washington Times, May 22, 1990]

KASHMIR CLASH INTENSIFIES FEARS

SRINAGAR, INDIA.—Months of violence in the disputed Indian state of Kashmir exploded in a bloodbath yesterday when Indian security forces opened fire on a crowd of 100,000 Moslems mourning a slain religious leader, killing at least 41 and wounding 300, according to official estimates.

The clash between Mosleum mourners and security forces of predominantly Hindu India heightened fears that the Kashmir issue could trigger a fourth war between India and Mosleum Pakistan.

Officials said the army had taken complete control of Srinagar last night and a curfew was being "strictly enforced" with shoot-on-sight orders.

The mourners were parading through the streets with the corpse of Maulvi Mohammad Farooq, 45, Kashmir's top Islamic religious leader, who was slain earlier yesterday by four unidentified gunmen who pumped 13 bullets from Chinese-made AK-47 rifles into his body.

The gunmen had broken into Mr. Farooq's fortresslike house in a fashionable Srinagar district.

Witnesses said members of the paramilitary Central Reserve Police Force opened fire without warning on the procession at about the five mile point.

Witnesses and doctors in Srinagar said 30 bodies and at least 300 people with bullet wounds were brought to Soura hospital. Official sources in Srinagar, speaking on condition of anonymity, said 41 were killed in the firing.

The witnesses said more bodies were still on the streets of the Hawal neighborhood of Srinagar where the shooting took place. The city was under curfew and the reports could not be confirmed immediately.

They said Mr. Farooq's coffin was hit with bullets and the body fell out. Some of the mourners put the body, with fresh bullet wounds, back into the coffin and ran with it into the narrow alleys to his office.

Before dying, Mr. Farooq blamed his assassination on the Hindu fundamentalist group Shiv Sena, or Shiva's Army, named for the Hindu god of destruction, Mr. Farooq's private secretary Mohammad Yaqub said.

Pakistani leaders strongly denounced the assassination and said the "martyrdom" would strengthen the hand of Kashmiri militants, who are fighting a majority Moslem state.

Prime Minister Benazir Bhutto, visiting Libya during a swing through Moslem Middle East states, denounced the "dastardly" act and predicted it will "strengthen the resolve of the people of . . . Kashmir to continue their heroic struggle for the right of self-determination."

Mrs. Bhutto's trip was designed to drum up support for Kashmiri Moslems.

Kashmir Gov. Jagmohan pledged that "no efforts will be spared to trace the killers," as did Indian Prime Minister Vishwanath Pratap Singh.

In New Delhi, Mr. Singh met two special envoys of President Bush yesterday in a bid to defuse tension between India and Pakistan over Kashmir.

Envoys Robert Gates, a member of the National Security Council, and John Kelly, assistant secretary of state for Near Eastern and South Asian affairs, met the Indian leader at his South Block office here and handed him a letter from Mr. Bush, the officials said.

The United States has said that it wants to help India and Pakistan avoid a conflict over Kashmir. India and Pakistan have fought two of their three wars over the state.

State government officials blamed the killing on Kashmiri militants, but several militant groups denied responsibility in phone calls to local reporters and repeated announcements over loudspeakers in mosques that the "freedom fighters" had no hand in the slaying.

Mr. Farooq had long urged a political settlement of the Kashmir dispute but saw his importance in the troubled valley eclipsed by Moslem militants.

He denounced the Indian military deployment in the region and joined the call for independence after a Jan. 20 crackdown.

The violence in Kashmir has led to a deterioration of relations between India and Pakistan.

India accuses Pakistan of arming and training the Moslem militants. Pakistan denies the charge and accuses India of violating human rights in a bid to quash what it says is a fight for self-determination. The status of Kashmir has been in dispute since the subcontinent was divided in 1947.

A TRIBUTE TO THE NATIONAL LEAGUE OF FAMILIES OF AMERICAN PRISONERS AND MISSING IN SOUTHEAST ASIA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. LAGOMARSINO. Mr. Speaker, as chairman of the House POW-MIA task force, I rise today to pay tribute to the National League of Families, the only national organization comprised solely of family members of the 2,303 American servicemen still unaccounted for in Southeast Asia. I want my colleagues to be aware that May 28 marks the 20th anniversary of the founding of the league.

While I commend the league for the outstanding job it has done bringing national and international attention to this serious, pressing issue, it is unfortunate and sad that the need for the league in its present form continues today. Like the long suffering family members of the league, I wish the fullest possible accounting of these missing Americans had been satisfactorily resolved long ago.

Founded 20 years ago during a meeting in Constitution Hall, the league has been directly responsible for much of the progress made on the POW-MIA issue. In the mid to late 1970's, when we—the public and the Government—should have been doing the most, we were doing the least. The league steadfastly refused to let the POW-MIA issue fade away. The league provided support to those of us, like BEN GILMAN, JERRY SOLOMON, Tenny Guyer, BOB DORNAN, Lester Wolff, STEVE SOLARZ, me, and others who founded the bipartisan House POW-MIA task force. Like the league, we believed that the still too many unanswered questions and unresolved live sighting reports could indicate live American prisoners being held against their will. Along with the league, the task force pressured the Carter administration and rocked the boat here in Congress to return the POW-MIA issue to the front burner of attention and action, where it belonged.

I am absolutely, 100 percent convinced that the Vietnamese maintain—and I dislike using these terms but no others really describe the situation—a stockpile or warehouse of missing American servicemen's remains. While there is no concrete, verifiable evidence, I also personally believe that there are live, unaccounted for Americans in Southeast Aisa including American prisoners being held against their will. Unfortunately, though, as time goes on the chances of repatriating live Americans diminishes.

Fortunately, the Reagan-Bush administrations have taken the POW-MIA issue seriously. The fullest possible accounting of American POW-MIA's has been made a highest national priority. Under close congressional and league scrutiny the Reagan-Bush administrations have provided the resources and high-level attention the POW-MIA issue deserves. The appointment and subsequent missions by the President's Special POW-MIA Emissary to Hanoi, retired Gen. John Vessey, further underscore the seriousness associated with this pressing matter. Today, the real obstacles and real reasons the POW-MIA issue is still outstanding are to be found in Hanoi, not Washington.

Like many in the league, I am encouraged by the recent progress that has been made. However, it is important to recognize that an increased level of activity is not a substitute for results. Accountability can only be achieved on the basis of convincing evidence. The Vietnamese need to do more in a more expeditious and cooperative manner. For example, opening the warehouse I referred to would go a long way to resolving many cases. Vietnam's extensive reporting and collection of information and remains, both during the war and since, are well known. More serious Vietnamese cooperation, including the sharing of all historical documentation, would reveal the fates of many more Americans presently unaccounted for in Indochina.

Progress with Laos is better, though still not as comprehensive and complete as needed. I

am optimistic, though, that accounting results will expand this year.

The families of our missing servicemen, as well as the POW-MIA's themselves, have the most to lose should progress halt or become stalemated. Knowing this, I rely on the league's input significantly. For example, the league, having been a witness to many POW-MIA related government policies, recognizes that linking the humanitarian POW-MIA issue with other bilateral political concerns does not work. I very much agree. I believe our current policy based on agreements reached with Vietnam in 1983 to treat humanitarian concerns, like the POW-MIA issue, separately from political issues, like the normalization of relations, must be maintained. While the results of this policy have not been fully satisfactory, this policy has brought much greater success to date than anything else. Linkage has never worked.

I strongly believe that the progress made thus far and prospects for further results continue to exist because of the actions of the league and, in particular, the league's very able and very responsible Executive Director Ann Mills Griffiths. A frequent visitor to my office and a frequent witness before both the House POW-MIA task force and the House Foreign Affairs Committee, Ann does an outstanding job representing the families. She understands the complexities of our relations with Southeast Asia and approaches these difficult issues in a responsible and reasonable way. The fact that Ann Griffiths—a private citizen representing a private organization—is an integral part of the Government's interagency group and missions to Indochina underscores both the Government's commitment to the families and the professional, respected nature of the league. I very much appreciate the assistance Ann Griffiths and the league staff have given to me and my office.

The league has also been instrumental in generating public interest and support for the satisfactory resolution of the POW-MIA issue. Based on the experiences of the Vietnam war and its aftermath, the Vietnamese are very cognizant of the ability of the American public to affect United States foreign policy. The league has been the leader in keeping the public informed with factual information and promoting constructive public efforts to pressure the Vietnamese to provide better cooperation and results. Led by Ann Griffiths, the league has made a real difference. I cannot begin to give it enough credit.

I have also had the opportunity to get to know other members of the league, like former Chairman George Brooks, current Chairman Sue Scott, George Shine, Coleen Shine—who accompanied me to the Vietnam War Memorial—Nancy Nystrom and many others too numerous to list here. I admire their steadfastness, faith and hope. From them, I have gained much resolve and many insights into the real concerns of the families. Because of them, I am committed to helping achieve the fullest possible accounting as soon as possible. The families that make up the league come from all walks of life and all parts of America. Bound by the determination to resolve the fate of their missing loved ones they are, indeed, a microcosm of the American public. Their needs and concerns are ours.

I hope that by marking this 20th year of the league's existence, we can further educate the public and bring additional attention and support to worthy, positive efforts to achieve the fullest possible accounting of American POW-MIA's. Unlike many Government agencies and programs, the league is committed to self-termination as soon as possible. I support that goal because it would signal achievement of the fullest possible accounting of these missing Americans.

I urge my colleagues to join me at this time in paying tribute to the families and their league. They have long carried a national burden for all of us and deserve our praise and continued strong support.

GRADUATE HONORED

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues a newly graduated eighth grade girl, 13-year-old Becky Novak.

She has recently graduated from Roosevelt School in River Forest, IL, which recently received the prestigious honor of being named a U.S. National Exemplary School.

Among her achievements at Roosevelt was President Bush's Academic Fitness Award, an example of strength both mental and physical. I expect great things from Becky in the future.

THE EQUINE PROGRAM AT THE NORTH WIND UNDERSEA INSTITUTE

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. ENGEL. Mr. Speaker, this week in my district, a group of wild American mustangs are being brought for the first time ever to New York City to become part of a unique program created by the North Wind Undersea Institute. For the past 2 years, the Equine Program at North Wind has been teaching youngsters about the role of the horse in the development of civilization. The program is one way in which North Wind successfully spreads its message of environmental conservation and awareness.

The interaction that will take place between the students and the wild mustangs is an example of the hands-on educational approach of North Wind. Through the Equine Program, inner city children learn about compassion and respect for all animals. They also learn about our responsibility to help preserve and protect our planet and all living things.

I have been working with North Wind since it came into existence over 10 years ago, and I was pleased to help secure a grant from the Department of Interior for this program. I know that in addition to making learning fun for our young people, North Wind takes its environmental work very seriously. For example, studies of the wild American mustangs as part of North Wind's Equine Heritage Conservancy Program will explore current environmental issues and multiple-use land management.

The fine work done by North Wind is a credit to the dedication of its executive director, Michael Sandlofer, and his staff. It is always a pleasure to work with people who care so much about the world in which we live.

HONORING CONFEDERATE AND UNION SOLDIERS WHO FOUGHT AND DIED AT PORT HUDSON, LA, BETWEEN MAY 23 AND JULY 9, 1863

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. BAKER. Mr. Speaker, today is a very special day. In mid-May 1863, 127 years ago today, two Union armies numbering between 35 and 40,000 troops began converging on Port Hudson. The Confederate Army of 6,800 withdrew inside the 4½-mile line of fortifications, and here, for the next 48 days and nights from May 23 to July 9, the North and South engaged in the bloodiest and longest siege in American military history.

The assault on May 27 and June 14 were among the bloodiest. On May 27 the Federals launched seven major attacks at intervals against most of the Confederate line. Virtually the entire garrison of Mississippi, Louisiana, Alabama, Arkansas, and Tennessee troops fought on May 27. At least 2,000 Federals fell in the 12-hour action.

This 48-day period is known for many important and precedent setting events. It was the first time in U.S. military history that black troops were called in as combat soldiers. It was the first time in American military history that a mine field was used in battle. One of the survivors, a 17-year-old boy from Thibodaux went on to become Louisana's only Chief Justice of the U.S. Supreme Court—Douglas White. Direct descendants of Daniel Boone and Davey Crockett fought at Port Hudson; and a young naval officer of the Union, George Dewey, went on to become the hero of the War with Spain.

In 1986, the Smithsonian Institution along with Louisiana State University was excavating this historical site. As they were digging at Port Hudson, they found a U.S. Army officer and a Confederate States Army officer that were buried together. Finding both officers buried in this manner is extremely unusual. In fact this is the only known instance.

This Sunday, May 27, at Port Hudson, these officers will be reinterred with full military honors, in memory of the nearly 6,000 other men from 29 States who perished here in 1863. Due to the sacrifice of these 6,000 and the 640,000 others who died during the 4-year struggle, we remain the United States of America. These officers will be reinterred in a newly erected granite obelisk monument in a small grassy clearing on the Port Hudson battlefield.

Credit for inspiring the building of this monument along with arranging this somber and reverent reinternment can be given to John Kennedy from Zackary, LA. The moment these officers were found buried next to each other, Mr. Kennedy was struck by the fact that even during this hateful period of time, the act of burying these officers side by side demonstrated that brotherly love still survived. He was compelled to see that this act of brotherly love was properly rewarded.

I want to commend Mr. Kennedy for his foresight and his hard work is erecting this monument and for arranging the May 27 event to honor all those who died during the Civil War. Clearly, this monument will evoke great pride in all Civil War enthusiasts, as well as those who had family members who found themselves on different sides during this bloody period of our history.

GREATER HUDSON KIWANIS HELPS CHILDREN OF CHERNOBYL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. SOLOMON. Mr. Speaker, I know that I am one of many Members of this House to belong to the Kiwanis Club.

That's why I know that you'll all be interested in what a local Kiwanis Club in the 24th district of New York is doing.

The Kiwanis Club of Greater Hudson is helping secure medical supplies and financial aid for the 2 million children who are suffering as the result of the Chernobyl nuclear disaster.

Mr. Speaker, this is America at its best, giving its time and reaching deep into its pockets to help others.

The club makes me proud to be a New Yorker, proud to be a Kiwanian, and proud to be an American.

And so, please join me in saluting Very Rev. John I. Kulish, president and project chairman, and the entire Kiwanis Club of Greater Hudson.

CONGRATULATIONS TO JIM BALUKEVICH FOR 20 YEARS OF SERVICE

HON. CHUCK DOUGLAS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. DOUGLAS. Mr. Speaker, on May 16, 1990, Jim Balukevich was honored with a Service Award in recognition of his 20 years of Federal service. I see Jim every day, and he always greets me with a warm smile and hello. As an operator of one of the "Members Only" elevators in the House, Jim is an important part of our institution. If it was not for Jim, many of us would not make it to the floor to cast our vote on time.

Not only has Jim served the Federal Government well but also his community. He began his boxing career while serving in the U.S. Army and has never lost his passion for the sport. Jim's leadership in the sport has encouraged many young men to develop their skills and strengths in and out of the ring. His major contribution to his community was the founding of the Washington, DC, boxing league. For his achievements, Jim has been inducted into both the Washington, DC, and the New Jersey Boxing Hall of Fame.

To a man who serves Congress with cheerfulness, dignity, and loyalty, I congratulate Jim Balukevich for receiving the well-deserved Service Award.

IN RECOGNITION OF THE TRAVIS UNIFIED SCHOOL DISTRICT

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. FAZIO. Mr. Speaker, I rise today to honor the Travis Unified School District for its excellence in education. Located in my congressional district, the 7 schools of the Travis Unified School District serve 3,400 students from Travis Air Force Base and the cities of Vacaville and Fairfield. During the last 3 years, Scandia Elementary, Cambridge Elementary, Center Elementary, and Golden West Middle Schools have each received a distinguished school recognition award from the State of California. The school district is unique in the State in that nearly all of its schools have met the criteria for selection in the California Distinguished School Recognition Program, either through maintaining sufficiently high-academic performance or by demonstrating exceptional growth on measures of academic performance.

In addition to the four distinguished school recognition awards, the North Campus Continuation High School at Travis has also been granted State recognition. North Campus was 1 of the 10 schools selected from throughout the State to serve as a model school in a study to determine what practices make the schools exceptional. Subsequently, these practices may then be duplicated by other schools in the State.

The school district's staff members are to be commended for meeting the educational challenges so important for keeping our Nation competitive in a global economy. I know my colleagues join me today in congratulating all the staff members of the Travis Unified School District for their outstanding academic efforts.

PRINCESS WENONAH AWARD

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. TRAXLER. Mr. Speaker, I am very proud to honor Lois Voisine, my Bay City staff aide who received the Princess Wenonah Award by the YMCA of Bay County on Monday, May 7. The Princess Wenonah Award is a significant honor given to women who have been successful in their field of endeavor and have exhibited leadership in their community. Lois has worked for me for 18 years as a valuable, professional member of my personal staff. In her spare time she is presently vice president of Allocations and Agency Relations for the Board of Directors of United Way of Bay County. She has served as the chair for the Task Force on Housing and Homeless, as a member of the nominating committee, and on numerous other United Way committees. She has also been an active member of the American Business Women's Association, of which she is past president and currently membership chairperson. In 1984–85 she was elected Woman of the Year by the Penta Star Chapter of the American Business Women's Association. Lois also received the Princess Wenonah Award for her excellent service to me even before my special election to the U.S. House of Representatives. Please join me as I express my congratulations to Lois for her selection as a recipient of the 1990 Princess Wenonah Award.

MOST-FAVORED-NATION STATUS FOR THE PEOPLE'S REPUBLIC OF CHINA

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. YATRON. Mr. Speaker, the Bush administration will soon recommend extending most-favored-nation status for the People's Republic of China. This announcement will be made just prior to the 1-year anniversary of the Tiananmen Square massacre.

As chairman of the Subcommittee on Human Rights and International Organizations, I feel it goes against the grain of our human rights policy to extend MFN to China after the events of June 4, 1989, and the ongoing crackdown. The President has urged China to recognize the human rights of its citizens. But that message has not been heard in Beijing. Moreover, sending envoys to Beijing, lifting some sanctions, and sparing the Chinese leadership the kinds of diplomatic penalties and public criticisms that we have invoked on other human rights violators has simply failed to achieve the administration's objectives.

It is highly unlikely that legislation to revoke MFN for China will be enacted in the near future. Nevertheless, it is critical that the United States and the international community continue to speak out against repression in China at every opportunity. Therefore, today I have introduced a House joint resolution which requires the President to issue a report to Congress 6 months after enactment concerning China's human rights practices. If on the basis of this report, the President has determined that there has not been a significant improvement of internationally recognized human rights in China, he should then terminate most-favored-nation status.

Mr. Speaker, this approach accords the President sufficient flexibility to maintain pressure on the Beijing regime, while at the same time keeping our lines of communication open with those voices who seek democratic re-

forms in what is the world's most populated country.

THE SUCCESS OF HARBEL

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. CARDIN. Mr. Speaker, this year, the HARBEL Community Organization in Maryland's Third Congressional District is celebrating its 20th anniversary. This event represents the cumulative efforts of volunteers and staff who have been working toward improving the HARBEL neighborhood. Its success is evident in the many factors which contribute to the area's pride and sense of community.

HARBEL has achieved so much over the past 20 years that perhaps there are too many accomplishments to catalog. Through its steadfast determination, HARBEL earned two United Way grants for new services just this year, following in its tradition of high-quality and well-lauded programs. During its two-decade history, the community organization initiated the Herring Run Stream Valley plan, HARBEL Youth Services—formerly Evolution—a well-baby clinic, a meals-on-wheels program at St. Anthony's parish, a mental health center, a mayor's station, a multipurpose center, the Mercy-HARBEL Medical Center, HARBEL substance abuse services and prevention programs, senior housing, child abuse services, community forums on local and national issues, improved ambulance services, and numerous other volunteer programs.

In addition to the many programs that HARBEL has fostered over the years, it has worked with community leaders and elected officials to develop and influence legislation which has had a profound effect on Baltimore's neighborhoods. I am frequently encouraged by the degree to which this organization has been successful in making its voice heard and in bringing groups together.

I invite my colleagues to join me in celebrating the success of HARBEL and its 92-member organizations. I hope that the HARBEL enthusiasm will take a moment to focus on its myriad of successes as it celebrates 20 years of outstanding service.

PLAINS JUNIOR HIGH SCHOOL NINTH GRADE BIOLOGY CLASS RECOGNIZES "EARTH DAY"

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. KANJORSKI. Mr. Speaker, it is with pride and pleasure that I rise today to recognize the ninth grade biology class at Plains Junior High School in Plains, PA.

The freshmen class wrote, directed, and edited a 15-minute video entitled "For the Children of the Earth" in recognition of the 20th anniversary of Earth Day. The idea for the video began when the students' teacher, Ms. Charlotte Crawford Kordek, informed the class of a local Earth Day poster contest being held in conjunction with Earth Day festivities. The class was extremely enthusiastic and decided they wanted to do more than prepare a poster. They decided to produce a video.

The students took the project into their own hands and spent time after school filming for the video. When the filming was complete, Ms. Crawford Kordek offered her guidance and direction to help the class edit the video and add music. "For the Children of the Earth" focuses on environmental issues and the need for individual as well as community involvement. The students concluded that if we harm the Earth, we also harm the community in which we live. They also touched upon the role of the Environmental Protection Agency through Federal legislation.

The video, which concluded with a song that was written and sung by the students, has been recognized by the local media as an insightful and thought provoking project. On Friday, May 25, I will join with other elected officials, members of the board of education, and school administrators and supervisors in a ceremony to commend the ninth grade class of the Plains Junior High School on their outstanding achievement.

It is encouraging to know that our young people, with the support of teachers like Charlotte Crawford Kordek, are not only recognizing the urgency of the world's environmental situation, but are taking positive steps to encourage community cooperation to solve the problem. Mr. Speaker, I know my colleagues in the House of Representatives will join me in recognizing and congratulating Ms. Crawford Kordek and her freshman biology class for their dedication and commitment to protecting our environment.

THE FUTURE OF STEEL AND COKE

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, some proponents of overly stringent air toxics provisions claim that the concern over coke oven shutdowns is unfounded because in the future there will be less need for steel, less need for domestic steel, and no need for coke. These claims of a dying industry simply are not valid. Much of this rhetoric is based upon a fallacious report performed by an EPA economics consulting firm. The report is entitled "Impacts on Integrated Steel Producers Resulting from Regulation of Emissions from Wet-Coal Charged By-Product Coke Oven Batteries," and the conclusions drawn are based upon a number of assumptions that are without merit.

First of all, steel continues to be by far the dominant metal in the United States and world economy—it accounts for about 90 percent of all the metal consumed. Projections of a declining steel demand are based on a decrease in direct consumption of steel mill products in the 1980's. But that decade was marked by mandated auto fuel requirements, smaller cars, the end of government aid to shipbuilding, a severe economic recession, and two major OPEC oil price hikes. Even with these events, the decline was only 12.5 percent and was due in part because steel is getting lighter and stronger for the same square footage. More importantly, however, when one considers the added U.S. consumption of indirect steel imports, for example, steel contained in imports of cars and machines, the total demand for steel has held steady for more than a decade.

There is also no reason to believe that steel's use will decline markedly in the foreseeable future. In fact, most evidence suggests that steel will continue to be irreplaceable in the U.S. economy, Most forecasts project that U.S. consumption of steel will likely remain steady or increase at modest levels in the 1990's and beyond. While demand in some markets could decline, demand in other markets will increase or stabilize. For example, the increased use of plastics in cars has slowed, favoring steel. The steel industry is recovering lost shares of the beverage can market. Its use is increasing in some construction markets, and a recent study of the San Francisco earthquake shows clearly that more steel will be needed for earthquake-proof building designs.

While it is not possible to predict with certainty what the level of steel demand will be 15 to 20 years from now, independent forecasts of near term demand reinforce the view that steel is clearly not a dying industry. The Commerce Department has just released a report forecasting that direct steel demand will be relatively stable in the early 1990's, increasing from 90 million to 100 million tons. For this same period, Paine Webber predicts that domestic consumption of steel mill products will stay in the mid-to-high 90 million ton range. And most independent forecasters of steel demand, including DRI and WEFA, are predicting low to moderate growth in the 1990's. In addition, as we all know, America's steal-intensive infrastructure is badly in need of rebuilding. Work on railroads, bridges, highways, mass transit systems, airports, and seaports will all have a beneficial impact on steel demand.

A recent special analysis done for the American Iron and Steel Institute by the economics consulting firm of Putnam, Hayes and Bartlett [PHB] confirms that the conclusions of the EPA consultant on future steel demand are totally off-base. The PHB report says that the EPA consultant's demand forecast "lies totally outside the mainstream of accepted belief." It states that the EPA consultant's forecast is dead wrong, because: It "relies on a simplistic trend analysis * * * [that] fails to account correctly for major nonrecurring events * * * [it] fails to account for the uncertainty inherent in the forecast * * * [it] depends on the use of an arbitrary 20 years historical period * * * [and it] yields a biased conclusion."

To counter those who might be tempted to rely on the conclusion of the EPA consultant to justify environmental policies accepting shutdowns of coke plants, I commend this special PHB report on steel demand forecasts to my colleagues. It exposes the fatal flaws in

methodology used by EPA's consultant. In so doing, it shows why the forecasts of a steep decline in steel demand are not to be relied upon to make environmental policy.

Mr. Speaker, there's another problem in the EPA consultant's analysis. It's the suggestion that domestic steel capacity will decline in part based upon the inevitable growth of steel imports. The premise here, which also lacks validity, is that American steel companies cannot compete in the international marketplace and therefore cannot stem the tide of increasing imports.

Given an environment of sound public policy, the American steel industry has shown that it can complete with the best of its world class foreign competitors and that continuing steel import growth in the United States is not inevitable. Our Nation simply requires effective limits on unfairly traded imports, a realistic dollar exchange rate, and domestic regulations that do not disadvantage U.S. producers.

Over the past decade, U.S. steelmakers have themselves engaged in massive self-help efforts. They have spent well over $10 billion on new plant and equipment. As a result, they have cut costs substantially. This has made them cost-competitive in the U.S. market with most foreign firms in most product lines, and it's also led to sharply increased exports of steel. Great strides have been made in increasing product yields. Dramatic gains in labor productivity have given the United States the lowest manhours per ton rate of any steel industry in the world. At the same time, product qualty has significantly improved to the point that major customers say that reject rates are now often at or below those for imported steel.

Mr. Speaker, I would like to add a few further points about the future of cokemaking in steel. Coke is an absolutely essential ingredient in the production of steel by integrated producers. This form of production accounts for about 65 percent of the total domestic steel production. The shutdown of coke plants would therefore threaten the future viability of the integrated steel industry of the United States.

Some proponents of retaining a tight risk-based "shutdown" standard in this legislation claim that technology trends in the industry will drive the demand for coke to zero anyway by the year 2025 and that coke plant shutdowns can be tolerated. This view is based on several key assumptions that are simply wrong.

The first assumption is that electric furnace steel production, which does not require coke, will increase significantly. This assumption is based mainly on past trends, even though the rapid growth of electric furnace use over the past 20 years is not likely to be sustained for a number of reasons. These reasons include the cost reductions made by integrated producers, the fact that not all steel products can be made by electric furnace technology, the pending acid rain regulations that will drive up the cost of electricity for electric furnaces and, above all, the economic limits that flow from the availability and price of high quality scrap. In fact, based on the EPA consultant's projected increase in scrap demand, scrap prices would rise by well over $100 per gross ton—to some $200 per gross ton—and at that level, steel made by electric furnaces would largely cease to be a competitive material. This is not just theory. Due in large part to higher prices for scrap, electric furnace use as a percentage of total steel production has actually declined the past 2 years.

Another assumption used in the EPA Consultant's study is that coal injection in blast furnaces will be widely used and that it will have a major impact on the need for coke in blast furnaces. I am told by steel industry experts that coal injection is not economical to use in most blast furnaces, particularly older furnaces, and that in any event only a small percentage of coke consumption can be substituted with coal.

Mr. Speaker, the prediction of the demise of the coke industry presumes also that direct steelmaking, a research and development initiative only recently undertaken by the steel industry, will be certain to succeed and will be proven commercially feasible and widely applied in the next 10 to 20 years. While direct steelmaking is an important development for the industry, it remains a long term, high risk, commercially unproven technology. The bottom line is that even under the industry's most optimistic projections, coke ovens will be operating well into the middle of the next century. In sum, there simply is no substitute to replace coke, and that's true for both steelmaking today and for the foreseeable future.

IN MEMORY OF LINA DOLORES ALDRIDGE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. DYMALLY. Mr. Speaker, it was with the most profound sorrow and deep sense of loss that word was received of the passing of Lina Dolores Aldridge, a student of Compton Community College.

I would like to express my deepest sympathy at her passing. We will remember her personal accomplishments, as well as the love and devotion she gave to her family and friends.

Ms. Aldridge was born on July 22, 1970, in Torrance and was raised by her grandparents, Leo and Katie Aldridge in Compton, CA.

She began her education at Park Western School in San Pedro and continued her education in Compton at Our Lady of Victory School, Robert F. Kennedy School, Willowbrook Junior High School, and graduated from St. Michael's High School.

In her 2 years at Compton Community College, Ms. Aldridge maintained a good grade-point average, served as vice president of the Associated Student Body, reactivated the Black Student Union, and was a member of the Drama Club.

She planned to put the leadership skills she gained in student government at Compton Community College to use as a lawyer and politician.

On the final day of her life, Ms. Aldridge took some youngsters from the National Youth Sports Program to the beach, and attended a farewell tribute to college President Edison O. Jackson.

Ms. Aldridge is survived by her grandparents, Leo and Katie Aldridge, and several aunts, uncles and cousins.

FLORIDA CONFERENCE ON WORLD TRADE AND INVESTMENT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, the Florida Council of International Development will be hosting the 1990 Florida Conference on World Trade and Investment to take place on June 21–22. The conference was sponsored by Caribbean/Central American Action, the Florida Department of Commerce, and the Florida-Caribbean Institute. The District Export Council, the Florida-Caribbean Institute, the Florida Ports Council, the German-American Chamber of Commerce, the Horizon Institute, the International Business Chronicle, and the Journal of Commerce were all instrumental in the coordination of the event. The purpose of the conference is to promote opportunities concerning business and trade in today's changing world.

The conference will be held at the Hotel Inter-Continental in Miami with several renowned experts addressing trade and business issues. A special awards luncheon will be held on June 22 to present the President's E-Awards, the Florida International Trade Award, and the Florida International Business Person of the Year Award. The keynote speaker will be Ambassador Luigi Einaudi, U.S. Representative to the Organization of American States.

Appearing at the opening ceremonies will be Mr. Hal Sumrall, chairman of the Florida Council of International Development, and Donald Ray, assistant secretary of commerce for the State of Florida. Addressing the conference in the morning will be Dr. Ronald Morse, executive vice president of the Economic Strategy Institute in Washington, DC, and Tom Gustafson, Speaker of the Florida House of Representatives. In addition, Hans Joachim Maurer, managing director of the German-American Chamber of Commerce and Dr. Jiri Valenta, director of the Institute for Soviet and East European Studies at the University of Miami, will be speaking.

In the afternoon, a discussion regarding new opportunities in Latin America will be held with Peter Johnson, Executive Director of the Caribbean/Central American Action chairing. Also participating in the discussion are Dr. Ernesto Cruz, president of the Summa Consulting Corp.; Kaiser Bazan, president of Asociacion Nacional de Desarrollo; Carlos Echevarria, executive director of Federacion de Entidades Privadas de Centro America y Panama; and P.A. Thompson, president of the Caribbean Association of Industry and Commerce.

Later, a discussion of Florida's international training and human resource needs will be held with Dr. Armando Calleiro, codirector of the Florida-Caribbean Institute, presiding. Wil-

liam R. Ashcraft, international program director of Valencia Community College; Dr. Kenneth Fedor, dean of the School of Business at the University of Miami; and David Pasquarelli, executive director of the Florida Association of Voluntary Agencies for Caribbean Action, will also be taking part in the discussion.

The 1990 Florida Conference on World Trade and Investment will certainly be beneficial to Florida business, as well as aiding in the developing of international trade.

TRIBUTE TO MAGNOLIA VIRGINIA WRIGHT BYNUM

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. TOWNS. Mr. Speaker, it gives me great pleasure to stand before my colleagues today to pay tribute to an outstanding community leader and educator, Ms. Magnolia Virginia Wright Bynum. Ms. Bynum, a native of Greensboro, NC, has dedicated her life to uplifting the minds and spirits of our Nation's children through education.

She was educated in the city of her birth, receiving a bachelor of science degree in Business Education from North Carolina's A&T State University. Ms. Bynum went on to New York University for postgraduate studies. The City University of New York was her next stop and while there she received a master of science degree in Education and an Advanced Certificate in Guidance and Counseling.

As an educator, Ms. Bynum's enthusiasm and scholarly accomplishments have been acknowledged and rewarded with many honors. Ms. Bynum has also proven herself a community leader, giving an extensive amount of her time to the Chama Brooklyn Child Development Center, educational honor societies, and Cornerstone Baptist Church in Brooklyn, NY. As an active participant in church activities, she serves on the church's Board of Trustees; Senior Choir; Scholarship Fund Committee; Newsletter—as Editor-In-Chief; and the church's North Carolina Club.

Mr. Speaker, Ms. Bynum exemplifies the type of model citizen our Nation's leaders need to spend more time applauding and I for one, salute Ms. Magnolia Virginia Wright Bynum in her unselfish efforts to better her community through education and community participation.

IS THERE A NEED TO REFORM THE HATCH ACT?

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. GINGRICH. Mr. Speaker, these editorials appeared in the Atlanta Journal and Constitution in regard to the Hatch Act. I feel they are well worth my colleague's attention as they review the problems we will face if the Hatch Act reform becomes law.

HATCH ACT AIN'T BROKE, SO LET'S DON'T TRY TO FIX IT

(By James J. Kilpatrick)

WASHINGTON.—Out in the hinterlands not much attention has been paid to a pending bill to gut the Hatch Act, but on Capitol Hill it is a matter of intense interest. Because the bill affects three million federal and postal employees, the current Senate debate merits a close look.

This is what the bill would do: It would destroy the protection from political coercion these workers have enjoyed for more than 50 years. It would convert federal unions into virtual adjuncts of the Democratic Party. It would authorize partisan political activities that now are prohibited. There is no compelling reason to adopt such "reforms." The bill should be defeated.

But it won't be defeated. Majority Leader George Mitchell is determined to throttle debate and to railroad the bill to immediate passage. He has the votes to do it. The House passed an even more drastic bill in April of last year by a vote of 297-90. We are headed for a presidential veto. A vote to override will be close.

My description of the bill, to be sure, is not Mitchell's description. He sees the measure as an effort to restore to federal and postal workers "many of the basic rights of freedom of expression and action enjoyed by millions of other citizens." The same high-minded considerations have moved 54 other Democrats to support the supposed reforms.

This is what the bill would do. It would authorize the three million employees to take "an active part in political management or in political campaigns." Federal and postal workers could solicit contributions from fellow employees to a political action committee. They could hold office in a political party, and while "off duty," they could distribute campaign literature, solicit votes and organize political meetings.

The bill has safeguards, but these are paper safeguards. No employee could engage in political activity while "on duty" or while wearing an official uniform. Virginia's Sen. Chuck Robb has added an amendment to provide a fine and a prison sentence for any worker who tries politically to "coerce" a fellow worker. This too is dumbshow.

The subtle political pressures that would be unleashed by this bill cannot be contained by the Robb amendment. It is immaterial whether a supervisor is a Democratic or Republican partisan. Those who work under him know without being told how to curry favor. No overet acts of coercion are required; A wink, a nod, a glance—these would suffice.

The bill poses a danger not only to federal employees; it carries risks of corruption to the general public also. Delaware's Sen. Bill Roth has provided examples. Suppose an IRS auditor is a good Republican. While off duty, on a Monday evening, he takes advantage of his new rights. He takes "an active part in the political management" of a GOP campaign. His picture is in the papers. He appears on TV. And on Tuesday morning he audits the tax return of a prominent Democrat.

Another example: An assistant U.S. attorney is a good Democrat. On Wednesday evening he made a fiery partisan speech at a Democratic rally. On Thursday morning he goes to court to prosecute a case of alleged Republican political corruption.

Bad for the employees. Bad for the public. And bad for the cause of a non-partisan civil service. Mind you, politics never can be wholly divorced from public employment. There ought to be no divorce. The old spoils system had its merits, in that it provided a degree of accountability. But at the working, career level of the civil service, partisan politics should be effectively prohibited.

Mitchell has pointed to absurdities that have developed over 50 years of Hatch Act regulations. There are said to be 3,000 confusing rulings. If so, the answer lies in Roth's proposal to direct the Office of Personnel Management to overhaul the regulations. The basic Hatch Act ain't broke. Don't try to fix it.—(c1990.)

HATCH ACT NEEDS NO REVISION; BUSH SHOULD VETO "REFORM"

Georgia Sens. Sam Nunn and Wyche Fowler last week voted for legislation that the Justice Department views as "an open invitation to political corruption."

The legislation, which Congress has approved, is aimed at revising the Hatch Act, which for 51 years has protected civil servants from political browbeating and minimized pure political patronage in government.

The law needs no revision and President Bush should veto any attempt at tinkering with it.

The Hatch Act of 1939 made it illegal for federal employees to undertake partisan political activities.

Put simply, they cannot be used as foot soldiers to augment the political campaigns or fuel the aspirations of bureaucrat bosses.

Under the law, federal workers are prevented from holding any partisan office, passing out campaign literature, soliciting votes or contributions, or otherwise engaging overtly in politicking.

The law shields them from exploitation and provides the citizens with civil servants who serve the public rather than politicians and their cronies.

It's easy to see why politicians would like Hatch restrictions weakened. What's less understandable is the support among federal workers. Most revision advocates are federal employees' union members who foolishly think they can use their potential political value as a bargaining chip. They don't seem to realize how vulnerable they are when choosing to swim with the sharks.

"Two principles central to the operation of government of the Executive Branch—the non-partisan administration and enforcement of federal laws and the advancement in federal service based solely on merit—would certainly be threatened and could well be extinguished," said a Justice Department report.

It continued: "Safeguards against real abuse would be virtually unenforceable. [Hatch Act revision] would sound an unfortunate retreat into the worst aspects of public administration from the last century, and is an open invitation to political corruption."

With government and political ethics under intense scrutiny these days, the last thing needed is greater temptation to abuse power. Leave the Hatch Act alone.

TRIBUTE TO SHERIFF THOMAS J. D'ALESSIO

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to take this opportunity to draw to the attention of my colleagues in Congress the accomplishments of an outstanding law enforcement official from my district, Sheriff Thomas J. D'Alessio.

Sheriff D'Alessio was born and raised in the city of Newark and earned a degree in criminal justice from Essex County College in 1981. A member of the Essex County Sheriff's Office since 1970, Sheriff D'Alessio has gained a reputation for excellence, fairness, and toughness in his role as a law enforcement professional.

Sheriff D'Alessio has worked tirelessly to address the problem of drug abuse and drug-related crime in New Jersey. He has been an avid crusader for improved drug education and prevention programs. During his first term in office, Sheriff D'Alessio created a very effective Public Education Bureau at the Essex Sheriff's Office.

Under his leadership, specially trained officers present educational programs on issues of public concern to schools and civic organizations throughout Essex County.

Programs are offered through the Sheriff's Speakers Bureau on a variety of topics, including drug and alcohol abuse, crime prevention, child abuse, and sexual assault prevention. Each year, these programs reach an audience of 25,000 children and adults.

Sheriff D'Alessio was also one of the first law enforcement officials to recognize the importance of promoting public awareness about the link between drug abuse and the AIDS virus. The AIDS Education and Prevention Program he instituted won awards in 1989 from both the National Association of Counties and the New Jersey Association of Counties as an innovative national model.

Sheriff D'Alessio serves on the 24 member Governor's Advisory Council on Drug and Alcohol Abuse. The council oversees all statewide efforts aimed at prevention, education, and treatment for addictions. The council also determines the distribution of over $9 million collected from fines and penalties against convicted drug offenders.

In the area of drug enforcement, the Essex County Sheriff's Bureau of Narcotics works in conjunction with municipal, county, State, and Federal agencies in a task force concept. Every year the SBON makes more than 1,000 arrests and confiscates millions of dollars' worth of illegal drugs.

Sheriff D'Alessio also serves as vice president of the Sheriff's Association of New Jersey and is a member of the National Sheriff's Assocation. He was also appointed to the statewide Missing Persons Commission which advises the New Jersey State Police.

The Essex County Sheriff's Office, with more than 300 sworn officers, is the largest sheriff's office in New Jersey. It serves the Essex County Superior Court system which carries the heaviest caseload in the State. Every year the 53 judges sitting in Essex adjudicate more than 140,000 cases.

In an effort to promote community involvement in combating crime, Sheriff D'Alessio established a "Crimestoppers" program in 1987. Under the direction of a civilian board of directors, and utilizing privately donated funds, the program offers rewards to citizens who volunteer crime-solving information to the police.

Mr. Speaker, we in the 10th Congressional District of New Jersey are proud of Thomas D'Alessio and grateful for his outstanding performance as Essex County sheriff.

BILATERAL COOPERATION IN WAR ON DRUGS

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. DE LA GARZA. Mr. Speaker, the United States and Mexico have long been partners in the fight against illicit drug production, trafficking, and consumption.

Both the United States and Mexican Presidents George Bush and Carlos Salinas de Gortari have expressed their concern over the threat posed by narcotics to their country's national security and to the health of their youths. Both have also declared the fight against narcotics to be a top priority of their administrations.

The decisive war against illicit drug production, trafficking, and consumption, continuously waged by both countries, reflects the will to cooperate in keeping with their respective legal systems and mutual desire for a drug-free world.

There have been many recent examples of bilateral cooperation including the recent seizures of substantial quantities of illegal substances by both authorities, the strengthening of both countries drug interdiction, and the jailing of major drug traffickers in both countries.

More importantly, there is a long list of drug enforcement agents who have died fighting the war on drugs. For example, in 1989, 22 U.S. law enforcement officials were killed in drug enforcement efforts in our country. In the same year, 44 Mexican federal judicial police and 18 members of the Mexican Armed Forces were killed in antinarcotics enforcement activities in Mexico.

During a recent trip that I made to Mexico City I saw on Mexican television a special program on the ceremony presided by President Salinas in which he honored the 62 heroes who died fighting the war on drugs. I believe that it is appropriate that we add our own words of praise to these men who gave their all in this effort. Unfortunately, we have not been able to secure the names of the U.S. officers who died in the line of duty. I will share these names with my colleagues as soon as they are available to us.

In the meantime, the names of the Mexican officers are:

MEXICAN FEDERAL JUDICIAL POLICE

Ernesto Rivera, Francisco Morales, Alberto Rivas, Antonio Zamora, Guadabyse Gutierrez, Alvaro Rey, Gerardo Hurtado, Rafael Gonzalez, Victor Ramirez, Elenteno Caro, Claudio Castillo, Arturo Mercado, Alfonso Herrera, Mario Trerino, Armando Nagore, Antonio Godinez, Enrique Rivera, Antonio Lozano, Luis Velazquez, Enrique Lopez, Rigoberto Salazar, Luis Muller, Juan de la O, Alfonso Cortes, Humberto Martinez, Alfredo Mireles, Edmundo Tamayo, Antonio Arias, Jesus Hinojosa, Alfredo Jimenez, Aaron Castellanos, Alberto de Dios, Francisco Canceo, Jorge Nazarin, Victor Virgen, Ramon Morales, Manuel Correa, Jesus Rios, Ernesto Aguirre, Gabriel Vega, Miguel Torrez, Javier Caro, Manuel Moreno, Pedro Madrid.

MILITARY

Aurelia Salvador Estrada, Victor Garcia Gonzalez, Ruben Hernandez Torres, Miguel Angel Valdez Clara, Pedro Florencio Luna, Jesus Arturo Cabrales Medina, Oscar Jose Bernabe Cruz, Eduardo Munoz Castaneda, Alejandro Sanchez Flores, Mario Alvarez Hernandez, Jaime Hernandez Guerrero, Sixto Dominquez Santamaria, Silvestre Gallegos Castillo, Federico Rafael Perez Martinez, Sergio Arturo Martinez Delgado, Juan Pablo Rivera Martinez, Luis Gerardo Gutierrez, Jose Luis Perez Quijaro.

We in this body should recognize the significant efforts undertaken by both Presidents and the people of both the United States and Mexico in the struggle against drug trafficking as we pay tribute to these United States and Mexican heroes that died while serving their respective countries in the fight against narcotics.

I would also like to add that the cooperation between our countries in the area of drug enforcement should be undertaken pursuant to the Treaty of Mutual Legal Assistance signed and ratified by both governments, the agreement between the United States and Mexico on Cooperation in Combating Drug Trafficking and Drug Dependency signed on February 23, 1989, and other important bilateral and multilateral agreements.

I urge both countries to continue fighting this international menace and to continue to cooperate in drug enforcement actions while respecting each other's sovereignty. Again, I commend Presidents Bush and Salinas in their efforts to stem the flood of illegal narcotics in their respective countries.

INTRODUCTION OF THE PUBLIC-PRIVATE TOLL ROAD ACT OF 1990

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. RIDGE. Mr. Speaker, there is perhaps no greater threat to the future economic vitality of our Nation than the continued deterioration of our highway transportation infrastructure. The challenge is great, the problem met by no single solution.

Today, I wish to offer my contribution to help solve this critical problem, to begin the process of rebuilding our crumbling highways and bridges, and to provide government, Federal and State, with the proper tools to meet

our future transportation demands. In doing so, I seek to encourage the use of a historically popular method of financing highway construction and improvements—tolls.

Therefore, I am very pleased to introduce today the Public-Private Toll Road Act of 1990, legislation that I believe will begin to provide this Nation with the means to both reverse our infrastructure decline and meet our transportation needs of tomorrow.

This act will allow us to achieve these goals by: First, enabling the Federal Government to participate in the construction of new toll highways, bridges, and tunnels; and second, allowing States to impose tolls on already completed projects without the payback of Federal-Aid highways funds.

Importantly, this legislation will not apply to the Interstate Highway System. Those parts of the interstate currently operating toll-free will remain so. Nor will this legislation allow a State to impose tolls simply to raise revenue. A State will be able to impose a toll on a completed project only in those cases where the tolling of the project is to either expand capacity or for major reconstruction. In other words, consumers will be assured of substantial, up-front benefits before a facility may be tolled.

Also noteworthy is that this act will allow for private sector participation in the building, construction, and operation of toll facilities, whether they be completed or new projects. Though a State would be required to regulate the toll charges and the private operator obligated to meet certain conditions, this provision is nonetheless a major step forward in encouraging greater private sector participation in road building and rehabilitation.

Make no mistake about it. The highways and bridges disintegrating before our eyes risk our future economic well-being. Many consider the problem as a threat to our Nation's productivity while still others argue that highway deterioration is a root cause of the decline of American competitiveness. The Department of Transportation has estimated that if we allow the present trend to continue then by 1995 we will have lost 3.2 percent in GNP, 5.9 percent in disposable income, 2.2 percent in employment, and 2.7 percent in manufacturing productivity. These represent tremendous costs by any standard.

Let us also be clear on the enormity of the task we face. The Federal Highway Administration currently spends $13 billion a year on repairs and construction. Yet it has been estimated that bringing America's roads up to minimum engineering standards will cost anywhere from $565 to $655 billion over the next 20 years. Overwhelming as this may seem, it does not even include the moneys needed to meet today's ever-growing capacity demands.

Some will surely ask—why toll financing? As the recently released national transportation policy noted no single, all-purpose source is going to fill our future needs. Rather we must look to a variety of public and private sources. In an era of constrained resources, toll financing represents a viable alternative.

I believe the American people will support the toll concept. I think we are fed up with seeing the money we pay in gas taxes sitting unused in the trust funds. Toll financing prevents this sort of abuse because the tolls we pay will go directly for highway purposes. The businesses who now move more than 75 percent of their freight on the highways, I believe, will support tolls if it means getting their goods where they need to go on time—an increasingly questionable proposition. And I think the American commuter, who's increasingly frustrated with congested, pothole-ridden roads, will support the toll concept if it means an end to highway gridlock and provides roads that are safe and smooth to ride on.

Opinion polls bear this out. A survey of my own State, Pennsylvania, indicates that a majority support tolls if their funds are used for highway reconstruction and new construction. A Roper poll found only 12-percent opposition to tolls in any form. As a recent article concluded, "when people perceive a benefit—a quicker, safer trip on a road that's quickly built and in better repair—they support the toll concept."

There are some good reasons to support toll financing. First, unlike the abuse of our current transportation trust funds, toll revenues go directly to the construction, operation, maintainance, and improvement of the road. The users of the toll facililty, therefore, enjoy the direct benefits of the tolls they pay.

Second, toll financing will allow us to undertake a greater number of projects that we otherwise might under current financing methods. Third, toll financing offers a speed advantage over the normal highway construction process. Project funding is available upon the initiation of the project through the issuance of bonds, allowing its rapid completion. Fourth, toll financing allows operation and maintenance costs to be taken off budget, freeing up funds to make other road improvements.

Finally, I believe it is important to recognize the critical necessity the private sector can and should play in the restoration and expansion of our transportation facilities. My legislation will encourage private participation by allowing private operators to construct, own, and operate toll facilities. This is known as the build-operate-transfer model, or BOT. These public-private partnerships in transportation have been widely used in Europe and the Pacific Rim for a number of years and with great success.

Here in the United States, the privatization of highways is slowly catching on. In 1988, Virginia became the first State to enact private tollway legislation. Plans are continuing in the State to move forward for an extension of the Dulles Toll Road that will be built and operated by the Toll Road Corporation of Virginia. California became the second State to come on board with legislation that authorizes four private tollway projects. In addition, Colorado, Illinois, Florida, and Puerto Rico are moving ahead or considering private tollway projects.

Certainly, toll financing is not the sole answer to all problems. But it is a viable option in many circumstances. Federal policy should be to encourage toll financing where it has a proper role to play and can beat legitimate transportation demands. To my colleagues, I say that it's time we look to innovative and creative financing methods like tolls and begin the job that Americans are waiting for us to do.

SECTION-BY-SECTION ANALYSIS

Section 1 provides that this Act may be cited as the Public-Private Toll Road Act of 1990.

Section 2 amends Section 129 of title 23, United States Code to read as follows:

Subsection (a) concerns completed projects where federal-aid highway funds have been used. Under current law, states are prohibited from charging tolls on a project where federal funding has been used without first having to pay back those funds. This "payback" provision works as a tremendous obstacle to a state wishing to impose tolls, if not an outright bar.

Under this subsection, the payback provision is repealed but only if imposition of the tolls is for reconstruction to expand capacity or for major reconstruction. In other words, a state will not be allowed to summarily impose tolls on completed projects simply to raise revenue. The consumer is, therefore, assured substantial, upfront benefits before a toll may be imposed.

This subsection does not apply to any highway designated on the interstate system. No part of the interstate system currently operating toll-fee will be allowed to be tolled.

Subsection (b) allows for federal participation in (A) the construction of any new toll highway; (B) the major reconstruction to accommodate capacity problems of and relieve congestion on any existing highway which is tolled or which will be tolled upon the completion of such construction; and (C) the construction of any new toll bridge or new toll tunnel.

Subsection (b)(2) provides that any Federal share in the construction or reconstruction of any toll facility shall not exceed 35 percent. This provision is consistent with current law.

Subsection (c) provides that any highway, bridge, or tunnel toll facility may be privately constructed, reconstructed and owned and operated subject to the following conditions that:

(1) the operator first obtained authority from the State authorizing the operator to undertake the project;

(2) any federal funds expended on the facility will be transferred to the operator through the State;

(3) the toll facility will at all times be kept open for use by the public;

(4) the State provides for regulation of the tolls to be charged on the facility; and

(5) upon the termination of the private operator's authority and the retirement of any financing or refinancing, that ownership of the toll facility will be transferred and dedicated to the State for highway purposes.

Subsection (d) addresses the limitation on the use of revenues derived from the operation of the toll facility by either public or private operators.

Under subsection (d)(1), before Federal participation is permitted under subsection (a) or (b), a state must agree that any excess toll revenues received from the operation of the toll facility, beyond those necessary for—(A) the costs of construction or reconstruction, and (B) for the proper operation, maintenance and debt service, will be used for other projects eligible for Federal funds under this title.

Under subsection (d)(2), before Federal participation is permitted under subsection (a) or (b), a state must provide in its regulation of the private operator that any excess toll revenues received from the operation of

the toll facility, beyond those necessary—(A) for the cost of construction or reconstruction, (B) for the proper operation, maintenance and debt service, and (C) to provide a reasonable rate of return to the private operator with respect to the toll facility, will be used by the State for highway purposes.

Subsection (e) allows a State, upon the completion of any payment of debt service, to continue to charge tolls on the facility if such tolls do not exceed the cost necessary for the proper operation and maintenance of the facility.

Subsection (f) concerns Federal participation in the construction of ferry boats, whether toll or free, subject to certain conditions. This subsection is a restatement of current law with regards to ferry boats.

TRIBUTE TO THE ORDER OF THE KNIGHTS OF PYTHIAS

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. APPLEGATE. Mr. Speaker, I rise to pay tribute to the Order of Knights of Pythias who were the first American order to be chartered by an act of Congress. The Knights of Lodge No. 414 in Mingo Junction, OH, will be celebrating their 100th anniversary on May 26, 1990.

The Order of Knights of Pythias is an international fraternity which was founded in our Nation's Capital in 1864. While the primary object of fraternal organizations is to establish companionship among men, each chapter of the Knights embraces virtuous, outstanding principles of friendship, charity, and benevolence. These virtues take the practical expression of homes for the aged and infirm, higher educational facilities, assistance to those in distress by making financial contributions to national and State emergency funds. University scholarships are awarded to winners of a public speaking contest for high school boys and girls.

The Order of Knights of Pythias provides an opportunity for manifold public service. The organization provides a method for pooling the efforts of individuals so that they may best contribute to their community.

Mr. Speaker, it is my express privilege and honor to ask my colleagues to join with me and the residents of Mingo Junction in acclamation of the Order of Knights of Pythias Lodge No. 414 as a leader of fraternal organizations.

RESIDUAL RISK ASSESSMENT FOR AIR TOXICS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. RITTER. Mr. Speaker, there has been a great deal of discussion and controversy about the residual risk provisions of H.R. 3030. I share the concern that the residual risk provisions of H.R. 3030, as originally drafted, could have extremely severe social and economic impacts. These impacts would result from the requirement that air toxics emitted from an industrial facility after Maximum Achievable Control Technology or MACT has been installed must meet residual risk standards, based on what are probably exaggerated estimates of risk.

Considering mandated residual risk standards I must comment that the assumptions and methodologies that the Environmental Protection Agency traditionally has employed in estimating cancer risks tend to favor risk assessment values that will often overstate the risk, if any, that may exist. Thus, I understand an individual risk that EPA estimates to be 1 in 10,000 actually may be closer to 1 in 1 million or 1 in 10 million. And an individual risk that EPA estimates to be 1 in 1 million actually may be closer to 1 in 100 million or 1 in 1 billion. This seems to me to be an important point to consider in deciding on what residual risk requirement, if any, should be imposed on productive industrial facilities that already have reduced their emissions by approximately 90 percent through the application of MACT controls.

I believe that it would be rash for Congress to mandate compliance with residual risk standards at the present time. In fact, commitment to any residual risk phase without further study, is unwise. I say this for two reasons: First, because there is enormous uncertainty in the cancer risk assessment process; second, because EPA's strategy for dealing with that uncertainty tends to select high estimates of risk when much lower estimates are equally plausible.

As Prof. John D. Graham of the Harvard University School of Public Health testified before the Senate Subcommittee on Environmental Protection, risk assessment today is still an inexact science. Uncertainties abound. EPA deals with them by utilizing highly conservative assumptions and risk assessment methodologies that produce estimates which can greatly overstate the true risk.

In fact, as former FDA Commissioner Dr. Frank Young points out, risk values calculated by Federal agencies in this manner do not reflect expectations of actual risk. Instead, they are mathematical constructs based on the conservative, and often highly unrealistic, assumptions and methodologies employed by the regulatory agencies.

As my colleagues are undoubtedly aware, almost all of the information that we have developed regarding potential cancer risks derives from animal studies or human epidemiological investigations in which chemical exposures are many times higher than concentrations of pollutants in the ambient air. Consequently, in order to develop an estimate of the cancer risk to humans who are exposed to ambient air concentrations of a chemical, the risk or cancer potency observed at relatively high exposure levels must be extrapolated downward, often by several orders of magnitude.

The problem scientists confront in attempting to do this is that the true shape of the so-called "dose-response curve" is not known for the vast majority of chemicals. Consequently, a number of critical assumptions and policy choices must be made to estimate the cancer potency or risk at atmospheric concentrations to which the general public may be exposed.

EPA introduces a high level of conservatism in to its risk assessments by: First, assuming there is no threshold for the carcinogenic effect of a hazardous air pollutant; second, presuming that the dose-response curve is linear at low doses, and third, utilizing the 95 percent upper confidence limit, rather than the maximum likelihood estimate, of the unknown paramenters. This approach, as EPA acknowledges, does not produce a realistic prediction of the risk, but, instead, identifies an upper limit to the risk.

When a risk assessment is based on human epidemiological data, EPA's approach produces an estimate of low-exposure risks that may very well be one or two orders of magnitude higher—that is, 10 or 100 times higher—than the actual levels of risk. When risk estimates are based on animal data, as is typically the case, use of a linearized model may produce estimates that are 100 or 1,000 times higher than estimates derived from alternative models. Work done by various scientists, including Dr. Bruce Ames of the University of California at Berkeley, suggests that in many cases, these alternative models are equally plausible or more plausible than a linearized model. Moreover, there is increasing evidence that a carcinogenic threshold exists for many suspected carcinogens, particularly those which express their carcinogenicity through certain nongenotoxic mechanisms.

In short, as noted in a recent EPA Workshop Report, some carcinogens may be effective only at relatively high doses, and even when there is no carcinogenic threshold, EPA's linear extrapolation methodology produces estimates that reflect "somewhat crude upper bounds on the risks associated with low levels of exposure."

The fact that most quantitative risk assessments are based on the results of animal tests introduces additional problems into the process. Even assuming that animal studies provide an appropriate basis for presuming the existence of a human cancer hazard, extrapolating from one species to another is fraught with uncertainty.

The risk estimates I have described tend to distort both the estimates of total annual cancer incidence and the estimates of increased lifetime cancer risk to the most exposed individual. EPA's assumption that a hypothetical individual spends his entire 70-year life at a single outdoor location where the predicted pollutant concentration from the facility is the highest results in an additional degree to which risk may be overstated. The approach taken in the Mitchell-Dole substitute to S. 1630, allowing an alternative emission limitation to be set on the basis of risk to the most exposed actual person at a specific facility, helps to correct this problem. This concept is also picked up in the negligible risk provision of H.R. 3030. However, the problem of using high risk estimate set emission standards still exists.

When we are presented with projections of potential cancer risks attributable to post-MACT emissions of air toxics from industrial sources, we must bear in mind that the risk

estimates employed by EPA tend to be high estimates of risk.

As I have indicated today, at they are based on extremely conservative risk assessment assumptions and methodologies, which probably overstate the true risk by several orders of magnitude. I venture to say that a more realistic estimate is that post-MACT emissions from large industrial sources probably would cause fewer than one case of cancer per year. Compare this to more than 485,000 cancer deaths in the United States each year, of which approximately 130,000 are caused by cigarette smoking or EPA estimates that exposure to naturally occurring radon in homes may cause as many as 20,000 cancer cases per year.

This does not mean that post-MACT residual risks from industrial sources should be ignored. But the House should be wary of subjecting productive industrial facilities to rigid bright-line standards that could have severe economic and social consequences wholly out of proportion to the public health risk being addressed.

The conclusion I draw is that we simply do not know enough about the reliability and reasonableness of cancer risk assessments to enact particular risk assessment methodologies or standards into law. Clearly, there is a need for more careful study and evaluation by a qualified and independent expert body, such as the National Academy of Sciences. For that reason, I proposed the Comprehensive Environmental Risk Management Act, which calls for such a study, and I supported the addition of such a study and offered an amendment to H.R. 3030.

My amendment authorizes a formal mechanism to inform Congress of the health benefits of emission reduction based on recent advances in environmental and public health science. As Congress confronts future authorization and appropriation decisions, effective environmental health promotion dependents on the quality of information available. The amendment requires the EPA, in consultation with public health scientists, to report to Congress within 4 years a listing of the 25 most consequential air pollutants; and for each of these pollutants: A qualitative and a quantitative assessment of the plausible health benefits of the Clean Air Act Amendments of 1990. The disease prevention and risk reduction attributable to reducing the top 25 will be authoriatively assessed. Given scientific uncertainty, this assessment will necessarily involve a range of plausible benefits.

The decisions we are making with these Clean Air Amendments of 1990 to improve air quality are perfectly well intended but relatively uninformed. We do not know the extent of the public health gains that have been achieved through the emission reductions achieved under current law. We do not know which of these reductions have been more beneficial or which targets for future reductions would be the most promising. This Ritter amendment would assure that the next round of clean air decisions will be both well intended and well informed.

The Ritter amendment is needed to supplement the section 803 accountability provision of the committee reported bill, because understanding the economic consequences—the costs—of reducing emissions is not enough for society to manage its resources. The extraordinary scientific uncertainties involved in determing the effects of various levels of exposure to potentially toxic compounds must be examined, and the implications of this uncertainty for resource management better understood, if Congress is going to be able to achieve the full range of beneficial effects we desire from our clean air program.

Overall, I conclude that, while it may be prudent to evaluate post-MACT residual risks and to implement additional emissions reduction measures in appropriate cases, we should not at the present time legislate bright-line residual risk standards that could result in plant closures and have other severe social and economic impacts. At least until we can be more confident in the numbers resulting from cancer risk assessment calculations, we should adopt a more flexible approach to regulating post-MACT emissions from productive industrial facilities. In particular, some allowance should be made for considering the feasibility, the cost, and the economic and social implications of actions that might be required to achieve further reductions in post-MACT residual risks. The most appropriate means of addressing any residual risk must take into account the unrealistic assumptions that have been made in performing such assessments and the potential misuse of risk assessment for setting bright-line regulatory standards.

PROTECT THE TAXPAYER'S MONEY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. GINGRICH. Mr. Speaker, the Wall Street Journal printed this interesting editorial on the continuing argument over the National Endowment of the Arts [NEA]. I feel this editorial further confirms my belief that we must strive to spend the taxpayer's money in a responsible, sensible manner.

[From the Wall Street Journal, May 21, 1990]

CONTROVERSY VERSUS QUALITY

Forget Robert Mapplethorpe and Andres Serrano's "body fluid art." Have you seen what they're showing to the public at the New Orleans Museum of Art in an exhibition called Awards in the Visual Arts? Yes, it is funded by the National Endowment for the Arts, with additional money from BMW of North America and the Rockefeller Foundation. The pity is that it won't cause the outcry heard over Serrano's crucifix in urine or the most marginal Mapplethorpe photographs. That is because, with a few exceptions, the visual arts awards are so awful. They don't shock or amuse or inspire or do much of anything.

There are indeed serious issues involved in the dispute over the charges that NEA has occasionally funded obscenity. But this controversy has overshadowed an issue that is more relevant to NEA's proper role and the state of art in America.

The problem isn't obscenity. The problem is mediocrity.

Too much of the art produced in the United States now, much of it with direct or indirect public subsidy, is simply bad art. Indeed it is accorded status as art only because the current art establishment—the NEA, academics, some curators, many newspaper art critics—perpetuates the idea that this work isn't the arid drivel it appears to be, but is something serious. Not everyone agrees.

In a remarkable op-ed piece in the New York Times last July, the well-known American painter Helen Frankenthaler argued that notwithstanding the incendiary issues of Serrano and Mapplethorpe, more attention ought to be directed at what she called a "mediocre art enterprise."

As a member of an NEA advisory council, Ms. Frankenthaler said, "I myself find the council—the recommendations of the panels and the grants given—of increasingly dubious quality. * * * I see more and more nondeserving recipients. I feel there was a time when I experienced loftier minds, relatively unloaded with politics, fashion and chic."

Well, of course Ms. Frankenthaler's plea for the restoration of quality sank like a stone. Behaving like some threatened bricklayers' union, the arts establishment has locked arms to oppose anyone who dissents from the orthodoxy they've imposed on American art.

And it is indeed on orthodoxy, though of a most unusual sort. The artist's work, no matter how reductionist or outrageous, has to be "understood." If they have created a movement, it would have to be called hypersolipsism. The new school of criticism that has grown up with 1 relentlessly empathetic. This is from a very prominent newspaper critic's review of Mr. Serrano:

"One of the more alarming aspects of the attack on the endowment has been the assumption of many of those doing the condemning that there is no responsibility to consider the art as it was meant to be seen." He ends, "how can anyone find in his work just obscenity and disrespect? It is hard to believe that anyone whose faith is searching and secure would not be grateful for what Mr. Serrano has done." Few critics or administrators today would break ranks intellectually from this orthodoxy. The director of the Corcoran in Washington, who dissented from the majority on Mapplethorpe, was driven from her job.

We are not reopening the familiar debate over modernity and American society. Modern, or avant-garde work, is not the problem. The problem is that the artists and intellectuals who cry "free expression" to disallow any forceful critique of their enterprise have achieved so little with their freedom. Nor is it the publicly funded artists alone whose achievement is so insubstantial.

The Pulitzer Prize committee can barely scrape up one drama annually to bless. New music remains adamantly abstruse and offputting. It is interesting to note that rock music, which has never received a dime of public money, continues to produce young groups that are at least vital.

The NEA and its supporters are now posing themselves as the fragile angel of creative inspiration, beset by right-wing yahoos, philistines and Bible thumpers. In fact, the NEA is mainly a bureaucracy. Worse, it is a Washington bureaucracy, and hundreds of artists, writers and their sponsors have become its dependent beneficiaries.

Some Members of Congress are talking about a revised grant system that would essentially disburse blocs of money to state arts agencies, which would make the indi-

vidual grants. That doesn't immediately solve the kinds of problems discussed here, but it moves the issue in the right direction. For instance, it might deflate the Mapplethorpe problem. There is no good reason why a Cincinnati should be held up to ridicule because it doesn't subscribe to every last quirk of the life style in Manhattan.

At the least, turning authority over to the states would get the decision-making debate over money and values out in the country, which is where it belongs.

CONGRATULATIONS, DAVE OBEY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, it is my great pleasure to be among the first to congratulate our distinguished colleague from Wisconsin, Representative DAVID OBEY, on being named the recipient of the U.S. Committee for UNICEF's "President's Award for Distinguished Service—1990." I have the privilege of serving as a member of the committee's board of directors and can attest to the significance of the honor bestowed today.

The 1990 UNICEF Annual Report notes, "As nations inched open their doors to disarmament, peace and human freedoms in 1989, mankind was challenged as never before to think about a common future. Walls of distrust and political division began to crumble, and leaders began to speak openly of shared responsibilities for the planet, its resources and the children who would inherit them." DAVE OBEY is one of those leaders and has been for many years.

Our colleague is known for his unabashed support and leadership on behalf of domestic and international programs that reach the poor and vulnerable. The world's children have been able to depend on him in good times and bad through his work on behalf of such organizations as UNICEF, Peace Corps, and Head Start.

Mr. Speaker, millions of the world's children are living healthier lives today and have hope for brighter tomorrows thanks to DAVE OBEY's support and leadership. I am sure my colleagues join me in extending sincere congratulations.

THE STATUS OF DR. FANG LIHZI

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. KENNEDY. Mr. Speaker, I am introducing a resolution concerning the status of Dr. Fang Lihzi and other prodemocracy activists in China. This resolution calls for the release of Dr. Lihzi and his wife Dr. Li Shuzion, long recognized as two of the most outspoken prodemocracy activists in that country, from the United States Embassy in Beijing, China, where they have been living in forced sanctuary. This initiative would provide them with safe passage into the United States. I am also calling upon the Chinese authorities to allow Dr. Fang, the country's preeminent astrophysicist and human rights advocate, to communicate with the world community through statements and writings from the sanctuary of the United States Embassy in Beijing.

With this resolution I am also calling upon the Members of Congress to urge the President to step up efforts to request of the Chinese Government a list of those arrested in the prodemocracy movement since last year, and seek the release of those accused of nonviolent activities since June of last year.

Mr. Speaker, the Chinese Government's brutal repression of the peaceful demonstrations of the Chinese people at this time last year was intolerable. The arrests and imprisonment of thousands of Chinese people was a tragedy, especially at a time when the rest of the world was experiencing a turn toward freedom and an opening of relations. Unfortunately, the conditions in China have not changed considerably in the course of the last year, and the heroes of yesterday's democracy movement are today working in the countryside or serving in the military.

This resolution would ask the President to take some positive steps to correct that intolerable situation, Mr. Speaker, and I am proud to introduce legislation that will rectify some of the tragic errors that were made at Tiananmen Square last year. This effort will put the U.S. Congress on the correct course as a defender and protector of freedom and democracy.

FAR LEFT OF CENTER: THE NEW ALLIANCE PARTY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. DYMALLY. Mr. Speaker, I submit the following article for Members' review.

FAR LEFT OF CENTER—THE AMERICAN RADICAL LEFT TODAY

(By Harvey Klehr)

NEW ALLIANCE PARTY

The New Alliance Party (NAP) is in large measure the handiwork of Fred Newman, a one-time college teacher whose therapeutic theory and practice have inspired several small, cult-like organizations over the past decade. The NAP has been actively involved in New York City politics; in the last year it has intensified efforts to become a more national organization.

Newman was a philosophy instructor at the City College of New York when he first came to notice in the radical community. In 1968 he formed a radical collective called If-Then which boasted that its pamphlets and brochures were the most obscene in New York. If-Then evolved into the Centers for Change, a commune that ran sensitivity groups where Newman also began a therapy clinic. In 1974 Newman and his small band of followers joined Lyndon LaRouche's National Caucus of Labor Committees (NCLC), a bizarre sect making a transformation from the far left to the far right. The NCLC at the time had just completed a campaign of violence and intimidation against other left-wing groups and was concentrating on charges that the Rockefeller interests and the CIA were engaged in a massive brainwashing effort. After a brief stay in the NCLC, Newman and his followers resigned to form the International Workers Party (IWP).

The IWP held its founding conference in September 1974 with some forty-five members and branches in New York and Doylestown, Vermont. It criticized the bankruptcy of the American left and attributed its failings to lack of leadership. To provide that new leadership IWP organizers needed to undergo personal, revolutionary changes in themselves through therapy. The IWP also called for the formation of united fronts with working class organizations and movement groups to lead to "international socialist revolution."

The IWP apparently never grew beyond five hundred to one thousand members. It claimed to have disbanded in 1976—although its internal Party organ was still being published in 1977—and its activists formed the New York City Unemployed and Welfare Council, whose president, Joyce Dattner, was a Newman follower. A host of other Party fronts soon appeared, including the Coalition of Grass Roots Women, New York City Union of Lesbians and Gay Men, Federation of Independent Unions, New Black Alliance and Women's Independent Democratic Organization. In 1979 the Newmanites organized the New Alliance Party.

The New York Institute for Social Therapy and Research, set up in 1978, became the headquarters for Newman's therapy practice; its profits appear to be the major source of funding for the New Alliance Party. Some Party members and supporters have been recruited from patients undergoing therapy at the Institute. Newman's theory holds that each individual is governed by a bourgeois ego that prevents unity with others and encourages self-gratification. The role of the radical therapist is to lead the individual to overthrow the dictatorship of the bourgeois ego and liberate the proletarian ego by means of a personal revolution.

RADICAL SECTS AND SPLINTER GROUPS

While there are probably not many more than a hundred hard-core members of Newman's group, several thousand others are on its periphery or involved in one of its front groups. The NAP claims to have thirteen thousand dues-payers and a hundred thousand readers of its weekly newspaper, National Alliance. On occasion its candidates for public office have received a substantial vote. Dennis Serrette and Nancy Ross, the NAP's presidential ticket in 1984, were on the ballot in thirty-three states. While Serrette fell a bit short of his stated goal of six million votes, he still received 47,209, more than either the CPUSA or the SWP. On the other hand, when the NAP mounted an attempt to get fifty thousand votes and a line on the ballot for its New York gubernatorial candidate in 1982 it could muster only fifty-five hundred.

The Party's base seems to be on the Upper West Side of New York where it has tried to be active in community politics. It has focused its attacks on Democratic reformers and occasionally supported some traditional Democrats. For several years its co-chair was New York City Councilman Gilberto Gerena-Valentin of the Bronx. A small core of people have been closely associated with Newman for many years and appear to have major roles in the NAP. They include Hazel Daren, Gail Elberg, Ann Green, and Nancy Ross. Newman himself is on the executive board. Jacqueline Salit is editor of National

Alliance. Emily Carter, a resident of Jackson, Mississippi was the national chairman in 1985 and Linda Curtis was national field organizer.

Carter reported in mid-1985 that the New Alliance Party was negotiating a merger with LaRaza Unida, a Chicano party centered in Colorado. Claiming that the NAP was black-led, she enthused that a union with the Chicano group "will change American and world history." Newman explained that the NAP "supports nationalist politics but not racialist politics" like the Democrats.

The NAP's goal is to build an independent party to counter fascism. It charged in 1984 that there was no difference between Mondale and Reagan. Its platform was similar to that of the CPUSA and the WWP, calling for cuts in national defense, jobs for all, and increased spending on social programs. On foreign policy it supported the Sandinista regime and attacked the Duarte government in El Salvador. Presidential candidate Serrette argued that the Soviet threat had been exaggerated. The Party praised Jesse Jackson's campaign; after the election Nancy Ross, the NAP's coordinator, moved to Washington to head the DC office of the Rainbow Alliance Confederation's lobbying arm. Despite its name and its profession of complete support of Jackson, the organization appears to be another NAP front and to have no connection to Jackson's official Rainbow Alliance.

The New Alliance Party has been plagued by charges of antisemitism for years. On the surface, the charge seems odd since several of the NAP's leaders, including Ross, are Jewish. The NAP is very hostile to the state of Israel and supports the PLO but denies strenuously that it is antisemitic. It has, however, cooperated with individuals and groups who are. The most recent example is the admission in the Party's newspaper that the "NAP worked in coalitions with the Nation of Islam," led by Louis Farrakhan. More telling is the charge the NAP makes that "it was the racist white media which inaccurately portrayed Farrakhan as antisemitic." Joyce Dattner, an NAP leader, claimed that Farrakhan was an ally "in the struggle to root out the evils of racism and antisemitism." Fred Newman has denounced Jews as the "stormtroopers of decadent capitalism" against colored people, complained that they had "sold their souls" to the devil—international capitalism—and called on them to liberate themselves "behind the leadership of people of color the world over."

INTERNATIONAL WORKERS PARTY

To the membership of the International Caucus of Labor Committees:

Comrades: Historical reality confronts us, as communists, with the immediate necessity of leading the class to seize power from a capitalist class turned fascist by senility. Grounding ourselves in that reality, locating our humanity in our identity as socialist organizers in the class struggle at this most critical moment in human history we withdraw from the International Caucus of Labor Committees and announce the founding of the International Workers Party.

The international working class faces systematic annihilation in the form of a zero growth cannibalization process. This fascist mode of production (in actuality a mode of cannibalization) brings about the movement towards new social institutions, more specifically, brings about the movement towards the mass strike. What will determine in the coming months whether that movement will be aborted or will grow into an acutal mass strike, i.e., determine whether or not the working class of this country will lead an international revolution, will be our revolutionary practice, a revolutionary practice which must provide us with a sensuous understanding of historical reality and thereby a capacity to intervene upon it as a party located within it.

The present historical reality reveals the rapidly accelerating consolidation of a fascist machine under Rockefeller's leadership, and, lawfully related, the rapidly accelerating deterioration of the ICLC. It includes the lawful movement of the class and the cannibalization of that movement by the ICLC. The vanguard party cannot live vicariously through a motion it has done much to interpretatively identify (and inaccurately report) and criminally little to direct.

It is lawful that the IWP now become the vanguard party of the working class. We have developed out a self-conscious Marxist investigation of methodology and have scientifically developed an understanding of reality grounded in this historical moment. We have taken on the serious tasks of leading the class, not as Promethean interventionists, but as internal organizers of the class from which we come, i.e., as class for itself organizers doing class for itself organizing.

The organization of the vanguard party is, as Marx makes clear, the organization of the class. The formation of the IWP has grown from our attempt to organize the ICLC from within that it might move from a position of left hegemony to a position of leadership of the class. For the motive force which led to the hegemonic position of the ICLC is now leading the ICLC to its death in the attempt to take on class leadership. It is now necessary for us to organize our comrades from a position outside the ICLC. For the very closed environment, the very idealistic paranoid trap which the ICLC has lawfully become for reasons delineated in F. Newman's "Idealism, Paranoia and the Mass Organization, a corrective to the Labor Committee tendency," has made it necessary to move outside in order to continue the "internal" polemic we have been waging.

By our principled withdrawal from the ICLC, by our demand that the closed environment of the ICLC be open to the light of historical reality we offer support to our comrades of the ICLC who must organize their fellow communists to take on the task of leading the working class.

The IWP has already begun organizing with the intent of establishing eight regional centers throughout the United States in approximately ten to fourteen days and of immediately beginning to organize the class around the slogan "Class Wide Organization or Class Wide Annihilation."

The IWP will be available to complete the U.S. Labor Party petitioning in view of our commitment to the importance of that task. This and any other necessary administrative work will be coordinated through our national operations staff.

We move now with compassion for our comrades of the ICLC who face daily their own impotence in organizing the class they know, sensuously, must perish without their leadership. From the lies and distortions born of idealism, from the mistrust of workers and our fellow organizers born of paranoia our comrades must move to take on their world historical task as communist revolutionaries. To this end we of the IWP pledge our full support. We must move now among real men and women who live under the historical conditions of mass annihilation, among those real men and women who desperately need our leadership. Every Marxist, every communist must demand of herself or himself the courage to face the reality of this frightening historical moment.

In solidarity with all comrades who take on their task and in support for their struggle to destroy the idealism that will otherwise destroy them and the ICLC, we submit this document to the membership of the ICLC.

WHO DIED FOR WHOM IN THE PHILIPPINES

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. ROTH. Mr. Speaker, I commend the following article by Al Neuharth of USA Today to all Members of Congress. Mr. Neuharth is very insightful and has in my opinion the correct perception of this situation.

It is gratifying to find a member of the press who agrees with a minority in this House on the issue of the Philippines. His view is the minority view in the House, yet before too long, it will be the majority view in Congress. His call is a clarion call of the future.

The cold war is over. We as a nation, and as a world, are moving into a new era. It is an era when overseas bases are an expensive relic of the past, when overseas bases are unneeded and unhelpful.

We don't need the bases, and we don't want the bases. Our own military tells us that if we left the Philippines, first, we would save billions; and second, Filipino-American relations would improve. These are worthy goals in my opinion.

The Philippine people are a proud and wonderful people. They don't want us there, so we shouldn't be there. The Philippine Government has milked the United States taxpayers for billions—billions we can't afford. Mr. Neuharth said it best, "it's time to pick up our 'peace dividend' in the Philippines and kiss Aquino goodbye."

[From USA Today, May 18, 1990]

WHO DIED FOR WHOM IN THE PHILIPPINES?

(By Al Neuharth)

Their politicians, from the president on down, put us down.

Protesters in the streets shout, "Yankee go home."

Terrorists kill three more of our servicemen and keep 50,000 USA military and civilians cooped up like prisoners inside Clark Air Base and other installations.

The time has come to say a sad farewell to our former friends in the Pearl of the Orient. We should:

Announce we will give up our military bases when leases expire next year and start troop withdrawals soonest.

Abandon our futile hopes that President Corazon Aquino can successfully lead her country.

Not only is Aquino not the solution, she is the primary problem.

We and the world rejoiced when she was elected in 1986. But when I visited the Philippines in 1988, I wrote that it was clear Aquino had neither the expertise nor experience to lead her country out of the morass in which the late Ferdinand Marcos had left it.

Aquino's ineptness is most evident in her handling of relations with the USA.

Last December, she desperately called for help from our Air Force when a coup threatened to dethrone her. President Bush saved her. Yet a few weeks later, she snubbed Defense Secretary Dick Cheney when he went to Manila.

She has repeatedly refused to speak out in favor of our military presence. This week, her chief negotiator in the talks on our bases, Foreign Secretary Raul Manglapus, attempted to distort history by lamenting how "Filipino soldiers fought and died for America" in World War II.

If Aquino and her foreign secretary don't remember who died for whom, they'd get this picture if they walked among the white crosses of Manila's American cemetery:

Buried there are 17,206 men and women from the USA who gave their lives to free Filipinos from Japanese occupation.

Nearby, rows of marbled walls carry names of our 36,280 military missing in action in that area.

A year after we freed the Filipinos, we granted the country full independence. We agreed to keep a military presence to protect our friends, a policy that now pumps about $1 billion annually into the Philippine economy.

There's no great strategic value to us in our bases there. Our own interests in the Pacific can be equally well protected by expansion of facilities on friendly soil, Guam or elsewhere.

It's time to pick up our "peace dividend" in the Philippines and kiss Aquino goodbye.

HEFLEY PRAISES DOUGLAS COUNTY YOUTH RUGBY CLUB

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. HEFLEY. Mr. Speaker, I rise today to honor the Douglas County Youth Rugby Club. On Sunday, May 6, 1990, this team of fine young men captured the Colorado Division One State Rugby Championship. To win this year's title at the 1-day tournament, the Motleys advanced to the championship match and defeated the Littleton Rugby Team by a score of 15 to 6.

It is a great pleasure to see a group of young, dedicated individuals come together as a team to work toward a final goal. I would like to congratulate coaches Dave Ocken and Don Rauh for molding the Motleys into a championship team. Also, special recognition goes to twin brothers Casey and Scott Howard and their teammates Josh Mezger and John Vanden Bosch, who were named to the all-State team. Marcus McCollough was honored with the distinction of most valuable player of the championship game.

As this team goes forward to the USA National High School Tournament in San Antonio, TX, I urge them to take pride in their past accomplishments, and remember the manner in which they achieved them. Dedication, teamwork and all-out effort are the ingredients of a championship team. Because the Motleys have successfully demonstrated these characteristics, I honor them today and wish them the best of luck in the national tournament.

YOUNG PEOPLE CONCERNED ABOUT ENVIRONMENT

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. ESPY. Mr. Speaker, yesterday I was presented with 58 letters from some outstanding young people in my district. These young people have written to me because they are gravely concerned for our environment. They represent the next generation; the generation that will have to live on the Earth that we leave for them.

Although their letters are too numerous to present here, I would like to recognize these young people individually. They are: Elizabeth Archer, Lamar Bell, William Bell, Douglas Bishop, Nicole Brent, Preston Brooks, Elizabeth Brown, Steve Bryson, Faris Buchberger, Catherine Causey, Blair Chewing, Stan Clark, Jennifer Colman, Morgan Cummins, Meredith Dickerson, Cileste Donald, Richie Drane, Trey Eakins, Harriet Elmore, Jessica Epting, Josh Epting, Katie Erwin, Casey Estis, Julie Farr, Andrew Fountain, Adam Fuquay, R. Kelley Gilliam, Micah Goodman, Amber Gray, Nicholas Hanos, Clint Harper, Rachel Hart, Jason Hayles, Lindsay Hazelwood, Brandi Helms, Mandy Hillis, Marlee Hobart, Bert Holland, Kelly Hovas, Burle Howse, Klynt Johnson, Mary Helen Lane, Clyde McGee, Brad Mayo, Lindsey Melton, Kandice Miller, Shawn Moose, Mandy Nichols, Michelle Owen, Rob O'Reilly, Frankie Painter, Jason Peets, Bo Petro, Xan Robertson, Trey Sandifer, Stephanie Sella, Darrell Sparks, Breisch Stallings, Jay Steed, Josh Tippin, Lance Triplett, David Twiner, Brian Walters, Jennifer Williams, Candace Willis, Anne Reid Wilson, Meri-Winston Winn, Brent Wong, Tiffany Yee, and Brad Young.

Mr. Speaker, when we were children we were taught to clean up after ourselves; to pick up our own toys and clean up our rooms. It is a basic principle, however, it is obviously one that many industries have forgotten. It is my hope that industry will be reminded of their responsibility by Congress' passage of the Clean Air Act Amendments of 1990.

All these children are asking for is clean air to breathe. I do not think that is too much to ask. Let's remember them as we work to pass legislation that is conducive to a more environmentally sustainable world.

HAMMERSCHMIDT VOTE ON THE AMERICANS WITH DISABILITIES ACT

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. HAMMERSCHMIDT. Mr. Speaker, last week, at the request of President Bush, I was a member of the U.S. Presidential delegation to the inauguration of President Lee Teng Hui of Taiwan. Therefore, I was unable to cast my vote on the Americans With Disabilities Act.

The Public Works and Transportation Committee had a significant role in crafting the final bill. Transportation holds the key to opportunity for millions of disabled Americans. Breaking down barriers to employment means nothing if the potential employee cannot get to the employer's place of business. The ADA bill will go far to improve that situation. We on the Public Works Committee worked long and hard to balance the needs of the disabled with the impact on providers. We tried to keep the objectives of mobility first and foremost in our minds in considering the issues that were raised before us.

In that context, I would like to thank our distinguished chairman, Congressman GLENN ANDERSON, for his leadership in seeing that the committee dealt with the bill fairly and completely. I would also like to thank the chairman of the Surface Transportation Subcommittee, Congressman NORM MINETA, and the ranking Republican on that subcommittee, Congressman BUD SHUSTER, for their hard work on the bill.

While I still have concerns over certain provisions, I feel that overall, the ADA bill will profoundly improve the lives of many Americans. Mr. Speaker, I would like the RECORD to show that had I been here, I would have voted to support passage of the ADA bill.

THE TRANSFER AMERICAN DEFENSE TECHNOLOGY TO THE SOVIET UNION ACT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. SOLOMON. Mr. Speaker, members of the Rules Committee were notified only today that the committee will take up the rule for the Export Administration Act tomorrow morning. This is a complex and controversial measure critical to our national security and it should not be acted on without a full and careful review. Yet we were informed that the bill is being rushed through the Rules Committee because the Democratic leadership couldn't locate any other bills which are ready to be brought to the floor?

I am inserting into the RECORD a list of some of the amendments I intend to offer to the Export Administration Act when the bill reaches the floor. Not on the list are two major amendments currently being drafted re-

garding the sale of satellites to China and the Soviet Union.

SOLOMON AMENDMENTS TO H.R. 4653—REAUTHORIZATION OF THE EXPORT ADMINISTRATION ACT

(1) Section 104: PRC Distribution License.

Section 104 grants privileged licenses for high-technology exports to the PRC, the Soviet Union and elsewhere.

Amendment Language: Strike Section 104.

Background: In a major concession to the Chinese regime, this provision (sec. 104) would authorize distribution licenses for exporters to the People's Republic of China. A distribution license enables an exporter to obtain one license to cover a series of shipments to a broad range of distributors—rather than seek individual validated licenses for each sale. Distribution licenses have heretofore primarily been used in COCOM countries where risks of diversion or unauthorized uses are considered to be lower. Authorizes distribution licenses for the Soviet Union and other controlled countries. Obviously, the probability of serious strategic diversions under such an authorization are even greater than in China. The provision also authorizes comprehensive operations license to all destinations, including the Soviet Union. A comprehensive operations license, for example, can include the export of militarily critical technologies controlled for national security reasons.

(2) Section 105: Exports to COCOM.

Section 105 establishes a license-free COCOM. That is, all U.S. exports to a COCOM country will not require an export license.

Amendment Language: Section 105(a) is amended by adding after section 105(a)(2)(B)(i), the following: (renumber successive subsections)

"The Secretary may require authority or permission to export or reexport selected, extremely militarily sensitive goods and technology, as he may determine."

Section 105(a)(2)(B)(ii) is amended by striking the sentence: "Any such determination shall not take effect until 30 days after the Secretary notifies the Coordinating Committee of the determination and requests the cooperation of the Coordinating Committee in imposing comparable export controls."

Background: Section 105 will eliminate the requirement for exporters to obtain licenses for the export of any goods and technology if the destination is either Australia, Belgium, Canada, Denmark, France, West Germany, Greece, Italy, Japan, Luxembourg, The Netherlands, Norway, Portugal, Spain, Turkey, or the United Kingdom (COCOM countries).

A key question is the definition of Germany, post July reunification. Will exporters be allowed under this provision to export any goods or technology to East German territory without a license?

Why does this provision take away the right of the Secretary to make any exceptions?

Under this provision, exporters can continue to export to a COCOM country without a license, even if that country is engaged in a pattern of noncompliance with COCOM rules. Such a country can only be excluded from the license-free zone after a 30-day waiting period, starting from the time the US Government officially notifies COCOM.

(3) Section 106 and Section 112: Supercomputer Exports and Indexing.

Section 106 sets up an arbitrary mechanism which automatically relaxes export controls on supercomputers as long as their performance capabilities are 25 percent or less of the most powerful supercomputers available. Section 112 sets up an arbitrary automatic decontrol mechanism for all goods and technology.

Amendment language: "Strike section 106(b) and section 112" (would also need conforming amendment)

Background: Section 106 relaxes export controls on a critical technology—supercomputers—with vast military applications. The decontrol becomes automatically pegged to advances in state-of-the art technology rather than a strategic justification for the removal of safeguards. Under this provision, countries like Iraq, India, Pakistan, Libya could obtain supercomputers at or below 25% the performance capabilities of the best supercomputers available. Section 112 similarly requires the Secretary of Commerce to establish automatic indexing procedures which provide for annual increases in the performance level of goods or technology subject to licensing requirements. Goods or technology that no longer meet the higher performance thresholds are decontrolled. In other words, no matter how much damage a technology might do to Western security, it would automatically become decontrolled provided further advances had been made in the field of that technology.

(4) Section 107: Exports to Eastern Europe

Section 107 liberalizes exports of goods and technologies to East European countries. The Secretary of State is required to negotiate with COCOM to: (1) remove export controls on all goods and technologies below the "PRC Green Line" to all destinations, and (2) obtain a policy of favorable consideration for goods and technologies above the PRC Green Line for civil end-uses to East European countries that have imposed safeguards.

Amendment language: A: "Strike section 107"

B: "Section 107 is amended: (1) in section 107(a) line 7 by striking the word "shall" and inserting in lieu thereof "is encouraged to"; (2) by deleting lines 10-12 in section 107(a) (deletes (4)(A)(i)); (3) by striking the word "favorable" in section 107(a) line 13 and page 12, line 2; (4) by inserting after "the Secretary shall," the words "with the concurrence of the Secretary of Defense" in section 107(a) page 11, line 5 (section 5(b)(4)(C)(i); by striking the word "shall" on page 15, line 19 (section 5(b)(4)(H)), and inserting in lieu thereof "is encouraged to".

Background: Provision raises constitutional question of Congress requiring Secretary of State to negotiate specific positions. If these negotiating positions were accomplished, they would result in the wholesale decontrol of an array of extremely sensitive technologies to the Soviet Union.

Would be important to get a clarification from the Chairman as to whether or not the Soviet Union is considered part of Eastern Europe for the purposes of this subsection.

(6) Section 108: Telecommunications.

Section 108 requires the Secretary of State to negotiate with COCOM an agreement that exports of telecommunications equipment will be allowed to any country for civil end-use. Telecommunications equipment is defined to include optical fibers, optical cables, laser telecommunications equipment, microwave and other radio relay, transmitting, or test equipment, telecommunications transmission, measuring, or test equipment, etc.

Amendment language: "Strike section 108"

Background: Aside from the constitutional questions which are involved with a provision which explicitly directs the Secretary of State to negotiate a specific proposal, the Administration currently has full authority to decide what telecommunications equipment should be licensed or not. The White House has a detailed proposal on telecommunications equipment before COCOM now. Congress should not become the licensing officer for telecommunications or any other type of goods or technology. It goes without saying that such an arrangement would vastly enhance the effectiveness and reliability of Soviet military command, control and communications capabilities. As such, it would represent a devastating blow to NATO's security and intelligence capabilities.

(7) Section 109: Commodity Jurisdiction.

Section 109 requires the U.S. Munitions List to conform with the International Munitions List and sets out an elaborate procedure for reconciling disputes between Commerce and State over the definition of an item as a "munition" or a "dual-use" good or technology.

Amendment language: "Strike section 109"

(8) Section 110: Sunset of Control List.

Section 110 requires that all goods and technology controlled for national security reasons are terminated as of 30 September 1992, except for controlled country destinations. Only the Secretary of Commerce can reinstate controls on an item only after he has determined that the item would make a significant contribution to the military potential of a country or combination of countries that would prove detrimental to the United States and he has published that determination in the Federal Register.

Amendment Language: "Strike section 110"

Background: This provision provides a wholly inappropriate delegation to the Secretary of Commerce of the responsibility to determine which technologies have military potential and what a "significant contribution" to such potential might involve.

(9) Section 111: Unilateral Controls and Trade Shows.

Section 111 prohibits the Administration from imposing any special conditions (like safeguards) on the export of a good or technology, unless COCOM countries also impose those same conditions. Section 111 also enables exporters to take any good or technology to any country destination for demonstration purposes.

Amendment language: "Strike section 111."

Background: Under this provision, any goods or technology may be taken by a U.S. exporter to a trade show or for demonstration purposes in any country as long as (1) the U.S. exporter retains title to that good, and (2) the U.S. exporter takes the good or technology out of the country when the trade show is over. This is a laughable arrangement, certain to facilitate the compromise of sensitive technologies.

(10) Section 115: The Role of Secretary of Defense.

Section 115 limits Defense Department review of licenses for exports of goods and technology only to: (1) the Soviet Union, (2) those Eastern European countries that do not qualify for favorable treatment, and (3) controlled countries where the end-use is other than a civil end-use.

Amendment Language: "Strike section 115"

Background: Section 115 would set up the Secretary of Commerce as the exclusive judge of what is or is not a "civil" end-use. This would deny the president the benefit of his Secretary of Defense's counsel on all technology issues falling outside of the designated areas. It would also likely produce a burgeoning of purportedly "civil" end-users.

(11) Section 120: Authorization of Appropriations.

Section 120 authorizes $46.7 million for Commerce Department.

Amendment Language: "Section 120 is amended, page 47, line 7, by striking $46,707,000 and inserting in lieu thereof "28,024,200".

Background: The proposals outlined in HR 4653 are estimated to cut licensing requirements by 40 percent. As such, appropriations authorized for the Department of Commerce's licensing function could be cut by 40 percent.

(12) Foreign Availability

Add provision which will enable Secretary of Defense to block foreign availability assessments by Department of Commerce which he deems to be inaccurate.

Amendment Language: "Title 1 of HR 4653 is amended by adding the following section after section 111 and renumbering successive sections accordingly:

Section 112. Foreign Availability.

(1) Section 5(f) is amended in the second sentence by inserting after "establish," the following: "and with the concurrence of the Secretary of Defense,"

Section 5(f)(2)(A) is amended in the second sentence by inserting after "establish," the following: "and with the concurrence of the Secretary of Defense,"

Section 5(f)(2)(B) is amended in the first sentence by inserting after "determines" the following: "with the concurrence of the Secretary of Defense"

(4) Section 5(f)(3)(B) is amended by striking "The Secretary's determination of foreign availability does not require the concurrence or approval of any official, department, or agency to which such a determination is submitted." and insert in lieu thereof, the following: "The Secretary's determination of foreign availability requires the concurrence of the Secretary of Defense."

Background: When Congress empowered the Secretary of Commerce to conduct foreign availability assessments, it assumed that such studies would be well researched and documented. Since the foreign availability provision of the Export Administration Act enables Commerce to decontrol entire product categories, it is essential that studies accurately assess whether or not items are truly widely available to the Soviet Union so as to render U.S. export controls meaningless. Unfortunately, the track-record of the Commerce Department has been poor on this score. Although the Act requires commerce to discount foreign availability claims which are contradicted by reliable intelligence information (Sec. (f)(3)(A)), Commerce has violated that requirement in the past, for example with its foreign availability assessment re. personal computers last summer. A Wallop amendment to the Defense Authorization Act initiated an independent study, which found Commerce's foreign availability studies seriously lacking in fundamental standards of evidence and determined that the interagency process was equally deficient. The current process excludes the Secretary of Defense in anything other than an advisory role. As a consequence, wholesale decontrols of vital technologies are occurring based on anecdotal, flimsy evidence. The process currently does not adequately allow for challenges, and thus a requirement that the Secretary of Defense concur with Commerce assessments should be added by Congress.

(13) Lithuania.

Amendment Language: "Notwithstanding any other provision of law, there shall be no liberalization of U.S. technology transfers policies and actions affecting the export of goods and technology to the Soviet Union while that country continues to withhold oil and gas shipments and impose other forms of economic warfare against Lithuania.

PROPOSED AMENDMENT RE SOVIET ACTIONS AGAINST THE BALTICS AND OIL AND GAS EQUIPMENT CONTROLS

In April, the Soviet Union halted all shipments of oil and natural gas to Lithuania.

President Bush failed to initiate any sanctions or costs for the Soviet action. Instead, the Administration is pursuing an aggressive policy of actually assisting the Soviet Union in its oil and natural gas production capabilities.

U.S. and Soviet government delegations are meeting regularly to identify U.S. technologies and skills needed by the Soviet Union in the energy sector (U.S.-Soviet Energy Working Group—Lead agency: DOE)

DOE is exploring the possibility of a U.S. government-sponsored oil and gas mission to the Soviet Union in October.

Deputy Energy Secretary Henson Moore is leading effort. (See attached Moore speech to American Committee on U.S.-Soviet Relations.

Soviet repression in Lithuania should not be rewarded by Administration efforts to actually enhance Soviet capacity to use energy as a weapon. Without costs imposed by the United States, the Soviet Union is apt to continue to withhold oil and natural gas shipments to Lithuania, if not other republics. It should also be kept in mind that the Eastern European countries have an inordinate dependence on the Soviet Union for energy resources. Costs should be imposed now on the Soviet Union's actions in Lithuania to discourage Moscow's consideration of using its energy leverage or coercion in any other country.

Amendments:

(1) "Notwithstanding any other provision of law, goods and technology related to the exploration, drilling, extraction or refining of petroleum products and natural gas shall not be exported to the Soviet Union until the President certifies to the Congress that the Soviet Union is no longer using oil and gas as a weapon in its economic warfare against the Baltics. This provision shall not apply to the republics of Lithuania, Estonia, and Latvia."

(2) "All U.S. government cooperation with the Soviet Union pertaining to the enhancement of Soviet energy resources shall cease until the Soviet Union is no longer withholding energy supplies from the Baltic republics."

INTRODUCTION OF THE SWAMPBUSTER IMPROVEMENT ACT OF 1990 AND THE WETLANDS PRESERVATION AND RESTORATION ACT OF 1990

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1990

Mr. CONTE. Mr. Speaker, for years we have ignored the greatest source of wetlands destruction in the United States—agriculture. From the central valley of California to the coastal plains of south and eastern Texas to the prairie potholes of the Grain Belt, agriculture has been the principal culprit in draining and filling our precious wetlands.

The facts are startling. More than 80 percent of wetlands loss in the United States is due to agriculture. Of the 215 million original acres of wetlands in the United States—excluding Alaska—only 95 million now remain. In the past 40 years, 16 million acres of wetlands have been lost to agricultural conversion.

The loss of wetlands to agriculture has had a devastating environmental impact. Waterfowl breeding areas have been destroyed, causing drastic reductions in populations. The severity of droughts has increased because fewer wetlands exist to retain and replenish ground water. Soil erosion and pesticide and chemical runoff from agricultural production has increased pollution of rivers, lakes, and streams because fewer wetlands are there to trap sediment and filter out contaminants.

I am introducing two bills to put an end to any further destruction of wetlands by agriculture and to begin to restore wetlands which have already been converted to agricultural use. The Swampbuster Improvement Act of 1990 will plug existing loopholes in the swampbuster provision of the 1985 farm bill. The Wetlands Preservation and Restoration Act of 1990 will create a 3-million-acre wetlands reserve to restore and protect valuable wetlands which have been converted to agricultural use.

THE SWAMPBUSTER IMPROVEMENT ACT OF 1990

In 1985 we woke up to the fact that agriculture was responsible for most of the wetlands destruction in the United States. That year Congress took action to protect wetlands by passing the Swampbuster provision on the farm bill, under which farmers who drain and plant crops on wetlands can lose their eligibility for Federal farm program benefits.

Swampbuster has slowed wetlands loss, but it has not protected wetlands as well as intended. Farmers are still able to drain and convert wetlands while avoiding any penalty. In the prairie pothole region of North Dakota, 30,000 acres of wetlands have been converted to agricultural production each year since Swampbuster was enacted—yet no penalties have been assessed. Nationwide, over 175,000 acres of wetlands are estimated to have been converted to agricultural use since 1985, despite Swampbuster restrictions.

In order to put an end to any further agricultural destruction of wetlands, I am introducing, with my friend from California, GEORGE

MILLER, the Swampbuster Improvement Act of 1990. Our bill will plug the holes in Swampbuster by:

Making Swampbuster restrictions apply upon the conversion of a wetland by draining or other means, regardless of whether a crop is planted on the wetland. Currently Swampbuster applies only if a wetland is converted and an annual crop is planted on it.

Requiring Swampbuster violators to restore wetlands at their own expense, following a compliance plan established by the Soil Conservation Service and the Fish and Wildlife Service.

Prohibiting Swampbuster violators from obtaining loans from federally insured lending institutions. This will broaden coverage of Swampbuster to encompass those farmers who do not participate in Federal farm programs.

Requiring the concurrence of the Fish and Wildlife Service on all Swampbuster determinations. The Fish and Wildlife Service has the technical wetlands expertise to improve the implementation of Swampbuster.

Allowing third parties who are adversely affected by Swampbuster decisions to use an administrative appeals process.

The Swampbuster Improvement Act will strengthen our ability to protect wetlands from agricultural conversion.

THE WETLANDS PRESERVATION AND RESTORATION ACT OF 1990

In order to reverse the loss of wetlands to agriculture and move closer to the goal of "no net loss" of wetlands, I and the esteemed environmentalist from Michigan, JOHN DINGELL, are introducing the Wetlands Preservation and Restoration Act of 1990. The bill restores valuable wetlands that have been converted into farmland and permanently takes them out of agricultural use. It establishes a 3-million-acre wetlands reserve by allowing USDA, with the concurrence of the Fish and Wildlife Service, to acquire permanent easements on restorable wetlands.

The bill will help retain the habitat of the 30 percent of plants and animals on the endangered species list which require wetlands for survival. It will also help to reverse the dramatic decline in waterfowl populations. In the past decade, mallard duck breeding populations have declined 23 percent, blue-winged teal populations have declined 40 percent, and northern pintail populations have declined 60 percent as their wetland breeding areas have been converted to farmlands.

The bill is fiscally responsible. It uses the existing budget authority of the Conservation Reserve Program [CRP] to acquire the easements. The CRP is authorized to enroll 40 million acres of erodible cropland into 10-year easements, but only 34 million acres have as yet been enrolled. The wetlands reserve would use 3 million of the remaining 6 million CRP acres to save wetlands. The bill permits up to 100 percent Federal cost-sharing for the restoration of the wetlands as an incentive for farmers to enroll acres in the wetlands reserve.

Wetlands which have been converted to agricultural use often are only marginal farmland, but are of high value as wetlands. The Wetlands Preservation and Restoration Act will return, 3 million acres of those marginal farmlands to their optimal value as wetlands.

The Swampbuster Improvement Act and the Wetlands Preservation and Restoration Act are strongly endorsed by the National Wildlife Federation, the National Audubon Society, and the Sierra Club. I am including letters of support from these groups in the RECORD.

I hope the rest of the House membership will join us as cosponsors of the two bills in order to save and restore valuable wetlands.

Thank you, Mr. Speaker.

NATIONAL AUDUBON SOCIETY,
Washington, DC, May 23, 1990.

Hon. SILVIO O. CONTE,
House of Representatives,
Washington, DC.

DEAR MR. CONTE: The National Audubon Society strongly supports both the Swampbuster Improvement Act and the Wetlands Preservation and Restoration Act.

The Swampbuster Improvement Act will substantially strengthen Swampbuster's ability to protect wetlands. It improves the definition of a Swampbuster violation, facilitating enforcement while protecting wetlands against conversion for the production of non-commodity crops. It makes Swampbuster policy more consistent by making all violators, including those who do not participate in commodity programs, ineligible for federally insured loans. Furthermore, the act creates a firm scientific and technical basis for Swampbuster determinations by requiring the concurrence of the Fish and Wildlife Service in all stages of the law's implementation.

The Wetlands Preservation and Restoration Act creates a fiscally and environmentally responsible program for wetlands restoration and protection. Since the overwhelming majority of wetlands losses in the continental United States have been due to agricultural conversions, a vigorous federal initiative to restore valuable wetlands which have been converted into farmland is absolutely essential to offset historic losses and to achieve the national wetlands goal of "no-net-loss". Permanent easements provide cost-efficient protection, and will ensure that restored wetlands will continue to produce wildlife and improve water quality for many generations to come.

Together, the bills represent a balanced approach for improving federal wetlands protection policies. Stronger and more effective protection for existing wetlands, combined with incentives for restoring previously converted wetlands, will help to turn the tide of wetlands losses, and will provide lasting protection for one of the nation's most valuable natural resources.

Wetlands preservation is a high priority for Audubon and its 600,000 members. We applaud your leadership, and pledge our assistance in this timely and critical issue.

Sincerely yours,

ELIZABETH RAISBECK,
Senior Vice President,
Regional and Government Affairs.

MEMORIAL DAY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. DYSON. Mr. Speaker, next week, in towns, cities, and communities across our Nation, Americans will celebrate Memorial Day. This special day of remembrance unites us as a nation in shared appreciation of the blessings of freedom, security, and democracy—and of the terrible sacrifices by which they were won. Memorial Day was first celebrated after the Civil War in order to grieve lost loved ones and to restore the peace between the North and the South.

Today we live in a time of peace and prosperity; yet, war is not just a thing of the past. In the last year alone, many Americans sacrificed their lives in the cause of freedom.

Among these sacrifices were 23 brave Americans who lost their lives in Panama last December. Operation Just Cause restored the fruits of democracy to our Panamanian brethren and upheld the security of the Panama Canal. As chairman of the Panama Canal Subcommittee, I understand the strategic importance of this great link between the Atlantic and Pacific Oceans. Operation Just Cause should serve to remind us that we must be ever vigilant. History has shown time and time again that the pursuit of peace requires the preparedness for battle.

Our Nation was borne in revolt against tyranny. From Yorktown to Gettysburg, and from World Wars to cold wars, Americans have always fought to preserve the ideals we hold sacred. We must never forget that many of our fellow citizens left their homes and their families and gave their lives to ensure the preservation of our freedoms for their generation and for generations yet to come.

Today, thousands of American military personnel stand ready across the globe, able at a moment's notice to spring into action. My district is home to four military bases and I would like to offer my special appreciation to the men and women who serve in the Armed Forces and are stationed in the First Congressional District of Maryland.

Our strength as a democratic nation has served as a beacon of hope to people around the world. In Eastern Europe, communism is nearly dead, the cold war is coming to a dramatic close, and the very symbol of oppression—the Berlin Wall—has been ripped apart. We had to fight the cold war for 40 years, but the hard and unyielding line that we drew has resulted in the liberation of millions of people. On this Memorial Day, we must pay special tribute to the brave men and women who died in defense of freedom. At last, we can delight in the hope that their sacrifice will bring peace and prosperity to Europe, and eventually to all the world.

America owes a tremendous debt of gratitude to the courageous men and women who have fought for our country. We must take as a sacred trust the words of the founder of the Veterans' Administration, Abraham Lincoln, who said, "To care for him who hath borne the battle, and his widow, and his orphan." The 101st Congress has reiterated its concern for the welfare of our Nation's veterans by enacting a number of important legislative initiatives. Public Law 101-237 expands the recruitment and retention of health care professionals within the Veterans' Administration and increases many benefits for disabled service-connected Americans. A related bill, H.R. 4557, which recently passed the House, provides a pay increase to health care profes-

sionals as a further incentive for VA recruitment efforts. However, much important work remains.

To this end, I have joined as a cosponsor of two much-needed bills pending before the Congress, H.R. 3914 and H.R. 303, which together will ensure that our veterans receive the full entitlements they deserve. Vietnam veterans have special needs of their own. H.R. 3603 addresses one of these needs by requiring the Federal Government to release information concerning our soldiers who are still unaccounted for in Southeast Asia and in other regions where America has been involved in hostilities. Efforts to expand the range of allowable disability compensation for soldiers exposed to agent orange remains another priority. Under congressional pressure, the Veterans' Administration has at last agreed to reexamine exposure-related disabilities, while Public Law 101-237 augmented the benefits already allowable. Now we must enact H.R. 3004 to expand the range of diseases covered by the law. I urge my colleagues to give prompt consideration to these crucial pieces of legislation.

Mr. Speaker, while "Taps" is heard in cemeteries across the country this Memorial Day, it should remind the families and friends of those who gave so much that a grateful Nation remembers.

THE 100TH ANNIVERSARY OF THE KNIGHTS OF PYTHIAS, LODGE NO. 414

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. APPLEGATE. Mr. Speaker, I rise to pay tribute to the Order of Knights of Pythias who were the first American order to be chartered by an act of Congress. The Knights of Lodge No. 414 in Mingo Junction, OH, will be celebrating their 100th anniversary on May 26, 1990.

The Order of Knights of Pythias is an international fraternity which was founded in our Nation's Capital in 1864. While the primary object of fraternal organizations is to establish companionship among men, each chapter of the Knights embraces virtuous, outstanding principles of friendship, charity, and benevolence. These virtues take the practical expression of homes for the aged and infirm, higher educational facilities, assistance to those in distress by making financial contributions to national and State emergency funds. University scholarships are awarded to winners of a public speaking contest for high school boys and girls.

The Order of Knights of Pythias provides an opportunity for manifold public service. The organization provides a method for pooling the efforts of individuals so that they may best contribute to their community.

Mr. Speaker, it is my express privilege and honor to ask my colleagues to join with me and the residents of Mingo Junction in acclamation of the Order of Knights of Pythias Lodge No. 414 as a leader of fraternal organizations.

TRIBUTE TO AMERICAN WOMEN'S ECONOMIC DEVELOPMENT CORP.

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. GREEN. Mr. Speaker, it gives me great pleasure to pay tribute to the American Women's Economic Development Corp. [AWED], an organization located in my congressional district that provides information and guidance to women starting their own businesses. That prominent corporation has been successful in promoting women's development in the economic sector. On Tuesday June 12, 1990, AWED will celebrate its 13th anniversary.

The gala event will be held at one of New York City's finest cultural centers, the Alice Tully Hall, at Lincoln Center. During that celebration, AWED will present awards to distinguished individuals who, over the years, have made outstanding contributions to women's economic development in general and to AWED in particular.

I ask my esteemed colleagues to join me in offering hearty congratulations to the honorees and all the members of AWED. I have every expectation that AWED will continue to be a beacon for women in the business and financial communities.

CIVIL RIGHTS MOVEMENT LED ASTRAY?

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. GINGRICH. Mr. Speaker, the Atlanta Journal and Constitution ran this editorial about the changing of the civil rights movement. I feel it shows how the civil rights movement can be led astray by those who wish to divide rather than unite.

[From the Atlanta Journal and Constitution, May 11, 1990]

SHIFT TO VICTIMIZATION HURTING CIVIL-RIGHTS MOVEMENT

(William Raspberry)

WASHINGTON.—Ask a hundred black Americans about the state of race relations in the country, and maybe 90 of them will tell you things are getting worse. You will hear talk of growing resurgent racism: ignorant insensitivity, racial slights, open bigotry.

Can a nation that has moved so far beyond the question of voting rights that Mississippi has elected a black member of Congress and Virginia a black governor also be a place where racism grows worse each passing year?

Julius Lester, the 1960s radical who authored "Look Out, Whitey! Black Power's Gon' Get Your Mama," offers an intriguing explanation: Black Americans, having achieved the "possible" dream of securing civil rights, are now embarked on a "disastrously divisive and impossible" task of fighting racism.

"The first thing to understand about the civil-rights movement," says Lester, now a professor at the University of Massachusetts, "is that it won. It had set out in the mid-50s to change the system of segregation. With the passage of the 1964 Civil Rights Act, that was accomplished. In the early '60s, the movement set out to ensure that blacks had access to the voting booth. With the passage of the 1965 Voting Rights Act, that was accomplished."

But then something remarkable happened. The civil-rights movement shifted its focus to something called "human rights"—a quest not for constitutional guarantees but for changed attitudes. The new focus "said that the opinions, feelings and prejudices of private individuals was a legitimate target of political action," a reorientation that Lester finds not just inappropriate—"a new statement of totalitarianism"—but dangerous.

"The shift from fighting for civil rights to fighting against racism," Lester says, "was a shift from seeking common ground to a position that has been disastrously divisive. To fight against racism divides humanity into us against them. It leads to a self-definition as 'victim,' and anyone who defines himself as a victim has found a way to keep himself in a perpetual state of self-righteous self-pity and anger."

Lester's words will be hard for most blacks to swallow. Has this former revolutionary become so content with his lofty academic position that he cannot see the racism in America? Not quite. His point is not to deny the existence of racism but to point out the inherently divisive effect of focusing on it.

"Racism is an issue in the public domain to the extent that it violates my rights as a citizen," he said. "And the society is still in the midst of trying to determine how we ascertain when that has occurred. This is much of what lies at the center of the debates on affirmative action." But there is no "right not to be bothered by racism. It would be nice. But the fact remains, there is no right to be free from racism, anti-Semitism or sexism."

Yet it is the very attempt to force the eradication of "isms" that may account for the racial strife on college campuses and elsewhere. What to black students seems a reasonable demand—that their compuses be free of racist attitudes—may look to white students as demands for special accommodations. As San Jose State's Shelby Steele has observed, there is political power in proving that you are the victim of racism. Much of the political clout that black students on predominantly white campuses are able to wield comes from painting themselves as victims. But in order to sustain itself, that power requires that the victims go on celebrating their victimization, and it encourages other groups—women, ethnics, gays, even heterosexual white males—to establish themselves as victims.

Lester sees it as one of the critical differences between today's racial activism and that of the '50s and '60s. "The impression is given today that the civil-rights movement was a black movement. It was not. It was an integrated movement, and innumerable whites also risked their lives and sanity for the principle of freedom and justice for all. It is startling to remember that period and look at today when blacks and whites are more separated than ever and the only bridge the two have to each other is a mutual animosity."

The civil-rights movement was a search for community, and its appeal was to commonality. Today's movement is a search for proof of victimization, and its appeal is to

difference. And maybe that's why things seem so much worse than they used to be.—(c1990.)

MR. SARPALIUS REMARKS ABOUT DAVID SARPALIUS' BIRTHDAY

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SARPALIUS. Mr. Speaker, I would like this House to allow me an indulgence today, so that I can wish my son, David, a happy birthday.

David just turned 17. When I stop to think about that, it truly amazes me. But, fathers always are amazed that their children can, in the space of a few years, go from being totally dependent on them to being on the edge of adulthood. We're amazed because we don't want to accept it. But, we must. And, I will.

David, if you are listening to me now, there is something I want to say to you. This fall, you decided to come to Washington, live with me and go to school here. I know it was not an easy decision for you to make. You have a lot of good friends in Amarillo, and high school is a time to be with those friends. But, you came and it meant the world to me.

A Congressman's job is never easy. You work long hours, miles away from home, trying to do some good for your friends and neighbors. You work late into the night in committee or on the floor, you go home to an empty apartment and, because no one can make everyone happy, you inevitably come back to the office and hear from constituents about the mistakes you made the day before. You do it because you're committed to public service and because you want to try to make your country, your State, your district a better place to live. That's reward enough.

But, let me tell you, David, I had an added bonus for most of this last year. When I came home at night after one of those long sessions, you were there. The troubles of the world seem a lot easier when your son is there to share them with.

Thank you, David, for being there. Not just last year, but for the last 17 years.

I love you, David. Happy birthday.

TWO BRAVE FIREFIGHTERS DIE IN THE LINE OF DUTY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. MURTHA. Mr. Speaker, in a tragic accident last week two long-time volunteer members of the Cresson Volunteer Fire Department died while in route to assist the Ashville Volunteer Fire Department on an accident in Dean Township.

Killed were Mr. Robert L. Adams, Sir. and Mr. Thomas N. Bianconi. Mr. Adams joined the company in 1945 and was named chief in 1971, a position in which he served until 5 years ago. Mr. Bianconi held several positions in the fire company during 50 years of volunteer service.

The strength of America comes from the daily type of commitment these men made to their families, neighbors, and communities. The spirit and commitment of Americans is shown by the dedication of these brave men. America suffers each time a committed citizen like this dies.

While no loss is equal to the loss suffered by their families and loved ones, it is a loss we all feel as Americans, and that I feel as someone who has seen how important these volunteer fire companies and fireman are to communities throughout the area I represent.

I certainly want to extend my condolences to their families and emphasize to them how much all of us as proud Americans recognize the tremendous accomplishment made by these men, and that we as Americans all stand a little taller and a little prouder because of their commitment.

A TRIBUTE TO WILLARD BAIRD

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SCHUETTE. Mr. Speaker, I have the privilege today of commending a distinguished citizen of Michigan, Mr. Willard Baird, on the occasion of his induction into the Michigan Journalism Hall of Fame on May 12, 1990, at Michigan State University.

A 73-year-old retiree, Mr. Baird resides in the Missaukee lakefront home he shares with his wife, Wava. The Bairds have 4 children who have blessed them with 10 grandchildren.

Willard Baird began his career in journalism at the age of 15 when he began working as a journalist for a weekly newspaper near his home. While in college at what is now Eastern Michigan University, Bill worked at the Ypsilanti Daily Press from 1932 to 1934. Baird began teaching after college and in his third year started work part time at the Port Huron Times Herald, a daily newspaper. He was soon asked to work full time, and he worked for the Associated Press until World War II.

Two days before the Japanese attacked Pearl Harbor in 1941, Baird began his 5 years of service in the defense of his country. He currently serves as a lieutenant colonel in the Army Reserve.

After World War II, Baird began working for the Federated Press, a group of three daily newspapers. He opened a Lansing, MI, bureau for Federated newspapers in 1947 and remained until it was acquired by Gannett. Baird was Gannett's Lansing bureau chief for 3 years before his retirement in 1974.

Willard Baird's love of journalism provided him with a career of 37 years that allowed him to experience a wide range of personal triumphs and witness many changes in his profession. His position as bureau chief gave him the opportunity to cover a wide variety of State government and political news. Baird attended nine national political conventions and is proud to have met and spoken to Presidents Eisenhower, Truman, Kennedy, Nixon, and Ford.

During his career Baird received more than 20 awards and was recognized for his work on numerous occasions. On his last day of work in 1974, Gov. William Milliken made an exceptive proclamation recongnizing "Bill Baird Day." Willard Baird is surely deserving of distinguished recongnition.

Despite the formal recognition Willard Baird has received for his work, he considers his most important career contribution a work he created to honor Michigan: "This is Our Michigan," a series of approximately 90 stories about the State. Originally printed in the Federated in 1954 and later made into a book, Baird's intentions were that his effort would teach readers more about the State and also develop State pride.

Mr. Speaker, and my colleagues in the House, please join me in honoring Mr. Willard Baird for his many years of distinguished service to his community and country and in offering our congratulations and best wishes to Mr. Willard Baird on the occasion of his induction into the Michigan Journalism Hall of Fame.

THE U.S.-PLO DIALOG AND PLO COMPLIANCE WITH ITS 1988 COMMITMENTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. HAMILTON. Mr. Speaker, the Subcommittee on Europe and the Middle East of the Committee on Foreign Affairs held a hearing today on the March 19, 1990, report of the Department of State regarding compliance by the Palestine Liberation Organization [PLO] with its commitment in December 1988 to renounce terrorism. This report was submitted to the Congress pursuant to section 804 of Public Law 101-246.

I would like to bring to the attention of my colleagues the testimony of John H. Kelly, Assistant Secretary of State for Near Eastern and South Asian Affairs. His testimony is an important statement of United States policy. The issues discussed in this hearing will be followed by other hearings and in questions submitted for the record to be answered by the Department of State regarding PLO compliance with its past commitments. A second report submitted pursuant to section 804 is expected in July, 1990.

Assistant Secretary Kelly's statement follows:

TESTIMONY OF ASSISTANT SECRETARY JOHN H. KELLY

I am pleased to be here today to discuss the status of the U.S.-PLO dialog, including issues related to PLO compliance with commitments it undertook in December 1988. In this opening statement, I would like to explain what the U.S.-PLO dialog is: just what transpired in 1988 that led to the U.S. decision to open a substantive dialog with the PLO; what commitments the PLO undertook at that time; what expectations the U.S. had regarding the dialog and PLO performance; how the dialog has progressed; and what has been the PLO's performance of the commitments.

BACKGROUND TO THE DIALOG

U.S. policy toward the PLO over the years was shaped in large measure by an undertaking entered into by the U.S. at Israel's request in 1975. At that time, as part of the package of arrangements believed necessary to conclude a second disengagement agreement between Israel and Egypt, Israel asked that the U.S. not recognize or negotiate with the PLO until it had met two conditions, namely recognition of Israel's right to exist and acceptance of UN Security Council Resolutions 242 and 338. Subsequently, we added a third condition, namely renunciation by the PLO of terrorism.

During these years, successive American administrations maintained these conditions as policy, and the U.S. did not recognize or negotiate with the PLO. We also interpreted this policy more broadly than strictly required and refrained from engaging even in a dialog with the PLO. The only exception, as discussed with Congress at the time, related to discussions with PLO officials on the security of U.S. personnel.

Periodically, throughout these thirteen years, the State Department received messages from third parties signalling PLO interest in a dialog. Each time this occurred, our answer was the same: when the POL changed its policy and accepted the conditions, the U.S. would immediately respond.

In 1988, the U.S. received several such probes. Following the Palestine National Council meeting in Algiers in November 1988, the administration assessed that the PLO might be serious about changing its policy and accepting the conditions for dialogue. In discussing this possibility with a friendly government which was also in touch with the PLO, the administration repeated its longstanding conditions and repeated its readiness to open a dialogue immediately after the PLO accepted the conditions. There were no deals made and no agreements concluded between the U.S. and the friendly government or between the U.S. and the PLO.

On December 14, 1988, Yasir Arafat, speaking on behalf of the PLO Executive Committee, announced a change in PLO policy. Arafat accepted the conditions for dialogue, when he accepted:

". . . the right of all parties concerned in the Middle East conflict to exist in peace and security, and as I have mentioned, including the state of Palestine, Israel and other neighbors, according to the resolution 242 and 338. . . . We totally and absolutely renounce all forms of terrorism, including individual, group and state terrorism."

Following Arafat's statement, Secretary Shultz announced that the U.S. would open a substantive dialogue with the PLO. Secretary Shultz noted that this did not imply acceptance of an independent Palestinian state.

Two days later, the State Department issued (classified) guidance to our diplomatic posts, for our embassies to brief host governments on what had happened and why. Our objective was to encourage states friendly to the PLO to assist in preventing PLO backsliding on its commitments. In its guidance at the time, the Department also conveyed certain expectations regarding PLO behavior. These included an expectation that the PLO would condemn publicly any terrorist action anywhere, or—if terrorism were conducted by a PLO member—discipline those responsible for it, at least by expelling them from the organization.

In conveying these expectations, the administration noted that Arafat could not control all of the actions of all people who belong to organizations within the PLO. However, the administration did not want and has not wanted to give even a yellow light to anyone in the PLO to think that terrorism would be condoned or accepted by the United States. We wanted other countries to help convince the PLO to remain faithful to the commitments it had undertaken.

I want to stress the difference between the conditions the PLO had to meet for us to start the dialogue, and our expectations for PLO behavior once the dialogue was launched. Neither the previous administration nor this administration imposed new conditionality on the dialogue. Neither administration decided on some automatic trigger for ending the dialogue. Neither administration wanted to hand over to any individual or minority group within the PLO the sole capability of bringing about an end to the dialogue. Rather, we told the PLO that its behavior must improve and that it must try to ensure that the entire PLO act as one in adhering to the commitment to renounce terrorism and recognize Israel.

Mr. Chairman, the object of this brief review has been to make three points:

First, the basis for our agreeing to a substantive dialogue with the PLO was the PLO's changing its policy and accepting the three conditions.

Second, there were no deals or agreements reached directly or indirectly with the PLO at the time the dialogue began.

Third, there were no additional conditions imposed on the dialogue itself, but rather a set of expectations that we hoped to see emerge from the dialogue.

ASSESSMENT OF THE DIALOGUE

It was against this backdrop that the Bush administration established its policy objectives for the dialogue with the PLO. From the outset the administration made clear that we would conduct the dialogue on our basic terms, namely that we had no intention of diverting the peace process on to unproductive tracks—for example, by focusing now on an international conference—or having the dialogue become an end in itself or a means for the PLO to separate us from Israel. Rather, our intentions have been to ensure that the PLO remained committed to the undertakings of December 1988; to promote pragmatic and realistic thinking in the PLO with regard to the peace process; and to encourage the PLO and the Palestinian community at large to communicate clearly and unambiguously, in words and actions, their readiness for peace with Israel.

The dialogue has achieved its objectives thus far and benefitted important U.S. policy interests. Within six months of its initiation, the dialogue was focusing on the practical plan initiated in Israel for elections leading to negotiations. An international conference, preferred by the PLO, was no longer the focus of attention. Indeed, the agenda of the peace process and the substance of our dialogue with the PLO were shaped in Washington, not Tunis.

This had far-reaching and positive consequences for the peace process. As part of our efforts to bring about Israeli-Palestinian dialogue—an essential first step in realizing the Israeli peace initiative—we needed to overcome several serious procedural roadblocks, among them the issue of composing the Palestinian delegation. Our assessment was that putting together a credible delegation of Palestinians from the territories depended on getting the acquiesence of the PLO, which they see as their representatives. This assessment is shared by others in the region, including in Israel. The Jaffee Center at Tel Aviv University said that Israel would have "to address the recognized representatives of the Palestinians, that is either the PLO or West Bank and Gazan Palestinians who enjoy a mandate from the PLO." We also continued to believe, as we had stated previously in the autonomy negotiations (1979-1982), that there would need to be some representatives from East Jerusalem; and we believed that a delegation would also need to reflect the interests of those outside the occupied territories as a symbolic gesture to the Palestinian diaspora and the unity of the Palestinian people. In all these matters, we also made clear that nothing agreed to at this stage of the peace process would be viewed by us as a precedent for subsequent stages.

Mr. Chairman, because we understood Israeli sensitivities in this regard, and because we wanted no surprises in our relationship with Israel, we laid our cards on the table to the Israeli government before it adopted its initiative. In April 1989, a month before the Israeli government adopted its peace initiative, Secretary Baker wrote to Foreign Minister Arens and said, inter alia, that it would be necessary to come up with a creative way to include the participation of some Palestinians no longer living in the West Bank and Gaza, and Palestinians from East Jerusalem.

So, it is clear that, from the beginning the Israeli government heard or views on composition of the Palestinian delegation. These issues remained under constant discussion between the U.S. and Israel up to the moment the Israeli government fell. It was equally clear that the PLO and Palestinians heard our views as well, for we made clear to the PLO in our dialogue in Tunis that the PLO would not be represented at the pre-election dialogue.

Mr. Chairman, periodically over the past year I have appeared before this Committee and explained our careful attempts to bring about the Israeli-Palestinian dialogue. We came very close indeed, when the Israeli government fell, leading to what we all hope is a temporary hiatus on the road to the dialogue in Cairo. The point of this review, however, has been to make three points:

First, the U.S.-PLO dialogue has served our peace process objectives.

Second, there was nothing in the process of reaching the dialogue that should have been a surprise to our friends in Israel regarding composition of the Palestinian delegation. Let me reiterate clearly that our intention was not to bring the PLO into the Cairo dialogue through the back door.

Third, the U.S.-PLO dialogue helped us reach a point where the Israeli elections proposal was ready to be implemented. In other words, the U.S.-PLO dialogue has succeeded in bringing about PLO acquiesence to a process of dialogue between Israel and Palestinians from the territorires.

PLO'S PERFORMANCE OF ITS COMMITMENTS

The current question, then, is whether the PLO has measured up the the three commitments it undertook in December 1988, namely, to accept UN Security Council resolutions 242 and 338; to recognize Israel's right to exist; and to renounce terrorism. In the three reports submitted by the administration in response to the PLO Commitments Compliance Act, the administration indicated its position tha the PLO had complied with its commitments. At the same time, the administration indicated clearly

that there were serious deficiencies in two key areas: first, that some PLO individuals or groups said ambiguous or inconsistent things about terrorism and recognition of Israel; and second, that some groups undertook actions that Arafat should have condemned and disciplined. The fact that Arafat did not take action in either case is regrettable but it is not a sufficient reason to break off the dialogue.

Mr. Chairman, we recognize the complexity of dealing with these issues and the apparent inconsistencies between what Arafat says on behalf of the PLO as an organization, and what individuals or groups do that seem to violate the commitments. We have tried to call this the way to see it and to point out to the PLO in Tunis that it should exercise control over what its constituent factions do and say.

The administration scrutinizes carefully every allegation of involvement in terrorism by a PLO constituent group. We take up these questions directly with the PLO in Tunis. We seek an analyze all information provided to us by Israel or any other source. We listen carefully to what Israeli officials say, for example, the repeated statements by senior IDF officers to the effect that Fatah has not engaged in cross-border terrorism from Lebanon since 1988. We check our own intelligence carefully. We do not seek to cover up PLO behavior in the service of an over-riding policy objective. We maintain a high standard for assessing what has happened, a standard which often differs from that used by others.

The bottom line is this complex environment is that, while there have been questionable incidents noted in the report, we do not have conclusive evidence to indicate PLO violations of its commitments. And the Israeli government has not provided conclusive evidence to support its assertion that the PLO has continued to engage in terrorism against civilians. As a result of *these* factors, the administration has adopted the position of PLO compliance—a position which is constantly reviewed.

Mr. Chairman, I am not here today to delivery a brief on behalf of the PLO or to act as its apologist. Indeed, the PLO has much to do to bolster its stated peaceful intentions. In the final analysis, what matters most is not whether the PLO passes muster with the United States but how it is perceived by Israelis and Palestinians. I have come before this Committee to put into perspective a complex aspect of policy and analysis—namely, what the PLO committed to do; what the PLO has done; and what the U.S. has accomplished in its dialogue with the PLO. I hope this statement clarifies the record. I will be pleased to respond to the Committee's questions.

DENY MFN TO CHINA—LEGISLATION TO DISAPPROVE THE PRESIDENT'S DECISION TO EXTEND MFN FOR CHINA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. LANTOS. Mr. Speaker, today President Bush signed documents informing the Congress of his decision to extend Most Favored Nation status to exports from the People's Republic of China to the United States. His decision was unfortunate and wrong.

Mr. Speaker, with my distinguished colleague from Illinois, Congressman JOHN PORTER, who is the cochairman with me of the Congressional Human Rights Caucus, I introduced legislation which formally disapproves the President's extension of MFN status to China. Our legislation would prohibit the President from granting MFN to China for 1 year.

In view of the repeated, willful, and egregious violations of human rights by the octogenarian oligarchy in Beijing, granting MFN to China is contrary to our own democratic principles and will discourage democratic reform in China.

Our Government revoked MFN status for Poland in 1980 for infinitely less serious human rights violations what we have seen perpetrated in China this past year. The results of our principled policy toward Poland are obvious now as we see the dramatic democratic change that has taken place there recently.

By extending MFN to China, we are not supporting the Lech Walesas and Vaclav Havels of China. We are not supporting the freedom-loving people who share our democratic values. We are only legitimizing the bankrupt and repressive butchers of Beijing. At a time that freedom and democracy are in the ascendance in Eastern Europe, we are hitching our wagon to a falling star by granting MFN to China.

Mr. Speaker, I urge my colleagues to join me in cosponsoring and supporting this important legislation. The democratic forces in China must know of our strong and steadfast support for their struggle to bring freedom to their country.

Mr. Speaker, I ask that the text of our joint resolution of disapproval be placed in the CONGRESSIONAL RECORD.

H.J. RES. —

Whereas the People's Republic of China has been a beneficiary of most-favored-nation status since it was first granted in 1980;

Whereas the Government of the People's Republic of China brutally attacked and killed thousands of unarmed pro-democracy students in Tiananmen Square on June 3, 1989;

Whereas the Government of the People's Republic of China has steadfastly refused to acknowledge the Chinese military's direct involvement in the massacre;

Whereas the Government of the People's Republic of China has stepped up the persecution of the Roman Catholic Church, Tibetan Buddhist monks and nuns, and other religious groups;

Whereas the Government of the People's Republic of China has purged or persecuted Chinese academicians, journalists, police, and government officials who expressed any support for the democracy movement, and has placed new restrictions on international travel and study on any of its citizens suspected of supporting democratic ideals;

Whereas the Government of the People's Republic of China refuses to allow dissident scientist Fang Lizhi and his wife Li Shuxian free passage out of the country;

Whereas the Government of the People's Republic of China continues to repress and silence voices of democracy within China;

Whereas the Government of the People's Republic of China has introduced new measures intended to suppress freedom of thought and speech against the populace.

Whereas the Government of the People's Republic of China continues to intimidate Chinese students in the United States, and their families in the People's Republic of China for their pro-democracy activities;

Whereas such actions stand in defiant contrast to the values, principles, and policies of the United States;

Whereas the scale and volume of human rights violations by Chinese Government authorities against the people of Tibet has dramatically increased over the past two years, including imprisonment for political crimes, torture, suppression of religious freedom, and transfer of populations;

Whereas the Congress adopted, and the President signed into law on December 22, 1987, legislation stating that the Government of the People's Republic of China should respect internationally recognized human rights and end human rights violations against Tibetans, and should actively reciprocate the Dalai Lama's efforts to establish a constructive dialogue on the future of Tibet," and the Chinese Government has not agreed to negotiations with representatives of the Dalai Lama and no such negotiations have taken place;

Whereas most-favored-nation status has enabled the People's Republic of China to develop a growing trade surplus with the United States, amounting to 9.7 billion dollars between 1988 and 1990; and

Whereas renewal of most-favored-nation status would show United States support for a brutal, murderous regime, and ignore the actions taken by the Government of the People's Republic of China against Chinese students and others who believe in and fight for democracy; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on May 24, 1990, with respect to the People's Republic of China.

NEW JERSEY PRIDE HONOR ROLL: HELPING PEOPLE

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. GALLO. Mr. Speaker, we, in Congress, pass laws for others to administer. Since 1973, Celeste Kalina has served on the front lines of that process as the director of social services for Morris County, NJ.

Celeste has served in this challenging and rewarding position with grace and style, applying the often impersonal rules and regulations of the Federal Government to situations involving real human beings in need.

As the director of the Morris County Board of Chosen Freeholders in 1973, I participated in the selection process for what was then the director of the Welfare Department.

Hiring decisions are among the most difficult in public life, because there are many factors that go into a selection process. But uppermost in my mind is one important fact. Once the decision is made, this is the person

you must turn to for expert advice and this is the person who will have to make programs work for people.

Celeste brought to the job more than a decade of experience in service to people in need. Beginning with the county as a key staffer at the Morris View Nursing Home, Celeste also had experience as a caseworker within the department and understood the importance of these programs in the only way they can be truly understood—by seeing the faces of the people who would come into the office seeking help.

The Social Services Department in Morris County has a big job as local administrator for a wide range of State and Federal programs, including welfare, food stamps, Medicaid, and the Home Energy Assistance Program.

Celeste undertook these many challenges with an energy and a sense of mission. She has done an outstanding job. I am proud to say that I had a part in launching this phase of her career.

Now that Celeste has chosen to move into the next phase of her life and accept new challenges, I ask my colleagues in the House to recognize the contributions of this talented individual and to join with me in sincere best wishes to her for continued success in her future endeavors.

Mr. Speaker, without dedicated individuals like Celeste Kalina, the laws we pass are only pieces of paper, printed and bound in a book. She and her colleagues across the country breathe life into those laws and give them their true meaning.

During her career with Morris County, Celeste Kalina has never sought public recognition, but her many accomplishments deserve to be rewarded with our heartfelt thanks and appreciation on behalf of the thousands of individuals whose lives have been made better by her good works.

LIVING TREASURES

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. McEWEN. Mr. Speaker, in commemoration of the sesquicentennial of the signing of the Treaty of Waitangi, the people of New Zealand have requested that rather than extending material gifts, countries share "Living Treasures" as an expression of honor and appreciation. I am honored to rise today to recognize a group of young Americans who will visit New Zealand as the "living treasure" of our youth. As a representation of this treasure, young men and women from many of our States will visit New Zealand on June 7–18, 1990 to meet with the Parliament and the people of that great nation.

Just as Americans attach great significance to the Fourth of July and its meaning, New Zealanders accord the Treaty of Waitangi special significance. In 1840 a pact was signed with good and true intent, and that was the beginning of the nation called New Zealand. Over the past 150 years, New Zealanders, have forged a great nation based upon the principles of freedom and democracy.

Mr. Speaker, I urge my colleagues to join these "Living Treasures" of American youth by extending congratulations and best wishes to the people of New Zealand. The young Americans that are scheduled to visit New Zealand include:

Sean Allison (Pennsylvania).
Brian Anderson (Minnesota).
Christine Anderson (Minnesota).
Christy Armstrong (Washington).
Melissa Austin (Iowa).
Sam Baer (Kentucky).
Wendy Ballman (Illinois).
Kristine Banker (Georgia).
Andrew Beverly (Maryland).
Cynthia Boykin (Texas).
Dawn Brown (Texas).
Denise Brown (Texas).
Dixie Brown (Texas).
Pam Brown (Texas).
Jodie Buchholz (Wisconsin).
Heather Burton (Georgia).
Nathan Caproni (Washington).
Jonathan Cave (Texas).
Lisa Cave (Texas).
Sherry Coleman (Illinois).
Courtnay Collins (Georgia).
Tracey Collins (Ohio).
Scott Cornett (Ohio).
Jeff Cummings (Washington).
Matthew Daggett (Texas).
Kevin Dennis (Texas).
Terri Ellison (Texas).
Loren Elms (Michigan).
Jim Ferguson (Oregon).
Steve Ferguson (Oregon).
Aaron Fessler (Ohio).
Angel Fessler (Ohio).
Ashley Fitzgerald (Georgia).
Becky Fuhrman (Illinois).
Caryn Fuhrman (Illinois).
Eric Fuhrman (Illinois).
Stephanie Flynn (Illinois).
Naomi Getz (Vermont).
Sheri Hallett (Wisconsin).
Laila Hansen (Illinois).
Stephanie Harwick (Ohio).
David Hill (Oklahoma).
Karyn Hill (Oklahoma).
Tammy Hoaglund (Illinois).
Clifford Holifield (Mississippi).
Andrew Howell (Kansas).
Joel Howell (Kansas).
Prem Jacob (Illinois).
Danielle Jensen (Illinois).
Jamie Johnson (Missouri).
Jery Johnson (Texas).
Tim Johnson (Missouri).
Jeff Jones (Texas).
Stacy Kirk (Florida).
Michelle Krabill (Oregon).
David Lambert (Illinois).
Jennifer Lamp (Kansas).
Wendy Lamp (Kansas).
Nick Lancette (Montana).
Ken LeFebvre (Ohio).
Michael LaFebvre (Ohio).
Karen Leddy (Maryland).
Susan Leddy (Maryland).
Andy Lyon (Pennsylvania).
D'Ann Martin (Texas).
David Martin (Texas).
Joanna Mattix (Idaho).
Joel Mattix (Idaho).
Chad Max (Minnesota).
Leah McCann (Texas).
Melisa McKim (Texas).
Michael McMillan (Mississippi).
Nancy McMillan (Mississippi).
Mathew Mears (Missouri).
James Moon (Maryland).
Laura Morgan (Delaware).
Micah Norris (Illinois).
Nathan O'Bryon (Wisconsin).
Pat Oja (Michigan).
Robin Oja (Michigan).
Roxanne Olsen (Louisiana).
Erica Panipinto (New York).
Marc Perry (Washington).
Melissa Perry (Washington).
Christiane Quick (North Carolina).
Joel Robbins (California).
Rob Robbins (California).
Troy Robinson (Mississippi).
Scot Rumley (Michigan).
Cindy Sammons (Texas).
Scott Sammons (Texas).
Tim Schmid (Florida).
Kent Schmidt (Illinios).
Shirley Schmidt (Illinois).
Chris Smith (North Carolina).
Bill Starks (Florida).
Brian Stone (Texas).
Christie Stubblefield (Missouri).
Jeff Tilford (Indiana).
Alice Tillman (Minnesota).
Drew Tillman (Minnesota).
John Tillman (Minnesota).
Rodneyt Tolleson (Texas).
Misty Treadwell (California).
Jeff Ullrey (Colorado).
Eric Vogen (Illinois).
Kathy Voyer (California)
Kristi Walker (Texas).
Winston Walls (Texas).
Leah Watson (Texas).
Rachel Watson (Texas).
Stephen Watson (Texas).
Richard Welch (Alabama).
Robert Welch (Alabama).
Deleese Weldon (Texas).
Julie Wilhite (California).
Lori Wilkerson (Missouri).
Jeff Williams (Texas).
David Winfrey (Georgia).
Crystal Winge (Florida).
Dawn Winge (Florida).
Page Winge (Florida).
Lisa Youngberg (Kansas).
Susan Youngberg (Kansas).
Rebecca Zorbas (Virginia).
Sara Zorbas (Virginia).

I would like to express my best wishes for an enjoyable and informative visit on June 7–18, as they take part in the historic celebration of the sesquicentennial of the Treaty of Waitangi.

THREE SUCCESSFUL YEARS FOR GARRY SUMMERFORD'S SUN TIMES

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SUNDQUIST. Mr. Speaker, 3 years ago, a constituent of mine, Garry Summerford, came up with the idea of publishing a new weekly newspaper in fast-growing Shelby County. The paper was to make imaginative use of color and graphics, and combine aggressive local reporting with nationally syndicated columnists and features.

The Shelby Sun Times made its debut on May 28, 1987. Since then, Garry Summerford's leadership and the talents of editor Allan Hestor and his staff, have won wide acceptance for the paper. Its circulation has expanded to almost 20,000. The paper is

housed in comfortable new offices. The Sun Times is an editorial and commercial success.

I mention this by way of noting that the Sun Times will publish volume 4, issue 1, next Friday, June 1, which happens to be Garry Summerford's birthday.

I would like to wish Garry a happy birthday and to thank and congratulate him for his splendid work with the Sun Times.

A CONGRESSIONAL SALUTE TO STEVEN SMITH

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to Steven Smith, a good friend of San Pedro business and education. On Thursday, May 24, 1990, Steven Smith will be ending his 2-year tenure as president of the San Pedro Coordinating Council. This occasion gives me the opportunity to express my deepest appreciation for his years of service to both the San Pedro Coordinating Council and the community.

Steven's contributions to the San Pedro educational system go back to 1966. As a teacher and supervisor with the Los Angeles Unified School District, he has assisted in providing hundreds, if not thousands of area students with an education. It is Steven's philosophical belief that: "A child's education needs to encompass the vitality of the home and community if the child is to be a successful citizen in our society." Even with his many educational commitments, he has still found time to be active in the San Pedro business community.

Throughout the past 4 years he has been a member of the San Pedro Chamber of Commerce Business and Education Committee assisting in promoting area business. From 1987-88 Steven served as the vice president of the San Pedro Coordinating Council. Over the past 2 years, from 1988-90, he has served as the council president. As president for the last 2 years, he kept the interest and issues of the local residents at the forefront. The meeting of the council during his presidency involved many local leaders and legislators discussing such critical issues as the homeless, growth versus no growth, earthquake preparedness, gangs and juvenile needs, and port growth and safety. I commend Steven for his leadership on bringing these issues to the forefront.

My wife, Lee, joins me in extending our thanks for Steven Smith's contributions to the community. The San Pedro Coordinating Council is losing an extremely competent leader. He is truly a remarkable individual who has devoted his talents and energies to enriching the lives of so many other people. We wish Steven, his wife of 24 years Judy Elan, and his children Adrian, Sommer, and Alexis all the best in the years to come.

A TRIBUTE TO PATRICIA HOULIHAN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor an outstanding member of my district who has been actively involved in improving the quality of education for children in Rhode Island.

Patricia Houlihan, of Providence, RI, is one of three recipients of the 1990 Edward J. McElroy, Jr. Rhode Island AFL-CIO Award for Community Service. This award was created in memory of Edward J. McElroy's longstanding concern for the community and his willingness to expend his time and effort to make Rhode Island a better place to work and live.

Patricia has certainly lived up to this standard during her career. She has been a member of the Providence Teacher's Union for 30 years. Patricia is involved with many educational committees and organizations that all seek to improve the quality of education for our youth. Since 1965, she has served on the executive board of the Rhode Island Federation of Teachers and was president of this organization from 1969 to 1971. She is also a member of the executive board for the Rhode Island Association for Counseling and Development.

Among Patricia's other current civic and community organizations are the Rhode Island Department of Education's Kindergarten Task Force and the Pathways to Independence Advisory Board. She presently serves as the recording and corresponding secretary for the Providence Central Federated Council of the AFL-CIO.

Patricia has also participated in many other community organizations in the education and child welfare fields during her career. Among these positions are memberships on the Governor's Commission for the International Year of the Child—1979, the Advisory Committee to the Rhode Island Department of Children and Their Families—1981-85, and the Advisory Commission to the Governor on Child Welfare Policies—1979-81.

It is with great pleasure that I congratulate Patricia Houlihan for her years of dedicated teaching and community service. She truly possesses a deep love for her work that transcends the classroom. I wish her all the best and continued success in the future.

TRIBUTE TO TRISHA STANIONIS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to an outstanding community leader from my congressional district. This afternoon, the Sacramento Assocation of Realtors is recognizing Trisha Stanionis as their 1989 "Sacramento Citizen of the Year."

Criteria for selection includes community service during the award year; personal achievement outside the realm of a paid position; and continuous service to the community over a period of consecutive years. Ms. Stanionis is a concerned Sacramentan who devotes numerous hours serving the cause of making our community a better one in which to live. A review of Trisha's long résumé of community service reveals that the criteria for the award she is receiving today was tailormade for her.

She has been a member of the Private Industry Council of Sacramento for 5 years, and now serves as their chairperson. In this capacity she oversees a 25 member board of directors that is responsible for administering $9 million of Federal job training funds. Under her leadership, the Private Industry Council has trained and placed several thousand previously unemployed country residents. In addition, Trisha volunteers her time, energy and considerable talents as a board member of the Sacramento Convention and Vistors Bureau, as chair of the Business Advisory Committee for Women Escaping a Violent Environment [WEAVE], as a board member of the Sacramento Metropolitan Chamber of Commerce, as well as vice chair of the Sacramento Water Festival.

Trisha has also found success in her employment as a former general manager of the Capitol Plaza Holiday Inn, and now as district manager of American Recreation Centers. Trisha, and others like her, are among the most valuable assets a community can have. I feel fortunate to have such leaders in my congressional district who possess the admirable qualities of a strong business sense mixed with an unwaivering commitment to their community. Smart business people recognize that a vibrant community makes good business sense.

My follow colleagues, please join me in congratulating Trisha Stanionis as 1989 "Sacramento Citizen of the Year."

HARMONY BOROUGH'S 150TH ANNIVERSARY TRIBUTE

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. KOLTER. Mr. Speaker, I rise before the Congress today to participate in the joyous celebration of Harmony Borough on the occasion of its 150th anniversary.

Harmony Borough has a fascinating history. Located in Butler County, in my Fourth Congressional District, the area was visited by Maj. George Washington in 1753, and had been the site of the convergence of two major Indian trails.

But more importantly, Johann George Rapp, leader of Christian separatists from the German Dutchy of Wurttemberg, purchased 4,600 acres from Detmar Basse—the founder of Zelienople—in 1804. The first immigrants arrived later that year from Wurttemberg and began building the town of Harmonie.

In 1805, Rapp and his followers founded the communal Harmony Society. By 1810, the Harmonists had cultivated 2,000 acres and erected 130 buildings.

The Harmonists moved to Indiana in 1814, selling Harmonie to Mennonite Abraham Ziegler.

Ziegler and the Mennonites farmed the area, while other settlers arrived to help with the Harmonist factories. Growing steadily, the town was incorporated as a borough June 12, 1840.

Thriving until early in the 20th century as the industrial revolution strengthened, the appreciation of the town's unique history remained strong, and the heart of Harmony was designated a National Historic Landmark District in 1975. It is one of only four such districts in the State.

Mr. Speaker, I rise today before the full U.S. House of Represenatives to honor Harmony and all of its leaders and officials for their great foresight and interest in historic preservation and economic development. These tireless efforts have moved Harmony forward with a renewed sense of community pride. The 150th anniversary celebration of incorporation focuses new attention on historic Harmony and its strong sense of community, and that is also why I honor Harmony today.

SALUTE TO HENRIETTA HAHN

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. McEWEN. Mr. Speaker, today I rise with pride and admiration to direct the attention of our colleagues and the Nation to the accomplishments of a lady who has made a great contribution to her community. At the end of the current school year, Piqua, Ohio's Henrietta Hahn will retire from teaching, concluding a distinguished career in education and community service. I can think of few individuals who have achieved as much in life.

For 38 years, Henrietta has worked tirelessly to help the Miami County Schools turn boys and girls into fine young men and women. She was the first teacher ever hired to work at the Riverside School for Retarded Youngsters, and also spent several productive years teaching second graders at Wilder School in Piqua.

From 1956 until 1961, Henrietta took time off from her full-time teaching job to devote herself to an equally demanding and rewarding endeavor—giving birth to four wonderful children of her own: Chris, Edna, Nancy and Susan. I should point out that she continued as a substitute teacher while raising that household full of children.

With her own family well-established, Henrietta returned to teaching on a regular basis in 1962. For 3 years, she taught kindergarten at Bennett School before moving on to South Street School, where she continued to teach kindergarten. And there she has remained, as a dependable, guiding influence for several generations of Miami Countians.

It is worth noting that in 1972, Henrietta was named the teacher of the year in the Piqua school system, in recognition of her extraordinary devotion to the field of education. She has served on the Advisory Council for Child Development at the Joint Vocational School, has been active in Head Start, and worked to establish school safety programs.

The dedication and love which Henrietta has given so freely to the children of Miami County have reached well beyond the county by now. She has opened her home to eight international exchange students, and is presently working with Japanese students, teaching them important learning skills as she has taught so many students before them. She has been a foster parent and the superintendent for a local Sunday school. She is active in Greene Street United Methodist Church, and in the American Association of University Women.

Mr. Speaker, some 40 years ago, Henrietta Hahn received a 4-year scholarship to enroll in the Ohio State University College of Education. I would say the people of Ohio have gotten a remarkable return on that wise investment. On June 8, Henrietta's family and friends will gather for a recognition dinner, to recall her many achievements and to anticipate a bright, full, healthy future. I feel we should take a moment to echo the good wishes of the people of Miami County and wish Henrietta Hahn good luck and congratulations.

HOBART ROWEN ON REASONS TO DENY MFN TO CHINA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. LANTOS. Mr. Speaker, as we all saw, live on television from Tiananmen Square, the tanks of the People's Liberation Army sprang to life last year and crushed the Chinese people yearning for democracy and for liberation from the oppression of their Communist rulers. The Chinese gerontocracy chose to employ the techniques of Stalin and Mao, despite the fact that we are living in the era of Gorbachev and Walesa and Havel.

All of us, Republicans and Democrats, young and old, liberal and conservative, responded with outrage. We declared our solidarity with the martyrs of Tiananmen Square and pledged to ensure that their sacrifice was not in vain. We have the opportunity to follow through on that pledge, and now our most effective means of expressing our national outrage is economic.

Today President Bush issued a Presidential decision to extend Most Favored Nation [MFN] status to Chinese exports to the United States. That decision, Mr. Speaker, was an unfortunate decision. It was a decision that will send all the wrong signals to those in China who are supporting democracy and freedom. It will legitimize a bankrupt regime.

Mr. Speaker, as the Washington Post's economic columnist, Hobart Rowen, eloquently stated today in the Post, President Bush put the "Almighty Dollar ahead of principle." I ask that Mr. Rowen's article be placed in the CONGRESSIONAL RECORD and I encourage my colleagues in the House of Representatives to read his excellent article.

DOLLARS BEFORE PRINCIPLE

(By Hobart Rowen)

President Bush is making a serious blunder by renewing most-favored-nation trade status for China for another year, in the hope that rhetorical flourishes that beg for human-rights progress will get the ear of the senile group of leaders under Deng Xiaoping.

Bush should have withheld the privilege of the lowest tariff schedules for Chinese goods until he had a commitment that China will release the hundreds of prisoners it took after the bloody army crackdown against dissidents in Tiananmen Square last June.

Unhappily, Bush listened to the advice of cynics who argued that whether or not he continued MFN status, there would be little change in Deng's repressive regime: either way, they convinced him, the hard-liners would remain in charge.

"This regime is clearly not motivated by economic argument," says Roger W. Sullivan, president of the United States-China Business Council, a private group aiming at expanding trade between the two nations.

Sullivan and other "pragmatists" contended that American policy on MFN status for China should thus be guided by the longer-term outlook: Deng and his octogenarian group can't last forever. So allow MFN status to continue, minimizing the economic damage to the most progressive parts of China, the provinces of the South that produce most of the goods exported to the United States.

The logic is flawed, but Bush bought it. As Zhoa Haiqing, a Harvard student who heads the Chinese Student Affairs Committee, said on the MacNeil-Lehrer News Hour last week: "If we renew MFN now, it will only strengthen the hard-liners in Beijing, and not the reformers."

As Zhoa suggests, the message likely to be read in Beijing from Bush's decision is that the hard-liners shrewdly and correctly anticipated that the leading capitalist nation would put its Almighty Dollar ahead of principle. So what chance do reformers in the Chinese political system have against younger hard-liners in the competition to replace Deng?

Deng and his power bloc already have had a full year since Tiananmen not only to move toward a system of more open political rights but to restore some of the economic reforms that had encouraged American investment in a "new" China four and five years ago, but since have been abandoned.

But the Chinese leadership has deliberately avoided these choices. Political rights don't exist, and reliable reports indicate that hundreds of activists remain benind bars and that many have been tortured. Market-oriented economic reforms have retrogressed.

Sullivan and the National Council seem to be saying that extension of the MFN will help keep the Chinese economy afloat, indirectly sustaining the export provinces that might ultimately provide political leadership more to our liking.

In 1989, China sold the United States $12 billion worth of textiles, shoes, toys, simple appliances such as tape recorders and other manufactured goods. They imported about half of that dollar volume—wheat, commercial aircraft, fertilizers and mining equipment. So China enjoyed an important $6 billion surplus that promises to grow as its manufacturing base gains more sophistication.

American business interests feared that if China were deprived of MFN renewal, Deng would retaliate against American exporters, and put at risk about $4 billion in American investments in Chinese plants.

This was an understandable but narrowly focused concern. Naturally, American businessmen were not anxious to upset the applecart. With a population of more than 1 billion, China is a huge potential market. And the regime was already angered by earlier American sanctions, imposed after Tiananmen, that have brought the Chinese economy to a standstill in the past six months.

Suspension of military sales, a freeze on the liberalization of high-tech exports and suspension of World Bank loans have hit the economy hard. Martin Weil of the Business Council says, "They've already paid a big price for June 4." The Chinese government's own estimate (probably low) is that new foreign investment has dropped 25 percent. But nothing, all agree, would have been as effective as withdrawing MFN privileges.

Instead of meaningless rhetoric about human rights, which will fall on deaf ears in Beijing, Bush should have taken tough and decisive action. He could have said, in effect: Mr. Deng, you've got 90 days to declare an amnesty for political prisoners or lose MFN privileges. That's a message that would have been understood in China and all over the world.

There is a bigger issue at stake than mere dollars and cents. The United States should not be assisting a government that condones beatings and torture of dissidents. Either we believe in human rights or we don't.

CLEARING THE AIR ON CLEAN AIR

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. GALLO. Mr. Speaker, today is a very significant day in the House for those of us who have been fighting for passage of significant and workable clean air legislation for more than 4 years.

This landmark legislation is the direct result of the environmental leadership of President George Bush and the willingness of the Congress to work in a bipartisan fashion to develop a law that will allow us all to breathe easier in the future.

As a cosponsor of acid rain prevention legislation in the 99th and 100th Congress and an original cosponsor of both H.R. 2323, the Clean Air Restoration Act, and H.R. 3030, the Clean Air Act amendment measure that is the subject of our current debate, I believe that passage of clean air legislation is a major victory for all who care about the protection of our environment.

As with all laws that require a consensus of opinion as to the future impact of current actions, this law contains provisions that are based on our best judgment, given what we know today about our environment and its protection.

This bill sets forth a number of goals and seeks to meet those goals with meaningful action.

We must reduce sulfur emissions from coal burning. We must reduce auto emissions. And, we must reduce and eventually eliminate the release of gases that threaten the protective atmosphere that makes this planet habitable.

Specifically, this bill requires:

Tough new limits on tailpipe emissions of cars and light trucks and a second round of controls if urban smog does not significantly improve.

A requirement for new pollution control devices on major source of toxic and carcinogenic air pollutants.

New timetables and pollution control requirements aimed at bringing the most smoggy cities into compliance with health standards within 10 years.

Costly but effective new acid rain controls that would require pollution scrubbers or a switch to low-sulfur coal or other alternative fuels.

Reduction of acid rain by the year 2000 of 10 million tons of sulfur dioxide emissions annually.

Creation of a northeast transport commission.

Establishment of a list of 191 hazardous pollutants and prescription of new emission controls for these sources. Under current law only seven such pollutants have been regulated since 1970.

There are aspects of this bill that are technology driven. They assume that new technology will be discovered in the future that will allow us to meet the deadlines contained in this law.

Under this philosophy, we as lawmakers are saying to the American people, if we pass a law that requires new technology, then new technology will be developed.

In this bill, we are, in several instances, mandating future technology. But, as with the Clean Air Act of 1970, we are applying our best current judgment, knowing full well that the next scientific study or the next technological breakthrough may change the assumptions contained in this bill.

It is an imperfect process, but one that is preferable to the status quo. We know that we must find ways to meet our goals, and with this bill, we have worked together to forge a bipartisan consensus that is, for the most part, realistic and workable.

Mr. Speaker, with this legislation, we have set aside partisan environmental politics in favor of bipartisan environmental policy.

We have a solid record in this body of bipartisan cooperation on the protection of our environment, going back to reauthorization of the Superfund in the 99th Congress and continuing with passage of the Clean Water Act and tough antiocean dumping laws in the 100th Congress.

I am proud of my contributions to those laws and am proud to support this significant commitment to clean air.

A TRIBUTE TO LOUIS SPETRINI

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate a member of my community for his exemplary community service.

Mr. Louis Spetrini is one of three recipients of the 1990 Edward J. McElroy, Jr., Rhode Island AFL–CIO Award for Community Service. This award was created in memory of Edward J. McElroy's longstanding concern for the community and his willingness to expend his time and effort to make Rhode Island a better place to work and live.

Louis has certainly lived up to this standard during his lifetime. Louis is currently the president of United Food and Commercial Workers Local 328. He has held this office since 1985 after serving as its vice president for 2 years. Louis serves on the United Food and Commercial Workers International Union advisory board and as banking vice president of the New England Council of his union. Louis is a member of the Rhode Island AFL–CIO executive board and the Rhode Island AFL–CIO executive and legislative committees. In addition, Louis is an executive board member of the Providence Central Labor Council and was also appeals chairman for the Meeting Street School Easter Seal Drive for 5 years.

It is with great pleasure that I congratulate Louis Spetrini for his years of dedicated community service. He has truly demonstrated a deep concern for his community and the willingness to donate countless hours to help others in his community.

A TRIBUTE TO WALTER L. DEAN

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SCHUETTE. Mr. Speaker, I have the privilege today of commending a distinguished citizen of Michigan, Mr. Walter L. Dean, who is retiring from the Shepherd Tri-Township Fire Department after 50 years of dedicated service. There will be a retirement party in his honor on June 2, 1990.

Walt joined the Shepherd Tri-Township Fire Department in June 1940 and has been responding to emergency calls ever since. In January 1963 he was named chief of the department. Under Walt's direction the department grew from 1 station with 5 trucks and 15 men to 2 stations, 10 trucks, and 35 men. Walt was named senior fire adviser to the Shepherd Tri-Township Fire Department in 1983.

During his 50 years with the fire service Walt has been recognized with well-deserved awards for his commitment. Walt was named Firefighter of the Year in 1981; in 1983, the Shepherd Tri-Township Fire Department named their annual award after him; and in 1985, Walt was named Firefighter of the Year

in the State of Michigan by his peers at their annual State Firefighter Convention.

Walt Dean's dedication to the fire department only gives a hint as to his involvement in the community. He served as a member of the Shepherd Village Council for almost 10 years and as Village president for 2 of those years. Walt has also been involved in the Shepherd Maple Syrup Festival for many years, and served as its chairman for 5 of those years. Walt is active in the Michigan United Conservation Club [MUCC] where he serves on the board of directors. He has held many positions for the group in the areas of parks, wildlife, hunter safety, public access, conservation education, roadside beauty, and antilitter. Governor Milliken presented Walt with an award for his dedication and work on the referendum to ban throwaway bottles.

Walt and his wife of 50 years, Edna, received the Harold Hackett Award for volunteer contributions by MUCC members in the State of Michigan. Walt has been active on the Isabella County Parks and Recreation Commission for almost 20 years serving as chairperson and vice chairperson for the commission, as well as in many other ways. He was instrumental in obtaining park lands and has contributed to the development of almost all the parks in Isabella County.

Mr. Speaker, I hope my colleagues will join me today in wishing Mr. Walter L. Dean the very best on the occasion of his retirement. Walt Dean's dedication to the fire service is truly an example for firefighters in the State of Michigan, and those across this great country to admire and salute. Walt's service and commitment to his community is deserving of distinguished recognition and commendation.

FORDHAM UNIVERSITY TRIBUTE TO LOUIS LEFKOWITZ

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. GREEN. Mr. Speaker, I rise today to recognize an event which I feel merits the attention of my colleagues. On Tuesday, June 5, 1990, the Fordham University School of Law will unveil a special portrait of former New York State Attorney General Louis Lefkowitz in its James B.M. McNally Amphitheater. Since his graduation in 1925 and throughout his long and distinguished career, Attorney General Lefkowitz has maintained an ongoing relationship with Fordham Law.

At this time, I should like to congratulate my dear friend Louie Lefkowitz for being honored by his alma mater in this manner. The unveiling of his portrait will surely be a touching occasion, and the portrait itself will serve as a reminder of Mr. Lefkowitz' outstanding accomplishments in his field.

TRIBUTE TO DELICIA WAGNER

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to an outstanding individual in my community who truly deserves to be recognized for her dedication and service to the public. Tomorrow, May 25, 1990, Delicia Wagner retires after 30 years of dedicated service with the Federal Government and it is indeed a honor to share with you and my colleagues the inspiring career of this devoted public servant.

Ms. Wagner has spent the entire span of her career serving the U.S. Government. Delicia's career with the Federal Government began on April 4, 1960 when she started work with the Veterans Administration. She moved to the Social Security Administration in December 1964 for a short stint as a claims development clerk in Huntington Park before transferring to the SSA office in Watts as a service representative in October 1965. She moved to the SSA office in Sacramento in July 1968 but then later that year returned to the Watts office. She was reassigned permanently to the Sacramento office in September 1970 and was promoted to a claims representative position in April 1974. In November 1976 she was again reassigned to the operations supervisor position in the SSA Stockton office and finally became Assistant District Manager of the SSA South Sacramento District Office in May 1981. Delicia's talents and ability to adapt to the changing environments of the SSA throughout the years contributed to the success and work performance of the entire district office. I salute her accomplishments and contributions to Federal service.

Coupled with Delicia's devotion to public service is her dedication to her family and church. She has three children, Rhonda, Nolan, and Jay. She is a faithful member of the Shiloh Baptist Church and has been a member of the church's board of trustees for the past several years.

Mr. Speaker, Delicia Wagner has served as an exemplary public servant and I commend her for her outstanding contributions to the Federal Government and to the citizens of Sacramento. I ask that my colleagues join me in saluting this stellar public servant and extend our best wishes to Delicia in her future endeavors.

SHOULD JUDGES BE ABLE TO SET TAX RATES?

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. GINGRICH. Mr. Speaker, James Kilpatrick's editorial about judges having the power to adjust local tax rates recently appeared in the Atlanta Journal and Constitution. I feel we should protect American taxpayers by supporting legislation to overturn this decision.

[From the Atlanta Journal and Constitution, May 11, 1990]

IT'S TIME TO CLIP THE WINGS OF HIGH-FLYING U.S. JUDGES

(By James J. Kilpatrick)

WASHINGTON.—Back when chickens were raised on farms and not in factories, a farmer knew how to deal with chickens that flew too high. He clipped their wings. It's a great idea for federal judges also. The power of a federal judge to impose his will upon a city was at issue in the Yonkers decision of Jan. 10. Here the Supreme Court held that by using his power to punish for contempt of court, a judge could force a city into bankruptcy.

On April 18 the Supreme Court took another long step down this dangerous road. It upheld the power of a district judge to compel a doubling of the real-estate tax rate in Kansas City.

These chickens are flying too high. Sen. Gordon Humphrey (R-N.H.) supported by 22 colleagues, has introduced a bill to clip their wings. It is an extraordinary measure, but it is the only feasible way to remedy an extraordinary situation.

It has been said many times, but it should be said again: In politics, the name of the game is power. This is what the Constitution is about. It is a granting and withholding of power. It is the doctrine of checks and balances.

Thus a president may check Congress through his veto; and Congress may check a president by overriding a veto. The Supreme Court may check both of the other branches by finding their acts in violation of the Constitution. But this arrangement suffers from a flaw: There is no such straightforward check on the judges. A federal judge serves for life. The threat to impeach is the merest scarecrow. To overturn a decision by constitutional amendment is all but impossible.

There is one saving clause in the Constitution. It seldom has been invoked. Humphrey means to invoke it now. The jurisdiction of federal courts is subject to "such exceptions and under such regulations as the Congress by law have directed." Humphrey's bill would deny judges the power to issue any remedy or judicial decree requiring the federal government, or any state or local government, to impose any new tax or to increase any existing tax.

The high court acknowledged this jurisdictional power in 1812, in a case known as *U.S.* v. *Hudson and Goodwin.* Justice William Johnson held that only the Supreme Court derives jurisdiction from the Constitution.

This doctrine was reaffirmed in 1816, in the case of *Martin* v. *Hunter's Lessee.* Justice Joseph Story ruled that Congress may "qualify jurisdiction in such manner as public policy may dicate."

In 1932 Congress passed the Norris-LaGuardia Act. A key provision stemmed from the exceptions and regulations clause. The act said no federal court could issue an injunction in a labor dispute without holding certain hearings. When a dispute arose in Milwaukee between the butchers' union and a chain of meat markets, a federal judge granted an injunction against the union without going through the required procedures. The injunction was held invalid in *Lauf* v. *Skinner.* "There can be no question of the power of Congress to define and limit the jurisdiction of the inferior courts of the United States."

During World War II, Congress created an emergency court of appeals and decreed that "no other court shall have jurisdiction or power to consider the validity of any price control regulation." In 1943 the high court held in *Lockerty* v. *Phillips* that the act was within the congressional power. Congress may withhold jurisdiction from lower federal courts "in the exact degrees and character which to Congress may seem proper for the public good."

Very well. The power to enact the Humphrey bill is clear. Congress may indeed clip the wings of federal judges who usurp the legislative power. Should this power be invoked? Yes! I would fence in these high-flying fellows in their flapping robes. The power to fix a local tax rate is a power beyond their reach.—(c1990.)

RHODE ISLAND CELEBRATES BICENTENNIAL

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. MACHTLEY. Mr. Speaker, it is my special privilege to rise today on behalf of all Rhode Islanders to celebrate Rhode Island's Bicentennial as a member of the United States.

On May 29, 1790, Rhode Island became the last of the Thirteen Original States to ratify the Constitution, thereby becoming a State. During Rhode Island's 200 years as a member of this Nation, its people have contributed greatly toward the goals set out by our Founding Fathers. Rhode Island is home to many historical sites and events, each of which holds a special place in American history.

Rhode Island was founded in 1636 by Roger Williams as a home for people seeking religious freedom. It was in Rhode Island that America first entered the industrial revolution. Rhode Island is the location of the Slater Mill historic site in Pawtucket. Slater Mill is where Samuel Slater began mechanized cotton spinning in 1790, a historic beginning to the American textile industry. The textile industry spread from Slater Mill to other historic towns in Rhode Island such as Woonsocket and Central Falls and then across the country, playing a major role in the development of the American economy and social system. Rhode Island is also known as the "jewelry capital of the world" and contains some of the finest facilities in the world for jewelry production.

Rhode Island is home to many great colleges and universities as well as beautiful Narragansett Bay, home to thriving lobster and fishing businesses. Rhode Island possesses over 400 miles of scenic coastline and beaches and its waters attract thousands of tourists and visitors very year. Rhode Island is known as "America's First Resort" and has been the home of the America's Cup yacht races and the great summer homes for America's famous industrialists like the Vanderbilts and the Carnegies.

From its rebellious beginnings in 1636 as the first haven of religious freedom in the New World, Rhode Island continues to celebrate over 350 years of history with great pride. It is with great pleasure that I ask all of our Nation to join wth me and all Rhode Island in celebrating Rhode Island's 200th anniversary.

MR. SARPALIUS' COMMENTS ABOUT FLOYD COUNTY CENTENNIAL

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SARPALIUS. Mr. Speaker, today I want to bring to the attention of this House a celebration of major importance in my congressional district. I am talking about the Floyd County Centennial.

Floyd County is located in the southern portion of my congressional district. It is a large county, containing some 1,036 square miles—that's 663,000 acres for those of you who, like me, have been debating the 1990 farm bill in committee all week.

It is a county rich in agriculture, producing a variety of crops. As it was in the Old South, cotton is king. But Floyd County's talented farmers and ranchers produce vegetables, wheat, sorghum, and they raise cattle too. Their dedication has formed a solid economic base that has kept Floyd County moving forward through good times and bad. Even at the height of the Great Depression, the people of Floyd County never lost faith because they knew they had the basic tools and skills to bounce back and prosper again. They knew they could do it then, and that basic faith in their abilities and talents remains today.

Let me expand on that point for a moment, Mr. Speaker, because to understand Floyd County's history is to understand Floyd County today. We too often use the word "pioneer" when describing our forebearers. But, Mr. Speaker, it is not an exaggeration to say that Floyd County was founded by pioneers.

Picture for a moment what the vast expanses of the Texas High Plains must have looked like during the last half of the 19th century. There was land, plenty of it, and it probably was going to be prime farm land. But, it was dry, too. If an average amount of rain fell each year, then the farmers and ranchers there could make it, but just barely. These were the days before irrigation, though, and even a slight drop in rainfall could spell doom for a crop.

It took a leap of faith to move to Floyd County, but the pioneers who settled it had that basic faith I spoke of earlier. They recognized the beauty and potential of their new home. They took the necessary chance, and it has paid off handsomely.

Now, Mr. Speaker, you may have noticed that I have discussed Floyd County's size, its economy and its history. You may also have noticed I missed one group in this discussion—the people who live in Floyd County today. I have waited until now because I truly wanted to save the best for last.

The people of Floyd County are, as we like to say in my district, are just good folks. They are good, hard-working people. They still hold dear the values that too much of our country has left behind, values like love of God, family and country. They have carried on well the tradition of their ancestors and they continue to make Floyd County one of the best places in the country to live.

Mr. Speaker, I would like to urge all the Members of this House to join with me today in congratulating Floyd County on its centennial.

SOUTHWEST GREENSBURG, PA CENTENNIAL

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. MURTHA. Mr. Speaker, I would like to recognize the Borough of Southwest Greensburg, PA, which will be celebrating its 100th anniversary this fall.

In August 1890, the 42 citizens of this area of Westmoreland County petitioned to become an independent borough. Since that time, Southwest Greensburg has grown to be a solid, family oriented community, which is looking forward with anticipation to its next 100 years.

The development of Southwest Greensburg from a community made up of 42 petition signatories and their families into a town of 3,000 citizens shows the vigor, determination, and optimism of the residents of western Pennsylvania. All over the United States, it has been small towns like Southwest Greensburg which have been the backbone of our country. The citizens of these towns have worked in the factories, fought in the wars, and raised the families of America, and they have done so with a spirit which has made our Nation great.

The centennial commemoration in Southwest Greensburg will be celebrating the community's unique heritage. The citizens of Southwest Greensburg have a great deal to be proud of, and a great deal to look forward to. I would like to congratulate them on the occasion of their centennial, and wish them a successful second century as an independent borough.

MARY SCHWARTZ'S RECYCLING CAMPAIGN LAUDED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SUNDQUIST. Mr. Speaker, as one who has spoken and written in a number of forums about the need to recycle, I want to commend the work one of my constituents has undertaken in west Tennessee.

Mary Schwartz of Henderson was recently recognized by the Jackson Sun for her personal effort to encourage recycling, and she has written about her effort in a recent issue of the Sun.

Because I believe strongly in this issue, and because I believe Mary Schwartz makes some important points, I ask that her column be reprinted in its entirety in the CONGRESSIONAL RECORD.

RECYCLING WELL WORTH EFFORT MADE—EVERYONE SHOULD SORT, TURN IN THEIR GARBAGE

(By Mary Schwartz)

On April 3, I went to Humboldt to find out for myself about the recycling plant there.

What a revelation.

I met Jerry Metcalf, the gentleman in charge. He explained the system.

Recyclable items include cardboard, aluminum, plastics, steel (cans), paper (newsprint) and glass. All are acceptable at the Humboldt plant except newsprint; you are paid the going price when you bring them in.

What I found most interesting was what the plant can do with garbage.

The plant charges a fee to process garbage into pellets the size of a cigar. It's worth paying the fee to see what can be done with garbage and to help the plant break even.

The pellets are used at the plant for fuel and also are sold to other interested parties. People come from all over the world to see the plant.

Do you know it would take a ton of garbage a day to make this plant break even? Did you know a city cannot profit from this type of venture?

Metcalf had several phone calls come in during our conversation. While he was busy, I noticed plastic recyclable items on a shelf in his office. When he was free, he explained.

There are companies that melt plastics to make more plastics, he said, and there are companies that combine plastics with other materials to make benches and posts, among other things. This was new to me.

My visit to Humboldt and what I saw and heard there make me even more enthusiastic about encouraging every man, woman and child to get involved in recycling.

I would like every community and organization, both large and small, to come together and save newsprint, cardboard.

Whatever monies earned would go to the participating group—whether it be a church, civic group, school, youth group (such as Scouts or Future Farmers of America), or whatever.

On April 2, I asked the Montezuma community in Chester County to participate in a recycling project. I hope everyone will participate to make it a great success.

Up to this point, I have been recycling for the American Legion Auxiliary Post 157. The post is saving paper and cardboard.

I assumed the job of taking the post's recyclables to the recycling plant in Henderson on U.S. 45. Our little project netted $16.55 for January and February.

The recyclables have been mostly paper, but I have started to collect cardboard in earnest for the last few weeks.

As soon as I iron out a formula to encourage more people to recycle, I will present it to the public and see where we can go with it. Meanwhile, start saving your newspaper, cardboard and aluminum cans.

Tennessee is the Volunteer State. Let us live up to our state motto and get recycling going for everyone.

ST. JOSEPH VETERAN'S ASSOCIATION CELEBRATES 30TH ANNIVERSARY

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. MACHTLEY. Mr. Speaker, it is with great pleasure that I rise today to congratulate the St. Joseph Veteran's Association which is celebrating its 30th anniversary this year.

The St. Joseph Veteran's Association, located in Woonsocket, RI, is Rhode Island's only independent Veterans organization and has over 500 members. The J. Henry Baril Post was founded in 1960 under the aegis of Pastor Paul Desrosiers as a community group for the youth of Woonsocket. During the past 30 years, the St. Joseph Veteran's Association has sponsored many events such as boxing tournaments and talent shows for the young citizens. For 10 years the group managed and sponsored the Telestar Drum and Bugle Corps, providing uniforms and instruments for this group. The group also visits Rhode Island's veterans across the State, bringing them magazines and sponsoring bingo parties. This year, the St. Joseph Veteran's Association is the proud sponsor of Woonsocket's Memorial Day Observance Parade.

I would like to thank the St. Joseph Veteran's Association for 30 years of exemplary community service. Their dedication and commitment to their community is a model for us all. I wish the St. Joseph Veteran's Association all the best and continued success in the future.

MEDICARE HOME HEMODIALYSIS IMPROVEMENT ACT OF 1990

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. WALGREN. Mr. Speaker, I am introducing today a bill to restore Medicare coverage for a home dialysis assistant for individuals with end stage renal disease [ESRD] who have serious medical conditions and face increased health risks by trips to hospitals or other dialysis facilities for treatment.

Home dialysis is more than a matter of convenience. It is a critically important, life-sustaining service for those patients who are very sick and cannot move about without endangering their health. In many cases these patients are diabetic, bedridden or confined to a wheelchair. Many cannot manage home dialysis on their own and have no family or neighbors who can assist them. Since Congress ended home dialysis assistance last February, they have had no choice but to go through the difficulty of transportation to distant dialysis facilities three or more times a week.

Because of the nature of their illnesses, many dialysis patients' are vulnerable and frail. Continual trips outside the home for dialysis treatment jeopardize their low energy level and contribute to a worsening of their condition.

Recently there have been disturbing reports in my own district in Allegheny County about the difficulty Medicare beneficiaries experience when forced to find dialysis treatment away from home. During February and March, the Allegheny County Health Department reviewed 40 renal dialysis clients previously served by a home assistant. Twenty-eight reported problems as a result of the change from in-home to outside-the-home treatment. Among these problems were discomfort during the trip to and from treatment; dissatisfaction with the quality and scheduling of outside treatment; disrupted dietary schedules for diabetics; increased illnesses such as colds and flu; anxiety and loss of sleep; and added costs for baby-sitting during treatment. Almost all felt they had to wear themselves out to get to treatment and that their overall well-being had been prejudiced.

In April, the county health department did a followup study of this same group. In the month that transpired between the first study and the followup, 1 out of every 10 patients, ranging in age from 54 to 74, died. During the first survey, three of the four who died had expressed tremendous anxiety about the termination of home dialysis. Four other clients were hospitalized during the following month. Clearly these patients' health would be better served by a home dialysis assistant.

The bill I introduce today targets only those with serious medical conditions who face increased health risk when forced to leave home. It would provide payment under Medicare for the cost of a home dialysis assistant to provide patient care, technical operation of the hemodialysis machine, and administer medication where necessary.

To be eligible, a patient must first qualify for dialysis benefits under Medicare and then meet at least one of five additional criteria: be nonambulatory; represent a medical condition that would be exacerbated by traveling to an outside dialysis facility; be unable to operate a motor vehicle or take public transportation and not have anyone else who can either assist in home dialysis or transport the beneficiary to a dialysis facility regularly; and be eligible for Medicare-covered ambulance transportation to a dialysis facility where such cost exceed the cost of home dialysis assistance established under this program.

In order to verify eligibility, the bill calls on the Secretary of Health and Human Services [HHS] to certify at least once a year that a beneficiary continues to meet these requirements. All home assistants must meet standards set by the Secretary of HHS, as well as those established by facilities for attendants providing in-center dialysis care, and by applicable State laws and regulations.

Outside-the-home dialysis treatment is not a good answer for everybody. In many cases, home dialysis assistance makes much more sense for patients with conditions that may be worsened by regular trips outside for treatment. Not only is in-home treatment more humane and better for health, in-home dialysis is cheaper. Without this bill, Medicare will be paying as much as $10,000 per individual

each year for ambulances to transport patients to away from home facilities.

This bill represents sound health care policy for a very modest price. More importantly, for this group of patients, home dialysis may make the difference between quality of life, peace of mind, and even life and death. Vulnerable people are not the place for cost containment. I urge my colleagues to join me in supporting home dialysis assistance for those in the greatest need.

A TRIBUTE TO ROGER AND MARY JANE JACOBI

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SCHUETTE. Mr. Speaker, on August 11, 1990, the Interlochen Center for the Arts will hold a concert to pay tribute to Roger and Mary Jane Jacobi, distinguished members of my constituency.

Roger E. Jacobi served as president of the Interlochen Center for the Arts for 18 years. He retired from this position on December 3, 1989. Mr. Jacobi was on the faculty of the School of Music at the University of Michigan for 15 years and was associate dean of the school when he accepted the position of president of Interlochen in 1971. He currently is president emeritus of music at the University of Michigan.

He was connected with the Ann Arbor public schools in Michigan for 17 years 8 as a teacher and 9 as a music department head. For 7 years he served as management secretary of the Michigan School Band & Orchestra Association and for 13 years served as chairman of the Midwestern Conference of School and Vocal Instrumental Music, the Professional Music Conference for Music Educators of Michigan and surrounding States.

Mr. Jacobi has a bachelor's and a master's degree in music from the University of Michigan and an honorary doctorate in music from Albion College. He has dedicated his professional life as a teacher and as an arts administrator to the furtherance of music and other arts at the local, State, and national levels. He is married to the former Mary Jane Stephens who has served graciously and thoughtfully as Interlochen's first lady for the past 18 years.

The Jacobis' dedication to the aesthetic value of music has molded Interlochen into the fine musical institution it is today. The Interlochen Center for the Arts consist of the National Music Camp and the Interlochen Arts Festival during the summer months, the Interlochen Arts Academy and International Concert Series during the academic year. Also, it has a radio station, WIAA-FM, which serves the northwestern portion of the lower peninsula of Michigan.

The camp and academy are committed to the artistic training of talented and gifted children in the arts, from 8 years of age through high school. The Interlochen Arts Festival brings the world's renowned artists and ensembles to northern Michigan each year. WIAA-FM, a member of national public radio, is the area's classicial music station and provides music from Interlochen to 60 other radio stations across the country.

Through their nourishing work at Interlochen, the Jacobis have offered gifted and talented young people the opportunity to develop their creative abilities in a unique and wholesome community under the guidance of an exemplary faculty of artists and educators. Interlochen boasts an accelerated curriculum which emphasizes uncompromising standards, character and leadership development, and individual initiative practiced within a framework of health competition and frequent public performance. These serve as the foundation for Interlochen's two major educational programs: the Interlochen Arts Academy and National Music Camp. Through Roger and Mary Jane Jacobi, Interlochen serves as an advocate of all the arts, a model and innovative teaching center, and a presenter of outstanding artistic achievement in service to a diverse regional, national and international constituency.

I extend heart-felt congratulations to the Jacobis on this very special occasion, and I commend them for their outstanding achievements and wish them all the best in their future endeavors.

A CONGRESSIONAL SALUTE TO PAULINE WATTS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding woman who had devoted so much of her time to make life better for numerous South Bay residents, particularly children. Pauline Watts will be paid special tribute on her 75th birthday on May 24, 1990, by the Switzer Center. This occasion gives me the opportunity to express my deepest appreciation for all her many years of service.

Pauline Watts has dedicated a substantial portion of her life to fostering education in and around the South Bay area. It is quite fitting that the Switzer Center, a specialized education center dedicated to helping children with special learning needs, would choose to pay her tribute. She has been a long-time supporter of the center, as well as a major force behind educational activities in the South Bay. I should note, her dedication to education and children is not news to me. In 1970, I named her to serve as my delegate to the White House Conference on Children.

Upon coming to Torrance in the late 1940's, she quickly began volunteering with community, civic, youth, political and educational organizations. These organizations include the Torrance Memorial Hospital, the planning commission for the Torrance 75th Anniversary Celebration, and the California State University Dominquez Hills, to name a few. In addition, she was a founding member of the Torrance League of Women Voters and the South Bay Volunteer Center. These many years of service have not gone unrecognized by the community. For her efforts, she was honored by the Historical Society as one of the women in history of Torrance, and also received the Torrance Mayor's Jared Sidney Torrance Award for her long-time participation in Torrance activities. Clearly, Mr. Speaker, it is not hard to see why she enjoys the respect of the entire community.

My wife, Lee, joins me in extending our congratulations to Polly Watts on her 75th birthday. She is truly a remarkable individual who has devoted her talents and energies to enriching the lives of so many other people. We wish Polly, and her family, all the best in the years to come.

TRIBUTE TO MR. ROLAND GEORGE TRINKLEIN

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. DARDEN. Mr. Speaker, 40 years ago Roland Trinklein graduated from college in Illinois and began his teaching career in Corpus Christi, TX. After four decades of service in the Christian teaching ministry, Mr. Trinklein is retiring this year. In his many years of service he has made a lasting impression on the countless young people who have been fortunate to have him as an instructor. He moved to Georgia in 1965 where he became principal at Faith Lutheran School in my hometown of Marietta. He has worn many hats since then and his diverse responsibilities have included serving as church organist, church treasurer, interim preacher, choir director, and youth director. Mr. Trinklein is a versatile, committed individual who is known as a great family man. In addition to the hundreds of students for whom he has been an outstanding guide and role model, he and his wife Joan have five children of their own: Judy, Ruth, Brenda, Peter, and Jean. Mr. Trinklein will be honored on June 1 by appreciative friends, and I want to add my recognition of his distinguished years of service. All those who have come in contact with the care and commitment of Roland Trinklein will join me in wishing him a great retirement.

REBECCA O. BENDICK SELECTED PRESIDENTIAL SCHOLAR OF 1990

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Rebecca O. Bendick, of Woonsocket, RI, for her selection as a Presidential Scholar of 1990.

This award is presented to 141 graduating high school seniors, chosen by the Commission on Presidential Scholars, who demonstrate outstanding accomplishment in areas such as academic scholarship, leadership ability, community service, and artistic excellence. The Presidential Scholar Medallion is our Nation's highest honor for high school seniors.

Rebecca's accomplishments certainly qualify her to receive this honor. Her commitment to academic excellence is well documented.

She was a member of the math team and debate team, and a participant in the Model Legislature of Rhode Island during her sophomore and junior years. Rebecca has received honors at the National History Fair and the Rhode Island State Science Fair. In addition, she has been recognized as an outstanding student in art, history, math, science, and english. She was also awarded a congressional scholarship to Japan.

Along with her academic prowess, Rebecca has demonstrated true leadership ability. She was the leader of an Outward Bound Expedition, captain of the varsity field hockey team and a participant in the Hugh O'Brian Youth Leadership Conference. She worked on the prom committee and the school newspaper and has participated in the Close-Up Program in Washington, DC. She was selected as her class marshal and has been a member of the student council, the Cold Spring Task Force and the Woonsocket Youth Council.

I commend Rebecca for her outstanding achievements and wish her all the best in her future endeavors.

TRIBUTE TO THE JOLIET/WILL COUNTY CENTER FOR ECONOMIC DEVELOPMENT

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SANGMEISTER. Mr. Speaker, it is with great pride I rise today to salute the work of an outstanding organization in my district, the Joliet/Will County Center for Economic Development.

To say the center has been a leading force in the battle against unemployment and economic stagnation in Will County and Joliet is an understatement. In 1983, Will County had hit rock bottom economically. The region's unemployment rate stood at 18.1 percent, the highest in the Nation. In the city of Joliet, once a leading industrial center in the Midwest, 26.5 percent of the work force was idle.

Today, countywide unemployment has dropped to less than 7 percent. Joliet has been hailed as a new boom town, with new industry and housing sprouting up all around the metropolitan area. The Center for Economic Development [CED] played a key role in this transformation, aiding in bringing new businesses to the area and helping to revitalize old companies.

In the last 4 years the center has had a hand in creating more than 10,000 new jobs. In 1989 alone, CED helped provide 2,000 jobs for workers in Will County.

Under the leadership of Ruth Calvert Fitzgerald, the chief executive officer, the Center for Economic Development has become a model for similar organizations throughout the country.

This Member is not the only one who has taken note of CED's success. The center was recently named one of 10 outstanding development groups in the country for 1990 by the Industrial Development Research Council. The IDRC is considered the premier organization for corporate real estate executives and facility planning executives, the people who decide where companies locate and expand.

The CED was featured, along with other top development organizations, in an article published in the April edition of the IRDC's official magazine, Site Selection and Industrial Development.

Mr. Speaker, I congratulate the people involved with the Joliet/Will County Center for Economic Development on this honor, and wish them continued success in attracting businesses, jobs and prosperity to my district.

PRESIDENTIAL ACTION NEEDED TO ASSURE HUMAN RIGHTS IN CHINA

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. KENNEDY. Mr. Speaker, I wish to inform the House that I have introduced a resolution concerning the status of our relations with China. Today, President Bush decided to extend most-favored-nation status to China. Although I strongly believe in the principles of free trade, and that disrupting commercial relations with China endangers the poor and working people of both our country and theirs, if we are going to maintain the status quo with China, then I insist that we stand up for human rights in that country.

For this reason I have introduced a resolution which guarantees respect for human rights in China. The resolution calls for release of Dr. Fang Lihzi and his wife Dr. Li Shuzion from the United States Embassy in Beijing, China, where they have been living in forced sanctuary. This initiative provides two of the most outspoken prodemocracy activists in that country with safe passage into the United States. It urges the Chinese authorities to allow Dr. Fang to communicate with the world community through statements and writings from the sanctuary of the United States Embassy in Beijing.

I am also demanding that the President step up efforts to obtain from the Chinese Government a list of those arrested in the prodemocracy movement since last year, and seek the release of those accused of nonviolent activities since June of last year.

Mr. Speaker, the Chinese Government's brutal repression of the peaceful demonstrations of the Chinese people 1 year ago was intolerable. The arrest and imprisonment of thousands of Chinese people at a time when the rest of the world was experiencing a turn toward freedom and an opening of economic relations was tragic. Unfortunately, the conditions in China have not changed considerably in the course of the last year.

This resolution asks the President to take positive steps to correct that intolerable situation. I am proud to introduce legislation that will rectify some of the tragic errors that were made at Tiananmen Square last year. This effort will put the U.S. Congress on the correct course as a defender and protector of freedom and democracy.

CONGRESSIONAL PAY REFORMS

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SLATTERY. Mr. Speaker, on March 27, 1990, the Kansas House adopted House Concurrent Resolution 5047. The resolution was adopted by the Kansas Senate on April 5, 1990, ratifying the proposed original second amendment to the Constitution of the United States. I would like to include in the CONGRESSIONAL RECORD the full text of House Concurrent Resolution 5047.

HOUSE CONCURRENT RESOLUTION NO. 5047

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislature of the state of Kansas, pursuant to Article V of the United States Constitution, hereby ratifies an amendment to the Constitution of the United States proposed by resolution of the First Congress of the United States in New York, New York, on September 25, 1789, which reads as follows, to wit:

"Article the second. . . .No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened."; and

Be it further resolved: That the legislature of the state of Kansas acknowledges that the above-quoted article of amendment to the United States Constitution has already been ratified by the legislatures of the following states on the dates indicated, to wit:

Maryland on December 19, 1789;

North Carolina on December 22, 1789;

South Carolina on January 19, 1790;

Delaware on January 28, 1790;

Vermont on November 3, 1791;

Virginia on December 15, 1791;

Ohio on May 6, 1873 [70 Ohio Laws 409-10];

Wyoming on March 3, 1978 [124 Cong. Rec. 7910; 133 Cong. Rec. S12949];

Maine on April 27, 1983 [130 Cong. Rec. H9097, S11017];

Colorado on April 18, 1984 [131 Cong. Rec. S17687; 132 Cong. Rec. H6446];

South Dakota on February 21, 1985 [13] Cong. Rec. H971, S3306];

New Hampshire on March 7, 1985 [131 Cong. Rec. H1378, S3597];

Arizona on April 3, 1985 [131 Cong. Rec. H2060, S4750];

Tennessee on May 23, 1985 [131 Cong. Rec. H6672, H6672, S1097, S13504];

Oklahoma on July 10, 1985 [131 Cong. Rec. H7263, S13504];

New Mexico on February 13, 1986 [132 Cong. Rec. H827, S2207-8, S2300];

Indiana on February 19, 1986 [132 Cong. Rec. H1634, S4663];

Utah on February 25, 1986 [132 Cong. Rec. S6750, S7578; 133 Cong. Redc. H9866];

Arkansas on March 5, 1987 [134 Cong. Rec. H3721, S7518];

Montana on March 11, 1987 [133 Cong. Rec. H1715, S6155];

Connecticut on May 13, 1987 [133 Cong. Rec. H7406, S11891];

Wisconsin on June 30, 1987 [133 Cong. Rec. H7406, S12948, S13359];

Georgia on February 2, 1988 [134 Cong. Rec. H2638, S5239];

West Virginia on March 10, 1988 [134 Cong. Rec. H2492, S4784];

Louisiana on July 6, 1988 [134 Cong. Rec. H5783, S9939];
Iowa on February 7, 1989 [135 Cong. Rec. H836, S3509-10];
Idaho on March 23, 1989 [135 Cong. Rec. H1893, S7911];
Nevada on April 26, 1989 (135 Cong. Rec. H2054, S10826];
Alaska on May 5, 1989 [135 Cong. Rec. H5485, S8054];
Oregon on May 19, 1989 [135 Cong. Rec. H5692, H5972, S11123, S12150];
Minnesota on May 22, 1989 [135 Cong. Rec. H3258, H3678, S7655, S7912]; and
Texas on May 25, 1989 [135 Cong. Rec. H2594, S6726-27]; and

Be it further resolved: That the legislature of the state of Kansas acknowledges that resolutions to ratify the above-quoted article of amendment to the United States Constitution have been adopted by the Senate of the State of California on June 30, 1989; the House of Representatives of the State of Illinois on June 22, 1988, and again on May 24, 1989; the Senate of the State of Michigan on March 15, 1989; and the House of Representatives of the State of North Dakota on January 26, 1987, and again on February 3, 1989; and

Be it further resolved: That the legislature of the state of Kansas acknowledges that the above-quoted article of amendment to the United States Constitution may still be ratified by states' legislatures as a result of the ruling by the United States Supreme Court in the landmark case of Coleman v. Miller, [307 U.S. 433 (1939)] in which it was opined that if Congress does not specify a deadline on a particular amendment's consideration by the state legislature, then Congress itself is the final arbiter of whether too great a time has elapsed between Congress' submission of the particular amendment and the most recent state legislature's ratification of same assuming that, as a consequence of that most recent ratification, 38 states have at one time or another ratified it; and

Be it further resolved: That the Secretary of State of the state of Kansas shall notify the Archivist of the United States (pursuant to 1 U.S.C. 106b and 112, as amended by PL 98-497 [98 Stat. 2291]) of the action of the 1990 Regular Session of the Kansas Legislature by sending to the Archivist a duly authenticated copy of this resolution; and

Be it further resolved: That the Secretary of State of the state of Kansas shall also send duly authenticated copies of this resolution to both United States Senators from Kansas, to all United States Representatives from Kansas, to the Vice-President of the United States and to the Speaker of the United States House of Representatives with the request that it be printed in full in the Congressional Record.

"AN INNER LIGHT . . ." BY JOHN BOLLINGER

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. MONTGOMERY. Mr. Speaker, on the steps of the U.S. Capitol this morning I had the pleasure of attending a ceremony honoring the men and women who have defended freedom throughout the world since World War II. Since Americans everywhere will be observing Memorial Day on May 28, it was a timely and fitting tribute to our Nation's veterans. The ceremony was sponsored by the leadership of the House and Senate.

As we observe Memorial Day throughout the land, I want to call to the attention of my colleagues an article written by John Bollinger, Associate Legislative Director of the Paralyzed Veterans of America. John is highly regarded on the Hill. He has appeared before our committee on a number of occasions as a spokesman for his organization.

John reminds us, Mr. Speaker, that whether it be Memorial Day, the Fourth of July, or Veterans Day, these times give Americans a special opportunity to remember all of those who have helped to keep our country free and that we must be firm in our commitment to care for those "who have put country ahead of self." His article follows:

"AN INNER LIGHT . . ."

(By John Bollinger)

"When an American says that he loves his country, he means not only that he loves the New England hills, the prairies glistening in the sun, the wide and rising plains, the great mountains and the sea. He means that he loves an inner air, an inner light in which freedom lives and in which a man can draw the breath of self-respect". Adlai Stevenson.

Poetic patriotism. When Adlai Stevenson made those remarks before a New York City crowd in 1952, patriotism was indeed an emotion which swelled within the hearts of all Americans. It was a simpler time—the 1950's. Victorious veterans from World War II were embarking on a decade of sweeping industrial and technological advances. American soldiers confidently marched off to Korea in answer to their country's call. The GI Bill of Rights, still in its infancy, enabled vast numbers of former servicemen and women to further their educations, buy homes, and generally contribute to a prosperity never before seen in our country. All was well. America was on the go. And patriotism was not only the norm, it was an easy concept to define—love and loyal support for your country. As a grade school kid, it was clear and simple.

Much has happened to America since World War II, not the least of which was an unpopular fifteen year embroilment in Southeast Asia. There were times when, as a society, we questioned our government's motives. And for some, there were times when much of the basic red, white, and blue fabric which held together our fundamental patriotic principals began to unravel and appear a little thread-bare. As dutiful citizens, our responsibilities were becoming more complex. The definition of patriotism was more than a blind and zealous loyalty for flag and country.

For the first time, many Americans who came of age in the 1960's and who loved their country began to see the "inner light in which freedom lives and in which a man can draw the breath of self-respect." Far beyond the required "Pledge of Allegiance" recited in our classrooms throughout our young lives, beyond the history books and the civics classes which developed our textbook understanding of patriotism, beyond the parades and the ceremonies, the flags and the anthems, the true comprehension of Adlai Stevenson's "inner light" was being learned by another generation of American men and women—through the experience of being a citizen of the United States of America.

This revelation is nothing new. It goes back over two hundred years. We gradually came to learn, as did our forefathers, that patriotism is not a clear and simple thing. Rather, it's a concept that requires a society to try to steer an even and moral course through good times and bad.

It requires each of us to look inward for answers to ethical questions. Whether it be Selma, Alabama, or My Lai, whether it be a successful moon launch or the use of the bomb in Nagasaki and Hiroshima, as a society and as individuals we have the responsibility to guide our great Nation forward in a direction that reflects our concern for our fellowman and those less fortunate than we.

As a broken bone heals stronger, our Nation must never lose sight of events in our history which have caused us anguish and pain. We must learn from our mistakes and America will be a better place for all as a result. As a Nation we are stronger because, as individuals, we have had the courage and the freedom, to stand up for what we believe is morally right. This is our responsibility as patriots—not only to recall what our country has done for each of us, but to answer President John F. Kennedy's charge and ask what we can do for our country. Only then will we understand "the inner light where freedom lives."

In that same speech thirty-eight years ago, Mr. Stevenson went on to say, "What do we mean by patriotism in the context of our times? . . . A patriotism that puts country ahead of self; a patriotism which is not short, frenzied outbursts of emotion, but the tranquil and steady dedication of a lifetime. There are words that are easy to utter, but this is a mighty assignment. For it is often easier to fight for principals than to live up to them."

From colonial days to the present, America has offered support for disabled soldiers and their families. This support, although sometimes less than tranquil and steady, has been generally indicative of our government's historical dedication to those who served in uniform. However, on the Fourth of July nearly sixty years ago, veterans were fighting for more than principals.

In the stifling summer heat of 1932, shortly after the old Veterans Administration was officially established, 25,000 desperate, penniless World War I veterans and their families gathered in the Nation's Capital to collect payment of the soldiers' bonus which had been promised eight years earlier by the Adjusted Compensation Act of 1924. Instead of bonuses, or even compassion, they were met with machine guns, tanks, bayonets, and gas grenades and driven out of town where they eventually merged with hundreds of thousands of other Americans—impoverished by the Great Depression. It was not one of our country's finer hours.

As American flags snap in the breeze on our country's 204th birthday, other veterans who know very well the meaning of Adlai Stevenson's "inner light", must also contemplate an uncertain future with respect to VA health care and benefits. Veterans in the 1990's will face a battle of more refined proportions, but for some, the outcome may be equally devastating in terms of denied health care and benefits. There will be no guns and tanks—the opposition will be much more subtle. Like their comrades before them, however, they will face a government unable, and perhaps to some degree unwilling, to fulfill some of the promises it made to those who stood in defense of our Nation. It will, of course, be a

battle of the budget. At stake will be our country's commitment to those whose patriotic ideals shown most bright when our country called.

Whether it be Memorial Day, the Fourth of July, or Veterans Day, these times give Americans a special opportunity to remember not only those patriots who have kept open the doors of freedom with their very lives, but those whose courage, though less dramatic than the ultimate sacrifice, have helped to keep our country free and have now turned to our government for help. For those who have put country ahead of self, this is not too much to ask.

So when we listen to those old war stories that every veteran tells, let's not forget the significance of history as it pertains to the present. As the Honorable G.V. "Sonny" Montgomery, Chairman of the House Committee on Veterans' Affairs said so eloquently in a Memorial Day statement, "The war story that concludes with a society becoming indifferent toward its defenders, either living or dead, and toward its heritage, will be the last ever told."

IN RECOGNITION OF MISSOURI'S SECOND DISTRICT MEMBERS OF THE ALL-USA HIGH SCHOOL ACADEMIC TEAM

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. BUECHNER. Mr. Speaker, I rise today in recognition of two outstanding young people in my district: Derjung Mimi Tarn and Rebecca Wiggins. These two young ladies deserve our congratulations upon being named to the USA Today all-USA high school academic team. Mimi and Rebecca were selected from over 1,000 students nominated for their academic excellence.

Mimi designed a computer neural network for biological classification of insect species. Rebecca studied the effects of light sources on plant photodinesis. These projects would challenge even the most seasoned of scientists; indeed, the projects are notable for their bold and intelligent analysis, and reflect tremendous amounts of studying and research. In their research, Mimi and Rebecca have shown an awareness that, at times, is lacking in more experienced scientists.

In addition to their scientific exploits, both young ladies exhibit excellence in other curricular and extracurricular areas. Mimi, a national merit finalist and soon to be a freshman at Stanford University, participated in extracurricular activities such as national honor society, math team, the school newspaper, Students Against Drunk Driving and many more. Furthermore, she held leadership positions in many of her activities. Mimi's academic honors include awards in curricular subjects such as English, French, social studies, and mathematics.

Rebecca, a national merit commended student and headed for Washington University, participated in extracurricular activities such as National Honor Society, National Art Honor Society, music and school sports. She also held leadership positions in her activities. Rebecca has also entered numerous science fairs, including a first place award at the International Science and Engineering Fair.

Our Nation is fortunate to have fine young people such as Mimi and Rebecca. Their parents, teachers, and counselors are to be commended for taking an active interest in the education and development of our young people, and for backing this commitment with the necessary time investment.

Our young people are the window to our Nation's future. Through their eyes we can see tomorrow, with their thoughts we will dream new dreams. The winners, indeed all of the nominees to the all-USA high school academic team, renew our optimism in the future of this Nation. For this we thank them.

Mr. Speaker, I ask each of my colleagues to join me in congratulating these young Americans and wishing them success in their future endeavors.

HONORING THE 75TH ANNIVERSARY OF ST. MARY THE MORNING STAR PARISH IN PITTSFIELD, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. CONTE. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to the people of St. Mary the Morning Star Parish in Pittsfield, MA.

When St. Mary was first formally organized March 27, 1915, services were held in the former St. Mary's School, which at the time housed the Tyler Theater. The present building was not dedicated until October 10, 1942, in a ceremony over which Bishop Thomas M. O'Leary officiated. The current church is a brick Romanesque structure which holds 900 people. The stained glass windows for the church were done by Herbert Burnham in Boston, who is well known for the work he did for the Cathedral of St. John the Divine in New York City.

St. Mary's first pastor was the Reverend Jeremiah Riordan, who served in Dalton and other parishes before coming to Pittsfield. His first appearance at St. Mary's was on Easter Sunday. Riordan led the church in a move to what is now the church school building in 1919, and by the time he finished his pastorship in 1925 had expanded the church and freed it from debt. Riordan was followed by the Reverend James F. Curran, who served until 1935; the Reverend Matthew Boyne, from 1931 to 1940, and the Reverend John C. McMahon, from 1941 to 1942. The pastors in the new building were Monsignor Eugene Marshall, from 1942 to 1969; the Reverend Harry Driscoll, from 1969 to 1971, and the Reverend Joseph Coffey, from 1971 to 1972. The present Pastor, the Reverend Thomas E. Lynes, followed him in 1972.

The congregation will be celebrating its 75th anniversary on Saturday, May 26, with a 4 p.m. Mass led by Joseph F. Maguire of the Roman Catholic Diocese in Springfield, followed by a dinner for the congregation. I rise to extend my warmest congratulations to the people of St. Mary's. I wish them a wonderful anniversary celebration and a promising future.

CLEAN AIR

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. MARLENEE. Mr. Speaker, hang onto your wallets—if you can. That's the warning I want to send to the people of Montana as Congress steamrolls the Clean Air Act amendments through the legislative process.

Without even blinking an eye, the House has just passed a bill that will have consumers paying and paying for the virtually thousands of mandates contained in this onerous legislation. The worst of it is, there's virtually no "sunshine" on the process that led up to passage of this legislation. Hundred-page documents were presented for votes moments after they'd been written by small cliques. Deals were cut, and the American worker, the consumer, the motorist, the ratepayer and the taxpayer were deliberately excluded from the process.

Some of us were told to compromise common sense and support this legislation because it supposedly contained some sweeteners for the States we represent. But I can assure you, there's no such thing as a free lunch and the so-called sweeteners in this bill are no exception. Every token "gain" thrown in was merely the string on which some very expensive price tags were attached.

Here's just one. It's a big one. By passing this bill, the House has declared war on American auto, pickup, and truck buyers. Because of new, complex emissions standards contained in this legislation, Montana consumers will find themselves paying up to $1,000 or more for every vehicle they buy—at a whopping total price tag of $15 million more every year. These increases are senseless—senseless because studies indicate that the real problem is not so much the new car as it is the older, dirty emission vehicle; the older automobile whose emission control systems are out of tune; and the concentration of cars in the urban areas. Proponents of this legislation seem obsessed with more expensive brandnew car emission standards even though the bulk of pollution doesn't come from them.

Ironically, the bill will likely kill a project in Billings, MT, in my distirct that would reduce sulfur dioxide emissions by some 1,500 tons a year. This project, a proposed cogeneration powerplant, would utilize petroleum coke from a nearby refinery. But under the clean air amendments, the project must wait the estimated 2 to 3 years for finalization of regulations, effectively sounding the death knell for this proposal. That's hundreds of construction jobs and an estimated 40 permanent, good-paying jobs destroyed by this "oversight." This one error alone underscores what I've been saying all along—that hidden in the nearly 700 pages of this bill are literally hundreds and hundreds of problems just waiting to be discovered. The case I've cited is just the tip of the iceberg.

There's more. For our employers already fed up with piles of Federal Government paperwork, they haven't seen anything yet. The Clean Air Act Amendments of 1990 will make all their previous headaches seem like a breeze. The amendments for the first time will require as many as 150,000 American employers from lumber mills to dry cleaners to secure specific EPA permits for every-point source of 1 or more of 191 air pollutants if they emit more than 2.5 to 7 pounds per hour. Most plants need multiple permits. That means up to 500,000 in total.

And there's more. We're going to clothe the Administrator of the EPA with broad powers that invite abuse. Everytime an employer changes any part of his or her process affecting any one of the permitted substances, even if that modification produces less toxicity, new permits are required. Every new project must pass through EPA filters. The penalties for failing to meet not only these permit standards but detailed compliance timetables could subject company officials to up to 450 years in prison sentences and unlimited fines at $25,000 per day, with employer informants and competitors offered up to $10,000 in bounties for "green-fingering" suspects.

Finally, in the midst of all this clean air hype, amidst this head-long rush into oblivion, I can't for the life of me understand why Congress has failed to raise the obvious question: What's the track record of existing clean air law?

Look at the facts. According to the EPA, from 1978 to 1987, air pollution was notably reduced; lead levels in our ambient air fell 88 percent; sulfer dioxide levels came down 37 percent, nitrogen oxide levels, down 12 percent, carbon monoxide levels, down 32 percent, particulates, down 21 percent, and ozone levels, down 16 percent. In other words, "If it's not broke, don't fix it."

But "fix" it we have and it's not the Congress, it's not the big corporate giant who'll pay. It's the taxpayer, it's the employer, it's the worker, it's the consumer of everyday products and, more important than anyone, it's our children who'll pay. Simply put, the Congress has with one hasty vote decided to mortgage away the future of America's economy.

ISRAEL TRIP

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. WEBER. Mr. Speaker, recent issues being discussed in Congress have rekindled old arguments against maintaining the special relationship that we have built up over the years between the United States and Israel. In January, I visited Israel with my colleague, FRED GRANDY, to discuss current concerns with government officials and the private sector.

In contrast to the negative reports that often dominate our media's review of Israel, we were impressed by the positive developments in Israel and reaffirmed in our support for our ally. Our partnership with Israel remains a moral imperative and a vital strategic relationship.

Israel remains a free and open society despite continued terrorist threats and hostile neighbors. It has not given up its commitment to justice even as it addresses domestic difficulties and an increased military threat.

One of the greatest domestic challenges facing Israel is the need to absorb up to 1 million immigrants from Europe within the next 3 years. Despite media reports, only 1 to 3 percent of these new arrivals are choosing to settle in the West Bank. Most choose to settle in urban and industrialized cities, such as Tel Aviv and Haifa. Of those choosing the West Bank, it is most often to reunite with family members.

The government is also successfully strengthening its economy. Four to five years ago, Israel was suffering from a 400 percent inflation rate. Today, it has an 18 percent inflation rate. Major corporations operated by the government are now being sold to the private sector, such as El Al Airlines. The atmosphere in major cities, like Tel Aviv, is lively, vibrant, and full of activity.

Our impression of the military was very different from much of what the media presents in the United States. We saw how the Israeli military works to carry out a humane policy in a very difficult situation. We were told that the standing order for the military is to not arrest any women or any children under 12 years of age. The soldiers are told to tolerate their behavior. If children from 12 to 15 harass soldiers, the policy is to take them home, where the parents will be requested to take care of them. For those over 16, they will be arrested if necessary and then have the right to civil court remedies. The image of an out-of-control military just isn't the reality.

The greatest internal threat comes from the tension at Israel's borders. A 1990 report published by the Prime Minister's Bureau substantiates that the PLO continues with terrorist activities inside Israel and on its borders in violation of its Geneva promise to "renounce terrorism." Attacks against Israeli and Arab civilians continue, as we saw in Egypt in January.

Unfortunately, this administration has been adopting a so-called even-handed policy between Israel and the Arabs. We cannot be serious about protecting Israel's future when we are trying to be even-handed between a democratic friend and nondemocratic nations that support terrorism. The administration's decision earlier this year to announce the PLO remains in compliance with its agreement to "renounce terrorism" is sadly wrong.

Here is just a summary of the terrorism report by the Israeli government: In the past year, 13 terrorist attacks by "Fatah"—the military arm of the PLO—were committed inside Israel in its pre-1967 borders; 17 border attacks by PLO-affiliated organizations; 125 Palestinians were murdered on directives of the "Unified Command"—an organ operated by the PLO in the territories.

Israel continues to face a serious military threat as well. Over the last 5 years, Israel's Arab neighbors have acquired a stockpile of ballistic missiles. Syria has a minimum of 24—and perhaps as many as 36—highly accurate, SS-21 shorter range missiles deployed that are capable of hitting vital targets inside Israel. Saudi Arabia has Chinese CSS-2 intermediate range missiles with a 1,900 mile range capable of hitting Israel.

Iraq presents a particular problem. It has deployed the "Al-Abbas" missile with a range of 560 miles. In addition, Iraq's Government officials have made outrageous statements that they would willingly use chemical and nuclear weapons against Israel. Clearly, Israel's neighbors are showing no sign of assuming a less aggressive military posture.

It may be unpopular to talk about continuing to support foreign aid, but this military threat, along with the domestic challenge of assimilating hundreds of thousands of refugees over the next few years, makes United States support for Israel absolutely necessary. Our aid and friendship is vital to Israel's existence. I urge my colleagues to give serious consideration to this partnership as we continue to address budget concerns and international developments.

RAISING THE HARBOR MAINTENANCE TAX—HOW NOT TO BALANCE THE BUDGET

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. ANDERSON. Mr. Speaker, in introducing a bill to take the Harbor Maintenance Trust Fund off budget, I have introduced legislation which will set a vital precedent for the 101st Congress. Passage of this bill will send a clear signal to the President that the elected representatives of the people of the United States will not allow the sacrifice of the long-term economic good of the country for fiscal and budgetary convenience. I do not support the administration's apparent strategy of increasing user fees and freezing trust funds for the purpose of deficit reduction. User fees are paid by business and members of the general public to government for the use of certain facilities. The revenue gained from these fees is meant specifically to be spent for the maintenance and improvement of these public facilities, whether they are harbors, highways, or airports.

The administration currently is proposing a tripling of the harbor maintenance tax. I propose the question, Does the administration intend to spend the money for harbor infrastructure maintenance and improvement? It is my belief it will use this money for deficit reduction. To put the ramifications of this policy in perspective, Japan, a country the size of California, spent five times as much on infrastructure last year as the United States. No wonder they have such a competitive advantage. And the administration now wants to improve that advantage even further by reducing the already insufficient level of American investment in infrastructure, first by freezing trust funds set up for that purpose and using that money for interest payments, and second by penalizing American business by unnecessary user fee and special tax hikes.

When the Government raises special purpose taxes without intending to reinvest the revenue in infrastructure improvement, it has a

significant and disproportionate negative economic impact on the business community and the national economy. We should not target specific groups and force them to pay for reducing a debt which is our collective responsibility. When the Government freezes the trust funds into which special purpose taxes are deposited and borrows against them to pay off interest on public debt, it is breaking a public contract and violating the principle behind special purpose taxes. These taxes were meant to ensure that only those who utilized the facilities in question paid for those facilities. It was meant to take the burden of funding particular Government services off the back of the general population and shift it to the particular interest group which benefited from those services, not to place responsibility for a budget deficit affecting the entire Nation and shift it onto the back of the group which has the least political clout. Other broader based taxes were intended to compensate for Government borrowing because they spread the burden fairly across the entire population and do not focus exclusively on individual enterprise. A user fee is a regressive tax if used as a tool for deficit reduction, and will have a disastrous impact upon our national economy if mistakenly utilized for this purpose.

For this reason, I have already sponsored House Joint Resolution 41, expressing the sense of Congress that the Gasoline and Aviation Trust Funds should not be used for deficit reduction, nor should the taxes used to supply those funds be used for that purpose.

Today, I am introducing legislation to remove the Harbor Maintenance Trust Fund from the Treasury budget. This will ensure that it will not fall prey to the same fate as the Airport and Highway Trust Funds. These have been raided by the administration to pay for interest on the public debt while our infrastructure deteriorates.

The administration's strategy of raising user fees as a deficit reducing tool is merely a clever ploy to avoid the necessity of a general tax increase if present spending policies are not seriously modified. I do not believe the administration should try to employ user fee increases as a smokescreen. I am determined to preempt any effort to raid the Harbor Maintenance Trust Fund to avoid our Government's responsibility to balance the budget. My legislation will protect American competitiveness, the substantial investment this country has already made in our ports and harbors, and set a precedent in favor of spending public infrastructure money on what it was intended for: maintenance and improvement of our economically vital transportation facilities. These funds are too important to squander for the sake of fiscal and budgetary convenience. The current administration strategy is a perfect illustration of how not to balance the budget.

SAVE OUR FAMILIES

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. APPLEGATE. Mr. Speaker, in light of the debate yesterday in the House of Representatives on amendments to the Clean Air Act, I want to bring to the attention of my colleagues a letter that most, if not all of us have received in our offices from a group of concerned citizens in my congressional district in eastern Ohio.

The group, called "Save Our Families", is composed of steel workers, coal miners, small business people, community leaders and others concerned about the adverse impact that the passage of the Clean Air Act amendments will have on not only the eastern Ohio area, but on these people's lives in particular. Their letters to Congress were written from the heart and serve as a reminder that this poorly crafted piece of legislation impacts not just on industry, but on the people of this country who have no recourse or way to recover. They will not be able to pass on their costs. They cannot raise their prices. This Congress has left them with nothing more than just having to make due, and I do not believe that is what we are supposed to be doing here.

Mr. Speaker, the text of the letter sent to the Congress follows:

DEAR REPRESENTATIVE: We are writing to express concern over the acid rain section of the Clean Air Act. The economic consequences of this bill are far-reaching and will economically cripple the midwest. There are many unanswered questions.

Why did Congress authorize $600 million to study the acid rain problem and then not consider waiting a few months for the completion of that study before drafting the Clean Air Act?

Why must the sulfur dioxide emission reduction be ten million tons by the year 2000? Why not some smaller number?

Why should Power Plant emissions be forever capped at the 1985-87 levels when the midwest was just emerging from a severe recession. How can our Nation's economy grow in the face of such an inflexible restriction?

We are asking for your support and help in getting Congress to evaluate the National Acid Precipitation Assessment Project Study prior to passage of the Clean Air Act. While we believe in clean air, we also believe we can have clean air without unnecessary job loss in the midwest.

Studies were done to access the economic and social impact on the 5,000 coal miners who will lose their jobs because of acid rain legislation. The Department of Labor says that the miners will be retrained. There have been no studies done to determine the impact on industrial workers whose industries will close because of the Clean Air Act. Before this legislation is passed and implemented, the Congress should at least guarantee that the needed J.T.P.A. funds will be available to retrain industrial workers.

We need your help in striking a reasonable balance that minimizes job loss while achieving the clean air we all want and need.

This Committee desires and would welcome the opportunity to meet with you. Please contact us.

Sincerely,

"SAVE OUR FAMILIES" COMMITTEE.

THE PEACE CORPS: MEETING THE CHALLENGES OF THE 1990's

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. HORTON. Mr. Speaker, on October 14, 1960, Presidential candidate John Fitzgerald Kennedy stood on the steps of the University of Michigan Student Union telling his young audience, "* * * on your willingness to contribute part of your life to this country, I think, will depend the answer to whether we as a free society can compete."

Those young people at the University of Michigan responded, as did 120,000 other Americans—young and old—who volunteered to live and work with the people of developing countries. These Americans not only devoted part of their lives to their country, but to the world.

More recently, President George Bush stated, "Any definition of a successful life must include serving others." With a strong commitment to the Peace Corps and a budget proposal providing the biggest year-to-year jump in funding for the agency in more than 25 years, George Bush is unquestionably providing Americans an opportunity to serve others.

Last year, 1989, was the year the walls came tumbling down, signified most vividly by the physical dismantling of the ominous Berlin Wall. Communism finally had to face the music, and it fell apart.

With democracy and freedom breaking out around the globe, the benefits provided by Peace Corps volunteers will be needed more than ever. Peace Corps Director Paul Coverdell has been quoted as saying, "In many ways, it is as if the Peace Corps has been in training for this historical moment."

Earlier this week, the Subcommittee on Legislation and National Security of the Committee on Government Operations held a hearing to examine that training, better understand how the Peace Corps intends to react to the incredible events of the past year, and review the agency's efforts in the nations of Africa, Asia, and Latin America.

What the subcommittee found was an agency committed to helping the courageous people of the new democracies in Europe, while at the same time determined to expand its efforts on other continents.

This is not to say that there aren't areas where the Peace Corps can improve its operations and management. In a GAO report released by the subcommittee at the hearing, it was found that the Peace Corps needs to devote increased attention and resources to volunteer recruitment and training. Clearly, volunteer recruitment is critical to the future success of the Peace Corps. Volunteers with special skills are needed. Volunteers reflecting the diversity of American culture are needed.

I agree with the recommendations made by GAO with regard to volunteers. That's one of the reasons why I am an original cosponsor of legislation introduced by Congresswoman CONNIE MORELLA of Maryland, establishing a demonstration project to provide educational

benefits, similar to the ROTC Program, to minority students and others in return for 2 or 3 years of Peace Corps service.

This bill, H.R. 985, has been incorporated into the National Service Act of 1990, introduced by Chairman HAWKINS of the Education and Labor Committee. I sincerely hope that this legislation can be enacted into law before the end of the 101st Congress.

Mr. Speaker, the challenges facing the Peace Corps as it enters its fourth decade are difficult. However, with the continued support of the President, Congress, and the American people, I am confident that the Peace Corps will not only meet those challenges but will grow stronger than ever in spreading American good will throughout the world. Thank you.

COMMUNITY DEVELOPMENT BLOCK GRANT

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Ms. PELOSI. Mr. Speaker, I would like to share with my colleagues an article from the San Francisco Chronicle regarding the wonderful programs that community development block grants provide for my constituents in San Francisco. Just an example of how important CDBG funds are to the people of San Francisco and how the funds can assist others throughout the country.

[From the San Francisco Chronicle, May 2, 1990]

UNUSUAL AID FOR CHILD CARE—FEDERAL FUNDS USED TO FIX UP SAN FRANCISCO FACILITIES

(By Marc Sandalow)

At a time when child care is increasingly expensive and hard to find, San Francisco has pioneered a new approach to create openings for children of parents with low or moderate incomes.

With the assistance of the mayor's Office of Community Development, 22 child care facilities have been remodeled and expanded, providing 132 new slots for children with working parents.

While other cities have provided sporadic assistance to child-care operators, San Francisco's comprehensive program, which relies on federal community block grants, is the only one of its kind in the nation.

Yesterday marked the completion of the 22nd project, the first floor renovation of Gerrie Kay's modest home near Crocker Amazon Park in the outer Mission District. What used to be a garage is now an airy, sunlit playroom with new carpets, diaper-changing tables and alphabet posters on the walls.

Kay, who has cared for four children in her home for the past four years, can now care for 12. Without the city's help, "I would have tried to do it by myself, but I'm not sure I could have gotten through the process," said Kay, who received $30,000 in assistance from the city.

Under the program, operators like Kay receive more than money. City employees provide architectural assistance, coordinate small business and child care counseling, and help the operators fight their way through the red tape.

In return, the city gets a guarantee that the operators will provide quality child care to low- and moderate-income families.

"It provides quality child care in the neighborhood that's affordable—and there's an enormous need for that," said Lynn Beeson, Director of the mayor's Office of Child Care.

San Francisco has about 50,000 children younger than 12 with working parents, Beeson said, but the city has fewer than 14,000 child care spaces.

The funds that paid for remodeling Kay's home and others come from federal Community Development Block Grants, money that is typically spent on urban renewal projects.

San Francisco is spending about $300,000 of its $16.5 million this year on the child care program, said Larry Del Carlo, director of the mayor's Office of Community Development. Since 1984, the program has opened 132 additional slots for children, most of them for low- or moderate-income parents.

TRIBUTE TO DR. DONALD H. LARSEN

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. ATKINS. Mr. Speaker, I rise today with a sadness of heart and deep sense of loss in remembering Rev. Dr. Donald H. Larsen. Don was a friend and gentle force of moral conscience for many of us in the Congress through his advocacy on behalf of those this world seeks to forget. His tireless efforts as the executive director of Lutheran Immigration and Refugee Service have made a difference which is all the more dramatic now that he is gone.

We will remember that Don never shirked from a fight as long as the cause was just. He never lost his sense of humor—however late the hour or long the night ahead. He never discounted the importance of one person's views—colleague, refugee, adversary, or friend. And while others succumbed, his heart and faith were great enough to fight and win the battle against compassion fatigue.

We will never be able to know or even count the thousands for whom Don's leadership meant the difference between life and death, hope and despair, freedom or oppression. He was a true advocate for those from whom this world has taken so much—home, family, safety, dignity, and even their voice. The very fabric of this Nation has been strengthened by his presence and we have all learned from Don more fully how we are knit one to another.

Don Larsen was born February 17, 1925, in Detroit, MI, and died on Thursday, May 17, 1990, of liver and kidney failure following a massive heart attack and triple bypass surgery in Hackensack, NJ. He headed 1 of the 11 voluntary agencies which resettle refugees in the United States. He became Lutheran Immigration and Refugee Service [LIRS] executive director in 1985 after nearly a year as the agency's director for policy and program. Last November he completed a 2-year term chairing the Committee on Migration and Refugee Concerns of the American Council for Voluntary International Action [InterAction].

From 1964 to 1988, Pastor Larsen was an executive with the National Lutheran Council [NLC] and its successor, the Lutheran Council in the USA [LCUSA]. At the NLC he worked in urban church planning. After also directing LCUSA programs in church planning and mission research, he became executive director of the LCUSA Division of Mission and Ministry. The division included the department of immigration and refugee services. With the end of the Lutheran Council in 1988 due to the merger creating the Evangelical Lutheran Church in America, he guided the department's formation into a separate agency [LIRS].

Pastor Larsen received a bachelor of divinity degree from Concordia Seminary, St. Louis, MO, in 1947 and the same year was ordained to the ministry. He served as pastor of Faith Lutheran Church, Seaside, OR, 1947–49; Pilgrim Lutheran Church, Spokane, WA, 1949–57; and St. Andrew-Redeemer Lutheran Church in his hometown, Detroit, MI, 1957–64.

Pastor Larsen worked extensively in the area of mission planning as a member of the Congregation Council of Grace Lutheran Church, Teaneck, NJ, as well as for the New Jersey Synod and its Meadowlands Cluster congregations.

Don Larsen has also left us a great legacy of mercy, gentle kindness, and service to those he loved most—his family. He is survived by his spouse, the former Rhoda Birner; three sons—Dan of Peshawar, Pakistan, Donald Paul of River Edge, NJ, and Timothy Peter of Deltona, FL; two daughters—Kristen Dusenbery of Columbia, MD, and Sue Ruth Larsen of Kalamazoo, MI; five grandchildren; and a sister Elaine and brother Karl.

I think of Don as I reflect anew on the words of Horace Mann, who spoke to a class of young people in 1859 as they faced new challenges and a new world, and said:

> While, to a certain extent, you are to live for yourselves in this life, to a greater extent you are to live for others.
>
> So, in the infinitely nobler battle in which you are engaged against error and wrong, if ever repulsed or stricken down, may you always be solaced and cheered by the exulting cry of triumph over some abuse in Church or State, some vice or folly in society, some false opinion or cruelty or guilt which you have overcome! And I beseech you to treasure up in your hearts these my parting words: Be ashamed to die until you have won some victory for humanity.

Don Larsen, in his death, has nothing of which to be ashamed. Perhaps he never savored victory as much as he should have, always readying himself for the next battle. Perhaps he never looked back long enough to see how far he had brought us all. But the healing, blessing, and change for the sake of justice he brought to this world are an indelible mark of victory for humanity we all should celebrate.

RESOLUTION HONORING FORMER MEMBERS GERALD R. FORD AND THOMAS P. (TIP) O'NEILL, JR.

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SHAW. Mr. Speaker, I am pleased today to introduce jointly with 68 of my colleagues a resolution, House Resolution 402, that would honor two of the most distinguished living alumni of the House: former House minority leader and President Gerald R. Ford and former Speaker Thomas P. (Tip) O'Neill, Jr. This resolution would rename the blandly named House Annex 1 and House Annex 2 to the "Thomas P. O'Neill, Jr. House of Representatives Office Building," and the "Gerald R. Ford House of Representatives Office Building," respectively.

Both of these men revered the institution of the House, and both served honorably. I believe this resolution is an appropriate way in which the House can acknowledge the important contributions of these two giants of the House.

I look forward to working closely with my colleagues on both sides of the aisle to ensure quick passage of this resolution.

The text of the bill is as follows:

H. RES. 402

Resolved,

SECTION 1. DESIGNATIONS.

(a) THOMAS P. O'NEILL, JR. HOUSE OF REPRESENTATIVES OFFICE BUILDING.—The House of Representatives office building located at C Street and New Jersey Avenue, Southeast, in the District of Columbia, and known as the House of Representatives Office Building Annex No. 1, shall be known and designated as the "Thomas P. O'Neill, Jr. House of Representatives Office Building".

(b) GERALD R. FORD HOUSE OF REPRESENTATIVES OFFICE BUILDING.—The House of Representatives office building located at 3d and D Streets, Southwest, in the District of Columbia, and known as the House of Representatives Office Building Annex No. 2, shall be known and designated as the "Gerald R. Ford House of Representatives Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to a building referred to in section 1 shall be deemed to be a reference to the building as designated in that section.

SEC. 3. STATUES.

The Speaker of the House of Representatives may purchase or accept as a gift to the House of Representatives, for permanent display in the appropriate building designated in section 1, a suitable statue or bust of the individual for whom the building is named. Such purchase or acceptance shall be carried out—

(1) in the case of the building referred to in section 1(a), in consultation with the majority leader of the House of Representatives; and

(2) in the case of the building referred to in section 1(b), in consultation with the minority leader of the House of Representatives.

PLO PROPAGANDIZES PALESTINIAN DEATHS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. LEVINE of California. Mr. Speaker, the recent killing of seven Palestinians in Israel by a lone and lunatic gunman was a terrible tragedy. The madman who committed this dastardly deed deserves to be condemned and punished. That is precisely what has happened. Israeli Government officials and civilians of all political persuasions have expressed their shock and revulsion at the killings and offered such aid as the donation of blood to the victims.

Not surprisingly, this tragedy will tomorrow be exploited to justify a broad-based attack against Israel at the United Nations—with apparent American acquiescence. The United Nations would do well to remember President Mubarak's words after that crazed Egyptian soldier slaughtered seven Israeli tourists in the Sinai: "[I]t is a limited incident that can happen anywhere, carried out by an insane man."

It is especially unfortunate that the Bush administration feels compelled to support this forthcoming propaganda offensive. At a time when Iraq has threatened to gas half of Israel, when Mr. Mubarak is reported to have made an outrageous suggestion that Soviet Jewish emigration to Israel can lead to war, when the PLO threatens to escalate the uprising, and when an Arab summit meeting will take place next week with the radical and rejectionist rhetoric flying, the Bush administration does absolutely nothing.

Actually, it does even worse than that. Instead of trying to stabilize the situation and to cool passions which could well lead to war, the administration essentially fuels the fire by taking gratuitous slaps at Israel and by working hand in glove with the PLO and other parties intent on exacerbating tensions. This is the height of irresponsibility, but this administration seems too caught up in criticizing Israel to care.

Nonetheless, Mr. Speaker, if the slaying of seven Palestinians warrants convening the Security Council, then the spotlight should shine equally strong on the barbarism committed by Palestinians against their own people. Indeed, if the PLO is so concerned about innocent Palestinian lives then they should condemn rather than condone the systematic and daily slaying of so-called collaborators in the territories.

These are gangland executions—hangings, mutilations, decapitations—for no reason whatsoever, and yet no voices are raised in protest and no attempt is made to have the United Nations meet. It seems that only certain lives are worthy of concern; the determinant seems to be who can be held responsible, and whether propaganda points can be won.

At this point I would like to place two items in the RECORD on these recent events; a column by Richard Cohen of the Washington Post called "Madness and Malice"; and one by Steven Emerson in the Wall Street Journal, entitled "Wrong Reaction to Israeli Gunman." Both provide excellent analyses of the regrettable reactions to this tragedy in Israel by the United States Government, the PLO, the press, and the Arab States.

[From the Wall Street Journal, May 22, 1990]

WRONG REACTION TO ISRAELI GUNMAN

(By Steven Emerson)

Hours after an Israeli gunman went mad and mowed down a group of Arabs on Sunday, human-rights activists and American commentators publicly charged the government of Israel with "responsibility for and complicity with the killings of Palestinians." Why? The Israeli government has already arrested the disturbed man and already begun to investigate the matter. Because, as one commentator said, "Israel has encouraged this by creating a climate of hate and violence." Some Palestinian leaders went further: They charged that the killings were a premeditated act of murder by Israel. The American media uncritically repeated these charges. The U.N. will likely convene in the next few days to ram through a resolution accusing Israel.

The attack on Israel is part of a trend. Lately, American journalists, commentators, and political activists with ideological agendas have began ascribing collective national guilt as the culprit for acts of violence carried out in society. In fact, a more honest test of a society's values and conscience would be to examine how it reacts to such violence. Does it act swiftly to condemn the violence? Does it ignore it? Or does it revel in the violence? The Sunday murders are a case in point. They provide a critical basis to examine how Arab society (and the U.S. media) reacted to similar acts of violence against Jews.

In Israel, there was instant unanimous condemnation of the killings. Within minutes after news of the killings was broadcast, Israeli leaders—from the entire political spectrum—bitterly condemned the killings and expressed their sympathies to the Palestinians. There was no equivocation or excuses. Israeli citizens expressed their shock, horror and revulsion at the killings. The Israeli reaction was similar to the massive demonstration of 400,000 that came in response to the Phalangist massacre of Palestinians at Sabra and Shatila in 1982.

The Arab world's reaction to the murder of innocent Israelis has been very different. In 1985, when an Egyptian soldier on active duty shot to death seven Israeli tourists, including four children, in the Sinai, many Egyptians and Palestinians celebrated the deaths of the Israelis. The killer, who subsequently died under mysterious circumstances in an Egyptian prison, has since become a folk hero in Egypt and the Arab world, enshrined in Arab mythology. Last year, when 15 Israelis and one American were killed when a fundamentalist Palestinian caused an Israeli bus to crash in a ravine, many Palestinians openly justified the killing; some even rejoiced.

Not only have Palestinians routinely celebrated the killings of Israelis, they have consistently subscribed to conspiracies, including their charge that the violent deaths of Palestinians are part of a deliberate Israeli plot to kill all Palestinians. This conspiratorial accusation, not insignificantly, is similar to the way the intifada may have started. After a traffic accident in Gaza in December 1987 in which four Palestinians were killed, Palestinians immediately

charged that the traffic accident was a deliberate act of premeditated murder by the Israeli government. In fact, it was just a traffic accident.

While Palestinian exaggerations, conspiracies and distortions may be understandable given the difficult circumstances under which the Palestinians live, the U.S. media and human-rights organizations have a responsibility not to report them blindly. When Palestinian schoolchildren several years ago claimed they were being poisoned by Israel, the accusation was uncritically broadcast all over the world. Later a team of international scientists determined that there was no poisoning whatsoever. The children at best were suffering from some form of mass hysteria, and at worst were being manipulated by their parents.

The response of the media and human-rights organizations in the U.S. to the killings of innocent Israelis by Arabs has been just as skewed. When terrorists opened fire on an Israeli tour bus outside Cairo and killed nine Israelis, why didn't human-rights activists and commentators charge that the event was fostered by the climate of hate against Jews in Egypt? Palestinian leaders openly justified the killings. Instead, the U.S. media focused on the apologies issued by Egyptian President Hosni Mubarak to foster the notion that the attack was an "aberration" in Egypt's attitude toward Israelis.

Whether the attack was an aberration is, in fact, debatable. An examination of broadcasts and publications in Egypt in the weeks after the killings indicates, however, that some Egyptians approved of the killings. Yet, at the same time, the Egyptian government forcefully condemned the attack. (In Egypt, the semi-controlled press has been bashing Israel and Jews for years now, routinely comparing Jews to Nazis and endorsing the worst conspiratorial accusations against Jews from the notorious anti-Semitic forgery, the Protocols of the Elders of Zion.)

Perhaps even worse is how human-rights organizations and the U.S. media treat the killings of Arabs by Arabs: There is virtually no coverage or criticism. Two weeks ago, Egyptian police opened fire on "fundamentalists" southwest of Cairo, killing 14 Egyptians. The massacre was ignored by nearly all American newspapers and television networks. The Associated Press ran a small three-paragraph story—but quoted only the version offered by the Egyptian police, who alleged they were provoked. The media's indifference to inter-Arab killings is similar to the media's racism in generally ignoring killings by American blacks against fellow blacks while at the same time hyping killings of whites by blacks.

In the days to come, there will be the predictable orgy of Israel-bashing by the media, human-rights organizations and American supporters of the Palestinians. We will hear that Israel's soul has been poisoned, that it is responsible for the killings on Sunday.

Ultimately, the true test of a nation's soul is how it reacts in the face of such violence. France reacted with widespread popular revulsion at the desecration of Jewish cemeteries earlier this month. Israel has moved swiftly and appropriately. If only the Arab world and the Palestinians would react similarly.

[From the Washington Post, May 22, 1990]

MADNESS AND MALICE

(By Richard Cohen)

In 1985 an Egyptian soldier stationed in the Sinai went berserk, killing his own commander and seven unarmed Israeli tourists. A number of the tourist including a 10-year-old boy, apparently bled to death because other Egyptian soldiers would not permit an Israeli medical team to aid the victims. For a moment, the Middle East tensed up and then relaxed. In essence, Israel said that one soldier is not a nation. The peace with Egypt was never in doubt.

Now, though, something similar has happened within Israel. There, a former soldier also has gone berserk, killing seven Palestinians. The gunman has been characterized as deranged, attributing his action to the loss of a girlfriend and an alleged rape by Arabs when he was a boy. Nonetheless, both the Palestine Liberation Organization and several Arab governments have not hesitated to use this horrible incident in their propaganda war against Israel.

Kuwait simply labeled the killer a "Zionist" and said his actions would "lead to a new cycle of violence in the region." A PLO spokesman called the killings "a message to the Arab summit" about to begin in Baghdad, and a PLO official, Yasser Abed Rabbo, asked Egypt to close the Israeli Embassy in Cairo. "What is happening in the occupied territories is an act of organized crime carried out under the supervision and planning of the Israeli government," he said. From Damascus and Amman have come similar statements.

Well, first of all, the killings did not take place in the Occupied Territories, but in Israel proper. (The victims were, however, residents of the occupied Gaza Strip who had come to Israel seeking work.) In the second place, there is not a scintilla of evidence that the Israeli government had anything to do with the killings. If it had, then possibly the gunman would have been allowed to escape and not have been arrested. The current Israeli government is capable of doing some bonehead things, but not even its severest critic would suspect it of wanting to foment the riots in the Occupied Territories and Israel proper that followed the killings.

Maybe it's understandable that Arab leaders (and non-Arab ones in Tehran) would overreact to the recent massacre. After all, both the West Bank and Gaza Strip are under military occupation, and from time to time it's a harsh one. The intifada proceeds, and with it comes a daily loss of life, including, of course, children. To some Israelis (and others), these deaths are the inevitable result of rebellious activity, such as stone throwing. To Arabs though, the victims are just kids who want to live in a Palestinian state. It's the occupation that's killed them, not their behavior.

Palestinians long ago made the point that they are entitled to their own state. But they have not yet made another and possibly more important point: that if they get that state they will not continue their war against Israel. Very likely, Arab leaders know that the rampage of a single Israeli does not represent government policy. Yet their followers are a different matter. They are quite willing to believe—indeed, for generations they have been taught—that the so-called Zionists are ruthless killers. Until recently, for instance, the PLO itself did not stoop to distinguish between soldiers and, say, women and children on a kibbutz.

Now both the PLO and certain Arab governments will not distinguish between state policy and a single man who went berserk. By inflaming populations in their own countries and within Greater Israel (Israel plus the Occupied Territories) they show themselves to be more passionate than logical and hardly punctilious when it comes to truth. By claiming that the massacre is anything more than a tragedy, they are propagating a lie.

But there is yet another issue that has to be dealt with. Washington has been putting pressure on Israel to come to the bargaining table and deal with the Palestinians. So far that hasn't happened. But if someday it should, Israel has to be assured that the Palestinian leadership can sell some sort of compromise to its people. Given the performance of the leadership following the shooting, any compromise will be a harder sell. Indeed, Israelis can argue that when it counts, the PLO leadership reverts to the same old rhetoric—and maybe the same old terrorism.

It would have been wonderful if the shootings had been followed by efforts on the part of Arab leaders to calm the situation. It would have been wonderful if they had said that an Egyptian had done something similar. It would have been wonderful if any Arab leader, including Egypt's Hosni Mubarak, had repeated what Mubarak himself said following the 1985 massacre in Sinai: "a limited incident that can happen anywhere, carried out by an insane man."

Anywhere, by definition, includes even Israel.

TRIBUTE TO EDGAR FLEETHAM

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. WOLPE. Mr. Speaker, I rise today to pay tribute to the longest serving public servant in my congressional district in southwestern Michigan, Mr. Edgar Fleetham, on the occasion of his retirement from elected office.

Ed has been an elected official since 1936, when he won the Sunfield Township Treasurer's seat at age 21. Subsequently, in recognition of his remarkable responsiveness and dedication to serving his constituents, he was elected to a variety of other positions—township board member, township supervisor, Sunfield High School Board of Education Member, and Eaton County Commissioner. It is from his district county commission seat that he is now retiring.

However, this amazing list of public offices only touches the surface of Edgar Fleetham's involvement in public matters. During the last half-century he has also served on the boards of a number of organizations, including the Tri-County Mental Health Board, the Michigan Association of Public Health Boards, the Michigan Association of Counties, and the Michigan Association of Local Public Health.

In addition to his public service commitments, Mr. Fleetham has served as the lay leader of the Sunfield United Methodist Church for 46 years. He is also a loving husband, father, grandfather, and great-grandfather.

Mr. Speaker, it is obvious that Michigan and Eaton County will lose a great public servant when Edgar Fleetham retires this year. His commitment to public service and his responsiveness to his constituents have been his trademarks these many years—and these characteristics have been repaid with the affection and respect his constituents hold for him. We are all in his debt, and I know that my colleagues will want to join with me in wishing Edgar Fleetham all of the best on the occasion of his retirement from public office.

INTRODUCTION OF A BILL TO REFORM CERTAIN BENEFITS UNDER SOCIAL SECURITY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. PANETTA. Mr. Speaker, I would like to take this opportunity to reintroduce legislation that I sponsored in previous Congresses to make a small but significant change in the Social Security laws. The proposed change would eliminate a benefit that is contrary to the intent of the Social Security System, and is not needed by the recipient. By making such a change, we could save needed dollars in outlays, thereby strengthening the system as a whole.

Currently, the system treats a stepchild as a natural child for purposes of eligibility for family benefits. The child is entitled to receive survivor's, retirement, and disability benefits through age 19, if he or she remains in school.

Clearly this provision is unobjectionable. An individual who has married the natural parent of a child and has adopted the child takes on the financial responsibility for his or her support. Thus, if the stepparent becomes disabled, dies, or retires, the stepchild is, and should be, treated as the natural child.

My bill is directed toward the situation in which the stepparent and natural parent become divorced and the child receives support from another source. Under current law, the child still receives benefits from the stepparent even though he or she now has a new source of support. For example, the following situation actually occurred in my district in California: A man married a divorced woman with two children and soon thereafter became disabled. The two children, as dependents, were eligible for and received family benefits. Subsequently, however, the couple divorced and the woman remarried another time. Yet the children continued to receive benefits on the original man's disability, despite the fact that the children were being adequately supported by the woman's new husband and by child support payments received from the natural father. Such a duplication is clearly unnecessary, and should be changed.

Not only does this loophole place an additional burden on the Social Security fund, but it unfairly penalizes the natural children of the disabled individual. Since the law places a cap on total benefits a family may receive from Social Security, the sums available to the natural children—who may not have another source of support—must be shared with the stepchildren who do not need it.

My bill amends title II of the Social Security Act to eliminate benefits for any individual who qualifies only as a stepchild when the natural parent and the insured individual are divorced and the child is receiving support from a source other than that natural parent. The bill also applies to stepgrandchildren under comparable circumstances.

Mr. Speaker, I firmly believe that this legislation would achieve exactly the kind of reform we should be looking at in all spending programs in these days of budget conscious cost cutting. The savings would be realized not through reduction of benefits or raising of taxes. In no way does it betray the original intent of the Social Security Program. It is merely a fiscally responsible correction of a previously unrecognized loophole in the laws. I urge my colleagues to lend their support to this reform.

The bill follows:

H.R. 4938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUSPENSION OF CHILD'S INSURANCE BENEFITS IN THE CASE OF A STEPCHILD OR STEPGRANDCHILD FOR MONTHS AFTER A DIVORCE OF THE CHILD'S PARENTS DURING WHICH THE CHILD RECEIVES OUTSIDE SUPPORT.

Section 202(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(10) A benefit for any month under this subsection which would (but for this subparagraph) be payable, on the basis of the wages and self-employment income of an insured individual, to any person solely as the stepchild or stepgrandchild of the insured individual shall not be payable if—

"(A) such person is the insured individual's stepchild, the insured individual and such person's other natural parent or stepparent were divorced prior to that month, and such person is receiving support, as determined under regulations of the Secretary from any source other than such natural parent or stepparent and the insured individual during that month, or

(B) such person is the insured individual's stepgrandchild, the insured individual's son, daughter, stepson, or stepdaughter who is a natural parent or stepparent of such person and the other natural parent or stepparent of such person were divorced prior to such month, and such person is receiving support, as determined under regulations of the Secretary, from any source other than such son, daughter, stepson, or stepdaughter and the insured individual during that month.".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted.

SALUTE TO PASSAIC HEART FOUNDATION HONOREES

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. ROE. Mr. Speaker, it is with great pride that I rise today to recognize three representatives of an outstanding organization in my Eighth Congressional District of New Jersey who have made tremendous contributions to the standards of health care in our community, State and Nation. The organization to which I refer is the Passaic Heart Foundation, and the three exceptional individuals being honored by this organization are Dr. Oscar R. Baeza, Dr. Gregory S. Sullivan, Cardiac Nurse Mary Caddigan and Joseph R. Russo, Passaic Deputy Police Chief and chairman of the Passaic Heart Foundation.

The American Heart Foundation has accomplished much to improve the quality of health for all of us, and the many achievements of the Passaic Heart Foundation will be celebrated during this year's dinner dance at the Princess in Lodi, NJ, on June 6. This gala evening is the perfect opportunity to salute the four deserving honorees for their personal dedication to caring for others. I am certain that, under the direction of Mr. Russo and the esteemed members of the board, this special event will be a great success.

Mr. Speaker, I would like to take this opportunity to tell you and our distinguished colleagues a little about each of the Heart Foundation honorees beginning with Dr. Baeza. Dr. Baeza, a cardiovascular surgeon at Passaic General Hospital, is one of our Nation's most respected physicians. Dr. Baeza prepared himself for his important work through his study at Universidad de Chile in Santiago, where he received his master in medicine in 1964 and then served his internship.

Since that time, Dr. Baeza has been in great demand, serving in numerous posts both in Chile and in the United States. He served as assistant professor of surgery at Hospital Sotero del Rio in Santiago, Chile, and as instructor in thoracic surgery at Albany Medical Center Hospital in Albany, NY.

Mr. Speaker, Dr. Baeza has had an outstanding career in the United States, having served as attending thoracic and cardiovascular surgeon at Palisade General Hospital of North Bergen, NJ, since 1985, and at the General Hospital Center at Passaic, NJ, since 1980. He has also served in similar positions at St. Joseph's Hospital of Paterson, St. Mary's Hospital of Passaic, and Beth Israel Hospital of Passaic.

Dr. Sullivan also has a long and distinguished history. He attended Georgetown University and New York University Medical School before doing his internship at Montefiore Hospital and Medical Center in the Bronx, NY, in 1966. Following a residency in medicine at Bellevue Medical Center and a fellowship in cardiology at Cornell University, Dr. Sullivan served as chief of internal medicine at 121 Evacuation Hospital in Seoul, South Korea, and later at the United States Army Hospital at San Pedro, CA.

Dr. Sullivan, who is a fellow of the American College of Cardiology, is a full attending cardiologist at Passaic General Hospital, where he is past director of cardiology and of the cardiac catheterization laboratory. He is a fellow of the American College of Cardiology.

Mr. Speaker, Mary Caddigan is a graduate of St. Clare's Hospital School of Nursing in New York City. She also attended William Paterson College and began her nursing career at Passaic General Hospital as a staff nurse in the intensive care unit. After completing a cardiac care unit [CCU] course, she was promoted to assistant head nurse and then head nurse of the CCU. In her position as head nurse, Mary Caddigan initiated the first patient cardiac teaching classes, using the pilot program introduced in the hospital by Lorraine Erbe, R.N., M.S.N.

Mary was also one of the first instructors in the CCU course at Passaic General Hospital. While working at the hospital she became a volunteer in the pastoral care department under the supervision of Rev. Peter Carey, the hospital chaplain, and then she moved on to volunteer in the visitation of home patients in the Hospice Program sponsored by Tri-Hospitals of Passaic.

Mr. Speaker, Joseph R. Russo has been vigorously involved in his community for most of his life. A graduate of Passaic High School, Mr. Russo attended Rutgers University, the Passaic County Police Academy and the Bergen County Police Academy. He is the retired deputy police chief of Passaic, but is just as well-known for his numerous efforts on behalf of his community and on behalf of scores of worthwhile interests.

He has served as chairman of the Passaic Heart Foundation since 1974. Among Mr. Russo's numerous activities, he has served as Holy Name president of Mount Carmel Church, as commander of Post #200 American Legion, as president of Passaic Lions, as president of Unico Passaic, as a Passaic P.A.L. trustee, as a trustee of the Passaic-Clifton Senior Citizens, as chairman of the Annual Christmas Baskets for the Needy, as trustee of Passaic County Community College, and as vice president of the Salvation Army.

Mr. Speaker, each of these well-chosen honorees is an example to everyone concerned with health care in our Nation and our world today. Without the excellent work of leaders such as these, great strides in medicine could not be made or used effectively. To these individuals, and all devoted health professionals, we owe our thanks for feelings of security and hope when we or someone we care about requires hospital care. I invite you, Mr. Speaker, and our colleagues to join me in congratulating Dr. Oscar R. Baeza, Dr. Gregory S. Sullivan, Cardiac Nurse Mary Caddigan, and Passaic Heart Foundation Chairman Joseph R. Russo for their years of outstanding service and for the great honor they have received from the Passaic Heart Foundation.

FOOD FOR THOUGHT AFTER THE CLEAN AIR BILL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. POSHARD. Mr. Speaker, we must be mindful of the fact that while the Clean Air Act offers great environmental benefit, it comes at an enormous cost to our economy, our competitiveness, our coal industry, our energy security, and to a way of life we hold dear in southern Illinois.

Clean air and a sound economy aren't mutually exclusive. Indeed, we have taken some steps in the House to blunt the economic dislocation caused by the bill. We've created incentive allowances for early technological compliance. That's good for the air, saves some jobs and coal markets, and reduces the staggering costs that are heaped on one section of the country.

I hope my colleagues will remain openminded to ideas which can cut the costs of environmental compliance while attaining the same environmental goals. To this end, I would like to submit for the RECORD excerpts of testimony of environmental tax incentives for pollution control presented this March to the Committee on Ways and Means by Stan Garnett of the Coalition for Acid Rain Equity.

This testimony is illuminating with respect to the benefits of potential environmental tax initiatives and how they can work in concert with the environment to ease some of the financial cost of this legislation. I ask my colleagues to consider this testimony in hopes that we will be able to further debate the merits of these proposals as we focus on tax and revenue issues this fall.

EXCERPT FROM TESTIMONY BY STAN GARNETT, VICE PRESIDENT, ALLEGHENY POWER SYSTEM, ON BEHALF OF THE COALITION FOR ACID RAIN EQUITY, BEFORE THE COMMITTEE ON WAYS AND MEANS

MARCH 7, 1990

Mr. Chairman, Members of the Committee, I am Stan Garnett, Vice President, Finance, of Allegheny Power System, Inc. (APS). I thank you for the opportunity to be here today to testify on potential tax initiatives that are being, or should be, considered in conjunction with the Clean Air Act amendments which Congress is currently reviewing.

APS is one of the larger coal-burning electric utility systems in the United States. The APS wholly-owned operating subsidiaries—Monongahela Power Company, the Potomac Edison Company, and West Penn Power Company—typically burn about 18 million tons of coal per year, much of it the high sulfur variety indigenous to the APS service territory. APS has generating capacity totalling 8,066 magawatts, over 7,000 of which is coal-fired, and the rest is hydro or pumped storage. APS also has three scrubbers in operation.

I am testifying today on behalf of the Coalition for Acid Rain Equity (CARE), which advocates a more equitable solution to some of the current Clean Air proposals. CARE represents a diverse group of business, labor and public officials, including the United Mine Workers, coal producers, the National Lime Association, several coal-fired Midwestern utilities, and Congressional Members from the Midwest. I will focus only on Title V of the proposed bill, which is the section on acid rain control.

The impact of large utility rate increases on industry will be substantial. A survey done by Allegheny Power System operating companies of their commercial users showed that 38 percent of those surveyed said a 10 percent increase in rates would have a great impact on their business, citing negative effects on their competitive position, layoffs and possible plant closures.

Midwest industries produce over 20 percent of our country's goods, as well as over 25 percent of our exported goods. And, since industry is the largest electricity user for many Midwest utility companies, they will be the ones absorbing much of the rate increases. Under the proposed legislation, electric utility rates would increase by 20 or 30 percent. Substantial negative effects on manufacturers of consumer goods such as cars, steel, aluminum, glass and cement must be expected.

One way to alleviate some of the excess financial burden on the utilities is with the reinstatement of investment tax credits and tax exempt pollution financing of control technology facilities installed to comply with the new Clean Air requirements.

Significant federal income tax-credits and other benefits were generally available in the past to owners of facilties required to make capital expenditures to comply with a broad array of pollution control requirements. These benefits included accelerated amortization (a 60-month write-off), investment tax credit and the availability of tax exempt pollution control financing (which has in the past been up to 200 or more basis points less costly than comparable taxable financing). Allegheny Power System estimates that the availability of these benefits alone would lower the proposed Clean Air costs imposed on APS ratepayers by some 10 to 15 percent based upon the current federal corporate tax structure.

It should be noted that these same benefits would have been worth reductions of from 15 to 20 percent under the higher corporate tax rates that prevailed in the early 1980's. A very broad spectrum of organizations took advantage of these important benefits in the past. As a rule of thumb, the use of these benefits can be measured in relation to the volume of tax exempt pollution control financing effected. As illustrated by the attached summary (attachment A), entities in every state took advantage of such financing techniques, including some who are now claiming most vehemently that they are "clean" states and should not be asked to help solve a clearly national problem. At a minimum, equity requires restoration of these benefits to taxpayers electing technological means to comply with the proposed Clean Air Act Amendments of 1990.

It only seems fair that these tax benefits be restored now. More money will be spent to comply with this proposed legislation than ever before, increasing the manufacturing base of several industries, creating new jobs and revenues. A favorable tax environment that encourages the use of pollution control facilities can only promote greater growth and preserve jobs.

Mr. Chairman, I suggest one possible tax package:

First, an investment tax credit of 20 percent, available up front with carry-forward provisions, but not accompanied by any provisions reducing the basis of an emission reduction facility by any part of the credit;

Second, a consumptive depletion allowance credit equal to 15 pecent of the annual cost of the sorbent used in pollution control devices;

Third, unrestricted availability of tax exemption financing for facilities installed to comply with the Act; and

Fourth, accelerated amortization of 60 months.

All four are necessary in order to provide utility companies with adequate up-front funds to build the expensive pollution control technology devices and help decrease "rate shock" for customers. This package would lower the costs imposed on typical utilities by some 15 percent.

The cost of our proposal requires further study. The Ohio Office of the Consumers' Counsel conducted one analysis that predicted a 15 to 17 percent ITC would make utility federal income tax payments neutral with respect to utility investments in acid rain control equipment.

At this point, since the idea of tax credits is relatively new to the clean air debate, we don't have a lot of information on the general revenue impacts of the combination of tax credits and tax exempt financing. We will be developing this information in the near future and will provide the information to your staff.

What is key to remember is that the benefits of a tax credit proposal go beyond just helping utility rate payers. Reducing the cost of installing pollution control devices will further the continued use of high sulfur coal and thereby minimizing economic disruption. As you well know, Mr. Chairman, high sulfur coal is found primarily in the Midwest—Illinois, West Virginia, Ohio, Pennsylvania—and is a vital economic and energy resource for our nation. While many utility companies will switch to lower sulfur fuels to comply with the law, there is great concern that valuable high and medium sulfur coal production will be destroyed and this valuable energy source lost, unless there are incentives to build pollution control devices—both scrubbers and clean coal technology projects.

There is a clear national interest in reducing reliance on foreign oil consumption and conserving domestic supplies of oil and natural gas.

It would be foolish to abandon the extensive high sulfur coal market when there are technological ways to burn this fuel cleanly.

Under the President's bill, the Midwest's high sulfur coal industry will lose about 30,000 jobs; taking with it another 70,000 in support service and coal-related jobs. This massive job loss will cause severe economic disruption.

I would like to conclude my testimony by saying that the pending Clean Air Act amendments will be one of the most expensive environmental bills in history. It will dramatically impact utilities, their rate payers, industry, and all consumers of goods made in the United States, and especially in the Midwest. The cost of cleaning our nation's air should be borne by *all* those contributing to the problem; yet that is not the case under the proposed legislation. Acid rain is a national problem that requires a national solution and should not be just an albatross for Midwestern utilities.

There are equitable, financially affordable solutions being proposed that deserve serious consideration. I thank you, Mr. Chairman, for being the first outside of the Energy and Commerce Committee to recognize this. I look forward to working with your committee to rectify the inequities.

Thank you.

Attachment A—Pollution Control Municipal Issues, State Volume, Jan. 1, 1980 to Jan. 31, 1990

State	Total (In millions)	Percent of total	No. of issues by State
Alabama	$807,717	1.58	34
Arkansas	414,550	0.81	19
Arizona	1,608,215	3.14	24
California	4,078,170	7.97	67
Colorado	444,530	0.87	10
Connecticut	452,300	0.88	18
Delaware	220,000	0.43	11
Florida	2,334,380	4.56	49
Georgia	3,076,350	6.01	55
Iowa	199,390	0.39	16
Idaho	59,600	0.12	5
Illinois	1,110,320	2.17	31
Indiana	2,272,250	4.44	41
Kansas	1,252,080	2.45	28
Kentucky	1,683,375	3.29	17
Louisiana	1,892,620	3.70	17
Massachusetts	411,405	0.80	15
Maryland	262,400	0.51	13
Maine	47,250	0.09	9
Michigan	1,767,990	3.46	
Minnesota	467,560	0.91	20
Missouri	1,149,440	2.25	31
Mississippi	769,250	1.50	20
Montana	1,210,260	2.37	21
North Carolina	779,660	1.52	
North Dakota	677,200	1.32	12
New Hampshire	691,550	1.35	25
New Jersey	1,109,345	2.17	36
New Mexico	1,278,145	2.50	21
Nevada	345,200	0.67	11
New York	2,312,863	4.52	61
Ohio	2,716,920	5.31	99
Oklahoma	162,500	0.32	5
Oregon	210,200	0.41	14
Pennsylvania	2,593,150	5.07	52
Puerto Rico	297,000	0.55	7
Rhode Island	5,000	0.01	1
South Carolina	862,580	1.69	22
South Dakota	23,000	0.04	2
Tennessee	182,000	0.36	7
Texas	5,292,750	10.34	127
Utah	837,950	1.05	17
Virginia	727,092	1.42	12
Washington	125,150	0.24	9
Wisconsin	316,250	0.62	12
West Virginia	391,900	0.77	12
Wyoming	1,540,155	3.01	47

Source: Securities Data Co./Bond Buyer.

RESOLUTION TO OPEN A CONGRESSIONAL INVESTIGATION INTO THE ARTHUR RUDOLPH CASE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. TRAFICANT. Mr. Speaker, I rise to speak on a resolution I introduced today expressing the sense of the House of Representatives that the House Judiciary Committee should hold hearings for the purpose of investigating the Arthur Rudolph case.

I can well understand why the Jewish community is upset with my involvement in this case. They know that Rudolph was a member of the Nazi Party during World War II and they have the impression that he was responsible for the deaths of thousands of forced laborers in the V-2 rocket plant. Nevertheless, I hope the Jewish community will consider my following words.

I believe, that, like most young Germans of the day, he joined the party out of desperation. He was out of work during a great depression and the only way to earn a living was to join the party. There is no evidence whatsoever that he had abused or violated the rights of forced laborers used on the production line at the V-2 plant at Mittelbau. Nor is there evidence to refute his claim that his capacity at the Mittelbau was solely as production manger of the V-2 plant.

My quarrel is with the Office of Special Investigation [OSI] of the Justice Department. In a series of interviews with the OSI following his capture by American troops, Rudolph never lied about his wartime activities. He entered the United States legally, attained United States citizenship with the blessing of President Truman, and served the United States and the Federal Government loyally through his contributions to our Nation's missile and space programs. Yet, 14 years after he retired, the OSI called him back for one final interview and purportedly forced him to leave the United States and renounce his U.S. citizenship or be prosecuted for Nazi war crimes based on fabricated evidence. Due to frail health—Rudolph had recently suffered a heart attack, his advanced age, his lack of financial resources, and his difficulty in finding witnesses after nearly 40 years, Rudolph, under duress and fearful for the welfare of his wife and daughter, signed an agreement with the OSI stating that he would leave the United States and renounce his citizenship.

Following Rudolph's departure, the Federal Republic of Germany conducted their own investigation into the case using evidence the OSI had supplied. German investigators found the OSI evidence to be without merit, substance, and documentation. As a result, Germany completely exonerated Rudolph and granted him German citizenship. Further evidence has appeared since Rudolph's departure in Rudolph's favor. Yet, the Office of Special Investigation refuses to consider it. Hundreds of Rudolph's coworkers from NASA and citizens of the United States petitioned former President Ronald Reagan for an investigative review of the case.

I believe that the OSI may have tampered with the civil rights of a U.S. citizen. This is the reason why I am calling for an investigation into the case that will bring together all evidence for and against Rudolph. If Rudolph is not the perpetrator as evidence increasingly reveals, I do not want to see him punished. I have faith that if members of the Jewish community could review all evidence for and against Rudolph, they would make a fair decision on his behalf. I believe that the Jewish people, probably more than any other ethnic group in the world, understand the importance of civil and human rights. If Rudolph is guilty of working forced laborers to death at Mittelbau, I believe that the penalty he is presently paying for participating in such disgusting acts is not tough enough. I believe that if he is guilty he should not be receiving any pension or remuneration from the U.S. Government.

Please have the attached article by Patrick Buchanan relative to the matter printed in the RECORD following the above statement.

[From the Washington Times, July 17, 1989]

HERO OR NOXIOUS NAZI?

(By Patrick Buchanan)

Twenty years ago, President Nixon gathered his White House staff, and we all headed, before dawn, down to Cape Canav-

eral. The historic occasion: The launching of Apollo II.

When the mighty Saturn V rocket thundered off its pad, with Neil Alden Armstrong, Col. Edwin Eugene "Buzz" Aldrin Jr. and Lt. Col. Michael Collins aboard, the earth shook for miles. It was a marvelous moment. The huge rocket, flames blazing half a mile from its tail, roared to the world a clear message: Russia may have been first in space, but America is No. 1.

Few can claim more credit for man's journey to the moon than Arthur Rudolph, the brilliant German rocket scientist and production manager of the Saturn V. His life's dream fulfilled, Mr. Rudolph retired that year, full of honors, to live out his days in California, near his only daughter, Marianne.

Today, Mr. Rudolph, 82, is a man disgraced, stripped of citizenship, living in Hamburg, forever branded a Nazi war criminal by the nation that once exalted him and pinned medals on his chest.

What a story!

About his early career, there is no disagreement. Fired by the dream of space travel, Mr. Rudolph hooked up with the young Prussian aristocrat, Wernher von Braun, to co-lead the Luftwaffe team sent to Pennemunde, to build Hitler's "Vengeance Weapon," the V-2 that rained upon London in the hundreds in the closing days of the war.

In August 1943, Bomber Command paid a visit to Pennemunde, killing in one night 1,000 men, women and children, almost wiping out Mr. Rudolph's own family, and forcing transfer of V-2 production to the milelong tunnels at Mittelwerk in the Harz Mountains.

Here, Arthur Rudolph's character was tested. For the hard labor at Mittelwerk was done by slave labor, prisoners from Buchenwald, housed in the nearby concentration camp of Dora-Nordhausen. One day, in January 1945, the SS called the work force together in the tunnel to witness a hanging—of six workers, for an attempted uprising. Mr. Rudolph was there.

At war's end, hoping to be captured by the Americans, Mr. Rudolph made his way westward. Interned at Garmisch, he was interrogated on his wartime service, brought to the United States under President Truman's "Project Paperclip," interrogated again, then sent to Fort Bliss, Texas, where he taught the Army to fire the V-2s the Yanks had captured. After a third, transcribed interrogation, Mr. Rudolph was offered citizenship. Sent across the border to Juarez, Mexico, he obtained a visa, re-entered the United States legally, and, in 1954, became a naturalized American citizen.

Thirteen years after he retired, Mr. Rudolph got a letter from the Office of Special Investigations of the Justice Department. Could they meet? Twice, he did so, without a lawyer, telling OSI's Neal Sher and Eli Rosenbaum what he had told his American captors decades before, that, yes, he had been a nominal member of the Nazi Party, and of the SA until 1934.

Following the interviews, Mr. Rudolph was informed that OSI now considered him a Nazi war criminal, that he was in danger of being prosecuted, stripped of pensions and citizenship, bankrupted and expelled. So, too, were his wife and daughter.

Horrified, fearing he would not survive a trial, Mr. Rudolph, a heart attack victim, capitulated, and lied, signing a paper saying he had persecuted unarmed civilians because of race, religion, national origin or political opinion. Then, heartbroken, he flew to Germany, and renounced his U.S. citizenship. In return, OSI promised not to go after his daughter.

A stunned Bonn, an alleged war criminal dropped in its midst, began an investigation. After extracting from OSI all its "evidence" (basically, the transcripts of Mr. Rudolph's two interviews, and the names of nine "witnesses"), the West Germans gathered the testimony of 26 ex-forced laborers, 23 of Mr. Rudolph's co-workers, and 15 members of the SS, producing 15 volumes of files. After two years, Bonn found OSI's case to be a cruel joke. (Four of the OSI's nine knew nothing of Mr. Rudolph; two were mentally unfit to testify; one defended Mr. Rudolph's innocence; the remaining two accusers were judged non-credible.)

Others came forward. A former Nordhausen prisoner who had worked on the V-2 testified: "Mr. Rudolph stood up very well for us prisoners and got us additional rations. He treated us concentration camp inmates always well. . . . I know of no case, where Mr. Rudolph was rough or where he would have mistreated prisoners."

This was echoed by the first American officer in Nordhausen. At the '47 Dachau trial of SS collaborators at Mittelwerk, Mr. Rudolph's name never came up. Where were his accusers then? Ex-colleagues at Fort Bliss and Huntsville, Ala., journalists who studied the case, came to his defense. Not only is Mr. Rudolph innocent, writes author Thomas Franklin in "An American in Exile," Messrs. Sher and Rosenbaum behaved like "vigilantes riding hell for leather to a necktie party, determined to see to it that their own kind of justice was dished out." Gen. John Medaris, Mr. Rudolph's superior in Huntsville, now an Anglican bishop, denounced OSI's actions as "unjust immoral and illegal."

What do friends of this 82-year-old man ask? Only this: That, considering his service to this country, America gave him the public hearing, the fair "trial" he was denied.

All that is needed is for one congressman of courage to propose that Mr. Rudolph's citizenship be restored. Then, let us have public hearings, under oath, so the American people can decide whether Mr. Rudolph was a Nazi victimizer of slave labor, or himself a victim of an American political atrocity.

A SALUTE TO DARWIN McGLUMPHY, PRESIDENT, OHIO UNION OF PATROLMEN ASSOCIATIONS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. STOKES. Mr. Speaker, on June 1, 1990, the Ohio Union of Patrolmen Associations [OUPA] will convene in celebration of the 19th anniversary of its founding. Over the years, the organization has achieved an outstanding record in representing the interests of patrolmen and improving the safety standards for law enforcement officers throughout the Nation. I am pleased to rise today to salute a prominent Ohioan who serves as president of OUPA, Officer Darwin McGlumphy.

Officer McGlumphy, an 18-year veteran of the Akron Police Department, has served as president of the Union of Patrolmen Associations for 2 years. Prior to his appointment as president, he served as secretary for 1 year; education officer for 2 years; legislative chairman for 7 years; and first vice president for 7 years.

Mr. Speaker, Officer Darwin McGlumphy is one of the most active public employees in the State of Ohio. Since beginning his law enforcement career in 1972, he has strived to improve the working conditions and quality of life for police officers. He works tirelessly to insure that police officers have a voice in the legislative processes that affect their jobs. He has testified before Congress on issues affecting the law enforcement community and officer performance in the line of duty. He educates police officers on labor issues through bimonthly labor education classes. Due to his efforts, the Ohio Union of Patrolmen Associations is a strong and effective voice in the State of Ohio and throughout the Nation.

During his career, Officer Darwin McGlumphy has been recognized for his commitment and dedication as a law enforcement officer. He is the recipient of numerous awards and citations, including the Ohio Governor's Special Recognition Award; the Distinguished Service Award from the Mansfield Patrolmen Association; the Meritorious Service Award from the International Union of Police; and the Police Officer of the Year Award from the Ohio Union Patrolmen. In addition to his awards and outstanding employment record, Officer McGlumphy has earned a bachelor's degree and is currently working toward the completion of his Ph.D.

I am also pleased to note that in addition to his duties as a law enforcement officer and president of the OUPA, Officer McGlumphy devotes his time to the youth of his community. He serves as a volunteer for the United Way, the YWCA Residential Intervention Center, the March of Dimes, and the Ronald McDonald House.

Mr. Speaker, it is an honor to salute Officer Darwin McGlumphy. He has served with honor and distinction as a law enforcement officer and as president of the Ohio Union of Patrolmen Associations. He is a leader and champion in whom the community and our Nation can take great pride. I ask that my colleagues join me in paying tribute to Officer Darwin McGlumphy.

THE 10TH ANNIVERSARY OF MILLER BREWING CO. IN IRWINDALE, CA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. TORRES. Mr. Speaker, I rise today to call my colleagues' attention to the fact that on June 3, 1990, the Miller Brewing Co. will observe the 10th anniversary of the opening of its modern, state-of-the-art brewery in Irwindale, CA. On that day, more than 5,000 employees of the brewery, their families and

friends will celebrate this momentous occasion with an all day program of special events.

I would like to applaud president and CEO Leonard Goldstein of the Miller Brewing Co. and the Irwindale work force, for their decadelong commitment to the Irwindale community, economy and its environment. The managers of the Irwindale brewery have actively promoted environmental programs to reduce waste and have embarked on a major recycling campaign. The employees voluntarily participate in carpools to help reduce air pollution and relieve congested highways. This joint effort is an example of corporate America responsibility and leadership in the environmental effort of the community and the nation.

Miller Brewing and Irwindale employees have distinguished themselves over the last 10 years through their unselfish contributions of time and money to local charities and community service organizations throughout the entire State of California. Mr. Victor Franco is an effective spokesperson for Miller's charitable commitment and has succeeded in providing contributions to organizations that have a positive affect on our communities. Miller is to be congratulated for their philanthropical efforts.

The Irwindale brewery has grown significantly since it was built in 1980 and now serves as a major exporter of Miller products to 10 foreign countries along the Pacific Rim, including the Republic of Mexico. The brewery also serves 14 other Western States, as well with a total annual production of more than 5.7 million barrels of quality beer and malt beverages.

I commend the plant manager, Dennis Puffer for this high level of production for domestic and foreign consumption, thus making a significant contribution to the economies of the city of Irwindale; the county of Los Angeles and the State of California. The nearly 2,000 brewery distributor employees earn more than $58 million each year in wages and benefits. The brewery purchases more than $200 million per year in services and materials from California companies.

Moreover, the Irwindale brewery has added considerably to the region's tax base in payment of nearly $64 million annually in corporate, property, excise, vehicle and other taxes. Most importantly the Irwindale brewery has added to the quality of life in Irwindale and all of California.

Mr. Speaker, I ask my colleagues to join me in commending the Miller Brewing Co. and its Irwindale brewery on their 10th anniversary and in wishing them many more successful and prosperous years in our State of California.

STATEMENTS ON YUGOSLAVIA AT HEARING OF THE CONGRESSIONAL HUMAN RIGHTS CAUCUS

HON. LYNN MARTIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mrs. MARTIN of Illinois. Mr. Speaker, on April 24, 1990, the Congressional Human Rights Caucus held a hearing on the present political climate in Yugoslavia, focusing on that country's troubled Kosovo Province. My distinguished colleagues Mrs. HELEN DELICH BENTLEY of Maryland and Mr. JIM MOODY of Wisconsin made statements at the hearing.

Congresswoman BENTLEY is a first generation Serbian-American whose parents emigrated to this country shortly after the turn of the century. Mrs. BENTLEY has made numerous trips to Yugoslavia, going back to her years of service in the Nixon administration as Chairman of the Federal Maritime Commission and, most recently, traveling there in April with the Helsinki Commission.

Congressman MOODY's personal interest in recent events in Yugoslavia dates back to 1958, when he spent 2 years as CARE representative in that country. During that time Mr. MOODY visited not only every republic in Yugoslavia but every major town as well. Mr. MOODY was also a member of the recent Helsinki Commission delegation which visited Yugoslavia, and his expertise on this country is widely recognized in this Congress.

Mr. Speaker, this is a sensitive area. Other colleagues of ours have made arguments that represent other views. That is the purpose of our Congress, and in that spirit I ask that the remarks of Congresswoman BENTLEY and Congressman MOODY be printed in the RECORD following my own statement.

STATEMENT OF HON. HELEN DELICH BENTLEY BEFORE THE HUMAN RIGHTS CAUCUS, APRIL 24, 1990

Who would have thought 600 years ago that the second battle of Kosovao would take place in the halls of the United States Congress, (actually in the legislative halls of a country which was not even in existence when the first Kosovao war took place.)

Kosovao is where—600 years ago—the Serbs, although outnumbered, fought a valiant battle against the Islamic invaders of Christian Europe. The Serbs were "guardians of the gate." They lost the battle, but they saved Christianity! They lost the battle, but they still celebrate that day; in fact, they venerate that day.

And it was because of this veneration through the centuries that Kosovao has become as sacred to the Serbians as Mecca is to the Moslems, the Vatican is to the Roman Catholics, Jerusalem is to the Jews, and Canterbury is the Anglican Church.

Nevertheless, here we are today, talking about an event, and a place, which happened before this country—the United States—was even founded, and located today in another country, which also was non-existent at the time of the first battle. Yugoslavia, a country of unique composition. Yugoslavia is made up of six republics—including Serbia, the one that did exist in 1389 and for 200 previous years—four principal ethnic groups, three different basic languages, three major religions, and two alphabets. There is nothing simple about it.

Some people even describe Yugoslavia as a jigsaw puzzle because of this multiplicity of makeup. That composition developed because of the history of the republics involved. And, although we in the United States these days have a tendency to overlook, gloss over, or even forget about history, nevertheless, historical background is vital to most other people in the world—and in this particular case, to the Serbs in relation to Kosovao.

Even though the Ottoman Turks won that historical first battle of Kosovao, the Serbs have always venerated that battlefield where they left blood for century after century as they endeavored to free themselves from the Ottoman oppression—and finally did in the Nineteenth Century.

Through the balance of the Nineteenth Century and into the early days of Twentieth, Serbia—although independent—was a much sought-after pawn of the Austro-Hungarian Empire. Turkey once again made forays against her, and even Bulgaria and Russia showed interest. The Balkan Wars that we have read about in our history books were real, and Serbia seemed involved in the conflict throughout her history, until Yugoslavia was formed after World War I in the Versailles Treaty.

But the new country of Yugoslavia had less than a generation to establish itself when the might of Hitler's Third Reich came down upon it. In March of 1941 after a coup d'etat, the Serbs and most Yugoslavs entered World War II on the side of the Allies. That decision threw Hitler into such a rage of spite that he delayed his attack on Russia for two weeks, and sent the troops into Yugoslavia. Many historians believe that this decision was Hitler's worst mistake and caused him to lose the war.

That move tied up 15 divisions of Hitler's mechanized forces and caught Hitler in the middle of winter, causing his defeat during World War II.

It is very timely—on this, the official day of recognition of the Holocaust—to be discussing the fate of the nation of Yugoslavia, a smaller country which lost 1,700,000 Jews and Serbs to the Nazi terror.

But the Serbs paid heavily for coming out on the side of the Allies for the second time. They were forced out of their home—Kosovo—by the Axis forces, and were not allowed to return there during the Axis occupation, or during the rule of Broz Tito's communist government, which wanted to assist Albania, and also reduce the Serbian majority, both in Kosovo, and throughout Yugoslavia.

Americans must understand—and that includes this Congress—that this was the price the Serbians paid for being an ally of the Allies, an ally of the United States—our ally.

Historically, between the wars, the native Kosovo Albanians and the Serbs lived in comparative harmony. That peace resulted from normal migrations and integrations of society. There, of course, were differences, but no extremes of desecration of property, loss of life, or harassment.

There is no doubt in the minds of the Serbians that the Twentieth Century battle of Kosovo has resulted from Marshall Tito's high-handed manner, not only in forcing the Serbians out of their homes there, but also in encouraging the Albanians from Albania to flock into Kosovo in droves—by the thousands.

In fact, early in his reign, Tito's government passed a law which forbade any Serbians who left Kosovo during the war or after, from returning to their home sites or anywhere in Kosovo.

Where the province once was 75% Serbian and 25% Albanian, the proportions now not only are reversed, but the Serbian share is said to be down to less than 10%.

As that proportion was turned around, the feeling in Yugoslavia is that many of the agitators of Kosovo have come from the strongest communist country in Eastern Europe—Albania. The general feeling of all

the Serbians is that it is a move to separate Kosovo altogether from Serbia and Yugoslavia, and to make it greater Albania.

In fact, the February 23, 1990 "Report on Eastern Europe," issued by Radio Free Europe, states: "On February 1 some 500 ethnic Albanians in the town of Tetovo in western Macedonia attempted to block the town center, but were quickly dispersed by local police. An account by Radio Belgrade described the police action as, 'So swift that the demonstrators did not even know what had hit them.' Reports indicate that the demonstrators were demanding that western Macedonia, which is heavily populated by ethnic Albanians, be granted independence. They chanted, 'We want a greater Albania,' and voiced solidarity with Kosovo's Albanians."

Only this past week Albania has indicated that it is interested in establishing any dialogue with the outside world . . . the first time in 45 years.

And yet, Yugoslavia has been just the opposite the most open of the East European countries—open since it went its own communistic way in 1948 to open its borders to visitors from throughout the world as it had before World War II. However, with all that openness it has only been within the past year or two that the Serbs themselves have been able to have any pride about their heritage because they had been so downgraded throughout Yugoslavia by their enemy, Marshall Tito.

It was pointed out to me by a top official of the U.S. Embassy last year, that it has only been since Slobadan Milosovic came to power in Serbia that all of Yugoslavia recognizes, finally, that Tito is dead, that many of Tito's henchmen have been put out of office, and that the Serbians have been able to hold their heads high.

It is ironic that the communist country which has had the first open door, and the longest, is one of the slowest in moving towards open multi-party elections on a nationwide basis—but again, this can be blamed on the fragmented ethnic complexion of this small country.

It was my privilege to be invited to go with members of the Helsinki Commission to Yugoslavia the first week of this month to investigate human rights violations there and, in Romania and Bulgaria. While I applaud their efforts, the short two and a half days spent in Belgrade and Kosovo can barely brush a thousand years of the history of those nations—the complexity of the ethnic mix of that area of the world.

This hearing, scheduled for earlier in the year, was deliberately postponed until after the Commission had visited. Considering the news coverage of our "findings," I am glad that we waited. As a former news reporter, I can tell you that what we saw, what we heard, was not reported in the proper light.

A minority position paper from the trip is now being prepared and it is our hope that this afternoon some of the misleading impressions can be corrected.

I was very pleased to read over the weekend that President Markovic of Yugoslavia said there would be multi-party elections on a federal or national basis of that country before the end of this year—or at least, early next year. The republics of Slovenia and Croatia already have had multi-party elections for their areas and hopefully the other republics, including Serbia, will be doing so in the forthcoming months as well. These are positive moves, along with the turnaround of the economy of Yugoslavia under the program of President Markovic, which he outlined to those of us who visited him as part of the Helsinki Commission earlier this month.

Is there room for improvement on human rights? You bet there is throughout Yugoslavia, in every way.

Has any progress been made? Yes, it has. As we heard from the letter from the Embassy earlier today, in recent weeks some 108 political prisoners were released. Undoubtedly, they should have been released earlier and perhaps it was the combination of the pressure from the Helsinki Commission's visit and this Human Rights Caucus hearing that finally brought their release about. And, of course, the good news today was the release of Mr. Vlasi, who has been going through a lengthy trial and apparently, he and his colleagues were found not guilty today. I had the occasion of sitting next to Mrs. Vlasi during dinner while we were in Kosovo two weeks ago and I told her that I was the one who had pushed hard for an open trial for her husband. I'm very glad that it was open and I'm very glad that he is free.

There have been other bits of good news regarding human rights, but we all know there are changes and improvements that must be made throughout the country as there are throughout Eastern Europe.

As I noted earlier, Mr. Chairman, our purpose here this afternoon is to explain this ethnic diversity which between the world wars gave a pluralism to Yugoslavian society not seen anywhere else in the Balkan states. It is our hope that this model can once again be explored—with a recognition of ancient "rights to Jerusalem"—"rights to Kosovo," in this instance—rights which cannot be denied without great risk to the people of all of the Balkan states.

There is no right, no claim, as strong as one of history and heritage. The recent eruption of nationalism from a host of small nations inside the Soviet Republic is testimony to that ever green commitment to a national identity despite years of oppressive foreign domination of all sectors of society in those countries.

It must be recognized today that occupation of a state does not have to be heralded by the movement of armies, but rather can occur—as happened in ancient days—by a mere movement of a people. The reasons for this in-migration can be either political or economic, or both, but the reasons do not address the problems created by the fact of occupation. We need to present the problem. To force recognition of the problem by this country. And, finally, to work with all other involved parties toward some pluralistic solution which will accommodate the best interests of the nation of Yugoslavia, the nation most threatened by this occupation.

It is a tragic history we are discussing here this afternoon. It is vital for the benefit of all the Republics and peoples of Yugoslavia, as well as the western world, that that country remains intact.

Our deepest wish is to avert another tragedy—the dismantling of Yugoslavia must not take place!

STATEMENT OF HON. JIM MOODY BEFORE THE HUMAN RIGHTS CAUCUS APRIL 24, 1990

I appreciate the opportunity to discuss the current situation in Yugoslavia and applaud the Human Rights Caucus for holding this hearing. I hope that it will contribute to a greater understanding of the unique and complex circumstances that exist in Yugoslavia today.

My personal involvement with Yugoslavia began in 1958, when I served for two years as the CARE representative there. During those two years I traveled throughout the entire country and to every republic, in fact, to every town. I have stayed in touch with developments since that time, most recently as a member of the Helsinki Commission delegation, led by Sen. DeConcini and Congressman Hoyer, that visited Belgrade and Pristina two weeks ago, April 9 to 12.

THE COMPLEXITY OF YUGOSLAVIA

Yugoslavia is far, far more complex and diversified than any other Eastern European country. It has seven nationalities: Serbian, Croatian, Slovenian, Macedonian, Montenegrin, Albanian and Hungarian. It has six republics: Croatia, Slovenia, Serbia, Bosnia-Herzegovina, and Macedonia. It has five languages: Serbo-Croatian, Macedonian, Slovenian, Albanian, and Hungarian. Yugoslavia has four peoples: Slavs, Turks, Albanians, Magyars. It has three religions: Orthodox, Catholic, and Moslem. It has two alphabets: Cyrillic and Latin.

Yugoslavia has an incredibly rich and diverse history. Much of the country—Croatia and Slovenia—was an integral part of the Austro-Hungarian empire. Most of the country—Serbia, Bosnia and Macedonia—were under the Ottoman Empire. Montenegro was never conquered from the outside.

The area that now makes up Yugoslavia has long been the scene of passionate, ethnic rivalry and expression, with some periods of intercommunal and inter-religious violence and repression. World War I started in Sarajevo as a result of an assassination sparked by ethnic aspirations.

SERBIA AND KOSOVO

No region is more complex, nor has a more admirable history, than Serbia, the largest and most diverse republic. Today, Serbia includes two semi-autonomous provinces: Vojvodina and Kosovo. During the Tito period, both provinces were granted a great deal of ethnic expression and administrative autonomy.

Serbs have a rich cultural tradition, with national poetry, songs, and artistic forms of great beauty and strength. The modern scholar, Slobodan Jovanoic, depicts the truly glorious history of Serbia and the Serbian people.

No part of that history is more meaningful than the 500-plus year struggle the Serbs waged for their freedom, dating from 1389 when they lost a decisive battle in the heart of ancient Serbia—Kosovo—to the invading Moslem Turks. That battle ushered in the five centuries of alien rule and oppression. The 1398 battle of Kosovo is the most important date in all Serbian history, not because of the result of the battle itself, but because it began the greatest trial of the Serbian people and the difficulty from which they emerged with their religion, language, culture and Western values intact. They persevered through the long night of oppression. They never lost sight of freedom or belief in the dignity of the individual.

The Serbian people have always drawn strength from their tradition, dating back to 1389, of fighting for freedom and liberty as they faced modern-day forces of oppression. They fought bravely on the Allies' side in both World Wars I and II.

In regard to Serbian treatment of minorities living within their midst, their record

through history has been one of tolerance and fairness.

During World War II, the Serbs refused to give in to Nazi pressure for cooperation. As a result, they were subject to full scale attack by the German armies, joined by Fascist forces from several bordering countries. The Nazi occupation of Serbia was one of the most brutal of all of World War II, and many thousands of Serbs gave their lives in organized resistance to that occupation. There are towns in Serbia where every male inhabitant was machine-gunned by the Germans in retaliation for some act of resistance.

At the same time, thousands of Serbs living in Croatia or Bosnia were killed by units of the Croation facist organization, the Ustasha, which set up an Axis state in Croatia allied with Germany and Italy. Old ethnic and religious rivalries between Croats and Serbs were rekindled, and thousands were killed by Utasha guards simply for being Serbian—that is, for being of the Orthodox religion.

In sum, the Serbs have a long tradition and history of commitment to freedom and liberty, often achieved after terrible sacrifice. In this rich and admirable tradition, Kosovo stands as an historic symbol of the Serbian struggle for freedom. The belief of the Serbian people—and in fact of all Yugoslav people—in the dignity of the individual is central to their culture and to their values. Probably no ethnic group in Europe has paid more dearly over the last six centuries for their beliefs than the Serbs and many of their countrymen.

MODERN DAY YOGOSLAVIA

In 1948, at great risk of invasion and war, Yugoslavia broke with Stalin and the Soviet system, and set out on their own path. It was the first country to do what other Eastern European countries are now doing so dramatically.

After an early period of very tight controls over personal expression, press, foreign travel and other freedoms, these restraints were gradually and continuously relaxed. Today personal freedoms in Yugoslavia are generally very secure. Political arrests and trials, as usually defined, have not been totally eliminated but are now a real rarity. The national parliament is preparing legislation to abolish all "verbal crimes". Over 100 persons convicted under such statutes were recently pardoned and released (including the famous Mr. Adem Demaqi). The Yugoslav government now demonstrates that no political prisoners remain incarcerated.

The recent events in other parts of Eastern Europe have had significant impact on Yugoslavia, and have no doubt accelerated its march to democracy. Free elections have been recently held in Slovenia and Croatia; more will be held soon in Croatia and in all other parts of the country later this year. Today the press criticizes the government and office holders, and publishes articles by such well known anti-Tito dissidents as Milovan Djilas.

RECENT DEVELOPMENTS

In Kosovo today, the situation remains very tense. Our recent Helsinki delegation visit there included extended meetings with political and religious groups of a wide variety. We met with representatives of a number of Albanian ethnic groups, with representatives of the Serbian ethnic minority there, and with Orthodox and Muslim religious leaders. I have provided copies of the statement our delegation issued upon completing our visit.

Our Helsinki delegation criticized the apparently overly-heavy reaction of the police and some local authorities during the recent riots, in which more than 30 Albanians lost their lives. And we criticized the view by some in Belgrade that the Albanian minority representatives were only "separatists" and "terrorists". Our view was that there were responsible Albanian ethnic groups that wanted more autonomy but not secession from Yugoslavia.

But we also noted considerable suffering and difficulty by the Serbian families still living in Kosovo. Serbian priests have been beaten; Serbian graves desecrated, and Serbian churches burned. The Serbs are a small and embattled minority in Kosovo. The ones we met with told of ethnically-based discrimination and harassment they have suffered. Many Serbs have already fled Kosovo in fear for their safety.

The Serbs in the rest of Serbia have reacted very strongly to this situation. As mentioned above, Kosovo is the birthplace of Serbian culture and has tremendous ethnic, cultural, and religious symbolism. Morever, the Serbs point out that in the other semi-autonomous region of Serbia, Vojvodina, populated mostly by Hungarian ethnics, there is no comparable conflict and tension.

Our trip found that despite the high state of tension in Kosovo, there is substantial basis for peaceful resolution, particulary if Belgrade officials show leadership and restraint. We were especially impressed by Orthodox and Muslim leaders in Kosovo who expressed great compassion and understanding for the other religion, and for the suffering on both sides.

In fact, we found many individuals of good will on both sides. If political posturing in Belgrade can be reduced, and the legal restrictions on legitimate expressions eased, I personally am optimistic for future peace and democracy in Kosovo.

It is important to note that the federal government and the Serbian republic have very recently (April 18) lifted the official state of emergency in Kosovo. This bodes well for the move towards democracy in Kosovo.

It should also be noted that today, fourteen ethnic Albanians were acquitted by the court of Titova Mitrovica of all charges against them that stemmed form the recent unrest. The most notable person in that group was Mr. Azem Vlasi.

CONCLUSION

The complexity of the situation in Kosovo, and the Serbian-Albanian conflict there, caution against any sweeping conclusions by outsiders. Certainly it would be ill-advised for the U.S. Congress to level condemnation against either side in the highly charged conflict. Doing so would probably inflame further the tensions, and might actually reverse the current trend towards relaxation of those tensions.

The recent U.S. Helsinki Commission statement released at the end of our visit carefully lays out the position of the majority of our delegation. Beyond that, I would not recommend judgment.

As stated, many people of good will are now at work in Kosovo, and recent government actions towards political prisoners, Mr. Vlasi, and towards lifting the state of emergency are very positive steps. Working in a non-condemnatory way with the relevant authorities, we hopefully can facilitate further progress.

FATHER CORNELIUS BECKER, A HUMBLE SERVANT

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. KOLTER. Mr. Speaker, I rise today before the full U.S. House of Representatives to honor and pay special tribute to the Reverend Father Cornelius H. Becker of St. Mary's Roman Catholic Church of New Castle.

Father Becker, who is approaching his 66th anniversary as a priest, is also celebrating his 92d birthday, beginning with a Mass of Thanksgiving at St. Mary's, and followed by a reception recognized by the Pittsburgh Diocese.

But more important that these numerical milestones, Father Becker is honored today for his profound humility.

Always there for the people, Father Becker has a reputation for assisting those in need no matter the weather or the circumstances. In short, Father Becker encompasses the ideal of the priesthood as much as any man can.

Born in Pittsburgh and a student at St. Joseph's, St. Francis College and Duquesne University, Father Becker was ordained at St. Vincent Archabbey by Bishop Boyle. Father Becker served at St. George on the South Side, SS. Peter and Paul in East Liberty, St. Mary's in McKeesport, St. Vicent de Paul in Leisering, St. Joseph's in New Castle, St. Mary's in Mckees Rocks and St. Teresa's in Koppel, where he retired in 1973.

However, Mr. Speaker, I also honor Father Becker today because he has not retired in the active sense, and he has certainly not retired in the spiritual sense.

Father Becker continues to set an example for the community, as spiritual leader of the Tri-County Blue Army of Our Lady of Fatima—all 2,500 strong—and as a modern Christian pilgrim, visiting a different church each month.

The faithful also cherish Father Becker's vigils, often held from Friday evening until Saturday morning, an example of the strength of faith.

In conclusion, Mr. Speaker, I especially recognize Father Becker before the Congress because of his chosen mission in life, to spread the message of Fatima, a message of peace for mankind, throughout this portion of the world.

INTRODUCING THE PUBLIC-PRIVATE TOLL ROAD ACT OF 1990

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. RIDGE. Mr. Speaker, there is perhaps no greater threat to the future economic vitality of our Nation than the continued deterioration of our highway transportation infrastructure. The challenge is great, the problem met by no simple solution.

Today, I wish to offer my contribution to help solve this critical problem, to begin the

process of rebuilding our crumbling highways and bridges, and to provide Government, Federal and State, with the proper tools to meet our future transportation demands. In doing so, I seek to encourage the use of a historically popular method of financing highway construction and improvements—tolls.

Therefore, I am very pleased to introduce today the Public-Private Toll Road Act of 1990, legislation that I believe will begin to provide this Nation with the means to both reverse our infrastructure decline and meet our transportation needs of tomorrow.

This act will allow us to achieve these goals by: First, enabling the Federal Government to participate in the construction of new toll highways, bridges and tunnels; and second, allowing States to impose tolls on already completed projects without the payback of Federal-aid highway funds.

Importantly, this legislation will not apply to the Interstate Highway System. Those parts of the interstate currently operating toll-free will remain so. Nor will this legislation allow a State to impose tolls simply to raise revenue. A State will be able to impose a toll on a completed project only in those cases where the tolling of the project is to either expand capacity or for major reconstruction. In other words, consumers will be assured of substantial, upfront benefits before a facility may be tolled.

Also noteworthy is that this act will allow for private sector participation in the building, construction and operation of toll facilities, whether they be completed or new projects. Though a State would be required to regulate the toll charges and the private operator obligated to meet certain conditions, this provision is nonetheless a major step forward in encouraging greater private sector participation in road building and rehabilitation.

Make no mistake about it. The highways and bridges disintegrating before our eyes risks our future economic well-being. Many consider the problem as a threat to our Nation's productivity while still others argue that highway deterioration is a root cause of the decline of American competitiveness. The Department of Transportation has estimated that if we allow the present trend to continue, then by 1995 we will have lost 3.2 percent in GNP, 5.9 percent in disposable income, 2.2 percent in employment and 2.7 percent in manufacturing productivity. These represent tremendous costs by any standard.

Let us also be clear on the enormity of the task we face. The Federal Highway Administration currently spends $13 billion a year on repairs and construction. Yet it has been estimated that bringing America's roads up to "minimum engineering standards" will cost anywhere from $565 to $655 billion over the next 20 years. Overwhelming as this may seem, it does not even include the moneys needed to meet the today's every-growing capacity demands.

Some will surely ask—why toll financing? As the recently released National Transportation Policy noted "no single, all-purpose source is going to fill our future needs." Rather we must look to a variety of public and private sources. In an era of constrained resources, toll financing represents a viable alternative.

I believe the American people will support the toll concept. I think we are fed up with seeing the money we pay in gas taxes sitting unused in the trust funds. Toll financing prevents this sort of abuse because the tolls we pay will go directly for highway purposes. The businesses who now move more than 75 percent of their freight on the highways, I believe, will support tolls if it means getting their goods where they need to go on time—an increasingly questionable proposition. And I think that the American commuter, who's increasingly frustrated with congested, pothole-ridden roads, will support the toll concept if it means an end to highway gridlock and roads that are safe and smooth to ride on.

Opinion polls bear this out. A survey of my own State, Pennsylvania, indicates that a majority support tolls if their funds are used for highway reconstruction and new construction. A Roper poll found only 12 percent opposition to tolls in any form. As a recent article concluded, "when people perceive a benefit—a quicker, safer trip on a road that's quickly built and in better repair—they support the toll concept."

There are some good reasons to support toll financing. First, unlike the abuse of our current transportation trust funds, toll revenues go directly to the construction, operation, maintenance, and improvement of the road. The users of the toll facility, therefore, enjoy the direct benefits of the tolls they pay.

Second, toll financing will allow us to undertake a greater number of projects than we otherwise might under current financing methods. Third, toll financing offers a speed advantage over the normal highway construction process. Project funding is available upon the initiation of the project through the issuance of bonds, allowing its rapid completion. Faster construction times also mean lower construction costs. Fourth, toll financing allows operation and maintenance costs to be taken off-budget, freeing up funds to make other road improvements.

Finally, I believe it is important to recognize the critical necessity the private sector can and should play in the restoration and expansion of our transportation facilities. My legislation will encourage private participation by allowing private operators to construct, own and operate toll facilities. This is known as the build-operate-transfer model, or BOT. These public-private partnerships in transportation have been widely used in Europe and the Pacific Rim for a number of years and with great success.

Here in the United States, the privatization of highways is a slowly catching on. In 1988, Virginia became the first State to enact private tollway legislation. Plans are continuing in the State to move forward for an extension of the Dulles toll road that will be built and operated by the Toll Road Corporation of Virginia. California become the second State to come onboard with legislation that authorizes four private tollway projects. In addition, Colorado, Illinois, Florida, and Puerto Rico are moving ahead or considering private tollway projects.

Certainly, toll financing is not the sole answer to all problems. But it is a viable option in many circumstances. Federal policy should be to encourage toll financing where it has a proper role to play and can meet legitimate transportation demands. To my colleagues, I say that it's time we look to innovative and creative financing methods like tolls and begin the job that Americans are waiting for us to do.

SECTION-BY-SECTION ANALYSIS

Section 1 provides that this Act may be cited as the Public-Private Toll Road Act of 1990.

Section 2 amends Section 129 of title 23, United States Code to read as follows:

Subsection (a) concerns completed projects where federal-aid highway funds have been used. Under current law, states are prohibited from charging tolls on a project where federal funding has been used without first having to pay back those funds. This "payback" provision works as a tremendous obstacle to a state wishing to impose tolls, if not an outright bar.

Under this subsection, the payback provision is repealed but only if imposition of the toll is for reconstruction to expand capacity or for major reconstruction. In other words, a State will not be allowed to summarily impose tolls on completed projects simply to raise revenue. The consumer is, therefore, assured substantial, upfront benefits before a toll may be imposed.

This subsection does not apply to any highway designated on the Interstate System. No part of the interstate system currently operating toll-free will allowed to be tolled.

Subsection (b) allows for federal participation in (A) the construction of any toll highway; (B) the major reconstruction to accommodate capacity problems of and relieve congestion on any existing highway which is tolled or which will be tolled upon the completion of such reconstruction; and (C) the construction of any new toll bridge or new toll tunnel.

Subsection (b)(2) provides that any Federal share in the construction or reconstruction of any toll facility shall not exceed 35 percent. This provision is consistent with current law.

Subsection (c) provides that any highway, bridge, or tunnel toll facility may be privately constructed, reconstructed and owned and operated subject to the following conditions that: (1) the operator first obtained authority from the State authorizing the operator to undertake the project; (2) any federal funds expended on the facility will be transferred to the operator through the State; (3) the toll facility will at all times be kept open for use by the public; (4) the State provides for regulation of the tolls to be charged on the facility; and (5) upon the termination of the private operator's authority and the retirement of any financing or refinancing, that ownership of the toll facility will be transferred and dedicated to the State for highway purposes.

Subsection (d) address the limitation on the use of revenues derived from the operation of the toll facility by either public or private operators.

Under subsection (d)(1), before Federal participation is permitted under subsection (a) or (b), a State must agree that any excess toll revenues received from the operation of the toll facility, beyond those necessary for—(A) the costs of construction or reconstruction, and (B) for the proper operation, maintenance and debt service, will be used for other projects eligible for Federal funds under this title.

Under subsection (d)(2), before Federal participation is permitted under subsection

(a) or (b), a State must provide in its regulation of the private operator that any excess toll revenues received from the operation of the toll facility, beyond those necessary—(A) for the cost of construction or reconstruction, (B) for the proper operation, maintenance and debt service, and (C) to provide a reasonable rate of return to the private operator with respect to the toll facility, will be used by the State for highway purposes.

Subsection (e) allows a State, upon the completion of any payment of debt service, to continue to tolls on the facility if such tolls do not exceed the cost necessary for the proper operation and maintenance of the facility.

Subsection (f) concerns Federal participation in the construction of ferry boats, whether toll or free, subject to certain conditions. This subsection is a restatement of current law with regards to ferry boats.

MFN STATUS FOR CHINA

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. PEASE. Mr. Speaker, today I, along with my colleagues MIKE ANDREWS, BERYL ANTHONY, BENJAMIN CARDIN, BRIAN DONNELLY, DENNIS ECKART, MARTIN SABO, BILL RICHARDSON, TOM SAWYER, JIM MOODY, and JOHN SPRATT, am introducing legislation to make next year's extension of most-favored-nation [MFN] trading status for China conditional upon the Chinese Government halting its cruel repression of the Chinese people.

Almost 1 year ago, the Government of China sent tanks into Tiananmen Square, killing thousands and brutally crushing the fledgling democracy movement. President Bush responded 2 days later by cutting off arms sales, suspending satellite launches, and imposing other minor sanctions. Congress added other sanctions, including the suspension of Overseas Private Investment Corporation [OPIC] operations, in last February's State Department authorization bill. In the meantime, the Chinese Government has taken some modest steps to improve its international image. The Government has lifted martial law in Beijing and Lhasa, Tibet. Reportedly, it has also released close to 800 political prisoners.

Earlier today, President Bush announced that he would grant MFN trading status to China this year. Although a mechanism exists under the Jackson-Vanik provisions for Congress to disapprove his decision, this process is presently under a legal cloud, and it is unlikely that Congress will have the votes to revoke the President's decision.

If you are like most people, you want to express your outrage at the brutal actions of the Chinese Government, but you are uncertain about the immediate effects of additional United States sanctions. My bill is responsive to this delicate situation. While not affecting China's MFN status this year, it would make next year's renewal contingent upon significant improvements in China's human rights and foreign policies.

Specifically, my bill would: amend the Jackson-Vanik provisions on a one-time basis for China; by June 3, 1991, require the President to certify that China has met the following criteria before MFN status can be reextended:

Made substantial progress toward reversing a pattern of gross violations of internationally recognized human rights; lifted martial law throughout China and Tibet; and, terminated its assistance to the Khmer Rouge and begun cooperating with multilateral efforts to negotiate a settlement to the conflict in Cambodia.

My bill presents an alternative to the two positions most discussed at present: complete an immediate elimination of MFN status for China or renewal of MFN status for China subject to what has amounted to little more than cosmetic sanctions from the White House.

The text of the bill follows.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OBJECTIVES WHICH THE GOVERNMENT OF CHINA MUST MEET IN ORDER TO RECEIVE MFN.

Section 502(d) of the Trade Act of 1974 (19 U.S.C. 2432(d)) is amended by adding the following paragraph at the end:

"(6)(A) If the President proposes that the waiver authority under subsection (c) be extended in 1991 for a 12-month period, for purposes of applying paragraph (5) with regard to the continuation of a waiver for the People's Republic of China during such 12-month period, the objectives of this section shall include, in addition to the freedom of emigration, the implementation of the following actions by the Government of the People's Republic of China:

"(i) The making of substantial and demonstrable progress to reverse the pattern of gross violations of internationally recognized human rights dating from June 3, 1989.

"(ii) The termination of martial law throughout the People's Republic of China, including Tibet.

"(iii) The termination of assistance to the Khmer Rouge and the cooperation of such Government with multilateral efforts to negotiate a just and lasting settlement to the conflict in Cambodia.

"(B) The President shall prepare, and submit to the Congress, before the commencement of the 12-month period referred to in subparagraph (A), a report on the extent to which the Government of the People's Republic of China has implemented the actions described in subparagraph (A) (i) through (iii) during the period covered by the report.".

SEC. 2. GATT OBSERVER STATUS.

If nondiscriminatory treatment (most-favored-nation treatment) is withdrawn with respect to the products of the People's Republic of China pursuant to section 402(d)(6) of the Trade Act of 1974 (as added by the first section of this Act), it is the sense of the Congress that the President should immediately propose, and strenuously support, the withdrawal of observer status in the General Agreement on Tariffs and Trade for the People's Republic of China.

AMERICAN JEWISH COMMITTEE REPORT ON ANTI-SEMITISM IN THE SOVIET UNION

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. PORTER. Mr. Speaker, the Congressional Human Rights Caucus recently sponsored a briefing on the increase of anti-Semitism in the Soviet Union. We heard compelling testimony from expert witnesses about the threatening situation confronting Soviet Jews.

At this time, I would like to enter into the RECORD the testimony of Sholom Comay, president of the American Jewish Committee. They recently completed the first systematic study of anti-Semitism in the Soviet Union. It details some disturbing findings that add urgency to our efforts toward the rescue of Soviet Jews. I urge my colleagues to read this testimony closely.

TESTIMONY OF SHOLOM D. COMAY, PRESIDENT, AMERICAN JEWISH COMMITTEE ON ANTI-SEMITISM IN THE SOVIET UNION BEFORE THE CONGRESSIONAL HUMAN RIGHTS CAUCUS MAY 8, 1990

Thank you for this opportunity to testify before the Congressional Human Rights Caucus. I intend to speak briefly, but would ask that the full text of my remarks be entered into the Record.

The fate of the Jews in Russia has been a central concern of the American Jewish Committee from its inception. Indeed, AJC was founded in response to the Kishinev pogrom of 1906. Hence, considerable history, as well as the weight of our current concerns about Soviet Jews, lay behind our latest activity in this area; our involvement in the first systematic study of anti-Semitism in the Soviet Union in decades. Some of the findings of this study are disturbing; they confirm various media and eyewitness reports pointing to a sharp rise in anti-Jewish feeling in the Soviet Union.

The study, which was carried out in Moscow and environs, was funded by the American Jewish Committee, the National Science Foundation, and the University of Houston. It was fielded under the auspices of the Institute of Sociology of the Soviet Academy of Sciences and directed by two political scientists from the University of Houston, Dr. James Gibson and Dr. Raymond Duch. The field work was done between February 16 and March 4. It consisted of lengthy, face-to-face interviews with a random sample of 506 adults in the Moscow area. The survey questionnaire contained some 350 items. The broad theme of the survey was political tolerance in the Soviet Union, and, within that framework, special attention was given to attitudes toward Jews.

The key finding was that many of the respondents perceived a considerable degree of anti-Semitism among their countrymen. Forty-eight percent of the respondents agreed with the statement that "anti-Jewish feeling is on the rise around here today," while 44 percent thought it "about the same" and only 5% saw it as "diminishing." Also, 77 percent felt that some or most of their countrymen were anti-Jewish, with 17 percent maintaining that "most people are anti-Jewish" and 60 percent feeling that "some" people are anti-Jewish; only 19 per-

cent felt that "very few people are anti-Jewish."

Another important finding as that when respondents were asked whether they liked or disliked Jews (on a scale ranging from 1 to 11), only 18 percent indicated any degree of liking (i.e., 82 percent did not express any degree of liking Jews). Eighteen percent said they disliked Jews, and one third of that 18 percent (i.e., 6 percent of the total sample) indicated the strongest degree of dislike. Sixty-five percent were "neutral," and there is reason to believe that at least a portion of the neutrals harbor anti-Jewish feelings.

The researchers used the same "like/dislike" scale to assess feelings about the extreme anti-Semitic group Pamyat. In response to this item, 14 percent of the interviewees expressed a liking for the group, while 23 percent were neutral.

Some other significant finds were these;

Eight percent agreed with the statement that "More than any other group in society, it is the Jews who are responsible for the problems that the Soviet Union is experiencing today," while 13 percent were uncertain on this question.

Thirty-three percent maintained that "When it comes to choosing between people and money, Jews will chose money," while 29 percent were uncertain. Thus 62 percent of the respondents were unwilling to deny that scurrilous statement.

Twenty-three percent agreed that "Jews have too much influence over Russian culture," while 21 percent were uncertain.

Ten percent felt that "Jews deserve to be punished because they killed Christ," and 15 percent were uncertain.

On the positive side, 91 percent of the respondents maintained that "Jews should be free to decide for themselves whether they want to remain in the Soviet Union or emigrate;" 90 percent agreed that "the government should make every effort to see that the rights of Jews to equal educational opportunity are respected throughout the Soviet Union," and 88 percent agreed that "the government should make every effort to see that the rights of Jews to equal employment opportunities are respected throughout the Soviet Union."

The survey also dealt with many general issues in the Soviet Union, and one of the findings in this area was that levels of political tolerance are low. The respondents expressed platitudinous support for certain basic values, but they nevertheless manifested a very high degree of intolerence when asked if groups they disliked should be banned from public office, outlawed, allowed to make public speeches, and the like.

You may also be interested to know that our work in this area is continuing. As we speak, Mr. Alfred Moses, Chairman of our Board of Governors; Mr. David Harris, the Director of International Relations and our Washington, Office; and Dr. David Singer, AJCs research director, are in Moscow laying the groundwork for two additional surveys. One of these will survey Soviets from around the country on their views toward Jews and other ethnic minorities, while the other will focus on the opinions of Soviet Jews toward these same subjects.

Mr. Chairman, the issue of anti-Semitism and how the Soviet Union has responded to increasing signs of religious and ethnic intolerence is one that deserves significant attenton from the government of the United States. We are gratified that the Human Rights Caucus, as well as other Congressional Committees, has solicited the views of organizations, like the AJC, which are active in this field.

Thank you again for your support.

OFFSHORE DRILLING IN THE FLORIDA KEYS

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SMITH of Florida. Mr. Speaker, we are still waiting for the President to decide whether or not to allow offshore drilling in the Florida Keys and other environmentally sensitive areas.

Last month, the President said he would make this decision within weeks. Last week, he said it would only be a matter of days. Pretty soon we'll be down to milliseconds. The time has long past for the President to finally let the American people know where he stands on this vital environmental issue.

For years, Floridians have expressed their opposition to drilling near the Keys, and for years Congress has responded with yearly prohibitions. It is time to finally replace temporary actions with a permanent solution.

Yesterday, I introduced legislation, cosponsored by many of my colleagues from Florida, both Democrats and Republicans, that will make the buyback of existing offshore leases a reality. This legislation, the "Offshore Lease Buyback Act," would allow the Secretary of the Interior to issue credits to oil companies in place of cash payments when buying back a lease. The end result will be future buyback plans that protect the environment and are affordable to the Federal Government.

In addition, my legislation will remove obstacles in the current law that make lease cancellation almost impossible to justify.

The people of Florida have made it clear that they want a ban, and the legislative means to achieve one is now available. The President no longer has any excuse for waiting.

LEGISLATION FOR FEDERAL EMPLOYEES WHO PLAN TO ADOPT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. WOLF. Mr. Speaker, I rise today to introduce legislation that would allow Federal employees to take sick leave for the time needed away from the office when adopting a child. This measure would eliminate an impediment to adoption faced by Federal workers—the fact that current Federal leave policies require adoptive parents to take annual leave, their vacation time, when arranging an adoption. This measure would simply put adoptive parents in the Federal work force on an equal footing with biological parents, who are currently allowed to take sick leave for prenatal doctor visits.

Adoption is a very personal decision for a family, and one that is made with reflection on what is best for the family and what is best for the child. Public and private adoption agencies encourage this reflection, and have established comprehensive requirements for adoption. Unfortunately, this means that meetings with social workers and attorneys can be a time-consuming and expensive process for adoptive parents.

I believe that employers should be sensitive to this situation, and should not establish rules that inhibit adoption. As the Nation's largest single employer, the Federal Government should offer a leave policy for adoption that contemplates the reality of the time required to adopt a child. Making an employee who wants to adopt use up vacation leave is not realistic, and is not good policy.

The President was right on the mark when he stated:

Everyone wins in adoption. * * * It is time for the leaders of the Federal work force to ensure that our government is proadoption. Adoption works—for children who need homes, for people hoping to become parents and for women facing a crisis pregnancy.

I am introducing this legislation to correct the disparate treatment of adoptive parents and biological parents under the current Federal leave rules, and I am hopeful that this change in the law will provide an incentive for Federal employees to participate in what can be an extremely rewarding endeavor—the adoption of a child. Adoption is good for parents, good for children, and good for our Nation.

To amend title 5, United States Code, to allow Federal employees to use sick leave for purposes relating to the adoption of a child.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6307 of title 5, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following new subsection:

"(c) Sick leave provided by this section may be used for purposes relating to the adoption of a child."; and

(3) in subsection (d) (as so redesignated by paragraph (1)), by inserting "or for purposes relating to the adoption of a child," after "ailment,".

ORIGINAL OSAGE ALLOTTEE DAY

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. INHOFE. Mr. Speaker, I would like to take this opportunity to bring attention to a very unique and special group of people. This group consists of the only original Osage Allottees on record when Oklahoma became a State in 1907.

There are not many among us who can claim to have seen the entire history of a State from the beginning to the present. Our Oklahoma history is rich for everyone who was and is involved in creating the strength

and goodness which was critical to forming the great State of Oklahoma.

The Pawhuska Chamber of Commerce in Oklahoma has set aside June 3 as "Original Osage Allottee Day." The day will be commemorated by the Osage Tribal Museum in an exhibit. Also, I am pleased to note that it will add to what is already the largest native American text of record in the Smithsonian Institution.

The Osage Tribe, as well as all Oklahoman's, can take pride in people like the original Osage Allottees. They have offered us a lot and we appreciate it very much.

THE LEGACY OF THE NEW BIGOTS

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. DANNEMEYER. Mr. Speaker, Tustin is a moderately sized southern California city, a very small portion of the 39th Congressional District in which I have the pleasure to serve. The citizens of Tustin are your average hard-working, industrious Americans.

Like in other communities around the Nation, the Tustin City Council begins each meeting with an invocation, a prayer offered by a local clergyman or other local resident. It has always been this way—that is, until January 3 of this year.

It was on that date that Tustin mayor, Richard B. Edgar, wrote to the Rev. Don Wright and other area ministers that while the mayor was grateful for their service in providing invocations, no longer will they be able to invoke the name of Jesus Christ at the close of their prayers.

Upon the legal advice of Tustin city attorney, James G. Rourke, the mayor asked "that all speakers refrain from using language that might be construed as endorsing a particular religious belief." Counsel stated that, "it appears that most courts will tolerate religious invocations only if they fall short of endorsing a particular religious doctrine or belief." He then cites *Marsh* v. *Chambers* (463 U.S. 783 (1983)) as an example of the Supreme Court upholding legislative prayers "because the chaplain had removed all references to Christ."

Such an executive policy is clearly antireligious. But it is most significantly anti-Christian. It is a legalistic irony that the same U.S. Supreme Court which decided in 1962 to prohibit State proscriptions on the content of any prayer is the same court being cited by the mayor of Tustin, CA, to tell citizens just what they can and cannot say in prayer.

Mr. Speaker, our Judeo-Christian heritage is under attack in America. The attack is mostly subtle, a sprinkling of local complaints and subsequent court decisions which serve to slowly squeeze the religious life out of our national heritage. Sometimes the attack is brutally offensive.

How often have we heard the plaintive cry of humanists that the Judeo-Christian ethic, and particularly Christianity itself, are responsible for the woes of America?

Homosexuals, they say, would be happy if only society would condone sex acts between two men or two women; women would be happy if only they could kill their own offspring without the burden of guilt; kids would be happy if only society would recognize the inevitability of their premarital sexual relations; and Hollywood's elite would be happy if only society would properly care for its poor thereby relieving the guilt associated with multimillion dollar incomes and 20,000 square foot homes acquired by the "hard work" of shedding one's attire on the big screen.

Christianity is the most oppressive external influence upon mankind, according to the new bigots. Hollywood, homosexuals, abortionists, family planners, the sexually promiscuous, failed spouses, failed parents, failed kids—all would be happy minus the Judeo-Christian ethic. Those Ten Commandments and that Sermon on the Mount can be so burdensome and restrictive. The best solution to relieve this burden is to get rid of it, or second best, put an amoral spin on it.

To pursue these solutions the new bigots have sought and nearly succeeded in taking control of our Government and our educational system. Control of the Government is necessary to oppress adults who believe in personal accountability, self-sufficiency, and religious freedom. While control of our educational system is necessary to oppress the children of these adults and offset familial influences.

Mr. Speaker, examples abound of how the secular lords of lunacy have used the Federal Government to oppress all who happen to disagree with their world view. However, the larger tragedy is what these new bigots have done to our kids by commandeering our educational system from the hands of parents and into the hands of unions, atheists, and lawyers.

Children who have managed to make it out of the womb are taught that killing children still in the womb is permissible in our society. Kids are taught that homosexual sodomy is normal behavior. Young girls are instructed by their adult supervisors that a loss of virtue and subsequent conception is no more difficult of a problem than having an abortion. Oh, and next time there are always contraceptives available to prevent an unhappy reoccurrence of creation.

Our Constitution instructs kids that they have inalienable rights. But our Supreme Court, influenced by the demands of the new bigots, and set aside by our Constitution to interpret such issues, tells these kids that they cannot recognize their Creator in public school. Given such lessons to our children, are we surprised that kids manifest so many problems?

Mr. Speaker, permit me to take a moment to share with you an analysis of a gentleman named David Barton. Many of Members know his fine work. All should. Mr. Barton felt inspired to correlate various social problems with the 1962 removal of voluntary prayer in public schools. Here is what he found:

The birth rate for unwed teenagers, per thousand, ages 15 to 19 went from 15 in 1962 to 28.5 by 1983. That's double the amount of illegitimate births.

Pregnancies to unwed teenagers, per thousand, ages 15 to 19 increased fivefold from 100 in 1962 to 540 in 1983.

The same figure for girls under 15 years old quadrupled in this time period.

Scholastic Aptitude Tests have dropped 72 points from 1962 to 1986. And the drop was dramatic from 1962, not a gradual flux.

High school dropouts have increased tenfold from 1962.

Violent crimes per thousand have increased from 255 in 1962 to 1,327 in 1986.

Single parent households have doubled, while unmarried couples have quadrupled since 1962.

Yes, the new bigots who pay number-crunchers to create any excuse to discredit quantitative studies in disagreement with the party line will say that any number of factors have contributed to these crises. But those who know the power of prayer, those who know the value of children recognizing their Creator, will know that Mr. Barton's analysis is accurate.

Mr. Speaker, we should begin to call a spade a spade. The excesses of secular humanism, of the ACLU, of the People for the American Way, all the media such as "The Last Temptation of Christ" and the "Handmaiden's Tale," all the laws and court decisions which have kicked God out of our public schools, and all the venomous politics of the left which seems to congeal it, but by no means limited to, the Democratic Party are all examples of anti-Christian bigotry. They are not claims for justice or a defense of civil liberties. It is the voice of bigotry—the new bigotry—and we should call it that from now on.

I commend the following article to the House.

[From the Wall Street Journal, May 24, 1990]

WHEN "FREEDOM" BECOMES RELIGIOUS CENSORSHIP

(By Dallin H. Oaks)

In this graduation season, many high-school administrators will be deciding whether to include prayer in their ceremonies. The issue is more and more a subject of debate. The new discussion reflects a growing pattern of hostility to religion in the U.S.

In short, many understand the law today as being hostile rather than neutral toward religion—as forbidding all public prayers rather than simply prohibiting state-authored and state-required prayers in public schools.

When the Supreme Court decided the original school prayer case in 1962 *(Engel v. Vitale)*, I interpreted the decision to forbid only state-authored and state-required prayers. As such, I thought the case was correctly decided. What I did not foresee, but what was sensed by people whose vision was far greater than my own, was that this decision would set in motion a chain of legal and public and educational actions that would bring us to the current circumstances in which we must reaffirm and even contend for religious liberty.

Such a situation exists in the U.S. today. In Utah, for example, controversies have arisen over prayers offered in high-school graduation exercises. A suit filed on behalf of two students in one school district last year objected that prayers being offered were "denominational," since they men-

tioned the name of Jesus Christ. The suit asked that such prayers be "non-denominational."

Interpreting this as a plea for a court order requiring that the name of Jesus Christ not be used in prayers offered at a public high-school graduation exercise, I thought of the first school prayer decision. In that case, the Supreme Court said government had no power to write prayers. Before Americans acquiesce to the use of judicial power to indicate what words cannot be included in a prayer, they should remember that if it is not part of the business of government to write a prayer, then it is not part of the business of a court to censor a prayer.

The Supreme Court voiced that principle just six years ago in rejecting an argument that the prayers in a state legislative assembly were illegal because they were always offered by a chaplain of one religious denomination. The court said: "The content of the prayer is not of concern to judges where, as here, there is no indication that the prayer opportunity has been exploited to proselytize."

Under this reasoning, the attempt in Utah to have a court dictate what could not be included in a prayer would not succeed. But even a winning case can be expensive to defend, and in the graduation-exercise case, this economic pressure persuaded the school board to do away with prayers as part of their graduation exercises.

Following the 1962 Supreme Court decision on prayer in schools, eminent legal scholars ridiculed the idea that the court's school prayer decisions would lead to a great gulf between religion and public life. What the legal scholars did not foresee is the extend to which the school-prayer and Bible-reading decisions would shift the burden of proof with respect to religious practices in public life. In the past, religion had been an accepted part of public life in America It has become something that had to prove its right to remain in the public square. By the 1970s earlier principles had hardened into mechanical formulas that can be interpreted in ways hostile to religion.

Many citizens and some educators have come to consider it bad taste or even illegal for public-school teachers to mention religious influences or commitments. No wonder Americans suffer appalling ignorance of their political and cultural origins.

Studies show that texbook authors have avoided references to God or to religion. For example, one textbook in use today defines "pilgrims," originally a religious term, as "people who make long trips." In another text, no religious event is included in a list of hundreds of important events over a 200-year period in American history, and the religious origins of pre-Civil War abolitionism and the recent Civil Rights movement are commonly skimmed over or totally omitted.

Initially, the Supreme Court's school prayer decision outlawed only state-authored and state-required prayers. Later, the courts forbade any prayers in public-school classrooms—even prayers that were privately composed or optional. The courts were concerned with the possibility that impressionable young students would be coerced by such publicly sponsored religious exercises. Despite the absence of coercion from prayers in adult settings, and despite the fact that prayers are frequently offered in legislative and other public meetings in every state in the union, some have continued their efforts to force the abolition of prayers at government or other public meetings. Immense resources have been devoted to thrashing out the constitutional limits on prayer.

Appellate court opinions issued in the past several years have split on the legality of prayers at high-school graduation exercises. The U.S. Supreme Court has not yet ruled on any such controversy. I hope the court will reaffirm a 1952 opinion: "When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs."

As the law stands today, school boards challenged on the legality of prayers offered on public ceremonial occasions must choose among continuing such prayers and risking expensive litigation, abandoning prayer and being seen as relinquishing treasured practices, or substituting a moment of silence in which all are invited to offer private devotions.

The last option is likely to be unacceptable to most. In my view, the one alternative that is entirely unacceptable is for a school district to attempt to prescribe or censor prayer to be offered at any function in the district.

Religion should have a place in the public life of our nation. To honor this principle with prayers in the graduation exercises of high-school students is to honor the religious plurality of our nation and the religious liberty it was founded to protect.

IN PRAISE OF THE SOVIET-AMERICAN WOMEN'S SUMMIT

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Ms. SCHNEIDER. Mr. Speaker, on May 15, my colleagues, Representatives LOUISE SLAUGHTER, BARBARA KENNELLY, LINDY BOGGS, and I had the privilege of meeting with a diverse group of women from the Soviet Union, including a deputy and a member of the Supreme Soviet. They were in the United States as guests of Women for Meaningful Summits and were holding a Soviet-American Women's Summit.

We heard the results of their deliberations during their 2 weeks of meeting in New York, Washington, DC, and 10 cities across the United States. Together, the Soviet and American women created a document to present to Presidents Gorbachev and Bush. The central tenet of this document is that women must play a far more significant role in the highest level of decisionmaking.

The results of the Soviet-American Women's Summit, sponsored by Women for Meaningful Summits follows:

[Messages to Presidents Bush and Gorbachev from the Soviet-American Women's Summit]

FROM DISARMAMENT TO DAYCARE: A WOMAN'S VISION FOR THE 21ST CENTURY

Meeting in New York and Washington, May 1-7, 1990, we, over 100 delegates to the Soviet-American Women's Summit representing diverse professional, racial, ethnic, religious and political backgrounds, express our hope for a successful summit and call on you to join us in launching a peaceful and just decade leading to the 21st century.

We are at a turning point for the fate of the earth and all its inhabitants. One road leads to environmental and economic renewal; the other to "ecocide" and poverty. One road leads to war between the haves and have-nots and the waste of precious human and natural resources; the other to a common ground of peace and sustainable development.

We call for the full and effective participation of women at every level of decisionmaking to ensure the comprehensive vision and democratic action needed to address the urgent challenges of our times. Every minute, 15 children die for lack of food, vaccines and health care while every minute nearly $2 million is spent on the military. On the eve of the 21st century, we must wholeheartedly commit ourselves to eradicating war, violence against women and children, discrimination, racism, hunger, illiteracy and poverty, and restoring the ecological health of our planet.

We applaud the end of the Cold War and urge rapid progress in eliminating nuclear, chemical and biological weapons and boldly reducing conventional forces and military budgets to those necessary for defensive defense. We believe, however, that growing superpower cooperation should not be detrimental to the Third World. East-West coexistence must be combined with North-South cooperation, respect for self-determination and adherence to international law. We need both Perestroika and "Yankeestroika."

Toward this end, we agree to establish a joint Soviet-American International Women's Commission, open to women throughout the world, to study, monitor and act on critical issues and to develop collegial ties.

Following is our vision of some of the keys to a decent life in a sustainable world:

1. Ensure the full participation of women at all levels of decision making: Women's values, skills and perspectives are crucial to guiding the transformation of our societies. Women must have equal pay for work of comparable worth. Recognize that when women achieve gains, the entire society flourishes.

2. Immediately enact a comprehensive nuclear test ban: Stop the production of nuclear weapons and weapons grade materials. We should meet our energy needs through conservation and the development of alternative renewable energy sources and work towards the elimination of nuclear power.

3. Demilitarize our societies: We call for disarmament to proceed by rapid stages to a system of defensive defense. Eliminate nuclear, chemical, and biological weapons and sharply reduce conventional forces. Move all military forces to stay within national boundaries. End the transfer or sale of weapons and nuclear technology to other countries. We must demilitarize our thinking and educate our peoples for peace.

4. Convert from military to socially and ecologically responsible economies: Develop a national conversion plan. Retrain personnel to deal with social needs while respecting natural resources. During the transition, measures should be taken to assist workers, communities and manufacturers currently dependent on military research, development and production.

5. Halt human destruction of the earth's environment and fragile ecosystems; implement a global action plan for environmental restoration: We call for ecological conversion of our economy: transform industry

and agriculture to environmentally safe, clean and sustainable technologies and methods. Create incentives for local production of essential goods and services. Institute open, public and local control of energy sources. Support international cooperation for the prevention and clean up of ecological disasters. Halt exports of toxic wastes. Respect the rights of indigenous peoples and species which have lived in balance with nature for centuries.

6. Respect human rights including economic, political, social, civil and health rights for all peoples: We call for the complete elimination of personal, institutional, and societal racism and sexism as part of the human rights agenda. We call for the adoption and implementation of mechanisms which ban all forms of discrimination including racial, ethnic, linguistic, cultural, national, religious or sexual orientation. Reproductive rights must be protected. The UN Convention on All Forms of Discrimination Against Women must be ratified and enforced.

7. Put into practice the non-intervention principles of international law: We favor the resolution of all conflicts, including those based on racism, ethnic and national prejudices, by peaceful means, with due respect to national sovereignty and self-determination. Reinforce the role of the UN, World Court, and other international institutions in resolving conflicts nonviolently.

Acknowledge that the third world debt has been paid and take steps to remove it from the balance sheets of public and private financial institutions. Third World women and children have been paying the highest price for a debt contracted without their agreement.

8. Promote citizen diplomacy and cultural exchange to help reinforce the climate of superpower cooperation following the summit and support the United Nations as an international institution: We, the delegates to the Soviet-American Women's Summit, believe it is possible to create a world free of wars, violence, hunger and humiliation. Otherwise, people would not have dreamed of it for generations. It is time for the world to be free of fear, hatred, poverty and injustice.

TRIBUTE TO COLORADO'S KEN-CARYL RANCH COMMUNITY

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. HEFLEY. Mr. Speaker, I rise today to pay tribute to Colorado's Ken-Caryl Ranch community for rallying together in what many say is America's most comprehensive curbside recycling program.

In this age of growing environmental concern, residents of the 2,700-home community in southwestern Jefferson County, decided to tackle the problem of our overflowing landfills and launched a year-long campaign to institute a very unique communitywide recycling program.

With simplicity in mind, the Ken-Caryl Curbside Program was designed to make it easy on the community. Residents can recycle some 35 items, including aluminum cans, newspapers, old lawn chairs, computer paper, copper wire and plastic milk bottles, just by dumping them all into one 14-gallon bin. They do not even have to presort their trash.

In order to get the program off the ground, the residents solicited the support of a waste systems company and a recycling firm. On a weekly basis, the recyclable items are picked up and dropped off at a Denver processing center, where they are sorted, packaged and sold. A portion of the profits is then given back to Ken-Caryl to help offset program costs.

If 75 percent of the residents join the crusade, the trash/recycling committee estimates that residents of Ken-Caryl Ranch could save as many as 10,000 trees in the first year of its recycling program by recycling paper products alone.

While others are just talking about the environmental hazards associated with the burning and cutting down of our trees, this community is putting their words into action. The residents are proving that together, they can accomplish one very vital goal—convincing others how one group of dedicated citizens can really make a difference in cleaning up the environment.

CONGRESS SHOULD STOP DELAYING AID TO CENTRAL AMERICAN EMERGING DEMOCRACIES

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. RHODES. Mr. Speaker, President Bush has implored Congress to act expeditiously on his request for assistance to Panama and Nicaragua, and has insisted that Congress not leave for the Memorial Day recess until a bill which he can sign is on his desk.

The President is absolutely right, and in fact I wish he had gone farther and threatened to use his constitutional power to hold Congress in session until such a bill is passed.

It is nothing short of scandalous that Congress has not acted on the President's request for assistance to Panama, which came in January, or for Nicaragua, which came in March. These two countries are in desperate need. President Chamorro of Nicaragua has been forced to the humiliation of sending a cable to the President, begging him for emergency interim assistance. The President has been forced to the humiliation of telling her that he does not have the authority even to provide her country with emergency assistance.

This is outrageous.

These two countries are in the condition they are in because of explicit policies of the United States. This country imposed economic sanctions on both Panama and Nicaragua, supported military efforts in Nicaragua, and mounted our own military effort in Panama to pursue our goal of promoting democracy in Central America. The people of both countries responded in freely held elections by throwing out their dictators and installing democratic regimes and reforms. They have done what we asked of them, and now we refuse to provide them with the assistance they need to restore their economies and to ensure the success of their aspirations for peace, freedom, and democracy. At the same time, the Congress is threatening to cut off aid to El Salvador, a democracy threatened with destruction by a Marxist insurgency.

Have we gone crazy?

It is time to lay the responsibility for this unconscionable inactivity right where it belongs: At the doorstep of the Democrats in Congress, starting with Speaker FOLEY and Majority Leader MITCHELL, and including every single Democrat Member of the House and Senate. The President of the United States has been reduced to pleading and even threatening the Congress to get it to do its duty and to uphold the word and the obligation of this country and to take the initial steps necessary to restore dignity to the people of Central America.

How can we be proud of forcing the duly elected President of a sovereign nation, whose success we applauded, to come begging to Washington for assistance she was long ago promised? How can we be proud of destroying the economies of two countries to further our interests, and then walking away from them when our goals are achieved? How can we be proud of abandoning a fledgling democracy whose very existence is threatened?

Can we conclude from all of this that the Democrats don't want democracy to succeed in Central America, that they want Noriega back in power in Panama, the Sandanistas to return to Nicaragua, the Marxists to rule El Salvador? What other conclusion can we draw?

President Bush, keep the Congress in town until it does its duty. The people of Nicaragua and Panama deserve no less.

IN HONOR OF JACK McMILLAN

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. DINGELL. Mr. Speaker, I would like to take this opportunity to extend my heartiest congratulations to Jack McMillan on his recent appointment as second general vice president of the United Brotherhood of Carpenters and Joiners of America. Jack has served the local carpenters union in many capacities for nearly 35 years.

The United Brotherhood of Carpenters was established almost 100 years ago. It represents nearly 600,000 members. Jack has been an active member of his local, as well as national union, for over three decades. Jack has held various elective offices in the local union including assistant business agent, business representative of the Detroit District Council of Carpenters, elected business manager and financial secretary of Millwright Local 1102.

In 1975 Jack was appointed to the field staff of the international union as representative to the United Brotherhood of Carpenters to work in the North Central States in which he served in many capacities. He worked on many joint committees, as well as directed the

Jurisdictional Department of the UBC. In 1986 he was elected president of the Michigan State Council of Carpenters.

In addition to his union activities, Jack has been an active civic leader. He is currently a member of the Economic Alliance of Michigan, and he served as a commissioner of the Warren Housing Commission. He also served as a member of the Elected Officials Compensation Commission of the city of Warren, MI. Jack has continued to show his strong support and enthusiasm for his union and commitment to helping it grow strong.

Jack is a native of Detroit and has continued to maintain a residence in Warren, MI with his wife of over 40 years, Jo, and their two children Cyndi and Jake; even after becoming UBC general officer and moving to Annandale, VA. A graduate of St. Ambrose High School in 1949, Jack was an active athlete who played varsity football while in high school and semiprofessionally for 2 years. He also won the middleweight crown in 1950 as an amateur boxer.

We should all be proud of Jack on his accomplishments. His dedication to his work as well as to the community is an inspiration to all Americans. I commend him for his continued service to the local Michigan community and to the United Brotherhood of Carpenters.

Mr. Speaker, I, as well as Jack's colleagues, wish him success with his new position as second general vice president of the United Brotherhood of Carpenters.

TAX EQUITY FOR RURAL MAIL CARRIERS

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. FLIPPO. Mr. Speaker, I rise today to inform my colleagues in the House that I plan to introduce legislation after the district work period that would correct an inequity in the income tax laws as they apply to the rural letter carriers.

As all of us are aware, there are almost 70,000 rural letter carriers who deliver the mail on 38,925 U.S. Postal Service rural mail routes every weekday and Saturday.

Rural letter carriers serve these routes as employees of the U.S. Postal Service using their own vehicles to deliver the mail to 15 million rural American families.

The bill I intend to introduce specifically addresses the tax treatment of a type of reimbursement that many rural letter carriers receive from the Postal Service for vehicle expenses. As anyone who has ever lived in a rural area knows, rural letter carriers—unlike city letter carriers—use their own vehicles to deliver the mail. That arrangement has served the Postal Service well for decades because it permits the Postal Service to avoid having to arrange for maintenance of vehicles in often far-flung rural areas; the carriers, instead of the Postal Service, purchase and maintain the vehicles.

The type of vehicle expense reimbursement that causes a tax problem is that received by so-called "heavy duty" carriers. Heavy duty carriers are those whose routes are relatively short—such as 15 miles—but have a large number of mail stops—such as 600. About half of the 80,000 full-time and part-time carriers are classified as heavy duty carriers.

For more than 30 years, the Postal Service has reimbursed the vehicle expenses of heavy duty carriers under a schedule known as the "stop chart." The stop chart is a matrix of all combinations of route mileage and number of stops for heavy duty routes, with a daily expense reimbursement amount specified for each combination. In essence, the stop chart represents a recognition that the vehicle expenses of heavy duty carrier bear a close relationship not only to mileage, but also to the number of stops. Thus, for example, under the stop chart an 8-mile route with 700 stops receives the same reimbursement as a 32-mile route with 260 stops.

The basic tax problems, Mr. Speaker, is that new IRS rules issued last year essentially do not permit vehicle expense reimbursement arrangements to be based on factors other than mileage if the resulting reimbursement would be higher than the IRS's standard mileage rate (which for rural letters is 39 cents per mile. In other words, if the reimbursement for the 8-mile, 700-stop route works out to a per-mile reimbursement rate of greater than 39 cents per mile, the arrangement is penalized under the new rules. These new IRS rules are based on a provision—section 62(c)—added to the Tax Code in 1988 in the Welfare Reform Act.

The specific tax result of the new IRS rules is that the reimbursements received by the heavy duty carriers will now be partly taxable—that is, the portions of the reimbursements exceeding 39 cents per mile will be taxable. Furthermore, most carriers will be unable to offset that taxable income with itemized deductions for their vehicle expense. That is because, after the 1986 Tax Reform Act, most taxpayers no longer have sufficient deductions to allow them to be itemizers, and even those who do have sufficient deductions are subject to the so-called 2-percent floor on their miscellaneous business deductions—such as vehicle expenses—under which miscellaneous expenses are nondeductible to the extent of the first 2 percent of the taxpayer's income. In short, as things stand now, most heavy duty carriers will be taxable on part of their vehicle expense reimbursements.

Mr. Speaker, this situation is patently unjust. The amounts paid to heavy duty carriers under the stop chart clearly are reimbursements of legitimate expenses. A vehicle driven for a short distance with hundreds of stops suffers just as much wear and tear, and uses just as much fuel and oil, as a vehicle driven for a much greater distance with many fewer stops. The best analogy is that driving over a heavy duty route is like driving in bumper-to-bumper traffic for 6 hours, only worse. The engine runs for almost the entire period, and the brakes, transmission, windows, doors, and other components are operated hundreds of times during the period. It is to ignore reality to contend that a pure mileage-based reimbursement system is the only proper system.

Moreover, it should be pointed out that the stop chart was specifically authorized by Congress in 1958. It is simply senseless to think that a reimbursement system specifically created by Congress should result in taxable income to rural letter carriers.

The bill that I intend to introduce would rectify this inequity. Specifically, my bill will provide that reimbursements received by carriers under the stop chart are to be treated the same as other types of reimbursements that the Congress and the IRS have blessed. In other words, carriers will be permitted to treat the reimbursements and the associated vehicle expenses as offsetting amounts and report neither on their tax return. That will fully eliminate the taxation of those reimbursements.

Mr. Speaker, I urge my colleagues to cosponsor this important measure.

NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. MAZZOLI. Mr. Speaker, on May 15, the law enforcement community of the Nation came together in Washington to honor and commemorate the police officers who lost their lives in 1989 while upholding the public safety.

The Ninth Annual National Peace Officers' Memorial Service—which took place on the Mall at the foot of Capitol Hill—brought together families from all across the Nation who bore the pain of losing a loved one in the line of duty.

The National Fraternal Order of Police [FOP]—the sponsor of the ceremony—is headquartered in the district which I am privileged to serve, Louisville and Jefferson County, KY.

National FOP President Dewey Stokes and Kentucky FOP President Ralph Orms asked me to assist in presenting the Supreme Medal of Sacrifice to Mrs. Pamela Pysher, the widow of slain Jefferson County police officer, Frank W. Pysher.

Officer Pysher was tragically killed by a gunman on January 10, 1989, while on duty in southwest Jefferson County.

During the presentation of the Supreme Sacrifice Medal to Mrs. Pysher, I was struck by her courage and resolve in the face of extreme anguish.

I also wish to commend the work of Sharon Frank, the editor of the FOP's publication "Knight Beat" and FOP State Secretary Rick Burkhardt for their care and professionalism in planning the Peace Officers' Memorial Service.

Mr. Speaker, we must never forget members of the law enforcement community who have lost their lives while protecting ours.

RECOGNIZING WORLD STANDARDS DAY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. ROE. Mr. Speaker, I rise today with Congressman FAWELL to introduce a joint resolution designating the week of October 14, 1990, as "National Standards Week" to coincide with "World Standards Day," which will be celebrated on October 14, 1990.

Mr. Speaker, standards rarely receive the credit they are due for making a modern society possible. I find it instructive that the first Federal research laboratory in this country was the National Bureau of Standards [NBS], now known as the National Institute of Standards and Technology. The main reason for NBS's formation was the promotion of commerce. Interchangeable parts, requiring accurate measurements based on increasingly precise measurement standards made the assembly line possible and revolutionized industry.

Today, we have largely completed the transition from cottage industries to worldwide markets. We rely on national and international standards for every measurement in every product. We expect a computer monitor made in Japan to work with a computer assembled in the United States and made from components from around the world. Many other standards now protect public health and safety. Standards development is now a multibillion-dollar effort involving hundreds of thousands of engineers around the world. In the United States, the effort is concentrated in the many voluntary standards organizations which exemplify participatory democracy at its best.

Mr. Speaker, standards are becoming increasingly important as methods to either facilitate or block free trade throughout the world. The future competitive position of the United States depends upon our ability to manufacture quality products to standards which insure the widest possible international sales. Now, with the Europe 1992 process in full swing, it is particulary important that every effort be made to have standards that include rather than exclude American products.

Realizing the importance of this issue, the Science, Space, and Technology Committee was instrumental in the passage of legislation 2 years ago, Public Law 100–519, the National Institute of Standards and Technology Authorization Act for fiscal year 1989, which established a privately-funded program to assist other countries in the development of standards that are compatible with standards used in the United States. Since that time, I have introduced legislation, H.R. 4329, the American Technology Preeminence Act of 1990, which contains a provision that builds on the previous program by authorizing U.S. personnel to provide standards development assistance to countries that requires such assistance, for 2 years or more, with funding of $250,000 to be available with matching funds from the private sector.

Mr. Speaker, it is imperative that all Americans become aware of the importance of standards to the economic well-being of this country. It is also high time that we honored the tens of thousands of participants in our voluntary standards organizations who in a very real way, make America a prosperous and modern country. It is my hope that a "National Standards Week" will call attention to this important work and I urge my colleagues to join me in sponsoring this resolution.

A TRIBUTE TO JACK McMILLAN

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. FORD of Michigan. Mr. Speaker, I rise today to praise one of our Nation's finest labor leaders, Jack McMillan, the second general vice president of the United Brotherhood of Carpenters and Joiners of America. Like me, Jack McMillan is a native of Detroit, MI, one of the birthplaces of the union movement in America. And it is clear that Jack has the union movement in his blood.

Jack McMillan has been a labor leader for a quarter of a century and a union member even longer, ever since 1956 when he joined Millwright Local Union 1102. To my mind, a career in the labor movement is one of the most important careers anyone could undertake, and Jack has been one of the most active and effective leaders in one of the most influential and powerful unions in the world. The Brotherhood of Carpenters is big, it is tough, and it's farsighted. And its voice is heard not just by employers but by Congress and the executive branch, as well.

Just this week, the Health and Safety Subcommittee of the House Education and Labor Committee heard testimony from Carpenters President Lucassen on the need for OSHA reforms to protect construction workers. I predict the subcommittee and the Congress will respond to the Carpenters' call for reform.

I have enormous respect for the carpenters union and its leaders. They represent hundreds of thousands of America's most skilled and productive workers, and they represent their members' families as well. If Jack McMillan comes to me urging a particular tax policy or social policy, I will listen because he represents more than a million people. And I know he truly does represent his members, because if he does not they will not reelect him.

I would like to praise Mr. McMillan for another reason, as well, Mr. Speaker. Jack has been an active citizen and civic leader in Michigan, something that will be hard for him in the future, now that his career has called him to Washington. But he deserves recognition for his work on the Economic Alliance of Michigan, the Warren Housing Commission, and the Elected Officials Compensation Commission for the city of Warren. I am sure he is missed back home.

Mr. Speaker, I hope every Member of Congress will have the opportunity to meet Jack McMillan. He is a relatively new face in Washington, but he is a man with a lot of experience and a lot to offer.

TRIBUTE TO ROY FINK, ED GAISER, AND ROBERT McKEE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Capt. Roy Fink, Patrolman Ed Gaiser, and Patrolman Robert McKee of my 17th Congressional District of Ohio who will be retiring after more than 70 years of combined service to the Boardman Township Police Department.

Roy Fink, Jr., joined the Boardman Police Department on November 1, 1962. In 1978 he was promoted to the rank of captain. Captain Fink has made a great many contributions to the Boardman community. He has exhibited dedication and a sense of duty during his many years with the department. His many achievements stand out as an example for others to follow.

Robert L. McKee joined the department on July 1, 1968, and for the last 21 years has given unyielding service to the Boardman community. He handled his duties with the utmost efficiency and dedication. He will be greatly missed by his colleagues and the citizens of Boardman.

Ed Gaiser joined the Boardman Police Department on April 16, 1965 and will be retiring after 25 years of service to the community of Boardman. He has a distinguished career with the Boardman Police Department, of which he should be most proud. He has earned the respect and appreciation of the people of Boardman.

I would like to take this opportunity to recognize and congratulate Capt. Roy Fink, Patrolman Robert McKee and Patrolman Ed Gaiser on the occasion of their retirement from the Boardman Township Police Department. These three men have earned the respect and gratitude of the Boardman community. I wish these men the best in their golden years of retirement.

THE BUDGET SUMMIT SHOULD NOT ROB THE POOR

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. OWENS of New York. Mr. Speaker, the White House budget summit now underway is a process saturated with pitfalls. These discussions generate great fear among those Americans who have been repeatedly neglected and/or violated by similar deal making. Since 1981, under the cloak of sweet reasonableness, we have watched the Democratic leadership being swindled. Tax reform gave more breaks to the rich while Social Security increases resulted in the poor paying a greater percentage of their income than the rich.

Let us not forget that the Gramm-Rudman conspiracy almost drove a life-threatening dagger into the heart of certain vitally needed low-income safety net programs. The Reagan

administration proposed across-the-board cuts for domestic programs with the intent of further crippling programs which it had already emasculated. Gramm-Rudman was the final stranglehold process designed to finish off the significant involvement of the Federal Government in promoting the general welfare for all Americans.

Vigilance by the Congressional Black Caucus thwarted the vicious intent of the Gramm-Rudman conspiracy. It was through the efforts of the CBC that seven low-income programs were exempted from the budget cutting axe of Gramm-Rudman. AFDC; School Lunch and Dependent Care Food Program; Commodity Supplemental Food Program; Food Stamps; Medicaid; SSI; and WIC; these very basic life and death programs were exempted in the final hours of the negotiations.

Mr. Speaker, these same crucial low-income programs are now endangered. White House spokesmen have announced that they want to "close the Gramm-Rudman loopholes." Our interpretation of this threat leads us to believe that a trade-off will be offered. Defense cuts will be on the table in exchange for low-income program cuts. Beggars will be robbed and all who are present will be pressured to accept this deal as a reasonable exchange.

Without a doubt the defense budget must be cut. But the peace dividend should be offered without a parallel tradeoff in domestic program cuts. Instead there should be a separate revenue stream proposed specifically for the funding of the S and L bailout. The bailout is the greatest threat to the economy and since it was generated by the private sector, it should be financed by a surcharge or other taxes on corporations and banks. Under no circumstances should the Democratic leadership participate in a scheme which cuts low-income program benefits in order to pay for the crimes of the S and L gang.

Mr. Speaker, the fear of the budget summit process in the streets of my district is very real. I would like to use the language and the attitude of a street constituent to sum up this deeply felt concern:

THE BUDGET SUMMIT

At the big white D.C. mansion
There's a meeting of the mob
And the question on the table
Is which beggars will they rob.
There's a meeting of the mob
Now we'll never get a job,
All the gents will make a deal
And the poor have no appeal.
Which housing for the homeless will they hit?
School lunches they will cut all the way to the pit.
There's a meeting of the mob!
Big bailouts they will cheer
Cause the bankers they all fear.
Closing loopholes is their role
But never mind the S and L hole
There's a meeting of the mob!
Medicaid is against the wall
Watch health care take a fall
There's a meeting of the mob!
These good fellows won't be frisked
But welfare children are being risked
There's a meeting of the mob!
Not a cent will be left for AIDS
When they finish with their raids
Let addict babies remain with their pain
This gang will deal a budget that is certainly insane
There's a meeting of the mob!
These bosses lack logic but they all have clout
Old folk's COLA's will rapidly get rubbed out
There's a meeting of the mob!
At the big white D.C. mansion
There's a meeting of the mob!
Now we'll never get a job
All these gents will make a deal
And the poor have no appeal
There's a meeting of the mob!

INTRODUCTION OF AN OSHA VICTIMS' RIGHTS BILL

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. HAYES of Illinois. Mr. Speaker, I rise today on behalf of the working people of this Nation, especially for those workers who have suffered injury in a workplace accident. What I have learned about the rights, or rather lack of rights, that these victims, or that of their families, have in their dealings with the Occupational Safety and Health Administration [OSHA] is appalling.

Victims suffering from injuries, or even death due to workplace accidents, may suffer again when faced with dealing with the Government agency responsible for enforcing this Nation's worker safety laws. As the victim begins the process of investigation through OSHA, they may quickly learn that they may not have access to information about their case, and moreover may not be able to participate in the process of determining remedies.

Currently, in determining a violation and a potential remedy, OSHA standardly meets with an employer that has been charged with a serious violation that may have potentially caused the workers' injury. In these meetings, which usually do not include the injured party or their families, OSHA negotiates a remedy which often amounts to no more than a slap on the employers' wrist.

Case after case has been documented showing disregard for the rights of these victims. Cases where families are unable to obtain information from OSHA when a son or daughter has died due to a workplace injury, and cases where families are not allowed to represent the interest of their deceased family member in meetings with OSHA.

The legislation that I, along with my colleague Mr. MCCLOSKEY, are introducing today would provide victims and their families with the right to participate in the process, and allow access to information regarding OSHA's investigations into these cases.

Specifically, this legislation would provide surviving family members and injured workers with a right to a precitation briefing by OSHA, a right to participate as parties in hearings conducted pursuant to the OSH Act, a right to participate as part of a settlement agreement, and the right to obtain copies of the citation and the investigative report free of charge.

I am clearly aware of OSHA's recent efforts to improve the rights of victims and victim's families. For this I applaud the Secretary of Labor, Elizabeth Dole, and the OSHA Administrator, Gerald Scannell. However, I am of the belief that this Congress should pursue this legislation so that victim's rights can be permanently ensured.

BIPARTISAN EFFORT TO REAUTHORIZE CPSC

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. WALGREN. Mr. Speaker, today, along with the ranking Republican member and other members of the Subcommittee on Commerce, Consumer Protection and Competitiveness of the Committee on Energy and Commerce, I am introducing legislation to get the Consumer Product Safety Commission [CPSC] back on track.

This commission has a fundamental, important responsibility to take steps to protect people from injury caused by unreasonably dangerous consumer products. The Consumer Product Safety Commission has had a bad 10 years during the 1980's. Ideological conflict between those on the Commission along with the failure of the administration to fill vacancies on the Commission brought the CPSC to a grinding halt.

For a number of months last year, the agency even lacked a quorum to conduct business. It is time we put the division and lack of support from the administration of these years behind us. With a new Presidential appointment confirmed as chairman, and a total of three sitting Commissioners, the CPSC can now begin to function again.

This bipartisan legislation will reauthorize the Commission for fiscal years 1991 and 1992. It will improve the agency's regulatory process while retaining the Commission's flexibility to manage its agenda. It will make important improvements in the requirement that hazardous products be reported to the Commission; it adjusts the quorum requirement to prevent veto power over the agency being held by any one commissioner; and it appropriate roles for State legal action to enforce product safety rules.

The CPSC has not been reauthorized since 1981. Nine years without the support of congressional authorization is a long time. I urge all my colleagues to join in cosponsoring this legislation. Following is a section-by-section analysis of the legislation.

H.R. —CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 1990

SECTION BY SECTION ANALYSIS

Section 1—Short Title, Reference

Section one provides the short title, Consumer Product Safety Improvement Act of 1990, and provides that, in general, references in the bill are to the Consumer Product Safety Act (CPSA).

Title I—Amendments to Acts

Section 101—Improvement of Regulatory Process

Subsection (a) amends section 9(c) of the CPSA to require the CPSC to issue a proposed consumer product safety rule within 12 months after an advance notice of proposed rulemaking for such a rule has been

issued, unless the CPSC determines the rule is not reasonably necessary to eliminate or reduce the risk of injury from the product or is not in the public interest. The CPSC may extend this time for good cause, but is required to notify the Senate Committee on Commerce, Science and Transportation and the House Energy and Commerce Committee of the extension and the reasons for the extension, and estimate the date by which the rule will be completed.

Subsection (b) requires the CPSC to conduct a study of the feasibility of requiring entities subject to the CPSA to pay to the Commission user fees to defray the reasonable costs of particular services provided by the CPSC to such entities. The Commission is required to complete the study and report the results to Congress within one year.

Subsection (c) amends the CPSA, Federal Hazardous Substances Act (FHSA), and Flammable Fabric Act (FFA) to clarify the role of voluntary standards in CPSC rulemaking proceedings. In 1981, the CPSA (along with the FHSA and FFA) was amended to require that the CPSC defer to a voluntary standard where the CPSC determines that a voluntary standard developed in response to the invitation contained in section 9(a)(6) of the CPSA (and similar provisions in the other Acts) is likely to result in the elimination or adequate reduction of the risk of injury and it is likely that there will be substantial compliance with such standard. This invitation is initiated by the publication of an advance notice of proposed rulemaking (ANPR).

Paragraph (1) of this subsection amends section 9(b)(2) of the CPSA to require that the CPSC defer under section 9 of the CPSA to a voluntary standard only where the voluntary standard exists. For a voluntary standard to exist, it must be finally approved by the relevant voluntary standard development body, but it need not actually be in effect. The paragraph also amends section 9(b)(2) to require that the CPSC afford interested persons the opportunity to comment regarding any voluntary standard prior to CPSC deferral.

Paragraph (2) and (3) make parallel amendments to section 3(g)(2) of the FHSA and section 4(h)(2) of the FFA.

Paragraph (4) amends the CPSA, the FHSA, and the FFA to require that the CPSC establish a system for monitoring compliance with voluntary standards to ensure that industry is following the voluntary standards. The CPSC would be required to establish such a system for voluntary standards upon which the Commission has relied and which were developed with Commission participation, and for voluntary standards whose development the Commission has monitored after the date of enactment. The establishment of such a system for monitoring compliance with voluntary standards whose development the Commission monitored before the date of enactment would be discretionary with the Commission.

Section 102—Petitions and Voluntary Standards

Under section 553(e) of title 5, United States Code (from the Administrative Procedure Act), any interested party may petition a Government agency to commence a rulemaking proceeding, and the agency is to consider and make a determination on the petition within a reasonable time.

Subsection (a) of this section adds a new subsection to section 9 of the CPSA to require the CPSC to make any such determination within a reasonable time, and to state the reasons for granting or denying any such petition. The subsection further provides that the CPSC may only deny such a petition on the basis of a voluntary standard if the standard is actually in existence, if the CPSC has determined that the standard is likely to produce an elimination or adequate reduction in the risk of injury involved, and if it is likely that industry will be in substantial compliance with the standard.

Subsection (b) and (c) of this section make identical amendments to the FHSA and FFA, respectively.

Section 103—Administrative Structure

Subsection (a) amends section 4(a) of the CPSA to provide that in making appointments to the CPSA, the President shall consider individuals with experience in the safety of consumer products or related fields.

Subsection (b) amends section 4(c) of the CPSA to provide that if only three members of the Commission are serving because of vacancies in the Commission, the quorum shall be two. The amendment also provides that if only two members of the Commission are serving because of vacancies in the Commission, two members shall constitute a quorum for the six-month period beginning on the date of the vacancy which caused the number of Commissioners to decline to two. This will ensure that the Commission can continue to function in the event of such vacancies, but establishes a six-month time limit for the reduced quorum to ensure that a replacement Commissioner is nominated expeditiously.

Subsection (c) amends section 4(g)(1) of the CPSA to make clear that certain top staff of the Commission are officers of the Commission and serve, and are responsible to, all Commissioners. The Director of Compliance is added to the list of officials for whom Commission approval is required for appointment. Subsection (c) also requires the Director of Compliance to be an attorney (except on an acting basis) and limits the appointment of individuals on an acting basis, to the positions listed in section 4(g)(1), to 90 days unless the appointment is approved by the Commission. The subsection also provides that the Chairman, with the approval of the Commission, may remove the officials listed in section 4(g)(1).

Section 104—Enforcement by State Attorneys General

Under section 24 of the CPSA, any interested person may bring an action in U.S. District Court to enforce a consumer product safety rule and obtain appropriate injunctive relief. However, such interested person must give notice, not less than thirty days prior to the commencement of the action, to the CPSC, the Attorney General, and the potential defendant. No separate suit can be brought under section 24 if the same alleged violation is the subject of a pending civil or criminal action by the United States under the CPSA. There is currently no similar right of action provided under the FHSA or the FFA.

Subsection (a) amends section 5 of the FHSA to allow a state attorney general to bring a civil action to enforce any requirement of the FHSA relating to misbranded or banned hazardous substances. The procedural requirements of section 24 of the CPSA would apply to any such action, requiring, in particular, 30 days advance notice before bringing an action.

Subsection (b) amends section 5 of the FFA to allow a state attorney general to bring a civil action to enforce a standard or regulation under section 4 of the FFA. The procedural requirements of section 24 of the CPSA would apply to any such action, again requiring, in particular, 30 days advance notice before bringing an action.

Section 105—Notification and Repair, Replacement or Refund

Under section 15(b) of the CPSA, a manufacturer, distributor, or retailer must notify the CPSC when it obtains information which reasonably supports the conclusion that its product fails to comply with a product safety rule, or contains a defect which could create a substantial product hazard.

Subsection (a) amends section 15(b) to require reporting of potential product hazards to the CPSC in two situations in addition to current law. First, reporting would be required of incidents of failures of products to comply with applicable voluntary safety standards which the Commission has formally relied upon in accordance with section 9 of the CPSA.

Second, reporting would be required of product-related lawsuits involving a death or grievous bodily injury, including mutilation, amputation/dismemberment, disfigurement, loss of important bodily functions, debilitating internal disorders, severe burns, severe electrical shocks, and injuries likely to require extended hospitalization. A manufacturer, distributor, or retailer reporting such a civil action need not admit or may specifically deny that the information it submits reasonably supports the conclusion that its product caused a death or grievous bodily injury.

It is important to note that under section 6(b)(5) of the CPSA, reports under section 15(b) cannot be publicly disclosed except under certain very limited circumstances. One of the exceptions to the prohibition on public disclosure of section 15(b) reports is "information in the course of or concerning a judicial proceeding." The amendment to section 15(b) in subsection (a) of this section would require reporting of certain product-related lawsuits to the CPSC, which could be construed as "information in the course of or concerning a judicial proceeding." To ensure that such reports are not releasable solely because they concern judicial proceedings, subsection (b) makes a conforming amendment to section 6(b)(5) clarifying that such reports would not be releasable solely because they concern judicial proceedings. Of course, such reports could be released if one of the other exceptions in section 6(b)(5) applied.

Section 106—Cost-Benefit Analysis

Subsection (a)(1) of this section amends section 12 of the CPSA (relating to CPSC action to address an imminent hazard) by stating that the preparation of a cost-benefit analysis is not required. The CPSC, of course, would be permitted to prepare such an analysis in those situations where it believed the analysis to be appropriate.

Subsection (a)(2) of this section adds a similar provision to section 15 of the CPSA (relating to non-imminent repair, replacement or refund).

Subsection (b) adds a similar provision to section 15 of the FHSA.

Section 107—Civil Penalties

Civil penalties were provided under the CPSA when it was enacted in 1972, in the amount of $2,000 for each violation and an aggregate penalty of $500,000. Since that time, no adjustment has been made to the dollar figures in the statute, despite the fact

that inflation has eroded the value of the penalties.

To address this inflation erosion, subsection (a) of this section amends the CPSA to increase the penalties to $5,000 for individual violations, and $1,250,000 for a related series of violations. These maximum penalty amounts would be adjusted for inflation every five years based on the increase in the cost of living adjustment for the previous five year period. The first adjustment would be effective January 1, 1995, based on a maximum penalty schedule prescribed and published in the Federal Register by the CPSC no later than December 1 of 1994.

In addition, civil penalties are currently not provided for violations of the FHSA. Subsection (b) adds civil penalties to the FHSA, in the initial amounts of $5,000 for each violation and $1,250,000 for a related series of violations. These maximum penalty amounts would be adjusted for inflation every five years in a similar fashion as civil penalties under the CPSA.

Subsection (c) adds explicit civil penalties to the FFA, in the initial amounts of $5,000 for each violation and $1,250,000 for a related series of violations. These maximum penalty amounts would be adjusted for inflation every five years in a similar fashion as civil penalties under the CPSA.

Subsection (d) of this section requires the CPSC to report annually to the Senate Committee on Commerce, Science and Transportation and the House Energy and Commerce Committee regarding the number of civil penalties imposed, the violations that led to the civil penalties being imposed, and the amount of revenue recovered from the penalties.

Section 108—Priorities

Section 108 amends section 4 of the CPSA by requiring the CPSC to annually establish an agenda and priorities, after conducting a public hearing.

Section 109—Settlement Offers

Section 109 amends section 15(f) of the CPSA to require that any settlement offer submitted to the presiding officer at an adjudicative hearing considering the recall of a product shall be transmitted by the presiding officer to the Commission for its consideration, unless the settlement offer is clearly frivolous or duplicative of previous offers.

Section 110—Authorization

Section 110 amends section 32(a) of the CPSA to reauthorize the Commission at $42 million for fiscal year 1991 and $45 million for fiscal year 1992.

Section 111—Effective Date

Section 111 provides that, in general, the effective date of the amendments made by this title is the date of enactment.

Title II—Related Provisions

Section 201—Sleepwear

Section 201 would require the CPSC to conduct a study under the Flammable Fabrics Act to determine if a special flammability standard is needed for sleepwear other than children's sleepwear (for which a special standard already exists). The CPSC must report the results of the study to Congress not later than one year after the date of enactment. The Commission shall specifically consider the risks and benefits to the elderly.

Section 202—Lighters

Section 202 requires the CPSC to pursue its pending regulatory proceedings to establish a safety standard for cigarette lighters, specifically taking into account the need to protect children. In response to a petition to begin a rulemaking proceeding to require disposable lighters to be child-resistant that had been pending since 1985, the Commission published in March of 1988 an advance notice of proposed rulemaking on this issue.

Section 203—Amusement Rides

Section 203 amends the Consumer Product Safety Act to partially restore the Commission's jurisdiction over fixed site amusement rides.

Subsection (a) adds a new paragraph (15) to section 3(a) of the Act to define "amusement ride." The term includes any device which carries or conveys passengers over a fixed course within a defined area for purposes of amusing the passengers in the device. The device must be one that is customarily controlled or directed by a person who is employed for the purpose of operating the ride and who is not a consumer with respect to the device. An amusement ride which is not permanently fixed to a site is a consumer product for all purposes of the Act. Such rides are typically found in traveling circuses and carnivals. An amusement ride which is permanently fixed to a site is not a consumer product for purposes of sections 7, 8, 14, 15(b), 15(c), and 15(d) of the Act. Thus, the CPSC cannot promulgate safety standards or bans regarding permanently fixed amusement rides. The subsection also adds a new paragraph (16) to section 3(a) of the Act to define "amusement ride operator." The term means the owner of an amusement ride. The subsection also makes a number of technical and conforming changes.

Subsection (b) amends section 6(b) of the Act to make it applicable to public release of information from which the public can readily ascertain the identity of the amusement ride operator.

Subsection (c) of the bill amends section 15 of the Act to add a new subsection (h) to require any amusement ride operator who obtains information which indicates that a serious injury occurred during operation of an amusement ride the operator owns to inform the CPSC about the occurrence immediately. Serious injury is defined as trauma or other injury which actually results in death or a bone fracture or which requires overnight hospitalization or which typically requires overnight hospitalization. The subsection also authorizes the CPSC to order the amusement ride to cease operating until it is repaired if the agency determines (after affording interested parties, including consumers and consumer organizations, opportunity for a hearing in accordance with section 15(f) of the Act) that an amusement ride that has been involved in a serious injury, or is mechanically identical to a ride involved in a serious injury, presents a substantial product hazard and that corrective action is in the public interest.

Subsection (d) of the bill amends section 16(a) of the Act to provide that officers and employees duly designated by the CPSC may inspect, at reasonable times and in a reasonable manner, fixed site amusement rides if the ride was involved in a serious injury or is mechanically identical to a ride involved in a serious injury, including investigating the cause of the serious injury in which the ride was involved and to test the safety of the ride. Such inspections must be commenced and completed with reasonable promptness.

Subsection (e) requires the CPSC to issue regulations for the administration of section 15, as amended by subsection (c) of this section. Such regulations must be promulgated within six months after the effective date.

Subsection (f) provides that the amendments made by this section will take effect January 1, 1991.

Section 204—Indoor Air Pollutants

Section 204 would require the CPSC to report to Congress on its activities to reduce exposure of individuals to various indoor air pollutants. The report would be due 90 days after the date of enactment.

Section 205—Labeling Requirement

Section 205 would require the CPSC to issue a consumer product safety standard for any toy intended for use by children three years of age or older which is manufactured after the date of enactment, for sale in the United States, and which includes a small part (as defined in current or future CPSC regulations), to require that the packaging of such toy and any descriptive materials contains a cautionary label. The label shall state the age of children for which the toy is not intended and contain a description of the dangerous property of such toy.

Section 206—Children's Products

Section 206 would require the CPSC to report to Congress on certain products which pose a hazard to children. The report would be due 120 days after date of enactment.

Section 207—Reclining Chairs

Section 207 requires the CPSC to conduct a survey of reclining chairs sold in the United States, retail outlets for such chairs, and manufacturers of such chairs, to determine compliance with voluntary industry manufacturing guidelines designed to reduce the entrapment of children in such chairs.

The CPSC is required to report the results of the survey to Congress within 120 days of enactment. If the Commission determines that there is a substantial lack of compliance with such industry guidelines, the Commission shall initiate proceedings under the CPSC to establish safety standards for reclining chairs to prevent entrapment of children.

THE ADVANCED TELEVISION STANDARDS ACT OF 1990

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. MARKEY. Mr. Speaker, today, along with Mr. DINGELL, Mr. LENT, Mr. RINALDO, Mr. COOPER, Mr. ECKART, Mr. RALPH HALL, and Mr. RITTER, I am introducing the Advanced Television Standards Act of 1990, a bill designed to promote the development and deployment of advanced television standards and technologies.

Advanced television technologies, including HDTV, are widely proclaimed as the most significant technological breakthrough in broadcasting since the advent of television itself. Yet HDTV means much more than bigger, better television pictures for American consumers. HDTV represents a new telecommunications medium. The development of high definition systems will have a dramatic impact not only on consumer electronics, but

on other industries as well, particularly the semiconductor and computer industries. HDTV development will lead to advancements in high resolution imaging for a wealth of products, including personal computers, sophisticated workstations, medical imaging, and publishing.

The companies—and countries—that control HDTV development will gain a substantial advanatage in the race to dominate the high technology markets of the next century. According to a recent report prepared by Robert B. Cohen and Kenneth Donow for the Economic Policy Institute [EPI], the U.S. could face an annual trade deficit of more than $225 billion in electronics and lose more than 2 million jobs a year by 2010 if it fails to develop robust HDTV and flat-display screen industries.

In light of the enormous economic potential and competitive advantage promised by high definition and high resolution systems, several discrete proposals concerning HDTV deserve our consideration and action this year. The bill I am introducing today embodies these proposals.

First, the Federal Communications Commission [FCC] faces a massive task in planning the technical, economic, and regulatory aspects of implementing terrestrial HDTV and will require adequate resources to complete its standards selection process. The advanced television test center and cable labs have been well supported by the broadcasting and cable industries. Similarly, the FCC's Advisory Committee on Advanced Television Service greatly has assisted the Commission in its standards selection process. It is becoming increasingly clear, however, that as the FCC nears its target date for selecting a broadcast transmission standard, it will require additional resources. This legislation would authorize additional appropriations to the FCC of $2.2 million and $2.45 million for fiscal years 1990 and 1991, respectively, to enable the Commission to complete comprehensive testing of proposed advanced television systems in a timely manner. Under the legislation, the Commission would be provided these additional resources to establish an internal advanced television task force, to procure testing equipment, and, if necesary, to hire additional personnel.

The FCC, under the very capable leadership of its Chairman Alfred Sikes, has moved aggressively and quickly on the development of HDTV standards. The Commission has been steadfast in its resolve to develop standards expeditiously and to ensure that consumers benefit from this new technology. Specifically, the Commission's efforts to develop an HDTV standard by 1993 and its determination that whatever standard ultimately is adopted be compatible with existing NTSC standards for television transmissions are to be commended. I support these decisions fully and firmly.

I also believe, however, that it is essential that United States companies and workers, as well as consumers, be provided opportunities to participate in the high definition revolution. the standards selection process provides a unique opportunity to assist U.S. competitiveness. This legislation I am offering today would require the FCC, in developing and promulgating a broadcast transmission standard for advanced television, to seek to promote the expansion and vitality of research and development and manufacturing of advanced television equipment and technology in the United States. This requirement would be in addition to existing FCC criteria for standards selection, which include transmission quality, cost effectiveness, and spectrum economy.

Let me stress that in supporting such a provision, I am not advocating the exclusion of foreign countries or companies from U.S. HDTV activity. My principal goal is to ensure that research, development, design, and manufacture of advanced television products and technologies produced for the American market be conducted, to the greatest degree possible, by companies investing in the economy and in American workers.

Let me also stress, however, that in offering this legislation, I am not seeking to burden America's broadcasters with inferior technologies. Rather, the Commission should balance competing factors and select the system that best will serve broadcasters' needs, while, to the maximum extent possible, assuring U.S. competitiveness in research, development, and manufacturing of high definition and related technologies.

The bill I am introducing today also would require the Commission, in selecting an advanced television broadcast standard, to consider the suitability of the standard for the transmission or interchange of advanced television programming using other distribution media and the flexibility of the standard to accommodate future improvements in television transmission technology, including the transmission of captions. These criteria would ensure that any transmission system selected meet the video community's immediate needs yet contain sufficient headroom for future improvements. In addition, these criteria reflect a desire that the broadcast transmission standard be compatible with other media; such compatibility is essential because more than 60 percent of America's households presently receive video programming from cable, satellite, or microwave transmission services. Broadcasters increasingly will reach their audience through alternative distribution systems including cable and satellites.

In addition to domestic broadcasting transmission standards, international production standards for advanced television will influence significantly the extent to which U.S. workers and companies participate in the high definition revolution. For decades, 35 millimeter film has served as the accepted worldwide standard for film production and has afforded ease of transferability of motion pictures between nations. The existence of such a standard has contributed to the strength of the U.S. motion picture industry in world markets. Because of the growing importance of video programming to our trade balance, it is essential that U.S. policies foster the adoption of advanced television production standards that facilitate the international exchange of programming.

The bill I am introducing today would require the National Telecommunications and Information Administration [NTIA], the Executive branch's principal adviser on telecommunications policy, to submit Congress a report that recommends appropriate policy for the U.S. to pursue before any international body considering the establishment of production and related technical standards with respect to advanced television. In developing such policy recommendations, NTIA would be required to seek to promote, as its principal objective, the reciprocal transfer of video programming between domestic and foreign markets.

Finally, this bill would require the FCC to submit a report to Congress analyzing, among other things, the feasibility of using public television facilities and resources to conduct over-the-air tests and demonstration of advanced television equipment and techniques. It is essential that the public broadcasting community, a vital component of our telecommunications infrastructure, be a full participant in the high definition revolution. Public broadcasters have a long-standing commitment to the highest technical standards in video services and have a long tradition of technical innovation.

Mr. Speaker, U.S. participation in emerging high definition technologies is critical to the future growth and strength of our industrial base. The legislation I am offering today not only would facilitate the advanced television standards selection process but also would assist in ensuring the participation of American workers and companies in the high definition revolution. I urge my colleagues to support this bill.

COSPONSORSHIP OF CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 1990

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. RITTER. Mr. Speaker, I am pleased today to join with my colleague and fellow Pennsylvania Representative, Chairman DOUG WALGREN of the Subcommittee on Commerce, Consumer Protection and Competitiveness, to cosponsor the Consumer Product Safety Improvement Act of 1990. This bill reauthorizes the Consumer Product Safety Commission for fiscal years 1991 and 1992, and makes changes in the structure and functioning of the Commission.

The Consumer Product Safety Commission is a small agency in the world of Washington. Yet it has enormous statutory power, which is why I refer to it as the "biggest little agency in Washington." Despite past dissension among the Commissioners, I am confident that, under the leadership of new Chairwoman Jacqueline Jones-Smith, the Commission will continue its work of protecting American consumers from unreasonable risks of harm from consumer products.

But Congress must do its part. The Commission has not been reauthorized since 1981. Since that time changes have occurred that demand action by Congress. Most important, the Appropriations Committee has been providing money for only three Commissioners. But the underlying statute still contemplates five Commissioners, with a quorum of three. All of the Commissioners for whose offices money has been appropriated must be present for the Commission to act. Any vacan-

cy deprives the Commission of its quorum and its authority to act.

This problem became acute last year when Commissioner Terry Scanlon resigned. From his resignation in January, untll Chairwoman Jones-Smith took her oath of office in November, the Commission was without a quorum and unable to act. Fortunately there was no emergency requiring Commission action. But Congress must rectify this situation. This bill reduces the Commission's quorum to two Commissioners for the 6 months after a quorum-removing vacancy occurs, in order to give the President time to appoint, and the Senate time to advise and consent, on a replacement Commissioner. This provision should eliminate the problem that the Commission faced last year, given adequate deligence on the part of the President and the Senate.

This bill also makes other improvements in Commission functioning, which will be explained as this bill moves through the legislative process. There is no excuse for inaction on this subject. The Senate acted in August of last year. It is time for the House to submit its version of Commission reauthorization. I commend the leadership of Chairman WALGREN for beginning this effort and I pledge my support for his efforts to enact this bill into law. I look forward to a strong working relationship with my chairman on consumer product safety issues.

METHANE GAS

HON. HOWARD C. NIELSON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. NIELSON of Utah. Mr. Speaker, I call attention to an environmental matter that has serious implications for us which should be addressed by the Ways and Means Committee.

Recent articles in Time and The Economist as well as hearings held by House committees have pointed to methane gas as a potentially significant contributor to global warming or the "greenhouse effect". Methane gas occurs naturally in underground deposits, particularly in coal seams. This source of additions to the problem of global warming is of sufficient concern that the EPA recently announced a study to find additional techniques for mitigating methane emissions from coal mining activities.

In 1980, this Congress passed legislation that should have had a significant impact. The Windfall Profit Tax Act of 1980 added an income tax credit for the sale of alternative energy fuels equal to $3 for every barrel of oil saved through the use of alternative fuels. Included in the definition of fuels for this purpose is methane gas produced from coal seams. Sales of this gas through the year 2000 qualify for the credit provided that the gas is produced either from a well drilled or a facility placed in service before the end of this calendar year.

In most coal mines, this methane gas is wasted by forcing massive amounts of air into the mine area and allowing the methane to simply escape into the atmosphere. The damaging effects of such operations are twofold. First, a usable natural fuel resource is absolutely lost. Second, more methane gas is added to our existing global warming and air pollution problems. The credit enacted in 1980 has been slow in developing solutions to this problem, but it has worked. Technology now exists so that by drilling horizontal boreholes into a coal seam, a miner can capture methane for sale, thus solving both problems. But the process is costly. At this point, only a handful of companies are using this technology. Only two are actually capturing the gas for sale.

A major reason why this technology is not widely used is that the availability of the credit is in serious doubt. Apparently, the IRS is trying to limit the credit by saying that the physical plant and all the equipment necessary to extract, capture and sell the gas is not a facility. The IRS is claiming, instead, that this operation is a series of wells. And not only that, they are saying that each horizontal borehole in a mine is a separate well. Therefore, only production from horizontal boreholes made by the end of this calendar year would qualify for the credit. The life of one of these boreholes is extremely limited, often as short as a matter of months. The holes are made only as areas in the mine are opened up for mining. Once the gas is extracted, the holes are mined and thus disappear. Without the credit, the economics of methane gas recovery from coal seams are very questionable.

Certainly, this type of operation is one we wanted to foster when the credit was put in place. Now, it is all the more vital. Not only does this capture of methane help in our search for domestic fuel sources, but it can go a long way toward improving our environmental position. An installation such as is required by this technology should certainly meet the definition of the term "facility" under this incentive tax provision. To hold otherwise would be contrary to the intent and desires of Congress.

Because this is not within the jurisdiction of the Energy and Commerce Committee, I did not propose an amendment to the Clean Air Act. However, I hope that Mr. ROSTENKOWSKI, the distinguished chairman of the Committee on Ways and Means will consider this issue. This technology is proven, simple, and protective of jobs. Supporting it is a real contrast to so much of what we normally have to do. This is a perfect example of exactly the kind of measure that is essential to solve the problem of global warming, to keep reduced pollution and at the same time reduce the dependence on foreign energy sources. It is beneficial to the taxpayer, the Government, and our neighbors in the worldwide community and we should support it.

MARTIN STONE: MAKING THE MEDIA ACCESSIBLE TO HIS COMMUNITY

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today to call your attention to Mr. Martin Stone, a gentleman of great distinction. Martin has been a leading figure in Westchester County for over 30 years.

In 1957, Martin established radio station WVIP. Today, WVIP AM and FM provides news, information and entertainment services to Westchester County. The BBC called WVIP "the most outstanding small radio station in America," and credit for that distinction goes in large part to Martin Stone.

In the early 1970's, Martin had the foresight to anticipate the importance of local television. In 1973, he established WVIP cable television which continues to air important local programming. Cable television, particularly public access television, has become a medium which links neighbors, and Martin Stone has led the way. He also serves as an active member of my cable advisory committee.

Martin's emphasis on local programming, in addition to State, national and international updates, has been well received. With his leadership, the WVIP radio and cable stations provide listeners and viewers with quality coverage. In fact, for 5 successive years, the associated press cited WVIP for outstanding local news coverage.

But Martin Stone's interests extend far beyond broadcasting. As a business person, he has been a leader in Westchester County in encouraging partnerships between the private and public sectors to address community problems. He served as an advisor to the late president Harry S Truman, as well as serving as consultant to the ford foundation. He also handled the massive responsibilities of directing exhibits of the New York World's Fair. In addition to these significant professional responsibilities, he had dedicated many hours to local organizations including the hammond museum and the northern Westchester hospital.

In this complex world, when local issues so often take a backseat to larger interests in the media, Martin Stone's approach to communications has been refreshing. By bringing together local and national concerns, political and personal interests, and public and private priorities, Martin has promoted cooperation and partnership in the Westchester County community. His vision has been remarkable and has added to the vibrancy of Westchester County.

THE BAND THAT HAS BROKEN RACIAL BARRIERS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to commend the Capitol Hill band the "Circus Mind". Many of my colleagues may have read the recent article on the group which appeared in Roll Call on May 10, 1990. These gentlemen deserve special recognition.

Considering today's problems of drug abuse, violence in our cities, and the decreasing quality of our education system, it is encouraging to see such a stellar enthusiastic group of young black and white musicians, Karl Celarier, John Giesecke, Sean Hanley, Antoine Jenkins, Andy Soloviev, and Kevin Price succeed, overcoming the many difficulties and obstacles confronting today's young people.

It is hoped that the example set by the group will serve as a symbol of hope and as a positive example for the many young people of our Nation who look to the world of music for their idols.

Mr. Speaker, I request that there be inserted at this point in the RECORD the full text of the Roll Call article by Duncan Spencer:

HILL SPAWNS HOT, HIP, HOMEGROWN BAND: CIRCUS MIND

(By Duncan Spencer)

It must be the brief dream of every city child to one day be a member of a fabulous rock band. Few ever put action and effort to their wish, however, and fewer still climb the treacherous hills that surround the peaks of fame or fortune to put them into the bank.

But lightning does strike, even on the Hill, where ideas of music are far apart, as far, for instance, as is the demure tweeting of a string quartet from the hypnotic knocking of sticks on the bottom of plastic buckets. The amalgam is in a remarkable Capitol Hill band called the Circus Mind.

The band has done what no other could do: It has combined DC's celebrated funk and go-go music with a melodic line and made a sound that has been sweeping the high school circuit, with ten proms already booked. The band has also broken racial barriers by linking black and white musicians in a new kind of fusion. Reviewers are beginning to take notice.

The reason that I, who knows absolutely nothing about the bands of the '90s, know that Circus Mind is a great band is that one member of this band, John Giesecke, 22, played soccer on the Hill with one of my son's teams many years ago. Three other members of the band, Andy Soloviev, 19, Karl Celarier, 22, and Sean Hanley, 20, also went through that tough apprenticeship, though now as serious musicians they are probably horrified to admit that once, on nearly deserted fields, they played their hearts out to the shrieks of their parents.

Don't expect to understand them now either. Circus Mind—according to the critics at the Insider, a DC club review seen at local spots like TV Headquarters, 9:30 club, dc space, Fifth Column, The Vault, New Vegas Lounge, etc.—is hot.

"It's highly melodic music with heavy percussion, it's funky reggae with soulful vocals. It's a band with conscience and flair. Circus Mind is THE up and coming band to watch," the jazz and pop review reported.

The band's name comes from a line in a Jimi Hendrix song that goes, "You have a circus mind that's running wild. . . ." According to lead vocalist Antoine Jenkins, 20, "John [Giesecke] was listening to this tune one day and that was it." It's better by far than their previous name, which was Second Opinion. They are now six young musicians who have made a certain fame, and their path lies clear and bright ahead.

Soccer ends and life goes on, and for a time, I would see Jenkins, who lives near the corner of 6th and Lexington Place, NE, or Soloviev, who lives on 8th near Independence, SE, or Giesecke, who lives near 9th and East Capitol, and they were always enthusiastic about their band. Yup, I thought.

Then about two years ago, I was told that they were actually making money at it. I wisely thought that they would probably get over it. But this past winter when they asked me to visit them, at a session in the basement of Holy Comforter Church on East Capitol Street, I noted with big respect that admission was being charged.

Inside, the lights were dim and the noise was enormous. It rose and fell and filled every square foot of air so you were immersed in it, like the waves of the sea. It was like a dream of drowning, until you suddenly remembered to breathe.

There was Jenkins, water pouring down his unseamed face, singing a melody, Celarier and Soloviev were playing guitar, Giesecke was at drums, Hanley at bass, and Kevin Prince, Jenkin's first cousin, was percussion.

It could have been a blues song, an intense song, and in the dimness and the thunder of the noise there were rapt faces of teenagers and young adults, most of them black. I thought it very good, and stayed for an hour, and what I did know was that, whatever "it" was, they had it.

Now they have made it, at least in a small way, as Giesecke puts it. "We've made a tiny dent in the big iron door of the music world in this city." They have now made almost a complete sweep of the private school prom dates, having been booked for such schools as St. Andrews, Potomac, St. Alban's, Holton Arms, Sidwell Friends, Landon, and Gonzaga, plus club dates in the city.

Next is almost certainly a record with an established label. Their work is methodical, as befits serious college students (Corcoran School of Art, University of Maryland, and Montgomery College are among their academic credentials); they tape every session and then conduct review and criticism.

The group has found a niche: It is a racially mixed band that plays a black sound (go-go, reggae) and a white sound (progressive, rock, and Latino) that is acceptable across both sides of the racial divide in Washington.

Jenkins says the band was formed about four years ago by a group of like-minded kids at Archbishop Carroll High School at 4300 Harewood Rd., NE, the alma mater of Hanley, Giesecke, Soloviev, and Jenkins. (Celarier was at Gonzaga.)

At a heavily black high school, the white Hill kids got what Jenkins calls "a perspective on black culture" that was to help them immeasurably with their music.

One problem has always been practice space. They must move, they find, from one rowhouse to another.

One story they enjoy telling is of a neighbor, in the early days, who so objected to the racket that she hired a lawyer who threatened suit on the grounds that Circus Mind's practice sessions were actually dangerous to her health. Now that's a sound with a future.

THE PHYSICIANS' COMPARABILITY ALLOWANCE EXTENSION ACT OF 1990

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. CONTE. Mr. Speaker, I rise to introduce H.R. 4920, the Physicians' Comparability Allowance Extension Act of 1990. In 1978, the Federal Physicians Comparability Allowance Act was enacted to address a serious imbalance between Government physicians' salaries and those in the private sector. This allowance has been reauthorized several times, the last time in 1987. The act is scheduled to expire on September 30, 1990.

As it stands, the allowance payments may not exceed $14,000 per year if, at the time the agreement is entered into, the physician has served for 24 months or less as a Government physician, or $20,000 per year if the doctor has more than 24 months of service.

My bill would reauthorize the allowance for an additional 3 more years, through September 30, 1993. My friend, Senator STEVENS of Alaska, has introduced a similar bill in the Senate.

This bill is of paramount importance to our physicians throughout the Public Health Service, including the National Institutes of Health, ADAMHA, Centers for Disease Control, and FDA. For the past decade Government salaries for physicians have fallen further and further behind those of their colleagues in the private sector. Even with the Physicians' Comparability Allowance, salaries for senior research scientists at NIH, for example, are 50 percent below the salaries paid at the Nation's medical schools. Without the allowance, salaries would be so low that we could witness a mass exodus of our best doctors and scientists.

Enactment of this bill in no way negates our need to address the compensation gap in a responsible manner. I recently introduced a bill creating a Senior Biomedical Research Service which would lift salaries to a competitive level. A recent article in the Wall Street Journal detailed the woes that NIH has endured with the lack of adequate pay for their senior scientists. The directorship of NIH has gone unfilled for nearly a year now—with the inadequate salary being a primary reason.

Both the Physicians' Comparability Allowance and the Senior Biomedical Research Service bill are necessary to stem the brain drain and to rebuild our Public Health Service with talented, energetic physicians. The PCA has given the Public Health Service flexibility to attract and retain quality doctors, and would be a crucial component of the SBRS compensation package.

I urge my colleagues to join with me in supporting this important program and in facilitating the speedy passage of this bill.

INTEREST RATES AND THE GOLD STANDARD

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. GINGRICH. Mr. Speaker, my colleagues should find the following article interesting in light of the current discussions in Congress on the budget.

[From the Wall Street Journal, May 21, 1990]

GOLD'S THE WAY TO CUT INTEREST COSTS

(By Charles Kadlec)

Why aren't interest rates on U.S. government bonds below 5%, just as they were for 88 out of the 90 years before 1967?

This is the key question facing the administration, the Federal Reserve, Congress, economists, corporate executives and civil rights leaders. But low and stable interest rates seem so remote that the question appears irrelevant.

Lower interest rates would do more than any government bailout to restore stability to our financial system. If mortgage rates dropped to 5% from today's 10.5%, mortgage payments would fall by more than 40%, making housing more affordable to all while spurring sales of now-empty condominiums. Distressed borrowers would have a better chance of meeting their debt service payments, restoring solvency to the S&Ls and banks.

Lower interest rates would provide real debt relief to developing countries. If interest rates were four percentage points lower, Mexico's interest payments would be cut three times more than they will be by this year's restructuring agreement between Mexico and its creditors. Debt relief would help restore economic growth in Latin America.

With lower interest rates, economic growth would accelerate, and employment would follow. Capital investments would be easier to finance, improving American competitiveness. These benefits are especially important for the least sophisticated and skilled workers, people least able to cope with an economy whipsawed by high and unstable interest rates.

And let's not forget the biggest debtor of them all—the U.S. government, which owes the public $2.3 trillion. A four percentage point reduction in interest rates would reduce interest payments by more than $90 billion a year, freeing resources for domestic programs and eliminating any argument for tax increases.

What is it that the monetary authorities in the U.S and elsewhere used to do to produce low and stable interest rates for so long that we are no longer doing?

For most of the 90 years of low interest rates, the U.S. was on a gold standard. But in 1967, the U.S. began to abandon its commitment to dollar/gold convertibility. Then President Nixon closed the "gold window" in 1971. Ever since, the interest rate on long government bonds has been above 5%.

The key to the gold standard's success is that it produced trust in the future buying power of the dollar. When people exchange goods or services for dollars, they do so trusting that someone else, in turn, will accept the dollars in exchange for goods and services. When people lend dollars, they lend because they trust that they will be repaid in money that will be exchangeable into goods. The more they doubt that money will maintain its buying power, the higher the interest rate they will charge for the loan.

A gold standard works to produce trust because it provides a standard by which people can assess whether or not the monetary authorities are keeping their promise. By contrast, the efforts by the Fed to "do its best" to fight inflation with a system based on a plethora of variables simply demands people's trust, without any criterion to assess Fed performance. Good intentions do not constitute a promise.

The gold standard also provides an unambiguous rule of action. The monetary authorities altered the quantity of money in order to maintain a stable rate of exchange between the dollar and gold.

Beginning in the mid-1980s, several Fed Board members have spoken of using a basket of commodities as a proxy for the overall price level. The proposed rule of action was to maintain the rate of exchange between the dollar and this index within a band of plus or minus 10 percent. That suggestion seems to have been followed. Various commodity indices, including the CRB Index and Journal of Commerce Index, have been, with few exceptions, within such a band since early 1987.

But the Fed has failed to make a public commitment to maintain this commodity standard. Talk about using commodity prices to guide actions are one thing. Identifying a commodity index and specifying the bands to which the Fed is willing to be held accountable is quite another. Without a public commitment, people cannot assess what promises, if any, will be kept. Today, the CRB Index is approaching the top side of the tacit price band.

Without an explicit commitment by the Fed to maintain the buying power of the dollar, doubts over its future grow. The results are speculative excesses driving interest rates to and fro, and today's high and costly interest rates.

Trust in the future value of money will bring interest rates back down below 5 percent. The Fed has demonstrated it has the tools and rules of action to inspire this trust. What is needed now is the wisdom and leadership to declare and implement a new commodity standard for the dollar.

THE BARN THEATRE

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to a very special theatrical institution in my district, the Barn Theatre, which was founded in Augusta, MI, in 1949, and is this year celebrating its 45th anniversary.

The Barn Theatre is the oldest equity playhouse in Michigan and one of the oldest in the United States. In its 44 years of stock performances, the Barn Theatre has entertained more than 1 million patrons and has produced more than 300 shows. It is well known for the extraordinary quality of its actors, directors, and stage managers, and for the inspiring management team of Jack and Betty Ragotzy. The theater boasts of its having hosted two Emmy-award winning actresses: Dana Delany (China Beach) and Patricia Wettig (Thirty-Something).

The origins of the Barn Theatre are as unique as what it produces. Jack and Betty Ragotzy, founders of the theater, initially leased a barn which was built to house cattle and was sparsely equipped with only a single light bulb. Subsequently the barn floor was torn out to make a stage, borrowed folding chairs were put in place, and the cattle barn was transformed into a theater. Today the theater is fully remodeled and modernized; in 1985 it was named to the Michigan Register of History Sites.

They say in show business that the "show must go on." At the Barn Theatre this adage is the golden rule. Viewers have seen plays by lanterns due to severe summer storms. It has survived damage from a tornado and severe winter storms. In 1981–85, the Barn Theatre faced the threat of a landfill being placed less than 2,000 feet from the site. The theater fought the landfill and simultaneously helped establish new air quality standards for all Michigan landfills.

Mr. Speaker, the people of Augusta take tremendous pride in the historic Barn Theatre. It has been my privilege to represent two remarkably talented and dedicated individuals, Jack and Betty Ragotzy, and I know my colleagues will want to join me in paying tribute to them and to the Barn Theatre on the occasion of the theater's 45th anniversary.

THE RESOLUTION TRUST CORPORATION AND THE S&L CLEAN-UP MESS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. OWENS of New York. Mr. Speaker, in the summer of 1989 when Congress created the Resolution Trust Corporation, the salvage agency of the savings and loan bailout, I'm sure it had no idea that this agency was destined to become the largest real estate company in the world. It is by definition and design one of the largest financial institutions in the world, second only to Japan's postal savings system. I am also convinced that Congress was not completely aware that with the creation of the RTC, it was setting the stage for another financial disaster comparable only to the industry it was designed to save.

As it stands now, Mr. Speaker, the RTC is fast becoming a grave yard for the more than 450 thrifts that it now currently owns. According to a recent estimate by the GAO, the bailout will cost the taxpayers at least $325 billion over 30 years—including interest payments on Government borrowings—with the number possibly increasing to $500 billion., Even after allowing for inflation, the final price tag could outstrip the U.S. Government's Marshall Plan for rescuing Europe and all previous government bailouts combined. Comptroller General Charles A. Bowsher recently told the Senate Banking Committee that the RTC's pledge to close at least 140 thrifts by the end of June is terribly unrealistic. In addition, other critics have charged that the RTC is moving very slowly in its attempt to sell or liquidate properties that it now currently owns. Sadly, it seems

that to date, the Federal Government now currently has in its possession more than 26,800 homes, 773 office buildings, 158 hotels, 205 resorts, 51 restaurants, 236 industrial facilities, and approximately 43 mines. And the backlog appears to be getting worse, since the agency may need to bailout at least 600 more thrifts. This could bring the total number to more than 1,050 thrifts—twice the amount estimated by the Bush administration.

GAO also contends that 10 months into the bailout process, the RTC appears to be ill-equipped for a task that demands speed, agility, and entrepreneurship. The slow start is costing the United States millions of dollars in operating losses and other expenses. More importantly, as seized property slowly deteriorates under Government ownership, the market value is slowly declining.

According to a recent article in the Congressional Quarterly, early plans for closing failed thrifts called for concentrating on the largest and most difficult cases. In March, however, L. William Seidman, head of both the FDIC and the RTC announced that only 140 of the easier-to-handle thrifts might be unloaded by June 30. The agency also, according to the Quarterly at first wanted to give thrift buyers only 6 months to decide whether they would keep troubled assets acquired in thrift purchases. When thrift buyers were unwilling to take that risk, the RTC announced that buyers would have up to a year to turn back assets that are not worth the book value. To make matters even worse, the RTC recently rejected a proposal that would allow regulators to begin to discount slow-moving real estate properties. Opponents argue that such a policy, if implemented would only disrupt the real estate market place and reduce costs. Under the proposed rule changes, the regulating agency could reduce an asset price by 15 percent of its appraised value if it has not been sold in 6 months. In the case of single-family homes, the price could be discounted after 4 months. However, the sale price may not be reduced by more than 20 percent without obtaining a new appraisal. The proposal would also allow the agency to hold auctions for properties valued below $100,000 that have not been sold. In addition, the agency could set a minimum price of 70 percent of the appraised value.

Currently, the agency cannot sell assets in places termed as distressed areas like Texas, Oklahoma, Mexico, Louisiana, Colorado, and Arkansas for less than 95 percent of its market value. "What we're trying to do is find what the market is," said L. William Seidman. "We are sitting on billions of dollars of property that is costing us huge amounts of money in holding costs. The first citizen who is buying out of patriotic duty hasn't been found yet. We have to find the market."

Mr. Speaker, what we have here is a monumental bureaucratic mess. From everything that I have been able to gather, the whole management structure appears to be fundamentally flawed. For example: the chief executive of the RTC reports to the board of directors of the RTC, which is the same as the board of the Federal Deposit Insurance Corporation and is thus chaired by the same person. The RTC Chairman, in turn, reports to the Oversight Board, which is chaired by the Treasury Secretary. Also sitting on the Oversight Board are the Chairman of the Federal Reserve as well as the Housing and Urban Development Secretary in addition to two nongovernmental members appointed by the President. That board, by the way, also has its own director and staff. It is supposed to set board policy; the RTC is supposed to make case-by-case decisions. Also, to further complicate things, RTC has six regional offices which are advised by a five-member board of community leaders. The Oversight Board in Washington is advised by a national board made up of the six chairmen of regional boards plus a national chairman. Still, here on the Hill, there is yet another oversight panel—the RTC task force, set up by the House Banking Subcommittee on Financial Institutions Supervision, Regulation and Insurance. This task force has closely monitored the RTC and repeatedly blistered its managers for slow progress on sales and on affirmative action contracting. Originally, the task force was supposed to have gone out of business after 6 months, but it was recently extended through the 101st Congress. Interestingly enough, Mr. Speaker, expert after expert charge that what this bailout needs is, among other things, a clearer definition of who's in charge.

The who's in charge question, Mr. Speaker, is compounded by the fact that, as I understand it, the RTC's hiring practices remain questionable. To date, individuals interested in employment at the agency need not have any prior banking experience, nor is there a uniform system in place for monitoring employment eligibility. From all indications, according to the FBI, anyone can apply for a job at the RTC, that includes former employees of failed thrifts as long as they were not responsible for more than $50,000 in damages incurred by that thrift. It gets worse—according to a recent article in the National Journal, the largest number of RTC employees are on staff in the Southwest region—the same area where 60 percent of all the fraud and abuse cases are now currently under investigation.

Along with the who's in charge and the hiring questions, comes another major concern—that is the issue of minority set-asides. When Congress adopted the bailout legislation, several provisions specifically addressed the issue of minorities and women. The law requires that in granting contract opportunities, preference should be given to racial minorities. Under the RTC program, bids by minority or women contractors are supposed to be given a 3-percent price advantage over bids by other. To date, the Thrift Bailout Minority Contractors Association reports that with 36 State chapters and a membership of more than 560, fewer than 2 percent of it's membership have been able to secure contracts with the RTC. The consensus is that the RTC has set such stringent capital requirements that most of the organization's members simply cannot afford to enter the contract competition.

Mr. Speaker, as the administration is screaming "No new taxes," the total cost of the bailout is increasing. Where is the additional money for this disaster going to come from? In the May 21, 1990, issue of Newsweek, critics conclude that the bailout cost, approximately $500 billion and growing will certainly fall into the laps of every man, woman, and child over the next 40 years. According to Newsweek, $500 billion could completely fund every existing Government-sponsored education program from preschool through college for the next 4 years; provide universal insurance and long-term care for the elderly and disabled for nearly 4 years; fund a 20-year coast-to-coast project to tackle the country's mounting hazardous waste problems and overhaul the Nation's water systems, repair all bridges and have money left over to start fixing the highways.

Amid reports that William Seidman will be resigning as Chairman of the RTC, comes private off-the-record discussions that the administration has no real concept of how to fully manage this disaster. Seidman, often an outspoken critic of the administration's policies regarding regulating the industry has often pushed for more accountability from those crooks who have robbed this country of millions of dollars.

Recent FBI figures note that they have at least 8,000 potential fraud cases now pending in its fraud unit with some 1,300 of those rendered inactive because of a lack of resources, and at least 13,000 tips on other suspected fraud cases that agents have yet to followup. Still, while the White House has allowed some $50 million for added prosecutors, agents, and staff, critics say the effort is still inadequate and a bit haphazard.

Mr. Speaker, I am concerned about those innocent individuals who, not by any fault of their own just happened to be in the wrong place at the wrong time. Innocent bystanders like the residents of the Mulberry Woods apartment complex in the Homedale section of Phoenix, since it is obvious that the majority of the crooks who created this disaster won't be prosecuted anyway. When the RTC took over Brookside Savings & Loan, a California-based thrift that had invested in the Mulberry Woods project, 90 families were evicted and the complex was shut down. Other victims were naive investors: Matthew Pobog, 67, and his wife, Alice, were among 120 residents of the Leisure World retirement community in Laguna Hills, CA, who bought junk bonds issued by Charles Keating, head of the infamous Lincoln Savings & Loan. The Pobogs say they wanted certificates of deposit, but according to Newsweek, "a nice young Lincoln salesman said that the bonds paid higher interest." They did—and they defaulted. A Congressional Quarterly article last week revealed that in a California suit against Lincoln, a witness produced an internal memo to its bond salesman advising them to "always remember the weak, meek, and ignorant are always good targets."

FOUR HONORED BY WESTCHESTER NATIONAL CONFERENCE OF CHRISTIANS AND JEWS

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today to draw the attention of my colleagues to the great honor which is being bestowed on four outstanding Americans by the National Conference of Christians and Jews at its annual Westchester County awards dinner dance. These four Americans, who reside in my district, have been prominent members of the Westchester community for many years, and this honor is a fitting tribute to their dedication and commitment to the people of Westchester.

Mayor Ronald A. Blackwood is the 18th mayor of the city of Mount Vernon. He made his mark in New York State history in 1985, when he became the State's first elected black mayor. Before his historic election, he had served on the Mount Vernon City Council for over 15 years, including serving as president four times. Throughout his years in Mount Vernon, his leadership to the people of our community has been exemplary. He is committed to the city of Mount Vernon and fulfills his responsibilities with energy and wisdom.

Charles R. Clos is the general manager of building operations for New York telephone. He has been actively involved in numerous organizations that make our community a better place. He presently serves on the board of trustees for Mercy College, and is the chairman of the Government Affairs Committee of the Lyme Disease Advisory Board of the New York Medical College in Valhalla. He has also been involved with the Westchester County Association, American Lung Association, and the Westchester Council for the Arts. These are but a few of the valuable organizations which have benefited from his participation.

Carmine J. Labriola is the chairman of Carmine Labriola Contracting Corp. His life is a shining example of the American dream. At age 9, he left his home in Italy to come to the United States where he settled in Eastchester, NY. After serving 5 years in the U.S. Army Air Force, he joined his brother's landscaping business. Under his guidance this small business grew to be a highly regarded contracting corporation. This corporation received an award for the excellent work in the PepsiCo sculpture garden in Purchase, NY. In addition, Mr. Labriola has been active in his community serving on the boards of St. Agnes Hospital, Boys Town of Italy, the Arthur Manor Association, the Westchester Contractor's Association, and the Scarsdale Catholic Club.

William F. Plunkett, Jr., is an attorney and the president of Plunkett & Jaffe, P.C. He has been extremely active in Westchester County and New York State public affairs, particularly in the areas of education, housing, and historic preservation. He has served as vice chairman of the board of trustees of Marymount College, chairman of the council of the governing board for the Independent College Trustees of New York State, and he is presently the director of the Commission of Independent Colleges and Universities in New York State. In addition, he has been active in a variety of charitable and philanthropic organizations including the Friendly Sons of St. Patrick which he served as president.

Mr. President, these four individuals deserve the praise and gratitude of those who are committed to a better life for their fellow citizens. They have indeed made Westchester a better place to live. I congratulate them on receiving these well-deserved awards.

TAKE CARE IN WEEDING THE S&L PATCH

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. CRANE. Mr. Speaker, last January the President presented us with his budget proposal for fiscal year 1991. In that document he estimated our deficit would reach $121 billion by October. Today the figure has jumped to $194 billion. Much of this $73 billion change represents the massive outlays we have appropriated in accordance with the 1989 Financial Institutions Reform, Recovery and Enforcement Act [FIRREA]. Certainly, a program that contributes to 38 percent of the national debt has an obligation to execute its duties thoroughly and prudently. On the whole, both the Resolution Trust Corporation and the Office of Thrift Supervision have approached their responsibilities with diligence. I hope, however, that their diligence will not supersede their good judgment—especially in the case of good will institutions. Under the new criteria, many of these S&Ls have been transformed into high risk thrifts, but we must not forget that before last July, good will was acknowledged and encouraged by FDIC. Punishing otherwise healthy institutions seems unjustifiable. I would direct the attention of my colleagues to the following editorials from the Chicago Tribune and Crain's Chicago Business. Both essays make the point that taking over relatively healthy institutions will only cost taxpayers more money in the long run. I can only hope that Chairman Seidman and Director Ryan will consider this advice.

[From the Chicago Tribune, Apr. 21, 1990]

TAKE CARE IN WEEDING THE S&L PATCH

As any gardener knows, weeding can be tricky. A careless eye or hasty hand can result in uprooting healthy, productive plants. In the cleanup of the savings and loan industry, federal regulators may be weeding out profitable, well-managed thrifts along with money-losing, risk-taking ones.

As a result, the government will likely take over more thrifts than necessary, add to the bailout's astronomical cost and unfairly punish communities. Washington does need to get on with the complex task, but it must find more efficient and judicious ways to purge the weedy S&L patch.

Olympic Federal Savings & Loan, the Berwyn-based thrift already well known in Washington, has a suggestion that makes sense for the government, for Olympic and for some of the other 200 thrifts in the same predicament. John Lanigan, Olympic chairman and former Illinois savings and loan commissioner, proposes that regulators transfer good assets from seized thrifts to those that need more capital to meet the tougher requirements in last year's bailout bill.

Lanigan's goal is to keep his 100-year-old thrift in business. Olympic attracted national attention last month when it successfully sued to stop the government from seizing its more than $1 billion in assets and liquidating the thrift. That action jeopardized the entire S&L bailout and forced Congress to hurry to confirm a new chief regulator for the industry.

Olympic is vulnerable again, and Lanigan contends Washington owes it a favor. His case is convincing.

Olympic is under seige because in the early 1980s the government asked it to take over several troubled Illinois thrifts. Olympic absorbed five insolvent ones at no cost to Washington. In return, federal regulators allowed Olympic to carry the liabilities of the merged thrifts on its books as an asset called "supervisory goodwill." But under the bailout legislation, the government reversed itself, changed the accounting entry back into a liability and overnight transformed Olympic and many other thrifts into insolvent institutions.

It didn't matter that Olympic is conservatively managed, serving the lunch-bucket workers of its neighborhoods with auto and home mortgage loans and not investing in junk bonds or speculative real estate deals. Nor did it count that Olympic has been profitable every year since the mergers and has reduced its liabilities by $43 million.

After the change in regulations, Olympic sought out new investors and capital. Eventually, it lined up a buyer who will inject $40 million into the thrift if the goodwill issue is resolved. It applied to Washington for $100 million in assistance to wipe the goodwill liabilities off the books.

As an alternative to that handout , Lanigan wants to accept working assets from other thrifts already taken over by the government in exchange for the supervisory goodwill. This would reduce the government's growing inventory of failed-thrift assets, make Olympic solvent again and save Washington the estimated $200 million it would cost to liquidate the thrift.

The logic seems irrefutable. The trouble is, regulators are being pressured to move more quickly on the bailout. And, because of the investigation of ties between some senators and the failed Lincoln Savings & Loan in California, Lawmakers are to jittery to intervene on behalf of worthy S&Ls. Regulators have approved recapitalization plans for a few thrifts, including Illinois' largest, Talman Home Federal Savings and Loan, but more deserve consideration.

Critics contend such restraint will only worsen the thrift fiasco. Indeed, any thrift seeking assistance should be required to show that it could be viable if it weren't required to write off goodwill. Once the case is made, Olympic's plan can serve as a model to keep profitable, conservative thrifts in business while preventing the bailout from getting totally unmanageable.

[From Crain's Chicago Business, Apr. 23, 1990]

THRIFT TOUGHS SHOULD BACK OFF OLYMPIC FEDERAL

An unfortunate repercussion of the savings and loan crisis is the current atmosphere of fear and loathing in Washington.

Revelations about the swindlers who navigated some of the industry's high-profile crash-and-burns have generated paranoia among legislators and regulators. As a result, legislators and regulators are all too eager to crack down hard on sick thrifts.

The tough-guy stance will carry a substantial cost to taxpayers, as the case of Olympic Federal shows. Berwyn-based Olympic made the headlines last month with its David vs. Goliath lawsuit against the federal Resolution Trust Corp. (RTC) challenging the agency's right to close thrifts. The suit was an attempt to buy time for Olympic, which has been targeted for potential liquidation as a result of its failure to meet tough new capital rules that aim to inject a new discipline into the industry. The federal Office of Thirft Supervision (OTS) appears inclined to liquidate the institution.

Olympic is profitable and conservatively managed. It even has identified a bona fide buyer—First Illinois Corp. of Evanston, which intends to infuse 438 million in new capital that will satisfy regulatory guidelines. That deal would hold the government's cost to the $100 million in supervisory goodwill on Olympic's books since the early 1980s, when the feds merged it with seven other troubled S&Ls. Olympic has applied to the Federal Deposit Insurance Corp. for approval of its so-called "open thrift assistance" plan.

Olympic Chairman John Lanigan estimates that a federal takeover and liquidation might well double the current cost to the government—an estimate born out by RTC's miserable track record. The agency's takeover and subsequent sale earlier this year of Skokie Federal Savings & Loan, for example, ultimately will cost taxpayers three times the original estimate. That's because government exacerbates the damage when it seizes thrifts. Good deposits and bank management flee, damaging the worth of what remains.

The OTS should back off Olympic while the FDIC weighs the thrift's open assistance plan. A proposed series of asset swaps and capital infusion from First Illinois would be far less expensive to taxpayers than government-led liquidation. and it could set a precedent for thrifts that share Olympic's predicament here and nationwide.

MISGUIDED REACTION TO VIOLENCE IN THE MIDDLE EAST

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. GILMAN. Mr. Speaker, I rise to convey my deepest condolences to the families of the Palestinians who were recently killed in Rishon Le Zion, Israel, by a deranged Israeli soldier. This tragic, senseless act of violence is abominable and must be condemned.

The Prime Minister and the Government of Israel has publicly declared their abhorrence for this act and now they share in the grief of the victim's families. They have committed all in their power to punish the responsible individual.

However, it is essential that we keep this event in the proper perspective. In 1985, an Egyptian soldier went berserk, killing seven Israeli tourists. That soldier, although apprehended and incarcerated in an Egyptian prison was subsequently martyred as a folk hero.

Last fall, when terrorists opened fire on an Israeli tour bus outside Cairo and killed nine Israelis, Egyptian President Mubarak claimed that the incident was an "aberration" in Egyptian-Israeli relations. President Mubarak's conclusion was accurate. What we find difficult to reconcile, however, is the claim that this week's shooting was somehow different from the tragedy in Egypt last fall.

Mr. Speaker, I request that, at this point in the CONGRESSIONAL RECORD, there be inserted two articles written by journalists, Richard Cohen of the Washington Post, May 22, 1990, and Steven Emerson of the Wall Street Journal May 22, 1990, which provide an appropriate balanced analysis of the tragedy in Rishon Le Zion:

The articles follow:

[From the Wall Street Journal, May 22, 1990]

WRONG REACTION TO ISRAELI GUNMAN

(By Steven Emerson)

Hours after an Israeli gunman went mad and mowed down a group of Arabs on Sunday, human-rights activists and American commentators publicly charged the government of Israel with "responsibility for and complicity with the killings of Palestinians." Why? The Israeli government had already arrested the disturbed man and already begun to investigate the matter. Because, as one commentator said, "Israel has encouraged this by creating a climate of hate and violence. "Some Palestinian leaders went further. They charged that the killings were a premeditated act of murder by Israel. The American media uncritically repeated these charges. The U.N. will likely convene in the next few days to ram through a resolution accusing Israel.

The attack on Israel is part of a trend. Lately, American journalists, commentators, and political activists with ideological agendas have begun ascribing collective national guilt as the culprit for acts of violence carried out in society. In fact, a more honest test of society's values and conscience would be to examine how it reacts to such violence. Does it act swiftly to condemn the violence? Does it ignore it? Or does it revel in the violence? The Sunday murders are a case in point. They provide a critical basis to examine how Arab society (and the U.S. media) reacted to similar acts of violence against Jews.

In Israel, there was instant, unanimous condemnation of the killings. Within minutes after news of the killings was broadcast, Israeli leaders—from the entire political spectrum—bitterly condemned the killings and expressed their sympathies to the Palestinians. There was no equivocation or excuses. Israeli citizens expressed their shock, horror and revulsion at the killings. The Israeli reaction was similar to the massive demonstration of 400,000 that came in response to the Phalangist massacre of Palestinians at Sabra and Shatila in 1982.

The Arab world's reaction to the murder of innocent Israelis has been very different. In 1985, when an Egyptian soldier on active duty shot to death seven Israeli tourists, including four children, in the Sinai, many Egyptians and Palestinians celebrated the deaths of the Israelis. The killer, who subsequently dies under mysterious circumstances in an Egyptian prison, has since become a folk hero in Egypt and the Arab world, enshrined in Arab mythology. Last year, when 15 Israelis and one American were killed when a fundamentalist Palestinian caused an Israeli bus to crash in a ravine, many Palestinians openly justified the killings; some even rejoiced.

Not only have Palestinians routinely celebrated the killings of Israelis. They have consistently subscribed to conspiracies, including their charge that the violent deaths of Palestinians are part of a deliberate Israeli plot to kill all Palestinians. This conspiratorial accusation, not insignificanlty, is similar to the way the *intifada* may have started. After a traffic accident in Gaza in December 1987 in which four Palestinians were killed, Palestinians immediately charged that the traffic accident was a deliberate act of premeditated murder by the Israeli government. In fact, it was just a traffic accident.

While Palestinian exaggerations, conspiracies and distortions may be understandable given the difficult circumstances under which the Palestinians live, the U.S. media and human-rights organizations have a responsibility not to report them blindly. When Palestinian schoolchildren several years ago claimed they were being poisoned by Israel, the accusation was uncritically broadcast all over the world. Later a team of international scientists determined that there was no poisoning whatsoever. The children at best were suffering from some form of mass hysteria, and at worst were being manipulated by their parents.

The response of the media and human-rights organizations in the U.S. to the killings of innocent Israelis by Arabs has been just as skewed. When terrorists opened fire on an Israeli tour bus outside Cairo and killed nine Israelis, why didn't human-rights activists and commentators charge that the event was fostered by the climate of hate against Jews in Egypt? Palestinian leaders openly justified the killings. Instead, the U.S. Media focused on the apologies issued by Egyptian President Hosni Mubarak to foster the notion that the attack was an "abberation" in Egypt's attitude toward Israelis.

When the attack was an abberation is, in fact, debatable. An examination of broadcasts and publications in Egypt in the weeks after the killings indicates, however, that some Egyptians approved of the killings. Yet, at the same time, the Egyptian government forcefully condemned the attack. (In Egypt, the semi-controlled press has been bashing Israel and Jews for years now, routinely comparing Jews to Nazis and endorsing the worst conspiratorial accusations against Jews from the notorious anti-Semitic forgery, the Protocols of the Elders of Zion.)

Perhaps even worse is how human-rights organizations and the U.S. media treat the killings of Arabs by Arabs: There is virtually no coverage or criticism. Two weeks ago, Egyptian police opened fire on "fundamentalists" southwest of Cairo, killing 14 Egyptians. The massacre was ignored by nearly all American newspapers and television networks. The Associated Press ran a small three-paragraph story—but quoted only the version offered by the Egyptian police, who alleged they were provoked. The media's indifference to inter-Arab killings is similar to the media's racism in generally ignoring killings by American blacks against fellow blacks while at the same time hyping killings of whites by blacks.

In the days to come, there will be the predictable orgy of Israel-bashing by the media, human-rights organizations and

American supporters of the Palestinians. We will hear that Israel's soul has been poisoned, that it is responsible for the killings on Sunday.

Ultimately, the true test of a nation's soul is how it reacts in the face of such violence. France reacted with widespread popular revulsion at the desecration of Jewish cemeteries earlier this month. Israel has moved swiftly and appropriately. If only the Arab would and the Palestinians would react similarly.

[From the Washington Post, May 22, 1990]

MADNESS AND MALICE

(By Richard Cohen)

In 1985 an Egyptian soldier stationed in the Sinai went berserk, killing his own commander and seven unarmed Israeli tourists. A number of the tourists, including a 10-year-old boy, apparently bled to death because other Egyptian soldiers would not permit an Israeli medical team to aid the victim. For a moment, the Middle East tensed up and then relaxed. In essence, Israel said that one soldier is not a nation. The peace with Egypt was never in doubt.

Now, though, something similar has happened within Israel. There, a former soldier also has gone berserk, killing seven Palestinians. The gunman has been characterized as deranged, attributing his action to the loss of a girlfriend and an alleged rape by Arabs when he was a boy. Nonetheless, both the Palestine Liberation Organization and several Arab governments have not hesitated to use this horrible incident in their propaganda war against Israel.

Kuwait simply labeled the killer a "Zionist" and said his actions would "lead to a new cycle of violence in the region." A PLO spokesman called the killings "a message to the Arab summit" about to begin in Baghdad, and a PLO official, Yaser Abed Rabbo, asked Egypt to close the Israeli Embassy in Cairo. "What is happening in the occupied territories is an act of organized crime carried out under the supervision and planning of the Israeli government," he said. From Damascus and Amman have come similar statements.

Well, first of all, the killings did not take place in the Occupied Territories, but in Israel proper. (The victims were, however, residents of the occupied Gaza Strip who had come to Israel seeking work.) In the second place, there is not a scintilla of evidence that the Israel government had anything to do with the killings. If it had, then possibly the gunman would have been allowed to escape and not have been arrested. The current Israeli government is capable of doing some bonehead things, but not even its severest critic would suspect it of wanting to foment the riots in the Occupied Territories and Israel proper that followed the killings.

Maybe it's understandable that Arab leaders (and non-Arab ones in Tehran) would overreact to the recent massacre. After all, both the West Bank and Gaza Strip are under military occupation, and from time to time it's a harsh one. The intifada proceeds, and with it comes a daily loss of life, including, of course, children. To some Israelis (and others), these deaths are the inevitable result of rebellious activity, such as stone throwing. To Arabs though, the victims are just kids who want to live in a Palestinian state. It's the occupation that's killed them, not their behavior.

Palestinians long ago made the point that they are entitled to their own state. But they have not yet made another and possibly more important point: that if they get that state they will not continue their war against Israel. Very likely, Arab leaders know that the rampage of a single Israeli does not represent permanent policy. Yet their followers are a different matter. They are quite willing to believe—indeed, for generations they have been taught—that the so-called Zionists are ruthless killers. Until recently, for instance, the PLO itself did not stop to distinguish between soldiers and, say, women and children on a kubitz.

Now both the PLO and certain Arab governments will not distinguish between state policy not a single man who went berserk. By inflaming populations in their own countries and within Greater Israel (Israel plus the Occupied Territories) they show themselves to be more passionate than logical and hardly punctilious when it comes to truth. By claiming that the massacre is anything more than a tragedy, they are propagating a lie.

But there is yet another issue that has to be dealt with. Washington has been putting pressure on Israel to come to the bargaining table and deal with the Palestinians. So far that hasn't happened. But if someday it should, Israeli has to be assured that the Palestinian leadership can sell some sort of compromise to its people. Given the performance of the leadership following the shooting, any compromise to its people. Given the performance of the leadership following the shooting, any compromise will be a harder sell. Indeed, Israelis can argue that when it counts, the PLO leadership reverts to the same old rhetoric—and maybe the same old terrorism.

It would have been wonderful if the shootings had been followed by efforts on the part of Arab leaders to calm the situation. It would have been wonderful if they had said that an Egyptian had done something similar. It would have been wonderful if any Arab leader, including Egypt's Hosni Mubarak, had repeated what Mubarak himself said following the 1985 massacre in Sinai "a limited incident that can happen anywhere, carried out by an insane man."

Anywhere, by definition, includes even Israel.

IN FAVOR OF ADA

HON. PATRICIA F. SAIKI

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mrs. SAIKI. Mr. Speaker, in the past few weeks the Congress has dealt with many issues affecting the quality of life for Americans.

We have made good policy decisions on programs that will reinforce and enhance many of the values that Americans cherish. We have provided for the education and care of children through the passage of the Child Care and Development Act and the reauthorization of the Head Start Program.

We promoted the welfare of American families with the approval of the Family and Medical Leave Act. And now, we have before us an opportunity to establish the rights of the disabled with the approval of Americans with Disabilities Act.

At no other time, was the legislation under consideration by this House, so basic and so fundamental, to a tenant of American society as is what is contained in the Americans with Disabilities Act. Its stated purpose is to "establish a clear and comprehensive prohibition of discrimination on the basis of disability."

Those words guarantee equal rights and equal opportunities for 43 million Americans in our society. It enables them to be considered for a job, to ride on a bus or a train, to shop, or go to a movie. In other words, it allows them to get on with their lives and not be held back because of a disability.

I am proud to be a cosponsor of this legislation and urge my colleagues to join me in supporting its passage.

SCHOOL DROPOUT DEMONSTRATION ASSISTANCE PROGRAM

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SHAW. Mr. Speaker, today the House approved Senate amendment 101 to the conference report on dire emergency supplemental appropriations—H.R. 4404. Senate amendment 101 appropriated $20 million for continued funding of existing dropout prevention demonstration projects funded in 1989. I rise today to express my sincere gratitude to the Senators responsible for adding this amendment, and to the House conferees for allowing the amendment to remain a part of the conference report.

The School Dropout Demonstration Assistance Program is crucial to the youth in my district of Broward County and nationwide. As you know, the program was authorized under the Hawkins-Stafford Education Amendments of 1988. The authorization, however, expired at the end of the fiscal year 1989. Although Public Law 101-250 reauthorizes this program for 2 more years, funds were not included in the 1990 Federal budget.

The School Dropout Demonstration Assistance Program provides grants for programs such as Driftwood Middle School's Model School Adjustment Program [MSAP] in Broward County, FL. This dropout prevention program has helped "at risk" middle school children and their families for the past 5 years. An extensive national study by the Department of Education recognized Driftwood's MSAP as one of the nine best dropout programs in the Nation. This program has been so successful that it has been implemented at other schools in the area, and its coordinators have been asked to present their research, plan of operation, and objectives at national conventions and conferences. Programs like the one at Driftwood reach students who do not qualify for other special types of dropout prevention. It is unique in providing peer-tutoring services and family counseling to average, underachieving students. Furthermore, this program continues support to the child and the family throughout the critical transition years from elementary to high school.

It is important that we ensure continuance of these programs that have proven successful in motivating young students. We must not disappoint our children—the Nation's future. Mr. Speaker, I am proud that Congress has

taken a strong step in that direction by recognizing a true dire emergency.

THE PREHISTORIC TRACKWAYS STUDY ACT OF 1990

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SKEEN. Mr. Speaker, I am pleased to introduce legislation today that calls for the study and protection of one of the most significant prehistoric fossil finds of this century. These fossils are found in the Robledo Mountains just outside of Las Cruces, NM.

The Prehistoric Trackways Study Act of 1990 will require the Secretary of the Interior to study appropriate means to protect the discoveries and identify the scientific, interpretive, and public education values associated with these fossils. Interim protection will also be provided to the site for 2 years after the study is completed. This will provide Congress time to determine how best to permanently protect this area.

Two years ago a scientist identified the fossilized remains of trackways, or footprints, of more than 50 different animals. These trackways are estimated to be 280 million years old. The scientific community has hailed this as one of the most outstanding trackway finds ever discovered in terms of the quality, quantity, and variety of animals.

Trackways can provide us with one of the clearest pictures of life millions of years ago. These footprints help scientists recreate the environment and habitat that supported prehistoric life, including how these animals moved, what they ate, and what the climate was like.

An article in a recent edition of the National Geographic magazine on the trackways stated:

> The trackways contain evidence of all sorts of life, particularly land animals, in the early Permian period. These forms include giant reptiles that were the dominant creatures of their time. And among them were mammal-like reptiles that were forerunners of dinosaurs that would rule the Earth many millions of years later. * * * There are even the impressions of raindrops and plants, including the branches of conifers and small ferns.

Certainly, this area warrants a detailed evaluation to determine how we can best benefit by the discovery of these trackways. I urge my colleagues to support this important measure.

NEEDED BILL TO EXTEND VETERANS' PREFERENCE

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. BENNETT. Mr. Speaker, on Tuesday, May 22, 1990, I introduced legislation to extend veterans' preference on civil service examinations to certain members of the Armed Forces who are honorably discharged from active duty. H.R. 4880, this bill, would allow individuals who have served at least 6 consecutive years on active duty and are involuntarily separated from the Armed Forces as a result of a reduction in force to add 5 points to any passing grade they earn on civil service examinations.

The Department of Defense is facing the short term prospect of having a substantial reduction in the Active Forces. Our current armed services are almost entirely comprised of men and women who volunteered to serve in our Nation's defense. My bill will assist those who are double or triple volunteers, the ones who have made the decision to remain in the military long after satisfying their initial obligation.

Many fine people who have chosen to make the military a career may find their career abruptly ended, through no fault of their own, owing to DOD budget constraints. We should provide as much of an accommodation as is possible for these displaced veterans. Allowing them to add 5 points to an already passing score is a small, yet important, gesture and it symbolizes our Nation's thanks for their service.

H.R. 4880 would amend the Veterans' Preference Act of 1944, which granted certain World War II veterans special consideration in Federal civil service employment. Veterans' preference has been extended to veterans of World War II, the Korean War, and the Vietnam War at the cessation of hostilities and with the rapid downsizing of the military. Veterans' preference was terminated for persons entering the military after October 16, 1976, the beginning date of the All-Volunteer Army. This bill would make career members of the All-Volunteer Force eligible for veterans' preference.

According to many experts the cold war has ended, and we once again face the prospects of a smaller military force. As in the past, our postwar problem will be providing jobs for these veterans. H.R. 4880 would give these men and women an opportunity to remain employed in service to our country.

REV. BELVIE H. JACKSON, JR., 22 YEARS OF SERVICE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today to pay tribute to a man who has shown remarkable dedication and compassion to the people of the city of Mount Vernon, N.Y. Rev. Belvie H. Jackson, Jr., is celebrating 22 years as minister of the Greater Centennial A.M.E. Zion Church. He has been a leader in the religious and civic communities of Westchester County, and has been a beacon of integrity and conscience to those who know him.

Reverend Jackson is a man who with compassion and perseverance, has worked tirelessly to make critically needed resources available to the neighborhoods of Mount Vernon. He has been a strong leader in the fight against homelessness. Through his work as president of the Council of Churches, and as a member of numerous community organizations, Reverend Jackson has worked to encourage the cooperation of religious and civic leaders in addressing the problems that urban communities face. He has been a major catalyst in the renewal efforts which have made Mount Vernon a vibrant and active city.

As a delegate to the World Methodist Conference, Reverend Jackson has brought critical international issues of hunger, peace, and community to the attention of his church. His vision of cooperation and harmony has been inspirational to those who know him personally and to those who know of his good work. I am grateful for his dedication, compassion, and leadership. Those values have been reflected among his parishioners and the Mount Vernon community. The Mount Vernon community is indebted to the Reverend Belvie Jackson, a good man who lives a life worthy of emulation.

AMERICANS WITH DISABILITIES ACT

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. CRAIG. Mr. Speaker, as I was in the State of Idaho Tuesday, I was unfortunately unable to participate in the floor debate over the Americans With Disabilities Act. I would like to take this time to discuss my views and those of concerned Idahoans about this bill.

I wholeheartedly support providing disabled individuals protection against discrimination. Whether in the workplace, at the local store, or on public transport the needs and rights of the disabled have been largely disregarded for years. The ADA bill addresses many of the inequities that have faced disabled persons—and for that, I applaud the authors of this bill.

One of the four committees given jurisdiction over this legislation was the Committee on Public Works and Transportation, of which I'm a member. Unfortunately, we only were able to consider a small portion of the entire bill, including title III's provisions relating to private entities operating over-the-road buses. The final provisions represent a compromise agreement developed by many different parties. This compromise required a study of the accesss needs of disabled individuals as related to over-the-road buses and employment of cost-effective methods of implementation of a program fulfilling those needs. I was pleased with this bipartisan effort resolving the issues involving over-the-road buses and supported the final committee version largely because of that compromise.

Another provision which I support within the ADA is wilderness access for disabled. This language allows for equal access to Federal wilderness areas by the handicapped, despite the provisions of the Wilderness Act of 1964 specifically banning all forms of mechanical transport in a wilderness area. The language in the ADA—mirroring H.R. 3485, of which I'm a cosponsor—allows use of mechanized support equipment for the disabled.

If all the Americans With Disabilities Act did was extend protection against discrimination

to the disabled, I would have happily supported this bill. Unfortunately, the ADA has been used by a few special interest groups bent on setting a political agenda for their own means and goals. Furthermore, I feel that this bill does not adequately balance the need for protection against discrimination with the financial burdens being placed on small businesses and local governments.

One of my strongest objections to this bill is that it allows a few special interest groups to siphon away the benefits and protection that should be reserved for the truly disabled. I am speaking here about the definition of a disability in terms of coverage under this act. The report by the Education and Labor Committee regarding this bill explains that someone who is:

* * * infected with the Human Immunodeficiency Virus is covered under the first prong of the definition of the term "disability" because of a substantial limitation to procreation and intimate sexual relationships." (p. 52)

Under this ruling, not only is a person with AIDS considered disabled, but, likewise, someone with venereal disease would be considered disabled, since that causes a "substantial limitation of procreation and intimate sexual relationships." Extending coverage to HIV carriers is purely a political move to advance the agenda of the homosexual rights groups. Under this definition, some interesting paradoxes result. If a person is released by a school district because of his sexual orientation, he cannot sue for discrimination. But, if that same person happens to be an HIV carrier, he becomes a disabled person and therefore could sue.

This bill also classifies drug addicts as disabled. While persons addicted to illegal drugs are not included in the definition of a disability, those who are addicted to legal prescription drugs would be considered as disabled under this bill. Therefore, a person addicted to prescription drugs who is fired because of his or her poor job performance may sue as a discriminated party. Furthermore, employers may not consider a person's past drug use in hiring for a security or safety sensitive job.

Another concern I have is that we are applying financially burdensome regulations on small businesses who must also deal with the passage and cost of the child care bill, parental and medical leave, and the Clean Air Act. If Congress were to propose a tax for the amount that businesses will have to spend to comply with all these new bills, no one would support it. But because these mandates are indirect, no one notices. While everyone in Congress is patting themselves on the back, businesses go out of business. When the only bus system in a small town shuts down because it can't afford to upgrade its system, nobody wins. Yet that is an increasingly likely occurrence under this bill.

I fully agree that we should update our transit systems to provide disabled access, and businesses should make reasonable accommodations for the disabled. The problem, though, is that this bill does not have the flexibility to help the business and transportation communities make the improvements that are needed. This bill simply applies its mandates and then leaves businesses to fend for themselves. While Congress is always willing to apply new regulations, it is not so willing to take responsibility for the costs it imposes on those involved.

The House could have very easily included a tax incentive program to encourage businesses to make the needed improvements. Furthermore, under the current bill, there is no cap as to how much a business must spend to make the reasonable accommodations this bill mandates. I do not mean to say that businesses shouldn't have to make these changes. What I am stating is that in mandating programs, Congress must consider the cost being placed upon the parties involved and its impact. I do not believe that the ADA as currently written reasonably addresses how the costs of this bill's mandates should be shared.

Many people have said that the ADA bill is a black-and-white question: Either you are for the disabled community or against it. I do not agree. I fully support and agree with the goal of ending discrimination against the disabled. But as a Representative, I am asked to look at not only the goal but the substance of the legislation. This bill is too vague in its definition of a disability and too inflexible in its mandates for me to support.

A TRIBUTE TO CHIEF GEORGE J. STRAKA

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. MILLER of California. Mr. Speaker, I want to share with you the outstanding public service career of Chief George J. Straka of the Concord Police Department on the occasion of his retirement after dedicating 24 years to the people of Concord, CA.

George began his career in law enforcement in 1958 when he served as a police officer in Fullerton, CA, working in patrol and criminal investigation. He joined the Concord Police Department in 1966. His hard work did not go unnoticed as he was subsequently promoted from sergeant to lieutenant, culminating in his appointment to chief of police on July 9, 1981. Throughout the years, George has held such responsible positions as watch commander, juvenile bureau commander, SWAT commander and canine coordinator.

In addition to his responsibilities to Concord, George has participated in numerous community activities as well as law enforcement organizations. His involvement in the community includes being a member of the advisory board to Concord Drug Abuse Program, Concord Rotary International and he is also an instructor at Los Medanos College and Santa Rosa Community College.

Mr. Speaker, I ask that my colleagues in the House of Representatives join me in acknowledging the many years of outstanding service that Chief George Straka has given to the people in my district. I wish him the very best in his retirement.

RONALD REAGAN: WE THANK YOU

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. YOUNG of Alaska. Mr. Speaker, the media and some of my friends on the other side of the aisle seem to love to drag former President Ronald Reagan's name through the dirt at every chance. What they failed to convince the voters about President Reagan at the ballot box, they now try to do in his retirement, to sully the record of his extaordinary leadership.

You still don't understand, do you? You just don't understand the greatness of Ronald Reagan. I think I know why. Ronald Reagan had vision for America; something in short supply in Washington. He saw that the only truth about America is that we yearn to be the best, and therefore, we are. He sought to use his leadership to allow the greatness of America to blossom, and it did. In doing so, he changed the world, as we now see so clearly around the globe.

When Ronald Reagan assumed the Office of Presidency, totalitarian regimes were marching throughout the world; in 8 short years, he forced them into retreat. How did he do it? He got the Govenment off the backs of the American people, and they did it. Amazing what happens when you get out of the way of Americans and let them do what they think is right, rather than telling them what to do. Recently, Ronald Reagan addressed the graduating class of Louisiana State University in Baton Rouge. I ask that his statement, reprinted in the Wall Street Journal, be inserted into the RECORD.

[From the Wall Street Journal, May 24, 1990]

COMMUNIST DOMINOES ARE FALLING

Ronald Reagan, in a commencement address Friday at Louisiana State University in Baton Rouge:

Let me tell you the basis of my optimism for our future. What has made the United States great is that ours has been an empire of ideals. The ideals of freedom, democracy, and a belief in the remarkable potential of the individual. Power isn't simply wealth or troops. Power is also spirit and ideas. And these we have in abundance.

The attitude of wanting to be the biggest and to go the farthest and to get there first and to do the most good when we arrived is part of our national character. Americans have always been larger than life. We wanted to establish the best government on Earth. We wanted to put a man on the moon. This is the spirit we set loose. This is the passion that invented revolutionary technologies and a culture young people everywhere envy.

And this is the attitude that has defeated communism. At some dark, lonely moment during the last decade, a terrible realization set in upon the leaders of the Soviet Union. They realized that their system could not take them where the United States and the rest of the free world was going.

The West's economics and technologies were a powerful booster blasting us into orbits the communist world could not hope

to reach. Our communications technology sailed over the barbed wire and concrete walls, letting their citizens know what democracy could offer, what free markets could provide. Our computer technology left them bewildered and behind, paper societies in an electronic age.

I believe President Gorbachev realized the United States and West were turbocharged for the future and pulling farther and farther away. He could not slow down the rest of the world; his only hope was to speed up change within the Soviet Union.

Gorbachev is grapping with historic and bitter ethnic tensions where seething memories, not reason, prevail. He's overwhelmed by an economy so defeated that food rots at the sides of the fields because there's no transportation to market. He faces a bureaucracy that for 70 years has smothered every spark for innovation or initiative. I genuinely hope my friend succeeds against the problems arrayed against him.

What must we do in these times of change and uncertainty? We must simply do what we've always done—remain true to our ideals. And those are the ideals of freedom and democracy.

I wholeheartedly encourage the hopes of the Baltic peoples who wish to be free to run their own countries. I celebrate their bravery. The captive nations of Lithuania, Latvia and Estonia were invaded by the Soviet Union. They have been held against their will since 1940 when Hitler and Stalin made a pact. Ladies and Gentlemen, no pact made by Hitler and Stalin should prevail today. The Baltic countries and their peoples should be free!

Communist dominoes are falling all over the world. We must continue to give communist dominoes a good push whenever and wherever we can. There are still those that must fall—China, North Korea, North Vietnam, North Yemen, and, of course, Cuba. Cuba is next in democracy's sweep. And let me say directly to Fidel Castro—like Honecker in East Germany, like Ceausescu in Romania, like Noriega in Panama, like all the other has-been dictators of despair, you cannot fight democracy's destiny. Fidel, you're finished!

We should not be timid in our embrace of democracy. We should be as bold and brash in our democratic ideals as ever in our country. The Golden Age of Freedom is near because America has remained true to her ideals. This is not the time to let our support for democracy wane.

NATIONAL IMMIGRANTS DAY

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. HUGHES. Mr. Speaker, today, I am introducing a resolution designating October 28, 1990, as "National Immigrants Day" to honor and celebrate all those who have chosen the United States as their home.

October 28 is the day in 1886 when the Statue of Liberty was dedicated by the people of France to the people of the United States. The Statue of Liberty since then has become an enduring symbol of freedom, hope, and opportunity for Americans as well as people around the world. It serves as a reminder to all that we are a nation of immigrants; a nation of nations. It is only fitting that we honor our immigrants on the day that the Statue of Liberty began to greet immigrants upon their arrival in the United States.

This year is of special significance to the Iannone family of New Jersey as they celebrate their 100th anniversary as Americans. About a century ago, Alesandro Iannone, his wife Antonia, and their five children left the small town of Ablerna, Italy, to come to America. Alesandro and Antonia, like millions of others, had the courage to bring their family to an unknown land where there were no friends or family and no familiar language.

After originally settling in Brooklyn, NY, the family moved to Orange, NJ, where Alesandro set up shop as a blacksmith. Over the years, Alesandro helped others who wished to come to America by making sure that they had a job and a little money to get started. He apparently was a great storyteller whose stories often encouraged and inspired newcomers with the commitment to succeed in America.

The children, grandchildren, and great-grandchildren of Alesandro and Antonia have distinguished themselves as citizens of the United States. Second generation Iannones include: Dr. Angelo Iannone, who has been practicing medicine for 50 years and served during World War II, and Matthew of Sea Isle City, NJ, who served with the U.S. Marine Corps in the South Pacific. Third generation Iannones include: James Iannone, an Army veteran himself, who is currently a city commissioner of Sea Isle City in New Jersey's Second Congressional District and Robert who is studying to be a doctor at Yale Medical School.

Alesandro and Antonia Iannone are just one example of the immigrants who have come to America searching for a finding a better life for their family. Without the contributions and achievements of these fine Americans, it is hard to image what our Nation would be today. It is with great pleasure that I introduce this resolution to set aside a day to honor the immigrants who have come and continue to come to this country in pursuit of their dreams.

WESTCHESTER COUNTY AMERICAN LEGION 72 YEARS OF SERVICE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mrs. LOWEY of New York. Mr. Speaker, on June 2, the Westchester County American Legion will hold their 72d Annual Convention. For their dedication and commitment, they deserve commendation and appreciation. The American Legion has been a vital force in the life of New York and the Nation.

Our Nation's veterans have fought with courage and pride to protect the very rights that Americans take for granted. They have sacrificed—in fact, many have made the ultimate sacrifice—to keep our Nation strong and free. All of us should be forever indebted to these men and women.

The American Legion has for decades fought to ensure that millions of veterans across this Nation receive the benefits that they have earned. It has also made information and resources available directly to veterans of all ages.

In Westchester County, American Legion Posts play a crucial role in the life of our communities. These Posts have led the way in encouraging public service and community involvement, not only on behalf of veterans but for all Americans.

The American Legion is especially significant to me because, through its Girls State Program, I developed an active understanding of how our Government works and a keen interest in public service. As a high school student, the Girls State Program allowed me, like thousands of others, to understand the process of government. When I was elected Lieutenant Governor of Girls State, I also had my first taste of electoral victory. In that capacity, I shared my experiences and developed a bond with members of the American Legion that I have continued to this day.

Through Girls and Boys State and other community efforts, the American Legion has touched the lives of millions of Americans, veterans and non veterans alike. They have encouraged a vision of public service and responsibility not only in times of conflict, but in times of peace.

On this anniversary, the Westchester County American Legion deserves the deepest gratitude for their service to the Nation and to their fellow citizens.

THE BUDGET OF THE FEDERAL RESERVE SYSTEM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. HAMILTON. Mr. Speaker, earlier this month, the Federal Reserve released its annual report for 1989, which focuses on the Federal Reserve's operations and its conduct of monetary policy during 1989.

At the same time, the Fed also released its Budget Review for 1989–90, which contains information on the Federal Reserve's budget and how it spends its money. I would like to make some comments today on this Budget Review and the Federal Reserve's budget figures for 1989 and 1990.

The Budget Review contains information on the revenues and outlays of the Federal Reserve System, including the Board of Governors in Washington and the 12 Federal Reserve banks and their branches located in the Nation's 12 Federal Reserve districts. This Review is an important document because it is the major source of information available to Congress and the public on the sources and uses of funds by the Federal Reserve System and the only source for much of the information.

Each year, the Federal Reserve takes in and spends billions of dollars. Yet only a small fraction of this appears in the "Budget of the U.S. Government"—the $90 million spent by the Board of Governors—and this appears only at the back of the budget in a section on spending by Government-Sponsored Enter-

prises. The Federal Reserve's expenditures are not subject to approval by either the President or Congress, unlike the budgets of other Government agencies.

In 1989, the Federal Reserve had $22.2 billion in revenues, most of which—$20.1 billion—was interest received on its $228.4 billion portfolio of U.S. Government securities—purchased over the years in the course of conducting open market operations. The operating expenses of the 12 Federal Reserve banks and the Board of Governors came to $1.4 billion. The Fed also realized some gains during the year on its portfolio of foreign currencies and U.S. securities, and was able to transfer $21.6 billion back to the U.S. Treasury. For 1990, the Fed projects that its operating expenses will grow by 6 percent to $1.5 billion.

While the Budget Review includes data on the Federal Reserve's income and expenses, the figures are often very hard to interpret and are presented in a format that makes it impossible to integrate them with the revenue and outlays data in the U.S. Government budget. There are a number of reasons:

The Fed uses the calendar year for its budget rather than the Government's fiscal year.

The Fed uses private-sector rather than government accounting practices; in particular, it includes depreciation of buildings and equipment as an expense but does not include capital outlays—just the opposite of Government accounting practices. The Fed's system is fine for pricing services—which the Fed is required to do by law—and for calculating profits but it cannot be used to compute the Fed's impact on total Government outlays or on fiscal policy, which is what the Government budget measures.

The Fed makes no projections of expenses beyond the current calendar year (1990 in the latest budget) and no projections of revenues beyond the just-completed year (1989). The President and Congress, by contrast, must project spending and revenues not only for the upcoming fiscal year but for the following 4 fiscal years as well.

Finally, while the Budget Review offers information on the Fed's operating expenses, the annual report is still needed to develop a complete picture of the Fed's financial operations, since this is where the Fed publishes statistics on its open market and foreign exchange operations and its assets and liabilities.

There is, nonetheless, information of interest to Members of Congress in the Federal Reserve's Budget Review.

Gramm-Rudman sequestration. In appendix G of the Budget Review, the Federal Reserve indicates it will voluntarily comply in 1990 with the 1.4 percent cut in spending applied to the rest of the Government under Gramm-Rudman sequestration last fall. This is voluntary on the part of the Fed and not required by law.

The Fed, however, has exempted many of its activities from the cut, for various reasons, including its spending for bank regulation and supervision, priced services which the banks pay for, retirement and other benefits, and real estate taxes. These exempted activities account for 80 percent of the Fed's budget. Only $318 million of the Fed's $1.523 billion budget will be voluntarily cut by the 1.4 percent, for a total reduction of $4.4 million. This, in effect, means we have exempted Social Security, means-tested programs, and the agency which serves the banking industry from the effects of sequestration.

Pay raise for Federal Reserve staff. The Fed reports that personnel expenses at the Board of Governors will rise by 14 percent in 1990.

Much of this increase is because the Fed has recently implemented a new employee compensation program. The program will "raise salaries in certain job families judged to be below competitive levels. * * * The program is designed to keep salaries in line with those paid by competing employers and to better attract and retain a high quality-staff." Under the Fed's new pay scale, selected Federal Reserve staff members will be able to earn significantly more than other civil servants performing equally responsible jobs.

Fed use of government accounting principles. The Federal Reserve Reform Act of 1989 (H.R. 3512), which Representative BYRON DORGAN and I introduced last year, would require that the Federal Reserve's annual budget be published in the "Budget of the U.S. Government." The Fed would submit its budget for the current year and the two following years to the President by October 16 of each year, and the President would be required to print the Fed's budget in the Government budget without change.

In testimony, the Fed has opposed requiring publication of its budget in the "Budget of the U.S. Government," on the grounds that the Fed would have to keep two sets of books, one using private-sector accounting practices and one using Government accounting practices. The main difference, described above, is the way the Fed treats capital expenditures. The Fed depreciates capital costs over the life of the building or equipment, while the Government counts the cost in the year the expenditure is made.

This objection is no longer valid, since the Fed already reports its outlays using both its own accounting method and the Federal Government accounting method, in table C.3 on page 51 of the Budget Review. Therefore, there is no longer any reason why the Fed's budget data should not be printed in the "Budget of the U.S. Government."

H.R. 3512 would not subject the Federal Reserve to the congressional appropriations process, nor would it give either Congress or the administration any control over the Federal Reserve's spending. All it does is require that the data be published conveniently in the "U.S. Government Budget."

Mr. President, the Federal Reserve should be commended for responding to congressional concerns and publishing budget information that was not previously available. Nonetheless, the proper place for budget data is in the "Budget of the U.S. Government", where spending by every other Government agency is already listed. H.R. 3512 would make the Fed's budget more conveniently available to Congress and the public without impairing the independence of the Federal Reserve to conduct monetary policy.

THE NATIONAL RECYCLABLE COMMODITIES ACT OF 1990

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SIKORSKI. Mr. Speaker, today, I and several of my colleagues are introducing the National Recyclable Commodities Act of 1990 [NRCA]. NRCA is very similar to a bill introduced last session by former Congressman James Florio called the National Recyclable Commodities Act of 1989. However, the bill I am introducing today does not contain the tax and research provisions that were part of the Florio bill. Instead, I am introducing those provisions in two separate bills. NRCA is the companion bill of S. 1884 which was introduced by Senator AL GORE in November 1989.

The throngs of people who participated in Earth Day 1990 illustrate how important a clean and safe environment is to hundreds of thousands of Americans all over the country. From almost every exhibition on the Mall here in Washington, Earth Day staff were talking about the virtues of recycling products, containers and packaging. Recycling simply makes good sense. Instead of throwing away used beverage cans, American industry can use the aluminum in secondary aluminum smelters. Instead of throwing away old car batteries, American industry can use the lead in secondary lead smelters. Instead of letting old cars litter our country side in junk yards, American ministeel mills can use the steel.

Few could find anything bad to say about recycling, except maybe city, county and municipal officials who have to develop and implement local recycling programs. They end up with tons of old newspaper, cans and glass—and no place to sell the items. Even the best recycling efforts fail when markets are not available to sell the commodties these local governments collect.

NRCA will begin to address the market ills that many States are experiencing as they try to bring their recycled commodities to market. NRCA requires the Department of Commerce [DOC] to collect and analyze market information on various nondurable goods, and containers and packaging. Data on natural recycling rates and market information will be collected and analyzed based on data collected periodically on regional level.

In addition to market analysis, NRCA requires the DOC establish uniform commodity specifications for recycled products and requires the Federal Government to take a much more active role in the procurement of recycled goods. NRCA also establishes a Federal recyclable labeling scheme which will encourage consumer participation in local recycling initiatives by allowing consumers to know what the product, container or packaging is composed of and whether it is recyclable. With this kind of information, consumers will be able to make informed decisions about the product they purchase.

Finally, NRCA requires the DOC to establish a national recycling clearinghouse to distribute information on recycled products.

While the establishment of Federal recycling goals and State mandates are critical to ensuring that laws, regulations, and policies clearly reflect a preference for recyucling as opposed to incineration or landfilling, effective recycling is critically dependent on the existence of adequate regional, national, and international markets.

County, municipal and city managers cannot be expected to develop and implement effective recycling programs without the necessary market information available to make informed management decisions. While some of this information is currently available through various governmental and industry trade groups, NRCA will help to develop a comprehensive, recycling data base so that local government official, private interests, and the Federal Government can rationally begin to develop a coherent national recycling strategy.

I thank my colleagues who are original cosponsors of this measure and I urge the rest of my colleagues to support this bill.

IN RECOGNITION OF THE CONTRIBUTIONS OF JEAN PICKER FIRSTENBERG TO THE ADVANCEMENT OF WOMEN IN THE ENTERTAINMENT INDUSTRY

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Ms. PELOSI. Mr. Speaker, I want to call to the attention of my colleagues the work of Jean Picker Firstenberg and to congratulate her for her contributions to the advancement of women in the entertainment industry. Ms. Firstenberg will receive the 14th Annual Crystal Award on June 8, 1990, in Los Angeles in recognition of her accomplishments.

Ms. Firstenberg's award comes as she celebrates her 10th year of service to the entertainment industry as director of the American Film Institute [AFI]. As director of AFI, Ms. Firstenberg has headed the only national cultural organization devoted to moving images as an art form. In the process, she has helped train nearly 800 individuals attending the AFI's Advanced Film and Television Conservatory.

I would like to take this opportunity to list some of Ms. Firstenberg's numerous achievements while at the American Film Institute.

Ms. Firstenberg gained accreditation of the AFI's Center for Advanced Film and Television Studies by the National Association of Schools of Art and Design, becoming the only film training conservatory to be so recognized. She opened the National Center for Film and Video Preservation in association with the National Endowment of the Arts. She created the AFI Directing Workshop for Women, a program which has given 100 women access to film and television directing. She established the annual international film festival AFI-FEST in Los Angeles, the Cinetex, the World Film and Television Congress, and the annual Summer Television Writers' Workshop.

Jean Picker Firstenberg epitomizes the ideals of the Crystal Award. Founded in 1977, the Crystal Awards honor outstanding individuals who, through their endurance and the excellence of their work, have helped to expand the role of women within the entertainment industry. Of the 38 previous honorees, Ms. Firstenberg is the first woman to be honored from the educational/cultural sector. Recipients are chosen for both the diversity of their accomplishments and their contributions to the support of women within the entertainment industry.

Mr. Speaker, the women of the Nation's entertainment industry and the citizens of United States are truly fortunate to have experienced the results of Ms. Firstenberg's endeavors. She has broadened the country's understanding of entertainment by opening the world of film and television to talented women. I wish to extend my heartfelt thanks and congratulations to Jean Picker Firstenberg for her contributions to the art world and the careers of women artists.

LEGISLATION TO CHANGE LEUKEMIA MANIFESTATION PERIOD

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. ROWLAND of Georgia. Mr. Speaker, during the 100th Congress, the Honorable JOHN PAUL HAMMERSCHMIDT and I sponsored legislation, H.R. 1811, that was eventually enacted as Public Law 100-321. Under section 312(c) of title 38, there is a presumption of service connection for 13 diseases suffered by veterans who were exposed to high levels of radiation during the occupation of Hiroshima and Nagasaki or in the atmospheric testing of nuclear devices during the forties, fifties, and early sixties.

With the exception of leukemia, the law requires that the disease suffered by one of these veterans must have become manifest to a degree of 10 percent or more within 40 years of exposure. For leukemia, the manifestation period is 30 years. At the time Congress enacted 100-321, the most reliable scientific information available suggested a 30-year period during which an elevated risk of contracting leukemia could be expected. The same expectation was not observed with regard to the other conditions.

Since that time, additional data, based largely on the lifespan study of the Japanese atomic bomb survivors, showed leukemia arising in these victims later in life. As a result, the Veterans' Advisory Committee on Environmental Hazards recommended to the Secretary of Veterans Affairs that the manifestation period for leukemia be deleted. The Secretary has proposed, rather than deleting the manifestation period, that the Congress simply conform the manifestation period for leukemia to the other 12 presumptive conditions—that is 40 years.

In my view no basis exists for separate manifestation requirements, and the bill I am introducing today, along with many of my colleagues from the House Veterans' Affairs Committee, would make the appropriate change in the statute. This change will provide compensation for many veterans with leukemia who previously would have been overlooked. I invite my colleagues to join us in our efforts in providing fair treatment for this group of veterans.

SIGMUND MEYEROWITZ: HONORED FOR DEDICATION TO THE YOUNG

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mrs. LOWEY of New York. Mr. Speaker, for 18 consecutive years the B'nai B'rith unit in White Plains, NY has honored selected community leaders of great distinction with their Youth Services Award. This year, Mr. Sigmund Meyerowitz, a man who has dedicated much of his life to young people, is the deserving recipient of this honor.

Mr. Meyerowitz has long worked to encourage our young people to become active in community service. The very future of our Nation depends upon the leadership and involvement of our young people. Nurturing their interest in taking on the challenge of leading us into the next century will be vitally important to the direction our Nation pursues. Through his work with B'nai B'rith, the Cub Scouts, the Little League, and many other religious and civic organizations, Mr. Meyerowitz has shown a strong commitment to strengthening our Nation's future. Through his leadership and civic involvement, he serves as a model of public service in the Westchester community. This award is richly deserved.

Sigmund Meyerowitz has been a teacher as well as a friend to scores of young Westchester residents. He has made their lives brighter and has broadened their understanding. To Sig and his proud family, I extend my congratulations on this distinction and my best wishes for continued vitality in his service to our next generation.

WINNING THE BATTLE FOR CLEAN AIR

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. SWIFT. Mr. Speaker, we have reached an important milestone in the decade-long struggle to amend, improve, and strengthen the Clean Air Act. As a result of a new willingness on both sides of the issue to reach agreements on the difficult issues of urban air pollution and acid rain, the House has just passed legislation which I believe will achieve clean, healthy air for our Nation's citizens.

The legislation comprehensively addresses a number of air pollution issues. It contains provisions to fight urban smog, tighten motor vehicle tailpipe emissions, develop clean-burning motor fuels—both reformulated conventional gasoline and its alternatives, regulate a wide range of toxic air pollutants, control acid rain, protect the air in our national parks, and

phase out substances which deplete the stratospheric ozone.

I first got involved with this issue last Congress when I joined with eight other members of the Energy and Commerce Committee, which has jurisdiction over the Clean Air Act, to see if we couldn't somehow break the logjam over clean air legislation. We were frustrated by the refusal of industry representatives and environmentalists to reach a compromise on this issue. While both sides may have remained pure in their views, in the meantime, our air quality remained unimproved.

Concentrating on the urban smog problem, we decided to learn this enormously complex issue from scratch. Each of us made the time commitment to learn the history of the act, how it had worked and not worked, which sources contributed to which pollution problems and how much, and the control measures which are available to combat pollution.

We did this by sitting down face to face with environmental organizations including National Clean Air Coalition, the EPA, industry representatives, State and local elected officials and pollution control officials, and congressional leaders. We had many frank discussions and disagreements as we devised our policy and weighed the information presented to us by the interest groups. We and our staffs spent hundreds of hours gaining the understanding we feel is necessary to adequately address this issue.

Among the many things we learned in our long education process is that cleaning our air is not without its costs. Indeed, during our discussions with industry, the first thing I heard, and the second, the third, the first 100 things I heard were, "This is going to cost a great deal of money in my industry, and you are only going to get that much environmental improvement." It was true. Because the fact is there are no big hits anymore. Most large pollution sources are presently subject to control. There is not any place left where we can go and get a prodigious amount of pollution that we can take away and do so at low cost. For example, the automobile industry has reduced its tailpipe emissions by 96 percent.

However, we have a health-based standard about which there is almost no argument at all. It is a standard below which air would no longer be healthy to breathe. I have talked to many, many industry groups and have asked whether there was anyone who would like to take the position for their corporation that their corporation is for something less than, by definition, air that is healthy to breathe? I have yet to have one single taker.

So we have a health-based standard and we must pursue this goal vigorously. However, there are those who are so committed to strong environmental legislation that they do not look at the cost. They believe that this particular environmental cleanup process can be done easily and cheaply if only people had the will to do it.

We believed that somewhere the best public policy grows out of an understanding of what you must do for the public welfare and environment and an understanding of what the cost of that policy is going to be.

The Group of Nine believed that good environmental policy and good economic policy are compatible and that it is possible to improve air quality in a cost-effective fashion. I believe that we were successful in wedding these two principles. For we came up with a proposal that EPA found to be as effective in cleaning up our urban smog as all but the most stringent proposal last Congress, yet at less cost to the economy than any other proposal on the table, including that of the Reagan administration, which from my perspective was not environmentally very strong.

Unfortunately, Congress adjourned last year with extremists—both environmental and industrial—able to prevent passage of clean air legislation not to their liking. Undeterred, the Group of Nine resumed its efforts this Congress encouraged by our contribution to both the content of subsequent legislation and the political process. Both the proposals by Representative WAXMAN and President Bush adopted many themes and ideas first seen in our proposal, reintroduced as H.R. 99. As a result, the gap between the two extremes began to close.

I was pleased to see that the House Energy and Commerce Committee adopted both in substance and philosophy much of what was in the Group of Nine's proposal in title I. Along with Representative ECKART, I offered an amendment, drawn largely from our earlier work, which improves upon the President's original proposal. By giving cities adequate time to develop control strategies, tailoring the pollution control requirements to the severity of the pollution problem, and requiring annual progress, we make it more likely that cities actually achieve clean air, yet avoid the risk of costly overcontrol. Our amendment also requires EPA to enforce a pollution control plan when States are unwilling or unable to act. It is recognized by many that title I of the House bill is environmentally superior to the Senate's provision.

It was with great difficulty that the compromises in this bill were hammered out. But it is precisely the fact that compromises were reached that make it in the long run a better bill, because it has blended an understanding of the environmental necessities and the extremely great cost that is associated with them in this legislation. This legislation has managed to draw in most instances a fine balance between being an environmentally strong bill that will provide clean and healthy air for the American people, and doing so at a very large cost, without question, but at a cost that could have been much higher with little or no additional environmental gain.

Achieving clean air is a difficult job, and it is a very expensive job. But it is a job that the House bill is going to get done.

MAYOR DAVID DINKINS EXEMPLARY CITY-WIDE ANTI-DRUG PROGRAM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1990

Mr. RANGEL. Mr. Speaker, we in Congress have been valiantly searching for effective ways to combat drug abuse, a problem for which we all know there are no easy solutions. The burden is shared by local communities, cities and States.

Mayor Dinkins has embraced the burden with a fervor. In the short time he has been mayor, his administration has already produced a thorough and comprehensive report and recommendations as a result of a study that was only mandated this past January. He has committed himself to fighting drug abuse as a priority of his administration, despite other pressing issues and fiscal pressures.

I believe His Honor can serve as a shining, courageous example to us all.

For the information of our colleagues, I would like to place into the RECORD two news articles, one from the New York Times May 22, 1990, by Joseph B. Treaster, "Dinkins Announces Specifics of Anti-Drug Effort," and a New York Post article, May 22, 1990, by David Seifman, "Dave Starts $13.3M Program for Addicted Moms."

The articles follow:

DAVE STARTS $13.3M PROGRAM FOR ADDICTED MOMS

(By David Seifman)

Every pregnant woman in New York City who wants to kick a drug habit will be able to get treatment under a $13.3 million program made public yesterday by Mayor Dinkins.

Although the city's fiscal commitment was relatively modest, Dinkins' program is the first to offer treatment on demand to an entire addict population.

"We think this is so important that even in this time of tremendous austerity . . . we're putting some money in this effort," Dinkins said.

The mayor, facing a $2 billion deficit in his 1991 budget, plans to announce major service cuts and higher taxes on Thursday.

Mayoral aide Lucy Friedman said there are about 15,000 addicted mothers-to-be in New York—6,000 of whom want to get off drugs.

With some 4,700 treatment "slots" already in the pipeline, Dinkins allocated $4.8 million to add 1,340 slots so every one of the addicted moms has a shot at becoming drug-free.

Dinkins' program fell far short of his campaign pledge to try to provide treatment for every single addict.

Friedman said only 42,000 of the city's 500,000 addicts are in treatment.

No one, she said, knows for sure how many addicts are on waiting lists trying to get into overcrowded treatment centers.

The mayor conceded yesterday that the city, on its own, doesn't have the money to provide treatment to every addict who wants it.

But Dinkins still won high marks for taking a first step.

"I think it's a major deal, and I'm extremely pleased to learn about it," said Dr. Robert Newman, president of Beth Israel Medical Center, whose 23 Clinics serve the nation's largest number of addicts.

At Phoenix House, spokesman Chris Policano said he was "thrilled" at Dinkins' initiative.

The mayor's program, based on recommendations of a panel headed by former Attorney General Nicholas Katzenbach, also included:

$1.5 million to open nine school buildings 16 hours a day, 365 days a year for drug

education. The first five schools will be selected by September.

$875,000 to provide a "drug-free environment" in city homeless shelters.

750,000 to establish day treatment programs for criminal suspects.

1.2 million to treat adolescent drug addicts.

Creation of a drug abuse council and an office of drug abuse to coordinate all drug programs of city and private agencies.

DINKINS ANNOUNCES SPECIFICS OF ANTI-DRUG EFFORT

(By Joseph B. Treaster)

Mayor David N. Dinkins announced plans yesterday to set up community drug prevention centers at nine public schools, to increase health services for pregnant drug abusers and to create a central office to expand and coordinate the city's fragmented anti-drug efforts.

The Mayor said that he was also establishing formal rules to keep drugs out of government offices, including the dismissal of city employees for selling drugs at work, and that he would establish a training institute for drug counselors.

Drug specialists noted that the $13.3 million earmarked for the new measures was minuscule in the city's annual budget of more than $27 billion. "But, given the city's fiscal situation, this shows that the drug problem is clearly a priority for the Major," said Christopher Policano, a spokesman for Phoenix House, the nation's largest private, nonprofit drug treatment organization, with headquarters in New York.

The State Division of Substance Abuse Services estimates that there are more than 500,000 drug abusers in New York City, but treatment is available for only 42,000. Most of the treatment centers are for outpatients, rather than for more intense residential treatment, and the majority deal with heroin addiction rather than the more pervasive cocaine.

The Mayor's latest steps are intended to provide help for a few thousand more people and to give priority to pregnant drug abusers in hopes of reducing the legions of cocaine-addicted infants.

Mr. Dinkins did not name a director for his new drug policy office yesterday, but City Hall aides said the official would report to Norman Steisel, the First Deputy Mayor, and Milton Mollen, a retired state appellate court judge who is Deputy Mayor for Public Safety.

The Mayor said five public schools would be selected as drug prevention centers by September and four others would be added by the following June. They are to be open 16 hours a day every day of the year, offering social services and recreational, educational and vocational activities.

Neighborhood anti-drug campaigns are also expected to be developed from the centers.

Schools Chancellor Joseph A. Fernandez and the United Federation of Teachers have endorsed the use of the schools as community centers.

Members of a mayoral advisory group on drug abuse, headed by former Attorney General Nicholas deB. Katzenbach, said they thought that creating community drug prevention centers in schools would help dispel feelings of helplessness among residents.

The coordinating office, to be known as the Office on Drug Abuse Policy, will strengthen existing drug-abuse programs and increase the city's ability to get Federal aid, the advisory group said. In the past, the city has failed to apply for some Federal grants for anti-drug programs.

The city's Addiction Services Agency was dismantled in 1978 to cut costs in an earlier municipal fiscal crisis. At least a dozen city agencies deal with drug matters and "fragmentation afflicts practice at every level," the advisory group said in a report presented to the Mayor this morning.

"Despite the deleterious impact of drug abuse on this city's social and physical health," Mr. Dinkins said at a news conference at City Hall, "the city's effort has not been organized for coordinated, concerted action on drug policy."

All states and a half-dozen cities in the country have offices that resemble the National Office on Drug Policy in Washington, which President Bush set up more than a year ago with William J. Bennett, the former Secretary of Education, in charge.

Donald Hamilton, a spokesman for Mr. Bennett, said that whether municipal drug policy offices "are a good idea or not is going to depend on the degree to which the individual has the authority to influence budgets and has the backing of the highest levels of government."

HOUSE OF REPRESENTATIVES—*Tuesday, June 5, 1990*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. GEPHARDT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 5, 1990.

I hereby designate the Honorable RICHARD A. GEPHARDT to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

God of all life and God of all glory, we express our grateful thanks for this new day. We remember in this our prayer those people whose lives know illness or pain or any anxiety of spirit. As we mention their names in our hearts, may Your blessing comfort all and give to each person Your peace that passes all human understanding. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS] for the purpose of leading the Members in the Pledge of Allegiance to the flag.

Mr. GEKAS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

DISPENSING WITH CALL OF THE PRIVATE CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills and joint resolution on Friday, May 25, 1990:

H.R. 644. An act to amend the Wild and Scenic Rivers Act by designating segments of the east fork of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System;

H.R. 4404. An act making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes; and

S.J. Res. 267. Joint resolution to authorize and request the President to designate May 1990 as "National Physical Fitness and Sports Month."

STOP CODDLING THE S&L CRIMINALS

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, 1 year ago Congress enacted the Financial Institutions Reform, Recovery, and Enforcement Act to end the looting of depositors funds and to restore confidence in the trillion dollar savings and loan industry. One of the prime ingredients of the Bush bailout was the provision designed to get these embezzlers, frauds, and criminals off the streets and behind bars where they couldn't do any more damage.

At that time, Congress authorized $75 million for the Justice Department to hire additional attorneys and staff to investigate and prosecute fraud and embezzlement in the thrift industry; yet, today, the embezzlers and crooks who looted those savings accounts are still free. No more than a handful have been prosecuted. Obviously, someone is dragging their feet.

Today, 1 year after enactment, the administration is not requesting additional prosecuting attorney's positions who are needed in U.S. attorney's offices nor are they requesting additional FBI agents. Yet, over 2,000 inactive investigations are on the books, 21,000 fraud and embezzlement complaints are unaddressed, and the administration is budgeting only $50 million for fiscal year 1991-92—enough to do half the job.

With a prosecution effort like this is it any wonder the American taxpayers have some questions of this administration, and they would like some answers. Why isn't this administration asking for a full appropriation to investigate and prosecute these white collar criminals? Why hasn't this administration brought more of these embezzlers to trial? Why aren't these embezzlers serving time behind bars?

And, Mr. Speaker, after Congress provided the resources to do the job, I want to tell the administration—stop dragging your feet, stop coddling the S&L embezzlers.

INTRODUCTION OF JOINT RESOLUTION TO DISAPPROVE MOST-FAVORED-NATION STATUS FOR CHINA

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I am dismayed over the White House decision to recommend to Congress that the People's Republic of China be extended most-favored-nation—or MFN—trading status.

The President noted that China's emigration flow has continued even since last year's military crackdown, and that China has easily filled its United States immigration quota of 17,000. Well, for a country of 1.1 billion people, filling the allotted U.S. immigration quota is not too difficult a task.

Regrettably, the administration ignored new restrictions in the exit permit and passport application process instituted since Tiananmen Square. Such restrictions are helping police apprehend students and scholars believed to be responsible for the so-called crimes of urging democracy and greater individual liberties. On the basis of these restrictions alone, clearly China does not deserve MFN status.

Congressmen SOLOMON, MARKEY, ROSE, and I have introduced House Joint Resolution 586 to disapprove the President's MFN recommendation, and we strongly urge your support.

PREVENTING CRIMINALS FROM EVADING RESTITUTION BY DECLARING BANKRUPTCY

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, last week the Supreme Court of the United States handed down a shocking decision. It ruled in a Pennsylvania case where a welfare couple was convicted of welfare fraud and the judge ordered restitution that they could file bankruptcy and avoid the responsibility of repaying the moneys that they gained by fraud.

This is a result that we cannot abide here in the Congress of the United States. The American people cannot stand that kind of result.

So we are introducing legislation today to say that from now on, if this legislation should be passed, anyone convicted of any crime where restitution is ordered by the judge to restore the funds that are taken from an elderly widow, or anyone victimized by a criminal, or burglary, or larceny, or fraud, or savings and loan embezzlement, any of these, cannot escape the responsibility of repayment, of restoring those funds, of restitution by filing bankruptcy.

What an awful result which we intend to cure by introduction of this legislation. I invite cosponsorship by my colleagues in the House.

□ 1210

LIBERIAN INTERVENTION

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, today in the news is the story of four United States warships carrying 2,000 marines situated off the West African Coast of Liberia. The stated purpose of the exercise is to ensure the safety of Americans and other foreigners while the ruling Doe government is beseiged by Marxist rebels.

However, you won't have to read much further before you realize the true purpose of the intervention. Evidently, the rebels have seized the Liberian operation of a United States corporation. Once again in the course of history, American service men and women are being asked to risk life and limb to save the payroll of a multinational corporation.

Mr. Speaker, this is not a national security interest for the United States. It is a financial security interest of Wall Street. We are ever quick to send in the troops to cover the collective posteriors of international bankers and their investments. What I want to know is when are we going to send in the troops when U.S. small businesses are besieged by the clean air regulators and the Americans with disabilities' lawyers?

THE PORTLAND TRAILBLAZERS: NO. 1

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, tonight basketball fans across America will learn what Oregonians already know: The Portland Trailblazers are No. 1.

Buck Williams, Terry Porter, Jerome Kersey, Clyde Drexler, Kevin Duckworth, Coach Rick Adelman, and the other Trailblazers are playing the game the way it is supposed to be played.

In a few days they will be champs of the world.

My friend, Congressman BOB CARR, of Michigan, does not realize that it is a theoretical impossibility that the Trailblazers would lose. And so when the Blazers get the title, he will be delivering a package of Michigan fruit products to my office. We are looking forward to that day. We are looking forward to the Blazers taking home the title, and I urge my colleagues and the country to turn on their TV tonight at 9 o'clock and see the Portland Trailblazers playing some truly great basketball.

VIOLATORS OF HUMAN RIGHT SHOULD NOT BE GIVEN MOST-FAVORED-NATION STATUS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, America has been a great defender of human rights for over 200 years, but now when we are faced with violators, we defy all sense of logic in how to cope with them.

Instead of using our strength as leverage, we reward them. One year after China killed thousands of their own people in Tiananmen Square, who wanted only freedom, we give them most-favored-nation status to allow them to be able to send their products into our country duty free.

Now we make a deal with the Soviet Union, giving them special trade concessions, and yet they are denying those rights to Lithuania, Estonia, Latvia, and others.

I think we had better get our heads screwed on properly and reject any of these agreements.

How can we celebrate our own independence this Fourth of July if we fail to recognize those rights of other people?

EIGHTY-FIVE PERCENT OF THE AMERICAN PEOPLE WANT TO KEEP THE DOLLAR BILL

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, in April, the Gallup Poll found that 85 percent of the American people want to keep the dollar bill.

But the New York Times said last Sunday that we, the people's elected representatives, should ignore our constituents, get rid of the dollar bill and make the new Canadian dollar coin, an 11-sided monstrosity called the loonie, our model. The loonie, Mr. Speaker. Can you believe it?

The critics say a new coin would save us a bundle of money. Well, I have heard that claim before—in September 1978, to be precise, when the Susan B. Anthony coin's backers—said a new dollar coin would save $10.5 million a year. Let's not repeat that mistake. Today, 424 million Susan B. Anthony dollars lie untouched at the U.S. Mint. They do not need company.

Mr. Speaker, the American people want to keep the dollar bill. But a few special interest groups are trying to take it away. They are trying to replace the George Washington dollar with the loonie. It is a loonie idea. Do not let them do it.

WHY IS THE JUSTICE DEPARTMENT UNWILLING TO PURSUE THE SAVINGS AND LOAN CROOKS?

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, my constituents want to know, why are the savings and loan crooks not going to jail?

The FBI is investigating over 7,000 cases involving fraud and embezzlement from financial institutions. But it has received over 21,000 criminal referrals for financial institution fraud that are going untouched. Why?

The reason is that the Justice Department does not want the additional money that Congress authorized to investigate, prosecute, and jail the savings and loan crooks.

The U.S. attorneys around the country sought 231 new attorneys. The Justice Department pared the request to 118. Only 68 of those, less than 30 percent of the original request, were hired by March 1990, 7 months after the savings and loan bill was passed.

Mr. Speaker, why does the Justice Department not want to go after the crooks? Congress authorized $75 million a year to hunt down these crooks, but the Justice Department claims it does not need that much.

These crooks cost the taxpayers the large part of the $500 billion cost of the thrift crisis. I want to see the crooks tracked down, prosecuted, jailed, and stripped of their loot.

Mr. Speaker, why is the Justice Department so reluctant to chase after these white collar crooks?

□ 1220

EARTH DAY WAS PAYDAY

(Mr. MARLENEE asked and was given permission to address the House for 1 minute to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, as was amply pointed out in an advertisement in yesterday's Washington Post by the National Inholders Association, "for some people Earth Day was payday." Of course, this ad is referring to the "Down to Earth Salaries" of the environmental elite that run certain activist preservationist groups. These groups profit from the fear and hysteria that they peddle to the media, to this Congress and to the American public.

At a time when ranchers, loggers, trail bike riders and other plain folks are losing jobs and recreational opportunities to the likes of spotted owls, desert tortoises, fringe-toed lizards and the bank monkey flower, the environmental elite in their tax-free corporate suites are laughing all the way to the bank.

Mr. Speaker, let us look at some of the six figure salaries of these preservationist fat cats: Dr. Jay Hair, National Wildlife Federation, $200,000; Peter Berle, Audubon Society, $120,000; George Frampton, Wilderness Society, $120,000; John Adams, Natural Resources Defense Council, $117,000; and Rupert Cutler, Defenders of Wildlife, $100,000.

Their salaries seem to be in an inverse proportion to the economic disruption and the loss of jobs they create. But who are we to question the salaries of those who lead litigation organizations?

IN MEMORY AND GRATITUDE TO ROBERT NOYCE

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, the fire of genius and passion for the future rests at the heart of the American revolution.

Today, we communicate by computer at the speed of light. And Mr. Speaker, if there is any single individual to credit for this latest chapter of the American revolution, it is Robert Noyce.

Bob Noyce invented the computer chip—a microscopic slice of silicon crowded with circuits that once required a wall of vacuum tubes and a mountain of energy just to add 2 plus 2.

But Bob did more.

He laid the foundation of California's Silicon Valley, building an electronics industry which today employs more Americans than our auto, steel, and aerospace industries combined.

In a phrase, Bob Noyce invented the information age.

Mr. Speaker, Bob Noyce died suddenly on Sunday, June 3, but his dreams must not. I have taken out a special order on Wednesday, June 6, to remember Bob Noyce, and I invite my colleagues to join me in tribute to the Edison of the information age.

DAVID ALLEN VAUGHAN

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, in Murray, KY, on Monday night, April 23, it was my honor to speak at the annual dinner meeting of the Murray Kiwanis Club which honors the top ten seniors from both Murray High School and Calloway County High School.

One of the most outstanding seniors from Murray High School being honored was handsome, tall, 18-year-old David Allen Vaughan.

David graduated from Murray High School on May 17. Four days later he was tragically killed while riding a bicycle in Murray.

David's parents, Lt. Col. and Mrs. James T. Vaughan, and his brothers, Andy and Tim, have been comforted and even overwhelmed by the tremendous, spontaneous outpourings of love, appreciation and admiration expressed for David by the thousands who knew him in western Kentucky.

David Vaughan—seventh in his class of 110, president of and head drum major for the high school band, and a favorite of his peers—was, according to Murray High School principal Bill Wells, the epitome of the successful student, everything an outstanding young man should be.

My wife Carol and I attended a fundraising event in Murray this past Sunday night, a Murray High School Speakeasy presentation at Murray's Playhouse in the Park. $5,500 has already been raised toward a scholarship fund in David's name and honor.

Those of us who knew David Vaughan are not saying good-by because David will live on in our memories and hearts.

May God bless the family of David Allen Vaughan.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the "yeas" and "nays" are ordered, or on which the vote is objected to under clause 4 of rule XV.

Rollcall votes, if postponed, will be taken on Wednesday, June 6, 1990.

NATIONAL COOPERATIVE PRODUCTION AMENDMENTS OF 1990

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4611) to amend the National Cooperative Research Act of 1984 to reduce the liability for joint ventures entered into for the purpose of producing a product, process, or service, as amended.

The Clerk read as follows:

H.R. 4611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Cooperative Production Amendments of 1990".

SEC. 2. AMENDMENTS.

(a) SHORT TITLE.—Section 1 of the National Cooperative Research Act of 1984 (15 U.S.C. 4301 note) is amended by striking "National Cooperative Research Act of 1984" and inserting "National Cooperative Research and Production Act of 1990".

(b) DEFINITION.—Section 2(a)(6) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(a)(6)) is amended—

(1) in the matter preceding subparagraph (A) by striking "research and development";

(2) in subparagraph (D) by striking "or";

(3) in subparagraph (E)—

(A) by striking "(E)" and inserting "(F)"; and

(B) by striking "and (D)" and inserting "(D), and (E)"; and

(4) by inserting after subparagraph (D) the following:

"(E) the production of any product, process, or service; or".

(c) EXCLUSIONS.—Section 2(b) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(b)) is amended—

(1) in the matter preceding paragraph (1) by striking "research and development";

(2) in paragraph (1)—

(A) by inserting "production," after "prices,"; and

(B) by striking "conduct the research and development that is" and inserting "carry out";

(3) in paragraph (2)—

(A) by striking "or marketing" the first place it appears and inserting ", marketing, or distribution"; and

(B) by striking "than the production" and all that follows through "secrets", and inserting "than the production by such venture of any product, process, or service or the production, marketing, or distribution of proprietary information (including pat-

ents and trade secrets) developed through such venture"; and

(4) in paragraph (3)—

(A) in subparagraph (A) by striking "or developments not developed through" and inserting ", developments, products, processes, or services not developed through, or produced by,"; and

(B) in subparagraph (B) by striking "other research and development activities" and inserting "any other unilateral or joint activity".

(d) RULE OF REASON STANDARD.—Section 3 of the National Cooperative Research Act of 1984 (15 U.S.C. 4302) is amended by adding at the end the following: "For the purpose of determining a properly defined, relevant market, the worldwide capacity of suppliers to provide a product, process, or service shall be considered to the extent appropriate in the circumstances.".

(e) TECHNICAL AMENDMENTS.—(1) Section 3 of the National Cooperative Research Act of 1984 (15 U.S.C. 4302) is amended by striking "research and development" each place it appears.

(2) Section 4 of the National Cooperative Research Act of 1984 (15 U.S.C. 4303) is amended in subsections (a)(1), (b)(1), (c)(1), and (e) by striking "research and development" each place it appears.

(3) Section 5(a) of the National Cooperative Research Act of 1984 (15 U.S.C. 4304(a)) is amended in the matter preceding paragraph (1) by striking "research and development".

(4) Section 6 of the National Cooperative Research Act of 1984 (15 U.S.C. 4305) is amended—

(A) in the heading by striking "RESEARCH AND DEVELOPMENT";

(B) in the first sentence of subsection (a) by striking "this Act" and inserting "the National Cooperative Production Amendments of 1990"; and

(C) in subsections (a), (d)(2), and (e) by striking "research and development" each place it appears.

(f) APPLICATION OF AMENDMENTS.—The National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.) is amended by adding at the end the following:

"APPLICATION OF AMENDMENTS RELATING TO PRODUCTION OF PRODUCTS, PROCESSES, AND SERVICES

"SEC. 7. (a) The amendments to this Act made by the National Cooperative Production Amendments of 1990 shall not apply with respect to any activity in connection with the production of a product, process, or service by a joint venture if at any time more than 30 percent, in the aggregate, of the beneficial ownership of the voting securities and equity of such joint venture is controlled by foreign entities. Any facilities operated by such joint venture shall be located within the United States or its territories.

"(b) For purposes of subsection (a), the term 'foreign entity' means a person—

"(1) in which more than 50 percent of the beneficial ownership of the voting securities and equity is not controlled by individuals who are citizens of the United States;

"(2) who is not a citizen of the United States; or

"(3) that is a foreign state (as defined in section 1603(d) of title 28, United States Code).".

SEC. 3. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall not affect any rights or obligations under the Free-Trade Agreement Between the United States and Canada (entered into force January 1, 1989).

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the floor the National Cooperative Production Amendments of 1990. The bill is an important step in revitalizing American competitiveness in a highly demanding international marketplace.

Our antitrust laws have always placed great emphasis on individual initiative, and rightly so—it is because of such initiative and entrepreneurial spirit that we have led the way to technological leadership in new ideas. But ideas need to be implemented into commercially viable products and services; and in that arena, we have sadly begun to fall behind others who—while often lacking creativity—are quite skillful at production techniques.

After careful consideration, I and the committee have concluded that a moderate and carefully crafted bill can benefit U.S. productive capability across the spectrum of American business.

Correctly understood, the antitrust laws prohibit only anticompetitive production joint ventures. The scarcity of any adverse case law and the relatively few enforcement actions clearly demonstrate that the antitrust statutes are already permissive and facilitating to such ventures. Nevertheless, there appears to be an overdrawn—yet real—perception in the business community that the antitrust laws generally discourage all collaborative activity, irrespective of the procompetitive benefits achieved.

Unfortunately, perceptions can affect behavior. That was made clear when we passed the National Cooperative Research Act in 1984. In the 6 years since enactment, over 150 joint ventures have been formed in a wide range of industries. In contrast, in a 3-year period, 1976–79, only 21 were initiated. It is our hope that the collaborative activity at the production level will increase in a similar fashion.

H.R. 4611 provides necessary clarification of existing law while avoiding unnecessary substantive changes. The legislation extends to production joint ventures the coverage and requirements of the National Cooperative Research Act of 1984 [NCRA] legislation that provided similar antitrust clarification for research and development joint ventures. Consistent with the NCRA, H.R. 4611 creates no exemption to the antitrust laws. H.R. 4611's amendments to the NCRA simply build upon the disclosure system established in the 1984 act for prescreening production joint ventures by the Federal antitrust agencies.

H.R. 4611 contains one provision not found in NCRA that will apply only to production joint ventures reported to the antitrust agencies under the established notification system. For any production joint venture seeking the protections of NCRA, there is a limitation that no more than 30 percent of the beneficial ownership of the voting securities and equity of such venture be controlled by foreign entities. There is also a reqirement that all the facilities of such joint venture be located within the United States or its territories.

These provisions create no special substantive antitrust treatment for American-dominated production joint ventures over those with substantial foreign ownership. The only advantage received by a qualifying venture is that its participants will receive reduced liability exposure if their disclosed activities are found to be anticompetitive. It is therefore not discriminatory in the legal treatment accorded to foreign firms, yet it should work to stimulate American firms to consider joint ventures when appropriate.

In recent days, there has been expressed some concern that provisions of H.R. 4611 might be construed to violate the United States-Canada Free Trade Agreement. As the author of this legislation, that certainly was never my intention. To allay all concerns on the issue, I have inserted a provision in the bill that is before the house today explicitly stating that nothing in the legislation shall affect any rights or obligations under the United States-Canada Free Trade Agreement enacted into force on January 1, 1989.

The bill now before the House contains some technical amendments from the version reported by the full committee. One series of minor changes reinforces that certain anticompetitive activities will not become protected by the legislation—just as was done in the R&D Act of 1984. In addition, we have reaffirmed that the rule of reason standard under the antitrust laws is based on an ad hoc analysis of the facts surrounding a particular joint venture.

There are many who have worked diligently for this moment at hand. First among them is Congressman DON EDWARDS—whose leadership in this area was crucial, just as it was in

1984. Likewise, Congressmen FISH, BOUCHER, and CAMPBELL made significant contributions to the scope and form of H.R. 4611.

I think we have a good bill and one that does justice to enhancing American competitiveness without hurting the antitrust laws. I ask your support.

□ 1230

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

As an original cosponsor of the National Cooperative Production Amendments of 1990 (H.R. 4611) and the author of an earlier and quite similar joint production bill, I want to take a few minutes and explain the rationale for this legislation.

Reported out of the Judiciary Committee by a voice vote, H.R. 4611 is a clean bill reflecting over a year of study and analysis by the Subcommittee on Economic and Commercial Law. During this period, we received considerable input from interested parties—both the Federal Government and the private sector. This bill would extend to joint production facilities the benefits and protections of the National Cooperative Research Act of 1984 (Pub. L. 98-462), now confined to research and development. Specifically, this means that such joint production ventures will be analyzed under the more flexible "rule of reason" standard, which requires the courts to balance a venture's pro-competitive benefits against its possible anticompetitive effects. Further, antitrust damage liability would be limited to single damages rather than the usual treble damages.

This measure is an amendment to the Federal antitrust laws that will, hopefully, encourage cooperative activities on the part of American businesses who otherwise are competitors in the market place. It is our hope that this legislation will encourage joint production operations on the part of America's high tech companies as well as among our more traditional basic industries. This legislation will permit entrepreneurs to remain independent. It allows companies of all sizes to jointly produce and compete, which alone they might not be able to do.

Importantly, under H.R. 4611, the courts and the antitrust enforcement agencies are directed to take into consideration the worldwide capacity of supplier when defining the relevant market for the production venture.

H.R. 4611 does not grant antitrust immunity. Rather, it is a bill that provides greater legal certainty and security—again, through the specified application of the rule of reason standard and the limitation on the amount of antitrust damages that can be awarded. It is, then, a policy-based incentive system and not an antitrust exemption.

During the first session of this Congress, the Subcommittee on Economic and Commercial Law held three legislative hearings on this subject. Those hearings focused on a number of legislative proposals including H.R. 423, H.R. 1024, H.R. 1025 and my own bill—H.R. 2264. The Chairman's bill combines many of the best features of these earlier versions. In particular, I am pleased to note that this legislation is a production-only bill, structured along the lines of the proposal that I introduced in May 1989—entitled the "Cooperative Productivity and Competitiveness Act" (H.R. 2264). During our Subcommittee deliberations on this important antitrust issue, I was most gratified at the very favorable response to the approach taken in my legislation. H.R. 2264 received favorable comment from witnesses representing the Department of Justice, the Department of Commerce, as well as numerous witnesses from the private sector.

The legislation we consider today, also reflects the important contributions made in this effort by two other Judiciary Committee colleagues—Congressman DON EDWARDS and Congressman TOM CAMPBELL. Of course, Chairman BROOKS is to be commended for the steady, measured manner in which he has moved ahead on this issue.

Unlike earlier versions, the Brooks bill adds a new section 7 to the National Cooperative Research Act, an amendment which has stirred some controversy. This provision limits the participation of foreign entities in these protected joint ventures to those with a maximum of 30 percent beneficial ownership. The provision also requires that the production venture, itself, take place inside the United States.

Mr. Speaker, the Bush administration—specifically, the Office of U.S. Trade Representative [USTR] and the Justice Department—has expressed genuine concern about this provision. There is some fear about possible foreign retaliation against American companies operating abroad. The provision is viewed as contrary to United States objectives in the Uruguay round negotiations.

Chairman BROOKS and his staff are to be commended for their willingness to adopt language making clear that nothing in this act affects any rights or obligations under the Free Trade Agreement entered into by the United States and Canada. Thus, this new joint production legislation will treat Canadian businesses and Canadian investors in a completely nondiscriminatory manner, wholly consistent with article 16 of the Canada-United States Free Trade Agreement.

I think it is important that we move this legislation forward at this point. That view is shared by the Bush administration in its statement of administration policy, issued just last week. There, the administration makes it clear that it supports House passage of H.R. 4611 and will seek deletion of the one troublesome provision in the other body. So, aside from the proposed new section 7, the administration strongly supports the approach taken in H.R. 4611. They support the approach of amending the National Cooperative Research Act. They support the idea of a limitation on damages rather than outright antitrust immunity. They support the limitation of the incentives contained in H.R. 4611 to production and manufacturing, as opposed to distribution, marketing, and sales.

In fact, when Attorney General Thornburgh recently appeared before the House Judiciary Committee, he expressed optimism about the eventual legislative outcome with respect to joint production legislation, just shortly after we had approved H.R. 4611. Allow me to quote from our exchange:

Mr. FISH. Mr. Attorney General, you alluded to the fact that this Committee recently approved antitrust legislation, H.R. 4611, that would encourage joint production facilities. In its essentials, it is very close to the bill recently proposed by the Administration. I would like to have your comment on our version of this legislation.

I recognize that the U.S. Trade Representative's Office will have some reservations about the foreign participation limits. Aside from the foreign limitations requirements, do you believe our bill is a good bill and would you support H.R. 4611 if foreign participation limits are removed or modified?

Attorney General THORNBURGH. I have, and the Department has, and now the Administration has expressed itself, very long felt that the extension of the legislation that provided for joint and cooperative research into the production area was a logical and positive move to enable particularly our high technology companies, to better compete with their foreign counterparts.

While there are the differences that you noted between the Administration bill and the bill that has come from this committee, I would hope and expect that those differences can be addressed to send a very positive signal about our determination to enable these companies to better compete abroad.

There seems to me to be a great deal of coincidence between the bill reported out of this committee and the Administration bill, and I can't help but think that we will reach common cause in this area.

There are a couple of additional points I would like to make before concluding. There is nothing in H.R. 4611 that prohibits foreign companies from engaging in joint production ventures inside the United States. The bill does not prohibit foreign investment in American-based production facilities. The question raised by the Brooks amendment, adding a new section 7 to the NCRA, is whether or not we should extend special treatment benefits under our antitrust laws to foreign entities in the same manner that we do to American businesses. That is not a surprising policy question to pose.

One final point, Mr. Speaker, this legislation has not advanced quite so far in the other body and, consequently, whether or not section 7 would be contained in their version is unclear.

Mr. Speaker, this cooperative production legislation represents a careful balance between the need to enhance America's international competitiveness and traditional antitrust enforcement concerns. I strongly urge an "aye" vote on H.R. 4611.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I thank our chairman, the gentleman from Texas [Mr. BROOKS], for bringing this important bill to the House today, and I commend him for moving it forward at this time. I commend also our friends on the other side of the aisle, the gentleman from New York [Mr. FISH], the gentleman from California [Mr. MOORHEAD], the gentleman from California [Mr. CAMPBELL], and all the others, Democrats and Republicans, who have played a part in bringing this bill closer to its enactment.

This is an important bill. Emphasizing once again, Mr. Speaker, that there is no antitrust exemption in this bill, I like to describe it as guidelines under which manufacturers can join together, in a pro-competitive manner, to produce American goods to sell in every part of the world. That is the intention of this bill. It is not anticompetitive in any possible way.

I think that Bob Noyce, if he were here today, would applaud the enactment of this bill, because he was very interested in having the United States not only do great research and development but to be more involved in manufacturing. That is where the jobs are, and, as a country, we have fallen behind in manufacturing.

□ 1240

H.R. 4611 helps us in this vital area. It especially helps our high-technology manufacturers—the Silicon Valleys in our country—to manufacture and to compete in the world.

It is nonsense to say, Mr. Speaker, that the United States cannot manufacture in competition with other high income countries such as Japan, Sweden, Germany. Of course we can. They manufacture very successfully, and we can, too.

H.R. 4611 has broad support, including the Bush administration and the Coalition for Joint Manufacturing, which represents more than 200,000 member companies of high technology and other industries.

H.R. 4611 is one important step in our commitment to enhancing America's international competitiveness, and we are, of course, all grateful that the White House is giving support to this proposal. But the White House also needs to get behind our manufacturers and stop putting roadblocks in the way—through the Pentagon—of export licenses. I hope that they get the message.

Once the manufacturing is done, goods must be sold. We need the administration's unwaivering commitment to open up markets to these goods.

In the new world order presently unfolding, that commitment must include meaningful reductions in the export controls which have hindered America's ability to do business in every market in the world.

I know of instances back where I come from in Silicon Valley in California, where sales have been held up 1 and 2 years, on machinery that is 3, and 4, and 5 years old, machinery that people can buy elsewhere in the world, but not from America because of current export controls.

So, as a co-author of H.R. 4611, I applaud the chairman of the Judiciary Committee and its Subcommittee on Economic and Commercial Law, the gentleman from Texas [Mr. BROOKS], the committee's ranking minority member, gentleman from New York [Mr. FISH], and the other members and the splendid staff who have made this possible.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I am pleased to note that Dr. Noyce considered H.R. 4611 a top priority in restoring America's technological leadership. Our passage of this legislation may really be a fitting tribute for a man who did so much for making America a paragon of entrepreneurial spirit.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from Texas [Mr. BROOKS], for that very wise observation.

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from California

Mr. MINETA. Mr. Speaker, I thank the gentleman from California [Mr. EDWARDS] very much, and, Mr. Speaker, I rise today in strong support of the National Cooperative Production Amendments of 1990.

During the past decade, U.S. high-technology industries have been confronted with an onslaught of increased foreign competition. In the face of that competition, many key high-technology industry segments—including semiconductors, semiconductor-manufacturing equipment, and consumer electronics—have lost ground to their counterparts overseas.

Unfortunatel, the use of joint production ventures as a competitive strategy by U.S. electronics companies has been hampered by the fear of antitrust penalties—unlike our foreign competitors.

Competition among businesses is necessary to ensure market stability. The National Cooperation Production Amendments of 1990 will not modify the body of antitrust law but will encourage formation of lawful joint production ventures. It will provide relief without sacrificing important protections against monopolies and collusive business practices.

Mr. Speaker, I wish to commend the chairman of the full committee, the gentleman from Texas [Mr. BROOKS] and my very, very fine colleague, the gentleman from California [Mr. EDWARDS] in this effort.

This legislation amends the National Cooperative Research Act that I coauthored in 1984 with the gentleman from California [Mr. EDWARDS]. That act allows America's high-technology companies to cooperate in research and development projects free from the fear of treble damage lawsuits and frivolous litigation. It also preserves the rights of the Government and private parties to intervene if a joint venture was judged to be anticompetitive.

Mr. Speaker, the National Cooperative Production Amendments of 1990 represents a large step toward helping the U.S. and high-technology industry resume its once preeminent position in the international marketplace, and I would like to commend the leadership of the Committee on the Judiciary for taking this action.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from California [Mr. MINETA] for his enormous help in this endeavor.

I wholeheartedly support H.R. 4611 and I strongly urge the support of our colleagues.

Mr. FISH. Mr. Speaker, I yield 5 minutes to my colleague the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I strongly support H.R. 4611 which, in my view, will have a very positive impact on America's international competitiveness.

This production joint venture bill reflects a continuing congressional concern about our trade deficit. It also reflects our concern about the impact that foreign competition is having on American industry and jobs. We need to foster a less threatening antitrust legal climate for potentially procompetitive cooperative activities. American technological leadership should not be allowed to erode, simply because we failed to react to changing economic conditions. For many products, as my good friend and colleague from California, TOM CAMPBELL, points out—we are in a world marketplace—and the antitrust laws should be re-

fined and adjusted so as to confirm that reality.

As a member of the House Judiciary Committee and its antitrust subcommittee, I was deeply involved in the effort that led to the enactment of a research and development joint venture bill in 1984. That important statute—known as the "National Cooperative Research Act of 1984"—reflected a congressional consensus in favor of encouraging and protecting American technological "know-how." The bill that we consider today amends and expands the protections and incentives contained in the NCRA. It is another logical and important step in the overall effort to ensure that America remains economically strong and viable as we enter the 21st century.

Specifically, H.R. 4611 would encourage corporate cooperation through the limited joint venture mechanism in the area of production. The legislation requires that the courts take into full account competition abroad and at home as well as the procompetitive effects of joint production ventures when they analyze possible antitrust violations. The proposed legislation would also reduce antitrust liability for companies involved in joint production ventures from treble damages to single damages.

When the costs of production are shared, an investment in new technologies becomes less of a business risk. The economic realities of high-technology manufacturing, often involving products with extremely short lifecycles, dictate the expanded use of the joint venture mechanism. Cooperative efforts to manufacture new products will be enhanced because we will be alleviating the fear of costly litigation and eliminating the potential for treble damage judgments.

Mr. Speaker, foreign companies simply enjoy too many built-in advantages over American companies. Depending upon the country, these advantages may include direct government subsidies, lower capital costs, lower employee wage and benefit costs, less government regulation, and a far less restrictive legal climate with respect to cooperative activities on the part of competing companies. The term "level playing field" may have become a cliche, but it is a fundamentally accurate one. H.R. 4611 is a remedial change in the antitrust laws that would put American companies on more of an even-footing.

Before concluding, I want to stress that the encouragement of "high tech" is only part of the promise of this important legislation. In addition, the benefits of new joint production law can and will be available to our traditional, basic industries—automobiles, steel, machine tools, and pharmaceuticals—as well as to the electronics and computer firms.

Finally, I also want to point out the very important roles played by the committee's ranking member, HAMILTON FISH, and Congressman TOM CAMPBELL, in formulating this legislation. Each authored his own bill early on in this effort and their ideas helped to frame the debate and contributed enormously to our final work product. I was an original cosponsor of congressman FISH's bill, the Cooperative Productivity and Competitiveness Act—H.R. 2264. Our bill, which became the acknowledged blueprint for H.R. 4611, adopted a nonregulatory enforcement approach. Importantly, from an antitrust standpoint, it drew a clear and distinct line between allowing joint production facilities, on the one hand, but not sanctioning joint distribution or joint sales activities, on the other. Chairman BROOKS and his staff are to be commended for adopting this careful approach in their bill.

I strongly urge this House to approve H.R. 4611.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. FEIGHAN], a distinguished member of the Subcommittee on Economic and Commercial Law.

□ 1250

Mr. FEIGHAN. Mr. Speaker, I am confident that the legislation now before the House will become an integral part of our efforts to maintain U.S. preeminence in the global marketplace. While the United States has always prided itself on the entrepreneurial spirit which has been the driving force behind our rapid economic and technological development, we now face a very different world than we faced when the Sherman and Clayton Acts were passed at the turn of the century. We must remain true to the principles embodied in these laws, but we must allow ourselves to compete effectively with all the nations of the world.

To do this will sometimes require that we combine our talents to produce a product which is better than any one manufacturer could have produced. Current case law judges production joint ventures under a rule of reason standard. There is no reason to change this: Joint ventures should be allowed if they do not operate anticompetitively. However we must ensure that the Federal law does not unduly inhibit joint ventures because of the harsh nature of the penalty.

The National Cooperative Production Amendments Act will codify the rule of reason standard for production joint venture cases and will limit antitrust liability for American firms that join together for production purposes. However it requires that the Federal Government—and consequently the joint venture's competitors—be on notice of the potential joint venture before it is underway. Once notice is filed, liability will be limited to actual damages.

Reducing potential liability from treble to actual damages will open the door for businesses to create ever more sophisticated production joint ventures. This is especially true in capital—intentive industries, such as the computer industry, where even the slightest risk of treble damages inhibits joint ventures.

The bill is a logical extension of the 1984 National Cooperative Research Act, which covered joint research and development activities. The 1984 act has encouraged R&D projects which have enhanced American international competitiveness. I am pleased to see that this bill retains the same basic framework as the Cooperative Research Act. That legislation has worked well and I am confident that H.R. 4611 will go even farther.

I would like to commend Chairman BROOKS, ranking minority Judiciary Committee member HAMILTON FISH, and my distinguished colleague Congressman DON EDWARDS for their work on this legislation. I strongly support this bill, which will provide great impetus to the development of many new expenditures and the creation of new jobs. I urge my colleagues to vote in favor of H.R. 4611.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, the 1984 act and this one, the National Cooperative Production Amendments of 1990, H.R. 4611, are I think important contributions by the committee, and I congratulate the committee for trying to ensure that American companies can operate more competitively in what we have seen as the globalization of world markets.

There is, however, one problem with the bill. It discriminates against international investment, because one section of it would cause the United States to have to violate its agreements to provide national treatment for international investors. That is, of course, section 7 of the bill which discriminates against joint ventures which have 30 percent or more of foreign participation. That, of course, is probably caused by a desire to give Americans a little advantage to make them more competitive. The problem that I see with it is that in many instances it may have exactly the opposite effect. It will restrict the ability of U.S. companies in joint ventures in this country to take advantage of foreign technology transfers which are now available to them and which could be a part of joint ventures and certainly would be if section 7 were not in this bill.

It also discriminates and does not give the protections of this bill to joint ventures abroad. Of course, these could be wholly owned by American companies which need them, or I mean almost wholly owned, 99 percent, which need them to be competitive in international markets. They would not get the advantage of the provisions of this bill, either.

I would invite the attention of the House to the international obligations of the United States, one of the most prominent of which is the United States-Canada Free-Trade Agreement and its investment section. Our neighbors to the north have called our attention to the fact that this bill they believe to be exactly in violation of that agreement. We have had vigorous protests from the Government of Canada. In my judgment, that government is exactly right in saying that section 7 violates our treaty.

In addition, we have a number of bilateral investment treaties with countries around the world. In my judgment those treaties provide national treatment for investment, and this section 7 violates them as well.

We have also a family of treaties which we call FCN's, Friendship, Commerce and Navigation Treaties. They concern trade and investment as well. This section 7 is also violative of many of those.

I would remind Members that when we passed the Exon-Florio section of the Trade Act of 1988, which provides for national security review of mergers, we did not include joint ventures. The reason was that we believed that they were beneficial to American companies in whatever proportion they may be. For that reason they were excluded from the purview of Exon-Florio.

Furthermore, Mr. Speaker, the United States is now engaged in negotiating a multinational trade agreement in Geneva called the Uruguay round. There, an important subcommittee is at work on the subject of TRIMS, [Trade Related Investment Measures]. We are trying to remove investment restrictions around the world. Section 7 will be a real setback to our efforts because it will mean that we are turning our backs on national treatment at the same time we are demanding it of others for the operation of American firms abroad.

Finally, we stand the risk, of course, of having other countries enact these kinds of laws against our participation in ventures abroad. We call this phenomenon mirror legislation. We run into it every day around the world. This sort of law on our part stimulates foreigners to pass the same sort of law in retaliation and makes it much more difficult for American firms to operate abroad.

I am informed that the administration does not oppose this bill. On the other hand, it is quite clear that the administration opposes section 7 and will seek vigorously to have it amended in the other body.

As far as I am concerned, this is a wonderful bill and I congratulate the committee for having put it together. Nevertheless, as long as it contains section 7, in my judgment it is fatally flawed and makes it very difficult for U.S. firms to be competitive around the world.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, the gentleman may not have heard my opening comments, and I can understand that, but in that I pointed out there has been some concern about the possibility of this interfering with the United States-Canadian Agreement.

The committee has no intent to do that. I had no intent to do that; but to clarify that so it is crystal-clear to the gentleman and to the Canadians and to the Americans who are interested in competitive freedoms, we put a clarification in here that says in the bill, we added to the bill as I put it in today this clarification, and the gentleman has not had a chance to see that. The gentleman from New York [Mr. FISH] and I have, but I am sorry the gentleman from Minnesota did not.

It says:

The amendments made by this act shall not affect any rights or obligations under the Free Trade Agreement between the United States and Canada entered into force January 1, 1989.

So I think we have laid to rest that fear and the gentleman can now be happy in his work and vote for and support this legislation.

Mr. FRENZEL. Mr. Speaker, I thank the distinguished chairman for that important contribution. I am pleased that the chairman will offer that amendment to this bill.

Mr. BROOKS. It is in the bill. It is a clarification. It is in there now. It is before us. It is part of the bill right now.

□ 1300

Mr. FRENZEL. That is a wonderful addition to the bill and I am very pleased that the gentleman from Texas has put it in there. I know that our neighbors to the north who negotiated in good faith with us will be very excited to hear that as well, and I congratulate the gentleman for his work on the bill and for that particular section.

On the other hand, section 7 is still in the bill, and it still violates our other obligations, and the obligations which underly the General Agreement on Tariffs and Trade.

So for me, the bill, while vastly improved by the Canadian exclusion to section 7, still is flawed, and I suggest it should not go forward from this House in that state.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Oregon [Mr. WYDEN], a member of the Energy and Commerce Committee and a member of the Small Business Committee, who has had an interest in this legislation and introduced some legislation along this line.

Mr. WYDEN. I thank the gentleman from Texas very much for yielding time to me and want to commend him for what I think is an excellent bill. He and his fine staff have done an outstanding job, and I am pleased to support them.

It is my view that this bill moves our country into the manufacturing of the future. All over the world our competitors have rewritten their antitrust laws so that their industries can get a leg up on tough world markets. So what we are doing here is playing catchup ball with our rivals, and this bill, in particular, gives us a chance to help small businesses.

What we found in the Small Business Committee hearings I chaired, was that the mere threat of the antitrust hammer coming down on benign small business joint ventures is enough to extinguish these promising job creating networks. So this legislation is sorely needed, and particularly for small businesses that should not have to go out and hire a battery of high-priced lawyers to help them avoid running afoul of the antitrust laws.

I do want to finally make mention of this question of criticism by foreign investors of this legislation. I thought I was one of the last free traders in this body. But I do want to say that I think that foreign investors are outrageous in their criticism of this bill. No. 1, foreign companies can still be involved under this legislation in any joint venture that they choose. I think that is the bottom line here, and I just think it is worth noting that over the years when foreign countries were revising their antitrust laws, when they did not give us a fair shake to compete for high definition television or superconductivity, I did not see anybody overseas expressing concern about the well-being of U.S. companies.

So as one of the last free traders in this body, I do want to say that I think that foreign investors' criticism of this legislation is misguided. I think it distorts the debate, and I want to commend Chairman BROOKS for doing an outstanding job on the bill.

Mr. Speaker, I want to congratulate the chairman of the Judiciary Committee and the ranking minority Member, and the Judiciary subcommittee chairman for hammering out a bill which provides a clear path through the jungles of antitrust law for joint production ventures.

The Small Business Subcommittee on Regulation, Business Opportunities and Energy, which I chair, has held two hearings on small business manufacturing networks, and the role such cooperative arrangements could play in increasing industrial competitiveness. I think this bill is a giant step in the right direction. It gives a certain, sure and relatively bureaucracy-free solution to partners in a joint production venture.

I believe this bill moves our country into the forefront of globally competitive manufacturing. Our rivals all over the world already compete against us with antitrust regulations which are far less restrictive than our own. This gives a leg up to their own industries ranging from electronics to automaking, from textiles to tooling.

This bill gives us a chance to place catchup ball.

I also want to condemn efforts aimed at removing this bill from today's calendar. Apparently, there are foreign interests who cannot accept the limitations this bill makes on foreign involvement in U.S. joint production networks. Let's be perfectly clear on this issue. We do let foreign companies assume minority partnerships in these ventures. And this sort of access is a far cry from the total restrictions U.S. companies and investors face overseas.

I may be one of the last free-traders in this House. But there's a place for fair trade, as well. And we, in this bill, provide for a degree of participatory equity in these sorts of ventures which is far in excess of the brand of fairness our companies face in overseas markets.

The inclusion of a notification procedure detrebling disclosed activities will be especially helpful to small businesses who can't afford a lot of high-priced legal advice. This legislation also addresses the need for pooling resources to more reasonably acquire the prohibitively expensive new plants and machines which are now unattainable for small and capital-intensive companies.

If we could make one major improvement in this bill, it would be to allow at least the smaller ventures joint marketing and distribution activity. The basis of this request is well documented in the testimony before my subcommittee in 1988 and 1989. I do not believe that such an extension would be anticompetitive. And I would hope that such a provision would be given scrutiny by my distinguished colleagues on the Judiciary Committee at a later date.

Mr. GEPHARDT. Mr. Speaker, I commend Chairmen JACK BROOKS and DON EDWARDS for their efforts on the National Cooperative Production Amendments of 1990, a measure aimed at helping American businesses work together and compete better in the global market.

This legislation is only the latest in a series of steps Congress has taken to awaken two successive administrations to America's competitiveness problems.

In 1984, Democrats in Congress got together under the leadership of DON EDWARDS, JACK BROOKS, and NORM MINETA to allow U.S. manufacturers to cooperate and pool resources for joint R&D programs to help us compete against our foreign trading partners and their government-sponsored R&D efforts.

In April of this year, our Science and Technology Committee added the EDWARDS' antitrust provisions to allow joint manufacturing by U.S. companies. And, now, as a result of the leadership of our Judiciary Committee we can approve today provisions that President Bush has recently endorsed in this important commercial arena.

As we all recognize, the United States cannot afford to lose its leadership in any more key technologies. No longer can we ignore the barriers our companies, especially those in the high-tech industry face as they struggle to survive in the wake of a new breed of competition—one in which they will come up against governments allied closely with and heavily subsidizing company R&D and production.

There is no doubt that the provisions of H.R. 4611 allowing joint manufacturing by U.S. companies in the United States will lessen the financial burden they face in developing and producing future generations of advanced materials, semiconductors, software, and supercomputers. Most of all, these expansive provisions will help maintain U.S. jobs and technology development here at home.

Regaining America's competitive edge requires us to undertake a series of mutually dependent endeavors that cannot succeed singly. To complement this legislation, we must also pry open foreign markets, address the long-term strength of the economy, save more, teach better, and urge our students to study harder.

Competitiveness is, in essence, a mosaic of policies, most of which do not appear on the ideological radar screen of the current administration. For this reason, the sponsors of this bill deserve the applause of the American people. They have prepared a significant piece of that mosaic for adoption into the law by the Congress. It is only a start, Mr. Speaker, but a start is what we need.

Mr. SYNAR. Mr. Speaker, today we consider H.R. 4611, the National Cooperative Production Amendments of 1990. For the past year I have listened to the debate on the need to lessen the antitrust treatment for production joint ventures. While I appreciate the desire of my colleagues to improve what is perceived as the lack of competitiveness for American businesses, this legislation is neither necessary nor appropriate.

During the several hearings held on this matter, no direct evidence was offered that the U.S. antitrust laws led to the trade deficit or other industry ailments which resulted in the "decline of competitiveness" in American industry. Most testimony was anecdotal as to the "burden" of the antitrust laws. In fact, other reasons seemed to cause more concern, such as the cost of capital, tax inequities an the failure of our own government to enforce the antitrust laws against foreign competition.

The suggestion that joint ventures cannot be formed ignores reality. The Justice Department's own informal study over a 2-year period indicated that there were over 150 joint ventures formed and operating successfully under present antitrust laws. Movie companies, car manufacturers and other industries have created and operated joint ventures under existing antitrust laws.

Decreasing competition by diluting antitrust laws will not create strong international businesses. Our antitrust laws have led to the strongest entrepreneurial system in the world. Competition protects those smaller companies and those attempting to start up. The extension of limited antitrust exemption to production joint ventures ignores the purpose and function of the antitrust laws.

Mr. PICKLE. Mr. Speaker, I rise in support of H.R. 4611, a bill which amends the National Cooperative Research Act of 1984 to reduce the antitrust liability for firms entering into joint production ventures. By providing some encouragement for businesses to pool their resources and expertise to manufacture products, this bill is one step toward improving this Nation's competitiveness in a vital economic sector—manufacturing.

This bill recognizes that the economy of this country and the entire world has changed dramatically. This country must begin to meet economic challenges from our foreign competitors quickly and aggressively. By reducing the risk of companies joining together for production, this bill encourages the flexibility this economy needs to compete in the global market place.

Mr. Speaker, I cannot begin to discuss this bill without recognizing the loss of Robert Noyce, the president of Sematech, over the weekend. It is not overly dramatic to say that Dr. Noyce was one of the fathers of the semiconductor industry. As a coinventor of the integrated circuit and a founder of Intel Corp., Dr. Noyce had very much to do with developing this country's strong position in the computer and semiconductor chip industries. And he was a driving force in responding to the changes this country must make in order to remain an economic power. In fact, Dr. Noyce was a chief formulator and promoter of the idea that this country needs cooperation among our brightest technologists and inventors to be competitive in the world market place. When Dr. Noyce undertook the challenge of leading Sematech, he put the idea of cooperation among computer and chip firms into practice. It is this cooperation which H.R. 4611 tries to encourage. Passage of this bill would be fitting tribute to the force of Bob Noyce's ideas and the contribution he has made to this country.

The idea of firms cooperating for the greater good of the economy is not just some theory or wish. In my district—Austin, TX—we have two of the best examples of successful joint research efforts: Sematech and Microelectronics and Computer Technology Corp. [MCC].

Sematech, as many Members know, is a consortium of 14 computer and semiconductor companies, and the Defense Department, which has come together to work toward regaining America's competitiveness in semiconductor manufacturing technology. Sematech is in the third year of a 5-year program funded by industry and the Defense Department. Sematech is an example of what a good Government program should do—jointly use Government funds and industry funds to

take better advantage of already existing strengths in the private sector.

This country does strong basic research in semiconductor manufacturing technology. Witness Japanese attempts to buy semiconductor manufacturing equipment companies like Perkin-Elmer, which will, incidentally, now stay in American hands. But this country has difficulty translating this research strength into usable manufacturing products for chip and computer makers. Sematech, with the help of Government funds, is bridging that gap by bringing computer and semiconductor makers together with 130 small semiconductor manufacturing equipment makers. In 1988, Sematech established nine centers of excellence across the Nation to facilitate communication between semiconductor manufacturing equipment makers, chip users, and university researchers.

At MCC, 42 American and Canadian companies have joined together in a research consortium aimed at advancing microelectronic technology. Recent developments at MCC show the benefits of the consortia approach. One development occurred in MCC's packaging/interconnect program, which is an effort to allow higher densities on semiconductor chips, higher performance, while at the same time lowering costs.

MCC recently announced significant advances in this program. Several experimental technologies have been integrated into processors known in the computer industry as a multichip module. Such a module is only 2¼ inches square, but has the computing power of a 2- by 4-inch circuit board. As many members interested in the computer industry know, smaller is better in the computer world. MCC's multichip module represents the fundamental strength of the American computer industry. It will be useful for the Air Force and the aerospace industry. MCC also expects this module to have many other commercial uses. More important, MCC's breakthrough shows the benefits of precompetitive cooperation among firms.

Let me close by repeating an observation that Bob Noyce made shortly before his death. He said that it was his belief that America is in an economic war with Japan. We all know that America has lost its leadership position in the semiconductor market to Japan. And we know that Japan is an increasingly formidable force in the computer market. This country has to redouble its efforts to be competitive in high-technology industries and maintain its leadership position in the computer market.

Sematech and MCC are examples of the benefits of joint research among firms prior to competition in the market. We need to take the next step and relax antitrust penalties for joint production ventures. Encouraging joint production ventures isn't a panacea for our competitiveness problems. But it is an important step in a program to provide the climate in this country in which American companies can compete with foreign firms and, most importantly, preserve good, high paying American jobs. I endorse this bill and applaud the work of Chairman JACK BROOKS and Congressman DON EDWARDS in moving this legislation forward.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 4611, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INTER-AMERICAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4314) to implement the Inter-American Convention on International Commercial Arbitration, as amended.

The Clerk read as follows:

H.R. 4314

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TITLE 9, UNITED STATE CODE.

Title 9, United States Code, is amended by adding at the end the following:

"CHAPTER 3. INTER-AMERICAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION

"Sec.
"301. Enforcement of Convention.
"302. Incorporation by reference.
"303. Order to compel arbitration; appointment of arbitrators; locale.
"304. Recognition and enforcement of foreign arbitral decisions and awards; reciprocity.
"305. Relationship between the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958.
"306. Applicable rules of Inter-American Commercial Arbitration Commission.
"307. Chapter 1; residual application.

"§ 301. Enforcement of Convention

"The Inter-American Convention on International Commercial Arbitration of January 30, 1975, shall be enforced in United States courts in accordance with this chapter.

"§ 302. Incorporation by reference

"Sections 202, 203, 204, 205, and 207 of this title shall apply to this chapter as if specifically set forth herein, except that for the purposes of this chapter 'the Convention' shall mean the Inter-American Convention.

"§ 303. Order to compel arbitration; appointment of arbitrators; locale

"(a) A court having jurisdiction under this chapter may direct that arbitration be held in accordance with the agreement at any place therein provided for, whether that place is within or without the United States. The court may also appoint arbitrators in accordance with the provisions of the agreement.

"(b) In the event the agreement does not make provision for the place of arbitration or the appointment of arbitrators, the court shall direct that the arbitration shall be held and the arbitrators be appointed in accordance with Article 3 of the Inter-American Convention.

"§ 304. Recognition and enforcement of foreign arbitral decisions and awards; reciprocity

"Arbitral decisions or awards made in the territory of a foreign State shall, on the basis of reciprocity, be recognized and enforced under this chapter only if that State has ratified or acceded to the Inter-American Convention.

"§ 305. Relationship between the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958

"When the requirements for application of both the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958, are met, determination as to which Convention applies shall, unless otherwise expressly agreed, be made as follows:

"(1) If a majority of the parties to the arbitration agreement are citizens of a State or States that have ratified or acceded to the Inter-American Convention and are member States of the Organization of American States, the Inter-American Convention shall apply.

"(2) In all other cases the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958, shall apply.

"§ 306. Applicable rules of Inter-American Commercial Arbitration Commission

"(a) For the purposes of this chapter the rules of procedure of the Inter-American Commercial Arbitration Commission referred to in Article 3 of the Inter-American Convention shall, subject to subsection (b) of this section, be those rules as promulgated by the Commission on July 1, 1988.

"(b) In the event the rules of procedure of the Inter-American Commercial Arbitration Commission are modified or amended in accordance with the procedures for amendment of the rules of that Commission, the Secretary of State, by regulation in accordance with section 553 of title 5, consistent with the aims and purposes of this Convention, may prescribe that such modifications or amendments shall be effective for purposes of this chapter.

"§ 307. Chapter 1; residual application

"Chapter 1 applies to actions and proceedings brought under this chapter to the extent chapter 1 is not in conflict with this chapter or the Inter-American Convention as ratified by the United States.".

SEC. 2. CLERICAL AMENDMENT.

The table of chapters at the beginning of title 9, United States Code, is further amended by adding at the end of the following new item:

"3. Inter-American Convention on International Commercial Arbitration..... 301".

SEC. 3. EFFECTIVE DATE.

This Act shall take effect upon the entry into force of the Inter-American Convention on International Commercial Arbitration of January 30, 1975, with respect to the United States.

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield to myself such time as I may require.

Mr. Speaker, H.R. 4314 will implement the Inter-American Convention on International Commercial Arbitration. This convention, which the United States signed in 1975 and which has been adopted by a dozen South and Central American nations, provides a broad framework governing the circumstances under which arbitration of commercial disputes may be appropriate, the terms and conditions of such arbitration, and the procedures for enforcing foreign arbitral decisions and awards. The Convention, however, is not self-executing. When the Senate gave its advice and consent to ratification to the Convention in 1986, it did so with the understanding that the instruments of ratification would not be deposited until implementing legislation had been passed. Thus, unless H.R. 4314 or its equivalent becomes law, the United States will remain a nonparticipating member of the Convention.

The Inter-American Convention is very similar to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, but it is carefully tailored to meet the particular needs of Latin American countries. Likewise, the implementing legislation, H.R. 4314, is very similar to the legislation Congress enacted 20 years ago to implement the United Nations Convention, and it incorporates by reference many of the provisions of that earlier act. Thus, H.R. 4314 reflects the experience that has been acquired over the past 20 years in dealing with the United Nations Convention and its implementing statute.

Mr. Speaker, the use of arbitration as a means for settling disputes is perhaps as old as civilization itself. In the international arena it is a particularly valuable mechanism because it provides all parties to an agreement with the assurance that if a dispute arises they will be able to get it resolved without having to subject themselves to the unfamiliar laws and procedures of a foreign nation. For this reason, the availability of arbitration under H.R. 4314 will promote inter-American trade and investment and it will spur economic growth and development. These are precisely the kinds of things we need to be doing in this hemisphere, and H.R. 4314 will serve us well in that regard.

Mr. Speaker, H.R. 4314 has received widespread support on both sides of the aisle, is strongly endorsed by the administration, and has won the approval of the constituencies it will affect.

I urge my colleagues to support this extremely meritorious bill.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4314 is a bill to implement a Convention on International Commercial Arbitration to which the Senate gave its advice and consent on October 9, 1986.

The Convention will not be ratified by the United States until H.R. 4314 or similar implementing legislation is enacted.

H.R. 4314 was introduced by Chairman BROOKS at the request of the administration.

To date, no organization has voiced opposition to the Convention or this implementing bill.

The legislation provides a mechanism by which commercial disputes can be settled in an expeditious and even-handed manner.

It has long been a goal of the administration, the Congress, and the U.S. judicial system to encourage and promote arbitration as a means of resolving commercial disputes.

Mr. Speaker, H.R. 4314 deserves our support.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 4314, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4611 and H.R. 4314, the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On February 12, 1990:

H.J. Res. 82. Joint resolution to designate February 8, 1990, as "National Women and Girls in Sports Day."

On February 14, 1990:

H.R. 3952. An act to authorize certain United States assistance and trade benefits for Panama, and for other purposes.

On February 16, 1990:

H.J. Res. 149. Joint resolution designating February 16, 1990, as "Lithuanian Independence Day."

H.R. 3792. An act to authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes.

On March 6, 1990:

H.R. 150. An act to amend the Immigration and Nationality Act to provide a procedure for an alien who dies while serving on active-duty with the United States Armed Forces during certain periods of hostilities to be considered a citizen of the United States at the time of the alien's death.

H.R. 2281. An act to amend the Elementary and Secondary Education Act of 1965 to extend the authorization for certain school dropout demonstration programs.

On March 15, 1990:

H.R. 2742. An act to extend and amend the Library Services and Construction Act, and for other purposes.

H.R. 4010. An act to provide the Secretary of Agriculture authority regarding the sale of sterile screwworms.

On March 20, 1990:

H.R. 2749. An act to authorize the conveyance of a parcel of land in Whitney Lake, Texas.

On March 30, 1990:

H.R. 3311. An act to designate the Federal building located at 350 South Main Street in Salt Lake City, Utah, as the "Frank E. Moss United States Courthouse."

On April 6, 1990:

H.J. Res. 500. Joint resolution to designate April 6, 1990, as "Education Day, U.S.A."

On April 9, 1990:

H.R. 2692. An Act to amend the Woodrow Wilson Memorial Act of 1968 to provide that the Secretary of Education and two additional individuals from private life shall be members of the Board of Trustees of the Woodrow Wilson International Center for Scholars.

On April 10, 1990:

H.R. 4099. An act to suspend section 332 of the Agricultural Adjustment Act of 1938 for the 1991 crop of wheat.

On April 23, 1990:

H.R. 1048. An act to provide for the acquisition and publication of data about crimes that manifest prejudice based on certain group characteristics.

H.R. 3968. An act to further delay the applicability of certain amendments to the Public Health Service Act that relate to organ procurement organizations.

On May 1, 1990:

H.R. 2334. An act to redesignate the post office located at 300 East Ninth Street in

Austin, Texas, as the "Homer Thornberry Judicial Building."

On May 4, 1990:

H.J. Res. 553. Joint resolution to make technical changes in the Ethics Reform Act of 1989.

On May 9, 1990:

H.R. 1011. An act to provide for the establishment of the National Commission on Wildlife Disasters, to provide for increased planning and cooperation with local firefighting forces in the event of forest fires, and for other purposes.

H.R. 3802. An act to designate May 1990 as "Asian/Pacific American Heritage Month."

On May 10, 1990:

H.J. Res. 546. Joint resolution designating May 13, 1990, as "Infant Mortality Awareness Day."

H.R. 756. An act for the relief of Shelton Anthony Smith.

On May 17, 1990:

H.J. Res. 453. Joint resolution designating May 1990 as "National Digestive Disease Awareness Month."

H.J. Res. 490. Joint resolution commemorating May 18, 1990, as the 25th anniversary of Head Start.

H.R. 922. An act to designate the building located at 1515 Sam Houston Street in Liberty, Texas, as the "M.P. Daniel and Thomas F. Calhoon, Senior, Post Office Building."

H.R. 1472. An act to establish the Grand Island National Recreation Area in the State of Michigan, and for other purposes.

H.R. 4637. An act to amend Public Law 101-86 to eliminate the 6-month limitation on the period for which civilian and military retirees may serve as temporary employees, in connection with the 1990 decennial census of population, without being subject to certain offsets from pay or other benefits.

On May 22, 1990:

H.R. 2890. An act to designate the Federal Building and United States Courthouse located at 750 Missouri Avenue in East St. Louis, Illinois, as the "Melvin Price Federal Building and United States Courthouse."

On May 25, 1990:

H.R. 4404. An act making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes.

On May 29, 1990:

H.R. 1805. An act to amend title 5, United States Code, to allow Federal annuitants to make contributions for health benefits through direct payments rather than through annuity withholdings if the annuity is insufficient to cover the required withholdings, and for other purposes.

H.R. 3961. An act to redesignate the Federal building at 1800 5th Avenue, North, in Birmingham, Alabama, as the "Robert S. Vance Federal Building and United States Courthouse."

On May 30, 1990:

H.R. 3910. An act to require the Secretary of Education to conduct a comprehensive national assessment of programs carried out with assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

JUDICIAL DISCIPLINE AND REMOVAL REFORM ACT OF 1990

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1620) to amend provisions of title 28, United States Code, relating to judicial discipline, and to establish a commission to study the problems and issues involved in the appointment and tenure—including discipline and removal—of article III judges, as amended.

The Clerk read as follows:

H.R. 1620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Discipline and Removal Reform Act of 1990".

TITLE I—JUDICIAL DISCIPLINE

SEC. 101. AMENDMENTS TO JUDICIAL COUNCILS REFORM AND JUDICIAL CONDUCT AND DISABILITY ACT OF 1980.

(a) IDENTIFICATION OF COMPLAINTS BY CHIEF JUDGE.—Paragraph (1) of section 372(c) of title 28, United States Code, is amended by adding at the end the following: "In the interests of the effective and expeditious administration of the business of the courts and on the basis of information available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this subsection and thereby dispense with filing of a written complaint.".

(b) MEMBERSHIP OF SPECIAL INVESTIGATIVE COMMITTEES.—Paragraph (4) of section 372(c) of such title is amended by adding at the end the following: "A judge appointed to a special committee under this paragraph may continue to serve on that committee after becoming a senior judge or, in the case of the chief judge of the circuit, after his term as chief judge terminates under subsection (a)(3) of (c) of section 45 of this title. If a judge appointed to a committee under this paragraph dies, or retires from office under section 371(a) of this title, while serving on the committee, the chief judge of the circuit may appoint another circuit or district judge, as the case may be, to the committee.".

(c) PUBLIC AVAILABILITY OF IMPEACHMENT RECOMMENDATION.—(1) Paragraph (8) of section 372(c) of such title is amended by adding at the end the following sentence: "Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination.".

(2) Paragraph (14) of such section is amended—

(A) by striking out "All" and inserting in lieu thereof "Except as provided in paragraph (8), all";

(B) by striking out "unless" and inserting in lieu thereof "except to the extent that";

(C) in subparagraph (B) by inserting "such disclosure is" before "authorized";

(D) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(E) by inserting the following new subparagraph (A) immediately before subparagraph (B) (as so redesignated):

"(A) the judicial council of the circuit in its discretion releases a copy of a report of a special investigative committee under paragraph (5) to the complaintant whose complaint initiated the investigation by that special committee and to the judge or magistrate whose conduct is the subject of the complaint;".

(d) IMPEACHMENT RECOMMENDATIONS WITH RESPECT TO CONVICTED JUDGES.—Section 372(c) of such title is further amended in paragraph (8)—

(1) by inserting "(A)" after "(8)"; and

(2) by adding at the end the following:

"(B) If a judge or magistrate has been convicted of a felony and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the Judicial Conference may, by majority vote and without referral or certification under paragraph (7), transmit to the House of Representatives a determination that consideration of impeachment may be warranted, together with appropriate court records, for whatever action the House of Representatives considers to be necessary.".

(e) RULES BY JUDICIAL CONFERENCE AND JUDICIAL COUNCILS.—Paragraph (11) of section 372(c) of such title is amended by adding at the end the following: "No rule promulgated under this subsection may limit the period of time within which a person may file a complaint under this subsection.".

(f) CONCLUSION OF PROCEEDINGS BY CHIEF JUDGE.—Paragraph (3)(B) of section 372(c) of such title is amended by inserting before the period the following: "or that action on the complaint is no longer necessary because of intervening events".

(g) DISMISSAL OF COMPLAINTS BY JUDICIAL COUNCILS.—Paragraph (6) of section 372(c) of such title is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

"(C) may dismiss the complaint; and".

(h) REIMBURSEMENT FOR EXPENSES AND ATTORNEYS' FEES.—Section 372(c) of such title is further amended—

(1) by redesignating paragraphs (16) and (17) as paragraphs (17) and (18); and

(2) by inserting after paragraph (15) the following new paragraph:

"(16) Upon the request of a judge or magistrate whose conduct is the subject of a complaint under this subsection, the judicial council may, if the complaint has been finally dismissed under paragraph (6)(C), recommend that the Director of the Administrative Office of the United States Courts award reimbursement, from funds appropriated to the Federal judiciary, for those reasonable expenses, including attorneys' fees, incurred by that judge or magistrate during the investigation which would not have been incurred but for the requirements of this subsection.".

(i) TECHNICAL CORRECTIONS.—Paragraph (7)(B) of section 372(c) of such title is amended—

(A) by striking out "has engaged in conduct" and inserting in lieu thereof "may have engaged in conduct"; and

(B) in clause (i) by striking out "article I" and inserting in lieu thereof "article II".

(2) Paragraph (14)(C) of such section, as redesignated by subsection (c)(2)(D) of this section, is amended by striking out "subject to the complaint" and inserting in lieu thereof "subject of the complaint".

SEC. 102. CONTEMPT POWER FOR CIRCUIT COUNCILS.

Section 332(d)(2) of title 28, United States Code, is amended by adding at the end the following: "In the case of failure to comply with an order made under this subsection or a subpoena issued under section 372(c) of this title, a judicial council or a special committee appointed under section 372(c)(4) of this title may institute a contempt proceeding in any district court in which the judicial officer or employee of the circuit who fails to comply with the order made under this subsection shall be ordered to show cause before the court why he or she should not be held in contempt of court.".

SEC. 103. AMENDMENT TO OATH OF JUSTICES AND JUDGES.

Section 453 of title 28, United States Code, is amended by striking out "according to the best of my abilities and understanding, agreeably to" and inserting "under".

SEC. 104. AMENDMENT TO ETHICS IN GOVERNMENT ACT.

Section 104(b) of the Ethics in Government Act of 1978 (5 U.S.C. App. 104(b)) is amended by adding at the end the following: "Whenever the Judicial Conference refers a name to the Attorney General under this subsection, the Judicial Conference also shall notify the judicial council of the circuit in which the named individual serves or the referral.".

SEC. 105. ADVISORY COMMITTEES FOR JUDICIAL DISCIPLINE RULES.

Section 2077(b) of title 28, United States Code, is amended by inserting before the period at the end of the first sentence the following: "and, in the case of an advisory committee appointed by a court of appeals, of the rules of the judicial council of the circuit".

SEC. 106. EFFECTIVE DATE.

The amendments made by this title shall take effect 90 days after the date of the enactment of this act.

TITLE II—NATIONAL COMMISSION ON JUDICIAL IMPEACHMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "National Commission on Judicial Discipline and Removal Act".

SEC. 202. ESTABLISHMENT.

There is hereby established a commission to be known as the "National Commission on the Judicial Discipline and Removal" (hereinafter in this title referred to as the "Commission").

SEC. 203. DUTIES OF COMMISSION.

The duties of the Commission are—

(1) to investigate and study the problems and issues involved in tenure (including discipline and removal) of an article III judge;

(2) to evaluate the advisability of proposing alternatives to current arrangements with respect to such problems and issues, including alternatives for discipline or removal of judges that would require amendment to the Constitution; and

(3) to prepare and submit to the Congress, the Chief Justice of the United States, and the President a report in accordance with section 208.

SEC. 204. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 13 members as follows:

(1) Three appointed by the President pro tempore of the Senate.

(2) Three appointed by the Speaker of the House of Representatives.

(3) Three appointed by the Chief Justice of the United States.

(4) Three appointed by the President.

(5) One appointed by the Conference of Chief Justices of the States of the United States.

(5) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(b) QUORUM.—Six members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) CHAIRMAN.—The members of the Commission shall select one of the members to be the Chairman.

(e) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of the enactment of this Act.

(f) FIRST MEETING.—The first meeting of the Commission shall be called by the Chairman and shall be held within 90 days after the date of the enactment of this Act.

(g) VACANCY.—A vacancy on the Commission resulting from the death of resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(h) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a Member of Congress or as an officer or employee of a government leaves that office, or if any member of the Commission who was appointed from persons who are not officers or employees of a government becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

SEC. 205. COMPENSATION OF THE COMMISSION.

(a) PAY.—Except as provided in paragraph (2), each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) A member of the Commission who is an officer or employer of the United States Government shall serve without additional compensation.

(b) TRAVEL.—All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 206. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

(b) STAFF.—The Chairman of the Commission may appoint and fix the pay of such additional personnel as the Chairman finds necessary to enable the Commission to carry out its duties. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the annual rate of pay for any individual so appointed may not exceed a rate equal to the annual rate of basic pay payable for GS-18 of the General Schedule under section 5332 of such title.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 207. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission or, on authorization of the Commission, a member of the Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department, agency, or entity within the executive or judicial branch of the Federal Government information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of any Federal agency is authorized to make any of the facilities and services of such agency available to the Commission to assist the Commission in carrying out its duties under this title.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 208. REPORT.

The Commission shall submit to each House of Congress, the Chief Justice of the United States, and the President a report not later than one year after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 209. TERMINATION.

The Commission shall cease to exist on the date 30 days after the date it submits its report to the President and the Congress under section 208.

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated the sum of $750,000 to carry out the provisions of this title.

SEC. 211. EFFECTIVE DATE.

This title shall take effect on October 1, 1990.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

□ 1310

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last November, the Congress enacted the Ethics Reform Act of 1989, which contained provisions relating to financial disclosure, a substantial judicial salary increase, and a provision relating to senior Federal judges who do not work or who do very little work. Now, it is time for us to return to a missing piece of the puzzle, judicial discipline, and impeachment reform.

There currently is a clear public concern about the health of judicial discipline law, both that rooted in the constitutional text and that contained in the statute books. During the past decade, various factors have contributed to this concern.

First, Congress has experienced three judicial impeachment proceedings which resulted in removal of Federal Judges Harry Claiborne, Alcee Hastings, and Walter Nixon; even this year, a Federal district judge was tried in California for alleged criminal violations. Due to a mistrial, he will again be tried.

Second, we have witnessed significant growth in the size of the Federal judiciary. Given the current request of the Federal judiciary to add nearly 100 new judgeships, we can contemplate a judiciary of approximately 1,000 lifetime judges by the millennium.

Third, during the past decade, we have relied upon a statute crafted by this committee in 1980 to create a discipline mechanism in the Federal judiciary to handle cases with sanctions that fall short of impeachment and removal.

Last, a task force of respected scholars on the subject of judicial discipline—the Twentieth Century Task Force on Judiciary Responsibility—recently called for improvements in judicial accountability standards.

All of these factors were placed on the table during extensive hearings held by my subcommittee—the Subcommittee on Courts, Intellectual Property, and the Administration of Justice. Before explaining the bill, I would like to thank the members of the subcommittee for their cooperation in developing the proposed legislation, particularly the ranking minority member, the gentleman from California [Mr. MOORHEAD]. He not only is the principal cosponsor of H.R. 1620, but he worked along and hard on the impeachment and removal from office of Judge Claiborne.

Let me now explain H.R. 1620, a bill that addresses these concerns and improves the existing legislative framework. H.R. 1620—the "Judicial Discipline and Impeachement Reform Act of 1990"—contains two titles. Title I sets forth a series of amendments to the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, which is codified at 28 U.S.C. 372(c). Our oversight of the 1980 act indicates that although it has worked well, it has suffered from several drafting defects that require improvements. Title I therefore makes improvements to section 372(c). It also amends four other provisions of the code: the first, granting contempt power in discipline cases to circuit councils; the second, amending the oath of office for Federal judges; the third, modifying the Ethics in Government Act; and the fourth, increasing the authority of the circuit advisory committees to assist in drafting discipline rules.

Even assuming enactment of title I of the bill, something still is missing. While several amendments improve the channels of communications between the judicial and legislative branches when an impeachable offense may have been committed by a Federal judge, title I refrains from initiating any constitutional changes as to how Congress responds to the impeachment of a Federal judge. I realize that several Members, Mr. SANGMEISTER, Mr. SENSENBRENNER, and Mr. KLECZKA, have proposed constitutional amendments in this regard. Mr. HYDE recently introduced a legislative proposal that provides for the removal of Federal judges by trial of a three-judge court.

Title II of H.R. 1620 does not go the constitutional amendment avenue. It seeks an interim middle ground, however, by creating a National Commission on Judicial Discipline and Removal. The Commission is assigned the task of studying the problems and issues involved in the appointment and tenure of article III judges and making recommendations to current arrangements regarding judicial discipline and removal. The Commission—composed of 13 members—has a very short life, 1 year after the first meeting in order to file its report.

For a more detailed explanation of the bill, I would refer Members to a copy of the House report which is available.

Solutions to judicial branch problems seem to work better when the three branches of Government work together to revise and implement the solutions. H.R. 1620 is an example of the branches working together. The bill has garnered the support of not only the executive and judicial branches, but also the Twentieth Century Fund, the American Judicature Society, the American Bar Association—title II—and a variety of law professors and practicing lawyers as well. Only one Federal judge has expressed opposition to the measure. Finally, the proposed legislation received the unanimous approval of the House Committee on the Judiciary.

Four technical and clarifying changes were made to the bill as reported by the Committee on the Judiciary.

First, the subsection 101(c) a cross-referencing change—to paragraph (5) of section 372(c)—is made as well as insertion of the word "investigation" for "report".

Second, in subsection 101(d) the language is clarified to state that if a judge convicted of a felony has exhausted all means of direct review, including a petition for a writ of certiorari, the Judicial Conference may transmit to the House of Representatives a determination that consideration of impeachment may be warranted.

Third, section 102 is amended to clarify that the contempt power of the circuit councils includes the power to enforce subpoenas issued under section 372(c) of title 28, United States Code.

Fourth, a technical change is made to title II of the bill, regarding the duties of the National Commission on Judicial Discipline and Removal. Section 203 is amended to clarify that the Commission shall investigate and study the problems and issues involved in the tenure, including discipline and removal, of article III Federal judges. The Commission is not empowered to study the appointment process. Since, however, judges may be removed from office for conduct that occurs prior to their becoming Federal judges, the commission can still study the extent to which impeachable offenses may take place prior to individuals taking the oath of judicial office.

Mr. Speaker, in closing, I urge an "aye" vote on this important piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, the Judicial Discipline and Impeachment Reform Act of 1990 amends the Federal Judicial Discipline Act in order to improve its functioning. In addition, amendments are made to other laws relating to discipline and ethics, including contempt power in discipline cases, the oath of office for Federal judges, and public participation in the process of drafting discipline rules. The bill also creates a national commission on judicial discipline and removal, a 1-year commission which will study the problems and issues relat-

ing to the appointment of lifetime tenure judges.

Specifically, the bill—

First, authorizes the chief judge of the circuit, for purposes of judicial discipline, to waive the requirement for the filing of a written complaint and proceed on the basis of a complaint identified by the Chief Justice;

Second, clarifies the requirements for membership on Special Investigative Committees of Judges whose status changes while the Special Committee is ongoing;

Third, provides that the Clerk of the House of Representatives shall make available to the public any written order from the Judicial Conference recommending that "consideration of impeachment may be warranted" and the accompanying reasons therefor, and authorizing a circuit council to release a copy of a Special Investigative Committee report to both the complainant and the involved judge;

Fourth, authorizes the Judicial Conference to transmit directly to the Congress a declaration that "impeachment may be warranted" in the event a judge is convicted of a felony and all direct appeals have been exhausted without success;

Fifth, prohibits the circuit councils from creating a statute of limitations;

Sixth, explicitly provides dismissal authority to the Circuit Council—such authority has been implicit heretofore;

Seventh, authorizes the Administrative Office of the U.S. Courts to pay reasonable expenses associated with any investigation under the act in which a judge is vindicated; and

Eighth, makes three technical amendments to the 1980 act.

In addition, the bill authorizes the Circuit Judicial Councils to institute contempt proceedings; eliminates from the oath of office for Federal judges the qualifying phrase "to the best of my abilities and understanding"; amends the Ethics in Government Act to provide that the circuit council also be notified whenever the Attorney General is notified of any serious ethical problem involving a Federal judge; augments the role of the Advisory Committees of the Circuits to include assistance in the drafting of judicial discipline rules; and establishes the National Commission on Judicial Discipline and Removal.

The Judicial Discipline and Removal Reform Act of 1990 has bipartisan support and I commend it to the Members for favorable action.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend our chairman BOB KOSTMAYER for his continued leadership in the area of court reform. The legislation we are considering today constitutes important improvements to the Federal judiciary. H.R. 1620 addresses the conduct and discipline of Federal judges. I suppose its inevitable that the larger the Federal judiciary becomes the more likely are the increases in the number of bad judges. The responsibility for the ultimate discipline of a Federal judge lies with the Judiciary Committee, and the Congress. The Congress, in 1980, set in place a mechanism for judges to assist us in reviewing complaints and disciplinary problems relating to Federal judges. The bill before us today further fine tunes that mechanism we put in place a decade ago.

To have a competent and honest judiciary is absolutely critical to any form of self government. If the people don't have confidence and trust in their judiciary, our whole system of government is substantially weakened.

In addition, H.R. 1620 would set up a national commission to briefly study and report back to the Congress on the different alternatives that might be available for disciplining and removing Federal judges. As a practical matter, the Judicary Committee will not have time to address the problem this Congress but by this time next year we will have the work product of the Commission and we can begin hearings on the problem.

Mr. Speaker, in conclusion, the Department of Justice when they testified before the subcommittee expressed concern that the study commission might go beyond the scope of its authority and study the appointment process for Federal judges. To correct this, and at the suggestion of the Department, I offered an amendment that would limit the authority of the Commission to recommend constitutional amendments relating only to the discipline and removal of Federal judges. That amendment was adopted by the subcommittee and accepted by the full committee. To further clarify this point our chairman has agreed to drop the word "appointment" from the bill. This has been worked out with the Department of Justice and the administration and has removed their opposition to the bill and they are now in support.

Mr. Speaker, I am not aware of any opposition to this legislation.

I urge support for H.R. 1620.

□ 1320

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I would like to commend the chairman of the subcommittee and the gentlemen from California for their leadership in the area of court reform. I note that they both have served on the National Committee on Court Reform which submitted its final recommendations on the reform of our Federal court system, to the President, Chief Justice, and to the Congress in April of this year.

Judicial discipline has become a major concern in the past decade and remains a substantial issue. Whether considered as a legislative issue under the United States Code, or a constitutional issue under article III, judicial discipline is a current issue that requires our attention.

Title II of H.R. 1620 creates a national commission to study the application of the impeachment process and perhaps propose alternatives for consideration by the Congress. I believe this is both timely and appropriate in light of the recent increases in the size of the judiciary, the recent number of judicial impeachments, and the legislative workload of the Congress.

At best, the impeachment process is cumbersome, time consuming, and expensive. I have been involved directly in two of the last three impeachment of Federal judges and we must explore the constitutional possibilities of lessening what is a very burdensome process. The problem is removal, not the appointment of Federal judges. Nomination of a Federal judge to the bench is a Presidential prerogative and I am pleased to see that the question the administration had over the scope of the Commission's authority has been worked out. Study of the appointment process should not be a part of the mandate of such a commission. I appreciate the efforts on the part of our subcommittee chairman in making clear to everyone that what we are concerned with here is the burdensome process of removing a Federal judge. I am looking forward to the recommendations of the Commission and urge a favorable vote on H.R. 1620.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I want to commend the gentleman from New York, the ranking member of the full Committee on the Judiciary, and a member of the subcommittee, for his contributions to the cause of Federal court reform.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 1620, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1620, as amended, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

VISUAL ARTISTS RIGHTS ACT OF 1990

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2690), to amend title 17, United States Code, to provide certain rights of attribution and integrity to authors of works of visual art, as amended.

The Clerk read as follows:

H.R. 2690

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Visual Artists Rights Act of 1990".

SEC. 2. WORK OF VISUAL ART DEFINED.

Section 101 of title 17, United States Code, is amended by inserting after the paragraph defining "widow" the following:

"A 'work of visual art' is—

"(1) a painting, drawing, print, or sculpture, existing in a single copy, in a limited edition of 200 copies or fewer that are signed and consecutively numbered by the author, or, in the case of a sculpture, in multiple cast, carved, or fabricated sculptures of two hundred or fewer that are consecutively numbered by the author and bear the signature or other identifying mark of the author; or

"(2) a still photographic image produced for exhibition purposes only, existing in a single copy that is signed by the author, or in a limited edition of 200 copies or fewer that are signed and consecutively numbered by the author.

"A work of visual art does not include—

"(A)(i) any poster, map, globe, chart, technical drawing, diagram, model, applied art, motion picture or other audiovisual work, book, magazine, newspaper, periodical, data base, electronic information service, electronic publication, or similar publication;

"(ii) any merchandising item or advertising, promotional, descriptive, covering, or packaging material or container;

"(iii) any portion or part of any item described in clause (i) or (ii);

"(B) any work made for hire; or

"(C) any work not subject to copyright protection under this title.".

SEC. 3. RIGHTS OF ATTRIBUTION AND INTEGRITY.

(a) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Chapter 1 of title 17, United States Code, is amended by inserting after section 106 the following new section:

"§ 106A. Rights of certain authors to attribution and integrity

"(a) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Subject to section 107 and independent of the exclusive rights provided in section 106, the author of a work of visual art—

"(1) shall have the right—

"(A) to claim authorship of that work, and

"(B) to prevent the use of his or her name as the author of any work of visual art which he or she did not create;

"(2) shall have the right to prevent the use of his or her name as the author of the work of visual art in the event of a distortion, mutilation, or other modification of the work as described in paragraph (3); and

"(3) subject to the limitations set forth in section 113(d), shall have the right to prevent any destruction, distortion, mutilation, or other modification of that work which would be prejudicial to his or her honor or reputation, and which is the result of an intentional or negligent act or omission with respect to that work, and any such destruction, distortion, mutilation, or modification of that work is a violation of that right.

"(b) SCOPE AND EXERCISE OF RIGHTS.—Only the author of a work of visual art has the rights conferred by subsection (a) in that work, whether or not the author is the copyright owner. The authors of a joint work of visual art are coowners of the rights conferred by subsection (a) in that work.

"(c) EXCEPTIONS.—(1) The modification of a work of visual art which is a result of the passage of time or the inherent nature of the materials is not a destruction, distortion, mutilation, or other modification described in subsection (a)(3) unless the modification was the result of gross negligence in maintaining or protecting the work.

"(2) The modification of a work of visual art which is the result of conservation, or of the presentation, including lighting and placement, of the work is not a destruction, distortion, mutilation, or other modification described in subsection (a)(3) unless the modification is caused by gross negligence.

"(3) The rights described in paragraphs (1) and (2) of subsection (a) shall not apply to any reproduction, depiction, portrayal, or other use of a work in, upon, or in any connection with any item described in subparagraph (A) or (B) of the definition of 'work of visual art' in section 101, and any such reproduction, depiction, portrayal, or other use of a work is not a destruction, distortion, mutilation, or other modification described in paragraph (3) of subsection (a).

"(d) DURATION OF RIGHTS.—(1) With respect to works of visual art created on or after the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990, the rights conferred by subsection (a) shall endure for a term consisting of the life of the author and fifty years after the author's death.

"(2) With respect to works of visual art created before the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990, but copyright in which has not, as of such effective date, been transferred from the author or, if the author is deceased, from the person or persons to whom copyright in such work passes by bequest of the author or by the applicable laws of intestate succession, the rights conferred by subsection (a) shall be coextensive with, and shall expire at the same time as, the rights conferred by section 106.

"(3) In the case of a joint work prepared by two or more authors, the rights conferred by subsection (a) shall endure for a term consisting of the life of the last surviving author and fifty years after such last surviving author's death.

"(4) All terms of the rights conferred by subsection (a) run to the end of the calendar year in which they would otherwise expire.

"(e) TRANSFER AND WAIVER.—(1) Except as provided in paragraph (2), the rights conferred by subsection (a) may not be transferred, but those rights may be waived if the author expressly agrees to such waiver in a written instrument signed by the author. Such instrument shall specifically identify the work, and uses of that work, to which the waiver applies, and the waiver shall apply only to the work and uses so identified. In the case of a joint work prepared by two or more authors, a waiver of rights under this paragraph made by one such author waives such rights for all such authors.

"(2) After the death of an author, the rights conferred by subsection (a) on the author, and the authority of the author to waive those rights under paragraph (1) of this subsection, shall vest in the person to whom such rights pass by bequest of the author or by the applicable laws of intestate succession.

"(3) Ownership of the rights conferred by subsection (a) with respect to a work of visual art is distinct from ownership of any copy of that work, or of a copyright or any exclusive right under a copyright in that work. Transfer of ownership of any copy of a work of visual art, or of a copyright or any exclusive right under a copyright, shall not constitute a waiver of the rights conferred by subsection (a). Except as may otherwise be agreed by the author in a written instrument signed by the author, a waiver of the rights conferred by subsection (a) with respect to a work of visual art shall not constitute a transfer of ownership of any copy of that work, or of ownership of a copyright or of any exclusive right under a copyright in that work.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by inserting after the item relating to section 106 the following new item:

"106A. Rights of certain authors to attribution and integrity.".

SEC. 4. REMOVAL OF WORKS OF VISUAL ART FROM BUILDINGS.

Section 113 of title 17, United States Code, is amended by adding at the end thereof the following:

"(d)(1) In a case in which—

"(A) a work of visual art has been incorporated in or made part of a building in such a way that removing the work from the building will cause the destruction, distortion, mutilation, or other modification of the work as described in section 106A(a)(3), and

"(B) the author or, if the author is deceased, the person described in section 106A(e)(2), consented to the installation of the work in the building either before the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990, or in a written instrument executed on or after such effective date that is signed by the owner of the building and the author or such person and that specifies that installation of the work may subject the work to destruction, distortion, mutilation, or other modification, by reason of its removal,

then the rights conferred by paragraphs (2) and (3) of section 106A(a) shall not apply.

"(2) If the owner of a building wishes to remove a work of visual art which is a part of such building and which can be removed from the building without the destruction, distortion, mutilation, or other modification of the work as described in section 106A(a)(3), the author's rights under paragraphs (2) and (3) of section 106A(a) shall apply unless—

"(A) the owner has made a diligent, good faith attempt without success to notify the author or, if the author is deceased, the person described in section 106A(e)(2), of the owner's intended action affecting the work of visual art, or

"(B) the owner did provide such notice in writing and the person so notified failed, within 90 days after receiving such notice, either to remove the work or to pay for its removal.

For purposes of subparagraph (A), an owner shall be presumed to have made a diligent, good faith attempt to send notice if the

owner sent such notice by registered mail to the author or, if the author is deceased, to the person described in section 106A(e)(2), at the most recent address, of the author or such person, that was recorded with the Register of Copyrights pursuant to paragraph (3). If the work is removed at the expense of the author or the person described in section 106A(e)(2), title to that copy of the work shall be deemed to be in the author or such person, as the case may be.

"(3) The Register of Copyrights shall establish a system of records whereby any author of a work of visual art that has been incorporated in or made part of a building, or the person described in section 106A(e)(2) with respect to that work, may record their identities and addresses with the Copyright Office. The Register shall also establish procedures under which any such author or person may update the information so recorded, and procedures under which owners of buildings may record with the Copyright Office evidence of their efforts to comply with this subsection.".

SEC. 5. PREEMPTION.

Section 301 of title 17, United States Code, is amended by adding at the end the following:

"(f)(1) On or after the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990, all legal or equitable rights that are equivalent to any of the rights conferred by section 106A with respect to works of visual art to which the rights conferred by section 106A apply are governed exclusively by section 106A and section 113(d) and the provisions of this title relating to such sections. Thereafter, no person is entitled to any such right or equivalent right in any work of visual art under the common law or statutes of any State.

"(2) Nothing in paragraph (1) annuls or limits any rights or remedies under the common law or statutes of any State with respect to—

"(A) any cause of action from undertakings commenced before the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990; or

"(B) activities violating legal or equitable rights that are not equivalent to any of the rights conferred by section 106A with respect to works of visual art.".

SEC. 6. INFRINGEMENT ACTIONS.

(a) IN GENERAL.—Section 501(a) of title 17, United States Code, is amended—

(1) by inserting after "118" the following: "or of the author as provided in section 106A(a)"; and

(2) by striking out "copyright." and inserting in lieu thereof "copyright or right of the author, as the case may be. For purposes of this chapter (other than section 506), any reference to copyright shall be deemed to include the rights conferred by section 106A(a).".

(b) EXCLUSION OF CRIMINAL PENALTIES.—Section 506 of title 17, United States Code, is amended by adding at the end thereof the following:

"(f) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Nothing in this section applies to infringement of the rights conferred by section 106A(a).".

(c) REGISTRATION NOT A PREREQUISITE TO SUIT AND CERTAIN REMEDIES.—(1) Section 411(a) of title 17, United States Code, is amended in the first sentence by inserting after "United States" the following: "and an action brought for a violation of the rights of the author under section 106A(a)".

(2) Section 412 of title 17, United States Code, is amended by inserting "an action brought for a violation of the rights of the author under section 106A(a) or" after "other than".

SEC. 7. FAIR USE.

Section 107 of title 17, United States Code, is amended by striking out "section 106" and inserting in lieu thereof "sections 106 and 106A".

SEC. 8. STUDIES BY COPYRIGHT OFFICE.

(a) STUDY ON WAIVER OF RIGHTS PROVISION.—

(1) STUDY.—The Register of Copyrights shall conduct a study on the extent to which rights conferred by subsection (a) of section 106A of title 17, United States Code, have been waived under subsection (e)(1) of such section.

(2) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Register of Copyrights shall submit to the Congress a report on the progress of the study conducted under paragraph (1). Not later than 5 years after such date of enactment, the Register of Copyrights shall submit to the Congress a final report on the results of the study conducted under paragraph (1), and any recommendations that the Register may have as a result of the study.

(b) STUDY ON RESALE ROYALTIES.—

(1) NATURE OF STUDY.—The Register of Copyrights, in consultation with the Chair of the National Endowment for the Arts, shall conduct a study on the feasibility of implementing—

(A) a requirement that, after the first sale of a work of art, a royalty on any resale of the work, consisting of a percentage of the price, be paid to the author of the work; and

(B) other possible requirements that would achieve the objective of allowing an author of a work of art to share monetarily in the enhanced value of that work.

(2) GROUPS TO BE CONSULTED.—The study under paragraph (1) shall be conducted in consultation with other appropriate departments and agencies of the United States, foreign governments, and groups involved in the creation, exhibition, dissemination, and preservation of works of art, including artists, art dealers, collectors of fine art, and curators of art museums.

(3) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Register of Copyrights shall submit to the Congress a report containing the results of the study conducted under this subsection.

SEC. 9. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b) and except as provided in subsection (c), this Act and the amendments made by this Act take effect 6 months after the date of the enactment of this Act.

(b) APPLICABILITY.—The rights created by section 106A of title 17, United States Code, shall apply to—

(1) works created before the effective date set forth in subsection (a) but copyright in which has not, as of such effective date, been transferred from the author or, if the author is deceased, from the person or persons to whom copyright in such work passes by bequest of the author or by the applicable laws of intestate succession, and

(2) works created on or after such effective date,

but shall not apply to any destruction, distortion, mutilation, or other modification (as described in section 106A(a)(3) of such title) of any work which occurred before such effective date.

(c) SECTION 8.—Section 8 takes effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased today to urge my colleagues to vote for H.R. 2690, the Visual Artists Rights Act of 1990. H.R. 2690 protects the rights of visual artists and the works they create. It is the product of several years of careful study and consultation with a wide variety of interested parties, and represents a reasonable and moderate accommodation of the interests of those parties.

Visual artists contribute immeasurably to the cultural life of this country and, indeed, to the world. The Subcommittee on Courts, Intellectual Property, and the Administration of Justice, which I chair, has heard extensive testimony that their works have been misattributed, modified, or even destroyed without the knowledge or consent of their creators, and sometimes over the outright opposition of these artists. We heard from artists, museum directors, auction houses, the Copyright Office, the NEA, and others with a creative, legal, and financial interest in visual arts. No one testified that these practices were legitimate, or that they should continue. In fact, all of our witnesses recommended that the copyright laws be amended to prevent these actions and to give the artists the right to sue for redress. H.R. 2690 therefore does just that.

Over the past several years, my subcommittee has conducted a detailed examination of the issue of artists rights. We began this examination with the Berne convention implementing legislation. The convention requires its members to provide artists with a certain level of protection. The Congress, in passing the implementation act, decided that United States law was already sufficient to comply with the convention and we therefore joined Berne, effective March 1989.

This did not, however, end debate over the issue. While our laws may be sufficient to comply with Berne, this does not necessarily mean that they are sufficient for all purposes. My subcommittee therefore continued holding hearings on the issue of artists'

rights in both the visual art and film contexts.

The bill before the House today is the product of our hearings and of extensive negotiations among the parties who are interested in the issue of artists' rights. Through this process, we identified three paramount goals that the legislation must serve. First, the act must protect the honor and reputations of visual artists. It does this by granting them important new rights, based on those set forth in the Berne convention. It ensures that these artists are correctly identified with the works of art that they create, and that they are not identified with works created by others. This is known as the right of attribution. It also allows artists to protect their works against modifications and destructions that prejudice their honor and reputations. This is known as the right of integrity.

The second goal was to protect the works of art themselves. Society is the ultimate loser when these works are modified or destroyed. They should be preserved in the way the artist intended, and as the important part of our cultural heritage that they are. Eleven States have already recognized this fact. These laws have not disrupted the market for the sale of works of art, and they have given artists the ability to protect their reputations and their works of art. H.R. 2690 builds on the experiences of these States by protecting works of visual art from modification and destruction.

The third goal of H.R. 2690 was to provide a nationwide standard for these protections. H.R. 2690 will preempt State laws in certain circumstances. While the States are free to continue to explore their own solutions in areas not covered by this bill, a Federal law will provide the uniformity and certainty that individual States cannot.

The hearings and negotiations helped to identify many critical factual and legal differences in the way visual art, films, and other kinds of intellectual property are created. In the visual arts context, the proponents of change were convincing that protection was necessary, fair, and practical. In fact, no one in the visual arts field argued to the contrary. In addition, the proponents worked with the subcommittee to negotiate a bill that balanced the rights of all interested parties, including creators and copyright holders, and that also promoted the public interest. Finally, it was apparent that congressional intervention was the most appropriate and most effective way to accomplish the goals of protecting works of visual art and the honor and reputations of those who create them.

It is clear that we must consider the rights of visual artists separately from those of film and other artists. And H.R. 2690 is therefore limited in scope to visual artists. We will continue to consider whether claims arising in the film context meet the same standards as visual artists' claims did. As I have previously stated, "Those seeking artists' rights in other contexts must do so at another time. Similarly, those who might oppose artists' rights in other contexts have no cause for concern about this bill. H.R. 2690 clearly and unambiguously exempts them from its scope."

So that it will not disrupt current market practices, H.R. 2690 is limited in scope in other important ways. It applies only to certain paintings, sculpture, prints, drawings, and photographs. It defines who is eligible for the protections set forth in the bill, what those protections are, and who is excluded from the bill's scope.

I want to thank CARLOS MOORHEAD, the ranking minority member of my subcommittee, for his cosponsorship of H.R. 2690. I also want to thank our colleagues on the subcommittee, whose support has been essential, and our colleague from Massachusetts, ED MARKEY, who helped lead the fight in support of this legislation, in this and previous Congresses, along with the senior Senator from his State. This bill is a credit to his efforts.

I believe that H.R. 2690 is narrowly and precisely defined, that serves the essential purposes of its proponents, and that it represents a careful balance between many competing interests. It draws upon current industry practices and integrates the new law into current copyright law. Finally, it recognizes that visual art plays an important role in our cultural life, and that artists who have put their hearts and souls into their creations deserve protection for their efforts. I am pleased that it has widespread and bipartisan support and I urge your support for it.

□ 1330

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2690, the Visual Artists Rights Act of 1990. I would like to commend the gentleman from Wisconsin [Mr. KASTENMEIER], the gentleman from Massachusetts [Mr. MARKEY], and the gentleman from New York [Mr. FISH] for their efforts on behalf of the legislation that we are considering today. It purpose is twofold:

First, it is designed to preserve and protect certain limited categories of works of visual art that exist in single copies or in limited editions.

Second, it is designed to achieve this goal without interfering, directly or indirectly, with the ability of U.S. copyright owners and users to further the constitutional goal of ensuring public access to a broad, diverse array of creative works.

At this time I will elaborate on this second goal.

An overriding concern throughout the Subcommittee on Courts, Intellectual Property and the Administration of Justice's consideration of H.R. 2690, was developing legislation that did not impede the efforts of U.S. copyright owners to exercise the rights described in section 106 of our copyright law. This concern is particularly apparent in those portions of sections 2 and 3 of the bill that set forth both the kinds of works that do and do not fall within the definition of works of visual art and the kind of activities that are not covered by the protections afforded by this legislation.

First, the definition of works of visual art is an extremely narrow one and is readily distinguishable from all other categories of copyrighted material. As the committee report makes clear: the definition is not synonymous with any other definition in the copyright act and, in particular, it is narrower than the definition of pictoral, graphic and sculptural works set forth in 17 U.S.C. 101. It encompasses certain paintings, drawing, prints, sculptures, and finally still photographic images produced for exhibition purposes only. In all cases, these works are covered only in single copies or in limited editions of 200 or fewer copies. (Report at 13). Unless a work falls within this extremely narrow category of works, it is not accorded the protections provided for under the legislation. In the subcommittee's view, this narrow definition is essential to ensuring that the legislation is limited to protecting and preseving qualifying works that exist in single copies or limited editions.

Second, equally important to the proper functioning of the legislation is its delineation of the types of items or parts of items that do not fall within the scope of the definition of works of visual art. The types of items excluded from the definition of works of visual art is set out in subparagraph a of section 2 of the legislation. Significantly, the bill also excludes from the definition works-made-for-hire and works not subject to copyright protection under title 17.

Third, because, as the report states, "the exclusion from the definition of a work of visual art would be of little or no value if these industries—motion pictures, magazines, newspapers, etc.—could be held liable under section 106a for the manner in which they depict, portray, reproduce or otherwise make use of such a work," the committee added subsection (c)(3) to the legislation. This proposal underscores that H.R. 2690 protects only single copies or limited editions of 200 or fewer works of visual art and does not reach

reproductions, depictions, portrayals and similar uses of works of visual art that are embodied in works excluded from the definition, including motion pictures, newspapers, books and magazines.

Taken together, these aforementioned provisions insulate U.S. copyright-intensive industries from liability under H.R. 2690. Therefore, H.R. 2690 will in no way impede the ability of these industries to produce and disseminate U.S. created works, or undercut America's pre-eminent copyright status both here and abroad.

Mr. Speaker, as my preceding comments make clear, H.R. 2690 is an important bill, albeit one with a very limited purpose. It should be a helpful tool in preserving and protecting certain works of visual art that are generally the product of the creative efforts of a single individual. Any effort to extend these types of protections to other situations is extremely problematic. There simply is no parallel between the works covered by this bill and other types of works, including those that are collaborative in nature and exist in large numbers such as motion pictures, newspapers, magazines and textbooks. Introduction of the types of rights afforded under H.R. 2690 into these industries would inhibit the dissemination and production of these and similar works in the future. I urge my colleagues' support for H.R. 2690.

Mr. Speaker, I would like to engage the chairman of the subcommittee in a colloquy.

Mr. Speaker, I just want to clarify the fact that this legislation specifically excludes works made for hire. Under this exception, what types of works would be excluded from coverage?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I am happy to yield to my chairman.

Mr. KASTENMEIER. Mr. Speaker, let me say that my colleague is correct. This legislation does specifically exclude works made for hire. In section 101 of Title 17, the copyright law, there are 2 basic kinds of works made for hire: first, a work prepared by an employee within the scope of his or her employment is a work for hire; and, second, a work specifically ordered or commissioned for use as a contribution to a collective work is also a work for hire. The definition provides several specific examples. None of these kinds of works is covered by this legislation.

Mr. MOORHEAD. Mr. Speaker, I thank the chairman of the subcommittee.

Mr. KASTENMEIER. Mr. Speaker, I yield 7 minutes to the gentleman from Massachusetts [Mr. MARKEY], who was the original sponsor of the bill in the last Congress and who is a valuable cosponsor of the current measure.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, at this juncture I would like to tell the gentleman from Wisconsin how appreciative I am of his work and of the work of his staff, led by his counsel, Virginia Sloan. I am appreciative also of the work of the gentleman from California, Mr. CARLOS MOORHEAD, and of the work and efforts that his staff dedicated to this bill. I am appreciative of all the outside groups who negotiated in good faith to produce this legislation, and I wish to commend the gentleman from New York [Mr. FISH] and other members of the Committee on the Judiciary for their contribution and the aid which they gave to this bill. I wish to recognize the members of my own staff, especially Diana Lazarus and David Moulton, who contributed mightily to the final construction of this legislation.

□ 1340

I would like to first of all say that the purpose of the bill is to fill a gap in copyright law by recognizing that artists who work in painting, drawing, and sculpture are intellectual authors who deserve protection for their works, just as do authors of novels, plays, and songs.

The issue of visual artists' rights has come of age in America. As the Art Historian Helen Gardner said, "A work of art * * * is a form created by the artist out of human experience. At the same time it has a cultural context. It exists in time, and its form reflects the forces of that time—social, economic, political, and religious." Or, more concisely, Harold Clurman once stated, "Man is in this world to do more than pay taxes and brush his teeth—and that is where the arts come in.* * *"

There is an unfortunate problem, however, in that too often a work is treated simply as a physical piece of property, rather than as an intellectual work, like a novel. But artworks are intellectual expression, not just physical property. It is time that visual artists receive the fundamental copyright protection for the integrity of their work already provided to authors.

Indeed, it is paramount to the very integrity of our culture that we preserve the integrity of our artworks as expressions of the creativity of the artist. This bill recognizes that title to the soul of an artwork does not pass with the sale of the artwork itself.

The Visual Artists' Rights Act would give artists the right to claim authorship of their works, to disclaim authorship of a distorted or mutilated work, and to bring a civil copyright claim for willful destruction or mutilation of their works. This bill precisely defines the types of artworks that will be covered, extending legal protections to include limited editions of 200 copies or fewer of paintings, drawing, prints, sculptures, and still photographs. Furthermore, this bill explicitly excludes from coverage any motion picture, video, or other audiovisual work, poster, periodical, book, electronic publication, advertising item, or any work made for hire.

The bill differs from the one that I introduced in the 100th Congress in that it calls for a feasibility study of resale royalties for certain works of art but does not include a resale royalty provision. This represents a compromise to meet previous objections and permits this artists rights legislation to proceed without controversy.

In 1987—at the time I first offered the Visual Artists' Rights Act, an example of irretrievable and irreparable damage had recently occurred—damage which passage of the bill we are discussing today will protect against.

This is the case: Two mail-order entrepreneurs bought a Picasso print entitled "Three Women." They cut this Picasso into 500 pieces, each 1-inch square, to be sold at $135 apiece complete with a certificate of authenticity and a 30-day money back guarantee. They placed newspaper ads which read: "Yes, your very own beautiful framed Picasso piece, in the most original and exciting offer * * * and you can own a piece of the work yourself."

One of these entrepreneurs was quoted as saying "If this thing takes off, we may buy other masters as well and give them the chop."

We don't want profiteers roaming the world giving artistic masterpieces the chop—breaking them into 1-inch-square pieces that will be sold around the globe.

Unquestionably, none of us would like to see our name attached to intellectual works presented to the public in an altered or mutilated form. This is the moral standard that H.R. 2690 unholds.

The legislation addresses this gap in copyright law by recognizing that, as original expressions of the artists' creativity, works of visual fine art embody intellectual property which can and should be protected by copyright law.

A work of art is not a utilitarian object like a toaster. It is an intellectual work like a song, a novel, or a poem. We must not permit the connection between the artist and his or her work to be severed the first time the work is sold.

Mr. Speaker, I hope that this legislation is accepted by the full House. It represents many years' work. My admiration for the chairman of the subcommittee and for the ranking minori-

ty member is great. The senior Senator from Massachusetts played a large role in beginning this effort on the Senate side. Our staffers, Jeff Price and Jennifer Lamson, also worked on it over the years, and I hope this will be a culminating movement in which this legislation moves one step closer to signature by the President.

Mr. MOORHEAD. Mr. Speaker, I yield 3 minutes to gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, the gentleman from California [Mr. MOORHEAD] has quite properly underscored the limited scope of this bill and the great care that its drafters took in ensuring that the legislation will not directly or indirectly, intentionally or inadvertently, affect the ability of our highly successful copyright industries to continue to produce and distribute American-made creative works throughout the world.

As a general proposition, so-called moral or artists rights, with their noneconoimc, subjective underpinnings do not fit neatly within our copyright act. As the committee report emphasizes, this is especially so in collaborative settings, such as those involving motion pictures and other audiovisual works, newspapers, and magazines. In these and other collaborative environments, not only do multiple copies of a particular work exist, but it would create havoc if some or all of the various contributors to a project were free, for example, to veto changes deemed necessary by the risk taker/copyright owner to make a work available to the public.

I can support this bill, however because it, as Mr. MOORHEAD has stressed, covers a very narrow category or works and does not impact on the important activities of the various copyright industries in this country, several of which contribute a surplus to the U.S. trade balance. As my colleagues are well aware this factor is one of great importance in this era of staggering U.S. trade deficits.

In conclusion, Mr. Speaker, let me repeat an important point that I made when this bill was before the House Judiciary Committee: This legislation should not be viewed as a precedent for the extension of so-called moral rights into other areas. This legislation addresses a very special situation in a very careful and deliberate way. I would like to commend my colleagues, the gentleman from Wisconsin [Mr. KASTENMEIER], the gentleman from Massachusetts [Mr. MARKEY], and the gentleman from California [Mr. MOORHEAD] for their work on this legislation. I urge the passage of H.R. 2690.

Mr. KASTENMEIER. Mr. Speaker, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I am intrigued by the legislation which has been brought to the floor and which has garnered considerable support.

It occurs to me, Mr. Speaker, that, if this legislation had been law, we would have had less of a controversry surrounding the National Endowment of the Arts than we have today. Some of the work which has been distributed to Members of Congress, works by two specific artists that I have in mind, has in the opinion of some of us been misrepresented, taken out of context, and distributed to us only in parts of its offering. Those parts which are most contentious were taken out of context and were shown to the Members of Congress, and I suggest, if this were in law, we would have been able to bypass much of the current controversy and moved away from the misrepresentation of artists' work which has flooded this country during the past 6 months.

Mr. BROOKS. Mr. Speaker, I rise in support of the bill, H.R. 2690, the Visual Artists' Rights Act of 1990.

The Visual Artists' Rights Act recognizes the influence in our culture of the work of visual artists and the need to protect that work. This bill, therefore, protects both the interest of artists and of the public in artistic creations. It provides artists the right to claim authorship of a work of art and to prevent the false attribution of their name to a work. It also provides a right to prevent the destruction, distortion, mutilation, or modification of a work of art, and, in certain cases, a right to prevent destruction of a work that is incorporated in a building.

This act provides protections for both original works of art and limited editions of 200 copies or less, includuing paintings, drawings, prints, sculptures, and photographs produced for exhibition purposes only. It does not include motion pictures, books, magazines, other publications, advertising, and works made for hire.

Mr. Speaker, this bill recognizes that the works of art covered by its provisions are intellectual expressions, not just pieces of merchandise to be sold in the marketplace. Therefore, the bill provides rights which belong to the artist even after the work of art is sold and the copyright belongs to another individual. In addition, visual artists' rights exist for the same term as the copyright and they can be waived, but they cannot be sold.

The Visual Artists' Rights Act bill will help to assure that the art we enjoy today will survive for the enjoyment of future generations. It is a carefully and narrowly drafted bill. I support it, and I urge the Members to vote for its passage.

Mr. KASTENMEIER. Mr. Speaker, let me clarify that the Visual Artists Rights Act does not protect reproductions of original works of art. H.R. 2690 excludes various kinds of works from its scope, such as works-made-for-hire and reproductions, even when modification of those works harms the honor or reputation of the artist. Modifications of reproductions are not within the scope of this legislation. In fact, section 106A(C)(3) specifically excludes reproductions from coverage.

□ 1350

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 2690, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2690, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MULTIPARTY, MULTIFORUM JURISDICTION ACT OF 1990

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3406) to amend title 28, United States Code, to provide for Federal jurisdiction of certain multiparty, multiforum civil actions, as amended.

The Clerk read as follows:

H.R. 3406

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiparty, Multiforum Jurisdiction Act of 1990".

SEC. 2. JURISDICTION OF DISTRICT COURTS.

(a) BASIS OF JURISDICTION.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1367. Multiparty, multiforum jurisdiction

"(a) The district courts shall have original jurisdiction of any civil action involving minimal diversity between adverse parties that arises from a single accident, where at least 25 natural persons have either died or incurred injury in the accident at a discrete location and, in the case of injury, the injury has resulted in damages which exceed $50,000 per person, exclusive of interest and costs, if—

"(1) a defendant resides in a State and a substantial part of the accident took place in another State or other location, regardless of whether that defendant is also a resident of the State where a substantial part of the accident took place;

"(2) any two defendants reside in different States, regardless of whether such defendants are also residents of the same State or States; or

"(3) substantial parts of the accident took place in different States.

"(b) For purposes of this section—

"(1) minimal diversity exists between adverse parties if any party is a citizen of a State and any adverse party is a citizen of another State, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(a) of this title;

"(2) a corporation is deemed to be a citizen of any State, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business, and is deemed to be a resident of any State in which it is incorporated or licensed to do business or is doing business;

"(3) the term 'injury' means—

"(A) physical harm to a natural person; and

"(B) physical damage to or destruction of tangible property, but only if physical harm described in subparagraph (A) exists;

"(4) the term 'accident' means a sudden accident, or a natural event culminating in an accident, that results in death or injury incurred at a discrete location by at least 25 natural persons; and

"(5) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories of the United States.

"(c) In any action in a district court which is or could have been brought, in whole or in part, under this section, any person with a claim arising from the accident described in subsection (a) shall be permitted to intervene as a party plaintiff in the action, even if that person could not have brought an action in a district court as an original matter.

"(d) A district court in which an action under this section is pending shall promptly notify the judicial panel on multidistrict litigation of the pendency of the action.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end the following new item:

"1367. Multiparty, multiforum jurisdiction.".

SEC. 3. VENUE.

Section 1391 of title 28, United States Code, is amended by adding at the end the following:

"(g) A civil action in which jurisdiction of the district court is based upon section 1367 of this title may be brought in any district in which any defendant resides or in which a substantial part of the accident giving rise to the action took place.".

SEC. 4. MULTIDISTRICT LITIGATION.

Section 1407 of title 28, United States Code, is amended by adding at the end the following:

"(i)(1) In actions transferred under this section when jurisdiction is or could have been based, in whole or in part, on section 1367 of this title, the transferee district court may, notwithstanding any other provision of this section, retain actions so transferred for the determination of liability and punitive damages. An action retained for the determination of liability shall be remanded to the district court from which the action was transferred, or to the State court from which the action was removed, for the determination of damages, other than punitive damages, unless the court finds, for the convenience of parties and witnesses and in the interest of justice, that the action should be retained for the determination of damages.

"(2) Any remand under paragraph (1) shall not be effective until 60 days after the transferee court has issued an order determining liability and has certified its intention to remand some or all of the transferred actions for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the transferee court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the transferee court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

"(3) An appeal with respect to a determination of punitive damages by the transferee court may be taken, during the 60-day period beginning on the date the order making the determination is issued, to the court of appeals with jurisdiction over the transferee court.

"(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

"(5) Nothing in this subsection shall restrict the authority of the transferee court to transfer or dismiss an action on the ground of inconvenient forum.".

SEC. 5. REMOVAL OF ACTIONS.

Section 1441 of title 28, United States Code, is amended—

(1) in subsection (e) by striking out "(e) The court to which such civil action is removed" and inserting in lieu thereof "(f) The court to which a civil action is removed under this section"; and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) Notwithstanding the provisions of subsection (b) of this section, a defendant in a civil action in a State court may remove the action to the district court of the United States for the district and division embracing the placing where the action is pending if—

"(A) the action could have been brought in a United States district court under section 1367 of this title, or

"(B) the defendant is a party to an action which is or could have been brought, in whole or in part, under section 1367 in a United States district court arising from the same accident as the action in State court, even if the action to be removed could not have been brought in a district court as an original matter.

The removal of an action under this subsection shall be made in accordance with section 1446 of this title, except that a notice of removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1367 in a United States district court arising from the same accident, or at a later time with leave of the district court.

"(2) Whenever an action is removed under this subsection and the district court to which it was removed or transferred under section 1407(i) has made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the State court from which it had been removed for the determination of damages, unless the court finds that, for the convenience of parties and witnesses and in the interest of justice, the action should be retained for the determination of damages.

"(3) Any remand under paragraph (2) shall not be effective until 60 days after the district court has issued an order determining liability and has certified its intention to remand the removed action for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the district court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the district court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

"(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

"(5) An action removed under this subsection shall be deemed to be an action under section 1367 and an action in which jurisdiction is based on section 1367 of this title for purposes of this section and sections 1367, 1407, 1658, 1697, and 1785 of this title.

"(6) Nothing in this subsection shall restrict the authority of the district court to transfer or dismiss an action on the ground of inconvenient forum;".

SEC. 6. CHOICE OF LAW.

"(a) DETERMINATION BY THE COURT.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1658. Choice of law in multiparty, multiforum actions

"(a) In an action which is or could have been brought, in whole or in part, under section 1367 of this title, the district court in which the action is brought or to which it is removed shall determine the source of the applicable substantive law, except that if an action is transferred to another district court, the transferee court shall determine the source of the applicable substantive law. In making this determination, a district court shall not be bound by the choice of law rules of any State, and the factors that the court may consider in choosing the applicable law include—

"(1) the law that might have governed if the jurisdiction created by section 1367 of this title did not exist;

"(2) the forums in which the claims were or might have been brought;

"(3) the location of the accident on which the action is based and the location of related transactions among the parties;

"(4) the place where the parties reside or do business;

"(5) the desirability of applying uniform law to some or all aspects of the action;

"(6) whether a change in applicable law in connection with removal or transfer of the action would cause unfairness;

"(7) the danger of creating unnecessary incentives for forum shopping;

"(8) the interest of any jurisdiction in having its law apply;

"(9) any reasonable expectation of a party or parties that the law of a particular jurisdiction would apply or would not apply; and

"(10) any agreement or stipulation of the parties concerning the applicable law.

"(b) The district court making the determination under subsection (a) shall enter an order designating the single jurisdiction whose substantive law is to be applied in all other actions under section 1367 arising from the same accident as that giving rise to the action in which the determination is made. The substantive law of the designated jurisdiction shall be applied to the parties and claims in all such actions before the court, and to all other elements of each

action, except where Federal law applies or the order specifically provides for the application of the law of another jurisdiction with respect to a party, claim, or other element of an action.

"(c) In an action remanded to another district court or a State court under section 1407(i)(1) or 1441(e)(2) of this title, the district court's choice of law under subsection (b) shall continue to apply."

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

"1658. Choice of law in multiparty, multiforum actions.".

SEC. 7. SERVICE OF PROCESS.

(a) OTHER THAN SUBPOENAS.—(1) Chapter 113 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1697. Service in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1367 of this title, process, other than subpoenas, may be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(2) The table of sections at the beginning of chapter 113 of title 28, United States Code, is amended by adding at the end the following new item:

"1697. Service in multiparty, multiforum actions.".

(b) SERVICE OF SUBPOENAS.—(1) Chapter 117 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1785. Subpoenas in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1367 of this title, a subpoena for attendance at a hearing or trial may, if authorized by the court upon motion for good cause shown, and upon such terms and conditions as the court may impose, be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(2) The table of sections at the beginning of chapter 117 of title 28, United States Code, is amended by adding at the end the following new item:

"1785. Subpoenas in multiparty, multiforum actions.".

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall apply to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would rectify a critical shortcoming in the ability of our judicial system to consolidate scattered litigation. Whenever a plane crashes, a bridge collapses, or a hotel burns, a myriad of lawsuits are filed in State and Federal courts. Although these suits present identical issues of liability, under current law, there is often no way in which such suits can be consolidated for resolution by a single court. As a consequence, multiple courts must resolve the identical issues multiple times, thereby wasting judicial resources and increasing the risk of inconsistent results.

This bill would facilitate the consolidation of related State and Federal cases arising out of a single accident in which many people are killed or injured. It would do so, first, by relaxing the jurisdictional requirement of complete diversity of citizenship between the parties, to permit the aggregation of these related lawsuits in the Federal courts. Second, for suits that have thus reached the Federal courts, the bill would amend venue requirements and multidistrict litigation procedures to permit consolidation of these related suits in a single Federal forum. The court to which cases are transferred is then ordinarily to select a single source of law applicable to all suits related to the same accident, but retains the discretion to order that a separate source of law be applied to a particular party or claim. The law so designated is then applied by the court to resolve liability and punitive damages issues. Finally, the bill provides that the court to which the cases have been transferred, would ordinarily return them to the courts where they were originally filed, for compensatory damages determinations.

Last Congress, I introduced legislation nearly identical to H.R. 3406 as a part of the Court Reform and Access to Justice Act of 1988, which passed the House on the suspension calendar. I reintroduced the bill last October, and the House Judiciary Committee's Subcommittee on Courts, which I chair, held a hearing on the bill in November. At that hearing, the bill received the support of the Department of Justice and the Judicial Conference. It has since received the support of Public Citizen and members of the American Law Institute's Committee on Complex Litigation, and is among the legislative proposals that the Federal Courts Study Committee has recommended to Congress.

The only opposition on the bill came from segments of industry and the practicing bar. Their primary concern was that while the bill as originally drafted may have been directed toward airline crashes and similar events, it could conceivably have been misapplied to ordinary products liability and toxic exposure cases. It was never our intention to reach routine products liability or toxic exposure cases, and the bill was amended at subcommittee markup to make that absolutely clear. In light of these clarifying amendments, the concerns raised by those objecting to the bill have been satisfied, and to my knowledge, no significant opposition to the bill remains.

On February 28, the bill was reported favorably out of the Subcommittee, and exactly 1 month later was favorably reported out of the full Committee on the Judiciary. Consistent with the instructions of the full committee, a limited number of minor clarifying and technical changes were made to tighten the language of the bill to ensure that it would effectuate our intent to permit consolidation of mass accident cases in the Federal courts.

A summary of technical and clarifying amendments that have been made to the bill are as follows:

1. The bill's jurisdiction section has been clarified to apply to mass accident cases filed in our courts, regardless of whether the accident, for example an airplane crash, happens to occur in the United States or some other location, which was our intention all along.

2. In general, the bill was intended to permit consolidation of related accident cases in the Federal courts, regardless of whether those cases are filed pursuant to the special jurisdiction created by the bill, or could have been so filed, but were instead filed pursuant to conventional diversity jurisdiction. The bill is clarified to so state.

3. The bill was not intended to affect existing procedures relating to change of venue or forum non conveniens, and has been clarified to say so explicitly.

4. The bill's section on removal of actions from State to Federal court is amended to state expressly what previously was implied, that a defendant who is being sued by different plaintiffs in State and Federal court can remove the State action to Federal court, even if the State action could not have been filed in Federal court originally. The removal section is further revised to clarify that it is the district court to which a case was transferred that makes liability determinations and returns the case to the courts where it was filed for damages determinations, which may or may not be the district court to which the action was removed.

5. The bill included provisions for appeal from liability determinations of the court to which related cases have been transferred, but inadvertently omitted similar provisions for appeal from punitive damages determinations, which have been added.

6. Finally, the bill makes a number of essentially technical changes:

a. A State is defined to include the District of Columbia and Puerto Rico;

b. The term "action" is substituted for "actions", to make the bill consistent throughout.

c. A duplicative choice of law factor is deleted.

This is an important piece of legislation that will simultaneously enhance the efficient handling of complex disaster litigation and increase the fairness of the decisionmaking process. I would like to thank the members of the subcommittee for their support and cooperation in developing this legislation, especially the ranking minority member, the gentleman from California [Mr. MOORHEAD]. I urge an aye vote on H.R. 3406.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the gentleman from Wisconsin for his leadership on this important legislation. I also would like to commend our ranking member on the full committee, HAM FISH, for all of his work and assistance in the subcommittee. H.R. 3406 will expand Federal jurisdiction in a very narrow and carefully defined category of cases concerning mass tort litigation.

This legislation has been carefully drafted by the committee to exclude toxic substances cases as well as product liability cases. We were told by the U.S. Judicial Conference and the Department of Justice that it would not significantly increase the workload of the Federal courts. H.R. 3406 has the support of the American Law Institute, the Judicial Conference and the Department of Justice. I am not surprised that some lawyers are not too enthusiastic about this legislation because it would somewhat limit their ability to forum shop their case. However, the bill is intended to cut back on duplicative adjudication, wasted judicial resources and inconsistent case results. Again, we have added a number of amendments to the substitute so as to ensure that it will not be construed to apply to product liability or toxic tort cases. I urge a favorable vote on H.R. 3406.

Mr. FISH. Mr. Speaker, I too, would like to commend the chairman of the subcommittee, BOB KASTENMEIER and the ranking minority member, CARLOS MOORHEAD for brining this legislation to the floor. The subcommittee and committee were appropriately cautious and careful, so as to make it clear that H.R. 3406 does not extend to ordinary product liability cases.

I want to especially commend Chairman KASTENMEIER and the subcommittee staff for developing the revised language that resolved any potential ambiguities with respect to the incidents to which H.R. 3406 applies. In subcommittee, I supported the substitute language clarifying the meaning of the term "accident." So, the special Federal court jurisdiction created by H.R. 3406 would only apply to those unusual events in which 25 or more persons are killed or injured together in a single, catastrophic accident—such as a plane crash or a hotel fire.

Further, the term "single accident" does not include any occurrence such as a decision related to the design, manufacture, labeling or packaging of a product. Nor does it include any occurrence related to testing or reporting in connection with obtaining Federal regulatory agency review or approval of a product.

In addition, I note the language in section 3 of the bill, referring to a "substantial part" of an accident. That is only intended to address the highly unusual circumstance, where an accident otherwise covered by the legislation, would occur in more than one judicial district—such as a mid-air plane crash that occurs above the border of two States. That language is not intended to otherwise expand the meaning of the term "accident."

I urge the Members to support H.R. 3406.

Mr. BROOKS. Mr. Speaker, I rise in support of the bill, H.R. 3406, the Multiparty, Multiforum Jurisdiction Act of 1990. This bill provides special Federal court jurisdiction over consolidated cases involving a multitude of suits arising out of a single accident. Such consolidation will not only improve the efficiency of the judicial process involving these suits, but it will also increase the likelihood of a fair outcome for all parties involved.

The bill as reported by the Judiciary Committee provides original jurisdiction to Federal district courts of any civil action involving single accidents, in a discrete location, in which 25 or more persons have been physically injured and in which those plaintiffs allege damages of over $50,000 each. Minimal diversity would be required and venue would be in any Federal district in which any defendant resides or in the district where the event occurred. The Federal court in which a case is consolidated will have authority both to determine liability and to decide punitive damage issues. Compensatory damages would then ordinarily be determined by the State courts or Federal courts where they were originally filed.

Mr. Speaker, this bill is very narrowly drawn in order to address the problem of multiple, time-consuming, and expensive liability proceedings which, under current law, may take place before many different State and Federal courts.

The goal of this legislation is commendable and I urge the Members to vote in favor of passage.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 3406, as amended.

The question was taken; and (two-thirds have voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise, and extend their remarks and include therein extraneous material on H.R. 3406, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

STUDENT RIGHT-TO-KNOW AND CAMPUS SECURITY ACT

Mr. WILLIAMS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1454) to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student athletes at such institutions, as amended.

The Clerk read as follows:

H.R. 1454

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Right-to-Know and Campus Security Act".

TITLE I—STUDENT ATHLETE RIGHT-TO-KNOW

SEC. 101. SHORT TITLE.

This title may be cited as the "Student Athlete Right-to-Know Act".

SEC. 102. FINDINGS.

The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of student-athletes at institutions of higher education;

(3) while the National Collegiate Athletic Association has instituted a new academic eligibility standard for incoming freshmen, such standard does not impact on eligible athletes in college where such athletes can remain eligible if such athletes have less than a 2.0 grade point average in the first 2 years of study;

(4) more than 10,000 athletic scholarships are provided annually by institutions of higher education;

(5) prospective students should be aware of the educational commitments of an institution to its athletes; and

(6) knowledge of the graduation rates of student-athletes would assist prospective students and their families in making an informed judgment about the educational benefits available at a given institution of higher education.

SEC. 103. REPORTING REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION.

(a) AMENDMENT.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended by adding at the end thereof the following new subsection:

"(e) DISCLOSURE REQUIRED WITH RESPECT TO ATHLETICALLY RELATED STUDENT AID.—

"(1) REPORTS TO THE SECRETARY.—Each institution of higher education which participates in any program under this title and is attended by students receiving athletically related student aid shall annually submit a report to the Secretary which contains—

"(A) the number of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, ice hockey, and all other sports combined;

"(B) the number of students at the institution of higher education, broken down by race and sex;

"(C) the graduation rate for students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball and football;

"(D) the graduation rate for students at the institution of higher education, broken down by race and sex;

"(E) the average graduation rate for the 4 most recent graduating classes of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following categories: baseball, cross country/track, ice hockey, and all other sports combined; and

"(F) the average graduation rate for the 4 most recent graduating classes of students at the institution of higher education broken down by race and sex.

"(2) STUDENT NOTIFICATION.—When an institution described in paragraph (1) of this subsection offers a potential student athlete athletically related student aid, such institution shall provide to the student and his parents, his guidance counselor, and coach the information contained in the report submitted by such institution pursuant to paragraph (1).

"(3) SPECIAL CIRCUMSTANCES.—If an institution of higher education described in paragraph (1) finds that the information collected pursuant to such paragraph, because of extenuating circumstances, does not provide an accurate representation of the school's graduation rate, the school may provide additional information to the student and the Secretary.

"(4) COMPARABLE INFORMATION.—Each institution of higher education described in paragraph (1) may provide supplemental information to students and the Secretary showing the graduation rate when such graduation rate does not include students transferring into and out of such institution. The Secretary shall ensure that the data presented to the student and the data submitted to the Secretary are comparable.

"(5) REPORT BY SECRETARY.—(A) The Secretary shall, using the reports submitted under this subsection, compile and publish a report containing the information required under paragraph (1) broken down by—

"(i) individual institutions of higher education, and

"(ii) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

"(B) The Secretary shall make available copies of the report required by subparagraph (A) to any individual or secondary school requesting a copy of such report.

"(6) WAIVER.—The Secretary shall waive the requirements of this subsection for any institution of higher education which is a member of an athletic association or athletic conference that voluntarily published graduation rate data (or has agreed to publish the data) that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection.

"(7) DEFINITIONS.—For the purpose of this subsection—

"(A) The term 'athletically related student aid' means any scholarship, grant, or other form of financial assistance whose terms require the recipient to participate in an institution of higher education's program of intercollegiate athletics in order to be eligible to receive such assistance.

"(B) The term 'graduation rate' means the percentage of students with no previous collegiate participation who enter an institution of higher education as full time, degree seeking students in a specific year and graduate with a bachelor's degree, or the equivalent, within 5 years.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect July 1, 1991.

SEC. 104. DISCLOSURE OF ATHLETIC ACTIVITY REVENUES AND EXPENDITURES.

(a) FINDINGS.—Congress finds that—

(1) the fiscal and operational integrity of intercollegiate athletic programs and the relationship of such programs to the educational purpose of higher education are of increasing concern to the public, students, and to Congress;

(2) there is a lack of adequate information regarding the operation and control of intercollegiate athletic programs, including the revenues and expenditures associated with such programs; and

(3) such information would be helpful in insuring that intercollegiate athletic programs are adequately controlled by and accountable to the institutions which sponsor them.

(b) DISCLOSURES.—

(1) DISCLOSURE TO STUDENTS.—Section 485(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (J);

(B) by striking the period at the end of subparagraph (K) and inserting a semicolon; and

(C) by adding at the end thereof the following new subparagraph:

"(L) in a form prescribed by the Secretary, with respect to any institution that offers athletically related student aid—

"(i) the total revenues, and the revenues by sport, derived by the institution's athletic departments and intercollegiate athletic activities;

"(ii) the total expenditures, and the direct expenditures by sport, derived from such departments and intercollegiate athletic activities; and

"(iii) the total revenues and expenditures of the institution for the same period; and".

(2) COLLECTION AND PUBLICATION OF INFORMATION.—Section 485(a) of such Act is amended—

(A) by redesignating paragraph (2) as paragraph (4); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) The Secretary shall—

"(A) annually collect and compile the forms required to be disclosed under paragraph (1) (L);

"(B) make such compiled forms readily available for public inspection and copying; and

"(C) publicly announce, annually, the availability of such compiled forms.".

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on July 1, 1991, except that the first report required under such amendments shall be due on July 1, 1992.

SEC. 105. ADDITIONAL GENERAL DISCLOSURE REQUIREMENTS RELATING TO GRADUATION.

(a) DISCLOSURE OF COMPLETION RATES.—Section 485(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092(a)(1)) is amended by inserting immediately after subparagraph (L) (as added by section 104 of this Act) the following new subparagraph:

"(M) the completion or graduation rate of certificate- or degree-seeking, full-time students entering such institution.".

(b) CONSTRUCTION OF DISCLOSURE REQUIREMENTS.—Section 485(a) of such Act is further amended by inserting after paragraph (2) (as added by section 1094 of this Act) the following new paragraph:

"(3) In calculating the completion rate under subparagraph (M) of this section, a student shall be counted as a completion if, within 150 percent of the normal time for completion of the program, the student has completed the program, or enrolled in any program of an eligible institution for which the prior program provides substantial preparation. The information required to be disclosed under such subparagraph—

"(A) shall be available beginning on July 1, 1992, and each year thereafter to current and prospective students prior to enrolling or entering into any financial obligation;

"(B) shall cover the one-year period ending on June 30 of the preceding year;

"(C) shall be updated not less than biennially.".

(c) ESTABLISHMENT OF STANDARD DEFINITIONS.—In coordination with representatives of institutions of higher education, the Secretary shall, no later than 6 months after the enactment of this section, establish standard definitions and methodologies for measuring the following institutional outcomes—

(1) the graduation or completion rate of graduates at an institution broken down by program or field of study;

(2) the graduation rate of an institution reported by individual schools or academic divisions within the institution;

(3) the rate at which graduates of the institution pass applicable licensure or certification examinations required by the State for employment in a particular vocation, trade, or professional field; and

(4) the rate at which graduates of occupationally specific programs at the institution who enter the labor market following graduation or completion from such a program obtain employment in the occupation for which they are trained.

(d) REPORT.—The Secretary of Education shall, by October 1, 1991, submit a report to the appropriate committees of the Congress on the implementation of this section and the amendments made by this section.

TITLE II—CRIME AWARENESS AND CAMPUS SECURITY

SEC. 201. SHORT TITLE.

This title may be cited as the "Crime Awareness and Campus Security Act of 1990".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the reported incidence of crime on some college campuses has steadily risen in recent years, particularly violent crimes;

(2) while annual "National Campus Violence Surveys" indicate that roughly 80 percent of campus crimes are committed by a student upon another student and that approximately 95 percent of the campus crimes which are violent are alcohol or drug related, there are currently no comprehensive data on campus crimes;

(3) out of 8,000 postsecondary institutions participating in Federal student aid programs, only 352 colleges and universities voluntarily provide crime statistics directly through the Federal Bureau of Investigation's Uniform Crime Report and other institutions report data indirectly, through local police agencies or States, in a manner that does not permit campus statistics to be separated out;

(4) several State legislatures have adopted or are considering legislation to require reporting of campus crime statistics and dissemination of security practices and procedures, but the bills are not uniform in their requirements and standards;

(5) students and employees of institutions of higher education should be aware of the occurrence of crime on campus and policies and procedures to prevent crime or to report occurrences of crime;

(6) applicants for enrollment at a college or university, and their parents, should have access to information about that institution's crime statistics and its security policies and procedures;

(7) while many institutions have established crime preventive measures to increase the safety of campuses, there is a clear need—

(A) to encourage the development on all campuses of security policies and procedures; and

(B) for uniformity and consistency in the reporting of crimes on campus.

SEC. 203. AMENDMENTS.

(a) REQUIREMENTS.—Section 487(a) of the Higher Education Act of 1965 is amended by adding at the end thereof the following new pararaph:

"(11) The institution certifies that—

"(A) the institution has established a campus security policy; and

"(B) the institution has complied with the disclosure requirements of section 485(f).".

(b) DISCLOSURE REQUIREMENTS.—Section 485 of the Higher Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(f) DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS.—(1) Each eligible institution participating in any program under this title shall prepare, publish, and distribute, through appropriate publications and mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, beginning on July 1 of 1992 and each year thereafter, an annually revised and updated report containing the following information with respect to its campus security policies and campus crime statistics:

"(A) a statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports;

"(B) a statement of current policies concerning security and access to campus facilities, and security considerations used in the maintenance of campus facilities;

"(C) a statement of current policies concerning security in campus residences and access to campus residences by students and guests, including a description of the type and frequency of programs designed to inform students and student housing residents about housing security and enforcement procedures;

"(D) a statement of current policies concerning campus law enforcement, including—

"(i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

"(ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies; and

"(E) statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary;

"(vi) larceny;

"(vii) motor vehicle theft; and

"(viii) arson;

"(F) statistics concerning the number of arrests for the following crimes occurring on campus:

"(i) liquor law violations;

"(ii) drug abuse violations;

"(iii) vandalism

"(iv) weapons possessions; and

"(v) disorderly conduct;

"(G) a statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a description of any alcohol abuse education programs provided by the institution;

"(H) a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug abuse education programs provided by the institution; and

"(I) a statement of policy concerning the monitoring through local police agenices and recording of criminal activity at off-campus fraternities and other student organizations which are recognized by the institution.

"(2) Each institution participating in any program under this title shall make timely reports to the campus community on crimes described in paragraph (1)(E) that are reported to campus security or local law police agencies. Such reports shall be distributed through appropriate publications and media to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences.

"(3) Each such institution shall annually submit to the Secretary a copy of the statistics required to be made available under paragraphs (1)(E) and (1)(F). The Secretary shall—

"(A) regularly review such statistics and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on campus crime statistics by September 1, 1995; and

"(B) in coordination with representatives of institutions of higher education, periodically survey campus security policies, procedures, and practices implemented by institutions of higher education and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

"(4) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

"(5) For purposes of this subsection, the term 'campus' includes—

"(A) any building or property owned or controlled by the institution of higher education within the same reasonably contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or

"(B) any building or property owned or controlled by student organizations recognized by the institution.

"(6) The statistics required by subparagraphs (E) and (F) of paragraph (1) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Justice Department, Federal Bureau of Investigation. Such statistics shall reflect modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act.".

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on July 1, 1991, except that the requirement of section 485(f)(1) (E) and (F) of the Higher Education Act of 1965 (as amended by this Act) shall be applied to require statistics with respect to school years preceding the date of enactment of this Act only to the extent that data concerning such years is reasonably available.

SEC. 204. DISCLOSURE OF DISCIPLINARY PROCEEDING OUTCOMES TO CRIME VICTIMS.

Section 438(b) of the General Education Provisions Act (20 U.S.C. 1232g(b)) is amended by adding at the end thereof the following new paragraph:

"(6) Nothing in this setion shall be construed to prohibit an institution of postsecondary education from disclosing, to an alleged victim of any crime of violence (as that term is defined in section 16 of title 18, United States Code), the result of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime with respect to such crime.".

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Montana [Mr. WILLIAMS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

In an era marked by increasing college costs and greater scrutiny of our Nation's system of higher education, it is probably not surprising to find that parents and students are asking ever more questions before making the decision to attend a particular college or university. Recent reports of scandals in intercollegiate athletic programs have led parents and student athletes to take a close look at the institution

and its athletic programs before making a commitment to enroll or before signing up to play.

□ 1400

Articles about increases in crime and racial violence on college campuses have, of course, raised concerns about the safety of students on college campuses. For parents and students, the decision on which college or university to attend has become far more complicated than simply selecting an institution based on academic standards.

This legislation, which began as a bill introduced by the gentleman from New York [Mr. TOWNS], is now called the Student Right to Know and Campus Security Act. It contains a series of provisions that will provide both parents and students with additional necessary now requested information on college campuses.

This legislation requires institutions of higher education to disclose to students, parents, and the Secretary of Education, specific information about selected institutional policies and performance outcomes at each institution.

Each of the reporting areas were included as part of an effort to provide parents and students with a better sense of what is happening on individual school and college campuses.

Let me deal with it briefly. I know some other Members, particularly those who had major amendments to the bill as it started, will want to make their own statements, so I will be brief.

As amended, this legislation requires institutions to provide information on the following matters: institutional graduation rates; student athlete graduation rates; intercollegiate athletic activity revenues; campus security policies; campus crime statistics; and information about the results of campus disciplinary hearings.

Let me note that our committee recognizes the complexities in calculating graduation or completion rate data, especially at large institutions. This legislation, therefore, requires the reporting of an institutional graduation rate that includes only full-time, degree-seeking students. For the purpose of this section, a student shall be considered to have graduated or completed a program if, within 150 percent of the normal time for completion of the program, the student has completed the program or has enrolled in any program of another eligible institution for which the prior program of study provides substantial preparation.

This legislation requires the Secretary of Education to work with the higher education community to develop additional definitions for measuring institutional outcomes in the following matters: graduation or completion rates, broken down by individual school or academic division within the institution; the rate at which graduates of the institution pass applicable licensure or certification examinations required by the State for employment in a particular vocation, trade, or professional field; the rate at which graduates of occupationally specific programs at the institution who enter the labor market following graduation or completion from such a program obtain employment in the occupation for which they are educated.

All of these measures are designed to provide students and parents with better information in selecting a postsecondary institution.

This legislation was favorably reported by both the Subcommittee on Postsecondary Education and the full Committee on Education and Labor. I join other Members in supporting H.R. 1454.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill we have before us today, H.R. 1454, the Student Right to Know and Campus Security Act, is a consumer rights bill for students. It requires schools to provide students with information which will assist them in making decisions concerning college attendence—and it provides students with the information they need to protect themselves against becoming crime victims.

I am particularly pleased with title II of this legislation, the Crime Awareness and Campus Security Act. I originally introduced this section of H.R. 1454 as a separate bill, H.R. 3344.

Mr. Speaker, over a year and a half ago, I was contacted by Howard and Connie Clery, whose daughter was brutally murdered at a university. Before my conversation with them, I did not generally associate the words "crime" and "campus." I viewed college and university campuses as quiet, idyllic places far removed from many of the horrors facing the rest of society. But this is a false image.

The truth is that crime does not know boundaries. The truth is that students are raped, assaulted, and murdered on college campuses. While the enactment of this legislation cannot prevent crimes on campus any more than laws can prevent crimes in the rest of society, it can insure students are as aware of crimes on campus as you and I are of crimes in our neighborhood or in the city where we work. Knowledge of criminal activities allows individuals to take preventative steps so they, themselves, do not become a crime statistic.

The legislation we are considering today charges campuses with the responsibility of assisting students in making decisions which have an impact on their personal safety. It requires the higher education community to provide students with information on crimes on campus in two forms. It calls for an annual report to students and faculty of all crimes committed on the campus that year and the 2 preceding years. The bill also requires campuses to provide students with timely interim reports. In Pennsylvania, where colleges and universities are already required to make yearly reports under a similar State law, this information is often provided to students and faculty through the campus newspaper.

Bryce Jordan, the president of Penn State University, has summed up his experience with Pennsylvania's law by stating, "Although the requirements have resulted in additional expense, the process has been workable and reasonable. The major goal of legislation—to inform the university community—has been achieved. It is one step that will help students and staff make informed choices about their own security."

Many colleges and universities are already providing students with this important information. This legislation will merely assure that all students are provided an equal opportunity to prevent themselves from becoming the victims of campus crimes. The administration would appear to believe it should be left up to the States to enact legislation requiring the release of campus crime statistics—and a number of States have already enacted such legislation. However, the advantage of H.R. 1454 is the statistics will be reported in a uniform manner, permitting the students to compare with confidence the statistics they receive from colleges and universities throughout the United States.

Mr. Speaker, I want to thank Howard and Connie Clery for bringing this issue to my attention, the higher education community for their valuable assistance in making perfecting changes to my original bill, and Towson State University's Center for the Study of Campus Violence for providing me with background information concerning the scope of the problem of crime on college campuses.

Mr. Speaker, I want to thank the gentleman from Montana [Mr. WILLIAMS], our chairman, and the ranking member, the gentleman from Missouri [Mr. COLEMAN], for their assistance in bringing this legislation before the House for consideration. This is a good bill, and one I urge all Members to support.

Mr. WILLIAMS. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I rise today to lend my full support to the Student Right To Know and Security Act and to commend my good friend and colleague, the gentleman from Montana [Mr.

WILLIAMS], as well as the ranking minority member, the gentleman from Pennsylvania [Mr. GOODLING], for their excellent work and diligent efforts in putting this package together. These Members have long been friends of students and have consistently demonstrated their commitment to addressing their concerns and providing leadership on their behalf. Particularly I want to thank and compliment the gentleman from Montana [Mr. WILLIAMS] for his consistent leadership on this issue.

Mr. Speaker, this legislation is critically important. It will enhance student security while protecting student rights.

The title of the bill which I introduced as the Campus Victims Protection Act will provide student victims of violent crime, who comprise nearly 36 percent of all college students, with access to outcomes of campus trials.

Tragically, the educational system as it currently stands contributes to the harrowing experiences that campus victims face. This is done unintentionally, but it is done nevertheless.

Because of the provisions under the General Education Reform Act, victims who choose to bring their cases before college judicial trials are denied knowledge of the outcome of those trials. Victims who have suffered not only the abuses of the crime itself, but have also been excluded from the trial except to present testimony, are left with no sense of closure to the case.

These victims currently have no right to know what punishment, if any, the accused was dealt. The perpetrator of a violent crime may never be removed from the campus or the victim's dormitory, thus forcing the victim to confront his or her attacker on a daily basis. Without knowledge of the outcome of the judicial proceeding, victims can make no decisions concerning their own future. They do not know whether to transfer to a new school or a new residence in order to avoid their attackers or whether they will face the attacker in class each day.

□ 1410

Students then, Mr. Speaker, must be able to make an informed choice regarding the measures they need to take in order to regain their sense of security and to continue with their lives. This bill will allow colleges and universities to let victims know of the outcomes of the disciplinary hearings which they initiate.

I urge my colleagues to support this legislation to protect the victims of crime whose needs and trauma are too often neglected by our educational system. This bill will make an important step in the right direction to correct those current abuses.

Mr. GOODLING. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri [Mr. COLEMAN], the ranking member of the subcommittee.

Mr. COLEMAN of Missouri. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding time to me.

Mr. Speaker, I join Chairman WILLIAMS and my colleague and ranking member of the Education and Labor Committee, BILL GOODLING, in supporting H.R. 1454, the Student Right to Know and Campus Security Act.

This legislation requires institutions of higher education to provide information about areas of increasing concern to Congress and to the public. First, institutions must publish graduation rates of all students. For student-athletes, these graduation rates must be broken down by major sport, race, and sex. Additionally, institutions must make public information about expenditures on and revenues derived by sports in all areas of athletic activity, both men's and women's.

Further, institutions, as part of their contractual program participation agreements with the Secretary of Education, must make annual reports to students, employees, and faculty outlining their campus security policies in broad terms and provide campus crime statistics for the most recent 3 academic years. Prospective students and their families will be provided with this information, upon request, as they make their decisions about college attendance. Finally, this bill amends the General Education Provisions Act [GEPA] to permit an institution to disclose the result of any disciplinary proceedings conducted by the institution to a victim of any violent crime.

H.R. 1454 is, essentially, a consumer protection bill for students and families who are making critical and, often expensive, decisions about college attendance. For the past decade, college costs have continued to outpace inflation rates. Such cost increases have put additional strains on Federal student financial aid programs and on students and families which bear the major burden of meeting the rising costs of tuition and living expenses. In addition to questions about academic excellence and campus life, it is natural that students should know what the completion rates have been for other students in particular areas of study. The students and their families, who are making a financial investment equivalent to the purchase of a home, and the Federal Government, which provides approximately $20 billion annually in student financial aid, have a direct interest in the reporting of these completion rates. What is the return on their investment?

Nothing is so damaging to the image of higher education than the athletic scandals of so-called big time college athletes. Such scandals erode the academic integrity of colleges and universities. Increasingly, it appears that athletic departments operate as independent empires within some universities; at times, outside of the control of even the president of the university.

Publishing graduation rates of athletes will provide the prospective student-athlete and the public with an indicator of the enrollment of athletes who have little or no prospect of completing the academic requirements for graduation. Making public additional information about the financial operations of college athletic departments for intercollegiate activities will provide college and university administrators, students and alumni, and the general public a better sense of the costs and benefits of such programs in both financial and human terms. I commend my Republican colleague, PAUL HENRY, for introducing these important disclosure requirements.

I strongly support the second title of the legislation, "Crime Awareness and Campus Security," sponsored by my colleague, BILL GOODLING. In 1986, the daughter of Howard and Constance Clery was sexually assaulted and murdered in her unlocked dormitory room. Since that time, the goal of her parents, and the goal of this legislation, is the prevention of the reoccurrence of such avoidable tragedies. This legislation insures that students and employees of institutions of higher education are aware of crimes committed on campus and familiar with security policies and procedures to increase their safety.

Frankly, when I first learned of the call for Federal legislation on campus crime, I had reservations about the appropriateness of the Federal Government's involvement in this matter. I was concerned about the possibility of the bill being intrusive into an area which was solely the domain of the individual institution. But, I agreed to cosponsor the original legislation because it was essentially a consumer right to know bill. Students, faculty and employees of colleges and universities have a right to know about campus crime. They must be familiar with campus security policies to make informed decisions about their own safety. Additionally, an important part of the legislation is the collection of information about campus violence.

I am particularly suppportive of the requirement that colleges and universities state their policy regarding the possession, use, and sale of alcoholic beverages and illegal drugs on campus, and the campus enforcement of State and Federal laws regarding these violations. I have long been concerned about drug use on campuses, and this concern has been dramatically increased by data indicating a high correlation between drug and alcohol use and the incidence of violent crimes on campuses.

I must add that both the testimony of victims of campus crime and the family's of victims at hearings before the Postsecondary Subcommittee in Washington and a district hearing on the problem of campus crime in Missouri confirmed my decision to support this legislation.

What struck me particularly was the courage and strength of the student witnesses. Victims of rape or attempted murder, they came to help prevent other students becoming victims of similar crimes due to a lack of awareness.

What was clearly communicated to me during the hearing was a pattern of student unawareness, a pattern of vulnerability, and a pattern of mishandling of the crisis by some university officials, which often resulted in litigation.

The responsibility for maintaining the safest possible campus rests with the individual college or university. This legislation is not an intrusion upon the protected world of academic life. It does not dictate any particular policy or set of activities. Congress cannot legislate the safety of college students, nor can it legislate sanctuaries, free of the violence of the larger society.

We can, however, encourage those colleges and universities that benefit from Federal student aid programs to establish effective security policies and to provide timely information about campus crime. Then students and others of the campus community can make informed decisions about their own safety. I believe this is exactly what this legislation accomplishes.

Mr. WILLIAMS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from California [Mr. LEVINE], who last spoke on this side is to be commended for the diligence with which he pursued the campus violence reporting section of this bill.

Another gentleman who has done really wonderful work and was the original cosponsor of the legislation before us is the gentleman from Maryland [Mr. MCMILLEN] and TOM, I want you to know how much we appreciate your leadership in this effort.

Mr. Speaker, I yield 5 minutes to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Speaker, as a coauthor of this bill, I would like to say a few words about the section related to the reporting of graduation rates, which was drafted by the gentleman from New York, Mr. TOWNS, and myself.

I would first like to commend Mr. TOWNS for this leadership on this bill. This legislation grew out of his concern for the plight of student-athletes, particularly minority student-athletes, and his energy and drive has been instrumental in moving this bill.

This bill would enhance those requirements by filling in the gaps. It would extend to sports not covered by the NCAA regulations, and it would place similar requirements on other sports conferences.

Mr. Speaker, I hope the Student-Athlete Right To Know Act will begin to move us back towards the primary goal of educating young people, and to developing basic standards for student-athletes. I did not come here to indict collegiate athletics—I am a product of that system and it taught me many of the skills I utilize today: among them, teamwork, persistence, and hard work. But our young people must understand that athletics alone will not sustain a life.

I am concerned that young people are making decisions that will affect their entire lives, based on the dream of professional athletics. Unfortunately, most youths have a better chance of becoming a brain surgeon than a pro-basketball player.

Of the 12,000 young men who played in NCAA basketball programs in the 1986–87 school year, only 161 were drafted into the NBA, and many did not last more than a few years. The dream is, in fact, the impossible dream for most.

We have a responsibility to these young people and those who follow to help guide them to the right decisions as athletes and students. We need to instill them with the concept that if they want to "punt" on the field, they can't "punt" in the classroom.

We cannot blame our youth for their obsession with athletic success—adults often display the same distortion of priorities. In a recent Texas gubernatorial race, the incumbent's loss was due in part to his support for a pass-to-play standard for high school athletes. A Kentucky schoolteacher was fired from her job and driven from town for giving a failing grade to the star quarterback. Everywhere we see parents and educators cheering for the ball player, and only quitely smiling to the "A" student. These are all signals to our young people and the world that America is more concerned about students' brawn power, than it is their brain power.

These are some of the reasons why I welcomed, and agreed to cosponsor the Student-Athlete Right To Know Act. Quite simply, the bill would require schools receiving Federal assistance to report on the graduation rates of their athletic-scholarship recipients. It would also require a comparison of that graduation rate with the general student body.

In many ways, this is a relatively innocuous consumer-information bill, designed to provide the students, parents, coaches, and guidance counselors with valuable information about the school students are considering. It is similar to the air line industry, which must report scheduling efficiency and the percentages of lost bags. Mr. Speaker, surely the education of our future generations is more important than a lost piece of luggage or a delayed flight.

Unfortunately, the data available shows that many are not getting their promised education. At the request of the Subcommittee on Postsecondary Education, the General Accounting Office compiled some statistics on the graduation rates of division one schools in the NCAA—and I found some of the statistics alarming.

In looking at the division one basketball programs of 271 schools, nearly 40 percent of those schools could not graduate a quarter of the basketball team. And two-thirds of the colleges did not see half the team graduate. These are institutions that operate multimillion dollar programs, financed by lucrative TV contracts. But somewhere along the way, the goal of education was lost.

The leadership of the NCAA must play a critical role if the current system is going to be changed. I recognize the problems are not new, and that some excellent efforts have been made by the NCAA.

Earlier this year, the NCAA adopted its own graduation rate reporting requirements. While this action was taken at the prodding of Members of Congress, the NCAA should be commended for taking a solid first step on the way to reform.

I also wish to thank Mr. WILLIAMS of Montana as chairman of the Postsecondary Education Subcommittee for his stewardship and support of this bill. Without his advice and assistance, we would not have ever reached this point today.

Mr. Speaker, we live in a world of misplaced priorities—where young men and women are allowed, even encouraged, to mortgage their education on the dream of becoming a professional athlete.

At a very early age, young people begin neglecting their studies and concentrating on sports, thinking this is the ticket to success. Basically, the balance between athletics and academics has shifted in the wrong direction.

I did not expect any opposition to this bill, and I shudder to think at what our colleges and universities are afraid we will learn if we have access to their graduation rates. But this information is vital to a young person's choice of school and should be available to the general public.

Finally, I wish to again commend Chairman WILLIAMS for his invaluable assistance on moving this bill through committee. Without his leadership and advice, we would not be here today debating this measure. Mr.

Speaker, I urge the House to seriously consider this legislation and vote for final passage.

□ 1420

Mr. Speaker, once again I would just like to pay special thanks to the gentleman from New York [Mr. TOWNS] for his excellent efforts and leadership in this regard, and of course to the gentleman from Montana [Mr. WILLIAMS].

Mr. Speaker, I urge the House to seriously consider this legislation and vote for its final passage.

Mr. GOODLING. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. HENRY] a very important member of our committee, who is always very active in helping to put this legislation together.

Mr. HENRY. Mr. Speaker, I am pleased that H.R. 1454 includes provisions which I sponsored, requiring public disclosure of revenues and expenditures of athletic programs at colleges and universities which offer athletically related student aid.

Mr. Speaker, more and more Americans have begun to reassess our educational priorities. We as a nation now realize that our standing in an increasingly competitive global marketplace depends largely on educational preparedness.

My amendment will bring sunshine to what in many instances are the primary source of public awareness of higher education, college and university athletics programs.

Sports are indeed the top public relations vehicle for many colleges and universities. Thus, fielding winning teams becomes, to a very large extent, the consuming purpose of the athletic program. The better the team, the better the exposure.

However, no data exist to support the popular perception that athletic success benefits academics or any other aspect of the college or university, other than the sports program itself. Sports-generated revenue from sources such as ticket sales and broadcast income is most often quickly swallowed by self-perpetuating sports programs. Alumni giving inspired by sports is almost always directed at the sports program.

Yet, most college sports programs are money losers. Even those with the broadcast deals, sell-out crowds, bowl games appearance and tournament bids. A case in point from my own State: The University of Michigan, considered to be among the cream of the crop in college atheltics. Its $21 million athletic program is strapped with an annual deficit that's expected to reach $5.2 million by 1993.

Mr. Speaker, by providing the public with access to the bottom-line reality of college sports, the public can help determine the proper place of college sports. My amendment is not anti-sports, nor does it offer an invitation for Federal interference in college or university governance. In fact, because it encourages public input in the priorities of our institutions of higher learning, this amendment is an aid to effective governance.

As another important public benefit, this amendment will shed light on the vast inequity between funding of men's and women's college sports teams. Throughout the Nation, women athletes face a startling lack of funding, for equipment, facilities, and travel. They lack the benefits considered basics in most men's programs.

I applaud the NCAA and the Knight Commission on College Athletics in their work toward reform of college athletics. I submit that this amendment is in line with proposals coming from numerous corners of higher education.

I thank Chairman PAT WILLIAMS and Representatives TOM COLEMAN, the ranking Republican, for their support of this amendment in the Subcommittee on Postsecondary Education.

Mr. WILLIAMS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I want to thank the gentleman from Michigan [Mr. HENRY], the gentleman from Pennsylvania [Mr. GOODLING], the gentleman from Missouri [Mr. COLEMAN], for the leadership and assistance which they have provided on this bill.

The gentleman from Missouri [Mr. COLEMAN] as the ranking minority member of our Subcommittee on Postsecondary Education, has been vital to this effort. The gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Michigan [Mr. HENRY] provided the leadership on very vital component parts of this bill. Without them, we would not have thought of the necessary amendments which are now part of this bill.

This legislation is now called the Students' Right to Know and Campus Security Act, but when it came out of the mind of the gentleman from New York [Mr. TOWNS], it was called the student athletes' right to know bill.

Mr. Speaker, I yield 6 minutes to our friend and colleague, the gentleman from New York [Mr. TOWNS] who began this process when he first introduced this legislation.

(Mr. TOWNS asked and was given permission to revise and extend his remarks.)

Mr. TOWNS. Mr. Speaker, I am pleased to see that the Committee on Education and Labor has brought the Student Athlete Right to Know Act, H.R. 1454, to the floor for consideration. I want to personally thank the gentleman from Montana [Mr. WILLIAMS], the chairman of the Subcommittee on Postsecondary Education, for his willingness to support this bill. I also want to thank the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Missouri [Mr. COLEMAN]. I also want to extend my thanks to the gentleman from Maryland [Mr. MCMILLEN] for his hard work in supporting moving this legislation forward. The Student Right to Know and Security Act will require an annual reporting of the graduation rates of student-athletes as well as statistical information on campus crime problems. Campus security concerns are an unfortunate but important aspect of college life today. The addition of these provisions to the student-athlete right to know legislation, I believe, will make an important contribution toward improving the quality of life on our college campuses.

The major purpose of this bill is to provide consumers, in this case student-athletes and their parents, with information about the quality of education provided to athletes at a given institution. Colleges and universities would be required to report graduation rates broken down by race, sex, and sport on an annual basis to the Department of Education. The legislation also mandates the inclusion of information about the field of study or declared major once the department establishes a regulation defining this provision. We believe that it's important Mr. Chairman that the general public have some sense of not only whether student-athletes graduate but whether they are majoring in degree programs. This bill mandates that this information be made available to prospective students. Some may wonder why this legislation was necessary in light of recent changes by the NCAA. In my view, the NCAA's reporting requirements are too limited. They focus only on the revenue-producing sports of basketball and football. In addition, there is no requirement that a student's declared major be reported. While the steps taken by the NCAA are important, I believe that other sports must be covered. If we can report the on-time arrivals of airlines, surely we can let student-athletes know whether they are likely to receive a useful college degree, if they sign a letter of intent at a university. I would hope, Mr. Chairman, that our action today will result in a quick acceptance by the Senate of the House-passed version so that this bill can become law as soon as possible. Finally, it is our belief that the Student Right to Know Act will result in a consumer selection process. The bill supports the efforts of those campuses that are doing a good job of graduating their athletes and it will force those who are not, to do a better job if they want to compete effectively for good athletes.

□ 1430

Again I would like to thank the chairman of the subcommittee, the

gentleman from Montana [Mr. WILLIAMS] for his outstanding leadership. I would also like to thank the gentleman from Maryland [Mr. MCMILLEN], who is a great athlete himself, for his support in this legislation. I would also like to thank the gentleman from Pennsylvania [Mr. GOODLING] for his support, and to say to these gentlemen that I think what we are doing today is an important step in the right direction to make certain that our universities are doing the proper thing when it comes to educating our athletes.

Mr. GOODLING. Mr. Speaker, I yield myself 1 minute.

I just want to again thank the Clerys who are here today, for not only bringing to my attention the tragedy in their own family, but carrying this campaign all across the United States, hoping that other parents will not have the misfortune that they had.

I want to again thank the chairman of the subcommittee, the gentleman from Montana [Mr. WILLIAMS], and the chairman, the gentleman from California [Mr. HAWKINS], for bringing this legislation as rapidly forward as it has been brought to the floor of the House.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I am pleased to have the opportunity to support H.R. 1454, the Student Right-To-Know Act. As a cosponsor of the Crime Awareness and Security Act, which is included in this bill, I think it is extremely important that the full House of Representatives support this legislation written to amend the Higher Education Act of 1965.

College students, their parents, and others associated with institutions of higher education, have the right to be made aware of crime statistics and security policies. With numerous unfortunate and unnecessary events taking place on college campuses throughout our country, it is time we encourage our schools to demonstrate a greater responsibility for the safety of their students and employees by ensuring adequate strong safety policies and procedures.

Although particularly significant with regard to crime awareness, I believe that the other components of the bill, including the disclosure of matriculation versus graduation statistics and revenues from intercollegiate sports activities, are essential in preserving individuals' rights to have access to information regarding the institution to which they are associated.

I feel that, without these modifications to the law, essential information regarding university policy and procedures may not otherwise be disclosed. I urge each and everyone of you to support H.R. 1454 so that we may ensure the safety and integrity of our institutions of higher education.

Mr. WILLIAMS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Montana [Mr. WILLIAMS] that the House suspend the rules and pass the bill, H.R. 1454, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1454, as amended, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from further consideration of the Senate bill (S. 580) to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Athlete Right-to-Know Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of student-athletes at institutions of higher education.

(3) an overwhelming majority of college presidents, (86 percent) in a survey by the U.S. News and World Report believe that the pressure for success and financial rewards in intercollegiate athletics interferes with the educational mission of the United States' colleges and universities;

(4) more than 10,000 athletic scholarships are provided annually by institutions of higher education;

(5) prospective student athletes and their families should be aware of the educational commitments prospective colleges make to athletes; and

(6) knowledge of the graduation rates of student-athletes would assist prospective students and their families in making an informed judgment about the educational benefits available at a given institution of higher education.

SEC. 3. REPORTING REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION

(a) REPORTS TO THE SECRETARY.—Each institution of higher education which receives Federal financial assistance and is attended by students receiving athletic scholarships shall annually submit a report to the Secretary which contains—

(1) the number of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports, broken down by race and sex;

(2) the number of students at the institution of higher education, broken down by race and sex;

(3) the graduation rate for students at the institution of higher education who received athletic scholarships for football, basketball, and all other sports, broken down by race and sex;

(4) the graduation rate for first-time, full-time students, broken down by race and sex;

(5) the average graduation rate for the 4 most recent graduating classes of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports, broken down by race and sex;

(6) the average graduation rate for the 4 most recent graduating classes of all students, broken down by race and sex; and

(7) the average graduation rate for the 10 most recent graduating classes of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports, broken down by race and sex.

(b) STUDENT NOTIFICATION.—When an institution described in subsection (a) offers a potential student-athlete athletically related student aid, such institution shall provide to the student and his parents, his guidance counselor, and coach the information contained in the report submitted by such institution pursuant to subsection (a).

(c) SPECIAL CIRCUMSTANCES.—If an institution of higher education described in subsection (a) finds that the information collected pursuant to subsection (a), because of extenuating circumstances, does not provide an accurate representation of the school's graduation rate, the school may provide additional information to the student and the Secretary.

(d) COMPARABLE INFORMATION.—Each institution of higher education described in subsection (a) may provide supplemental information to students and the Secretary showing the graduation rate when such graduation rate does not include students transferring into, and out of, such institution. The Secretary shall ensure that the data presented to the student and the data submitted to the Secretary are comparable.

SEC. 4. REPORT BY SECRETARY.

(a) IN GENERAL.—The Secretary shall, using the data required under section 3, compile and publish a report containing the information required under section 3, broken down by—

(1) individual institutions of higher education, and

(2) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

(b) REPORT AVAILABILITY.—The Secretary shall make available copies of the report required under subsection (a) to any individual or secondary school requesting a copy of such report.

SEC. 5. INFORMATION.

The Secretary may, at his discretion, obtain the information required by section 3 from a private, not-for-profit organization when, in the Secretary's opinion, such collection will reduce the paperwork burden imposed on higher education institutions.

SEC. 6. WAIVER.

The Secretary shall waive the requirements of this Act for any institution of higher education which is a member of an athletic association or athletic conference that voluntarily publishes graduation rate data (or has already agreed to publish the data) that, in the opinion of the Secretary, is substantially comparable to the information required under this Act.

SEC. 7. DEFINITIONS.

For the purpose of this Act—

(1) The term "athletically related student aid" means any scholarship, grant, or other form of financial assistance whose terms require the recipient to participate in an institution of higher education's program of intercollegiate athletics in order to be eligible to receive such assistance;

(2) The term "institution of higher education" has the same meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(3) The term "Secretary" means the Secretary of Education; and

(4) The term "graduation rate" means the percentage of students who enter an institution in a specific year and receive a bachelor's degree within 5 years.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1991.

MOTION OFFERED BY MR. WILLIAMS

Mr. WILLIAMS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WILLIAMS moves to strike all after the enacting clause and insert in lieu thereof the text of H.R. 1454 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 1454) was laid on the table.

CLARIFYING PROCEDURES OF THE NATIONAL COMMISSION ON RESPONSIBILITY FOR FINANCING POSTSECONDARY EDUCATION

Mr. WILLIAMS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1999) to amend the Higher Education Act of 1965 to clarify the administrative procedures of the National Commission on Responsibilities for Financing Postsecondary Education, as amended.

The Clerk read as follows:

S. 1999

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADMINISTRATION OF COMMISSION.

Section 1321 of the Higher Education Amendments of 1986 (20 U.S.C. 1221-1 note) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) ADMINISTRATION OF THE COMMISSION.—

"(1) RATE OF PAY.—Members of the Commission who are not full-time officers or employees of the United States and who are not Members of Congress may, while serving on business of the Commission, be compensated at a rate not to exceed the rate specified at the time of such service for Grade GS-18 of the General Schedule as authorized by section 5332 of title 5, United States Code, for each day, or any part of a day, they are engaged in the actual performance of Commission duties, including travel time; and while so serving away from their homes or regular places of business, all members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(2) TEMPORARY EXEMPTION.—Subject to such rules as may be adopted by the Commission, the Chairperson, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power to—

"(A) appoint a Director or Executive Director who shall be paid at a rate not to exceed the rate of basic pay for GS-18 of the General Schedule; and

"(B) appoint and fix the compensation at a rate not to exceed the rate payable at the GS-18 rate of such other personnel as the Chairperson considers necessary.

"(3) AUTHORITY TO CONTRACT.—Subject to the Federal Property and Administrative Services Act of 1949, as amended, the Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions, and individuals for the conduct of activities necessary to the discharge of it duties and responsibilities.

"(4) SOURCE OF ADMINISTRATIVE SUPPORT.—Financial and administrative support services (including those related to budget and accounting, financial reporting, payroll, and personnel) shall be provided to the Commission by the General Services Administration (or other appropriate organization) for which payment shall be made in advance, or by reimbursement, from funds of the Commission, in such amounts as may be agreed by the Chairperson of the Commission and the Administrator of General Services.

"(5) AUTHORITY TO HIRE EXPERTS AND CONSULTANTS.—The Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates to exceed the rate specified at the time of such service for grade GS-18. Experts and consultants may be employed without compensation if they agree to do so in advance.

"(6) AUTHORITY FOR DETAIL OF EMPLOYEES.—Upon request of the Commission, the head of any Federal agency is authorized to detail on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.".

SEC. 2. TERMINATION OF COMMISSION.

Subsection (g) of section 1321 of the Higher Education Amendments of 1986, as redesignated by section 1 of this Act, is amended to read as follows:

"(g) TERMINATION.—The Commission shall terminate 2 years after the first meeting of the members.".

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Montana [Mr. WILLIAMS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of S. 1999.

This is a bill that corrects an oversight in the 1986 Reauthorization of the Higher Education Act. In 1986, the Higher Education Act was amended to provide for the creation of the National Commission on Responsibilities for Financing Postsecondary Education. In drafting the provision to create the Commission, the authority for the Commission to hire staff and spend funds was inadvertently omitted.

The members of the Commission have been appointed and funds to support the work of the Commission have been appropriated. However, without the authority to hire staff and spend funds, the Commission cannot begin its work.

S. 1999 passed the Senate earlier this year. However, when it was approved by the Senate, other provisions concerning the former Pacific Trust Territories were added to it. I note that the provisions concerning the former Pacific Trust Territories were stricken from the bill at subcommittee.

This legislation was favorably reported by the Subcommittee on Postsecondary Education as well as by the full Committee on Education and Labor.

I urge my colleagues to join me in supporting this legislation.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill. S. 1999, a bill clarifying procedures of the National Commission on Responsibility for Financing Postsecondary Education, is truly a technical correction for an omission in the Higher Education Amendments of 1986.

Ironically, the members of this Commission have been named and the appropriations secured, contrary to the normal course of events for study commissions. However, there is no statuto-

ry language that will allow the Commission to operate. The necessary administrative language was not included in the 1986 amendments. This bill provides that language and will allow the Commission to get on with its business.

This bill does not create a new commission; it does not require any new appropriations. This bill merely puts into place what was intended almost 4 years ago.

Next year we begin again the process of amending the Higher Education Act of 1965. The purpose of the National Commission on Responsibility for Financing Postsecondary Education is to provide the Congress with recommendations regarding changes to current law which would reflect a comprehensive and coherent Federal policy relating the relative responsibilities of the family, the student, and the Government to finance postsecondary education. These suggestions can go so far as to include recommendations on Federal incentives to encourage families to plan and save for their financial responsibilities in financing postsecondary education for family members. The charge given to this Commission is substantive and challenging. If it can proceed in the discharge of its duties, I believe that the Commission's findings and recommendations could be helpful to us as we tackle the complexity of Federal student financial assistance programs next year.

I hope that with the enactment of this bill, the Commission can begin its work so that we will benefit from its findings. I urge my colleagues to support these technical changes and pass S. 1999.

Mr. WILLIAMS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Montana [Mr. WILLIAMS] that the House suspend the rules and pass the Senate bill, S. 1999, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Higher Education Amendments of 1986 to clarify the administrative procedures of the National Commission on Responsibilities for Financing Postsecondary Education, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 1999, the Senate bill, as amended, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

PANAMA CANAL COMMISSION AUTHORIZATION ACT, FISCAL YEAR 1991

Mr. DYSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4283) to authorize expenditures for fiscal year 1991 for the operation and maintenance of the Panama Canal, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Panama Canal Commission Authorization Act, Fiscal Year 1991".

SEC. 2. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—The Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.), for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1991, except that not more than $52,000 for such fiscal year may be made available for official reception and representation expenses, of which—

(1) not more than $12,000 may be made available for such expenses of the supervisory board of the Commission;

(2) not more than $6,000 may be made available for such expenses of the Secretary of the Commission; and

(3) not more than $34,000 may be made available for such expenses of the Administrator of the Commission.

(b) PURCHASE OF PASSENGER MOTOR VEHICLES.—Funds available to the Panama Canal Commission for fiscal year 1991 shall be available for the purchase of passenger motor vehicles (including large heavy-duty vehicles) used to transport personnel of the Commission across the Isthmus of Panama. Such vehicles may be purchased without regard to price limitations prescribed by law or regulation.

SEC. 3. GENERAL PROVISIONS.

(a) PAY INCREASES.—Funds for the Panama Canal Commission may be obligated for fiscal year 1991, notwithstanding section 1341 of title 31, United States Code, to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the United States in comparable positions.

(b) EXPENSES IN ACCORDANCE WITH LAW.—Expenditures authorized under this Act may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

SEC. 4. EFFECTIVE DATE.

This Act takes effect on October 1, 1990.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Maryland [Mr. DYSON] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. DYSON].

□ 1440

Mr. DYSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us reauthorizes the Panama Canal Commission for the fiscal year beginning this October.

I introduced this legislation into the House last March. The Subcommittee on the Panama Canal and the Outer Continental Shelf convened a hearing on this legislation on March 27, It was marked up at subcommittee and full committee shortly thereafter. A report on H.R. 4283 was filed last April 19.

Except for one important feature, this legislation is identical to a reauthorization proposal forwarded by the administration earlier this year.

The administration traditionally requests a 2-year authorization for the Panama Canal Commission. It is the custom of the House to reauthorize the Commission for a single year at a time. H.R. 4283 maintains this custom, and authorizes the Panama Canal Commission to use toll revenues for the operations, maintenance, and improvement of the canal for fiscal year 1991 only.

That is, as I have said, the single difference between H.R. 4283 and the administration's legislative request.

I know of no objections to this bill, and so I will keep my statement brief. But for the benefit of our colleagues, Mr. Speaker, allow me to review the necessity and benefit of this legislation.

In 1979 the Congress enacted Public Law 96-70, the Panama Canal Act, creating the modern Panama Canal Commission. Under that legislation, the Commission is prohibited from drawing on U.S. tax dollars for the operations, maintenance, or improvement of the canal.

Let me repeat that, Mr. Speaker. The canal is required by law to be entirely self-financing. Its operations are paid for entirely by the users of the canal. The Commission collects tolls and other fees from vessels transiting the canal. These are the only funds that can be expneded for payroll, capital improvements, or routine maintenance.

Up until 1987, the canal's annual receipts were subject to annual appro-

priations. Tolls and other fees were treated as if they were deposited in the Treasury. Each year the Congress authorized the canal's budget and appropriated the funds to implement that budget.

In 1987, the Congress enacted Public Law 100-203, under which the Panama Canal Commission was converted from an appropriated fund to a revolving fund account. Except for a portion of the Commission's administrative expenses, it has been excluded from the annual appropriations process. That legislation, however, reinforced the requirements that the Commission remain entirely self-financed.

From my perspective, that legislation also enhances the importance of the authorizing committee. It makes excellent sense to exempt the Commission from the often unpredictable pressures of the appropriations process. But for this process to work effectively, the authorizing committee must closely review all aspects of the Commission's budget and operations each year.

That is the job of the Panama Canal Subcommittee, of which I am privileged to serve as chairman. And that is why the bill before us today grants a single year authorization. I believe it is important that the House have this chance, each year, to review the Commission's policies and budget.

I will not go into the details of the Commission's budget for the coming fiscal year. But I would like to give a short summary of the Commission's financial status.

The administration estimates that 1991 operating costs will be approximately $480.8 million. Revenues for the year are projected at approximately $484.5 million, of which toll receipts represent $366.7 million. Miscellaneous services for which the canal charges fees will contribute another $117.8 million.

By the end of fiscal year 1991, the canal will have generated a surplus of $3.7 million. Combined with the $6.2 million surplus the canal will generate during this fiscal year, the Commission will be able to recover nearly $10 million of the deficits it has accumulated over the past few years.

These deficits were in part the result of the recent troubles between the United States and Panama. They will be eliminated by a combination of management improvements that will make the canal more efficient and more productive than every.

Mr. Speaker, I wish to take a moment to point out a bit of confusion surrounding the Canal Commission's accounting systems. I say systems because there are in fact several methods of keeping the Commission's financial accounts.

One system will show that the canal will run a deficit in fiscal year 1990 of $8 million. That system was the basis for the Congressional Budget Office's estimate that the canal will have to borrow this year from the U.S. Treasury to cover its expenses.

That is not, in fact, the case. The confusion arises because CBO's estimates of the canal's expenses include the value of all obligations the canal will enter into during the fiscal year, not the payments that the canal will actually make on those long-term contracts.

Hence it may appear, at first glance, that the canal will have outlays considerably greater than its toll income will cover.

As I say, Mr. Speaker, that is in fact far from the actual case. The canal will run a surplus this fiscal year and again in fiscal year 1991. And so long as I will have the privilege of overseeing the canal's budget and its policies, I expect the canal to continue in the black.

Before concluding my statement, Mr. Speaker, I would like to take this opportunity to thank my colleagues on the Panama Canal Subcommittee for their support and contributions over the past year and a half. I am especially grateful for the efforts of the ranking minority member, Hon. JACK FIELDS, who has invested considerable time and attention to canal issues over the past several years.

I believe it is fair to say that if there is an expert on the canal's history, policy, financing, and future in the Congress, it is Mr. FIELDS.

Moreover, Mr. Speaker, I can say that the future of the canal is secure, both as an important commercial link for international commerce, and as a strategic asset in the Nation's overall defense posture. For that, we can thank the combined efforts of this Congress and the administration.

As diplomatic relations between the United States and Panama return to normal, the safe and efficient operation of the canal will become more important that ever. I have kept a watchful eye on developments affecting the Canal Commission over the past year and a half, and especially over the past few months. I am confident that the Commission is operating on a sound, businesslike basis, and I urge my colleagues to approve H.R. 4283.

Mr. Speaker, I yield back the balance of my time.

Mr. FIELDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a cosponsor of H.R. 4283, I rise in support of this 1-year authorization for the Panama Canal Commission. I would also like to compliment my subcommittee chairman, the gentleman from Maryland [Mr. DYSON] for his outstanding leadership in moving this legislation in such an expedited manner.

The past 2 years have been an extraordinary period for the Panama Canal Commission. Despite living in a virtual war zone, the employees of the Commission—both American and Panamanian—did an outstanding job of operating the Canal. This was a remarkable achievement, and the world shipping community owes these dedicated individuals a great debt of gratitude.

While Noriega is gone, his policies had a profound and lasting adverse impact on the financial position of the Panama Canal Commission.

Although the final numbers have yet to be tabulated, Noriega cost the PCC at least an additional $10 million in the current fiscal year alone.

As a result, the Commission was forced to implement a surcharge on all vessels transiting the canal in order to comply with its statutory requirement of operating the canal on a break-even basis.

While it is my hope that this surcharge will be a temporary measure, I certainly understand the need for it.

Mr. Speaker, H.R. 4283 is a simple, straightforward 1-year authorization bill which does not make any permanent changes in law. I have carefully reviewed this budget request and it is my belief that the Panama Canal Commission has once again done a good job of projecting their needs and expenditures for the upcoming fiscal year.

H.R. 4283 does not propose any contigency or profit payments to the Republic of Panama and, most importantly, like previous authorizations, it does not include any United States taxpayer money. All revenues raised by the Commission are the direct result of tolls or other charges levied on those who transit the Panama Canal.

This is an authorization bill which every Member of the House of Representatives can support for it recognizes our Nation's responsibility to ensure the safe and efficient operation of the Panama Canal.

Mr. Speaker, I have long admired the Commission's commitment to a properly maintained Panama Canal. It is a 76-year-old utility which requires constant attention, and it would be a tragic mistake to try to artificially reduce its maintenance or capital investment costs.

At the end of the 20-year transition period, the United States will transfer to the Republic of Panama a canal which is not only technologically sound, but which has been maintained superbly.

Mr. Speaker, I am also hopeful that the Senate will soon act upon the nomination of Mr. Gilberto Guardia who has been selected by President Endara to be the permanent Administrator of the Panama Canal Commission. Mr. Guardia is a civil engineer and a highly successful businessman.

It appears he is well suited to follow in the footsteps of the Commission's first and most outstanding Administrator, Mr. Dennis P. McAuliffe.

I urge my colleagues to vote aye on H.R. 4283 and again compliment Chairman DYSON for bringing this bill before us today.

□ 1450

Mr. DYSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Maryland [Mr. DYSON] that the House suspend the rules and pass the bill, H.R. 4283, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

SECURITIES MARKETS REFORM ACT OF 1990

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3657) to amend the Securities Exchange Act of 1934 to provide additional authorities to the Securities and Exchange Commission to prevent disruptions to the Nation's securities markets, as amended.

The Clerk read as follows:

H.R. 3657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities Markets Reform Act of 1990".

SEC. 2. EMERGENCY AUTHORITY; TRADING HALTS.

Section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 781(k)) is amended to read as follows:

(k) TRADING SUSPENSIONS; EMERGENCY AUTHORITY.—

"(1) TRADING SUSPENSIONS.—If in its opinion the public interest and the protection of investors so require, the Commission is authorized by order—

"(A) summarily to suspend trading in any security (other than an exempted security) for a period not exceeding 10 business days, and

"(B) summarily to suspend all trading on any national securities exchange or otherwise, in securities other than exempted securities, for a period not exceeding 90 calendar days.

The action described in subparagraph (B) shall not take effect unless the Commission notifies the President of its decision and the President notifies the Commission that the President does not disapprove of such decision.

"(2) EMERGENCY ORDERS.—(A) The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or a self-regulatory organization under this title, as the Commission determines is necessary in the public interest and for the protection of investors—

"(i) to maintain or restore fair and orderly securities markets (other than markets in exempted securities); or

"(ii) to ensure prompt, accurate, and safe clearance and settlement of transactions in securities (other than exempted securities).

"(B) An order of the Commission under this paragraph (2) shall continue in effect for the period specified by the Commission, and may be extended, except that in no event shall the Commission's action continue in effect for more than 10 business days, including extensions. In exercising its authority under this paragraph, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code, or with the provisions of section 19(c) of this title.

"(3) TERMINATION OF EMERGENCY ACTIONS BY PRESIDENT.—The President may direct that action taken by the Commission under paragraph (1)(B) or paragraph (2) of this subsection shall not continue in effect.

"(4) COMPLIANCE WITH ORDERS. No member of a national securities exchange, broker, or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any securities in contravention of an order of the Commission under this subsection unless such order has been stayed, modified, or set aside as provided in paragraph (5) of this subsection or has ceased to be effective upon direction of the President as provided in paragraph (3).

"(5) LIMITATIONS ON REVIEW OF ORDERS.—An order of the Commission pursuant to this subsection shall be subject to review only as provided in section 25(a) of this title. Review shall be based on an examination of all the information before the Commission at the time such order was issued. The reviewing court shall not enter a stay, writ of mandamus, or similar relief unless the court finds, after notice and hearing before a panel of the court, that the Commission's action is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(6) DEFINITION OF EMERGENCY. For purposes of this subsection, the term 'emergency' means a major market disturbance characterized by or constituting—

"(A) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets, or

"(B) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of securities, or a substantial threat thereof.".

SEC. 3. LARGE TRADER REPORTING.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

"(h) LARGE TRADER REPORTING.—

"(1) IDENTIFICATION REQUIREMENTS FOR LARGE TRADERS.—For the purpose of monitoring the impact on the securities markets of securities transactions involving a substantial volume of a large fair market value or exercise value and for the purpose of otherwise assisting the Commission in the enforcement of this title, each large trader shall—

"(A) provide such information to the Commission as the Commission may by rule or regulation prescribe as necessary or appropriate, identifying such large trader and all accounts in or through which such large trader effects such transactions; and

"(B) identify, in accordance with such rules or regulations as the Commission may prescribe as necessary or appropriate, to any registered broker or dealer by or through whom such large trader directly or indirectly effects securities transactions, such large trader and all accounts directly or indirectly maintained with such broker or dealer by such large trader in or through which such transactions are effected.

"(2) RECORDKEEPING AND REPORTING REQUIREMENTS FOR BROKERS AND DEALERS.—Every registered broker or dealer shall make and keep for prescribed periods such records as the Commission by rule or regulation prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, with respect to securities transactions that equal or exceed the reporting activity level effected directly or indirectly by or through such registered broker or dealer of or for any person that such broker or dealer knows is a large trader, or any person that such broker or dealer has reason to know is a large trader on the basis of transactions in securities effected by or through such broker or dealer. Such records shall be available for reporting to the Commission, or any self-regulatory organization that the Commission shall designate to receive such reports, on the morning of the day following the day the transactions were effected, and shall be reported to the Commission or a self-regulatory organization designated by the Commission immediately upon request by the Commission or such a self-regulatory organization. Such records and reports shall be in a format and transmitted in a manner prescribed by the Commission (including, but not limited to, machine readable form).

"(3) AGGREGATION RULES.—The Commission may prescribe rules or regulations governing the manner in which transactions and accounts shall be aggregated for the purpose of this subsection, including aggregation on the basis of common ownership or control.

"(4) EXAMINATION OF BROKER AND DEALER RECORDS.—All records required to be made and kept by registered brokers and dealers pursuant to this subsection with respect to transactions effected by large traders are subject at any time, or from time to time, to such reasonable special or other examinations by representatives of the Commission as the Commission deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

"(5) FACTORS TO BE CONSIDERED IN COMMISSION ACTIONS.—In exercising its authority under this subsection, the Commission shall take into account—

"(A) existing reporting systems;

"(B) the costs associated with maintaining information with respect to transactions effected by large traders and reporting such

information to the Commission or self-regulatory organizations; and

"(C) the relationship between the United States and international securities markets.

"(6) EXEMPTIONS.—The Commission, by rule, regulation, or order, consistent with the purposes of this title, may exempt any person or classes of persons or any transaction or classes of transactions, either conditionally or upon specified terms and conditions or for stated periods, from the operation of this subsection, and the rules and regulations thereunder.

"(7) AUTHORITY OF COMMISSION TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be kept or reported under this subsection. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'large trader' means every person who, for his own account or an account for which he exercises investment discretion, effects transactions for the purchase or sale of any publicly traded security or securities by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of a national securities exchange, directly or indirectly by or through a registered broker or dealer in an aggregate amount equal to or in excess of the identifying activity level;

"(B) the term 'publicly traded security' means any equity security (including an option on individual equity securities, and an option on a group or index of such securities) listed, or admitted to unlisted trading privileges, on a national securities exchange, or quoted in an automated interdealer quotation system;

"(C) the term 'identifying activity level' means transaction in publicly traded securities at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by rule or regulation, specifying the time interval during which such transactions shall be aggregated;

"(D) the term 'reporting activity level' means transactions in publicly traded securities at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by rule, regulation, or order, specifying the time interval during which such transactions shall be aggregated; and

"(E) the term 'person' has the meaning given in section 3(a)(9) of this title but includes two or more persons acting as a partnership, limited partnership, syndicate, or other group, and does not include a foreign central bank.".

SEC. 4. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.

(a) AMENDMENT.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended by adding at the end the following:

"(h) RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.—

"(1) OBLIGATIONS TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—Every person who is (A) a registered broker or dealer, or (B) a registered municipal securities dealer for which the Commission is the appropriate regulatory agency, shall obtain such information and make and keep such records as the Commission by rule prescribes concerning the registered person's policies, procedures, or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its associated persons, other than a natural person. Such records shall describe, in the aggregate, each of the financial and securities activities conducted by, and the customary sources of capital and funding of, those of its associated persons whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person, including its net capital, its liquidity, or its ability to conduct or finance its operations. The Commission, by rule, may rquire summary reports of such information to be filed with the Commission no more frequently than quarterly.

"(2) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—If, as a result of adverse market conditions or based on reports provided to the Commission pursuant to paragraph (1) of this subsection or other available information, the Commission reasonably concludes that it has concerns regarding the financial or operational condition of (A) any registered broker or dealer, or (B) any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency, the Commission may require the registered person to make reports concerning the financial and securities activities of any of such person's associated persons, other than a natural person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person. The Commission, in requiring reports pursuant to this paragraph, shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission or to a self-regulatory organization with primary responsibility for examining the registered person's financial and operational condition.

"(3) EXCLUSIONS FROM REQUIREMENTS.—No information or reports shall be required of any person otherwise subject to this subsection (A) whose net worth is less than $25,000,000, and (B) who does not devote, together with its associated persons, on a consolidated basis, a significant amount or proportion of its assets to, or obtain significant revenues derived from, activities in the United States securities markets.

"(4) SPECIAL PROVISIONS WITH RESPECT TO ASSOCIATED PERSONS SUBJECT TO FEDERAL BANKING AGENCY REGULATION.—

"(A) COOPERATION IN IMPLEMENTATION.—In developing and implementing reporting requirements pursuant to paragraph (1) of this subsection with respect to associated persons subject to examination by or reporting requirements of a Federal banking agency, the Commission shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Commission under this subsection that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule. The Commission shall, at the request of the Federal banking agency, publish such comment and response in the Federal Register at the time of publishing the adopted rule.

"(B) USE OF BANKING AGENCY REPORTS.—A registered broker, dealer, or municipal securities dealer shall be in compliance with any recordkeeping or reporting requirement adopted pursuant to paragraph (1) of this subsection concerning an associated person that is subject to examination by or reporting requirements of a Federal banking agency if such broker, dealer, or municipal securities dealer utilizes for such recordkeeping or reporting requirement copies of reports filed by the associated person with the Federal banking agency pursuant to section 5211 of the Revised Statutes, section 9 of the Federal Reserve Act, section 7(a) of the Federal Deposit Insurance Act, section 10(b) of the Home Owners' Loan Act, or section 8 of the Bank Holding Company Act of 1956. The Commission may, however, by rule adopted pursuant to paragraph (1), require any broker, dealer, or municipal securities dealer filing such reports with the Commission to obtain, maintain, or report supplemental information if the Commission makes an explicit finding that such supplemental information is necessary to inform the Commission regarding potential risks to such broker, dealer, or municipal securities dealer. Prior to requiring any such supplemental information, the Commission shall first request the appropriate Federal banking agency to expand its reporting requirements to include such information.

"(C) PROCEDURE FOR REQUIRING ADDITIONAL INFORMATION.—Prior to making a request pursuant to paragraph (2) of this subsection for information with respect to an associated person that is subject to examination by or reporting requirements of a Federal banking agency, the Commission shall—

"(i) notify such agency of the information required with respect to such associated person;

"(ii) consult with such agency to determine whether the information required is available from such agency and for other purposes, unless the Commission determines that any delay resulting from such consultation would be inconsistent with ensuring the financial and operational condition of the broker, dealer, municipal securities dealer, government securities broker, or government securities dealer or the stability or integrity of the securities markets.

"(D) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this subsection shall be construed to permit the Commission to require any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency, to obtain, maintain, or furnish any examination report of any Federal banking agency or any supervisory recommendations or analysis contained therein.

"(E) CONFIDENTIALITY OF INFORMATION PROVIDED.—In information provided to or obtained by the Commission from any Federal banking agency pursuant to a request by the Commission under subparagraph (C) of this paragraph regarding any associated person which is subject to examination by or reporting requirements of a Federal banking agency may be disclosed to any other person (other than a self-regulatory

organization or any Federal department or agency for purposes within the scope of its jurisdiction), without the prior written approval of the Federal banking agency.

"(F) NOTICE OF BANKING AGENCIES CONCERNING FINANCIAL AND OPERATIONAL CONDITION CONCERNS.—The Commission shall notify the appropriate Federal banking agency of any concerns of the Commission regarding significant financial or operational risks resulting from the activities of any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency, to any associated person thereof which is subject to examination by or reporting requirements of a Federal banking agency.

"(g) DEFINITION.—For purposes of this paragraph, the term 'Federal banking agency' shall have the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

"(5) EXEMPTIONS.—The Commission by rule or order may exempt any person or class of persons, under such terms and conditions and for such periods as the Commission shall provide in such rule or order, from the provisions of this subsection, and the rules thereunder. In granting such exemptions, the Commission shall consider, among other factors—

"(A) whether information of the type required under this subsection is available from a supervisory agency (as defined in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6))), a State insurance commission or similar State agency, the Commodity Futures Trading Commission, or a similar foreign regulator;

"(B) the primary business of any associated person;

"(C) the nature and extent of domestic or foreign regulation of the associated person's activities;

"(D) the nature and extend of the registered person's securities activities; and

"(E) with respect to the registered person and its associated persons, on a consolidated basis, the amount and proportion of assets devoted to, and revenues derived from, activities in the United States securities markets.

"(6) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under this subsection, or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a registered broker, dealer, government securities broker, government securities dealer, or municipal securities dealer. Nothing in this subsection shall authorize the Commission to withold information from Congress, or prevent the Commission from complying with a request for information from any other Federal Department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraph (B) or (C) of paragraph (4) of this subsection as confidential information for purposes of section 24(b)(2).".

"(b) CONFORMING AMENDMENT.—Section 15C(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(b)) is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.—

"(A) OBLIGATIONS TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—Every person who is registered as a government securities broker or government securities dealer under this section shall obtain such information and make and keep such records as the Secretary by rule prescribes concerning the registered person's polities, procedures, or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its associated persons, other than a natural person. Such records shall describe, in the aggregate, each of the financial and securities activities conducted by, and customary sources of capital and funding of, those of its associated persons whose business activities are reasonably likley to have a material impact on the financial or operational condition of such registered person, including its capital, its liquidity, or its ability to conduct or finance its operations. The Secretary by rule may require summary reports of such information to be filed with it and the registered person's appropriate regulatory agency no more frequently than quarterly.

"(B) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—If, as a result of adverse market conditions or based on reports provided pursuant to subparagraph (A) of this paragraph or other available information, the Secretary or the appropriate regulatory agency reasonably concludes that it has concerns regarding the financial or operational condition of any government securities broker or government securities dealer registered under this section, the Secretary or such agency may require the registered person to make reports concerning the financial and securities activities of any such person's associated persons, other than a natural person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person. The Secretary or the approrpiate regulatory agency, in requiring reports pursuant to this subparagraph, shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Secretary and the appropriate regulatory agency or to a self-regulatory organization with primary responsibility for examining the registered person's financial and operational condition.

"(C) EXCLUSIONS FROM REQUIREMENTS.—No information or reports shall be required of any person otherwise subject to this paragraph (i) whose net worth is less than $25,000,000, and (ii) who does not devote, together with its associated persons, on a consolidated basis, a significant amount or proportion of its assets to, or obtain significant revenues derived from, activities in the United States securities markets.

"(D) SPECIAL PROVISIONS WITH RESPECT TO ASSOCIATED PERSONS SUBJECT TO FEDERAL BANKING AGENCY REGULATION.—

"(i) COOPERATION IN IMPLEMENTATION.—In developing and implementing reporting requirements pursuant to subparagraph (A) of this paragraph with respect to associated persons subject to examination by or reporting requirements of a Federal banking agency, the Secretary shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Secretary under this paragraph that has been published for comment, the Secretary shall respond in writing to such written comment before adopting the proposed rule. The Secretary shall, at the request of a Federal banking agency, publish such comment and response in the Federal Register at the time of publishing the adopted rule.

"(ii) USE OF BANKING AGENCY REPORTS.—A registered government securities broker or government securities dealer shall be in compliance with any recordkeeping or reporting requirement adopted pursuant to subparagraph (A) of this paragraph concerning an associated person that is subject to examination by or reporting requirements of a Federal banking agency if such government securities broker or government securities dealer utilizes for such recordkeeping or reporting requirement copies of reports filed by the associated person with the Federal banking agency pursuant to section 5211 of the Revised Statutes, section 9 of the Federal Reserve Act, section 7(a) of the Federal Deposit Insurance Act, section 10(b) of the Home Owners' Loan Act, or section 8 of the Bank Holding Company Act of 1956. The Secretary may, however, by rule adopted pursuant to subparagraph (A), require any registered government securities broker or government securities dealer filing such reports with the Secretary or the appropriate regulatory agency to obtain, maintain, or report supplemental information if the Secretary makes an explicit finding that such supplemental information is necessary to inform the Secretary regarding potential risks to such government securities broker or government securities dealer. Prior to requiring any such supplemental information, the Secretary shall first request the appropriate Federal banking agency to expand its reporting requirements to include such information.

"(iii) PROCEDURE FOR REQUIRING ADDITIONAL INFORMATION.—Prior to making a request pursuant to subparagraph (B) of this paragraph for information with respect to an associated person that is subject to examination by or reporting requirements of a Federal banking agency, the Secretary or the appropriate regulatory agency shall—

"(I) notify such banking agency of the information required with respect to such associated person; and

"(II) consult with such agency to determine whether the information required is available from such agency and for other purposes, unless the Secretary or the appropriate regulatory agency determines that any delay resulting from such consultation would be inconsistent with ensuring the financial and operational condition of the government securities broker or government securities dealer or the stability or integrity of the securities markets.

"(iv) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this subparagraph shall be construed to permit the Secretary or an appropriate regulatory agency to require any registered government securities broker or government securities dealer to obtain, maintain, or furnish any examination report of any Federal banking agency or

any supervisory recommendations or analysis contained therein.

"(v) CONFIDENTIALITY OF INFORMATION PROVIDED.—No information provided to or obtained by the Secretary or any appropriate regulatory agency from any Federal banking agency pursuant to a request by the Secretary or an appropriate regulatory agency under clause (iii) of this subparagraph regarding any associated person which is subject to examination by or reporting requirements of a Federal banking agency may be disclosed to any other person (other than a self-regulatory organization or a Federal department or agency for purposes within the scope of its jurisdiction), without the prior written approval of the Federal banking agency.

"(vi) NOTICE TO BANKING AGENCIES CONCERNING FINANCIAL AND OPERATIONAL CONDITION CONCERNS.—The Secretary or appropriate regulatory agency shall notify the appropriate Federal banking agency of any concerns of the Secretary or the appropriate regulatory agency regarding significant financial or operational risks resulting from the activities of any government securities broker or government securities dealer to any associated person thereof which is subject to examination by or reporting requirements of a Federal banking agency.

"(vii) DEFINITION.—For purposes of this subparagraph, the term 'Federal banking agency' shall have the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

"(E) EXEMPTIONS.—The Secretary by rule or order may exempt any person or class of persons, under such terms and conditions and for such periods as the Secretary shall provide in rule or order, from the provisions of this paragraph, and the rules thereunder. In granting such exemptions, the Secretary shall consider, among other factors—

"(i) whether information of the type required under this paragraph is available from a supervisory agency (as defined in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6))), a State insurance commission or similar State agency, the Commodity Futures Trading Commission, or a similar foreign regulator;

"(ii) the primary business of any associated person;

"(iii) the nature and extent of domestic or foreign regulation of the associated person's activities;

"(iv) the nature and extent of the registered person's securities transactions; and

"(v) with respect to the registered person and its associated persons, on a consolidated basis, the amount and proportion of assets devoted to, and revenues derived from, activities in the United States securities markets.

"(F) CONFORMITY WITH REQUIREMENTS UNDER SECTION 17(H).—In exercising authority pursuant to subparagraph (A) of this paragraph concerning information with respect to associated persons of government securities brokers and government securities brokers and government securities dealers who are also associated persons of registered brokers or dealers reporting to the Commission pursuant to section 17(h) of this title, the requirements relating to such associated persons shall conform, to the greatest extent practicable, to the requirements under section 17(h).

"(G) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Secretary and any appropriate regulatory agency shall not be compelled to disclose any information required to be reported under this paragraphs, or any information supplied to the Secretary or any appropriate regulatory agency by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a registered government securities broker or a government securities dealer. Nothing in this paragraph shall authorize the Secretary or any appropriate regulatory agency to withhold information from Congress, or prevent the Secretary or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

SEC. 5. LIMITATION ON PRACTICES WHICH RESULT IN VOLATILITY.

Section 9 of the Securities Exchange Act of 1934 is amended by adding at the end thereof the following new subsection:

"(h) LIMITATIONS ON PRACTICES THAT AFFECT MARKET VOLATILITY .—

"(1) COMMISSION RULES.—It shall be unlawful for any person, by the use of the mails or any means or instrumentality of interstate commerce or of any facilty of any national securities exchange, to use or employ any act or practice in connection with the purchase or sale of any equity security in contravention of such rules or regulations as the Commission may adopt, as necessary or appropriate in the public interest or for the protection of investors or to maintain fair and orderly markets—

"(A) to prescribe means reasonably designed to prevent manipulation of equity securities prices that is reasonably likely to affect market volatility; and

"(B) to prohibit or constrain, during periods of extraordinary market volatility, any act or practice that the Commission determines (i) has previously contributed to extraordinary levels of volatility that have adversely affected the maintenance of fair and orderly markets; and (ii) is reasonably likely to engender such levels of volatility if not prohibited or constrained.

"(2) CIVIL PENALTIES.—Whenever it shall appear to the Commission that any person has violated any provision of the rules or regulations prescribed under paragraph (1) of this subsection, the Commission may bring an action to seek, and the court shall have jurisdiction to impose, based upon a finding of a violation, a civil penalty against such person. The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (A) $100,000 for a natural person, or $500,000 for any other person, or (B) the pecuniary gain to such defendant as a result of the violation. The penalty shall be payable into the Treasury of the United States. If a person upon whom such a penalty is assessed shall fail to pay such penalty within the time prescribed in the court's order, the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court. The action authorized by this paragraph may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring. For purposes of section 27 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(3) CEASE AND DESIST AUTHORITY.—(A) If the Commission finds, after notice and opportunity for hearing, that any person is violating or has violated any provision of the rules or regulations prescribed under paragraph (1) of this subsection, or that there is reasonable cause to believe that any person is about to violate any such provision, the Commission may publish its findings and issue an order requiring such person, and any other person who was a cause of the violation due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from the violation or any future violation of the same provision. Such order may, in addition to requiring the person or the person's employees or agents to cease and desist from the violation or any future violation, require action to remedy the conditions resulting from such violation and to prevent future violations with respect to the same or another issuer or security.

"(B) Whenever the Commission shall determine that the violation or threatened violation specified in the notice of charges instituting a proceeding pursuant to subparagraph (A) is likely to cause significant disruption of the securities markets or otherwise significantly harm investors prior to the completion of the proceeding, the Commission may issue a temporary order requiring the respondent to cease and desist from any such violation and to take action to prevent such disruption or harm pending completion of such proceeding. Such order shall become effective upon service upon the respondent or its employee or agent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceeding. A temporary order issued under this subsection shall be deemed a final order for purposes of section 25 of this title.

"(C) Any person who violates an order of the Commission to cease and desist pursuant to subparagraph (A) or (B) while such order is in effect may, in addition to any other remedy provided by law, be required to forfeit and pay to the United States Treasury a civil penalty of not more than $100,000 for a natural person, or $500,000 for any other person, for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the Commission pursuant to section 21(e) of this title. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense.".

SEC. 6. NOTIFICATION OF SEC CONCERNING RISKS TO SECURITIES SUBSIDIARY.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end of the following new section:

"SEC. 35. COORDINATION OF RISK ANALYSIS BETWEEN SEC AND FEDERAL BANKING AGENCIES.

"Any appropriate Federal banking agency shall notify the Securities and Exchange Commission of any concerns of the agency regarding significant financial or operational risks to any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or government securities dealer for which the

Commission is the appropriate regulatory agency (as defined in section 3 of the Securities Exchange Act of 1934), resulting from the activities of any insured depository institution, any depository institution holding company, or any affiliate of any such institution or company if such broker, dealer, municipal securities dealer, government securities broker, or government securities dealer is an affiliate of any such institution, company, or affiliate.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us today, H.R. 3657, the Securities Markets Reform Act of 1990, includes legislative reforms prompted by the October 19, 1987, market crash and the episodic volatility which has plagued our markets and greatly diminished individual investor confidence.

I am pleased that this bill enjoys broad bipartisan support among members of the Energy and Commerce Committee, the support of the Securities and Exchange Commission, the nation's securities exchanges, the Chicago Mercantile Exchange, and broad support from those active in our Nation's securities industry.

Briefly, H.R. 3657 contains four legislative proposals granting the SEC the following additional powers; section 2, expands the Commission's ability to act in a market emergency; section 3, allows the SEC to monitor the securities markets by providing for a system of large trader reporting; section 4, allows the SEC to assess the risks posed to brokers or dealers by their associated persons; and section 5, allows the SEC to regulate acts or practices which lead to certain specified levels of market volatility.

In addition, as the result of close cooperation with our colleagues on the Committee on Banking, Finance and Urban Affairs, we are adding several significant improvements to the bill reported out by the Energy and Commerce Committee. These improvements have resulted in the addition of new legislative requirements in the risk assessment section of the bill requiring the SEC to consult with Federal banking regulators regarding associated persons under such regulators' jurisdiction and in the creation of a new section 6. The new section 6 requires Federal banking agencies to notify the SEC of any significant financial or operational risks posed to SEC regulated entities by any insured depository insititution, its holding company or its affiliates. A reciprocal provision provides for the SEC to inform the Federal banking agencies of any such risks which the SEC observes to associated persons regulated by the Federal banking agencies.

I would like to thank my colleagues on the Committee on Banking, and their staff, for working closely with the Committee on Energy and Commerce to bring this bill to the floor today. Chairman GONZALEZ has graciously offered to waive his committee's right to a sequential referral in order to allow for the expeditious consideration of this bill. In addition, I would also like to thank the Committee on Agriculture, and Chairman DE LA GARZA for their cooperation in working with the Energy and Commerce Committee to allow for floor consideration of this bill today.

Let me say a few words concerning section 5. This is an important provision which grants the SEC direct authority to address market volatility. It should be noted that this section does not extend the jurisdictional reach of the SEC—the provision applies only to securities, it does not apply to stock index futures. However, it does allow the SEC to protect the securities markets from the impacts of certain trading strategies which may have a futures-related component.

The new section 5 grants the SEC the authority to promulgate regulations which first prescribe means reasonably designed to prevent manipulation of equity securities prices that is reasonably likely to affect market volatility, and second, prohibit or constrain, during periods of extraordinary volatility, those acts or practices which have contributed to such levels of volatility in the past and are likely to engender such volatility if not prohibited or constrained.

The need for this provision stems from the changes which have significantly reshaped our securities markets in the last decade—the swift domination of the stock market by institutions and the rise of trading by securities firms for their own accounts.

This concentration of greater and greater financial power in the hands of fewer and fewer individuals has led to the birth of a host of new trading strategies and financial instruments which have been specifically tailored for trading the value of the stock market as a whole. The umbrella term for such strategies is program trading which covers index arbitrage, portfolio insurance, tactical asset allocation, and other strategies. Unfortunately, with the increased dominance of the market by institutions and securities firms has come the opportunity to provide from manipulative acts or practices, such as intermarket frontrunning or self-frontrunning, or aggressive trading strategies which prey on the existing fragility of our markets. To compound matters, our regulatory scheme and the imposition of operational safeguards in our markets have lagged behind these tremendous changes which have changed the nature and behavior of financial markets.

For instance, the January 1988 report of the Presidential Task Force on Market Mechanisms, popularly known as the Brady report, in describing the events which led to the Dow's 508 point drop, stated that trading activity on that day was concentrated in the hands of a surprisingly few institutions using portfolio insurance and index arbitrage strategies. The SEC's just released study of the trading activity on October 13 and 16, reported study of the trading activity on October 13 and 16, 1989, reported that [i]ndex arbitage and other program selling significantly accelerated and exacerbated the market decline. The SEC singled out two relatively new phenomena as playing a role in the markets decline—the noncontemporaneous execution of index arbitrage known as legging and the rebirth of portfolio insurance in the form of over-the-counter puts written by broker-dealers for the benefit of their institutional customers. In addition, the SEC once again noted the use of foreign markets in effective index arbitrage strategies, through the use of exchange-for-physical transactions. The SEC's study concluded with a direct warning:

> Given current market and regulatory structures, there can be no assurance that the extraordinary volatility of October 13 and 16 will not be repeated or surpassed in the future.

Section 5 would allow the SEC to assess the impact of these program trading strategies, and other acts or practices, on our securities markets and to devise prudent measures to protect our markets from both the intended, and unintended, consequences of such strategies, acts or practices. We expect that the SEC will aggressively pursue any wrongdoing and monitor the impact of new strategies and products on the stability and integrity of our markets.

The need to pass market reform legislation should not be calibrated to the level of the Dow. Congress should not legislate up markets or down markets—we should legislate fair markets. As the market climbs to record highs, the need for basic reforms is just as urgent. If the market reaches a high only to come tumbling down, we want to make sure that the decline is orderly and panic-free.

Efficiency for efficiency's sake is no virtue. We could drive to the corner

drugstore to pick up the morning paper at 100 miles per hour, that would be terribly efficient, but it wouldn't be terribly smart. We post speed limits to protect pedestrians and to prevent unnecessary crashes. Well, our stock markets are no different. When program trading strategies push the limits of our markets to the near breaking point, we should put speed limits on our high-tech traders. My bill today does just that—it gives the SEC the power to put sensible speed limits on our market participants, so that individual investors and our biggest market players can happily coexist.

That is why the reforms we are voting on today are so essential. Through section 3 on large trader reporting, and section 5 on limitations on practices which lead to volatility, the SEC will be able to ascertain how our markets are being used, and misused, and to take appropriate action where necessary to maintain fair and orderly markets and to protect investors. Through the section 2 powers on emergency authority, the SEC will be equipped to act quickly in times of an emergency or a substantial threat of emergency. And finally, through section 4 on risk assessment, the SEC and the Department of the Treasury will be able to understand and monitor the financial and operational risks posed to regulated entities by their associated persons.

It is important, however, to view these new provisions in the context of the need for broader, more fundamental, market reforms. Section 3 and 5 are only partial solutions. They represent only the preliminary steps which are needed to develop a modern regulatory scheme to govern our financial markets. The administration, led by the Secretary of the Treasury, Nicholas Brady, has recently advocated the adoption of more far-reaching regulatory reforms which would fully implement the recommendations of the Brady report. After examining the October 19, 1987, market crash, the Brady report made five recommendations: First, one agency should coordinate intermarket issues; second, clearing and settlement systems should be coordinated; third, margins should be harmonized; fourth circuit breakers should be implemented; and fifth, information systems should be estalished which allow transactions and market conditions to be monitored.

Clearly, H.R. 3657, and H.R. 3656, the Coordinated Clearance and Settlement Act of 1990, represent only a partial implementation of the Brady report's recommendations. The administration's proposal which calls for transferring stock index futures to the SEC and vesting margin authority over stock index futures in the SEC are the critical next steps which must be accomplished to assure that our financial markets are put on a firm regulatory footing.

So I urge my colleagues to support passage of H.R. 3657, and to join with me, in preparing for the swift passage of additional regulatory reforms which will be brought before Congress shortly.

Mr. DINGELL. Mr. Speaker, I rise in support of the bill, H.R. 3657, the Securities Markets Reform Act of 1990, and urge its immediate passage. Efficiently structured and functioning equity markets are critical to this Nation's economy and to the public.

In January 1988, the Report of the Presidential Task Force on Market Mechanisms—the so-called Brady report—on the precipitous market decline of mid-October 1987 noted that:

The events of October demonstrated an unusual frailty in the markets. Only 3 percent of the total shares of publicly traded stock in the United States changed hands during this period, but it resulted in the loss in stock value of $1 trillion. That such a relatively small transaction volume can produce such a large loss in value over such a short time span suggests the importance of determining the extent to which market mechanisms themselves were an important factor in the October market break.

The Committee on Energy and Commerce has given careful and studied consideration to the findings and conclusions of the administration's report, as well as numerous other analyses of these and subsequent market events. The end-result is the well-crafted, balanced legislation we bring to the floor today.

H.R. 3657, therefore, would provide greater authority in four areas: First, expand the Securities and Exchange Commission's ability to act in a market emergency; second, provide for the reporting and recording of large trades so that the SEC may more effective monitor our securities markets; third, require registered brokers and dealers, and others, to keep records and provide information to the SEC concerning the overall financial exposure of broker-dealer holding companies; and fourth, grant the SEC the authority (a) to prescribe means reasonably designed to prevent manipulation of equity securities prices that is reasonably likely to affect market volatility, and (b) to prohibit or constrain certain other acts or practices which result in extraordinary levels of market volatility that adversely affect the maintenance of fair and orderly markets.

H.R. 3657 will provide securities regulators with enhanced powers to prevent manipulation that affects market volatility and to prohibit or constrain practices reasonably likely to engender extraordinary volatility, and with increased access to information critical to effective financial oversight of the securities markets. The 508-point market break of October 19, 1987, and the deep market decline of October 13, 1989, of 190 points, as well as recurring episodes of market volatility, have established the need to adopt legislative reforms designed to strengthen the ability of our regulators to ensure the stability, resiliency, and integrity of our Nation's securities markets. Moreover, the financial failure of Drexel Burnham Lambert Group, Inc., and its effect on its two principal regulated subsidiaries, Drexel Burnham Lambert, Inc., a registered broker-dealer, and Drexel Burnham Lambert Government Securities, Inc., a registered government securities dealer, underscore the importance of financial soundness to the functioning of our financial markets.

Mr. Speaker, I want to commend the chairman of the Subcommittee on Telecommunications and Finance [Mr. MARKEY], that subcommittee's ranking Republican [Mr. RINALDO], and the ranking Republican of the full committee [Mr. LENT], for their strong leadership and extraordinary efforts in bringing this important bipartisan legislation to the House floor. I also want to thank the leadership of the Committee on Agriculture and of the Committee on Banking, Finance and Urban Affairs for the cooperative spirit in which they have worked with the Committee on Energy and Commerce to facilitate action on this bill.

The underlying premise of H.R. 3657 is that of the statute it amends, which statute, the Securities Exchange Act of 1934, was enacted by the Congress 56 years ago and states at section 2 thereof:

. . . transactions in securities as commonly conducted upon securities exchanges and over-the-counter markets are affected with a national public interest which makes it necessary to provide for regulation and control of such transactions and of practices and matters related thereto, . . . to require appropriate reports, . . . and to impose requirements necessary to make such regulation and control reasonably complete and effective, in order to . . . insure the maintenance of fair and honest markets in such transactions.

I urge my colleagues to support H.R. 3657.

□ 1500

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3657, the Stock Market Reform Act of 1990.

I also want to take this opportunity to commend the gentleman from Massachusetts [Mr. MARKEY] for his leadership, but most of all for the long hours he put into this legislation. It required a tremendous amount, an untold amount of negotiation, a lot of work with the administration, a lot of work with different Members, a lot of work with people in the brokerage field, and the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee, and the ranking minority member, the gentleman from New York [Mr. LENT], also deserve to be commended for their efforts.

Mr. Speaker, our securities laws are the model the world uses for regulation of capital markets, but markets face challenges in the 1990's that have never been seen before. Today we live in an era when market emergencies characterized by excessive fluctuations of securities prices threaten fair and orderly markets. Investor confidence in the integrity of the market is dangerously low and for good reason. The actions of large traders have brought about levels of market volatility that would shake the confidence of the

most courageous investors. That is totally unacceptable and our laws are in need of fine tuning. H.R. 3657 responds to that need.

The failure of Drexel, Burnham Lambert sent shock waves through the world's financial markets and frightened the public and regulators alike. It also focused the attention of Congress on holding company structures that make possible transfers of capital from regulated entities to unregulated ones. As broker-dealers have formed holding companies and moved risky activities such as bridge loans, interest rate swaps, and foreign currency transactions into affiliated entities not under SEC oversight, a flaw in the fabric of our securities regulation became apparent. Our worst fears were realized when, after the fact, newspapers informed us that in the final weeks of Drexel, Burnham's operations, the holding company drained hundreds of millions of dollars of capital from its broker-dealer subsidiary. The message is clear: The activities of its affiliates may put a broker-dealer at risk. H.R. 3657 addresses this danger.

H.R. 3657 is significant legislation. It grants the SEC emergency authority to act in a market crisis, broadening the Commission's authority to suspend trading. It authorizes the SEC to establish an information gathering system for monitoring large securities transactions and to use the information for regulatory and surveillance purposes. It provides authority for collecting broker-dealer risk assessment information from holding companies. And finally, it grants the SEC discretionary authority to prohibit or constrain, during periods of extraordinary market volatility, acts the SEC has previously determined contribute to unacceptable levels of volatility.

In sum, Mr. Speaker, H.R. 3657 provides the SEC with the tools needed to address regulatory challenges into the next century. I am proud to have been a supporter of this bill from the beginning because I believe it is needed; it will help to instill confidence in the small investor and hopefully will bring the small investor back into the market.

I urge my colleagues on both sides of the aisle to support this measure.

□ 1510

Mr. MARKEY. Mr. Speaker, I would like to note the incredible work and cooperation that the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce, has put into this legislation.

Mr. Speaker, I yield the balance of my time to the gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Speaker, I want to commend my friends, Chairman DINGELL and subcommittee Chairman MARKEY for bringing this legislation to the floor today.

This legislation provides securities regulators with enhanced authority to prevent market manipulation, to prohibit practices which contribute to market volatility and to obtain information on the financial and securities activities of entities affiliated with securities firms. The antecedents for this legislation are the two market disruptions in October 1987 and 1989 and the collapse of Drexel Burnham Lambert, Inc. Each of these situations tested the limits of our Nation's securities and banking regulatory structure. The extent to which we weathered those storms is a tribute to the cooperation between, and the hard work of, financial regulators and to the trust of the public in the stability of our system. In many respects this legislation institutionalizes these informal relationships between our financial regulators.

Although the Committee on Banking, Finance and Urban Affairs has waived its right to consider this legislation, the committee had substantive and jurisdictional concerns about H.R. 3657 as reported from the Energy and Commerce Committee. Because of the importance and urgency of this legislation, the Banking Committee sought to prevent the unavoidable delay of a sequential referral to the committee. With the cooperation of ranking member Mr. WYLIE, and other interested Banking Committee members, the Banking and Energy and Commerce Committees worked to fashion the amendment we are considering today. The Banking Committee concerns centered on sections 3 and 4 and their implications for matters within the jurisdiction of the Committee on Banking, Finance and Urban Affairs.

While our examination of section 3 revealed jurisdictional concerns, we concurred in the policy contained in that section. Further information and authority is needed by regulators to prevent manipulation of the markets by a few large players. As a result the amendment we consider today does not make any changes to section 3.

The committee was more concerned with the section 4 as it relates to banks and banking. As a result of our concern, the amendment we are considering today modifies the bill as reported from committee to do the following:

First, the SEC is required to consult with the Federal banking agencies in developing reporting requirement for banks and nonbank affiliates. As used in this context the term "nonbank affiliates" refers to those subsidiaries of a depository institutions holding company that are not regulated by the Commission but are subject to the reporting requirements of and examination by Federal banking agencies. If the Federal banking agency comments on a proposed rule of the SEC on this subject the SEC must publish the agency's comment and the SEC's response in the Federal Register.

Second, a broker-dealer is considered to be in compliance with the reporting or recordkeeping requirements of the SEC concerning its bank or nonbank affiliates if the broker-dealer submits to the SEC the call reports or similar reports required by the Federal banking agencies. The Commission may, by rule, require the broker-dealer to submit additional information if the Commission has made an explicit finding that such information is necessary and has previously requested the Federal banking agencies to expand reporting requirements to include such information.

Third, if the Commission has concerns that the activities of a affiliated bank or nonbank threaten the financial or operational condition of a broker-dealer the Commission may require the broker-dealer to report additional, information on the bank or nonbank affiliate. Prior to making such request the SEC must notify the Federal banking agency of such request. In addition the Commission must also consult with the Federal banking agency to determine if the information is available for the Federal banking agency. The SEC has to notify but not consult with the Federal banking agency if it determines that the delay resulting from such consultation would be inconsistent with ensuring the operational and financial condition of the broker-dealer or the stability of the markets.

Fourth, examination reports, supervisory recommendations or any analysis contained therein are exempt from the reporting requirements and can not be obtained by the SEC.

Fifth, information obtained by the commission on the grounds that a threat exists to the broker dealer may not be disclosed to any other person except Federal agencies or self-regulatory organizations without the written permission of the Federal banking agencies. All information obtained by the SEC on the bank or nonbank affiliate is to be considered confidential.

Sixth, the SEC is required to inform the Federal banking agencies of its concerns that the activities of an affiliated broker-dealer threaten the financial or operational condition of a bank or nonbank affiliate.

Seventh, a Federal banking agency is required to inform the SEC if it has concerns that the activities of a affiliated bank or nonbank threaten the financial or operational condition of a broker-dealer.

I want to commend the Chairman DINGELL and the members of the Committee on Energy and Commerce for their cooperation in resolving our con-

cerns. In many respects this bill foreshadows the issues that both of our committees will have to deal with in the near future. Our efforts in this regard have brought us greater understanding of the differences between the regulatory structure of banking and securities that has developed over more than 55 years. It is my hope and my intention that our future legislative cooperation will be as productive and cooperative as this. I look forward to working with Chairman DINGELL in conference and to enactment in the very near future.

In addition, I also want to thank my ranking minority member, CHALMERS WYLIE for his work fashioning the amendment.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I wanted to say in addition to what I just said, and this is from an old perception and projection of what really is happening in the real world, it is my conviction that we can do all possible within the jurisdiction of these committees that are involved, even with respect to the jurisdiction of the Committee on Agriculture on former MAC financing. But ultimately it is the tax-writing committee, the Committee on Ways and Means. The Phenomena which has disturbed the markets, as well as the minds and conscience of the American citizens since October 1987, really are based on the Treasury's subsidization of these quick fast buck operations. Not only have they subsidized them through tax writeoffs, but even tax benefits.

So until we can persuade and work in conjunction with the Committee on Ways and Means to bring about that much needed reform, I am afraid that as far as we are concerned, we have done all we can, but we have not really addressed the fundamental problem.

Banking is involved. Just in the R.J. Reynolds deal, the LBO, we had over $25 billion worth of banking resources involved.

That is very perilous. How much of that, if not all of it, involves insured funds, with the consequent dangers?

So these are things that we were considering. In no way were we attempting to obstruct the consideration of this bill by the Committee on Energy and Commerce.

Mr. RINALDO. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I rise in strong support of H.R. 3657. This legislation will give the Securities and Exchange Commission greater regulatory authority to halt program trading during times of extraordinary market volatility.

□ 1520

I believe this is a positive development for our securities markets for a couple of reasons.

First, we all witnessed the problem associated with programmed trading in October 1987 as it generated a vicious cycle of selling, lowering prices, and causing a 500-point stock market adjustment. In normal times, programmed trading is not a problem, but when markets are in a volatile state I think we need the capacity for human intervention.

While I understand that the administration has some concerns that this language is too broad, I have every confidence that the SEC will use this power sparingly and in times of emergency only. Like the gentleman from New Jersey [Mr. RINALDO], I support this bill because I am hopeful that by injecting some stability into the market it will encourage small investors to return to the market.

May I add that the Committee on Banking, Finance and Urban Affairs, working with the Committee on Energy and Commerce has made certain changes to this bill, not to weaken it in any way, but rather to facilitate a better working structure between the banking regulators and the SEC. As mentioned by Chairman GONZALEZ, the changes include consultation by the SEC with banking regulators in developing new reporting requirements for banks and for bank holding company broker/dealer subsidiaries which the SEC may feel are necessary as a result of this legislation.

These mutual consultation proceedings between the SEC and banking regulators may be needed if either the holding company or the broker/dealer subsidiary are in trouble.

Finally, there are some provisions to protect the confidentiality of information that is given to the SEC by the banking regulators.

I too commend Chairman DINGELL, and the gentleman from New York [Mr. LENT], the gentleman from Massachusetts, [Mr. MARKEY], the gentleman from New Jersey [Mr. RINALDO], and the gentleman from Texas [Chairman GONZALEZ]. I agree, all of these Members and their staffs have worked very well together to reach compromise language, and I urge passage of this much needed legislation.

Mr. RINALDO. Mr. Speaker, I yield 3 minutes to the gentleman form Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in support of H.R. 3657, the Securities Markets Stabilization Act of 1989. While I have some lingering doubts about one provision of the bill, I do support passage of this measure which gives the Securities and Exchange Commission broad new authority to regulate our financial markets.

Specifically, this legislation would expand the SEC's authority to suspend trading in times of major market disturbances, so long as the President has no objections. Also, the SEC is granted new emergency authority when otherwise orderly markets are jeopardized.

H.R. 3657 will put in place an innovative two-tier system of large trader reporting requirements which will allow the Commission to collect information that could be helpful in detecting illegal securities activities. In addition, the legislation before us would permit the SEC to require parents and affiliates of broker-dealers to submit financial information on a quarterly basis. As many of my colleagues know, a variety of risky financial transactions, such as bridge loan financing and interest rate swaps, occur which are not subject to SEC oversight. This risk assessment provision will allow the Commission to understand a firm's total financial exposure, which may help avoid situations in which certain financial houses recently have found themselves.

The final provision of H.R. 3657, section 5, would grant to the SEC authority to prohibit or constrain, in time of major market volatility, any practice which the Commission has determined to contribute to extraordinary levels of volatility. I remain somewhat concerned that this provision is overly broad and may prove troubling should it make its way into the final law. I am hopeful that this section can be tightened up as this bill moves through the legislative process.

Finally, Mr. Speaker, I want to commend the Finance Subcommittee chairman, Mr. MARKEY, and the ranking minority Member, Mr. RINALDO, for their hard work on this bill. I urge support for this legislation.

Mr. Speaker, I would like to address myself specifically to section 5 which has been the most difficult area that we have had to deal with, and I am sure the chairman and others would agree, because of the potential for some overly broad language being used by the SEC in the enforcement provision.

The language specifically that I would like to refer to is in section 5, subsection (h)(1):

> The Commission, by rule or regulation, as it deems necessary or appropriate in the public interest and for the protection of investors or to maintain fair and orderly markets, may prohibit or constrain manipulative or abusive practices that will result or are reasonably likely to result in levels of volatility that may adversely affect the integrity or stability of securities markets.

I have to be the first to admit that dealing with this language has been most difficult.

It has been I think refined in the committee process to the point now where we are much farther along than we had ever been. I suspect that as the bill moves through the legislative

process that there will be more input on the other side of the capital, and hopefully working with the people from the SEC, to further refine this language. It is with that confidence that I support the legislation before us and feel secure that we will deal with the issue at the appropriate time and that we can have a bill that will be signed by the President.

I have the utmost confidence that the existing SEC will, in fact, use the power sparingly and in the best interests of the investing public, but obviously SEC's come and go, and I want to make certain that the language is as tight as humanly possible.

To that end, I congratulate the chairman for his good work, and our ranking member, the gentleman from New Jersey [Mr. RINALDO] as well as those who have worked long and hard on this stop-and-start process of this bill. I am concerned with section 5, but at the same time feel confident that the chairman and others will be able to come to a reasonable conclusion.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. OXLEY. I am glad to yield to my friend, the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for his support. I would like to note, however, that although SEC's do come and go, that alas, Republican control over the executive department has not been subject to that same volatility and is unlikely to face that prospect in the near future.

Mr. OXLEY. I am sure I share the confidences of the chairman that that will continue for as long as we may be around here. But I do thank the chairman for his good work, and ask support for this legislation.

Mr. RINALDO. Mr. Speaker, I have no further requests for time.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. RINALDO. I am pleased to yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY], chairman of the subcommittee.

Mr. MARKEY. Mr. Speaker, I would like to just once again thank the gentleman from New Jersey [Mr. RINALDO], to thank the gentleman from Michigan [Mr. DINGELL], the gentleman from New York [Mr. LENT] from our subcommittee; Steve Cope, legislative counsel; Steve Blumenthal, minority counsel; and Consuela Washington and Nancy Smith from the Energy and Commerce Committee staff for their work, and all the members of our subcommittee, but I would particularly like to thank the gentleman from New Mexico [Mr. RICHARDSON] and the gentleman from Tennessee [Mr. COOPER] for their active participation in drafting of the legislation, and again I thank my friend, the gentleman from New Jersey [Mr. RINALDO].

Mr. LENT. Mr. Speaker, I rise today in support of H.R. 3657, to Stock Market Reform Act of 1990.

Mr. Speaker, our financial markets are the most dynamic in the world. The Securities and Exchange Commission must have the authority it needs to meet regulatory challenges that arise in our markets. This bill provides such authority. It is the product of months of negotiation between Members of this body, the Securities and Exchange Commission, and representatives of the securities industry.

The bill identifies four of these needs, in summary they are:

First, the SEC must have authority to act in a market crisis and with the consent of the President shut the markets down.

Second, in today's institutional markets, where pension funds and trust accounts purchase shares in blocks of tens of thousands, the SEC must know who the largest traders are.

Third, the Commission must also be able to assess the risk to broker dealers of activities of their parents and affiliates in a holding company structure.

Fourth, the SEC must have authority to address, in rulemaking proceedings, acts and practices that may led to market manipulation and disruption.

This bill would grant the SEC these needs powers but the new authorities are limited. The language of the bill is designed to focus on the legitimate regulatory needs of the Commission. Holding company risk assessment authority is a prime example. The bill outlines a clear statutory standard for determining when disclosure by affiliated entities must be made. It is the statutory standard that will control. While we do not want the SEC subjected to nuisance suits to prevent disclosure, neither do we intend to subject the industry to hindsight determinations. I believe the bill's approach is a balanced one.

This bill authorizes the SEC during periods of extraordinary market volatility to prohibit any act a rulemaking proceeding has found to contribute to extraordinary volatility. Extraordinary volatility is not normal market fluctuation but volatility that adversely affects the maintenance of fair and orderly markets.

The Department of Treasury has expressed legitimate concerns about this provisions of the bill, but I support the language of the bill today. It is a level of government authority without precedent in our legal system, and I take comfort in legislative language that describes these powers in terms of limitation. The language is permissive not mandatory, the SEC is not required to engage in rulemaking or any other activity. The SEC may act only during times of crisis in our securities markets and then only for the duration of the crisis. And finally, the SEC may act only after it has previously engaged in rulemaking. The congressional message to the SEC is clear, this is an emergency power, not an open ended grant of authority to restructure securities regulation.

Mr. Speaker, I urge my colleagues to support H.R. 3657.

Mr. RINALDO. Mr. Speaker, I thank the chairman of the subcommittee for his leadership on this issue.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PEASE). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 3657, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on H.R. 3657, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PROVIDING FOR CORRECTION OF ENGROSSMENT OF H.R. 3656, COORDINATED CLEARANCE AND SETTLEMENT ACT OF 1990

Mr. MARKEY. Mr. Speaker, I offer a resolution (H. Res. 405) to provide for the correction of the engrossment of H.R. 3656, and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution as follows:

H. RES. 405

Resolved, That the Senate is requested to return to the House the bill (H.R. 3656) to amend the Securities Exchange Act of 1934 to improve the clearance and settlement of transactions in securities and related instruments, and for other purposes, and that the Clerk be authorized to reengross the bill with the following corrections:

Page 2, line 22, strike out "consult" and insert "coordinate".

Page 2, line 23, insert "consult with" after "Commission and".

Page 3, beginning on line 2, insert "the Commodity Futures Trading Commission," after "with", and on line 3, insert a comma after "System".

Page 3, line 8, strike out "Congress" and insert "the Committees on Energy and Commerce and Agriculture of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Agriculture, Nutrition, and Forestry of the Senate".

Mr. MARKEY (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

Mr. RINALDO. Mr. Speaker, reserving the right to object, I do so for the purpose of yielding to the gentleman from Massachusetts [Mr. MARKEY], so that he may explain his unanimous-consent request.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding, and I will be very brief.

This resolution requests the Senate to return to the House H.R. 3656, a bill to amend the Securities Exchange Act of 1934 to improve the clearance and settlement of transactions in securities and related instruments, and for other purposes, and authorizes the Clerk to reengross the bill with corrections to reflect language requested by the Committee on Agriculture and agreed to by the House on May 8, 1980.

Mr. RINALDO. Mr. Speaker, with that explanation, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RADIATION EXPOSURE COMPENSATION ACT

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2372) to provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing, as amended.

The Clerk read as follows:

H.R. 2372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radiation Exposure Compensation Act".

SEC. 2. FINDINGS, PURPOSE, AND APOLOGY.

(a) FINDINGS.—The Congress finds that—

(1) fallout emitted during the Government's above-ground nuclear tests in Nevada exposed individuals who lived in the downwind affected area in Nevada, Utah, and Arizona to radiation that generated an excess of cancers among these individuals;

(2) the health of the individuals who were unwitting participants in these tests was put at risk to serve the national security interests of the United States;

(3) radiation released in underground uranium mines that were providing uranium for the primary use and benefit of the nuclear weapons program of the United States Government exposed miners to massive doses of radiation that produced an increased incidence of lung cancer and respiratory diseases among these miners;

(4) the United States should recognize and assume responsibility for the harm done to these individuals; and

(5) the Congress recognizes that the lives and health of uranium miners and of innocent individuals who lived downwind from the Nevada tests were sacrificed to serve the national security interests of the United States.

(b) PURPOSE.—It is the purpose of this Act to establish a procedure to make partial restitution to the individuals described in subsection (a) for the burdens they have borne for the Nation as a whole.

(c) APOLOGY.—The Congress apologizes on behalf of the Nation to the individuals described in subsection (a) and their families for the hardships they have endured.

SEC. 3. TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States, a trust fund to be known as the "Radiation Exposure Compensation Trust Fund" (hereinafter in this Act referred to as the "Fund"), which shall be administered by the Secretary of the Treasury.

(b) INVESTMENT OF AMOUNTS IN THE FUND.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from any such investment shall be credited to and become a part of the Fund.

(c) AVAILABILITY OF THE FUND.—Amounts in the Fund shall be available only for disbursement by the Attorney General under section 6.

(d) TERMINATION.—The Fund shall terminate not later than the earlier of the date on which an amount has been expended from the Fund which is equal to the amount authorized to be appropriated to the Fund by subsection (e), and any income earned on such amount, or 10 years after the date of the enactment of this Act. If all of the amounts in the Fund have not been expended by the end of that 10-year period, investments of amounts in the Fund shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund $100,000,000. Any amounts appropriated pursuant to this section are authorized to remain available until expended.

SEC. 4. CLAIMS RELATING TO OPEN AIR NUCLEAR TESTING.

(a) CLAIMS RELATING TO SPECIFIED DISEASES.—Any individual who was physically present in the affected area for a period of at least one year during the period beginning on January 21, 1951, and ending on October 31, 1958, or was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, and who submits written medical documentation that he or she, after such period of physical presence, contracted a specified disease, shall receive $50,000 if—

(1) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(2) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

Payments under this section may be made only in accordance with section 6.

(b) DEFINITIONS.—For purposes of this section, the term—

(1) "affected area" means—

(A) in the State of Utah, the counties of Washington, Iron, Kane, Garfield, Sevier, Beaver, Millard, and Piute;

(B) in the State of Nevada, the counties of White Pine, Nye, Lander, Lincoln, Eureka, and that portion of Clark County that consists of townships 13 through 16 at ranges 63 through 71; and

(C) that part of Arizona that is north of the Grand Canyon and west of the Colorado River; and

(2) "specified disease" means leukemia (other than chronic lymphocytic leukemia), multiple myeloma, lymphomas (other than Hodgkin's disease), and primary cancer of the thyroid, breast, esophagus, stomach, pharynx, small intestine, pancreas, bile ducts, gall bladder, or liver (except if cirrhosis or hepatitis B is indicated).

SEC. 5. CLAIMS RELATING TO URANIUM MINING.

(a) ELIGIBILITY OF INDIVIDUALS.—Any individual who was employed in a uranium mine located in Colorado, New Mexico, Arizona, or Utah at any time during the period beginning on January 1, 1947, and ending on December 31, 1971, and who, in the course of such employment—

(1) was exposed to two hundred and fifty or more working level months of radiation, and submits written medical documentation that he or she, after such exposure, developed lung cancer, or

(2) was exposed to eight hundred or more working level months of radiation, and submits written medical documentation that he or she, after such exposure, developed a radiation-caused respiratory disease,

shall receive $100,000, if—

(A) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(B) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

Payments under this section may be made only in accordance with section 6.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "working level month of radiation" means radiation exposure at the level of one working level every work day for a month, or an equivalent exposure over a greater or lesser amount of time;

(2) the term "working level" means the concentration of the short half-life daughters of radon that will release (1.3×10^5) million electron volts of alpha energy per liter of air; and

(3) the term "radiation-caused respiratory disease" means fibrosis of the lung, pulmonary fibrosis, and corpulmonale related to fibrosis of the lung.

SEC. 6. DETERMINATION AND PAYMENT OF CLAIMS.

(a) ESTABLISHMENT OF FILING PROCEDURES.—The Attorney General shall establish procedures whereby individuals may submit claims for payments under this Act.

(b) DETERMINATION OF CLAIMS.—

(1) IN GENERAL.—The Attorney General shall, in accordance with this subsection, determine whether each claim filed under this Act meets the requirements of this Act.

(2) CONSULTATION.—The Attorney General shall—

(A) in consultation with the Surgeon General, establish guidelines for determining what constitutes written medical documentation that an individual contracted a specified disease under section 4 or other disease specified in section 5; and

(B) in consultation with the Director of the National Institute for Occupational Safety and Health, establish guidelines for measuring working level months of radiation under section 5.

The Attorney General may consult with the Surgeon General with respect to making determinations pursuant to the guidelines

issued under subparagraph (A), and with the Director of the National Institute for Occupational Safety and Health with respect to making determinations pursuant to the guidelines issued under subparagraph (B).

(c) PAYMENT OF CLAIMS.—

(1) IN GENERAL.—The Attorney General shall pay, from amounts available in the Fund, claims filed under this Act which the Attorney General determines meet the requirements of this Act.

(2) OFFSET FOR CERTAIN PAYMENTS.—A payment to an individual, or to a survivor of that individual, under this section on a claim under section 4 or 5 shall be offset by the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for worker's compensation), against any person, that is based on injuries incurred by that individual on account of—

(A) exposure to radiation, from open air nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during any period specified in section 4(a), or

(B) exposure to radiation in a uranium mine at any time during the period described in section 5(a).

(3) RIGHT OF SUBROGATION.—Upon payment of a claim under this section, the United States Government is subrogated for the amount of the payment to a right or claim that the individual to whom the payment was made may have against any person on account of injuries referred to in paragraph (2).

(4) PAYMENTS IN THE CASE OF DECEASED PERSONS.—(A) In the case of an individual who is deceased at the time of payment under this section, such payment may be made only as follows:

(i) If the individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

(ii) If there is no surviving spouse described in clause (i), such payment shall be made in equal shares to all children of the individual who are living at the time of payment.

(iii) If there is no surviving spouse described in clause (i) and if there are no children described in clause (ii), such payment shall be made in equal shares to the parents of the individual who are living at the time of payment.

(iv) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii) or parents described in clause (iii), such payment shall be made in equal shares to all grandchildren of the individual who are living at the time of payment.

(v) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii), parents described in clause (iii), or grandchildren described in clause (iv), then such payment shall be made in equal shares to the grandparents of the individual who are living at the time of payment.

(B) If an individual eligible for payment under section 4 or 5 dies before filing a claim under this Act, a survivor of that individual who may receive payment under subparagraph (A) may file a claim for such payment under this Act.

(C) For purposes of this paragraph—

(i) the "spouse" of an individual means a wife or husband of that individual who was married to that individual for at least one year immediately before the death of that individual;

(ii) a "child" includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child;

(iii) a "parent" includes fathers and mothers through adoption;

(iv) a "grandchild" of an individual is a child of a child of that individual; and

(v) a "grandparent" of an individual is a parent of a parent of that individual.

(d) ACTION ON CLAIMS.—The Attorney General shall complete the determination on each claim filed in accordance with the procedures established under subsection (a) not later than twelve months after the claim is so filed.

(e) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—The acceptance of payment by an individual under this section shall be in full satisfaction of all claims of or on behalf of that individual against the United States, or against any person with respect to that person's performance of a contract with the United States, that arise out of exposure to radiation, from open air nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during any period described in section 4(a), or exposure to radiation in a uranium mine at any time during the period described in section 5(a).

(f) ADMINISTRATIVE COSTS NOT PAID FROM THE FUND.—No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any individual.

(g) TERMINATION OF DUTIES OF ATTORNEY GENERAL.—The duties of the Attorney General under this section shall cease when the Fund terminates.

(h) CERTIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Amounts paid to an individual under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

(i) USE OF EXISTING RESOURCES.—The Attorney General should use funds and resources available to the Attorney General to carry out his or her functions under this Act.

(j) REGULATORY AUTHORITY.—The Attorney General may issue such regulations as are necessary to carry out this Act.

(k) ISSUANCE OF REGULATIONS, GUIDELINES, AND PROCEDURES.—Regulations, guidelines, and procedures to carry out this Act shall be issued not later than one hundred and eighty days after the date of the enactment of this Act.

SEC. 7. CLAIMS NOT ASSIGNABLE OR TRANSFERABLE; CHOICE OF REMEDIES.

(a) CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.—No claim cognizable under this Act shall be assignable or transferable.

(b) CHOICE OF REMEDIES.—No individual may receive payment under both sections 4 and 5 of this Act.

SEC. 8. LIMITATIONS ON CLAIMS.

A claim to which this Act applies be barred unless the claim is filed within six years after the date of the enactment of this Act.

SEC. 9. ATTORNEY FEES.

Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual under this Act, more than 10 per centum of a payment made under this Act on such claim. Any such representative who violates this section shall be fined not more than $5,000.

SEC. 10. CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF DAMAGES.

A payment made under this Act shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on any individual receiving such payment, on the basis of such receipt, to repay any insurance carrier for insurance payments, or to repay any person on account of worker's compensation payments; and a payment under this Act shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

SEC. 11. BUDGET ACT.

No authority under this Act to enter into contracts or to make payments shall be effective in any fiscal year exept to such extent or in such amounts as are provided in advance in appropriations Acts.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

□ 1530

Mr. FRANK. Mr. Speaker, to begin with, I am going to yield time to the gentleman from Utah [Mr. OWENS] who has been a prime sponsor of this bill and a vigorous and able advocate of its principles.

Mr. Speaker, I yield 6 minutes to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this is an historic moment. Today the House of Representatives restores our Nation's honor by holding the American Government responsible for cold war abuses which stained our collective consciences by causing death and injury to its own people.

An unnoticed part of this Nation's nuclear cold war with the Soviets took place long before today's hope of peace existed between our countries. Both President Bush and Mikhail Gorbachev have declared the cold war over. I don't believe that it can be over, until we have paid a debt to the civilian victims of that insidious, undeclared war, people who were unknowingly conscripted and who gave the ultimate for our national security. The haste of building and testing U.S. nuclear weapons led to increased cancers and leukemias and the death of hundreds of Americans who trusted their government and participated in what they perceived to be a patriotic duty. Repaying those victims of our lack of care is what this bill is all about.

Today we provide a formal apology and a compassionate payment to those few victims who survived and to the living heirs of those who did not.

On December 18, 1950, President Harry Truman approved the testing of nuclear devices at the Nevada test site. There were 223 atmospheric tests conducted in Nevada from 1951 to 1963 when nuclear tests finally went underground as a result of the limited nuclear test ban treaty.

I remember as a child growing up in southern Utah watching the sky light up with various colors from the nuclear explosions at the Nevada test site 100 crow-flying miles away. It was like going out to view fireworks on the Fourth of July. The only difference was that, instead of celebrating our independence, years later we were mourning the death of our friends from the epidemic of leukemias and other cancers in southern Utah. The Government never warned the people of Utah of the health risks involved; in fact, they claimed that there were no health risks.

In the 1970's, an alarmingly high incidence of cancer in the communities of this region brought many to question the Government's uranium mining and nuclear testing activities, ultimately in the form of tort claims in Federal District Court.

The people of the Southwest believed that the Federal Government negligently allowed them to be exposed to death and illness-causing radiation throughout the course of nuclear testing activities and they were right.

It is undisputed that the American Government knowingly allowed the miners digging out the uranium, which fueled our peace time war, to be unwittingly exposed to the highest levels of radiation to which any human has ever been exposed. Proof exists, irrebuttable proof, that Federal officials knew that those exposures would inevitably cause lung cancer and death.

Twelve years ago this fall, years after growing up in southern Utah, I joined a team of lawyers to assist 1,200 leukemia and cancer victims living downwind from the nuclear tests to sue the Government for its negligent procedures while it conduct those tests. After years of preparation and a laborious 2-month trial in Utah's Federal District Court, Chief Judge Bruce Jenkins weighed the evidence, and concluded that: First, the Government had been negligent; second, a definable category of cancers were more probably than not caused by the nuclear fall out; and third, awards averaging $266,000 should be awarded to 10 test plaintiffs.

Judge Jenkins' 567-page decision is widely hailed as one of the most thorough and scholarly pieces on the issue of the Government's responsibility for nuclear caused injury. His conclusions have never been overturned. On appeal, the plaintiffs, the downwinders, were denied compensation, not because the Government was not negligent and not because their injuries were not the proximate result of the nuclear testing. Rather, the 10th circuit washed the Government's hands clean of any responsibility by saying that, under these circumstances, the Government simply could not be sued.

Mr. Speaker, the court shamefully upheld the ignoble sovereign immunity doctrine inherited from England, a doctrine which for most circumstances has been stricken from American application, where the people, not the king, are sovereign. In nuclear testing, the court said, the Government could do no wrong. Government agents had no obligation to avoid negligence in applying nuclear policy.

Much has happened over the years on this matter, including a great many congressional hearings and investigations by both Houses of Congress. At the conclusion of 4 days of extensive hearings in 1980, and the consideration of much scientific data on the effects of the nuclear tests conducted in the 1950's and 1960's, the House Subcommittee on Oversight and Investigations of the Interstate and Foreign Commerce Committee issued its report. "The residents of this area merely became guinea pigs in a deadly experiment," the subcommittee concluded, and "we, as a Nation, must accept the consequences of our governmental decisions and properly and promptly compensate the victims of our mistakes."

The downwinders were not the only victims of our cold war policies. The abuses perpetrated on another group of patriotic, well-intentioned Southwestern U.S. citizens were even worse. Upon the heads of uranium miners was visited misery and death, made more grievous because the Government, in its haste to extract uranium for its cold war nuclear weapons, knew before hand what was to be perpetrated and acquiesced in it?

I am intimately close to this problem, because many of the victims were my neighbors from southern Utah and also because one of the most recent dead was my own brother-in-law. This good man, to my own knowledge, never smoked a cigarette in his life. But death came from lung cancer more than 25 years after he had worked in the Marysvale, UT, uranium mine for 6 short months.

The evidence is overwhelming in the uranium miners' cases. The Government demonstrated a reckless disregard for the lives of these uranium miners because the evidence of inevitable grave danger was considered by Atomic Energy Commission officials when the Marysville mine was first opened, and they chose to ignore it.

This case deserves the House's consideration, and I therefore feel compelled to provide additional information.

Until the late 1940's, the United States was largely dependent on foreign sources of uranium. As a result of our nuclear weapons development after the end of the second world war, the U.S. demand for uranium increased dramatically. Our Government coordinated the surveying and exploration of domestic uranium and awarded lucrative contracts for such uranium. The Government, in effect, acted like a mother hen, as former Secretary of the Interior Stewart Udall has said, nurturing an industry it badly needed to fulfill its national security goals.

In 1950, the major Marysvale, UT, uranium mine first opened. That same year the U.S. Public Health Service recorded extremely excessive radiation exposure levels and notified the operators of the Marysvale mine that radiation levels at 26,900 microcurie has been recorded—an unbelievable 2,690 times the maximum amount considered safe.

Based on experiences in European uranium mines, the PHS warned both the Atomic Energy Commission and the mining operators that lung cancers and death would result to a high percentage of the miners unless the mines were immediately ventilated. The AEC and mining company operators tragically chose to ignore the warning. No ventilation. And no warning to the trusting miners who didn't know they were being sacrificed in the cold war because the companies didn't want to spend an additional 50 cents per ton of ore, to ventilate. The AEC, for its part, chose not to alarm the miners by telling them of the risk.

The PHS continued to record radiaiton exposures as high as 350 times the maximum allowable dosage in 1954, and over 40 times the maximum level as late as 1959—9 years after the first warnings. These radiation levels were substantially higher than those found to be harmful to European miners much earlier. The exposures were even higher than the radiation doses received by the Japanese from the atomic bombs dropped on Hiroshima and Nagasaki.

Of all the shameful chapters in this sorry history, Mr. Speaker, the treatment of the uranium miners is the most inexplicable and the most damning.

But when we took these miners' cases to court, Mr. Speaker, as with the downwinders from the atomic testing cases, the plaintiffs were denied compensation due to the same harsh reading of the discretionary function exception to the Federal tort claims

act. Again, the Government could not be held liable for the consequences of its negligence in executing the policy decision to build and test nuclear weapons, because the court said, in nuclear policy, the Government can do no wrong.

And yet the courts were themselves disappointed with their inability to effect relief, as decisions in both the ninth and tenth circuits made clear.

In Begay versus U.S., over 200 Navajo Indians sued the Government for its failure to warn them of the dangers of uranium mining. The ninth circuit stated: We agree with the district court that this is the type of case that cries out for redress, but the courts are not able to give it; Congress is the appropriate source in this instance.

In an eloquent opinion in the Barnson versus U.S. case, Judge Monroe McKay, writing for the tenth circuit, also argued for congressional action: While we have great sympathy for the individual cancer victims who have borne alone the cost of the AEC's choices, their plight is a matter for Congress. Only Congress has the constitutional power to decide whether all costs of Government activity will be borne by all of the beneficiaries or will continue to be unfairly apportioned, as in this case.

And so, Mr. Speaker, my distinguished colleague in the other body, Senator HATCH, and I introduced legislation to provide a simple compassionate payment of $50,000 to each victim of above ground nuclear testing who contracted any one of a small class of leukemia or cancers. Because of the grievous nature of the Government's knowledge of the injuries that would inevitably result to the uranium miners, and indisputable proof of causation, the miners who contracted lung cancer will be awarded $100,000. Most such victims are dead, Mr. Speaker, and in those cases, the awards will go to their living heirs.

I should point out that this bill does not award damages. Those amounts, based on awards given the representative plaintiffs by Judge Jenkins, were, much, much higher, averaging $266,000 per victim. Because of the long years of unsuccessful litigation and the discouragement that has come to the plaintiffs in these cases, we have determined that we would simplify the procedure, provide an apology and recognition of the Government's responsibility and make a compassionate payment, modeled on at least two previous legislative actions.

I also wish to say that I have introduced legislation to effect a change in the Federal Tort Claims Act to change this harsh and unjust rule. Since that bill was introduced, however, there is evidence that the courts may be moving to change the harsh application of the sovereign immunity which brought litigation in these cases to an unjust halt.

I acknowledge with great appreciation that this legislation would never have been successful without the dedicated and intelligent leadership of Chairman BARNEY FRANK of the subcommittee and of judiciary committee Chairman JACK BROOKS, who was also the original sponsor of one of the two earlier legislative actions which served as a model for this legislation.

Today we move to right a great wrong. We acknowledge a mistake of our Nation's past and provide a compassionate payment to the American civilian victims of the cold war, or to their heirs. In the strongest way, I urge my colleagues to vote for H.R. 2372 when it comes up tomorrow.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 2372, the Radiation Exposure Compensation Act. Mr. Speaker, I would like to compliment the subcommittee chairman, Mr. FRANK, for convening the hearings on this legislation and for working through the several amendments and issues that we faced in attempting to make this a workable piece of legislation. Although I offered some amendments to narrow the effect of this bill and to restrict some of the payments to be made under it. I eventually supported this bill at subcommittee and full committee markup and intend to support it here today.

Mr. Speaker, I believe this legislation represents a compassionate response from our Government to those individuals who were effected by the nuclear testing in the west, as well as, those who were effected by working in the uranium mines to provide our Government with uranium for its defense efforts. The bill creates an administrative claims program to provide compensation for those who were injured and made sick by the nuclear testing and the uranium mining for our war efforts 45 years ago. I admit that I have some problems with the lack of a requirement for proof of causation under the Compensation program which this bill creates, however, I understand the difficulty in proving such claims. I am aware that there is some confusion among our medical experts today as to which diseases are caused by exposure to radiation and the inclusion of some of those diseases in the coverage of the claims program set forth in this bill troubles me to some extent. However, I have no proof as to the medical certainties that would deny the coverage of certain of these diseases any more than I have proof that would confirm a need for coverage of these diseases and, therefore, I am willing to err on the side of compassion rather than on the side of denial to those who have become ill.

I consider this legislation to be much improved from that which we started out with and I will vote in favor of the bill today in hopes that it will help many of those people who were injured by the actions of our Government.

□ 1540

Mr. FRANK. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Speaker, I rise today in support of H.R. 2372 because I believe that it is long past time for the Federal Government to acknowledge its liability to radiation victims of the cold war. Uranium mine and downwind radiation victims were exposed to disease, danger, and in some cases death as a direct result of Government national security programs.

Many of the risks and dangers were well known even then. Yet in the interest of the public safety and security of all Americans, our Federal Government decided that the safety of certain individuals would have to be sacrificed.

We are not trying to assign blame to anyone. In time of war or national danger, difficult decisions have to be made about how best to protect our lives as well as our freedoms. With the benefit of hindsight, some people question or condemn past decisions or Government policies of long ago. Such retrospective analysis is seldom productive.

It is not a matter of blame, but rather a question of responsibility, acknowledging the liability of the Federal Government to radiation victims is a matter of equity. I am glad that we have all come far enough to acknowledge the Federal Government's liability for the harm inflicted on our workers and citizens in the name of progress and security.

The House and Senate sponsors of this measure are to be commended for their efforts. This legislation deserves our support because it breaks down the wall of sovereign immunity that has shielded our Government from culpability to innocent victims of past Government policies.

We should no longer live by the policy that the king can do no wrong. However, there is another equally deserving group of occupational disease victims for whom we can and should be concerned. World War II shipyard workers were repeatedly exposed to asbestos as they rushed to complete the fleet needed to bring the war to a successful and prompt conclusion. In the case of asbestos, the Government also knew of the dangers to workers, but we did not have an effective shipyard insulation method to be used other than asbestos.

The Committee on Education and Labor, as well as industry and labor, with the help of the GAO and the medical community, have been at-

tempting for years to create some equitable compensation to the victims of asbestos occupational disease. In a previous session of Congress, I introduced H.R. 1626 to accomplish the goal of providing compensation to our asbestos victims. As in the case with radiation workers, we face the problem of Government immunity and the Government that has refused to admit its liability.

I intend to soon produce legislation similar to the measure we are considering today, and request the chairman, the gentleman from Massachusetts, to join me in negotiations to result in a workable plan to compensate our disabled asbestos workers, the same as we are doing today for radiation victims.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. MURPHY. Mr. Speaker, I yield the balance of my time to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I welcome the initiative of the gentleman from Pennsylvania [Mr. MURPHY]. I admire the gentleman's concern, and I look forward to working with the gentleman.

Mr. JAMES. Mr. Speaker, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in strong support of H.R. 2372, the Radiation Exposure Compensation Act, of which I am a cosponsor. I am especially pleased to see the saga of the radiation victims come to an end, I have introduced similar legislation which redresses mistakes made by the Federal Government and accomplishes the same goals. I commend my colleagues Subchairman Mr. FRANKS and Chairman BROOKS, Mr. OWENS and the committee for bringing H.R. 2372 to the floor.

For too long, the Federal Government has ignored and even evaded responsibility to workers, miners, and families, who are suffering various radiation associated sicknesses begat at the hands of the Federal Government.

In recent years, many military and civilian personnel who were involved in the atomic testing program have suffered various long-term medical injuries, primarily leukemia and other forms of cancer, due to their participation in these tests.

The victims generally fall into two classes. They are either Southwest uranium miners and families who were unwittingly exposed to extraordinary levels of radiation in underground uranium mines, where ore for the Government's weapons industry was mined during the 1950's; or they are fallout victims from the Government's nuclear weapons testing in my district during this same era.

Both types of victims have presented their cases to the judicial system. In both cases, Federal court opinions were issued that the deaths and injuries were caused by radiation exposures generated by activities of the Federal Government, and that Government officials knew of the risks but failed to act.

However, because the courts also found that the Federal decision to conduct weapons testing and mine uranium was discretionary and within the scope of the function of the Federal Government, Federal sovereign immunity laws could be applied to bar radiation victims' claims, thus allowing no means of recourse.

These radiation victims have not been compensated because their deaths and injuries were the result of a policy decision. Their health, Mr. Speaker, was seen as secondary to the national security interest of our country, the same security interest which seeks to protect Americans.

Unlike other war victims, these victims of the Cold War could have chosen to live or work elsewhere, had they been informed. Both the 9th and 10th circuit courts of appeal agreed that these cases cry out for redress, but that unfairly restrictive sovereign immunity laws precluded the courts from providing an equitable judgment. Mr. Speaker, H.R. 2372 is that redress.

This legislation, Mr. Speaker, offers a long overdue Federal apology and provides a modest compassionate payment to the victims and the families of those who have suffered pain and bodily harm in the name of national security.

Legislation and money can never right the wrong, restore lost family members, or make these victims victimless; however, it can help make life a little easier.

Mr. Speaker, I urge my colleagues to support this measure and support the closing of an open chapter in the sometimes unfair and unfortunate history of our Nation.

Mr. FRANK. Mr. Speaker, I yield 3 minutes to the gentleman from Nevada [Mr. BILBRAY] who has been very active on behalf of the effort to bring justice to the people involved here.

Mr. BILBRAY. Mr. Speaker, as a life-long resident and Representative of the First District of Nevada, I am well aware of the history of the United States atomic weapons testing program. The Nevada test site is located a mere 65 miles from Las Vegas, and the vast majority of the more than 9,000 test site workers have their permanent residence in southern Nevada.

Unfortunately, the history of the Nevada test site has been a troubled history, particularly during the atmospheric testing program between the years 1951 to 1963. During this period, approximately 235 above-ground atomic tests were conducted in Nevada and in the Pacific Ocean, exposing hundreds of thousands of civilians and military personnel to unhealthy levels of ionizing radiation.

In testimony before Congress in 1982, Mrs. Gloria Gregerson of Bunkerville, NV, recalled her own experiences:

> The radioactive cloud, as it came over, was really distinct. It would usually come over our school campus between 9 and 10 in the morning * * *. Later, the Government officials would come to our school to talk to us in assemblies, but they never came until after several blasts had already been shot off * * *. They would preface their remarks saying: "There is nothing to be alarmed about. There is nothing to hurt you, so don't worry, but wash your cars everyday; wash your clothes twice before you wear them; don't eat the plants and the vegetables; don't drink the local milk, yet that is the only way we had to get milk, through our cows * * *. I remember playing under the oleander trees, * * *. and the fallout was so thick it was like snow * * *. We liked to play under the trees and shake this fallout onto our heads and our bodies, thinking that we were playing in the snow * * *. Then I would go home and eat. If my mother caught me as a young child, I would wash my hands; if not, then I would eat with the fallout on my hands.

Mrs. Gregerson developed ovarian cancer at the age of 17, which later spread to her intestines and stomach and involved 13 major surgeries. After years of struggling and many more surgeries, Mrs. Gregerson died the year following her congressional testimony, at the age of 42.

Mr. Speaker, it is time for our Government to own up to the pain and suffering it has inflicted upon its own citizens. If we are able to provide hundreds of millions of dollars to Panama and Eastern Europe, then surely it is our moral duty to provide for our own citizens who are actually victims of the only war waged on American soil this century. The downwinders, as they are called, are no different than the veterans of World War II, Korea, or Vietnam. They are the veterans of the cold war. For years, their Government misled, concealed, covered up, and outright lied to them about the dangers of atomic testing. Now is the time for their Government to apologize and to make amends for their negligence and deceit.

□ 1550

Mr. JAMES. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I appreciate the gentleman's yielding time to me.

Mr. Speaker, I represent the First Congressional District of Utah. This is the area just immediately east of where the Nevada test site is. I still remember very vividly the people from that area, where many of my relatives lived, would talk about these spectacular events when they would trigger one of these nuclear devices or atomic devices. At that time there was ash on

the cars, as was mentioned by the gentleman from Nevada [Mr. BILBRAY], and there were problems on the street, but everyone said, "Don't worry about it. It is not going to hurt anybody. Everybody is all right. Don't be concerned about it."

But now we find that the preponderance of the evidence is that all over that area people were affected. With a lot of the geneological work we do in the West, we can go back and find that a lot of these people have not lived, and we find case after case with a high preponderance of cancer of all different kinds that have settled in with these people.

So at one time a few years ago we tried to change this law in the Compact of Free States, and we gave to the people in the Bikini area and in those areas where we tested in the Pacific a substantial amount of money to take care of this problem. At that time we tried to amend that bill to put in some compensation for the people in the downwind area of Southwestern America.

At this point, Mr. Speaker, I compliment my good friend, the gentleman from Utah [Mr. OWENS], for the work he has done on this. He has been very tenacious. His comments were excellent, and I concur in what he said.

I would hope, Mr. Speaker, that we would now pass this bill. I call upon my colleagues to do that. We have now seen a time when we are being fair with the people in this particular area.

Considering all of those people who have suffered, I do not think I would agree with the gentleman from Florida [Mr. JAMES] as to whether there would be a preponderance of the evidence, and the proximate cause would be difficult. We can all see that. But the case that was tried in Salt Lake with Justice Jenkins turned out the type of evidence that we feel is necessary.

Mr. Speaker, at this time I would call upon my colleagues to do everything in their power to pass this particular piece of legislation. It is about time that we took care of our own American citizens who have suffered so much in this area.

Mr. FRANK. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I thank the distinguished chairman of the subcommittee for yielding this time to me.

Mr. Speaker, I am proud to be a cosponsor of this bill, and I want to express my appreciation to the gentleman from Utah [Mr. OWENS] for bringing this matter to the House and for his determination to see justice done in this respect.

Some of the individuals who will be affected by this legislation are residents of the State of Colorado, and that is certainly important. Equally as significant, I think, is the groundbreaking decision inherent in this bill to recognize and deal with a very difficult set of cause-and-effect assessments in areas of radiological exposure and malignancies that are determined to result from them. I think we are going to have to see similar approaches taken in other areas involving workers in the nuclear weapons industry. It is important that we get this trail-blazing piece of legislation in law and work out its application in this area because we are going to be seeing, in my opinion, similar efforts in related areas in the future.

Again, Mr. Speaker, I express my thanks to those who have brought this matter to the House. I look forward to the speedy enactment of the legislation.

Mr. JAMES. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I rise in support of H.R. 2372, a bill to provide compensation for the radiation-related injuries suffered by individuals who were engaged in uranium mining in the southwestern United States from the early 1940's to the late 1970's. Many of the individuals affected were Navajo Indians who did not speak English.

Two circumstances exist which make this legislation particularly fitting. First, during the time period in question, the nuclear weapons program of the United States Government was the primary consumer of the uranium from these mines.

Second, the U.S. Public Health Service became aware of the dangers associated with the mining activity, through studies the Public Health Service conducted on the Navajo miners from 1949 through the 1960's. However, the Federal Government failed to warn the miners of the health hazards, and until the early 1970's, failed to implement preventive measures to alleviate the health hazards associated with the mining.

As a result, lung cancer and other serious respiratory diseases previously unknown to the Navajo population became predominant among the Navajo miners, caused by exposure to radiation and radioactive dust particles in the mines.

Unfortunately, efforts in the court system to achieve redress for the uranium miners have been unsuccessful due to legal technicalities related to the Federal Government's immunity from liability under the doctrine of sovereign immunity. As one court noted: "This is the type of case that cries out for redress, but the courts are not able to give it; Congress is the appropriate source."

The Congress is now presented with a moral question: how do we respond when the Federal Government injures its own innocent citizens and the courts are not equipped to provide an adequate remedy? Let us take this opportunity to admit our past mistakes, and with this compassionate gesture, provide some compensation to this discrete group of victims.

Mr. Speaker, many people have been thanked for their efforts in getting this legislation to this point, and rightfully so. I would like to add one more name—a former Member of this body and a former Secretary of the Interior, Stuart Udall, who worked for many, many years to provide the proof necessary to note the causal link between the activities which took place and the illnesses which we are seeking to redress here today. Without the efforts of Mr. Udall, I do not think we would have gotten this legislation to this point at all. I think we all owe him our gratitude.

Mr. Speaker, H.R. 2372, is a belated, yet fair and honorable remedy for the injuries suffered by the uranium miners. I urge our colleagues to support H.R. 2372.

Mr. JAMES. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I would like to engage my colleague, the gentleman from Utah [Mr. OWENS], in a colloquy, if I may, concerning the States which would be covered under H.R. 2372, the Radiation Exposure Compensation Act.

As I understand it, the bill as presented would cover individuals who developed certain cancers after they were exposed to the above-ground nuclear tests and who lived downwind of those tests in some portions of the States of Nevada, Utah, and Arizona. It is also my understanding that the bill covers individuals who have developed certain diseases and received a specialized level of radiation exposure due to their employment as uranium miners in certain mines in the States of Colorado, New Mexico, Arizona, and Utah during the period beginning January 1, 1947 and ending on December 31, 1971. Is that the understanding of the gentleman from Utah?

Mr. OWENS of Utah. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from Utah.

Mr. OWENS of Utah. Yes, Mr. Speaker, that is my understanding. I have also discussed this with the subcommittee chairman, the gentleman from Massachusetts [Mr. FRANK], and that is his understanding as well. We are in agreement with the gentleman's assessment of the current situation.

Mr. THOMAS of Utah. Mr. Speaker, I thank the gentleman from Utah.

As the gentleman knows, I do not serve on the Committee on the Judiciary and as a consequence was not involved in the drafting of this bill. Wyoming, however has been one of the

highest production States of uranium in our country, and we have found that there are some Wyoming citizens whose health may have been affected due to their employment as uranium miners in the period recognized. I would like to make sure that qualifying individuals from Wyoming will be covered as well. Does the gentleman from Utah have any objection to the bill being amended in conference to include Wyoming individuals who may have been inadvertently left out of the provisions of the bill as presently written?

□ 1600

Mr. OWENS of Utah. Mr. Speaker, I have spoken again with the gentleman from Massachusetts [Mr. FRANK] of the subcommittee, and we are in agreement. We certainly have no objection to that. We support the concept. We think it is worthy and ought to be accomplished, and we will not have any objection at all if the other body will make those amendments and changes.

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman from Utah [Mr. OWENS] for his consideration, and I thank the commitee chairman, and I will note for the record that I am fully supportive of the amendments to aid those whose individual health has been put at risk on behalf of the U.S. Government programs.

Mr. FRANK. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this is a very important piece of legislation. Sometimes legislation receives attention because it is controversial rather than because of its inherent worth. I am very proud that this is not controversial. It is because the ranking minority member, the gentleman from Florida [Mr. JAMES] played a constructive role and a helpful role in taking a piece of legislation and working together so that we can iron out some of the rough spots and make it a sensible one. We have had good bipartisan support that was typified by a very impressive letter we got, and the gentleman from Arizona [Mr. RHODES] was correct to hail the good work of our former Member of this body, Mr. Udall, and I was delighted he was joined by Mr. Lee, a former Solicitor General on behalf, so it has been a good bipartisan effort, and I appreciate the solid work on the other side. I also want to acknowledge the absolutely indispensable role of the gentleman from Utah [Mr. OWENS], my friend.

I will confess, Mr. Speaker, when the gentleman from Utah [Mr. OWENS] first approached me with this, I was somewhat skeptical because we get a lot of claims, and there is a limit to the Federal Treasury. By his advocacy, by his passion, by his legislative skills, he convinced me, and I believe virtually every other member of our subcommittee, of the justice of the cause. He worked constructively with us in helping to come to a sensible compromise.

There are a couple of things that can be approved, and I certainly agree with the points raised by the gentleman from Wyoming [Mr. THOMAS], if we get it over from the other side.

In general we have a bill which simply says this, Mr. Speaker. When the Government of this great country, acting out of a reasonable necessity, as it has certainly for self-defense, for nuclear weapons, makes a mistake, part of our greatness is a willingness to acknowledge it, and to the extent possible undo it. I say "to the extent possible" because we cannot give back someone his or her health or life.

What this bill says is that, yes, we did what we thought was necessary as a country, but we did not do it with the care that we should have shown, and, as a great nation, we will admit a mistake, and we will do what we can to make people, if not whole, as well as we can make them. That is all this bill does.

It is a matter, I think, of pride that we live in a society which is prepared to do the important things that it has to do in its own defense, and also, when it has made a mistake in the carrying out of those efforts, try to rectify it. That is what we have done here.

Again I want to thank the gentleman from Utah [Mr. OWENS] whose leadership was essential. Again I want to thank my colleague, the gentleman from Florida [Mr. JAMES], the ranking member, because it was his willingness to work together that made some contributions to this bill in amendments that he offered.

Mr. JAMES. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Speaker, I applaud what the gentleman from Utah [Mr. OWENS] and the gentleman from Massachusetts [Mr. FRANK], the subcommittee chairman, are trying to do, especially if the victims can justifiably show exposure to radiation is what caused the ailment in the first place.

Mr. Speaker, I believe the Government has the responsibility to take care of those who have become harmed through experimentation of weapons, and I do intend to vote for this bill.

However, Mr. Speaker, I have a concern over the piecemeal approach that we are taking in justly compensating individuals who have become victims of government experimentation. The wrong goes beyond what this legislation addresses, and I believe attention needs to be given to all of those who are afflicted.

Mr. Speaker, I would like to take just a second in this opportunity that we have today to mention something that has come to my attention through some veterans who have been affected in my district. These men, who were servicemen, unwittingly came to the Naval Research Laboratory at Anacostia in 1943, for the testing of protective clothing and equipment against mustard gas and other chemical agents during World War II. In return for their participation, they were given a weekend pass, however they were never informed of the potential long-term medical problems that exposure could cause. Several injuries were incurred by these men, and today they remain 100 percent disabled. The Federal Government has abandoned them and does not acknowledge that their disabilities stem from the testing. These men are not recognized by the Veterans' Administration as having a service-connected disability because the records were either destroyed or they are still classified. They are, therefore, refused medical treatment even though the Department of Veterans Affairs has subsequently acknowledged that the existence of this experiment is fact and the participation of the individuals in it. These American veterans deserve compensation for being subjected to devastating toxic mustard and Lucite gases.

Mr. Speaker, I support the passage of this bill, and I commend the gentleman from Utah [Mr. OWENS] and the gentleman from Massachusetts [Mr. FRANK], the subcommittee chairman, for recognizing victims of Federal Government policies. I simply want to take this opportunity to ask my colleagues who drafted this good legislation if they would consider support for a bill that I have introduced to address the plight of our veterans who are suffering from disabling injuries as a result of other weapons testing.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I want to express my appreciation to the gentleman from Florida [Mr. Goss] for what he said in bringing this forward. It had not previously come to my attention. I promise him that it will. I look forward to working with him. He is absolutely right. The principle is one that is applicable in all of these cases, and I promise him that I will do everything I can to see that it is so applied. I appreciate him bringing it to our attention.

Mr. GOSS. Mr. Speaker, I appreciate those encouraging words.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out in this bill; I do not think it has been said yet, or, if it has, it has not been emphasized as much as it might, but the limitations in this bill are only

$50,000 for the downwinders. That is hardly tantamount to a large tort claim award, which could be in the millions.

It also has a savings aspect to it to the Government. It saves the attorneys fees, the expenses and the costs, a portion of which we are awarding would be consumed anyway. So, there is actually a substantial savings, probably to the Government, maybe not to the tune of the total amount of the judgments.

Similar comments can be made about the miners' $100,000. That is insignificant compared to a judgment that might be awarded if clear liability were found.

So, this is not like giving the full amount that a jury might give. It is only a fractional part to ease some of the pain economically to these miners.

In regard to the comment of the gentleman from Florida [Mr. Goss], I agree with him that there are many other types of cases where there are injuries which may deserve an exception to tort immunity. Then a bill should be filed, and I assure it will be, and our committee will consider the ramifications, as we did in this, the evidence and what the possible solutions might be.

I might also point out that our committee is considering testimony, and has considered and will consider in the future testimony, to the extent that the harshness of the sovereign immunity doctrine might be alleviated, and I think the gentleman from Massachusetts [Mr. FRANK] would agree with that, that we are concerned about the same issues that the gentleman from Florida [Mr. Goss] responded to.

Mr. Speaker, the reason our committee considers these types of cases is because under the principles of compassion and propriety, in light of the harshness of that doctrine, and it is a difficult juggling act in some cases, and that is why we have to spend time on individual cases on a repeat basis, and I want to thank the gentleman from Massachusetts [Mr. FRANK] for his assistance and advice to our members and his cooperation, as far as their side of the aisle supplying information, and we have tried to be as cooperative as we can with our witnesses and our issues to try to get at what I consider to be basically a bipartisan issue in these types of considerations, and I believe it was handled in a way in which I want to thank the gentleman from Massachusetts [Mr. FRANK] so much for his cooperation and kind comments.

Mr. WILLIAMS. Mr. Speaker, I want to congratulate my colleague, Representative WAYNE OWENS, for establishing the radiation exposure compensation trust fund for individuals who lived in affected areas of Nevada, Utah, and Arizona, as well as uranium miners whose health was put at risk while serving our national security interests.

By establishing this fund, Congress is remedying the inequity of sovereign immunity when it comes to people who have been harmed as a result of action by the U.S. Government. This principle can be extended in parallel fashion to the asbestos workers who worked in Government shipyards during World War II when the United States took over both the asbestos industry and the shipyards. These workers also had their health put at risk to serve our national security interests.

An April 1988 GAO report HRD 88-53 cited that by the end of fiscal year 1987 there were 2,901 cases with 91,186 claimants and $13.6 billion in claims against the U.S. Government. An earlier GAO report GGD 85-80 cited that by the end of fiscal year 1984 there were 2,744 cases with 88,726 claimants and $25.4 billion in claims against the U.S. Government. When the Manville claims were dismissed in August 1987, the dollar volume of these claims dropped by 46 percent, a percentage similar to their share of the asbestos industry.

In the 99th Congress, I introduced H.R. 3090 to provide for the compensation of individuals who are disabled as a result of occupational exposure to toxic substances and to regularize the fair, adequate, and equitable compensation of certain occupational disease victims. This legislation also recognized the equity of and need for a Federal contribution to the fund established in this legislation to compensate workers who also served our national security interests during World War II.

I have been working with representatives of asbestos companies and workers in developing legislation to respond to the needs of employees in the asbestos industry. It is my desire to introduce legislation on this subject in this Congress.

Mr. BROOKS. Mr. Speaker, H.R. 2372, the Radiation Exposure Compensation Act, compensates victims of radiation exposure caused by activities of the U.S. Government. It would award payments relating to radiation exposure to: First, residents of designated areas who were exposed to radiation and contracted specified cancers or other diseases; and second, uranium miners in certain States who were exposed to designated amounts of radiation and developed lung cancer or another radiation-caused respiratory disease.

Mr. Speaker, uranium mining and nuclear testing were conducted as part of the Atomic Energy Commission's legislated mandate to conduct experiments, undertake research, and develop the military applications of atomic energy. This bill provides compensation for those people who were exposed to radiation, either through atmospheric atomic weapons testing programs or uranium mining conducted by or on behalf of the U.S. Government.

Military victims of radiation exposure have already received some relief through the enactment of the "Radiation-Exposed Veterans Compensation Act of 1988." However, civilian personnel, public citizens exposed to radiation through atmospheric nuclear tests—downwinders—and uranium mines have not been able to obtain relief in the courts. The legislation before us today recognizes the gross inequities of placing unreasonable burdens on a small segment of our population and tries to make amends for those burdens. It provides relief which is both humanitarian and reasonable.

I support this legislation and I urge the Members to vote for it.

Mr. KYL. Mr. Speaker, I rise in support of H.R. 2372, the Radiation Exposure Compensation Act.

This legislation would not be necessary if the Federal Government, during the course of its Atmospheric Atomic Weapons Testing Program, had provided adequate warning to individuals downwind from the Nevada test site of the dangers of exposure to radiation. It would not be necessary if steps had been taken to protect uranium miners from exposure.

Mr. Speaker, many of those who were harmed and will finally be compensated by this legislation are Navajo Indians from my congressional district in Arizona.

In fact, I just received a letter from a woman, Myra Rose Begay, who now lives in Mesa, AZ, but lived on the Navajo Reservation while her father worked in the uranium mines years ago. I thought my colleagues might be interested in what she had to say. Mrs. Begay wrote:

It is my understanding that all of the workers from the uranium mines in Cove, Arizona, and Red Valley, Arizona, have either died from or are suffering from lung cancer due to the extensive exposure in the mines. My father worked in the uranium mines without any warning of the dangerous health hazards. None of the workers were given any type of protective clothing—nor were they informed of its necessity.

My father would come home with the uranium dust still on his clothes and all of us were exposed to it. My sister, Hurley R. Jackson, was diagnosed as having cancer. Now we all live in fear of who may be next to suffer.

Although I believe claims against the Government for negligent actions such as this ought to be pursued through the courts where people must prove damages, that is simply not an option here. The courts have already determined causation in many of the cases, but nevertheless ruled that the Federal Government could not be held liable because its policy choices were protected by the "discretionary function exception" of the Federal Tort Claims Act.

Moreover, many of these claims date back to the Government's conduct from as far back as 1945 to 1971. People have died; evidence has been lost. It is difficult for people to make their cases after so much time has passed.

The victims can never be made whole. However, it is time that these people who were adversely affected by the Government's conduct be compensated.

As I said before, Mr. Speaker, my preference is for these types of claims to be pursued in the courts where causation can be determined on a case-by-case basis. If the Government is at fault, compensation should be paid; if it is not at fault, the taxpayers should not be asked to pay.

Since litigation is not an option here, and since we must also protect the taxpayers' interest, I hope the Senate, or the Justice Department in its establishment of procedures for determinations regarding such claims, will take into account whether or not an individual's own conduct may have caused or aggra-

vated his or her health condition. Clearly, we do not want someone who has smoked for 40 years and contracted lung cancer, for example, to gain the same consideration as others simply because he or she was in the downwind area at the specified time.

Mr. Speaker, I urge my colleagues' favorable consideration of this measure. It is time that these people receive some justice from their Government.

Mr. RICHARDSON. Mr. Speaker, as an original cosponsor of this act, I rise in strong support. I want to commend my colleague, WAYNE OWENS, for his leadership on this issue.

Mr. Speaker, this is an issue that strikes home. Many of the victims that this legislation seeks to help are from New Mexico. Many of the victims are native Americans—a large constituency in the congressional district I represent.

Uranium miners from New Mexico, Colorado, Arizona, and Utah were unwittingly exposed to high levels of radiation while digging for ore that would be used for the Government's nuclear arsenal. Most lived in remote areas and knew nothing about radiation or about health hazards associated with underground uranium mining.

Astonishingly, the Government was knowledgeable about the hazards involved, yet miners were sent into inadequately ventilated mines and never informed of any radiation dangers. Citizens were unjustly sacrificed in an effort to strengthen our Nation's defense during the cold war. The sad fact is that there has never been any sort of national apology or compassionate compensation granted to these people.

Many victims have tried to find relief through the judicial system. In fact, approximately 200 Navajo widows and disabled miners in the four corners area have filed claims against the United States under the Federal Tort Claims Act. Court opinions were issued stating that excessive radiation exposure was the cause of injury or death. The courts also found that Government officials were aware of the risks and failed to take proper action. Ironically, Federal sovereign immunity was granted because the Government actions were premeditated, blocking the victims' claims.

The ninth circuit court of appeals, however, stated that:

We agree with the district court that this is the type of case that cries out for redress, but the courts are not able to give it: Congress is the appropriate source in this instance.

Mr. Chairman, Congress is the source, just as it was the source for the Texas city disaster and compensation recently granted to the Japanese-Americans who were unjustly interned during World War II. Now is the time for a national apology and compensation to those uranium miners who were sacrificed during the cold war.

The Radiation Victim Compensation Act would provide compensation for both downwind victims and uranium miners by establishing a $100 million trust fund from which damages would be paid. Upon a decision that the requirements to file a claim have been met, a one-time $100,000 compassionate award will be made to miners and $50,000 to downwind victims.

While I strongly support this legislation, I am concerned that many native American uranium miners who were severely disabled would not be compensated under this act. I support strengthening this act to compensate those native American miners who have contracted severely disabling silicosis and pneumoconiosis. Specifically, I support the following legislative language: "Any individual that is a member of an Indian tribe will also be compensated for the following severely disabling respiratory diseases that were exacerbated by exposure to radiation: silicosis and pneumoconiosis."

Mr. Speaker, this legislation provides modest compensation that is long overdue. I urge my colleagues to support H.R. 2372.

□ 1610

Mr. JAMES. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 2372, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2372, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 520) granting the consent of Congress to amendments to the Washington metropolitan area transit regulation compact, as amended.

The Clerk read as follows:

H.J. RES. 520

Whereas the Commonwealth of Virginia, the State of Maryland, and the Commissioners of the District of Columbia entered into and executed the Washington Metropolitan Area Transit Regulation Compact on December 22, 1960;

Whereas Congress gave its consent under Public Law 86-794 (74 Stat. 1031) to the entry into the Compact by the Commonwealth of Virginia and the State of Maryland, and authorized and directed the Commissioners of the District of Columbia to enter into and execute the Compact on behalf of the United States for the District of Columbia;

Whereas Congress gave its consent under Public Law 87-767 (76 Stat. 764) to the Commonwealth of Virginia and the State of Maryland to effectuate certain amendments to the Compact, and authorized and directed the Commissioners of the District of Columbia to effectuate those amendments on behalf of the United States for the District of Columbia;

Whereas The Washington Metropolitan Area Transit Regulation Compact Review Committee, a review committee appointed by the signatories to the Compact, has recommended that the Compact be amended; and

Whereas the Commonwealth of Virginia, the State of Maryland, and the District of Columbia have adopted identical amendments to the Compact: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to effectuate the amendments to the Washington Metropolitan Area Transit Regulation Compact adopted by such States and the District under which the Compact is amended to read as follows:

"TITLE I

"GENERAL COMPACT PROVISIONS

"ARTICLE I

"There is created the Washington Metropolitan Area Transit District, referred to as the Metropolitan District, which shall include: the District of Columbia; the cities of Alexandria and Falls Church of the Commonwealth of Virginia; Arlington County and Fairfax County of the Commonwealth of Virginia, the political subdivisions located within those counties, and that portion of Loudoun County, Virginia, occupied by the Washington Dulles International Airport; Montgomery County and Prince George's County of the State of Maryland, and the political subdivisions located within those counties; and all other cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of those counties, cities, and airports.

"ARTICLE II

"1. The signatories hereby create the 'Washington Metropolitan Area Transit Commission,' hereafter called the 'Commission,' which shall be an instrumentality of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, and shall have the powers and duties set forth in the Compact and those additional powers and duties conferred upon it by subsequent action of the signatories.

"2. The Commission shall have jurisdiction coextensive with the Metropolitan District for the regulation of passenger transportation within the Metropolitan District on a coordinated basis, without regard to political boundaries within the Metropolitan District, as set forth in this Compact.

"ARTICLE III

"1. (a) The Commission shall be composed of three members, some member appointed by the Governor of Virginia from the State Corporation Commission of the Commonwealth of Virginia, one member appointed by the Governor of Maryland from the Maryland Public Service Commission, and

one member appointed by the Mayor of the District of Columbia from the Public Service Commission of the District of Columbia.

"(b) A member appointed shall serve for a term coincident with the term of that member on the agency of the signatory, and a member may be removed or suspended from office as the law of the appointing signatory provides.

"(c) Vacancies shall be filled for an unexpired term in the same manner as an original appointment.

"2. A person in the employment of or holding an official relation to a person or company subject to the jurisdiction of the Commission or having an interest of any nature in a person or company or affiliate or associate thereof, may not hold the office of Commissioner or serve as an employee of the Commission or have any power or duty or receive any compensation in relation to the Commission.

"3. (a) The Commission shall select a chairman from among its members.

"(b) The chairman shall be responsible for the Commission's work and shall have all powers to discharge that duty.

"4. A signatory may pay the Commissioner from its jurisdiction the salary or expenses, if any, that it considers appropriate.

"5. (a) The Commission may employ engineering, technical, legal, clerical, and other personnel on a regular, part-time, or consulting basis to assist in the discharge of its functions.

"(b) The Commission is not bound by any statute or regulation of a signatory in the employment or discharge of an officer or employee of the Commission, except that contained in this Compact.

"6. The Commission shall establish its office at a location to be determined by the Commission within the Metropolitan District and shall publish rules and regulations governing the conduct of its operations.

"ARTICLE IV

"1. (a) The signatories shall bear the expenses of the Commission in the manner set forth here.

"(b) The Commission shall submit to the Governor of Virginia, the Governor of Maryland, and the Mayor of the District of Columbia, when requested, a budget of its requirements for the period required by the laws of the signatories for presentation to the legislature.

"(c) The Commission shall allocate its expenses among the signatories in the proportion that the population of each signatory within the Metropolitan District bears to the total population of the Metropolitan District.

"(d)(i) The Commission shall base its allocation on the latest available population statistics of the Bureau of the Census; or

"(ii) If current population data are not available, the Commission may, upon the request of a signatory, employ estimates of population prepared in a manner approved by the Commission and by the signatory making the request.

"(e) The Governors of the two states and the Mayor of the District of Columbia shall approve the allocation made by the Commission.

"2. (a) The signatories shall appropriate their proportion of the budget for the expenses of the Commission and shall pay that appropriation of the Commission.

"(b) The budget of the Commission and the appropriations of the signatories may not include a sum for the payment of salaries or expenses of the Commissioners.

"(c) The provisions of section 2.1-30 (1979) of the Code of Virginia do not apply to any official or employee of the Commonwealth of Virginia acting or performing services under this Act.

"3. (a) If the Commission requests and a signatory makes available personnel, services, or material which the Commission would otherwise have to employ or purchase, the Commission shall—

"(i) determine an amount; and

"(ii) reduce the expenses allocable to a signatory.

"(b) If any services in kind are rendered, the Commission shall return to the signatory an amount equivalent to the savings to the Commission represented by the contribution in kind.

"4. (a) The Commission shall have the power to establish fees under regulations, including but not limited to filing fees and annual fees.

"(b) The Commission shall return to the signatories fees established by it in proportion to the share of the Commission's expenses borne by each signatory in the fiscal year during which the fees were collected.

"5. (a) The Commission shall keep accurate books of account, showing in full its receipts and disbursements.

"(b) The books of account shall be open for inspection by representatives of the respective signatories at any reasonable time.

"ARTICLE V

"1. An action by the Commission may not be effective unless a majority of the members concur.

"2. An order entered by the Commission under the provisions of Title II of this Act which affects operations or matters solely intrastate or solely within the District of Columbia may not be effective unless the Commissioner from the affected signatory concurs.

"3. Two members of the Commission are a quorum.

"4. The Commission may delegate by regulation the tasks that it considers appropriate.

"ARTICLE VI

"This Compact does not amend, alter, or affect the power of the signatories and their political subdivisions to levy and collect taxes on the property or income of any person or company subject to this Act or upon any material, equipment, or supplies purchased by that person or company or to levy, assess, and collect franchise or other similar taxes, or fees for the licensing of vehicles and their operation.

"ARTICLE VII

"This amended Compact shall become effective 90 days after the signatories adopt it.

"ARTICLE VIII

"1. (a) This Compact may be amended from time to time without the prior consent or approval of the Congress of the United States and any amendment shall be effective unless, within one year, the Congress disapproves that amendment.

"(b) An amendment may not be effective unless adopted by each of the signatories.

"2. (a) A signatory may withdraw from the Compact upon written notice to the other signatories.

"(b) In the event of a withdrawal, the Compact shall be terminated at the end of the Commission's next full fiscal year following the notice.

"3. Upon the termination of this Compact, the jurisdiction over the matters and persons coverd by this Act shall revert to the signatories and the federal government, as their interests may appear, and the applicable laws of the signatories and the federal government shall be reactivated without further legislation.

"ARTICLE IX

"Each of the signatories pledges to each of the other signatories faithful cooperation in the regulation of passenger transportation within the Metropolitan District and agrees to enact any necessary legislation to achieve the objectives of the Compact for the mutual benefit of the citizens living in the Metropolitan District.

"ARTICLE X

"1. If a provision of this Act or its application to any person or circumstance is held invalid in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

"2. In accordance with the ordinary rules for construction of interstate compacts, this Act shall be liberally construed to effectuate its purposes.

"TITLE II

"COMPACT REGULATORY PROVISIONS

"ARTICLE XI

"1. This Act shall apply to the transportation for hire by any carrier of persons between any points in the Metropolitan District, including but not limited to—

"(a) as to interstate and foreign commerce, transportation performed over a regular route between a point in the Metropolitan District and a point outside the Metropolitan District if—

"(i) the majority of passengers transported over that regular route are transported between points within the Metropolitan District; and

"(ii) that regular route is authorized by a certificate of public convenience and necessity issued by the Interstate Commerce Commission; and

"(b) the rates, charges, regulations, and minimum insurance requirements for taxicabs and other vehicles that perform a bona fide taxicab service, where the taxicab or other vehicle—

"(i) has a seating capacity of 9 persons or less, including the driver; and

"(ii) provides transportation from one signatory to another within the Metropolitan District.

"2. Solely for the purposes of this section and section 18 of this Article—

"(a) the Metropolitan District shall include that portion of Anne Arundel County, Maryland, occupied by the Baltimore-Washington International Airport; and

"(b) jurisdiction of the Commission shall apply to taxicab rates, charges, regulations, and minimum insurance requirements for interstate transportation between the Baltimore-Washington International Airport and other points in the Metropolitan District, unless conducted by a taxicab licensed by the State of Maryland or a political subdivision of the State of Maryland, or operated under a contract with the State of Maryland.

"3. Excluded from the application of this Act are—

"(a) transportation by water, air, or rail;

"(b) transportation performed by the federal government, the signatories to this Compact, or any political subdivision of the signatories;

"(c) transportation performed by the Washington Metropolitan Area Transit Authority;

"(d) transportation by a motor vehicle employed solely in transporting teachers and school children through grade 12 to or from public or private schools;

"(e) transportation performed over a regular route between a point in the Metropolitan District and a point outside the Metropolitan District, including transportation between those points on the regular route that are within the Metropolitan District, if—

"(i) the majority of passengers transported over the regular route are not transported between points in the Metropolitan District; and

"(ii) the regular route is authorized by a certificate of public convenience and necessity issued by the Interstate Commerce Commission;

"(f) matters other than rates, charges, regulations, and minimum insurance requirements relating to vehicles and operations described in Sections 1(b) and 2 of this Article;

"(g) transportation solely within the Commonwealth of Virginia and the activities of persons performing that transportation; and

"(h) the exercise of any power or the discharge of any duty conferred or imposed upon the State Corporation Commission of the Commonwealth of Virginia by the Virginia Constitution.

"Definitions

"4. In this Act the following words have the meanings indicated:

"(a) 'Carrier' means a person who engages in the transportation of passengers by motor vehicles or other form or means of conveyance for hire.

"(b) 'Motor vehicle' means an automobile, bus, or other vehicle propelled or drawn by mechanical or electrical power on the public streets or highways of the Metropolitan District and use for the transportation of passengers.

"(c) 'Person' means an individual, firm copartnership, corporation, company, association or joint stock association, and includes a trustee, receiver, assignee, or personal representative of them.

"(d) 'Taxicab' means a motor vehicle for hire (other than a vehicle operated under a Certificate of Authority issued by the Commission) having a seating capacity of 9 persons or less, including the driver, used to accept or solicit passengers along the public streets for transportation.

"General Duties of Carriers

"5. Each authorized carrier shall—

"(a) provide safe and adequate transportation service, equipment, and facilities; and

"(b) observe and enforce Commission regulations established under this Act.

"Certificates of Authority

"6. (a) A person may not engage in transportation subject to this Act unless there is in force a 'Certificate of Authority' issued by the Commission authorizing the person to engage in that transportation.

"(b) On the effective date of this Act a person engaged in transportation subject to this Act under an existing 'Certificate of Public Convenience and Necessity' or order issued by the Commission shall be issued a new 'Certificate of Authority' within 120 days after the effective date of this amendment.

"(c)(i) Pending issuance of the new Certificate of Authority, the continuance of operations shall be permitted under an existing certificate or order issued by the Commission which will continue in effect on the effective date of this Act.

"(ii) The operations described in paragraph (i) of this subsection shall be performed according to the rates, regulations, and practices of the certificate holder on file with the Commission on the effective date of this Act.

"7. (a) When an application is made under this section for a Certificate of Authority, the Commission shall issue a certificate to any qualified applicant, authorizing all or any part of the transportation covered by the application, if it finds that—

"(i) the applicant is fit, willing, and able to perform that transportation properly, conform to the provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and

"(ii) that the transportation is consistent with the public interest.

"(b) If the Commission finds that the requirements of subsection (a) of this section have not been met, the application shall be denied by the Commission.

"(c) The Commission shall act upon applications under this Act as soon as possible.

"(d) The Commission may attach to the issuance of a certificate and to the exercise of the rights granted under it any term, condition, or limitation that is consistent with the public interest.

"(e) A term, condition, or limitation imposed by the Commission may not restrict the right of a carrier to add to equipment and facilities over the routes or within the territory specified in the certificate, as business development and public demand may require.

"(f) A person applying for or holding a Certificate or Authority shall comply with Commission regulations regarding maintenance of a surety bond, insurance policy, self-insurance qualification, or other security or agreement in an amount that the Commission may require to pay any final judgment against a carrier for bodily injury or death of a person, or for loss or damage to property of another, resulting from the operation, maintenance, or use of a motor vehicle or other equipment in performing transportation subject to this Act.

"(g) A Certificate of Authority is not valid unless the holder is in compliance with the insurance requirements of the Commission.

"8. Application to the Commission for a certificate under this Act shall be—

"(a) made in writing;

"(b) verified; and

"(c) in the form and with the information that the Commission regulations require.

"9. (a) A Certificate of Authority issued by the Commission shall specify the route over which a regularly scheduled commuter service or other regular-route service will operate.

"(b) A certificate issued by the Commission authorizing irregular-route service shall be coextensive with the Metropolitan District.

"(c) A carrier subject to this Act may not provide any passenger transportation for hire on an individual fare paying basis in competition with an existing, scheduled, regular-route, passenger transportation service performed by, or under a contract with, the Federal Government, a signatory to the Compact, a political subdivision of a signatory, or the Washington Metropolitan Area Transit Authority, notwithstanding any Certificate of Authority.

"(d) A certificate for the transportation of passengers may include authority to transport newspapers, passenger baggage, express, or mail in the same vehicle, or to transport passenger baggage in a separate vehicle.

"10. (a) Certificates shall be effective from the date specified on them and shall remain in effect until amended, suspended, or terminated.

"(b) Upon application by the holder of a certificate, the Commission may suspend, amend, or terminate the Certificate of Authority.

"(c) Upon complaint or the Commission's own initiative, the Commission, after notice and hearing, may suspend or revoke all or part of any Certificate of Authority for willful failure to comply with—

"(i) a provision of this Act;

"(ii) an order, rule, or regulation of the Commission; or

"(iii) a term, condition, or limitation of the certificate.

"(d) The Commission may direct that a carrier cease an operation conducted under a certificate if the Commission finds the operation, after notice and hearing, to be inconsistent with the public interest.

"11. (a) A person may not transfer a Certificate of Authority unless the Commission approves the transfer as consistent with the public interest.

"(b) A person other than the person to whom an operating authority is issued by the Commission may not lease, rent, or otherwise use that operating authority.

"12. (a) A carrier may not abandon any scheduled commuter service operated under a Certificate of Authority issued to the carrier under this Act, unless the Commission authorizes the carrier to do so by a Commission order.

"(b) Upon application by a carrier, the Commission shall issue an order, after notice and hearing, if it finds that abandonment of the route is consistent with the public interest.

"(c) The Commission, by regulation or otherwise, may authorize the temporary suspension of a route if it is consistent with the public interest.

"(d) As long as the carrier has an opportunity to earn a reasonable return in all its operations, the fact that a carrier is operating a service at a loss will not, of itself, determine the question of whether abandonment of service is consistent with the public interest.

"13. (a) When the Commission finds that there is an immediate need for service that is not available, the Commission may grant temporary authority for that service without a hearing or other proceeding up to a maximum of 180 consecutive days, unless suspended or revoked for good cause.

"(b) A grant of temporary authority does not create any presumption that permanent authority will be granted at a later date.

"Rates and Tariffs

"14. (a) Each carrier shall file with the Commission, publish, and keep available for public inspection tariffs showing—

"(i) fixed-rates and fixed-fares for transportation subject to this Act; and

"(ii) practices and regulations including those affecting rates and fares, required by the Commission.

"(b) Each effective tariff shall—

"(i) remain in effect for at least 60 days from its effective date unless the Commission orders otherwise; and

"(ii) be published and kept available for public inspection in the form and manner prescribed by the Commission.

"(c) A carrier may not charge a rate or fare for transportation subject to this Act other than the applicable rate or fare specified in a tariff filed by the carrier under this Act and in effect at the time.

"15. (a) A carrier proposing to change a rate, fare, regulation, or practice specified in an effective tariff shall file a tariff showing the change in the form and manner, and with the information, justification, notice, and support material prescribed by the Commission.

"(b) Each tariff filed under Subsection (a) of this Section shall state a date on which the tariff shall take effect, which shall be at least 7 calendar days after the date on which the tariff is filed, unless the Commission orders an earlier effective date or rejects the tariff.

"(c)(i) A tariff filed for approval with the Commission may be refused acceptance for filing if it is not consistent with this Act and Commission regulations.

"(ii) A tariff refused for filing shall be void.

"16. (a) The Commission may hold a hearing upon complaint or upon the Commission's own initiative after reasonable notice to determine whether a rate, fare, regulation, or practice relating to a tariff is unjust, unreasonable, or practice relating to a tariff is unjust, unreasonable, unduly discriminatory, or unduly preferential between classes of riders or between locations within the Metropolitan District.

"(b) Within 120 days of the hearing, the Commission shall pass an order prescribing the lawful rate, fare, regulation, or practice, or affirming the tariff.

"Through Routes, Joint Fares

"17. Within the approval of the Commission, any carrier subject to this Act may establish through routes and joint fares with any other lawfully authorized carrier.

"Taxicab Fares

"18. (a) The Commission shall prescribe reasonable rates for transportation by taxicab, only when—

"(i) the trip is between a point in the jurisdiction of one signatory and a point in the jurisdiction of another signatory; and

"(ii) both points are within the Metropolitan District.

"(b) The fare or charge for taxicab transportation may be calculated on a mileage basis, a zone basis, or on any other basis approved by the Commission.

"(c) The Commission may not require the installation of a taximeter in any taxicab when a taximeter is not permitted or required by the jurisdiction licensing and otherwise regulating the operation and service of the taxicab.

"(d) A person licensed by a signatory to own or operate a taxicab shall comply with Commission regulations regarding maintenance of a surety bond, insurance policy, self-insurance qualification, or other security or agreement in an amount that the Commission may require to pay a final judgment for bodily injury or death of a person, or for loss or damage to property of another, resulting from the operation, maintenance, or use of a taxicab in peforming transportation subject to this Act.

"ARTICLE XII

"Accounts, Records, and Reports

"1. (a) The Commission may prescribe that any carrier subject to this Act—

"(i) submit special reports and annual or other periodic reports;

"(ii) make reports in a form and manner required by the Commission;

"(iii) provide a detailed answer to any question about which the Commission requires information;

"(iv) submit reports and answers under oath; and

"(v) keep accounts, records, and memoranda of its activity, including movement of traffic and receipt and expenditure of money in a form and for a period required by the Commission.

"(b) The Commission shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes.

"(c) This section shall apply to any person controlling, controlled by, or under common control with a carrier subject to this Act, whether or not that person otherwise is subject to this Act.

"(d) A carrier that has its principal office outside of the Metropolitan District and operates both inside and outside of the Metropolitan District may keep all accounts, records, and memoranda at its principal office, but the carrier shall produce those materials before the Commission when directed by the Commission.

"(e) This section does not relieve a carrier from recordkeeping or reporting obligations imposed by a state or federal agency or regulatory commission for transportation service rendered outside the Metropolitan District.

"Issuance of Securities

"2. This Act does not impair any authority of the federal government and the signatories to regulate the issuance of securities by a carrier.

"Considerations, Mergers, and Acquisition of Control

"3. (a) A carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to—

"(i) consolidate or merge any part of the ownership, management, or operation of its property or franchise with a carrier that operates in the Metropolitan District;

"(ii) purchase, lease, or contract to operate a substantial part of the property or franchise of another carrier that operates in the Metropolitan District; or

"(iii) acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means.

"(b) Application for Commission approval of a transaction under this Section shall be made in the form and with the information that the regulations of the Commission require.

"(c) If the Commission finds, after notice and hearing, that the proposed transaction is consistent with the public interest, the Commission shall pass an order authorizing the transaction.

"(d) Pending determination of an application filed under this section, the Commission may grant 'temporary approval' without a hearing or other proceeding up to a maximum of 180 consecutive days if the Commission determines that grant to be consistent with the public interest.

"ARTICLE XIII

"Investigations by the Commission and Complaints

"1. (a) A person may file a written complaint with the Commission regarding anything done or omitted by a person in violation of a provision of this Act, or in violation of a requirement established under it.

"(b)(i) If the respondent does not satisfy the complaint and the facts suggest that there are reasonable grounds for an investigation, the Commission shall investigate the matter.

"(ii) If the Commission determines that a complaint does not state facts which warrant action, the Commission may dismiss the complaint without hearing.

"(iii) The Commission shall notify a respondent that a complaint has been filed at least 10 days before a hearing is set on the complaint.

"(c) The Commission may investigate on its own motion a fact, condition, practice, or matter to—

"(i) determine whether a person has violated or will violate a provision of this Act or a rule, regulation, or order;

"(ii) enforce the provisions of this Act or prescribe or enforce rules or regulations under it; or

"(iii) obtain information to recommend further legislation.

"(d) If, after hearing, the Commission finds that a respondent has violated a provision of this Act or any requirement under it, the Commission shall—

"(i) issue an order to compel the respondent to comply with this Act; and

"(ii) effect other just and reasonable relief.

"(e) For the purpose of an investigation or other proceeding under this Act, the Commission may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry.

"Hearings; Rules of Procedure

"2. (a) Hearings under this Act shall be held before the Commission, and records shall be kept.

"(b) Rules of practice and procedure adopted by the Commission shall govern all hearings, investigations, and proceedings under this Act, but the Commission may apply the technical rules of evidence when appropriate.

"Administrative Powers of Commission; Rules, Regulations, and Orders

"3. (a) The Commission shall perform any act, and prescribe, issue, make, amend, or rescind any order, rule, or regulation that it finds necessary to carry out the provisions of this Act.

"(b) The rules and regulations of the Commission shall prescribe the form of any statement, declaration, application, or report filed with the Commission, the information it shall contain, and the time of filing.

"(c) The rules and regulations of the Commission shall be effective 30 days after publication in the manner which the Commission shall prescribe, unless a different date is specified.

"(d) Orders of the Commission shall be effective on the date and in the manner which the Commission shall prescribe.

"(e) For the purposes of its rules and regulations, the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for them.

"(f) Commission rules and regulations shall be available for public inspection during reasonable business hours.

"Reconsideration of Orders

"4. (a) A party to a proceeding affected by a final order or decision of the Commission may file within 30 days of its publication a written application requesting Commission

reconsideration of the matter involved, and stating specifically the errors claimed as grounds for the reconsideration.

"(b) The Commission shall grant or deny the application within 30 days after it has been filed.

"(c) If the Commission does not grant or deny the application by order within 30 days, the application shall be deem d denied.

"(d) If the application is granted, the Commission shall rescind, modify, or affirm its order or decision with or without a hearing, after giving notice to all parties.

"(e) Filing an application for reconsideration may not act as a stay upon the execution of a Commission order or decision, or any part of it unless the Commission orders otherwise.

"(f) An appeal may not be taken from an order or decision of the Commission until an application for reconsideration has been filed and determined.

"(g) Only an error specified as a ground for reconsideration may be used as a ground for judicial review.

"Judicial Review

"5. (a) Any party to a proceeding under this Act may obtain a review of the Commission's order in the United States Court of Appeals for the Fourth Circuit, or in the United States Court of Appeals for the District of Columbia Circuit, by filing within 60 days after Commission determination of an application for reconsideration, a written petition praying that the order of the Commission be modified or set aside.

"(b) A copy of the petition shall be delivered to the office of the Commission and the Commission shall certify and file with the court a transcript of the record upon which the Commission order was entered.

"(c) The Court shall have exclusive jurisdiction to affirm, modify, remand for reconsideration, or set aside the Commission's order.

"(d) The court's judgment shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in Title 28 U.S.C. sections 1254 and 2350.

"(e) The commencement of proceedings under subsection (a) of this section may not operate as a stay of the Commission's order unless specifically ordered by the court.

"(f) The Commission and its members, officers, agents, employees, or representatives are not liable to suit or action or for any judgment or decree for damages, loss, or injury resulting from action taken under the Act, nor required in any case arising or any appeal taken under this Act to make a deposit, pay costs, or pay for service to the clerks of a court or to the marshal of the United States or give a supersedeas bond or security for damages.

"Enforcement of Act; Penalty for Violations

"6. (a) Whenever the Commission determines that a person is engaged or will engage in an act or practice which violates a provision of this Act or a rule, regulation, or order under it, the Commission may bring an action in the United States District Court in the district in which the person resides or conducts business or in which the violation occurred to enjoin the act or practice and to enforce compliance with this Act or a rule, regulation, or order under it.

"(b) If the court makes a determination under subsection (a) of this section, that a person has violated or will violate this Act or a rule, regulation, or order under the Act, the court shall grant a permanent or temporary injunction or decree or restraining order without bond.

"(c) Upon application of the Commission, the United States District Court for the district in which the person resides or conducts business, or in which the violation occurred, shall have jurisdiction to issue an order directing that person to comply with the provisions of this Act or a rule, regulation, or order of the Commission under it, and to effect other just and reasonable relief.

"(d) The Commission may employ attorneys necessary for—

"(i) The conduct of its work;

"(ii) Representation of the public interest in Commission investigations, cases, or proceedings on the Commission's own initative or upon complaint; or

"(iii) Representation of the Commission in any court case.

"(e) The expenses of employing an attorney shall be paid out of the funds of the Commission, unless otherwise directed by the court.

"(f)(i) A person who knowingly and willfully violates a provision of this Act, or a rule, regulation, requirement, or order issued under it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than $1,000 for the first violation and not more than $5,000 for any subsequent violation.

"(ii) Each day of the violation shall constitute a separate violation.

"(iii) Civil forfeitures shall be paid to the Commission with interest as assessed by the court.

"(iv) The Commission shall pay to each signatory a share of the civil forfeitures and interest equal to the proportional share of the Commission's expenses borne by each signatory in the fiscal year during which the civil forfeiture is collected by the Commission.

"ARTICLE XIV

"Expenses of Investigations and Other Proceedings

"1. (a) A carrier shall bear all expenses of an investigation or other proceeding conducted by the Commission concerning the carrier, and all litigation expenses, including appeals, arising from an investigation or other proceeding.

"(b) When the Commission initiates an investigation or other proceeding, the Commission may require the carrier to pay to the Commission a sum estimated to cover the expenses that will be incurred under this section.

"(c) Money paid by the carrier shall be deposited in the name and to the credit of the Commission, in any bank or other depository located in the Metropolitan District designated by the Commission, and the Commission may disburse that money to defray expenses of the investigation, proceeding, or litigation in question.

"(d) The Commission shall return to the carrier any unexpended balance remaining after payment of expenses.

"Applicability of Other Laws

"2. (a) The applicability of each law, rule, regulation, or order of a signatory relating to transportation subject to this Act shall be suspended on the effective date of this Act.

"(b) The provisions of subsection (a) of this section do not apply to a law of a signatory relating to inspection of equipment and facilities.

"(c) During the existence of the Compact, the jurisdiction of the Interstate Commerce Commission is suspended to the extent it is in conflict with the provisions of this Act.

"Existing Rules, Regulations, Orders, and Decisions

"3. All Commission rules, regulations, orders, or decisions that are in force on the effective date of this Act shall remain in effect and be enforceable under this Act, unless otherwise provided by the Commission.

"Pending Actions or Proceedings

"4. A suit, action, or other judicial proceeding commenced prior to the effective date of this Act by or against the Commission is not affected by the enactment of this Act and shall be prosecuted and determined under the law applicable at the time the proceeding was commenced.

"Annual Report of the Commission

"5. The Commission shall make an annual report for each fiscal year ending June 30, to the Governor of Virginia and the Governor of Maryland, and to the Mayor of the District of Columbia as soon as practicable after June 30, but no later than the first day of January of each year, which may contain, in addition to a report of the work performed under this Act, other information and recommendations concerning passenger transportation within the Metropolitan District as the Commission considers advisable.".

The SPEAKER pro tempore. Is a second demanded?

Mr. JAMES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume, and shame on me if it is too much.

Under the Constitution of the United States, we have to deal with compacts between and among the several States. That is what we have today. Our friends from the Washington, DC, metropolitan area have asked us to support it. It was unclear whether we had to. The margin of safety is to go ahead with it, so I hope that we will approve this compact.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 520, the Washington metropolitan area transit regulation compact. Congress has the responsibility of ratifying agreements between the States in this country, and House Joint Resolution 520 provides us the vehicle to ratify an agreement between the States of Virginia, Maryland, and the District of Columbia.

The compact entered into between these local governments was originally

executed in 1960 and provides joint authority for the District of Columbia, the Commonwealth of Virginia, and the State of Maryland to regulate the business of certain public transportation within the geographic boundaries of those States as set forth in the compact. The agreement ratified by House Joint Resolution 520 amends certain articles of the original compact between these States and the District of Columbia regarding the assessment of fees, additional jurisdiction over interstate taxicab routes, and the authority to fine violators of Commission regulations.

The major prerequisite for Congress in ratifying an interstate compact is that the State legislatures of the relevant States must have passed identical legislation to enter into the compact and in this case, that requirement has been fulfilled. I support House Joint Resolution 520 and I urge my colleagues to support the measure as well.

Mr. BROOKS. Mr. Speaker, House Joint Resolution 520 would grant the consent of Congress to amendments to the Washington metropolitan area transit regulation compact—a compact among Maryland, Virginia, and the District of Columbia, which established the Washington Metropolitan Area Transit Commission [WMATC]. This small regional agency regulates for-hire transportation of passengers by privately owned carriers in the Washington metropolitan area.

In 1986, the three signatory jurisdictions—Maryland, Virginia, and the District of Columbia—appointed a nine-member review committee to review the compact, which had remained unchanged since 1962. The review committee proposed a revised compact in late 1987, which has now been enacted by all three jurisdictions.

The major changes in authority included in the revised compact are:

First, easing the standard for entering the transportation market from a showing of "public convenience and necessity" to being "consistent with the public interest";

Second, providing specific protection from competition for publicly owned carriers;

Third, providing for tariffs to take effect sooner after they are proposed; and

Fourth, improving enforcement by providing for civil forfeiture and increasing fines for violations.

I support this bill and recommend its passage.

Mr. JAMES. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the joint resolution, House Joint Resolution 520, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Joint Resolution 520, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ADMINISTRATIVE CONFERENCE AUTHORIZATION

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3897) to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes as amended.

The Clerk read as follows:

H.R. 3897

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assumbled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 576 of title 5, United States Code, is amended to read as follows:

"§ 576. Authorization of appropriations

"There are authorized to be appropriated to carry out the purposes of this subchapter not more than $2,000,000 for fiscal year 1990, $2,150,000 for fiscal year 1991, $2,300,000 for fiscal year 1992, $2,500,000 for fiscal year 1993, and $2,700,000 for fiscal year 1994. Of any amounts appropriated under this section, not more than $1,500 may be made available in each fiscal year for official representation and entertainment expenses for foreign dignitaries.".

SEC. 2. POWERS OF THE CONFERENCE.

Section 574 of title 5, United States Code, is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) enter into arrangements with any administrative agency or major organizational unit within an administrative agency pursuant to which the Conference performs any of the functions described in paragraphs (1), (2), and (3).

Payment for services provided by the Conference pursuant to paragraph (4) shall be credited to the operating account for the Conference and shall remain available until expended.".

SEC. 3. ORGANIZATION OF THE CONFERENCE.

Section 575(c) of title 5, United States Code, is amended—

(1) in paragraph (14) by striking "and" after the semicolon;

(2) in paragraph (15) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(16) request any administrative agency to notify the Chairman of its intent to enter into any contract with any person outside the agency to study the efficiency, adequacy, or fairness of an agency proceeding (as defined in section 551(12) of this title).".

The SPEAKER pro tempore. Is a second demanded?

Mr. JAMES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognized the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bill which passed the subcommittee and the full committee unanimously. It reauthorizes the Administrative Conference of the United States that is a very useful entity, it is well run, it makes a very important contribution, although not generally publicly noticed, to the deliberations of our committee and other committees and is an important forum in which questions that deal with the way in which we actually run the Government are debated.

There is a small increase in their authorization. It reflects cost increases that were mandated on them in part by the legislation adopted last year dealing with executive pay levels. It provides for some inflation in the future. It is a very useful organization. It is a well-run organization, and I hope that the reauthorization is passed.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3897, a bill to reauthorize the administrative conference in the United States. Mr. Speaker, the administrative conference was initially established in 1964 under President Johnson and has proven since that time to be a valuable asset to the workings of the executive branch, Congress, and the many agencies which carry out the functions of our Government.

Just in the last year and a half since I have been a Member of Congress, the administrative conference has testified in front of the Subcommittee on Administrative Law and Governmental Relations, of which I am a member, on several occasions and has been very helpful in explaining issues and legislation facing our committee and in providing studies and information to me and my staff regarding important issues. H.R. 3897 provides for a moderate increase in the authorization level for the conference starting in 1991, by raising the ceiling to $2 million and thereafter through 1994, by raising the ceiling an equivalent of 7.5 percent

each year so that the authorization, in 1994, will be $2.7 million.

The administrative conference, in my opinion, is a very worthwhile organization and as our Federal Government becomes more complex and the agencies implementing the laws we pass in Congress become expanded and even more relied upon, it is important that an organization like this one is available to facilitate their interaction and work. I support the bill and urge my colleagues to do likewise.

Mr. BROOKS. Mr. Speaker, H.R. 3897 provides for the authorization of the administrative conference of the United States [ACUS] through 1994. The current authorization level of $2 million would be raised slightly in each succeeding year to provide additional resources for ACUS. The authorization for each of these years is: For fiscal year 1991—$2.5 million; for fiscal year 1992—$2.3 million; for fiscal year 1993—$2.5 million; and for fiscal year 1994—$2.7 million.

The bill also makes three substantive changes in the enabling legislation for ACUS. The bill—

First, authorizes a small additional sum to entertain foreign dignitaries—to a maximum of $1,500;

Second, authorizes ACUS to carry into the next fiscal year any reimbursements or advance payments it receives; and

Third, authorizes ACUS to request Federal agencies to notify the chairman of ACUS when an agency intends to contract out for a study of agency procedures.

Mr. Speaker, ACUS was established to increase the efficiency and fairness of agency procedures by conducting studies, making recommendations, and analyzing or suggesting legislative changes. It has performed its mission well and, with this authorization, will continue to make a significant contribution to improving the functioning of the executive branch of the Government.

I urge the Members to vote in favor of H.R. 3897.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

Mr. JAMES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 3897, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3897, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMANENT AUTHORITY FOR SUPREME COURT POLICE

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4757) to provide permanent authority for the U.S. Supreme Court Police, as amended.

The Clerk read as follows:

H.R. 4757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT AUTHORITY FOR SUPREME COURT POLICE.

Section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States", approved August 18, 1949 (40 U.S.C. 13n(c)), is amended by striking the first two sentences.

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. JAMES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, several years ago at the request of the Supreme Court we authorized them to engage police. We all wish we lived in the kind of society in which that was not necessary; unfortunately, we do not, so it is.

The authority was originally extended for a limited period. I guess it was something in the nature of an experiment. It is clear to us that there is a reason for the Suprme Court to have this protection on a permanent basis. They do not abuse it. It is not terribly expensive and it is necessary.

This simply makes permanent that authority. It is a request which comes to us from the Supreme Court. It makes a great deal of sense, and I hope that it is adopted.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4757, a bill to permanently authorize the protective functions of the Supreme Court Police. As many of you know, the Supreme Court was originally located in the lower level of the Capitol. In the mid-1930's, when the Supreme Court building was finished, the Capitol Police provided a small contingency of officers for security purposes for the justices and thereafter in 1949, Congress acknowledged that the Supreme Court Police needed their own separate police force and established the Supreme Court Police.

Congress has independently authorized the separate Supreme Court Police force since 1982, we reauthorized it in 1985 and once again in 1986. The Chief Justice of the Supreme Court has requested that this authority be made permanent and the chairman of the Judiciary Committee has introduced this legislation to do just that.

I support the bill and urge my colleagues to support the measure.

Mr. BROOKS. Mr. Speaker, H.R. 4757 makes permanent the authority of the Supreme Court Police to protect the Justices, Court personnel, and official visitors, both on and away from the Court premises.

In 1982, Congress formally recognized the authority of the Supreme Court Police to provide this protection. At that time, the Congress enacted legislation that expanded the jurisdiction of the Supreme Court Police, for the purpose of providing protection, to any part of the United States and provided authority for them to carry firearms. The marshal of the Supreme Court is required to report annually on the cost of this protection. The law also contained a sunset provision, resulting in congressional review of this authority on two occasions since 1982—in 1985 and 1986. There has been no abuse of the authority and the cost has been minimal.

Mr. Speaker, since 1982 threats of violence against the Justices and the Court have increased and, unfortunately, the need to provide this protection persists. Permanent authority will allow the Supreme Court Police to carry out these important responsibilities.

I urge the Members to vote in favor of H.R. 4757.

Mr. JAMES. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 4757, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 4757, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

□ 1620

ADMINISTRATIVE DISPUTE RESOLUTION ACT

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2497) to authorize and encourage Federal agencies to use mediation, conciliation, arbitration, and other techniques for the prompt and informal resolution of disputes, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Dispute Resolution Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) administrative procedure, as embodied in chapter 5 of title 5, United States Code, and other statutes, is intended to offer prompt, expert, and inexpensive means of resolving disputes as an alternative to litigation in the Federal courts;

(2) administrative proceedings have become marked increasingly by formality, costs, and delays and often result in unnecessary expenditures of the time of individuals and the resources of society and decreased likelihood of achieving consensual resolution of disputes;

(3) alternative means of dispute resolution (including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration) have been used in the private sector for many years and, in appropriate circumstances, have yielded decisions that are faster, less expensive, and less contentious;

(4) such alternative means also lead to more creative, efficient, and sensible outcomes that foster stability because of the acceptability of such means to the parties involved and the public in general;

(5) such alternative means may be used advantageously in widely varied administrative programs;

(6) explicit authorization of the use of well-tested dispute resolution techniques will eliminate ambiguity of agency power under existing law and will encourage the use of common sense procedures in appropriate cases;

(7) Federal agencies may not only receive the benefit of techniques that were developed in the private sector, but may also take the lead in the further development and refinement of such techniques; and

(8) the availability of a wide range of dispute resolution procedures, and an increased understanding of the most effective use of such procedures, will enhance the operation of the Government and better serve the public.

SEC. 3. PROMOTION OF ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

(a) PROMULGATION OF AGENCY POLICY.—Each agency which administers an administrative program and intends to use alternative means of dispute resolution with respect to such administrative program shall adopt policies that address the use of the full range of alternative means of dispute resolution and case management in such administrative program. In developing such policies, each agency is encouraged to—

(1) consult with the Administrative Conference of the United States, the Federal Mediation and Conciliation Service, and professional associations; and

(2) examine procedures for resolving every kind of dispute, including controversies that arise as a part of—

(A) formal or informal adjudication;

(B) rulemaking;

(C) enforcement;

(D) issuing or revoking permits;

(E) settling disputes; and

(F) litigation brought by or against the agency.

(b) DISPUTE RESOLUTION SPECIALISTS.—The head of each agency referred to in subsection (a) shall designate a senior official to be the dispute resolution specialist of the agency. Such official shall be responsible for the implementation of—

(1) the provisions of this Act and the amendments made by this Act with regard to such agency; and

(2) the agency policies developed under subsection (a).

(c) TRAINING.—Each agency referred to in subsection (a) shall provide for training to be made available regularly to the dispute resolution specialist of the agency and other employees involved in implementing the policies of the agency developed under subsection (a). Such training may encompass theory and practice of negotiation, mediation, arbitration, or related techniques. The dispute resolution specialist shall periodically recommend to the agency head a list of agency employees for similar training.

(d) PROCEDURES FOR GRANTS AND CONTRACTS.—

(1) REVIEW AND REVISION OF STANDARD AGENCY AGREEMENTS.—Each agency referred to in subsection (a) shall review each of its standard agreements for contracts, grants, and other assistance and shall determine whether to amend any such agreement to authorize and encourage the use of alternative means of dispute resolution at all stages where disputes under future agreements may arise.

(2) AMENDMENTS TO FEDERAL ACQUISITION REGULATION.—(A) Within 1 year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended, as necessary, to carry out this Act and the amendments made by this Act.

(B) For purposes of this section, the term "Federal Acquisition Regulation" means the single system of Government-wide procurement regulation referred to in section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a)).

SEC. 4. ADMINISTRATIVE PROCEDURES.

(a) ADMINISTRATIVE HEARINGS.—Section 556(c) of title 5, United States Code, is amended—

(1) in paragraph (6) by inserting before the semicolon at the end thereof the following: "or by the use of alternative means of dispute resolution as provided in subchapter IV of this chapter"; and

(2) by redesignating paragraphs (7) through (9) as paragraphs (9) through (11), respectively, and inserting after paragraph (6) the following new paragraphs:

"(7) inform the parties as to the availability of one or more alternative means of dispute resolution, and encourage use of such methods;

"(8) require the attendance at any conference held pursuant to paragraph (6) of at least one representative of each party who has authority to negotiate concerning resolution of issues in controversy;".

(b) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Chapter 5 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

"§ 581. Definitions

"In the purposes of this subchapter, the term—

"(1) 'agency' has the same meaning as in section 551(1) of this title;

"(2) 'administrative program' includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rule making, adjudication, licensing, or investigation, as those terms are used in subchapter II of this chapter;

"(3) 'alternative means of dispute resolution' means any procedure that is used, in lieu of an adjudication as defined in section 551(7) of this title, to resolve issues in controversy, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, or any combination thereof;

"(4) 'dispute resolution communication' means any oral or written communication made in confidence in connection with a dispute resolution proceeding by any party, neutral, or nonparty participant;

"(5) 'dispute resolution document' means any written material that is—

"(A) prepared for the purpose of, in the course of, or pursuant to a dispute resolution proceeding, including memoranda, notes, and work product of the neutral and the parties in the proceeding; or

"(B) provided in confidence to the neutral or other parties in a dispute resolution proceeding for purposes of that dispute resolution proceeding;

except that an agreement or arbitral award reached as a result of a dispute resolution proceeding is not a dispute resolution document unless the parties so agree in writing and the law otherwise allows that it shall be regarded as such a document;

"(6) 'dispute resolution proceeding' means any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specific parties participate;

"(7) 'in confidence' means, with respect to information, that the information is provided—

"(A) with the expressed desire of the source that it not be disclosed; or

"(B) under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed;

"(8) 'issue in controversy' means a question which is material to a decision concerning an administrative program of an agency, and with which persons who would be substantially affected by the decision or the agency disagrees;

"(9) 'neutral' means an individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy;

"(1) 'party' means—

"(A) for a proceeding with named parties, the same as in section 551(3) of this title; and

"(B) for a proceeding without named parties, a person who will be significantly af-

fected by the decision in the proceeding and who participates in the proceeding;

"(11) 'person' has the same meaning as in section 551(2) of this title; and

"(12) 'roster' means a list of persons qualified to provide services as neutrals.

"§ 582. General authority

"(a) AUTHORITY.—Each agency may use a dispute resolution proceeding for the resolution of any issue in controversy that relates to an administrative program, if the parties agree to such proceeding.

"(b) FACTORS FOR USE OF PROCEEDING.—In determining whether the use of a dispute resolution proceeding is appropriate, an agency and the parties shall consider whether—

"(1) a definitive or authoritative resolution of the matter is required for precedential value, and, if so, whether such a proceeding is likely to be accepted generally as an authoritative precedent;

"(2) the matter involves or may bear upon significant questions of Government policy that require additional procedures before a final resolution may be made, and, if so, whether such a proceeding may serve to develop a recommended policy for the agency;

"(3) maintaining established policies is of special importance, so that variations among individual decisions are not increased and, if so, whether such a proceeding would likely reach consistent results among individual decisions;

"(4) the matter significantly affects persons or organizations who are not parties to the proceeding;

"(5) a full public record of the proceeding is important, and, if so, whether a dispute resolution proceeding can provide such a record; and

"(6) the agency must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light of changed circumstances, and, if so, whether a dispute resolution proceeding would interfere with the agency's fulfilling that requirement.

"§ 583. Neutrals

"(a) IN GENERAL.—A neutral may be a permanent or temporary officer or employee of the Federal Government or any other individual who is acceptable to the parties to a dispute resolution proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral may serve.

"(b) SERVICE AT THE WILL OF THE PARTIES.—A neutral who serves as a conciliator, facilitator, or mediator serves at the will of the parties.

"§ 584. Confidentiality

"(a) Restriction on Disclosure by Neutrals.—A neutral in a dispute resolution proceeding shall not voluntarily or through discovery or compulsory process be required to disclose any information or testify concerning any dispute resolution document or any dispute resolution communication, unless—

"(1) all parties to the dispute resolution proceeding and the neutral consent in writing, and, if the dispute resolution communication or dispute resolution document was provided by a nonparty participant, that participant also consents in writing;

"(2) the request is for a document that was provided to the neutral in a public meeting or is otherwise already in the public domain;

"(3) the dispute resolution communication or dispute resolution document is required by statute to be made public, but only if no other person is reasonably available to provide the document or disclose the communication; or

"(4) a court determines that such testimony or dosclosure is necessary to—

"(A) prevent a manifest injustice,

"(B) reveal a violation of law, or

"(C) prevent harm to the public health or safety,

which is of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential.

"(b) RESTRICTION ON DISCLOSURE BY PARTIES.—A party to a dispute resolution proceeding shall not voluntarily nor through discovery or compulsory process be required to disclose any information or testify concerning any dispute resolution document or any dispute resolution communication, unless—

"(1) all parties to the dispute resolution proceeding consent in writing;

"(2) the request is for a document already in the public domain;

"(3) the dispute resolution communication or dispute resolution document is required by statute to be made public;

"(4) a court determines that such testimony or disclosure is necessary to—

"(A) prevent a manifest injustice,

"(B) reveal a violation of law, or

"(C) prevent harm to the public health and safety,

which is of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential; or

"(5) the dispute resolution document or dispute resolution communication is relevant to the resolution of a dispute concerning the existence or meaing of an agreement or award that resulted from the proceeding or to the enforcement of such an agreement or award.

"(c) SANCTION FOR VIOLATING CONFIDENTIALTY.—Any dispute resolution communication or dispute resolution document that is disclosed in violation of subsection (a) or (b) shall not be admissible in any proceeding relating to the issues in controversy with respect to which the communication or document was made.

"(d) AGREEMENT AMONG THE PARTIES.—The parties to a dispute resolution proceeding may—

"(1) agree that subsection (a) or (b) will not apply to the dispute resolution proceeding; or

"(2) modify the terms of subsection (a) or (b) by agreement in which case that agreement will prevail to the extent the agreement is enforceable by law.

The parties shall inform the neutral before the commencement of the dispute resolution proceeding of any modifications to the provisions of subsection (a) that will govern the confidentiality of the dispute resolution proceeding. If the parties do not so inform the neutral, subsection (a) shall apply.

"(e) DEMANDS FOR DISCLOSURE.—If a demand, by way of discovery request or other legal process, is made for disclosure by the neutral of a dispute resolution document or dispute resolution communication, the neutral shall make reasonable efforts to notify the parties and any affected nonparty participants. Any party or affected nonparty participant that is provided such notice and does not offer to defend the refusal of the neutral to disclose information or testify concerning the dispute resolution communication or dispute resolution document shall be regarded as waiving any objection to such disclosure or testimony.

"(f) DISCOVERY AND ADMISSIBILITY OF CERTAIN EVIDENCE PRESERVED.—Nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable merely because it was presented in the course of a dispute resolution proceeding.

"(g) DISCLOSURE OF CERTAIN INFORMATION PERMITTED.—Subsections (a) and (b) shall have no effect on the information and data that are required to document an agreement reached or order issued pursuant to a dispute resolution proceeding.

"(h) INFORMATION FOR RESEARCH OR EDUCATIONAL PURPOSES.—Subsections (a) and (b) do not prevent the gathering of information for research or educational purposes, in cooperation with other agencies, governmental entities, or dispute resolution programs, so long as the parties or the specific issues in controversy are not identifiable.

"(i) DISPUTES BETWEEN NEUTRAL AND PARTY OR PARTICIPANT.—To the extent that a dispute resolution document is used to resolve a dispute between the neutral in a dispute resolution proceeding and a party to or participant in such proceeding, and not to resolve any issue in controversy in such proceeding, subsections (a) and (b) do not apply to that dispute resolution document, except that such dispute resolution document may be disclosed only to the extent necessary to resolve the dispute.

"§ 585. Authorization of arbitration

"(a) IN GENERAL.—

"(1) CONSENT OF PARTIES.—Arbitration may be used as an alternative means of dispute resolution whenever all parties consent, either before or after the issue in controversy has arisen. A party may agree to—

"(A) submit only certain issues in controversy to arbitration; or

"(B) arbitration on the condition that the award must be within a range of possible outcomes.

"(2) CERTAIN AGREEMENTS IN WRITING.—Any arbitration agreement that sets forth the subject matter submitted to the arbitrator shall be in writing.

"(3) AGENCIES MAY NOT REQUIRE CONSENT TO ARBITRATION.—An agency may not require any person to consent to arbitration as a condition of entering into a contract or obtaning any benefit.

"(b) AUTHORITY OF AGENCY OFFICIALS.—An officer or employee of an agency may offer to use arbitration for the resolution of issues in controversy, if such officer or employee—

"(1) has authority to enter into settlement stipulations concerning a matter; or

"(2) is otherwise specifically authorized by the agency to consent to the use of arbitration.

"§ 586. Enforcement of arbitration agreements

"An agreement to arbitrate a matter to which this subchapter applies is enforceable pursuant to section 4 of title 9, and no action brought to enforce such an agreement shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensible party.

"§ 587. Arbitrators

"(a) PARTICIPATION OF PARTIES IN SELECTION.—The parties to an arbitration pro-

ceeding shall be entitled to participate in the selection of the arbitrator.

"(b) REQUIREMENTS OF ARBITRATOR.—The arbitrator shall be a neutral who meets the criteria of section 583 of this title.

"§ 588. Authority of the arbitrator

"An arbitrator to whom a dispute is referred under this subchapter may—

"(1) regulate the course of and conduct of arbitral hearings;

"(2) administer oaths and affirmations;

"(3) issues subpoenas for the attendance of witnesses and production of evidence at the hearing, enforceable under the provisions of section 7 of title 9, except that—

"(A) subpoenas may be issued under this paragraph only to the extent the agency involved is otherwise authorized by law to do so, and

"(B) no subpoena shall be issued except for material that is clearly relevant to the resolution of the issues and is necessary to achieve justice in the matter; and

"(4) make awards.

"§ 589. Arbitration proceedings

"(a) TIME, PLACE, AND NOTICE OF HEARING.—The arbitrator shall set a time and place for the hearing on the dispute and shall notify the parties not less than 5 days before the hearing.

"(b) RECORD OF PROCEEDINGS.—Any party wishing a record of the hearing shall—

"(1) be responsible for the preparation of such record;

"(2) notify the other parties and the arbitrator of the preparation of such record;

"(3) furnish copies to all parties and the arbitrator; and

"(4) pay all costs for such record, unless the parties agree otherwise or the arbitrator determines that the costs should be apportioned.

"(c) CONDUCT OF HEARINGS.—

"(1) RIGHTS OF PARTIES.—The parties to the arbitration are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

"(2) CONDUCT OF HEARING BY ELECTRONIC MEANS.—The arbitrator may, with the consent of the parties, conduct all or part of the hearing by telephone, television, computer, or other electronic means, if each party has an opportunity to participate.

"(3) MANNER IN WHICH HEARING CONDUCTED.—The hearing shall be conducted expeditiously and in an informal manner.

"(4) RECEIPT OF EVIDENCE.—The arbitrator may receive oral or documentary evidence, except that irrelevant, immaterial, unduly repetitious, or privileged evidence may be excluded by the arbitrator.

"(5) APLICATION OF LAW, REGULATIONS, AND DIRECTIVES.—The arbitrator shall interpret and apply relevant statutory and regulatory requirements, legal precedents, and policy directives.

"(d) EX PARTE COMMUNICATIONS.—No interested person shall make or knowingly cause to be made to the arbitrator an unauthorized ex parte communication relevant to the merits of the proceeding, unless the parties agree otherwise. If a communication is made in violation of this subsection, the arbitrator shall assure that a memorandum of the communication is prepared and made a part of the record, and that an opportunity for rebuttal is allowed. Upon receipt of a communication made in violation of this subsection, the arbitrator may, to the extent consistent with the interests of justice and the policy underlying this subchapter, require the offending party to show cause why the claim of such party should not be resolved against such party as a result of the improper conduct.

"(e) TIME FOR MAKING AWARDS.—The arbitrator shall make the award within 30 days after the close of the hearing, or the date of the filing of any briefs authorized by the arbitrator, whichever date is later, unless—

"(1) the parties agree to some other time limit; or

"(2) the agency provides by rule for some other time limit.

"§ 590. Arbitration awards

"(a) IN GENERAL.—

"(1) Factual and legal basis of award.—Unless the agency provides otherwise by rule, the award in an arbitration proceeding under this subchapter shall include a brief, informal discussion of the factual and legal basis for the award, but formal findings of fact or conclusions of law shall not be required.

"(2) FILING OF AWARD.—The prevailing parties shall file the award with all relevant agencies, along with proof of service on all parties.

"(b) FINALITY OF AWARD.—The award in an arbitration proceeding shall become final 30 days after it is served on all parties. Any agency that is a party to the proceeding may extend this 30-day period for an additional 30-day period by serving a notice of such extension on all other parties before the end of the first 30-day period.

"(c) AUTHORITY TO TERMINATE PROCEEDING OR VACATE AWARD.—The head of any agency that is a party to an arbitration proceeding conducted under this subchapter is authorized to terminate the arbitration proceeding or vacate any award issued pursuant to the proceeding before the award becomes final by serving on all parties a written notice to that effect, in which case the award shall be null and void. If a request is made that the agency head terminate an arbitration proceeding or vacate such an award, the person making the request shall provide notice of the request to all parties to the arbitration proceeding. An employee or agent engaged in the performance of investigative or prosecuting functions for an agency may not, in that or a factually related case, participate or advise in a decision under this subsection to terminate an arbitration proceeding or to vacate an arbitral award, except as witness or counsel in public proceedings.

"(d) ENFORCEABILITY OF AWARDS.—A final award is binding on the parties to the arbitration proceeding, and may be enforced pursuant to sections 9 through 13 of title 9. No action brought to enforce such an award shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

"(e) ESTOPPEL BARRED.—An award entered under this subchapter in an arbitration proceeding may not serve as an estoppel in any other proceeding for any issue that was resolved in the proceeding, nor may the award be used as precedent or otherwise be considered in any proceeding, whether conducted under this subchapter, by an agency, or in a court, or in any other arbitration proceeding.

"(f) INADMISSIBILITY OF AWARD.—An arbitral award that is vacated under subsection (c) shall not be admissible in any proceeding relating to the issues in controversy with respect to which the award was made.

"(g) ATTORNEY FEES.—An agency whose head has vacated any award in an arbitration proceeding shall award to all parties other than the United States fees and other expenses (as defined in section 504(b)(1)(A) of this title) incurred in connection with the arbitration proceeding which would not have been incurred in the absence of such proceeding, unless an adjudicative officer of the agency or other agency official designated by the agency head finds that special circumstances make an award of expenses unjust. The procedures of agencies for reviewing applications for awards shall, in all other respects, be consistent with those set forth in subsections (a)(2), (a)(3), (c)(2), and (d) of section 504 of this title.

"§ 591. Judicial Review

"(a) PURSUANT TO TITLE 9.—Notwithstanding any other provision of law, any person adversely affect or aggrieved by an award made in an arbitration proceeding conducted under this subchapter may bring an action for review of such award only pursuant to the provisions of sections 9 through 13 of title 9.

"(b) OTHER JUDICIAL REVIEW.—

"(1) DECISION TO USE DISPUTE RESOLUTION PROCEEDING.—Any decision by an agency to use or not to use a dispute resolution proceeding under this subchapter shall be committed to the discretion of the agency and shall not be subject to judicial review.

"(2) DECISION TO TERMINATE PROCEEDING OR VACATE AWARD.—Any decision of the head of an agency under section 590 to terminate a proceeding or vacate an arbitral award shall be committed to the discretion of the agency and shall not be subject to judicial review.

"§ 592. Authorization to use services of employees of other agencies

"An agency may use the services of one or more employees of other agencies to serve as neutrals in dispute resolution proceedings. The agencies may enter into an interagency agreement that provides for the reimbursement by the user agency or the parties of the full or partial cost of the services of such an employee.

"§ 593. Qualification and roster of neutrals; procurement

"(a) AUTHORITY OF ADMINISTRATIVE CONFERENCE.—In consultation with the Federal Mediation and Conciliation Service, other appropriate Federal agencies, and professional organizations experienced in matters concerning dispute resolution, the Administrative Conference of the United States may—

"(1) establish standards for neutrals (including experience, training, affiliations, diligence, actual or potential bias or conflicts of interest, and other qualifications) to which agencies may refer;

"(2) maintain a roster of individuals who meet such standards and are otherwise qualified to act as neutrals, which shall be made available upon request;

"(3) develop a standard contract to obtain the services of neutrals in dispute resolution proceedings, which may be used by agencies on an elective basis; and

"(4) develop procedures that permit agencies to obtain the services of neutrals on an expedited basis.

"(b) CONTRACTS FOR SERVICES OF NEUTRALS.—Any agency may enter into a contract with any person on a roster established under subsection (a) or a roster maintained by other public or private organizations or individuals for services as a neutral, or for training in connection with alternative means of dispute resolution. The agency shall pay for the services of the neutral. An agency may enter into a contract

for the services of a neutral with any qualified person at compensation that the agency determines is fair and reasonable to the Government.

"§ 594. Compilation of information

"The Chairman of the Administrative Conference of the United States shall compile and maintain data on the use of alternative means of dispute resolution in conducting agency proceedings. Agencies shall, upon the request of the Chairman of the Administrative Conference of the United States, supply such additional information as is required to enable the Chairman to comply with this section.

"§ 595. Support services

"For the purposes of this subchapter, an agency may use (with or without reimbursement) the services and facilities of other Federal agencies, public and private agencies, and individuals, with the consent of such agencies and individuals. An agency may accept voluntary and uncompensated services for purposes of this subchapter without regard to the provisions of section 1342 of title 31.".

(c) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

"581. Definitions.
"582. General authority.
"583. Neutrals.
"584. Confidentiality.
"585. Authorization of arbitration.
"586. Enforcement of arbitration agreements.
"587. Arbitrators.
"588. Authority of the arbitrator.
"589. Arbitration proceedings.
"590. Arbitration awards.
"591. Judicial review.
"592. Authorization to use services of employees of other agencies.
"593. Qualifications and roster of neutrals; procurement..
"594. Compilation of information.
"595. Support services.".

SEC. 5. JUDICIAL REVIEW OF ARBITRATION AWARDS.

Section 10 of title 9, United States Code, is amended—

(1) by redesignating subsections (a) through (e) as paragraphs (1) through (5), respectively;

(2) by striking "In either" and inserting "(a) In any"; and

(3) by adding at the end the following:

"(b) The United States district court for the district wherein an award was made that was issued pursuant to section 590 of title 5 may make an order vacating the award upon the application of a person, other than a party to the arbitration, who is adversely affected or aggrieved by the award, if the use of arbitration or the award is clearly inconsistent with the factors set forth in section 582 of title 5.".

SEC. 6. GOVERNMENT CONTRACT CLAIMS.

(a) CONTRACTING OFFICERS.—Section 6(a) of the Contract Disputes Act of 1978 (41 U.S.C. 605(a)) is amended by adding at the end the following: "The contracting officer should make reasonable efforts to resolve a claim or dispute consensually, before or after making a decision under this section.".

(b) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 606) is amended by adding at the end the following new subsections:

"(d) Notwithstanding any other provision of this Act, a contractor and a contracting officer may use any alternative means of dispute resolution under subchapter IV of chapter 5 of title 5, United States Code, or other mutually agreeable procedures, for resolving claims. In a case in which such alternative means of dispute resolution or other mutually agreeable procedures are used, the contractor shall certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of his or her knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable. All provisions of subchapter IV of chapter 5 of title 5, United States Code, shall apply to such alternative means of dispute resolution.

"(e) The authority of agencies to use dispute resolution proceedings under section (d) shall cease to be effective on October 1, 1995, except that such authority shall continue in effect with respect to then pending proceedings which, in the judgment of the agencies that are parties to such proceedings, require such continuation, until such proceedings terminate.".

(c) EXPEDITED PROCESS.—Section 8(f) of the Contract Disputes Act of 1978 (41 U.S.C. 607(f)) is amended by striking out "$50,000" and inserting in lieu thereof "$250,000".

(d) JUDICIAL REVIEW OF ARBITRAL AWARDS.—Section 8(g) of the Contract Disputes Act of 1978 (41 U.S.C. 604(g)) is amended by adding at the end the following new paragraph:

"(3) An award by an arbitrator under this Act shall be reviewed pursuant to sections 9 through 13 of title 9, United States Code, except that the court may set aside or limit any award that is found to violate limitations imposed by Federal statute.".

SEC. 7. FEDERAL MEDIATION AND CONCILIATION SERVICE.

Section 203 of the Labor Management Relations Act, 1947 (29 U.S.C. 173) is amended by adding at the end the following new subsection:

"(f) The Service may make its services available to Federal agencies to aid in the resolution of disputes under the provisions of subchapter IV of chapter 5 of title 5, United States Code. Functions performed by the Service may include assisting parties to disputes relating to administrative programs, training persons in skills and procedures employed in alternative means of dispute resolution, and furnishing officers and employees of the Service to act as neutrals. Only officers and employees who are qualified in accordance with section 593 of title 5, United States Code, may be assigned to act as neutrals. The Service may consult and cooperate with the Administrative Conference of the United States and other agencies in maintaining rosters of neutrals and arbitrators, and to adopt such procedures and rules as are necessary to carry out the services authorized in this subsection. For purposes of this subsection, the terms 'administrative program', 'alternative means of dispute resolution', and 'neutral' have the meanings given those terms in section 581 of title 5, United States Code.".

SEC. 8. GOVERNMENT TORT AND OTHER CLAIMS.

"(a) FEDERAL TORT CLAIMS.—Section 2672 of title 28, United States Code, is amended by adding at the end of the first paragraph the following: "Notwithstanding the proviso contained in the preceding sentence, any award, compromise, or settlement may be effected without the prior written approval of the Attorney General or his or her designee, to the extent that the Attorney General delegates to the head of the agency the authority to make such award, compromise, or settlement. Such delegations may not exceed the authority delegated by the Attorney General to the United States attorneys to settle claims for money damages against the United States. Each Federal agency may use arbitration, or other alternative means of dispute resolution under the provisions of subchapter IV of chapter 5 of title 5, to settle any tort claim against the United States, to the extent of the agency's authority to award, compromise, or settle such claim without the prior written approval of the Attorney General or his or her designee. All provisions of such subchapter shall apply to such arbitration or other alternative means of dispute resolution.".

"(b) CLAIMS OF THE GOVERNMENT.—Section 3711(a)(2) of title 31, United States Code, is amended by striking "$20,000 (excluding interest)" and inserting "$100,000 (excluding interest), or such higher amount as the Attorney General may from time to time prescribe,".

SEC. 9. USE OF NONATTORNEYS.

"(a) REPRESENTATION OF PARTIES.—Each agency, in developing a policy on the use of alternative means of dispute resolution under this Act, shall identify any of its administrative programs with numerous claims or disputes before the agency and determine—

(1) the extent to which individuals are represented or assisted by attorneys or by persons who are not attorneys; and

(2) whether the subject areas of the applicable proceedings or the procedures are so complex or specialized that only attorneys may adequately provide such representation or assistance.

"(b) REPRESENTATION AND ASSISTANCE BY NONATTORNEYS.—A person who is not an attorney may provide representation or assistance to any individual in a claim or dispute with an agency, if—

(1) such claim or dispute concerns an administrative program identified under subsection (a);

(2) such agency determines that the proceeding or procedure does not necessitate representation or assistance by an attorney under subsection (a)(2); and

(3) such person meets any requirement of the agency to provide representation or assistance in such a claim or dispute.

"(c) DISQUALIFICATION OF REPRESENTATION OR ASSISTANCE.—Any agency that adopts regulations under this section to permit representatiuon or assistance by persons who are not attorneys shall review the rules of practice before such agency to—

(1) ensure that any rules pertaining to disqualification of attorneys from practicing before the agency shall also apply, are appropriate, to other persons who provide representation or assistance; and

(2) establish effective agency procedures for enforcing such rules of practice and for receiving complaints from affected persons.

SEC. 10. DEFINITIONS.

As used in this Act, the terms "agency", "administrative program", and "alternative means of dispute resolution" have the meanings given such terms in section 581 of title 5, United States Code, as added by section 4(b) of this Act.

SEC. 11. SUNSET PROVISION.

The authority of agencies to use dispute resolution proceedings under this Act and the amendments made by this Act shall terminate on October 1, 1995, except that such authority shall continue in effect with respect to then pending proceedings which, in the judgment of the agencies that are parties to the dispute resolution proceedings, require such continuation, until such proceedings terminate.

The SPEAKER pro tempore (Mr. MAZZOLI). Is a second demanded?

Mr. JAMES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, as I did with the bill considered earlier today, I will begin by yielding time to the Member who has been the major force behind the legislation. He has been its drafter and its advocate, and has done a very persuasive job. He is the chairman of this subcommittee, and well understands this subject matter.

Mr. Speaker, this is an important bill, and it is one for which the gentleman from Kansas [Mr. GLICKMAN], to whom I now yield such time as he may consume, may take some pride.

Mr. GLICKMAN. Mr. Speaker, I want to thank the gentleman from Massachusetts [Mr. FRANK] for his kind comments, as well as the gentleman from Florida [Mr. JAMES], for the help that he very diligently put into this bill, which I think will be a constructive bill for this country.

Mr. Speaker, this legislation authorizes Federal agencies to use alternative dispute resolution techniques, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, to resolve administrative disputes. This would be voluntary for both parties and the bill provides excellent guidelines which set out in what circumstances the use of ADR is and is not appropriate.

When Congress enacted the Administrative Procedure Act, it intended to offer prompt, expert, and inexpensive means of resolving agency disputes as an alternative to litigation in Federal courts. However, administrative proceedings have become increasingly formal, time-consuming, costly, and less likely to result in a consensual resolution of the issue.

Alternative dispute resolution procedures have been used in the private sector for years and have, in many cases, led to faster, cheaper, more creative and less contentious results. The Government would benefit similarly by adopting them in appropriate cases where the Government serves as the decisionmaker, or to which it is a party. Such common-sense procedures also will benefit the private parties involved in drawn-out, expensive adminstrative proceedings. Several agencies, like the Environmental Protection Agency, the Army Corps of Engineers, and the Merit Systems Protection Board have been successful in using ADR in the past. Other agencies have been reluctant to try ADR without express authorization to do so. This bill provides both authorization and guidance.

The Administrative Dispute Resolution Act enjoys tremendous support. The American Bar Association lists alternative dispute legislation as one of its top 10 legislative priorities for the 101st Congress. The Administrative Conference of the United States has been at the forefront of improving the administrative process through alternative dispute resolution techniques. Further, with respect to arbitration, the Supreme Court's recent decision in Quijas versus Shearson/American Express contains its "strong endorsement of the federal statutes favoring this method of resolving disputes." The support comes from a recognition that we have become too dependent on courts to enforce laws and agreements. The litigation process is a slow and cumbersome way to settle disputes, and we can do better; while this bill applies only to cases involving Federal agencies, its passage should reinforce a necessary trend away from costly litigation in this country, and a movement toward mediation and conciliation as a way to resolve conflicts.

Too often, Americans resort to the courts for costly litigation to resolve disputes that ought never to go down that road. Litigation often results in transaction fees, such as court costs and attorney fees, that can far exceed the recovery desired to be achieved. While some cases deserve to be heard in Federal and State courts, most probably ought to be resolved beforehand. This bill should push this welcome trend forward.

When I first introduced this bill, the Department of Justice raised concerns about the use of binding arbitration in cases where the Government is a party. We have worked out a resolution satisfactory to the Justice Department which was incorporated into the bill in subcommittee. I believe that that resolution gives the Justice Department the insurance it needs without handicapping the arbitration process.

The bill also provides protection against the Federal agency in an arbitrary fashion rejecting an arbitration agreement which has been approved by officials of that agency. The bill would provide limited payment of legal fees in these instances as a way to ensure that the incentive to arbitrate a case would not be an illusory one.

Mr. Speaker, I would compliment the gentleman from Florida [Mr. JAMES] for being involved in that issue. To give one example of how this might work, in an appropriate case, a very timely case in the news now, an example of a case for which ADR may be appropriate, could include many of the claims resulting from the savings-and-loan crisis.

There is a great volume of claims arising out of this crisis, including both those by creditors of Government, in the place of failed savings and loan's, against other parties. Many of these claims involve relatively simple issues of fact and law, and as such the use of ADR would be appropriate for their resolution and could save millions of dollars of legal fees in the process. Of course, claims which establish precedent or involve complex issues of law may be better suited for full litigation.

I would point out some folks are estimating that legal fees acquired by the FDIC alone in the savings-and-loan situation could reach several hundred million dollars. This bill may provide a mechanism by which these issues can be resolved short of full litigation on a mediation, factfinding, or conciliation way, which could save the Government lots of legal fees, save the parties lots of legal fees, and maybe just help the taxpayers in that process.

Mr. Speaker, I again want to thank the gentleman from Massachusetts [Mr. FRANK] for his work on this bill in the subcommittee, and the gentleman from Texas [Mr. BROOKS] for his leadership, the American Bar Association, and the Justice Department, as well as all other Members who have been involved in producing a very worthwhile piece of legislation.

I would like to pay special tribute to the gentleman from Ohio [Mr. PEASE] who had a similar piece of legislation which was incorporated into this bill. I hope Members will join me in support of this bill.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Kansas [Mr. GLICKMAN] for his efforts in filing the bill. I agree with the gentleman from Kansas [Mr. GLICKMAN] on the attorney fees provision. I believe I was the one who filed the amendment and brought up the issue initially, because it was only fair that if arbitration is rejected by the Government, that attorneys' fees be paid to the plaintiff or the defendant, as the case may be, in a scenario whereby he is forced to go through two processes, and that it would encourage the Government to

accept the arbitration, and is only fair and appropriate.

I will work with the gentleman in conference to try to achieve what is a fair and equitable result in regard to those attorneys' fees. To me, it guts the bill if we do not have some incentive to keep any party from getting too free bites of the apple.

Mr. Speaker, I rise in support of H.R. 2497, the Administrative Dispute Resolution Act. H.R. 2497, if passed, would implement an idea which has been around the Halls of Congress for some time. The bill represents a method by which the Government and the private sector can attempt to work out their legal differences without having to spend years and thousands of dollars in litigation. I think this is good legislation which will authorize and encourage good policy for the Federal Government.

As you know, Mr. Speaker, over the past 10 to 15 years this country has witnessed a tenfold increase in the use of litigation in both the private and public sectors in order to resolve legal and business disputes. Our Federal Government and particularly, our Federal agencies have been right in the middle of this litigation explosion and it has cost the Government millions of dollars in litigation fees. H.R. 2497 sets forth the framework for and encourages the use by our Federal agencies of alternative dispute resolution including, the use of minitrials, summary jury trials, and arbitration. These alternative forms of resolving disputes cost considerably less and require considerably less time and would provide our agencies the opportunity to work together with private businesses and citizens to resolve their differences rather than against each other in expensive litigation. It is important to note here that this bill does not require the use by any agency of alternative dispute resolution, it merely authorizes and encourages the use of such means of resolving disputes and provides guidelines for such use.

I support the bill. I think its a good idea which if utilized could save our Federal Government a great deal of money and could save private businesses and citizens a great deal of time and money as well. I urge my colleagues to vote in favor of the measure.

Mr. Speaker, I reserve the balance of my time.

□ 1630

Mr. FRANK. Mr. Speaker, I yield myself such time as is necessary for the exigencies of the day.

Mr. Speaker, I would like to acknowledge again the work of the gentleman from Kansas [Mr. GLICKMAN]. This is an area where I hope that we at the Federal level may help encourage a trend that is beneficial in society at large.

We on the Judiciary Committee being, as I believe we are all lawyers, are not in the vanguard of those who find the profession a blot on society. On the other hand, all of us have, I think, a good understanding of how we could greatly improve our dispute resolution mechanism in society, and I want to make very clear when we talk as we are here about alternative dispute resolution mechanisms, that is not to denigrate the judicial process. Indeed, we would tell you I think unanimously that it is to enhance the judicial process, because there are some issues that will have to be tried in court. There are issues, the nature of which, would require the full panoply of a trial, perhaps of a jury, of the dignity of the chance to argue. There are principles that have to be debated. There are disagreements that go to fundamental issues.

The value of an alternative dispute resolution mechanism is in part that it frees our courts to give full time and attention to those issues which require a judicial treatment. So this is not an antilitigation argument. It is a recognition that there are some issues where litigation is appropriate. There are some issues where it is not. We have been laggard in taking full advantage of those.

Mr. Speaker, I would ask at this point the indulgence of the Members because I had run out of time when an important point came up with regard to the Navajo bill and my friend and colleague, the senior minority Member, in commenting on the remarks of the gentleman from Florida [Mr. Goss] noted that we have a general bill before us dealing with the question of sovereign immunity. I wanted to thank the gentleman from Florida [Mr. JAMES] for pointing that out. It had not occurred to me. He is quite right.

The gentleman from Florida [Mr. Goss] correctly said that we ought not to be doing all of these things in a piecemeal way. One of the most difficult issues before us as a subcommittee is on this issue of sovereign immunity. Yes, the Federal Government is different from any private entity. We do not want to destroy that difference.

Yes, there are inherent responsibilities and risks that a government has to take, and it would not be wise to treat the government as if it were purely a private entity.

On the other hand, it is precisely because of the greatness of our country, its strength, its wealth, its sense of purpose that many of us believe that we have gone too far with a blanket sovereign immunity in the area of the Federal Tort Claims Act, and in particular the very difficult area of the discretionary function. I do not think there are many votes for wiping it out. I do not think there are votes in too many numbers for keeping it exactly as it is. It is an issue to which we will return, and I wanted to acknowledge that.

Mr. Speaker, I just wanted to say in closing that I appreciate again the initiative of my friend, the gentleman from Kansas [Mr. GLICKMAN]. We think the alternative disputes resolution bill will be a useful one.

Mr. BROOKS. Mr. Speaker, H.R. 2497, the Administrative Dispute Resolution Act, would authorize and encourage Federal agencies to use alternative means of dispute resolution, including mediation, conciliation, arbitration, and other techniques, for the prompt and informal resolution of disputes. The agency may use these techniques for any issue in controversy that relates to an administrative program, if the involved parties voluntarily agree to use such procedures.

Examples of administrative controversies that may be resolved by alternative means of dispute resolution include: formal and informal adjudication, rulemaking, program enforcement, issuing or revoking permits, and litigation brought by or against the agency.

The bill as reported by the committee assures that an officer of the United States would be responsible for each arbitral decision by providing for a 30-day review period during which the decision would be reviewable—and reversible—by the agency head before the arbitrator's decision becomes binding.

Mr. Speaker, the Administrative Office of the U.S. Courts estimates that for the year ending June 30, 1987, 30 percent of all civil cases commenced involved the United States as a party—that is over 72,000 cases. It is possible that the number of court cases could be reduced through the use of alternative means of dispute resolution. This bill encourages that use.

H.R. 2497, the Administrative Dispute Resolution Act, has the potential for reducing the cost to the Government of dispute resolution. The bill deserves favorable consideration and I commend it to the Members.

Mr. JAMES. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PEASE). The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 2497, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO ACQUIRE CERTAIN WATER RIGHTS FOR THE SETTLEMENT OF INDIAN RIGHTS

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4148) to authorize the Secretary of the Interior to acquire certain water rights for the settlement of Indian water rights claims in the State of Arizona, as amended.

The Clerk read as follows:

H.R. 4148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HARQUAHALA VALLEY IRRIGATION DISTRICT WATER RIGHTS.

(a) The Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to contract with the Harquahala Valley Irrigation District for the permanent relinquishment of any portion of such district's rights to Central Arizona Project (CAP) agricultural water. The Secretary may use such water with its original CAP agricultural priority or may convert it, at the rate of one acre-foot per CAP-eligible acre, to a maximum of thirty-three thousand two hundred and sixty-three acre-feet of CAP Indian priority water.

(b) The Secretary shall use such water in Maricopa, Pinal, and Pima Counties in the settlement of water rights claims involving the United States, Indian communities, and appropriate third parties. The Secretary shall seek first to use such water in the settlement of the water claims of the Fort McDowell Indian Community and other tribes having claims to the surface water of the Salt and Verde River system.

(c) As consideration for the fair value of water made available under subsection (a), the Secretary is authorized—

(i) to credit the Harquahala Valley Irrigation District with an appropriate share of said district's outstanding Central Arizona Project distribution system debt, with such share reflecting the relationship between the amount of Harquahala Valley Irrigation District CAP rights acquired by the Secretary and the total CAP allocation of the District; and

(ii) to offset the annual repayment requirements of the Central Arizona Water Conservation District under repayment contract numbered 14-06-W-245 in amounts which total the balance of the fair value of the water acquired and not accounted for under (i) above until such value is exhausted.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4148. This simple but important bill does three things:

First, it authorizes the Secretary of the Interior to acquire central Arizona project water rights from the Harquahala Valley Irrigation District.

Second, it requires the Secretary to use the water in settling Indian water rights claims in Arizona.

Third, it authorizes the Secretary to provide, in exchange for the water, a combination of debt forgiveness and a repayment credit on debts owed to the United States.

The Secretary, in consultation with OMB, would negotiate the amount of the water to be acquired and its value with the district and the central Arizona Water Conservation District.

The value of the water will determine the amount of the debt forgiveness and the repayment credit. Thus, water valued at $30 million would produce debt forgiveness and a credit totalling $30 million.

The bill does not authorize any appropriations. Mr. Speaker, this bill makes possible one of those fabled win-win outcomes from a tough situation. The Secretary needs all the water he can get in trying to settle credible Indian claims to far more water than is unallocated and available in Arizona. The irrigation district's landowners are in financial straits and want to sell their assets, pay their debts, and dissolve the district.

Settling their debts to the United States in exchange for their cap water rights will enable them to settle their other debts by selling their land and ground water to CAWCD and Arizona cities. These transactions will benefit everyone—the United States, Indian tribes, the irrigation district, and more than 2 million people in central Arizona.

The committee reported H.R. 4148 without opposition. I urge the House to pass it.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 4148. The importance of this legislation is that it gives the Secretary of the Interior the authority he needs to negotiate a water rights acquisition agreement with willing members of the Harquahala Valley Irrigation District [HVID].

The water required by this negotiated transaction, provided the values and terms are found to be acceptable to the Secretary and the Office of Management and Budget [OMB], could be converted from agricultural use priorities to Indian priority water. Thus, this legislation provides the Secretary with an increased capability to resolve Indian water claims, consistent with the Indian trust responsibility to the U.S. Government.

Once the negotiation authorized by this legislation is completed, the Secretary has the flexibility to use the water for settlement of one or more of several outstanding Indian water claims in Arizona. First priority is given to the pending Fort McDowell Indian water claims settlement. Legislation to consummate that settlement is expected to be introduced this week by members of the Arizona congressional delegation. If all or part of the Harquahala water is not used for the Fort McDowell settlement, the Secretary may use the water to provide a Federal contribution to other pending Indian water claim settlements. Of course, they also will subsequently be reviewed by the Congress in the course of the legislative process.

It is important to point out that this legislation authorizes no appropriations for the purpose of this bill. Instead, as consideration for the water, the Secretary is authorized to forgive the district's outstanding Central Arizona project [CAP] distribution system loan debt to the United States, and to provide a credit to the Central Arizona Water Conservation District [CAWCD] CAP construction cost repayment obligation attributable to the HVID. The combination of debt forgiveness and repayment credit cannot exceed the value of the water acquired.

Mr. Speaker, I appreciate the leadership of Chairman UDALL in moving this legislation which will help facilitate the hoped for completion of Indian water right settlements in Arizona. I also want to thank the other members of the Arizona congressional delegation who are cosponsors of this bill and who have helped bring it to this point.

I urge my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill, H.R. 4148, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1630

ANNUAL REPORT OF CORPORATION FOR PUBLIC BROADCASTING, AND INVENTORY OF FEDERAL FUNDS DISTRIBUTED TO PUBLIC TELECOMMUNICATIONS ENTITIES BY FEDERAL DEPARTMENTS AND AGENCIES, FISCAL YEAR 1989—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. ENGLISH) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce.

(For message, see proceedings of the Senate of today, Tuesday, June 5, 1990.)

FIRST LADY'S SPEECH MOST MOVING

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COUGHLIN. Mr. Speaker, this past weekend Barbara Bush, our Nation's First Lady, delivered one of the most stirring speeches I can ever recall hearing. Speaking at the commencement ceremonies at Wellesley College with Raisa Gorbachev, who also delivered a fine speech, the First Lady urged Wellesley's graduating class—and, implicitly, all of America's young people—to pursue an individualistic course and to remember the most important things in life.

I was especially touched by a story she told of a young girl who was invited to participate in a game called "Giants, Wizards and Dwarfs." This little girl was told that she could choose which of these three things she wanted to be for the course of the game. This young lady, however, had her own ideas about what she wanted to be. "But where do the mermaids stand?" she asked. Told that there were no mermaids, she was insistent. "Oh, yes there are." she maintained. "I am a mermaid."

The First Lady also challenged the graduating class to consider three "very special choices." First, she urged them "to believe in something larger than yourself, to get involved in some of the big ideas of our time." She pointed to her own noble work in the field of literacy promotion.

Second, she encouraged the graduates to pursue a life full of joy. Speaking of her relationship with the President, she imparted that "shared laughter has been one of our strongest bonds."

Finally, she urged the graduating class to "cherish your human connections, your relationships with family and friends." She confided that, "You will regret time not spent with a husband, a child, a friend or a parent."

Mr. Speaker, these words deserve the consideration of all of us. I include the entire speech in the RECORD at this point.

TEXT OF MRS. BUSH'S SPEECH

WELLESLEY, MA.—Following is the text of Barbara Bush's speech at Wellesley College:

Thank you very, very much President Keohane, Mrs. Gorbachev, trustees, faculty, parents, and I should say, Julie Porter, class president, and certainly, my new best friend, Christine Bicknell. And of course, the class of 1990.

I'm really thrilled to be here today, and very excited, as I know all of you must be, that Mrs. Gorbachev could join us.

These are exciting times. They're exciting in Washington. And I had really looked forward to coming to Wellesley. I thought it was going to be fun. I never dreamt it would be this much fun. So, thank you for that.

More than 10 years ago, when I was invited here to talk about our experiences in the People's Republic of China, I was struck by both the natural beauty of your campus and the spirit of this place. Wellesley, you see, is not just a place, but an idea—an experiment in excellence in which diversity is not just tolerated, but is embraced. The essence of this spirit was captured in a moving speech about tolerance given last year by a student body president of one of your sister colleges.

She related the story by Robert Fulghum about a young pastor finding himself in charge of some very energetic children, hits upon a game called "Giants, Wizards and Dwarfs." "You have to decide now," the pastor instructed the children, "which you are—a giant, a wizard or a dwarf?" at that, a small girl tugging at his pants leg asks, "But where do the mermaids stand?" And the pastor tells her there are no mermaids. And she says, "Oh yes there are. I am a mermaid."

Now, this little girl knew what she was, and she was not about to give up on either her identity or the game. She intended to take her place wherever mermaids fit into the scheme of things. Where do the mermaids stand—all of those who are different, those who do not fit the boxes and the pigeonholes? "Answer that question," wrote Fulghum, "and you can build a school, a nation, or a whole world."

As that very wise young woman said, "Diversity, like anything worth having, requires effort." Effort to learn about and respect difference, to be compassionate with one another, to cherish our own identity, and to accept unconditionally the same in others.

You should all be very proud that this is the Wellesley spirit.

Now I know your first choice today was Alice Walker—guess how I know?—known for "The Color Purple." Instead, you got me, known for the color of my hair!

Alice Walker's book has a special resonance here. At Wellesley, each class is known by a special color. For four years, the class of '90 has worn the color purple.

Today, you meet on Severance Green to say goodbye to all of that, to begin a new and very personal journey, to search for your own true colors. In the world that awaits you beyond the shores of Lake Waban, no one can say what your true colors will be. But this I do know: You have a first-class education from a first-class school, and so you need not, probably cannot, live a paint-by-numbers life.

Decisions are not irrevocable, choices do come back, and as you set off from Wellesley, I hope many of you will consider making three very special choices. The first is to believe in something larger than yourself, to get involved in some of the big ideas of our time.

I chose literacy because I honestly believed that if more people could read, write, and comprehend, we would be that much closer to solving so many of the problems that plague our nation and our society.

And early on, I made another choice, which I hope you will make as well. Whether you are talking about education, career, or service, you are talking about life and life really must have joy.

It's supposed to be fun. One of the reasons I made the most important decision of my life, to marry George Bush, is because he made me laugh. It's true, sometimes we laugh through our tears, but that shared laughter has been one of our strongest bonds. Find the joy in life, because as Ferris Bueller said on his day off: "Life moves pretty fast and if you don't stop and look around once in a while you are going to miss it."

I am not going to tell George you clapped more for Ferris than you clapped for George.

The third choice that must not be missed is to cherish your human connections, your relationships with family and friends. For several years you've had impressed upon you the importance to your career of dedication and hard work, and of course that's true. But as important as your obligations as a doctor, a lawyer, a business leader will be, you are a human being first and those human connections with spouses, with children, with friends are the most important investment you will ever make.

At the end of your life, you will never regret not having passed one more test, winning one more verdict, or not closing one more deal. You will regret time not spent with a husband, a child, a friend or a parent.

We are in a transitional period right now—fascinating and exhilarating times, learning to adjust to changes and the choices we—men and women—are facing. As an example, I remember what a friend said on hearing her husband complain to his buddies that he had to baby-sit. Quickly setting him straight, my friend told her husband that when it's your own kids, it's not called baby-sitting.

Now, maybe we should adjust faster and maybe we should adjust slower. But whatever the era, whatever the times, one thing will never change: Fathers and mothers, if you have children, they must come first. You must read to your children and you must hug your children and you must love your children. Your success as a family, or success as a society, depends not on what happens in the White House but on what happens inside your house.

For over 50 years, it was said that the winner of Wellesley's annual hoop race would be the first to get married. Now they say the winner will be the first to become a CEO. Both of those stereotypes show too little tolerance for those who want to know where the mermaids stand.

So, I want to offer a new legend. The winner of the hoop race will be the first to realize her dream—not society's dreams—her own personal dream.

Who knows? Somewhere out in this audience may even be someone who will one day follow in my footsteps and preside over the White House as the president's spouse, and I wish him well.

Well, the controversy ends here, but our conversation is only beginning, and a worthwhile conversation it has been. So, as you leave Wellesley today, take with you deep thanks for the courtesy and the honor you have shared with Mrs. Gorbachev and with me.

Thank you. God bless you. And may your future be worthy of your dreams.

EXPEDITED FUNDS AMENDMENTS

(Mr. BARNARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. BARNARD. Mr. Speaker, today, I am introducing a bill amending the Expedited Funds Availability Act. The bill incorporates five specific legislative actions suggested by the Federal Reserve Board, the regulator having authority to implement that statute. These recommendations were incorporated in the Board's March 1990 report on the act's implementation.

The original act called for some very tight schedules in making the proceeds of deposited checks available to customers for withdrawal. On the whole, it has been a very positive consumer law. However the Board has carefully been monitoring its implementation and believes some adjustments are needed to protect consumers. For instance, one of the changes in my amendments would make sure that some ATM systems would not stop being open to deposits, as opposed to withdrawals, from consumers. The current act would so compress the timeframes between when an ATM is used for a deposit of a check and when those funds would have to be made available for withdrawals that many ATM systems would halt offering the deposit feature since they would have no opportunity to verify the deposit.

In short, this is a good act but needs some fine tuning which the other body is about to do at the committee level. I believe there has to be, at least, the beginning of a bill on our side to prepare for a response.

SECTION BY SECTION—AMENDMENTS TO THE FUNDS AVAILABILITY ACT

Section 101.—Next business day availability for certain deposits.—This section would make the rules governing availability of Treasury checks and checks drawn on the receiving depository institution ("on us" checks) consistent with the rules for deposits of cash and other checks that receive next-day availability. The Act requires deposits of cash and certain government and depository (cashier's, certified, teller's and certain other) checks to be made available for withdrawal on the next business day after the business day of deposit. One of the conditions of next-day availability for these deposits is that the deposit be made at a staffed teller facility. This condition recognizes the difficulties in ascertaining the contents of deposits of ATMs and other unstaffed facilities in time to update a depository institution's books so that it can make funds available at the opening of the next business day.

The current provisions of the Act provide that U.S. Treasury check deposits must be given next-day availability even if the checks are deposited at a proprietary ATM, and "on us" checks must be given next-day availability if deposited at a "branch," which may include an ATM located at a branch. Cash deposits under similar circumstances need not receive next-day availability.

As a practical matter, depository institutions and ATM networks have stated that they are unable to verify the contents of deposits made at ATMs in time to provide next-day availability for these checks. This problem exists for Treasury and "on us" checks to the same extent as it exists for cash and other types of checks that the Act recognizes need to be deposited at a staffed teller facility to receive next-day availability. Thus, the Board proposes that the Act be amended to apply the staffed teller facility condition for next-day availability of Treasury and "on us" checks.

Section 102.—Permanent Schedule.—This section makes the current temporary schedule, allowing for two intervening business days prior to availability of funds, permanent. The present provision of the Act would allow only for one intervening day before the funds are available. This change, supported by the Federal Reserve, is based on practical experience gained since the Act has been in effect. That experience suggests that going to the "one day" availability schedule currently in the Act is unfeasible.

Section 103.—Deposits at ATM.—This section would provide that, under the permanent schedule, all deposits to nonproprietary ATMs would continue to be treated in the same manner as deposits of nonlocal checks, i.e., they must be made available for withdrawals on the fifth business day after the business day of deposit. Under the temporary schedule, both deposits to nonproprietary ATMs and deposits of nonlocal checks must be made available on the seventh business day after the business day of deposit. Currently the Act provides that, under the permanent schedule, deposits to nonproprietary ATMs generally be treated identically to deposits at proprietary ATMs (cash, next-day, and local checks available on the second business day after deposit, nonlocal checks available on the fifth day after deposit).

The Act equalized the proprietary and nonproprietary ATM rules under the permanent schedule in anticipation that ATM technology would advance sufficiently by September 1, 1990, so that depository institutions could capture and verify deposit information from the two types of ATMs in the same amount of time. However, the Federal Reserve believes that depository institutions and ATM network operators have indicated that the industry has not yet identified a viable solution to nonproprietary ATM processing limitations.

Although the capability does exist to provide information regarding the composition of deposits made at nonproprietary ATMs, all identified solutions are costly and would likely result in increased fees for customers who make deposits at nonproprietary ATMs. In addition, depository institutions and ATM operators have expressed concern that the potential for fraud will increase if institutions must give second-day availability to deposits made at nonproprietary ATMs. Substantial increases in operating costs or fraud losses could lead some institutions to cease accepting deposits at nonproprietary ATMs, resulting in a degradation of shared ATM network efficiency and allow collection of checks, which would be contrary to the intent of the Act.

Although section 604(e) of the Act provides that the Board may suspend the availability requirements for any classification of checks if depository institutions are experiencing an unacceptable level of check-related fraud losses, the Board must provide evidence to Congress to substantiate such an action. Because no such evidence will exist until after the permanent schedule goes into effect, some depository institutions could suffer significant fraud losses before the Board could suspend the availability schedules for deposits to nonproprietary ATMs; other institutions may discontinue offering this service in anticipation of such fraud losses.

The proposed amendment would help ensure that deposit-taking at nonproprietary ATMs is not restricted or discontinued by those institutions that believe they need the flexibility to place longer holds on these deposits to limit their risk exposure. In addition, customers would continue to be able to choose between the convenience of making a deposit at a nonproprietary ATM and the marginally prompter availability that may be provided if the deposit were made by other means.

Section 104.—Safeguard exceptions.—

A. Subsections (1), (2), and (3)—Exceptions for next-day checks: The subsections would expand the scope of most of the section 604 exception holds to include deposits of all "next-day" checks, such as U.S. Treasury checks, state and local government checks, and depository checks. Currently the exceptions for large or redeposited checks or accounts with repeated overdrafts in section 604(b), the reasonable cause exception in section 604(c), and the emergency conditions exception in section 604(d) do not apply to some or all of the next-day checks covered in section 603(a)(2).

A large number of depository institutions have expressed concern that the inapplicability of these exceptions causes excessive exposure to risk from the return of checks that must be accorded next-day availability. In particular, depository institutions have noted the ease of forgery of these checks. The Board is aware of a number of cases of this type of check fraud and believes that fraud will increase as forgers become more familiar with the Act, Regulation CC, and check collection practices. Fraud loss reduction would benefit depository institutions as well as their customer's who otherwise would likely face increased service fees.

B. Subsection (4)—Notice of large-dollar, redeposited check, and repeated overdraft exceptions: The proposed amendment would grant the Board more flexibility in tailoring the requirements for exception hold notices to the exception invoked. Under section 604(f), whenever any exception to the schedules is invoked, the depository institution must notify the customer of the exception hold. Although individual notices may be appropriate in the case of the reasonable cause exception, which is invoked on a case-by-case basis, they may not be appropriate for the large-dollar, redeposited check, or repeated overdraft exceptions. These exceptions may be invoked for all deposits over a

specified amount (in the case of the large-dollar exception), all checks covered by the redeposited check exception, or all deposits during some time period (in the case of the repeated overdraft exception). In these cases, it would be more efficient and less costly to depository institutions if the notice requirement could be tailored to the exception invoked. For example, a single notice to repeated overdrafters describing the special schedules applicable to the account for the time the exception is in effect may be appropriate. Customers would also benefit from receiving advance notice of any exception holds that will be in effect under certain conditions or for a certain period of time, rather than receiving on-the-spot or after-the-fact notices upon each deposit.

Section 105.—Regulations and reports by the Board.—The proposed amends section 609 by adding a new subsection (g) providing for direct review of any regulations adopted by the Board and any other Board orders in the courts of appeal. This follows the approach adopted in section 9 of the Bank Holding Company Act (12 U.S.C. section 1848).

A factual hearing in a district court is not necessary if judicial review is biased upon the administrative record. If the administrative record forms the basis for review, requiring aggrieved persons to go first to the district court results in unnecessary delay and expense and undesirable bifurcation of the reviewing function between the district courts and the courts of appeal.

Furthermore, the operation of the payments system, including the collection and return of checks, is an intricate subject with which few courts are familiar; any court must therefore of necessity rely heavily on the expertise of the Board. If a reviewing court was not in possession of sufficient facts to conduct adequate review, it would have to remand the case to the Board for further factual development. Under these circumstances, there is no reason to have yet another level of review in the process, and no need for district courts to conduct a de novo review of facts already established by the Board.

Section 106.—Authority to establish rules regarding losses and liability among depository institutions.—This amendment clarifies the Board's ability to allocate liability among depository institutions as well as among other participants in the payments system, such as states and their political subdivisions. Other entities besides depository institutions are involved in the collection and payment of checks. Some states and political subdivisions issue warrants drawn directly on themselves. These warrants are often used to pay employees, vendors, pensioners, and those receiving public assistance; they are thus very important to the recipients. In addition, other nonbank payors, such as insurance companies, draw checks directly on themselves that are also important to the recipients.

Under the 11th Amendment to the Constitution, suits against state governments are barred in federal court unless Congress subjects the states to federal jurisdiction in unequivocal statutory language. (See *Atascadero State Hospital* v. *Scanlon*, 473 U.S. 234 (1985)). Section 611(f) does not clearly authorize the Board to allocate liability for losses, such as those resulting from the mishandling of a returned check, among entities such as states or their political subdivisions or other nonbank payors. The proposed amendment would eliminate this ambiguity by allowing the Board to impose on or allocate among such entities the risk of loss and liability in connection with any aspect of the payments system, including the payment of checks. Liability under the provisions could then be enforced in the appropriate courts.

The amount of liability in cases against states or their subdivisions or other nonbank payors would be limited to the damages provided for in this subsection. The amendment would not allow against states or their subdivisions or other nonbank payors the punitive damages or the special class action awards that may be had against depository institutions under section 611(a) and (b).

The amendment also clarifies that a depository institution or other payments system participant may be liable for expense related to the check such as finance charges and reasonable attorney's fees. The measures of damages for violations of Subpart C of Regulation CC are derived from the Uniform Commercial Code ("UCC"). Intepretations vary among state courts as to if and when the UCC damage provisions include attorney's fees. This amendment would provide for uniformity in the measure of damages for violations of Board rules governing the payments system.

ARE THE JAPANESE DUMPING FINANCIAL SERVICES?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, recently, a number of banking experts have strongly hinted that the Japanese are dumping financial services in the United States. By selling products or services at below the cost of production, dumping is a predatory and anticompetitive strategy designed to buy market share. While low prices are competitive and beneficial to consumers, pricing below cost or dumping is illegal and detrimental to the market. There is growing evidence that many Japanese banks are overstepping the bounds between aggressive competition and illegal dumping.

The United States letter of credit market for municipal securities is one area in which the Japanese have undercut American banks so dramatically that price differences between the Japanese and American banks are large. The disparity between the cost of funds is important, but not so important that prices in the American market should vary so widely between American and Japanese banks with regard to similar products and services.

Japanese banks are one of the chummiest cartels in the world. The Japanese Government permits the Japanese banks to cooperate and artificially set prices. Fund transfer charges, for example, are the same regardless of which bank the customer chooses. The chairman of the Federation of Bankers' Association of Japan, a post that is rotated among bank chiefs, sets the fees, so that even the most inefficient member can cover costs. Checking accounts are almost nonexistent in Japan, and due to this and artificial prices, it may cost a consumer as much as $5.50 to pay an ordinary $210 bill in Japan.

These same Japanese banks, however, offer checking accounts in the United States that conform to the United States market. Charges for checking accounts in the United States are much lower than those in Japan and fairly similar with respect to Japanese and American banks. If the Japanese banks offered checking accounts in the United States for unusually high prices, they would not attract any customers. But why is there such a large difference between costs in checking accounts among Japanese banks in Japan and the same Japanese banks in the United States?

Prices for banking services in Japan are thus often artificially high while those in the United States are most often set by the market. The unusually high profits generated from routine banking in Japan can easily be transferred to the Japanese banks' United States operations for the purpose of subsidizing losses incurred by dumping financial services.

The Japanese Government has traditionally subsidized Japanese banks with interest rate ceilings and impediments to foreign competition. For years Japanese banks have enjoyed protection and assistance in competing internationally. Japanese markets are slowly being liberalized, interest rates are being deregulated, and foreigners are gaining more access, but the foundation that was built during this Japanese regulation and protection still serves the Japanese banks well.

Japanese banks are able to enter the United States market and instantly compete by sacrificing profits for market share. They can use their domestic profits to subsidize their foreign operations. Because their credit worthiness is perceived to be much better than the credit worthiness of most American banks, Japanese banks generally offer more attractive letters of credit. But these Japanese letters of credit are typically priced far below those of American banks. Usually in a market system, the better the product, the higher the price. The large Japanese banks typically price their letters of credit in the vicinity of 20 to 30 basis points above the value of the contract—100 basis points equal 1 percentage point in the interest rate—and American banks are generally pricing their less attractive letters of credit in the vicinity of 50 to 60 basis points above the value of the contract, so the Japanese are offering a higher rated product at a much cheaper price. American banks offering letters of credit are being driven from this market. Japanese practices in the United States letter of credit market for municipal securities suggest dumping.

Japanese market shares in the United States banking market have shown dramatic increases over the past few years. At the end of 1982, the Japanese held a 4.83-percent share of the United States banking market. That share has risen to 10.64 percent at the end of September 1989. Japanese market share in the United States letter of credit market has risen from 5.4 percent in 1984, to 27.3 percent as of June 1989. In 6 short years, Japanese banks have come from nowhere to become the leading providers of letters of credit for United States municipal securities. As of last year, four Japanese banks accounted for 41 percent of the more than $12

billion in United States municipal securities backed by letters of credit.

U.S. commercial banking, however, is not the only industry in which foreign dumping appears to occur. In the United States investment banking market, Japanese firms are able to subsidize losses incurred in foreign markets by utilizing high domestic profits. Japanese securities firms in Japan operate on fixed commissions, permitting monopolistic impediments to foreign competition. Like the inflated prices for simple transactions in the domestic Japanese banking industry, fixed commissions in the Japanese securities industry permit even the most inefficient firms to make large profits. Japanese consumers are exploited so the securities firms can subsidize operations elsewhere. There are numerous examples in other industries like electronics, microchips, and telecommunications.

Are Japanese banks dumping financial services in the United States? At a quick glance certain Japanese banking practices look suspicious. As chairman of the House Banking Subcommittee on Financial Institutions, I will continue to monitor these actions by Japanese banks, and I strongly urge the Bush administration to do likewise.

Issues such as financial services dumping should be discussed at multilateral trade talks, such as at the Uruguay Round of the General Agreement on Tariffs and Trade [GATT] negotiations. U.S. negotiators at the GATT must defend our interests and raise every relevant issue, including practices such as the dumping of services. I am concerned that our GATT negotiators have not focused on dumping in services. Our negotiators should work for an efficient and inexpensive mechanism for resolving dumping disputes quickly and fairly. We must make sure that the playing field is level, competition is fair, and that domestic financial institutions are not losing market share to illegal foreign tactics.

THE HUMAN DIMENSION OF CUTTING THE ARMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I want to share with my colleagues a column written by former Army Secretary John Marsh in the Washington Post that deals with the problems that our military personnel and their families may face as we reduce our force structure over the next 5 years. He raises some very important questions that I think we must consider as we debate future defense policy.

Jack Marsh is one of the most knowledgeable men in Washington on this subject, having served longer as Army Secretary than anyone in our Nation's history. He is also a former Member of Congress from the State of Virginia and is currently chief of the Reserve Forces Policy Board.

I hope my colleagues will take time to read this insightful column.

[From the Washington Post, May 28, 1990]

CUTTING THE ARMY—THE HUMAN DIMENSION

(By John O. Marsh, Jr.)

During the next five or six years, the United States Army will be telling many thousands of fully trained officers and noncommissioned officers with solid performance records that they will have to look for another line of work. Similar pink-slip exercises will be underway in the other services.

These dedicated volunteers and their families will suffer abrupt financial difficulties, relocation dilemmas and cloudy employment prospects. Many will feel strongly that Uncle Sam is reneging on promises made to them when they enlisted or accepted commissions.

The reality is that the United States is moving toward a smaller military establishment. One challenge this poses for Congress and the executive branch is to provide fair treatment for members of the armed forces who, completing an initial term of service, signed on for one or more additional tours and made a career choice.

Starting in the next fiscal year, the Army can expect to lose an annual average of more than 5,000 noncommissioned officers with from seven to 18 years' service. By one estimate some 1,600 commissioned officers will be separated from the Army in the first year, and nearly 10,000 over six years. The actual totals could be much higher.

Recall that the All Volunteer Force—the concept under which the services have operated since the draft authority was allowed to lapse in 1973—encountered early difficulties. The term "hollow Army" was used to describe recruiting troubles, and there were shortfalls in the other services. By the 1980s, more than half of Army enlistees were in the lowest category eligible for recruitment, and fewer than half were high school graduates.

The Reagan defense buildup caused a surge of congressional support for modernization, improved pay and other benefits. These, together with innovations in recuiting, enabled the Army to improve recuit quality dramatically. By the 1990s, high school graduates were holding above 90 percent, and those in the lowest category accepted for enlistment were less than 10 percent.

Operation Just Cause in Panama demonstrated the professionalism and morale of our military. With force strengths now to be reduced, it becomes important to maintain these qualities.

The place to begin is by honoring promises made to the volunteers now serving, particularly to those who have added value to their service by renewing their initial obligations to serve—the likely careerists. Here are some of the options:

ACTIVE RESERVE AND NATIONAL GUARD DUTY

Reductions in the Active Force will produce heavier reliance on Reserve and Guard units. In peacetime, only a small fraction of these personnel are on full-time duty. A significant increase in this fraction would yield great dividends in readiness and provide opportunities for full-time soldiers who otherwise would be separated to continue earning retirement credit.

Another possibility is to fill out or augment active divisions and other components with Guard and Reserve units. This could increase opportunities for noncommissioned officers and lower and middle grade officers to continue their military careers and would keep available a professional cadre.

THE DRUG WAR

In this effort, the Army and National Guard already participate. Various nonmilitary agencies could use military personnel slated for separation who have police, investigative, intelligence and comunications experience. Their military service could be credited to federal civilian retirement.

HELPING WITH FINANCIAL PROBLEMS

Under present law, officers separated involuntarily may receive cash payments. There is no comparable provision for NCOs and other enlisted personnel. This should be corrected. Because the loss of health care benefits is a major problem in loss of employment, access to military medical facilities could be extended during transition to civilian work. Commissary and PX privileges could also be extended.

EMPLOYMENT ASSISTANCE

Noncommissioned officers, for example, are both leaders and managers of people. Many have been trained in new technologies. They know mechanics and computerization. They can take instructions, and they can instruct. They are the kind of employees that American industry and commerce needs, but it will require aid to match their capabilities to private sector opportunities.

Congress must recognize that it is dealing not simply with thousands of soldiers, sailors, airmen and Marines, but with thousands of families stretched across the nation—a substantial and articulate constituency. The dimensions of force reduction may review debate about the concept and costs of the All Volunteer Force. Meanwhile, the human dimension of a major forced exit of trained military personnel must be kept in clear focus.

ASBESTOS STILL POSES HAZARDS FOR WORKERS: SCHOOL CUSTODIANS ARE THE THIRD WAVE OF VICTIMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, in recent months, there has been a new focus on the health hazards facing working men and women who are exposed to asbestos and asbestos-based materials.

This new focus stems from an article by five scientists who have suggested that the most common form of asbestos is not hazardous and, therefore, that we need not concern ourselves about exposures.

Mr. Speaker, I am a layman when it comes to such scientific matters, but I am not blind to the damage caused to far too many workers in the United States and abroad.

From August 1964 to January 1973, 58,021 Americans lost their lives in Vietnam. This is an average of slightly fewer than 7,000 deaths a year in a violent shooting war.

By contrast, Mr. Speaker, it is estimated that premature deaths from asbestos-related cancers among American workers average about 9,000 a year—and are rising.

Just recently the Subcommittee on Health and Safety, which I chair, conducted four hearings on the hazards of asbestos facing workers who are ex-

posed to it either during the removal process or in the course of their work.

We heard horror stories from several of our witnesses. William Bernard, president of the Asbestos Workers' Union, told us that many of his members are no longer able to work because of damage done to their lungs from exposures to asbestos when they were putting asbestos wrapping on steam pipes 25 to 30 years ago. Today, his members are again at risk as they remove that same asbestos so new, safer material can be installed.

The president of a Jacksonville, FL, public employee's union told us how the Jacksonville Airport Authority refused to provide protective clothing to workers removing asbestos in the airport and, even worse, refused to seal off the work area because the airport authority did not want to alarm the air-traveling public.

But, most tragic of all, we heard from Sig Lucassen, president of the International Brotherhood of Carpenters, of his own lung disease which, he suggests, is very likely due to his exposures to asbestos as a young carpenter.

The threat of asbestos-related diseases isn't over. Today, we are hearing—and seeing—the third wave of asbestos sufferers.

Between 1900 and 1980, more than 30 million tons of asbestos was used in the United States, primarily to fireproof and insulate. In the early 1930's, there were signs that asbestos was a serious health hazard and, in the following years, asbestos was established as a source of lung scarring and cancers that appeared only after a long latency period, from as few as 20 years to as many as 40 years.

The first wave of sufferers were those workers who mined the asbestos ore and worked in the mills that refined the ore and manufactured the various asbestos products, such as floor and ceiling tiles and assorted insulation materials. Those workers were exposed to the material from before 1920 until the late 1970's.

The second wave included those workers who applied asbestos and installed various asbestos products. These are the members of Bill Bernard's Asbestos Workers' Union and the men like Sig Lucassen. It also included those who gave to their country in time of war, not in combat, but in our shipyards where they applied asbestos during World War Two.

The third wave includes those workers who are inhaling asbestos in place. Fire fighters, for example, are at risk when they enter high-rise buildings which have been sprayed with asbestos insulation. Building demolishers, building custodians, brake repairs, and millions of construction workers fall into this new group of victims.

Let me focus for a moment on some of those school custodians, especially those who are at greatest risk today because of their exposures 30, 35, and 40 years ago, who are now at the outer limits of the latency period.

A recent study of 660 of the 1,000 New York City school custodians clearly establishes that the longer the subjects worked in schools with asbestos, the greater their chances of lung damage. Of the full 660, 28 percent—about 185—were found to have lung scarring.

That is the average, however. Of those with at least 36 years of custodial work in those New York City schools, 39 percent had lung damage that was consistent with exposure to asbestos dust.

And, if that isn't enough to raise an eyebrow or two, of those custodians with at least 40 years of work in those schools, some 61 percent had evidence of lung scarring.

And that just addresses school custodians in New York City. What about elsewhere in the country? How many schools were built in the 1950's and 1960's when the insulation of choice was asbestos because of its fire-retardant capabilities?

How many of the custodians in those school buildings are also at risk or perhaps suffering from the beginnings of an asbestos-related lung disease?

According to the American Federation of State, County, and Municipal Employees, the results of a survey of public school maintenance and custodial workers in Ohio indicate that we may have some serious problems there as well.

According to that survey, 84 percent of those public school workers said they had received the awareness training required by Federal law. Only 68 percent, however, said they were told where asbestos was located in their school buildings; only 53 percent said warning signs were posted; and only 41 percent said they received all of the elements of training and notification required by the law. I have attached the entire survey to be included at the end of my remarks so my colleagues can read the data for themselves.

I cannot say for certainly that similar numbers would be repeated in every State, but my sense is that they probably reflect our present status—and that does not bode well for those workers.

I don't know if every bit of asbestos in today's buildings has to be or should be removed, but it is imperative that American workers who are exposed to it or likely to be exposed to it should be told that they are dealing with asbestos or materials that contain asbestos.

While the authors of the article that appeared in Science magazine insist that they are right, others who have been deeply involved in studying workers who have been exposed to asbestos argue that they are wrong.

Among that second group is Dr. William J. Nicholson of Mount Sinai School of Medicine in New York City. Dr. Nicholson has been associated with Dr. Irving Selikoff, an acknowledged expert in asbestos research.

Dr. Nicholson recently responded to the article in Science magazine and, because I feel strongly that he is closer to the right track, I am including a copy of his response with these comments and ask that it be printed at the end of my statement.

More research on the health impacts of asbestos is going forward. Of particular note is a major study commissioned by Congress in 1988. This research work, which is finally getting underway, will be done by the Health Effects Institute at a cost of $12 million in Government and private funds.

I am pleased to note that both Dr. Brooke Mossman, the lead author of the article in Science magazine, and Dr. Nicholson, who I just mentioned, will be on the 15-member study group.

But the problems we face with asbestos are more pressing. During the series of hearings by the subcommittee, Mr. Speaker, we went to San Francisco. What we learned there was that no matter how safe the asbestos was, it was safe only when it was not disturbed. The earthquake that struck the San Francisco Bay area last October did a lot of structural damage to many buildings in and around the city.

What no one can as yet determine is the threat to the health of those men and women who have been exposed to asbestos in the aftermath of that earthquake.

And we might also raise the same question for those persons in Charleston, SC, whose homes and offices were damaged by Hurricane Hugo and by those persons who clean up in the aftermath of the tornadoes that rip through our country.

If those events are not common enough for some of you listening to me, let me read you a headline that appeared in the Washington Post about 2 weeks ago: "Arlington Courthouse Fire Spreads Asbestos."

The article focused on a recent fire in the Arlington County Courthouse, just across the river from the Capitol in Virginia. The thrust of the story was clearly stated in the first paragraph of the article, and I quote:

> In addition to the loss of hundreds of legal documents in Sunday morning's three-alarm fire at the Arlington County Courthouse, officials say they will now have to contend with asbestos contamination in sections of the building not initially affected by the blaze.

Further in that same article, it notes that soot carried asbestos to sixth- and seventh-floor courtrooms and offices, even though the fire was contained on the fourth and fifth floors of the building.

This article, which I will include with remarks, recounts an all to familiar tale and should give all of us something to think about as we decide how we feel about whether or not asbestos and asbestos containing materials ought to be removed from buildings.

There are some, like the authors of the article in Science magazine, who suggest that instead of removing the asbestos, that we develop operations and maintenance programs, the so-called O&M system of management.

What they have not yet provided is a clear picture of what a good O&M program includes. And I have asked them.

In my own mind, a workable O&M program must include periodic air monitoring, not only during hours when no one is working in a building, such as evenings and weekends, but also during daytime working hours when the movement of people in a building as well as normal airflow can provide a true picture of where the airborne asbestos particles will go.

Further, an O&M program must include periodic inspections of the asbestos or asbestos contained materials so that its status can be determined.

Certainly, if the asbestos starts to deteriorate or is observed to have characteristics that may cause immediate concerns, then it will have to be removed.

And, finally, there must be notices posted so that persons likely to come into contact with even safe asbestos will know where it is.

We must always remember that in addition to regular, full-time custodial staff in any building, there are many others who may be at risk. During the course of a workday, telephone repair workers may be going into walls or ceilings; air conditioning maintenance workers could be repairing ducts or outlets; and even carpenters and other construction trades workers could be doing either minor or major renovation work.

Those men and women deserve to know that asbestos is in or near the area where they are working. They need to know so that they—and their employers—can take the proper precautions, such as wearing special disposable uniforms, respirators that will prevent the ingestion of the dangerous asbestos fibers, and so on.

And, just as important, we must identify asbestos areas so that when it is to be removed, either because it is hazardous to leave in place or because major repair work is to be undertaken in the immediate area or because the building itself is to be demolished, the men and women who are doing the work, as well as those persons who are otherwise in the building and the general public who might be exposed, understand that the substance in question is a hazard and, under certain circumstances, could cause a variety of lung diseases.

Some of the participants in a recent series of policy dialogs on asbestos removal and containment, which was sponsored by the Environmental Protection Agency, seem to agree with me.

Over a period of nearly a year, representatives of labor unions, building owners, financial institutions, the asbestos industry, asbestos abatement contractors and consultants, and State, local, and Federal Government representatives wrestled with the problem of whether and how asbestos should be controlled, but could reach no consensus because of a basic and fundamental difference in whose interests were more important.

Labor organization representatives argued that additional regulations were necessary to require that buildings would be inspected for asbestos materials; that when found, workers would be told where the asbestos was; and that workers be protected sufficiently from exposures that might cause irreparable harm.

Building owners, real estate and financial interests, and former manufacturers, on the other hand, argued that the Government's role should be to calm public fears about asbestos, not to intensify such fears through new regulations.

Is it any wonder that the Subcommittee on Health and Safety and other congressional committees and subcommittees question the responses of those who seem more concerned with public image than with addressing the real problems of asbestos and asbestos-related diseases that have killed and crippled so many thousands of former workers. How many more men and women have to die or lie helpless until they die before we recognize that it is our responsibility to take action?

Mr. Speaker, in my view, asbestos and asbestos-containing products are so dangerous they should be removed whenever possible. I do have one caveat, however. The removal work, when it is done, must be done under an approved plan, by certified, trained abatement contractors, using skilled and trained workers.

While some of the testimony taken at the subcommittee's four hearings suggested that there were few contractors who are certified to do asbestos removal work, representatives of the contractor organizations and several union spokesmen said just the opposite.

In fact, the real issue is not whether there are enough certified and knowledgeable contractors, but rather that building owners and operators, in an attempt to save a few dollars, are hiring the contractors offering the lowest bid—even though they know full well that the low bidder often will not be doing the removal job according to accepted and required practices.

During our San Francisco hearing, Mr. Del Schinman, immediate past president of the Asbestos Abatement Council, an organization which represents certified asbestos abatement and removal contractors, was emphatic in support of stiffer requirements for certifying contractors, better training and education for workers, and stronger enforcement of regulations by both the Occupational Safety and Health Administration and the Environmental Protection Agency as a means of ensuring that contractors do better removal work.

Mr. Speaker, I second that recommendation. We are dealing with what could easily be described as an infant industry, but not exactly a tiny one.

It is estimated that in the next decade or so, some $60 billion will be spent in this country in removing asbestos and asbestos-related products. It is estimated that by 1995, some 200,000 jobs will be created in this country for that purpose alone.

This is not small potatoes, Mr. Speaker. This is big business with a lot of profit. And it means that unless there is more than token enforcement by the agencies involved, there will be many unscrupulous people trying to pick up a piece of the action.

I have already mentioned some of the problems—contractors submitting low bids by deleting or ignoring standard safety practices in removal work; building owners and managers seeking to save a few bucks by taking the low bidder—even if that contractor is not a certified asbestos remover; and governments seeking to save dollars and to avoid alarming the public.

Quite frankly, OSHA and EPA must become more aggressive in enforcing their own existing regulations. The agencies must begin responding more quickly when complaints are filed.

We heard about a contractor in Phoenix, AR, who was demolishing a building. Instead of dealing with the asbestos that had been used as insulation, that contractor simply had the steel girders cut into manageable pieces, while the asbestos was still in place.

When the contractor was told he couldn't do the work that way, he just moved his operation outside of the building and had other workers cut up the girders in the open air, where the wind blew the asbestos fibers into the paths of citizens walking past the worksite.

We cannot allow this kind of activity. It poses health hazards for the workers and for the general public. These kinds of circumstances demand action by the appropriate agencies, especially EPA and OSHA.

And just as important as rigorous enforcement of current abatement and removal regulations is the need to ensure that only workers who have completed a recognized and accredited

asbestos training program are employed in asbestos removal activities.

Both EPA and OSHA have set minimum standards which, unfortunately, are really not sufficient. Under current regulations, EPA-approved courses, which are available in every State in the Union—and the current list was just published in the May 31, 1990, Federal Register—must be no less than 24 hours long, barely enough time to get a worker to understand the principles, but not sufficient to include some supervised hands-on experience.

OSHA's program is even worse. While OSHA does specify certain tasks in which workers must be trained, the regulations specify no minimum number of hours for the training period.

One bright spot is a provision in the recently passed Clean Air Act amendments which will require EPA-approved training programs to meet a 40-hour minimum course.

Also, since OSHA is preparing to revise its asbestos regulation, as required by a court order, it has the opportunity to make some significant changes in the worker training provisions. At the very least, since OSHA and EPA say they are working so well together, may be OSHA could just note that EPA-approved and accredited worker training programs meet OSHA requirements as well.

By contrast, the Sheet Metal Workers Union, which operates the National Training Fund, requires a 5-day, 40-hour training program. Of those 40 hours, 32 hours include classroom training and 8 are hands-on work under supervisors in actual working conditions.

A joint training program offered by the Laborers' International Union and Associated General Contractors provides for a 32-hour training program, which also includes hands-on supervised experience.

That last element—in-place removal work under trained supervision—is vital. Written tests can never match on-the-job supervised experience. This is especially true when many of the workers being trained do not have sufficient command of the English language.

Showing someone how to do the job and then supervising them while they do it is the best kind of a training. There is no replacement for that kind of hands-on experience.

OSHA, which is under a court order to revise a portion of its asbestos standard, has an opportunity to move in this direction. I must admit, however, that the likelihood of that happening is slim.

It is disappointing enough that OSHA keeps on going back to the court to get extensions of the deadline by which it is supposed to publish its notice of proposed rulemaking.

I compliment Labor Secretary Dole and OSHA Assistant Secretary Scannell for their public pronouncements about worker health and safety. They are talking a great game.

Unfortunately, there is little hard evidence to date showing that those pronouncements have been translated into action.

This appears to be particularly true in the context of asbestos removal and training.

Asbestos is a killer. We have known that for too long a time already. We don't need more workers exposed to this life-threatening substance.

We cannot afford to wait for that third wave of deaths and disablements due to asbestos-related diseases.

OSHA and EPA have a responsibility to enforce their standards and regulations with regard to asbestos removal and worker training. And, while I know we cannot immediately remove all asbestos from every school and building, we ought to be moving toward that goal.

In the meantime, however, we ought to be straightforward enough to tell the men and women whose lives are at risk how to protect themselves and their friends and colleagues, as well as the general public, from this health threat.

THE CARCINOGENIC RISK OF ASBESTOS EXPOSURES IN BUILDINGS

(By William J. Nicholson, Ph.D., Mount Sinai School of Medicine)

The January 19, 1990 issue of Science Magazine contained an article by B. T. Mossman, J. Bignon, M. Corn, A. Seaton and J. B. L. Gee[1] that argues that exposure to chrysotile asbestos in U.S. Schools and other buildings is not a health risk nor is it in the workplace, if current OSHA standards are met. This argument is in direct contradiction with the current basis of OSHA and EPA regulation. The Mossman et al. argument is based largely on the contention that chrysotile asbestos, the type most commonly found in building materials, presents little, if any, carcinogenic risk, although they ignore its potential for causing scarred lungs (asbestos). They are seriously wrong on both counts.

ASBESTOS USAGE IN BUILDING PRODUCTS IN THE UNITED STATES

Asbestos is a term given to six minerals which are fibrous, resistant to dissolution by acid and alkaline solutions and stable at high temperatures. The minerals are grouped into two classes, serpintine and amphibole, on the basis of their mineral structures. Chrysotile is the only serpentine asbestos mineral. The other commercial asbestos minerals, amosite, crocidolite and anthophyllite are in the amphibole class. So, too, are the fibrous forms of tremolite and actinolite. These last two minerals, however, were not mined commercially, but may be a contaminant of commercial asbestos and other building product materials, such as vermiculite. Amosite and crocidolite accounted for only 5% of the asbestos usage of the U.S. over the years, but the usage of amosite was largely in friable building products, such as thermal insulation. Thus, the percentage usage of amphibole in such materials was greater than 5%.

Thermal insulation.—Both chrysotile and amosite are commonly found in thermal insulation, in pipe covering and in block, although some products contain only chrysotile. One type of thermal insulation material used aboard ship contains only amosite. Most asbestos cements contain only chrysotile.

Spray surfacing materials for fireproofing or sound control.—Fluffy, "cotton candy" surfacing materials can contain chrysotile or amosite, occasionally ever crocidolite. The cementitious surfacing materials usually contain chrysotile, although up to 10% of the asbestos content of one product could be tremolite, from contamination of the vermiculite forming part of the mix. Textured paints usually contain only chrysotile.

Other products.—Predominantly chrysotile asbestos was used for reinforcing in floor tiles, heat resistant papers, siding and shingles, and spackles. Current exposures from the presence of these materials in buildings are much less than those from the above two classes of materials.

THE AMPHIBOLE HYPOTHESIS

Mossman et al. subscribe to the "amphibole hypothesis," which they use to suggest that little if any, cancer risk arises from exposure to chrysotile. They argue that the amphibole fibers of asbestos have substantially greater carcinogenic potential than chrysotile. This conjecture is based largely on the finding that workers exposed occupationally to asbestos, including even chrysotile miners, have more amphibole asbestos fibers in their lungs than chrysotile fibers. This occurs because chrysotile splits apart longitudinally in tissue and can partially dissolve in body fluids. In contrast, amphibole fibers are less attacked by body fluids and can be detected in the lungs or workers years after exposure. The source of amphiboles in chrysotile miners' and millers' lungs is an approximately 1% contamination of the chrysotile ore by tremolite. In workers exposed to both amphibole and chrysotile asbestos fibers, there are likely to be substantial quantities of amphibole fibers present and, after years, relatively little chrysotile. The Mossman et al. article use this finding to claim that because workers have more amphiboles in their lungs at the time they died it must have been those fibers that caused the observed disease, ignoring the fact the cancer process spans several decades. It also is a fallacious epidemiological argument as can be seen by considering the results of mortality studies of asbestos exposed workers analyzed in terms of exposure.

There are several studies[2-13] that provide information on both the amount of excess disease that a group of workers has and the amount of asbestos exposure that produced it. These are shown in Table 1. In addition to the listed studies, two studies of friction product manufacturing provide similar exposure response data.[15, 16] They were not included because the exposures were very low, each had epidemiological uncertainties and any estimates of risk made from them would be extremely uncertain. In one study[15] workers were banned from smoking at work since the early 1930s; thus, their lung cancer mortality is likely to have been affected. In the other study[16] an unusually high risk of lung cancer was observed overall, but no relationship with exposure was observed.

Lung cancer.—There are many studies that have shown that workers who have been exposed to chrysotile die of lung

cancer more than expected. These investigations include those supported and sponsored by the Quebec Asbestos Mining Association. They are unequivocal in this regard.

The importance of this is that in most groups of workers exposed to asbestos, lung cancer—a neoplasm different and distinct from mesothelioma—kills three times as many workers as does mesothelioma. Thus, it is not appropriate to discuss the cancer causing properties of chrysotile without acknowledging the extensive data establishing that the fiber causes cancer and asbestosis in the men who mine and mill it and among those who later use the fiber in chrysotile textile production.

It is, therefore, of value to analyze the asbestos-related lung cancer experience and to do so specifically in terms of exposure. In reviewing Table 1 it can be seen that the risk of lung cancer per fiber exposure is very similar for all exposure circumstances except that of chrysotile mining and milling. The increased risk in the three predominantly chrysotile studies ranged from 1.0–2.8% per f-yr/cm^3. Among the remaining nonmining studies the percentage increase in lung cancer for a one year exposure to 1 f/cm^3 ranged from 0.5% to 4.3%, irrespective of the type of fibers used in the production process. These risks are identical to those of predominantly chrysotile exposures, within the statistical uncertainties of the data. Even a pure crocidolite exposure in mining demonstrated a similar risk, 2.1–5.8% increase per f-yr/cm^3.[3] Were the "amphibole hypothesis" to hold, the textile risks would have been up to 100-fold less. Mossman et al. suggest the high chrysotile textile risk might be due to "solvent and oils used in textile production." There is absolutely no evidence for this.

Although studies of chrysotile mining and milling demonstrate an excess risk of lung cancer, the risk is lower than seen in studies of other asbestos workers and, particularly, studies of production workers exposed only to chrysotile or 98% chrysotile. The origin of this lower risk is not fully understood, but part of the difference may lie in the different fiber size distributions between the mining and milling of chrysotile and its use in a textile plant or other production facility. Animal experiments in the U.S.[17] and Germany[18] indicate that the fibers most likely to produce cancer are too thin to be observed by a light microscope.

In the mine and mill the chrysotile fiber bundles have only been partially broken apart. Many of the fibers are large and easily counted; some are curly and nonrespirable. When shipped to a chrysotile textile mill the fibers are broken apart during carding and in the high-speed spinning and weaving processes thin fibers may split off from the threads; many of these are not visible in a light microscope. Thus, in the air of a textile plant the percentage of thin, uncounted but highly cancerous fibers can be much greater than in the mine and mill air—and a greater cancer risk is observed for the same measured fiber exposure.

Mesothelioma.—The risk of mesothelioma per fiber exposure in three studies where it can be estimated directly is identical for exposures to 98% chrysotile +2% crocidolite, 60% chrysotile +40% amosite and 100% amosite (Column 5 of Table 1). Additionally, in the other studies where the mesothelioma risk cannot be estimated directly, the ratio of the number of mesotheliomas to excess lung cancers is the same, within the uncertainties of the estimations (Col. 6). Were mesotheliomas produced only by amphiboles, one would have expected large differences in the two measures of mesothelioma risk between studies 1–3 and 4–7 or 8. The same picture is portrayed by the more than 30 studies for which little or no exposure information is available. Again the ratios of mesothelioma to excess lung cancer were the same for exposures to 97%+ chrysotile, 100% amosite and mixtures of chrysotile, amosite and crocidolite, within statistical uncertainty. Only 100% crocidolite exposures appeared to have a greater ratio, about twice that of predominantly chrysotile.[14]

Experimental animal data.—The above human data are corroborated by similar data obtained by J. C. Wagner[19] in experimental inhalation studies with rats. Table 2 shows the results he obtained on the number of cancers produced by exposure to equal weight concentrations of different varieties of asbestos. In terms of fiber concentrations, the crocidolite concentrations would have been about 2.25 times less and the amosite concentrations 3.5 times less than those of chrysotile. Thus, the number of cancers produced per fiber exposure is virtually identical for all three asbestos varieties (as in most human exposure circumstances). In this research Wagner also measured the amount of asbestos retained in the lung after conclusion of the two-year experiment. He found that the weight of amphibole fibers in the lungs was about 15 times the weight of chrysotile, even though the air the various animals breathed contained equal weights of both asbestos types. Thus, the chrysotile fibers, although conveying an equal (or greater) risk of malignancy than the amphibole fibers, were clearly less persistent in lung tissue than the amphiboles. Further, solvents and oils could not have played a role in these environmental results.

THE TREMOLITE CONTAMINATION OF CHRYSOTILE

One feature of the chrysotile most commonly used in the United States, that from mines in Canada, is that the ore is naturally contaminated with about 1% tremolite, an amphibole fiber. Mossman et al. note that the risk of developing mesothelioma in the Canadian chrysotile miners is directly related to their lung content of tremolite, implying that it is the tremolite that caused the mesotheliomas. The conclusion is erroneous. Since the tremolite is proportional to the amount of chrysotile inhaled, it is a measure of chrysotile dose. Thus, there is as strong a correlation with chrysotile dose as with tremolite lung burden.

There are at least 67 mesotheliomas in Canadian chrysotile miners according to a statement of C. McDonald at a 1988 asbestos conference in Ottawa[20]. Additionally, a recent study[21] of 92 autopsies of Quebec chrysotile miners and millers showed that six were due to pleural mesothelioma, about the same proportion as seen, for example, in asbestos insulation workers. To attribute all these mesotheliomas to the small contaminant of tremolite is wrong because of the false logic discussed above and because of the dimensions of the tremolite fibers are of a less carcinogenic size than commercial amphibole asbestos varieties. Fibers longer than 10 μm and thinner than 0.5 μm are shown to be the most carcinogenic.[17, 18] While the tremolite fibers are certainly carcinogenic, they are likely to be less so than commercial amosite or crocidolite (and also chrysotile), because they tend to be thicker and shorter. Finally, the point of which fibers produce cancer in miners and millers is rather moot, as the tremolite fibers are not removed during milling and are part of the chrysotile mixture used in various asbestos products.

MEASUREMENTS OF ASBESTOS IN THE AIR OF PUBLIC BUILDINGS

Mossman et al. present data on air concentrations measured in buildings and in the outside air[22] and use the data to make estimates of risk for building exposures. These exposure data suffer two fundamental weaknesses. First, as evident by the fact that no asbestos fibers were observed in 83% of the samples analyzed, inadequate analytical techniques were used. (Even in the air of the Grand Canyon, occasional fibers are seen, when proper techniques are used.) In order to obtain a meaningful estimate of an asbestos concentration, at least four fibers should be counted in each sample analyzed. It would appear that at least ten times more filter area should have been scanned in these samples. Further, as acknowledged by the air study authors, their results indicated building levels ten times lower than the three other studies of asbestos air concentrations in buildings,[23–25] suggesting the possibility of analytical error.

Second, short-term air sampling is not likely to reflect actual long-term contamination levels in building circumstances. Contamination of the air in buildings occurs largely from episodic releases during maintenance work or from physical abuse to the material. The very act of sampling alters the likelihood of such activities. Building maintenance or optional repair work will not be scheduled by a building manager when sampling is in progress. Sawyer[26] showed that the magnitude of episodic releases could be substantial. Table 3 presents data from his study of short-term exposures which were encountered during various maintenance activities in a library building containing asbestos surfacing material. As can be seen short-term concentrations as high as 18 f/cm^3 can occur from routine maintenance.

Further, clinical evidence of asbestos disease has been demonstrated among building service workers. C. Oliver et al.[27] have found that more than 40% of the X-rays of 52 school custodial and maintenance personnel had abnormalities, primarily pleural plaques, that are characteristic of asbestos exposure. Additionally, 27% of the workers had a forced vital capacity that was less than 80% predicted and 17% had a significant reduction in lung diffusing capacity. These are the two pulmonary function tests that are most affected by exposure to asbestos. Similar findings have been observed in studies of New York City Board of Education school custodians.

RISK ESTIMATES FROM BUILDING EXPOSURES

Mossman et al. dismiss any concern for exposures to 0.002 f/cm^3, 1/100 the allowed occupational level and approximately 10 times background asbestos levels. It has been calculated that the lifetime risk for a 13 year exposure at this level, beginning at age 5, ranges from 4–12 asbestos cancer deaths per 100,000 exposed, based on risk estimates by the three U.S. agencies[14, 28, 29]. For a school population of 20,000,000 pupils, this translates into 800–2,400 cases of cancer. When evaluating widespread environmental risks, the focus is properly on the population risks, rather than the individual risks. Fortunately, because of action already taken, the average asbestos concentration in all school buildings is less than 0.002 f/cm^3. However, even if exposures in schools were as low as the 0.00024 suggested by Mossman

et al., the lifetime mortality for an exposed school population of 20 million would still range from 100 to 300 asbestos cancers. Moreover, Mossman et al. focus on background amounts of asbestos, giving short shrift to high exposures, which are not sampled, that occur during damage or maintenance. They do acknowledge that ". .brief, intense exposures to asbestos might occur. ."; their solution is "worker education."

Finally, it is necessary to consider the risk assessment projections of Mossman et al. in an ethical context. Rather than compare asbestos risks with voluntary risks (smoking, school football) or risks that remain high despite expenditures of substantial public and private money (aircraft and highway accidents), it is worthwhile to compare them with other involuntary, environmental risks that are controlled by regulatory agencies (pesticide exposures, drinking water contamination). In a review[30] of regulatory actions taken by the FDA CPSC and EPA it was found that for estimated population risks exceeding 1 death/year, the individual lifetime risks were usually regulated if they exceeded 1/1,000,000 for a lifetime exposure. Only eight of 31 carcinogenic exposure circumstances that exceeded this level were not regulated. They involved saccharin, aflatoxin, formaldehyde and polycyclic organic matter. Average asbestos school building risks are from 0.5–10 per 100,000 for only a 13 year exposure. In some schools with particular problems the risks could be much higher. Thus, the risks that the EPA is attempting to reduce in school buildings by their AHERA regulation[31] are in the mainstream of regulatory action by the U.S. government.

The EPA does not require that asbestos be removed in school buildings. It does require that buildings be inspected for asbestos and, if asbestos material is found, an operations and maintenance program be put in place. The program involves notification of building workers and the public, training of workers to prevent release of asbestos during their activities, and repair of damaged asbestos material or its replacement, if future damage cannot be prevented. When it must be undertaken, EPA requires that removal be conducted in a highly controlled manner and that clearance monitoring criteria be done. If the EPA's requirements and recommendations are followed, the risks to workers will be minimized and residual building contamination will be prevented.

CONCLUSIONS

1. Both human and animal data strongly demonstrate that chrysotile asbestos is as potent a carcinogen to the lung as any other variety of asbestos.

2. The data also demonstrate a substantial risk of mesothelioma from exposure to chrysotile. There appears to be no difference in the potency of chrysotile and amosite for producing mesothelioma. However, exposures to pure crocidolite, which is rarely used in the U.S., may carry a two-fold greater risk.

3. Uncontrolled activities in buildings have led to substantial asbestos exposures and disease among building employees.

4. While individual cancer risks to building users are much lower than those of asbestos exposed workers, they are similar to other environmental risks that have been regulated by government agencies. Further, because of the widespread use of asbestos in buildings, and the millions of individuals with potential exposure, community risks can become substantial, in the absence of proper measures to prevent unnecessary exposures.

TABLE 1.—THE RISKS OF LUNG CANCER AND MESOTHELIOMA DEMONSTRATED IN STUDIES OF WORKERS EXPOSED TO VARIOUS ASBESTOS MINERALS

Study number and asbestos exposure and location	Type of asbestos	Percentage increase in lung cancer for a 1 year exposure to 1 f/cm [3] of asbestos [1]	Relative risk of mesothelioma [2]	Ratio of number of mesotheliomas to excess number of lung cancers
1. Textile manufacturing (South Carolina) [2,3].	100% chrysotile [3].	2.8		[4] 0.06
2. Textile manufacturing (Rochdale, England) [4].	98% chrysotile.. 2% crocidolite...	1.0	1.0	.35
3. Textile manufacturing (Pennsylvania) [5].	98% chrysotile.. 1% crocidolite... 1% amosite.....	1.4		.78
4. Amosite insulation manufacturing (New Jersey) [6].	100% amosite...	4.3	3.2	.19
5. Insulation application (United States) [7,8].	60% chrysotile [5]. 40% amosite [5]..	.8	1.5	.66
6. Asbestos products (United States) [9].	80% chrysotile [5]. 15% amosite [5].. 5% crocidolite [5].	.5		.19
7. Asbestos cement products manufacturing (Louisiana, USA) [10] (and Ontario, Can) [11].	89% chrysotile [5].. 10% crocidolite [5]. 1% amosite [5]....	1.8		.30
8. Crocidolite mining [12].	100% crocidolite.	2.1–5.8		.57–.93
9. Chrysotile mining [13].	100% chrysotile.	.09		.14

[1] Details of the calculations of these unit exposure risks is described in the EPA's Airborne Asbestos Health Assessment Update [14]

[2] The calculation of risk was based on a mathematical model of mesothelioma incidence according to time from onset of exposure. Adequate data for this calculation were only available for the studies indicated.

[3] Chrysotile as mined in Canada is contaminated by a small amount of tremolite (generally less than 1%). This contaminant is carried over into the fiber as used in different industries. The percentages in the column refer to the percentage of commercially sold fiber, including the contamination. The possible effect of this contamination is discussed below.

[4] This value has a large statistical uncertainty (CL=0.006–0.34). Only one mesothelioma death was identified. Were two more present the ratio would be identical to studies 4 and 6.

[5] The percentages of the various fibers used in the plants studied were not given. The estimates are based on published product compositions.

TABLE 2.—NUMBER OF RATS WITH LUNG CANCER OR MESOTHELIOMAS AFTER EXPOSURE TO VARIOUS FORMS OF ASBESTOS THROUGH INHALATION

Form of asbestos	Number of animals	Adenocarcinomas	Squamous-cell carcinomas	Mesotheliomas
Amosite	146	5	6	1
Anthophyllite	145	8	8	2
Crocidolite	141	7	9	4
Chrysotile (Canadian)	137	11	6	4
Chrysotile (Rhodesian)	144	19	11	0
None (Control group)	126	0	0	0

Exposure concentration ranged from 10.1 to 14.7 mg/m[3]

TABLE 3.—AIRBORNE ASBESTOS LEVELS MEASURED IN A LIBRARY WITH ASBESTOS-CONTAINING CEILING MATERIAL

Sampling conditions or situation	Mean courts (f/cm[3])	Number of samples	Standard deviation
Fallout			
Quiet conditions	0.02	15	0.02
Contact			
Cleaning, moving books in stack area..	15.5	3	6.7
Relamping light fixtures	1.4	2	.1
Removing ceiling section	17.7	3	8.2
Installing track light	7.7	6	2.9
Installing hanging lights	1.1	5	.8
Installing partition	3.1	4	1.1
Reentrainment			
Custodians sweeping dry	1.6	5	.7
Dusting, dry	4.0	6	1.3
Proximal to cleaning	.3		.3

TABLE 3.—AIRBORNE ASBESTOS LEVELS MEASURED IN A LIBRARY WITH ASBESTOS-CONTAINING CEILING MATERIAL—Continued

BIBLIOGRAPHY

1. Mossman, B. T., Bignon, J., Corn, M., Seaton, A., gee, J. B. L. (1990) Asbestos: scientific developments and implications for public policy. Science 247:294–301.

2. Dement, J. M.; Harris, R. L., Jr.; Symons, M. J.; Shy, C. M. (1983) Exposures and mortality among chrysotile asbestos workers. Part II: mortality. Am. J. Ind. Med. 4:399–419.

3. McDonald, A. D.; Fry, J. S.; Woolley, A. J.; McDonald, J. C. (1983) Dust exposure and mortality in an American Chrysotile textile plant. Br. J. Ind. Med. 40:361–367.

4. Peto, J.; Doll, R.; Hermon, C.; Binns, W.; Clayton, R.; Goffe, T. (1985) Relationship of mortality to measures of environmental asbestos pollution in an asbestos textile factory, Ann. Occup. Hyg. 29:305–355.

5. McDonald, A. D.; Fry, J. S.; Woolley, A. J.; McDonald, J. C. (1983) Dust exposure and mortality in an American factory using chrysotile, amosite and crocidolite in mainly textile manufacturing. Br. J. Ind. Med. 40:368–374.

6. Seidman, H.; Selikoff, I. J.; Gelb, S. K. (1986) Mortality experience of amosite asbestos factory workers: Dose-response relationships 5 to 40 years after onset of short-term work exposure. Am. J. Ind. Med. 10:479–514.

7. Selikoff, I. J.; Hammond, E. C.; Seidman, H. (1979) Mortality experience of insulation workers in the United States and Canada, 1943–1976. Ann. N. Y. Acad. Sci. 330:91–116.

8. Nicholson, W. J. (1976) Case study 1: asbestos—the TLV approach. Ann. N. Y. Acad. Sci. 271:152–160

9. Henderson, V. L; Enterline, P. E. (1979) Asbestos exposure; factors associated with excess cancer and respiratory disease Mortality. Ann. N. Y. Acad. Sci. 330:117–126.

10. Weill. H.; Hughes, J.; Waggenspack, C. (1979) Influence of dose and fiber type on respiratory malignancy risk in asbestos cement manufacturing. Am. Rev. Respir. Dis. 104:345–354.

11. Finkelstein, M. M. (1983) Mortality among long-term employees of an Ontario asbestos-cement factory. Br. J. Ind. Med. 40:138–144.

12. Armstrong, B. K.; DeKlerk, N. H.; Musk, A. W.; Hobbs, M. S. T. (1988) Mortality in miners and millers of crocidolite in Western Australia. Br. J. Ind. Med. 45:5–13.

13. McDonald, J. C.; Liddell, F. D. K.; Gibbs, G. W.; Eyssen, G. E.; McDonald, A. D. (1980) Dust exposure and mortality in chrysotile mining, 1910–75. Brit. J. Ind. Med. 37:11–24.

14. U.S. Environmental Protection Agency (1986) Airborne Asbestos Health Assessment Update, Washington, DC, Office of Health and Environmental Assessment. Document no. EPA-600/8-84-003F.

15. Berry, G.; Newhouse, M. (1983) Mortality of workers manufacturing friction materials using asbestos. Br. J. Ind. Med. 40:1–7.

16. McDonald, A. D.; Fry, J. S.; Woolley, A. J.; McDonald, J. C. (1984) Dust exposure and Mortality in an American chrysotile asbestos friction products plant. Br. J. Ind. Med. 41:151–157.

17. Stanton, M. F.; Layard, M.; Tegeris, A.; Miller, E.; May, M.; Morgan, E.; Smith, A. (1981) Relation of particle dimension to carcinogenicity in amphibole asbestos and other fibrous minerals. J. Natl. Cancer Inst. 67:965–975.

18. Pott, F.; Friedrichs, K. H. (1972) Tumoren der Ratte nach i.p.-Injektion faserförmiger Stäube [Tumors in the rat developing after intraperitoneal injection of fibrous dusts]. Naturwissenschaften 59:318.

19. Wagner, J. C.; Berry, G.; Skidmore, J. W.; Timbrell, V. (1974) The effects of the inhalation of asbestos in rats. Br. J. Cancer 29:252-269.

20. Collegium Ramazzini Conference, Differential Biological Properties of Varying Fiber Types. March 20-22, 1989, Ottawa, Ont., Canada.

21. Churg, A.; Wiggs, B.; Depaoli, L.; Kampe, B.; Stevens, B. (1984) Lung asbestos contents in chrysotile workers with mesothelioma. Am. Rev. Respir. Dis. 130:1042-1045.

22. Chesson, J.; Hatfield, J.; Schultz, B.; Dutrow, E.; Blake, J. (1990) Airborne asbestos in public buildings. Environ. Resh. 51:100-107.

23. Burdett, G. J.; Jaffrey, S. A. M. T. (1986) Airborne asbestos concentrations in buildings. Ann. Occup. Hyg. 30:185-199.

24. Chatfield, E. J. (1986) Airborne asbestos levels in Canadian public buildings. In: Chatfield, E. J., ed. Asbestos Fibre Measurements in Building Atmospheres, Proceedings. Ontario Research Foundation, Mississauga.

25. Pinchin, D. J. (1982) Asbestos in Buildings, Study No. 8. Royal Commission on Matters of Health and Safety Arising from the Use of Asbestos in Ontario, Toronto.

26. Sawyer, R. (1977) Asbestos exposure in a Yale building: analysis and resolution. Environ. Resh. 13:146-168.

27. Oliver, L. C.; Sprince, N. L.; Green, R. E. (1989) Asbestos-related disease in public school custodians. Am. Rev. Resp. Dis. 139:A211 (abstract).

28. National Academy of Sciences. (1984) Asbestiform Fibers: Nonoccupational Health Risks. Washington, DC, National Academy Press.

29. U. S. Consumer Product Safety Commission. (1983) Report to the U. S. Consumer Product Safety Commission by the Chronic Hazard Advisory Panel on Asbestos. Washington, DC. Directorate for Health Sciences.

30. Travis, C. C.; Richter, S. A.; Crouch, E. A. C.; Wilson, R.; Klema E. D. (1987) Cancer risk management. Environ. Sci. Technol. 21:415-420.

31. U. S. Environmental Protection Agency. (1987) Asbestos-Containing Materials in Schools; Final Rule and Notice. Fed. Reg. 52:41826-41905.

William Nicholson, Ph.D., a professor of Community Medicine at the Mt. Sinai School of Medicine, is a specialist in environmental risk assessment with emphasis on the human health risks of asbestos. He has worked closely with Dr. Irving Selikoff, the occupational physician known for demonstrating the connection between asbestos and disease among workers in the United States.

This paper was prepared in response to the recent spate of publicity questioning whether the risks to the public of asbestos in buildings has been exaggerated.

[From the Washington Post, May 22, 1990]

Arlington Courthouse Fire Spreads Asbestos

(By Stephanie Griffith)

In addition to the loss of hundreds of legal documents in Sunday morning's three-alarm fire at the Arlington County courthouse, officials say they will now have to contend with asbestos contamination in sections of the building not initially affected by the blaze.

The fire destroyed large sections of the fourth and fifth floors, and water used to fight the blaze became contaminated with asbestos insulation. But the water also seeped in the third floor of the seven-story building, which houses traffic and civil courts, according to Sally Michaels, assistant to the county manager.

Soot carried asbestos to sixth-and seventh-floor courtrooms and offices as well.

"This is more serious than the initial estimate of damage showed," Michaels said. "It looks as if we will exceed our initial $2.5 million damage estimate because of the asbestos cleanup costs."

Michaels said cleanup of the third floor would take about one week, and the asbestos-contaminated soot on the sixth and seventh floors should be removed before the end of this week.

"The fourth and fifth floors can take considerably longer than one month" to clean up, Michaels said, because new carpeting and furniture will have to be installed.

It is not known yet where courts will be moved if the cleanup lasts longer than expected, Michaels said. The County Board will discuss the future of the courthouse this evening, in a continuation of Saturday's meeting.

The fire gutted a large section of the fourth-floor office of the Circuit Court and forced the cancellation of all Circuit and District Court hearings yesterday. Grand jury sessions were held in conference rooms of the Court Plaza Building.

An office has been set up in Room 310 of the courthouse for the Circuit Court's 35 employees, said David A. Bell, chief clerk of the court for limited operations.

"We're getting a supply of receipt books, subpoenas and probate forms and marriage licenses from the court in Alexandria," Bell said.

About half of the 35 employees of the Circuit Court showed up for work wearing blue jeans and sweatpants, and spent most of the day taking cartons of materials to vacant offices on the third floor.

The General District Court will be closed, except for the Traffic Court which will be held in Room 307 of the Courthouse Plaza Building at 2100 Clarendon Blvd.

The General District Court Clerk's office on the first floor will be open again today as it was yesterday. The Juvenile and Domestic Relations District Court on the third floor also will be open today.

Bell said he had not been able to reenter the fourth-floor offices, sealed because of the threat of asbestos contamination, to survey the full extent of the damage to court records. He said, however, that many court documents can be reconstructed "within a few months."

"The good news is that all of our civil and criminal records from past years are on microfilm in Richmond with the state archivist," Bell said.

Court records dating to 1987, Bell said, are stored in a computer system, which will make it easier to restore the court's records.

"We will be able to present some court record for every case," Bell said, "so this fire, bad as it was, was not the full-blown disaster it could have been."

The fire has forced officials to consider whether the 30-year-old building should be renovated, or whether a new courthouse should be built. The county has $50 million in insurance on the building.

"We are struggling with the issue of whether building a new courthouse is more cost-effective than rehabbing the space," Michaels said.

"We could be looking at a bond issue on this, potentially as soon as this year."

Report Card on Asbestos: Ohio Schools Get Failing Marks

(By James D. August, MPH, Research Department, American Federation of State, County and Municipal Employees)

INTRODUCTION

This study was conducted to determine whether local education authorities (LEAs) are protecting school populations from exposure to asbestos as required by the Asbestos Hazard Emergency Response Act (AHERA) of 1986. To answer this question, the investigation focused on the extent to which schools had complied with notification, training, and work practice requirements specified in the Environmental Protection Agency's (EPA) Asbestos-Containing Materials in Schools Final Rule. The findings in this report clearly show that LEAs have not implemented basic AHERA requirements necessary to prevent asbestos exposure for workers, students, or other occupants. Possible explanations for the lack of compliance, as well as policy implications are discussed in the conclusion.

BACKGROUND

The health effects of asbestos have been clearly established. In its preamble to its 1986 asbestos regulations, the Occupational Safety and Health Administration stated that "OSHA is aware of no instance in which exposure to a toxic substance has more clearly demonstrated detrimental health effects on humans than has asbestos exposure." EPA and OSHA have both stated that no safe threshold has been established for asbestos. The passage of AHERA and the 1982 school inspection regulations effectively recognized that asbestos-containing materials (ACM) in building, pose an unreasonable risk which is addressed by inspection and appropriate response actions.

EPA has repeatedly recognized that custodians, maintenance staff, and other building service workers are at great risk because their activities frequently result in peak exposure episodes. In 1988 the "EPA Study of Asbestos-Containing Materials in Public Buildings, A Report to Congress," stated:

"Service workers may encounter higher episodic exposures, particularly if their activities disturb ACM. They appear equally at risk, whether employed in public or commercial buildings or in schools."

AHERA was enacted because Congress found that EPA's 1982 school inspection rule was woefully inadequate. AHERA required LEAs to inspect primary and secondary school buildings for asbestos; identify the need for responses to asbestos, describe appropriate response actions, establish procedures for ongoing surveillance of ACM, establish an operations and maintenance (O&M) program, and implement other measures necessary for proper asbestos management.

The asbestos in schools rule was developed through a process of negotiated rulemaking. Participants of the negotiating committee included a wide range of interest groups that included, among others, labor unions, National PTA, school boards and school administrators, state health departments, asbestos consultants and contractors, and former manufacturers of asbestos products.

The American Federation of State, County and Municipal Employees (AFSCME) was a member of the negotiating committee. AFSCME is a labor union of 1.3 million members representing a wide range of job classifications primarily in state and local government, hospitals, and non-profit organizations. AFSCME represents school employees across the country, and many thousands more custodial and maintenance workers in non-school buildings. Many union members and retirees have died or become seriously ill as the result of their exposure to asbestos in buildings.

In October 1989, EPA announced that ninety-four percent of the nation's public school districts and private schools had inspected school buildings and submitted management plans by dates required in AHERA. The quality of inspections and management plans has not yet been evalu-

ated. Even where management plans have been submitted, it is apparent that many schools have not implemented the plans. Local unions across the country have contacted AFSCME headquarters for assistance where LEAs have not taken steps necessary to protect their health. Therefore, this study was initiated to evaluate the extent to which schools had implemented important elements of their management plans, as AHERA required by July 9, 1989.

METHODOLOGY

A two-page survey was distributed to school custodial and maintenance staff in Ohio through two of AFSCME's affiliate organizations: the Ohio Association of Public School Employees (OAPSE/AFSCME Local 4) and AFSCME District Council 8. Custodians and maintenance staff were asked whether they had been notified of the locations of asbestos in their buildings, if they had received training appropriate to their job duties, and whether proper work practices were being followed in the schools in which they worked. Four hundred and forty-six surveys were received from union members who worked in buildings with ACM (three hundred and thirty-two custodians, one hundred and seven maintenance workers, and seven without a job title). The employees who participated in the study are employed by school districts of varying sizes throughout Ohio.

FINDINGS

Notification of ACM Locations

LEAs are required by AHERA to notify workers of the locations of ACM through a number of mechanisms. All custodians and maintenance workers must receive an awareness training which informs them of the locations of ACM in each school building in which they work. A second method of communicating the locations of ACM is to post warning signs in routine maintenance areas such as boiler rooms. Warning signs must be prominently displayed and attached immediately adjacent to ACM and suspected ACM.

Compliance by LEAs with notification requirements varies. Eighty-four percent of respondents reported that they have received the mandatory asbestos awareness training. However, it appears that the training did not accomplish one of its principle objectives: Only seventy-three percent of those who received training answered they had been told all ACM locations.

Table 1 includes the rate of LEA compliance with additional notification requirements. Only forty-one percent of LEAs have complied with all of the following: informing staff of the locations of ACM, providing awareness training, and posting warning signs.

TABLE 1.—*LEA compliance with notification requirements*

Type of Notification:	*Percent of LEA compliance*
Have received awareness training	84
Have been told locations of ACM (includes those who have and have not received awareness training)	68
Warning signs have been posted	53
Have received awareness training, and have been told locations of ACM, and signs have been posted	41

Respirators

According to responses of building service workers concerning their work assignments, LEAs have not provided appropriate respiratory protection to their employees. One hundred and twelve respondents said they were engaged in activities that were considered minor fiber release episodes (the release of less than three linear or square feet of ACM), or major release episodes (more than three linear or square feet). None of these workers should be issued anything less than a half mask dual-cartridge HEPA-equipped respirator. Only thirty-four percent of workers expected to respond to minor and major disturbances of asbestos have been issued respirators.

The study group was also asked whether LEAs have complied with OSHA and EPA respiratory protection requirements. Those who had received a respirator were asked whether they were the only one who used the respirator, had been given a physical exam before receiving the respirator, and whether they had received a fit test. LEAs not only failed to issue respirators where necessary, but most often did not follow the most basic elements of a required respiratory protection program. These results are summarized in Table 2.

TABLE 2.—*LEA compliance with respiratory protection program for those who were issued respirators*

	Percent of LEA compliance
Only one who uses the respirator	83
Had physical exam before receiving respirator	42
Received respirator fit test	51
Answered yes to all questions about respiratory protection	32

HEPA-vacuums

Ordinary vacuum cleaners do not filter out asbestos fibers; they merely recirculate the fibers back into the air. Vacuums equipped with High-Efficiency Particulate Air filters (HEPA) should be used in cleaning operations involving ACM, and during maintenance activities such as glove bag operations used to repair asbestos-containing thermal pipe insulation. Only twenty percent of respondents reported that a HEPA-vacuum was available in their school(s) for performing glove bag operations or cleaning.

Operations and Maintenance (O&M)

Tasks Involving Small Amounts of Asbestos:

AHERA distinguishes between activities which disturb small amounts of asbestos versus larger disturbances of ACM. For example, a minor fiber release episode is the falling or dislodging of less than three linear or square feet of asbestos, while a major release involves more than three linear or square feet. The AHERA regulation also specifies work practices for small scale, short duration (SSSD) operations and maintenance and repair activities involving asbestos. Examples of SSSD activities include repair of pipe insulation which can be contained in one glove bag, replacement of an asbestos-containing gasket or valve, or minor repairs to asbestos-containing wallboard. In all these cases, repair and clean up must be performed by those with a minimum of two days of training, who use specified work practices, and are wearing respiratory protection.

One hundred and two respondents answered they were expected to clean up less than three feet of asbestos debris. Table 3 demonstrates that LEAs have assigned employees to clean up small releases without appropriate training and respiratory protection. Only thirty percent of the custodians and maintenance workers expected to clean up small amounts of asbestos have been properly trained and have been issued respirators. Further analysis shows that custodians get less training and equipment to properly conduct small clean up and repairs than do maintenance workers.

TABLE 3.—*LEA compliance with ensuring personnel are properly trained and equipped for duties involving small amounts of ACM*

Of respondents who were expected to clean less than 3 feet of ACM:	
Had at least 2 days of training	[1] 44
Have been issued a respirator	[1] 36
Had at least 2 days of training and have been issued a respirator	[1] [2] 30

[1] Percent of LEA compliance.

[2] 18 percent of custodians had proper training and a respirator, compared to 58 percent of maintenance workers with proper training and a respirator.

Activities Which Disturb More Than Small Amounts of ACM: Responses to major fiber release episodes must be conducted by accredited workers who have received a minimum of three days training. Table 4 demonstrates that LEAs have complied less frequently with AHERA requirements for major release episodes than for smaller incidents. Only thirteen percent of custodians and maintenance workers who are expected to clean up more than three feet of asbestos have been properly trained and have been issued a respirator. Once again, custodians have received less training and equipment than maintenance staff.

TABLE 4.—LEA COMPLIANCE WITH ENSURING PERSONNEL ARE PROPERLY TRAINED AND EQUIPPED FOR DUTIES INVOLVING MORE THAN SMALL AMOUNTS OF ACM

	Number who are expected to clean more than 3 feet	Number who had 3 days of training and a respirator	Percent of LEA compliance
Custodians	41	2	5
Maintenance workers	13	5	38
All	54	7	13

Prohibited Activities: Appendix B of the AHERA regulation describes certain activities which are prohibited where ACM is involved. Table 5 highlights five of the "prohibited activities" and the extent to which respondents reported that employees in their schools were expected to conduct these activities.

TABLE 5.—*Extent of prohibited work practices*

Expected to perform prohibited activity	*Percent of LEA non-compliance*
Dust or sweep ACM contaminated surfaces	47
Sand or high-speed buff floor tiles	46
Remove or shake dry ventilation filters	31
Use ordinary vacuums to clean up ACM debris	27
Remove ceiling tiles below ACM without respirator or clearing area of others	21

Initial Cleanings: Schools were required to use special cleaning methods such as wet-cleaning or HEPA-vacuuming in all areas of a school building containing friable ACM or suspected ACM after the completion of the inspection and before the beginning of response actions (other than O&M), unless such cleaning had been performed in the previous six months. The purpose of these procedures is to clean up asbestos fibers which have been previously released. Only

twenty-six percent of respondents reported that the special cleanings have been performed.

Asbestos Abatement

This study did not attempt to evaluate whether necessary abatement actions had been taken, or the quality of such activities. However, respondents were asked whether they had been engaged in abatement jobs (removal, encapsulation, enclosure, or repair) involving large amounts of ACM. AHERA requires accredited personnel (a minimum of 3 days of training) to conduct these activities. Fourteen custodians and ten maintenance workers reported performing abatement jobs. Table 6 shows that only twenty-one percent of custodians and maintenance workers engaged in asbestos abatement have received proper training and have been issued a respirator.

TABLE 6.—LEA COMPLIANCE WITH REQUIREMENTS FOR ABATEMENT TRAINING AND RESPIRATORS

	Of respondents who perform abatement work	Had 3 days of training and a respirator	Percent of LEA compliance
Custodians	14	2	14
Maintenance	10	3	30
All	24	5	21

Exposure Monitoring

LEAs must comply with current OSHA and EPA exposure monitoring requirements for activities involving disturbance of ACM. Exposures must be measured from representative breathing zone air samples. Monitoring must also be performed unless an employer already has data on employee exposures collected during similar operations. LEAs have virtually ignored the exposure monitoring requirements: Only four respondents in the entire survey reported ever having worn an air sampling pump.

CONCLUSION

The survey responses of school custodians and maintenance workers clearly indicate that LEAs are not adequately preventing asbestos exposure to workers and students. This study used notification of the locations of ACM, availability of respirators and other equipment, training, and work practices required in AHERA as indicators of the effectiveness of schools' asbestos management programs. Based on all criteria used, either a majority or substantial portion of LEAs have not complied with AHERA by satisfactorily implementing their management plans.

AHERA did not require LEAs to remove all asbestos in schools. As a result, there has been a heavy reliance upon managing ACM in place as the response action chosen to prevent asbestos exposure. While this is legal, certain procedures must be followed to control disturbance of asbestos. Based upon the indicators used in this study, however, LEAs are doing a poor job of managing asbestos in place. The failure of LEAs to properly manage asbestos has therefore subjected workers and students to unreasonable levels of asbestos exposure, and continues to do so. This poor record of compliance is probably explained by the following:

1. Costs: Asbestos management is often a relatively expensive activity for LEAs. Removal and other abatement costs can be prohibitive. Therefore, most schools have had to establish priorities for areas requiring abatement actions versus those areas where managing ACM in place through an operations and maintenance program is permitted. However, properly managing material in place is also costly, and these expenses often compete with other needs of school district budgets. Training, respirators, equipment, storage, and disposal of ACM are examples of items which can strain budgets. In all cases where compliance has been a significant problem, local school authorities have cited a shortage of funds as the main reason that they have not or cannot implement particular AHERA requirements.

Unfortunately, Congress did not authorize sufficient funds to help schools address asbestos problems as required in AHERA. Schools have had varying degrees of success in changing existing funds to asbestos management or finding new sources of revenue. This has not been easy in a climate when schools have come under increasing public pressure to improve their performance in providing quality education.

2. LEA Awareness and Attitudes Concerning AHERA and Asbestos: Local school authorities often lack an understanding of AHERA and fail to appreciate the risks of asbestos. AHERA allows LEAs to use their own employees to perform asbestos management responsibilities. However, these individuals have not always received sufficient training to carry out these functions. For some school officials, AHERA implementation has been added to their other full time duties. They have neither the time or knowledge to ensure compliance on behalf of the LEA.

School officials have also failed to appreciate the health risks of asbestos exposure. The lack of knowledge contributes to a casual attitude about ensuring that the health protective measures of AHERA are followed. For most LEAs, AHERA represents a sharp departure from traditional work practices involving ACM. Complacency is reinforced by the long latency period of asbestos-related diseases. Inappropriate attitudes of management toward asbestos have a direct bearing on the attitude and behavior of all school employees. Unless building service workers receive effective training, have appropriate equipment, and detect a sense of urgency concerning asbestos management, it is unlikely that custodians and maintenance employees will have a sufficient appreciation of asbestos dangers and the need to carefully follow procedures which are necessary to protect themselves and others.

3. Enforcement: EPA is responsible for enforcement of AHERA unless EPA has granted a waiver to a state to take over enforcement functions. AHERA granted EPA many enforcement tools. The law allows EPA to inspect schools and impose substantial fines and other penalties. The Agency may assess criminal penalties for willful violations, and also obtain injunctive relief to respond to hazards which pose an imminent danger to human health.

Unfortunately, the enforcement resources of EPA are limited, and EPA has not demonstrated its will to vigorously enforce AHERA. EPA has yet to make examples of schools for failure to comply. LEAs are highly unlikely to be inspected by EPA. It does not appear that the threat of EPA enforcement action has had a substantial deterrent effect on LEAs who violate AHERA.

Implications for Public and Commercial Buildings

The presence of unidentified ACM and uncontrolled disturbance of ACM poses an unreasonable health risk to anyone exposed. AHEAR is a necessary law that was passed to protect school populations from deadly asbestos exposure. Although AHERA could be improved in areas such as training and work practice requirements, the logic and procedures of AHERA are sound for preventing asbestos exposure. The same approach of identifying ACM and determining appropriate responses to the presence of ACM is necessary in public and commercial buildings. According to EPA estimates, hundreds of thousands of public and commercial buildings contain asbestos. Asbestos is no less of a hazard to workers and occupants of non-school buildings. All asbestos fibers damage human tissue, regardless of the type of building.

AFSCME Summary and Recommendations

The study, "Report Card on Asbestos: Ohio Schools Get Failing Marks", investigated whether primary and secondary schools in Ohio have complied with a number of critical provisions required by the Asbestos Hazard Emergency Response Act (AHERA). Unfortunately, schools across Ohio have done a very poor job of implementing AHERA's requirements.

Although there have been problems with compliance, it would be wrong, dead wrong, to conclude that AHERA was a bad idea. AHERA is an important law which is necessary to protect all school occupants from deadly asbestos. Custodians, maintenance staff and other building service workers are at great risk because their activities frequently result in peak exposures where asbestos has not been identified and appropriate precautions have not been taken. AHERA was enacted because asbestos in buildings is an unreasonable risk unless the locations of asbestos are identified and appropriate actions are taken where asbestos is found.

The findings in this report clearly show that Ohio Local Education Authorities (LEAs) have not implemented basic AHERA requirements necessary to prevent workers, students, or other occupants from being exposed to asbestos. While AHERA did not mandate that schools remove all asbestos-containing materials (ACM) from the schools, the law does require that schools follow certain procedures to properly manage asbestos in place. This study has discovered that schools have failed to implement a number of measures essential to properly control asbestos. In the absence of such measures, it must be assumed that workers and students have and continue to be exposed to asbestos.

A number of factors were used as indicators to evaluate the schools' performance. The investigation focused on the extent to which schools had properly notified workers of the locations of asbestos, issued respirators and other equipment, provided training, and were following required work practices. School custodians and maintenance workers provided information regarding asbestos management practices in their schools. Poor compliance with AHERA was reported in the following areas:

Only 68 percent of custodians and maintenance staff have been informed of the locations of asbestos.

Only 53 percent of employees reported that required warning signs have been posted in their schools.

Only 30 percent of employees engaged in activities involving small amounts of asbestos have had proper training and have been issued a respirator.

Only 13 percent of employees who are engaged in activities involving more than small amounts of asbestos have had proper training and have been issued a respirator.

Only 32 percent of workers who have been issued respirators have their own respirators and have received fit testing and required medical exams.

Only 20 percent of schools have HEPA-vacuums available for clean up and repair of asbestos.

Additional asbestos management procedures were not adequately followed. This included a failure to perform required special cleanings to decontaminate areas of previously released asbestos fibers. Building service workers were also expected to engage in "prohibited activities" where asbestos is involved.

The following recommendations are based upon the findings of this study and other efforts to ensure proper implementation of AHERA nationwide:

1. The Federal Government should increase funding to the schools for asbestos-related activities.—Federal appropriations have not been sufficient to address asbestos issues in schools. Asbestos removal, other abatement actions, or properly managing material in place can be a financial burden on schools. In all cases where compliance has been a significant problem, local school authorities have cited a shortage of funds as the primary reason that they have not or cannot implement particular AHERA requirements.

2. All levels of school staff engaged in decisions and actions involving asbestos should receive additional and improved training.—Poor compliance with AHERA has also resulted because school officials have failed to appreciate the risks of asbestos exposure. Their lack of knowledge contributes to casual attitudes about asbestos and a continuation of traditionally dangerous work practices. Building service workers have not received the training they need to protect themselves and others from asbestos exposure.

3. The Environmental Protection Agency (EPA) should be given additional funds, or direct more of its existing resources for enforcement of asbestos regulations.—The lack of effective enforcement has also contributed to the problem. EPA has the responsibility to enforce AHERA and other asbestos regulations, but does not have the resources, nor apparently the will to aggressively meet its enforcement obligations.

4. A regulation should be issued which requires public and commercial building owners to inspect their buildings for asbestos and implement appropriate response actions where asbestos is found.—AHERA is the type of model which is needed for other buildings. The AHERA approach of identifying ACM and determining appropriate responses to the presence of ACM is necessary in public and commercial buildings. According to EPA estimates, hundreds of thousands of public and commercial buildings contain asbestos. Asbestos is no less of a hazard to workers and occupants in non-school buildings. All asbestos fibers damage human tissue, regardless of the type of building. If asbestos management in schools is this poor despite relatively stringent regulation, the situation is almost certain to be more dangerous in public and commercial buildings where there are no equivalent laws.

AFSCME also calls upon the State of Ohio to increase its efforts to ensure compliance with AHERA by taking the following actions:

1. The State of Ohio should provide grants and loans for school districts to supplement local and federal resources.

2. The State of Ohio should provide training and technical assistance for school personnel to help them meet AHERA requirements.

3. The State of Ohio should coordinate enforcement activities with Federal EPA.

4. The State of Ohio should provide asbestos medical examinations for school personnel who have been exposed to asbestos. It is important to identify those who have been adversely affected by asbestos so they may receive medical and legal assistance.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RHODES) and to include extraneous matter:)

Mr. BEREUTER.
Mr. BROOMFIELD, in two instances.
Mr. WEBER.
Mr. WYLIE.
Mr. LEWIS of California, in two instances.
Mr. FISH.
Mr. MCEWEN.
Mr. GINGRICH.
Mr. GILMAN.
Ms. ROS-LEHTINEN.
Mr. LEWIS of Florida.
Mr. MACHTLEY, in three instances.
Mr. COX.
Mr. JAMES, in two instances.
Mr. CONTE, in two instances.
Mr. LAGOMARSINO, in two instances.
Mr. GEKAS, in three instances.

(The following Members (at the request of Mr. GAYDOS) and to include extraneous matter:)

Mr. ANDERSON, in 10 instances.
Mr. GONZALEZ, in 10 instances.
Mr. BROWN of California, in 10 instances.
Mr. ANNUNZIO, in six instances.
Mrs. LLOYD, in five instances.
Mr. HAMILTON, in 10 instances.
Mr. DE LA GARZA, in 10 instances.
Mr. ROE, in two instances.
Mr. NELSON of Florida.
Mr. CARDIN.
Mr. TRAXLER.
Mr. DE LUGO.
Mr. PEASE.
Mr. SOLARZ, in three instances.
Mr. EDWARDS of California.
Mr. CLEMENT, in three instances.
Mr. FASCELL.
Mr. LIPINSKI.
Mr. MRAZEK, in two instances.
Mr. TORRES.
Mr. BROOKS.
Mr. FAZIO, in two instances.
Mr. ACKERMAN.
Mr. APPLEGATE.
Mr. MCMILLEN of Maryland.
Mr. LEVINE of California.
Mr. GRAY.
Mr. LANTOS.
Mr. RICHARDSON.
Mr. MARKEY.
Mr. MATSUI, in four instances.
Mr. MORRISON of Connecticut.
Mr. YATRON.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 644. An act to amend the Wild and Scenic Rivers Act by designating segments of the East Fork of the Jemez and Pecos Rivers in New Mexico as Components of the National Wild and Scenic Rivers System; and

H.R. 4404. An act making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled Joint Resolution of the Senate of the following title:

S.J. Res. 267. Joint resolution to authorize and request the President to designate May 1990 as "National Physical Fitness and Sports Month."

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

On May 25, 1990:

H.R. 644. An act to amend the Wild Scenic Rivers Act by designating segments of the East Fork of the Jemez and Pecos Rivers in New Mexico as Components of the National Wild and Scenic Rivers System; and

H.R. 4404. An act making dire emergency supplemental appropriations for disaster assistance, for food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes.

ADJOURNMENT

Mr. GAYDOS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 14 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 6, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3258. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the act of August 30, 1890, and the act of March 4, 1907, to eliminate the provision for permanent annual appropriations to support land-grant university instruction in the food and agricultural sciences; to the Committee on Agriculture.

3259. A letter from the Comptroller General, the General Accounting Office, transmitting a review of the President's fourth special impoundment message for fiscal year 1990, pursuant to 2 U.S.C. 681# (H. Doc. No. 101-199); to the Committee on Appropriations and ordered to be printed.

3260. A letter from the Comptroller General, the General Accounting Office, transmitting a review of the President's fifth special impoundment message for fiscal year 1990, pursuant to 2 U.S.C. 681# (H. Doc. No. 101-200); to the Committee on Appropriations and ordered to be printed.

3261. A letter from the Secretary of Defense, transmitting notification that the Department of the Air Force intends to obligate $19.4 million for R&D, and $89 million of expired/lapsed appropriations for the ALQ-161A "core" program, pursuant to section 9071 of the Department of Defense Appropriations Act of 1990; to the Committee on Appropriations.

3262. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles (Transmittal No. 90-36), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3263. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles (Transmittal No. 90-35), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3264. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Portugal for defense articles (Transmittal No. 90-38), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3265. A letter from the Farmers Home Administration, transmitting the second U.S. Department of Agriculture, Farmers Home Administration, annual report on the Housing Preservation Grant program, fiscal year 1989; to the Committee on Banking, Finance and Urban Affairs.

3266. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting the first annual report on the subject of retail fees and services of depository institutions; to the Committee on Banking, Finance and Urban Affairs.

3267. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-204, "District of Columbia Real Property Tax Reclassification Amendment Temporary Act of 1990," pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3268. A letter from the Secretary of Education, transmitting a copy of final regulations of the Intergovernmental Review of Education Programs, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3269. A letter from the Secretary of Education, transmitting final regulations—Chapter 1—Migrant Education Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3270. A letter from the President, College Construction Loan Insurance Association, transmitting the second annual report on the operations and activities of the corporation, pursuant to 20 U.S.C. 1132F-9(b); to the Committee on Education and Labor.

3271. A letter from the Assistant General Counsel for International Affairs, Department of Energy, transmitting a notice of meeting relating to the International Energy Program, issued in Washington, DC, May 10, 1990; to the Committee on Energy and Commerce.

3272. A letter from the Assistant General Counsel for International Affairs, Department of Energy, transmitting a notice of meeting related to the International Energy Program, issued in Washington, DC, May 16, 1990; to the Committee on Energy and Commerce.

3273. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Portugal for defense articles and services (Transmittal No. 90-38), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3274. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (transmittal No. 90-35), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3275. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-36), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2376. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-37), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3277. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed agreement for the provision of defense articles and services for Indonesia (Transmittal No. MC-16-90), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3278. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Roger Gran Harrison, of Colorado, to be Ambassador to the Hashemite Kingdom of Jordon, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3279. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3280. A letter from the Administrator, Agency for International Development, transmitting the fifth report on the Child Survival Program of the Agency; to the Committee on Foreign Affairs.

3281. A letter from the Department of Agriculture, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3282. A letter from the Department of Education, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3283. A letter from the Department of Energy, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

3284. A letter from the Department of Health and Human Services, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

3285. A letter from the Department of Housing and Urban Development, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

3286. A letter from the Department of Labor, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3287. A letter from the Department of Transportation, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3288. A letter from the ACTION Agency, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3289. A letter from the Corporation for Public Broadcasting, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3290. A letter from the Department of the Treasury, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990, pursuant to Pub. L. 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

3291. A letter from the Director, Policy Development, Department of Justice, transmitting a report of its activities during calendar year 1989 under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3292. A letter from the Department of Justice, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

3293. A letter from the Department of Veterans Affairs, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31,

1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526, 2640); to the Committee on Government Operations.

3294. A letter from the Environmental Protection Agency, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3295. A letter from the General Services Administration, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3296. A letter from the Government Printing Office, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3297. A letter from the National Railroad Passenger Corporation, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3298. A letter from the Panama Canal Commission, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3299. A letter from the Pension Benefit Guaranty Corporation, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3300. A letter from the Secretary of Education, transmitting a report of its activities during calendar year 1989 under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3301. A letter from the U.S. Information Agency, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3302. A letter from the U.S. International Trade Commission, transmitting the semiannual report of the inspector general for the period October, 1989, through March 31, 1990; to the Committee on Government Operations.

3303. A letter from the U.S. Peace Corps, transmitting the semiannual report of the inspector general for the period October, 1989, through March 31, 1990; to the Committee on Government Operations.

3304. A letter from the Chairman, Federal Election Commission, transmitting the Commission's annual report for 1989, pursuant to 2 U.S.C. 438(a)(9); to the Committee on House administration.

3305. A letter from the Public Printer, Government Printing Office, transmitting a corrected letter concerning the inspector general dated May 23, 1990, pursuant to 44 U.S.C. 3903 (102 Stat. 2531); to the Committee on House Administration.

3306. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3307. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3308. A letter from the Secretary of Commerce, transmitting the annual report on the effect of process patent amendments on domestic industries, pursuant to 35 U.S.C. 271 nt.; to the Committee on the Judiciary.

3309. A letter from the Director, Administrative Office of the United States Courts, transmitting a draft of proposed legislation to amend title 28, United States Code, to make available sums in the Department of Justice asset forfeiture fund for reimbursement of certain expenses incurred by the judicial branch in connection with adjudication of forfeitures and furnishing of home detention services and equipment; to the Committee on the Judiciary.

3310. A letter from the Secretary of Commerce; transmitting a report on the impact of increased aeronautical and nautical chart prices resulting from Public Law 99-272 on public sales and navigation safety, pursuant to 44 U.S.C. 1307(a)(2)(A); to the Committee on Merchant Marine and Fisheries.

2211. A letter from the Chairman, Merit Systems Protection Board; transmitting a report entitled "Why Are Employees Leaving the Federal Government? Results of an Exit Survey," pursuant to 5 U.S.C. 1205(a)(3); to the Committee on Post Office and Civil Service.

3312. A letter from the Secretary of Transportation, transmitting the 10th annual report on collision avoidance systems [TCAS], pursuant to Public Law 100-223, section 203(b) (101 Stat. 1518); to the Committee on Public Works and Transportation.

3313. A letter from the Acting Administrator, General Services Administration, transmitting a copy of a lease prospectus for a Federal building-courthouse in Shreveport, LA, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3314. A letter from the Acting Administrator, General Services Administration, transmitting an informational copy of a lease prospectus which proposes leasing space in Buffalo, NY, for the Internal Revenue Service, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3315. A letter from the Administrator, Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act; to the Committee on Small Business.

3316. A communication from the President of the United States, transmitting notification of his determination that continuation of the waiver in effect for the Czech and Slovak Federal Republic will substantially promote the objectives of section 402 of the Trade Act of 1974, pursuant to 19 U.S.C. 2432 (c), (d) (H. Doc. No. 101-198); to the Committee on Ways and Means and ordered to be printed.

3317. A letter from the Secretary of Agriculture, transmitting the third quarterly country and commodity allocation table showing current programming plans for food assistance, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

3318. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to authorize appropriations for exploration, prospecting, conservation, development, use, and operation of the naval petroleum reserves for fiscal year 1991, pursuant to 31 U.S.C. 1110; jointly, to the Committees on Armed Services and Energy and Commerce.

3319. A letter from the Administrator of the Environmental Protection Agency, transmitting a report on ocean disposal monitoring programs, pursuant to Public Law 100-688, section 1002 (102 Stat. 4149); jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

3320. A letter from the Acting Assistant Attorney General, transmitting a report on the triagency plan for the Machine Readable Document Border Security System, pursuant to Public Law 100-690, section 4604(a)(2); jointly, to the Committees on Ways and Means, the Judiciary, and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on May 24, 1990, the following reports were filed on May 31, 1990]

Mr. BROOKS: Committee on the Judiciary. H.R. 3897. A bill to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes; with an amendment (Rept. 101-500). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4314. A bill to implement the Inter-American Convention on International Commercial Arbitration; with an amendment (Rept. 101-501). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4525. A bill to amend the Ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government Ethics (Rept. 101-502, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 4757. A bill to provide permanent authority for the United States Supreme Court Police; with an amendment (Rept. 101-503). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. House Joint Resolution 520. Resolution granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact; with amendments (Rept. 101-504). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4785. A bill to amend the Public Health Service Act to establish a program of grants to provide preventive health services with respect to acquired immune deficiency syndrome, and for other purposes; with an amendment (Rept. 101-511). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on May 24, 1990, the following reports were filed on June 1, 1990]

Mr. BROOKS: Committee on the Judiciary. H.R. 1620. A bill to amend provisions of title 28, United States Code, relating to judicial discipline, and to establish a commission

to study the problems and issues involved in the appointment and tenure (including discipline and removal) of article III judges; with an amendment (Rept. 101-512). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2497. A bill to authorize and encourage Federal agencies to use mediation, conciliation, arbitration, and other techniques for the prompt and informal resolution of disputes, and for other purposes; with an amendment (Rept. 101-513). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2690. A bill to amend title 17, United States Code, to provide certain rights of attribution and integrity to authors of works of visual art; with an amendment (Rept. 101-514). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3406. A bill to amend title 28, United States Code, to provide for Federal jurisdiction of certain multiparty, multiforum civil actions; with an amendment (Rept. 101-515). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4611. A bill to amend the National Cooperative Research Act of 1984 to reduce the liability for joint ventures entered into for the purpose of producing a product, process, or service (Rept. 101-516). Referred to the Committee of the Whole House on the State of the Union.

[Submitted June 5, 1990]

Mr. HAWKINS: Committee on Education and Labor. S. 1999. An act to amend the Higher Education Act of 1965 to clarify the administrative procedures of the National Commission on Responsibilities for Financing Postsecondary Education; with amendments (Rept. No. 101-517). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 1454. A bill to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions; with an amendment (Rept. 101-518). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4115. A bill to authorize appropriations for certain ocean and coastal programs of the National Oceanic and Atmospheric Administration; with an amendment (Rept. 101-519). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 668. A bill to establish a mechanism to provide funding for nonprofit organizations for merchant marine memorials; with an amendment (Rept. 101-520). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 4887. A bill to amend the Federal Aviation Act of 1958 relating to research for prevention of defects, failures, and malfunctions of aircraft, aircraft engines, propellers, and appliances, which could result in a catastrophic failure of an aircraft; with amendments (Rept. 101-521). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina. Committee on Merchant Marine and Fisheries. H.R. 3468. A bill to amend the act entitled "An Act to extend the Wetlands Loan Act," to provide for the expansion of the Stewart B. McKinney National Wildlife Refuge; with amendments (Rept. 101-522). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina. Committee on Merchant Marine and Fisheries. H.R. 4609. A bill to amend the Coast Guard Authorization Act of 1989 (Public Law 101-225) (Rept. 101-523). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL. Committee on Energy and Commerce. H.R. 3657. A bill to amend the Securities Exchange Act of 1934 to provide additional authorities to the Securities and Exchange Commission to prevent disruptions to the Nation's securities markets; with an amendment (Rept. 101-524). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL. Committee on Interior and Insular Affairs. H.R. 2174. A bill to establish a commission to prepare a report on the feasibility of creating a Mississippi River National Heritage Corridor; with amendments (Rept. 101-525). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on May 24, 1990, the following reports were filed on May 31, 1990]

Mr. BROOKS: Committee on the Judiciary. H.R. 1862. A bill for the relief of Merrill L. Johnson-Lannen (Rept. 101-505). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 3298. A bill for the relief of Benjamin H. Fonorow (Rept. 101-506). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 3642. A bill for the relief of Izzydor Shever (Rept. 101-507). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 3791. A bill for the relief of Beulah C. Shifflett (Rept. 101-508). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 4327. A bill for the relief of Eunice E. Choate (Rept. 101-509). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 4378. A bill for the relief of Rebecca T. Zagraniski (Rept. 101-510). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARNARD:

H.R. 4954. A bill to amend the Expedited Funds Availability Act; to the Committee on Banking, Finance and Urban Affairs.

H.R. 4955. A bill to amend the Public Health Service Act to provide grants for the expansion or renovation of biomedical and behavioral research facilities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BROOKS:

H.R. 4956. A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V-X of title 49, United States Code, "Transportation," and to make other technical improvements in the Code; to the Committee on the Judiciary.

By Mr. DE LUGO (for himself, Mr. GOODLING, and Mr. FORD of Michigan):

H.R. 4957. A bill to amend the Elementary and Secondary Education Act of 1965 to include certain territories of the United States in the Even Start Program; to the Committee on Education and Labor.

By Mr. ACKERMAN:

H.R. 4958. A bill to amend title 5, United States Code, to reform the program under which health benefits are provided to Federal employees; to the Committee on Post Office and Civil Service.

By Mr. GEKAS:

H.R. 4959. A bill to amend title 11, United States Code, with respect to the effect of certain bankruptcy proceedings on the duty to make restitution; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H.R. 4960. A bill to amend the Internal Revenue Code of 1986 to exclude small transactions and to make certain clarifications relating to broker reporting requirements; to the Committee on Ways and Means.

By Mr. JAMES:

H.R. 4961. A bill to authorize additional appropriations for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center; to the Committee on Education and Labor.

By Mr. LEHMAN of California (for himself, Mr. HILER, Mr. HUBBARD, Mr. BARNARD, Ms. KAPTUR, Mr. ERDREICH, Mr. PRICE, Mr. RIDGE, Mr. SAXTON, Ms. OAKAR, Mr. VENTO, Mr. FRANK, Mr. KLECZKA, Mrs. PATTERSON, Mr. MCDERMOTT, Mr. HOAGLAND, Mr. NEAL of Massachusetts, Mr. SHUMWAY, Mr. BEREUTER, Mrs. SAIKI, Mr. BAKER, Mr. PAXON, Mr. BATES, Mr. BERMAN, Mr. BOSCO, Mrs. BOXER, Mr. DELLUMS, Mr. DIXON, Mr. FAZIO, Mr. HAWKINS, Mr. LEWIS of California, Mr. AUCOIN, Mr. BLILEY, Mr. BRYANT, Mrs. BYRON, Mr. CAMPBELL of Colorado, Mr. FASCELL, Mr. FOGLIETTA, Mr. GILMAN, Mr. HAMILTON, Mr. HAYES of Louisiana, Mr. HORTON, Mr. KOLBE, Mr. LANCASTER, Mr. MARTIN of New York, Mr. MCMILLEN of Maryland, Mr. OBERSTAR, Mr. PAYNE of New Jersey, Mr. PERKINS, Mr. QUILLEN, Mr. RAHALL, Mr. RANGEL, Mr. ROE, Mr. SABO, Mr. SCHUETTE, Mr. STALLINGS, Mr. TOWNS, Mr. UDALL, Mr. VALENTINE, Mr. VANDER JAGT, and Mr. WILSON):

H.R. 4962. A bill to authorize the minting of commemorative coins to support the training of American athletes participating

in the 1992 Olympic Games; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LIGHTFOOT:

H.R. 4963. A bill to amend the Food Security Act of 1985 to establish a bid-back program for lands enrolled in the conservation reserve program; to the Committee on Agriculture.

By Mr. McEWEN:

H.R. 4964. A bill to amend the Internal Revenue Code of 1986 to repeal the taxation of Social Security and tier 1 railroad retirement benefits; to the Committee on Ways and Means.

By Mr. MACHTLEY (for himself, Mr. FRANK, Ms. SCHNEIDER, Mr. HANSEN, Mr. MRAZEK, Mr. LEHMAN of Florida, Mr. SENSENBRENNER, Mr. DOUGLAS, and Mr. WHITTAKER):

H.R. 4965. A bill to repeal provisions of law concerning price support for, and marketing of, tobacco, and for other purposes; to the Committee on Agriculture.

By Mr. MINETA:

H.R. 4966. A bill to amend the Small Business Act to increase to 10 years the maximum term of Federal disaster loans to business concerns which are able to obtain credit from non-Federal sources, and for other purposes; to the Committee on Small Business.

By Mr. WISE:

H.R. 4967. A bill to amend the Black Lung Benefits Act to provide that persons who file claims under that act may enter into contingency fee arrangements with attorneys, and for other purposes; to the Committee on Education and Labor.

By Mrs. BOGGS:

H. Con. Res. 338. Concurrent resolution authorizing the printing of the proceedings of the bicentennial research conference entitled "Understanding Congress"; to the Committee on House Administration.

By Mr. MARKEY:

H. Res. 405. Resolution to provide for the correction of the engrossment of H.R. 3656; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

405. By the SPEAKER: Memorial of the Legislature of the Commonwealth of Hawaii, relative to agricultural development in Hawaii; to the Committee on Agriculture.

406. Also, memorial of the Senate of the State of Hawaii, relative to a nationwide system of labeling uniformity in plastic material; to the Committee on Energy and Commerce.

407. Also, memorial of the Senate of the State of Hawaii, relative to a nationwide system of labeling unformity in plastic material; to the Committee on Energy and Commerce.

408. Also, memorial of the Assembly of the State of California, relative to Soviet Jews; to the Committee on Foreign Affairs.

409. Also, memorial of the Legislature of the State of Colorado, relative to POW/MIA's; to the Committee on Government Operations.

410. Also, memorial of the General Assembly of the State of Illinois, relative to agricultural industrial bonds; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MARKEY introduced a bill (H.R. 4968) for the relief of Michael Houtmeyers; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 92: Mr. MACHTLEY.

H.R. 173: Mr. ECKART, Mr. BUSTAMANTE, Mr. RITTER, and Mr. INHOFE.

H.R. 220: Mr. JONTZ and Mr. LEWIS of Georgia.

H.R. 458: Mr. PARKER.

H.R. 467: Mrs. BENTLEY.

H.R. 517: Mr. STANGELAND.

H.R. 1180: Mr. PALLONE.

H.R. 1292: Mr. HENRY, Mr. COSTELLO, and Mr. CLARKE.

H.R. 1387: Mr. WALSH.

H.R. 1400: Mr. BUNNING.

H.R. 1784: Mr. ROE.

H.R. 2031: Mr. BYRON.

H.R. 2041: Mr. COBLE.

H.R. 2268: Mr. THOMAS of Georgia.

H.R. 2353: Mr. SHUMWAY.

H.R. 2857: Mr. RINALDO.

H.R. 2870: Mr. BONIOR, Mr. COYNE, Mr. VANDER JAGT, and Ms. MOLINARI.

H.R. 2902: Mr. WELDON.

H.R. 3004: Mrs. MARTIN of Illinois and Mr. VALENTINE.

H.R. 3037: Mr. SLATTERY.

H.R. 3120: Mr. RAVENEL, Mr. ROE, and Mr. LANCASTER.

H.R. 3158: Mr. DENNY SMITH, Mr. TAUKE, Mr. INHOFE, Mr. BEREUTER, Ms. OAKAR, and Mr. WALSH.

H.R. 3187: Mr. SCHUETTE.

H.R. 3349: Mr. EARLY, Mr. CONTE, Mr. PACKARD, Mrs. UNSOELD, and Mr. DYMALLY.

H.R. 3498: Mr. LANCASTER.

H.R. 3603: Mr. GUARINI, Mr. SIKORSKI, Mr. PORTER, Mr. NEAL of Massachusetts, Mr. SMITH of New Jersey, Mr. KOSTMAYER, Mr. QUILLEN, and Mr. PURSELL.

H.R. 3732: Mr. LOWERY of California, Mr. NOWAK, Mr. SAWYER, Mr. NELSON of Florida, Mr. FAZIO, Mr. WYDEN, Mr. CAMPBELL of California, and Mr. FORD of Tennessee.

H.R. 3735: Mr. SCHUETTE.

H.R. 3859: Mr. BONIOR, Mr. DAVIS, Mr. FEIGHAN, Mr. MCDERMOTT, Mr. KENNEDY, Mr. DICKS, Mr. MILLER of Ohio, Mr. FLAKE, Mr. SOLARZ, and Mr. HUCKABY.

H.R. 3914: Mr. NAGLE, Mr. VALENTINE, Mr. PARKER, Mr. ROHRABACHER, Mr. SCHUETTE, Mr. MILLER of Ohio, Mr. DOWNEY, and Mr. MCEWEN.

H.R. 4003: Mr. SAVAGE and Mr. GONZALEZ.

H.R. 4054: Mr. HYDE and Mr. BEREUTER.

H.R. 4121: Mr. GEKAS, Mr. WALSH, and Mr. VALENTINE.

H.R. 4123: Mr. SISISKY, Mr. LANCASTER, and Mr. HEFLEY.

H.R. 4147: Mr. LEWIS of Georgia and Mr. DIXON.

H.R. 4184: Ms. ROS-LEHTINEN.

H.R. 4195: Mr. GINGRICH, Mr. KASICH, Mr. LAGOMARSINO, Mr. ROHRABACHER, and Mr. WILSON.

H.R. 4266: Mr. DYSON.

H.R. 4269: Mrs. MARTIN of Illinois, Mr. OWENS of Utah, and Mr. HOAGLAND.

H.R. 4300: Mr. LEWIS of Georgia, Mr. SCHUMER, and Mrs. KENNELLY.

H.R. 4329: Mr. COX.

H.R. 4429: Mr. RHODES, Mr. ROBERT F. SMITH, Mr. CRAIG, and Mr. HERGER.

H.R. 4499: Mr. PASHAYAN, Mr. DANNEMEYER, Mr. WILSON, Mr. HYDE, Mr. PACKARD, Mr. MADIGAN, Mr. RANGEL, Mr. GALLEGLY, Mr. SHUMWAY, and Mr. LAGOMARSINO.

H.R. 4508: Mr. EMERSON, Mr. SKEEN, Mr. BOEHLERT, Mrs. VUCANOVICH, Mr. BALLENGER, Mr. CAMPBELL of California, and Mr. COX.

H.R. 4520: Mr. GLICKMAN.

H.R. 4551: Mr. TOWNS.

H.R. 4552: Mr. ESPY, Mr. FLAKE, and Mr. MCDERMOTT.

H.R. 4570: Mr. TOWNS, Mr. FOGLIETTA, Mr. BRUCE, Mr. MACHTLEY, Mr. HORTON, Mr. TORRES, and Mrs. MEYERS of Kansas.

H.R. 4591: Mr. SCHEUER, Mr. LANCASTER, Mr. RANGEL, Mr. LIPINSKI, Mrs. BYRON, Mr. KENNEDY, Mr. CLEMENT, and Mr. FAZIO.

H.R. 4640: Mr. DENNY SMITH, Mr. WALKER, and Mr. GOODLING.

H.R. 4683: Mr. GEREN, Mr. CAMPBELL of California, Mr. MCCOLLUM, Mr. TAUKE, Ms. ROS-LEHTINEN, Mr. KOLBE, and Mr. MARLENEE.

H.R. 4701: Mr. FASCELL.

H.R. 4715: Mr. SABO, Mr. WOLPE, Mr. GLICKMAN, Mr. ECKART, and Mr. HUGHES.

H.R. 4720: Mr. BATES, Mr. FOGLIETTA, and Mr. ECKART.

H.R. 4763: Mr. ROE, Mrs. LOWEY of New York, and Mr. DYSON.

H.R. 4783: Mr. DORGAN of North Dakota and Mr. ACKERMAN.

H.R. 4818: Mr. HARRIS, Mr. COURTER, Mr. ROE, and Mr. LEVINE of California.

H.R. 4931: Mr. LANCASTER, Mr. PORTER, Mr. FAUNTROY, and Mr. KANJORSKI.

H.R. 4939: Mrs. SCHROEDER, Mr. STARK, Mr. MCMILLEN of Maryland, and Mr. HALL of Ohio.

H.J. Res. 156: Mr. PACKARD, Mr. KYL, and Mr. LEVIN of Michigan.

H.J. Res. 214: Mr. COURTER, Mr. PARRIS, Mr. HAMMERSCHMIDT, Mr. BARTLETT, Mr. HYDE, Mr. DUNCAN, Mr. LIGHTFOOT, Mr. MARTIN of New York, Ms. SNOWE, Mr. SUNDQUIST, Mr. MCGRATH, Mr. DOUGLAS, Mr. HILER, Mr. LENT, Mr. FEIGHAN, Mr. REGULA, Mr. DWYER of New Jersey, Mr. HAWKINS, and Ms. PELOSI.

H.J. Res. 374: Mrs. KENNELLY.

H.J. Res. 459: Mr. CHANDLER, Mr. LEVINE of California, Mr. DANNEMEYER, and Mrs. VUCANOVICH.

H.J. Res. 497: Mr. HERGER, Mr. STOKES, Mr. TORRES, Mr. WAXMAN, Mr. SARPALIUS, and Mr. DOUGLAS.

H.J. Res. 509: Mr. SMITH of New Jersey, Mr. MCDERMOTT, Mr. BLILEY, Mr. LEWIS of Florida, Mrs. ROUKEMA, Mr. BROOMFIELD, Mr. ROBERTS, Mr. WOLF, Ms. LONG, Mr. AUCOIN, Mr. HAMILTON, Mr. DWYER of New Jersey, Ms. MOLINARI, Mrs. MARTIN of Illinois, and Mr. TRAXLER.

H.J. Res. 513: Mr. CALLAHAN, Mr. FRENZEL, Mr. BROOMFIELD, Mr. PAYNE of New Jersey, Mr. FIELDS, Mr. LEVIN of Michigan, Mr. EMERSON, Mr. BOEHLERT, Mr. MCEWEN, Mr. CROCKETT, Mr. BUNNING, Mr. DORGAN of North Dakota, Mr. LEHMAN of Florida, Mr. CARDIN, Mr. DYSON, Mr. COX, Mr. FLIPPO, Mr. WOLPE, Mr. SPRATT, Mr. BROWDER, Mrs. BENTLEY, Mr. MCMILLEN of Maryland, and Mr. FORD of Michigan.

H.J. Res. 521: Mr. COBLE and Mr. BROWN of California.

H.J. Res. 523: Mr. UDALL, Mr. BROOKS, Mr. STANGELAND, Mr. CARDIN, and Mr. GILMAN.

H.J. Res. 534: Mr. CONYERS.

H.J. Res. 543: Mr. HAYES of Louisiana, Mrs. BENTLEY, Mr. DICKS, Mr. FOGLIETTA, Mr. LEHMAN of Florida, Mr. GUNDERSON, and Mr. ORTIZ.

H.J. Res. 554: Mr. MCDERMOTT, Mr. KILDEE, Mr. LANCASTER, Mr. STAGGERS, Mr. BROOMFIELD, Mr. THOMAS of Georgia, Mr. WOLPE, Mr. CLEMENT, Mr. BORSKI, Mr. BUSTAMANTE, Mr. CLARKE, Mr. DE LUGO, Mr. DICKS, Mr. ESPY, Mr. FALEOMAVAEGA, Mr. FASCELL, Mr. FUSTER, Mr. GUNDERSON, Mr. HARRIS, and Mr. CONTE.

H.J. Res. 561: Mr. WALSH, Mr. HORTON, Mr. FAZIO, Mr. SMITH of Florida, Mr. TOWNS, and Mr. MARTINEZ.

H.J. Res. 562: Mr. MONTGOMERY.

H.J. Res. 571: Mr. SKELTON, Mr. HUCKABY, Mr. JONTZ, Mr. MCDERMOTT, Mr. KOLTER, Mr. HUGHES, Mr. FAZIO, and Mr. LANCASTER.

H. Con. Res. 45: Mr. ARCHER.

H. Con. Res. 66: Mr. DYMALLY.

H. Con. Res. 265: Mr. TRAFICANT.

H. Con. Res. 287: Mr. SLATTERY, Mr. COX, Mr. TOWNS, Mr. MORRISON of Connecticut, Mr. GALLO, Mr. SHAW, Mr. WYLIE, Mr. FORD of Michigan, Mr. MCDERMOTT, and Mr. SHAYS.

H. Con. Res. 300: Ms. OAKAR, Mr. BERMAN, Mr. FLAKE, Mr. HEFNER, Mr. BROWN of California, Mr. BOSCO, Mr. LEVINE of California, Mr. STENHOLM, Mr. BENNETT, Mr. ALEXANDER, Mr. ROYBAL, Mr. DYMALLY, Mr. CHAPMAN, Mr. OBERSTAR, Mr. ANDERSON, Mrs. KENNELLY, Mr. PICKETT, Mr. HERTEL, Mr. MATSUI, Mr. FOGLIETTA, Mr. WOLPE, Mr. ATKINS, Mr. TORRICELLI, Mr. DONNELLY, Mr. DICKS, and Mr. LEATH of Texas.

H. Con. Res. 318: Mr. OXLEY, Mr. RAHALL, Mr. JACOBS, Mr. KLECZKA, Mr. RAVENEL, Mr. JONTZ, Mr. PENNY, Mr. MCHUGH, Mr. MADIGAN, Mr. COURTER, Mr. ECKART, and Ms. KAPTUR.

H. Con. Res. 329: Mr. BRYANT, Mr. DYSON, Mr. KOSTMAYER, Mr. NEAL of North Carolina, Mr. DEFAZIO, Mr. MADIGAN, Ms. PELOSI, Mr. ROE, Mr. FASCELL, Mr. MACHTLEY, Mr. BATES, Mr. FAZIO, Mr. LANTOS, Mr. ECKART, Mr. VALENTINE, Mr. MILLER of California, Ms. SNOWE, Mr. WILSON, and Mr. NELSON of Florida.

H. Con. Res. 333: Mr. MARTINEZ, Mr. LEVIN of Michigan, Mr. GUARINI, Mr. DINGELL, Mr. WHITTAKER, Mr. MAVROULES, Ms. KAPTUR, Mr. ANNUNZIO, Mr. FORD of Michigan, Mr. BOSCO, Mr. GUNDERSON, Mr. MARTIN of New York, Mr. HEFNER, Mr. GOSS, Mr. SLAUGHTER of Virginia, Mr. RAHALL, Mr. KOLBE, Mr. CARDIN, and Mr. MATSUI.

H. Res. 134: Mr. LEWIS of Georgia.

H. Res. 312: Mr. ENGLISH and Mr. OBERSTAR.

H. Res. 363: Mr. BILBRAY, Mr. TOWNS, Mr. FAZIO, Mr. MOLLOHAN, and Mrs. BYRON.

H. Res. 387: Mr. DORNAN of California and Mr. MILLER of Washington.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

180. By the SPEAKER: Petition of the City Council of New York, NY, relative to improvements to the Federal Food Stamp Program; to the Committee on Agriculture.

181. Also, petition of Joe Beth Kloecker, Stafford, TX, relative to the repayment of a Revolutionary War loan made to the Continental Government; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4653

By Mr. AUCOIN:

—Page 10, line 18, strike "to any country" and all that follows through "and that" on line 21 and insert the following:

to—

"(I) any country in Eastern Europe that was a controlled country as of January 1, 1990, and that meets the criteria set forth in subparagraph (D), or

"(II) Poland, Hungary, Czechoslavakia, and any other country that becomes eligible for assistance under the Support for East European Democracy (SEED) Act of 1989,

if such country".

—Page 12, line 14, strike "of Eastern Europe described in" and insert "described in subclauses (I) and (II) of".

—Page 12, line 16, strike "(A)(ii)" and insert "(A)(ii)(I)".

—Page 15, line 21, insert after "Committee" the following: ", and with those countries described in subparagraph (A)(ii)(II),".

—Page 16, strike lines 8 through 10 and insert the following:

"(ii) a list of those countries eligible for favorable consideration under subparagraph (A)(ii), pursuant to the proposal.

—Page 16, insert the following after line 10:

"(J) For purposes of this paragraph, the term 'favorable consideration' means a procedure for the review of export license applications in which—

"(i) each government participating in the Coordinating Committee may review any such application for not more than 30 calendar days and may not make its approval of such application conditioned on any technical modifications in the proposed export, and

"(ii) the Coordinating Committee may deny any such application only if reliable evidence has been presented to the Committee demonstrating that the item proposed for export is destined for an unauthorized, non-civilian end use or end user.".

—Page 18, line 8, insert "(other than a country referred to in paragraph (4)(A)(ii)(II))" after "Europe".

—Page 18, line 9, strike "and" then insert ", and the progress of each country in Eastern Europe with respect to".

By Mrs. BENTLEY:

—Page 48, insert the following after line 11:

SEC. 124. EXPORTS TO THE SOVIET UNION.

(a) PROHIBITION.—Notwithstanding any other provision of law, goods or technology relating to the exploration, drilling, extraction, or refining of petroleum or natural gas may not be exported to the Soviet Union until the President certifies to the Congress that the Government of the Soviet Union is not withholding oil, gas, or other energy supplies from Lithuania and is not imposing any other economic sanction against that country.

(b) EXCEPTION.—The prohibition contained in subsection (a) shall not apply to exports to Lithuania, Estonia, or Latvia.

By Mr. BERMAN:

—Page 38, insert the following after line 2 and redesignate the succeeding sections in title I, and references thereto, accordingly:

SEC. 115. FOREIGN POLICY CONTROLS.

(a) CRITERIA FOR IMPOSING CONTROLS.—Section 6(b) (50 U.S.C. App. 2405(b)) is amended—

(1) in paragraph (1) by striking "(1) Subject" and all that follows through "determines that" and inserting "In imposing, extending, or expanding export controls under this section, the President shall consider whether";

(2) in subparagraph (A) by striking "cannot" and inserting "can";

(3) in subparagraph (C) by striking "not likely" and inserting "likely";

(4) in subparagraph (D) by striking "does not exceed" and inserting "exceeds";

(5) by striking paragraph (2); and

(6) by redesignating subparagraphs (A) through (E) as paragraphs (1) through (5), respectively.

(b) FOREIGN AVAILABILITY.—Section 6(h) (509 U.S.C. App. 2405(h)) is amended—

(1) in paragraph (3)—

(A) by striking the second sentence; and

(B) in the third sentence by striking "the good or technology" and inserting "the goods or technology involved"; and

(2) by striking paragraph (4).

(c) CONFORMING AMENDMENTS.—Section 6 is amended—

(1) in subsections (c) and (d) by striking "(b)(1)" each place it appears and inserting "(b)"; and

(2) by amending subsection (f)(2)(B) to read as follows:

"(B) specifying the considerations of the President with respect to each of the criteria set forth in subsection (b), and any adverse foreign policy consequences of the controls;"

By Mr. BURTON of Indiana:

—Page 48, insert the following after line 11:

SEC. 124. EXPORTS TO THE SOVIET UNION.

Notwithstanding any other provision of law, there shall be no liberalization in the treatment of exports to the Soviet Union after the enactment of this Act until the President certifies to the Congress that the Soviet Union is no longer providing any military assistance to Cuba.

By Mr. DREIER of California:

—Page 8, line 6, strike "shall" and all that follows through line 24 and insert the following:

shall, with the concurrence of the Secretary of Defense, publish in the Federal Register, not later than 6 months after the date of the enactment of the Export Enhancement Act of 1990, an indexing system which takes into account technological advances in supercomputer technology, as well as the nature and implications of the strategic threat posed to the United States by the foreign acquisition of such supercomputers. Approval of the export or reexport of a supercomputer to a country should also be judged on the following factors:

"(i) The stated end-use of the supercomputer.

"(ii) The significance for nuclear purposes of the supercomputer.

"(iii) The availability of the supercomputer from sources other than the United States.

"(iv) The types of assurances or guarantees against the use of the supercomputer for nuclear explosives purposes of nuclear proliferation.

"(v) The record of the country with respect to the nonproliferation of nuclear weapons based on factors such as—

"(I) the country's status as a party to the Treaty on the Non-Proliferation of Nuclear Weapons or the Treaty for the Prohibition of Nuclear Weapons in Latin America, and whether or not the country has met its obligations under those treaties, as determined by the President;

"(II) whether the country conducts all of its nuclear activities under International Atomic Energy Agency Safeguards or equivalent full scope safeguards;

"(III) whether there is an agreement for cooperation of the civil uses of atomic energy between the United States and the country;

"(IV) the country's public statements and policies concerning nuclear developments and nonproliferation;

"(V) the extent of cooperation with the United States in nonproliferation policy generally (such as the country's willingness to consult on international nonproliferation issues);

"(VI) intelligence data on a country's intentions and activities with respect to the use of nuclear energy and weapons; and

"(VII) the extent to which the country has diverted previously acquired high-technology equipment, data, or supplies which may be useful for nuclear explosive purposes to other countries in violation of any treaty or agreement to which the country is a party or in violation of other applicable law.

—Page 9, line 17, insert close quotation marks and a period after the period.

—Page 9, strike lines 18 through 22.

—Page 48, insert the following after line 11:

SEC. 124. EXPORTS TO THE SOVIET UNION.

(a) EXPORTS OF GOODS OR TECHNOLOGY RELATED TO ENERGY RESOURCES.—Notwithstanding any other provision of law, goods and technology related to the drilling, extraction, or refining of petroleum products and natural gas shall not be exported to the Soviet Union until the President certifies to the Congress that the Soviet Union is no longer withholding the supply of oil and gas by the Soviet Union to the Baltic states.

(b) SOVIET ENERGY DEVELOPMENT.—It is the sense of the Congress that the executive branch should refrain from discussions with, or missions to, the Soviet Union relating to the development of energy resources in the Soviet Union until such time as the Soviet Union is no longer withholding the supply of oil and gas by the Soviet Union to the Baltic states.

(c) DISCUSSIONS WITH EUROPEAN ALLIES.—It is the further sense of the Congress that the President should enter into discussions with the European allies of the United States to ensure that goods and technology related to the drilling, extraction, or refining of petroleum products and natural gas are not exported by those allies to the Soviet Union until such time as the Soviet Union is no longer withholding the supply of oil and gas by the Soviet Union to the Baltic states.

—Page 48, insert the following after line 11:

SEC. 124. EXPORTS TO COUNTRIES THAT THREATEN THE USE OF NUCLEAR WEAPONS.

(a) PROHIBITION ON EXPORTS.—No goods, technology, or other information may be exported to any country which threatens to use nuclear weapons against any other country. The prohibition contained in the preceding sentence shall apply until the President determines that the country renounces any intention to use nuclear weapons at any time.

(b) EXCEPTION FROM PROHIBITION.—The prohibition contained in subsection (a) does not apply to goods or technology on which export controls may not be imposed under section 6(g) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(g)).

By Mr. DURBIN:

—Page 48, insert the following after line 11:

SEC. 124. EXPORTS TO THE SOVIET UNION.

No exports to the Soviet Union otherwise permitted by virtue of the amendments made by this title may be made until the President certifies to the Congress that the Soviet Union is not imposing any economic sanctions on Lithuania and has entered into negotiations with the elected government of Lithuania for the purpose of restoring the independence of Lithuania.

By Mr. ENGEL:

—Page 32, strike line 6 and all that follows through page 34, line 22, and insert the following:

SEC. 12. INDEXING PROCEDURES.

Section 5(g) (50 U.S.C. App. 2404(g)) is amended to read as follows:

"(g) INDEXING.—(1) In order to ensure that requirements for validated licenses and other licenses authorizing multiple exports are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, the Secretary shall, not later than 6 months after the date of the enactment of the Export Facilitation Act of 1990, issue regulations that establish, in accordance with paragraph (2), indexing procedures which provide for automatic increases in the performance levels of goods or technology described in paragraph (2)(A) that are subject to any such licensing requirement. Such indexing procedures shall emphasize the technical specifications of goods or technology below which no authority or permission to export is required as compared to the most technologically advanced commercially available version of the same or equivalent goods or technology. Goods or technology which no longer meet the performance levels increased pursuant to such procedures shall be removed from the list established under subsection (c) unless—

"(A) the Secretary determines, at his or her own discretion, or on the basis of an objection of the head of any other executive department (as defined in section 101 of title 5, United States Code), that removal of the goods or technology from the list will permit exports that will be detrimental to the national security of the United States; and

"(B) the Secretary reports that determination in writing, together with a description of the specific anticipated impact on the national security of the United States, to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

The Secretary shall also consider, where appropriate, eliminating site visitation requirements for goods and technology which are removed from the list.

"(2)(A) In carrying out this subsection, the Secretary shall direct the technical advisory committees appointed under subsection (h) to recommend indexing procedures for goods or technology—

"(i) which are eligible for export under a distribution license,

"(ii) below which exports to the People's Republic of China require only notification of the governments participating in the group known as the Coordinating Committee, and

"(iii) below which no authority or permission to export may be required under subsection (b)(3) or (b)(6).

Each technical advisory committee shall generally give priority to recommending such indexing procedures first for goods or technology for which the greatest number of validated license applications were received under this Act during the most recent fiscal year for which such information is available. In recommending such indexing procedures in the case of computers, the technical advisory committees shall give initial consideration to establishing percentage based methods of indexing. The technical advisory committees shall submit their recommendations for indexing procedures, as they are made to the Secretary, who shall determine, within 30 days after each submission, or within 45 days after a submission in the event of an objection by the head of any other executive department, whether to accept the procedures and incorporate them in the regulations issued under paragraph (1) or to refer the procedures back to the appropriate technical advisory committee for further consideration.

"(B) In any case in which the Secretary receives a request which—

"(i) is to revise the indexing procedures established under subparagraph (A) for any goods eligible for export under a distribution license, and

"(ii) is made by an exporter of such goods, representatives of an industry which produces such goods, or a technical advisory committee established under subsection (h) of this section,

the Secretary shall, in consultation with the appropriate technical advisory committee and other appropriate Government agencies, act upon such request during the next quarterly review of the list conducted under subsection (c)(3).".

By Mr. FRENZEL:

—Page 38, strike line 4 and all that follows through page 39, line 22, and insert the following:

Section 10 (50 U.S.C. App. 2409) is amended as follows:

(1) Subsection (a) is amended—

(A) in paragraph (3)—

(i) by striking "necessary" and inserting "the Secretary determines to be necessary"; and

(ii) by striking "information and" each place it appears and inserting "information or"; and

(B) by adding at the end the following:

"(4) In deciding when it is appropriate to refer to any other department or agency any application for an export license to export goods or technology on which export controls are in effect under section 5, the principal factor to be considered shall be the extent to which such department or agency would contribute knowledge, skill, or expertise to the review of such licenses that is not available in the Department of Commerce. The nature and extent of any review by such other agency shall be confined to those aspects of the application that are the basis for the referral.".

(2) Subsection (d) is amended by striking "information and" and inserting "information or" each place it appears.

(3) Subsection (e) is amended—

(A) in paragraph (1) in the last sentence—

(i) by striking "its recommendations" and inserting "its information or recommendations"; and

(ii) by inserting "no relevant information on such application or" after "to have";

(B) in paragraph (2)(A)—

(i) in the first sentence, by inserting "information or" after "its" each place it appears; and

(ii) in the second sentence—

(I) by striking "its recommendations" and inserting "its information or recommendations"; and

(II) by inserting "no relevant information on such application or" after "have"; and

(C) in paragraph (2)(B) in the first sentence by inserting ", if he or she agrees to

such extension," after "Secretary" the second place it appears.

(4) Subsection (f) is amended—

(A) in paragraph (1) in the first sentence by inserting "information or" after "receipt of the"; and

(B) in paragraph (3) by striking subparagraph (C) and inserting the following:

"(C) the way in which the policies set forth in section 3 of this Act relate to the proposed denial,".

(5) Subsection (g) is amended to read as follows:

"(g) SPECIAL PROCEDURES FOR SECRETARY OF DEFENSE.—(1) The Secretary of Defense may be authorized under subsection (a) to review any proposed export of any goods or technology to any controlled country whenever the Secretary determines that the export of such goods or technology may make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such controlled country, and the Secretary of Defense can make a significant contribution to the decision on such proposed export.

"(2) The Secretary shall, in consultation with the Secretary of Defense, confirm in writing the types and categories of transactions which should be reviewed by the Secretary of Defense in order to make a determination of whether an export will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of a controlled country. Whenever a license or other authority is requested for the export to any controlled country of goods or technology within any such type or category, the Secretary shall notify the Secretary of Defense of such request, and the Secretary shall refrain from issuing any license or other authority pursuant to such request for a period of 15 days. The Secretary of Defense shall carefully consider any notification submitted by the Secretary pursuant to this paragraph and, not later than 15 days after notification of the request, shall—

"(A) recommend to the Secretary that he or she disapprove any request for the export of the goods or technology to the particular country if the Secretary of Defense determines, pursuant to section 3 of this Act, that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

"(B) notify the Secretary that he would recommend approval subject to specified conditions; or

"(C) recommend to the Secretary that the export of the goods or technology be approved.

"(3) The Secretary shall, to the extent applicable, approve or disapprove a license application to which this subsection applies, and issue or deny a license, in accordance with the time periods and procedures otherwise set forth in this section.".

—Page 38, line 16, after "Committee" insert the following: "or exports which the Coordinating Committee has agreed will receive favorable consideration".

—Page 38, line 22, after "Committee" insert the following: "or exports which the Coordinating Committee has agreed will receive favorable consideration".

—Page 38, strike line 4 and all that follows through page 39, line 22, and insert the following:

Section 10 (50 U.S.C. App. 2409) is amended—

(1) by striking subsection (g); and

(2) in subsection (d)—

(A) by inserting "(1)" before "Except";

(B) by redesignating existing paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by adding at the end the following:

"(2) The Secretary should refer to any other appropriate department or agency any application for an export license to export to a controlled country goods or technology on which export controls are in effect under section 5 in a case in which the Secretary determines that such department or agency would contribute knowledge, skill, or expertise to the review of such license that is not available in the Department of Commerce.".

—Page 9, add the following after line 22:

(c) MULTILATERAL REEXPORT CONTROLS.—Section 5(a) (50 U.S.C. 2404(a)), as amended by section 105(b) of this Act and subsection (b) of this section, is further amended by adding at the end the following:

"(7) No authority or permission may be required under this section to reexport any goods or technology subject to the jurisdiction of the United States to any country, other than a controlled country, unless all countries which maintain export controls cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k)(1) maintain and implement essentially congruent controls on reexports of such goods or technology to such countries.".

—Page 30, insert the following after line 6 and redesignate succeeding section, and references thereto, accordingly:

SEC. 111. CONSOLIDATION OF AUTHORITY.

(a) AUTHORITY TO IMPOSE CONTROLS.—Section 5(a)(1) (50 U.S.C. App. 2404(a)(1)) is amended by striking the last sentence and inserting the following: "The authority contained in this subsection shall be excercised by the Secretary, in consultation with such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses described in section 4(a) of this Act.".

(b) CONTROL LIST.—Section 5(c)(2) (50 U.S.C. App. 2404(c)(21)) is amended in the first sentence—

(1) by striking "The" and inserting "The Secretary, in consultation with the"; and

(2) by inserting a comma after "agencies".

By Mr. GEJDENSON:

—Page 8, lines 7 and 8, strike "this paragraph" and insert "the Export Facilitation Act of 1990".

—Page 8, line 17, strike "or" and insert "and".

—Page 9, lines 8 and 9, strike "United States".

—Page 11, line 1, strike the comma after "1988".

—Page 15, line 20, strike "meeting the criteria set forth in subparagraph (D) as modified and approved by the Coordinating Committee" and insert "eligible for favorable consideration under subparagraph (A)(ii), in accordance with the modifications of the Coordinating Committee,".

—Page 16, line 6, insert "export" and "subject to".

—Page 16, strike lines 8 through 10 and insert the following:

"(ii) a list of those countries in Eastern Europe that are eligible for favorable consideration under subparagraph (A)(ii), in accordance with the modifications of the Coordinating Committee.

—Page 20, line 8, strike "Control List" and insert "Lists".

—Page 21, lines 10 through 12, strike ", other than a country for which no authority or permission to export may be required under paragraph (2),".

—Page 21, lines 15 through 17, strike "a country for which no authority or permission to export may be required under paragraph (2) or ".

—Page 21, insert the following after line 20: "Clauses (i) and (ii) apply only to exports of goods or technology for which authority or permission to export may be required under this section and to exports to countries for which such authority or permission may be required.".

—Page 22, line 17, strike "and" after the semicolon.

—Page 22, line 20, strike the 2 periods and the closed quotation marks and insert "; and".

—Page 22, insert the following after line 20:

"(iii) whether or not a use is a civil end use shall be based on the criteria set forth in paragraph (4)(F).".

—Page 23, line 3, insert ", as provided in this paragraph" after "List".

—Page 25, line 7, strike "list" and insert "jurisdiction".

—Page 28, line 23, insert "export" after "subject to".

—Page 28, line 25, strike ", as so modified".

—Page 29, lines 6 and 14, strike ", as so modified".

—Page 31, line 12, strike "(a)" and insert "(b) of this section".

—Page 41, line 15, strike "sums" and insert "funds".

—Page 41, line 24, insert "and" after "22),".

—Page 42, lines 3 and 10, strike "sums" and insert "funds".

—Page 43, line 3, strike "over" and insert "more than".

—Page 43, line 9, strike "ro" and insert "or".

—Page 30, line 4, strike "The" and all that follows through "Register." on line 6 and insert the following: "The exception in the preceding sentence shall not apply to a good or technology unless the Secretary makes a separate determination under the preceding sentence for such good or technology and publishes that determination in the Federal Register.".

—Page 33, lines 9 and 10, strike "unless objections described in this paragraph are raised".

—Page 22, line 22, insert "(a) COMMODITY JURISDICTION.—" before "Section".

—Page 27, insert the following after line 12:

(b) TREATMENT OF MUNITIONS LIST FOR PURPOSES OF CERTAIN STATUTES.—

(1) IN GENERAL.—Notwithstanding the amendment made by subsection (a), references in the following provisions of law of the United States Munitions List or items on the United States Munitions List, or to the Arms Export Control Act shall, after the enactment of this act, be deemed to refer to the United States Munitions List, or the Arms Export Control Act, as in effect on May 1, 1990:

(A) Section 40 of the Arms Export Control Act (22 U.S.C. 2780).

(B) Section 902(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991.

(C) Section 317 of the Comprehensive Anti-Apartheid Act of 1986.

(2) SUNSET PROVISION.—The provisions of this subsection shall terminate on September 30, 1992.

—Page 68, add the following after line 25:

TITLE III—EXPORT PROMOTION

SEC. 301. UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

(a) MINISTER-COUNSELORS.—Section 2301(d)(1) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(d)(1)) is amended in the first sentence by striking "8" and inserting "12".

(b) REPORT ON TRAINING.—The Secretary of Commerce shall, not later than 6 months after the date of the enactment of this Act, submit to the Congress a report on the adequacy of the training of officers and employees of the United States and Foreign Commercial Service in the following areas: writing of commercial reports, language skills, cultural awareness, and public speaking.

(c) COMMERCIAL SERVICE OFFICERS AND MULTILATERAL DEVELOPMENT BANKS.—Section 2302 of the Export Enhancement Act of 1988 (15 U.S.C. 4722) is amended—

(1) in subsection (b)(3)—

(A) by striking "and to permit" and inserting "to permit"; and

(B) by inserting before the period the following: ", and to provide them with assistance in completing such documents"; and

(2) in subsection (c) by striking "and the African Development Fund" and inserting "the African Development Fund, and the European Bank for Reconstruction and Development (subject to the enactment of legislation authorizing participation by the United States in that bank)".

(d) INCREASE IN COMMERCIAL SERVICE OFFICERS IN CERTAIN COUNTRIES.—The Secretary of Commerce shall increase the number of Commercial Service Officers, in each of the 5 countries with which the United States had the greatest trade deficit in calendar year 1989 (as reflected in the merchandise trade figures reported by the Department of Commerce), by 2 over the number of such officers assigned to each of such countries in fiscal year 1989.

SEC. 302. COUNTRY REPORTS ON TRADE PRACTICES.

Section 2202 of the Export Enhancement Act of 1988 (15 U.S.C. 4711) is amended—

(1) in the first sentence—

(A) by inserting "(a) ANNUAL REPORTS.—" before "The"; and

(B) by striking "January" and inserting "May"; and

(2) by adding at the end the following:

"(b) ASSESSMENT OF FREE TRADE STATUS.—The Secretary of State shall include in each report under subsection (a) an assessment of the free trade status of each foreign country included in the report. In making such assessment, the Secretary shall take into account, in addition to the factors set forth in paragraphs (1) through (8) of subsection, the following:

"(1) Any other action, policy, or act, whether formal or informal, of the government of the country, or of the industrial, commercial, or investment sectors within the country (if the action, policy, or act of the sector is tolerated by the government), that has a trade distorting effect.

"(2) All other factors the Secretary considers relevant.

"(c) ANNUAL RANKING OF FOREIGN COUNTRIES ACCORDING TO TRADE POSTURE.—The Secretary of State on the basis of the free-trade status assessments made under subsection (b) and such other information that the Secretary considers relevant, shall annually rank in one of the following categories each foreign country for which such an assessment is made:

"(1) Category A: The foreign country accords to United States goods and services market access that is substantially reciprocal to the market access that the United States accords to the goods and services of that country.

"(2) Category B: The foreign country, although not currently according to United States goods and services market access that is substantially reciprocal to that accorded by the United States to the goods and services of that country, is taking, or can be expected to take, actions that will result in substantial reciprocity being achieved within a reasonable time.

"(3) Category C: The foreign country is not eligible for ranking in category A or B.".

SEC. 303. QUALIFICATIONS FOR MARKET DEVELOPMENT COOPERATIVE PROGRAM.

Section 2303(c)(2) of the Export Enhancement Act of 1988 (15 U.S.C. 4723) is amended by striking "and computer data bases" and methods of distribution of goods and services".

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

"There are authorized to be appropriated to the Department of Commerce to carry out export promotion programs $173,600,000 for the fiscal year 1991".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1990.

By Mr. GOSS:

—Page 68, after line 25, insert the following new title:

TITLE III—LIMITATIONS AND RESTRICTIONS CONCERNING TRADE AND OTHER TRANSACTIONS WITH CUBA

SEC. 301. PENALTIES UNDER THE TRADING WITH THE ENEMY ACT.

Section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16) is amended by adding at the end the following: "The Secretary of the Treasury may impose a civil penalty of not more than $50,000 on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this Act, except that a civil penalty may not be imposed on a person for engaging in any of the following transactions incident to travel of 30 days or less by individuals who are citizens or residents of the United States:

"(1) Transactions ordinarily incident to travel to or from any country, including the importation into a country or the United States of accompanied baggage for personal use only.

"(2) Transactions ordinarily incident to travel or maintenance within any country, including payment of living expenses and the acquisition of goods for personal consumption.

"(3) Any transactions ordinarily incident to the arrangement, promotion, or facilitation of travel to, from, or within a country.

"(4) Transactions incident to nonscheduled flights of aircraft, or nonscheduled voyages of vessels, to or from any country, except that this subparagraph does not authorize the carriage of any articles into a country except accompanied baggage.

"(5) Normal banking transactions involving foreign currency drafts, traveler's checks, or other negotiable instruments incident to travel to or from any country.".

—Page 68, after line 25, insert the following new title:

TITLE III—LIMITATIONS AND RESTRICTIONS CONCERNING TRADE AND OTHER TRANSACTIONS WITH CUBA

SEC. 301. PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.

Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

SEC. 302. REDUCTION OF ASSISTANCE TO COUNTRIES WHICH IMPORT SUGAR FROM CUBA.

(a) REDUCTION OF ASSISTANCE BY VALUE OF SUGAR IMPORTS FROM CUBA.—Beginning October 1, 1991, the President shall have the authority to withhold from the amount of assistance which is allocated to a country for a fiscal year under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) the amount equal to the value of confirmed sales of sugar which is the product of Cuba and which is imported by that country in the preceding fiscal year.

(b) REDUCTIONS MAY BE MADE NOTWITHSTANDING EARMARKING.—The withholding of amounts under subsection (a) may be made notwithstanding any provision of law specifying the amount of assistance to be provided to a particular country.

(c) SENSE OF CONGRESS WITH RESPECT TO OTHER COUNTRIES.—It is the sense of the Congress that the President should urge countries that import sugar which is the product of Cuba and do not receive economic support fund assistance or other forms of foreign assistance from the United States to import sugar from other Central American or Caribbean countries with democratically elected governments.

SEC. 303. PENALTIES UNDER THE TRADING WITH THE ENEMY ACT.

Section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16) is amended by adding at the end the following: "The Secretary of the Treasury may impose a civil penalty of not more than $50,000 on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this Act, except that a civil penalty may not be imposed on a person for engaging in any of the following transactions incident to travel of 30 days or less by individuals who are citizens or residents of the United States:

"(1) Transactions ordinarily incident to travel to or from any country, including the importation into a country or the United States of accompanied baggage for personal use only.

"(2) Transactions ordinarily incident to travel or maintenance within any country, including payment of living expenses and the acquisition of goods for personal consumption.

"(3) Any transactions ordinarily incident to the arrangement, promotion, or facilitation of travel to, from, or within a country.

"(4) Transactions incident to nonscheduled flights of aircraft, or nonscheduled voyages of vessels, to or from any country, except that this subparagraph does not authorize the carriage of any articles into a country except accompanied baggage.

"(5) Normal banking transactions involving foreign currency drafts, traveler's checks, or other negotiable instruments incident to travel to or from any country.".

—Page 68, after line 25, insert the following new title:

TITLE III—LIMITATIONS AND RESTRICTIONS CONCERNING TRADE AND OTHER TRANSACTIONS WITH CUBA

SEC. 301. REDUCTION OF ASSISTANCE TO COUNTRIES WHICH IMPORT SUGAR FROM CUBA.

(a) REDUCTION OF ASSISTANCE BY VALUE OF SUGAR IMPORTS FROM CUBA.—Beginning October 1, 1991, the President shall have the authority to withhold from the amount of assistance which is allocated to a country for a fiscal year under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) the amount equal to the value of confirmed sales of sugar which is the product of Cuba and which is imported by that country in the preceding fiscal year.

(b) REDUCTIONS MAY BE MADE NOTWITHSTANDING EARMARKINGS.—The withholding of amounts under subsection (a) may be made notwithstanding any provision of law specifying the amount of assistance to be provided to a particular country.

(c) SENSE OF CONGRESS WITH RESPECT TO OTHER COUNTRIES.—It is the sense of the Congress that the President should urge countries that import sugar which is the product of Cuba and do not receive economic support fund assistance or other forms of foreign assistance from the United States to import sugar from other Central American or Caribbean countries with democratically elected governments.

—Page 68, after line 25, insert the following new title:

TITLE III—LIMITATIONS AND RESTRICTIONS CONCERNING TRADE AND OTHER TRANSACTIONS WITH CUBA

SEC. 301. PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.

Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

By Mr. HOUGHTON:

—Page 38, strike line 4 and all that follows through page 39, line 22, and insert the following:

Section 10 (50 U.S.C. App. 2409) is amended by repealing subsection (g).

By Mr. HUNTER:

—Page 2, strike line 3 and all that follows through page 48, line 11, and insert the following:

TITLE I—EXPORT ADMINISTRATION ACT OF 1979

SEC. 101. EXTENSION OF THE ACT.

Section 20 of the Export Administration Act of 1979 (50 U.S.C. App. 2419) is amended by striking "1990" and inserting "1991".

—Page 4, strike lines 1 through 23 and redesignate succeeding sections in title I, and references thereto, accordingly.

—Page 10, strike lines 10 through 12 and lines 24 through 26.

—Page 11, strike lines 1 through 3.

—Page 10, strike lines 1 and all that follows through page 20 and redesignate succeeding sections in title I, and references thereto, accordingly.

—Page 21, strike lines 1 and all that follows through page 22, line 20, and redesignate the succeeding sections in title I, and references thereto, accordingly.

—Page 21, line 10, insert "(except the Soviet Union)" after "country".

—Page 21, line 15, insert "(except the Soviet Union)" after "country".

—Page 22, strike line 21 and all that follows through page 27, line 12 and redesignate succeeding sections in title I, and references thereto, accordingly.

—Page 27, lines 14 and 15, strike ", as amended by section 109 of this Act, is further" and insert "is".

—Page 27, line 17, strike "(9)" and insert "(8)".

—Page 27, strike line 13 and all that follows through page 30, line 6, and redesignate succeeding sections in title I, and references thereto, accordingly.

—Page 30, strike line 7 and all that follows through page 32, line 5, and redesignate succeeding sections in title I, and references thereto, accordingly.

—Page 38, strike line 3 and all that follows through page 23, line 22, and redesignate the succeeding sections in title I accordingly.

—Page 10, line 12, insert "except the Soviet Union" after "country".

—Page 10, line 18, insert "(except the Soviet Union)" after "Eastern Europe".

—Page 12, line 5, insert "(except the Soviet Union)" after "country".

—Page 16, line 7, insert ", except with respect to the Soviet union" after "proposal".

—Page 16, line 8, insert "(except the Soviet Union)" after "Europe".

—Page 17, line 2, insert ", except for exports to the Soviet Union" after "proposal".

—Page 17, line 5, insert ", except for exports to the Soviet Union" after "Committee".

—Page 18, line 13, insert closed quotation marks after the period.

—Page 18, strike line 14 and all that follows through page 19, line 23.

—Page 21, line 5, strike "(9)" and insert "(8)".

—Page 21, line 6, strike "(4), (6), and (8)" and insert "(4) and (6)".

—Page 6, line 22, strike "AND SUPERCOMPUTER EXPORTS"

—Page 6, line 23, strike "(a) REEXPORTS OF TECHNOLOGY.—".

—Page 8, strike line 1 and all that follows through page 9, line 22.

By Mr. HYDE:

—Page 6, line 22, strike "AND SUPERCOMPUTER EXPORTS";

—Page 6, line 23, strike "(a)" at the beginning of the line; and

—Page 8, strike line 1 and all that follows through the end of line 22 on page 9.

—Page 2, line 6, strike "Facilitation", and in lieu thereof insert "Administration Authorization";

—Beginning on page 2, strike line 8 and all that follows through line 17 on page 3;

—Page 3, line 18, strike "103" and in lieu thereof insert "102";

—Beginning on page 4, strike line 1 and all that follows through the end of line 25 on page 46;

—Page 47, line 1, strike "120" and in lieu thereof insert "103";

—Page 47, line 16, strike "121" and in lieu thereof insert "104"; and

—Beginning on page 47, strike line 19 and all that follows through the end of line 11 on page 48.

—Amendment to Strike Section 108 (Telecommunications Equipment)

Page 21, strike line 1 and all that follows through the end of line 20 on page 22, and number the subsequent sections of Title I of the bill accordingly.

—Page 8, line 12, strike "Such" and all that follows through the end of line 24.

—Page 22, strike line 21 and all that follows through page 27, line 12 and insert the following:

SEC. 109. COMMODITY JURISDICTION.

(a) ITEMS ELIGIBLE FOR DESIGNATION AS MUNITIONS LIST ITEM.—Section 38(a) of the Arms Export Control Act (22 U.S.C. 2778(a)) is amended—

(1) in the second sentence of paragraph (1) by inserting ", subject to paragraph (2) of this subsection," after "section";

(2) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (1) the following:

(2)(A) An item (including a component of any such item) may be designated as a Munitions List item for purposes of this section if it is designed, developed, configured, adopted, or modified for military, paramilitary, or intelligence application. Subject to subparagraph (B), an item may not be so designated if—

"(i) it is a part or component that has been designated as a Munitions List item for purposes of this section, and it is common and identical to a part or component originally developed for civil application; or

"(ii) it is an item which has become used predominantly for civil applications.

"(B) An item described in clause (i) or (ii) of subparagraph (A) may be designated as a Munitions List item if—

"(i) the item is, or has come to be used as, a weapon or intelligence system, or an essential component thereof, or

"(ii) the export of the item to, or possession of the item by, foreign nationals would pose a national security risk.

"(3) For purposes of paragraph (2), the term 'civil application' means a use other than military or intelligence use.

"(4) An item designated as a Munitions List item for purposes of this section shall not be subject to export controls under the Export Administration Act of 1979.".

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the President shall submit to the Congress a report on implementation of the amendment made by subsection (a)(3). This report shall include—

(1) a comparison of the United States Munitions List as it exists on the date on which such report is submitted with that list as it existed on the date of enactment of this Act—

(A) specifying how many items have been removed from that list and how many items have been added to that list as a result of the amendment made by subsection (a)(3), and

(B) listing the items removed and the items added;

(2) a comparison of the items on the United States Munitions List as of the date on which such report is submitted with the International Munitions List maintained by the Coordinating Committee (commonly known as "COCOM"); and

(3) a discussion of whether items that are no longer on the United States Munitions List as a result of the amendment made by subsection (a)(3) are being controlled under the Export Administration Act of 1979.

(c) CONFORMING AMENDMENTS.—(1) Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended as follows:

(A) Subsection (a)(1) is amended—

(i) by striking "defense articles and defense services" each place it appears and inserting "Munitions List items"; and

(ii) by striking "such articles and services" each place it appears and inserting "such items".

(B) Subsection (a)(3) is amended—

(i) by striking "defense article or defense service" and inserting "Munitions List item"; and

(ii) by striking "defense articles and defense services" and inserting "Munitions List items".

(C) Subsection (b)(1)(A) is amended by striking "defense articles or defense services" and inserting "Munitions List items".

(D) Subsection (e) is amended by striking "defense articles and defense services" each place it appears and inserting "Munitions List items".

(E) Subsection (h) is amended by striking "defense articles and defense services" and inserting "Munitions List items".

(2) Section 39(a)(2) of the Arms Export Control Act (22 U.S.C. 2779(a)(2)) is amended by striking "defense articles and defense services" and inserting "Munitions List items".

(3) Section 47 of the Arms Export Control Act (22 U.S.C. 2794) is amended—

(A) in paragraph (4) by striking ", Except as provided in paragraph (7) of this section,";

(B) in paragraph (6) by adding "and" after the semicolon;

(C) by striking paragraph (7); and

(D) by redesignating paragraph (8) as paragraph (7).

(4) Section 1 of the Arms Export Control Act (22 U.S.C. 2751 is amended in the seventh paragraph—

(A) by striking "defense articles and defense services";

(B) by striking "defense articles and defense services" after "(1)"; and

(C) by inserting "Munitions List items" after "(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 6 months after the date of the enactment of this Act.

(d) TRANSITION RULE.—The amendments made by this section shall not affect licenses issued before the effective date of those amendments.

—Page 22, strike line 21 and all that follows through page 27, line 12 and insert the following:

SEC. 109. COMMODITY JURISDICTION.

(a) ITEMS ELIGIBLE FOR DESIGNATION AS MUNITIONS LIST ITEM.—Section 38(a) of the Arms Export Control Act (22 U.S.C. 2778(a)) is amended—

(1) in the second sentence of paragraph (1) by inserting ", subject to paragraph (2) of this subsection," after "section";

(2) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (1) the following:

"(2) An item (including a component of any such item) may be designated as a Munitions List item for purposes of this section only if it was developed, or is modified, for military or intelligence application. An item may not be so designated if—

"(A) it is a component of an item that has been designated as a Munitions List item for purposes of this section, and it is identical to a component or part originally developed for civil application, or

"(B) it is an item which has become used predominantly for civil applications,

unless the President determines that control of that item under this section is in the national security interests of the United States.

"(3) For purposes of paragraph (2), the term 'civil application' means a use other than military or intelligence use.

"(4) An item designated as a Munitions List item for purposes of this section shall not be subject to export controls under the Export Administration Act of 1979.".

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the President shall submit to the Congress a report on implementation of the amendment made by subsection (a)(3). This report shall include—

(1) a comparison of the United States Munitions List as it exists on the date on which such report is submitted with that list as it existed on the date of enactment of this Act—

(A) specifying how many items have been removed from that list and how many items have been added to that list as a result of the amendment made by subsection (a)(3), and

(B) listing the items removed and the items added;

(2) a comparison of the items on the United States Munitions List as of the date on which such report is submitted with the International Munitions List maintained by the Coordinating Committee (commonly known as "COCOM"); and

(3) a discussion of whether items that are no longer on the United States Munitions List as a result of the amendment made by subsection (a)(3) are being controlled under the Export Administration Act of 1979.

(c) CONFORMING AMENDMENTS.—(1) Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended as follows:

(A) Subsection (a)(1) is amended—

(i) by striking "defense articles and defense services" each place it appears and inserting "Munitions List items"; and

(ii) by striking "such articles and services" each place it appears and inserting "such items".

(B) Subsection (a)(3) is amended—

(i) by striking "defense article or defense service" and inserting "Munitions List item"; and

(ii) by striking "defense articles and defense services" and inserting "Munitions List items".

(C) Subsection (b)(1)(A) is amended by striking "defense articles or defense services" and inserting "Munitions List items".

(D) Subsection (e) is amended by striking "defense articles and defense services" each place it appears and inserting "Munitions List items".

(E) Subsection (h) is amended by striking "defense articles or defense services" and inserting "Munitions List items".

(2) Section 39(a)(2) of the Arms Export Control Act (22 U.S.C. 2779(a)(2)) is amended by striking "defense articles or defense services" and inserting "Munitions List items".

(3) Section 47 of the Arms Export Control Act (22 U.S.C. 2794) is amended—

(A) in paragraph (4) by striking ", Except as provided in paragraph (7) of this section,";

(B) in paragraph (6) by adding "and" after the semicolon;

(C) by striking paragraph (7); and

(D) by redesignating paragraph (8) as paragraph (7).

(4) Section 1 of the Arms Export Control Act (22 U.S.C. 2751) is amended in the seventh paragraph—

(A) by striking "defense articles and defense services";

(B) by inserting "defense articles and defense services" after "(1)"; and

(C) by inserting "Munitions List Items" after "(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 6 months after the date of the enactment of this Act.

(d) TRANSITION RULE.—The amendments made by this section shall not affect licenses issued before the effective date of those amendments.

—Page 22, strike line 21 and all that follows through page 27, line 12 and insert the following:

SEC. 109. COMMODITY JURISDICTION.

(a) ITEMS ELIGIBLE FOR DESIGNATION AS MUNITIONS LIST ITEM.—Section 38(a) of the Arms Export Control Act (22 U.S.C. 2778(a)) is amended—

(1) in the second sentence of paragraph (1) by inserting ", subject to paragraph (2) of this subsection," after "section";

(2) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (1) the following:

"(2) An item (including a component of any such item) may be designated as a Munitions List item for purposes of this section only if it is specially designed, developed, configured, adapted, or modified for military or intelligence application. An item may not be so designated if—

"(A) it has identifiable civil applications, or

"(B) is a component the performance capacity and function of which are essentially equivalent to those used for civil applications,

unless the President determines that control of that item under this section is in the national security interests of the United States.

"(3) For purposes of paragraph (2), the term 'civil application' means a use other than military or intelligence use.

"(4) An item designated as a Munitions List item for purposes of this section shall not be subject to export controls under the Export Administration Act of 1979.".

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the President shall submit to the Congress a report on implementation of the amendment made by subsection (a)(3). This report shall include—

(1) a comparison of the United States Munitions List as it exists on the date on which such report is submitted with that list as it existed on the date of enactment of this Act—

(A) specifying how many items have been removed from that list and how many items have been added to that list as a result of the amendment made by subsection (a)(3), and

(B) listing the items removed and the items added;

(2) a comparison of the items on the United States Munitions List as of the date on which such report is submitted with the International Munitions List maintained by the Coordinating Committee (commonly known as "COCOM";) and

(3) a discussion of whether items that are no longer on the United States Munitions List as a result of the amendment made by subsection (a)(3) are being controlled under the Export Administration Act of 1979.

(c) CONFORMING AMENDMENTS.—(1) Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended as follows:

(A) Subsection (a)(1) is amended—

(i) by striking "defense articles and defense services" each place it appears and inserting "Munitions List items"; and

(ii) by striking "such articles and services" each place it appears and inserting "such items"

(B) Subsection (a)(3) is amended—

(i) by striking "defense article or defense service" and inserting "Munitions List item"; and

(ii) by striking "defense articles and defense services" and inserting "Munitions List items".

(C) Subsection (b)(1)(A) is amended by striking "defense articles or defense services" and inserting "Munitions List items".

(D) Subsection (e) is amended by striking "defense articles and defense services" each place it appears and inserting "Munitions List items".

(E) Subsection (h) is amended by striking "defense articles or defense services" and inserting "Munitions List items".

(2) Section 39(a)(2) of the Arms Export Control Act (22 U.S.C. 2779(a)(2)) is amended by striking "defense articles or defense services" and inserting "Munitions List items".

(3) Section 47 of the Arms Export Control Act (22 U.S.C. 2794) is amended—

(A) in paragraph (4) by striking ", Except as provided in paragraph (7) of this section,";

(B) in paragraph (6) by adding "and" after the semicolon;

(C) by striking paragraph (7); and

(D) by redesignating paragraph (8) as paragraph (7).

(4) Section 1 of the Arms Export Control Act (22 U.S.C. 2751) is amended in the seventh paragraph—

(A) by striking "defense articles and defense services";

(B) by inserting "defense articles and defense services" after "(1)"; and

(C) by inserting "Munitions List items" after "(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 6 months after the date of the enactment of this Act.

(d) TRANSITION RULE.—The amendments made by this section shall not affect licenses issued before the effective date of those amendments.

By Mr. JOHNSTON of Florida:

—Page 22, strike line 21 and all that follows through page 27, line 12, and insert the following:

SEC. 109. COMMODITY JURISDICTION.

Section 5(c) (50 U.S.C. 2404(c)) is amended by adding at the end the following new paragraph:

"(8) (A) No item on the control list may also be included on the United States Munitions List.

"(B) The United States Munitions List shall consist only of items specially designed, developed, configured, adapted, or modified for military or intelligence application, and shall not consist of—

"(i) items which have become predominantly civil in application;

"(ii) components that are identical to those used for civil applications; or

"(iii) items that, after the end of the 1-year period beginning on the date of the enactment of this paragraph, do not appear on the International Munitions List of the group known as the Coordinating Committee.

"(C) The Secretary is authorized to determine what items are described in clauses (i) through (iii) of subparagraph (B) and therefore may be subject to export controls under this Act, and the Secretary of State is authorized to determine what items are defense articles and defense services and therefore are subject to export controls under the Arms Export Control Act.

"(D)(i) Whenever the Secretary or the Secretary of State receives a request to determine whether an item is on the control list or the Munitions List, or whenever either Secretary makes such a determination on such Secretary's own initiative, the Secretary or Secretary of State, as the case may be, shall, within 5 days after receiving such request, or upon making an initial determination on the Secretary's own initiative, refer to the other Secretary a copy of the request or determination, and any information relevant thereto.

"(ii) Within 15 days after a request or determination is referred under clause (i), the Secretary receiving the referral shall transmit in writing to the other Secretary his or her position regarding whether the item in question is on the control list or the Munitions List.

"(iii) In the event of a disagreement under this subparagraph between the two Secretaries with respect to an item, the Secretary shall, within 20 days after the transmittal in writting under clause (ii), make a final determination with request to the item.

"(iv) In the event that either the Secretary or the Secretary of State does not comply with the procedures prescribed in this paragraph, the Secretary that did not so comply shall be deemed to concur with the other Secretary on the matter involved.

"(E) Within 15 months after the date of the enactment of this paragraph, the Secretary shall publish the control list and the Secretary of State shall publish the United States Munitions List, with all revisions that have been made in accordance with this paragraph.".

By Mr. KOSTMAYER:

—Page 41, insert the following after line 4 and redesignate the succeeding subsection accordingly:

"(b) FORFEITURE OF SEIZED ITEMS.—Section 12(a)(3) (50 U.S.C. App. 2411(a)(3)) is amended by adding at the end the following:

"(C) All goods or technology seized under this paragraph by authorized officers or employees of the Department of Commerce pursuant to a warrant, or pursuant to a search to which the person holding title to the goods or technology consented shall be forfeited to the United States. The provisions of law relating to—

"(i) the seizure, summary and judicial forfeiture, and condemnation of property for violation of customs laws,

"(ii) the disposition of such property or the proceeds from the sale thereof,

"(iii) the remission or mitigation of such forfeitures, and

"(iv) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subparagraph, insofar as applicable and not inconsistent with this Act; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this subparagraph by the Secretary or such officers and employees of the Department of Commerce as may be authorized or designated for that purpose by the Secretary, or, upon the request of the Secretary, by any other agency that has authority to manage and dispose of seized property.".

By Mr. KYL:

—Page 32, insert the following after line 5 and redesignate succeeding sections, and references thereto, accordingly:

SEC. 112. FOREIGN AVAILABILITY.

Section 5(f) (50 U.S.C. App. 2404(f)) is amended—

(1) in paragraph (1)(A), in the second sentence, by inserting after "establish," the following: "and with the concurrence of the Secretary of Defense,";

(2) in paragraph (2)(A), in the second sentence, by inserting after "establish," the following: "and with the concurrence of the Secretary of Defense,";

(3) in paragraph (2)(B), in the first sentence, by inserting after "Secretary determines" the following: ", with the concurrence of the Secretary of Defense,"; and

(4) in paragraph (3)(B), by striking the fourth sentence and inserting the following: "The Secretary's determination of foreign availability requires the concurrence of the Secretary of Defense.".

—Page 27, strike line 13 and all that follows through page 30, line 6, and redesignate the succeeding sections in title I, and references thereto, accordingly.

By Mr. LEVINE of California:

—Page 68, add the following after line 25:

TITLE III—OIL EXPORTS

SEC. 301. EXPORTS OF DOMESTICALLY PRODUCED CRUDE OIL.

Section 7(d)(1) (50 U.S.C. App. 2406(d)(1)) is amended by inserting "or produced in California" after "section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652)".

By Mr. MARKEY:

—Page 22, lines 8 and 9, strike "and related components and accessories" and insert "including communication satellite earth stations, and components and accessories related to such equipment".

—Page 10, line 26, after "date", insert "which is 60 days after the date".

—Page 31, line 2, strike "demonstration, or".

—Page 31, line 3, insert "or demonstration elsewhere than at a trade show," after "show,".

—Page 31, line 10, insert "or demonstration" after "trade show".

By Mr. MAVROULES:

—Page 38, line 10, strike "in reviewing" and insert "for the purpose of enabling the Secretary of Defense to review".

—Page 38, line 4, insert "(a) REVIEW OF LICENSES.—" before "Section".

—Page 39, insert the following after line 22:

(b) REVIEW AND ANALYSIS BY GAO.—

(1) REVIEW AND ANALYSIS.—The Comptroller General shall conduct a review of the impact of the changes in procedures made by the amendment made by subsection (a) on the export license approval process and on the national security, and shall analyze the overall efficiency of the export license approval process under the Export Administration Act of 1979. For purposes of such review and analysis, the Secretary of Commerce shall make available to the Comptroller General and the Secretary of Defense, upon the Comptroller General's request, information on any license application approved or disapproved after the date of the enactment of this Act for the export of

goods or technology on which export controls are in effect under section 5 of that Act. The Comptroller General and the Secretary of Defense shall not disclose any information regarding individual license applications.

(2) COMMENTS BY DEPARTMENTS OF DEFENSE AND COMMERCE.—The Comptroller General shall ensure that the Secretary of Defense and the Secretary of Commerce have the information necessary for them to make informed comments with respect to the review and analysis under paragraph (1). The Comptroller General shall review any concerns raised by the Secretaries of Defense and Commerce with respect to the review and analysis under paragraph (1) and shall assess the validity of those concerns in the report to Congress submitted under paragraph (3). The Secretary of Defense shall make available to the Comptroller General all information pertinent to export licensing decisions with respect to any such concerns raised by that Secretary.

(3) REPORT TO CONGRESS.—The Comptroller General shall, not later than December 31, 1991, submit a report to the Congress on the review and analysis conducted under this subsection. The Comptroller General shall also submit to the Congress an interim report on such review and analysis before the Congress begins consideration in 1991 of legislation to reauthorize the Export Administration Act of 1979.

—Page 28, line 6, add the following after the period: "The procedures set forth in paragraph (2) of this subsection shall apply to adding goods or technology to the control list that were not removed from the control list under the first sentence of this subparagraph.".

By Mr. MILLER of Washington:

—Page 48, strike line 12 and all that follows through page 68, line 25, and insert the following:

TITLE II—EXPORTS OF UNPROCESSED TIMBER

SEC. 201. SHORT TITLE.

This title may be cited as the "Forest Resources Conservation and Shortage Relief Act of 1990".

SEC. 202. FINDINGS AND PURPOSES

(a) FINDINGS.—The Congress makes the following findings:

(1) Timber is essential to the United States.

(2) Forests, forest resources, and the forest environment are exhaustible natural resources that require efficient and effective conservation efforts.

(3) In the interest of conserving those resources, the United States has set aside millions of acres of otherwise harvestable timberland in the western United States, representing well over 100,000,000,000 board feet of otherwise harvestable timber.

(4) In recent years, administrative, statutory, or judicial action has been taken to set aside an increased amount of otherwise harvestable timberlands for conservation purposes.

(5) In the next few months and years, additional amounts of otherwise harvestable timberlands may be set aside for conservation purposes, pursuant to the Endangered Species Act of 1973, the National Forest Management Act of 1976, or other expected statutory, administrative, and judicial actions.

(6) There is evidence of a shortfall in the supply of unprocessed timber in the western United States.

(7) There is reason to believe that any shortfall which may already exist may worsen unless action is taken.

(8) In conjunction with the broad conservation actions expected in the next few months and years, conservation action is necessary with respect to exports of unprocessed timber.

(b) PURPOSES.—The purposes of this Act are—

(1) to promote the conservation of forest resources in conjunction with State and Federal resources management plans, and other actions or decisions, affecting the use of forest resources;

(2) to take action essential for the acquisition and distribution of forest resources or products in short supply in the western United States;

(3) to take action necessary to meet the goals of Article XI 2.(a) of the General Agreement on Tariffs and Trade, to ensure sufficient supplies of certain forest resources or products which are essential to the United States;

(4) to continue and refine the existing Federal policy of restricting the export of unprocessed timber harvested from Federal lands in the western United States; and

(5) to effect measures aimed at meeting these objectives in conformity with the obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 203. RESTRICTIONS ON EXPORTS OF UNPROCESSED TIMBER ORIGINATING FROM FEDERAL LANDS.

(a) PROHIBITING ON EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM FEDERAL LANDS.—No person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United States, or sell, trade, exchange, or otherwise convey such timber to any other person for the purpose of exporting such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States.

(b) SURPLUSES.—

(1) DETERMINATIONS BY SECRETARIES.—The prohibition contained in subsection (a) shall not apply to specific quantities of grades and species of unprocessed timber originating from Federal lands which the Secretary of Agriculture or the Secretary of the Interior determines to be surplus to domestic manufacturing needs.

(2) PROCEDURES.—Any determination under paragraph (1) shall be made in regulations issued in accordance with section 553 of title 5, United States Code. Any such determination shall be reviewed at least once in every 3-year period. The Secretary concerned shall publish notice of such review in the Federal Register, and shall give the public an opportunity to comment on such review.

SEC. 204. LIMITATIONS ON THE SUBSTITUTION OF UNPROCESSED FEDERAL TIMBER FOR UNPROCESSED TIMBER EXPORTED FROM PRIVATE LANDS.

(a) DIRECT SUBSTITUTION—(1) Except as provided in subsection (c), no person may purchase directly from any department or agency of the United States unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States if—

(A) such unprocessed timber is to be used in substitution for exported unprocessed timber originating from private lands; or

(B) such person has, during the preceding 24-month period, exported unprocessed timber originating from private lands.

(2) Notwithstanding paragraph (1)—

(A) Federal timber purchased pursuant to a contract entered into between the purchaser and the appropriate Secretary before the date on which regulations to carry out this subsection are issued under section 209 shall be governed by the substitution restrictions in effect before such date;

(B) in the 1-year period beginning on the effective date of this title, any person who operates under a Cooperative Sustained Yield Unit Agreement, and who has an historic export quota shall be limited to entering into contracts under such a quota to a volume equal to not more than 66 percent of the person's historic export quota used during fiscal year 1989;

(C) a person referred to in subparagraph (B) shall reduce the person's remaining substitution volume by an equal amount each year thereafter such that no volume is substituted under such a quota in fiscal year 1995 or thereafter; and

(D) the 24-month period referred to in paragraph (1)(B) shall not apply to any person who—

(i) before the enactment of this Act, has, under an historic export quota approved by the Secretary of Agriculture or the Secretary of the Interior, purchased unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States in substitution for exported unprocessed timber originating from private lands;

(ii) certifies to the appropriate Secretary, within 3 months after the date of the enactment of this Act, that the person will, within 6 months after such date of enactment, cease exporting unprocessed timber originating from private lands; and

(iii) ceases exports in accordance with such certification.

(b) INDIRECT SUBSTITUTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), no person may, beginning 21 days after the date of the enactment of this Act, purchase from any other person unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States if such person would be prohibited from purchasing such timber directly from a department or agency of the United States. Acquisitions of western red cedar which are domestically processed into finished products to be sold into domestic or international markets are exempt from the prohibition contained in this paragraph.

(2) EXCEPTIONS.—(A) The Secretary of Agriculture shall, as soon as practicable but not later than 9 months after the date of the enactment of this Act, establish, by rule, a limited amount of unprocessed timber originating from Federal lands described in subparagraph (B) which may be purchased by a person otherwise covered by the prohibition contained in paragraph (1). Such limit shall equal—

(i) the amount of such timber acquired by such person, based on the higher of the applicant's actual timber purchasing receipts or the appropriate Federal agency's records, during fiscal years 1988, 1989, and 1990, divided by 3, or

(ii) 15 million board feet,

whichever is less, except that such limit shall not exceed such person's proportionate share, with respect to all persons covered under this paragraph, of 50 million board feet.

(B) The Federal lands referred to in subparagraph (A) are Federal lands administered by the United States Forest Service Region 6 that are located north of the Columbia River from its mouth and east to its first intersection with the 119th meridian, and from that point north of the 46th parallel and east.

(C) Any person may sell, trade, or otherwise exchange with any other person the rights obtained under subparagraph (A), except that such rights may not be sold, traded, or otherwise exchanged to persons already in possession of such rights obtained under subparagraph (A).

(D) Federal timber purchased from Federal lands described in subparagraph (B) pursuant to a contract entered into between the purchaser and the appropriate Secretary before the date on which regulations to carry out this subsection are issued under section 209 shall be governed by the substitution restrictions in effect before such date.

(c) APPROVAL OF SOURCING AREA BOUNDARIES.—

(1) IN GENERAL.—The prohibitions contained in subsections (a) and (b) shall not apply with respect to the acquisition of unprocessed timber originating from Federal lands within a sourcing area boundary west of the 100th meridian in the contiguous 48 States approved by the Secretaries under this subsection by a person who—

(A) in the previous 24 months, has not exported unprocessed timber originating from private lands within the sourcing area boundaries; and

(B) during the period in which such approval is in effect, does not export unprocessed timber originating from private lands within the sourcing area boundaries.

The Secretaries may waive the 24-month requirement set forth in subparagraph (A) for any person who, within 3 months after the date of the enactment of this Act, certifies that, within 6 months after such date, such person will, for a period of not less than 3 years, cease exporting unprocessed timber originating from private lands within the sourcing area boundaries.

(2) REQUIREMENTS FOR APPLICATION.—The Secretary of Agriculture and the Secretary of the Interior shall, not later than 3 months after the date of the enactment of this Act, each prescribe a procedure to be used by a person applying for an approval of sourcing area boundaries under paragraph (1). Such procedure shall require, at a minimum, the applicant to provide—

(A) information regarding the location of private lands from which such person has, within the previous year, harvested or otherwise acquired unprocessed timber which has been exported from the United States; and

(B) information regarding the location of each timber manufacturing facility owned or operated by such person within the proposed sourcing area boundaries at which the applicant proposes to process timber originating from Federal lands.

The prohibition contained in subsection (a) shall not apply to a person before the date which is 1 month after the procedure referred to in this paragraph is prescribed. With respect to any person who submits an application in accordance with such procedure by the end of the time period set forth in the preceding sentence, the prohibition contained in subsection (a) shall not apply to such person before the date on which the appropriate Secretary approves or disapproves such application.

(3) GRANT OF APPROVAL.—For each applicant, the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, shall, on the record and after an opportunity for a hearing, not later than 4 months after receipt of the application for sourcing area boundaries, either approve or disapprove the application for sourcing area boundaries based on a determination of whether the timber manufacturing facilities at which the applicant desires to process timber originating from Federal lands are located in an area that is geographically and economically separate from any geographic area from which that person harvests for export any unprocessed timber originating from private lands. In making the determination referred to in this paragraph, the appropriate Secretary shall consider equally the timber purchasing patterns, on private and Federal lands, of the applicant as well as other persons in the same local vicinity as the applicant, and the relative similarity of such purchasing patterns.

(4) DENIAL OF APPLICATION.—(A) Subject to subparagraph (B), and notwithstanding any other provision of law, in the 9-month period after receiving disapproval of an application submitted pursuant to this subsection, the applicant may purchase unprocessed timber originating from Federal lands in the area which is the subject of the application in an amount not to exceed 75 percent of the annual average of such person's purchases of unprocessed timber originating from Federal lands in the same area during the 5 full fiscal years immediately prior to submission of the application. In the subsequent 6-month period, such person may purchase not more than 25 percent of such annual average, after which time the prohibitions contained in subsection (a) shall fully apply.

(B) If a person referred to in subparagraph (A) certifies to the Secretary, within 90 days after receiving disapproval of such application, that such person shall, within 15 months after such disapproval, cease the export of unprocessed timber originating from private lands from the geographic area determined by the Secretary, such person may continue to purchase unprocessed timber originating from Federal lands in the area which is the subject of the application, without being subject to the restrictions of subparagraph (A), except that such purchases during that 15-month period may not exceed 125 percent of the annual average of such person's purchases of unprocessed timber originating from Federal lands in the same area during the 5 full fiscal years immediately prior to submission of the application which was denied.

(C) Any person to whom subparagraph (B) applies may not, during the 15-month period after the person's application for sourcing area boundaries is denied, export unprocessed timber originating from private lands in such area determined by the Secretary in amounts that exceed 125 percent of the annual average of such person's exports of unprocessed timber from such private lands during the 5 full fiscal years immediately prior to submission of the application.

(5) REVIEW OF DETERMINATIONS.—Determinations made under paragraph (3) shall be reviewed, in accordance with the procedures prescribed in this title, not less often than every 5 years.

SEC. 205. RESTRICTION ON EXPORTS OF UNPROCESSED TIMBER FROM STATE AND OTHER PUBLIC LANDS.

(a) ORDER TO PROHIBIT THE EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM STATE OR OTHER PUBLIC LANDS.—Except as provided in subsection (e), the Secretary of Commerce shall issue orders to prohibit the export from the United States of unprocessed timber originating from public lands, in the amounts specified in subsection (b).

(b) SCHEDULE FOR DETERMINATION TO PROHIBIT THE EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM STATE OR OTHER PUBLIC LANDS.—

(1) STATES WITH ANNUAL SALES OF 400,000,000 BOARD FEET OR LESS.—With respect to States with annual sales volumes of 400,000,000 board feet or less, the Secretary of Commerce shall issue the order to prohibit the export of unprocessed timber originating from public lands not later than 21 days after the date of the enactment of this Act.

(2) STATES WITH ANNUAL SALES OF GREATER THAN 400,000,000 BOARD FEET.—With respect to any State with an annual sales volume greater than 400,000,000 board feet, the following shall apply:

(A) The Secretary of Commerce shall issue the order referred to in subsection (a) not later than 21 days after the date of the enactment of this Act. Such order shall cover a period beginning 120 days after the issuance of such an order, or January 1, 1991, whichever is earlier, and shall extend to December 31, 1991. Such order shall prohibit the export of 75 percent of the annual sales volume in such State of unprocessed timber from public lands.

(B) For the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary of Commerce shall, after notice and an opportunity for a hearing, issue the order referred to in subsection (a) not later than September 30, 1991. Such order shall prohibit the export of at least 75 percent of such State's annual sales volume for this 2-year period, or more, pursuant to a determination under subsection (c).

(C) For the period beginning on January 1, 1994, and ending on December 31, 1995, the Secretary of Commerce shall, after notice and an opportunity for a hearing, issue the order referred to in subsection (a) not later than September 30, 1993. Such order shall prohibit the export of at least 75 percent of such State's annual sales volume for this 2-year period, or more, pursuant to a determination under subsection (c).

(D) For the period beginning on January 1, 1996, the Secretary of Commerce shall issue the order referred to in subsection (a) not later than September 30, 1995. Such order shall prohibit the export of the lesser of 400,000,000 board feet or the total annual sales volume.

(3) REPORT TO CONGRESS.—Not later than June 1, 1995, the Secretary of Commerce, in conjunction with the Secretaries of Agriculture and Interior, shall issue a report to the Congress on the effects of the reallocation of public lands timber resources to the domestic timber processing sector, the ability of the domestic timber processing sector to meet domestic demand for forest products, the volume of transshipment of timber originating from public lands across State borders, the effectiveness of rules issued and administered by States pursuant to this title, and trends in growth and productivity in the domestic timber processing sector.

(c) BASIS FOR INCREASE IN VOLUME PROHIBITED FROM EXPORT.—The Secretary of Commerce may increase the amount of unprocessed timber to be prohibited from export above the minimum amount specified in subsection (b)(2) (B) and (C), based on a determination that the purposes of this Act

have not been adequately met and that such an increase would further the purposes of this Act. In making this determination, the Secretary shall consider—

(1) actions or decisions taken, for the purpose of conserving or protecting exhaustible natural resources in the United States, which have affected the use or availability of forest products;

(2) whether the volume of timber from public lands that is under contract has increased or decreased by an amount greater than 20 percent within the previous 12 months; and

(3) the probable effects of unprocessed timber exports on the ability of timber mills to acquire unprocessed timber.

(d) ADMINISTRATIVE PROVISIONS.—

(1) DELAY OF SECRETARY'S ORDER.—In the event that any order of the Secretary under subsection (a) or its implementation is delayed for any reason, the amount of sales volume of unprocessed timber to be prohibited from exports shall not be less than that specified in subsection (b).

(2) ADMINISTRATION BY STATES.—Based upon the order of the Secretary under subsection (a), each State shall determine the species, grade, and geographic origin of unprocessed timber to be prohibited from export and shall administer such prohibitions consistent with the intent of this title and ensure that the species, grades, and geographic origin of unprocessed timber prohibited from export is representative of the species, grades, and geographic origin of timber comprising such State's total sales program. The State is authorized to cooperate with Federal and State agencies with appropriate jurisdiction to further the intent of this title.

(3) STATE REGULATIONS.—(A) Except for States with annual sales of 400,000,000 board feet or less upon the date of the enactment of this Act, the Governor of each State to which this Act applies, or such other State official as the Governor may designate, shall, within 120 days after the date of the enactment of this Act, issue regulations to carry out the purposes of this section, the promulgation of which shall be consistent with section 553 of title 5, United States Code. Such regulations in each State shall remain in effect until such time as the legislature of that State enacts such requirements as it deems appropriate to carry out this section. Before issuing such regulations, the Governor shall enter into formal consultation, concerning such regulations, with appropriate State officials and with a State Board of Natural Resources where such a board exists. When formulating regulations under this paragraph, the Governor shall take into account the intent of this Act to effect a net increase in domestic processing of timber harvested from public lands consistent with all orders issued by the Secretary of Commerce under subsection (a).

(B) The Governor of each State with annual sales of 400,000,000 board feet or less upon the date of the enactment of this Act, or such other State official as the Governor may designate, shall, within 120 days after the date of the enactment of this Act, issue regulations to carry out the purposes of this section. Until such regulations are issued in a State, the prohibitions contained in subsections (a) and (b) of section 204 shall apply to unprocessed timber originating from public lands in that State to the same extent as such prohibitions apply to unprocessed timber originating from Federal lands, except that the provisions of subsection (c) of such section shall not apply.

(4) PRIOR CONTRACTS.—Nothing in this section shall apply to any contract for the purchase of unprocessed timber from any State (or political subdivision thereof) entered into before the effective date of a Secretary's order issued under subsection (a).

(5) WESTERN RED CEDAR.—Nothing in this section shall be construed to supersede the provisions of section 7(i) of the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)).

(e) PRESIDENTIAL AUTHORITY.—The President is authorized, after suitable notice and a public comment period of not less than 120 days, to suspend the provisions of this section if a panel of experts has reported to the Contracting Parties to the General Agreement on Tariffs and Trade, or a ruling issued under the formal dispute settlement proceeding provided under any other trade agreement finds, that the provisions of this section are in violation of, or inconsistent with, United States obligations under that trade agreement.

(f) MODIFICATIONS OR REMOVAL OF STATE RESTRICTIONS.—Based upon a determination that it is in the national economic interest, the President may remove or modify the prohibition on exports from public lands in a State if that State petitions the President to remove or modify the prohibition.

(g) EFFECT OF PRIOR FEDERAL LAW.—No provision of Federal law which imposes requirements with respect to the generation of revenue from State timberlands and was enacted before the enactment of this Act shall be construed to invalidate, supersede, or otherwise affect any action of a State or political subdivision of a State pursuant to this title.

(h) SURPLUS TIMBER.—The prohibitions on exports contained in orders of the Secretary of Commerce issued under subsection (a) shall not apply to specific quantities of grades and species of unprocessed timber originating from public lands which the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, determines by rule, to be surplus to the needs, of timber manufacturing facilities in the United States. Any such determination may, by rule, be withdrawn by such Secretary if the Secretary determines that the affected timber is no longer surplus to the needs of timber manufacturing facilities in the United States.

(i) SUSPENSION OF PROHIBITIONS.—Notwithstanding any other provision of this section, beginning on January 1, 1998, and annually thereafter, if the President finds, upon review of the purposes and implementation of this Act, that the prohibitions on exports required by subsection (a) no longer promote the purposes of this Act, then the President may suspend such prohibitions, except that such suspension shall not take effect until 90 days after the President notifies the Congress of such finding.

(j) EXISTING AUTHORITY NOT AFFECTED.—Nothing in this Act shall be construed to limit the authority of the President or the United States Trade Representative to take action authorized by law to respond appropriately to any measures taken by a foreign government in connection with this Act.

SEC. 206. MONITORING AND ENFORCEMENT.

(a) MONITORING AND REPORTS.—In accordance with regulations issued under this section—

(1) each person who acquires, either directly or indirectly, unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States shall report the receipt and disposition of such timber to the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, in such form as such Secretary may by rule prescribe; except that nothing in this paragraph shall be construed to hold any person responsible for the reporting of the disposition of any such timber held by subsequent persons; and

(2) each person who transfers to another person unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States shall, before completing such transfer—

(A) provide to such other person a written notice, in such form as the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, may prescribe, which shall identify the Federal origin of such timber;

(B) receive from such other person a written acknowledgment of such notice and a written agreement that such other person will comply with the requirements of this title, in such form as the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, may prescribe; and

(C) provide to the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, copies of all notices, acknowledgments, and agreements referred to in subparagraphs (A) and (B).

(b) REPORT TO CONGRESS.—Using the information gathered under subsection (a), the Secretaries of Agriculture and Interior shall, not later than June 1, 1995, submit to the Congress a report on the disposition of unprocessed timber harvested from Federal lands west of the 100th meridian in the contiguous 48 States, and recommendations concerning the practice of indirect substitution of such timber for exported timber harvested from private lands. Specifically, such report shall—

(1) analyze the effects of indirect substitution on market efficiency;

(2) analyze the effects of indirect substitution on domestic log supply;

(3) offer any recommendations that the Secretaries consider necessary for specific statutory or regulatory changes regarding indirect substitution;

(4) provide summaries of the data collected;

(5) analyze the effects of the provisions of section 204(b)(3); and

(6) provide such other information as the Secretaries consider appropriate.

(c) CIVIL PENALTIES FOR VIOLATION.—

(1) EXPORT.—If the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, finds, on the record and after an opportunity for a hearing, that a person, with willful disregard for the prohibition contained in this title against exporting Federal timber, exported or caused to be exported unprocessed timber originating from Federal lands in violation of this title, such Secretary may assess against such person a civil penalty of not more than $500,000 for each violation, or 3 times the gross value of the unprocessed timber involved in the violation, whichever amount is greater.

(2) OTHER VIOLATIONS.—If the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, finds, on the record and after an opportunity for a hearing, that a person has violated any provision of this title or any regulation promulgated to carry out this title relating to lands which they administer (notwithstanding that such violation may not have caused the export of unprocessed Federal timber in violation of this title), the Secretary may—

(A) assess against such person a civil penalty of not more than $75,000 for each violation if the Secretary determines that the person committed such violation in disregard of such provision or regulation;

(B) assess against such person a civil penalty of not more than $50,000 for each violation if the Secretary determines that the person should have known that the action constituted a violation; or

(C) assess against such person a civil penalty of not more than $500,000 if the Secretary determines that the person committed such violation willfully.

(3) PENALITIES NOT EXCLUSIVE; JUDICIAL REVIEW.—A penalty assessed under this subsection shall not be exclusive of any other penalty provided by law and shall be subject to review in an appropriate United States district court.

(d) ADMINISTRATIVE REMEDIES.—

(1) DEBARMENT.—The head of the appropriate Federal department or agency may debar any person who violates this title, or any regulation or contract issued under this title, from entering into any contract for the purchase of unprocessed timber from Federal lands for a period of not more than 5 years. Such person shall also be precluded from taking delivery of Federal timber purchased by another party for the period of debarment.

(2) CANCELLATION OF CONTRACTS.—The head of the appropriate Federal department or agency may cancel any contract entered into with a person found to have violated this title or regulations issued under this title.

(e) EXCEPTION.—Subsections (c) and (d) do not apply to violations of section 212.

SEC. 207. DEFINITIONS.

For purposes of this title:

(1) The term "acquire" means to come into possession of, whether directly or indirectly, through a sale, trade, exchange, or other transaction, and the term "acquisition" means the act of acquiring.

(2) The term "Federal lands" means lands that are owned by the United States, but does not include any lands the title to which is—

(A) held in trust by the United States for the benefit of any Indian tribe or individual,

(B) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(C) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(3) The term "person" means any individual, partnership, corporation, association, or other legal entity and includes any subsidiary, subcontractor, parent company, or business affiliates where 1 affiliate controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

(4) The term "private lands" means lands held or owned by a person. Such term does not include Federal lands or public lands, or any lands the title to which is—

(A) held in trust by the United States for the benefit of any Indian tribe or individual,

(B) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(C) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(5) The term "public lands" means lands west of the 100th meridian in the contiguous 48 States, that are held or owned by a State or political subdivision thereof, or any other public agency. Such term does not include any lands the title to which is—

(A) held by the United States;

(B) held in trust by the United States for the benefit of any Indian tribe or individual,

(C) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(D) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(6)(A) The term "unprocessed timber" means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use.

(B) The term "unprocessed timber" does not include timber processed into any one of the following:

(i) Lumber and construction timbers, except Western Red Cedar, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list grades, sawn on 4 sides, not intended for remanufacture.

(ii) Lumber, construction timbers, and cants for remanufacture, except Western Red Cedar, meeting current American Lumber Standards Grades of Pacific Lumber Inspection Bureau Export R or N list grades, sawn on 4 sides, not to exceed 12 inches in thickness.

(iii) Lumber, construction timbers, and cants for remanufacture, except Western Red Cedar, that do not meet the grades referred to in clause (i) and are sewn on 4 sides, with wane less than ¼ of any face, not exceeding 8¾ inches in thickness.

(iv) Chips, pulp, or pulp products.

(v) Veneer or plywood.

(vi) Poles, posts, or piling cut or treated with preservatives for use as such.

(vii) Shakes and Shingles.

(viii) Aspen and other pulpwood bolts, not exceeding 100 inches in length, exported for processing into pulp.

(ix) Pulp logs or cull logs processed at domestic pulp mills, domestic chip plants or other domestic operations for the purpose of conversion of the log into chips.

(7) The acquisition of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States to be used in "substitution" for exported unprocessed timber originating from private lands means acquiring unprocessed timber from such Federal lands and engaging in exporting, or selling for export, unprocessed timber originating from private lands within the same geographic and economic area.

SEC. 208. EFFECTIVE DATE.

Except as otherwise provided in this title, the provisions of this title take effect on the date of the enactment of this Act.

SEC. 209. REGULATIONS AND REVIEW.

(a) REGULATIONS.—The Secretaries of Agriculture and Interior shall, in consultation, each prescribe new coordinated and consistent regulations to implement this title on lands which they administer. The Secretary of Commerce shall promulgate such rules and guidelines as may be necessary to carry out this title. Except as otherwise provided in this title, such regulations and guidelines shall be issued not later than 9 months after the date of the enactment of this act.

(b) REVIEW.—The Secretaries of Agriculture and Interior shall, in consultation, review the definition of unprocessed timber under section 207(6) for purposes of this title and, not later than 2 years after the date of the enactment of this Act, submit to the Congress any recommendations they have with respect to such definition.

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 211. SAVINGS CLAUSE.

Nothing in this title, or regulations issued under this title shall be construed to abrogate or affect any timber sale contract entered into before the effective date of this title.

SEC. 212. EASTERN HARDWOODS STUDY.

(a) STUDY.—The Secretary of Commerce, in conjunction with the Secretary of Agriculture and the Secretary of the Interior, shall conduct a study of the export from the United States, during the 2-year period beginning on January 1, 1991, of unprocessed hardwood timber harvested from Federal lands or public lands east of the 100th meridian. In order to carry out the provisions of the section—

(1) the Secretary of Commerce shall require each person exporting such timber from the United States to declare, in addition to the information normally required in the Shipper's Export Declarations, the State in which the timber was grown and harvested; and

(2) the Secretary of Agriculture and the Secretary of the Interior shall ensure that all hardwood saw timber harvested from Federal lands east of the 100th meridian is marked in such a manner as to make it readily identificable at all times before its manufacture, and shall take such steps as each Secretary considers appropriate to ensure that such markings are not altered or destroyed before manufacturing.

(b) REPORT TO CONGRESS.—Not later than April 1, 1993, the Secretary of Commerce shall submit to the Committees on Agriculture, Interior and Insular Affairs, and Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the volume and value of unprocessed timber grown and harvested from Federal lands or public lands east of the 100th meridian that is exported from the United States during the 2-year period beginning on January 1, 1991, the country to which such timber is exported, and the State in which such timber was grown and harvested.

SEC. 213. AUTHORITY OF EXPORT ADMINISTRATION ACT OF 1979.

Nothing in this Act shall be construed to—

(1) prejudice the outcome of pending or prospective petitions filed under, or

(2) warrant the exercise of the authority contained in,

section 7 of the Export Administration Act of 1979 with respect to the export of unprocessed timber.

By Mr. ROTH:

—Page 47, line 7, strike "$46,707,000" and insert "$28,959,340".

By Mr. SOLOMON:

—Page 48, insert the following after line 11:

SEC. 124. EXPORT OF SATELLITES FOR LAUNCH BY PEOPLE'S REPUBLIC OF CHINA.

Notwithstanding any other provision of law, no satellite of United States origin that is intended for launch from a launch vehicle owned by the People's Republic of China may be exported from the United States.

—Page 4, strike lines 2 through 13 and insert the following:

(a) TYPES OF LICENSES.—Section 4(a)(2) (50 U.S.C. App. 2403(a)(2)) is amended—

(1) in subparagraph (A) in the first sentence by striking ", except that" and all that follows through "China"; and

(2) in subparagraph (B) in the first sentence by striking "(except the People's Republic of China)".

—Page 38, strike line 3 and all that follows through page 39, line 22, and redesignate the succeeding sections in title I accordingly.

—Page 48, insert the following after line 11:

SEC. 124. EXPORTS TO AND U.S. GOVERNMENT COOPERATION WITH THE SOVIET UNION.

Notwithstanding any other provision of law—

(1) there shall be no liberalization in the treatment of exports from the United States of goods or technology to the Soviet Union, and

(2) no department, agency, or other entity of the United States Government shall provide goods, technology, technical assistance, or technical data to, or cooperate in any other way with, the Government of the Soviet Union relating to energy resources in the Soviet Union,

until the President certifies to the Congress that the Government of the Soviet Union is not withholding oil, gas, or other energy supplies from any of the Baltic states and is not imposing any other economic sanction against those states.

—Page 48, insert the following after line 11:

SEC. 124. EXPORTS TO THE SOVIET UNION.

No goods or technology relating to the modernization or other enhancement of energy industries in the Soviet Union may be exported to the Soviet Union until the President certifies to the Congress that the Government of the Soviet Union is not withholding oil, gas, or other energy supplies from any of the Baltic states and is not imposing any other economic sanction against those states.

By Mr. WYDEN:

—Page 21, strike line 23 and all that follows through page 22, line 20, and insert the following:

"(i) the term 'telecommunications equipment' includes—

"(I) telephone switching systems and stored program controlled communications switching systems, including related features and components that provide services and management of telecommunications networks;

"(II) telecommunications transmission equipment;

"(III) microwave, light wave, and other radio relay, transmitting, or test equipment, and related components and accessories;

"(IV) telecommunications cables and components, including optical fibers and optical cables;

"(V) equipment containing frequency synthesizers when used in land-based mobile communications systems;

"(VI) equipment described in any of subclauses (I) through (V), or any other telecommunications equipment, that contains lasers;

"(VII) computer hardware and application specific software which are related to any of the items described in clauses (I) through (VI) and are required for data communications; and

"(VIII) all spare parts, components, and measuring or test equipment related to any of the items described in subclauses (I) through (VII);

"(ii) the term 'telecommunications technology' means technology related to telecommunications equipment;

"(iii) the term 'telecommunications networks' includes local area, intracity, intercity, and international telecommunications networks; and

"(iv) the term 'telecommunications' means voice, video, and data communications over any public or private network or broadcasting system, and services related to such communications.".

—Page 9, add the following after line 22 and redesignate succeeding sections, and references thereto, accordingly:

SEC. 107. EXPORTS OF PROCUREMENT TECHNICAL DATA.

Section 5(a) (50 U.S.C. 2404(a)), as amended by section 106 of this Act, is further amended by adding at the end the following new paragraphs:

"(7)(A) Except as provided in subparagraph (B), no authority or permission may be required under this section to export procurement technical data.

"(B) Notwithstanding subparagraph (A), the Secretary may require authority or permission to export—

"(i) procurement technical data to such unreliable end users as the Secretary may specify by regulation;

"(ii) procurement technical data for end uses other than civil end uses in controlled countries not eligible for favorable consideration under subsection (b)(4)(A)(ii); and

"(iii) procurement technical data that is substantially related to the manufacture, production, advanced assembly, or conversion to military use of a commodity controlled for export on the International Control List of the Coordinating Committee, but only if such procurement technical data is specifically identified as controlled for export, with the commodity to which it relates, on the control list maintained under subsection (c).

"(C) For purposes of this paragraph, the term 'procurement technical data' means information provided, in accordance with established business practice, in connection with the negotiation, preparation, submission, solicitation, or evaluation of bids, proposals, or similar offers to sell goods, technology, or services.

"(D) For purposes of this paragraph, whether or not end uses are other than civil end uses shall be determined by the Secretary on the basis of the criteria set forth in subsection (b)(4)(F).

"(8) Not later than 6 months after the date of the enactment of the Export Facilitation Act of 1990, the Secretary shall issue regulations to carry out paragraph (7).".

—Page 48, insert the following after line 11:

SEC. 124. POLICY REGARDING GERMANY.

In light of the impending reunification of Germany, the Congress recognizes the importance of the removal of East Germany from the proscribed destination list of the Coordinating Committee (commonly known as "COCOM"). While United States and international law recognize the sanctity of pre-existing contracts, any new contractual obligations between a united Germany and the Soviet Union or other proscribed destinations should comply with the rules and restrictions of COCOM. The Congress urges the executive branch to seek the approval of COCOM for assurances that its rules and restrictions will apply to these new contractual relationships.

SENATE—*Tuesday, June 5, 1990*

(Legislative day of Wednesday, April 18, 1990)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

** * * Man shall not live by bread alone, but by every word that proceedeth out of the mouth of God.*—Deuteronomy 8:3, Matthew 4:4.

Eternal God, all wise, all powerful, everywhere present, Moses and Jesus remind us that life is infinitely more than meat and drink. We survive not only with food for the body but by Thy Word which nourishes the mind and spirit. Forgive us, Lord, for our preoccupation with the flesh while we neglect our souls—while we devote ourselves to the physical and lose our way spiritually. Help us to remember that transcending all of the issues of life is spiritual warfare, and we lose when we reduce issues to the material only. Make us wise in the wisdom of Moses and Jesus that Thou hast spoken, and Thy Word provides health and strength without which we perish.

In Jesus' name who is the Way, the Truth, and the Life, Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 5, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Following the time for the two leaders this morning there will be a period for morning business not to extend beyond 12:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

Any second-degree amendments to the crime bill must be filed by 12:30 p.m. today. At 12:30 the Senate will recess until 2:15 p.m. to accommodate the party conference luncheons. Upon reconvening at 2:15 today the Senate will vote on the motion to invoke cloture on the crime bill, S. 1970, with the required live quorum having been waived.

Accordingly, Senators should be aware that there will be a rollcall vote on the motion to invoke cloture on the crime bill at 2:15 p.m. today, and there will very likely be further rollcall votes throughout the day and into the evening.

ANNIVERSARY OF ELECTION OF SPEAKER FOLEY

Mr. MITCHELL. Mr. President, I want to bring to my colleagues' attention an anniversary which occurs tomorrow—that is, tomorrow will mark the first anniversary of the election of Speaker FOLEY to lead the House of Representatives.

Speaker FOLEY's leadership has given the Democratic majority in the House the voice and substance to deal creatively and positively with the pressing issues on the legislative agenda.

Speaker FOLEY has also helped recreate a better spirit of comity with the Republican minority in the House, so that good legislative ideas and spirited debate can again play a role in the refining of legislation and programs.

Speaker FOLEY's thoughtfulness and cooperative spirit have been rightly hailed by his colleagues in the House of Representatives. But speaking for the Senate majority, his thoughtful and cooperative working style has been of immense help to this body and, therefore, to the entire legislative branch of Government since his election.

It has often been said in jest that the process of making laws and sausages are processes best not observed too closely.

That is emphatically not true in the case of Speaker FOLEY. His sense of fairness, his willingness to work with members from both parties and his total commitment to the legislative process and its product all combine to make him a leader under whose guidance the process of making law becomes the elevated and important national task it should be.

I have thoroughly enjoyed the first year of my work with Speaker FOLEY and look forward to our continuing association in the future.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all of the leader time of the distinguished Republican leader.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. GORE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Tennessee [Mr. GORE].

THE GLOBAL ENVIRONMENT

Mr. GORE. Mr. President, ever since President Bush took office 16 months ago he has been urged time and again by those in the Congress, leaders of other nations, and concerned citizens here and in other countries to live up to his campaign pledge to protect the global environment. Nations and people around the world realize that U.S. leadership is essential to protecting the global environment, but time and again this administration has shown all too clearly that it has no intention of fulfilling the promises made by President Bush in his campaign rhetoric.

During the recess just completed, several events occurred, the most prominent of which was, of course, the summit meeting. I find it unremarkable that the summit meeting focused

on arms control, regional issues, and the other points of contention between the two superpowers that long dominated the debate. I find it somewhat remarkable that in the year 1990 the leader of the United States and the leader of the Soviet Union can sit down for several days of close consultations and discussions without, according to the public statements at least, even mentioning the unprecedented threat to the global environment.

There had been some speculation prior to the summit that this subject might be one of those that was included in the joint communication of the two leaders after their discussions. There had been speculation that they might actually discuss ways in which the United States and the Soviet Union could cooperate to address the problems of the global environment. But at least, according to the reports of the news media and the informal reports of staff members from the various agencies that helped to prepare the President for these discussions, it was not a topic of serious discussion at the summit.

There were two other events related to the global environment that occurred during this recess period. First of all, the panel set up under the auspices of the United Nations, headed by Great Britain, charged with the responsibility of assessing the seriousness of global warming and the threats to the global environment, issued a report.

The Intergovernmental Panel on Climate Change, or IPCC, is the official forum in which nations from around the world, in the three working groups of the IPCC, are drafting three important reports on climate change. One of them is on the science of climate change. How certain are we that the problem is real and is occurring? That working group is headed by Great Britain. A second report will assess the impacts to expect from climate change, and is being drafted by a working group headed by the Soviet Union. A third report is on the response strategies to figure out what to do to address this problem. That is the working group headed by the United States.

The working group headed by Great Britain, and including a number of nations, has been studying the issue of how certain this question is for quite some time. They just released their final report.

Margaret Thatcher made a lengthy speech at Hadley Centre in Berkshire on Friday, May 25, 1990, the day that we left for recess. The scientific experts of the IPCC have concluded in the IPCC scientific assessment of climate change that they are "certain" that the warming is taking place, "certain." They calculate with confidence that immediate reductions in emissions of over 60 percent would be necessary to stabilize the concentrations of artificially added greenhouse gases at today's levels. They predict a rise in temperature and a rise in sea level, with all that entails.

Prime Minister Thatcher, in her speech on this report, which has taken so long to prepare, broke with the official policy of the U.S. administration, President Bush's administration, and said the time to act is now. The time for delay is over.

Well, there is another draft report besides this one, which relates to the work of the working group headed by the United States. This working group is the one charged with figuring out how the world should respond to this certain threat. We do not have the final document because the participants in that working group are meeting right now in Geneva, even as we assemble here. It is headed by Mr. Fred Bernthal, of the United States. But we have news reports about the draft prepared by the Bush administration, the working paper from which this report will come. Unfortunately, it appears that President Bush and John Sununu and others directing policy in this administration are at it again.

According to news reports, the President has used the influence of the United States to water down the recommendations for response strategies. Rather than calling for the actions favored by the other nations involved in this study group, the draft report, because of heavy-handed influence from the White House, instead proposes to do nothing, proposes no specific goals, proposes no timetables for action, no strategic plan for addressing this problem.

So, Mr. President, here is the situation. We have the two groups, one to study whether climate change is real or not, how serious it is, headed by Great Britain; and another group charged with studying whether or not we should do anything about it and if so, what to do about it, that group headed by the United States of America. Great Britain discharges its responsibilities. Other nations under the leadership of Great Britain complete this report, saying they are certain of the problem. Time for delay is over. The time to act is now.

Then comes the turn of the Bush administration to discharge its responsibilities, and what does it do? It says: Let us not do anything. Let us pretend the problem will go away. We have been told it is real, but it might be uncomfortable to actually do something about it, so let us just talk about what we might do if we really wanted to do something. That is basically what the draft report accomplishes.

Mr. President, that is not leadership. It is not what the world requires of the United States of America and of President Bush and his administration at this unusual moment in human history. It follows a pattern with which we have become quite familiar in the Bush administration. In mid-April, the White House held a much ballyhooed conference on global warming where President Bush outraged the participants from all of the other nations by appearing before them to play down the problem and to call not for action but for more research instead of action.

Delegates from other countries at that conference called for concrete and prompt action, but they were completely ignored. Many of those delegates, it was reported in the press, were tremendously offended by the fact that the entire meeting was arranged in a way that prevented the participation of those who disagreed with the President's suggestion that we just delay and study the problem and not do anything about it.

At the end of that conference, it was painfully clear that President Bush does not intend to follow up on his campaign pledge to confront the greenhouse effect with the White House effect, or to be an environmental President. He wants to sound like one, but he does not want to actually do anything. So he decided to go ahead and have the conference and try to word his speeches artfully enough to give the appearance of concern without opening the door to any concrete action. But people are seeing through this now. This game cannot continue. President Bush has to face up to the responsibilities of leadership on this question.

Two weeks ago the pattern continued. I spoke in this Chamber, along with several of my colleagues, about the same kind of response to the problem of the depletion of the stratospheric ozone layer. As the distinguished occupant of the chair will recall, this body affirmed and ratified the Montreal protocol, and we undertook an obligation to reduce the emissions of these very harmful chemicals that destroy the protective stratospheric ozone layer. In that same document we acknowledged an obligation to, along with our allies, render some minimal assistance to Third World nations attempting to make a transition to new technologies that will allow them to stop using these harmful chemicals.

It came time to put flesh on the bones, to make that commitment real, and the international community gathered. Every other nation in the world said OK, we are ready to act. The Environmental Protection Agency advised the President, "Yes, Mr. President, it is time to act." The State Department advised the President, "Yes, Mr. President, it is time to act." Presi-

dent Bush said, "No, we will do nothing instead."

Of course, the entire international community was outraged. The meeting broke up in, I will not say a shouting match, although voices were raised in anger. It was a discordant meeting. Nothing was accomplished, because the United States stood in the way of progress, not because the Environmental Protection Agency or the State Department or the Congress or the American people wanted to see that kind of policy but because President Bush listened to John Sununu and a few economists who have decided to reject the advice of those who have been working on this problem in the scientific community.

So now we are on the verge of seeing it happen again, but this time, Mr. President, the stakes are even higher. President Bush has long said that the best course of action is to wait until this international process, the IPCC, reaches its conclusions, and only then will it be time for him to actually consider doing something.

They have now reached their conclusions. The jury is in. The problem is real. A consensus has been built. It is time for the President to step up to the plate. Unfortunately, according to these reports, he has instructed his officials in Geneva to stonewall the process and to slow-walk the delegates from other countries who say it is time to act.

Mr. President, I am concerned about this, and I would like to quote from Margaret Thatcher's speech of May 25. She said, "Greenhouse gases are increasing substantially as a result of man's activities; that this will warm the Earth's surface, with serious consequences for us all and that these consequences are capable of prediction," in her summary of the report's conclusions. She went on to state:

> If the panel's predictions are broadly right, then the world could become hotter than at any time in the last 100,000 years and just to get our time perspectives right, can I remind you that Abraham was around only 5,000 years ago.

Mr. President, I remember when this process began. In January 1989, Secretary of State Baker made his very first public statement after being confirmed as Secretary of State at an earlier meeting of the Response Strategies Working Group, meeting again this week in Geneva. At that time, it was meeting in Washington. Secretary Baker stated in that first official speech:

> We can probably not afford to wait until all of the uncertainties have been resolved before we do act. Time will not make the problem go away.

Mr. President, I believe Secretary Baker knows this problem is real. I wish President Bush would take his advice. I know that Bill Reilly understands the problem is real. I wish President Bush would take the advice of the head of his Environmental Protection Agency. I believe his science adviser, Dr. Allan Bromley, knows the problem is real. I wish President Bush would take the advice of his science adviser. But now, as the reports are completed and the administration has to face up to where it will lead, it is again reportedly using its influence to keep any recommendation of action out of the report.

This kind of foot-dragging is becoming a serious embarrassment for our country. It is shortsighted, and in my view it is extremely harmful to our future prospects. In country after country, policymakers and scientists and governmental leaders are recognizing that we need to take action now. In our country, the administration says we will worry about it tomorrow.

Mr. President, if we do not act today, it will be much more difficult to deal with the problems which we will face tomorrow.

I ask unanimous consent that the text of the report by the IPCC scientific assessment panel, dated May 25 be printed in the RECORD, along with the complete text of the speech by Prime Minister Thatcher, also dated May 25, 1990, along with two news reports in the New York Times, one on the assessment of the seriousness of the problem by that panel, and another on the draft report by the U.S.-led panel which, according to this report, "ignores the urgency of the problem."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LONG-TERM CLIMATE PREDICTION: PM'S SPEECH

(Following is a transcript of a speech given by the Prime Minister, Mrs. Margaret Thatcher, at the opening of the Hadley Centre, Bracknell, Berkshire, on Friday, May 25, 1990)

Many of us have been worried for some time now about the accumulating evidence of damage to the global environment and the consequences for life on Earth and for future generations. I spoke about this to the Royal Society in 1988 and to the United Nations General Assembly in November last year. Today, with the publication of the Report of the Inter-Governmental Panel on Climate Change, we have an authoritative early warning system: an agreed assessment from some 300 of the world's leading scientists on what is happening to the world's climate—all this under the distinguished chairmanship of Dr. Houghton.

Your Report confirms that greenhouse gases are increasing substantially as a result of man's activities; that this will warm the Earth's surface, with serious consequences for us all, and that these consequences are capable of prediction. We want to predict them more accurately. That is why we are opening this Centre today.

We have therefore a Report of historic significance. It is not something arcane or remote from everyday concerns: what it predicts will affect our daily lives. Governments and international organisations in every part of the world are going to have to sit up and take notice and respond.

Of course there is a lot more that we still need to find out. But if the Panel's predictions are broadly right, then the world could become hotter than at any time in the last 100,000 years and just to get our time perspectives right, can I remind you that Abraham was around only 5,000 years ago! We know that there have been major changes in the world's climate and environment in the past. For instance, in this country you could grow vines as far north as Edinburgh in Roman times, and fossils of serpents have been found from even more ancient times. But the changes which we are talking about now will occur at a faster rate than anything our natural world has known in the past. One of the effects could be a great migration of animal and plant life, and possibly the loss of some of them altogether. The calculation has been made that a one-degree rise in temperature would over time lead forests to move 100 kilometres further north and some ordinary farming crops may move as much as 200–300 kilometres. Just imagine the effects on farming, on the Common Agricultural Policy, on the sort of crops you can grow in particular areas and on nature reserves. They might find themselves in the wrong places if the flora and fauna which they are meant to protect migrate.

Changes in the sea level as the sea expands could also affect our lives considerably. At a Commonwealth Heads of Government Meeting a year or two ago, in Vancouver, the President of the Maldives reminded us that none of his country was more than 6 feet above sea level and the consequences of a significant overall rise in sea level could be one less member of the Commonwealth. He told us he did not know what we could do about it at that time, but he wanted us to know that they were very concerned about it. Other low-lying countries like Bangladesh will be badly affected and there would surely be a great migration of population away from areas of the world liable to flooding and from areas of declining rainfall and therefore of spreading deserts. Those people would be crying out not for oil wells but for water!

Of course every detail of the forecasts may not be quite right. It rarely is when you are trying to predict the future. There is still a great deal of work for the scientists to do, particularly in trying to estimate the detailed distribution of the effects of global climate change which I have described. We want to know what is happening in the regions; more than that, we want to know what is going to happen in each country.

As the Panel's Report itself makes clear, we should have a better understanding of many of these things in 10–15 years time, say, by about the year 2005. By then we shall have benefitted from new measurements from satellites, from new and more powerful computers and the results of work now being done on ocean circulation, in which this country is playing a considerable part.

But we can already draw some broad conclusions from the work which has been done: First, the climate changes which we have witnessed in the past have been mainly the result of natural factors, changes in the Earth's orbit or in the amount of radiation given off by the sun, for instance. Man's activities had only a small part to play. In the future, this can no longer be assumed. Man's activities are already adding green-

house gases to the earth at an unprecedented rate, with inevitable consequences for our future climate. The annual accumulation of carbon dioxide reaching the atmosphere is of the order of 3 billion tonnes and half of all the carbon dioxide emitted since the Industrial Revolution is still in the atmosphere—and all this while we are at the same time destroying tropical forests, which are a vital way of taking carbon dioxide out of the air and storing it. It stands to common sense that these figures are going to go up as the world's population increases, with greater consequent intensity of agriculture, more destruction of forests and woodlands, and more use of fossil fuels. At the time when I was born, the world's population was some 2 billion people. My grandson is going to grow up in a world of more than 6 billion people, and the predictions are that we shall have 10 billion people by the middle of the next century. Whichever way you look at it, problems are bound to arise as a result of going from 2 billion to 10 billion in such a short time. The world has never known anything like it. Putting the problems right will be all the harder until we succeed in curbing that rate of population growth.

The second conclusion that can already be drawn is that more than ever we are one world. The fact is that you cannot divide the atmosphere into segments and say: "All right! We will look after our bit and you look after yours!" We shall only be able to deal with the problems by a giant international effort in which we all cooperate.

And that leads on the third conclusion: We would be taking a great risk with future generations if, having received this early warning, we did nothing about it or just took the attitude: "Well! It will see me out!" I remember saying in my Royal Society speech that we had a full repairing lease on this Earth. With the work done by the Inter-Governmental Panel on Climate Change, we can now say that we have the Surveyor's Report and it shows that there are faults and that the repair work needs to start without delay. The problems do not lie in the future, they are here and now: and it is our children and grandchildren, who are already growing up, who will be affected.

In some areas, as you know, we have already started. Britain was among the first to call for an International Convention on Climate. We are giving generous help for forestry in developing countries. We have undertaken to phase out CFCs and other ozone-depleting substances by the end of the century. But that will only be effective it it extends to developing countries too and they will need help. We shall have to address this issue urgently at the London Ozone Conference next month.

We must also take action on carbon dioxide emissions and that will mean significant adjustments to our economies: more efficient power stations, cars which use less fuel, better-insulated houses and better management of energy in general. All this is bound to take time. It is no good setting political targets for action which are just not realistic in practice. Any target would have to be part of a wide international effort with a fair distribution of the burden. There would be no point in improving our performance if others just go on as before, for we are only responsible for about 3 percent of the world's emissions, but provided others are ready to take their full share, Britain is prepared to set itself the very demanding target of a reduction of up to 30 percent in presently-projected levels of carbon dioxide emissions by the year 2005. This would mean returning emissions to their 1990 levels by that date. All of this will be spelled out in our White Paper on the Environment which will be published in the autumn.

May I say that the private sector is constantly showing the way with its ingenuity and inventiveness. For instance, a few weeks ago I gave an award to ICI for what they had done in this respect. They have developed a new way of producing ammonia which reduces nitrogen oxide emissions by 87 percent, sulphur dioxide by 95 percent and carbon dioxide by 60 percent—and it uses less resources. The net result is significantly lower production costs and very substantial environmental benefits. Indeed, if that particular process of producing ammonia were to be adopted worldwide, the saving in terms of pollution would be equivalent to taking 5 million cars off the road! It shows what can be done by people struggling to remain competitive and by doing all the necessary research for that and having an excellent by-product in environmental benefits.

This is where the work of this Centre which we are opening today comes in. With its advanced computing facilities and the superb skills of its scientists, it will help us look into the future and to predict more precisely the changes in our climate. This is the Centre which, in November 1989, I promised the United Nations would be set up in the United Kingdom. Its task is not to predict the weather for a few weeks ahead, but to predict it for a century ahead. Previously, we could get some idea of future climates by observing and analysing the patterns of the past. But the changes we can expect in the future will be so much greater than anything we have hitherto experienced, that these methods will not be adequate and we shall need to rely much more on computer models which take in the full complexity of the climate system.

It will be on the basis of this work that we shall be able to establish a realistic international programme of action and an equally realistic time-table. Discharges of carbon dioxide and CFCs, if unabated, will go on accumulating in the atmosphere and could not easily be reversed. Even the most urgent measures now cannot fully repair the damage of the past. But action now will prevent the problem from becoming acute and give us time to improve our predictions and enlarge our understanding. The Panel's Report will present us with a very full agenda for the next fifteen years up to 2005 and we should start on that without delay.

EXECUTIVE SUMMARY, IPCC SCIENTIFIC ASSESSMENT OF CLIMATE CHANGE, MAY 25, 1990

We are certain of the following:

There is a natural greenhouse effect which already keeps the Earth warmer than it would otherwise be.

Emissions resulting from human activities are substantially increasing the atmospheric concentrations of the greenhouse gases: carbon dixoide, methane, the cholorofluorocarbons and nitrous oxide. These increases will enhance the greenhouse effect, resulting on average in an additional warming of the Earth's surface. The greenhouse gas, water vapor, will increase in response to global warming and further enhance it.

We calculate with confidence that:

Some gases are potentially more effective than others at changing climate, and their relative effectiveness can be estimated. Carbon dioxide has been responsible for over half the enhanced greenhouse effect in the past and is likely to remain so in the future.

Atmospheric concentrations of the long-lived gases (carbon dioxide, nitrous oxide and the CFCs) adjust only slowly to changes in emissions. Continued emissions of these gases at present rates would commit us to increased concentrations from decades to centuries. The longer emissions continue to increase at present day rates, the greater reductions would have to be for concentrations to stabilize at a given level.

The long-lived gases would require immediate reductions in emissions from human activities of over 60% to stabilise their concentrations at today's levels; methane would require a 15-20% reduction.

Based on current models, we predict:

Under the IPCC Business-as-Usual (scenario A) emissions of greenhouse gases, a rate of increase of global mean temperature during the next century of about 0.3 degrees C per decade (with an uncertainty range of 0.2 to 0.5 degrees C per decade); this is greater than that seen over the past 10,000 years. This will result in a likely increase in global mean temperatures of about 1 degree C above the present value by 2025 and 3 degrees C before the end of the next century. The rise will not be steady because of the influence of other factors.

Under the other IPCC emission scenarios which assume progressively increasing levels of controls, rates of increase in global mean temperature of about 0.2 degrees C per decade (scenario B), just above 0.1 degree C per decade (scenario C) and about 0.1 degree per decade (scenario D).

That land surfaces warm more rapidly than the ocean, and high northern latitudes warm more than the global mean in winter.

Regional climate changes different from the global mean, although our confidence in the prediction of the detail of regional changes is low. For example, temperature increases in Southern Europe and central North America are predicted to be higher than the global mean, accompanied on average by reduced summer precipitation and soil moisture. There are less consistent predictions for the tropics and southern hemisphere.

Under the IPCC Business-as-Usual emissions scenario, an average rate of global mean sea level rise of about 6 cm per decade over the next century (with an uncertainty range of 3-10 cm per decade), mainly due to thermal expansion of the oceans and the melting of some land ice. This amounts to a rise of about 20 cm in global mean sea level by 2030 and 65 cm by the end of the next century. There will be significant regional variations.

There are many uncertainties in our predictions, particularly with regard to the timing, magnitude, and regional patterns of climate change:

Sources and sinks of greenhouse gases, which affect predictions of future concentrations.

Clouds, which strongly influence the magnitude of climatic change,

Oceans, which influence the timing and patterns of climate change, and

Polar ice sheets, which affect predictions of sea level rise.

These processes are already partially understood, and we are confident that the uncertainties can be reduced by further research. However, the complexity of the system means that we cannot rule out surprises.

Our judgment is that:

Global-mean surface air temperature has increased by 0.3 to 0.6 degrees C over the last 100 years, with five global-average warmest years being in the 1980s. Over the same period, global sea level has increased by 10—20 cm. These increases have not been smooth with time, nor uniform over the globe.

The size of this warming is broadly consistent with predictions of climate models, but it is also of the same magnitude as natural climate variability. Thus, the observed increase could be largely due to this natural variability; alternately, this variability and other human factors could have offset a still larger human-induced greenhouse warming. The unequivocal detection of the enhanced greenhouse effect from observations is not likely for a decade or more.

There is no firm evidence that climate has become more variable over the last few decades. However, with an increase in the mean temperature, episodes of high temperatures will most likely become more frequent in the future and cold episodes less frequent.

Ecosystems effect climate and will be affected by a changing climate and by increasing carbon dioxide concentrations. Rapid changes in climate will change the composition of ecosystems; some systems will benefit, while others will be unable to migrate or adapt fast enough and may become extinct. Enhanced levels of carbon dioxide may increase productivity and efficiency of water use of vegetation. The effect of warming on biological processes, although poorly understood, may increase the atmospheric concentrations of natural greenhouse gases.

To improve our predictive capability, we need:

To understand better the various climate-related processes, particularly those associated with clouds, oceans and the carbon cycle.

To improve the systematic observations of climate-related variables on a global basis, and further investigate changes which took place in the past.

To develop improved models of the Earth's climate system.

To increase support for national and international research activities, especially in developing countries.

To facilitate international exchange of climate data.

[From the New York Times, Apr. 16, 1990]

TEAM OF SCIENTISTS SEES SUBSTANTIAL WARMING OF EARTH

(By Philip Shabecoff)

WASHINGTON, April 15.—Assembled by the United Nations in an attempt to arrive at a global consensus on the effects of growing concentrations of industrial gases in the atmosphere, an international team of scientists says it is a "virtual certainty" that the earth's surface will warm substantially in the next century.

The scientists generally agree with the theory that has been largely accepted by other national and international panels: that energy trapped in a greenhouse effect by the gases will warm the earth by 3 to 8 degrees Fahrenheit within the next 60 years.

A number of scientists, though, have raised doubts about the theory and about models of climatic change on which it is based. Skeptics call the model inaccurate or incomplete.

The stakes are huge: backers of the greenhouse theory say it will lead to worldwide flooding, climatic change and social disruption.

3 GROUPS EXAMINE THEORY

Three United Nations teams are examining the theory and its policy implications. A team led by Britain is assessing the state of scientific knowledge about climate change. The conclusions that support the greenhouse theory are in this team's draft report. A group headed by the Soviet Union is looking into how such changes would affect social and economic systems. The third group, led by the United States, is preparing suggested policy responses to such changes. Final reports from all three groups are to be issued this year.

Although still in draft form, the report generally supporting the greenhouse theory is likely to play a role in a White House conference on the changes in global climate. President Bush, who will open the meeting Tuesday, has invited 17 nations plus the European Community and the Organization for Economic Cooperation and Development to participate.

Michael R. Deland, the chairman of the President's Council on Environmental Quality, said that the conference was intended to "integrate the scientific and economic research challenges posed by the climate change issue."

Mr. Deland, who is co-chairman of the conference, said in an interview that the White House called the conference to accelerate United Nations efforts to collect information needed for policy decisions about the greenhouse effect. He denied the contention of some Democrats and environmentalists that the Bush Administration had organized the forum to justify delaying national and international efforts to cope with global warming.

MANY UNANSWERED QUESTIONS

In February, the President spoke to the international group assembled by the United Nations to study the greenhouse theory and emphasized the many unanswered questions about the evidence supporting the theory and the uncertainty about the economic consequences of reducing the use of fossil fuels and taking other steps to lower emissions of industrial gases.

Mr. Bush's remarks appeared to reflect the skepticism of those scientists who questioned whether the available evidence was sufficient to predict that the earth will warm substantially in the next century.

As Mr. Deland noted, however, the President has offered to serve as host of a conference to begin work on international climate change treaty. Mr. Bush has also proposed that $1 billion be budgeted for research into global warming issues.

Senator Al Gore, a Tennessee Democrat who is an advocate of a strong international response to the threat of global warming, has questioned the motives of the Administration in calling the conference on climiate change.

He said in a telephone interview that it was ironic that the findings of the international panel supporting the greenhouse theory would be made public on the eve "of a conference that was designed to highlight scientific uncertainty," and added, "The report confounds the skeptics,"

SUBSTANTIAL MODIFICATIONS LIKELY

D. Allan Bromley, Assistant to the President for Science and Technology said he had had only a "cursory look" at the draft report. But he said scientists on the panel had told him the draft was likely to be modified substantially before it is issued in final form.

Asked about the predictions of global warming in the report, Dr. Bromley, also a co-chairman of the upcoming conference, said: "There are still large uncertainties with any of the models. There is a consensus that if we continue to put greenhouse gases into the atmosphere at the rate of this century, we eventually will get global warming. But we don't know the exact time and magnitude, and some gaping uncertainties that underly these models have not yet been resolved."

The draft report found that emissions of carbon dioxide, methane, chlorofluorocarbons and nitrous oxides, gases that retain radiation from sunlight and thus contribute to a warming of the earth, are continuing to build up in the atmosphere.

To stabilize concentrations of carbon dioxide at present levels, it said, "an immediate reduction in global man-made emissions by 60 to 80 percent would be necessary."

The authors of the report said they had a high degree of confidence that the earth's surface and the lower atmosphere would warm by 2.7 to 8 degrees Fahrenheit. While the models show there is likely to be increased drought at mid-latitudes in the Northern Hemisphere, the available data permit only relatively low confidence in this finding, the report said.

In the last 100 years, the temperature of globe has gone up by three-tenths of a degree to 1.1 degrees Fahrenheit, a range consistent with the climate models, the report said. But it also said it cannot be determined at this point how much of that increase can be attributed to greenhouse gases.

The report noted, however, that an analysis of the geologic records of prehistoric epochs shows that the correlation of increases of carbon dioxide in the air with temperature changes is similar to the predictions of the computer models.

Richard S. Lindzen, a scientist at the Massachusetts Institute of Technology who has been one of the most vocal critics of the conclusions of the climate models, said he had not seen the draft report. But when told of its findings, he said, "The conclusions sound off the wall to me."

Mr. Lindzen said there are still so many uncertainties in the models, including the role of increased cloud formation and water vapor as a result of warmer temperature, that they cannot accurately forecast what will happen in the next century.

[From the New York Times, June 2, 1990]

CRITICS SAY DRAFT REPORT ON CLIMATE SHIFT IGNORES URGENCY OF PROBLEM

(By Philip Shabecoff)

WASHINGTON, June 1.—A draft report by an American-led policy group of the United Nations has proposed international measures to cope with global warming caused by pollution, but it calls for no specific goals or timetables for action.

Environmentalists and some European diplomats who have seen a summary of the report, which was prepared by American officials, complained that its recommendations did not reflect the urgency evident in a report on scientific knowledge about global warming.

That report, prepared by a British-led panel and released last week by another United Nations panel, found that unless the emissions of carbon dioxide and other gases that are trapping heat from the sun are im-

mediately cut by more than 60 percent, global temperatures would rise sharply in the next century with unforeseeable consequences for humans.

The draft policy report by the American-led panel calls for a general international treaty to address global warming, but none of the signers would be obligated to take specific action. Other recommendations are to use energy more efficiently, to strengthen existing institutions that could address the climate change issue, and to accumulate more information on scientific, technical and economic implications of the problem.

THREE PANELS EXAMINE PROBLEM

Three United Nations-sponsored working groups are gathering information to help nations decide what to do about global warming. The British-led panel completed its report last week. A Soviet-led group studying the potential effects of global warming is still working on its report. The American-led group was assigned to examine strategies for dealing with the problem.

The information provided by the three groups is intended to form the basis of further international action to deal with the problem. An international conference will be held in Geneva this November to plan the next steps.

The policy group's recommendations generally parallel the Bush Administration' approach to the problem. The Administration wants to delay specific international action, like mandatory reduction of carbon dioxide and other pollutants, and to focus on more study of the scientific and economic implications of the shift in climate.

European governments are expected to press for a stronger report when the members of the American-led working group meet in Geneva next week to prepare its final report, said an official in the Netherlands Embassy here.

The official said Western European governments were concerned that the policy summary prepared by the United States put more emphasis on uncertainties than was warranted by the findings of subcommittees that did the research for the report. But he said that his government could not comment officially on the report because it was still in draft form.

Daniel Lashof, a global warming expert for the Natural Resources Defense Council, an environmental group, said "there is a real disconnect" between the recommendations of the science panel and the draft report by the working group on policy responses. He said the science panel "made a strong statement about the science and the need for at least a 60 percent reduction in carbon dioxide, while the policy group did not even analyze the policy measures needed to reach that reduction."

Frederick M. Bernthal, deputy director of the National Science Foundation and chairman of the policy working group, did not respond to several telephone calls over the last two days.

The draft report on policy options was prepared by the Response Strategies Working Group, one of three working groups that make up the Intergovernmental Panel on Climate Change, which was created in 1988 by the United Nations Environmental Program and the World Meteorological Organization, another United Nations organization.

The response strategies working group identified a number of measures that it said would be "particularly important and feasible in the short term."

It suggested the development of a "framework convention," or general treaty on climate change, without specifying any particular obligations or deadlines for reducing the pollution that is accumulating in the atmosphere and trapping radiation from the sun in a phenomenon known as the greenhouse effect.

It proposed carrying out measures that "are already economically and socially justifiable in their own right and which also provide benefits from a climate change standpoint." Such measures would include increased energy efficiency and improved use of forests and other natural resources.

It urged increased research into scientific, technical and economic uncertainties about the magnitude, time and regional effects of global warming; potential policies to lessen its impact, and measures to adjust to a warmer earth when and if that happens.

Mr. GORE. Mr. President, I ask unanimous consent to speak on another subject during morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROBERT NOYCE

Mr. GORE. Mr. President, I rise today to celebrate the life and accomplishments of an authentic American hero. The sudden death of Robert Noyce on Sunday shocked and saddened those of us who knew him. But one cannot think of Robert Noyce without remembering both his outgoing personality and the remarkable contributions he made to his country and the world.

Consider, first, Robert Noyce the inventor. In the 1950's, Noyce moved to California to work in the new electronics industry. The transistor had just been invented, and for a while Noyce worked with one of its inventors, William Shockley. In January 1959, Noyce, who always had a remarkable curiosity, had an idea that literally changed history. At that time, transistors were linked together on large circuit boards. Those boards were bulky, expensive, and processed information slowly.

Noyce wondered why transistors could not be combined into smaller packages. He had the idea of putting large numbers of transistors together on a single small piece of silicon. What he created in 1959 was the semiconductor chip, the integrated circuit. Along with Jack Kilby of Texas Instruments, who independently invented the integrated circuit during this same era, Noyce made possible the electronics revolution. Every computer, every home appliance with an electronic chip, every military system we use to defend our country relies on that invention.

For this work, Bob won every award and honor an American engineer can receive—the National Medal of Science, the National Medal of Technology, and the National Academy of Engineering's first Draper Prize, the last shared with Jack Kilby.

Consider, second, Robert Noyce the entrepreneur. In 1957, even before his invention, Noyce and seven colleagues left Shockley's company to form Fairchild Semiconductor, the pioneering semiconductor firm of Silicon Valley. In 1968, he cofunded Intel and helped develop the modern memory chip. Intel also went onto become a world leader in microprocessors, the logic chips that form the heart of any computer. If you use an IBM personal computer or an IBM-compatible machine, you are using an Intel microprocessor. Intel is now a multibillion-dollar company, and to this day not even the Japanese have been able to catch up to it.

Consider, next, Robert Noyce the citizen and policy innovator. Noyce helped start the Semiconductor Industry Association and quickly became a major leader in efforts to develop an American response to the Japanese practice of targeting key technologies and industries. Noyce did not ask for protectionism or less competition. He was a man who relished competition and innovation, but he wanted fairness. He asked that U.S. antidumping laws be enforced, that the Japanese open their markets, and that the American industry be allowed to pool research dollars to develop new semiconductor manufacturing equipment.

That last effort led, of course, to Sematech, the Semiconductor Manufacturing Technology Institute, a pioneering research partnership of 14 companies and the Federal Government. Noyce initially sought to avoid being made head of Sematech, but he was the inevitable choice. He took the job in 1988 and served with great distinction until his tragic death on Sunday.

I last met with Bob Noyce in May. We talked about America's future, about the need for a U.S. vision and strategy for competing in this new era of high technology and foreign targeting. What struck me then, and what I remember today, are the man's intelligence, enthusiasm, and quiet patriotism. Bob Noyce was a man who wanted to see this country become competitive again. He was never a man to throw up his hands and walk away from a challenge.

Mr. President, in earlier times Congress and the country celebrated our great inventors and technological pioneers. On the first floor of the Senate side of the Capitol, outside the room that now belongs to Foreign Relations but which once served the Committee on Patents, are portraits of some of America's greatest inventors and scientists. Benjamin Franklin is there, as are Fulton and Fitch, the two Americans who invented the steam boat. In a nearby corridor, near S-119 and S-

120, are portraits of first an astronaut on the moon and then the seven crew members of *Challenger*. Further, toward the center of the Capitol, still on first floor, outside of what is now the law library, is a large plaque. It states that on May 24, 1844, from that chamber Samuel F.B. Morse sent the world's first telegraph message. In a little over a century, American inventors have moved from the telegraph to the semiconductor chip. In the process, they created whole new industries and forever changed our world.

Mr. President, perhaps we need a new portrait in the Capitol, a portrait of Bob Noyce and Jack Kilby in one of the blank spaces near Franklin and Fulton. It would be fitting. In an era when junk bond dealers get more attention than our great inventors, we should not forget the Americans whose ideas and imagination have powered economic growth, raised our standard of living, and made possible products and activities we never dreamed possible.

I am saddened by Bob Noyce's death, and my sympathies go out to his family and colleagues. But in Bob's accomplishments and contributions, I find much to celebrate. He gave us a great deal, and his legacy surrounds us everywhere we go.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. BOSCHWITZ pertaining to the submission of Senate Concurrent Resolution 137 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. BOSCHWITZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERRY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, do I understand correctly that the Senate is in morning business now?

The PRESIDING OFFICER. The Senator is correct.

TERRORISTS

Mr. LIEBERMAN. Mr. President, last week terrorists associated with the Palestine Liberation Organization attempted a massive attack against civilians, civilian targets in Israel, perhaps even targets associated with America's Embassy in Tel Aviv, and they chose a religious holiday for their attempted raid.

In response to this extremely aggressive and outrageous act, which was thwarted by the Israeli defense network, PLO Chairman Yasser Arafat has said only that it was not his fault. That is not enough. No words of condemnation for the attack crossed his lips, no acts of reprisal against Abu Abbas, the leader of the PLO faction, who sits on the executive committee of the PLO, and has actually claimed responsibility for planning and executing this attempted terrorist raid on civilian targets.

By his failure to react to the terrorist attack against Israel, PLO Chairman Arafat has quite simply broken the promise he made in Geneva in December 1988, in which he renounced terrorism and said he would continue to renounce terrorism. That broken promise, in my opinion, must now lead our Government to suspend the dialog we began with the PLO based on that promise of Arafat and other promises he made in Geneva in December 1988.

Mr. President, I was pleased to join with my colleague, Senator CONNIE MACK of Florida, in offering the PLO Commitments Compliance Act last year, which requires the State Department to issue periodic reports on the PLO's adherence to the commitments it made in Geneva in December 1988.

The first such report, which was issued by the State Department a couple months ago, in my opinion came close to being a whitewash of evidence that existed at that time that the PLO was involved in terrorist acts. In fact, I fear that the logic that was adopted by the State Department in its early report opened the door to exactly what happened in Israel last week and Arafat's response to it, because we acknowledged that evidence existed that showed that nine terrorist raids had been carried out against civilian targets in Israel by elements of the PLO. But we excused Arafat from responsibility for those raids, saying either that he did not know about them, or he did not encourage them.

Mr. President, that is not enough, and that kind of logic which accepts leadership without responsibility, which acknowledges that Arafat is the leader of the PLO, and then enables him to say, "I hear no evil, I see no evil, and I certainly do no evil," leads to exactly the kind of behavior that occurred last week both by Abu Abbas and his faction that attempted to strike at civilian targets, and by Arafat in his response to this latest act. It simply cannot be brushed aside by those who would apologize for the PLO.

The terrorist attack on Israel was the last straw in a continuing pattern of unacceptable behavior by elements of the PLO. In recent testimony before Congress, the State Department said that it would suspend its dialog with the PLO if that organization was involved in even a single terrorist act. The terrorist act has now come to pass, not by accusation of Israelis or the Americans or anyone else, but by admission, proud admission by a critical element of the PLO itself.

The time has now come for this administration to live up to its word and to suspend, unhappily the dialog. I supported the dialog with the PLO as a possible road to peace in the Middle East, but they no longer merit the confidence that is involved in that dialog. Today the PLO's executive is meeting. If Abu Abbas' faction, the Palestinian Liberation Front, is not ejected from the executive committee as a result of that meeting, the President must immediately suspend all continuing dialog with the PLO. We cannot be doing business with an organization that condones terrorism.

Until Arafat acts against Abbas, I see no point in continuing any discussions with the PLO. We must not forget that what is involved here is not simply the security or safety of the State of Israel or Israeli citizens. But what we are talking about here when we stand up against terrorism is the security and safety of people everywhere in the world. And let us be a bit more appropriately parochial about it; what I am worried about is the security and safety of American citizens.

History teaches us that when we turn aside from acts of violence, when we do not act against them, ultimately we suffer for that timidity. We have said over and over again, in the aftermath of changes in Eastern Europe and a reduction in the military threat from the Soviet Union, that the greatest threats to the security of American people in the years ahead will probably come from unstable Third World countries and from terrorists.

Americans have died at the hands of terrorists. One American, Leon Klinghoffer, died at the hands of Abu Abbas, the man who masterminded the raid against Israel last week. Obviously, terrorists were involved in the explosion on Pan Am 103 that killed so many Americans, and more than 200 American soldiers died as a result of a terrorist attack on our base in Lebanon some years ago. So our interests are at stake here as well.

Some will say that Arafat should not be blamed for the actions of other Palestinians. Either Arafat is in charge or he is not. If he is, he can and must condemn the terrorist acts and remove Abbas from the executive committee, and the dialog can go on. If he is not, then we have no business dealing with him.

If Arafat wants to be a leader, let him demonstrate leadership, and let us in our administration demonstrate leadership by keeping our commitment to peace and standing firm in our renunciation of terrorism.

I thank the Chair and yield the floor.

GOOD BYE, COLD WARRIORS

Mr. CRANSTON. Mr. President, we are truly living in remarkable times. The changes sweeping across the globe are difficult to comprehend for their velocity, as well as their enormity.

Just before the recess in the New York Times, Charles William Maynes, the former distinguished Carter administration foreign policy official who is the current editor of Foreign Policy magazine provided a compelling vision of what U.S. foreign policy may look like as we near the 21st century.

For those of us who have looked to Foreign Policy for guidance over the years, such cutting edge analyses are no surprise. Under the stewardship of Bill Maynes, Foreign Policy has become an essential analytical tool in dealing with a world our President has said is increasingly uncertain, unstable, and complex. There is certainly nothing uncertain or unstable in the eminently readable policy journal which he ably directs.

The article in the Times, "For a New Foreign Policy * * *," provides a similarly cogent antidote to the often stale policy nostrums which have dominated cold war political thinking. We are entering an era when we can—and will—make meaningful cuts in defense spending and shift the emphasis of our foreign policy away from the traditional strategic conundrums which have hamstrung a more humane foreign and domestic policy. This article gives a needed conceptual framework to what is undoubtedly the thinking of America's new silent majority. I commend this piece to my colleagues.

Mr. President, I ask unanimous consent that the full text of Bill Maynes' article be printed, in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOR NEW FOREIGN POLICY . . . WE NEED NEW LEADERS, NOT THE SAME OLD COLD WARRIORS

(By Charles William Maynes)

WASHINGTON.—The end of the cold war is bringing dramatic changes in policies. But the point of greatest interest to people in Washington is the change in careers.

For more than four decades, the smart money in Washington has known that the way to the top was to bone worst-case analyses about Moscow's intentions and to memorize the "throw weight" of Soviet missiles large and small.

The history of postwar administrations was an object lesson to the ambitious. Throughout the cold war, the struggle between those working for a better world and those pressing for a stronger America was a contest between unequals. By the end of the day, the latter always won.

In administration after administration, individuals like Harold Stassen, Chester Bowles, Adali Stevenson, Elliott Richardson and Cyrus Vance steadily lost ground. Individuals like John Foster Dulles, Dean Rusk, Henry Kissinger and Zbigniew Brzezinski gained ground.

Invariably, the causes or approaches associated with the first group of men were weakened. The causes or approaches associated with the second group were strengthened.

Losers pushed issues like the search for superpower accommodation, interest in third world development and concern about international law and international institutions or global matters like the environment. Winners pushed for bigger military budgets, military assistance to third world states and an ever-widening capability of the Central Intelligence Agency to carry out paramilitary operations in other countries.

By the mid-1970's, the warriors had gained the upper hand. On five separate occasions after 1975, military officers served as the President's national security adviser; a general became Secretary of State; another headed the Arms Control and Disarmanent Agency; an admiral was made head of the C.I.A.; another became the Secretary of Energy.

Surrounding these men was a small army of military advisers as well as the intellectual warriors who dominated national politics for decades by discovering bomber, missile and warhead gaps that always seemed to disappear once victory in the latest election had been secured.

But the task of government is changing, and so must the people chosen to head it. The challenge is now less military vigilance than diplomatic change. Tensions must be relaxed, not maintained. The kind of "follow-me" leadership exemplified by the military must give way to a form of partnership.

What will this mean for the young men and women who are now trying to think of ways to make their mark on official Washington?

Economists will be more important than geopoliticians, diplomats more critical than warriors. Multilateralists for the first time will be more important than bilateralists—people who understand international financial institutions may be more valuable than people who know the names of Salvadoran guerrilla leaders.

The National Security Council will lose importance because it is weak in the new subject areas. State and Treasury will regain some of the power they have lost in recent years.

Because so much of the diplomatic agenda will concern issues that impinge on domestic politics, those who understand the game will be ahead and those who can play it will prevail.

The much maligned New York and Philadelphia lawyer will again come into his own. This will happen gradually, as cold war contempt for legal restraints gives way to an understanding that a status quo power like the U.S. has a vested interest in the norms of law and institutions.

Experts in fields like the environment or development may become serious candidates for major positions on the N.S.C. or in the State Department. Like the warriors before them, they will have the critical expertise. People who can discover the connections among several issues will be in greater demand than those who understand every detail about one, however important.

All of these changes are going to be very unfair to those who have spent the last 20 years attending mindnumbing conferences on nuclear dominance only to find now that they have been going to the wrong meetings. But, after all, such shifts in the market are a problem ordinary Americans have always had to face.

JULIUS UEHLEIN

Mr. SPECTER. Mr. President, on June 10, 1990, some of the most prestigious names in the American labor movement will gather in Hershey, PA, to pay tribute to one of their own. They will come to honor Julius Uehlein's a man whose life has been dedicated to fulfilling the aspirations and aims of our Nation's working men and women.

These leaders will include Lane Kirkland, president of the AFL-CIO, Lynn Williams, president of the United Steelworkers of America, Gerald W. McEntee, president of the American Federation of State, County and Municipal Employees and Richard L. Trumka, president of the United Mine Workers of America, among others. They will come together to extend their congratulations and very best wishes as Julius Uehlein steps down as president of the Pennsylvania AFL-CIO.

They will sing the praises of Uehlein because he has earned these plaudits; they will exhaust their store of superlatives in describing Uehlein's talents and efforts because they truly believe he is deserving of these encomiums; and, lastly, they will wish him well as he concludes a brilliant and successful career as a labor leader, one of their peers.

For more than five decades, Julius Uehlein has been in the forefront in fighting for decent wages, benefits and working conditions for America's laboring men and women. His primary efforts have been concentrated in Pennsylvania and Ohio.

One of the original SWOC [Steelworkers Organizing Committee] members, he first joined the United Steelworkers of America in 1936 while employed at the United States Steel Corp. National Tube Works in Lorain, OH. He served Local Union 1104 in several capacities before beginning full time service for the union in 1948.

As an international representative, Uehlein participated in national negotiations, local bargaining and arbitration with the large steel corporations. In 1967, he was elected secretary-treasurer of the United Steelworkers of America Legislative Committee of Pennsylvania, and for 15 years he directed that organization's legislative program.

Throughout his distinguished career in organized labor, Julius Uehlein has

fostered worker education programs and promoted the cause of workers' rights, irrespective of race, religion, or national origin. He has been a volunteer instructor at several universities, educating both union members and college students about organized labor.

As Julius Uehlein ends his estimable career as a labor leader to the paeans of his union peers, it is altogether fitting that the U.S. Senate take note of his efforts on behalf of the labor movement and wish him the very best.

WELCOME TO PRIME MINISTER CONSTANTINE MITSOTAKIS

Mr. PELL. Mr. President, later today we will have the pleasure and honor to welcome to the Senate Greek Prime Minister Constantine Mitsotakis. This is indeed a significant occasion in that the last official visit of a Greek premier to the United States was some 26 years ago.

As one stands in this Chamber, it is impossible not to be reminded of the deep bond between our two countries. Our Founding Fathers took inspiration from the ancient ideals of democracy and the concept of rule by law of Greece. It is no accident of history that this building where the laws of our country are debated is patterned after the ancient temples of Greece.

I am heartened that Prime Minister Mitsotakis, immediately upon his election, expressed his desire to improve relations with the United States. The tangible evidence of that expression is the recent completion of a United States-Greece defense agreement in the mutual interest of both countries. But the most important link between the United States and Greece is our people, and that is a relationship which is never strained. There are over 3 million people of Greek descent residing in the United States, and most families in Greece can claim at least one relative who is an American citizen.

As the ideals of liberty and democracy that Greeks and Americans share flourish around the globe, we must not forget that a large Turkish military presence remains on the island of Cyprus, holding over 40 percent of the island by force. Nor can we allow the United States Government to acquiese to Turkey's illegal occupation of the island.

The United States State Department estimates that it costs Turkey $9,000 per year per soldier in the field. Using that estimate, Turkey's occupation forces in Cyprus cost $315 million a year. In this fiscal year, the United States is giving Turkey half a billion dollars in military aid. It is undeniable that we, the United States, are financing the continued occupation of Cyprus.

For this reason, I have joined as a sponsor of Senate bill 22 which prohibits all United States military and economic aid to Turkey until Turkey takes strong, specific actions to resolve the situation in Cyprus.

In addition, I along with Senators KENNEDY, CRANSTON, SARBANES, and SIMON have written to Secretary Baker urging that he personally take steps to elevate the Cyprus issue on the United States foreign policy agenda and that the administration begin utilizing our substantial leverage with the Turkish Government to bring about constructive negotiations on the issue of Cyprus. We must continue to press Secretary Baker and President Bush at every opportunity to focus their energies and attention on Cyprus.

I look forward to the opportunity to meet with Prime Minister Mitsotakis later today to discuss with him the many matters of interest to his country and ours.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,907th day that Terry Anderson has been held in captivity in Beirut.

ELECTIONS IN BURMA

Mr. MOYNIHAN. Mr. President, despite the expectations of many, and I might add to my surprise, the Burmese people appear to have been given the opportunity to freely denounce their current Government, the State Law and Restoration Council, or SLORC. I was surprised, as I believe many were, not by the desire of the Burmese people to rid themselves of a bankrupt totalitarian government—that desire has been unfaltering—but rather by the apparent willingness of this government to allow the free expression of its people.

The National League for Democracy, Burma's chief opposition party, whose leaders, including Daw Aung San Suu Kyi, have been harassed and imprisoned, have nevertheless swept to victory by an overwhelming vote of Burmese people. Not least among those who said "no" to this government—which over the course of 28 years plunged the country, once Southeast Asia's richest, the rice bowl of the orient, into poverty—now the unique recipient of the United Nation's designation of least developed country—are considerable numbers of the military. Reports indicate that even in military strongholds in and around Rangoon, Burma's capital, the military voted with the opposition. This is of particular note. Divisions within the military, which for nearly three decades has guaranteed the complete power of General Ne Win, indicate that his monopoly of power may indeed have been broken.

Mr. President, despite these astonishing developments in Burma, that Government has yet to indicate a willingness to transfer power. Clearly, the most important and immediate step must be the release of all political opposition figures especially Daw Aung Suu Kyi and U Tin Oo.

Until the government of Generals Saw Maung and Ne Win indicate a willingness to begin the immediate task of abiding by the wishes of the majority of Burmese voters, we cannot withhold international pressure. The message must be clear and resolute: We insist that the Government of Burma immediately uphold the mandate voiced by its own people, the results of a multiparty election which it called, and begin the process of restoring democracy to that country and to its people. In an effort to do so, we must continue to seek the application of trade sanctions which would ban the import of Burmese products, particularly timber and fish, from our markets. Without such added pressure this opportunity may well slip away from the people of Burma. We must not allow that to happen.

I would call upon our friends in Thailand to join the United States, Japan, and the European Community in this effort. Thailand is in a unique position in the international community to lend support to the Burmese opposition in its efforts to seek a peaceful transfer of power, and I would hope that they would apply their influence to this end. Clearly it is in the Thais' interests to cease all involvement with SLORC and apply their considerable pressure to bring about the smooth and peaceful transition of power in Rangoon and throughout the country.

Mr. President, I ask unanimous consent that at this point in my statement several editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, May 30, 1990]

THE BURMESE SHOUT FOR DEMOCRACY

With astounding courage, the people of Myanmar have defied a bullying military regime and voted overwhelmingly for a pro-democracy movement whose leaders are in jail or under house arrest. Another wall has fallen, and the Burmese did it on their own.

Only last June the ruling military junta changed the country's name from Burma, after being warned by astrologers that the stars were frowning on Burma. Now, in a wonderful sequel, the Burmese have delivered a deserved kick to a leadership blind to signs of earthly discontent. Though Washington's leverage is limited, it can assist a peaceful transfer of power.

The junta owes its power to the savage suppression of pro-democracy demonstrations in September 1988. After the shock of mass killings, the entrenched military leadership regrouped under a new name: the State Law and Order Restoration Council,

or Slorc. However, the dominant offstage figure is still Gen. Ne Win, Myanmar's willful and reclusive dictator for three decades.

Eager for international acceptance, the Slorc promised to conduct the first free elections in 30 years. But no campaigning was allowed, the press was muzzled and leaders of the main opposition party, the National League for Democracy, were kept under house arrest. To no avail: the pro-Slorc candidates failed to win a single seat, even in the constituency where the military headquarters is situated.

Though dazed, the junta talks of delaying a transfer of power until a new constitution is adopted. This could take years. Meantime, still under house arrest are the League's two most formidable leaders, Daw Aung San Suu Kyi and U Tin Oo. Their detention is indefensible. Washington's first order of business is to call on the Slorc to honor the election by freeing its winners.

Congress is weighing a Senate proposal to bar all Burmese imports, chiefly timber and fish, until basic human rights are respected. Though revenues are a modest $12 million, even that much hard currency is vital to one of the world's poorest countries. Using that leverage is the least the U.S. can do for the democracy movement in Myanmar.

[From the Washington Post, May 30, 1990]

A BREAK FOR BURMA

Suddenly and surprisingly, democracy has gotten a break in Burma, and it is up to the foreign countries with an interest in this largely forsaken place to help the Burmese exploit their new opportunity.

The break arises from the results of Sunday's elections. The prevailing assumption was that Burma's generals, an unusually provincial bunch known for repression and torture and for converting one of Asia's richest economies into one of the world's poorest, had called the elections for a purpose: not to start a transition from 28 years of disastrous military rule but simply to trick the rest of the world into thinking they were in the new international prodemocracy swing. To that end, the military leadership incarcerated the opposition's leaders, relocated thousands, heavily restricted opposition campaigning and allowed a confusing 93 parties to flood the field. Not without reason, the international human rights groups warned that these first multiparty elections in 30 years would be a farce.

But they weren't. Somehow, despite everything, the people spoke, giving the deserving National League for Democracy a majority of National Assembly seats. It was an immense humiliation for the Burmese military class, which now must cope with an authentic, legally elected parliament that has an unmistakable mandate to replace the soldiers in power.

Here is where the rest of the world can come in, especially Japan, the most important outside contributor to Burma's economic development. The Japanese, like the Americans and others, had cut aid after the military's bloody repression of prodemocracy demonstrators in 1988. Turning the aid back on must now be linked to the restoration of democracy in Burma—the military's certification of the electoral results, the writing of a new constitution by the new parliament and the military's effective retirement from power.

General Ne Win, who is said still to be pulling the strings, made the coup of 1962 and then hauled Burma into an isolation where the generals could perpetrate their terrible misrule largely unobserved. Burma disappeared from the map, to reappear only now in the current global stirring of democracy. This is suffering Burma's moment for rebirth.

[From the Wall Street Journal, May 31, 1990]

BURMA'S AVALANCHE

From the abyss of Burma comes the Marxist world's latest cry for freedom. After 28 years of vicious one-party rule by Ne Win and his military proteges, the Burmese government on Sunday attempted to legitimize itself with a managed election. It miscalculated. Voters delivered a landslide victory to the opposition National League for Democracy.

Sadly, it's a long shot that Burma's vote will translate smoothly into democratic government. The ruling military junta has said that the newly elected legislature must write a new constitution before there is any serious transfer of power. It is perfectly capable of using that requirement as an excuse for an indefinite stall that ignores the popular will while it renews its policy of political oppression.

Since democratic protests broke out in 1988, the junta has employed shootings, jailings and forced resettlements to discourage its critics. The winning opposition's most prominent figure, Aung San Suu Kyi, is serving a one-year sentence under house arrest. Another opposition leader, U Tin Oo, is doing three years of hard labor for sedition. Hundreds more remain in prison.

But whatever comes next, Burma's vote offers encouragement that democracy may yet prevail over the tyrannies of Asia—where no communist regime has fallen so far.

Conventional wisdom likes to blame the despotic gridlock on Asian cultures, which are presumed to have some affinity for dictatorships. Burma reminds us that since communism proved itself a ferocious failure in the region, Asian cultures have shown a keen affinity for Voice of America broadcasts, fax machines, and anything that brings news of how good life can be in a free society.

Burma's people know enough to place no trust in their government, whose Burmese Way to Socialism has reduced their once rich country to a poor and forgotten hellhole. Tuned in to the VOA, the BBC and Indian radio, they have heard about the Tiananmen uprising in China and the overthrow of communism in Eastern Europe. According to diplomats based in Bangkok and Rangoon, the Burmese took special note of the fall of Romania's tyrant, Nicolae Ceausescu.

Indeed, Burmese dissidents like to point out, correctly, that the democratic avalanche of the past year really began almost two years ago in Burma. It was in the summer of 1988 that Burmese protesters took to the streets, demanding democratic reform. They were killed by the thousands. But not before they had achieved the formal resignation of Ne Win, who after 26 years of misrule was at least banished to behind-the-scenes manipulation of today's military junta. And not before they had reminded the world that even in such obscure places as Burma, there were people brave enough to challenge what seemed then an immovable Marxist regime.

It would be a pity for Burma's glad news to be swept under the clippings of this week's Bush-Gorbachev summit. Burma's next move bears watching, not only because its people have shown admirable courage and a great appetite for freedom, but also because their persistence will not be lost on the people of countries such as Vietnam, Laos, Cambodia and especially China. What began with Burma's 1988 days of rage may yet feed into a democratic avalanche in Asia to match the one in Europe.

ROBERT NOYCE

Mr. BENTSEN. Mr. President, America has lost a man of genius, whose achievements profoundly changed our everyday lives. Robert N. Noyce died suddenly on June 3 at his home in Austin, TX.

Bob Noyce was already a legend when I first had the opportunity to meet with him. Although we met to talk about developments in Austin, our conversation ranged over many other important issues, from trade and tax issues to how to encourage scientific expertise. It was clear to me that Bob Noyce was a man of good sense and strong convictions.

Coinventor of the microchip, cofounder of Intel Corp., a leading figure in one of our key high technology industries, Bob Noyce agreed to head the Sematech consortium being set up in Austin. He was reluctant at first but eventually agreed to undertake the job because he wanted Sematech to succeed. He knew that America needed a strong, innovative semiconductor industry in order to remain truly competitive in the global economy.

In just 2 years, Bob Noyce drove Sematech to success, meeting its milestones and exceeding everyone's expectations. He established a structure that worked, despite the varied nature of the member companies and despite the inevitable frictions of having the Federal Government as a partner. He brought people of different backgrounds together, and made them a creative and cooperative team.

No one as original, as uniquely experienced, or as talented as Bob Noyce can be replaced. But I am hopeful that he will be followed at Sematech by someone with similar commitment and vision. Even before his death, Bob was planning to turn over CEO duties to a successor in order to be able to spend more time on strategic issues. Thus, the search process had already begun. Now, regrettably, it will have to be accelerated.

Mr. President, Bob Noyce left us many legacies—his inventions, the companies he helped to found, and his commitment to excellence. I hope that we can find the means to build on his accomplishments, as the best way to honor his memory.

I ask unanimous consent that articles appearing in the Austin American-Statesman and the Washington Post be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Austin American-Statesman, June 4, 1990]

ELECTRONICS LEGEND ROBERT NOYCE DIES

(By Kirk Ladendorf)

Robert Noyce, a towering figure in the semiconductor industry and chief executive of Sematech for the past two years, died Sunday morning in Austin of cardiac arrest. He was 62.

Noyce, who had no history of heart disease, was stricken at his West Lake Hills home shortly before 9 a.m. Sunday.

EMS paramedics arrived within 9 minutes after being called at 8:48 a.m. and found Noyce not breathing and without a pulse.

When EMS workers were unable to revive Noyce, he was taken to Seton Medical Center where he was pronounced dead at 10 a.m.

Noyce, who maintained a vigorous schedule of physical exercise as well as work, played tennis Saturday and swam at his home earlier Sunday morning. He had been given a clean bill of health after a recent physical examination.

Executives at Sematech and throughout the semiconductor industry were stunned by Noyce's sudden death.

"We've lost a personal friend," Turner Hasty, Sematech's chief operating officer, said Sunday evening. "We've lost a colleague and America's lost a great person."

Hasty, 59, a veteran microelectronics researcher, and chief administrative officer Peter Mills will run Sematech's day-to-day operations until a new chief executive is named.

A meeting of Sematech's more than 600 employees has been called for 9 a.m. today at the research consortium's plant at 2708 Montopolis Dr.

"We expect to mourn our leader and carry on," Hasty said.

Sematech is an Austin-based 14-member consortium of semiconductor and computer companies formed in 1987 to re-establish U.S. leadership in semiconductor manufacturing. It has an annual budget of $200 million provided by the federal government and its members.

Noyce, who gave the semiconductor research effort instant credibility when he took the chief executive's job in 1988, had already accomplished his initial goal—to give Sematech a sound beginning.

Noyce had asked Sematech's board in April to begin looking for a successor as chief executive and had planned to assume a part-time role as the project's chairman of the board before the end of the year.

During his less than two years at the consortium, Noyce worked to solidify support for the project both within the microelectronics industry and in Washington.

He repeatedly sounded the need for government-industry partnerships and cooperation among highly competitive technology companies to enable the country to regain its pre-eminence in microelectronics and other fields.

He believed that without a concerted effort, much of America's technology base would be sold to foreign competitors, principally the Japanese.

As well as being Sematech's primary public spokesman, Noyce played a strong internal role in the research center. He set the project's management style, which focuses on team work and consensus building.

Those who knew and worked with Noyce admired his energy, his intellect, his sense of personal commitment and his ability to motivate those who worked with him.

"He was bigger than his reputation," Hasty said. "He was a superb technologist, an ingenious inventor and also a superb businessman."

"He's the best macro thinker I've been around," Mills said. His death "is a tremendous personal loss and the loss of an American asset. For Turner and I, we are blessed with having worked with him for two years. We have every intention of carrying out his legacy."

Noyce's reputation as a giant of the microelectronics industry was already firmly established before he reluctantly made the choice to move from his California home to Austin in 1988 to head Sematech. Sematech's board had struggled for months without finding the right chief executive.

Noyce said a "gnawing sense of guilt" made him take the job. He believed in the project too much to let it be jeopardized by its inability to find a leader.

In his first meeting with Sematech employees, he told them he had never failed at anything he'd done and he wasn't about to start. And Sematech appears to be well on its way toward meeting its goal of re-establishing U.S. leadership in chip-manufacturing technology by 1993.

Noyce was a historic figure both in the laboratory and in the executive offices of the microchip industry.

He and Jack Kilby of Texas Instruments are credited as co-inventors of the integrated circuit, which revolutionized information processing and ushered in the age of much more powerful computers.

He held 16 patents for semiconductor devices, methods and structures.

Noyce co-founded Fairchild Semiconductor Corp. and, in 1968, co-founded Intel Corp., among the world's most innovative and successful chipmakers.

He was a long-time leader in the microelectronics industry, co-founding the Semiconductor Industry Association and serving as a tireless advocate of restoring competitiveness to U.S. industry and education.

Born in Burlington, Iowa, he received a bachelor's degree from Grinnell College in physics and mathematics before earning his doctorate in physical electronics at the Massachusetts Institute of Technology.

After college, he was involved in research at Philco Corp. and Shockley Semiconductor Laboratory before co-founding Fairchild Semiconductor in 1957.

Noyce, a multimillionaire, felt a sense of keen commitment to strengthening the country's education system and its high-tech base.

When he and Jack Kilby received the first international Charles Stark Draper Award given by the National Academy of Engineers in 1989, he donated his $175,000 prize to help stimulate math and science education programs in public schools.

Noyce was an active tennis player, skier, scuba diver and airplane pilot, who looked forward to spending more time in his personal pursuits after he stepped down as Sematech's chief executive.

Others who worked with Noyce expressed their sense of loss at his death.

"His name will become as important to the electronics industry as Alexander Graham Bell is to the telephone and Thomas Edison is to electricity," said U.S. Rep. Jake Pickle, D-Austin, who had worked with Noyce in securing federal funding for Sematech.

"We have not only lost an outstanding local citizen," Pickle added, "we have lost an international genius."

Jim Jarrett, a spokesman for Santa Clara, Calif.-based Intel, described Noyce as a "legend within the electronics industry."

"He was always referred to as the mayor of Silicon Valley because he was such a respected and loved figure in the industry."

Noyce was awarded the National Medal of Technology by President Reagan in 1987 and the National Medal of Science from President Carter in 1980. He was inducted into the National Inventors Hall of Fame in 1983 and elected to the U.S. Business Hall of Fame last year.

He was a member of the National Academy of Science, National Academy of Engineering and the American Academy of Arts and Science.

Noyce is survived by his wife, Ann Bowers, and four children, William Brewster Noyce, of Hollis, N.H., Pendred Elizabeth Noyce of Weston, Mass.; Priscilla Ann Noyce of Kenya; and Margaret May Noyce of Kyle, and 12 grandchildren.

Memorial service arrangements are expected within the next two to four weeks. The family requests that in lieu of flowers, donations be made to the American Institute of Learning in Austin.

ROBERT N. NOYCE

Born: Dec. 12, 1927.

Education: Bachelor's degree, physics and mathematics, Grinnell College; Ph.D., MIT in physical electronics.

Achievements:

Co-inventor of the integrated circuit with Jack Kilby.

Co-founder of Intel Corp. in 1968, the nation's third largest semiconductor maker.

Co-founder of Fairchild Semiconductor Corp. in 1957.

Named Sematech chief executive in 1988.

Held 16 patents for semiconductor devices, methods and structures.

Honors: Recipient of numerous honors and awards, including: the National Academy of Engineering's Charles Stark Draper Award; the American Federation of Information Processing Societies Harry Goode Award for leadership in computer science; the National Medal of Technology, the Institute of Electrical and Electronics Engineers Medal of Honor.

[From the Washington Post, June 5, 1990]

IN NOYCE'S PASSING, AN ERA ALSO ENDS

(By Evelyn Richards)

PALO ALTO, CA, June 4.—Silicon Valley, the world's technological heartland and the symbol of America's postwar economic dominance, lay stunned today, not just by the death of Robert Noyce, the man who started it all, but by the realization that these are the closing moments of a glorious era.

It is far more difficult today to do what Noyce and his compatriots did so well about 30 years ago—take a bright idea, add to it unabashed ambition and, on the fringe of an apricot orchard, create an industrial revolution.

Noyce did nothing less. As the co-inventor of the integrated circuit, he has been likened in stature to Thomas Edison and the Wright brothers—a man who made possible the electronic age by connecting transistors on a tiny silicon chip.

"It's the key invention of the 20th century," said National Science Foundation Director Erich Bloch, "because it impacts everything, from education to products . . . and the way we deal with each other in society at large."

More than a tinkerer, Noyce became a symbol of the modern American entrepreneur, a time when people got rich and famous with brains, not boastfulness.

It is something of an irony that Noyce's death on Sunday came on the very day that Soviet leader Mikhail Gorbachev arrived in the San Francisco Bay area to pay symbolic tribute to the raw spirit of capitalism that still thrives here like nowhere else.

But the Robert Noyce of the world no longer can roam as freely as he did. "Noyce's death signals the end of an era," said Michael S. Malone, the author of a book chronicling Silicon Valley history. "What he created—the modern electronics industry—has become so sophisticated that the kind of Wild West style which he helped create is gone."

In fact, the latter part of Noyce's life symbolized the realization that lone cowboys rarely succeed in a period of strong international competition. A frequent visitor to Capitol Hill and the premier voice for an embattled U.S. electronics industry, Noyce called for a stronger government role in tax, trade and industrial policy to benefit his industry—much in the model of the Japanese policies he so roundly criticized.

At the time of his death, Noyce was the head of Sematech, an industry-government research consortium in Austin, Tex., that represents the newest era in U.S. industry—the drive not just to compete, but to cooperate.

Noyce was never one to follow convention. The son of an Iowa preacher, he was once thrown out of school for stealing a pig from a farm for roasting at a luau. An avid scuba diver, pilot and skier, the streak of daredevil stayed with him for life.

William Davidow, who worked with Moyce at Intel Corp.—one of the two firms cofounded by Noyce—recalls a Canadian Rockies ski trip a few years back when Noyce delighted in skiing over a 25-foot cliff. "I never understood why he thought he was going to jump off it. He just decided he was going to do it."

That sense of adventure led Noyce and seven others in 1957 to desert Nobel Prize winner William Shockley and seek financing for their own firm, Fairchild Semiconductor. In so doing, they inspired hundreds of other bright entrepreneurs whose breakaway spirit, backed by what has come to be known as "venture capital" investors, spawned Silicon Valley.

Noyce's emergence as an industry statesman began long before many others recognized the consequences of growing international competition. It was a decade ago that he began trips to Washington, warning about matters that would later become topics of widespread concern—closed markets for U.S. imports, particularly in Japan and Europe; attempts by Japanese firms to "dump" chips; Japanese efforts to target specific industries for government support in ways that made it tough for U.S. firms to compete against them.

In his latter years, in fact, he seemed almost bitter and became openly critical of Japanese industry to the point that some people grew uneasy with his bluntness.

As Sematech chief, his calls for government intervention to halt foreign acquisitions of key U.S. technologies strike-it-rich enterpreneur are still alive and well.

Attracted by his laser-sharp mind and gracious manner, people flocked to Noyce. It could be disarming talking with the man. He would listen intently, then respond with an uncanny deep voice, a piercing graze, a broad smile and a logic that was hard to refute.

Noyce never sought the fame he earned. Rather than sign autographs at a dinner honoring him, he would ask others for theirs. Small projects done by low-level engineers would elicit written praise from Noyce.

And at Intel, he helped pioneer the egalitarianism that has now become a fixture of modern management—for executives, there were no special parking places, no limousines and no offices, only open cubicles.

Noyce's colleagues say he didn't have to brag; his intellect and gentlemanly manner instantly drew respect. Tom Wolfe, in a 1983 Esquire magazine profile, described him this way: "Bob Noyce projected what psychologists call the halo effect. People with the halo effect seem to know exactly what they're doing and, moreover, make you want to admire them for it."

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that morning business be extended until 12:35 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for 5 minutes.

CAMPAIGN FINANCE REFORM

Mr. REID. Mr. President, we are here again back from another recess, back from visiting our home States, and back, of course, from another fundraising expedition. That is what we all do when we go home. I am wondering, as other Members of this body and the American public are wondering, what happened to campaign finance reform.

Have we forgotten that this is an important housecleaning chore that we have? I am sure that we do remember how important it is. How many recesses are we going to have to spend at home or elsewhere raising money? We discussed no campaign spending limits.

Evidently, the urgency has gone from our mission. We are not now as concerned as we should be about reforming campaigns the way we are elected. Today there are primaries going on in various places in the United States. Many of us here in Washington are involved in or at least interested in reelection campaigns that will come in the future. And we are wondering, I am sure, like people involved in those primary elections, when will things change, when will it be that elections no longer go to the persons who raise the most money or have the most money.

They will not change until we change them. We have to bite the bullet and change the campaign spending laws that determine how Senators are elected to this body.

Because we are responsible for creating the system under which we run campaigns, we are responsible for fixing the mess that we helped create. It is no one else's responsibility. We can fix the campaign by which we are elected.

I believe that the current campaign reform bill is ghost legislation. We hear a little bit about it; then it disappears. Once in awhile we get a glimpse of it, it disappears, and we hear no more about it.

I am wondering if we are going to make this so it is not ghost legislation. I think the bill introduced by Senators MITCHELL and BOREN is a good bill. It has a significant number of cosponsors. It makes real reforms.

The bill introduced by the Republicans has a lot of good things in it, especially as that relates to giving the Federal Election Commission strength and power to enforce the laws as they now exist.

So, Mr. President, I urge the negotiators planned by the majority and the minority to work hard and to work fast so we can put this ghost legislation to rest and we can pass some legislation that would be meaningful.

During the 19th century, there was a political party that had some stature called the Know-Nothing Party. I think this Senate should not be remembered as the do-nothing Senate. We have to do something about campaign reform. I do not think we should continually go back to our respective States for a break such as Memorial Day—next we have the Fourth of July, and then we will have the August recess, and what is one of our main responsibilities when we go home? To try to determine can we raise money, can we line up fundraisers for the August recess? Are we going to have them in our State, or is it better doing them someplace else?

I think it is time we spent our time in recesses going to schools, meeting with our constituents, holding town hall meetings, meeting with State agencies, and meeting with Federal agencies. I think that should be the time we spend, rather than trying to figure out how much money we can raise.

It is our job. We should do something about it. We should release ourselves from the burden of fundraising and the threat of unfair campaign practices.

There are bills before this body that will change how we are elected, and it would be better for us and the American public.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. LIEBERMAN). Morning business is closed.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:35 p.m., recessed until 2:15 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

OMNIBUS CRIME BILL

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

The Senate resumed consideration of the bill.

Mr. KERRY. Mr. President, today the Senate will vote on whether or not to invoke cloture on S. 1970, the omnibus crime bill. While there are several sections of the bill, specifically those relating to the death penalty and to habeas corpus, that I oppose, I will support the motion to invoke cloture. I will do so because I believe there are a number of onerous potential amendments which have been offered and which can do great harm to our Constitution.

I will also seek to invoke cloture because I believe that S. 1970 contains landmark legislation in the form of a provision that we passed before the Memorial Day recess—the provision to ban the manufacture and sale of nine types of semiautomatic assault weapons.

Those who opposed the assault weapons bill argued that we should not ban semiautomatic firearms because criminals will be able to get them anyway. That seems to me to be a very weak argument. What if that logic were applied to illegal narcotics? What if we decided that it didn't make sense to prohibit the use of cocaine because criminals could obtain it anyway—that is, in fact, one of the arguments put forth by the proponents for legalization of narcotics. It is not, however, an argument that I accept because I believe that we have laws not only to protect our citizenry but also for their educative value.

Another argument against the assault weapons legislation is that it unfairly impedes the rights of honest and innocent individuals who want to use these weapons for hunting, collecting and target practice. Once again, that seems to be stretching logic. I don't think any real sportsman would use a Striker 12/Streetsweeper to kill a pheasant. I don't think any legitimate collector needs a Uzi over his fireplace. And I don't think anyone who enjoys target practice will suffer because they can't demolish a bullseye with an AK-47.

Mr. President, we've won an important victory on this bill and I am not about to abandon the many law enforcement groups who helped us achieve that victory. I will not abandon the Federal Law Enforcement Officers Association, the Fraternal Order of Police, the International Association of Chiefs of Police, the National Organization of Police Organizers, the National Organization of Black Law Enforcement Executives, the National Sheriffs Association, the Police Executive Research Forum, the Police Foundation, and the Police Management Association. And I will not abandon the policemen in Massachusetts. I am a former prosecutor and I have worked with the police. Recently, I accompanied a Boston police mobile unit on patrol and I was again reminded the degree to which they place their lives on the line every day.

The law enforcement community supports a ban on assault weapons because it is tired of seeing cops outgunned. It is tired of seeing cops, carrying only handguns, go up against drug thugs carrying Striker 12/Streetsweepers, or Uzis or AK-47's. It is tired of seeing death. As Sgt. Tim Murrary of the Boston Police Department stated, "The weapons * * * are out there. We are seizing them and they are killing Americans, they're killing police officers and American citizens and innocent people." And as Boston Police Commissioner Francis (Mickey) Roache said, "They—the police—went through 524 doors in Boston in 1989 with lawful search warrants and they have no idea what they may face." The motion to invoke cloture today is really a referendum on whether those of us in the Senate stand with the NRA or with our law enforcement officials.

I certainly understand that some of my colleagues who oppose the death penalty, as do I, may oppose cloture because S. 1970 adds new Federal crimes that are punishable by death. I have voted against the death penalty at every opportunity in the Senate. I have done so for a number of reasons which I have previously set forth.

In previous instances where other provisions of legislation warranted, I have voted for bills even when they have contained sections relating to the death penalty. Today, I have decided that I must do so again.

The vast majority of Senators who oppose cloture will do so because they don't want this bill to see the light of day. They understand that the supporters of gun control have won a great victory and that if this bill becomes law, there will be no turning back. My vote today is intended to support what we have done in this bill to combat crime and to protect those courageous police officers who every day put their lives on the line to protect us.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that there be 10 minutes for debate to be equally divided between Senator BIDEN and Senator THURMOND.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CLOTURE VOTE ON S. 1970

Mr. THURMOND. Mr. President, shortly the Senate will vote on whether to invoke cloture on the pending crime bill, S. 1970. I rise to strongly urge my colleagues to vote for cloture so that the debate on this bill can be brought to a close. It is critical that the Senate vote for cloture so that we can pass a tough, effective crime bill which will take needed steps to curb the crime-related crisis we face in this country.

When the Senate began consideration of S. 1970 on May 21, the bill contained several provisions which made it unacceptable. The provisions originally included in S. 1970 were the Racial Justice Act, a weak habeas corpus reform proposal, a proposal to create a new division within the Department of Justice, and an exclusionary rule proposal which weakens current law. The Kennedy Racial Justice Act would eliminate the death penalty in every State while these other proposals would expand the rights of criminal defendants. In response to S. 1970, I previously proposed to offer a substitute which is identical to S. 1971, a comprehensive crime bill I introduced. My substitute would have had the effect of eliminating, or substituting tougher alternatives to, the controversial provisions contained in S. 1970. Unfortunately, the Senate was not afforded an opportunity to vote on the Thurmond substitute. Instead, the Senate chose to proceed in a manner which addresses each controversial provision, one at a time.

Mr. President, as a result of negotiation, debate, and amendment, the Senate has greatly improved S. 1970. It is a much tougher bill than it was when consideration began. For example, title I, the death penalty proposal, has been vastly improved. The Racial Justice Act, which would have eliminated the death penalty in every State, has been stricken. In addition, troublesome mitigating factors for the imposition of the death penalty have been removed. In short, the death pen-

alty provision contained in S. 1970 is now substantially similar to the proposal contained in the Thurmond substitute.

With respect to habeas corpus reform, title II of the original S. 1970 would have greatly expanded death row inmates' rights rather than properly remedying the abuse and delay which is so prevalent in our current system. The Senate voted to replace this proposal with a tougher habeas corpus proposal which I, along with Senators SPECTER, HATCH, and SIMPSON, offered. It eliminates the loopholes and delay present in our current system and requires that Federal courts dispense with habeas corpus petitions in death penalty cases within 1 year. Although S. 1970 still contains some controversial provisions, such as proposals to create a new division within the Department of Justice and a purported codification of the good faith exception to the exclusionary rule, I believe that these concerns can be addressed under cloture or at a later date.

Mr. President, I am fully aware that, under the Senate rules of germaneness, some Senators will not have an opportunity to have their amendments debated if cloture is invoked. Yet, there are close to 200 pending amendments to this bill. Many of these amendments are germane and may be voted on if cloture is invoked. However, most of these amendments are not germane. Due to the large number of amendments and statements made by the leadership, I am convinced that failure to invoke cloture could mean the end of the crime bill this year. The Senate may lose a chance to pass a tough proposal to address violent crime, unless cloture is invoked.

S. 1970 is, now, a much tougher crime package than the bill originally before the Senate. It contains a comprehensive death penalty proposal which will reinstate the death penalty at the Federal level. In addition, it contains a tough habeas corpus reform proposal. These are measures which the American people truly demand.

It is time for the Senate to pass this crime package, which will eliminate the delay in imposition of the death penalty and reestablish a comprehensive death penalty in the Federal system. Violent offenders must know that the commission of heinous crimes will lead to swift, harsh punishment.

Mr. President, the scourge of the crime epidemic is strangling the life of our Nation. One just has to witness the crime, violence, and death to know that we must enact a comprehensive death penalty and reform the criminal procedures which cause so much delay and injustice within our criminal justice system.

Mr. President, the American people demand action. We should not hesitate any longer to take advantage of the opportunity before us and pass this important legislation.

Mr. President, the reasons for voting for cloture on this bill are clear. A vote for cloture is a vote for the death penalty. A vote for cloture is a vote to put an end to excessive capital litigation. A vote for cloture is a vote for law enforcement.

For all these reasons, Mr. President, I urge my colleagues to bring debate on this legislation to a close by voting in favor of cloture.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, we all know that this vote on cloture today will determine the fate of the crime bill. If cloture is invoked, we get a crime bill; the bill will pass. If it is not invoked, it will die; there will not be a crime bill.

This crime bill is one of the toughest bills before the Senate in a long time. It imposes the death penalty for 30 Federal offenses, including the crime of murdering Federal law enforcement agents. It limits the number of appeals that inmates on death row can file, implementing reforms that will take the death sentence process both faster and further. It limits the use of the exclusionary rule. It combines money laundering and organized crime. And it bans nine specific military-style assault weapons, the weapons of choice for the most notorious of drug dealers.

A vote against cloture is a vote to kill the bill. It is a vote against making our streets safer, safer for our police officers and safer for each and every American citizen.

This bill is not perfect. There will be amendments to the bill, and there should be. Most important, the six items in the bill that exist now are just the start in fighting crime. We need to boost aid to local law enforcement, to add to the number of Federal crime and drug fighters, combat crime in rural areas, and much, much more.

In the long run, Mr. President, it is probably these steps and the sort of proposals found in the other crime bill of 1972, that are more important to fighting crime and helping law enforcement. So we are not here today to say that the bill currently before the Senate has all the answers. The critics who attack this bill by claiming it does not go far enough or does not do enough to solve the crime problem are missing the point. The question is not: Will this bill by itself make America safe? Instead, the question is: Will this bill help make us safer?

There will be time later to advance the additional measures we need to fight crime, either in this bill or in other legislation. The question now, though, is whether we are going to take the first step to give the brave women and men of law enforcement the tools they need to battle America's No. 1 domestic problem: crime and drugs.

Will we provide the death penalty for murderers of Federal law enforcement agents? Will we ban assault weapons, like the Street Sweeper, which are killing our police officers and which have no legitimate purpose at all? And will we crack down on money laundering and organized crime and put limits on the abuse of the death penalty appeals and the exclusionary rule?

A "yes" vote on cloture, Mr. President, is a "yes" answer to all these questions. In a few minutes, we will know the fate of this crime bill. But win or lose today, I want to thank the people gathered here, the people who have been gathered here in the Capitol, the law enforcement officers, in particular, who have tried very hard to help pass this bill and who are very strongly in favor of a vote to bring debate to an end and get on with the business of passing a very tough crime bill.

Mr. President, I yield what time I have remaining and suggest we move to the vote.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 2:15 p.m. having arrived, under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

George, J. Mitchell, Charles S. Robb, J.R. Biden, Brock Adams, Christopher Dodd, Wyche Fowler, Al Gore, Edward M. Kennedy, Richard H. Bryan, Patrick Leahy, David Boren, Daniel P. Moynihan, Frank R. Lautenberg, Daniel K. Inouye, Jay Rockefeller, Herb Kohl, and Alan Cranston.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Connecticut [Mr. DODD], the Senator from Alabama [Mr. HEFLIN], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

I further announce that, if present and voting, the Senator from Montana [Mr. BAUCUS] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 37, as follows:

[Rollcall Vote No. 109 Leg.]

YEAS—54

Adams	Ford	Mikulski
Akaka	Fowler	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Murkowski
Bingaman	Harkin	Packwood
Boren	Hollings	Pell
Bradley	Inouye	Riegle
Breaux	Jeffords	Robb
Bumpers	Johnston	Rockefeller
Burdick	Kassebaum	Rudman
Byrd	Kerrey	Sarbanes
Conrad	Kerry	Sasser
Cranston	Kohl	Simon
Daschle	Lautenberg	Simpson
DeConcini	Leahy	Stevens
Dixon	Levin	Thurmond
Dole	Lieberman	Warner
Exon	Metzenbaum	Wirth

NAYS—37

Armstrong	Gramm	McConnell
Bond	Grassley	Nickles
Boschwitz	Hatch	Nunn
Bryan	Hatfield	Pressler
Burns	Heinz	Reid
Coats	Helms	Roth
Cochran	Humphrey	Sanford
Cohen	Kasten	Shelby
D'Amato	Lott	Specter
Danforth	Lugar	Symms
Garn	Mack	Wallop
Gorton	McCain	
Graham	McClure	

NOT VOTING—9

Baucus	Domenici	Kennedy
Chafee	Durenberger	Pryor
Dodd	Heflin	Wilson

The PRESIDING OFFICER. On this vote the yeas are 54, the nays are 37. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Illinois be permitted to address the Senate for 3 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. SIMON. I thank the Chair.

(The remarks of Mr. SIMON pertaining to the submission of Senate Resolution 293 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. BOREN. Mr. President, I ask unanimous consent that I might proceed as in morning business for the purpose of introducing a bill with statements by myself, Senator BENTSEN, and Senator BYRD.

The PRESIDING OFFICER (Mr. FOWLER). Without objection, it is so ordered.

THE AID FOR TRADE ACT OF 1990—S. 2703

Mr. BOREN. Mr. President, on behalf of Senator BENTSEN, Senator BYRD, and myself, I send a bill to the desk for introduction.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. BOREN. Mr. President, I am proud to join today with Senator BENTSEN and Senator BYRD, in the formal introduction of the Aid for Trade Act of 1990. The purpose of this legislation is to adjust our foreign aid program to meet the needs of a changing world. It is a step that is long overdue. It is important in terms of assisting the United States to achieve its economic objectives around the world.

I am very pleased and proud to join in introducing this bill with the distinguished chairman of the Finance Committee and the President pro tempore, who is also chairman of the Appropriations Committee. No two Members of the Senate know more than these two distinguished Senators about what needs to be done to improve America's ability to compete in the world market, to restore our economic strength in a period of time in which economic strength is emerging as the major determinant of the ability to provide world leadership as we enter the next century.

As this time, I yield to my colleague, Senator BENTSEN, for opening remarks.

Mr. BENTSEN. Mr. President, I am pleased to join my distinguished colleagues from Oklahoma and West Virginia today in introducing the Aid for Trade Act of 1990. This legislation is both important and long overdue, and I urge other Members to join us in supporting its expeditious consideration.

The summit meetings of the past several days bear witness to the remarkable changes of the last year. As the "Eastern bloc" disintegrates and its military threat to the United States diminishes, however, the United States faces increasing economic challenges. In some ways, these are even more challenging, because they come not from an ideological adversary, but instead from some of our closest allies: Western Europe, Canada, and Japan. It is in this economic arena that our country's future strength will be determined.

Despite some recent signs of improvement, our Government has been slow to realize the pressing need for a basic reevaluation of our foreign economic assistance priorities. Changing times necessitate changing policies, but for the most part our Government still is running in place in its approach to bilateral economic aid.

Our legislation, the Aid for Trade Act of 1990, is a significant first step in making the needed changes. It helps us repond to the economic aid practices that already are commonplace for our major trading partners—Japan, Canada, West Germany, France, Great Britain, and Italy. It ensures that the United States also will use "tied aid" and "mixed credit" assistance aggressively to help our exporters gain access to and market share in key foreign markets. And in doing so, it also will help our negotiators in the Organization for Economic Cooperation and Development [OECD] in Paris, who to date have labored without much success in seeking to reduce other countries' use of concessional financing to aid their export industries.

Tied aid and mixed credit assistance has increased substantially in recent years. Between 1982 and 1988, the tied aid offered by OECD countries increased 30 percent, from $9.4 billion to $12.4 billion.

The United States, however, spends only a tiny fraction of what other major trading nations provide. The result, not surprisingly, is the loss off vast export opportunities for U.S. industries—perhaps $5 billion or more each year. These lost exports in turn mean lost jobs for U.S. workers.

What makes this especially devastating is that the lost export opportunities come in the vary high-tech sectors in which we should be the most competitive. Based on considerations of price and quality alone, the United States remains a leader in providing goods and services for "capital projects": Projects in sectors such as telecommunications, energy and power, environmental protection, construction, and transportation that require high proportions of capital goods. But when foreign competitors can rely on their governments for sub-

stantial assistance, and no such help is forthcoming from the U.S. Government, any price and quality advantages quickly disappear. The result is that, as the U.S. Export-Import Bank itself acknowledges, billions of dollars of capital goods transactions remain inaccessible to U.S. exporters.

Worse yet, these lost export opportunities have a multiplier effect. When one U.S. firm loses out to a foreign competitor on an important capital project contract, that firm may be shut out of the market for years to come. One lost sale means many more lost sales down the road. In addition, other U.S. firms—those that might provide complementary goods and services on the same project—also are likely to lose out when that first contract goes to a non-U.S. bidder that benefits from its government's concessional financing assistance.

The impact is especially costly in light of the tremendous new export opportunities available today in Central and Eastern Europe, South and East Asia, Latin America, and elsewhere. To squander these opportunities in emerging markets will undermine our economic strength for years to come.

I therefore join Senators BOREN and BYRD in introducing this legislation, which is intended to respond to these problems before it is too late. Our bill places a new emphasis on bilateral economic assistance that will benefit the United States. It stresses the importance of capital projects by increasing the share of bilateral economic aid allocated to those projects. It requires that a portion of our economic assistance shift from straight cash transfers—which too often cannot be accounted for soon after they are provided—to inkind aid for projects and purchases of U.S. goods and services. And it authorizes new resources for economic assistance programs of the Export-Import Bank, Trade and Development Program, and Overseas Private Investment Corporation—programs that help our exporters increase their presence in key foreign markets and that can return more dollars than are expended.

I have been asked how we can afford to bolster this economic assistance at a time when budget resources are so tight. My response is threefold.

First, we cannot afford not to increase this aid, given the effect that maintaining the status quo would have on our key exporting industries and firms, and on jobs in those sectors.

Second, our bill has a modest budget impact. In fact, most of it simply shifts how we use existing resources and thus is cost free. Furthermore, the provisions that do call for new budget authorizations will result in financial returns to the United States that exceed any expenditures required.

Finally, as I said at the outset, the economic and not the military arena is where the global competition of the 1990's and the early 21st century will be fought. In many senses, this competition for export markets is the new arms race. We must meet the other side at its own game, even as we also seek to deescalate the competition. It is, however, a competition we cannot afford to ignore.

That is what we are trying to do through the Aid for Trade Act of 1990. We are getting the United States into the game our OECD friends already have been playing for some time, in order to give our exporters a fighting chance. We are doing so while supporting the OECD negotiations to reduce concessionary financial assistance. The record of largely-unsuccessful negotiations and burgeoning foreign tied aid and mixed credits demonstrates that a new approach is essential.

For all of the reasons I have outlined, I urge my colleagues to support this timely and important legislation.

I yield back the floor to my distinguished colleague.

Mr. BOREN. I thank my distinguished colleague from Texas, the chairman of the Finance Committee.

As I said a moment ago, I am proud to joint with him in offering this legislation, and also with Senator BYRD. It is absolutely essential that we adjust our foreign aid program to take into account changes in the world around us.

We began with certain assumptions: That this is a world in which, as Senator BENTSEN has just said, economic strength is quickly replacing military might as the key to international leadership; that America's current leadership role is in jeopardy if we do not recognize this shift and readjust our priorities accordingly; that our economic competitors use their foreign aid programs as a powerful economic tool to lock in markets around the globe and to create jobs at home; that our economic position is dramatically weaker than it was 4 decades ago when we had a 70-percent share of world assets and world markets; that now, with limited resources, a substantial trade deficit, and an 18 percent share of world assets and markets, we must move quickly. There is no time to waste.

As a result, we have drawn the following conclusions: We must leverage our foreign policy assets in order to enhance our economic power; we must use our foreign aid program to develop new long-term markets in order to restore some of our lost share of world trade; we must also use our foreign aid program to build lasting relationships with the new democracies of the world, because a failure to help these countries will lead to a reduction in our political and economic influence in the future; we must bring our foreign aid program back into balance so that our aid is used to buy more American-made products, so that exports are increased, and so that jobs are created here at home.

We have also concluded that it is time to show the American taxpayers a greater return on their foreign aid investment. A recent NBC-Wall Street Journal poll found that 71 percent of Americans think that we are spending too much on foreign aid, while a recent New York Times poll found that 83 percent of the American people want to cut the foreign aid budget.

Clearly, it is time to link development concerns more closely with our national interests. Our answer is the Boren-Bentsen-Byrd Aid For Trade Act.

Mr. President, the first part of our bill deals with what we typically consider foreign aid spent by AID, the Agency for International Development, called bilateral economic assistance. Military aid, food aid, and aid to multinational development banks are not included in this category.

Within the bilateral economic assistance category, we mandate that 15 percent for fiscal year 1992 be spent on capital projects, with this figure increasing to 40 percent over a 5-year period. From 1984 to 1987, only 7.7 percent of our economic aid was used for capital projects. In stark contrast, 60 percent of Japan's, 71 percent of Germany's 72 percent of France's, and 75 percent to Italy's economic aid went into capital projects.

Mr. President, our economic competitors spend 9 to 10 times more than we do on capital projects. Why? Because they understand that capital projects generate exports. They have recognized the commercial value of using foreign aid funds to build roads, phone lines, and electrical plants, and we have not.

In addition, foreign aid for capital goods is sound development strategy. These economic infrastructure projects represent more of the long-term solution to developmental; problems, a solution that needs to be mixed with poverty alleviation efforts in order to have a comprehensive development strategy.

Mr. President, let us make one thing clear. The intent of this bill is not to take foreign aid funds away from the poorest countries. In fact, the bill provides that neither the level nor the all-grant makeup of aid to the poorest countries should be reduced. We do mandate, however, that cash transfers, cash payments with no strings attached, be decreased. Almost one-third of our economic aid was given as cash transfers in 1990. This bill puts a ceiling on cash transfers so that they can represent no more than 25 percent of

our economic aid in fiscal year 1992 with that figure decreasing to a ceiling of 10 percent in fiscal year 1996.

However, cash transfers which are used to buy U.S. goods and services or which are used to pay back U.S. debt would not be subject to this ceiling. We are not concerned with foreign aid funds that come back to the United States. We are concerned with those funds that are simply handouts, untied cash payments which do not come back to the United States in terms of purchasing our products or creating goods here at home.

Mr. President, one of the other primary reasons that foreign aid funds are not spent on U.S. goods and services is the AID waiver system. It has become an extensive system and has been abused very often. AID is presently conducting an internal study for recipient countries on this question. Preliminary results indicate that 20 to 40 percent of our foreign aid to these countries came back to the United States. Our bill would attempt to decrease the unnecessary use of waivers which contribute to this low percentage figure.

Mr. President, the second part of the Aid For Trade Act would attack the problem of tied aid credits. Tied aid credits are concessional loans made to developing countries which must be used to import goods and services from the donor country. They are usually used in order to help a company from the donor country capture the bid on development projects which are often very attractive as the entrance in the new strategic high growth markets.

Our economic competitors are frequent users of tied aid credits, as has been indicated by Senator BENTSEN. From 1984 to 1987, offers of tied aid credits from other developed countries rose from $5 billion in 1984 to $12 billion in 1987. The United States, however, has rarely used tied aid credits. While our economic competitors incorporate these credits into their foreign aid programs, we give almost all of our aid in grants. From 1984 to 1987, 94 percent of our foreign aid was in the form of grants, while Japan gave only 10 percent in grants and France 15 percent.

Aid to Poland provides a good example. We gave $800 million in aid to Poland, mostly in cash with no requirement to buy our products. West Germany and Japan, on the other hand, gave over $3 billion, but 83 percent of it was in the form of credits that could only be used to buy goods produced in their own countries. They use their foreign aid to Poland to not only help Poland but to create jobs in West Germany and Japan. We gave $800 million without any requirement that jobs be created here or that our products be purchased in return.

Mr. President, while our economic competitors embrace tied aid credits, we are unwilling to use them, labeling them unfair and preferring to concentrate our efforts on ineffective negotiations, which have only managed to make tied aid credits marginally more expensive. In fact, according to the OECD, making tied aid credits more expensive simply decreases aid available to the poorest countries. Meanwhile, U.S. exporters are barred from markets worth billions of dollars. Experts estimate that $2.4 to $4.8 billion on U.S. exports are lost annually because of this discrepancy between their amount of tied aid credits, which they use, and what we are doing. Further, because U.S. companies are shut out of these high growth markets, the long-term effect in terms of lost future sales is probably much higher.

Mr. President, it is time to end this unilateral disarmament and to fight the battle for world's markets on the same terms as our economic competitors. The Boren-Bentsen-Byrd Aid for Trade Act would move the United States aggressively into tied aid credits. The Export-Import Bank's war chest, a tied aid credit fund started by Congress in 1986, would be provided with $400 million over 2 years. In contrast to the administration's request for fiscal year 1991 of $114 million.

Congress had been very supportive of the war chest, but the Bank has not used these funds which have been appropriated to it because of the administration's position that tied aid credits are unfair. In fiscal year 1989, for example, the Banks's war chest was appropriated $110 million, and yet none of these funds were used, and our markets were lost because of our refusal to do what other countries are doing to seize those markets.

Under the Aid For Trade Act, the Bank would be required to report the reasons for not using any of the war chest funds and to detail any bids lost to U.S. companies as a result of their failure to use war chest funds.

Mr. President, moving United States businesses aggressively into Eastern Europe to help the newly emerging democracies to rebuild must be a top priority for us, which is dealt with in the third part of our bill. Our actions so far have been piecemeal and reactive. It is time to catch up to the swift, decisive movements of the Western Europeans and to move into Eastern Europe with an innovative proposal.

Our Government's most essential role to play is guarantor for American exports in order to encourage United States businesses to take advantage of the new market opportunities that these fantastic changes have created in Eastern Europe. Our bill would create a $1 billion Eastern Europe loan guarantee program within the Export-Import Bank and the Overseas Private Investment Corporation in order to protect United States businesses against political risks and economic defaults. Without such protection, many of our firms will hesitate to move aggressively into this area, which is in transition both economically and politically. We would also authorize an additional $20 million for the direct loan program administered by the Overseas Private Investment Corporation to support United States small business activities in Eastern Europe.

Mr. President, we live in an increasingly global economy with increasingly equal economic competitors. We no longer enjoy the commercial advantages that we did in the 1950's. Now when American companies lose market shares around the world, jobs are lost at home. Greater market share means greater exports and more jobs for Americans. Without delaying, we must reorient our foreign aid approach, and we must move aggressively into the tied aid battle. Only by giving the American taxpayer a return on our foreign aid investment can we build a broad base constituency for foreign aid in the future. Only by understanding the marriage of our economic and foreign policy goals can we realize them in the decade ahead.

We have no time to waste. Mr. President, it is no wonder that 83 percent of the American people in this latest poll indicated that they want to cut foreign aid; they want to cut it because they do not see a return back to the U.S. taxpayer in terms of jobs created here, in terms of markets developed. We have lost a large share of our market. Now we have an opportunity to regain some of that lost share in the world market by doing what other countries are already doing: By moving aggressively, for example, to increase our trade and our economic relationship with areas like Eastern Europe which are going to be developing. As they build their infrastructure, as they build their powerplants, as they build new plants, let it be housed with American equipment. Let the transportation system be built with American equipment. Let the telecommunications system be built with American equipment. And then, when spare parts are needed in the future, it will be American spare parts that are needed. When service contracts are needed in the future, American service contracts will be entered into.

Let us do what other countries are doing: use our aid not only to help those in need, but to help ourselves at the same time, to serve as a focus for market development and the development of long-range relationships in the future.

How long are we going to wait, Mr. President? How many more examples are we going to have like Poland where we give $800 million in cash and it can be used by the recipient country, our money, American taxpayers' money, to buy products that are not

even produced in this country, to buy products from our competitors? They do not do that. As I have indicated, well over 80 percent of the credits that West Germany and Japan gave, the $3 billion to Poland, for example, was given in the form of credits that can be used only to buy their products. They do not hand out cash and say, "Go buy American products if you want to." We are the only people doing that. How long are we going to continue?

When are we going to realize that the future strength of this country is primarily going to rest on our economic strength? As chairman of the Intelligence Committee, I am reminded of it everyday. We are beginning to hear from those countries that followed our lead in the past because they needed us, because they were worried about the Warsaw Pact and the Soviet military threat. They joined with us in all sorts of activities. They are looking even now at the working relationship and saying we do not really need you anymore.

Our strength and our influence in the future is going to be based on our economic strength, and we cannot continue to pay out billions of dollars in foreign aid and not get a return for the American taxpayer and not use these billions of dollars as a powerful tool, a positive tool to create jobs here, markets for our products in the future, economic and political relationships that will help the United States and help the recipient countries at the same time.

Our choice is clear. We are going to be sitting on the sidelines and not a player. If we want to talk about sharing the burden with others, if we want to talk about not being involved in helping the democracies of Eastern Europe, what we are really saying is we are opting out of having influence in the future. If we sit on the sidelines now, if we do not help those democracies, if we cut off our aid to these democracies and do not help them, as will ultimately happen if we do not change the way we give foreign aid, we will have very little influence in the future, we will have very little relationship in the future, either economic or political.

A nation that has been a great leader in this century can become a bit player on the world's stage in the next century if we do not wake up now. Let us not sit on the sidelines. Let us help those democracies. Let us forge a relationship, but let us do it in a way that will help the United States of America at the same time. Let us do it in a way that will build mutual economic relationships, that will create jobs here and markets for our products, for our workers in the future. It is time to adopt the aid-for-trade approach. It is time for a revolutionary change in the way we give our foreign aid as is set forth in this act which we introduce today.

I see, Mr. President, we have been joined on the floor by my distinguished colleague, the President pro tempore, who also chairs the Appropriations Committee. He has been one of the most farsighted Members of this body in undertaking a study of the way in which we give foreign aid. He has been one of the very first to raise the warning flag and to say that we need to completely reevaluate what we are doing in terms of the way we give foreign aid. So I am especially proud he has joined as a cosponsor on this legislation. The three of us have joined together in sponsoring it. I think it sends a real signal serious consideration needs to be given to using our aid in a way that it will be more effective in advancing our national interest.

So, Mr. President, I am happy to yield the floor at this time so that my distinguished colleague, Senator BYRD, can make any remarks which he intends to make. Let me say again what a privilege it is to join with him in sponsoring this legislation.

The PRESIDING OFFICER. The distinguished Senator from West Virginia, the President pro tempore, Mr. BYRD, is recognized.

Mr. BYRD. Mr. President, I commend the distinguished Senator from Oklahoma for taking the initiative in developing this legislation. I consider it a privilege to stand with him in it and join as a cosponsor of the legislation.

I have joined with the distinguished Senator from Texas [Mr. BENTSEN] in working with Senator BOREN to shape the proposal that has been introduced to make our foreign aid programs more relevant to the reality of both the needs existing in the world and to our own economic situation.

My colleagues should be aware that this legislation is being complemented by a study that was incorporated into the supplemental appropriations bill that we recently passed. Amendment No. 176 of the conference report on that measure spells out the requirement for the Secretary of Commerce to do a study and report, by September 20 of this year, on "commercial aspects of U.S. foreign assistance." The study would explore mechanisms and ways by which the international economic competitiveness of the United States may be enhanced through our foreign aid programs. It would examine the foreign assistance and major financing programs of Japan, West Germany, France, the United Kingdom, and other such international aid donors to determine what mechanisms those donors use to tie into foreign assistance and to advance the industrial and commercial interests of those donor nations. In particular, the study focuses on the programs being currently engaged in and planned by such donor countries in Eastern Europe.

The plan is for the results of that study to be available for the markup of the foreign assistance legislation of the Foreign Operations Subcommittee. We already have a general idea about the very striking differences between our foreign aid programs and those of the other major countries. This legislation before us is based on the fact that most of the money Japan and West Germany have been pouring into Eastern Europe is tied to the products and the services available only in those donor nations. The aid being provided by the United States is generally not tied. Further, as Senator BOREN has indicated, the aid provided by Japan and Germany is mainly capital intensive. Ours is not. The result is that U.S. competitiveness is not really taken into account in our foreign assistance programs, but it ought to be. It ought to be. Perhaps, in a perfect world, all aid should be truly gratuitous. That point could be debated. But the reality is that only U.S. aid programs do not tie our industrial and commercial base to the outflow of U.S. dollars, and perhaps that is partly the reason foreign aid is now low in popularity among the American people. It is one reason why foreign aid is low in popularity with this Senator.

There is nothing inherently wrong with getting American businesses in on the ground floor in Eastern Europe. There is everything that is inherently right in doing so. That is the major goal of the legislation being introduced by Mr. BOREN.

Is there anyone here who would argue that it will set back the cause of freedom and democracy for American businesses and commerce to be solidly involved in the development of Eastern Europe? It did not hurt the development and maintenance of democracy in Western Europe and Japan after World War II. So I think there is a happy confluence of goals in tying a much larger percentage of U.S. foreign aid, as this legislation calls for over the next 5 years. It will help to enhance our political values in the development of new political systems in Eastern Europe and will help to make those economies more solidly market oriented.

I hope the ideas that have been so thoughtfully developed by Senator BOREN will be carefully considered by the Foreign Relations Committee and the Foreign Operations Subcommittee in constructing the foreign assistance programs for fiscal year 1990.

I again congratulate Senator BOREN, and I thank him for allowing me to be a cosponsor of the legislation which he has developed.

Mr. BOREN. Mr. President, I thank my colleague from West Virginia for his remarks. I was privileged to join as

a cosponsor earlier on the study which he passed as a part of earlier legislation, to which he has referred, of the way in which we give foreign aid. I think the results of that study will be of great benefit to us as we make the changes that are necessary in our foreign aid program.

As Senator BYRD has indicated, there is nothing wrong with foreign aid as long as our taxpayers get some return for it. That is why it is unpopular with the American taxpayers today. I think if we were to poll the American taxpayers and say how would you feel about us doing something to get some of our market share back; how would you feel about if we were to help ourselves while at the same time we were helping democracies like the new democracy in Poland, Hungary, and Czechoslovakia and let us build an economic relationship at the same time, they would be for us doing something like that. I do not think they want to see us sit back and not be players in Eastern Europe, not sell our products there, not have our basic equipment become part of the infrastructure.

I do not think they want to see that at all. But no wonder they are skeptical when they see us hand out hundreds of millions of dollars in cash without even a requirement that that cash, if it is to be used to buy goods and services, be used to buy our goods and services. Every other country in the world is doing that.

Now, perhaps at a time in which we had a 70-percent share of world markets and we had 9 out of 10 of the largest banks in the world and no real competitors, we could afford that kind of situation. But now we do not have even one of the top 20 banks in the world. Instead of a 70-percent share of world markets, we have an 18-percent share of world markets and it is shrinking. Every day across America manufacturing jobs are being lost. They are moving offshore. Our people are being put out of work. We all know we cannot be a great Nation if we end up without a manufacturing sector in this country. So it is critical for us to take this change in the world as an opportunity. That is what the Germans are doing. That is what the Japanese are doing. That is what the Italians are doing. That is what the French are doing. Yes, they are reaching out to help. They are willing to help these other countries, but they are helping themselves at the same time with employment and long-term relationships.

It is time for us to wake up, as the Senator from West Virginia has just said. I hope we will be heard. I hope that the Foreign Relations Committee, as the Senator from West Virginia has indicated, will give serious consideration to the ideas that we have advanced. When the chairman of the Appropriations Committee, the chairman of the Finance Committee, and the chairman of the Intelligence Committee come together to offer legislation to say that we need to give serious thought to the use of our foreign aid programs as an important tool not only to help those in need but also an important tool to help rebuild our economic strength in this country, I hope it would send a signal of deep concern, not only concern that we have but concern that is felt by the American people, and a concern that is growing daily. We are going to wake up one of these days, if we do not make these changes, and find that the American people are going to be in favor of cutting off all foreign aid.

So the choice is not between continuing the aid program as we know it today indefinitely. It is between having no program at all and having a program that returns something to the American taxpayers as we are trying to do.

Again I thank my colleagues from West Virginia for his comments. I am proud to have him as a sponsor of this legislation. He has given very helpful suggestions and proposals as we have shaped this legislation. Much of the work product has been his, and I am very grateful to him for joining in this effort.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERREY). The clerk will call roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORE). Without objection, it is so ordered.

Mr. KERREY. Mr. President, I ask unanimous consent to be able to speak as if in morning business for a period not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NRA

Mr. KERREY. Mr. President, I ask unanimous consent that two letters—one that was written by the executive director of the National Rifle Association; one written to me, to the executive director—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MR. WAYNE LAPIERRE,
Executive Director, NRA.

DEAR MR. LAPIERRE: The enclosed letter, that you are mailing to your membership in Nebraska, is irresponsibly inaccurate and misleading. It misrepresents my vote and the impact of the DeConcini amendment, and misrepresents my traditional and continued support for our hunters and sportsmen and women.

However, since the enclosed letter was written by you, I was not at all surprised by its misrepresentations. Irresponsible, inaccurate, and misleading statements are your hallmark. I have never known you to let the truth stand in the way of a powerful appeal, and you have not disappointed me this time.

As you know, the DeConcini amendment was initially expected to fail. The waning influence of the NRA may be one reason that it did not. You might ask yourself why that once powerful influence has so diminished, and whether your own lack of credibility among Members of Congress has likewise tarnished your entire organization. I believe it has.

When I first came to the Senate I was looking forward to working with the NRA on behalf of the many values I thought we shared. Your misstatements and misrepresentations now make that impossible. I am well aware of the rights that I enjoy as a hunter and a sportsman and my respect for those rights will continue to be reflected in my positions.

While I will always decide gun control issues strictly on the merits, and will listen to the views of all Nebraskans as I would any other issue that comes before the Senate, the opinions of the NRA's Washington office frankly won't count for much. I suspect many other Senators feel the same way.

The DeConcini amendment is a reasonable attempt to balance our need to protect our Constitutionally guaranteed right to bear arms with our God given right to live without fear of becoming victims to criminals who choose semi-automatic rifles as their weapon. People are being killed with the rifles listed in the DeConcini amendment, and I believe it is time to put an end to it.

Moreover, the DeConcini amendment gives us an opportunity to measure whether these restrictions work. A mandated study by the Department of Justice will provide us with valuable information on its efficacy. If it doesn't work, we can merely allow the law to expire in three years as provided in the statute.

This check and other provisions were the reasons I voted for the DeConcini amendment. As you know, but did not tell your membership, I did not vote for the Metzenbaum amendment which I thought was too restrictive and excessive.

I have a great deal of respect and appreciate the work being done by the National Rifle Association's educational section. They have contributed an immeasurable amount to gun safety and awareness.

You, however, have done just the opposite. You do not enjoy my respect, admiration, or appreciation. Allow me to predict that your outrageous techniques will, in the end, prove to be counter productive.

Sincerely yours,

J. ROBERT KERREY,
U.S. Senate.

NATIONAL RIFLE ASSOCIATION,
INST. FOR LEGISLATIVE ACTION,
Washington, DC, June 5, 1990.

GENE BEIER,
Ogenes Service,
Plattsmouth, NE.

DEAR NRA MEMBER: The DeConcini gun ban bill survived by one vote.

Bob Kerrey betrayed every honest gun owner in Nebraska by voting for it.

Kerrey broke his campaign pledge that he would fight crime by targeting criminals not

firearms. His vote cancelled out Jim Exon's pro-gun vote. Why?

Because Kerrey bought the big anti-gun media lie that gun control equals crime control. If we let this "logic" go unchallenged, it is only a question of time before every gun you own is taken away because some politician wants to pretend he's fighting crime.

Don't let Bob Kerrey get out of this by pretending this wasn't a gun ban vote. Who is he kidding? Kerrey's anti-gun vote had champagne corks popping at the National Gun Ban lobby. And they filmed it for TV.

Kerrey has now joined Ted Kennedy and the National Gun Ban lobby in saying that no American has the right to own a gun except for sporting purposes—and they get to tell you what they are.

This vote sets America on the road to universal gun confiscation. The faulty "logic" that gun control is crime control will be used over and over again as rifles, shotguns and self-defense handguns are snatched away from law-abiding citizens.

If we are going to make a stand, now is the time we must do it. Get on the phone today. There are more gun ban votes coming up this week, next week and the rest of the year. One message delivered over and over again is all you need.

"Your gun ban vote is a double-cross and if you think gun control is the same as crime control you have no business being in the U.S. Senate. Vote against S. 1970, S. 1972 and any other anti-gun legislation disguised as crime control. If we don't get your vote now. Don't expect our vote later!"

Call Senator Kerrey's office today. Omaha 391-3411; Lincoln 437-5246.

Follow-up with postcard or letter to his Washington office. Hon. Bob Kerrey, SH 302, U.S. Senate, Washington, DC 20510.

WAYNE LAPIERRE,
Executive Director.

P.S.—We're not stopping here. We'll be in Nebraska to help rally maximum pro-gun muscle this summer. See you then!

Mr. KERREY. Mr. President, for the purpose of elaborating somewhat upon these two letters, I would like to call the attention to my colleagues this National Rifle Association letter that has been sent out after the DeConcini amendment was agreed to prior to us going into recess.

The letter that I refer to sent to all NRA members in the State of Nebraska says:

Dear NRA Member: The DeConcini gun ban bill survived by one vote.

BOB KERREY betrayed every honest gun owner in Nebraska by voting for it.

Mr. President, let the record show that the NRA was in the lobby not long ago lobbying Members of this body to make sure that the cloture vote was not passed so that we could take up the crime package.

The NRA goes on to say that:

His vote cancelled out JIM EXON'S pro-gun vote.

It goes on to say:

Why?

Because KERREY bought the big anti-gun media—

So on and so forth.

The letter says:

KERREY has now joined TED KENNEDY and the national gun ban lobby saying that no American has the right to own a gun except for sporting purposes.

From here on, Mr. President, the letter goes downhill.

I have responded in kind to Mr. LaPierre and said essentially that the letter that he is "mailing to your membership in Nebraska, is irresponsibly inaccurate and misleading. It misrepresents my vote and the impact of the DeConcini amendment, and misrepresents my traditional and continued support for our hunters and sportsmen and women."

However, since the enclosed letter was written by Mr. LaPierre, I must say to my colleagues as I did to Mr. LaPierre that I was not at all surprised by the misrepresentations of the letter.

Mr. LaPierre has been irresponsible in the past. He has been inaccurate in the past and misleading in the past, and he is so again with the letter he is sending to the people of my State.

He has never in the history that he has had with the NRA permitted truth to stand in the way of a powerful appeal and as such he does not disappoint me with the letter that he has sent.

Mr. President, the NRA in its educational effort has performed a very useful service for the people of this Nation. But the continued misjudgment with their political arm performs a very disuseful service by portraying inaccurately this particular piece of legislation and they obstruct as a consequence the legitimate efforts of the people of this Nation to keep safe our streets and to keep safe our people.

It seems to me that the DeConcini amendment gives us an opportunity to measure whether the restrictions that are contained in the amendment work. There is a mandated study by the Department of Justice and an attempt as well to evaluate whether the restrictions of this amendment will in fact come into play.

If it does not work, the amendment permits the bill itself to sunset. It is my judgment that this was a reasonable attempt to make certain that these restrictions work.

I am not surprised, as I said, by the efforts on the part of the NRA. They never disappoint me when they take unreasonable positions as they have done in this case. They never surprise me with their political armed police when they misrepresent the votes of the Members of this body, and they never surprise me when they distort what in fact is the truth.

I thank the Chair. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS CRIME BILL

The Senate continued with the consideration of the bill.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

George J. Mitchell, Charles S. Robb, J.R. Biden, Brock Adams, Christopher Dodd, Wyche Fowler, Al Gore, Edward M. Kennedy, Richard H. Bryan, Patrick Leahy, David Boren, Daniel P. Moynihan, Frank R. Lautenberg, Daniel K. Inouye, Jay Rockefeller, Herb Kohl, and Alan Cranston.

Mr. MITCHELL. Mr. President, for the information of Senators, this is a second cloture motion with respect to the pending crime bill.

Just this afternoon, we had one cloture motion. I hope and anticipate that a second cloture motion will produce the requisite number of votes to enable us to complete action on the crime bill. That would require an additional, I believe, six votes.

I have discussed it with the distinguished Republican leader, and you will recall it was he who suggested there be a second cloture vote. And I indicated I would be pleased to do so to accommodate his request, as well as that of the managers and the chairman of the Judiciary Committee and the ranking member, the former chairman, both of whom wish to proceed with another cloture motion as well.

Senators, therefore, should be aware that this cloture motion will ripen for a vote on Thursday morning. So there will be another cloture motion vote at that time.

If we are able to get cloture, then of course we will proceed until such time as action on that bill has been com-

pleted. That could take quite a bit of time, as there are a very large number of amendments that have already been filed. And with this cloture motion there is, of course, the opportunity for Senators to file first-degree amendments until 1 p.m. tomorrow.

Indeed, just for the information of Senators, I am advised that so far there have been filed 88 first-degree amendments by Democratic Senators and 138 first-degree amendments by Republican Senators. Those have already been filed.

Senators now have until 1 p.m. tomorrow to file additional amendments. By my count, this comes out to 226 first-degree amendments that have already been filed on the bill.

I anticipate that there will be more tomorrow. I, of course, am not able to say at this time how many of those would be germane under cloture if it were invoked.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, in order to permit us to proceed with other business, following discussions with the chairman of the Energy and Natural Resources Committee, the distinguished Republican leader, and the distinguished Senators from Alaska, it is my intention momentarily to ask unanimous consent to proceed to consideration of H.R. 987, the Tongass wilderness bill. I understand that objection will be made to that unanimous-consent request, following which it is my intention to move to proceed to consideration of that matter, which motion to proceed is debatable and would therefore be the subject of debate here in the Senate.

Accordingly, Mr. President, I ask unanimous consent——

Mr. STEVENS. Will the Senator yield for a moment, Mr. President?

Mr. MITCHELL. Certainly.

Mr. STEVENS. Mr. President, I know the majority leader is going to ask unanimous consent. I am very reluctant to have to object to that motion, and I would urge him to postpone it until after we consider the crime bill. It is not possible for us to complete this before the crime bill comes up anyway, and I think the crime bill should be passed. Both Senators from Alaska have voted for cloture on the crime bill. We believe that the crime bill should be enacted.

I have a series of conversations going on with Members of the other body. One of them is not reachable right now. I have a meeting tomorrow with the chairman of the committee that has jurisdiction over this matter. We are trying to reach an accommodation with all Members concerning this bill that affects only Alaska and only lands in Alaska.

I urge the majority leader to consider the impact to this procedure.

To my knowledge, no bill concerning wilderness in one State has ever been taken up where both Senators from the State object to the consideration of the bill at the time. This Senator has spent a lot of time on this floor as one of the leaders. I want to inform the Senate I really believe that any Senator should have the prerogative to try and work out problems that are this complicated pertaining to his own State. These two Senators from Alaska have tried to do that.

We are not prepared to take this bill up yet, although we both support the provision of this bill. The problem is not the provision of this bill. The problem is what the House is going to do with it once it passes. And this Senator is unwilling to take up the bill until we have an opportunity to pursue it.

The bill has been on the calendar for some time and we have had some difficulty getting to the Members of the other body to discuss it. But as I indicated to the leader, I had one conversation with the Member of the other body who I think is one of the key Members. As I said, I have an appointment with the chairman tomorrow.

I would like to be in the position of recommending this bill to the Senate and I would like to be in the position of telling the Senate we have an understanding with the other body as to what is going to happen with regard to this bill. I do not want to get into the merits of it now. I am just talking about the procedure.

I have made the simple request for some time to pursue these negotiations with the Members of the other body, and I am hopeful that the leader would permit us to discuss this bill without calling it up. I do not want to object, but I am compelled to object if the leader does bring it up.

I am in a difficult position, I know, because the leader has his duties. He must proceed with the legislation, and the chairman of the committee has the duty to proceed with the legislation that has been reported out of his committee unanimously.

But we have no way of knowing now what is going to happen to this bill in the House unless we have some time to work it out and the Members over there are willing to discuss it with us. Once this bill passes and comes back to the floor as a conference committee bill, it would be privileged. It would not be subject to amendments, and we would have no opportunity to protect ourselves from what might happen in that conference committee.

I have worked on many bills in my period here in the Senate in a similar way and we have found a way to reach an accommodation on them. Even the predecessor of this bill, in 1980, was subject to a series of conferences that lasted for 3 months off the floor before it came back to the floor, and this Senator did not oppose that bill when it was passed, although I voted against it. This time I think I am in a position where I might be able to support the bill, but not if it is going to be emasculated by the House. And we have some reason to believe from statements that have been made that it might well be. If that is the case, then this is the only time when we might have a chance to prevent its passage.

I do not want that to happen, Mr. President. I do want a bill to be passed. But I need some further time.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, one of the very few specific powers which the majority leader possesses is the power to determine when legislation will be presented to the Senate, and it is one of the most difficult powers to exercise. I have made a determined and sincere effort to consult with my colleague, the distinguished Republican leader, at all times with respect to pending legislation and with those Senators who have a specific interest in legislation, the chairman and ranking member of the relevant committee and, of course, Senators who have a specific interest.

It is especially difficult for me in a circumstance in which someone for whom I have such great respect and who I regard as such a good friend as the distinguished senior Senator from Alaska is so directly affected, as in this case. As the Senator knows, and as he indicated, this bill was placed on the calendar on March 30, and shortly thereafter I discussed with him and others—I say shortly, I think a few weeks thereafter, some time after it had been on the calendar—I discussed it with him and with others and suggested the possibility of bringing it up. The Senator from Alaska appropriately requested time to engage in consultation, which he has just suggested he is now engaging in. So this is not, as I am sure he will agree, not a precipitate action or one without prior notice with respect to this legislation.

Prior to the last recess I discussed the matter with the distinguished Republican leader and indicated that it was my hope and intention to proceed to this and other measures when we returned today from the recess. We have now reached a stage in the legislative process where some Senators have objection to virtually every measure which we might want to consider. I will continue to do the best I can to be accommodating to the interests and concerns of Senators, but as the Senator from Alaska recognizes, and graciously acknowledged, at some point we have to proceed with legislation here. And I have attempted in this case, as in others, to strike the appro-

priate balance between the interests of the Senate in moving forward, the interests of those Senators who very strongly favor moving on this legislation, and the interests of those Senators, particularly the Senators from Alaska, who have a very keen interest in this measure.

I regret very much, and I mean this sincerely, that anyone is inconvenienced by this action and most especially my distinguished colleague from Alaska.

Having said that, however, Mr. President, and recognizing the situation, it is my hope that we can proceed to it and do it in a manner that accommodates the interests and concerns of both Senators from Alaska and others.

TONGASS TIMBER REFORM ACT—MOTION TO PROCEED

Mr. MITCHELL. Therefore, Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 497, H.R. 987, the Tongass Timber Reform Act.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, I object, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Objection is heard. The majority leader still has the floor.

Mr. MITCHELL. Mr. President, I move we proceed to the consideration of Calendar No. 497, H.R. 987, the Tongass Timber Reform Act.

The PRESIDING OFFICER. The motion is fully debatable. Is there debate?

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we accomplished what I thought was a minor miracle on this legislation because we took two sides which had been wrangling and arguing in diametric opposition for years and came out of the Energy Committee with a bill that was supported in writing by the two Senators from Alaska. I have a letter from them, Mr. President, which I would like to offer for the RECORD at this time and just to read a sentence from it. It is a letter dated April 6, 1990, addressed to Dear Colleague.

It says: "We are now prepared to support as a reasonable compromise the committee-passed bill."

I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 6, 1990.

DEAR COLLEAGUE: The Senate may soon consider legislation making significant changes in the management of the Tongass National Forest in Southeast Alaska. As the Senators from Alaska, we are willing to advance reasonable reform measures for the Tongass such as eliminating the $40 million direct appropriation for the forest and the requirement that 4.5 billion board feet of timber be made available for harvest each decade. However, we will not accept measures included in the House passed Tongass wilderness bill which abrogate federal contracts with the only two year-around manufacturing plants in our state and add to the existing 5.4 million acres of wilderness in the Tongass by placing an additional 1.8 million acres into wilderness.

The Senate Committee on Energy and Natural Resources recently voted unanimously (19-0) to report a bill to make reforms and land designations in the Tongass National Forest. Neither the Tongass bill (S. 346), which we strongly oppose, or our bill (S. 237) emerged from Committee. The Committee bill went well beyond our proposal in that it permanently withdraws 673,000 acres from timber harvest, requires changes to existing contracts, and prescribes no-harvest zones along fish streams, matters not addressed by our legislation. It also repeals the $40 million Tongass Timber Supply Fund and the 4.5 billion board foot timber supply requirement which were an integral part of the 1980 Tongass wilderness bill.

The Committee passed bill is a compromise that leaves many on the fringe unhappy. The Wilderness Society now objects to the compromise bill because they would like to see new Tongass wilderness legislation passed over the objection of our Governor and Congressional delegation. The timber dependent communities in our state are concerned because they believe the Committee bill places so much additional timber off-limits that jobs will be lost and mills will close. Nevertheless, we are now prepared to support as a reasonable compromise the Committee passed bill which addresses timber funding, timber supply, fish stream protection, and pulp mill contract issues and removes valuable timber lands from timber harvest. We support this measure now so that we can bring an end to a divisive issue which has plagued our constituents living in communities surrounded by the Tongass forest. We hope that you also will support the unanimous Committee action.

Sincerely,

FRANK H. MURKOWSKI.
TED STEVENS.

Mr. JOHNSTON. Mr. President, on the other side, all of the environmental organizations have agreed to support this bill. I ask unanimous consent to print in the RECORD a letter dated May 24, 1990, addressed to Senator MITCHELL and signed by some 17 different environmental organizations, including Sierra Club, Wilderness Society, the Resources Conservation Department of National Wildlife Federation, National Resources Defense Council, et cetera.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAY 24, 1990.

DEAR SENATOR MITCHELL: We are writing to ask your assistance in scheduling early Senate consideration of one of the most important natural resource bills to be considered by this Congress—the Tongass Timber Reform Act. We're pleased at the interest that you and your staff have already shown on this issue.

Enacting a strong, sound Tongass Reform bill is one of our highest priorities for this Congress. In order to assure adequate time for a full conference with the House, we believe it is critical to complete Senate consideration of the Johnston substitute to HR 987 at the earliest possible date.

Although the Johnston substitute does not go as far in the protection of key fish and wildlife areas as the House bill, and is less stringent in other key respects, we believe that it embodies the basis for a House-Senate negotiation that can result in responsible fiscal policies and critical protection for America's greatest remaining rainforest.

The opportunity to protect and conserve so much natural wealth does not come along every day. Although we understand that amendments may be offered to revise some portions of the bill, we hope that disputes over the amendments do not needlessly delay a vote on the Johnston substitute to HR 987.

Thank you for considering our request.

Sincerely,

Kevin Coyle, President, American Rivers; Brent Blackwelder, Vice-President, Friends of the Earth Environmental Policy Institute; William Lienesch, Director of Federal Activities, National Parks and Conservation Assoc.; Justin Ward, Natural Resources Defense Council; Thomas A. Schatz, Senior Vice-President, Council for Citizens Against Government Waste; Phoebe Driscoll, Chairperson, Garden Club of America; Jill Lancelot, Director of Legislative Affairs, National Taxpayers Union; Mike Matz, Washington Director, Public Lands Program, Sierra Club; Sydney J. Butler, Vice-President for Conservation, The Wilderness Society; Rupert Cutler, President, Defenders of Wildlife; Brooks Yeager, Vice-President, Government Relations, National Audubon Society; Sharon Newsome, Vice-President, Resources Conservation Department, National Wildlife Federation; Bart Koehler, Executive Director, Southern Alaska Conservation Council.

Mr. JOHNSTON. Mr. President, one would think, with broad support on this bill from the two Senators from Alaska, from all the environmenmtal groups, and a unanimous vote of the committee, that we would be able to bring this bill up on the floor of the Senate and dispose of it quickly in a period of over 2 months. But this legislation was ordered reported on March 7 by the Energy Committee. It was actually reported to the floor on March 30. I have been trying on a daily and weekly basis ever since that time to bring it up.

What has happened is that first one group and then another will object to the time agreement. I finally have urged the majority leader to bring it up and let us discuss the matter here on the floor. If there is anyone who has shown good faith to the Alaskans, who has shown sympathy to the Alaskan timber industry, who has tried to preserve the jobs in Alaska consistent with the environment, it is I.

Mr. President, there are over 53 cosponsors to the Wirth bill, which I believe if brought up on the floor of the Senate, would easily pass by more than a majority, perhaps by more than 60 votes. I have prevailed upon the Senator from Colorado [Mr. WIRTH] to join in this coalition and pass a bill that all sides could support. He has agreed to do so. But, Mr. President, we cannot have a one-sided deal. If we are going to have a compromise on this bill to which I am bound and I will stick, then we cannot be in a position of having to invoke cloture on our compromise bill. If we are forced to go to cloture, as far as I am concerned, then we go to cloture and then the deal is off. We do whatever the Senate wants to work as its will.

I hope we do not have to do that, because I have tried and I have tried to do this by compromise. My friend, the senior Senator from Alaska, has said that he wants to get an agreement out of the House. Mr. President, I can tell my colleagues, the House is not going to give us a bottom line on what they are going to agree to at conference. I will not give the Senators from Alaska a bottom line as to what I would agree to at conference. To do so would make the conference superfluous. That is what conferences are for. The House cannot force its will on the Senate. It takes both the House and the Senate, of course, to agree in conference.

I think I have shown the Senators from Alaska my good faith in wanting to preserve their jobs in Alaska, and I am willing to do that in conference. But we have to get to conference before that happens.

I plead with my friends from Alaska, do not force us to go to a cloture vote on this. Do not break the feeling of compromise that we had on this bill. Everybody supports this. We can go to conference and try to work it out. I know what the interests of the Alaskan Senators are.

Mr. STEVENS. Will the Senator yeild?

Mr. JOHNSTON. Yes.

Mr. STEVENS. Mr. President, This is the first time I heard there is agreement on the Senator's side to proceed with this bill. To my understanding, there is still disagreement on the unanimous-consent agreement form that was pending here the last evening we were here. I had no information that the Senator had agreement on his side to proceed.

As a matter of fact, when this Senator went home on the recess, he understood there was still an objection and the Senator himself might withdraw one of the amendments he intended to offer. I am hearing things now that indicate there was unanimous agreement on the floor to proceed, but somehow the Senators from Alaska were the obstacle.

Mr. President, let me ask the Senator from Louisiana, is that correct? Did the Senator have an understanding on his side that Senator Metzanbaum's amendment was withdrawn and the amendment of the Senator from Louisiana was still the same as we were informed they were?

Mr. JOHNSTON. I am not saying there is agreement to the shape of the bill. But there is agreement to bring the bill up. At sometime or another we have to bring the bill up. We have been trying for over 2 months to get time agreements and work it out. I think the time is on the floor.

Mr. STEVENS. Will the Senator yield further?

Mr. JOHNSTON. Yes.

Mr. STEVENS. I want to inform the Senator and the Senate that this Senator for 22 years has lived by the rules of the Senate and the comity in the Senate. This is the first time I know that this type of procedure has been used on a motion to proceed that affects a bill from one State and one State only, when the two Senators were not prepared to take it up until there had been an opportunity really to get this time agreement.

The time agreement was not offered. We did not have a chance to object to the time agreement or try to work it out. There has been a motion to proceed now to this bill, a bill, as the Senator has indicated, I support as it is written. It is my understanding there are going to be amendments offered here to change the bill that this Senator and Senator MURKOWSKI supported as it came out of committee. The representation has been made somehow by the Senator from Louisiana that we are reneging on our commitment to support the bill. Is the Senator willing to pass the bill as it came out of committee without any change?

Mr. JOHNSTON. Mr. President, the only amendment that I want to offer would be the amendment to restore it to the way that it was introduced as a compromise amendment in committee. I think the junior Senator from Alaska understands that. The junior Senator from Alaska, I believe, has an alternative to that which we will debate and are glad to consider. But I propose, as everyone has known all along, to put the amendment on class 2 streams, restoring the bill to the way it was proposed to the committee. As far as I am concerned, that can be all the amendments that are offered. I am glad to agree to a time agreement to that. If the junior Senator from Alaska would like time for a second-degree amendment as an amendment to that, consider it, debate it, that is fine.

Mr. STEVENS. Will the Senator yield further?

Mr. JOHNSTON. Yes.

Mr. STEVENS. Mr. President, when two Senators represent one State and have 20 percent of the land mass of the United States and already have 65 percent of the wilderness of the United States in that State, to present a bill without a time agreement on the floor, in my opinion, is wrong. I have so informed the Senator from Louisiana before. We have been trying to work out a time agreement. I have discussed it with the Senator from Colorado, he is on the floor; I have discussed it with unnumbered Members of the Senate and House so far, trying to find some way to accommodate the goal of achieving the passage of the bill as reported by the committee.

I want to ask the Senator a question. Would it not have been more proper under the normal procedures of the Senate to try and work out a time agreement here? Why do we have to move on this bill? Why could we not have explored this time agreement? I ask the Senator. He is the chairman of the committee. He has a letter from the two of us saying we support that bill as it came out of the committee, and now we are faced with the concept of bringing the bill up free and open, subject to amendment. Why is that so, Mr. President? I ask, the chairman, why did this bill come up without a time agreement? We did not object to a time agreement.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. STEVENS. I have asked him a question, Mr. President.

Mr. JOHNSTON. Mr. President, I am trying to answer. I have been trying for over 2 months to get a time agreement. I am ready to enter a time agreement right now. It is a very, very simple matter. If there is willingness to agree, we can agree right now.

As far as I am concerned, I am willing to bring up the bill itself with only one amendment with whatever time that the Senators from Alaska wish, and that is to provide, with respect to class 2 streams, a 100-foot buffer, which is the way the bill was initially introduced. That would be the only amendment which I desire to consider, other than perhaps technical amendments.

I am ready to proceed with a time agreement on that.

Mr. STEVENS. Will the Senator yield further, Mr. President?

Mr. JOHNSTON. Yes.

Mr. STEVENS. Is the Senator authorized to offer that amendment on behalf of the Members on his side of the aisle? Are there no other amendments to be offered?

Mr. JOHNSTON. No, there would be no other amendments to be offered.

Mr. STEVENS. Mr. President, the Senator still has the floor.

At the appropriate time, I would like to suggest the absence of a quorum and we will have a discussion of that.

This is the first time this Senator has been so advised.

Just below this, Mr. President, is the question of whether there is going to be comity on this floor or not. I want to remind the Senate it takes unanimous consent to do almost anything around here, and this Senator does not like to be surprised.

Mr. JOHNSTON. Mr. President, for 2 months I have been trying to deal with this. I am not charging bad faith on anybody's part. There has been too many players and too many amendments. When one gets nailed down, then the water squirts out of another hole. It is a very simple matter.

I am ready to have a time agreement on that one amendment. I do not know why we cannot do that at this time.

Does the junior Senator from Alaska see any reason why we cannot proceed with that?

Mr. MURKOWSKI. I wonder if the Senator from Louisiana will yield for a question relative to the proposal that I think we are all very much aware of in the interest of moving on here in good faith.

Mr. JOHNSTON. Yes, I yield.

Mr. MURKOWSKI. I think the Senator from Louisiana recalls that prior to going out on the recess as a consequence of a meeting we had there was request for a written proposal proposing a time agreement, and on May 24 that proposal was submitted to the Energy Committee. The proposal was for 2 hours of debate equally divided on the committee amendment in the nature of a substitute to the H.R. 987. There was 1 hour of debate evenly divided on an amendment regarding land exchange which has already been referred to by the chairman with a proposal that no second-degree amendments would be in order.

There was further a proposal that the committee substitute to H.R. 987 would be modified to include a committee amendment regarding buffer zones, a committee amendment regarding a land exchange for the gold belt, a committee amendment to make minor boundary adjustments to the Yakutat forelands. That is a LUD II management area. And a committee amendment to the title to H.R. 987.

The proposal further stated that the amendment would be in the usual form, that no motions to recommit be in order, and that no other amendments other than the committee reported substitute on the Greens Creek land exchange amendment would be in order

As the committee chairman will recall, I advised him of my intention to substitute for the reference of buffer zone the State forest management practice as adopted by the State of Alaska at the termination of the last legislative session and signed into law by the Governor, because obviously it is in the best interest of the State to have uniformity with regard to buffer strips of land within the State.

I had communication with the chairman of the committee earlier today, but we have not had formal response to this proposal. So in order to make sure we all understand where we are coming from, it is the feeling both the junior Senator and senior Senator have attempted to move in a positive manner and in a responsible manner in order to expedite this process.

The senior Senator obviously is concerned, as is the junior Senator, with the disposition of this legislation once it gets to the House. That is probably something on which we cannot get a lot of satisfaction, but nevertheless we have already seen a substantial portion of the Tongass put into wilderness and we have seen what the House bill would do to our industry as we know it today. There is great and growing concern.

Mr. JOHNSTON. Mr. President, I am prepared to reply to my friend. I did receive his request. I had been gone on the recess and just received it this afternoon. However, it is very easy to reply to it.

Mr. President, what the junior Senator from Alaska suggests is a time agreement which is in all respects agreeable save two. He proposes to amend by unanimous consent the bill with respect to buffer zones and the goldbelt land exchange. So that he would amend that by unanimous consent without any debate.

Mr. President, we could not agree to the buffer zones. Even though the amendment of the Senator may be perfectly reasonable and even though we would be glad to agree to a time agreement on his amendment as a second degree or as a first-degree amendment, we could not agree by unanimous consent because it introduces new terminology on the question of classification of streams.

Our amendment uses Forest Service classifications on Forest Service lands. The Forest Service is familiar with it, has it all mapped out. The Murkowski language uses State statute language for Federal lands. The State continues to support the approach that I would propose, and the United Fishermen of Alaska support our approach.

Now, I am not here seeking to debate it. I am simply telling him why I cannot by unanimous consent accept his language. I will be glad to debate it, and we could agree on a time agreement with respect to that, and perhaps he would win. Frankly, I think it is something that could be debated. It is not—considering the matters at issue in this bill—a very big part of the bill.

Now, the second amendment, Mr. President, has to do with the goldbelt land exchange. I initially proposed to put in the goldbelt land exchange myself along with the Greens Creek land exchange. However, Mr. President, Greens Creek has run into tremendous controversy. I think both land exchanges are good things to do. I think they are both broadly supported. However, any time you get into a land exchange and you have not had full and complete consideration, then I think it is best not to do it on the floor. I think it is best to go back to committee. And so while I do not oppose the goldbelt land exchange at all, I would prefer to take it back to committee and have it there considered on an expeditious basis.

So there are only two matters on which there is any disagreement and both are relatively minor matters. We ought to be able to put together a time agreement on the floor right now.

Mr. STEVENS. Will the Senator yield, Mr. President?

Mr. JOHNSTON. Yes, I will yield.

Mr. STEVENS. I do not know about the rest of the Senators, Mr. President. I am going to ask the Senator from Louisiana if he realizes we are supposed to be meeting with our visitor from Greece. I would like to be there. I also would like to know why we cannot work this out in the normal procedure. We would have some sort of negotiation off the floor and present a time agreement. There has been no time agreement presented here. I still would like to see us proceed in the normal way.

Does the Senator not want to work this out so he does not force the two Senators to put the Senate into long nights and into quorum calls and demand 51 people come to the floor and object to everything you can find?

I support the bill as it came out of committee, Mr. President.

Mr. JOHNSTON. Mr. President, it is so simple. It is so easy. Why can we not agree right this minute?

Mr. STEVENS. Will the Senator agree to the time agreement that the Senator from Alaska has offered?

Mr. JOHNSTON. The Senator from Alaska wants more than a time agreement. He wants to pass his amendment by unanimous consent. I just said I cannot agree to his amendment passed by unanimous consent, which is opposed by the State of Alaska, by the fishermen of Alaska, and——

Mr. MURKOWSKI. I would ask that the Senator yield.

Mr. JOHNSTON. We can debate that. Let us debate it. I have given the reason why I could not go along with it by unanimous consent.

Mr. MURKOWSKI. I wonder if the Senator will yield.

The Senator made a statement that the amendment was opposed by the State and opposed by the fishermen. I think that is an incorrect assumption. The State Forest Management Practices Act is what the Senator from

Alaska is proposing to substitute for the buffer strip amendment as it has been proposed in the bill. The Senator from Alaska is proposing basically 100 feet on class 1 and class 2 streams under a Forest Service definition. I am sure the Senator from Louisiana can appreciate the difficulty of having continuity in management.

What we are trying to propose here simply is to have consistency of management on the lands in Alaska as opposed to having two different types of management schemes when the land adjoins one another, and the streams go into the next parcel. The State has, I think, done an excellent job in establishing forest management practices. It says on private lands, 66 feet buffer strips, and it says on State lands 100 feet on streams and all other streams capable of bearing major anadromous fish populations. That is what the Senator from Alaska is proposing.

Mr. JOHNSTON. If I may reply to the Senator, he makes a good argument. But we could surely agree to a time agreement on that argument. The information I have as given to me by staff is the State continues to support the Johnston language. The united fishermen of Alaska support the Johnston languge.

That may not be so. We could find that out as debate went on. But surely I should not be required to agree to the amendment by unanimous consent in the face of that kind of opposition to it.

Mr. STEVENS. Will the Senator yield, Mr. President?

Mr. JOHNSTON. If I may first of all get this straight.

Mr. MURKOWSKI. I would be happy to respond to the Senator from Louisiana. Let me refer to the letter, which I will introduce, the letter of May 24, which I believe the Senator's professional staff has, the second paragraph:

As noted in the State of Alaska's testimony before the Senate Energy Committee on February 26, 1990, I support mandatory no-cut buffer zones with a minimum width of 100 feet on both sides of all anadromous and high-value resident fish streams in the Tongass National Forest, the same standard we recently adopted in the revised Alaska Forest Practices Act as a minimum protection for areas on all State and municipal lands south of the Alaska range.

Mr. JOHNSTON. I know. But as part of that same letter it states:

On balance we believe Senator Johnston's amendment provides appropriate mandatory prescriptions in conjunction with secretarial discretion in protecting valuable fish streams and water quality in the Tongass forest.

That is from a letter from the Governor of Alaska that the Senator referred to.

Mr. MURKOWSKI. If I may respond to the Senator from Louisiana, I think the Senator from Louisiana would recognize the significance of public land States such as Alaska and other States and the necessity of trying to have uniformity of managment. Obviously, the Governor has seen fit to sign the State Forest Management Practices Act, which is the uniform application of State authority on private and State lands.

Another portion of this letter, on page 2, the Governor says:

On the other hand high-value fish streams are not protected by mandatory buffer zones using the Forest Service stream classification approach—

Which is the point of the Senator from Louisiana—

but would be protected under the State approach. The relative impacts of these differences cannot be readily quantified. But we believe the net effect would be inconsequential for the Tongass National Forest.

Mr. JOHNSTON. I have a copy of the letter. But I ask my friend, is he willing to agree to a time agreement on his amendment as well as my amendment, which would restore the bill to the same position it was when introduced in the committee?

Mr. MURKOWSKI. The Senator from Louisiana will recall when we were negotiating, it was the intent to try to negotiate as much as possible including the proposed amendments. I think the Senator from Louisiana would agree that the initial intent both on the Greens Creek and gold belt was to negotiate those into the unanimous-consent agreement within the time agreement as well. It was in that spirit of the junior Senator from Alaska to propose this substitution in keeping with the uniform position as suggested by the chairman of the committee that we negotiate these amendments in the heart and body of the bill.

Mr. JOHNSTON. Does the Senator continue to support the bill as passed by the committee?

Mr. MURKOWSKI. The Senator does.

Mr. JOHNSTON. Does the senior Senator from Alaska?

Mr. STEVENS. The senior Senator does support the bill as it came out in the committee.

Mr. JOHNSTON. Are the Senators from Alaska prepared to pass that bill at this time?

Mr. STEVENS. Mr. President, I would be prepared to not object to proceeding with a motion, provided this Senator has the conference he asked the majority leader the privilege of holding before we consider the bill on the floor of the Senate.

Mr. JOHNSTON. This we are, Mr. President.

Mr. STEVENS. Mr. President, We are going to take more time than that. I assure the Senator. May I ask him, can he remember a bill affecting his State handled in this manner on the floor of the Senate?

Mr. JOHNSTON. Mr. President, no, I cannot. Of course this is unusual, and Alaska is a special case, Mr. President. But if you are gong to say that no bill is going to be passed with respect to Tongass, not agreed to by the two Senators, proposed and agreed to by the two Senators from Alaska, you might as well put this bill down.

Mr. STEVENS. Will the Senator yield? Does the Senator know of any bill that ever passed the Senate over the objections of the two Senators of that State?

Mr. JOHNSTON. The answer is no. The Senator has professed to support the bill as reported by the committee. I stay prepared to proceed with it. The answer is "No." They want to agree with the House or something. Mr. President, we have been doing this for 2 months.

Mr. WIRTH. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. WIRTH. We have been doing this for longer than 2 months. There has been some suggestion here there is some lack of comity.

I think it is important to review the record. This legislation was initially introduced by me almost 4 years ago. We went through extensive deliberations in the last Congress, and at the request of the junior Senator from Alaska, the chairman agreed not to move on the bill until we had further hearings in this Congress.

So then I went up to Alaska with the junior Senator in early 1989 to accommodate the Senator from Alaska, and we held extensive hearings up there. Hundreds and hundreds of witnesses were heard on the subject of this legislation. We accommodated the request of the Senators from Alaska in doing that. We then came down and there were other issues the Senators wanted to hear. We held not one more hearing, but two further hearings on this legislation.

Talk about comity, comity. We have been doing everything, bending over backward, to accommodate the Senators from Alaska attempting to work it out. The legislation then was worked out on compromise. That was voted out in committee, I believe, 19 to nothing. Everybody reported out that bill, 19 to nothing, out of the Energy Committee.

Talk about comity and compromise, we reached that. That was in March of this year. We are now in June of this year. We have now had an extensive period of time to work this out, and to simply bring talk about comity. The chairman has done, it seems to me, everything possible. I have never seen such an effort to accommodate the requests of the Senators from Alaska.

Now the distinguished senior Senator has just suggested no more than 20 minutes ago that why do we not just pass the bill as reported out by the

committee. That was the suggestion made by the senior Senator from Alaska no more than 20 minutes ago. Why do not we go ahead and do that? Can we ask unanimous consent to pass the legislation as reported out by the committee?

Mr. STEVENS. Will the Senator yield?

Mr. WIRTH. What is wrong with that? The Senator has suggested it. We have accommodated him again. Let us accommodate him one more time and pass out the bill as suggested by the senior Senator from Alaska. One last accommodation, and let us get this passed.

Mr. JOHNSTON. I think the senior Senator from Colorado makes a good suggestion.

Let me first observe that this is not a wilderness bill, Mr. President. The senior Senator from Alaska has asked a number of times, have we passed wilderness bills pertaining to one State over the objection of the Senators from that State. The answer is, this is not a wilderness bill.

But, just to get this show on the road if it is possible, I ask unanimous consent that we proceed to consideration of H.R. 987; that no amendment be in order; that we proceed to consideration of the committee substitute; and vote thereon after a period of 2 hours evenly divided; that upon the adoption of the committee substitute, we go immediately to third reading, without any intervening business; that we then proceed to final passage, without further intervening business or motions or debate.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, parliamentary inquiry. Is it possible to suggest the absence of a quorum at this time?

The PRESIDING OFFICER. The Senator from Louisiana has the floor and can suggest the absence of a quorum. It is not in order for another Senator to do so. The Senator from Louisiana has the floor.

RECESS

Mr. JOHNSTON. In consideration of this unanimous-consent request, I ask unanimous consent that we stand in recess for a period of 10 minutes.

There being no objection, the Senate, at 5:01 p.m., recessed until 5:12 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BRYAN].

The PRESIDING OFFICER. The senior Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I believe we are nearing an agreement on this matter, and the majority leader will need to come to the floor along with all the parties. So I expect in about 10 minutes we can do so.

Does the junior Senator from Alaska desire to speak at this time?

Mr. MURKOWSKI. I just advise the Senator from Louisiana that I have been advised by our Cloakroom we have about five Senators to check with that they are talking with now. I know of no reason why this will not be agreed to. I just advise the Senator.

Mr. JOHNSTON. Mr. President, I am asking the Senator from Alaska whether we should try to stand here for 10 minutes or so or whether we should simply leave it to the leaders. As far as the junior Senator is concerned, our agreement is agreeable as long as the leaders agree; is that correct?

Mr. MURKOWSKI. Subject to if there is no objection from some who are not here. I have simply been advised by the Cloakroom they want to check with Senators. I feel I should give them that courtesy. I know of no objection.

The PRESIDING OFFICER. The Chair inquires of the Senator from Louisiana [Mr. JOHNSTON] there was, prior to the recess, pending the Senator's request for unanimous consent. Has that been withdrawn?

Mr. JOHNSTON. Mr. President, I withdraw the unanimous-consent request.

Mr. President, if the junior Senator from Alaska does not desire to speak, I am prepared to ask for a quorum, and I do suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 987

Mr. JOHNSTON. Mr. President, I think we now have a time agreement, which the majority leader has asked that I go ahead and enter into the RECORD at this time. So if my colleagues are ready, I shall proceed.

Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may proceed at any time to the consideration of Calendar No., 497, H.R. 987, the Tongass National Forest Wilderness bill, and that it be considered under the following agreement on limiting debate and amendments: that there be 4 hours on the bill, including the committee-reported substitute; 1 hour on a Johnston goldbelt land exchange amendment; 1 hour on a Johnston buffer zone amendment; 1 hour on a Murkowski second-degree amendment on buffer zone to the Johnston buffer zone amendment; two committee technical amendments, the time for which will come out of time on the bill, regarding the Yakutat Forelands LUD II Management Area; and an amendment to the title; that on an amendment to be offered by Senator GARN with respect to the Greens Creek land exchange there be no limitation on time for debate, and that any second-degree amendments offered to this amendment must be germane to the subject matter of the underlying amendment; that no other amendments other than the committee-reported substitute be in order; that the agreement be in the usual form; and that no motions to recommit be in order. And, Mr. President, I think, although it is not in the written agreement, it is also understood that the matter may not be considered before Tuesday next.

Mr. STEVENS. Mr. President, reserving the right to object, I want to thank the Senator from Louisiana. It is my understanding that this matter has been discussed with the majority leader now, and the matter will not come up before next Tuesday.

I have just one question about the Greens Creek second-degree amendments. Must they be germane to the subject matter of the underlying amendment, being Senator GARN'S amendment on the Greens Creek land exchange. The word "relevant" has been crossed out.

Mr. JOHNSTON. The word "relevant" has been crossed out and the word "germane" written in. "Germane" is more restrictive than "relevant."

Mr. STEVENS. It is my understanding that must pertain to the land exchange amendment.

Mr. JOHNSTON. That is correct. In other words, the second-degree amendment must be germane to the Greens Creek amendment.

Mr. STEVENS. Not just the bill, but the amendment itself?

Mr. JOHNSTON. That is correct.

Mr. STEVENS. Mr. President, there are times when Senators have to be semiobnoxious, impertinent, and disagreeable. And representing a State like we do that is so far away, has so much public land, and has so many issues that pertain, those times come all too often for this Senator. But I am grateful to my friend, and he is my friend, for what we have worked out now.

This is the way that I believe a bill such as this should be handled so there are no surprises. We all know what will be considered when the bill is called up.

I am grateful to the Senate, to the majority leader, and to the Senator from Louisiana.

Mr. MURKOWSKI. Mr. President, I wonder if the Senator from Louisiana will yield for a point of clarification on the next to the last paragraph. It

reads: "No other amendments other than." I wonder if it is not the intent of the chairman to include the words as follows, that "no other amendment, including any second-degree amendments," as an insert at that point. So then the paragraph will read: "No other amendments, including any second-degree amendments, other than the committee reported substitute."

Mr. JOHNSTON. I say to my friend that is the precise intent. I believe the wording which says "No other amendment," will include no second-degree amendment.

Mr. MURKOWSKI. The Senator from Alaska is satisfied.

I would like also to extend our thanks to the chairman and others, the professional staff, who worked so diligently to try to bring this to a conclusion.

I want to personally commend Senator JOHNSTON for his leadership and cooperation in understanding the extraordinary conditions that the State of Alaska continually finds itself in. I will not prolong it. He knows what it is.

Hopefully, our colleagues will support this bill, and the conference will do its will. But I hope there is some degree of sympathy in that august body as well.

Mr. STEVENS. Mr. President, reserving the right to object, again let me state that the Senator from Utah has been deeply involved in this, as has the Senator from Ohio. There is another controversy here on that amendment. We are grateful this has been worked out on this matter so we may debate the Greens Creek proposition before the Senate as long as the Senate is willing to debate it.

The people of southeastern Alaska, Mr. President, formed a consensus on this issue. We have striven to obtain the objectives that they set for us. It has not been easy to do. But now I think we are in the position where, instead of being against a proposal, we can be for the bill as it came from the committee. I am delighted to be in that position. I see my friend over there smiling slightly, Mr. President. But it is nice to be for something once in a while, being from Alaska.

Mr. WIRTH. Will the Senator yield, Mr. President?

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. As the initial sponsor of this legislation, helping to get it going, I want to thank the distinguished chairman of the committee, who has been absolutely forthcoming. I want to register also with the distinguished senior Senator from Alaska, while he thinks it is nice to be for this, that some of us are quite ecstatic that this is happening. We have all the pieces knitted together here, and it is coming to fruition. We can get to it, and go on and do some other things. I thank both Senators from Alaska for their good help.

Mr. STEVENS. Reserving the right to object again, I am pleased to hear my friend, the Senator from Colorado, make his statement. I am hopeful we are both smiling when we come back from conference.

Mr. MURKOWSKI. If I may, Mr. President, I would also like to commend the Senator from Colorado. There were some interesting hearings in Ketchikan. The Senator from Colorado sat through those hearings with a good deal of grace, and sometimes it was pretty one-sided testimony. But, nevertheless, we very much appreciate that. I commend him for his cooperation and his working with the chairman to the point where we are today. Other Members as well, including Senator METZENBAUM. Thank you.

The PRESIDING OFFICER. Hearing no objection, the unanimous-consent request propounded by the Senator from Louisiana [Mr. JOHNSTON] is agreed to.

The text of the agreement is as follows:

Ordered, That the Majority Leader, after consultation with the Republican Leader, may proceed at any time to the consideration of H.R. 987, the Tongass National Forest Wilderness bill, and that it be considered under the following agreement on limiting debate and amendments:

One hour on a Johnston Goldbelt land exchange amendment;

One hour on a Johnston buffer zone amendment;

One hour on a Murkowski second degree amendment on buffer zone to the Johnston buffer zone amendment;

Two committee technical amendments, the time for which will come out of time on the bill, regarding Yakutat Forelands LUD II Management area and an amendment to the Title;

Garn amendment relative to the Greens Creek land exchange, on which there shall be no time limitation, with second degree amendments offered to this amendment to be germane to the subject matter of the underlying amendment.

Ordered further, That no other amendments, other than the Committee-reported substitute, be in order.

Ordered further, That there be 4 hours on the bill, including the committee reported substitute.

Ordered further, That the agreement be in the usual form and that no motions to recommit be in order.

Mr. JOHNSTON. I sincerely thank my colleagues, particularly my colleagues from Alaska. I did not find the senior Senator to be anything but gentle of nature and sweet of disposition. I fully understood that he had to stand up for his State. I am glad we had the matter tended to by unanimous consent.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

MOTION TO PROCEED WITHDRAWN—H.R. 987

Mr. MITCHELL. Mr. President, I withdraw the motion to proceed to H.R. 987, the Tongass forest bill.

The PRESIDING OFFICER. The motion is withdrawn.

MORNING BUSINESS

Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIME MINISTER MITSOTAKIS

Mr. DOLE. Mr. President, the majority leader and I just had the honor, and the pleasure, of meeting with and hosting a coffee for Greek Prime Minister Mitsotakis.

He is an extraordinary man, who—in a very brief period of time, and despite operating with only a one-vote majority in his parliament—has tackled some of the most sensitive foreign policy issues facing Greece with skill and determination. As one very happy result, we have just agreed on the bases issue—which has troubled our bilateral relationship for many years.

It is no surprise, though, that Prime Minister Mitsotakis is showing so much courage and leadership. As the majority leader, and I, and others noted in our meetings—the Prime Minister has a long history of personal courage in the face of persecution.

He has truly struggled for democracy in Greece. And he has the scars to show for it.

And those traits run in the family, too. The Prime Minister was accompanied by his daughter, Theodora Bakoyanis, who is herself a Member of the Greek Parliament. Her own personal history is one of tragedy. Her husband—a prominent leader of the Prime Minister's party—was murdered by terrorists last September. Overcoming her grief, as I indicated, she has assumed her own seat in parliament.

In fact, she now represents the Prime Minister's one vote margin—so, as Senator SARBANES observed, she carries quite a bit of clout, not only in the home but in the political sense, too. We were also happy to welcome the Prime Minister's son, who is about to graduate from Harvard, with honors.

So it is a remarkable family. And in further testament to that, I ask unani-

mous consent to include in the RECORD an article from today's Washington Post, about the Prime Minister's daughter. It is a touching account of how she has moved from personal tragedy to play an active and important role in the political life of her country.

We all welcome the Prime Minister, members of his family and government to Washington—and we welcome, too, the new era in good relations between our countries to which he made clear he is dedicated.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 5, 1990]

INHERITANCE OF PAIN AND POLITICS

(By Phil McCombs)

The tall woman in widow's black lights up a Rothman and takes a sip of cold coffee. The cup trembles in her hand. Her dark eyes shift about the room, finally settling on a window. "Then we went to the hospital," she says, staring into the middle distance. "Then he lived for half an hour. He had five shots in the back. Then the children arrived. Really, there are no words. I cannot describe that. I felt nothing. I was completely lost."

Theodora Bakoyannis needed most of all, in that terrible time last September, the advice and consolation of the very man whose loss she grieved, her husband, Pavlos. Gunned down by members of the November 17 terrorist movement, this conservative member of the Greek parliament became in death—as did the tragic figure of his widow, Dora—a rallying point for the New Democracy Party, which squeaked into power after elections two months ago and has already pushed the country toward the right and into closer alliance with the United States.

Yesterday Dora Bakoyannis, 35, who had gathered herself to emerge from her pain and seize an elected seat of parliament on her own last November, and again this past April, began a series of meetings with officials in Washington at the side of her father, Constantine Mitsotakis, the first Greek prime minister to make an official visit here in more than two decades. Tomorrow they will meet with President Bush to press on him their message that Greece is undergoing what Mitsotakis, 71, calls "a political transformation after eight years of socialism."

His daughter, he says, relaxing in his suite after a meeting yesterday morning with Secretary of State James A. Baker, is one of his key political advisers. "She has an instinct for politics," he says, "and great humor and warmth—an instinct for relating to people. She's built her own political life outside her husband and father."

Which, in the Mediterranean country of 10 million, is no small accomplishment for a woman. If her father's ascension signals a shift in the direction of Greek politics, his daughter's rise reflects changes in a tradition-bound culture.

Last November, says Bakoyannis, she was elected to fill her husband's seat from his poverty-stricken district in the rugged Pindus Mountains 200 miles northwest of Athens "as his wife and nothing else. Then, when I was reelected two months ago, it was on my own and I got an even bigger percentage of the vote—52 percent. I went around from village to village, and they came to know me as a person. It's one of those places where you might say no woman would get elected, but that didn't stop them from accepting me completely."

She was steeped in politics almost from birth, part of a family whose defeates and triumphs limn the roiling politics of postwar Greece. Mitsotakis, son of a prominent politician on Crete whose brother was a three-time premier between 1910 and 1932, was elected to parliament in 1946 when he was 27. He served in many government posts before the 1967 military coup of Col. George Papadopoulos landed him in prison and then drove the family into exile.

"I was 13 when he was arrested and it was a big shock," says Bakoyanis, the oldest of three daughters and a son. "I was always interested in politics. I had gone around with my father when he campaigned and I liked it." He was in and out of prison, the family was subjected to house arrest and surveillance, and finally they all fled to Paris, where they remained for five years.

Dora was educated there in an international school and met, among the many Greeks in exile, Pavlos Bakoyannis, a journalist and ardent opponent of the junta, who was 19 years her senior. They fell in love, and when he became head of the Greek section of the German radio agency Deutsche Welle in Munich, she followed him there.

The rest of her family returned to Greece during the amenesty in 1973, and her father was again thrown into prison. He was later freed and, after the restoration of democracy in 1974, Dora and Pavlos returned home and were married in St. Denis Cathedral in Athens in what turned into a major social event for Greek exiles returning from points around the globe.

"There were 500 people at the wedding, even though only 300 had been invited," recalls Bakoyannis. "It was the first big social event after the distatorship. Everybody had worked against the dictatorship, and people came who had been in prison or in exile. It was a really good feeling—it was important psychologically. I remember one friend who had been five years in prison met another who had been five years in exile."

She continued her studies in political science and public law. In 1976 the couple had their first child, Alexia, now 14, followed two years later by a son, Constantine. Her husband continued in journalism and she began working for her father, first as his secretary and later in more responsible positions as he joined Constantine Caramanlis's New Democracy Party, becoming minister of economic coordination and later foreign minister.

In 1984 Mitsotakis became party chief, leading New Democracy through three general elections against Andreas Papandreou's Pan-Hellenic Socialist Movement (Pasok), which came to power in 1981, took steps to socialize the economy and set such an anti-American tone that Presidents Reagan and Bush never bothered to invite Papandreou to Washington.

Mitsotakis and New Democracy finally prevailed in the elections last April 8, capturing 150 seats in the 300-member parliament and then adding one vote from a small conservative splinter party that enabled them to form an effective government.

Immediately, the new conservative government embarked on an austerity program—with steep price increases in public services, higher indirect taxes, abolition of automatic cost-of-living wage increases—designed to correct the growing budget deficit and 16 percent inflation. The new program also includes selling or liquidating more than 40 deeply indebted industrial firms now under government protection.

The murder of her husband, Dora Bakoyannis is convinced, was designed to prevent such changes.

"Pavlos was elected in June of 1989," she recalls, "and that was a great triumph for my husband, because Pasok had controlled Evritania for eight years. Everyone thought it would be a lost cause. I tried to campaign with him as much as I could, and it was very difficult. It's high in the mountains, and takes three hours to go 13 kilometers from one village to another. I also had to keep up with a very demanding job with my father."

"She had to help two men," Mitsotakis says later, "her husband and her father, more her father than her husband. She had never started with any intention of pursuing a political career, but she was born into a political family and lived that kind of life, with all the pluses and negatives to it. The negatives outweigh the positives, but we are a strongly bonded family, and we've been brought even closer by the difficulties and struggles."

His daughter, seated nearby now as they wait to have a photo taken, listens as he says this. Her eyes are sad.

In the election that brought her husband into parliament, her father didn't have enough votes to stitch together a clear majority, so his coalition was hobbling along at the time of the assassination in September. Mitsotakis, with his son-in-law's help, had been able to bring communists and other left-wing members of parliament into his camp—at least temporarily—because of their outrage over a corruption scandal that had resulted in the indictment of Papandreou.

Why was Pavlos Bakoyannis killed?

"This is a very difficult question," says his widow. "My husband was not a normal target for a terrorist group. He as a self-made man, and came from a poor village. He started working when he was 12 years old. He had a strong record against the dictatorship, and also he was known as a very open person. He had always tried to avoid polarization, and to put up bridges. He had played an important role in the link-up . . . with the left."

On the other hand, she goes on, "my husband was one of the closest collaborators with my father. I think the main reason they killed him was to strike a very hard blow against our family—against my father and the whole family, because they know how close we are. It was a personal and political blow struck just before the November election."

She is staring out the window now.

"The people in the district," she muses, "they believed very much in my husband. It's very beautiful there. It's way up in the mountains with a lot of trees . . ."

Her voice trails off. For two years, Dora and her husband had worked hard on an economic development plan for the district—tourism, industry, education of the children. "When he was killed, they felt it was a blow against them."

Bakoyannis was shot by two gunmen as he entered an elevator in the building housing his private office. The gunmen escaped in a car with two accomplices, tossing out leaflets as they fled bearing the sign of November 17, the group that in 1975 murdered CIA Athens station chief Richard Welch. Defense Minister Yannis Varvitsiois called

the murder an effort to bring about "the destabilization of our democracy."

For Dora Bakoyannis, it was far more than that. At 8 that morning, when she'd just got the kids off in their school bus, the phones in her home began ringing with people asking if she knew where her husband was. Then friends came running over on foot to tell her that Pavlos had been attacked. It was on the news.

"The children heard it on the radio," she says. "That was the worst."

At first she was numb.

"People think this can only happen to others," she says, shaking her head. "Everyone was shocked. They were devastated. There was a very big reaction in the party, and my father had to go to parliament and try to bring things under control. He told them that we must deal with our problems and that the blood of Pavlos must be the last blood spilled unjustly."

At first she "wasn't even angry. I couldn't even feel anything because the loss was so big." She decided that she could either "stay in the corner of my house and feel sorry for myself" or "start working like a madman."

She had a long talk with her children, who urged her to continue their father's work. "My son told me. 'If you were a woman who never worked, that would be one thing, but I know you can do it!' My father didn't urge me, he didn't say anything. He believes these kinds of decisions should be taken by ourselves—it's a major life decision, and you have to really feel you want to do it."

According to Mitsotakis, "We all came to the conclusion she had to continue her husband's work in his district. That's how she finds herself directly involved, and no longer in the shadow of her husband. And she's done a magnificent job."

Relations between Greece and the United States are improving: After a year of contentious negotiations, the two countries agreed May 30 on a new defense pact that will allow U.S. air and naval bases to remain in Greece for the next eight years. On another ticklish issue, sources say that Mitsotakis told Baker yesterday that he will study the possibility of extraditing to the United States Mohammed Rashid, a Palestinian guerrilla whom the Bush administration wants to stand trial for a bomb blast on a Pan Am airliner over Hawaii in 1982 that killed a Japanese teenager and wounded 15 other passengers. Tomorrow the prime minister reportedly plans to discuss with Bush Greek concerns over Turkish military power.

And Bakoyannis and her father are talking the kind of language they like to hear in the Bush administration. What Greece needs now, she says, is "less government" in order to attract American investment. "There's no sense in having the state running industries, because they do very badly at it. Like Eastern Europe, we had the state believing they could do everything, and every Greek thought it would be a good idea to be a civil servant."

Yet she considers herself a politician of the center, not the right. "You can't say I'm right or conservative, not with the changes that are taking place in the new Europe. It will be different. Something new is born, and it's fascinating."

Greece, she says, will be part of that Europe, more "Western" now, with a "new spirit" of enterprise.

While here, Bakoyannis will go with her father to New York and Boston, where her brother is graduating Harvard, then to Charlotte, N.C., where it happens that 1,500 emigres from Evritania and their children live. "It's easy to see how it happens that they all live in one place," she says. "One goes and finds a job, then others come, and they have families."

And then, finally, "You will laugh, but I promised my children that after Harvard, and Charlotte, I will take them to Disney World in Orlando, Florida."

And she laughs.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING AND INVENTORY OF FEDERAL FUNDS DISTRIBUTED TO PUBLIC TELECOMMUNICATIONS—MESSAGE FROM THE PRESIDENT PM 122

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying reports; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with the Communications Act of 1934, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting for Fiscal Year 1989 and the Inventory of Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1989.

GEORGE BUSH.

THE WHITE HOUSE. *June 5, 1990.*

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on May 25, 1990, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 644. An act to amend the Wild and Scenic Rivers Act by designating segments of the East Fork of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System;

H.R. 4404. An act making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and the other purposes; and

S.J. Res. 267. Joint resolution to authorize and request the President to designate May 1990 as "National Physical Fitness and Sports Month."

Under the authority of the order of the Senate of January 3, 1989, the enrolled bills and joint resolution were signed on May 25, 1990, during the recess of the Senate, by the President pro tempore (Mr. BYRD).

MESSAGES FROM THE HOUSE

At 3:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 2364) to authorize supplemental economic assistance to support democracy in Panama, Nicaragus, and sub-Saharan Africa, and for other purposes, with an amendment; it insists upon its amendment to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. FASCELL, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. WOLPE, Mr. BROOMFIELD, Mr. GILMAN, and Mr. LAGOMARSINO as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 286. An act to establish the Petroglyph National Monument in the State of New Mexico, and for other purposes.

The message further announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 467. Joint resolution designating September 21, 1990, as "National POW/MIA Recognition Day", and recognizing the National League of Families POW/MIA flag.

MEASURES REFERRED

The following joint resolution was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 467. Joint resolution designating September 21, 1990, as "National POW/MIA Recognition Day", and recognizing the National League of Families POW/MIA flag; to the Committee on the Judiciary.

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on May 25, 1990 he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 231. Joint resolution to designate the week of June 10, 1990, through June 16, 1990, as "State-Supported Homes for Veterans Week"; and

S.J. Res. 267. Joint resolution to authorize and request the President to designate May 1990 as "National Physical Fitness and Sports Month."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, without amendments:

H.R. 2045. A bill to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in a suit against a private person or against other public entities (Rept. No. 101-305).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 497. A bill entitled the "Copyright Remedy Clarification Act" (Rept. No. 101-305).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 1664. A bill to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

James S. Halpern, of the District of Columbia, to be a Judge of the United States Tax Court for a term expiring 15 years after he takes office.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOREN (for himself, Mr. BENTSEN, and Mr. BYRD):

S. 2703. A bill to amend the Export-Import Bank Act of 1945 to reform United States bilateral economic assistance programs, to promote the purchase of United States and services, and for other purposes; to the Committee on Foreign Relations.

By Mr. DURENBERGER:

S. 2704. A bill to extend and amend programs under the Developmental Disabilities Assistance and Bill of Rights Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GRASSLEY:

S. 2705. A bill to amend the Employee Retirement Income Security Act of 1974 to provide that a plan sponsor is required to initiate arbitration proceedings before instituting an action to collect an employer's withdrawal liability; to the Committee on Labor and Human Resources.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 2706. A bill to improve the public safety and quality of marine recreational waters; to the Committee on Environment and Public Works.

By Mr. RIEGLE (for himself, Mr. HEINZ, and Mr. PRYOR):

S. 2707. A bill to amend the Internal Revenue Code of 1986 to clarify the deductibility of liabilities incurred in connection with minimum premium plans; to the Committee on Finance.

By Mr. GORE (for himself, Mr. SASSER, Mr. CONRAD, Mr. KERRY, Mr. BURDICK, Mr. MCCLURE, Mr. KASTEN, Mr. WARNER, Mr. GORTON, Mr. PELL, Mr. DODD, Mr. BRADLEY, Mr. PRYOR, Mr. DECONCINI, Mr. LAUTENBERG, Mr. SHELBY, Mr. METZENBAUM, Mr. LUGAR, Mr. HOLLINGS, Mr. JEFFORDS, Mr. SARBANES, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. CRANSTON, Mr. HEFLIN, Mr. LEVIN, Ms. MIKULSKI, Mr. SPECTER, Mr. STEVENS, Mr. NUNN, Mr. HATCH, Mr. GLENN, Mr. INOUYE, Mr. KENNEDY, Mr. ROCKEFELLER, Mr. BYRD, Mr. THURMOND, Mr. WILSON, Mr. MURKOWSKI, Mr. ADAMS, Mr. LIEBERMAN, Mr. D'AMATO, Mr. DOLE, Mr. REID, Mr. JOHNSTON, Mr. GRAHAM, Mr. BOND, Mr. DURENBERGER, Mr. BOSCHWITZ, and Mr. ROBB):

S.J. Res. 333. Joint resolution to designate the week of September 30, 1990, through October 6, 1990, as "National Job Skills Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated.

By Mr. SIMON (for himself and Mr. DIXON):

S. Res. 293. Resolution concerning Polish debt reduction; to the Committee on Foreign Relations.

By Mr. BOSCHWITZ (for himself, Mr. GLENN, and Mr. PELL):

S. Con. Res. 137. A concurrent resolution to express the sense of Congress that the 1990 Nuclear Non-Proliferation Treaty (NPT) Review Conference should reaffirm the support of the parties for the objectives of the NPT, in particular preventing the spread of nuclear weapons to additional countries; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOREN (for himself, Mr. BENTSEN, and Mr. BYRD):

S. 2703. A bill to amend the Export-Import Bank Act of 1945 to reform U.S. bilateral economic assistance programs, to promote the purchase of United States goods and services, and for other purposes; to the Committee on Foreign Relations.

(The remarks of Senators on the introduction of this legislation and the text of the bill appear earlier in today's RECORD.)

By Mr. DURENBERGER:

S. 2704. A bill to extend and amend programs under the Developmental Disabilities Assistance and Bill of Rights Act, and for other purposes; to the Committee on Labor and Human Resources.

DEVELOPMENTAL DISABILITIES ASSISTANCE AMENDMENTS

● Mr. DURENBERGER. Mr. President, I rise today on behalf of the administration to introduce the Developmental Disabilities Assistance Amendments of 1990. This bill reauthorizes and makes several important changes to the Developmental Disabilities Assistance and Bill of Rights Act, Public Law 100-146.

The Developmental Disabilities Act can be described as the glue that holds together the services for persons with developmental disabilities. While Medicare and Medicaid provide the backbone for direct services to persons with developmental disabilities, the Developmental Disabilities Act provides the training, information and referral, research, and other support services to increase independence, productivity, and integration into the community for persons with disabilities and their families.

This is carried out through four basic program components, the basic State grant made to States for planning coordination, and administration of services; the protection and advocacy system to protect and advocate for the rights of persons with developmental disabilities; the University Affiliated Program to carry out interdisciplinary training, research, and demonstrations and technical assistance; and the projects of national significance which expands and improves priority area services.

The vision I have of opportunity and full participation by persons with developmental disabilities is shared by President Bush.

The legislation I am introducing today on behalf of myself and President Bush starts with the basic premise that the current legislation has served people with developmental disabilities well and is designed to move us forward in making the vision of full integration become a reality. In addition to reauthorizing the act for 3

years, the bill makes several strengthening improvements to current law. First, it extends the due date of the Secretary's annual report from April 1 to July 1. With the new requirement under Public Law 100-146 for annual State reports, the Department found that more time was needed to incorporate into the Secretary's report these State reports. The additional time should ensure up-to-date, complete, and timely information.

Second, the bill adds a requirement that each State protection and advocacy system submit to the Secretary, at least every 3 years, a plan that outlines its priorities. This provision will bring the protection and advocacy system in line with other programs of the bill and will facilitate coordination between P&A's and the developmental disability councils.

Third, the bill requires each UAP grantee to establish and operate an advisory council for the purpose of assisting UAP's in planning activities that will increase and support the independence productivity, and integration into the community of persons with disabilities.

The bill also clarifies statutory language to ensure that the appropriate ICF/MR survey reports and plans of correction to be reviewed by the State planning councils are the independent professional review team reports, and that it is the State planning council, not the State administering agency, who has the authority to hire those staff required by the council to carry out its functions under the act.

Mr. President, the Developmental Disabilities Act has provided vital support services to persons with developmental disabilities and their families over the years. As we continue to move forward in ensuring the civil rights of all persons with disabilities, this legislation will enhance opportunities to take advantage of these new rights through necessary support services aimed at providing independence, productivity, and integration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2704

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance Amendments of 1990".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS

(a) PRIORITY AREA ACTIVITIES.—Section 130 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6030) is amended by striking out "and $77,400,000 for fiscal year 1990" and inserting in lieu thereof "$77,400,000 for fiscal year 1990, $61,939,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

(b) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—Section 143 of such Act (42 U.S.C. 6043) is amended by striking out "and $24,200,000 for fiscal year 1990" and inserting in lieu thereof "$24,200,000 for fiscal year 1990, $20,484,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

(c) UNIVERSITY AFFILIATED PROGRAMS.—Section 154(a) of such Act (42 U.S.C. 6064(a)) is amended by striking out "and $11,200,000 for fiscal year 1990" and inserting in lieu thereof "$11,000,000 for fiscal year 1990, $13,192,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993."

(d) PROJECTS OF NATIONAL SIGNIFICANCE.—Section 163(a) of such Act (42 U.S.C. 6083(a)) is amended by striking out "and $3,650,000 for fiscal year 1990" and inserting in lieu thereof $3,650,000 for fiscal year 1990, $2,862,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 3. REPORTS OF INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED.

Section 107(a)(4) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6006(a)(4)) is amended by striking out "each annual survey" and all that follows through the semicolon and inserting in lieu thereof "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan pursuant to section 1922 of that Act;".

SEC. 4. DUE DATE OF ANNUAL REPORT.

Section 107(c)(1) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6006(c)(1)) is amended by striking out "April 1" and inserting in lieu thereof "July 1".

SEC. 5. BUDGET AND STAFF OF STATE PLANNING COUNCILS.

Paragraph (1) of section 124(c) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024(c)(1)) is amended to read as follows:

"(1) Each State Planning Council may prepare and approve an annual budget providing for the use of funds made available to it from amounts paid to the State under this part, and shall use such funds to employ such staff, to obtain the services of such professionals, technical, and clerical personnel, and to carry out such activities as the State Planning council determines to be necessary to carry out its functions under this part.".

SEC. 6. PROTECTION AND ADVOCACY STATE PLANS.

Section 142(a)(2) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042(a)(2)) is amended—

(1) in subparagraph (F), by striking out "and" at the end thereof;

(2) in subparagraph (G), by inserting "and" at the end of clause (ii)(III); and

(3) by adding at the end thereof the following new subparagraph:

"(H) not later than October 1, 1991, and at least once during each 3-year period thereafter, after affording the public, the developmental disability council, and the University Affiliated Program (if applicable within a State) an opportunity to review and comment on priorities in the proposed plan, obtain the approval of the Secretary of a plan that—

"(i) states the priorities for the activities of the system for each of the 3 succeeding fiscal years, and the rationale for the establishment of such priorities;

"(ii) describes the relationship between such priorities and priorities established for carrying out activities on behalf of individuals with mental illnesses, clients of State vocational rehabilitation agencies, and individuals served under programs under the Older Americans act of 1965;

"(iii) describes the relationship between such priorities under the plan of the system and any related priorities articulated in the State plan under section 122; and

"(iv) specifies the intended allocation of State (if any) and Federal resources to each of the priorities under the plan of the system;".

SEC. 7. UNIVERSITY AFFILIATED PROGRAM ADVISORY COUNCILS.

Section 152(b)(1) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6062(b)(1)) is amended by adding at the end thereof the following new subparagraph:

"(D) Each university affiliated program shall use funds from grants under this subsection to establish and operate an advisory council that shall be comprised of consumers, parents and guardians, representatives from State protection and advocacy systems, State developmental disabilities councils, local agencies, and private nonprofit groups concerned with services for persons with developmental disabilities. The advisory council shall meet regularly for the purpose of assisting university affiliated programs in planning activities that will increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.".●

By Mr. GRASSLEY:

S. 2705. A bill to amend the Employee Retirement Income Security Act of 1974 to provide that a plan sponsor is required to initiate arbitration proceedings before instituting an action to collect an employer's withdrawal liability; to the Committee on Labor and Human Resources.

MODIFICATION OF ARBITRATION PROCEDURES IN EMPLOYEE RETIREMENT INCOME SECURITY ACT

● Mr. GRASSLEY. Mr. President, today, I am introducing legislation which would alter the arbitration methodology set out in section 4221 (a) of the Employee Retirement Income Security Act.

I am introducing this legislation because it has come to my attention, through a businessman constituent, that, in event of disputes between multiemployer pension plans and small businesses, contested sums of money may default to the pension plan in the event the employer does not seek arbitration as provided for in the law, despite the fact that arbitration seems to be the preferred procedure for resolving disputes in such cases.

The Multiemployer Pension Plan Amendments Act of 1980, Public Law 96-364, signed September 26, 1980, stipulated, in section 4221(a)(1), that "any dispute between an employer and the plan sponsor or a multiemployer plan concerning a determination made under sections 4201 through 4219 shall

be resolved through arbitration. Either party may initiate the arbitration proceeding * * *."

However, subsequently, in section 4221(b)(1), it states that "if no arbitration proceeding has been initiated pursuant to subsection (a), the amounts demanded by the plan sponsor under section 4219(b)(1) shall be due and owing on the schedule set forth by the plan sponsor. The plan sponsor may bring an action in a State or Federal court of competent jurisdication for collection."

As I understand the case of my constituent, the pension plan argued that he owed it a large sum of money. He disagreed, but failed to seek arbitration within the time permitted in the law. After the stipulated period had expired, he was essentially billed for the amount the pension plan claimed he owed. Because he felt he had been unfairly treated, he sought relief through the courts. The courts at both district and appellate levels determined that they could not rule at all on his claim because he had not first sought arbitration. They held that the statute was clear in stating that no recourse to the courts could be had without first exhausting arbitration remedies.

I am introducing this legislation because it seems to me that we will achieve better outcomes if no disposition of funds can be made in disputed cases without going through arbitration. In other words, rather than defaulting to one party in the dispute, typically the pension plan, an arbitrator would have to review all disputes and make a decision on them.

I can understand why the 1980 amendments to ERISA stipulated that disputes which are not arbitrated shall default to the pension plan. It clearly would not do to have situations in which, if one party did not seek arbitration, there would be no resolution. Parties with weak cases, or which did not wish resolution could simply engage in dilatory tactics. This would not be a tolerable state of affairs.

On the other hand, I believe the bill that I am proposing is an intermediate position in keeping with the principle enunciated in section 4221(a)(1); namely, that disputes must be arbitrated. Otherwise put, no money may change hands without an arbitrator's decision.

Mr. President, I ask that a copy of the bill be printed in the CONGRESSIONAL RECORD after my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2705

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PLAN SPONSOR TO INITIATE ARBITRATION IN CERTAIN EMPLOYER WITHDRAWAL LIABILITY CASES.

(a) IN GENERAL.—Section 4221(a) of the Employee Retirement Security Act of 1974 (29 U.S.C. 1401(a)) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) and by inserting after paragraph (1) the following new paragraph:

"(2)(A) If neither party has initiated arbitration under paragraph (1) on or before the last day permitted under such paragraph, the plan sponsor shall initiate such arbitration.

"(B) Subparagraph (A) shall not apply in any case in which the employer has notified the plan sponsor in writing that the employer does not seek arbitration."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to withdrawals occurring after April 29, 1980.●

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 2706. A bill to improve the public safety and quality of marine recreational waters; to the Committee on Environment and Public Works.

BEACHES ENVIRONMENTAL ASSESSMENT, CLOSURE, AND HEALTH ACT OF 1990

● Mr. LAUTENBERG. Mr. President, I rise to introduce the Beaches Environmental Assessment, Closure and Health [BEACH] Act of 1990. I am pleased to be joined by my colleague, Senator BRADLEY. Our legislation will ensure the safety and beauty of coastal beaches across the country by establishing uniform water quality criteria and guidelines for pathogens and floatables in marine recreation waters. This bill also requires EPA to establish nationwide monitoring and testing procedures and protocols for determining when to open and close marine bathing waters based on public health standards.

Coastal tourism generates billions of dollars every year for local communities nationwide. More than that, our coastal areas provide immeasurable benefits for millions of Americans who want to build sand castles, cool off in the water, take a walk with that special someone, or just relax. In New Jersey, our very important tourism industry relies primarily on the marine environment. In 1989 over 5.7 million people came to spend time on the Jersey shore and spent over $7.5 billion doing it.

New Jersey has been aggressive when it comes to protecting public health at the beach. When there have been signs that our beach waters may be unsafe, we have closed our beaches. Other States haven't acted as swiftly. Ironcially, New Jersey suffers because it does more to protect public health. Annual losses from beach closures in New Jersey have ranged from $800 million to $1 billion.

Mr. President, we need new uniform Federal criteria for protecting public health at recreational beaches. Whether they're in the Carolinas or in California, in New Jersey or New York, people across the country should be able to wade or swim in the surf without the fear of getting sick. Going to the beach should be a healthy and rejuvenating experience. A day at the beach shouldn't be followed by a day at the doctor.

EPA must develop new standards because existing EPA guidelines simply fall short. When States use the Federal guidelines, they decide when to close and re-open their beaches based on monthly averages. Waters may appear safe in the long term, but short-term violations of the public health standard go unrecognized.

The Federal guidelines are not useful for decisionmakers who need to decide whether they can leave their beaches open tomorrow or the coming weekend. Using monthly water quality averages to determine beach closures tomorrow is like taking a patient's temperature average over a week to see if she is sick. Her average temperature could be just about normal. But in the meantime, she could be dead.

While some States still use the Federal guidelines, others have no monitoring or beach closure program at all. A draft survey conducted in the fall of 1989 by New Jersey Department of Health shows that of 23 States and territories surveyed, 8 (35 percent) have no structured statewide water quality monitoring programs; 13 (57 percent) have no structured surveillance programs; and 11 (48 percent) do not have established criteria for determining bathing beach closures and reopenings due to unsatisfactory microbiological water quality.

This discrepancy among coastal States threatens public health. It also gives other States an advantage over New Jersey at the expense of public health. We come clean when our waters aren't. Other States don't.

New Jersey has very tough standards for our beaches. When New Jersey beaches are open, it is because the State has taken tests within the past few days, not last month or last year. If there is a single test that exceeds the standard, officials immediately survey the surrounding areas to locate a potential source. Then they go out to test the area again the very next day. If a source is located on the first day, or if the second sample exceeds the limit, the beach is closed. And local health officers in New Jersey will announce beach closures any time there's reason to believe that our beaches may pose a risk to public health.

It is clear that we need nationwide beach water quality standards, testing procedures and protocols for closing and reopening beaches to protect public health.

I am also concerned that the bacterial indicators recommended by EPA and those used by many States are in-

adequate and that they do not tell us about the risks to public health. New Jersey is conducting research to see if it can find better ways to measure public health risks from pathogens in marine waters. But more needs to be done. Our bill will allow us to build upon existing efforts and to find better indicators to protect public health.

This legislation will enable us to act now to ensure safe water at our Nation's beaches. Because families, surfers, swimmers and strollers—everyone deserves to know that the water at the beach, at any beach, will not make them sick.

Our bill will ensure the protection of public health at our Nation's beaches. It will require EPA to review and revise its existing water quality guidelines for marine recreational waters. EPA will have to develop standards to ensure that the public is protected from short-term violations of those standards as well as medium to long-term pollution trends in coastal water quality. And EPA will conduct research to identify the best indicators of risks to public health to be used by States as part of their standards.

Our bill will make sure States are closing their beaches when they are contaminated by pathogens and open them again when they are safe. It will ensure that all coastal States act together to protect the public health. Americans across the Nation have a right to know that the coastal waters they swim in are safe.

The national environmental organization, Natural Resources Defense Counsel [NRDC], has recognized that we need uniform beach testing and monitoring among coastal States and supports the principles set forth in our bill.

Mr. President, I urge my colleagues to cosponsor this legislation and I ask unanimous consent that a copy of the bill and the testimony by the NRDC before the House Merchant Marine Committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2706

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Beaches Environmental Assessment, Closure, and Health Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Nation's beaches are a valuable public resource used for recreational activities by millions of people annually;

(2) tourism in the coastal zone generates billions of dollars annually for local communities nationwide;

(3) as of 1990, more than one-half of the Nation's population lives within 50 miles of a coast and the population density in coastal counties is 5 times greater than in noncoastal counties;

(4) increased residential and seasonal population growth has contributed to the decline in marine water quality; and

(5) public welfare would be protected and enhanced by consistent standards and protocols adopted by coastal States to monitor and frequently test beaches.

(b) PURPOSE.—The purpose of this Act is to ensure uniform beach testing and monitoring nationwide to protect public health and the quality of marine recreational waters.

SEC. 3. WATER QUALITY CRITERIA FOR MARINE RECREATIONAL WATERS.

Section 304(a) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)) is amended by adding at the end the following:

"(9) MARINE RECREATIONAL WATERS.—(A) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall review and revise within 12 months after the date of the enactment of this paragraph, and from time to time thereafter, ambient water quality criteria for marine recreational waters that are designated for bathing waters or primary bodily contact. In reviewing and revising the criteria, the Administrator shall review and revise the acceptable level of risk based on the best scientific evidence available. The criteria shall assure the protection of public health and allow recreational activities in and on the water. Criteria published by the Administrator under this subparagraph shall include—

"(i) methods to be used to test such waters, during periods of use by the public, for compliance with the criteria, including requirements for the frequency of such testing based on the frequency of use of such waters;

'(ii) criteria regarding short-term pathogenicity of such waters resulting from rainfall events, malfunctions of sewage treatment works, and other causes; and

"(iii) criteria regarding uniform testing procedures and protocols for the closing and reopening of beaches.

"(B) The Administrator, after consultation with appropriate State agencies, shall develop and publish within 12 months after the date of enactment of this paragraph, guidance on consideration of floatables with respect to the closings and reopenings of beaches consistent with subparagraph (A).

"(C) For purposes of subparagraph (B), the term 'floatables' means material and debris that may float or remain suspended in the water column, including but not limited to plastic materials, aluminum cans, wood, bottles, and paper products.".

SEC. 4. WATER QUALITY STANDARDS FOR MARINE RECREATIONAL WATERS.

Section 303 of the Federal Water Pollution Control Act (33 U.S.C. 1313) is amended by adding at the end the following:

"(i) WATER QUALITY STANDARDS FOR MARINE RECREATIONAL WATERS.—

"(1) STATE WATER QUALITY STANDARDS.—Not later than 24 months after the date on which the Administrator publishes criteria for the quality of marine recreational waters under section 304(a)(9)(A), each State shall adopt and submit to the Administrator water quality standards based on such criteria for marine recreational waters of the State.

"(2) FAILURE OF STATE TO ADOPT WATER QUALITY STANDARDS.—If a State fails to adopt water quality standards in accordance with paragraph (1), the criteria published by the Administrator under section 304(a)(9)(A) shall take effect as water quality standards for marine recreational waters of the State until such time as the State adopts water quality standards in accordance with paragraph (1).".

SEC. 5. STUDY TO IDENTIFY INDICATORS OF HUMAN-SPECIFIC PATHOGENS IN MARINE RECREATIONAL WATERS.

"(a) STUDY.—The Administrator of the Environmental Protection Agency, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct an ongoing study to provide additional information to the current base of knowledge and for periodically revising the criteria consistent with section 304(a)(9)(A) of the Federal Water Pollution Control Act, for identifying indicators of human-specific pathogens in marine recreational waters.

"(b) REPORT.—Not later than 36 months after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to the Congress a report describing the results of a study under this section, including recommendations for revisions of water quality criteria applying to marine recreational waters. The report shall also include an evaluation of State efforts to meet the criteria and guidance set forth in this Act or amendments made thereby.

SEC. 6. NO PREEMPTION.

Nothing in this Act shall be construed or interpreted as preempting any State from adopting or enforcing any law or regulation providing for more stringent criteria and standards than those provided for by this Act, or amendments made by this Act.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out this Act and amendments made by this Act, not to exceed $1,000,000 for each of fiscal years 1991 and 1992.

TESTIMONY ON H.R. 4333, THE BEACHES ENVIRONMENTAL ASSESSMENT, CLOSURE, AND HEALTH ACT OF 1990 BEFORE THE HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES, SUBCOMMITTEE ON OCEANOGRAPHY AND GREAT LAKES, MAY 9, 1990

Mr. Chairman and Members of the Subcommittee: My name is Diane M. Cameron. I am an environmental engineer with the Natural Resources Defense Council in Washington, D.C., in the Clean Water Program. NRDC, on behalf of its 130,000 members, appreciates this opportunity to testify today on H.R. 4333, the Beaches Environmental Assessment, Closure, and Health Act of 1990.

NRDC has been active on the issue of coastal zone land and water quality protection for many years. We are currently working nationally on many fronts to clean up contaminated marine and estuarine waters, to document coastal water pollution problems from point and runoff sources, and to work through legal and legislative channels to promote pollution prevention and remediation. Last summer we issued a report entitled "Ebb Tide", which documents the range of problems besetting our nation's coastal waters, and outlines the range of steps that policymakers need to take to solve these problems. "Ebb Tide" identified bacterial pollution of marine bathing beaches as a major coastal problem, and recommended a number of actions to eliminate the sources of bacterial beach pollution.

Currently, NRDC is preparing a report on marine bathing beach pathogens and the

adequacy of the current regulatory structure for ensuring the safety of our beaches. The report is still in preliminary draft stage and is undergoing review; thus, we are not able to discuss our detailed findings at this time. However, many of our initial thoughts are embodied in my remarks today on H.R. 4333.

NRDC supports the concepts embodied within H.R. 4333, to wit: (1) further study is needed of the adequacy of public health protection provided by current State and EPA bathing beach criteria; (2) some of the indicator bacteria currently in use may be in need of revision; and (3) beach testing and monitoring requirements should be uniform and consistent from State to State. We would like to suggest a few ways in which H.R. 4333 could be strengthened, to more effectively achieve the goal of protecting public health.

The membership of the proposed Clean Coastal Beaches Council should include a proper balance between representatives of coastal states, public interest leaders, and independent scientists qualified to review water quality criteria and testing protocols for pathogens. NRDC suggests that language supporting such a balanced and inclusive Council membership be included in section 103(b) of H.R. 4333.

Section 103(c) of the Act would require development of criteria for pathogens and floatables in coastal zone recreational waters, as well as uniform monitoring and testing protocols for those waters. The proposed bill stops short of recommending any health risk goal for any new criteria or revisions to existing criteria. NRDC believes that H.R. 4333 provides an excellent opportunity for Congress to give guidance to EPA that no health risk from pathogenic bacteria and viruses at coastal bathing beaches is acceptable. Therefore, NRDC suggests that the Subcommittee consider including a "zero health risk" goal in H.R. 4333.

NRDC believes that EPA's recommendation of 19 cases of gastroenteritis per 1,000 marine swimmers as the maximum acceptable public health risk is clearly too high a threshold of risk. Many states, including New York and Massachusetts, have adopted EPA's swimmer health risk goal as their own, with the result that many beaches deemed "safe" for swimming may actually be laced with sufficient pathogens to make hundreds of people each day sick with gastroenteritis and other diseases. NRDC recommends that the Subcommittee consider inclusion of a "zero health risk" provision as an ultimate goal of any bathing beach monitoring, criteria development, and protection program. Any goal less stringent than zero risk is unacceptable to beachgoers and the physicians who care for them.

A zero health risk goal for marine bathing beaches is entirely achievable with current technology. The sources of pathogens in coastal waters—combined sewer overflows, inadequate sewage treatment, boating wastes, contaminated urban runoff—are all entirely treatable and preventable with techniques that are tried and true. Furthermore, a zero health risk goal for pathogens in marine waters is realistic and achievable because it does not necessarily mean "zero pathogens." Unlike the situation with carcinogens, with microbial pathogens there does appear to be a threshold—a level of pathogens, or at least "indicator bacteria"—below which no illnesses are apparent.

While zero health risk at the beaches is our ultimate goal, we realize that this level of beach-water cleanliness cannot be achieved overnight. While many States have adopted bathing beach criteria equal to the nonprotective EPA recommendation of 19 illnesses per 1,000 swimmers, a few States have chosen criteria more stringent—and thus more protective—than that recommended by EPA. For example, the State of Maine has adopted a marine bathing beach health risk criterion that is roughly four times more stringent than that recommended by EPA. NRDC suggests that the Subcommittee consider an addition to H.R. 4333 that would require EPA to issue guidelines for marine bathing beach criteria for pathogens no less stringent than that of the State of Maine (which currently has a target health risk goal of no more than 5 illnesses per 1000 swimmers.)

A strength of H.R. 4333 as currently drafted is its provision under section 103(c)(2) for uniform bathing beach monitoring and testing protocols. NRDC supports this provision; however, we would like to see it expanded to support uniformity in State public health protection for marine bathing beaches—again, with State standards to incorporate a final goal of zero illnesses from pathogens in marine bathing waters. We support as an interim goal, a criteria that is four times more stringent than that of the present EPA guidelines, like the criteria that Maine has adopted and implemented.

We suggest that this provision would be greatly strengthened if it were coupled with the establishment of the "Public Right-to-Know" about bathing beach water quality. If States are to upgrade and revise their monitoring and testing procedures, these upgrades will be most useful if beachgoers themselves will have access to the information thus generated. In order to achieve this goal of full public notification, NRDC suggests that the proposed Clean Coastal Beaches Council be charged with developing a "Bathing Beach Water Quality Index" akin to the familiar "Air Quality Index." The Bathing Beach Water Quality Index would be a qualitative snapshot of the quality of a given coastal water on a given day or week. The reporting of the actual Index "rating" would be accompanied by a description of the health risks attendant to the rating—and advise about whether a given beach is "safe" (well below the criterion) "unsafe" (at or above the criterion—in which case the beach should be closed), or such that beachgoers will be "swimming at their own risk" (indicator hovering in a range close to the criterion).

NRDC recommends that regular Bathing Beach Water Quality Index publication in local newspapers, as well as required posting at the beaches themselves, be mandated for all coastal public bathing beaches as a provision of H.R. 4333. The bill need not specify which State or local agency should be charged with the monitoring or posting responsibilities; instead, EPA could be given the authority to establish (within a specified time) national rules for uniform monitoring protocols, posting and closure programs.

Concerning Title II of the Bill, NRDC supports the concept of requiring States to develop plans for monitoring and protecting the waters of coastal beaches as an amendment to the Coastal Zone Management Act. We suggest that this amendment be given more "teeth" by adding a requirement that any CZMA funding to the States be contingent upon each State having an approved coastal beaches plan. This provision would help to ensure that coastal States actually develop and implement their plans for cleaning up coastal beaches.

Thank you for giving me the opportunity to present the views of NRDC on the Beaches Environmental Assessment, Closure, and Health Act of 1990. I will gladly answer any questions that you may have.●

● Mr. BRADLEY. Mr. President, I rise today to support the Beaches, Environmental Assessment, Closure, and Health Act of 1990. This bill would reduce the chances that Americans are needlessly exposed to unsafe water at the beach. Americans face hazards enough at home and at work. We must do all we can to ensure that citizens are not exposed to unnecessary risks when on vacation as well.

Vacationers at the beach, enjoying a few days off should not have to wonder whether the water in which they and their families are swimming could make them sick. They should know that the water is safe. This certainty can only come from a rigorous water quality testing program, and a willingness to tell the public when the water may be unsafe. This legislation would ensure that the water testing programs and beach closing rules nationwide are up to the task.

Every summer, I walk the beaches of New Jersey, and I talk to the people I meet about their concerns. New Jerseyans are worried about their beaches and worried about the safety of the waters in which they and their children swim. Yet New Jersey's rules for testing coastal waters are more stringent than currently required by the EPA. When New Jersey's beaches are open, the water is safe. New Jersey has a comprehensive, effective water testing program. New Jersey does not flinch from its responsibilities to close beaches when, as sometimes happens, it may be unsafe to swim.

Some States are not so forthcoming. Some States do not test coastal waters well enough or frequently enough to ensure that their visitors and residents are protected from disease. I am proud to say that New Jersey has gone to great lengths to ensure safety.

Mr. President, I think of this legislation as, in part, a consumer information measure. As things now stand, each State runs its water testing program in a different way. Information on coastal water quality from the different testing programs can be difficult to make sense of or to compare, even for specialists. This legislation, and the companion measure introduced in the House by Representative HUGHES, would ensure that testing programs in coastal areas nationwide are similar. National testing guidelines and national beach closure standards y available to beach-goers. For the first time, Americans will be able to determine which beaches have real problems with dangerous pollution, and they will be able to compare beaches to determine which are the safest.

New Jersey beaches have nothing to fear from these comparisons. New Jersey has, I believe, one of the most effective water testing programs in the country. New Jersey tests its water on a weekly basis. Many States test their water less frequently, or average the results of repeated tests, thus obscuring short-term, intermittent or weather-dependent contamination. In New Jersey we find out about the short-term pollution problems, and we take steps to protect people from possible health risks.

Mr. President, some will complain that rigorous testing will do nothing to clean the water. I think that view is short sighted. To reduce the contamination of our coastal waters we must know the dimensions of the problem. Where are our beach waters unsafe? When do the unsafe conditions occur? Answers to those questions can be used, as they already have been in New Jersey, to track down pollution sources and eliminate them. Furthermore, these naysayers underestimate the power of publicity. If a beach is closed because of polluted water, or if people stop visiting the beach because of reports that the water is unsafe, efforts to find and eliminate the sources of pollution will redouble. And that is what this legislation is really about: cleaning our beaches, eliminating water pollution, and protecting Americans. The stringent testing and pollution guidelines that will result from the passage of this legislation will lead to real improvement in water quality at the beach.

This legislation will ensure that vacationers can protect themselves against exposure to polluted waters by checking reliable and comparable information on pollution nationwide. States should not be hiding from their water pollution problems, but should be facing them with the honesty and courage shown by New Jersey.●

By Mr. RIEGLE (for himself, Mr. HEINZ, AND MR. PRYOR):

S. 2707. A bill to amend the Internal Revenue Code of 1986 to clarify the deductibility of liabilities incurred in connection with minimum premium plans; to the Committee on Finance.

DEDUCTIBILITY OF CERTAIN LIABILITIES

● Mr. RIEGLE. Mr. President, on May 23, I introduced S. 2678 to correct a problem that property and casualty companies are experiencing with the Internal Revenue Service over the treatment of termination reserves on minimum premium plans. H.R. 4901 was introduced by Congressman RANGEL on the same day. The legislation I introduce today conforms to the language contained in H.R. 4901 and I urge passage of this much needed legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTIBILITY OF LIABILITIES UNDER MINIMUM PREMIUM ACCIDENT AND HEALTH PLANS.

(a) GENERAL RULE.—Paragraph (5) of section 832(b) of the Internal Revenue Code of 1986 (defining losses incurred) is amended by adding at the end thereof the following new subparagraph:

"(F) TREATMENT OF MINIMUM ACCIDENT AND HEALTH PLANS.—For purposes of this paragraph, the term 'unpaid losses' includes any amount maintained as a reserve or other liability by an insurance company, and reflected in its annual statement described in paragraph (1)(A), for future claims payments upon the termination of any minimum premium accident and health plan to the extent a premium or other consideration corresponding to such reserve or liability has been included in the gross income of such company.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to all taxable years whether beginning before, on, or after the date of enactment of this Act.●

By Mr. GORE (for himself, Mr. SASSER, Mr. CONRAD, Mr. KERRY, Mr. BURDICK, Mr. MCCLURE, Mr. KASTEN, Mr. WARNER, Mr. GORTON, Mr. PELL, Mr. DODD, Mr. BRADLEY, Mr. PRYOR, Mr. DECONCINI, Mr. LAUTENBERG, Mr. SHELBY, Mr. METZENBAUM, Mr. LUGAR, Mr. HOLLINGS, Mr. JEFFORDS, Mr. SARBANES, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. CRANSTON, Mr. HEFLIN, Mr. LEVIN, Ms. MIKULSKI, Mr. SPECTER, Mr. STEVENS, Mr. NUNN, Mr. HATCH, Mr. GLENN, Mr. INOUYE, Mr. KENNEDY, Mr. ROCKEFELLER, Mr. BYRD, Mr. THURMOND, Mr. WILSON, Mr. MURKOWSKI, Mr. ADAMS, Mr. LIEBERMAN, Mr. D'AMATO, Mr. DOLE, Mr. REID, Mr. JOHNSTON, Mr. GRAHAM, Mr. BOND, Mr. DURENBERGER, Mr. BOSCHWITZ, and Mr. ROBB):

S.J. Res. 333. Joint resolution to designate the week of September 30, 1990, through October 6, 1990, as "National Job Skills Week"; to the Committee on the Judiciary.

NATIONAL JOB SKILLS WEEK

● Mr. GORE. Mr. President, I am pleased to introduce along with a majority of my colleagues a resolution to designate a National Job Skills Week. The purpose of this week is to highlight the many changes taking place in America's workplace, to focus attention on private and public job training efforts, and to make our Nation aware of present and future work force needs. This marks the fifth year that we will designate a National Job Skills Week, and the resolution calls for the week to take place from September 30, 1990, through October 6, 1990.

I am pleased to say that past observances of National Job Skills Week have been very successful in calling attention to the challenges we face in the workplace and in emphasizing the need to develop a more highly skilled work force able to compete in the global marketplace. They have focused attention on the importance of training and retraining our Nation's workers and on the effectiveness of our training efforts. I am confident that future job skills weeks will be equally successful, and I urge my colleagues to support the resolution.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 333

Whereas the ability to maintain an internationally competitive and productive economy and a high standard of living depends on the development and utilization of new technologies;

Whereas new technologies require skills that are currently unavailable in the national workforce;

Whereas experts in both the public and private sectors predict that a shortage of skilled entry-level workers will exist through the remainder of the twentieth century;

Whereas young people in the United States are experiencing higher than normal unemployment rates due to the lack of skills necessary to perform entry-level jobs that are currently available;

Whereas young people in the United States will continue to experience higher than normal unemployment rates unless such young people develop the skills necessary to perform the entry-level jobs that become available;

Whereas workers in the United States, threatened by dislocation due to plant closures and industrial relocation, need special training and education to prepare for new jobs and new opportunities; and

Whereas a National Job Skills Week would serve to focus attention on present and future workforce needs, to encourage public and private cooperation in job training and educational efforts, and to highlight the technological changes underway in the workplace: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 30, 1990, through October 6, 1990, is designated as "National Job Skills Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 346

At the request of Mr. WIRTH, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 346, a bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes.

S. 479

At the request of Mr. HATCH, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 479, a bill to amend the Internal Revenue Code to allow for deduction of qualified adoption expenses and for other purposes.

S. 513

At the request of Ms. MIKULSKI, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 513, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend certain retirement provisions of such chapters which are applicable to law enforcement officers to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the U.S. Customs Service, and revenue officers of the Internal Revenue Service.

S. 670

At the request of Mr. ARMSTRONG, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 670, a bill to recognize the organization known as the Retired Enlisted Association, Inc.

S. 874

At the request of Mr. FORD, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 874, a bill to establish national voter registration procedures for Presidential and congressional elections, and for other purposes.

S. 1178

At the request of Mr. MITCHELL, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1178, a bill to improve and expand programs for the protection of marine and coastal waters.

S. 1384

At the request of Mr. DASCHLE, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1384, a bill to amend title XVIII of the Social Security Act to provide direct reimbursement under part B of Medicare for nurse practitioner or clinical nurse specialist services that are provided in rural areas.

S. 1542

At the request of Mr. HATFIELD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1542, a bill to amend chapter 55 of title 5, United States Code, to include certain employees of the Department of Commerce as forest firefighters.

S. 1664

At the request of Mr. HEINZ, the names of the Senator from Nevada [Mr. REID] and the Senator from California [Mr. WILSON] were added as cosponsors of S. 1664, a bill to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941.

S. 1911

At the request of Mr. DODD, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1911, a bill to provide assistance in the development of new or improved programs to help younger individuals through grants to the States for community planning, services, and training; to establish within the Department of Health and Human Services an operating agency to be designated as the Administration on Children, Youth, and Families; to provide for a White House Conference on Young Americans; and for other purposes.

S. 1912

At the request of Mr. CRANSTON, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 1912, a bill to protect the reproductive rights of women, and for other purposes.

S. 1931

At the request of Mr. DANFORTH, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1931, a bill to prevent the discharge in a chapter 13 bankruptcy proceeding of certain debts arising out of the debtor's operation of a motor vehicle while legally intoxicated.

S. 2003

At the request of Mr. HOLLINGS, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 2003, a bill to establish a commission to advise the President on proposals for national commemorative events.

S. 2051

At the request of Mr. HEFLIN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2051, a bill to amend the Social Security Act to provide for more flexible billing arrangements in situations where physicians in the solo practice of medicine or in another group practice have arrangements with colleagues to "cover" their practice on an occasional basis.

S. 2078

At the request of Mr. WARNER, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2078, a bill to recognize the organization known as the National Center for Therapeutic Riding.

S. 2187

At the request of Mr. COCHRAN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2187, a bill to amend the Public Health Service Act to make grants to encourage States to establish Offices of Rural Health to improve health care in rural areas.

S. 2222

At the request of Mr. BRADLEY, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 2222, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 2250

At the request of Mr. DECONCINI, the names of the Senator from Wisconsin [Mr. KOHL], the Senator from North Dakota [Mr. BURDICK], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2250, a bill to amend title 5, United States Code, with respect to setting rates of basic pay for law enforcement officers, and for other purposes

S. 2256

At the request of Mr. HARKIN, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 2256, a bill to amend title XIX of the Public Health Service Act to clarify the provisions of the allotment formula relating to urban and rural areas, and for other purposes.

S. 2274

At the request of Mr. GLENN, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2274, a bill to establish a Federal pay system with locality based adjustments.

S. 2284

At the request of Mr. KASTEN, the names of the Senator from Idaho [Mr. MCCLURE] and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 2284, a bill to amend the Federal Food, Drug, and Cosmetic Act to define the term light or reduced fat butter, and for other purposes.

S. 2319

At the request of Mr. GARN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2356

At the request of Mr. SYMMS, the names of the Senator from North Carolina [Mr. HELMS], the Senator from California [Mr. WILSON], the Senator from Montana [Mr. BURNS], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 2356, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 2365

At the request of Mr. DECONCINI, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2365, a bill to amend the Con-

trolled Substances Act to prohibit advertisements intended to promote or facilitate the distribution or transfer of a schedule I controlled substance.

S. 2384

At the request of Mr. BOREN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2384, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 2489

At the request of Mr. LEAHY, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2489, a bill to impove the nutritional health of needy Americans, to provide emergency food assistance, to authorize several vital nutrition programs, and for other purposes.

S. 2525

At the request of Mr. GRAHAM, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2525, a bill to recognize the importance of the domestic fruit and vegetable industry in U.S. farm policy, and to require the Secretary of Agriculture to conduct a study of the domestic fruit and vegetable industry, and for other purposes.

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2525, supra.

S. 2561

At the request of Mr. GORTON, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2561, a bill to amend the Controlled Substances Act with respect to the regulation of precursor chemicals.

S. 2591

At the request of Mr. BAUCUS, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 2591, a bill to amend title XVIII of the Social Security Act to provide relief from certain regulations relating to physicians' services.

S. 2600

At the request of Mr. KENNEDY, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2600, a bill to combat homelessness through the establishment of housing-based family support centers, through the provisions of housing-based services to elderly individuals with chronic and debilitating illnesses and conditions, through the provision of residence-based outpatient mental health services, and through the use of grants for the improvement of community development corporations, and for other purposes.

S. 2614

At the request of Mr. GRASSLEY, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 2614, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 2639

At the request of Mr. DECONCINI, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2639, a bill to enhance the ability of law enforcement officers to combat violent crime in America by providing criminal and civil enforcement of standards established by the National Institute of Justice for body armor.

S. 2640

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2640, a bill to amend title XVIII of the Social Security Act to prevent fraud and abuse and encourage competition in the sale of Medicare supplemental insurance.

SENATE JOINT RESOLUTION 214

At the request of Mr. THURMOND, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Joint Resolution 214, a joint resolution to express the sense of the Congress regarding the removal of offensive sexual material from television broadcasting.

SENATE JOINT RESOLUTION 263

At the request of Mr. HELMS, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

SENATE JOINT RESOLUTION 271

At the request of Mr. WALLOP, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 271, a joint resolution to designate July 10, 1990 as "Wyoming Centennial Day."

SENATE JOINT RESOLUTION 274

At the request of Mr. LAUTENBERG, the names of the Senator from New York [Mr. D'AMATO], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Arkansas [Mr. PRYOR], the Senator from Hawaii [Mr. INOUYE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Indiana [Mr. LUGAR], the Senator from Washington [Mr. ADAMS], the Senator from Rhode Island [Mr. PELL], the Senator from Ohio [Mr. METZENBAUM], the Senator from Texas [Mr. BENTSEN], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of Senate Joint Resolution 274, a joint resolution to designate the week beginning June 10, 1990 as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 276

At the request of Mr. LIEBERMAN, the names of the Senator from Tennessee [Mr. GORE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Hawaii [Mr. INOUYE], the Senator from North Dakota [Mr. BURDICK], the Senator from South Carolina [Mr. THURMOND], the Senator from North Dakota [Mr. CONRAD], the Senator from Ohio [Mr. METZENBAUM], the Senator from Nevada [Mr. BRYAN], the Senator from Alabama [Mr. SHELBY], the Senator from Virginia [Mr. ROBB], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Massachusetts [Mr. KERRY], the Senator from Tennessee [Mr. SASSER], the Senator from Indiana [Mr. LUGAR], the Senator from Missouri [Mr. DANFORTH], the Senator from Kentucky [Mr. FORD], and the Senator from Kansas [Mr. DOLE], were added as cosponsors of Senate Joint Resolution 276, a joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 277

At the request of Mr. LUGAR, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Joint Resolution 277, a joint resolution designating October 6, 1990, as "German-American Day."

SENATE JOINT RESOLUTION 278

At the request of Mr. ROCKEFELLER, the names of the Senator from Idaho [McCLURE], the Senator from South Carolina [Mr. THURMOND], the Senator from Nevada [Mr. BRYAN], the Senator from Michigan [Mr. RIEGLE], the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from West Virginia [Mr. BYRD], the Senator from Hawaii [Mr. AKAKA], the Senator from Ohio [Mr. METZENBAUM], the Senator from New York [Mr. MOYNIHAN], the Senator from Michigan [Mr. LEVIN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Arkansas [Mr. PRYOR], the Senator from Tennessee [Mr. GORE], the Senator from Indiana [Mr. LUGAR], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Illinois [Mr. SIMON], the Senator from Washington [Mr. GORTON], the Senator from North Dakota [Mr. CONRAD], the Senator from North Carolina [Mr. HELMS], the Senator from Idaho [Mr. SYMMS], the Senator from Kansas [Mr. DOLE], the Senator from Florida [Mr. GRAHAM], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Joint Resolution 278, a joint resolution designating July 19, 1990, as "Flight Attendant Safety Professionals' Day."

SENATE JOINT RESOLUTION 279

At the request of Mr. SPECTER, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Arkansas [Mr. PRYOR], the Senator from Indiana [Mr. LUGAR], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 279, a joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 281

At the request of Mr. DECONCINI, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 281, a joint resolution to designate September 13, 1990, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 283

At the request of Mr. CRANSTON, the names of the Senator from California [Mr. WILSON], the Senator from Alabama [Mr. HEFLIN], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of Senate Joint Resolution 283, a joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park.

SENATE JOINT RESOLUTION 284

At the request of Mr. BYRD, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of Senate Joint Resolution 284, a joint resolution to designate the week beginning September 16, 1990, as "National Give the Kids a Fighting Chance Week."

SENATE JOINT RESOLUTION 285

At the request of Mr. THURMOND, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Virginia [Mr. ROBB], the Senator from New York [Mr. MOYNIHAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Indiana [Mr. LUGAR], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 285, a joint resolution to designate the period commencing September 9, 1990, and ending on September 15, 1990, as "National Historically Black Colleges Week."

SENATE JOINT RESOLUTION 290

At the request of Mr. ARMSTRONG, the names of the Senator from Maine [Mr. COHEN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of Senate Joint Resolution 290, a joint resolution to designate the week of July 22, 1990, through July 28, 1990, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War."

SENATE JOINT RESOLUTION 301

At the request of Mr. PELL, the names of the Senator from Nebraska [Mr. EXON], the Senator from Hawaii [Mr. INOUYE], the Senator from California [Mr. WILSON], the Senator from Indiana [Mr. LUGAR], the Senator from Hawaii [Mr. AKAKA], the Senator from Utah [Mr. GARN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 301, a joint resolution designating October 1990 as "National Breast Cancer Awareness Month."

SENATE JOINT RESOLUTION 304

At the request of Mr. SHELBY, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 304, a joint resolution to designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day."

SENATE JOINT RESOLUTION 308

At the request of Mrs. KASSEBAUM, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Maine [Mr. COHEN], the Senator from Illinois [Mr. SIMON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Michigan [Mr. LEVIN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Rhode Island [Mr. PELL], the Senator from Montana [Mr. BURNS], the Senator from Arkansas [Mr. PRYOR], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Ohio [Mr. METZENBAUM], the Senator from Washington [Mr. GORTON], the Senator from Maryland [Ms. MIKULSKI], the Senator from Nebraska [Mr. EXON], the Senator from Louisiana [Mr. BREAUX], the Senator from Oregon [Mr. HATFIELD], the Senator from Georgia [Mr. NUNN], the Senator from Maryland [Mr. SARBANES], the Senator from Massachusetts [Mr. KERRY], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Idaho [Mr. SYMMS], the Senator from Kansas [Mr. DOLE], the Senator from Hawaii [Mr. INOUYE], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Joint Resolution 308, a joint resolution to designate the month of June 1990 as "National Huntington's Disease Awareness Month."

SENATE JOINT RESOLUTION 310

At the request of Mr. CRANSTON, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Joint Resolution 310, a joint resolution to designate June 25, 1990, as "Korean War Remembrance Day."

SENATE JOINT RESOLUTION 320

At the request of Mr. LAUTENBERG, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Virginia [Mr. WARNER], the Senator from North Dakota [Mr. BURDICK], the Senator from Mississippi [Mr. COCHRAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Alabama [Mr. HEFLIN], the Senator from Illinois [Mr. DIXON], the Senator from Washington [Mr. GORTON], the Senator from Idaho [Mr. MCCLURE], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Oklahoma [Mr. BOREN], the Senator from Delaware [Mr. BIDEN], the Senator from Louisiana [Mr. BREAUX], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Iowa [Mr. GRASSLEY], the Senator from Indiana [Mr. COATS], the Senator from North Dakota [Mr. CONRAD], the Senator from Hawaii [Mr. AKAKA], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from New York [Mr. MOYNIHAN], the Senator from California [Mr. CRANSTON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Texas [Mr. BENTSEN], the Senator from Nevada [Mr. REID], the Senator from Washington [Mr. ADAMS], the Senator from Idaho [Mr. SYMMS], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 320, a joint resolution designating July 2, 1990, as "National Literacy Day."

SENATE JOINT RESOLUTION 326

At the request of Mr. D'AMATO, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Montana [Mr. BURNS], the Senator from West Virginia [Mr. BYRD], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Kentucky [Mr. FORD], the Senator from Tennessee [Mr. GORE], the Senator from Washington [Mr. GORTON], the Senator from Hawaii [Mr. AKAKA], the Senator from Idaho [Mr. MCCLURE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Wisconsin [Mr. KASTEN], the Senator from New York [Mr. MOYNIHAN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Illinois [Mr. DIXON], the Senator from Indiana [Mr. COATS], the Senator from Florida [Mr. MACK], the Senator from Florida [Mr. GRAHAM], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Hawaii [Mr. INOUYE], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Colorado [Mr. WIRTH], the Senator from Maryland [Mr. SARBANES], the Senator from Virginia [Mr. ROBB], the Senator from Iowa [Mr. GRASSLEY], the Senator from Oregon [Mr. HATFIELD], the Senator from Michigan

[Mr. RIEGLE], the Senator from Texas [Mr. BENTSEN], the Senator from Missouri [Mr. BOND], the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Maine [Mr. COHEN], the Senator from Arizona [Mr. DECONCINI], the Senator from Connecticut [Mr. DODD], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Joint Resolution 326, a joint resolution to designate December 21, 1990, as a "Day of Observance for the Victims of Terrorism."

SENATE JOINT RESOLUTION 330

At the request of Mr. SASSER, the names of the Senator from Wyoming [Mr. WALLOP], the Senator from Arizona [Mr. MCCAIN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Oregon [Mr. HATFIELD], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maine [Mr. MITCHELL], the Senator from New York [Mr. MOYNIHAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Louisiana [Mr. BREAUX], the Senator from Connecticut [Mr. DODD], the Senator from Vermont [Mr. LEAHY], the Senator from New York [Mr. D'AMATO], the Senator from Nevada [Mr. BRYAN], the Senator from Washington [Mr. GORTON], the Senator from Ohio [Mr. METZENBAUM], the Senator from Delaware [Mr. BIDEN], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Joint Resolution 330, a joint resolution to commemorate the bicentennial of the enactment of the law which provided civil government for the territory from which the State of Tennessee was formed.

SENATE JOINT RESOLUTION 331

At the request of Mr. PELL, the names of the Senator from Nebraska [Mr. EXON], the Senator from Nevada [Mr. REID], the Senator from Alabama [Mr. SHELBY], the Senator from Utah [Mr. GARN], the Senator from Kansas [Mr. DOLE], the Senator from Virginia [Mr. ROBB], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Vermont [Mr. JEFFORDS], the Senator from Washington [Mr. GORTON], the Senator from Oregon [Mr. HATFIELD], the Senator from Connecticut [Mr. DODD], the Senator from Florida [Mr. MACK], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Idaho [Mr. SYMMS], the Senator from Nevada [Mr. BRYAN], the Senator from Missouri [Mr. BOND], the Senator from Arizona [Mr. DECONCINI], the Senator from Wisconsin [Mr. KOHL], the Senator from North Dakota [Mr. CONRAD], the Senator from Maryland [Mr. SARBANES], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 331, a joint resolution to designate the week of September 23 through 29, 1990, as "Religious Freedom Week."

SENATE CONCURRENT RESOLUTION 99

At the request of Mr. PRYOR, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Arkansas [Mr. BUMPERS], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Michigan [Mr. LEVIN], the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. AKAKA], the Senator from Nevada [Mr. BRYAN], the Senator from Tennessee [Mr. SASSER], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from South Carolina [Mr. THURMOND], the Senator from Kansas [Mr. DOLE], the Senator from Oregon [Mr. PACKWOOD], the Senator from Washington [Mr. GORTON], the Senator from Wisconsin [Mr. KASTEN], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Concurrent Resolution 99, a concurrent resolution expressing the sense of the Congress concerning the 25th anniversary of the Older Americans Act of 1965.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. KENNEDY, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of Congress that Greyhound Lines, Inc., and the Amalgamated Transit Union should pursue meaningful negotiations under the auspices of the Federal Mediation and Conciliation Service and the Secretary of Labor to resolve their dispute and restore vital transportation services to American communities.

SENATE JOINT RESOLUTION 231

At the request of Mr. BRADLEY, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Maine [Mr. COHEN], the Senator from Texas [Mr. BENTSEN], the Senator from Michigan [Mr. LEVIN], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Resolution 231, a resolution urging the submission of the Convention on the Rights of the Child to the Senate for its advice and consent to ratification.

AMENDMENT NO. 1672

At the request of Mr. MCCONNELL, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of amendment No. 1672 intended to be proposed to S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

AMENDMENT NO. 1722

At the request of Mr. DASCHLE, his name was added as a cosponsor of amendment No. 1722 proposed to H.R. 4404, a bill making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year September 30, 1990, and for other purposes.

SENATE CONCURRENT RESOLUTION 137—REAFFIRMING THE OBJECTIVES OF THE NON-PROLIFERATION TREATY

Mr. BOSCHWITZ (for himself, Mr. GLENN, and Mr. PELL) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 137

Whereas the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968 and which entered into force on March 5, 1970, is the principal legally-binding, international instrument to prevent the spread of nuclear weapons to additional countries;

Whereas the NPT, with 140 parties, is the most widely adhered to and successful multilateral arms control treaty in history and is central to international security and stability;

Whereas the NPT has also facilitated international cooperation in the development of peaceful uses of nuclear energy under international safeguards of the International Atomic Energy Agency;

Whereas since its negotiation the NPT has been strongly supported by every U.S. administration and is considered essential to U.S. foreign and national security policy;

Whereas at the 1985 NPT Review Conference the parties to the NPT expressed their conviction that universal adherence to the NPT is the best way to strengthen the barriers against the proliferation of nuclear weapons to additional states and urged all States not part to the Treaty to accede to it;

Whereas during the past five years the U.S. and the USSR have been involved in a wide variety of negotiations on arms control and disarmament matters and successfully concluded the Intermediate Nuclear Forces Treaty, and that this period has witnessed more progress in arms control than any other period in history;

Whereas in a world undergoing significant political and security changes and in view of the continuing threat that proliferation of nuclear weapons would pose, the NPT continues to be highly relevant and important;

Whereas the fourth five-year conference to review the implementation of the NPT will be held in Geneva, Switzerland from August 20-September 14, 1990;

Whereas 25 years after the entry into force of the NPT, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be ex-

tended for an additional fixed period or periods;

Be it resolved that it is the sense of the Senate (the House of Representatives concurring), That—

1. The NPT continues to be of great benefit to the U.S. and the international community since it remains essential to preventing the spread of nuclear weapons and to preserving international peace and security; and

2. All States which have not yet adhered to the NPT should do so promptly, a step which would significantly strengthen the international non-proliferation regime; and

3. The Parties to the NPT are encouraged to undertake a fair and balanced review of the NPT at the upcoming fourth NPT Review Conference, recognizing the significant efforts that have been made to implement its provisions.

Mr. BOSCHWITZ. Mr. President, today I submit, along with my colleagues Senators GLENN and PELL, a resolution expressing the sense of the Congress in support of the Nuclear Non-Proliferation Treaty and calling for a balanced review of the treaty at the international conference that will take place in Geneva this summer. That meeting will have great importance for the future effectiveness of the Non-Proliferation Treaty, one of the most important treaties of modern times.

Our resolution makes three statements. First, it states the belief of Congress that the NPT continues to be of great benefit to the international community since it remains essential to preventing the spread of nuclear weapons.

As it has for two decades, the NPT provides the principal, legally-binding international framework within which the overwhelming majority of the nations of the world agree to seek to halt the further dissemination of nuclear weapons.

Second, this resolution calls on those countries which have not yet adhered to the NPT to do so promptly. It is our contention that full international adherence to the NPT is an achievable goal, one which would greatly aid efforts to strengthen the international nonproliferation regime. Full adherence would also provide additional impetus to efforts to ensure compliance with the terms of the treaty.

Third, the resolution encourages the NPT's signatories to undertake a fair and balanced look at the treaty at the Review Conference in Geneva. It is important for the participants to recognize that, while much remains to be done to stem the spread of nuclear weapons, there have been numerous and significant efforts over the two decades since the NPT went into effect to implement its provisions.

The NPT's value as an expression of international will regarding the desirability of preventing the spread of nuclear weapons needs little elaboration, particularly today, Mr. President, as I come back from my State of Minnesota, where Mr. Gorbachev has just been on a visit, where he also expressed similar feelings.

The fact that 140 nations have signed the treaty makes this clear. The NPT is clearly in the national interest of the United States. However, the upcoming Review Conference comes at a time of particular urgency regarding the NPT's continued viability.

The NPT is not self-executing. Signatories must actively pursue policies in favor of nonproliferation and monitor developments closely if the treaty is to succeed. The International Atomic Energy Agency must be given the support and tools it needs to carry out effective safeguards' programs.

Some recent activities emphasize the need to remain vigilant if further nuclear proliferation is to be prevented. Offers by France and China, both nonsignatories of the NPT, to sell nuclear equipment to another nonsignatory, Pakistan, raise grave worries. Talks between the U.S.S.R., a party to the NPT, and India, another prominent nonsignatory, regarding the sale of a reactor give added cause for concern. Nuclear programs in other nonsignatory nations produce additional reasons for unease.

While the United States must be in the front rank of those nations seeking both universal membership in the NPT and universal adherence to its terms, the task cannot be ours alone. Other nations beside ours have a direct stake in the continuing viability and success of efforts to prevent nuclear proliferation.

Mr. President, the spread of nuclear weapons poses serious threats to international peace. It is sadly ironic that at a time of lessening tensions between the United States and the Soviet Union the possibilities of a nuclear war between the superpowers are outweighed by the chances of a regional use of nuclear weapons. The current tensions between India and Pakistan, both of which are thought to have nuclear weapons, confirm that the need for an effective nonproliferation treaty remains.

In 1995, a conference will be held to determine whether the NPT should remain in force indefinitely or for fixed periods. The upcoming NPT Review Conference must not be seen in retrospect as the watershed event at which the international commitment to nonproliferation began to waver. Rather, the conference must reaffirm the treaty and its goals so that the diplomats of 1995 do not look forlornly on the 1990 Review Conference as a lost opportunity. I urge my colleagues to join in supporting this resolution, and so indicate that the Senate stands firmly behind the Nuclear Non-Proliferation Treaty.

SENATE RESOLUTION 293—RELATIVE TO THE POLISH DEBT

Mr. SIMON (for himself and Mr. DIXON) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 293

Whereas, the Government of Poland is to be commended for its commitment to democratic rule and free, multiparty elections;

Whereas, Prime Minister Tadeusz Mazowiecki and Finance Minister Leszek Balcerowicz have introduced a far-reaching economic reform program intended to bring about a private market and free enterprise system;

Whereas, despite these courageous efforts and the end of hyper-inflation, the Polish economy has entered a deepening recession;

Whereas, the Government and people of the United States have acknowledged the historic opportunity for freedom and economic growth presented by the dramatic changes in Poland and Eastern Europe during 1989, by providing public assistance through Public Law 101-179 (the "SEED" Act) and private assistance through private voluntary organizations;

Whereas, Public Law 101-179 urged the United States Government to seek debt relief through coordination with other members of the Paris Club of creditor governments;

Whereas, although Poland's external debt owed to governments has recently been rescheduled by the Paris Club, Poland's external debt still stands at approximately $40 billion, while debt-service payments will resume in March 1991;

Whereas, this excessive debt burden threatens to undermine the success of the Polish Government's reform program, as foreign investors look to long-term currency stability, positive rates of economic growth and a greatly improved balance of payments;

Whereas, the Government of Poland owes nearly 80 percent of its hard-currency debt to Western governments;

Whereas, the Government of Poland has put forward a plan to significantly reduce its external hard-currency debt held by Western governments;

Whereas, precedents exist for reducing or forgiving debt in the sub-Saharan African initiative of 1989 and the London Accord of 1953;

Whereas, the success of Poland's democratic, free market revolution will significantly change the face of Europe by encouraging other East European governments and the Soviet Union to accelerate their reforms and move to open, peaceful democratic systems of government;

Whereas, assuming a leading role in finding an early solution to Poland's debt burden is the national interest of the United States;

Resolved, That It is the Sense of the Senate that—

The President of the United States, through the Secretary of the Treasury and the Secretary of State, should immediately enter into discussions with the Paris Club governments to seek innovative approaches to significantly reduce Poland's officially held debt in as quick a time-table as possible;

The President of the United States, through the Secretary of the Treasury and the Secretary of State, should unilaterally announce that the United States will signifi-

cantly reduce the officially held Polish debt if other nations will join in this important step;

The President should initiate such debt-reduction discussions for Poland at the 1990 Economic Summit of Industrialized Nations in Houston, Texas, during July 8 through July 11, 1990; and

The President should further consider inviting the Government of Poland to send a representative to the Houston Summit to make a brief presentation to the Summit participants on possible debt-reduction proposals.

Mr. SIMON. Mr. President, Senator DIXON and I are submitting a resolution today calling on the President and the Secretary of the Treasury and responsible parties to see what can be done to reduce the Polish debt.

Poland owes about $40 billion. This will come due starting in March. It poses some major problems for the Government of Poland, but as we know, it is not simply the Government of Poland whose vital interests are at stake. What happens in Poland could very well be the key to what happens in the Soviet Union.

My hope is that we can move expeditiously to try to see that we provide some relief for Poland. It is now without precedent. We did it with Central America. We did it before with West Germany. Clearly, the needs in Poland are very great and the Polish Government has shown an unusual amount of courage in moving ahead. I hope we can do something.

This resolution simply urges our Government, as Senate resolution, a sense-of-the-Senate resolution, to try to negotiate something as quickly as possible.

The resolution also asks that the President consider inviting a representative of the Polish Government to make a brief presentation on possible debt-reduction approaches to summit leaders.

Mr. President, Poland stands at a crossroads. On the one hand, the Solidarity government of Tadeusz Mazowiecki has taken the boldest steps of any of the newly democratizing central and East European countries. The Poles have made their currency freely convertible, they have allowed prices to rise while holding down wages, and they have begun the difficult process of privatizing the state enterprises and breaking these enterprises' monopoly on state bank financing. As a result, inflation has been wrung out of the economy and is now in single digits. Stores have restocked and there are hardly any shortages of major goods.

On the other hand, prices have skyrocketed and internal demand has plummeted. The traditional Soviet market has dried up, and Western markets are proving hard to break into. The result of all this has been a substantial drop in output, by roughly 40 percent. Unemployment is on the rise, and is estimated by Minister of Labor Jacek Kuron to reach 1-1.5 million by the year's end.

Hanging over this gloomy outlook is the Polish debt burden, now at $40 billion. While the Paris Club group of creditor governments has rescheduled Poland's debt repayments through spring 1991, those repayments have only been put off. Interest is accumulating, and many American and Western investors are unwilling to risk direct investment under continued debt repayment uncertainties. In addition, most experts believe that without a 1991 rescheduling agreement Poland will have to devote virtually all its hard currency export earnings to paying off the debt for years to come. This is clearly untenable politically and economically, and could place the entire reform effort in grave danger of collapse. And the demise of reforms may not be limited to Poland.

What can we in the United States and the West do? There are three things we can do. First, the Western industrial countries can make their markets open to Polish and Hungarian and Czech goods and services. Without market access the East Europeans will not be able to earn much-needed hard currency. This will be especially true in agriculture. Second, we need to remove the long list of export controls that keep new technologies out of Eastern Europe. As long as some basic security guidelines are adhered to, Poland ought to have access at the very least to the technologies now available for the People's Republic of China. And third, we need to figure out a solution to Poland's debt burden, collectively through the Paris Club. There are a growing number of innovative debt-reduction ideas out there, including debt-for-equity swaps and debt-for-nature swaps.

The Houston summit of July 8-11, 1990, offers President Bush an early vehicle for seizing the initiative on the debt front. Particularly as we look at our own huge deficit and we figure out ways to meet our domestic and international commitments without piling up more future obligations, a dollar's worth of debt reduction for Poland will have infinite value as a tool for political and economic growth. It will encourage foreign investment, strengthen the Polish currency, and give a tremendous lift to the Polish economic reform program. My resolution urges President Bush to seize this opportunity, and make Polish debt reduction a very high priority.

AMENDMENTS SUBMITTED DURING RECESS

Under the authority of the order of the Senate of May 24, 1990, the following amendments were submitted on May 25, 1990, during the recess of the Senate:

CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

LAUTENBERG AMENDMENT NO. 1724

(Ordered to lie on the table.)

Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes, as follows:

Add at the end of the bill the following new title:

TITLE . LICENSE SUSPENSION FOR CONVICTED DRUG OFFENDERS

SEC. . This title may be cited as the "Drug Offender's Driving Privileges Suspension Act of 1990".

SEC. . REVOCATION OR SUSPENSION OF DRIVER'S LICENSES.

(a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following section:

"Sec. 159. Revocation or suspension of the driver's license of individuals convicted of drug offenses

"(a)(1) The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) on the first day of each fiscal year which begins after the second full calendar year following the date of enactment of this section if the State does not meet the requirements of paragraph (3) on such date.

"(2) The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) on the first day of each fiscal year which begins after the fourth full calendar year following the date of enactment of this section if the State does not meet the requirements of paragraph (3) on the first day of such fiscal year.

"(3) A State meets the requirements of this paragraph if—

"(A) the State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—

"(i) the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of—

"(I) any violation of the Controlled Substance Act, or

"(II) any drug offense, and

"(ii) a delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted, or

"(B) The Governor of the State—

"(i) submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after the date of enactment of this section a written certification stating that he is opposed to the enactment or enforcement in his State of a law described in subparagraph (A) relating to the revocation, suspension, issuance, or rein-

statement of driver's licenses to convicted drug offenders; or

"(ii) submits to the Secretary a written certification that the legislature (including both Houses were applicable) has adopted a resolution expressing its opposition to a law described in clause (i).

"(b)(1)(A) Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 1995, shall remain available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section 104(b)(5)(A) but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under paragraph (1), (2), or (6) of section 104(b) but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(B) No funds withheld under this section from apportionment to any State after September 30, 1995, shall be available for apportionment to such State.

"(2) If, before the last day of the period for which funds withheld under subsection (a) for apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements of subsection (a)(3), apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

"(3) Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds originally apportioned under section 104(b)(5)(A) shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are apportioned under paragraph (2).

"(B) Funds originally apportioned under paragraph (1), (2), (5)(B), or (6) of section 104(b) shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(4) If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5), such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(c) For purposes of this section—

"(1) The term 'driver's license' means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

"(2) The term 'drug offense' means any criminal offense which proscribes—

"(A) the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act, or

"(B) the operation of a motor vehicle under the influence of such a substance.

"(3) The term 'convicted' includes adjudicated under juvenile proceedings.".

(b) The table of contents for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new item:

"159. Revocation or suspension of the driver's license of individuals convicted of drug offenses.".

KASTEN AMENDMENT NO. 1725

(Ordered to lie on the table.)

Mr. KASTEN submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . PROSCRIPTION OF USE OF DRUG PROFITS.

(a) LIST OF ASSETS.—Section 511(d) of the Controlled Substances Act (21 U.S.C. 881(d)) is amended by—

(1) inserting "(1)" and "(d)"; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) Prior to sentencing a defendant on conviction in a Federal court of a felony under this title, the court shall compile a list of all assets owned by the defendant not subject to forefiture.

"(B) After the release of a defendant described in subparagraph (A), upon request of the Attorney General, the court shall require the defendant to provide proof that any asset owned by the defendant not listed on the list described in subparagraph (A) was legally obtained.

"(C) In order to prove that a defendant legally obtained an asset not listed on the list described in subparagraph (A), the defendant shall be required to produce documentation of the same nature as that required of a taxpayer by the Internal Revenue Service.

"(D) Assets that a defendant does not prove were legally obtained under subparagraph (B) may be seized by the Attorney General through attachment and foreclosure proceedings, and the proceeds of such proceedings shall be deposited in the Department of Justice's Assets Forfeiture Fund and shall be available for transfer to the building and facilities account of the Federal prison system.".

CRANSTON AMENDMENT NO. 1726

(Ordered to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. GUARANTEE OF FREE ACCESS TO MEDICAL FACILITIES.

(a) SHORT TITLE.—This section may be cited as the "Guarantee of Free Access to Medical Facilities Act of 1990".

(b) OFFENSE.—Chapter 13 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 248. Interference with access to or egress from a medical facility

"(a) OFFENSE.—Any person who intentionally prevents an individual from entering or exiting a medical facility by physically—

"(1) detaining the individual; or

"(2) obstructing, impeding, or hindering the individual's passage.

shall be guilty of a class E felony.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'physically' does not include speech;

"(2) the term 'medical facility' includes a hospital, clinic, physician's office or other facility which provides health or surgical services; and

"(3) the term 'person' does not include—

"(A) the Chief Executive Officer of the medical facility;

"(B) a designee of the Chief Executive Officer of the medical facility;

"(C) an agent of the medical facility; or

"(D) a law enforcement officer.".

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 13 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"248. Interference with access to or egress from a medical facility.".

HATFIELD AMENDMENTS NOS. 1727 AND 1728

(Ordered to lie on the table.)

Mr. HATFIELD submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1727

On page 18, line 22, strike "shall supervise" and insert "shall, subject to subsection (d), supervise".

On page 19, between lines 17 and 18, insert the following:

"(d) Notwithstanding any other law, the execution of a person sentenced to death under this chapter shall be carried out in public. The United States marshal charged with supervising an execution shall cause the execution to be carried out at a place that is convenient for members of the public to view the execution in person and for the communications media to broadcast the execution, and at a time of day when most members of the public who desire to view the execution will be able to do so. The marshal shall cause a notice, stating the place, date, and time of the execution and the fact that the public may attend, to be—

(1) published in each of the 2 newspapers of greatest circulation in the city or county in which the execution is to take place; and

(2) broadcast by at least 3 radio stations and 3 television stations covering the city or county,

on the date of execution and on each of the 7 days preceding that date.

AMENDMENT No. 1728

On page 1, in the matter following line 3, strike the items for sections 102 and 103 and insert the following:

"Sec. 102. Sentence of death.

"Sec. 103. Mandatory life imprisonment without possibility of release.".

On page 3, strike line 5 and all that follows through page 24, line 9, and insert the following:

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.

§ 3591. Sentence of death

"(a) LIMITATION ON IMPOSITION OF SENTENCE.—No person may be sentenced to death who—

"(1) was less than 18 years of age at the time of the offense;

"(2) is mentally retarded; or

"(3) is a person who, as a result of mental disability—

"(A) cannot understand the nature of the pending proceedings, what the person was tried for, the reason for the punishment, or the nature of the punishment; or

"(B) lacks the capacity to recognize or understand facts that would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"(b) LIMITATION ON EXECUTION OF SENTENCE.—A sentence of death shall not be carried out on a woman while she is pregnant.".

SEC. 103. MANDATORY LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE.

(a) AIRCRAFT AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended to read as follows:

"§ 34. Penalty when death results

"Whoever is convicted of any crime prohibited by this chapter that has resulted in the death of any person, shall, in addition to any punishment imposed for the crime itself, be punished by mandatory life imprisonment without possibility of release.".

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking "death or by imprisonment for any term of years or for life" and inserting "mandatory life imprisonment without possibility of release.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking ", shall be subject to imprisonment for any term of years, or the the death penalty or to life imprisonment as provided in section 34 of this title" and inserting "punished by mandatory life imprisonment without possibility of release.".

(2) Section 844(f) of title 18, United States Code, is amended by striking "subject to imprisonment for any term of years, or the death penalty or to life imprisonment as provided in section 34 of this title" and inserting "punished by mandatory life imprisonment without possibility of release.".

(3) Section 844(i) of title 18, United States Code, is amended by striking "subject to imprisonment for any term of years, or the death penalty or to life imprisonment as provided in section 34 of this title" and inserting "punished by mandatory life imprisonment without possibility of release.".

(d) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life" and inserting ", where death results, a fine of not more than $1,000,000 and mandatory life imprisonment without possibility of release";

(e) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by mandatory life imprisonment without possibility of release;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "sentenced to imprisonment for life" and inserting "punished by mandatory life imprisonment without possibility of release".

(f) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by mandatory life imprisonment without possibility of release".

(g) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by mandatory life imprisonment without possibility of release".

(h) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended to read as follows:

"Whoever is convicted of any crime prohibited by this section that has resulted in the death of any person, shall, in addition to any punishment imposed for the crime itself, be punished by mandatory life imprisonment without possibility of release.".

(i) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, and (2) by mandatory life imprisonment without possibility of release, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President."

(j) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking "be subject to the death penalty or to imprisonment for life, if the jury shall in its discretion so direct, or, in the case of a plea of guilty, if the court in its discretion shall so order" and inserting ", shall, in addition to any punishment imposed for the crime itself, be punished by mandatory life imprisonment without possibility of release.".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by mandatory life imprisonment without possibility of release and shall be fined not more than $250,000".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "shall be imprisoned not less than ten years or punished by death if the verdict of the jury shall so direct" and inserting "shall, if the death of any person results, be punished by mandatory life imprisonment without possibility of release".

On page 25, lines 4 and 5, strike "death or by life imprisonment without the possibility of parole" and insert "mandatory life imprisonment without possibility of release".

ADAMS AMENDMENT NOS. 1729 AND 1730

(Ordered to lie on the table.)

Mr. ADAMS submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1729

At the end of the bill strike the last word, and insert the following:

"———.

"SEC. . USE OF LOCAL FUNDS BY THE DISTRICT OF COLUMBIA."

AMENDMENT NO. 1730

In lieu of the language proposed to be inserted, insert the following:

"———.

"SEC. . USE OF LOCAL FUNDS BY THE DISTRICT OF COLUMBIA.

"Notwithstanding any other provision of law, the District of Columbia government may expend, from tax revenues which it imposes and collects, such amounts as it determines to be necessary to pay for the costs of abortion services to low-income residents. Such amounts shall not be deemed to have been appropriated by the Congress and shall not be subject to any Federal restrictions that are not imposed upon similar expenditures by State governments."

WALLOP AMENDMENT NO. 1731

(Ordered to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking "If any person commits a violation of this subparagraph or of section 405, 405A, or 405B after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release" and inserting "If any person commits a violation of this subparagraph or of section 405, 405A, or 405B or a crime of violence as defined in section 4 of the National Drug and Crime Emergency Act, after two or more prior convictions for a felony drug offense or for a crime of violence as defined in section 4 of the National Drug and Crime Emergency Act or for any combination thereof have become final, such person shall be sentenced to a mandatory term of life imprisonment without release".

KENNEDY AMENDMENTS NOS. 1732 AND 1733

(Ordered to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1732

At the end of the appropriate place, insert the following:

SEC. . In section 3552 of title 18, insert the following new subsection at the end thereof:

"( ) LIMITED AUTHORITY TO IMPOSE A SENTENCE BELOW A STATUTORY MINIMUM UPON A FINDING OF MANIFEST INJUSTICE.—

"(1) Notwithstanding any other provision of law, upon motion of a party, the court shall have the authority to impose a sentence below the level established by statute as the minimum sentence if the court finds by clear and convincing evidence that imposition of the minimum sentence would result in manifest injustice. In reaching this determination, the court shall consider the factors set forth in subsection (a) of this section, including applicable guidelines and policy statements promulgated by the United States Sentencing Commission;

"(2) The court shall not exercise the authority conferred by the preceding subsection if it finds that imposition of a sentence below the statutorily designated minimum sentence would, under the circumstances, undermine public safety or the confidence of the public in the criminal justice system;

"(3) A sentence below the statutorily designated minimum sentence shall be imposed in accordance with this section, and the government may appeal such sentence pursuant to section 3742 of this title as though the sentence were imposed for an offense for which there is no sentencing guideline."

AMENDMENT No. 1733

At the appropriate place, insert the following:

SEC. . CLARIFICATION OF INNOCENT OWNER PROVISIONS.

(a) CONVEYANCES.—Section 511(a)(4) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended by striking paragraph (c) and inserting the following:

"(C) no conveyance shall be forfeited under this paragraph, to the extent of an interest of an owner, if the owner establishes by a preponderance of the evidence that the act or omission giving rise to the forfeiture was committed or omitted without the owner's knowledge, without his or her consent, and without his or her willful blindness."

(b) PERSONAL AND REAL PROPERTY.—Sections 511(a)(6) and (a)(7) are amended by striking "by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner" and inserting "if the owner establishes by a preponderance of the evidence that the act or omission giving rise to the forfeiture was committed or omitted without the owner's knowledge, without his or her consent, and without his or her willful blindness".

(c) PROPERTY INVOLVED IN MONEY LAUNDERING.—Section 981(a)(2) of title 18, United States Code, is amended by striking "by reason of any act or omission established by that owner or lienholder to have been committed without the knowledge of that owner or lienholder" and inserting "if the owner or lienholder establishes by a prepondance of the evidence that the act or omission giving rise to the forfeiture was committed or omitted without the owner or lienholder's knowledge, without his or her consent, and without his or her willful blindness".

(d) CUSTOMS OFFENSES.—Section 594(b) of the Tariff Act of 1930 (19 U.S.C. 1594(b)) and Section 2 of the Act of August 9, 1939 (chapter 618, 53 Stat. 1291; 49 U.S.C. App. 782) are amended by striking "established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner" and inserting "if the owner establishes by a preponderance of the evidence that the act or omission giving rise to the forfeiture was committed or omitted without the owner's knowledge, without his or her consent, and without his or her willful blindness".

CRIMINAL FORFEITURE IN CASES INVOLVING CMIR VIOLATIONS.

Section 982(a) of title 18, United States Code, is amended by inserting ", 5316" after "5313(a)".

DEFINITION OF "FINANCIAL TRANSACTION".

Section 1956(c)(4) of title 18, United States Code, is amended by—

(1) inserting "(A)" before "a transaction" the first place it appears and inserting "(B)" before "a transaction" the second place it appears; and

(2) inserting "(i)" before "involving" the first place it appears and inserting "(ii)" before "involving" the second place it appears.

SEC. . MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting the following before the period: "unless the defendant, in committing the offense or offenses giving rise to the forfeiture, conducted three or more separate transactions involving a total of $100,000 or more in any twelve month period".

SEC. . ENVIRONMENTAL CRIMES AS MONEY LAUNDERING PREDICATES.

Section 1956(c)(7) of title 18, United States Code, is amended by—

(1) striking "or" before "section 16"; and

(2) inserting before the period the following: ", section of the Resource Conservation and Recovery Act (42 U.S.C. 6928 (d) and (e)), section of the Federal Water Polution Control Act (33 U.S.C. 1319(c)), section of the Clean Air Act (42 U.S.C. 7413(c)), section of the Toxic Substances Act (15 U.S.C. 2615(b)), section of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136L(b)), or section of the Ocean Dumping Act (33 U.S.C. 1415(b))".

NICKLES AMENDMENTS NOS. 1734 AND 1735

(Ordered to lie on the table.)

Mr. NICKLES submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1734

At the appropriate place, insert the following:

SEC. . MANDATORY IMPRISONMENT FOR LIFE FOR RAPISTS WITH AIDS.

Section 2241 of title 18, United States Code, is amended by adding at the end of thereof the following:

"(e) WITH AIDS.—An individual who commits an offense under subsection (a) knowing at the time that he is infected with the human immunodeficiency virus shall be sentenced to mandatory life imprisonment without release.".

AMENDMENT No. 1735

At the end of the bill, add the following:

TITLE —PROTECTION OF CRIME VICTIMS

SEC. 01. VICTIMS' RIGHTS.

(a) BEST EFFORTS TO ACCORD RIGHTS.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims to crime are accorded the rights described in subsection (b).

(b) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

(1) The right to be treated with fairness and with respect to the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victims heard other testimony at trial.

(5) The right to confer with attorney for the Government in the case.

(6) The right to restitution.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

(c) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b).

SEC. 02. SERVICES TO VICTIMS.

(a) DESIGNATION OF RESPONSIBLE OFFICIALS.—The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) IDENTIFICATION OF VICTIMS.—At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

(1) identify the victim or victims of a crime;

(2) inform the victims of their right to receive, on request, the services described in subsection (c); and

(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) DESCRIPTION OF SERVICES.—(1) A responsible official shall, upon request—

(A) inform a victim of the place where the victim may receive emergency medical and social services;

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;

(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and

(D) assist a victim in contacting the persons who are repsonsible for providing the services and relief described in subparagraphs (A), (B), and (C).

2(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

(A) the status of of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;

(B) the arrest of a suspected offender;

(C) the filing of charges against a suspected offender;

(D) the scheduling of each court proceeding that the witness is either required to

attend or, under section 01(b)(4), is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for parole.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of—

(A) the scheduling of a parole hearing for the offender; and

(B) the escape or release from custody of the offender.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim for evidentiary purposes.

SEC. 03. AMENDMENT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3579 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a)(1) The court" and inserting "(a) The court";

(B) striking "may order" and inserting "shall order"; and

(C) striking paragraph (2);

(2) in subsection (b) by striking "impractical" and inserting "impracticable";

(3) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(4) by striking subsections (d), (e), (f), (g), and (h); and

(5) by adding at the end thereof the following new subsections:

(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms and a restitution order shall be a condition of any probation, parole, and other form of release of an offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3580 of title 18, United States Code, is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d).

SEC. 04. DEFINITIONS.

For the purposes of this Act—

(1) the term "responsible official" means a person designated pursuant to section ___ 02(a) to perform the functions of a responsible official under that section; and

(2) the term "victim" means a private person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

(i) a spouse;

(ii) a legal guardian;

(iii) a parent;

(iv) a child;

(v) a sibling;

(vi) another family member; or

(vii) another person designated by the court.

GRASSLEY AMENDMENT NOS. 1736 AND 1737

(Ordered to lie on the table.)

Mr. GRASSLEY submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1736

On page 16, between lines 20 and 21, insert the following:

"(g) VICTIM IMPACT STATEMENT.—(1) Prior to hearing any case under this section and as a part of the presentence investigation of such case, a victim impact statement shall be prepared which shall—

"(A) identify the victim of the offense;

"(B) identify the physical injury by the victim as a result of the offense;

"(C) identify any request for psychological services initiated by the victim's family as a result of the offense; and

"(D) contain any other information related to the impact of the offense on the victim or the victim's family as the court may require.

"(2) The information required by paragraph (1) may be obtained from the personal guardian of the victim or such family members of the victim as may be necessary.

"(3) The victim impact statement required by this subsection shall be considered by the court or jury in a hearing held under this section.".

AMENDMENT No. 1737

At the appropriate place in the bill, insert the following new section:

Subsection 209(a) of title 18 of the United States Code is amended to read as follows:

"(a) Whoever—

"(1) being an officer or employee of any agency of the United States, or of the District of Columbia;

"(2) has been selected to be such an officer or employee; or

"(3) has served as such an officer or employee, receives any payment or compensation for his or her services as such an officer

or employee from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

"(4) whether an individual or an organization, makes any payment to any person under circumstances which would make its receipt a violation of this substance—

"Shall be subject to the penalties set forth in section 216 of this title.

"For the purpose of this subsection, a person has been 'selected' to be an officer or employee if the person has been nominated or appointed to a specific position as an officer or employee, or has been officially informed that he or she will be so nominated or appointed.".

SIMPSON AMENDMENT NOS. 1738 AND 1739

(Ordered to lie on the table.)

Mr. SIMPSON submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1738

SEC. 403. DEFINITIONS.

At page 48, line 15, by striking the word "any" and all that follows and inserting in lieu thereof, the following: "a selective fire firearm which is manufactured capable of firing on full-automatic, burst, or semi-automatic modes at the option of the shooter."

AMENDMENT No. 1739

SEC. 403. DEFINITIONS.

At page 48, line 15, by striking the word "any" and all that follows and inserting in lieu thereof, the following: "a selective fire military rifle capable of firing on full-automatic, burst, or semi-automatic modes at the option of the shooter."

GRAHAM (AND LIEBERMAN) AMENDMENT NO. 1740

(Ordered to lie on the table.)

Mr. GRAHAM (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the appropriate place, add the following:

RACIAL AND ETHNIC BIAS STUDY GRANTS.

(a) FINDINGS.—The Congress finds that—

(1) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems and in particular that portion of their criminal justice systems relating to the imposition of the sentence of death in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is authorized to make grants to States that have established by State law or by the court of last resort or by order of the Chief Executive Officer of the State a plan for analyzing the role of race in that State's criminal justice system, including in the imposition of the sentence of death. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General with priority being given to those States whose State law provide for the imposition of death for certain crimes. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out the provisions of this section.

GRAHAM (AND OTHERS) AMENDMENT NO. 1741

(Ordered to lie on the table.)

Mr. GRAHAM (for himself, Mr. DECONCINI, Mr. MOYNIHAN, Mr. REID, Mr. HARKIN, Mr. PELL, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the end of the bill, insert the following:

TITLE —LAW ENFORCEMENT SCHOLARSHIPS

SEC. 01. SHORT TITLE.

This title may be cited as the "Law Enforcement Scholarship Act of 1990".

SEC. 02. STATEMENT OF PURPOSE.

It is the purpose of this title to assist States to establish scholarship programs which—

(1) provide educational assistance to law enforcement personnel seeking further education;

(2) enhance the recruitment of young individuals to careers in law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel.

SEC. 03. DEFINITIONS.

As used in this title—

(1) the term "Assistant Attorney General" means the Assistant Attorney General of the Office of Justice Programs;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies and related expenses;

(3) the term "institution of higher education" has the same meaning given such term in section 1401(a) of the Higher Education Act of 1965;

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 04. ALLOTMENT.

From amounts appropriated under the authority of section 12, the Assistant Attorney General shall allocate—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State; and

(2) 20 percent of such funds to States on the basis of the State's shortage of law enforcement personnel and the need for assistance under this title.

SEC. 05. PROGRAM ESTABLISHED.

(a) IN GENERAL.—From amounts available pursuant to section 04 each State shall pay the Federal share of the cost of awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education.

(b) FEDERAL SHARE.—(1) The Federal share of the cost of scholarships under this title shall not exceed 60 percent.

(2) The non-Federal share of the cost of scholarships under this title shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 04 to conduct a scholarship program in the State in accordance with the provisions of this title shall designate an appropriate State agency to serve as the lead agency in carrying out the provisions of this title.

(d) RESPONSIBILITIES OF ASSISTANT ATTORNEY GENERAL.—The Assistant Attorney General shall be responsible for the administration of the program conducted pursuant to this title and shall, in consultation with the Assistant Secretary for Postsecondary Education, promulgate regulations to implement this title.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section shall ensure that each scholarship recipient under this title be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this title shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 06. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this title shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this title may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 07. ELIGIBILITY.

An individual shall be eligible to receive a scholarship under this title if such individual has been employed in law enforcement for 2 years immediately preceding the date for which assistance is sought.

SEC. 08. STATE APPLICATION.

(a) IN GENERAL.—Each State desiring an allotment under section shall submit an application to the Assistant Attorney General at such time, in such manner, and accompanied by such information as the As-

sistant Attorney General may reasonably require. Each such application shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the provisions of this title;

(2) contain assurances that the State shall advertise the scholarship assistance provided under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the scholarship program under this title;

(4) contain assurances that the State shall make scholarship payments to institutions of higher education on behalf of individuals receiving financial assistance under this title;

(5) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(6) contain assurances that the State shall promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in high schools and community colleges.

SEC. 09. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual desiring a scholarship under this title shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which financial assistance is sought.

(b) PRIORITY.—In awarding scholarships under this title, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State; and

(2) pursuing an undergraduate degree.

SEC. 10. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual receiving a scholarship under this title shall enter into an agreement with the Assistant Attorney General.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual shall work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay all of the scholarship assistance awarded under this title in accordance with such terms and conditions as the Assistant Attorney General shall prescribe, in the event that the requirements of the agreement under paragraph (1) are not complied with except where the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this title may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this title.

(c) SERVICE OBLIGATION.—(1) Each individual awarded a scholarship under this title shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which financial assistance is received under this title.

(2) For purposes of satisfying the requirement specified in paragraph (1) each individual awarded a scholarship under this title shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 11. REPORTS TO CONGRESS.

(a) REPORT.—No later than April 1 of each fiscal year, the Assistant Attorney General shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of present and past scholarship recipients under this title, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(2) describe the geographic, racial, and gender dispersion of scholarship recipients; and

(3) describe the progress of the program and make recommendations for changes in the program.

(b) PLAN.—Within six months from the date of enactment of this Act, the Attorney General shall submit a report to the Congress containing a plan to expand the assistance provided under this title to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $30,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out the provisions of this title.

GRAHAM AMENDMENTS NOS. 1742 AND 1743

(Ordered to lie on the table.)

Mr. GRAHAM submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1742

At the appropriate place in the bill, insert the following:

SEC. . AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Except as otherwise specifically provided in this section, whenever in this section an amendment is expressed to a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(b) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) is amended—

(1) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(9) one who has been convicted of an aggravated felony, as defined in subsection (a)(43).".

(c) BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by striking out "or within ten years" and inserting in lieu thereof "or at anytime thereafter".

(d) CUSTODY PENDING DETERMINATION OF EXCLUDABILITY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end thereof the following new subsection:

"(e)(1) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction.

"(2) Notwithstanding any other provisions of this section, the Attorney General shall not release such felon from custody unless the Attorney General determines that the alien may not be deported because the condition described in section 243(g) exists.

"(3) If the determination described in paragraph (2) has been made, the Attorney General may release such alien only after—

"(A) a procedure for review of each request for relief under this subsection has been established,

"(B) such procedure includes consideration of the severity of the felony committed by the alien, and

"(C) the review concludes that the alien will not pose a danger to the safety of other persons or to property."

(e) SUSPENSION OF DEPORTATION PROHIBITED.—Section 244 (8 U.S.C. 1254) is amended by adding at the end thereof the following new subsection:

"(g) No alien convicted of an aggravated felony (as defined in section 101(a)(43)) shall be eligible for suspension of deportation under this section.".

(f) EFFECT OF FILING PETITION FOR REVIEW.—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended—

(1) by striking the semicolon at the end of paragraph (3) and inserting in lieu thereof "; or" and

(2) by adding at the end thereof the following: "unless the alien is convicted of an aggravated felony, in which case, the Service shall not stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;".

(g)(a) CLARIFICATION OF AGGRAVATED FELONY DEFINITION.—Section 101(a)(43) is amended—

(1) by inserting "any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including" after "murder,", and

(2) by adding at the end the following; "such term applies to offenses described in the previous sentence whether in violation of Federal or State law."

(b) EFFECTIVE DATE.—The amendments made by section (a) shall take effect as if included in the enactment of section 7342 of the Anti-Drug Abuse Act of 1988.

(h) TREATMENT OF JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION.—Section 241(b) is amended—

(1) by inserting "or who has been convicted of an aggravated felony" after "subsection (a)(11) of this section".

(i) REQUIRING FINGERPRINTING AND PHOTOGRAPHING OF CERTAIN ALIENS.—(1) Section 287 is amended by adding the following new subsection:

"(f)(1) Under regulation of the Attorney General, the Commissioner of the Immigration and Nationality Service shall provide for the fingerprinting and photographing of each alien 14 years of age or older against

whom a proceeding is commenced under section 242.

"(2) Such fingerprints and photographs shall be made available to Federal, State, and local law enforcement agencies, upon request.

"(3) The Attorney General, using the authority provided under section 534 of title 28, United States Code, shall acquire, collect, classify, preserve, and exchange records and information pertaining to aliens for whom an arrest warrant has been issued under this title for failure to appear at a proceeding commenced against the alien under section 242 or for failure to appear for deportation ordered under this title."

(2) Section 264(b) is amended by inserting "(1) pursuant to section 287(f)(2), and (2)" after "only".

AMENDMENT No. 1743

At the appropriate place, insert the following:

SEC. . DEPORTED AGGRAVATED FELONS REENTERING THE UNITED STATES.

Pursuant to its authority under section 994(b) or title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1326) shall be assigned an offense level under chapter 2 of the sentencing guidelines that constitutes a meaningful deterrence to the commission of such offense.

GRAHAM AMENDMENT NO. 1744

(Ordered to lie on the table.)

Mr. GRAHAM (for himself, Mr. DIXON, and Mr. WIRTH) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

Add at the appropriate place the following:

SECTION 1. ESTABLISHMENT OF FINANCIAL SERVICES CRIME DIVISION.

(a) There is established within the Department of Justice, the Financial Services Crime Division.

SEC. 2. ASSISTANT ATTORNEY GENERAL FOR FINANCIAL SERVICES CRIME.

(a) ASSISTANT ATTORNEY GENERAL.—There shall be at the head of the Financial Services Crime Division established by this title, an Assistant Attorney General of the Department of Justice for the Financial Services Crime Division, who shall—

(1) be appointed by the President, by and with the advice and consent of the Senate;

(2) report directly to the Attorney General of the United States;

(3) ensure that all investigations and prosecutions are coordinated within the Department of Justice to provide the greatest use of civil proceedings and forfeitures to attack the financial resources of those who have committed fraud or engaged in other criminal activity in or against the financial services industry;

(4) ensure that all investigations and prosecutions are coordinated within the Department of Justice to ensure that adequate resources are made available in connection with criminal investigations and prosecution of fraud and other criminal activity in the financial services industry.

(b) COMPENSATION.—(1) Section 5315 of title 5, United States Code, is amended by striking out: "Assistant Attorneys General (10)." and inserting in lieu thereof: "Assistant Attorneys General (11)."

(2) The Assistant Attorney General of the Financial Services Crime Division shall be paid at the basic pay payable for level IV of the Executive Schedule.

SEC. 3. DEPUTY ASSISTANT ATTORNEY GENERAL.

(a) ESTABLISHMENT.—There is established the position of Deputy Assistant Attorney General of the Financial Services Crime Division, who shall report directly and be responsible to the Assistant Attorney General of the Financial Services Crime Division.

(b) COMPENSATION.—The Deputy Assistant Attorney General of the Financial Services Crime Division shall be paid at the rate of basic pay payable for level V of the Executive Schedule.

SEC. 4. ADMINISTRATIVE OFFICE OF THE DIVISION.

There shall be established within the Financial Services Crime Division such sections and offices as the Attorney General shall deem appropriate to maintain or increase the level of enforcement activities in the area of fraud and other criminal activity in and against the financial services industry.

SEC. 5. COORDINATION AND ENHANCEMENT OF FIELD ACTIVITIES.

(a) STRIKE FORCES.—The Attorney General shall establish such number of field offices as shall be necessary to carry out the purposes of this act. All such field offices of the Division shall be known as the Financial Services Crime Strike Forces.

(b) COORDINATION WITH AGENCIES.—In investigating and prosecuting crime in the financial services industry, the Division shall coordinate its activities with appropriate officials of the Federal Bureau of Investigation, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, the Federal Reserve Board and the Securities Exchange Commission.

SEC. 6. REPORTS.

The Division shall compile and collect data concerning the nature and quantity of investigations, prosecutions, and enforcement proceedings in progress; the nature and quantity of such matters closed, settled or litigated to conclusion; and the outcomes achieved, including fines and penalties levied, prison sentences imposed and damages recovered. The Division shall make the raw data collected available to any Committee of Congress or congressional agency. In addition, the Division shall analyze and report to the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee of the United States Congress semiannually on this data, and its own coordination activities with the agencies identified in section 5(b) above. Such report shall identify with respect to the Division and the agencies identified above:

(i) the institutions in which evidence of significant fraud or insider abuse has been detected;

(ii) the Federal administrative enforcement actions brought against parties;

(iii) the claims for monetary damages or other relief sought, and any settlements or judgments against parties;

(iv) indictments, guilty pleas or verdicts obtained against parties; and

(v) the resources allocated in pursuit of such claims, actions, settlements, indictments or verdicts.

SEC. 7. APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as shall be necessary to carry out the purposes of this Act.

SIMON AMENDMENTS NOS. 1745 AND 1746

(Ordered to lie on the table.)

Mr. SIMON submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1745

At the appropriate place add the following:

None of the provisions of this Act shall be effective unless the following is enacted:

SEC. . (a) This section may be cited as the "Television Violence Act of 1989".

(b) For purposes of this section—

(1) the term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition;

(2) the term "person in the television industry" means a television network, any entity which produces programming (including theatrical motion pictures) for telecasting or telecasts programming, the National Cable Television Association, the Association of Independent Television Stations, Incorporated, the National Association of Broadcasters, the Motion Picture Association of America, the Community Antenna Television Association, and each of the networks' affiliate organizations, and shall include any individual acting on behalf of such person; and

(3) the term "telecast" means—

(A) to broadcast by a television broadcast station; or

(B) to transmit by a cable television system or a satellite television distribution service.

(c) The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate the negative impact of violence in telecast material.

(d)(1) BOYCOTTS.—The exemption provided in subsection (c) shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any persons.

(2) TIME PERIOD.—The exemption provided in subsection (c) shall apply only to any joint discussion, consideration, review, action, or agreement engaged in only during the 3-year period beginning on the date of the enactment of this section.

AMENDMENT No. 1746

Insert in the appropriate place:

None of the provisions of this Act shall be effective unless the following is enacted:

TITLE I—MANDATORY DETENTION

SEC. . SHORT TITLE.

This title may be cited as the "Mandatory Detention for Offenders Convicted of Serious Crimes Act".

SEC. . MANDATORY DETENTION.

(a) PENDING SENTENCE.—Subsection (a) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting "(1) Except as provided in paragraph (2), the judicial officer"; and

(2) inserting at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

"(A)(i) the judicial officer finds there is a substantial liklihood that a motion for aquittal or new trial will be granted; or

"(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and

"(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.".

(b) PENDING APPEAL.—Subsection (b) of section 3143 to title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting "(1) Except as provided in paragraph (2), the judicial officer";

(2) redesignating subparagraphs (A), (B), (C), and (D) of paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) adding at the end thereof the following;

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained.".

(c) EXCEPTIONAL CASES.—Subsection (c) of section 3145 of title 13, United States Code, is amended by adding at the end the following: "Upon an appeal of the Government, a person who has been detained by the judicial officer pursuant to section 3143 (a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143 (a)(1) or (b)(1), may be ordered released, under appropriate conditions, by a court of appeals or a judge thereof, if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate.".

TITLE II—INCREASED PENALTIES

SEC. . MINIMUM PENALTY RELATING TO SHORT-BARRELED SHOTGUNS AND OTHER FIREARMS.

(1) Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is a short-barreled rifle, short-barreled shotgun to imprisonment for 10 years," after "sentenced to imprisonment for five years.".

(2) inserting "or a destructive device" after a machine gun.

TITLE III—FEDERAL PRISONER DRUG TESTING

SEC. . SHORT TITLE.

This title may be cited as the "Federal Prisoner Drug Testing Act of 1990".

SEC. . CONDITIONS ON PROBATION.

Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking out "and";

(2) in paragraph (3), by striking out the period and inserting in lieu thereof "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant—

"(A) pass a drug test prior to the imposition of such sentence;

"(B) refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance"; and

(4) by adding at the end thereof and the following: "No action may be taken against a defendant pursuant to a drug test administered in accordance with paragraph (4) unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

SEC. . CONDITIONS ON SUPERVISED RELEASE.

Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant pass a drug test prior to the imposition of such sentence and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance with the provisions of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

SEC. . CONDITIONS ON PAROLE.

Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to the imposition of such sentence and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance the provision of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such a test as the Director of the Administrative Office of the United State Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

TITLE IV—LAW ENFORCEMENT FUNDING

SEC. . (a) Amendment of Section 211 of the Department of Justice Appropriations Act. Section 504 (a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act; 1990 (Public Law 1010-162) is amended by striking "1990" and inserting in lieu thereof "1991".

HATCH AMENDMENTS NOS. 1747 THROUGH 1760

(Ordered to lie on the table.)

Mr. HATCH submitted 14 amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1747

Strike on page 46, line 15, through page 53, line 5, and insert in lieu thereof the following:

TITLE IV—FIREARMS AND RELATED AMENDMENTS

SEC. 401. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARMS, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 10 or more than 20 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 20 years, fined under this title, or both.".

SEC. 402. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

AMENDMENT NO. 1748

At the end of the bill, add the following:

SEC. .

Section 841 of Title 21, United States Code, is amended by adding at the end thereof the following:

"(a)(3) to transport in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, any person for the purpose of engaging in the growing, harvesting, manufacture or other production, sale, distribution, or dispensing of a controlled or counterfeit substance."

AMENDMENT NO. 1749

Strike out page 46, line 15, through page 53, line 5, and insert in lieu thereof the following:

TITLE IV—FIREARMS AND RELATED AMENDMENTS

SEC. 401. PROHIBITION OF TRANSFER OF FIREARMS TO NONRESIDENTS.

Section 922(a)(5) of title 18, United States Code, is amended by striking "resides" and all that follows through "entity);" and inserting "does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides,".

SEC. 402. COMMERCE NEXUS FOR TRAFFICKING IN STOLEN FIREARMS.

(a) RECEIPT OF AND OTHER TRANSACTIONS IN FIREARMS.—Section 922(j) of title 18, United States Code, is amended by striking "or which constitutes," and inserting "which constitutes, or which has been shipped or transported in,".

(b) FIREARMS WITHOUT SERIAL NUMBERS.—Section 922(k) of title 18, United States Code, is amended by striking the period at the end thereof and inserting "or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce."

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation for forfeiture thereof—

"(1) the Secretary—

"(A) may retain the firearm for official use of the Department of the Treasury, or

"(B) if not so retained, offer to transfer (or transfer upon acceptance) the weapon without charge to any other executive department of independent establishment of the Government for official use by it,

"(2) if the firearm—

"(A) is not disposed of pursuant to paragraph (1),

"(B) is a firearm other than a machinegun, and

"(C) is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel or rare or because of its association with an historical figure, period, or event,

the Secretary may sell such firearm, after public notice, at public sale to a dealer licensed under chapter 44 of title 18, United States Code, and

"(3) if the firearm has not been disposed of pursuant to paragraph (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, General Services Administration, who shall destroy or provide for the destruction of such firearm.

No decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 403. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) in clause (1) by striking "or" at the end thereof;

(2) in clause (2) by strking "and" at the end thereof and inserting "or"; and

(3) by adding at the end thereof the following new clause:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph;".

SEC. 404. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended—

(1) by striking the period at the end of subparagraph (B) and inserting a semicolon;

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding 1 year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 405. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end thereof the following: "Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction, or restoration of civil rights."

SEC. 406. CONSIDERATION OF PRETRIAL DETENTION FOR CERTAIN FIREARMS AND EXPLOSIVES OFFENSES.

Section 3142(f)(1) of title 18, United States Code, is amended—

(1) in subparagraph (C) by striking "or" at the end thereof;

(2) by redesignating subparagraph (D) as subparagraph (F); and

(3) by inserting after subparagraph (C) the following new subparagraphs:

"(D) an offense under section 884(a) of this title that is a violation of section 842 (d), (h), or (i) of this title;

"(E) an offense under section 924(a) of this title that is a violation of 922 (d), (g), (h), (i), (j), or (o) of this title; or".

SEC. 407. POSSESSION OF FIREARM OR EXPLOSIVE DURING THE COMMISSION OF FELONY.

(a) FIREARMS.—Section 924(c) of title 18, United States Code, is amended by striking "uses or carries a firearm" and inserting "uses, carries, or otherwise possesses a firearm".

(b) EXPLOSIVES.—Section 844(h) of title 18, United States Code, is amended by striking "carries an explosive during" and inserting "carries or otherwise possesses an explosive during".

SEC. 408. ENHANCED PENALTY FOR USE OF SEMIAUTOMATIC FIREARM DURING CRIME OF VIOLENCE OR DRUG TRAFFICKING OFFENSE.

(a) PENALTY.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "five years," and inserting "five years, if the firearm is a semiautomatic firearm, to imprisonment for ten years (in the absence of the mitigating circumstances stated in paragraph (4)),"; and

(2) by adding at the end thereof the following new paragraph:

"(4) The enhanced penalty for a crime involving the use, carrying, or possession of a semiautomatic firearm shall not apply in sentencing a defendant who establishes that—

"(A) the defendant used the firearm to protect himself or another person from an immediate danger of death or injury arising from the unlawful use or threat of force by the person against whom the firearm was used;

"(B) the defendant used the firearm to protect the defendant's person or property or the person or property of another against actually occurring or immediately threatened felonious conduct by the person against whom the firearm was used; or

"(C) the defendant used the firearm to effect the arrest or prevent the escape of a person in immediate flight after the commission of a felony,

unless the defendant engaged or participated in criminal conduct that gave rise to the occasion for the defendant's use of the firearm.".

(b) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"(25) The term 'semiautomatic firearm' means a repeating firearm that utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and that requires a separate pull of the trigger to fire each cartridge.".

SEC. 409. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended—

(1) by redesignating the second subsection (f) (added by section 6211 of the Anti-Drug Abuse Amendments Act of 1988) and subsection (g) as subsections (g) and (h), respectively; and

(2) by adding at the end thereof the following new subsection:

"(i) Whoever, with the intent to engage in or promote conduct that—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 410. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Whoever steals a firearm that is moving as, or is a part of, or that has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.".

(a) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(k) Whoever steals any explosive materials that are moving as, or are a part of, or that have moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.".

SEC. 411. BAR ON SALE OF FIREARMS AND EXPLOSIVES TO OR POSSESSION OF FIREARMS AND EXPLOSIVES BY PERSONS CONVICTED OF A VIOLENT OR SERIOUS DRUG MISDEMEANOR.

(a) FIREARMS.—(1) Section 922(d)(1) of title 18, United States Code, is amended—

(A) by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (3), (4), (5), (6), (7), and (8), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) has been convicted in any court, after the date of enactment of this paragraph, of crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c));".

(2) Section 922(g)(1) of title 18, United States Code, is amended—

(A) by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (3), (4), (5), (6), (7), and (8), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) has been convicted in any court, after the date of enactment of this paragraph, of crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c));".

(3) Section 922 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(q) For the purposes of this section—

"(1) the term 'crime of violence' means an offense involving the use of a firearm that has as an element the use of physical force against the person of another with intent to cause bodily harm to the person, for which the maximum term of imprisonment is greater than 6 months; and

"(2) the term 'serious misdemeanor' means an offense for which the maximum term of imprisonment is greater than 6 months.".

(b) EXPLOSIVES.—(1) Section 842(d)(2) of title 18, United States Code, is amended—

(A) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) has been convicted in any court, after the date of enactment of this paragraph, of a crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c));".

(2) Section 842(i)(1) of title 18, United States Code, is amended—

(A) by redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) who, after the date of enactment of this paragraph, is placed under indictment for, or has been convicted in any court of, a crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c));".

(3) Section 842 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) For the purposes of this section—

"(1) the term 'crime of violence' means an offense involving the use of a firearm that has as an element the use of physical force against the person of another with intent to cause bodily harm to the person, for which the maximum term of imprisonment is greater than 6 months; and

"(2) the term 'serious misdemeanor' means an offense for which the maximum term of imprisonment is greater than 6 months.".

SEC. 412. MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration of termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on supervised release.".

SEC. 413. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "(2) or 3" and insert "(2) or (3)";

(2) in paragraph (1)(B), by striking "(a)(6),"; and

(3) in paragraph (2), by striking "subsections" and inserting "subsection (a)(6),".

SEC. 414. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FEDERAL FELONY.

Section 844(h) of title 18, United States Code, is amended by striking "ten years" and inserting "twenty years".

AMENDMENT NO. 1750

Strike on page 46, line 15, through page 53, line 5, and insert in lieu thereof the following:

TITLE IV—FIREARMS AND RELATED AMENDMENTS

SEC. 401. PROHIBITION AGAINST TRANSFERRING FIREARMS TO NONRESIDENTS.

Section 922(a)(5) of title 18, United States Code, is amended by striking out "resides" and all that follows through "(or other than that in which its place of business is located if the transferor is a corporation or other business entity);" and inserting in lieu thereof "does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides;".

SEC. 402. COMMERCE NEXUS FOR TRAFFICKING IN STOLEN FIREARMS.

(a) STOLEN FIREARMS AND AMMUNITION.—Section 922(j) of title 18, United States Code, is amended by striking out "or which constitutes," and inserting in lieu thereof "which constitutes, or which has been shipped or transported in,".

(b) MANUFACTURER'S SERIAL NUMBER.—Section 922(k) of title 18, United States Code, is amended by inserting "or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce" after "altered".

SEC. 403. TECHNICAL AMENDMENTS.

(a) REDESIGNATION.—Section 923(d)(1)(B) of title 18, United States Code, is amended by striking out "(h)" and inserting in lieu thereof "(n)";

(b) INCLUSION OF POSSESSION.—Section 925(a)(1) of title 18, United States Code, is amended by inserting "possession," before "or importation";

(c) DISABILITY.—Section 925(c) of title 18, United States Code, is amended by striking out "conviction" the first and third place such term appears and inserting in lieu thereof "disability" and by striking out "by reason of such a conviction";

(d) ELIMINATION OF PAROLE REFERENCE.—Section 924(a) of title 18, United States Code, is amended by striking out ", and shall become eligible for parole as the Parole Commission shall determine" in both places those words appear. This amendment shall be effective with respect to any offense committed after November 1, 1987.

SEC. 404. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of title 26, United States Code, is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) the Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) if the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or a firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel, rare, or because of its association with some historical figure, period, or event the Secretary may sell such firearm, after public notice, at public sale to a dealer licensed under the provisions of chapter 44 of title 18, United States Code;

"(3) if the firearm has not been disposed of pursuant to paragraph (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, General Services Administration, who shall destroy or provide for the destruction of such firearm; and

"(4) no decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 405. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding a new subparagraph, as follows:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 406. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 914(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph; and".

SEC. 407. CLARIFICATION AND DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction or restoration of civil rights.".

SEC. 408. PERMITTING CONSIDERATION OF PRETRIAL DETENTION FOR CERTAIN FIREARMS AND EXPLOSIVES OFFENSES.

Section 314(f)(1) of title 18, United States Code, is amended by—

(1) striking out "or" before subparagraph (D);

(2) redesignating subparagraph (D) as subparagraph (E); and

(3) inserting a new subparagraph (D) as follows:

"(D) an offense under 18 U.S.C. 844(a) that is a violation of 18 U.S.C. 842 (d), (h), or (i), or an offense under 18 U.S.C. 924(a) that is a violation of 18 U.S.C. 922 (d), (g), (h), (i), (j), or (o); or".

SEC. 409. ENHANCED PENALTY FOR USE OF SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR DRUG TRAFFICKING OFFENSE.

(a) IN GENERAL.—Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is a semiautomatic firearm, to imprisonment for ten years," after "sentenced to imprisonment for five years,";

(b) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(25) the term 'semiautomatic firearm' means any repeating firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

SEC. 410. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(h) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substances (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than ten years, fined under this title, or both.".

SEC. 411. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(i) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than two or more than ten years, and may be fined under this title.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than two or more than ten years, and may be fined under this title.".

SEC. 412. BAR ON SALE OF FIREARMS AND EXPLOSIVES TO OR POSSESSION OF FIREARMS AND EXPLOSIVES BY PERSONS CONVICTED OF A VIOLENT OR SERIOUS DRUG MISDEMEANOR.

(a) SALE OR DISPOSAL.—Sections 842(d)(2) and 922(d)(1) of title 18, United States Code, are each amended by inserting ", or has been convicted in any court of any crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c)). It is a bar to a prosecution under this section that the conviction for a serious misdemeanor drug or narcotic offense occurred prior to the date of enactment of this Act" after "crime punishable by imprisonment for a term exceeding one year";

(b) SHIPMENT.—Sections 842(i)(1) and 922(g)(1) of title 18, United States Code, are each amended by inserting "or has been convicted in any court of any crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c)). It is a bar to a prosecution under this section that the conviction for a serious misdemeanor drug or narcotic offense occurred prior to the date of enactment of this Act" after "crime punishable by imprisonment for a term exceeding one year";

(c) DEFINITIONS.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(q) For purposes of this section and section 842 of this title—

"(1) the term 'crime of violence' means an offense that has as an element the use of physical force against the person of another with intent to cause bodily harm to such person; and

"(2) the term 'serious misdemeanor' means an offense for which the maximum term of imprisonment is greater than six months.".

SEC. 413. POSSESSION OF A FIREARM OR AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

(a) FIREARMS.—Section 924(c) of title 18, United States Code, is amended by striking out "uses or carries a firearm" and inserting in lieu thereof "uses, carries, or otherwise possesses a firearm".

(b) EXPLOSIVES.—Section 844(h) of title 18, United States Code, is amended by striking out "carries an explosive during" and inserting in lieu thereof "carries or otherwise possesses an explosive during".

SEC. 414. MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 415. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out "(a)(6),"; and

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

SEC. 416. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FEDERAL FELONY.

Section 844(h) of title 18, United States Code, is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 417. AMENDMENTS TO CHAPTER 44 OF TITLE 18, UNITED STATES CODE, RELATING TO THE DOMESTIC ASSEMBLY OF NONIMPORTABLE FIREARMS.

(a) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end of thereof a new paragraph as follows:

"(26) The term 'semiautomatic rifle' means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

(b) ASSEMBLY OF A FIREARM.—Section 922 of title 18, United States Code is amended by adding at the end thereof a new subsection as follows:

"(s) It shall be unlawful for any person to assemble, from imported parts, any semiautomatic rifle or any semiautomatic shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—

"(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof;

"(2) assembly operations for any such rifle or shotgun by a licensed manufacturer that were taking place in the United States before May 15, 1989;

"(3) the assembly of any such rifle or shotgun for the purpose of exportation;

"(4) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Secretary; or

"(5) the assembly of any rifle or shotgun that was lawfully imported.".

(c) REDESIGNATION.—Section 924(a)(1)(B) of title 18, United States Code is amended by striking out "or (k)" and inserting in lieu thereof "(k), or (s)".

SEC. 418. INAPPLICABILITY OF ENHANCED PENALTY IN PRESENCE OF MITIGATING CIRCUMSTANCES.

The amendment of section 409(a) of this title shall not apply in sentencing a defendant who establishes that—

(1) he used the firearm to protect himself or another person from an immediate danger of death or injury arising from the unlawful use or threat of force by the person against whom the firearm was used;

(2) he used the firearm to protect the person or property of himself or another against actually occurring or immediately threatened felonious conduct by the person against whom the firearm was used; or

(3) he used the firearm to effect the arrest or prevent the escape of a person in immediate flight after the commission of a felony.

Notwithstanding the foregoing, this section is not applicable if the defendant engaged or participated in criminal conduct that gave rise to the occasion for the defendant's use of the firearm.

AMENDMENT No. 1751

Strike on page 52, line 25, beginning with "be" through page 53, line 5, and insert in lieu thereof "not be effective."

AMENDMENT No. 1752

Strike on page 46, line 15, through page 53, line 5, and insert in lieu thereof the following:

TITLE VI—FIREARMS AND RELATED AMENDMENTS

SEC. 401. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARMS, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(j) Whoever steals any firearms which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 20 or more than 30 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which-

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 30 years, fined under this title, or both.".

SEC. 402. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

AMENDMENT No. 1753

Strike on page 46, line 15, through page 53, line 5, and insert in lieu thereof the following:

TITLE IV—FIREARMS AND RELATED AMENDMENTS

SEC. 401. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 15 or more than 30 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 30 years, fined under this title, or both.".

SEC. 402. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

AMENDMENT No. 1754

At the appropriate place, insert the following:

SEC. . AVAILABILITY OF SPECIAL TRADE TREATMENT FOR CERTAIN COUNTRIES THAT REDUCE COCA PRODUCTION OR RELATED ILLICIT ACTIVITIES THROUGH IMPLEMENTATION OF APPROPRIATE ECONOMIC AND SOCIAL ALTERNATIVES.

(a) IN GENERAL.—The President shall determine with respect to each year after 1989—

(1) whether there was in Bolivia, Colombia, and Peru, respectively—

(A) an acceptable reduction in the quantity of illicit coca produced in that country, or

(B) a reduction in illicit coca-related activities in that country; and

(2) whether any annual reduction determined under paragraph (1)(A) or (B) is attributable to the implementation within the country concerned of appropriate social or economic alternatives.

(b) TIME FOR DETERMINATIONS.—The President shall make the determinations required under subsection (a) for any year before the 90th day following the close of that year and shall set forth his determinations in the report required to be submitted for that year by section 481(e) of the Foreign Assistance Act of 1961.

(c) GRANTING OF SPECIAL TRADE TREATMENT.—If—

(1) the President makes an affirmative determination under subsection (a)(1) and (2) for any year with respect to a country,

(2) the President submits to the Congress a report containing that determination, and

(3) the Congress enacts a law approving the determination of the President,

then the President, after consultation with the government of that country, may proclaim special trade treatment that is applicable to one or more articles that—

(A) are products of that country; and

(B) are entered, or withdrawn from warehouse for consumption, in the customs territory of the United States during the year following the year for which such determinations were made.

In the event that the granting of special trade treatment under this section would violate the General Agreement on Tariffs and Trade (GATT), then the provisions of this section shall not apply until the President obtains a waiver of the provision which is the basis for such violation.

(d) LIMITATION ON PROVISION OF SPECIAL TRADE TREATMENT.—Special trade treatment may not be provided to any product of a country under this section—

(1) during any period in which any action under section 802(a) of the Narcotics Control Trade Act (19 U.S.C. 2492(a)) is in force and effect with respect to that country; or

(2) which is restricted under countervailing duties or trade dumping regulations.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "acceptable reduction" means, with respect to any year for which a determination is required under subsection (a)(1)(A), that the quantity of illicit coca

produced in the country concerned during that year—

(A) was less than the quantity of illicit coca produced in that country during the preceding year; or

(B) if the standard in subparagraph (A) is not met, represented a reduction in the average rate of increase in the annual production of illicit coca in that country during the preceding 2 years.

(2) The term "appropriate social or economic alternatives" means programs and projects implemented on a local level that provide, or are intended to provide, income and employment alternatives to the production of illicit coca or to engaging in illicit coca-related activities. A program or project referred to in the preceding sentence may not be treated as an appropriate social or economic alternative unless basic social services are provided in the local area in which the program or project is being implemented.

(3) The term "illicit coca-related activities" means forms of economic activity that are required for, complementary to, or financed from the proceeds of, illicit coca production.

(4) The term "special trade treatment" means any of the following:

(A) The reduction or elimination of any duty.

(B) The termination or modification of any quantitative limitation.

AMENDMENT No. 1755

At the end of the bill insert the following:

SEC. 17. ADJUSTMENT OF STATUS OF ALIEN WITNESSES IN DRUG PROSECUTION CASES.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 201(a), by inserting "aliens whose status is adjusted under section 245B," after "subsection (b) of this section,"; and

(2) by inserting after section 245A the following new section:

"ADJUSTMENT OF STATUS OF ALIEN WITNESSES IN DRUG PROSECUTION CASES

"SEC. 245B. (a) The Attorney General may adjust to lawful permanent residence status any alien who agrees to cooperate with the Attorney General in the prosecution of individuals who have committed drug offenses in violation of the criminal laws of the United States, who have met the conditions set forth in subsection (b), and who are otherwise admissible as an immigrant under this Act.

"(b) An alien may be eligible for the status described in subsection (a) only if the prosecutor in the case in which the alien has agreed to cooperate describes to the Attorney General in a statement, which may be known as the "Threat Assessment Questionnaire"—

"(1) the potential harm to the alien or the alien's spouse, children, or parents if the alien is deported from the United States;

"(2) the nature of the case;

"(3) the value of the alien's testimony in the case; and

"(4) the alien's prior criminal record, if any.".

(b) AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 245A the following new item:

"Sec. 245B. Adjustment of status of alien witnesses in drug prosecution cases.".

(c) PROTECTION.—An alien who agrees to cooperate with the Attorney General in a criminal prosecution shall be afforded protection, if necessary, under the witness protection program authorized by chapter 224, United States Code.

AMENDMENT No. 1756

At the end of the bill insert the following:

SEC. . AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1991, to carry out the activities of the Department of Justice, such sums as are necessary for the establishment, in consultation with national organizations that operate anonymous tip hotlines, and operation of a national drug and related crime tip hotline program, which shall—

(A) provide a means for persons to make anonymous reports of drug and related crimes to a central location for dissemination to Federal, State, and local law enforcement agencies;

(B) assure complete anonymity of reporting persons and confidentiality of the information that is reported:

(C) provide trained professional interviewers;

(D) provide toll-free access;

(E) provide interviewers fluent in languages other than English, as needed;

(F) maintain close liaison and date-sharing facilities in all jurisdictions; and

(G) submit a report to Congress, not later than 6 months after the date of enactment of this Act and thereafter on March 1 of each year, describing the assistance to law enforcement authorities that the program has provided.

AMENDMENT No. 1757

At the end of the bill insert the following:

SEC. . AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1991, to carry out the activities of the Department of Justice, such sums as are necessary for—

the establishment by the Drug Enforcement Administration of a foreign precursor chemical program to provide $2,000,000 to foreign governments, of which no more than $500,000 may be provided to any 1 such government, for operating costs, computer equipment, and training to establish, under the direction of the recipient governments, precursor chemical programs which shall maintain records and monitor shipments of precursor chemicals necessary for the manufacture of controlled substances;

AMENDMENT No. 1758

At the end of the bill insert the following:

SEC. . AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1991, to carry out the activities of the Department of Justice, such sums as are necessary for—

the allocation of $60,000,000 to the States under the formula grant program administered by the Office of Justice Programs, to provide additional resources to enhance rural drug enforcement;

AMENDMENT No. 1759

At the end of the bill insert the following:

SEC. . AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1991, to carry out the activities of the Department of Justice, such sums as are necessary for—

the allocation of $1,000,0 by the Bureau of Justice Assistance to State and local multi-agency tactical narcotics teams in high intensity drug areas designated under section 1005(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(c)) to implement a comprehensive integrated multi-unit enforcement program, to reduce drug sales on the street and in "crack houses", through sustained enforcement and community participation in crime reduction measures;

AMENDMENT No. 1760

At the end of the bill add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-drug Abuse Act of 1990".

SEC. 2. TABLE OF TITLES.

Title I—International efforts to reduce illegal drug production and drug trafficking
Title II—Interdiction
Title III—Law enforcement
Title IV—Prevention, treatment, and education
Title V—Department of Defense
Title VI—International Narcotics Control
Title VII—Sanctions for failure to land or to bring to
Title VIII—Drug paraphernalia
Title IX—Protection of witnesses, jurors, and court officers
Title X—Narcotics-related public corruption
Title XI—Asset forfeiture and money laundering
Title XII—Miscellaneous

TITLE I—INTERNATIONAL EFFORTS TO REDUCE ILLEGAL DRUG PRODUCTION AND DRUG TRAFFICKING

SEC. 1001. NORTH AMERICAN NARCOTICS COUNCIL.

(a) ESTABLISHMENT.—It is the sense of the Congress that the President should direct the Secretary of State, in consultation with other appropriate officials of the Executive branch, to negotiate with the governments of Canada and Mexico for the establishment of a North American Narcotics Council (NANC) (hereafter in this section referred to as the "Council"). The purpose of the Council would be to serve as a forum for the three countries to exchange information and explore various ways to cooperate in reducing the supply and demand of illicit narcotics and psychotropic substances. The President should appoint a permanent United States representative for the Council, except that the President may personally represent the United States in lieu of such representative.

(b) RESPONSIBILITIES OF THE COUNCIL.—The Council would—

(1) explore ways and means to facilitate the exchange of information and increase cooperation in antinarcotic efforts and would establish a mechanism for an international narcotics control force consisting of civilian law enforcement authorities from each country;

(2) explore ways and means to increase and improve Canadian, Mexican, and United States efforts to supply economic, technical, and military assistance to source and trafficking countries;

(3) explore ways and means to facilitate the exchange of information on substance abuse reduction and education programs; and

(4) explore such other areas and programs as deemed necessary to reduce the demand and supply of illicit narcotics and psychotropic substances.

(c) BUDGET REQUEST.—It is further the sense of the Congress that the President

should submit to the Congress, after the establishment of the Council, for each fiscal year in which the United States participates in the Council, a budget request to cover the expenses of such participation (including any supplemental budget request necessary for fiscal year 1990).

(d) CONGRESSIONAL ADVISERS.—The President of the Senate, upon the recommendation of the Majority and Minority Leaders of the Senate, and the Speaker of the House of Representatives, upon the recommendation of the Majority and Minority Leaders of the House of Representatives, shall appoint two Members from each House of Congress (one from each political party in each House) to serve as advisers to the United States representative to the Council.

(e) REPORT.—Not later than six months after the date of enactment of this Act, and thereafter not later than March 1 of each year in which the Council is in existence, the Secretary of State shall submit to the Congress a report outlining the work and progress of the Council.

(f) TERMINATION DATE.—No funds may be used for United States participation in the Council after September 30, 1992.

SEC. 1002. AVAILABILITY OF SPECIAL TRADE TREATMENT FOR CERTAIN COUNTRIES THAT REDUCE COCA PRODUCTION OR RELATED ILLICIT ACTIVITIES THROUGH IMPLEMENTATION OF APPROPRIATE ECONOMIC AND SOCIAL ALTERNATIVES.

(a) IN GENERAL.—The President shall determine with respect to each year after 1989—

(1) whether there was in Bolivia, Colombia, and Peru, respectively—

(A) an acceptable reduction in the quantity of illicit coca produced in that country, or

(B) a reduction in illicit coca-related activities in that country; and

(2) whether any annual reduction determined under paragraph (1) (A) or (B) is attributable to the implementation within the country concerned of appropriate social or economic alternatives.

(b) TIME FOR DETERMINATIONS.—The President shall make the determinations required under subsection (a) for any year before the 90th day following the close of that year and shall set forth his determinations in the report required to be submitted for that year by section 481(e) of the Foreign Assistance Act of 1961.

(c) GRANTING OF SPECIAL TRADE TREATMENT.—If—

(1) the President makes an affirmative determination under subsection (a) (1) and (2) for any year with respect to a country,

(2) the President submits to the Congress a report containing that determination, and

(3) the Congress enacts a law approving the determination of the President,

then the President, after consultation with the government of that country, may proclaim special trade treatment that is applicable to one or more articles that—

(A) are products of that country; and

(B) are entered, or withdrawn from warehouse for consumption, in the customs territory of the United States during the year following the year for which such determinations were made.

In the event that the granting of special trade treatment under this section would violate the General Agreement on Tariffs and Trade (GATT), then the provisions of this section shall not apply until the President obtains a waiver of the provision which is the basis for such violation.

(d) LIMITATION ON PROVISION OF SPECIAL TRADE TREATMENT.—Special trade treatment may not be provided to any product of a country under this section—

(1) during any period in which any action under section 802(a) of the Narcotics Control Trade Act (19 U.S.C. 2492(a)) is in force and effect with respect to that country; or

(2) which is restricted under countervailing duties or trade dumping regulations.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "acceptable reduction" means, with respect to any year for which a determination is required under subsection (a)(1)(A), that the quantity of illicit coca produced in the country concerned during that year—

(A) was less than the quantity of illicit coca produced in that country during the preceding year; or

(B) if the standard in subparagraph (A) is not met, represented a reduction in the average rate of increase in the annual production of illicit coca in that country during the preceding 2 years.

(2) The term "appropriate social or economic alternatives" means programs and projects implemented on a local level that provide, or are intended to provide, income and employment alternatives to the production of illicit coca or to engaging in illicit coca-related activities. A program or project referred to in the preceding sentence may not be treated as an appropriate social or economic alternative unless basic social services are provided in the local area in which the program or project is being implemented.

(3) The term "illicit coca-related activities" means forms of economic activity that are required for, complementary to, or financed from the proceeds of, illicit coca production.

(4) The term "special trade treatment" means any of the following:

(A) The reduction or elimination of any duty.

(B) The termination or modification of any quantitative limitation.

SEC. 1003. ASSISTANCE FOR ANTI-NARCOTICS AGRICULTURAL DEVELOPMENT IN MAJOR COCA PRODUCING COUNTRIES.

(a) TYPES OF ASSISTANCE AUTHORIZED.—In order to strengthen efforts to eliminate the illicit cultivation of coca, the President is authorized to provide economic assistance for Bolivia, Colombia, and Peru to promote the production, processing, or marketing of export crops of agricultural commodities (excluding commodities from which narcotic and psychotropic drugs are derived), notwithstanding the provisions of law described in subsection (b).

(b) BUMPERS AMENDMENT.—The provisions referred to in subsection (a) are any provisions of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that prohibit the use of economic assistance funds for activities in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States.

(c) DEFINITION OF ECONOMIC ASSISTANCE.—As used in this section, the term "economic assistance" means assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund).

SEC. 1004. INTERAGENCY TASK FORCE TO COMBAT ILLICIT NARCOTICS.

(a) ESTABLISHMENT.—There is established an Interagency Task Force on Combatting Illicit Narcotics (hereafter in this section referred to as the "Task Force") for the purpose of coordinating the efforts of the United States Government in assisting major illicit drug producing countries and major drug-transit countries in designing programs to combat the production and trafficking in illicit drugs and in providing training and resources to such countries in order to implement such programs.

(b) COMPOSITION.—The Task Force shall be comprised of appropriate representatives of the Department of Defense, the Department of State, the Drug Enforcement Agency and chaired by the Director of National Drug Control Policy.

(c) REPORTS AND CERTIFICATIONS.—Every 12 months, the Task Force shall submit to the Congress a report on the progress made in carrying out the purposes of the Task Force and, every 12 months, the President shall identify, and so certify to the Congress, the foreign countries which are cooperating with the efforts of the United States Government assisted by the Task Force.

(d) DEFINITION.—For purposes of this section, the terms "major illicit drug producing country" and "major drug-transit country" shall have the same meanings as are given to such terms by section 481(i) of the Foreign Assistance Act of 1961.

SEC. 1005. INTERAGENCY TASK FORCE ON MONEY LAUNDERING.

(a) ESTABLISHMENT.—There is established an Interagency Task Force on Money Laundering (hereafter in this section referred to as the "Task Force") for the purpose of coordinating the efforts of the United States Government in assisting major illicit drug producing countries and major drug-transit countries in designing programs to combat the money laundering of illegal drug profits.

(b) COMPOSITION.—The Task Force shall be comprised of appropriate representatives of the Department of the Treasury, the Department of Justice, the Department of State, and chaired by the Director of National Drug Control Policy.

(c) REPORTS AND CERTIFICATIONS.—Every 12 months, the Task Force shall submit to the Congress a report on the progress made in carrying out the purposes of the Task Force and, every 12 months, the President shall identify, and so certify to the Congress, the foreign countries which are cooperating with the efforts of the United States Government assisted by the Task Force.

(d) DEFINITION.—For purposes of this section, the terms "major illicit drug producing country" and "major drug-transit country" shall have the same meanings as are given to such terms by section 481(i) of the Foreign Assistance Act of 1961.

SEC. 1006. PROVISION OF LEGAL ASSISTANCE BY THE DEPARTMENT OF JUSTICE.

(a) AUTHORITY.—The Attorney General is authorized to assist major illicit drug producing countries and major drug-transit countries in adopting national legislation to accommodate treaties on mutual assistance in criminal matters and on extradition and is authorized to provide technical assistance and advice aimed at strengthening their judicial, legal, and law enforcement systems.

(b) REPORTS AND CERTIFICATIONS.—Every 12 months, the Attorney General shall submit to the Congress a report on the progress made in carrying out subsection (a) and, every 12 months, shall identify, and so

certify to the Congress, which foreign countries are cooperating with the activities described by subsection (a).

(c) DEFINITION.—For purposes of this section, the terms "major illicit drug producing country" and "major drug-transit country" shall have the same meanings as are given to such terms by section 481(i) of the Foreign Assistance Act of 1961.

SEC. 1007. RESTRICTIONS ON ASSISTANCE.

(a) RESTRICTION.—No assistance related to the control, reduction, or elimination of illicit drug production or illicit drug trafficking may be furnished to any major illicit drug producing country or any major drug-transit country under any provision of law (other than section 105, 106, or 107) unless the certifications required by sections 105, 106, and 107 have been made.

(b) DEFINITION.—For purposes of this section, the terms "major illicit drug producing country" and "major drug-transit country" shall have the same meanings as are given to such terms by section 481(i) of the Foreign Assistance Act of 1961.

SEC. 1008. INTERNATIONAL JUDICIAL CONFERENCE.

It is the sense of Congress that—

(1) the United States should support the courageous actions of the Latin American jurists in prosecuting drug criminals; and

(2) the President should take steps to convene an international judicial conference, for the purpose of—

(A) emphasizing the worldwide support for prosecuting drug traffickers and enforcing criminal and civil penalties; and

(B) enabling senior judicial officials to exchange information on antinarcotic laws and statutes.

SEC. 1009. MARINE CORPS HELICOPTERS.

(a) AUTHORIZATION FOR TRANSFER.—In addition to any other amounts appropriated for such purpose, there is authorized to be appropriated to the Department of Defense for fiscal year 1991 $40,000,000 for the procurement of not less than four AH-1W Cobra helicopters.

(b) TRANSFER TO GOVERNMENT OF COLOMBIA.—The Secretary of Defense shall transfer the four AH-1W helicopters to the government of Colombia for use—

(1) in carrying out antidrug interdiction operations in Colombia; and

(2) for the training of Colombian personnel by Department of Defense personnel (before transfer is made) in the operation, maintenance, logistics support, and deployment of such helicopters.

SEC. 1010. SENSE OF CONGRESS.

The Congress urges the Secretary of State, in coordination with the Director of the Office of National Drug Control Policy and other agencies, to fully consider and implement proposals from United States allies for combating illicit narcotics, including cooperation in areas such as in law enforcement, interdiction, prevention, treatment, and research.

TITLE II—INTERDICTION

Subtitle A—Department of State

SEC. 2001. INTERNATIONAL NARCOTICS CONTROL.

In addition to any other amounts authorized to be appropriated to the Department of State for fiscal year 1991 to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, there is authorized to be appropriated $125,000,000, of which—

(1) $70,000,000 shall be available for the procurement of twin-engine medium lift commercial drug interdiction helicopters to expand the joint operations of the United States with law enforcement officials of major drug transhipment countries identified by the President of the United States in his annual international narcotics control report to the Congress; and

(2) $55,000,000 shall be available for the procurement of twin-engine helicopters for use in joint operations of the United States with law enforcement officials of Bolivia and Peru.

Subtitle B—Customs Service

SEC. 2101. CUSTOMS SERVICE.

Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended by adding at the end the following new paragraph:

"(4) In addition to any amount authorized to be appropriated under paragraph (1) or (3), there is authorized to be appropriated $43,000,000 for fiscal year 1991, of which—

"(A) $23,000,000 shall be available for the marine interdiction program, including procurement of additional vessels, communications, and intelligence technologies;

"(B) $5,000,000 shall be available to procure additional canine enforcement teams;

"(C) $7,000,000 shall be available without fiscal year limitation for research and development activities, including the acceleration of the development of technology to detect drugs in cargo containers; and

"(D) $8,000,000 shall be available to increase the full-time inspectors of the Customs Service deployed at ports of entry under the contraband inspection program by no less than 150 positions."

Subtitle C—Coast Guard

SEC. 2201. COAST GUARD.

In addition to any amount authorized to be appropriated, there is authorized to be appropriated for fiscal year 1991—

(1) $40,000,000 for Acquisition, Construction, and Improvements of the Coast Guard for the procurement of HH-60J utility helicopters to increase joint Coast Guard and Bahamian operations in the drug threat corridors of the Caribbean and other locations; and

(2) $1,900,000 to increase the full-time personnel of the Coast Guard used to support the operations described in paragraph (1) by no less than 45 positions.

Subtitle D—Defense

SEC. 2301. AUTHORIZATION OF FUNDS FOR UPGRADING ARMY NATIONAL GUARD HELICOPTERS.

(a) AUTHORIZATION OF FUNDS.—There is authorized to be appropriated to the Army National Guard for fiscal year 1990 the sum of $50,000,000 for use by the Army National Guard to upgrade OH-58 surveillance helicopters in the inventory of the Army National Guard to OH-58D models. Such funds are in addition to any other funds authorized to be appropriated to or for the use of the Army National Guard for fiscal year 1990 and shall remain available for obligation until September 30, 1993.

(b) DEPLOYMENT OF UPGRADED HELICOPTERS.—Helicopters upgraded with funds appropriated pursuant to subsection (a) shall be used by Army National Guard units of the States of Arizona, California, New Mexico, Texas, and Utah to support drug interdiction operations carried out by civilian law enforcement agencies of Federal, State, and local governments. When participating in such drug interdiction operations, the commanding officers of the Army National Guard units concerned shall coordinate the actions of their units with the United States Custom Service, the United States Border Patrol, the Command, Control, Communications, and Intelligence (C-3I) Center at March Air Force Base, California, and the drug coordination center of the Department of Defense at Fort Bliss, Texas.

SEC. 2302. AUTHORIZATION OF FUNDS FOR AIRBORNE EARLY WARNING SURVEILLANCE AIRCRAFT.

(a) AUTHORIZATION.—In addition to any other amounts authorized to be appropriated for fiscal year 1991, the sum of $70,000,000 is authorized to be appropriated to the Department of Defense for the procurement or retrofit of 1 additional P-3 airborne early warning surveillance (AEW) aircraft and 1 C-130 aircraft equipped with AEW for the Marine Corps.

(b) LOAN OF EQUIPMENT TO CUSTOMS SERVICE.—(1) The Secretary of Defense shall make the P-3 AEW aircraft referred to in subsection (a) available to the Customs Service.

(2) The Customs Service shall have the responsibility for operation and maintenance costs attributable to the aircraft made available to the Customs Service.

TITLE III—LAW ENFORCEMENT

Subtitle A—Capital Punishment

SEC. 3001. SHORT TITLE FOR SUBTITLE A.

This subtitle may be cited as the "Capital Punishment Procedures Act of 1990".

SEC. 3002. DEATH PENALTY PROCEDURES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Title 18 of the United States Code is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Hearing to determine whether sentence of death is justified.
"3594. Imposition of sentence.
"3595. Review of sentence of death.
"3596. Implementation of sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381;

"(b) an offense described in section 1751(c) if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(3) acting with reckless disregard for human life, engaged or substantially participated in conduct which the defendant knew would create a grave risk of death to another person or persons and death resulted from such conduct;

shall be sentenced to death if, after consideration of the factors set forth in section

3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, but no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—(1) In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(A) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(B) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(C) MINOR PARTICIPATION IN OFFENSE.—The defendant is punishable as a principal under section 2 in an offense that was committed by another person, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(2) The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) GRAVE RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) DEATH OCCURRED DURING COMMISSION OF ANOTHER CRIME.—The death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under—

"(A) section 751, 794, 844(d), 844(f), 1118, 1201, or 2381 of this title;

"(B) section 1826 of title 28, United States Code; or

"(C) section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) and (n)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping apprehension used or possessed a firearm as defined in section 921; or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm, as defined in section 921, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping apprehension, knowingly created a grave risk of death to 1 or more persons in addition to the victim of the offense.

"(6) MANNER OF COMMISSION.—The defendant committed the offense in a manner that involved torture or serious physical abuse of the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official (as that term is defined in section 1116(b)(3)(A)) if the official is in the United States on official business; or

"(D) a public servant who is a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while the public servant is engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of the public servant's status as a public servant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(d) For the purposes of paragraph (c)(11)—

"(1) the terms 'President-elect' and 'Vice-President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with sections 1 and 2 of title 3, United States Code;

"(2) the term 'Federal law enforcement officer' means a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense;

"(3) the term 'Federal prison' means a Federal correctional, detention, or penal facility, community treatment center, or halfway house, or any such prison operated under contract with the Federal Government; and

"(4) the term 'Federal judge' means any judicial officer of the United States, including justice of the Supreme Court and a magistrate.

"§ 3593. Hearing to determine whether sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice—

"(1) that the Government in the event of conviction will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors enumerated in section 3592 and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE COURT OR JURY.—When the attorney for the Government has filed a notice under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such hearing, no presentence report under rule 32(c) of the Federal Rules of Criminal Procedure shall be prepared. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted on a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, on motion of the defendant concurred in by the Government.

A jury impaneled pursuant to paragraph (2)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented concerning—

"(1) any matter relating to any mitigating factor described in section 3592 or any other mitigating factor; and

"(2) any matter relating to any aggravating factor described in section 3592 for which notice has been provided under subsection (a)(2) and, if information is presented relating to such a listed factor, any other aggravating factor for which notice has been so provided.

Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial, or at the judge's discretion. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor may be made whenever 9 or more jurors agree as to the existence of that aggravating factor, provided, however that no death sentence may be returned unless each juror finds the existence of at least one aggravating factor. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of sentence

"Upon the making of a recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise, the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other law, if the maximum term of imprisonment for an offense is life imprisonment, the court may impose a sentence of life imprisonment without possibility of release or furlough.

"§ 3595. Review of sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of a sentence of death shall be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted at trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the evidence and information support the finding of the existence of an aggravating factor or factors,

it shall affirm the sentence.

"(2) If the court of appeals does not make the determination described in paragraph (1), it shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

"§ 3596. Implementation of sentence of death

"(a) PROCEDURE.—(1) A person who has been sentenced to death under this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence.

"(2) When a sentence of death is to be implemented, the Attorney General shall release the defendant to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence was imposed.

"(3) If the law of the State in which the sentence was imposed does not provide for implementation of a sentence of death, the court shall designate another State the law of which does so provide, and the sentence shall be implemented in the manner prescribed by the law of that State.

"(b) LIMITATION.—A sentence of death shall not be carried out upon—

"(1) a person who lacks the mental capacity to understand the death penalty and why it was imposed; or

"(2) a woman while she is pregnant.

"(c) PARTICIPATION OF EMPLOYEES.—(1) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of employment or contractual obligation, to be in attendance at or to participate in an execution carried out under this section if participation would be contrary to the moral or religious convictions of the employee.

"(2) For the purpose of this subsection, the term 'participate in an execution' includes personal preparation of the condemned person or the apparatus used for the execution; and supervision of the activities of other persons in carrying out those activities.

"§ 3597. Use of State facilities

"A United States marshal charged with supervising the implementation of a sentence of death may use State or local facilities for the purpose, may use the services of an appropriate State or local official or of an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) Notwithstanding any other law:

"(1) In every criminal action brought in a court of the United States in which a defendant is charged with a crime with respect to which a sentence of death is sought, a defendant who is or becomes financially unable to obtain adequate representation shall be entitled to appointment of counsel at trial and upon direct appeal of the judgment and sentence entered at trial.

"(2) After a conviction and sentence entered pursuant to this chapter have been affirmed on direct appeal, appointment of counsel for a defendant described in paragraph (1) in any other proceeding related to the case shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority.

"(3) Appointment of counsel under this chapter shall be governed by section 3006A and (with respect to paragraph (1)) section 3005.

"(b) The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a State court or other State proceeding in a capital case, other than a requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28, United States Code, relating to a State capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by section 3006A.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for part II of title 18, United States Code, is amended by inserting the following new item after the item relating to chapter 227:

"228. Death penalty procedures"..... 3591".

SEC. 3002. MURDER BY FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release or furlough.

"(b) For the purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The section analysis for chapter 51, United States Code, is amended by adding at the end thereof the following new item:

"1118. Murder by a Federal prisoner.".

SEC. 3003. DEATH PENALTY RELATING TO KIDNAPPING.

Section 1201(a) of title 18, United States Code, is amended by striking the period at the end thereof and inserting "and, if the death of any person results, shall be punished by death or life imprisonment.".

SEC. 3004. DEATH PENALTY RELATING TO HOSTAGE TAKING.

Section 1203(a) of title 18, United States Code, is amended by striking the period at the end thereof and inserting "and, if the death of any person results, shall be punished by death or life imprisonment.".

SEC. 3005. CONFORMING AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 34 of title 18, United States Code, is amended by striking ", if the jury" and all that follows through "order".

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end thereof and inserting ", but the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 of this title that the offense directly concerned nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; sources or methods of intelligence or counterintelligence operations; or any other major weapons system or major element of defense strategy.".

(c) TRANSPORTING EXPLOSIVES.—Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(d) MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.—Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(e) MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.—Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(f) MURDER.—The second paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows: "Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life.".

(g) KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.—Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(h) MAILABILITY OF INJURIOUS ARTICLES.—The last sentence of section 1716 of title 18, United States Code, is amended by striking "life," and all that follows through "order." and inserting "life.".

(i) PRESIDENTIAL ASSASSINATION.—Section 1751(c) of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(j) MURDER FOR HIRE.—Section 1958(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

(k) VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.—Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine in accordance with this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both;".

(l) WRECKING TRAINS.—The penultimate paragraph of section 1992 of title 18, United States Code, is amended by striking "life," and all that follows through "order." and inserting "life.".

(m) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(n) TERRORIST ACTS.—Section 2331(a)(1) of title 18, United States Code, is amended to read as follows:

"(1)(A) if the killing is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, or be fined under this title, or both;

"(B) if the killing is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;".

SEC. 3006. CONFORMING AMENDMENT TO THE FEDERAL AVIATION ACT.

Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c).

Subtitle B—Habeas Corpus Reform

SEC. 3050. SHORT TITLE.

This subtitle may be cited as the "Reform of Federal Intervention in State Proceedings Act of 1990".

SEC. 3051. FAILURE TO RAISE CLAIM; PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) When a person in custody pursuant to the judgment of a State court fails to raise a claim in State proceedings at the time or in the manner required by State rules of procedure, the claim shall not be entertained in an application for a writ of habeas corpus unless—

"(1) actual prejudice resulted to the applicant from the alleged denial of the Federal right asserted; and

"(2)(A) the failure to raise the claim properly or to have it heard in State proceedings was the result of State action in violation of the Constitution or laws of the United States;

"(B) the Federal right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable;

"(C) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default; or

"(D) a constitutional violation asserted in the claim probably resulted in a factually erroneous conviction or a sentence predicated on an erroneous factual determination.

"(e) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 3052. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"(a) In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"(b) There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of the person's detention pending removal proceedings.

"(c) An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding when the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 3053. AMENDMENT OF RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"Rule 22. Habeas corpus and § 2255 proceedings

"(a) *Application for an Original Writ of Habeas Corpus.*—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) *Necessity of Certificate of Probable Cause for Appeal.*—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed to be addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the United States or its representative, a certificate of probable cause is not required.".

SEC. 3054. STATE CUSTODY.

Section 2254 of title 28, United States Code, is amended—

(1) in subsection (b), by striking "State," and all that follows through "prisoner." and inserting "State.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g);

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be accepted as correct, and may not be reexamined by any court of the United States."; and

(5) by adding at the end thereof the following new subsection:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

SEC. 3055. FEDERAL CUSTODY.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second paragraph and the penultimate paragraph thereof; and

(2) by adding at the end thereof the following new paragraphs:

"When a person fails to raise a claim at the time or in the manner required by Federal rules of procedure, the claim shall not be entertained in a motion under this section unless—

"(1) actual prejudice resulted to the movant from the alleged denial of the right asserted; and

"(2)(A) the failure to raise the claim properly, or to have it heard, was the result of governmental action in violation of the Constitution or laws of the United States;

"(B) the right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable;

"(C) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default; or

"(D) a constitutional violation asserted in the claim probably resulted in a factually erroneous conviction or a sentence predicated on an erroneous factual determination.

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code."0

Subtitle C—Exclusionary Rule

SEC. 3101. AMENDMENT OF TITLE 18, UNITED STATES CODE.

(a) ELIMINATION OF EXCLUSIONARY RULE.—Chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3509. Elimination of exclusionary rule as it pertains to the fourth amendment

"Evidence that is otherwise admissible in a Federal criminal proceeding shall not be excluded on the ground that the evidence was obtained in violation of the fourth amendment to the United States Constitution.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3509. Elimination of exclusionary rule as it pertains to the fourth amendment.".

SEC. 3102. AMENDMENT TO TITLE 28, UNITED STATES CODE.

(a) TORT CLAIM FOR VIOLATION OF FOURTH AMENDMENT.—Title 28 of the United States Code is amended by inserting after chapter 171 the following new chapter:

"CHAPTER 172—ILLEGAL SEARCH AND SEIZURE

"Sec.
"2691. Definitions.
"2692. Tort claims; illegal search and seizure.
"2693. Sanctions against investigative or law enforcement officers; illegal search and seizure.
"2694. Judgment as a bar.
"2695. Attorneys' fees and costs.
"2696. Applicability of other tort claims procedures.

"§ 2691. Definitions

"For the purposes of this chapter—

"(1) the term 'Federal agency' means the executive departments, military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include a contractor with the United States; and

"(2) the term 'investigative or law enforcement officer' means an officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for violation of Federal law, or a person acting under or at the request of such an officer.

"§ 2692. Tort claims; illegal search and seizure

"(a) The United States shall be liable for any damages resulting from a search or seizure conducted by an investigative or law enforcement officer, acting within the scope of the officer's office or employment, in vio-

lation of the fourth amendment to the United States Constitution.

"(b) A person aggrieved by a violation of the fourth amendment to the United States Constitution may recover actual damages and such punitive damages as the court may award under subsection (c).

"(c) Punitive damages may be awarded by the court, upon consideration of all of the circumstances of the case, including—

"(1) the extent of the investigative or law enforcement officer's deviation from permissible conduct;

"(2) the extent to which the violation was willful, reckless, or grossly negligent;

"(3) the extent to which the aggrieved person's privacy was invaded;

"(4) the extent of the aggrieved person's personal injury, both physical and mental;

"(5) the extent of any property damage; and

"(6) the effect such an award would have in preventing future violations of the fourth amendment to the United States Constitution.

"(d) Notwithstanding subsections (b) and (c), the recovery by a person who is convicted of an offense for which evidence of such offense was seized in violation of the fourth amendment to the United States Constitution is limited to actual physical personal injury and actual property damage sustained as a result of the unconstitutional search and seizure.

"(e) No judgment, award, compromise, or settlement of an action brought under this section shall exceed $25,000, including actual and punitive damages. The United States shall not be liable for interest prior to judgment.

"(f) An action under this section shall be brought within the period of limitations provided in section 2401(b).

"§ 2693. Sanctions against investigative or law enforcement officers; illegal search and seizure

"An investigative or law enforcement officer who conducts a search and seizure in violation of the fourth amendment to the United States Constitution shall be subject to discipline in the discretion of the Federal agency employing the officer, if the agency determines, after notice and hearing, that the officer conducted the search or seizure without a good faith belief that the search or seizure was constitutional.

"§ 2694. Judgment as a bar

"The remedy against the United States provided under this chapter shall be the exclusive civil remedy for a violation of the fourth amendment to the United States Constitution by an investigative or law enforcement officer acting within the scope of the officer's office or employment whose act or omission gave rise to the claim.

"§ 2695. Attorneys' fees and costs

"In an action brought under this chapter the court may award any claimant who prevails in such action reasonable attorneys' fees and other litigation costs reasonably incurred.

"§ 2696. Applicability of other tort claims procedures

"The procedures provided in sections 2672, 2675, 2677, 2678, 2679, and 2680 apply to an action brought under this chapter. For the purposes of those sections, an investigative or law enforcement officer who conducts a search and seizure in violation of the fourth amendment to the Constitution shall be treated as if the officer were an employee of the government.".

(b) TECHNICAL AMENDMENT.—The table of chapters for part VI of title 28, United States Code, is amended by inserting immediately after the item relating to chapter 171 the following new item:

"172. Illegal Search and Seizure ..... 2691".

SEC. 3103. JURISDICTION.

(a) IN GENERAL.—Section 1346 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) The district courts, together with the United States District Court for the District of the Canal Zone, the United States District for the Territory of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, shall have exclusive original jurisdiction of civil actions on claims against the United States, for money damages, that accrue after the date of enactment of chapter 172 and are brought under that chapter.".

(b) CONFORMING AMENDMENT.—Section 1402(b) of title 28, United States Code, is amended by striking "subsection (b)" and inserting "subsection (b) or (g)".

Subtitle D—Interstate Transportation for Purposes of Drug Activity

SEC. 3151. AMENDMENT OF THE CONTROLLED SUBSTANCES ACT.

Section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) is amended—

(1) in paragraph (1) by striking "or" at the end thereof;

(2) in paragraph (2) by striking the period at the end thereof and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(3) to transport in interstate or foreign commerce, or in the District of Columbia, or in any territory or possession of the United States, a person for the purpose of engaging in the growing, harvesting, manufacture, distribution, or dispensing of a controlled or counterfeit substance.".

Subtitle E—Drug-Free School Zones

SEC. 3201. DEVELOPMENT OF MODEL PROGRAM OF STRATEGIES AND TACTICS.

(a) IN GENERAL.—The Attorney General shall develop a model program of strategies and tactics for establishing and maintaining drug-free school zones.

(b) ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The program required by subsection (a) shall be designed to provide State and local law enforcement agencies with materials, training, and other assistance to establish, enforce, and evaluate the effectiveness of drug-free school zone enforcement efforts.

(c) PROGRAM CRITERIA.—The program required by subsection (a) shall—

(1) define the criminal justice community's role in creating and maintaining drug-free school zones;

(2) develop a framework for law enforcement collaboration with the school system and community resource network;

(3) identify a core law enforcement drug demand reduction program plan;

(4) provide materials and technical assistance for demarcating and establishing drug-free school zones;

(5) create a coordinated publicity plan with the school system and community resource network;

(7) identify and develop model drug-free school zone law enforcement strategies and tactics;

(8) develop a model coordinated strategy for prosecuting violations within the zones;

(9) create a uniform framework for monitoring and evaluating the effectiveness of drug-free school zones to determine which strategies and tactics succeed under various conditions and constraints; and

(10) provide support materials and exemplary program overviews.

(d) PREFERRED APPROACHES.—In establishing the program required by subsection (a), the Attorney General shall prefer approaches to drug-free school zone enforcement that unite the criminal justice community, the education community, and the network of community resources in meaningful collaboration to reduce the availability of and demand for drugs in a drug-free school zone.

(e) REPORT.—At the conclusion of the program required by subsection (a), the Attorney General shall submit a report to Congress describing the strategies and tactics that are found to be successful in establishing, enforcing, and maintaining drug-free school zones.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for fiscal year 1991.

Subtitle F—Drug Testing of Defendants on Probation or Supervised Release

SEC. 3251. DRUG TESTING PROGRAM.

(a) ADDITION OF NEW SECTION.—Subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3608. Drug testing of defendants on supervised release

"The Director of the Administrative Office of the United States Courts shall, as soon as is practicable after the date of enactment of this section, establish a program of drug testing of persons placed on supervised release pursuant to section 3583. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of each such person convicted of a felony or other offense described in section 3563(a)(1)(D).".

(b) TECHNICAL AMENDMENT.—The section analysis for subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3608. Drug testing of defendants on supervised release.".

SEC. 3252. CONDITIONS OF PROBATION.

Section 3563(a) of title 18, United States Code, is amended to read as follows:

"(a) MANDATORY CONDITIONS.—(1) The court shall provide, as an explicit condition of a sentence of probation—

"(A) for a felony, a misdemeanor, or an infraction, that the defendant not commit another Federal, State, or local crime during the term of probation;

"(B) for a felony, that the defendant also abide by at least one condition set forth in subsection (b)(2), (b)(3), or (b)(13), unless the court finds on the record that extraordinary circumstances exist that would make such a condition plainly unreasonable, in which event the court shall impose one or more of the other conditions set forth under subsection (b);

"(C) for a felony, a misdemeanor, or an infraction, that the defendant not possess illegal controlled substances; and

"(D) for a felony, a crime of violence as defined in section 16, an offense involving a firearm as defined in section 921, or a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 884(c)), that the defendant refrain from any unlawful use of a controlled sub-

stance and submit to periodic drug tests (as determined by the court) for use of a controlled substance.

"(2) The condition described in paragraph (1)(D) may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts or the Director's designee. No action may be taken against a defendant pursuant to a drug test administered in accordance with paragraph (1)(D) or section 3583(d) or 4209(a) unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or is a test of equivalent accuracy, as determined by the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services.

"(3) If the court has imposed and ordered execution of a fine and placed the defendant on probation, payment of the fine or adherence to the court-established installment schedule shall be a condition of the probation.".

SEC. 3253. CONDITIONS OF SUPERVISED RELEASE.

Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "In the case of a defendant convicted of a felony or other offense described in section 3563(a)(1)(D), the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. The condition stated in the preceding sentence may be suspended or ameliorated as provided in section 3563(a)(2).".

SEC. 3254. CONDITIONS OF PAROLE FOR DEFENDANTS TO WHOM PRIOR LAW APPLIES.

Section 4209(a) of title 18, United States Code, as in effect pursuant to section 235(b)(1) of the Comprehensive Crime Control Act of 1984 (18 U.S.C. 4209 note; 98 Stat. 2032), is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(1)(D), the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. The condition stated in the preceding sentence may be suspended or ameliorated as provided in section 3563(a)(2).".

Subtitle H—Firearms and Related Amendments

SEC. 3351. PROHIBITION OF TRANSFER OF FIREARMS TO NONRESIDENTS.

Section 922(a)(5) of title 18, United States Code, is amended by striking "resides" and all that follows through "entity);" and inserting "does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides,".

SEC. 3352. COMMERCE NEXUS FOR TRAFFICKING IN STOLEN FIREARMS.

(a) RECEIPT OF AND OTHER TRANSACTIONS IN FIREARMS.—Section 922(j) of title 18, United States Code, is amended by striking "or which constitutes," and inserting "which constitutes, or which has been shipped or transported in,".

(b) FIREARMS WITHOUT SERIAL NUMBERS.—Section 922(k) of title 18, United States Code, is amended by striking the period at the end thereof and inserting "or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.".

SEC. 3353. TECHNICAL AMENDMENTS.

(a) LICENSE APPLICATIONS.—Section 923(d)(1)(B) of title 18, United States Code, is amended by striking "(h)" and inserting "(n)".

(b) PENALTIES.—(1) Section 924(a) of title 18, United States Code, is amended in paragraphs (1) and (2) by striking ", and shall become eligible for parole as the Parole Commission shall determine".

(2) The amendment made by paragraph (1) shall not be effective with respect to a person imprisoned for an offense committed before November 1, 1987.

(c) RELIEF FROM DISABILITIES.—Section 925 of title 18, United States Code, is amended—

(1) in subsection (a)(1) by inserting "possession," before "or importation"; and

(2) in subsection (c)—

(A) in the first sentence by striking "conviction" and inserting "disability"; and

(B) in the fourth sentence by—

(i) striking "by reason of such a conviction"; and

(ii) striking "such conviction" and inserting "such disability".

SEC. 3354. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation for forfeiture thereof—

"(1) the Secretary—

"(A) may retain the firearm for official use of the Department of the Treasury, or

"(B) if not so retained, offer to transfer (or transfer upon acceptance) the weapon without charge to any other executive department or independent establishment of the Government for official use by it,

"(2) if the firearm—

"(A) is not disposed of pursuant to paragraph (1),

"(B) is a firearm other than a machinegun, and

"(C) is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel or rare or because of its association with an historical figure, period, or event,

the Secretary may sell such firearm, after public notice, at public sale to a dealer licensed under chapter 44 of title 18, United States Code, and

"(3) if the firearm has not been disposed of pursuant to paragraph (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, General Services Administration, who shall destroy or provide for the destruction of such firearm.

No decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 3355. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) in clause (1) by striking "or" at the end thereof;

(2) in clause (2) by striking "and" at the end thereof and inserting "or"; and

(3) by adding at the end thereof the following new clause:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph;".

SEC. 3356. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended—

(1) by striking the period at the end of subparagraph (B) and inserting a semicolon;

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding 1 year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 3357. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end thereof the following: "Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction, or restoration of civil rights."

SEC. 3358. CONSIDERATION OF PRETRIAL DETENTION FOR CERTAIN FIREARMS AND EXPLOSIVES OFFENSES.

Section 3142(f)(1) of title 18, United States Code, is amended—

(1) in subparagraph (C) by striking "or" at the end thereof;

(2) by redesignating subparagraph (D) as subparagraph (F); and

(3) by inserting after subparagraph (C) the following new subparagraphs:

"(D) an offense under section 884(a) of this title that is a violation of section 842 (d), (h), or (i) of this title;

"(E) an offense under section 924(a) of this title that is a violation of 922 (d), (g), (h), (i), (j), or (o) of this title; or".

SEC. 3359. POSSESSION OF FIREARM OR EXPLOSIVE DURING THE COMMISSION OF FELONY.

(a) FIREARMS.—Section 924(c) of title 18, United States Code, is amended by striking "uses or carries a firearm" and inserting "uses, carries, or otherwise possesses a firearm".

(b) EXPLOSIVES.—Section 844(h) of title 18, United States Code, is amended by striking "carries an explosive during" and inserting "carries or otherwise possesses an explosive during".

SEC. 3360. ENHANCED PENALTY FOR USE OF SEMIAUTOMATIC FIREARM DURING CRIME OF VIOLENCE OR DRUG TRAFFICKING OFFENSE.

(a) PENALTY.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "five years," and inserting "five years, if the firearm is a semiautomatic firearm, to imprisonment for ten years (in the absence of the mitigating circumstances stated in paragraph (4)),"; and

(2) by adding at the end thereof the following new paragraph:

"(4) The enhanced penalty for a crime involving the use, carrying, or possession of a semiautomatic firearm shall not apply in

sentencing a defendant who establishes that—

"(A) the defendant used the firearm to protect himself or another person from an immediate danger of death or injury arising from the unlawful use or threat of force by the person against whom the firearm was used;

"(B) the defendant used the firearm to protect the defendant's person or property or the person or property of another against actually occurring or immediately threatened felonious conduct by the person against whom the firearm was used; or

"(C) the defendant used the firearm to effect the arrest or prevent the escape of a person in immediate flight after the commission of a felony,

unless the defendant engaged or participated in criminal conduct that gave rise to the occasion for the defendant's use of the firearm.".

(b) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"(25) The term 'semiautomatic firearm' means a repeating firearm that utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and that requires a separate pull of the trigger to fire each cartridge.".

SEC. 3361. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended—

(1) by redesignating the second subsection (f) (added by section 6211 of the Anti-Drug Abuse Amendments Act of 1988) and subsection (g) as subsections (g) and (h), respectively; and

(2) by adding at the end thereof the following new subsection:

"(i) Whoever, with the intent to engage in or promote conduct that—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 3362. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Whoever steals a firearm that is moving as, or is a part of, or that has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(k) Whoever steals any explosive materials that are moving as, or are a part of, or that have moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.".

SEC. 3363. BAR ON SALE OF FIREARMS AND EXPLOSIVES TO OR POSSESSION OF FIREARMS AND EXPLOSIVES BY PERSONS CONVICTED OF A VIOLENT OR SERIOUS DRUG MISDEMEANOR.

(a) FIREARMS.—(1) Section 922(d)(1) of title 18, United States Code, is amended—

(A) by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (3), (4), (5), (6), (7), and (8), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) has been convicted in any court, after the date of enactment of this paragraph, of a crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c));".

(2) Section 922(g)(1) of title 18, United States Code, is amended—

(A) by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (3), (4), (5), (6), (7), and (8), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) has been convicted in any court, after the date of enactment of this paragraph, of a crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c));".

(3) Section 922 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(q) For the purposes of this section—

"(1) the term 'crime of violence' means an offense involving the use of a firearm that has as an element the use of physical force against the person of another with intent to cause bodily harm to the person, for which the maximum term of imprisonment is greater than 6 months; and

"(2) the term 'serious misdemeanor' means an offense for which the maximum term of imprisonment is greater than 6 months.".

(b) EXPLOSIVES.—(1) Section 842(d)(2) of title 18, United States Code, is amended—

(A) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) has been convicted in any court, after the date of enactment of this paragraph, of a crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c));".

(2) Section 842(i)(1) of title 18, United States Code, is amended—

(A) by redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) who, after the date of enactment of this paragraph, is placed under indictment for, or has been convicted in any court of, a crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c));".

(3) Section 842 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) For the purposes of this section—

"(1) the term 'crime of violence' means an offense involving the use of a firearm that has as an element the use of physical force against the person of another with intent to cause bodily harm to the person, for which the maximum term of imprisonment is greater than 6 months; and

"(2) the term 'serious misdemeanor' means an offense for which the maximum term of imprisonment is greater than 6 months.".

SEC. 3364. MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on supervised release.".

SEC. 3365. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "(2) or 3" and inserting "(2) or (3)";

(2) in paragraph (1)(B), by striking "(a)(6),"; and

(3) in paragraph (2), by striking "subsections" and inserting "subsection (a)(6),".

SEC. 3366. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FEDERAL FELONY.

Section 844(h) of title 18, United States Code, is amended by striking "ten years" and inserting "twenty years".

Subtitle I—Alien Witnessess

SEC. 3400. ADJUSTMENT OF STATUS OF ALIEN WITNESSES IN DRUG PROSECUTION CASES.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 201(a), by inserting "aliens whose status is adjusted under section 245B," after "subsection (b) of this section,"; and

(2) by inserting after section 245A the following new section:

"ADJUSTMENT OF STATUS OF ALIEN WITNESSES IN DRUG PROSECUTION CASES

"SEC. 245B. (a) The Attorney General may adjust to lawful permanent residence status any alien who agrees to cooperate with the Attorney General in the prosecution of individuals who have committed drug offenses in violation of the criminal laws of the United States, who have met the conditions set forth in subsection (b), and who are otherwise admissible as an immigrant under this Act.

"(b) An alien may be eligible for the status described in subsection (a) only if the prosecutor in the case in which the alien has agreed to cooperate describes to the Attorney General in a statement, which may be known as the "Threat Assessment Questionnaire"—

"(1) the potential harm to the alien or the alien's spouse, children, or parents if the alien is deported from the United States;

"(2) the nature of the case;

"(3) the value of the alien's testimony in the case; and

"(4) the alien's prior criminal record, if any.".

(b) AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 245A the following new item:

"Sec. 245B. Adjustment of status of alien witnesses in drug prosecution cases.".

(c) PROTECTION.—An alien who agrees to cooperate with the Attorney General in a criminal prosecution shall be afforded protection, if necessary, under the witness protection program authorized by chapter 224, United States Code.

Subtitle J—Civil Forfeiture

SEC. 3450. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 3451. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a) (1) (B), the following additional provision shall, to the extent provided by treaty, apply:";

(2) in paragraph (1) by inserting "or the Secretary of the Treasury" after "the Attorney General" in the third and fifth sentences;

(3) in paragraph (1) by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General or the Secretary of the Treasury , as the case may be, may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

(A) has been agreed to by the Secretary of State,

(B) is authorized in an international agreement between the United States and the foreign country, and

(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(4) in paragraph (1) by striking the last sentence.

Subtitle K—Authorization of Appropriations

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1991, to carry out the activities of the Department of Justice, such sums as are necessary for—

(1) the hiring of 1 additional assistant United States Attorney and 1 additional support staff person for each United States Attorney's office;

(2) the hiring of 50 additional agents of the Federal Bureau of Investigation and necessary support staff for field investigations in support of the Bureau's national drug strategy;

(3) the hiring of 100 additional agents of the Drug Enforcement Agency and necessary support staff to enhance enforcement efforts in rural areas of the United States;

(4) the construction of one 500-bed Federal prison complex.

(5) the allocation of $60,000,000 to the States under the formula grant program administered by the Office of Justice Programs, to provide additional resources to enhance rural drug enforcement;

(6) the allocation of $1,000,000 by the Bureau of Justice Assistance to State and local multi-agency tactical narcotics teams in high intensity drug areas designated under section 1005(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(c)) to implement a comprehensive integrated multi-unit enforcement program, to reduce drug sales on the street and in "crack houses", through sustained enforcement and community participation in crime reduction measures;

(7) the establishment by the Drug Enforcement Administration of a foreign precursor chemical program to provide $2,000,000 to foreign governments, of which no more than $500,000 may be provided to any 1 such government, for operating costs, computer equipment, and training to establish, under the direction of the recipient governments, precursor chemical programs which shall maintain records and monitor shipments of precursor chemicals necessary for the manufacture of controlled substances; and

(8) the allocation of $1,000,000 for the establishment, in consultation with national organizations that operate annonymous tip hotlines, and operation of a national drug and related crime tip hotline program, which shall—

(A) provide a means for persons to make annonymous reports of drug and related crimes to a central location for dissemination to Federal, State, and local law enforcement agencies;

(B) assure complete anonymity of reporting persons and confidentiality of the information that is reported;

(C) provide trained professional interviewers;

(D) provide toll-free access;

(E) provide interviewers fluent in languages other than English, as needed;

(F) maintain close liaison and data-sharing facilities in all jurisdictions; and

(G) submit a report to Congress, not later than 6 months after the date of enactment of this Act and thereafter on March 1 of each year, describing the assistance to law enforcement authorities that the program has provided.

TITLE IV—PREVENTION, TREATMENT, AND EDUCATION

Subtitle B—Miscellaneous Provisions

SEC. 1101. COMMUNITY DEVELOPMENT.

(a) CONTROLLED SUBSTANCES ACT.—Section 511(e)(2) of the Controlled Substances Act (21 U.S.C. 881(e)(2)) is amended by adding at the end thereof the following new subparagraph:

"(C) Notwithstanding subparagraph (B), the Attorney General shall transfer 50 percent of any such moneys and proceeds remaining after payment of the expenses referred to in subparagraph (A) to the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration for use in accordance with section 509H of the Public Health Service Act.".

(b) TARIFF ACT OF 1930.—Section 613A(f) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)) is amended by adding at the end thereof the following new paragraph:

"(4) The Commissioner of Customs shall make available to the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, not less than 50 percent of the funds appropriated under this subsection that are utilized by the Commissioner to carry out the purposes of this section, for use by the Administrator in accordance with section 509H of the Public Health Service Act.".

(c) PUBLIC HEALTH SERVICE ACT.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. COMMUNITY DEVELOPMENT.

"(a) ASSISTANCE.—The Administrator shall use amounts transferred under section 511(e)(2)(C) of the Controlled Substances Act, and amounts made available to the Administrator under section 613A(f)(4) of the Tariff Act of 1930, to make grants to the governors, the District of Columbia and the territories under a formula to be developed by the Administrator. Such funds shall be used for the support of programs operated by local law enforcement agencies to support prevention and education programs.

"(b) CONSTRUCTION.—Assistance made available under this section may be used by an entity for the acquisition, construction, renovation, or lease of facilities designed to support programs established or implemented with receive assistance made available under this section. Such programs shall include one or more of the following activities, school based education programs, before school and after school activities, stay in school programs, and activities during vacations and weekends (such activities may include athletic programs, academic based programs, support of teams and leagues, and purchase of equipment and supplies.

"(c) ADMINISTRATION.—The recipient of assistance under this section shall not use in excess of 10 percent of the amount of such assistance to pay the administrative costs associated with the support of programs under this section.".

SEC. 1102. DRUG SALVAGER COMPENSATION PROGRAM.

Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 710. DRUG SALVAGER COMPENSATION PROGRAM.

"(a) PURPOSE.—It is the purpose of this section to establish a program to decrease the availability of drugs that are acquired through salvage of shipments of pharmaceuticals and controlled substances through the provision of assistance to salvagers of such products to enable such salvagers to return such product to the manufacturer or to destroy such product.

"(b) ESTABLISHMENT.—The Commissioner, in consultation with the Administrator of the Drug Enforcement Administration, shall establish a drug salvager compensation program (hereinafter referred to in this section as the 'program') to carry out the purpose described in subsection (a).

"(c) CONTRACTS.—

"(1) IN GENERAL.—To carry out the program the Commissioner, in consultation with the Administrator of the Drug Enforcement Administration, shall enter into contracts with private nonprofit or profit making entities that acquire pharmaceuti-

cals and controlled substances through the salvage of shipments of such products.

"(2) REQUIREMENT.—A contract entered into under paragraph (1) shall require the entity that is subject to the contract to return any pharmaceuticals and controlled substances acquired by such entity through salvage to the manufacturer or to destroy such products if the manufacturer cannot be determined.

"(3) COMPENSATION.—In exchange for entering into a contract under paragraph (1), the Commissioner shall reimburse such entity for any costs incurred by such entity in complying with the requirement of paragraph (2).

"(d) DEA NUMBERS.—Entities that are subject to a contract under subsection (c) shall be assigned a Drug Enforcement Administration number and shall be considered as an appropriate recipient of any controlled substances salvaged and disposed of under this section.

"(e) REPORTS.—

"(1) ENTITIES.—Entities that are subject to a contract under subsection (c) shall prepare and submit, to the Commissioner and the Administrator of the Drug Enforcement Administration, quarterly reports concerning their activities under this section.

"(2) CONGRESSIONAL.—Not later than 90 days after the end of each fiscal year, the Secretary, in consultation with the Attorney General, shall prepare and submit, to the Committee on Energy and Commerce and Judiciary of the House of Representatives and the Committee on Labor and Human Resources and Judiciary of the Senate, a report concerning the amount of drugs that have been obtained through salvage and disposed of under this section.

"(f) FUNDING.—The Secretary shall use amounts contained in the Department of Justice Asset Forfeiture Fund to carry out this section.".

SEC. 4103. DRUG FREE SCHOOLS AND COMMUNITIES.

Section 5111 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3181) is amended by adding at the end thereof the following new subsection:

"(c) ADDITIONAL AUTHORIZATION.—In addition to the amounts authorized to be appropriated under subsection (a), there are authorized to be appropriated $100,000,000 in each of the fiscal years 1991 through 1994 to enable the Secretary to increase the efforts of the Secretary under this title. The Secretary shall utilize amounts appropriated under this subsection to carry out the purposes as described in paragraphs (4) through (6) of section 5112(a) and shall not use amounts in excess of the ratios described under such paragraphs.".

SEC. 4104. CLINICAL TRAINING IN ALCOHOL AND DRUG ABUSE.

Subpart 1 of part D of the Public Health Service Act (42 U.S.C. 290dd et seq.) is amended by adding at the end thereof the following new section:

"SEC. 544A. CLINICAL TRAINING IN ALCOHOL AND DRUG ABUSE.

"(a) IN GENERAL.—The Administrator, acting through the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse, through the programs authorized under sections 303 and 508, shall make grants and enter into contracts and cooperative agreements to provide clinical training and instruction in alcohol and drug abuse (through schools or chiropractic, medicine, health professions, nursing and social work), and to develop appropriate curricula and materials for such training.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,100,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996.".

SEC. 4105. INCREASE IN ADAMHA BLOCK GRANT AUTHORIZATION.

Section 1911(a) of the Public Health Service Act (42 U.S.C. 300x(a)) is amended by striking out "and such sums" and all that follows through the period and inserting in lieu thereof ", such sums that may be necessary for fiscal year 1990, and $1,358,000,000 for each of the fiscal years 1991 through 1993.".

SEC. 4106. USE OF ADAMHA BLOCK GRANT FUNDS IN CORRECTIONAL PROGRAMS.

Section 1915(a) of the Public Health Service Act (42 U.S.C. 300x-3(a)) is amended—

(1) in paragraph (1), by striking out "and" at the end thereof;

(2) in paragraph (2), by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (E) of paragraph (2), the following new paragraph:

"(3) the provision of treatment services for alcohol abuse and drug addiction in State or local correctional facilities.".

SEC. 4107. MAINTENANCE OF EFFORT.

Paragraph (11) of section 1916(c) of the Public Health Service Act (42 U.S.C. 300x-4(c)(11)) is amended to read as follows:

"(11)(A) The State agrees to maintain State expenditures for alcohol, drug abuse, and community mental health services at a level equal to not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments under section 1914, except that the State shall maintain State expenditures for drug abuse related services provided pursuant to this subpart at a level equal to not less than the average amount of such expenditures for the preceding 2 years.

(B) The Secretary may, on the request of a State, waive the requirement established in subparagraph (A) if the Secretary determines that extraordinary economic conditions in the State justify the waiver of the provisions contained in such subparagraph.

(C) The Secretary shall promulgate regulations to implement this paragraph that shall include the procedures by which a full or partial waiver may be granted.".

SEC. 4108. ESTABLISHMENT OF STATEWIDE DRUG TREATMENT PLANS.

(a) IN GENERAL.—Title XIX of the Public Health Service Act is amended by inserting after section 1916A (42 U.S.C. 300x-4a) the following new section:

"SEC. 1916B. STATEWIDE DRUG TREATMENT PLAN.

"(a) NATURE OF PLAN.—To receive the drug abuse portion of its allotment for a fiscal year under section 1912A, a State shall develop, implement and submit as part of the application required by section 1916(a) an approved Statewide Drug Treatment Plan, prepared according to regulations promulgated by the Secretary. Such plan shall contain—

"(1) a designation of the single, designated State agency for formulating and implementing the Statewide Drug Treatment Plan;

"(2) a description of a Statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(3) a description of a Statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) a description of performance-based criteria that shall be used to allocate funds to drug treatment facilities receiving funding under this subpart;

"(5) a description of the drug-free patient and workplace programs (all of which must include drug testing) to be utilized in drug treatment facilities and programs;

"(6) a description of the mechanism that shall be used to make funding allocations under this subpart;

"(7) a description of the actions that shall be taken to improve the referral of drug users to treatment facilities that offer the most appropriate treatment modality;

"(8) a description of the program of in-service training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques;

"(9) a description of the plan that shall be implemented to coordinate drug treatment facilities with other social, health, correctional, and vocational services to assist or refer those patients in need of such additional services; and

"(10) a description of the plan that will be implemented to expand and improve efforts to contact and treat expectant women who use drugs and to provide appropriate follow-up care to their affected newborns.

"(b) SUBMISSION OF PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove State plans, and to propose changes to such plans.

"(c) SUBMISSION OF PROGRESS REPORTS.—Each State shall submit such reports, in such form, and containing such information as the Secretary may from time to time require, and shall comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports.

"(d) WAIVER OF PLAN REQUIREMENT.—The Secretary may waive any or all of the requirements of this section on the written request of a State, provided the State implements an alternative treatment plan that fulfills the objectives of this subsection.

"(e) DEFINITION.—For purposes of this section, the term 'drug abuse portion' means the amount of a State's allotment under section 1912A that is required by this subpart, or by any other provision of law, to be used for programs or activities relating to drug abuse.".

(b) REGULATIONS AND EFFECTIVE DATE.

(1) REGULATIONS.—The Secretary shall promulgate regulations to carry out section 1916B of the Public Health Service Act not later than 6 months after the date of enactment of this Act.

(2) EFFECTIVE DATE.—Sections 1916B (a)(4) and (a)(5) of the Public Health Service Act shall become effective beginning with the second fiscal year beginning after the date on which the final regulations are published in the Federal Register. The remainder of such section shall become effective beginning with the first fiscal year beginning after the date that such final regulations are published in the Federal Register.

TITLE V—DEPARTMENT OF DEFENSE

SEC. 5001. MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES.

(a) IN GENERAL.—Section 373 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The" at the beginning of such section;

(2) by adding at the end a new subsection as follows:

"(b) The Secretary of Defense may, in accordance with applicable law, plan and execute training missions for the primary purpose of assisting civilian law enforcement agencies in connection with anti-drug activities.".

(b) CLERICAL AMENDMENTS.—(1) The heading of section 373 of such title is amended to read as follows:

"§ 373. Training and advising civilian law enforcement officials; planning and executing training missions to assist civilian law enforcement agencies".

(2) The table of sections at the beginning of chapter 18 of such title is amended by striking out the item relating to section 373 and inserting in lieu thereof the following new item:

"373. Training and advising civilian law enforcement officials; planning and executing training missions to assist civilian law enforcement agencies.".

SEC. 5002. TRANSFER OF EXCESS COMMUNICATIONS EQUIPMENT.

(a) Section 1208 of the Department of Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 10 U.S.C. 372 note) is amended—

(1) in subsection (a)(1)—

(A) by inserting "and communications equipment" after "ammunition"; and

(B) by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)";

(2) by redesignating subsection (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) a new subsection (b) as follows:

"(b) TRANSFERS TO FOREIGN COUNTRIES.—The Secretary of Defense may transfer communications equipment excess to the needs to the Department of Defense to a civilian law enforcement agency of any foreign country for the purpose of assisting such agency in counter-drug activities. The transfer of any such equipment under this subsection shall be subject to the same conditions applicable to transfers made under subsection (a) to Federal or State agencies".

SEC. 5003. LEASE OF EXCESS ENGINEERING EQUIPMENT TO FOREIGN COUNTRIES TO ASSIST IN ANTI-DRUG ACTIVITIES.

(a) IN GENERAL.—The President may lease engineering equipment in the inventory of the Department of Defense that is excess to the needs of the Department of Defense to the government of any foreign country to assist that government in anti-drug activities or in the development of the infrastructure of that country. The President may lease such equipment at nominal or no cost to the foreign country.

(b) DEFINITION.—As used in this subsection (a), the term "engineering equipment" means material assets classified by the Secretary of Defense as equipment and inventory used for military or civil engineering purposes, including earth movers of all types, road graders, cargo vehicles, mobile project control vehicles, and other tracked or wheeled vehicles of the type used in carrying out the functions of the Army Corps of Engineers.

SEC. 5004. LOGISTIC SUPPORT CAPABILITY.

(a) IN GENERAL.—The Secretary of Defense shall, upon request, make available logistic support to any major illicit drug producing country which has been transferred excess defense articles under section 573(f) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990.

(b) ALLOCATION OF FUNDS.—Of the funds appropriated for fiscal year 1990 pursuant to section 31 of the Arms Export Control Act, $1,000,000 shall be available for logistic support under subsection (a).

(c) DEFINITION.—For purposes of this section, the term "logistic support" means technical or economic assistance to develop a residual support operation, including production equipment and other forms of material.

SEC. 5005. DESIGNATION OF DEPARTMENT OF DEFENSE AS LEAD AGENCY.

Section 124(a) of title 10, United States Code, is amended to read as follows:

"(a) LEAD AGENCY.—In support of civilian law enforcement agencies with responsibility for enforcing the drug laws of the United States, the Department of Defense shall serve as the lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.".

TITLE VI—INTERNATIONAL NARCOTICS CONTROL

SEC. 6001. ECONOMIC ASSISTANCE FOR ANDEAN COUNTRIES.

Chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 536. ECONOMIC ASSISTANCE FOR ANDEAN COUNTRIES.—(a) Notwithstanding any other law, the President may provide narcotics-related assistance under this chapter and chapter 1 of part I to Bolivia, Colombia, and Peru.

"(b) This section shall not be construed to waive applicability of section 116, 481, 502B, or 620A.".

SEC. 6002. SUPPORT FOR LAW ENFORCEMENT.

Section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding the prohibition stated in subsection (a), funds made available under this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.) may be provided for training and equipment for law enforcement agencies or other units in Colombia, Bolivia, and Peru that are organized for the specific purpose of enforcing of narcotics laws.".

SEC. 6003. WAIVER OF BROOKE-ALEXANDER AMENDMENT.

During fiscal year 1991, section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) and similar provisions relating to limitations or assistance to countries in default on obligations owed to the United States contained in an Act making appropriations for foreign operations, export financing, and related programs, shall not apply with respect to narcotics-related assistance under section 536 of that Act for a country that is a major illicit drug producing country (as defined in section 481(i)(2) of the Foreign Assistance Act of 1961) (22 U.S.C. 2291(i)(2)) because of its coca production.

SEC. 6004. ASSISTANCE FOR AGRICULTURAL AND INDUSTRIAL ALTERNATIVES TO NARCOTICS PRODUCTION.

Notwithstanding any other law, for the purpose of reducing dependence on the production of crops from which narcotic and psychotropic drugs are derived, the President may provide assistance under chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 to promote the production, processing, or marketing of products that can be economically produced in those countries.

SEC. 6005. REVISIONS OF CERTAIN NARCOTICS-RELATED PROVISIONS OF THE FOREIGN ASSISTANCE ACT.

(a) PROCUREMENT OF WEAPONS AND AMMUNITION.—Section 482(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291a(b)) is amended by striking the period at the end thereof and inserting ", except that such funds may be made available for the procurement of weapons or ammunition to arm, for defensive purposes, aircraft that are leased or loaned by the United States and used in narcotics control eradication or interdiction efforts, and persons participating in such efforts".

(b) ANNUAL CERTIFICATION PROCEDURE FOR BILATERAL AND MULTILATERAL ASSISTANCE.—Section 481(h)(1)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)) is amended by striking "Fifty" and inserting "Unless the President determines that the application of this subsection with respect to a particular country is contrary to the national interest of the United States, 50".

(c) PROCUREMENT OF AIRCRAFT.—Section 484 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c) is amended to read as follows:

"SEC. 181. LEASE OR LOAN OF AIRCRAFT.

"(a) IN GENERAL.—Except as provided in subsection (b), any aircraft procured with funds authorized to be appropriated by this chapter may be made available to a foreign country only on a lease or loan basis.

"(b) EXCEPTION.—The President may provide aircraft under this chapter on a sale or grant basis if the President determines that to do so would be in the national interest of the United States and reports the determination and the terms of the proposed sale or grant to the Congress.".

SEC. 6006. SIZE OF MILITARY ASSISTANCE GROUP IN BOLIVIA AND PERU.

Section 515(c)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321i(c)(1)) is amended in the third sentence by inserting "Bolivia, Peru," after "Colombia,".

SEC. 6007. NONAPPLICABILITY OF CERTIFICATION PROCEDURES TO CERTAIN MAJOR DRUG-TRANSIT COUNTRIES.

Section 481(h)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)) shall not apply with respect to a major drug-transit country for fiscal year 1991 if the President certifies to the Congress, during that fiscal year, that—

(1) the country is not one described in subsection (i)(5)(C) of that section;

(2) the country previously was a major illicit drug producing country but, during each of the preceding 2 years, has effectively eliminated illicit drug production; and

(3) the country is cooperating fully with the United States or has taken adequate steps on its own—

(A) in satisfying the goals agreed to in a bilateral narcotics agreement described in subsection (h)(2)(B) of that section or a multilateral agreement that achieves the objectives of that section;

(B) in preventing narcotic and psychotropic drugs and other controlled substances transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States; and

(C) in preventing and punishing bribery and other forms of public corruption that facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances or that discourage the investigation and prosecution of such activities.

SEC. 6008. EXTRADITION OF UNITED STATES CITIZENS.

(a) IN GENERAL.—Chapter 209 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3196. Extradition of United States citizens

"The Secretary of State may order the surrender to a foreign government of a United States citizen whose extradition has been requested by the foreign country, even if the terms of the applicable treaty or convention do not obligate the United States to extradite its citizens, if the other requirements of the applicable treaty or convention are met.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 209 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3196. Extradition of United States citizens.".

SEC. 6009. EXPORT-IMPORT BANK FINANCING FOR SALES OF DEFENSE ARTICLES AND SERVICES FOR ANTI-NARCOTICS PURPOSES.

(a) EXTENSION OF DEADLINE.—Section 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(B)(vi)) is amended by striking "1990" and inserting "1992".

(b) MEANING OF TERM.—Section 2(b)(6)(G) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(G)) is amended to read as follows: "As used in this paragraph, the term 'defense articles and services' has the same meaning as under section 47 of the Arms Export Control Act".

TITLE VII—SANCTIONS FOR FAILURE TO LAND OR TO BRING TO

SEC. 7001. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO.

(a) Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Order to land or bring to

"(a) AIRCRAFT.—(1) It shall be unlawful for the pilot, operator, or other person in charge of an aircraft subject to the jurisdiction of the United States to fail to land the aircraft after having received an order to do so by a Federal law enforcement officer authorized to issue such an order.

"(2) The Administrator of the Federal Aviation Administration and the Commissioner of Customs, in consultation with the Attorney General, shall promulgate regulations governing the circumstances under which and the means by which an order to land may be communicated by a Federal law enforcement officer to the pilot, operator, or other person in charge of an aircraft.

"(b) VESSELS.—It shall be unlawful for the master, operator, or other person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States to fail to bring to the vessel to on being ordered to do so by a Federal law enforcement officer authorized to issue such an order.

"(c) DEFINITIONS.—For the purposes of this section—

"(1) the term 'aircraft subject to the jurisdiction of the United States' includes—

"(A) an aircraft located in the airspace over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation that has consented or waived objection to the enforcement of United States law by the United States in that airspace; and

"(C) an aircraft located in the airspace over the high seas, including—

"(i) an aircraft without nationality;

"(ii) an aircraft of United States registry; and

"(iii) an aircraft registered in a foreign nation has consented or waived objection to the enforcement of United States law by the United States in that airspace;

"(2) the term 'bring to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding;

"(3) the term 'Federal law enforcement officer' has the meaning stated in section 115(c)(1);

"(4) the term 'vessel of the United States' has the meaning stated in section 3(b) of the Maritime Drug Enforcement Act (46 U.S.C. App. 1903(b)(3)); and

"(5) the term 'vessel' subject to the jurisdiction of the United States has the meaning set forth in section 3(c) of the Maritime Drug Enforcement Act (46 U.S.C. 1903(3)(C)).

"(d) CONSENT OR WAIVER BY FOREIGN NATION.—For the purposes of this section, it shall be sufficient if the consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under this section is obtained by radio, telephone, or similar oral or electronic means.

"(e) PENALTY.—A person who intentionally violates this section shall be imprisoned not more than 2 years and fined under this title.

"(f) FORFEITURE.—(1) An aircraft or vessel used in violation of this section may be seized and forfeited to the United States.

"(2) The law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred or alleged to have been incurred under this section, except that the duties imposed on a customs officer or other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose.

"(3) An aircraft or vessel used in violation of this section shall be liable in rem for a fine imposed under this section.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"2237. Order to land or to bring to.".

SEC. 7002. FAA SUMMARY REVOCATION AUTHORITY.

Section 501(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401(e)) is amended by adding at the end thereof the following new paragraph:

"(e)(3)(A) The registration of an aircraft shall be immediately revoked upon the failure of the operator of an aircraft, in violation of section 2237 of title 18, United States Code, to follow the order of a law enforcement officer to land the aircraft. The Administrator shall notify forthwith the owner of the aircraft that the owner of the aircraft no longer holds United States registration for the aircraft.

"(B) The Administrator shall establish procedures for the owner of an aircraft to—

"(i) show cause why the registration should not be revoked by operation of paragraph (A); or

"(ii) show that under the circumstances, it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrently with the revocation made under paragraph (A).".

SEC. 7003. COAST GUARD AIR INTERDICTION AUTHORITY.

(a) AUTHORITY.—Chapter 7 of title 14, United States Code, is amended by adding at the end thereof the following new section:

"§ 152. Air interdiction authority

"(a) The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft over the high seas and waters over which the United States has jurisdiction.

"(b) An order by the Coast Guard to land an aircraft shall be communicated in accordance with regulations promulgated pursuant to section 2237 of title 18, United States Code.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 7 of title 14, United States Code, is amended by adding at the end thereof the following new item:

"152. Air interdiction authority.".

SEC. 7004. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) CIVIL PENALTY.—Chapter 17 of title 14, United States Code, is amended by adding after section 639 the following new section:

"§ 640. Civil penalty for failure to comply with a lawful boarding or order to land

"(a) A master, operator, or other person in charge of a vessel or pilot, operator, or other person in charge of an aircraft who, in violation of section 2237 of title 18, United States Code, fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft, is liable to the United States Government for a civil penalty of not more than—

"(1) $5,000, in the case of a negligent violation; or

"(2) $25,000, in the case of an intentional violation,

which may be assessed by the Secretary after notice and opportunity to be heard.

"(b) LIABILITY IN REM.—A vessel or aircraft used in violation of section 2237 of title 18, United States Code, shall be liable in rem for a penalty assessed under this section.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for title 14, United States Code, is amended by inserting the following new item after the item for section 639:

"640. Civil penalty for failure to comply with a lawful boarding or order to land.".

SEC. 7005. CUSTOMS ORDERS.

(a) Section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) is amended by adding at the end thereof the following new subsection:

"(i) As used in this section, the term 'authorized place' includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations or searches;

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act (19 U.S.C. 1644) or section 2237 of title 18, United States Code, any location outside the United States, including a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches.".

SEC. 7006. CUSTOMS CIVIL PENALTY PROVISIONS.

(a) The Tariff Act of 1930 (19 U.S.C. 1202 et seq.) is amended by adding after section 590 the following new section:

"SEC. 591. CIVIL PENALTY FOR FAILURE TO OBEY AN ORDER.

"(a) A pilot, operator, or other person in charge of an aircraft who, in violation of section 1581 of this title or section 2237 of title 18, United States Code, fails to comply with an order of an officer of the customs relating to the landing of an aircraft, is subject to a civil penalty of not more than—

"(1) $5,000, in the case of a negligent violation; or

"(2) $25,000, in the case of an intentional violation,

which may be assessed by an appropriate customs officer.".

TITLE VIII—DRUG PARAPHERNALIA

SEC. 8001. DRUG PARAPHERNALIA.

(a) CIVIL FORFEITURE AND CIVIL ENFORCEMENT.—Section 1822 of the Anti-Drug Abuse Act of 1986 (21 U.S.C. 857) is amended—

(1) in subsection (c) by inserting "pursuant to section 413 of the Controlled Substances Act (21 U.S.C. 853)" after "subject to seizure and forfeiture";

(2) in subsection (b) by striking "not more than $100,000" and inserting "under title 18, United States Code;" and

(3) by adding at the end thereof the following new subsection:

"(g)(1) The Attorney General may bring a civil action against a person who violates this section.

"(2) An action under this subsection may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place.

"(3) The court in which an action under this subsection is brought shall determine the occurence of a violation by a preponderance of the evidence, and of a violation is found to have occurred, may assess a civil penalty of not more than $100,000 and grant such other relief, including injunctives relief, as may be appropriate.

"(4) The remedies available under this subsection are in addition to any other remedy available under other law.".

(b) CIVIL FORFEITURE FOR DRUG PARAPHERNALIA.—Section 1822 of the Anti-Drug Abuse Act of 1986 (21 U.S.C. 857), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(h)(1) Any drug paraphernalia and other property, real or personal, involved in a violation of subsection (a), and any property traceable to such property, shall be subject to seizure and forfeiture.

"(2) All provisions of law relating to seizure, summary and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims and award of compensation to informers in respect to such forfeitures shall apply to seizures and forfeitures incurred under this section, insofar as they are applicable and not inconsistent with this section.".

TITLE IX—PROTECTION OF WITNESSES, JURORS, AND COURT OFFICERS

SEC. 9001. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) Whoever";

(2) by striking "fined not more than $5,000 or imprisoned not more than five years, or both" and inserting "punished as provided in subsection (b)"; and

(3) by adding at the end thereof the following new subsection:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing that constitutes murder within the meaning of section 1111, the punishment authorized in section 1111;

"(2) in the case of a killing that constitutes manslaughter within the meaning of section 1112, the punishment authorized in section 1112;

"(3) in the case of an attempted killing, imprisonment for not more than 20 years; and

"(4) in any other case, imprisonment for not more than 10 years.".

SEC. 9002. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS, AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by adding at the beginning thereof the following new subsection:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer, shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(1) in the case of a killing that constitutes murder within the meaning of section 1111, the punishment authorized in section 1111;

"(2) in the case of a killing that constitutes manslaughter within the meaning of section 1112, the punishment authorized in section 1112;

"(3) in the case of an attempted killing, imprisonment for not more than 20 years; and

"(4) in any other case, imprisonment for not more than 10 years.".

TITLE X—NARCOTICS-RELATED PUBLIC CORRUPTION

SEC. 10001. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) A public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of an official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make an opportunity for the commission of an offense against the United States or any State,

shall be guilty of a class B felony.

"(b) A person who, directly or indirectly, corruptly gives, offers, or promises anything of value to a public official, or offers or promises a public official to give anything of value to any other person, with intent—

"(1) to influence an official act;

"(2) to influence the public official to commit or aid in committing, or to collude in, or to allow or make an opportunity for the commission of an offense against the United States or any State; or

"(3) to influence the public official to do or to omit to do any act in violation of the official's lawful duty,

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if the offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purposes of this section—

"(1) the term 'controlled substance' has the meaning stated in section 102(b) of the Controlled Substances Act (21 U.S.C. 802(b));

"(2) the term 'controlled substance analogue' has the meaning stated in section 102(32) of the Controlled Substances Act (21 U.S.C. 802(32));

"(3) the term 'official act' means a decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution that may at any time be pending, or that may be brought before any public official, in the official's official capacity or in the official's place of trust or profit; and

"(4) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, commonwealth, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, commonwealth, possession, or political subdivision; or

"(D) a person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been

officially informed that the person will be so nominated or appointed.".

(b) CONFORMING AMENDMENTS.—(1) The chapter analysis for chapter 11, United States Code, is amended by inserting after the item for section 219 the following new item:

"220. Narcotics and public corruption.".

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),".

(3) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

SEC. 10002. AUTHORIZATION OF FUNDING FOR TREASURY UNDERCOVER OPERATIONS.

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (102 Stat. 4507) is amended—

(1) by striking "after December 31, 1989" and inserting "after December 31, 1991"; and

(2) by striking "before January 1, 1990" and inserting "before January 1, 1992".

TITLE XI—ASSET FORFEITURE AND MONEY LAUNDERING

Subtitle A—Special Forfeiture Fund

SEC. 11001. SPECIAL FORFEITURE FUND AMENDMENT.

(a) TRANSFERS FROM ASSETS FORFEITURE FUND.—Section 524(c)(9) of title 28, United States Code, is amended to read as follows:

"(9)(A) There are authorized to be appropriated such sums as are necessary for the purposes described in subparagraphs (A)(ii), (B), (C), (F), and (G) of paragraph (1).

"(B) Subject to subparagraph (C), the Attorney General shall, during each of fiscal years 1990, 1991, 1992, and 1993, transfer in quarterly installments not to exceed $150,000,000 in unobligated amounts available in the Fund to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509).

"(C) An amount not to exceed $15,000,000 or, if the Attorney General determines it to be necessary to meet asset specific expenses, an amount equal to 1/10 of the previous year's obligations, may be retained in the Fund and remain available for appropriation.".

(b) CONFORMING AMENDMENT.—Section 6073 (b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509(b)) is amended to read as follows:

"(b) DEPOSITS.—In each of fiscal years 1990, 1991, 1992, and 1993, there shall be transferred to and deposited in the Fund from the Department of Justice Assets Forfeiture Fund established by section 524 of title 28, United States Code, the amounts authorized to be transferred by subsection (c)(9) of that section.".

Subtitle B—Forfeiture Amendments

SEC. 11020. CONFORMING OF INNOCENT OWNER PROVISIONS.

(a) CONTROLLED SUBSTANCES ACT.—Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended—

(1) in paragraph (4)(C) by striking "without the knowledge, consent, or willful blindness of the owner" and inserting "without the knowledge or consent of, or willful or negligent disregard of the occurrence of the omission on the part of, the owner"; and

(2) in each of paragraphs (6) and (7), by striking "without the knowledge or consent of that owner" and inserting "without the knowledge or consent of, or willful or negligent disregard of the act or omission on the part of, the owner".

(b) TITLE 18 OF THE UNITED STATES CODE.—Section 981(a)(2) of title 18, United States Code, is amended by striking "without the knowledge of that owner or lienholder" and inserting "without the knowledge or consent of, or willful or negligent disregard of the occurrence of the act or omission on the part of, the owner or lienholder.".

(c) TARIFF ACT OF 1930.—Section 594(b)(2) of the Tariff Act of 1930 (19 U.S.C. 1594(b)(2)) is amended by striking "without the knowledge, consent, or willful blindness of the owner" and inserting "without the knowledge or consent of, or willful or negligent disregard of the act or omission on the part of, the owner".

SEC. 11021. CLARIFYING GRAMMATICAL CHANGES IN DEFINITION OF "FINANCIAL TRANSACTION" FOR THE MONEY LAUNDERING STATUTE.

Section 1956(c)(4) of title 18, United States Code, is amended to read as follows:

"(4) the term 'financial transaction' means—

"(A) a transaction involving—

"(i) the movement of funds by wire or other means; or

"(ii) one or more monetary instruments, which in any way or degree affects interstate or foreign commerce; and

"(B) a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree;".

SEC. 11022. LIMITATION OF EXCEPTION TO MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by striking the period at the end thereof and inserting ", unless the defendant, in committing the offense or offenses giving the rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in a 12-month period.".

SEC. 11023. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.

Section 3 of the Anti-Smuggling Act (19 U.S.C. 1703) is amended—

(1) by inserting ", vehicle and other conveyance" after "vessel" each place it appears in subsections (a) and (b); and

(2) by amending subsection (c) to read as follows:

"(c) For the purposes of this section, prima facie evidence that a conveyance has been, is being, or is being attempted to be employed in smuggling or to defraud the revenue of the United States shall be—

"(1) in the case of a vessel, the fact that a vessel has become subject to pursuit as provided in section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or is a hovering vessel, or that a vessel fails, at any place within the customs waters of the United States or with a customs-enforcement area, to display lights as required by law; and

"(2) in the case of a vehicle or other conveyance, the fact that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling.".

Subtitle C—Money Laundering Amendments

SEC. 11040. CONTINUATION OF $10,000 CASH TRANSACTION REPORTING REQUIREMENT.

Section 7601(b)(3) of the Anti-Drug Abuse Act of 1988 (102 Stat. 4504) is amended by striking "only during the 2-year period beginning on such date" and inserting "only during the 4-year period beginning on such date".

SEC. 11041. FINCEN TRANSFER AMENDMENT.

(b) Section 1112 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Financial records originally obtained by an agency in accordance with this title may be transferred to another agency without notice to the customer if the transferring agency has reason to believe that the records are relevant to a matter within the jurisdiction of the receiving agency or appropriate for analysis by the receiving agency for law enforcement purposes.";

(2) by striking subsections (b), (c), and (f); and

(3) by redesignating subsections (d) and (e) as (b) and (c) respectively.

SEC. 11042. GEOGRAPHIC TARGETING DISCLOSURE PENALTIES.

Section 5326 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) CONFIDENTIALITY OF ORDERS.—No financial institution or director, agent, officer, or employee of a financial institution subject to an order under this section may disclose the existence or terms of the order to any person except as prescribed by the Secretary.".

SEC. 11043. SUSPICIOUS TRANSACTIONS REPORTING.

Section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended by striking the period at the end thereof and inserting the following: "or for refusing to do business with any person before or after disclosure of a possible violation of law or regulation by that person to a Government authority."

SEC. 11044. FINANCIAL PRIVACY ACT CUSTOMER VIOLATIONS.

(a) EXCEPTION FROM ACT.—Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end thereof the following new subsection:

"(p) This title has no application to an instance in which a financial institution or supervisory agency, or any officer, director, employee, or agent of a financial institution or a supervisory agency, provides to the Secretary of the Treasury financial records that the financial institution or supervisory agency has reason to believe may be relevant to a possible violation of subchapter II of chapter 53 of title 31, United States Code.".

(d) EXEMPTION FROM LIABILITY.—Subsection 1117(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3417(c)) is amended to read as follows:

"(c) A financial institution or agent or employee thereof that makes a disclosure of financial records or information in good faith—

"(1) in reliance upon a certificate by a Government authority pursuant to this title; or

"(2) pursuant to section 1113 (l) or (p),

shall not be liable to the customer for the disclosure under any constitution, law, or regulation of any State or political subdivision thereof.".

SEC. 11045. SEARCH OF OUTBOUND MAIL.

Section 5317(b) of title 31, United States Code, is amended to read as follows:

"(b)(1) For purposes of ensuring compliance with the requirements of section 5316 of this title or of sections 1956 and 1957 of

title 18, United States Code, a customs officer may stop and search, at the border and without a search warrant, any vehicle, vessel, aircraft, or other conveyance, any envelope or other container (including mail transmitted by the United States Postal Service that is not sealed against inspection or that has a customs declaration affixed by the sender) and any person entering or departing the United States.

"(2) Notwithstanding section 3623(d) or any other provision of title 39, United States Code, with respect to a letter sealed against inspection that is being transmitted by the United States Postal Service, a search authorized by paragraph (1) may be conducted when a customs officer has reasonable cause to suspect that there are monetary instruments being transported in the letter.

"(3) Nothing in this section shall be construed to limit the authority of the Secretary of the Treasury or the United States Customs Service under any other law.".

TITLE XII—MISCELLANEOUS

SEC. 12001. ADDITION OF DRUG CONSPIRACY AND ATTEMPT OFFENSES COMMITTED BY JUVENILES AS WARRANTING ADULT PROSECUTION.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substance Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), (3))," and inserting "an offense (or a conspiracy or attempt to commit an offense) described in section 401 or 404 (if the violation involves more than 5 grams of a mixture or substance containing cocaine base) of the Controlled Substances Act (21 U.S.C. 841, 844, and 846), section 1002(a), 1003, 1005, 1009, 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), and (3), and 963),"; and

(2) in the fourth undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting "an offense (or a conspiracy or attempt to commit an offense) described in section 401 or 404 (if the violation involves more than 5 grams of a mixture or substance containing cocaine base), of the Controlled Substances Act of (21 U.S.C. 841, 844, and 846) or section 1002(a), 1005, 1009, 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b) (1), (2), and (3), and 963)"; and

(B) by striking "subsection (b)(1)(A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), (3))" and inserting "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1) (A), (B), or (C), (d), or (e) or 404 (if the violation involves more than 5 grams of a mixture or substance containing cocaine base) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (A), (B), and (C), (d), and (e), 844, and 846) or section 1002(a), 1003, 1009, 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), and (3), and 963)".

SEC. 12002. GRAND JURY ACCESS TO CERTAIN RECORDS.

Section 631(c)(2) of the Communications Act of 1934 (47 U.S.C. 551(c)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) in response to a subpoena or court order issued in connection with proceedings before a Federal grand jury;";

SEC. 12003. ADDITION OF CONFORMING PREDICATES TO MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting "section 1005, 1006, or 1007 (relating to false statements of a financial institution employee), section 1014 (relating to false statements in connection with credit and loan applications)," after "section 875 (relating to interstate communications),".

SEC. 12004. ARREST OF FUGITIVE ABOUT TO ENTER UNITED STATES.

Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by striking "charging any person found within his jurisdiction" and inserting "charging any person found within his jurisdiction or any person whom there is reason to believe will shortly enter the United States"; and

(2) in the second sentence by inserting "or, if there is reason to believe the person will shortly enter the United States" after "if the whereabouts within the United States of the person charged are not known".

D'AMATO AMENDMENTS NOS. 1761 THROUGH 1765

(Ordered to lie on the table.)

Mr. D'AMATO submitted five amendments intended to be proposed by him to the bill S. 1970, supra; as follows:

AMENDMENT No. 1761

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Money Laundering Enforcement Act of 1990".

SEC. 2. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) A new section 5327 is added to Title 31, United Stated Code, as follows:

"§ 5327. Identification of financial institutions

"By July 1, 1991, the Secretary shall prescribe regulations providing that each depository institution identify its customers which are financial institutions as defined in section 5312(a)(2) (H) through (Y) and the regulations thereunder and which hold accounts with the depository institution. Each depository institution shall report the names of and other information about these financial institution customers to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation. No person shall cause or attempt to cause a depository institution not to file a report required by this section or to file a report containing a material omission or misstatement of fact. The Secretary shall provide these reports to appropriate state financial institution supervisory agencies for supervisory purposes.".

(b) Section 5321 of title 31, United States Code, is amended by adding a new subparagraph (a)(7) as follows:

"(7)(A) The Secretary may impose a civil penalty on any person who willfully violates any provision of section 5327 or a regulation prescribed thereunder.

"(B) The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 per day for each day a report is not filed or a report containing a material omission or misstatement of fact remains on file with the Secretary.".

SEC. 3. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) Title 18, United States Code, is amended by adding the following Section:

"§ 1956a. Prohibition of illegal money transmitting businesses

"(a) Whoever intentionally conducts, finances, manages, supervises, directs, or owns all or part of an illegal money transmitting business shall be fined not more than $20,000 or imprisoned not more than five years, or both.

"(b) As used in this section—

"(1) 'illegal money transmitting business' means a money transmitting business which—

"(i) is an intentional violation of the law of a State or political subdivision in which it is conducted;

"(ii) involves one or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

"(iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day;

"(2) 'money transmitting' includes but is not limited to transfering funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile or courier; and

"(3) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(c) If one or more persons conduct, finance, manage, supervise, direct, or own all or part of a money transmitting business and such business operates for two or more successive days, then, for the purpose of obtaining warrants for arrests, interceptions, and other searches and seizures, probable cause that the business receives gross revenue in excess of $2,000 in any single day shall be deemed to have been established.

"(d) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to the seizure, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person in respect ot the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the

customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.".

"(b) Section 1961 of title 18, United States Code, is amended by inserting after "section 1956 (relating to the laundering of monetary instruments),": "section 1956a (relating to the prohibition of illegal money transmitting businesses),".

SEC. 4. COMPLIANCE PROCEDURES.

Section 5318(a)(2) of title 31, United States Code, is amended by inserting before the semicolon "or to guard against money laundering".

SEC. 5. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) NONDISCLOSURE OF ORDERS.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may diclose the existence of or terms of the order to any person except as prescribed by the Secretary.".

SEC. 6. PROVISIONS RELATING TO RECORDKEEPING WITH RESPECT TO CERTAIN INTERNATIONAL FUNDS TRANSFERS.

Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b)(1) Where"; and

(2) by adding at the end the following new paragraph:

"(2) FUNDS TRANSFERS.—

"(A) IN GENERAL.—Before January 1, 1991, the Secretary, after consultation with the Board of Governors of the Federal Reserve System and State Banking Departments, shall prescribe such final regulations as may be appropriate to ensure that insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks or other similar instruments maintain such records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks or similar instruments as will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) FACTORS FOR CONSIDERATION.—In prescribing the regulations required under subparagraph (A), the Secretary shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) AVAILABILITY OF RECORDS.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary upon request.".

SEC. 7. AMENDMENTS RELATING TO THE ANTI-DRUG ABUSE ACT OF 1988.

(a) Paragraph (3) of subsection 7601(b) of the Anti-Drug Abuse Act of 1988 is amended by striking out "only during the 2-year period beginning on such date" and inserting "only during the 4-year period beginning on such date" in lieu thereof.

(b) Paragraph (2) of subsection 7601(b) of the Anti-Drug Abuse Act of 1988 is amended by striking out "after December 31, 1989" and inserting "after December 31, 1991" and by striking out "before January 1, 1990" and inserting "before January 1, 1992" in lieu thereof.

(c) Section 7203 of the Internal Revenue Code of 1986 is amended by replacing the last sentence thereof with the following sentence: "In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting 'felony' for 'misdemeanor' and '5 years' for '1 year'.".

SEC. 8. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) TRANSFER WITHOUT NOTICE.—Section 1112 of the Right to Financial Privacy Act (12 U.S.C. 3412) is amended—

(1) by striking subsections (b), (c), and (f);

(2) by redesignating subsections (d) and (e) as subsections (b) and (c) respectively; and

(3) by striking out subsection (a) and inserting the following:

"(a) Financial records originally obtained by an agency in accordance with this title may be transferred to another agency without notice to the customer if there is reason to believe that the records are relevant to a matter within the jurisdiction of the receiving agency or appropriate for analysis by the receiving agency for law enforcement purposes.".

(b) EXCEPTION.—Section 1113 of the Right to Financial Privacy Act (12 U.S.C. 3413) by adding a new subsection as follows:

"(p) EXCEPTION.—This title does not apply to a transfer by a financial institution or supervisory agency, or any officer, director, employee, or agent of a financial institution or a supervisory agency, to the Secretary of the Treasury of financial records which such financial institution or supervisory agency has reason to believe may be relevant to a possible violation of a provision of subchapter II of chapter 53 of title 31, United States Code.".

(c) GOOD FAITH DEFENSE.—Section 1117(c) of the Right to Privacy Act (12 U.S.C. 3417(c)) is amended to read as follows:

"(c) GOOD FAITH DEFENSE.—Any financial institution or agent or employment thereof making a disclosure of financial records or information in good faith either in reliance upon a certificate by any Government authority pursuant to section 3413 (1) or (p) of this title, shall not be liable to the customer for such disclosure under any constitution, law, or regulation of any States or political subdivision.".

AMENDMENT NO. 1762

At the appropriate place insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Transit Employee Testing Act of 1990".

FINDINGS

SEC. 2. The Congress finds that—

(1) alcohol abuse and illegal drug use pose sugnificant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize mass transportation and depend on individuals employed in safety-sensitive positions in mass transportation operations to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of mass transportation conveyances;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right to privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined has a risk to transportation safety;

(2) "person" includes any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States, or any State, territory, district, or possession thereof, or of any foreign country;

(3) "Secretary" means the Secretary of Transportation; and

(4) "mass transportation" means all forms of mass transportation except those forms that the Secretary determines are covered adequately, for purposes of employee drug and alcohol testing, by either the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) or the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.)

REGULATIONS BY SECRETARY OF TRANSPORTATION

SEC. 4. (a) The Secretary shall in the interest of mass transportation safety, issue regulations which twelve months after the date of enactment of this Act. Such regulation shall establish a program which requires mass transportation operations which are recipients of Federal financial assistance under sections 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

(b) In issuing such regulations, the Secretary shall require that post-accident testing of such a mass transportation employee be conducted in the case of any accident involving mass transportation in which occurs

loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

PROGRAM FOR REHABILITATION

SEC. 5. The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of mass transportation employees referred to in section 4(a) who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this section shall preclude a mass transportation operation from establishing a program under this Act in cooperation with any other such operation.

PROCEDURES FOR TESTING

SEC. 6. In establishing the program required under section 4, the Secretary shall develop requirements which shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this Act, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

(B) establish the minimum list of controlled substances for which individuals may be tested; and

(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carryhing out this Act;

(3) require that all laboratories involved in the testing of any individual under this Act shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within three days after being advised of the results of the confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this Act; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

EFFECT ON OTHER LAWS AND REGULATIONS

SEC. 7. (a) No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this Act, except that the regulations issued under this Act shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to mass transportation employees, or to the general public.

(b) Nothing in this Act shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by mass transportation employees issued before the date of enactment of this Act.

(c) In issuing regulations under this Act, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

DETERMINATION OF SANCTIONS

SEC. 8. (a) As the Secretary considers appropriate, the Secretary shall require—

(1) disqualification for an established period of time or dismissal of any employee referred to in section 4(a) who is determined to have used or to have been impaired by alcohol while on duty; and

(2) disqualification for an established period of time or dismissal of any such employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law or any regulations.

(b) Nothing in this Act shall be construed to supersede any penalty applicable to a mass transportation employee under any other provision of law.

ELIGIBILITY FOR FINANCIAL ASSISTANCE

SEC. 9. A person shall not be eligible for Federal financial assistance under sections 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, if such person—

(1) is required, under regulations prescribed by the Secretary under this Act, to establish a program of alcohol and controlled substances testing; and

(2) fails to establish such a program in accordance with such regulations.

AMENDMENT NO. 1763

At the appropriate place insert the following:

SECTION 1. CLARIFICATION AND EXPANSION OF AUTHORITY OF THE ARMED FORCES TO PROVIDE SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

(a) PLANNING AND EXECUTION OF MILITARY TRAINING OR OPERATIONS IN SUPPORT OF CIVILIAN LAW ENFORCEMENT AGENCIES.—Section 371(a) of title 10, United States Code, is amended by adding at the end the following new sentence: "The Secretary may also plan and execute military training or military operations for the primary purpose of aiding civilian law enforcement agencies in connection with law enforcement programs specified in section 374(b)(4)(A) of this title.".

(b) USE MILITARY AIRCRAFT.—Section 374(b)(2) of such title is amended by adding at the end thereof the following new subparagraphs:

"(F) Subject to the approval of the commanding officer concerned—

"(i) transportation of civilian law enforcement personnel by military aircraft from one point within the United States to another point within the United States in connection with law enforcement programs specified in paragraph (4)(A); and

"(ii) flight training exercises for civilian law enforcement personnel.

"(G) Aerial surveillance of any area in connection with law enforcement programs specified in paragraph (4)(A).".

(c) ASSISTANCE AUTHORIZED TO BE PROVIDED WITHOUT REGARD TO LIKELIHOOD OF ARMED CONFRONTATION.—Section 374(c) of such title is amended by adding at the end the following new sentence: "However, the Secretary may make such personnel available to any Federal, State, or local civilian law enforcement agency to operate equipment for any purpose authorized in this chapter without regard to the likelihood that an armed confrontation may occur during the course of the operation of the equipment.".

(d) ADVERSE AFFECT ON MILITARY PREPAREDNESS.—Section 376 of such title is amended—

(1) by striking out "Support" in the first sentence and inserting in lieu thereof "(a) Subject to subsection (b), support"; and

(2) by adding at the end the following new subsection:

"(b) The Secretary may provide support (including the provision of any equipment or facility or the assignment or detail of any personnel) to a civilian law enforcement agency under this chapter if the Secretary determines that the importance of providing such support outweighs any short term adverse effect that the provision of such support may have on military preparedness.".

SEC. 2. EXCLUSION OF MEMBERS OF THE ARMED FORCES PERFORMING CERTAIN TYPE OF SERVICE FROM END-STRENGTH COMPUTATION

(a) ENLISTED MEMBERS.—(1) Chapter 31 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 520c. Exclusion of certain enlisted members from end-strength computations

"Enlisted members on active duty (other than for training) or on full-time National Guard duty (other than for training) in connection with aiding civilian law enforcement agencies pursuant to chapter 18 of this title shall not be counted toward the annual end-strength authorized for reserves on active duty in support of the reserves components of the armed forces or toward the strengths authorized in section 517 of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"520c. Exclusion of certain enlisted members from end-strength computations.".

(b) OFFICERS.—(1) Chapter 32 of such title is amended by adding at the end the following new section:

"§ 528. Exclusion of certain Reserve officers from end-strength computations

"Reserve officers on active duty (other than for training) or on full-time National Guard duty (other than for training) in connection with aiding civilian law enforcement agencies pursuant to chapter 18 of this title shall not be counted toward the annual end strength authorized for reserves on active duty in support of the reserves components of the armed forces or toward the strengths authorized in section 524 of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"520c. Exclusion of certain Reserve officers from end-strength computations.".

AMENDMENT NO. 1764

At the appropriate place insert the following:

That (a) the Secretary of State, acting through the Assistant Secretary of State for International Narcotics Matters, shall provide, out of funds made available to the Department of State under the "Administration of Foreign Affairs" account, scholarships to eligible candidates for instruction in drug treatment and prevention leadership techniques at the annual training conferences of the World Federation of Therapeutic Communities.

(b) The Secretary of State, acting through the Assistant Secretary of State for International Narcotics Matters, shall undertake, in cooperation with the World Federation of Therapeutic Communities, to provide training to eligible candidates in drug treatment and prevention techniques and to hold model drug treatment and prevention projects in participating countries. In the conduct of any such training, the World Federation of Therapeutic Communities shall be responsible for providing accommodations for the trainees at its treatment centers.

(c) For purposes of this Act—

(1) the term "eligible candidates" means needy candidates from major illicit drug producing or drug-transit countries; and

(2) the terms "major illicit drug producing country" and "major drug-transit country" have the same meanings as are given to such terms by paragraphs (2) and (5), respectively, of section 481(i) of the Foreign Assistance Act of 1961.

AMENDMENT NO. 1765

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Citizens Drug Control Contributions Act of 1989".

SEC. 2. STATEMENTS OF CONGRESSIONAL FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) there is an epidemic of illegal drug use that threatens the well-being of our Nation and its people;

(2) the epidemic of illegal drug use poses a national crisis of unprecedented peace time proportions, warranting the use of extraordinary measures;

(3) solving this crisis will require a massive expenditure of resources in drug education, prevention, interdiction, enforcement, and related programs;

(4) there currently are inadequate resources available at the Federal level to address this crisis; and

(5) the American people are prepared to devote additional resources in the war against drugs.

SEC. 3. DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR SPECIAL FORFEITURE FUND

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1988 (relating to returns and records) is amended by adding at the end thereof the following new part:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR THE SPECIAL FORFEITURE FUND

"SEC. 6097. AMOUNTS FOR THE SPECIAL FORFEITURE FUND.

"(a) IN GENERAL.—With respect to the return of an individual (other than a nonresident alien) for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

"(1) a portion (not less than $5) of an overpayment of any tax reported on such return (as determined for refund under section 6402), and

"(2) any cash contribution (not less than $5) that the taxpayer includes with such return,

be paid over to the Special Forfeiture Fund established in section 6073 of the Anti-Drug Abuse Act of 1988.

"(b) MANNER AND TIME OF DESIGNATION.—Any designation under subsection (a) may be made with respect to any taxable year only at the time of filing the original return of the tax imposed by chapter 1 for such taxable year.

"(c) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined with regard to extensions) or, if later, the date the return is filed.".

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following new item:

"PART IX. DESIGNATION OF OVERPAYMENT AND CONTRIBUTIONS FOR SPECIAL FORFEITURE FUND.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 4. THE SPECIAL FORFEITURE FUND.

(a) PAYMENT.—Section 6073(b) of the Anti-Drug Abuse Act of 1988 is amended by—

(1) inserting "(1)" after "(b)"; and

(2) adding at the end thereof the following:

"(2) Beginning fiscal year 1991, there shall be deposited in the Fund such amounts as may be credited to the Fund as provided in section 6097 of the Internal Revenue Code of 1986.".

(b) ADMINISTRATIVE EXPENSES.—Section 6073(a) is amended by inserting after "in appropriations acts" the following: "and with respect to such amounts as may be deposited in the Fund under subsection (b)(2) to pay the administrative expenses allowable to—

"(1) modifying the individual income tax return forms to carry out section 6097 of the Internal Revenue Code of 1986, and

"(2) processing amounts received under section 6097 of the Internal Revenue Code of 1986 and transferring such amounts to such Fund".

(c) CONSIDERATIONS.—Section 6073(d) of the Anti-Drug Abuse Act of 1988 is amended by inserting after "Drug Control Strategy" the following: "and with respect to the deposits made under subsection (b)(2), attempt to maximize drug control efforts by providing a balance among Federal, State, and local anti-drug programs and the various drug control approaches, including prevention, education, treatment, and law enforcement programs".

(d) CONFORMING AMENDMENTS.—Section 6073(d) of the Anti-Drug Abuse Act of 1988 is amended by inserting after "This request" the following: ", with respect to the deposits made under subsection (b)(1),".

KOHL (AND DECONCINI) AMENDMENT NO. 1766

(Ordered to lie on the table.)

Mr. KOHL (for himself and Mr. DECONCINI) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . GUN-FREE SCHOOL ZONES ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the "Gun-Free School Zones Act of 1990".

(b) PROHIBITIONS AGAINST POSSESSION OR DISCHARGE OF A FIREARM IN A SCHOOL ZONE.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(q)(1)(A) It shall be unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, in a school zone.

"(B) Subparagraph (A) shall not apply to the possession of a firearm—

"(i) on private property not part of school grounds;

"(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtain such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

"(iii) which is—

"(I) not loaded; and

"(II) in a locked container, or a locked firearms rack which is in a motor vehicle;

"(iv) by an individual for use in a program approved by a school in the school zone;

"(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

* * * * *

"(3) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun-free school zones as provided in this subsection.".

(2) DEFINITIONS.—Section 921(a) of such title is amended by adding at the end the following:

"(25) The term 'school zone' means—

"(A) in, or on the grounds of, a public, parochial or private school; or

"(B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

"(26) The term 'school' means a school which provides elementary or secondary education, as determined under State law.

"(27) The term 'motor vehicle' has the meaning given such term in section 10102 of title 49, United States Code.".

(3) PENALTY.—Section 924(a) of such title is amended by adding at the end the following:

"(4) Whoever violates section 922(q) shall be fined not more than $5,000, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law.".

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in after the end of the 60-day period beginning on the date of the enactment of this section.

KOHL (AND HEFLIN) AMENDMENT NO. 1767

(Ordered to lie on the table.)

Mr. KOHL (for himself and Mr. HEFLIN) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the appropriate place insert the following:

SEC. . (a)(1) Actions specified in subsection (b) shall be exempt from the antitrust laws of the United States.

(2) For purposes of this section—

(A) "antitrust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12), and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(B) "person in the television industry" means a television network, any entity which produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, and shall include any individual acting on behalf of such person; and

(C) "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate any negative impact of illegal drug use in telecast material.

(c)(1) The exemption provided in subsection (b) shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(2) The exemption provided in subsection (b) shall apply only to activities conducted within 36 months after the date of enactment of this section.

HATCH AMENDMENT NO. 1768

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

On page 15, lines 1 and 2, strike, "A finding with respect to any aggravating factor must be unanimous."

LIEBERMAN AMENDMENT NO. 1769

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

SEC. . ADDITIONAL AUTHORITY FOR THE SECRET SERVICE.

(a) IN GENERAL.—Section 3056(b)(1) of title 18, United States Code, is amended by—

(1) inserting "financial institutions, and the Resolution Trust Corporation, and concurrent with the authority of any other Federal law enforcement agency," after "land bank associations,";

(2) inserting "215," after "213,";

(3) inserting "656," after "493,";

(4) inserting "1005," after "709,"; and

(5) inserting "1341, 1343, 1344, 1510," after "1014,".

(b) EFFECT OF AMENDMENTS.—The amendments made by this section shall not alter the authority of any other Federal law enforcement agency.

METZENBAUM AMENDMENT NO. 1770

(Ordered to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following new title:

TITLE—OSHA CRIMINAL PENALTIES

SEC. . GENERAL EFFECTIVENESS.

No provision of this Act shall become effective unless and until the following section is enacted.

SEC. . OSHA CRIMINAL PENALTIES.

(a) IN GENERAL.—Section 17 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666) is amended—

(1) in subsection (e)—

(A) by striking "fine of not more than $10,000" and inserting "fine in accordance with section 3571 of title 18, United States Code,";

(B) by striking "six months;" and inserting "10 years";

(C) by striking "fine of not more than $20,000" and inserting "fine in accordance with section 3571 of title 18, United States Code,"; and

(D) by striking "one year" and inserting "20 years";

(2) in subsection (f), by striking "fine of not more than $1,000 or by imprisonment for not more than six months," and inserting "fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 2 years,";

(3) in subsection (g), by striking "fine of not more than $10,000, or by imprisonment for not more than six months," and inserting "fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 1 year,";

(4) by redesignating subsections (h) through (l) as subsections (j) through (n), respectively;

(5) by inserting after subsection (g) the following new subsections:

"(h) Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 6, or any regulation prescribed pursuant to this Act, and that violation causes serious bodily injury to any employee but does not cause death to any employee, shall, upon conviction, be punished by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 7 years, or by both, except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 14 years, or by both.

"(i) Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 6, or any regulation prescribed pursuant to this Act, and that violation recklessly endangers human life but does not cause serious bodily injury or death to an employee, shall, upon conviction, be punished by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 5 years, or by both, except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 10 years, or by both.", and

(6) by adding at the end the following new subsection:

"(o)(1) Any director, officer, or agent of an employer who willfully authorizes, orders, acquiesces, or carries out a violation, failure, or refusal to comply with safety or health standards under this Act shall be subject to the same criminal fines and imprisonment that may be imposed on a person under the applicable provisions of this section.

"(2) If a penalty or fine is imposed on a director, officer, or agent of an employer under paragraph (1), such penalty or fine shall not be paid (directly or indirectly) out of the assets of the employer on behalf of that individual.".

(b) DEFINITION.—Section 3 of such Act (29 U.S.C. 652) is amended by adding at the end the following new paragraph:

"(15) The term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious physical disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.".

(c) JURISDICTION FOR PROSECUTION UNDER STATE AND LOCAL CRIMINAL LAWS.—Section 17 of such Act (29 U.S.C. 666) (as amended by subsection (a) of this section) is further amended by adding at the end the following new subsection:

"(p) Nothing in this Act shall preclude State and local law enforcement agencies from conducting criminal prosecutions in accordance with the laws of such State or locality.".

McCLURE AMENDMENT NO. 1771

(Ordered to lie on the table.)

Mr. McCLURE submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place add the following:

SEC. . Section 401(b)(5) of the Controlled Substances Act (21 USC 841(b)(5)) is amend-

ed by striking "by cultivating a controlled substance".

INOUYE AMENDMENT NO. 1772

(Ordered to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert: "S. 3598. Nonapplication in certain portions of Indian County.

"Notwithstanding sections 1152 and 1153, the provisions of this chapter (other than this section) shall apply with respect to an offense of murder in the first degree that is committed by an Indian, or against an Indian, in any portion of Indian country (within the meaning of section 1151) only if the governing body of the Indian tribe that has jurisdiction over such portion of Indian country elects, by no later than the date that is 1 year after the date of enactment of the Federal Death Penalty Act of 1989, to have the other provisions of this chapter apply with respect to such offenses".

REID (AND OTHERS) AMENDMENT NO. 1773

(Ordered to lie on the table.)

Mr. REID (for himself, Mr. EXON, and Mr. D'AMATO) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL BUREAU OF PRISONS PRIORITY.

Section 204(b)(3) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) is amended to read as follows:

"(3)(A) Before any action is taken with respect to the disposal or transfer of any real property or facility located at a military installation to be closed or realigned under this title—

"(i) the Secretary shall notify all departments and other instrumentalities (including nonappropriated fund instrumentalities) within the Department of Defense of the availability of such property or facility, or portion thereof, and may transfer such property, facility, or portion, without reimbursement, to any such department or instrumentality; and

"(ii) after adequate notification under clause (i), the Secretary shall—

"(I) notify the Attorney General of the availability of such property or facility, or portion thereof; and

"(II) if the Attorney General certifies that such property will be used primarily in the incarceration of prisoners convicted of controlled substances offenses and that such property is essential to the Bureau of Prisons program objectives and that the acquisition of such property, facility, or portion thereof by the Bureau of Prisons will save substantial amounts of money is new prison construction, transfer, after consultation with State and local authorities, allowing a period for public comment, such property, facility, or portion thereof to the Bureau of Prisons.

"(B) In carrying out subparagraph (A)(i), the Secretary shall give a priority, and shall transfer, to any such department or other instrumentality that agrees to pay fair market value for the property or facility, or portion thereof. For purposes of subparagraph (A)(i), fair market value shall be determined on the basis of the use of the property or facility on December 31, 1988.

"(C) This paragraph shall take precedence over any other provision of this title or other provision of law with respect to the disposal or transfer of real property or facility located at a military installation to be closed or realigned under this title.".

REID AMENDMENT NO. 1774

(Ordered to lie on the table.)

Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place insert the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—IMPROVING INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES

SEC. 101. FINDINGS.

The Congress finds that—

(1) over 2,000,000 children are abused or neglected each year;

(2) the investigation and prosecution of child abuse cases is extremely complex, involving numerous agencies and dozens of personnel;

(3) in such cases, too often the system does not pay sufficient attention to the needs and welfare of the child victim, aggravating the trauma that the child victim has already experienced;

(4) multidisciplinary child abuse investigation and prosecution programs have been developed that increase the reporting of child abuse cases, reduce the trauma to the child victim, and increase the successful prosecution of child abuse offenders; and

(5) such programs have proven effective, and with targeted Federal assistance, could be duplicated in many jurisdictions throughout the country.

SEC. 102. AUTHORITY OF THE ADMINISTRATOR TO MAKE GRANTS.

(a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention (referred to as the "Administrator"), in consultation with officials of the Department of Health and Human Services, shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to develop and implement multidisciplinary child abuse investigation and prosecution programs.

(b) GRANT CRITERIA.—(1) The Administrator shall establish the criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a program—

(A) include a written agreement between local law enforcement, social service, health, and other related agencies to coordinate child abuse investigation, prosecution, treatment, and counseling services;

(B) identify an appropriate site for referring, interviewing, treating, and counseling child victims of sexual and serious physical abuse and neglect (referred to as the "counseling center");

(C) refer all sexual and serious physical abuse and neglect cases to the counseling center not later than 24 hours after notification of an incident of abuse;

(D) conduct all initial interviews jointly by personnel from law enforcement, health, and social service agencies;

(E) require, to the extent practicable, the same agency representative who conducts an initial interview to conduct all subsequent interviews;

(F) require, to the extent practicable, that all interviews and meetings with a child victim occur at the counseling center;

(G) coordinate each step of the investigation process to minimize the number of interviews that a child victim must attend;

(H) designate a director for the multidisciplinary program;

(I) assign a volunteer or staff advocate to each child in order to assist the child and, when appropriate, the child's family, throughout each step of judicial proceedings; and

(J) meet such other criteria as the Administrator shall establish by regulation.

(c) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Administrator shall ensure that grants are distributed to both large and small states and to rural, suburban, and urban jurisdictions.

SEC. 103. GRANTS FOR SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et. seq.) to national organizations to provide technical assistance and training to attorneys and others instrumental to the criminal prosecution of child abuse cases in State or Federal courts, for the purpose of improving the quality of criminal prosecution of such cases.

(b) GRANTEE ORGANIZATIONS.—An organization to which a grant is made pursuant to subsection (a) shall be one that has, or is affiliated with one that has, broad membership among attorneys who prosecute criminal cases in State courts and has demonstrated experience in providing training and technical assistance for prosecutors.

SEC. 104. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

(1) $20,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this title in each of fiscal years 1992 and 1993.

(b) USE OF FUNDS.—Of the amounts appropriated under subsection (a), not less than 90 percent shall be used for grants under section 102.

TITLE II—COURT-APPOINTED SPECIAL ADVOCATE PROGRAM

SEC. 201. FINDINGS.

The Congress finds that—

(1) the National Court-Appointed Special Advocate provides training and technical assistance to a network of 13,000 volunteers in 377 programs operating in 47 States; and

(2) in 1988, these volunteers represented 40,000 children, representing approximately 15 percent of the estimated 270,000 cases of child abuse and neglect in juvenile and family courts.

SEC. 202. PURPOSE.

The purpose of this title is to ensure that by January 1, 1995, a court-appointed special advocate shall be available to every victim of child abuse or neglect in the United States that needs such an advocate.

SEC. 203. STRENGTHENING OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delin-

quency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to expand the court-appointed special advocate program.

(b) GRANT CRITERIA.—(1) The Administrator shall establish criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a court-appointed special advocate program provide screening, training, and supervision of court-appointed special advocates in accordance with standards developed by the National Court-Appointed Special Advocate Association, including the requirements that—

(A) a court-appointed special advocate association program have a mission and purpose in keeping with the mission and purpose of the National Court-Appointed Special Advocate Association and that it abide by the National Court-Appointed Special Advocate Association Code of Ethics;

(B) a court-appointed special advocate association program operate with access to legal counsel;

(C) the management and operation of a court-appointed special advocate program assure adequate supervision of court-appointed special advocate volunteers;

(D) a court-appointed special advocate program keep written records on the operation of the program in general and on each applicant, volunteer, and case;

(E) a court-appointed special advocate program have written management and personnel policies and procedures, screening requirements, and training curriculum;

(F) a court-appointed special advocate program not accept volunteers who have been convicted of, have charges pending for, or have in the past been charged with, a felony or misdemeanor involving a sex offense, violent act, child abuse or neglect, or related acts that would pose risks to children or to the court-appointed special advocate program's credibility;

(G) a court-appointed special advocate program have an established procedure to allow the immediate reporting to a court or appropriate agency of a situation in which a court-appointed special advocate volunteer has reason to believe that a child is in imminent danger;

(H) a court-appointed special advocate volunteer be an individual who has been screened and trained by a recognized court-appointed special advocate program and appointed by the court to advocate for children who come into the court system primarily as a result of abuse or neglect; and

(I) a court-appointed special advocate volunteer serve the function of reviewing records, facilitating prompt, thorough review of cases, and interviewing appropriate parties in order to make recommendations on what would be in the best interests of the child.

(3) In awarding grants under this section, the Administrator shall ensure that grants are distributed to localities that have no existing court-appointed special advocate program and to programs in need of expansion.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

(1) $5,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this title in each of fiscal years 1992 and 1993.

TITLE III—CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS

SEC. 301. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a large number of juvenile and family courts are inundated with increasing numbers of cases due to increased reports of abuse and neglect, increasing drug-related maltreatment, and insufficient court resources;

(2) the amendments made to the Social Security Act by the Adoption Assistance and Child Welfare Act of 1980 make substantial demands on the courts handling abuse and neglect cases, but provide no assistance to the courts to meet those demands;

(3) the Adoption and Child Welfare Act of 1980 requires courts to—

(A) determine whether the agency made reasonable efforts to prevent foster care placement;

(B) approve voluntary nonjudicial placement; and

(C) provide procedural safeguards for parents when their parent-child relationship is affected;

(4) social welfare agencies press the courts to meet such requirements, yet scarce resources often dictate that courts comply pro forma without undertaking the meaningful judicial inquiry contemplated by Congress in the Adoption and Child Welfare Act of 1980;

(5) compliance with the Adoption and Child Welfare Act of 1980 and overall improvements in the judicial response to abuse and neglect cases can best come about through action by top level court administrators and judges with administrative functions who understand the unique aspects of decisions required in child abuse and neglect cases; and

(6) the Adoption and Child Welfare Act of 1980 provides financial incentives to train welfare agency staff to meet the requirements, but provides no resources to train judges.

(b) PURPOSE.—The purpose of this title is to provide expanded technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts, to improve the judicial system's handling of child abuse and neglect cases with specific emphasis on the role of the courts in addressing reasonable efforts that can safely avoid unnecessary and unnecessarily prolonged foster care placement.

SEC. 302. GRANTS FOR JUVENILE AND FAMILY COURT PERSONNEL.

In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) for the purpose of providing—

(1) technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts; and

(2) administrative reform in juvenile and family courts.

SEC. 303. SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) GRANTS TO DEVELOP MODEL PROGRAMS.—(1) The Administrator shall make grants to national organizations to develop 1 or more model technical assistance and training programs to improve the judicial system's handling of child abuse and neglect cases.

(2) An organization to which a grant is made pursuant to paragraph (1) shall be one that has broad membership among juvenile and family court judges and has demonstrated experience in providing training and technical assistance for judges, attorneys, child welfare personnel, and lay child advocates.

(b) GRANTS TO JUVENILE AND FAMILY COURTS.—(1) In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants to State courts or judicial administrators for programs that provide, contract for, or implement—

(A) training and technical assistance to judicial personnel and attorneys in juvenile and family courts; and

(B) administrative reform in juvenile and family courts.

(2) The criteria established for the making of grants pursuant to paragraph (1) shall give priority to programs that improve—

(A) procedures for determining whether child service agencies have made reasonable efforts to prevent placement of children in foster care;

(B) procedures for determining whether child service agencies have, after placement of children in foster care, made reasonable efforts to reunite the family; and

(C) procedures for coordinating information and services among health professionals, social workers, law enforcement professionals, prosecutors, defense attorneys, and juvenile and family court personnel, consistent with title II.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

(1) $10,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this title in each of fiscal years 1992, 1993, and 1994.

(b) USE OF FUNDS.—Of the amounts appropriated in paragraph (a), not less than 80 percent shall be used for grants under section 303(b).

TITLE IV—FEDERAL CHILD VICTIMS' PROTECTIONS AND RIGHTS

SEC. 01. CHILD VICTIMS' RIGHTS.

(a) CRIMINAL PROCEDURE.—The Federal Rules of Criminal Procedure are amended by inserting after rule 52 the following new rule:

"Rule 52.1 Child Victims' and Child Witnesses' Rights

"(a) DEFINITIONS. For purposes of this rule—

"(1) the term 'adult attendant' means an adult described in subdivision (i) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, who is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

"(4) the term 'exploitation' means child pornography or child prostitution;

"(5) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service

agencies to coordinate the assistance needed to handle cases of child abuse;

"(6) the term 'sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(7) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(8) the term 'sexual contact' means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; and

"(9) the term 'sex crime' means an act of sexual abuse that is a criminal act.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.

"(1) *Child's Live Testimony by 2-way Closed Circuit Television.*

"(A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for the government, the child's attorney, or a guardian ad litem appointed under subdivision (h) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, jury, judge, and public, for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(iv) The child suffers a mental or other infirmity.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record.

"(D) If the court orders the taking of testimony by television, the attorney for the government and the attorney for the defendant shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (h);

"(ii) persons necessary to operate the closed-circuit television equipment; and

"(iii) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the defendant, jury, judge, and public. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall relay into the room in which the child is testifying the defendant's image, in view of the child, and the voice of the judge.

"(2) *Videotaped Deposition of Child.* (A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for the government, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (h) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, and public for any of the following reasons:

"(I) The child will refuse to testify despite the court's request to do so.

"(II) The child will be unable to testify because of fear, failure of memory, or similar circumstances.

"(III) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(IV) The child suffers a mental or other infirmity.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are

"(I) the attorney for the government;

"(II) the attorney for the defendant;

"(III) the child's attorney or guardian ad litem appointed under subdivision (h);

"(IV) persons necessary to operate the videotape equipment;

"(V) subject to clause (iv), the defendant; and

"(VI) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against the defendant, and the right to cross-examine the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that 2-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, in view of the child, and the child's testimony into the room in which the defendant is viewing the proceeding, and that the defendant be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal. The videotape shall become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.

"(1) *Effect of Federal Rules of Evidence.* Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) *Presumption.* A child is presumed to be competent.

"(3) *Requirement of Written Motion.* A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) *Requirement of Compelling Reasons.* A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) *Persons Permitted to be Present.* The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorney for the government;

"(C) the attorney for the defendant;

"(D) a court reporter; and

"(E) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) *Not Before Jury.* A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

"(7) *Direct Examination of Child.* Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorney for the government and the attorney for the defendant. The court may permit an attorney to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) *Appropriate Questions.* The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus

on determining the child's ability to understand and answer simple questions.

"(9) *Psychological and Psychiatric Examinations.* Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.

"(1) *Confidentiality of Information.* (A) A person acting in a capacity described in subparagraph (B) in connection with a criminal proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of the government connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the defendant and employees of the defendant, including the attorney for the defendant and persons hired by the defendant or the attorney for the defendant to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) FILING UNDER SEAL.—All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

"(3) PROTECTIVE ORDERS.—(A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) DISCLOSURE OF INFORMATION.—This subdivision does not prohibit disclosure of the name of or other information concerning a child to the defendant, the attorney for the defendant, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM. When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate. Such an order shall be narrowly tailored to serve the government's specific compelling interest.

"(f) VICTIM IMPACT STATEMENT. In preparing the presentence report pursuant to rule 32(c), the probation officer shall request information from the multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the child victim and any other children who may have been affected. A guardian ad litem appointed under subdivision (h) shall make every effort to obtain and report information that accurately expresses the child's and the family's views concerning the child's victimization. A guardian ad litem shall use forms that permit the child to express the child's views concerning the personal consequences of the child's victimization, at a level and in a form of communication commensurate with the child's age and ability.

"(g) USE OF MULTIDISCIPLINARY CHILD ABUSE TEAMS.

"(1) *In General.* A multidisciplinary child abuse team shall be used when it is feasible to do so. The court shall work with State and local governments that have established multidisciplinary child abuse teams designed to assist child victims and child witnesses, and the court and the attorney for the government shall consult with the a multidisciplinary child abuse team as appropriate.

"(2) *Role of Multidisciplinary Child Abuse Teams.* The role of the multidisciplinary child abuse team shall be to provide for a child services that the members of the team in their professional roles are capable of providing, including—

"(A) medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;

"(B) telephone consultation services in emergencies and in other situations;

"(C) medical evaluations related to abuse or neglect;

"(D) psychological and psychiatric diagnoses and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case;

"(E) expert medical, psychological, and related professional testimony;

"(F) case service coordination and assistance, including the location of services available from public and private agencies in the community; and

"(G) training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses.

"(h) GUARDIAN AD LITEM.

"(1) *In General.* The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) *Duties of Guardian Ad Litem.* A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) *Immunities.* A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties.

"(i) ADULT ATTENDANT. A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child.

"(j) SPEEDY TRIAL. In a proceeding in which a child is called to give testimony, on motion by the attorney for the government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal process. When deciding whether to grant a continuance, the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.

"(k) EXTENSION OF PERIOD OF LIMITATIONS.—There is no limitation of time within which a prosecution must be commenced for a sex crime involving a child victim, regardless whether the crime involved force or resulted in serious physical injury or death. If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the time during which the criminal action is pending shall not be counted as part of the time limited for the commencement of the civil action. As used in this subdivision, a criminal action is pending until its final adjudication in the trial court.".

(b) CIVIL PROCEDURE.—The Federal Rules of Civil Procedure are amended by inserting after rule 43 the following new rule:

"Rule 43.1 Child Victims' and Child Witnesses' Rights

"(a) DEFINITIONS. For purposes of this rule—

"(1) the term 'adult attendant' means an adult described in subdivision (g) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, who is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

"(4) the term 'exploitation' means child pornography or child prostitution;

"(5) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

"(6) the term 'sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(7) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral anal contact, whether between persons of the same or of opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(8) the term 'sexual contact' means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; and

"(9) the term 'sex crime' means an act of sexual abuse that is a criminal act.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.

"(1) *Child's Live Testimony by 2-way Closed Circuit Television.*

"(A) In a proceeding involving an alleged offense against a child or involving a child witness, the child's attorney or a guardian ad litem appointed under subdivision (f) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the parties, jury, judge, and public, for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(iv) The child suffers a mental or other infirmity.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record.

"(D) If the court orders the taking of testimony by television, the attorneys for the parties shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (f);

"(ii) persons necessary to operate the closed-circuit television equipment; and

"(iii) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the parties, jury, judge, and public. The parties shall be provided with the means of private, contemporaneous communication with their attorneys during the testimony. The closed circuit television transmission shall relay the child's testimony into the courtroom and the judge's voice into the room in which the child is testifying.

"(2) *Videotaped Deposition of Child.* (A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for a party, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (f) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the parties, jury, judge, and public for any of the following reasons:

"(I) The child will refuse to testify despite the court's request to do so.

"(II) The child will be unable to testify because of fear, failure of memory, or similar circumstances.

"(III) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(IV) The child suffers a mental or other infirmity.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are

"(I) the attorneys for the parties;

"(II) the child's attorney or guardian ad litem appointed under subdivision (f);

"(III) persons necessary to operate the videotape equipment;

"(IV) subject to clause (iv), the parties; and

"(V) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of one of the parties, the court may order that the party, including a party represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that a party be excluded from the deposition room, the court shall order that the party be provided with a means of private, contemporaneous communication with the party's attorney during the deposition.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal. The videotape shall become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.

"(1) *Effect of Federal Rules of Evidence.* Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) *Presumption.* A child is presumed to be competent.

"(3) *Requirement of Written Motion.* A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) *Requirement of Compelling Reasons.* A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) *Persons Permitted to be Present.* The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorneys for the parties;

"(C) a court reporter; and

"(D) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) *Not Before Jury.* A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

"(7) *Direct Examination of Child.* Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorneys for the parties. The court may permit an attorney to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) *Appropriate Questions.* The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(9) *Psychological and Psychiatric Examinations.* Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.

"(1) *Confidentiality of Information.* (A) A person acting in a capacity described in subparagraph (B) in connection with a civil proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of any government agency that may become connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the parties and employees of the parties, including the attorneys for the parties and persons hired by the parties or an attorney for a party to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) *Filing Under Seal.* All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

"(3) *Protective Orders.* (A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) *Disclosure of Information.* This subdivision does not prohibit disclosure of the name of or other information concerning a child to a party, an attorney for a party, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM. When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate.

"(f) GUARDIAN AD LITEM.

"(1) *In General.* The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) *Duties of Guardian Ad Litem.* A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) *Immunities.* A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties.

"(g) ADULT ATTENDANT. A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child.".

(c) EVIDENCE.—The Federal Rules of Evidence are amended by inserting after rule 803 the following new rule:

"Rule 803.1 Child Victims' and Child Witnesses' Testimony

"(a) Hearsay exception for out-of-court statements.—

"(1) In general.—An out-of-court statement made by a child of less than 13 years of age concerning conduct related to alleged completed or attempted crimes of sexual abuse, physical abuse, or exploitation of the child or concerning a crime against another person witnessed by the child that is not otherwise admissible in a judicial proceeding is not excluded by the hearsay rule if—

"(A) the child testifies at the proceeding, or testifies by means of videotaped deposition or closed-circuit television, and at the time of the taking of the testimony is subject to cross-examination concerning the out-of-court statement;

"(B) the court finds that the child's out-of-court statement possesses particularized guarantees of trustworthiness; or

"(C) the court finds that the child is unable to testify effectively for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court or by means of videotaped deposition or closed-circuit television.

"(iv) The child suffers a mental or other infirmity.

"(v) A privilege precludes taking the child's testimony in open court or by means of videotaped deposition or closed-circuit television.

"(vi) The child has died or is absent from the jurisdiction.

"(2) Guarantees of trustworthiness.—In determining whether a statement possesses particularized guarantees of trustworthiness under paragraph (1)(B), the court may consider—

"(i) the child's knowledge of the event;

"(ii) the age and maturity of the child;

"(iii) the degree of certainty that the statement was in fact made by the child;

"(iv) any apparent motive the child may have had to falsify or distort the event, including bias, corruption, or coercion;

"(v) the timing of the child's statement;

"(vi) whether more than one person heard the statement;

"(vii) whether the child was suffering pain or distress when making the statement;

"(viii) the nature and duration of any alleged abuse;

"(ix) whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's experience;

"(x) whether the statement has internal consistency or coherence and uses terminology appropriate to the child's age;

"(xi) whether the statement is spontaneous or directly responsive to questions;

"(xii) whether the statement is suggestive due to improperly leading questions; and

"(xiii) whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement.

"(3) Notice.—The proponent of the admission of an out-of-court statement shall notify the adverse party of the proponent's intention to offer the statement and of the content of the statement sufficiently in advance of the proceeding to provide the adverse party with a fair opportunity to prepare a response to the statement before the proceeding at which it is to be offered.

"(4) Findings.—The court shall support with findings on the record any rulings pertaining to the child's inability and the trustworthiness of an out-of-court statement.

"(b) Testimonial aids.—The court may permit a child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.".

(d) VIOLATION OF RULE REGARDING DISCLOSURE.—

(1) PUNISHMENT AS CONTEMPT.—Chapter 21 of title 18, United States Code, is amended

by adding at the end thereof the following new section:

"§ 403. Protection of the privacy of child victims and child witnesses

"A violation of rule 43.1(d)(1) of the Federal Rules of Civil Procedure or rule 52.1(d)(1) of the Federal Rules of Criminal Procedure shall constitute a criminal contempt classified as a Class A misdemeanor.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 21, United States Code, is amended by adding at the end thereof the following new item:

"403. Protection of the privacy of child victims and child witnesses.".

SEC. 402. CHILD ABUSE REPORTING.

(a) IN GENERAL.—A person who, while engaged in a professional capacity or activity described in subsection (b) on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d).

(b) COVERED PROFESSIONALS.—Persons engaged in the following professions and activities are subject to the requirements of subsection (a):

(1) Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, and alcohol or drug treatment personnel.

(2) Religious healers, persons rendering spiritual treatment through prayer, and persons licensed to practice the healing arts.

(3) Psychologists, psychiatrists, and mental health professionals.

(4) Social workers, licensed or unlicensed marriage, family, or individual counselors, and clergy performing counseling roles.

(5) Teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials, and school administrators.

(6) Child care workers and administrators.

(7) Law enforcement personnel, judges, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.

(8) Foster parents.

(9) Commercial film and photo processors.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

(2) the term "exploitation" means child pornography or child prostitution;

(3) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(4) the term "sexually explicit conduct" means actual or simulated—

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral anal contact, whether between persons of the same or of opposite sex;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse; and

(5) the term "sexual contact" means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person.

(d) AGENCY DESIGNATED TO RECEIVE REPORT AND ACTION TO BE TAKEN.—For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a). By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

(e) REPORTING FORM.—In every federally operated (or contracted) facility, and on all Federal lands, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. Use of the form shall be encouraged, but its use shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

(f) IMMUNITY FOR REPORTING AND ASSOCIATED ACTIONS.—All persons who, acting in good faith, make a report by subsection (a), or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the defendant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses.

(g) CRIMINAL PENALTY FOR FAILURE TO REPORT.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2258. Failure to report child abuse

"A person who, while engaged in a professional capacity or activity described in subsection (b) of section 502 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be guilty of a Class B misdemeanor.".

(2) The chapter analysis for chapter 110, United States Code, is amended—

(A) by amending the catchline to read as follows:

"CHAPTER 110—SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN";

and

(B) by adding at the end thereof the following new item:

"2258. Failure to report child abuse.".

(3) The item relating to chapter 110 in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"110. Sexual exploitation and other abuse of children ..... 2251".

(h) CIVIL LIABILITY FOR FAILURE TO REPORT.—(1) A person who fails to make a report when required under subsection (a) shall be liable to a child who, after the time at which the person learns the facts that give rise to the requirement to report, suffers an incident of child abuse.

(2) In an action brought under paragraph (1), the plaintiff shall have the burden of showing that—

(A) the defendant learned of facts that did give or reasonably should have given the defendant reason to suspect that the child on whose behalf suit is brought had suffered an incident of child abuse; and

(B) after the time that the defendant learned of such facts—

(i) the defendant failed to make a timely report as required by subsection (a); and

(ii) the child suffered an incident of child abuse.

(3) In an action brought under paragraph (1), the plaintiff may recover damages for physical, mental, and emotional injury caused by incidents of child abuse that occur after the time that the defendant learned of the facts described in subparagraph (A), without regard to whether any other person learned of such facts and failed to make a report.

(4) A plaintiff who makes the showing described in paragraph (2) shall be entitled to recover unless the defendant shows that—

(A) the defendant made a report to the agency as soon as it was possible to do so;

(B) the agency to which the report was required to be made acquired knowledge of the facts of which the defendant had learned, or of the incident of child abuse whose occurrence was suggested by those facts, at a time prior to the occurrence of the incident of child abuse for which recovery is sought sufficient to have allowed the agency to take action that might have prevented the incident; or

(C) the agency could not have prevented the incident of child abuse for which recovery is sought.

(i) PRIVILEGES ABROGATED.—For the purposes of this section, and in any investigations or judicial actions resulting from a report of abuse or neglect, the privileged nature of any communications between physician and patient, psychotherapist and patient, psychologist and client, social worker and client, any other health care provider and patient, and husband and wife are abrogated.

(j) TRAINING OF PROSPECTIVE REPORTERS.—All individuals in the occupations listed in subsection (b)(1) who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

TITLE VI—CHILD CARE WORKER EMPLOYEE BACKGROUND CHECKS

SEC. 601. REQUIREMENT FOR BACKGROUND CHECKS.

(a) IN GENERAL.—(1) Each agency of the Federal Government, and every facility operated by the Federal Government (or operated under contract with the Federal Government), that hires (or contracts for hire) individuals involved with the provision to children under the age of 18 of child care services shall assure that all existing and

newly-hired employees undergo a criminal history background check. All existing staff shall receive such checks not later than 6 months after the date of enactment of this Act, and no additional staff shall be hired without a check having been completed.

(2) For the purposes of this section, the term "child care services" means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

(b) CRIMINAL HISTORY CHECK.—(1) A background check required by subsection (a) shall be—

(A) based on a set of the employee's fingerprints obtained by a law enforcement officer and on other identifying information;

(B) conducted through the Identification Division of the Federal Bureau of Investigation and through the State criminal history repositories of all States that an employee or prospective employee lists as current and former residences in an employment application; and

(C) initiated through the personnel programs of the applicable Federal agencies.

(2) The results of the background check shall be communicated to the employing agency.

(c) APPLICABLE CRIMINAL HISTORIES.—Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be ground for denying employment or for dismissal of an employee in any of the positions listed in subsection (a)(2). In the case of an incident in which an individual has been charged with one of those offenses, when the charge has not yet been disposed of, an employer may suspend an employee from having any contact with children while on the job until the case is resolved. Conviction of a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children.

(d) EMPLOYMENT APPLICATIONS.—(1) Employment applications for individuals who are seeking work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, in any of the positions listed in subsection (a)(1), shall contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and if so requiring a description of the disposition of the arrest or charge. An application shall state that it is being signed under penalty of perjury, with the applicable Federal punishment for perjury stated on the application.

(2) A Federal agency seeking a criminal history record check shall first obtain the signature of the employee or prospective employee indicating that the employee or prospective employee has been notified of the employer's obligation to require a record check as a condition of employment and the employee's right to obtain a copy of the criminal history report made available to the employing Federal agency and the right to challenge the accuracy and completeness of any information contained in the report.

(e) ENCOURAGEMENT OF VOLUNTARY CRIMINAL HISTORY CHECKS FOR OTHERS WHO MAY HAVE CONTACT WITH CHILDREN.—Federal agencies and facilities are encouraged to submit identifying information for criminal history checks on volunteers working in any of the positions listed in subsection (a) and on adult household members in places where child care or foster care services are being provided in a home.

WIRTH AMENDMENT NOS. 1775 AND 1776

(Ordered to lie on the table.)

Mr. WIRTH submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1775

At the appropriate place in the bill, insert the following new title:

SECTION 1. ESTABLISHMENT OF FINANCIAL SERVICES CRIME DIVISION.

(a) There is established within the Department of Justice, the Financial Services Crime Division.

SEC. 2. ASSISTANT ATTORNEY GENERAL FOR FINANCIAL SERVICES CRIME.

(a) ASSISTANT ATTORNEY GENERAL.—There shall be at the head of the Financial Services Crime Division established by this title, as Assistant Attorney General of the Department of Justice for the Financial Services Crime Division, who shall—

(1) be appointed by the President, by and with the advise and consent of the Senate;

(2) report directly to the Attorney General of the United States;

(3) ensure that all investigations and prosecutions are coordinated within the Department of Justice to provide the greatest use of civil proceedings and forfeitures to attack the financial resources of those who have committed fraud or engaged in other criminal activity in or against the financial services industry.

(4) ensure that all investigations and prosecutions are coordinated within the Department of Justice to ensure that adequate resources are made available in connection with criminal investigations and prosecution of fraud and other criminal activity in the financial services industry.

(b) COMPENSATION.—(1) Section 5315 of title 5, United States Code, is amended by striking out:

"Assistant Attorneys General (10)."

and inserting in lieu thereof:

"Assistant Attorneys General (11)."

(2) The Assistant Attorney General of the Financial Services Crime Division shall be paid at the basic pay payable for level IV of the Executive Schedule.

SEC. 3. DEPUTY ASSISTANT ATTORNEY GENERAL.

(a) ESTABLISHMENT.—There is established the position of Deputy Assistant Attorney General of the Financial Services Crime Division, who shall report directly and be responsible to the Assistant Attorney General of the Financial Services Crime Division.

(b) COMPENSATION.—The Deputy Assistant Attorney General of the Financial Services Crime Division shall be paid at the rate of basic pay payable for level V of the Executive Schedule.

SEC. 4. ADMINISTRATIVE OFFICE OF THE DIVISION.

There shall be established within the Financial Services Crime Division such sections and offices as the Attorney General shall deem appropriate to maintain or increase the level of enforcement activities in the area of fraud and other criminal activity in and against the financial service industry.

SEC. 5. COORDINATION AND ENHANCEMENT OF FIELD ACTIVITIES.

(a) STRIKE FORCES.—The Attorney General shall establish such number of field offices as shall be necessary to carry out the purposes of this Act. All such field offices of the Division shall be known as the Financial Services Crime Strike Forces.

(b) COORDINATION WITH AGENCIES.—In investigating and prosecuting crime in the financial services industry, the Division shall coordinate its activities with appropriate officials of the Federal Bureau of Investigation, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Office of Comptroller of the Currency, the Federal Reserve Board and the Securities Exchange Commission.

SEC. 6. REPORTS.

The Division shall compile and collect data concerning the nature and quantity of investigations, prosecutions, and enforcement proceedings in progress; the nature and quantity of such matters closed, settled or litigated to conclusion; and the outcomes achieved, including fines and penalties levied, prison sentences imposed and damages recovered. The Division shall make the raw data collected available to any Committee of Congress or congressional agency. In addition, the Division shall analyze and report to the Senate and House Banking Committees of the United States Congress semi-annually on this data, and its own coordination activities with the agencies identified in Section 5(b) above. Such report shall identify with respect to the Division and the agencies identified above:

(i) the institutions in which evidence of significant fraud or insider abuse has been detected;

(ii) the Federal administrative enforcement actions brought against parties;

(iii) the claims for monetary damages or other relief sought, and any settlements of judgments against parties;

(iv) indictments, guilty pleas or verdicts obtained against parties; and

(v) the resources allocated in pursuit of such claims, actions, settlements, indictments or verdicts.

SEC. 7. APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as shall be necessary to carry out the purposes of this Act.

AMENDMENT NO. 1776

At the end of the bill, add the following:

SEC. . PROSECUTION OF FRAUD AND OTHER CRIMINAL ACTIVITY IN THE FINANCIAL SERVICES INDUSTRY.

The Resolution Trust Corporation shall transfer to the Department of Justice such sums as are necessary to pursue investigations and prosecutions of fraud and other criminal activity in the financial services industry.

HUMPHREY AMENDMENT NO. 1777

(Ordered to lie on the table.)

Mr. HUMPHREY submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . PRESERVATION OF CLASSROOM SAFETY.

(a) Section 1415(e)(3) of title 20, United States Code, is amended by adding the following sentence at the end thereof:

"The requirements of this subsection shall not apply in cases where the child's removal from his or her current educational placement is based on violent or disruptive con-

duct that presents a significant threat to the health or safety of others or to the maintenance of an orderly classroom environment."

SIMPSON AMENDMENTS NOS. 1778 AND 1779

(Ordered to lie on the table.)

Mr. SIMPSON submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1778

SEC. 403. DEFINITIONS.

Page 49, line 4, by striking the period following "Striker 12." and inserting a semicolon ";" and the following:

"(26) and which is a selective fire military rifle capable of firing on full-automatic, burst, or semi-automatic modes."

AMENDMENT No. 1779

SEC. 403. DEFINITIONS.

Page 49, line 4, by striking the period following "Striker 12." inserting a semicolon ";" and the following:

"(26) and which is a selective fire firearm which is manufactured capable of firing on full-automatic, burst, or semi-automatic modes."

DODD AMENDMENT NO. 1780

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the end of the bill, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children of Substance Abusers Act".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to increase the availability of treatment for parents, particularly mothers, who are substance abusers;

(2) to ensure that the physical, emotional, and psychological needs of children of substance abusers, including children exposed to drugs or alcohol before birth, are identified, assessed, and addressed;

(3) to promote the economic and social well-being of families in which a parent is a substance abuser by providing comprehensive services directed at the entire family; and

(4) to prevent child abuse and preserve families by improving parenting skills and providing support systems of social services.

TITLE I—TREATMENT

SEC. 101. ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICE BLOCK GRANTS.

Section 1916 of the Public Health Service Act (42 U.S.C. 300x-4) is amended—

(1) in subsection (c)(14), by striking "10 percent" and inserting "20 percent";

(2) in subsection (c), by adding at the end the following new paragraph:

"(22) The State agrees—

"(A) to ensure that treatment services for the abuse of alcohol and drugs are available to each woman in the State who—

"(i) is pregnant or has a child; and

"(ii) seeks and would benefit from treatment services;

"(B) in carrying out subparagraph (A)—

"(i) with respect to facilities in the State that provide treatment services for the abuse of alcohol and drugs to women described in subparagraph (A), to—

"(I) identify the facilities;

"(II) publicize the availability of treatment services from the facilities; and

"(III) provide to the Secretary a list of the facilities and an assessment of the capability of the facilities to meet the treatment needs of women described in subparagraph (A); and

"(ii) to require that, in the event that a treatment facility has insufficient capacity to treat a woman described in subparagraph (A), the facility refer the woman to the State for referral to a facility with the capacity to provide treatment services; and

"(C) if the State or the Secretary determines that the capacity of treatment facilities in the State is insufficient to comply with subparagraph (B)(ii), that the State will establish quantitative goals and develop and implement a program, approved by the Secretary, for the provision of adequate treatment capacity to meet the needs of each woman described in subparagraph (A) in the State."; and

(3) in subsection (f), by striking the second sentence and inserting the following new sentence:

"The report shall include—

"(1) a detailed description of the programs and services;

"(2) an assessment of the adequacy of the programs and services in meeting—

"(A) the alcohol and abuse treatment needs of women; and

"(B) the mental health needs of severely disturbed children and adolescents;

"(3) with respect to programs and services provided in accordance with subsection (c)(14)—

"(A) a description of the process used to award funds to the programs and services;

"(B) a description of services for children of substance abusers, as defined in section 399(5), provided by the State;

"(C) information on the number of spaces available for pregnant women, infants, and children in—

"(i) services for children of substance abusers;

"(ii) services that provide treatment both to substance abusers who are parents and to the children of substance abusers;

"(iii) outpatient services that provide treatment both to substance abusers who are parents and to the children of substance abusers; and

"(iv) residential treatment services that provide treatment to substance abusers who are parents and allow the children of substance abusers to reside with their parents during treatment; and

"(D) an evaluation of the extent to which the programs and services increase the availability of spaces for pregnant women, infants, and children in the services described in subparagraph (C); and

"(4) such other information, including legislative and administrative recommendations, as the Secretary determines to be appropriate.".

TITLE II—HOME-BASED SERVICES FOR FAMILIES OF AT-RISK CHILDREN

SEC. 201. HOME-BASED SERVICES.

Part K of title III of the Public Health Services Act is amended—

(1) by redesignating sections 399 and 399A as sections 398A and 398B, respectively; and

(2) by adding at the end the following new subpart:

"Subpart III—Grants for Home-based Services for Families of At-risk Children.

"SEC. 398K. DEFINITIONS.

"As used in this subpart:

"(1) AT-RISK CHILD.—The term 'at-risk child' means an unborn child or a child below the age of 1, who is at risk for—

"(A) low birthweight;

"(B) another pregnancy complication; or

"(C) child abuse and neglect.

"(2) HOME VISITING SERVICES.—The term 'home visiting services' means services that provide—

"(A) assistance to mothers of at-risk children in obtaining health care;

"(B) information on pregnancy, baby care, parenting, and child development to mothers of at-risk children;

"(C) assistance to mothers of at-risk children in developing support networks; and

"(D) assistance to the families of at-risk children in obtaining necessary social services.

"(3) HOME VISITOR.—The term 'home visitor' means a person who provides home visiting services.

"SEC. 398L. HOME-BASED SERVICES.

"(a) ESTABLISHMENT.—The Secretary shall make competitive grants to eligible entities to pay for the Federal share of the costs of providing home visiting services to families of at-risk children. The Secretary shall award grants for periods of at least 3 years, but no more than 5 years.

"(b) PURPOSES.—The purposes of this section are—

"(1) to increase the use of prenatal care;

"(2) to reduce the incidence of infants born prematurely or with low birthweight;

"(3) to reduce the incidence of child abuse and neglect; and

"(4) to promote health measures to encourage appropriate growth and development of children.

"(c) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary by regulation requires. At a minimum, each application shall contain—

"(1) a description of the services provided by the entity and the means available to families of at-risk children to obtain access to each service;

"(2) a description of the types and qualifications of home visitors used by the entity;

"(3) a description of the process by which the entity will provide continuing training, adequate supervision, and sufficient support to home visitors to ensure that home visitors are competent to render effective home visiting services;

"(4) assurances that the entity will provide home visiting services conducted by—

"(A) public health nurses, certified social workers, or other professionals who are trained in home visiting services; or

"(B) interdisciplinary teams of home visitors, which shall include at least one individual described in subparagraph (A) and which may include volunteers trained in home visiting services;

"(5) assurances that the entity will provide home visiting services for a family of an at-risk child with reasonable frequency—

"(A) as early in the pregnancy of the mother of the at-risk child as is practicable; and

"(B) until the at-risk child reaches at least 1 year of age;

"(6) assurances that, in allocating home visiting services to families of at-risk children, the entity will give priority to the families of women who abuse drugs or alcohol and seek treatment;

"(7) assurances that the entity will deliver home visiting services in a nonjudgmental manner that accords proper respect to the cultural traditions of the families of at-risk children;

"(8) information demonstrating that the applicant has—

"(A) access to adequate health and other social services within the community; and

"(B) familiarity with the socioeconomic and cultural groups who will receive home visiting services from the entity;

"(9) an assurance that the applicant will obtain at least 30 percent of the costs of providing home visiting services from non-Federal funds; and

"(10) an assurance that the applicant will spend no more than 10 percent of the Federal funds received under this subpart on other administrative costs, exclusive of training.

"(d) ELIGIBILITY.—Entities eligible to receive a grant under this section shall include public and private nonprofit entities that provide health or other social services to disadvantaged populations.

"(e) FEDERAL SHARE.—The Federal share of grants provided under this section shall be 70 percent. No more than 10 percent of Federal funds provided under this subpart may be used for other administrative costs, exclusive of training.

"(f) REPORT AND EVALUATION.—

"(1) REPORT.—To be eligible to receive a grant under this section, an entity shall submit an report to the Secretary at such time, in such manner, and containing such information as the Secretary by regulation requires. At a minimum, the entity shall report information on at-risk children and the mothers of at-risk children, including—

"(A) the use of preventive health services, including prenatal care;

"(B) the incidence of low birthweight and premature infants;

"(C) the length of hospital stays for post partum women and their children;

"(D) the incidence of child abuse and neglect; and

"(E) the number of emergency room visits for routine health care.

"(2) EVALUATION.—The Secretary shall periodically conduct evaluations to determine the impact of programs supported under subsection (a) on the criteria specified in paragraph (1).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for the 1991 fiscal year and such sums as may be necessary for subsequent fiscal years.".

TITLE III—SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.

SEC. 301. SERVICES.

Title III of the Public Health Service Act (42 U.S.C. 301 et seq.) (as amended by section 201 of this Act) is further amended by adding at the end the following new part:

"PART L—SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS

"SEC. 399. DEFINITIONS.

"As used in this part:

"(1) CARETAKER OF AN INFANT EXPOSED TO SUBSTANCE ABUSE.—The term 'caretaker of an infant exposed to substance abuse' means a foster parent, relative, or biological parent of an infant exposed to substance abuse who has an open protective services case.

"(2) COMMUNITY OUTREACH SERVICES.—The term 'community outreach services' means services provided by a public health nurse, social worker, or similar professional, or by a trained volunteer supervised by a professional, to—

"(A) accomplish early identification of substance abusers;

"(B) provide counseling to substance abusers on the benefits and availability of substance abuse treatment services and services for children of substance abusers;

"(C) assist substance abusers in obtaining and using substance abuse treatment services and services for children of substance abusers; and

"(D) visit and provide support to substance abusers, especially pregnant women, who are receiving substance abuse treatment services or services for children of substance abusers.

"(3) INFANT EXPOSED TO SUBSTANCE ABUSE.—The term 'infant exposed to substance abuse' means an infant who is born addicted or otherwise injured or impaired by the substance abuse of the mother of the infant.

"(4) RELATED SERVICES.—The term 'related services' means services provided by—

"(A) early intervention programs such as the program established in part H of title VI of the Education of the Handicapped Act (20 U.S.C. 1471 et seq.);

"(B) education and special education programs;

"(C) Head Start programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

"(D) other early childhood programs;

"(E) employment and training programs; and

"(F) programs offered by vocational rehabilitation agencies, recreation departments, and housing agencies.

"(5) SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.—The term 'services for children of substance abusers' includes—

"(A) in the case of children of substance abusers—

"(i) assessment of children for developmental, psychological, and medical problems, including periodic evaluation of infants exposed to substance abuse;

"(ii) health care services for children, including pediatric care; and

"(iii) therapeutic intervention services for children, including child counseling and provision of therapeutic nurseries;

"(B) in the case of substance abusers who are parents—

"(i) assessment services, including evaluation of social status, educational level, psychological condition, and skill level;

"(ii) primary health care and mental health services, including prenatal and post partum care for pregnant women; and

"(iii) remedial education services; and

"(C) in the case of substance abusers, spouses of substance abusers, extended family members of substance abusers, caretakers of infants exposed to substance abuse, and other people significantly involved in the lives of substance abusers or the children of substance abusers—

"(i) referral to related services, and assistance in establishing eligibility for related services;

"(ii) therapeutic intervention services, including parental counseling and joint counseling sessions for families and children;

"(iii) child care and respite care services;

"(iv) parenting education services and parent support groups;

"(v) support services, including, where appropriate, transportation services; and

"(vi) aftercare services, including continued support through parent groups and home visits.

"(6) SUBSTANCE ABUSE.—The term 'substance abuse' means the abuse of alcohol or a drug.

"(7) SUBSTANCE ABUSER.—The term 'substance abuser' means a pregnant woman, mother, or father who abuses alcohol or a drug and seeks substance abuse treatment.

SEC. 399A. GRANTS FOR SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.

"(a) ESTABLISHMENT.—The Secretary shall make grants to eligible entities to pay for the Federal share of the costs of establishing programs to provide community outreach services and services for children of substance abusers.

"(b) USE OF FUNDS.—

"(1) SERVICES PROVIDED.—An eligible entity shall use grants made under subsection (a) to provide—

"(A) the services described in section 399(5)(A) to the children of substance abusers;

"(B) the services described in section 399(5)(B) to substance abusers who are parents; and

"(C) the services described in section 399(5)(C) and community outreach services to substance abusers, spouses of substance abusers, extended family members of substance abusers, caretakers of infants exposed to substance abuse, and other people significantly involved in the lives of substance abusers or the children of substance abusers.

"(2) SERVICE CHARACTERISTICS.—A program established through a grant made under this section shall—

"(A) provide comprehensive services directed at the needs of the entire family;

"(B) be accessible to recipients of community outreach services and services for children of substance abusers;

"(C) respect the confidentiality of substance abusers;

"(D) coordinate the referral and provision of services with other services for children of substance abusers, substance abuse treatment services, and related services;

"(E) use service providers from a variety of disciplines;

"(F) provide long-term services; and

"(G) provide a range of services corresponding to the varying needs of recipients of community outreach services and services for children of substance abusers.

"(c) GRANT AWARDS.—In making grants under subsection (a), the Secretary shall ensure that the grants are—

"(1) reasonably distributed among the three types of eligible entities described in subsection (e); and

"(2) distributed to an adequate number of eligible entities that provide residential treatment to substance abusers and allow the children of substance abusers to reside with their parents during treatment.

"(d) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary by regulation requires. At a mimimum, each application shall contain—

"(1) a description of the services to be provided, which shall meet the requirements of subsection (b)(2);

"(2) information demonstrating a commitment from public agencies responsible for health, mental health, child welfare, juvenile justice, and substance abuse treatment programs that the public agencies will cooperate in providing community outreach serv-

ices, services for children of substance abusers, and substance abuse treatment services;

"(3) information demonstrating that the applicant has established a relationship with child welfare agencies and child protective services that will enable the applicant, where appropriate, to—

"(A) provide advocacy on behalf of substance abusers and the children of substance abusers in child protective services cases;

"(B) provide services to help prevent placement of children in substitute care; and

"(C) promote reunification of families;

"(4) an assurance that the applicant will obtain at least 20 percent of the costs of providing services for community outreach services and services for children of substance abusers from non-Federal funds;

"(5) an assurance that nonresidential programs, if any, will incorporate home-based services;

"(6) an assurance that, to the extent possible, the applicant will offer community outreach services and services for children of substance abusers to caretakers of infants exposed to substance abuse or of the siblings of the infants;

"(7) an assurance that the applicant will initiate and maintain efforts to enter substance abusers to whom they provide services into appropriate substance abuse treatment programs; and

"(8) an assurance that the applicant will submit to the Secretary an annual report containing—

"(A) information on the extent of use of services provided under the grant, including the number of families and parents served, and a breakdown of the number of children served by age;

"(B) information on the costs of services provided;

"(C) information on the rate of family preservation for families receiving services; and

"(D) such other information as the Secretary determines to be appropriate.

"(e) ELIGIBILITY.—Entities eligible to receive a grant under this section shall include—

"(1) alcohol and drug treatment programs that provide treatment to pregnant women and mothers;

"(2) public or private nonprofit entities that provide continuing services to promote child development and assist parents in developing parenting skills, and have—

"(A) expertise in applying the services to the particular problems of substance abusers and the children of substance abusers; and

"(B) an affiliation or contractual relationship with one or more substance abuse treatment programs; and

"(3) consortia of public or private nonprofit entities that include at least one substance treatment program.

"(f) FEDERAL SHARE.—The Federal share of grants provided under this section shall be 80 percent. The Secretary shall accept the value of in-kind contributions made by the grant recipient as a part or all of the non-Federal share of grants.

"(g) EVALUATION.—The Secretary shall periodically conduct evaluations to determine the effectiveness of programs supported under subsection (a)—

"(1) in reducing the incidence of alcohol and drug abuse among substance abusers participating in the programs;

"(2) in preventing adverse health conditions in infants exposed to substance abuse;

"(3) in improving the health, developmental, and psychological status of children receiving services under the program; and

"(4) in reducing the incidence of out-of-home placement for children whose parents receive services under the program.

"(h) REPORT.—The Secretary shall annually prepare and submit to Congress a report that contains a description of programs carried out under this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $100,000,000 for each of the 1991 and subsequent fiscal years.

"SEC. 399B. GRANTS FOR TRAINING TO PROVIDE SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.

"(a) ESTABLISHMENT.—The Secretary shall make grants to eligible entities to pay for the costs of training staff and volunteers in programs specifically designed to provide community outreach services and services for children of substance abusers, for the purpose of improving the delivery of the services.

"(b) USE OF FUNDS.—An entity shall use a grant made under subsection (a) to develop and disseminate training materials, and provide training, covering specialized training in techniques for providing community outreach services and services for children of substance abusers.

"(c) APPLICATION.—To be eligible to receive a grant under subsection (a), an entity shall submit an application to the Secretary containing—

"(1) a description of the training to be provided;

"(2) a description of the qualifications of the entity, and the staff of the entity, to provide training; and

"(3) such other information as the Secretary determines to be necessary.

"(d) ELIGIBILITY.—Entities eligible to receive grants under this section shall include entities providing community outreach services and services for children of substance abusers. The Secretary shall by regulation determine additional eligibility criteria for entities to receive a grant under this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of the 1991 and subsequent fiscal years.

"SEC. 399C. GRANTS FOR TRAINING TO WORK WITH FAMILIES OF SUBSTANCE ABUSERS.

"(a) ESTABLISHMENT.—The Secretary shall make grants to eligible entities to pay for the costs of training professionals whose regular duties involve providing services to families of substance abusers.

"(b) USE OF FUNDS.—

"(1) TRAINING SUBJECTS.—An entity shall use a grant made under subsection (a) to develop and disseminate training materials, and provide training, covering—

"(A) evaluation of substance abusers, including training to enable professionals to recognize substance abusers and affected family members; and

"(B) specialized training in techniques for providing services to substance abusers and affected family members.

"(2) TRAINING RECIPIENTS.—The entity that receives a grant made under subsection (a) shall conduct training for agency and other professionals who provide services that bring the professionals into contact with substance abusers or the children of substance abusers, and persons who act as resource persons for, or assist, the professionals.

"(c) APPLICATION.—To be eligible to receive a grant under subsection (a), an entity shall submit an application to the Secretary containing—

"(1) assurances that the applicant will include in individual training classes representatives from at least two of the following target groups:

"(A) Child protective services and child welfare staff.

"(B) Medical staff.

"(C) Education staff, including school administrators, social workers, and teachers.

"(D) Mental health staff.

"(E) Judges and other legal professionals;

"(2) information indicating a commitment from at least two of the target groups listed in paragraph (1) to participate in training; and

"(3) such other information as the Secretary determines to be necessary.

"(d) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section—

"(1) shall include entities with expertise in providing training or services involving substance abuse or the children of substance abusers; and

"(2) may include entities that provide community outreach services and services for children of substance abusers described in section 399A.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of the 1991 and subsequent fiscal years.

"SEC. 399D. GRANTS FOR HOME-BASE SUPPORT FOR CARETAKERS OF INFANTS EXPOSED TO DRUG ABUSE.

"(a) ESTABLISHMENT.—The Secretary shall make grants to eligible entities to train interdisciplinary teams to provide support to, and arrange services for, caretakers of infants exposed to substance abuse.

"(b) USE OF FUNDS.—An entity may use a grant made under subsection (a) to provide training (as specified in subsection (c)), case support, and consultation to interdisciplinary teams of personnel from—

"(1) child protective services or child welfare agencies; and

"(2) public health agencies.

"(c) REQUIREMENTS.—An entity that receives a grant under subsection (a) shall provide training—

"(1) that includes instruction on—

"(A) the effects of prenatal substance abuse;

"(B) the implications of prenatal substance abuse on infant care, health, and development; and

"(C) the methods of providing instruction and support for caretakers of infants exposed to substance abuse;

"(2) that supports an approach to service delivery that is—

"(A) interagency;

"(B) interdisciplinary;

"(C) comprehensive;

"(D) oriented toward case management; and

"(E) focused on improving the health and development of the child;

"(3) in sessions that include participants from both agencies specified in subsection (b); and

"(4) in both classrooms and clinical settings.

"(d) APPLICATION.—In order for an entity to be eligible for a grant under subsection (a), the entity shall submit an application to the Secretary—

"(1) jointly with representatives of the agencies specified in subsection (b);

"(2) containing assurances by the agencies specified in subsection (b) that the agencies—

"(A) ensure participation by staff members in the training program, and

"(B) agree to continue to use the approach to service delivery described in subsection (c)(2) to address cases involving infants exposed to substance abuse;

"(3) at such time, in such manner, and containing such additional agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of the 1991 and subsequent fiscal years.".

HEFLIN AMENDMENT NO. 1781

(Ordered to lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . LIMITATION ON ALLOCATIONS.

Section 501(b) of part E of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3751(b)) is amended by adding at the end thereof the following: "Allocations for grants made for the purposes provided in this subsection shall be made on an equitable basis for all components of the criminal justice system, including the judiciary. Grants shall only be made to Federal agencies that can provide technical and support assistance not available through State and local agencies or nonprofit organizations.".

KOHL AMENDMENT NO. 1782

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1970, supra; as follows:

At the end, add the following new title:

"TITLE —COMPREHENSIVE PREVENTION AND TREATMENT SERVICES FOR WOMEN IN PRISON

"SEC. . COMPREHENSIVE PREVENTION AND TREATMENT SERVICES FOR WOMEN IN PRISON.

"(a) IN GENERAL.—The Attorney general acting through the Bureau of Justice Assistance, and in consultation with the Secretary of HHS, shall make grants to eligible entities for the establishment of pilot programs at not fewer than 20 State and local jails or prisons to provide comprehensive drug and alcohol abuse treatment services for women and in the event of pregnancy, prenatal and post-partum care.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an entity shall—

"(1) be a public or private nonprofit entity with demonstrated experience in the provision of drug and alcohol abuse treatment services for women and for pregnant women and prenatal and post-partum care;

"(2) provide or arrange for the provision of

"(A) drug and alcohol abuse and addiction treatment services, with priority given to discrete treatment units that provide detoxification if necessary, comprehensive drug and alcohol abuse education, the development of individualized treatment plans, individual and group counseling, and ongoing access to self-help groups;

"(B) in the event of pregnancy, prenatal and post-partum health care;

"(C) support services (such as counseling to address family violence and sexual assault);

"(D) life skills training (such as parenting and child development classes);

"(E) education services (such as literacy and vocational training); and

"(F) after care services;

"(3) provide or arrange for the provision of ancillary health and social services and such other assistance as will ensure that females can maintain contact with their children and that such children will receive age appropriate alcohol and drug abuse education and counseling; and

"(4) prepare and submit, an application, to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a description of the services to be provided with the assistance provided under a grant awarded under this section.

"(c) EVALUATION.—The Secretary, acting through the Directors of the Office for Treatment Improvement and the Office of Maternal and Child Health shall conduct evaluations to determine the effectiveness of the projects assisted under this section and disseminate the results of such evaluations.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $20,000,000 for fiscal year 1991 and such sums as may be necessary in each of the fiscal years 1991 through 1995.".

DANFORTH AMENDMENT NO. 1783

(Ordered to lie on the table.)

Mr. DANFORTH submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the end of title II, add the following:

SEC. . The provisions of this title, except this section, shall not take effect until the Secretary of Transportation has established a program of grants to the States for the acquisition of video equipment to be used in detecting persons driving under the influence of alcohol or a controlled substance and in effectively prosecuting those persons.

KOHL AMENDMENT NO. 1784

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the end add the following new title:

TITLE —SUBSTANCE ABUSE EDUCATION, PREVENTION, AND TREATMENT

SEC. 01. PUBLIC EDUCATION REGARDING ALCOHOL AND DRUG USE DURING PREGNANCY.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. PUBLIC EDUCATION REGARDING DRUG AND ALCOHOL USE DURING PREGNANCY.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish and implement a program to inform the public of any dangers to maternal and child health resulting from drug and alcohol use during pregnancy and the post-partum period.

"(2) DUTIES OF SECRETARY.—In implementing the program established under paragraph (1) the Secretary shall—

"(A) develop educational programs and materials and public service announcements for women of child-bearing age and their male partners concerning the dangers to maternal and child health resulting from alcohol and drug use during pregnancy and the post-partum period, and the dangers to health throughout childhood posed by parental drug and alcohol abuse;

"(B) make such programs, materials, and announcements available to States, local governments, school systems, the media, community-based nonprofit organizations, health-related facilities, and such other entities as the Secretary determines appropriate to further the purposes of this section; and

"(C) conduct, support, and encourage the coordination of research on the effect of alcohol and drug use during pregnancy and the post-partum period.

"(3) CONSULTATION.—In developing programs, materials, and announcements under paragraph (2)(A), the Secretary shall consult with the Interagency Committee on Parental Drug and Alcohol Abuse established under section 508A(c), the Secretary of Education, medical and public health entities, consumer and advocacy groups, and other appropriate entities.

"(b) ASSISTANCE.—The Secretary may provide technical assistance and make grants to States—

"(1) to assist such States in the development of educational programs and materials and public service announcements for women of child-bearing age and their male partners concerning the dangers to maternal and child health resulting from the use of alcohol and drugs during pregnancy and the post-partum period, and the dangers to health throughout childhood posed by parental drug and alcohol abuse; and

"(2) to assist in the distribution of such programs, materials and announcements through such States.

"(c) EVALUATION.—The Secretary shall conduct evaluations to determine the effectiveness of the projects assisted under this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1995.".

SEC. 02. PROJECTS FOR PREGNANT AND POST-PARTUM WOMEN.

Section 509F of the Public Health Service Act (42 U.S.C. 290aa-13) is amended—

(1) in the heading, by striking out "MODEL";

(2) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, acting through the Director of the Office, shall make grants to entities to provide assistance to outpatient and residential drug and alcohol abuse treatment programs relating to pregnant and post-partum females and their infants, that meet the requirements of subsection (c).";

(3) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) In making grants under subsection (a), the Director of the Office shall ensure that grants are reasonably distributed

among projects that provide outpatient and residential treatment.

"(2) An entity shall not be eligible for a grant under subsection (a) unless such entity provides the Director with an assurance that such entity will use assistance provided under such grant to provide, arrange for the provision of, or refer individuals to, services that shall include—

"(A) intervention services for pregnant and post-partum females, including—

"(i) drug and alcohol abuse and addiction treatment services;

"(ii) support services (such as child care and transportation services);

"(iii) education and skill building services (such as parenting and job seeking skill services);

"(iv) integration and coordination of drug and alcohol treatment services with prenatal or post-partum health care services;

"(v) innovative methods of outreach to identify and recruit target populations for services early in the pregnancy of individuals of such populations;

"(vi) implementation and routinization of effective screening procedures of pregnant women for past and present drug and alcohol use and abuse; and

"(vii) after care services;

"(B) interventions where infants are at risk, including—

"(i) direct intervention, treatment, or rehabilitation of infants and very young children to reduce or prevent the impact of maternal drug and alcohol abuse on such children; and

"(ii) instrumental, informational, and emotional support and resources for biologic or foster parents of infants affected by maternal drug and alcohol abuse;

"(C) service delivery strategies, including—

"(i) strategies for the coordination, for purposes of identification or service delivery, of family violence and homeless shelter programs, programs under part A of title IV of the Social Security Act, and section 17 of the Child Nutrition Act of 1966, crisis pregnancy centers programs, public housing programs, and prison programs, with other likely points of access for high risk females;

"(ii) strategies concerning the involvement of significant others (such as male partners of pregnant females) as direct intervention targets or strategies to aid in the outreach and service delivery processes for females;

"(iii) strategies for co-locating multiple facilities to facilitate the delivery of services; and

"(iv) innovative strategies (such as case management) to ensure the coordinated utilization of generally unrelated service systems; and

"(D) other services necessary to improve pregnancy outcomes, reduce drug and alcohol abuse among females of childbearing age, and increase the stability of the family home environment.";

(4) in subsection (d)(2), by striking out "; and" and inserting in lieu thereof "including assurances as required in subsection (c)(2);";

(5) in subsection (d)(3), by striking out the period and inserting in lieu thereof "; and";

(6) in subsection (d), by adding at the end thereof the following new paragraph:

"(4) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is not less than 10 percent of the amount of the grant under subsection (a).";" and

(7) by adding at the end thereof the following new subsection:

"(f) There are authorized to be appropriated to carry out this section $75 million for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995.".

SEC. 03. CHILD ABUSE PREVENTION AND TREATMENT ACT.

Section 205(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5115(b)) is amended—

(1) by striking out "$48,000,000 for fiscal year 1988" each place that such occurs and inserting in lieu thereof "$89,000,000 for fiscal year 1991"; and

(2) by striking out "and such sums as may be necessary for fiscal years 1989, 1990, and 1991" each place that such occurs; under section 15(B) strike "$9 million" and insert in lieu thereof "$49 million".

SEC. 04. GRANTS FOR DRUG AND ALCOHOL ABUSE TREATMENT FOR NATIVE AMERICAN PREGNANT AND POST-PARTUM WOMEN.

(a) IN GENERAL.—The Indian Health Service shall make grants to entities to provide assistance to drug and alcohol abuse treatment programs relating to Native American pregnant and post-partum women and their infants, that meet the requirements of subsection (b).

(b) REQUIREMENTS.—

(1) DISTRIBUTION.—In making grants under subsection (a), the Indian Health Service shall give priority to those drug and alcohol abuse treatment centers which provide comprehensive outpatient and residential services to women and children.

(2) SERVICES.—An entity shall not be eligible for a grant under subsection (a) unless such entity provides the Indian Health Service with an assurance that such entity will use assistance provided under such grant to provide, arrange for the provision of, or refer individuals to, services that shall include—

(A) intervention services for pregnant and post-partum women, including—

(i) drug and alcohol abuse and addiction treatment services;

(ii) support services (such as child care and transportation services);

(iii) education and skill building services (such as parenting and job seeking skill services);

(iv) integration and coordination of drug and alcohol abuse treatment services with prenatal or post-partum health care services;

(v) medical screening procedures of pregnant women for past and present drug and alcohol use and abuse; and

(vi) after care services;

(B) interventions where infants are at risk, including—

(i) direct intervention, treatment, or rehabilitation of infants, which may include other siblings, to reduce or prevent the impact of maternal drug and alcohol abuse on such children; and

(ii) supportive services for biologic or foster parents affected by maternal drug and alcohol abuse;

(C) service delivery strategies that may include—

(i) strategies for the coordination, for purposes of identification or service delivery, or tribally operated health services, family violence and homeless shelter programs, programs under part A of title IV of the Social Security Act, and section 17 of the Child Nutrition Act of 1966, crisis pregnancy centers programs, public housing programs, and prison programs, with other likely points of access for high risk women;

(ii) strategies concerning the involvement of significant others (such as male partners or pregnant women) as directed intervention targets or strategies to aid in the outreach and service delivery processes for women;

(iii) strategies for co-locating multiple facilities to facilitate the delivery of services; and

(iv) innovative strategies (such as case management) to ensure the coordinated utilization of generally unrelated service systems; and

(D) other services necessary to improve pregnancy outcomes, reduce drug and alcohol abuse among women of childbearing age, and increase the stability of the family home environment.

(c) APPLICATION.—The Indian Health Service shall not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Indian Health Service;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Indian Health Service determines to be necessary to carry out this section; and

(4) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is not less than 10 percent of the amount of the grant under subsection (a).

(d) EVALUATION.—The Secretary shall conduct evaluations to determine the effectiveness of the projects assisted under this section.

(e) APPROPRIATION.—There are authorized to be appropriated to carry out this section, $20,000,000 in fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1995.

BOND AMENDMENT NO. 1785

(Ordered to lie on the table.)

Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

"It is the sense of the Senate that Congress shall not impose mandates on State criminal justice systems without providing adequate resources sufficient to fund such mandates."

BOND (AND DANFORTH) AMENDMENT NO. 1786

(Ordered to lie on the table.)

Mr. BOND (for himself and Mr. DANFORTH) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the end of title II, add the following:

CHILD RESTRAINT SYSTEMS ON COMMERCIAL AIRCRAFT

SEC. . The provisions of this title, except this section, shall not take effect until—

(1) the Secretary of Transportation issues regulations (A) requiring the use of child safety restraint systems approved by the Secretary on aircraft providing air transportation of passengers and (B) establishing age or weight limits for children who are to use such systems; and

(2) such regulations have force and effect.

BIDEN AMENDMENT NOS. 1787 THROUGH 1791

(Ordered to lie on the table.)

Mr. BIDEN submitted five amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1787

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this

chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 301. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was

false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 101. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 102. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 103. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 104. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 105. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 106. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 107. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005-07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 408. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 409. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 410. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 411. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 412. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

TITLE IV—ASSAULT WEAPONS

SEC. 401. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 402. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 403. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 404. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 405. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 406. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 407. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 408. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearms, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 409. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commenc-

ing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 410. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT No. 1788

On page 70, line 24 to page 71, line 2, strike "$45,000,000 for salaries and expenses of the Organized Crime and Dangerous Drug Division of" and insert in lieu thereof "$1,358,500,000 for".

AMENDMENT No. 1789

Strike page 62, line 1, through page 70, line 22.

AMENDMENT No. 1790

Strike page 71, line 11, through the end of the bill.

AMENDMENT No. 1791

At the end of the bill, insert the following:

"It is the Sense of the Senate that any appropriations provided pursuant to the authority provided in title VI shall be devoted to the following purposes:

"(1) $990,000,000 for grants to state and local agencies under the Drug Control and Systems Improvement Grant Program;

"(2) $20,000,000 for grants to community-based substance abuse prevention coalitions;

"(3) $17,000,000 for the first-year costs to implement the NCIC 2000 project of the Federal Bureau of Investigation;

"(4) $100,000,000 for discretionary federal grants and block grants to state and local agencies to combat drug trafficking and gang-related activity by juveniles;

"(5) $20,000,000 for grants to law enforcement agencies in rural areas to fight drug trafficking;

"(6) $98,000,000 to hire not less than 1,000 additional Federal Bureau of Investigation special agents and specialized support personnel for drug trafficking investigations;

"(7) $100,500,000 to hire not less than 1,000 additional Drug Enforcement Administration special agents and specialized support personnel, which shall include:

"(a) not to exceed $10,000,000 for enforcing provisions of federal law regarding precursor and essential chemicals;

"(b) not to exceed $37,500,000 for assigning not fewer than 250 agents and support personnel to rural areas; and

"(c) not to exceed $15,000,000 to expand DEA state and local task forces, including payment of state and local overtime equipment and personnel costs;

"(8) $24,000,000 for additional assistant U.S. attorneys and support personnel;

"(9) $9,000,000 for additional deputy U.S. Marshals and support personnel;

"(10) $45,000,000 for the Immigration and Naturalization Service and United States Border Patrol, including:

"(a) $15,000,000 to hire, train and equip 500 additional Border Patrol officers;

"(b) $18,000,000 for INS criminal investigations and the expeditious deportation of criminal aliens;

"(c) $3,000,000 for the procurement of low-level light television systems, portable and permanent sensor systems;

"(d) $9,000,000 for the procurement of additional 4-wheel drive law enforcement vehicles for the United States Border Patrol.

"(11) $35,000,000 for grants to prevent child abuse and to assist child abuse victims.

KERRY AMENDMENTS NOS. 1792 THROUGH 1794

(Ordered to lie on the table.)

Mr. KERRY submitted three amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1792

At the appropriate place, insert the following:

Section 1005(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504) is amended by inserting the following new subsection:

(3) any area designated as a high intensity drug trafficking area as defined in subsection (c) above, shall automatically qualify for designation as an enterprize zone as defined under section 701 of the Housing and Community Development Act of 1987 (42 U.S.C. 11501).

AMENDMENT No. 1793

At the appropriate place, insert the following:

BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS

Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $1,200,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993 to carry out the programs under parts D and E of this title."

AMENDMENT No. 1794

At the appropriate place, insert the following section to TITLE V—FORFEITURE.

SEC. 515. Use of seized assets for criminal defense. Notwithstanding any other provision of law, in any case in which an individual has been indicated for any offense under the Controlled Substances Act and the government has seized assets of that individual, those seized assets shall be applied to the costs of the individual's defense before any government funds may be expended for that defense.

AKAKA (AND INOUYE) AMENDMENTS NOS. 1795 THROUGH 1798

(Ordered to lie on the table.)

Mr. AKAKA (for himself and Mr. INOUYE) submitted four amendments intended to be proposed by them to the bill S. 1970, supra, as follows:

AMENDMENT No. 1795

At the appropriate place add the following:

SECTION 1. STRENGTHENING FEDERAL PENALTIES.

(a) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended as follows:

(1) at the end of clause (vii) by striking the word "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline.

(b) Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking the word "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline.

AMENDMENT No. 1796

At the appropriate place add the following:

SECTION 1. EDUCATION AND PREVENTION.

(a) Not later than six months after the date of enactment of this section, the Department of Education and the National Institute on Drug Abuse shall jointly develop model, community-based curricula for disseminating comprehensive information on methamphetamine, crystal methamphetamine, and chemically related stimulants.

(b) Not later than 12 months after the date of enactment of this section, the Department of Education shall establish not less than four state-wide or regional methamphetamine prevention demonstration programs, including one such project in California, Hawaii, Oregon and such other state that is experiencing serious methamphetamine abuse problems as determined by the Secretary of Education.

(c) There is authorized to be appropriated $4,000,000 in fiscal years 1991 and 1992 to establish and operate the model demonstration programs required under subsection (b) of this section.

(c) Not later than 18 months after the date of enactment of this section, if the Department of Education and the National Institute on Drug Abuse, in consultation with the Secretaries of Education from the States listed under subsection (b), conclude that the model curricula developed under subsection (a) demonstrate practical educational merit, the Department of Education shall distribute such model curricula to every primary and secondary school in the country.

AMENDMENT No. 1797

At the appropriate place add the following:

SECTION 1. RESEARCH AND TREATMENT.

(a) The Director of the National Institute on Drug Abuse, through the Medications Development Program, shall prioritize the development of a drug to treat addictions to:

(1) amphetamine,

(2) methamphetamine,

(3) crystal methamphetamine, and

(4) chemically related stimulants.

(b) The Director of Health and Human Services shall investigate or cause to be investigated the syndrome that results from methamphetamine addiction at birth.

(c) The Director shall, on the basis of the findings from subsection (6), develop a protocol for treating, physically and mentally, newborns afflicted with methamphetamine addiction.

AMENDMENT No. 1798

At the appropriate place add the following:

TITLE — ICE ENFORCEMENT AND PREVENTION ACT

SECTION 1. SHORT TITLE.

This title may be cited as the "Ice Enforcement and Prevention Act of 1990."

SEC. 2. STRENGTHENING FEDERAL PENALTIES.

(a) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended as follows:

(1) at the end of clause (vii) by striking the word "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline.

(b) Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking the word "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline.

SEC. 3. EDUCATION AND PREVENTION.

(a) Not later than six months after the date of enactment of this section, the Department of Education and the National Institute on Drug Abuse shall jointly develop model, community-based curricula for disseminating comprehensive information on methamphetamine, crystal methamphetamine, and chemically related stimulants.

(b) Not later than 12 months after the date of enactment of this section, the Department of Education shall establish not less than four state-wide or regional methamphetamine prevention demonstration programs, including one such project in California, Hawaii, Oregon and such other state that is experiencing serious methamphetamine abuse problems as determined by the Secretary of Education.

(c) There is authorized to be appropriated $4,000,000 in fiscal years 1991 and 1992 to establish and operate the model demonstration programs required under subsection (b) of this section.

(c) Not later than 18 months after the date of enactment of this section, if the Department of Education and the National Institute on Drug Abuse, in consultation with the Secretaries of Education from the States listed under subsection (b), conclude that the model curricula developed under subsection (a) demonstrate practical educational merit, the Department of Education shall distribute such model curricula to every primary and secondary school in the country.

SEC. 4. RESEARCH AND TREATMENT.

(a) The Director of the National Institute on Drug Abuse, through the Medications Development Program, shall prioritize the development of a drug to treat addictions to:

(1) amphetamine,

(2) methamphetamine

(3) crystal methamphetamine, and

(4) chemically related, stimulants.

(b) The Director of Health and Human Services shall investigate or cause to be investigated the syndrome that results from methamphetamine addiction at birth.

(c) The Director shall, on the basis of the findings from subsection (b), develop a protocol for treating, physically and mentally, newborns afflicted with methamphetamine addiction.

SECTION-BY-SECTION ANALYSIS

SEC. 101. This section creates stiff federal penalties for the production, manufacture, sale or distribution of "ice," a highly pure and smokable form of methamphetamine. Under existing law, the penalties for "ice" are the same as those for methamphetamine generally, regardless of the fact that "ice" is more highly addictive and physically dangerous than methamphetamine.

Specifically, this amendment provides a penalty of not less than 10 years and up to life imprisonement for the manufacture, distribute or possession with intent to distribute extremely large quantities of "ice" (25 grams or more). For mid-level distribution (2 grams or more), the federal penalty is not less than 5 years and not more than 40 years.

BAUCUS AMENDMENT NO. 1799

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . WAITING PERIOD FOR THE PURCHASE OF EPHEDRINE.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall study the problems associated with the purchase of ephedrine and report to the Congress and the President whether a 21-day waiting period for any purchase of ephedrine would reduce the manufacture of methamphetamine.

(b) SPECIFICS OF REPORT.—The Attorney General shall include in the report required by this section the following:

(1) a recommended uniform purchase application form to be filled out by persons or companies desiring to purchase ephedrine;

(2) a recommendation whether or not vendors of ephedrine should be required to submit purchase applications to the Government or keep private files;

(3) criteria to ensure the privacy of the ephedrine purchaser if the Government has access to the purchase applications;

(4) an estimate of the cost to the vendors of collecting purchase information;

(5) an estimate of the cost to the Government of any applicable process;

(6) recommendations on how to implement waivers to the waiting period taking into consideration legitimate purchasers of ephedrine and how to ensure their continued access without a waiting period requirement;

(7) a recommendation whether or not a waiting period would be beneficial in reducing the incidence of the purchase of ephedrine for the manufacture of controlled substances; and

(8) any other criteria necessary to ensure a thorough examination of the situation.

PRYOR AMENDMENT NOS. 1800 AND 1801

(Ordered to lie on the table.)

Mr. PRYOR submitted two amendments intended to be proposed by him to the bill S. 1970, supra; as follows:

AMENDMENT No. 1800

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Rural Drug Enforcement Act".

SEC. 2. LEADERSHIP ON RURAL DRUG POLICY.

(a) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereafter in this title referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(b) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(1) examine the special needs of rural areas in drug interdiction;

(2) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(3) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs, and the National Forest Service) in rural areas; and

(4) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

SEC. 3. RURAL DRUG ENFORCEMENT ASSISTANCE.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding a new section 509 as follows:

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 509. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"(b) Of the total amount appropriated for this section in any fiscal year:

"(1) 50 per centum shall be allocated to and shared equally among rural States as described in subsection (c); and

"(2) 50 per centum shall be allocated to the remaining States for use in non-metropolitan areas within those States, as follows:

"(A) $100,000 to each nonrural State; and

"(B) of the total funds remaining after the allocation in clause (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(c) For the purpose of subsections (b) and (c), the term 'rural State' means a State that has a population density of fifty-two or fewer persons per square mile or a State in which the largest county has fewer than one hundred and fifty thousand people.".

(b) SEPARATE GRANT REQUEST.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by—

(1) at the end of paragraph (10) strike the "." and insert in lieu thereof "; and";

(2) inserting a new paragraph (11) as follows:

"(11) A separate and detailed request for a grant under section 509 of this subpart, in-

cluding how the funds provided by a grant under section 506 shall be coordinated with funds provided by a grant under section 509.".

SEC. 4. FEDERAL DRUG ENFORCEMENT ASSISTANCE.

(a) GENERAL STATE ASSISTANCE.—In order to provide adequate Federal drug enforcement assistance to each of the several States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall attempt to assign not less than ten Drug Enforcement Administration special agents to each of the several States.

(b) RURAL STATES.—In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than ten Drug Enforcement Administration special agents, the Attorney General shall attempt to assign not less than four additional Drug Enforcement Administration special agents to each rural State as defined in section 303 of this title.

SEC. 5. TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop a drug training program for law enforcement officers in rural areas.

(b) TRAINING.—By not later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(c) AUTHORIZATION.—There is authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the purposes of this title.

AMENDMENT No. 1801

At the appropriate place, insert the following:

SECTION 1. Section 2511(1) of title 18 is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by inserting "or" after the semicolon at the end of paragraph (d); and

(3) by adding the following new paragraph:

"(e) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by this chapter, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, with intent to obstruct, impede, or interfere with a criminal investigation."

SEC. 2. Section 2515 of the title 18 is amended by adding at the end the following new paragraph:

"This section shall not apply to the admission into evidence of the contents of a wire or oral communication, or evidence derived therefrom, which has been disclosed in violation of section 2511(1)(e)."

BIDEN AMENDMENTS NOS. 1802 THROUGH 1818

(Ordered to lie on the table.)

Mr. BIDEN submitted 17 amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1802

On page 70, line 24, strike "$45,000,000" and insert in lieu thereof "$1,368,500,000".

AMENDMENT No. 1803

On page 70, line 24, through page 71, line 2, strike the following: "salaries and expenses of the Organized Crime and Dangerous Drug Division of".

AMENDMENT No. 1804

At the appropriate place in the bill, add the following:

None of the provisions of this Act shall take effect unless the following is enacted:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drunk Driving Child Protection Act of 1990".

SEC. 2. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended by—

(1) striking "For purposes" and inserting "(1) Subject to the provisions of paragraph (2) and for purposes"; and

(2) adding at the end thereof the following:

"(2) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than one year and an additional fine of not more than $1,000, or both, if—

"(A) a minor was present in the motor vehicle when the offense was committed; and

"(B) the law of the State, territory, possession, or district applicable to the offense does not provide an additional term of imprisonment for an act described in subparagraph (A).".

SEC. 2. COMMON CARRIERS.

Section 342 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "Whoever"; and

(2) adding at the end thereof the following:

"(b) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such offense shall include an additional term of imprisonment of not more than one year and an additional fine of not more than $1,000, or both, if—

"(1) a minor was present in the common carrier when the offense was committed; and

"(2) the State law applicable to the offense does not provide an additional term of imprisonment for an act described in paragraph (1).".

AMENDMENT No. 1805

At the end of the bill, add the following:

None of the provisions of this Act shall take effect unless the following is enacted:

TITLE —JUVENILE JUSTICE ANTI-GANG PROGRAM

SEC. 01. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs";

and

(2) adding at the end thereof a new subpart II, as follows:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs to reduce the use and sale of illegal drugs by juveniles, including education, prevention, treatment and enforcement programs.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To develop within the juvenile justice system, including the juvenile corrections system, new and innovative means to address the problems of juveniles convicted of serious criminal, drug-related and gang-related offenses;

"(3) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of juveniles in lawful activities, including in-school education and prevention programs and after-school programs;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use or gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls club, boys club, scout troops, little league and counseling to cope with their exposure to violence.

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide drug abuse education and prevention involving police and juvenile justice personnel in demand reduction programs.

"(c) Of the funds made available to each State under this section (Formula Grants) 50 per centum of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 per centum shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demon-

strate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231. Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs or projects.

"AUTHORIZATION

"SEC. 233. There is authorized to be appropriated $100,000,000 in fiscal year 1991 and such sums as may be necessary in fiscal year 1992 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"SEC. 234. Of the total amounts appropriated under this subpart in any fiscal year to carry out the purposes of section 231 (Formula Grants) the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (Discretionary Grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

"(2) Of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"APPLICATION

"SEC. 235. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 232 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 236. The procedures and time limits imposed on the Federal and State Governments under sections 505 and 508 respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. ____02. CONFORMING AMENDMENTS.

(a) TITLE II.—Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(other than part D)";

(B) and by striking paragraph (2) in its entirety; and

(2) in subsection (b) by striking "(other than part D)".

(b) PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is hereby repealed.

(c) PART E.—Part E of title II of such Act is redesignated as part D.

SEC. 03. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNNUMBERED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating unnumbered paragraphs (1) through (11) as subsections (a) through (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as so designated by this section, is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, as so designated by this section is amended—

(1) by striking "A juvenile" and inserting "(1) Except as provided in paragraphs (2) and (3), a juvenile";

(2) by striking ", except that," and designating the following matter up to the semicolon as paragraph (2);

(3) by striking "however" after the semicolon and designating the remaining matter as paragraph (3); and

(4) by inserting in paragraph (2) "or section 924 (b), (g), or (h) of this title," after "959),".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, as so designated by this section, is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavorial problems"; and

(5) by adding at the end the following:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

(e) WAIVING CONFIDENTIALITY IN CERTAIN JUVENILE PROCEEDINGS.—Section 5038 of title 18, United States Code, is amended by adding at the end the following:

"(g) In addition to any other provision of this section regarding disclosure of records if the law of the State in which a Federal juvenile delinquency proceeding takes place would permit or require the disclosure of records and information relating to a juvenile delinquency proceeding in certain circumstances, such disclosure shall be permitted under this section whenever the same circumstances exist.".

(f) CONFORMING AMENDMENT ADDING CERTAIN CONTROLLED SUBSTANCES OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.—Sections 5038 (d) and (f) of title 18, United States Code, are amended by striking out "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b)(1), (2), or (3)), or section 924 (b), (g) or (h) of this title,".

SEC. 04. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

SEC. 05. REDESIGNATION OF CONFUSING SECTIONS IN THE CONTROLLED SUBSTANCES ACT PERTAINING TO CHILDREN.

(a) SECTION 405—NEW SECTION 418.—(1) Section 405 of the Controlled Substances Act is redesignated as section 418.

(2) Section 418 of such Act (as redesignated by paragraph (1)) is amended—

(A) in subsection (a), by striking "section 405A" and inserting "section 419"; and

(B) in subsection (b) by striking "section 405A" and inserting "section 419".

(b) SECTION 405A—NEW SECTION 419.—Section 405A of the Controlled Substances Act is redesignated as section 419.

(c) SECTION 405B—NEW SECTION 420.—Section 405B of the Controlled Substances Act is redesignated as section 420.

(d) TRANSFER OF SECTION 5301 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 421.—(1) Section 5301 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 421 of the Controlled Substances Act.

(2) Section 421(a)(1) of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended by striking "(as such terms are defined for purposes of the Controlled Substances Act)".

(e) CONFORMING AMENDMENTS TO OTHER SECTIONS.—(1) Section 401(b) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(2) Section 401(c) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(f) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part D of title II by striking the items for sections 405, 405A and 405B and inserting at the end thereof the following:

"418. Distribution to persons under age twenty-one.
"419. Distribution or manufacturing in or near schools and colleges.
"420. Employment of persons under 18 years of age.
"421. Denial of Federal benefits to drug traffickers and possessors.".

(g) TRANSFER OF SECTION 6486 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 405.—(1) Section 6486 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 405 of the Controlled Substances Act.

(2) Section 405 of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a), by—

(i) striking "of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A))"; and

(ii) striking "of that Act (21 U.S.C. 841(b)(1)(A))";

(B) in subsection (c), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)";

(C) in subsection (j)(4), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (as amended by subsection (c) of this section) is amended in part D of title II by inserting after the item for section 404 the following:

"405. Civil penalty for possession of small amounts of certain controlled substances.".

(h) PART E OF THE CONTROLLED SUBSTANCES ACT.—

(1) SECTION 511A—NEW SECTION 518.—Section 511A of the Controlled Substances Act is redesignated as section 518.

(2) TRANSFER OF SECTION 1764 OF THE FOOD SECURITY ACT OF 1985.—Section 1764 of the Food Security Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 519 of the Controlled Substances Act.

(3) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part E of title II by striking the items for section 511A and inserting at the end thereof the following:

"518. Expedited procedures for seized conveyances.
"519. Production control of controlled substances.".

SEC. 06. CLARIFICATION OF ENHANCED PENALTIES UNDER CONTROLLED SUBSTANCES ACT.

(a) SECTION 418 (OLD SECTION 405).—Section 418 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b)" and inserting "subject to (1) three times the maximum punishment authorized by section 401(b)".

(b) SECTION 419 (OLD SECTION 405A).—Section 419 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b)(1), by striking subparagraph (B) and inserting "(B) three times the maximum punishment authorized by section 401(b) for a first offense".

(c) SECTION 420 (OLD SECTION 405B).—Section 420 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (b), by striking "is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both," and inserting "is subject to twice the maximum punishment otherwise authorized"; and

(2) in subsection (c), by striking "is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both," and inserting "is subject to three times the maximum punishment otherwise authorized".

AMENDMENT No. 1806

At the end of the bill, add the following:

None of the provisions of this Act shall take effect unless the following is enacted:

TITLE —CIVIL ENFORCEMENT

SEC. 01. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following:

"(c) The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 02. USE OF CIVIL INJUNCTIVE REMEDIES, FORFEITURE SANCTIONS, AND OTHER REMEDIES AGAINST DRUG OFFENDERS.

The Attorney General shall—

(1) aggressively pursue the use of criminal penalties authorized by section 1963 of title 18, United States Code, civil remedies authorized by section 1964 of title 18, United States Code, and other equitable remedies against drug offenders, including injunctions, stay-away orders, and forfeiture sanctions; and

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking. The amendments made by this section shall take effect one day after enactment.

AMENDMENT No. 1807

At the end of the bill, insert the following:

None of the provisions of this Act shall take effect unless the following is enacted:

TITLE VII—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

SEC. 701. BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS AND IMPROVING THE EFFECTIVENESS OF COURT PROCESS.

(a) BASE ALLOCATION FOR DRUG ENFORCEMENT GRANT.—Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $900,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out the programs under parts D and E of this title.".

(b) IMPROVING THE EFFECTIVENESS OF COURT PROCESS.—Paragraph (10) of section 501 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(10) improving the operational effectiveness of the court process, by expanding prosecutorial, defender and judicial resources, and implementing court delay reduction programs;".

SEC. 702. COMMUNITY SUBSTANCE ABUSE PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1990".

(b) COMMUNITY PARTNERSHIPS.—(1) Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of three of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy;

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members; and

"(3) initiate programs such as—

"(A) drug treatment and education;

"(B) street patrols against crime;

"(C) sealing up of deserted buildings;

"(D) youth activities and organizations;

"(E) other activities related to improving communication and information sharing with police; and

"(F) hire full-time or part-time staff to coordinate and direct the programs of the coalition.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, shall submit an annual review to the Committees on the Judiciary of the United States Senate and United States House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) LIMITS ON GRANTS.—A grant awarded under this section shall not be less than $10,000 and not more than $250,000.

"(h) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for fiscal year 1991 and $25,000,000 for fiscal year 1992.".

(2) The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

SEC. 703. ASSISTING STATE AND LOCAL PROSECUTORS.

(a) IN GENERAL.—Within 90 days after the enactment of this section, the Attorney General shall direct each of the several United States attorneys to—

(1) in consultation with the chief prosecutor in each State or local jurisdiction within the district, establish a program whereby all cases involving persons arrested on a designated day each month for offenses that are felony violations of the Controlled Substances Act or the Controlled Substances Export and Import Act are presented to a Federal grand jury and, if indicted, are prosecuted in Federal court; and

(2) in conjunction with State and local officials and the local heads of Federal law enforcement agencies, establish a program aimed at using Federal laws to seize and forfeit the automobiles of persons who use such vehicles in the commission of drug-related offenses, particularly drug-related offenses involving personal use quantities of drugs.

(b) REPORT.—Not less than 180 days after the enactment of this section, and annually thereafter, the Attorney General shall prepare a detailed report outlining what steps each United States attorney has taken to implement the directives issued pursuant to subsection (a) of this section and a complete statistical analysis of the accomplishments achieved under this section.

(c) NO RIGHTS CREATED.—Nothing in this section shall be construed as creating any substantive or procedural right enforceable by law by any party in any proceeding.

TITLE VIII—FEDERAL LAW ENFORCEMENT AND JUDICIAL ASSISTANCE

SEC. 801. ADDITIONAL AUTHORIZATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1991, the following sums (which shall be in addition to any other appropriations)—

(1) For the Federal Bureau of Investigation, $98,000,000 for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(2) For the Drug Enforcement Administration, $100,500,000 which shall include—

(A) not to exceed $10,000,000 for enforcing provisions of Federal law regarding precursor and essential chemicals;

(B) not to exceed $37,500,000 for assigning not fewer than 250 agents and necessary support personnel to rural areas where State and local law enforcement agencies have identified the distribution of "crack" cocaine and/or the manufacture and distribution of methamphetamine to be a serious law enforcement problem that exceeds the resources of local law enforcement, and involves trafficking across State or national boundaries; and

(C) not to exceed $15,000,000 to expand DEA State and local task forces, including payment of State and local overtime equipment and personnel costs;

(3) For the United States courts, $9,000,000 for additional probation officers, judges, magistrates and other personnel including not to exceed $2,000,000 for training, document production, and other expenses related to the implementation of the Federal sentencing guidelines;

(4) For the United States attorneys, $24,000,000 for additional prosecutors and staff to implement a program of prosecuting in Federal court drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

(5) For defender services, $8,000,000 for the defense of persons prosecuted in Federal court for drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies; and

(6) For the United States marshals, $9,000,000;

(7) For the United States Customs Service, $100,000,000 to be allocated as follows:

(A) $20,000,000 for the hiring, equipping, and training of no fewer than 200 full-time equivalent agents and intelligence research specialists, over such levels on board as of September 30, 1990, to target drug trafficking organizations in high intensity drug trafficking areas; and

(B) $80,000,000 for the hiring, equipping, and training of no fewer than 250 full-time equivalent inspectors and canine enforcement officers, over such levels on board as of September 30, 1990, for the examination of cargo containers coming into the United States from high-risk drug source countries, for expanded passenger processing enforcement activities on the southwest border, and for the investigation and enforcement of chemical diversion activities;

(8) For the Bureau of Alcohol, Tobacco and Firearms, $37,500,000 to be allocated as follows:

(A) $31,000,000 for the hiring, training, and equipping of no fewer than 240 full-time equivalent special agents and no fewer than 120 full-time equivalent inspectors, over such personnel levels on board as of September 30, 1990, for carrying out narcotics related investigation and enforcement activities authorized under subsections (c), (d), and (e) of section 924 of title 18, United States Code, and for the purchase of law enforcement vehicles; and

(B) $6,500,000 for the hiring, training and equipping of no fewer than 50 full-time equivalent special agents and no fewer than 25 full-time equivalent inspectors, over such personnel levels on board as of September 30, 1990, for combatting the international trafficking of firearms used in narcotics-related activities;

(9) For the Internal Revenue Service, $30,000,000 to be allocated as follows:

(A) $18,000,000 for the hiring and training of no fewer than 347 full-time equivalent positions, over such personnel levels on board as of September 30, 1990, for the processing of currency transaction reports

related to money laundering investigations; and

(B) $12,000,000 for the hiring, training, and equipping of no fewer than 120 special agents, over such personnel levels on board as of September 30, 1990, for the expansion of investigations into narcotics and other criminal-related activities; and

(10) For the Immigration and Naturalization Service United States Border Patrol, $45,000,000 to be allocated as follows:

(A) $15,000,000 for the hiring, training, and equipping of no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) $25,000,000 for INS criminal investigations and the expeditious deportation of criminal aliens from detention; and

(C) $5,000,000 for the procurement of low-level light television systems, portable and permanent sensor systems, and 4-wheel drive law enforcement vehicles for the United States Border Patrol.

TITLE IX—RURAL DRUG ENFORCEMENT

SEC. 901. SHORT TITLE.

This title may be cited as the "Rural Drug Enforcement Act".

SEC. 902. LEADERSHIP ON RURAL DRUG POLICY.

(a) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereafter in this title referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(b) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(1) examine the special needs of rural areas in drug interdiction;

(2) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(3) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs, and the National Forest Service) in rural areas; and

(4) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

SEC. 903. RURAL DRUG ENFORCEMENT ASSISTANCE.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding a new section 509 as follows:

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 509. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"(b) Of the total amount appropriated for this section in any fiscal year:

"(1) 50 per centum shall be allocated to and shared equally among rural States as described in subsection (c); and

"(2) 50 per centum shall be allocated to the remaining States for use in non-metropolitan areas within those States, as follows:

"(A) $100,000 to each nonrural State; and

"(B) of the total funds remaining after the allocation in clause (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(c) For the purpose of subsections (b) and (c), the term 'rural State' means a State that has a population density of fifty-two or fewer persons per square mile or a State in which the largest county has fewer than one hundred and fifty thousand people.".

(b) SEPARATE GRANT REQUEST.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by—

(1) at the end of paragraph (10) strike the "." and insert in lieu thereof "; and";

(2) inserting a new paragraph (11) as follows:

"(11) A separate and detailed request for a grant under section 509 of this subpart, including how the funds provided by a grant under section 506 shall be coordinated with funds provided by a grant under section 509.".

SEC. 904. FEDERAL DRUG ENFORCEMENT ASSISTANCE.

(a) GENERAL STATE ASSISTANCE.—In order to provide adequate Federal drug enforcement assistance to each of the seyeral States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall assign not less than ten Drug Enforcement Administration special agents to each of the several States.

(b) RURAL STATES.—In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than ten Drug Enforcement Administration special agents, as of the date of enactment of this Act, the Attorney General shall assign not less than four additional Drug Enforcement Administration special agents to each rural State as defined in section 903 of this title.

SEC. 905. TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop a drug training program for law enforcement officers in rural areas.

(b) TRAINING.—By not later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(c) AUTHORIZATION.—There is authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the purposes of this title.

TITLE X—MANDATORY DETENTION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Mandatory Detention for Offenders Convicted of Serious Crimes Act".

SEC. 1002. MANDATORY DETENTION.

(a) PENDING SENTENCE.—Subsection (a) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer"; and

(2) inserting at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

"(A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

"(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and

"(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.".

(b) PENDING APPEAL.—Subsection (b) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer";

(2) redesignating subparagraphs (A), (B), (C), and (D) of paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) adding at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained.".

(c) EXCEPTIONAL CASES.—Subsection (c) of section 3145 of title 18, United States Code, is amended by adding at the end the following: "Upon an appeal of the Government, a person who has been detained by the judicial officer pursuant to section 3143 (a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143 (a)(1) or (b)(1), may be ordered released, under appropriate conditions, by a court of appeals or a judge thereof, if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate.".

SEC. 1003. TECHNICAL AMENDMENTS.

(a) CORRECTION OF MISSPELLED WORD.—Subsection (a)(1) of section 3143 of title 18, United States Code, is amended by striking "waiting" and inserting "awaiting".

(b) CORRECTION OF REFERENCE TO REPEALED PROVISION.—Subsections (e) and (f) of section 3142 of title 18, United States Code, are each amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

TITLE XI—FORFEITURE

SEC. 1101. USES OF JUSTICE FORFEITURE FUND.

(a) PURCHASE OF FIREARMS.—Section 524(c)(1) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (I);

(3) by inserting a new subparagraph (H) as follows:

"(H) for any fiscal year, not to exceed $10,000,000 for the purchase of firearms, ammunition, protective body armor, and other personal safety equipment for investigative and enforcement personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service who devote a substantial amount of their time to drug law enforcement activities; and";

(4) in subparagraph (A)(ii) by—

(A) inserting a comma after "forfeitable assets";

(B) inserting "or listed chemicals (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))" after "storage, protection, and destruction of controlled substances".

(5) in subparagraph (B) by inserting before the semicolon ", or the money laundering offenses set forth in sections 1956 and 1957 of title 18 and sections 5313(a) and 5324 of title 31"; and

(6) in subparagraph (C) by inserting before the semicolon "or the money laun-

dering provisions in sections 981 and 982 of title 18".

(b) DEFINITIONS AND PROCEDURES.—Subsection 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraphs:

"(11) For the purposes of this subsection, the term 'firearm' means any rifle, handheld pistol or revolver, or other weapon that is authorized by the Attorney General, or his designee, to be carried by personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service.

"(12) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his or her discretion, to warrant clear title to any subsequent purchaser or transferee of such property.".

(c) CONFORMING AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is amended by striking "and (G)" and inserting "(G) and (H)".

SEC. 1102. INCREASING EFFECTIVENESS OF ADMINISTRATIVE FORFEITURES.

(a) AMENDMENTS TO THE TARIFF ACT OF 1930.—Subsection (a) of section 607 of the Tariff Act of 1930 (19 U.S.C. 1607(a)) is amended—

(1) in paragraph (1) by striking "$100,000" and inserting "$500,000";

(2) by striking "or" at the end of paragraph (2); and

(3) by inserting "or" after the semicolon at the end of paragraph (3); and

(4) by adding after paragraph (3) the following:

"(4) such seized merchandise is monetary instruments;".

(b) CONFORMING AMENDMENT.—The section heading for section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 1607. SEIZURE: VALUE $500,000 OR LESS, PROHIBITED ARTICLES, TRANSPORTING CONVEYANCES.".

SEC. 1103. FORFEITURE OF INSTRUMENTALITIES OF A FOREIGN DRUG OFFENSE.

Section 981(a)(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "proceeds obtained directly or indirectly from" the words "or which represents the instrumentalities of"; and

(2) by adding at the end thereof the following: "No conveyance shall be forfeited under this paragraph to the extent of an interest of an owner by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

SEC. 1104. CLOSING OF LOOPHOLE TO DEFEAT CRIMINAL FORFEITURE THROUGH BANKRUPTCY.

(a) TITLE 18.—Section 1963(a) of title 18, United States Code, is amended by inserting after "shall forfeit to the United States irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this chapter".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413(a) of the Controlled Substances Act (21 U.S.C. 853(a)) is amended by inserting after "shall forfeit to the United States, irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution of such violation".

SEC. 1105. NONABATEMENT OF CRIMINAL FORFEITURE WHEN DEFENDANT DIES PENDING APPEAL.

(a) TITLE 18.—Section 1963 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end thereof the following new subsection:

"Nonabatement of Forfeiture Order

"(q) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

SEC. 1106. FORFEITURE OF PERSONAL PROPERTY USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end thereof the following new paragraph:

"(10) Any weapon, computer, or electronic communications device used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

SEC. 1107. FORFEITURE OF PROCEEDS TRACEABLE TO CONVEYANCES USED TO FACILITATE DRUG VIOLATIONS.

Section 511(a)(4) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

(1) by inserting "and any proceeds traceable to such conveyances" after "property described in paragraph (1) or (2),";

(2) in subparagraph (A), by inserting ", and no proceeds traceable to such conveyance," before "shall be forfeited"; and

(3) in subparagraphs (B) and (C), by inserting "and no proceeds traceable to such conveyance" before "shall be forfeited".

SEC. 1108. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY AND ADMINISTRATIVE USE.

(a) CLARIFICATION OF AUTHORITY.—Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting ", by public sale or any other commercially feasible means," after "sell".

(b) ADMINISTRATIVE EXPENSES.—Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended by adding at the end thereof the following: "In determining the equitable share of proceeds for a State or local law enforcement agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 10 percent of the total proceeds to cover the costs of administrative expenses.".

SEC. 1109. CLARIFICATION OF CIVIL FORFEITURE SEIZURE WARRANT AUTHORITY.

Section 981(b)(2) of title 18, United States Code, is amended by striking "has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure" and inserting "has obtained a warrant for such seizure in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure".

SEC. 1110. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a) (2) or (3) which cannot be separated safely from such raw materials or products" after "this title" wherever it appears.

SEC. 1111. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 1112. FORFEITABILITY OF REAL PROPERTY UNDER GAMBLING STATUTE.

(a) IN GENERAL.—Section 1955 of title 18, United States Code, is amended to read as follows:

(1) in subsection (d), by striking ", including money," and inserting "of any kind, real or personal, tangible or intangible,"; and

(2) by inserting at the end the following:

"(f) Any person convicted of a violation of this section shall forfeit to the United States, irrespective of any provision of State law, or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this section—

"(1) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation; and

"(2) any of the person's property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such violation.

The provisions of 511 of the Controlled Substances Act (21 U.S.C. 853) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) TECHNICAL AMENDMENT.—Section 1955(a) of title 18 is amended by striking out "shall be fined not more than $20,000 or" and inserting "shall be fined under this title,".

SEC. 1113. CUSTOMS FORFEITURE FUND.

Section 613A, subsection (a)(3)(F), of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows: "payment of overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting the United States Customs Service in law enforcement activities.".

TITLE XII—PUBLIC CORRUPTION

SEC. 1201. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1990".

SEC. 1202. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of

the honest services of an official or employee of such State, or political subdivision of a State, shall be fined under this title, or imprisoned for not more than ten years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, or political subdivision of a State, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State or political subdivision conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than ten years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the twelve-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than ten years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to five years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, three times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official', and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 1203. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 1204. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 1205. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give

anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),"; and

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) SECTION ANALYSIS.—The section analysis at the beginning of chapter 11, title 18, United States Code, is amended by inserting the following:

"220. Narcotics and public corruption.".

TITLE XIII—CIVIL ENFORCEMENT

SEC. 1301. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following:

"(c) The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 1302. USE OF CIVIL INJUNCTIVE REMEDIES, FORFEITURE SANCTIONS, AND OTHER REMEDIES AGAINST DRUG OFFENDERS.

The Attorney General shall—

(1) aggressively pursue the use of criminal penalties authorized by section 1963 of title 18, United States Code, civil remedies authorized by section 1964 of title 18, United States Code, and other equitable remedies against drug offenders, including injunctions, stay-away orders, and forfeiture sanctions; and

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking. The amendments made by this section shall take effect one day after enactment.

TITLE XIV—JUVENILE JUSTICE ANTI-GANG PROGRAM

SEC. 1401. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs";

and

(2) adding at the end thereof a new subpart II, as follows:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs to reduce the use and sale of illegal drugs by juveniles, including education, prevention, treatment and enforcement programs.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To develop within the juvenile justice system, including the juvenile corrections system, new and innovative means to address the problems of juveniles convicted of serious criminal, drug-related and gang-related offenses;

"(3) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of juveniles in lawful activities, including in-school education and prevention programs and after-school programs;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use or gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls club, boys club, scout troops, and little league;

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide drug abuse education and prevention involving police and juvenile justice personnel in demand reduction programs.

"(c) Of the funds made available to each State under this section (Formula Grants) 50 per centum of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 per centum shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231. Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs or projects.

"AUTHORIZATION

"SEC. 233. There is authorized to be appropriated $100,000,000 in fiscal year 1991 and such sums as may be necessary in fiscal year 1992 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"SEC. 234. Of the total amounts appropriated under this subpart in any fiscal year to carry out the purposes of section 231 (Formula Grants) the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (Discretionary Grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

"(2) Of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"APPLICATION

"SEC. 235. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 232 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 236. The procedures and time limits imposed on the Federal and State Governments under sections 505 and 508 respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 1402. CONFORMING AMENDMENTS.

(a) TITLE II.—Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(other than part D)";

(B) and by striking paragraph (2) in its entirety; and

(2) in subsection (b) by striking "(other than part D)".

(b) PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is hereby repealed.

(c) PART E.—Part E of title II of such Act is redesignated as part D.

SEC. 1403. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNNUMBERED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating unnumbered paragraphs (1) through (11) as subsections (a) through (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as so designated by this section, is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, as so designated by this section is amended—

(1) by striking "A juvenile" and inserting "(1) Except as provided in paragraphs (2) and (3), a juvenile";

(2) by striking ", except that," and designating the following matter up to the semicolon as paragraph (2);

(3) by striking "however" after the semicolon and designating the remaining matter as paragraph (3); and

(4) by inserting in paragraph (2) "or section 924 (b), (g), or (h) of this title," after "959),".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, as so designated by this section, is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavorial problems"; and

(5) by adding at the end the following:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

(e) WAIVING CONFIDENTIALITY IN CERTAIN JUVENILE PROCEEDINGS.—Section 5038 of title 18, United States Code, is amended by adding at the end the following:

"(g) In addition to any other provision of this section regarding disclosure of records if the law of the State in which a Federal juvenile delinquency proceeding takes place would permit or require the disclosure of records and information relating to a juvenile delinquency proceeding in certain circumstances, such disclosure shall be permitted under this section whenever the same circumstances exist.".

(f) CONFORMING AMENDMENT ADDING CERTAIN CONTROLLED SUBSTANCES OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.—Sections 5038 (d) and (f) of title 18, United States Code, are amended by striking out "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b)(1), (2), or (3)), or section 924 (b), (g) or (h) of this title,".

SEC. 1404. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

SEC. 1405. REDESIGNATION OF CONFUSING SECTIONS IN THE CONTROLLED SUBSTANCES ACT PERTAINING TO CHILDREN.

(a) SECTION 405—NEW SECTION 418.—(1) Section 405 of the Controlled Substances Act is redesignated as section 418.

(2) Section 418 of such Act (as redesignated by paragraph (1)) is amended—

(A) in subsection (a), by striking "section 405A" and inserting "section 419"; and

(B) in subsection (b) by striking "section 405A" and inserting "section 419".

(b) SECTION 405A—NEW SECTION 419.—Section 405A of the Controlled Substances Act is redesignated as section 419.

(c) SECTION 405B—NEW SECTION 420.—Section 405B of the Controlled Substances Act is redesignated as section 420.

(d) TRANSFER OF SECTION 5301 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 421.—(1) Section 5301 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 421 of the Controlled Substances Act.

(2) Section 421(a)(1) of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended by striking "(as such terms are defined for purposes of the Controlled Substances Act)".

(e) CONFORMING AMENDMENTS TO OTHER SECTIONS.—(1) Section 401(b) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(2) Section 401(c) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(f) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part D of title II by striking the items for sections 405, 405A and 405B and inserting at the end thereof the following:

"418. Distribution to persons under age twenty-one.
"419. Distribution or manufacturing in or near schools and colleges.
"420. Employment of persons under 18 years of age.
"421. Denial of Federal benefits to drug traffickers and possessors.".

(g) TRANSFER OF SECTION 6486 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 405.—(1) Section 6486 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 405 of the Controlled Substances Act.

(2) Section 405 of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a), by—

(i) striking "of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A))"; and

(ii) striking "of that Act (21 U.S.C. 841(b)(1)(A))";

(B) in subsection (c), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)";

(C) in subsection (j)(4), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control

Act of 1970 (as amended by subsection (c) of this section) is amended in part D of title II by inserting after the item for section 404 the following:

"405. Civil penalty for possession of small amounts of certain controlled substances.".

(h) PART E OF THE CONTROLLED SUBSTANCES ACT.—

(1) SECTION 511A—NEW SECTION 518.—Section 511A of the Controlled Substances Act is redesignated as section 518.

(2) TRANSFER OF SECTION 1764 OF THE FOOD SECURITY ACT OF 1985.—Section 1764 of the Food Security Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 519 of the Controlled Substances Act.

(3) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part E of title II by striking the items for section 511A and inserting at the end thereof the following:

"518. Expedited procedures for seized conveyances.

"519. Production control of controlled substances.".

SEC. 1406. CLARIFICATION OF ENHANCED PENALTIES UNDER CONTROLLED SUBSTANCES ACT.

(a) SECTION 418 (OLD SECTION 405).—Section 418 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b)" and inserting "subject to (1) three times the maximum punishment authorized by section 401(b)".

(b) SECTION 419 (OLD SECTION 405A).—Section 419 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b)(1), by striking subparagraph (B) and inserting "(B) three times the maximum punishment authorized by section 401(b) for a first offense".

(c) SECTION 420 (OLD SECTION 405B).—Section 420 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (b), by striking "is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both," and inserting "is subject to twice the maximum punishment otherwise authorized"; and

(2) in subsection (c), by striking "is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both," and inserting "is subject to three times the maximum punishment otherwise authorized".

TITLE XV—FEDERAL AID TO DRUG EMERGENCY AREAS

SEC. 1501. SHORT TITLE.

This title may be cited as the "Drug Emergency Areas Act of 1990".

SEC. 1502. DRUG EMERGENCY AREAS.

Subsection (c) of section 1005 of the National Narcotics Leadership Act of 1988 is amended to read as follows:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials declare such State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"(2) PROCEDURE FOR DECLARATION.—(A) All requests for a declaration by the President designating an area to be a drug emergency area shall be made, in writing, by the Governor or chief executive officer of any affected State or local government, respectively, and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) Any request made under subparagraph (A) shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that the requested assistance is a necessary and effective response to save lives, and to protect property and public health and safety.

"(C) The President shall not limit declarations made under this subsection to highly populated centers of drug trafficking, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor or chief executive officer shall—

"(i) take appropriate response action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining the State or local government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (where possible quantitative goals) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving such application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President is authorized to make grants to State or local governments of up to, in the aggregate for any single major drug-related emergency, $50,000,000.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year. In any case where Federal assistance is provided under this Act, the Governor or chief executive officer may apply to the President, through the Director, for an extension of assistance beyond 1 year. The President, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) Any State or local government, or combination of States or local governments, receiving Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Within 90 days after the enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of such assistance based on the goals contained in the application for assistance.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal year 1991, 1992, 1993, 1994, and 1995, $300,000,000 to carry out the purposes of this subsection.".

TITLE XVI—FIREARMS AND RELATED AMENDMENTS

SEC. 1601. PROHIBITION AGAINST TRANSFERRING FIREARMS TO NONRESIDENTS.

Section 922(a)(5) of title 18, United States Code, is amended by striking out "resides" and all that follows through "(or other than

that in which its place of business is located if the transferor is a corporation or other business entity);" and inserting in lieu thereof "does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides;".

SEC. 1602. COMMERCE NEXUS FOR TRAFFICKING IN STOLEN FIREARMS.

(a) SECTION 922(j).—Section 922(j) of title 18, United States Code, is amended by striking out "or which constitutes," and inserting in lieu thereof "which constitutes, or which has been shipped or transported in,".

(b) SECTION 922(k).—Section 922(k) of title 18, United States Code, is amended by inserting "or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce" after "altered".

SEC. 1603. TECHNICAL AMENDMENTS.

(a) REDESIGNATION.—Section 923(d)(1)(B) of title 18, United States Code, is amended by striking out "(h)" and inserting in lieu thereof "(n)".

(b) INCLUSION OF POSSESSION.—Section 925(a)(1) of title 18, United States Code, is amended by inserting "possession," before "or importation".

(c) DISABILITY.—Section 925(c) of title 18, United States Code, is amended by striking out "conviction" the first and third place such term appears and inserting in lieu thereof "disability" and by striking out "by reason of such a conviction".

(d) PAROLE COMMISSION REFERENCE.—Section 924(a) of title 18, United States Code, is amended by striking out ", and shall become eligible for parole as the Parole Commission shall determine" in both places those words appear. This amendment shall be effective with respect to any offense committed after November 1, 1987.

SEC. 1604. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of the Internal Revenue Code of 1986 (26 U.S.C. 5872(b)), is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) The Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) If the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or a firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel, rare, or because of its association with some historical figure, period, or event the Secretary may sell such firearm, after public notice, at public sale to a dealer licensed under the provisions of chapter 44 of title 18, United States Code;

"(3) If the firearm has not been disposed of pursuant to paragraphs (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, General Services Administration, who shall destroy or provide for the destruction of such firearm; and

"(4) No decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 1605. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding a new subparagraph, as follows:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 1606. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction or restoration of civil rights".

SEC. 1607. PERMITTING CONSIDERATION OF PRETRIAL DETENTION FOR CERTAIN FIREARMS AND EXPLOSIVES OFFENSES.

Section 3142(f)(1) of title 18, United States Code, is amended by—

(1) striking out "or" before subparagraph (D);

(2) redesignating subparagraph (D) as subparagraph (E); and

(3) inserting a new subparagraph (D) as follows:

"(D) an offense under section 844(a) that is a violation of subsection (d), (h), or (i) of section 842 or an offense under section 924(a) that is a violation of subsection (d), (g), (h), (i), (j), (o), (q), or (s) of section 922; or".

SEC. 1608. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(i) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than two or more than ten years, and may be fined under this title.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than two or more than ten years, and may be fined under this title.".

SEC. 1609. BAR ON SALE OF FIREARMS AND EXPLOSIVES TO OR POSSESSION OF FIREARMS AND EXPLOSIVES BY PERSONS CONVICTED OF A VIOLENT OR SERIOUS DRUG MISDEMEANOR.

(a) SALE OR DISPOSAL.—Section 842(d)(2) and 922(d)(1) of title 18, United States Code, are each amended by inserting ", or has been convicted in any court of any crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c)). It is a bar to a prosecution under this section that the conviction for a serious misdemeanor drug or narcotic offense occurred prior to the date of enactment of this Act" after "crime punishable by imprisonment for a term exceeding one year";

(b) SHIPMENT.—Sections 842(i)(1) and 922(g)(1) of title 18, United States Code, are each amended by inserting "or has been convicted in any court of any crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c)). It is a bar to a prosecution under this section that the conviction for a serious misdemeanor drug or narcotic offense occurred prior to the date of enactment of this Act" after "crime punishable by imprisonment for a term exceeding one year";

(c) DEFINITIONS.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(q) For purposes of this section and section 842 of this title—

"(1) the term 'crime of violence' means an offense that has as an element the use of physical force against the person of another with intent to cause bodily harm to such person; and

"(2) the term 'serious misdemeanor' means an offense for which the maximum term of imprisonment is greater than six months.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) of this section shall not apply to a conviction prior to the date of enactment of this section.

SEC. 1610. POSSESSION OF A FIREARM OR AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

(a) FIREARMS.—Section 924(c) of title 18, United States Code, is amended by striking out "uses or carries a firearm" and inserting in lieu thereof "uses, carries, or otherwise possesses a firearm".

(b) EXPLOSIVES.—Section 844(h) of title 18, United States Code, is amended by striking out "carries an explosive during" and inserting in lieu thereof "carries or otherwise possesses an explosive during".

SEC. 1611. INCREASED PENALTY FOR KNOWINGLY FALSE. MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out "(a)(6),"; and

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

SEC. 1612. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FEDERAL FELONY.

Section 844(h) of title 18, United States Code, is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 1613. DOMESTIC ASSEMBLY OR EXPORTATION OF ASSAULT WEAPONS AND NONIMPORTABLE FIREARMS.

(a) DEFINITION.—Section 921(a) of title 18, United States Code, is further amended by adding at the end thereof a new paragraph as follows:

"(26) The term 'semiautomatic rifle' means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

(b) UNLAWFUL ACT.—Section 922 of title 18, United States Code is further amended by adding at the end thereof a new subsection as follows:

"(s)(1) Except as provided in paragraph (2), it shall be unlawful for any person to assemble or export—

"(A) any assault weapon; or

"(B) any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes.

"(2) This subsection shall not apply to—

"(A) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to—

"(i) the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

"(ii) a foreign government for law enforcement use consistent with the laws of the foreign government;

"(B) assembly operations for any such rifle or shotgun by a licensed manufacturer that were taking place in the United States before May 15, 1989; or

"(C) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Secretary.".

(c) TECHNICAL AMENDMENT.—Section 924(a)(1)(B) of title 18, United States Code is amended by striking out "or (k)" and inserting in lieu thereof "(k), or (s)".

SEC. 1614. ENHANCED PENALTY FOR USE OF SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR DRUG TRAFFICKING OFFENSE.

(a) IN GENERAL.—Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is a semiautomatic firearm, to imprisonment for ten years," after "sentenced to imprisonment for five years,";

(b) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(25) the term 'semiautomatic firearm' means any repeating firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.",

(c) APPLICABILITY.—The provisions of the amendment made by subsection (a) shall not apply in sentencing a defendant who establishes that—

(1) he used the firearm to protect himself or another person from an immediate danger of death or injury arising from the unlawful use or threat of force by the person against whom the firearm was used;

(2) he used the firearm to protect the person or property of himself or another against actually occurring or immediately threatened felonious conduct by the person against whom the firearm was used; or

(3) he used the firearm to effect the arrest or prevent the escape of a person in immediate flight after the commission of a felony.

Notwithstanding the preceding provisions of this subsection, this subsection is not applicable if the defendant engaged or participated in criminal conduct that gave rise to the occasion for the defendant's use of the firearm.

SEC. 1615. MINIMUM PENALTY RELATING TO SHORT-BARRELED SHOTGUNS AND OTHER FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended by—

(1) inserting "and if the firearm is a short-barreled rifle, short-barreled shotgun, to imprisonment for ten years," after "sentenced to imprisonment for five years,"; and

(2) inserting "or a destructive device," after "a machinegun,".

TITLE XVII—MISCELLANEOUS CRIMINAL LAW IMPROVEMENTS

SEC. 1701. RECEIVING STOLEN PROPERTY.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof a new section, as follows:

"§ 21. Stolen or counterfeit nature of property for certain crimes defined

"Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated. For purposes of this section, the term "official representation" means any representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 1702. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking out "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

SEC. 1703. MARITIME DRUG LAW ENFORCEMENT AMENDMENTS.

Sections 3142 (e) and (f) of title 18, United States Code, and sections 994(h) (1) and (2) of title 28, United States Code, are each amended by striking out "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

SEC. 1704. CLARIFICATION OF MANDATORY MINIMUM PENALTY FOR SERIOUS CRACK POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended in the third sentence by striking out "shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both," and inserting in lieu thereof "shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000,".

SEC. 1705. CORRECTION OF AN ERROR RELATING TO THE QUANTITY OF METHAMPHETAMINE NECESSARY TO TRIGGER A MANDATORY MINIMUM PENALTY.

Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by striking out "or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting in lieu thereof "or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 1706. CONFORMING AMENDMENT TO CONSPIRACY AND ATTEMPT PENALTY UNDER THE MARITIME DRUG LAW ENFORCEMENT ACT.

Section 3(j) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(j)) is amended by striking out "is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment" and inserting in lieu thereof "shall be subject to the same penalties as those".

SEC. 1707. CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO METHAMPHETAMINE.

(a) LARGE AMOUNTS.—Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

(b) SMALL AMOUNTS.—Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

SEC. 1708. MODIFICATION OF APPROVAL REQUIREMENTS FOR GOVERNMENT SENTENCE APPEALS.

Section 3742(b) of title 18, United States Code, is amended by striking "The Government, with the personal approval of the Attorney General or the Solicitor General, may file a notice of appeal in the district court for review of" and inserting "The Government, with the approval of the Attorney General or the Solicitor General, may appeal".

SEC. 1709. PENALTY FOR CERTAIN ACCESSORY AFTER THE FACT OFFENSES.

Section 3 of title 18, United States Code, is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 1710. DELETION OF REQUIREMENT FOR SOLICITOR GENERAL APPROVAL OF APPEAL TO A DISTRICT COURT FROM A SENTENCE IMPOSED BY A MAGISTRATE.

Section 3742(g) of title 18, United States Code, is amended by inserting "(except for the requirement of approval by the Attorney General or the Solicitor General in the case of a Government appeal)" after "and this section shall apply".

SEC. 1711. CORRECTION OF MISSPELLED WORDS, TYPOGRAPHICAL ERRORS, AND MISDESIGNATIONS.

(a) Section 102(32)(A) of the Controlled Substances Act (21 U.S.C. 802(32)(A)) is amended by striking out "stimulent" each

place that word appears and inserting in lieu thereof "stimulant";

(b) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking out "suspervised" each place that word appears and inserting in lieu thereof "supervised";

(c) Sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)(IV) and 841(b)(1)(B)(ii)(IV)) are amended by striking out "any of the substance" and inserting in lieu thereof "any of the substances";

(d) Section 151 of title 18, United States Code, is amended by striking out "mean" and inserting in lieu thereof "means";

(e) Section 665(c) of title 18, United States Code, is amended by striking out "Any person whoever" and inserting in lieu thereof "Any person who";

(f) Section 794(d)(4) of title 18, United States Code, is amended by striking out "all amount" and inserting in lieu thereof "all amounts";

(g) The second section 798 of title 18, United States Code, entitled "Temporary extension of section 794" is designated as section 800 of such title, and the table of sections for chapter 37 of such title is amended accordingly;

(h) Section 3125(d) of title 18, United States Code, is amended by striking out "A provider for a wire or electronic service," and inserting in lieu thereof "A provider of a wire or electronic service,";

(i) Section 4285 of title 18, United States Code, is amended by striking out "exced" and inserting in lieu thereof "exceed";

(j) Sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b), and 845(c)) are amended by striking out "have become final" and inserting in lieu thereof "has become final";

(k) Section 510(b)(3) of the Controlled Substances Act (21 U.S.C. 880(b)(3)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)";

(l) Section 12 of title 18, United States Code, is amended by striking out "every officer and employee of that Service, whether he has taken the oath of office" and inserting in lieu thereof "every officer and employee of that Service, whether or not such officer or employee has taken the oath of office";

(m) Section 1546(a) of title 18, United States Code is amended by striking out "Shall be fined not more than in accordance with this title" and inserting in lieu thereof "Shall be fined in accordance with this title";

(n) Section 3563(b)(3) of title 18, United States Code, is amended by striking out "section 3663 and 3664" and inserting in lieu thereof "sections 3663 and 3664";

(o) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "paraphenalia" and inserting in lieu thereof "paraphernalia";

(p) Section 219(c) of title 18, United States Code, is amended by striking out "branch of Governments" and inserting in lieu thereof "branch of Government";

(q) Section 513(c)(3) of title 18, United States Code, is amended by striking out "15 U.S.C. 1693(c)" and inserting in lieu thereof "15 U.S.C. 1693n(c)";

(r) Section 665 of title 18, United States Code, is amended in the section heading by striking out both colons and inserting in lieu thereof semicolons;

(s) Section 844(d) of title 18, United States Code, is amended by striking out "this subsection,," and inserting in lieu thereof "this subsection,";

(t) Section 1466(b) of title 18, United States Code, is amended—

(1) by striking out "this subsection" and inserting in lieu thereof "this section"; and

(2) by striking out "subsection (b)" and inserting in lieu thereof "this subsection";

(u) Section 1963(a) of title 18, United States Code, is amended by striking out "both.," and inserting in lieu thereof "both,";

(v) Section 2254(e) of title 18, United States Code, is amended by inserting the following subsection heading: "Non-applicability to visual depictions.—";

(w) Section 3583(e) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking out "or" after the semicolon;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; or"; and

(3) by redesignating paragraph "(5)" as paragraph "(4)";

(x) Section 3077(4) of title 18, United States Code, is amended by striking out the semicolon at the end and inserting in lieu thereof a period;

(y) Section 3166(b)(8) of title 18, United States Code, is amended by striking out "extention" and inserting in lieu thereof "extension"; and

(z) Section 4352(c) of title 18, United States Code, is amended by striking out "Each recipient of assistance under this shall" and inserting in lieu thereof "Each recipient of assistance under this title shall".

SEC. 1712. CORRECTION OF ERRONEOUS CROSS-REFERENCE.

Section 2703(d) of title 18, United States Code, is amended by striking out "section 3126(2)(A) of this title" and inserting in lieu thereof "section 3127(2)(A) of this title".

SEC. 1713. CONFORMING AMENDMENT TO THE ELECTRONIC COMMUNICATIONS PRIVACY ACT.

Section 2705(a)(1)(B) of title 18, United States Code, is amended by inserting "or trial" after "grand jury".

SEC. 1714. REDESIGNATION OF PARAGRAPHS IN WIRETAP LAW.

Section 2516(1) of title 18, United States Code, is amended—

(1) by redesignating the first paragraph (m) which reads "any conspiracy to commit any of the foregoing offenses." as paragraph (o);

(2) by striking out "and" at the end of paragraph (m); and

(3) by striking out the period at the end of paragraph (n) and inserting in lieu thereof "; and".

SEC. 1715. TABLE OF SECTIONS AMENDMENT FOR THE INTERSTATE AGREEMENT ON DETAINERS.

The table of sections for the Interstate Agreement on Detainers Act (84 Stat. 1397) is amended by adding at the end thereof the following: "9. Special Provisions when United States is a Receiving State.".

SEC. 1716. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(a) Section 232 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(b) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(c) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(d) Section 666(d) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(e) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(f) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(g) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(h) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(i) Section 1952(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" after "As used in this section"; and

(2) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(j) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(k) Section 1958(b) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(l) Section 2313 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(m) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(n) Section 5032 of title 18, United States Code, is amended—

(1) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(2) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 1717. REPEAL OF ANTIQUATED OFFENSE AND DELETION OF TABLE REFERENCES TO REPEALED OFFENSES.

(a) Section 45 of title 18, United States Code, is repealed.

(b) The table of sections for chapter 3 of title 18, United States Code, is amended by striking out the items relating to sections 43, 44, and 45.

SEC. 1718. REPEAL OF OTHER OUTMODED OFFENSES AND RELATED PROVISIONS.

(a) Section 969 of title 18, United States Code, is repealed and the table of sections for chapter 45 of title 18, United States Code, is amended by striking out the items relating to sections 968 and 969.

(b) Sections 2198 and 3286 of title 18, United States Code, are repealed and the respective tables of sections in chapter 107 and 213 are amended by striking out the items relating to sections 2198 and 3286.

SEC. 1719. DELETION OF REDUNDANT PROVISION AND CORRECTION OF CITATIONS IN WIRETAP LAW.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c), by striking out "the section in chapter 65 relating to destruction of an energy facility,"; and

(2) in paragraph (j), by striking out "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting in lieu thereof "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(o)(2)) or sections 902 (i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1472(i) or (n))".

SEC. 1720. CONFORMING JURISDICTIONAL AMENDMENT FOR SECTION 2314 TO COVER FRAUDULENT SCHEMES INVOLVING FOREIGN AS WELL AS INTERSTATE TRAVEL.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or foreign" after "interstate".

SEC. 1721. CLARIFICATION OF ONE-YEAR PERIOD.

Section 666(d) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'in any one-year period' means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense.".

SEC. 1722. REPEAL OF PROVISIONS JUDICIALLY DETERMINED TO BE INVALID.

(a) Section 1730 of title 18, United States Code, is amended by striking out ", if the portrayal does not tend to discredit that service".

(b) Section 1714 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is repealed.

(c) Section 1718 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is likewise repealed.

SEC. 1723. DELETION OF REQUIREMENT OF PERSONAL APPROVAL OF ATTORNEY GENERAL FOR PROSECUTIONS UNDER THE ATOMIC ENERGY ACT.

Section 221(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)) is amended by striking out "That no action shall be brought under section 222, 223, 224, 225, or 226 except by the express direction of the Attorney General: *And provided further,*".

SEC. 1724. TECHNICAL CORRECTION TO PROVISION FOR COMPUTING MARSHAL'S COMMISSION.

Section 1921(c)(1) of title 28, United States Code, is amended in the second sentence by striking out "If the property is to be disposed of by marshal's sale" and inserting in lieu thereof "if the property is not disposed of by marshal's sale".

SEC. 1725. CORRECTION OF CROSS-REFERENCE.

Section 4247(h) of title 18, United States Code, is amended by striking out "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

SEC. 1726. SEXUAL ABUSE AMENDMENTS RELATING TO MINORS.

(a) INCLUSION OF THIRTEEN- AND FOURTEEN-YEAR-OLDS.—Section 2241(c) of title 18, United States Code, is amended to read as follows:

"(c) WITH CHILDREN.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

"(1) has not attained the age of twelve years; or

"(2) has attained the age of twelve years but has not attained the age of fourteen years, and is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.".

(b) CONFORMING AMENDMENT FOR STATE OF MIND PROOF REQUIREMENT.—Section 2241(d) of title 18, United States Code, is amended by striking out "knew" and all that follows and inserting in lieu thereof "knew—

"(1) the age of the other person engaging in the sexual act; or

"(2) that the requisite age difference existed between the persons so engaging.".

(c) CONFORMING AMENDMENT TO SECTION 2243.—Paragraph (1) of section 2243(a) of title 18, United States Code, is amended by striking out "12" and inserting "14" in lieu thereof.

(d) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT REGARDING PERSONS UNDER SIXTEEN YEARS OF AGE.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking out "or" after the semicolon;

(2) in subparagraph (C) by striking out "; and" and inserting "; or" in lieu thereof; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

(e) CONFORMING AMENDMENT TO DEFINITION OF SEXUAL CONTACT.—Paragraph (3) of section 2245 of title 18, United States Code, is amended by inserting ", but does not include the conduct described in paragraph (2)(D)" after "of any person" the second place it appears.

(f) DESIGNATION OF SECTION.—Section 2245 of title 18, United States Code, is redesignated section 2246.

(g) PENALTIES FOR SUBSEQUENT OFFENSES.—Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§ 2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(h) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking out "2245" and inserting "2246" in lieu thereof; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 1727. CORRECTION OF MISPLACED PHRASE IN 18 U.S.C. 3289.

Section 3289 of title 18, United States Code, is amended by striking out "or, in the event of an appeal, within sixty days of the date the dismissal of the indictment or information becomes final," and inserting that same stricken language after "within six months of the expiration of the statute of limitations,".

SEC. 1728. TECHNICAL AMENDMENTS.

(a) ELIMINATION OF DUPLICATE SECTION NUMBER.—(1) Section 3117 of title 18, United States Code, as enacted by Public Law 100-690, is redesignated as section 3118.

(2) The section analysis for chapter 205 of title 18, United States Code, is amended by striking "3117. Implied consent for certain tests" and inserting "3118. Implied consent for certain tests".

(b) INSERTION OF MISSING WORD.—Section 1716A of title 18, United States Code, is amended by inserting "fined" after "shall be".

(c) CORRECTION OF CROSS-REFERENCE.—Section 1958 of title 18, United States Code, is amended by—

(1) striking "1952B" and inserting "1959";

(2) inserting "or who conspires to do so" before "shall be fined" the first place it appears; and

(3) striking "not more than $10,000", "not more than $20,000", and "not more than $50,000", and inserting in each instance "under this title".

(d) ELIMINATION OF LANGUAGE MISTAKENLY INCLUDED.—Section 3125(a)(2) is amended by—

(1) striking the quotation marks;

(2) inserting a comma after "installation and use"; and

(3) beginning the indentation of the text following such comma at the margin.

(e) CORRECTION OF CROSS-REFERENCE.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" and inserting "(d)" each place it appears.

(f) ELIMINATION OF DUPLICATIVE PENALTY.—Section 1864 of title 18, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as (c).

SEC. 1729. CLARIFICATION RELATING TO POLLUTING FEDERAL LANDS.

Section 401(b)(6) of the Controlled Substances Act (21 U.S.C. 841(b)(6)) is amended by striking "who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land," and inserting "who knowingly uses a poison, chemical, or other hazardous substance o Federal land with the intent to commit an act in violation of subsection (a),".

SEC. 1730. REVOCATION OF PROBATION FOR POSSESSION OF CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended—

(1) by striking "to not less than one-third of the original sentence" and inserting "to a term of imprisonment that was available under subchapter A at the time of the initial sentencing"; and

(2) by striking "of modifying" and inserting "or modifying".

SEC. 1731. EXCEPTION TO BAR ON PROBATION FOR COOPERATING WITNESSES.

Section 3553(e) of title 18, United States Code, is amended by—

(1) inserting "a" before "minimum sentence", and inserting after "minimum sentence" the following: ", or to impose a term of probation notwithstanding any statutory bar to such sentence,"; and

(2) striking the last sentence and inserting: "Such sentence shall be imposed in accordance with the sentencing guidelines and with the policy statements issued by the Sentencing Commission".

SEC. 1732. PEREMPTORY CHALLENGES.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(b) PEREMPTORY CHALLENGES.—If the offense charged is punishable by death, each side is entitled to 20 peremptory challenges. If the offense charged is punishable by imprisonment for more than one year, each side is entitled to 8 peremptory challenges. If the offense charged is punishable by imprisonment for not more than one year or by fine or both, each side is entitled to 3 peremptory challenges. If there is more than one defendant, the court may allow both sides additional peremptory challenges: *Provided*, That the Government shall not have more challenges than the total allocated to all defendants. The court may permit multiple defendants to exercise peremptory challenges separately or jointly.".

SEC. 1733. AMENDMENT TO WIRETAP STATUTE.

(a) IN GENERAL.—Section 2511(1) of title 18, United States Code, is amended by—

(1) striking "or" at the end of paragraph (c);

(2) inserting "or" after the semicolon at the end of paragraph (d); and

(3) adding the following new paragraph:

"(e) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by this chapter, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, with intent to obstruct, impede, or interfere with a criminal investigation;".

(b) ADMISSION OF EVIDENCE.—Section 2515 of the title 18 is amended by adding at the end the following new paragraph:

"This section shall not apply to the admission into evidence of the contents of a wire or oral communication, or evidence derived therefrom, which has been disclosed in violation of section 2511(1)(e).".

SEC. 1734. MANDATORY MINIMUM SENTENCES FOR DRUG OFFENSES INVOLVING MINORS.

(a) DISTRIBUTION TO PERSONS UNDER AGE TWENTY-ONE.—(1) Section 405(a) of the Controlled Substances Act (21 U.S.C. 405(a)) is amended—

(A) in paragraph (1) of the first sentence by striking ", or a fine, or both,";

(B) by adding after the first sentence the following: "A fine up to twice that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(2) Section 405(b) of the Controlled Substances Act (21 U.S.C. 405(b)) is amended—

(A) in paragraph (1) of the first sentence by striking ", or a fine, or both,";

(B) by adding after the first sentence the following: "A fine up to three times that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(3) Section 405 of the Controlled Substances Act (21 U.S.C. 405) is amended by adding at the end thereof the following: "Suspension of sentence; probation; parole.

"(c) In the case of any mandatory minimum sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

(b) DISTRIBUTION OR MANUFACTURING IN OR NEAR SCHOOLS AND COLLEGES.—(1) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 405a(a)) is amended—

(A) in paragraph (1) of the first sentence by striking ", or a fine, or both,";

(B) by adding after the first sentence the following: "A fine up to twice that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(2) Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended—

(A) in paragraph (1)(B) by striking ", or a fine up to three times that" through "or both"; and

(B) by inserting after the first sentence the following: "A fine up to three times that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a person shall be sentenced under this subsection to a term of imprisonment of not less than three years".

(3) Section 405A(c) of the Controlled Substances Act (21 U.S.C. 845a(c)) is amended—

(A) in the first sentence by inserting "mandatory minimum" after "any";

(B) in the first sentence by striking "subsection (b) of"; and

(C) by striking the second sentence and inserting "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

(c) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—(1) Section 405B(b) of the Controlled Substances Act (21 U.S.C. 405b(b)) is amended—

(A) in the first sentence by striking ", or up to twice the fine otherwise authorized, or both,";

(B) by adding after the first sentence the following: "A fine up to twice that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under subsection (a) to a term of imprisonment of not less than one year".

(2) Section 405B(c) of the Controlled Substances Act (21 U.S.C. 405b(c)) is amended—

(A) in the first sentence by striking ", or up to three times the fine otherwise authorized, or both,";

(B) by adding after the first sentence the following: "A fine up to three times that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(3) The second sentence of section 405B(e) of the Controlled Substances Act (21 U.S.C. 845b(e)) is amended to read as follows: "An individual shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as enhanced by this section.".

SEC. 1735. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Notwithstanding section 503 of this Act, section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any

forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State or the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 1736. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Notwithstanding section 510 of this Act, section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 1737. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 1738. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

TITLE XVIII—FEDERAL PRISONER DRUG TESTING

SEC. 1801. SHORT TITLE.

This title may be cited as the "Federal Prisoner Drug Testing Act of 1990".

SEC. 1802. CONDITIONS ON PROBATION.

Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking out "and";

(2) in paragraph (3), by striking out the period and inserting in lieu thereof "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant—

"(A) pass a drug test prior to the imposition of such sentence;

"(B) refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance"; and

(4) by adding at the end thereof and the following: "No action may be taken against a defendant pursuant to a drug test administered in accordance with paragraph (4) unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

SEC. 1803. CONDITIONS ON SUPERVISED RELEASE.

Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant pass a drug test prior to the imposition of such sentence and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance the provisions of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

SEC. 1804. CONDITIONS ON PAROLE.

Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to the imposition of such sentence and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance the provision of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

AMENDMENT NO. 1808

At the end of the bill, add the following:

None of the provisions of this Act shall take effect unless the following is enacted:

TITLE —TREATMENT, EDUCATION AND PREVENTION

Subtitle A—Alcohol, Drug Abuse, and Mental Health Services Block Grant

SEC. 2001. REAUTHORIZATION.

Section 1911(a) of the Public Health Service Act (42 U.S.C. 300x(a)) is amended by striking out "and such sums" and all that follows through the period and inserting in lieu thereof ", and $2,000,000,000 for fiscal year 1991".

SEC. 2002. ALLOTMENTS.

Section 1912A if the Public Health Service Act (42 U.S.C. 300x-1a) is amended—

(1) in subsection (a)(4)(B)(i)—

(A) by striking out "0.4" in subclause (I), and inserting in lieu thereof "0.2"; and

(B) by striking out "indicated by the most recent data collected by the Bureau of the Census" in subclause (II), and inserting in lieu thereof "determined by multiplying the percentage of the population of the State that resides in urbanized areas of the State (as indicated by the most recent dicennial census compiled by the Bureau of the Census) by the most recent estimate of the total population of the State";

(2) in subsection (a)(4)(B)(ii)(I), by striking out "0.2" and inserting in lieu thereof "0.266";

(3) in subsection (a)(4)(B)(iii)(I), by striking out "0.2" and inserting in lieu thereof "0.266";

(4) in subsection (a)(4)(B)(iv)(I), by striking out "0.2" and inserting in lieu thereof "0.267";

(5) in subsection (b), to read as follows:

"(b)(1) In fiscal year 1991, each State shall receive a minimum allotment under this subpart of the lesser of—

"(A) $8,000,000; and

"(B) an amount equal to 105 percent of the sum of—

"(i) the amount the State received under section 1913 for fiscal year 1990 (as such section was in effect for such fiscal year); and

"(ii) the amount the State received under part C for fiscal year 1990.

"(2) In subsequent fiscal years, each State shall receive a minimum allotment under this subpart that is equal to the amount that such State received in fiscal year 1990 under paragraph (1) (for the minimum amount that such State was entitled to under such paragraph) plus an amount equal to such minimum multiplied by the percentage increase in the amount appropriated under section 1911(a) in such subsequent fiscal year above the amount appropriated for the immediately preceding fiscal year."; and

(6) in subsection (f), to read as follows:

"(f) For purposes of subsection (e), the applicable amount for each fiscal year is $330,000,000.".

SEC. 2003. REVISION WITH RESPECT TO THE USE OF ALLOTMENTS.

Section 1915 of the Public Health Service Act (42 U.S.C. 300x-3) is amended—

(1) in subsection (b)—

(A) by inserting after the comma in paragraph (1), the following: "except that funds may be used to pay for inpatient hospital drug treatment services pursuant to a contractual arrangement with a hospital if—

"(A) necessary residential treatment services could not otherwise be provided; and

"(B) the rates paid for such services do not exceed 125 percent of the cost of the rates typically required for comparable residential services."; and

(B) by inserting after the fifth sentence in the matter following paragraph (5), the following new sentence: "The Secretary may waive or reduce the matching rate requirement of the preceding sentence if the State requests such a waiver and the Secretary determines that a failure to grant such a request would result in a reduction in the resources that would otherwise be used to provide direct treatment services and that are essential to the implementation of the State drug abuse plan.";

(2) in subsection (c)(1)—

(A) by inserting "including social and health services necessary to improve treatment outcomes," after "drug abuse," in subparagraph (A);

(B) by striking out "and" at the end of subparagraph (B);

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(D) by adding at the end thereof the following new subparagraphs:

"(D) to provide counseling to family members of drug abusers, including such family members in group and family counseling service settings for the treatment of drug abusers; and

"(E) to develop, implement, and operate programs of treatment for adult and juve-

nile substance abusers in State and local criminal and juvenile justice systems, including treatment programs for individuals in prisons and jails and those on probation, parole, supervised release, and pretrial release."; and

(3) by inserting at the end of subsection (d) the following new sentence: "Expenses incurred for the training of individuals as required under this subpart shall not be included in determining the costs of administering funds made available under section 1914.".

SEC. 2004. ADAMHA INTRAVENOUS DRUG ABUSE WAIVER.

(a) INTRAVENOUS DRUG USERS.—Section 1916(c)(7) of the Public Health Services Act (42 U.S.C. 300x-4(a)(7)) is amended by adding at the end thereof the following new sentence: "The Secretary shall waive the provisions of the preceding sentence for any State that has submitted an application for such a waiver to the Secretary prior to September 30, 1991".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1991.

Subtitle B—Programs Targeting Females.

SEC. 2101. MODEL PROJECTS CONCERNING ALCOHOL AND DRUG ABUSE AMONG PREGNANT AND POSTPARTUM WOMEN AND THEIR INFANTS.

(a) IN GENERAL.—Section 509F of the Public Health Service Act (42 U.S.C. 290aa-13) is amended by striking out subsections (b) through (e) and inserting in lieu thereof the following new subsections:

"(b) In making grants under subsection (a), the Director of the Office shall give priority to projects—

"(1) that will provide treatment services;

"(2) that include—

"(A) service delivery strategies and outreach services in the community involved to identify such women who are abusing alcohol or drugs and to encourage such women to undergo treatment for such abuse;

"(B) prenatal and postpartum health care for women undergoing such treatment;

"(C) with respect to the infants of such women, pediatric health care;

"(D) child care, transportation, and other support services with respect to such treatment;

"(E) as appropriate, referrals to facilities for necessary hospital services;

"(F) employment counseling and other appropriate follow-up services to help prevent a relapse of alcohol or drug abuse;

"(G) case management services, including assistance in establishing eligibility for assistance under Federal, State, and local programs providing health services, mental health services, or social services;

"(H) efforts to preserve and support the family unit;

"(I) direct intervention, treatment, or rehabilitation of infants, that may include other siblings, to reduce or prevent the impact of maternal substance abuse on such children;

"(J) supportive services for biologic or foster parents of infants affected by maternal substance abuse;

"(K) strategies for providing treatment resources to low-income pregnant and postpartum women;

"(L) strategies for providing treatment resources to pregnant and postpartum women under criminal justice supervision; or

"(M) other services that will tend to improve pregnancy outcomes, reduce substance abuse among women of childbearing age, and increase the stability of the family home environment.

"(c) With respect to any health service described under this section that is covered by the appropriate State plan approved under title XIX of the Social Security Act, the Director of the Office shall not make a grant under subsection (a) unless—

"(1) the applicant for the grant will provide the health service directly, and the applicant has entered into a participation agreement under the appropriate State plan and is qualified to receive payments under such plan; or

"(2) the applicant for the grant has entered into a contract with an entity under which the entity shall provide the health service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(d) The Director of the Office shall not make a grant under subsection (a) unless the applicant for the grant agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income and resources of the woman involved; and

"(3) will not be imposed on any woman with an income of less than 100 percent of the official poverty line, as established by the Director of the Office for Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(e) In making grants under subsection (a) for the provision of treatment services for alcohol and drug abuse, the Director of the Office shall ensure that the grants are distributed among projects that provide outpatient treatment and projects that provide residential treatment, in a manner that reflects the general desirability of residential treatment programs for pregnant addicts.

"(f) The Director of the Office shall not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) the applicant for the grant agrees to submit to the Secretary an annual report that describes the number of women served, the number of infants served, the type and costs of services provided, and such other information as the Secretary determines to be appropriate;

"(3) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section; and

"(5) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is not less than 10 percent of the amount of the grant under subsection (a).

"(g) The period during which payments are made by the Director of the Office under a grant under subsection (a) shall not exceed 5 years, except that the Director of the Office may establish a procedure for renewal of grants under subsection (a).

"(h) Nothing in this section shall be construed to permit the Secretary to discriminate in the awarding of grants under subsection (a) against applicants that propose or provide residential or outpatient rehabilitation services under applicable requirements of State law, including applicants that provide services to substance abusing pregnant and postpartum women that receive treatment by order of a court or other appropriate public agency, so long as all such applications include measures that encourage substance abusing pregnant and postpartum women to seek prenatal care and rehabilitation.

"(i) The Director of the Office shall, after consultation with the Director of the National Institute on Drug Abuse, periodically conduct evaluations to determine the effectiveness of projects supported under subsection (a).

"(j) The Director of the Office shall annually submit to the appropriate Committees of Congress a report describing programs carried out pursuant to this section. Each such report shall include any evaluations conducted under subsection (i) during the preceding fiscal year.

"(k)(1) In making grants under subsection (a), the Director of the Office shall make a grant to an institution of the type described in paragraph (2) for the establishment of a National Resource and Information Center for Perinatal Addiction, unless the Director finds that the Office is performing each of the functions described in paragraph (3) and reports such finding to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

"(2) The grant described in paragraph (1) shall be awarded, after a competitive search, to a private nonprofit institution that has an extensive background and experience in performing research on maternal substance abuse and in disseminating such information to professionals, policymakers, the general public and the media, as well as experience in providing educational services to maternal substance abusers and their exposed infants.

"(3) The Center established under subsection (a) shall—

"(A) coordinate and disseminate research on maternal substance abuse, treatment options for such women and infants of such women, and prevention strategies;

"(B) develop and distribute training and educational information and materials concerning maternal substance abuse;

"(C) act as a clearinghouse for information on treatment programs for pregnant women who are addicted to illegal substances;

"(D) develop and manage a national toll free hotline to provide information and referrals;

"(E) provide policy analysis and program evaluation to the Secretary of Health and Human Services; and

"(F) provide any other services designed to carry out the purposes of this subsection.

"(l) For the purpose of carrying out this section, there is authorized to be appropriated $50,000,000 for each of the fiscal years 1991 and 1992.".

(b) GRANTEES.—Section 509F(a) of such Act (42 U.S.C. 290aa-13(a)) is amended by inserting at the end thereof the following new sentence: "Such grants may be made only to public and nonprofit private entities and to appropriately qualified Indian tribes and tribal organizations (as defined in section 1913(b)(5)).".

Subtitle C—Treatment Improvement

CHAPTER 1—GENERAL TREATMENT PROVISIONS

SEC. 2201. ESTABLISHMENT OF OFFICE FOR TREATMENT IMPROVEMENT.

Title V of the Public Health Service Act is amended by inserting after section 507 (42 U.S.C. 290aa-5) the following new section:

"SEC. 507A. OFFICE FOR TREATMENT IMPROVEMENT.

"(a) IN GENERAL.—There is established in the Administration an Office for Treatment Improvement (hereinafter referred to in this section as the 'Treatment Office'). The Treatment Office shall be headed by a Director who shall be appointed by the Secretary from among individuals with extensive experience or academic qualifications in the treatment of drug or alcohol abuse. The Secretary, acting through the Director of the Treatment Office, shall carry out this section.

"(b) ALCOHOL AND DRUG ABUSE RESPONSIBILITIES.—With respect to alcohol and drug abuse, the Director of the Treatment Office shall—

"(1) collaborate with the Director of the Office for Substance Abuse Prevention to provide outreach services to identify individuals in need of treatment services, with emphasis on the provision of such services to racial and ethnic minorities, to adolescents, to pregnant and postpartum women and their infants, to individuals who abuse drugs intravenously, and to residents of publicly-assisted housing;

"(2) collaborate with the Director of the National Institute on Drug Abuse and with the States to promote the study of the outcomes of treatment services to identify the manner in which such treatment services can most effectively be provided;

"(3) collaborate with the Director of the National Institute on Drug Abuse to promote the dissemination and implementation of research findings that will improve the delivery and effectiveness of treatment services;

"(4) evaluate plans submitted by the States pursuant to section 1916B to advise the Administrator on whether the plans adequately provide for the allocation of the treatment resources of the States;

"(5) carry out the grant programs established in sections 508A, 509, 509E, 509G, 509H, and 509I;

"(6) sponsor regional workshops on improving the quality and availability of treatment services;

"(7) provide technical assistance to public and nonprofit private entities that provide prevention and treatment services, including technical assistance with respect to the process of submitting to the Director applications for any program of grants carried out by the Director;

"(8) after consultation with organizations that represent providers of prehospital emergency medical services, carry out programs to train such providers with respect to responding to any emergency involving special problems that arise as a result of the abuse of alcohol or drugs by the victim of the emergency, including the problem of interacting with victims who are violent as a result of such abuse;

"(9) encourage State and Federal agencies offering treatment opportunities for individuals addicted to drugs or alcohol to utilize and establish self-run, self-supported recovery homes based on the Oxford House Model, as described in section 1916A;

"(10) provide treatment services by making grants to public and nonprofit private entities under section 329, 330, and 340, and in making such grants, ensure that the grants are equitably allocated among the principal geographic regions of the United States, and between urban and rural areas, subject to the availability of qualified applicants for the grants;

"(11) improve the coordination of the treatment resources of communities to ensure that the resources are applied in the manner most consistent with the needs of the communities, including referring individuals to the most appropriate provider of treatment services;

"(12) improve coordination between treatment facilities and agencies providing health, social, and employment services to assist, in a comprehensive manner, individuals undergoing treatment;

"(13) carry out activities to educate communities on the need for establishing treatment facilities within the communities;

"(14) encourage public and private entities that provide health insurance to provide benefits for drug treatment services; and

"(15) develop programs to increase the number of health professionals providing treatment services and to promote the increased integration into the health care system of the United States of programs for providing treatment services.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (10) of subsection (b), there are authorized to be appropriated $50,000,000 for each of the fiscal years 1991 and 1992.".

SEC. 2202. STATEWIDE SUBSTANCE ABUSE TREATMENT PLAN.

(a) IN GENERAL.—Title XIX of the Public Health Service Act is amended by inserting after section 1916A (42 U.S.C. 300x-4a) the following new section:

"SEC. 1916B. STATEWIDE SUBSTANCE ABUSE TREATMENT PLAN.

"(a) NATURE OF THE PLAN.—To receive its allotment for a fiscal year under section 1912A, a State shall develop, implement, and submit as part of the application required by section 1916(a), an approved Statewide Substance Abuse Treatment Plan, prepared according to standards issued by the Secretary, that shall—

"(1) contain a single, designated State agency for formulating and implementing the Statewide Substance Abuse Treatment Plan;

"(2) contain a description of the mechanism that shall be used to assess the needs for substance abuse treatment in localities throughout the State including the presentation of relevant data;

"(3) contain a description of a statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) contain a description of performance-based criteria that shall be used to assist in the allocation of funds to substance abuse treatment facilities receiving assistance under this subpart;

"(5) contain a description of the mechanism that shall be used to make funding allocations under this subpart;

"(6) contain a description of the actions that shall be taken to improve the referral of substance abusers to treatment facilities that offer the most appropriate treatment modality;

"(7) contain a description of the program of training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay informed concerning the latest and most effective treatment techniques;

"(8) contain a description of the plan that shall be implemented to coordinate substance abuse treatment facilities with other social, health, correctional and vocational services to assist or properly refer those patients in need of such additional services;

"(9) contain a description of the plan that shall be implemented to expand drug treatment opportunities for individuals under criminal justice supervision;

"(10) contain a description of the plan that will be implemented to expand and improve efforts to deter women from knowingly abusing drugs during pregnancy, to contact and treat pregnant women who abuse drugs, and to provide appropriate follow-up services to their affected newborns;

"(11) provide for the targeting of funds toward areas of the greatest need in the State, using such criteria as the State may establish for determining such areas, including criteria for focusing on—

"(A) the current unmet treatment needs in the State including both the inpatient, outpatient, and long- and short-term substance abuse treatment service needs of defined populations and the availability of essential ancillary services;

"(B) the incidence of deliveries of infants who are adversely affected by maternal substance abuse;

"(C) the incidence of criminal activities related to substance abuse; and

"(D) the incidence of communicable diseases transmitted by substance abusers;

"(12) provide for the periodic testing of patients as appropriate for various treatment populations to determine the patients compliance with treatment regimens and the establishment of clinically appropriate policies for dealing with patients who fail such tests and provide that such testing conducted not be required to be more frequent than is necessary to achieve treatment objectives;

"(13) provide for aftercare or follow-up, either directly or through arrangements with other individuals or entities, for patients who have ended a course of treatment provided by the facility, that shall include periodic contacts with the patient to monitor the patient's progress and provide services or additional treatment as needed;

"(14) increase, if necessary, the availability of specialized services and facilities necessary to meet the needs of female and minority drug abusers; and

"(15) provide for the establishment of a program of interim assistance for individuals who apply for treatment, and who must wait for the availability of treatment opportunities, such as—

"(A) education and counseling concerning drug abuse; and

"(B) the referral to, or provision of, other necessary health and social services that may include primary health care, education, and vocational services.

"(b) SUBMISSION OF THE PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove such State plans, and to propose changes to such plans.

"(c) GUIDELINES.—

"(1) DEVELOPMENT.—The Secretary, in consultation with the States, shall develop guidelines for each area to be covered by

the State plan prepared under subsection (a).

"(2) CONFORMANCE WITH GUIDELINES.—Beginning in fiscal year 1992, no payment shall be made to a State from its allotment under section 1912A unless such State has submitted a plan under this section that is in reasonable conformance with the guidelines developed under paragraph (1), except that with respect to the performance criteria for treatment facilities described in subsection (a)(4), the State plan shall provide a reasonable time for such conformance.

"(3) MONITORING COMPLIANCE.—The Secretary shall monitor the compliance of the State with the plan submitted under this section and provide technical assistance to assist in achieving such compliance.

"(d) REPORTS.—Each State shall prepare and submit reports to the Secretary, at such times, in such form, and containing such information as the Secretary may require, and shall comply with such additional provisions as the Secretary may find necessary to verify the accuracy of such reports.

"(e) WAIVER OF PLAN REQUIREMENT.—The Secretary may waive any or all of the requirements of this section on the written request of a State, except that such waiver shall not be granted unless the State implements an alternative treatment plan that fulfills the objectives of this section.

"(f) MODEL STATE PLAN.—The Director of the Office for Treatment Improvement shall establish a model State substance abuse treatment plan to guide States in establishing State plans under subsection (a), and shall provide technical assistance to assist States in complying with such plan.

"(g) ADMINISTRATIVE EXPENSES.—Expenses incurred for the training of individuals as required under any plans submitted under this section shall not be included in determining the costs of administering funds made available under section 1914 with respect to alcohol and drug abuse.".

SEC. 2203. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

Title V of the Public Health Service Act is amended by inserting after section 508 (42 U.S.C. 290aa-6) the following new section:

"SEC. 508A. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

"(a) ESTABLISHMENT.—The Director of the Office for Treatment Improvement (hereinafter referred to in this section as the 'Director') shall establish a program to provide grants to eligible institutions to enable such institutions to provide training services to increase the supply of drug treatment professionals.

"(b) ELIGIBLE INSTITUTIONS.—Institutions eligible to receive a grant under this section shall include medical schools, schools of osteopathy, schools of nursing, schools of public health, schools of chiropractic services, schools of social work, and other appropriate educational institutions that submit an application in accordance with subsection (c).

"(c) APPLICATIONS.—To be eligible to receive a grant under this section, an eligible institution shall submit an application to the Director at such time, in such manner, and containing such information as the Director may reasonably require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 and 1992.".

SEC. 2204. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq) is amended by adding at the end thereof the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (hereinafter referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Director may establish a procedure for renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 and 1992.".

SEC. 2205. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period; and

(3) by adding at the end thereof the following new paragraphs—

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

SEC. 2206. PROGRAM FOR REDUCTION OF WAITING PERIOD FOR DRUG ABUSE TREATMENT.

(a) ADMINISTRATOR OF PROGRAM.—Section 509E(a) of the Public Health Service Act (42 U.S.C. 290aa-12(a)) is amended by striking out "the Administrator" and inserting in lieu thereof "the Director of the Office for Treatment Improvement".

(b) IMPROVEMENT OF PROGRAM.—Section 509E of such Act (42 U.S.C. 290aa-12) is amended—

(1) by striking out subsection (d);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting after subsection (b) the following new subsection:

"(c)(1) In awarding grants under subsection (a), the Secretary shall give priority to applicants that provide, directly or through arrangements with public and nonprofit entities—

"(A) drug treatment services to pregnant and postpartum women; or

"(B) after-care services to prevent renewed substance abuse by individuals who have received treatment services by a substance abuse program assisted under this section.

"(2) Each recipient of a grant under subsection (a) shall not expend in excess of 50 percent of such grant to develop and provide the services described in paragraph (1).";

(4) in subsection (e)—

(A) by redesignating paragraph (3) as paragraph (4);

(B) by striking out "and" at the end of paragraph (2); and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) an agency of the State in which the applicant is located certifies that the applicant has complied with the provisions of subsection (b); and".

(c) FUNDING.—Section 509E(f) of such Act (42 U.S.C. 290aa-12(f)) is amended—

(1) in paragraph (1), by striking out "$100,000,000." and inserting in lieu thereof "$140,000,000."; and

(2) in paragraph (3), by striking out "$100,000,000" and inserting in lieu thereof "$140,000,000".

(d) REPORT.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Alcohol, Drug Abuse,

and Mental Health Administration shall prepare and submit, to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning the waiting period reduction grant program under section 509E of the Public Health Services Act (42 U.S.C. 290aa-12). Such report shall include—

(1) a list and description of the programs that have been awarded grants under this section;

(2) a description of the process by which funds awarded under such section are expended for treatment services, including a description of the process by which grantees obligate the "draw-down" funds under such section;

(3) an assessment of the validity of waiting lists as a measure of treatment need and, if the report concludes that waiting lists are not the most accurate measure of treatment need, a description of other, more accurate means of measuring treatment need;

(4) the views of State, local and nongovernmental treatment experts with respect to—

(A) the validity of waiting lists as a measure of treatment need; and

(B) the efficacy of the waiting period reduction grant program; and

(5) any other information that the Administrator deems to be necessary to a thorough appraisal of the efficacy of the program under such section.

SEC. 2207. PROGRAM FOR DRUG ABUSE PROJECTS OF NATIONAL SIGNIFICANCE.

Section 509G of the Public Health Service Act (42 U.S.C. 290aa-14) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by striking out "the Administrator" and inserting in lieu thereof "the Director of the National Institute on Drug Abuse"; and

(B)(i) by inserting "and" at the end of subparagraph (A);

(ii) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(iii) by striking out subparagraph (C);

(2) in subsection (a)(2), by inserting "a" before "result";

(3) in subsection (b)(1)—

(A) by inserting after "Secretary" the following: ", acting through the Director of the Office for Treatment Improvement,";

(B) by striking out "States" the first place such term appears and inserting in lieu thereof "States and other public or nonprofit private entities"; and

(C) by striking out "States" the second place such term appears and inserting in lieu thereof "such entities"; and

(4) in subsection (b)(4), by striking out "State" and inserting in lieu thereof "public or nonprofit private entity"; and

(5) in paragraph (1) of subsection (c) to read as follows:

"(1) For the purpose of carrying out this section, there are authorized to be appropriated $80,000,000 for each of the fiscal years 1991 and 1992.".

CHAPTER 2—DRUG TREATMENT IN PRISON

SEC. 2211. FINDINGS.

Congress finds that—

(1) the Federal Bureau of Prisons estimates that 42 percent of all incoming Federal prisoners abuse drugs or alcohol;

(2) the number of separate unit inpatient drug treatment programs in Federal prisons has declined from 21 in 1978 to 4 today;

(3) 43 percent of Federal prisoners are rearrested within 3 years of release;

(4) offenders who continue to use drugs after release from prison are more likely to resume criminal activities than those who do not; and

(5) overcrowding in Federal prisons has reached such crisis proportions that in June 1989, Federal prisons housed 54,718 inmates, 77 percent above their capacity of 31,000.

SEC. 2212. AUTHORIZATION OF APPROPRIATIONS FOR TREATMENT SERVICES.

(a) IN GENERAL.—There are authorized to be appropriated to the Federal Prison System $15,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993. Such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1991.

(b) USES OF APPROPRIATION.—The additional appropriation authorized by subsection (a) shall be used—

(1) to provide high intensity inpatient substance abuse treatment services to drug dependent offenders;

(2) to train appropriate prison employees in the diagnosis and treatment of drug and alcohol addiction;

(3) to hire psychologists and substance abuse counselors to serve drug dependent offenders;

(4) to enter into contracts with qualified community substance abuse treatment providers to offer inmates treatment services; and

(5) to ensure intensive supervision of drug dependent offenders while they are on parole or supervised release, including urine drug testing.

(c) SEPARATION OF INMATES.—The Bureau of Prisons shall, to the greatest extent possible, separate drug dependent offenders undergoing treatment from the general prison population and avoid returning such offenders to the general prison population after the completion of the treatment program.

SEC. 2213. GRANTS FOR DRUG TREATMENT IN THE CRIMINAL JUSTICE SYSTEM.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq) (as amended by section 2204) is further amended by adding at the end thereof the following new section:

"SEC. 509I. GRANTS FOR DRUG TREATMENT IN THE CRIMINAL JUSTICE SYSTEM.

"(a) PROGRAM ESTABLISHED.—The Director of the Office for Treatment Improvement (hereinafter referred to in this section as the 'Director') shall establish a program to provide grants to public and nonprofit private entities that provide drug treatment services to individuals under criminal justice supervision.

"(b) ELIGIBILITY.—In awarding grants under subsection (a), the Director shall ensure that the grants are reasonably distributed among projects that provide treatment services to individuals who are—

"(1) incarcerated in prisons, jails or community correctional settings; or

"(2) not incarcerated but under criminal justice supervision because of their status as pre-trial releases, post-trial releases, probationers, parolees, or supervised releases.

"(c) PRIORITY.—In awarding grants under subsection (a), the Director shall give priority to programs that provide—

"(1) a continuum of services for offenders as they proceed through and out of the criminal justice system;

"(2) referrals to treatment programs in the community for individuals soon to be released from incarceration;

"(3) treatment services for juvenile offenders;

"(4) treatment services for female offenders;

"(5) outreach services to identify individuals under criminal justice supervision who would benefit from drug treatment and to encourage such individuals to seek treatment; or

"(6) treatment services that function as an alternative to incarceration for appropriate categories of offenders or that otherwise enable individuals to remain under criminal justice supervision in the least restrictive setting consistent with public safety.

"(d) APPLICATION.—The Director of the Office may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary; and

"(2) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines necessary to carry out this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 and 1992.".

SEC. 2214. SPECIAL SUPERVISED RELEASE FOR DRUG DEPENDENT OFFENDERS.

(a) IN GENERAL.—Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following:

"(h) EARLY SUPERVISED RELEASE FOR QUALIFIED DRUG DEPENDENT OFFENDERS.—(1) In the case of a qualified drug dependent offender, the sentencing court may modify the term of imprisonment pursuant to section 3582(c) by allowing the defendant to be released from incarceration not more than one year earlier than otherwise scheduled. For the purpose of this subsection, the release date otherwise scheduled shall be computed by subtracting from the original period of incarceration the amount of good time earned pursuant to section 3624 up to the time the early release would take effect.

"(2) If the court reduces the period of incarceration pursuant to this subsection, the court shall also impose a period of supervised release equal to the length of the reduction, or in the event that a period of supervised release was previously ordered, it shall extend the period of supervised release by a period equal to the length of the reduction, notwithstanding the maximum term of supervised release otherwise provided in this title. Such periods of supervised release, or extended periods of supervised release, shall be subject to all of the conditions and procedures set forth in this section. For the purpose of the subsection, the length of the reduction in sentence shall be the period between the date of early release under this subsection and the otherwise scheduled release date as defined in paragraph (1).

"(3) To qualify for early supervised release under this subsection, a drug dependent offender—

"(A) shall have been continuously incarcerated in a Federal correctional institution for no less than three-fourths of the time the offender was originally scheduled to serve prior to becoming eligible for supervised release, assuming the usual credit for good time pursuant to section 3624;

"(B) shall not have been convicted of homicide, attempted homicide, kidnapping, assault with a deadly weapon, espionage, or aggravated sexual abuse;

"(C) shall not have been sentenced to life in prison;

"(D) shall have successfully completed, while incarcerated, a program of substance abuse treatment approved for these purposes by the Director of the Federal Prison System; and

"(E) after successfully completing treatment, shall have received approval for early supervised release from the sentencing judge acting upon the recommendation of the individual responsible for administering substance abuse treatment programs in the facility in which the offender has been incarcerated.

"(4) Upon release, and for a period of 6 months after release or for the entire term of supervised release, whichever is less, the drug dependent offender shall reside in a half-way house in which intensive counseling and supervision is available.

"(5) Upon release, and for a period of 1 year after release, or for the entire term of supervised release, whichever is less, the drug dependent offender shall, in addition to fulfilling the other requirements of supervised release ordered by the court under this section—

"(A) submit to periodic urine drug testing at least once every 60 days;

"(B) regularly attend meetings of support groups such as Narcotics Anonymous, Alcoholics Anonymous, and Cocaine Anonymous; and

"(C) participate in an outpatient substance abuse counseling program.

"(6) Notwithstanding any other provisions of this section, if the drug dependent offender tests positive for illegal use of controlled substances on 2 separate urine drug tests taken at least 3 weeks apart, the court shall revoke the term of supervised release and require the offender to serve all or part of the term of supervised release in prison, without credit for time previously served on post-release supervision.

"(7) A drug test administered under this subsection shall be administered in accordance with the procedures set forth in section 3608 of this title.".

(b) ORDER OF SUPERVISED RELEASE.—Section 3582(c) of title 18 of the United States Code is amended by—

(1) striking "and" after the semicolon in paragraph (1);

(2) striking the period at the end of paragraph (2) and inserting "; and"; and

(3) adding at the end thereof the following:

"(3) in the case of a qualified drug dependent offender, the court may order supervised release up to 1 year prior to the previously scheduled date of release as provided by section 3583(h).".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective January 1, 1990.

Subtitle D—Substance Abuse Treatment Services Under Medicaid

SEC. 2301. SUBSTANCE ABUSE TREATMENT SERVICES UNDER MEDICAID.

(a) PURPOSE OF TITLE XIX.—Section 1901 of the Social Security Act is amended by striking out "and" before the number "(2)", and inserting after "self-care," the following: "and (3) at State option, substance abuse treatment services so that treatment on request may be provided to all individuals eligible for assistance under this title (A) who desire to rid themselves of substance abuse problems, and (B) whose income and resources are insufficient to meet the cost of such treatment,".

(b) SUBSTANCE ABUSE TREATMENT SERVICES.—Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"SEC. 1927. SUBSTANCE ABUSE TREATMENT SERVICES.

"(a) INCLUSION IN STATE PLAN.—At the option of the State, the State plan for medical assistance described in section 1902(a) may include as medical assistance, substance abuse treatment services and related case management services (described in subsection (b)) provided under the plan to all individuals eligible for assistance under this title who desire to rid themselves of their substance abuse problems.

"(b) DEFINITIONS.—As used in this section:

"(1) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse treatment services' includes—

"(A) inpatient substance abuse treatment services, including counseling, that are provided in a hospital (or distinct part thereof) or other entity if such entity is legally authorized to provide such treatment under State law;

"(B) outpatient substance abuse treatment services, including counseling, that are provided by a hospital (or distinct part thereof) or other entity if such entity is legally authorized to provide such treatment under State law; and

"(C) substance abuse treatment services, including counseling, that are provided in a residential substance abuse treatment center or other entity if such entity is legally authorized to provide such treatment under State law.

"(2) CASE MANAGEMENT SERVICES.—The term 'case management services' means services that will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1991.

TITLE —PHARMACOLOGICAL RESEARCH

SEC. 01. SHORT TITLE.

This title may be cited as the "Pharmacotherapy Development Act of 1990".

SEC. 02. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) drug addiction is a disease of epidemic proportions in the United States;

(2) current efforts to treat the disease of addiction are inadequate; and

(3) pharmacotherapy, the use of medicines to treat the disease of addiction, is one promising method of drug treatment, and the development of such medicines must be more aggressively promoted by the Federal Government.

(b) PURPOSE.—It is the purpose of this title to promote research, development, and production of pharmacotherapeutics used to reduce the prevalence of drug addiction in the United States.

SEC. 11. ESTABLISHMENT OF MEDICATIONS DEVELOPMENT DIVISION.

Section 515 of the Public Health Service Act (42 U.S.C. 290cc) is amended to read as follows:

"SEC. 515. PHARMACOTHERAPEUTICS DEVELOPMENT DIVISION.

"(a) ESTABLISHMENT.—There is established in the National Institute on Drug Abuse a Division to be known as the 'Medications Development Division' (hereinafter in this section and section 515A referred to as the 'Division').

"(b) ORGANIZATION.—

"(1) DIRECTOR.—The Division shall be headed by a Director appointed by the Director of the National Institute on Drug Abuse on the basis of scientific merit.

"(2) STAFFING.—The Director of the Division (hereinafter in this section and section 515A referred to as the 'Director') may appoint one or more Deputy Directors and shall employ administrators and researchers on the basis of scientific merit.

"(c) DUTIES.—The Director shall—

"(1) in consultation with the Commissioner of Food and Drugs, establish, not later than 1 year after the date of enactment of this section, new guidelines for the safety and efficacy trials of medications to treat drug addiction, with such guidelines to be implemented by the Commissioner of Food and Drugs in accordance with subchapter C of chapter V of the Federal Food, Drug, and Cosmetic Act;

"(2) conduct periodic meetings with the Commissioner of Food and Drugs to discuss other measures that may facilitate the approval process of drug addiction treatments;

"(3) encourage and promote (through grants, contracts, or otherwise) expanded research programs, investigations, experiments, and studies, into the development of medications to treat drug addiction;

"(4) establish, or provide for the establishment of, clinical research facilities to carry out this section;

"(5) track the activities of the National Institutes of Health relating to the development and use of pharmacotherapeutic treatments for drug addiction;

"(6) collect, analyze, and disseminate data useful in the development and use of pharmacotherapeutic treatments for drug addiction and seek the establishment of an international research data bank to collect, catalog, analyze, and disseminate through international channels, the results of research undertaken in any country concerning pharmacotherapeutic treatments for drug addiction; and

"(7) support training in the fundamental sciences and clinical disciplines related to the pharmacotherapeutic treatment of drug addiction, including the use of training stipends, fellowships, and awards where appropriate.

"(d) ADMINISTRATION.—In carrying out the activities described in subsection (c), the Director may—

"(1) collect and disseminate through publications and other appropriate means, information pertaining to the research and other activities under this section;

"(2) make grants to or enter into contracts and cooperative agreements with individuals and public and private entities to further the goals of the Division;

"(3) acquire, construct, improve, repair, operate, and maintain pharmacotherapeutic centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary;

"(4) acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of the General Services Administration, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Division for a period not to exceed 10 years;

"(5) accept voluntary and uncompensated services;

"(6) accept gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"(7) take necessary action to ensure that all channels for the dissemination and ex-

change of scientific knowledge and information are maintained between the Division and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"(e) REPORTS.—

"(1) IN GENERAL.—Not later than December 31, 1990, and each December 31 thereafter, the Director shall submit to the Office of National Drug Control Policy established under section 1002 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501) a report, in accordance with paragraph (3), that describes the objectives and activities of the Division.

"(2) INCORPORATION INTO NATIONAL DRUG CONTROL STRATEGY.—The Director of National Drug Control Policy shall incorporate, by reference or otherwise, each report submitted under this subsection in the National Drug Control Strategy submitted the following February 1 under section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504).

"(3) ADDITIONAL REPORTS.—The Director may prepare additional reports as appropriate.

"(f) PEER REVIEW.—

"(1) IN GENERAL.—The Director shall, by regulation, provide for the proper scientific review of all research grants, cooperative agreements, and contracts over which the Director has authority by—

"(A) utilizing, to the extent practicable, appropriate peer review groups established within the National Institute on Drug Abuse and composed primarily of non-Federal scientists and other experts in the scientific and disease fields; and

"(B) when appropriate, by establishing, with the approval of the Director of the National Institute on Drug Abuse, other formal peer review groups as may be required.".

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended to read as follows:

"SEC. 517. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out section 515—

"(1) $60,000,000 for fiscal year 1991;

"(2) $70,000,000 for fiscal year 1992;

"(3) $85,000,000 for fiscal year 1993;

"(4) $100,000,000 for fiscal year 1994;

"(5) $110,000,000 for fiscal year 1995; and

"(6) $115,000,000 for each of the fiscal years 1996 through 2000.".

SEC. 21. DRUGS FOR THE TREATMENT OF ADDICTIONS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER C—DRUGS FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS

"SEC. 529A. RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF ADDICTIONS TO ILLEGAL DRUGS.

"(a) IN GENERAL.—The sponsor of a drug for the treatment of addiction to illegal drugs may request the Secretary to provide written recommendations for the nonclinical and clinical investigations that must be conducted with the drug before—

"(1) it may be approved for treatment of such addiction under section 505;

"(2) if the drug is an antibiotic, it may be certified for treatment of such addiction under section 507; or

"(3) if the drug is a biological product, it may be licensed for treatment of such addiction under section 351 of the Public Health Service Act.

"(b) RECOMMENDATIONS FOR INVESTIGATIONS.—If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for the treatment of addiction to illegal drugs, the Secretary shall provide the person making the request with written recommendations for the nonclinical and clinical investigations that the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for treatment of such addiction under section 505, certification of such drug under section 507, or licensing of such drug under section 351 of the Public Health Service Act.

"(c) REGULATIONS.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a) and (b).

"SEC. 529B. DESIGNATION OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—

"(1) REQUEST.—The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for the treatment of addiction to illegal drugs. A request for designation of a drug shall be made before the submission of an application under section 505(b) for the drug, the submission of an application for certification of the drug under section 507, or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for the treatment of addiction to illegal drugs and—

"(A) if an application for such drug is approved under section 505;

"(B) if a certification for such drug is issued under section 507; or

"(C) if a license for such drug is issued under section 351 of the Public Health Service Act;

the approval, certification, or license would be for use for treatment of such addiction, the Secretary may designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (c) respecting the designation of the drug.

"(2) DEFINITION.—As used in paragraph (1)—

"(A) the term 'drugs for the treatment' means those pharmacological agents or medications that—

"(i) block the effects of abused drugs;

"(ii) reduce the craving for abused drugs;

"(iii) moderate or eliminate withdrawal symptoms;

"(iv) block or reverse the toxic effects of abused drugs; or

"(v) prevent, under certain conditions, the initiation of drug abuse;

"(B) the term 'addiction' means the state of an individual where that individual habitually uses an illegal drug in a manner that endangers the public morals, health, safety, or welfare, or who is so addicted to the use of illegal drugs that such individual loses the power of self-control with reference to such the addiction of such individual; and

"(C) the term 'illegal drugs' means a controlled substance, as defined in section 202 of the Controlled Substance Act (21 U.S.C. 812) the possession or distribution of which is unlawful under such Act.

"(b) CONDITIONS.—A designation of a drug under subsection (a) shall be subject to the condition that—

"(1) if an application was approved for the drug under section 505(b), a certificate was issued for the drug under section 507, or a license was issued for the drug under section 351 of the Public Health Service Act, the manufacturer of the drug will notify the Secretary of any discontinuance of the production of the drug at least one year before discontinuance, and

"(2) if an application has not been approved for the drug under section 505(b), a certificate has not been issued for the drug under section 507, or a license has not been issued for the drug under section 351 of the Public Health Service Act and if preclinical investigations or investigations under section 505(i) are being conducted with the drug, the manufacturer or sponsor of the drug will notify the Secretary of any decision to discontinue active pursuit of approval of an application under section 505(b), approval of an application for certification under section 507, or approval of a license under section 351 of the Public Health Service Act.

"(c) NOTICE.—Notice respecting the designation of a drug under subsection (a) shall be made available to the public.

"(d) REGULATION.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a), (b), and (c).

"SEC. 529C. PROTECTION FOR DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—Except as provided in subsection (b), if the Secretary—

"(1) approves an application filed pursuant to section 505;

"(2) issues a certification under section 507; or

"(3) issues a license under section 351 of the Public Health Service Act;

for a drug designated under section 529A for the treatment of addiction to illegal drugs, the Secretary may not approve another application under section 505, issue another certification under section 507, or issue another license under section 351 of the Public Health Service Act for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license until the expiration of 7 years from the date of the approval of the approved application, the issuance of the certification, or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

"(b) ISSUANCE OF ANOTHER LICENSE, APPLICATION, OR CERTIFICATION.—If an application filed pursuant to section 505 is approved for a drug designated under section 529A for the treatment of addiction to illegal drugs, if a certification is issued under section 507 for such a drug, or if a license is issued under section 351 of the Public Health Service Act for such a drug, the Secretary may, during the 7-year period beginning on the date of the application approval, of the issuance of the certification under section 507, or of the issuance of the license, approve another application under section 505, issue another certification under section 507, or issue a license under section 351 of the Public Health Service Act, for such drug for the treatment of such addiction for a person who is not the holder of such approved ap-

plication, of such certification, or of such license if—

"(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the holder of the approved application, of the certification, or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with such addictions for which the drug was designated; or

"(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications, issuance of other certifications, or the issuance of other licenses before the expiration of such 7-year period.

"SEC. 529D. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"If a drug is designated under section 529A as a drug for the treatment of addiction to illegal drugs and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary may encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with such addictions who need the drug to treat such addiction and who cannot be satisfactorily treated by available alternative drugs.

"SEC. 529E. ENFORCEMENT.

"The provisions of title III relating to the breach of an exclusive marketing agreement shall apply to this subchapter.

"SEC. 529F. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of the fiscal years 1990 through 1992.".

SEC. 31. INVESTIGATIONAL NEW DRUGS.

(a) SUBMISSION OF APPLICATION.—Notwithstanding subpart B of part 312 of title 21, Code of Federal Regulations, in implementing the procedures required under subsection (b), the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may permit an entity submitting an investigational new drug application or protocol for medications to treat drug addiction to provide the information required by the Secretary as such information becomes available to such entity. The Secretary may permit such applications or protocols to be submitted in parts. If the Secretary withholds approval of any part of such application or protocol, the Secretary may require that the applying entity resubmit only that portion of such application or protocol that was not approved. Not later than 30 days after an entity submits such an application or protocol or part thereof, the Secretary shall notify such entity concerning the approval or rejection of such application or protocol or part thereof, and if such notification is not provided approval will be automatic.

(b) APPLICATION OF PROCEDURES.—The Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, shall apply investigational new drug procedures under part 312 of title 21, Code of Federal Regulations, to encourage the development and use of medications to treat drug addiction. The Secretary may waive the requirements contained in part 312.34(b)(1)(ii) of title 21, Code of Federal Regulations, if the Secretary determines that such a waiver is appropriate.

SEC. 32. PARALLEL TRACK TRIALS FOR MEDICATIONS TO TREAT DRUG ADDICTION.

(a) IN GENERAL.—In encouraging the development and marketing approval of medications to treat drug addiction, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may permit parallel track trials to be used to permit access to such drugs in a manner similar to that applied to certain medications to treat individuals infected with the human immunodeficiency virus.

(b) DEFINITION.—As used in this section the term "parallel track trials" means the procedures used by the Food and Drug Administration under part 312.35 of title 21, Code of Federal Regulations.

SEC. 33. WAIVER OF MECHANISM OF ACTION REQUIREMENT.

Notwithstanding any other provision of law, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may waive the application of the mechanism of action requirement for marketing approval of medications to treat drug addiction.

SEC. 34. DEFINITION.

As used in this chapter, the term "pharmacotherapeutics" means medications used to treat the symptoms and disease of drug addiction, including medications to—

(1) block the effects of abused drugs;

(2) reduce the craving for abused drugs;

(3) moderate or eliminate withdrawal symptoms;

(4) block or reverse the toxic effect of abused drugs; and

(5) prevent, under certain conditions, the initiation of drug abuse.

SEC. 41. SENSE OF CONGRESS.

It is the sense of Congress that the Medications Development Division of the National Institute on Drug Abuse shall devote special attention and adequate resources to achieve the following urgent goals—

(1) the development of a methadone alternative;

(2) the development of a long-acting narcotic antagonist;

(3) the development of a cocaine-blocking treatment;

(4) the development of a cocaine-blocker/narcotic antagonist treatment;

(5) the development of medications to treat addiction to drugs that are becoming increasingly prevalent, such as methamphetamine; and

(6) the development of medications to treat pregnant addicts and their fetuses.

SEC. 51. REPORT BY THE SURGEON GENERAL.

(a) PHARMACOTHERAPY REVIEW PANEL.—Not later than 120 days after the date of enactment of this Act, the Director of the Division established under section 515 of the Public Health Service Act (as amended by section 7011) shall establish a panel of independent experts in the field of pharmacotherapeutic treatment of drug addiction to assess the national strategy for developing such treatments and to make appropriate recommendations for the improvement of such strategy.

(b) REPORT.—Not later than January 1, 1992, the Surgeon General of the United States shall prepare and submit, to the appropriate Committees of Congress, a report that sets forth—

(1) the recommendations of the panel established under subsection (a);

(2) the state of the scientific knowledge with respect to pharmacotherapeutic treatment of drug addiction;

(3) the assessment of the Surgeon General of the progress of the nation toward the development of safe, efficacious pharmacological treatments for drug addiction; and

(4) any other information determined appropriate by the Surgeon General.

(c) AVAILABILITY.—The report prepared under subsection (b) shall be made available for use by the general public.

At the end of the bill, add the following:

Subtitle F—Education and Prevention

SEC. 3001. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) while 54 percent of the high school seniors have used an illicit drug by the time they graduate, the percentage of students using drugs by the sixth grade has tripled since 1975;

(2) the National high school survey shows that even though an increasing number of students report that cocaine is readily available, a 64 percent increase in the perceived harmfulness of cocaine use among high school students has led to a 49 percent decrease in cocaine use among these students;

(3) drug education is needed in every grade in every school;

(4) the Drug Free Schools and Communities Act Amendments of 1989 condition the receipt of all Federal funds by a local education agency on the implementation of a drug prevention program for all grades;

(5) current funding for school-based drug education and prevention programs is inadequate and effective school-based prevention programs necessitate a comprehensive approach;

(6) project STAR (Students Taught Awareness and Resistance) in Kansas City focuses on children in grades 6-9 and encourages them to avoid cigarettes, alcohol, and marijuana; and

(7) project STAR credits its success to the comprehensive approach of such project which involves in-school programs that deal with peer pressure and assertiveness training, family programs, and community and media participation.

(b) PURPOSE.—The purpose of this subtitle is to—

(1) reauthorize the Drug Free Schools and Communities Act; and

(2) to establish a grant program to enable schools to implement comprehensive drug education programs.

SEC. 3002. REAUTHORIZATION OF DRUG FREE SCHOOLS AND COMMUNITIES ACT.

Section 5111(a) of the Drug Free Schools and Communities Act of 1986 (20 U.S.C. 3181) is amended by striking out "and such sums" and all that follows through the period and inserting in lieu thereof "$1,200,000,000 for fiscal years 1991 and 1992, and such sums as may be necessary for fiscal year 1993.".

SEC. 3003. DRUG FREE SCHOOLS AND COMMUNITIES ACT.

Part B of the Drug Free Schools and Communities Act of 1986 (20 U.S.C. 3191) is amended by adding at the end thereof the following new section:

"SEC. 5128. COMPREHENSIVE DRUG EDUCATION.

"(a) ESTABLISHMENT.—The Secretary shall establish and administer a model grant program to provide grants to individual schools, consortia of schools, or consortia of schools and institutions to implement comprehensive drug education programs, that shall include—

"(1) the establishment of an anti-drug policy;

"(2) the establishment and implementation of peer-to-peer programs that allow children to talk about handling pressures to use and sell drugs or to realize that such children may need counseling or treatment;

"(3) the provision of current medical and scientific information concerning the impact of drugs on our bodies and society;

"(4) the designation of a teacher to serve as the school chairperson of the drug education program who shall be responsible for implementing the program, including training the other teachers; and

"(5) family and community involvement in drug prevention.

"(b) APPLICATION.—

"(1) CONTENTS.—To be eligible to receive a grant under this section, an entity of the type described in subsection (a) shall prepare and submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule, including—

"(A) a description of the manner in which the teacher will be selected to serve as chairperson of the drug education program established under the grant;

"(B) a description of the amount of time each day, expressed as a percentage, the teacher chairperson day shall devote to the drug education program and the estimated salary of such teacher; and

"(C) any other information determined appropriate by the Secretary.

"(2) REVIEW.—

"(A) BY LOCAL AGENCY.—Each application submitted under this subsection shall be reviewed by the appropriate local education agency which shall act as the fiscal agent in administering a grant awarded to a school under this section.

"(B) BY STATE EDUCATIONAL AGENCY.—Each application submitted under this subsection shall be forwarded to the appropriate State educational agency for review and comment, if the State educational agency requests the opportunity for review. The State educational agency shall complete its review of the application and comment to the Secretary not later than 30 calendar days after the receipt of such application.

"(3) ELIGIBLE SCHOOLS.—Public and private schools that serve students in any of grades kindergarten through 12 are eligible to receive a grant under this section.

"(4) SPECIAL RULES.—

"(A) SUPPLEMENTING OF RESOURCES.—Federal funds awarded under this section shall supplement, not supplant, other resources available to the grantee.

"(B) MINIMUM AMOUNT.—Grants made under this section to a single school shall not be less than an amount equal to the sum of 20 percent of the estimated salary of the teacher chairperson in addition to $22 per student enrolled in such school, not to exceed 600 students.

"(c) USE OF ALLOTMENTS.—An entity shall use amounts received under this section to implement a comprehensive drug education program through the designation of a teacher to serve as the chairperson of the drug education program within a school. Such chairperson shall—

"(1) be trained at one of the regional training centers of the Department of Education, and train other teachers and administrators at the school of such individual to—

"(A) recognize the signs and symptoms of substance abuse;

"(B) know their role in reporting substance abuse; and

"(C) become familiar with prevention and education resources, including the use of anti-drug messages in courses of basic study;

"(2) oversee the design and implementation of drug prevention programs for each grade, including the selection of any materials the school would need to purchase;

"(3) coordinate the school-based program with community and family activities; and

"(4) not later than September 1, 1991, have a comprehensive drug education program in place at the school of such individual.

"(d) GRANTS.—

"(1) IN GENERAL.—The Secretary shall make payments under grants awarded under this section to entities of the type described in subsection (a), in installments, and in advance or, by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine appropriate.

"(2) SPENDING OF PAYMENTS.—Payments to an entity under paragraph (1) for any fiscal year must be expended by such entity in that fiscal year or in the succeeding fiscal year.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $150,000,000 for fiscal year 1991.".

SEC. 3001. ANTI-DRUG LESSON PLANS.

(a) IN GENERAL.—The Secretary of Education, acting through the National Diffusion Network established under section 1562 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2962) shall design and distribute anti-drug lesson plans, for use in classes of basic study, to the chief educational officer of each State who shall make such plan available to schools within such State.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000 for fiscal year 1991.

SEC. 3005. DRUG ABUSE RESISTANCE EDUCATION PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) the Drug Abuse Resistance Education program (known as "DARE") is a successful classroom program implemented for students in the fifth and sixth grades;

(2) DARE was developed in Los Angeles by Police Chief Daryl Gates and the Los Angeles School District and is presently being utilized in 48 States, reaching over 3,000,000 children annually;

(3) DARE sends specially trained police officers into classrooms once a week for 17 consecutive weeks in a semester, where such officers teach students resistance skills through lessons that involve understanding alcohol and drug use, making decisions resisting peer pressure, and alternative activities for youth; and

(4) although DARE has been a leader in teaching resistance skills to children, similar programs can be found in schools that have already taken positive steps to preventing drug abuse.

(b) SECRETARY OF EDUCATION.—The Secretary of Education shall expand existing programs at the Department of Education to provide schools with greater access to DARE and other programs that teach resistance skills and assertiveness training to children in grades kindergarten through 12.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriate $10,000,000 in fiscal year 1991 for expansion of the DARE program or other such programs described under subsection (b). Programs that offer resistance and assertiveness training other than DARE are eligible to compete for such additional funding.

SEC. 3101. COMPREHENSIVE DRUG PREVENTION PROGRAMS.

Part A of title V of the Public Health Service Act (32 U.S.C. 290aa et seq.) (as amended by sections 2101, 2101, and 2205) is further amended by adding at the end thereof the following new section:

"SEC. 509K. COMMUNITY DRUG EDUCATION PROGRAMS.

"(a) FINDINGS AND PURPOSE.—

"(1) FINDINGS.—Congress finds that—

"(A) successful drug education programs go beyond the classroom setting; and

"(B) through the Drug-Free Schools and Communities project in Orange County, California, teachers have identified and coordinated existing resources in schools and communities, including law enforcement, libraries, and hospitals to provide—

"(i) training for teachers;

"(ii) attractive information to students; and

"(iii) an entire network of education and prevention programs.

"(2) PURPOSE.—The purpose of this section is to provide resources that encourage a comprehensive approach to community drug prevention by involving families, business leaders, police, churches, and other aspects of the community.

"(b) ESTABLISHMENT.—The Secretary, acting through the Director of the Office for Substance Abuse Prevention, shall establish a comprehensive approach drug prevention grant program to make grants to entities for drug prevention programs that use a comprehensive approach.

"(c) ELIGIBLE INSTITUTIONS.—To be eligible to receive a grant under this section, an institution shall establish or expand a drug prevention program to be comprehensive in nature, and to include—

"(1) an anti-drug policy;

"(2) peer to peer drug abuse programs;

"(3) the provision of complete and accurate information concerning drugs;

"(4) the involvement of the family and community; and

"(5) the participation of the institution in a communication system established by the institution or a coalition of institutions that such institution operates in for the purpose of sharing drug prevention and education information with local agencies.

"(d) DEFINITION.—As used in this section the term 'institution' means any public or private non-profit organization or government agency that agrees to include implement comprehensive drug prevention programs in accordance with subsection (c).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $155,000,000 in fiscal year 1991.".

SEC. 3102. SUBSTANCE ABUSE PREVENTION TRAINING.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) (as amended by sections 2204 and 2213) is further amended by adding at the end thereof the following new section:

"SEC. 509J. SUBSTANCE ABUSE PREVENTION TRAINING.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Office, shall establish a National Substance Abuse Prevention Training Program (hereinafter in this section referred to as the 'Program').

"(b) PROGRAM DIRECTOR.—The Program shall be headed by a Director who has extensive experience in substance abuse pre-

vention (hereinafter in this section referred to as the 'Program Director').

"(c) DUTIES.—The Program Director shall—

"(1) develop a substance abuse prevention training curriculum for community groups in organizational development, program operation, prevention concepts, and models;

"(2) provide technical assistance and support for community training on substance abuse prevention, including organizing the community, developing skills, and establishing program goals;

"(3) develop specific training modules for problem areas such as substance abuse, teen pregnancy, and acquired immune deficiency syndrome and for professional groups that work with children and adolescents, such as juvenile court judges, pediatricians, coaches, and counselors;

"(4) provide substance abuse prevention outreach and support to communities with substantial minority populations through workshops and collaborative initiatives with organizations serving such populations;

"(5) disseminate successful curricula and training practices in substance abuse prevention in communities through involvement with parents, civic groups, members of the business community, clergy, law enforcement representatives, and community leaders; and

"(6) evaluate the appropriateness and effectiveness of substance abuse prevention training.

"(d) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to States, local agencies, and community organizations to—

"(1) provide substance abuse prevention training to representatives of such organizations and agencies;

"(2) provide substance abuse prevention training to parents, teachers, clergy, the business community, and civic groups;

"(3) coordinate with other community resources and programs; and

"(4) provide specialized training programs for professional groups that work with children and adolescents, or that are targeted to specific population groups.

"(e) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $30,000,000 for each of the fiscal years 1991 and 1992, of which at least 50 percent shall be used to carry out the provisions of subsection (d).".

SEC. 3103. NATIONAL DRUG PREVENTION CORPS.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, the Secretary of Labor and the Director of the Office of the President's National Service Initiative, shall establish a National Drug Prevention Corps.

(b) FUNCTIONS.—The Corps established under subsection (a) shall mobilize student volunteers through the formation of organizations on the campuses of institutions of higher education to provide information to the local community concerning the cost to society of drug use.

(c) MISSION STATEMENT.—Each student organization formed under subsection (b) shall register a mission statement with the President's National Service Initiative and upon such the organization will receive $1,000 from the Initiative to fund the initial anti-drug interaction of the members of the organization with the youth that reside in the community.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to establish the Corps under subsection (a), $10,000,000 for fiscal year 1991 and additional amounts otherwise appropriated for the President's National Service Initiative.

SEC. 3104. PARTNERSHIP WITH THE MOTION PICTURE AND TELEVISION INDUSTRIES.

(a) FINDINGS.—Congress finds that—

(1) the motion picture and television industries should become full partners in the fight against drug abuse;

(2) the motion picture and television industries have creative and talented writers, directors and producers who have created popular characters like Roger Rabbitt, Indiana Jones, Ghostbusters, and Alf; and

(3) the Academy of Television Arts and Sciences, independent television stations, and the Disney and McDonald's Corporation are together involved in a project that has coordinated the production of "Cartoon All-Stars to the Rescue" which is a half-hour animated television program, that targets children ages 5-11 with a strong anti-drug message.

(b) ESTABLISHMENT OF PROGRAM TO PRODUCE POPULAR ANTI-DRUG CHILDREN'S PROGRAMS.—The Director of the Office of National Drug Control Policy shall provide the resources necessary to assist members of the motion picture and television industries in the production of programs that carry anti-drug messages, and specifically those that are popular among children.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Director of the Office of National Control Policy $10,000,000 to carry out subsection (c).

SEC. 3105. ANTITRUST LAW EXEMPTIONS.

(a) ADMINISTRATION.—

(1) IN GENERAL.—Actions described in subsection (b) shall be exempt from the antitrust laws of the United States.

(2) DEFINITIONS.—For purposes of this section:

(A) ANTITRUST LAWS.—The term "antitrust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12), and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(B) PERSON IN THE TELEVISION INDUSTRY.—The term "person in the television industry" means a television network, any entity that produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the affiliate organizations of the networks, and shall include any individual acting on behalf of such person.

(C) TELECAST.—The term "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) EXEMPTION.—The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate any negative impact of illegal drug use in telecast material.

(c) LIMITATIONS.—

(1) BOYCOTT.—The exemption provided in subsection (b) shall not apply to any joint discussion, consideration, review, action, or agreement that results in a boycott of any person.

(2) EFFECTIVE PERIOD.—The exemption provided in subsection (b) shall apply only to activities conducted within 36 months after the date of enactment of this section.

SEC. 3106. DRUG FREE WORKPLACE INITIATIVE FOR THE PRIVATE SECTOR.

(a) FINDINGS.—Congress finds that—

(1) the Corporation Against Drug Abuse, a Virginia-based non-profit corporation, was created to identify model drug abuse programs for local businesses and to pool technical and financial resources to provide such programs;

(2) the 21 chief executive officers involved in such Corporation concluded that drug abuse resulted in lost productivity, increased on the job accidents, and lower worker morale;

(3) such chief executive officers concluded that fighting drug abuse was a common concern because the corporations headed by such officers were entering into the same community to recruit and hire future employees; and

(4) such Corporation has identified effective prevention programs and continues to share information concerning effective drug abuse treatment programs, and pools information on legal issues that arise when implementing anti-drug programs in the workplace.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) all places of work should be drug free;

(2) corporate America should take an active role in assisting employees with drug related problems, including problems related to parenting drug-involved or drug-exposed children;

(3) employers should take the following steps towards creating a drug free workplace—

(A) establish a clear drug free policy, including published expectations of behavior, employee rights and responsibilities, and actions to be taken in response to an employee found to use illegal drugs;

(B) establish an employee assistance plan for substance abusing employees;

(C) train supervisors to identify and appropriately intervene with employees who are using drugs;

(D) educate employees about the drug free policy and the assistance plan of the employer;

(E) provide careful and appropriate methods of identifying employees who use drugs, including testing where appropriate; and

(F) provide information concerning drug use among children and information necessary for parents of drug-involved and drug-exposed children, including the warning signs for identifying drug use by children.

(c) BUSINESS PARTICIPATION IN DRUG PREVENTION.—The Secretary of Labor shall identify 100 major business regions in the United States and contact local chief executive officers in such regions to encourage such officers to develop in each region a Corporation Against Drug Abuse program that shall be modeled after the Corporation described in subsection (a). Such Secretary shall provide each region identified under this subsection with $10,000 to assist such regional chief executive officers in coordinating the Corporation Against Drug Abuse program in each region.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (c).

SEC. 3107. DRUG-FREE WORKPLACE REQUIREMENTS.

(a) FEDERAL CONTRACTORS.—Section 5152(a)(1)(B) of the Drug-Free Workplace

Act of 1988 (41 U.S.C. 701(a)(1)(B)) is amended—

(1) in clause (iii), by striking out "and" at the end thereof;

(2) in clause (iv), by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new clause:

"(v) the dangers of drug abuse among children, including the information parents need to know to identify the early signs of drug use by children;".

(b) FEDERAL GRANT RECIPIENTS.—Section 5153(a)(1)(B) of such Act (41 U.S.C. 702(a)(1)(B)) is amended—

(1) in clause (iii), by striking out "and" at the end thereof;

(2) in clause (iv), by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new clause:

"(v) the dangers of drug abuse among children, including the information parents need to know to identify the early signs of drug use by children;".

AMENDMENT No. 1809

At the end of the bill, add the following:

TITLE —FORFEITURE

None of the provisions of this Act shall take effect unless the following is enacted:

SEC. 01. USES OF JUSTICE FORFEITURE FUND.

(a) PURCHASE OF FIREARMS.—Section 524(c)(1) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (I);

(3) by inserting a new subparagraph (H) as follows:

"(H) for any fiscal year, not to exceed $10,000,000 for the purchase of firearms, ammunition, protective body armor, and other personal safety equipment for investigative and enforcement personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service who devote a substantial amount of their time to drug law enforcement activities; and";

(4) in subparagraph (A)(ii) by—

(A) inserting a comma after "forfeitable assets";

(B) inserting "or listed chemicals (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))" after "storage, protection, and destruction of controlled substances".

(5) in subparagraph (B) by inserting before the semicolon ", or the money laundering offenses set forth in sections 1956 and 1957 of title 18 and sections 5313(a) and 5324 of title 31"; and

(6) in subparagraph (C) by inserting before the semicolon "or the money laundering provisions in sections 981 and 982 of title 188".

(b) DEFINITIONS AND PROCEDURES.—Subsection 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraphs:

"(11) For the purposes of this subsection, the term 'firearm' means any rifle, handheld pistol or revolver, or other weapon that is authorized by the Attorney General, or his designee, to be carried by personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service.

"(2) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his or her discretion, to warrant clear title to any subsequent purchaser or transferee of such property.".

(c) CONFORMING AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is amended by striking "and (G)" and inserting "(G) and (H)".

SEC. 02. INCREASING EFFECTIVENESS OF ADMINISTRATIVE FORFEITURES.

(a) AMENDMENTS TO THE TARIFF ACT OF 1930.—Subsection (a) of section 607 of the Tariff Act of 1930 (19 U.S.C. 1607(a)) is amended—

(1) in paragraph (1) by striking "$100,000" and inserting "$500,000";

(2) by striking "or" at the end of paragraph (2); and

(3) by inserting "or" after the semicolon at the end of paragraph (3); and

(4) by adding after paragraph (3) the following:

"(4) such seized merchandise is monetary instruments;".

(b) CONFORMING AMENDMENT.—The section heading for section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 1607. SEIZURE; VALUE $500,000 OR LESS, PROHIBITED ARTICLES, TRANSPORTING CONVEYANCES.".

SEC. 03. FORFEITURE OF INSTRUMENTALITIES OF A FOREIGN DRUG OFFENSE.

Section 981(a)(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "proceeds obtained directly or indirectly from" the words "or which represents the instrumentalities of"; and

(2) by adding at the end thereof the following: "No conveyance shall be forfeited under this paragraph to the extent of an interest of an owner by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

SEC. 04. CLOSING OF LOOPHOLE TO DEFEAT CRIMINAL FORFEITURE THROUGH BANKRUPTCY.

(a) TITLE 18.—Section 1963(a) of title 18, United States Code, is amended by inserting after "shall forfeit to the United States irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this chapter".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413(a) of the Controlled Substances Act (21 U.S.C. 853(a)) is amended by inserting after "shall forfeit to the United States, irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution of such violation".

SEC. 05. NONABATEMENT OF CRIMINAL FORFEITURE WHEN DEFENDANT DIES PENDING APPEAL.

(a) TITLE 18.—Section 1963 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end thereof the following new subsection:

"Nonabatement of Forfeiture Order

"(q) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

SEC. 06. FORFEITURE OF PERSONAL PROPERTY USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end thereof the following new paragraph:

"(10) Any weapon, computer, or electronic communications device used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

SEC. 07. FORFEITURE OF PROCEEDS TRACEABLE TO CONVEYANCES USED TO FACILITATE DRUG VIOLATIONS.

Section 511(a)(4) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

(1) by inserting "and any proceeds traceable to such conveyances" after "property described in paragraph (1) or (2),";

(2) in subparagraph (A), by inserting ", and no proceeds traceable to such conveyance," before "shall be forfeited"; and

(3) in subparagraphs (B) and (C), by inserting "and no proceeds traceable to such conveyance" before "shall be forfeited".

SEC. 08. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY AND ADMINISTRATIVE USE.

(a) CLARIFICATION OF AUTHORITY.—Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting ", by public sale or any other commercially feasible means," after "sell".

(b) ADMINISTRATIVE EXPENSES.—Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended by adding at the end thereof the following: "In determining the equitable share of proceeds for a State or local law enforcement agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 10 percent of the total proceeds to cover the costs of administrative expenses.".

SEC. 09. CLARIFICATION OF CIVIL FORFEITURE SEIZURE WARRANT AUTHORITY.

Section 981(b)(2) of title 18, United States Code, is amended by striking "has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure" and inserting "has obtained a warrant for such seizure in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure".

SEC. 10. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f) is amended by inserting "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products" after "this title" wherever it appears.

SEC. 11. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 12. FORFEITABILITY OF REAL PROPERTY UNDER GAMBLING STATUTE.

(a) IN GENERAL.—Section 1955 of title 18, United States Code, is amended to read as follows:

(1) in subsection (d), by striking ", including money," and inserting "of any kind, real or personal, tangible or intangible,"; and

(2) by inserting at the end the following:

"(f) Any person convicted of a violation of this section shall forfeit to the United States, irrespective of any provision of State law, or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this section—

"(1) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation; and

"(2) any of the person's property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such violation.

The provisions of 511 of the Controlled Substances Act (21 U.S.C. 853) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) TECHNICAL AMENDMENT.—Section 1955(a) of title 18 is amended by striking out "shall be fined not more than $20,000 or" and inserting "shall be fined under this title,".

SEC. 13. CUSTOMS FORFEITURE FUND.

Section 613A, subsection (a)(3)(F), of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows: "payment of overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting the United States Customs Service in law enforcement activities.".

AMENDMENT No. 1810

At the end of the bill, add the following:

None of the provisions of this Act shall take effect unless the following is enacted:

TITLE —INTERDICTION

SEC. 5000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE —INTERDICTION

Sec. 5000. Table of contents.

Subtitle A—Strengthening Border Interdiction Efforts

Sec. 5101. Authorizations for the Customs Service.

Sec. 5102. Authorizations for the Immigration and Naturalization Service.

Subtitle B—Military Support Along United States Border

Sec. 5201. Department of Defense activities relating to cargo.

Subtitle C—Attacking Drug Trafficking by Criminal Aliens

Sec. 5301. Deported aggravated felons reentering the United States.

Sec. 5302. Amendments to the Immigration and Nationality Act.

Subtitle D—Making Drug-Related Intelligence a Level-One Intelligence Priority

Sec. 5401. Increasing the priority of international drug production and trafficking in the National Foreign Intelligence Program.

Sec. 5402. Expansion of human intelligence efforts.

Subtitle E—Preventing Drug Traffickers From Entering the United States Using Fraudulent Immigration Documents

Sec. 5501. Preventing drug traffickers from entering the United States using fraudulent immigration documents.

Subtitle A—Strengthening Border Interdiction Efforts

SEC. 5101. AUTHORIZATIONS FOR THE CUSTOMS SERVICE.

There are authorized to be appropriated for the fiscal year ending September 30, 1991, $100,000,000 (which shall be in addition to any other appropriations) for the United States Customs Service as follows:

(1) $20,000,000 for the hiring, equipping, and training of no fewer than 200 full-time equivalent agents and intelligence research specialists, over such levels on board as of September 30, 1990, to target drug trafficking in high-intensity drug trafficking areas; and

(2) $80,000,000 for the hiring, equipping, and training of no fewer than 800 full-time equivalent inspectors, special agents and canine enforcement officers, over such levels on board as of September 30, 1990, for the examination of cargo containers coming into the United States from high-risk drug source or transit countries, for expanded passenger processing enforcement activities, and for the investigation and enforcement of chemical diversion activities.

SEC. 5102. AUTHORIZATIONS FOR THE IMMIGRATION AND NATURALIZATION SERVICES.

There are authorized to be appropriated for the fiscal year ending September 30, 1991 $45,000,000 (which shall be in addition to any other appropriations) for the Immigration and Naturalization Service as follows:

(1) $15,000,000 for the hiring, training, and equipping of no fewer than 300 full-time equivalent Border Patrol officer positions;

(2) $25,000,000 for Immigration and Naturalization Service criminal investigations and expenditious deportation of criminal aliens from detention; and

(3) $5,000,000 for the procurement of low-level light television systems, portable and permanent sensor systems and 4-wheel drive law enforcement vehicles for the United States Border Patrol.

Subtitle B—Military Support Along United States Border

SEC. 5201. DEPARTMENT OF DEFENSE ACTIVITIES RELATING TO CARGO.

Section 375 of chapter 18 of title 10, United States Code, is amended by—

(1) striking "The Secretary of Defense" and inserting "(a) Subject to the provisions of subsection (b), the Secretary of Defense"; and

(2) adding a new subsection (b) as follows:

"(b) The Secretary of Defense is authorized and directed to prescribe regulations authorizing Department of Defense personnel to participate directly in the inspection of cargo and other goods at United States ports and along the borders of the United States. Such activities shall be conducted in coordination with civilian law enforcement agencies and shall not include the inspection of persons.".

Subtitle C—Attacking Drug Trafficking by Criminal Aliens

SEC. 5301. DEPORTED AGGRAVATED FELONS REENTERING THE UNITED STATES.

Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1326) shall be assigned an offense level under chapter 2 of the sentencing guidelines that constitutes a meaningful deterrence to the commission of such offense.

SEC. 5302. AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Except as otherwise specifically provided in this section, whenever in this section an amendment is expressed as an amendment to a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(b) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act is amended—

(1) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(9) one who has been convicted of an aggravated felony, as defined in subsection (a)(43).".

(c) BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended—

(1) by striking out "(or within ten years in the case of an alien convicted of an aggravated felony)"; and

(2) by inserting after "deportation or removal" the following: "(or anytime thereafter in the case of an alien convicted of an aggravated felony)".

(d) CUSTODY PENDING DETERMINATION OF EXCLUDABILITY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end thereof the following new subsection:

"(e) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction. Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody.".

(e) SUSPENSION OF DEPORTATION PROHIBITED.—Section 244 (8 U.S.C. 1254) is amended by adding at the end thereof the following new subsection:

"(g) No alien convicted of an aggravated felony (as defined in section 101(a)(43)) shall be eligible for suspension of deportation under this section.".

(f) EFFECT OF FILING PETITION FOR REVIEW.—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended by inserting after "directs" the following: "or unless the alien is convicted of an aggravated felony, in which case the Service shall not stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;".

(g) CUSTODY PENDING DETERMINATION OF DEPORTABILITY.—Section 242(a)(2) (8 U.S.C. 1252) is amended to read as follows:

"(2) Pending a determination of deportability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction. Notwithstanding any other provisions of this section, the Attorney General shall not release such felon from custody.".

Subtitle D—Making Drug-Related Intelligence a Level-One Intelligence Priority

SEC. 5401. INCREASING THE PRIORITY OF INTERNATIONAL DRUG PRODUCTION AND TRAFFICKING IN THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.

(a) FINDINGS.—The Congress makes the following findings:

(1) The President and Congress have declared that international drug production and trafficking are threats to the national security of the United States and to the stability of several democratically elected governments in the Western Hemisphere.

(2) Increased electronic, human, and other types of intelligence could greatly assist the United States in apprehending international drug traffickers, identifying the flow of illegal profits derived from drug-related activity, and disrupting the shipment of drugs into the United States.

(b) POLICY.—To respond to this threat, the United States intelligence community should devote greater resources to intelligence activities relating to international drug production and trafficking.

(c) INCREASING PRIORITY OF INTERNATIONAL DRUG TRAFFICKING.—The Director of Central Intelligence (hereafter in this section referred to as the "DCI") shall make support of antidrug efforts a Level One Priority in his National Foreign Intelligence Strategy and shall reflect this priority in the National Foreign Intelligency Program.

(d) INTELLIGENCE RESOURCES.—The DCI shall include in his next National Foreign Intelligence Budget Request a separate and detailed request for funds necessary to implement the requirement to make antidrug intelligence activities a Level One Priority.

SEC. 5402. EXPANSION OF HUMAN INTELLIGENCE EFFORTS.

It is the sense of Congress that the Director of Central Intelligence in cooperation with the United States intelligence community, should expand resources devoted to human intelligence directed against international drug trafficking. In particular, the Director should increase human intelligence support for law enforcement operations along the United States border, where the enormous volume of legitimate trans-border activity renders random drug interdiction patrols largely ineffective.

Subtitle E—Preventing Drug Traffickers From Entering the United States Using Fraudulent Immigration Documents

SEC. 5501. PREVENTING DRUG TRAFFICKERS FROM ENTERING THE UNITED STATES USING FRAUDULENT IMMIGRATION DOCUMENTS.

(a) FINGERPRINTS ON UNITED STATES IMMIGRATION DOCUMENTS.—The Secretary of State and the Attorney General shall establish a program under which applicants for entry into the United States shall be required to submit fingerprints at the time of application. Such fingerprints shall be checked against record of the Federal Bureau of Investigation, the Immigration and Naturalization Service, and other United States agencies to ensure that the applicant has not submitted fraudulent documentation or is not excludable under United States immigration laws.

(b) IMPLEMENTATION OF PROGRAM.—The Secretary of State and the Attorney General shall implement the program outlined in subsection (a) in two phases. Phase I shall be a 2-year pilot program for applicants from major drug-producing or transit countries. Based on the results of the evaluation required under subsection (c), Phase II shall be implemented over the next 3 years and shall be expanded to alien applicants requesting entry into the United States, as appropriate.

(c) EVALUATION AND REPORTS.—The Secretary of State and the Attorney General shall conduct a comprehensive review and evaluation of the program outline in subsection (a). The Secretary of State and the Attorney General shall submit an interim report to Congress within 1 year after the date of enactment of this Act specifying what progress has been made in implementing Phase I. After Phase I has been implemented, the Secretary of State and the Attorney General shall submit to Congress a comprehensive evaluation and assessment of Phase I along with a complete plan for implementing Phase II.

AMENDMENT NO. 1811

At the end of the bill, add the following:

None of the provisions of this Act shall take effect unless the following is enacted:

TITLE —STEROID TRAFFICKING ACT OF 1990

SEC. 01. SHORT TITLE.

This title may be cited as the "Steroid Trafficking Act of 1990".

SUBTITLE A—ANABOLIC STEROIDS

SEC. 11. STEROIDS LISTED AS CONTROLLED SUBSTANCES.

(a) ADDING STEROIDS TO SCHEDULE II OF THE CONTROLLED SUBSTANCES ACT.—Subdivision (b) of schedule II of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by inserting at the end thereof the following:

"(22) Anabolic steroids.".

(b) DEFINITION.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following:

"(41) The term 'anabolic steroids' means—

"(A) any drug that is chemically related to the male hormone testosterone and that promotes or purports to promote muscle growth, including any amount of the following chemical designations and their salts, esters, and isomers:

"(i) bodenone,
"(ii) chlorotestosterone,
"(iii) clostebol,
"(iv) dehydrochlormethyltestosterone,
"(v) dihydrostestosterone,
"(vi) drostanaolone,
"(vii) ethylestrenol,
"(viii) fluoxymesterone,
"(ix) mesterolone,
"(x) methandienone,
"(xi) methandranone,
"(xii) methandriol,
"(xiii) methandrostenolone,
"(xiv) methyltestosterone,
"(xv) mibolerone,
"(xvi) nandrolone,
"(xvii) norethandrolone,
"(xviii) oxandrolone,
"(xix) oxymesterone,
"(xx) oxymetholone,
"(xxi) stanolone,
"(xxii) stanozolol,
"(xxiii) testolactone,
"(xxiv) testosterone,
"(xxv) trenbolone, and

"(B) any substance which is purported, represented or labeled as being or containing any amount of any drug described in subparagraph (A), or any substance labeled as being or containing any such drug.

As used in schedule II, such term shall not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration, except that if any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed a steroid in schedule II of this Act.".

(c) EFFECT OF SCHEDULING ON PRESCRIPTIONS.—Any prescription for anabolic steroids subject to refill on or after the date of enactment of the amendments made by this section may be refilled without restriction under section 309(a) of the Controlled Substances Act (21 U.S.C. 829(a)).

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 90 days after the date of enactment of this title.

SEC. 12. REGULATIONS BY ATTORNEY GENERAL.

(a) ABUSE POTENTIAL.—The Attorney General, upon the recommendation of the Secretary of Health and Human Services, shall, by regulation, exempt any compound, mixture, or preparation containing a substance listed in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 11 of this Act) from the application of all or any part of the Controlled Substances Act if, because of its concentration, preparation, mixture or delivery system, it has no significant potential for abuse.

(b) DRUGS FOR TREATMENT OF RARE DISEASES.—If the Attorney General finds that a drug listed in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 11 of this Act) is—

(1) approved by the Food and Drug Administration as an accepted treatment for a rare disease or condition, as defined in section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb); and

(2) does not have a significant potential for abuse,

the Attorney General may exempt such drug from any production regulations otherwise issued under the Controlled Substances Act as may be necessary to ensure adequate supplies of such drug for medical purposes.

(c) DATE OF ISSUANCE OF REGULATIONS.—The Attorney General shall issue regulations implementing this section not later than 45 days after the date of enactment of this title.

Subtitle B—Human Growth Hormone

SEC. 21. AMENDMENT TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by inserting a new subsection (e) as follows:

"(e)(1) Except as provided in paragraph (2), whoever knowingly distributes, or possesses with intent to distribute, human growth hormone for any use in humans other than the treatment of a disease or other recognized medical condition pursuant to the order of a physician is guilty of an offense punishable by not more than 5 years in prison, such fines as are authorized by title 18, United States Code, or both.

"(2) Whoever commits any offense set forth in paragraph (1) and such offense involves an individual under 18 years of age is

punishable by not more than 10 years imprisonment, such fines as are authorized by title 18, United States Code, or both.

"(3) Any conviction for a violation of paragraphs (1) and (2) of this subsection shall be considered a felony violation of the Controlled Substances Act for the purposes of forfeiture under section 413 of such Act.

"(4) As used in this subsection the term 'human growth hormone' means—

"(A) somatrem, somatropin, and any of their analogs; and

"(B) any substance which is purported, represented or labeled as being or containing any amount of any drug described in subparagraph (A), or any substance labeled as being or containing any such drug.

"(5) The Drug Enforcement Administration is authorized to investigate offenses punishable by this subsection.".

SEC. 22. CONVICTION OF SECTION 303(e) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 2401 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4181) is repealed.

AMENDMENT NO. 1812

At the end of the bill, add the following:

None of the provisions of this Act shall take effect unless the following is enacted:

TITLE —FEDERAL AID TO DRUG EMERGENCY AREAS

SEC. 01. SHORT TITLE.

This title may be cited as the "Drug Emergency Areas Act of 1990".

SEC. 02. DRUG EMERGENCY AREAS.

Subsection (c) of section 1005 of the National Narcotics Leadership Act of 1988 is amended to read as follows:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials declare such State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

'(2) PROCEDURE FOR DECLARATION.—(A) All requests for a declaration by the President designating an area to be a drug emergency area shall be made, in writing, by the Governor or chief executive officer of any affected State or local government, respectively, and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) Any request made under subparagraph (A) shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that the requested assistance is a necessary and effective response to save lives, and to protect property and public health and safety.

"(C) The President shall not limit declarations made under this subsection to highly populated centers of drug trafficking, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor or chief executive officer shall—

"(i) take appropriate response action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining the State or local government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (where possible quantitative goals) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving such application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President is authorized to make grants to State or local governments of up to, in the aggregate for any single major drug-related emergency, $50,000,000.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and Long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year. In any case where Federal assistance is provided under this Act, the Governor or chief executive officer may apply to the President, through the Director, for an extension of assistance beyond 1 year. The President, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) Any State or local government, or combination of States or local governments, receiving Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Within 90 days after the enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of such assistance based on the goals contained in the application for assistance.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1991, 1992, 1993, 1994, and 1995, $300,000,000 to carry out the purposes of this subsection.".

AMENDMENT NO. 1813

At the appropriate place in the bill, add the following:

None of the provisions of this Act shall take effect unless the following is enacted:

That this Act may be cited as the "Counter-Narcotics Technology Act of 1990".

SEC. 2. COUNTER-NARCOTICS TECHNOLOGY ASSESSMENT CENTER.

(a) ESTABLISHMENT.—Title I of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501 et seq.) is amended by inserting after section 1003 the following new section:

"SEC. 1003a. COUNTER-NARCOTICS TECHNOLOGY ASSESSMENT CENTER.

"(a) ESTABLISHMENT.—There is established within the Office of National Drug Control Policy, the Counter-Narcotics Technology Assessment Center (hereafter in this section referred to as the Center). The Center shall operate under the general authority of the Deputy Director for Supply, Office of National Drug Control Policy, and shall serve as the central counter-narcotics enforcement research and development organization of the United States Government.

"(b) DIRECTOR.—There shall be at the head of the Center, the Chief Scientist of Counter-Narcotics Technology who shall be appointed by the Director of National Drug Control Policy from individuals qualified and distinguished in areas of science, engineering or technology. The Chief Scientist shall be paid at the highest rate of basic pay set under the provisions of section 5382(b) of title 5, United States Code.

"(c) RESPONSIBILITIES OF THE CHIEF SCIENTIST.—The Chief Scientist shall—

"(1) identify and define the short, medium, and long-term scientific and technological needs of Federal, State, and local drug enforcement agencies, including—

"(A) surveillance and tracking:

"(B) electronic support measures;

"(C) communications;

"(D) data fusion, advanced computer systems and artificial intelligence; and

"(E) chemical, biological and other means of detection;

"(2) make a priority ranking of such needs according to fiscal and technological feasibility, as part of a National Counter-Narcotics Enforcement Research and Development Strategy;

"(3) allocate research and development funds to exploit such technologies under subsection (d);

"(4) oversee and coordinate counter-narcotics technology initiatives with related activities of other Federal civilian and military departments; and

"(5) under the general authority of the Director of National Drug Control Policy; submit reprogramming or transfer requests of funds appropriated for counternarcotics enforcement research and development to Congress.

"(d) COUNTER-NARCOTICS TECHNOLOGY BUDGET AUTHORITY.—Beginning with the fiscal year 1992 budget, the Director of National Drug Control Policy in his budget shall submit a separate appropriations request for expenses relating to all Federal agencies for counter-narcotics enforcement research and development programs. There is established a national counter-narcotics technology account. Such appropriations shall be made to such account for the Director of National Drug Control Policy to make reimbursements to the involved agencies as appropriate.

"(e) PERSONNEL.—Subject to subsections (d) and (e) of section 1003 of this Act, the Chief Scientist shall select and appoint a staff of not more than 10 employees with specialized experience in scientific, engineering and technical affairs. The Chief Scientist may appoint and fix the compensation of such personnel without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not to exceed the maximum rate authorized by the General Schedule.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

"(a) COUNTER-NARCOTICS TECHNOLOGY ASSESSMENT CENTER.—There are authorized to be appropriated $3,000,000 for fiscal year 1991 and such sums as may be necessary for each year thereafter for salaries and expenses of the Center.

"(b) NATIONAL COUNTER-NARCOTICS TECHNOLOGY INITIATIVES.—There are authorized to be appropriated $150,000,000 in fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993 to carry out the purposes of this Act.

AMENDMENT NO. 1814

At the end of the bill, add the following:

None of the provisions of this Act shall take effect unless the following is enacted:

TITLE —VICTIMS OF CHILD ABUSE ACT OF 1990

SEC. 1551. SHORT TITLE.

This title may be cited as the "Victims of Child Abuse Act of 1990".

CHAPTER 1—DRUG-RELATED CHILD ABUSE; HABITUAL CHILD ABUSE OFFENSE

SEC. 1555. ABUSE OF CHILDREN IN CONNECTION WITH VIOLATIONS OF THE DRUG LAWS.

(a) IN GENERAL.—Chapter 7 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 116. Abuse of children in connection with drug offenses

"(a) Whoever, in a circumstance described in subsection (b), commits a crime of violence (as defined in section 16 of this title) in violation of the laws of the State in which the act takes place, or of the United States, in which the victim is a person under the age of 18, shall be guilty of a class B felony.

"(b) There is Federal jurisdiction for an offense described in subsection (a) if the offense was committed in furtherance of, during and in relation to, or as part of an attempt to conceal or avoid apprehension for, a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 7 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"116. Abuse of children in connection with drug offenses.".

(c) DIRECTION TO THE ATTORNEY GENERAL.—Not later than 90 days after the date of enactment of this chapter, the Attorney General shall amend the United States Attorneys' Manual to reflect the intent of Congress that Federal prosecution occur only in egregious cases of drug-related abuse and neglect.

(d) DIRECTION TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant convicted of an offense under section 116 of title 18, United States Code, who has previously been convicted on 2 separate occasions in the court of any State or the District of Columbia, or of the United States, of any sexual offense, or any crime of violence, in which the victim was a person under the age of 18, shall receive the maximum punishment authorized by law.

CHAPTER 2—IMPROVING INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES

SEC. 1561. FINDINGS.

The Congress finds that—

(1) over 2,000,000 children are abused or neglected each year, drug abuse accounting for one-third of the cases;

(2) the investigation and prosecution of child abuse cases is extremely complex, involving numerous agencies and dozens of personnel;

(3) in such cases, too often the system does not pay sufficient attention to the needs and welfare of the child victim, aggravating the trauma that the child victim has already experienced;

(4) multidisciplinary child abuse investigation and prosecution programs have been developed that increase the reporting of child abuse cases, reduce the trauma to the child victim, and increase the successful prosecution of child abuse offenders; and

(5) such programs have proven effective, and with targeted Federal assistance, could be duplicated in many jurisdictions throughout the country.

SEC. 1562. AUTHORITY OF THE ADMINISTRATOR TO MAKE GRANTS.

(a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention (referred to as the "Administrator"), in consultation with officials of the Department of Health and Human Services, shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to develop and implement multidisciplinary child abuse investigation and prosecution programs.

(b) GRANT CRITERIA.—(1) The Administrator shall establish the criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a program—

(A) include a written agreement between local law enforcement, social service, health, and other related agencies to coordinate child abuse investigation, prosecution, treatment, and counseling services;

(B) identify an appropriate site for referring, interviewing, treating, and counseling child victims of sexual and serious physical abuse and neglect (referred to as the "counseling center");

(C) refer all sexual and serious physical abuse and neglect cases to the counseling center not later than 24 hours after notification of an incident of abuse;

(D) conduct all initial interviews jointly by personnel from law enforcement, health, and social service agencies;

(E) require, to the extent practicable, the same agency representative who conducts an initial interview to conduct all subsequent interviews;

(F) require, to the extent practicable, that all interviews and meetings with a child victim occur at the counseling center;

(G) coordinate each step of the investigation process to minimize the number of interviews that a child victim must attend;

(H) designate a director for the multidisciplinary program;

(I) assign a volunteer or staff advocate to each child in order to assist the child and, when appropriate, the child's family, throughout each step of judicial proceedings; and

(J) meet such other criteria as the Administrator shall establish by regulation.

(c) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Administrator shall ensure that grants are distributed to both large and small states and to rural, suburban, and urban jurisdictions.

SEC. 1563. GRANTS FOR SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et. seq.) to national organizations to provide technical assistance and training to attorneys and others instrumental to the criminal prosecution of child abuse cases in State or Federal courts, for the purpose of improving the quality of criminal prosecution of such cases.

(b) GRANTEE ORGANIZATIONS.—An organization to which a grant is made pursuant to subsection (a) shall be one that has, or is affiliated with one that has, broad membership among attorneys who prosecute criminal cases in State courts and has demonstrated experience in providing training and technical assistance for prosecutors.

SEC. 1564. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter—

(1) $20,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992 and 1993.

(b) USE OF FUNDS.—Of the amounts appropriated under subsection (a), not less than 90 percent shall be used for grants under section 1562.

CHAPTER 3—COURT-APPOINTED SPECIAL ADVOCATE PROGRAM

SEC. 1565. FINDINGS.

The Congress finds that—

(1) the National Court-Appointed Special Advocate provides training and technical assistance to a network of 13,000 volunteers in 377 programs operating in 47 States; and

(2) in 1988, these volunteers represented 40,000 children, representing approximately 15 percent of the estimated 270,000 cases of child abuse and neglect in juvenile and family courts.

SEC. 1566. PURPOSE.

The purpose of this chapter is to ensure that by January 1, 1995, a court-appointed special advocate shall be available to every victim of child abuse or neglect in the United States that needs such an advocate.

SEC. 1567. STRENGTHENING OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to expand the court-appointed special advocate program.

(b) GRANT CRITERIA.—(1) The Administrator shall establish criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a court-appointed special advocate program provide screening, training, and supervision of court-appointed special advocates in accordance with standards developed by the National Court-Appointed Special Advocate Association, including the requirements that—

(A) a court-appointed special advocate association program have a mission and purpose in keeping with the mission and purpose of the National Court-Appointed Special Advocate Association and that it abide by the National Court-Appointed Special Advocate Association Code of Ethics;

(B) a court-appointed special advocate association program operate with access to legal counsel;

(C) the management and operation of a court-appointed special advocate program assure adequate supervision of court-appointed special advocate volunteers;

(D) a court-appointed special advocate program keep written records on the operation of the program in general and on each applicant, volunteer, and case;

(E) a court-appointed special advocate program have written management and personnel policies and procedures, screening requirements, and training curriculum;

(F) a court-appointed special advocate program not accept volunteers who have been convicted of, have charges pending for, or have in the past been charged with, a felony or misdemeanor involving a sex offense, violent act, child abuse or neglect, or related acts that would pose risks to children or to the court-appointed special advocate program's credibility;

(G) a court-appointed special advocate program have an established procedure to allow the immediate reporting to a court or appropriate agency of a situation in which a court-appointed special advocate volunteer has reason to believe that a child is in imminent danger;

(H) a court-appointed special advocate volunteer be an individual who has been screened and trained by a recognized court-appointed special advocate program and appointed by the court to advocate for children who come into the court system primarily as a result of abuse or neglect; and

(I) a court-appointed special advocate volunteer serve the function of reviewing records, facilitating prompt, thorough review of cases, and interviewing appropriate parties in order to make recommendations on what would be in the best interests of the child.

(3) In awarding grants under this section, the Administrator shall ensure that grants are distributed to localities that have no existing court-appointed special advocate program and to programs in need of expansion.

SEC. 1568. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this chapter—

(1) $5,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992 and 1993.

CHAPTER 4—CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS

SEC. 1571. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a large number of juvenile and family courts are inundated with increasing numbers of cases due to increased reports of abuse and neglect, increasing drug-related maltreatment, and insufficient court resources;

(2) the amendments made to the Social Security Act by the Adoption Assistance and Child Welfare Act of 1980 make substantial demands on the courts handling abuse and neglect cases, but provide no assistance to the courts to meet those demands;

(3) the Adoption and Child Welfare Act of 1980 requires courts to—

(A) determine whether the agency made reasonable efforts to prevent foster care placement;

(B) approve voluntary nonjudicial placement; and

(C) provide procedural safeguards for parents when their parent-child relationship is affected;

(4) social welfare agencies press the courts to meet such requirements, yet scarce resources often dictate that courts comply pro forma without undertaking the meaningful judicial inquiry contemplated by Congress in the Adoption and Child Welfare Act of 1980;

(5) compliance with the Adoption and Child Welfare Act of 1980 and overall improvements in the judicial response to abuse and neglect cases can best come about through action by top level court administrators and judges with administrative functions who understand the unique aspects of decisions required in child abuse and neglect cases; and

(6) the Adoption and Child Welfare Act of 1980 provides financial incentives to train welfare agency staff to meet the requirements, but provides no resources to train judges.

(b) PURPOSE.—The purpose of this chapter is to provide expanded technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts, to improve the judicial system's handling of child abuse and neglect cases with specific emphasis on the role of the courts in addressing reasonable efforts that can safely avoid unnecessary and unnecessarily prolonged foster care placement.

SEC. 1572. GRANTS FOR JUVENILE AND FAMILY COURT PERSONNEL.

In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) for the purpose of providing—

(1) technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts; and

(2) administrative reform in juvenile and family courts.

SEC. 1573. SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) GRANTS TO DEVELOP MODEL PROGRAMS.—(1) The Administrator shall make grants to national organizations to develop 1 or more model technical assistance and training programs to improve the judicial system's handling of child abuse and neglect cases.

(2) An organization to which a grant is made pursuant to paragraph (1) shall be one that has broad membership among juvenile and family court judges and has demonstrated experience in providing training and technical assistance for judges, attorneys, child welfare personnel, and lay child advocates.

(b) GRANTS TO JUVENILE AND FAMILY COURTS.—(1) In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants to State courts or judicial administrators for programs that provide, contract for, or implement—

(A) training and technical assistance to judicial personnel and attorneys in juvenile and family courts; and

(B) administrative reform in juvenile and family courts.

(2) The criteria established for the making of grants pursuant to paragraph (1) shall give priority to programs that improve—

(A) procedures for determining whether child service agencies have made reasonable efforts to prevent placement of children in foster care;

(B) procedures for determining whether child service agencies have, after placement of children in foster care, made reasonable efforts to reunite the family; and

(C) procedures for coordinating information and services among health professionals, social workers, law enforcement professionals, prosecutors, defense attorneys, and juvenile and family court personnel, consistent with chapter 2.

SEC. 1574. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter—

(1) $10,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992, 1993, and 1994.

(b) USE OF FUNDS.—Of the amounts appropriated in paragraph (a), not less than 80 percent shall be used for grants under section 1573(b).

CHAPTER 5—FEDERAL VICTIMS' PROTECTIONS AND RIGHTS

SEC. 1575. CHILD VICTIMS' RIGHTS.

(a) CRIMINAL PROCEDURE.—The Federal Rules of Criminal Procedure are amended by inserting after rule 52 the following new rule:

"Rule 52.1 Child Victims' and Child Witnesses' Rights

"(a) DEFINITIONS.—For purposes of this rule—

"(1) the term 'adult attendant' means an adult described in subdivision (i) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, or who is determined

by a qualified professional to be of less than the age of 18 developmentally, who is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

"(4) the term 'exploitation' means child pornography or child prostitution;

"(5) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

"(6) the term 'sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(7) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(8) the term 'sexual contact' means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; and

"(9) the term 'sex crime' means an act of sexual abuse that is a criminal act.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.—

"(1) *Child's Live Testimony by 2-way Closed Circuit Television.*

"(A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for the government, the child's attorney, or a guardian ad litem appointed under subdivision (h) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, jury, judge, and public, for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(iv) The child suffers a mental or other infirmity.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record.

"(D) If the court orders the taking of testimony by television, the attorney for the government and the attorney for the defendant shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (h);

"(ii) persons necessary to operate the closed-circuit television equipment; and

"(iii) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the defendant, jury, judge, and public. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall relay into the room in which the child is testifying the defendant's image, in view of the child, and the voice of the judge.

"(2) *Videotaped Deposition of Child.* (A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for the government, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (h) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, and public for any of the following reasons:

"(I) The child will refuse to testify despite the court's request to do so.

"(II) The child will be unable to testify because of fear, failure of memory, or similar circumstances.

"(III) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(IV) The child suffers a mental or other infirmity.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are

"(I) the attorney for the government;

"(II) the attorney for the defendant;

"(III) the child's attorney or guardian ad litem appointed under subdivision (h);

"(IV) persons necessary to operate the videotape equipment;

"(V) subject to clause (iv), the defendant; and

"(VI) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against the defendant, and the right to cross-examine the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that 2-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, in view of the child, and the child's testimony into the room in which the defendant is viewing the proceeding, and that the defendant be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal. The videotape shall become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.—

"(1) *Effect of Federal Rules of Evidence.* Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) *Presumption.* A child is presumed to be competent.

"(3) *Requirement of Written Motion.* A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) *Requirement of Compelling Reasons.* A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) *Persons Permitted To Be Present.* The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorney for the government;

"(C) the attorney for the defendant;

"(D) a court reporter; and

"(E) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) *Not Before Jury.* A competency examination regarding a child witness shall be

conducted out of the sight and hearing of a jury.

"(7) *Direct Examination of Child.* Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorney for the government and the attorney for the defendant. The court may permit an attorney to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) *Appropriate Questions.* The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(9) *Psychological and Psychiatric Examinations.* Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.—

"(1) *Confidentiality of Information.* (A) A person acting in a capacity described in subparagraph (B) in connection with a criminal proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of the government connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the defendant and employees of the defendant, including the attorney for the defendant and persons hired by the defendant or the attorney for the defendant to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) *Filing Under Seal.* All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

"(3) *Protective Orders.* (A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) *Disclosure of Information.* This subdivision does not prohibit disclosure of the name of or other information concerning a child to the defendant, the attorney for the defendant, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM.—When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate. Such an order shall be narrowly tailored to serve the government's specific compelling interest.

"(f) VICTIM IMPACT STATEMENT.—In preparing the presentence report pursuant to rule 32(c), the probation officer shall request information from the multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the child victim and any other children who may have been affected. A guardian ad litem appointed under subdivision (h) shall make every effort to obtain and report information that accurately expresses the child's and the family's views concerning the child's victimization. A guardian ad litem shall use forms that permit the child to express the child's views concerning the personal consequences of the child's victimization, at a level and in a form of communication commensurate with the child's age and ability.

"(g) USE OF MULTIDISCIPLINARY CHILD ABUSE TEAMS.

"(1) *In General.* A multidisciplinary child abuse team shall be used when it is feasible to do so. The court shall work with State and local governments that have established multidisciplinary child abuse teams designed to assist child victims and child witnesses, and the court and the attorney for the government shall consult with the multidisciplinary child abuse team as appropriate.

"(2) *Role of Multidisciplinary Child Abuse Teams.* The role of the multidisciplinary child abuse team shall be to provide for child services that the members of the team in their professional roles are capable of providing, including—

"(A) medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;

"(B) telephone consultation services in emergencies and in other situations;

"(C) medical evaluations related to abuse or neglect;

"(D) psychological and psychiatric diagnoses and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case;

"(E) expert medical, psychological, and related professional testimony;

"(F) case service coordination and assistance, including the location of services available from public and private agencies in the community; and

"(G) training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses.

"(h) GUARDIAN AD LITEM.

"(1) *In General.* The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) *Duties of Guardian Ad Litem.* A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) *Immunities.* A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties.

"(i) ADULT ATTENDANT.—A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child.

"(j) SPEEDY TRIAL.—In a proceeding in which a child is called to give testimony, on motion by the attorney for the government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal process. When deciding whether to grant a continuance, the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.

"(k) EXTENSION OF PERIOD OF LIMITATIONS.—There is no limitation of time within which a prosecution must be commenced for a sex crime involving a child victim, regardless whether the crime involved force or resulted in serious physical injury or death. If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child

exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the time during which the criminal action is pending shall not be counted as part of the time limited for the commencement of the civil action. As used in this subdivision, a criminal action is pending until its final adjudication in the trial court.".

(b) CIVIL PROCEDURE.—The Federal Rules of Civil Procedure are amended by inserting after rule 43 the following new rule:

"Rule 43.1 Child Victims' and Child Witnesses' Rights

"(a) DEFINITIONS.—For purposes of this rule—

"(1) the term 'adult attendant' means an adult described in subdivision (g) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, or who is determined by a qualified professional to be of less than the age of 18 developmentally, who is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

"(4) the term 'exploitation' means child pornography or child prostitution;

"(5) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

"(6) the term 'sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(7) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral anal contact, whether between persons of the same or of opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(8) the term 'sexual contact' means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; and

"(9) the term 'sex crime' means an act of sexual abuse that is a criminal act.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.

"(1) *Child's Live Testimony by 2-way Closed Circuit Television.*

"(A) In a proceeding involving an alleged offense against a child or involving a child witness, the child's attorney or a guardian ad litem appointed under subdivision (f) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the parties, jury, judge, and public, for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(iv) The child suffers a mental or other infirmity.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record.

"(D) If the court orders the taking of testimony by television, the attorneys for the parties shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (f);

"(ii) persons necessary to operate the closed-circuit television equipment; and

"(iii) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the parties, jury, judge, and public. The parties shall be provided with the means of private, contemporaneous communication with their attorneys during the testimony. The closed circuit television transmission shall relay the child's testimony into the courtroom and the judge's voice into the room in which the child is testifying.

"(2) *Videotaped Deposition of Child.* (A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for a party, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (f) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the parties, jury, judge, and public for any of the following reasons:

"(I) The child will refuse to testify despite the court's request to do so.

"(II) The child will be unable to testify because of fear, failure of memory, or similar circumstances.

"(III) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(IV) The child suffers a mental or other infirmity.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are

"(I) the attorneys for the parties;

"(II) the child's attorney or guardian ad litem appointed under subdivision (f);

"(III) persons necessary to operate the videotape equipment;

"(IV) subject to clause (iv), the parties; and

"(V) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of one of the parties, the court may order that the party, including a party represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that a party be excluded from the deposition room, the court shall order that the party be provided with a means of private, contemporaneous communication with the party's attorney during the deposition.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal. The videotape shall become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.

"(1) *Effect of Federal Rules of Evidence.* Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) *Presumption.* A child is presumed to be competent.

"(3) *Requirement of Written Motion.* A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) *Requirement of Compelling Reasons.* A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) *Persons Permitted to be Present.* The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorneys for the parties;

"(C) a court reporter; and

"(D) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) *Not Before Jury.* A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

"(7) *Direct Examination of Child.* Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorneys for the parties. The court may permit an attorney to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) *Appropriate Questions.* The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(9) *Psychological and Psychiatric Examinations.* Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.

"(1) *Confidentiality of Information.* (A) A person acting in a capacity described in subparagraph (B) in connection with a civil proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of any government agency that may become connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the parties and employees of the parties, including the attorneys for the parties and persons hired by the parties or an attorney for a party to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) *Filing Under Seal.* All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

"(3) *Protective Orders.* (A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) *Disclosure of Information.* This subdivision does not prohibit disclosure of the name of or other information concerning a child to a party, an attorney for a party, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM.—When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate.

"(f) GUARDIAN AD LITEM.

"(1) *In General.* The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) *Duties of Guardian Ad Litem.* A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) *Immunities.* A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties.

"(g) Adult Attendant.—A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child.".

(c) EVIDENCE.—The Federal Rules of Evidence are amended by inserting after rule 803 the following new rule:

"Rule 803.1 Child Victims' and Child Witnesses' Testimony

"(a) Hearsay exception for out-of-court statements—

"(1) In general.—An out-of-court statement made by a child of less than 13 years of age concerning conduct related to alleged completed or attempted crimes of sexual abuse, physical abuse, or exploitation of the child or concerning a crime against another person witnessed by the child that is not otherwise admissible in a judicial proceeding is not excluded by the hearsay rule if—

"(A) the child testifies at the proceeding, or testifies by means of videotaped deposition or closed-circuit television, and at the time of the taking of the testimony is subject to cross-examination concerning the out-of-court statement;

"(B) the court finds that the child's out-of-court statement possesses particularized guarantees of trustworthiness; or

"(C) the court finds that the child is unable to testify effectively for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court or by means of videotaped deposition or closed-circuit television.

"(iv) The child suffers a mental or other infirmity.

"(v) A privilege precludes taking the child's testimony in open court or by means of videotaped deposition or closed-circuit television.

"(vi) The child has died or is absent from the jurisdiction.

"(2) Guarantees of trustworthiness.—In determining whether a statement possesses particularized guarantees of trustworthiness under paragraph (1)(B), the court may consider—

"(i) the child's knowledge of the event;

"(ii) the age and maturity of the child;

"(iii) the degree of certainty that the statement was in fact made by the child;

"(iv) any apparent motive the child may have had to falsify or distort the event, including bias, corruption, or coercion;

"(v) the timing of the child's statement;

"(vi) whether more than one person heard the statement;

"(vii) whether the child was suffering pain or distress when making the statement;

"(viii) the nature and duration of any alleged abuse;

"(ix) whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's experience;

"(x) whether the statement has internal consistency or coherence and uses terminology appropriate to the child's age;

"(xi) whether the statement is spontaneous or directly responsive to questions;

"(xii) whether the statement is suggestive due to improperly leading questions; and

"(xiii) whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement.

"(3) Notice.—The proponent of the admission of an out-of-court statement shall notify the adverse party of the proponent's intention to offer the statement and of the content of the statement sufficiently in ad-

vance of the proceeding to provide the adverse party with a fair opportunity to prepare a response to the statement before the proceeding at which it is to be offered.

"(4) Findings.—The court shall support with findings on the record any rulings pertaining to the child's inability and the trustworthiness of an out-of-court statement.

"(b) Testimonial aids.—The court may permit a child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.".

(d) VIOLATION OF RULE REGARDING DISCLOSURE.—

(1) PUNISHMENT AS CONTEMPT.—Chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 403. Protection of the privacy of child victims and child witnesses

"A violation of rule 43.1(d)(1) of the Federal Rules of Civil Procedure or rule 52.1(d)(1) of the Federal Rules of Criminal Procedure shall constitute a criminal contempt classified as a Class A misdemeanor.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 21, United States Code, is amended by adding at the end thereof the following new item:

"403. Protection of the privacy of child victims and child witnesses.".

SEC. 1576. CHILD ABUSE REPORTING.

(a) IN GENERAL.—A person who, while engaged in a professional capacity or activity described in subsection (b) on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d).

(b) COVERED PROFESSIONALS.—Persons engaged in the following professions and activities are subject to the requirements of subsection (a):

(1) Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, and alcohol or drug treatment personnel.

(2) Religious healers, persons rendering spiritual treatment through prayer, and persons licensed to practice the healing arts.

(3) Psychologists, psychiatrists, and mental health professionals.

(4) Social workers, licensed or unlicensed marriage, family, or individual counselors, and clergy performing counseling roles.

(5) Teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials, and school administrators.

(6) Child care workers and administrators.

(7) Law enforcement personnel, judges, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.

(8) Foster parents.

(9) Commercial film and photo processors.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

(2) the term "exploitation" means child pornography or child prostitution;

(3) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(4) the term "sexually explicit conduct" means actual or simulated—

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral anal contact, whether between persons of the same or of opposite sex;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse; and

(5) the term "sexual contact" means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person.

(d) AGENCY DESIGNATED TO RECEIVE REPORT AND ACTION TO BE TAKEN.—For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a). By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

(e) REPORTING FORM.—In every federally operated (or contracted) facility, and on all Federal lands, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. Use of the form shall be encouraged, but its use shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

(f) IMMUNITY FOR REPORTING AND ASSOCIATED ACTIONS.—All persons who, acting in good faith, make a report by subsection (a), or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the defendant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses.

(g) CRIMINAL PENALTY FOR FAILURE TO REPORT.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2258. Failure to report child abuse

"A person who, while engaged in a professional capacity or activity described in subsection (b) of section 502 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be guilty of a Class B misdemeanor.".

(2) The chapter analysis for chapter 110, United States Code, is amended—

(A) by amending the catchline to read as follows:

"CHAPTER 110—SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN";

and

(B) by adding at the end thereof the following new item:

"2258. Failure to report child abuse.".

(3) The item relating to chapter 110 in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"110. Sexual exploitation and other abuse of children ..... 2251".

(h) CIVIL LIABILITY FOR FAILURE TO REPORT.—(1) A person who fails to make a report when required under subsection (a) shall be liable to a child who, after the time at which the person learns the facts that give rise to the requirement to report, suffers an incident of child abuse.

(2) In an action brought under paragraph (1), the plaintiff shall have the burden of showing that—

(A) the defendant learned of facts that did give or reasonably should have given the defendant reason to suspect that the child on whose behalf suit is brought had suffered an incident of child abuse; and

(B) after the time that the defendant learned of such facts—

(i) the defendant failed to make a timely report as required by subsection (a); and

(ii) the child suffered an incident of child abuse.

(3) In an action brought under paragraph (1), the plaintiff may recover damages for physical, mental, and emotional injury caused by incidents of child abuse that occur after the time that the defendant learned of the facts described in subparagraph (A), without regard to whether any other person learned of such facts and failed to make a report.

(4) A plaintiff who makes the showing described in paragraph (2) shall be entitled to recover unless the defendant shows that—

(A) the defendant made a report to the agency as soon as it was possible to do so;

(B) the agency to which the report was required to be made acquired knowledge of the facts of which the defendant had learned, or of the incident of child abuse whose occurrence was suggested by those facts, at a time prior to the occurrence of the incident of child abuse for which recovery is sought sufficient to have allowed the agency to take action that might have prevented the incident; or

(C) the agency could not have prevented the incident of child abuse for which recovery is sought.

(i) PRIVILEGES ABROGATED.—For the purposes of this section, and in any investigations or judicial actions resulting from a report of abuse or neglect, the privileged nature of any communications between physician and patient, psychotherapist and patient, psychologist and client, social worker and client, any other health care provider and patient, and husband and wife are abrogated.

(j) TRAINING OF PROSPECTIVE REPORTERS.—All individuals in the occupations listed in

subsection (b)(1) who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

CHAPTER 6—CHILD CARE WORKER EMPLOYEE BACKGROUND CHECKS

SEC. 1581. REQUIREMENT FOR BACKGROUND CHECKS.

(a) IN GENERAL.—(1) Each agency of the Federal Government, and every facility operated by the Federal Government (or operated under contract with the Federal Government), that hires (or contracts for hire) individuals involved with the provision to children under the age of 18 of child care services shall assure that all existing and newly-hired employees undergo a criminal history background check. All existing staff shall receive such checks not later than 6 months after the date of enactment of this chapter, and no additional staff shall be hired without a check having been completed.

(2) For the purposes of this section, the term "child care services" means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

(b) CRIMINAL HISTORY CHECK.—(1) A background check required by subsection (a) shall be—

(A) based on a set of the employee's fingerprints obtained by a law enforcement officer and on other identifying information;

(B) conducted through the Identification Division of the Federal Bureau of Investigation and through the State criminal history repositories of all States that an employee or prospective employee lists as current and former residences in an employment application; and

(C) initiated through the personnel programs of the applicable Federal agencies.

(2) The results of the background check shall be communicated to the employing agency.

(c) APPLICABLE CRIMINAL HISTORIES.—Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be ground for denying employment or for dismissal of an employee in any of the positions listed in subsection (a)(2). In the case of an incident in which an individual has been charged with one of those offenses, when the charge has not yet been disposed of, an employer may suspend an employee from having any contact with children while on the job until the case is resolved. Conviction of a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children.

(d) EMPLOYMENT APPLICATIONS.—(1) Employment applications for individuals who are seeking work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, in any of the positions listed in subsection (a)(1), shall contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and if so requiring a description of the disposition of the arrest or charge. An application shall state that it is being signed under penalty of perjury, with the applicable Federal punishment for perjury stated on the application.

(2) A Federal agency seeking a criminal history record check shall first obtain the signature of the employee or prospective employee indicating that the employee or prospective employee has been notified of the employer's obligation to require a record check as a condition of employment and the employee's right to obtain a copy of the criminal history report made available to the employing Federal agency and the right to challenge the accuracy and completeness of any information contained in the report.

(e) ENCOURAGEMENT OF VOLUNTARY CRIMINAL HISTORY CHECKS FOR OTHERS WHO MAY HAVE CONTACT WITH CHILDREN.—Federal agencies and facilities are encouraged to submit identifying information for criminal history checks on volunteers working in any of the positions listed in subsection (a) and on adult household members in places where child care or foster care services are being provided in a home.

AMENDMENT NO. 1815

At the end of the bill, add the following:

None of the provisions of this Act shall take effect unless the following is enacted:

TITLE —NATIONAL DRUG INTELLIGENCE

SEC. 01. SHORT TITLE.

This title may be cited as the "National Drug Intelligence Act of 1990".

SEC. 02. FINDINGS.

The Congress finds that—

(1) intelligence information sharing among Federal agencies concerned with drug enforcement is essential to implement the National Drug Control Strategy;

(2) much of the relevant information the Federal Government possesses related to foreign and domestic drug trafficking organizations is in manual files which cannot be used easily, quickly, or completely;

(3) each Federal agency responsible for drug enforcement and control maintains its own files which, by their nature, are difficult to share with other agencies;

(4) no Federal agency responsible for drug enforcement and control has ready access to all the data needed to produce a comprehensive understanding of international and domestic trafficking organizations; and

(5) there is no centralized data base of information which can be fully utilized by responsible Federal agencies.

SEC. 03. ESTABLISHMENT AND RESPONSIBILITIES OF CENTER.

(a) ESTABLISHMENT OF THE CENTER.—There is established an executive agency to be known as the "National Drug Intelligence Center" (referred to as the "Center"). To the fullest extent practicable, the personnel and equipment of the Center shall be colocated. Upon the appropriation of funds for the Center, the Center shall employ not less than three hundred people of which the following agencies shall provide the following personnel:

(1) not less than seventy-five employees from the Drug Enforcement Administration;

(2) not less than seventy-five employees from the Federal Bureau of Investigation;

(3) not less than fifty employees from the Customs Service;

(4) not less than fifty employees from the Department of Defense; and

(5) not less than fifty employees from participating agencies selected by the Director of National Drug Control Policy.

During their tenure at the Center, employees shall report to the Executive Director who shall be responsible for their performance evaluation.

(b) RESPONSIBILITIES OF THE CENTER.—The Center shall—

(1) assimilate, collect, and analyze drug enforcement-related data and intelligence of participating agencies;

(2) produce comprehensive analyses of foreign and domestic drug trafficking organizations, patterns, and trends;

(3) create and maintain a state-of-the-art computer data base for drug-related strategic intelligence;

(4) publish quarterly statistics on drug trafficking and abuse patterns and indicators for each major drug of abuse in the United States, including statistics on price, purity, and availability; and

(5) disseminate comprehensive drug enforcement-related intelligence to appropriate intelligence and law enforcement agencies.

(c) DATE OF OPERATION.—The Center shall begin operations not later than ninety days after funds are appropriated for the Center.

SEC. 04. MANAGEMENT OF CENTER.

(a) ESTABLISHMENT OF ADVISORY BOARD.—There shall be an Advisory Board consisting of the Executive Director, a representative of each agency participating in the Center and representatives from State and local agencies selected by the Director of National Drug Control Policy. The Advisory Board shall be chaired by the Deputy Director of National Drug Control Policy for Supply Reduction. The Advisory Board shall consult with the Executive Director in establishing the policies of the Center.

(b) DESIGNATION OF EXECUTIVE DIRECTOR.—There shall be an Executive Director, designated by the Director of National Drug Control Policy, who shall be responsible for the management and operations of the Center. The Executive Director shall be selected from one of the Department of Justice agencies responsible for drug enforcement.

(c) RESPONSIBILITIES OF THE EXECUTIVE DIRECTOR.—The Executive Director, in consultation with the Advisory Board, shall—

(1) allocate the Center's funding;

(2) determine the Center's priorities; and

(3) adopt procedures governing access to information contained in the data bases.

SEC. 05. PLAN FOR CENTER.

Not later than ninety days from the date of enactment of this Act, the Executive Director, in consultation with the Advisory Board, shall develop and submit to the Judiciary Committees of the Senate and House of Representatives a plan for the management and operation of the Center which shall include a design and format for the data base to be established by the Center. The plan shall utilize existing drug enforcement-related intelligence resources and shall not duplicate current information systems. To the fullest extent possible, existing drug enforcement-related intelligence data and systems shall be consolidated and integrated into the Center.

SEC. 06. PARTICIPATING AGENCIES.

The following agencies shall participate in the establishment of the strategic drug intelligence data base and shall contribute data as required by the Advisory Board:

(1) the Office of National Drug Control Policy;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Internal Revenue Service;

(5) the Immigration and Naturalization Service;

(6) the Customs Service;

(7) the Coast Guard;

(8) the Department of Defense; and

(9) other executive agenices as designated by the Director of National Drug Control Policy.

SEC. 07. INTELLIGENCE COMMUNITY PARTICIPATION.

The Directors of the Central Intelligence Agency, the Defense Intelligence Agency, and the National Security Agency shall appoint members from their respective agencies to serve on the Advisory Board. Within one hundred and eighty days after enactment of this Act, the agencies within the United States intelligence community shall submit to the Director of National Drug Control Policy a plan for integration of drug-related intelligence information generation by such agencies into the Center.

SEC. 08. INTELLIGENCE COMMUNITY COOPERATION.

It is the sense of the Congress that the agencies within the United States intelligence community shall cooperate, consistent with applicable law, including section 1004(a) of Public Law number 100-690, and the protection of intelligence sources and methods, with the Center in the execution of its responsibilities.

SEC. 09. AVAILABILITY OF INFORMATION.

The information in each data base established by the Center shall be available to appropriate representatives from participating agencies pursuant to the procedures adopted by the Executive Director and the Advisory Board.

SEC. 10. SECURITY OF CENTER.

The Executive Director shall take all reasonable, and necessary actions to ensure security for the Center, including the protection of sources and methods of drug enforcement-related intelligence.

SEC. 11. REPORTS AND EVALUATION.

Not later than one year after the date of enactment of this title and not later than March 1 of each year thereafter, the Executive Director shall submit to the Judiciary Committees of the Senate and House of Representatives a report evaluating the performance of the Center and the participation of each of the contributing agencies to the data base of the Center.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

For purposes of carrying out this title, there are authorized to be appropriated $100,000,000 for fiscal year 1991 and such sums as may be necessary for each of the three succeeding fiscal years, which amounts shall remain available until expended.

AMENDMENT No. 1816

At the end of the bill, add the following:

None of the provisions of this Act shall take effect unless the following is enacted:

TITLE —RURAL DRUG ENFORCEMENT

SEC. 01. SHORT TITLE.

This title may be cited as the "Rural Drug Enforcement Act".

SEC. 02. LEADERSHIP ON RURAL DRUG POLICY.

(a) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereinafter in this title referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(b) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(1) examine the special needs of rural areas in drug interdiction;

(2) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(3) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs, and the National Forest Service) in rural areas; and

(4) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

SEC. 03. RURAL DRUG ENFORCEMENT ASSISTANCE.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding a new section 509 as follows:

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 509. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"(b) Of the total amount appropriated for this section in any fiscal year.

"(1) 50 per centum shall be allocated to and shared equally among rural States as described in subsection (c); and

"(2) 50 per centum shall be allocated to the remaining States for use in non-metropolitan areas within those states, as follows:

"(A) $100,000 to each nonrural State; and

"(B) of the total funds remaining after the allocation in clause (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(c) For the purpose of subsections (b) and (c), the term 'rural State' means a State that has a population density of fifty-two or fewer persons per square mile or a State in which the largest country has fewer than one hundred and fifty thousand people."

(b) SEPARATE GRANT REQUEST.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by—

(1) at the end of paragraph (10) strike the "." and insert in lieu thereof "; and";

(2) inserting a new paragraph (11) as follows:

"(11) A separate and detailed request for a grant under section 509 of this subpart, including how the funds provided by a grant under section 506 shall be coordinated with funds provided by a grant under section 509.".

SEC. 04. FEDERAL DRUG ENFORCEMENT ASSISTANCE.

(a) GENERAL STATE ASSISTANCE.—In order to provide adequate Federal drug enforcement assistance to each of the several States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall assign not less than ten Drug Enforcement Administration special agents to each of the several States.

(b) RURAL STATES.—In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than ten Drug Enforcement Administration special agents, as of the date of enactment of this Act, the Attorney General shall assign not less than four additional Drug Enforcement Administration special agents to each rural State as defined in section 03 of this title.

SEC. 05. TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop a drug training program for law enforcement officers in rural areas.

(b) TRAINING.—By not later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(c) AUTHORIZATION.—There is authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the purposes of this title.

None of the provisions of this Act shall take effect unless the following is enacted:

AMENDMENT No. 1817

TITLE —FEDERAL LAW ENFORCEMENT AND JUDICIAL ASSISTANCE

SEC. 01. ADDITIONAL AUTHORIZATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1991, the following sums (which shall be in addition to any other appropriations)—

(1) For the Federal Bureau of Investigation, $98,000,000 for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(2) For the Drug Enforcement Administration, $100,500,000 which shall include—

(A) not to exceed $10,000,000 for enforcing provisions of Federal law regarding precursor and essential chemicals;

(B) not to exceed $37,500,000 for assigning not fewer than 250 agents and necessary support personnel to rural areas where State and local law enforcement agencies have identified the distribution of "crack" cocaine and/or the manufacture and distribution of methamphetamine to be a serious law enforcement problem that exceeds the resources of local law enforcement, and involves trafficking across State or national boundaries; and

(C) not to exceed $15,000,000 to expand DEA State and local task forces, including payment of State and local overtime equipment and personnel costs;

(3) For the United States courts, $9,000,000 for additional probation officers, judges, magistrates and other personnel including not to exceed $2,000,000 for training, document production, and other expenses related to the implementation of the Federal sentencing guidelines;

(4) For the United States attorneys, $24,000,000 for additional prosecutors and staff to implement a program of prosecuting in Federal court drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

(5) For defender services, $8,000,000 for the defense of persons prosecuted in Federal court for drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies; and

(6) For the United States marshals, $9,000,000;

(7) For the United States Customs Service, $100,000,000 to be allocated as follows:

(A) $20,000,000 for the hiring, equipping, and training of no fewer then 200 full-time equivalent agents and intelligence research specialists, over such levels on board as of September 30, 1990, to target drug trafficking organizations in high intensity drug trafficking areas; and

(B) $80,000,000 for the hiring, equipping, and training of no fewer than 250 full-time equivalent inspectors and canine enforcement officers, over such levels on board as of September 30, 1990, for the examination of cargo containers coming into the United States from high-risk drug source countries, for expanded passenger processing enforcement activities on the southwest border, and for the investigation and enforcement of chemical diversion activities;

(8) For the Bureau of Alcohol, Tobacco and Firearms, $37,500,000 to be allocated as follows:

(A) $31,000,000 for the hiring, training, and equipping of no fewer than 240 full-time equivalent special agents and no fewer than 120 full-time equivalent inspectors, over such personnel levels on board as of September 30, 1990, for carrying out narcotics related investigation and enforcement activities authorized under subsections (c), (d), and (e) of section 924 of title 18, United State Code, and for the purchase of law enforcement vehicles; and

(B) $6,500,000 for the hiring, training and equipping of no few than 50 full-time equivalent special agents and no fewer than 25 full-time equivalent inspectors, over such personnel levels on board as of September 30, 1990, for combatting the international trafficking of firearms used in narcotics-related activities;

(9) For the Internal Revenue Service, $30,000,000 to be allocated as follows:

(A) $18,000,000 for the hiring and training of no fewer than 347 full-time equivalent positions, over such personnel levels on board as of September 30, 1990, for the processing of currency transaction reports related to money laundering investigations; and

(B) $12,000,000 for the hiring, training, and equipping of no fewer than 120 special agents, over such personnel levels on board as of September 30, 1990, for the expansion of investigations into narcotics and other criminal-related activities; and

(10) For the Immigration and Naturalization Service United States Border Patrol, $45,000,000 to be allocated as follows:

(A) $15,000,000 for the hiring, training, and equipping of no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) $25,000,000 for INS criminal investigations and the expeditious deportation of criminal aliens from detention; and

(C) $5,000,000 for the procurement of low-level light television systems, portable and permanent sensor systems, and 4-wheel drive law enforcement vehicles for the United States Border Patrol.

AMENDMENT No. 1818

At the end of the bill, add the following:

None of the provisions of this Act shall take effect unless the following is enacted:

TITLE —STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

Subtitle A—Assistance Programs

SEC. 01. BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS AND IMPROVING THE EFFECTIVENESS OF COURT PROCESS.

(a) BASE ALLOCATION FOR DRUG ENFORCEMENT GRANT.—Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1868 is amended to read as follows:

"(5) There are authorized to be appropriated $900,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out the programs under parts D and E of this title.".

(b) IMPROVING THE EFFECTIVENESS OF COURT PROCESS.—Paragraph (10) of section 501 of Part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(10) improving the operational effectiveness of the court process, by expanding prosecutorial, defender and judicial resources, and implementing court delay reduction programs;".

SEC. 02. COMMUNITY SUBSTANCE ABUSE PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1990".

(b) COMMUNITY PARTNERSHIPS.—(1) Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of three of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy;

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members; and

"(3) initiate such programs as—

"(A) drug treatment and education;

"(B) street patrols against crime;

"(C) sealing up of deserted buildings;

"(D) youth activities and organizations;

"(E) other activities related to improving communication and information sharing with police; and

"(F) hire full-time or part-time staff to coordinate and direct the programs of the coalition.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, shall submit an annual review to the Committees on the Judiciary of the United States Senate and United States House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) LIMITS ON GRANTS.—A grant awarded under this section shall not be less than $10,000 and not more than $250,000.

"(h) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for fiscal year 1991 and $25,000,000 for fiscal year 1992.".

(2) The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalition on Substance Abuse

"Sec. 531. Grants to combat substance abuse.".

Subtitle B. National Crime Information Center Project 2000

SEC. 1. SHORT TITLE.

This section may be cited as the "National Law Enforcement Cooperation Act of 1990."

SEC. 2. FINDINGS.

The Congress finds that—

(1) cooperation among federal, state and local law enforcement agencies is critical to an effective national response to the problems of violent crime and drug trafficking in the United States;

(2) the National Crime Information Center, which links more than 16,000 federal, state and local law enforcement agencies, is the single most important avenue of cooperation among law enforcement agencies;

(3) major improvements to the National Crime Information Center are needed because the current system is more than twenty years old; carries much greater volumes of enforcement information; and at this time is unable to incorporate technological advances that would significantly improve its performance; and

(4) the Federal Bureau of Investigation, working with state and local law enforcement agencies and private organizations, has developed a promising plan, "NCIC 2000," to make the necessary upgrades to the National Crime Information Center that should meet the needs of U.S. law enforcement agencies into the next century.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated the following sums to implement the "NCIC 2000" project:

(1) $17,000,000 for fiscal year 1991;

(2) $23,000,000 for fiscal year 1992;

(3) $20,000,000 for fiscal year 1993;

(4) $8,000,000 for fiscal year 1994; and

(5) such sums as may be necessary for fiscal year 1995;

SEC. 4. REPORT

By February 1, of each fiscal year for which funds for NCIC 2000 are requested, the Director of the Federal Bureau of Investigation shall submit a report to the Committees on the Judiciary of the Senate and House of Representatives that details the progress that has been made in implementing NCIC 2000 and a complete justification for the funds requested in the following fiscal year for NCIC 2000.

DOLE AMENDMENT NOS. 1819 THROUGH 1821

(Ordered to lie on the table.)

Mr. DOLE submitted three amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1819

Strike line 15, page 46 through line 17, page 49.

AMENDMENT No. 1820

Strike line 15, page 46 through line 22, page 49.

AMENDMENT No. 1821

Strike line 15, page 46 through line 10, page 49.

THURMOND AMENDMENT NOS. 1822 THROUGH 1832

(Ordered to lie on the table.)

Mr. THURMOND submitted 11 amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1822

On page 45, line 12 strike everything through page 46, line 14 and insert the following:

"SEC. 301. (a) Chapter 223 of title 18, United States Code, is amended by adding the following two sections:

"§ 3508. Limitation of the fourth amendment exclusionary rule

"Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment of the Constitution of the United States, if the search or seizure was undertaken in an objectively reasonable belief that it was in conformity with the fourth amendment. A showing that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such a reasonable belief, unless the warrant was obtained through intentional and material misrepresentation.

"§ 3509. General Limitation of the exclusionary rule

"Except as specifically provided by statute or rule of procedure, evidence which is otherwise admissible shall not be excluded in a proceeding in a court of the United States on the ground that the evidence was obtained in violation of a statute or rule procedure, or of a regulation issued pursuant thereto.".

(b) The table of sections of chapter 223 of title 18, United States Code, is amended by adding at the end thereof:

"3508. Limitation of the fourth amendment exclusionary rule.

"3509. General limitation of the exclusionary rule.".

AMENDMENT No. 1823

On page 62, line 1, strike title six.

AMENDMENT No. 1824

On page 45, line 11, strike title three.

AMENDMENT No. 1825

To be inserted in the appropriate place:

CHARTER

SECTION 1. The 82nd Airborne Division Association, Incorporated, a nonprofit corporation organized under the laws of the State of Illinois, is recognized as such and is granted a Federal charter.

POWERS

SEC. 2. The 82nd Airborne Division Association, Incorporated (hereinafter in this Act referred to as the "corporation"), shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) perpetuating the memory of members of the 82nd Airborne Division who fought and died for our Nation,

(2) furthering the common bond between retired and active members of the 82nd Airborne Division,

(3) providing educational assistance in the form of college scholarships and grants to the qualified children of current and former members,

(4) promoting civic and patriotic activities, and

(5) promoting the indispensable role of airborne defense in our national security.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. (a) Subject to subsection (b), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

(b) Terms of membership and requirements for holding office within the corporation shall not discriminate on the basis of race, color, national origin, sex, religion, or handicapped status.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of direc-

tors. The Corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeing, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "And Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(74) 82nd Airborne Division Association, Incorporated.".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101). The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND, ALTER, OR REPEAL CHARTER

SEC. 13. The right to amend, alter, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF STATE

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its stuatus as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

TERMINATION

SEC. 16. If the corporation fails to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

AMENDMENT NO. 1826

SECTION 1. This Act may be cited as the "Drunk Driving Victims' Protection Act".

SEC. 2. Section 1328(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking out "or";

(2) in paragraph (2) by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) of the kind specified in section 523(a)(9) of this title.".

SEC. 3. Paragraph (9) of section 523(a) of title 11, United States Code, is amended to read as follows:

"(9) to any entity, to the extent that such debt arises from a judgment or consent decree entered in a court of record against the debtor wherein liability was incurred by such debtor as a result of the debtor's operation of a motor vehicle while legally intoxicated or impaired by use of alcohol or drugs under the laws or regulations of any jurisdiction within the United States or its territories wherein such motor vehicle was operated and within which such liability was incurred;".

SEC. 4. Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (12), by striking out "or";

(2) in paragraph (13), by striking out the period at the end and inserting in lieu thereof "; or"; and

(3) by adding the following new paragraph:

"(14) under subsection (a) of this section, of the commencement or continuation of an action on a claim of the type described at section 523(a)(9) of this title.".

SEC. 5. Section 523(a) of title 11, United States Code (as amended by section 3 of this Act) is further amended—

(1) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following:

"(11) to the extent that such debt arises from a proceeding brought by a governmental unit to recover a civil or criminal restitution, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit.".

SEC. 6. Section 1322(a) of title 11, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) provide for the full payment, in deferred cash payments, of all claims which would be nondischargeable under section 523(a)(11).".

AMENDMENT NO. 1827

At the appropriate place, insert the following:

SEC. 1. DRUG TESTING PROGRAM.

(a) IN GENERAL.—Chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3608. Drug testing of defendants on post-conviction release

"The Director of the Administrative Office of the United States Courts shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of criminal defendants on post-conviction release. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(b) SECTION ANALYSIS.—The section analysis for chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following:

"3608. Drug testing of defendants on post-conviction release".

SEC. 2. OTHER AMENDMENTS.

(a) PROBATION.—Section 3563(a) of title 16, United States Code, is amended—

(1) in paragraph (2), by striking out "and";

(2) in paragraph (3), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence as defined in section 16 of this title, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Court, or the Director's designee. No action may be taken against a defendant pursuant to a drug test administered in accordance with this paragraph or sections 3583(d) or 4209(a) of this title, unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

(b) SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4) of this title, the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title".

(c) PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4) of this title, the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title."

AMENDMENT NO. 1828

At the appropriate place, insert the following:

SEC. 701. FACILITATION OF UNDERCOVER INVESTIGATIONS.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 21. Stolen or Counterfeit Nature of Property for Certain Crimes Defined

"(a) Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the defendant knew that the property was of such character, such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) For purposes of this section, the term 'official representation' means any representation made by a Federal law enforcement

officer (as defined in section 115 of this title) or by another person at the direction or with the approval of such an officer.".

(c) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

§ 21. Stolen or Counterfeit Nature of Property for Certain Crimes Defined.".

AMENDMENT No. 1830

At the appropriate place insert the following: That this Act may be cited as the "Federal Debt Collection Procedures Act of 1989".

TITLE I—DEBT COLLECTION PROCEDURES

SEC. 101. Title 28 of the United States Code is amended by inserting immediately after chapter 175 the following:

"CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"Subchapter
"A. Definitions and General Provisions 3001
"B. Prejudgment Remedies 3101
"C. Judgments; Liens 3201
"D. Postjudgment Remedies 3301
"E. Exempt Property 3401
"F. Fraudulent Transfers 3501
"G. Partition 3601
"H. Foreclosure of Security Interests 3701

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"Sec.
"3001. Definitions.
"3002. Rules of construction.
"3003. Nationwide enforcement.
"3004. Priority of claims of the United States.
"3005. Claims of United States not barred by State statute of limitations.
"3006. Right of set-off or recoupment.
"3007. Discovery.
"3008. Affidavit requirements.
"3009. Perishable property.
"3010. Immunity.
"3011. Proceedings before United States magistrates.
"3012. United States marshals' authority to designate keeper.
"3013. Co-owned property.
"3014. Assessment of charges on a claim.
"3015. Funding.
"3016. Investigative authority.
"3017. Subrogation.
"3018. Effective Date.

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"§ 3001. Definitions

"As used in this chapter—

"(a) 'claim' means amounts owing on account of direct loans or loans insured or guaranteed by the United States and all other amounts due the United States from or on account of fees, duties, leases, rents, services, sales of real or personal property, overpayments, fines, assessments, penalties, restitution, damages, interest, taxes, bail bond forfeitures, reimbursements and recovery of costs incurred and other sources of indebtedness. This definition includes amounts due the United States for the benefit of an Indian tribe or individual Indian.

"(b) 'Counsel for the United States' shall include for the purposes of this chapter, a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, an attorney with the United States Department of Justice or other Federal agency having litigation authority and any private attorney authorized by contract to conduct litigation for collection of debts on behalf of the United States.

"(c) 'Court' means any court created by the Congress of the United States exclusive of the United States Tax Court.

"(d) 'Debt' means liability to the United States on a claim.

"(e) 'Debtor' means a person who is liable to the United States on a claim.

"(f) 'Debt collection personnel' means personnel employed by any agency of the Federal government whose primary duties are the collection of the debts owed to the United States.

"(g) 'Disposable earnings' means that part of the earnings remaining after all deductions required by law have been withheld and 'nonexempt disposable earnings' means 25 percent of disposable earnings.

"(h) 'Earnings' means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program.

"(i) 'Garnishee' means a person other than the debtor who has, or is thought to have, possession, custody or control of any property of the debtor, including obligations owed to the debtor whether such obligations are past due or have yet to become due, against whom a garnishment has been issued by the clerk of the court.

"(j) 'Judgment' means a judgment, order or decree entered in favor of the United States in any court whether arising from a civil or criminal proceeding regarding a claim.

"(k) 'Judgment creditor' means the United States in situations in which the United States has judgments in its favor, whenever referred to in this chapter.

"(l) 'Judgment debtor' means a person against whom the United States holds a judgment on a debt.

"(m) 'Person' includes a natural person, including individual Indians, a corporation, a partnership, an unincorporated association, a trust or an estate or other entity, public or private, including local governments and Indian tribes.

"(n) 'Prejudgment remedy' means the remedies of attachment, garnishment, replevin, receivership, sequestration, injunction or a combination of any of the foregoing that are sought prior to judgment.

"(o) 'Property' includes any present or future interest in real, personal (including, but not limited to, earnings, goods and choses in action), or mixed property, whether legal or equitable, tangible or intangible, vested or contingent, and wherever located and however held, whether held as a tenancy in common, joint tenancy, tenancy by the entirety, community property, in partnership, or in trust (including spendthrift and pension trusts), and excludes any property held in trust by the United States for the benefit of any Indian tribe or individual Indian or any Indian lands subject to restrictions against alienation imposed by the United States.

"(p) 'Service' under the provisions of this chapter shall be in accordance with the Federal Rules of Civil Procedure.

"(q) 'State' includes the several states, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Marianas and any of the territories and possessions of the United States.

"(r) 'United States' includes an officer or agency thereof, a Federal corporation, Federal instrumentality, department, commission, board or other Federal entity.

"(s) 'United States marshal' means the United States marshal, his designee or contractor.

"§ 3002. Rules of construction

"In this title—

"(a) 'includes' and 'including' are not limiting;

"(b) 'or' is not exclusive;

"(c) the singular includes the plural;

"(d) the provisions are general and intended as a unified coverage of the subject matter;

"(e) if any provision or amendment made by this chapter or application thereof to any person is held invalid, the provisions of every other part and their application shall not be affected thereby;

"(f) the cases arising under the provisions herein shall not affect cases arising under admiralty jurisdiction;

"(g) the provisions of this chapter do not and should not be construed to curtail or limit any rights the United States has to collect taxes under any other provision of Federal law;

"(h) the provisions of this chapter do not, and should not be construed to, curtail or limit any rights the United States has under any other provision of Federal law to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case; and

"(i) the provisions of this chapter do not, and should not be construed to, curtail or limit the rights the United States has under any other provision of Federal law to appoint receivers.

"§ 3003. Nationwide enforcement

"Notwithstanding any other provision of law, any writ, order, judgment, or other process, including a summons and complaint, filed under this chapter may be served in any State and may be enforced by the court issuing the writ, order, or process, regardless of where the person is served with the writ, order, or process.

"§ 3004. Priority of claims of the United States

"The priorities established by the various provisions of this chapter shall be superseded by the provisions of section 3713 of title 31, United States Code, when the debtor or, if deceased, his estate is insolvent as determined under that section and the priority of the United States shall be in accordance therewith.

"§ 3005. Claims of the United States not barred by State statute of limitations

"The United States shall not be barred by the statute of limitations of any State in the enforcement of any of its claims.

"§ 3006. Right of set-off or recoupment

"Except as specifically provided for in this chapter, nothing in this chapter shall be construed to affect the common law or statutory rights to set-off or recoupment.

"§ 3007. Discovery

"(a) The United States may have discovery from any person including the debtor regarding the financial condition of the debtor in any case in which the United States seeks to enforce a claim. Such discovery may be before judgment or after judgment is entered in the case and in the manner in which discovery is provided for in the Federal Rules of Civil Procedure.

"(b) After judgment, the United States may also subpoena the judgment debtor or a third party to appear before the court at a location consistent with the Federal Rules of Civil Procedure with all records, books and other documents and to answer under oath questions regarding the debtor's finan-

cial condition and ability to satisfy the judgment.

"(c) The court shall impose appropriate sanctions as provided by the Federal Rules of Civil Procedure or the court's contempt power, including arrest of the offending person or debtor, for failure to comply with these discovery procedures.

"§ 3008. Affidavit requirements

"Any affidavit required of the United States by this chapter may be made upon information and belief, where reliable and reasonably necessary, establishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.

"§ 3009. Perishable property

"At any time during any proceedings, other than those under section 3103(a), the court may determine on its own initiative or upon motion of any party, that any seized or detained property, or any portion thereof, is likely to perish, waste, or be destroyed, or otherwise depreciate in value during the pendency of the proceedings. The court shall order the sale of the property or portion thereof and require the proceeds to be deposited with the clerk of the court. For purposes of liability on the part of the United States, the price paid at any such sale shall be conclusively presumed to be the fair market value.

"§ 3010. Immunity

"Counsel for the United States, but excluding any private attorneys authorized by contract to conduct litigation for collection of debts on behalf of the United States, and non-attorney debt collection personnel shall have absolute immunity in their individual and official capacities from any liability arising from errors, omissions or negligence in performance of their official debt collection duties.

"§ 3011. Proceedings before United States magistrates

"A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States. A district court may adopt appropriate rules to carry out any such assignment.

"§ 3012. United States marshals' authority to designate keeper

"Whenever the United States marshal is authorized to seize property pursuant to the provisions of this chapter, the United States marshal shall be authorized to designate another person or Federal agency to hold for safekeeping such property seized.

"§ 3013. Co-owned property

"The remedies available to the United States under this chapter shall be enforced against property which is co-owned by a debtor and others to the extent allowed by the law of the State where the property is located.

"For the purposes of this section, 'property' does not include the rights or interest of an individual other than the debtor in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof. A 'retirement system for Federal military or civilian personnel' means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or regulation pursuant to statutory authority.

"§ 3014. Assessment of charges on a claim

"The United States may assess on a claim a charge of 10 percent of the amount of the claim to cover the cost of processing and handling the litigation and judicial enforcement of the claim.

"§ 3015. Funding

"It is hereby authorized that such sums be appropriated as may be necessary to carry out the provisions of this chapter. Appropriations authorized under this section shall remain available for obligations necessary to implement this chapter for 1 year.

"§ 3016. Investigative authority

"When the United States has reason to believe that an activity in violation of legal standards threatens to deprive it of a claim, the appropriate United States Attorney may commence a proceeding against named or unknown parties for the purpose of determining whether a claim for relief should be asserted under applicable law, and all discovery proceedings available under the Federal Rules of Civil Procedures shall be available in such proceeding.

"§ 3017. Subrogation

"When the United States asserts a claim against a debtor for sums alleged to be due the United States, the United States may name as an additional defendant then or by way of amendment of its complaint, any party reasonably believed to owe sums to the debtor arising out of the transaction or occurrence giving rise to the obligation to the United States, including but not limited to obligations on account of requirements to provide goods or services pursuant to a loan or loan guarantee extended pursuant to Federal law. If such party pays or is found liable, any amounts paid to the United States shall be credited to the account of the debtor.

"§ 3018. Effective date

"This Act and the amendments made by this Act shall take effect 180 days after the date of enactment and shall apply to all claims and debts owed to the United States and judgments in favor of the United States.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"Sec.
"3101. Prejudgment remedies with prior notice.
"3102. Prejudgment remedies without prior notice.
"3103. Attachment.
"3104. Garnishment.
"3105. Injunctions.
"3106. Sequestration.
"3107. Replevin.
"3108. Receivership.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"§ 3101. Prejudgment remedies with prior notice

"(a) APPLICATION.—(1) The United States may in conjunction with the complaint or at any time after the filing of a civil action, make application, under oath, to the court to issue any prejudgment remedy allowed by law.

"(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought.

"(3) Such application shall state that the party against whom any prejudgment remedy is sought shall be afforded an opportunity for a hearing.

"(b) GROUNDS.—Any prejudgment remedy may be issued in favor of the United States by any court of the United States on application before judgment when—

"(1) the application sets forth with particularity, that all statutory requirements for the issuance of such prejudgment remedy sought under this chapter have been complied with by the United States; and

"(2) the court finds that the United States has shown the probable success of its claim.

"(c) NOTICE; FORM OF NOTICE.—Upon the filing of an application, the clerk of the court shall issue a notice directed to any person against whom any prejudgment remedy would operate, substantially in the following form—

"NOTICE

"You are hereby notified that your [property] may be taken away from you by the United States, which says that you owe the United States a debt of $[amount]. The United States wants to take your property so that it can be sure you will pay if the court decides that you owe this money.

"If you do not want to have your property taken away, you may ask for a hearing before this court. You may ask for the hearing anytime within 20 days from the date that this notice was mailed as indicated below. The hearing, if you so demand, will take place within five working days after you notify the court, or as soon thereafter as is practicable. You may ask for the hearing by checking the box at the bottom of this notice and filing it with the court at the following address: [address of court]. You must also send a copy to counsel for the United States at [address], so that the United States knows that you want the hearing.

"At the hearing, the court will decide whether the claim against you is probably valid and whether other legal requirements have been met. In addition, there are certain exemptions under Federal law which you may be entitled to claim with respect to the property.

"If you do not check the box requesting a date for a hearing and take this notice to the court within twenty days, the court will automatically assume you do not want a hearing and you will lose your right to a hearing before the United States may take your property with the court's permission.

"If you have any questions concerning your rights or this procedure, you should consult an attorney.

"DATE OF MAILING: _____

"(d) SERVICE OF NOTICE AND APPLICATION.—(1) A copy of the notice and a copy of the application for issuance of any prejudgment remedy shall be served by counsel for the United States by first class mail on each party against whom any remedy is sought. If such service is not possible, then service may be made under rule 4 of the Federal Rules of Civil Procedure, as appropriate.

"(2) Proof of service by mail may be made by affidavit or certification of mailing and shall set forth the actual date of mailing.

"(e) TIME TO REQUEST HEARING DATE; FORM OF REQUEST.—(1) Each person served with a copy of the notice set forth above and the application for any prejudgment remedy may request a date be set for the hearing on such application by filing with the clerk of the court within 20 days after service of the notice a written request for hearing date. The request for hearing shall be made by using the form provided or in some other writing. A copy of the request for hearing date shall be mailed by the person requesting the hearing to counsel for the United States.

"(2) The clerk of the court shall apprise counsel for the United States and the person requesting the hearing of the date of hearing.

"(f) WAIVER OF HEARING.—(1) If no request for hearing date is filed within the required time, counsel for the United States shall file an affidavit of default setting forth that service was made, that no request for hearing date was filed and that the party against whom any prejudgment remedy is sought has apparently waived any hearing. Counsel for the United States shall also file a proposed form of the written order requested. Upon filing of such affidavit, the clerk shall enter the order of waiver of record and any party so defaulted loses his right to a hearing prior to the issuance of the prejudgment remedy sought.

"(2) Upon entry of the order of waiver, the clerk shall immediately deliver the court file to the judge to whom the matter is assigned.

"(g) JUDICIAL REVIEW APPLICATION; ISSUANCE OF PREJUDGMENT REMEDIES WITH NOTICE.—(1) The court shall, within 5 days after hearing or the entry of the order of waiver, or as soon thereafter as is practical, review and examine all pleadings, evidence, affidavits and documents filed in the action to determine the following:

"(A) that evidence of service has been filed together with the original of the application and copy of notice;

"(B) where an order of waiver has been entered, that the affidavit of default has been filed and the order entered by the clerk;

"(C) that the claim or claims of the United States are based on facts established by the evidence or stated in the affidavit are sufficient to show that such claim or claims are probably valid; and

"(D) that any statutory requirement of this chapter for the issuance of any prejudgment remedy has been shown.

"(2) Upon the court's determination that the requirements of subsection (g)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"§ 3102. Prejudgment remedies without prior notice

"(a) GROUNDS.—Any prejudgment remedy may be issued by any court without prior notice to the person against whom it will operate when the United States has a reasonable cause to believe that—

"(1) the person against whom the prejudgment remedy is sought is about to leave the jurisdiction of the United States with the intent to hinder, delay, or defraud the United States and has refused to secure that debt, or is a fugitive from justice;

"(2) such person has secreted or is about to secrete property;

"(3) such person has or is about to assign, dispose, remove, or secrete property, wholly or in part, or that such person is about to assign or dispose of property with the effect of hindering, delaying, or defrauding creditors;

"(4) the United States is the owner, lessor or otherwise is lawfully entitled to the immediate possession of the property claimed and is seeking a prejudgment remedy in the nature of replevin, receivership or sequestration;

"(5) a prejudgment remedy is required to obtain jurisdiction within the United States;

"(6) a constructive or resulting trust should be impressed on the property in favor of the United States if such person is likely to put the property beyond the reach of the United States;

"(7) the person against whom the prejudgment remedy is sought is converting, is about to convert or has converted his property of whatever kind, or some part thereof, into money, securities, or evidence of debt in a manner prejudicial to creditors;

"(8) the person against whom the prejudgment remedy is sought has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States; or

"(9) the debt is due for property obtained illegally or by fraud.

"(b) APPLICATION; AFFIDAVIT; BOND; ISSUANCE OF WRIT.—(1) Contemporaneously with or at any time after the filing of a civil action, the United States shall file an application supported by an affidavit made upon information and belief, where reliable and reasonably necessary, establishing with particularity to the court's satisfaction facts supporting the probable validity of the claim and the right of the United States to recover what is demanded in the application. The application shall state the amount of the debt owed the United States, including principal, interest, and costs, if any, and one or more of the grounds set forth in section 3102(a) and the specific requirements of the specific remedy sought.

"(2) No bond is required of the United States.

"(3) Upon the court's determination that the requirements of subsection (b)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"(c) NOTICE AND HEARING; WAIVER OF HEARING.—(1) Upon filing of an application as provided in this section, the clerk shall issue notice in substantially the following form to the counsel for the United States for service upon the party against whom any prejudgment remedy is sought in accordance with subsection (3) of this section—

"NOTICE

"You are hereby notified that your [property] is being taken away from you by the United States, who says that you owe it a debt of $[amount]. The United States is taking your property because it says

[Insert one or more of the specific grounds set forth in section 3102(a).]

"In addition, you are hereby notified that there are certain exemptions under Federal law which you may be entitled to claim with respect to your property.

"If you disagree and think you do not owe the United States, or that you have not done what is stated above, then you can ask this court to hear your side of the story and give your property back to you. If you want such a hearing, it will be given to you within five working days if you so demand after you notify the court that you want one. To do so, check the box at the bottom of this notice or prepare your request in writing and mail it or take it to the clerk of the court at the following address: [address]. You must also send a copy to counsel for the United States at [address], so that the United States will know you want a hearing.

"If you do not request a hearing within thirty days from [date of issue] your property may be disposed of without further notice.

"You should consult a lawyer if you have any questions about your rights about this procedure.

"(2) When a prejudgment remedy is issued under this section, the person against whom it is sought may immediately move to quash such order and the court shall on the request of the debtor hear such motion within 5 days from the date the request was filed. The issues at such hearing shall be limited to—

"(A) the probable validity of the claim or claims of the United States and any defenses and claims of exemptions of the party against whom such prejudgment remedy will operate; and

"(B) the existence of any statutory requirement for the issuance of any prejudgment remedy sought, plus the existence of any ground set forth in section 3102(a) of this chapter.

"(3) Counsel for the United States shall, at the time of the seizure, attachment or garnishment, or within 3 days thereafter, exercise reasonable diligence to serve the person against whom a prejudgment remedy is sought with an application, order and prescribed notice of the seizure, impoundment or such other act ordered by the court and of said person's right to an immediate hearing contesting the same.

"(4) If no request for a hearing is filed with the clerk within 30 days after the notice of seizure is issued by the clerk, the United States may dispose of the property as provided for in this subchapter.

"§ 3103. Attachment

"(a) PROPERTY SUBJECT TO ATTACHMENT.—(1) All property of the debtor or garnishee, except earnings and property exempt under the provisions of this chapter, may be attached pursuant to a writ of attachment in any action in which a debt or damages are recoverable and may be held as security to satisfy such judgment and costs as the United States may recover.

"(2) The amount to be secured by an attachment shall be determined as follows—

"(A) the amount of the debt owed to the United States by the defendant; and

"(B) the estimated amount of interest and costs likely to be taxed by the court.

"(3) In any action or suit for an amount which is liquidated or ascertainable by calculation, no attachment shall be made for a larger sum than the amount of the debt and such additional amount as is reasonably necessary to provide for interest thereon and costs likely to be taxed in the action.

"(b) AVAILABILITY OF ATTACHMENT.—The United States after complying with the provisions of section 3101 or 3102 may, in the following cases, have the property of the defendant attached as security for satisfaction of any judgment which may be recovered by the United States—

"(1) in an action upon a contract, express or implied, for payment of money which is not fully secured by real or personal property, or, if originally so secured, the value of such security may, without any act of the United States or the person to whom the security was given, be substantially diminished below the amount of the debt;

"(2) when an action is pending for damages in tort and the defendant is about to dispose of or remove his property beyond the jurisdiction of the United States;

"(3) in an action for damages or upon contract, express or implied, against a defendant not residing within the jurisdiction of the United States; or

"(4) in an action to recover fines, penalties, or taxes.

"(c) ISSUANCE OF WRIT; CONTENTS.—(1) A writ of attachment shall be issued by the court directing the United States marshal of the district where the property is located to attach so much of the defendant's property as will be sufficient or is available to satisfy the debt of the United States.

"(2) Several writs of attachment may, at the option of the United States, be issued at the same time, or in succession, and sent to different districts until sufficient property is attached to satisfy the debt.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the court title and the docket number and name of the cause of action;

"(C) the name and last known address of the defendant;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to the extent available.

"(d) LEVY OF ATTACHMENT.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the defendant found within his district, unless otherwise directed by counsel for the United States. The marshal shall not sell property unless ordered by the court.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the defendant. In cases where the writ is issued pursuant to section 3101, the marshal shall not enter into a residence or other building except upon specific order of the court.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the defendant in the same manner that a summons is served in a civil action and make his return thereof. If the United States marshal is unable to serve the writ upon the defendant, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the defendant in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with his action endorsed thereon or attached thereto and signed by him, to the court from which it was issued within 30 days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it, state the location where it was attached, when it was attached and the disposition made of the property. If no property was attached, the return shall so state.

"(3) When personal property has been replevied as authorized by section 3103(j), the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(4) When the property levied on is claimed, replevied or sold after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment creates a lien on the property in favor of the United States.

"(2) The levy of the writ of attachment upon any property of defendant subject thereto is a lien from the date of the levy on the real property and on such personal property as remains in the custody of the attaching United States marshal and on the proceeds of such personal property as is sold.

"(3) The lien in favor of the United States marshal shall be ranked ahead of any other security interests perfected after the time of levy and filing of a copy of the notice of levy pursuant to subsection (d)(3) of this section.

"(4) The lien shall arise from the time of levy and continue until a judgment in the case is obtained or denied, or the action is otherwise dismissed. The death of the defendant whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(5) Upon entry of judgment for the United States, the court shall order the proceeds of the personal property, if any has been sold, to be applied to the satisfaction of the judgment, and also order the sale of any remaining personal property and the sale of any real property levied on to satisfy the judgment.

"(g) ATTACHMENT OF PERISHABLE PROPERTY; SALE; PROCEDURE.—(1) When personal property that has been attached is not replevied, the court may order it to be sold when it appears that the property is in danger of serious and immediate waste or decay, or that keeping it until trial will result in such expense or deterioration in value as substantially will lessen the amount likely to be realized therefrom.

"(2) In ascertaining whether the property is in danger of serious and immediate waste or decay or that keeping of the property until trial will result in such expense or deterioration in value as will substantially lessen the amount likely to be realized therefrom, the court may require or dispense with notice to the parties and may act upon such information provided by affidavit, certificate of the United States marshal or other proof, as appears sufficient to protect the interest of the parties.

"(h) DISPOSITION OF PROCEEDS OF SALE OF PERISHABLE PROPERTY; REPORT OF SALE.—Within 5 days after sale, the proceeds of the sale as provided in subsection 3103(g) after deduction of the United States marshal's expenses therefrom shall be paid by the United States marshal making the sale to the clerk of the court. The proceeds shall be accompanied by a statement in writing and signed by the United States marshal, to be filed in the action, stating the time and place of sale, the name of the purchaser and the amount received with an itemized account of expenses.

"(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed or sold, the court may make such order for its preservation or use as appears to be to the interest of the parties.

"(j) REPLEVIN OF ATTACHED PROPERTY BY DEFENDANT; BOND.—At any time before judgment, if the property has not previously been sold, defendant may replevy the property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the amount of the debt.

"(k) JUDGMENT WHERE PERSONAL PROPERTY REPLEVIED.—When personal property under attachment has been replevied, the judgment which may be entered shall be against defendant and also against the sureties on his replevin bond for the amount of the judgment, interest and costs.

"(l) RESTORATION OF PROPERTY OR EXONERATION OF BOND; LEVY ON EXEMPT PROPERTY.—(1) If the attachment is vacated or if the judgment is for defendant, the court shall order the property or proceeds thereof restored to defendant or exonerate the replevin bond. The court may determine under what circumstances the defendant is entitled to receive the proceeds rather than the attached property.

"(2) When any property claimed to be exempt is levied upon, defendant may, at any time after such levy, apply to the court for vacation of such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to defendant.

"(m) REDUCTION OR DISCHARGE OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the defendant or person whose property has been attached may submit a written motion to the court which issued the writ for a reduction of the amount of the attachment or its discharge. Notice of such motion shall be served upon the United States in accordance with the Federal Rules of Civil Procedure. The defendant may move for reduction or dissolution of attachment as appropriate.

"(2) The court shall order a part of the property to be released, if upon hearing the court finds that the amount of the attachment is excessive or unreasonable or where the attachment is for a sum larger than the liquidated or ascertainable amount of the debt plus an amount necessary to include interest and costs likely to be taxed.

"(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

"§ 3104. Garnishment

"(a) All prejudgment garnishments shall meet the requirements of sections 3101 and 3102.

"(b) All prejudgment garnishments as authorized by the court hereunder shall be issued and answered in the same manner and to the same extent as set forth in section 3306 with the following exceptions—

"(1) The writ shall specify the date that the order authorizing prejudgment garnishment was entered.

"(2) The writ shall specify the amount claimed by the United States.

"§ 3105. Injunctions

"Whether or not there are other remedies available to the United States under this chapter, nothing in this chapter shall be construed to preclude or otherwise limit the United States or any other party from obtaining injunctive relief under the Federal Rules of Civil Procedure in actions for debts owed the United States.

"§ 3106. Sequestration

"(a) APPLICATION FOR WRIT OF SEQUESTRATION AND ORDER.—If the United States claims in its complaint the right to title or possession of property or seeks to enforce a lien or security interest in such property, the United States may file an affidavit showing—

"(1) a description of the property sufficient to identify it;

"(2) the approximate value of the property;

"(3) the location of the real property, or in the case of personal property, the last known and likely locations of the property;

"(4) the availability of sequestration.

"(b) AVAILABILITY OF SEQUESTRATION.—The United States after complying with, or in addition to, the provisions of sections 3101 or 3102 may have property sequestered—

"(1) upon a showing that there exists an immediate danger that the debtor or garnishee of such property will ill treat, waste, destroy or convert to his own use the property, which includes, but is not limited to, crops, timber, rents, perishable goods, livestock or the revenues therefrom; or

"(2) upon a showing that title to or possession of such property has been secured by the debtor or other defendant or the party in possession by surreptitious means, trick, scheme, fraud, force, violence, claim of adverse possession or such other claims or any means adverse to the claim in title or possession, or both, of the United States.

"(c) ISSUANCE OF WRIT.—A writ of sequestration shall be issued by the court directing the debtor or other defendant or party in possession to sequester the property and deliver it to the United States.

"(d) Unless inconsistent, the provisions governing section 3103 (g) through (l) shall be applicable to this section.

"(e) These writs shall be served in accordance with the Federal Rules of Civil Procedure.

"§ 3107. Replevin

"(a) APPLICATION FOR WRIT.—If the United States claims in its complaint the right to possession of specific personal property, the United States may, at any time after complying with the provisions of section 3101 or 3102, file an affidavit showing—

"(1) that the United States is the owner of the property claimed, or is lawfully entitled to its immediate possession;

"(2) a description of the property;

"(3) that the property is wrongfully detained by the defendant;

"(4) the approximate value of the property.

"(b) SEIZURE.—If the court determines the United States has met the above requirements, it shall order that the United States marshal take possession of the specified property and deliver it to the United States.

"(c) REDELIVERY OF POSSESSION TO DEFENDANT.—The defendant may obtain redelivery of the property or any part thereof by giving bond as set forth in section 3103(j).

"§ 3108. Receivership

"(a) APPOINTMENT OF A RECEIVER.—The United States may apply for the appointment of a receiver for property in which it has an interest and which is or is to be the subject of an action in court. The application may be filed at any time prior to judgment or during the pendency of an appeal if there is a danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, mismanaged or the United States has otherwise established grounds for such relief under section 3101(a) or 3102(a). However when the security agreement so provides, a receiver shall be appointed without notice or without regard to adequacy of security. An application made by the United States when it is not already a party to the action constitutes an appearance in the action and the United States shall be joined as a party.

"(b) POWERS OF RECEIVER; EMPLOYMENT OF COUNSEL.—The court appointing a receiver may authorize him to take possession of real and personal property and sue for, collect and sell obligations upon such conditions and for such purposes as the court shall direct and to administer, collect, improve, lease, repair or sell such real and personal property, as the court shall direct. A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property. Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers or other professional persons. Upon motion of the receiver or a party, powers granted to a receiver may be expanded or limited. A receiver appointed under the terms of a security agreement shall be entitled to recover the rents and profits of the property covered by the security agreement as additional security and to pay them over to the United States in payment of any amount due arising from a default by the debtor.

"(c) UNITED STATES AS SECURED PARTY.—In the event of any default or defaults in paying the principal, interest, taxes, water, rents, or premiums of insurance required by the security instrument or in the event of a nonfinanced default or defaults, the United States in any action to foreclose the security interest shall be entitled, without notice and without regard to adequacy of any security for the debt, to the appointment of a receiver of the rents and profits of the premises covered by the security interest, and the rents and profits of the premises are assigned to the United States as further security for the payment of the debts.

"(d) DURATION OF RECEIVERSHIP.—In an action to foreclose a security interest, the receivership shall terminate when the purchaser at the foreclosure sale takes lawful possession of the property unless the court directs otherwise. In all other actions, the receivership shall not continue past the entry of judgment unless the court orders it continued under section 3302(b) or unless the court otherwise directs its continuation.

"(e) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds and his accounts shall be open to inspection by any person having an apparent interest in the property. The receiver shall file reports at regular intervals as directed by the court and shall serve the United States with a copy thereof.

"(f) REMOVAL.—Upon motion of any party or upon its own initiative, the court which appointed the receiver may remove him at any time with or without cause.

"(g) PRIORITY.—If more than one court appoints a receiver, the receiver first qualifying under law shall be entitled to take possession, control or custody of the property.

"(h) COMMISSIONS OF RECEIVERS.—

(1) GENERALLY.—A receiver is entitled to such commissions not exceeding 5 percent of the sums received and disbursed by him as the court allows unless the court otherwise directs.

"(2) ALLOWANCE WHERE FUNDS DEPLETED.—If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remained unpaid.

"(3) PROCEDURE.—At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by him.

"SUBCHAPTER C—JUDGMENTS; LIENS

"Sec.
"3201. Judgment by confession.
"3202. Judgment lien.
"3203. Sale of property subject to judgment lien.
"3204. Interest on judgments.

"SUBCHAPTER C—JUDGMENTS; LIENS

"§ 3201. Judgment by confession

"(a) GENERAL PROVISION.—On application, a court may enter a judgment by confession in favor of the United States without the filing of a civil action for money due and owing.

"(b) VENUE.—The confession of judgment shall be filed in the district in which one or more of the defendants reside, can be found, are doing business at the time of the application, or in cases proceeding by in rem or quasi in rem jurisdiction where the property sought to be adjudicated is located.

"(c) STATEMENT BY DEFENDANT; CONTENTS.—Before a judgment by confession shall be entered, a sworn statement in writing shall be made and signed by the defendant after default and subsequent notice by the United States and filed with the court along with the application, stating—

"(1) the amount for which judgment may be entered and authorizing the entry of judgment;

"(2) the fs justly due;
and

"(3) that the person signing the statement understands that a judgment by confession allows the entry of judgment without further proceedings and authorizes enforced collection of the judgment.

"(d) ENTRY OF JUDGMENT.—The confession of judgment may be filed with the clerk of the court. The clerk shall enter a judgment for the amount confessed.

"(e) CONFESSION BY JOINT DEBTORS.—One or more joint debtors may confess a judgment for a joint debt due. Where all the joint debtors do not join in the confession, the judgment shall be entered and enforced against only those who confessed it. A confessed judgment against some of the joint debtors is not a bar to an action against the other joint debtors.

"(f) ENFORCEMENT OF JUDGMENT BY CONFESSION.—Judgments by confession shall be enforced in the same manner as other judgments.

"§ 3202. Judgment lien

"(a) CREATION OF LIEN GENERALLY.—A judgment shall be a lien upon all real property of a judgment debtor upon filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under section 6323(f) (1) and (2) of the Internal Revenue Code of 1986.

"(b) IN CRIMINAL CASES.—A judgment obtained by the United States in a criminal case shall create a lien as provided in sections 3565 and 3613 of the Internal Revenue Code of 1986.

"(c) IN TAX CASES.—A judgment obtained by the United States in a tax case shall create a lien co-extensive with any lien created prior to judgment under section 6321 of the Internal Revenue Code of 1986; if no lien was so created prior to the judgment, then the procedure in subsection (a) shall be followed.

"(d) AMOUNT OF LIEN.—A lien created hereunder is for the amount necessary to satisfy the judgment, including costs and interest.

"(e) PRIORITY OF LIEN.—A lien created hereunder shall have priority over any other lien or encumbrance which is perfected later in time. However, liens created under sections 3565 and 3613 of the Internal Revenue Code of 1986, regarding criminal judgments or under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall have priority as otherwise provided by law.

"(f) DURATION OF LIEN; RENEWAL.—(1) A lien created hereunder is effective, unless satisfied, for a period of 20 years.

"(2) The lien may be renewed for one additional period of 20 years upon filing a notice of renewal in the same manner as the judgment was filed and shall relate back to the date the judgment was filed. The notice of renewal must be filed before the expiration of the first 20-year period to prevent the expiration of the lien.

"(3) The duration and renewal of a lien created under sections 3565 and 3613 of title 18, United States Code, regarding criminal judgments, or a lien created under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall be as otherwise provided by law.

"(g) RELEASE OF JUDGMENT LIEN.—A judgment lien shall be released upon the filing of a satisfaction of judgment or release of lien in the same manner as the judgment was filed to obtain the lien.

"(h) EFFECT OF LIEN UPON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.—Any person who has a judgment lien against his property for any debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which such person is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency responsible for such grants and loans may promulgate regulations to allow for waiver of this restriction on eligibility for such grants and loans.

"§ 3203. Sale of property subject to judgment lien

"Upon application to the court, the court may order the United States to sell pursuant to the provisions of sections 2001 and 2002 of title 28, United States Code, any real property subject to its judgment lien. This provision shall not preclude the United States from using an execution sale to sell real property subject to a judgment lien.

"§ 3204. Interest on judgments

"(a) Judgments for money, other than criminal or tax judgments, shall bear interest at the greater of—

"(1) the rate in an express contract or negotiable instrument, if the action was brought for the recovery of an amount due on the contract or negotiable instrument; or

"(2) the rate established by statute or regulation applicable to the debt owed;

"(3) the judgment interest rate established in accordance with this section.

"(b) The judgment interest rate, where applicable, shall be calculated from the date of the entry of the judgment, at a rate equal to 150 percent of the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately prior to the date of the judgment. The Director of the Administrative Office of the United States Courts shall distribute notice of that rate and any changes in it to all Federal Courts.

"(c) Interest on judgments shall accrue daily from the date of entry of the judgment at the rate determined herein and shall be compounded annually to the date of payment.

"(d) Interest on tax judgments obtained under the Internal Revenue Code shall be allowed under section 6621 of such Code.

"(e) Interest on criminal judgments shall be allowed as provided in title 18, United States Code.

"(f) Nothing in this section shall preclude the assessment of prejudgment interest that is otherwise allowable by law.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"Sec.
"3301. Enforcement of judgments.
"3302. Orders in aid of execution.
"3303. Restraining notice.
"3304. Execution.
"3305. Installment payment order.
"3306. Garnishment.
"3307. Modification of protective order; supervision of enforcement.
"3308. Power of court to punish for contempt.
"3309. Arrest of judgment debtor.
"3310. Discharge.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"§ 3301. Enforcement of judgments

"(a) A judgment may be enforced by any of the remedies set forth in this subchapter, and the court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to supplement these remedies, subject to the provision of rule 81(b) of the Federal Rules of Civil Procedure.

"(b) The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 of title 28, United States Code, or by execution sale pursuant to section 3304(g) of this subchapter.

"§ 3302. Orders in aid of execution

"Where the judgment debtor has an ownership interest of any kind in property which is not exempt and cannot readily be attached or levied on by ordinary legal process, the United States is entitled to aid from the court by injunction or other appropriate order to reach the property to satisfy the judgment whether the property is located in the same district or other districts.

"(a) ORDER.—The court may order the property, together with all documents or records related to the property, that is in or subject to the possession or control of the judgment debtor or another person, to be turned over to the United States for execution or otherwise applied toward the satisfaction of the judgment. Where the judgment debtor or other person refuses to turn over the property, the court may enforce the order by proceedings for contempt or other appropriate order provided the judgment debtor or other person, as appropriate, is served with a copy of the order or has actual notice of the order.

"(b) RECEIVER.—The court may appoint a receiver of property where appropriate in accordance with section 3108 of this chapter.

"(c) SAME OR INDEPENDENT SUIT.—These proceedings may be brought by the United States in the same suit in which the judgment is rendered or in a new and independent suit.

"(d) COSTS.—Upon request, in a proceeding under this section, the United States shall recover from the judgment debtor 10 percent of the reasonable costs. This provision shall apply to the extent that recovery of costs by the United States is not provided for under other applicable provisions of Federal law.

"§ 3303. Restraining notice

"(a) ISSUANCE; ON WHOM SERVED; FORM; SERVICE.—A restraining notice may be issued by the clerk of the court or counsel for the United States as officer of the court. It may be served upon any person, except the employer of a judgment debtor where the property sought to be restrained consists of earnings due or to become due to the judgment debtor. It shall be served personally in the same manner as a summons. It shall specify all of the parties to the action, the social security number of the judgment debtor, if known, the date the judgment was entered, the court in which it was entered, the amount of the judgment and the amount when due thereon, and the names of all parties against whom the judgment was entered. It shall set forth the requirements of subsection (b) below and shall state that disobedience is punishable as a contempt of court.

"(b) EFFECT OF RESTRAINT; PROHIBITION OF TRANSFER; DURATION.—(1) A judgment debtor who is served with a restraining notice shall not sell, assign, transfer or hypothecate any property, except as may be reasonably necessary for the maintenance or support of the debtor or a dependent of the debtor and if the debtor is engaged in business, as may be reasonably necessary for the payment of expenditures for the continuation, preservation, and operation of such business.

"(2) A person other than the judgment debtor who is served with restraining notice shall not—

"(A) repay any obligation to the judgment debtor;

"(B) return any property to the judgment debtor; or

"(C) sell, assign, transfer or hypothecate any property—

"(i) specifically described in the restraining notice;

"(ii) that the other person knows to be owned by the judgment debtor; or

"(iii) in which the other person could have reason to believe by the exercise of due diligence that the judgment debtor has an ownership interest.

"(3) The restraining notice shall remain in effect for 1 year from the date the notice is served, or until the judgment is satisfied or the restraining notice is vacated by order of the court, whichever occurs first.

"(c) DISCLOSURE.—The person upon whom a restraining notice is served, other than the judgment debtor, shall disclose to the counsel for the United States, in writing under oath within 10 days after receipt of the restraining notice, the type or nature and value of such property of the judgment debtor as may be in his possession or custody. Upon such person receiving or acquiring property of the judgment debtor after receipt of a restraining notice, that person shall disclose to counsel for the United States, in writing under oath within 7 days of receipt of the property, the type or nature and value of such property of the judgment debtor as may be in his possession or custody.

"(d) DISCOVERY.—Any discovery request under the Federal Rules of Civil Procedure which accompanies this restraining notice and which seeks the disclosure of the type, nature and value of property of the judgment debtor must be responded to within 10 days of service of the notice and discovery request or within 10 days after property of the judgment debtor comes into the possession of the person served. Upon request, a reasonable extension may be granted.

"(e) SUBSEQUENT NOTICE.—Leave of court is required to serve more than one restraining notice upon the same person, other than the judgment debtor, with respect to the same judgment.

"(f) NOTICE TO JUDGMENT DEBTOR.—A copy of the restraining notice shall be mailed by first class mail by counsel for the United States to the judgment debtor within 4 days after the time of service of the restraining notice on a person other than the judgment debtor.

"§ 3304. Execution

"(a) PROPERTY SUBJECT TO EXECUTION.—All property which the judgment debtor possesses and in which the judgment debtor has an interest shall be subject to levy pursuant to a writ of execution; co-owned property shall be subject to execution to the same extent as it is under the law of the State in which it is located. The judgment debtor must identify any property claimed to be exempt under the provisions of subchapter E.

"(b) EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied upon under a writ of execution and shall date from the time of the levy. This lien shall have priority over all subsequent liens and shall be for the amount due on the judgment. If the United States has a judgment lien, the execution lien shall relate back to the judgment lien date.

"(c) FORM OF WRIT OF EXECUTION.—

"(1) GENERAL REQUIREMENTS.—An execution writ shall specify the date that the judgment was entered, the court in which it was entered, the amount of the judgment if for money, the amount of the costs, and the sum actually due when the writ is issued, the amount of interest due, the rate of post-judgment interest, and the name of the party against whom the judgment was entered. The writ shall direct the United States marshal to satisfy the judgment out of all property, real and personal, of the judgment debtor not otherwise exempt pursuant to this chapter. An execution writ shall direct that only the property in which a named judgment debtor, who is not deceased, has an interest be levied upon or sold thereunder, and shall state the last known address of that judgment debtor.

"(2) EXCEPTION.—There shall be no requirement that personal property be levied upon and sold prior to levy and sale of real property of the judgment debtor.

"(3) EXECUTION FOR DELIVERY OF CERTAIN PROPERTY.—An execution issued upon a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

"(4) EXECUTION FOR POSSESSION OR VALUE OF PERSONAL PROPERTY.—If the judgment is for the recovery of personal property or its value, the writ shall command the marshal, in case a delivery thereof cannot be had, to levy and collect the value thereof for which the judgment was recovered, to be specified therein, out of any property of the party against whom judgment was rendered, liable to execution.

"(d) ISSUANCE.—(1) The clerk of any court where a judgment is docketed, entered or registered, upon written application of counsel for the United States, shall, and without other or further order of a judge of that court, forthwith issue writs of execution. The writs shall be addressed to "Any United States Marshal," and may be served and executed in any judicial district of the United States, but shall be returnable to the issuing court. The writ shall be signed by the clerk of the court issuing the writ.

"(2) Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

"(e) RECORDS OF UNITED STATES MARSHAL.—(1) The United States marshal receiving the execution shall endorse thereon the exact hour and day when he received it. If he receives more than one on the same day against the same person, he shall number them as received.

"(2) The United States marshal shall make a memorandum in writing of the date of every levy and specify the property upon which the levy has been made on the process or in an attached schedule. The memorandum or schedule shall also set forth the marshal's costs, expenses and fees.

"(f) LEVY OF EXECUTION.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the debtor found within his district, unless otherwise directed by counsel for the United States.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the debtor.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the debtor in the same manner that a summons is served in a civil action and so make his return thereof. If the United States marshal is unable to serve the writ upon the debtor, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and motion of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the debtor in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(5)(A) Real property subject to a security interest or conveyed in trust as security for any debt or contract may be levied upon and sold on execution against the interest of the judgment debtor, subject to such mortgage, and the terms and conditions thereof.

"(B) Personal property pledged, assigned or security for any debt or contract, may be levied upon and sold on complying with the conditions of the pledge, assignment or security interest.

"(g) EXECUTION SALE PROCEDURES.—

"(1) SALE OF REAL PROPERTY.—

"(A) Real property, or any interest therein, shall be sold for cash at public auction at the courthouse of the county, parish or city in which the greater part of the property is located or upon the premises or some parcel thereof.

"(B) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least 3 weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first of these publications shall appear not less than 25 days immediately preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, and the time and place of sale; it shall also contain a brief description of the property to be sold, sufficient to identify the property, such as a street address the urban property, and the survey identification and location for rural property, but it shall not be necessary for it to contain field notes.

"(C) The United States marshal shall give written notice of public sale by personal delivery, or certified or registered mail, to persons and parties known to him to claim an interest in property under execution, including lienholders, co-owners and tenants, at least 25 days prior to the day of sale, to the last known address of such persons or parties.

"(2) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel must be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

"(3) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the debtor may divide the property into lots of not less than 50 acres or in such greater or lesser amounts as ordered by the court, furnish a survey of such prepared by a registered surveyor, and designate the order in which those lots shall be sold. When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(4) SALE OF PERSONAL PROPERTY.—

"(A) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, or at the courthouse of the county, parish or city wherein it is located, or at some other place if, owing to the nature of the property, it is more convenient to exhibit it to purchasers at such place. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale, except shares of stock in corporations, and in cases, when by reason of the type or nature of the property, it is impractical to exhibit it, or where the debtor has merely an interest without the right to the exclusive possession, in which case the interest of the debtor may be sold and transferred without the presence of the property.

"(B) Notice of the time and place of the sales of personal property shall be given by posting notice thereof for 10 days successively immediately prior to the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made, and by mailing a copy by registered or certified mail to the judgment debtor at his last known address, or by personal delivery.

"(5) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time continuing the posting of notice and/or publication of the notice until the date to which the sale is postponed, and appending, at the foot of such notice of each successive postponement the following:

"The above sale is postponed until the _____ day of _____, 19___, at _____ o'clock ___ .M., _____, United States Marshal for the District of _____, by _____, Deputy, dated _____.

"(6) BIDDING REQUIREMENTS; LIABILITY OF BIDDER; RESALE.—

"(A) The United States marshal may require of any bidder at any sale a cash deposit of as much as 20 percent of the sale price before the bid is received.

"(B) The cash deposit of any successful bidder at an execution sale shall be forfeited to the United States if he fails to comply with the terms of the sale; in addition, he shall be liable to the United States for all losses incurred by the United States at a subsequent sale of the same property. The liability for losses shall be limited to the difference between the amount of the deposit which was forfeited and the amount accepted by the United States as the highest bid by the defaulting bidder at the defaulted sale plus the costs of the defaulted sale. This liability shall be reduced by the amount the United States realizes from the subsequent sale, if any.

"(7) RESALE OF PROPERTY.—When the terms of the sale are not complied with by the bidder, the United States marshal shall proceed to sell the property again on the same day, if there is sufficient time; but if not, he shall readvertise and sell the property.

"(8) TRANSFER OF TITLE AFTER SALE.—

"(A) When the sale has been made and its terms complied with, the United States marshal shall execute and deliver any and all documents necessary to transfer ownership to the purchaser, without warranty, all the rights, titles, interest, and claims that the judgment debtor had in the property sold to the purchaser.

"(B) If the purchaser dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the estate of the purchaser, and it shall have the same effect as if accomplished during the lifetime of the purchaser.

"(9) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of property sold under execution is considered to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the defendant.

"(10) NO RIGHT OF REDEMPTION.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

"(11) DISTRIBUTION OF SALE PROCEEDS.—

"(A) The United States marshal shall first deliver to the judgment debtor, or his agent or attorney, such amounts to which he is entitled from the sale of partially exempt property as set forth in subchapter E of this chapter.

"(B) The United States marshal shall retain from the proceeds of a sale of property an amount equal to the reasonable expenses incurred in making the levy and keeping and maintaining the property.

"(C) The United States marshal shall deliver the balance of the money collected on execution to the counsel for the United States at the earliest opportunity.

"(D) If more money is received from the sale of the property than is sufficient to satisfy the executions held by the United States marshal, he shall pay forthwith the surplus to the judgment debtor or his agent or attorney.

"(h) REPLEVY.—(1) Any personal property taken in execution may be returned to the defendant by the United States marshal upon the delivery by the defendant to him of a bond or upon satisfaction of the judgment and any costs incurred in connection with scheduling the sale prior to the execution sale, payable to the United States, with two or more good and sufficient sureties, to be approved by the United States marshal, conditioned upon the delivery of the property to the United States marshal at the time and place named in the bond, to be sold according to law, or for the payment to the United States marshal of a fair value thereof, which shall be stated in the bond.

"(2) Where property has been replevied, as provided above, the judgment debtor may sell or dispose of the property paying the United States marshal the stipulated value thereof.

"(3) In the case of the non-delivery of the property according to the terms of the delivery bond, and non-payment of the value thereof, the United States marshal shall forthwith endorse the bond 'Forfeited' and return it to the clerk of the court from which the execution issued; whereupon, if the judgment remains unsatisfied in whole or in part, the clerk shall issue execution against the principal judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, upon which execution no delivery bond shall be taken, which instruction shall be endorsed by the clerk on the execution.

"(i) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ must be recognized and enforced by the court having jurisdiction over the estate of the deceased. The execution lien may be enforced against the executor, administrator, or personal representative of the estate of the deceased; or if there be none, against the heirs or devisees of the property of the deceased receiving same, but only to the extent of the value of the property coming to them.

"(j) WHEN EXECUTION NOT SATISFIED.—When the property levied upon does not sell for enough to satisfy the execution, the United States marshal shall proceed on the same writ of execution as to other property of the judgment debtor.

"(k) RETURN ON EXECUTION.—(1) The United States marshal shall make a written return on each writ of execution to the court from which the writ was issued and deliver a copy to counsel for the United States who requested the writ. It shall be returnable 90 days from the date of issuance unless counsel for the United States has specified an earlier date. The return shall be filed by the clerk of the court from which the writ was issued.

"(2) The United States marshal shall state concisely what was done in pursuance of the requirements of the writ.

"(3) The return shall be made forthwith if satisfied by the collection of the money, or if ordered by counsel for the United States, which order shall be noted on the return.

"§ 3305. Installment payment order

"Where it is shown that the judgment debtor is receiving or will receive money from any source or is attempting to impede the United States by rendering services without adequate compensation, upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration the reasonable requirements of the judgment debtor, any payments required to be made by the judgment debtor or deducted from the money he would otherwise receive in satisfaction of other judgments, the amount due on the judgment, and the amount being or to be received, or, if the judgment debtor is attempting to impede the United States by rendering services without adequate compensation, the reasonable value of the services rendered.

"Upon motion of the United States, and upon a showing that the debtor's financial circumstances have changed or that assets not previously disclosed by the debtor have been discovered, the court may increase the amount of payments or alter their frequency or require full payment.

"§ 3306. Garnishment

"(a) GENERAL.—A court may issue writs of garnishment, either prejudgment or postjudgment against the property of a debtor which is in the possession, custody or control of a third person in order to satisfy a judgment against the debtor; co-owned property shall be subject to garnishment to the same extent as it is under the law of the States in which it is located. The United States may request and a court shall issue simultaneous separate writs of garnishment to several garnishees. All writs of garnishment issued pursuant to these provisions shall be continuing and shall terminate only as provided herein.

"(b) WRIT.—

"(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment, the following:

"(A) any matters required by section 3104 when seeking prejudgment garnishment;

"(B) the debtor's name, social security number, if known, and the debtor's last known address;

"(C) the nature and amount of the debt alleged to be owed and that demand on the debtor for payment of the debt has been made, but the debtor has not paid the amount due. A money judgment must be alleged for postjudgment garnishment; and

"(D) that the garnishee is believed to be indebted to the debtor or have possession of property of the debtor.

"(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

"(A) Where property consists of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable instrument is not outstanding, the corporation, or the president or treasurer of the association, shall be the garnishee.

"(B) Where property consists of a right to or interest in a decedent's estate or any other property or fund held or controlled by a personal representative or fiduciary, the personal representative or fiduciary shall be the garnishee.

"(C) Where property consists of an interest in a partnership, any partner other than the debtor, shall be the garnishee on behalf of the partnership.

"(D) Where property or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, document or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee; except that in the case of a security which is transferable in the manner set forth in State law, the firm or corporation which carries on its books an account in the name of the debtor in which is reflected such security, shall be the garnishee; *Provided, however,* That if such security has been pledged, the pledgee shall be the garnishee.

"(c) ISSUANCE OF WRIT.—

"(1) CLERK'S REVIEW.—The clerk or the court shall review the application for postjudgment writs of garnishment and if it meets the requirements set forth herein, shall issue an appropriate writ. The clerk shall issue prejudgment writs of garnishment as authorized by the court.

"(2) FORM OF WRIT.—

"(A) GENERAL PROVISIONS.—The writ shall state—

"(i) The nature and amount of the debt. If interest is accruing, the rate of accrual thereafter shall be stated. If a judgment is involved, the amount of any costs included in the judgment should be stated.

"(ii) The name and address of the garnishee.

"(iii) The name and address of counsel for the United States.

"(iv) The last known mailing address of the debtor.

"(v) That the garnishee shall answer the writ within 10 days of service of the writ.

"(B) EARNINGS GARNISHMENT.—The United States may apply for garnishment of the nonexempt disposable earnings of a natural person. The writ for the garnishment of earnings shall direct the garnishee to withhold and retain the nonexempt earnings for which the garnishee is indebted to the debtor at the time of receipt of the writ and may thereafter become indebted to the debtor pending further order of the court.

"(C) GARNISHMENT OF OTHER PROPERTY.—As to all non-earnings property of a debtor who is a natural person and all property of other debtors in the possession, custody and control of the garnishee at the time the writ is received by the garnishee and anytime thereafter, the writ shall direct the garnishee to retain possession, custody and control of and not to transfer or return the property pending further order of the court.

"(D) SERVICE OF WRIT.—The United States may serve the garnishee with a copy of the writ by first class mail or by delivery by the United States marshal as provided by rule 4 of the Federal Rules of Civil Procedure. The United States shall, at the same time, serve the debtor with a copy of the writ by first class mail to the debtor's last known address; counsel for the United States shall certify to the court that this service was made. The writ of garnishment shall be accompanied by instruction explaining the requirement that the garnishee submit a written answer to the writ of garnishment and instructions to the debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objections.

"(E) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath whether it is indebted to the debtor or has custody, control or possession of the debtor's property; a description of the indebtedness or property; whether the indebtedness or property is subject to any prior garnishments or levies and a description of any such claim; and whether the indebtedness or property is subject to any exemptions from garnishment. In addition, if the writ of garnishment is against the earnings of the debtor, the garnishee shall state whether the debtor was employed at the time the writ was received, and, if so, how much was owed at the time; and whether the garnishee anticipates owing earnings to the debtor in the future, and, if so, the amount and whether the pay period will be weekly or another specified period. In all cases, the garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States. Any garnishee, including a corporation, may file an answer without the representation of an attorney.

"(F) OBJECTIONS TO ANSWER.—Within 20 days after receipt of the answer, the debtor and the United States may file a written objection to the answer and request a hearing on the objection. The party objecting must state the grounds for the objection and bears the burden of proving them. A copy of the objection and request for hearing shall be served on the garnishee and the other party. The court shall set a hearing within 10 days after the date the request was received by the court, or as soon thereafter as is practicable, and give notice of the date to all parties.

"(G) GARNISHEE'S FAILURE TO ANSWER OR PAY.—If a garnishee fails to answer or pay within the time specified, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ or pay by the appearance date. If the garnishee fails to appear or does appear and fails to show good cause why he failed to comply with the garnishment writ, the court shall enter judgment against the garnishee for the full amount of the past debt owed by the debtor. The court shall award reasonable attorney's fees to the United States and against the garnishee if the writ has not been answered within the time specified therein and a petition requiring the garnishee to appear was filed as provided in this section. Failure to answer or pay within the time specified in the writ may also be punished as a contempt of the court.

"(H) DISPOSITION ORDER.—After the garnishee files its answer and if no hearing is required, the court shall promptly enter an order directing the garnishee as to the disposition of the debtor's property. If a hearing is required, the order shall be entered within 5 days of the hearing, or as soon thereafter as is practicable.

"(I) PRIORITIES.—Court orders and garnishments for the support of a person shall have priority over a writ of garnishment issued pursuant to these provisions. As to any other garnishment or levy, a garnishment issued pursuant to these provisions shall have priority over those which are later in time and shall be satisfied in the order in which the writs are served upon the garnishee.

"(J) ACCOUNTING.—The debtor or garnishee may request an accounting on a garnishment within 10 days after the garnishment terminates. The United States shall give a written accounting to the debtor and garnishee of all earnings and property it receives under a writ of garnishment within 20 days after it receives the request of the debtor or garnishee. Within 10 days after the accounting is received, the debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting must state grounds for the objection. The court shall set a hearing on the objection within 10 days after the court receives the request for a hearing, or as soon thereafter as is practicable.

"(K) DISCHARGE OF GARNISHEE'S OBLIGATION.—A garnishee shall be discharged as set forth in section 3311 of this subchapter.

"(L) TERMINATION OF GARNISHMENT.—A garnishment proceeding hereunder can be terminated by—

"(i) the court quashing the writ of garnishment;

"(ii) exhaustion of earnings or property in the possession, custody or control of the garnishee, unless the garnishee reinstates or reemploys the debtor within 90 days of dismissal or resignation; or

"(iii) satisfaction of the debtor's obligation to the United States.

"§ 3307. Modification or protective order; supervision of enforcement

"Within the provisions of this chapter, the court may at any time on its own initiative or the motion of any interested person, and upon such notice as it may require, make an order denying, limiting, conditioning, regulating, extending or modifying the use of any enforcement procedure.

"§ 3308. Power of court to punish for contempt

"A court shall have power to punish a civil or criminal contempt committed with respect to an enforcement procedure or order under this chapter.

"§ 3309. Arrest of judgment debtor

"Upon motion of the judgment creditor without notice, where it is shown by affidavit or otherwise that the judgment debtor is about to depart from the jurisdiction of the United States, or keeps himself concealed therein with intent to hinder, delay or defraud the judgment creditor, and that there is reason to believe that the judgment debtor has in his possession or custody nonexempt property in which he has an interest, the court may issue a warrant directed to the United States marshal to arrest the judgment debtor forthwith and bring him before the court. The United States marshal shall serve upon the judgment debtor a copy of the warrant and supporting documents at the time of arrest. When the judgment debtor is brought before the court, the court may order that he give a bond or undertaking in a sum to be fixed by the court, that he will appear before the court for examination and that he will obey the terms of a restraining notice contained in the order.

"§ 3310. Discharge

"A person who pursuant to an execution or order pays or delivers to the United States, a United States marshal or receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt he owes the judgment debtor, is discharged from his obligation to the judgment debtor to the extent of the payment or delivery.

"SUBCHAPTER E—EXEMPT PROPERTY

"Sec.

"3401. Exempt property.

"3402. Limitation on exempt property.

"SUBCHAPTER E—EXEMPT PROPERTY

"§ 3401. Exempt property

"Except as provided under section 3402, the following property of natural persons shall be exempted from the enforcement procedures under the provisions of this chapter as to debts owed the United States—

"(a) the debtor's aggregate interest, not to exceed $7,500 in value in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor;

"(b) the debtor's interest, not to exceed $1,200 in value, in one motor vehicle;

"(c) the debtor's interest, not to exceed $200 in value in any particular item or $4,000 in aggregate value, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(d) the debtor's aggregate interest, not to exceed $500 in value, in jewelry held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(e) the debtor's aggregate interest in any property, not to exceed in value $400 plus up to $3,750 of any unused amount of the exemption provided under subsection (a) of this subsection;

"(f) any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract;

"(g) the debtor's aggregate interest, not to exceed in value $4,000 less any amount of property of the estate transferred in the manner specified in section 542(d) of title 11, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent;

"(h) the debtor's aggregate interest, not to exceed $750 in value in any implements, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor;

"(i) professionally prescribed health aids for the debtor or a dependent of the debtor;

"(j) the debtor's right to receive—

"(1) a social security benefit, unemployment compensation, or a local public assistance benefit;

"(2) a veterans' benefit;

"(3) a disability, illness including Medicaid and Medicare, or unemployment benefit, and AFDC benefits;

"(4) alimony, child and spousal support or separate maintenance paid or received, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(5) a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless—

"(A) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

"(B) such payment is on account of age or length of service; and

"(C) such plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

"(k) the debtor's right to receive, or property that is traceable to—

"(1) an award under a crime victim's reparation law;

"(2) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(3) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(4) a payment, not to exceed $7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

"(5) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

"§ 3402. Limitations on exempt property

"(a) Property upon which a judgment debtor has voluntarily granted a lien, shall not be exempt to the extent of the balance due on the debt secured thereby.

"(b) If, within 90 days prior to judgment or thereafter, the debtor has transferred non-exempt property and as a result acquires, improves or increases in value exempt property, his interest shall not be exempt to the extent of the increased value.

"(c) The United States may require the judgment debtor to file a statement with regard to each claimed exemption; the original shall be filed with the court in which the enforcement proceeding is pending, and a copy served upon counsel for the United States. The statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the judgment debtor's ownership interest.

"(d) The United States, by application to the court where an enforcement proceeding is pending, may request a hearing on the applicability of any exemption claimed by the judgment debtor. The court shall determine whether the judgment debtor is entitled to the exemption claimed and the value of the property with respect to which the exemption is claimed; unless the court finds that it is reasonably evident that the exemption applies, the judgment debtor shall bear the burden of going forward with evidence and of persuasion.

"(e) Assertion of an exemption shall not prevent seizure and sale of the property to which such exemption applies. However, where an exemption has been validly and properly asserted, the sale proceeds for that item of property must be applied first to satisfy the dollar value of the exemption and then to the balance of the judgment. Any excess remaining after payment of judgment shall be paid to the judgment debtor.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"Sec.
"3501. Definitions.
"3502. Insolvency.
"3503. Value.
"3504. Transfer fraudulent as to the United States on present and future claims.
"3505. Transfer fraudulent as to the United States on a present claim.
"3506. When transfer is made or obligation is incurred.
"3507. Remedies of the United States.
"3508. Defenses, liability and protection of transferee.
"3509. Supplementary provision.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"§ 3501. Definitions

"As used in this subchapter—

"(a) 'Affiliate' means—

"(1) a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor other than a person who holds the securities—

"(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

"(B) solely to secure a debt, if the person has not exercised the power to vote;

"(2) a corporation 20 percent or more of whose voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than the person who holds a securities—

"(A) as a fiduciary or agent without sole power to vote the securities;

"(B) solely to secure a debt, if the person has not in fact exercised the power to vote;

"(C) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

"(D) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

"(b) 'Asset' means property of a debtor, but does not include—

"(1) property to the extent it is encumbered by a valid lien; or

"(2) property to the extent it is exempt under subchapter E of this chapter.

"(c) 'Insider' includes—

"(1) if the debtor is an individual—

"(A) a relative of the debtor or of a general partner of the debtor;

"(B) a partnership in which the debtor is a general partner;

"(C) a general partner in a partnership described in subsection (c)(1)(B); or

"(D) a corporation of which the debtor is a director, officer, or person in control.

"(2) if the debtor is a corporation—

"(A) a director of the debtor;

"(B) an officer of the debtor;

"(C) a person in control of the debtor;

"(D) a partnership in which the debtor is a general partner;

"(E) a general partner in a partnership described in subsection (c)(2)(D); or

"(F) a relative of a general partner, director, officer, or person in control of the debtor.

"(3) if the debtor is a partnership—

"(A) a general partner in the debtor;

"(B) a relative of a general partner in, a general partner of, or a person in control of the debtor;

"(C) another partnership in which the debtor is a general partner;

"(D) a general partner in a partnership described in subsection (c)(3)(C); or

"(E) a person in control of the debtor.

"(4) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

"(5) a managing agent of the debtor.

"(d) 'Lien' means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceeding, a common law lien, or a statutory lien.

"(e) 'Relative' means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

"(f) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"(g) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

"§ 3502. Insolvency

"(a) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

"(b) A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

"(c) A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's non-partnership assets over the partner's non-partnership debts.

"(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this subchapter.

"(e) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

"§ 3503. Value

"(a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

"(b) For the purposes of sections 3504(a)(2) and 3507, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, non-collusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

"(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

"§ 3504. Transfer fraudulent as to the United States on present and future claims

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States, whether its claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation—

"(1) with actual intent to hinder, delay, or defraud the United States or any other creditor of the debtor; or

"(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor—

"(A) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

"(B) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

"(b) In determining actual intent under subsection (a)(1), consideration may be given, among other factors, to whether—

"(1) the transfer or obligation was to an insider;

"(2) the debtor retained possession or control of the property transferred after the transfer;

"(3) the transfer or obligation was disclosed or concealed;

"(4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

"(5) the transfer was of substantially all of the debtor's assets;

"(6) the debtor absconded;

"(7) the debtor removed or concealed assets;

"(8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

"(9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

"(10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

"(11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

"§ 3505. Transfer fraudulent as to the United States on a present claim

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States on its claims which arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at the time or the debtor became insolvent as a result of the transfer or obligation.

"(b) A transfer made by a debtor is fraudulent as to the United States on its claim which arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at the time, and the insider had reasonable cause to believe that the debtor was insolvent.

"§ 3506. When transfer is made or obligation is incurred

"For the purposes of this subchapter—

"(a) a transfer is made—

"(1) with respect to an asset that is real property, other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

"(2) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that the United States on a simple contract cannot acquire a judicial lien otherwise than under this subchapter that is superior to the interest of the transferee.

"(b) If applicable law permits the transfer to be perfected as approved in subsection (a) and the transfer is not so perfected before the commencement of an action for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action.

"(c) If applicable law does not permit the transfer to be perfected as provided in subsection (a), the transfer is made when it becomes effective between the debtor and the transferee.

"(d) A transfer is not made until the debtor has acquired rights in the asset transferred.

"(e) An obligation is incurred—

"(1) if oral, when it becomes effective between the parties; or

"(2) if evidenced by a writing, when the writing was executed by the obligor is delivered to or for the benefit of the obligee.

"§ 3507. Remedies of the United States

"(a) In an action for relief against a transfer or obligation under this subchapter, the United States, subject to the limitations in section 3508, may obtain, subject to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure—

"(1) avoidance of the transfer or obligation to the extent necessary to satisfy the claim of the United States;

"(2) an attachment or other remedy against the asset transferred or other property of the transferee in accordance with the procedure described by this chapter.

"(b) If the United States has obtained a judgment on a claim against the debtor, if the court so orders, it may levy execution on the asset transferred or its proceeds.

"§ 3508. Defenses, liability and protection of transferee

"(a) A transfer or obligation is not voidable under section 3504(a) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

"(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by the United States under section 3507(a)(1), it may recover judgment for the value of the asset transferred, as adjusted under subsection (c), or the amount necessary to satisfy its claim, whichever is less. The judgment may be entered against—

"(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

"(2) any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

"(c) If the judgment under subsection (b) is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

"(d) Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to—

"(1) a lien on or a right to retain any interest in the asset transferred;

"(2) enforcement of any obligation incurred; or

"(3) a reduction in the amount of the liability on the judgment.

"(e) A transfer is not voidable under section 3504(a)(2) or section 3505 if the transfer results from—

"(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

"(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code or its equivalent in effect in the jurisdiction where the property is located.

"(f) A transfer is not voidable under section 3505(b)—

"(1) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

"(2) if made in the ordinary course of business or financial affairs of the debtor and the insider, or

"(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose, as well as an antecedent debt of the debtor.

"§ 3509. Supplementary provision

"Unless displaced by the provisions of this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

"SUBCHAPTER G—PARTITION

"Sec.
"3601. Action by United States for partition.
"3602. Service of process in partition action.
"3603. Trial; commissioners; decree of partition.
"3604. Partition by sale.
"3605. Costs.

"SUBCHAPTER G—PARTITION

"§ 3601. Action by United States for partition

"(a) The United States, as co-owner or claimant of real or personal property, or an interest therein, may compel a partition of the property among the co-owners and tenants.

"(b) The district court shall have original jurisdiction of any civil action brought by the United States for the partition of property. The action for partition shall be filed in the judicial district in which the property, or a part thereof, is located. An action in a State court in which the United States is a defendant and in which the United States seeks partition may be removed to the district court.

"(c) The United States shall file a complaint stating—

"(1) the name and residence, if known, of each co-owner or claimant to such property;

"(2) the share of interest, if known, of each coowner or claimant in such property;

"(3) a description of the property sought to be partitioned; and

"(4) the estimated value of the property for which partition is sought.

"§ 3602. Service of process in partition action

"(a) Personal service of summonses and complaints and other process shall be made in accordance with rules 4 (c) and (d) of the Federal Rules of Civil Procedure upon a defendant who resides within the United States or its territories or insular possessions and whose residence is known.

"(b) Upon the filing of a certificate by counsel for the United States stating that it is believed that a defendant cannot be personally served, because after diligent inquiry within the State in which the complaint is filed his place of residence cannot be ascertained by the United States or, if ascertained, that it is beyond the territorial limits of personal service as provided in rules 4 (c) and (d) of the Federal Rules of Civil Procedure, service of Notice of Summons and Complaint shall be made on that defendant by publication in a newspaper published in the county where the property is located, or if there is no such newspaper, then in a newspaper having a general circulation in the State where the property is located, once a week for 3 successive weeks. Prior to the last publication, a copy of the notice shall also be mailed to a defendant who cannot be personally served as provided in this rule but whose place of residence is then known. Unknown owners may be served by publication in like manner by a notice addressed to 'Unknown Others.' Service by publication is complete upon the date of the last publication. Proof of publication and mailing shall be made by certificate of counsel for the United States, to which shall be attached a printed copy of the published notice with the name and dates of the newspaper marked thereon.

"§ 3603. Trial; commissioner; decree of partition

"(a) All questions of law or equity affecting the title of the property which may arise, and the determination of the share or interest of each of the co-owners or claimants shall be tried by the court without a jury.

"(b) The court shall determine whether the property, or any part thereof, is susceptible of partition. If the court determines that the whole, or any part of the property is susceptible of partition, then the court shall enter a decree directing the partition of the property which is held to be susceptible of partition, describing it and specifying the share or interest to which each party is entitled. The court shall then appoint three or more competent and disinterested persons as commissioners to make the partition in accordance with the court's decree, the majority of the commissioners may act.

"(c) The court may appoint a surveyor to assist the commissioners in making a partition of real estate. The commissioners may cause the real estate to be surveyed and partitioned into several tracts or parcels.

"(d) The court may appoint an appraiser or appraisers to value the property and file an appraisal report with the court and the commissioners, as the court directs.

"(e) The commissioners shall divide the property into as many shares as there are persons entitled thereto, as determined by the court, having due regard in the division of the property to the situation, quantity, and advantage of each share, so that the shares may be equal in value, as nearly as may be, in the proportion to the respective shares or interests of the parties entitled thereto.

"(f) The commissioners shall report in writing to the court; and the report shall be determined by a majority of the commissioners and the contents shall be governed by the provisions of rules 53(e) (1) and (2) of the Federal Rules of Civil Procedure. The report shall also contain the following—

"(1) The several tracts, units, or parcels into which the property was divided (describing each particularly);

"(2) the number of shares and the estimated value of each share;

"(3) the allotment of each share; and

"(4) field notes and maps as to each estate, as may be necessary.

"The findings and reports of the commissioners shall have the effect, and be dealt with by the court in accordance with the practice prescribed in rule 53(e)(2).

"(g) The decree of the court confirming the report of commissioners in a partition of property gives a recipient of an interest in the property a title equivalent to a conveyance of the interest by warranty deed as in the case of real property or by bill of sale as to personal property, from the other parties in the action.

"(h) All conditions, restrictive covenants, and encumbrances against the property that applied to the property prior to the partition shall remain against the property as partitioned unless those restrictions, covenants and encumbrances have been included and are subject to the partition action.

"§ 3604. Partition by sale

"Should the court determine that a fair and equitable division of the property, or any part thereof, cannot be made, the court shall order a sale of that part which is incapable of partition, which sale shall be for cash, or upon such other terms as the court may direct, and shall be made as provided by title 28, United States Code, chapter 127, or through a receiver, as the court so orders. The proceeds of such sale shall be paid into the court and partitioned among the persons and parties entitled thereto according to their respective interests.

"§ 3605. Costs

"Costs shall be taxed against each party to whom a share has been allotted in proportion to the value of such share.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"Sec.
"3701. United States foreclosures governed by Federal law.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"§ 3701. United States foreclosures governed by Federal law

"Unless the documents specifically adopt State law, any action by the United States to foreclose security interests in real property shall be governed by the Federal statutes and applicable regulations, provisions set forth in the transaction documents and by Federal common law where there is no governing statute, applicable regulation or provision, and not by the State law where the real property is located. This shall include, but not be limited to, questions regarding redemption rights and deficiency judgments.

"§ 3702. Deficiency rights on federally guaranteed or insured loans

"Unless the documents specifically adopt State law, the right of the United States to collect a deficiency following the foreclosure of a loan guaranteed or insured by the United States or any agency thereof shall be governed by Federal statutes, applicable regulations, and the provisions set forth in the transaction documents. The rights of the United States under this section shall apply notwithstanding the provisions of any State law and without regard to the method used by the loan holder to foreclose the loan.".

TITLE II—AMENDMENTS TO OTHER PROVISIONS OF LAW

SEC. 201. Section 505 of title 11, United States Code, is amended by adding at the end thereof the following subsection:

"(d) Payments of taxes under this title to a governmental unit may be applied by the governmental unit in a manner that preserves alternative sources of collection, if any.".

SEC. 202. Section 523(a) of title 11, United States Code, is amended as follows:

(a) by deleting the word "or" at the end of section 523(a)(9); and

(b) by deleting "." at the end of section 523(a)(10) and adding "; and" in lieu thereof; and

(c) by adding the following subsections at the end of section 523(a):

"(11) to the extent that such debt arises from a proceeding brought by a government unit to recover civil or criminal restitution, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit of the United States Government; or

"(12) to the extent such debt arises from a criminal appearance bond.".

SEC. 203. Section 523(a) of title 11, United States Code, is amended to read as follows:

(a) subsection (8) is amended to read as follows:

"(8) for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless—".

(b) subsection (8)(A) is amended to read as follows:

"(A) such loan, benefit, scholarship or stipend overpayment or loan first became due 7 years (exclusive of any applicable suspension of the repayment period) before the date of the filing of the petition; or".

SEC. 204. (a) Section 1129(a)(9)(C) of title 11, United States Code, is amended to read as follows:

"(C) with respect to a claim of a kind specified in section 507(a)(7) of this title, the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding 6 years after the date of assessment of such claim or 6 years after confirmation for such claims that have not been assessed, of a value as of the effective date of the plan, equal to the allowed amount of such claim.".

(b) Section 1129 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) For purposes of determining the value of deferred cash payments under a plan with respect to a secured or unsecured tax claim, the appropriate interest rate shall be the statutory rate applicable to unpaid taxes owing to the governmental unit holding the claim.".

SEC. 205. Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require.".

SEC. 206. Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond.".

SEC. 207. Section 3142(g)(4) of title 18, United States Code, is amended by—

(a) striking out "(c)(2)(k)" and inserting in lieu thereof "(c)(1)(B)(xi)"; and

(b) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 208. (a) Section 3552(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed.".

(b) The amendment made by subsection (a) shall take effect as if enacted on the date of the taking effect of section 3552(d) of title 18, United States Code.

SEC. 209. Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "by execution against the property of the defendant"; and

(2) in paragraph (1) by striking out "civil cases." and inserting in lieu thereof "accordance with chapter 176 of title 28. The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case."; and

(3) in paragraph (4), by deleting the word "Salaries" and inserting in lieu thereof the following:

"Notwithstanding any contrary provision in chapter 176 of title 28, United States Code, salaries."; and

(4) in paragraph (5), the second sentence should be deleted.

SEC. 210. Section 3579(f)(4) of title 18, United States Code, is amended by—

(a) striking out the "." at the end thereof; and

(b) adding at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 211. (a) Section 3613 of title 18, United States Code, is amended—

(1) in subsection (d), as added by section 212(a) of the Comprehensive Crime Control Act of 1984, by striking out the second sentence; and

(2) in subsection (e), as added by section 212(a) of the Comprehensive Crime Control Act of 1984 by—

(A) striking out "by execution against the property of the person fined";

(B) striking out "civil cases," and inserting in lieu thereof "accordance with chapter 176 of title 28,"; and

(C) adding at the end thereof "The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case.".

(b) The amendments made by this section shall take effect as if enacted on the date of the taking effect of such section 3613.

SEC. 212. Section 3663(f)(4) of title 18, United States Code, is amended by inserting before the period at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 213. Section 524 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d)(1) There shall be established in the United States Treasury a special fund to be known as the Department of Justice Debt Collection Fund (hereinafter in this subsection referred to as 'fund') which shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriation Acts for the purposes set forth herein.

"(2) There shall be deposited in the fund 5 percent of all net amounts realized from the debts collected by the divisions of the Department of Justice and all United States attorney's offices. Deposits to the fund shall begin the day after the date of enactment, from all amounts collected on and after that date.

"(3) The fund may be used for the following purposes of the Department of Justice:

"(A) the training of personnel of the Department of Justice in debt collection;

"(B) services pertinent to debt collection, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations related to locating debtors and their property; and

"(C) expenses of costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs;

"(4) Amounts in the fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by the United States.

"(5) For fiscal years 1990, 1991, 1992, and 1993 there are authorized to be appropriated such sums as may be necessary for the purposes described in subsection (3). At the end of each fiscal year, any amount in the fund in excess of the amount appropriated, shall be deposited in the general fund of the Treasury of the United States, except that an amount not to exceed $5,000,000 may be carried forward and be available in the next fiscal year.

"(6) For the purposes of these subsections, amounts from debt collection efforts of the Department of Justice shall include amounts realized from actions brought by or judgments enforced by Department of Justice personnel, including those in all United States attorneys' offices, whether civil or criminal, and whether involving tax or non-tax debts owed to the United States, except as deposit of such amounts into other special funds is required by law.".

SEC. 214. Section 550 of title 28, United States Code, is amended by striking out "assistants and messengers" and inserting in lieu thereof "assistants, messengers, and private process servers.".

SEC. 215. Section 1961(c)(1) of title 28, United States Code, is amended to read as follows:

"(c)(1) The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 216. Section 1962 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 217. Section 1963 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "Such a judgment entered in favor of the

United States may be registered as specified any time after judgment is entered.".

SEC. 218. (a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following section:

"§ 2044. Payment of fine with bond money

"Upon motion of the United States attorney, the court shall order any money belonging to and deposited by the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution or penalty imposed upon the defendants. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing, except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This does not apply to any third party sureties.".

(b) The table of sections for chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2044. Payment of fine with bond money.".

SEC. 219. Section 2410(c) of title 28, United States Code, is amended by adding at the end thereof the following: "In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.".

SEC. 220. Section 2413 of title 28, United States Code, and the item relating to section 2413 in the table of sections for chapter 161, are repealed.

AMENDMENT No. 1829

After the enacting clause, strike everything and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control and Criminal Procedures Reform Act of 1989".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—FEDERAL DEATH PENALTY ACT OF 1989

Sec. 101. Short title.
Sec. 102. Constitutional procedures for the imposition of the sentence of death.
Sec. 103. Conforming changes in title 18.
Sec. 104. Conforming amendment to Federal Aviation Act of 1954.
Sec. 105. Controlled Substances Act.
Sec. 106. Applicability to Uniform Code of Military Justice.
Sec. 107. Murder by a Federal prisoner.

TITLE II—REFORM OF PROCEDURES FOR COLLATERAL REVIEW OF CRIMINAL JUDGMENTS

Sec. 201. Short title.
Sec. 202. Finality of determination.
Sec. 203. Appeal.
Sec. 204. Federal rules of appellate procedure.
Sec. 205. State custody; remedies in Federal courts.
Sec. 206. Federal custody; remedies on motion attacking sentence.

TITLE III—EXCLUSIONARY RULE LIMITATION ACT OF 1989

Sec. 301. Short title.
Sec. 302. Amendment to title 18.

TITLE IV—FIREARMS AND RELATED AMENDMENTS

Sec. 401. Prohibition against transferring firearms to nonresidents.
Sec. 402. Commerce nexus for trafficking in stolen firearms.
Sec. 403. Technical amendments.
Sec. 404. Disposition of forfeited firearms.
Sec. 405. Clarification of "burglary" under the armed career criminal statute.
Sec. 406. Serious drug offenses by juveniles as Armed Career Criminal Act predicates.
Sec. 407. Clarification of definition of conviction.
Sec. 408. Permitting consideration of pretrial detention for certain firearms and explosives offenses.
Sec. 409. Enhanced penalty for use of semiautomatic firearm during a crime of violence or drug trafficking offense.
Sec. 410. Smuggling firearms in aid of drug trafficking.
Sec. 411. Theft of firearms and explosives.
Sec. 412. Bar on sale of firearms and explosives to or possession of firearms and explosives by persons convicted of a violent or serious drug misdemeanor.
Sec. 413. Possession of a firearm or an explosive during the commission of a felony.
Sec. 414. Mandatory revocation of supervised release for possession of a firearm.
Sec. 415. Increased penalty for knowingly false material statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 416. Increased penalty for second offense of using an explosive to commit a Federal felony.
Sec. 417. Amendments to chapter 44 of title 18, United States Code, relating to the domestic assembly of nonimportable firearms.
Sec. 418. Inapplicability of enhanced penalty in presence of mitigating circumstances.

TITLE V—DRUG TESTING OF DEFENDANTS ON POST-CONVICTION RELEASE

Sec. 501. Drug testing program.
Sec. 502. Other amendments.

TITLE VI—PUBLIC CORRUPTION

Sec. 601. Short title.
Sec. 602. Offense.
Sec. 603. Technical and conforming amendments.
Sec. 604. Interstate commerce.
Sec. 605. Narcotics-related public corruption.

TITLE VII—FACILITATION OF UNDERCOVER INVESTIGATIONS

Sec. 701. Facilitation of undercover investigations.

TITLE I—FEDERAL DEATH PENALTY ACT OF 1989

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) the defendant's mental capacity was significantly impaired, although the impairment was not such as to constitute a defense to prosecution;

"(2) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; and

"(3) the defendant was an accomplice whose participation in the offense was relatively minor.

The jury, or if there is no jury, the court, shall consider whether any other mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider

each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return a special finding as to each mitigating and aggravating factor, concerning which information is presented at the hearing, required to be considered under section 3592. The jury must find the existence of an aggravating factor by a unanimous vote, although it is unnecessary that there be a unanimous vote on any specific aggravating factor if a majority of the jury finds the existence of such a specific factor. A finding with respect to a mitigat-

ing factor may be made by one or more members of the jury and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this section, regardless of the number of jurors who consider that the factor has been established.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factors found to exist sufficiently outweigh all the mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, national origin, creed, or sex of the defendant was not involved in reaching the juror's individual decision.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law. A sentence of death shall not be carried out upon a woman while she is pregnant. A sentence of death shall not be carried out upon a mentally retarded person.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591.".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results,

shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1952A(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1952B(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1951.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by striking subsections (g) through (r).

SEC. 106. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 107. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—REFORM OF PROCEDURES FOR COLLATERAL REVIEW OF CRIMINAL JUDGMENTS

(a) Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successsive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State to have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner—

"(A) is indigent and has accepted the offer; or

"(B) is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing, if necessary, that the prisoner has rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This subsection shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successsive petitions

"(a) Upon the entry in the appropriate State court of record of an order pursuant to section 2256(a) of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application must recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title; or

"(2) upon completion of district court and court of appeals review under section 2254 of this title, the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title, in the presence of counsel and after having been advised of the consequences of making the waiver.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim—

"(A) was the result of State action in violation of the Constitution or laws of the United States;

"(B) was the result of a recognition by the Supreme Court of a new Federal right that is retroactively applicable; or

"(C) is due to the fact that the claim is based on facts that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"(a) Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 180 days after the filing in the appropriate State court of record of an order issued in compliance with section 2256(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) subject to subsection (b), during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction; and

"(3) during an additional period not to exceed 60 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 180-day period established by this section.

"(b)(1) The time requirement established by subsection (a) shall be continuously tolled under paragraph (2) of that subsection from the date the State prisoner initially files for post-conviction review until the date of final disposition of the case by the highest court of the State so long as all State filing rules are timely met.

"(2) Tolling shall not occur under subsection (a)(2) during the pendency of a petition for certiorari before the Supreme Court following State post-conviction review.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) When a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review based on the claims actually presented and litigated in the State courts, unless the prisoner shows that the failure to raise or develop a claim in the State courts—

"(A) was the result of State action in violation of the Constitution or laws of the United States;

"(B) was the result of a recognition by the Supreme Court of a new Federal right that is retroactively applicable; or

"(C) is due to the fact that the claim is based on facts that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State post-conviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.".

TITLE IV—FIREARMS AND RELATED AMENDMENTS

SEC. 401. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 20 or more than 30 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 30 years, fined under this title, or both.".

SEC. 402. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

AMENDMENT No. 1831

Strike everything after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control and Criminal Procedures Reform Act of 1989".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—FEDERAL DEATH PENALTY ACT OF 1989

Sec. 101. Short title.
Sec. 102. Constitutional procedures for the imposition of the sentence of death.
Sec. 103. Conforming changes in title 18.
Sec. 104. Conforming amendment to Federal Aviation Act of 1954.
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TITLE II—REFORM OF PROCEDURES FOR COLLATERAL REVIEW OF CRIMINAL JUDGMENTS

Sec. 201. Short title.
Sec. 202. Finality of determination.
Sec. 203. Appeal.
Sec. 204. Federal rules of appellate procedure.
Sec. 205. State custody; remedies in Federal courts.
Sec. 206. Federal custody; remedies on motion attacking sentence.

TITLE III—EXCLUSIONARY RULE LIMITATION ACT OF 1989

Sec. 301. Short title.
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TITLE IV—FIREARMS AND RELATED AMENDMENTS

Sec. 401. Prohibition against transferring firearms to nonresidents.
Sec. 402. Commerce nexus for trafficking in stolen firearms.
Sec. 403. Technical amendments.
Sec. 404. Disposition of forfeited firearms.
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Sec. 406. Serious drug offenses by juveniles as Armed Career Criminal Act predicates.
Sec. 407. Clarification of definition of conviction.
Sec. 408. Permitting consideration of pretrial detention for certain firearms and explosives offenses.
Sec. 409. Enhanced penalty for use of semiautomatic firearm during a crime of violence or drug trafficking offense.
Sec. 410. Smuggling firearms in aid of drug trafficking.
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Sec. 414. Mandatory revocation of supervised release for possession of a firearm.
Sec. 415. Increased penalty for knowingly false material statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 416. Increased penalty for second offense of using an explosive to commit a Federal felony.
Sec. 417. Amendments to chapter 44 of title 18, United States Code, relating to the domestic assembly of nonimportable firearms.
Sec. 418. Inapplicability of enhanced penalty in presence of mitigating circumstances.

TITLE V—DRUG TESTING OF DEFENDANTS ON POST-CONVICTION RELEASE

Sec. 501. Drug testing program.
Sec. 502. Other amendments.

TITLE VI—PUBLIC CORRUPTION

Sec. 601. Short title.
Sec. 602. Offense.
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Sec. 604. Interstate commerce.
Sec. 605. Narcotics-related public corruption.

TITLE VII—FACILITATION OF UNDERCOVER INVESTIGATIONS

Sec. 701. Facilitation of undercover investigations.

TITLE I—FEDERAL DEATH PENALTY ACT OF 1989

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 16 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) the defendant's mental capacity was significantly impaired, although the impairment was not such as to constitute a defense to prosecution;

"(2) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; and

"(3) the defendant was an accomplice whose participation in the offense was relatively minor.

The jury, or if there is no jury, the court, shall consider whether any other mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable,

shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return a special finding as to each mitigating and aggravating factor, concerning which information is presented at the hearing, required to be considered under section 3592. The jury must find the existence of an aggravating factor by a unanimous vote, although it is unnecessary that there be a unanimous vote on any specific aggravating factor if a majority of the jury finds the existence of such a specific factor. A finding with respect to a mitigating factor may be made by one or more members of the jury and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this section, regardless of the number of jurors who consider that the factor has been established.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factors found to exist sufficiently outweigh all the mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, national origin, creed, or sex of the defendant was not involved in reaching the juror's individual decision.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law. A sentence of death shall not be carried out upon a woman while she is pregnant. A sentence of death shall not be carried out upon a mentally retarded person who is lacking in the capacity to appreciate the wrongfulness of his actions.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591.".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.
"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFT AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1952A(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1952B(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by striking subsections (g) through (r).

SEC. 106. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 107. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—REFORM OF PROCEDURES FOR COLLATERAL REVIEW OF CRIMINAL JUDGMENTS

SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

(a) Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256 Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State to have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner—

"(A) is indigent and has accepted the offer; or

"(B) is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing, if necessary, that the prisoner has rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This subsection shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order pursuant to section 2256(c) of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application must recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title; or

"(2) upon completion of district court and court of appeals review under section 2254 of this title, the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title, in the presence of counsel and after having been advised of the consequences of making the waiver.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim—

"(A) was the result of State action in violation of the Constitution or laws of the United States;

"(B) was the result of a recognition by the Supreme Court of a new Federal right that is retroactively applicable; or

"(C) is due to the fact that the claim is based on facts that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed.

§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"(a) Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 180 days after the filing in the appropriate State court of record of an order issued in compliance with section 2256(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) subject to subsection (b), during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction; and

"(3) during an additional period not to exceed 60 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 180-day period established by this section.

"(b)(1) The time requirement established by subsection (a) shall be continuously tolled under paragraph (2) of that subsection from the date the State prisoner initially files for post-conviction review until the date of final disposition of the case by the highest court of the State so long as all State filing rules are timely met.

"(2) Tolling shall not occur under subsection (a)(2) during the pendency of a petition for certiorari before the Supreme Court following State post-conviction review.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) When a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review based on the claims actually presented and litigated in the State courts, unless the prisoner shows that the failure to raise or develop a claim in the State courts—

"(A) was the result of State action in violation of the Constitution or laws of the United States;

"(B) was the result of a recognition by the Supreme Court of a new Federal right that is retroactively applicable; or

"(C) is due to the fact that the claim is based on facts that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State post-conviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.".

TITLE III—EXCLUSIONARY RULE LIMITATION ACT OF 1989

SEC. 301. SHORT TITLE.

This title may be cited as the "Exclusionary Rule Limitation Act of 1989".

SEC. 302. AMENDMENT TO TITLE 18.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding the following two sections:

"§ 3508. Limitation of the fourth amendment exclusionary rule

"Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was undertaken in an objectively reasonable belief that it was in conformity with the fourth amendment. A showing that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such a reasonable belief, unless the warrant was obtained through intentional and material misrepresentation.

"§ 3509. General limitation of the exclusionary rule

"Except as specifically provided by statute or rule of procedure, evidence which is otherwise admissible shall not be excluded in a proceeding in a court of the United States on the ground that the evidence was obtained in violation of a statute or rule of procedure, or of a regulation issued pursuant thereto.".

(b) TABLE OF SECTIONS.—The table of sections of chapter 223 of title 18, United States Code, is amended by adding at the end thereof:

"3508. Limitation of the fourth amendment exclusionary rule.
"3509. General limitation of the exclusionary rule.".

TITLE IV—FIREARMS AND RELATED AMENDMENTS

SEC. 401. PROHIBITION AGAINST TRANSFERRING FIREARMS TO NONRESIDENTS.

Section 922(a)(5) of title 18, United States Code, is amended by striking out "resides" and all that follows through "(or other than that in which its place of business is located if the transferor is a corporation or other business entity);" and inserting in lieu thereof "does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides;".

SEC. 402. COMMERCE NEXUS FOR TRAFFICKING IN STOLEN FIREARMS.

(a) STOLEN FIREARMS AND AMMUNITION.—Section 922(j) of title 18, United States Code, is amended by striking out "or which constitutes," and inserting in lieu thereof "which constitutes, or which has been shipped or transported in,".

(b) MANUFACTURER'S SERIAL NUMBER.—Section 922(k) of title 18, United States Code, is amended by inserting "or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce" after "altered".

SEC. 403. TECHNICAL AMENDMENTS.

(a) REDESIGNATION.—Section 923(d)(1)(B) of title 18, United States Code, is amended by striking out "(h)" and inserting in lieu thereof "(n)";

(b) INCLUSION OF POSSESSION.—Section 925(a)(1) of title 18, United States Code, is amended by inserting "possession," before "or importation";

(c) DISABILITY.—Section 925(c) of title 18, United States Code, is amended by striking out "conviction" the first and third place such term appears and inserting in lieu thereof "disability" and by striking out "by reason of such a conviction";

(d) ELIMINATION OF PAROLE REFERENCE.—Section 924(a) of title 18, United States Code, is amended by striking out ", and shall become eligible for parole as the Parole Commission shall determine" in both places those words appear. This amendment

shall be effective with respect to any offense committed after November 1, 1987.

SEC. 404. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of title 26, United States Code, is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) the Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) if the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or a firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel, rare, or because of its association with some historical figure, period, or event the Secretary may sell such firearm, after public notice, at public sale to a dealer licensed under the provisions of chapter 44 of title 18, United States Code;

"(3) if the firearm has not been disposed of pursuant to paragraphs (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, General Services Administration, who shall destroy or provide for the destruction of such firearm; and

"(4) no decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 405. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding a new subparagraph, as follows:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 406. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph; and".

SEC. 407. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction or restoration of civil rights".

SEC. 408. PERMITTING CONSIDERATION OF PRETRIAL DETENTION FOR CERTAIN FIREARMS AND EXPLOSIVES OFFENSES.

Section 3142(f)(1) of title 18, United States Code, is amended by—

(1) striking out "or" before subparagraph (D);

(2) redesignating subparagraph (D) as subparagraph (E); and

(3) inserting a new subparagraph (D) as follows:

"(D) an offense under 18 U.S.C. 844(a) that is a violation of 18 U.S.C. 842 (d), (h), or (i), or an offense under 18 U.S.C. 924(a) that is a violation of 18 U.S.C. 922 (d), (g), (h), (i), (j), or (o); or".

SEC. 409. ENHANCED PENALTY FOR USE OF SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR DRUG TRAFFICKING OFFENSE.

(a) IN GENERAL.—Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is a semiautomatic firearm, to imprisonment for ten years," after "sentenced to imprisonment for five years,";

(b) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(25) the term 'semiautomatic firearm' means any repeating firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

SEC. 410. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(h) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substances (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than ten years, fined under this title, or both.".

SEC. 411. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(i) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than two or more than ten years, and may be fined under this title.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than two or more than ten years, and may be fined under this title.".

SEC. 412. BAR ON SALE OF FIREARMS AND EXPLOSIVES TO OR POSSESSION OF FIREARMS AND EXPLOSIVES BY PERSONS CONVICTED OF A VIOLENT OR SERIOUS DRUG MISDEMEANOR.

(a) SALE OR DISPOSAL.—Sections 842(d)(2) and 922(d)(1) of title 18, United States Code, are each amended by inserting ", or has been convicted in any court of any crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c)). It is a bar to a prosecution under this section that the conviction occurred prior to the date of enactment of this Act" after "crime punishable by imprisonment for a term exceeding one year";

(b) SHIPMENT.—Sections 842(i)(1) and 922(g)(1) of title 18, United States Code, are each amended by inserting "or has been convicted in any court of any crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c)). It is a bar to a prosecution under this section that the conviction occurred prior to the date of enactment of this Act" after "crime punishable by imprisonment for a term exceeding one year";

(c) DEFINITIONS.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(q) For purposes of this section and section 842 of this title—

"(1) the term 'crime of violence' means an offense involving the use of a firearm that has as an element the use of physical force against the person of another with intent to cause bodily harm to such person; and

"(2) the term 'serious misdemeanor' means an offense for which the maximum term of imprisonment is greater than six months.".

SEC. 413. POSSESSION OF A FIREARM OR AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

(a) FIREARMS.—Section 924(c) of title 18, United States Code, is amended by striking out "uses or carries a firearm" and inserting in lieu thereof "uses, carries, or otherwise possesses a firearm".

(b) EXPLOSIVES.—Section 844(h) of title 18, United States Code, is amended by striking out "carries an explosive during" and inserting in lieu thereof "carries or otherwise possesses an explosive during".

SEC. 414. MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 415. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out "(a)(6),"; and

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

SEC. 416. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FEDERAL FELONY.

Section 844(h) of title 18, United States Code, is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 417. AMENDMENTS TO CHAPTER 44 OF TITLE 18, UNITED STATES CODE, RELATING TO THE DOMESTIC ASSEMBLY OF NONIMPORTABLE FIREARMS.

(a) DEFINITION.—Section 921(a) of title 18, United States Code is amended by adding at the end thereof a new paragraph as follows:

"(26) The term 'semiautomatic rifle' means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

(b) ASSEMBLY OF A FIREARM.—Section 922 of title 18, United States Code, is amended by adding at the end thereof a new subsection as follows:

"(s) It shall be unlawful for any person to assemble, from imported parts, any semiautomatic rifle or any semiautomatic shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—

"(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof;

"(2) assembly operations for any such rifle or shotgun by a licensed manufacturer that were taking place in the United States before May 15, 1989;

"(3) the assembly of any such rifle or shotgun for the purpose of exportation;

"(4) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Secretary; or

"(5) the assembly of any rifle or shotgun that was lawfully imported.".

(c) REDESIGNATION.—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking out "or (k)" and inserting in lieu thereof "(k), or (s)".

SEC. 418. INAPPLICABILITY OF ENHANCED PENALTY IN PRESENCE OF MITIGATING CIRCUMSTANCES.

The amendment of section 409(a) of this title shall not apply in sentencing a defendant who establishes that—

(1) he used the firearm to protect himself or another person from an immediate danger of death or injury arising from the unlawful use or threat of force by the person against whom the firearm was used;

(2) he used the firearm to protect the person or property of himself or another against actually occurring or immediately threatened felonious conduct by the person against whom the firearm was used; or

(3) he used the firearm to effect the arrest or prevent the escape of a person in immediate flight after the commission of a felony.

Notwithstanding the foregoing, this section is not applicable if the defendant engaged or participated in criminal conduct that gave rise to the occasion for the defendant's use of the firearm.

TITLE V—DRUG TESTING OF DEFENDANTS ON POST-CONVICTION RELEASE

SEC. 501. DRUG TESTING PROGRAM.

(a) IN GENERAL.—Chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3608. Drug testing of defendants on post-conviction release

"The Director of the Administrative Office of the United States Courts shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of criminal defendants on post-conviction release. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(b) SECTION ANALYSIS.—The section analysis for chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following:

"3608. Drug testing of defendants on post-conviction release".

SEC. 502. OTHER AMENDMENTS.

(a) PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking out "and";

(2) in paragraph (3), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence as defined in section 16 of this title, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts, or the Director's designee. No action may be taken against a defendant pursuant to a drug test administered in accordance with this paragraph or section 3583(d) or 4209(a) of this title, unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

(b) SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4) of this title, the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title".

(c) PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4) of this title, the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title."

TITLE VI—PUBLIC CORRUPTION

SEC. 601. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1989".

SEC. 602. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, political subdivision, or Indian tribal government shall be fined under this title, or imprisoned for not more than 20 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than 10 years, or both.

"(c) Whoever, being a public official or an official or employee of a State, political subdivision of a State, or Indian tribal government in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State, political subdivision, or Indian tribal government conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than 20 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter

or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes the use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 20 years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, three times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official', and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in an Indian tribal government or the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 603. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 604. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 605. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the

meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),"; and

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) SECTION ANALYSIS.—The section analysis at the beginning of chapter 11, title 18, United States Code, is amended by inserting after section 219 the following:

"220. Narcotics and public corruption.".

TITLE VII—FACILITATION OF UNDERCOVER INVESTIGATIONS

SEC. 701. FACILITATION OF UNDERCOVER INVESTIGATIONS.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 21. Stolen or Counterfeit Nature of Property for Certain Crimes Defined

"(a) Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) For purposes of this section, the term 'official representation' means any representation made by a Federal law enforcement officer (as defined in section 115 of this title) or by another person at the direction or with the approval of such an officer.".

(c) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 21. Stolen or Counterfeit Nature of Property for Certain Crimes Defined.".

AMENDMENT No. 1832

Strike on page 46, line 15, through page 53, line 5, and insert in lieu thereof the following:

TITLE IV—FIREARMS AND RELATED AMENDMENTS

SEC. 401. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARMS, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsection, as added by section 6211 of Public Law 100-690, as subsection (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(j) Whoever steal any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 20 or more than 30 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.):

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 20 years, fined under this title, or both.".

SEC. 402. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

LOTT AMENDMENT NOS. 1833 THROUGH 1836

(Ordered to lie on the table.)

Mr. LOTT submitted four amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1833

Beginning on page 54, line 11, insert "two" between "previous" and "fiscal".

AMENDMENT No. 1834

Beginning on page 54, line 25 of the Act, strike "90" and inset "60'.

AMENDMENT No. 1835

None of the other provisions in this Act shall take effect unless the following is enacted:

At the appropriate place in the bill, insert the following new section:

SEC. . MANDATORY WORK REQUIREMENT FOR ALL PRISONERS .

(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted prisoners confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved. Such labor may include, but not be limited to—

(A) local public works projects and infrastructure repair,

(B) construction of new prisons and other detention facilities;

(C) prison industries; and

(D) other appropriate labor.

(2) It is the policy of the Federal Government that States and local governments have the same authority to require all convicted prisoners to work.

(b) PRISONERS SHALL WORK.—Medical certification of 100 percent disability, security considerations, or disciplinary action shall be the only excuse to remove a Federal prisoner from labor paticipation.

(c) USE OF FUNDS.—(1) Subject to paragraph (2), any funds generated by labor conducted pursuant to this section shall be deposited in a separate fund in the Treasury of the United States for use by the Attorney General for payment of prison construction and operating expenses or for payment of compensation judgments. Notwithstanding any other law, such funds shall be available without appropriation.

(2) Prisoners shall be paid a share of funds generated by their labor conducted pursuant to this section.

SEC. . REPEAL OF CONSTRAINTS ON PRISON INDUSTRIES.

(a) SUMNERS-ASHURST ACT.—(1) Chapter 85 of part 1 of title 18, United States Code, is repealed.

(2) The table of chapters for part 1 of title 18, United States Code, is amended by striking the item for chapter 85 and inserting the following:

"[85. Repealed.]".

(3) The repeal made by this subsection shall not affect the performance to completion of the pilot projects authorized by section 1761(c) of title 18, United States Code, prior to enactment of this Act.

(b) FEDERAL PRISON INDUSTRIES.—(1) Section 4122(a) of title 18, United States Code, is amended to read as follows:

"(a) Federal Prison Industries shall determine in what manner and to what extent industrial operations shall be carried on in Federal penal and correctional institutions for the production of commodities for consumption in such institutions or for sale to governmental departments and agencies and to the public.".

(2) The first paragraph of section 4124 of title 18, United States Code, is amended to read as follows:

"The several Federal departments and agencies and all other Government institutions of the United States may purchase such products of the industries authorized by this chapter as meet their requirements and may be available.".

(3) The second sentence of section 4126(f) of title 18, United States Code, is amended to read as follows: "To the extent that the amount of such funds is excess to the needs of the corporation for such purposes, such funds may be transferred to the Attorney General for the construction or acquisition of penal and correctional institutions, including camps described in section 4125.".

(c) WALSH-HEALY ACT.—Subsection (d) of the first section of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (41 U.S.C. 35(d)), is amended—

(1) by striking "and no convict labor"; and

(2) by striking ", except that this section, or any law or Executive order contrasting similar prohibitions against purchase of goods by the Federal Government, shall not apply to convict labor which satisfies the conditions of section 1761(c) of title 18, United States Code".

(d) LEGISLATIVE RECOMMENDATIONS.—The Attorney General shall submit to Congress a report making recommendations for legislation to—

(1) ensure that private businesses and labor do not suffer unfair consequences from the amendments made in subsections (a), (b), and (c); and

(2) encourage greater private sector participation in prison industries and create incentives for cooperative arrangements between private businesses and prisons providing for such participation.

SEC. . EMPLOYMENT OF PRISONERS.

(a) IN GENERAL.—The Attorney General may enter into contracts with private businesses for the use of inmate skills that may be of commercial use to such businesses.

(b) USE OF FEES AND PAYMENTS.—A portion of the fees and payments collected for the use of inmate skills under contracts entered into pursuant to subsection (a) shall be deposited in the fund described in section (c)(1), and a portion shall be paid to the prisoners who conduct the labor.

(c) SECURITY REQUIREMENT.—In the case of contracts described in subsection (a) in which the provision of inmate skills would require prisoners to leave the prison—

(1) prisoners shall be permitted to travel directly to work site and to remain at the work site during the work day and shall be returned directly to prison at the end of each work day; and

(2) only prisoners with no history of violent criminal activity and who are able to meet strict security standards to insure that they pose no threat to the public, shall be eligible to participate.

AMENDMENT NO. 1836

None of the other provisions in this Act shall take effect unless the following is enacted:

At the appropriate place in the bill, insert the following new section:

SEC. . WITHHOLDING PRISONERS' FEDERAL BENEFITS TO OFFSET INCARCERATION COSTS.

(a) IN GENERAL.—The Federal benefits received by any prisoner (not including those of a prisoner's spouse or dependents) who has been convicted of a crime of violence or drug trafficking crime under Federal or State law and who is incarcerated in a Federal or State prison shall, during the period of the prisoner's incarceration, be withheld to offset the costs of—

(1) any victim compensation award against such prisoner; and

(2) any incarceration costs of the prisoner incurred by the prison system.

(b) PAYMENT.—(1) In the case of a Federal Prisoner, Federal benefits withheld for the purpose of subsection (a)(2) shall be paid into a separate fund in the Treasury of the United States for use by the Attorney General for payment of prison construction and operating expenses or for payment of compensation judgments. Notwithstanding any other law, such funds shall be available without appropriation.

(2) In the case of a State prisoner, Federal benefits withheld for the purpose of subsection (a)(2) shall be paid to the State.

(c) EXCEPTION.—The withholding of Federal benefits of a prisoner with a spouse or other dependents under subsection (a) shall be adjusted by the court to provide adequate support to and to prevent the impoverishment of dependents.

(d) DEFINITIONS.—As used in this section the term "Federal benefit" means the issuance of any payment of money, by way of grant, loan, or statutory entitlement, provided by an agency of the United States or by appropriated funds or trust funds of the United States but does not include a right to payment under a contract.

SPECTER AMENDMENTS NOS. 1837 AND 1838

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1837

At the appropriate place, insert the following:

"(2) Any person who negligently releases into the environment any pollutant or contaminant which release such person knows or reasonably should have known could place another person in imminent danger of death or serious bodily injury and who at the time negligently places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per day for each violation, or by imprisonment for not more than one year, or by both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(ii) It is an affirmative defense to prosecution that the conduct charged was in conformance with a federal permit or applicable regulations authorizing the release under the cirsumstances as charged and such defense may be established under this subparagraph by a preponderance of the evidence.

"Pollutant or contaminant" shall mean (1) any substance designated pursuant to section 9601 of title 42; (2) any substance designated pursuant to section 1321(b)(2)(A) of title 33; (3) any element, compound, mixture, solution, or substance designated pursuant to section 9602 of title—(4) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act [42 U.S.C.A. § 6921] (but not including any waste the regulation of which under the Solid Waste Disposal Act [42 U.S.C.A. § 6901 et seq.] has been suspended by Act of Congress); (5) any pollutant referenced in section 1362(6) of title 33," (6) any hazardous air pollutant listed under section 112 of the Clean Air Act [42 U.S.C.A. § 7412]; (7) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 2606 of title 15; (8) any material referenced in 7 U.S.C. 136(f)(ii).

AMENDMENT NO. 1838

At the appropriate place, insert the following:

SEC. . GRANT FOR THE ESTABLISHMENT OF A DEMONSTRATION PROJECT ESTABLISHING A COURT FOR NARCOTICS OFFENDERS IN PHILADELPHIA, PENNSYLVANIA.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such funds as are deemed necessary to fund, as a demonstration project, a drug cases division of the Court of Common Pleas in Philadelphia, Pennsylvania established by the Commonwealth of Pennsylvania in accordance with the provisions of this Section.

(b) FUNCTION OF DRUG CASES DIVISION.—The drug cases division of the Court of Common Pleas of Philadelphia to be funded under subsection (a) shall include—

(1) an independent administrator;

(2) a mixed case scheduling system, specific caseflow management standards, with a continual circulation of judges from other parts of the Court of Common Pleas, and an individual judge calendar system;

(3) mandatory, on-site drug treatment;

(4) screening of every arrestee to determine drug-dependency;

(5) mandatory treatment for—

(A) consenting first time, drug-dependent, nonviolent offenders;

(B) nonviolent offenders who are charged with crimes not subjecting them to mandatory sentences;

(C) treatable drug-dependent probationers;

(D) drug-dependent defendants on bail;

(E) all treatable drug-dependent defendants convicted and sentenced to a term of incarceration; and

(6) a program that employs alternative sentencing methods, including electronic monitoring, home detention, community service, intensive-supervision probation, and random drug testing, for appropriate defendants.

(c) SUFFICIENT FUNDING.—The drug cases division of the Court of Common Pleas of Philadelphia funded under subsection (a) shall receive sufficient funds for—

(1) enhanced data processing and court reporting systems;

(2) implementation and operation of rehabilitation and drug-treatment programs; and

(3) implementation and operation of alternative sentencing programs.

(d) APPLICATION FOR FUNDS.—To receive the funds authorized under this Section, the Court of Common Pleas of Philadelphia shall certify to Congress that a drug cases division of the court has been authorized by the Commonwealth of Pennsylvania, and shall concurrently request an appropriation in a specific amount.

(e) REPORTS TO CONGRESS.—The Administrator of the drug cases division of the Court of Common Pleas for Philadelphia shall report annually to the Judiciary Committees of both Houses of Congress on the operations of the drug cases division.

(f) TERMINATION OF AUTHORIZATION.—The authorization for appropriations established in subsection (a) shall terminate no later than ten years after enactment of this Section, and earlier if the Court of Common Pleas of Philadelphia terminates the operation of the drug cases division.

SPECTER (AND SASSER) AMENDMENT NO. 1839

(Ordered to lie on the table.)

Mr. SPECTER (for himself and Mr. SASSER) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the end of the bill, add the following new title:

TITLE —POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SECTION 01. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 02. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who

possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 03. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B pursuant to this title and shall have authority to promulgate regulations to implement this title.

SUBTITLE A—POLICE CORPS PROGRAM

SEC. 011. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 013;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 016.

SEC. 012. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education which the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) work following successful completion of a baccalaureate program and training as prescribed in section 014, for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member; and

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 014; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 014.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purpose of this section the term "institution of higher education" has the same meaning given such term as in the first sentence of section 1201(a) of the Higher Education Act of 1965.

SEC. 013. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 015(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 015, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 015, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 25,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 25,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 25,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 014. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing state training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 016 shall include assurances that following completion of Police Corps training each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Board of Directors established pursuant to subsection (f) at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 015. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the Police Corps training program established in section 014 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 012, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, upon satisfactory completion of that service, provide assistance pursuant to section 012.

SEC. 016. APPROVAL OF STATE PROGRAMS.

(a) SUBMISSION OF STATE PLANS.—To participate in the Police Corps program under this subtitle, a State shall submit to the Director a plan for implementing a State Police Corps program for such State, in a manner consistent with the requirements set forth in this subtitle.

(b) APPROVAL OF STATE PLANS.—The Director shall approve a State Police Corps plan that complies with the program requirements set forth in this section.

(c) CONTENTS OF STATE PLANS.—Each State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 013;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

Subtitle B—Law Enforcement Scholarship Program

SEC. 021. DEFINITIONS.

As used in this subtitle—

(1) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree, including the cost of tuition, fees, books, supplies and related expenses;

(2) the term "institution of higher education" has the same meaning given such term in section 1401(a) of the Higher Education Act of 1965;

(3) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(4) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 022. ALLOTMENT.

From amounts appropriated under the authority of section 029, the Director shall allocate—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State; and

(2) 20 percent of such funds to States on the basis of the State's shortage of law enforcement personnel and the need for assistance under this subtitle.

SEC. 023. PROGRAM ESTABLISHED.

(a) IN GENERAL.—From amounts available pursuant to section 022 each State shall pay the Federal share of the cost of awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education.

(b) FEDERAL SHARE.—(1) The Federal share of the cost of scholarships under this subtitle shall not exceed 60 percent.

(2) The non-Federal share of the cost of scholarships under this subtitle shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 022 to conduct a scholarship program in the State in accordance with the provisions of this subtitle shall designate an appropriate State agency to serve as the lead agency in carrying out the provisions of this subtitle.

(d) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall be responsible for the administration of the program conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, promulgate regulations to implement this subtitle.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 022 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section 023 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 024. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 025. ELIGIBILITY.

An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for 2 years immediately preceding the date for which assistance is sought.

SEC. 026. STATE APPLICATION.

Each State desiring an allotment under section 023 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the provisions of this subtitle;

(2) contain assurances that the State shall advertise the scholarship assistance provided under this subtitle;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(4) contain assurances that the State shall make scholarship payments to institutions of higher education on behalf of individuals receiving financial assistance under this subtitle;

(5) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(6) contain assurances that the State shall promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in high schools and community colleges.

SEC. 027. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual desiring a scholarship under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which financial assistance is sought.

(b) PRIORITY.—In awarding scholarships under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State; and

(2) pursuing an undergraduate degree.

SEC. 028. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual receiving a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual shall work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay all of the scholarship assistance awarded under this title in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of the agreement under paragraph (1) are not complied with except where the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—(1) Each individual awarded a scholarship under this subtitle shall work in a law enforcement posi-

tion in the State which awarded such individual the scholarship for a period of one month for each credit hour for which financial assistance is received under this subtitle.

(2) For purposes of satisfying the requirement specified in paragraph (1) each individual awarded a scholarship under this Act shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than two years.

Subtitle C—Reports and Authorizations

SEC. 031. REPORTS TO CONGRESS.

No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

SEC. 032. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out the provisions of this title.

SPECTER AMENDMENT NO. 1840

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place in the bill, add the following:

SEC. 01. CONDITION ON ELIGIBILITY OF STATES TO RECEIVE FEDERAL ANTI-DRUG FUNDS.

(a) IN GENERAL.—Notwithstanding any other law, beginning on the date that is 1 year after the date of enactment of this Act, a State shall not be eligible to receive any grant, contract, award, or other assistance paid for with Federal anti-drug funds unless it meets the requirements of subsection (b).

(b) PROGRAM REQUIREMENTS.—(1) Subject to paragraph (2), a State meets the requirements of this subsection if the prison authority of the State provides to all prisoners who need and desire it—

(A) training in a marketable job skill and basic literacy; and

(B) treatment and rehabilitation for drug addiction.

(2) A State is not required to provide training or treatment to—

(A) a prisoner for whom a reasonable good faith effort has been made to provide training or treatment, even though the result has been less than fully satisfactory;

(B) a prisoner who refuses training or treatment; or

(C) a particular prisoner for whom, in the judgment of the State prison authority concurred in by the Attorney General and Secretary of Health and Human Services, the provision of training or treatment would be unreasonably costly.

(3) Paragraph (2)(C) shall not be construed to allow a State to be exempted generally from the requirements of this subsection on the ground that compliance would be unreasonably costly.

(c) CERTIFICATION.—A State that desires to establish eligibility to receive the Federal assistance described in subsection (a) shall certify to the Attorney General and the Secretary of Health and Human Services that it meets the requirements of subsection (b), or if the State cannot make such a certification, may apply to the Attorney General and the Secretary of Health and Human Services to be granted probationary status under subsection (d).

(d) PROBATIONARY STATUS.—(1) If, on application by a State for probationary status, the Attorney General and the Secretary of Health and Human Services determine that a State has made a good faith effort to meet the requirements of subsection (b), they may grant the State probationary status for 1 year, during which time the State shall be eligible for the Federal assistance described in subsection (a).

(2) No State shall be eligible for probationary status under paragraph (1) for more than 2 years.

(e) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Treatment Improvement and the Director of the National Institute of Corrections, shall, after consultation with the Correctional Literacy and Vocational Skills Advisory Council, promulgate regulations to carry out this Act.

(2) The regulations promulgated pursuant to paragraph (1) shall include—

(A) a definition of the term "marketable job skill and basic literacy" and a means of determining whether a State meets the requirements of subsection (b)(1)(A); and

(B) a definition of the term "treatment and rehabilitation for drug addiction" and a means of determining whether a State meets the requirements of subsection (b)(1)(B).

(f) ADVISORY COUNCIL.—(1) There is established the Correctional Literacy and Vocational Skills Advisory Council (referred to as the "Council").

(2) The Council shall be composed of—

(A) the Director of the National Institute of Corrections, who shall serve as its chairman;

(B) the Assistant Secretary of Education for Vocational and Adult Education;

(C) the Assistant Secretary of Labor for Employment Training and Administration; and

(D) representatives of the American Correctional Association, the American Jail Association, the Association of State and Federal Directors of Correctional Education, and the Correctional Education Association.

(3) It shall be the duty of the Council to advise the National Institute of Corrections in formulating the regulations described in subsection (e)(2)(A).

(g) ADVISORY COMMITTEE.—(1) There is established the Correctional Drug Treatment Advisory Committee (referred to as the "Committee").

(2) The Committee shall be composed of—

(A) the Director of the Office of Treatment Improvement, who shall serve as chairman;

(B) the Director of the National Institute of Drug Abuse;

(C) the Director of the National Institute of Correction; and

(D) representatives of the American Correctional Association, the American Jail Association, and the National Association of State Alcohol and Drug Abuse Directors.

(b) It shall be the duty of the Committee to advise the Office of Treatment Improvement in formulating the regulations described in subsection (e)(2)(B).

(h) NO CAUSE OF ACTION.—Nothing in this Act shall be construed to create any cause of action, defense, or claim of right of any other kind in favor of a State prisoner.

SPECTER (AND SASSER) AMENDMENT NO. 1841

(Ordered to lie on the table.)

Mr. SPECTER (for himself and Mr. SASSER) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the end of the bill add the following:

TITLE —POLICE CORPS PROGRAM

SEC. 01. SHORT TITLE.

This title may be cited as the "Police Corps Act".

SEC. 02. PURPOSES.

The purposes of this title are to—

(1) address the very high level of violent crime and neighborhood deterioration afflicting communities throughout the Nation by substantially increasing the number of trained police on community patrol;

(2) provide educational assistance to those students of ability, character, and dedication who possess a sincere interest in dedicating 4 years to public service and law enforcement; and

(3) establish opportunities for meaningful community service in exchange for educational assistance.

SEC. 03. DEFINITIONS.

For the purposes of this title—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "Director" means the Director of the Office of the Police Corps appointed pursuant to section 04(b);

(4) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(5) the term "participant" means a participant in the Police Corps program selected pursuant to section 06;

(6) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the

Commonwealth of the Northern Mariana Islands; and

(7) the term "State Police Corps program" means a State police corps program approved under section 09.

SEC. 04. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program pursuant to this title and shall have authority to promulgate regulations to implement this title.

SEC. 05. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education which the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) work following successful completion of a baccalaureate program and training as prescribed in section 014, for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member; and

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 014; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under his section or as a stipend under section 014.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purpose of this section the term "institution of higher education" has the same meaning given such term as in the first sentence of section 1201(a) of the Higher Education Act of 1965.

SEC. 06. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 09(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficent age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 08, and such a participant shall be subject to the same benefits and obligations under this title as other participants, including those stated in section (b)(1)(E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous

period of law enforcement experience for purposes other than satisfaction of the requirements of section 08, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 25,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 25,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 25,000, the Director shall, in deciding which applications to grant, give perference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) If a participant who has taken a leave of absence pursuant to paragraph (1) or (2) fails or is unable to resume educational study, training, or service after the expiration of the leave of absence, the provision of section 05(d) shall apply.

SEC. 07. LAW ENFORCEMENT TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing state training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, at times determined by the Director.

(c) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(d) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Board of Directors established pursuant to subsection (f) at the conclusion of each training session in order to remain in the Police Corps program.

(e) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

(f) BOARD OF DIRECTORS.—(1) The training centers shall be administered by a Board of Directors (in this subpart referred to as the 'Board'). The Board shall consist of—

(A) 9 persons outstanding in the fields of law enforcement, education, law and law enforcement education who shall be appointed by the President, by and with the advice and consent of the Senate, 2 of whom shall be members of a national police labor organization and 2 of whom shall be members of a national police management organization;

(B) the Attorney General or a designee of the Attorney General, who shall be an ex officio member; and

(C) the Director, who shall serve as chairman.

(2) The term of office of a member of the Board (other than the Attorney General or designee of the Attorney General and other than the Director) shall be 6 years, except that—

(A) a member appointed to fill a vacancy occurring before the expiration of the term for which the appointee's predecessor was appointed shall be appointed for the remainder of such term;

(B) the terms of office of the members first taking office shall expire, as designated by the President at the time of the appointment, three at the end of 2 years, three at the end of 4 years, and three at the end of 6 years; and

(C) a member whose term of office has expired shall continue to serve until the member's successor is appointed.

(3) Members of the Board, while away from their homes or regular places of business in the performance of services for the Board, shall be entitled to receive compensation at a rate to be fixed by the Director, not exceeding $100 a day, and shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(4) The Director shall obtain the services of such military and civilian instructors and administrative and other employees as may be necessary to operate the training centers. The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces) to obtain the services of persons qualified to participate in and contribute to the training process.

(5) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(6) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(g) FURTHER TRAINING.—The 16 weeks of Federal training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the Senate and local authorities to which they will be assigned. Each State plan approved by the Director under section 09 shall include assurances that following completion of Federal training each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Federal training, shall be counted toward fulfillment of the participant's 4-year service obligation.

SEC. 08. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the Federal training program established in section 07 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 05, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, upon satisfactory completion of that service, provide assistance pursuant to section 05.

SEC. 09. APPROVAL OF STATE PROGRAMS.

(a) SUBMISSION OF STATE PLANS.—To participate in the Police Corps program under this subpart, a State shall submit to the Director a plan for implementing a State Police Corps program for such State, in a manner consistent with the requirements set forth in this subpart.

(b) APPROVAL OF STATE PLANS.—The Director shall approve a State Police Corps plan that complies with the program requirements set forth in this section.

(c) CONTENTS OF STATE PLANS.—Each State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 06;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps programs at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 10. REPORTS TO PRESIDENT AND CONGRESS.

Not later than April 1 of each year, the Director shall submit a report to the President and to the Speaker of the House of Representatives and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants;

(3) describe the structure and progress of the program; and

(4) discuss the perceived strength and weakness of the program and any proposals for changes in the program.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice to carry out this title, for fiscal year 1990, such sums as may be necessary to carry out the provisions of this title, and for each fiscal year thereafter such sums as may be authorized in the annual authorization Act for such year.

SPECTER AMENDMENT NOS. 1842 THROUGH 1844

(Ordered to lie on the table.)

Mr. SPECTER submitted three amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1842

All the appropriate place in the bill, add the following:

SEC. 01. CONDITION FOR REPORTING BY STATES TO RECEIVE FEDERAL ANTI-DRUG FUNDS.

(a) IN GENERAL.—Notwithstanding any other law, beginning on the date that is 1 year after the date of enactment of this Act, a State shall not be eligible to receive any grant, contract, award, or other assistance paid for with Federal anti-drug funds unless it meets the requirements of subsection (b).

(b) REPORT.—A State that desires to establish eligibility to receive the Federal assistance described in subsection (a) shall report to the Attorney General and the Secretary of Health and Human Services on the costs to provide, and the effects of not receiving Federal anti-drug funds to be used for, providing prisoners who need and desire it—

(1) training in a marketable job skill and basic literacy; and

(2) treatment and rehabilitation for drug addiction.

(c) REGULATIONS.—(1) Not later than 180 days after the date of enactment of this Act, the Director of the Office of Treatment Improvement and the Director of the National Institute of Corrections, shall, after consultation with the Correctional Literacy and Vocational Skills Advisory Council, promulgate regulations to carry out this Act.

(2) The regulations promulgated pursuant to paragraph (1) shall include—

(A) a definition of the term "marketable job skill and basic literacy."

(B) a definition of the term "treatment and rehabilitation for drug addiction."

(d) ADVISORY COUNCIL.—(1) There is established the Correctional Literacy and Vocational Skills Advisory Council (referred to as the "Council").

(2) The Council shall be composed of—

(A) the Director of the National Institute of Corrections, who shall serve as its chairman;

(B) the Assistant Secretary of Education for Vocational and Adult Education;

(C) the Assistant Secretary of Labor for Employment Training and Administration; and

(D) representatives of the American Correctional Association, the American Jail Association, the Association of State and Federal Directors of Correctional Education, and the Correctional Education Association.

(3) It shall be the duty of the Council to advise the National Institute of Corrections in formulating the regulations described in subsection (c)(2)(A).

(e) ADVISORY COMMITTEE.—(1) There is established the Correctional Drug Treatment Advisory Committee (referred to as the "Committee").

(2) The Committee shall be composed of—

(A) the Director of the Office of Treatment Improvement, who shall serve as chairman;

(B) the Director of the National Institute of Drug Abuse;

(C) the Director of the National Institute of Corrections; and

(D) representatives of the American Correctional Association, the American Jail Association, and the National Association of State Alcohol and Drug Abuse Directors.

(b) It shall be the duty of the Committee to advise the Office of Treatment Improvement in formulating the regulations described in subsection (c)(2)(B).

(f) NO CAUSE OF ACTION.—Nothing in this Act shall be construed to create any cause of action, defense, or claim or right of any other kind in favor of a State prisoner.

AMENDMENT No. 1843

At the appropriate place, insert the following:

SEC. . GRANTS FOR TRAINING IN LITERACY AND MARKETABLE JOB SKILLS FOR INMATES IN STATE PRISIONS.

Section 501(b) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) in paragraph (19) by striking "and" after the semicolon:

(2) in paragraph (20) by striking the period and inserting "; and "; and

(3) by adding at the end thereof the following:

"(21) developing, implementing and expanding correctional education programs in State, county, and local prisons and jails to provide prisoners with training in a marketable job skill and basic literacy.".

AMENDMENT No. 1844

At the appropriate place, insert the following:

SEC. . GRANT FOR THE ESTABLISHMENT OF DRUG COURT DIVISIONS.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Health and Human Services, is authorized to make grants to States and local governments for the purpose of establishing narcotics divisions within their judicial systems with exclusive jurisdiction over cases in which the most serious charge involves narcotics.

(b) FUNCTIONS OF DRUG DIVISION.—Each narcotics division funded under subsection (a) shall include—

(1) an independent administrator;

(2) a mixed case scheduling system, specific caseflow management standards, with a continual circulation of judges from other parts of the judicial system, and an individual judge calendar system;

(3) mandatory, on-site, drug treatment;

(4) screening of every arrestee to determine drug-dependency;

(5) mandatory treatment for—

(A) consenting first time, drug-dependent, nonviolent offenders;

(B) nonviolent offenders who are charged with crimes not subjecting them to mandatory sentences;

(C) treatable drug-dependent probationers;

(D) drug-dependent defendants on bail; and

(E) all treatable drug-dependent convicts sentenced to prison; and

(6) a program that employs alternative sentencing methods, including electronic monitoring, home detention, community service, intensive supervision probation, and random drug testing, for appropriate defendants.

(c) SUFFICIENT FUNDING.—Each drug division funded under section (a) shall receive sufficient funds for—

(1) implementation and operation of rehabilitation and drug-treatment programs;

(2) implementation and operation of alternative sentencing programs; and

(3) enhanced data processing and court reporting systems.

(d) STATE AND LOCAL GOVERNMENT APPLICATIONS.—To request an application under this section, the chief executive officer of a State or local government shall submit an application within 60 days after the Attorney General has promulgated regulations under this section, and for each subsequent year, within 60 days after the date that appropriations for this part are enacted, in such form as the Attorney General may require.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

HELMS AMENDMENT NOS. 1845 THROUGH 1847

(Ordered to lie on the table.)

Mr. HELMS submitted three amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1845

At the end of the bill, add the following new section:

"SEC. . Notwithstanding any other provision of law, unless the President certifies as part of the annual drug certification report, that in his judgment, on the basis of information available to him, a country has no government official of cabinet level or above and no head of any national law enforcement agency who engages in, encourages, or facilitates the production or distribution of illegal drugs intended for distribution in the United States, for the one year from the date of such report—

(1) Such country shall not be provided with any funds under the Foreign Assistance Act of 1961, or with any funds for the purpose of rescheduling private or public loans; and

(2) The U.S. representatives to all multilateral banks shall be instructed to vote against all loans to such country.".

AMENDMENT No. 1846

At the end of the bill, add the following new section:

"SEC. . It is the sense of the Senate that notwithstanding any requests from the Government of Mexico, the United States should not facilitate the return to Mexico of any individual indicted for participation in the kidnapping, torture or murder of U.S. Drug Enforcement Agency agent Enrique Camarena.".

AMENDMENT No. 1847

At the end of the bill, add the following new section:

"SEC. . It is the sense of the Senate that the United States Government should use all means available under the law to bring to justice in the United States, all individuals indicted for the kidnapping, torture or murder of U.S. Drug Enforcement Agency agent Enrique Camarena.".

DECONCINI AMENDMENT NOS. 1848 THROUGH 1855

(Ordered to lie on the table.)

Mr. DECONCINI submitted eight amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1848

On page 47, line 22, strike the following sentence, "The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon."

AMENDMENT No. 1849

On page 50, line 15, strike "under this title," and insert in lieu thereof "no more than $1,000 (in accordance with 18 U.S.C. 3571(e)),".

AMENDMENT No. 1850

At the appropriate place, insert the following:

SEC. 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisons of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act. (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substances (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (kk) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 1851

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989."

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years, after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate of foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act. (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005–07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

KENNEDY AMENDMENTS NOS. 1940 AND 1941

(Ordered to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

AMENDMENT No. 1940

At the end of the pending amendment insert the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Abuse Treatment and Prevention Improvement Act of 1990".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—IMPROVEMENT AND EXPANSION OF GRANT PROGRAMS
Sec. 101. Establishment of Office for Treatment Improvement.
Sec. 102. Revision in program for reduction of waiting period for drug abuse treatment.
Sec. 103. Revision in program of model projects for reducing incidence of alcohol and drug abuse among pregnant and postpartum women and their infants.
Sec. 104. Revisions in program for drug abuse projects of national significance.
Sec. 105. Drug abuse treatment grant programs.
Sec. 106. Drug abuse prevention grant programs.
Sec. 107. Technical and conforming amendments.
TITLE II—REVISION OF THE ADAMHA BLOCK GRANT PROGRAM
Sec. 201. Authorization of appropriations.
Sec. 202. Revision of block grant formula.
Sec. 203. Revision with respect to the use of allotments.
Sec. 204. Establishment of requirement.
TITLE III—PHARMACOTHERAPY DEVELOPMENT
Sec. 301. Short title.
Sec. 302. Findings and purpose.
PART A—FEDERAL MEDICATION DEVELOPMENT PROGRAM
Sec. 311. Establishment of Medication Development Division.
Sec. 312. Authorization of appropriations.
PART B—PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPEUTICS
Sec. 321. Drugs for the treatment of addictions.
PART C—MEDICATIONS REVIEW PROCESS REFORM
Sec. 331. Investigational new drugs.
Sec. 332. Parallel track trials for medications to treat drug addiction.
Sec. 333. Waiver of mechanism of action requirement.
Sec. 334. Definition.
PART D—HIGH PRIORITY RESEARCH AREAS
Sec. 341. Sense of Congress.
PART E—REPORT BY THE SURGEON GENERAL
Sec. 351. Report by the Surgeon General.
TITLE IV—MISCELLANEOUS PROVISIONS
Sec. 401. Study on the relationship between the consumption of legal and illegal drugs.
Sec. 402. Omnibus Crime Control and Safe Streets Act of 1986.
Sec. 403. Drug-Free Schools and Communities Act of 1986.

TITLE I—IMPROVEMENT AND EXPANSION OF GRANT PROGRAMS

SEC. 101. ESTABLISHMENT OF OFFICE FOR TREATMENT IMPROVEMENT.

Title V of the Public Health Service Act (hereafter in this Act referred to as the "Act") (42 U.S.C. 290aa et seq.) is amended by inserting after section 507 the following new section:

"SEC. 507A. OFFICE FOR TREATMENT IMPROVEMENT.

"(a) IN GENERAL.—There is established in the Administration an Office for Treatment Improvement (hereafter in this section referred to as the "Treatment Office"). The Treatment Office shall be headed by a Director appointed by the Secretary from among individuals with extensive experience or academic qualifications in the treatment of drug or alcohol abuse. The Secretary, acting through the Director of the Treatment Office, shall carry out this section.

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department of agency thereof, or of any State or any department, agency, or political subdivision herof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filed out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

'(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end theeof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful trnsferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter."

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of thtis title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitation of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United State Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 1854

At the end, insert the following: "Notwithstanding the foregoing, the following shall apply:

SEC. 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as de-

fined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, AND FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsection (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firarm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendents made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 1855

At the end, insert the following: "Notwithstanding the foregoing, the following shall apply:

SEC. 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons.

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsection (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever, knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, "require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

BOSCHWITZ AMENDMENTS NOS. 1856 THROUGH 1870

(Ordered to lie on the table.)

Mr. BOSCHWITZ submitted 15 amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1856

None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.

Section 1201 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.—

"(1) TO WHOM APPLICABLE.—If—

"A) the victim of an offense under this section has not attained the age of eighteen years; and

"B) the offender—

"(i) has attained such age; and

"(ii) is not—

"(I) a parent;

"(II) a grandparent;

"(III) a brother;

"(IV) a sister;

"(V) an aunt;

"(VI) an uncle; or

"(VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall be subject to paragraph (2) of this subsection.

"(2) MINIMUM SENTENCES.—The sentence shall be imprisonment for life if the offender engages in any conduct described in paragraph (3) of this subsection, and imprisonment for not less than 30 years in any other case. If the offender engages in any conduct described in paragraph (3) of this subsection after a prior conviction under such paragraph has become final, such offender shall be sentenced to mandatory life imprisonment without release.

"(3) AGGRAVATING CONDUCT.—The conduct referred to in paragraph (2) of this subsection is—

"(A) selling the victim of such offense;

"(B) sexually abusing such victim;

"(C) using such victim for pornography;

"(D) intentionally denying such victim food or medical care to a life-threatening extent;

"(E) intentionally harming such victim physically to a life-threatening extent; or

"(F) causing such victim to be subjected to conduct by another which is conduct described in any of subparagraphs (A) through (E) of this paragraph.".

AMENDMENT NO. 1857

At the end of the bill add the following new title:

None of the other provisions in this Act shall take effect unless the following is enacted:

TITLE —FOOD STAMP CRIMINAL PROVISIONS

SEC. 01. SHORT TITLE.

This title may be cited as the "Food Stamp Trafficking Prevention and Penalty Act of 1990".

SEC. 02. TAXPAYER IDENTIFYING NUMBERS OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c) is amended by adding at the end the following) "Such regulations shall require each applicant retail food store or wholesale food concern, and each approved retail food store or wholesale food concern, to submit to the Secretary the taxpayers identifying number applicable under the Internal Revenue Code of 1986 to such store or concern.".

SEC. 03. UNLAWFUL USE OF COUPONS IN LAUNDERING MONETARY INSTRUMENTS.

Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024) is amended by adding at the end the following:

"(h) For purposes of section 1956 of title 18, United States Code, a violation of this section shall be considered to be specified unlawful activity (as defined in section 1956(c)(7) of such title) if such violation involves a quantity of coupons that has a value of not less than $5,000.".

SEC. 04. FORFEITURE OF PROPERTY.

(a) CIVIL AND CRIMINAL FORFEITURE.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 23. FORFEITURE OF PROPERTY.

"(a) PROPERTY SUBJECT TO FORFEITURE.—The following shall be subject to forfeiture to the United States and no property right shall exist in them:

"(1) All coupons which have been used, transferred, acquired, altered, possessed, or presented or caused to be presented for payment or redemption in violation of subsection (b) or (c) of section 15.

"(2) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1), except that—

"(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this section unless it appears that the owner or other person in charge of such conveyance was a consenting party or privy

to a violation of subsection (b) or (c) of section 15;

"(B) no conveyance shall be forfeited under this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State; and

"(C) no conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed, or omitted without the knowledge, consent, or willful blindness of the owner.

"(3) All books, records, microfilm, tapes, and data which are used, or intended for use, in violation of subsection (b) or (c) of section 15.

"(4) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for coupons in violation of subsection (b) or (c) of section 15, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of subsection (b) or (c) of section 15, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(5) All real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of subsection (b) or (c) of section 15 punishable by more than one year's imprisonment, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(6) All coupons which have been involved in violation of subsection (b) or (c) of section 15.

"(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS; ISSUANCE OF WARRANT AUTHORIZING SEIZURE.—Any property subject to civil forfeiture to the United States under subsection (a) may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules of Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

"(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

"(2) the property subject to seizure has been the subject of a prior judgment in favor of the United States in a criminal injunction or forfeiture proceeding under this Act;

"(3) the Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

"(4) the Attorney General has probable cause to believe that the property is subject to civil forfeiture under subsection (a).

In the event of seizure pursuant to paragraph (2), proceedings under subsection (d) shall be instituted promptly. The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under subsection (a) in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) CUSTODY OF ATTORNEY GENERAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custory of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this Act, the Attorney General may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—The provisions of law relating to—

"(1) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(2) the disposition of such property or the proceeds from the sale thereof;

"(3) the remission of mitigation of such forfeitures; and

"(4) the compromise of claims;

shall apply to seizure and forfeitures incurred, or alleged to have been incurred, under this Act, insofar as applicable and not inconsistent with the provisions hereof, except that such duties are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this Act by such officers, agents, or other persons as may be authorized to be designated for that purpose by the Attorney General unless such duties arise from seizures and forfeitures effected by any customs officer.

"(e) DISPOSITION OF FORFEITED PROPERTY.—

"(1) METHODS.—Whenever property is civilly or criminally forfeited under this section the Attorney General may—

"(A) retain the property for official use or, in the manner provided with respect to transfers under section 1616a of title 19, United States Code, transfer the property to any Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property;

"(B) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

"(C) require that the General Services Administration take custody of the property and dispose of it in accordance with law;

"(D) transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in a seizure or forfeiture of the property, if such a transfer—

"(i) has been agreed to by the Secretary of State;

"(ii) is authorized in an international agreement between the United States and the foreign country; and

"(iii) is made to a country which, if applicable, has been certified under section 2291(h) of title 22, United States Code.

"(2) USE OF PROCEEDS FROM SALES.—The proceeds from any sale under paragraph (1)(B) and any monies forfeited under this section shall be used—

"(A) first, to reimburse the Department of Justice for the costs incurred by the Department to initiate and complete the forfeiture proceeding that caused the sale that produced such proceeds;

"(B) second, to reimburse the Department of Agriculture for any costs incurred by the Department to assist the Department of Justice to initiate or complete such proceeding; and

"(C) third, to reimburse the State agency for any costs incurred by the State agency to assist the Department of Justice, or the Department of Agriculture, to initiate or complete such proceeding.

The amount remaining, if any, shall be available to the Secretary to carry out this Act.

"(3) TRANSFER OF PROPERTY.—The Attorney General shall ensure that any property transferred to a State or local law enforcement agency under paragraph (1)(A)—

"(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local law enforcement agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

"(B) is not so transferred to circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies.

"(f) FORFEITURE AND DESTRUCTION OF COUPONS.—All coupons that are used, transferred, acquired, altered, possessed, or presented or caused to be presented for payment or redemption in violation of subsection (b) or (c) of section 15 shall be deemed contraband, and seized and summarily forfeited to the United States. Similarly, all coupons which are seized or come into the possession of the United States, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the United States.

"(g) VESTING OF TITLE IN UNITED STATES.—All right, title, and interest in property described in subsection (a) shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) STAY OF CIVIL FORFEITURE PROCEDURE.—The filing of an indictment or information alleging a violation of section 15 which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"(i) VENUE.—In addition to the venue provided for in section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

"(j) AGREEMENT BETWEEN ATTORNEY GENERAL AND POSTAL SERVICE FOR PERFORMANCE OF FUNCTIONS.—The functions of the Attorney General under this section shall be carried out by the Postal Service pursuant to such agreement as may be entered into be-

tween the Attorney General and the Postal Service.

"(k) EXPEDITED PROCEDURES FOR PROPERTY OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.—

"(1) PETITION FOR EXPEDITED DECISION; DETERMINATION.—(A) A retail food store or wholesale food concern may petition the Attorney General for an expedited decision with respect to property used to carry out its food sale operations if such property is seized under this section and if such store or concern filed the requisite claim and cost bond in the manner provided in section 1608 of title 19, United States Code. The Attorney General shall make a determination on a petition under this subsection expeditiously, including a determination of any rights or defenses available to the petitioner. If the Attorney General does not grant or deny a petition under this subsection within 20 days after the date on which the petition is filed, such property shall be returned to the owner pending further forfeiture proceedings.

"(B) With respect to a petition under this subsection, the Attorney General may—

"(i) deny the petition and retain possession of such property;

"(ii) grant the petition, move to dismiss the forfeiture action, if filed, and promptly release such property to such store or concern; or

"(iii) advise the petitioner that there is not adequate information available to determine the petition and promptly release such property to such store or concern.

"(C) Release of property under subparagraph (A) or (B)(iii) does not affect any forfeiture action with respect to such property.

"(D) The Attorney General shall prescribe regulations to carry out this subsection.

"(2) WRITTEN NOTICE OF PROCEDURES.—At the time of seizure, the officer making the seizure shall furnish to any person in possession of such property a written notice specifying the procedures under this subsection. At the earliest practicable opportunity after determining ownership of the seized property, the head of the department or agency that seizes such property shall furnish a written notice to such store or concern, and other interested parties (including lienholders), of the legal and factual basis of the seizure.

"(3) COMPLAINT FOR FORFEITURE.—Not later than 60 days after a claim and cost bond have been filed under section 1608 of title 19, United States Code, regarding property seized under this section, the Attorney General shall file a complaint for forfeiture in the appropriate district court, except that the court may extend the period for filing for good cause shown or on agreement of the parties. If the Attorney General does not file a complaint as specified in the preceding sentence, the court shall order the return of such property to such store or concern and the forfeiture may not take place.

"(4) BOND FOR RELEASE OF PROPERTY USED IN FOOD SALE OPERATION.—Any retail food store or wholesale food concern may obtain release of property used to carry out its food sale operations by providing security in the form of a bond to the Attorney General in an amount equal to the value of such property unless the Attorney General determines such property should be retained (A) as contraband, (B) as evidence of a violation of law, or (C) because, by reason of design or other characteristic, such property is particularly suited for use in illegal activities.".

(b) CONFORMING PROVISIONS.—(1) Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024) is amended by striking subsection (g).

(2) Sections 981 and 982 of title 18, United States Code, shall not apply with respect to a violation of section 1956 of such title that, as a result of the amendment made by section 3 of this Act, is based on a violation of section 15 of the Food Stamp Act of 1977.

SEC. 05. EFFECTIVE DATES.

(a) REGULATIONS.—The amendment made by section 02 shall take effect 60 days after the date of the enactment of this Act.

(b) LAUNDERING AND FORFEITURE.—The amendments made by sections 03 and 04 shall take effect on the date of the enactment of this Act.

AMENDMENT NO. 1858

At the appropriate place in the bill, insert the following new section:

None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . FINANCIAL INCENTIVES FOR CITIZEN INVOLVEMENT IN THE WAR AGAINST DRUGS.

Section 524(c)(1) of title 28, United States Code, is amended—

(1) by striking "Justice—" and inserting "Justice:";

(2) in subparagraph (A)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period; and

(3) in subparagraph (B)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period; and

(4) in subparagraph (C)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period;

(5) in subparagraph (D)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period;

(6) in subparagraph (E)—

(A) by striking "disbursements" and inserting "Disbursements"; and

(B) by striking the semicolon at the end and inserting a period;

(7) in subparagraph (F)—

(A) by striking "for" the first place it appears and inserting "For"; and

(B) by striking the semicolon at the end and inserting a period;

(8) in subparagraph (G)—

(A) by striking "for" the first place it appears and inserting "For"; and

(B) by striking the semicolon at the end and inserting a period;

(9) in subparagraph (H)—

(A) by striking "after" and inserting "After";

(B) by striking "(H)" and inserting "(I)"; and

(10) by inserting after subparagraph (G) the following:

"(H)(i) For the payment of an award to any person or persons who provide information leading to the arrest and conviction under Federal law of any individual or individuals for the unlawful sale, or possession for sale, of a controlled substance or a controlled substance analogue. The aggregate amount of such award shall be equal to 50 percent of the fair market value (as of the date of forfeiture) of all property forfeited to the United States as a result of such conviction and pursuant to a law enforced or administered by the Department of Justice: *Provided,* That payment of such awards shall not reduce the amount of such moneys or property available for distribution to State and local law enforcement agencies.

"(ii) For the payment to the State or States in which the Federal offense was committed by such individual or individuals, of an incentive award to encourage such State or States, at their option, to establish a program (including outreach) to pay rewards to individuals who provide information leading to the arrest and conviction under State law of individuals for the unlawful sale, or possession for sale, of controlled substance or controlled substance analogues. The aggregate amount of such incentive award shall be equal to 5 percent of the fair market value (as of the date of forfeiture) of all property forfeited to the United States as a result of the convictions referred to in clause (i) and pursuant to a law enforced or administered by the Department of Justice.

"(iii) For purposes of this subparagraph—

"(I) the term 'controlled substance' has the meaning stated in section 102(6) of the Controlled Substances Act;

"(II) the term 'controlled substance analogue' has the meaning stated in section 102(32) of the Controlled Substance Act; and

"(III) the term 'individual' does not include an individual who is convicted under Federal or State law for the unlawful sale, or possession for sale, of a controlled substance or a controlled substance analogue.".

AMENDMENT NO. 1859

At the appropriate place, insert the following:

None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . REVOCATION OF DRUG USERS' DRIVER'S LICENSES AND PILOT'S LICENSES.

(a) DRIVER'S LICENSES.—(1) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Revocation of the driver's licenses of persons convicted of drug possession

"(a) Beginning on the date that is 2 calendar years after the date of enactment of this section, a request for Federal drug law enforcement assistance funds from the Bureau of Justice Assistance Grant programs by a State whose law provides for revocation of drivers' licenses as provided in subsection (c) shall receive priority over a request by a State whose law does not so provide.

"(b) Beginning on the date that is 2 calendar years after the date of enactment of this section, the formula for determining the amount of funds to be distributed from the Drug Control and System Improvement Grant Program to State and local governments shall be adjusted by—

"(1) reducing by 10 percent the amount of funds that would, except for the application of this paragraph, be allocated to States whose laws do not provide as stated in subsection (c); and

"(2) allocating the amount of the reduction pro rata to the other States.

"(c)(1) A State meets the requirements of this section if the State has enacted and is enforcing a law that requires in all circumstances, except as provided in paragraph (2)—

"(A) the mandatory revocation of the driver's license for at least 1 year of any person who is convicted, after the enactment of such law, of—

"(i) a violation of section 404 of the Controlled Substances Act (21 U.S.C. 844); or

"(ii) any other Federal or State offense consisting of the possession of illegal drugs; and

"(iii) any other Federal or State drug offense for which a person serves less than 1 year's imprisonment; and

"(B) the mandatory denial of any request for the issuance or reinstatement of a driver's license to such a person if the person does not have a driver's license, or the driver's license of the person is suspended, at the time the person is so convicted.

"(2) The State law referred to in paragraph (1) may provide that the driver's license of a first offender, but not of a second or subsequent offender, may be reinstated on performance of 3 months' community service and passes periodic drug tests administered during the period of community service.".

"(d) For purposes of this section—

"(1) the term 'driver's license' means a license issued by a State to any person that authorizes the person to operate a motor vehicle on highways.

"(2) The term 'drug offense' means any criminal offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act (21 U.S.C. 801 et seq.) or violates any State law relating to any controlled substance.

"(3) The term 'convicted' includes adjudicated under juvenile proceedings.".

(2) The table of contents for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new item:

"159. Revocation of the driver's licenses of persons convicted of drug offenses.".

(b) PILOT'S LICENSES.—The Secretary of Transportation shall cause the Federal Aviation Administration to amend its regulations as necessary to cause the revocation of private pilot's licenses on the terms and conditions prescribed for revocation of driver's licenses in subsection (a).

AMENDMENT No. 1860

At the appropriate place in the bill, insert the following new sections:

None of the other provisions in this Act shall be in effect unless the following is enacted:

AMENDMENT No. 1860

SEC. . DRUG TESTING OF FEDERAL PRISONERS.

(a) DRUG TESTING PROGRAM.—Subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3008. Drug testing of defendants on post-conviction release

"(a) The Attorney General, in consultation with the Director of the Administrative Office of the United States Courts shall, as soon as is practicable after the effective date of this section, establish by regulation a program of drug testing of targeted classes of arrestees, individuals in jails, prisons, and other correctional facilities, and persons on conditional or supervised release before or after conviction, including probationers, parolees, and persons released on bail.

"(b)(1) The Attorney General shall, not later than 6 months after the date of enactment of this section, promulgate regulations for drug testing programs under this section.

"(2) The regulations issued pursuant to paragraph (1) shall be based in part on scientific and technical standards determined by the Secretary of Health and Human Services to ensure reliability and accuracy of drug test results. In addition to specifying acceptable methods and procedures for carrying out drug testing, the regulations may include guidelines or specifications concerning—

"(A) the classes of persons to be targeted for testing:

"(B) the drugs to be tested for;

"(C) the frequency and duration of testing; and

"(D) the effect of test results in decisions concerning the sentence, the conditions to be imposed on release before of after conviction, and the granting, continuation, or termination of such release.

"(c) In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(b) TECHNICAL AMENDMENT.—The section analysis for subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following:

"3608. Drug testing of defendants on post-conviction release.".

SEC. . MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) ia amended by adding the following new paragraph at the end thereof:

"(7)(A) In a case involving possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the possession itself.

"(B) In a case involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession or distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed under this paragraph.".

AMENDMENT No. 1861

At the appropriate place in the bill, insert the following new sections:

None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . FINDINGS.

The Congress finds that—

(1) to make America drug-free by 1995 requires a concerted effort to hold drug users accountable for their actions, which sustain the drug trade and related criminal activities; and

(2) the anti-drug policy of the 1990's must emphasize the principles of zero tolerance, user accountability, and measured user penalties.

SEC. . PAYMENT OF TRIAL COSTS AND MANDATORY MINIMUM FINES.

(a) FINE TO PAY COST OF TRIAL.—(1) A person who is convicted of a violation of section 404 of the Controlled Substances Act (21 U.S.C. 844) shall pay to the Treasury of the United States the cost of the trial in which the person is convicted, as determined by the court, out of the income of such person.

(2) If a person convicted of drug possession has insufficient income and property to pay the cost of trial as required by paragraph (1), the court shall determine an appropriate amount that should be paid in view of the person's income and the cost of trial.

(3) The amount that a person shall be required to pay out of the person's income to pay the cost of trial shall not exceed 25 percent of the person's annual income.

(b) ADDITIONAL MANDATORY FINE.—In addition to the fines authorized in section 404 of the Controlled Substances Act (21 U.S.C. 844) and in subsection (a), a person who is convicted of section 404 of the Controlled Substances Act shall be assessed a mandatory fine of not less than 10 percent of the person's income for a first offense and not less than 25 percent of a person's income for a second or subsequent offense.

(c) INCOME.—For the purposes of this section, a person's annual income shall be determined to be no less than the amount of income reported on the person's most recent Federal income tax filing.

(d) FORFEITURE OF PROPERTY.—If a person convicted of a drug possession crime has insufficient income to pay the fines imposed under subsections (a) and (b), the person's property, including wages and other earnings, shall be subject to forfeiture through attachment, foreclosure, and garnishment procedures.

(e) The court may order payment of trial costs and fines imposed under this section in a single payment or in installments, as necessary to realize the greatest possibility that the entire amount of costs and fines will be paid.

SEC. . LOSS OF UNEARNED FEDERAL BENEFITS.

(a) DRUG TRAFFICKERS.—Section 5301(a) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Any individual who is convicted of any State offense consisting of the distribution of controlled substances (as such terms are defined for purposes of the Controlled Substances Act) who is not sentenced to a prison term or who serves a prison term of less than the time periods specified in subparagraph (A), (B), or (C) of this paragraph shall—

"(A) upon the first conviction for such an offense be ineligible for unearned Federal benefits for 5 years after such conviction;

"(B) upon a second conviction be ineligible for all unearned Federal benefits for 10 years after such conviction; and

"(C) upon a third or subsequent conviction for such an offense be permanently in-

eligible for all unearned Federal benefits."; and

(2) in paragraph (2) striking "there is a reasonable body of evidence to substantiate such declaration" and inserting "there is clear and convincing evidence to substantiate such declaration".

(b) DRUG USERS.—Section 5301(b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a(b)) is amended—

(1) in paragraph (1) by amending subparagraphs (A) and (B) to read as follows:

"(A) upon the first conviction for such an offense be ineligible for all unearned Federal benefits for 1 year after such conviction;

"(B) upon a second and subsequent convictions be ineligible for all unearned Federal benefits for 5 years after such convictions; and

(2) in paragraph (2) by striking "there is a reasonable body of evidence to substantiate such declaration" and inserting "there is clear and convincing evidence to substantiate such declaration".

(c) SUSPENSION OF PERIOD OF INELIGIBILITY.—Subsection (c) of section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a(c)) is amended to read as follows:

"(c) SUSPENSION OF PERIOD OF INELIGIBILITY.—A court may reduce the period of ineligibility upon a first conviction referred to in subsection (b)(1)(A) to 3 months if the individual—

"(1) successfully completes a supervised drug rehabilitation program which includes periodic drug testing after becoming ineligible under this section; or

"(2) completes a period of community service satisfactory to the court and passes periodic drug tests administered during the 3-month period of suspension.".

(d) DEFINITIONS.—Subsection (d) of section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a(d)) is amended to read as follows:

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'earned Federal benefits' means programs and benefits that are earned through or by financial contributions or service, such as Social Security or veterans' benefits; and

"(2) the term 'unearned Federal benefits' means all Federal benefits, including the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States, but not including earned Federal benefits, such as Social Security and veterans' benefits.

(e) MONITORING.—The Attorney General shall establish a system to monitor implementation of section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a).

AMENDMENT NO. 1862

At the appropriate place in the bill, insert the following new sections:

None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . FINDINGS AND DECLARATION OF NATIONAL DRUG AND CRIME EMERGENCY.

(a) FINDINGS.—The Congress makes the following findings:

(1) Next to preserving the national security, protecting the personal security of individual Americans, especially children, by enacting and enforcing laws against criminal behavior is the most important single function of government.

(2) The criminal justice system in America is failing to achieve this basic objective of protecting the innocent and punishing the guilty.

(3) Reform is needed to ensure that criminals are held accountable for their actions, that they receive swift and certain punishment commensurate with their crimes, and that the protection of innocent citizens takes priority over other objectives.

(4) The principle of individual accountability should also dictate policies with respect to drug users. Users should face a high probability of apprehension and prosecution, and those found guilty should face absolute certain measured response penalties.

(5) According to the Uniform Crime Reports issued in 1989 by the Federal Bureau of Investigation, violent crime known to law enforcement reached an unprecedented high in 1988. A violent crime occurred every 20 seconds.

(6) The Department of Justice estimates that 83 percent of Americans will be victimized by violent crime during their lifetime.

(7) The Federal Bureau of Investigation reports that violent crime in America rose by 23 percent during the period 1984–1988.

(8) The National Drug Control Strategy reports that in certain large cities more than 80 percent of the men arrested have tested positive for illegal drug use.

(9) According to the Department of Justice, the total number of Federal and State prisoners grew by 90 percent from 1980 to 1988. The growth rate of the total prison population during the first 6 months of 1989 exceeded the largest annual increase ever recorded in 64 years of recordkeeping. The 6-month growth rate translates to a need of almost 1,800 additional prison beds per week.

(10) In 1985, 19 States reported the early release of nearly 19,000 prisoners in an effort to control prison populations, according to the United States Bureau of Justice Statistics.

(11) According to a Bureau of Justice Statistics study, 63 percent of State inmates were rearrested for a serious crime within 3 years of their discharge from prison.

(12) The criminal justice system is overloaded and does not deliver swift and certain penalties for violating the law. In America today, there exists crime without punishment. Such conditions imperil the public safety, jeopardize the rule of law and undermine the preservation of order in the community.

(b) DECLARATION OF NATIONAL DRUG AND CRIME EMERGENCY.—(1) Guided by the principles that energized and sustained the mobilization for World War II, and in order to remove violent criminals from the streets and meet the extraordinary threat that is posed to the Nation by the use and trafficking of illegal drugs, the Congress declares the existence of a National Drug and Crime Emergency beginning on the date of enactment of this Act and ending on the date that is 5 years after the date of enactment of this Act.

(2) During the National Drug and Crime Emergency declared in paragraph (1), it shall be the policy of the United States that—

(A) every person who is convicted in a Federal court of a crime of violence or a drug trafficking crime shall be sentenced to and shall serve a full term of no less than 5 years' imprisonment without release; and

(B) prisoners may be housed in tents, and other temporary facilities may be utilized, consistent with security requirements.

SEC. . TEMPORARY PRISON FACILITIES AND EXPANDED CAPACITY.

(a) IN GENERAL.—In order to remove violent criminals from the streets and protect the public safety, the Attorney General shall take such action as may be necessary to ensure that sufficient facilities exist to house individuals whom the courts have ordered incarcerated. During the National Drug and Crime Emergency declared in section—(b)(1), these facilities may include tent housing or other temporary shelters placed on available military bases and at other suitable locations. The President may direct the National Guard and the Army Corps of Engineers to design and construct such temporary detention facilities.

(b) USE OF MILITARY INSTALLATIONS.—(1) In order to provide facilities for incarceration authorized by subsection (a), the Secretary of Defense, the Commission on Alternative Utilization of Military Facilities, and the Director of the Bureau of Prisons shall—

(A) identify military installations that could be used as confinement facilities for Federal or State prisoners; and

(B) examine the feasibility of using temporary facilities for housing prisoners with a specific examination of the successful use of tent housing during the mobilization of World War II.

(2) Not later than 90 days after the date of enactment of this Act, the Director of the Bureau of Prisons shall submit to the Congress a description and summary of the results of the examination conducted pursuant to paragraph (1).

(c) PRIORITY FOR DISPOSAL OF CLOSED MILITARY INSTALLATIONS.—Section 204(b)(3) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) is amended to read as follows:

"(3)(A) Notwithstanding any other provision of this title and any other law, before any action is taken with respect to the disposal or transfer of any real property or facility located at a military installation to be closed or realigned under this title the Secretary shall—

"(i) notify the Attorney General and the Governor of each of the territories and possessions of the United States of the availability of such real property or facility, or portion thereof; and

"(ii) transfer such real property or facility, or portion thereof, as provided in subparagraph (B).

"(B) Subject to subparagraph (C), the Secretary shall transfer real property or a facility, or portion thereof, referred to in subparagraph (A) in accordance with the following priorities:

"(i) If the Attorney General certifies to the Secretary that the property or facility, or portion thereof, will be used as a prison or other correctional institution, to the Department of Justice for such use.

"(ii) If the Governor of a State, the Mayor of the District of Columbia, or the Governor of a territory or possession of the United States certifies to the Secretary that the property or facility, or portion thereof, will be used as a prison or other correctional institution, to the State, the District of Columbia, or that territory or possession for such use.

"(iii) To any other transferee pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(C) Within each priority specified in clauses (i) and (ii) of subparagraph (B), the Secretary shall give a priority for the trans-

fer of any real property or facility referred to in that subparagraph, or any portion thereof, to any department, agency, or other instrumentality referred to in such clauses that agrees to pay the Department of Defense the fair market value of the real property, facility, or portion thereof.

"(D) In this paragraph, the term 'fair market value' means, with respect to any real property or facility, or any portion thereof, the fair market value determined on the basis of the use of the real property or facility on December 31, 1989.".

(d) REVIEW OF CURRENT STANDARDS OF PRISON CONSTRUCTION.—(1) The Director of the Bureau of Prisons (referred to as the "Director") shall—

(A) review current construction standards and methods used in building Federal prisons; and

(B) examine and recommended any cost cutting measures that could be employed in prison construction (consistent with security requirements), especially expenditures for air conditioning, recreational activities, color televison, social services and similar amenities.

(2) Not later than 90 days after the date of enactment of this Act, the Director shall submit to Congress a description and summary of the results of the review conducted pursuant to paragraph (1).

(e)(1) Chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 4014. Private construction and operation of Federal prisons

"(a) IN GENERAL.—The Attorney General may contract with private persons to—

"(1) construct, own, and operate Federal prison facilities; or

"(2) construct or operate Federal prison facilities owned by the United States,

including the provision of subsistence, care, and proper employment of United States prisoners.

"(b) COOPERATION WITH STATES.—The Attorney General shall consult and cooperate with State and local governments in exercising the authority provided by subsection (a).

"(c) FINANCING OPTIONS FOR PRISON CONSTRUCTION AND OPERATION.—(1) To the greatest extent possible, the Attorney General shall utilize creative and cost-effective private financing alternatives and private construction and operation of prisons.

"(2) Operating costs of privately-operated prisons shall be covered through rent charged to participating units of Government placing inmates in a prison.

"(3) The Attorney General may finance the construction of facilities through lease or lease-purchase agreements.

"(4) In order to gain full cost advantages from economies of scale and specialized knowledge from private innovation, the Attorney General may contract with consortia or teams of private firms to design, construct, and manage, as well as finance, prison facilities.".

(2) The table of sections for chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"4014. Private construction and operation of Federal prisons.".

(f) SURPLUS FEDERAL PROPERTY.—(1) For the purpose of expanding the number of correctional facilities, the Administrator of the General Services Administration, in consultation with the Attorney General, shall, not later than 90 days after the date of enactment of this Act, identify and make available a list of not less than 20 parcels of surplus Federal property, which the Attorney General has certified are not needed for Federal correctional facilities but which may be suitable for State or local correctional facilities.

(2) During the National Drug and Crime Emergency declared in section —(b)(1), notwithstanding any other law, any property that is determined to be excess to the needs of a Federal agency that may be suitable for use as a correctional facility shall be made available for such use, in order of priority, first, to the Attorney General, and second, to a State, the District of Columbia, or a local government.

(g) STATE AND LOCAL GOVERNMENT USE OF FACILITIES.—State and local governments shall be permitted to use Federal temporary incarceration facilities, when they are not needed to accommodate Federal prisoners, for the purpose of incarcerating prisoners at a per diem fee to be paid to the Bureau of Prisons.

SEC. . IMPRISONMENT OF DRUG TRAFFICKERS AND VIOLENT CRIMINALS.

During the National Drug and Crime Emergency declared in section —(b)(1), notwithstanding any other law, every person who is convicted in a Federal court of committing a crime of violence or drug trafficking crime, shall be sentenced to and shall serve a full term of no less than 5 years' imprionment, and no such person shall be released from custody for any reason or for any period of time prior to completion of the sentence imposed by the court unless the sentence imposed is greater than 5 years and is not a mandatory minimum sentence without release.

AMENDMENT NO. 1863

At the appropriate place in the bill, insert the following new sections:

None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted prisoners confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved. Such labor may include, but not be limited to—

(A) local public works projects and infrastructure repair;

(B) construciton of new prisons and other detention facilities;

(C) prison industries; and

(D) other appropriate labor.

(2) It is the policy of the Federal Government that States and local governments have the same authority to require all convicted prisoners to work.

(b) PRISONERS SHALL WORK.—Medical certification of 100 percent disability, security considerations, or disciplinary action shall be the only excuse to remove a Federal prisoner from labor participation.

(c) USE OF FUNDS.—(1) Subject to paragraph (2), any funds generated by labor conducted pursuant to this section shall be deposited in a separate fund in the Treasury of the United States for use by the Attorney General for payment of compensation judgments. Notwithstanding any other law, such funds shall be available without appropriation.

(2) Prisoners shall be paid a share of funds generated by their labor conducted pursuant to this section.

SEC. . REPEAL OF CONSTRAINTS ON PRISON INDUSTRIES.

(a) SUMNERS-ASHURST ACT.—(1) Chapter 85 of part 1 of title 18, United States Code, is repealed.

(2) The table of chapters for part 1 of title 18, United States Code, is amended by striking the item for chapter 85 and inserting the following:

"[85. Repealed.].

(3) The repeal made by this subsection shall not affect the performance to completion of the pilot projects authorized by section 1761(c) of title 18, United States Code, prior to enactment of this Act.

(b) FEDERAL PRISON INDUSTRIES.—(1) Section 4122(a) of title 18, United States Code, is amended to read as follows:

"(a) Federal Prison Industries shall determine in what manner and to what extent industrial operations shall be carried on in Federal penal and correctional institutions for the production of commodities for consumption in such institutions or for sale to governmental departments and agencies and to the public.".

(2) The first paragraph of section 4124 of title 18, United States Code, is amended to read as follows:

"The several Federal departments and agencies and all other Government institutions of the United States may purchase such products of the industries authorized by this chapter as meet their requirements and may be available.".

(3) The second sentence of section 4126(f) of title 18, United States Code, is amended to read as follows: "To the extent that the amount of such funds is excess to the needs of the corporation for such purposes, such funds may be transferred to the Attorney General for the construction or acquisition of penal and correctional institutions, including camps described in section 4125.".

(c) WALSH-HEALY ACT.—Subsection (d) of the first section of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (41 U.S.C. 35(d)), is amended—

(1) by striking "and no convict labor"; and

(2) by striking ", except that this section, or any law or Executive order contrasting similar prohibitions against purchases of goods by the Federal Government, shall not apply to convict labor which satisfies the conditions of section 1761(c) of title 18, United States Code".

(d) LEGISLATIVE RECOMMENDATIONS.—The Attorney General shall submit to Congress a report making recommendations for legislation to—

(1) ensure that private businesses and labor do not suffer unfair consequences from the amendments made in subsections (a), (b), and (c); and

(2) encourage greater private sector participation in prison industries and create incentives for cooperative arrangements between private businesses and prisons providing for such participation.

SEC. . EMPLOYMENT OF PRISONERS.

(a) IN GENERAL.—The Attorney General may enter into contracts with private businesses for the use of inmate skills that may be of commercial use to such businesses.

(b) USE OF FEES AND PAYMENTS.—A portion of the fees and payments collected for the use of inmate skills under contracts entered

into pursuant to subsection (a) shall be deposited in the fund described in section ___(c)(1), and a portion shall be paid to the prisoners who conduct the labor.

(c) SECURITY REQUIREMENT.—In the case of contracts described in subsection (a) in which the provision of inmate skills would require prisoners to leave the prison—

(1) prisoners shall be permitted to travel directly to a work site and to remain at the work site during the work day and shall be returned directly to prison at the end of each work day; and

(2) only prisoners with no history of violent criminal activity and who are able to meet strict security standards to insure that they pose no threat to the public, shall be eligible to participate.

AMENDMENT No. 1864

At the appropriate place in the bill, insert the following new sections:

SEC. . FINDINGS.

The Congress finds that—

(1) to make America drug-free by 1995 requires a concerted effort to hold drug users accountable for their actions, which sustain the drug trade and related criminal activities; and

(2) the anti-drug policy of the 1990's must emphasize the principles of zero tolerance, user accountability, and measured user penalties.

SEC. . PAYMENT OF TRIAL COSTS AND MANDATORY MINIMUM FINES.

(a) FINE TO PAY COST OF TRIAL.—(1) A person who is convicted of a violation of section 404 of the Controlled Substances Act (21 U.S.C. 844) shall pay to the Treasury of the United States the cost of the trial in which the person is convicted, as determined by the court, out of the income of such person.

(2) If a person convicted of drug possession has insufficient income and property to pay the cost of trial as required by paragraph (1), the court shall determine an appropriate amount that should be paid in view of the person's income and the cost of trial.

(3) The amount that a person shall be required to pay out of the person's income to pay the cost of trial shall not exceed 25 percent of the person's annual income.

(b) ADDITIONAL MANDATORY FINE.—In addition to the fines authorized in section 404 of the Controlled Substances Act (21 U.S.C. 844) and in subsection (a), a person who is convicted of section 404 of the Controlled Substances Act shall be assessed a mandatory fine of not less than 10 percent of the person's income for a first offense and not less than 25 percent of the person's income for a second or subsequent offense.

(c) INCOME.—For the purposes of this section, a person's annual income shall be determined to be no less than the amount of income reported on the person's most recent Federal income tax filing.

(d) FORFEITURE OF PROPERTY.—If a person convicted of a drug possession crime has insufficient income to pay the fines imposed under subsections (a) and (b), the person's property, including wages and other earnings, shall be subject to forfeiture through attachment, foreclosure, and garnishment procedures.

(e) The court may order payment of trial costs and fines imposed under this section in a single payment or in installments, as necessary to realize the greatest possibility that the entire amount of costs and fines will be paid.

SEC. . LOSS OF UNEARNED FEDERAL BENEFITS.

(a) DRUG TRAFFICKERS.—Section 5301(a) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Any individual who is convicted of any State offense consisting of the distribution of controlled substances (as such terms are defined for purposes of the Controlled Substances Act) who is not sentenced to a prison term or who serves a prison term of less than the time periods specified in subparagraph (A), (B), or (C) of this paragraph shall—

"(A) upon the first conviction for such an offense be ineligible for unearned Federal benefits for 5 years after such conviction;

"(B) upon a second conviction be ineligible for all unearned Federal benefits for 10 years after such conviction; and

"(C) upon a third or subsequent conviction for such an offense be permanently ineligible for all unearned Federal benefits."; and

(2) in paragraph (2) striking "there is a reasonable body of evidence to substantiate such declaration" and inserting "there is clear and convincing evidence to substantiate such declaration".

(b) DRUG USERS.—Section 5301(b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a(b)) is amended—

(1) in paragraph (1) by amending subparagraphs (A) and (B) to read as follows:

"(A) upon the first conviction for such an offense be ineligible for all unearned Federal benefits for 1 year after such conviction;

"(B) upon a second and subsequent convictions be ineligible for all unearned Federal benefits for 5 years after such convictions; and

(2) in paragraph (2) by striking "there is a reasonable body of evidence to substantiate such declaration" and inserting "there is clear and convincing evidence to substantiate such declaration".

(c) SUSPENSION OF PERIOD OF INELIGIBILITY.—Subsection (c) of section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a(c)) is amended to read as follows:

(c) SUSPENSION OF PERIOD OF INELIGIBILITY.—A court may reduce the period of ineligibility upon a first conviction referred to in subsection (b)(1)(A) to 3 months if the individual—

"(1) successfully completes a supervised drug rehabilitation program which includes periodic drug testing after becoming ineligible under this section; or

"(2) completes a period of community service satisfactory to the court and passes periodic drug tests administered during the 3-month period of suspension.".

(d) DEFINITIONS.—Subsection (d) of section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a(d)) is amended to read as follows:

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'earned Federal benefits' means programs and benefits that are earned through or by financial contributions or service, such as Social Security or veterans' benefits; and

"(2) the term 'unearned Federal benefits' means all Federal benefits, including the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States, but not including earned Federal benefits, such as Social Security and veterans' benefits.

(e) MONITORING.—The Attorney General shall establish a system to monitor implementation of section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a).

AMENDMENT No. 1865

At the appropriate place in the bill, insert the following new sections:

SEC. . MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted prisoners confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved. Such labor may include, but not be limited to—

(A) local public works projects and infrastructure repair;

(B) construction of new prisons and other detention facilities;

(C) prison industries; and

(D) other appropriate labor.

(2) It is the policy of the Federal Government that States and local governments have the same authority to require all convicted prisoners to work.

(b) PRISONERS SHALL WORK.—Medical certification of 100 percent disability, security considerations, or disciplinary action shall be the only excuse to remove a Federal prisoner from labor participation.

(c) USE OF FUNDS.—(1) Subject to paragraph (2), any funds generated by labor conducted pursuant to this section shall be deposited in a separate fund in the Treasury of the United States for use by the Attorney General for payment of prison construction and operating expenses or for payment of compensation judgments. Notwithstanding any other law, such funds shall be available without appropriation.

(2) Prisoners shall be paid a share of funds generated by their labor conducted pursuant to this section.

SEC. . REPEAL OF CONSTRAINTS ON PRISON INDUSTRIES.

(a) SUMNERS-ASHURST ACT.—(1) Chapter 85 of part 1 of title 18, United States Code, is repealed.

(2) The table of chapter for part 1 of title 18, United States Code, is amended by striking the item for chapter 85 and inserting the following:

"[85. Repealed.]".

(3) The repeal made by this subsection shall not affect the performance to completion of the pilot projects authorized by section 1761(c) of title 18, United States Code, prior to enactment of this Act.

(b) FEDERAL PRISON INDUSTRIES.—(1) Section 4122(a) of title 18, United States Code, is amended to read as follows:

"(a) Federal Prison Industries shall determine in what manner and to what extent industrial operations shall be carried on in Federal penal and correctional institutions for the production of commodities for consumption in such institutions or for sale to governmental departments and agencies and to the public.".

(2) The first paragraph of section 4124 of title 18, Unites States Code, is amended to read as follows:

"The several Federal departments and agencies and all other Government institutions of the United States may purchase such products of the industries authorized by this chapter as meet their requirements and may be available.".

(3) The second sentence of section 4126(f) of title 18, United States Code, is amended to read as follows: "To the extent that the amount of such funds is excess to the needs of the corporation for such purposes, such funds may be transferred to the Attorney General for the construction or acquisition of penal and correctional institutions, including camps described in section 4125.".

(c) WALSH-HEALY ACT.—Subsection (d) of the first section of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (41 U.S.C. 35(d)), is amended—

(1) by striking "and no convict labor"; and

(2) by striking ", except that this section, or any law or Executive order contrasting similar prohibitions against purchase of goods by the Federal Government, shall not apply to convict labor which satisfies the conditions of section 1761(c) of title 18, United States Code".

(d) LEGISLATIVE RECOMMENDATIONS.—The Attorney General shall submit to Congress a report making recommendations for legislation to—

(1) ensure that private businesses and labor do not suffer unfair consequences from the amendments made in subsections (a), (b), and (c); and

(2) encourage greater private sector participation in prison industries and create incentives for cooperative arrangements between private businesses and prisons providing for such participation.

SEC. . EMPLOYMENT OF PRISONERS.

(a) IN GENERAL.—The Attorney General may enter into contracts with private businesses for the use of inmate skills that may be of commercial use to such businesses.

(b) USE OF FEES AND PAYMENTS.—A portion of the fees and payments collected for the use of inmate skills under contracts entered into pursuant to subsection (a) shall be deposited in the fund described in section (c)(1), and a portion shall be paid to the prisoners who conduct the labor.

(c) SECURITY REQUIREMENT.—In the case of contracts described in subsection (a) in which the provision of inmate skills would require prisoners to leave the prison—

(1) prisoners shall be permitted to travel directly to a work site and to remain at the work site during the work day and shall be returned directly to prison at the end of each work day; and

(2) only prisoners with no history of violent criminal activity and who are able to meet strict security standards to insure that they pose no threat to the public, shall be eligible to participate.

AMENDMENT NO. 1866

At the appropriate place in the bill, insert the following new sections:

SEC. . FINDINGS AND DECLARATION OF NATIONAL DRUG AND CRIME EMERGENCY.

(a) FINDINGS.—The Congress makes the following findings:

(1) Next to preserving the national security, protecting the personal security of individual Americans, especially children, by enacting and enforcing laws against criminal behavior is the most important single function of government.

(2) The criminal justice system in America is failing to achieve this basic objective of protecting the innocent and punishing the guilty.

(3) Reform is needed to ensure that criminals are held accountable for their actions, that they receive swift and certain punishment commensurate with their crimes, and that the protection of innocent citizens takes priority over other objectives.

(4) The principle of individual accountability should also dictate policies with respect to drug users. Users should face a high probability of apprehension and prosecution, and those found guilty should face absolutely certain measured response penalties.

(5) According to the Uniform Crime Reports issued in 1989 by the Federal Bureau of Investigation, violent crime known to law enforcement reached an unprecedented high in 1988. A violent crime occurred every 20 seconds.

(6) The Department of Justice estimates that 83 percent of Americans will be victimized by violent crime during their lifetime.

(7) The Federal Bureau of Investigation reports that violent crime in America rose by 23 percent during the period 1984-1988.

(8) The National Drug Control Strategy reports that in certain large cities more than 80 percent of the men arrested have tested positive for illegal drug use.

(9) According to the Department of Justice, the total number of Federal and State prisoners grew by 90 percent from 1980 to 1988. The growth rate of the total prison population during the first 6 months of 1989 exceeded the largest annual increase ever recorded in 64 years of recordkeeping. The 6-month growth rate translates to a need of almost 1,800 additional prison beds per week.

(10) In 1985, 19 States reported the early release of nearly 19,000 prisoners in an effort to control prison populations, according to the United States Bureau of Justice Statistics.

(11) According to a Bureau of Justice Statistics study, 63 percent of State inmates were rearrested for a serious crime within 3 years of their discharge from prison.

(12) The criminal justice system is overload and does not deliver swift and certain penalties for violating the law. In America today, there exists crime without punishment. Such conditions imperil the public safety, jeopardize the rule of law and undermine the preservation of order in the community.

(b) DECLARATION OF NATIONAL DRUG AND CRIME EMERGENCY.—(1) Guided by the principles that energized and sustained the mobilization for World War II, and in order to remove violent criminals from the streets and meet the extraordinary threat that is posed to the Nation by the use and trafficking of illegal drugs, the Congress declares the existence of a National Drug and Crime Emergency beginning on the date of enactment of this Act and ending on the date that is 5 years after the date of enactment of this Act.

(2) During the National Drug and Crime Emergency declared in paragraph (1), it shall be the policy of the United States that—

(A) every person who is convicted in a Federal court of a crime of violence or a drug trafficking crime shall be sentenced to and shall serve a full term of no less than 5 years' imprisonment without release; and

(B) prisoners may be housed in tents, and other temporary facilities may be utilized, consistent with security requirements.

SEC. . TEMPORARY PRISON FACILITIES AND EXPANDED CAPACITY.

(a) IN GENERAL.—In order to remove violent criminals from the streets and protect the public safety, the Attorney General shall take such action as may be necessary to ensure that sufficient facilities exist to house individuals whom the courts have order incarcerated. During the National Drug and Crime Emergency declared in section (b)(1), these facilities may include tent housing or other temporary shelters placed on available military bases and at other suitable locations. The President may direct the National Guard and the Army Corps of Engineers to design and construct such temporary detention facilities.

(b) USE OF MILITARY INSTALLATIONS.—In order to provide facilities for incarceration authorized by subsection (a), the Secretary of Defense, the Commission on Alternative Utilization of Military Facilities, and the Director of the Bureau of Prisons shall—

(A) identify military installations that could be used as confinement facilities for Federal or State prisoners; and

(B) examine the feasibility of using temporary facilities for housing prisoners with a specific examination of the successful use of tent housing during the mobilization for World War II.

(2) Not later than 90 days after the date of enactment of this Act, the Director of the Bureau of Prisons shall submit to the Congress a description and summary of the results of the examination conducted pursuant to paragraph (1).

(c) PRIORITY FOR DISPOSAL OF CLOSED MILITARY INSTALLATIONS.—Section 204(b)(3) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) is amended to read as follows:

"(3)(A) Notwithstanding any other provision of this title and any other law, before any action is taken with respect to the disposal or transfer of any real property or facility located at a military installation to be closed or realigned under this title the Secretary shall—

"(i) notify the Attorney General and the Governor of each of the territories and possessions of the United States of the availability of such real property of facility, or portion thereof; and

"(ii) transfer such real property or facility, or portion thereof, as provided in subparagraph (B).

"(B) Subject to subparagraph (C), the Secretary shall transfer real property or a facility, or portion thereof, referred to in subparagraph (A) in accordance with the following priorities:

"(i) If the Attorney General certifies to the Secretary that the property or facility, or portion thereof, will be used as a prison or other correctional institution, to the Department of Justice for such use.

"(ii) If the Governor of a State, the Mayor of the District of Columbia, or the Governor of a territory or possession of the United States certifies to the Secretary that the property of facility, or portion thereof, will be used as a prison or other correctional institution, to that State, the District of Columbia, or that territory or possession for such use.

"(iii) To any other transferee pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(C) Within each priority specified in clauses (i) and (ii) of subparagraph (B), the Secretary shall give a priority for the transfer of any real property or facility referred to in that subparagraph, or any portion thereof, to any department, agency, or other instrumentality referred to in such clauses that agrees to pay the Department of Defense the fair market value of the real property, facility, or portion thereof.

"(D) In this paragraph, the term 'fair market value' means, with respect to any real property or facility, or any portion thereof, the fair market value determined on the basis of the use of the real property or facility on December 31, 1989.".

"(d) REVIEW OF CURRENT STANDARDS OF PRISON CONSTRUCTION.—(1) The Director of the Bureau of Prisons (referred to as the "Director") shall—

(A) review current construction standards and methods used in building Federal prisons; and

(B) examine and recommend any cost cutting measures that could be employed in prison construction (consistent with security requirements), especially expenditures for air conditioning, recreational activities, color television, social services, and similar amenities.

(2) Not later than 90 days after the date of enactment of this Act, the Director shall submit to Congress a description and summary of the results of the review conducted pursuant to paragraph (1).

(e)(1) Chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 4014. Private construction and operation of Federal prisons

"(a) IN GENERAL.—The Attorney General may contract with private persons to—

"(1) construct, own, and operate Federal prison facilities; or

"(2) construct or operate Federal prison facilities owned by the United States,

including the provision of subsistence, care, and proper employment of United States prisoners.

"(b) COOPERATION WITH STATES.—The Attorney General shall consult and cooperate with State and local governments in exercising the authority provided by subsection (a).

"(c) FINANCING OPTIONS FOR PRISON CONSTRUCTION AND OPERATION.—(1) To the greatest extent possible, the Attorney General shall utilize creative and cost-effective private financing alternatives and private construction and operation of prisons.

"(2) Operating costs of privately-owned prisons shall be covered through rent charged to participating units of Government placing inmates in a prison.

"(3) The Attorney General may finance the construction of facilities through lease or lease-purchase agreements.

"(4) In order to gain full cost advantages from economies of scale and specialized knowledge from private innovation, the Attorney General may contract with consortia or teams of private firms to design, construct, and manage, as well as finance, prison facilities.".

(2) The table of sections for chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"4014. Private construction and operation of Federal prisons.".

(f) SURPLUS FEDERAL PROPERTY.—(1) For the purpose of expanding the number of correctional facilities, the Administrator of the General Services Administration, in consultation with the Attorney General, shall, not later than 90 days after the date of enactment of this Act, identify and make available a list of not less than 30 parcels of surplus Federal property, which the Attorney General has certified are not needed for Federal correctional facilities but which may be suitable for State or local correctional facilities.

(2) During the National Drug and Crime Emergency declared in section (b)(1), notwithstanding any other law, any property that is determined to be excess to the needs of a Federal agency that may be suitable for use as a correctional facility shall be made available for such use, in order of priority, first, to the Attorney General, and second, to a State, the District of Columbia, or a local government.

(g) STATE AND LOCAL GOVERNMENT USE OF FACILITIES.—State and local governments shall be permitted to use Federal temporary incarceration facilities, when they are not needed to accommodate Federal prisoners, for the purpose of incarcerating prisoners at a per diem fee to be paid to the Bureau of Prisons.

SEC. . IMPRISONMENT OF DRUG TRAFFICKERS AND VIOLENT CRIMINALS.

During the National Drug and Crime Emergency declared in section (b)(1), notwithstanding any other law, every person who is convicted in a Federal court of committing a crime of violence or drug trafficking crime, shall be sentenced to and shall serve a full term of not less than 5 years' imprisonment, and no such person shall be released from custody for any reason or for any period of time prior to completion of the sentence imposed by the court unless the sentence imposed is greater than 5 years and is not a mandatory minimum sentence without release.

AMENDMENT NO. 1867

At the appropriate place in the bill insert the following new sections:

SEC. . DRUG TESTING OF FEDERAL PRISONERS.

(a) DRUG TESTING PROGRAM.—Subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3608. Drug testing of defendants on post-conviction release

"(a) The Attorney General, in consultation with the Director of the Administrative Office of the United States Courts shall, as soon as is practicable after the effective date of this section, establish by regulation a program of drug testing of targeted classes of arrestees, individuals in jails, prisons, and other correctional facilities, and persons on conditional or supervised release before or after conviction, including probationers, parolees, and persons released on bail.

"(b)(1) The Attorney General shall, not later than 6 months after the date of enactment of this section, promulgate regulations for drug testing programs under this section.

"(2) The regulations issued pursuant to paragraph (1) shall be based in part on scientific and technical standards determined by the Secretary of Health and Human Services to ensure reliability and accuracy of drug test results. In addition to specifying acceptable methods and procedures for carrying out drug testing, the regulations may include guidelines or specifications concerning—

"(A) the classes of persons to be targeted for testing;

"(B) the drugs to be tested for;

"(C) the frequency and duration of testing; and

"(D) the effect of test results in decisions concerning the sentence, the conditions to be imposed on release before or after conviction, and the granting, continuation, or termination of such release.

"(c) In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(b) TECHNICAL AMENDMENT.—The section analysis for subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following:

"3608. Drug testing of defendants on post-conviction release.".

SEC. . MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding the following new paragraph at the end thereof:

"(7)(A) In a case involving possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the possession itself.

"(B) In a case involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possesion or distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed under this paragraph.".

AMENDMENT NO. 1868

At the appropriate place, add the following:

SEC. . SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.

Section 1201 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.—

"(1) TO WHOM APPLICABLE.—If—

"(A) the victim of an offense under this section has not attained the age of eighteen years; and

"(B) the offender—

"(i) has attained such age; and

"(ii) is not—

"(I) a parent;

"(II) a grandparent;

"(III) a brother;

"(IV) a sister;

"(V) an aunt;

"(VI) an uncle; or

"(VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall be subject to paragraph (2) of this subsection.

"(2) MINIMUM SENTENCES.—The sentence shall be imprisonment for life if the offender engages in any conduct described in paragraph (3) of this subsection, and imprisonment for not less than 30 years in any other case. If the offender engages in any conduct described in paragraph (3) of this subsection

after a prior conviction under such paragraph has become final, such offender shall be sentenced to mandatory life imprisonment without release.

"(3) AGGRAVATING CONDUCT.—The conduct referred to in paragraph (2) of this subsection is—

"(A) selling the victim of such offense;

"(B) sexually abusing such victim;

"(C) using such victim for pornography;

"(D) intentionally denying such victim food or medical care to a life-threatening extent;

"(E) intentionally harming such victim physically to a life-threatening extent; or

"(F) causing such victim to be subjected to conduct by another which is conduct described in any of subparagraphs (A) through (E) of this paragraph.".

AMENDMENT No. 1869

At the appropriate place, insert the following:

SEC. . REVOCATION OF DRUG USERS' DRIVER'S LICENSES AND PILOT'S LICENSES.

(a) DRIVER'S LICENSES.—(1) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Revocation of the driver's licenses of persons convicted of drug possession

"(a) Beginning on the date that is 2 calendar years after the date of enactment of this section, a request for Federal drug law enforcement assistance funds from the Bureau of Justice Assistance Grant programs by a State whose law provides for revocation of drivers' licences as provided in subsection (c) shall receive priority over a request by a State whose law does not so provide.

"(b) Beginning on the date that is 2 calendar years after the date of enactment of this section, the formula for determining the amount of funds to be distributed from the Drug Control and System Improvement Grant Program to State and local governments shall be adjusted by—

"(1) reducing by 10 percent the amount of funds that would, except for the application of this paragraph, be allocated to States whose laws do not provide as stated in subsection (c); and

"(2) allocating the amount of the reduction pro rata to the other States.

"(c)(1) A State meets the requirements of this section if the State has enacted and is enforcing a law that requires in all circumstances, except as provided in paragraph (2)—

"(A) the mandatory revocation of the driver's license for at least 1 year of any person who is convicted, after the enactment of such law, of—

"(i) a violation of section 404 of the Controlled Substances Act (21 U.S.C. 844); or

"(ii) any other Federal or State offense consisting of the possession of illegal drugs; and

"(iii) any other Federal or State drug offense for which a person serves less than 1 year's imprisonment; and

"(B) the mandatory denial of any request for the issuance or reinstatement of a driver's license to such a person if the person does not have a driver's license, or the driver's license of the person is suspended, at the time the person is so convicted.

"(2) The State law referred to in paragraph (1) may provide that the driver's license of a first offender, but not of a second or subsequent offender, may be reinstated on performance of 3 months' community service and passes periodic drug tests administered during the period of community service.".

"(d) For purposes of this section—

"(1) The term 'driver's license' means a license issued by a State to any person that authorizes the person to operate a motor vehicle on highways.

"(2) The term 'drug offense' means any criminal offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act (21 U.S.C. 801 et seq.) or violates any State law relating to any controlled substance.

"(3) The term 'convicted' includes adjudicated under juvenile proceedings.".

(2) The table of contents for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new item:

"159. Revocation of the driver's licenses of persons convicted of drug offenses.".

(b) PILOT'S LICENSES.—The Secretary of Transportation shall cause the Federal Aviation Administration to amend its regulations as necessary to cause the revocation of private pilot's licenses on the terms and conditions prescribed for revocation of driver's licenses in subsection (a).

AMENDMENT No. 1870

At the appropriate place in the bill, insert the following new section:

SEC. . FINANCIAL INCENTIVES FOR CITIZEN INVOLVEMENT IN THE WAR AGAINST DRUGS.

Section 524(c)(1) of title 28, United States Code, is amended—

(1) by striking "Justice—" and inserting "Justice:";

(2) in subparagraph (A)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period; and

(3) in subparagraph (B)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period; and

(4) in subparagraph (C)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period;

(5) in subparagraph (D)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period;

(6) in subparagraph (E)—

(A) by striking "disbursements" and inserting "Disbursements"; and

(B) by striking the semicolon at the end and inserting a period;

(7) in subparagraph (F)—

(A) by striking "for" the first place it appears and inserting "For"; and

(B) by striking the semicolon at the end and inserting a period;

(8) in subparagraph (G)—

(A) by striking "for" the first place it appears and inserting "For"; and

(B) by striking the semicolon at the end and inserting a period;

(9) in subparagraph (H)—

(A) by striking "after" and inserting "After";

(B) by striking "(H)" and inserting "(I)"; and

(10) by inserting after subparagraph (G) the following:

"(H)(i) for the payment of an award to any person or persons who provide information leading to the arrest and conviction under Federal law of any individual or individuals for the unlawful sale, or possession for sale, of a controlled substance or a controlled substance analogue. The aggregate amount of such award shall be equal to 50 percent of the fair market value (as of the date of forfeiture) of all property forfeited to the United States as a result of such conviction and pursuant to a law enforced or adminsitered by the Department of Justice: *Provided*, That payment of such awards shall not reduce the amount of such moneys or property available for distribution to State and local law enforcement agencies.

"(ii) For the payment to the State or States in which the federal offense was committed by such individual or individuals, of an incentive award to encourage such State or States, at their option, to establish a program (including outreach) to pay rewards to individuals who provide information leading to the arrest and conviction under State law of individuals for the unlawful sale, or possession for sale, of controlled substances or controlled substance analogues. The aggregate amount of such incentive award shall be equal to 5 percent of the fair market value (as of the date of forfeiture) of all property forfeited to the United States as a result of the convictions referred to in clause (i) and pursuant to a law enforced or administered by the Department of Justice.

"(iii) For purposes of this subparagraph—

"(I) the term 'controlled substance' has the meaning stated in section 102(6) of the Controlled Substances Act;

"(II) the term 'controlled substance analogue' has the meaning stated in section 102(32) of the Controlled Substances Act; and

"(III) the term 'individual' does not include an individual who is convicted under Federal or State law for the unlawful sale, or possession for sale, of a controlled substance or a controlled substance analogue.".

BOSCHWITZ (AND OTHERS) AMENDMENT NO. 1871

(Ordered to lie on the table.)

Mr. BOSCHWITZ (for himself, Mr. DOLE, and Mr. WILSON) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the end of the bill add the following new title:

TITLE —FOOD STAMP CRIMINAL PROVISIONS

SEC. 01. SHORT TITLE.

This title may be cited as the "Food Stamp Trafficking Prevention and Penalty Act of 1990".

SEC. 02. TAXPAYER IDENTIFYING NUMBERS OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended by adding at the end the following: "Such regulations shall require each applicant retail food store or wholesale food concern, and each approved retail food stores or wholesale food concern, to submit to the Secretary the taxpayer identifying number applicable under the Internal Revenue Code of 1986 to such store or concern.".

SEC. 03. UNLAWFUL USE OF COUPONS IN LAUNDERING MONETARY INSTRUMENTS.

Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024) is amended by adding at the end the following:

"(h) For purposes of section 1956 of title 18, United States Code, a violation of this section shall be considered to be a specified unlawful activity (as defined in section 1956(c)(7) of such title) if such violation involves a quantity of coupons that has a value of not less than $5,000.".

SEC. 04. FORFEITURE OF PROPERTY.

(a) CIVIL AND CRIMINAL FORFEITURE.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 23. FORFEITURE OF PROPERTY.

"(a) PROPERTY SUBJECT TO FORFEITURE.—The following shall be subject to forfeiture to the United States and no property right shall exist in them:

"(1) All coupons which have been used, transferred, acquired, altered, possessed, or presented or caused to be presented for payment or redemption in violation of subsection (b) or (c) of section 15.

"(2) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1), except that—

"(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this section unless it appears that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of subsection (b) or (c) of section 15;

"(B) no conveyance shall be forfeited under this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State; and

"(C) no conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed, or omitted without the knowledge, consent, or willful blindness of the owner.

"(3) All books, records, microfilm, tapes, and data which are used, or intended for use, in violation of subsection (b) or (c) of section 15.

"(4) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for coupons in violation of subsection (b) or (c) of section 15, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of subsection (b) or (c) of section 15, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(5) All real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of subsection (b) or (c) of section 15 punishable by more than one year's imprisonment, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(6) All coupons which have been involved in violation of subsection (b) or (c) of section 15.

"(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS; ISSUANCE OF WARRANT AUTHORIZING SEIZURE.—Any property subject to civil forfeiture to the United States under subsection (a) may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

"(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

"(2) the property subject to seizure has been the subject of a prior judgment in favor of the United States in a criminal injunction or forfeiture proceeding under this Act;

"(3) the Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

"(4) the Attorney General has probable cause to believe that the property is subject to civil forfeiture under subsection (a).

In the event of seizure pursuant to paragraph (2), proceedings under subsection (d) shall be instituted promptly. The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under subsection (a) in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) CUSTODY OF ATTORNEY GENERAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this Act, the Attorney General may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—The provisions of law relating to—

"(1) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(2) the dispostion of such property or the proceeds from the sale thereof;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims;

shall apply to seizure and forfeitures incurred, or alleged to have been incurred, under this Act, insofar as applicable and not inconsistent with the provisions hereof, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this Act by such officers, agents, or other persons as may be authorized to be designated for that purpose by the Attorney General unless such duties arise from seizures and forfeitures effected by any customs officer.

"(e) DISPOSITION OF FORFEITED PROPERTY.—

"(1) METHODS.—Whenever property is civilly or criminally forfeited under this section the Attorney General may—

"(A) retain the property for official use or, in the manner provided with respect to transfers under section 1616a of title 19, United States Code, transfer the property to any Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property;

"(B) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

"(C) require that the General Services Administration take custody of the property and dispose of it in accordance with law;

"(D) transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in a seizure or forfeiture of the property, if such a transfer—

"(i) has been agreed to by the Secretary of State;

"(ii) is authorized in an international agreement between the United States and the foreign country; and

"(iii) is made to a country which, if applicable, has been certified under section 1191(h) of title 22, United States Code.

"(2) USE OF PROCEEDS FROM SALES.—The proceeds from any sale under paragraph (1)(B) and any monies forfeited under this section shall be used—

"(A) first, to reimburse the Department of Justice for the costs incurred by the Department to initiate and complete the forfeiture proceeding that caused the sale that produced such proceeds;

"(B) second, to reimburse the Department of Agriculture for any costs incurred by the Department to assist the Department of Justice to initiate or complete such proceeding; and

"(C) third, to reimburse the State agency for any costs incurred by the State agency to assist the Department of Justice, or the Department of Agriculture, to initiate or complete such proceeding.

The amount remaining, if any, shall be available to the Secretary to carry out this Act.

"(3) TRANSFER OF PROPERTY.—The Attorney General shall ensure that any property transferred to a State or local law enforcement agency under paragraph (1)(A)—

"(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local law enforcement agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forefeiture is based; and

"(B) is not so transferred to circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies.

"(f) FORFEITURE AND DESTRUCTION OF COUPONS.—All coupons that are used, transferred, acquired, altered, possessed, or presented or caused to be presented for payment or redemption in violation of subsec-

1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526, 2640); to the Committee on Government Operations.

3294. A letter from the Environmental Protection Agency, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3295. A letter from the General Services Administration, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3296. A letter from the Government Printing Office, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3297. A letter from the National Railroad Passenger Corporation, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3298. A letter from the Panama Canal Commission, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3299. A letter from the Pension Benefit Guaranty Corporation, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3300. A letter from the Secretary of Education, transmitting a report of its activities during calendar year 1989 under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3301. A letter from the U.S. Information Agency, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3302. A letter from the U.S. International Trade Commission, transmitting the semiannual report of the inspector general for the period October, 1989, through March 31, 1990; to the Committee on Government Operations.

3303. A letter from the U.S. Peace Corps, transmitting the semiannual report of the inspector general for the period October, 1989, through March 31, 1990; to the Committee on Government Operations.

3304. A letter from the Chairman, Federal Election Commission, transmitting the Commission's annual report for 1989, pursuant to 2 U.S.C. 438(a)(9); to the Committee on House administration.

3305. A letter from the Public Printer, Government Printing Office, transmitting a corrected letter concerning the inspector general dated May 23, 1990, pursuant to 44 U.S.C. 3903 (102 Stat. 2531); to the Committee on House Administration.

3306. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3307. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3308. A letter from the Secretary of Commerce, transmitting the annual report on the effect of process patent amendments on domestic industries, pursuant to 35 U.S.C. 271 nt.; to the Committee on the Judiciary.

3309. A letter from the Director, Administrative Office of the United States Courts, transmitting a draft of proposed legislation to amend title 28, United States Code, to make available sums in the Department of Justice asset forfeiture fund for reimbursement of certain expenses incurred by the judicial branch in connection with adjudication of forfeitures and furnishing of home detention services and equipment; to the Committee on the Judiciary.

3310. A letter from the Secretary of Commerce; transmitting a report on the impact of increased aeronautical and nautical chart prices resulting from Public Law 99-272 on public sales and navigation safety, pursuant to 44 U.S.C. 1307(a)(2)(A); to the Committee on Merchant Marine and Fisheries.

3311. A letter from the Chairman, Merit Systems Protection Board; transmitting a report entitled "Why Are Employees Leaving the Federal Government? Results of an Exit Survey," pursuant to 5 U.S.C. 1205(a)(3); to the Committee on Post Office and Civil Service.

3312. A letter from the Secretary of Transportation, transmitting the 10th annual report on collision avoidance systems [TCAS], pursuant to Public Law 100-223, section 203(b) (101 Stat. 1518); to the Committee on Public Works and Transportation.

3313. A letter from the Acting Administrator, General Services Administration, transmitting a copy of a lease prospectus for a Federal building-courthouse in Shreveport, LA, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3314. A letter from the Acting Administrator, General Services Administration, transmitting an informational copy of a lease prospectus which proposes leasing space in Buffalo, NY, for the Internal Revenue Service, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3315. A letter from the Administrator, Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act; to the Committee on Small Business.

3316. A communication from the President of the United States, transmitting notification of his determination that continuation of the waiver in effect for the Czech and Slovak Federal Republic will substantially promote the objectives of section 402 of the Trade Act of 1974, pursuant to 19 U.S.C. 2432 (c), (d) (H. Doc. No. 101-198); to the Committee on Ways and Means and ordered to be printed.

3317. A letter from the Secretary of Agriculture, transmitting the third quarterly country and commodity allocation table showing current programming plans for food assistance, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

3318. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to authorize appropriations for exploration, prospecting, conservation, development, use, and operation of the naval petroleum reserves for fiscal year 1991, pursuant to 31 U.S.C. 1110; jointly, to the Committees on Armed Services and Energy and Commerce.

3319. A letter from the Administrator of the Environmental Protection Agency, transmitting a report on ocean disposal monitoring programs, pursuant to Public Law 100-688, section 1002 (102 Stat. 4149); jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

3320. A letter from the Acting Assistant Attorney General, transmitting a report on the triagency plan for the Machine Readable Document Border Security System, pursuant to Public Law 100-690, section 4604(a)(2); jointly, to the Committees on Ways and Means, the Judiciary, and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on May 24, 1990, the following reports were filed on May 31, 1990]

Mr. BROOKS: Committee on the Judiciary. H.R. 3897. A bill to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes; with an amendment (Rept. 101-500). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4314. A bill to implement the Inter-American Convention on International Commercial Arbitration; with an amendment (Rept. 101-501). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4525. A bill to amend the Ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government Ethics (Rept. 101-502, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 4757. A bill to provide permanent authority for the United States Supreme Court Police; with an amendment (Rept. 101-503). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. House Joint Resolution 520. Resolution granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact; with amendments (Rept. 101-504). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4785. A bill to amend the Public Health Service Act to establish a program of grants to provide preventive health services with respect to acquired immune deficiency syndrome, and for other purposes; with an amendment (Rept. 101-511). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on May 24, 1990, the following reports were filed on June 1, 1990]

Mr. BROOKS: Committee on the Judiciary. H.R. 1620. A bill to amend provisions of title 28, United States Code, relating to judicial discipline, and to establish a commission

tence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 405B of the Controlled Substances Act (21 U.S.C. 845b) is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence"; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."."

AMENDMENT NO. 1874

At the appropriate place, insert the following:

"None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 405 of the Controlled Substances Act (21 U.S.C. 845) is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence,"; and

(2) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 20 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 405B of the Controlled Substances Act (21 U.S.C. 845b) is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence"; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 20 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

AMENDMENT NO. 1875

At the appropriate place, insert the following:

"None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . DEPORTATION OF CRIMINAL ALIENS.

(a) DEPORTATION OF ALIENS CONVICTED OF CRIMES OF VIOLENCE.—Section 241(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(14)) is amended by inserting after "convicted" the following: "of a drug trafficking crime or a crime of violence (as those terms are defined in paragraphs (2) and (3) of section 924(c) of title 18, United States Code) and who has served any term of imprisonment imposed by a court, or".

(b) REENTRY OF DEPORTED ALIENS.—Section 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1326(b)(2)) is amended to read as follows:

"(2) whose deportation was subsequent to a conviction for a drug trafficking crime or a crime of violence (as those terms are defined in section 924(c)(2) and (3) of title 18, United States Code), or for commission of an aggravated felony, such alien shall be fined under such title and imprisoned for not less than 20 years without release, and in the case of a second violation of subsection (a) shall be imprisoned for life without release. Notwithstanding any other law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph and such person shall not be released during the term of such sentence."."

AMENDMENT NO. 1876

At the appropriate place, insert the following:

"None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . LONGER PRISON SENTENCES FOR DRUG TRAFFICKING.

(a) SCHEDULE I AND II SUBSTANCES.—Section 401(b)(1)(C) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(C)) is amended—

(1) in the first sentence by striking "of not more than 20 years" and inserting "which shall be not less than 5 years without release nor more than 20 years";

(2) in the second sentence by striking "of not more than 30 years" and inserting "which shall be not less than 10 years without release nor more than 30 years"; and

(3) in the fourth sentence by striking "which provide for a mandatory term of imprisonment if death or serious bodily injury results".

(b) MARIJUANA.—Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended—

(1) in the first sentence by striking "of not more than 5 years" and inserting "not less than 5 years without release";

(2) in the second sentence by striking "of not more than 10 years" and inserting "which shall be not less than 10 years without release"; and

(3) by adding the following new sentence at the end thereof: "Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

(c) SCHEDULE IV SUBSTANCES.—Section 401(b)(2) of the Controlled Substances Act (21 U.S.C. 841(b)(2)) is amended—

(1) in the first sentence by striking "of not more than 3 years" and inserting "which shall be not less than 5 years without release";

(2) in the second sentence by striking "of not more than 6 years" and inserting "which shall be not less than 10 years without release"; and

(3) by adding the following new sentence at the end thereof: "Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

(d) SCHEDULE V SUBSTANCES.—Section 401(b)(3) of the Controlled Substances Act (21 U.S.C. 841(b)(3)) is amended—

(1) in the first sentence by striking "of not more than one year" and inserting "which shall be not less than 5 years without release";

(2) in the second sentence by striking "of not more than 2 years" and inserting "which shall be not less than 10 years without release"; and

(3) by adding the following new sentence at the end thereof: "Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

GORTON (AND OTHERS) AMENDMENT NO. 1877

(Ordered to lie on the table.)

Mr. GORTON (for himself, Mr. HATFIELD, Mr. ADAMS, Mr. HATCH, Mr. D'AMATO, Mr. MCCAIN, Mr. COATS, and Mr. BURNS) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

None of the other provisions in this Act shall take effect unless the following is enacted:

At the appropriate place in the bill, insert the following:

SEC. . PRECURSOR CHEMICALS.

(a) EXPANDED LIST OF PRECURSOR CHEMICALS.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended by striking subparagraphs (A) through (L) and inserting the following:

"(A) Anthranilic acid.
"(B) Benzyl cyanide.
"(C) Chloroemphedrine.
"(D) Chloropseudoephedrine.
"(E) D-lysergic acid.
"(F) Ephedrine.
"(G) Ergonovine maleate.
"(H) Ergotamine tartrate.
"(I) Ethylamine.
"(J) Hydriodic acid.
"(K) Isosafrole.
"(L) Methylamine.
"(M) N-acetylanthranilic acid.
"(N) N-ethylephedrine.
"(O) N-ethylpseudoephedrine.
"(P) N-methylephedrine.
"(Q) N-methylpseudoephedrine.
"(R) Norpseudoephedrine.
"(S) Phenylacetic acid.
"(T) Phenylpropanolamine.
"(U) Phenyl-2-propanone.
"(V) Piperidine.
"(W) Piperonal.
"(X) Propionic anhydride.
"(Y) Pseudoephedrine.
"(Z) Safrole.
"(AA) Thionylchloride.
"(BB) Any salt, optical isomer, or salt of an optical isomer of the foregoing chemcals.".

(b) CONFORMING REPEAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended—

(1) by striking subparagraph (E); and

(2) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G).

(c) ELIMINATION OF THRESHOLD REQUIREMENT FOR PRECURSOR CHEMICALS.—Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) is amended—

(1) by inserting "any amount of a listed precursor chemical, or" before "a threshold amount, including a cumulative threshold amount for"; and

(2) by striking "listed chemical" the first place such term appears and inserting "listed essential chemical".

(d) REPORTS OF REGULATED TRANSACTIONS.—Section 310(b)(1) of the Controlled Substances Act (21 U.S.C. 830(b)(1)) is amended—

(1) by inserting "any quantity of a listed precursor chemical," after "involving"; and

(2) by striking "a listed chemical" and inserting "a listed essential chemical".

(e) PROVISION TO STATES OF INFORMATION RELATING TO REGULATED TRANSACTIONS.—Section 310(c)(3) of the Controlled Substances Act (21 U.S.C. 830(c)(3)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) cooperate with the authorities of each State by providing information relating to regulated transactions in listed precursor chemicals and anticipated regulated transactions (including impending interstate deliveries) in such chemicals that might be useful in the enforcement of State laws relating to precursor chemicals, controlled substances, and illegal drugs.".

(f) LICENSING.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended by adding at the end thereof the following new subsection:

"(d)(1) It shall be unlawful for a person to—

"(A) engage in a regulated transaction involving a listed precursor chemical; or

"(B) manufacture, distribute, import, or export a listed precursor chemical,

without a license required under this subsection.

"(2)(A) The Attorney General shall by rule establish a licensing program for regulated persons and regulated transactions involving listed precursor chemicals under which licenses will be required in circumstances in which the Attorney General determines that requiring licensing will contribute to the achievement of the purposes of this section and to criminal drug law enforcement in general. The Attorney General need not require a regulated person who maintains a record of all regulated transactions, or reports all regulated transactions according to this section, to be licensed under this subsection.

"(B) The licensing program described in subparagraph (A) shall require a license application to be made in such form as the Attorney General shall prescribe and may provide for the denial, revocation, or suspension of a license for cause, after opportunity for a hearing on the record.

"(3) Whoever violates paragraph (1) shall be fined under title 18, United States Code, or imprisoned not more than 4 years, or both.

"(4) The Attorney General shall by inspection or otherwise provide for the audit and control of listed precursor chemical inventories of persons possessing a license under this subsection.".

"(g) MANAGEMENT OF LISTED CHEMICALS.—(1) Part C of the Control Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a control substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921—6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(1) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(2) The cost of restoring property that is damaged by exposure to a listed chemical for rehabitation under Federal, State, and local standards.

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure of cleaning up of a contaminated site.

"(3)(A) A violation of paragraph (1) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for a violation of paragraph (1) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (1).".

"(2) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act."

GRAHAM AMENDMENT NO. 1878

(Order to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the Appropriate place in the bill, add the following:

SEC. . FEDERAL PRISON CONSTRUCTION STANDARDS.

The Director of the Bureau of Prisons shall—

(a) determine what are the minimum requirements for corrections facilities construction within one year of date of enactment of this act; and

(b) make recommendations regarding the construction of federal correctional facilities that the Bureau of Prisons will use in future construction.

SPECTER AMENDMENT NO. 1879

(Order to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the Appropriate place, insert the following:

SEC. . AMENDMENTS TO THE ARMED CAREER CRIMINAL ACT OF 1984.

(a) INTENT OF ACT.—The Congrss declares that the intent of the Armed Career Criminal Act of 1984 was to enact a sentencing enactment provision.

(b) MEANING OF THREE PRIOR CONVICTIONS.—Section 924(e)(1) of title 18, United States Code, is amended by inserting "for three separate offenses" after "three previous convictions".

(c) UNCONSTITUTIONAL PRIOR CONVICTIONS.—Section 924(e)(1) of tilte 18, United

States Code, is amended by inserting "which have not been obtained in violation of the Constitution," after "from one another,".

(d) BURGLARY AS A VIOLENT OFFENSE.—Section 924(e)(2)(B)(ii) of title 18, United States Code, is amended by inserting "of a dwelling or building" after "burglary".

AMENDMENTS SUBMITTED

CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

LIEBERMAN AMENDMENT NO. 1880

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to an amendment intended to be proposed to the bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes, as follows:

At the end of the pending amendment insert:

SEC. . ADDITIONAL AUTHORITY FOR THE SECRET SERVICE.

(a) IN GENERAL.—Section 3056(b)(1) of title 18, United States Code, is amended by—

(1) inserting "financial institutions, and the Resolution Trust Corporation, and concurrent with the authority of any other Federal law enforcement agency," after "land bank associations,";

(2) inserting "215," after "213,";

(3) inserting "656," after "493,";

(4) inserting "1005," after "709,"; and

(5) inserting "1342, 1343, 1344, 1510," after "1014,".

(b) EFFECT OF AMENDMENTS.—The amendments made by this section shall not alter the authority of any other Federal law enforcement agency.

DECONCINI AMENDMENTS NOS. 1881 THROUGH 1892

(Ordered to lie on the table.)

Mr. DECONCINI submitted 12 amendments intended to be proposed by him to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

AMENDMENT No. 1881

At the end insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the " Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 105 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law or a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 35 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and de-

terminations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT No. 1882

At the end insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the " Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 105 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 34 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT No. 1883

At the end insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United

States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 105 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law or a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 33 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 1884

At the end insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the " Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section,

prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 105 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law or a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3)); smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 32 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 1885

At the end insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 105 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the

firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law or a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 31 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 1886

At the end insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the " Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 105 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law or a State relating to any controlled substance (as defined in sec-

tion 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 37 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408. shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT No. 1887

At the end insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 105 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law or a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or atten.pts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and

study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 36 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT No. 1888

At the end insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 105 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law or a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 35 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT No. 1889

At the end insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the " Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 105 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law or a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 34 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 1890

At the end insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 105 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law or a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 33 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT No. 1891

At the end insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 105 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law or a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 32 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT No. 1892

At the end insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 105 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce

shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law or a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 31 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

BIDEN AMENDMENTS NOS. 1893 THROUGH 1903

(Ordered to lie on the table.)

Mr. BIDEN submitted 11 amendments intended to be proposed by him to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1893

In lieu of the matter proposed to be inserted, insert the following:

TITLE IV—ASSAULT WEAPONS

SEC. 401. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 402. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 403. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 404. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 405. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 406. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 407. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following:

"or a violation of section 924(i) of this chapter".

SEC. 408. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 409. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violation and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 410. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portion of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 1894

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the

SENATE—*Tuesday, June 5, 1990*

(Legislative day of Wednesday, April 18, 1990)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

* * * *Man shall not live by bread alone, but by every word that proceedeth out of the mouth of God.*—Deuteronomy 8:3, Matthew 4:4.

Eternal God, all wise, all powerful, everywhere present, Moses and Jesus remind us that life is infinitely more than meat and drink. We survive not only with food for the body but by Thy Word which nourishes the mind and spirit. Forgive us, Lord, for our preoccupation with the flesh while we neglect our souls—while we devote ourselves to the physical and lose our way spiritually. Help us to remember that transcending all of the issues of life is spiritual warfare, and we lose when we reduce issues to the material only. Make us wise in the wisdom of Moses and Jesus that Thou hast spoken, and Thy Word provides health and strength without which we perish.

In Jesus' name who is the Way, the Truth, and the Life, Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 5, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Following the time for the two leaders this morning there will be a period for morning business not to extend beyond 12:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

Any second-degree amendments to the crime bill must be filed by 12:30 p.m. today. At 12:30 the Senate will recess until 2:15 p.m. to accommodate the party conference luncheons. Upon reconvening at 2:15 today the Senate will vote on the motion to invoke cloture on the crime bill, S. 1970, with the required live quorum having been waived.

Accordingly, Senators should be aware that there will be a rollcall vote on the motion to invoke cloture on the crime bill at 2:15 p.m. today, and there will very likely be further rollcall votes throughout the day and into the evening.

ANNIVERSARY OF ELECTION OF SPEAKER FOLEY

Mr. MITCHELL. Mr. President, I want to bring to my colleagues' attention an anniversary which occurs tomorrow—that is, tomorrow will mark the first anniversary of the election of Speaker FOLEY to lead the House of Representatives.

Speaker FOLEY's leadership has given the Democratic majority in the House the voice and substance to deal creatively and positively with the pressing issues on the legislative agenda.

Speaker FOLEY has also helped recreate a better spirit of comity with the Republican minority in the House, so that good legislative ideas and spirited debate can again play a role in the refining of legislation and programs.

Speaker FOLEY's thoughtfulness and cooperative spirit have been rightly hailed by his colleagues in the House of Representatives. But speaking for the Senate majority, his thoughtful and cooperative working style has been of immense help to this body and, therefore, to the entire legislative branch of Government since his election.

It has often been said in jest that the process of making laws and sausages are processes best not observed too closely.

That is emphatically not true in the case of Speaker FOLEY. His sense of fairness, his willingness to work with members from both parties and his total commitment to the legislative process and its product all combine to make him a leader under whose guidance the process of making law becomes the elevated and important national task it should be.

I have thoroughly enjoyed the first year of my work with Speaker FOLEY and look forward to our continuing association in the future.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all of the leader time of the distinguished Republican leader.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. GORE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Tennessee [Mr. GORE].

THE GLOBAL ENVIRONMENT

Mr. GORE. Mr. President, ever since President Bush took office 16 months ago he has been urged time and again by those in the Congress, leaders of other nations, and concerned citizens here and in other countries to live up to his campaign pledge to protect the global environment. Nations and people around the world realize that U.S. leadership is essential to protecting the global environment, but time and again this administration has shown all too clearly that it has no intention of fulfilling the promises made by President Bush in his campaign rhetoric.

During the recess just completed, several events occurred, the most prominent of which was, of course, the summit meeting. I find it unremarkable that the summit meeting focused

required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 302. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary shall, at a minimum, appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005-07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following: ", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

TITLE IV—ASSAULT WEAPONS

SEC. 401. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 402. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 403. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 404. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 405. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 406. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has

moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 407. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 408. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 409. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 410. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 1895

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to rec-

ommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.
"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 302. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary shall, at a minimum, appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005–07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following: ", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

TITLE IV—ASSAULT WEAPONS

SEC. 401. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 402. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 403. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR–70 (SC–70),

"(D) Colt AR–15 and CAR–15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC–9, and

"(I) Street Sweeper and Striker 12.".

SEC. 404. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 405. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 406. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 407. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 408. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 409. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 410. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 1896

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if

there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence

of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by strik-

ing "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 302. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary shall, at a minimum, appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at

a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005-07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

TITLE IV—ASSAULT WEAPONS

SEC. 401. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 402. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 403. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 404. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 405. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 406. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 407. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 408. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 409. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 410. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 897

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A find-

ing with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for

life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 302. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary shall, at a minimum, appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005-07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

TITLE IV—ASSAULT WEAPONS

SEC. 401. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 402. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 403. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 404. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 405. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 406. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 407. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 408. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 409. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 410. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 1898

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.

"3591. Sentence of death.

"3592. Factors to be considered in determining whether a sentence of death is justified.

"3593. Special hearing to determine whether a sentence of death is justified.

"3594. Imposition of a sentence of death.

"3595. Review of a sentence of death.

"3596. Implementation of a sentence of death.

"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participa-

tion was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply

in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 302. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary shall, at a minimum, appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005-07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

TITLE IV—ASSAULT WEAPONS

SEC. 401. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 402. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an

assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 403. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 404. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 405. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 406. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 407. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 408. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 409. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 410. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT No. 1899

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury

or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "im-

prisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in

paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 302. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005–07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

AMENDMENT NO. 1900

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 302. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005–07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

AMENDMENT No. 1901

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of

appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.
"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life

imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 302. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable,

has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005–07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

AMENDMENT NO. 1902

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if

there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence

of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 302. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the

business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005-07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

AMENDMENT NO. 1903

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportu-

nity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any

other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institu-

tions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 302. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005-07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

SPECTER AMENDMENT NO. 1904

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to amendment No. 1842 intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, add the following:

SEC. 01. CONDITION FOR REPORTING BY STATES IN ORDER TO BE ELIGIBLE TO RECEIVE FEDERAL ANTI-DRUG FUNDS.

(a) IN GENERAL.—Notwithstanding any other law, beginning on the date that is 1 year after the date of enactment of this Act, a State shall not be eligible to receive any grant, contract, award, or other assistance paid for with Federal anti-drug funds unless it meets the requirements of subsection (b).

(b) REPORT.—A State that desires to establish eligibility to receive the Federal assistance described in subsection (a) shall submit

a report to the Attorney General and the Secretary of Health and Human Services on the costs of providing to all prisoners who need and desire it—

(A) training in a marketable job skill and basic literacy; and

(B) treatment and rehabilitation for drug addiction.

(2) A report described in paragraph (1) shall include—

(A) a description of the manner in which Federal anti-drug funding to the State is being used to provide drug treatment and rehabilitation and training in basic literacy and marketable job skills to prisoners sentenced under the laws of the State;

(B) a detailed description of the drug treatment and rehabilitation and programs and the literacy and job training programs that the State currently provides for inmates;

(C) a description of the specific eligibility requirements for inmate participation in the State's drug treatment and rehabilitation programs and literacy and job training programs;

(D) a description of the characteristics and components of the State's drug treatment and rehabilitation programs and literacy and job training programs;

(E) a statement of the number of inmates currently served by the State in its drug treatment and rehabilitation programs and literacy and job training programs;

(F) an analysis of the cost-effectiveness of the State's drug treatment and rehabilitation programs and literacy and job training programs for inmates;

(G) an analysis of the effectiveness of existing procedures in the State's drug treatment and rehabilitation programs for matching patients in prisons with appropriate treatment;

(H) an evaluation of patients' performance while in drug treatment;

(I) a statement of the number of inmates who are in need of drug treatment who are not currently receiving treatment;

(J) an estimate of the number of inmates who will be receiving treatment, and of the number of inmates who will be in need of but not receiving treatment, in the years 1995 and 2000;

(K) an analysis of the effectiveness of existing procedures in the State's job training and literacy programs for matching inmates with appropriate training;

(L) an evaluation of inmates' performance while in literacy and job training programs;

(M) a statement of the number of inmates who are in need of basic literacy and job training who are not currently receiving training;

(N) an estimate of the number of inmates who will be receiving training, and of the number of inmates who will be in need of but not receiving training, in the years 1995 and 2000;

(O) a statement of the number of inmates who, after receiving drug treatment, have been provided literacy and job training; and

(P) a comparison of recidivism rates for inmates who have participated in the State's drug treatment and rehabilitation programs and literacy and job training programs with those for inmates who have not.

(c) REGULATIONS.—(1) Not later than 180 days after the date of enactment of this Act, the Director of the Office of Treatment Improvement and the Director of the National Institute of Corrections, shall, after consultation with the Correctional Literacy and Vocational Skills Advisory Council, promulgate regulations to carry out this Act.

(2) The regulations promulgated pursuant to paragraph (1) shall include—

(A) a definition of the term "marketable job skill and basic literacy"; and

(B) a definition of the term "treatment and rehabilitation for drug addiction".

(d) ADVISORY COUNCIL.—(1) There is established the Correctional Literacy and Vocational Skills Advisory Council (referred to as the "Council").

(2) The Council shall be composed of—

(A) the Director of the National Institute of Corrections, who shall serve as its chairman;

(B) the Assistant Secretary of Education for Vocational and Adult Education;

(C) the Assistant Secretary of Labor for Employment Training and Administration; and

(D) representatives of the American Correctional Association, the American Jail Association, the Association of State and Federal Directors of Correctional Education, and the Correctional Education Association.

(3) It shall be the duty of the Council to advise the National Institute of Corrections in formulating the regulations described in subsection (c)(2)(A).

(e) ADVISORY COMMITTEE.—(1) There is established the Correctional Drug Treatment Advisory Committee (referred to as the "Committee").

(2) The Committee shall be composed of—

(A) the Director of the Office of Treatment Improvement, who shall serve as chairman;

(B) the Director of the National Institute of Drug Abuse;

(C) the Director of the National Institute of Corrections; and

(D) representatives of the American Correctional Association, the American Jail Association, and the National Association of State Alcohol and Drug Abuse Directors.

(3) It shall be the duty of the Committee to advise the Office of Treatment Improvement in formulating the regulations described in subsection (c)(2)(B).

(f) NO CAUSE OF ACTION.—Nothing in this Act shall be construed to create any cause of action, defense, or claim of rights of any other kind in favor of a State prisoner.

NICKLES AMENDMENTS NOS. 1905 AND 1906

(Ordered to lie on the table.)

Mr. NICKLES submitted two amendments intended to be proposed by him to an amendment intended to be proposed by Mr. METZENBAUM to the bill S. 1970, supra, as follows:

AMENDMENT No. 1905

At the end of the amendment, add the following:

SEC. . CIVIL PENALTY FOR VIOLATION BY EMPLOYEE.

Section 17 (29 U.S.C. 666), as amended by section ——, is amended—

(1) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), and (o) as subsections, (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) An employee who, while under the influence of alcohol or illegal drugs, fails to comply with an occupational safety and health standard or a rule, regulation, or order issued pursuant to this Act that is applicable to the employee's action or conduct, may be assessed a civil penalty of not more than $10,000 for each violation.".

AMENDMENT No. 1906

At the end of the amendment, add the following:

SEC. . CRIMINAL PENALTY FOR VIOLATION BY EMPLOYEE.

Section 17 (29 U.S.C. 666), as amended by section ——, is amended—

(1) by redesignating subsections (f), (g), (h), (i), (j), (k), (l), (m), (n), and (o) as subsections, (g), (h), (i), (j), (k), (l), (m), (n), (o), and (p), respectively; and

(2) by inserting after subsection (e) the following new subsection:

"(f) An employee who, while under the influence of alcohol or illegal drugs, fails to comply with an occupational safety and health standard or a rule, regulation, or order issued pursuant to this Act that is applicable to the employee's action or conduct, and thereby causes the death of another employee, shall, upon conviction, be punished by a fine of not more than $10,000, imprisonment for not more than 6 months, or both, or in the case of a second or subsequent such conviction, by a fine of not more than $20,000, imprisonment for not more than 1 year, or both.".

HATCH AMENDMENT NO. 1907

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 1740 intended to be proposed to the bill S. 1970, supra, as follows:

At the end of amendment No. 1740, insert the following:

"Any study required by this act shall be limited to a consideration of whether the constitutional rights of criminal defendants have been violated."

HATCH AMENDMENT NO. 1908

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 1794 intended to be proposed to the bill S. 1970, supra, as follows:

At the end of amendment No. 1794, insert the following:

"The requirements of this section shall only have effect where the defendant has no other assets."

HEINZ AMENDMENT NO. 1909

(Ordered to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

At the end of the pending amendment, add the following:

Section 6 of the United States Housing Act of 1937 (42 USC 1437 d(k)) is amended by adding the following new subjection: "(n) When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit."

Section 6(k) of the United States Housing Act of 1937 is amended by striking the last sentence and inserting the following:

"An agency may exclude from its procedure any greivance concerning an eviction or termination of tenancy for criminal activity, including drug related criminal activity, that adversely affects the health, safety and welfare of the public housing tenants on the premises provided that the agency notifies the tenant of the reason for the action to evict or terminate tenancy. An agency may exclude from its procedure any other grievance concerning an eviction or termination of tenancy in any jurisdiction which requires that, prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process."

HEINZ AMENDMENT NO. 1910

(Ordered to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to amendment No. 1806 intended to be proposed to the bill S. 1970, supra, as follows:

At the end of amendment No. 1806, add the following:

Section 6 of the United States Housing Act of 1937 (42 USC 1437 d(k)) is amended by adding the following new subjection: "(n) When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit."

Section 6(k) of the United States Housing Act of 1937 is amended by striking the last sentence and inserting the following:

"An agency may exclude from its procedure any grievance concerning an eviction or termination of tenancy for criminal activity, incldung drug related criminal activity, that adversely affects the health, safety and welfare of the public housing tenants on the premises provided that the agency notifies the tenant of the reason for the action to evict or terminate tenancy. An agency may exclude from its procedure any other grievance concerning an eviction or termination of tenancy in any jurisdiction which requires that, prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process."

GRAMM AMENDMENTS NOS. 1911 THROUGH 1920

(Ordered to lie on the table.)

Mr. GRAMM submitted 10 amendments intended to be proposed by him to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1911

In lieu of the language proposed, insert the following:

SEC. . DEPORTATION OF CRIMINAL ALIENS.

(a) DEPORTATION OF ALIENS CONVICTED OF CRIMES OF VIOLENCE.—Section 241(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(14)) is amended by inserting after"convicted" the following: "of a drug trafficking crime or a crime of violence (as those terms are defined in paragraphs (2) and (3) of section 924(c) of title 18, United States Code) and who has served any term of imprisonment imposed by a court, or".

(b) REENTRY OF DEPORTED ALIENS.—Section 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1326(b)(2)) is amended to read as follows:

"(2) whose deportation was subsequent to a conviction for a drug trafficking crime or a crime of violence (as those terms are defined in section 924(c) (2) and (3) of title 18, United States Code), or for commission of an aggravated felony, such alien shall be fined under such title and imprisoned for not less than 20 years without release, and in the case of a second violation of subsection (a) shall be imprisoned for life without release. Notwithstanding any other law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph and such person shall not be released during the term of such sentence. The Attorney General shall proceed with all dispatch to identify and make orders pursuant to section 242A for the deportation of all individuals in the United States who are described in section 241(a)(14) of the Immigration and Nationality Act.".

AMENDMENT NO. 1912

At the appropriate place, insert the following:

"SEC. . (a) It shall be unlawful in the District of Columbia to intentionally kill, or counsel, command, induce, procure, or cause the intentional killing of an individual during the commission of an offense involving a controlled substance.

"(b) A person who commits an offense described in subsection (a) shall be sentenced to any term of imprisonment which shall not be less than 20 years, and which may be up to life imprisonment and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole prior to serving the minimum sentence, or may be sentenced to death.

"(c) A person shall be subjected to the penalty of death for an offense under this section only if a hearing is held in accordance with the procedures provided in section 408 of the Controlled Substances Act.".

AMENDMENT NO. 1913

At the appropriate place, insert the following:

"SEC. . (a) It shall be unlawful in the District of Columbia to intentionally kill, or counsel, command, induce, procure, or cause the intentional killing of an individual during the commission of an offense involving a controlled substance.

"(b) A person who commits an offense described in subsection (a) shall be sentenced to any term of imprisonment which shall not be less than 20 years, and which may be up to life imprisonment and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole prior to serving the minimum sentence, or may be sentenced to death.

"(c) A person shall be subjected to the penalty of death for an offense under this section only if a hearing is held in accordance with the procedures provided in section 408 of the Controlled Substances Act.".

AMENDMENT NO. 1914

In lieu of the language proposed to be inserted, insert the following:

"SEC. . (a) it shall be unlawful in the District of Columbia to intentionally kill, or counsel, command, induce, procure, or cause the intentional killing of an individual during the commission of an offense involving a controlled substance.

"(b) A person who commits an offense described in subsection (a) shall be sentenced to any term of imprisonment which shall not be less than 20 years, and which may be up to life imprisonment and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole prior to serving the minimum sentence, or may be sentenced to death.

"(c) A person shall be subjected to the penalty of death for an offense under this section only if a hearing is held in accordance with the procedures provided in section 408 of the Controlled Substances Act.".

AMENDMENT NO. 1915

At the appropriate place, insert the folowing:

"None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . INCREASED MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.

(a) USE OF FIREARMS.—Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) possesses a firearm that is a machinegun, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall be sentenced to imprisonment for not less than 20 years without release for discharge of a firearm, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. If the death of a person results from the discharge of a firearm, with intent to kill another person, by a person during the commission of such a crime, the person who discharged the firerm shall be sentenced to death or life imprisonment without release. A person shall be subjected to the penalty of death under this subsection only if a hearing is held in accordance with section 408 of the Controlled Substances Act (21 U.S.C. 848). Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this sub-

section, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) This subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person.".

AMENDMENT NO. 1916

At the appropriate place, insert the following:

None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . INCREASED MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS

(a) USE OF FIREARMS.—Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) possesses a firearm that is a machinegun, or is equipped with a firearm silencer, or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. If the death of a person results from the discharge of a firearm, with intent to kill another person, by a person during the commission of such a crime, the person who discharged the firearm shall be sentenced to death or life imprisonment without release. A person shall be subjected to the penalty of death under this subsection only if a hearing is held in accordance with section 408 of the Controlled Substances Act (21 U.S.C. 848). Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in posession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) This subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person.".

AMENDMENT NO. 1917

At the appropriate place, insert the following:

None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . INCREASED MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.

(a) USE OF FIREARMS.—Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) possesses a firearm that is a machinegun, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. If the death of a person results from the discharge of a firearm, with intent to kill another person, by a person during the commission of such a crime, the person who discharged the firearm shall be sentenced to death or life imprisonment without release. A person shall be subjected to the penalty of death under this subsection only if a hearing is held in accordance with section 408 of the Controlled Substances Act (21 U.S.C. 848). Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) This subsection has no application to a person who may be found to have committed a criminal act while acting in defense of a person or property during the course of a crime being committed by another person.".

AMENDMENT NO. 1918

In lieu of the language proposed to be inserted, insert the following:

None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . INCREASED MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.

(a) USE OF FIREARMS.—Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) possesses a firearm that is a machinegun, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. If the death of a person results from the discharge of a firearm, with intent to kill another person, by a person during the commission of such a crime, the person who discharged the firearm shall be sentenced to death or life imprisonment without release. A person shall be subjected to the penalty of death under this subsection only if a hearing is held in accordance with section 408 of the Controlled Substances Act (21 U.S.C. 848). Nothwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) This subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person.".

AMENDMENT No. 1919

In lieu of the language proposed to be inserted, insert the following:

None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . INCREASED MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.

(a) USE OF FIREARMS.—Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) possesses a firearm that is a machinegun, or is equipped with a firearm with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentened to life imprisonment without release. If the death of a person results from the discharge of a firearm, with intent to kill another person, by a person during the commission of each a crime, the person who discharged the firearm shall be sentenced to death or life imprisonment without release. A person shall be subjected to the penalty of death under this subsection only if a hearing is held in accordance with section 408 of the Controlled Substances Act (21 U.S.C. 848). Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of drug trafficking crime, the person has a firearm ready available at the scene of the crime during the commission of the crime.

"(C) This subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another purpose.".

AMENDMENT No. 1920

In lieu of the language proposed to be inserted, insert the following:

None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . INCREASED MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.

(a) USE OF FIREARMS.—Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) possesses a firearm that is a machinegun, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. If the death of a person results from the discharge of a firearm, with intent to kill another person, by a person during the commission of such a crime, the person who discharged the firearm shall be sentenced to death or life imprisonment without release. A person shall be subjected to the penalty of death under this subsection only if a hearing is held in accordance with section 408 of the Controlled Substances Act (21 U.S.C. 848). Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) This subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person.".

CRANSTON AMENDMENT NO. 1921

(Ordered to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to amendment No. 1728 intended to be proposed by Mr. HATFIELD to the bill S. 1970, supra, as follows:

At the end of the amendment, add the following:

( ) Section 3663 of title 18, United States Code, is amended by adding at the end thereof the following:

"(i) The court may order a defendant who is sentenced to life imprisonment to pay restitution.".

WIRTH AMENDMENT NO. 1922

(Ordered to lie on the table.)

Mr. WIRTH submitted an amendment intended to be proposed by him to amendment intended to be proposed to the bill S. 1970, supra, as follows:

At the end of the amendment, add the following:

SEC. . FULL FUNDING OF INVESTIGATION AND PROSECUTION OF FINANCIAL INSTITUTION CRIMES.

(a) FINDINGS.—The Senate finds that—

(1) the savings and loan debacle is the largest financial crisis in our Nation's history;

(2) fraud and other criminal activity contributed significantly to the savings and loan industry's losses and will cost taxpayers billions of dollars;

(3) Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of savings and loan failures can be attributed to criminal activity by the institution's officers and management;

(4) officials at the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions the corporation has seized "have been victimized by serious criminal activity;

(5) investigation and prosecuting criminal activity related to the savings and loan crisis will help send an important message of "never again" to those involved in the financial industry;

(6) the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 authorized $75,000,000 annually for 3 years to investigate and prosecute financial institution crimes;

(7) the President requested only $50,000,000 of that authorization on behalf of the Department of Justice for the current fiscal year;

(8) Federal Bureau of Investigation and United States Attorneys's office requested 224 more special agent positions, 113 more assistant United States attorney positions, and 142 support staff positions than the agencies received as a result of the $50,000,000 in new fundings;

(9) the Federal Bureau of Investigation has received more than 20,000 referrals involving fraud in the financial services industry that the Bureau has been unable to examine, more than 1,000 of which are major cases that involve losses of more than $100,000;

(10) as of February 1990, the Bureau also had more than 7,000 pending bank fraud and embezzlement cases, some 3,000 of which were major cases;

(11) more than 900 pending cases and more than 200 unaddressed referrals involve losses greater than $1,000,000;

(12) regulators will examine and close more insolvent institutions, and the Department of Justice will receive thousands more referrals of possible criminal activity related to savings and loan failures, increasing the workload for Federal investigators and prosecutors;

(13) the passage of time makes investigation more difficult and expiring statutes of limitation could allow serious crimes to go unpunished if investigation and prosecution is delayed; and

(14) the current level of resources devoted to investigation and prosecuting fraud and criminal activity within the financial services industry is inadequate to address the crimes that contributed to the losses of savings and loan associations.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President should, at a minimum, seek the full $75,000,000 authorized for the Department of Justice for fiscal years 1991 and 1992 to pursue the investigation and prosecution of financial institution crimes; and

(2) the President should allocate additional resources as necessary to ensure that criminal activity that contributed to losses to the Federal deposit insurance funds is investigated and prosecuted to the fullest practicable extent.

GORTON (AND OTHERS) AMENDMENT NO. 1923

(Order to lie on the table.)

Mr. GORTON (for himself, Mr. HATFIELD, Mr. ADAMS, Mr. HATCH, Mr. D'AMATO, Mr. MCCAIN, Mr. COATS and Mr. BURNS) submitted an amendment intended to be proposed by them to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

At the end of the amendment, add the following:

SEC. . PRECURSOR CHEMICALS.

(a) EXPANDED LIST OF PRECURSOR CHEMICALS.—Section 102(34) of the Controlled Substances Act (12 U.S.C. 802(34)) is amended by striking subparagraphs (A) through (L) and inserting the following:

"(A) Anthranilic acid.
"(B) Benzyl cyanide.
"(C) Chloroephedrine.
"(D) Chloropseudoephedrine.
"(E) D-lysergic acid.
"(F) Ephedrine.
"(G) Egonovine maleate.
"(H) Ergotamine tartrate.
"(I) Ethylamine.
"(J) Hydriodic acid.
"(K) Isosafrole.
"(L) Methylamine.
"(M) N-acetylanthranilic acid.
"(N) N-ethylephedrine.
"(O) N-ethylpseudoephedrine.
"(P) N-methylephedrine.
"(Q) N-methylpseudoephedrine.
"(R) Norpseudoephedrine.
"(S) Phenylacetic acid.
"(T) Phenylpropanolamine.
"(U) Phenyl-2-propanone.
"(V) Piperidine.
"(W) Piperonal.
"(X) Propionic anhydride.
"(Y) Pseudoephedrine.
"(Z) Safrole.
"(AA) Thionylchloride.
"(BB) Any salt, optical, isomer, or salt of an optical isomer of the foregoing chemicals.".

(b) CONFORMING REPEAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended—

(1) by striking subparagraph (E); and

(2) by redesignating subaragraphs (F), (G), and (H) as subparagraphs (E), (F), and (G).

(c) ELIMINATION OF THRESHOLD REQUIREMENT FOR PRECURSOR CHEMICALS.—Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) is amended—

(1) by inserting "any amount of a listed precursor chemical, or" before "a threshold amount, including a cumulative threshold amount for"; and

(2) by striking "listed chemical" the first place such term appears and inserting "listed essential chemical".

(d) REPORTS OF REGULATED TRANSACTIONS.—Section 310(b)(1) of the Controlled Substances Act (21 U.S.C. 830(b)(1)) is amended—

(1) by inserting "any quantity of a listed precursor chemical," after "involving"; and

(2) by striking "a listed chemical" and inserting "a listed essential chemical".

(e) PROVISION TO STATES OF INFORMATION RELATING TO REGULATED TRANSACTIONS.—Section 310(c)(3) of the Controlled Substances Act (21 U.S.C. 830(c)(3)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) cooperate with the authorities of each State by providing information relating to regulated transaction in listed precursor chemicals and anticipated regulated transactions (including impending interstate deliveries) in such chemicals that might be useful in the enforcement of State laws relating to precursor chemicals, controlled substances, and other illegal drugs.".

(f) LICENSING.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended by adding at the end thereof the following new subsection:

"(d)(1) It shall be unlawful for a person to—

"(A) engage in a regulated transaction involving a listed precursor chemical; or

"(B) manufacture, distribute, import, or export a listed precursor chemical,

without a license required under this subsection.

"(2)(A) The Attorney General shall by rule establish a licensing program for regulated persons and regulated transactions involving listed precursor chemicals under which licenses will be required in circumstances in which the Attorney General determines that requiring licensing will contribute to the achievement of the purposes of this section and to criminal drug law enforcement in general. The Attorney General need not require a regulated person who maintains a record of all regulated transactions or reports all regulated transactions in accordance with this section to be licensed under this subsection.

"(B) The licensing program described in subparagraph (A) shall require a license application to be made in such form as the Attorney General shall prescribe and may provide for the denial, revocation, or suspension of a license for cause, after opportunity for a hearing on the record.

"(3) Whoever violates paragraph (1) shall be fined under title 18, United States Code, or imprisoned not more than 4 years, or both.

"(4) The Attorney General shall by inspection or otherwise provide for the audit and control of listed precursor chemical inventories of persons possessing a license under this subsection.".

(g) APPLICATION OF SECTION.—Section 310 of the Controlled Substances Act (21 U.S.C. 830), as amended by subsection (f), is

amended by adding at the end thereof the following new subsection:

"(e) This section does not apply to a transaction or other activity involving a listed chemical in a drug that is lawfully marketed or distributed under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

(h) MANAGEMENT OF LISTED CHEMICALS.—(1) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921-6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(1) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(2) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.

"(3)(A) A violation of paragraph (1) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for a violation of paragraph (1) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (1).".

(2) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

DOMENICI AMENDMENT NO. 1924

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to amendment No. 1704 intended to be proposed by him to the bill S. 1970, supra, as follows:

On page 2, line 3, strike "the availability of" and insert in lieu thereof "the availability and suitability of".

DOMENICI AMENDMENT NO. 1925

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to amendment No. 1772 intended to be proposed by Mr. INOUYE to the bill S. 1970, supra, as follows:

In lieu of the matter proposed to be inserted, insert the line following:

"§ 3598. Application of chapter in Indian country

"A death sentence in a case of murder in the first degree committed by or against an Indian in Indian country (as the term is defined in section 1151) may be imposed under this chapter only if there was in effect at the time of the offense an election by the governing body of the Indian tribe having jurisdiction over the place where the offense was committed, to have this chapter apply in such cases.".

SIMPSON AMENDMENT NO. 1926

(Ordered to lie on the table.)

Mr. SIMPSON submitted an amendment intended to be proposed by him to amendment No. 1855 intended to be proposed by Mr. DECONCINI to the bill S. 1970, supra, as follows:

At line 17, of page 8 of amendment No. 1855 by Senator DeConcini: after "Striker 12.", delete the period (.) insert a semicolon (;) and the following:

"(26) and which is a selective fire firearm which is manufactured capable of firing on full-automatic, burst, or semi-automatic modes."

McCLURE AMENDMENT NO. 1927

(Ordered to lie on the table.)

Mr. McCLURE submitted an amendment intended to be proposed by him to amendment No. 1772 intended to be proposed by Mr. INOUYE to the bill S. 1970, supra, as follows:

In the amendment (No. 1772), strike out "Indian country (within the meaning of section 1151) only if the governing body of the Indian tribe that has jurisdiction over such portion of Indian country" and insert in lieu thereof "land title to which is held by the United States in trust for an Indian or an Indian tribe or land title to which is held by Indians or an Indian tribe subject to a restriction by the United States against alienation, only if the governing body of the Indian tribe that has jusrisdiction over such land".

HATFIELD AMENDMENT NO. 1928

(Ordered to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

On page 2 of the amendment, line 10, strike "18" and insert "17".

HEFLIN AMENDMENTS NOS. 1929 AND 1930

(Ordered to lie on the table.)

Mr. HEFLIN submitted two amendments intended to be proposed by him to amendment No. 1807 intended to be proposed by Mr. BIDEN to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1929

On page 7, line 21, strike the dash through "(2)" on page 8, line 6.

AMENDMENT NO. 1930

On page 2, between lines 10 and 11, insert the following:

(c) LIMITATION ON ALLOCATIONS.—Section 501(b) of part E of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3751(b)) is amended by adding at the end thereof the following:

"Allocations for grants made for the purposes provided in this subsection shall be made on an equitable basis for all components of the criminal justice system, including the judiciary. Grants shall only be made to Federal agencies that can provide technical support assistance not available through State and local agencies or nonprofit organizations.".

METZENBAUM AMENDMENTS NOS. 1931 THROUGH 1933

(Ordered to lie on the table.)

Mr. METZENBAUM submitted three amendments intended to be proposed by him to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1931

At the end of the pending amendment, insert the following:

SEC. . BAN ON SALE OF MAGAZINES AND BELTS HOLDING GREATER THAN 15 ROUNDS OF AMMUNITION.

(a) BAN.—Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(s)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive or possess a large-capacity detachable magazine or large-capacity ammunition belt, which can be employed by a semiautomatic firearm.

(2) This subsection does not apply with respect to—

(A) any transfer, importation, transporting, shipping or receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof; or

(B) any transfer, transporting, shipping, receiving or possession of such magazine or ammunition belt that was lawfully possessed before the date of this subsection, except that no federally licensed firearms dealer shall transfer such magazine or ammunition belt."

(3) For purposes of this subsection—

"(A) The term 'large-capacity magazine' means a box, drum or other container which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or a magazine which can be readily converted into a large-capacity magazine. Such term shall not include any magazine that has been permanently modified

so that it will not hold more than fifteen rounds of ammunition.

"(B) The term 'large-capacity ammunition belt' means a belt or strip which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or an ammunition belt which can be readily converted into a large-capacity ammunition belt. Such term shall not include any ammunition belt that has been permanently modified so that it will not hold more than fifteen rounds of ammunition.

(b) PENALTY SECTION.—Section 924 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(1) Whoever violates the provisions of this Act relating to large capacity detachable magazines and ammunition belts shall be fined not more than nine thousand nine hundred ninety-eight dollars, imprisoned not more than two years, or both.".

AMENDMENT NO. 1932

At the end of the pending amendment, insert the following:

SEC. . BAN ON SALE OF MAGAZINES AND BELTS HOLDING GREATER THAN 15 ROUNDS OF AMMUNITION.

(a) BAN.—Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(s)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive or possess a large-capacity detachable magazine or large-capacity ammunition belt, which can be employed by a semiautomatic firearm.

"(2) This subsection does not apply with respect to—

"(A) any transfer, importation, transporting, shipping or receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof; or

"(B) any transfer, transporting, shipping, receiving or possession of such magazine or ammunition belt that was lawfully possessed before the date of this subsection, except that no federally licensed firearms dealer shall transfer such magazine or ammunition belt.

"(3) For purposes of this subsection—

"(A) The term 'large-capacity magazine' means a box, drum or other container which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or a magazine which can be readily converted into a large-capacity magazine. Such term shall not include any magazine that has ben permanently modified so that it will not hold more than fifteen rounds of ammunition.

"(B) The term 'large-capacity ammunition belt' means a belt or strip which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or an ammunition belt which can be readily converted into a large-capacity ammunition belt. Such term shall not include any ammuntion belt that has been permanently modified so that it will not hold more than fifteen rounds of ammunition.".

(b) PENALTY SECTION.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(1) Whoever violates the provisions of this Act relating to large capacity detachable magazines and ammunition belts shall be fined not more than nine thousand nine hundred ninety-nine dollars, imprisoned not more than two years, or both.".

AMENDMENT NO. 1933

At the end of the pending amendment, insert the following:

SEC. . BAN ON SALE OF MAGAZINES AND BELTS HOLDING GREATER THAN 15 ROUNDS OF AMMUNITION.

(a) BAN.—Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(s)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive or possess a large-capacity detachable magazine or large-capacity ammunition belt, which can be employeed by a semiautomatic firearm.

(2) This subsection does not apply with respect to—

(A) any transfer, importation, transporting, shipping or receiving to or by, or possession by or under authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof; or

(B) any transfer, transporting, shipping, receiving or possession of such magazine or ammunition belt that was lawfully possessed before the date of this subsection, except that no federally licensed firearms dealer shall transfer such magazine or ammunition belt."

(3) For purposes of this subsection—

"(A) The term 'large-capacity magazine' means a box, drum or other container which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or a magazine which can be readily converted into a large-capacity magazine. Such term shall not include any magazine that has been permanently modified so that it will not hold more than fifteen rounds of ammunition.

"(B) The term 'large-capacity ammunition belt' means a belt or strip which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or an ammunition belt which can be readily converted into a large-capacity ammunition belt. Such term shall not include any ammunition belt that has been permanently modified so that it will not hold more than fifteen rounds of ammunition.".

(b) PENALTY SECTION.—Section 924 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(1) Whoever violates the provisions of this Act relating to large capacity detachable magazines and ammunition belts shall be fined not more than ten thousand dollars, imprisoned not more than two years, or both.".

HATCH AMENDMENT NO. 1934

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 1770 intended to be proposed by Mr. METZENBAUM to the bill S. 1970, supra, as follows:

In the matter proposed to be added as subsection (p) of section 17 of the Occupational Safety and Health Act of 1970, strike the proposed such subsection (p) in its entirety and insert in lieu thereof the following new subsection (p):

"(p) The provisions contained in this section shall supersede any and all State and local criminal laws insofar as they may pertain to the death, injury or illness of an employee in a workplace resulting from the actions, decisions, or policies of the employer of such employee."

SHELBY AMENDMENT NO. 1935

(Ordered to lie on the table.)

Mr. SHELBY submitted an amendment intended to be proposed by him to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . DEPORTATION OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

Section 242(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)) is amended in the first sentence by striking out "sentence" and inserting in lieu thereof "incarceration".

BIDEN AMENDMENT NO. 1936

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 1829 intended to be proposed by Mr. THURMOND to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1936

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus

used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.".
"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting require-

ments referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 302. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary shall, at a minimum, appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005–07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

TITLE IV—ASSAULT WEAPONS

SEC. 401. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 402. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 403. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 404. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 405. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 406. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 407. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 408. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 409. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 410. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

BIDEN AMENDMENTS NOS. 1937 AND 1938

(Ordered to lie on the table.)

Mr. BIDEN submitted two amendments intended to be proposed by him to amendment No. 1831 intended to be proposed by Mr. THURMOND to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1937

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.

"3591. Sentence of death.

"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a

sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 302. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary shall, at a minimum, appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005–07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances

Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

TITLE IV—ASSAULT WEAPONS

SEC. 401. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 402. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 403. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 404. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 405. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 406. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 407. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 408. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 409. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 410. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsec-

tion (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 1938

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the pre-

vention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the

person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed."
"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institu-ubsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 302. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005–07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

BIDEN AMENDMENT NO. 1939

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 1829 intended to be proposed by Mr. THURMOND to the bill S. 1970, supra, as follows:

AMENDMENT No. 1939

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her indi-

vidual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.
"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than

$1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 302. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005–07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

KENNEDY AMENDMENTS NOS. 1940 AND 1941

(Ordered to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

AMENDMENT No. 1940

At the end of the pending amendment insert the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Abuse Treatment and Prevention Improvement Act of 1990".

SEC. 2. TABLE OF CONTENTS.

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Sec. 403. Drug-Free Schools and Communities Act of 1986.

TITLE I—IMPROVEMENT AND EXPANSION OF GRANT PROGRAMS

SEC. 101. ESTABLISHMENT OF OFFICE FOR TREATMENT IMPROVEMENT.

Title V of the Public Health Service Act (hereafter in this Act referred to as the "Act") (42 U.S.C. 290aa et seq.) is amended by inserting after section 507 the following new section:

"SEC. 507A. OFFICE FOR TREATMENT IMPROVEMENT.

"(a) IN GENERAL.—There is established in the Administration an Office for Treatment Improvement (hereafter in this section referred to as the "Treatment Office"). The Treatment Office shall be headed by a Director appointed by the Secretary from among individuals with extensive experience or academic qualifications in the treatment of drug or alcohol abuse. The Secretary, acting through the Director of the Treatment Office, shall carry out this section.

"(b) ALCOHOL AND DRUG ABUSE RESPONSIBILITIES.—With respect to alcohol and drug abuse, the Director of the Treatment Office shall—

"(1) collaborate with the Director of the Office for Substance Abuse Prevention in order to provide outreach services to identify individuals in need of treatment services, with emphasis on the provision of such services to racial and ethnic minorities, to adolescents, to pregnant and postpartum women and their infants, to individuals who abuse drugs intravenously, and to residents of publicly-assisted housing;

"(2) collaborate with the Director of the National Institute on Drug Abuse and with the States to promote the study of the outcomes of treatment services in order to identify the manner in which such treatment services can most effectively be provided;

"(3) collaborate with the Director of the National Institute on Drug Abuse in order to promote the dissemination and implementation of research findings that will improve the delivery and effectiveness of treatment services;

"(4) evaluate plans submitted by the States pursuant to section 1916B in order to advise the Administrator on whether the plans adequately provide for the allocation of the treatment resources of the States;

"(5) carry out the grant programs established in sections 509E, 509G(b), 509H, 509I, and 509J;

"(6) sponsor regional workshops on improving the quality and availability of treatment services;

"(7) provide technical assistance to public and nonprofit private entities that provide prevention and treatment services, including technical assistance with respect to the process of submitting to the Director applications for any program of grants carried out by the Director;

"(8) after consultation with organizations that represent providers of prehospital emergency medical services, carry out programs to train such providers with respect to responding to any emergency involving special problems that arise as a result of the abuse of alcohol or drugs by the victim of the emergency, including the problem of interacting with victims who are violent as a result of such abuse;

"(9) encourage State and Federal agencies offering treatment opportunities for individuals addicted to drugs or alcohol to utilize and establish self-run, self-supported recovery homes based on the Oxford House Model, as described in section 1916A;

"(10) provide treatment services by making grants to public and nonprofit private entities under any of sections 329, 330, and 340, and in making such grants, shall ensure that the grants are equitably allocated among the principal geographic regions of the United States, and between urban and rural areas, subject to the availability of qualified applicants for the grants;

"(11) improve coordination of the treatment resources of communities in order to ensure that the resources are applied in the manner most consistent with the needs of the communities, including referring individuals to the most appropriate provider of treatment services;

"(12) improve coordination between treatment facilities and agencies providing health, social, and employment services in order to assist, in a comprehensive manner, individuals undergoing treatment;

"(13) carry out activities to educate communities on the need for establishing treatment facilities within the communities;

"(14) encourage public and private entities that provide health insurance to provide benefits for drug treatment services; and

"(15) develop programs to increase the number of health professionals providing treatment services and to promote the increased integration into the health care system of the United States of programs for providing treatment services.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (10) of subsection (b), there is authorized to be appropriated $50,000,000 for each of the fiscal years 1991 and 1992.".

SEC. 102. REVISION IN PROGRAM FOR REDUCTION OF WAITING PERIOD FOR DRUG ABUSE TREATMENT.

(a) ADMINISTRATOR OF PROGRAM.—Section 509E(a) of the Act (42 U.S.C. 290aa-12(a)) is amended by striking "the Administrator" and inserting "the Director of the Office for Treatment Improvement".

(b) IMPROVEMENT OF PROGRAM.—Section 509E of the Act (42 U.S.C. 290aa-12) is amended by—

(1) striking subsection (d) and redesignating subsection (c) as subsection (d);

(2) inserting after subsection (b) the following new subsection:

"(c) Subject to the availability of qualified applicants, in awarding grants under subsection (a), the Secretary shall give priority to applicants that provide, directly or through arrangements with public and nonprofit entities—

"(1) drug treatment services to pregnant and postpartum women; or

"(2) after-care services to prevent renewed substance abuse by individuals to whom a substance abuse program that receives assistance under this section has provided treatment services, except that a grantee shall not expend more than 50 percent of such grant to develop and provide such services.";

(3) redesignating paragraph (3) of subsection (e) as paragraph (4);

(4) striking "and" at the end of paragraph (2) of subsection (e); and

(5) inserting after paragraph (2) of subsection (e) the following new paragraph:

"(3) in the case of an applicant that is not a State, an agency of the State in which the applicant is located certifies that the applicant satisfies the conditions described in subsection (b); and".

(c) FUNDING.—Section 509E(f) of the Act (42 U.S.C. 290aa-12(f)) is amended—

(1) in paragraph (1), by striking "$100,000,000." and inserting "$140,000,000."; and

(2) in paragraph (3), by striking "$100,000,000" and inserting "$140,000,000".

(d) REPORT.—Not later than 6 months after the enactment of this Act, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration shall prepare and submit, to the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce, a report concerning the waiting period reduction grant program under section 509E of the Act (42 U.S.C. 290aa-12). Such report shall include—

(1) a list and description of the programs that have been awarded grants under this section;

(2) a description of the process by which funds awarded under such section are expended for treatment services, including a description of the process by which grantees obligate and draw-down funds received under such section;

(3) an assessment of the validity of waiting lists as a measure of treatment need and, if the report concludes that waiting lists are not the most accurate measure of treatment need, a description of other, more accurate means of measuring treatment need;

(4) the views of State, local and nongovernmental treatment experts with respect to—

(A) the validity of waiting lists as a measure of treatment need; and

(B) the efficacy of the waiting period reduction grant program; and

(5) any other information that the Administrator deems to be necessary to a thorough appraisal of the efficacy of the program under such section.

SEC. 103. REVISION IN PROGRAM OF MODEL PROJECTS FOR REDUCING INCIDENCE OF ALCOHOL AND DRUG ABUSE AMONG PREGNANT AND POSTPARTUM WOMEN AND THEIR INFANTS.

(a) IN GENERAL.—Section 509F of the Act (42 U.S.C. 290aa-13) is amended by striking subsections (b) through (e) and inserting the following:

"(b) In making grants under subsection (a), the Director of the Office shall give priority to projects—

"(1) that will provide treatment services; and

"(2) that include one or more of the following components:

"(A) Service delivery strategies and outreach services in the community involved to identify such women who are abusing alcohol or drugs and to encourage such women to undergo treatment for such abuse.

"(B) Prenatal and postpartum health care for women undergoing such treatment.

"(C) With respect to the infants and children of such women, ongoing pediatric health care.

"(D) Child care, transportation, and other support services with respect to such treatment.

"(E) As appropriate, referrals to facilities for necessary hospital services.

"(F) Employment counseling, skill building and other appropriate follow-up services to help prevent a relapse of alcohol or drug abuse.

"(G) Case management services, including assistance in establishing eligibility for assistance under Federal, State, and local programs providing health services, mental health services, or social services.

"(H) Efforts to preserve and support the family unit.

"(I) Direct intervention, treatment, or rehabilitation of infants, which may include other siblings, to reduce or prevent the impact of maternal substance abuse on such children.

"(J) Supportive services for biologic or foster parents of infants affected by maternal substance abuse.

"(K) Strategies for providing treatment resources to low-income pregnant and postpartum women.

"(L) Strategies for providing treatment resources to pregnant and postpartum women under criminal justice supervision.

"(M) Other services that will tend to improve pregnancy outcomes, reduce substance abuse among women of childbearing age, and increase the stability of the family home environment.

"(c) With respect to any health service under this section that is covered by the appropriate State plan approved under title XIX of the Social Security Act, the Director of the Office may not make a grant under subsection (a) unless—

"(1) the applicant for the grant will provide the health service directly, and the applicant has entered into a participation agreement under the appropriate State plan and is qualified to receive payments under such plan; or

"(2) the applicant for the grant has entered into a contract with an entity for the entity to provide the health service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(d) The Director of the Office may not make a grant under subsection (a) unless the applicant for the grant agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income and resources of the woman involved; and

"(3) will not be imposed on any woman with an income of less than 100 percent of the official poverty line, as established by the Director of the Office for Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(e) In making grants under subsection (a) for the provision of treatment services for alcohol and drug abuse, the Director of the Office shall ensure that the grants are distributed among projects that provide outpatient treatment and projects that provide residential treatment, in a manner that reflects the general desirability of residential treatment programs for pregnant addicts.

"(f) The Director of the Office may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) the applicant for the grant agrees to submit to the Secretary an annual report that describes the number of women served, the number of infants served, the type and costs of services provided, and such other information as the Secretary determines to be appropriate;

"(3) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section; and

"(5) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is not less than 10 percent of the amount of the grant under subsection (a).

"(g) The period during which payments are made by the Director of the Office under a grant under subsection (a) may not exceed 5 years, except that the Director of the Office may establish a procedure for renewal of grants under subsection (a).

"(h) Nothing in this section shall be construed to permit the Secretary to discriminate in the awarding of grants under subsection (a) against applicants that propose or provide residential or outpatient rehabilitation services under applicable requirements of State law, including applicants that provide services to substance abusing pregnant and postpartum women that receive treatment by order of a court or other appropriate public agency, so long as all such applications include measures that encourage substance abusing pregnant and postpartum women to seek prenatal care and rehabilitation.

"(i) The Director of the Office shall, after consultation with the Director of the National Institute on Drug Abuse, periodically conduct evaluations to determine the effectiveness of projects supported under subsection (a).

"(j) The Director of the Office shall annually submit to the Congress a report describing programs carried out pursuant to this section. Each such report shall include any evaluations conducted under subsection (i) during the preceding fiscal year.

"(k)(1) In making grants under subsection (a), the Director of the Office shall make a grant to an institution of the type described in paragraph (2) for the establishment of a National Resource and Information Center for Perinatal Addiction, unless the Director finds that the Office is performing each of the functions set forth in paragraph (3) and certifies such finding to the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce.

"(2) The grant described in paragraph (1) shall be awarded, after a competitive search, to a private nonprofit institution that has an extensive background and experience in performing research on maternal substance abuse and in disseminating such information to professionals, policymakers, the general public and the media, as well as experience in providing educational services to maternal substance abusers and their exposed infants.

"(3) The Center established under subsection (a) shall—

"(A) coordinate and disseminate research on maternal substance abuse, treatment options for such women and infants of such women, and prevention strategies;

"(B) develop and distribute training and educational information and materials concerning maternal substance abuse;

"(C) act as a clearinghouse for information on treatment programs for pregnant women who are addicted to illegal substances;

"(D) develop and manage a national toll free hotline to provide information and referrals;

"(E) provide policy analysis and program evaluation to the Secretary of Health and Human Services; and

"(F) provide any other services designed to carry out the purposes of this subsection.

"(l) For the purpose of carrying out this section, there is authorized to be appropriated $75,000,000 for each of the fiscal years 1991 and 1992.".

(b) GRANTEES.—Section 509F(a) of such Act (42 U.S.C. 290aa-13(a)) is amended by inserting at the end thereof the following new sentence: "Such grants may be made only to public and nonprofit private entities and to appropriately qualified Indian tribes and tribal organizations (as defined in section 1913(b)(5)).".

SEC. 104. REVISIONS IN PROGRAM FOR DRUG ABUSE PROJECTS OF NATIONAL SIGNIFICANCE.

Section 509G of the Act (42 U.S.C. 290aa-14) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by striking "the Administrator" and inserting "the Director of the National Institute on Drug Abuse"; and

(B)(i) by inserting "and" at the end of subparagraph (A);

(ii) by striking "; and" at the end of subparagraph (B) and inserting a period; and

(iii) by striking subparagraph (C);

(2) in subsection (a)(2), by inserting "a" before "result";

(3) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting after "Secretary" the following: ", acting through the Director of the Office for Treatment Improvement,";

(ii) by striking "States" the first place such term appears and inserting "States and other public or nonprofit private entities"; and

(iii) by striking "States" the second place such term appears and inserting "such entities"; and

(B) in paragraph (4), by striking "State" and inserting "public or nonprofit private entity"; and

(4) by amending subsection (c)(1) to read as follows:

"(c)(1) For the purpose of carrying out this section, there are authorized to be appropriated $80,000,000 for each of the fiscal years 1991 and 1992.".

SEC. 105. DRUG ABUSE TREATMENT GRANT PROGRAMS.

Part A of title V of the Act (42 U.S.C. 290aa et seq.) is amended by inserting at the end thereof the following new sections:

"SEC. 509H. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

"(a) ESTABLISHMENT.—The Director of the Office for Treatment Improvement (hereafter in this section referred to as the 'Director') shall establish a program to provide grants to eligible institutions to enable such institutions to provide training services to increase the supply of drug treatment professionals.

"(b) ELIGIBLE INSTITUTIONS.—Institutions eligible to receive a grant under this section shall include government agencies, medical schools, schools of osteopathy, schools of nursing, schools of public health, schools of chiropractic services, schools of social work, and other appropriate institutions that submit an application in accordance with subsection (c).

"(c) APPLICATIONS.—To be eligible to receive a grant under this section, an eligible institution shall submit an application to the Director at such time, in such manner, and containing such information as the Director may reasonably require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 and 1992.

"SEC. 509I. DEMONSTRATION GRANTS FOR DRUG TREATMENT IN THE CRIMINAL JUSTICE SYSTEM.

"(a) PROGRAM ESTABLISHED.—The Director of the Office for Treatment Improvement (hereafter in this section referred to as the 'Director') shall establish a program to provide grants to public and nonprofit private entities that provide drug treatment services to individuals under criminal justice supervision.

"(b) ELIGIBILITY.—In awarding grants under subsection (a), the Director shall ensure that the grants are reasonably distributed among projects that provide treatment services to individuals who are—

"(1) incarcerated in prisons, jails or community correctional settings; or

"(2) not incarcerated but under criminal justice supervision because of their status as pre-trial releases, post-trial releases, probationers, parolees, or supervised releases.

"(c) PRIORITY.—In awarding grants under subsection (a), the Director shall give priority to programs that provide—

"(1) a continuum of services for offenders as they proceed through and out of the

criminal justice system, including identification and assessment, drug treatment, employment counseling, pre-release counseling and pre-release referrals with respect to housing and treatment;

"(2) referrals to treatment programs in the community for individuals soon to be released from incarceration;

"(3) treatment services for juvenile offenders;

"(4) treatment services for female offenders;

"(5) outreach services to identify individuals under criminal justice supervision who would benefit from drug treatment and to encourage such individuals to seek treatment; or

"(6) treatment services that function as an alternative to incarceration for appropriate categories of offenders or that otherwise enable individuals to remain under criminal justice supervision in the least restrictive setting consistent with public safety.

"(d) APPLICATION.—The Director of the Office may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary; and

"(2) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines necessary to carry out this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 and 1992.

"SEC. 509J. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (hereafter in this section referred to as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED GRANT APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Director may establish a procedure for renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—Subject to the availability of qualified applicants, the Director shall ensure that grants awarded under this section shall be equitably allocated among the principal geographic regions of the United States.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for fiscal years 1991 and 1992.

"SEC. 509K. MODEL RESIDENTIAL PROJECTS FOR ALCOHOL AND DRUG ABUSING WOMEN AND THEIR CHILDREN.

"(a) PROJECT AUTHORIZED.—

"(1) IN GENERAL.—The Secretary, through the Director of the Office, shall make grants to establish not less than 5 projects in which addicted mothers in residential drug abuse treatment facilities are allowed to have their children reside with them during the course of such treatment. Such residential drug abuse treatment and prevention projects shall target economically disadvantaged addicted women and their children (age 10 years and younger) and shall offer child care, parenting and jobs skills, nutrition, and other health, social, education, and employment services as necessary.

"(2) DURATION.—The Secretary, through the Director of the Office, shall only award grants under this section for projects which will be operated for a period of at least 3 years.

"(b) APPLICATION.—Each entity desiring a grant under this section shall submit an application to the Director of the Office at such time, in such manner and accompanied by such information as the Director of the Office may reasonably require. Each such application shall include assurances that the mothers selected for participation in such project have been evaluated to ensure that such mothers are committed to remaining in drug abuse treatment and prevention projects assisted under this section.

"(c) EVALUATION.—The Director of the Office shall conduct evaluations to determine the effectiveness of the projects assisted under this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,000,000 for fiscal year 1991, and such sums as may be necessary for each fiscal year thereafter to carry out the provisions of this section.

"SEC. 509L. NATIONAL CAPITAL AREA DRUG ABUSE TREATMENT DEMONSTRATION PROGRAM.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Office for Treatment Improvement shall make a demonstration grant for the establishment, within the national capital area, of a model program for providing comprehensive treatment services for drug abuse.

"(b) PURPOSES.—The Secretary may not make a grant under subsection (a) unless, with respect to the comprehensive treatment services to be offered by the program under such subsection, the applicant for the grant agrees—

"(1) to ensure, to the extent practicable that the program has the capacity to provide the services to all individuals who seek and would benefit from the services;

"(2) as appropriate, to provide aftercare, employment counseling and other services designed to prevent treated substance abusers from relapsing;

"(3) to provide services in locations accessible to drug abusers and, to the extent practicable, to provide services through mobile facilities;

"(4) to give priority to providing services to individuals who abuse drugs ravenously to pregnant women, to homeless individuals, and to residents of publicly-assisted housing;

"(5) with respect to women with dependent children, to provide child care to such women seeking treatment services for drug abuse;

"(6) to conduct outreach activities to inform individuals of the availability of the services of the program;

"(7) to conduct appropriate activities for the prevention of the abuse of drugs;

"(8) to provide case management services, including services to determine eligibility for assistance under Federal, State, and local programs providing health services, mental health services, or social services;

"(9) to ensure the establishment of one or more offices to oversee the coordination of the activities of the program, to ensure that treatment is available to those seeking it, to ensure that the program is administered efficiently, and to ensure that the public is informed that the offices are the locations at which individuals may make inquires concerning the program, including the location of available treatment services within the national capital area; and

"(10) to develop and utilize standards for certifying the knowledge and training of individuals, and the quality of programs, to provide treatment services for drug abuse.

"(c) CERTAIN REQUIREMENTS.—

"(1) REGARDING ELIGIBILITY FOR GRANT.—

"(A) The Secretary may not make the grant under subsection (a) unless the applicant for the grant is an organization of the general-purpose local governments within the national capital area, or another public or nonprofit private entity, and the applicant submits to the Secretary assurances satisfactory to the Secretary that, with respect to the communities in which services will be offered, the local governments of the communities will participate in the program.

"(B) The Secretary may not make a grant under subsection (a) unless—

"(i) an application for the grant is submitted to the Secretary;

"(ii) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(iii) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(2) AUTHORITY FOR COOPERATIVE ARRANGEMENTS.—The grantee under subsection (a) may provide the services required by such subsection directly or through arrangements with public and nonprofit private entities.

"(d) REQUIREMENT OF NON-FEDERAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(e) EVALUATION.—The Secretary shall provide for an independent evaluation of the effectiveness of the program carried out under subsection (a). In conducting the evaluation, the Secretary shall evaluate the extent to which the program has effectively utilized innovative methods for overcoming the resistance of the residents of communities to the establishment of treatment facilities within the communities.

"(f) REPORTS.—

"(1) INITIAL CRITERIA.—The Secretary shall make a determination of the appropriate criteria for carrying out the program required in subsection (a), including the anticipated need for, and range of, services under the program in the communities involved and the anticipated costs of the program. Not later than 90 days after the date of the enactment of the Drug Abuse Treatment and Prevention Improvement Act of 1990, the Secretary shall submit to the Congress a report describing the findings made as a result of the determination.

"(2) ANNUAL REPORTS.—Not later than 1 year after the date on which the grant is made under subsection (a), and annually thereafter, the Secretary shall submit to the Congress a report describing the extent to which the program carried out under subsection (a) has been effective in carrying out the purposes of the program.

"(g) DEFINITION.—For purposes of this section, the term 'national capital area' means the metropolitan Washington area, including the District of Columbia, the cities of Alexandria, Falls Church, and Fairfax in the State of Virginia, the counties of Arlington and Fairfax in such State (and the political subdivisions of such State located in such counties), and the counties of Montgomery and Prince George's in the State of Maryland (and the political subdivisions of such State located in such counties).

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $35,000,000 for fiscal year 1991 to carry out the provisions of this section.".

SEC. 106. DRUG ABUSE PREVENTION GRANT PROGRAMS.

Part A of title V of the Act (as amended in section 105) (42 U.S.C. 290aa et seq.) is further amended by inserting at the end thereof the following new sections:

"SEC. 509M. COMMUNITY COALITIONS ON SUBSTANCE ABUSE.

"(a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) at least three representatives of nongovernmental interested parties such as the clergy, academia, business, parents, youth, the media, and civic and fraternal groups.

"(b) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Office, shall make grants to eligible coalitions in order to—

"(A) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(B) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(C) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(D) develop a consensus regarding the priorities of a community concerning substance abuse;

"(E) develop a plan to implement such priorities; and

"(F) coordinate substance abuse services and activities, including prevention activities in the schools and communities and substance abuse treatment programs.

"(2) SPECIAL RULE.—In making grants pursuant to paragraph (1), the Secretary shall award at least 35 percent of the amount appropriated pursuant to the authority of subsection (f) in each fiscal year to communities with populations of no more than 250,000 individuals that have made substance abuse prevention a high priority, as determined by the Secretary.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under paragraph (1) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Secretary in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem in the community in question;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization, or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5); and

"(6) contain such additional information and assurances as the Secretary may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities; and

"(4) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years 1991 and 1992.

"SEC. 509N. SUBSTANCE ABUSE PREVENTION TRAINING.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Office, shall establish a National Substance Abuse Prevention Training Program (hereinafter in this section referred to as the 'Program').

"(b) PROGRAM DIRECTOR.—The Program shall be headed by a Director who has extensive experience in substance abuse prevention (hereinafter in this section referred to as the 'Program Director').

"(c) DUTIES.—The Program Director shall—

"(1) develop a substance abuse prevention training curriculum for community groups in organizational development, program operation, prevention concepts, and models;

"(2) provide technical assistance and support for community training on substance abuse prevention, including organizing the community, developing skills, and establishing program goals;

"(3) develop specific training modules for problem areas such as substance abuse, teen pregnancy, and acquired immune deficiency syndrome and for professional groups that work with children and adolescents, such as juvenile court judges, pediatricians, coaches, and counselors;

"(4) provide substance abuse prevention outreach and support to communities with substantial minority populations through workshops and collaborative initiatives with organizations serving such populations;

"(5) disseminate successful curricula and training practices in substance abuse prevention in communities through involvement with parents, civic groups, members of the business community, clergy, law enforcement representatives, and community leaders; and

"(6) evaluate the appropriateness and effectiveness of substance abuse prevention training.

"(d) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to States, local agencies, and community organizations in order to—

"(1) provide substance abuse prevention training to representatives of such organizations and agencies;

"(2) provide substance abuse prevention training to parents, teachers, clergy, the business community, and civic groups;

"(3) coordinate with other community resources and programs; and

"(4) provide specialized training programs for professional groups that work with children and adolescents, or that are targeted to specific population groups.

"(e) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $30,000,000 for fiscal years 1991 and 1992, of which at least 50 percent shall be used to carry out the provisions of subsection (d).".

SEC. 107. TECHNICAL AND CONFORMING AMENDMENTS.

Part A of title V of the Act (42 U.S.C. 290aa et seq.) is further amended—

(1) in section 508(d)(1), by striking "sections 509, 509A, and 509F," and inserting "sections 509 and 509A,"; and

(2) in section 509F—

(A) in the heading, by striking "PREGNANT" and all that follows through "WOMEN" and inserting "PREGNANT AND POSTPARTUM WOMEN"; and

(B) in subsection (a), by striking "pregnant" and all that follows through "women" and inserting "pregnant and postpartum women".

TITLE II—REVISION OF THE ADAMHA BLOCK GRANT PROGRAM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 1911(a) of the Act (42 U.S.C. 300x) is amended by striking "$1,500,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991" and inserting "$2,000,000,000 for fiscal year 1991".

SEC. 202. REVISION OF BLOCK GRANT FORMULA.

Section 1912A of the Act (42 U.S.C. 300x-1a) is amended—

(1) in subsection (a)(4)(B)(i)—

(A) by striking "0.4" in subclause (I), and inserting "0.34"; and

(B) by striking "indicated by the most recent data collected by the Bureau of the Census" in subclause (II), and inserting "determined by multiplying the total population of the State, as indicated by the most recently available data, by a percentage equal to the percentage that, under data from the most recent decennial census conducted by the Bureau of the Census, is constituted by the ratio of the population of the State living in urbanized areas to the total population of the State";

(2) in subsection (a)(4)(B)(ii)(I), by striking "0.2" and inserting "0.22";

(3) in subsection (a)(4)(B)(iii)(I), by striking "0.2" and inserting "0.22";

(4) in subsection (a)(4)(B)(iv)(I), by striking "0.2" and inserting "0.22";

(5) in subsection (b)(1), by striking "$7,000,000" and inserting "$8,000,000";

(6) by amending subsection (b)(2) to read as follows:

"(2) an amount determined in accordance with the following formula:

$$R \times (1 + (.25 \times E)),$$

where "R" equals the amount the State received under this section in fiscal year 1989 and "E" equals the cumulative percentage by which the total amount appropriated under section 1911 has changed since fiscal year 1989.";

(7) in subsection (c)(1)(B)(i), by inserting "civilian" before "population";

(8) by inserting after subsection (c)(1)(B)(ii) the following flush sentence:

"In the absence of reliable recent population data with respect to a given territory, it shall be assumed that the population of that territory has changed at the same rate as the population of the territories generally."; and

(9) by amending subsection (f) to read as follows:

"(f) For purposes of subsection (e), the applicable amount for each fiscal year is $250,000,000.".

SEC. 203. REVISION WITH RESPECT TO THE USE OF ALLOTMENTS.

Section 1915 of the Act (42 U.S.C. 300x-3) is amended—

(1) in subsection (b)—

(A) by inserting after the comma in paragraph (1), the following: "except that funds may be used to pay for inpatient hospital drug treatment services pursuant to a contractual arrangement with a hospital if—

"(A) needed residential treatment services could not otherwise be provided; and

"(B) the rates paid for such services do not exceed 125 percent of the cost of the rates typically required for comparable residential services."; and

(B) by inserting after the fifth sentence in the matter following paragraph (5), the following new sentence: "The Secretary may waive or reduce the matching rate requirement of the preceding sentence if the State requests such a waiver and the Secretary determines that a failure to grant such a request would result in a reduction in the resources that would otherwise be used to provide direct treatment services and that are essential to implementation of the State drug abuse plan.";

(2) in subsection (c)(1)—

(A) by inserting "including social and health services necessary to improve treatment outcomes," after "drug abuse," in subparagraph (A);

(B) by striking "and" at the end of subparagraph (B);

(C) by striking the period and inserting a semicolon at the end of subparagraph (C); and

(D) by inserting at the end thereof the following new subparagraphs:

"(D) to provide counseling to family members of drug abusers, including such family members in group and family counseling service settings for the treatment of drug abusers; and

"(E) to develop, implement, and operate programs of treatment for adult and juvenile substance abusers in State and local criminal and juvenile justice systems, including treatment programs for individuals in prisons and jails and those on probation, parole, supervised release, and pretrial release."; and

(3) by inserting at the end of subsection (d) the following new sentence: "Expenses incurred for the training of individuals as required under this subpart shall not be included in determining the costs of administering funds made available under section 1914.".

SEC. 204. ESTABLISHMENT OF REQUIREMENT.

Title XIX of the Act (42 U.S.C. 300z et seq.) is amended by inserting after section 1916A (42 U.S.C. 300x-4a) the following new section:

"SEC. 1916B. STATEWIDE SUBSTANCE ABUSE TREATMENT PLAN.

"(a) NATURE OF THE PLAN.—To receive its allotment for a fiscal year under section 1912A, a State shall develop, implement, and submit as part of the application required by section 1916(a), an approved statewide Substance Abuse Treatment Plan, prepared according to standards issued by the Secretary, that shall—

"(1) contain a single, designated State agency for formulating and implementing the Statewide Substance Abuse Treatment Plan;

"(2) contain a description of the mechanism that shall be used to assess the needs for substance abuse treatment in localities throughout the State including the presentation of relevant data;

"(3) contain a description of a statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) contain a description of performance-based criteria that shall be used to assist in the allocation of funds to substance abuse treatment facilities receiving assistance under this subpart;

"(5) contain a description of the mechanism that shall be used to make funding allocations under this subpart;

"(6) contain a description of the actions that shall be taken to improve the referral of substance abusers to treatment facilities that offer the most appropriate treatment modality;

"(7) contain a description of the program of training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques;

"(8) contain a description of the plan that shall be implemented to coordinate substance abuse treatment facilities with other social, health, correctional and vocational services in order to assist or properly refer those patients in need of such additional services;

"(9) contain a description of the plan that shall be implemented to expand drug treatment opportunities for individuals under criminal justice supervision;

"(10) contain a description of the plan that will be implemented to expand and improve efforts to deter women from knowingly abusing drugs during pregnancy, to contact and treat pregnant women who abuse drugs, and to provide appropriate follow-up services to their affected newborns;

"(11) provide for the targeting of funds toward areas of the greatest need in the State, using such criteria as the State may establish for determining such areas, including criteria for focusing on—

"(A) the current unmet treatment needs in the State including both the inpatient, outpatient, and long- and short-term substance abuse treatment service needs of defined populations and the availability of essential ancillary services;

"(B) the incidence of deliveries of infants who are adversely affected by maternal substance abuse;

"(C) the incidence of criminal activities related to substance abuse; and

"(D) the incidence of communicable diseases transmitted by substance abuse;

"(12) provide for the periodic testing of patients as appropriate for various treatment populations to determine the patients compliance with treatment regimens and the establishment of clinically appropriate policies for dealing with patients who fail such tests and provide that such testing conducted not be required to be more frequent than is necessary to achieve treatment objectives;

"(13) provide for aftercare or follow-up, either directly or through arrangements with other individuals or entities, for patients who have ended a course of treatment provided by the facility, that shall include

periodic contacts with the patient to monitor the patient's progress and provide services or additional treatment as needed;

"(14) increase, if necessary, the availability of specialized services and facilities necessary to meet the needs of female and minority drug abusers; and

"(15) provide for the establishment of a program of interim assistance for individuals who apply for treatment, and who must wait for the availability of treatment opportunities, such as—

"(A) education and counseling concerning drug abuse; and

"(B) the referral to, or provision of, other necessary health and social services that may include primary health care, education, and vocational services.

"(b) SUBMISSION OF THE PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove such State plans, and to propose changes to such plans.

"(c) GUIDELINES.—(1) The Secretary, in consultation with the States, shall develop guidelines for each area to be covered by the State plan prepared under subsection (a).

"(2) Beginning in fiscal year 1992, no payment shall be made to a State from its allotment under section 1912A unless such State has submitted a plan under this section that is in reasonable conformance with the guidelines developed under paragraph (1), except that with respect to the performance criteria for treatment facilities described in subsection (a)(4), the State plan shall provide a reasonable time for such conformance.

"(3) The Secretary shall monitor the compliance of the State with the plan submitted under this section and provide technical assistance to assist in achieving such compliance.

"(d) REPORTS.—Each State shall submit reports, in such form, and containing such information as the Secretary may, from time to time, require, and shall comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports.

"(e) WAIVER OF PLAN REQUIREMENT.—At the discretion of the Secretary, the Secretary may waive any or all of the requirements of this section on the written request of a State, except that such waiver shall not be granted unless the State implements an alternative treatment plan that fulfills the objectives of this section.

"(f) MODEL STATE PLAN.—The Director of the Office for Treatment Improvement shall establish a model State substance abuse treatment plan to guide States in establishing State plans under subsection (a), and shall provide technical assistance to assist States in complying with such plan.

"(g) ADMINISTRATIVE EXPENSES.—Expenses incurred for the training of individuals as required under any plans submitted under this section shall not be included in determining the costs of administering funds made available under section 1914 with respect to alcohol and drug abuse.".

TITLE III—PHARMACOTHERAPY DEVELOPMENT

SEC. 301. SHORT TITLE.

This title may be cited as the "Pharmacotherapy Development Act of 1990".

SEC. 302. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) drug addiction is a disease of epidemic proportions in the United States;

(2) current efforts to treat the disease of addiction are inadequate; and

(3) pharmacotherapy, the use of medicines to treat the disease of addiction, is one promising method of drug treatment, and the development of such medicines must be more aggressively promoted by the Federal Government.

(b) PURPOSE.—It is the purpose of this title to promote research, development, and production of pharmacotherapeutics used to reduce the prevalence of drug addiction in the United States.

PART A—FEDERAL MEDICATION DEVELOPMENT PROGRAM

SEC. 311. ESTABLISHMENT OF MEDICATION DEVELOPMENT DIVISION.

Section 515 of the Public Health Service Act (42 U.S.C. 290cc) is amended to read as follows:

"SEC. 515. PHARMACOTHERAPEUTICS DEVELOPMENT DIVISION.

"(a) ESTABLISHMENT.—There is established in the National Institute on Drug Abuse a Division to be known as the 'Medications Development Division' (hereinafter in this section and section 515A referred to as the 'Division').

"(b) ORGANIZATION.—

"(1) DIRECTOR.—The Division shall be headed by a Director appointed by the Director of the National Institute on Drug Abuse on the basis of scientific merit.

"(2) STAFFING.—The Director of the Division (hereinafter in this section and section 515A referred to as the 'Director') may appoint one or more Deputy Directors and shall employ administrators and researchers on the basis of scientific merit.

"(c) DUTIES.—The Director shall—

"(1) in consultation with the Commissioner of Food and Drugs, establish, not later than 1 year after the date of enactment of this section, new guidelines for the safety and efficacy trials of medications to treat drug addiction, with such guidelines to be implemented by the Commissioner of Food and Drugs in accordance with subchapter C of chapter V of the Federal Food, Drug and Cosmetic Act;

"(2) conduct periodic meetings with the Commissioner of Food and Drugs to discuss other measures that may facilitate the approval process of drug addiction treatments;

"(3) encourage and promote (through grants, contracts, or otherwise) expanded research programs, investigations, experiments, and studies, into the development of medications to treat drug addiction;

"(4) establish, or provide for the establishment of, clinical research facilities to carry out this section;

"(5) track the activities of the National Institutes of Health relating to the development and use of pharmacotherapeutic treatments for drug addiction;

"(6) collect, analyze, and disseminate data useful in the development and use of pharmacotherapeutic treatments for drug addiction and seek the establishment of an international research data bank to collect, catalog, analyze, and disseminate through international channels, the results of research undertaken in any country concerning pharmacotherapeutic treatments for drug addiction; and

"(7) support training in the fundamental sciences and clinical disciplines related to the pharmacotherapeutic treatment of drug addiction, including the use of training stipends, fellowships, and awards where appropriate.

"(d) ADMINISTRATION.—In carrying out the activities described in subsection (c), the Director may—

"(1) collect and disseminate through publications and other appropriate means, information pertaining to the research and other activities under this section;

"(2) make grants to or enter into contracts and cooperative agreements with individuals and public and private entities to further the goals of the Division;

"(3) acquire, construct, improve, repair, operate, and maintain pharmacotherapeutic centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary;

"(4) acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of the General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Division for a period not to exceed 10 years;

"(5) accept voluntary and uncompensated services;

"(6) accept gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"(7) take necessary action to ensure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Division and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"(e) REPORTS.—

"(1) IN GENERAL.—Not later than December 31, 1990, and each December 31 thereafter, the Director shall submit to the Office of National Drug Control Policy established under section 1002 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501) a report, in accordance with paragraph (3), that describes the objectives and activities of the Division.

"(2) INCORPORATION INTO NATIONAL DRUG CONTROL STRATEGY.—The Director of National Drug Control Policy shall incorporate, by reference or otherwise, each report submitted under this subsection in the National Drug Control Strategy submitted the following February 1 under section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504).

"(3) ADDITIONAL REPORTS.—The Director may prepare additional reports as appropriate.

"(f) PEER REVIEW.—The Director shall, by regulation, provide for the proper scientific review of all research grants, cooperative agreements, and contracts over which the Director has authority by—

"(1) utilizing, to the extent practicable, appropriate peer review groups established within the National Institute on Drug Abuse and composed primarily of non-Federal scientists and other experts in the scientific and disease fields; and

"(2) when appropriate, by establishing, with the approval of the Director of the National Institute on Drug Abuse, other formal peer review groups as may be required.".

SEC. 312. AUTHORIZATION OF APPROPRIATIONS.

Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended to read as follows:

"SEC. 517. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out section 515—

"(1) $60,000,000 for fiscal year 1991;

"(2) $70,000,000 for fiscal year 1992;

"(3) $85,000,000 for fiscal year 1993;

"(4) $100,000,000 for fiscal year 1994;
"(5) $110,000,000 for fiscal year 1995; and
"(6) $115,000,000 for each of the fiscal years 1996 through 2000.".

PART B—PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPEUTICS

SEC. 321. DRUGS FOR THE TREATMENT OF ADDICTIONS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER C—DRUGS FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS

"SEC. 529A. RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF ADDICTIONS TO ILLEGAL DRUGS.

"(a) IN GENERAL.—The sponsor of a drug for the treatment of addiction to illegal drugs may request the Secretary to provide written recommendations for the nonclinical and clinical investigations that must be conducted with the drug before—

"(1) it may be approved for treatment of such addiction under section 505;

"(2) if the drug is an antibiotic, it may be certified for treatment of such addiction under section 507; or

"(3) if the drug is a biological product, it may be licensed for treatment of such addiction under section 351 of the Public Health Service Act.

"(b) RECOMMENDATIONS FOR INVESTIGATIONS.—If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for the treatment of addiction to illegal drugs, the Secretary shall provide the person making the request with written recommendations for the nonclinical and clinical investigations that the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for treatment of such addiction under section 505, certification of such drug under section 507, or licensing of such drug under section 351 of the Public Health Service Act.

"(c) REGULATIONS.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a) and (b).

"SEC. 529B. DESIGNATION OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—

"(1) REQUEST.—The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for the treatment of addiction to illegal drugs. A request for designation of a drug shall be made before the submission of an application under section 505(b) for the drug, the submission of an application for certification of the drug under section 507, or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for the treatment of addiction to illegal drugs and—

"(A) if an application for such drug is approved under section 505;

"(B) if a certification for such drug is issued under section 507; or

"(C) if a license for such drug is issued under section 351 of the Public Health Service Act;

the approval, certification, or license would be for use for treatment of such addiction, the Secretary may designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (c) respecting the designation of the drug.

"(2) DEFINITION.—As used in paragraph (1)—

"(A) the term 'drugs for the treatment' means those pharmacological agents or medications that—

"(i) block the effects of abused drugs;

"(ii) reduce the craving for abused drugs;

"(iii) moderate or eliminate withdrawal symptoms;

"(iv) block or reverse the toxic effects of abused drugs; or

"(v) prevent, under certain conditions, the initiation of drug abuse;

"(B) the term 'addiction' means the state of an individual where that individual habitually uses an illegal drug in a manner that endangers the public morals, health, safety, or welfare, or who is so addicted to the use of illegal drugs that such individual loses the power of self-control with reference to such the addiction of such individual; and

"(C) the term 'illegal drugs' means a controlled substance, as defined in section 202 of the Controlled Substance Act (21 U.S.C. 812) the possession or distribution of which is unlawful under such Act.

"(b) CONDITIONS.—A designation of a drug under subsection (a) shall be subject to the condition that—

"(1) if an application was approved for the drug under section 505(b), a certificate was issued for the drug under section 507, or a license was issued for the drug under section 351 of the Public Health Service Act, the manufacturer of the drug will notify the Secretary of any discontinuance of the production of the drug at least one year before discontinuance, and

"(2) if an application has not been approved for the drug under section 505(b), a certificate has not been issued for the drug under section 507, or a license has not been issued for the drug under section 351 of the Public Health Service Act and if preclinical investigations or investigations under section 505(i) are being conducted with the drug, the manufacturer or sponsor of the drug will notify the Secretary of any decision to discontinue active pursuit of approval of an application under section 505(b), approval of an application for certification under section 507, or approval of a license under section 351 of the Public Health Service Act.

"(c) NOTICE.—Notice respecting the designation of a drug under subsection (a) shall be made available to the public.

"(d) REGULATION.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a), (b), and (c).

"SEC. 529C. PROTECTION FOR DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—Except as provided in subsection (b), if the Secretary—

"(1) approves an application filed pursuant to section 505;

"(2) issues a certification under section 507; or

"(3) issues a license under section 351 of the Public Health Service Act;

for a drug designated under section 529A for the treatment of addiction to illegal drugs, the Secretary may not approve another application under section 505, issue another certification under section 507, or issue another license under section 351 of the Public Health Service Act for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license until the expiration of 7 years from the date of the approval of the approved application, the issuance of the certification, or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

"(b) ISSUANCE OF ANOTHER LICENSE, APPLICATION, OR CERTIFICATION.—If an application filed pursuant to section 505 is approved for a drug designated under section 529A for the treatment of addiction to illegal drugs, if a certification is issued under section 507 for such a drug, or if a license is issued under section 351 of the Public Health Service Act for such a drug, the Secretary may, during the 7-year period beginning on the date of the application approval, of the issuance of the certification under section 507, or of the issuance of the license, approve another application under section 505, issue another certification under section 507, or issue a license under section 351 of the Public Health Service Act, for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license if—

"(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the holder of the approved application, of the certification, or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with such addictions for which the drug was designated; or

"(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications, issuance of other certifications, or the issuance of other licenses before the expiration of such 7-year period.

"SEC. 529D. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"If a drug is designated under section 529A as a drug for the treatment of addiction to illegal drugs and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary may encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with such addictions who need the drug to treat such addiction and who cannot be satisfactorily treated by available alternative drugs.

"SEC. 529E. ENFORCEMENT.

"The provisions of title III relating to the breach of an exclusive marketing agreement shall apply to this subchapter.

"SEC. 529F. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of the fiscal years 1990 through 1992.".

PART C—MEDICATIONS REVIEW PROCESS REFORM

SEC. 331. INVESTIGATIONAL NEW DRUGS.

(a) SUBMISSION OF APPLICATION.—Notwithstanding subpart B of part 312 of title 21, Code of Federal Regulations, in implementing the procedures required under subsection (b), the Secretary of Health and

Human Services, acting through the Commissioner of the Food and Drug Administration, may permit an entity submitting an investigational new drug application or protocol for medications to treat drug addiction to provide the information required by the Secretary as such information becomes available to such entity. The Secretary may permit such applications or protocols to be submitted in parts. If the Secretary withholds approval of any part of such application or protocol, the Secretary may require that the applying entity resubmit only that portion of such application or protocol that was not approved. Not later than 30 days after an entity submits such an application or protocol or part thereof, the Secretary shall notify such entity concerning the approval or rejection of such application or protocol or part thereof, and if such notification is not provided approval will be automatic.

(b) APPLICATION OF PROCEDURES.—The Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, shall apply investigational new drug procedures under part 312 of title 21, Code of Federal Regulations, to encourage the development and use of medications to treat drug addiction. The Secretary may waive the requirements contained in part 312.34(b)(1)(ii) of title 21, Code of Federal Regulations, if the Secretary determines that such a waiver is appropriate.

SEC. 332. PARALLEL TRACK TRIALS FOR MEDICATIONS TO TREAT DRUG ADDICTION.

(a) IN GENERAL.—In encouraging the development and marketing approval of medications to treat drug addiction, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may permit parallel track trials to be used to permit access to such drugs in a manner similar to that applied to certain medications to treat individuals infected with the human immunodeficiency virus.

(b) DEFINITION.—As used in this section the term "parallel track trials" means the procedures used by the Food and Drug Administration under part 312.35 of title 21, Code of Federal Regulations.

SEC. 333. WAIVER OF MECHANISM OF ACTION REQUIREMENT.

Notwithstanding any other provision of law, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may waive the application of the mechanism of action requirement for marketing approval of medications to treat drug addiction.

SEC. 334. DEFINITION.

As used in this title, the term "pharmacotherapeutics" means medications used to treat the symptoms and disease of drug addiction, including medications to—

(1) block the effects of abused drugs;

(2) reduce the craving for abused drugs;

(3) moderate or eliminate withdrawal symptoms;

(4) block or reverse the toxic effect of abused drugs; and

(5) prevent, under certain conditions, the initiation of drug abuse.

PART D—HIGH PRIORITY RESEARCH AREAS

SEC. 341. SENSE OF CONGRESS.

It is the sense of Congress that the Medications Development Division of the National Institute on Drug Abuse shall devote special attention and adequate resources to achieve the following urgent goals—

(1) the development of a methadone alternative;

(2) the development of a long-acting narcotic antagonist;

(3) the development of a cocaine-blocking treatment;

(4) the development of a cocaine-blocker/narcotic antagonist treatment;

(5) the development of medications to treat addiction to drugs that are becoming increasingly prevalent, such as methamphetamine; and

(6) the development of medications to treat pregnant addicts and their fetuses.

PART E—REPORT BY THE SURGEON GENERAL

SEC. 351. REPORT BY THE SURGEON GENERAL.

(a) PHARMACOTHERAPY REVIEW PANEL.—Not later than 120 days after the date of enactment of this Act, the Director of the Division established under section 515 of the Public Health Service Act (as amended by section 7011) shall establish a panel of independent experts in the field of pharmacotherapeutic treatment of drug addiction to assess the national strategy for developing such treatments and to make appropriate recommendations for the improvement of such strategy.

(b) REPORT.—Not later than January 1, 1992, the Surgeon General of the United States shall prepare and submit, to the appropriate Committees of Congress, a report that sets forth—

(1) the recommendations of the panel established under subsection (a);

(2) the state of the scientific knowledge with respect to pharmacotherapeutic treatment of drug addiction;

(3) the assessment of the Surgeon General of the progress of the nation toward the development of safe, efficacious pharmacological treatments for drug addiction; and

(4) any other information determined appropriate by the Surgeon General.

(c) AVAILABILITY.—The report prepared under subsection (b) shall be made available for use by the general public.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. STUDY ON THE RELATIONSHIP BETWEEN THE CONSUMPTION OF LEGAL AND ILLEGAL DRUGS.

(a) IN GENERAL.—For assistance in designing prevention programs to reduce the likelihood of drug abuse, the Secretary of Health and Human Services shall conduct a study concerning the relationship between an individual's receptivity to use or consume legal drugs and the consumption or abuse by the individual of illegal drugs.

(b) CONTENTS.—The study conducted under subsection (a) shall contain information concerning—

(1) the effect of advertising and marketing campaigns that promote the use of legal drugs on the public;

(2) the correlation of legal drug abuse with illegal drug abuse; and

(3) other matters that the Secretary of Health and Human Services determines appropriate.

(c) DATA AND RESEARCH.—In conducting the study under subsection (a), the Secretary of Health and Human Services shall consider data collected and current research concerning drug abuse and gateway drugs.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report containing the results of the study conducted under subsection (a).

SEC. 402. OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1986.

Subpart 3 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1986 (42 U.S.C. 3766 et seq.) is amended by inserting at the end thereof the following new section:

"SEC. 523. DRUG TREATMENT PROGRAMS.

"(a) IN GENERAL.—Notwithstanding any other provision of law at least 20 percent of the amounts appropriated to carry out the provisions of this part shall be used for drug treatment programs in the criminal justice system.

"(b) PRIORITY RULES.—In carrying out the provisions of subsection (a), the Director shall give priority to programs that provide—

"(1) a continuum of services for offenders as they proceed through and out of the criminal justice system;

"(2) referrals to treatment programs in the community for individuals soon to be released from incarceration;

"(3) treatment services for juvenile offenders;

"(4) treatment services for female offenders;

"(5) outreach services to identify individuals under criminal justice supervision who would benefit from drug treatment and to encourage such individuals to seek treatment; or

"(6) treatment services that function as an alternative to incarceration for appropriate categories of offenders or that otherwise enable individuals to remain under criminal justice supervision in the least restrictive setting consistent with public safety.".

SEC. 403. DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986.

Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3181) is amended by striking "such sums as may be necessary" and inserting "$1,200,000,000".

AMENDMENT NO. 1941

At the end of the pending amendment insert the following:

SEC. . CLARIFICATION OF "MIXTURE OR SUBSTANCE"

Section 841(b)(1) of title 21, United States Code, is amended by inserting the following new subsection at the end thereof:

"(E) In determining the weight of a "mixture or substance" under this section, the court shall not include the weight of the carrier upon which the controlled substance is placed, or by which it is transported."

WIRTH AMENDMENT NO. 1943

(Ordered to lie on the table.)

Mr. WIRTH submitted an amendment intended to be proposed to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

At the end of the amendment, add the following:

SEC. . FULL FUNDING OF INVESTIGATION AND PROSECUTION OF FINANCIAL INSTITUTION CRIMES.

(a) FINDINGS.—The Senate finds that—

(1) fraud and other criminal activity contributed significantly to the savings and loan industry's losses and will cost taxpayers billions of dollars;

(2) Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of

savings and loan failures can be attributed to criminal activity by the institution's officers and management;

(3) officials at the Resolution Trust Corporation indicate that an estimate 60 percent of the institutions the corporation has seized "have been victimized by serious criminal activity";

(4) investigating and prosecuting criminal activity related to the savings and loan crisis will help send an important message of "never again" to those involved in the financial industry;

(5) the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 authorized $75,000,000 annually for 3 years to investigate and prosecute financial institution crimes;

(6) the President requested only $50,000,000 of that authorization on behalf of the Department of Justice for the current fiscal year;

(7) Federal Bureau of Investigation and United States Attorneys' offices requested 224 more special agent positions, 113 more assistant United States attorney positions, and 142 more support staff positions than the agencies received as a result of the $50,000,000 in new funding;

(8) the Federal Bureau of Investigation has received more than 20,000 referrals involving fraud in the financial services industry that the Bureau has been unable to examine, more than 1,000 of which are major cases that involve losses of more than $100,000.

(9) as of February 1990, the Bureau also had more than 7,000 pending bank fraud and embezzlement cases, some 3,000 of which were major cases;

(10) more than 900 pending cases and more than 200 unaddressed referrals involve losses greater than $1,000,000.

(11) regulators will examine and close more insolvent institutions, and the Department of Justice will receive thousands more referrals of possible criminal activity related to savings and loan failures, increasing the workload for Federal investigators and prosecutors;

(12) the passage of time makes investigation more difficult and expiring statutes of limitation could allow serious crimes to go unpunished if investigation and prosecution is delayed; and

(13) the current level of resources devoted to investigating and prosecuting fraud and criminal activity within the financial services industry is inadequate to address the crimes that contributed to the losses of savings and loan associations.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President should, at a minimum, seek the full $75,000,000 authorized for the Department of Justice for fiscal years 1991 and 1992 to pursue the investigation and prosecution of financial institution crimes; and

(2) the President should allocate additional resources as necessary to ensure that criminal activity that contributed to losses to the Federal deposit insurance funds is investigated and prosecuted to the fullest practicable extent.

COATS AMENDMENT NO. 1942

(Ordered to lie on the table.)

Mr. COATS (for himself and Mr. BURNS) submitted an amendment intended to be proposed by them to amendment No. 1668, intended to be proposed by Mr. COATS, to the bill S. 1970, supra, as follows:

In lieu of the language proposed to be inserted, insert the following new sections:

SEC. . DRUG TESTING OF FEDERAL PRISONERS.

(a) DRUG TESTING PROGRAM.—Chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 4014. Drug testing of defendants in prison and on post-conviction release

"(a) The Attorney General, in consultation with the Director of the Administrative Office of the United States Courts shall, as soon as is practicable after the date of enactment of this section, establish by regulation a program of drug testing of targeted classes of arrestees, individuals in jails, prisons, and other correctional facilities, and persons on conditional or supervised release before or after conviction, including probationers, parolees, and persons released on bail.

"(b)(1) The Attorney General shall, not later than 6 months after the date of enactment of this section, promulgate regulations for drug testing programs under this section.

"(2) The regulations issued pursuant to paragraph (1)—

"(A) shall be based in part on scientific and technical standards determined by the Attorney General, in consultation with the Secretary of Health and Human Services, to ensure reliability and accuracy of drug test results; and

"(B) shall take into consideration the unique character and needs of the criminal justice system.

"(3) In addition to specifying acceptable methods and procedures for carrying out drug testing, the regulations issued pursuant to paragraph (1) may include guidelines or specifications concerning—

"(A) the classes of persons to be targeted for testing;

"(B) the drugs to be tested for;

"(C) the frequency and duration of testing; and

"(D) the effect of test results in decisions concerning the sentence, the conditions to be imposed on release before or after conviction, and the granting, continuation, or termination of such release.

"(c) In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(b) TECHNICAL AMENDMENT.—The section analysis for chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following:

"4014. Drug testing of defendants in prison and on post-conviction release.".

SEC. . MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding the following new paragraph at the end thereof:

"(7)(A) In a case involving possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release in addition to any other sentence imposed for the possession itself.

"(B) In a case involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release in addition to any other sentence imposed for the possession or distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed under this paragraph.".

LOTT AMENDMENTS NOS. 1944 THROUGH 1946

(Ordered to lie on the table.)

Mr. LOTT submitted three amendments intended to be proposed by him to amendment No. 1834 intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1944

Strike page 3, line 3, through page 5, line 7, of the Lott amendment No. 1834 and insert the following section in lieu thereof:

"SEC. . EXPANSION OF THE PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM.

"SEC. 609K. (a) Section 1761(c) of title 18, United States Code, is amended by striking out 'twenty' and inserting in lieu thereof '50 state and 5 federal'.".

AMENDMENT NO. 1945

In Lott amendment No. 1834, insert a "." after (c)(1) on line 16, page 5, and strike "and a portion shall be paid to the prisoners who conduct labor."

AMENDMENT NO. 1946

Strike page 3, line 1, through page 5, line 7, of Lott amendment No. 1834.

KOHL AMENDMENT NO. 1947

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to an amendment intended to be proposed by Mr. BIDEN to the bill S. 1970, supra, as follows:

At the end of the amendment, add the following:

SEC. . TREATMENT FOR JUVENILE OFFENDERS WHO HAVE BEEN THE VICTIMS OF CHILD ABUSE AND NEGLECT.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to public and private nonprofit organizations with experience in treating the victims of child abuse and neglect to provide treatment for juvenile offenders who have been the victims of child abuse and neglect.

(b) FUNDING.—There are authorized to be appropriated—

(1) $15,000,000 for fiscal year 1991; and

(2) such sums as are necessary for fiscal years 1992 and 1993,

to carry out this section.

NICKLES AMENDMENT NO. 1948

(Ordered to lie on the table.)

Mr. NICKLES admitted an amendment intended to be proposed by him to amendment No. 1735 intended to be proposed by him to the bill S. 1970, supra, as follows:

In lieu of the matter proposed to be added, add the following:

TITLE —PROTECTION OF CRIME VICTIMS

SEC. 01. VICTIMS' RIGHTS.

(a) BEST EFFORTS TO ACCORD RIGHTS.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b).

(b) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

(1) The right to be treated with fairness and with respect for the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) The right to confer with attorney for the Government in the case.

(6) The right to restitution.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

(c) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b).

SEC. 02. SERVICES TO VICTIMS.

(a) DESIGNATION OF RESPONSIBLE OFFICIALS.—The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) IDENTIFICATION OF VICTIMS.—At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

(1) identify the victim or victims of a crime;

(2) inform the victims of their right to receive, on request, the services described in subsection (c); and

(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) DESCRIPTION OF SERVICES.—(1) A responsible official shall—

(A) inform a victim of the place where the victim may receive emergency medical and social services;

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;

(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and

(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

(A) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;

(B) the arrest of a suspected offender;

(C) the filing of charges against a suspected offender;

(D) the scheduling of each proceeding that the witness is either required to attend or, under section 01(b)(4), is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for parole.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of—

(A) the scheduling of a parole hearing for the offender; and

(B) the escape or release from custody of the offender.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim for evidentiary purposes.

SEC. 03. AMENDMENT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3579 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a)(1) The court" and inserting "(a) The court";

(B) striking "may order" and inserting "shall order"; and

(C) striking paragraph (2);

(2) in subsection (b) by striking "impractical" and inserting "impracticable";

(3) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(4) by striking subsections (d), (e), (f), (g), and (h); and

(5) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms and a restitution order shall be a condition of any probation, parole, or other form of release of an offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3580 of title 18, United States Code, is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d).

SEC. 04. DEFINITIONS.

For the purposes of this Act—

(1) the term "responsible official" means a person designated pursuant to section 02(a) to perform the functions of a responsible official under that section; and

(2) the term "victim" means a private person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

(i) a spouse;

(ii) a legal guardian;

(iii) a parent;

(iv) a child;

(v) a sibling;

(vi) another family member; or

(vii) another person designated by the court.

SEC. 05. AMENDMENT OF BANKRUPTCY CODE.

(a) AMENDMENT OF CHAPTER 5.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ": or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for the payment of restitution by a criminal offender to a victim of crime pursuant to an order issued pursuant to section 3579 of title 18, United States Code.".

(b) AMENDMENT OF CHAPTER 13.—Section 1328(a)(2) of title 11, United States Code, is amended by striking "section 523(a)(5)" and inserting "section 528(a) (5) or (11)".

SHELBY AMENDMENT NO. 1949

(Ordered to lie on the table.)

Mr. SHELBY submitted an amendment intended to be proposed by him to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . NATIONAL DRUG-FREE SCHOOLS AND COMMUNITIES EDUCATION AWARENESS DAY.

(a) FINDINGS.—The Congress finds that—

(1) one in every two high school seniors who graduated in 1989 used an illegal drug before graduating;

(2) drug abuse exists among people in all geographic areas, of all socioeconomic classes, and of all ethnic and racial groups;

(3) education and public awareness regarding the dangers of drug abuse are necessary to prevent the children and young people of this Nation from entering into cycles of drug abuse; and

(4) members of a community must unite and work together to address the drug abuse problem that this Nation confronts.

(b) DESIGNATION.—October 17, 1990, is designated as "National Drug-Free Schools and Communities Education and Awareness Day", and the President is requested to issue a proclamation calling upon the people of the United States, departments and agencies of State and local governments, and interested organizations to observe such day with appropriate ceremonies, activities, and programs.

JEFFORDS AMENDMENTS NOS. 1950 THROUGH 1954

(Ordered to lie on the table.)

Mr. JEFFORDS submitted five amendments intended to be proposed by him to amendment No. 1770 intended to be proposed by Mr. METZENBAUM to the bill S. 1970, supra, as follows:

AMENDMENT No. 1950

At the appropriate place in subsection (h), insert the following: "Serious bodily injury shall be defined as meaning the loss of limb or loss of function of a major bodily system."

AMENDMENT No. 1951

At the appropriate place in subsections (h) and (i), add the following language: "Employer conduct shall not be deemed to violate this subsection unless it is demonstrated that the employer had knowledge that the violation in question would place employees in imminent danger of death or serious bodily injury and either that the employer conduct manifests extreme indifference to or unjustified disregard for human life."

AMENDMENT No. 1952

At every appropriate place, delete the word "willfully" and insert in its place the word "knowingly".

AMENDMENT No. 1953

Strike subsection (i).

AMENDMENT No. 1954

At the end of the amendment, add the following:

SEC. . AFFIRMATIVE DEFENSE.

Section 17 (29 U.S.C. 666), as amended by section , is amended by adding at the end thereof the following new subsection:

"(p) In a prosecution under subsection (e) or (h), it is an affirmative defense that a cause of the injury or death of an employee was that the employee who was injured or killed, or a co-employee of that employee, was under the influence of alcohol or illegal drugs.".

KENNEDY AMENDMENTS NOS. 1955 THROUGH 1963

(Ordered to lie on the table.)

Mr. KENNEDY submitted nine amendments intended to be proposed by him to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

AMENDMENT No. 1955

After the pending amendment, insert the following:

SEC. . Prior to promulgating any mandatory minimum sentence pursuant to its authority under section 994(p) of Title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall, consistent with its authority pursuant to sections 994(g) and 995 of Title 28, United States Code, complete prison impact studies of the effect of each such proposed mandatory minimum sentence. Such studies, at a minimum, should include:

(a) an estimate of the number of individuals who will annually be incarcerated in or remain incarcerated in prisons or jails as a result of the proposed mandatory minimum;

(b) an estimate of the amount of additional prison or jail space needed to accommodate the increase in the size of the prison or jail populations;

(c) an estimate of the cost of building additional prisons or jails or of taking other steps to make the space available for the anticipated greater number of incarcerated persons; and

(d) an estimate of the amount by which the expected increase in the number of persons incarcerated in prisons or jails or the duration of their confinement will increase operating expenses, which are the sums incurred when paying for staff, food, supplies, medical care, and the other costs stemming from the supervision, treatment, and care of inmates.

AMENDMENT No. 1956

At the appropriate place in the amendment, insert the following:

Strike the semicolon at the end of 18 U.S.C. section 1961(a) and add the following:

"Sections 922(d), 922(g), 922(h), 922(i), 922(j) and 924(b) (relating to firearms) and section 5861 of Title 26 (relating to automatic weapons and other destructive devices), provided that the sections added by this amendment shall qualify as racketeering activity only for actions brought under sections 1963 and sections 1964(a), (b), and(d) of this title;"

AMENDMENT No. 1957

At the appropriate place, in the amendment, insert the following:

SEC. . (a) The Secretary of the Treasury of the United States is authorized and directed to evaluate the following firearms by applying the standards, procedures, and regulations which are applied, pursuant to section 925(d) of title 18, United States Code, to firearms being imported and to determine whether, under such standards, procedures and regulations, the following firearms would be authorized to be imported or brought into the United States. Such firearms are:

(1) Auto-ordnance Thompson 1927 A1;

(2) Barrett 82A1 light fifty;

(3) Bushmaster auto rifle;

(4) Bushmaster auto pistol;

(5) Calico M-100;

(6) Calico 100-P auto pistol;
(7) Calico M900;
(8) Commando mark 9;
(9) Commando mark 45;
(10) Commando mark III;
(11) Encom MP-9;
(12) Encom MP-45;
(13) Encom MK IV;
(14) Federal XC-900/XC-450;
(15) Goncz high tech pistol;
(16) Goncz high tech carbine;
(17) Holmes MP-83;
(18) Iver Johnson model Delta 786;
(19) Iver Johnson PM30 P Paratrooper;
(20) Iver Johnson Enforcer;
(21) Iver Johnson survival carbine;
(22) Partisan Avenger;
(23) Plainfield Commando;
(24) Scarab Scorpion;
(25) Springfield Armory BM-59 Alpine;
(26) Springfield Armory M1A Assault;
(27) Springfield Armory G3;
(28) Thompson 27A-5 w/drum magazine;
(29) Universal Enforcer;
(30) Universal 5000 Carbine;
(31) Weaver Arms Nighthawk;
(32) Wilkinson "Linda" auto pistol;
(33) Wilkinson "Terry" carbine;
(34) Colt AR-15;
(35) Colt CAR-15;
(36) Feather AT-9;
(37) Mossberg model 500 Bullpup shotgun;
(38) Ruger mini 14;
(39) Thompson ordnance M1;
(40) Street Sweeper/Striker 12;
(41) AP 9;
(42) MAC 10;
(43) MAC 11;
(44) TEC 9;
(45) TEC 22;
(46) Cobray SWD 9mm;
(47) Springfield Armory SAR-48;
(48) Auto ordnance model 27 A3 Thompson;
(49) Feather AT 22 carbine;
(50) Federal XC 220 auto carbine;
(51) Illinois Arms 180 rifle; and
(52) Iver Johnson PM30HB carbine.

(b) No later than 6 months after the date of enactment of this section, the Secretary shall prepare and submit to the Committee on the Judiciary of the Senate of the United States, a report setting forth the determinations required by subsection (a).

(c) Any firearm which the Secretary, pursuant to subsection (b), determines would not meet the standards, procedures and regulations of section 925(d) of title 18, United States Code, and if such firearms were subject to such section, it would therefore not be authorized to be imported or brought into the United States, is hereby deemed to be an assault weapon, as defined in section 921 of title 18, United States Code.

AMENDMENT No. 1958

At the appropriate place in the amendment, insert the following:

SEC. . OFFENSE.

(a) Section 922 of title 18, United States Code, is further amended by adding at the end thereof the following:

"(t)(1) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell or otherwise transfer a firearm to a person unless such person has transmitted a sworn statement in such form and manner as the Secretary determines, to such licensee showing that such purchaser has submitted to a test for the illegal use of any controlled substance, as provided in paragraph (2), and that such purchaser does not test positive for the illegal use of any such controlled substance.

"(2) The Secretary shall issue regulations to provide for the tests and the submission of such forms as required by this subsection.".

(b) Section 924 of title 28, United States Code, is further amended by adding at the end thereof the following:

"(1) Any licensed dealer, licensed importer, or licensed manufacturer who knowingly sells or otherwise transfers a firearm to a person in violation of section 922(t) shall be fined not more than or imprisoned not more than years, or both.".

AMENDMENT No. 1959

At the appropriate place in the amendment, insert the following:

SEC. . (a) The Secretary of the Treasury of the United States is authorized and directed to evaluate the following firearms by applying the standards, procedures, and regulations which are applied, pursuant to section 925(d) of title 18, United States Code, to firearms being imported and to determine whether, under such standards, procedures and regulations, the following firearms would be authorized to be imported or brought into the United States. Such firearms are:

(1) Auto-ordnance Thompson 1927 Al;
(2) Barrett 82A1 light fifty;
(3) Bushmaster auto rifle;
(4) Bushmaster auto pistol;
(5) Calico M-100;
(6) Calico 100-P auto pistol;
(7) Calico M900;
(8) Commando mark 9;
(9) Commando mark 45;
(10) Commando mark III;
(11) Encom MP-9;
(12) Encom MP-45;
(13) Encom MK IV;
(14) Federal XC-900/XC-450;
(15) Goncz high tech pistol;
(16) Goncz high tech carbine;
(17) Holmes MP-83;
(18) Iver Johnson model Delta 786;
(19) Iver Johnson PM30 P Paratrooper;
(20) Iver Johnson Enforcer;
(21) Iver Johnson survival carbine;
(22) Partisan Avenger;
(23) Plainfield Commando;
(24) Scarab Scorpian;
(25) Springfield Armory BM-59 Alpine;
(26) Springfield Armory M1A Assault;
(27) Springfield Armory G3;
(28) Thompson 27A-5 w/drum magazine;
(29) Universal Enforcer;
(30) Universal 5000 Carbine;
(31) Weaver Arms Nighthawk;
(32) Wilkinson "Linda" auto pistol;
(33) Wilkinson "Terry" carbine;
(34) Colt AR-15;
(35) Colt CAR-15;
(36) Feather AT-9;
(37) Mossberg model 500 Bullpup shotgun;
(38) Ruger mini 14;
(39) Thompson ordnance M1;
(40) Street Sweeper/Striker 12;
(41) AP 9;
(42) MAC 10;
(43) MAC 11;
(44) TEC 9;
(45) TEC 22;
(46) Cobray SWD 9mm;
(47) Springfield Armory SAR 48;
(50) Federal XC 220 auto carbine;
(51) Illinois Arms 180 rifle; and
(52) Iver Johnson PM30HB carbine.

(b) No later than 6 months after the date of enactment of this section, the Secretary shall prepare and submit to the Committee on the Judiciary of the Senate of the United States, a report setting forth the determinations required by subsection (a).

AMENDMENT No. 1960

At the appropriate place in the amendment, insert the following:

SEC. . OFFENSE.

(a) Section 922 of title 18, United States Code, is further amended by adding at the end thereof the following:

"(t)(1) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell or otherwise transfer a firearm to a person unless such person has transmitted a sworn statement in such form and manner as the Secretary determines, to such licensee showing that such purchaser has submitted to a test for the illegal use of any controlled substance, as provided in paragraph (2), and that such purchaser does not test positive for the illegal use of any such controlled substance.

"(2) The Secretary shall issue regulations to provide for the tests and the submission of such forms as required by this subsection.".

(b) Section 924 of title 28, United States Code, is further amended by adding at the end thereof the following:

"(1) Any licensed dealer, licensed importer, or licensed manufacturer who knowingly sells or otherwise transfers a firearm to a person in violation of section 922(t) shall be fined not more than or imprisoned not more than years, or both,".

AMENDMENT No. 1961

At the appropriate place in the amendment, insert the following:

SEC. . (a) LICENSING.—Section 923 of title 18, United States Code, is amended by adding at the end thereof the following:

"(l)(1) Notwithstanding any other provision of this section, the Secretary shall not issue a license to an applicant until such applicant has transmitted a sworn statement, in such form and manner as the Secretary determines, showing that such applicant has submitted to a test for the illegal use of a controlled substance as provided for in paragraph (2) and that such test was not positive for the use of any such substance.

"(2) The Secretary shall issue regulations to provide for the tests and the transmission of such forms as required by the subsection.".

(b) OFFENSE.—Section 922 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"( ) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to engage in the business of importing, manufacturing, or dealing in firearms or in the course of such business to ship, transport, receive, or dispose of any firearm in interstate or foreign commerce unless such licensee has transmitted a sworn statement in such form and manner as the Secretary determines showing that such applicant has submitted to the test required by section 923(1) and received such license."

AMENDMENT No. 1962

After the pending amendment, insert the following:

(a) Pursuant to its authority under section 994(p) of Title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating sections 215, 656, 657,

1005–1008, 1014 and 1344 of Title 18, United States Code, under circumstances in which the offense substantially jeoparadized the safety and soundness of a financial institution, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) four levels greater than the level that would have been assigned had the offense not been committed under circumstances set forth above; and

(B) in no event less than level 24.

If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

AMENDMENT NO. 1963

At the appropriate place in the amendment, insert the following:

(a) Pursuant to its authority under section 994(p) of Title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating sections 77e, 77q and 78j of Title 15, United States Code, under circumstances in which the offense deprived investors of important information concerning their investment decisions or otherwise defrauded them, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) four levels greater than the level that would have been assigned had the offense not been committed under circumstances set forth above; and

(B) in no event less than level 24.

If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

HEINZ AMENDMENT NO. 1964

(Ordered to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, add the following:

Section 6 of the United States Housing Act of 1937 (42 USC 1437 (d)(k)) is amended by adding the following new subsection: "(n) when a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug related criminal activity, the public housing agency shall notify the local post office serving that dwelling that such individual or family is not longer residing in the dwelling unit."

Section 6(k) of the United States Housing Act of 1937 is amended by striking the last sentence and inserting the following:

"An agency may exclude from its procedure any grievance concerning an eviction or termination of tenancy for criminal activity, including drug related criminal activity, that adversely affects the health, safety and welfare of the public housing tenants on the premises provided that the agency notifies the tenant of the reason for the action to evict or terminate tenancy. An agency may exclude from its procedure any other grievance concerning an eviction or termination of tenancy in any jurisdiction which requires that, prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process."

LEVIN AMENDMENT NO. 1965

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to amendment No. 1812 intended to be proposed by Mr. BIDEN to the bill S. 1970, supra, as follows:

Section 02(b) of the amendment is amended by inserting after the first sentence the following: "In reviewing applications, the Director shall give special consideration to applications which document that, despite the best efforts of State and local governments, the sale of drugs is occurring in plain view of the general public.".

LEVIN AMENDMENT NO. 1966

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to amendment No. 1807 intended to be proposed by Mr. BIDEN to the bill S. 1970, supra, as follows:

Section 02(b) of the amendment is amended by inserting after the first sentence the following: "In reviewing applications, the Director shall give special consideration to applications which document that, despite the best efforts of State and local governments, the sale of drugs is occurring in plain view of the general public.".

GRAMM AMENDMENT NO. 1968

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

On page 46, strike line 14 and all that follows through page 53, and insert the following:

None of the other provisions in this Act shall take effect unless the following is enacted:

TITLE IV—USE OF FIREARMS IN CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES

SEC. 401. INCREASED MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.

Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) possesses a firearm that is a machinegun, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. If the death of a person results from the discharge of a firearm, with intent to kill another person, by a person during the commission of such a crime, the person who discharged the firearm shall be sentenced to death or life imprisonment without release. A person shall be subjected to the penalty of death under this subsection only if a hearing is held in accordance with section 408 of the Controlled Substances Act (21 U.S.C. 848). Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm is used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of the drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) This subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on oversight of agency ethics programs on Tuesday, June 5, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, I announce, for the information of Senators, that the Committee on Veterans' Affairs, which I am privileged to chair, is scheduled to hold a hearing on Thursday, June 7, 1990, in SR–418 at 9:30 a.m., to consider oversight of VA prosthetics and special disabilities programs.

Mr. President, I announce, for the information of Senators, that the Committee on Veterans' Affairs, which I am privileged to chair, is

scheduled to hold a hearing on Thursday, June 14, 1990, in SR-418 at 9:30 a.m., to consider physician pay and other health issues (including title II and section 402 of S. 2100; S. 2701, the proposed the VA Physicians' and Dentists' Compensation Act of 1990; S. 1860; a bill I intend to introduce very shortly to provide for expanded uses of VA facilities; S. 2455; S. 2456; S. 2532; S. 2542; and S. 2557).

Mr. President, I announce, for the information of Senators, that the Committee on Veterans' Affairs, which I am privileged to chair, is scheduled to hold a hearing on Tuesday, June 19, 1990, in SR-418 at 9:30 a.m., to consider the nominations of James W. Holsinger, Jr., to be Chief Medical Director and Stephen A. Trodden to be Inspector General, both for the Department of Veterans Affairs.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 5, 1990, at 4 p.m. to consider the nomination of James S. Halpern to be a judge of the U.S. Tax Court and to discuss new subcommittee assignments.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, June 5, 1990, at 9:30 a.m., to hold a hearing on oversight of agency ethics programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DR. CHERYL TAYLOR-WALTON, CONGRESSIONAL SCIENCE FELLOW

● Mr. INOUYE. Mr. President, over the past decade, I have had the opportunity of having a number of congressional science fellows sponsored by the American Nurses' Association Minority Fellowship Program appointed to my Washington, DC office. These future leaders of tomorrow are outstanding persons, and I am pleased to admit that I have learned a lot about our Nation's mental health programs under their tutelage.

This year, Dr. Cheryl Taylor-Walton, assistant professor at Louisiana State University, is serving with me. Mr. President, I ask that an article from the March 1990 edition of the Challenger publication of the Louisiana State University Medical Center School of Nursing describing Dr. Taylor-Walton's efforts on behalf of our Nation's homeless women, be printed in the CONGRESSIONAL RECORD. This is a moving and inspirational account of her contributions to society.

I would like to take this opportunity to also urge my Senate colleagues to request a minority nurse fellow for their own office during next year's program, under the inspirational leadership of Dr. Hattie Bessent.

The material follows:

[From the Challenger, March 1990]

HOMELESS WOMEN: HIDDEN TEARDROPS: SURVIVING THE VIOLENCE OF STREET LIFE

Homelessness in our society has reached epidemic proportions (Greer, 1985; Peroff, 1987). Homeless people often crowd the outside door of shelters, standing in line waiting for a bed assignment and again in lines in soup kitchens waiting for a free meal. Those who choose not to stand in line for a shelter space may wind up sleeping outdoors or in abandoned houses, cars, or on the streets.

Homeless people include veterans, adults who have chronic mental or physical problems, the unemployed, people released from overcrowded prisons, women and children. Homeless women, sometimes pregnant or accompanied by their children and often alone, are vulnerable prey to the proportionally large number of homeless men on the streets of America. Elderly women, single or divorced women, chronically mentally ill women, and adolescents who have run away or been thrown out of their home comprise subpopulations of homeless women. Poverty, personal and family stressors are contributing factors to becoming homeless.

This article is based on findings generated from a 1989 qualitative nursing research study of homelessness and homeless women. Research methods used in this study included ethnography, experiential analysis, and phenomenology.

A HOMELESS REGISTERED NURSE SPEAKS OUT

The first person who agreed to be interviewed was a 45 year old college educated registered nurse who had been homeless for 2 years. She is a widow and mother of three adult daughters. Her psychiatric history include previous diagnoses of depression and alcoholism. Her (R.N.) exact words follow:

R.N. "I had a job but it didn't work out; after my husband died, I was too sick . . . depressed, and not feeling well. My social life was down the tubes because the church I was going to didn't understand that I was depressed and that I was sick, so I didn't have any friends. Eventually I lost that job. I had a home to live in but I was running out of money. The doctor put me on Norpramin, a tricyclic antidepressant, and in three months time that had helped tremendously. I worked another job for 3 months, then lost my home, they turned off my utilities in January and I lived with people from the church for four weeks by March I was on the streets . . . homeless."

R.N. "I lost contact with everybody . . . my children, my mother, everybody and so I didn't have anybody then. My children won't have anything to do with me because my oldest daughter was emotionally depressed, too. She said, 'Mother, you have to many problems and I have too many problems for us to see each other. We don't get along.' My middle daughter didn't want to have anything to do with me because I was depressed and hard to get along with. And, my baby daughter (20 years old) didn't want to have anything to do with me because I couldn't afford to help her (buy her things)".

R.N. "I lost my nursing license because I didn't have the money to have it renewed. I didn't have an address. My life consisted of getting up in the morning and rolling up my bed and going out on the street with everybody else, going to town and going to the library or going to a medical facility, and waiting all that time to see a doctor. That is what my life consisted of. Then I got back into Alcoholics Anonymous, and AA has helped me a lot. Alcoholics Anonymous means a lot to me."

At the time of the above interview, R.N. had moved into a Salvation Army emergency shelter, and had obtained money to get her nursing license renewed so she could get a job. She was also receiving outpatient psychiatric treatment.

NURSES HELP THE HOMELESS

Community health nurses make significant cost effective contributions by participating in health care teams that provide services to homeless people. However, nurses in any health care setting can make contributions by using purposeful assessment, intervention, and advocacy techniques with homeless women. First, an undestanding of everyday challenges that homeless women cope with is essential.

CAPTURED LIKE GAME

Women living on the streets and in emergency shelters are often perceived by homeless men as fallen birds with broken wings needing to be rescued, used or possessed. The reported numbers of homeless women is smaller than the numbers of homeless men.

The author spent five days and nights on the streets and in a downtown emergency night shelter for homeless people. On an average night there were approximately 25-30 homeless women in the presence of 250-300 homeless men. Inside the night shelter where I slept, the rule that men and women must be segregated provided protection for homeless women. But once women left the shelters and entered the streets and public places, they were open to harassments, kidnapping, and rape. Calling the police for protection posed two major problems. First, one must have immediate access to a telephone or money and speed to get to a pay phone. Secondly, one must show evidence of harm.

During the time I spent on the streets I asked homeless women, "What is the best way to deal with all of these men, particularly the men who stalk you, watch your every move, and try to impress themselves upon you?" The homeless women's overwhelming response to me was to "act crazy". In other words, smile inappropriately, pretend you don't see or hear them, talk to yourself, behave in an unexpected weird manner, act oblivious to the mens' moves. Does it work? No. Although it may delay some criminal acts against homeless women, it does not prevent them. Acting irrationally decreases one's believability. Imagine a homeless woman who has been observed "acting crazy" trying to report abuse, rape or attempted murder to some authorities. Who would believe her? Who would dismiss

her as "looney tunes"? Who would even bother to listen? After all, homeless women, like homeless people, are often assumed to be unstable.

THE TRUTH ABOUT HOME

Violence perpetrated on some homeless women may sometimes be an extension of violent acts they experienced at home. Once homeless woman in her early twenties said, "I have been beaten all my life. I been facing fists all my life. A knife is nothing for me to face." She was referring to an incident on the streets when someone threatened her with a knife. That kind of attitude may be translated as giving male abusers the "right to abuse" any woman who has a history of abuse. In speaking about homeless women, one homeless man stated, "Most of them have been put through a vicious act before they came to the streets. You can tell the ones that ain't been through a vicious act because they'll fall for anything.

The vicious acts being referred to in the above statement include battering, incest and other forms of rape, and other forms of abuse or neglect that occurred "at home". An example of neglect as described by one 50-year-old homeless woman rings clear in her statements. "My people (family) disowned me. They didn't teach me anything." She had been living off and on the streets since age 17.

Even though it has not been proven that most homeless women were earlier victims of abuse, if that is or becomes a prevailing attitude among men, especially homeless men, what can we expect?

"Homeless women must latch on to somebody because if you don't, somebody will take you over."—quote from a homeless woman

NO WEALTH? POOR HEALTH!

Bassuk, Rubin, and Laurial (1984) studied 80 homeless families to described their characteristics. The majority of the respondents were found to be single parents who had experienced major family disruption. In addition, the women lacked supportive relationships and some 25% named their child as their major support. Seventy-one percent of the mothers interviewed were diagnosed as having personality disorders while over half the children studied showed evidence of developmental problems and learning disabilities.

Weiss (1985) investigated the health status practices and service utilization of 76 homeless women in Seattle, Washington. The women were interviewed in emergency shelters; Weiss' (1985) study indicated an average age of 33 years. The majority of the study's respondents where white women caring for young children. Half of the women indicated having an income of less than $200 the previous month; 42% of them had not completed high school (Weiss, 1985). Poor dental health and general health among the women was described by the investigator. Weiss (1985) further indicated that 14% of the respondents were pregnant while a significantly large number had experienced a sponstaneous abortion. Limited finances and lack of health insurance were cited by the homeless womens' reasons for not utilizing health care (Weiss, 1985).

NEGOTIATING SURVIVAL

Given the poverty and personal stressors and health problems that homeless women experience, day-to-day survival becomes a number one priority. By survival I mean getting through the day without getting hurt. Another version of survival could be getting through the day with as few hurts as possible. Achieving either one of the above goals requires negotiating skills. Homeless men may flock to labor pools that have been designed to use their physical laboring abilities at a cheap price. Homeless men who work for labor pools often get minimum wages while labor companies earn profit.

Women, on the other hand, experience different societal expectations. In a society where men are valued more for their money and women are valued more for their physical attractiveness, homeless women are in a dilemma. Use of sexual pleasuring abilities to obtain food, cigarettes, protection, shelter, and money is one method of survival that may be expected of homeless women and encouraged by some homeless men. This may account for the invisibility of adolescent homeless women on the streets. Younger women living on the streets are more likely to be perceived as sex objects. Some homeless girls as young as 12 years old are forced to work as prostitutes (Dallas Morning News, 1988). Exact ages of the homeless adolescents are difficult to prove as some young girls take refuge in motels, clubs, and rarely admit their age. Young homeless girls are often spotted by pimps or older men who befriend them, introduce them to drugs and use them for sexual favors, then dump them back onto the streets. Sometimes negotiating with sexual favors inclues provisions for a job or a temporary place to stay.

PROTECTION CHOICES

"The streets isn't any place to be sleepy."—quote from a homeless woman.

Homeless women manage their vulnerability and uncertainties of street life by using several types of protection.

Protection choices for homeless women include the following:

1. Abuse by one homeless man or many men. This includes day and night.

2. Lesbian protectors may provide day and night protection to other homeless women who cannot protect themselves.

3. Caseworker protectors can provide some daytime protection and can arrange for the homeless woman to be housed in a safe place during the night.

4. Shelter protectors represent those service providers who manage shelters where homeless woman may sleep or live.

5. Payee protectors are persons designated to collect and give a homeless woman's government check to her if she receives social security money. The payee protector could be a friend, minister, caseworker, or abuser.

6. Self protectors are women themselves who arm themselves and fight back. They feel empowered and supported by others and may have advocates who participate in their defense. Sometimes when they are searched for weapons before being admitted to shelters, they may be forced to choose between vulnerability to abuse or a place to sleep, because knives, guns, or other weapons are not allowed in shelters.

EMERGENCY?

A homeless woman in her twenties walked into a busy county hospital emergency room, seeking hospital admission by asking for food and a place to rest. Review of her medical history indicated previous diagnosis of mental illness and some mild mental retardation. In addition, her record indicated a history of sexual abuse which was common knowledge among homeless men on the streets and the hospital emergency room staff. She had no rectal tone. She was just passed around among men on the street like a "prize in a card game." She had menstrual blood stains on the back of her skirt. In general, her clothes were soiled, hair unkempt and she was barefeet with a foul (fecal) body odor. She spoke to me in a whispering tone "I'm hungry, do you have any food?"

Hospital emergency rooms are designated to provide care for patients with sudden and acute illness or victims of severe trauma. But this woman's trauma was so complex, and coupled with her appearance, trying to help her was not the number one staff priority. In this woman's case, the hospital had designated one emergency "liaison nurse" to be notified of any homeless patients' arrival and admission. The liaison nurse's responsibility included immediate care and arranging necessary follow-up care. The liaison nurse responded to the woman's immediate needs and referred her to a nearby shelter in the community.

Homeless women who are chronically mentally ill may be among the most severely abused and unheard women of the streets. Their protection needs are greater and sometimes they may need to be protected from themselves, depending on the severity of their illness. Taking psychotropic medications regularly and remaining alert to potential harm poses difficulty for some of the women.

WHAT NURSES CAN DO

1. Personally facing your assumptions about homeless people is a good place to start. Evaluate the basis of your assumptions.

2. Openly and actively support low cost affordable housing.

3. Visit and explore community resource services available for homeless people, particularly homeless women and children in your local area.

4. Volunteer as a support person, advocate, counselor, rehabilitation aid telephone hot line counselor, clinical support, referral agent, tutor, or health educator.

5. Donate women's clothing (especially large sizes.) Include sanitary napkins, tampons, underwear, bras and panties in your donations to emergency shelters or service centers for the homeless.

Professionally: Organizationally

Include homeless on your organization's program agenda. Select homeless women or homeless families as a target group.

Keep your constituents informed about homelessness and possible community programs by newsletter.

Sponsor community awareness programs.

Support the use of clinics for the homeless and emergency shelters as clinical sites for student nursing practicum assignments.

Lobby for low cost affordable housing.

Adopt a program, special project, or an emergency shelter in your community.

Adopt and work with a family in crisis to promote stabilization of their situation.

For some homeless women, living in a world of uncertainty, being on display, negotiating self with strangers, struggling with loneliness, and being vulnerable to violence and abuse can be devastating. For others, homelessness is an extension of the hidden teardrops they experienced at home. Sometimes, nobody hears their cries. Homeless women need our help. Professional nurses have the basic assessment, intervention, resource managment, planning, and evaluation skills to contribute significantly to homeless women's well being. Will you?●

DEVASTATING FLOODS AND TORNADOES IN INDIANA

● Mr. LUGAR. Mr. President, I rise today on behalf of thousands of my constituents devastated by severe floods and the worst tornadoes in 16 years.

There are few forces in nature as powerful or dangerous as a tornado; 50 touched down in Indiana over the weekend with devastating consequence. Thus far 10 Hoosiers are dead, scores are injured, many seriously; 24 cities in 14 counties experienced extensive damage. Worst hit was the small town of Petersburg, IN. Two-thirds of the structures in the town of 3,000 residents damaged or destroyed. For a community of this size, such an impact has been devastating.

This devastation comes on top of serious flooding that had already made that part of Indiana a candidate for Federal disaster assistance. My constituents are grateful that President Bush responded quickly to our application for a Presidential disaster declaration that has made 20 counties eligible for relief from the Federal Emergency Management Agency, the Small Business Administration, and other Federal agencies.

As horrible as the destruction has been, it has once again shown how tough, reliant, and generous Hoosiers are in the face of adversity. Although emergency Federal benefits are now available to house those Petersburg residents whose homes were destroyed, none are needed. All the newly homeless in the town have found shelter with friends, family, and neighbors who still have homes. Church groups and other volunteers have worked around the clock to provide food and other necessities. Thousands of individuals have been generous. One anonymous woman in Evansville, IN, bought 192 dollars' worth of food and gave it to the Tri-State Food Bank that benefits tornado victims in Petersburg.

Mr. President, difficult times often bring out the best in people. That has certainly been the case in my State. It is to those selfless Hoosiers that I pay tribute to as we begin the difficult task of clearing the debris and rebuilding devastated communities.●

NEGOTIATED RULEMAKING ACT OF 1990

● Mr. LEVIN. Mr. President, on Sunday, May 27, 1990, the Washington Post ran a column on the value of face-to-face negotiations among parties who want an effective U.S. energy policy but have different ideas about what that policy should be. To bring coherence to these conflicting ideas, the first national energy consensus experiment brought together industry executives, environmentalists, consumers, utilities, engineers, and others to see if they could come to agreement on the elements of a national energy policy. The result, to the evident surprise and delight of the author, was that they could.

I was struck not only by the column's lively description of the Energy Department's consensus experiment, but also by the author's surprise at the outcome and suggestion that this undertaking was an unprecedented exercise. In fact, for the past 10 years, the Federal Government has experimented repeatedly with procedures involving consensus-building, face-to-face negotiations.

One of the more well-known efforts is known as negotiated rulemaking. In this rulemaking procedure, agencies sit down with a cross-section of interested parties to draft Federal regulations that will affect the participants' operations and concerns. The objective is to reach consensus. Agencies which have tried this process—such as the Transportation Department and Environmental Protection Agency—have built a record of success, finding that it leads to regulations which are fairer, less costly, and more acceptable to the regulated community.

Despite a track record of success, many agencies are reluctant to try negotiated rulemaking. They still view it as an innovation, raising questions about how to proceed and whether they have legal authority to use the process. To remove these questions and encourage wider use, I introduced S. 303, the Negotiated Rulemaking Act. This bill, which establishes a framework for agencies to conduct voluntary negotiated rulemakings, passed the Senate by unanimous consent last year. It passed the House in May, in slightly different form, by a vote of 411 to 0. Because the House-passed version is so similar to the Senate bill, we hope to present it to the Senate for final passage in the near future.

The use of face-to-face negotiations was the basis for the Energy Department's highly successful consensus experiment to develop a national energy policy. S. 303 takes the process one step further, harnessing the American talent for com, :omise to draft Federal regulations which are sensible and acceptable. I hope my colleagues will join me once more in expressing their approval of S. 303, when it comes to the floor later this year.

Because the Washington Post column helps to illustrate the potential benefits of S. 303, I ask that it be printed in the RECORD.

The column follows:

[From the Washington Post, May 27, 1990]

LEARNING THE ART OF HORSE-TRADING

(By David S. Broder)

PRINCETON.—It was a financier-business consultant who cracked first. "We've been talking here for two hours," he said, "and there have been no trade-offs—none." Around the table, 16 other people nodded their heads in acknowledgment.

Anyone looking at their job titles and knowing that the topic under discussion was national energy policy would have said the lack of agreement was utterly predictable. Gathered at the table in a swank private conference center here were a gas company executive, and independent oilman, the head of a state public-utility commission, a nuclear engineer, a lobbyist for the recreation industry, a housing developer, a coal company officer, the head of an electric utility association, two airline executives, a global environmentalist, a public power lobbyist, two finance executives and a consumer activist.

In seven neighboring rooms were more than 100 other equally mixed participants in the first National Energy Consensus Experiment. Before they came, they had answered individual questionnaires on their preferred energy policies. Morning caucuses of natural allies had refined the list of proposals to some two dozens topics that one interest group or another said it "must have" in order to go along with the recommendations.

Now, after a box lunch, each room of negotiators had four hours to determine what, if any, "packages" of proposed policy tradeoffs they could agree to recommend. The ground rules were tough: a single veto could kill any deal.

"Imagine you are the secretary of energy," the professional dispute mediator from Colorado told the group. (I was allowed to observe, on condition that I would not identify anyone by name.) "You have to put together a package that is economically sensible, environmentally sound and politically salable. Who's got a suggestion?"

The unprecedented exercise was dreamed up by two energy-state governors, George Sinner of North Dakota and Mike Sullivan of Wyoming, and some of their friends in the oil, gas and coal industries. Frustrated by the 15-year impasse in energy policy, they invited all of the other "stakeholders" in the energy policy disputes—traditional antagonists—to join the war games managed by Larry Susskind, director of the MIT-Harvard Public Disputes Program. Except for the auto industry and organized labor, which rejected invitations, every other interest group decided to send top people to the exercise.

It was tough going. My group chose gas policy as a "simple" area to try first. It heard a gas spokesman plead for higher prices to keep producers from going broke—and shot him down in flames. Other ventures from coal, home-builders and environmentalists fared no better, and halfway through the afternoon, when the financier pointed at the failure to offer any concessions in return for group support of a particular policy, people were looking at their watches and wondering why they'd come.

And then the ice broke, with a consumer activist offering to support four proposals initiated by the electric utilities in return for their agreement to three policies backed by an alliance of consumer and alternative-energy people. In 20 minutes of discussion, the deal was done and ratified by the whole table.

They moved from there to toxics, to auto mileage, to housing—and suddenly the walls of the room were being papered with sheets of newsprint, outlining their agreements. In the growing euphoria, they even allowed the gas man, who had been their first target, to revive his proposal in modified

form and found that it now fit the emerging strategy.

Not all the groups did as well; one or two did even better. Susskind noted the similarity in the dynamics: "Ninety percent of the agreements were reached in the last 10 percent of the time"—a formula familiar to labor-management negotiators.

But these people were old antagonists, dealing with policy questions from nuclear-power licensing to Outer Continental Shelf drilling that have hogtied the policy makers since Three Mile Island and the OPEC oil embargo.

The White House and five Cabinet departments sent observers to the exercise. Officials of the Energy Department, which must recommend a national energy policy to President Bush by the end of the year, said they found the process intriguing and were eager to see the formal summary of agreements.

Deputy Energy Secretary Henson Moore said, "It's very important in understanding where there can be consensus." Department General Counsel Stephen A. Wakefield said, "I've never heard people be this candid. . . . When the stakes are real, they may not be as accommodating, but it gets them focused on the fundamental choice—whether they continue to veto each other's most important objective or become part of a process of working out solutions."

This process of horse-trading goes on constantly among politicians, but in areas such as energy policy, where economic, regional and ideological interest groups are so influential, the result has been deadlock. This was, for many of the antagonists, the first time they had been allowed—or required—to negotiate face-to-face.

Even in a simulation, success is enormously heartening.●

TWO EXCHANGES COMBINE GLOBAL FUTURES SYSTEM

● Mr. BOSCHWITZ. Mr. President, I would like to call attention to an article in the May 24 Wall Street Journal. The article reports on the announcement by the Chicago Board of Trade and the Chicago Mercantile Exchange to combine their efforts to develop an electronic 24-hour global trading system.

This is yet another innovation on the part of the futures industry that has made it one of the fastest growing financial markets in the United States. The new trading system, which will be named Globex, could become the standard for all global systems that trade stocks as well as futures. I am pleased that the Chicago exchange took the initiative to make sure that the United States continues to be a major player in the world's financial markets.

Unfortunately, innovation such as this may be jeopardized by the ongoing turf battle over the regulation of stock-index futures and other financial futures. With the competitiveness of markets worldwide, I am concerned about overambitious bureaucrats who seek to reach into another's jurisdiction because, in my view, a jurisdictional transfer could well stifle innovation in U.S. financial markets and encourage the movement of those markets overseas. The current competitive regulatory structure has resulted in a great deal of innovation.

I applaud the efforts of the Chicago exchanges and ask that the article describing their efforts be printed in the RECORD.

[From the Wall Street Journal, May 24, 1990]

TWO EXCHANGES COMBINE GLOBAL FUTURES SYSTEMS

(By Scott McMurray)

CHICAGO.—Global futures trading moved a step closer to reality as the Chicago Mercantile Exchange and the Chicago Board of Trade said they would combine their planned after-hours automated futures trading systems.

The combined trading system, to begin in November, will put futures traders years ahead of U.S. stock market investors in terms of around-the-clock access to their markets. It also underscores the Chicago exchanges' position as the leading innovators among U.S. stock and futures exchanges. By comparison, the New York Stock Exchange says it continues to study the possibility of an after-hours trading system and potential customer demand for such a product.

With both Chicago futures exchanges united behind a common after-hours trading system, foreign exchanges may decide it would be too time-consuming and expensive to launch rival systems. If foreign exchanges decide to pass on automated trading, or link with the Chicago system, it could reverse the trend of recent years in which the Chicago exchanges have seen their dominant share of international futures trading volume slowly being eroded by foreign competitors.

Leo Melamed, chairman of the Merc's executive committee and the leading proponent of automated trading, called the agreement to combine the systems "an historic and monumental milestone in the development of futures trade."

The combination is a victory for the Merc's Globex trading system, which will absorb the Board of Trade's planned rival trading system, called Aurora. The resulting system will retain the Globex name and its plan for electronically matching buy and sell orders entered from computer terminals around the world into a central computer here. Reuters Holdings PLC is the Merc's partner in developing Globex and is still negotiating with the exchanges on integrating the Board of Trade into the system.

Globex has already received regulatory approval from the Commodity Futures Trading Commission, and yesterday the Merc received approval from Japanese regulators to install Globex terminals in Japan.

Board of Trade insiders said the Merc's regulatory lead and the prohibitive cost of building a rival system persuaded the CBOT to allow a friendly takeover of its Aurora system by Globex. Plans for Globex were unveiled in 1987, but the Board of Trade didn't respond with plans for Aurora until last year. In mid-1989, the two exchanges began exploring the possibility of linking the two systems.

A senior official at a Board of Trade member firm also said that the exchange worried its system might not pass muster with the CFTC because of fears that Aurora might be ripe for manipulation. On Globex, orders will be anonymously matched by a central computer. But the Board of Trade's Aurora system was designed to allow exchange members to specify that trades be made with certain other members whose trading icons would be identified on a computer screen.

Karsten "Cash" Mahlmann, Board of Trade chairman, said in a statement announcing the combination that "the resulting cost efficiencies and savings will benefit both exchanges, their memberships and the market users."

What the Board of Trade brings to the system is the most actively traded futures contract in the country: futures on U.S. Treasury bonds, which account for more than half of the Board of Trade's daily trading volume. Treasury bond futures are also increasingly traded by Japanese financial institutions, which hold billions of dollars of U.S. Treasury bonds.

"Treasury bonds are an essential product in making the system work," said Mr. Melamed. Board of Trade officials declined to comment beyond the joint announcement by the exchanges.

One Board of Trade member emphasized that the exchange's 6 p.m. to 9:30 p.m. evening trading session in Chicago, where most the activity is in Treasury bond futures, will continue even though such futures will be included in the combined after-hours system.

"That's the one thing we've done during the past four years that's amounted to anything," the Board of Trade member said. The evening trading session began in early 1987.

Also initially included on the system will be the Merc's foreign currency futures and Eurodollar futures, which are widely used by overseas institutions.

Currently, a relatively small amount of "off-exchange" stock and futures trading takes place after exchange trading hours in the U.S. and overseas.●

TRIBUTE TO MR. JOSEPH F. FORD

● Mr. KENNEDY. Mr. President, I would like to bring to the attention of my colleagues an excellent tribute to one of the most extraordinary philanthropists of our time, the late Mr. Joseph F. Ford. The author of the tribute, Mr. Emanuel Goldberg, is a longtime friend of Mr. Ford.

For many years, Joe Ford was a resident of Brookline and Hyannisport, MA. He was born in Miropol in the Soviet Union, and endured anti-Semitism under the czar in his youth. He acquired a fortune through his Chelsea Manufacturing Co., and with his wife, Clara, led a life of modesty, compassion, and true altruism.

Mr. Ford quietly gave hundreds, if not thousands of anonymous personal gifts to those less fortunate, especially needy students, and his public gestures were equally magnanimous.

From the generosity he bestowed upon his own employees, to contributions he made to academic institutions, public organizations, and communities, to anonymous gifts he gave to individuals. Mr. Ford epitomized humility, empathy, and kindness.

Mr. President, Joe Ford has set an example for all of us, and I urge my colleagues to reflect on his life. I ask that Emanuel Goldberg's moving tribute to this outstanding citizen and philanthropist be printed in the RECORD.

The material follows:

THE MEMORY LINGERS: JOE FORD

(By Emanuel Goldberg)

It is an honor and a pleasure to recall the amazing, almost saintly life of a humble and compassionate man who lived for many years in Brookline and Hyannisport, Mass. and managed, throughout his lifetime, to cloak his numerous philanthropic and altruistic deeds in anonymity.

In the best sense, this man was the very epitome of what Justice Brandeis meant, in his famous address "Call to the Educated Jew" delivered to the Menorah Society early in this century, when he stressed the dual responsibility of minority group members: your personal actions reflect not only upon yourselves but also upon your own people.

So imagine if you would a wealthy man so kind that you had to keep hardship stories from him else he'd break down in tears and insist upon helping the unfortunates involved.

Or who could quietly reward a trusted employee for years so that eventually the latter's economic security and blessings began to rival his own.

Or, on a larger scale, who could make the dramatic philanthropic gesture that saved the life of a fledging university.

Or who would welcome and assist persons of all faiths, creeds and color even though he was born to persecution as a Russian Jew and had endured anti-Semitic hatred from his earliest days in Czarist Russia. From all this he distilled a sensitive human spirit and burning desire to help mankind even as his personal fortunes changed for the better after emigration to the United States in 1910.

We're referring (one could almost add, "of course") to the late Joseph F. Ford who passed away quietly at the age of 93 in his own bed in a rented, two-family Brookline apartment house during the summer of 1984. Over the years, Joe and his wife, Clara, could have purchased the building many times over but they preferred the simplicity and freedom of being long-term tenants.

Joe left us as silently and inauspiciously as he pursued his daily life and masked his countless good deeds. So just a few more snapshots are needed and provided here to authenticate the testimony of those who knew him best that Brookline, Cape Cod and the nation had, indeed, lost someone rare and irreplaceable:

When a student lecture auditorium was being planned for Tufts medical school, officials at that institution wanted to name the facility in honor of its chief benefactors, Joe and Clara Ford. The couple was willing to accept the honor until unexpectedly the son of Dean A. Warren Stearns, then a Tufts medical student, passed away tragically. When the time came for the actual dedication, school authorities checked with the Fords about being present and they were told by Joe that now he and his wife would be glad to come but only on condition that the facility be redesignated as a memorial to Dean Stearns' late son.

Some years prior, the administration at Jefferson Military College in Mississippi opened the day's mail and found a letter and a substantial check from one Joseph F. Ford of Massachusetts, a stranger to them, which expressed gratitude that the small institution had rejected financial assistance from a bigot.

When Joe Ford's manufacturing company, a maker of ladies' rayon underwear, unexpectedly received a substantial production savings, the owner contacted his major client, one of the nation's largest department stores, and decreased the price of previously sold merchandise, just so a valued customer could share in his own good luck.

During World War II, when the steamship, *Benares*, was sunk with the loss of 80 British children, Mr. Ford sent an ambulance to England in memory of these youngsters.

Also when the mother of President Franklin D. Roosevelt died, Mr. Ford dispatched another ambulance to China, with the comment that "I'd simply like to have it go to the people of China as a contribution of a plain American citizen in memory of the mother of the President of the United States."

At the outbreak of World War II, Mr. Ford conceived the idea of assisting U.S. servicemen going overseas to make recordings to be sent to their loved ones. He contributed recording machines to numerous posts, hospitals, the U.S.O. and the Buddy Club on Boston Common.

These are just a few of the now legendary stories about Joe Ford and his quiet albeit awesome philanthropic and humane gestures. It would be impossible, for example, to document the hundreds, if not thousands, of anonymous personal gifts he made to others, especially needy students. The deeds, as the donor wished it, were locked solely in the mind of himself and the hearts of grateful recipients, whose dignity and confidence were always preserved.

For the record, Joseph Fabian Ford, the son of Fivish Fortus and Jennie Motowilowker, was born in Miropol, Russia on March 14, 1891. He attended polytechnical school in Odessa in 1905 though the discrimination against Jews at the time meant that the young man was never able to complete an adequate formal education. Joe Ford endured some pogroms in Russia that enlivened his memory all his long life; in fact, he helped to protect neighbors during a particular massacre.

The late, famous Boston Post (and later Boston Herald) columnist, Bill Cunningham, once profiled Joe and described the early experiences of this young Jew under Czarist regime as a major underpinning for his enduring altruism: "He had seen his people beaten and butchered in Odessa. He had seen them huddled against terror, sharing such protection as was available and such food as they could somehow find. Indelible in his memory was the picture of helpless mothers and children, and especially of his own mother, rationing their own food to the minimum, as poor as they were, so that those with less and none might have the means of holding soul and body together."

Ironically, the lack of formal education training decreed by Czarist intolerance provided incentive, many years later, for one of Joe's most heroic gestures. He literally saved the future of Brandeis University in Waltham, MA at a crucial meeting of key Boston Jewish families held at the Somerset Hotel, Boston, on December 26, 1947. Backdrop to the imbroglio was a serious rift between the Bostonians and a prominent New York group which wanted to abandon plans for the nation's first non-sectarian institution of higher learning sponsored by the Jewish community because the State of Israel was being born at the same time. It seemed inconceivable to the New Yorkers that proper support could be mustered simultaneously for both incredibly ambitious undertakings. There were other altercations between the two groups as well.

Dr. Abram Leon Sachar, the first President of Brandeis and now Chancellor-Emeritus, himself a legend in higher education, described Joe's historic role in his book, "A Host at Last" (Little Brown, 1976):

"About fifty men gathered for the showdown. Only a few were really committed to the venture; the rest were either skeptical or indifferent, present because friends whom they could not refuse had asked them to attend. One of them, Yoland Markson, a respected community leader, probably voiced the sentiment of all the doubters. He noted that the little bastion in Palestine was at that moment battling desperately to stay alive, that the displaced persons' camps were crowded with the survivors of the Holocaust, that inevitably the University would become a Boston responsibility, and that limited resources ought not to be depleted at such a time to the detriment of prior causes.

"Thus far Markson probably was expressing the sentiment of the majority. Then he added a gratuitous note, insisting that college education, unrelated to the professions, was a very much overrated need, that those who had practical common sense and stamina—the main ingredients for success—would always come through without ornamental degress. Joe Ford had been sitting quietly, already determined that his contribution would be influenced by the reaction of the other community leaders. But Markson's comment touched a raw nerve. He rose in anger, scolded Markson for denigrating one of the great privileges of American freedom, and then announced that he would pledge $25,000. His statement transformed the mood of the audience. Within a few minutes, more than a quarter-million dollars had been pledged, including a major gift from Markson himself. . . . Later, as they (the Boston group) looked back upon the many dispiriting vicissitudes that the venture had undergone, they counted the Somerset meeting and Ford's response as the turning point in the task of giving reality to the dream of a Jewish-founded university."

In more recent times, Brandeis University, where Joe Ford was a founding trustee, wanted to publish a commemorative book about him with the primary goal of raising funds for university development from the legion of Joe's friends and admirers but also to chronicle what the quiet, white-haired, little man had contributed to higher education and other causes.

Heavy persuasion even to embark on the book was necessary and, for a time, Joe Ford went along with the university writer who conducted long interviews, research all available sources and then began to produce a manuscript. Mr. Ford even made a few textual corrections and additions although, every now and then, he would waver and suggest that perhaps actual publication should be abandoned. At these times, Joe had to be reminded that the projected book was not intended to be a flattering portrait but rather one that might inspire other wealthy persons to emulate his own concern for helping the needy. But eventually, no dice. Much as he loved Brandeis, he adamantly called off the plans for the book,

though he insisted on paying for all expenses incurred.

In that unpublished manuscript, however, it should be noted that many of Joe's deep interests, as well as honors, memberships and affiliations, were documented. In higher education, the list ranged from Holy Cross Greek Orthodox Theological School and Hebrew Teachers College to Boston College and Andover Newton Theological School. The Medicine and Health category included a spectrum from Harvard Medical School to the Angell Memorial Animal Hospital while, under Jewish Community, the rollcall especially highlighted both the State of Israel and Brandeis University, two causes dear to Joe.

And in the category of "Freedom and Human Dignity," there were variegated causes like the NAACP, China War Orphans' Fund, Greek War Relief, Spanish Relief, the Fighting French Relief Committee, and many more. The unpublished Brandeis book, in other words, was vintage Joe Ford.

Some testaments to Joe Ford's life, which were submitted by distinguished persons but never published in the aforementioned planned book at Brandeis, included prefaces by a noted Jew, Protestant and Catholic trio (reminiscent of the University's famous Three Chapels): Dr. Sachar, the late President Carl S. Ell of Northeastern University, where Joe served as a Trustee, and Boston attorney Edward B. Hanify.

Said Dr. Sachar: "More than anyone I know, Joe is moved by a love of mankind. . . . He may be the prototype of a new species, for he is all heart!"

Added Dr. Ell: "Over the years it has become evident that Mr. and Mrs. Ford have no desire for publicity or recognition for their humanitarian concern or generosity. It has been difficult to get them to accept recognition when those who were aware of their unselfish contributions to society wanted to honor them for their good deeds."

Finally, Mr. Hanify, referring to the Fords' role in making the key gift to establish a pioneer Rehabilitation Institute of the old Boston Dispensary, forerunner of the New England Medical Center, wrote:

"They are alert to new and imaginative ways of dealing with social and medical problems. They have done so much anonymously that no one will ever be able to measure the full range of their benefactions."

The Fords were childless but Joe always had a passionate love of dogs. One memorable story is about a particular animal whom a vacationing Joe had spotted and befriended in the dining room of a fine hotel in America's Southwest. Daily, as the dog appeared, Joe began to feed him and quickly they became fast friends. When this particular winter vacation was over, Mr. Ford, unhappy about terminating the friendship and worried about the dog's future, left adequate funds with hotel personnel to insure that the animal would not be neglected. However, what happened was uncontemplated. In Mr. Ford's absence, the dog lost his appetite and became ill. Joe, who'd be inquiring from time to time from home, had the dog properly crated and flown to Boston—and the story goes that the moment the "sick" dog came off the plane and spotted Joe Ford, his spirits revived and his appetite miraculously returned. And, best of all, the dog found a new and marvelous home.

Joe Ford's relationships with his own employees, hundreds of them at the Ford Manufacturing Company in Chelsea, is another remarkable story.

For instance, in 1939 during the still Great Depression, Mr. Ford closed his plant and took 350 employees as his personal guests to the widely acclaimed New York World's Fair, paying all travelling and living expenses, admission to the fair, and providing funds for souvenirs. In turn, the employees responded by establishing one of Boston's first blood banks at Boston's Beth Israel Hospital—named in memory of Joe's mother, Jennie. This love affair between boss and workers went on for many years with generous gestures always flowing back and forth. Of course, everything that Joe received invariably benefited one of his favorite charities.

On one occasion, the employees of the Ford Manufacturing Company presented an elaborate scroll to Joe which read:

"You have made our problems and troubles your problems and troubles, and have taken them upon your able shoulders and carried them. . . . Your first consideration has always been the welfare of your employees and your untiring efforts in our behalf have inspired each of us and instilled a universal spirit of loyalty which prevails throughout your organization."

I treasure many personal hours of intimate conversations with Joe Ford in the privacy of his Brookline home or at his latter day, tiny office on Soldier's Field Road, Brighton, or occasionally on Cape Cod where he and Clara summered for years in a modest cottage in Hyannisport. Almost to the end, in his nineties, Joe's mind was clear and sharp, his humor and kindliness intact, and his interest in the world around him still lively. His face could brighten when favorite people were mentioned like his old friends, Dr. and Mrs. Albert V. Danielsen of Wellesley Hills. Joe was physically unable to attend Albert's 90th birthday party at the home of hosting Boston University President, Dr. John Silber, and this made him and his wife sad.

Albert Danielsen, who passed away in March, 1986, like Joe Ford, was a widely known philanthropist, especially at Boston University and Brandeis, and the white-goateed, enormously friendly, tennis-playing Albert intrigued Joe because of the Danielsen frequent profession that he was a "Judeo-Christian" and an adherent to both the Old and New Testament tenets. Danielsen and his wife, Jessie, displayed the same humility and freedom from dissimulation as Joe Ford, the same deep caring for all kinds of people, whether mighty or downtrodden. For many summers, the Fords invited the Danielsens to Cape Cod from Wellesley for a week or two of pleasure and vacation and where the Danielsens were usually put up in a nearby motel or hotel. Joe and Clara also played host in some fine Cape restaurants and often invited a few outside guests to dine with the Danielsens.

Toward the end, Joe's face could also darken in characteristic fashion as whenever he heard anything particularly disturbing, such as a breach of human decency and even courtesy. Though Joe was probably as close to his Maker as any man I've ever known, and a member of both Temple Ohabei Shalom in Brookline and Temple Mishkan Tefila in Newton, you could never consider him rigid in theological beliefs. He admired greatly some Christian clergymen like the late, earthy Cardinal Cushing and Rabbis like the late Joshua Loth Liebman. But he was also open in displaying resentment at a few so-called men of the cloth, as for instance one Rabbi who once commented in Joe's presence: "I never get uclers, I give them."

In the 1950's, Joe was a member of a weekly breakfast group that spun off the Laymen's Movement for a Christian World and included such national figures as Dwight D. Eisenhower, Francis B. Sayre, Thomas J. Watson, Conrad Hilton and others. These men would meet occasionally for prayer and consultation in a railway coach on Track 13 in New York's Grand Central Terminal, where they were led in prayer by Ralston C. Young, a black redcap.

Sometimes a human tragedy such as the untimely death of a friend or the seeming triumph of an evil act in the world would prompt Joe to roll his eyes humbly upward toward the heavens in a strong albeit obedient gesture that seemed to say: "Wait until I get up there so someday for surely some explanation is in order for what goes on around here." Those rare occasions were the only time when I could discern that Joe Ford seemed to jump off his shelf of humility.

Editorially, the Jewish Advocate of Boston in August, 1984, said it best of Joe Ford:

"Joseph Ford was a 'can do' guy. He hung back as a problem of an educational or philanthropic institution was discussed. He listened, he thought, he mused. He watched how the others wrestled to find a solution. But then, though filled with genuine desire and the best of intentions, they nevertheless might be willing to admit defeat. Then Joe Ford stood up and directly confronted the issue by saying what he himself proposed to do. Always it was such an enormous gesture that his colleagues now saw the way, the way, to alleviate the problem: by generous, direct, personal action!

"How many ideas were inaugurated and saved, vital programs for the welfare of this total community and beyond started and completed in this manner, we will never know. Or how many quiet one-on-one initiatives that benefited thousands from the hand and heart of Joseph Ford remain a secret between him and his Maker as he wished these to be.

"He was not only a dispenser of wisdom and philanthropy. He gave away Joe Ford time and time again during his long life. He helped individuals not just people. He extended himself to others during troubled periods of their lives and even though this might impose upon his own plans. He went further. He ignored their faults or flaws and honored them for their best self. Even the memory of people whom he believed had contributed to society was sacred to him and found a place in his good works."

At this point it should be enough to say "enough." Anxious as this writer is that posterity not forget a great soul who placed little significance on his even being remembered (his valuable personal papers are probably still floundering around), I can't feel a trust is being violated when I unilaterally declare that it's about time to lift some of Joe's cherished anonymity and let the outside world take a good look.

Joe Ford did have a higher call but in answering that call, he also clutched it closer to earth for all of us.

(The writer was a friend of the late Joe Ford.)●

REMEMBERING THE EVENTS IN CHINA

● Mr. BOSCHWITZ. Mr. President, a year has now passed since the brutal crackdown in Beijing and elsewhere in China against those who were peacefully demonstrating for real, democratic reforms, and human rights. During the weeks preceding the massacre, many of China's friends truly hoped that a process would begin which would lead to greater freedom for the Chinese people.

Instead, China's leaders responded with violence, executions, jail sentences, and the suppression of dissent, all accompanied by one of the most outrageous uses of the Big Lie seen in modern times. Rather than progress toward democracy, China has slipped back toward totalitarianism and repression.

China's leaders, indeed, have much to answer for. They have remained rigid and intransigent in defense of their deeds. There have been no actions, no words of apology, no statements from them acknowledging that their actions in forcibly suppressing the peaceful protests were wrong. Indeed, the very silence of China's leaders indicates that they truly believe they have done nothing they need apologize for.

The sounds and images we saw last June from Tiananmen Square are permanently engraved in our memories. Who can forget the gunfire echoing in that vast expanse, scattering the terrified protestors, and cutting down innocent individuals? Who can forget the symbolism of the Goddess of Democracy, so clearly inspired by our own Statue of Liberty? Who can forget the solitary courage of one lone man standing in front of a column of tanks, repeatedly forcing it to stop and change direction?

The current generation of China's leaders will soon pass from the scene. Eventually, perhaps even before their passing, there will be an opportunity to heal the wounds inflicted in 1989 and to make real progress toward reform in China. But I fear the road will be both long and difficult.

The many thousands of Chinese students in the United States and in other countries have a special obligation. They must not allow the flame of freedom in China to remain permanently stamped out. They must bear the burden of reminding the world that what happened last June did not destroy the desire to bring democracy and human rights to China. They must plan for the time when they can return to their homeland without fear of persecution to help bring reform to China.

As we remember the events of last year in China, I join in paying tribute to those who died seeking freedom and democracy. I restate my support for those yearning to live in a nation committed to respect for the rights of the individual and the rule of law. And I stand in solidarity with those who even today are being punished for their actions and words because they want to live in a free country. I truly hope that the Chinese people can, in the not-too-distant future, live in a country where fear has been banished and freedom can flourish.●

REESTABLISHING ECONOMIC COMPETITIVENESS

● Mr. WIRTH. Mr. President, declining U.S. economic competitiveness is one of the most important issues we face. Meeting this challenge is essential if we are to maintain our relative standard of living. Unfortunately, there is no easy answer to this problem. A wide variety of factors have contributed to the trends we are now facing and we will need to make changes in a number of areas to turn them around.

Among the disturbing trends that must be reversed are the large Federal budget deficit and low savings rate, which contribute to high real interest rates in the United States and increase the cost of capital for American businesses. We also need to increase our public and private investments in education, scientific and technical research, and infrastructure. Investments in these areas will fuel future economic growth. They can also address one of the core causes of declining competitiveness: the slow rate of productivity growth we have experienced since 1973.

Progress in this area will require a long-term perspective on the part of both Government and business. One important consideration in promoting productivity growth is improving the skills of our work force. I have recently received an article on the subject of a National Human Resources Policy written by James O'Toole, a professor at the University of Southern California Graduate School of Business, and John Simmons, past President of the Association for Quality and Participation. Many of the recommendations in this article are best implemented by private business; others require Government action or assistance.

Economic competitiveness is of great importance to the future of our constituents. For this reason, I encourage Senators to take a look at this article, published in the November 1989 "Economic Development Quarterly," as we search for ways to improve productivity and promote economic competitiveness.

Mr. President, I ask that the text of the article be printed in the RECORD.

The article follows:

DEVELOPING THE WEALTH OF THE NATION: A CALL FOR A NATIONAL HUMAN RESOURCES POLICY

(By James O'Toole, University of Southern California, and John Simmons, Association for Quality and Participation)

How is it that many European and Asian nations are growing wealthier at a faster rate than the United States? Why is the standard of living and quality of life of the average American declining relative to that of citizens in many countries of the industrialized world? For example, the standard of living of the average Swedish family is now higher than the standard of living of the average American family. Worse, the standard of living of the *poorest* of Swedish families approaches that of the *average* American family, while the standard of living of average families in some newly industrializing nations of the Third World approaches that of the bottom quintile of American families.

How can one account for the relative decline in our nation's wealth? Do the economically ascendant nations of Europe and Asia have greater natural resources, more and better machines, "freer" economies, or harder-working labor forces than does America?

In attempting to explain the impressive economic growth of the United States during the nineteenth century, economists once argued that our good fortune had been attributable to an abundance of virgin *land*, a vast wilderness filled with mineral, vegetable, and animal riches ripe for exploitation. But as those lands were settled, attention then focused on *capital*—factories, machines, and all manner of productive technology—these, it was said, were the true sources of America's economic might. A bit later, a third explanation of our strength was offered by trade unionists and their progressive allies: It was really the *labor* of men, women, and children—the brute strength of voluntary immigrants and involuntary slaves—who had made America the world's richest nation.

There is truth in all three explanations: In fact, the wealth of every nation is greatly determined by the sum of its land, capital, and human labor. Nonetheless, if one closely examines the characteristics of the leading economic nations in each historical era—Renaissance Italy, Reformation Holland, Georgian and Victorian England, Germany during the Industrial Revolution, mid-twentieth century America, and contemporary Japan and Scandinavia—the common denominator is not land, not oil, not gold, not steel, not machines, not laissez-faire economic policies and, most certainly, not the back muscles of brawny men.

Above and beyond these factors is the overarching *meta-resource of human ingenuity.* It is, in fact, the dynamism of a people—that is, their entrepreneurial spirit, their talent, their skills, their education, their training, their values, their attitudes, and their willingness to lead, to cooperate, to innovate, to defer gratification, to change, to grow, to learn, and to solve problems—that leads a nation to economic success.

This has never been truer than today, in this explosive information age. And it is nowhere truer than in America, which, while declining relatively and at an increasing rate, nonetheless probably still retains the title of the world's most advanced knowledge-based economy. Alarmingly, we are rapidly squandering that comparative advantage. Self-defeatingly, we fail to develop

fully our human resources, we misuse them, and we even penalize those who try to deploy them appropriately. Not so in Japan, Sweden, and West Germany, to name only three countries where concerted nationwide efforts have been made to develop and utilize human resources. In so doing, these countries have given their people a constantly improving standard of living and quality of life.

In contrast, America has stagnated. A measure of this is the declining quantity and quality of our national output. Over the last 17 years, the United States has been in last place among all industrial nations in terms of improvements in productivity. During the same period, American consumers began to prefer Japanese and European products to American ones (only 23% of American workers say they will buy the products that they produce in their own factories or offices).

The results of declining productivity and quality are lost market shares, a high trade deficit, falling profits, lower family incomes, greater social inequality, and a steady, general economic decline. Unfortunately, examples abound of how we are compounding our problems:

—Employer-paid tuition in colleges and universities is now to be taxed as employee income. In effect, the government will eliminate an important incentive for workers to upgrade their skills.

—Federal labor law appears to make illegal some moves to involve workers in efforts to increase productivity and product quality. In effect, the government discourages many employers and employees from meeting the competitive challenge of Japan and Western Europe.

—American business schools have continued to stress courses in financial manipulation at the expense of courses dealing with product quality, manufacturing productivity, worker participation, and customer service. In effect, the next generation of managers is not being prepared to meet tomorrow's problems.

—America skimps on employee training in both the public and private sectors. The Japanese appear to invest twice as much in on-the-job training as do American corporations. Within the United States, Japanese-owned companies outspend American-owned companies by some 50%.

There is, however, some hope (at least, in the private sector). A few corporate executives have developed a new strategy for managing their people and organizations—and they find they can achieve dramatic improvements in productivity and product quality (as in morale and working conditions). For example, using these new management approaches, the Digital Equipment Corporation plant in Enfield, Connecticut was able to become DEC's highest performing plant within nine months of shipping its first product. Their secret: involving workers in decisions about improving the quality and quantity of their work. DEC managers believe that if they help workers develop their potential, the company's market share and profits will increase as a result. DEC calls their approach to high corporate performance "growing people."

And the new management approach works in low-tech settings as well, even in companies that have long histories of human resources mismanagement. For example, the Fremont, California assembly plant of General Motors had been closed for several years because the quality of its product was the poorest among General Motors plants. And company relations with the United Auto Workers had been the worst in the auto industry. But working with the union, the plant was recently reopenend as a joint venture with Toyota, and it now ranks first among General Motors facilities in quality. Not only has the Chevy Nova produced at the plant achieved the lowest defect rating of any American car, productivity has improved by 100%. General Motors and the UAW call their approach "jointness."

Whether it is "growing people" or "jointness," the basic lesson of these examples—and dozens of others like them—is that America currently possesses methods that can improve dramatically the way business and our economy perform. Again, the "secret" behind these methods is simple: They draw on that magic metaresource of human ingenuity. At DEC and GM, the minds of workers are engaged along with their hands. In both companies, skilled, well-trained employees are committed to finding solutions to the problems of product quality and organizational productivity.

The challenge now is to spread these successful ideas so the new approach can rapidly improve quality, producitivy, and working conditions across the country. To accomplish this, a comprehensive national strategy for the improvement and deployment of human resources is needed—a new policy, the objective of which is a more competitive economy and a higher quality of life.

We propose that the details of such strategy should be developed by a national commission composed of imaginative and knowledgeable individuals (not necessarily "established leaders") from business, labor, education, and government. The commission would report its findings to the president of the United States, whose endorsement—and active support—would be essential for the policy to be effective. To gain perspective on the scope of the policy that such a commission might create, we informally polled some of the most creative people we know in the human resources field. Under the auspices of the Association for Quality and Participation, we asked a "shadow commission" to identify the key elements they would like to see in a national policy. Their ideas are summarized in the accompanying two tables and in the eight issue areas outlined below.

ELEMENTS OF A NATIONAL HUMAN RESOURCES STRATEGY

Education

Even after a decade of school reforms, our informants felt that new entrants into the work force are still woefully deficient in their reading, writing, and computing skills. In particular, American junior high and high schools are abysmal. Our 18-year-olds are lucky to have a grasp of algebra and geometry, while their age mates in Europe and Asia know calculus. It is not the case that there are no solutions to this problem. Indeed, many workable approaches recently have been developed—and demonstrated—by such educators as Ernest Boyer, Theodore Sizer, and Mortimer Adler, among others.

The problem is not lack of "know how," rather, it is lack of national will. Nothing short of a national campaign waged at the level of each school board—and supported by a president who uses his position as a bully pulpit—can turn the problem around.

Clearly, financial support from the private sector is essential for the revitalization of the nation's schools. But this does not mean that business should dictate the curriculum of educational institutions. Business leaders have too much to do to correct the mismanagement of their own institutions to involve themselves directly in the affairs of educational institutions that are better managed by skilled professionals.

The problem is that we do not treat teachers as skilled professionals. We pay them like unskilled laborers. If we do not begin to treat teachers with respect, we simply will not attract sufficiently high quality individuals to the teaching profession. Moreover, we do not involve either teachers or principals adequately in managing "their" schools. Equally important, we cannot distract teachers from their basic mission of educating (as opposed to training) the nation's young. Formal education is the only effective prerequisite preparation for successful careers. Training must come later and in other settings. Thus well-meaning attempts to vocationalize the curriculum should be resisted. Education is the task of educational institutions; training is the business of business (and of labor, where there is a union).

Training

The skills of American workers are becoming increasingly obsolete. While America spends billions on new technology, we scrimp on expenditures to prepare workers to build, install, use, and repair those new machines.

In this regard, the countries of northern Europe are decades ahead of America. We have slipped from second to seventh place in the amount of training we provide compared to other industrial countries. For example: At any given time, large numbers of German and Scandinavian workers are out of active employment and engaged in training programs. These programs, financed through trust funds, ensure that the countries of Europe have sufficient numbers of workers prepared to use the next technologies to be introduced. Absent such a program, the United States will continue to struggle through painful periods of industrial dislocation.

In addition, the skills of managers and professionals must be updated periodically. It does little good to invest in training the work force if the continuing education of engineers, supervisors, and executives is ignored.

Management of Organizations

No matter how well trained employees are, they will not contribute their best efforts if management (and unions) do not create an organizational culture based on the values central to high performance. These core values (which were critical to the recent "turn arounds" at Ford and Xerox) include honesty, trust, participation, cooperation, and respect for individual differences. Successful implementation of these values leads to improved communication, more innovation, better working conditions and higher quality, productivity, and morale. Every American company that has had sustained high performance against world competition manifests a similar set of values.

Productivity and quality are also promoted by management's desire and ability to create an environment of "continual learning." Organizations need to be inoculated against the "not invented here" virus that has limited their ability to learn from others—companies both across the street and on the other side of the world. The issue is how to get more managers and union leaders to explore seriously the experience of world class companies—and then to implement these successful managerial

methods. Judging by the experience of our competitors—Sweden, West Germany, and Japan, for example—private initiatives will not be adequate in this area. The Japanese government has invested over $100 million in key institutions like the Japan Productivity Center and Japan Union for Scientists and Engineers. There is need for public efforts in the United States to diffuse existing success stories and to organize and support additional research on new techniques.

In particular, new forms of compensation and recognition are needed to encourage productivity and quality improvement. These include more frequent and effective recognition of employee contributions by way of gain sharing, pay for knowledge, and employee stock ownership. At the federal level, there is need for a review of the rules and regulations governing employee stock ownership plans (ESOPs) in order to make them more meaningful as rewards for productive effort. For example, workers must be allowed to participate in decisions that affect their work.

Finally, the archaic legal distinctions between "exempt" and "nonexempt" workers must be demolished. These create a two-class society when what is needed is cooperative effort.

Labor/Management Cooperation

There is still too much hostility between organized labor and management. There is too little sense of community and working together. There is too much emphasis on the short term, and too little leadership, planning, and equity. Labor leaders often feel that management asks for concessions, but is unwilling to provide anything in return. If unions are to be innovative and responsible, they require the same from management—especially in terms of giving American workers the right to choose whether or not to be represented by a labor organization. We need a nationally supported effort to encourage labor/management cooperation. This effort would be directed toward improving productivity, product quality, and working conditions. Our competition have had such efforts for more than 30 years. For example, the federal government needs to encourage states to undertake studies and actions to support labor/management cooperation (as has been done in New York, Ohio, and Massachusetts). To this end, the government should encourage private firms and government agencies to establish joint labor/management councils, which are needed to establish the human resource policies essential for higher performance. Lessons can be learned from the recent experiences at Ford and National Steel. These successful efforts teach managers that, if they wish to improve performance, they will need to convince their workers that they do not intend to take advantage of them.

In short, labor and management need to move beyond a collective bargaining model based on the struggles of the New Deal to one that recognizes the new international competitive pressures that American firms and workers now face. To achieve this, government policymakers need to support both labor law reform as well as increased flexibility in labor relations.

National Strategy for Economic Development

The United States is the only industrial country without a national strategy for economic development. We cannot become competitive without one. This strategy should *not* require the federal government to provide a detailed plan for economic development. While Washington should facilitate the creation of an overall approach, the states should be responsible for developing intitiatives and targeting investment priorities. The Competitiveness Policy Council, which was authorized in the most recent trade bill, should be substantially strengthened in order to accomplish this objective.

To be competitive in the world economy today, organizations need a work force with a high degree of mobility, flexibility, skill, and commitment to carry out the mission of the organization. Thus the impact of current tax laws on tuition aid, on rewards for productivity and quality improvement, on unemployment costs, and job security should be thoroughly examined. In particular, a national pension policy needs to be developed. Effective labor mobility depends on the opportunity for all workers to have freedom to change employers without undue sacrifice of future pensions. The overstaffing of many companies is partly the result of the significant pension penalties imposed on those who change jobs.

Federal and state purchasing agents could provide a significant incentive to improve human resources among their vendors. They should require, as NASA and Ford do now, that vendors should have "total quality" and "employee involvement" techniques to qualify to sell their products to the government. This could save taxpayers billions of dollars each year while enhancing product quality.

At the state level there is need to develop more effective employment services. While some states are quite good at this, the tremendous growth and profitability of private employment agencies reflects the inadequacy of the public systems. While private approaches should be encouraged wherever possible, these services are often too expensive for small- and medium-sized firms. In larger metropolitan areas more effective labor exchange systems can be established. Such a network could address the needs of dislocated workers and act as referral centers for retraining, job search, education, and related labor market services. These are all needed because the growing complexity of the labor market imposes a heavy burden on an individual faced with the necessity of searching for employment.

Finally, we face a significant shortage of highly qualified workers in the 1990s. Thus we need more opportunities and incentives for older workers to stay on the job instead of retiring. Some 15% of the people over the age of 65 are reported as able and willing to work. If the Social Security laws could be amended to remove existing disincentives to working, this percentage would increase significantly.

From Welfare to Job Creation

The recent welfare reform was a necessary first stage toward reducing multigenerational dependency. But what jobs will these people do? The "labor shortage" mentioned here is wishful thinking when it comes to low-skilled people. Certainly, there are severe shortages of scientists and engineers. And there are likely to be widespread mismatches between job requirements and educational attainment during the next decade. But how can one claim that there will be a surplus of jobs for those who are currently on welfare? After all, even eight uninterrupted years of economic expansion and job growth have left the underclass unemployed. Things will be no different in the future unless there is a concerted effort to improve education and training for the most disadvantaged citizens, unless there is a creative effort to upgrade service sector jobs and make them into "careers," and unless imaginative efforts are made to replace the culture of poverty in the ghetto with the kind of entrepreneurial culture now advocated by many black leaders. All this requires presidential leadership.

BETTER INTEGRATION OF WORK AND FAMILY NEEDS

Adequate child care is one of the nation's greatest unmet needs. Ten million children under the age of three have working mothers. Eight and a half million women in the labor force have children under the age of six. Yet, the number of industry sponsored day care centers has *declined* between 1970 and 1980. Imaginative, business/government joint efforts are clearly called for in this regard.

Related to this, only 12% of the work force enjoy some form of flexible work schedules, a technique that has demonstrated its ability to increase productivity and the quality of work life. National policy should encourage the use of this proven idea.

Research

Effective research is essential to sustain the continuous improvement of our human resources. There are two major barriers to achieving this objective: First, the research we have done is neither, well integrated nor readily accessible; second, there is no strategy or action plan for more effectively targeting scarce research resources to the most critical—and practical—problems. Toward this end, the federal government should work to improve the research capabilities of universities and independent research organizations. In particular, we need to better understand the relationship between technology and work and to communicate that understanding as we enter the next century.

CONCLUSION

While it is depressing news that the relative wealth of the nation is declining, it should be viewed as good news that none of the aforementioned proposals entails tragic trade-offs between social classes, generations, national regions—or between mutually desirable alternatives. Human resources development and national competitiveness present the country with a rare and happy coincidence: What is good for the people is also good for the economy. That's the message the president of the United States needs to be sending to the country's corporate and union leaders, and to the country's educators and workers. If the president communicates a clear national human resources policy, the chances are improved that the citizenry will follow his lead and do what is necessary to implement it. Failure to develop and support such a policy will unfortunately accelerate the relative economic decline of this great nation.●

UNITED NATION'S REPORT

● Mr. KASTEN. Mr. President, I am very disturbed by a report I read in the Washington Post that the United Nations Economic Commission for Latin America and the Carribbean has told Latin American countries to temper their move toward free market economic systems.

This is the worst advice the U.N. could possibly have given these coun-

tries. If they delay market-oriented reforms, they will be throwing away their only realistic chance of reducing poverty, meeting basic human needs, creating wealth and promoting rapid economic growth.

According to the Post's article, the U.N. Commission's economic development studies "challenged the new conventional wisdom—espoused by Presidents Fernando Collor de Mello of Brazil and Carlos Menem of Argentina, among others—that top-heavy government sectors must be pared back and development left largely to unregulated market." The Article goes on to quote the Executive Secretary of the Commission, Gert Rosenthal, as saying "Privatization is fine in certain instances, but is not something to put on a pedestal and venerate."

The article further notes that although the Commission studies concede that selective economic deregulation will help the Latin American economics, it nevertheless recommends "a continued large role for governments in fostering development, particularly in light of the growing social inequities in Latin America."

Under the heading of "Changes in production patterns in the 1990's," the Commission recommends that Latin America raise barriers to trade, promote government industrial policy and reject the privatization of state-owned industries. What the Commission derides as the "Orthodox approach in the 1980's"—"free international trade," "privatization, elimination of subsidies and restriction of investments," and "generalized liberalization and use of markets to guide decisions of economic agents"—is in fact the very market-oriented approach that will lead Latin America into a new era of prosperity.

We should no longer be debating the merits of socialism versus capitalism—simply because the whole world has already rendered its verdict. Unfettered free market economies have better health, education, and living standards than do socialist countries. In a 1989 paper, Prof. Julian L. Simon of the School of Business Administration of the University of Maryland and economist Stephen Moore report that:

> Following World War II, Germany, China, and Korea were divided into Socialist and non-Socialist parts, producing three pairs of countries with the same language, history, culture, birth rates, and living standards when they were divided.
>
> Since 1950, in each of these country pairs, the free market countries of West Germany, Taiwan and South Korea have experienced more rapid income growth, provided more education for a larger percentage of their citizens, have longer life expectancies and lower infant mortality rates, and fare better in other "quality of life" measurements, than their socialist counterparts East Germany, the People's Republic of China and North Korea. In some cases, the differences are astonishing. In 1986, the last year for which complete figures are available, Taiwan had an average income that was 10 times higher than mainland China, over 10 times as high a percentage of students in higher education and around half the infant mortality rate.

Contrary to the U.N. Commission's report, market economics is the most effective way to improve health care and education in Latin America. Again, let us look at the experience of the Socialist and capitalist economies. The best measure of a nation's health is the life expectancy of its residents. For example, the life expectancy of the people of capitalist South Korea is 68, a full 12 years longer than that in socialist North Korea. The gap in education between capitalist and Socialist economies is similarly wide: In Taiwan the percent of 20 to 24-year-olds in higher education is 6 times greater than in mainland China.

If anything, Latin America governments accelerate their move toward market economies. These reforms should include lower marginal tax rates, monetary stabilization, privatization of government-owned enterprises, a judical system that enforces contract law, and protection of private property rights.

Freedom works—political freedom, economic freedom and social freedom. The health, housing, and education needs of the Latin America poor can best be met by a strong market economy with a tax base capable of providing a safety net for the weakest citizens.

Since the end of World War II, it has been the policy of the United States to promote economic growth through democratic capitalism. We provided the pro-capitalist leadership that rebuilt Europe after World War II. We continue to provide foreign assistance—either directly or through international development organizations—to help raise living standards in less-developed countries. Our efforts to promote economic growth in developing countries is based on the view that a strong free market economy is the only secure base upon which a prosperous and just society can be built.

Mr. President, I am deeply concerned that U.S. funds may be supporting an agency which fragrantly ignores these fundamental truths. That is why I will be urging my colleagues to take a serious look at these programs the next time the issue of United Nations is debated in the Senate.●

A NEW GENERATION OF HISPANIC LEADERS

● Mr. WIRTH. Mr. President, I would like to take a moment and turn the Senate's attention to an event which took place in my State of Colorado recently. On Wednesday, May 16, 31 Coloradans graduated from a unique leadership program known as Vision Hispanica II.

This program, under the auspices of the Colorado Institute for Hispanic Education and Economic Development, and in cooperation with the University of Colorado at Denver, is designed to develop the leadership skills of promising individuals in the Hispanic community. The director of this program is the honorable Polly Baca, a well known former State legislator in Colorado and a nationally recognized spokesperson on issues for women and minorities.

Vision Hispanica II is the second in a series of programs in which leaders from the political, academic, governmental, and business communities come together to share their insights and skills with individuals in the Hispanic community who show great promise as community leaders themselves. The idea is to match these potential Hispanic leaders with men and women who are already experienced leaders. The program is designed to foster the leadership skills of its graduates, and to provide a supportive environment for the development of creative projects to help the Hispanic community of Colorado.

Under Polly Baca's direction, the Vision Hispanica programs have become a model that should be of interest to other States. The graduates of this program have come from all walks of life, representing both sexes and various age groups. They are teachers, community activists, government workers, students, homemakers, business people, and parents. In short, they represent the diversity of the community, and I believe they also represent the next generation of Hispanic leadership in Colorado, and perhaps the country.

I would like to salute the graduates of this outstanding program and recognize their hard work, dedication and high promise as future leaders. The graduates of Vision Hispanica II are: L. Todd Abeyta, Rudolph L. Apodaca, Linda Arroyo-Holstrom, Sherrie Britto, Maria Carrion-Hammond, Edie Casias-Vigil, Hector Castillo, Frances Coleman, Judith Cordova, Jesse de la Fuente, Rebecca de Herrera, Ron Fernandez, Rudy D. Garcia, Helen C. Gonzales, Jane Gonzales, Christine Lucero, Tony Montoya, Edward S. Moreno, Patrica A. O'Dowd, Rosemary Ornelas, Volanda Ortega-Erickson, Ronald A. Picaso, Toni Pineda, Victoria Quintana, Eric A. Romero, Barbara Roybal, Bob Roybal, Jaime W. Silva, Mary Ann Shing, Deborah Lopez Vela, and Erma D. Zamora.●

RETIREMENT OF MAURICE I. WILLIAMSON

● Mr. LUGAR. Mr. President, after 37 years of outstanding service to the

people of Indiana, Maurice I. Williamson is retiring having worked tirelessly for the betterment of agriculture. His deep concern and devotion to higher education for Indiana's youth and drive to increase appreciation for agriculture in Indiana has culminated in many great accomplishments.

Mauri Williamson was born and reared on a livestock farm just outside Economy, IN. In 1944, he was a delegate to the National 4-H Club Congress and received a 4-H scholarship to Purdue University. One month later, World War II called, and Williamson served in the U.S. Navy until 1946. Upon his discharge from the Navy, Williamson enrolled in Purdue's School of Agriculture as an animal husbandry major.

In 1950, Williamson served as the president of his class and graduated with highest distinction, ranking in the top 1 percent of his class. He held his post as class president for 40 years after graduating. During this time he spearheaded a reunion fund raising drive which recently culminated in the dedication of a new instructional lecture hall at Purdue.

After graduation and 3 years of farming, Williamson returned to Purdue to assume the position of executive secretary of the Purdue Agricultural Alumni Association. In the ensuing 37 years, Williamson's strong leadership guided this organization to unparalleled heights of service in the agricultural profession. The Purdue Ag Alumni Association is considered the model in alumni relations throughout the United States.

The association's annual meeting, the Purdue Ag fish fry, is the largest, single gathering of agriculture alumni in the Nation. A record crowd of some 2,700 alumni and assorted dignitaries turned out for the 1990 fish fry to pay tribute to Williamson in his final year at the helm. In 1958, he conceived and promoted Operation Brainpower, a program which brought tens of thousands of high school students to Purdue for a day to stimulate their interest in seeking a college education. The program continues today, conducted exclusively for the Purdue School of Agriculture, and operates under the name of Project Future.

Perhaps one of his best known achievements is the permanent working agricultural museum established at the Indiana State Fair in 1961. Under his direction, thousands of antique farm and home implements have been assembled at the museum, now recognized as one of the Nation's finest. His involvement in agricultural historical preservation extends nationwide. He has been active in the National Association of Living Historical Museums and has served on the board of governors of the National Agricultural Hall of Fame.

Ever committed to the agricultural profession, Williamson helped to found the National Agricultural Alumni and Development Association [NAADA], a professional society which has grown rapidly to national prominence. He served as NAADA's president and will retire this year as its secretary-treasurer. In 1982, he received the association's Distinguished Service Award.

Williamson's many years of exemplary service have won him numerous other agricultural honors. Indiana's Cooperative Extension Service awarded him its Special Service Award. In 1977, he received the Hovde Award of Excellence for exceptional service to the rural people. In 1985, he was named Honorary Master Farmer by Prairie Farmer magazine. Also in 1990, Purdue's Agricultural Alumni Association presented Williamson with its highest award—the Certificate of Distinction.

Williamson owns a grain farm in eastern Indiana that is operated by his son under both his and Maurice's names. Upon his retirement, Williamson has no intention of abandoning agriculture. He will lead agricultural travel tours worldwide, continue to operate Indiana's Pioneer Farm and Home Show, continue to speak on behalf of agriculture, and, of course, spend more time on his beloved farm.●

THE BATTLE OF POINT PLEASANT

● Mr. ROCKEFELLER. Mr. President, having recently observed Memorial Day, this is a fitting time to remember the heroic efforts and sacrifices of our very first servicemen. On October 10, 1774, the first battle of the Revolutionary War was fought near the present day community of Point Pleasant, WV. Forty-six officers and men of Col. Andrew Lewis' forces were killed and another 140 were injured in a day-long battle with a larger force of Shawnee Indians. The Colonials were victorious, gaining military confidence that was then instrumental in the opening of hostilities against the British in April 1775. In 1908, the 60th Congress officially recognized the Battle of Point Pleasant as the first battle of the Revolutionary War.

While events in New England were coming to a head in 1774, the Shawnee and other native Americans were raiding Virginia settlements. The Colonials in the threatened area, led by the Governor of Virginia, Lord Dunmore, mustered to counter the raiding parties. The Colonials were split into two columns, the Northern Division led by Lord Dunmore and the Southern Division by Col. Andrew Lewis, a veteran of the French and Indian War. Lewis and his force marched 160 miles in a period of only 19 days from Camp Union, now Lewisburg, WV, to Point Pleasant, through some of the most rugged wilderness in the United States. On October 10, at the confluence of the Ohio and Kanawha Rivers, Lewis and his men were cut off by the Shawnee led by Chief Cornstalk. For the entire day the 1,150 colonists and approximately 1,000 Indians were locked in combat. At sunset the remaining Shawnee retreated across the Ohio. Although victorious, the Colonials had paid a heavy price.

Today a memorial to those brave and selfless men stands at the very site on which the battle took place 216 years ago. Their victory assured the future security of the frontier. Americans drew the strength from within themselves and from their rifles to challenge the British to open military conflict.

I am proud of those first West Virginia servicemen. They typify the great tradition of military service and valor on the part of West Virginians. It is because of their tremendous sacrifices that we live in a land of freedom, democracy, and liberty.●

MAJ. GEN. JACK K. ELROD

● Mr. LUGAR. Mr. President, I would like to take this opportunity to ask my colleagues to join me in saluting Maj. Gen. Jack K. Elrod who has served in the Army since his enlistment with the Air Corps on May 17, 1943. General Elrod's military career is highlighted by his outstanding service as state adjutant general. He devotedly served the military, both as a member and as an officer of numerous civic, military, and community organizations. He continually and vigorously supported the missions and role of the U.S. Army, devoting many personal hours and assisting in the success of hundreds of civil and military functions by contributing equipment, personnel, and professional expertise. Notably among these are the annual Armed Forces and Veterans Day events, and the Indiana Chapter of the Association of the U.S. Army. By his dedicated personal effort and influence, General Elrod continued to enhance the image of the U.S. Army throughout the State of Indiana.

Among General Elrod's significant contributions were his continuous and unrelenting efforts toward quality equipment and readiness. Indiana was recognized at both local and national levels for his involvement with the equipment maintenance and upgrade effort. The primary beneficiary of his efforts, however, was the traditional soldier who gained increased technical proficiency and competence.

General Elrod served as a driving force in a statewide effort to address improved property accountability. An important aspect of his property accountability program was an across-

the-board reduction in excess equipment and shelf stock. At his direction, several thousand dollars' worth of material was returned to the supply system. His property accountability emphasis produced a heightened awareness among all leaders of the need to effectively manage material assets.

Another area of special interest for General Elrod was fiscal responsibility. He devoted much of his personal time and attention to making the best use of available resources. He challenged the force to reduce communication costs, with telecommunications being the focal point, and was able to reduce overall costs by 25 percent.

Print media also received General Elrod's attention as an area in need of improvement. He restructured distribution schedules and quantities and reduced the number of bulletin-type command publications. Committees were formed to review and eliminate unnecessary reporting requirements and redundant or obsolete command publications, and to increase the use of onhand automation equipment. As a result of General Elrod's emphasis on improved fiscal accountability, significant reductions were made in spending levels of both State and Federal budgets.

General Elrod took an active role in increasing the importance of safety, health, and environmental management in the business of the Indiana National Guard. He directed that safety and safety awareness be a part of every training exercise, work activity and inspection. Material safety data sheets were distributed to the user level statewide and a method of keeping them current was implemented. Significant improvements were made in protecting the environment, with trainers as well as managers becoming effectively involved in land use and hazardous waste management.

An advocate of participatory management, General Elrod attempted to involve the entire force in the improvements for the Indiana National Guard. He enhanced the Incentive Award Program and emphasized the value of employee suggestions. He also organized an affirmative action committee with his personal charge of eliminating all forms of discrimination and sexual harassment.

Training readiness levels of the units of Indiana increased under the leadership of General Elrod. He encouraged commanders to focus on training at the company, battery and troop level, and to emphasize that training on those tasks is essential to survivability on the battlefield and to mission success.

General Elrod took an active role in both recruiting and retention and was responsible for achieving record high levels of assigned personnel strength within the Indiana National Guard. The fiscal year of 1989 was one of the most successful recruiting years in our State's history.

His initiatives in these and other special interest areas contributed significantly to improvements throughout the State. Above all, General Elrod was dedicated and committed to developing and guiding a leadership team which would foster and promote continued improvements in the Indiana National Guard.●

FRANCIS HOPKINSON'S CONTRIBUTION TO OUR FLAG

● Mr. LAUTENBERG. Mr. President, on June 14 our country will celebrate Flag Day, a special day when Americans of all ages and walks of life pay tribute to Old Glory and everything it represents: Freedom, opportunity, strength, and compassion.

June 14 is a day for schoolchildren and adults, young and old, to reflect on our great democracy and to honor the brave Americans who gave their lives to preserve it. Since June 14, 1777, when the Continental Congress adopted the familiar red, white, and blue motif of 13 stars and 13 stripes, the Stars and Stripes have assumed a prominent role in our national life.

In 1949, Congress recognized the enormous emotional significance our flag has to the American people by setting aside June 14 as Flag Day. On Flag Day, Mr. President, too few Americans are aware of the contribution of a New Jerseyite who many historians now credit with the design of our official national flag: Francis Hopkinson.

Mr. Hopkinson, of Bordentown, NJ, was not only a delegate to the Continental Congress from New Jersey, but was also a signer of the Declaration of Independence. This creative public servant, known for his expertise in heraldry, was called upon to help design seals for the University of Pennsylvania and the State of New Jersey, among others.

In 1780, the second Great Seal Committee of the Continental Congress selected Francis Hopkinson, Chairman of the Continental Navy Board's Middle Department, as its consultant. A seal was needed to symbolize America's sovereignty. In his proposals, Hopkinson included a shield with 13 alternating red and white stripes on a blue field, as well as 13 six-pointed stars enclosed in a cloud above the shield.

Through various letters and documents, historians have shown that it was in fact Hopkinson who introduced the red, white, and blue shield and constellations of 13 stars to the Great Seal. The design was intended primarily to be for a naval banner, and indeed it was the Navy that first used the early Stars and Stripes described in the Flag Resolution of Saturday, June 14, 1777:

"Resolved, that the flag of the thirteen United States be thirteen stripes, alternate red and white: that the union be thirteen stars, white in a blue field, representing a new constellation."

Mr. Hopkinson's contributions to our heritage were manifold: Numerous seals, flags, and hours of public service. And what did this loyal American request for recompense? He asked for "a Quarter Cask of the public Wine".

Mr. President, as the citizens of Bordentown gather June 14 to commemorate Mr. Hopkinson, I join them and all Americans in celebrating the Stars and Stripes which so many brave Americans laid down their lives to protect, the American flag.●

THE 352D ANNIVERSARY OF ANCIENT AND HONORABLE ARTILLERY COMPANY OF MASSACHUSETTS

● Mr. KERRY. Mr. President, it is an honor for me to rise today to pay tribute to the Ancient and Honorable Artillery Company of Massachusetts and its members. On Monday, June 4, 1990, they celebrated their 352d anniversary.

The Ancient and Honorable Artillery Company, chartered in 1638, was the first military company established in the Western Hemisphere and is the third oldest in the world. This is the company that George Washington knew, that Benjamin Franklin saw march through the streets of Boston, and that has had four of its members elected to the office of President of the United States: James Monroe, Chester Alan Arthur, Calvin Collidge, and John Kennedy.

Its more recent history, under the leadership of Brig. Gen. Joseph A. Milano, captain commanding, includes a visit to the White House as guests of President Bush and hosting Vice President QUAYLE at their headquarters at Fanueil Hall. General Milano's fall tour of the Far East was given a Presidential sendoff from the White House and was highlighted by an audience with the royal family at the Grand Palace in Bangkok, Thailand.

In commemorating the company's 352d anniversary, I congratulate its members for their patriotism and for their continuing commitment to the customs and traditions of the company. Happy anniversary, Ancients.●

HOOKED ON FISHING . . . NOT ON DRUGS

● Mr. ROCKEFELLER. Mr. President, I am pleased to have the chance to inform my colleagues about a unique and promising drug prevention program taking place in West Virginia. As the author of a drug education bill that was incorporated into the anti-

drug package enacted in 1986, I take special pride in the school and community initiatives that have since been launched throughout my State with the help of new Federal support. Harrison County Schools' antidrug program is one such initiative.

Through the inspired leadership of Marcel Malfregot and other school and community leaders, Harrison County is sponsoring a highly popular drug education program, called Hooked on Fishing . . . Not on Drugs. The approach taken by Mr. Malfregot has been to try to unite and involve not only students, but the community as well, in a concerted assault on drugs and the horrors of drug abuse. The Hooked on Fishing Program encourages students to spend quality time with each other and their parents. Community leaders and parents commit time after school and on the weekends to spend with kids in ways that ensure they are learning and enjoying constructive, healthy activities—instead of experiencing the boredom that so often draws them into the depths of alcohol and drug abuse.

Hooked on Fishing . . . Not on Drugs is a shining example of a community-wide effort to get kids away from drugs and educate them at the same time. Nationally known fishermen have participated in the program, local businesses have donated equipment, and community sports clubs have devoted leadership and resources to this special effort.

Mr. President, this is one of many local antidrug programs that demonstrates positive and creative ways to fight the war on drugs. My hope is that Hooked on Fishing . . . Not on Drugs will inspire local schools, community groups, parents, students, and leaders to come up with approaches that make the most sense for them. Time and effort must be invested in positive activities for our young people—and on efforts that build self-esteem and motivation—in order to steer them away from the destruction of drugs and alcohol. I know I speak for all of my colleagues in congratulating everyone in Harrison County who is part of this special effort.●

BACK FROM THE DEPTHS IN EASTERN EUROPE

● Mr. ARMSTRONG. Mr. President, Mr. Eugene F. Megyesy is a member of a family that escaped from Hungary in 1956. Mr. Megyesy, after several recent trips to explore ways to help his native land restore itself, has concluded: "The Communist governments have, either through neglect, ignorance or design, destroyed the economies, the environments, and the ethics—three E's in all of the countries of Eastern Europe."

This quote is from an exceptionally interesting article by Mr. Megyesy entitled "The Way to the Depths and Back in Eastern Europe." I commend it to my colleagues particularly because of Mr. Megyesy's discussion of the importance of the restoration of ethics to the rebuilding of Eastern Europe. In his view, the countries of Eastern Europe must "reestablish their moral values to rebuild their economies and clean up their environment."

Because we have long accepted strong moral and ethical standards as objectives for our society, it is easy to underestimate the critical importance of these values to the success of our own economy and environment. Mr. Megyesy has a strong message for Eastern Europe which is also of profound significance to our own Nation. While the failure of the Communist economies is now apparent to all, the wide range of scandals which now afflict us should make us aware of the importance of ethics to our own free-enterprise economy.

We cannot fix the S&L crisis, for instance, by simply changing a few rules. The solution to our problems and ultimately the success or failure of our society depends upon whether we maintain a foundation of strong ethical and moral values. Mr. Megyesy's insight into the pathway to restore Eastern Europe also provides powerful guidelines for us in dealing with our own problems here at home. There is no substitute for what Mr. Megyesy calls the third "E," ethics. Certainly, Congress must demonstrate leadership in this area if we are to maintain ethics as the pivotal value in our society.

I ask that the article written by Mr. Megyesy be printed in the RECORD.

The article follows:

THE WAY TO THE DEPTHS AND BACK IN EASTERN EUROPE

(By Eugene F. Megyesy, Jr.)

This history-making political metamorphosis in Eastern (Central) Europe will have profound and lasting effects upon the entire world, including the United States. However, the underlying causes of the rapid political changes must be understood and addressed, so as to assure that they are permanent and will result in stable and independent democracies. The communist governments have, either through neglect, ignorance or design, destroyed the economies, the environments, and the ethics (three Es) in all of the countries of Eastern Europe. The three Es are key to any healthy nation, and their mismanagement and destruction are underlying causes for the current political changes. These three elements are integrally interrelated, and addressing them simultaneously will present a formidable task. Failing to properly balance economic, environmental or ethical considerations will continue the turmoil in the area and not lead to stable new societies.

The centrally planned economies, forced upon Eastern Europe by the Soviet Union, were not directed by experts, but by party comrades. The attempted integration of all of the Eastern European countries into a single economic bloc was a total failure. State ownership and direction of all means of production and services destroyed individual incentive, and opportunities for entrepreneurs were foreclosed.

Investments and projects were undertaken without regard to profitability, the environment or national interests. Outmoded polluting technologies and the lack of individual incentive destroyed the environment and produced expensive products of low quality that could not be marketed. The standard of living began to decline as national resources were being spent on wasteful capital investments to rebuild the Soviet Union following World War II and on the new "nobility" of party functionaries enjoying costly privileges at the expense of the national wealth.

All of these factors pushed the standard of living to lower and lower levels, forcing workers to look for other sources of income. State-owned property administered by a cumbersome bureaucracy was a convenient source of added income. A second economy based upon corruption, theft and smuggling developed, as it was impossible to provide for basic needs without participation in this black market. The leadership and bureaucracy were engaged in the same practices.

The senseless industrial complexes were constructed and operated in total disregard of environmental considerations. In fact, questions regarding environmental issues raised by the public were ignored and considered matters of state security and, therefore, secret. Although some stringent environmental regulations exist on paper, they have been ignored in practice. The payment of penalties for violating environmental standards was cheaper than the installation of controls. Furthermore, environmental controls and penalties were enforced by and paid to the same entity, the state. The faceless bureaucrats and politicians, who unscrupulously came to power by force and were not responsible to the public, were equally without a conscience as they totally ignored the environment in their decision-making process. As a result, the state of the environment in Eastern Europe is tragic.

A continual haze is created by the smoke belching from factories and automobiles, often irritating eyes and the respiratory system. The blue Danube and other rivers are no longer blue as the industries and cities lining their banks discharge untreated sewage. Solid, hazardous, and nuclear wastes are stored and buried without any safeguards, resulting in pollution of the soil and drinking water supplies. As an example, in Hungary approximately 200 communities must use bottled drinking water and it has been estimated that ten percent of all deaths are due to environmental causes. The pollution and its consequences are even worse in East Germany, Poland, and Czechoslovakia. In sum, the governments of Eastern Europe have pillaged the environments as they have bankrupted the economies.

The illegal manner in which the communist governments came to power and their over forty-year rule display a total lack of ethics or morality. In spite of the rhetoric emphasizing the priority of state interests over individual rights, selfishness became the rule, as leaders set the example by abusing their power, acquiring illegal wealth and tolerating corruption. Communism failed to provide moral standards for individual behavior, and in fact prohibited and restricted institutions that taught those standards. Unethical and unscrupulous individuals destroyed ingredients which are essential to any society, the economy and the environ-

ment. Societies must have norms to apply to their economic lives and to safeguard their environments.

The countries of Eastern Europe must reestablish their moral values to rebuild their economies and clean up their environments. The three Es are totally interrelated, and decisions will require a difficult balancing of these factors. The limited financial resources will have to be wisely spent to revitalize the stagnant economies, while cleaning up and protecting the environment. The abuse of power and corruption must be eliminated and politicians must recognize that the economy is for the benefit of all citizens. There is a need for strong moral leadership from the emerging politicians.

State control and selfishness must be replaced by a set of moral norms, which properly balance individual rights and state powers. Although one cannot expect immediate transformation of these societies, the citizens in Eastern Europe are yearning for honesty and decency. The West should not only be a source of hard currency, but must assist and respect these desires by not exploiting those economies and environments. Governments and investors need to set an example and apply strict ethical standards to dealing with those fragile economies and environments. It is in the interest of all to build stable, trusting and mutually beneficial and ethical relationships with these countries. The establishment of productive economies and healthy environments based upon ethical standards will ultimately benefit the world.

[Mr. Megyesy, an attorney in Denver, escaped from Hungary in 1956.]●

TRIBUTE TO COACH GEORGE ALLEN

● Mr. WILSON. Mr. President, I rise today to pay tribute to Coach George Allen, who will be inducted into Washington's Touchdown Club Hall of Fame on Thursday, June 7.

As all of us in Washington know all too well, George Allen is no stranger to success, or for that matter to this city. His primary achievements took place on the gridiron, where he was a dominant factor in the success of three professional football teams in the 1960's and 1970's. He began his coaching career in professional football as defensive coordinator of the Chicago Bears, where he coached a defense that spearheaded the Bears' championship season in 1963. From 1966 to 1970, George Allen headcoached a Los Angeles Rams team that had suffered seven consecutive losing seasons prior to his arrival. Under his tutelage, the Rams enjoyed five consecutive winning seasons, had its best season in their history in 1969, and fielded one of the most feared defenses in the league, lead by the famed Fearsome Foursome.

In 1971, he took over as the head chief of the Washington Redskins. Like the Rams, the Redskins had not enjoyed much success prior to his arrival, having had only one winning season in 15 years. In his first year, George Allen fielded a team of veterans on the doorstep of retirement and took them to the playoffs. The very next year, the Redskins, affectionately nicknamed the "Over the Hill Gang" went all the way to the Super Bowl.

For 14 seasons as a head coach of four professional football squads, Coach George Allen led his team to victory 166 times, and he is the only coach with over 100 victories to never suffer a losing season.

The secret to Coach Allen's success can be found in two words: inspiration and innovation. A master of cliches, Coach Allen was the quintessential practitioner of the pregame pep talk. It was Allen who coined the oft-used axioms, "The Future Is Now" and "Losing Is Slow Death" and the concept of giving 110 percent. He is a wizard of invention when it comes to physical fitness, clearly envisioning before it was popular the kind of training needed for complete fitness.

Our Nation has been the fortunate recipient of George Allen's commitment to physical fitness. President Nixon tapped him to become Chairman of the President's Council on Physical Fitness and Sports, a position he held for 7 years. As Chairman, he was a tireless international lecturer, champion of young people's physical fitness, and creator of the Soviet Youth Fitness Test Exchange Program used today in over 281 schools throughout the Nation.

Today, Coach Allen continues his commitment to fitness in his position as chairman of the National Fitness Foundation from which he is overseeing the development of the first U.S. Fitness Academy.

Of the many reasons I am privileged and honored to salute George Allen in this Chamber of the U.S. Senate, foremost in his status as a fellow and treasured Californian. Next fall, this remarkable man, at age 72, will undertake yet another challenge on the football field when he becomes head coach of the Long Beach State University football team. I cannot help but feel that this man, who has achieved such victory in the course of his successful life, will triumph in this endeavor and continue one of the most renowned winning streaks in history.●

THE 25TH ANNIVERSARY OF THE LOGAN FORESTRY SCIENCES LABORATORY

● Mr. HATCH. Mr. President, I would like to take this opportunity to congratulate the Forest Service's Intermountain Research Station on the productive research accomplished at its Logan Forestry Sciences Laboratory in Logan, UT. The laboratory is celebrating its 25th anniversary this year and has much of which to be proud.

The research projects conducted at the laboratory have contributed to wise management of western forests and rangelands and to protection of soil and water resources. Specifically, they have dealt with biology and management of aspen, management of high-elevation range areas, water yield improvement, western conifer diseases, and mined-land reclamation.

The research project currently operating at the laboratory has developed guidelines for revegetating mined lands and other disturbed sites. Now its scope is being broadened to study cumulative effects of land uses—such as mining, grazing, and recreation—on water quality, erosion, site productivity, and riparian vegetation.

I invite you to join me in congratulating the Logan Forestry Sciences Laboratory on 25 years of accomplishment and wishing it success as it embarks on new studies to protect and reclaim the Nation's natural resources.●

THE 1989 FINANCIAL STATEMENT AND INCOME TAX INFORMATION OF SENATOR ROBERT W. KASTEN, JR.

● Mr. KASTEN. Mr. President, I ask that my 1989 financial statement, my Federal income tax form 1040 for 1989, and my Wisconsin income tax form 1 for 1989 be printed in the RECORD.

The material follows:

Robert W. Kasten, Jr., financial statement December 31, 1989

Assets:	
Washington, D.C. home	$304,000
Household goods/personal property	35,000
Automobile (Ford '86 Taurus)	5,800
Life Insurance Policy (net cash value)	3,852
Credit Union account	1,443
Checking accounts	1,240
Stocks	41,840
IRA	5,076
Offset Civil Service Retirement Program	30,981
Total	429,232
Liabilities:	
Perpetual Savings Bank, Alexandria, VA	91,180
First Wisconsin National Bank, Milwaukee, WI	94,965
Total	186,145
Net worth	243,087
1989 Taxes paid:	
Federal	38,563
State (Wisconsin)	11,121
Total	49,684
1989 Income:	
Senate salary	89,500
Honoraria	35,565
Total	125,065

U.S. INDIVIDUAL INCOME TAX RETURN, 1989, ROBERT W. KASTEN, JR., AND EVA J. NIMMONS KASTEN

INCOME

7. Wages, salaries, tips, etc. (attach Form(s) W-2), $154,126.

8a. Taxable interest income (also attach Schedule B if over $400), $929.

9. Dividend income (also attach Schedule B if over $400), $2,000.

10. Taxable refunds of state and local income taxes, if any, from worksheet on page 11 of instructions, $881.

12. Business income or (loss) (attach Schedule C), $37,800.

13. Capital gain or (loss) (attach Schedule D), $-3,000.

23. Add the amounts shown in the far right column for lines 7 through 22. This is your total income, $92,736.

ADJUSTED GROSS INCOME

31. Subtract line 30 from line 23. This is your adjusted gross income. If this line is less than $19,340 and a child lived with you, see "Earned Income Credit" (line 58) on page 20 of the instructions. If you want IRS to figure your tax, see page 16 of the instructions, $192,736.

TAX COMPUTATION

32. Amount from line 31 (adjusted gross income), $192,736.

34. Enter the larger of: Your standard deduction (from page 17 of the instructions), or your itemized deductions (from Schedule A, line 26), $44,892.

35. Subtract line 34 from line 32. Enter the result here, $147,844.

36. Multiply $2,000 by the total number of exemptions claimed on line 6e, $6,000.

37. Taxable Income. Subtract line 36 from line 35. Enter the result (if less than zero, enter zero), $141,844.

38. Enter tax. Check if from: a—Tax Table, b×Tax Rate Schedules, or c—Form 8615. (If any is from Form(s) 8814, enter that amount here, $39,043.

40. Add lines 38 and 39. Enter the total, $39,043.

CREDITS

41. Credit for child and dependent care expenses (attach Form 2441), $480.

44. General business credit. Check if from: a—Form 3800 or b—Form (specify), None.

46. Add lines 41 through 45. Enter the total, $480.

47. Subtract line 46 from line 40. Enter the result (if less than zero, enter zero), $38,563.

OTHER TAXES

49. Alternative minimum tax (attach Form 6251), None.

53. Add lines 47 through 52. Enter the total, $38,563.

MEDICARE PREMIUM

55. Add lines 53 and 54. This is your total tax and any supplemental Medicare premium, $38,563.

PAYMENTS

56. Federal income tax withheld (if any is from Form(s) 1099, check, $34,591.

57. 1989 estimated tax payments and amount applied from 1988 return, $2,000.

60. Excess social security tax and RRTA tax withheld (see page 20), $1,248.

63. Add lines 56 through 62. These are your total payments, $37,839.

REFUND OR AMOUNT YOU OWE

67. If line 55 is larger than line 63, enter amount you owe. Attach check or money order for full amount payable to "Internal Revenue Service." Write your social security number, daytime phone number, and "1989 Form 1040" on it, $724.

WISCONSIN INCOME TAX, 1989,
ROBERT W. KASTEN, JR., AND EVA J. NIMMONS KASTEN

FILING STATUS

1. Federal adjusted gross income (from line 31 of Federal Form 1040 or line 13 of Form 1040A), $192,736.

2. Additions. Complete Schedule 1 on page 2, $2,500.

3. Add lines 1 and 2, $195,236.

4. Subtractions (state income tax refunds, etc.). Complete Schedule 2 on page 2, $881.

5. Subtract line 4 from line 3. This is your Wisconsin income, $194,355.

6. Tax. (Caution: Please read page 9 of instructions.) Check if from—Tax table or—Special Tax worksheet, $13,228.

7. Dependent credit (do not count yourself or your spouse, see page 9). Fill in number of dependents, $50.

9. Wisconsin itemized deduction credit. Complete Schedule 3 on page 2, $1,557.

10. School property tax credit, b: Property taxes paid on home in 1989, $2,016. Find credit from table, page 11, $200.

11. Add lines 7 through 10b, $1,807.

12. Subtract line 11 from line 6. If line 11 is larger than line 6, fill in zero (0), $11,421.

13. Alternative minimum tax. Attach Schedule MT, none.

14. Add lines 12 and 13, $11,421.

15. Married couple credit. Complete Schedule 4 on page 2, $300.

16. Subtract line 15 from line 14. If line 15 is larger than line 14, fill in zero (0). This is your net tax, $11,121.

20. Add lines 16 through 19, $11,121.

21. Wisconsin income tax withheld. Attach readable withholding statements, $6,502.

25. Net income tax paid to other states, see attachment 1, $5,453.

28. Add lines 21 through 27, $11,955.

29. If line 28 is larger than line 20, subtract line 20 from line 28. This is the amount of your refund, $834.●

RETIREMENT OF MARGARET A. STORY

● Mr. LUGAR. Mr. President, I would like to take this opportunity to ask my colleagues to join me in saluting Mrs. Margaret A. Story, who will retire on June 1, 1990, after completing over 42 years of Federal service. Mrs. Story has devoted 21 years of service in the Office of Legislative Liaison within the Office of the Secretary of the Air Force as a congressional liaison.

Mrs. Story began her civil service career in 1948 as a secretary in the Office of the Deputy Chief of Naval Operations [Air], Fleet Operations and Readiness. In 1959, Mrs. Story joined the Department of the Air Force working as a secretary in the Office of the Assistant Secretary for Financial Management. In 1962 she became the Administrative Assistant to the Air Reserve Forces Policy Committee. From January through August 1968, she assumed duties as the executive secretary to the chairman and staff director, Committee on Nonmilitary Instruction.

In 1968, Mrs. Story was named assistant press officer for the White House Commission on the Causes and Prevention of Violence. She was instrumental in gaining media and public understanding of the root causes of violence in several major cities following the assassination of Dr. Martin Luther King. With the conclusion of the Commission's work in 1969, Mrs. Story moved to Capitol Hill, becoming a legislative specialist for the Air Force in the Russell Senate Office Building. Having demonstrated her competence in working with Members of Congress and their staffs, Mrs. Story was selected in 1975 to be a legislation specialist in the legislative branch of the Office of the Secretary of the Air Force. She assumed the duties of her present position in 1977. As a congressional liaison representative, Mrs. Story has been responsible for responding to Air Force constituent inquiries in 23 States, including Indiana.

During her 21 years with the Office of Legislative Liaison, Mrs. Story has provided dedicated and professional service to both the U.S. Senate and the House of Representatives. She has developed close working relationships with many of our staffs, and her efforts have greatly enhanced congressional understanding of Air Force personnel matters. The distinctive accomplishments of Mrs. Margaret A. Story culminate a long and distinguished career in the service of the Federal Government, and reflect great credit upon herself and the Department of the Air Force.●

REPORT OF THE NATIONAL COMMISSION ON THE PUBLIC SERVICE—1 YEAR LATER

● Mr. ROBB. Mr. President, I call to the attention of the Senate a speech made by Paul Volcker, Chairman of the National Commission on the Public Service before the Council for Excellence in Government on April 11, 1990. I served on the Commission for 2 years and applaud Mr. Volcker's outstanding commitment to the strength and vitality of the public service.

In his speech, Mr. Volcker eloquently discusses the tragic irony of a situation in which the peoples of the world are struggling to establish an American styled democracy, while at the same time, we stand in danger of allowing our own system of government to slip into mediocrity, placing as Mr. Volcker says "the entire enterprise at risk."

If we are to regain the faith and confidence of the American people in our Federal Government, we must strengthen the effectiveness of our Federal employees and restore the perception of public service as an important and rewarding career. Mr. Volcker's speech provides some valuable suggestions toward achieving this goal, and I ask that the speech be printed in the RECORD.

The speech follows:

REMARKS OF PAUL A. VOLCKER BEFORE THE COUNCIL FOR EXCELLENCE IN GOVERNMENT

THE REPORT OF THE NATIONAL COMMISSION ON THE PUBLIC SERVICE ONE YEAR LATER

Comrades in Arms! Fellow champions of the public service:

I am delighted to be with you tonight to salute you and your efforts on behalf of one of this nation's most important—and most beleaguered—causes: the effective operation of the Federal Government. And, I am particularly honored by the opportunity to deliver the first of your Excellence in Government Lectures.

You have been there. You have seen "the elephant."

There is not much I can add to what you already know about the special experience of Government service. You would not be here this evening without having felt personally something of the exhilaration inherent in dealing with critical issues of public policy. Whatever our individual political inclinations or particular specialties, we all recognize the need for professionalism, continuity and, not least, integrity, up and down the line if the public interest is to be well and truly served.

I think I can also assume you know firsthand of the frustrations of public service—and somehow they seem to be getting larger. And, we are all learned in the difficulty—the growing difficulty—of getting and keeping a first-class crew for the ship of state.

Every day we are bombarded with news from at home or abroad that demands an effective response from government. Peace and prosperity; fair opportunities for our people to make a good living and to live in reasonable safety and health; prospects for clean air and water while enhancing economic efficiency—these things and more hang in the balance.

Yet, at the same time, respect for Government and those who serve it has, beyond any doubt, declined significantly in recent decades. In those circumstances it's no wonder that it seems tougher and tougher to attract a fair share of our country's talent to the work of the nation.

What a paradox it is!

How ironic that, at a time when basic American values and ideals are a source of inspiration in so many parts of the world, we seem to be more and more frustrated with our own liability to satisfy urgent collective needs here at home—to fight crime and drugs, to better educate, to rebuild our cities, and all the rest.

Like most central bankers, I have a certain reputation for worrying too much. But never, in my most sleepless nights, did I ever think that in one single year we would see so much evidence to support the thesis of the Commission on the Public Service that reform has become a matter of high national priority.

Two years ago, we used the phrase "quiet crisis" to describe the erosion of morale among civil servants, the apparent lack of public respect, the inadequate pay, the inability to recruit and retain needed talent.

Now, the noise seems almost deafening.

Last year started with stories of outright corruption in Pentagon procurement. Then, the political scandals at HUD competed for headlines with influence peddling in Congress. We even read of bribery at the Food and Drug Administration, one of those agencies we once looked upon with considerable confidence and pride, satisfied that our medicines were the best and our food the safest in the world. In this particular season, we are reminded again of the inability of the Internal Revenue Service to collect the money it is owed or even to promptly, courteously, and consistently answer the questions of honest tax payers. One hardly knows how to characterize the mixture of shortsighted public policy, political influence peddling, and maladministration that will cost hundreds of billions of dollars to make good the guaranty of savings and loan deposits.

And yet, with all this, it's still an uphill battle to get the Congress, the press, or the American people to look at, and deal with, some of the root causes of these problems in the public service. Sporadic cries of alarm about the apparent paucity of experienced candidates for key regulatory or scientific agencies; about threats to the once unquestioned professional standards of our scientific agencies; about the high dropout rates of good young government lawyers or economists—all that sounds a little hollow, when so little time and effort is devoted to changing the situation in a basic way.

Sometimes it seems that the only response we can find to the ethical lapses, or perceptions of ethical lapses, of Federal executives is to pile more and more detailed—often incomprehensible—reporting requirements and conflict of interest prohibitions onto existing law. The questions might more reasonably be asked as to why political appointees only stay two years or so, on the average, on the way to another job; why even so called "careerists" find it harder and harder to think of public service as their career; and why those circumstances may enlarge the risks of conflict of interest.

Well, members of our Commission never thought that our Report, however eloquent and persuasive to us, would by itself ignite reform. For that reason we didn't pack up our bags and quietly slip out of town after we gave the Report to the President and leaders of Congress a little over a year ago. Instead we decided to stick around for a while to lend a hand where we thought we could be helpful in stimulating discussion, in advancing our proposals, and in encouraging other groups with a continuing professional or public interest in reform. In other words, we have tried to be realists—we thought our Report could be a useful beginning, if only a "step in the process."

Now that we are nearing the end of our particular run, it's time to take stock of where we stand, with the comforting thought that there are others—not least your own Council—prepared to pick up the baton.

In that respect, it is no small coincidence, I think, that six members of our own Commission—Bill Coleman, Paul O'Neill Elliott Richardson, Rocco Siciliano, and Sandy Trowbridge as well as myself—are also "Principals" of the Council. All of us have shared that special sense of excitement in Government service; equally we share with you a deep concern that Government provide the quality of service that the times demand and the American public has a right to expect.

To provide a more solid footing for a continued reform process, we are trying to encourage the building of a more formal coalition among groups which are interested in strengthening the public service. We hope that effort—initially centered around our Commission, your Council and other veterans like the National Academy of Public Administration and the American Society for Public Administration—will eventually spread to a broader spectrum of the many professional and civic groups concerned with the effectiveness of Government.

Actually getting things done—getting legislation and Executive Orders, better education, and not least some money—is the acid test. No one ever said it would be easy. But, I think we have had a couple of significant breakthroughs in the past year and some promising stirrings on a much broader front.

Most significantly, after enormous pulling and hauling, Congress with Presidential support finally enacted pay and ethics legislation for the top levels of government. Though it might not have accomplished all that we wanted, especially on the Senate side, its significance extends well beyond those immediately affected. Much of the media attention focused on the most senstive point—Congressional salaries. Little noticed was the fact that the measure also applied to senior Federal executives and members of the judiciary. Those increases were hardly generous by some standards. But to take one important illustration, they did at least get the salaries of senior Federal judges to something visibly above what the major law firms are paying new law graduates!

While that pay legislation only directly affects a relative handful in the Executive Branch—less than a thousand of the more than 2 million—it has opened the way for the President to raise salaries for thousands more senior officials and for more comprehensive review of lower level pay scales by the Congress. And there are some hopeful indications that, with top level pay for a time resolved, Congress is ready to take on other proposals of our Commission. Indeed Senator Glenn has written me that he hopes to introduce extensive legislation soon.

Meanwhile, a new President has taken office who proudly calls himself a Federal employee—indeed most of his career has been spent in Federal service.

President Bush once said he had trouble with "the vision thing." But you and I know there is nothing the matter with his vision of the crucial importance of public service and the respect due those who do the work with competence and integrity. His spontaneous meetings with government workers involved in critical recovery operations following Hurricane Hugo and the San Francisco earthquake only reflect what he had already made plain in more formal meetings with career Federal executives when he first took office.

The President has also declared his interest in another, and in a more difficult, way. His budget proposals take encouraging first steps toward improving General Schedule pay, establishing a pilot public service scholarship program, and providing for a permanent advisory commission to oversee the public service.

I think we are also fortunate to have as the Director of the Office of Personnal Management a tough and understanding woman. Connie Newman recognizes the need for renovation and improvement. We particularly appreciate the time and effort she has spent with the Commission, her understanding of our proposals, and her efforts to begin needed dialogues on pay and training.

Her strong emphasis on strengthening the "front line" of Federal agencies—the people who deal directly with the public in delivering services—is both refreshing and important. Someone once said that people take

good service for granted and bad service personally. I think that this is nowhere more true than in citizens' relationship with their Government.

Without a clear and continuing commitment to do a good and courteous job at the point of personal contact between civil servant and taxpayer, public trust and support will always be lacking. Success in that effort won't come about spontaneously. What is at issue is good management, and providing good managers with the resources, training and room for initiative they need to get the job done.

So, as we begin to wind down the work of the Commission, we find ourselves thinking there may be reason for some optimism. But frankly, we have kept that optimism within bounds. In fact, I suspect most Commission members would count themselves by one definition as pessimists—that is, as optimists with experience.

To sum up where we stand today, you could say that we have had a great deal of *glasnost*—or open discussion—on the kind of actions that are needed. But as yet, there has been little *perestroika*—or actual restructuring.

Right at the top of that list of unfinished business is the critical problem of General Schedule pay. Without substantial changes here, efforts to improve the overall quality and competence of the Federal workforce will falter. Senator Mikulski recently warned that the Federal government was becoming the "farm team for the private sector." The larger threat, I fear, is that it might simply descend to bush league status, *without* a capital B.

Fortunately, as I suggested earlier, there are some signs that relevant Congressional Committees are finally beginning to look at the problem seriously. There is still a large question about whether long overdue changes can be accomplished this year, but the whole idea of pay reform—including the idea of locality pay, as the Commission proposed—is on the agenda.

It will not be without its budget impact. But as we said in our report, the President and Congress have got to give a higher budget priority to Civil Service pay. And I have no doubt that a major part of that cost could be balanced—should be balanced—by higher performance and productivity within the civil service.

Strengthening the Presidential Management Intern program is another priority. For a long time, that program was a single "point of light" in a rather dismal Federal recruiting program for talented, career-minded students.

However, years of relative neglect had seen applications and interest among students falling to a point where many schools and government agencies no longer considered it worthwhile. With Connie Newman's encouragement, the program appears to be reviving. But legislative action is necessary to provide a solid foundation for the program, and there is room for significant increases in the number of interns hired each year.

A related item on our unfinished agenda—and a clear favorite of Commission members—is a proposal to establish a Public Service Scholarship Program.

We all know about the job the military has done through the years both in attracting potential leaders to the service academies and in rebuilding young people's perception of the armed forces. We believe that the availability, on a strictly competitive basis, of "Congressional" or "Presidential" Scholarships for talented young men and women, pledging in return several years of public service, would do much to enhance both the quality of key civil servants over time and perceptions of public service among students and the public at large. The Commission suggested that the program, following the precedent of the military academies, might combine nomination by a member of Congress with a selection process based on merit. Full payment of tuition, room and board to a group of, say, 1000 college juniors and seniors could prove to be an enormous bargain for the American public over a period of years.

At a more advanced level, the Commission also feels career employees should be provided greater educational opportunities, including fellowships for advanced degrees.

My personal candidate for potentially the most important reform lies in the area with which you are most familiar—Presidential and political appointees.

No one doubts that, in our system, a new administration will want its own people in key jobs. Moreover, significant flows of experienced people, back and forth, between the private and public sectors are a good way to get fresh ideas, new momentum, and needed technical expertise into the bureaucracy.

We have a tradition of political appointees and career executives working together. What we need to do is make sure that it is an effective partnership.

We are not the U.K., or Germany or France, where only a few dozen go into the Executive with a new government. Much less do we want to be a Japan, where there sometimes seems to me a question whether the bureaucratic consensus isn't more powerful than any government.

Nonetheless, there is a serious question when a good and necessary thing becomes too much. Roosevelt was accused of politicizing the executive branch when (exclusive of Ambassadors) he had fewer than 100 Presidential appointees when he took office. A quarter century ago there were 150. Now there are over 500 positions subject to Presidential appointment with Senate confirmation and another 2500 "political" appointees in the Senior Executive Service and Schedule C.

Instead of these larger numbers assuring performance and effectiveness in executiing a President's program, I'm afraid the opposite is true. Inevitably, the quality of appointments is diluted as one has to find thousands of people below the relatively prestigious Under and Assistant Secretary level. As you know better than anyone, too often available candidates for secondary positions are those whose qualifications are almost entirely political, those who see government as a way station to another job, or those who in fact have difficulty in the private sector.

Looked at from the other direction, the most active, energetic, experienced young foreign service officers, or budget analysts, or Park Service rangers, or lawyers or economists—would be careerists all—simply aren't going to stay when important and influential positions to which they might reasonably aspire are denied to them. I can tell you from my own experience with students that is the way they see life in the Federal Government—and many of the best with a natural bent toward the public service are simply "turned off" by the prospect.

There are already limits on political appointees. Our point is simply that they have been relaxed too far over the years. The Commission was so radical as to suggest that the total might be cut back by a third—all the way to the average levels of the early 1970's.

Conversely, there is evidence that we have gone too far in discouraging good political appointees by the nature of the conflict of interest and reporting requirements. The hassle—and that's really too weak a word—simply leads many honorable and qualified people to stay away. The work done by your Council and others in drawing attention to this area is important indeed.

That all adds up to an ambitious program. Obviously, given consideration and debate, the Commission's proposals will be modified, dropped, or supplemented. Needs will change.

All of that emphasizes the need for some mechanism to keep the state of the public service under active review. To that end, we believe there is a clear need for an advisory body in government which would work with OPM and OMB and the White House, assessing needs and reporting to the President and Congress on what needs to be done.

At this point, I regretfully think we have to admit the Quadrennial Commission on Pay has been a failure; not in one instance after its maiden effort have its pay proposals been enacted. However, it seemed to us the basic concept of a tripartite body, recast into a broader "National Advisory Council on the Public Service," may indeed be appropriate. It would bring together members of Congress, the Executive, and the public at large. The group would meet as it deemed necessary, and should be required to issue a formal report with recommendations every second year. The President and relevant Congressional Committees would then be called upon to respond to such a report and its recommendations.

There are, of course, a lot of areas we did not cover, or of which we hardly scratched the surface. One is the question of "contracting out"—the extent to which increasing privatization of functions previously carried out by government will in fact serve the public and the public purse.

The Commission, as it considered political appointments in the Executive, stepped back from examining the related question of the number of the staff on Capitol Hill. That now numbers over 25,000, and it has more than doubled in size since the early 1970's. No doubt, many extremely able people are included, but the question remains as to whether the net effect is to encourage micro-management of government programs from the Hill.

The Commission was highly conscious of the fact that State and local government officials often confront challenges as serious as those at the Federal level. Those problems are compounded as more and more responsibility is shifted to them from Washington, and they often have few management resources to fall back upon.

At the same time, it is at the State and local level where much of the "action" is these days. Some of those same young people, turned off by what they see as the labyrinth and stultification of the Federal bureaucracy, think they can, as their favorite expression goes, "make a difference" in State and local government. Certainly, with the right leadership in a State House or Mayor's office, experience shows there can be indeed innovation and excitement and satisfaction.

We have, in a small way, been trying to spread that gospel, as well as the need for Federal reform, through a series of regional

dialogues. In some places, leaders of business, government and education are talking together, and thinking about launching commissions or studies of their own.

Just this week, I participated in one of these sessions in Chicago. I was impressed by the turnout—which included both candidates for governor and a host of other local leaders.

One local official involved in the Illinois program put the issue succinctly when he said "our operating assumptions are that doing government work well is important, it's hard, and not enough people give a damn." Well, in many areas, we can respond to him by saying that we can point to instances in which leaders of the local community, once galvanized, do give a damn. I hope that effort will be multiplied.

One particular area where State and local initiative is indispensable is in better educating our young people about the importance of good citizenship and community service. Our report recommended that parents and educators work to elevate the importance of civic education as a part of social studies and history curricula in primary and secondary schools. No doubt, there is a special need—and opportunity—for business to support non-profit organizations and civic groups to help in that grass roots area, among other things providing students with opportunities to practice citizenship skills right in their own communities, close to home.

No doubt, we also need to involve the private sector more systematically in efforts to improve the public service. They can bring resources to bear on the problem—and more important they can stimulate the creative thinking we need. That's one reason that this Council is in such a strategic position, bringing together people from both sectors through its Campus Public Service Weeks and other initiatives.

In that connection, I must also emphasize that both business and Government face a challenge of productively employing a larger proportion of minorities. For society, that is a moral imperative, and it will soon be a practical necessity as well.

Blacks and Hispanics will make up a far larger percentage of new entrants to the workforce in the next decade; in fact, it has been estimated that almost 50 percent of the increase in the workforce in the 1990's will be minorities. Government should be a model for the private sector in this area. It clearly needs to do better.

Well, what does it all add up to? We think we've laid out a sensible agenda and some practical and needed goals. We're encouraged that most knowledgeable observers see it that way.

A start has been made. However sluggishly, the political process is beginning to respond. But clearly that flame will need nurturing.

Those here in this room—and the thousands out there that share your experience and concern—need to tell the story that Government service can for some provide a high like no other.

The public needs to be reminded that Government is crucial: that there are some things it has to do, that it's critically important that it does those things well, and that in the end it is people—civil servants or bureaucrats, call them what you will—that have to do the job.

We all know there's a lot of cynicism out there. But there is also a deep reservoir of interest and enthusiasm for public service—most particularly among the young.

What an exciting and challenging time for young people and our government this should be!

We do need to clean up our air and rivers—and do it without breaking the back of business.

There is space that needs exploring and new energy resources that need to be found.

We need to defeat drugs and make our cities safe. We need to make good health care both available and affordable.

On and on—and all of it involves Government.

Here we are on the brink of an enormous triumph of American ideals and values around the world. Nation after nation wants to emulate our democracy, our freedoms, and our economic success.

How tragic—how totally unnecessary—it would be if at this time of unparalleled challenge and potential success, we let the ordinary processes of democratic government erode and corrode—and put the whole enterprise at risk.

Our work in the Commission on the Public Service—your work in the Council—can only help deal with one part of the equation. But it's an important part—a part that has been neglected too long. It is a part upon which the competence and integrity of the whole of government rests.

It's worth—assuredly worth—our energy and effort.●

WORLD ENVIRONMENT DAY, JUNE 5, 1990

● Mr. BOSCHWITZ. Mr. President, today is World Environment Day.

The theme of World Environment Day this year is, "The Earth Is for Tomorrow's Children." Annual commemoration of this day grew out of the first U.N. Conference on the Environment, held in 1972 in Stockholm. To quote Dr. Mostafa Tolba, the head of the U.N. Environment Program—known as UNEP—"if we are to hand to future generations a planet fit for them, our generation has the urgent responsibility of achieving harmony with the environment."

For World Environment Day this year, UNEP announced the 1990 laureates to its Global Roll of Honor. These are indivduals and organizations who have been recognized worldwide by UNEP for outstanding environmental achievements. I am pleased that one of this year's laureates is Joseph Ling of St. Paul, MN. Dr. Ling has contributed significantly to worldwide intellectual and scientific approaches to environental concerns by applying the concept of waste minimization to a global industrial organization.

In 1975, he inaugurated the Pollution Prevention Pays (3P) Program at the multinational 3M Co., where he served as vice president of environmental engineering and pollution control. According to the U.N. Environmental Program, 3M's program set an example for government and industry worldwide. It has eliminated 122,000 tons of air pollutants, 16,000 tons of water pollutants, 1.6 billion gallons of wastewater, and 400,000 tons of sludge or solid waste. It also saved the company nearly $500 million—which I want to emphasize for the benefit of those who look only the costs of environmental safeguards, and not at the dollar savings often possible.

So I want to commend Joseph Ling and the other laureates being honored today by UNEP. I also want to applaud the Government of Mexico. World Environment Day is being hosted this year by Mexico, which, like the United States, has its share of environmental problems, including urban pollution. Faced with an enormous international debt burden, Mexico is nonetheless struggling to combat these problems.

As the main venue for this year's celebration, the Mexican Government is focusing on the relationship of trees to global warming, a particular interest of mine. That is why a minimum of 5 million trees will be planted throughout Mexico today—as many as possible planted by children. Mexico also wants, on this World Environment Day, to emphasize the need to break away from the world's dependence on fossil fuels and to encourage an international energy policy that supports alternative energy sources and reduces the threat of environmental contamination.

Mexican parliamentarians played an active role in the recent Interparliamentary Conference on the Global Environment, which I and six other Members hosted in Washington last month. I welcomed their significant and very constructive participation in the deforestation working group, which I cochaired. And I commend the Mexican Government for its role in commemorating this year's World Environment Day.●

CABLE REGULATION LEGISLATION

● Mr. NUNN. Mr. President, I would like to draw to the attention of my colleagues the concerns of Scientific Atlanta regarding the cable regulation legislation currently being considered by the Senate Commerce Committee's Subcommittee on Communications.

I recently met with Sidney Topol, the president of Scientific Atlanta, and William E. Johnson, the company's chief executive officer, regarding this issue. As many of my colleagues know, Scientific Atlanta is a Georgia-based corporation that is an acknowledged leader in the communications industry.

From its perspective, the current regulatory environment, particularly the proposed legislative changes pending before the Subcommittee on Communications, impairs the incentives to invest in cable television and advanced technology, undermines American participation in high definition television,

and adversely impacts U.S. international competitiveness.

Although I do not sit on the committee of jurisdiction, and consequently, I am not thoroughly involved with the many complicated issues associated with the communications industry, I hope my colleagues will take the opportunity to review the concerns Scientific Atlanta has raised to me.

Mr. President, in the interest of furthering the discussion on this important issue, I ask that the attached letter and enclosure be printed in the RECORD.

The material follows:

SCIENTIFIC-ATLANTA, INC.,
May 16, 1990.

Senator SAM NUNN,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR NUNN: I am concerned that the proposals currently pending before the Senate Commerce, Science, and Transportation Committee to reregulate cable television will seriously damage the incentives and capital availability to invest in the new technology needed to give future value to consumers, to make cable competitive with technology improvements from alternative video entertainment sources, and allow this industry to achieve a worldwide leadership position for the U.S.

For many years, from the 1950s through the early 1980s, cable television struggled under an adverse regulatory scheme, was undervalued and its rates ran 75 percent behind the cost of living in the last ten years alone. Deregulation in 1984 led to four major benefits for U.S. consumers and our worldwide competitive position which need to be preserved and supported.

1. Economic incentives for cable operators to improve value to consumers with major investments in programming and new technology. Scientific-Atlanta made a three-fold increase in R&D for cable products and technology and over 90 percent of the products we are delivering to the industry today have been introduced in the past 20 months. We are now introducing: a new distribution system combining fiber optics and high performance coax technology to improve picture quality, reliability, and channel capacity; and a new transparent, but addressable system into the home which is friendlier to the consumer and gives the cable operator flexibility to better manage his program offerings and respond to consumer desires more quickly and efficiently.

2. Continued technology investments are necessary for cable to be competitive with other forms of home video entertainment, many of them foreign made, whose technologies are rapidly improving their capabilities. These include VCRs, video laster disks, Direct Broadcast Satellite and MMDS. The true competitive alternatives which require cable to enhance its value to consumers are much broader than recognized in the "look alike" approach in existing and planned legislation.

3. A strong U.S. market encouraging new technology and programming has made cable one of the few American industries with superior worldwide competitive capabilities. International markets are taking off and will approach the size of the U.S. market by the late 90s. Penetrating foreign markets is not only an opportunity, it is essential to protect our strong position at home.

4. Deregulation has motivated investment in strategic technology for higher resolution video systems, including HDTV transmission due to anticipated future cable industry needs. Presently, Scientific-Atlanta is the worldwide leader in commercializing this technology over satellite.

Cable television is criticized for reasons that are more perceptual than substantive. While there is anecdotal evidence of large rate increases, the GAO found that cable rates on a per channel basis have barely increased at all since deregulation and are actually down when adjusted for inflation. Rapid growth has resulted in customer service problems, but cable operators are quickly professionalizing their operations and new technology will reduce service requirements. There have been complaints about access to programming, but re-regulation is ultimately self-defeating because it will drastically reduce the incentives to expand programming and will increase complaints about program access.

Proposals to re-regulate cable will place the industry in a straightjacket unnecessarily. Rate increases are not the real issue, consumer choice is. Most of the complaints about large rate increases are the result of consumers being required to pay more money, but for more channels. Since deregulation cable has gone through a process of upgrades to expand programs and channels offered as well as "tier collapsing" whereby consumer must but a larger package of services as the minimum "Basic" offering. Encouraging the industry to move to a smaller basic service with a number of additional program tiers would give consumer adequate choice to tailor programming to their needs and perceived value. This greater consumer choice would insure affective control of the future relationship between price and value of program offerings, and yet not destroy the more narrowly focused programs as with a fully 'a la carte' approach.

There have been some abuses, but any re-regulatory effort should be carefully targeted only at real abuses that cannot be corrected by market place forces and not stifle a whole industry that has brought the consumer so many exciting programming offerings at an excellent comparative price to other video entertainment.

Any such proposal should also encourage investments in improved services and technology, addressability and HDTV, as well as strengthening our worldwide competitiveness. In our judgment, the current proposed legislation discourages these investments and weakens our competitive posture. For these reasons, I ask that you:

1. request Senator Hollings to incorporate the attached amendment in any legislation marked up by his committee;

2. insert our views on cable re-regulation in the Congressional Record since we were not afforded the opportunity to have our position considered in the hearings prior to the mark-up now scheduled for the first week in June.

Since there appears to be overwhelming support on the Senate Committee for legislation which would help insure the future value to consumers of cable, our amendment would not alter the basic regulatory scheme in the bill, but would seek to ameliorate some of the damage to technology and programming investment incentives to enhance value and international competitiveness. Specifically, our proposal would require the FCC to: (1) build in incentives for advanced and strategic technology, including HDTV; (2) take into account the impact of its rulings under the Cable Act on the competitiveness of American business; (3) focus its regulatory efforts on abuses; (4) provide the consumer greater choice in the marketplace through "retiering"; (5) consider multiple tiering options an alternative video delivery technologies as giving the consumer the benefits of effective competition through greater consumer choice; and (6) "hold harmless" cable operators for their investments in advanced technology while the new regulatory scheme is being developed. These changes would not alter our basic views that this legislation is harmful both to technology and our competitiveness, but given the current political climate these proposals would at least mitigate some of the likely damage.

This legislation is critical for many of the 3500 employees in our company and, I believe for our international competitive position in advanced video technology and HDTV. I hope that you will be able to assist us.

Sincerely,

———— ————.

AMENDMENT

Section 5 of the bill is amended by adding at the end thereof the following:

"(e) In prescribing rules under this Act, the Commission shall—

"(1) provide incentives for the development and implementation of advanced technologies, including those which provide addressable control, flexibility, and consumer responsiveness; picture quality, reliability, more attractive service offerings and provide transparent and user friendly interfaces with consumers;

"(2) remove any barriers relative to the early deployment of High Definition Television or other Advanced Television Systems (as determined by the Commission) and provide incentives for investment in bringing such systems to the consumer;

"(3) seek to improve programming and other services;

"(4) take into account the impact of its rules on the competitiveness of American businesses;

"(5) focus its regulatory efforts on abusive rate increases that cannot be corrected by market place forces;

"(6) recognize the impact of other competing video entertainment technologies on cable when evaluating the existence of effective competition including VCRs and video disks/rentals, DBS, and MMDS."

"(7) Consider the existence of a number of program tier options which give the consumer greater choice over program selection and price value relationships as giving the consumer the benefits of effective competition."

TRANSITION RULE

At the end of section 18 of the committee staff draft, insert the following:

"(b) In determining the reasonableness of a rate, the Commission shall ensure that cable operators are not penalized for any investment in technology and system rebuilds and upgrades made prior to the effective date of this Act and any regulation promulgated by the Commission."

SCIENTIFIC-ATLANTA'S POSITION ON CABLE REGULATION, ADVANCED TECHNOLOGY AND HDTV

Scientific-Atlanta is concerned about the current regulatory environment and how it is impairing the incentives to invest in cable

television and advanced technology, undermining American participation in High Definition Television and adversely impacting U.S. international competitiveness.

Scientific-Atlanta brings a unique perspective to the current debate on cable reregulation. The company is a leading supplier of cable television equipment; the world's leading supplier of satellite communications equipment with more than 50,000 locations in over 100 countries; a supplier of broadcast TV equipment and test equipment for telephone companies; a U.S. exporter with a compound annual growth rate in export sales over 20 years in excess of 20 percent—total export sales last year alone increased from 15 percent to 20 percent of total sales; and the worldwide leader in commercializing high definition television satellite transmission.

Scientific-Atlanta believes that the issues in the cable reregulation debate must be viewed within the framework of how to maintain the unprecedented level of video services and technology which have been made available to the consumer; further the U.S. role in the next generation of video in the home marketplace—in Washington parlance HDTV; and facilitate American participation in the newly emerging global marketplace.

THE BENEFITS OF DEREGULATION

The deregulation of cable television has led to four major benefits for U.S. consumers and this country's worldwide competitiveness.

1. Technology: Major investments in new technology and programming have improved value to the consumer.

2. Competition: By encouraging new technology investments, deregulation has allowed the industry to compete with other forms of delivery of video entertainment to the home.

3. International competitiveness: The development of programming, technology and operating expertise which has been spawned by deregulation has also positioned the cable industry as one of the few American industries which has superior competitive capabilities in addressing world markets.

4. HDTV: The emphasis on improving service offerings has motivated technology investments in HDTV and positioned cable for being able to provide HDTV to the public.

There is no question that without deregulation these benefits would not have been achieved, nor will they be sustained in the future if investment incentives are damaged by re-regulation.

CABLE TELEVISION—TECHNOLOGY LEADER

Based on substantial experience in both regulated and unregulated markets, Scientific-Atlanta believes that a market free of extensive regulatory controls tends to foster more investment in the development of new technologies. A more regulated market, particularly where there is rate regulation will reduce the incentives to invest in product development, customer service and new technologies. Deregulation of the cable industry was one of the most important factors to spur development and deployment of the state-of-the-art products now in use in U.S. cable systems.

Deregulation provided the economic incentives for cable operators to make major investments in programming and new technology which have provided major benefits to U.S. cable consumers. These investments led to a dramatic increase in the quality and variety of programming available on cable systems. The number of channels included in basic service has been increased dramatically, and many new pay services, including pay per view, have been added as well as a result of these investments. The following chart provides an illustration of the increase in the number of channels available to subscribers:

PERCENT OF SUBSCRIBERS BY SYSTEMS' CHANNEL CAPACITY

	Number of channels			
	54 plus	30 to 53	20 to 29	Under 20
1989	21	66	9	4
1984	6	51	21	22

Source: Warren Publishing, Television & Cable Factbook.

Cable operator's capital investments have increased and the nature of their purchases have changed in order to provide more value to the consumer.

Cable industry expenditures on plant rebuilds and upgrades

1985	$254,000,000
1986	248,000,000
1987	292,000,000
1988	417,000,000
1989	515,000,000

Source: Cablevision.

Spending for new builds and extensions decreased in the mid-80's as most of the U.S. was wired for cable television. However, under deregulation new builds and extensions increased as cable operators found it economical to build plant to less densely populated areas.

Deregulation also resulted in a significant increase in rebuilds and upgrades of existing plant. A rebuild involves completely changing our existing coaxial cable and distribution electronics. In an upgrade certain of the electronics are replaced. The result of both a rebuild or upgrade is an increase in the number of channels offered along with improved reliability and picture quality. Prior to deregulation, operators were often reluctant to improve their existing plant as the process of translating these additional capital expenditures (and resulting improved service) into rate increases was often arduous or impossible and was based more on political maneuvering than return-on-investment/value analysis. This situation resulted in several negatives to subscribers—they did not have access to the latest technology and the variety of programming was fixed at a low level (i.e. 20 channels).

Deregulation, by restoring the link between investment and return, provided cable operators with incentives to upgrade their investment in cable plant, providing more value to the consumer. This emphasis by cable operators on improving value to the consumer as a result of reregulation has led Scientific-Atlanta to make a three fold increase in R & D investments in our cable television business.

This has resulted in new products and technology to support cable operators' efforts to improve the variety, the picture quality, the reliability, and the consumer friendliness of their service offerings. Over 90 percent of the products which we are delivering to the cable industry today have been introduced in the past 20 months. Examples of the advancements in technology which have been made and their benefits to consumers follow:

As part of the increased investment in distribution plant, cable operators have driven equipment suppliers to provide higher bandwidth electronics capable of delivering many more channels of programming. A few of the advances which have been made in the years since deregulation include: A new feedforward technology which allows the enhancement of picture quality as well as easier addition of new channels; 550 MHz equipment capable of carrying up to 78 channels; and agile modulators, which allow cable operators to more quickly respond to possible channel outages.

The following chart indicates our estimate of how operators' purchases of distribution equipment have changed:

EQUIPMENT PURCHASES BY CHANNEL CAPACITY

[In percent]

	1986	1989
21	20	0
36	40	10
54	20	15
60	20	60
78	0	15

The increase in miles of plant rebuild and upgrades coupled with the move toward higher bandwidth equipment account for the dramatic increase in channel capacity, stimulating the growth of the programming industry and providing subscribers with more viewing alternatives.

Major advances in in-home technology include the development and/or widespread deployment of: addressable converters which offer many enhanced consumer features such as volume control, VCR times and parental control. Addressable converters also benefit the consumer by making it much easier and cheaper to add, delete or switch services.

Volume control nonaddressable services.

Impulse pay per view technology.

Increased reliabililty of all converters.

Learning remote controls, which allow the consumer to use only one remote control for the TV, VCR and converter.

Cable operators have substantially increased their investment in these technologies as evidenced in the following chart:

Shipment of addressable convertors

	Millions
1985	$3.5
1986	3.5
1987	4.7
1988	4.8
1989	4.9

Source: Paul Kagan Associates, Cable TV Technology July 24, 1989.

In addition, we are now installing the next generation of technology—total system architecture. This integrated approach combines two distinct but complimentary systems—a new system for the distribution of signals and a new interface with the subscriber.

The new distribution system combines the use of fiber optics technology with high performance coax technology to significantly improve picture quality, reliability, marketing flexibility and channel capacity. This technology incorporates the many advances made in the last two years in the carriage of video signals over fiber and will ultimately permit cable systems to migrate to providing high definition television. Many hybrid fiber optic systems have already been installed (some cable operators have over 20% of their systems installed with fiber cable), and as technology advances and costs decline operators will deploy more and more

fiber deeper into their systems and closer to the subscriber or consumer.

Projections for fiber route miles installed a year by the CATV industry

	Miles
1989	1,900
1990	3,500
1991	6,000
1992	9,200
1993	11,500
1994	15,500

Source: Paul Kagan Associates, Cable TV Technology, October 13, 1989.

Due to the nature of cable system architecture, fiber technology would be particularly vulnerable in any environment with rate reregulation. Operators would have less incentive to install fiber, because it usually supplements already existing distribution lines and the increases in channel capacity and picture quality would be hard to justify if the costs must fit under a rate ceiling.

The new subscriber interface we have developed is called Interdiction and is currently in use in Williamsburg, Virginia. Interdiction allows the cable operator to both modify program tiering and offer new services as well as individually address services ordered by a subscriber without the need for the delay and cost of a house visit and without the limitations associated with a descrambling converter in the home or traps outside the home. This will provide an extremely friendly, transparent interface for the subscriber, faster customer response, and allow for greater marketing flexibility in offering the subscriber greater choice in program selection. We believe this greater choice is central long term to controlling cost increases for programming and hence price increases for cable service. This technology provides the cable operator the flexibility to easily restructure program tiers and individual offerings to allow the consumer to choose only those offerings where he or she feels price and value are matched. These and other new technologies are being sponsored by cable operators as well as Cable Labs, which has been set up by the industry to help spur the development of new value-added technology.

This new technology has important public policy implications. Most of the complaints about large rates increases are the result of consumers being required to pay more money, but for more channels. Since deregulation, cable has gone through a process of "tier collapsing" whereby consumers are required to buy a very large package of services. Cable operators now have the capability to offer the consumer more choices and much greater control over rates paid for the service. Our experience prior to and subsequent to the Cable Act of 1984 is that a deregulated market is more responsive to the consumer. A regulated industry focuses on how to maximize profits under regulation, not how to provide more value. Under a scheme of rate regulation, the hiring of additional engineers and customer service representatives may be harder for cable operators to justify economically. Ironically, they may be inclined to engage additional attorneys and accountants to help cope with the new regulatory requirements. Expenditures of this type will not improve customer service or reduce rates.

In addition to general issues about regulation, rate reregulation poses a serious threat to the technological infrastructure of the cable industry. By restoring the link between investment and return, deregulation spurred major improvements in this infrastructure. Cable plant is the conduit through which new programming and services are delivered—improvements such as increases in channel capacity and increases in subscribers set the stage for major growth in the programming industry and provides new outlets for motion pictures. There is no question that damaging investment incentives through reregulation of this industry would stop the investments necessary to adequately deploy new technologies, thereby ultimately damaging the consumer.

COMPETITION IN THE VIDEO MARKETPLACE

By encouraging the cable industry to make new technology investments, deregulation has allowed cable to compete with other forms of delivery of video entertainment to the home. These other technologies are rapidly improving their capabilities and it will be necessary for the cable industry to continue to invest to be competitive. These other means of delivery include video tapes, and more recently new video optical and laser disks. Advancements are permitting those other technologies to offer increasingly better pictures, programming flexibility, and read/write capabilities with the newest innovations, and obtain low cost program availability through ubiquitous rental outlets as well as increasingly competitive selling prices.

To be competitive, the cable operators must further upgrade their systems with new products and technology in order to provide improved picture quality, better service and reliability, more program choice and a friendlier interface with the consumer. In fact, we believe it will also be important for the cable industry to offer DBS as a supplementary premium service to its customers so that it can offer HDTV to compete with VCRs and video disks, keeping them from obtaining a commanding lead early on while the installed based of HDTV sets is still to small to economically justify the fixed investments necessary to carry the service on the entire cable system.

Today there is a broad menu of sources of video information and entertainment available to the consumer. All of these compete for a share of the consumer's time and dollars. Different technologies are competing in each of these sources to provide better picture quality, improved features, reliability, and program flexibility.

In the case of VCRs and soon video disks (the first commercial video laser disk was recently introduced), not only has there been dramatically increasing penetration, but also significantly greater program availability at declining prices. The rental and sales market for video tapes today is a multi-billion dollar market and growing rapidly.

As an illustration of the dynamics of this marketplace, the following chart shows how cable introduced and became the leader in home movie provision, yet VCRs are now dominant.

PAY TV (HBO, ETC.) REVENUE VS. VCR CASSETTE REVENUE

	Pay TV revenue	VCR cassette
Revenue: [1]		
1980	966	0
1981	1,672	398
1982	2,388	707
1983	3,119	1,283
1984	3,625	2,217
1985	3,826	3,572
1986	3,967	4,947
1987	4,238	6,351
1988	4,743	7,899
1989	5,051	9,221

[1] Both sales and rentals.

Source: Kagan Media Index (February 1990) and Kagan Census of Cable and Pay TV (December 1988).

While some cable critics have cited this as an example of the positive effect of competition, Scientific-Atlanta views this as another example of how foreign competition is placing another American industry at risk.

Today, technology and programming advances have made and will continue to make new delivery vehicles competitive with cable. MMDS is another competitor, where the initial cost of entry is significantly lower. Picture quality is excellent, and it is reliable in poor weather. DBS will be a significant competitive alternative.

The competitive situation is dynamic—it is not possible to take a snapshot and draw long-term conclusion from it because the relative competitive position of different technical delivery systems will vary dramatically over time. As previously noted, cable introduced and became a leader in movie provision when HBO and Showtime took off. But today, movie viewing is increasingly controlled by VCRs. In some markets, SMATV is very strong. In this environment, one technology may innovate, but other technologies will consistently move to catch up or overcome those innovations. In the area of picture quality and high definition TV, cable is likely to be in the catch up mode. it will be easier for VCRs and video disks to introduce HDTV into the home because of the one-to-one link up with HDTV sets. DBS is likely to be the second alternative, and cable will have a challenge to catch up because of the need to equip its full infrastructure to provide HDTV service even to a small percent of subscribers with high definition sets. One must take a longer perspective on the issue of competition and avoid hamstringing cable's ability and incentives to be competitive as new levels of capability become required to meet competitive offerings.

The Cable Act uses the term "effective competition" and without resorting to detailed legal technicalities, the definition of this term would appear to hinge on two other definitions—the marketplace and the meaning of "effective".

From a technological perspective, the relevant marketplace should be the home video marketplace where the key delivery systems are over-the-air broadcast, cable, VCRs and satellite. MMDS, SMATV, DBA and other existing delivery technologies are currently a small factor in this marketplace. Long before the current debate over competition, Scientific-Atlanta cited these four delivery systems as being the competitors in this marketplace.

As previously cited, the relative position of different technical delivery systems can vary dramatically over time—the competitive capabilities of over-the-air broadcasting, VCRs, cable and satellite may undergo fundamental transformations over the next few years—they may or may not be replaced by MMDS, DBS, fiber to the home, video laser disks or some as yet unknown technology.

Apparently recognizing the dynamics of competition, the Cable Act uses the term "effective" and not a term such as "direct", "even", or "level". This appears to be a reflection of the home video marketplace where competition never has been and may never be perfect. Requiring an alternative multichannel provider would significantly, if not radically alter the term "effective competition" to what would more appropriately be called "direct competition".

Scientific-Atlanta believes that, at least from a technological perspective, there is competition in the home video marketplace. In addition to the comparison with respect to movie provision cited above, another recent study on sports siphoning done for the NAB found that there is no unequivocal trend for sports to move from broadcast to cable. Sports programming increased on both cable and broadcast. Press accounts report fierce competition between these two delivery systems for sports programming.

Scientific-Atlanta does not maintain that this competition is always "direct", "level" or even "fair", but we believe that given the uncertainties about how the next generation of video to the home will develop, it does meet an appropriate test of "effective competition."

Furthermore, there is another level of competitiveness that needs to be considered, that being foreign versus U.S. Some means of delivery such as VCRs and laser disks are predominantly foreign owned and developed technology. Manufacturers of various types of video equipment abroad have shown strong desires to invest in programming sources in this country—to gain increasing control of both the delivery system and the actual programming content in order to compete strongly with U.S. owned distribution methods.

Therefore, the competitive situation is intensifying, will continue to change dramatically over time, and is not only one of local alternatives, but one of national and international importance. The question of competition is a long-term strategic issue, not just an immediate tactical issue.

Estimates of the value of the cable and broadcasting industries exceed $100 billion. If the value of other delivery medium (VCRs, satellite, MMDS etc.) is included along with television sets and the rest of the programming industry, much more than twice this amount is involved.

The definition of competition must be viewed within the context of protecting these investments and that means who will participate in the next generation of the home video marketplace—HDTV. Equally as important, how can we maximize U.S. involvement in the emerging global marketplace for home video?

INTERNATIONAL CABLE MARKETPLACE—THE AMERICAN EDGE

The development of programming, technology, and operating expertise which has been spawned by deregulation has also positioned the cable industry as one of the few American industries with superior worldwide competitive capabilities:

Over 70 percent of the world's installed base of cable television is in the United States—a vital infrastructure which gives this country an edge in newly emerging technologies such as HDTV and fiber optics. Many of the so-called cable systems in foreign countries are technically inferior and offer a much narrower range of programming.

Almost all cable programming is produced by U.S. firms and with satellite delivery cable news and entertainment is being sent to the remotest regions of the world.

America's cable equipment technology is U.S. owned, far exceeds that of its foreign competitors, and is being installed throughout the world.

American expertise in running cable systems is unparalleled and is being deployed in many foreign countries.

U.S. cable television has excellent export opportunities. Both Western and Eastern Europe, as well as the Pacific Rim markets are now determining what delivery systems will be critical or most important for their next generation of video in the home. A robust U.S. cable market is crucial for generating the resources to penetrate these markets.

International markets are taking off and will approach the size of the U.S. market by the late 1990s. The chart below sets out projected growth between 1989 and 1995 for the United States and the rest of the world.

CABLE SUBSCRIBERS—UNITED STATES VERSUS REST OF WORLD

	1989	1995	Change	
			Number	Percent
United States (millions)	50	66	+16	+32
Rest of world (millions)	24	49	+25	+104

Source: Scientific-Atlanta estimate.

The competitive situation is complex. Cable MSOs and operators in this country compete with manufacturers of VCRs and video disks. We compete with foreign or foreign-owned manufacturers in all segments of our business. This is an industry in which we are in a position to leverage off our domestic capabilities in order to be a major worldwide player. This is not only an opportunity; it is also essential in order to protect our position at home.

For example, when we recently entered the Japanese market for cable equipment, we found that local Japanese manufacturers were supporting a pricing umbrella in their own market about 50% higher than comparable pricing in the U.S. market. Such artificially high prices in Japan help our competitors fund lower pricing in the U.S. market. Accordingly, we entered that market with prices which offered us a fair return, but were significantly below existing price umbrellas, forcing them to compete on a level playing field in both markets. This would not be possible if we did not have the leverage of a U.S. equipment market and continued incentives from cable operators to invest in improved technology. However, one Japanese firm has recently moved aggressively into the U.S. market and we expect others to do so soon.

By contrast, West Germany is being wired for cable by the state monopoly, the Bundespost. While American equipment manufacturers, which are the world leaders, have had success in other European markets in selling cable equipment, Scientific-Atlanta is not aware of any U.S. sales in West Germany, even though 11 million of 26 million TV homes have been passed by cable and 4.6 million homes have subscribed in cities such as Berlin, Bremen, Hamburg, Essen and Frankfurt.

Instead, the Bundespost has selected West German vendors such as Bosch, Fuba, Kathrein and Siemens. The West German Bundespost has been able to keep out foreign competition by overdesigning their products so that no foreign products meet their specifications. The West German market has considerable potential for long term sales. The West German cable system has only 12-15 channels and should expand rapidly through the use of fiber optics and other technology which will expand channel capacity. The remainder of the country must be wired, as well as East Germany when reunification occurs. It will require vigorous action by the U.S. government to open up this market and large investments by equipment manufacturers to penetrate it. If cable is reregulated, it is unlikely that our market will be strong enough to support the large investments required and U.S. manufacturers will probably soon face strong competition from huge West German companies like Siemens and Daimler Benz.

Major market opportunities are opening up throughout the world, in Eastern and Western Europe, the Pacific Rim and in Third World countries. However, major worldwide manufacturing companies and firms many times the size of U.S. manufacturers and cable operators are attempting to enter the cable television market. Therefore, strategically, the continued development of U.S. cable TV programming and technology not only provides an oppportunity for a major export capability, but it is also essential to defend our own market.

While the U.S has the advantage in technology, programming, expertise in running systems and in the installed base of cable, this advantage may be short lived if rates are regulated. Cable rates are higher in the rest of the world than in the U.S.:

COMPARISON OF CABLE RATES—UNITED STATES VERSUS REST OF WORLD

	United States	United Kingdom		Japan
		Basic	DBS sky channel	
Average rate for basic service	$14.77	$14.00	$34.00	$30.00
Average cost of basic channels	32	14	5	25
Cost per basic channel	$0.46	$1.00	$6.80	$1.20

Note.—West Germany: A La Carte, no basic.

Source: Scientific-Atlanta for international data GAO Survey for U.S. rates.

If U.S. rates are held below the rates in foreign countries by U.S. government regulation and foreign competitors use trade barriers to keep the U.S. cable industry out of their higher priced markets, larger foreign companies may quickly overcome the U.S. lead and we will have handed over yet another U.S. industry to the foreign competition. In high technology industries, such as cable television, where the product life is as short as eighteen months and occasionally as short as six months, minor delays can give foreign competition major advantages. Indeed, the current regulatory environment where cable stocks have lost one-third of their value in the six months the cable reregulation debate has escalated while the remainder of the market has been unchanged many historically be viewed as the beginning of the demise of another American industry.

CABLE TELEVISION—AMERICA'S HDTV DELIVERY SYSTEM

Cable television is America's strong suit for participation in HDTV. The equipment market for HDTV is not just TV sets. The delivery system for HDTV is crucial—the market for delivery equipment is currently almost twice as large as the TV set market. Further, almost all 20-inch and over television sets sold in the U.S. are made in the U.S., but the overwhelming majority are made by foreign-owned companies. Politically, it will be difficult to throw Americans working for foreign firms out of work in order to create jobs for U.S. owned HDTV set manufacturers.

Cable television is the American delivery system for HDTV. All of the competing delivery systems, while dependent in large part on U.S. programming, are in large part

manufactured by foreign companies—VCRs are made almost entirely abroad by foreign firms, the satellite receiver market is subject to considerable foreign competition; and production equipment is increasingly penetrated by Pacific Rim Countries.

However, cable television will be disadvantaged in the early stages of the battle over HDTV. Most likely, HDTV will come first through VCRs or video disks where there is a one to one linkup or connection with high definition sets or through some form of home satellite delivery where the owners of high definition sets can be targeted. This is a major reason why the Japanese and Europeans and emphasizing VCRs/video laser disks and satellite delivery systems in their early investments in HDTV. By contrast, it does not make sense to install HDTV for all subscribers in a cable system when only a few subscribers have HDTV sets. If cable systems are under a scheme of rate regulation, it may not even make sense when 10 percent, 20 percent or 50 percent of the subscribers have HDTV sets. Thus, cable television will be at a natural disadvantage in the first stages of HDTV, a situation which could worsen dramatically under rate reregulation. It is for this reason that cable operators need a supplemental service such as DBS to keep them in the HDTV ballgame.

The next round of HDTV will be more favorable for cable and will likely be a competition between VCRs/laser disks which will have a head start, cable and over-the-air broadcast if the FCC is successful in setting a standard and certain existing technological barriers can be overcome. Satellite delivery does not reach a mass audience and may not be a major factor, but this could be radically altered by DBS. This process of HDTV development will be occurring not only in the U.S. but throughout the world.

Existing cable technology is capable of transmitting HDTV. However, cable operators will need to make substantial investments in their systems, including fiber optic cable and new subscriber interface equipment, in order to incorporate the increased bandwidth necessary for HDTV. Much of this investment will result in better picture quality and new services being offered to consumers even prior to the advent of HDTV. Many existing sets can utilize this technology since almost all 20-inch and larger sets now being sold have what is called a Y/C connector which enables consumers to significantly upgrade the quality of their pictures once HDTV signals are available.

Scientific-Atlanta is preparing to carry HDTV over satellite to consumers, either directly via DBS or to cable headends and through the cable system as TV and broadcast standards evolve over the next few years. We are in a race with Japanese and European technology for delivering HDTV over satellite. At present we are in the lead in commercializing this technology. We won and delivered the first commercial system for HDTV to Telesat of Canada last year to be used for the broadcast of special events to theaters around Canada. In December 23 we participated in a high definition broadcast of the Leonard-Duran fight. In February we provided the first intercontinental commercial application of HDTV when our equipment carried a four day two-way high definition teleconference between Massachusetts and Hong Kong so that the Mast Corporation could do their strategic planning for new fashions with their factories. Today, we are the only company in the world with a commercially available system for these kinds of applications and this is largely due to the stimulation of technology investment required to support current and future cable industry needs.

If cable rates are reregulated, the incentive to invest in upgraded plant to prepare for high definition television will decline, which will delay implementation of HDTV over cable.

CONCLUSION

If we wish to see continued and enhanced consumer benefits through new technology and service capabilities; if we wish to allow the cable industry to be competitive with other video delivery technologies, many of them foreign; if we wish to encourage deployment of HDTV by U.S. owned companies; we should find ways of increasing incentives for cable operators to add value rather than diminishing them through reregulation.●

WORLD ENVIRONMENT DAY

● Mr. PELL. Mr. President, today, June 5, is World Environment Day. Unlike Earth Day, slightly more than 1 month ago, World Environment Day is a celebration of contribution by individuals and groups to the protection of the environment and the achievements of the U.N. Environment Programme. And I am particularly happy and proud to be the recipient today of the first Lifetime Achievement Award ever presented by the Friends of the United National Environmental Program.

The theme for this year's celebration is "The Earth Is for Tomorrow's Children." We would do well to reflect on this statement. All too often, we think of the Earth as ours alone, to do with as we please. This view is shortsighted and dangerous. It ignores the fact that our actions now affect the lives of generations to come. The theme for this year's World Environment Day reflects a more profound and responsible understanding of each generation's responsibility toward the Earth and toward future generations.

In some cultures there is a saying to the effect that "[w]e do not inherit the earth from our ancestors, we borrow it from our children." With any borrowed item, there is a responsibility incumbent upon the borrower to maintain and protect that item. Unfortunately, future generations will be sorely disappointed with our treatment of their Earth.

If current trends continue, our children will face a world vastly different from today. This new world may have only half the number of plant and animal species we know today. This new world may be one where most lakes are dead, where the oceans are polluted beyond recovery, and where even the Earth's climate has changed.

Mr. President, this does not have to happen; there is still time for our generation to fulfill its obligation to its children. What is needed is commitment on the part of the people and the governments of all nations to protect our environment.

Fortunately, there is mounting evidence that such will exists. In Eastern Europe, widespread concern about environmental degradation was a key factor in the stunning developments of this past fall. In the United States, the massive outpouring of support for Earth Day shows that U.S. citizens are prepared to do their part to protect the environment. And today, citizens and governments in developed and developing nations alike are celebrating World Environment Day.

The challenge facing us today is to translate this will into action. Here I would like to take a moment to share with my colleagues a proposal I first made at the Global Forum on Environment and Development in Moscow to pay for the heavy costs of correcting and preventing environmental damage.

I want to emphasize at the outset that these costs are high, but, Mr. President, the costs of inaction are far higher. It is time that we recognize that the threat to our national security posed by environmental degradation is just as great in consequence, if not in immediacy, as global war.

In the United States, we currently spend $296.5 billion for national defense and $5.6 billion at the Federal level, on environmental protection. While it is not realistic to expect these numbers to be reversed, they can be brought into better balance. We must understand that both are expenditures to preserve our national security.

I have proposed that 15 percent of the prospective peace dividend be devoted to environmental protection. Further, I have suggested that upcoming arms control agreements earmark 15 percent of the resultant savings for additional environmental protection. Under my proposal, the bulk of this money would be spent for problems which are international or global in nature.

At this time, it is not clear how much new environmental expenditure my proposal would generate. However, looking at the United States alone and assuming that the end of the cold war may lead to a 50-percent reduction in U.S. defense spending, the new annual environmental expenditure for the United States would be $22 billion. This level of resource commitment might begin to have an impact on the mammoth environmental problems facing us.

What could this money be used for? There are numerous possibilities, but I would like to address just two. Recently, the Bush administration decided to oppose creation of a fund to help developing nations avoid dependency on the use of chlorofluorocarbons, or CFC's. CFC's contribute both to global warming and the destruction of the

stratospheric ozone layer which protects human beings from cancer causing radiation. For between $8 and $25 million per year for a 3-year period, the administration could have underscored its commitment to protect the environment, the health of the American people, and uphold international treaty commitments. Instead, it took a remarkably shortsighted view and opposed creation of a CFC fund. My proposal would provide funding precisely for this type of activity.

As we learn more about the threats to our planet's environment, it is becoming increasingly clear that effective environmental protection, as in the case of CFC's, cannot be accomplished by one nation or even a group of nations. In the decades to come, effective protection of the environment will require truly global efforts. For this reason, I believe it is vitally important that we strengthen those multilateral environmental organizations that will aid these efforts, particularly UNEP.

To this end, I have proposed that the budget for UNEP be increased tenfold, to $300 million over the next 3 years. Even at the $300 million level, UNEP will still be a modest sized U.N. agency, and the overall effort would be still small as compared to the environmental needs of the developing world or the scale of the global environmental problem.

There may well be those who ask what UNEP has accomplished to warrant this kind of increased support. On this day when we bestow recognition on organizations that have made significant contributions to the protection of our environment, I would like to mention just a few of UNEP's accomplishments.

UNEP played the key role in bringing about the Montreal Protocol on the ozone layer, the most significant environmental agreement of the past decade. In the 1990's, global climate change is the most serious environmental challenge facing our planet, and it is under UNEP auspices that efforts are underway to develop a strategy to deal with this threat. UNEP has played a catalytic role in developing international environmental law, in assisting developing countries to build environmental institutions, and in enhancing an awareness of the close link between the environment and development. In my view, vastly strengthened UNEP would be one of the best guarantors of our planet's future environmental welfare.

Ultimately, however environmental protection comes down to the efforts by individuals, by companies, and by governments to conduct themselves in an environmentally sound manner. In this area I want to draw my colleagues' attention to Rhode Island's Hazardous Waste Reduction Program. This program—run by the Department of Environmental Management in Providence—is one of this year's recipients of the UNEP 500 award. This award is given to individuals and organizations that have made a significant contribution to the development and maintenance of a healthy environment.

I commend the Department of Environmental Management for its outstanding work in Rhode Island, and I hope that each member of the staff there will take pride in the fact that they and Rhode Island are setting an example for the rest of the Nation.

Mr. President, as demonstrated by the award to the Department of Environmental Management, World Environment Day is a celebration of hope. On this day we recognize those individuals and organizations which have made a significant contribution to the protection of the environment and our planet. As we recognize these individuals, we should expect and demand no less of ourselves. Each of us borrows from our children, each of us must also assume the responsibility to give to our children a world, that at a bare minimum is no worse for our presence than that given to us by our parents. In short, each of us must become an environmentalist.●

ORDERS FOR TOMORROW

RECESS UNTIL 11:30 A.M., MORNING BUSINESS; AMERICANS WITH DISABILITIES ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate recesses today, it stand in recess until 11:30 a.m. on Wednesday, June 6; that following the time for the two leaders, there be a period for morning business not to extend beyond 12 noon, with Senators permitted to speak therein for up to 5 minutes each; that at 12 noon the Chair lay before the Senate a House message on S. 933, the Americans With Disabilities Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, I anticipate that there may be votes on motions with respect to that message on the Americans With Disabilities Act. Several Senators have previously expressed an interest in that matter. I do not know how many there will be. Senators should be aware that votes are possible on that matter.

We anticipate that in all we should be able to dispose of that matter in a few hours, and I have indicated to the distinguished Republican leader it is my intention, upon disposition of the Disabilities Act matter, to proceed to S. 341, a bill to amend the Federal Aviation Act of 1958, to prohibit discrimination against blind individuals in air travel. I do not now ask for consent in that regard, as Senators on both sides will have to be notified. But Senators should be aware that it is my intention to move to proceed to that matter tomorrow afternoon upon completion of the Disabilities Act matter and to continue, hopefully, to dispose of S. 341 also on tomorrow.

I will be pleased to yield to the distinguished Republican leader if he wishes to comment at this time.

Mr. DOLE. Only to indicate to the majority leader I have no objection to even getting consent to go to that now, but I understand there are some on this side who have reservations and we will check with them.

That will give us time tomorrow morning until 1:30 or 2. Maybe at that time we will get consent, or at least find out what the objections are.

Mr. MITCHELL. I thank the Republican leader.

RECESS UNTIL 11:30 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 11:30 a.m. tomorrow, Wednesday, June 6.

There being no objection, the Senate, at 6:47 p.m., recessed until Wednesday, June 6, 1990, 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 5, 1990:

THE JUDICIARY

FEDERICO A. MORENO, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE ALCEE L. HASTINGS.

DEPARTMENT OF JUSTICE

MICHAEL L. JOHNSON, OF IDAHO, TO BE U.S. MARSHALL FOR THE DISTRICT OF IDAHO FOR THE TERM OF FOUR YEARS VICE BLAINE SKINNER.

ALBERT Z. MOORE, OF OHIO, TO BE U.S. MARSHALL FOR THE NORTHERN DISTRICT OF OHIO FOR THE TERM OF FOUR YEARS VICE EARL L. RIFE, RESIGNED.

DEPARTMENT OF ENERGY

PAUL L. ZIEMER, OF INDIANA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENT, SAFETY AND HEALTH), VICE ERNEST C. BAYNARD, III, RESIGNED.

CALVIN A. KENT, OF TEXAS, TO BE ADMINISTRATOR OF THE ENERGY INFORMATION ADMINISTRATION, VICE HELMUT A. MERKLEIN, RESIGNED.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

ROSALIE GAULL SILBERMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 1995. (REAPPOINTMENT)

FEDERAL DEPOSIT INSURANCE CORPORATION

ANDREW C. HOVE, OF NEBRASKA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM EXPIRING FEBRUARY 28, 1993. (NEW POSITION)

NATIONAL TRANSPORTATION SAFETY BOARD

CHRISTOPHER A. HART, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 1992, VICE JOSEPH TRIPPE NALL, DECEASED.

OFFICE OF THE NUCLEAR WASTE NEGOTIATOR

DAVID H. LEROY, OF IDHAO, TO BE NUCLEAR WASTE NEGOTIATOR. (NEW POSITION)

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

GOPAL SIVARAJ PAL, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 1995, VICE M. ROBERT HILL, JR., TERM EXPIRED.

DEPARTMENT OF AGRICULTURE

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION;

CATHERINE ANN BERTINI, OF ILLINOIS, VICE JOHN WILLIAM BODE, RESIGNED.

KEITH D. BJERKE, OF NORTH DAKOTA, VICE MILTON J. HERTZ, RESIGNED.

BRUCE L. GARDNER, OF MARYLAND, VICE EWEN M. WILSON, RESIGNED.

JO ANN DOKE SMITH, OF FLORIDA, VICE KENNETH A. GILLIS, RESIGNED.

EXTENSIONS OF REMARKS

DO WE WANT QUEBEC HERE?

HON. WM. S. BROOMFIELD
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. BROOMFIELD. Mr. Speaker, I want to share with my colleagues an enlightening article on the perils of bilingualism.

Our neighbors in Canada are struggling to maintain national unity under the strain of their two official languages—French and English. In contrast, the United States has been built on a foundation of assimilation of diverse nationalities into a new nationality. Adopting the English language has always been an important part of becoming an American.

Before abandoning this important source of our national identity, we would be well advised to ask, as does Howard Banks, "Do We Want Quebec Here?" I commend Mr. Bank's Forbes magazine article to my colleagues and urge them to affirm the importance of English as our common language by joining me as a cosponsor of the English Language Amendment, House Joint Resolution 81.

DO WE WANT QUEBEC HERE?

(By Howard Banks)

"The one absolutely certain way of bringing this nation to ruin, of preventing all possibility of its continuing to be a nation at all, would be to permit it to become a tangle of squabbling nationalists." So warned Teddy Roosevelt in 1915.

We have avoided that danger here—which Canada clearly has not (see previous article). We have avoided it in part because of the common use of English by all of the immigrants that make up America. Adopting the English language has always been part of becoming American. Relative ease of communication in a single language has provided a kind of national glue, a common thread to the creation and development of a nation that is spread over a wide area and harbors diverse interests, beliefs and national origins.

But a threat to that thread is emerging in the increasingly strident political campaign for separate Spanish teaching. Fortunately, most Hispanic-Americans don't support the idea. A loud minority of Hispanic politicians and leftish liberals do.

"There are obvious differences [with Canada], but the parallels are clear enough," says Kathryn Bricker, executive director of U.S. English. This is the organization founded by former Senator S.I. Hayakawa to pursue his idea of a constitutional amendment that would make English the official language of the U.S.

Bilingual teaching began as an off-shoot of the civil rights right movement in 1960s. It was at first intended to help so-called LEP kids [for limited-English-proficient] get into the main-stream of economic life by teaching them English. But it has turned into a monster born out of a loosely worded 1974 decision from the Supreme Court (Lau v. Nicholas). This concerned a complaint by a Chinese that his children were not being taught English adequately in the local public schools. One possible remedy listed by Justice William Douglas was teaching the children in Chinese.

And then the predictable happened. The Department of Education was established in the Carter era and was looking for something to do. Why not promote bilingualism? There would be jobs and money in it. So it didn't take the bureaucrats long to launch a vast, federally funded bilingual education program. Because by far the largest number of immigrants today come from Spanish-speaking countries, Spanish was the logical co-language.

In many areas of the country where there are concentrations of Spanish-speaking kids, bilingual education has in practice turned into mostly Spanish teaching. "If it is measured against the original intent, to teach English to disadvantaged children, it's a failure. If it had been intended to teach Spanish, it would have been a tremendous success," says Bricker.

The clearest indication of failure is the high dropout rate of Hispanic high school kids. Since the early 1970s, the dropout rate for white children has been tending down slightly. The dropout rate for black kids has more or less halved and is now roughly the same as for whites. The exception is for Hispanics. Their dropout rate is stubbornly high, roughly double that for the other groups, and the trend, if anything, has recently been rising slightly. Yet—and here's an apparent paradox—Spanish-speaking Americans have a lower unemployment rate than blacks and slightly higher average earnings. How come?

A survey by the Civil Rights Commission has found that when the differences in educational attainment, and especially for proficiency in English, are eliminated, what emerges is that Hispanics do as well as the rest of the population. A logical conclusion is that the poor language proficiency of many Hispanics is dragging down their average economic performance.

The issue of Spanish-language teachings of Hispanics is emotion-charged. Merely raising questions about the efficiency of the so-called bilingual program often leads to accusations of racism. Such noises come mainly from those that benefit most from these programs—Hispanic politicians, bureaucrats whose careers depend on the programs, the providers of textbooks in Spanish and, maybe, some teachers who retain their jobs [and sometimes get a bonus] because they speak Spanish.

It's a big economic issue, too, for these groups. A guesstimate by the Education Department suggests that when the $160 million cost of the Bilingual Education Act, 1974, is added to other programs involved in bilingual education, the cost reaches $1.5 billion a year. Each child in bilingual education is "worth" around $350 a year to a school. But "once they become fluent in English, the school district loses its bilingual funding," explains Sally Peterson, a teacher for 26 years at Glenwood Elementary School, Sun Valley, Calif., and founder of the 20,000-member Learning English Advocates Drive.

The crying shame is how badly that money serves those it is intended to help. As jobs tend away from assembly-line work, where little language is involved, to computer screens, pay and working conditions depend on educational and English attainment. Today's anti-English bias, it seems, sentences too many minority school leavers, particularly Hispanics, to a second-class economic life.

Typically, the pols' response is to call for yet more money to be poured into a failed program. Fortunately, most Hispanic-Americans don't buy those arguments. A government survey asked Hispanic parents to rank 70 items in importance to their children's education. Teaching them English was third, teaching them Spanish was third, too, but from the bottom. A recent poll by the San Francisco Chronicle showed that 69% of Hispanics approved of English being the official state language in California.

But the proponents of bilingualism tend to be types who know what is best for other people, even if the majority doesn't agree.

So, would a constitutional amendment, as proposed by ex-Senator Hayakawa (*see box*) and now by Representative William Emerson (R-Mo.), solve the problem? It wouldn't hurt.

To oppose bilingualism is not the same thing as opposing the teaching of foreign languages. It is merely to insist that to be American one should understand English—a not very onerous requirement. In any case, some 23 states, from Arizona to Virginia, have passed or have pending legislation to make English the official language.

Bilingualism undermines the very basis on which this country has been built: assimilation of diverse nationalities into a new nationality. Many intellectuals scorn what this country represents, and for them bilingualism is a handy tool. It is a handy tool, too, for those looking for ways to pry money out of the taxpayer. But, as Canadians have learned, it is not a good way to create a national identity or preserve national unity

BILINGUALISM: A WOLF IN SHEEP'S CLOTHING

Ex-Senator S.I. Hayakawa, 84, is a little frail these days. But he clearly recalls why in 1981 he launched the campaign for a constitutional amendment to make English the official language of the U.S. With the implementation of laws like the Bilingual Education Act, 1974, the U.S. government was for the first time encouraging people not to learn English. Hayakawa saw what other politicians chose to ignore: that this could mark the beginning of the end of the great American experiment. Bilingualism was a wolf in sheep's clothing.

He is the eldest son of a Japanese couple who lived in Canada. "We were in a neighborhood with Scots and English. My father spoke and wrote good English and I spoke English with my brother and sisters. My mother never learned English worth a damn, so we spoke Japanese with her." He got his master's in English from McGill University in Montreal, Quebec, where he paid

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

his way working as a cab driver. "I spoke French there—when it was necessary," he remembers.

So there's no Anglo-snobbism here, and Hayakawa rejects the notion that other languages are not worth learning. But he remains convinced of the need for a constitutional amendment, the task now of U.S. English, the Washington based foundation he created when he retired from the Senate in 1983.

Hayakawa knows the vibrant new culture created here is largely a result of the use of a common language, English. His amendment would put into law the country's political and social reality and clear away the mixed signals given since the 1970s to immigrants. "In the early days of the U.S. there was a great deal of pressure for one language and we all learned English," he says. "It's turned out to be a blessing." It's a blessing many non-Hispanics would do away with, some out of a naive desire to help immigrant children, even though the polls show Spanish-speaking parents want their children educated in English.—H.B.

PACER SHARE PROGRAM WORKS AT McCLELLAN AFB

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. FAZIO. Mr. Speaker, today I am proud to be able to tell you of a success story, an effort that may give us the ability to simultaneously reduce the size of the Federal work force, apply resources to tasks and functions where they are needed, and at the same time, accomplish these goals with minimum harm to those who have given many years of their lives to serving the American people.

I am also proud and pleased to acknowledge the foresight exhibited by my colleagues from the 95th Congress who can take credit for planting the seed that has evolved into this success story. The seed was the 1978 Civil Service Reform Act. In that act, Congress challenged any and all Federal agencies to see if they could find a better way to structure the civil service.

One organization that took up the challenge, I am proud to say is in my district. At McClellan AFB, near Sacramento, the Pacer Share civil service demonstration project in the directorate of distribution [DS] has been under way for the past 2 years. I would submit that the results obtained thus far, while not proving that they have the perfect answer, certainly demonstrate that a better way has been found to streamline Federal Government operations—a way that we need to recognize and potentially apply to a far wider sector of the Federal employment arena.

I'd like to share with you what directorate of distribution people at McClellan AFB have done, and what the results of the first, and still the only, joint labor-management civil service redesign effort have been.

The labor unions were invited to participate in the development of the concept and project design. With Pacer Share, labor and management help each other focus on the achievement of mission goals through participative management. This new approach required that the old management styles had to go. Management and labor consult each other on numerous issues concerning staffing, finances, procedures, compensation, discipline, and project support and implementation. Management has authorized additional full-time steward support, and labor has shifted support to the entire work force. A Labor-Management Council was established to assist in such efforts as developing regulations and procedures, resolving Pacer Share implementation issues and planning improved quality participation strategies. Labor votes on promotion boards, staffing requests, and disciplinary issues. Labor is also a member of the executive team which works the day-to-day issues confronting the organization. Labor also is a member of the center's Pacer Share steering group where it provides leadership and commitment to the achievements of the project goals and quality of worklife visions. With labor and management working together as partners, the following Pacer Share demonstration changes have been implemented.

Job series consolidation combined the 66 narrowly defined jobs in DS into six work processes. Pay banding reduced the 15 pay grades for blue and white collar workers to four pay bands. Each work process horizontally expanded the jobs and each pay band expanded the grade range by removing artificial restrictions/criteria that first, prevented training opportunities at various grade levels and in certain job series and second, limited management's ability to match the work force in various skills and at various grade levels. The personnel change offers growth, work satisfaction, learning opportunities, and has the potential of cost savings. Now one multitrained employee can be assigned to multiple tasks and save the cost of three or four employees.

Supervisory grading criteria eliminates the number and grade level of subordinates as a criteria for supervisory pay. Instead, criteria includes an evaluation of the job scope, difficulty, planning ranges, responsibilities, and mission criticality. The level of skill needed to get the job done is more important than the number and grade of subordinates. DS management now has the authority and responsibility to classify their own management positions in support of their mission criteria. The change encourages supervisors to streamline and restructure their organizations to improve processes and improve customer support without fear of having their jobs downgraded or abolished.

The Demonstration on Call [DOC] Program gave them more planning and management flexibility. New hires are converted to the premanent work-force status based on workload requirements versus an arbitrary work year timeframe. If workload drops and funding decreases, they can make rapid adjustments by releasing DOC employees and avoid the high cost of reduction-in-force [RIF] processes. Pacer Share is a forerunner in the use of unit cost to identify those times it is necessary to release or recall the DOC work force. In so doing, they protect the core work force who are well-trained, mission knowledgeable and have demonstrated loyalty.

Appraisals were eliminated. To achieve the mission goals, everyone is required to work together, as a team, focusing on quality process improvements and the organization's mission achievements, to include cost savings and superb customer service, all within a quality work environment. To make this possible, the Pacer Share Program eliminated the individual appraisal system and reinforced the concept of participative management. This meant the entire work force now has the responsibility and accountability, as a team, to achieve the organization's goals. The teams work together to improve job processes and customer service, to reduce unit costs, and to create the quality work environment they want. It is the organization's achievements and services that are measured.

Productivity gainsharing is an investment program that in essence returns dividends—in terms of personnel dollars saved—to the work force and to the Air Force when their extra efforts and team work earns them a cost savings. The term pacer share was based on the concept that resembled private industries' shareholders and employee profit sharing programs. Each DS employee is considered an equal shareholder. Personnel dollars can be saved by working as a team, streamlining organizations, constantly improving processes, learning multiskills at various levels of difficulty, and making the extra efforts to improve quality service, production rates, and reduce costs. When the dollars are saved, they are shared equally between the Air Force and the work force who earned them. In the last year, each civilian employee received a productivity gain share of $501.

The synergistic effect of these changes bring responsibility and accountability directly to the manager, by lifting the restrictions and roadblocks that once stood in the way of giving the customers the kind of satisfying service they deserve. The results also instill a sense of pride deserved by the work force. We are seeing improvements as a result of the project and expect that these changes may be what is necessary to effectively manage the future.

And what are the results? What has been learned from the past 2 years? It works.

BENEFITS

Financial: Bottom line time. In fiscal year 1989 the project returned $4.1 million, of $55 million, to the Air Force, in addition to paying out $501 to every person in the organization in gainshare. From February 1988 to August 1989, the test organization went from the highest line item cost in the Air Force Logistics Command to the lowest, despite prevailing west coast wage differentials that caused higher testsite per hour costs. Over 800 individuals that would not have received wage raises—due to being locked in place, or having raises delayed by the old system—did receive raises in the new system—all while reducing total costs to the taxpayer.

One word of caution. Many still view the project, or may be tempted to view it, as a gainsharing initiative. It is not. Gainsharing is one element of the overall system change being affected by the project. It is neither the most important, nor the least. But, as a system element it is essential.

Organizational: Exercise of the DOC program allowed release of 31 DOC personnel to accommodate workload changes without re-

course to RIF or retention of unneeded personnel. The new managerial process has resulted in people who wanted to follow that career path to accept managerial positions at less money than the people who report to them; allowed the movement of managers based on their specific competencies and organizational need; and, allowed reduced layers of management. Cross training and team training allowed the gaining of multiple skills, or the beginning of such an acquisition, by over 1,300 people at the testsite.

LABOR-MANAGEMENT RELATIONS

The labor-management relationship in the directorate of distribution—under Pacer Share—is unique even for a project of this type. The heart of this relationship is the Labor Management Council whose purpose is to set aside the historical adversarial relationship of the past and create an effective labor-management partnership. This partnership is based upon trust and utilizes the strength of both parties to meet and mutually resolve issues in a way that enhances the effectiveness of both labor and management in meeting the objectives of the Pacer Share project.

LESSONS LEARNED

It took several years to develop the concept, design the project, develop the measurement/evaluation plan, write regulations and office instructions, and in the second year, design and process changes as required. Although as stated in the Office of Personnel Management's [OPM] implementation evaluation report, the management was not totally prepared at the time of project implementation, DS has found that it took trial and error before some of the more subtle issues and disconnects could be discovered. However welcome it would have been to implement such a complex and wide sweeping systems change with everything perfect, change in itself brings about unknown factors that must be worked on as they occur. One of the most important lessons learned is that the key to cultural change and consistent labor-management cooperation is team work.

In summary, Mr. Speaker, the Pacer Share demonstration project is 2 years old and is making excellent progress. All has not been perfect, there is still opportunity to effect more changes which will culminate in savings to the Air Force and ultimately the American taxpayer. However, the foundation is in place at McClellan AFB to make revolutionary changes in our civilian personnel management structure. The productivity savings at McClellan's Directorate of Distribution are tangible and the Federal Government as well as the taxpayer will be the beneficiaries of the fine work being done.

A TRIBUTE TO KEITH MOONEY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the outstanding and dedicated career of Keith Mooney, of Redlands, CA. Keith is retiring after 38 distinguished years of teaching, inspiring, and motivating young people as a teacher and coach.

Keith Mooney was born in September 1926, in Clarkfield, MN. As a young boy, he attended elementary school in a one-room school house in Diamond Bluff, WI. He completed high school in Ohio in 1944 before being drafted into the Navy. Following his discharge in 1946, Keith returned to Minnesota, where he attended Bemidji State College. While at Bemidji, Keith excelled both on the baseball diamond and on the basketball court. He provided leadership as captain of both teams for 3 years and received numerous awards for his athletic prowess. He graduated from Bemidji State in 1952.

Keith spent his first years of teaching in Minnesota before moving to California. For 17 years, from 1957 until 1974, he taught at Cope Junior High School in Redlands. Since that time, he has provided leadership as a teacher and coach at Moore Junior High School in Redlands.

Keith has been a positive role model for so many of our young people over the years as a coach. His skills in teaching and motivating kids is well known. In baseball, basketball, football, softball, and track, Keith Moore has been a trusted friend and respected mentor for those he has coached.

Mr. Speaker, I hope you will join me and my colleagues today as we recognize this teacher and coach who has been such a shining example for our children. It is fitting that the House of Representatives pay tribute to him today.

HONORING MANUEL AND RAMONA G. ROMAN

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. TORRES. Mr. Speaker, it is my pleasure to rise today to recognize two special individuals, my good friends, Manuel and Ramona Gonsalez Roman. The Romans are celebrating their 50th wedding anniversary and will be honored at a special dinner on Saturday, June 9, 1990.

Manuel and Ramona are native Californians who have lived all their lives in the community of Norwalk where they were both born. They were married on June 8, 1940, at Holy Family Catholic Church in the city of Artesia. They were married by Father John J. Hinley. The maid of honor was Petra Roman, the best man was Lincoln Rubio.

This marriage produced four children, Paul Roman, Lidia Roman Mosqueda, Gloria Ann Roman Dominguez—deceased—and Manuel Ray Roman. They have 14 grandchildren and 16 great grandchildren.

Both Mr. and Mrs. Roman have received numerous honors and certificates of recognition for their outstanding contributions to the improvement of education, recreation, and governmental services to the city of Norwalk.

Mr. Roman served as a member of the Norwalk Planning Commission and is also a founding member and past president of the League of United Latin American Citizens, Norwalk Council, No. 2043.

Mrs. Roman has served as a member of the Norwalk Chamber of Commerce; the Norwalk Coordinating Council; the Norwalk Sister City Commission; the Norwalk Promotional Commission; and the Norwalk Parks Commission.

In 1974, Ramona was appointed to the Los Angeles County Adoptions Commission, where she currently serves. She is a member of the Citizen Advisory Group to California State University, Long Beach and she is the charter president of the League of United Latin American Citizens, Norwalk Council No. 2034.

Mr. Speaker, on June 9, these two extraordinary people will celebrate a very special occasion in their lives. I ask my colleagues in the House of Representatives to join with me and all their friends in saluting Manuel and Ramona Roman and to wish them continued happiness.

NATIONAL APARTMENT ASSOCIATION TO HOLD CONVENTION IN NASHVILLE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. CLEMENT. Mr. Speaker, I rise today to recognize the National Apartment Association who will hold its annual convention next week in my hometown, Nashville, TN.

I would like to begin by describing the National Apartment Association.

Celebrating over 50 years of service, the NAA is the only industrywide, nonprofit trade association devoted solely to the needs and problems of the multihousing industry.

The NAA is a federation of local and State associations of owners, builders, investors, developers, and managers of multihousing properties. The NAA represents the interests of more than 200,000 multihousing professionals nationwide.

When Soviet President Mikhail Gorbachev visited Washington last week to participate in the summit conference, he brought the spirit of glasnost to the United States. When NAA members from across the United States gather next week in Nashville, they will be treated to music city's version of glasnost * * * we call it Southern hospitality.

Characterized by diversity and growth, Nashville is a city dedicated to continuing its growth and progress. Because of its central location in America's Sun Belt region, Nashville is located within 600 miles of 78 percent of the country's market for goods and services. The city is a principal economic center for a large and expanding region of the Southeast.

A quality educational system, available work force and the charming rural atmosphere of Nashville and middle Tennessee have helped the area attract new industries like Saturn Corp., and Nissan, as well as scores of smaller new businesses.

Nashville is a center for health services, higher education, government, professional services, publishing, wholesale and retail trade and entertainment and tourism.

Nashville's diversity is reflected by being known both as The Wall Street of the South, for being the home of many corporate headquarters, and as Music City U.S.A., the home of country music.

The capital city of Tennessee, Nashville is also at the center of a thriving eight-county metropolitan statistical area. Three major interstates, a new international airport, and water transportation via the Cumberland River have helped Nashville sustain steady growth, while making it one of the most visited cities in America.

From the Parthenon to the Hermitage, President Andrew Jackson's stately home, from the Grand Ole' Opry to the General Jackson Riverboat, Nashville has countless attractions tourists will enjoy.

Again, I want to welcome members of the National Apartment Association to Nashville. I hope you will have ample opportunity to sample our culture, enjoy the hospitality of some of the friendliest folks you will ever find and taste our great Southern home cooking.

I want to thank you for choosing Nashville for your convention. I hope your meetings this week are very productive, and I hope your stay in Nashville is so enjoyable you will consider returning for another convention in the future.

TRIBUTE TO CHARLES J. SAHM

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to Mr. Charles J. Sahm, the Postmaster of Glen Cove, who is retiring after 35 years of service to the U.S. Postal Service.

Mr. Sahm began his career as a clerk/carrier in Great Neck, was officer-in-charge of the Farmingdale Post Office, and held management positions in the Flushing District Office before he was appointed Postmaster of Glen Cove on February 20, 1982.

Mr. Speaker, Mr. Sahm has been an innovative and productive manager for the Postal Service. During his tenure as Postmaster in Glen Cove, Mr. Sahm implemented many service-enhancing programs which have helped to keep the quality of Postal Service at a high level despite large increases in the daily mail volume. As a result, the Glen Cove Post Office has established a reputation as one of the best-run postal facilities on Long Island.

In addition to his professional duties, Mr. Sahm has dedicated himself to numerous civic and community activities. He is a trustee of the Nassau County Police Activities League and has served on the Citizen's Advisory Committee of the North Shore School District and was past director of the Glen Head Junior Baseball League and was a CYO soccer coach.

On June 4, the entire Glen Cove community honored Mr. Sahm at a retirement party. I am honored to add to this tribute and wish Mr. Sahm well in his future endeavors.

SUPERPOWER AGREEMENT ENHANCES GLOBAL CHEMICAL DISARMAMENT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. FASCELL. Mr. Speaker, President Bush and President Gorbachev have just made a momentous decision on chemical arms control and disarmament. At the Washington summit, they signed an agreement not only to begin destruction of their chemical weapons but also to immediately stop the production of these indiscriminate weapons. That is real disarmament.

This affirmation of long-standing bipartisan congressional efforts to stop chemical weapons production and use eliminates the inconsistencies and contradictions that plagued the Reagan administration's policy on chemical weapons. For the first time, Congress has effectively stopped the production and deployment of a major weapons system. Secretary of State Baker should be commended for obtaining a concurrent Soviet position at the Moscow ministerial last month.

Secretary Baker has accurately described the United States-Soviet chemical weapons ban as "a trailblazing agreement." It gives the superpowers a unified stance on the critical issues of destruction and nonproduction. By establishing an unambiguous leadership role for both the United States and the Soviet Union at the multilateral chemical talks in Geneva, it significantly enhances the likelihood of convincing other states to support a worldwide ban on the production and usage of chemical weapons.

This is an unprecedented and unique arms control agreement. It is unprecedented because it provides for United States-Soviet cooperation in destroying their respective chemical weapons stocks. It is unique because both superpowers agree to immediately stopping chemical weapons production, thereby providing the best home for a negotiated global ban.

As the superpowers lay down their chemical gauntlet together, they are challenging all countries to do the same. No more carping and sniping at the superpowers. No more grumbling about past U.S. hypocrisy of wanting to produce new binary chemical weapons while simultaneously expecting others to foreswear these weapons. The moment of truth has come when all nations must exert their political will and courage necessary to ban these inhumane weapons once and for all. Anything less is simply not acceptable.

It has been a long hard 8-year struggle for the House of Representatives to finally convince the executive branch of the foreign policy logic, arms control rationale, and good common sense of its position opposing the production of new binary chemical weapons.

It was simply foolish to spend billions on new chemical weapons that were:

Technically flawed and consistently failed DOD's own testing standards as documented by GAO;

Rejected by our European allies;

Demonstrated to have no practical military value; and

Morally repugnant to civilized mankind.

Contrary to persistent Pentagon contentions that binary chemical weapons would somehow add to U.S. security, the only thing they added to was the Federal deficit. Consequently, congressional action effectively stopped a new generation of chemical weapons from being produced and deployed.

This congressional action, combined last week with the June 1 summit signature of the United States-Soviet agreement to halt chemical weapons production and to begin destruction, stakes out new credibility and leadership for the United States on this issue.

When Presidents Bush and Gorbachev laid down the chemical weapons gauntlet at the Washington summit last Friday and signed a chemical arms control agreement, it was an historic arms control achievement. It signals the greatest hope for the beginning of the end for chemical weapons in this century.

This arms control achievement is a great confidence-building measure—both between the two superpowers and between the superpowers and the rest of the world. It represents a concrete example of superpower cooperation at its best. It represents a turning point because, now, other nations have no excuse for not joining the superpowers in ridding the world of all chemical weapons by the beginning of the 21st century.

President Bush's commitment to a worldwide ban on chemical weapons is commendable and supported by an overwhelming bipartisan majority in Congress. The superpower agreement at the Washington summit to cooperate in immediately and jointly halting chemical weapons production and beginning destruction of existing chemical weapons stocks moves the world a giant step closer to the goal of a total ban on these weapons. Bilateral United States-Soviet results have been achieved. Multilateral results can also be achieved soon if President Bush sticks by a comprehensive policy on chemical weapons and maintains his leadership by:

Setting a deadline for completion of the worldwide agreement banning all chemical weapons.

Securing rapid congressional approval of the bilateral nonproduction and destruction agreement by submitting it to Congress as an executive agreement.

Publicizing the startup of United States destruction of chemical weapon stocks and the cooperation with the Soviets on chemical weapons destruction know-how and on safety/environmental standards.

Delinking the 2-percent chemical weapons security stockpile policy from universal adherence to the chemical weapons ban by all CW-capable states. Any effort to amend the treaty to allow the Pentagon to maintain security stocks will have to allow all countries the same possibility. U.S. stocks and U.S. decisions should not be linked to judgments concerning which states may or may not be CW-capable and whether or not they have signed the treaty. An obstinate U.S. position holding onto a 2-percent chemical weapons stockpile will promote chemical weapons proliferation rather than halt it. The goal is universal adherence not maintenance of a security stockpile,

especially since this stockpile has no effective military application.

Developing a strategy to solve the universality question of how to get all nations to sign the chemical weapons agreement. This means to continue work with the Soviet Union to encourage all nations to join. This means the pursuit of creative ideas to enhance universality such as a ceremonial signing by heads of state where every leader would want to be in the photograph and any absentees would be clearly noted worldwide and consequent pressure applied.

Deciding to leave aside the U.S. reservation to the 1925 Geneva Protocol which insists on the U.S. right to use chemical weapons in retaliation to first use by another state. That particular controversy can be set aside and should not complicate the current negotiations in Geneva.

Deciding on the proper mix of intrusive inspections and protection of sensitive facilities from unwarranted inspections. The U.S. position of anytime, anywhere can and should be reviewed in order to insure that nuclear and intelligence facilities are protected from chemical weapons challenge inspections while, at the same time, insuring that challenge inspections are as intrusive as possible and as effective as possible in terms of guaranteeing the treaty, implementing it, and insisting on tight compliance.

Responding to the need for political momentum at the Geneva talks in 1990 and traveling to Geneva to deliver a speech promoting the agreement, setting a deadline, and urging immediate, universal adherence by all states to the worldwide chemical weapons ban.

President Bush has seized on the chemical weapons issue as his personal arms control issue. His leadership in promoting a chemical weapons ban is important and has bipartisan congressional support. New binary chemical weapons production has divided the Congress for a decade. But, now, there will be no production and that major contradiction in U.S. policy is eliminated. Dynamic Presidential leadership, when combined with a comprehensive approach, can free the past chemical weapons policy of its self-defeating contradictions and create new momentum toward a worldwide ban on chemical weapons by the end of the century.

The United States-Soviet bilateral agreement on chemical weapons recognizes that the superpowers must stop production of chemical weapons if they expect others to stop. The United States, the Soviet Union, and other countries must tighten controls on chemical weapons-related exports if they expect others to help stop chemical weapons proliferation. The United States must not try to maintain a security stockpile of chemical weapons until all states sign the treaty because such a stance is likely to backfire and result in more, rather than less, proliferation. The United States now has an excellent opportunity to lead the way to a total worldwide ban and to cooperate with the Soviet Union to get all states committed to the agreement.

During this past year the Bush administration realized that the Department of Defense's request for $1 billion over the next 4 years to produce new nerve gas weapons did not have congressional support. The request for new chemical weapons production funding was about to divide Congress once again, as it has each year over the past decade. The blind pursuit of that funding for new chemical weapons risked robbing President Bush of an historic leadership opportunity in arms control at a time when all rationale for those weapons had vanished.

Congressional authorizing and appropriating committees must now simply take out the funding requested for fiscal year 1991 and scrub out the hundreds of millions of dollars in unspent funds left in the pipeline from past years. Since both chemical weapons systems, the Bigeye bomb and the binary 155mm artillery shell, have been plagued with technical problems, there is a considerable amount of unspent funds which can now be saved or used for other purposes.

For fiscal year 1991 the Department of Defense had requested $67 million for production of the Bigeye bomb and $74 million for production of the 155mm binary artillery shell. The $141 million new chemical weapons production request for fiscal year 1991 would have amounted to more than $1 billion commitment over the next 4 years.

Both weapons have continued to experience severe technical problems. The Bigeye bomb has not successfully completed operational testing and the serious developmental problems identified by GAO have not yet been addressed. Two years ago, the Bigeye bomb was placed under strict legislative restrictions to assure that there would be no low-rate initial production and certainly no full-scale production until Bigeye proved itself to be production-worthy both to GAO and to the Department of Defense's Office of Testing and Evaluation. Low-rate production and final assembly were prohibited until positive certification by GAO and DOD. So, despite the fact that there is a request for $67 million in the fiscal year 1991 DOD budget, there still has been no certification report. The 155mm artillery shell is not achieving the production levels required by congressional legislation to release fiscal year 1990 funding. In an April 2 letter this year to Chairmen ASPIN, NUNN, INOUYE, and MURTHA the GAO has notified Congress that 2 of the 3 components of the artillery shell are questionable at best in terms of meeting the required production levels.

Therefore, there has not been any production of the Bigeye bomb and now, with the bilateral commitment to cease production, those envisioned Bigeye bomb production moneys can be saved. Furthermore, as we withdraw the unitary chemical weapons stocks from Germany this summer, there is no need for production moneys for the 155mm binary artillery shell.

The objectives of the June 1 U.S. bilateral agreement and the multilateral agreement being pursued in Geneva is chemical disarmament, not production. Any U.S. Government spending from now on should be for chemical disarmament, not production.

SALUTE TO FRANKLIN KELLER III, OF WAYNE, NJ, WINNER OF THE ROTARY CLUB'S HARRIS AWARD

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. ROE. Mr. Speaker, it is with the greatest pride that I rise today to salute an outstanding constituent in my Eighth District of New Jersey who, for more than four decades, has given of himself to his community, State, and Nation, and who has made us all the better for his efforts.

I am speaking of Franklin Keller III, of Wayne, NJ, who will be honored for his great service on Wednesday, June 13, by the Wayne Rotary Club, which he has served with such distinction for these many years. On that day, for his tremendous efforts, Franklin Keller will receive the Paul Harris Award, the highest honor a Rotarian can achieve. Considering the scope of community service that Rotary Clubs provide around the world, I am certain that you, Mr. Speaker, and our colleagues will agree that the honor being accorded Mr. Keller is one of the greatest magnitude.

Mr. Speaker, Franklin Keller III was born and raised in Wayne, NJ, and attended local parochial schools. Mr. Keller went on to receive his bachelor and master's degrees from Seton Hall University in West Orange, NJ. He began his career in insurance with the Morgan and Keller Agency, which was founded by his grandfather, Mr. George A. Morgan. It is within this agency that Franklin Keller established himself among the business and social community of Wayne. His interest in helping others understand and grow in the insurance business prompted him to begin lecturing and teaching insurance related courses for the Professional Insurance Agents and the Independent Insurance Agents of New Jersey.

But Franklin J. Keller's professional and community activities go far beyond his work as the principal owner of the Morgan and Keller Agency of New Jersey and demonstrates how great his contribution to his community has been. Mr. Keller is a former president of the Wayne Rotary. In the past he has also been a special education teacher and president of the Passaic County Mental Health Board. His interest in helping the less fortunate caused him to join the efforts by becoming a current trustee for the Foundation for the Handicapped.

Along with his volunteer work, he is presently chairman of Boy Scout Troop No. 101 and former Cub Scout leader with Pack No. 137. Mr. Keller shared his love for Scouting with his son, Franklin, and now is the proud father of an Eagle Scout. It is this combination of outstanding volunteer work and family commitment that will bring him this award from the Wayne Rotary at its luncheon on June 13. I know that his devoted wife Doreen, his daughter Jennifer, and his son Franklin will be especially proud of all he has achieved, as will the rest of his family and his many friends and colleagues.

Mr. Speaker, I appreciate the opportunity to present a brief profile of a man who has given so much of himself to his community, his State, and our Nation, and who has immeasurably improved his world through his innumerable contributions—Franklin J. Keller III, recipient of the Wayne Rotary's Paul Harris Award.

TRIBUTE TO ANNE K. MARLETTE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. LAGOMARSINO. Mr. Speaker, I rise today to honor a woman who has devoted much of the past 40 years of her life to Government service. I am pleased to have this opportunity to express my sincere appreciation to Anne K. Marlette for her tireless work in service to the Nation.

Anne began her civil service career during World War II as a clerk typist in the Adjutant General's office, U.S. Army, Fort Shafter, HI. In 1948 she became a mail, files, and record clerk in the administration section of the 6503d maintenance and supply at Hickman AFB, HI. The following year Anne joined the Naval Supply Center in Pearl Harbor, as a clerk typist in the aviation and ship supply depots. In 1952, Anne and her husband, Donald, moved to Hilo, HI, where Anne again rejoined Government service in 1955. A year later she was promoted to property and supply clerk where she was in charge of record maintenance and stock-level adjustment. In February 1959, Anne left the supply field to become a secretarial assistant to the Staff Chaplain for Pacific Air Force's Base Command. She stayed in that position until 1963, when her husband was transferred to Vandenburg AFB, CA. At Vandenberg, Anne joined the 4392d Aerospace Support Group Directorate of Personnel, where she was responsible for all administrative activities in the Office of the Chief, Systems Management and Reporting Division. She was promoted again, in October 1964, to personal assistant to the commander, 4392d Aerospace Support Group. She then took over her present position as secretary to the Commanding General, 1st Strategic Aerospace Division in April 1975.

Mr. Speaker, it is indeed an honor for me to acknowledge Mrs. Marlette's long-term in Civil Service before you and the other Members of the House of Representatives. Anne Marlette is a woman of extraordinary public spirit and role model of the work ethic. She will be sorely missed by those who had the opportunity to work with her over the years.

RECOGNITION OF THE SACRAMENTO CHILDREN'S FESTIVAL

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. MATSUI. Mr. Speaker, I rise today to draw your attention to a unique event taking place in my congressional district on Saturday, June 2. As a member of the Sacramento Metropolitan Arts Commission, I am proud to share with you the details of the Sacramento Children's Festival.

This event represents the Sacramento Metropolitan Arts Commission's desire to expose young audiences to innovative arts programming of the highest quality. The goal of the event is to foster an appreciation of the arts as well as promote an understanding of our diverse cultures. The Sacramento Children's Festival will be an all day arts celebration for people of all ages. It offers simultaneous entertainment on several stages by professional performers in music, dance, theater, and the literary and visual arts. Festivalgoers will also have an opportunity to participate in workshops in many arts disciplines, including mask-making activities.

I am really very grateful to the city of Sacramento, the National Endowment of the Arts, the California Arts Council, Sacramento County Office of Education, Friends of the Arts Commission for sponsoring this special event.

The Sacramento Metropolitan Arts Commission's unwavering dedication to exposing our community to high quality art has inspired the community to work extraordinarily hard at coordinating the days activities. I am confident that the success of the Sacramento Children's Festival's success has been ensured.

COMMEMORATING THE CENTENNIAL CELEBRATION OF OUR LADY OF PERPETUAL HELP CHURCH

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. CONTE. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to the people of Our Lady of Perpetual Help Church and the community of Holyoke, MA, on the occasion of the centennial anniversary celebration for the church's founding.

The early history of Our Lady of Perpetual Help is a tale of a determined group of French Canadians who struggled to get settled and form a strong community in the hills of western Massachusetts. Eight hundred French speaking families from the Precious Blood Parish were given the mission to found a new parish under the name "Notre Dame du Perpetuel Secours" in the northern section of Holyoke. Father Charles-Edouard Brunault celebrated the first mass on May 25, 1890.

By 1892 the original church site had been completed. The brick convent and parish center overlooked the Connecticut River and Prospect Park. The church continued to expand and reach out to the greater community. A rectory was built in Holyoke, and land was purchased for a cemetery in South Hadley. At the turn of the century 800 families transferred from Notre Dame du Perpetuel Secours to a mission within Holyoke to form the Immaculate Conception Parish. As a sign of her growing value to the community, the church purchased land in 1920 in order to move the parish to the demographic center. Groundbreaking for the new and current church building took place in 1922.

When the new church was blessed in October 1923 its interior was plain. The walls were painted white and the windows were filled with clear glass. The church, now one of the most beautiful in western Massachusetts, has since been lovingly decorated by the parishioners. In 1928 Stations of the Cross were painted by Filippo Santoro; 14K goldleaf was applied to the interior. The original clear glass windows were replaced by glorious stained glass. The rose window above the main entrance is particularly precious to the congregation because it was donated in memory of Father Marchand, the second pastor of the church, by his family. In 1949 three new bells were installed. Manufactured by Les Fils de George Paccard of France, they harken back to the French heritage of the congregation.

The development of the church was far more than physical. Particular emphasis was placed on education of the children. The grateful parish schoolchildren collected money for the Sacred Heart Statue, and gathered stones for the Grotto placed in front of their school. For 88 years the Sisters of the Presentation of Mary served the Notre Dame du Perpetual Secours School. When the school hired a lay faculty in 1979, a sister of St. Joseph became principal.

On its 100th anniversary Our Lady of Perpetual Help is an established and indispensable member of the Holyoke community as well as the surrounding area. When her mother church, Precious Blood Parish, was closed in 1987 the history and tradition of both churches was trustingly left to the parishioners of Our Lady of Perpetual Help.

Mr. Speaker, Our Lady of Perpetual Help in Holyoke, MA, has endured and changed with the times. Last year the church was made handicap accessible. Their past has been rich, their present productive and their future is full of promise. It has been my pleasure to share this tribute to Our Lady of Perpetual Help on their 100-year anniversary with my colleagues in the House.

COMMENDING RICHARD RIENDEAU

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Richard Riendeau, of Pawtucket, RI, this year's recipient of the Congressman RONALD K. MACHTLEY Academic and Leadership Excellence Award for St. Raphael Academy in Pawtucket, RI.

This award is presented to the student, chosen by St. Raphael Academy, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Richard has certainly met these criteria while at St. Raphael Academy. He is an honor student and an officer on the student council. In addition, Richard has been an active volunteer outside of the classroom. He has coordi-

nated a recycling program and is a volunteer at Wrentham State Hospital.

I commend Richard for his outstanding achievements and wish him all the best in his future endeavors.

TRIBUTE TO REV. ROOSEVELT AUSTIN, SR.

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. TRAXLER. Mr. Speaker, I rise to honor the Reverend Roosevelt Austin, Sr., pastor of the Zion Missionary Baptist Church of Saginaw. He will receive the Second Annual Image Award on Friday, June 8 at the Saginaw Civic Center's Unity Hall. He is being honored for his many outstanding contributions as a minister, civic, and political leader in the Saginaw community.

Roosevelt Austin was born August 17, 1926, in Plasiance, LA, the first born of 12 children. His father died when he was very young and he helped raise his younger brothers and sisters while his mother worked. He endured many trials and tribulations before earning his high school diploma at age of 23 and embarking on a career selling insurance. But Roosevelt Austin listened to an inner voice that persuaded him to become a minister. After he was ordained as a Baptist minister in 1953, Reverend Austin came to Saginaw as an assistant at the Zion Baptist Church. Because there was not enough money for him to concentrate on pastoral duties and his studies, he worked for GM and at the Saginaw County Hospital and drove to Detroit 2 nights a week for 3 years to get his degree.

Reverend Austin has taken his message from the pulpit into our community in the Eighth District. He was the first black member of the Saginaw City Council in 1968. He currently serves on the board of directors of OIC-MS [Opportunities Industrial Center—Metropolitan Saginaw] and the Saginaw National Bank. He has been a key ministerial representative on the Governor's initiative on substance abuse. He has served on the Delta College Committee of 100, a citizen's group which provided the college a comprehensive blueprint for programs, facilities, and operations for the next century.

Today, he continues to give a fine sense of achievement and excellence to our youth. Our Saginaw community has a great deal of gratitude and thanks for his tireless public service. Please join me in celebrating Reverend Austin's special talents as he receives the Second Annual Image Award on June 8.

REFLECTIONS ON THE VIETNAM VETERANS MEMORIAL WALL

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. BROOMFIELD. Mr. Speaker, I want to share with my colleagues a moving article about what the Vietnam Memorial means to the thousands of people who visit that special place every year.

The young men and women who died in Vietnam kept open the doors of freedom with their very lives. They and other brave Americans who made the ultimate sacrifice in that conflict and in other wars contributed in their own way to the revolution of freedom that is now sweeping the world. Everything we have today—freedom, peace, and prosperity—we owe to the brave Americans who fought for this country. They answered their Nation's call to defend the Nation and our values. They put their country ahead of self and their sacrifice will not be forgotten.

I commend the following New York Times article by Michael Norman to my colleagues in the Congress.

VOICES AT THE WALL—FOR EVERYONE WHO VISITS AND RELFECTS ON IT, THE VIETNAM MEMORIAL TAKES ON PERSONAL MEANING

(By Michael Norman)

In the early morning dark, when the air is a fine mist, I stand on a deserted walkway at the Vietnam Veterans Memorial, listening for the footfalls of comrades long gone and waiting for the strangers who daily come to visit.

I was an actor in the long and violent event that left so many names on the 140 panels of polished black granite now known simply as "the wall," the most visited site in this Capitol city.

Now, standing in Constitution Gardens in front of panel 50E—roughly the point along the wall that marks the savage spring of 1968—I remember a fierce battle for a tiny bridge by the Quang Tri River. Panel 50E holds the names of some who fell in that firestorm. Perhaps, as the day arrives, I will come upon another pilgrim stopped at this spot along the wall's walkway, drawn here, as all visitors are, by the powerful currents of memory—personal, communal, historic—that flow through this green, chevron-shaped hollow, this spectral place.

At daybreak, on this morning of a new crescent moon, James Dinatale, a sophomore at George Washington University, who says he has spent the night in study, comes to the wall to let the crisp morning air clear his mind. (Strictly speaking, the day's first visitor was a hulking man, hands shoved deep in the pockets of a green field jacket, shoulders hunched against the cold, who said he was from North Carolina, homeless and waiting to take his turn in a sleeping bag, which at the moment is occupied, a heap beneath a tree.)

At first light, runners arrive—not running, of course; few hurry past this place—Clayton Lewis, a businessman from Tulsa, Okla., then Vaughn Forrest, chief of staff to a Florida Congressman. Lewis is soon gone, but Forrest lingers.

"I served in Nam as a medic," he says. "Just got back from Cambodia on a fact-finding tour to verify the positions of Vietnamese troops relocating there. Yeah, they never left. People bought that stuff that we were wrong in Vietnam. We weren't wrong. That's why I come by here."

It is near 8 now and from Yakima, Wash., here are Dan Oliva and Caryn Regimbal, high-school juniors on tour, hard put at this moment to describe a place so many have found so ineffable.

"You know," says the girl, "most of the people on the wall are only two or three years older than us?"

"Mind-boggling," says the boy, shaking his head. "How many, do you think? I mean altogether."

Fifty-eight thousand, one hundred and seventy five, he is told.

"How many?" he says, eyes wide, mouth agape. "How many?"

The sun starts to flood the hollow and here is a woman in a red cardigan and simple black skirt. With her hair pulled back and her plain dark-framed glasses, she has the look of a librarian. At the moment she is staring up at the blue vault, drifting. I impose, introduce myself.

"Oh, I dare say you'll find more interesting stories than mine," she says, politely. "Well, I taught high school from 1962 to 1965 in Illinois. I've been overseas for a very long time, and this is the first chance I've had to get to the city. I came to see if any of the boys I remembered made the list. And I'm happy—because none of them are here."

A tour group from Avella, Pa., breezes through. "Great day yesterday," says the leader. "We did Arlington, Jefferson, the Washington Monument, Mount Vernon, the Capitol, the F.B.I., Ford's Theater. Today we start here. O.K. people, hustle, hustle. Remember, no down time."

Couples come side by side, whispering as they walk.

Here, in their early 60's by the look of them, are Alice and Raymond Staats from New Branufels, Tex.

"Don't know anybody on it," says she.

"Don't know anybody who knows anybody on it," says he.

"Seen it on the TV," says she.

Seen it so much on TV, we had to come," says he.

Barry Grosscup of Mount Vernon, Ohio, has his daughter, Autumn Michelle, seven months, nestled in the crook of his arm, leaning tenderly against him. "I know it's just names," he says, "but it touches you, like there's a funeral here."

Into view comes a sour-faced woman along the memorial's east wall. "What's this?" she says sharply to her woman companion. "I thought we were going inside a building or something, What . . . is . . . this!"

Bernice and Earl Wade of Bullhead City, Ariz., are walking their large mocha-colored poodle, Kahlúa. "Listen to this," says Mrs. Wade. "We had this friend, see, a Navy frogman from World War II. Well, he got out; became a roofer. Then, he decided to go back in, see. Joined the Navy again and went to a construction battalion, Seabees. They sent him to Vietnam. He was working on a job there and one day died of a heart attack. Name's Robert Fisher. He's here. Forty-one years old."

Two men, middle-aged, both tall and robust, one with dark hair and wearing a gold chain, the other in wire-rimmed sunglasses, are strolling slowly, elbow to elbow.

"For what?" says the gold chain, surveying the names.

"For nothing," answers the sunglasses. "All of 'em—for nothing."

Gwen McNutt of Chicago and Martha White of St. Louis, two nurses in town for a nephrology convention, have rented bicyles and are pushing them up the walkway.

"I like history," says Ms. White, "and this"—she pauses, looks along the west wing of the wall—"this is history we paid for in blood."

A short time later, another pair of women approach. These two are older than the nurses, though judging from their colloquy no less interested in the lessons of time and place.

"You know?" says the first.
"Yeah," says the second.
"They should march politicians single file by this place."
"Yeah."
"And make them stand here."
"Yeah."
"So they could see."
"Yeah."

It is an especially proud day for Petty Officer First Class Robert Henry Kane, Jr., a dental technician and veteran of 17 years with the United States Navy. He is here in uniform, standing at attention beside his commander, Rear Adm. Milton C. Clegg, and facing a contingent of shipmates, his wife and two small children at hand, to sign on for yet another hitch. He has chosen this spot for his reenlistment ceremony to, in his words, "honor the hospital corpsmen and nurses killed in the war" and because he could not think of a more fitting place to again bear "true faith and allegiance" to his country.

And here too is Laura Kovacs, a real-estate agent from Arizona, originally of Chicago where, in 1967, she graduated from Senn High School, a large public academy that sent so many boys off to war that 37 of them, she says, are now remembered on this stark black siding. Here are the sweet friends of her youth, and seeing their names for the first time, she is left, face buried in her hands, sobbing in the afternoon sun.

I am about to abandon my post when, an hour or so before dusk, a man with sandy hair stops beside me, staring hard at 50E. He appears to be in his early 40's, perhaps once a soldier, or friend or kin to one who was.

"Who are you looking for?" I ask.

"A guy named Houston," he says. "Here he is, John D. Houston."

John D. Houston is not one of the names I know and thus Fred Leenerts, of Englewood, Colo., has no connection to me save that of a fellow pilgrim.

Leenerts explains that his brother-in-law, Don Crain, was a United States marine and that during a bloody engagement in 1968, the same year I was a marine on the battlefield, Houston died in Crain's arms.

"I never really wanted to come here," Leenerts says. "We did it for my brother-in-law. But you know what, this is the most moving thing I've ever seen."

As I weigh those words now, a few weeks later, I am beginning to understand that it is not just the names sandblasted on 50E, or any other panel, for that matter, that give meaning to the wall.

It is people like Fred Leenerts—joggers and vagrants in the early morning dark, pink-cheeked pupils on class trips, swarms of sightseers and conventioneers, Gold Star Mothers, cyclists, pilgrims with grief sluicing down their faces, a friend of a friend, a brother-in-law on a self-appointed mission—people who come and study those names and remember or imagine the lives behind them.

And the meaning changes with each person who passes, the men and women and children who make their way across the rolling lawns, past the long Reflecting Pool and down the walkway to stare deep into the face of the brilliant black granite, that inexorable mirror of memory.

A TRIBUTE TO THE STATE CHAMPION LADY STANGS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the achievements of a fine group of young ladies in Needles, CA who only weeks ago brought home the State of Nevada AA Softball Championship to our community. The Lady Stangs, under the leadership and guidance of Coach Bill Darrow, completely dominated the State tournament to win the State championship for the second straight year.

This was to be, by all accounts, a rebuilding year for the Lady Stangs. Still, in spite of losing six players to graduation, including their first string pitcher and catcher, the Lady Stangs prevailed again winning their league and going all the way.

The State championship tournament took place in Reno on May 19 and May 20. Needles began the tournament by defeating Coleville 2 to 0 and defeating Bishop Manogue 8 to 2. The next morning, Needles faced White Pine, the only team in the league who had defeated the Lady Stangs during the regular season. Needles prevailed by a score of 12 to 1 sending them to the State finals to face Yerington. Again, the Lady Stangs dominated behind the strong arm of pitcher Janet Sampson and defeated Yerington for the State championship by the score of 4 to 0.

I want to specifically congratulate Bill Darrow for his outstanding performance in his first year as a coach and friend to these remarkable young ladies. Most of all, I want to congratulate this year's team members who include Amy Scott, shortstop; Mindy Mathews, second base; Tina McAllister, first base; Lauri Pletcher, outfield; Cosett Gonzales, third base; Nicole Diaz, outfield; Nellmar Willis, outfield; Malaina Hernandez, right field; Cindi Calderon, left field; Janet Sampson, pitcher; Scotti Gleason, catcher; Bethany Freeburg, outfield; Pauline Garcia, center field; and Patricia Oropeza, catcher. In addition, I want to extend additional praise to Janet Sampson who was named to the all-league first team as well as the league's most valuable player. I also want to congratulate Scotti Gleason, Pauline Garcia, and Milaina Hernandez who were named all-league first team and Cosette Gonzales, Tina McAllister and Mindy Mathews who were named all-league second team.

Mr. Speaker, the achievements of this group of young ladies is certainly worthy of recognition by the House of Representatives. Please join me and our colleagues today in congratulating the Lady Stangs for their fine season and again bringing home the State championship to Needles.

THE HUMAN RIGHTS CAUSE: HOW WE CAN HELP

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. FASCELL. Mr. Speaker, I call the attention of our colleagues to a speech recently delivered by George Lister, senior policy adviser of the State Department's Bureau of Human Rights and Humanitarian Affairs, on the subject of: "The Human Rights Cause: How We Can Help." The speech presents a brief review of recent very encouraging advances in human rights in many parts of the world, and especially the unbelievable changes which have been taking place in the Soviet Union and Eastern Europe. There are, of course, some notable exceptions to that progress, such as Castro's Cuba. The speech also emphasizes the importance of applying a single standard in our human rights policy and calls on human rights supporters, both in and out of Government, to oppose all forms of dictatorship, left wing as well as right wing. In this connection it is noteworthy that Mr. Lister specifically distinguishes between the democratic left, "those who advocate profound political, economic and social reforms in order to strengthen democracy, and the antidemocratic left, which seeks to implore a left-wing dictatorship."

Furthermore, I remind my colleagues that the institutionalizing of human rights as a part of U.S. foreign policy consideration was a initiative of the Foreign Affairs Committee and the Congress and ultimately put into international diplomacy by the President of the United States.

Since the review, statements and conclusions are those of an important senior official of the U.S. Government on human rights and humanitarian affairs, I felt that my colleagues should have the opportunity to review what he said:

THE HUMAN RIGHTS CAUSE: HOW WE CAN HELP

(By George Lister, Senior Policy Advisor, Bureau of Human Rights, Department of State)

Thank you for the invitation to meet with you this evening to discuss the subject of human rights. We could hardly find a more appropriate moment for such a discussion. The events of 1989, and the progress achieved in human rights in some parts of the world, have been breathtaking, unbelievable, and 1990 appears to hold out much promise for further progress. As one who has been an active supporter of the human rights cause for many years, and participated in the development of our human rights policy, starting over fifteen years ago, I find all this most encouraging. So it is very good to be here with you.

In my opening remarks I will discuss very briefly the origins of our human rights policy—how things got started in the State Department. And for those of you who are interested, I am going to leave a few documents on that subject which you can peruse later. Secondly, I will touch on some recent human rights developments in a few specific countries. And finally, with that perspective and on that basis, I will try to draw a

number of conclusions and offer some recommendations as to how we can best help the cause of human rights. In so doing I hope I can stimulate your interest in this subject and encourage some of you to become actively involved in human rights work.

Now, our current human rights policy began developing in 1973-74, with a series of Congressional hearings on that subject. After 1976, during the Carter Administration, it was possible to institutionalize that policy, and to inject the human rights priority into the State Department's bloodstream, as it were. During the Reagan and Bush Administrations the policy and its implementation have continued to develop, with growing experience and expertise, building on past achievements and failures. Today our Human Rights Bureau is alive and well, led by Assistant Secretary Richard Schifter. I think one of the most insightful things Karl Marx ever said was: "we are all accidents of History." In that connection I have brought along a copy of a 1988 speech by Ambassador Schifter, telling of his boyhood in Vienna, under the Nazis. Dick Schifter has dedicated his work in our Bureau to the memory of his parents, victims of the Holocaust.

Let me quickly add a few points as to what our human rights policy is, and what it is not. First of all, our policy is bipartisan, receiving support from both Republicans and Democrats. Second, our human rights policy does not imply any moral superiority on the part of the United States. I am sure you know we have plenty of human rights violations in this country. Nor does our policy imply any God-given right on our part to intervene in the internal affairs of other nations, although we certainly do have the right, I would say the duty, to include human rights considerations in the conduct of our relations with other governments. And lastly, I want to emphasize that the human rights cause is universal, based on the Universal Declaration of Human Rights, applying to everyone, regardless of race, nationality, color, religion, sex, or age. Once again, for those of you who are interested, these points are discussed in detail in the material I am leaving with you tonight, including a copy of the Universal Declaration.

That brings me to one of the main points I want to emphasize here this evening: the fact that our human rights policy has been institutionalized has improved our overall foreign policy. Obviously, we do not have a perfect foreign policy. But the human rights factor has helped to give us a better foreign policy, one that is more compassionate, more intelligent, and more effective. It has also become clear that an honest human rights policy can exert a powerful political influence in the international arena.

I should also mention that we prepare an annual Human Rights Report on every country in the world. These reports are required by law. Our report on 1989 will be released tomorrow morning, and Ambassador Schifter will be testifying in Congress tomorrow afternoon.

Let me also add that in recent years quite a few other governments have established human rights bureaus, sections, or whatever, and the subject of human rights has become a daily topic of discussion and debate in the United Nations and other international fora.

Now let us take a look at the human rights situation in some specific countries. I am sure you realize that this is a subject that cannot be covered adequately in a few sentences. For those of you who would like a detailed discussion, I recommend our annual reports.

First, Eastern Europe and the Soviet Union. For one who has spent many years working on East European affairs, including five years in the USSR and Poland, the events of the past year are astounding. The last few months of 1989 provided a new miracle every day. Poland, Hungary, Czechoslovakia, East Germany, Bulgaria, Romania, the Soviet Union, Lithuania, Latvia, Estonia, a cascade of surprises beginning with the morning newspapers, continuing with the hundreds of cables pouring in from our Embassies, and then still more sensational news on evening TV. 1989 may well go down in history as a more significant date than 1789, the year of the French Revolution, or 1848, the year of European Revolution and the Communist Manifesto. And some of the vivid pictures that have come with these changes are unforgettable. The demolition of the Berlin wall. In Prague, the State Department interpreter for Secretary Baker breaking down in tears as he translated the Secretary's promise to support freedom in Czechoslovakia, the country from which the interpreter had escaped in 1973. And some of my own experiences have certainly been memorable. Now it is possible to talk candidly with visitors from the Soviet Union, in conversations which would have been impossible just two years ago. Recently I met with one of the People's Deputies from Moscow. He was describing the economic problems of his country, and at one point he asked whether I had heard the latest quotation on the dollar, the pound, and the ruble. I said I had not, and he remarked: "well, it now takes a pound of rubles to buy one dollar". Incredible. And I will add a joke from the ranks of the Soviet proletariat: "we pretend to work and they pretend to pay us". As an old Soviet hand, I am very happy to have lived to see these times.

Of course I do not wish to imply that these dramatic changes in Eastern Europe are solely the result of our human rights policy. Obviously not. The main credit for this progress goes to such heroic giants as Andrei Sakharov and Lech Walesa, and to those countless others who struggled courageously and died in oblivion. But certainly our human rights policy has made a significant contribution to this breakthrough, and that should give us quiet satisfaction.

Of course no one knows what the future will bring in Eastern Europe, which is faced with urgent, monumental and complex problems. Let us hope fervently that 1990 will see still further democratic progress, accompanied by the consolidation of friendly relations with all the governments and peoples of the area.

Turning to Africa, there, too, the latest news is most encouraging—the release of Nelson Mandela following 27 years of prison. This is another triumph for the human rights cause, and one which is being celebrated by friends of racial equality around the world. Let us hope, and continue to work, for further progress toward democracy for all in South Africa. Once again, that will not be easy. Many difficulties and problems lie ahead. One of the documents I am leaving with you this evening is a speech on our South Africa policy by Assistant Secretary Herman Cohen, the head of our Bureau of African Affairs. I am sure you will find it informative.

At this point I want to sound a less optimistic note, and refer to the lack of attention to human rights in so-called black Africa, the area located between South Africa and the Sahara, in the north.

I have the impression that, from the human rights viewpoints, black Africa is one of the most neglected areas of the world. For example, if a human rights activist were to be killed tomorrow in Belfast, or in the West Bank, or Cape Town, or Warsaw, or in Santiago, Chile, I am sure it would be front page news. But I am afraid the same does not hold true, for example, for human rights violations, in, say, Central Africa. I am not sure why that is. Of course in Washington there are only 24 hours in a day, there are about 170 countries, and a great deal depends on how much interest there is in a specific area of the world. Certainly our annual Human Rights Reports give equal treatment and attention to black Africa, and dedicated human rights groups, such as Amnesty International and Africa Watch, do so as well. However, I think the area may be somewhat neglected by the media and the general public in the West. Also, there may be reluctance on the part of some to criticize black governments. For further background on this problem you may wish to read two articles I am leaving with you, written by a friend of mine from Ghana.

Shifting to Latin America, Chile is a country which has long been a center of world human rights attention. After this Pinochet military dictatorship had established itself, the Chilean Communist Party did its best to show that the only possible course of action was violence—the overthrow of the dictatorship. And, as our human rights policy developed, both Moscow and Havana made frequent broadcasts to Latin America, claiming that our support for human rights was simply imperialist propaganda, since we were allegedly keeping the Pinochet regime in power. I recall that during one visit to Santiago a few years ago, I walked through a slum area with a human rights activist of the Chilean Catholic Church. After some minutes of strolling past the humble dwellings of those who live their lives in quiet desperation, we come to a large sign, painted on a wall, with the hammer and sickle of the Communist Party. The sign read: La Unica Solucion—Revolucion. The Only Solution—Revolution. Well, it turned out that the sign was wrong—fortunately. There was a much better solution than revolution. The State Department worked hard, in cooperation with human rights activists in Chile, to make clear our strong support for human rights and a democratic solution. And in 1988 there was a plebiscite indicating the Chilean people's wish for fair elections. In December, 1989, those elections were held and a democratic government will be taking power next month in Santiago.

Before we leave Chile let's go back for one moment to the Santiago slums. Does the inauguration of a democratically elected government solve the problems of the miserable and underprivileged? Of course not. But it certainly does offer more hope for progress than violence or dictatorship, right-wing or left-wing.

Another Latin American country which has had many human rights problems is Cuba, but thus far there has been no democratic solution there. For a long time the Castro regime has survived through massive Soviet economic and military assistance, estimated at around $5 billion and $1.5 billion, respectively in 1988. The Cuban dictatorship is certainly the most repressive in this hemisphere, and thus far there are no indications that Castro intends to permit either

perestroika or glasnost in Cuba. Indeed, if anything, there has been a crackdown in recent months. Moreover, Cuban propaganda has begun to take a rather hostile line toward what it sees as a betrayal of Socialism in Eastern Europe. A few weeks ago the Cuban Government even expelled a Czech journalist because of one of his reports from Havana. Of course a plebiscite and honest elections are just as important in Cuba as they were in Chile, but this far the Castro response has been to circle the wagons and to remain in growing isolation. Some now refer to Cuba as "the Albania of the Caribbean."

Another country with severe human rights problems is Guatemala, a beautiful land with a tragic history. In January 1986, I was invited to the inauguration of President Vinicio Cerezo, the Christian Democratic candidate who have won in fair elections, following twenty years of military rule. We had been friends for several years prior to his victory, cooperating on human rights problems. While in the capital city I took the opportunity to meet with an elderly Guatemalan woman whose son had been "disappeared", as they say. We had long been in contact but we had never met. During our conversation she suggested that I might wish her to introduce me to a Guatemalan woman active in human rights. I welcomed the idea and within a short time that women came up to my hotel room. When she walked in I greeted her warmly and expressed the hope that now, with the election of Cerezo, our two democratic governments could cooperate closely on human rights problems. My visitor eyed me coldly and asked me to identify the second democratic government. I explained that I was with the State Department and working on human rights. Whereupon the woman responded: "Your President Reagan is a Fascist." I stared at the woman for some seconds and then inquired as to whether she had ever been to the U.S. She said she had not, but that she hoped to come here soon. I urged her to do so, and to stay as long as possible, and I predicted that she would then discover that we have many shortcomings, and certainly many problems, but that Fascism is not one of them. After about another minute of conversation the woman simply turned away and left the room. My elderly friend was dismayed, and of course I was surprised and disappointed. But obviously not everyone welcomes the opportunity to cooperate with us on human rights.

Unfortunately, human rights violations continue to be a major problem in Guatemala, as set forth in detail in our Human Rights Report.

Now just a few words on Nicaragua, for our time is short. As you know, elections are scheduled for this Sunday. The important thing is that they be fair and honest. The future of Nicaragua should be decided on the basis of what the Nicaraguan people themselves want, not on the preferences of Havana, Washington, or Moscow. The whole Nicaraguan tragedy of the past ten years could have been avoided if the Sandinistas had lived up to their promises, when they came to power in 1979, to hold fair elections. The Carter Administration was eager to cooperate with the Sandinistas, but was soured by the latter's manipulation of control, which resulted in the entrenchment of a small clique of leaders. Let's hope the Sunday elections are honest and that Nicaragua can start moving toward genuine democracy. I am sure that is what the majority of the Nicaraguan people want, and that is certainly the State Department's objective.

Last, a few words on El Salvador. I believe many of you know of the recent murder of Father Ellacuria and five other Jesuits in San Salvador. I knew Father Ellacuria and I am sometimes shaken when I reflect on how many friends of mine have been assassinated, by the right and the left. El Salvador is a country with a tragic history and severe political, economic and social problems. There are many human rights violations by the right, including right-wing death squads, and the judicial system is very weak. However, there has been considerable political progress since 1982, and there have now been several honest elections. The U.S. is trying to help the development of genuine Salvadoran democracy, based on the free choice of the Salvadoran people.

Meanwhile, the Salvadoran guerrillas, the FMLN, are seeking to impose a Castro-type dictatorship. But the human rights answer to right-wing oppression and injustice is not left-wing dictatorship. The answer to right-wing death squads is not left-wing death squads. It was the FMLN that broke off last year's negotiations with the Salvadoran Government, tried to assassinate Government leaders, and launched another bloody offensive. I am leaving with you a copy of an article on the Salvadoran tragedy appearing in "30 Days," an Italian Catholic publication. Please note the statement by Archbishop Rivera Damas, questioning FMLN sincerity in the negotiations. And, on the same page, the statement by Father Ignacio Martin Baro, one of the murdered Jesuit priests, asserting that the Salvadoran people see the FMLN as the side more opposed to ending the war. You may also wish to read this copy of "Poem of Love," by Rogue Dalton. He was a guerrilla leader who was murdered, not by a right-wing death squad, but by a top man in the FMLN. Finally, I have here a copy of recent Congressional testimony on El Salvador by Barnard Aronson, Assistant Secretary for Inter-American Affairs. Of course our Human Rights Report on El Salvador will be available tomorrow.

Well, so much for these very brief comments on a few specific countries. Now what are some of the lessons we can learn from the human rights experience of those lands? How can we help the human rights cause? The following are a few thoughts and recommendations for your consideration.

1. I hope you will give careful attention to the State Department's human rights performance. And I am sure we all agree that there is nothing wrong with criticizing our Government. But I do urge you to make that criticism as accurate and constructive as possible. Your criticism should not be based on your political preference, Democrat, Republican or whatever, but should have a single purpose: to help the cause of human rights.

2. We should oppose all human rights violations, regardless of whether they are committed by the right or the left. We should all apply the same standard we demand from our Government. And, of course, we should be just as critical of human rights violations in our country as we are of those abroad.

3. All human rights advocates should oppose right-wing and left-wing dictatorship. And we should also oppose those political groups and alleged human rights organizations which support such dictatorships.

4. Try to distinguish between the democratic left, those who advocate profound political, economic and social reforms in order to strengthen democracy, and the anti-democratic left, which seeks to impose a left-wing dictatorship.

5. Lastly, I hope that some of you will seriously consider becoming active in human rights work, either inside or outside the Government, or both. Sometimes such work can be difficult. When you are needed urgently on the phone the news is almost always bad. And if you really care about the work it can be heartbreaking. But the human rights cause needs, and deserves, all the help it can get.

In conclusion, reflecting on the collapse of Communist dictatorships during the past year, it seems clear that Lenin's World Revolution of violence and dictatorship has failed. But it now may well be that another World Revolution, the peaceful, democratic revolution of human rights, is on the march. And with the events of 1989 still ringing in our ears, and despite all the difficulties and problems which still lie before us, perhaps we would be justified in borrowing a line from the old leftist song, The International, and proclaiming: "A Better World's In Birth".

A TRIBUTE TO JAN SEVERSON

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. LAGOMARSINO. Mr. Speaker, it is with distinct pleasure that I rise today to express my appreciation and respect for Allan Hancock College board of trustee Jan Severson, who has announced that after serving for 13 years on the board, she is retiring.

Jan's accomplishments certainly qualify her to receive this recognition. She was first elected to the board in 1977 by an overwhelming margin. She served as vice president from 1979 to 1985 and as board president from 1985 to 1988, the first woman to hold that position since the board's inception in 1963. During her term as board president, the college was cited as one of six—out of the 107 California community colleges—model institutions in governance. The college was also cited as a model institution in matriculation, counseling and high school relations, and became the first public college or university in California to ban smoking in all indoor facilities owned or operated by the college. Under Jan's leadership, the college also introduced the London Semester Program, began the studies necessary to offer the recently established Registered Nursing Program, and achieved the highest rating possible in its accreditation evaluation. A colleague stated her achievements by saying, "during the 1980's Allan Hancock College continued to maintain one of the best records for academic excellence among the community colleges and Mrs. Severson played a key role in this accomplishment by emphasizing the importance of supporting classroom teaching."

Not only was she admired for her accomplishments, she was very popular among the school staff and the community. Her generosity to numerous causes and her commitment to the betterment of the college and the community have earned her great respect. And

without a doubt, her No. 1 concern has always been maintaining an educational environment where learning can prosper.

Beyond her duties as a board of trustee member, Jan has demonstrated other achievements. She served three, 3-year terms on the Commission on Instruction for the California Community Colleges. She was a charter member of the California Community College Occupation Education Coalition. Her commitment to service extended to membership on the national board of directors of Family Service America, and she was a public member and chair of the Santa Barbara County Local Agency Formation Commission. She was also a charter member of the Santa Ynez Valley Arts Association and Solvang Theaterfest, and was the second vice president of the Community Arts Music Association of Santa Barbara.

Our schools and communities are a better place for the leadership and professionalism of Jan Severson, and my wife Norma and I commend her outstanding commitment and achievements and wish Jan and her husband John all the best in their future endeavors.

HONORING THE RETIREMENT OF DR. HAROLD RATCHFORD OF HOLYOKE, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. CONTE. Mr. Speaker, I would like to take this opportunity to honor Harold Ratchford of Holyoke, MA, upon his retirement after 37 years of dental practice in the city of Holyoke. Dr. Ratchford is a U.S. Army veteran, and a graduate of Tufts Dental School. He is a junior warden of the vestry at St. Paul's Church. And as of August 1990, Dr. Ratchford and his wife, Mary, will be celebrating their 40th wedding anniversary.

Dr. Ratchford has been a tremendous asset to his profession in my district. He has served on both the Holyoke and Valley District Dental Societies, as well as chairing the dental committee of the United Way in his area.

His service has extended beyond his profession to the broader community. Holyoke has been very fortunate to have Dr. Ratchford as parks and recreation commissioner, as well as a member of the board of directors, and past president, of the Model Cities Health Center. Dr. Ratchford is a member of the Lion's Club. And, as his enthusiasm for sports, especially baseball, suggests, he has been very involved in youth baseball in Holyoke. Dr. Ratchford has spent 23 years, part of that time as president, in the Holyoke Youth Baseball League. In addition, the Holyoke youth have benefited from Dr. Ratchford's 20 years on the board of directors of the Holyoke Boys Club, as a member of which he served on the Golden Gloves committee.

The Ratchford family is well respected both in and out of the Holyoke community. I was very fortunate, Mr. Speaker, to have the opportunity to work with Dr. Ratchford's brother, Bill, while he served as the Representative from Connecticut's Fifth Congressional District. It was during this time that I became familiar with Dr. Ratchford who happened to operate on the same floor as my Holyoke district office. With his natty bowties and pleasant smile, Dr. Ratchford was the city's best recognized dentist strolling down High Street.

I would like to take this opportunity, Mr. Speaker, to thank Dr. Ratchford for his many years and great variety of service to the city of Holyoke. I wish him well in the time he now has to spend with his wife, Mary, 5 children, and 10 grandchildren. It is both a pleasure and an honor for me to rise today and commemorate the occasion of his retirement.

VERNON CHANG RETIRES

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to an outstanding individual from my congressional district on the occasion of his retirement from the Elk Grove Unified School District. On the evening of June 1, 1990, the friends and family of Vernon Chang will be gathered together to host a retirement reception for him. The reception provides us with an opportunity to reflect upon Mr. Chang's contributions to the school district's success.

In searching for a definition of the word "management" one need not look any further than the name Vernon Chang. Vernon has a long history of managerial successes on his resume in both the public and private sector. In every one of his past managerial positions he has effectively demonstrated his skills at personnel supervision and management of available resources. Since 1981, the Elk Grove Unified School District has been fortunate to have Vernon as their deputy superintendent. In this capacity, Vern was responsible for all business and personnel operations overseeing 500 classified personnel and a $110 million annual budget. Under his leadership, the Elk Grove Unified School District was successful in implementing a $300 million school construction program, working for the passage of a $70 million bond election, developing and implementing a fully portable elementary school, implementing a National School Lunch Program, upgrading district school buses to meet safety standards, and the implementation of a state-of-the-art data processing facility where none had existed before.

In light of the above accomplishments, Vernon Chang will be sorely missed by the Elk Grove School District. However, the school district's loss is the Department of Defense's gain. Vernon Chang will be taking his considerable talents to Washington, DC, where he has accepted a position as the associate director of financial, logistical and management information systems for the Department of Defense Dependents Schools.

My fellow colleagues, please join me in congratulating Vernon Chang for a job well done, and wish him all the best in his new position with the Department of Defense. Vernon will be a welcomed addition to Washington, DC.

A TRIBUTE TO HERBERT F. HOLMES

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate a member of my community for his exemplary community service.

Mr. Herbert F. Holmes, of Cranston, Rhode Island, is one of three recipients of the 1990 Edward J. McElroy, Jr. Rhode Island AFL-CIO Award for Community Service. This award was created in memory of Edward J. McElroy's longstanding concern for the community and his willingness to expend his time and effort to make Rhode Island a better place to work and live. Mr. Holmes has certainly lived up to this standard during his lifetime. Herbert has been a member of the United Brotherhood of Carpenters and Joiners for 36 years. During that time, Herbert has been the business manager of the carpenters union for 23 years.

Herbert's achievements outside of his union are also equally impressive. He has been on the Blue Cross/Blue Shield Board of Directors for 12 years and a member of the Statewide Building Code Commission for 10 years. In addition, Herbert has been on the Rhode Island AFL-CIO Executive Board for 20 years and the chairman of the Rhode Island State Apprenticeship Council for 4 years.

It is with great pleasure that I congratulate Herbert F. Holmes for his years of dedicated community service. He has truly demonstrated a deep concern for his community and the willingness to donate countless hours to help others in his community.

IN HONOR OF WILLIAM C. WEIR

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. FAZIO. Mr. Speaker, I would like to take this opportunity to recognize and honor William C. Weir, a respected and revered member of the university of California, Davis.

On June 13, Bill will retire from the university after 42 years of distinguished service. During this time, he has held a myriad of positions in both the academic and extra-curricular activities of the university.

Born in Lakeview, OR, in 1919, Bill began his long career in animal science at the age of 21 when he received his B.S. in animal husbandry from Oregon State University. After spending a year in Madison, WI, as a WARF research scholar and attending the University of Wisconsin, he received a B.S. in animal nutrition.

Bill decided to stay at the University of Wisconsin for 7 more years, working for 1 year as a research assistant at the Wisconsin Alumni Research Foundation and for 1 year as an instructor of animal husbandry at the university. He also completed a Ph.D. in animal nutrition in order to continue his teaching and research career, and he received his degree in 1948.

Dr. Weir promptly took a position as an assistant professor of animal science at the University of California, Davis, and he quickly attained full professorship and continues to teach animal science to this day.

In addition to this impressive academic career, Bill applied his interest and expertise in a variety of ways outside the classroom environment. He was half-time dean of students at UCD and a nutritionist in the agricultural experiment station from 1958 to 1965, And from 1981 to 1987 he was the associate program director of the Small Ruminant Collaborative Research Support Program, an AID-funded grant to the University of California. Some of his impressive committee assignments include: member, Subcommittee on Sheep Nutrition, National Research Council, National Academy of Sciences, 1955 to 1975; chairman, Hopland Field Station Research Committee, 1961 to 1970; member, Graduate Group in Nutrition, 1950 to present; and member, Sierra Foothill Range Research Committee, 1962 to 1970.

Dr. Weir's commitment to education and research in his field led him to accept a full-time position as nutritionist at the agricultural experiment station in 1966. He continues to hold this position today, and I know the people there are going to miss such a devoted and exceptional scientist.

His dedication to the development of young minds reached beyond the classroom and into the social life of the college, especially to the international student community. Along with his wife, Betty, Bill has been extremely active in activities surrounding the International House, and for the last 5 years, he has been the associate dean of the international programs at UCD and the coordinator of the Hubert H. Humphrey Program.

Without a doubt, Professor Weir will be missed by his students and his colleagues at Davis. He is a dedicated teacher, researcher, and administrator who, at all times, pushed himself to the limits of his abilities. At this time, I wish to extend my congratulations to William C. Weir for his accomplishments in animal science and nutrition and his work with the many students whose lives he touched.

HONORING THOMAS SAKALIS, SUPERINTENDENT OF THE EL RANCHO UNIFIED SCHOOL DISTRICT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. TORRES. Mr. Speaker, I rise today to recognize a very special individual, Thomas Sakalis, superintendent of the El Rancho Unified School District, city of Pico Rivera. On Saturday, June 23, 1990, Mr. Sakalis will be honored as he retires from his current position as superintendent of the El Rancho Unified School District.

Tom has served the school district for 38 years; 6 years within the capacity of superintendent. During those 38 years of service, he has contributed to the development of numerous young men and women as both a teacher and as an administrator—as an educator by any standard.

Thomas Sakalis, a native southern Californian, was born in East Los Angeles on March 28, 1926. The son of immigrant parents, Tom began school without being able to speak English. His parents, Gus and Eva Sakalis, immigrated to the United States from Greece in 1919. Tom married Patricia McMullen on July 7, 1957. They have two children, Valerie Ann Sakalis Black and Stacie Elaine Sakalis.

Mr. Sakalis graduated from Theodore Roosevelt High School in 1944 where he was student body president during his senior year. Upon graduation, he served with the U.S. Army in World War II as a combat infantryman, sergeant, in the European Theater. At the time of the Battle of the Bulge, he was cut off from his unit and trapped behind enemy lines; he was reported missing in action for 17 days. Tom was awarded the Presidential Unit Citation and three Oak Leaf Clusters.

After his discharge from service, Tom enrolled at East Los Angeles Junior College where he obtained a pre-dental degree. He continued to further his education at the University of Southern California where he received a bachelor of arts degree in zoology; Tom later earned a master of arts degree in school administration from California State University, Los Angeles.

Mr. Sakalis began his career in education by teaching seventh and eighth graders at both North Ranchito and Mary Meller Schools in the old Ranchito School District. Four years later, Tom was appointed principal of the North Park Junior High School. During his 12-year tenure as principal, Tom was well known for his strict student discipline; his development of pride in students; for building students' morale; for his organizational skills; and, for his strong relationships with students, faculty, and community. Tom was successful in imparting in his students self-esteem, a level of pride and appreciation for their culture and their community, and always stressed the importance of a sound education.

Tom was later promoted to the positions of assistant superintendent of personnel and deputy superintendent in charge of business and personnel. Mr. Sakalis was the chief negotiator for the district in union labor relations with the teachers and classified employees.

In June 1984, Thomas Sakalis was appointed superintendent. His appointment to such position was received with great enthusiasm by both the community and the employees of the school district. His reputation is that of a strict disciplinarian; his ability to plan, organize, and implement his goals makes him a most popular administrator. He has rendered outstanding service that has won the trust and confidence of the community and staff.

Tom has always stressed in his students the invaluable need and the benefits of a healthy degree of self-esteem, appreciation for the family, the school, religion, the community, culture, and our country. He has never allowed parents nor staff to forget the position of children as our most treasured resource—demanding our constant love, understanding, and guidance. Above all, Mr. Sakalis is a man and an educator that works well with people and for the benefit of people—always understanding the worth of the individual and the community. Tom is a sensitive and humane person.

Mr. Speaker, the presence and efforts of Mr. Sakalis will be missed by the El Rancho Unified School District and by the residents of the city of Pico Rivera. I ask my colleagues to join me in saluting Thomas Sakalis for his outstanding service to the community of Pico Rivera and to the field of education.

LEGAL AID SOCIETY OF SANTA CLARA COUNTY MARKS 30 YEARS OF SERVICE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. EDWARDS of California. Mr. Speaker, as the Legal Aid Society of Santa Clara County prepares to celebrate 30 years of service to the people of our valley, we would like to share with our colleagues some of the history and accomplishments of this fine society.

The Legal Aid Society was founded in Santa Clara County in 1960. The society's mission then, as now, was to provide free civil legal services to the needy resident of our community. Particular emphasis was placed on making access to the judicial system available for all, and on protecting the legal rights of persons unable to obtain legal assistance through other avenues.

The society provides services in six major areas: The admininistrative law unit, the family law unit, the health access advocacy unit, the housing law unit, the individual rights services/immigration law unit, and the private attorney involvement project. These units deal with a diversity of issues affecting the impoverished members of Santa Clara County. In 1989, the six full-time and two part-time attorneys, six paralegal advocates, seven support staff, and four administrative staff handled over 4,700 client cases.

The people of the Legal Aid Society of Santa Clara County do credit to the high ideals of the legal profession. They are dedicated and untiring in their devotion and service to the indigent in our valley. We can all be proud of this fine group of men and women who work so diligently to meet the legal needs of a segment of our populace that would otherwise go unserved.

Congratulations on 30 years of unselfish service to the people and to the law.

BOY SCOUTS OF AMERICA GOLDEN EMPIRE COUNCIL MAN OF THE YEAR

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to an outstanding individual in my community who truly deserves to be recognized for his dedication and service to the public. On June 5, 1990, Forrest Plant will be

honored by the Boy Scouts of America, Golden Empire Council, as their 1990 Man of the Year.

Mr. Plant was born in Sacramento and raised in Davis, CA, where he attended public schools. He graduated from the University of California, Berkeley and was a member of the Phi Beta Kappa fraternity. He then went on to serve his country in the U.S. Navy as a gunnery officer on the U.S.S. *Boston* in the Pacific during World War II. After his discharge from the Navy, Forrest went to law school at the University of California, Berkeley, Boalt School of Law and received his doctor of jurisprudence degree in 1949. He has been associated with the law firm of Diepenbrock, Wulff, Plant & Hannigan in Sacramento since 1955. He has served over the years as a member of the Judicial Council of the State of California, 1972–76; president, State Bar of California, 1970–71; and member of its board of governors, 1968–71; the University of California Board of Regent, 1978–79; the University of California Alumni Association, 1972–79; and is currently a member and former chairperson of the California Law Revision Commission. I salute his many accomplishments and contributions to his community as well as to his profession.

Mr. Speaker, Forrest Plant's success in business and service to his community and county exemplifies the strength of character which all youth should strive to achieve. I salute Forrest's accomplishments and ask that my colleagues join me in congratulating Forrest Plant as the Boy Scouts of America, Golden Empire Council 1990 Man of the Year.

A TRIBUTE TO ATHELINA H. LATHAM

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Mrs. Athelina H. Latham on receiving an honorary degree from the Rhode Island School of Design in Providence, RI.

Athelina is receiving this degree in recognition of her many outstanding accomplishments and achievements in the world of art and art education. Today at the age of 82, Athelina is still a vibrant teacher and generously shares her talents with others. Her career in art has spanned almost 60 years and has taken place across the country. She has taught in New York City and Chicago and in her home State of Rhode Island in several institutions. She has taught art to people of all ages, from children to senior citizens. Her achievements are not only in the field of art education but also in hat and glove design. In 1940, she opened the successful Latham French Glove Studio in Chicago, IL where she received national recognition for her unique designs.

It is a great pleasure for me to congratulate Athelina H. Latham on her receiving and honorary bachelor of fine arts degree from the Rhode Island School of Design. I wish her all the best and continued success in the future.

FAN FAIR '90: COUNTRY MUSIC TREATS ITS FANS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. CLEMENT. Mr. Speaker, one of country music's great traditions began this week in Nashville For the 19th year in a row, country music artists will meet their fans at "Fan Fair."

Fan Fair is the gala get-together where an expected 24,000 fans will spend 8 days listening to great country music and meeting many of their favorite country artists.

Mr. Speaker, as you know, country music artists have long recognized the importance of their fans. And, in appreciation, they participate in more than 30 hours of music, much of it free, and in picture-taking and autograph sessions at more than 350 booths at the fair grounds.

I would like to share with my colleagues, and with country music fans everywhere, an article from Sunday's Tennessean listing the schedule for this week. As you read through it, you will see many of the world-renowned country artists who participate in Fan Fair and express their thanks and appreciate to their loyal country music fans.

Mr. Speaker, I am proud to represent "Music City, U.S.A." here in the Congress. And I am especially proud of Fan Fair—where artists and fans come together in a week-filled celebration of this unique and truly American form of music.

[From the Tennessean, June 3, 1990]

NASHVILLE GOES COUNTRY CRAZY FOR STAR-STUDDED FAN FAIR '90

If you're a country music fan, you'll think the whole town has turned into Hillbilly Heaven this week.

Hundreds of legends, newcomers and unknowns will be singing for the expected 24,000 registrants for Country Music Fan Fair, 1990.

This is the 19th annual Fan Fair and it seems like everyone in Nashville is going crazy for country. In addition to the traditional events at the Tennessee State Fairgrounds, this year's fiesta includes shows at Tower Records, Starwood Amphitheathre, the Opry House, Municipal Auditorium, Fountain Square and nightclubs all over Nashville. From the Country Music Hall of Fame to the Sweetwater Lounge there will be Fan Fair activities wherever you turn.

Randy Travis, Waylon Jennings, the Judds, Ray Price, Kathy Mattea, Charlie Daniels, Crystal Gayle, Ricky Skaggs, Conway Twitty, Charley Pride, Ricky Van Shelton, Loretta Lynn, the Oak Ridge Boys and dozens of other top names will be singing, signing autographs, posing for snapshots and hosting fan club get-togethers during the giddy whirl of events.

The "Sunday Mornin' Country" gospel show will celebrate its 10th anniversary. Legendary Texas swing king Hank Thompson will celebrate his induction into the Country Music Hall of Fame, Hee Haw will celebrate its 23rd season of TV tapings. *Music City News* and the Nashville Network will celebrate their first combined awards show.

Clint Black, the Kentucky HeadHunters, Garth Brooks, Travis Tritt, K.T. Oslin, Alan Jackson and Wild Rose were unknowns at Fan Fair not long ago; this year they're all having booths for the first time.

The $70 Fan Fair registration includes more than 30 hours of stage shows, admission to Opryland, visits to the Country Music Hall of Fame and Ryman Auditorium, two Texas barbecue luncheons, the Grand Masters Fiddling Championship and all the picture snapping and autograqh(getting your heart desires in the 350 Fan Fair booths.

For more information call 889-7503.

Below is *The Tennessman's* country music roundup of Fan Fair fun. Events maroed with an asterisk (*) are included in the registration. All other events are free or are priced as marked.

TODAY

12:30-1:15 p.m. The Jerry Sullivan Group. Summer Lights Courthouse Stage. $2 (includes all Summer Lights concerts).

1-1:45 p.m. Don Henry, Hal Ketchum and Gary Burr. Summer Lights Fifth Avenue Stage, $2 (includes all Summer Lights concerts).

1:30-2:15 p.m. "Writers in the Round" with Wayland Patton, Carl Jackson, Larry Cordle and Jim Rushing. Summer Lights Courthouse Stage. $2.

2-2:45 p.m. Pat Alger. Summer Lights Fifth Avenue Stage.

2 p.m. Asleep at the Wheel. Cane Creek Park, Cookeville, Tenn. Free.

2:30-3:15 p.m. Dusty Miller. Summer Lights Courthouse Stage.

3-3:45 p.m. Randy Vanwarmer. Summer Lights Fifth Avenue Stage.

3:30-4:15 p.m. Tony Trischka's Big Dogs. Summer Lights Courthouse Stage.

4-4:45 p.m. Mel McDaniel. Summer Lights Legislative Plaza Stage.

5-5:45 p.m. Janie Fricke. Summer Lights Legislative Plaza Stage.

5-7 p.m. "Super Showcase '90" with the Hager Twins. Sweetwater Lounge. $2.

6-7 p.m. William Lee Golden & the Goldens. Summer Lights Legislative Plaza Stage.

7-7:45 p.m. Vince Gill. Summer Lights Courthouse Stage.

7 p.m. "Country Explosion" with Conway Twitty, Shenandoah, T.G. Sheppard, Oak Ridge Boys. Municipal Auditorium. $19.50.

8 p.m. "Writers Night" with Kim Morrison, Ronnie Godfrey. Sweetwater Lounge. $2.

10 p.m. Eddie Rabbitt. Summer Lights Courthouse Stage.

MONDAY

5 p.m-12 midnight. "Super Showcase '90" with Argie Darnell, Roz Bowie, Bobby Ross, others. Sweetwater Lounge. $2.

6-7:30 p.m. Michael Harding show. Fountain Square. Free.

6 & 8 p.m. Louise Mandrell show. Opryland. Included in $19.95 park admission.

6-9 p.m. "Bluegrass Show" with Bill Monroe, Jim & Jesse, Ralph Stanley, Wayne Lewis, Diana Christianson, the Osborne Brothers, George Winn, Petticoat Junction, Skyline Bluegrass Express, the Roan County Boys, Paul Mullins' Traditional Grass, the Bluegrass Mountaineers, Big Timer, the Goins Brothers, Mac Wiseman. Fairgrounds. $5.

8-10 p.m. "TNN/*Music City News* Country Awards" hosted by Barbara Mandrell and Jimmy Dean. Opry House. Sold out.

9 p.m. Phil Baugh & Hot Licks show. Broken Spoke. Free.

TUESDAY

10 a.m. Booths open. Fairgrounds.

10 a.m.–12 noon. "Superstar/Independent Label Show" with Ralph Emery, Dave & Sugar, Barbara Fairchild, Donnie Marsico, Jeanne Pruett, Big Al Downing, Susi Beatty, Johnny Russell, Helen Cornelius, Hank Sasaki, Jeannie Seely, Andi & the Browns. Fairgrounds.

2:30–4:30 p.m. "PoltyGram Records Show" with Mike Snider, Larry Boone, Daniele Alexander, William Lee Golden, Ronna Reeves, David Lynn Jones, Kathy Mattea, Rich Grissom. Fairgrounds.

5 p.m.–12 midnight. "Super Showcase '90" with Chuck Seals, Eddie Fannon, Erik J. Farris, others. Sweetwater Lounge. $2.

6–8 p.m. Jack Patton, Linda Carol Forrest. Fountain Square. Free.

7–8 p.m. Jerry Clower book autograph party. Tower Books. Free.

7:30–9:30 p.m. "CBS Records Show" with Mary-Chapin Carpenter, Ricky Van Shelton, Shelby Lynne, Les Taylor, Doug Stone, Zaca Creek. Fairgrounds.

8:30 p.m. "Third Annual R.O.P.E. Fan Fair Show" with Norma Jean, Bill Carlisle, Dick Curless, Tonya Opry, Speck Rhodes, Allan Hitten, Gordon Terry, Tanya Kae, George Riddle. Gabe's Lounge. $5.

9 p.m. Marty Haggard show. A.W.O.L. club. $5.

10:30 p.m.–12 midnight. Concert and autograph session with Travis Tritt, Southern Pacific, Holly Dunn. Tower Records. Free.

WEDNESDAY

9 a.m. *Hee Haw* TV taping with Glen Campbell, Alan Jackson. Opry House Studio A. Free.

10 a.m.–12 noon. "Capitol Records Show" with Eddie Rabbitt, Garth Brooks, Sawyer Brown, Scott McQuaig, Wild Rose. Fairgrounds.

2:30–4:30 p.m. "Warner Bros. Records Show" with Randy Travis, Travis Tritt, Carlene Carter, John Davis. Fairgrounds.

2:30 p.m. *Hee Haw* TV taping with Tanya Tucker, Suzy Bogguss, Patty Loveless. Opry House Studio A. Free.

4 p.m. "YWCA Celebrity Auction." Fairgrounds. Free.

4–6 p.m. Luce Amen show. Fountain Square. Free.

5 p.m.–12 midnight. "Super Showcase '90" with Dixie Harrison, Lariat, Bill Dudley, others. Sweetwater Lounge. $2.

6–8 p.m. "Jeannie Seely's Country Showcase." Fountain Square. Free.

*7:30–9:30 p.m. "MCA Records Show" with Jerry Clower, the Bellamy Brothers, Vince Gill, the Nitty Gritty Dirt Band, Marty Stuart. Fairgrounds.

6 and 8 p.m. Louise Mandrell show. Opryland. Included in $19.95 park admission.

8 p.m. "Celebrity Auction for Muscular Dystrophy." Wrangler Restaurant. Free.

9 p.m. "Writers Night" with Ralph Murphy, Pat Alger, Peter McCann, Pat McManus, Richard Leigh, Bat McGrath. Douglas Corner. $5.

9:30 p.m. Joe Ely, the Planet Rockers show. Ace of Clubs. $10.

10 p.m.–2 a.m. "Superstar Spectacular" with Vern Gosdin, Dan Seals, Randy Travis, Garth Brooks, Jann Browne, Larry Boone, Earl Thomas Conley, Crystal Gayle, Alan Jackson, Paul Overstreet, Ricky Skaggs, Doug Stone, Ricky Van Shelton, Robin Lee, Wild Rose, Johnny Russell. Opry House. $25 (includes admission to Thursday's "Country Music Legends" show).

10:30 p.m.–midnight. Concert and autograph session with Larry Boone, David Lynn Jones, Daniele Alexander, Tower Records. Free.

9 a.m. *Hee Haw* TV taping with Garth Brooks, Jo-El Sonnier. Opry House Studio A. Free.

THURSDAY

*10–11:30 a.m. "Atlantic Records Show" with Stan Hitchcock, the Girls Next Door, Robin Lee, Neil McGoy, Billy Joe Royal, Jeff Stevens. Fairgrounds.

*1 p.m. Hank Thompson Country Music Hall of Fame ceremony and autograph session. Country Music Hall of Fame.

2:30 p.m. *Hee Haw* TV taping with Eddie Rabbitt, Travis Tritt. Opry House Studio A. Free.

*2:30–4:30 p.m. "16th Avenue Records Show" with Katie Haas & Al Wyntor, John Conlee, Canyon, Dianne Davis, Charley Pride, Randy VanWarmer. Fairgrounds.

5 p.m.–12 midnight. "Super Showcase '90" with Juli Maners, Danny Steagall, Ramsey Kearney, others. Sweetwater Lounge. $2.

6 and 8 p.m. Louise Mandrell show. Opryland. Included in $19.95 park admission.

7:30 p.m. Sawyer Brown music video taping and "World's Fair" preview. Starwood Amphitheatre. Free with *Tennessean* coupon.

7:30–9:30 p.m. "RCA Records Show" with Shelly Mangrum, the Judds, Lorrie Morgan, Paul Overstreet, Prairie Oyster. Fairgrounds.

8 p.m. Okie show. Bell Cove club. $5.

8 & 10 p.m. William Lee Golden show. Flamingo Cafe. $5.

8:30 & 10:30 p.m. Ronnie McDowell show. Stockyard Restaurant. $8.

9 p.m. "Writers Night" with Dave Mallett, Steve Dan Mills, Alan Rhody, Jon Vezner. Cockeyed Camel. $5.

9:30 p.m. Michael Dillon show. Douglas Corner. $4.

9:30 p.m. Joe Ely show. Bluebird Cafe. $12.

10 p.m.–2 a.m. "Country Music Legends Show" with Bobby Bare, Roy Clark, Porter Wagoner, Bill Anderson, Patsy Montana, Hank Thompson, the 4 Guys, Jerry Reed, the Browns, Helen Cornelius, Jim Glaser, Jack Greene, Tom T. Hall, Jeannie Seely, the Osborne Brothers, Melba Montgomery. Opry House. $25 (includes admission to Wednesday's "Superstar Spectacular").

10:30 p.m.–12 midnight. Concert and autograph session with Garth Brooks, Dan Seals, Suzy Bogguss, Jann Browne. Tower Records. Free.

FRIDAY

2:30 p.m. *Hee Haw* TV taping with Vern Gosdin, Canyon. Opry House Studio A. Free.

10–11:30 a.m. "Arista Records Show" with Gerry House, Asleep at the Wheel, Exile, Alan Jackson, Lee Roy Parnell, Michelle Wright. Fairgrounds.

1–2:30 p.m. "Curb Records Show" with Eric Marshall & Bruce Sherman, Ronnie McDowell, Wayne Newton, Becky Hobbs, Delbert McClinton, Jann Browne. Fairgrounds.

2:30 p.m. *Hee Haw* TV taping with Roy Clark, Hoyt Axton. Opry House Studio A. Free.

3–4:30 p.m. "Cajun Show" with Doug Kershaw, E'Chauffe, Jimmy C. Newman & Cajun Country. Fairgrounds.

5 p.m.–12 midnight. "Super Showcase '90" with Dennis Smalley, Jack Farr, Hal Gibson, others. Sweetwater Lounge. $2.

5:30 p.m. "IFCO New Country Showcase and Dinner" with Luce Amen, Lorie Ann, Ron Cole, Chris Dodson, Steve Hill, J.P. Netters, Joe Tinoco. Fairgrounds. $15 (includes 8 p.m. IFCO Show).

6 p.m. Linda Carol Forrest show. Fountain Square. Free.

6–7:30 p.m. Concert and autograph session with Alan Jackson, Baillie & the Boys. Tower Records. Free.

6 & 8 p.m. Louise Mandrell show. Opryland. Included in $19.95 park admission.

6:30 p.m. C.C. Couch show. Fountain Square. Free.

7 p.m. Lane Caudell show. Fountain Square. Free.

8 p.m. "IFCO Show" with Loretta Lynn, Crystal Gayle, Peggy Sue, Canyon, Johnny Rodriguez, Hoyt Axton, Suzy Bogguss, Paul Overstreet, Marty Stuart, Pam Tillis, Bill Anderson, Susi Beatty, Roy Clark, Joe Barnhill. Fairgrounds. $10.

8 p.m. "WSIX Fan Jam" with Foster & Lloyd, Vern Gosdin, Jann Browne, Delbert McClinton, Mark Collie, Jennifer McCarter & the McCarters, Les Taylor. Starwood Amphitheatre. $9.80.

8 & 10 p.m. William Lee Golden show. Flamingo Cafe. $5.

9 p.m. Mark Gray, Claudia Nygaard show. Cockeyed Camel. $8.

9–10:30 p.m. Concert and autograph session with Vince Gill, James House, and Bellamy Brothers, Gerry House. Tower Records. Free.

10 p.m. Dave Olney show. Exit/In. $5.

SATURDAY

10:30 a.m.–6 p.m. "Grand Masters Fiddling Championship" with Roy Acuff, Porter Wagoner. Opryland.

11 a.m.–12 midnight. "June Jam IX" with Alabama, Dolly Parton, Clint Black, Lorrie Morgan, Asleep at the Wheel, Alan Jackson, Holly Dunn, Travis Tritt, Baillie & the Boys, Ricky Van Shelton. Fort Payne, Ala. $25.

1–2:30 p.m. Concert and autograph session with Ricky Skaggs, Les Taylor, Shelby Lynne, Tim Mensy. Tower Records. Free.

3–5 p.m. "An Afternoon With Goober" with George Lindsey, the Bellamy Brothers. Nitelights. $5.

5–7:30 p.m. David Williams, Gilly Elkin, Ken Penland, Sterling Silver, Burton Collins, Roger Brown. Fountain Square. Free.

5 p.m.–12 midnight. "Super Showcase '90" with Ken Strickland, Brian O'Neill, Steve Douglas, others. Sweetwater Lounge. $2.

7 & 9 p.m. Louise Mandrell show. Opryland. Included in $19.95 park admission.

8:30 p.m. Tricia Walker & The Mudcats show. Merchant's. Free.

9 p.m. E'Chauffe Cajun show. Antoine's. $4.

9 p.m. Alison Krauss & Union Station show. Station Inn. $7.

NEXT SUNDAY

9:30 a.m. "Sunday Mornin' Country" with Roy Clark, the Hee Haw Gospel Quartet, Connie Smith, Lulu Roman, Hoyt Axton, Jack Greene, Billy Walker, the Fox Brothers, George Hamilton IV, Johnny Russell, Skeeter Davis. Opry House. Free.

2 p.m. "Talent Showcase" with Lori Robin Smith. Nashville Convention Center. $2.

3 p.m. Oak Ridge Boys softball game versus the Hendersonville police. Drake's Creek Park. $5.

5–6 p.m. Deanna Carter, Hank Sasaki, Corrine Dawn. Fountain Square. Free.

8 p.m. "Writers Night" with Pauline Smith. Sweetwater Lounge. $2.

THE REDEEM UNITED YOUTH DEPARTMENT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. GEKAS. Mr. Speaker, I would like to draw the attention of my colleagues to an impressive group of young people who demonstrate the values on which our society depends.

The Redeem United Youth Department was established in 1964. Since then, scores of young people have benefited from the guidance of this group through community service and an emphasis on academic achievement. One of the current members of the youth department has just completed his senior year. With plans to study engineering, Ralph Morris will continue his education at college in Philadelphia in the fall. Nine other youngsters have successfully completed their academic year and passed onto the next grade. These young people are: Jermaine Hargrove, Shannon Brannon, Shelly Brown, Nicole Butler, Tori Tatum, Lovell Tatum, Towanna Morris, Lee Brown, and Byeshia Powell.

The group serves the community through activities like visitation of nursing homes and senior centers. Also, the young people work to involve others in the youth department. They understand that through such involvement, teenagers can find meaning and support without having to escape to drugs and alcohol.

Mr. Speaker, these 10 young people are gaining the qualities that will help make them solid, thoughtful citizens. They deserve to be commended for their loyalty and dedication to causes bigger than themselves.

TRIBUTE TO JULIUS UEHLEIN

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. GRAY. Mr. Speaker, I rise today to pay tribute to Julius Uehlein, on the occasion of his retirement as president of the Pennsylvania AFL-CIO, a position he has held since 1982.

Julius has been a chief advocate for working people for 54 years. He first joined his union, the United Steelworkers of America, in 1936 as one of the original Steelworkers Organizing Committee members.

Julius Uehlein's career is marked by his commitment and ongoing service to America's working men and women. He served local union 1104 in a number of offices and was president of his county labor council prior to beginning full time service for the union in 1948. As an international representative he was involved in national negotiations, local bargaining, and arbitration with big steel corporations.

In 1967, he was elected secretary treasurer of the Pennsylvania Steelworkers Legislative Committee, and for 15 years he directed that organization's legislative program.

Throughout his career in organized labor, Julius Uehlein has maintained a deep interest in worker education programs and in furthering the cause of workers' rights, regardless of race, religion, sex, or national origin. His commitment goes far beyond the demands of his job. He is a life member of the National Association for the Advancement of Colored People, and has been a volunteer instructor at several universities, teaching both union members and college students about organized labor.

As much as he is committed to the causes of labor, Julius Uehlein has shown equal dedication to public service. Among the organizations he serves are: The United Way of Pennsylvania, the board of governors of the State system of higher education, and the Pennsylvania Economic Development Partnership.

Please join me in paying tribute to a man who has committed himself to improving the lives of others. We in Pennsylvania will always remember his worthy contributions. Let us all join working men and women everywhere in honoring Julius Uehlein and his accomplishments.

TRIBUTE TO HEAD START

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. SOLARZ. Mr. Speaker, in the district that I represent, there are individuals that have made conscious efforts to improve the quality of life in their communities. With the initiation of Head Start programs, parents and children have been given opportunities to advance their education, enabling them to become active and functioning members of society. I rise today to pay tribute to the Head Start programs in celebration of their 25th anniversary this year.

In 1965, child development experts drafted a proposal for federally financed preschool centers as part of President Lyndon B. Johnson's War on Poverty. At this time, there was a lack of educational opportunities for low-income, disadvantaged individuals. The Head Start programs evolved in response to growing concerns for the children in these communities. During the summer of 1965, 500,000 children enrolled in Head Start programs in 25,000 communities nationwide. The programs gained mass approval and acceptance nationwide. At the end of that summer, Head Start was converted into a year-round program.

The Head Start programs have survived for 25 years through both Democratic and Republican administrations. The main goal of Head Start is to promote parents and children to self-sufficiency and economic independence.

There is voluntary and staff support for the programs. Parental involvement is the key to success for the programs. On a local level, parents are included in setting policies and guiding operations. They help recruit cash contributions to match the 20 percent of local funding they receive for the programs.

There are psychologists, speech therapists, doctors, and teachers that work at every Head Start Program. They provide children and their families with physical, psychological, and emotional support with their worthwhile and beneficial services. Many of the parents of Head Start children have little education, and Head Start provides these parents with a GED program where they can further their education and employment opportunities.

In fact, most of the Head Start teachers were parents of Head Start children, who received their GED's and pursued baccalaureate degrees from city colleges.

New York City receives approximately $41 million out of the $150 million designated for funding State programs. Five thousand children between the ages of 3 and 4 are involved in Head Start programs in Brooklyn. They receive excellent health care, as well as excellent educational opportunities.

Region II, the arm of Washington at 26 Federal Plaza, encompasses 10 regions and 2 commonwealths involved in the Head Start programs. Every program must have a grantee agency for child development within the Human Resources Administration. There must be a community-based sponsor for each Head Start Program.

New York serves 12,000 children and is the largest grantee agency in the United States. There are 63 delegate agencies, each with different sponsors in New York, and there are 19 delegate agencies in Brooklyn. The area directors for Head Start serve as liaisons with the Agency of Child Development. Their aim is to improve the lives of the disadvantaged children in the communities.

The Head Start programs are crucial to the needs of the members in my communities. The benefits that they receive are overwhelming. On its 25th anniversary, I would like to wish Head Start continued success in the future, and I would like to thank Head Start for giving invaluable services to the members of all communities nationwide.

VOTING RECORD

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. PEASE. Mr. Speaker, it has become my practice to insert periodically in the CONGRESSIONAL RECORD a list of key votes that I have cast in the U.S. House of Representatives.

The list is arranged in this manner: Each item begins with the rollcall vote number of the bill or resolution that the House was considering, followed by the bill number and a summary of the issue. This is followed by my own vote on the issue and the vote outcome.

This list of votes covers the period of October 21, 1989, through May 24, 1990.

KEY VOTES OF CONGRESSMAN DON J. PEASE

(291) H.R. 2989. FY 1990 Treasury Appropriations. Providing $18,394,206,000 in FY 1990 for the Postal Service, the Treasury Department and other government agencies. No. Passed 383-30.

(295) H.R. 3402. Aid to Poland and Hungary. Authorizing $837.5 million in FY 1990-92 for U.S. aid programs to Hungary and Poland. Yes. Passed 345-47.

(302) H. J. Res. 423. FY 1990 Continuing Appropriations. Continuing appropriations at existing levels for FY 1990 through Nov. 15, or until bills allowing regular appropriations are signed into law, and providing disaster assistance for victims of the California earthquake. No. Passed 321-99.

(303) H.R. 2916. FY 1990 VA and HUD Appropriations. Providing $66,960,850,000 in FY 1990 for the Department of Housing and Urban Development, the Department of Veterans Affairs, the Environmental Protection Agency, NASA, the National Science Foundation and various other agencies. Yes. Passed 363-53.

(305) H.R. 2990. FY 1990 Labor, HHS, and Education Appropriations. Overriding President Bush's veto of the bill appropriating $156,743,750,000 in FY 1990 for the Departments of Labor, Health and Human Services, and Education and related agencies. Yes. Failed 231-191. (2/3 vote required for passage.)

(307) H.R. 45. Chinese and Central American Stability. Granting "temporary protected status" to citizens of Nicaragua, El Salvador and the People's Republic of China residing in the U.S. and allowing the attorney general to extend special protective status to other foreign citizens fleeing turmoil in their own countries. Yes. Passed 258-162.

(313) H.R. 2991. FY 1990 Commerce, Justice, and State Department Appropriations. Appropriating $17,249,608,000 in FY 1990 for the Departments of Justice, Commerce, State, related agencies and the Judiciary. No. Passed 323-81.

(319) H.R. 3015. FY 1990 Transportation Appropriations. Providing $11,968,919,569 in FY 1990 for the Department of Transportation. Yes. Passed 394-21.

(324) H.R. 2710. Minimum-Wage Increase. Increasing the minimum wage to $4.25 an hour over two years and allowing a temporary training wage for 16- to 19-year-old employees. Yes. Passed 382-37.

(328) H.R. 3443. Airline Stock Acquisition Review. Prohibiting certain airline buyouts if major wage cuts, employee layoffs, threats to safety or competitiveness, or foreign controlling interest would result; and prohibiting a potential buyer who has presided over more than one airline bankruptcy from purchasing an airline. Yes. Passed 301-113.

(335) H.R. 2459. FY 1990 Coast Guard Authorization. Authorizing up to $3.38 billion in FY 1990 for the Coast Guard. Yes. Passed 383-3.

(336) H. J. Res. 280. Debt-Limit Increase. Agreeing to the Senate amendment repealing Section 89 business tax regulations which prohibit discrimination in employee-benefit plans and raising the federal debt limit to $3.1227 trillion. Yes. Passed 269-99.

(338) H.R. 1465. Oil Spill Liability. Amendment preventing federal laws from overriding tougher state oil-spill laws. Yes. Passed 279-143.

(339) H.R. 1465. Oil Spill Liability. Amendment limiting an individual seeking oil-spill damage compensation to filing under either state or federal laws, but not both. No. Failed 169-251.

(343) H.R. 2461. FY 1990 Defense Authorization. Authorizing $302.9 billion in FY 1990 for the Defense Department and defense-related Energy Department programs. No. Passed 236-172.

(345) H.R. 1465. Oil Spill Liability. Setting federal oil spill liability limits, authorizing clean-up and compensation payments for costs exceeding those limits, and establishing spill-prevention and spill-response requirements. Yes. Passed 375-5.

(351) H.R. 2939. FY 1990 Foreign Operations Appropriations. Agreeing to the Senate amendment providing $15 million to the U.N. Population Fund on the condition that the funds not be used to support family planning programs in China. Yes. Passed 244-178.

(358) H.R. 3660. Government Pay and Ethics Package. Phasing out honoraria and upgrading ethics rules for members of the House, and increasing salaries for members of the House and high-level officials in the executive and judicial branches. Yes. Passed 252-174.

(364) H.R. 3566. FY 1990 Labor-HHS Appropriations. Agreeing with the Senate amendment rewriting certain restrictions on telephone "dial-a-porn" operations which were declared unconstitutional by the Supreme Court in 1989. Yes. Passed 402-0.

(368) H.R. 3532. Civil Rights Commission Reauthorization. Reauthorizing the U.S. Commission on Civil Rights until Sept. 30, 1991. Yes. Passed 389-0.

(370) H.R. 2712. Chinese Immigration Status. Granting Chinese students living in the U.S. since June 5, 1989, a four-year waiver of the visa requirement that they return to China for two years before seeking immigrant status in the U.S. Yes. Passed 403-0.

(371) H.R. 3607. Catastrophic Revision. Repealing all Medicare benefits and premiums of the 1988 Medicare Catastrophic Coverage Act, but retaining Medicaid provisions. Yes. Passed 349-57.

(374) H.R. 3743. FY 1990 Foreign Operations Appropriations. Reworking the bill to address concerns that caused President Bush to initially veto it; providing $14.6 billion in FY 1990 for foreign aid programs. Yes. Passed 310-107.

(375) H. Con. Res. 236. Violence in El Salvador. Condemning violence in El Salvador, including the murder of six priests and two others, and stating that continued U.S. aid would be influenced by satisfactory conclusion of the murder investigations. Yes. Passed 409-3.

(377) H.J. Res. 448. FY 1990 Supplemental Appropriations. Providing $100 million in FY 1990 for the Title XX social services block grant program. Yes. Passed 354-46.

(379) H.R. 3299. FY 1990 Budget Reconciliation. Approving program cuts and revenue increases needed to bring the FY 1990 deficit under the $110 billion limit set by the Gramm-Rudman law. Yes. Passed. 272-128.

(11) H.R. 2190. Voter Registration. Easing voter registration procedures nationally by requiring states to make applications available in certain public offices and provide for simultaneous application for registration when a citizen acquires, renews or changes the address on a driver's license. Yes. Passed 289-132.

(12) H. Con. Res. 262. Panama Invasion. Expressing praise for the U.S. invasion of Panama and sadness over resulting deaths; commending the president for recalling troops; and urging continued efforts to promote democracy in Panama. Yes. Passed 389-26.

(21) H.R. 1243. Metal Casting Competitiveness. Requiring the Secretary of Energy to establish three metal casting competitiveness centers. Yes. Passed 382-27.

(22) H.R. 1231. Eastern Airlines Strike Emergency Board. Overriding President Bush's veto of the bill creating a commission to look into and report to Congress on the Eastern Airlines strike. Yes. Failed 261-160 (⅔ vote required for passage.)

(40) H.R. 3581. Rural Economic Development Act. Establishing a Rural Development Administration to coordinate federal rural development programs, revise the dissemination of rural development loans and grants, and permit the Secretary of Agriculture to transfer funds among various federal loan and grant programs at the request of states. Yes. Passed 360-45.

(43) H.R. 2209. Soybean Promotion Act. Enabling soybean producers to establish and fund a program to promote, conduct research and provide consumer information on soybeans. Yes. Passed 416-9.

(45) H.R. 3386. Garbage Backhauling. Requiring the Department of Transportation to establish regulations governing the "backhauling" of solid waste and hazardous materials in the same trucks used to transport food. Yes. Passed 410-15.

(50) H.R. 3847. Department of Environmental Protection. Creating a Department of Environmental Protection; limiting the contracting out of "inherently governmental" functions; and mandating several specific departmental offices within the new Department. Yes. Passed 371-55.

(55) H.R. 3. Child Care. Amendment allowing rather than requiring states to have a child-care voucher program. Yes. Failed 182-243.

(60) H.R. 3. Child Care. Improving programs which provide federal assistance for child care and increasing the earned income tax credit for low-income working families. Yes. Passed 265-145.

(65) H.R. 4404. FY 1990 Supplemental Appropriations. Providing $2.4 billion in additional funds for FY 1990 programs, including $870 million in aid to Panama, Nicaragua and other foreign nations; and rescinding $1.8 billion in FY 1990 defense spending to offset new appropriations in the bill. No. Passed 362-59.

(67) H. Con. Res. 289. Lithuanian Independence. Expressing support for Lithuanian independence and calling on President Bush to plan for and take steps to "normalize diplomatic relations" with the new government there. Yes. Passed 416-3.

(68) H.R. 2015. Public Works and Economic Development Act. Authorizing in each year, FY 1991-93, $276 million for the Economic Development Administration and $185 million for the Appalachian Regional Commission. Yes. Passed 340-82.

(80) H.R. 3848. Money Laundering. Amendment suggesting uniform state guidelines limiting what the fee check-cashing businesses could charge to no more than $8 or 1.5 percent of the value of the check, whichever is less. Yes. Passed 207-200.

(82) H.R. 3848. Money Laundering. Expanding programs to discourage participation by financial institutions in money-laundering schemes. Yes. Passed 406-0.

(86) H.R. 743. Negotiated Rulemaking. Establishing procedures for federal agencies to use to negotiate regulations with interested parties before they are promulgated, thereby reducing the potential for future lawsuits. Yes. Passed 411-0.

(89) H. Con. Res. 310. FY 1991 Budget Resolution. Establishing FY 1991 budget levels of $1.388 trillion in budget authority and $1.239 trillion in outlays, and including a deficit of $63.75 billion. Yes. Passed 218-208.

(94) H.R. 4380. Super Collider Authorization. Authorizing $5 billion in federal funds for the construction and development of the superconducting super collider. No. Passed 309-109.

(107) H.R. 770. Family and Medical Leave Act. Requiring private employers with 50 or more employees to provide up to 12 weeks

per year of unpaid leave to workers to care for a new child or seriously ill child, parent or spouse, or for the employee's own serious illness; and requiring the federal government to provide up to 18 weeks every two years for family leave and 15 weeks every year for medical leave. Yes. Passed 237-187.

(111) H.R. 4151. FY 1991-94 Human Services (Head Start) Reauthorization. Authorizing $2.9 billion in FY 1991 and $19.6 billion in each year, FY 1992-94, to fund the Follow Through Act, the Head Start Act, the Community Services Block Grant Act and other low-income assistance programs. Yes. Passed 404-14.

(116) H.R. 2273. Americans With Disabilities Act. Amendment permitting small businesses an extended phase-in period for the public accommodation portions of the bill. Yes. Passed 401-0.

(120) H.R. 2273. Americans With Disabilities Act. Amendment exempting small city mass transit systems from requirements that all public transportation be accessible to handicapped individuals as long as the system provides alternative transportation that meets the approval of everyone it serves. Yes. Failed. 148-266.

(123) H.R. 2273. Americans With Disabilities Act. Prohibiting discrimination against disabled individuals in access to public facilities and mass transportation, employment and telecommunications services. Yes Passed 403-20.

(127) H.R. 4636. FY 1990 Foreign Aid Supplemental Authorizations. Amendment cutting 50 percent of El Salvador's military assistance in FY 1990-1991 due to congressional unhappiness with the Salvadoran government's response to concerns about the murders of six priests and two others. Yes. Passed 250-163.

(137) H.R. 3030. Clean Air Act Reauthorization. Rewriting the Clean Air Act to achieve specified air quality standards, mandate emission reductions in motor vehicles, reduce acid rain, phase out production and use of chlorofluorocarbons (CFCs), and other provisions to improve the nation's air quality. Yes. Passed 401-21.

(138) H.R. 4404. FY 1990 Supplemental Appropriations. Providing $4.3 billion in additional budget authority in FY 1990, including $3.5 billion for domestic programs and $885 million for foreign aid, and rescinding $2 billion in defense spending to offset the spending in the bill. No. Passed 308-108.

IN HONOR OF RAFAEL PENALVER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it is a true honor to have the opportunity to talk about a real community leader, Rafael A. Penalver, Jr., who is being recognized by the Archdiocese of Miami Youth Center for his work on behalf of human rights. The ceremony will take place on Saturday, June 2 at the Biscayne Bay Marriott in Miami and the organizers of the event—Ofelia Tabares-Fernandez, Helena Margarita Gonzalez, and Maria Martha de Ono—are looking forward to a successful and rewarding benefit. The proceeds of the luncheon will go toward the many wholesome activities which the youth center is involved with according to event Coordinator Elena Ramirez de Buigas.

Rafael A. Penalver, Jr., is a University of Miami Law School graduate with a juris doctor and is a practicing lawyer who is fluent in English, Spanish, and French. His specialty is in international law and he is the senior partner in Penalver & Penalver, P.A. Mr. Penalver is a past chairman of the State of Florida Commission on Hispanic Affairs and is a commissioner on The Columbus Hemispheric Trade Commission. He is a previous member of the State of Florida Minority Enterprise Council, The Equal Employment Opportunity Council of the Florida Board of Regents, and the Florida Historic Preservation Advisory Council.

Mr. Penalver has also been involved with many civic organizations such as the San Carlos Institute, where he serves as president. He is a former director of the Florida Association of Voluntary Agencies and the Catholic Charities. Mr. Penalver is also on the board of trustees of St. Thomas University as well as the board of directors of the American Cancer Society.

A literary and artistic organization, GALA, has given its highest award the Golden Pen to Mr. Penalver for all the work he has done on behalf of human rights throughout the world. Together with Miami Auxiliary Bishop Agustin Roman he has worked to seek full due process for all the Cuban detainees in Atlanta and Oakdale. Through their efforts, violence and bloodshed were avoided. The Florida Supreme Court gave a special commendation to Mr. Penalver for his role in this situation.

Mr. Penalver has been involved in all of these activities without ever charging any fee and the event on Saturday is just another indication of the support which Rafael Penalver enjoys in our community. He is a true community leader and I congratulate the youth center for acknowledging Mr. Penalver's many accomplishments.

SALUTE TO GRACE M. GEORGE AND RUTH HIRSHBERG OF PATERSON ON BEING HONORED BY THE GREAT FALLS PRESERVATION & DEVELOPMENT CORP.

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to salute two truly outstanding individuals from my Eighth Congressional District of New Jersey who have made enormous contributions to their community, their State, and our Nation.

I am speaking of Ms. Grace M. George and Mrs. Ruth Hirshberg of Paterson, NJ, who both have been honored for their innumerable contributions by the prestigious Great Falls Preservation & Development Corp. with a champagne brunch at the Hamilton Club in Paterson, NJ, this past Sunday, June 3, 1990.

I know that this event will remain a source of great pride, not only to Ms. George and Mrs. Hirshberg, but to their devoted families. Further, I know this event has had a great significance for the people who have come to know Ms. George and Mrs. Hirshberg through their great involvement with the Great Falls Preservation & Development Corp. and the city of Paterson.

Mr. Speaker, Ms. Grace M. George was born in Paterson, NJ. She received all of her education in Paterson where she was active with children in church and Scouting even at the age of 10. It is from this time on that she overcame her shyness and helped other children learn about the history of Paterson by becoming involved with dramatics. She later became a teacher at Eastside High School and advised "The Dramat," the high school drama club. In 1970, the drama group became involved with the effort to establish a landmark district in Paterson. With the help of Ruth Hirshberg the group set out to establish a volunteer teen organization designed to educate grammar schools about the historical landmarks. These teens became the first tour guides in the falls area.

This successful program continued for 6 years. In June of 1976 when the falls area was designated a historic district area, Ms. George left teaching to open the Great Falls Tour Office in August of the same year. This tour office has evolved into the Great Falls Visitor Center, which helps promote both the district, the city, and tourism. Grace George continues to expose the positive aspects of Paterson's past, present, and future; sharing this city's impressive history with all who will listen. She is presently a member of the Paterson 200 Committee with numerous others to help in the planning of Paterson's bicentennial celebration in 1992.

Mr. Speaker, in speaking of Ms. George and her lifetime accomplishments, I mentioned another outstanding individual who has also been recognized for her lifetime devotion to the Great Falls Preservation & Development Corp. She is Mrs. Ruth Hirshberg.

Mrs. Hirshberg is presently the director of the special events office for the city of Paterson. It is her past and present accomplishments which have been recognized by her peers. Mrs. Hirshberg currently serves as Passaic County representative to the Gateway Tourism Council and vice president to the Great Falls Development Corp. It is her combination of volunteer and work-related efforts that make this fine individual a standout.

Mrs. Ruth Hirshberg was born in Paterson, NJ. Along with her numerous civic and temple-related endeavors, Mrs. Hirshberg has also been extremely active in the creation of Paterson's historical district. She served on the executive board for the Paterson Falls District Council Boy Scouts of America, as well as currently being the Passaic County representative to the Gateway Tourism Council. She has worked in numerous volunteer capacities and has been awarded several awards while doing so: The Adam Reiser Club for Meritorious Service, the YWCA First Annual Woman of the Year in 1984, and a Congressional Salute and Certificate of Merit presented by myself in 1984.

Mr. Speaker, I appreciate the opportunity to present these brief profiles of these truly outstanding and dedicated citizens whose dedication to their community have made their

city, their State, our Nation and, indeed, our world, a far better place to live, Ms. Grace M. George and Mrs. Ruth Hirshberg of Paterson, NJ, honorees of the Great Falls Preservation & Development Corp. for 1990.

THE AMERICANS WITH DISABILITIES ACT

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. ROWLAND of Connecticut. Mr. Speaker, today I wish to voice my unequivocal support for the Americans With Disabilities Act.

The disabled community has suffered for far too long. Time and time again, they have been told that they must conform to standards set by what is considered by others to be normal. I am pleased that those days are finally over. From now on, the disabled will be protected from discrimination under Federal law. Passage of H.R. 2273 will enable the disabled to greatly expand their lives and enhance their quality of living. This is long overdue.

America is all about opportunity. However, the disabled have been denied full opportunity in this country. And this has not been because of the disabilities which these persons have, which in and of themselves can be daunting. Rather, it has been a result of external barriers which have prevented disabled individuals from fully participating in daily living. Let me briefly quote from a recent report of the United Nations Expert Group Meeting on Barrier-Free Design:

Despite everything we can do to assist each disabled person achieve his or her maximum potential in life, our efforts will not succeed until we have found the way to remove the obstacles to this goal: the physical barriers we have created in public buildings, housing, transportation, houses of worship, centers of social life, and other community facilities, and the social barriers we have evolved and accepted against those who vary more than a certain degree from what we have been conditioned to regard as normal. More people are forced into limited lives and made to suffer by these man-made obstacles than by any physical disability.

Passage of this bill will remove the physical barriers to the disabled. Once the physical barriers have been eliminated, it is my hope and expectation that the social barriers will take care of themselves.

I do appreciate the concern voiced by some that the cost of compliance with this bill would be too high. However, I do not believe that cost should be an issue when it comes to providing Civil Rights protection for the disabled. Frankly, the present and future costs of disability to the country without this legislation would be much greater than any cost of this bill. Increased independence means increased productivity and greater self-sufficiency. This translates directly into a bigger and stronger workforce, a more productive economy and less dependence on Government programs.

Mr. Speaker, this legislation is long overdue. I am pleased that Congress is finally addressing the rights of the disabled, and urge my colleagues to join with me in full support for H.R. 2273.

A TRIBUTE TO ERICK CHARLES SOLES

HON. GEORGE W. GEKAS

OF PENNSLYVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. GEKAS. Mr. Speaker, I would like to draw the attention of my colleagues to the achievements of a young man from my congressional district. Most recently, those achievements include the attainment of Eagle Scout.

Erick Charles Soles of Beaver Springs, PA, is a junior at West Snyder High School where he participates in soccer, basketball, baseball, chorus, class congress, and concert, marching and stage bands. In addition, he serves as assistant superintendent and treasurer of the youth group at his church.

Erick serves as junior assistant scoutmaster of troop 408 of McClure and was awarded Scouter of the Year by American Legion Post 942 of McClure. For his eagle project, Erick worked with others to paint direction arrows and other signs in the parking lot of the West Beaver Elementary School. This project made the lot a safer place for the children who attend school there.

Mr. Speaker, the importance of Boy Scouting in America cannot be overemphasized. It is through this activity that young people learn the values that will make them solid, broad-minded citizens.

I congratulate Erick and wish him well.

A TRIBUTE TO SIDNEY J. BROWN

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I would like to take the opportunity to congratulate Mr. Sidney J. Brown for his efforts on behalf of Jewish education and accomplished career in the real estate industry.

Mr. Sidney J. Brown, a prominent real estate investor and lawyer, has supported numerous philanthropic organizations. He has served as an active leader of many charitable groups and committees throughout his professional life. For many years he has also been a leading contributor to such organizations such as the American Cancer Society, the Kennedy Center, the Hebrew University, and the American Israel Public Affairs Committee. He is currently serving as honorary president of the Hebrew Academy.

Therefore, it is with great pleasure that I pay special recognition to Mr. Sidney J. Brown. His service and generosity have enabled many organizations to achieve goals that would be otherwise unattainable. May he continue to inspire the best in all that he touches.

NASHVILLIAN WINS PULITZER PRIZE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. CLEMENT. Mr. Speaker. I rise today to pay tribute to a native of my hometown, Nashville, TN, Mr. David Vise, who shared the 1990 Pulitzer Prize for Explanatory Journalism with Steve Coll, a colleague at the Washington Post.

David, who had just become business local editor for the Washington Post on April 16, 1990, was awarded the Pulitzer the same month. David achieved these milestones before his 30th birthday.

David's paper, the Washington Post, described his accomplishment this way: If ever the public needed to know what went on inside the Securities and Exchange Commission, it was in the 1980's, a period that witnessed a record rise and fall in stock prices, hefty borrowing to finance multibillion dollar takeovers, the birth of highly speculative financial products and the biggest Wall Street corruption scandal in history.

Yet, the agency at the center of these events makes its decisions behind closed doors.

Over a 1-year period, Washington Post reporters David A. Vise and Steve Coll worked to open those doors to public view. They conducted more than 200 interviews and examined hundreds of documents. Working with other Post staffers they were able to illuminate the workings of a government agency that had never before been subject to such scrutiny and describe the role of its influential Chairman, John Shad, in remolding the SEC and Wall Street.

For their February 1989 series "The Man From Wall Street: John Shad's Reign at the SEC," David Vise and Steve Coll have been awarded journalism's most coveted honor, the Pulitzer Prize.

David's background reflects his dedication to the task at hand. When you examine his list of achievements, beginning with his accomplishments as a high school student in Nashville, it is not surprising he has achieved such journalistic success at an early age.

David Vise was born in Nashville on June 16, 1960. A 1978 graduate of University School of Nashville, David was class valedictorian and editor of the school newspaper. He graduated Magna Cum Laude from the Wharton School of the University of Pennsylvania in 1982, with a major in international relations.

During his junior year in college David studied at the London School of Economics. Accepted into an accelerated Masters in Business Administration Program, Vise received his MBA from Wharton in 1983.

After working as a copyboy at the Tennessean in Nashville for one summer following high school, Vise worked as an intern reporter for several years at the Tennessean while attending college. Vise helped start the newspaper's Sunday business section.

Vise worked as an intern-reporter at the Washington Post during the summer of 1982.

After graduating from Wharton, Vise went to work as an investment banker in the merger department of Goldman, Sachs & Co., a major New York-based investment firm. He joined the Washington Post in 1984.

Vise wrote the feature article on the stock market collapse in the 1988 World Book Yearbook and is presently working on a book about the Securities and Exchange Commission. He has worked as a volunteer at Children's Hospital of Washington and is a member of the board of directors of Washington Hebrew Congregation.

David and his wife, Lori, have one daughter, Lisa Michelle, who is 2 years old. Lori is a volunteer at the "Remember the Children's Exhibit" at the Capital Children's Museum, which teaches children and adults about children who died in the Holocaust. They live in Washington, DC.

I ask my colleagues in the U.S. House of Representatives to join me today in saluting an outstanding reporter. David Vise's accomplishments are worthy of tribute, and I have every expectation that he has only begun to make his mark on the world.

It is my honor and privilege to call this dedicated professional and family man my friend. Thank you.

THANKS TO TEACHERS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. RICHARDSON. Mr. Speaker, if children are our hope for the future, teachers are surely our best hope for our children. There is no way that we can adequately reward the best of them.

Teachers from a Farmington elementary school and the Los Alamos Middle School were among five outstanding educators recognized in a recent ceremony. The awards sponsored by KOAT-TV in Albuquerque and the Albuquerque Community Foundation.

Thanks to teachers awards recognize teachers who have made a significant difference in the lives of their students, and who use community resources to expand their students' learning experience.

For fourth graders in Farmington, Carolyn Mitchell's New Mexico unit is the beginning of a love affair with our State. Field trips, craft projects, and class visits from area residents add excitement to learning in her class.

In Roberta Cocking's classes in Los Alamos, health is an active part of students' lives as they participate in special screenings and health fairs, talk to prisoners about lifestyle choices and drugs and support "Drug Free" activities.

Other award recipients are Carolyn Paez, of Silver City, Judith Lynn Cole Stoughton, of Albuquerque, and Pat Graff, of Albuquerque. The five honorees will each receive a computer system and a trip to Washington this month to participate in a national awards ceremony with winners from around the country and take part in a leadership institute to discuss among themselves and business leaders some of the major issues facing education today.

Mr. Speaker, I urge my colleagues to join me in congratulating these outstanding teachers who are improving the quality of life in New Mexico and the Nation. I would also like to salute the management and staff of KOAT-TV for taking time from their busy work schedules to identify and recognize fellow New Mexicans who make us all proud.

TRIBUTE TO ROBERT NOYCE

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. LEVINE of California. Mr. Speaker, the tragic and unexpected death of inventor, Silicon Valley pioneer, and founder of Sematech, Robert Noyce, marks a dark day for America.

Sadly, this week, we have lost our greatest soldier in America's high-technology crusade. As a true high-technology hero, Mr. Noyce was at the frontlines of that war, and recognized the high stakes in its outcome.

As the founder of two companies, the inventor of the integrated circuit, and the driving force behind Sematech, Bob will be remembered for a long time by many in this institution and around the country.

We would do well to remember words Mr. Noyce wrote a little over 1 year ago: "We do not have the luxury of time. If the United States is to regain the industrial cutting-edge, it must begin now to mount an across-the-board and comprehensive national effort to do so."

Mr. Noyce's emergence from retirement to help rescue the struggling U.S. semiconductor industry—the Satchell Page of U.S. high-technology—has become a symbol of the kind of CEO leadership essential to America's regaining the industrial cutting-edge.

And Sematech—the semiconductor production consortium that Mr. Noyce founded and ran—is widely regarded as the model for industry-government cooperation.

If we are to do justice to Mr. Noyce's special crusade to revitalize U.S. industry and stem America's economic decline, we must make use of the legacy he has bequeathed us: innovative industry-government partnerships.

As he wrote, "What is needed now is a strategy to utilize—our—strengths effectively. If industry, President Bush, and Congress move decisively to develop such a strategy, there is no question that we can enter the 21st century still in the front rank of the world's economic powers * * *."

THE CAPITAL CITY YOUNG REPUBLICAN CLUB CELEBRATES ITS 60TH ANNIVERSARY

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. WYLIE. Mr. Speaker, it is my pleasure to bring to your attention the information that the Capital City Young Republican Club of Columbus, OH, the oldest existing and continuing Young Republican Club in the Nation, will celebrate its 60th anniversary on June 14, 1990.

This outstanding Republican organization, of which I am a life member, has had among its distinguished members and presidents over the years the following:

The Honorable James A. Rhodes, who served as Ohio Governor for 16 years, the Honorable Dana G. Reinhart, current mayor of the city of Columbus, and Michael F. Colley, former Ohio Republican chairman and current chairman of the Franklin County Republican Party.

The Capital City Young Republican Club has worked long and hard to establish an enviable record of accomplishment in its support of and assistance to those seeking public office. Today, hundreds of community leaders in central Ohio trace their political involvement and success to this fine organization.

In fact, it was largely because of the Capital City Young Republicans and their willingness to campaign door-to-door on my behalf that I was elected city attorney for the city of Columbus in 1953, my first elected political office. I am certain that many others can offer similar testimony.

Therefore, it is only fitting and proper that we commend the Capital City Young Republican Club for its many contributions of the past 60 years and wish its membership continued good fortune in the next 60.

WHARTON BUSINESS STUDENTS HELP ST. CROIX RECOVER FROM HURRICANE

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. DE LUGO. Mr. Speaker, I would like to pay tribute and extend praise to a group of young people who used their skills and talents to help others overcome overwhelming destruction to their lives.

Over the past two school semesters 13 graduate business students from the Wharton School of Finance have made repeated trips to St. Croix, the largest of the U.S. Virgin Islands. Their mission—to help hurricane-ravaged small businesses on the island rebuild.

The students started their special project soon after Hurricane Hugo wrecked the island on September 17 to 18. Ian McMillan, director of Wharton's Sol C. Snider Entrepreneurial Center, organized the 13 volunteers in an effort to help the island's recovery from the worst hurricane in this century. Rather than give food and clothing or other short-term emergency needs, which they felt other organizations were better equipped to supply, they decided it might be better to give something of long-term economic benefit to the island.

When the students arrived on the island for the first time, 4 months after the hurricane, they were surprised at the devastation they saw still visible. But they said they were also struck by the spirit of people trying to repair their lives—"people helping each other." They discovered that while many of the small businesses on the island had a lot of enthusiasm for the rebuilding tasks before them they often

lacked the skills to take advantage of new opportunities the hurricane had brought.

The students—with the help of government-sponsored agencies—targeted 12 businesses for assistance; including a hardware store, lingerie shop, travel agency, soft drink manufacturer, interior designer, and laundry. For example, in assisting the soft drink manufacturer the volunteers drew up marketing surveys from grocery stores, supermarkets, and other soft drink outlets on both St. Croix and St. Thomas and then came up with a plan whereby the manufacturer would sell more of his soft drinks to local people to make up for the hurricane-induced decline in the tourist trade.

For a hardware store owner they helped develop a professional accounting system, inventory controls and credit lines to his suppliers, so he could meet the skyrocketing demand on the island for tools and building materials.

By the time they had completed their efforts they had a dozen reports, complete with graphs, charts, marketing strategies, records of negotiations with lenders, statistics, and other vital economic material that they hoped would not only help the targeted businesses to recover from the hurricane losses but also to expand even further in the coming years.

To their credit, although the students received course credit for their work, most felt the rewards were personal as well as professional.

Said volunteer Charles Boyd, "Thats what its all about. You have to have a need to help people and be a part of something that's good."

Mr. Speaker, as we all know, a nation's greatest asset is its people, and these young volunteers have shown us that it is also its strength.

TRIBUTE TO VINCENT V. ABATE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. SOLARZ. Mr. Speaker, I take great pleasure in rising today to pay tribute to Vincent V. Abate, a lifetime resident of the Greenpoint-Williamsburg community in my district, who was awarded the Kings County Medical Society's 1990 Citizen's Service Award on May 15. Vincent is a remarkable human being who, over the last four decades, has been determined to better his neighborhood through his active and loyal participation in the affairs of his community.

Vincent is extremely well known and admired in the Greenpoint-Williamburg area. He presently serves as the chairman of Community Board 1 and as the chairman of the Greenpoint Hospital Advisory and Planning Boards. He has served as president on the Consolidated Civic Council, the Williamsburg Volunteer Ambulance Corps, the Eagle Republican Club, and the Williamsburg Lodge No. 144 Order Sons of Italy in America, just to name a few.

Vincent's commitment in bettering the conditions of his community have not gone unnoticed. He has received a multitude of meritorious citations from such prestigious organizations as the Boy Scouts of America, the Federation of Italian Americans of Greenpoint-Williamsburg, the Green Oaks Club, and the Seneca Regular Democratic Club. Vincent has also received personal recognition from Assemblymen Joseph Lentol and Vito Lopez and from Councilmen Abraham Gerges and Victor Robles.

In addition to all of these admirable activities, Vincent is one of those rare human beings who serves as a model of excellence in his community for all to admire. He is a modest, caring, and friendly individual who would give the shirt off his back to help a friend or neighbor in need. The communities in my district need more individuals like Vincent Abate, and I am truly grateful for his dedication and continuing service.

I am proud to know Vincent. He is a model citizen and is truly deserving of this honor.

A TRIBUTE TO TOM T. OKUBO

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to my dear friend and a valued member of my congressional district, Mr. Tom T. Okubo. On the evening of May 31, his family, and the membership of the Sacramento Chapter of the Japanese American Citizens League will be gathered to recognize Tom's many contributions to the organization and the community at large.

In searching for the definition of the word "dedication" one need not look any further than the name Tom Okubo. His devotion to his family, his work and to the Japanese American Citizens League makes me proud to be his friend. At home, Tom is a proud family man, he and his wife, Sue, have two children, Sharyn and Russel, and two grandchildren, Kevin and Lauren. Many of us have firsthand knowledge of the dedication required to raise a family, and to keep then healthy and happy. On the job, Tom earned an impeccable reputation as a man who could be relied upon to get the job done. Employed by the State of California for 35 years, he first worked for the States' Franchise Tax Board and then as chief of the audits Office of the Department of Parks and Recreation for 18 years, finally retiring as supervising State financial examiner II. In the community, Tom has exemplified the highest spirit of volunteerism by quietly, tirelessly and effectively providing the backbone that has ensured the success of numerous JACL events through the years. A man of strong character, Tom served as an outstanding role model for the organization, particularly for the younger members.

Fellow colleagues, please join me in saluting this man of dedication, my friend, Tom Okubo.

A TRIBUTE TO BRETT LOWELL SMITH

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. GEKAS. Mr. Speaker, I ask my colleagues to join me in recognizing a fine young man from Lewisburg in my congressional district in Pennsylvania.

This summer, Brett Lowell Smith will join a district class of individuals in receiving the award of Eagle Scout, the highest and most prestigious honor in the Boy Scouts of America.

Brett joined the Cub Scouts in 1983 where he earned his Arrow of Light and Faith in God Awards. Between the years of 1986 and 1988, Brett earned Scout badges to achieve the ranks of Tenderfoot, Second Class, First Class, and Star Scout. In 1988 he became a Life Scout, and started his climb toward the Eagle Scout. Brett has also earned his On My Honor Award, LDS Religious Scout Award, and the World Conservation Badge.

Brett has served as a guide and a counselor for various camps, and is currently a den chief. He is affiliated with the LDS Church where he holds the position of teacher in the priesthood.

Mr. Speaker, Brett Lowell Smith has shown through his leadership, dedication, preseverance, and concern for the community that he is well-deserving of the honor of Eagle Scout. We congratulate him on all of his achievements, and wish him luck with future endeavors.

TRIBUTE TO ROBERT A. BARTELS

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to Mr. Robert A. Bartels, who is retiring after 40 years of distinguished service to the Port Washington Union Free School District.

Mr. Bartels began his career as a junior high school and high school math teacher. He later became the math chairman and assistant principal of Paul D. Schreiber High School.

Mr. Bartels has also been a president of his local teacher's association, and served as a delegate to the New York State Teachers Association and to the National Education Association. He was also a representative to the White House Conference of Education.

Mr. Speaker, Mr. Bartels has served as an innovative and productive educator and administrator. The students of Port Washington have been enriched by Mr. Bartels' skills as an educator and administrator. The great success that his students have enjoyed is a testimony to Mr. Bartels' abilities and great enthusiasm for teaching.

Mr. Speaker, at a time when many decry the decline in educational standards in our

Nation, I believe that Mr. Bartels' commitment to excellence deserves special recognition. On June 4, the students and faculty of Schreiber High School honored Mr. Bartels at the Senior Awards Assembly. I am pleased to join in this richly deserved tribute and wish Mr. Bartels success in all of his future endeavors.

JAPAN NEEDS AFFIRMATIVE ACTION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. BEREUTER. Mr. Speaker, the trade imbalance between the United States and Japan continues to be of serious concern. The recently completed structural impediment talks will hopefully address some of the issues that have contributed to this imbalance, but I am concerned that other, more intractible issues remain that will ensure continuation of the trade imbalance. Mr. Jonathon R. Moore, in an editorial from the May 18, 1990 Journal of Commerce, illustrates some of these issues.

JAPAN NEEDS AFFIRMATIVE ACTION

(By Jonathon R. Moore)

The terms "jawboning" and "affirmative action" usually are used in the context of labor disputes. They might apply more aptly to the current debates over what to do about the persistent bilateral trade imbalance with Japan. Although the trade deficit with Japan has diminished somewhat, in 1989 it still came to nearly $50 billion.

Notwithstanding progress in negotiations converning supercomputers, wood products, satellites and structural impediments to imports, Japan's concessions are unlikely to lead to an immediate improvement in that figure. Although Congress has not taken steps to close the U.S. market to Japan, many argue that U.S. threats are the only reason the trade deficit has been reduced even to its present, unacceptable level.

The 1988 Omnibus Trade and Competitiveness Act institutionalized mechanisms for congressional jawboning. Approximately a dozen negotations currently are being conducted with Japan. The trade law requires progress reports to Congress on a number of these, each with its own deadline. The succession of deadlines apparently was calculated to keep debate simmering in cases where negotiators are not able to achieve satisfactory results.

Beyond fixing deadlines for negotiations and reports to Congress, the 1988 law also emphasized opening foreign markets, It is increasingly clear, however, that with Japan this approach is not the answer to the bilateral trade deficit.

As Japan's market has opened to automobiles, the Japanese have imported BMWs and Mercedes, not Lincolns and Cadillacs—to say nothing of Fords and Chevrolets. In startling testimony before Congress recently, James C. Abegglen pointed out that although U.S. exports to Japan have increased, the relative share of U.S. manufactured goods in Japan's imports fell 10% from 1985 through 1988—at a time when Japan's imports of manufactures were growing 32% a year.

Something is wrong. Japan's markets are opening. The Japanese are buying more imports. But they are not buying more manufactured goods from the United States.

This fact throws into question the entire approach of U.S. trade negotiators. What good does it do for us to open Japan's markets when we do not benefit?

With due respect to the civil rights movement, "affirmative action" is needed, simply put, the Japanese must go out of their way to buy anything and everything American.

Our trade negotiators for years have listened to their Japanese counterparts explain why Japan cannot buy various American products. The Japanese now must seek out new ways to narrow the trade imbalance. While Americans would obviously prefer that Japan buy manufactured goods with a higher value added than raw materials or bulk agricultural commodities, Japan must do whatever it takes to buy American. The success of affirmative action will be judged by the extent to which the trade deficit is reduced.

A program is already under way toward this end. The Ministry of International Trade and Industry has been conducting "conversations" with top officials of the companies that account for the majority of Japan's exports to the United States. MITI has been telling these companies to import more, for they have the most to lose if the United States closes its markets.

No doubt the "affirmative action" approach will be criticized as yet another manifestation of "creeping bilateralism" which may weaken the multilateral trading system that has fueled economic growth since World War II.

Nevertheless, the imbalance in the Japan-U.S. trading relationship has worsened to the point that it threatens the entire multilateral system. This was made emphatically clear recently when a majority of the Senate Finance Committee indicated that approval of any new multilateral trade agreement should be held hostage to the results of U.S.-Japan trade talks.

Japan should look to Korea and Taiwan as examples of countries that are working hard to reduce bilateral deficits by purchasing more American products. Both of these countries have organized highly publicized buying missions which have purchased billions of dollars of U.S. products and raw materials.

Any "affirmative action" program will necessarily give rise to numerous gimmicks, which will have a cosmetic effect on the trade deficit without necessarily resulting in commensurate economic benefits for the U.S. economy.

To narrow their trade surpluses with the United States, Korea and Taiwan often ask Japanese suppliers having U.S. subsidiaries to channel sales through the United States. In addition, although U.S. multinationals might normally serve Korean and Taiwanese markets from manufacturing plants in Australia or Singapore, purchasers in Korea and Taiwan now frequently require that shipment be made from the United States so the sales will be recorded as "U.S. exports" in official trade statistics.

In the early 1980s, sophisticated analysts of U.S.-Japan trade believed that a $10 billion trade deficit would be politically unacceptable to the United States. Its persistence despite the significant appreciation of the yen suggests chronic disequilibrium in the U.S.-Japan trade relationship. A new wave of anti-Japanese sentiment in the United States seems to be an unfortunate byproduct.

Only an immediate and rapid reduction in the bilateral deficit can be expected to have a measurable impact on the growing negativism. Affirmative action would be a welcome replacement for jawboning.

RECOGNIZING THE DADE COALITION FOR COMMUNITY EDUCATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, today I bring to your attention a newly formed organization in Dade County, FL, which will establish a network of community activities to improve the educational system. The Dade Coalition for Community Education has cooperated with the Dade County public schools to construct projects to raise money for needy students, provide speakers for community groups, and arrange various other worthwhile activities for Dade County.

There will be a kickoff luncheon on May 31 to celebrate the incorporation of the Dade Coalition for Community Education. The luncheon will begin at 11:30 at the Clarion Castle Hotel in Miami Beach.

The board of directors for the Dade Coalition for Community Education are Steven B. Bohm, Paulette Crowers, Mildred Cohn, Marge Pearlson, Thomas Romanik, and John I. Smith. These dedicated leaders have been working jointly with Roger Cuevas and Joe Mathos of the Dade County Public School Division of Adult and Community Education.

Several members of the Dade County community have been active participants in the furthering of this group. Thsoe people include Flossie Abrigo, Melvin Chavez, John Harper, T. Holloway, Scott Jacobs, Paula M. Johnson, J. Terence Kelly, V.M. Kerensky, Brenda Kinzig, and Frank Krauser. Also taking part in the Dade Coalition for Community Education are Soloman Lichter, Marvin Manning, Evelyn Martin, Richard C. Pendell, Marty Pinkston, Peter Roulhac, David Shelton, Vince Vignola, Genevieve Yarnold, Bob King, and Javier Holtz.

It is important that we, as a society, continue educating ourselves and recognize the importance of community activities. We should constantly seek new initiatives to improve various institutions within our community. The Dade Coalition for Community Education represents one of those initiatives and I commend them for their ambition and accomplishment in promoting community spirit.

AMENDMENT TO EXTEND "EVEN START" PROGRAM TO VIRGIN ISLANDS AND U.S. PACIFIC TERRITORIES

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. DE LUGO. Mr. Speaker, I would like to take this opportunity to introduce legislation, to amend the Elementary and Adult Education Act, that would allow the children of the Virgin

Islands and the U.S. Pacific territories, and their parents, the opportunity of participating in the Nation's Even Start literacy programs.

In this effort I am most grateful for the support I have received in sponsoring this amendment from my colleagues in the House Education and Labor Committee, the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Michigan [Mr. FORD].

Until today the Even Start Program funding has only been available to the 50 States, the District of Columbia, and Puerto Rico. The amendment being offered today by my colleagues Representatives GOODLING, FORD, and myself extends the funding and the opportunities to participate in these integrated childhood and adult education programs to all Americans.

This inclusion will give these communities an opportunity to create cooperative education projects that build on their existing community resources to create a whole new range of services.

Once again I must express my appreciation for the support offered by my friends, Congressman GOODLING and Congressman FORD. I am confident our joint efforts will provide the thrust to move this amendment along quickly.

HOLD JAPAN TO TRADE PROMISES

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. PEASE. Mr. Speaker, since a month has passed United States Trade Representative Carla Hills decided not to name Japan as a priority country under the Super-301 trade provision, I thought that now was a good time to reflect upon what happened and what we should do in the future. I have recorded my personal reflections on this subject in the following article, which appeared in the Journal of Commerce on May 30, 1990.

HOLD JAPAN TO TRADE PROMISES

(By Don J. Pease)

In accordance with Super 301 of the 1988 Omnibus Trade Act, U.S. Trade Representative Carla Hills announced on April 27, 1990, that the successful completion of the Uruguay Round of multilateral trade negotiations is the Bush administration's top trade liberalization priority.

Unlike last year, when Mrs. Hills named Japan, India and Brazil as "priority countries" under Super 301, she cited only India this year, arguing that "the Uruguay Round is the most effective way to increase U.S. exports and to promote U.S. prosperity."

Japan was not named this year because it has demonstrated "resolve" and "has moved farther and faster than any of our trading partners in the past 12 months," according to Mrs. Hills. Not only has the U.S. Trade Representative resolved the U.S.-Japan trade issues cited in last year's Super 301—Japanese practices in supercomputers, satellites and wood products—it has also reached agreements in other areas, such as telecommunications.

If Japan's "resolve" on trade matters really is as strong as Mrs. Hills believes, her decision not to cite Japan was probably reasonable, especially since the Uruguay Round is nearing a crucial period. Naming Japan would have caused sharp reverberations, not only with Japan, but also with our other trading partners, who object to American "unilateralism."

Conversely, had the administration decided to name Japan again this year, it could have argued convincingly that it wanted to see results from the agreements before easing the pressure.

At any rate, a decision has been made. Now it is our task to see that Japan adheres to the agreements. In doing so, the president and the U.S. Congress may want to apply three tests to U.S.-Japan commercial relations over the next year or two:

Is Japan keeping the promises it has made?

Are U.S. firms satisfied in each area of contention?

Is the bilateral trade deficit coming down?

We should "trust, but verify." An agreement is only successful if it achieves results, if it affects the "bottom line." Would extending Super 301, which expires next year, help us achieve these results? Mrs. Hills says no, that she can accomplish as much with regular Section 301.

This may be true, but Congress must be aware. The Reagan administration was reluctant to use Section 301. In fact, this reluctance was the primary impetus for Super 301.

Of course, that was a previous administration, and Carla Hills is as tough and mean as Mr. Bush likes to think that he is kind and gentle. Nevertheless, Congress needs to make clear that it expects the administration to apply pressure assiduously to our trading partners, offering carrots and sticks at the appropriate occasions.

THE PROGRESS ON RESOLUTION OF UNITED STATES-IRANIAN CLAIMS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a factsheet produced May 14, 1990, regarding the work of the Iran-United States Claims Tribunal in The Hague.

There was recently a settlement of small claims which covers 2,361 small claims of United States nationals against Iran still pending at the tribunal. The factsheet which follows describes this agreement as well as the status of the work of the claims tribunal.

The accomplishments of the claims tribunal and the protection and promotion of U.S. interests through this process are due in large part to the quiet and effective work of Judge Abraham D. Sofaer, legal advisor of the Department of State, and his hard-working staff in Washington and The Hague. Judge Sofaer is leaving his position this summer. He has successfully kept these claims apart from other contentious political problems between the United States and Iran, and has achieved much progress. Further work by the claims tribunal is needed to resolve remaining claims, but the recent agreement provides optimism that further progress is possible in the months ahead.

A factsheet prepared by the State Department follows:

IRAN-UNITED STATES CLAIMS TRIBUNAL: SETTLEMENT OF SMALL CLAIMS—MAY 14, 1990

On May 13, 1990, the United States and Iran signed an agreement that will settle claims of less than $250,000 ("small claims") of U.S. nationals against Iran. This agreement will shortly be submitted to the Iran-United States Claims Tribunal in The Hague. (The Tribunal was established under the 1981 Algiers Accords, which resolved the hostage crisis.) In addition, the agreement will also settle a claim of the United States Government against Iran arising out of certain assistance loans. A single lump sum of $105 million will be paid to the United States from an escrow account held in the Dutch Central Bank once the Tribunal approves the settlement.

Originally 2795 U.S. small claims were filed with the Tribunal. The Tribunal has decided only 36 of these. Another 72 cases have been settled by the parties, with these settlements approved by the Tribunal. The settlement agreement covers 2361 small claims still pending at the Tribunal, 10 dismissed by the Tribunal for lack of jurisdiction, 326 filed with the Tribunal but subsequently voluntarily withdrawn, and 415 submitted to the State Department but not filed with the Tribunal because the time limit for filing had expired.

The small claims will be transferred to the Foreign Claims Settlement Commission, an agency within the U.S. Department of Justice. Legislation enacted in 1985 authorized this Commission to receive and determine the validity and amounts of these claims. In due course, the Commission will inform claimants and the public of the procedures and deadlines that will be applicable to its adjudication of claims. The Commission's processing of the claims will be much quicker than the Tribunal's.

There is no connection between the recent hostage release and the small claims negotiations. The settlement negotiations have been ongoing several months. The objective throughout has been to obtain the best possible results for the claimants. The claims talks are exclusively legal and financial in nature.

The Tribunal's caseload of U.S. small claims has now been settled. In addition, to date the Tribunal has previously disposed of 1310 cases of the 3856 cases filed: 13 disputes concerning interpretation of the Algiers Accords, 65 claims of Iran or the United States against each other, 797 claims of U.S. nationals against Iran for $250,000 or more ("large claims"), and 435 small claims. The Tribunal has awarded U.S. claimants $1.3 billion. After the small claims settlement, there will remain at the Tribunal 12 interpretive disputes, 11 disputes between the governments, 160 U.S. large claims, 2 Iranian large claims and 108 Iranian small claims. Included, for example, among the remaining claims are claims by U.S. oil companies against Iran and Iran's claim against the U.S. Government arising out of the Iranian Foreign Military Sales Program.

TRIBUTE TO HAROLD RICHMAN

HON. WILLIAM O. LIPINSKI
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. LIPINSKI. Mr. Speaker, I come before the House today to honor Harold Richman, Mr. Richman, the Hermon Dunlap Smith professor in SSA at the University of Chicago, will be the recipient of the Quantrell Award during the college's commencement ceremonies on June 9, 1990.

This award is unique not only because it is the Nation's oldest prize for undergraduate teaching, but also because students themselves play a large role in choosing the recipients. Thus, the award is not based on the number of books published or articles written but on a more important quality: teaching. The Quantrell is awarded to professors who are most able to give their students both knowledge in and appreciation of a subject.

Harold Richman is particularly deserving of this award. He has spent a career gaining knowledge and experience. He received his bachelor of arts degree from Harvard in 1959. He then came to the University of Chicago where, by 1969, he had received both his A.M. and his Ph.D. Harold Richman joined the university facility in 1967 as an assistant professor at SSA and became a professor in 1969. Mr. Richman served as dean of SSA from 1969 to 1978 and served as the first chairman of the Committee on Public Studies, from 1974 to 1977. Currently he is the director of Chapin Hall Center for Children. Finally Mr. Richman, along with his wife, Marlene, are fondly remembered by recent alumni as the resident master of Burton-Judson Courts, a position they have held since 1982.

Harold Richman has worked very hard to accumulate his wealth of knowledge and experience. However, the reason he is held in such high regard from colleagues and students alike is because he has always been willing to share his knowledge with two very special and important groups. As highlighted by his current position as the director of Chaping Hall, Professor Richman has a compassionate interest in the welfare of our society's most vulnerable, its children. Chapin Hall's publication, "State of the Child," is used by policymakers in Illinois and around the Nation as a guide when searching for solutions to problems facing the children of welfare.

Mr. Richman, however, goes beyond supporting research for the problems facing today's most disadvantaged youth. Through his classes he also helps prepare the public policy leaders of tomorrow. With his students Professor Richman attempts to navigate the sometimes stormy realm of social welfare and confront issues of public responsibility and public action. He tries to get students, as members of society, to understand what their responsibility is toward those who are less fortunate. As these students leave the nurturing environment of Hyde Park and assume civic positions of responsibility, both they and society will benefit because of the knowledge and insight they have gained form their time in Professor Richman's classroom.

Mr. Speaker, this body has recently passed legislation concerning American with Disabilities, Head Start appropriations, and Medicare funding. During the consideration of these important pieces of legislation Members of Congress have had to ask themselves the same questions Harold Richman has put to his students. That is, "What role and to what extent must society deal with individuals who are not self-sufficient?" These are never easy questions. However, I consider us all fortunate that the University of Chicago, its students and faculty, find it appropriate to recognize the compassionate and knowledgeable teaching of Harold Richman in the very important field of social welfare in the United States.

PEGGY TISHMAN: A SYMPHONY OF ACCOMPLISHMENT

HON. NITA M. LOWEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today to pay tribute to a woman who personifies the qualities of leadership, commitment, and dedication.

Peggy Tishman's many contributions to the New York community and the entire Nation have been enormous. Today, she will be honored by the National Jewish Center for Learning and Leadership [CLAL], an organization in which she has been extremely active. She will be honored at an event titled "In Concert for One People," which celebrates the unity of the Jewish people despite their diversity, their many interests, and their differences.

This event is a particularly fitting manner in which to pay tribute to the many achievements of Peggy Tishman. Her life's work and her extensive involvement in CLAL provide us with a unique model for all Jewish Americans of the integration of Judaism with the universal values that all Americans respect and honor—values such as hard work, compassion for those less fortunate, and creativity in solving problems.

Peggy Tishman's career, which successfully harmonizes so many important values which Americans hold dear, began with a few sweet notes, quickly accelerated in tempo, and built to a fiery crescendo that is still reverberating loudly wherever the music of service and accomplishment are heard. Indeed, if ever a symphony was written in deeds that benefit the community and improve the quality of life, Peggy Tishman has written one. She is a Mozart in the field of public service and philanthropy.

Each individual note in Peggy's symphony would have been enough. But she was not content to stop with one note, or two notes, or three, for her energy and enthusiasm for doing what is right is unbounded. She has regaled us all with a true symphony of accomplishment. In doing so, she has provided us all with a vision of Judaism in action—a vision of the most important principles of our religion applied effectively to our own lives. And she has also contributed appreciably to the goal of unity—not only among the Jewish people, but among all peoples.

Peggy Tishman's unique sense of commitment and devotion to the cause of serving her fellow human beings is unsurpassed. As a result, her work has truly made a difference in the lives of so many people—in New York and elsewhere. And for that, we must all express our gratitude and affection.

A full accounting of Peggy's many accomplishments would be impossible. However, it is important that I mention some of the most important ones.

Peggy Tishman became the first president of the United Jewish Appeal-Federation of Jewish Philanthropies in July 1986. She is a longtime leader of both the Federation and the UJA-Federation Campaign. She recently served as the vice president of the Federation and chairman of its Committee on Legacies and Endowments. From 1974 to 1978, she was chairman of the Communal Planning Committee, which studies communal needs and trends, and designs and recommends policies to meet those needs.

She is a vice president of the UJA-Federation Campaign, a former cochairman of its Women's Campaign, and a past chairman of Major Gifts.

She was president of the Jewish Community Relations Council of New York from 1983 to 1986, is a director of the Jewish Theological Seminary and the Wurzweiler School of Social Work of Yeshiva University. In May 1988, she became the first non-Christian to be appointed to the board of trustees of the Union Theological Seminary since its founding in 1836.

Mrs. Tishman served as vice president of the Private Industry Council of New York, and is a director of the New York City Police Foundation, the United Way of New York, and the Bank Leumi Trust Company of New York. She is a member of the New York Women's Forum, a group of outstanding professional women who represent the top echelons of their chosen fields.

A graduate of Wellesley College with a degree in economics, she is now a member of its board of trustees and past chairman of its National Development Fund Council. She also holds an M.A. degree in education from Fairfield University.

Mrs. Tishman, well known for her commitment to the concerns of the elderly, was awarded an honorary doctorate of humane letters in 1985 from Hunter College. In 1986, she received an honorary doctorate from Marymount Manhattan College. In January 1987, Mrs. Tishman received the Martin Luther King Medal of Freedom and in April 1988, she received the Frederick A.P. Barnard Award for exemplary accomplishments in public service from Barnard College.

She was a longtime trustee of the Jewish Home and Hospital for the Aged. She was a cofounder and director of the American Association of Homes for the Aged, is a former director of the National Council on Aging, and is currently a member of the Commission on Elderly People Living Alone of the Commonwealth Fund. She has been chairman of numerous conferences, has published many articles, and lectures widely on human service issues.

But a simple accounting of Peggy's many accomplishments does not sufficiently convey the extraordinary dedication and commitment to service and accomplishment which this unique individual has shown throughout her life. Only by meeting and knowing Peggy, and only by seeing her in action in the community that she loves, can one fully appreciate the extent of her contributions to those around her.

Today, I feel uniquely privileged in calling the attention of the U.S. Congress to the important role that Peggy Tishman has played in bettering our communities. Along with my fellow New Yorkers, I have been lucky enough to pay witness to her symphony of accomplishment. But the harmony that Peggy provides will not end today or anytime soon. Further great works remain for Peggy to accomplish.

If Mozart had entered the field of community service, he would have had a rival indeed in Peggy Tishman.

TRIBUTE TO THE WITTEN FAMILY

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. APPLEGATE. Mr. Speaker, I rise to memorialize and congratulate a family in my district who is celebrating a unique anniversary this year. The Witten family, originating in Monroe County, OH, is celebrating the 200th anniversay of their continuous occupancy of an Ohio River farm in Monroe County. Their ancestors, Philip Witten—1747–1832—and his wife, Ruth Dickerson—1749–1828—established the first settlement in Monroe County in 1790. Descendants of these first settlers have occupied the land ever since. We believe no other family and any State along the Ohio River holds such a record.

The Witten family history parallels that of our Nation. The family originally came as colonists to Maryland in the early 1600's. They moved to the Ohio Valley when it was a western frontier, stopping first for a few years at Fort Henry—now Wheeling, WV—and then moving to Ohio two centuries ago. The land that they selected is rich farm land. Throughout the two centuries, the crops grown on Witten land have been an important source of food supply for the upper Ohio Valley. Those who are currently farming and marketing impressive quantities of food are Ralph, Jerry, and William Witten.

The grave markers in Witten Cemetery indicate that the men of the family have served in all our Nation's wars. The father of the founder of Monroe County, Thomas Witten, settled in Tazewell County, VA and was in the Revolutionary War; and a number of the family participated in skirmishes with Indians. Graves are marked for the War of 1812, the Civil War, The Spanish American, and World Wars I and II. Veterans of later conflicts expect to be buried there in the future.

The Witten family also has a long history of participation in political and governmental affairs. Philip Witten was a justice of the peace beginning in 1795 under the Northwest Territory and again after 1803 when Ohio became a State.

His son, Peter Witten, was a member of the Ohio Legislature in 1837 and 1838; and his son James, was a postmaster of Witten Post Office from 1833 to 1869. Leander Witten was a school examiner for many years in the late 19th and early 20th century. Bernard Gale Witten, Sr. was a common pleas judge of Belmont County from 1937 until 1949. His daughter, Sally Sue Witten was a municipal administrator in Waterville, OH, from 1976 to 1979. Rebecca Witten is currently an assistant auditor for the auditor of the State of Ohio. Her sister, Susan Witten Conaway, is in charge of my congressional office for Monroe, Belmont, Noble, Guernsey, and Washington Counties.

In the days before women's suffrage, two Witten women influenced national affairs through their husbands. Temperance Witten was the wife of James R. Morris, who represented southeastern Ohio in the 37th and 38th Congresses, 1861–65. Congressman Morris attended Ford's Theater the night President Lincoln was shot. Will E. Neal, the husband of Susan Witten, represented an adjacent West Virginia district in the 83d and 85th Congresses during the 1950's.

Other members of the Witten family, in addition to the farmers, have been teachers, clergymen, lawyers, doctors, merchants, roadbuilders, and a variety of other occupations which keep the economy moving. During the 19th century, five Witten brothers were pilots on Ohio River steamboats. The family's contribution to so many aspects of American life is the kind of citizenship that has kept America great.

I salute the Witten family and I am proud to represent them in Congress. I wish them continued success and happiness for the years ahead.

BRUCE CORWIN TURNS 50

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. LEVINE of California. Mr. Speaker, one of the most respected leaders in California—and one of my dearest friends—is turning 50 years old this week and I would like my colleagues to join me in complimenting him on just some of the enormous accomplishments he has already achieved.

To me, his finest accomplishments has always been simply being who he is—an unassuming, loving, warm, and gifted friend. But he is known in his community and beyond for building on these character traits in ways that have propelled him into dozens of community and public services.

The list is almost endless. He has served as president of the Wesleyan University Board of Trustees, of Temple Israel in Hollywood, and of the National Association of Theater Owners. In addition, he has served as either trustee, director, commissioner of the Los Angeles City Fire Commission, the NAACP Legal Defense Foundation, the Mexican American Legal Defense and Education Fund, the Central City Association, the Coro Foundation, the LA Children's Museum, the Watts Movie Theater, the UCLA Foundation, and U.C. Santa Barbara.

As a truly devoted baseball fanatic, he formed a marvelous partnership to purchase the Palm Springs Angels. Bruce then presided over the team's move to Palm Springs, and totally revitalized that franchise. More recently, he joined several of his friends in purchasing the major league San Diego Padres. Hopefully he'll change their uniforms.

But more important than his endless list of accomplishments in every level of human endeavor is his devotion to his wonderful wife, Toni, and his marvelous kids, David and Danny.

I have been proud to call Bruce my friend most of my lifetime and I wanted to share this milestone in his life with my colleagues.

A TRIBUTE TO DR. JOHN McCARTNEY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. SOLARZ. Mr. Speaker, I rise today to pay tribute to Dr. John J. McCartney, standard-bearer for a vanishing breed, the family doctor.

Dr. McCartney, whose 44 years of service to my constituents has coincided with many of the greatest medical advances of our age, began his practice shortly before the end of World War II. Now, after delivering legions of babies and making scores of house calls, Dr. McCartney has finally hung up his stethoscope and retired.

Alexis DeToqueville once said, "The health of a democratic society may be measured by the quality of the functions of its private citizens." Though I'm sure Dr. McCartney would probably shrug off such a haughty statement, this characterization of him is on the mark.

From the beginning, Dr. McCartney took pains to be something more than an average physician. His house calls, a rarity in and of themselves, often turned into car rides to the local hospital. After seeing his patient settled into the hospital, most of the time Dr. McCartney would smile and say, "You'll be getting enough bills from the other doctors, don't worry about me".

A member of my staff, a lifelong Greenpoint resident, spoke to me recently about Dr. McCartney's attitude toward nighttime emergencies. "Dr. McCartney was different than other doctors." She said, "Many was the time that one of my children was sick in the middle of the night, and I called his service. Dr. McCartney always called back immediately; he was never angry or impatient. He was always concerned. Among the worried mothers of Greenpoint, he'll be missed."

In a community endowed with few Rockefellers, Dr. McCartney never pressured his patients to pay him. Many seniors and parents of large families knew if they didn't have the money, they still could call their doctor in an emergency. Furthermore, his presence extended far beyond the parameters of his office

on Leonard Street. After a patient died, Dr. McCartney was sure to keep in touch with the family, checking up on people, providing support and advice. Just tracking down one's doctor can be a torturous experience for most people. In Greenpoint, Dr. McCartney's patients often heard from him. When was the last time your doctor called you to find out how you were doing?

As Dr. McCartney closes his practice to take his long-deserved retirement, he leaves behind him a trail of stories that mothers will tell to their kids for years to come. Across dozens of kitchen tables throughout Greenpoint, mothers and grandparents will tell stories about the close calls, the sleepless nights, the cold compresses and aspirins cut in half that was part of their lives. And rest assured, in the course of these reminiscences, Dr. McCartney will play a prominent role.

On behalf of all those he helped, counseled, and cared about during his 44 years of service to Greenpoint, I pay tribute to Dr. John J. McCartney, a man who healed the sick on their terms. Thanks, Dr. McCartney.

DR. HOWARD KNOBLOCH

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. TRAXLER. Mr. Speaker, I rise today to honor Dr. Howard Knobloch who this month celebrates his 50th year as a pediatrician in my hometown of Bay City, MI. Since Memorial Day, 1940, when Howard joined Dr. L. Fenton Foster in pediatric practice, he has been a deeply caring and gentle man who helped our youngest citizens get well. He's stitched their cut lips, wiped away their tears, and shared a special trust with his young charges. Dr. Knobloch communicated an extra sense to children who often couldn't explain their aches and pains.

Dr. Knobloch was born June 3, 1911, in Trafford, PA. He graduated from the University of Maryland in 1932, and received his medical degree from there in 1936. He interned at University Memorial Hospital in Baltimore, MD, in 1936 and his pediatric residency was served at the Philadelphia Children's Hospital from 1937 to 1938; the University of Michigan Hospital in Ann Arbor, MI, from 1938 to 1939; and Marquette General Hospital where he was the chief resident in pediatrics from 1939 to 1940. Even during World War II while in Alaska, serving as a major in the Army from 1942 to 1946 as Chief of Contagious Diseases, he was never far from children, volunteering for extra duty as a pediatric consultant.

Howard made his home in Bay City and his four children went to college in Michigan. Susan, Tom, and Melissa attended the University of Michigan, and Greg attended Northwood Institute. It is our good fortune to have had Howard Knobloch's skills and abilities. He has worked with the local March of Dimes as the physician in charge of the polio drive for 35 consecutive years. Please join me in celebrating his 50th anniversary of dedication and love for children.

TRIBUTE TO CONRAD F. WEDBERG, JR., ON THE OCCASION OF HIS RETIREMENT

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. COX. Mr. Speaker, I rise today to pay tribute to Dr. Conrad F. Wedberg, Jr., on the occasion of his retirement from the University of Southern California after over four decades of service.

Dr. Wedberg's 42-year commitment to USC has been both deep and varied. It began in 1948 when he was named as the assistant to the registrar and continued as he advanced to become assistant registrar, assistant director of admissions, assistant director of high school and college relations, and then assistant director of the extension division. By 1958, he was the assistant dean of university college and in 1962 was named director of admissions. As director and later, dean, of admissions, Dr. Wedberg helped mold the expanding university through the increasing depth and quality of the freshman classes he admitted. During this period, he also influenced the university community through his editorship of the original publications of the "USC Handbook for Counselors," the "USC Handbook for Evening College Professors," and the "USC Faculty Handbook."

In 1976, Dr. Wedberg began moving more toward the public arena of university life when he became the director of University Relations for Student Administrative Services. He later became the assistant to the vice president for Governmental Affairs and from 1981 to the present has helped guide USC toward its full potential in the 21st century as the associate director for Governmental Affairs. Dr. Wedberg also served the university throughout his tenure by bringing his intelligence, insight, and organizational abilities to such important university committees as the Student Academic Standards Committee, the Curriculum Committee, the Faculty Senate, the Counsel of Deans, and the University Planning Commission. Recognition in the State and Nation are evidenced by his service as the university representative to the National College Entrance Examination Board, as chair of the Board of Standards for the California Association of Independent Schools, as a consultant to the Scholarship Selection Committee to the U.S. Borax Corp., as a member of the National Committee for Selection of NROTC Candidates for the U.S. Navy and as a member of the Joint Committee on Student Financial Aid Research for the California Postsecondary Education Commission, to name only a few. He honored his colleagues by initiating the Staff Recognition Program of the University Staff Club in 1979 and has been a member of the board of directors of both the USC Federal Credit Union and Staff Retirement Association.

Dr. Wedberg's personal life has been full as well. After serving his country as an ensign in World War II, he married Elizabeth Magathan in 1946 and they have raised four sons.

Connie, as he is known to his friends and colleagues, continued his education after the war to earn a master's degree in music in 1949, and then changed course to earn an Ed.D. in 1967. His community of Palos Verdes has benefited from Connie's service as a member of the Citizens Advisory Committee for the Palos Verdes Peninsula Unified School District, as an active participant in scout troops and as a member of the Executive Council of the Explorer Scouts for the Greater Los Angeles area.

Perhaps most importantly, Connie has been able to serve his fellow man and indulge his own love of music by devoted service to the Peninsula Symphony Association in recent years. He has served on its board of directors since 1976 and was president of the board from 1982–84. Since 1987, he has been the symphony's preconcert lecturer and since 1988, has been Composer in Residence. The Peninsula Symphony will premiere Dr. Wedberg's new symphony in the fall of 1990.

As he retires today, I would like to thank Dr. Conrad Wedberg for his commitment to education, congratulate him on his retirement and join with his colleagues, family and friends in recognizing his distinguished career as a public servant and as a warm, witty, and wonderful human being.

TRIBUTE TO ROBERT LEE CONWAY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. DYSON. Mr. Speaker, I rise today to pay tribute to Robert Lee Conway, a teacher and administrator from Calvert County, MD, who is retiring after many years of ensuring quality education for the youth of Maryland.

Today, I wish to share some of Mr. Conway's accomplishments with my colleagues. Mr. Conway earned his bachelors degree from Bowie State Teacher's College, and received his masters degree from George Washington University. Mr. Conway has spent over 30 years in the field of education, as both a teacher and an administrator. His career began as a teacher at Appeal Elementary School where he taught for 4½ years, before moving on to Plum Point Elementary School where he spent 2½ years as both a teacher and principal. He then served for 6 months as the vice principal of W. Sampson Brooks High School, before returning to Appeal Elementary School to serve as its principal for 9 years. Mr. Conway then served 15 years as the principal of Mutual Elementary School.

Mr. Conway has not only dedicated his career to excellence in education, but he is also a committed and respected member of his church and community. As an active member of Plum Point United Methodist Church in his hometown of Huntingtown, Mr. Conway serves as a lay leader and speaker, he serves on the committee on finance, and he is a member of the Gideon. Currently, Mr. Conway is a candidate for the United Methodist Ministry. Mr. Conway is also an active member of his community where he has provided leadership for the Boy Scouts. He also serves as a member of the Calvert Memorial

Hospital Board, and is a member of the Brotherhood of the Arrow.

I join Bob's many friends and loved ones in congratulating him on his retirement. I know that my colleagues join me in commending him for his many years of service to his community. I wish Bob Conway well in retirement, as he looks forward to attending theological seminary and spending time with his wife, Mabel, and their two sons, Quintin and Kirk.

INTRODUCTION OF LEGISLATION FOR AUTHORIZING ADDITIONAL FUNDING FOR THE MARY McLEOD BETHUNE MEMORIAL FINE ARTS CENTER

HON. CRAIG T. JAMES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. JAMES. Mr. Speaker, I am pleased to sponsor this bill to provide additional funding for the Mary McLeod Bethune Memorial Fine Arts Center. Let there be no mistake, this new center is needed. If there is any place or project in America that needs a greater investment of resources than education, I cannot think of what it could be. The problems that have faced our educational system for the past decade are well documented. While progress has been made, there is still a long road to travel before our education system is once again able to meet all of the needs that America places on it. We must recognize that fact, plan a strategy for reaching our goals, and implement it.

Such a strategy might not be flashy or glamorous, but it is needed nevertheless. I am confident that we can achieve the goals that we set for ourselves, because this is America. Our history is filled with instances of challenge and victory, and it will continue. One of our shining examples of success, for example, has always been our postgraduate educational system. People from around the world still come here, because they know that our system is best. Our system is best because it gives opportunities to people who would otherwise be left out of society. An excellent example of this is the strong system of predominantly black colleges across the country. Historically black colleges, especially Bethune-Cookman, occupy a unique place in our system of higher education. At a time when many schools would not educate black Americans, these colleges and universities offered them an opportunity for higher education. These schools have provided education to half of the black engineers, 75 percent of the black officers in the U.S. military, and 80 percent of the black judges in the United States. We must provide these schools with critically needed funds for endowment and other projects as an effective means to create strong systems and long-term financial security.

A perfect example is this new facility. When completed, it will be a major new source of educational opportunities for every student who attends this institution. However, it will only become a reality if we help. That is why I have introduced legislation in the House of Representatives that will provide for new appropriations of $9.2 million for the completion of the Mary McLeod Bethune Fine Arts Center.

The completion of this center is essential to maintain the high quality of education that exists here. We can only hope to maintain that standard if all of us join together in a partnership for educational excellence. I hope that all of my colleagues will join me in that partnership, so that we can continue to build a great record of educational achievement.

RICK McFADDEN DISTRICT DRIVER OF THE MONTH

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. McEWEN. Mr. Speaker, I rise today to honor a gentleman from the State of Ohio, Mr. Rick McFadden, who has been named as a district driver of the month by Ryder Truck Rental Co.

This award is given to Mr. McFadden in light of his over 2 million accident-free driving miles that span 20 years of driving. Rick McFadden was selected for this honor among 2,200 drivers who drive leased trucks in Ryder's Columbus, OH, district.

Not only is Mr. McFadden one of the safest drivers on the road, but a hero as well. In September 1989, he stopped at the scene of a road accident and pulled a man and woman out of a smoking car that was hanging on the edge of a cliff. For this, Mr. McFadden received the Goodyear Tire Co.'s National Highway Hero Award for 1989 during a ceremony held at the Daytona 500 in Florida.

Most importantly, because of the many honors Rick McFadden has already received, he is eligible for the area, regional, and national competition for Ryder Truck Co's Driver of the Year.

In addition to these honors, he is also eligible for a medal from the Carnegie Foundation and will be receiving a congratulatory letter for his superb record from U.S. Secretary of Transportation Samuel K. Skinner.

Rick McFadden's praises have been recorded in the News Journal which I respectfully ask to be included in my remarks.

Mr. Speaker, please join me in saluting Rick McFadden for his superior service and I wish him the best of luck in his bid for National Driver of the Year.

AMENDMENTS TO THE WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. HOYER. Mr. Speaker, I rise today to thank Chairman FRANK who has worked hard on bringing this issue to the floor today. I appreciate the timeliness with which his subcommittee considered this legislation and appreciate the very able assistance of his staff, Mr. David Naimon.

This bill addresses amendments to the Washington Metropolitan Area Transit Commission [WMATC]. This commission has jurisdiction over privately owned passenger carriers, but has no jurisdiction over publicly owned passenger carriers such as WMATA/Metro Ride-On, CUE, or DASH.

After 25 years, the original signatory jurisdictions concluded that the WMATC compact needed review and appointed a review commission, chaired by Hon. Carlton R. Sickles to perform this function. In December 1987, the review committee recommended a revised and updated version of the compact. During the 1988 legislative sessions, the revised compact was introduced and passed by all signatory jurisdictions: Maryland Chapter 273, 1988; Virginia Chapter 890, 1988; and D.C. law No. 7-224. As part of the District of Columbia enactment, the revised compact was transmitted to Congress for review, and completed in 1989.

These amendments, enacted by all signatory jurisdictions, must now be approved by this Congress, since it constitutes changes to an interstate compact. The compact changes:

Specify authority to assess fees and return them to signatories;

Add jurisdiction over certain interstate taxicab trips to and from BWI Airport; National and Dulles are already included;

Formalize exemption for WMATA;

Ease market entry standard from "public convenience and necessity" to "consistent with the public interest";

Provide that irregular route certificates shall be coextensive with the metropolitan district, now area by area;

Provide specific protection for regular route operations of publicly owned municipal carriers;

Provide that WMATA may order a carrier to cease any operation found inconsistent with the public interest;

Provide for tariffs to become effective in 7 days and to remain in effect at least 60 days; these are now effective indefinitely on 30 days notice;

Eliminate agency regulation of carrier securities;

Clarify that only entity issued a certificate can operate under it;

Decriminalize violations and increase fines as improved enforcement mechanisms; and

Provide for fines to be paid to the signatories.

In brief, Mr. Speaker, the proposed revisions would lower barriers to market entry and reduce rate and accounting oversight, while maintaining a regional approach to transportation and keeping those controls necessary for the security of the public.

I again thank Chairman FRANK and Chairman BROOKS of the full committee for their speedy review and adoption of this package which will improve transportation in the Washington metropolitan region.

100TH ANNIVERSARY OF THE BATTLE OF WOUNDED KNEE

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. CARDIN. Mr. Speaker, on December 29, 1990, the Maryland Native American Community will mark the 100th anniversary of the Battle of Wounded Knee. I hope my colleagues will join me in marking this important centennial on behalf of Native Americans throughout the country.

The Battle of Wounded Knee, many times referred to as the Massacre of Wounded Knee, occurred in 1890 at Wounded Knee Creek on the Pine Ridge Reservation in South Dakota.

The Battle of Wounded Knee was the last of the confrontations between the Sioux Indians and U.S. troops involving the Ghost Dance religion; it was also the last armed confrontation in the United States between Native Americans and whites.

In December of 1890, about 350 Sioux had been fleeing their village on the Cheyenne River Reservation and were heading toward the Pine Ridge Agency. While U.S. troops were attempting to disarm the Sioux, chaos ensued, and mass destruction resulted; casualties on the unarmed, Sioux side numbered 153 dead—including their leader, Chief Big Foot—with 44 additional wounded.

The Native American population of Maryland, numbering over 8,000 strong, will commemorate the centennial of this massacre in December. Mr. Speaker, I hope that my colleagues will join me in commemorating the great losses of the Battle of Wounded Knee, and in celebrating the history and culture of Native Americans all over the country.

THE 1 MILLIONTH GI BILL PARTICIPANT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. GILMAN. Mr. Speaker, earlier today I had the distinct honor and privilege of participating in a Rose Garden ceremony commemorating the 1 millionth enrollee in the Montgomery GI education bill.

I was pleased to cosponsor this outstanding legislation during the mid-1980's. Upon the enactment of the program in July 1985, our GI educational benefits program finally came into line with the new needs and requirements of our all-volunteer armed services.

Our colleague, the distinguished chairman of the House Veterans' Affairs Committee, Mr. MONTGOMERY, possesses the foresight and the leadership skills which recognized the need for this and for other incentives to attract the best and the brightest of our young men and women into our armed services. It is indeed fitting that this landmark legislation bears his name.

In the last 5 years, 1 million young men and women have enrolled in and taken advantage of the Montgomery GI bill educational benefits program. It is indeed appropriate that the President hosted this ceremony to commemorate this important milestone. In great part due to the incentive of this program, our armed services remain the finest on the face of the Earth.

Participating in this morning's White House ceremony were Secretary of Defense Richard Cheney, Transportation Secretary Samuel Skinner, and young military personnel from every branch of the service who have recently signed up for the education program.

Active duty personnel who elect to sign up for the Montgomery GI bill must pay $100 a month for 12 months in order to qualify for $10,800 in education benefits. National Guard and Reserve members do not pay into the program and are eligible for $5,040 in education benefits.

Mr. Speaker, I would like to share with our colleagues the worthy remarks made by the distinguished Veterans' Committee chairman, Mr. MONTGOMERY, at today's White House ceremony. I am certain that we all share his enthusiasm and pride in this outstanding program.

REMARKS OF HON. G.V. MONTGOMERY

I want to thank Secretary Skinner and Secretary Cheney for participating in this celebration today, my colleagues in Congress, our military honorees, whose parents are with them, ladies and gentlemen.

We are here today to pay tribute to the more than one million young American service personnel—both Active and Reserves—who are participating in the peacetime GI education bill. Since this program was enacted in July 1985, over one million young men and women have signed up for these educational benefits, and our honorees here today put us over the one million mark.

About half of the people in this audience had something to do with enacting this law and then implementing it into the services. These here today believed, like I did, that as we moved into the all-volunteer military, improvements needed to be made in the quality of young men and women coming into the service.

We started working in 1981 on getting a decent peacetime education program for the Actives, National Guard and Reserves after the GI bill for Vietnam had expired.

Thanks to this program and other incentives, we have the finest young people in the military today than at any time I can recall.

And that is only part of the story. These young men and women now have the chance to go to college or vocational schools to give our country the new vitality that is necessary for America to continue to grow and prosper.

These educational benefits are not free for the active-duty participant. Each has had $100 deducted from their paycheck for 12 months. This has brought in $961 million dollars to the Treasury, not including interest saved.

President Bush, when he was Vice President, made some important phone calls back in 1984 that helped move this legislation forward.

As our education President, we thank him for having this celebration at the White House, and for recognizing these fine young men and women who are serving their country and who also want to continue their education to help make themselves better citizens.

ERIC SPEICHER WINS EARTH DAY COLORING CONTEST

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. SANGMEISTER. Mr. Speaker, I would like to take this time to recognize a very talented young artist from my district, Eric Speicher. A student at Central Elementary School in Plainfield, IL, Eric participated in the Fourth Congressional District Earth Day Coloring Contest. The contest was aimed at enhancing environmental awareness among our young people. The children were required to make two drawings—one of a dinosaur and one of an animal on the endangered species list. Fifty-six elementary schools in my district participated in this contest, and all of the entries submitted were outstanding. However, Eric's imaginative, colorful drawings of a stegosaurus and a condor were chosen as the most exceptional and he was named the district-wide champion. So, Mr. Speaker, I would like to extend my congratulations to Eric Speicher and my thanks to all other participants for their entries. It was very refreshing to see these aspiring young artists' work and I wish these students the very best as they enter the third grade.

STUDENT PENNANT RACE

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. FEIGHAN. Mr. Speaker, I rise today to recognize a truly special effort taking place in my community. Tonight, 1,000 junior high school students from Cleveland will be treated to a major league baseball game between the Cleveland Indians and the Detroit Tigers. The IBM Corp./Cleveland, the Cleveland Indians, Cleveland State University, and the Cleveland School System have banded together for the third straight year to host the Student Pennant Race on June 5, 1990.

This outstanding program provides 1,000 seventh-grade students the opportunity to attend a picnic at the Cleveland State University Woodling Gym and then the Cleveland Indians versus Detroit Tigers baseball game. These students were selected by their teachers, based on their attendance, conduct, commitment to education, and community service. Each student has also been allowed to invite an adult guest—someone they feel has had a positive impact on their life.

The IBM/Cleveland Indians Student Pennant Race not only encourages interest and a positive attitude toward school, but instills confidence in children who might otherwise become frustrated if no one recognized their success. This partnership toward educational excellence between IBM/Cleveland, Cleveland Indians, Cleveland School System, and Cleveland State University will benefit these children and bring our community together in an effort for our future. By doing so, we help

guarantee these children's success as leaders of tomorrow.

Thank you IBM/Cleveland, Cleveland Indians, Cleveland School System, and Cleveland State University for your special efforts on behalf of education, our children, and our future.

A TRIBUTE TO HOBART COLLEGE LACROSSE TEAM

HON. BILL PAXON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. PAXON. Mr. Speaker, I rise today to honor the Hobart College Statesmen lacrosse team. On Saturday, the Statesmen defeated the Washington College Shoremen 18–6 to capture their 11th straight NCAA Men's Division III National Championship.

Hobart, located in Geneva, NY, is the only team ever to win the division III tournament, posting a 33–0 playoff record, and 100–3 overall record against division III opponents, since 1980. The Statesmen started the 1990 lacrosse season ranked No. 1 in the preseason polls, and remained there the entire regular season, amassing a 12–1 record.

Unlike any other collegiate sport, Hobart is expected to win the NCAA lacrosse championship every year. The pressure to win continues when the seniors finish their 4 years of championship by ceremoniously transferring the burden of continuing the streak to next year's seniors.

For first year Coach B.J. O'Hara and his talented group of young men it is more than tradition. It's people establishing high goals, and trying to live up to them.

Mr. Speaker, the dedicated lax fans of Hobart and William Smith Colleges and the citizens of Geneva have faithfully supported their team throughout the season. With this devotion and civic pride, I believe that the Hobart lacrosse team will continue their dynasty of winning championships in this decade and beyond the next century.

RECOGNITION OF THE NEW READING-BERKS FIRE TRAINING CENTER

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. YATRON. Mr. Speaker, I rise today with great pride to recognize the completion of the Reading-Berks Fire Training Center. The center has been 10 years in the making and it is only through the tenacious and dedicated efforts of many business and community leaders in Berks County that the center has been completed.

I applaud the completion of the training center for a number of reasons. In the new fire training facility, firefighting crews will be able to prepare for several different emergency situations and conditions. Firefighters will be able to train in a drill tower, in a burn building that simulates various types of houses and occupancy conditions, in a smoke pit, in a burn pit, and in a hazardous materials area. It is this diversity that makes the Reading-Berks Center one of the finest in the the Commonwealth of Pennsylvania. There is no doubt that the citizens of Berks County are most fortunate to have such a facility within their community.

Mr. Speaker, the firefighting occupation is of great importance to any community. Daily, firefighters bravely risk their lives so that others may live. The efforts of all firefighters must not go unnoticed or unappreciated. Their courageous and selfless acts on behalf of their communities are priceless, and I commend all of the firefighters of the Reading-Berks area, both professional and volunteer, for their efforts. I know that the new Reading-Berks Fire Training facility will be instrumental in building exceptional firefighting and safety crews throughout the country and the Nation.

A SPECIAL MORAL STANDARD, FOR ISRAEL ONLY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. GINGRICH. Mr. Speaker, I would like to point out to you and my colleagues an article written by Mr. Charles Krauthammer which appeared in the May 24, 1990, Washington Post. It correctly points out the duplicity to which the State of Israel is subjected. Israel is all too often singled out for blame while the actions of other nations go unnoticed. This is not only grossly unfair but morally wrong.

[From the Washington Post, May 25, 1990]

A SPECIAL MORAL STANDARD, FOR ISRAEL ONLY

(By Charles Krauthammer)

For 43 years this proud Moslem people has felt itself cut off from the Islamic world and unjustly occupied by an alien Israel. Then just this Monday its leading moderate is assassinated. Riots break out and in one day the occupying forces shoot dead 60 innocent civilians.

Yet this time the Islamic Conference and the Arab League do not call the original murder a premeditated act of terrorism by the occupying government. The State Department does not issue a statement intimating that blame for the original murder and subsequent rioting lay with the intransigence of an occupying government that refuses to go along with an American peace plan. CNN does not play over and over again a tape attributing the original murder to the climate of "fascism" in the occupying country.

Why not? Because I lied in the first paragraph. The occupying power that I identified as Israel is really India. The above events happened in the Indian province of Kashmir, predominantly Moslem, bent on independence and for 40 years forcibly kept under Indian control.

It is ironic and instructive that during the week when India massacred—with international impunity—60 mourners at the funeral of assassinated Kashmiri leader Moulvi Mohammed Farooq, Israel was being universally attacked for the murder near Tel Aviv of seven Gazans by a deranged Israeli gunman, and for its handling of the subsequent Palestinian rioting.

Unlike the Indian case, there is no connection between the Israeli government and the original murder. (Pakistan's minister of information has openly accused India of being behind Farooq's murder.) Yet from all sides the massacre by a mentally unstable Israeli ex-con is being traced directly to Israeli society, to the Israeli government, and to our favorite obstacle to peace, Yitzhak Shamir. The secretary general of the Islamic Conference, for example, declared the shooting part of a "world Zionist plan and deceitful conspiracy aimed at terrorizing the Palestinians and forcing them to leave their country."

In fact, the massacre was immediately and unequivocally denounced by Israel's entire political leadership. Contrast this with the Feb. 4 attack in Egypt in which two masked men intercepted an Israeli tour bus and machine-gunned nine passengers to death. This was not the wild act of a madman, but a planned, premeditated "operation" (as Abu Iyad, the security chief of the PLO, called it). Various groups claimed the honor of having perpetrated it. The PLO response was to blame it on Yitzhak Shamir. This so disgusted the Egyptians, on whose soil the crime was committed, that they denounced the PLO for its "very weak and inappropriate" response.

Yet, despite the premeditated nature of this crime and despite the wink it got from the PLO, CNN did not run footage blaming the attack on a climate of hate fomented by the PLO or Egypt. This week, however, it ran incessant footage of a Palestinian blaming the Tel Aviv massacre on growing Israeli "fascism."

The double standard applied to Israeli actions is old news, but this week it has been particularly egregious. A lone madman goes on a rampage and the rush is on by media and moralists alike to establish collective Jewish guilt.

The State Department has its own mealymouthed version of collective guilt. Said its spokesman, "in the absence of the peace process"—read: because Shamir won't say yes to Baker—"the potential for this kind of senseless violence . . . goes up."

Really? In February, the Egyptian foreign minister explained the bus attack in Egypt as "an attempt to place obstacles before the peace process which is proceeding with relative success," and the State Department deemed it "an obvious attempt to halt efforts at reconciliation and dialogue."

Well, which is it? Does the peace process induce Semitic extremists to murder, as we heard in February, or does it diminish "the potential for this kind of senseless violence," as State instructs us now? Or are all these excursions into pop sociology merely ways of extracting cynical political advantage from whatever bloody headline comes out of the Middle East?

The Tel Aviv massacre gave rise to extensive Palestinian rioting that was put down by the Israeli army at the cost of 15 lives. This moved State to call upon Israel "to exercise restraint." But when on the same day Jordan was putting down its rock-throwing Palestinians in the Bakaa refuge camp (which raises the question: Why do Arabs keep Arabs in refugee camps for 42 years?), the State Department had no problem.

"Jordanian authorities acted quickly. They've contained the incident at the camp," said the State Department spokesman Richard Boucher. "I think those are

valuable steps." On the very next day, these valuable steps left two Palestinian rioters, one 14 years old, dead at the hands of Jordanian authorities.

Israel is pilloried according to a moral standard to which no other nation in the world is held—not India, not Jordan, not the United States itself. (In 1967, in the Detroit riots alone, 40 were killed.) This is not to say that because others have done worse, Israel stands exonerated. Faced with an occupation it never sought and which it can find no way to end safely, Israel has on occasion behaved badly.

The fact that others, faced with far smaller threats, have behaved far worse and yet Israel is singled out for blame is powerful evidence of a double standard meant not to serve justice or save Palestinians but simply to skewer Israel.

JUNE 9, FOUNDER'S DAY FOR MALDEN HOSPITAL

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. MARKEY. Mr. Speaker, I would like to bring to the attention of my colleagues in the House of Representatives an outstanding health-care facility in my district. Malden Hospital, founded June 9, 1890, by Elisha Converse, has long served the needs of those for whom it was established and is an integral part of the community.

One hundred years ago, when Benjamin Harrison was President of the United States, and the city of Malden was already 241 years old, Elisha Converse, one of Malden's leading citizens, called a town meeting to consider the "ways and means by which a hospital might be established in Malden."

Converse donated a 10-acre site of land for the new building and construction began that year. By 1892, the newly constructed hospital accommodated up to 38 patients in three wards and eight private rooms.

Today, Malden Hosptial is one of the finest health-care facilities in New England, incorporating a whole range of services from maternity and psychiatric wards to a free-standing clinic dedicated to sports medicine. The hospital is supported by a staff of dedicated medical professionals who are committed to the ideals of its founders and the well-being of the community.

June, 9, 1990, has been declared Founder's Day in the city of Malden, and I am proud today to extol the virtues of Malden Hospital for a century of community service and excellence in the health care field.

H.R. 4958—A NEW HEALTH BENEFITS PROGRAM FOR FEDERAL EMPLOYEES AND RETIREES

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. ACKERMAN. Mr. Speaker, today, I introduced comprehensive legislation to reform the Federal Employees Health Benefits Program [FEHBP]. The reform proposal will replace the 30-year-old FEHBP, which has strayed from the principle of group insurance and is no longer meeting the needs of its 10 million beneficiaries. Last year, a report by the Congressional Reserach Service [CRS] highlighted the deficiency in the FEHBP by showing that the Government is getting by cheap when it comes to insuring its workers; the Government's contribution is on the average $1,100 less than what is paid by private sector employers. The CRS report also demonstrated that benefits provided by private employers were more generous than FEHBP benefits.

The new FEHBP would replace the current 26 fee-for-service options with a single two-option plan which would be managed by the Office of Personnel Management [OPM] in consultation with a newly created FEHBP Board. The plan will consist of a standard option and a high option, for either self or family coverage.

Federal enrollees could continue to enroll in health maintenance organizations [HMO's] as an alternative to the fee-for-service options. Under the new FEHBP, HMO's will be required to offer the same health services as provided under the standard option.

The Government-wide fee-for-service options will be administered by qualified organizations as third-party administrators [TPA's]. The contracts would be competitively awarded for specific medical service areas. In addition, the new FEHBP would permit employee-organization sponsored health plans which currently self-insure to serve as the TPA for members of their respective collective bargaining units. The primary responsibilities responsibilities of the TPA's will include the processing of health insurance claims and the implementation of cost-control programs.

Annuitants could elect from among any of the health plans which, together with Medicare, would pay for virtually all reasonable and customary charges for services.

One of the major deficiencies of the current FEHPB is that an enrollee's premium is not related to the value of coverage. Current FEHBP plan premiums differ significantly because of the varying health care costs of the population enrolled in each plan. For example, the CRS found that there is only a 41-percent variation in the value of benefits among FEHBP plans, but a 246-percent variation in their premiums. To address this problem, the Ackerman bill specifies that the price difference between the standard option and the high option would represent solely the amount by which the actuarial value of the high opiton's benefits exceed the benefits for the standard option. Initially, the standard option premium would be set at $10 per pay period for self only coverage and $22 for family coverage. The enrollee's contribution for the high option would be established at $20 per pay period of self only coverage and $44 for family coverage. The enrollee premium increases would be limited to a rate equal to the lesser of the increase in the medical care component of the Consumer Price Index, or the increase in total FEHBP costs.

The new program would offer to Federal employees flexible spending plans [FSP's], which are now available to many workers in the private sector. Each worker may set aside in the plan a part of salary on a pretax basis to be used to pay his or her out-of-pocket health care expenses. Unused balances would be used to finance "wellness" programs for employees.

The new program will offer lower-salaried employees an enhanced benefit by indexing their maximum out-of-pocket expenses to their wages.

The new program, if in effect in 1991, would increase Federal costs by an estimated $3.34 billion, plus $430 million in tax expenditures attributable to the FSP's. At the same time, it would have saved Federal enrollees an estimated $1.5 billion in premiums.

Mr. Speaker, I would like to take the opportunity to express my appreciation to the CRS for assisting the House Post Office and Civil Service Subcommittee on Compensation and Employee Benefits staff in crafting this proposal.

SUMMARY OF BENEFITS

	Standard option	High option
Deductible	$200/$400	$100/$200
Maximum out-of-pocket	$1,500/$2,500	$1,000/$2,000
Hospital benefits	100%	100%
Surgical-medical benefits	80%	90%
X-rays and laboratory tests	80%	90%
Emergency and accidental benefits	100%	100%
Prescribed drugs	80%	90%
Well-baby benefits	80%	90%
Prosthetic devices	80%	90%
Mental health and substance abuse:		
Inpatient	80%	90%
Outpaient	[1] 75%	[2] 75%

[1] Maximum 25 visits. [2] Maximum 50 visits.

CODIFICATION OF TITLE 49, UNITED STATES CODE, "TRANSPORTATION"

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. BROOKS. Mr. Speaker, I am today introducing a bill to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V through X of title 49, United States Code. This bill has been prepared by the Office of the Law Revision Counsel as a part of the program of the office to prepare and submit to the Committee on the Judiciary of the House of Representatives, for enactment into positve law, all titles of the United States Code.

This bill makes no change in the substance of existing law. It is the final phase in the codification of title 49 and, on its enactment, will complete the codification of that title.

Anyone interested in obtaining a copy of the bill should contact the committee.

Persons wishing to comment on the bill should submit those comments to the committee not later than July 6, 1990.

A TRIBUTE TO REV. FRANK JONES

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. FISH. Mr. Speaker, I would like to call to the attention of our colleagues an outstanding pastor who personifies his church and all it stands for.

Rev. Frank Jones became pastor of the AME Zion Church of Newburgh, NY, in 1964. During the past 25 years under the administration of Reverend Jones the church has experienced a tremendous increase in membership.

The Reverend is not only active in the church but in his community. He takes great pride in the youth of the area when they go to college. He personally has assisted and inspired more than 200 youths to pursue higher education.

Reverend Jones has received many honors, including the Martin Luther King, Jr. Award of his fraternity, Omega Psi Phi; the Newburgh NAACP's Distinguished Service Award; Key to the City of Newburgh; The Most Deserving Black Award; the 1978 Kappa Upsilon Lambda Chapter of Alpha Phi Alpha Fraternity Social, Economic, Political Involvement and Action Award, and many others throughout the years.

Along with these accomplishments Reverend Jones has served for many years as the executive director of the Newburgh Community Action Committee, Inc. and is a member of the national and New York State Community Action Agencies Executive Directors Association.

I am honored that Reverend Jones finds time to serve on the academy selection committee for my 21st Congressional District.

Frank Jones is married to Vivian Love Jones, and they are the proud parents of Janet Denise Jones.

Reverend Jones will be honored for his 25th anniversary as pastor by his congregation on Sunday, June 10, 1990, in Newburgh, NY.

Mr. Speaker, it is with distinct pleasure that I salute the achievements of Rev. Frank E. Jones and offer him my best wishes for the future.

TRIBUTE TO SCOTTY CAMPBELL

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. BORSKI. Mr. Speaker, I rise today to honor Scotty Campbell on his retirement as secretary-treasurer of Painters District Council 21.

Born in Scotland in 1926, Scotty Campbell came to Philadelphia shortly after serving with the U.S. merchant marines during World War II. In 1953, he began his long and successful career as a painter in Philadelphia with the Brotherhood of Painters and Allied Trades Local 703.

Over the years, Scotty has served his coworkers as a foreman, district council delegate, and vice president of local 703. Throughout his career, he has demonstrated a commitment to the health and safety of painters. In particular, he was instrumental in mandating the use of safety nets under bridges to protect workers from fatal accidents.

In 1976, Scotty was elected secretary-treasurer of Painters District Council 21. Under his leadership, the men and women of Painters and Allied Trades have received fair wages, excellent benefits and retirement options that allow them to enjoy the fruits of their labor.

Mr. Speaker, I join the officers and members of the Painters and Allied Trades in honoring Scotty Campbell for his successful career and dedication to the welfare of his coworkers.

TIME TO STAND LIKE HORATIUS

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. WEBER. Mr. Speaker, I want to call to my colleagues' attention an editorial by James J. Kilpatrick in yesterday's Washington Post. Kilpatrick points out that the question of raising taxes comes down to a test of will. I hope my colleagues will take inspiration from Horatius and hold the bridge against those who would increase taxes.

TIME TO STAND LIKE HORATIUS

(By James J. Kilpatrick)

Sixty years ago, when little boys took lessons in elocution, the custom was to memorize great chunks of heroic poetry. It fell to one little boy to declaim, with appropriate gestures, the ballad of Horatius from Macaulay's "Lays of Ancient Rome."

The boy fell to thinking of Horatius the other day. Actually the lad, now old and gray, was thinking of George Bush. The president seemed to be retreating from his promise to approve "no new taxes." Pressures upon him were mounting from every quarter. Without a substantial increase in taxes, the president was told, deficits would soar, interest rates would climb and disaster would be close at hand.

So it was when ruin threatened Rome. "Then out spake brave Horatius, the captain of the Gate: To every man upon this earth death cometh soon or late. And how can man die better than facing fearful odds, for the ashes of his fathers and the temples of his Gods?"

The story turned out happily: "With weeping and with laughter, still is the story told, how well Horatius kept the bridge in the brave days of old."

Mr. President, stand like Horatius! Hold firm to your convictions! Don't yield now! If a tax increase can be averted for the next three years, and if Congress will restrain its impulse to spend the dividends of peace, natural growth in the economy will bring the budget close to balance. We are now on what some economists call a "glide path," as the rate of increase in revenues approaches the rate of increase in spending. Hold to a steady course!

Political considerations clearly support a policy of firmness. If Bush made one position clear during his campaign, it was his position on taxes. "Read my lips!" He made it a litany. "Read my lips! No new taxes!" This was a pledge of honor, and Bush is an honorable man. His steadfast opposition to a tax increase was the most important element in his successful run for the White House.

To be sure, if some overwhelming situation should develop, the trusting voters would forgive him a retreat. No such calamity is in sight. The bailout of savings and loan depositors can be paid for over the next 30 to 40 years. The same thing is true of the obligation to rebuild bridges and to fight the war against drugs and crime. Continued large deficits are a problem, but they are not a desperate problem.

Let us keep key figures in perspective. The size of the deficit, whether quoted in current dollars or constant dollars, is not the figure that matters. What matters is the deficit as a percent of our gross national product. A homely analogy may be found in personal debt. The family with a $20,000 income and a $100,000 mortgage is in trouble; the family with the same mortgage and an income of $100,000 is relatively secure. This year the deficit will amount to only 2.3 percent of GNP. This is the lowest figure in 20 years.

Do not think the unthinkable, Mr. President! Be like Horatius! Or be like Ulysses, who ordered sailors to bind him to the mainmast lest he succumb to the sirens' song. Take your model from the boy who stood on the burning deck, whence all but he had fled. The old heroic ballads speak to us through the ages.

This is a time for leadership. It is what presidents are expected to provide. The budget that Bush sent to Capitol Hill in February constituted no leadership at all. If the president were now to call simply for a freeze on outlays at the current level, the country would rally to his support. He would enlist such powerful allies as Rep. Dan Rostenkowski of Illinois and Sen. Fritz Hollings of South Carolina.

To enforce such an overall freeze at a level of $1.2 trillion would impose no intolerable hardships. Life would go on. The national security would be maintained; criminal laws would be enforced; the improving environment would be stable. By reducing some heavy expenses, such as farm subsidies, money could be found for such newly mandated entitlements as child care. The goal is the goal of Horatius: Hold the line!

Enough of these exhortations. The problem at bottom, as Bush well knows, is not that revenues are too small but that outlays are too large. The answer therefore—an answer much easier to proclaim than to achieve—is to cut spending until the country is prepared to pay as we go. That time will come within a few years if only Congress and the president will act responsibly. But if Congress is given new billions of dollars to play with, the day of a fairly balanced budget may never come at all.

THE DISASTER LOAN EQUITY ACT OF 1990

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. MINETA. Mr. Speaker, today I introduced the Disaster Loan Equity Act of 1990.

This legislation is designed to assist victims of the Loma Prieta earthquake of 1989 who

are having difficulty securing Federal disaster loans.

I was shocked and saddened by the devastation of this natural disaster. But I was outraged to learn that a number of Los Gatos businesses damaged by the Loma Prieta Earthquake were denied Small Business Administration loans because of harsh eligibility requirements adopted during the Reagan administration.

Upon investigation, I discovered that the number of affected businesses may be as high as 50—and that's 50 too many.

The Disaster Loan Equity Act will extend the maximum term of Small Business Administration disaster loans to applicants who are eligible for credit from non-Federal sources.

Current law authorizes the SBA to offer disaster loans at 4-percent annual interest with a 30-year term. However, businesses which are eligible for credit from commercial sources only qualify for the 3-year SBA disaster loans with 8 percent annual interest charge.

Some bay area businesses have been unable to secure a loan because their assets made them ineligible for the low-interest program and the repayment schedule was unmanageable under the terms of the 3-year plan.

Because of this, victims of the Loma Prieta earthquake can't qualify for the loans they need—and that's wrong. It's wrong to penalize businesses for being located in northern California.

Mr. Speaker, the entire San Francisco Bay area is still feeling the impact of the Loma Prieta earthquake. It is imperative that the Federal Government restore equity in its disaster relief programs and help the bay area rebuild. That's what the Disaster Loan Equity Act of 1990 is designed to do.

CONGRESSMAN KILDEE HONORS RALPH LARSEN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Mr. KILDEE. Mr. Speaker, I am proud to share with you the significant accomplishments of Mr. Ralph Larsen, of Flint, MI, on the occasion of his retirement as principal of Civic Park Elementary School.

His retirement marks the end of 38 years of dedicated and extraordinary service to the Flint Community Schools. During his career, Mr. Larsen served in various capacities as: principal of the Civic Park Elementary School, physical education teacher, building director, elementary administrative assistant, elementary area director, and principal for Pierce, Gundry, and Doyle elementary schools.

Ralph Larsen has always been an advocate of the needs of children. He was one of three educators chosen by the superintendent of schools to start the Community School Program. He and two other principals formed the Better Tomorrow for Urban Children in the 1960's, designed to meet the specific needs of the inner-city child. His care and concern for children has been further demonstrated by his involvement in the Head Start Program. As a former teacher, I can appreciate the enormous responsibility of interacting and caring for students on a daily basis.

Mr. Larsen will be greatly missed by his colleagues and the students of Civic Park School. However, he can take comfort in the fact that he will always be remembered for his accomplishments in the academic arena. As a result of his presence and commitment to excellence in education, Mr. Larsen has succeeded in making the Flint community a better place in which to live. It gives me great pride to stand before you today and honor such a fine individual and give him the credit he so richly deserves.

THE 75TH ANNIVERSARY OF HOLY TRINITY GREEK ORTHODOX CATHEDRAL

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1990

Ms. KAPTUR. Mr. Speaker, on June 1-3, the Holy Trinity Greek Orthodox Cathedral of Toledo celebrated its 75th anniversary, marking a keystone moment in the spiritual, community development, and growth for the members of our Toledo Diocese. I would like to take this time to extend my congratulations for the past accomplishments of the members of this church who demonstrate daily their religious enlightenment and understanding. The history of the foundation of this cathedral in Toledo, OH, is worthy of recognition.

In the early 1900's the words, "For where two or three are gathered together in my name, there am I in the midst of them" (Matt. 18:20) gave settlers of the orthodox faith in Toledo the great promise and assurance to organize a much-needed Greek Orthodox Church in Toledo. During the first years of the community, these ambitious and energetic people, facing many hardships and handicaps, were banded together by strong ties of religion and tradition. Their first religious services were conducted in the chapel of Holy Trinity Episcopal Church. Realizing that without a center for worship, some might be persuaded to join churches of other denominations, the leaders devoted their energies to the immediate problem of acquiring a church for use as a center for their faith and culture. On June 9, 1915, the Holy Trinity Greek Orthodox Community in Toledo became officially organized and obtained a certificate of incorporation. In October 1915 they purchased a frame building located on the same lot on which the present church edifice now stands. The church building, adorned in traditional Byzantine splendor, was completed in 1920 and on Christmas Day the Divine Liturgy was celebrated for the first time in the Church of Holy Trinity. However, the ties of an immigrant people with their mother land are not readily severed. During the years of 1922-30, many Greek communities in the United States felt the repercussions of political events in Greece. The fledging church was not without financial problems during these years. In seeking funds numerous persons gave unstinted support and made generous sacrifices, without which success might have been impossible.

On August 13, 1930, Athenagoras, the then-Metropolitan of Kerkyra was elected archbishop of the Greek Orthodox Church in this hemisphere. It is to Athenagoras' eternal credit that through his diplomacy, his patience, and his ability, American Hellenism is united today. This great ecclasiastical administrator was able within a very short period to accomplish in America that which took others many years. On November 1, 1948, he was elevated to the highest ecclesiastical office, that of Patriarch of Constantinople, the spiritual leader of the world's orthodox Christians.

In the spring of 1938 an unusual opportunity presented itself when the corner lot opposite the church was put up for sale. A decision was made to acquire the lot which years later would become the site of the educational center. The early members of the church possessed steadfast devotion to the church, spiritual vision, and keen foresight. They have left a priceless heritage.

In 1939, largely through the efforts of Nicholas A. Pappas, the church was redecorated by the local chapter on the occasion of its Buckeye District Convention. New pews, a communion rail and the bishop's throne were purchased. At the same time George Valassis donated the sum necessary to redecorate the Iconostasion, which added to the Byzantine splendor of the church. Throughout the years, it was the constant dream of all the members that someday they might erect a community building to serve the educational and social needs of the congregation. In 1974, a substantial sum was raised by a special bulding fund committee.

In the late 1940's, under the guidance of Rev. Theotokis N. Pappas, a renewed spiritual activity was noted in the parish. The choir and Sunday School were reorganized and classes in religion planned for old and young alike. He encouraged the formation of a young people's organization, which would enable youth of Greek orthodox parentage to meet socially and also to acquaint members with precepts of the faith. With these progressive steps being accomplished, the parishioners once again began to talk of a community center. Finally in October 1950, a general meeting authorized a new committee to begin a building fund campaign. The committee began collecting pledges and donations and before long was able to present a report and plan to the general meeting. An architect was retained and after studying the needs of the community, the educational building was designed. The educational building was dedicated September 13, 1953.

Throughout the years the women of the parish organized themselves into various ladies' societies which worked side by side with the community. In 1952, the society was reorganized under the jurisdiction and the constitution of the Philanthropic Society of Our Greek Archdiocese and was given the title of "Holy Trinity" Greek Orthodox Ladies Philoptochos Society. The society has made much progress and has enjoyed the respect, esteem, and support of all the parishioners. It has rendered material, as well as spiritual assistance to the community and met its obligations and undertakings, both as an educational and as a philanthropic organization. Later,

the parish was one of the first to elect a woman as president of the parish council.

In 1952, the memorial fund was established to provide a way for members and friends to pay tribute to the deceased. Through these contributions, a marble holy table was installed in the sanctuary on March 29, 1959.

In November 1957, the Toledo Memorial Park and Cemetery agreed to develop in its cemetery grounds a Greek orthodox section with 27,000 burial plots for the parish. Another opportunity presented itself in 1958 when the southwest corner of Superior and Walnut Streets was put up for sale. The lot was purchased and is available to the members on Sunday mornings and on special occasions. A major renovation of the church took place in 1966. The extensive remodeling program was inaugurated to modernize and beautify the church and prepare it for the long-awaited consecration. Six stained glass windows depicting major feast days of the church and seven polychromatic windows were installed.

In the 1970's the athletic program, supported by the parish for youth activities began a vigorous intramural basketball program, first for boys ages 8 to 12 and then for girls of the same age. On Friday evenings and Saturday mornings one could find a substantial number of people at the educational building enjoying fellowship in athletics and cheering for their children, grandchildren, or siblings.

In 1971, the parish sponsored the first Toledo Greek-American Open Air Festival. It was a great success and each festival thereafter became more successful than the one before it. The money generated by the festival was set aside for extras: which included air-conditioning, the expansion of the educational building, and the purchase of additional property.

In 1987, the parish was asked to sponsor the Diocese of Detroit's celebration of the centennial of the birth of the late Patriarch Athenogras. The celebration was carried out with special events including an Ecumenical Vesper Service. A bronze plaque commemorating the event was commissioned and hangs in the church today.

The mission of the parish is to serve everyone's needs, those who speak Greek primarily and those who do not, those who were baptized into the faith as infants and those who came to the faith later in life. The stability of the church has been brought about by good leadership, clergy, and laity. The story of Holy Trinity is truly a story of success. Its success due to the concerted effort of people imbued with a common zeal and singleness of purpose.

SENATE—*Wednesday, June 6, 1990*

(Legislative day of Wednesday, April 18, 1990)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. As we pay reverence to the God of our fathers, the Senate will be led in prayer by the Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For the love of money is the root of all evil * * *.—I Timothy 6:10.

Eternal God, perfect in truth and justice and love, these startling words by the Apostle Paul penetrate like a sword to our inner most being, like a medical diagnosis of cancer. They explain the evil with which we struggle daily. Whether it is drugs, crime, deceitful fiscal practice or pollution of the environment, greed is at the heart, and there is no legislation that can remove it from the human heart. Some people will do anything for a profit. As the Senate struggles with a plethora of problems rooted in human passion for comfort and pleasure, help us as a nation to recognize and acknowledge the peril in prosperity that the Bible declares to be totally destructive. Lead us as a nation to repent of our selfish, hedonistic pursuits.

In the name of Jesus, the selfless one, the righteous one. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, today following the time for the two leaders there will be a period for morning business not to extend beyond 12 noon, with Senators permitted to speak therein for up to 5 minutes each.

At noon today the Senate will consider the House message on S. 933, the Americans With Disabilities Act. At least one rollcall vote will be necessary, I am advised, prior to final disposition of the House message on the Disabilities Act.

Once the Senate has disposed of that message it is my intention to move to proceed to S. 341, the blind air passengers legislation with rollcall votes possible during that bill's pendency today.

COSPONSORING SENATE CONCURRENT RESOLUTION 126 PROMOTING CONTINUATION OF THE INTERNATIONAL MORATORIUM ON COMMERCIAL WHALING

Mr. MITCHELL. Mr. President, I have asked the distinguished chairman of the Senate Committee on Foreign Relations, Senator PELL, to add my name as a cosponsor of Senate Concurrent Resolution 126. This resolution calls for the United States to promote the continuation of the international moratorium on commercial whaling for an additional 10 years.

The United States has supported the implementation of an international moratorium on commercial whaling since 1972. In 1982, the International Whaling Commission [IWC] voted in favor of a moratorium, which took effect in 1986, and which is subject to review at the IWC meeting at the end of this month.

An Interagency Task Force on U.S. Whale Policy recently issued its findings regarding the IWC moratorium. The task force concluded that the United States should continue its support for the current IWC moratorium and continue to oppose commercial whaling. The task force also recommended that any future consideration of lifting the moratorium be predicated upon the following conditions:

First, adoption of acceptable management procedures;

Second, adequate assessments of whale stocks;

Third, development of data reporting systems, monitoring, and enforcement regimes; and

Fourth, assurances that member countries will participate in such data reporting systems, monitoring, and enforcement regimes.

The Interagency Task Force concluded that these conditions would make it unlikely that commercial whaling would be authorized by the IWC before the year 2000. This conclusion seems compatible with the provisions of Senator PELL's resolution expressing the sense of Congress that the United States should work to continue the International Whaling Commission's moratorium for at least 10 more years. I commend Senator PELL for his leadership on this issue, which has also drawn the support of nine other cosponsoring Senators.

Senator KERRY has indicated that a recent session of the Interparliamentary Conference on the Global Environment identified the need to strengthen the IWC moratorium as a major issue for action. Senator PELL's resolution addresses this need by encouraging the IWC to establish and carry out long-term programs of research and comprehensive assessments for all whale stocks.

Rather than continually revisiting the question of whether to have a moratorium, this resolution encourages the U.S. delegation to the IWC to press for a 10-year continuation of the moratorium, stressing the need to focus the IWC's immediate attention on the implementation of this critical research program.

It would be inappropriate to turn back the whaling moratorium before we have the information and infrastructure needed to make sound management decisions. This is the view expressed in the findings of the Interagency Task Force, and it is the view advocated by this resolution.

Once again, I commend the distinguished chairman of the Committee on Foreign Relations, Senator CLAIBORNE PELL, for his leadership in addressing this issue, and I urge my colleagues to join with me in support of Senate Concurrent Resolution 126.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all of the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of the two leaders is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for transaction of morning business, with Senators permitted to speak therein for not to exceed 5 minutes each.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

REMARKS SIGNED AS PART OF TELEVISION COVERAGE

Mr. GORTON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Washington [Mr. GORTON] is recognized for not to exceed 5 minutes.

Mr. MITCHELL. Mr. President, if I might, before the distinguished Senator from Washington addresses the Senate, I ask unanimous consent that morning business remarks by Senator GORTON be signed as part of Senate television coverage today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GORTON. I thank the distinguished majority leader.

Mr. President, this afternoon the Mount St. Helens National Volcanic Monument in the Gifford Pinchot National Forest will dedicate its new telecommunication device for the deaf, or TDD service. I congratulate the Forest Service staff on this achievement warmly.

Last fall the Forest Service in region 6 challenged its employees to suggest ideas that would improve its "people serving people" philosophy. One employee, Gerald O'Hara, suggested that the visitor's center at Mount St. Helens National Volcanic Monument be equipped with a TDD to provide services for individuals who are hearing impaired.

This is an example of a TDD. It resembles a typewriter in operation, but allows hearing impaired individuals to communicate over a telephone line. However, with a TDD, the conversation is typed rather than spoken.

Mr. President, I realize the importance and contributions of individuals who have a disability within our society. As a cosponsor of legislation designating "Deaf Awareness Week" earlier this spring, I recognize the particular needs of the hearing impaired community. These individuals also deserve access to our national monuments.

This dedication ceremony is special because it provides that access and marks the first such program in our National Forest System! I hope that this new service will encourage people who manage other recreational facilities to realize the need for improved accessibility for all individuals.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Mississippi is recognized.

DELAYING THE CRIME BILL

Mr. LOTT. Mr. President, after the Memorial Day recess was over and the Senate returned to session on Tuesday, I thought that surely we would get off to a roaring start with a very active, aggressive legislative schedule and with votes occurring on a very important crime package that was pending before the body.

Instead, we came in on Tuesday, and we had one vote on cloture at 2:15. That was all the votes we had on Tuesday. Instead of going on and taking up this very important issue, the crime legislation, with a number of very important amendments pending, all we really had was a motion filed for a second cloture vote to occur on Thursday at a time certain, and an extended discussion about proceeding with the Tongass bill, involving the State of Alaska.

I thought there were two very curious developments there. First I thought it was very curious that we were going to be forced to proceed with the Tongass bill when the two Senators from Alaska, obviously, while close to working out an agreement, had not reached one. About 2 hours or so were expended before finally some agreement was reached; but thank goodness at least an agreement was reached, because I was really floored, as a new Member of the body, to see what appeared to be the breach of comity, although I am sure that everybody was proceeding in good faith.

The main point I want to make here today is that I cannot understand why the crime package is being, in effect, put aside or cut off when a lot of effort has been put into plans by a number of Senators to offer some very good amendments to this issue. The people of America are concerned about crime and drug-related crime. The people of America feel very strongly that the scales have tipped too much in favor of the criminals against the rights of the victims and against society.

So, finally, we get a chance to take up a crime package, and rather than being a serious effort in many ways to deal with the crime issue, it has become sort of a gun control issue. The Senators are concerned about this. There is nobody who is trying to delay this issue just because of the gun control question.

There are a lot of the Senators that have very important amendments they want to offer. Senator BOSCHWITZ has one amendment to establish minimum mandatory prison sentences for drug traffickers and violent criminals.

Senator GRASSLEY has an amendment on the victim impact statement in death penalty cases. There is an amendment that is proposed to be offered on a mandatory work requirement for all prisoners. I have been working on that one myself for about a month. There are amendments by Democrats and Republicans.

Senator BIDEN, the chairman of the committee, has one on drunk driving.

Senator GRAHAM of Florida has a couple very good amendments regarding convicted aliens and deportation of aliens who commit aggravated felonies.

Senators want to get involved in this issue. Yet, the only consideration that has been given on the package basically involves amendments offered by members of the committee. Other Senators have been excluded from being able to offer the amendments that they would like to have considered.

Some would say we spent enough time on it. Basically, how much time? Four, 5 days. We spent a month on the clean air bill and 8 days on the Hatch Act. Can we not spend more than 4 or 5 days on such an important issue as this crime package?

So I do not understand this effort to invoke cloture at this point. Maybe some of these amendments would still be in order, but many of them that are related to the crime question may be ruled to be nongermane. I do not understand, also, the threat here that, well, we will just pull down the bill. If you do not invoke cloture, we will pull it down and go on to other legislation. What other legislation is more important than the crime package?

So I urge the leadership and my colleagues here in the Senate, let us work on this package some more. Let us do not invoke cloture on Thursday, and let us take up these important amendments, and let us deal with the criminal problem in America, and do not set it aside or pull it aside or exclude amendments by Senators who want to be heard.

The American people want action on this legislation, and they do not understand the parliamentary maneuvers that permits very important amendments from being offered.

I yield.

Mr. BINGAMAN addressed the Chair.

The PRESIDENT pro tempore. The Chair recognizes the Senator from New Mexico [Mr. BINGAMAN].

ROBERT NOYCE

Mr. BINGAMAN. Mr. President, on Sunday, Robert Noyce died. He was one of the giants of American science, technology and business. He was a leader in trying to keep U.S. industry competitive in the world and in trying to jar both government and industry out of the self-satisfied smugness that is prevailing as our country loses its preeminence in one industry after another.

My first encounter with Bob Noyce was in 1983 shortly after my election

to the Senate. My wife Anne and I had traveled to Palo Alto to learn about the semiconductor industry and to see what I could do in the Senate to help that most important of our high-technology industries.

That evening a dinner had been arranged with Bob Noyce, Gordon Moore and others in Silicon Valley. The strong view of Bob Noyce at that time was that government help was not needed for the U.S. semiconductor industry to compete. U.S. firms were doing very well and as long as government did not do something to "foul things up" he expected that situation to continue.

A year or 2 later when we met again, his views had changed dramatically. By then he was persuaded that United States industry could only remain competitive if we had the good sense to follow the example of the Japanese and others. By that I mean that he believed strongly that our economic future depended on the combined efforts of the U.S. Government and U.S. industry.

Sematech was an outgrowth of that strong belief. Bob Noyce lobbied the Congress, lobbied the administration, and lobbied many of his colleagues in the business world to support this important initiative for the long term. In large part it was Bob Noyce's prestige and commitment which made Sematech a reality.

That commitment was clearly demonstrated when he made the very real sacrifice of agreeing to move to Austin and become its head.

Bob's role as a key founder and then CEO of Sematech insured its early success. We now have the very real challenge of seeing that it remains strong and is able to achieve its goal of maintaining the manufacturing competitiveness of the U.S. semiconductor industry.

In many ways, Bob Noyce epitomized the history and evolution of the semiconductor industry. He was a technical genius who quickly grasped the importance of the transistor and understood how to push the technology to a new and importantly different stage. He was a successful businessman who founded two important companies, Fairchild Semiconductor Corp. and Intel. And later, when the industry came under organized attack by our economic rivals, he was a passionate spokesperson for the need for business and government to work together for economic progress.

In this way, Bob was unique—not only did he create the modern world of microcomputer technology, he retained his leadership role, evolving as the industry and technology evolved.

In his lifetime, Bob Noyce was a recognized leader among his colleagues. The list of his honors and awards is a long one—including the National Medal of Science, the National Medal of Technology and the first Charles Stark Draper Award given by the National Academy of Engineering. Yet, I believe his greatest award is the legacy he left us—the creation of a technology which has changed the world, the creation of an industry which has become second to none in importance, and the creation of an attitude of competition through cooperation in business and in government.

Bob Noyce was a man of immense ability and a man who was born to win. He succeeded as a scientist, as a businessman, and as a public servant, because in fact his work with Sematech was a public service.

He set a high standard for himself, for his industry, and for his country. It pained him to see this great Nation losing in the competition for scientific and technological preeminence, and he gave his all to reverse that trend.

Mr. President, I was proud to consider myself a friend of Bob Noyce. I valued his advice, wisdom, and unflagging commitment to make all that he touched the very best.

The death of Bob Noyce is a loss to all of us. He is one of those about whom we would all agree—he contributed greatly to his fellow man and in doing so he left the world a better place than he found it.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

A REVOLTING QUERY ABOUT "ART" THAT CAN WIN THE PORN WAR

Mr. HELMS. Mr. President, Max Freedman's column in the New York City Tribune is attracting increasing attention as the days go by, and for good reason. The distinguished New York radio broadcaster, Barry Farber, had this to say about Max Freedman: "He's too young to be a philosopher, but he's too brilliant not to be considered one of the significant thinkers of our day."

That just about sums it up. Every one of Max's columns is a gem, and I offer as an example his recent piece entitled "A Revolting Query About 'Art' That Can Win the Porn War."

Mr. President, I ask unanimous consent that this column be printed in the RECORD at this point.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

A REVOLTING QUERY ABOUT "ART" THAT CAN WIN THE PORN WAR

(By C.H. "Max" Freedman)

If American society is not to go the way of a Robert Mapplethorpe photo, an embarrassing question must be posed to the "respectable liberal establishment" about its support of the Mapplethorpe works. A question that in its own way is as repulsive as, well, urinating in someone's mouth.

Had a similar question been asked a couple or so decades back, it's doubtful if we'd be confronted with Mapplethorpe now.

Imagine that back, say, in the 1960s, when the artsy set was predicting the immediate collapse of the republic if nudity was not allowed to be introduced on stage and in the movies, the following challenge was framed:

Suppose, under the guise of First Amendment rights, you are allowed your nudity; how much further would you demand to go? You wouldn't, somewhere down the line, clamor for, say—forgive the mention of anything so outlandish—photos of grotesque homosexual acts to be allowed in mainstream museums like Cincinnati's Contemporary Arts Center, now would you?"

Difficult as it might be to conceive of in our present climate, even those in the Establishment who are screaming the loudest against the attempted "censorship" of Mapplethorpe would have been reluctant to go on record back then as theoretically sanctioning the exhibition of this unspeakable filth. Which, of course, would have made it extremely difficult for them to do so now.

We can't replay our mistakes of the '60s; we can, however, avoid repeating them.

Before it's too late, those prestigious institutions and individuals in the vanguard of the Mapplethorpe defense—including, to an extent, even people like Fr. Theodore Hesburgh, former president of Notre Dame—must be nailed down on this issue, thereby either a) limiting themselves strategically or b) revealing themselves to the American public as the extremists that, behind their mantle of respectability, they in reality are.

Here is the sort of indelicate question that must be asked (if you're of a queasy makeup, better skip the rest of this):

"Mr./Ms. Mapplethorpe supporter, you have indicated there should be no limits on what qualifies as art—and correlatively what merits taxpayer funding.

"What about depictions of necrophilia? Suppose a photographer puts together a series of pictures showing flowers, pastoral scenes and the like—but the exhibit also contains a couple or so photos graphically depicting a particular private indulgence of said artist, namely performing kinky sex on corpses? Should that exhibit be arbitrarily denied government funding—or (shudder) far more threateningly to the continuance of the republic, be 'censored' altogether—because of those couple of photos? Or will you go the barriers in its defense, as you are doing now?"

Preposterous? People have been known to indulge in such degeneracy. It is, therefore, part of "the human experience." And thus, according to liberal leftist theology, the domain of the "artist."

Also part of the so-called human experience is rubbing excrement on oneself and/or one's partner, and even eating same—sometimes as it is being produced. Indeed, in the course of writing this, someone told me that he, while in college, had actually seen a film involving this sort of activity!

Pin the arts set and its Establishment supporters down. Make them define what the

limits, if any, are to be—instead of allowing them to challenge traditional Americans to do so by snidely throwing up to them the "racy" passages in the Bible and the "obscene" nature of the Sistine Chapel.

The forces of decency in this land face a stacked-deck situation next to which Rick's back-room gambling den in Casablanca was a model of integrity and fair play.

On a local public television outlet the other night, a panel was assembled to debate the Mapplethorpe matter; the producers' idea of balance was to array five leftist extremists, including a First Amendment absolutist lawyer and a representative from Norman Lear's so-called People for the American Way, against one lone dissenter (art critic James Cooper of this paper)—who did not even dissent per se but, rather, denounced (quite capably) the "censorship" exercised by the NEA in its refusal to fund more traditional art.

No outright opposition to Mapplethorpe was permitted on that show; a call to Morality in Media, the well-known anti-obscenity group based right here in Manhattan, revealed that it was never contacted to represent that view.

To be sure, the ideological closemindedness found in public broadcasting represents a narrow spectrum of the media. But when it comes to First Amendment issues, even mainstream conservative media voices become, out of misperceived self-interest, doctrinaire.

A Cincinnati paper, for example, commissioned a poll purportedly showing that a majority of Cincinnatians thought the Mapplethorpe photos currently being exhibited there should not be interfered with.

But how many of those traditional Cincinnati folk would have answered that way if the question had been framed honestly? Like so:

"The Supreme Court has repeatedly ruled that pornography does not enjoy the constitutional protection political and other types of speech do. And a reputable body of historians believe that the founding fathers, in framing the First Amendment, were concerned only with protecting the free expression of dissent and ideas—not the displaying of smut. If Cincinnati allows the Mapplethorpe photographs to be exhibited, there is good reason to believe many of the things that have so far been kept out of the city—peep shows, massage parlors, prostitution and the like (and all the attendant crime)—will have a much easier time finding their way in. In light of this, should or should not the citizens of Cincinnati have the right to keep their city free of photos showing someone with a bullwhip up his rectum, one man urinating in the mouth * * * etc., etc.?"

But, of course, when the question is posed, "Should an art museum and its patrons be entitled to exercise their First Amendment rights to exhibit and view what they wish to?" or similarly, there is little question how even the most traditional of communities will respond.

The only way to deal with this sort of duplicity is with brutal honesty and truth. It must be demonstrated to a mostly unknowing public exactly what sort of extremism and extremists we are dealing with here.

It's not easy talking about things like necrophilia and excrement-tastings (maybe there are even more debased things; I just don't happen to know of them).

But, given the fanatical, unsatisfiable leftist psyche, if we don't address them as theoretical matters now, they will surely have to be dealt with as practical matters by our progeny.

JIM MARTIN, SOUTH CAROLINA'S SMALL BUSINESSMAN OF THE YEAR

Mr. THURMOND. Mr. President, I would like to take this opportunity to insert into the RECORD an article which recently appeared in the State, South Carolina's largest newspaper, regarding Mr. Jim Martin. Mr. Martin is South Carolina's small businessman of the year, and serves as president and chief executive officer of the highly successful Martin Color-Fi, Inc., in Edgefield, SC.

Martin Color-Fi recycles and manufactures polyester fiber from waste products. Last year, the company enjoyed sales of $50 million. The story of this fine company not only epitomizes the American spirit of entrepreneurship, but also reflects the principle that economic and ecological interests can coexist.

Mr. President, I ask unanimous consent that the following article regarding Mr. Martin appear in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRASH FUELING FIRM'S GROWTH

(By Beverly Phillips)

EDGEFIELD.—The way Martin Color-Fi Inc. is growing, it's fortunate Jim Martin was named South Carolina's 1990 Small Business Person of the Year.

In another year, the company likely would be too big to qualify as a small business.

With sales of $50 million last year, the company already exceeds one criterion for the award. But its work force of 450 fell below the 500-employee limit.

The award is given out by the U.S. Small Business Administration. Martin is eligible for the national Small Business Person of the Year award, which will be announced this week.

"I joke sometimes if I'd been a half-inch taller I wouldn't have gotten it," said Martin, 47, president and chief executive officer of Martin Color-Fi, which recycles and manufactures polyester fiber from waste products.

Another consideration for the award is growth, which Martin Color-Fi has experienced in abundance over the past dozen years.

The Martin Color-Fi of today is the result of Martin's gradually layering four separate companies onto one another with the central link of plastic recycling. Martin Color-Fi now recycles mountains of plastic into a variety of items, including carpet, auto fabrics, boat fiberglass and other material.

It has not, however, been easy as Martin went through the technical problems, financial problems and organizational problems familiar to entrepreneurs.

When Martin went into business in 1978 in his hometown of Edgefield, he had two employees including himself. At the time he was a broker, buying and selling plastic products for textiles.

"We started developing the use for recycled plastics, with drink bottles as the raw material," Martin said. "At the same time, we started developing a product line with technology to take this plastic material, color it and make a colored fiber, a polyester fiber that goes into commercial carpeting or into boat carpeting or automotive fabrics."

The business boomed when it moved into manufacturing in 1984, aided by a $300,000 loan from the Small Business Administration.

"When I borrowed the money from SBA, I had four or five people, and we were buying a company that had 30 or 40 people, so we were very small at that time," Martin said.

Martin's first acquisition was Sumter-based Recovery Industries, a client of Martin Color-Fi for three years. Although Recovery bought plastic from Martin, it was mainly concerned with recovering precious metals.

"They were in the precious metals (recovery) business, and they really didn't care about fibers," Martin said.

After acquiring Recovery, Martin shifted the emphasis into plastic recycling.

The Sumter plant was handling 4 million to 5 million pounds of fiber annually when Martin acquired it. The plant now handles about 70 million pounds.

Martin's group also has quintupled the space at the plant, from about 100,000 square feet to close to 500,000 square feet, and Martin expects the plant to be handling up to 100 million pounds of fiber a year by 1991.

Shortly after the Sumter purchase, the company bought a 45,000-square-foot plant in Trenton, about five miles from the Edgefield headquarters. The Trenton plant had been used for textile operations.

The growing need for raw material has been met in part by expansion at the Trenton plant.

Martin Color-Fi is putting recycling equipment into the facility for all kinds of plastics, including film waste, fiber waste and drink bottles.

"We clean them and make them into a raw material we can use," Martin said.

The raw material from the Trenton plant is sent to the Sumter plant, where fibers are made from the pellets of raw material. The Trenton plant is gearing up to manufacture the pellets from used materials.

High Tech Fibers in Lexington, acquired by Martin Color-Fi a few years ago, specializes in selling fibers for construction for concrete or asphalt reinforcement.

Yet another piece of the puzzle was Burcham Plastics, a Memphis, Tenn., company that still has its headquarters in Memphis and plants in Alabama. It was acquired earlier this year.

Burcham specializes in chemical applications related to plastics.

That technology has given a boost to the company's goal of being able to go into a manufacturing plant and buy its leftover material.

"A lot of it is burned up or a little charred and we can't use it. But in (Burcham's) lab, he can formulate resins (such as) for the inside of a boat. With some of the high-quality stuff, he even makes the resins for the fiberglass on the outside of the boat or cultured marble you see in buildings," Martin said.

"All of these things are normally made out of petro-chemicals—made from oil. Our method is to go from the scrap back and make the same quality product."

As the different companies were added, the links became clearer, Martin said.

"We started out with one company that I owned all of," Martin said. "As we added more key people, we'd start another company and let them own part of it. They'd put in some of the initial capital and they would

own stock. We decided we'd better consolidate all of this because everybody was pulling in different directions."

As Martin Color-Fi added companies, it also added the technical expertise of the owners.

Martin said the company's growth would not have been possible without the addition of technically astute shareholders.

Henry Poston was a friend from Martin's days at Clemson University who had been with Wellman Industries, the giant in the plastic recycling industry. Poston joined Martin with the acquisition of the Sumter manufacturing plant. "He helped a lot, technically, to build that plant."

The company has seven officers, who also are the company's only significant stockholders.

Poston, the chief operational officer, operates from the Sumter plant. Samuel Stevens Jr. is the chief marketing officer. Heyward Addy of Lexington is the chief financial officer. Benjamin Tanner is the vice president of manufacturing, also from the Sumter plant.

Thomas Lyon is vice president in charge of technical services and product development. Randy Burcham is the vice president in charge of purchasing for the company and the head of Burcham Plastics.

"We have a very good group of people," Martin said. "One of the things we decided when we started expanding was to select people who had a background in this industry, giving them the opportunity to own part of the company."

Martin said the only comparable company close to his in size is Wellman, "which is much bigger. But we make more specialized fibers. We have matched and produced over 1,000 colors."

Martin's business lives by Ben Franklin's axiom of "waste not, want not." For example, cooled strands from the Trenton plant's extrusion machine are not discarded. Martin said that material will go through the process again.

"We buy our raw materials, starting with the people that make the pellets to make the (drink) bottles," he said. All through the process, flaws will make some pellets or bottles unusable.

"They have to be very high quality because it's food grade, and if the slightest thing is wrong with it, the bottle may have a hole in it or something like that. But it's still okay to make fibers," Martin said.

Besides buying raw material, Martin also tries to buy used plastic bottles. "We try to keep that out of landfills, so we buy used bottles, too," Martin said. "Up until this point, the biggest place we've gotten them is from the Northeast, where they have deposit states (states that require deposits on plastic bottles, which are returned when the bottles are returned). They get 70 percent of the bottles back up there. The grocery stores bale them up and send them to us."

Martin Color-Fi estimates that its yearly output would fill a landfill the size of 325 football fields piled 10 feet high.

Martin said one of the things that limits expansion of the business is the availability of raw material.

To increase its production of raw material, the company is adding a new, "latest-technology" machine from Italy that will be in place at the Trenton plant by late summer. "It's kind of a continuous operation. You put pellets in one end, and the fiber comes out the other. We have some Austrian equipment at Trenton, too, that actually makes pellets," Martin said.

Since the Trenton operation was purchased, three 50,000-square-foot buildings have been added, and a 250,000-square-foot building is nearing completion.

Although the business is a success, Martin had an early experience that threatened to bring a quick end to his entrepreneurial career.

"I think I had $30,000, and I bought a truckload of carpeting, and the colors ran, so it was rejected," he said. "I finally bailed myself out of that by going into the retail carpet business. I got my money back and bought a smaller truckload and made good money on that.

"There were a lot of snags, but I've been real fortunate. Most everything went good."

PARTNERSHIP FOR WETLANDS CONSERVATION

Mr. THURMOND. Mr. President, on May 23, 1990, the Dow Chemical Co. announced a new 4-year partnership for wetlands conservation with Ducks Unlimited, Inc., the Nature Conservancy, and the National Fish and Wildlife Foundation to preserve and protect North America's endangered wetlands.

During a press conference, which was held in my Capitol office, Dow presented the first installment of a $3 million contribution for wetlands protection and restoration. This donation represents the largest corporate financial donation ever to benefit the North American Waterfowl Management Plan [NAWMP] and demonstrates Dow's dedication to environmental conservation and protection.

In my home State of South Carolina, we have some of the most beautiful wetlands in the country. The Ace basin, another fine example of a joint public and private venture, preserves 350,000 acres of wetlands in the Palmetto State. I am pleased that $500,000 of Dow's contribution will go directly to fund the Ace basin project. Peach Point in Texas and the Hillman Marsh in Ontario, Canada will also receive funds for wetlands acquisition and restoration projects of the NAWMP.

The partnership established by the Dow Corp. with Ducks Unlimited, Inc., the Nature Conservancy, and the National Fish and Wildlife Foundation represents the type of cooperation and commitment that will make programs such as the NAWMP work. As a result, our wetlands and waterfowl will be preserved in all their natural splendor. It is clear that a strong economy and a strong ecology can coexist.

I would like to congratulate and express my appreciation to the Dow Chemical Co., Ducks Unlimited, Inc., the National Fish and Wildlife Foundation, and the Nature Conservancy for their participation in this landmark partnership. Protection of our precious natural resources is a top priority for all concerned citizens and legislators, and is one of the most pressing issues facing our Nation today. I look forward to more innovative and beneficial partnerships that will help to preserve America's natural beauty.

Mr. President, I was pleased to participate in, and make remarks during, this press conference. I ask unanimous consent that additional statements delivered at the press conference by Mr. Frank Popoff, president and CEO of Dow Chemical Co.; James D. Range, chairman of the board, National Fish and Wildlife Foundation; Matt B. Connolly, Jr., chairman of the North American Wetlands Conservation Council; John E. Walker, president of Ducks Unlimited, Inc.; and John Sawhill, president of the Nature Conservancy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY MATTHEW B. CONNOLLY, JR.

Ladies and gentlemen, Members of Congress, members of the media, distinguished guests. I am Matt Connolly, chairman of the recently established North American Wetlands Conservation Council and executive vice president of Ducks Unlimited. It is my great honor to introduce to you this morning some individuals who have formed a unique partnership.

One month ago, Americans from all walks of life and all points of view came together in celebration of Earth Day. Many words were spoken, many pages of "earth news" were printed, many measurements of how far we have come since 1970 were made. All worthwhile.

However, now that the party is over, it's time for the pledges of commitment to be transformed into actions of conviction. And that is why we are here today.

In a moment you will hear of a landmark effort which is a part of Dow's Conservation 2000 program. In support of the North American Waterfowl Management Plan and in conjunction with Ducks Unlimited, the National Fish and Wildlife Foundation and The Nature Conservancy, today Dow is launching a "partnership in wetlands conservation" which is unique on several fronts. Truly international in scope, this partnership will address itself to wetland conservation throughout North America—in Canada, the United States and Mexico. [To make this possible, Dow is contributing an amount which is the largest single corporate grant to date to the North American Waterfowl Management Plan.]

You may think that waterfowl represent a vary narrow slice of the conservation agenda. Not so. Waterfowl are a barometer of the overall health of the environment. Presently they are sending us an alarming signal. When they are in trouble, then it is only a matter of time before we humans follow suit.

Unfortunately, some folks think of wetlands as nuisance areas that breed mosquitos or as a resource whose loss is largely overrated by environmentalists and politicians seeking a fresh spin on an old theme. Not so again. Wetlands are one of nature's greatest assets. Not only do they provide food and shelter for hundreds of wildlife species and thousands of plant species, but they also purify polluted run-off from urbanized landscapes, absorb flood waters such as those raging this week through Arkansas and provide recreational areas for wildlife enthusiasts and sportsmen. Reversing the trend of wetland loss and restoring

wetland habitats which have been damaged over the decades present two of our greatest environmental challenges in this, the decade of the environment.

The challenge is monumental. Only through partnerships such as the one about to be announced will future generations of waterfowl, wildlife and humans alike be assured of a liveable Planet Earth.

Now, on behalf of Jim Range, Chairman of the National Fish and Wildlife Foundation; John Sawhill, President of The Nature Conservancy; John Walker, President of Ducks Unlimited and myself, I am honored to introduce to you Mr. Frank Popoff, president and chief executive officer of The Dow Chemical Company.

STATEMENT BY FRANK POPOFF, PRESIDENT AND CEO, DOW CHEMICAL CO.

Thank you, Matt. It was just one month ago that I had the distinct privilege of joining the Secretary of the Interior, Manuel Lujan, at a ceremony here in Washington to announce Dow's participation in a partnership to recycle plastics, glass and aluminum in four of our best known National Parks. I am delighted to say that it is yet another partnership that brings me back to this great city today.

The partnership we're here to tell you about today is one which will advance wetlands conservation across the North American continent. This partnership links Dow with three premier conservation organizations: Ducks Unlimited, The National Fish and Wildlife Foundation, and The Nature Conservancy.

Let me emphasize how much we value our partnership with these organizations. I think that all of us here today recognize that conservation and environmental protection are challenges best met by public/private sector partnerships like the one you see assembled today.

From the beginning of our discussions, we partners have focused our attention on providing tangible support for the North American Wetlands Conservation Act which President Bush signed into law in December of 1989.

One purpose of this Act is to encourage partnership among public agencies and other interests—such as Dow and conservation groups—to carry out the intent of the North American Waterfowl Management Plan. This Plan, which was signed in 1986 by the Minister of Environment for Canada and the Secretary of the Interior for the United States, is designed to conserve and restore vital waterfowl habitats and increase the number of waterfowl throughout the continent.

As evidence of Dow's sincere desire to protect and conserve the environment—I take great pride today in announcing Dow's pledge of $3 million over the next four years to support implementation of the North American Waterfowl Management Plan. Here's how the money will be used.

Two and one-half million dollars will be dedicated to major keystone projects. The first three are: The ACE Basin in South Carolina; Hillman Marsh at Point Pelee in Ontario, Canada; and Peach Point Wildlife Area in Brazoria County, Texas. Dow and our partners will announce other keystone projects in the coming years in the U.S., Canada and Mexico.

The remaining half-million dollars is earmarked specifically for wetlands conservation on Dow property. I believe very strongly that conservation means doing more than contributing funds; it means taking action close to home, and finding ways to encourage our employees to become even more involved in conservation. In fact, the cover of our annual report this year features wetlands on our property in Joliet, Illinois. The wetlands project was conceived and developed by our employees.

Dow employees have been involved in numerous projects for years to conserve, restore and enhance more than 60,000 acres of wetlands.

In 1981, Dow donated more than 45,000 acres of land in the Atchafalaya Basin to the state of Louisiana in an effort to help preserve the nation's largest river basin swamp and keep much of it available for public access.

The Joliet site, another in Pittsburg, California, one in Fort Saskatechewan, Alberta, Canada, and even more throughout North America will benefit significantly from the funds we've committing today. And Dow employees, as practicing environmentalists, will manage the conservation projects.

Before you hear from our distinguished partners, I'd like to make one final announcement. Our commitment to wetlands conservation, along with the National Parks recycling program I mentioned earlier, are two important steps in a new program Dow is launching—it is called Conservation 2000. We believe the 1990s will truly be the decade of the environment. Conservation 2000 is our way of rededicating Dow globally to heightened environmental conservation and protection.

As I announced in our Annual Report to stockholders earlier this year, you will see Dow announce several major environmental initiatives this year, including: a commitment to further emission reduction; a major conservation program; plastic recycling programs; and greater external involvement in our environmental activities.

You've now heard about our plastics recycling and conservation initiatives. I look forward to seeing many of you again as our Conservation 2000 projects develop and are announced over the next decade and beyond.

And now, as evidence of Dow's commitment to this partnership and to wetlands conservation, I will present our down payment check of $1 million to our other partners. May I ask them to join me: Jim Range of the National Fish and Wildlife Foundation, John Sawhill of The Nature Conservancy, and John Walker of Ducks Unlimited.

STATEMENT BY JOHN WALKER

Frank, on behalf of Ducks Unlimited, it is indeed an honor to accept this most generous gift from Dow.

For several years now, Ducks Unlimited has had a very productive partnership with The Nature Conservancy and the National Fish and Wildlife Foundation. Having Dow Chemical join this team at the level you just announced is a bold and unprecedented step on the part of Corporate America. Dow has just set the standard for other responsible and concerned corporations to meet. The level of commitment and the depth of vision Dow has exhibited in this "partnership for wetlands conservation" program should serve as an inspiration to all corporations—large and small—to establish their niche in the conservation movement and move forward with dispatch.

As Matt mentioned, the Dow gift is unprecedented in magnitude—in both dollar amount and international scope. Furthermore, the habitat enhancement and restoration these funds make possible will leave an enduring legacy for future generations of wildlife and humans alike. With our partners, DU will expend these funds in several key areas.

The ACE Basin is one of the last undeveloped wetland ecosystems along the Atlantic Seaboard. Of critical importance to wintering waterfowl, these wetlands also provide productive havens for numerous other wildlife species, including seventeen state and federally recognized endangered species. Encompassing 350,000 acres, the management plan for the ACE concentrates on preserving the natural integrity of what is still an unspoiled area. The magnitude of this challenge is such that no single organization—public or private—could ensure a sound future for the ACE. This is what brought DU, The Nature Conservancy, the South Carolina Wildlife and Marine Resources Department, the National Fish and Wildlife Foundation and the US Fish and Wildlife Service together. Dow's generous contribution will enable us to move forward aggressively.

Moving South to my home state, Peach Point is a significant stretch of Texas coastal marsh which has suffered from saltwater intrusion and frequent dry spells during the summer. In this case, the $100,000 contributed by Dow will be used to build water control structures to retain scarce freshwater. This in turn will develop permanent marshes conducive to the breeding efforts of several duck species while providing healthy wintering habitat for numerous geese species and sandhill cranes.

Heading north across the border, The Hillman Marsh is located on the Lake Erie shoreline north of Point Pelee National Park in Ontario, Canada. There, Ducks Unlimited Canada will use Dow's $400,000 to reconstruct the 477-acre marsh to turn the once ecologically poor area into a new haven for wetland wildlife. Biologists expect migrating ducks, swans and geese from Arctic nesting and molting grounds to rest at the marsh this fall after years of avoiding an often dry Hillman Marsh.

Additional projects on Dow properties and on other key wetland areas will be equally significant in their importance to North America's wetland inventory. When you get right down to it, this is gift of life and what greater gift is there?

Frank, on behalf of Ducks Unlimited, I thank you and I salute Dow for its commitment. I can assure you that we, in conjunction with our partners, will be deserving stewards of your generosity. Thank you.

REMARKS BY JAMES D. RANGE, CHAIRMAN OF THE BOARD, NATIONAL FISH AND WILDLIFE FOUNDATION

On behalf of the National Fish and Wildlife Foundation, I am pleased to acknowledge and accept the generous and unprecedented $1 million contribution from The Dow Chemical Company as the first installment on a $3 million grant to support wetland conservation under the North American Waterfowl Management Plan. This grant represents the largest corporate financial contribution that has been received by the Foundation for the Plan.

Dow's contribution is one of the most significant to benefit conservation that has been made by a corporation. No less significant is Dow's leadership in restoring wetlands on its own property. Dow's grant has triggered a match from the Foundation which, in turn, will be enlarged by the com-

mitment of NAWMP partners like Ducks Unlimited and The Nature Conservancy.

I am pleased to announce today that the Foundation will match the $1 million Dow contribution dollar for dollar as part of our commitment to the goals of the North American Waterfowl Management Plan. This match will be provided to our partners, Ducks Unlimited, Inc. and The Nature Conservancy, and we will seek matching funds in succeeding years from Congress to match Dow's remaining $2 million contribution.

The National Fish and Wildlife Foundation was established in 1984 by Congress and the President to enhance the Nation's fish, wildlife and plant resources. The Foundation is eligible to receive up to $5 million a year in Federal matching funds to match private contributions. Since the Foundation's inception in 1984, we have provided a total of some $24 million for 260 projects in cooperation with 145 partners, including corporations, private conservation groups, and state and Federal agencies. We have helped to fund over 70 different projects directly related to the North American Waterfowl Management Plan. The Dow grant has stimulated the type of creative partnership that will be necessary to meet the objectives of the Plan throughout North America. This partnership is exactly the kind of initiative that was envisioned under the North American Wetlands Conservation Act which was passed by Congress and signed by President Bush last year.

I want to take this opportunity to thank everyone who has made this event possible, including particularly, Mr. Frank Popoff, CEO of DOW, Secretary Lujan, Senator Thurmond, the other elected officials who are present, and our other conservation partners—Ducks Unlimited and The Nature Conservancy.

We are pleased to be a part of this important partnership and look forward to working with everyone who is involved to make it a success.

STATEMENT BY JOHN SAWHILL, PRESIDENT AND CEO, THE NATURE CONSERVANCY

I would like to first and foremost thank Frank Popoff and Dow Chemical Company for their extraordinary leadership in creating Conservation 2,000. This innovative corporate approach to tackling several of the thorniest environmental problems facing us today will, I hope, become a national model. By marshalling their company's energies to create recycling programs for our national parks and by now becoming a lightening rod for the Partnership for Wetlands Conservation, Dow is illustrating the business sector's critical and intrinsic role in the preservation of our environment.

I'm honored to be among such distinguished leaders here from such a broad range of fields. Acknowledgement of key players. Our coming together reminds me of something I learned about recently talking with a biologist at the Conservancy. The concept was called an "ecotone," and it describes the border zones where different kinds of natural communities overlap. For example, where a forest meets a marsh, or a river meets the ocean. Apparently it is in these ecotones where the diversity of life becomes strongest.

I think that this is an apt analogy for this new public/private Partnership in Wetlands Conservation which Dow is so generously helping to catalyze. In these public/private ecotones, each organization can bring to bear its unique resources and tools to help get the job done. Our recent partnership with the Bureau of Land Management to work together to catalogue and better understand the most ecologically significant lands in its possession, as well as our ongoing work with Ducks Unlimited and the National Fish and Wildlife Foundation represent hundreds of small actions taking place across the country each day that, step by step, are making a difference.

As everyone knows, a difference must be made. I applaud this administration's commitment to keep the heat turned up on the wetlands problem. It's a grisly situation that is hard to see in day to day life—over 450,000 acres lost each year. By allowing no new losses of wetlands, we are helping not just fish and fowl, but countless other plants and animals. The Conservancy estimates that over 70% of our country's imperiled species are dependent on some kind of wetland system. Because of this, almost half of all of the Conservancy's protection projects involve wetlands.

For whatever personal and professional reasons, we're all here because we believe that these wetlands are meaningful enough to us, either in a recreational or ecological sense, to make them worth the trouble of protecting. But in many ways, I think we're getting the better part of the deal. Wetlands are nature's flood control, water purifier, replenisher of groundwater and supplier of food to estuaries. They can do a lot of things that would be pretty difficult to for us to engineer on our own. River basins and bottomlands can turn ravaging floods into slowmoving streams by dispersing the force of the water. Bottomland treeroots can stabilize a forest floor and keep it from washing away too. Swamps, streams and rivers can hold floodwaters, and immobilize toxic insoluble compounds like mercury, push them to the floor and stop their flow to the sea.

The Partnership for Wetlands will be helping many places like this. One of them exists in South Carolina where the Ashepoo, Combahee and Edisto river basins meet. Known as the ACE Basin, this area is a crazy-quilt of different habitat types, from freshwater pools to salty tidal marshes. It has remained in an undeveloped, relatively unaltered state for over 30,000 years. While some of the land has been farmed and logged, the amount of forest in the basin has remained stable. The ACE's habitats continue to support populations of bald eagle, osprey, loggerhead sea turtles, deer, wood stork, bobcat and alligators.

The early settlers used the ACE for rice plantations in the 17th and 18th centuries. Later, a new generation of plantation owners used these abandoned impoundments to entice more migratory waterfowl to stopover. Today the ACE is only sixty miles from a rapidly expanding Charleston, one of the fastest growing regions in the U.S. One of the best and last areas of its type, the protection of the ACE has become a race against time. It's for places like the ACE that this partnership is so critical.

In closing, I would like to make the point that it's important to remember that wetlands do preserve wildlife and they do maintain economic benefits for society, but, like great works of art, they also provide a cultural link for us to our past, a value difficult to fathom.

My deep thanks to Dow for Dow for their tremendous investment in "Partnership for Wetlands Conservation." And for their ongoing dedication to enriching the world we all share. Thank you.

MORE VIOLENCE, LESS HOPE

Mr. DOLE. Mr. President, during the Easter recess, I led a bipartisan Senate delegation that visited five countries in the Middle East—Syria, Egypt, Jordan, Iraq, and Israel.

Our delegation unanimously delivered one overriding message: That a convergence of world events suggested that there is a real "window of opportunity" to make progress toward a Middle East peace.

Frankly, some of the hopes with which I returned from that visiting have been undermined by subsequent events. Like all Americans, I am particularly appalled by the upsurge in violence over the past 2 weeks, and the increasing heat of the rhetoric flowing from the Arab and Palestinian side.

The murder of innocent Palestinians by a deranged Israeli, the disorderly demonstrations that resulted in the occupied territories and elsewhere in the region, the attempt by Palestinian radicals to launch a terrorist assault on Israel, and the deaths of more Palestinians at the hands of Israeli soldiers—all these tragic events underscore once again the terrible volatility of the region, and the urgent need to begin a peace process that will address the underlying, fundamental problems of all parties in the region.

Mr. President, I am particularly disturbed—but, frankly, not all that surprised—that radical forces within the Palestinian movement have again turned to violence. While in Jerusalem, we met with a delegation of 10 self-described moderate Palestinians.

They told us candidly that—while they felt they now have the support of perhaps 70 percent of the Palestinian population for an approach stressing negotiations, not violence—there was a strong, radical, proviolence camp within the Palestinian community. And they indicated that, unless they, the moderates, could show some results from the negotiating track, the radicals would not only turn up the violence, but begin to win the support of the Palestinian population.

I deeply fear that process may now be underway.

I am also concerned that the PLO leadership may be drifting away from the influence of President Mubarak of Egypt—who I am convinced truly wants peace—and toward the influence of other states who have not yet declared for peace, and seem intent on maintaining a high level of incendiary rhetoric against Israel. I am thinking particularly now of Iraq.

We met with President Hussein, and urged him to cool it—both in deed and word. Frankly, judging by his performance at the recently concluded Arab summit on the Soviet-Israel immigration issue, he has not responded positively to our urging.

This remains a critical and extremely delicate period. I am not as hopeful as I was upon my return that we can see progress in the near future.

But, that window of opportunity still has not yet slammed shut.

In my meeting with President Gorbachev during the summit, I specifically asked him to press Syria's Assad and his other friends in the region to play a more constructive role, on issues like the peace process and our hostages. He did not directly respond, but I am hopeful we will see further constructive Soviet action. I know President Bush raised this issue with Gorbachev, too.

To the leaders of the region, I again address the same appeal our delegation delivered back in April: Do not let this window of opportunity be slammed shut, through a continued escalation of violence and incendiary rhetoric.

To President Hussein of Iraq, I say again: We want more constructive relations with your nation—but we will not have those relations as long as you continue on a path of anti-American and anti-Israeli actions and rhetoric.

To President Assad of Syria I say: Join the peace process now. You can make a decisive difference.

To President Mubarak of Egypt, I urge again: continue to show the great leadership you have shown for peace; so much depends on your courage and perserverance.

To the PLO leadership, I want to deliver a special message: This is truly a time of testing—of your commitment to a course of negotiations. You have formally renounced the use of terrorism—but some who are associated with you continue not only to condone, but to conduct terrorism.

The United States should not, and will not, negotiate with terrorists. On that basic point, all Americans agree.

If you wish to continue a dialog, your opposition to terrorism must be real as well as rhetorical. It is time now to demonstrate that it is.

Finally, to the leaders of Israel, I say again: The paralysis of your policy, and the occasional excesses of your administration of the occupied territories, hurts Israel more than anyone else.

It is time to seriously reexamine the question of whether you have done all you should do to minimize the violence in the occupied territories.

It is time to re-think your settlement policies in the occupied territories; grand principles about freedom to settle are important and fine—but there is a real world out there, which—no matter how the questions of sovereignty are resolved—cannot truly be home to settlers from any nation, or group, until there is real peace.

It is time, above all, to get your political house in order, so that a strong effective Israeli Government can make rational decisions on the peace process that will be in Israel's long-term interest.

Mr. President, the events of recent days teach again a lesson that the leaders and people of the Middle East must soon heed—time is running out. Soon, there must be a decisive move toward peace, or a gradual—or perhaps not even so gradual—drift toward renewed violence and war.

I reserve the remainder of my time.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,908th day that Terry Anderson has been held in captivity in Beirut.

A TRIBUTE TO WILLIAM H. MILLS

Mr. THURMOND. Mr. President, I rise today to pay tribute to my good friend and college classmate, Mr. William H. Mills, of Atlanta, GA, who passed away last Sunday.

A native of North Augusta, SC, Mr. Mills received his bachelors degree in civil engineering from Clemson University in 1923. He worked as a professional engineer for 20 years at the South Carolina Department of Highways and Public Transportation, rendering great service to the State of South Carolina.

Mr. Mills was an outstanding engineer as well as a man of character and integrity. Nancy joins me in sending our deepest sympathies to the Mills family: his wife, Mrs. Elizabeth McCarley Mills; his son, William H. Mills; and his daughter, Mrs. Ann M. Callaway.

Mr. President, I ask that an article regarding Mr. Mills be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the State/Columbia, SC, June 4, 1990]

WILLIAM H. MILLS, 86, DISTINGUISHED ENGINEER

ATLANTA.—William Hayne Mills, 86, formerly of Clemson, died Sunday.

Born in North Augusta, he was a son of the late William H. Sr. and Louise Pressley Mills. He received a bachelor's degree in civil engineering in 1923 from Clemson University and did post graduate studies at the University of South Carolina. A member of Tau Beta Pi honorary fraternity, he received Diploma de Presidente de Mesa da Sessao IRP Brasil in 1979. He was a registered professional engineer for 20 years with the South Carolina Department of Highways and Public Transportation.

In the U.S. Corps of Engineers from 1942-46, he was a lieutenant colonel. He was chief of the Airport Division of Civil Aeronautics Administration, a district engineer of Asphalt Institute and a consultant in Brazil to the National Department of Highways. A retired consulting engineer, he was a fellow and past president of the Georgia section of the American Society of Civil Engineers. He was past president of the South Carolina Society of Engineers and a life member of the Association of Asphalt Paving Technologists. Listed in Who's Who in the South and Southeast, he was past president of Buckhead Men's Garden Club of America and a former member of Buckhead Rotary Club. He was a member and elder of Peachtree Presbyterian Church of Atlanta.

Surviving are his widow, Mrs. Elizabeth McCarley Mills; a son, William H. Mills of Atlanta; and a daughter, Mrs. Ann M. Callaway of Atlanta.

Memorial services will be held at 10 a.m. today at Peachtree Presbyterian Church. Services will be held at 10 a.m. Wednesday in First Presbyterian Church cemetery of Columbia. Memorials may be made to New Wappetaw Presbyterian Church of McClellanville. Patterson and Son Funeral Home is in charge of Atlanta arrangements and Dunbar Funeral Home is in charge of local arrangements.

ONE MILLION MONTGOMERY GI BILL PARTICIPANTS

Mr. CRANSTON. Mr. President, a very significant milestone has been achieved in connection with the latest in the historic series of GI bill programs to provide education benefits to military veterans. The Montgomery GI bill program for the All Volunteer Force, enacted in 1985 and made permanent in 1987, recently enlisted its 1 millionth participant.

This triumphant occasion marks the continuation of a success story that began with the original World War II GI bill of rights, signed into law on June 22, 1944, a bill that I have long believed has had a greater impact on the American way of life than any law since the Homestead Act of 1862. The societal and economic value of that GI bill and its successors—the Korean conflict and post-Korean conflict, and Vietnam-era and post-Vietnam-era, veterans educational assistance programs—has been enormous, representing perhaps the greatest investment our country has ever made. Under these predecessors to the new GI bill, more than 18 million veterans have gained education and training since World War II, helping create a more highly trained and productive work force which has contributed immensely to our Nation's economic growth and prosperity.

Mr. President, today's peacetime GI bill has clearly been a great success in terms of its enormous value as an educational and vocational readjustment mechanism for so many service members electing to return to civilian life—in many cases providing educational opportunities to those who might not otherwise be able to afford them. Equally important has been the program's value as a very cost-effective recruitment and retention tool in attracting high-quality young men and

women into our Armed Forces and their Reserve components; largely as a result of this program, the quality of young people entering into the peacetime service of their country has improved considerably.

Mr. President, the Montgomery GI bill was established as a 3-year test program in 1984 under Public Law 98-525—I was delighted to have been a Senate conferee on this legislation—and was made permanent under legislation which I authored in the Senate in 1987 and which was enacted in the form of Public Law 100-48 on June 1 of that year. That act, very fittingly, renamed the new program the Montgomery GI bill. Unlike previous GI bills, participation in the Montgomery GI bill is voluntary, with those who choose to participate incurring a $100 per-month reduction in pay for their first 12 months of service in order to qualify for the basic educational benefits. Under the program, which is administered by the Department of Veterans Affairs and codified in chapter 30 of title 38, United States Code, participants earn up to 36 months of educational assistance benefits—generally $300 a month for a total of $10,800—in exchange for completing a 3-year enlistment and earning an honorable discharge. Alternatively, an individual who completes a 2-year period of active duty with an honorable discharge and 4 years' service in the selected reserve—codified in chapter 106 of title 10—earns 36 months of educational assistance benefits at $250 a month.

Mr. President, my remarks would not be complete without noting, as I have in the past, that enormous credit is due my good friend, SONNY MONTGOMERY, chairman of the House Veterans' Affairs Committee, who has been an outspoken advocate and a tremendously visionary and effective leader both for the establishment of the new GI bill, which now bears his name, and for making it permanent. I know of the great pride that SONNY felt yesterday as he participated—along with President Bush, Secretary of Defense Cheney, Secretary of Transportation Skinner, and 12 representatives—and their families—of our Active Duty, Reserve, and National Guard components and many others—in the White House ceremony honoring the fine representatives of young military men and women from every branch of the service whose recent enlistment in the program pushed the total number of program participants over the 1 million mark.

Mr. President, the Montgomery GI bill has been an overwhelming success—even beyond the great vision of its namesake—in promoting educational opportunities to America's peacetime service personnel during and after service and in improving the quality of personnel in the All Volunteer Force. As I have recently specifically urged the top leadership of the Department of Veterans Affairs, I believe strongly that next year's budget should include a proposal for a substantial increase in the Montgomery GI bill rate to be effective in fiscal year 1992.

PROSPECTS FOR A PEACE SETTLEMENT IN CAMBODIA

Mr. CRANSTON. Mr. President, the news from Tokyo that the Khmer Rouge have refused to participate in a Japanese-sponsored peace conference of the four Cambodian factions dramatically illustrates the fallacy of basing a Cambodian peace settlement on the inclusion of the Khmer Rouge.

The Khmer Rouge do not want peace. They want power.

For over a year now the international community through first an international conference in August and then through meetings of the Permanent Five members of the U.N. Security Council and the four Cambodian factions—the two factions of the non-Communist resistance, the Khmer Rouge, and the Hun Sen government in Phnom Penh—meeting in Djakarta, Bangkok, Paris, and now Toyko have struggled to arrange a settlement that would give all factions, including the Khmer Rouge, a role.

I have long believed that this so-called quadripartite solution was not only unworkable but also immoral because, in whatever guise it took, it meant the inclusion of the genocidal Khmer Rouge. The governing hypothesis behind this approach has been that it was better to have the Khmer Rouge inside the tent causing trouble than outside.

I have never understood how one can believe that a crime can be best prevented by hosting a psychotic killer inside one's home rather than locking him out.

To compound this error the administration has argued that a comprehensive settlement is dependent on Chinese support and the Chinese would only agree to a settlement that included the Khmer Rouge. This subordination of American policy and principles to the Chinese especially after the massacre at Tiananmen Square, I believe, is a second mistake in our policy toward Cambodia.

Now these two mistakes have been made all the more evident by the Khmer Rouge boycott of the Tokyo meetings.

Clearly, now no one can say that peace talks failed because of Vietnamese or Soviet intransigence as has been the excuse used before by those advocating a quadripartite solution.

"The problem is with the Khmer Rouge," as Prince Sihanouk himself said.

However, I am disappointed that Prince Sihanouk, who has been allied with the Khmer Rouge and whose military forces, according to the Nation, Bangkok, of May 26, are cooperating with the Khmer Rouge forces in their operations, refused to return to the negotiating table, saying there was "nothing to discuss" although prior to the Tokyo meeting he had noted how vague the draft agreement was in terms of its details.

Once again, as with the most recent Perm Five meetings, no significant progress has been made. Negotiators can agree only on the need for further negotiation. The civil war drags on, benefiting only the Khmer Rouge.

Pol Pot's strategy, as the Far Eastern Economic Review reported on April 19, "is to build political structure in the Cambodian villages through a 'hearts and minds campaign,' as well as terror, to be ready for an election" while strangling "Phnom Penh through guerrilla tactics" and gaining time "through protracted peace negotiations."

In an effort to achieve agreement on a bipartisan approach to a Cambodian peace settlement I have introduced Senate Concurrent Resolution 101, "Expressing the sense of the Senate concerning negotiations for a peace settlement in Combodia." In regard to this resolution there are several points which must be made:

First, I do not support the current regime in Phnom Penh nor does my resolution advocate its de facto acceptance. I believe we must talk with the Hun-Sen-led government if we want to facilitate a political solution and bring the non-Communist resistance back to power without the genocidal Khmer Rouge.

As our former colleague and Secretary of State Edmund Muskie testified before my Asian Subcommittee, "we have favored the other side for many years. Let us be true to ourselves and look at both sides."

Second, the resolution indicates that the only legitimate Government of Cambodia is a freely elected one. Power sharing that exchanges one Communist regime for an even bloodier one is no democratic solution.

Third, my resolution calls on the United States to persuade the Chinese to cease their aid to the Khmer Rouge. As the New York Times reported on May 1, the Chinese have recently sent large new shipments of weapons to the Khmer Rouge, including heavy artillery.

I have not called for an end to U.S. assistance to the non-Communist resistance. However, I have opposed and will continue to oppose lethal aid to the resistance as long as they remain in an alliance with the Khmer Rouge. Military aid to rag-tag forces that have not been able to organize them-

selves for 10 years carries little hope of bringing Hun Sen to the negotiating table. It can only prolong the agony of the Cambodian people.

I do support aid to the non-Communist forces that contributes to their development as a political force. As our distinguished colleague, Senator ROBB, wrote in the Washington Post on June 5, "our assistance to the NCR should be geared toward helping them enter the political fray under safe and fair conditions." Toward this end, I believe it important that the NCR, now divided into two and perhaps even more political factions, be encouraged to unite and that our aid should be designed to help train these refugees in the skills necessary to rebuild their nation, not in the skills to further destroy it.

My resolution also supports current U.N. efforts to achieve a settlement with elections. It differs in that it suggests that if an agreement on a U.N. approach proves to be impossible—which seems likely considering the lack of substantive progress to date—an election still should be held.

The only way to defeat the Khmer Rouge is to achieve an agreement between the non-Communists and the Hun Sen government. To get Hun Sen to permit the non-Communists to return to Phnom Penh we should hold out the carrot of international recognition and aid if the Khmer Rouge is excluded.

America's interest lies not in supporting one faction or another but in helping the Cambodian people to make their own future.

The winds of change are sweeping throughout the world, but they have yet to penetrate the recesses of the Southeast Asian jungles. Nor have they touched many policymakers involved in the Cambodian question. The United States needs to be both more creative and more involved if it is going to help achieve peace and democracy in Cambodia. Let us work to construct a solution that excludes the Khmer Rouge now that they have made so evident their intention to subvert peace. The leopard has not changed its spots.

TRIBUTE TO DR. ROBERT NOYCE

Mr. CRANSTON. Mr. President, today I wish to pay tribute to a man for whom I have the utmost respect and admiration, Dr. Robert N. Noyce. I was saddened to learn that on Sunday Dr. Noyce passed away near his home in Austin, TX. Although his was not a common household name, Bob Noyce was very well known in my home State and his achievements have had a profound effect on all our lives.

If there is a single person who epitomized the era of high technology, it is Bob Noyce. His invention of a tiny computer chip changed our lives forever. No bigger than your smallest fingernail, the integrated circuit revolutionized the electronics industry. From personal computers, calculators, and microwave ovens, to computerized flight plans for commercial and military aircraft, the semiconductor chip changed the path of history.

Bob was a poineer, comparable to Thomas Edison and the Wright Brothers: entrepreneurs who succeeded against the odds. Bob had a natural foresight of problems and an uncanny ability to solve them. He laid the foundation for today's electronics industry and worked to make it better. He dreamed and took risks others would not. It was only natural that he emerge as the spokesman for the electronics industry.

I had the privilege and honor to know Bob. Known as the unofficial mayor of Silicon Valley, birthplace of the high-tech industry, and president and chief executive of the successful Government-industry consortium, Sematech, Bob traveled to Washington often. He served as a premier voice and representative of the semiconductor industry and was well respected on Capitol Hill and in the administration. He led the renewed effort toward cooperation between Government and industry. It's unrealistic to expect to find anyone who can replace him. His loss will be felt not only in the Silicon Valley, but across the country.

I wish to express my sincere condolences to his wife, his mother, and to all his family and friends. Bob's contributions touched all of us and will for the years to come.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. SHELBY). If there is no further morning business, morning business is closed.

AMERICANS WITH DISABILITIES ACT

The PRESIDING OFFICER. Under the previous order, the hour of 12 o'clock noon having arrived, the Chair now lays before the Senate a House message on S. 933.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 933) entitled "An Act to establish a clear and comprehensive prohibition of discrimination on the basis of disability", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Americans with Disabilities Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—EMPLOYMENT

Sec. 101. Definitions.
Sec. 102. Discrimination.
Sec. 103. Defenses.
Sec. 104. Illegal use of drugs and alcohol.
Sec. 105. Posting notices.
Sec. 106. Regulations.
Sec. 107. Enforcement.
Sec. 108. Effective date.

TITLE II—PUBLIC SERVICES

Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

Sec. 201. Definition.
Sec. 202. Discrimination.
Sec. 203. Enforcement.
Sec. 204. Regulations.
Sec. 205. Effective date.

Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

Part I—Public Transportation Other Than by Aircraft or Certain Rail Operations

Sec. 221. Definitions.
Sec. 222. Public entities operating fixed route systems.
Sec. 223. Paratransit as a complement to fixed route service.
Sec. 224. Public entity operating a demand responsive system.
Sec. 225. Temporary relief where lifts are unavailable.
Sec. 226. New facilities.
Sec. 227. Alterations of existing facilities.
Sec. 228. Public transportation programs and activities in existing facilities and one car per train rule.
Sec. 229. Regulations.
Sec. 230. Interim accessibility requirements.
Sec. 231. Effective date.

Part II—Public Transportation by Intercity and Commuter Rail

Sec. 241. Definitions.
Sec. 242. Intercity and commuter rail actions considered discriminatory.
Sec. 243. Conformance of accessibility standards.
Sec. 244. Regulations.
Sec. 245. Interim accessibility requirements.
Sec. 246. Effective date.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

Sec. 301. Definitions.
Sec. 302. Prohibition of discrimination by public accommodations.
Sec. 303. New construction and alterations in public accommodations and commercial facilities.
Sec. 304. Prohibition of discrimination in public transportation services provided by private entities.
Sec. 305. Study.
Sec. 306. Regulations.
Sec. 307. Exemptions for private clubs and religious organizations.
Sec. 308. Enforcement.
Sec. 309. Examinations and courses.
Sec. 310. Effective date.

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TITLE IV—TELECOMMUNICATIONS RELAY SERVICES
Sec. 401. Telecommunication services for hearing-impaired and speech-impaired individuals.
Sec. 402. Closed-captioning of public service announcements.
TITLE V—MISCELLANEOUS PROVISIONS
Sec. 501. Construction.
Sec. 502. State immunity.
Sec. 503. Prohibition against retaliation and coercion.
Sec. 504. Regulations by the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Attorney's fees.
Sec. 506. Technical assistance.
Sec. 507. Federal wilderness areas.
Sec. 508. Transvestites.
Sec. 509. Congressional inclusion.
Sec. 510. Illegal use of drugs.
Sec. 511. Definitions.
Sec. 512. Amendments to the Rehabilitation Act.
Sec. 513. Alternative means of dispute resolution.
Sec. 514. Severability.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AUXILIARY AIDS AND SERVICES.—The term "auxiliary aids and services" includes—

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(2) DISABILITY.—The term "disability" means, with respect to an individual—

(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment.

(3) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

TITLE I—EMPLOYMENT

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission established by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4).

(2) COVERED ENTITY.—The term "covered entity" means an employer, employment agency, labor organization, or joint labor-management committee.

(3) DIRECT THREAT.—The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

(4) EMPLOYEE.—The term "employee" means an individual employed by an employer.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person, except that, for two years following the effective date of this title, an employer means a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person.

(B) EXCEPTIONS.—The term "employer" does not include—

(i) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(ii) a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986.

(6) ILLEGAL USE OF DRUGS.—

(A) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(B) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

(7) PERSON, ETC.—The terms "person", "labor organization", "employment agency", "commerce", and "industry affecting commerce", shall have the same meaning given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(8) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(9) REASONABLE ACCOMMODATION.—The term "reasonable accommodation" may include—

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) UNDUE HARDSHIP.—

(A) IN GENERAL.—The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include—

(i) the nature and cost of the accommodation needed under this Act;

(ii) the overall financial resources of the facility or facilities involved in the provi-

sion of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

SEC. 102. DISCRIMINATION.

(a) GENERAL RULE.—No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) CONSTRUCTION.—As used in subsection (a), the term "discriminate" includes—

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration—

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) MEDICAL EXAMINATIONS AND INQUIRIES.—

(1) IN GENERAL.—The prohibition against discrimination as referred to in subsection (a) shall include medical examinations and inquiries.

(2) PREEMPLOYMENT.—

(A) PROHIBITED EXAMINATION OR INQUIRY.—Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) ACCEPTABLE INQUIRY.—A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) EMPLOYMENT ENTRANCE EXAMINATION.—A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if—

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that—

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this Act shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this title.

(4) EXAMINATION AND INQUIRY.—

(A) PROHIBITED EXAMINATIONS AND INQUIRIES.—A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) ACCEPTABLE EXAMINATIONS AND INQUIRIES.—A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job- related functions.

(C) REQUIREMENT.—Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

SEC. 103. DEFENSES.

(a) IN GENERAL.—It may be a defense to a charge of discrimination under this Act that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

(b) QUALIFICATION STANDARDS.—The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

(c) RELIGIOUS ENTITIES.—

(1) IN GENERAL.—This title shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) RELIGIOUS TENETS REQUIREMENT.—Under this title, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

(d) FOOD HANDLING JOBS.—It shall not be a violation of this Act for an employer to refuse to assign or continue to assign any employee with an infectious or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified and for which the employee would sustain no economic damage.

SEC. 104. ILLEGAL USE OF DRUGS AND ALCOHOL.

(a) QUALIFIED INDIVIDUAL WITH A DISABILITY.—For purposes of this title, the term "qualified individual with a disability" shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as a qualified individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c) AUTHORITY OF COVERED ENTITY.—A covered entity—

(1) may prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) may require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) may require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.);

(4) may hold an employee who engages in the illegal use of drugs or who is an alcohol-

ic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5) may, with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that—

(A) employees comply with the standards established in such regulations of the Department of Defense, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Defense);

(B) employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C) employees comply with the standards established in such regulations of the Department of Transportation, if the employees of the covered entity are employed in a transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Transportation).

(d) DRUG TESTING.—

(1) IN GENERAL.—For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

(2) CONSTRUCTION.—Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) RAIL EMPLOYEES.—Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by railroads of authority to—

(1) test railroad employees in, and applicants for, positions involving safety-sensitive duties, as determined by the Secretary of Transportation, for the illegal use of drugs and for on-duty impairment by alcohol; and

(2) remove such persons who test positive pursuant to paragraph (1) from safety-sensitive duties in implementing subsection (c).

SEC. 105. POSTING NOTICES.

Every employer, employment agency, labor organization, or joint labor-management committee covered under this title shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of this Act, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-10).

SEC. 106. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue regulations in an accessible format to carry out this title in accordance with subchapter II of chapter 5 of title 5, United States Code.

SEC. 107. ENFORCEMENT.

(a) POWERS, REMEDIES, AND PROCEDURES.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9) shall be the powers, remedies, and procedures this title provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this Act, or regulations promulgated under section 106, concerning employment.

(b) COORDINATION.—The agencies with enforcement authority for actions which allege employment discrimination under this title and under the Rehabilitation Act of 1973 shall develop procedures to ensure that administrative complaints filed under this title and under the Rehabilitation Act of 1973 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this title and the Rehabilitation Act of 1973. Such agencies shall establish such coordinating mechanisms in the regulations implementing this title and the Rehabilitation Act of 1973.

SEC. 108. EFFECTIVE DATE.

This title shall become effective 24 months after the date of enactment.

TITLE II—PUBLIC SERVICES

Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

SEC. 201. DEFINITION.

As used in this title:

(1) PUBLIC ENTITY.—The term "public entity" means—

(A) any State or local government;

(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and

(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

(2) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

SEC. 202. DISCRIMINATION.

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

SEC. 203. ENFORCEMENT.

The remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) shall be the remedies, procedures and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202.

SEC. 204. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall promulgate regulations in an accessible format that implement this subtitle. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223, 229, or 244.

(b) RELATIONSHIP TO OTHER REGULATIONS.—Except for "program accessibility, existing facilities", and "communications", regulations under subsection (a) shall be consistent with this Act and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). With respect to "program accessibility, existing facilities", and "communications", such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under such section 504.

(c) STANDARDS.—Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this subtitle, other than facilities, stations, rail passenger cars, and vehicles covered by subtitle B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504(a) of this Act.

SEC. 205. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this subtitle shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Section 204 shall become effective on the date of enactment of this Act.

Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

SEC. 221. DEFINITIONS.

As used in this part:

(1) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing designated public transportation which is not a fixed route system.

(2) DESIGNATED PUBLIC TRANSPORTATION.—The term "designated public transportation" means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in section 241)) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(3) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

(4) OPERATES.—The term "operates", as used with respect to a fixed route system or demand responsive system, includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.

(5) PUBLIC SCHOOL TRANSPORTATION.—The term "public school transportation" means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

(6) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 222. PUBLIC ENTITIES OPERATING FIXED ROUTE SYSTEMS.

(a) PURCHASE AND LEASE OF NEW VEHICLES.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle to be used on such system, if the solicitation for such purchase or lease is made after the 30th day following the effective date of this subsection and if such bus, rail vehicle, or other vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) PURCHASE AND LEASE OF USED VEHICLES.—Subject to subsection (c)(1), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease, after the 30th day following the effective date of this subsection, a used vehicle for use on such system unless such entity makes demonstrated good faith efforts to purchase or lease a used vehicle for use on such system that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) REMANUFACTURED VEHICLES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system—

(A) to remanufacture a vehicle for use on such system so as to extend its usable life for 5 years or more, which remanufacture begins (or for which the solicitation is made) after the 30th day following the effective date of this subsection; or

(B) to purchase or lease for use on such system a remanufactured vehicle which has been remanufactured so as to extend its usable life for 5 years or more, which purchase or lease occurs after such 30th day and during the period in which the usable life is extended;

unless, after remanufacture, the vehicle is, to the maximum extent feasible, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) EXCEPTION FOR HISTORIC VEHICLES.—

(A) GENERAL RULE.—If a public entity operates a fixed route system any segment of which is included on the National Register of Historic Places and if making a vehicle of historic character to be used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of paragraph (1) and which do not significantly alter the historic character of such vehicle.

(B) VEHICLES OF HISTORIC CHARACTER DEFINED BY REGULATIONS.—For purposes of this paragraph and section 228(b), a vehicle of historic character shall be defined by the regulations issued by the Secretary to carry out this subsection.

SEC. 223. PARATRANSIT AS A COMPLEMENT TO FIXED ROUTE SERVICE.

(a) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs, that are sufficient to provide to such individuals a level of service (1) which is comparable to the level of designated public transportation services provided to individuals without disabilities using such system; or (2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) ISSUANCE OF REGULATIONS.—Not later than 1 year after the effective date of this subsection, the Secretary shall issue final regulations to carry out this section.

(c) REQUIRED CONTENTS OF REGULATIONS.—

(1) ELIGIBLE RECIPIENTS OF SERVICE.—The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section—

(A)(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system; and

(B) to 1 other individual accompanying the individual with the disability.

For purposes of clauses (i) and (ii) of subparagraph (A), boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

(2) SERVICE AREA.—The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

(3) SERVICE CRITERIA.—Subject to paragraphs (1) and (2), the regulations issued under this section shall establish minimum service criteria for determining the level of services to be required under this section.

(4) UNDUE FINANCIAL BURDEN LIMITATION.—The regulations issued under this section shall provide that, if the public entity is able to demonstrate to the satisfaction of the Secretary that the provision of paratransit and other special transportation services otherwise required under this section would impose an undue financial burden on the public entity, the public entity, notwithstanding any other provision of this section (other than paragraph (5)), shall only be required to provide such services to the extent that providing such services would not impose such a burden.

(5) ADDITIONAL SERVICES.—The regulations issued under this section shall establish circumstances under which the Secretary may require a public entity to provide, notwithstanding paragraph (4), paratransit and other special transportation services under this section beyond the level of paratransit and other special transportation services which would otherwise be required under paragraph (4).

(6) PUBLIC PARTICIPATION.—The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7).

(7) PLANS.—The regulations issued under this section shall require that each public entity which operates a fixed route system—

(A) within 18 months after the effective date of this subsection, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and

(B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.

(8) PROVISION OF SERVICES BY OTHERS.—The regulations issued under this section shall—

(A) require that a public entity submitting a plan to the Secretary under this section identify in the plan any person or other public entity which is providing a paratransit or other special transportation service for individuals with disabilities in the service area to which the plan applies; and

(B) provide that the public entity submitting the plan does not have to provide under the plan such service for individuals with disabilities.

(9) OTHER PROVISIONS.—The regulations issued under this section shall include such other provisions and requirements as the Secretary determines are necessary to carry out the objectives of this section.

(d) REVIEW OF PLAN.—

(1) GENERAL RULE.—The Secretary shall review a plan submitted under this section for the purpose of determining whether or not such plan meets the requirements of this section, including the regulations issued under this section.

(2) DISAPPROVAL.—If the Secretary determines that a plan reviewed under this subsection fails to meet the requirements of this section, the Secretary shall disapprove the plan and notify the public entity which submitted the plan of such disapproval and the reasons therefor.

(3) MODIFICATION OF DISAPPROVED PLAN.—Not later than 90 days after the date of disapproval of a plan under this subsection, the public entity which submitted the plan shall modify the plan to meet the requirements of this section and shall submit to the Secretary, and commence implementation of, such modified plan.

(e) DISCRIMINATION DEFINED.—As used in subsection (a), the term "discrimination" includes—

(1) a failure of a public entity to which the regulations issued under this section apply to submit, or commence implementation of,

a plan in accordance with subsections (c)(6) and (c)(7);

(2) a failure of such entity to submit, or commence implementation of, a modified plan in accordance with subsection (d)(3);

(3) submission to the Secretary of a modified plan under subsection (d)(3) which does not meet the requirements of this section; or

(4) a failure of such entity to provide paratransit or other special transportation services in accordance with the plan or modified plan the public entity submitted to the Secretary under this section.

(f) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as preventing a public entity—

(1) from providing paratransit or other special transportation services at a level which is greater than the level of such services which are required by this section,

(2) from providing paratransit or other special transportation services in addition to those paratransit and special transportation services required by this section, or

(3) from providing such services to individuals in addition to those individuals to whom such services are required to be provided by this section.

SEC. 224. PUBLIC ENTITY OPERATING A DEMAND RESPONSIVE SYSTEM.

If a public entity operates a demand responsive system, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for such entity to purchase or lease a new vehicle for use on such system, for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service such system provides to individuals without disabilities.

SEC. 225. TEMPORARY RELIEF WHERE LIFTS ARE UNAVAILABLE.

(a) GRANTING.—With respect to the purchase of new buses, a public entity may apply for, and the Secretary may temporarily relieve such public entity from the obligation under section 222(a) or 224 to purchase new buses that are readily accessible to and usable by individuals with disabilities if such public entity demonstrates to the satisfaction of the Secretary—

(1) that the initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) the unavailability from any qualified manufacturer of hydraulic, electromechanical, or other lifts for such new buses;

(3) that the public entity seeking temporary relief has made good faith efforts to locate a qualified manufacturer to supply the lifts to the manufacturer of such buses in sufficient time to comply with such solicitation; and

(4) that any further delay in purchasing new buses necessary to obtain such lifts would significantly impair transportation services in the community served by the public entity.

(b) DURATION AND NOTICE TO CONGRESS.—Any relief granted under subsection (a) shall be limited in duration by a specified date, and the appropriate committees of Congress shall be notified of any such relief granted.

(c) FRAUDULENT APPLICATION.—If, at any time, the Secretary has reasonable cause to believe that any relief granted under subsection (a) was fraudulently applied for, the Secretary shall—

(1) cancel such relief if such relief is still in effect; and

(2) take such other action as the Secretary considers appropriate.

SEC. 226. NEW FACILITIES.

For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

SEC. 227. ALTERATIONS OF EXISTING FACILITIES.

(a) GENERAL RULE.—With respect to alterations of an existing facility or part thereof used in the provision of designated public transportation services that affect or could affect the usability of the facility or part thereof, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to make such alterations (or to ensure that the alterations are made) in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations. Where the public entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) SPECIAL RULE FOR STATIONS.—

(1) GENERAL RULE.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity that provides designated public transportation to fail, in accordance with the provisions of this subsection, to make key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) RAPID RAIL AND LIGHT RAIL KEY STATIONS.—

(A) ACCESSIBILITY.—Except as otherwise provided in this paragraph, all key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 3-year period beginning on the effective date of this paragraph.

(B) EXTENSION FOR EXTRAORDINARILY EXPENSIVE STRUCTURAL CHANGES.—The Secretary may extend the 3-year period under subparagraph (A) up to a 30-year period for key stations in a rapid rail or light rail system which stations need extraordinarily expensive structural changes to, or replacement of, existing facilities; except that by the last day of the 20th year following the date of the enactment of this Act at least ⅔ of such key stations must be readily accessible to and usable by individuals with disabilities.

(3) PLANS AND MILESTONES.—The Secretary shall require the appropriate public entity to develop and submit to the Secretary a plan for compliance with this subsection—

(A) that reflects consultation with individuals with disabilities affected by such plan and the results of a public hearing and public comments on such plan, and

(B) that establishes milestones for achievement of the requirements of this subsection.

SEC. 228. PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES AND ONE CAR PER TRAIN RULE.

(a) PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES.—

(1) IN GENERAL.—With respect to existing facilities used in the provision of designated public transportation services, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to operate a designated public transportation program or activity conducted in such facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(2) KEY STATIONS.—Paragraph (1) shall not apply to a key station if the portion of such station providing access to the vehicle boarding or disembarking location has not been made readily accessible to and usable by individuals with disabilities who use wheelchairs at that station.

(b) ONE CAR PER TRAIN RULE.—

(1) GENERAL RULE.—Subject to paragraph (2), with respect to 2 or more vehicles operated as a train by a light or rapid rail system, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to fail to have at least 1 vehicle per train that is accessible to individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 5-year period beginning on the effective date of this section.

(2) HISTORIC TRAINS.—In order to comply with paragraph (1) with respect to the remanufacture of a vehicle of historic character which is to be used on a segment of a light or rapid rail system which is included on the National Register of Historic Places, if making such vehicle readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity which operates such system only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of section 222(c)(1) and which do not significantly alter the historic character of such vehicle.

SEC. 229. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part (other than section 223).

(b) STANDARDS.—The regulations issued under this section and section 223 shall include standards applicable to facilities and vehicles covered by this subtitle. The standards shall be consistent with the minimum

guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

SEC. 230. INTERIM ACCESSIBILITY REQUIREMENTS.

If final regulations have not been issued pursuant to section 229, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under sections 226 and 227, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

SEC. 231. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 222, 223 (other than subsection (a)), 224, 225, 227(b), 228(b), and 229 shall become effective on the date of enactment of this Act.

PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

SEC. 241. DEFINITIONS.

As used in this part:

(1) COMMUTER AUTHORITY.—The term "commuter authority" has the meaning given such term in section 103(8) of the Rail Passenger Service Act (45 U.S.C. 502(8)).

(2) COMMUTER RAIL TRANSPORTATION.—The term "commuter rail transportation" has the meaning given the term "commuter service" in section 103(9) of the Rail Passenger Service Act (45 U.S.C. 502(9)).

(3) INTERCITY RAIL TRANSPORTATION.—The term "intercity rail transportation" means transportation provided by the National Railroad Passenger Corporation.

(4) RAIL PASSENGER CAR.—The term "rail passenger car" means, with respect to intercity rail transportation, single-level and bi-level coach cars, single-level and bi-level dining cars, single-level and bi-level sleeping cars, single-level and bi-level lounge cars, and food service cars.

(5) RESPONSIBLE PERSON.—The term "responsible person" means—

(A) in the case of a station more than 50 percent of which is owned by a public entity, such public entity;

(B) in the case of a station more than 50 percent of which is owned by a private party, the persons providing intercity or commuter rail transportation to such station, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(C) in a case where no party owns more than 50 percent of a station, the persons providing intercity or commuter rail transportation to such station and the owners of the station, other than private party owners, as allocated on an equitable basis by regulation by the Secretary of Transportation.

(6) STATION.—The term "station" means the portion of a property located appurtenant to a right-of-way on which intercity or commuter rail transportation is operated, where such portion is used by the general public and is related to the provision of such transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, and, where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but such term does not include flag stops.

SEC. 242. INTERCITY AND COMMUTER RAIL ACTIONS CONSIDERED DISCRIMINATORY.

(a) INTERCITY RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW INTERCITY CARS.—

(A) GENERAL RULE.—Except as otherwise provided in this subsection with respect to individuals who use wheelchairs, it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in intercity rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) SPECIAL RULE FOR SINGLE-LEVEL PASSENGER COACHES FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level passenger coaches shall be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, and a space to fold and store such passenger's wheelchair; and

(iv) have a restroom usable by an individual who uses a wheelchair,

only to the extent provided in paragraph (3).

(C) SPECIAL RULE FOR SINGLE-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level dining cars shall not be required to—

(i) be able to be entered from the station platform by an individual who uses a wheelchair; or

(ii) have a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger.

(D) SPECIAL RULE FOR BI-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Bi-level dining cars shall not be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, or a space to fold and store such passenger's wheelchair; or

(iv) have a restroom usable by an individual who uses a wheelchair.

(3) ACCESSIBILITY OF SINGLE-LEVEL COACHES.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have on each train which includes one or more single-level rail passenger coaches—

(i) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than one-half of the number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than one-half of the number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 5 years after the date of enactment of this Act; and

(ii) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than the total number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than the total number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 10 years after the date of enactment of this Act.

(B) LOCATION.—Spaces required by subparagraph (A) shall be located in single-level rail passenger coaches or food service cars.

(C) LIMITATION.—Of the number of spaces required on a train by subparagraph (A), not more than two spaces to park and secure wheelchairs nor more than two spaces to fold and store wheelchairs shall be located in any one coach or food service car.

(D) OTHER ACCESSIBILITY FEATURES.—Single-level rail passenger coaches and food service cars on which the spaces required by subparagraph (A) are located shall have a restroom usable by an individual who uses a wheelchair and shall be able to be entered from the station platform by an individual who uses a wheelchair.

(4) FOOD SERVICE.—

(A) SINGLE-LEVEL DINING CARS.—On any train in which a single-level dining car is used to provide food service—

(i) if such single-level dining car was purchased after the date of enactment of this Act, table service in such car shall be provided to a passenger who uses a wheelchair if—

(I) the car adjacent to the end of the dining car through which a wheelchair may enter is itself accessible to a wheelchair;

(II) such passenger can exit to the platform from the car such passenger occupies, move down the platform, and enter the adjacent accessible car described in subclause (I) without the necessity of the train being moved within the station; and

(III) space to park and secure a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to remain in a wheelchair), or space to store and fold a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to transfer to a dining car seat); and

(ii) appropriate auxiliary aids and services, including a hard surface on which to

eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

Unless not practicable, a person providing intercity rail transportation shall place an accessible car adjacent to the end of a dining car described in clause (i) through which an individual who uses a wheelchair may enter.

(B) BI-LEVEL DINING CARS.—On any train in which a bi-level dining car is used to provide food service—

(i) if such train includes a bi-level lounge car purchased after the date of enactment of this Act, table service in such lounge car shall be provided to individuals who use wheelchairs and to other passengers; and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

(b) COMMUTER RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides commuter rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW COMMUTER RAIL CARS.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in commuter rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) ACCESSIBILITY.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), a requirement that a rail passenger car used in commuter rail transportation be accessible to or readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, shall not be construed to require—

(i) a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger;

(ii) space to fold and store a wheelchair; or

(iii) a seat to which a passenger who uses a wheelchair can transfer.

(c) USED RAIL CARS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a used rail passenger car for use in intercity or commuter rail transportation, unless such person makes demonstrated good faith efforts to purchase or lease a used rail car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(d) REMANUFACTURED RAIL CARS.—

(1) REMANUFACTURING.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to remanufacture a rail passenger car for use in intercity or commuter rail transportation so as to extend its usable life for 10 years or more, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) PURCHASE OR LEASE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a remanufactured rail passenger car for use in intercity or commuter rail transportation unless such car was remanufactured in accordance with paragraph (1).

(e) STATIONS.—

(1) NEW STATIONS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to build a new station for use in intercity or commuter rail transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) EXISTING STATIONS.—

(A) FAILURE TO MAKE READILY ACCESSIBLE.—

(i) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a responsible person to fail to make existing stations in the intercity rail transportation system, and existing key stations in commuter rail transportation systems, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(ii) PERIOD FOR COMPLIANCE.—

(I) INTERCITY RAIL.—All stations in the intercity rail transportation system shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable, but in no event later than 20 years after the date of enactment of this Act.

(II) COMMUTER RAIL.—Key stations in commuter rail transportation systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than 3 years after the date of enactment of this Act, except that the time limit may be extended by the Secretary of Transportation up to 20 years after the date of enactment of this Act in a case where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

(iii) DESIGNATION OF KEY STATIONS.—Each commuter authority shall designate the key stations in its commuter rail transportation system, in consultation with individuals with disabilities and organizations representing such individuals, taking into consideration such factors as high ridership and whether such station serves as a transfer or feeder station. Before the final designation of key stations under this clause, a commuter authority shall hold a public hearing.

(iv) PLANS AND MILESTONES.—The Secretary of Transportation shall require the appropriate person to develop a plan for carrying out this subparagraph that reflects consultation with individuals with disabilities affected by such plan and that establishes milestones for achievement of the requirements of this subparagraph.

(B) REQUIREMENT WHEN MAKING ALTERATIONS.—

(i) GENERAL RULE.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations of an existing station or part thereof in the intercity or commuter rail transportation systems that affect or could affect the usability of the station or part thereof, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the altered portions of the station are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations.

(ii) ALTERATIONS TO A PRIMARY FUNCTION AREA.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations that affect or could affect the usability of or access to an area of the station containing a primary function, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(C) REQUIRED COOPERATION.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for an owner, or person in control, of a station governed by subparagraph (A) or (B) to fail to provide reasonable cooperation to a responsible person with respect to such station in that responsible person's efforts to comply with such subparagraph. An owner, or person in control, of a station shall be liable to a responsible person for any failure to provide reasonable cooperation as required by this subparagraph. Failure to receive reasonable cooperation required by this subparagraph shall not be a defense to a claim of discrimination under this Act.

SEC. 243. CONFORMANCE OF ACCESSIBILITY STANDARDS.

Accessibility standards included in regulations issued under this part shall be consistent with the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board under section 504(a) of this Act.

SEC. 244. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part.

SEC. 245. INTERIM ACCESSIBILITY REQUIREMENTS.

(a) STATIONS.—If final regulations have not been issued pursuant to section 244, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities as required under section 242(e), except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(b) RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to section 244, a person shall be considered to have complied with the requirements of section 242 (a) through (d) that a rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such cars, to the extent that such laws and regulations are not inconsistent with this part and are in effect at the time such design is substantially completed.

SEC. 246. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 242 and 244 shall become effective on the date of enactment of this Act.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

SEC. 301. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The term "commerce" means travel, trade, traffic, commerce, transportation, or communication—

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) COMMERCIAL FACILITIES.—The term "commercial facilities" means facilities—

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 242 or covered under this title, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.).

(3) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

(4) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) PRIVATE ENTITY.—The term "private entity" means any entity other than a public entity (as defined in section 201(1)).

(7) PUBLIC ACCOMMODATION.—The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce—

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) RAIL AND RAILROAD.—The terms "rail" and "railroad" have the meaning given the term "railroad" in section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)).

(9) READILY ACHIEVABLE.—The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include—

(A) the nature and cost of the action needed under this Act;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(10) SPECIFIED PUBLIC TRANSPORTATION.—The term "specified public transportation" means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(11) VEHICLE.—The term "vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 242 or covered under this title.

SEC. 302. PROHIBITION OF DISCRIMINATION BY PUBLIC ACCOMMODATIONS.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) CONSTRUCTION.—

(1) GENERAL PROHIBITION.—

(A) ACTIVITIES.—

(i) DENIAL OF PARTICIPATION.—It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) PARTICIPATION IN UNEQUAL BENEFIT.—It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations that is not equal to that afforded to other individuals.

(iii) SEPARATE BENEFIT.—It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with goods, services, facilities, privileges, advantages, or accommodations that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with goods, services, facilities, privileges, advantages, or accommodations, or other opportunities that is as effective as that provided to others.

(iv) INDIVIDUAL OR CLASS OF INDIVIDUALS.—For purposes of clauses (i) through (iii) of this subparagraph, the term "individual or class of individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) INTEGRATED SETTINGS.—Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) OPPORTUNITY TO PARTICIPATE.—Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the op-

portunity to participate in such programs or activities that are not separate or different.

(D) ADMINISTRATIVE METHODS.—An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) ASSOCIATION.—It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) SPECIFIC PROHIBITIONS.—

(A) DISCRIMINATION.—For purposes of subsection (a), discrimination includes—

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) FIXED ROUTE SYSTEM.—

(i) ACCESSIBILITY.—It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 304 to purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) EQUIVALENT SERVICE.—If a private entity which operates a fixed route system and which is not subject to section 304 purchases or leases a vehicle with a seating capacity of 16 passengers or less (including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) DEMAND RESPONSIVE SYSTEM.—For purposes of subsection (a), discrimination includes—

(i) a failure of a private entity which operates a demand responsive system and which is not subject to section 304 to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations are made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(D) OVER-THE-ROAD BUSES.—

(i) LIMITATION ON APPLICABILITY.—Subparagraphs (B) and (C) do not apply to over-the-road buses.

(ii) ACCESSIBILITY REQUIRE- MENTS.—For purposes of subsection (a), discrimination includes (I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2) by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and (II) any other failure of such entity to comply with such regulations.

(3) SPECIFIC CONSTRUCTION.—Nothing in this title shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

SEC. 303. NEW CONSTRUCTION AND ALTERATIONS IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES.

(a) APPLICATION OF TERM.—Except as provided in subsection (b), as applied to public accommodations and commercial facilities, discrimination for purposes of section 302(a) includes—

(1) a failure to design and construct facilities for first occupancy later than 30 months after the date of enactment of this Act that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this title; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) ELEVATOR.—Subsection (a) shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

SEC. 304. PROHIBITION OF DISCRIMINATION IN SPECIFIED PUBLIC TRANSPORTATION SERVICES PROVIDED BY PRIVATE ENTITIES.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.

(b) CONSTRUCTION.—For purposes of subsection (a), discrimination includes—

(1) the imposition or application by a entity described in subsection (a) of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless such criteria can be shown to be necessary for the provision of the services being offered;

(2) the failure of such entity to—

(A) make reasonable modifications consistent with those required under section 302(b)(2)(A)(ii);

(B) provide auxiliary aids and services consistent with the requirements of section 302(b)(2)(A)(iii); and

(C) remove barriers consistent with the requirements of section 302(b)(2)(A) and with the requirements of section 303(a)(2);

(3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and

usable by individuals with disabilities, including individuals who use wheelchairs; except that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(4)(A) the purchase or lease by such entity of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2); and

(B) any other failure of such entity to comply with such regulations; and

(5) the purchase or lease by such entity of a new van with a seating capacity of less than 8 passengers, including the driver, which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section that is not readily accessible to or usable by individuals with disabilities, including individuals who use wheelchairs; except that the new van need not be readily accessible to and usable by such individuals if the entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(6) the purchase or lease by such entity of a new rail passenger car that is to be used to provide specified public transportation, and for which a solicitation is made later than 30 days after the effective date of this paragraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(7) the remanufacture by such entity of a rail passenger car that is to be used to provide specified public transportation so as to extend its usable life for 10 years or more, or the purchase or lease by such entity of such a rail car, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) HISTORICAL OR ANTIQUATED CARS.—

(1) EXCEPTION.—To the extent that compliance with subsection (b)(2)(C) or (b)(7) would significantly alter the historic or antiquated character of a historical or antiquated rail passenger car, or a rail station served exclusively by such cars, or would result in violation of any rule, regulation, standard, or order issued by the Secretary of Transportation under the Federal Railroad Safety Act of 1970, such compliance shall not be required.

(2) DEFINITION.—As used in this subsection, the term "historical or antiquated rail passenger car" means a rail passenger car—

(A) which is not less than 30 years old at the time of its use for transporting individuals;

(B) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; and

(C) which—

(i) has a consequential association with events or persons significant to the past; or

(ii) embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past, or to represent a time period which has passed.

SEC. 305. STUDY.

(a) PURPOSES.—The Office of Technology Assessment shall undertake a study to determine—

(1) the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service; and

(2) the most cost-effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options.

(b) CONTENTS.—The study shall include, at a minimum, an analysis of the following:

(1) The anticipated demand by individuals with disabilities for accessible over-the-road buses and over-the-road bus service.

(2) The degree to which such buses and service, including any service required under sections 304(b)(4) and 306(a)(2), are readily accessible to and usable by individuals with disabilities.

(3) The effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

(4) The cost of providing accessible over-the-road buses and bus service to individuals with disabilities, including consideration of recent technological and cost saving developments in equipment and devices.

(5) Possible design changes in over-the-road buses that could enhance accessibility, including the installation of accessible restrooms which do not result in a loss of seating capacity.

(6) The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of such requirements on such service to rural communities.

(c) ADVISORY COMMITTEE.—In conducting the study required by subsection (a), the Office of Technology Assessment shall establish an advisory committee, which shall consist of—

(1) members selected from among private operators and manufacturers of over-the-road buses;

(2) members selected from among individuals with disabilities, particularly individuals who use wheelchairs, who are potential riders of such buses; and

(3) members selected for their technical expertise on issues included in the study, including manufacturers of boarding assistance equipment and devices.

The number of members selected under each of paragraphs (1) and (2) shall be equal, and the total number of members selected under paragraphs (1) and (2) shall exceed the number of members selected under paragraph (3).

(d) DEADLINE.—The study required by subsection (a), along with recommendations by the Office of Technology Assessment, including any policy options for legislative action, shall be submitted to the President and Congress within 36 months after the date of the enactment of this Act. If the President determines that compliance with the regulations issued pursuant to section 306(a)(2)(B) on or before the applicable deadlines specified in section 306(a)(2)(B) will result in a significant reduction in intercity over-the-road bus service, the President shall extend each such deadline by 1 year.

(e) REVIEW.—In developing the study required by subsection (a), the Office of Technology Assessment shall provide a preliminary draft of such study to the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792). The Board shall have an opportunity to comment on such draft study, and any such comments by the Board made in writing within 120 days after the Board's receipt of the draft study shall be incorporated as part of the final study required to be submitted under subsection (d).

SEC. 306. REGULATIONS.

(a) TRANSPORTATION PROVISIONS.—

(1) GENERAL RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 302(b)(2) (B) and (C) and to carry out section 304 (other than subsection (b)(4)).

(2) SPECIAL RULES FOR PROVIDING ACCESS TO OVER-THE-ROAD BUSES.—

(A) INTERIM REQUIREMENTS—

(i) ISSUANCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require each private entity which uses an over-the-road bus to provide transportation of individuals to provide accessibility to such bus; except that such regulations shall not require any structural changes in over-the-road buses in order to provide access to individuals who use wheelchairs during the effective period of such regulations and shall not require the purchase of boarding assistance devices to provide access to such individuals.

(ii) EFFECTIVE PERIOD.—The regulations issued pursuant to this subparagraph shall be effective until the effective date of the regulations issued under subparagraph (B).

(B) FINAL REQUIREMENT.—

(i) REVIEW OF STUDY AND INTERIM REQUIREMENTS.—The Secretary shall review the study submitted under section 305 and the regulations issued pursuant to subparagraph (A).

(ii) ISSUANCE.—Not later than 1 year after the date of the submission of the study under section 305, the Secretary shall issue in an accessible format new regulations to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require, taking into account the purposes of the study under section 305 and any recommendations resulting from such study, each private entity which uses an over-the-road bus to provide transportation to individuals to provide accessibility to such bus to individuals with disabilities, including individuals who use wheelchairs.

(iii) EFFECTIVE PERIOD.—Subject to section 305(d), the regulations issued pursuant to this subparagraph shall take effect—

(I) with respect to small providers of transportation (as defined by the Secretary), 7 years after the date of the enactment of this Act; and

(II) with respect to other providers of transportation, 6 years after such date of enactment.

(C) LIMITATION ON REQUIRING INSTALLATION OF ACCESSIBLE RESTROOMS.—The regulations issued pursuant to this paragraph shall not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

(3) STANDARDS.—The regulations issued pursuant to this subsection shall include standards applicable to facilities and vehicles covered by sections 302(b)(2) and 304.

(b) OTHER PROVISIONS.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall issue regula-

tions in an accessible format to carry out the provisions of this title not referred to in subsection (a) that include standards applicable to facilities and vehicles covered under section 302.

(c) CONSISTENCY WITH ATBCB GUIDELINES.—Standards included in regulations issued under subsections (a) and (b) shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

(d) INTERIM ACCESSIBILITY STANDARDS.—

(1) FACILITIES.—If final regulations have not been issued pursuant to this section, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under this section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under section 303, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(2) VEHICLES AND RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to this section, a private entity shall be considered to have complied with the requirements of this title, if any, that a vehicle or rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such vehicle or car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such vehicles or cars, to the extent that such laws and regulations are not inconsistent with this title and are in effect at the time such design is substantially completed.

SEC. 307. EXEMPTIONS FOR PRIVATE CLUBS AND RELIGIOUS ORGANIZATIONS.

The provisions of this title shall not apply to private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000-a(e)) or to religious organizations or entities controlled by religious organizations, including places of worship.

SEC. 308. ENFORCEMENT.

(a) IN GENERAL.—

(1) AVAILABILITY OF REMEDIES AND PROCEDURES.—The remedies and procedures set forth in section 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-3(a)) are the remedies and procedures this title provides to any person who is being subjected to discrimination on the basis of disability in violation of this title or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

(2) INJUNCTIVE RELIEF.—In the case of violations of sections 302(b)(2)(A)(iv) and section 303(a), injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this title. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this title.

(b) ENFORCEMENT BY THE ATTORNEY GENERAL.—

(1) DENIAL OF RIGHTS.—

(A) DUTY TO INVESTIGATE.—

(i) IN GENERAL.—The Attorney General shall investigate alleged violations of this title, and shall undertake periodic reviews of compliance of covered entities under this title.

(ii) ATTORNEY GENERAL CERTIFICATION.—On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this Act for the accessibility and usability of covered facilities under this title. At any enforcement proceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this Act.

(B) POTENTIAL VIOLATION.—If the Attorney General has reasonable cause to believe that—

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this title; or

(ii) any person or group of persons has been discriminated against under this title and such discrimination raises an issue of general public importance,

the Attorney General may commence a civil action in any appropriate United States district court.

(2) AUTHORITY OF COURT.—In a civil action under paragraph (1)(B), the court—

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this title—

(i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an amount—

(i) not exceeding $50,000 for a first violation; and

(ii) not exceeding $100,000 for any subsequent violation.

(3) SINGLE VIOLATION.—For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) PUNITIVE DAMAGES.—For purposes of subsection (b)(2)(B), the term "monetary damages" and "such other relief" does not include punitive damages.

(5) JUDICIAL CONSIDERATION.—In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this Act by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

SEC. 309. EXAMINATIONS AND COURSES.

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

SEC. 310. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsections (b) and (c), this title shall become effective 18 months after the date of the enactment of this Act.

(b) CIVIL ACTIONS.—Except for any civil action brought for a violation of section 303, no civil action shall be brought—

(1) during the first 6 months after the effective date, against businesses that employ 25 or fewer employees and have gross receipts of $1,000,000 or less; and

(2) during the first year after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of $500,000 or less.

(c) EXCEPTION.—Sections 302(a) for purposes of section 302(b)(2) (B) and (C) only, 304(a) for purposes of section 304(b)(3) only, 304(b)(3), 305, and 306 shall take effect on the date of the enactment of this Act.

TITLE IV—TELECOMMUNICATIONS

SEC. 401. TELECOMMUNICATIONS RELAY SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

(a) TELECOMMUNICATIONS.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 225. TELECOMMUNICATIONS SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

"(a) DEFINITIONS.—As used in this section—

"(1) COMMON CARRIER OR CARRIER.—The term 'common carrier' or 'carrier' includes any common carrier engaged in interstate communication by wire or radio as defined in section 3(h) and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b).

"(2) TDD.—The term 'TDD' means a Telecommunications Device for the Deaf, which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

"(3) TELECOMMUNICATIONS RELAY SERVICES.—The term 'telecommunications relay services' means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a

manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

"(b) AVAILABILITY OF TELECOMMUNICATIONS RELAY SERVICES.—

"(1) IN GENERAL.—In order to carry out the purposes established under section 1, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

"(2) USE OF GENERAL AUTHORITY AND REMEDIES.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this Act by a common carrier engaged in interstate communication.

"(c) PROVISION OF SERVICES.—Each common carrier providing telephone voice transmission services shall, not later than 3 years after the date of enactment of this section, provide in compliance with the regulations prescribed under this section, within the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations—

"(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the Commission's regulations under subsection (d); or

"(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) for such State, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under subsection (f) for such State.

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Commission shall, not later than 1 year after the date of enactment of this section, prescribe regulations to implement this section, including regulations that—

"(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

"(B) establish minimum standards that shall be met in carrying out subsection (c);

"(C) require that telecommunications relay services operate every day for 24 hours per day;

"(D) require that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination;

"(E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;

"(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

"(G) prohibit relay operators from intentionally altering a relayed conversation.

"(2) TECHNOLOGY.—The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 7(a) of this Act, the use of existing technology and do not discourage or impair the development of improved technology.

"(3) JURISDICTIONAL SEPARATION OF COSTS.—

"(A) IN GENERAL.—Consistent with the provisions of section 410 of this Act, the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

"(B) RECOVERING COSTS.—Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f), a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

"(e) ENFORCEMENT.—

"(1) IN GENERAL.—Subject to subsections (f) and (g), the Commission shall enforce this section.

"(2) COMPLAINT.—The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

"(f) CERTIFICATION.—

"(1) STATE DOCUMENTATION.—Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

"(2) REQUIREMENTS FOR CERTIFICATION.—After review of such documentation, the Commission shall certify the State program if the Commission determines that—

"(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d); and

"(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

"(3) METHOD OF FUNDING.—Except as provided in subsection (d), the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

"(4) SUSPENSION OR REVOCATION OF CERTIFICATION.—The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

"(g) COMPLAINT.—

"(1) REFERRAL OF COMPLAINT.—If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) is in effect, the Commission shall refer such complaint to such State.

"(2) JURISDICTION OF COMMISSION.—After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if—

"(A) final action under such State program has not been taken on such complaint by such State—

"(i) within 180 days after the complaint is filed with such State; or

"(ii) within a shorter period as prescribed by the regulations of such State; or

"(B) the Commission determines that such State program is no longer qualified for certification under subsection (f).".

(b) CONFORMING AMENDMENTS.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended—

(1) in section 2(b) (47 U.S.C. 152(b)), by striking "section 224" and inserting "sections 224 and 225"; and

(2) in section 221(b) (47 U.S.C. 221(b)), by striking "section 301" and inserting "sections 225 and 301".

SEC. 402. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

Section 711 of the Communications Act of 1934 is amended to read as follows:

"SEC. 711. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

"Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee—

"(1) shall not be required to supply closed captioning for any such announcement that fails to include it; and

"(2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement.".

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. CONSTRUCTION.

(a) IN GENERAL.—Except as otherwise provided in this Act, nothing in this Act shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) RELATIONSHIP TO OTHER LAWS.—Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with dis-

abilities than are afforded by this Act. Nothing in this Act shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by title I, in transportation covered by title II or III, or in places of public accommodation covered by title III.

(c) INSURANCE.—Titles I through IV of this Act shall not be construed to prohibit or restrict—

(1) an insurer, hospital or medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(2) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(3) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of title I and III.

(d) ACCOMMODATIONS AND SERVICES.—Nothing in this Act shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

SEC. 502. STATE IMMUNITY.

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

SEC. 503. PROHIBITION AGAINST RETALIATION AND COERCION.

(a) RETALIATION.—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) INTERFERENCE, COERCION, OR INTIMIDATION.—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) REMEDIES AND PROCEDURES.—The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to title I, title II and title III, respectively.

SEC. 504. REGULATIONS BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ISSUANCE OF GUIDELINES.—Not later than 9 months after the date of enactment of this Act, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of titles II and III of this Act.

(b) CONTENTS OF GUIDELINES.—The supplemental guidelines issued under subsection (a) shall establish additional requirements, consistent with this Act, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities.

(c) QUALIFIED HISTORIC PROPERTIES.—

(1) IN GENERAL.—The supplemental guidelines issued under subsection (a) shall include procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards.

(2) SITES ELIGIBLE FOR LISTING IN NATIONAL REGISTER.—With respect to alterations of buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7 (1) and (2) of the Uniform Federal Accessibility Standards.

(3) OTHER SITES.—With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall establish procedures equivalent to those established by 4.1.7(1) (b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

SEC. 505. ATTORNEY'S FEES.

In any action or administrative proceeding commenced pursuant to this Act, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

SEC. 506. TECHNICAL ASSISTANCE.

(a) PLAN FOR ASSISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communications Commission, shall develop a plan to assist entities covered under this Act, and other Federal agencies, in understanding the responsibility of such entities and agencies under this Act.

(2) PUBLICATION OF PLAN.—The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act).

(b) AGENCY AND PUBLIC ASSISTANCE.—The Attorney General may obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) IMPLEMENTATION.—

(1) RENDERING ASSISTANCE.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act may render technical assistance to individuals and institutions that have rights or duties under the respective title or titles for which such agency has responsibility.

(2) IMPLEMENTATION OF TITLES.—

(A) TITLE I.—The Equal Employment Opportunity Commission and the Attorney General shall implement the plan for assistance developed under subsection (a), for title I.

(B) TITLE II.—

(i) SUBTITLE A.—The Attorney General shall implement such plan for assistance for subtitle A of title II.

(ii) SUBTITLE B.—The Secretary of Transportation shall implement such plan for assistance for subtitle B of title II.

(C) TITLE III.—The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for title III, except for section 304, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) TITLE IV.—The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) TECHNICAL ASSISTANCE MANUALS.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance manuals to individuals or entities with rights or duties under this Act no later than six months after applicable final regulations are published under titles I, II, III, and IV.

(d) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—Each Federal agency that has responsibility under subsection (c)(2) for implementing this Act may make grants or award contracts to effectuate the purposes of this section. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and associations representing individuals who have rights or duties under this Act. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients or grants described in this paragraph.

(2) DISSEMINATION OF INFORMATION.—Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this Act and to provide information and technical assistance about techniques for effective compliance with this Act.

(e) FAILURE TO RECEIVE ASSISTANCE.—An employer, public accommodation, or other entity covered under this Act shall not be excused from compliance with the requirements of this Act because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

SEC. 507. FEDERAL WILDERNESS AREAS.

(a) STUDY.—The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) SUBMISSION OF REPORT.—Not later than 1 year after the enactment of this Act, the National Council on Disability shall submit the report required under subsection (a) to Congress.

(c) SPECIFIC WILDERNESS ACCESS.—Congress reaffirms that nothing in the Wilderness Act is to be construed as prohibiting use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, but no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

SEC. 508. TRANSVESTITES.

For the purposes of this Act, the term "disabled" or "disability" shall not apply to an individual solely because that individual is a transvestite.

SEC. 509. CONGRESSIONAL INCLUSION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act or of law, the purposes of this Act shall, subject to subsections (b) through (d), apply in their entirety to the Senate, the House of Representatives, and all the instrumentalities of the Congress, or either House thereof.

(b) EMPLOYMENT IN THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) ADMINISTRATION.—

(A) In the administration of this subsection, the remedies and procedures made applicable pursuant to the resolution described in subparagraph (B) shall apply exclusively.

(B) The resolution referred to in subparagraph (A) is House Resolution 15 of the One Hundredth First Congress, as agreed to January 3, 1989, or any other provision that continues to effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(3) EXERCISE OF RULEMAKING POWER.—The provisions of paragraph (2) of this subsection are enacted by the Congress as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) CONGRESSIONAL MATTERS OTHER THAN EMPLOYMENT.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of the Congress regarding matters other than employment.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY ARCHITECT OF THE CAPITOL.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively, after approval in accordance with paragraph (3).

(3) APPROVAL BY CONGRESSIONAL LEADERSHIP.—For purposes of paragraph (2), the Architect of the Capitol shall submit proposed remedies and procedures to the Speaker of the House of Representatives and to an appropriate officer of the Senate, as designated by the Senate. The remedies and procedures shall be effective upon the approval of the Speaker, after consultation with the House Office Building Commission, and the approval of the appropriate officer of the Senate.

(d) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

SEC. 510. ILLEGAL USE OF DRUGS.

(a) IN GENERAL.—For purposes of this Act, the term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as an individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) HEALTH AND OTHER SERVICES.—Notwithstanding subsection (a) and section 511(b)(3), an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) DEFINITION OF ILLEGAL USE OF DRUGS.—

(1) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

SEC. 511. DEFINITIONS.

(a) HOMOSEXUALITY AND BISEXUALITY.—For purposes of the definition of "disability" in section 3(2), homosexuality and bisexuality are not impairments and as such are not disabilities under this Act.

(b) CERTAIN CONDITIONS.—Under this Act, the term "disability" shall not include—

(1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) compulsive gambling, kleptomania, or pyromania; or

(3) psychoactive substance use disorders resulting from current illegal use of drugs.

SEC. 512. AMENDMENTS TO THE REHABILITATION ACT.

(a) DEFINITION OF HANDICAPPED INDIVIDUAL.—Section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) is amended by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following subparagraph:

"(C)(i) For purposes of title V, the term 'individual with handicaps' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

"(ii) Nothing in clause (i) shall be construed to exclude as an individual with handicaps an individual who—

"(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

"(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

"(III) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

"(iii) Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under title I, II and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

"(iv) For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any handicapped student who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against nonhandicapped students. Furthermore, the due process procedures at 34 CFR 104.36 shall not apply to such disciplinary actions.

"(v) For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with handicaps" does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.".

(b) DEFINITION OF ILLEGAL DRUGS.—Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is amended by adding at the end the following new paragraph:

"(22)(A) The term 'drug' means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

"(B) The term 'illegal use of drugs' means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under super-

vision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.".

(c) CONFORMING AMENDMENTS.—Section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B)) is amended—

(1) in the first sentence, by striking "Subject to the second sentence of this subparagraph," and inserting "Subject to subparagraphs (C) and (D),"; and

(2) by striking the second sentence.

SEC. 513. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under this Act.

SEC. 514. SEVERABILITY.

Should any provision in this Act be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of the Act.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate disagree to the House amendment to the Senate amendment and agree to the request for a conference with the House on the disagreeing votes of the two Houses.

The PRESIDING OFFICER. Is there objection? The Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I have no objection.

The PRESIDING OFFICER. With no objection, the request is agreed to.

Mr. HARKIN. Mr. President, I ask unanimous consent that there be a time limitation of 90 minutes, equally divided in the usual form, on Senator HELMS' motion, which he will make shortly, to instruct the conferees on the subject of transferring workers involved in the food service industry, and that no amendments to the motion be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from North Carolina.

MOTION TO INSTRUCT CONFEREES

Mr. HELMS. Mr. President, I send a motion to the desk and ask it be stated in its entirety.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina, Mr. HELMS moves, that the conferees on the part of the Senate be instructed to include in then report the language contained in the amendment by the Congressman from Texas, Mr. CHAPMAN, which reads as follows:

(d) FOOD HANDLING JOBS.—It shall not be a violation of this Act for an employer to refuse to assign or continue to assign any employee with an infectious or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified and for which the employee would sustain no economnic damage.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I yield myself such time as I may require.

Mr. President, when the Americans With Disabilities Act, ADA, was debated in the House of Representatives, that body adopted an excellent amendment offered by the able Representative from Texas [Mr. CHAPMAN]. I think we are all familiar with the text of that amendment.

The Chapman amendment would allow employers to transfer an employee with a communicable or infectious disease out of a food-handling position into another job not involving contact with food.

Under the provisions of the Chapman amendment, this new position given to this employee with an infectious or communicable disease must be one for which the individual is qualified and for which the employee would sustain absolutely no economic damage.

The motion now pending simply instructs the Senate conferees to agree to the amendment offered by Mr. CHAPMAN in the House of Representatives and approved by the House of Representatives.

Why is this amendment justified? The answer is obvious. As the ADA legislation is presently drafted, an employer, like the operator of a small restaurant, could not move an employee out of a food-handling position unless that employee poses a "significant risk to the health and safety of others."

In the instance of AIDS, however, most people contend that the employee would not pose a significant risk to the health and safety of others because AIDS is supposedly not communicable by food or drink or casual contact. That is the present conventional wisdom. But you try to explain that to John Q. Public.

So the ADA bill, in effect, would prohibit an employer from being able even to move an employee with AIDS out of one position and into another one to avoid losing his business.

Mr. President, you may ask why a restaurant owner would desire to move an AIDS patient out of a food-handling position? The answer is simple and obvious. It is a matter of staying in business. The restaurant operator's livelihood depends largely on public perception. If the public is led to perceive that there will be a health risk to those coming into the restaurant and eating the food, rightly or wrongly, that business could be destroyed.

The reality is that many restaurant patrons are alarmed about the spread of AIDS. The issue of AIDS has been hyped up. There has been so much publicity and so much political oratory about the so-called AIDS crisis that it is understandable that the American people are worried about AIDS.

Restaurant patrons are likely to steer clear of any food service establishment having an employee handling food who is known to have AIDS or any other communicable disease. Despite the fact that available evidence indicates that certain diseases, including AIDS, cannot be transmitted in the process of handling food, that evidence is far from persuasive to many people.

How many people would be willing to frequent a restaurant whose chef has AIDS? Like it or not, very few. I can hear the rumors going: "Do not go down to Joe's Cafeteria. The chef has AIDS." What are the customers going to do? They will stay away from Joe's place and go to another restaurant down the street.

Mr. President, there is nothing hypothetical about this problem. A restaurant in Milwaukee, which was once one of the most popular clubs in Milwaukee, lost almost all of its customers after the restaurant's former owner, its manager, and an employee died of AIDS in 1987. The people stayed away from that restaurant in droves.

Employee health insurance rates tripled for another restaurant after two of its even employees were diagnosed with AIDS-related complex. The Inn of the Four Seasons in Eagle, WI, shut its doors last September. The owners testified customers began staying away more than 2 years ago when a false but persistent rumor spread that the owners had AIDS.

Mr. President, the Chapman amendment strikes a sensitive balance. It is fair. It is fair to the employee who has a communicable disease, and it is fair, to the operator of the restaurant. It allows employers in the food service industry to respond to current public health concerns by transferring an employee with AIDS or any other communicable disease to an alternative position with no reduction in pay, thereby avoiding any hint of discrimination against carriers of AIDS or those who have other communicable

diseases, because these employees will be allowed to maintain their jobs and their dignity.

Mr. President, as the calendars of the Labor and Human Resources Committee and the Agriculture Committee attest, this is a time when tremendous emphasis is being placed on the safety of our food supply. Every day there are articles in the press and on television and radio telling us about pesticide residues in our food and what the nutrition content of our food is, and what is good for us and what is not. Every day some Hollywood celebrity comes out of the woodwork to warn us that our health is in peril because our food is not safe.

So let me say once again, that this is an employee and employer protection amendment, equally fair to both, that addresses a very real and very difficult question of equity. If the employer does not have the flexibility to take some reasonable action to remove an employee with a communicable disease from handling food, not only is the business at risk, but also at risk is the employee who obviously will lose his job if the business has to shut down.

Mr. President, the Chapman amendment has the support of business groups representing more than 626,000 members of the food service industry across this land. Let me just read a few of them: The National Restaurant Association, the National Federation of Independent Business, the Food Service and Lodging Institute, the National Association of Convenience Stores, the International Food Service Distributors Association, the National Licensed Beverage Association, and the American Hotel-Motel Association.

Mr. President, I ask unanimous consent that a letter from the National Restaurant Association supporting the Chapman amendment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, May 23, 1990.

CHAPMAN AMENDMENT TO THE ADA CRITICAL TO RESTAURANT INDUSTRY

DEAR SENATOR: Last week, the House passed the Chapman foodhandling amendment to the Americans with Disabilities' Act which is strongly supported by the foodservice industry. Because efforts to strip the amendment may be made on the Senate floor or in conference, we want you to be fully aware of its purpose and ask your support for our position during this final stage of consideration of the ADA.

The original Senate-passed bill would prohibit restaurateurs from transferring an employee out of a foodhandling job, even if the employee has an infectious or communicable disease such as AIDS. While our industry has made, and continues to make, great efforts to assure the public that AIDS is not a foodborne disease, it remains a simple fact that the public is extremely concerned about the safety and quality of the food they eat. Many consumers will refuse to patronize any establishment where it is known that a chef or a waiter has such an illness, putting the continued viability of the business and its employees in serious jeopardy. Unfortunately, there are real-life examples of this very problem.

The Chapman amendment was narrowly drafted to allow employers the flexibility to assign or reassign employees with infectious or communicable diseases, such as AIDS, to non-foodhandling positions. It makes it clear that doing so it is a reasonable accommodation of such disabilities as long as the job is one for which the employee is qualified and for which he or she will suffer no economic damage.

We feel the Chapman amendment strikes a balance for foodservice operators who must respond to current public health concerns while allowing those with infectious and communicable diseases the opportunity to continue their employment and maintain their standard of living.

The Association requests that you oppose any attempt to delete the Chapman amendment in the event the Americans with Disabilities Act bypasses conference and comes to a direct vote on the Senate floor. Similarly, if the bill goes to conference first, we ask that you convey your support to the conferees for retaining the Chapman amendment in the final conference report.

On behalf of the National Restaurant Association and the 626,000 members of the foodservice industry, we thank you for your consideration of this difficult issue.

Sincerely,

MARK GORMAN,
Senior Director, Government Affairs.

Mr. HELMS. I thank the Chair and I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, I yield myself such time as I may consume.

Mr. President, I rise in strong opposition to the motion to instruct conferees proposed by the distinguished Senator from North Carolina.

Let me state at the outset that the motion to instruct strikes right to the heart and soul of the Americans With Disabilities Act. This is not some little motion to instruct that has some kind of a sidebar influence on ADA. This goes right to the central thesis of the Americans With Disabilities Act. The thesis of the Americans With Disabilities Act is simply this: That people with disabilities ought to be judged on the basis of their abilities; they should not be judged nor discriminated against based on unfounded fear, prejudice, ignorance, or mythologies; people ought to be judged based upon the relevant medical evidence and the abilities they have.

This motion to instruct says that someone in the food service industry can transfer an employee who is in a food handling position to, let us say, a janitor position if that person has a contagious disease even if the person poses no threat to anyone else. What we are being asked with this motion to instruct is simply this, to codify fear.

It would be one thing if we passed legislation on which there is no medical evidence or if we passed it in ignorance of the medical evidence. We might excuse that. But to pass legislation or to accept the motion to instruct in spite of the clear and convincing, overwhelming medical evidence that AIDS cannot be transmitted either through air or food is simply to codify ignorance. It is to codify something in spite of all the medical evidence we have.

We are being asked to adopt an amendment that the House passed narrowly, I might add, Mr. President, by 12 votes—very narrowly. Six votes one way or the other would have changed it. But we are being asked to codify this so someone can transfer an employee not on the basis of medical evidence but in spite of all the medical evidence. That is why this goes right to the heart and the soul of the Americans With Disabilities Act. In other words, that person who is food handling could be transferred based on what? Not based upon medical evidence that that individual poses a direct threat to other people but based upon ignorance, based upon fear, based upon mythology. This motion strikes right at the heart of the bill; because we are asking people in this country to judge others not based upon prejudice and fear. This motion is not about public health. What this motion is asking us to do is to codify unfounded fears and ignorance. I think it is beneath this body to do so.

The Americans With Disabilities Act already states, Mr. President, that if a person has a contagious disease and poses a direct threat to others, that person is not a qualified person with a disability under the Americans With Disabilities Act. What the Chapman amendment seeks to do is to strike the words "direct threat to others," that is if a person just simply has a contagious disease but poses no threat to anyone, then that person can be discriminated against.

The Americans With Disabilities Act already ensures that individuals who pose a public health risk to others can be removed from their current position. It covers it quite well. For example, if someone is in food handling and, let us say, had infectious hepatitis, which we know can be transmitted through air or food that person would not be a qualified individual with a disability under the Americans With Disabilities Act. But we know that AIDS cannot be transmitted either by airborne or by foodborne means. That is really what the argument was all about with Ryan White when they did not want him to go to school; they did not want him associating with kids; all these other kids would get AIDS. They did not want him eating in the cafeteria, sharing his food, drinking out of the same glasses, drinking from the

same water fountains. That is what Ryan White's case was all about.

But we showed through the example of that brave young man we should not base our policies on fear. Ryan White went back to school. He ate in the cafeteria. He associated with the kids. He ate out of the same dishes. He drank out of the same water fountains. No one contracted AIDS, because it cannot be transmitted that way.

This motion to instruct, to accept the Chapman amendment in the House, is opposed by every leading health expert in this country.

The American Medical Association, the American Public Health Association, and the American Nurses Association all oppose this amendment. Secretary of HHS, Dr. Louis Sullivan, opposes this amendment. Dr. William Roper, Director of the Centers for Disease Control opposes it. As I said, the American Medical Association, the American Public Health Association, the Leadership Conference on Civil Rights, the National Council of Churches, all oppose this because they recognize it for what it is—an amendment not dealing with public health but an amendment to try to undermine the very essence of the Americans With Disabilities Act.

I know it is going to take some political courage to vote against this motion. As one Member of the other body during the debate over this said, "Imagine the 30-second commercial if I vote against this amendment." Well, President Bush, Secretary Sullivan, Dr. Roper, are taking a political risk, and they are opposing this amendment. I think we can do no less to not base our vote on unfounded fears, prejudice, and ignorance, but to base our votes on what we know is right.

The medical evidence shows that there is not one case of AIDS or HIV ever coming from food handling or from airborne substances. I quote from Dr. Roper's letter.

Mr. President, this is a letter dated May 7, from Dr. William Roper, Director of the Centers for Disease Control.

None of the reported cases of acquired immunodeficiency syndrome (AIDS) in the United States are known or suspected to have been attributable to HIV transmission via casual contact in the workplace.

All epidemiologic and laboratory evidence indicates that bloodborne and sexually-transmitted infections such as HIV are not transmitted during the preparation or serving of food or beverages, and no instances of HIV transmission have been documented in this setting.

Even the National Restaurant Association, in a letter dated May 23, in their letter in support of the Chapman amendment admitted "AIDS is not a foodborne disease." You cannot get much clearer than that. But they want us to adopt it because of public fears.

I submit the public is way ahead of us on this one. The public understands that you do not get AIDS from breathing, shaking hands, or eating out of the same food tray because it cannot be transmitted that way. The public understands that. But should we pass legislation that codifies these misperceptions and fears of others?

I say we have to overcome those fears. We have had the same thing before during the civil rights battles in 1964. The same kind of unfounded public fears we had to overcome. I will not mention the States here because I think we are past that. We do not have to point out any States. But here was one State in which blood banks were required to observe strict racial isolation. Section 1 of the law of the State said:

All human blood to be used in the state of (blank) for transfusion shall be labeled with the word "caucasian," "negroid," or "mongoloid." No human blood not so labeled shall be used.

Talk about fears and prejudices. We have come a long way since that time. We do not do that any longer because the medical evidence showed there is no reason to do that. Just like the medical evidence shows today there is no reason to fear foodborne or airborne transmissions of AIDS.

Mr. President, I hope the Senators will take a close look at this because this is not a minor matter. It is a major effort to undermine what the ADA is all about. As I said, tuberculosis, hepatitis, you may not be qualified because we know those can be transmitted by air or by food. We know the same is not true with AIDS.

Mr. President, there is no one who has a greater respect for the restaurant industry than this Senator. They do a great business in this country. In my State, in every State, they provide entry-level jobs for young people. Certainly there is no one that eats out more than Senators. We all like to go out to eat.

I have a great respect for the restaurant industry. The service they provide to this country, to all classes of our society from the poorest to the wealthiest, and I would not want to do anything to harm the restaurant industry in this country. I believe the restaurant industry will be harmed more by adopting the motion to instruct on the Chapman amendment than by doing what is right, what is courageous, and what is medically proven to be true.

As I said, I think the people of this country are way ahead of us. I think we can do no less than to stand up to this motion to instruct, however well-intentioned it may be, and to say we are not going to undermine the basic principle of this bill; that we will continue to judge people based upon accurate medical evidence, upon their abilities, and not based upon prejudice, fear and igornance.

The restaurant industry and all of us can be in the forefront of this battle to enlighten our people. I believe by this body standing up very bravely, saying no to this motion to instruct, the American people will be behind us. They will be behind us because they know it is the right thing to do. It is the wrong thing to pander the fear and prejudice when we know that medical evidence shows that AIDS cannot be transmitted through food or air.

Mr. President, I hope that Members of this body, the Senate, will overwhelmingly defeat this motion to instruct.

Mr. President, I ask unanimous consent to have printed in the RECORD a number of letters in opposition to the Helms motion.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL COMMISSION ON ACQUIRED IMMUNE SYNDROME,
Washington, DC, May 24, 1990.

Hon. EDWARD M. KENNEDY,
Hon. ORRIN G. HATCH,
Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND HATCH: We are writing to underscore our support for the Americans with Disabilities Act and to reiterate our concern about any amendment reducing its scope of coverage for persons with HIV infection. As you may recall, the National Commission on AIDS issued a statement to that effect at the outset of its work in September, 1989, a copy of which is attached.

As Secretary of HHS, Dr. Louis Sullivan has stated, "Any policy based on fears and misconceptions about HIV will only complicate and confuse disease control efforts without adding any protection to the public health." The amendment concerning food-handlers narrowly adopted by the House only reinforces unwarranted fear and perpetuates the discrimination that the ADA is designed to end. All evidence indicates that bloodborne and sexually transmitted diseases such as HIV are *not* transmitted through food-handling processes. Simply put, this amendment is bad public health policy.

We hope that the conference deliberations can yield a bill that fully protects persons with HIV infection from fear and discrimination, without exceptions.

Sincerely,

DAVID E. ROGERS, M.D.,
Vice-Chairman.
JUNE E. OSBORN, M.D.,
Chairman.

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, May 1, 1990

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As the House of Representatives is preparing to take legislative action on the Americans with Disabilities Act (the Act), I wish to restate my position on the need for anti-discrimination protection for people with AIDS and HIV infec-

tion. There is strong evidence that bloodborne infections such as HIV infection are not spread by casual contact, and there is no medical reason for singling out individuals with AIDS or HIV infection for differential treatment under the Act.

While some have proposed that workers who handle food be treated differently under the Act, evidence indicates that bloodborne and sexually-transmitted infections such as HIV are not transmitted during the preparation or serving of food or beverages. Food services workers infected with HIV need not be restricted from work unless they have other infections or illnesses for which any food service worker should be restricted. Since the Act limits coverage for persons who pose a direct threat to others, relaxing the anti-discrimination protection for food service workers is not needed or justified in terms of the protection of the public health.

Further, I would add that any policy based on fears and misconceptions about HIV will only complicate and confuse disease control efforts without adding any protection to the public health. We need to defeat discrimination rather than to submit to it. The Administration is strongly committed to ensuring that all Americans with disabilities, including HIV infection, are protected from discrimination, and believes that the Americans with Disabilities Act should furnish that protection.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LOUIS W. SULLIVAN, M.D.,
Secretary.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, CENTERS FOR DISEASE CONTROL,
Atlanta, GA, May 7, 1990.

Hon. HENRY A. WAXMAN,
House of Representatives, Washington, DC.

DEAR MR. WAXMAN: Thank you for your letter concerning the transmissibility of human immunodeficiency virus (HIV) in the workplace.

National and international epidemiologic studies have consistently shown that HIV has three main routes of transmission: sexual contact with an infected person, exposure to blood or blood products primarily through needle sharing among intravenous drug users, and perinatal transmission from an infected woman to her fetus or infant. None of the reported cases of acquired immunodeficiency syndrome (AIDS) in the United States are known or suspected to have been attributable to HIV transmission via casual contact in the workplace.

All epidemiologic and laboratory evidence indicates that bloodborne and sexually-transmitted infections such as HIV are not transmitted during the preparation or serving of food or beverages, and no instances of HIV transmission have been documented in this setting. In studies of households where over 400 family members lived with and/or cared for persons with HIV infection and AIDS, no instances of casual transmission have been reported, despite the sharing of kitchen and bathroom facilities, meals, and eating and drinking utensils. If HIV is not transmitted in these settings, where exposures are repeated, prolonged, and involve contact with the body secretions of infected persons, often when HIV infection was unrecognized for months or years, it would be even less likely to occur in other social or workplace settings. The pattern of cases would be much different from what is observed if casual contact resulted in HIV transmission.

The Public Health Service recommends that all food-service workers follow recommended standards and practices of good personal hygiene and food sanitation and avoid injury to the hands when preparing food. Should such an injury occur, workers are advised to discard any food contaminated with blood. Food-service workers known to be infected with HIV need not be restricted from work unless they have evidence of other infections or illnesses for which any food-service worker should also be restricted.

I am enclosing a copy of the *Morbidity and Mortality Weekly Report (MMWR)* of November 15, 1985, that gives recommendations for preventing transmission of HIV in the workplace. Guidelines for food-service workers are on page 7 of the report.

Thank you for the opportunity to provide you with information concerning this public health issue. A similar letter is being sent to Representative Don Edwards.

Sincerely,

WILLIAM L. ROPER, M.D., M.P.H.,
Director.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 24, 1990.

Re The Americans With Disabilities Act.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: You have requested the American Medical Association's views on the House amended version of the Americans with Disabilities Act (ADA) with regard to the provision involving food handlers. As we understand the provision, its inclusion in the ADA would not improve the legislation and the AMA does not support it.

The ADA employment discrimination provision already allows employers to require that an individual with a currrently contagious disease or infection not pose a direct threat to the health or safety of others. The AMA supports this general exception to the prohibition against employment discrimination. When appropriately applied, it will provide protection to the health of co-workers and the public.

In this regard, there is no need for an amendment concerning food handlers. The existing ADA language provides appropriate protection from individuals, including food handlers, with contagious infectious diseases.

Sincerely,

JAMES S. TODD, M.D.

MAY 16, 1990.

DEAR CONFEREE: We, the undersigned representatives of governing bodies within our respective faith groups, urge you to support and pass the Americans With Disabilities Act (ADA). We oppose any amendments which will serve to weaken the present bill. We especially urge you to oppose the "food handler" amendment that will be offered by Representative Jim Chapman.

This amendment fosters the same type of irrational discrimination that the ADA is intended to eliminate. There is no medical reason to bar people with the HIV disease from working as food handlers. All research concludes that the virus cannot be spread through food, handshakes, coughing, sneezing or other daily casual contact. Recently, Dr. William Roper, Director of the Centers for Disease Control, wrote a letter which states clearly that people with AIDS do not pose a risk to others by handling food. The proposed amendment would undermine the education efforts of the federal government and our various faith groups, which are trying to educate the public about how AIDS is contracted and how it is not.

The amendment will have a disproportionate impact on poor and racial/ethnic minority workers who rely on employment in the food service sector to care for themselves and their families. Adoption of this amendment will increase dependency upon federal income support payments and significantly decrease the opportunity for individuals to live independent lives.

The proposed amendment is also directly contrary to the stated position of President Bush. Our President has publicly stated, on more than one occasion, that all people with AIDS should be covered by ADA. Exceptions due to public ignorance are not countenanced by President Bush.

ADA already contains specific language that any worker who poses a direct threat (now defined as significant risk) to others is excluded from coverage in the employment section of the bill. We, as people of faith, cannot endorse this amendment which reinforces precisely the type of irrational discrimination ADA is designed to eliminate. It responds to public misperception and fear by legitimizing that fear through explicit accommodation in the law.

Thank you for considering our views.

Sincerely,

Rev. Ken South, Washington Representative, AIDS National Interfaith Network; Carol B. Franklin, American Baptist Churches, USA; Judith Golub, Legislative Director, American Jewish Committee; Mark J. Pelavin, Washington Representative, American Jewish Congress; Melva B. Jimerson, Acting Director, Church of the Brethren, Washington Office; Sally Timmel, Director, Washington Office, Church Women United; Dr. Kay Dowhower, Director, Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America; Joe Volk, Executive Secretary, Friends Committee on National Legislation.

Joseph R. Hacala, S.J., Jesuit Social Ministries, National Office; Delton Franz, Director, Mennonite Central Committee, Washington Office; Mary Anderson Cooper, Acting Director, Washington Office, National Council of Churches; Joan Bronk, National President, National Council of Jewish Women; Rev. Eleanora Giddings Ivory, Director, Washington Office, Presbyterian Church (USA); Jane Hull Harvey, Director, Department of Human Welfare, General Board of Church & Society, The United Methodist Church; Joyce V. Hamlin, Women's Division, General Board of Global Ministries, The United Methodist Church; Rev. Jay Lintner, Director, Office for Church in Society, United Church of Christ; Father Robert J. Brooks, Washington Office of the Episcopal Church.

UFCW,
Washington, DC, May 24, 1990.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Labor and Human Resources Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the 1.3 million members of the United Food and Commercial Workers International Union, I strongly urge you to reject the Chapman "food handler" amendment included in the House-passed version of the Americans With Disabilities Act during Conference deliberations by the House and Senate. This amendment, which was accepted by the House on May 17, 1990 by just 12 votes, would reinforce the very kind of irrational discrimination that the ADA is designed to eliminate; and it should be rejected.

The UFCW and its local unions have collective bargaining agreements with employers throughout the food industry, including retail sales, meat packing, poultry, fish processing, and other food processing. The vast majority of our members work in the food industry; therefore, this amendment strikes at the heart of our members' economic concerns.

While the Chapman amendment purports to provide alternate employment to employees to protect them from "economic damage," it is so badly overdrawn that a meat packer with Lyme disease could be barred for life from handling food. Significantly, the amendment does not specify that such "infectious or communicable diseases" be food or airborne. Moreover, when cast against the "undue hardship" standard already in the bill, this amendment could result in a termination of employment if the employer simply declares that reassignment to a non-food handling job is "an action requiring significant difficulty or expense" as provided in the bill.

Also, most employers in the industry have a small number of jobs that do not involve food handling. In any event, many employees who work in such positions will not be qualified for alternate work.

Even if no employees suffer economic harm as a result of this discrimination, the Chapman amendment would still send a false and dangerous message that would undermine the efforts of our public health officials to calm unnecessary public fears about AIDS transmission.

According to U.S. Department of Health and Human Services Secretary, Louis W. Sullivan, M.D., "Food services workers infected with HIV need not be restricted from work unless they have other infections or illneses for which any food service worker should be restricted. Since the Act limits coverage for persons who pose a direct threat to others, relaxing the antidiscrimination protection for food service workers is not needed or justified in terms of the protection of the public health."

As President Bush has said, "Every American must learn what AIDS is—and what AIDS is not. . . . You can't get it from food or drink. . . ."

Therefore, we strongly urge you to oppose discrimination and AIDS hysteria by rejecting the Chapman "food handler" amendment during the Americans with Disabilities Act Conference deliberations.

Sincerely,

WILLIE L. BAKER, Jr.,
International Vice President, Director, Public Affairs Department.

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO,
Washington, DC, May 24, 1990.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The American Federation of State, County and Municipal Employees (AFSCME) urges you to oppose in conference an amendent which was added to H.R. 2273, the Americans with Disabilities Act, which would allow employers to deny jobs with food-handling duties to persons with "communicable diseases."

This provision in the House bill has no legitimate purpose and would only serve to weaken this important legislation. It is not needed to deal with the issue of food-borne diseases as the legislation does not cover persons who "pose a direct threat to the health or safety of other individuals." This standard is sufficient to ensure that a person with a food-borne or air-borne disease will not be employed in a food-handling job.

This provision would serve to reinforce the very kind of irrational discrimination that the legislation is designed to eliminate, and it should be defeated.

Sincerely,

JERRY D. KLEPNER,
Director of Legislation.

UFCW, May 24, 1990.

Senator EDWARD M. KENNEDY,
Chairman, Senate Labor and Human Resources Committee, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: I am writing to you on behalf of unionized workers in the food manufacturing industry who may be affected by the "food handler" (Chapman) amandment to the Americans with Disabilities Act. Our union, the UFCW, is the largest union in the food manufacturing industry. We represent several hundred thousand workers employed there.

As you know, this amendment supposedly protects employment opportunity for food handlers by providing that employers "shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified." Practically speaking, I can tell you that there are very few "alternative" jobs in food manufacturing. Those jobs that do not directly involve food handling are maintenance (mechanical) jobs and sanitation jobs. Almost all food handlers would not be qualified to transfer into maintenance/mechanical jobs. Those are jobs which require special skills and training. As you know most food plants must also meet health and sanitation standards. There are special sanitation crews who do this work. It involves cleaning the production areas including each machine used in the production process. An employer who considers an employee to be a risk as a food handler, would certainly not assign that person to work cleaning equipment.

In short, there are few "alternative" jobs for workers who may be considered a risk under this amendment. In my opinion, this amendment does not add to the public health and safety protections that are now enforced through local, state and federal agencies. It may, however, adversely affect the employment opportunities of food workers. For these reasons, I would respectfully request that you oppose this amendment.

Sincerely yours,

NORMAN L. HEARD,
International Vice President Director, Manufacturing and Processing Division.

FOOD & ALLIED SERVICE TRADES,
Washington, DC, May 17, 1990.

By Facsimilie

Hon. STENY HOYER,
Longworth House Office Building, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE HOYER: On behalf of the 3.5 million working men and women associated with the Food and Allied Service Trades Department, AFL-CIO, I am writing to urge you and your colleagues to vote against the Chapman Amendment to the Americans with Disabilities Act (ADA).

This amendment has been designed to allow employers to move an employee with a communicable or infectious disease of a public health significance out of a food handling position.

However the amendment is not necessary—food handlers who pose a risk to others are already excluded from the ADA. But the Chapman amendment would expand allowable discrimination to include workers that do not represent to risk to the public.

The amendment would facilitate the discrimination of workers employed in the food business that may have certain diseases although those maladies may not be communicable via food.

The amendment is clearly an attempt to discriminate against workers with certain disabilities. For these reasons we oppose the inclusion of such an amendment in the ADA. We encourage you to vote against the Chapman amendment.

Sincerely,

ROBERT F. HARBRANT,
President.

UFCW,
Washington, DC, May 24, 1990.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Chairman, Senate Labor and Human Resources Committee, 428 Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: I would like to take this opportunity, as Director of Packinghouse Division for the 1.3-million-member United Food and Commercial Workers International Union, to comment upon the language relative to food handlers that is currently in the House-passed version of the Americans With Disabilities Act.

It should be understood that little, if any, "reasonable accommodation" (as provided for in the House-backed bill) is likely to be made for employees working in food packing and processing. In this regard, it bears noting that there are two areas where employees would not handle food product; these are maintenance and clerical. The former is a highly skilled area that is subject to placement by seniority. Insofar as clerical positions are concerned, most packing house workers would lack the skills necessary to perform these kinds of duties in a plant. Also, the high incidence of cumulative trauma disorder (such as tendonitis and carpal tunnel syndrome) in the packinghouse area means, as a matter of practice, that any "light-duty" jobs (such as clerical)

are already being filled by employees with this disability. Thus, these two options (i.e. maintenance and clerical) are virtually non existent for the average plant worker.

Therefore, I would urge you to oppose inclusion of the "food handler" language in the final version of the Americans With Disabilities Act.

Sincerely,

PHILLIP L. IMMESOTE,
International Vice President,
Director, Packinghouse Divison.

RONALD REAGAN: "WE OWE IT TO RYAN"

We owe it to Ryan to make sure that the fear and ignorance that chased him from his home and his school will be eliminated. We owe it to Ryan to open our hearts and our minds to those with AIDS. We owe it to Ryan to be compassionate, caring and tolerant towards those with AIDS, their families and friends. It's the disease that's frightening, not the people who have it.

Ryan would probably be embarrassed by all the fuss we are making over him. He did not want to be anyone special. He just wanted to go to school, play with his friends and grow up like every other kid in the neighborhood. But it was not to be.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, June 6, 1990.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, SD-428 Dirksen Senate Office Building, Washington, DC,

DEAR SENATOR KENNEDY: On behalf of the AFL-CIO, I would like to express opposition to the motion to instruct Senate conferees on the Americans with Disabilities Act (ADA) with respect to the Chapman foodhandlers amendment adopted in the House of Representatives.

The AFL-CIO opposed the Chapman amendment when it was offered in the House of Representatives. We support the view of Dr. Louis Sullivan, Secretary of the Department of Health and Human Services that the existing ADA language provides sufficient protection for individuals, including food handlers, with contagious diseases. We believe the Chapman amendment has no legitimate purpose, was proposed in response to fears and misperceptions, and should not be included in the final conference report on the Americans with Disabilities Act.

Sincerely yours,

ROBERT M. MCGLOTTEN,
Director, Department of Legislation.

CONSORTIUM FOR CITIZENS WITH DISABILITIES,
June 6, 1990.

DEAR SENATOR: The Consortium for Citizens with Disabilities (CCD) urges you to oppose a motion to instruct on the "foodhandlers amendment" to the Americans with Disabilities Act (ADA). Contrary to the claims of the National Restaurant Association, the foodhandlers amendment wholly contradicts the spirit of the ADA by undermining the protections of the bill and perpetuating needless discrimination.

The foodhandlers amendment is based on irrational fears and misperceptions about people with AIDS and HIV disease. People with disabilities are all to familiar with such prejudicial attitudes because they have been similarly shunned by the same kinds of stereotypes.

For instance, people with mental retardation have often been institutionalized based on numerous misperceptions, including the unfounded fear that this condition is contagious. In the same vein, people with polio, in other generations, were subjected to panic-induced discrimination even though this viral disease has a limited contagion period of two weeks. Because massive misperceptions about the disease persisted, individuals with the disease were isolated and segregated. Even decades after the epidemic, children with polio were separated from other children in schools and adults were denied employment.

Although it's hard to believe today, the fear of epilepsy was once so great that people with this disease were believed to be possessed by the devil and were shut out of schools and the workforce. Even cancer was once thought to be contagious and resulted in discrimination.

The foodhandling amendment reinforces misperceptions about diseases that do not pose a risk to the public. It will send a message to the public that AIDS can be transmitted through food, even though this is not true. This is irresponsible. It undercuts all the public education efforts that have been spear-headed by the government over the last five years to teach people the facts about the disease.

If Members of the Senate have concerns about diseases that do pose a direct threat to the health and safety of the public, they should rest assured that this has already been addressed by the legislation. The Senate-passed version of the ADA (S. 933) already explicitly states that any individual with a contagious disease would not receive protections under the Act if they pose a direct threat to the health and safety of others that cannot be removed by reasonable accommodation. The Senate voted to incorporate this language in the Civil Rights Restoration Act and Fair Housing Amendments Act to allay fears about the contagiousness of the disease.

Proponents of the foodhandlers amendment contend that it is needed because of perceptions that HIV disease can be transmitted through the handling of food, even though they themselves admit that these perceptions are false. The ADA is intended to prohibit employment discrimination based on irrational fears and stereotypical perceptions.

We strongly disagree with the National Restaurant Association's assertion that this amendment is "fully in the spirit" of the Americans With Disabilities Act. Persons with disabilities and their friends and families believe that the spirit of the ADA is to end discrimination based on ignorance and prejudice, not to foster it.

For people with disabilities, including those with HIV disease and AIDS, the ADA offers promise that they will no longer be shunned and isolated because of the ignorance of others. We strongly urge you, on behalf of millions of citizens with disabilities, to oppose any motion to instruct on the foodhandlers amendment. Thank you.

Sincerely,

Affiliated Leadership League of and for the Blind.

Alexander Graham Bell Association for the Deaf.

American Academy of Child and Adolescent Psychiatry.

American Academy of Otolaryngology Head and Neck Surgery.

American Academy of Physical Medicine and Rehabilitation.

American Association for Counseling and Development.

American Association of the Deaf-Blind.

American Association on Mental Retardation.

American Association of University Affiliated Programs.

American Congress of Rehabilitative Medicine.

American Council of the Blind.

American Deafness and Rehabilitation Association.

American Diabetes Foundation.

American Foundation for the Blind.

American Occupational Therapy Association.

American Psychiatric Association.

American Society for Deaf Children.

American Speech-Language-Hearing Association.

Association for the Education and Rehabilitation of the Blind and Visually Impaired.

Association for the Education of Rehabilitation Facility Personnel.

Association for Retarded Citizens of the United States.

Autism Society of America.

Child Welfare League of America.

Chronic Fatigue Syndrome Information Institute, Inc.

Conference of Education Administrators Serving the Deaf.

Council for Exceptional Children.

Convention of American Instructors of the Deaf.

Deafness Research Foundation.

Disabled But Able to Vote.

Disability Focus, Inc.

Disability Rights Education and Defense Fund, Inc.

Epilepsy Foundation of America.

Gallaudet University Almuni Association.

Gazette International Networking Institute.

Goodwill Industries of America, Inc.

International Association of Parents of the Deaf.

International Polio Network.

International Ventilator User Network.

Juvnile Diabetes Foundation.

Learning, How, Inc.

Mental Health Law Project.

National Alliance for the Mentally Ill.

National Association of the Deaf.

National Association of Developmental Disabilities Councils.

National Association of Private Residential Resources.

National Association of Protection and Advocacy Systems.

National Association of Rehabilitation Facilities.

National Association of Rehabilitation Professionals in the Private Sector.

National Association of State Mental Retardation Program Directors.

National Center for Law and the Deaf.

National Coalition for Cancer Survivorship.

National Council on Independent Living.

National Council on Rehabilitation Education.

National Downs Syndrome Congress.

National Easter Seal Society.

National Federation of the Blind.

National Fraternal Society of the Deaf.

National Handicapped Sports and Recreation Association.

National Head Injury Foundation.

National Industries for the Severely Handicapped, Inc.

National Mental Health Association.

National Mental Health Consumers' Association.
National Multiple Sclerosis Society.
National Network of Learning Disabled Adults.
National Organization for Rare Disorders.
National Organization on Disability.
National Ostomy Association.
National Rehabilitation Association.
National Spinal Cord Injury Association.
Paralyzed Veterans of America.
People First International.
Self-Help for Hard of Hearing People, Inc.
Spina Bifida Association of America.
The Association for Persons with Severe Handicaps.
Tourette Syndrome Association.
United Cerebral Palsy Associations, Inc.
World Institute on Disability.

DEPARTMENT OF SOCIAL DEVELOPMENT AND WORLD PEACE,
Washington, DC, June 5, 1990.

Hon. EDWARD KENNEDY,
Chair, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The U.S. Catholic Conference, the public policy arm of the nation's Roman Catholic bishops, urges you to oppose Senate approval of the Chapman amendment adopted by the House of Representatives to the Americans with Disabilities Act (ADA). As you know the bishops' conference strongly supported the ADA bill when it was considered by the Senate because of the urgent need to help disabled people, including those suffering from HIV infection, to participate fully in our society.

The Chapman amendment should be resisted by the Senate for two reasons: first, it is unnecessary; and second, such an amendment would set a pernicious precedent that could undermine the principles embodied in the civil rights protections of this nation.

The Chapman amendment is unnecessary because the ADA bill already includes provisions to cover situations in which employees with communicable diseases could pose a health threat to others. Clearly, the ADA would not require restaurants to employ food handlers whose contagious illnesses could be transmitted through preparing or serving food.

The amendment is also dangerous because it would codify the idea that employers may discriminate against disabled people solely on the basis of the ignorance and prejudice of others. Proponents of this amendment have argued that, while there is no evidence that HIV infection can be transmitted through food handling, that food establishments must be free to cater to the fears and misunderstanding of some of their customers. Federal law, especially precedent setting civil rights laws should be based on higher principles and higher goals for our people.

Sincerely,

SHARON M. DALY.

AMERICAN BAR ASSOCIATION,
Washington, DC, June 6, 1990.

DEAR SENATOR: We understand that the Senate will be asked to vote on a motion to instruct conferees to accept a House-originated amendment (known as the Chapman Amendment) to the Americans with Disabilities Act which would allow employers to transfer employees with contagious diseases out of food-handling jobs.

The American Bar Association vehemently opposes this discriminatory and unnecessary amendment. The Act as passed by the Senate already provides that its antidiscriminatory protections would not apply to workers whose contagious diseases pose a direct threat to the health or safety of others. The Chapman Amendment therefore is totally unnecessary.

Even more disturbing, the amendment does not differentiate between employees with contagious diseases that can be spread through casual contact with food products and other employees with contagious diseases, like HIV infection, which medical science has determined cannot be spread by casual contact.

The Chapman Amendment perpetuates discrimination against disabled individuals and undermines the very purpose of the Americans with Disabilities Act. The American Bar Association therefore urges you to vote against the motion to instruct conferees to accept the Chapman Amendment.

Sincerely,

ROBERT D. EVANS.

REMARKS BY PRESIDENT BUSH TO BUSINESS LEADERSHIP, MARCH 29, 1990

Our goal is to turn irrational fear into rational acts. Every American must learn what AIDS is, and what AIDS is not. The HIV virus is not spread by handshakes or hugs. You can't get it from food or drink, coughing, sneezing, or by sharing bathrooms or conversations.

I call on the Congress to get on with the job of passing a law—as embodied in the Americans with Disabilities Act—that prohibits discrimination against those with HIV and AIDS. We're in a fight against a disease—not a fight against people. And we won't tolerate discrimination.

RONALD REAGAN: "WE OWE IT TO RYAN"

All of us knew that one day there would be a gathering to say goodbye to Ryan White. We did not know exactly when, and we hoped against hope that maybe somehow the day would not come. But it has come, and today we do not mourn a death as much as we celebrate a life.

Ryan would probably be embarrassed by all the fuss we are making over him. He did not want to be anyone special. He just wanted to go to school, play with his friends and grow up like every other kid in the neighborhood. But it was not to be.

For reasons which we may never fully understand, Ryan's life was set on a course that no one could predict and which we could do so precious little to affect. How Nancy and I wish there had been a magic wand we could have waved to make it all go away. Ryan White touched our lives in a special way. His ready smile, his youthful innocence, his simple desire to just live his life tugged at our hearts in a way we will always remember. How we wanted to hug him and make him better.

Ryan accepted his situation with awe-inspiring courage and magnanimity. He did not run and hide, and he graciously accepted the public responsibilities thrust on his young shoulders. He was patient and kind and did not wallow in self-pity. Cruelly robbed of the simple pleasures of his childhood, he had a dignity and strength that were an inspiration to everyone who knew of him. Nancy and I had the privilege of being with Ryan a few days ago in California. He was not feeling well, but he carried on with a smile and with determination. He never gave up hope, and he even spoke of going to college. He just wanted to be like the other kids.

God had a different plan for Ryan White—a plan which we do not understand now but one which I believe with all my heart will one day make sense.

Sadly, Ryan's is not the only life to have been cut short by AIDS. In a most poignant way, he told us of a health crisis in our country that has claimed too many victims. There have been too many funerals like his. There are too many patches in the quilt.

We owe it to Ryan to make sure that the fear and ignorance that chased him from his home and his school will be eliminated. We owe it to Ryan to open our hearts and our minds to those with AIDS. We owe it to Ryan to be compassionate, caring and tolerant toward those with AIDS, their families and friends. It's the disease that's frightening, not the people who have it.

There is a tendency to measure a life by its length. But a life should be measured not by the number of years but by what happens in that life and by those whom that life touched. Our lives are better for having known Ryan White. He taught us how to live, and he taught us how to die. He will live on in our hearts forever. Ryan has gone to a better place, where there is no pain or suffering. He is safe now in the arms of God.

Ryan, my dear young friend, we will see you again.

JUNE 5, 1990.

DEAR SENATORS HATCH AND KENNEDY: Although nothing can bring back Ryan, I would like to express by gratitude to you for the Senate's overwhelming endorsement of the recent C.A.R.E. bill, dedicated to my son. It is my dearest hope that Ryan will be remembered as an ordinary boy who bravely faced a devastating disease—and in doing helped educate America about AIDS.

Ryan's message was simple: it is safe to live, or work, or study with someone with AIDS.

Yet Ryan's message has yet to be fully understood. I am tremendously disturbed by the amendment to the Americans with Disabilities Act (ADA) which was approved by the House.

People who work with food and have HIV don't pose a threat to anybody. This bad amendment would allow discrimination against these workers simply because people are afraid.

I know a lot about irrational fear and I know how much it can hurt. Ryan had to bravely struggle against exactly this kind of fear simply to go to school.If discrimination against people who work in restaurants is acceptable, then why not school children?

Both President Reagan and Bush have supported this law to ban to discrimination against people with AIDS. It's what Ryan's struggle was all about.

I implore you to defeat this bad amendment.

Yours truly,

JEANNE WHITE.

DEDICATION

S. 2240 is dedicated by the Senate Labor and Human Resources Committee to the memory of Ryan White who died on April 8, 1990 after a six year battle against AIDS.

Beginning at the age of 13, Ryan valiantly fought not only the human immunodeficiency virus itself but also fears about AIDS that were based on ignorance and senseless discrimination against people with AIDS and HIV disease. With dignity, patience and almost unvarying good cheer, Ryan White introduced to people across America and across the world a face of AIDS that caring

human beings could not turn their back upon. First through his courageous fight to be allowed to go to school with his peers, then through his tireless efforts to educate and explain the realities of his illness, young Ryan White changed our world. By dedicating this legislation to Ryan, the Committee affirms its commitment to provide care, compassion and understanding to people with AIDS everywhere. Ryan would have expected no less.

In memory of Ryan White, and the 70,000 Americans who have lost their lives to AIDS. And with the hope for all people living with AIDS.

Mr. HARKIN. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

Mr. HARKIN. I yield such time as he may consume to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I hope the Members have listened to the eloquent words of the Senator from Iowa, who is the principal sponsor of this legislation, about what is actually in this bill and what we are being faced with on the floor of the U.S. Senate this afternoon.

Incorporated within the legislation are carefully crafted provisions to protect the public health and the safety of all Americans based upon sound scientific and medical evidence. We had an opportunity to review this issue in very careful detail when we debated this legislation a number of months ago. We went over the issues of substance abuse and alcoholism that were brought out during the course of the debate.

We reviewed very carefully the provisions that were included in this legislation to ensure that the public health and safety are protected. That issue has been well summarized by the Senator from Iowa. The Centers for Disease Control and the best in terms of scientific research will be used in order to protect the public health from any direct threat in any form or shape. That has been debated and discussed in the House, as well as here.

Mr. President, we are faced with a situation that is kind of interesting, that just about 2 weeks ago we debated the AIDS care legislation, the Ryan White legislation, adopted overwhelmingly, nearly unanimous, and it was one of the concluding measures that this Senate debated. Many of our colleagues got up and said, "Ryan White has brought a new spirit and climate to the debate and discussion on AIDS." We are now beyond the time of fears and misrepresentations. We have moved to a time when we are going to consider the issue of AIDS as a public health issue and treat it as such.

It seems that that legislation has hardly been incorporated and passed out of here when we now have those that would put it back and appeal to the darker side of this debate. There has not been suggested or alleged either by the Senator from North Carolina, or Mr. CHAPMAN of the House, or the National Restaurant Association, that there is a real public health threat to the American public now in existence. As a matter of fact, Mr. CHAPMAN himself when he had introduced his own amendment said, "let me hasten to add that I am not here to say that there is any evidence that AIDS can be transferred in the process of handling food." Mr. CHAPMAN admits that on his own. He expands on that particular point.

What basically, Mr. President, we are saying out here is, if Ryan White was still alive and he wanted to go and work in a Burger King, this amendment would say no. If Ryan White were alive and he wanted to go down to McDonald's posing no medical or scientific threat, this amendment would say no. If Ryan White happened to be a flight attendant in a plane flying across the country, this amendment would say no. If Ryan White was working in a supermarket trying to put together enough money for a colleage education, this amendment would say no.

What has happened in the course of this debate, Mr. President? It was not long ago when we were first debating the issues of cancer in our society, and we had similar kinds of suggestions. Someone has cancer; therefore, do not let them in that restraurant, whether they have cancer, or some other kind of disease. And the Senator from Iowa pointed out that it was not that long ago when a person of one race could not get a blood transfusion from a person of another race.

Fear, suspicion, hostility, those were the forces out there. Thankfully, Mr. President, we have moved beyond that, in terms of public health policy. I thought not long ago that we had moved beyond that when we had the debate on the AIDS care legislation, only a few weeks ago. But evidently, we have not.

Here is the National Restaurant Association, principal supporters for this legislation, in their June 4 publication.

The way the bill is presently drafted, an employer could only move an employee out of food handling positions if that employee posed a significant risk to the health and safety of others. In the case of AIDS, an employee would not pose a risk to the health and safety of others because you cannot get AIDS from food or drink or casual contact.

They go on.

Why is it necessary? The restauranteur's livelihood depends on public perception, if the public perceives a health risk, rightly or wrongly.

I was here when we debated the same issue as it applied to race. Let the blacks into that restaurant, and no none will go in there. If you let blacks in to cook the food, no white person will go in there. And we, fortunately, have moved beyond that time. We have moved beyond that dark time. Nonetheless, we are being asked now to go back.

The National Restaurant Association indicates in their own publication that there is no threat. Interestingly, Mr. CHAPMAN himself indicated there was no evidence or direct medical threat, and basically has called upon the darker side and the darker shadows of our nature, being asked to accept this instruction.

Mr. President, I hope that the membership would reject this particular amendment. First of all, I hope they will reject it because it appeals to the darker side of the nature of the human spirit, in terms of giving a Federal sanction to this kind of discriminatory policy. That is what we are being asked to do, to write into Federal law what we know has no basis in medical or scientific fast. But they are asking us to incorporate this irrational concept into this legislation. We should not do that.

Mr. Presient, I hope that the Members will be persuaded of the merit of our position because of the basic policy considerations that have been discussed by the Senator from Iowa and myself. But if they are not persuaded by that, I hope they will give some thought to the extraordinarily eloquent statements that we made some months ago by the distinguished chairman of the Appropriations Committee, the former majority leader, Senator BYRD, one of the finest Senate historians in over 200 years of Senate history. He is someone whom all of us on both sides of the aisle respect for his devotion to this institution.

In what I considered to be one of the most extraordinary addresses in this body, he pointed out the different institutional considerations on instructions to conferees between the House and the Senate. When the House of Representative considers legislation, the Rules Committee establishes the amendments that will be in order and the time for debate that will be permitted. Because of those kinds of restrictions, the House of Representatives has adopted the practice of instructing conferees on particular matters that may or may not have been at issue during the course of the debate on the legislation itself.

Then Senator BYRD went on and pointed out that this institution is an institution of unlimited debate, which makes it so unique and so special. But he also pointed out that there is a timeliness in terms of the unlimited debate. Applying his logic to this issue, the Senate we debated the Americans With Disabilities Act completely several months ago. Are we now going to go

back, and through the process of instructing conferees, redebate every single area of public policy, after it has already been resolved once before here in the U.S. Senate? If this institution were to accept that as a precedent, we undermine both the intention of our Founding Fathers and also the effectiveness of this institution to deal with public policy.

So I hope that the Members who are not convinced of the sound medical policy reasons we have tried to address will also consider the institutional reasons for opposing this unusual procedure. I hope they will keep in mind the very cogent and accurate statement of the distinguished Senator from West Virginia with respect to instructions to conferees and reject this proposal, for the reasons that he so eloquently stated.

Mr. President, I reserve the remainder of my time.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Iowa has 18 minutes and 50 seconds; the Senator from North Carolina has 34 minutes and 42 seconds.

Mr. HARKIN. Mr. President, if no one yields time, does time run?

The PRESIDING OFFICER. If no one yields time, the time will be running and charged against each side.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. HARKIN. I yield.

Mr. KENNEDY. Mr. President, as I understand—and the Senator might mention that—those who are supporting the position of the Senator from Iowa represent the administration's principal health and science advisers. Dr. Roper, who is former head of the Domestic Policy Council and is now head of Centers for Disease Control, supports what is currently in the legislation and opposes this amendment, Dr. Mason and Dr. Sullivan, support the ADA as currently written. Virtually all of the various scientific, medical, public health, disability, religious, and labor organizations are in support of the important language which has been incorporated in the legislation which provides for the public health protection of our fellow citizens while at the same time providing protection against discrimination for people with disabilities, including people with HIV infection, and AIDS.

Am I correct?

Mr. HARKIN. The Senator from Massachusetts is absolutely correct.

I shall read a quote from President Bush and the administration. I am not known as one of the most loyal supporters of President Bush on many issues, but on this issue, he has been right on the mark. He and Dr. Sullivan, Dr. Roper, everyone in this administration have been right on the mark on this issue. I support him every step of the way.

President Bush has assumed the leadership role in fighting fear and prejudices of people with AIDS. A few weeks ago he restated the long-held position, and I quote from President Bush.

> Today, I call on the House of Representatives to get on with the job of passing a law—as embodied in the American with Disabilities Act—that prohibits discrimination agaist those with HIV and AIDS. We're in a fight against a disease—not a fight against people. And we won't tolerate discrimination.

Dr. Sullivan, the Secretary of Health, has stated his strong opposition to this amendment, and I quote:

> Since the act limits coverage for persons who pose a direct threat to others, relaxing the anti-discrimination protection for food service workers is not needed or justified in terms of the protection of the public health.
>
> Further, I would add that any policy based on fears and misconceptions about HIV will only complicate and confuse disease control efforts without adding any protection to the public health. We need to defeat discrimination, not submit to it.

The Senator from Massachusetts is absolutely right. I read earlier into the RECORD the statement by Dr. Roper, the head of the Centers for Disease Control.

Mr. President, of all the industries in this country, restaurants have been in the lead in hiring people with disabilities. They should be commended for that, and I have commended them on numerous occasions.

I believe on this issue the rank and file of people in the restaurant industry understand, just as the letter from the National Restaurant Association stated, one cannot get AIDS through food: it is not a foodborne disease. They know that. I believe what they are looking to us for is leadership, to take the lead, forcefully, and to say to the American people we are not going to base our laws on fear and misconceptions.

I believe you will find the restaurant industry, as it has in the past, in the leadership, in the forefront of fighting against discrimination against people with disabilities.

Mr. President, as I said before this really goes to the heart of the bill. Senator KENNEDY said it very eloquently when he talked about Ryan White, and he is right. If Ryan White were alive today and wanted to go down to work at the local Burger King and we adopt this amendment, he could not do it, or he could not work in a grocery store, could not handle food anywhere.

We have to overcome these fears, prejudicies, and ignorances.

Mr. President, it has been a long, hard road for the American with Disabilities Act. The distinguished chairman of our committee, Senator KENNEDY, has led this battle for years. For those of us who have been fighting for the last couple of years to get this bill through and get it down at the President's desk, it has been a long, tough road. But that is nothing compared to the long, tough road the people with disabilities in this country have had to fight to get to this point, where we are on the brink of passing I believe the most significant civil rights bill ever—to ban discrimination against people with disabilities.

It has for them been an excruciatingly long road, and that is why the Consortium for Citizens with Disabilities has written a letter about this amendment. This is a consortium of 78 different groups, everything from the Affiliated Leadership League of and for the Blind; American Council of the Blind; the Association of Retarded Citizens of United States; the Autism Society of America; the National Alliance for the Mentally Ill; National Easter Seal Society; and on and on; 78 different groups representing disabled Americans have written a letter strongly opposing the Chapman amendment and this motion to instruct.

Let me read several paragraphs:

> The foodhandlers amendment is based on irrational fears and misperceptions about people with AIDS and HIV disease. People with disabilities are all too familiar with such prejudicial attitudes because they have been similarly shunned by the same kinds of stereotypes.
>
> For instance, people with mental retardation have often been institutionalized based on numerous misperceptions, including the unfounded fear that this condition is contagious. In the same vein, people with polio, in other generations, were subjected to panic-induced discrimination even though this viral disease has a limited contagion period of two weeks. Because massive misperceptions about the disease persisted, individual with the disease were isolated and segregated. Even decades after the epidemic, children with polio were separated from other children in schools and adults were denied employment.
>
> Although it's hard to believe today, the fear of epilepsy was once so great that people with this disease were believed to be possessed by the devil and were shut out of schools and the workforce. Even cancer was once thought to be contagious and resulted in discrimination.
>
> The foodhandling amendment reinforces misperceptions about diseases that do not pose a risk to the public. It will send a message to the public that AIDS can be transmitted through food, even though this is not true. This is irresponsible. It undercuts all the public education efforts that have been spear-headed by the government over the last five years to teach people the facts about the disease.
>
> Persons with disabilities and their friends and families believe that the spirit of the ADA is to end discrimination based on ignorance and prejudice, not to foster it.
>
> For people with disabilities, including those with HIV disease and AIDS, the ADA

offers promise that they will no longer be shunned and isolated because of the ignorance of others. We strongly urge you, on behalf of millions of citizens with disabilities, to oppose any motion to instruct on the foodhandlers amendment.

I think, Mr. President, that says it all.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. HARKIN. I am delighted to yield to my distinguished colleague.

Mr. CRANSTON. I would like to have an opportunity to have 4 minutes, if I may.

Mr. HARKIN. I yield 4 minutes to the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I thank Senator HARKIN very much and applaud the position he has taken on this amendment.

I strongly, like Senator HARKIN, oppose the pending motion.

It sets us back in our fight against ignorance, it slows our fight against discrimination, and it undercuts our fight against AIDS.

Less than a month ago, the Senate passed—95 to 4—an AIDS care bill dedicated to the memory of Ryan White. Ryan's valiant fight against AIDS and discrimination touched our hearts. Although Ryan did not ultimately triumph over AIDS, he triumphed over fear and ignorance. He left the Nation in his debt.

Today we vote whether or not to turn Ryan White's legacy on its head. This motion asks us to legalize, in the food industry, discrimination against people with AIDS. With literally no evidence of a threat to the public health, and with legions of public health experts in opposition, we have before us a motion to adopt an amendment suggesting that AIDS is a foodborne disease and which says that people with AIDS may be isolated from the preparation of food.

If Ryan White were alive today, this amendment could prevent him from being a waiter, from serving food as an airline steward, or from handling food as a clerk in a supermarket.

And why? Because of ignorance, prejudice, and fear.

Where is the medical evidence to support the notion that AIDS is spread through the handling of food?

In fact, AIDS is not a foodborne disease. Both the Secretary of Health and Human Services and the Director of the Centers for Disease Control have said that people with AIDS do not pose a threat to health or safety in food handling positions. Both Dr. Sullivan and Dr. Roper oppose the House amendment that is the subject of all this.

Also opposing the amendment are the American Medical Association, the American Public Health Association, the American Nurses Association, and the National Commission on AIDS, among a good many others who are professionals.

Where is the evidence, I ask, that restaurants are suffering a public backlash over employment practices that are nondiscriminatory? Where is the evidence that additional legal protections are warranted? In fact, the Americans With Disabilities Act, as passed by both Houses, already excludes from coverage an individual with a contagious disease who poses any sort of a direct threat to the health or safety of others, a threat which cannot be eliminated by a reasonable accommodation.

In other words, we have already done what needs to be done to protect the public where a health threat actually exists.

Where is the evidence, I also ask, that this amendment would reduce either the real threat or any perceived threat of AIDS? In fact, this amendment perpetuates a fear of people with AIDS, a fear of people who have AIDS, that is not supported by the facts and should not be supported by the law. In its justification the author of the House amendment said, "There is a perceived risk from AIDS."

Exactly, Mr. President; that is why this amendment is so dangerous. It does not deal with facts; it just deals with perceptions, and it encourages perceptions that fly in the of facts. That is not the way to legislate, I submit, especially on a bill that is about nothing if it is not about easing prejudice and fear.

I ask for the evidence to support a need for this amendment, but I know I will not get it today; I know the Senate will not get it today because, Mr. President, there is no such evidence.

What drives this amendment is not medical fact, not sound health policy, but superstition and fear and election year politics. The Senate should strike a blow for reason and truth and reject this shameful motion.

Mr. HARKIN. Mr. President, how much time is remaining?

The PRESIDING OFFICER (Mr. KOHL). The Senator from Iowa has 5 minutes; the Senator from North Carolina has 34 minutes.

Mr. HARKIN. Mr. President, I understand Senator ARMSTRONG is on his way over. I ask that any remaining time that runs be charged to the Senator from North Carolina.

The PRESIDING OFFICER. The Chair hears no objection. Without objection, it is so ordered.

The Chair recognizes the Senator from Colorado [Mr. ARMSTRONG].

Mr. ARMSTRONG. Mr. President, I would like to speak very briefly on the pending motion and I ask any time I consume be charged against the time under the control of the Senator from North Carolina [Mr. HELMS].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. I think the Senator from North Carolina [Mr. HELMS] is really doing us a service by offering this motion to instruct.

As I understand it, the House adopted the so-called Chapman amendment which allows restaurant operators the right to refuse to assign an employee with a communicable disease of public health significance to a job involving food handling. This is a matter of some interest to me for a couple of reasons, first because I think the spirit and in fact the letter of the amendment is absolutely right; I think it is good public policy.

I have a special interest in it, however, because it is similar to an amendment which I once offered when an issue related to this was being considered on the floor of the Senate. I am glad the House has done this because the reality is people who have communicable diseases should not be working at the salad bar. They just should not.

The very purpose and intent of the legislation is to protect people who have disabilities, and that is proper. But we should not protect those who have some kind of a disability at the cost of putting other persons at risk. For the same reason, we would not carry this law to the extent of saying that a person who was handicapped with a visual impairment or a hearing impairment should, nonetheless, be employed as an airline pilot, for example. It just does not make sense.

I think the general public is well aware of that and in exactly the same degree and for precisely the same reason I find it quite astounding, in fact I find it a source of alarm and concern that somebody would argue that those who have a communicable disease, tuberculosis, whatever it might be, should be employed in a sensitive occupation where their disease in fact poses a real or potential threat to the general public.

There are lots of jobs that such persons can have which do not raise that issue, and the suggestion of the Helms amendment, as I understand it, is to simply direct our conferees to accept the amendment which was adopted yesterday by the House of Representatives.

I think that is a very wise idea. I endorse it. I commend Senator HELMS for coming forward with it, and I hope it will be resoundingly adopted.

Mr. President, I do not see anyone else seeking recognition. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I rise today to oppose the motion to instruct the conferees to accept the Chapman amendment to the Americans With Disabilities Act. The issue before us today is a very difficult and sensitive one. And I have spent a lot of time reviewing both sides.

As one who has spent a considerable amount of time here in this body studying and debating health policy, I have to look at this issue as it pertains to what is in the best interest of public health policy.

From a public health perspective, I must conclude that this motion does severe damage to health policy and this country's efforts to educate people about what is needed and what can be done to prevent the spread of HIV and AIDS.

This amendment overrides all medical knowledge about the spread of AIDS.

The facts, supported by the best public health leaders in this country, and I will not take the time to repeat the statements here, tell us AIDS cannot be spread by casual contact.

These are the medical facts. And even the supporters of the amendment will agree with them.

By voting for a motion to instruct the conferees to accept this amendment we are in essence saying that Congress should make laws not on fact but on fear.

This amendment hurts the public health policy of this country. Secretary Sullivan states it this way,

Any policy based on fears and misconceptions about HIV will only complicate and confuse disease control efforts without adding any protection to the public health.

AIDS is a frightful and serious epidemic. But it is not unlike many other previously feared unknown diseases. Ten or fifteen years ago it was cancer. People shied away from those with cancer because they thought they could catch it. Medical facts and public education of those facts eliminated those fears.

Before that there was a fear of blood tranfusions—that a black person's blood was not transferable to a white person's blood. These, Mr. President, are fears of the unknown, fears based on delusion. And the only way these fears have been laid to rest have been through education of the facts. And that Mr. President is the only way we can eliminate the fears and misconceptions about AIDS.

We spend $360 million each year trying to educate people about the facts on AIDS. President Bush in his fiscal year 1991 budget request has increased this figure to $421 million. It seems extremely ironic that we deliberately, through his amendment, endorse an effort that will at the very least confuse our efforts to protect the public health and safety of all Americans.

Mr. President, let's put aside scare tactics and legislate solely on the basis of the best evidence and advice our scientific and public health experts have given us. I urge my colleague to vote against the motion to instruct.

Mr. President, I ask unanimous consent that the text of the Sullivan and Roper letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follow:

CENTERS FOR DISEASE CONTROL,
Atlanta, GA, May 7, 1990.

Hon. HENRY A. WAXMAN,
House of Representatives, Washington, DC.

DEAR MR. WAXMAN: Thank you for your letter concerning the transmissibility of human immunodeficiency virus (HIV) in the workplace.

National and international epidemiologic studies have consistently shown that HIV has three main routes of transmission: sexual contact with an infected person, exposure to blood or blood products primarily through needle sharing among intravenous drug users, and perinatal transmission from an infected woman to her fetus or infant. None of the reported cases of acquired immunodeficiency syndrome (AIDS) in the United States are known or suspected to have been attributable to HIV transmission via casual contact in the workplace.

All epidemiologic and laboratory evidence indicates that bloodborne and sexually-transmitted infections such as HIV are not transmitted during the preparation or serving of food or beverages, and no instances of HIV transmission have been documented in this setting. In studies of households where over 400 family members lived with and/or cared for persons with HIV infection and AIDS, no instances of casual transmission have been reported, despite the sharing of kitchen and bathroom facilities, meals, and eating and drinking utensils. If HIV is not transmitted in these settings, where exposures are repeated, prolonged, and involve contact with the body secretions of infected persons, often when HIV infection was unrecognized for months or years, it would be even less likely to occur in other social or workplace settings. The pattern of cases would be much different from what is observed if casual contact resulted in HIV transmission.

The Public Health Service recommends that all food-service workers follow recommended standards and practices of good personal hygiene and food sanitation and avoid injury to the hands when preparing food. Should such an injury occur, workers are advised to discard any food contaminated with blood. Food-service workers known to be infected with HIV need not be restricted from work unless they have evidence of other infections or illnesses for which any food-service worker whould also be restricted.

I am enclosing a copy of the "Morbidity and Mortality Weekly Report" (*MMWR*) of November 15, 1985, that gives recommendations for preventing transmission of HIV in the workplace. Guidelines for food-service workers are on page 7 of the report.

Thank you for the opportunity to provide you with information concerning this public health issue. A similar letter is being sent to Representative Don Edwards.

Sincerely,

WILLIAM L. ROPER, M.D., M.P.H.,
Director.

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, May 1, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As the House of Representatives is preparing to take legislative action on the Americans with Disabilities Act (the Act), I wish to restate my position on the need for anti-discrimination protection for people with AIDS and HIV infection. There is strong evidence that bloodborne infections such as HIV infection are not spread by casual contact, and there is no medical reason for singling out individuals with AIDS or HIV infection for differential treatment under the Act.

While some have proposed that workers who handle food be treated differently under the Act, evidence indicates that bloodborne and sexually-transmitted infections such as HIV are not transmitted during the preparation or serving of food or beverages. Food services workers infected with HIV need not be restricted from work unless they have other infections or illnesses for which any food service worker should be restricted. Since the Act limits coverage for persons who pose a direct threat to others, relaxing the anti-discrimination protection for food service workers is not needed or justified in terms of the protection of the public health.

Further, I would add that any policy based on fears and misconceptions about HIV will only complicate and confuse disease control efforts without adding any protection to the public health. We need to defeat discrimination rather than to submit to it. The Administration is strongly committed to ensuring that all Americans with disabilities, including HIV infection, are protected from discriminaton, and believes that the Americans with Disabilities Act should furnish that protection.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LOUIS W. SULLIVAN, M.D.,
Secretary.

LEGISLATIVE LINE-ITEM VETO

Mr. MACK. Mr. President, with a potential Gramm-Rudman-Hollings sequester of over $60 billion facing Congress this year, we are clearly justified in looking for new ways to curb excessive Federal spending. One of the best ways to cut down on excessive government spending, particularly wasteful spending, is to give the President the power of the line-item veto.

Too often, low priority spending and even waste is included in important appropriations bills. This tends to tie the President's hands, leaving him with a take-it-or-leave-it decision on the entire bill. It also tends to obscure such spending in a shuffle of uncount-

ed billions. The line item veto will bring this wasteful spending to light and help the American taxpayer to more closely scrutinize items determined by the President to be wasteful.

According to surveys, the vast majority of the American people support granting the President line-item veto authority. This important deficit reduction tool needs to be enacted now. I urge my colleagues to support this vital effort.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, and the time be charged against the Senator from North Carolina, at this time.

As I understand, it is agreeable to the Senator from Iowa when the time becomes equal, it be charged equally.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I ask for 2 minutes from the floor manager.

Mr. HARKIN. I yield 2 minutes to the distinguished Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise in opposition to the motion to instruct conferees on the food-handler amendment to the Americans With Disabilities Act [ADA].

This amendment is unnecessary and harmful. The Americans With Disabilities Act already protects the public health as it does not cover persons who "pose a direct threat to the health or safety of other individuals." A food handler with typhoid fever or hepatitis could be fired under the version of the ADA passed overwhelmingly by the Senate.

The vote in the House to include this amendment to reduce coverage under the act for individuals with infectious or communicable diseases working in food handling positions was very close—198 to 187. The Senate should not foster public misperceptions and fears about AIDS and HIV. AIDS is not a foodborne illness. The U.S. Department of Health and Human Services and its Centers for Disease Control have stated that persons with AIDS do not pose a threat in food-handling positions.

This amendment is not in keeping with the intent of ADA, that is, to combat discrimination based on ignorance and fear. Rather, it reinforces unfounded public fears, and it is counterproductive in controlling the spread of HIV.

Mr. President, this amendment would adversely affect many workers in the State of Hawaii. Tourism is the largest industry in my State.

A large portion of the 36,700 hotel service workers, as well as the 49,000 restaurant employees, would be adversely affected. In addition, there are over 10,300 workers in the food-processing industry in Hawaii. If this amendment is agreed to, these workers will be less likely to volunteer for AIDS testing for fear of reprisals by their employers.

Mr. President, I urge my colleagues to uphold the goals of the ADA and to defeat the motion to instruct.

I yield back the remainder of my time.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum again with the request that the time run against the Senator from North Carolina until such times are equal on both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that time on this amendment run to 1:45, again, the additional time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, might I inquire, then, with that provision, how much time exists on both sides.

The PRESIDING OFFICER. Each side would have 10 minutes.

Mr. HARKIN. How much time remains to the Senator from Iowa?

The PRESIDING OFFICER. Under the order, as the Chair understood, the time between now and 1:45 is equally divided between the two sides. That is 20 minutes.

Mr. HARKIN. So there is 10 minutes on each side right now?

The PRESIDING OFFICER. There are 20 minutes remaining until 1:45.

Mr. HARKIN. Evenly divided.

I suggest the absence of a quorum then with time to run equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. HARKIN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when all time is used or is yielded back on the Helms motion, but not earlier than 1:45 p.m. today, the Senate then proceed to vote on or in relation to the Helmns motion without any intervening action today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that it be in order now for Senator GRASSLEY to offer a motion to instruct the conferees, and that, immediately following the clerk reading the motion, it be in order for Senator GRASSLEY to withdraw the motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I further ask unanimous consent that following the appointment of conferees to S. 933, Senator GRASSLEY be recognized to discuss his previous motion to instruct the conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum, again with the time running equally on both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I just want to take this time to briefly summarize the arguments proposed to the Helms motion.

First of all, Mr. President, something has been said here that I want to clarify. There is a perception that the Chapman amendment will allow someone to be moved from a food service position, let us say, to being a janitor under the Chapman amendment. But again if there is no janitorial position or other position available for which they are qualified, they are out. If those positions are full, they are out.

Mr. President, I also wanted to thank the many people who have worked so hard to bring this bill through over the last few years. Of all the people who have worked so hard, so tirelessly on this, none has worked harder than the chairman of our committee, Senator KENNEDY. His knowledgeable, compassionate, and forceful leadership has brought this bill through.

I think we are all indebted to him for that steady hand guiding us through and bringing this to the point where we are today, for we are about to enact a civil rights statute that is going to change the way we deal with the state of Americans from now on. It is going to open the doors, and break down fears and prejudices against people with disabilities. Let us bring into the mainstream of American life in every way possible, those 43 million

Americans who have for too long been excluded.

Senator KENNEDY should be complimented for his leadership in bringing this through. I commend his staff for all the diligent work they have done and recognize the staff director of the Subcommittee on Disability Policy, Bobby Silverstein, for all of the tireless work, many hours, weekends away from his family that he has spent, and I know other members of the staff have spent, in bringing this bill through.

Mr. President, in short, the prejudices and fears that underlie this motion to instruct is the same prejudice that results in segregation and exclusion of other peoples with disabilities. When we codify segregation and people based on prejudices and fear for one disabled person we are condoning it for all people with disabilities.

Let me summarize the reasons to vote against Helms motion:

First, the ADA already explicitly states that if someone has a contagious disease that poses a direct threat, that person can be fired or transferred.

Second, the fundamental principal of the ADA is people with disabilities must be judged on the basis of facts and sound medical judgment, and not on the basis of his perceptions and irrational fears and ignorance.

Third, some diseases like hepatitis are spread through the air and foods. Some, like AIDS, are not.

Fourth, because the ADA already allows employers to fire or reassign those who have a contagious disease that poses a direct threat to the health and safety of others, the only rationale for this amendment is the fears and ignorance of the general public regarding how AIDS is spread.

Fifth, adopting this amendment will not solve the problem faced by the restaurants because any proposal based on fear and ignorance only legitimizes that fear and ignorance, and makes the problem worse.

The only solution is education and leadership at all levels. Lastly, Mr. President, we should follow the leadership of President Bush, Admiral Watkins, Secretary Sullivan, Dr. Roper, head of the Centers for Disease Control, the AMA, the American Nurses Association, American Public Health Association, almost all of the medical societies in this country, who say that this amendment should be defeated and that we should move ahead, based upon medical facts, not upon irrational fears. I reserve whatever time I have remaining.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina has 4 minutes remaining.

Mr. HELMS. I thank the Chair.

Mr. President, I have listened to part of the debate against the pending motion. Most of what has been said is totally irrelevant to the issue.

Let me reiterate for the purpose of emphasis that the pending motion relates to the Chapman amendment and has been approved by the House of Representatives. It does not, repeat, does not, discriminate against individuals with any communicable or infectious diseases. It gives them job and financial protection, while permitting employers to address a public perception that will threaten their business and their livelihood.

The problem—let me emphasize this—is the public perception that AIDS, among other communicable and infectious diseases, is bringing us to a point of crisis in terms of what may happen to many, many small businesses. The public perception and fear is understandable in light of what we hear about AIDS constantly in this United States Senate.

Just a few weeks ago, when the Senate was considering increasing the funding for AIDS, we heard time and time again that the country is facing a national crisis, that the situation is critical, that AIDS cases would reach epidemic levels, and they used all sorts of percentage statistics.

I remember trying to discuss it with the managers of that bill. I said, "Do not talk percentages, tell me the number of cases." But they refused. For example, they said there has been a 100-percent increase, when the increase in numbers had been from 1 to 2. Therefore, it is understandable that the public perception has prompted concern and caution. It really does not matter why a restaurant will go out of business, as much as the fact that it is going out of business. I think the least we can do is to give an employer a way to avoid losing his business, because of this perception that this Congress and this Senate helped to create.

I have here a message from John J. Motley III, vice president of Federal Governmental Relations for the National Federation of Independent Businesses. Let me read it, and I will be through:

> The over 575,000 members of the National Federation of Independent Businesses [NFIB] strongly oppose any attempt to strip the Chapman amendment from the Americans with Disabilities Act before final passage of this legislation.

That is what this motion is all about, to keep the Chapman amendment in the bill.

Then Mr. Motley goes ahead to say:

> A public perception exists that an individual with a communicable disease should not be handling food in a restaurant. The Chapman amendment states that an employer will not be required to assign to a job an individual who is serving food, if he or she has a communicable disease. The Chapman amendment would allow the employer to transfer the employee to a different position in the restaurant. This is not a civil rights issue.

He says:

> Do not make your small businesses pay the price because of a public perception. This amendment will be considered a key small business vote. Protect small business from going out of business because of an employee with a communicable disease.

This final note: In the Cloakroom a while ago, I ran a little poll. I asked the folks sitting there, "If your favorite restaurant in Alexandria were known to have a chef who has AIDS or any other communicable disease, would you go there, would you take your family there to have a meal?" The answer was unanimously, "No." That is what the National Federation of Independent Businesses realizes, because it is a fact. It is not discrimination. It is just a fact of life.

Mr. President, I am willing to yield back the remainder of my time if the other Senator will yield his.

The PRESIDING OFFICER. All time has expired.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I move to table the motion to instruct. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the motion to table. The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Arizona [Mr. DECONCINI], the Senator from Connecticut [Mr. DODD], and the Senator from Massachusetts [Mr. KERRY] are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KERRY], would vote "yea."

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 53, as follows:

[Rollcall Vote No. 110 Leg.]

YEAS—40

Adams	Bradley	Danforth
Akaka	Burdick	Daschle
Biden	Cohen	Domenici
Bingaman	Cranston	Durenberger

Glenn	Kohl	Pell
Gore	Lautenberg	Riegle
Graham	Leahy	Robb
Harkin	Levin	Rockefeller
Hatfield	Lieberman	Sanford
Hollings	Metzenbaum	Sarbanes
Inouye	Mikulski	Simon
Jeffords	Mitchell	Wirth
Kennedy	Moynihan	
Kerrey	Packwood	

NAYS—53

Armstrong	Garn	Murkowski
Bentsen	Gorton	Nickles
Bond	Gramm	Nunn
Boren	Grassley	Pressler
Breaux	Hatch	Pryor
Bryan	Heflin	Reid
Bumpers	Heinz	Roth
Burns	Helms	Rudman
Byrd	Humphrey	Sasser
Coats	Johnston	Shelby
Cochran	Kassebaum	Simpson
Conrad	Kasten	Specter
D'Amato	Lott	Stevens
Dixon	Lugar	Symms
Dole	Mack	Thurmond
Exon	McCain	Wallop
Ford	McClure	Warner
Fowler	McConnell	

NOT VOTING—7

Baucus	DeConcini	Wilson
Boschwitz	Dodd	
Chafee	Kerry	

So the motion to lay on the table was rejected.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. KERRY. Mr. President, an important family commitment requires that I be in Boston during the time allotted this morning for debate and the subsequent vote on the motion offered by the Senator from North Carolina, to instruct the conferees on the Americans With Disabilities Act [ADA]. I want to make it clear for the record, however, that were I present for the upcoming vote, I would vote against the motion to instruct and in support of the motion to table offered by the majority leader.

The ADA, as passed by the Senate on a vote of 76–8, already excludes coverage of individuals with a contagious disease who pose a threat to the health or safety of others which cannot be eliminated by reasonable accommodation. Further, Mr. President, Dr. Roper, Director of the Center for Disease Control as well as Secretary Louis Sullivan of the Department of Health and Human Services, have stated that people with AIDS do not pose a threat to health or safety in food handling positions, because AIDS is not a foodborne illness.

We should not be in a position where we give rights and protections with one hand as we do with the ADA and then take them away with the other, which is exactly what we would accomplish by approving this motion. The ADA goes to the heart of opening the doors of opportunity and toward eliminating judgments based on fear, prejudice and ignorance and we must protect the integrity of this legislation. As President Bush stated when he urged the Congress to pass the ADA, "I call on the Congress to get on the job of passing a law—embodied in the ADA that prohibits discrimination against those with HIV and AIDS. We won't tolerate discrimination.

Mr. President, we must move forward in helping to eliminate the discrimination faced by the Nation's 43 million disabled individuals. We have made a vitally important step in this regard with passage of the ADA. Let us continue to move forward in our fulfillment of this goal. I reiterate my strong opposition to the Helms motion and my strong support for the majority leader's motion to table.●

The PRESIDING OFFICER. All time having expired, the question is now on agreeing to the motion to instruct the conferees.

The Senator from North Carolina, [Mr. HELMS], is recognized.

Mr. HELMS. Mr. President, I think the Senate has made itself clear on this issue, and I see no point for a further rollcall vote.

I ask unanimous consent that the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, the request of the Senator is agreed to.

The question now is on agreeing to the motion to instruct the conferees.

The motion was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa [Mr. GRASSLEY] is now recognized.

MOTION TO INSTRUCT CONFEREES

Mr. GRASSLEY. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa, Mr. Grassley, moves that the Senate instruct the Senate conferees on S. 933, the Americans with Disabilities Act, to ensure that the rights, protections, and remedies made available under that Act with regards to employment shall extend to the employees, and prospective employees, of members of Congress or the instrumentalities thereof, and that such employees, or prospective employees, who are aggrieved by a violation of that Act shall have a private cause of action against the individual or entity that has engaged in the violation of such employees rights under the Act in the appropriate district court of the United States.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Under a previous unanimous-consent agreement, that motion is withdrawn.

The PRESIDING OFFICER. The Senator is correct; the motion is withdrawn.

Mr. GRASSLEY. Mr. President, I had planned to offer at this point a motion to instruct the conferees with respect to congressional coverage under S. 933. My motion would have instructed that the conferees provide to aggrieved congressional employees, or prospective employees, among other remedies, a private right of action against Congress, its members, or its instrumentalities.

This right is long overdue, and I am pleased that the Senate is about to turn over a new leaf, when it comes to meaningful congressional coverage of the laws that we apply to all other Americans.

Because of the assurances I have received from my colleagues, Senator HARKIN, on behalf of the conferees, I will not offer that motion. I truly appreciate the commitment of my colleague from Iowa on this point. I know he will be sensitive to the potentially significant constitutional issues involved, and balance them against the rights of victims of discrimination.

I also appreciate the interests of the leadership to move rapidly on this important bill. I agree and am prepared to move.

Mr. President, permitting a right to legal redress of grievances for more than 30,000 employees in and around Capitol Hill—and countless more prospective employees—would help put an end to the shameful practice around here where we say to the American people: "do as we say, not as we do."

Unfortunately Mr. President, the statesman who can best explain this principle can't be here in person. We do, however, have the benefit of his writings on precisely this point, more than 200 years ago.

James Madison, writing in "Federalist 57," explained why it was that Congress would be deterred from passing oppressive laws upon the people. His remedy—that Congress "could make no law which will not have its full operation on themselves and their friends, as well as on the great mass of society."

Madison continued:

This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them a communion of interests and sympathy of sentiments * * * without which every government degenerates into tyranny.

Madison says:

If it be asked, what is to restrain the Congress from making legal discriminations in favor of themselves, I answer: the genius of the whole system * * * the spirit which activates the people of America, a spirit which

nourishes freedom, and is in return nourished by it.

If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature, as well as the people, the people will be prepared to tolerate anything but liberty.

Mr. President, this means that having Congress taste its own legislative medicine is the essential condition for the survival of democracy. Unfortunately, for more than 50 years, on countless civil rights and labor law bills, our standard-operating-procedure has not been to follow the wisdom of Mr. Madison, but rather Mark Twain.

You will recall that Twain once observed: "to do good is noble. To advise others to do good is noble and less trouble."

Mr. President, the time has come to follow the better rule, and end the double standard. Since the time I offered—and the Senate accepted—the Grassley amendment last September, there has been talk about modifying the amendment by allowing Congress to be the exclusive arbiter of its compliance with the ADA. That means no private causes of action for victims of discrimination; just internal, self-policing by Congress itself.

Mr. President, I do not believe in self-policing—whether it be by defense contractors or the U.S. Congress. I appreciate the concerns about comity with the other body; I appreciate that the other body does not want to be told by this body how to make their internal rules. They do not want to be bound by us nor we by them.

But, Mr. President, this is not a matter of telling the other body something unimportant like when to "take out their garbage" or "turn off their lights." Rather, we are urging them, like us, to give people a chance to go to court to vindicate their civil rights. It is fundamental to our justice system for people to not be denied their day in court.

Again, I thank my colleague from Iowa for his support and his assurances.

Mr. HARKIN. Mr. President, I associate myself with the remarks of my colleague from Iowa. I support what he has said in the thrust of his remarks and the amendment he offered. He is right on the mark on everything he has said.

I might just observe, however, that our hands are a little tied with regard to the House. The House has to be able to do whatever it wants to its employees and access to its programs. We have no binding authority over the House. However, when it comes to the Senate, we must ensure that the policies included in the Senate bill are not changed, with the sole exception that the unconstitutional aspect of the legislation raised by Senator FORD and myself and the Library of Congress must be fixed. Thus, the final version of the ADA must remove any authority vested with the EEOC or the Attorney General over the Senate. No other changes with respect to rights, standards, procedures, and remedies should be made, or will be made.

Third, with respect to instrumentalities of Congress, we must insist that they be treated in the same fashion we treat other entities covered by the ADA. There is no rationale for carving out special rules for these legislative agencies. There is no reason to provide employees with disabilities and members of the public who want access to services provided by the agencies with fewer or lesser rights and remedies than are available to minorities and women. Individuals with disabilities are entitled to the same rights.

THE HOUSE AMENDMENT EXTENDING THE PHASE-IN PERIOD FOR SMALL BUSINESSES UNDER TITLE III OF THE ADA

Mr. BOSCHWITZ. Mr. President, I would like to enter into a colloquy with my colleague from Iowa, the sponsor and floor manager of the Americans With Disabilities Act concerning the so-called LaFalce-Campbell amendment.

Mr. HARKIN. I will be glad to enter into a colloquy with my colleague from Minnesota, the ranking member of the Small Business Committee.

Mr. BOSCHWITZ. Under the Senate bill, title III pertaining to public accommodations goes into effect 18 months after the date of enactment. The House amendment to the ADA includes a provision which extends the phrase-in period for small businesses under title III. Specifically, under the House amendment, no civil action shall be brought during the first 6 months after the effective date against businesses that employ 25 or fewer employees and have gross receipts of $1,000,000 or less and during the first 12 months after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of $500,000 or less. I strongly support this amendment. I believe it will provide an additional period of time for small businesses to learn what their responsibilities are under the legislation and how to comply in the most cost-effective manner. What is your position on this provision?

Mr. HARKIN. I also support the provision included in the House amendment. I believe that the ADA is fair, balanced legislation that does not place undue burdens on small business. The additional time provided for by this provision will increase the likelihood that small businesses will truly learn what is and is not required by the ADA, thereby allaying fears that some small businesses have expressed regarding the potential costs of compliance. I would like to quote the testimony of the Bush administration regarding fears about the impact of the ADA. "The fears being raised now about the impact of the ADA are similar to those misgivings that were raised in the first few years following implementation of section 503 and 504 by the Departments of Labor and Health, Education, and Welfare. There were predictions that those covered by the regulations would be bankrupted or forced to severly curtail or alter their services. These doomsday predictions were based on ignorance and myth and proved false. Similar misgivings in the area of race discrimination surfaced in 1965 and proved to be equally unfounded. The administration believes that a similar fate awaits the misapprehensions that have been raised bout the ADA." If the additional phase-in period can serve to calm fears, I believe the additional delay will have a net positive effect.

Mr. BOSCHWITZ. I thank my colleague for his support of this amendment.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer, Mr. BRYAN, appointed Mr. KENNEDY, Mr. HARKIN, Mr. METZENBAUM, Mr. SIMON, Mr. HATCH, Mr. DURENBERGER, and Mr. JEFFORDS; from the Committee on Commerce, Science, and Transportation solely for the consideration of issues within that committee's jurisdiction—telecommunications, commuter transit, and drug testing of transportation employees: Mr. HOLLINGS, Mr. INOUYE, and Mr. DANFORTH.

The PRESIDING OFFICER. The Senator from Iowa, Mr. GRASSLEY, is recognized.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AIR TRAVEL RIGHTS FOR BLIND INDIVIDUALS ACT

Mr. MITCHELL. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 116, S. 341, the blind air passengers bill.

The PRESIDING OFFICER. Is there objection?

Mr. GORTON. Reserving the right to object, and I do not intend to object, though I will speak against the bill itself. I am perfectly happy to have us proceed on the bill with the understanding I believe we just met, that Senator BOND will be recognized

to offer an early amendment which, I understand, will be agreed to.

Mr. HOLLINGS. Mr. President, definitely we have no objection to the Bond amendment that deals with infant safety aboard air travel. We have not had a hearing on the Bond amendment, as we all know, because the National Transportation Safety Board only ruled here just before we left town. We were awaiting hearing from Senator BOND. I have no doubt that the committee will probably be unanimous for his amendment, and we will promptly hear him and report out the bill. He is deeply interested in it and told me he has been working 9 years on this.

Mr. GORTON. Then, Mr. President, I have no objection to the motion to proceed.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 341) to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

The Senate proceeded to consider the bill.

Mr. HOLLINGS. Mr. President, S. 341, the Air Travel Rights of Blind Individuals Act of 1989, has been the subject of much debate within the aviation community. The Commerce Committee carefully reviewed all the arguments in this debate and reported the bill overwhelmingly. The legislation has broad bipartisan support, and is cosponsored now by 37 Senators.

This widespread support reflects the view that the bill is needed to protect the dignity of blind travelers and because there is no evidence to justify any discriminatory treatment of blind air passengers.

Rather, the evidence is otherwise. The bill is simple and fair. It would prohibit an air carrier from restricting seating assignments on the basis of blindness or because a person has a white cane, guide dog, or other such means of assistance. There should be really no opposition to this bill, while I do recognize that some of my distinguished colleagues feel differently.

One of the biggest hurdles blind people must overcome is the lack of knowledge that others have about blindness and the resulting fears and misconceptions that others hold. Such fears and lack of knowledge can result in unjustified policies and restrictions on the activities of blind people. Such policies have come to include restrictions on the ability to use air transportation, which as we all know has become essential in carrying out business activities and in adding to life's enjoyment, and should not be unjustifiably denied anyone. Discrimination, whether based upon lack of knowledge or misconceptions, cannot be tolerated. This bill ends that discrimination for blind people who travel by air.

Let me explain the history of this issue. In 1973, the Civil Aeromedical Institute [CAMI] of the Federal Aviation Administration [FAA] undertook a study at the behest of the Civil Aeronautics Board [CAB] to look at the question of evacuation of handicapped passengers. Additional research was done in 1977. That same year, the FAA passed a rule after all this study, that allowed air carriers to establish their own procedures to address situations where persons may be refused transportation. However, the FAA decided not to restrict exit row seating.

The CAB, an agency that we unfortunately agreed to shut down incidentally, also adopted regulations under section 504 of the Rehabilitation Act of 1973 that prohibited the discrimination of handicapped persons in air transportation.

So now we have a study coming down, and all my colleagues should listen closely here to what we have done because this is not a willy-nilly act of sympathy for the handicapped or those unsighted but, on the contrary, it is done in a deliberate fashion to make certain that, yes, the blind are interested in safety, the sighted are interested in safety, we all are. It is high time we acted to protect the dignity and to stop the hassling of our blind passengers aboard airlines in America.

Now section 504 of the Rehabilitation Act of 1973 prohibited the discrimination of handicapped persons in air transportation. Even then, the CAB understood that people should not be discriminated against. However, in 1986, these rules were invalidated by the Supreme Court because U.S. air carriers were not direct recipients of Federal aid and, thus, the nondiscrimination provisions of the 1973 act were found to be without force and effect, in other words, inapplicable.

In response to this Court decision, Congress then enacted the Air Carrier Access Act of 1986, which prohibits all air carriers from discriminating against otherwise qualified handicapped persons, provided that the action is consistent with safety. The Department of Transporation [DOT] was directed to issue regulations within 120 days.

Some 3 years later, DOT and the FAA issued rules under that 1986 act, with an exit row seating rule based on the 1973 and 1977 data I mentioned earlier, but under a new disguise of safety, bacause the 1973 and the 1977 data had indicated otherwise and without any updated data. The new disguise was probably buried in some bureaucrat's filing cabinet for all those years, which may explain why it took the FAA 3 years to draft the rules.

The DOT rule says, among other things, that carriers can not discriminate in seating passengers on the basis of a handicap, except as required by an FAA rule.

Now you know what that FAA rule says: If you are blind, you cannot sit in the exit row. It seems that they now have discovered a safety problem. They had not acknowledged it all these years dispite may studies.

It is unfortunate that the 1986 act, which was directed at prohibiting discrimination, is now perversely the catalyst for discrimination, and we have had that now under study in the Commerce Committee. That is what brings us S. 341 with some 37 Senators cosponsoring it.

In the intervening thirteen years, there have been more than 294 air carrier accidents. Yet, FAA's rules does not rely on any one of those accidents either—just the 1970's data. Simply put, the FAA never had a rule in this area before and has no data to back up these restrictions, and no situation has been cited to support the need for the restrictions aimed at blind people. It is this discriminatory treatment that S. 341, the bill, seeks to address.

On top of that, many blind people have been subjected to embarrassing confrontations and even arrests by law enforcement authorities after being assigned an exit row seat. One constituent, Dan Frye of Due West, SC, was the object of ridicule and abuse by the flight crew and passagers when he refused to move out of his assigend seat on a flight from Baltimore to Charlotte, causing the flight to be delayed. This bill seeks to address such situations and allow blind people to maintain their dignity while traveling.

It is clearly the FAA's responsibility to establish safety regulations, but those regulations should be based in fact and must not lead to discriminatory actions. Seating restrictions based only on the knowledge that someone is blind place all blind people in one class, and assume that they are all incapable. Such restictions rob them of the same choice that others have—deciding for themselves based on their own abilities whether they can handle what is required in an emergency. They place blind people in another class, with fewer rights and privileges, without any justification, under the guise of safety. This is just the discrimination which this nation has been struggling against and which, of course, cannot be tolerated.

There is no issue of greater importance in aviation than passenger safety. The Senate Commerce Committee has devoted countless hours working to ensure that every possible measure to imporve air safety is examined in detail. This bill continues that goal, while maintaining the dignity of blind travelers.

Specifically, Mr. President, in committee I cross-examined blind witnesses with skepticism and with doubt in the very early stages, before I became convinced of the elementary justness of their cause. I could see their embarrassment, and feel it too. But I did not want to overreact on account of the embarrassment that I heard from numerous passengers. But the accumulated evidence of callous and arbitrary treatment accorded blind passengers was overwhelming. The committee hearings were an education for this Senator, even though I had worked with the blind to accommodate them in commercial facilities in the State capital 30 years ago when I was Governor, trying to give them every advantage to make them, as we say crudely, taxpayers rather than tax eaters.

They are not tax eaters. They are not receiving any special privileges. But we tried to accommodate their particular handicap and their disability and see if we couldn't make it possible for them to be fully participating citizens.

I found out that they are not ordinary; they are extraordinary. The blind individual has proven himself to this Senator to be a survivor. If you cannot see, then you are put on notice early in your life to be extremely resourceful and to develop other senses that we who are sighted never develop.

I can tell you now that a blind person in that exit row can get to that handle and manipulate it whether it goes to the left or right, and whether it pulls out or pulls in. This is especially the case in the event of a night accident or failure of the power system in a plane itself. We do not say that no one can be seated if the lights go out, and I have been on planes several times with the lights out. The blind have keen senses of smell and touch. I never heard of a blind person falling into a pool and drowning. Somehow or other, they know the body of water is there. Yet I can tell you of many instance of sighted children and even citizens of my age group falling and drowning and so on.

It is remarkable, in this Senator's judgment, how fully the blind have coped, to actually be as undisturbed and uninhibited, in a way, in society as any sighted person. I have worked for years on this particular measure, and I am constantly touched by a blind persons capacity to shake hands and say, you know I am glad to see you. In other cases, you know it is not so. But from my own experience with the blind, it is very much so. They can see a lot more about you in a lot of instances than the sighted person can.

Clearly, the FAA rule came about as a result of this bill. The FAA acted peremptorily, with no evidence. In fact, Mr. President, if you were a judge seated on the bench, you would have to direct a verdict. We would not have a vote of this jury out here. There is no evidence whatsoever for the FAA rule.

Whereas, in contrast, all the evidence of the FAA findings, the committee hearing findings, the actions of Congresses over 15 years, the 1986 law itself, all say do not to discriminate. Yet they have taken a statute by the National Government and the national Congress which says do not discriminate and they have used that as a basis for discrimination in the FAA rule. This is a grossly improper ruling, in my opinion, and I hope we can move forward with this bill.

I am glad to yield to the distinguished ranking member.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. Mr. President, under the recent agreement pursuant to which this bill was brought forward, we were to recognize the distinguished Senator from Missouri [Mr. BOND] for an amendment on a related subject. Because I wish to allow him to present that amendment as promptly as possible, I ask unanimous consent that my opening statement, as long as it is given during the course of this day, appear in the RECORD immediately after that of the distinguished Senator from South Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, the distinguished and eloquent Senator from South Carolina said it was a simple bill and it should have been voted on within an hour of its being introduced. I regret I disagree with him on that proposition. The bill is relatively simple. The considerations involved in it, however, are quite complex.

In essence, this debate is over the safety of travelers by air on scheduled airliners and the crews of those airliners. Two dramatically different perspectives on those safety considerations are presented here for the consideration of the Senate.

The sponsors of the bill, most notably including the chairman of the Senate Committee on Commerce, Science, and Transportation, and the majority of the members of that committee, have made the determination and the recommendation to this body that we prohibit any special treatment of blind persons in seating on commercial airliners. They have written an admirably succinct committee report on the subject. The entire report consists of only eight pages. Their findings, or the determination which they have made on these safety issues, is contained in barely a single page:

In passing the Air Carrier Access Act, Congress clearly intended that blind persons not be subjected to discrimination in any form in their use of air transportation. Restrictions, imposed in the name of safety, but lacking any legitimate safety basis, that exceed those imposed on other passengers are one such form of discrimination. Many blind persons have been subjected to embarrassing confrontations and even arrest by law enforcement authorities after having been assigned to seats on aircraft near emergency exits. In other instances, because of the presence and use of dog guides, blind persons are restricted to seats in bulkhead rows. At least one carrier restricts the seating of all blind persons solely to those areas as near as possible to floor level exits.

Proponents of S. 341 argue that any such type of seating restrictions for blind persons are not the results of substantiated safety concerns. Existing FAA policies and air carrier safety practices appear to support this position. For example, some passengers who are not blind still could be limited in their ability to perform evacuation functions if seated near an aircraft emergency exit, but nevertheless are free to sit in exit rows. The standard weight of exit doors or windows is anywhere from 40 to 80 pounds, depending on aircraft model and type of exit. Yet, persons who cannot necessarily lift or maneuver the weight of the exit windows or doors are not restricted from occupying seats near the exits. Persons who cannot read or comprehend the emergency evacuation instructions are not restricted from seats near the exits. Individuals whose judgement, reaction time, or accuracy of movement are impaired by consumption of alcohol are not restricted. Persons with limited mechanical or manual dexterity skills are not restricted. Passengers in these categories and many more are routinely seated near emergency exits. Safety standards established by the FAA and administered by the carriers find such seating practices to be acceptable.

It is clearly the responsibility of the FAA, under the Federal Aviation Act, to establish standards for aircraft cabin safety. However, the Air Carrier Access Act requires that the FAA's safety regulations must not lead to acts or practices that discriminate on the basis of handicaps. Seating restrictions that are based solely on the knowledge of a passenger's blindness place all blind persons into a class of passengers who are assumed to be incapable. This assumption of incapability, when imposed on all blind persons, regardless of ability, is discriminatory. It is especially discriminatory when persons who are not blind are by virtue of that fact assumed to be capable of performing emergency evacuation functions.

Witnesses who testified at the hearing on S. 341 discussed the fact that the FAA had never in the past established regulations to restrict the seating of blind passengers. The FAA based the decisions not to restrict seating on evidence reported by the Civil Aeromedical Institute in June 1973. Yet, this is the same evidence that is now being offered to present the case for regulatory restriction.

The Air Carrier Access Act was not intended merely to make air transportation more available to persons with handicaps. It was intended that air carrier procedures and Federal regulations should not discriminate on the basis of handicap. The mere presence or absence of a handicapping condition, as in the case of blindness, should not in and of itself suggest the need for seating restrictions.

Congress did not intend for the FAA to impose discriminatory seating restrictions on blind individuals, especially when such restrictions had been found earlier by the

FAA to be unnecessary. S. 341 is designed to clarify Federal policy by requiring that seating restrictions in aircraft not be based on visual acuity and related factors.

Mr. President, that bare one page in the committee report consists, I suspect, of all of the evidence which the committee considered relevant in recommending the passage of this bill. It includes no statistics, no safety studies, summary views of the opinions of a handful of witnesses who appeared before the committee on what is a matter of great seriousness and great importance to those who entrust their lives to commercial air carriers.

On the other side of this debate are to be found the Federal Aviation Administration, the Department of Transportation, the administration, in a bit of correspondence I have just received from the Executive Office of the President of the United States, the Air Transport Association of America, which is the association of commercial air carriers, and the pilots and flight attendants unions, who work on those airlines.

The distinguished Senator from South Carolina has asserted that there is "no evidence" in support of the position taken by all of these distinguished and thoughtful organizations who have either an intense concern or the specific responsibility for safety on our airlines.

Mr. President, with all due respect, I state to the Presiding Officer that that is simply not the case. The overwhelming objective case, when we deal with the question of air safety, counsels the defeat of this bill. In fact, there is really nothing in the record to show that these restrictions are, to use the words of the Senator from South Carolina, unjustified, or that there should be, in his words, no opposition to a proposal of this sort.

In one sense, the committee report itself, which carries the date of June 12, 1989, is very much outdated because it speaks, even in the portions which I have put into the RECORD, primarily to the discrimination inherent in singling out only blind persons to be restricted from exit row seating.

Since that time, the Federal Aviation Administration has engaged in a rulemaking hearing on the subject. On February 28 of this year, over the signature of its Administrator, James Busey, it published an 88-page set of findings, and conclusions on this subject.

Mr. President, while I can summarize some of it later, I can do no better at this point, for the edification of my colleagues, than to read the introduction which the Federal Aviation Administration has made to that rulemaking, and the first two pages, which is a summary of its reasons for its rules. I am doing so. I am quoting from the top of page 3 of the FAA's rulemaking proceeding:

This rule prescribes requirements relating to the seating of airline passengers near emergency exits. The FAA has determined that a rule is necessary to establish clearly understood, consistent, and predictable practices regarding the seating of passengers in so-called "exit rows," and to prevent instances of arbitrary, unexpected, or unwarranted treatment by airline employees.

The issues addressed by the rule are among the most difficult and controversial ever addressed by the FAA, for they require, in the interest of what is essential for the safety of all passengers, that some passengers be treated differently from other passengers, depending on their physical abilities.

The FAA must be satisfied that any differences in prescribed treatment are fully justified by the incremental gains in safety achieved thereby. The criteria set forth in the present rule have been weighed against this standard with the greatest of care. The FAA is persuaded that, in this case, the standard has been met.

Mishaps in commercial aviation are extremely infrequent, but when they occur, survivability is a function of a great many regulatory decisions relating to the design and construction of the aircraft and its interior and to the procedures invoked by airline employees. Some of those decisions, in isolation, may seem small or "on the margin," but all are necessary elements to the total safety equation.

A critical prerequisite to survivability in many such circumstances is the fastest possible evacuation of the aircraft. Essential to the objective is the fastest possible safe opening of emergency exit doors, followed by the fastest possible movement of passengers through those exits and toward safety.

The FAA has determined, in light of the importance of maximizing the likelihood of a successful evacuation in the event of a mishap, and because of the pivotal role played by those passengers seated in closest proximity to airplane exits, that it is necessary to issue a rule, based on verfiable qualifications, establishing passenger eligibility to sit in an exit row.

The report then goes on to summarize the rule, and I am quoting again:

A passenger aircraft crashes. Inside the cabin, there are many survivors. A fire begins. If the passengers are to stay alive, they must get out of the aircraft as soon as they can. Seconds mean the difference between life and death. This is the scenario on which a crashworthiness standard is based. Many other FAA rules are intended to prevent a crash from ever happening. A crashworthiness rule assumes that a survivable crash has happened and then specifies certain actions to maximize people's chances of getting out alive.

This rule on exit row seating provides a crashworthiness standard. Exit doors must be opened quickly and properly if an emergency evacuation is to succeed. Often, crewmembers are not in a position to lead or conduct this part of the evacuation. Passengers sitting near the doors must perform the functions on which their lives, and the lives of their fellow passengers, depend.

What are some of these functions? First, a passenger must be able to locate the dloor and quickly follow the instructions, written and oral, for its use. Door operations and instructions differ from aircraft to aircraft. A delay in figuring out how to operate the door can cost precious seconds; operating it improperly can injure or result in the deaths of passengers.

Second, a passenger must be able physically to open the door. Doors are often heavy and clumsy to manipulate, and not every passenger can open them quickly.

Third, a person must be able to determine when to open the door. This involves being able to respond to shouted or hand-signalled instructions from flight attendants, as well as being able to tell when opening an exit would be too dangerous (e.g., because of fire on the adjacent wing).

Fourth, a person must be able to go quickly through the open exit, in order not to cause a traffic jam at the door, and perhaps to assist other passengers to leave the danger zone around the aircraft.

Fifth, a passenger must devote full attention to his or her emergency task. A passenger who must care for small children, for example, may be unable to do so.

The rule says simply that airlines shall seat in exit rows only persons who appear able to perform these and other relevant functions in an emergency evacuation. Persons who do not appear able to perform all the functions may sit in any other seat. Airlines also must take steps to inform passengers sitting in exit rows about what may be required of them in an emergency evaluation. By following these requirements, airlines will minimize the likelihood of passenger-caused evacuation delays that could cost lives.

In addition to the critical nature of the tasks just cited for opening the exit doors quickly, it is equally important that queues form readily and that evacuation proceeds as rapidly as possible. Therefore, in drafting this rule, the FAA had to consider not only the requirements for quickly opening the exit door (when and where appropriate) but also the requirements for initiating the orderly progression of the evacuees to safety beginning at the exit rows.

As discussed further herein, this rule has been promulgated with full consideration of the Air Carrier Access Act of 1986 (ACAA), which prohibits discrimination in air transportation on the basis of handicap, but also requires that measures to eliminate such discrimination take into account the safety of all passengers.

During a regulatory negotiation to implement the ACAA, the participating groups representing persons with disabilities, the industry groups, and the Government were unable to reach agreeemnt on the exit row seating issue. Accordingly, the Office of the Secretary of Transportation (OST), in an NPRM to implement the ACAA, formulated its own proposal on exit row seating (53 FR 23574; June 22, 1988). It took cognizance of the safety implications of exit row seating by proposing that carriers be prohibited from excluding persons from any seat on the basis of handicap, except in order to comply with an FAA safety rule.

This rule addresses the safety aspect of exit row seating and will result in some persons being seated in seats other than those in exit rows, based on the application of neutral, functional criteria. For example, young children, persons who are too large or too small, persons with some disabilities, and elderly persons who are physically frail will be seated in a location other than an exit row. This rule does not affect exit row seating in the on-demand operations of air taxis that have nine or fewer passenger seats. The purpose of a charter flight very well may be to carry a person whose disabilities make other commercial flights unavailable.

39-059 O-91-31 (Pt. 9)

Mr. President, that is a summary for the reasons for the rule. The rule now on exit seating prohibits the following people from sitting in exit rows: children, people who lack mobility in both arms and legs, people who cannot read or speak English, blind people, deaf people, mute people, and though it is not directly specified in the rule itself, frail, elderly, and obese people who will not be able to perform the specified tasks needed in an evacuation.

Mr. President, I wish to return to the committee report, the report upon which my colleagues are asked to vote in favor of this bill.

Much of the single page which I have already included in the RECORD is directed not at safety standards, but at the discrimination inherent in a rule which prohibits only blind people from sitting in these exit rows, but which allows others whose disabilities with respect to emergency evacuation may be greater than those of the blind.

To that extent, of course, the committee report is now entirely irrelevant because we are dealing with a rule which is neutral with respect to particular types of disabilities and allows an across-the-board set of policies dealing only with safety.

So essentially the question before this body is will it take as its experts on the question of air traffic safety the distinguished Senator from South Carolina and the other sponsors of the bill, or will it take in its councils for safety the views of those organizations which have been created by Congress specifically to make determinations with respect to safety on the basis of long and careful study, together with those who operate these commercial airliners, who obviously have an overwhelming interest in safety but at the same time an interest in the convenience of their own passengers and those employees who work on such aircraft carriers and whose lives and health are very much at stake?

I submit, Mr. President, that the case answers itself when the question is phrased in that fashion. Obviously, a thoughtful and balanced and intelligent Congress will listen primarily to those whose lives depend upon the kinds of decisions which are made in connection with the operation of aircraft, most particularly with respect to emergency procedures at the time of an aircraft accident, and those whom we have designed and designated specifically to make determinations of this sort. The distinguished Senator from South Carolina makes much of the fact that many of the studies on which this decision was made are relatively old. They may be, but that does not mean that they are any less valid. The Civil Aeromedica[1] Institute study earlier referred to make this finding in this connection:

> Persons with disabilities increase the exit time through floor-level exits in all cases ranging from 3.9 seconds to 49.8 seconds. In the case of window exits the increases ranged from 3.4 to 42.5 seconds.

Mr. President, it seems to me that, essentially uncontradicted by any objective or outside agency, that finding should carry with each and every one of us great weight.

Finally, of course, Mr. President, we can deal with anecdotal evidence or opinion. I have not had a large number of conversations with my fellow passengers on airlines because there has not been a great deal of news coverage of this bill, but in the course of the last year, and particularly around the time at which the hearing and the passage of the bill took place in the Senate Committee on Commerce, Science, and Transportation, a number of people did know about it, and quite a few of them, half a dozen to a dozen, came up to me during the course of my own travels back and forth to the State of Washington and expressed very strong opinions in favor of what they considered to be safety considerations in favor of the policies of the airline companies themselves.

I suspect that if you, Mr. President, or any of the rest of us who travel by air took any kind of informal poll on whether or not our fellow travelers preferred the rule which has been promulgated by the Federal Aviation Administration or the rule which is proposed in this bill, we would for all practical purposes get a unanimous response from those travelers in favor of the position of the FAA. It should hardly require evidence to assert the appropriate situation that people with their physical facilities intact and nobody who is either too young or too old or too frail will best be able on average to respond at the time of a hopefully very, very rare aircraft accident and to both open emergency exit doors and to help with such an evacuation.

I have not heard any challenge on the floor to this Senate, or for that matter in the Senate Commerce Committee, to the FAA's rules on how many emergency exits there should be on each aircraft. Occasionally, some of the aircraft manufacturers groups believe that too many are required. But certainly we have not. We have accepted that safety rule. If we have accepted that safety rule, it seems, to this Senator at least, to be only logical that we accept the decision of the Federal Aviation Administration on how those doors will be used and in what way they can be most effectively used in the rare occasions on which that kind of use can be required.

There is, of course, to take on another thought, Mr. President, one other and I think significant and considerable argument in favor of this proposal. That argument was expressed with great eloquence by the distinguished chairman of the Senate Commerce Committee. It was one of discrimination. It was one of the embarrassments that can be felt by persons who are asked to leave seating, which they have received blind at the time at which they made a reservation on an airline company, in the interest of safety.

The distinguished Senator from South Carolina spoke of an acquaintance or a constituent of his who went through such an experience and was humiliated, and I think not particularly sensitive in being humiliated. He had a right to feel that way by being so moved. I do not deprecate that concern, Mr. President. I believe that it is a real one. I believe that it is one which is worth our attempting to deal with as sensitively and as effectively as we can.

I do not believe, however, that it is one which overpowers considerations of safety itself. One can argue for this bill on two grounds. One can argue that there are no safety differences; that it does not matter who we allow to sit in these seats; that one individual is as capable of dealing with the emergency procedures as another, and that argument has been made. Or we can argue that even though there are safety considerations involved, they are not as important as the right of a person with one or another of these disabilities to be treated totally in a nondiscriminatory fashion.

The arguments have been somewhat mixed up so far. It seems to me, while it has been argued that there are no safety considerations involved, that argument cannot truly seriously be presented in the face of the unanimous findings of those people most concerned with aircraft safety.

So it seems to me in dealing with the argument about discrimination, which is an important one, that we should deal with it in a way which deals best with the discrimination and the potential embarrassment or humiliation without impacting the safety considerations in aircraft flight.

We have just been informed that the Air Transport Association, that is to say, the airline association itself, is perfectly willing, as some already do, to accede to a rule under which exit reseating is only assigned at the gate or on a face-to-face basis, so that those seats are reserved until last and get assigned this. So we do not find ourselves in this inadvertent situation in which the blind individual is embarrassed by being asked to move and sometimes in the natural human reaction refuses to do so, and thereafter causes a negative reaction on the part

of the other passengers. I do not think that cures this question of embarrassment or being treated in a different fashion 100 percent, but I think it is a long step toward doing so.

On balance, when one balances that consideration and that sensitivity against the very real safety considerations which are involved here, we clearly come down on the side of the FAA rule.

Mr. President, this bill obviously has become attractive to amendments on other subjects. Since I am not much in favor of the bill, I do not want to discourage anyone in this body from offering other amendments, many of which I will support, some of which I suspect I will not. But at an appropriate time when we get back to the subject of this bill, I have placed on the desk an amendment which will simply codify the rules which has been promulgated by the Federal Aviation Administration. It will remove the objections which the committee has had of discrimination against the blind because, as I have already reported to you, the rule covers all physical types of conditions which can mean that someone seated in an exit row would be slower than average or have a lesser ability than average to deal with those exits.

We will then be able to make the choice between whether or not we want to place safety first in connection with the operation of our airlines, whether or not we wish to follow—I want to repeat once again the very well thought out rulemaking process of the Federal Aviation Administration—the views of the Department of Transportation which is its parent, the views of the administration and the White House, the views of the Air Transport Association, those who own and operate these aircraft, and the views of those people who work on our commercial airlines as against those who with all due respect certainly are immensely lacking in the expertise of the groups which I have outlined so far.

At this point, Mr. President, I ask unanimous consent there be included in the RECORD at this point the letters to which I have referred from the Air Transport Association, from the various union groups which I have quoted, a letter from the Federal Aviation Administration administrator opposing this bill, and a statement of administration policy on this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AIR TRANSPORT ASSOCIATION OF AMERICA,
Washington, DC, February 3, 1989.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: Pursuant to the Airport Access Act of 1986, the Department of Transportation (DOT) issued a Notice of Proposed Rulemaking regarding air transportation of the handicapped. A federal advisory committee had been established to develop a recommended rule. That ended prematurely, however, when disability groups walked out after DOT and the Federal Aviation Administration (FAA) decided exit row seating should be addressed by the FAA in a separate rulemaking because that is a safety issue.

The FAA has drafted an NPRM on exit row seating which appears to be in the final steps of development. FAA believes that passengers who sit in exit rows should have the capability to perform certain functions to facilitate evacuation in the event of an emergency. These functions require certain physical and mental capacities. The National Transportation Safety Board has stated that persons who cannot meet functional requirements as defined by the FAA should not occupy seats in rows that lead to overwing exits. Notwithstanding the fact that the two agencies of government charged with protecting the safety of airline passengers have concerns over the seating of those with disabilities in exit rows, legislation has been introduced to require the airlines to allow such seating.

All ATA member airlines have policies which restrict certain passengers from sitting in rows immediately adjacent to some or all aircraft emergency exits. Included are children, the elderly, the blind, the obese, and others whose mental or physical abilities are not judged sufficient to locate, understand and operate exit doors quickly in the event of an emergency. These restrictions are based on the critical need for passengers to be able to assess the conditions outside an emergency exit, open the exit, and begin the evacuation process without delay. The initial establishment of the evacuation stream is important as it identifies an operative exit immediately. For overwing exits in particular, passengers also must have the capability of getting out onto the wings, walking to the trailing edge and then jumping to the ground. Thus, in fulfilling their statutory duty to operate with the highest possible degree of safety in the *public* interest, carriers have implemented emergency exit row seating restrictions.

Appropriate and timely reactions by passengers, when a crewmember cannot get to an exit, is a critical element in achieving a safe and swift evacuation. Any time lost will jeopardize the lives of passengers and crewmembers alike. Passengers who do not appear to have the functional capabilities to assess exterior conditions, make a quick decision as to whether an exit can safely be used and then open an exit, could delay the evacuation or, even worse, open an exit onto a fire or collapsed chute.

This is clearly an emotionally charged issue. Airlines do not want to discriminate unlawfully against passengers with disabilities. No economic or other goal is served by discriminating against such individuals, or any other person who can adequately respond to emergency circumstances. Neither, however, can airlines risk the lives of passengers or crewmembers by delayed or improper evacuation decisions. It is solely a matter of the safety responsibility owed to all passengers which both the airlines and the Federal Aviation Administration must fulfill.

We urge you to oppose legislation which would override these safety considerations.

Sincerely,

WILLIAM J. BURHOP,
Senior Vice President,
Government Affairs.

JUNE 26, 1989.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The airlines, pilots and flight attendants are in agreement: the seating of blind persons in exit rows presents a serious safety risk to all passengers who fly, including the safety of blind persons. Therefore, we urge you to protect all passengers by opposing legislation that would prohibit the Federal Aviation Administration (FAA) from regulating emergency exit row seating.

The aviation industry is concerned about this legislation (S. 341 and H.R. 563) because it approaches a vital safety issue from the wrong perspective. In this legislation, exit row seating for the blind is being advanced solely as civil rights legislation. A civil rights approach to the question of whether persons with vision impairments should sit in emergency exit rows is inappropriate because it ignores what truly is at issue, public safety; specifically, passenger and crew safety in the event of an emergency evacuation. The FAA should be allowed to proceed with its recently announced rulemaking because the FAA's proposed rule carefully addresses the issue of exit row seating for all passengers in a comprehensive, non-discriminatory manner.

We are enclosing a *New York Times* editorial for your review. In emergency evacuations, persons seated in exit rows are required to make visual judgments in a short period of time under stress. Is there a fire outside? In which direction does the door open? Is the slide properly deployed? Are there jagged or torn pieces of metal which could potentially harm evacuating passengers? While blind persons are certainly able to leave a plane unassisted, they are unable to make the critical visual judgments needed to initiate a rapid and safe flow of passengers through the exits.

The FAA has proposed a rule that would prohibit all persons who might impede an emergency evacuation from sitting in an exit row, not just blind persons. The agency has asked for public comment, after which, it will make a decision using its safety expertise. The FAA, the U.S. Government's technical agency with the primary responsibility for safety in aviation, should be allowed to proceed with the rulemaking. The groups representing the blind want you to support legislation to short-circuit that rulemaking process and prohibit the FAA from taking action in this area. In doing so, these groups are seeking a pyrrhic victory that will endanger the lives of thier own members and all Americans who fly.

We respectfully request that you not support this legislation unless you believe there is overwhelming evidence to contradict the FAA's recommendation. Again, the FAA is the Government's technical agency for safety in aviation and therefore we urge you to protect your constituents by opposing legislation that would prohibit the FAA

from drafting the rules regarding exit row seating.

Sincerely,

SUSAN BIANCHI-SAND,
National President,
Association of Flight Attendants.
HENRY A. DUFFY,
President, Airline Pilots Association.
ROBERT J. AARONSON,
President,
Air Transportation Association.
JOHN S. FREDERICKSEN,
Executive Vice President,
Regional Airline Association.

FEDERAL AVIATION ADMINISTRATION,
Washington, DC, June 6, 1990.

Hon. ROBERT J. DOLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I am writing to express my concern about S. 341, which is pending on the Senate Calendar. S. 341 provides that blind individuals may not be denied seating in exit rows on airline aircraft. The enactment of S. 341 could have serious safety consequences and, in my view, would not be in the best interest of the American traveling public.

Several years ago, the Congress enacted the Air Carrier Access Act, which called upon the Department of Transportation to issue regulations providing for greater access to handicapped persons to our air transportation system. In doing so, though, the Congress recognized that there needed to be a basis for safety concerns to override the general principle in favor of unrestricted access, and provisions for such safety exceptions were made in the Act.

Pursuant to the clear Congressional intent to avoid the derogation of aviation safety, the Federal Aviation Administration considered the effect that handicapped persons could have on emergency evacuation of an aircraft, and concluded—after a long, open rulemaking process—that safety mandated the establishment of a requirement that only persons functionally capable of safely opening exit doors and performing related evacuation functions could be seated in exit rows. On March 6, 1990, the FAA published a final safety rule mandating such a requirement. The FAA safety rule does *not* single out blind people for exclusion from exit rows, as some would have you believe. Instead, it covers the full range of persons who are unable to assist in the timely and safe evacuation of others from an aircraft: excessively obese or frail individuals, individuals on medication, young children, and the like.

Airline accidents have consistently demonstrated that the ability of survivors to exit an aircraft as quickly as possible is key to saving lives. Despite significant gains we have made in reducing the threat or onset of fire, getting off the plane quickly and safely continues to remain the critical factor in survivability, and anything that potentially affects that ability means lives lost in the future.

In view of the significant concerns of some handicapped individuals that the FAA proposed rule would unfairly exclude them from exit row seating, I went to an airline training facility to see and experience firsthand the kinds of exit doors that an individual must have the strength and dexterity to open in an emergency. And I would stress that, in the case of unsighted persons, apart from the difficulty that might be associated with their opening an exit door, they simply do not possess the physical ability to determine by observation that a particular door should *not* be opened because of fire, failure of a slide to inflate, or other life threatening hazards.

My personal review of this issue confirmed to me that FAA and outside safety experts are right—to protect the rights of all airline passengers to have the best chance of living through an otherwise survivable crash, only those people who can help other passengers get off the plane safely and quickly should sit in exit rows. This is not a complex issue; it is not a "civil rights" issue, except as it applies to the rights of *all* passengers; it is a common sense safety issue.

I ask your support in behalf of the flying public to see that the FAA safety rules concerning exit row seating are preserved. I and members of my staff are available to meet with you or provide whatever additional information you may find useful.

Sincerely,

JAMES B. BUSEY,
Administrator.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 6, 1990.

STATEMENT OF ADMINISTRATION POLICY—S. 341, AIR TRAVEL RIGHTS OF THE BLIND

The Administration opposes enactment of S. 341. Since Committee consideration of this issue, the Federal Aviation Administration (FAA) has issued a rule allowing only passengers able to perform the basic safety functions necessary in emergency evacuations to sit in the exit rows of an aircraft. The rule applies neutrally to all persons, based solely on their ability to perform these functions. The rule does not discriminate against anyone, rather it maximizes the likelihood that people sitting in exit rows will be able to perform important safety functions quickly and efficiently.

AMENDMENT NO. 1994

Mr. BOND. Mr. President, I have an amendment at the desk on behalf of myself and Mr. DANFORTH. I ask for its immediate consideration.

The PRESIDEING OFFICER (Mr. RIEGLE). The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Mr. DANFORTH, proposes an amendment numbered 1994.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

CHILD RESTRAINT SYSTEMS ON COMMERCIAL AIRCRAFT

SEC. . (a) IN GENERAL.—Section 601 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421) is amended by adding at the end of the following new subsection:

"(g) CHILD RESTRAINT SYSTEMS.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall issue regulations requiring the use of child safety restraint approved by the Secretary on aircraft providing air transportation of passengers. Such regulations shall establish age or weight limits for children who are to use the systems.".

(b) CONFORMING AMENDMENT.—The table of contents contained in the first section of such Act is amended by inserting at the end of the matter relating to section 601 the following new item:

"(g) Child restraint systems.".

Mr. BOND. Mr. President, this measure is the text of a bill that I introduced last fall, S. 1913, with the cosponsorship of Senator DANFORTH. It provides very simply that, not later than 90 days after the date of the enactment of this measure, the Secretary shall issue regulations requiring the use of child safety restraint system for children under the age of 2 years old.

As the distinguished chairman of the committee said in his kind comments, and I express my appreciation to him and the Senator from Washington for allowing me to go forward, this is a measure that has been of great personal concern to me for at the last 9 years.

My wife and I learned through personal experience when traveling with our infant son on an airline, that much to our chagrin, even if we purchased a seat we could not put our son in a child safety restraint seat for takeoff and landing or turbulent air, the most dangerous time of an airline trip.

Beginning with that, I started corresponding and petitioning the FAA to take some corrective action. It is now 9 years later and I am pleased to see that the FAA is considering a rule which will not allow the airlines to prohibit somebody from using a safety seat on an airline for their infant or toddler.

Mr. President, I appreciate the prompt response to my concerns and I am delighted that the FAA has finally taken some action.

But just saying that seats can be permitted is not enough. Pediatricians, child safety experts, and the flight attendants have for years said that the only safe way for an infant to travel on an airplane is to travel in a safety restraint seat.

Since 1985, the safety restraint seats used in automobiles manufactured in this country have been approved for airline as well as automobile use. We are now at the point where we ought to recognize that the safety of our smallest citizens is just as important as their slightly older brothers and sisters. Right now, luggage, equipment, every older member of the family, has to be restrained on takeoff or landing. It is ironic to note that even corpses must be restrained.

What this measure does is to direct that every small child under a certain age and weight limit who travels on an airplane be protected by a safety restraint seat. The National Transportation Safety Board, on May 22 of this year, by a 4-to-0 vote, recommended revising 14 CFR 91, 121 and 135 to require that all occupants be restrained

during takeoff, landing, and turbulent conditions, and that all infants and small children below the weight of 40 pounds and height of 40 inches be restrained in an approved child restraint device appropriate to their height and weight.

Mr. President, my amendment would accomplish this.

The Chairman of the NTSB, Mr. Kolstad, said that the current exemption for children under 2 is a hole in the law. He stated, "All objects must be secured during takeoff and landing, including coffee pots and luggage. And yet infants, our precious children, are not."

I do not think it is too much to ask. It seems time to protect those persons who cannot protect themselves.

Mr. President, I ask unanimous consent that the recommendations of the National Transportation Safety Board be printed in the RECORD.

There being no objection, the recommendations was ordered to be printed in the RECORD, as follows:

RECOMMENDATIONS TO BE ISSUED TO FAA ON CHILD RESTRAINTS

Approved by the National Transportation Safety Board, 4-0, May 22, 1990.

(1) Revise 14 CFR 91, 121, and 135 to require that all occupants be restrained during takeoff, landing, and turbulent conditions, and that all infants and small children below the weight of 40 pounds and height of 40 inches be restrained in an approved child restraint device appropriate to their height and weight.

(2) Conduct research to determine the adequacy of aircraft seatbelts to restrain children too large to use child safety seats and to develop some suitable means of providing such restraint.

Mr. DANFORTH. Mr. President, today, airlines allow infants under the age of 2 to travel free if they sit on the lap of a parent. It is estimated that 5,000 to 10,000 small children, under the age of 2, travel this way each day. This is a dangerous and costly practice. When an Avianca jet crashed onto Long Island last year, six children under the age of 2 were injured, and seventh child was killed. Safety seats could have prevented these tragedies.

Last November, Senator BOND introduced a bill, S. 1913, which would require safety restraint systems—child seats—for small children flying on commercial airlines. I am a cosponsor of that bill.

On May 22, the National Transportation Safety Board recommended that the Federal Aviation Administration implement rules requiring safety restraint seats for small children. James Kolstad, chairman of the NTSB, noted that "objects must be secured during takeoff and landing, including coffee pots and luggage. And yet infants, our precious children, are not."

This measure has the support of other air travel groups, as well. The Air Transport Association, which represents the major airlines, endorses mandatory safety seats for infants, also. Robert Aaronson, president of ATA, remarked, "if we buckle our children up at 50 miles an hour, why not at 550 miles an hour?" Additionally, the Association of Flight Attendants supports a mandatory safety seat law, as well as the Airline Passengers Association of North America.

The FAA currently is considering optional use of child safety restraints. however, airlines already allow this. Under this type of rule, no more safety seats will be used than in the past.

This legislation is a simple and effective way to protect our children. Seats are already available for use. And even if parents occasionally are required to purchase an extra seat for their infant, the benefit of protecting that child far outweighs the cost.

The PRESIDING OFFICER. Is there further debate?

Mr. HOLLINGS. Mr. President, I favor the amendment. I do not know of any opposition at this time on this particular side of the aisle.

The fact of the matter is, we have had the Bond bill in committee. We were awaiting this hearing and finding, and the finding now has been made, at the very end of May, by the National Transportation Safety Board.

I have had a very informative discussion with the distinguished Senator from Missouri. He related a situation that mandated using the safety seat restraints in automobiles, but taking that same restraint for a child on board a plane was prohibited. Instead, you are obliged to engage in the unsafe practice of holding a child in year lap.

Now we know, from Sioux City and other air accidents, how unsafe that is. We know that the safe way is as has been proposed by our colleague from Missouri and the National Transportation Safety Board.

They also required, on May 22, not only a revision of the rules and regulations in recommending this to the FAA, requiring all occupants to be restrained during the takeoff, including infants and small children of a certain size, but also for the FAA to conduct research to determine the adequacy of aircraft seatbelts to restrain children too large to use child safety belts and to develop some suitable means of providing such restraint.

I think the key here is that we do not have a very responsive FAA, in all candor. They took 3 years, and with no evidence, no hearing, and no finding, and suddenly an FAA Administrtor, bam, he makes a rule.

We know in Government that that is not the way to proceed, for every individual to pass his own rule. Otherwise, I would favor our committee's having a hearing with the distiguished Senator from Missouri, with the National Transportation Safety Board finding, and thereupon reporting tht bill, passing it not only as an amendment on this—we can accept it as an amendment—but also passing it as an individual bill to reported out for individual action.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. I have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1994) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1995

(Purpose: To grant the power to the President to reduce budget authority)

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. COATS, Mr. ARMSTRONG, Mr. HUMPHREY, Mr. DOLE, Mr. ROTH, Mr. MCCONNELL, Mr. BOND, Mr. BOSCHWITZ, Mr. KASTEN, Mr. HELMS, Mr. WARNER, Mr. MACK, Mr. LUGAR, Mr. DANFORTH, Mr. GORTON, Mr. GRAMM, Mr. NICKLES, Mr. SYMMS, Mr. WILSON, Mr. BURNS, Mr. GARN, Mr. GRASSLEY, Mr. LOTT, Mr. MURKOWSKI, Mr. SIMPSON, Mr. WALLOP, Mr. HATCH, Mr. CHAFEE, Mr. THURMOND, Mrs. KASSEBAUM, Mr. PRESSLER, Mr. EXON, and Mr. BOREN, proposes an amendment numbered 1995.

Mr. McCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . LEGISLATIVE LINE ITEM VETO ACT OF 1989.

(a) SHORT TITLE.—This section may be cited as the "Legislative Line Item Veto Act of 1989".

(b) ENHANCEMENT OF SPENDING CONTROL BY THE PRESIDENT.—The Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

TITLE XI—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"PART A—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"GRANT OF AUTHORITY AND CONDITIONS

"SEC. 1101. (a) IN GENERAL.—Notwithstanding the provisions of part B of title X and subject to the provisions of part B of this title, the President may rescind all or part of any budget authority, if the President—

"(1) determines that—

"(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

"(B) rescission will not impair any essential Government functions; and

"(C) such rescission will not harm the national interest; and

"(2)(A) notifies the Congress of such rescission by a special message not later than 20 calender days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act or a joint resolution making continuing appropriations providing such budget authority; or

"(B) notifies the Congress of such rescission by special message accompanying the submission of the President's budget to Congress and such rescissions have not been proposed previously for that fiscal year.

The President shall submit a separate rescission message for each appropriations bill under paragraph (2)(A).

"(b) RESCISSION EFFECTIVE UNLESS DISAPPROVED.—(1)(A) Any amount of budget authority rescinded under this title as set forth in a special message by the President shall be deemed canceled unless during the period described in subparagraph (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

"(B) The period referred to in subparagraph (A) is—

"(i) a Congressional review period of 20 calendar days of session under part B, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

"(ii) after the period provided in clause (i), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

"(iii) If the President vetoes the rescission disapproval bill during the period provided in clause (ii), an additional 5 calendar days of session after the date of the veto.

"(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message) shall run beginning after such first day.

"DEFINITIONS

"SEC. 1102. For purposes of this title the term 'rescission disapproval bill' means a bill or joint resolution which only disapproves a rescission of budget authority, in whole, rescinded in a special message transmitted by the President under section 1101.

"PART B—CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS

"PRESIDENTIAL SPECIAL MESSAGE

"SEC. 1111. Whenever the President rescinds any budget authority as provided in section 1101, the President shall transmit to both Houses of Congress a special message specifying—

"(1) the amount of budget authority rescinded;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation and the specific project or governmental functions involved;

"(3) the reasons and justifications for the determination to rescind budget authority pursuant to section 1101(a)(1);

"(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

"(5) all facts, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

"TRANSMISSION OF MESSAGES; PUBLICATION

"SEC. 1112. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under sections 1101 and 1111 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

"(b) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under sections 1101 and 1111 shall be printed in the first issue of the Federal Register published after such transmittal.

"PROCEDURE IN SENATE

"SEC. 1113. (a) REFERRAL.—(1) Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

"(2) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

"(b) FLOOR CONSIDERATION IN THE SENATE.—

"(1) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(2) Debate in the Senate on any debatable motion or appeal in connection with such a bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage sof the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

"(c) POINT OF ORDER.—(1) It shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission of budget authority transmitted by the President under section 1101.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

"(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.".

Mr. McCAIN. Mr. President, I send that amendment on behalf of myself and Senator COATS, along with Messrs. ARMSTRONG, HUMPHREY, DOLE, ROTH, MCCONNELL, BOND, BOSCHWITZ, KASTEN, HELMS, WARNER, MACK, LUGAR, DANFORTH, GORTON, GRAMM, NICKLES, SYMMS, WILSON, BURNS, GARN, GRASSLEY, LOTT, MURKOWSKI, SIMPSON, WALLOP, HATCH, CHAFEE, THURMOND, Mrs. KASSEBAUM, Messrs. PRESSLER, EXON, and BOREN.

I want to thank my friend from Indiana, Senator COATS, who has taken a leadership role on this issue. I am very grateful for all of his hard work. It has been a great and distinct privilege for me to work with him as we pursue this issue, which is of great importance to the people of this country.

Mr. HOLLINGS. Will the Senator yield? Can we get a copy of the amendment? I did not want to object.

Mr. McCAIN. We will get one to the Senator.

Mr. HOLLINGS. I might cosponsor it myself.

Mr. McCAIN. It is legislative line-item veto, so I do not think the Senator wants to cosponsor it at this time.

Mr. HOLLINGS. I voted for legislative line-item veto when Senator Mattingly had it, and on two other occasions. I think it is an appropriate matter, but not on this particular bill.

The Senator is right. I think it should be a line-item veto for those on the ground, not air safety.

Mr. McCAIN. Reclaiming my prerogative, I appreciate the comments of the distinguished chairman. I am sure he is well aware that the likelihood of bringing this up as a freestanding piece of legislation is incredibly remote.

Although I certainly appreciate his philosophical support for this legislation, I fully understand and appreciate why he would object to it being placed on this piece of legislation. I have fond hopes, although not bright ones, that someday I will be in the majority party and have the ability to call up this legislation without having to revert to the parliamentary tactic of attaching it as an amendment.

It has been 5 years—1985—since a line item veto bill came up as a freestanding piece of legislation, when this side of the aisle was in the majority. Hopefully, some day it will again be brought up as a freestanding legislative item.

But until that day we who support this legislation must offer it in amendment form to bills which we otherwise support, like this one.

Let me emphasize, Mr. President, that I am proud to be a cosponsor of

S. 341, the Air Travel Rights for Blind Individuals Act. We must maintain our vigilance and fight to break down the barriers in eliminating the difficulties faced by individuals with disabilities.

The bill will do more than curb a discriminatory practice. It serves a more valued purpose. It seeks to destroy misconceptions.

Mr. President, as I have stated in the past, legislation can only serve to outlaw discrimination. It cannot alter opinion. Opinion is changed through education, and this bill takes an important step toward educating the public. It sets a precedent for all to examine. It simply says the value of the individual is in what he or she can do, not for what they cannot do.

I do not believe the airlines or any other companies have deliberately sought to embarrass or harass blind passengers, but it has happened too often. I am hopeful this legislation will create a new awareness of this situation and highlight the many diverse abilities of our proud blind citizens. Misconceptions and prejudices have no place in our society. It is time that we ensure that all citizens are treated in a fair and equitable manner.

Mr. HOLLINGS. I do not want to disturb the orderly presentation of the amendment.

Mr. McCAIN. It is always a distinct pleasure to hear from my friend from South Carolina, and it is always a learning experience to hear from him.

Mr. HOLLINGS. Thinking out loud to myself, that ends any chance of really helping the blind, for the very reasons the distinguished Senator from Arizona has related. It means that we are not going anywhere, and we are not going anywhere. Here is a bill I think the Senator from Arizona favors, to put the handicapped in safety.

Mr. McCAIN. I am glad to yield to the Senator from South Carolina.

Mr. HOLLINGS. If the Senator succeeds, then knowing what I know at the present time, I have always thought maybe we could pass a line-item veto in the Senate. We had 40-some votes the time before, but I always wondered about the House. They are pretty adamant on that score. So I am saying, Heavens above, let us not handicap the blind further.

Mr. McCAIN. I thank the distinguished chairman. Let me state again that I have no intention of impeding the progress of this important legislation, which, as the distinguished chairman well knows, I strongly support.

What is going to happen, as the chairman knows, is we will get a vote on this amendment. We will then go out to the American people, as we have prior to the presentation of this amendment, and ask them if they will urge their elected representatives to support this piece of legislation the next time it comes up, because there are many of us, including 60 national organizations, including Americans for Tax Reform, National Association of Home Builders, Citizens for a Sound Economy, Chamber of Commerce of the United States, National Federation of Independent Businesses, National Taxpayers Union, U.S. Federation of Small Businesses, et cetera, that feel their ability to survive in the free market capitalist system is directly dependent upon getting what they believe is out of control under control; that is, the budget deficit.

The President of the United States also feels strongly about that issue. I will be reading a letter from him later on.

I say in all candor to my distinguished chairman, I do not expect to win this time. I did not expect to win the first time I brought up the repeal of the surtax on the catastrophic illness insurance bill either. We ultimately ended up with a 99 to nothing vote, however, after about a year of hard work.

I found, as my colleague from Indiana has, that we will have to revisit this issue many times in order to comply with the wishes of the American people. According to a Gallup poll and other polls, 75 percent of the American people strongly support this measure which will instill some fiscal sanity into a system that, as my colleague from South Carolina has so eloquently stated time after time, is totally out of control.

I do not pretend, I say to my friend from South Carolina, to believe that this will be the ultimate answer, but I do believe it is a tool that is used by 43 out of 50 Governors in this country. Of course, as we all know, the difference between those 43 governments and the Federal Government is that they have a balanced budget and fiscal sanity and we do not.

Mr. President, this legislative line-item veto amendment which I am proposing, along with my friend from Indiana, Senator COATS, enables the President 20 days after enactment of an appropriations bill to identify items of spending within that bill which he believes are wasteful, and to notify Congress that he is eliminating or reducing the fund for those provisions.

It also allows the President to submit such enhanced rescissions with his budget submission at the beginning of the year. This second shot at proposing rescissions ensures the President has the time to strike at wasteful spending that may not be obvious during the first rescission period.

Congress is required to overturn these line-item vetoes or reductions within 20 days or they become effective. The President may veto part or all of the funds for programs he feels are wasteful.

Mr. President, we need this amendment. We need it because Congress is not accountable for its spending decisions. Tax burdens are so high that tax freedom day ever later than was this year. Mr. President, the average American worked until May 5 of this year paying off his taxes before he began to earn money for himself or herself and their family.

I do not think there is any doubt in anyone's mind that the budget process is a sham. Since Congress rewrote the Budget Act in 1974 to cure a problem, the deficits have ballooned from $6.1 billion in 1974 to $221 billion and an overall debt of $3.3 trillion. Deficits are now four times higher as a percentage of GNP than they were in 1974.

Mr. President, the current rescission process is defunct because Congress does not have to take any action on them when submitted by the President.

In 1987 alone, the President submitted to the Congress $5.8 billion in rescissions. Congress adopted $35 million in rescissions. Congress approved only 6 proposed rescissions out of 162 proposed rescissions between 1986 and 1989, only $179 million out of $16 billion.

This amendment restores checks and balances to a system that does not work.

The line-item veto is a tried and tested area. The first line-item veto bill was proposed in Congress in the year 1876. Forty-three States now have it. And I might state for those who are interested in history, the first State to support the line-item veto was the State of Georgia in 1961.

Mr. President, as I mentioned before to my friend from South Carolina—and I say again—43 States in this Nation, including my home State of Arizona, have the line-item veto authority. Over 75 percent of the American people, according to Gallop Polls, indicate that the President deserves this authority, and our bill provides it in a fashion that leaves final spending decisions with Congress but prevents us from giving the President take-it-or-leave-it bills.

Some of us remember the ability of the previous President, Mr. Reagan, to capture the imagination of the American people. One of his actions which I will never forget was during a State of the Union message, Mr. President, when he picked up an approximately 30 pound, 3,000-page package called a continuing resolution. As I remember, it had billions in spending associated with it, none of which had been read or understood by any Member of Congress of which I know. That kind of behavior, Mr. President, the so-called continuing resolution, is the ultimate result of a budget system which is out of control.

Mr. President, according to former Director of the Office of Management

and Budget, Mr. Jim Miller, if we had had a measure like this in 1980, we would have been able to save $377 billion between 1980 and 1988. The budget would be 10 percent smaller today, and the budget deficit would be lower.

One of the arguments, amongst many, Mr. President, which will be used against this amendment will be that it does not affect nearly enough programs, that so much program spending is locked in concrete that it will have a marginal effect.

Mr. President, I think when we are talking about numbers as high as $377 billion over a period of years, it is certainly worth considering. We are now threatened with a $60 to $80 billion sequester, and, of course, no one seems to be able to unravel that Gordian knot.

Mr. President, I ask unanimous consent that the list of 60 organizations called the Coalition for Fiscal Restraint be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

COALITION FOR FISCAL RESTRAINT

American Cyanamid Company.
American Farm Bureau Federation.
American Furniture Manufacturers Association.
American Legislative Exchange Council.
American Logistics Association.
American Meat Institute.
American Pulpwood Association.
American Rental Association.
American Trucking Associations
Americans for Tax Reform.
Amway Corporation.
Armstrong World Industries.
Assciated Builders and Contractors.
Association of Wall & Ceiling Industries—International.
Automotive Service Association.
Chamber of Commerce of the United States.
Chocolate Manufacturers Association.
Citizens Against Government Waste.
Citizens for a Sound Economy.
Commercial Weather Services Association.
Committee for Private Offshore Rescue and Towing.
Composite Can and Tube Institute.
Consumer Alert.
Coors and Company, Adolph.
Dairy and Food Industries Supply Association.
Entrepreneurs of America.
FMC Corporation.
The Gap, Inc.
Georgia-Pacific Corporation.
Grace and Co., W.R.
Helicopter Association International.
Independent Bakers Association.
International Ice Cream Association.
International Mass Retail Association.
Koch Industries.
Marriott Corporation.
Meat Importers Council of America.
Milk Industry Foundation.
National-American Wholesale Grocers' Association.
National Association of Brick Distributors.
National Association of Convenience Stores.
National Association of Manufacturers.
National Association of Truck Stop Operators.
National Association of Wholesaler-Distributors.
National Candy Wholesalers Association.
National Cattleman's Association.
National Coffee Service Association.
National Federation of Independent Business.
National Food Brokers Association.
National Grange.
National Independent Dairy-Foods Association.
National Limousine Association.
National Printing Equipment and Supply Association.
National Tax Equality Association.
National Tax Limitation Committee.
National Taxpayers Union.
NL Industries.
Printing Industries of America.
Recreation Vehicle Industry Association.
Reynolds Metals Co.
Sears, Roebuck and Co.
Sun Company.
United Bus Owners of America.
U.S. Business and Industrial Council.
U.S. Federation of Small Businesses.
The Walgreen Company.

Mr. McCAIN. Mr. President, I think it is appropriate that at this time this body take up this legislative line-item veto proposal again. Especially since we were treated to a charade just recently that angered many Members of this body and certainly outraged millions of Americans. It was a process that we called the dire emergency supplemental appropriations bill. I repeat, dire emergency supplemental appropriations.

That was the name of that bill. We all know that the rationale for the legislation was to extend $700 million in aid to both Nicaragua and Panama, urgently needed funding and moneys that were generally approved of by the overwhelming majority of both bodies in Congress. Time was very important. The Panamanian economy had been harmed to a large degree by Operation Just Cause in Panama, and, of course, the Nicaraguan Government was emerging from a long night of Sandinista rule which basically wrecked their economy.

That legislation was proposed by the President of the United States on March 21, if my memory serves me correctly. What happened? Well, Mr. President, on the Senate side, we added $185 million for a West Virginia printing identification facility. That is a dire emergency, I am sure; the go ahead for fish farming in Arkansas, another dire emergency; $238 million to build an ammunition plant in Louisiana which the Army does not want, another dire emergency; funds to recycle batteries from New Jersey; funds to pay Senate consultants up to $95,715 a year; funds to pay for relief of grasshopper infestation; $110 million for the census; $15 million to monitor a volcano in Alaska and for the *Exxon Valdez*; $5 million in aid to Cambodian children; $1 million in family planning to Romania; $5 million for the U.N. Environmental Program; $216 million for disaster aid for victims of Hurricane Hugo and flooding in the Southeast; $529 million for veterans programs; $1 million to fund field studies on repetitive motion disorders in the meat packing industry, another dire emergency; $500,000 for the National Commission on Children to study children's issues; $425,000 for preconference activities for an upcoming White House conference on Library Services, with total conference costs expected to be $5.4 million.

Not to be outdone, Mr. President, the other body then added on $6 million to buy land for a wildlife refuge in Iowa; permission to give a $750,000 ship to American Samoa to ease transport among the territory's islands; $4.8 million for design and construction of a memorial to Franklin Delano Roosevelt; $30 million for 40 special projects in HUD, including $390,000 for a library and recreation center on Mackinac Island, MI; $10 million for new democracy in Namibia; $200,000 for Mildred and Claude Pepper Scholarship Fund; $10 million assistance for Haiti; $15 million assistance for Caribbean countries; $175 million for Interior to do fire fighting; $1 million for more travel for the VA. The list goes on and on and on and on, Mr. President.

It took 4 months to get $4.3 billion out of a $720 million dire emergency supplemental appropriations bill. It is an outrage. It is an insult to the American people. Most of those items which I listed are very important projects. Many of them would be funded by the Congress of the United States and supported by the President. But they did not all go through the normal process, for which I have always believed the authorization and appropriations committees were set up.

Mr. President, I quote in part from the letter that I received from President Bush. It says:

> Let me take this opportunity to commend your personal efforts in developing the Legislative Line-Item Veto Act, and to offer you my full and strong support in the push to enact this important legislation.
>
> S. 1553 would solve this problem by allowing the President's rescissions to go into effect unless the Congress takes affirmative action to restore the appropriations. This simple but important change in the law will make both Congress and the President more accountable for the responsible use of the public's money. For that reason, this bill deserves the support of all of us.
>
> Sincerely,
>
> GEORGE BUSH.

Mr. President, I ask unanimous consent that the entire letter be included as part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, October 4, 1989.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR JOHN: Let me take this opportunity to commend your personal efforts in developing the Legislative Line-Item Veto Act of 1989 (S. 1553), and to offer you my full and strong support in the push to enact this important legislation.

As you are aware, this legislation offers an important opportunity to reform the budget process by enabling the President to rescind wasteful and unnecessary appropriations and thereby reduce the Federal deficit.

Under current law, an appropriation can be cancelled only through a cumbersome rescission process that has proved to be largely ineffective. The fatal defect in the existing process is that the President's proposed rescissions can be thwarted simply by congressional inaction. And in fact, the vast majority of Presidential rescissions submitted since the present law was enacted in 1974 were never acted upon.

S. 1553 would solve this problem by allowing the President's rescissions to go into effect unless the Congress takes affirmative action to restore the appropriations. This simple but important change in the law will make both the Congress and the President more accountable for the responsible use of the public's money. For that reason, this bill deserves the support of all of us.

With best regards,
Sincerely,

GEORGE BUSH.

Mr. McCAIN. Mr. President, some believe that this is a new idea. To a large and significant degree what we are doing here is returning to the practices of about 175 years of the history of this Congress because up until the 1974 Budget Rescission Act the President had impoundment authority.

So to those that say this a new idea, I would say to a large degree this is a restoration of what had previously been one of the authorities of the executive branch.

Mr. President, there will be those that argue on both sides what if this authority were given to a President who has a different political philosophy than those of us who are proponents of the bill. Mr. President, I am willing to take that risk. I think the American people clearly are willing to take that risk. The Gallop Poll question did not ask the American people, do you support a line item veto if there were a Republican President, nor did they ask do you support the line item veto if it were a Democrat. They ask if you support the line item veto authority for the President of the United States.

Clearly the American people are disgusted and dismayed, and they have every right to be.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. McCAIN. Mr. President, I understand there is not a sufficient second for the yeas and nays.

The PRESIDING OFFICER. The Senator is correct.

Mr. McCAIN. Mr. President, I believe I still have the floor. I will continue to discuss this amendment until such time as I have sufficient yeas and nays.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. McCAIN. Yes, for a question; reserving my right to the floor.

Mr. HATFIELD. I would like to ask the Senator one question. On a matter of the laundry list of those items in the appropriations supplemental he was using as an example as something that really should not have been in the bill and so forth, did the Senator from Arizona offer an amendment to strike any one of those items while that appropriations supplemental was on this floor for 10 days, 2 weeks?

Mr. McCAIN. In response, reclaiming the floor, my response is I did not choose to waste the time of this body in order to do so, because I knew it was doomed to failure. I have better use of my time, I say to the distinguished Senator from Oregon.

Mr. HATFIELD. Will the Senator yield for a further question?

Mr. McCAIN. Yes.

Mr. HATFIELD. Does the Senator feel it was a waste of time to offer an amendment to delete any one of those items on the basis that he did not think he would get the vote or on the basis that the President, would do something that we did not have the guts to do up here in the Senate?

Mr. McCAIN. My response to the question is that I knew the chances of getting the votes for such an amendment were absolutely zero. I have been around not nearly the time the distinguished Senator from Oregon has been, but I've been around long enough to know what the chances are of passage of that kind of an amendment. It might have been a fun exercise, but I did not feel like wasting my time or that of the Senate.

Mr. HATFIELD. Will the Senator yield for one last question?

Mr. McCAIN. As the Senator asked me a question, I would be glad to ask him a question as to why, if he supported every single one of those items that I read off and others, did he indeed believe that they were a dire emergency, a dire emergency, because that is the title of the bill? That may not be the way that the Senator from Oregon reads it, but that is the way the American people read it. If that is a dire emergency, I think the definition of the dire emergency of the distinguished Senator from Oregon and mine are dramatically different than those of the American people.

Mr. HATFIELD. I would be very happy to responed to the Senator's question. What is a dire emergency to one Senator may not be to another. I say to the Senator from Arizona, if he recalls during that supplemental there were those who challenged the Panama aid as a dire emergency, which the President asked for. There were those who challenged Nicaragua aid as being defined a dire emergency. There are those who challenged the entitlements that were in that bill as dire emergencies.

But again, I would only say to the Senator, there was ample opportunity for the Senator from Arizona to do as the Senator from Texas did in 1987 when he felt strongly about issues and matters in a supplemental appropriation, to stand on this floor, offer an amendment, argue the case, and take his consequences of the vote on that case rather than asking the President of the United States to do something that we in the Senate collectively, not personalizing it, turned to hide behind a so-called line-item veto because we do not challenge it within our own body.

I think that is a transfer of constitutional power, a transfer of legislative responsibility, and I think it is an act of cowardice when we are not willing to do something here on this floor that we ask the President of the United States to do.

Mr. McCAIN. If the Senator from Oregon feels there was substantial belief that $4.8 million for design and construction of a memorial for Franklin D. Roosevelt was a dire emergency, then he has a different reading of the view of this body than I do. If he believed that——

Mr. HATFIELD. Would the Senator like an answer to that?

Mr. McCAIN. I believe I have the floor.

Mr. HATFIELD. I would be very happy to answer the question.

Mr. McCAIN. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. McCAIN. Thank you.

Mr. HATFIELD. Let the record show I am willing to answer any question.

Mr. McCAIN. If I can complete my statement, I will be glad to yield. I do not believe I was interrupting him while he was speaking.

Ten million dollars for democracy in Namibia is a dire emergency; $200,000 for the Mildred and Claude Pepper Scholarship Fund is a dire emergency. No. Mr. President, I do not believe those are dire emergencies, nor do I believe the majority or even a significant minority of either body believed that those were dire emergencies.

What I do believe is they found this bill to be an opportunity to pad an appropriations bill.

I also suggest that there are times, particularly during a continuing resolution, as a matter of record when there are many appropriations that

are not seen, much less understood, by the majority of the Members like when a 3,000-page document is presented to them at the eleventh hour when we are seeking to adjourn. Perhaps the Senator from Oregon feels it is an act of cowardice that we do not leaf through those 3,000 pages which are very difficilt to get through, much less understand in the eyes of some, although certainly not to a person who has the many, many years of experience as the Senator from Oregon does.

But, on many, many occasions there has come to light after we have go out of session appropriations for various projects which none of us ever heard of, much less know about, except perhaps a few select staff and members of the distinguished committee upon which the Senator from Oregon serves.

My point is that if the Senator from Oregon wants to view it as a collective act of cowardice that we do not stand up and waste the time of this body by challenging each one of these amendments, then he is certainly entitled to his opinion.

I view it as a situation where we have a system which is clearly out of control, where hundreds of rescissions that have been requested by the President since 1974 have not been acted upon, where we have a budget, where we have an overall national deficit of $3.3 trillion, a budget emergency crisis that we are now trying to grapple with through so-called budget summit.

But frankly, I do not think we are going to. I think we are going to resolve it sometime in December, and we are not going to resolve it very well in December. I think most of the Members of this body share my view because we have a system that is broken.

I say to the Senator from Oregon that I do not believe this amendment solves all of the problems nor resolves all the issues, because we obviously need more of the kind of courage that the Senator from Oregon referred to. But again, I believe that it is clear that the overwhelming majority of the American people, some 70 percent of them by Gallup Poll, support this measure.

I am more than glad to yield to the Senator from Oregon for a question or comment.

Mr. HATFIELD. I ask the Senator from Arizona the question, if he supports this, for what part of the budget and for what part of the appropriations process; what does his bill cover? I have read previous versions. I am not sure if there has been a change from previous versions, but what part of the appropriation does it cover?

Mr. McCAIN. Discretionary spending.

Mr. HATFIELD. Discretionay nondefense or——

Mr. McCAIN. All discretionary.

Mr. HATFIELD. May I ask why it does not include entitlements, which is a major part of the appropriations budget today?

Mr. McCAIN. I am sorry the Senator was not here when I gave my opening statement. I do not believe that this amendment would apply to that. It is not what the President seeks or what this organization behind me seeks. We are only seeking to exercise this against wasteful discretionary spending. If the Senator from Oregon wishes to expand it and propose his own legislation to encompass nondiscretionary spending, I would consider supporting such an amendment.

Mr. HATFIELD. In other words, if I offered an amendment to the Senator's proposition to include all entitlements, Social Security and COLA's, would the Senator accept that?

Mr. McCAIN. I said I would consider it. I have not had the opportunity to examine the impact of such legislation, and that is why I have not made it part of this legislation.

Mr. HATFIELD. Will the Senator include revenues as far as line item is concerned?

Mr. McCAIN. No, just discretionary spending. As I have stated to the Senator from Oregon in my opening statement, I do not believe this is all-encompassing, sufficent, according to Mr. Jim Miller, former head of the Office Management and Budget, in its present form an laws like this would have saved $377 billion between 1980 and 1989. The budget would today be 10 percent smaller, and the deficit would be $100 billion lower. That is sufficient savings for me, frankly, at this time in this modest proposal that we make.

If the Senator feels it should be expanded, I would like to seriously consider such a thing. But at this moment, this amendment encompasses only discretionary spending.

Mr. HATFIELD. Mr. President, I will not ask another question, except to thank the Senator for yielding and being very frank in his responses, that it only includes a small portion of the total budget, as far as the line-item veto.

Mr. McCAIN. I thank the Senator from Oregon, and I appreciate his many years of efforts on behalf of this, on behalf of this discipline. He has done a superb job. All of us are grateful for the outstanding job he has done as chairman and as a ranking member of the Appropriations Committee. We are very deeply grateful for his efforts, and the numbers that we would be looking at today I think would be much worse if it had not been for his outstanding work.

Mr. President, I yield.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Arizona has made some very significant points that ought to be dealt with directly. We have heard a very cogent analysis about our being out of control. It was asserted by my distinguished colleague that we are out of control on account of the Budget Act of 1974.

As I related before on this floor with respect to the Budget Act, I can go back historically to what caused the deficits and debt. When President Nixon took office back in 1969, he pursued the same tack as we saw once again under President Reagan, so-called federalism—send programs back to the cities, counties and States, and get rid of them.

The charge was that the Government up here was the problem. Nixon, in turn, made certain suggestions in his budget to get rid of programs. He correlated them all into block grants and did away with the entitlements of student loans, and what have you, as the particular measures were enacted in authorizing bills. We necessarily got to a crisis because we passed both, and when it got to the President's desk, President Nixon said, "All right, I will sign both; we will make a deal and get along. You have them both over here, so I will sign the bills that you passed over here for the regular order of Government, and then I will sign, for my particular approach, the block grants."

That occurred and, thereupon, for the programs in the regular order, the President rescinded, impounded, and deferred, and the Senate took him to task before the courts on that particular maneuver, and the Supreme Court ruled for the U.S. Senate.

I say to the Senator from Mississippi, we got a double dose of Government. We used to run deficits of $2 billion, $3 billion. We were shocked once to get one up to $10 billion.

I was with the distinguished Senator from Texas and others, back in 1968, in December of that year—the fiscal year commenced in July—and we had already put on a 10-percent surtax that was supported by both Republicans and Democrats. Those were the days of sanity, where we could talk sense and not be all embroiled in this outrageous charade and the political maneuvering that we now engage in. Republicans voted taxes; Democrats voted taxes. We put on a 10-percent surtax, but it was not quite enough. So we called over to Marvin Watson and asked President Johnson if we could cut another $5 billion, and we did.

Mr. Johnson with the Great Society, and guns and butter, nonetheless delivered to President Nixon not only a balanced budget but a $3.2 billion sur-

plus for 1969. When we got the double dose, under "Tricky Dick," as they called him, of rescissions, impoundments, and deferrals, then we had to go to the courts, and when we got both programs coming through simultaneously, deficits jumped to $23 billion in 1971, and by 1975 in desperation, because we could not go along with a $53 billion deficit.

Under President Ford, the deficit went to $74 billion. I was chairman of the Budget Committee when President Carter was defeated in November 1980. President Reagan had prevailed, and I went over as chairman then in November, the week after the election, and I said to President Carter, "Mr. President, you are going to leave a bigger deficit than you inherited from President Ford."

And it is going to kill us politically as Democrats. He said, "How much?" I told him it was $74 billion under President Ford and it looked like it could be over $75 billion. He said, "What are we going to do about it?" I said, "There is a fancy word called reconciliation."

I can hear Bob Giaimo on the House side. The House was absolutely opposed to any fancy device called reconciliation. All they said was "cut."

I said, "Mr. President, if you will allow us to go along and cut what we already approved for the fiscal year, and we are already into the fiscal year, we can do it and get it below what you inherited and save us from being blamed for the largest deficits in the history of man."

And so we did, and we reduced the deficit down to $7.8 billion. I came here right in this same well of the Senate and asked some of my more liberal colleagues, Senator Magnuson, Senator Church, Senator McGovern, Senator Bayh, and Senator Nelson, I said, "You have to give us your votes. We are going to have to cut spending or else we are going to set the worst record ever."

My point is they gave us the votes and we cut it. We had discipline. We had fear. We had concern. And when the Senator from Arizona says that now we have gotten out of control, we did impose control under Senators Muskie and Bellmon when we instituted that Budget Control and Impoundment Act of 1974 and we started with a congressional budget. We were habitually, by Presidents, given budgets that were totally out of whole cloth. They never put in the amounts for veterans, knowing we in the Congress were going to appropriate money for veterans, we were not going to deny the veterans and others. I could go down the list.

The act calls for a concurrent resolution, not to be signed by the President but we in the Congress would get up our own budget.

But then Reagan came to town. And that is when the budget got out of control. He said Government was not the solution, Government was the problem, and he set out to cripple it. That is the vicious virus that we suffer under.

In the hinterland, talking to folks—and I have traveled all over this country in the last 10 days—they have no idea that we are spending over $300 billion more than we are taking in. They look at you with a glazed eye. They cannot understand my Charleston, SC, geechie anyway. They say, "yeah," and move on with the conversation. When we are talking taxes, the impression is given that somebody around here likes taxes, and that the only reason that anyone is asking for taxes is to start the gravy train all over again.

On the contrary, I am trying to get taxes to pay the bill. I found early on as a young Governor that I could not attract any investment to my poor State unless I was fiscally sound. I got the first AAA credit of any Southern State, from Texas up to Maryland. We worked hard on doing it and we did it with taxes.

Incidentally, I got it by one vote passed the State House of Representatives at that time. I had to fight some of my best friends.

I saw a film the other night where President Johnson took over the Presidency and he said, "I am going to beat uou. I am going to pass civil rights. I am going to make the most of it," and he turned to his friend Dick Russell and he said, "Dick, you are the best friend I have but I am going to take every child and guarantee that they get an education."

He passed the Elementary and Secondary Education Act.

"I am going to pass health care and no elderly citizens will languish."

He put in Medicare and Medicaid. He had an agenda. Every person who is elevated to the Presidency has a program, an agenda, how he would like this country to look 4 years later.

Even Ronald Reagan had his agenda. He was going to get rid of the Government. Do you not remember? He came to federalize it, send the taxes to cities, counties, and States; the Government was the enemy. That is what we still suffer under.

They had all those rosy scenarios. They boasted about how much money was going to come in because of that silly Kemp-Roth-Reaganomics that Howard Baker, our leader on the other side, called a riverboat gamble, and George Walker Herbert Bush called voodoo.

Now what has gotten us out of control is not the 1974 act on the budget. There is nothing wrong with the act. We have the Ten Commandments but we do not want to abolish the Ten Commandments because we do not adhere to them. We have a 55-mile-an-hour speed limit on the beltway around here but the average speed is instead of 55, some 64 miles an hour, but we do not abolish the speed limit.

The problem is not the act or the process, but our lack of discipline, our silly faith that we could grow our way out of the deficit. They said it is morning in America and now comes the morning after, and nobody wants to admit to it, and no one wants to recognize the real problem.

I worked with my colleagues in a bipartisan fashion and we tried to get a freeze and, to the Republicans credit, I will never forget bringing in Senator WILSON at 1 o'clock in the morning to pass a freeze. Too bad President Reagan cut the ground out from under us. He made a deal with the Speaker to preserve Social Security spending if the Speaker would preserve his defense spending.

That is when I got together in a bipartisan fashion with Senator GRAMM and Senator RUDMAN. We have voted on Gramm-Rudman-Hollings in 14 up-and-down votes over the last several years since we first enacted it in 1985, and we have had a majority not only of Republicans but a majority of Democrats that voted for it, and it was not easy because the leadership in the Democratic ranks was opposing that thing, the chairman of the Budget Committee and others at that particular time.

It was not an easy thing to do. But because of Gramm-Rudman-Hollings we reduced the deficit from $221 billion down to $150 billion, and we did that from the end of 1985 to the beginning of 1986 to the end of 1987. It got us down to $150 billion. We did not cause any trauma. We saved over $70-some billion and it did not throw us into recession.

President Reagan and others were looking at the 1988 election in December 1987. So at Christmastime we went down to the White House and we came out with "a deal is a deal." I said, "Oh, my heavens, where do they get those bogus figures?" We could see. I am no genius. We could get accurate figures from the 44 blue-chip economic forecasters. And each year since, the charade has gotten worse and worse. Just this last Thanksgiving, we adjourned claiming we had met the target of $100 billion, but by January it was already up to $158 billion.

Now CBO has it even higher above that with the FSLIC moneys and, of course, if we stop the Social Security thievery, as Senator MOYNIHAN says, or the embezzlement, as Senator HEINZ said, then we are up and away. We know we have a $160 billion defict, and for the S&L bailout add at least another $60 billion. That is $220 billion. If we add S&L working capital of $40 billion that is $260 billion, and if we roll back Social Security taxes it is going to be another $36.5 billion. So

we are up to $300 billion bucks, and that is the budget summit's problem.

But they met, without any intention of acknowledging the problem, none whatsoever. I know they are going to come back here, pulling my coats, and claim they are trying to hold the summiteers' feet to the fire and so on. I am reading the statements and listening to the participants. I have been on programs with the participants.

You get on one with the distinguished gentleman from Georgia, NEWTON GINGRICH. He said let us pass Davis-Bacon. Can you imagine such nonsense? Davis-Bacon that is the crowd that went running around causing inflation, and when it did get down to 3 percent they gave up that and went to product liability. Now we just had the battleship Iowa, which is the best product liability case I ever have seen. They blamed it on Harting, the investigators did. It was product liability that caused the explosion there, but they want to do away with product liability here now in the national Congress. We have run amok. We are trying to legalize marijuana and make tobacco illegal. We have gone totally haywire in this Senator's opinion.

Now, instead of acknowledging the problem, everybody thinks you can solve the problem strictly by cutting spending. Let us assume we cut spending $10 billion. I have looked at all the lists. The President did not have any more cuts than that.

If we cut $10 billion, if we put 10 cents on a gallon of gas, that is $20 billion, get $5 billion from sin taxes, beer, wine, cigaretts, excise taxes, you have $25 billion.

Yet your interest costs this year jumped $27 billion. Your interest costs alone. You are going to start a new spending program the first of October when they are still summiting, of over $30 billion for higher interest costs.

In the budget committee we added it all up one afternoon. We took the various spending programs and we took the Dodd child care bill, the bill for clean air, the bill with respect to Vice President's QUAYLE's "go to Mars" space program. We added all these things, research, education, drug war, that we are all for. On an annual basis it would not exeed $19 billion.

Our dilemma is that we are going to spend $30 billion for nothing; just carrying charges. So we are blaming the process because it is easier than blaming each other for the charade.

This has gotten to be a good political game, as we have come out here. I wish we could, instead of having the politics, realize that the best politics is no politics and just forthrightly tell the American people where we are, and what we are going to have to do over several years' time, including raising taxes.

That is why this Senator recommended a valued added tax, because at $25 billion in savings we have not done anything. We need on the order of $75 billion to $100 billion to truly tackle the deficit. And I am looking at America's competition that is beating our socks off in European and the Pacific Rim. Out in Korea, the VAT is 25 percent; in Europe it is an average of 17 percent. Heavens, give me just a 5-percent VAT, exempt food, housing, and health care, and I still can pick up, once it is in, over $100 billion annually.

I allocate VAT revenues to the deficit and the debt, not to the gravy train. Allocating it to the deficit and the debt it would take to the year 2023 to get rid of the deficit and the debt. That is how bad off we are. Yet here we are talking about procedural problems.

Why do we not tell the American people we cannot get to the appropriations bills because we have a intransigent President, without a program—save, if you want to call it that, reelection.

What he has done is politically covered all bets. Whatever program there is, he is for it. He is like Ethel Merman in "Annie Get Your Gun": "Anything you can do, I can do better; I can do anything better than you."

So if you are for clean air, I am for clean air.

SAM NUNN has a voluntarism business, I have a voluntarism bill.

By the way, excuse me Senator DODD, he has a child care bill.

Even civil rights, when I saw the opposition I said, "By crackie, they will be for it." It was 3 days later the President appeared on the front page of the Washington Post with Benjamin Hooks and the NAACP, smiling. Anything you are for, the White House is for.

He says the country does not have any problems. The President said, at the end of January, the first of February just a few months ago, that the country is in the very best of hands. We do not have any problems. The deficit is coming down.

We do not have an energy policy. You tell me what it is. We do not have an education policy. Yet the President got together the Governors down in Williamsburg and said: Read my lips. Raise your taxes. That is what he said. We do not have any policy.

They had a big to-do, we went over to the chairman of space, commerce and transportation. How are you going to get a national transportation program announced by the President and Secretary Skinner when, heavens above, you look at it and it says the States are going to raise the money and do all of these things? If we had done that under Eisenhower back in 1955, we would have had to take goat carts to get to Washington here to the Congress, I can tell you. We would not have had a defense interstate highway system.

Mr. President, you have to have a national program and nationally funded. You cannot put out a national program and say "Raise your taxes now, we are going to depend on the States."

There is no fiscal policy. We are trying our best to find out what the defense policy is. We just do not have a policy and that is the reason we are out of control. We do not want to even recognize the situation that we are in.

Mr. President, everyone should understand, in the game we play, that the White House is a very, very active factor and on-deck player, quick to warn you that they are going to veto. We know they are exercising a day-today veto threat up here, and I am hearing them on any particular little item.

I can see the distinguished Senator from Kansas, our minority leader. He said: If you put this or that measure on, Senator from West Virginia, it is going to be vetoed. We do not want to act futilely here and waste time. We are behind schedule now.

The President puts you on notice as to what he is going to veto, whether it is abortion, or money for displaced mine workers in West Virginia, or wherever it is. Do not ever fool yourself that the President does not have a fully paid team watching every Senator, every Congressman, every bill, and every amendment.

And to Senator BYRD, the chairman of our Appropriations Committee, he effected a discipline against that 30 pounds and 3,000 pages and everything else. We gave the President of the United States—with Senator HATFIELD, our former chairman and ranking member—13 separate appropriations bills last year. We did not feel keen about a continuing resolution. But what is causing the continuing resolutions? We are setting ourselves up now for a lameduck session, with this charade going on called the summit.

They have Democrats over there. The White House will wear them down. We should have sent that crowd to Paris with the Vietcong. The White House will wear them down, down, down. They want a coalition. They should like to get into the fiscal year, October, November, December, Christmas is there. So we can take a 3-months sequester of $15 billion, or by that time looking at all the figures, $60 billion or $75 billion or even more if you count the Resolution Trust Corporation moneys.

So do you want to stay here and argue and beat each other up until Christmas? Or let us make a deal, knock $15 billion off defense and monkey around with a few other figures, and go on home and say the dis-

tinguished Senators have worked hard. They have been on this day and night. It has been a tough job.

I respect everybody in that particular conference, but I personally would like to remove this executive session, get Government in the sunshine just as we mark up bills. Let us negotiate in the open, and when we negotiate in the open, then we can hear about the real problem. Then when we hear about the real problem, we can get real solutions because we run out of smoke and mirrors.

We have been on record with respect to Social Security and in a sense of the Senate here. It should pass. We are ready to take on capital gains, and I guess it will pass. It was only held up by parliamentary maneuvers last year.

We went on record when we raised the question of putting the S&L bailout off budget. The Senate wisely agreed to withdraw and not even appeal a point of order for the simple reason you cannot be rescuing the crooks and the S&L's and letting them go free, and at the same time seek an increase in Social Security taxes this year to pay for it.

Meanwhile, we will cause a huge deficit in the Social Security trust fund. Over the 5-year period, we will cause a $500 billion deficit in Social Security.

Susan Raskey of the New York Times wrote in an article that the deficit is up to $320-some billion. She is talking about the reality. I cannot get reporters to report the reality. They go along with the singsong of Congressmen, Senators, and the administration. All they have to do is report the reality. If we can get to the reality, then we admit we are in deep trouble.

On the bright side, in traveling over this country, in talking to different groups and listening to those in the financial world, the reason our market is on the way up right now is that they are anticipating that that summit will really do its job and get something done this year. I do not mean smoke and mirrors. It is going to be a substantial tax, as well as spending cuts and freezes, and hold up on some of the entitlements, and what have you.

They expect that, by gosh, we really are doing to do something. We have seen the fall of the wall in Berlin. We have gone from the cold war to the trade war. We must compete with EEC 1992. The Europeans, like the Asians, are not for free trade, but for trade combat. They are putting up all kinds of restrictions on us. Just pick up the morning Post in the business section and see how Korea has already taken all the American products off the shelf. They know how to handle their fiscal and trade problems by flexing their government.

I can guarantee you, I say to the Presiding Officer, 90 percent of trade today is government controlled by way of subsidy, by way of protection, by way of research moneys, by way of just outright prohibitions against articles coming in, you name it. Like a friend of mine told me, I can compete with any company in Japan, but I cannot compete with the country of Japan.

All of those particular industries have their governments on their side, but as industry sees it here, we have our Government against us because they are constantly going up, up, and away by legislating a higher standard of living. Minimum wage, clean air, clean water, unemployment insurance, Social Security, safe machinery, safe working place, parental leave, plant closing notice, child care, all of them add to the cost of doing business.

The new spending initiatives would come to somewhere around $27 billion; the clean air bill alone is around $21 billion for industry.

Put in the nuclear cleanup that the distinguished Presiding Officer and I are concerned about; that is $150 billion. We all want to spend more on education, and I think we should. We want to spend more on research. We ought to give our industry the advantages that their competition has, in a general sense.

We are going to maintain antitrust, obviously, but there should be a lessening of it and alleviating it, because size does count in the global competition in which we are involved. We are going to have to do a capital gains tax cut, investment tax credits, and so on, but only after we do something to attack this fiscal problem.

It is a matter of timing. I cannot and should not vote for a capital gains tax cut for the rich at the same time I am increasing taxes for middle America on Social Security. I am not going to get caught in that trap. That is a quick way to cure the 98-percent reelection record of House incumbents.

I you want an instant cure for that, sit around here and maintain that we ought to, yes, favor higher taxes on Social Security and also have, by the way, a capital gains tax cut for the nonworking Americans.

I think we are in bad shape. We can straighten it out if we get everything on top of the table and cut out what really has caused us to get out of control.

The RECORD will show, Mr. President, that the Senator from Arizona was well-equipped and ready to go with all his consponsors on a measure that does not relate to the blind and the safety of the blind in air travel.

Our ranking member on the other side yielded, so the Senator from Arizona could go ahead, and has not had an opportunity to speak. I understand he will in due time.

With respect to this, let me say this ambush of presenting this amendment is totally out of order. It has to be known and understood, and we have to stop playing games. There is no use taking up the Senate's time. The Senator must know that in order to attach the line-item veto, he would have to get a supermajority of 60 votes. We have had a difficult time, because I have been in the vanguard of those favoring the line-item veto. I used it as Governor. It worked extremely well with me.

Mr. President, I raise a point of order under section 306 of the Budget and Control Act that the amendment of the distinguished Senator from Arizona amends the Impoundment and Control Act without reference to the Budget Committee. Section 306 reads as follows:

> No bill or resolution and no amendment to any bill or resolution dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House or from consideration of which such committee has been discharged, or unless it is an amendment to such a bill or resolution.

Mr. President, the amendment of the distinguished Senator from Arizona does amend the act. He says under the lead line:

> This section may be cited as the "Legislative Line-Item Veto Act of 1989. (b) Enhancement of Spending Control by the President—the Impoundment Control Act of 1974 is amended * * *

And then he goes on for several pages. He cannot do that unless it is referred first to the Committee on Budget. I raise a point of order that the amendment of the Senator from Arizona is out of order.

The PRESIDING OFFICER. A point of order has been made and is not debatable.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, if I can inquire of the Chair, if the point of order is ruled on, does that then cut off any further debate?

The PRESIDING OFFICER. The point of order is not debatable, and if the point of order is sustained, then there is no further debate.

If it is not sustained, why, then, of course, there is further debate.

Mr. COATS. Mr. President, could I ask the Senator from South Carolina to defer on this point of order. There are several Senators who would like to speak on the amendment raised by the Senator from Arizona. I am asking if that point of order could be deferred until such debate can take place.

Mr. HOLLINGS. For the respect and good understanding of all my colleagues, people can talk on this, but that is what I am trying to say. I do not want to get into the budget charade, Mr. President, that we want to bring up a budget and pass it through

just to get a budget done, just to get the appropriations bills to get the spending started. Incidentally, I do not want to start on a little bill for the blind in this country, that should have passed within an hour's time, to stop their embarrassment in accordance with the finding of the FAA and special studies and hearings we have had, a little bill that should pass in an hour and engage in a charade. I insist on my point of order and let them talk later. Let them put it in seriatim later on whenever they want.

The PRESIDING OFFICER. The Senator insists upon his point of order and it is not debatable.

Mr. COATS addressed the Chair.

Mr. McCAIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. McCAIN. Mr. President, if the point of order is sustained, is it correct procedure that I may then ask for a vote to waive the point of order and then that motion to waive the point of order is debatable? Is that correct?

The PRESIDING OFFICER. The Senator, if he wishes to waive the point of order, should make such a motion before the Chair rules. It is appropriate to make that motion.

Mr. McCAIN. Mr. President, I make a motion to waive the point of order.

The PRESIDING OFFICER. The Senator makes a motion to value the Budget Act.

Mr. McCAIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote is on the motion of the Senator from Arizona to waive the Budget Act.

Mr. McCAIN. Mr. President, is that motion debatable?

The PRESIDING OFFICER. That motion is debatable. That motion requires a 60-vote margin.

Is there further debate on the motion waive?

The Senator from Oregon.

Mr. HATFIELD. Mr. President, understanding the Chair's ruling, I may address the subject at hand upon which a point of order has been made and the defense has been to waive the Budget Act.

Mr. President, first of all, I want to make a point that has been made by the Senator from South Carolina. He and I have been members of summits that have met many hours over in the House of Representatives, over on the Senate side, down at the White House. Mr. President, I might comment that the current summit has been well attended by Members of both the House and Senate and the White House, Mr. Darman; the Secretary of the Treasury, Mr. Brady; Chief of Staff, Governor Sununu, and other members of the White House staff, including today the Secretary of Defense, who are all part of the negotiating team and have attended with great, great devotion and regularity. So this is a very serious action on the part of those who are trying to come up with some kind of a resolution on the question of the budget deficit vis-a-vis the context of the summit.

Now, included in our discussions, as has been indicated by agendas that have floated around from different sources, including Mr. Darman's, has been the line-item veto, and hence enhanced rescissions, budgetary procedures, appropriations procedures. We are dealing with something more than figures. We are dealing with and will have dealt with, by the time that summit is concluded, process, with procedures, and therefore I urge the Senate to not undermine the efforts of the summit. This is premature. I would argue the merits of the case, but I just want to say from the standpoint of timing, it is ill-conceived, and ill-timed. We need all the support we can get for the summit process at this time without trying to undermine the summit.

I want to make that point very strongly. I hope Senators, who will certainly have their opportunity to have their day in court, will withdraw this amendment and not push forward and, in effect, be undermining the summit. I think that you would probably find members of that summit conference who support the line-item veto urging the same. This is not the time to make a decision on this particular question when it is part of things that are on the table, that President Bush put on the table; the Democrats of the House and the Democrats of the Senate, the Republicans of the House and the Republicans of the Senate have all affirmed that everything is on the table. To take something off the table at this particular time, who knows, might be a very fundamental part of a final package. Believe me, it is going to be very difficult to come to a final package with the President, the White House, Members of Congress, both parties, with all ranges of viewpoints and philosophies. A lot of people have painted themselves into corners in previous statements and previous positions, including the President of the United States on the matter of revenues. And yet, if the President is willing to put all these matters on the table to come up with some kind of effective resolution, or at least to take a major step toward resolving this very complex issue called the deficit, I think it would ill behoove any Member, especially from my side of the aisle, to undermine the summit that the President of the United States called.

Now, let me address the merits of the case. Immediately, when a member of the Appropriations Committee stands up to oppose a line-item veto, the implication is we are protecting turf. Let me remind the body—and I hope that the proponents of this measure would listen carefully—the Appropriations Committees of the House and the Senate have appropriated less than the President's requests on discretionary spending over the last 30 years. In the 8 years of President Reagan's administration, the Republican-controlled Appropriations Committee of the Senate, along with support on a bipartisan basis, of course, with the House of Representatives, appropriated less than President Reagan's discretionary requests.

We had different priorities. As the Senator from South Carolina indicated, President Reagan said he wanted to abolish the Department of Education; he wanted to abolish, in a sense, the Department of Energy; he wanted to sell the Bonneville Power Administration; he wanted to sell off the REA; the rural electrification portfolio, a lot of things. But the Congress said no.

Mr. President, my concern is that the authors are proposing to alter the balance of power and the separation of powers of a three-branch Government. This amendment would shift to the executive branch of Government a constitutional element of power that I think is not merited.

In effect, what this does further is to put into the hands of a small minority the determination of a great deal of public policy, and let me just cite an example. Back in 1936 the Republicans had 17 Members of the Senate. That is all. The Republican minority leader was Senator Charles McNary, of Oregon. Mr. Roosevelt had overwhelming support amongst the American public. He had overwhelming support of the Members of the House and the Senate. In fact, Mr. President, the Democrats sat across these two back rows. The Republicans were huddled down here in the first two rows.

Seventeen Members out of ninety-six total Senators and yet at the same time, Mr. President, those 17 Members could have really almost run the legislation of this country; a small minority.

Let me illustrate my point. If we followed this procedure, let us go back to the present procedure and work it through for just a moment. We received a President's budget request up here in the form of the President's budget. First of all, the Budget Committee goes through it, and establishes some guidelines under the Budget Act. The Appropriations Committee then goes through prolonged, lengthy, often tedious hearings.

We have 13 subcommittees, each one functioning there to review the Presi-

dent's budget. We have open markups, both in the subcommittees and in the full committee.

We report those bills, after extended discussions and analysis in the Appropriations Committee, to the floor. Here on the floor everyone has access in 13 separate appropriations bills. I do not think the Senator from Arizona intended to misrepresent the situation by saying 3,000 pages of an appropriations measure. Yes, a continuing resolution—fought most valiantly by the Appropriations Committee.

Let me remind you we did not get a budget resolution until August, and the hands of the appropriators were tied. The fiscal year ended September 30. So we had a continuing resolution.

Mr. President, let me just make a little current observation. We do not have a budget resolution today. This is the first of June. We are in the summit. Nothing is going to happen, in my view, as far as the Senate acting upon a budget resolution. The House has acted upon a budget resolution. The House Appropriations Committee can proceed under the targets set by that budget resolution of the house. But under Grammm-Rudman-Hollings, the Senate Appropriations Committee cannot act until there is an agreement on the budget resolution, unless a point of order can be overcome.

In other words, any appropriation bill we bring out here is subject to a point of order. So we have to wait.

I want to put the Senate on due notice now. In my view we stand an excellent chance of getting another CR for fiscal year 1991, and in addition to that, a lame duck session.

Let us not wait until that time comes and say where has the Appropriations Committee been, what have you been doing? I want to put everybody on notice now. This can happen outside of any authority, outside of any turf of the Appropriations Committee. No one is designing this out of some kind of conspiracy to destroy the processes that lead to ordering 13 separate appropriations bills to be considered, each on its own merit, open to all Members to amend, as certainly we have been in all-night sessions. The Senator from Kansas and the Senator from South Carolina remember when we had appropriations bills that went all night long because we had a proliferation of such numbers of amendments.

I do not want anyone to interpret somehow that the Members on this floor do not have open access to the appropriations bills when they are here on the floor, as if somehow we bring them out and in the confusion or in the complexities in the appropriations process people do not have access to changing the priorities even of the committee.

The Senator from Arizona said he was not going to waste the Senate's time by raising his objections of his laundry list that he recites today. Yet what was it, a week that we had the supplemental on this floor? One week at least, or maybe even more, but nevertheless it was about a week. We considered scores of amendments. But do you know what, Mr. President? As I recall, most of them were add ons. I do not recall a single person offering an amendment to strike or to delete.

I do not know, if you can find a laundry list to advance your cause on a line-item veto of those you did not consider dire emergencies or you did not think were worthy of an appropriation, why they could not find them during the week the bill was out here on the floor like some kind of a magnet attracting all kinds of add-on amendments.

As I recall, everybody who offered an amendment knew precisely the part of the bill it belonged in. It was not so complex that they could not find the slot to put the amendment to that they wanted to change or add to the appropriations supplemental.

Then, after all of this debate, all of this discussion, we go to conference with the House of Representatives. That is a long-time process, often with multitudinous details. We have to adjust. We haggle out with the House.

At our elbow every step of the way is the administration, the representatives of the administration from the Office of Management and Budget who go item by item, line by line. They are not caught by surprise having to wait until we send a bill down for the President's signature or veto. They are all over the place. We welcome them. We make room for them. We invite them. It is a process of the White House and the Congress through the Appropriations Committee.

They want to make sure these are items that they can approve. I do not think any President, to my recollection, loves and enjoys vetoing an appropriation bill. He would much rather have a bill he could sign, because oftentimes if he vetoes one he ends up in a worse situation with the repassed bill. If they do not override the veto, it is a different bill we may send.

So the President is participating all along the way. We bring back these conference reports, and we have reviewed the conference reports again on the floor.

Then we send that product down to the White House, and the President has full constitutional right, authority, and responsibility to either sign it or to veto it. Just think of each one of those steps. This is not a single-branch government action. We all have to go through the transactions that I have outlined.

But then the advocates of this line-item veto would put us through this kind of a stupid ritual. After the President has signed a bill, the President reviews the bill, subtracts, adds or whatever, whatever his desire may be as far as the line item and then, let us say the President proposes to rescind something in the bill that he has already signed into law; the proponents would have the Congress say, oh, yes, Mr. President, you are so right, Mr. President, how could we have been so stupid, Mr. President. We will correct it, and right away, Mr. President.

Well, I think that is really putting the Congress in a very, very unflattering, and certainly a very demeaning role. Somehow after this whole process, after all the opportunities to strike something, how could we have been so stupid as to include something in that bill, and the President knowing it all along the way, and then we have to turn around and say, oh, Mr. President, we are so fortunate to have someone who is so careful, someone who is so conscious of spending. We are so irresponsible up here that now we regret and repent. We have a confession. Then the President has saved the Nation.

Well, again let me emphasize the fact about what happens after that. All the President has to do when he sends that rescission up here is to find one-third plus one. They then can make the determination on that spending. Yes, one-third plus one.

Let me take the Reagan administration as an example. The Senator from South Carolina and I have both made the points, President Reagan wanted to abolish the Department of Education. He was not very happy about Head Start. He was not very happy about any educational program. Some of us put a great priority on education. He did not like legal services. He did not like the EPA. He did not like the EDA. I can give you a list that long of things he wanted excised, but the Congress said, Mr. President, we have priorities. And we are going to keep a Department of Education; we are going to keep our commitment to the poor; we are going to keep our commitment to the disenfranchised. Call them social programs, call them welfare, call them whatever you want. That was the Congress' priority, and I am proud to have been a leader of that.

But with the line-item veto on all those areas of discretionary spending for any of these social programs, the President could have gone ahead and signed them into law, sent a rescission back up here; one-third plus one could determine the execution, the abolition of the programs that I have outlined.

Do you think that President Reagan, as one of the most ferocious, tenacious spenders for a military buildup in this Nation's history, would have thought

about using the line-item veto for the SDI, chemical weapons, some of the things that I do not think are very important but still are in the budget because a majority of this Senate ruled and a majority of the House rules on those items—not one-third plus one.

I wonder how some of my fellow Republicans would have felt if Michael Dukakis had been elected 2 years ago, handing him the line-item veto on chemical weapons, on SDI, on a lot of the military programs that during the campaign, Governor Dukakis said, "I think we ought to stop spending money on them." One-third plus one to sustain a rescission on the MX missile, chemical weapons programs, and all the other programs that enhance our capacity to destroy life. One-third plus one? That is all it would have taken.

I am very pleased that Mr. Bush won. I am a Republican, and I supported Mr. Bush, and I am proud of that. I have a strong affection toward Mr. Bush but, nevertheless, Mr. Bush is not always going to be President—I am hoping another 4 years—but, nevertheless, we have to look at the possibility that someone from the other side may be President who holds a different set of priorities on military spending than what Mr. Reagan and Mr. Bush have had.

So, Mr. President, we have to look down the road at what we are doing here in terms of making a major shift of power from the legislative branch of Government to the executive branch of Government. That does not just concern the Appropriations Committee. This is not turf talk. This is constitutional talk. This is a balance-of-power talk. It should concern every Member of this body, not just members of the Appropriations Committee.

Let me also say, Mr. President, if we could balance the budget by addressing a small baseline of just the discretionary funding, well, I could say I would put, perhaps, the deficit solution over my view about separation of powers. I do not think I would, but it would be much more possible. I would at least listen to that possibility.

Mr. President, this does not go to the major part of spending in our budget. This does not go to entitlements. This does not go to the deficit, the cost of the interest on the deficit. Mr. President, this does not go to revenue-losing measures. And we have acted upon revenue-losing measures. It does not go to that. It does not go to the so-called revenue side of the picture. And for the idea to come forth, simplistically, that we can balance the budget by dealing with one-half of the coin; namely, the spending side and not the revenue side, really belies even a background of economics 101.

We have to address both the spending and the revenue side, and we have to address all the spending. To take a small baseline and say somehow through a process or procedure of a line-item veto or a balanced budget amendment or even the Gramm-Rudman-Hollings, or the Roth-Kemp, any of the other procedures that do not focus upon revenue and spending, all of spending, all of revenue will never solve the budget deficit.

We are looking for a quick fix. We are always looking for a quick fix. Somehow add another procedure, add another series of dates and date lines. That is not going to solve the budget deficit. We have to get down to the hard core of this problem. Spending, all spending; revenues, all revenues, and match and find the discrepancies.

So here again, I beg the Senate to consider just exactly what we are doing. It sounds good. Perhaps there is an element of truth. A President could certainly find line items to cut out a million here, and a million there, and 10 million here, and 10 million there, with different sets of priorities than we have, but we have to work out the collective idea in a pluralistic society and in a three-branch government; and I suggest that no two of us in this body, two Democrats or two Republicans, or a Democrat and a Republican, would be able to go down all the accounts, all of the expenditures, all of the policies and all of the programs that we appropriate money for and agree on a single list of priorities.

I do not even think the Senator from Washington and I, who have a very strong similarity in our voting records would be able to agree on a single list of priorities, considering the multitudinous numbers of accounts and programs that are affected by the line-item veto.

Mr. President, I think we also have to understand that we already have a rescission procedure in place today. The President has the power to send up a rescission package. Last year, I asked the General Accounting Office for a little study.

Mr. President, I want to give you some statistics now. These are General Accounting Office statistics that are pretty dependable. We have had the rescission procedure, as the Senator from South Carolina indicated earlier, since 1974. As of April 1989 we have had a grand total of $56,938,835,000 in rescissions that have been proposed by the Presidents of the United States who have held office since that time. Obviously, that includes Republicans and Democrats alike.

'The Congress, in response to the Presidents' requests, collective Presidents, for rescissions of $56.9 billion, the Congress enacted $19 billion of those proposals, and in addition, the Congress initiated a total of $31.1 billion in rescissions, for a grand total of $50.1 billion in rescissions, which represented 88 percent of the Presidents' requests.

As my grandmother used to say, you can prove any point by Scripture and by figures. Let me point out these figures could be misleading, if you just take them for their raw totals. Every time the President of the United States asked for rescissions on E&A, of say, $300 million, if he asked for it 3 years in a row, he got credit for 3 years in a row; whereas the Congress in one of its rescissions counts once. A rescission can be proposed many times; it can be enacted only once.

So we are giving the President really kind of a count, recount, recount, recount of some of the same rescissions that he offered year after year as in the case of the 8 years of President Reagan; where, as I say, in that period of time Congress initiated $31 billion, no repeats; those were single acts, those were single ad hoc actions.

Let us look at it perhaps in another way from the Government Accounting Office. Surely, my colleagues would agree for good or bad or from the Democrat or Republican sides that President Reagan was one of the most ferocious opponents of Federal spending that we had. He got elected on it, running against Washington, cut-out Government. Senator HOLLINGS says he wanted to abolish Government at least in some parts.

President Reagan was especially hard on nondefense programs of the Federal Government, nondefense domestic Federal spending. And, indeed, of the $56.9 billion that has been proposed for rescission since the implementation of the Budget Act that I quoted a moment ago, $43.4 billion of those rescissions were proposed by President Reagan. In the 8 years under President Reagan, $43.4 billion out of the total of $56.9 was offered by one President.

What did the Congress do? Let me say that the Congress enacted $15.6 billion of President Reagan's proposals, $15 billion out of his $43.4 billion. But the Congress in the same 8-year period of President Reagan's administration added $28 billion of rescissions of our own which come up to a grand total of $43.7 billion which was more money, more money that was rescinded than President Reagan asked for, on a basis of different priorities.

But, nevertheless, if you are looking to balance the budget or somehow to add to a solution to the deficit, by an action of rescission, the Congress enacted more rescissions in the 8 years of the Reagan administration than President Reagan asked for which would have hardly added a plus to the fact that if somehow the President had line-item rescission power that we would enjoy a lesser deficit.

By the way, let me say there is enough blame to go around. This is not a matter of pointing to the White House or the Congress for this deficit.

Also, I might add, it is not just a problem of Government. The private deficit of this country, accumulated deficit, is higher than the Federal deficit. The commercial deficit is higher. One does not excuse the other. I think we should try to get out leadership in getting out of this problem we are all in.

Nevertheless, I want to point out that it is a cultural issue or problem. And so we might say the American public shares in this as well as elected Members of Congress, Presidents of the United States, and budgetmakers and policymakers, one not justifying the other, nevertheless, sharing responsibility.

Mr. President, I really feel again that I must reiterate that in this whole matter of the line-item veto, if the people who are proposing this really are serious, then they ought to make it a real line-item veto. They ought to address all the spending, all the spending, not just a small baseline of discretionary spending, and they ought to also include all revenue matters because you cannot separate spending from revenue. And they ought to also include this power for any proposed entitlement or revenue measures.

I cannot believe that the proponents are that serious because if they were, if the concept, if the theory, and really it is only a theory, if the theory is correct on the baseline that is included in their bill, it would be far more successful even on the basis of their analysis to make it on all spending. That is why I do not think they are serious. I do not think they are serious in the sense of really believing that you enact an enhanced rescission on their small baseline of the total spending program and really can tell the people here on this floor and the American public that somehow we are going to deal with the deficit and balance the budget. It just does not make sense.

I want the proponents to know that perhaps we will have an opportunity to really consider a line-item veto proposal, not just a fringe of one or a piece of one. If we are really serious about this, I challenge the proponents to get serious and include all the spending, include all revenues, include all proposed legislation under consideration for a line-item.

That will not happen. That will not happen because then it seeps out further than just from the Appropriations Committee. This gets to the Finance Committee. This gets to the Ways and Means Committee. This gets to the authorizing committee. This gets to every committee if you get into the matter of the bills that are being proposed and authorized or if you get into the total spending that is represented by our budget of $1.1 trillion.

Mr. McCAIN. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. McCAIN. As the Senator knows, if you get into the entitlement programs, that means you give the President the authority to change the law, and I hope that the Senator would keep in mind that I did not indicate that this legislative line-item veto was the answer. I said it was a tool that the President of the United States and 70 percent of the American people feel would be very effective.

If the Senator from Oregon feels that entitlements should also be included, that is an opinion that he obviously is well-founded in his beliefs. But what the Senator from Indiana and I are proposing is far more modest and, frankly, far less controversial than if entitlements were added.

I do not believe, as does the Senator from Oregon, that this whole budget deficit issue is going to be resolved until the Congress shows the proper political will. But this President, the previous President, and other Presidents have always sought that as a tool in order to enact the same kind of fiscal responsibility that 43 out of 50 Governors are able to enact, and all of them in their legislative bodies live very confortably with this procedure.

Finally, if I could just also respond to the Senator, he mentioned that this would somehow disrupt the budget summit. I spoke to the White House as recently as 2 days ago. If the President felt that this would somewhow disrupt the budget summit, we have yet to hear from him. In fact the opposite, he has sought us to pursue the legislative line-item veto.

I thank the Senator for allowing me to respond to his challenge.

Mr. HATFIELD. I thank the Senator from Arizona for his observations. I say to the Senator from Arizona if you really want to send the President a tool, do not sent him a pocketknife that cleans your fingernails, send him a sword, you can make a difference. But to send him a pocketknife does not really to me make reason or logic.

I also say to the Senator from Arizona, the President is only one participant in the budget process known as the summit.

I would only reiterate when the President laid everything on the table, and the Members of the House and Senate who are also coequal members of the budget summit laid everything on the table, I sat there and said, yea, and that included process, that included process.

So I do not think one person out of the budget summit can make the determination for the summit. And all I am saying is if you take this off the table, you are leaving a big hole then in what could become a final package for the summit.

I am making that observation as one who has sat through hours of summitry and who is a member of the summit, and I have not heard anything from any of the President's representatives, sitting through that, hour upon hour, who indicated that they are, at the point, taking anything off the table.

I hope that the interpretation of that is not for the media to say the President has removed something from the table, to prematurely act outside of the summit, because I do not think the White House would want to be quoted at this point in time because, as of a few hours ago, everything was on the table with Mr. Cheney, as our Secretary of Defense reiterating everything was on the table including defense spending reductions.

I would hate to think we are going to in any way cue any of the public that somehow the White House has now made a deal or an agreement on something that is on the table in the summit by enacting it here on the floor of the Senate at 5 o'clock or dealing with it at 5 o'clock on this particular date. I think that would disturb more than myself, as Members of the summit.

Mr. President, again we have to, as I was indicating, understand that in this whole process we are dealing with a very major constitutional question. I do not know the Judiciary Committee and the Subcommittee on Constitution has had any hearings or has had any review of this particular proposal. I am not familiar with any other authorizing committee that has had any hearings and any major review of this kind of legislation. I think the least we could do is to go through the legislative process, introduce it, have it referred to committee, have the committees hold hearings, update any previous hearings on this subject, give opportunity for people, outside witnesses, the public, to speak.

If we are going to make this kind of shift in constitutional balance of power, the public has an interest in this as well, not just members of the Judiciary Committee or Members of the Congress. The public has an interest in this.

I think, really, we could be charged with all kinds of efforts to put through something quickly that is ill conceived, ill considered, without a public input.

I know Senators could quote Harris polls and other polls, but I am talking about studied, careful input, reviewing the effort or reviewing the action being proposed here today.

Mr. President, Senator BYRD of West Virginia, the chairman of our Appropriations Committee, has a great interest in this. he is chairing an appropriations hearing right at the moment which is a very controversial one. It is on the funding of the National Endowment for the Arts. And he is really

locked into that situation. I hope that the proponents of this bill would not try to stampede action on this. The Senator from Nevada [Mr. REID], who had developed a great deal of data, who is a recognized expert on this subject, also would like to be heard.

But when I heard a call for yeas and nays, it had a strong flavor, to me, of trying to accelerate an action on something that deserves far more consideration.

I want to again put the Senate on due notice. I play with my cards face up. As far as I am concerned, and I think I can speak for colleagues, we are not going to let this pass. I know we are going to move to a point of order vote, which will require 60 votes. But I want the proponents to understand, we have a lot of important business in the Senate. As I say, I put my cards face up. Senator BYRD and I led a filibuster on this previously. We are not about ready to kowtow to this action today or tomorrow without extensive and without proper hearings.

In the meantime, some of us are looking at this issue differently because of our role in the summit and some of us are looking at that, not from a piecemeal smidgen of a concept but in the totality of what a line item veto authority might to, and according to some philosophy of the Constitution should do.

I do not agree—nevertheless that is not important, I am only one person—but I do not think anybody can reasonably stand on this floor and say we are ready to make this a final determination in the light of so little homework, so little groundwork, so little legislative process. It does not make sense. It is too profound, too far-reaching, too important, not just to us but to the American public, to make this significant shift of power from the legislative branch to the executive branch, and to provide the President with the power to deny an appropriation with one-third plus one vote or to rearrange and reorganize the priorities which Congress had had a legitimate constitutional role in creating and of which the President had an opportunity to veto or to sign into law.

So I hope the proponents of the bill will find a better day and a better procedure than to raise this as an amendment on the Federal Aviation Act, Air Travel Rights for the Blind Individuals Act. That is a very, very important piece of legislation and I do not feel this is an appropriate vehicle to piggyback this constitutional action.

I yield the floor.

Mr. GORTON. Mr. President, I wish to make very brief remarks on the amendment proposed by the distinguished Senator from Arizona and his distinguished cosponsor, the Senator from Indiana; to respond, even though in his absence, to at least a couple of the points which were made by the Senator from Oregon.

I support their amendment. I support their amendment even though I sympathize with the views of the Senator from Oregon, who would like it taken up in another time and in another place. The two sponsors of this amendment know perfectly well that they do not get another time and another place in which to deal with this proposal on its merits unencumbered by any other subject. The establishment through which this kind of process works in the Senate simply is not going to report such a bill. So they are constantly in the rather awkward position of offering it as an amendment to some other subject. They are placed in the even more awkward position at the present stage of having to get a waiver to attach it as an amendment to this bill, which will require 60 votes.

The distinguished Senator from Arizona was both candid and accurate when he predicted that while there is strong support for this amendment it does not approach the level of the 60 votes necessary to grant that waiver.

My good friend from Oregon has said that, because this is one of the subjects which is before the summit conference on the budget, it should be deferred until that summit is completed. To the contrary, Mr. President, I think that is a particularly good reason for a very strong vote for this amendment right now as a message to that summit conference and as an expression of support of a system different than the system under which we operate today.

My distinguished friend from South Carolina in speaking on this amendment has been most eloquent and, I can say, most consistent with the views I have heard from him at least from the time that I came to the U.S. Senate almost 10 years ago. He proposes even more radical, much more radical, surgery on the budget process, and sometimes I think we can say radical surgery on our own hearts with respect to the degree of courage with which we approach these budget issues.

But, as is the case so often, in this case the perfect is the enemy of the good. That remark might also apply to some of the comments of the Senator from Oregon. Because this is not a complete solution does not mean that it will not contribute to a solution.

In fact, most of us, the Senator from South Carolina among them, agree with some regret and some dread that it may very well be November or December after this election is over, in a special or lameduck session, before Congress gets that heart transplant and deals with this question more courageously.

But at this point a very very strong vote in favor of this amendment will give a message that some changes at least are supported by a large number of Members of this body and such an affirmative vote seems to me to be an important contribution rather than an inhibition to meeting the challenges of the budget deficit with which we are so clearly faced.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I rise today to support the amendment by Senator MCCAIN in his offering the Legislative Line-Item Veto Act. I want to thank the previous speakers who have both spoken for and against this because I think they have raised some interesting and critical points which ought to be debated, and which ought to be discussed as we grapple for ways to deal with what seems to be an intractable deficit problem.

To repeat the words of the Senator from Washington relative to the vehicle which is being used and the time which is being taken for discussion of this issue, let me repeat that as one who offered this amendment to an appropriations bill near the end of the last session of this Senate, that same argument was raised. That was an appropriation bill. The argument was, why offer it with an appropriations bill that contains many important items? Why take up the Senate time?

That certainly was much more germane and relevant to the issue than this bill here today, yet that was not appropriate. It seems as if no matter what this is offered to it is not the appropriate time or vehicle to offer it.

I also regret that we are not able or have not been able for many, many years to address this issue head on, to bring it through the normal process of hearing and debate, bring it to the floor as a stand-alone bill and give it a full discussion because it is an important item. It is one that brings out passion, debate, and reasoned debate, experienced debate by both proponents and opponents of the measure.

I know Senator MCCAIN and I would be more than happy and more than willing to debate this at whatever length of time, whatever thoroughness of process would be necessary to give it a complete airing.

But we all know that is not going to happen, that is not the case, that this bill will not be brought on a stand-alone basis before this body. So we are reduced to looking for vehicles to attach it to.

I served 8 years in the House of Representatives in a minority, and one of my great frustrations in my State was that we were never able to get an idea translated into an amendment or a bill and brought before the floor we did not control the majority.

We were not able to get the bills heard in committee. We were not able to get the Rules Committee to allow

us to bring the bill on a stand-alone basis unless agreed to by the majority. We were not even allowed the opportunity to offer an amendment.

Typically, the Rules Committee would come back and say we might allow a motion to recommit or one amendment to be offered by the minority leader or the ranking member of the committee. Many people told me that one of the great joys of going to the Senate is the ability to offer an amendment to a nongermane piece of legislation and to have your views and your voice heard on the Senate floor.

So I found that to be one of the joys, and I have not exercised that opportunity very often. I hope I can exercise it more. But I quickly learned that that benefit that inures to all 100 of us, and used by all 100 of us to offer legislation which we believe is important, ought to be debated and heard on this Senate floor to a vehicle that perhaps it is not germane to, but it allows us the opportunity to have our issues heard.

The Senator from Oregon indicated that this is a quick fix, that this does not solve the whole problem. I join with the Senator from Arizona and the Senator from Washington in saying that I agree.

The Senator from South Carolina eloquently related his experience with the budget process and the attempts to deal with the intractable nature of the budget deficit. He certainly has—I agree with the Senator from Washington—taken a consistent, courageous stand in proposing measures that ought to be addressed and looked at and debated on this floor as ways in which to address that problem.

No, it is not a quick fix, it is not a solution to the problem. There are many things much broader that we need to do in order to deal with the budget deficit before us. But it is a means, a tool, a way in which we can address part of the problem. That part of the problem is an egregious pork barrel spending that is attached to virtually every appropriation measure that comes to the Senate floor. I have a very short list here. It has 75 items that most of us would question whether they should have been attached or whether this is the most appropriate way to spend the taxpayers' dollars.

The Senator from Oregon said, in addition to dealing with the deficit, there are important spending items that the majority of Congress wishes to use taxpayers' dollars to address, such as education, programs for the poor, programs that would deserve and get majority support here in the Senate, and that it would be appropriate to spend money on those, rather than give the President the line-item veto and perhaps excise that amount of money.

So whether you think that eliminating some of what I consider unnecessary spending as a means to reduce the deficit or as a means to shift to other programs, whichever side you fall on that—and I suspect all of us would fall on both sides of that question—there can be, in my opinion, no dispute over the fact that we spend a lot of taxpayers' dollars, billions of taxpayers' dollars, on items that most of us would, in ranking of priority, have to say these are low-priority items. There is a higher priority use for this dollar, and whether it goes to education, to programs for the poor, whether to Head Start or WIC or a whole host of other programs, there are more important uses for it than what we often spend money on.

Most important, certainly these could be applied to reduce that deficit that stares us in the face. Let me read a couple of these. How can any of us say that this is so essential that we should put a mechanism in place with which to deal with it. We are our own worst enemies, because we pass money like $3.4 million to perform research on new methods of producing tailored clothing. A number of people have indicated to me that they thought I needed a better tailor, but I do not look to the Government to have to do a study to produce better methods to develop tailored clothing, and I do not go and ask my constituents to put up $3.4 million to do research on how to produce better tailored clothing.

The Senator from South Carolina comes from a textile State, and they produce the fiber that makes the clothes we wear, and I am sure that this might be an item that people in his State would be interested in.

I do not know even what bill it came on. But I am sure he would agree that there are more important uses for the taxpayers' dollars than this. I doubt very much that he would support this or perhaps even that he knew about it. The point is that our appropriations bills are full of items like this.

Let me continue. A requirement of $24.3 million that requires the Army to purchase an artillery computer that does not meet Army requirements. The Senator from Oregon talked about excess military spending and, yet, these are the items that slip through on appropriations bills that perhaps a line-item veto could eliminate.

Forty thousand dollars for an analysis of the market potential for eel products; $50,000 for a machine to sort squid by sex and size. Fifty thousand dollars, we say, is a drop in the bucket to what we normally spend, and it is, but it all adds up.

Is that the highest priority item? How can we say that this body and that the Appropriations Committee has been responsible and that we do not need to have another mechanism to provide a check and balance on the way in which we spend money by giving the President line-item veto power when we spend $50,000 to buy a machine that sorts squid by sex and size or $435,000 to increase sugar cane research in Hawaii? We debate on this floor, and when the agriculture authorization bill comes up, we will debate this massive subsidy for sugar. Yet, we are spending $435,000 to increase sugarcane research in Hawaii. Sixty thousand dollars to fund Belgian endive research. I do not know what that is. I do not know if you eat it or if it is a piece of art or if it is a tourism attraction. I am not sure, but I do not think I want to eat it, if that is what you do with it.

One hundred fifty thousand dollars increased funding for pea and lentil research. Four hundred thousand dollars for peach research. Sixty-eight thousand dollars for research on milkweed as a substitute for goose down for the insulation industry. Eight million dollars to continue to fund the Washington Lottery and Charitable Games Enterprise Fund, including hiring 124 people.

Is this the best and highest use of the taxpayer's dollar? This is the kind of pork barrel spending that everybody in this body knows goes on, that everyone in the country knows goes on, and that is why nearly 70 percent or more of the American people think that the President deserves a line-item veto.

The line-item veto measure that is prepared here, the enhanced rescission measure, is a measure that will give a check and balance to what we know is excess spending here on the part of the Senate. We do have a budget crisis. We began this year's budget process with a high-powered summit, raising the curtain on what many think might be a great farce of hope. We may end it with a sequester. We talked about that today, which mocks our efforts at reasoned choices with automated cuts across the board. In the process, we found it easier to fight for principles than to live up to them.

Our current budget crisis is one of the worst in recent memory. The U.S. budget deficit is now larger than the gross national product of 158 of the world's 168 nations.

Fifteen percent of the budget is spent just to finance the debt at a rate of $5,000 a second. We passed the Gramm-Rudman-Hollings law, and I supported that. It now requires us in 1990 to meet a budget shortfall of $100 billion. We are not asked to balance the budget this year. We are just asked to trim it, to trim it down to a $100 billion deficit. We have had several years of practice here at working to get to this point.

It is tough enough to explain to the taxpayers why we can only get down to $100 billion, why we cannot go forward and balance the budget. But time

after time when newspaper reports and other reports come out about all the little goodies that are attached—and I read some of them—to appropriation bills and then we go home and say we have this terrible budget crisis and we have to pull together a budget summit to deal with it and do not know how in the world we are going to get to $100 billion, it is with some justification they turn around to us and say, "You keep spending money on things that are not necessary, we do not want or are nothing but political pork."

The recent dire emergency supplemental appropriations bill contained dozens of items that could hardly be classified dire or emergency.

In the interest of time, I will not repeat the items that Senator MCCAIN from Arizona read relative to that particular piece of legislation. This is not a failure of one party or of just a few individuals. When it comes to the budget, I guess I am a political Calvinist. No one of us here is righteous, no, not one.

But that kind of spending squanders our credibility and calls our seriousness into doubt. When we continue this kind of thing and have to meet budget goals with gimmicks and smoke and mirrors, I think all of us have to stand back and say, are there procedures that we ought to change? Are there processes that we ought to put in place that will allow us to get a handle on what we think is unnnecessary spending?

If we do not do that, the Gramm-Rudman sword cuts through Federal discretionary programs and gives us the kind of problems that have been talked about here on the floor this afternoon.

Senator MCCAIN and I have proposed a measure. I offered it last fall. He is offering it this spring. We proposed a measure which will give the President an opportunity to provide a check and balance to what I think is a process that we all know needs addressing.

This rescission, this process, will allow the President to submit to Congress a rescission on appropriations bills. He has 20 days in which to send up a rescission that will go into effect automatically unless we override it. What it does is it exposes to light items that ought to be able to stand on their own two feet if they deserve majority support. But we all know that many of these items if brought individually would not garner 51 votes on this Senate floor, and then they are attached to that appropriation vehicle that has to be sent to the President and has to be signed because it is an urgent dire emergency supplemental or appropriation and if not passed will shut down the functions and operations of Government.

So many wait with a list in that pocket and when they see the vehicle coming along, the list comes out and that little project back home that favors a few individuals or that little thing that you have been carrying around for a couple of years saying do not worry, wait for the right time, and get it attached and they will never notice it and we will get it through, all those get lumped on, and that happens in the House and happens here in the Senate and happens in conference, and then the bill is brought before us at usually 11 or 12 at night, 300 or 400 or 500 pages long. Congress is tired. They have been working around the clock. It is time to wrap up the session. It is time to go home. Just pass this. We will get the urgent funding for Nicaragua, for Poland, for whatever, and then, lo and behold, we find that all these little items that we talked about are attached.

Does it make a difference? Will this make a difference? Over the last 13 years, $35 billion of rescissions have been sent up here that have not been acted on. If only half of those had been acted on in the last fiscal year, we would not have had to enter into last year's sequester.

Senator MCCAIN quoted former OMB Director Miller who said that if a measure like this were in place in 1980, we would have saved $377 billion in the last 10 years, the budget would be 10 percent smaller and $100 billion lower.

I do not know where we would have gotten those cuts. I do not know if Congress would have approved all of those. We might not have appropriated more than half of them. The President might not have submitted more than a fourth of those. It would have made a significant difference and avoided last year's sequester and might have helped avoid this year's sequester. We are going to have to do radical surgery.

I do not know what the budget submit is going to produce. It is going to be tough medicine for some of us. The failure to produce a budget summit will mean a sequester is going to go in place. It is not going to be a measily 2 or 3 percent across the board. It is gong to be a dougle-digit sequester and cut fat and muscle and cut in domestic and discretionary programs and maybe that we can support and maybe it should be increased.

We bring forward appropriation measures here that go to real needs in this country and we think that it needs at least equal funding and maybe an increase in funding, and that sequester is going to cut right through the heart of it. So we are trying to avoid that with a budget summit agreement but there is going to be pain in this once we run out of gimmicks and smoke and mirrors.

There is going to be plenty of pain to go around. I suggest that a lot of this pain is caused by a lot of years of unnecessary spending, a lot of Belgian endive research, a squid sex selection machine, endocrine research projects and a lot of market protection for eel product research items and sugarcane research and a whole number of other items, milkweed into insulation. Maybe they want to use milkweed pills. I am not sure exactly what this was for.

You add that up and it is big money, and that money cuts into a bill to fund necessary programs in education, pregnant women, infants, and children and to deal with real problems in this country and also contribute significantly to our budget deficit and put us in the bind that we are in and forces us now to take draconian measures, to go after some of the things raised on the floor here that none of us really feel we want to do but is necessary to do to properly address this deficit.

Even though we may not prevail today because a procedural motion has been filed that would require a super majority for us to win on this, I would hope that Members will focus on the issue at hand, will focus on the spending that takes place in this body, that we all bear some responsibility for.

I probably should have been down here along with others offering amendments at 1 o'clock at night on the urgent supplemental but everything is pressing, including the White House. We have to get this passed to get this aid to Nicaragua. It is important to do it now. We cannot afford to take 5 days to go fine-tooth comb every item, go in protracted debate. This is urgent. We are going to shut down. We have to get it passed. We can do that.

In order to curb the propensity for pork barrel spending, we need to give the President the power that four Governors have. It has been brought up here that we need this, this is a new idea, that it needs debate, that we cannot just rush into this. This thing has been around for a long time. It was 129 years ago that the State of Georgia gave its Governor line-item veto authority. That is 129 years of experience in just one State. Forty-two other States have this authority given to their Governor. We ought to be able to look and take as a basis for some analysis whether or not this thing works.

Every chief executive officer in the country has the ability to take the budget presented to him for his or her company and line out some items, and the Governors do it and they seem to get along little pretty well with their legislatures and they tend to work it out pretty effectively.

We have debated it five times in just the last 10 years in the Senate. We

have had five votes on this measure. We have had five debates on this measure. I do not know how much more debate and analysis we need to give this particular idea before we can give it a test to see if it works.

My colleagues should remember that we are not just giving the President a blanket line-item veto. We are not saying just veto it and that is done. We are saying this is a rescission process, that items that you do not think are appropriate you can send back here and then we will vote on them if we think they are appropriate; if we think they will stand the muster of the spotlight and scrutiny of the public, then we can vote for it and it will become effective.

So it is a check-and-balance system. It is constitutional. It meets the test of fiscal responsibility. It balances the power between Congress and the President which I do not believe is balanced in this respect now and it is a measure that I think deserves support.

So while we may not get 60 votes for it today, I trust that we will in this time of budget crisis look at ways in which we can save ourselves from unnecessary spending and provide the check and balance necessary to provide more fiscal responsibility.

Mr. President, in the interest of time—because this is an important bill and other Senators want to speak on it—I yield the floor.

Mr. BOND. Mr. President, I am pleased to join with my colleagues Senator MCCAIN, COATS, and others in offering this amendment today. As one of the former Governors serving in the Senate, I have very strong feelings on the issues of line-item veto and recission authorities. I have used both, and I know they work.

Mr. President, too often this debate bogs down in the morass of executive versus legislative power. Some in Congress, not wanting to give up any authority, see the line-item veto as a direct attack on their ability to govern, and heels are immediately dug in.

Unfortunately, good government and common sense get lost in the shuffle.

The proposal we have before us today is a straightforward attempt to inject a bit of discipline and common sense into a process gone astray—and should not be seen as some plot to usurp authorities and powers.

In fact, in the late 1970's the Missouri State Legislature included several million dollars for the construction of a new Harry S. Truman Office Building for the State government. Then Governor Joe Teasdale line-item vetoed this provision, arguing it was unecessary pork.

However, not too many days later the legislature enthusiastically overrode his veto, and construction was then completed during my second term. Clearly the legislature was not cowed by the Governor's veto power, and I cannot believe we would be either.

Mr. President, unfortunately we do not seem to see how far out of touch our so-called budget process has become. The annual battles over the reconciliation bill is only one example of how far we have gone in perverting the rules in order to find that little edge. If you were to try and explain to the American people how a bill—designed to reduce the deficit—becomes instead the favorite vehicle for those who wish to increase spending, why you would have a very tough time of it.

But that is what reconciliation has become. A spending cut here, a tax increase there, then a tax cut along with a new entitlement—and all of a sudden the focus of reconciliation isn't the tough deficit reduction choices, but as in 1989 it's child care, catastrophic health care, section 89, Medicaid expansions and expiring provisions.

And we wonder why the folks back home don't believe us when we say we are doing everything we can to reduce the deficit.

Mr. President, the wags are right when they say Congress is starting to look like a State legislature—we cram all of our work into a few months and then pass only a couple of omnibus bill a year. All because Members are looking for a vehicle for provisions that couldn't make it of their own accord.

When I became interested in urging the line-item veto for the Federal Government, I went to various Missourians to ask for their views. In particular, former Missouri Congressman Richard Bolling's comments still stick out in my mind. Congressman Bolling was a congressional leader in the effort to reform the budget process, and when I asked him about the line-item veto, he thought about it for a bit and then noted that anything which brought sunshine to appropriations bills was a good thing, because too often they became Christmas trees, he indicated that the President could at least focus attention on and give Congress ability to exercise its will on specific items in question.

This seemed like such good sense that I'm not in the least bit surprised that years later Congress still refuses to enact it.

Thus I believe it is long past time to follow Dick Bolling's advice and take another step toward fiscal sanity.

Perhaps I will have a provision vetoed by the President some day—but I'm certainly willing to take the chance, because like Representative Bolling, I believe the more light we allow into the process, the better off we'll all be.

Last year the Senate boldly stripped our reconciliation bill of its many goodies—and that was certainly a welcome small first step. But let's now build on that and pass this amendment today.

Mr. DOLE. Mr. President, I want to congratulate Senator MCCAIN for again bringing the line-item veto to the floor for debate. He has been a tenacious bulldog on this issue, bringing it up time and time again. I expect that even though he may not prevail today, he will eventually wear down the opposition, as he has on other so-called hopeless causes.

When Senator MCCAIN does finally win his battle, it will be because Congress will have heard the cries of voters across the country for a Presidential line-item veto. Americans are frankly sick and tired of seeing something like the President's $800 million request for Panama and Nicaragua bloat into a $4.3 billion spending free-for-all.

With a legislative line-item veto, the President would be able to slice out wasteful spending projects, bundle them up into a new bill, and send that bill back to Congress for a second look. Forcing Congress to have an up or down vote on a pork-only spending bill wouldn't stop all wasteful spending, but it will certainly slow us down a bit. After all, who is going to want a vote like that on their record?

The end result is going to be that Congress and the President will be able to move more quickly to meet the Gramm-Rudman-Hollings targets without phony gimmicks, or worse, new taxes. Even more importantly, we may be so successful in saving money that we could dispense with these annual budget summit circuses. That would make a lot of us happy.

I urge Members to look closely at this amendment for the legislative line-item veto and join us in our effort to bring accountability and responsibility back to the congressional budget process.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I am going to be speaking for some time. I note the Senator from Kentucky is here.

Mr. FORD. Will the Senator give me just a couple minutes? I have another meeting to go to. He has always been gracious. I do thank him.

Mr. President, the line-item veto is something that the Senator from Indiana just said we discussed and debated five times and five times we have turned it down. We have debated it and discussed it and thoroughly gone over it and we have turned it down. As Governor, I had line-item veto. I had line-item veto. It is very easy to call a fellow down from the third floor to the first floor of the Governor's office and say, "You have $10 million in there for new building down home, how about my bill I want passed up there," "Well, I sure would like to have that $10 million for that new

building down home. Well, let us scratch each other's back."

Separation of powers? That is not separation of powers, that is giving too much down Pennsylvania Avenue and taking it away from here.

My colleagues heard the distinguished Senator from Oregon say that almost $60 billion have been rescinded and we approved at most $20 billion of it and let the rest of it go. We have the mechanism. But I respect this Chamber, I respect the Congress, and I think I ought to respect the Constitution under those circumstances.

Mr. President, when we get down to line-item veto, this Senator is going to help others and we are going to discuss it for awhile. This does not belong on this bill. How in the world can we think line-item veto, on a bill to try to help the handicapped people fly on airplanes, is germane? It just does not make a lot of sense to this Senator.

I hear those former House colleagues say that it is good to be in the Senate because we can put this on anything and it must be germane in the House. The House may be smarter than we are, under the germaneness rule. So we ought to have germaneness rules here if that would prevent this amendment being put on a piece of legislation to help the blind fly across this Nation, so they would not be discriminated against.

Yet we have to have a line-item veto put on this particular piece of legislation. Mr. President, I hope we get off of this pretty quick, when it comes to a vote we vote it down, and get on with the business before the Senate.

I thank my distinguished friend from Nevada and I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have been listening to this debate most of the afternoon and I think it is important that we talk about some of the substance of this amendment. We have talked a lot about procedure. For example, the Senator from South Carolina said that he favors the line-item veto but not on this measure.

I think we also need to talk about checks and balances, because if there were ever an aberration of the term "checks and balances" it is with the words "line-item veto."

Distinguishing between conservatives and liberals has no place in the discussion relating to the line-item veto.

The Senator, the proponent of the amendment, said he thought it would be a waste of time to go through the parliamentary procedure that we use in this body to offer amendments to various measures in an appropriations bill. In effect, what people have said here this afternoon is that something extraordinary must be done to reduce the deficit. Mr. President, I agree something should be done. But that something must never be granting the President line-item veto authority because it is merely a gimmick that has never been demonstrated to reduce spending in any State that utilizes it.

We have heard a lot here today about line-item vetoes in 43 States. There has been study after study done as to what effect the line-item veto has and it has been determined time after time that it does not save any money. Yet it will, even though it does not save money, without a doubt tilt the balance of power in the Federal Government inexorably, strongly, toward the President of the United States. It, in short—and I use these terms pointedly—is the first step toward constitutional tyranny.

Before the proponents of this legislation press this matter further they must realize what they are doing, and I am not sure they do. I think it is important that we realize what the line-item veto does and what it does not do.

Former President Reagan and President Bush both believe that the line-item veto is in the words of President Reagan, a "powerful tool against wasteful and extravagant spending." It sounds good, does it not? It is this belief that undoubtedly compels some Senators to push for the passage of a line-item veto.

The reality of a line-item veto, though, is really sinister. As the 1985 Economic Report of the President noted—not the President of the Senate, but the President of the United States—the line-item veto "may not have a substantial effect on total Federal expenditures" but would definitely, "change the composition of Federal expenditures from activities preferred by the Congress as outlined in our Constitution to activities preferred by the President."

Mr. President, academic analysis of the States' experience with the line-item veto reach the same conclusion.

Calvin Bellamy, president and chief executive officer of Calumet National Bank in Hammond, IN, the home of one of the chief sponsors of this amendment, recently prepared an exhaustive paper on the line-item veto for the Valparaiso University Law Review. This review of State court cases concerning the line item veto found, "These cases demonstrate that the line item veto can be and often is much more than a tool of fiscal restraint. None of these vetoes reduced total expenditures."

I again state in response to the talk we hear constantly about States which have a line-item veto, there is study after study that reaches the same conclusion as the exhaustive work done in this law review article: None of these vetoes reduced total expenditures. I quote and underline and put an exclamation mark on Mr. Bellamy's remarks, "They merely enable the Governor, for good or for ill, to replace the legislature's priorities with his own."

Another study of the line item veto by Roy C. Brown showed "The exercise of the line item veto at the State level of government does not prove that wasteful or extravagant expenditures have been reduced. It only indicates expenditures have been reduced from the amount appropriated by the legislature."

No study has ever shown line item veto power has led to any significant savings in the States. The deficit problem we face—we face here today, Mr. President—is not the result of a shortcoming in the Constitution.

This is one of those end runs, one of the ways to direct attention elsewhere.

We do not have in this country a taxing problem as much as we have a spending problem, and certainly it is not the result of a greedy and corrupt Congress, as some of the proponents of this amendment would suggest. Rather, it is a result of 10 years of impasse, of a Government divided by party and philosophy. Naturally one would expect stalemate, and that is really what we have. Our large deficits are a political problem, not a constitutional problem, and they demand a political solution, not a constitutional or a legal solution.

As others have shown, and as I state here, our deficit defies a legal solution such as the one currently under debate. This is not going to solve our deficit. It is clear, as indicated from the ranking minority member on the Appropriations Committee, the Senator from Oregon: Why do you only want the President to have line-item veto over this small part of the budget, namely, discretionary spending? Why? Because the debate is not really to balance the budget. Rather, they are attempting to direct the attention from where it really should be, on the administration's budget gimmicks.

The fact is the executive branch of this Government, using blue smoke and mirrors, tries to show that the Gramm-Rudman guidelines have been met when they have not been. They use surpluses in the Social Security trust fund, highway trust fund, airport trust fund, and other trust funds to bury this deficit.

(Mr. ROCKEFELLER assumed the chair.)

Mr. REID. Mr. President, our deficit defies a legal solution, such as the one currently under debate. It is clear from all available evidence that the line-item veto—and I underscore this point—will not save money. Nonetheless its proponents argue it is necessary for the President to reassert his authority in the budget process. Can you believe that?

If this were true, Mr. President, I would be the first to jump on board

and say I will support this—maybe even a constitutional amendment to provide the authority. But anyone who has served time in Congress knows it is a straw man. The President sets budgets and it is his budget that sets parameters in the Congress. It is the President who haggles and cajoles Congress from the moment the budget is submitted until the last appropriations bill is signed.

It is the President we are negotiating with. We are using his budget as a guideline. It is the President who has unlimited access to the national media, a national audience, and the bully pulpit. And it is the President of the United States who already has the veto power. Let me repeat, he already has the veto power. He has already used the veto power, as all Presidents have used the veto power. No one has taken that away.

The President and only the President has the power to veto. If he chooses to not veto and thereby allows what he feels to be repugnant legislation become law, then he can point fingers only at himself. Congress cannot, absolutely cannot restrict this power to veto. We cannot do it.

Some proponents of the line-item veto, Mr. President, argue the authority is needed now that Congress has the propensity to pass omnibus spending bills. Another straw man. Congress has always passed omnibus spending bills. Always. Senator Vandenberg complained about this practice a long time ago, in fact, in 1936, with this memorable characterization:

> The modern congressional appropriations bill is a cross between a mammoth catchall, a grab bag, a jigsaw puzzle, and an omelet.

In 1789, Congress passed its first appropriations bill. It was an omnibus bill. It is clear if the first few Presidents liked omnibus bills, but at least President Washington knew he did not have line-item veto authority, stating at one point:

> From the nature of the Constitution, I must approve all parts of a bill or reject it in toto.

Omnibus bills and Presidential recognition of the absence of line-item veto power, however, do not argue for providing such pernicious authority. The veto authority already exists and does not need to be changed to eliminate items viewed by the President as pork.

Congress takes the veto power, a power Congress cannot alter, very seriously. Often, it is sufficient for the President to indicate his objections to an item in an appropriations bill, and it will be eliminated or altered.

Another thing that is quite interesting, the junior Senator from Arizona, the sponsor of this measure, said he did not want to waste his time making amendments to delete parts of this supplemental appropriations bill. In the House, they were not nearly as bashful. They voted on numerous items in the appropriations bill to take things out, and some matters that were within that appropriations bill were taken out in the House. The procedure exists here in the Senate as well.

When Presidents do veto appropriations bills over a single issue, the offending item is almost always dropped. I am sure that there are instances long before I got here—I know there have been plenty since I got here.

President Bush's veto of the fiscal 1990 Labor-HHS appropriations bill is an excellent example of this phenomenon. The President vetoed the Labor-HHS bill over a single issue. There was no question what the issue was. On its next trip through the Congress, lo and behold, that bill did not contain that language. Why? Because he had the veto and he used it. Not a line item, he vetoed the whole thing, and in response Congress dropped the offending item.

Perhaps a prime example of the efficacy of this strategy is provided by President Rutherford B. Hayes. Charles Cooper, assistant Attorney General under President Reagan, in a very excellent piece where he debunked the absurd notion that line-item veto power already exists in the Constitution, shows how effective President Hayes was at working his will with this ordinary veto, the one that has been around for over 200 years:

> In the first major competition between Congress and the President over the practice of tacking unrelated riders onto the appropriations measure, President Hayes believed that his only means of preventing unrelated riders from becoming law was to veto the entire bill. He repeatedly vetoed such measures, and succeeded on each occasion in persuading Congress to pass the appropriations bill free of the objectionable rider.

Veto authority is a precious authority, Mr. President, an authority completely under the President's control. Rather than carping about self-imposed limitations on the use of the veto, the President, if he feels strongly, should use the formidable power he now has.

But the reason we are having this sideshow on a bill relating to providing safety in the airlines, which certainly we need, is we are trying to divert attention from the real issue; that is, we are spending too much money. We are trying to divert our attention from that by coming up with something like this, as if this is a way to solve the problem. It is only talk, because it does not solve any problems.

The President ought to be thankful for the power that he has because it is a tremendous power, one he almost did not get. The first American Government established by the Articles of Confederation was based on a profound fear of executive tyranny. Our Founding Fathers remembered their experience under the British King and they remembered it very well. In fact, the Government had no executive, only a legislature, under the articles.

Both the experience under weak Federal Government, combined with the experience some Founding Fathers had in States with a relatively strong Governor, led to the establishment of an executive branch during the Constitutional Convention. After some debate—after all, one of the reasons cited in the Declaration of Independence for the revolution was the King's refusal to "Asset to Laws, the most wholesome and necessary for the public good".—The Convention agreed then to grant veto authority to the executive.

But still the debate raged even after it was put in the Constitution. Some argued the President should share veto power with the judiciary, while others argued that members of the Cabinet should hold the power; not the President, but members of the Cabinet.

The Convention, though, finally did give the authority solely to the President, but then they qualified it. A veto is subject to override by a two-thirds vote of each House of Congress. The Congress does have the right, the legal authority under our Constitution, to override a veto of the President, but it is not done very often.

Significant to our debate today, Mr. President, the Convention never considered granting the President line-item veto authority. They never, ever considered it, but yet on a bill that relates to air travel, they want to turn the Constitution on its head. That is wrong.

There is no discussion at all of such a proposal in recorded debates or notes taken by participants in the Constitutional Convention. It is clear, however, they knew about the line-item veto from their earlier experiences.

For example, the British Board of Trade wielded the veto power, much to the chagrin of the Colonies. Had the fathers thought of this power useful or appropriate to grant to the President, there is little doubt they would have debated and adopted the power.

They did not debate it or adopt it because they wanted no part of the line-item veto.

These, Mr. President, are not some Johnny-come-latelies. These are the Founding Fathers of the country. They knew about the line-item veto. They did not even discuss it because they had had bad experiences with it in the past.

Thus, was born the ultimate check and balance. Nearly every passion can be checked by this brilliant arrangement between the executive and the legislative branches of Government.

Should the immediate passions of the majority overwhelm common sense, the President can veto a measure. And should the President abuse his veto by choosing to kill popular and necessary legislation, the vagaries of one man can be overcome by the majority.

This system has worked even when used sparingly. George Washington cast two vetoes. Jefferson and both Adams cast no vetoes. Monroe cast but one. James Madison, the man who holds the veto record from 1789 to 1829 vetoed only seven bills. The first veto override did not even occur until President Tyler vetoed a bill in 1845.

Serious debate over the line-item veto, though, started in 1840. The proponents of this amendment would like you to think that this is some new idea that suddenly popped upon the scene, but it has been going on since 1840. Every few years it is brought up again, for the same reason, to divert attention from the real issue, that is, we are spending too much money.

The Confederate constitution, for example, Mr. President, granted line-item veto authority to their President, Jefferson Davis, but he did not use it. After the Civil War, some States started to include line-item veto authority in their constitutions. Since the Civil War, over 200 proposals have been introduced in Congress to grant the President line-item veto authority—200 times. In 1878, President Grant proposed a constitutional amendment granting line-item veto authority. In 1883 and 1884, it was offered. Again in 1938, President Roosevelt offered such a proposal that was rejected by the Senate.

We know the battles that took place in the first years of the Franklin Roosevelt administration. We know the power that he was trying to assume by virtue of packing the Supreme Court. He also wanted to have a line-item veto. It was rejected out of hand. Two hundred proposals have been considered since 1876 and not a single one has gained approval. I hope my colleagues will join me in making this proposal failure No. 201.

A line-item veto will forever alter the relationship between Congress and the President, with the President reigning supreme over policy and budget matters. Look at our Constitution and our history. Congress comes first. It is the policymaking body and has the power of the purse. Admittedly, the reality is often different. Policy is made at both ends of Pennslvania Avenue, and the budget power is shared. This arrangement has come about over 200 years of political battles and competition between the two branches, a competition that has not only protected our precious freedoms but has made them a reality for all the citizens of this country.

Mr. President, the Federal Government is not a State. It is the glue that holds our Nation together. Congress is intentionally very powerful, the same as the President, the same as the judicial branch of government. In fact, built into our Constitution are these three separate but equal branches of government, each having equal authority. There is competition going on every day between the three branches of government so that power is controlled. This arrangement has worked very well during the past 200 years. We are envied by countries all around the world. In Tiananmen Square, when they rebelled, what did they put up to look at? The Statue of Liberty, because they want to have a government like our Government. The countries of Eastern Europe, did they want a government like they have in the Far East? In other parts of Africa, South America, in Western Europe? No. They want a country like ours. That is why we now have a shortage of constitutional scholars, because they are going to Eastern Europe to try to teach them what we have.

Mr. President, the Federal Government, as I have indicated, is not a State. It is the glue that holds our Nation together. Congress is intentionally very powerful, as I have indicated before, arguably the most powerful legislature in the world. But our power, however strong it is, is balanced by the power of the executive branch of this Government and the judicial branch of the Government. That is the way the Founding Fathers wanted it to be, and that is the way it has been for 200 years. When one branch of the Government tries to rise and get too much power, it is brought down because of the checks and balances we have.

In most of the 50 States the legislature is relatively weak compared to the Governor, as the senior Senator from Kentucky indicated. He said that the State legislature is very, very weak compared to our National Legislature. This is due to a variety of historic and institutional reasons, completely unrelated to the development of relationships at the Federal level.

At the State level, as I have already demonstrated, the line-item veto is one of the tools making the Governor the supreme political power in the State, unquestionably. It does not save any taxpayer any money in any State. That is not the Senator from Nevada talking. That is the conclusion of the preeminent political scientists, in all the studies they have done, two of which I have related to this body.

Finally, there is another issue that my colleagues ought to consider before voting on this amendment. The issue is, for lack of a better term, logrolling. My good friend from the House of Representatives, Representative DON EDWARDS, of California, illustrated this point very well in the October 30, 1989, edition of the Wall Street Journal. Congressman EDWARDS pointed out that he has long been a supporter of Federal funds for the Bay Area Rapid Transit System. This is a mass transit system they have in the San Francisco area. It is known as BART.

Quoting the Journal article of Congressman EDWARDS:

> If a President had a line-item veto and wanted to force a Member of Congress to support a controversial foreign policy initiative, the President could call and declare that he would single handedly kill the BART funds unless the Congressman "shapes up" on a foreign policy issue.

What would that foreign policy issue be? Maybe aid to the Contras that was so sensitive a few years ago. There are other issues it could be, but the example that Congressman EDWARDS gave is an excellent example. A similar situatin would apply to small States as well. I tell people who attend my townhall meetings, when they ask about the line-item veto, about the history of this country, and I tell them that the Senate of the United States was developed in the great compromise in June of 1787, the purpose of which was to protect small States, not small in area but small in population. The Constitution set forth the power of the U.S. Senate, and that power is given equally to a Senator from the State of Nevada that has 1.3 million people as a Senator from the State of California that has 28 million people. That is the way the Founding Fathers wanted it.

When I address a townhall meeting about the line-item veto, I tell those people the main reason it is bad is because it would really hurt what we have in our Constitution, that is, the protection given by the United States Senate to protect small States.

Let me give an example. The President wants to send a message by picking an item of $10 million out of this Labor-HHS budget, for example. He does not want to do what President Bush did, be courageous and veto the whole appropriations bill. What he wants to do is send a message and veto a $10 million item. If a bill contains $10 million for a State like California New York, or Texas, and $10 million for a small State like Nevada, New Hampshire, or South Dakota, it only makes political sense to go after the money provided to a small State with a few votes.

The votes of the members of a small State would, in effect, be on sale to the President every time the appropriation bill came to the desk of the President. States like Nevada, South Dakota, and West Virginia would be for sale to the President, because the President could make any kind of deal that he wanted.

At that point, the States would no longer equally be represented in this body, contrary to the wishes and the desire of the Founding Fathers.

The issue we are debating today is really a simple issue, how to control the budget deficit. The answer is also simple. Political leadership needs to be exhibited by the President of the United States. Until then, gimmicks and trickery like the line-item veto or enhanced recession, which is a word that is getting a lot of use around here today, will continue to be developed by Senators on both sides of the aisle.

So I look forward to the day when President Bush steps to the plate and addresses the issue fortrightly. I will be there with him. But until that date comes, I will defend as tenaciously as I can the power and prerogative of the Congress, and the structure of our Government as established by the Constitution.

I mentioned in my opening remarks that I wanted to make sure that Members of this body understand that this is not a liberal or conservation issue. Why do I say that? Because there is a gentleman who I served with in the House of Representatives who is a card-carrying conservative. In fact, if I am not mistaken, MICKEY EDWARDS, of Oklahoma, at one time was chairman of the conservative caucus or some names such as that. He has written a spate of articles on the line-item veto. I found one here that was written in the Washington Post entitled "A Conservative's Case Against the Line Item Veto." I ask unanimous consent that this statement by MICKEY EDWARDS, this article, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 8, 1984]

(By Mickey Edwards)

A CONSERVATIVE'S CASE AGAINST THE LINE ITEM VETO

Frustration is the emotion with which conservatives are most familiar, and in that frustration, desperate for progress in their war to change national priorities, conservatives are sometimes tempted to toss away the cornerstones of their political value system in exchange for small and temporary victories.

Political conservatism, at its root, is a philosophy of diffusion. It is a philosophy that has as its thesis the distribution of political power among local agencies; it has as its antithesis the concentration of power in a single place, and the most feared of such repositories is the central government.

Unfortunately, conservatives who ought to know better, including some of the leading political thinkers of the right (Lew Lehrman and Jack Kemp come to mind) have, in their frustration, embraced oncepts that would concentate substantial new powers in that most concentrated of power bases, the presidency.

The latest such scheme for concentrating power in the hands of a single chief executive—offered, remarkably, by conservatives—is a plan to give the president a heretofore unprecedented power to veto individual items within congressional appropriations bills. Ronald Reagan, the nation's principle spokesman against big government, has asked for such power. House Republicans, on a test vote offered by conservative Rep. Phil Gramm, voted overwhelmingly to give it to him.

But conservatives have overlooked what the result could be. Under such a transfer of power, if a Jimmy Carter—or a Walter Mondale—chose to veto an appropriation of funds for construction of the B1 bomber, a weapons system repeatedly suppported by majorities in both the House and Senate, a small band of liberals, a mere one-third of the House and Senate, could kill the program by refusing to override the veto. While a Carter, even a Mondale, would not be likely to veto an entire defense appropriations bill, and would thus be somewhat bound by congressional determination to proceed with systems such as the B1, the power to accept most of the appropriation but single out specific items for veto could (and, if Mondale were to become president, probably would) eliminate defense items crucial to the national security.

The problem with propositions such as the line item veto is the certainty of change. Powers delegated to the presidency to be dispensed according to the wisdom and conscience of a Ronald Reagan will remain in place for the time, certain to come, when a Democrat again ascends to that increasingly lofty presidential throne.

Congress is that branch of government most compatible with the basic philosophical bent of the political conservative. In it, power is fragmented among a large number of men and women, sensitive in varying degrees to the sentiments of home folks. The frequency of House elections increases the role of local constituencies and diminishes the central power. That diffusion of power is an essential to the conservative concept of government.

If the concentration of power in the federal government is the single philosophical element on which all conservatives unite (to be generally opposed to the concentration of power in Washington is the root of American political conservatism), then, by extension, the focusing of that power in a single individual should likewise arouse fear.

Unfortunately, the frustration of having a conservative president who is somewhat hampered by the need to co-exist with a Democratic Congress causes one to chafe under the restraints of the system. There is a frustration at how hard it is to get things done; how difficult it is to bring about change. In their frustration, these impatient conservatives forget that difficulty in bringing about change is again a cardinal virtue of a Jeffersonian conservative government. The harder it is to write and rewrite laws, the greater the protection for the people.

Unfortunately, the philosophical roots of what we are about are sometimes forgotten in the pragmatic rush to achieve immediate ends. Conservatives, who ought to be champions of the congressional veto—increasing the power of the elected representatives of the people to block regulations imposed by the federal bureaucracy—find themselves opposing congressional interference with bureaucrats appointed by "our guys." They do so oblivious to the enduring nature of laws and precedents (meaning that what we do to them they will later be able to do to us).

This acquiescence to the imperial presidency for the immediate short-term gain threatens the foundation of our form of government—a system carefully designed to balance powers and limit central authority. To set constitutional protections aside for short-term expediency is to win temporary advantage at a very high long-term cost. The frustration of conservative leaders is understandable, but the temptation to place more powers in the hands of an already powerful chief executive is a temptation that should be resisted.

Mr. REID. Quoting just a few things from his article, he says:

Frustration is the emotion with which conservatives are most familiar, and in that frustration, desperate for progress in their war to change national priorities, conservatives are sometimes tempted to toss away the cornerstones of their political value system in exchange for small and temporary victories.

Political conservatism, at its root, is a philosophy of diffusion. It is a philosophy that has as its thesis the distribution of political power among local agencies; it has as its antithesis the concentration of power in a single place, and the most feared of such repositories is the central government.

Unfortunately, conservatives who ought to know better, including some of the leading political thinkers of the right (Lew Lehrman and Jack Kemp come to mind have, in their frustration embraced concepts that would concentrate substantial new powers in that most concentrated of power bases, the presidency.

The latest such scheme for concentrating power in the hands of a single chief executive—offered, remarkably, by conservatives—is a plan to give the president a heretofore unprecedented power to veto individual items within congressional appropriations bills. Ronald Reagan, the nation's principle spokesman against big government, has asked for such power. House Republicans, on a test vote offered by conservative Rep. Phil Gramm, voted overwhelmingly to give it to him.

But conservatives have overlooked what the result could be. Under such a transfer of power, if a Jimmy Carter—or a Walter Mondale—chose to veto an appropriation of funds for construction of the B1 bomber, a weapons system repeatedly supported by majorities in both the House and Senate, a small band of liberals, a mere one-third of the House and Senate, could kill the program by refusing to override the veto. While a Carter, even a Mondale, would not be likely to veto an entire defense appropriations bill, and would thus be somewhat bound by congressional determination to proceed with systems such as the B1, the power to accept most of the appropriation but single out specific items for veto could (and, if Mondale were to become president, probably would) eliminate defense items crucial to the national security.

I will not read the whole article, but he ends in saying:

This acquiescence to the imperial presidency for the immediate short-term gain threatens the foundation of our form of government—a system carefully designed to balance powers and limit central authority. To set constitutional protections aside for short-term expediency is to win temporary advantage at a very high longterm cost. The frustration of conservative leaders is understandable, but the temptation to place more powers in the hands of an already powerful chief executive is a temptation that should be resisted.

Mr. President, just to show that this is not some aberration from a conserv-

ative, that he was out of his mind one day when he wrote this article, he has written a number of these articles.

But also another card-carrying conservative, a columnist who we read weekly, James J. Kilpatrick, wrote as early as May of this year, in fact just a few days ago, an article which I also ask unanimous consent to be made part of the RECORD in its entirety entitled, "The Line-Item Veto: A Bum Idea."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 28, 1990]

(By James J. Kilpatrick)

THE LINE-ITEM VETO: A BUM IDEA

Arguments about the line-item veto boil down to the distinction between that which is persuasive and that which is convincing. Sen. Paul Simon (D-Ill.), the chief advocate of this executive device, is persuasive. In the end his arguments are not convincing. This is a bum idea that Congress should abandon.

The senator's case is to this effect: Congress in recent years has adopted a parliamentary tactic that is unfair to a president and bad for the country. The trick is to wrap hundreds of individual appropriations into one bulging package and to drop the thing on a president's desk. A message is attached: take it or leave it.

Many of the items in such an omnibus bill never would survive a straight up-or-down vote on the floor. They are the stuff with which pork barrels are filled. Often these frivolous or extraneous items sneak into a bill without even a moment's hearing in committee.

To remedy the situation, Simon proposes an amendment to the Constitution: "The president may reduce or disapprove any item of appropriation in any act or joint resolution except any item of appropriation for the legislative branch of the government." By a majority vote in each house, the voted item could be restored. Simon's resolution has cleared committee and is headed for the floor.

Simon notes that 43 states accord substantially this power to their governors. As governor of California, Ronald Reagan used his line-item veto 943 times. He was never overridden. During the past seven years, Illinois governors have reduced or eliminated items that have saved $2 billion. Former residents Nixon, Ford, Carter and Reagan support the amendment. President Bush has asked repeatedly for it.

The Senate Judiciary Committee inducted hearings on Simon's amendment on April 11. There the opposition made a convincing case against it. Orrin Hatch of Utah summed up the principal argument in a single sentence: "I think it would result in a massive shift of power from the legislative to the executive branch."

Exactly so. Our Constitution rests upon two solid foundation stones. The first is federalism, which is not involved here. The second is the separation of powers among the executive, legislative and judicial branches. For 200 years these powers have rested in spice equilibrium. The system hasn't been perfect—the judiciary often has assumed disturbing power—but it has worked.

The Simon amendment would upset the balance in critical ways. Given the power of line-item veto, a president would be in a dominant position to wheel and deal, to trade for votes on his own projects, to practice a kind of genteel extortion. Let us suppose that a president is truly determined to have his way on a manned station in space. The Senate is cool; the House is barely lukewarm. Along comes a massive bill to provide supplementary appropriations. It contains a hundred pet projects beloved by their sponsors.

Well, says the president, if you gentlemen will give me my meritorious space station, I won't veto your unwarranted dams. A deal is struck. The cats and dogs stay in the bill. Nothing useful has been accomplished. And the line-item veto has functioned not as a scalpel, but as a billy club.

Wholly apart from objections based upon principle or pragmatism is a technical third point raised by Sen. Mark Hatfield (R-Ore.). He says the line-item veto, as a practical matter, isn't what it's cracked up to be. It simply would not accomplish what Simon believes it will accomplish.

Sixty percent of the budget, representing entitlement programs and interest on the debt, couldn't be reached by a line-item veto. Three-fourths of the remainder is military spending. That doesn't leave much.

Moreover, most appropriations are by generalized "accounts," such as a military construction account. Individual items within an account may be described in a committee report, but they do not appear in the bill itself.

The fact that 43 governors have a line-item veto is interesting but irrelevant. States can spend money, but they cannot print money. Their powers of appropriation thus have built-in limitations.

If it is not necessary to amend the Constitution, it is necessary not to amend the Constitution. No compelling case has been made for a dangerous transfer of enormous political power to future presidents. The Senate should kill the resolution.

Mr. REID. James Kilpatrick states a number of things, but he clearly says, in his closing paragraph:

If it is not necessary to amend the Constitution, it is necessary not to amend the Constitution. No compelling cases has been made for a dangerous transfer of enormous political power to future Presidents. The Senate should kill the resolution.

What resolutions; this amendment to adopt a line-item veto?

So this is not a liberal issue. This is not a conservative issue. This is an American issue, one that Strikes at the very basis of power that this country has.

I know, Mr. President, there are others who wish to speak. I am happy to let them do that. I must transfer to this body, through you to them, the fact that this is an important constitutional issue. This is not a budget issue. This is an important constitutional issue. As stated in the Wall Street Journal in a lead article last year, "If Bush tests constitutionality"—he is going to do this through this rescission situation that has been talked here today—"the reverberations could transform government" not in a positive sense.

In closing, Mr. President, let me say that there are a number of arguments presented against the line-item veto. I have outlined those. Let me repeat them very clearly.

It would lessen the responsibility of Congress. It would increase the influence of the executive whose power has already been expanded—in the opinion of some, too much. It would destroy the system of checks and balances established by the Constitution. It would violate the principles of separation of powers embodied in the Constitution. It would defeat the legislative intent of Congress. The amendment is entirely unnecessary, and it would be at the very least an uncertain grant of power.

I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I would like to associate myself with the very scholarly comments of my senior colleague from Nevada. His points are well taken. I endorse his analysis.

I assure the floor leaders it is not my intention to prolong this debate. But as I was sitting in my office hearing the colloquy back and forth and the debate, I felt my blood pressure rising, and I felt constrained to come to the floor to express some feelings of my own.

I think all of us can agree that the Federal budget is awash in red ink, that a deficit cumulatively in 1980 of some $900 billion representing the assumption of the Revolutionary War debt, the massive indebtedness incurred during the Civil War, two World Wars, the Great Economic Depression, Vietnam and Korea—was $900 billion; that in less than a decade we have added to the $900 billion more than triple so that today we are looking at $3.1 trillion in debt cumulatively. The very budget that we consider this year, when all the gimmickry is factored out, with the invasion of the trust funds set aside, will add nearly $300 billion of new debt.

So I think most of us here in this institution would reecognize that we are heading on a collision course with financial crisis and disaster unless we take action.

But the notion that somehow the line-item veto is our fiscal salvation, Mr. President, is misplaced. This concept that is offered as a utopian solution, in my view, is a red herring.

I was privileged and honored, as were you, Mr. President, to serve as the chief executive of my State. I did not have a line-item veto, and that did not prevent me as the chief executive in preparing each of the budgets submitted to the State legislature, a budget that was balanced in fact.

For the reasons that my senior colleagues has outlined, the line-item veto does constitutional violence to the separation of powers, carefully crafted by the Founding Fathers, and

concentrates too much power in the Chief Executive, irrespective of the political affiliation. My view and my comments today on the floor would be addressed with the same level of ferver, whether or not the occupant at 1600 Pennsylvania Avenue were a Democrat as opposed to a Republican.

What I found to be the most astounding part of the budget process in coming to Washington as a new Member is the fact that the President of the United States does not take it upon himself to discharge one of the fundamental responsibilities of those of us who served as Governors, and that is to prepare a budget that is in fact balanced.

At the State level you do not have a budge dance, you do not have summitry. It becomes the responsibility of the Governor to prepare that budget, submit it to the legislature, to fully defend it; and the legislature has the opportunity in the course of things to accept and reject those parts of the budget on which the legislature in its own wisdom disagrees with the chief executive.

That system serves our States well, and I submit that if we had the kind of leadership that we need at the national level from the White House, from the President, to submit a budget that is balanced, or as close to balanced as the President believes that the economic circumstances that face the Nation in that fiscal year permits, that is what we need. The notion that somehow a line-item veto will cure the problems of the budget crisis and will, therefore, absolve the President of the leadership which is properly his and the responsibility which, in my judgment, devolves upon him, I think is misguided and misplaced.

We need Presidential leadership to come up with a budget on which he can depend, and which we in the Congress have an opportunity to debate, to agree or disagree; and if we pass a budget which he disagrees with, then he has a right under the Constitution to veto the entire appropriation as opposed to the proposed line-item veto. That, I respectfuly submit, is what the American people are entitled to—Presidential leadership.

In this discission, I suggest, we are having this year in this city, it is the element which is missing, and we need that before we can get a meaningful handle on the budget deficit as we face it. I thank the chair.

Mr. THURMOND. Mr. President, I am pleased to rise in support of this amendment which would grant the President statutory line-item veto authority. I want to commend the junior Senator from Arizona [Mr. MCCAIN] and the junior Senator from Indiana [Mr. COATS] for their fine work on this measure. I am pleased to be a cosponsor of this amendment and S. 1553, the Legislative Line-Item Veto Act of 1989 on which the amendment is based.

Mr. President, although I much prefer a constitutional amendment providing for a line-item veto, I am pleased to support this statutory, middle-ground approach. Under the statutory approach, the President is authorized to rescind all or part of any budget authority. The rescission would be effective unless Congress—during a review period of 20 calendar days—enacts a bill disapproving the rescission.

Before the President rescinds any budget authority, he must first determine that such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt. In addition, he must make a determination that such rescission would not impair any essential Government functions, and that such rescission will not harm the national interest. Finally, he must notify the Congress of any rescission action he takes.

As I mentioned earlier, I prefer a constitutional amendment on this matter, and for several years now, I have introduced legislation providing for a constitutional line-item veto. In April of last year, the Judiciary Committee held hearings on legislation I introduced—Senate Joint Resolution 14—to grant the President this much needed authority. I was pleased that this measure was reported out of the Judiciary Committee 2 months ago by a vote of 8 to 6.

I believe we share a common understanding—and this includes Members from both sides of the aisle—that the fiscal policy of our Nation is in critical need of strong, disciplinary action. According to the Department of the Treasury, the national debt recently topped $3 trillion. Additionally, in February of this year, the Congressional Budget Office estimated the fiscal year 1990 deficit to be $138 billion, well over the $100 billion Gramm-Rudman target. Mr. President, discipline is needed, and needed now.

Proponents of line-item veto authority have seen the Congress, time and again enact appropriation measures totaling billions and billions of dollars. Tucked away in many of these bills are items representing millions, possibly even billions, of dollars of expenditures which would have very little chance of passing on their own merit. Yet, the President has no discretion to weed out these unnecessary expenditures and must approve or disapprove the bill in its entirety.

Forty-three Governors currently have, in one form or another, the power to reduce or eliminate items or provisions in appropriations measures. My home State of South Carolina provides this authority and I found it most useful during my service as Governor in the late 1940's. I was able to save our State large sums of money in unnecessary expenditures. With this authority, the President could do the same thing.

We can support this statutory change and send a clear message to the American people that we are making a serious effort to get our Nation's fiscal house in order. I urge adoption of the amendment.

Mr. HOLLINGS. Mr. President, I believe we have completed the speakers on both sides. I think the yeas and nays have been ordered, and we are ready to vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the motion to waive the Budget Act for the consideration of the amendment offered by the Senator from Arizona. The motion requires an affirmative vote of three-fifths of the Senate duly-chosen and sworn.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Deleware [Mr. BIDEN], the Senator from Arizona [Mr. DECONCINI], the Senator from Connecticut [Mr. DODD], the Senator from Florida [Mr. GRAHAM] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] and the Senator from California [Mr. WILSON], are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. WILSON], would vote "yea."

The PRESIDING OFFICER (Mr. WIRTH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 50, as follows:

[Rollcall Vote No. 111 Leg.]

YEAS—43

Armstrong	Gorton	McConnell
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Hatch	Packwood
Burns	Heflin	Pressler
Coats	Heinz	Roth
Cochran	Helms	Simon
D'Amato	Humphrey	Simpson
Danforth	Kassebaum	Specter
Daschle	Kasten	Symms
Dixon	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Exon	McCain	
Garn	McClure	

NAYS—50

Adams	Cohen	Hollings
Akaka	Conrad	Inouye
Bentsen	Cranston	Jeffords
Bingaman	Durenberger	Johnston
Bradley	Ford	Kennedy
Breaux	Fowler	Kerrey
Bryan	Glenn	Kerry
Bumpers	Gore	Kohl
Burdick	Harkin	Lautenberg
Byrd	Hatfield	Leahy

Levin	Pell	Sanford
Lieberman	Pryor	Sarbanes
Metzenbaum	Reid	Sasser
Mikulski	Riegle	Shelby
Mitchell	Robb	Stevens
Moynihan	Rockefeller	Wirth
Nunn	Rudman	

NOT VOTING—7

Baucus	DeConcini	Wilson
Biden	Dodd	
Chafee	Graham	

The PRESIDING OFFICER. On this question, the yeas are 43, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion to waive is rejected.

Section 306 of the Budget Act prohibits amendments dealing with subject matter within the jurisdiction of the Budget Committee unless the amendment is offered to a bill that was reported by the Committee on the Budget. The amendment by the Senator from Arizona modifies the President's authority to rescind funds, which is a subject within the Budget Committee's jurisdiction. The point of order is sustained and the amendment fails.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ADAMS. Mr. President, I rise as a cosponsor of this bill that provides for airlines to not discriminate against a person who is blind, or has a white cane, guide dog, or other similar types of assistance.

This bill, introduced by Senator HOLLINGS has 37 cosponsors. It is legislation that upholds the dignity and rights of a significant segment of our population.

Mr. President, much has already been said about the need for this legislation. I agree with those who have pointed out that this is an issue impacting national policy that must be addressed.

But Mr. President, let me also make note of a more personal story that directly supports the need to implement this bill.

In September of 1985, a constituent of mine, Mr. Gary Mackenstadt, of Bothell, WA, was flying back home from Baltimore, MD, connecting flights in Chicago. Mr. Mackenstadt though blind can get around very well on his own.

This constituent switched planes at O'Hara Airport and took his assigned seat next to an emergency exit. Upon taking his seat, he was asked by the airline attendents to switch seats. Mr. Mackenstadt pointed out Federal regulations did not require him to do so.

He was then told that though Federal regulations did not require this, airline policy did. Mr. Mackenstadt refused to move. Five police officers were called in to move Mr. Mackenstadt.

Mr. President, I cringe with shame when thinking about what this man had to go through. The loss of dignity due to this type of outrageous action only reaffirms my belief in the need for this legislation.

Mr. President, this bill is supported by the National Federation of the Blind. It is supported by the Society for the Advancement of Travel for the handicapped. And most importantly, it is supported by those of us here in the Senate and throughout the country who believe the dignity of an individual must be protected from the incursions of discriminatory actions.

It is time to act affirmatively and pass this legislation.

Mr. WIRTH. Mr. President, I am proud to support the Air Travel Rights for Blind Individuals Act and hope that its passage will put an end to the travails imposed on blind persons when flying. I have heard from Coloradans who have been forced to deal with needless and arbitrary seating restrictions for blind passengers who are flying—they are told they cannot keep their canes with them, that they can't sit in seats near exists because they might block someone, and are harassed for having their guide dogs with them.

We passed the Air Carrier Access Act with the intention that blind persons not be subjected to discrimination in any form in their use of transportation. Blindness in itself does not suggest the need for seating restrictions.

We have never been presented with evidence that a blind person has endangered anyone's life in an emergency sitation because they blocked the way. Rather, I am aware of an incident where someone who is blind actually asissted other passengers who were having difficulties in seeing when faced with an emergency situation.

I find it both unfortunate and unbelieveable that the blind have been subjected to unreasonable seating restrictions in air travel. These restrictions have arisen not because of physical limitations imposed by blindness, but rather because of the lack of knowledge that many people have about blindness. Sadly, this lack of knowledge has led to policies that restrict the activities, movement or rights of blind persons.

I am encouraged that due to the fine work of my colleague from South Carolina, we now have the opportunity to reverse this trend. By passing the Air Travel Rights for Blind Individuals Act, we will ensure that seating restrictions in commercial airlines are prohibited if they are based on blindness of a passenger.

I want to urge my colleagues to take this opportunity to move this bill. Passage of this important legislation will allow blind persons to travel with dignity, unencumbered by unfair restrictions.

ORDER OF PROCEDURE

Mr. HOLLINGS. Mr. President, for the information of others, the leadership wants us to press on. I think the next amendment would be by the distinguished Senator from Kansas on product liability on aircraft, and we are prepared to debate that amendment. I know there are several on this side who would like to be heard on it. There is no way for me to judge and say we will handle it in an hour or 2 hours, but it will be something along that order. I would think an hour and a half or 2 hours. So we are ready to go.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I thank the Senator from South Carolina.

Mr. BOSCHWITZ. Will the Senator from Kansas yield for a question?

Mrs. KASSEBAUM. I am happy to.

Mr. BOSCHWITZ. Does the distinguished chairman of the committee expect there will be a rollcall vote on this matter later this evening?

Mr. HOLLINGS. Oh, yes. It will be expected. It has been reported out of the Judiciary Committee unfavorably so I am not for it. But the distinguished Senator may persuade everybody to be for it and I am sure we will have a rollcall.

Mrs. KASSEBAUM. Mr. President, I am certainly going to try to persuade everyone. I would like to add it has been reported out of the Commerce Committee favorably.

I would also like to say, Mr. President, I would be happy to enter into a time agreement, if there is any interest, so people might know how long we will be discussing this.

Mr. HOLLINGS. We would be delighted, except for the fact that I have already heard from a couple of the colleagues that they are not prepared at this time to join into a time agreement.

Mr. BOSCHWITZ. Will the Senator yield once again?

Mrs. KASSEBAUM. I will be happy to.

Mr. BOSCHWITZ. May I ask the majority leader? Does the majority leader also expect there will be a vote on this? I know some on our side want to go elsewhere.

Mr. MITCHELL. Mr. President, I am sorry I did not hear the full question.

Mr. BOSCHWITZ. Does the majority leader also expect there will be another vote on this amendment this evening?

Mr. MITCHELL. I would like to finish the bill tonight so I would like to stay and proceed and dispose of whatever measures are pending and complete action on the bill. I do not know what amendments are going to

be offered or how long it will take to dispose of them. We have just had several hours on one amendment here that was, of course, not directly related to the bill.

It is my intention to stay, proceed, and try to finish the bill.

Mr. BOSCHWITZ. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Kansas has the floor.

AMENDMENT NO. 2000

Mrs. KASSEBAUM. Mr. President, it is not my desire to try to cause any lengthy delay in the legislation before us. I am happy to enter into a time agreement, and of limited time. But, as many of my colleagues are aware, I have attempted for the past 6 years to have this bill considered by the full Senate, the General Aviation Accident Liability Standards Act of 1989.

The whole question of general aviation product liability is one that many of us feel strongly about, Mr. President, and have wanted very much to be able to debate this on the floor of the Senate and be able to have a vote. That is the crucial point I would like to make.

It is not my desire to tie up this legislation. But I would like for a few moments, Mr. President, to discuss the merits of this.

And I know there are several others who would like to speak as well.

Close examination of the problems plaguing the general aviation industry is a critical one, on close examination, and if we are going to help this industry survive, I think we must be willing to engage in a thoughtful, constructive debate and be willing to have a vote up or down on this legislation.

In the past 10 years, we have witnessed a 90-percent decline in general aviation airplane sales, with only 1,535 planes sold in 1989, down from 17,000 planes that were sold in 1979.

In the process, we have lost thousands of high-technology manufacturing jobs. During the same period, Mr. President, liability costs have soared from $24 million to over $200 million annually for the industry. This is not due to an increase in accidents. The accident rate has improved steadily. It is due solely to the size of damage awards and the expanding number of situations in which manufacturers are held responsible for damages from general aviation accidents.

In short, with the general aviation accident rates going down while liability costs are soaring, we need to ask serious questions about the standards to which aircraft manufacturers are held under our current tort system. We also need to find serious answers, such as the answers offered in the General Aviation Accident Liability Standards Act, which is Senate Bill 640.

The problem, Mr. President, is that there is no uniform standard which applies to liability cases for this industry. The result is inconsistent court judgments from State to State and, in turn, instability and unpredictability in the industry.

This point was recently illustrated by Russ Meyer, president of Cessna Aircraft, which is based in Wichita, KS. Cessna is the second-largest general aviation aircraft manufacturer in the United States, and until 1986 also was the world's leading producer of piston-powered airplanes. Cessna stopped producing the piston aircraft in 1986 in large part due to the liability crisis.

I believe, Mr. President, that what is at stake is really this whole state of our general aviation industry. The need for a uniform product liability standard is clear. A Federal standard will correct the legal inconsistencies which exist for this otherwise fully federally regulated industry.

The Federal Government regulates the industry from design to production. The aircraft control system is federally operated and regulated. The Federal interest and presence in aviation is all pervasive except in one area: Litigation is conducted under individual and widely varied State laws. Federal product liability standards, a cornerstone of this legislation, would provide uniformity and, most important, predictability.

When a manufacturer sells an aircraft, the new owner is responsible for the inspection, maintenance, and upkeep of that aircraft. As long as a manufacturer provides the required warnings and information, he should not be held liable for an accident that results from the owner's failure to perform these responsibilities. This, Mr. President, is not a manufacturer's responsibility.

To address this, S. 640 establishes a 20-year statute of repose for aircraft and replacement parts which begins anew each time a system or a part is replaced. In this way, we are not allowing anyone who is at fault to get off the hook, but we are ensuring that manufacturers are held responsible only for those wrongs that they have committed, and no more.

It is worth noting that the European Community is far ahead of the United States in reforming its product liability standards, including the institution of a 10-year statute of repose. This is half of the 20-year statute we proposed in S. 640.

The bill also retains both strict liability and joint several liability between the manufacturers of all subsystems and component parts, and it enacts comparative responsibilities among other parties.

I believe it is important to point out what this bill does not do. It does not cap damages in any way. It does not cap or limit attorneys fees. It does not waive the responsibility to supply warnings against danger, regardless of the age of the product. It does not limit warnings given by the manufacturer, nor does it limit a person's right to sue.

As the sponsor of this legislation, I am pleased to be joined by a bipartisan group of 30 Senators who support this measure. This bill also has the support of both manufacturers and users of general aviation, a combination that is unique for a product liability reform bill. In addition, the administration continues to support this legislation, as it has in years past.

As you know, Mr. President, the issue of aviation liability reform is not a new one to this committee or to the rest of the Congress. While we continue to debate the issue here in Congress, rapid changes have been taking place in the global marketplace. I think that is one of the most crucial facets of this debate. We are losing our share in the marketplace.

When the European Community consolidates its markets in 1992, our domestic industries will face new challenges in the trade arena. With 1992 just around the corner, we cannot afford to overlook the realities of the problems for our general aviation industry if the Congress does not act expeditiously on S. 640. With sales down among major manufacturers, our foreign trading partners are readying their planes for export to our country.

Wichita, KS, is known as the air capital of the world, largely because of the prowess of the three general aviation manufacturers based there, but I would just like to point out that it goes far beyond the borders of Kansas. This is an issue that should concern us as a nation, and, as I say, concerns our role in the marketplace if we wish to continue to be the leader in the manufacturing of general aviation airplanes.

General aviation is a major part of our national air transportation system and is today facing a crisis of unprecedented proportions which is related to the tort system. While rising product liability costs are not the only factor contributing to the decline of the industry, they are certainly among the most significant.

I urge my colleagues to support this amendment.

I would just like to add, Mr. President, that there are many who have sympathies with what we are trying to do here regarding general aviation. This is not the so-called camel's nose under the tent. While there is some sympathy for this, there are those who say we do this but the next step will be far broader.

Mr. President, as I pointed out, I think there are unique differences regarding the Federal regulation of this industry, and that is why I think it deserves a special consideration. We are going to lose a generation of young fliers who learn to fly in small planes.

We are going to lose to other nations who are rapidly making advances in their manufacture because we have strapped the industry and made it so costly that we are not going to be able to proceed.

Mr. President, I yield the floor at this point. I know there are several others, including the Senator from Utah, who would like to speak.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I have long waited for this to come before the Senate, and I congratulate the distinguished Senator from Kansas for her persistence over the years.

There are a lot of issues on which a Senator comes to the floor, and has an understanding of the opposition. Although we do not agree, Senators can understand the position that is argued.

This is one on which I cannot understand those who oppose. I have tried. I thought a great deal about it. I just do not understand how my colleagues in the House or the Senate can sit back and watch an industry be destroyed.

I realize I may have some conflict. I have no aviation manufacturers in my State. My conflict, I suppose, is my background as a pilot. I think most Senators are well aware that I started flying when I was 16 years old in light, single-engine aircraft. I spent 4 years on active duty in the Navy as a Navy pilot and 20 years in the Air Force as an Air National Guard pilot accumulating more than 10,000 hours of pilot time. So I do not speak from an academic background as some of our attorney friends will. I speak from the reality of being a professional pilot and a general aviation pilot.

The Senator from Kansas has already spoken about an industry that just a few years ago was selling more than 18,000 airplanes a year. Are we as a Senate proud of reducing that industry to producing a little over 1,500, seeing the business go overseas, seeing the price of airplanes so dramatically go up that most of us cannot afford them?

I give you some specific examples. In 1969, 21 years ago, I bought a 21-year-old airplane, a 1948 Navion, built by North American after World War II. It was all I could afford, and that airplane cost $5,000. Today it sits out in the open at Salt Lake No. 2. It has not been flown since December. Do you know why I have not flown it since December? For an airplane that cost $5,000, they now want $18,000 to overhaul the engine, not a new engine, not an entire airplane, $18,000 to overhaul it because of the Trial Lawyers Association, because of the greed of the attorneys of this country who are afraid their income is going to be cut.

Now, I am a big boy. I have been around. I have flown a lot of different airplanes, and I am still here. I did not need the attorneys to keep me safe. But is that not terrific? A $5,000 airplane, and now I cannot afford to fly because I do not have $18,000 to overhaul the engine. Maybe it would not be so bad if it was $18,000 for a new engine, but $18,000 to overhaul it.

How do people argue that we should not try to do something about that? We have destroyed an industry. We have made it impossible for a lot of new pilots to learn how to fly because they cannot afford to fly after they get their licenses. Then you add the insurance to it, the liability that I have to carry to fly it, and, boy, has it become an expensive hobby. I still do it because I have itchy throttle fingers and it is an incurable disease. I have an understanding wife who lets me spend a lot of money to still entertain myself flying airplanes. But 18,000 bucks because the mechanic is scared to death now if he overhauls that engine for me, because this is not a new product.

Last fall I had a hydraulic problem. Remember, this is a 41-year-old airplane. It cost $1,400 to fix the hydraulics because there is a little, tiny hydraulic pump in there. It cost $620 for the pump, for a little pump.

There is no justification for that, none whatsoever. I am willing to take the risk. I flew in space. If we had product liability up there, I guess nobody would be able to fly in space as well. But $620 for a little pump, just because you stamp "aircraft" on it.

I should not tell this, but I needed a little switchboard that I could get at an automobile supply house, same thing, same product, made by the same manufacturer. I bought it for $8.99 at an auto supply house and put it in. I guess the FAA will get after me. I did it all by myself so there was no mechanic. The same thing costs $129. I wish the opponents could explain to me why the same product in an automobile costs $8.99 and $129 when you stamp "aircraft" on it because of product liability.

We talk about trade deficits. We are proud of sending all this business overseas. Cessna quit, as the distinguished Senator from Kansas said, making propeller drive aircraft. They could not afford it any more. So if you are not making new airplanes, what happens? The cost of used airplanes goes up.

Again, I hate to personalize it so much, but it is the experience I have. So because I do not have 18 grand to fix my Navion, I bought part of a 1960 Beachcraft Bonanza, which in 1960, brandnew, all equipped, cost $25,000. Now it is worth $35,000 and it is 30 years old. Every time you look at Trade a Plane or the aircraft bluebook, all the used airplanes are going up. Not only are they going up, they are being sold abroad. They are being exported. I have an offer for my Navion. Somebody wants to take it to England and restore it because they can ship it all the way to England, repaint it, new interior, tip tanks, new prop, new engine, make it just like brandnew for less money than I can have the engine overhauled.

So I repeat, there are a lot of issues on which you have differences of opinion. You can understand the other side. I do not understand my colleagues who can get up and defend what is not JAKE GARN'S opinions but a factual situation of how we have destroyed an industry, how we have ruined generations of pilots that cannot afford to fly.

The distinguished Senator from Kansas pointed out accident rates have gone down, airplanes are safer than they have ever been, even old ones with all the inspections we have with FAA, annual inspections, 100-hour inspections, all of that. Why? What is the reason? I can only conclude one thing. The Trial Lawyers Association does not want a ridiculous source of income cut off. Selfishness and greed, that is the only conclusion I can reach. I do not know of any other rationale for destroying an industry.

Do you know what it costs to fly my single-engine airplane? The minimum it costs me is 50 bucks an hour. To fly my own airplane, set aside the maintenance costs and annual inspections, a reserve for overhaul, 50 bucks an hour, every hour you fly. Again, I wish I could understand it.

Well, I do not need to take any longer. I just wanted the Senate to know this pilot resents the fact that the Congress of the United States——

Mr. MURKOWSKI. Will the Senator yield for a question?

Mr. GARN. I would be happy to yield for a question.

Mr. MURKOWSKI. With the long aviation background of the Senator from Utah and his familiarity with the West and the development in my State, he understands the need for the single-engine aircraft is tremendous and there is no replacement. My Alaskans cannot understand how an industry that produced very, very adequate single-engine aircraft is no longer in existence, and my colleagues are asking me how could such a thing happen.

The Senator from Utah is familiar with the contribution that the single-engine aircraft has made to the opening up and utilization of the West. I am wondering if he can offer me an explanation that I can take back to my people to try to explain to them why they are flying now a single-engine aircraft that has been continually rebuilt, 20, 25 years old on floats. The Cessna 180 is the only applicable aircraft we have. There is nothing to take its place.

Mr. GARN. That is an interesting question, I say to my distinguished colleague from Alaska. All we hear is safety. The consumer groups are against this amendment. I am absolutely amazed because does it make it safer to fly a 41-year-old airplane? Does it make it safer to fly my 40-year-old airplane because I cannot afford a replacement because it is too expensive? No. You are increasing the possibilities of accident with older airplanes because, when you reduce from roughly 20,000 a year to 1,500, there are not the replacements there. You cannot buy a new Cessna, replace the Cessna 180. They do not make them anymore. There is not a single-engine reciprocating airplane made by Cessna of any kind anymore, not 170's, not 150's, 152's, 205's, 206's, none of them. They do not exist anymore.

The only thing I can say to the Senator is that it is the lawsuits, the Trial Lawyers Association, the greed of the legal profession, and the stupidity of juries, who do not seem to understand who pays the bill for these ridiculous cases.

Let me give you a couple of examples. I talked to the attorney of one of the major companies, who told me that they had paid out $250,000 to an individual who ran out of gasoline. I said why would you do that? He said it was cheaper to pay the $250,000 than to go through the court costs and so on. Nothing was wrong with the airplane but this stupid idiot ran out of gas.

There was another one with a Cessna, a 15-year-old Cessna 182, 15 years old now. The seat latch broke. The pilot slides back, and he can no longer reach the controls. And he crashes. Well, the part failed. But do you hold the manufacturer responsible for 15 years when he has no ability to enforce the maintenance of that aircraft? Is it the owners responsibility on an annual inspection to check things like that to find out if the seat latches are working? Do you hold them responsible for 15 years, then get $1 million out of it because the guy did not check his own airplane?

Well, the examples go on and on and on and on and how people can stand on this floor and defend that kind of ridiculousness is almost as ridiculous as what happened in Salt Lake City; not in an aviation matter, but an 82-year-old woman last year in Salt Lake City was taking a 7-Up bottle cap off with her teeth. The bottle exploded and hit her in the eye, and the jury gave her 10 million bucks for the loss of an eye at 82 because 7-Up was responsible for some way that she was taking the bottle cap off with her teeth. She has awfully good teeth, I guess.

I do not understand this kind of ridiculousness and how the legal profession can defend it, and destroy an industry. I will not take the time of the Senate to go through all of the examples. It would be so ridiculous—the cases, the amount of the judgments. What happened to individual responsibility in this country?

I mean when I fly it is my responsibility to make sure that my airplane is airworthy. I am still old fashioned enough that I go around the whole plane, walk around, and I still check the fuel. I check the controls before every single flight. I flew last Sunday. I flew down to a small town. I went for lunch. I was only gone an hour and half. When I got back I went through the whole routine again.

Maybe it is the old military when JOHN MCCAIN and I learned about check lists and individual responsibility. That is where primarily it lies—with the pilot, not with the manufacturer.

So again, I said I would be brief. It is hard to be brief.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. GARN. I am happy to yield for a question.

Mr. MCCAIN. I wonder if my colleague is aware, I believe he is, of the devastating aspect of the issue of the supply of pilots both for military as well as commercial flying. There is a demand for 6,000 pilots today—commercial aviation, and the production is about 2,500.

One of the most interesting statements made before the Aviation Subcommittee when I was there was by Mr. Frank Borman, who I know is a friend of my colleague from Utah, who stated that he has seen in his generation the disappearance of the ability of young Americans to learn to fly airplanes because of the incredible increase in costs in pilot training.

Here we are with commercial aviation booming, that is becoming worldwide, and an opportunity for the United States to supply a dramatic increase in demand. And we cannot even produce the pilots to fly the aircraft. I wonder if, with the many years of flying experience he has had at little airfields around Utah and the Southwest, he would experience that same tradegy.

Mr. GARN. I say to my colleague he is absolutely right. Again, it is personal, but my son, my own second son, got his private license last October. He is very good. He has good hand-eye coordination, and did it in record time—a couple of hours with the minimum. He got 100 percent on his oral, his written, and he did a fine job on the check flight. Since then he has hardly flown at all because of the cost. He has added just a few hours. Without that continuing training he is not going to be as proficient as a pilot. It has discouraged the flight schools considerably.

His first choice is he would love to be an airline pilot. Do you know what the estimate now is if he goes through? And the other point is, with the cutback in the military we are dramatically going to cut back on the number of military to train pilots, which is the airlines' first choice because of all of that intensive training that the Senator from Arizona and I had. So that is going to increase the demand for civilian pilots.

Yet, do you know what the estimate is for him to go through, get the private commerical multiengine, ATP, and so on? About $70,000. Where does a 23-year-old kid come up with 70,000 bucks? And then, even after he gets all of this ratings, he has a 50-50 chance of being hired by the major airline. And he is lucky if he can get on with the commuter airlines to build up enough time so that the major airlines will take him.

So, yes, we are talking about safety of flight around here. We are talking about not enough supply of pilots, not enough pilots with sufficient hours because they cannot afford to fly them. He calls me virtually every weekend, and says, "Dad, how about going flying?" What he means is, go with me and you pay for the airplane so I can get some time. That is what it means.

Mr. MCCAIN. If I may, my colleague attributes that to the failure of the Congress to enact legislation such as the Senator from Kansas has now proposed for three Congresses, which has been passed by the Commerce Committee, yet this body has failed to act. Does my colleague from Utah attribute the problem that he describes by laying it on the doorstep of the failure of the Congress to act on this legislation?

Mr. GARN. It is not the only cause, but the major cause. If I had known that was going to come up tonight, I would have been better prepared. I was surprised. I say to my colleagues that my father was a pilot in World War I. He was Utah's first director of aeronautics. In those days there was not any FAA. He was in charge of inspections, airways, certifying, homebuilt airplanes, all of that. What I would have had was a speech of his given in 1937 at the Salt Lake City to the chamber of commerce.

It was truly prophetic about the development of aviation, how we need to get our heads out of the clouds and on to the ground, to be more realistic about it, and train new pilots. You can read it now. It fits what we needed in World War II as far as pilots and all the way along.

I would have brought a lot of documents from his scrapbook about aviation in the late 1930's and some other

things that would indicate that absolutely in the environment that we have now created we have devastated an industry as far as building a new general aviation airplanes.

Do you know what a new Beechcraft Bonanza B-36 TC now costs, not fully equipped? You can add all kinds of goodies, storm scopes, various things; $380,000, 380,000 bucks.

An F-33 would be comparable to my 1960 four-passenger, sometimes a fifth seat, 180,000 bucks and about 60,000 of that is a one-time product liability premium.

So we have destroyed an industry in the name of big fees for attorneys, I suppose. I guess with so many Members of the Senate attorneys I should not get on it, but I had a Japanese delegation in my office a few weeks ago. You know how polite they always are. One of them was trying to get something out. "Go ahead." He said "Well, I do not want to be rude Senator." I said, "well, go ahead. I am not offendable. Say anything you like". He said "Do you want to know one of the reasons for the trade deficit between your country and mine?" I said, "Well there are several reasons. What what do you think?" He said, "Well, in our country we train engineers and scientists. In your country you train attorneys,"

Do you know that 80 percent of the world's attorneys are in the United States, and more attorneys are in the Washington, DC areas than all of Japan? Maybe instead of product liability bill we ought to have a bill out here to close all of the law schools. Think of the great public service that we can do. We could take away their licenses to steal. That is what the mayor when I was city commissioner used to say: "They did not issue diplomas from law school. They issued them licenses to steal."

Well, in this case they have a license to steal. They have ripped off a whole American industry. They have destroyed it, and they have sent it to Europe, and they have ruined a whole generation of pilots who cannot afford to fly. My wife does not have living room furniture in our House since we moved back to Utah, because I spend it flying. Well, I will stop, but I know what kind of arguments I am going to get. With all due respect to my colleagues, I would be embarrassed to be out here defending the destruction of an industry on behalf of the Trial Lawyers Association. I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senate from Ohio is recognized.

Mr. METZENBAUM. Mr. President, that was a fine speech my friend from Utah made. It was about 100 percent off base, but it was a good speech anyhow. When he talked about airline companies that paid $250,000 because the plane ran out of gasoline, and they did not want to defend it, all I have so say is somebody did not tell the Senator the whole story. That is just not true. I am not saying he is not telling the truth, but whoever, told him the story, did not tell you the truth.

Mr. GARN. If the Senator would like to ride in my 41-year-old airpline, I would be happy to take him.

Mr. METZENBAUM. Mr. President, let us not kid ourselves in what we are dealing with here. We are dealing with a measure to destroy a very important bill, a bill that the blind of America want and deserve; and to offer this very controversial amendment on a bill that is so much desired by the blind, and one which they are entitled to, they are asking for the right not to be discriminated against as far as seating is concerned in airplanes.

I do not have much doubt that that bill will pass by an overwhelming majority, except for the complication of putting on an amendment that does not have a thing to do with the rights of the blind.

We can make all the speeches we want out here about arguments against lawyers. My friend left the floor, but we probably made more money in the savings and loan industry for lawyers, far more than has been made by all the trial lawyers in the last 5 years. More was made by the lawyers that put together the savings and loan deals that the American people will be paying for for the next 30 years. That is something we ought to talk about.

This amendment does not belong in this bill. This amendment was considered by the Judiciary Committee, and it was voted down 10 to 2. They are not all trial lawyers. They are not all plaintiffs' lawyers. They are not all liberals. They are people who understand the law, and they do not want to take away from the States the right to deal with issues of this kind.

I have said to my colleague from Kansas that I have opposed this bill time and time again when it has come to the floor of the Senate. But I said in the committee hearing openly, and I have said it to her, and I say it again publicly, that this is a measure that ought to be discussed and worked out between those who have a concern for the injured and those who lose their lives. Talk about all the trial lawyers you want. Do not forget they are representing human beings when they go into court; they are representing individuals, and they are representing the families of the deceased, and they are representing the crippled.

So what we are talking about here is taking an amendment that has not a thing in the world to do with the blind and saying that we are willing to jeopardize the passage of the bill that gives the blind the rights that they would have under this legislation, a measure that has any number of cosponsors to it, that there is no doubt in my mind will pass on the floor of the U.S. Senate, except for this amendment.

Mr. FORD. Will the Senator yield for a question?

Mr. METZENBAUM. Not at this point.

I strongly urge my colleague from Kansas, as I did before she offered the amendment, to withdraw the amendment at this point. We have a lot of days and weeks and months before us in the Senate, in this session. I have indicated to the Senator that I think the matter ought to be discussed between those who represent the injured workers and those who represent those who have lost their lives and see whether the matter cannot be worked out.

There are possibilities. We have the Warsaw pact where individuals fly airplanes, commercial airlines, and they have restrictions and limitations as to what the airlines' liability is; and I beleive there may be some way to do that. But maybe there ought to be some distinction as far as the pilots' right to recover, as distinguished from passengers on the plane who are innocent people. May be there ought to be a distinction between the people up in the air and those who are on the ground. Maybe there ought to be some other different approaches that could be used.

But the fact is, trying to pass it here and destroying the passage or jeopardizing the passage of a bill that the blind want so much, I say to my colleague from Kansas, do not do that; do not jeopardize the passage of this bill at this point. There is time enough to come back at a later point. I am willing to sit with the Senator and to meet with the manufacturers and representatives of the injured, those who represent the injured, and see whether some middle ground cannot be found. I strongly urge upon the Senator that she withdraw the amendment.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. I wonder if the Senator from Ohio will yield for a moment for discussion?

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mrs. KASSEBAUM. I would first like to say that when there was a hearing in the Commerce Committee, Senator MCCAIN, who is a member of the Commerce Committee, asked the trial lawyers who were testifying during that hearing if they would negotiate, and they said no. Over the course of the time we have been engaged in this, the last 6 years, there have been many, many times when there have been negotiations, and I just say, Mr. President, that the Senator from Ohio

has been very willing to sit down and visit one on one with attorneys and with myself and others trying to find ways for some compromise, and we have found some that are incorporated in the amendment.

I am certainly not wanting to jeopardize this bill. I will be very happy to withdraw this amendment, if I can get an agreement that this could be considered either as a freestanding measure or as an amendment at some other time, with a vote guaranteed. I make that offer, and if I can get that agreement, I would be happy to withdraw the bil at this time.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I want to say that I have no right to say that the Senator can get a freestanding bill or a vote. There are 100 Members of this body. I can only speak for myself. I am willing to sit down to try to negotiate and to bring about a compromise piece of legislation. There will be certainly plenty of opportunities to come back to the floor, if it does not occur.

I cannot speak for other Members of this body. I am in no position to do that. I can speak for myself, and I think with all due respect that I bring something to that kind of a meeting, because I have stood here for a number of years and said that I am prepared to speak at some length in opposition to this measure.

I am saying to the Senator now and I have never said it before this year that I think the matter ought to be compromised. I said it this year. And I repeat it publicly on this floor, I think there may be some way of finding a compromise.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I sat back and listened to the comments on the floor and sometimes they are amusing and sometimes not so amusing.

The argument now is do not jeopardize the blind passengers on airlines. No one wants to jeopardize the blind passengers on airlines. This is a bill I am very much for and I support, and I am a cosponsor. I would like to get it out.

But I held hearings and hearings and hearings on this piece of legislation. We even had one fellow that got the largest suit settled in Alabama that testified and he was ready to make an arrangement. We asked him a question and I agreed to it. Then when we tried to get together he said, no, we cannot do it. There was the only thing that held us up.

I said to my good friend from Ohio, and I have seen him operate, if he were in the same position as the Senator from Kansas and he had been trying for years to get a piece of legislation on the floor, could not get a vote on it, could not get a vote on it, he would be doing the same thing she is doing. The Senator from Ohio would put this amendment on and he would be trying to do the best he could to get this piece of legislation passed.

I think the Senator from Kansas is due a vote on this bill. I was for the bill. I helped her get it out of subcommittee which I chair and I helped her get it out of the full committee.

Did the Senator from Ohio have a hearing in Judiciary, did he have these same people there? No, he did not do that. He looked at it and said 10 to 2 and did not even have a full committee vote on it. I just think the Senator from Kansas is due a vote.

I do not like it on this bill any more than the Senator does. I certainly give her the opportunity to bring this bill as an amendment to this bill. It is no worse than line-item veto. Goodness gracious, that was not even germane to this bill and they bring it up. This is germane. It is aviation. I think she has a right to this amendment.

If she could be assured as she offered a while ago that she would have a vote on this, she would bring it up as a freestanding bill, she would be willing to withdraw it. What is wrong with giving her an opportunity to vote up and down on this amendment, one way or the other, give her an opportunity, defeat it? The reason they are playing here is they do not have the votes to beat the bill. That is the point.

With 30 Senators as cosponsors, there would be enough votes not to table and there would be enough votes to agree to it.

So the point now is do we get a filibuster? And we use the blind or the handicapped. We use this bill.

So, Mr. President, I think that the Senator from Kansas is entitled to this vote. She ought to be given the opportunity. She has been consistent. She has been persistent and she has done everything she knows to do to compromise this bill so it will be acceptable.

I have been around here in the final days of the session. I have watched the distinguished Senator from Ohio have to clear everything through him whether we could get a bill passed or not. I have run up against him. That is his right. That is his right. I do not object to his right.

She has a right, the distinguished Senator from Kansas, to offer her amendment. She is offering it early in the session so she will not get caught the last 3 or 4 days. I think we ought to do something to see she does get a vote one way or the other. I would encourage my colleagues to give her that opportunity so we can get on with this bill, pass the bill tonight.

We are going to get another amendment. Is the Senator from Ohio going to be for essential air service? That will be the next amendment that comes up on this bill. Is the Senator going to be against that? The Commerce Committee has held hearings and we are going to get essential air service. That is the next amendment.

So, Mr. President, this is just the beginning. If we want to give the Senator from Kansas an opportunity to vote up and down, that would eliminate some of the time we are going to be spending on this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 2000

(Purpose: To amend the bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents)

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 2000.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE I—UNIFORM STANDARDS OF LIABILITY INVOLVING GENERAL AVIATION ACCIDENTS

SHORT TITLE

SEC. 101. This title may be cited as the "General Aviation Accident Liability Standards Act of 1990".

FINDINGS AND PURPOSE

SEC. 102. (a) The Congress finds that—

(1) transportation by air of passengers continues to comprise an increasingly important component of the Nation's overall transportation system;

(2) although the incidence of injuries to passengers in general aviation accidents has decreased, the number of general aviation accident liability claims against general aviation aircraft manufacturers and the amount of damages sought in such claims is increasing at disproportionate rates, beyond any relationship to the quality of the aircraft manufactured and in use;

(3) the current system for determining liability and damages for compensating individuals injured in general aviation accidents is inadequate;

(4) competent general aviation manufacturers and component part manufacturers are ceasing or limiting production of general aviation aircraft or some models of such aircraft because of the increasing costs and unavailability of product liability insurance;

(5) the increase in the number of liability claims and the size of awards and settlements, and the excessive time and expense devoted to the resolution of such claims, impose a substantial economic burden on general aviation manufacturers and their dealers;

(6) the Federal Government has an interest in the general aviation accident liability system because the Federal Government

has established a comprehensive system for regulating general aviation, including—

(A) establishing standards for design, construction, and certification of general aviation aircraft,

(B) establishing standards for maintenance of aircraft, licensing of repair facilities, and licensing of persons who may perform or approve maintenance, repairs, and inspections,

(C) establishing standards for training and licensing of pilots,

(D) establishing a comprehensive air control system,

(E) conducting investigations to determine the probable cause of aviation accidents and prevent future accidents, and

(F) conducting other activities necessary to assure a safe air transportation system;

and this Federal system is the exclusive legal authority for regulating aviation operations and safety;

(7) it is in the national interest to reduce unnecessary expenditures related to general aviation accident liability claims while providing more rapid and more efficient compensation for individuals harmed in general aviation accidents; and

(8) Federal action to reform the general aviation accident liability system will result in—

(A) the maintenance of airworthy general aviation aircraft; and

(B) a more rational general aviation accident liability system.

(b) It is the purpose of this title to establish standards for determining liability for harm arising out of general aviation accidents.

DEFINITIONS

SEC. 103. As used in this title, the term—

(1) "Administrator" means the Administrator of the Federal Aviation Administration;

(2) "claimant" means any person who brings a general aviation accident liability action subject to this title, and any person on whose behalf such an action is brought, including—

(A) the claimant's decedent; and

(B) the claimant's parent or guardian, if the action is brought through or on behalf of a minor or incompetent;

(3) "general aviation accident" means any accident which arises out of the operation of any general aviation aircraft and which results in harm;

(4) "general aviation aircraft" means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.) which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than twenty passengers, and which is not, at the time of the accident, engaged in scheduled passenger carrying operations as defined in regulations issued under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.);

(5) "general aviation manufacturer" means—

(A) the builder or manufacturer of the airframe of a general aviation aircraft;

(B) the manufacturer of the engine of a general aviation aircraft; and

(C) the manufacturer of any system, component, subassembly, or other part of a general aviation aircraft;

(6) "harm" means—

(A) property damage or bodily injury sustained by a person;

(B) death resulting from such bodily injury;

(C) pain and suffering which is caused by such bodily injury; and

(D) emotional harm (including bereavement and loss of affection, care, or society) which is caused by such bodily injury;

(7) "product" means a general aviation aircraft and any system, component, subassembly, or other part of a general aviation aircraft; and

(8) "property damage" means physical injury to tangible property, including loss of use of tangible property.

PREEMPTION; APPLICABILITY

SEC. 104. (a) This title supersedes any State law regarding recovery, under any legal theory, for harm arising out of a general aviation accident, to the extent that this title establishes a rule of law or procedure applicable to the claim.

(b) Nothing in this title shall be construed to supersede or to waive or affect any defense of sovereign immunity asserted by the United States or any State.

(c) Nothing in this title shall be construed to affect the liability of a manufacturer, owner, or operator of any aircraft that is not a general aviation aircraft, or a person who repairs, maintains, or provides any other support for any aircraft that is not a general aviation aircraft, for damages for harm arising out of the operation of an aircraft that is not a general aviation aircraft.

(d) No right of action for harm exists under this title if that right would be inconsistent with the provisions of any applicable workers' compensation law.

(e) The provisions of this title shall apply only to—

(1) any manufacturer, owner, or operator of any general aviation aircraft, and any person who repairs, maintains, or provides any other support for such an aircraft;

(2) any occupant of a general aviation aircraft at the time of a general aviation accident, and any person who brings an action for harm caused by such accident on behalf of such occupant; and

(3) any nonoccupant of a general aviation aircraft at the time of a general aviation accident, only if such nonoccupant is bringing an action for harm caused by such accident which arises out of the harm to an occupant of such aircraft at the time of such accident.

UNIFORM STANDARDS OF LIABILITY FOR GENERAL AVIATION ACCIDENTS

SEC. 105. (a) Any person claiming damages for harm arising out of a general aviation accident may bring an action against a party and may recover damages from such party, if such party was negligent and such negligence is a proximate cause of the claimant's harm.

(b)(1) Any person claiming damages for harm arising out of a general aviation accident may bring an action against a general aviation manufacturer of a product and may recover damages from such general aviation manufacturer if—

(A) the product, when it left the control of the manufacturer, was in a defective condition unreasonably dangerous for its intended purpose, according to engineering and manufacturing practices which were reasonably feasible;

(B) the defective condition is a proximate cause of the claimant's harm; and

(C) the general aviation aircraft was being used at the time of the accident for a purpose and in a manner for which it was designed and manufactured.

(2) Any person claiming damages for harm arising out of a general aviation accident may bring an action against a general aviation manufacturer of a product and may recover damages from such general aviation manufacturer if—

(A) at the time the product left the control of the manufacturer, the manufacturer—

(i) knew, or in the exercise of reasonable care should have known, about a danger connected with the product that caused the claimant's harm; and

(ii) failed to provide the warnings or instructions that a person exercising reasonable care would have provided with respect to the danger which caused the harm alleged by the claimant, unless such warnings or instructions, if provided, would not have materially affected the conduct of the user of the product; or

(B) after the product left the control of the general aviation manufacturer, the manufacturer—

(i) knew, or in the exercise of reasonable care should have known, about the danger which caused the claimant's harm; and

(ii) failed to take reasonable steps to provide warnings or instructions, after the manufacture of the product, which would have been provided by a person exercising reasonable care, unless such warnings or instructions, if provided, would not have materially affected the conduct of the product user;

and the failure to provide warnings or instructions described in subparagraph (A) or (B) of this paragraph is a proximate cause of the claimant's harm.

(3) Any person claiming damages for harm arising out of general aviation accident may bring an action against a general aviation manufacturer of a product and may recover damages from such general aviation manufacturer if—

(A) the manufacturer made an express warranty with respect to the product;

(B) such warranty relates to that aspect of the product which caused the harm;

(C) the product failed to conform to such warranty; and

(D) the failure of the product to conform to such warranty is a proximate cause of the claimant's harm.

(c)(1) In an action governed by subsection (b) of this section, a general aviation manufacturer shall not be liable if such manufacturer proves, by a preponderance of the evidence, that—

(A) the defective condition could have been corrected by compliance with action described in an airworthiness directive issued by the Administrator or a service bulletin issued by the manufacturer of the product; and

(B) such directive or service bulletin was issued at a reasonable time before the date of the accident and after the product left the control of the general aviation manufacturer.

(2) In any action governed by subsection (b) of this section, evidence of compliance with standards, conditions or specifications established, adopted or approved by the Federal Aviation Administration shall be admissible with regard to whether the product was defective and unreasonably dangerous for its intended purpose.

COMPARATIVE RESPONSIBILITY

SEC. 106. (a) All actions for harm arising out of a general aviation accident shall be governed by the principles of comparative responsibility. Comparative responsibility attributed to the claimant's conduct shall not bar recovery in an action under this title, but shall reduce any damages awarded

to the claimant in an amount proportionate to the responsibility of the claimant. The trier of fact shall determine comparative responsibility by making findings indicating the percentage of total responsibility for the claimant's harm attributable to the claimant, each defendant, each third-party defendant, and any other person not a party to the action.

(b) Except as provided in subsection (c) of this section, a defendant is severally but not jointly liable in any action for harm arising out of a general aviation accident, and the liability of any defendant in any such action shall be determined on the basis of such defendant's proportionate share of responsibility for the claimant's harm.

(c) In any action for harm arising out of a general aviation accident—

(1) a general aviation manufacturer who is the builder or manufacturer of the airframe of the general aviation aircraft involved is jointly and severally liable for harm caused by a defective system, component, subassembly, or other part of such aircraft that the manufacturer installed or certified as part of the original type design for such aircraft; and

(2) a general aviation manufacturer who is the manufacturer of a system or component of the general aviation aircraft involved is jointly and severally liable for damages caused by a defective subassembly or other part of such system or component.

(d) A general aviation manufacturer and any other person jointly liable under subsection (c) of this section shall have the right to bring an action for indemnity or contribution against any person with whom they are jointly liable under subsection (c) of this section.

TIME LIMITATION ON LIABILITY

SEC. 107. (a) Except as provided in subsection (b) of this section, no civil action for harm arising out of a general aviation accident which is brought against a general aviation manufacturer may be brought for harm which is alleged to have been caused by an aircraft or a system, component, subassembly, or other part of an aircraft and which occurs more than—

(1) twenty years from—

(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such an aircraft; or

(2) with respect to any system, component, subassembly, or other part which replaced another product in, or which was added to, the aircraft, and which is alleged to have caused the claimant's harm, twenty years from the date of the replacement or addition.

(b) Subsection (a) of this section does not apply in the case of harm to a claimant which occurs after the period set forth in subsection (a) of this section if the general aviation manufacturer or the seller of the product that caused the claimant's harm gave an express warranty that the product would be suitable, for the purpose for which it was intended, for a longer period of time.

(c) Nothing in this section shall be construed to affect a person's duty to provide, after the sale or lease of an aircraft, to aircraft owners, and to repair facilities to which a license or certificate to perform repairs has been issued by the Administrator, additional or modified warnings or instructions regarding the use or maintenance of such aircraft or any system, component, or other part of such aircraft.

SUBSEQUENT REMEDIAL MEASURES

SEC. 108. In any general aviation accident liability action governed by this title, evidence of any measure taken after an event which, if taken previously, would have made the event less likely to occur is not admissible to provide liability. Such evidence is admissible to the extent permitted under rule 407 of the Federal Rules of Evidence.

ADMISSIBILITY OF CERTAIN EVIDENCE

SEC. 109. In an action governed by this title, evidence of Federal, State, or local income tax liability or any Social Security or other payroll tax liability attributable to past or future earnings, support, or profits and the present value of future earnings, support, or profits alleged to have been lost or diminished because of harm arising out of a general aviation accident is admissible regarding proof of the claimant's harm.

PUNITIVE DAMAGES

SEC. 110. (a) Punitive damages may be awarded in an action under this title for harm arising out of a general aviation accident only if the claimant establishes by clear and convincing evidence that the harm suffered was the direct result of conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by use of the general aviation aircraft involved.

(b) Evidence regarding the financial worth of a defendant or the defendant's profits or any other evidence relating solely to a claim for punitive damages under this title is not admissible unless the claimant establishes, before any such evidence is offered, that the claimant can present evidence that will establish prima facie proof of conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by use of the general aviation aircraft involved.

(c) In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages pursuant to the provisions of this title regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

TIME LIMITATION ON BRINGING ACTIONS

SEC. 111. (a) Any action for harm arising out of a general aviation accident shall be barred, notwithstanding any State law, unless—

(1) the complaint is filed within two years after the date on which the accident occurred which caused the claimant's harm; and

(2) the summons and complaint are properly served upon the defendant within one hundred and twenty days after the filing of such complaint, unless the party on whose behalf such service is required can show good cause why such service was not made within such one-hundred-and-twenty-day period.

Paragraph (2) of this subsection shall not apply to service of process in a foreign country pursuant to rule 4(i) of the Federal Rules of Civil Procedure or any similar State law.

SANCTIONS

SEC. 112. It is the intent of Congress that, with respect to any action governed by this title, the sanctions for violation of rule 11 of the Federal Rules of Civil Procedure, including orders to pay to the other party or parties the amount of their reasonable expenses, including a reasonable attorney's fee, be strictly enforced.

JURISDICTION

SEC. 113. (a) The district courts of the United States, concurrently with the State courts, shall have original jurisdiction, without regard to the amount in controversy, in all civil actions for harm arising out of a general aviation accident and in all actions for indemnity or contribution described in section 106(d) of this title.

(b) A civil action which is brought in a State court may be removed to the district court of the United States for the district embracing the place where the action is pending, without the consent of any other party and without regard to the amount in controversy, by any defendant against whom a claim in such action is asserted for harm arising out of a general aviation accident.

(c) In any case commenced in or removed to a district court of the United States under subsection (a) or (b) of this section, the court shall have jurisdiction to determine all claims under State law that arise out of the same general aviation accident, if a substantial question of fact is common to the claims under State law and to the Federal claim, defense, or counterclaim.

(d)(1) A civil action in which the district courts of the United States have jurisdiction under subsection (a) of this section may be brought only in a district in which—

(A) the accident giving rise to the claim occurred; or

(B) any plaintiff or defendant resides.

(2) In an action pending in a district court of the United States under paragraph (1) of this subsection, a district court may, on motion of any party or its own motion, transfer the action to any other district for the convenience of parties and witnesses in the interest of justice.

(3) For purposes of this subsection, a corporation shall be considered to be a resident of any State in which it is incorporated or licensed to do business or is doing business.

SEVERABILITY

SEC. 114. If any provision of this title or the application of the provision to any person or circumstance is held invalid, the remainder of this title and the application of the provision to any other person or circumstance shall not be affected by such invalidation.

EFFECTIVE DATE

SEC. 115. (a) This title shall apply to any civil action for harm arising out of a general aviation accident which is filed on or after the date of enactment of this title.

(b) If an action governed by this title is filed within one hundred and eighty days after the date of enactment of this title, liberal leave shall be given to a party to amend any pleading, motion, statement of jurisdiction or venue, or other matter to conform to the provisions of this title.

Mrs. KASSEBAUM. I yield the floor, Mr. President.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I disagree very strongly with my colleague from Kentucky. I hardly ever disagree with him.

I listened closely about this right to a voice vote. The truth of the matter

is, other than just flagellating and demonstrating, let us assume our distinguished friend from Kansas prevails and she gets a majority vote, so what? I can guarantee you the bill would go nowhere, no chance on the House side. Even if you could pass it here you would never pass it on this blind air travelers' rights bill. It is not germane.

The Senator from Kansas knows that. The Senator from Kentucky knows it and I know it. The product liability issue really is in the jurisdiction of the Judiciary Committee. You ought to hear the discussions that we have had with respect to product liability in our own Commerce Committee. If there is something embarrassing, as the Senator from Utah found about this measure, it is the lack of knowledge of tort law fundamentals, and almost a lynching party, that has been reflected in some of the arguments made by the supporters of those product liability bills in the Commerce Committee.

Like Shakespeare wrote in Henry VI, "The first thing we do, let's kill all the lawyers."

You can probably get a majority vote on that. In fact, I would enjoy it if we could kill all the lawyers working for the Japanese. We know about lawyers, and particularly those who employ them. There are 100 loyal firms in this city representing the Japanese at a cost of over 113 million bucks, rather than the 535 in the National Congress being paid $2 million. You've got over 1,000 lawyers representing Japan here. They have better representation than the people of America. We have a lot of good stories we could tell about our fellow attorneys.

But the truth of the matter is that I publicly take my hat off to the trial lawyer, any and every chance I get. I have been on both sides of the aisle. I have organized, and been chairman of the board, and president of insurance companies. Before the Securities and Exchange Commission, I made record filing with the SEC, in 13 days when Manny Cohen was the chairman. He said, "Hollings, you set the record. That was the cleanest filing I have ever seen."

I have been on boards of life insurance companies. I reorganized and cleaned up the insurance business in my own State.

I had to appoint a whole new commission and clean out the mess. The State of New York, with all its millions in population, had 32,000 insurance agents. Little South Carolina at that time with 2½ million, had 35,000 insurance agents. If you hit skid row, and you were down and out, and you had no place to go, you could be licensed to sell insurance. The Senator from Utah talks about attorneys. Defense attorneys are the laziest crowd of attorneys I have ever seen.

Various authorities, including the Insurance Services Office and the General Accounting Office, show that a lot of the lost of the system goes to the insurance lawyers because they love delay, they love to say I do not want to go through the courts. They do not have to bring anything to conclusion. The clock is ticking and their meter is running.

I will tell you about the trial lawyer. After the insurance company has worked over the case pretty good but the client still feels they were wronged, they will finally get to a trial lawyer. The trial lawyer on a contingent basis will take all the expenses, all the investigative fees, all the court costs, all the filing costs, all the printing costs, and get it all tied up. He has to carry the case financially.

One of the last ones I tried went all the way up past the circuit court. We settled it on the way to the Supreme Court. It lasted over 3 years, and that is back 24 years ago. I had some $20,000 already tied up for one little partner and myself. That was a lot of money. But we were willing to stick with it because we knew right was right. Sometimes the jury finds we are not right, but we take that risk.

Incidentally, the Senator ought to know that 12 outstanding citizens, sworn to the truth in Utah, try those cases and give those verdicts. I am not familiar with Utah law. I can tell my colleagues that in the State of South Carolina—which is, by the way, true of the majority of States—that trial judge will reverse an exorbitant and unwarranted verdict. If you get a verdict of that kind they will say well, we will reduce it or you take a new trial, one way or the other. He has that discretion.

Most of South Carolina's judges now are Republican appointed. I have tried to avoid that, but somehow or the other that is how they have ended up. The chief judge for President Reagan, of the Sentencing Commission, is an outstanding jurist, Billy Wilkins. I would gladly vote for him to go on the Supreme Court, and someday he may be appointed. He was considered to take over the FBI. He declined that appointment.

I asked Billy, do we have a problem? I have been out of it a few years.

He said there is no problem in product liability.

I asked the other judges around, literally. I said: I am catching the devil on this score but I just do not understand the problem. Where is all this coming from?

Well, after my investigation I can tell this body where it came from, and it is a group that I worked with. I can see me standing on the back here on the seventh cloture vote on labor law reform. I worked against that. My good friend, the Senator from Louisiana, Senator Russell Long, was trying to get labor law reform and he failed to get cloture on it for the seventh time, I think.

But we stood in the back here and I got one little friend that was left, Eddie Zorinsky of Nebraska, and I got his vote and we killed it. There was the National Association of Manufacturers, the chamber of commerce, Business Roundtable—they were all dressed up with no place to go. So they went to Davis-Bacon and they palavered about Davis-Bacon around here, which they are still doing in the summit. There are still some sillies existing.

Davis and Bacon were Republican Congressman with a Republican, President Hoover—which incidentally I say most respectfully because I was appointed by President Hoover to the Hoover Commission investigating intelligence activities and worked closely with him. But President Hoover signed Davis-Bacon into law. The business community said that was causing inflation, until inflation went down to 3 percent. Then they all came in and they said now we will go on product liability. Now the Senator from Kansas says product liability is the reason the general aviation industry lost business.

But now the number of general aviation planes shipped by U.S. manufacturers last year, zoomed up by a 26.7-percent increase over 1988. Imagine that. If we did not have product liability I do not know where this society would be.

They argue that there are extravagant or excessive verdicts. I can go to a number of examples of excessiveness unrelated to product liability, not just the savings and loans with $400 billion going up to $500 billion, but we can go to contract cases. There is one verdict by Pennzoil against Texaco for $12 billion. That is more than all the product liability cases in the last 10 years. Just one contract case. And I can cite many, many more.

As a tort lawyer, one who defended bus cases and defended South Carolina Electric & Gas Co., I can tell my colleagues, just before Thanksgiving, the Christmas Club starts. Every passenger falls down in the aisle and gets their arm caught in the door. And the companies used to not try the cases. The lazy power company lawyers would pay and say, "Oh, we'll just settle it." Rather than go try the case, they would pay them thousands of dollars.

I saved a fortune for the company. I lined them all up and tried them all during the Christmas holidays and into January. We won the cases, because we were not lazy. We were willing to try the cases on the law.

In 1987, the Conference Board itself interviewed 232 major corporation risk

managers. Respondents were asked how much of the final prices of their products could be attributed to the costs of liability insurance. For two-thirds of the firms the answer was 1 percent or less.

The embarrassment to me is that we have a whole crowd of business interests pellmell who let us deregulate, deregulate, and get the $400 billion savings and loan bill by deregulating. At the same time, they say, "Oh, excuse me, the States are handling this, but let us regulate this at the Federal level because we have a crowd dressed up with no place to go." That is a pitiful embarrassment to this Senator, I can tell my colleagues here and now.

Product liability? An industry destroyed with lawyers? No. There are good juries and good judges, generally speaking.

I can go on and on, Mr. President, about this particular situation. But it is just "open sesame" here, now, on a bill for the blind of America who want to stop the discrimination against them. They are putting on budget processes, Presidential constitutional authority, now product liability. That does not belong. It is just "open sesame." And those offering amendments know that, if they even got a favorable vote, they would not go anywhere with it. So it is political posturing to say we are going to get something and get a vote when it cannot go anywhere.

I know those involved on the House side. I know the ones who would handle this. I have talked to them, and I can tell my colleagues right now this just would not go anywhere.

I am not in a position to promise an up or down vote. We even had a voice vote in the Commerce Committee. But, as the distinguished presiding officer remembers, the vote on this product liability measure in the Judiciary Committee was unfavorable, and it was 10 to 2.

I am willing to contribute to the trial lawyers. In fact I do. Because I think they are outstanding. They gave us safe working places. They gave us safe machinery. They really got safe airplanes by actually going to the bat on airline cases. They have been really in the vanguard, I can tell my colleagues here and now.

In the European plane crashes, they will come and give you $8,000, not in America. People here are properly compensated. For that reason, we have the highest degree of safety in our airline industry, and I am glad.

My distinguished friend may have piloted thousands more hours than I would ever fly, but I have flown at least 1,000 hours or more, and in single-engine planes. Incidentally, I have lost 11 pilot friends—I have been at their funerals—in those planes. Now I have gone to two-motored planes and a pilot and copilot, just as a matter of common sense and common safety.

There is one thing I feel good about. For Lord's sake, do not let the aircraft industry take over this one. Can you imagine them setting their own rules? I never have seen such a thing as was recommended in this particular bill.

Specifically, when I refer to them making their own rules, the bill provides a complete defense for the manufacturer if a defective condition could have been corrected by compliance with an FAA airworthiness directive or a manufacturer's service bulletin.

Egads, we are going to put our safety in a manufacturer's service bulletin. These are issued at the sole discretion of the manufacturer and they could put out anything. They could just issue all kinds of directives and then say, "The pilot did not comply with all that and, therefore, we have no liability." I do not think we should go that way.

Should we enact a statute of repose, eliminating liability for planes over 20 years old, when my distinguished friend is talking about his 40-year-old plane and his 30-year-old plane? In fact, the average age of the general aviation fleet is over 20 years. I do not think the Congress should go that route.

Additionally, the bill creates jurisdiction over cases arising under it in all the 11 Federal circuits and in the 50 State courts. So then you have jambalaya, a confusion of interpretation by all different courts. This is all, by the way, supposed to save lawyers' fees, time, bureaucracy, and cost. If this is not a corporate lawyer, an aviation company lawyer, bill to keep them fully employed, Lord knows what it is. All you have to do with all of this is get different interpretations by 50 State courts, and 11 Federal courts, and just wear plaintiffs out until the injured have died and gone.

Do not tell me defendants do not keep cases going long. They know how to stretch it out. We should not get into this discombobulation in legislation. That is why the Judiciary Committee lawyers looked at this bill and threw up their hands, rejecting it by a vote of 10 to 2. They are good lawyers at that, and not lawyers that represent individual injured parties.

The consumer organizations of America are absolutely opposed to this: Consumer Federation, U.S. Public Interest Research Group, Public Citizens' Congress Watch. We can go down the list of consumer groups. They are opposed.

Another problem is the broad applicability of this bill. It could be read to apply to helicopters, gliders, hot air balloons. I am particularly concerned about the medivac helicopters. Passengers in those helicopters have not chosen to be there, and we have no evidence of their safety record.

I cannot really go along with legislation like this, and don't agree that it's evil or wrong if you cannot get a vote. I think the distinguished Senator did have a vote here. In the 99th Congress, there was a vote on a virtually identical measure, and it was a 52-to-43 vote against the Senator from Kansas' bill.

Let us talk to why this industry lost that business for a minute. We have not been able to cover that. The Senator from Utah cited Cessna. But, as cited in the Judiciary Committee's report, representatives from Cessna have recognized that a number of negative influences have affected the industry in recent years, including—

Airline deregulation in 1978, high interest rates in 1979 to 1982, OPEC oil prices from 1979 to 1983, economic recessions in the early eighties, and the air traffic controllers' strike in August of 1981, the end of the GI bill flight training benefits, the growth of corporate mergers and takeovers, and the loss of World War II support infrastructure.

That is why the business went down and, of course, Europe has gone into the business publicly financed. For example, the *Concord*, the Government has paid for that, and we are not putting much Government money into building aircraft. Nothing like the subsidies that they are putting up now to start into the aircraft industries in Japan, and what they put into the EEC.

Kill all the lawyers, they say, when they know differently. These people are not going out of business. The business is on the increase, and the different reports show it.

There is another point regarding safety that I wanted to refer to particularly. The Congressional Research Service has found that the industry and the FAA have frequently been criticized by agencies of the GAO for not stressing safety in general aviation and aircraft design.

We know that safety has been a matter of concern, and here we want to turn tail on safety, and on a product liability system which is working, incidentally. Often they want to turn tail on regulation, get rid of all the rules and regulations, and the bureaucracy here on the Potomac. But now they want us to start regulating at the Federal level.

Again, with respect to the industry's difficulty, Congressional Research Service has recognized that no single factor can explain the collapse of demand for new general aviation aircraft. This is from "The Demand for General Aviation Aircraft: Background, Analysis and Outlook," Report No. 85-1108E (December 6, 1985) at 6.] The Department of Commerce, in an assessment of the U.S. general aviation industry published in June 1986 [this is from the U.S. Department of Commerce, International Trade Administration, "A Competitive

Assessment of the U.S. General Aviation Industry," June 1986.] stated that the sharp decline in airplane deliveries "reflects depressed market conditions as well as shifting patterns in aircraft demand. In today's market, the emphasis is gradually shifting from piston-powered airplanes to larger, higher valued turboprops and business jets."

As an aside, that is why they are getting out of single-engine production. They are moving to the more remunerative business of corporate jets. The Department of Commerce also recognized that "* * * the sharp decline in sales that has occurred in the 1980's is not the anomaly in market dmand, but rather [the anomaly is in] the late 1970's when record-breaking sales were achieved." The report cited several other causal factors for the protracted downturn in general aviation business, including escalating foreign competition, the relative value of the dollar, the number of active pilots, product liability costs, and U.S. tax reforms.

"We may be also experiencing a fundamental change in the tastes and preferences of the population," said the Federal Aviation Administration in its report "FAA Aviation Forecast, Fiscal Years 1988 to 1989."

There is a problem in a lot of businesses, but there is no problem in the fundamental powers of the States. There is no problem in the fundamental responsibility of the States. There is no problem in tort law with States and State legislatures which can respond to problems and respond more promptly than 6 years. As the Senator from Kansas says, she has been trying to pass this bill for 6 years. Forty-three States have acted to change their tort laws during that particular time, and some, like Florida, have been disappointed. They passed on product liability reform and I can tell you exactly what happened. The insurance rates went up, zoom anyway.

The supporters of these liability provisions have changed arguments every year, and they say now they cannot bring new products to market. At one time they argued it was a litigation explosion or an insurance crisis, but when we showed the data didn't support that, then they came around to the proposition that they were actually losing in international trade. And then we looked at Europoe and found that the trend in Europe is to adopt many of the American product liability rules. They are going toward the U.S. law now and not just giving $8,000, or a minimal amount, for crashing in an airplane like they have done.

Then when the supporters of these bills found that out, they started to talk about the products that were kept off the market, argued that we were foregoing all the good products. In the last hearing we had before our committee, I say to the Senator from Kansas, there was a distinguished group that had gone out and looked at these different products. They had documentation of real safety concerns about those products. And they had expert authority in medicine that said, thank heavens, they did not put these products on the market.

My Savannah River project in the State of South Carolina, you and I and the taxpayers of America are spending billions to clean up, billions to clean up nuclear waste because the proper care was not taken. The State of Washington, and elsewhere, have the same problem. We should not encourage further erosion of safety by changing product liability laws.

I am waiting for the majority leader, but I think that Senators ought to know the story about the traveling group that consisted of the rabbi, the Indian, and the lawyer. In going out west in Utah, the dark of night came upon them. The car broke down. They went up to the farmhouse and knocked on the door, and the farmer said, "Well, I have room for two of you but one of you is going to have to go out and sleep in the barn."

So the rabbi volunteered and went out. Before long, there was a knock on the door. The rabbi was there. They said, "What is the matter?" He said, "Well, I really prefer not to sleep in that barn. They have a pig, and my faith is not in favor of pork and pigs. I had better come in."

The Indian said, "Wait a minute, I will go out." And he went out in the barn, and before long there was a knock on the door, and there was the Indian. They said, "Now what's the matter?" He said, "Well, excuse me, there is a cow out in the barn and our religion is against cows, and I better not sleep out there, I better come in."

The lawyer said, "Oh, the devil. You all have all these arguments. I will go out and I will sleep in the barn." Before long there was a knock on the door, and there was the cow and the pig.

Well, I know about lawyers and particularly Japan lecturing us on lawyers. If they quit paying all the lawyers, Congress would begin to function. These lawyers around here are not hanging around taking any contingency fees. They are taking thousands of dollars every month on a 3-year contract, $100,000, $200,000. They say, "I can get you in the door, I can get an appointment, we can block this bill," and everything else. There are some 100 lawyers representing the Japanese around here. They are not on a contingent fee agreement. They are cash on the barrel head.

Yes, there are some poor trial lawyers left in Utah trying to represent the injured poor that cannot go down and pay a big lawyer and say, "Here is a retainer for you, and I know it is going to take a year and a half, but do not worry, I have the money." They are the poor injured parties in our society who cannot afford it. The system has worked extremely well, and the group of plaintiffs' lawyers ought to really be honored, because I know what lawyers, corporate lawyers, think of them.

We had the first organization back in 1947 with Sam Horwitz at the National Association of Claimants and Compensation Attorneys. We were ne'er-do-wells at that time. But then we started studying and, with Mel Belli and Lou Ash and several others, we changed our tactics. It used to be trial by ambush. We would not give you any of the witnesses we had. We would not tell you anything about the evidence. We would go in behind and ambush you and really have a strong case when we acted. Of course, defendant's lawyers would never really get ready, and, boy, we would sock it to them. But then we said, "Let us just show them the file and give them the witnesses' statements and everything else." We called it demonstrative evidence. The next thing you know, we had all the defense lawyers saying there is no use going to the American Bar Association meetings; that is just a social group. The ABA has the utilities crowd, because they pay their lawyers fees to travel. They have the railroad lawyers, because they give them free travel, to travel all the way to San Francisco across country and sit up in the Fairmont Hotel and eat all the good food; all the tax lawyers, that crowd, they get paid to do it. They said, "All we are doing is eating and we are not learning anything, and you trial lawyers are really out there hustling." You have doctors, you have medical experts. You have people that brought about all these safety devices. An example is the Pinto case—if the gas tank was hit it exploded and killed hundreds of people. The company could have fixed that for under $50, we found out in the examination of the automobile company's records. They could easily have cleaned that up and avoided it.

Because the trial lawyers discovered that, now you have safe gears and you have the safe brakes, and you have safer cars. Do not think business put lights over steps and nonskid floors because they love you. Everybody slipped, and the trial lawyers would get a verdict. So now we have all these safety devices, and insurance companies have come in and said, "We are not going to cover you unless you are safe." We have the safest society in the world on account of the trial lawyers. I love them.

I would be glad to yield to the majority leader.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBB). The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. I have listened to my distinguished friend from South Carolina, and he is sincerely my friend. I am not saying that as a courtesy. But I suggest that what I said was not that product liability was the entire cause of the problem.

In response to the Senator from Arizona, I said that there were other causes but this was a major cause. I stand by that statement. I would also suggest that there is not anybody on this floor who wants to prohibit people who truly have had a difficult problem because of some product failure because of design, or someone in the medical profession where the doctor has left the scalpel or the sponge inside. Nobody is trying to prevent that.

What we are trying to do is prevent the extreme of that, the ridiculous nuisance suits, the ambulance chasers and all of that.

I would suggest to the Senator from South Carolina, as he mentioned aircraft directives, I do not pretend to know tort law, but I am sure he does not know what an aircraft directive is. I will tell you one of my airplanes is sitting on the ground right now because of an aircraft directive. You cannot fly it. You get one of those and until that is complied with you do not fly the airplane. The FAA sends out an AD note and you must comply or that airplane does not fly.

The majority leader wishes the floor. I will not take any more time. There are several other points I wish to rebut. But that is an important one. I do not think my colleague or many others understand how the FAA works and the inspections that are required, and to go back and blame the manufacturer for things 15 or 20 years later—as a pilot who flies virtually every week, I would suggest there needs to be some individual responsibility. I would suggest it goes beyond aviation. It goes beyond the small cities in my State.

It took the swing sets out of their parks because they cannot afford the liability, so the children cannot do that anymore.

It is a part of the lift prices on ski resorts. If you ski down a mountain at 90 miles an hour, I would suggest you think it is inherently dangerous and it is not the ski resort's fault if there is a bump in the snow or they did not groom it properly.

The list goes on. I have a father-in-law who quit delivering babies because they wanted to charge him 60,000 bucks a year for liability. So somebody lost great doctors.

I think it is an overall problem. We need to eliminate the extremes. I agree with what the Senator wants to accomplish as far as legitimate statutes, but I do not think the trial lawyers can really legitimately defend the ridiculousness of some of these suits.

Mr. HOLLINGS. I was referring to the manufacturers' service bulletin, not to the FAA. This bill would provide a defense based on issuance by the manufacturers of these bulletins, as well as issuance of FAA directives. I am very familiar with the FAA directives. I have been on the Commerce Committee, authorizing the different FAA administrations, throughout the 24 years since I have been in the Congress. Specifically with respect to malpractice, I happen to agree with you. I know I had an eye operation. My doctor had won the Eye Institute award 2 years in a row, and left Johns Hopkins. He went out to the west coast, and he had to pay some $35,000, or something, as a fee, in order to get liability coverage. He never had been in trouble, never had a claim, never had a letter or anything even threatening such. So I know about malpractice cases.

But then I also know about California. I think they have 40-some or 60-some law schools. I think 22—that is right—that are accredited and 40 are not accredited. They put out paralegals. They first sued the doctors. Then they started suing the lawyers. They sue each other. Now the most recent style is to sue the minister.

They have a case where the minister told the couple to go home and pray, and they said they should have gone to a psychiatrist intead, to get psychological care. It was malpractice for the minister to tell them to go to pray.

That is wild crowd out there. But the States are taking care of these things. Let us not federalize tort law here on the basis that you are going to really save money. A Federal tort law could be as liberal as the most liberal that we have heard about. The business community cannot be guaranteed that Federal tort law will always favor its interests. We could have a situation in which we could trip up off of this floor, and then go over to the window and pick up our money. Recovery could be that immediate.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I deeply regret the course which events have taken with respect to the underlying legislation. The distinguished chairman of the Commerce Committee has for some time urged me to bring this measure to the Senate floor. It is a measure which will be of little concern to many Americans, but of great concern to those Americans who are affected.

The blind Americans who travel by air, while relatively few in number, are each entitled to the same self-respect and dignity that every person wants in life. This measure would have made it possible for them to achieve that at least in some small degree.

Unfortunately, that will not now be possible because the measure has become entangled in other unrelated matters which we are simply not able to resolve at this time.

It is one of the distinguishing characteristics of the U.S. Senate, that there is an unlimited right of amendment. It is something which virtually every Member of the Senate has availed himself or herself of at sometime or other, virtually, but not all. I should emphasize that. But there are times when it simply results in an inability to progress with important and needed legislation. This is one of those times.

Under the previous schedule, as a consequence of a cloture motion on the crime bill having been filed on yesterday, that vote on that will ripen tomorrow morning. If cloture is invoked, why then we will be on that bill until we complete action on it. If cloture is not invoked, then we will return immediately to this measure. Perhaps by then, either tomorrow if cloture is not invoked, or upon completion of the crime bill if cloture is invoked, we will all be able to find some way to take the action to preserve the self-respect and the dignity of blind American air passengers. But that remains for another time.

Accordingly, Mr. President, we have reached the point where I do not think it useful or productive to continue. It is my intention to shortly recess the Senate. There will be no further rollcall votes this evening. I have discussed the matter with the distinguished Republican leader, and with the managers of the bill. I regret this course of action but none other is possible at this time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I want to thank the distinguished majority leader because he has been very assiduous in trying to get this bill up. I am, by no means, by this comment, resigning from the bill.

I am going to vote for closure, but if we do not get closure on the crime bill, we will be ready to go again on this bill. We have to proceed with this bill to stop the discrimination against those who are not in the position to deal with it, and it is our responsibility.

I want to thank the distingusihed majority leader for his wonderful assistance in getting this measure to the floor, and the minority leader who has helped us also.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to express my appreciation, too, for the consideration that I received on this amendment, and to say that I am very happy to try to achieve some compromise that I hope can be constructive. As we talk through this during this period of time, maybe we can find something that can be a small compromise.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I think that I certainly would encourage my colleague from Kansas, Senator KASSEBAUM, who just stated there may be some way to work it out. I just visited with the Senator from Ohio about the same possibility. He indicates a willingness. When there are two willing people in this case, maybe it can be resolved.

I think perhaps the underlying bill is important, though I might say there is a difference of opinion on whether it is a good piece of legislation, and whether or not it discriminates against certain disabled Americans. There is a different point of view, I guess. It came out of the committee almost unanimously.

I am familiar with the bill and familiar with some of the arguments on both sides. But I say that one reason is, particularly when you are in the minority, you have to amend everything where there is an opportunity because we do not set the agenda. If we set the agenda, the amendment by the Senator from Kansas would have been on the floor a year ago.

So we find ourselves, as the other side of the aisle did when they were on the minority side, offering amendments any time there is a good opportunity, even though they might not be totally in conformance or germane to the underlying bill. There are other amendments that are at least being talked about that may be offered to this bill. In my view, if we can resolve this particular amendment somehow, maybe some of the other amendments could be deferred.

In any event, I say that I do not quarrel with anyone who offers amendments to what may be pending in the Senate. With reference to the crime package, I urge my colleagues on this side of the aisle to vote for cloture tomorrow morning. I think we will obtain cloture. There are about, as I understand it, 60 germane amendments out of 200-some. Thirty-four of those amendments are Democratic amendments and 26 are Republican amendments. I hoped I would have them available to put in the RECORD this evening. Apparently, they will not be available until tomorrow morning.

I assume there are some very meritorious amendments on both sides of the aisle, and I encourage, as the majority leader has done, perhaps if cloture is invoked, that we move as quickly as we can on the germane amendments—"arguably germane" is the words used by the parliamentarian, arguably germane amendments. So we would be prepared to do that following the cloture vote tomorrow morning.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT—PM 123

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

The people of this country share a deeply rooted love and concern for the environment. We have been blessed with a wealth of natural resources that enrich our physical and spiritual lives, and throughout our history we have recognized our responsibility to protect those resources for the generations to come.

Even as the pioneers traveled west to civilize a wild and seemingly endless frontier, there were Americans who understood that the Nation's natural resources had to be conserved for the future. In 1871, long before all of the continental states were incorporated into the Union, two million acres were set aside to create Yellowstone, our first national park.

The consequences of thoughtless exploitation of our natural resources began to be noticed more than a century ago. In 1908, President Theodore Roosevelt convened at the White House a national conference on conservation, where he said: "The wise use of all our natural resources, which are our national resources as well, is the great material question of today." That conference was a historical landmark in the development of public policy to protect and manage this country's natural resources.

Our national environmental ethic was expressed with particular clarity and conviction in 1970. On the first day of that year, President Nixon signed the National Environmental Policy Act, which created the Council on Environmental Quality and incorporated environmental awareness into the planning processes of the Federal Government. On the last day of 1970, the President signed the Clean Air Act, the Nation's first comprehensive environmental protection law. During that year, the Environmental Protection Agency and the National Oceanographic and Atmospheric Administration were established. And on April 22, 1970, millions of Americans voiced their environmental hopes and concerns on Earth Day.

This long national tradition of natural resource stewardship and environmental protection continues today, and in many ways it is stronger than ever. During the last 20 years we have built on the work begun in 1970, and the results have been remarkable. Possible effects on the environment are now weighed carefully whenever Federal agencies plan major actions. Our scientists have developed pollutant detection and control technologies that are far more effective than anything available in 1970. Environmental laws are now enforced, and environmental crimes punished, at every level of government, and enforcement officials have more legal and technical tools at their disposal than ever before. Besides spending billions of dollars a year to capture pollutants before they enter the air or water, American companies are beginning to invest in production materials and processes that generate much less pollution. And governments around the world are working together in unprecedented ways to

solve pollution problems that affect the global quality of life.

We can be proud of our environmental track record. In many ways we have set an example for the rest of the world, and other nations continue to look to the United States for environmental leadership. Over the past year, as the countries of Eastern Europe shook off their chains and took charge of their own political and economic lives, they turned to us for help in reversing decades of environmental neglect.

This 1989 Report to the Congress on Environmental Quality is a retrospective—a look back at the ways our national environmental ethic has evolved over the past 20 years. And in looking back, the report also suggests a fair measure of hope for the future.

We have not solved all our environmental problems. Some we have only begun to understand. But over the past 2 decades we have proven to ourselves, and to the rest of the world, that we are willing to act on our beliefs. If the best prophet of the future is the past, as Lord Byron once wrote, then our children and grandchildren can look forward to the same good health, clean environment, and abundant natural resources that so many Americans have been so fortunate to share.

GEORGE BUSH.

THE WHITE HOUSE, *June 6, 1990.*

MESSAGES FROM THE HOUSE

At 2:18 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3897. An act to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes;

H.R. 4148. An act to authorize the Secretary of the Interior to acquire certain water rights for the settlement of Indian water rights claims in the State of Arizona;

H.R. 4283. An act to authorize expenditures for fiscal year 1991 for the operation and maintenance of the Panama Canal, and for other purposes;

H.R. 4314. An act to implement the Inter-American Convention on International Commercial Arbitration; and

H.R. 4757. An act to provide permanent authority for the U.S. Supreme Court Police.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3897. An act to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes; to the Committee on the Judiciary.

H.R. 4148. An act to authorize the Secretary of the Interior to acquire certain water rights for the settlement of Indian water rights claims in the State of Arizona; to the Committee on Energy and Natural Resources.

H.R. 4283. An act to authorize expenditures for fiscal year 1991 for the operation and maintenance of the Panama Canal, and for other purposes; to the Committee on Armed Services.

H.R. 4314. An act to implement the Inter-American Convention on International Commercial Arbitration; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4757. An act to provide permanent authority for the U.S. Supreme Court Police.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3036. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a review of the President's fourth special impoundment message for fiscal year 1990; referred jointly per the order of January 30, 1975 as modified by the order of April 11, 1986, to the Committee on Appropriations, the Committee on Armed Services, the Committee on Budget, the Committee on Finance, and the Committee on Foreign Relations.

EC-3037. A communication from the Director of the Defense Security Assistance Agency, Department of Defense, transmitting, pursuant to law, the report on the Department of the Navy's proposed letters of offer and acceptance to Italy for defense articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-3038. A communication from the Assistant Secretary of Defense, Force Management and Personnel, Department of Defense, transmitting, pursuant to law, a report on the adequacy of pay and allowances of the Armed Forces; to the Committee on Armed Services.

EC-3039. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report regarding the costs associated with a Memorandum of Understanding on Cooperative Measures for enhancing Air Defense in Italy concluded by the United States and the Government of Italy; to the Committee on Armed Services.

EC-3040. A communication from the Acting Secretary of the Army, Department of the Army, transmitting, pursuant to law, the Fiscal Year 1988 Report of the United States Soldier's and Airmen's Home; to the Committee on Armed Services.

EC-3041. A communication from the Assistant Secretary of the Army, Installations, Logistics, and Environment, Department of the Army, transmitting, pursuant to law, notification of the discovery of one suspected chemical filled bomblet on Dugway Proving Ground, Utah, on May 2, 1990; to the Committee on Armed Services.

EC-3042. A communication from the Director of the Administration and Management, Department of Defense, transmitting, pursuant to law, a report on real and personal property of the Department of Defense as of September 30 1989; to the Committee on Armed Services.

EC-3043. A communication from the Assistant Secretary of the Army, Financial Management, Department of the Army, transmitting, pursuant to law, a report on the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter January 1, 1990, through March 31, 1990; to the Committee on Armed Services.

EC-3044. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on tied aid credits; to the Committee on Banking, Housing, and Urban Affairs.

EC-3045. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notification of a time extension for issuing a final decision in Finance Docket No. 31494, "Intermountain Western Railroad Company—Purchase—Union Pacific Railroad Company, Boise Group Branch Lines"; to the Committee on Science, and Transportation.

EC-3046. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the impact of increased aeronautical and nautical chart prices resulting from Public Law 99-272 on Public Sales and Navigation Safety; to the Committee on Commerce, Science, and Transportation.

EC-3047. A communication from the Assistant Secretary of Conservation and Renewable Energy, Department of Energy, transmitting, pursuant to law, the annual report of Federal activities and programs in geothermal energy; to the Committee on Energy and Natural Resources.

EC-3048. A communication from the Assistant General Counsel for International Affairs, Department of Energy, transmitting, pursuant to law, notification of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-3049. A communication from the Assistant Secretary of Legislative Affairs, U.S. State Department, transmitting, pursuant to law, the nineteenth 90-day report on the investigation into the death of Enrique Camarena, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico; to the Committee on Foreign Relations.

EC-3050. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1989; to the Committee on Energy and Natural Resources.

EC-3051. A communication from the Administrator of the Agency for International Development, transmitting an informational report entitled "Conserving Tropical Forests and Biological Diversity" covering the solid progress made in fiscal years 1988 and 1990; to the Committee on Foreign Relations.

EC-3052. A communication from the Assistant Secretary of Legislative Affairs, U.S. State Department, transmitting, pursuant to law, a report on confidence building measures by Poland and Hungary; to the Committee on Foreign Relations.

EC-3053. A communication from the Assistant Legal Advisor for Treaty Affairs, U.S. Department of State, transmitting, pursuant to law, a report on agreements

other than treaties entered into by the United States; to the Committee on Foreign Relations.

EC-3054. A communication from the Assistant Comptroller General, General Accounting Office, transmitting, pursuant to law, a report on the results of a review of Federal agencies implementation of OMB's nine-point credit management program and an analysis of changes in the Federal Government's loans receivable information between fiscal years 1985 and 1988; to the Committee on Governmental Affairs.

EC-3055. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the 10th annual report of the Board's case decisions; to the Committee on Governmental Affairs.

EC-3056. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, a report on the implementation of the Single Audit Act of 1984 for the 12-month period ending January 30, 1990; to the Committee on Governmental Affairs.

EC-3057. A communication from the Chairman of the National Science Board, transmitting, pursuant to law, a report containing additional information required by the Inspector General Act of 1978; to the Committee on Governmental Affairs.

EC-3058. A communication from the Acting Secretary of the Treasury, transmitting, pursuant to law, the Inspector General Report from the Department of the Treasury for the period ended March 31, 1990; to the Committee on Governmental Affairs.

EC-3059. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Semiannual Report of the Office of Inspector General [OIG] for the period ending March 31, 1990, and the newly required semiannual report on management and final actions on OIG audit recommendations; to the Committee on Governmental Affairs.

EC-3060. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the Semiannual Report of the Inspector General of the Commission for the period October 1, 1989, through March 31, 1990; to the Committee on Governmental Affairs.

EC-3061. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's semiannual report to the Congress under the Inspector General Act Amendments of 1988; to the Committee on Governmental Affairs.

EC-3062. A communication from the Director of the U.S. Peace Corps, transmitting, pursuant to law, the report of the Corps under the Inspector General Act for the period October 1, 1989, through March 31, 1990; to the Committee on Governmental Affairs.

EC-3063. A communication from the Director of the ACTION, the Federal Domestic Volunteer Agency, transmitting, pursuant to law, the semiannual reports under the Inspector General Act of 1978 for the period October 1, 1989, through March 31, 1990; to the Committee on Governmental Affairs.

EC-3064. A communication from the chairman and general counsel of the National Labor Relations Board, transmitting, pursuant to law, the Board's report under the Inspector General Act 1978; to the Committee on Governmental Affairs.

EC-3065. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of the Department under the Inspector General Act 1978 for the period ending March 31, 1990; to the Committee on Governmental Affairs.

EC-3066. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "Why Are Employees Leaving the Federal Government? Results of an Exit Survey"; to the Committee on Governmental Affairs.

EC-3067. A communication from the Acting Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report of the Commission under the Inspector General Act 1978 for the period October 1, 1989, through March 31, 1990; to the Committee on Governmental Affairs.

EC-3068. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the report of the Commission under the Inspector General Act Amendments of 1988; to the Committee on Governmental Affairs.

EC-3069. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report of the Department under the Inspector General Act 1978 for the period October 1, 1989, through March 31, 1990; to the Committee on Governmental Affairs.

EC-3070. A communication from the Chief Justice of the United States, transmitting, pursuant to law, the Report of the Proceedings of the Judicial Conference of the United States, held in Washington, DC, on March 31, 1990; to the Committee on the Judiciary.

EC-3071. A communication from the Secretary of Education, transmitting, pursuant to law, the Department of Education's annual report on administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-3072. A communication from the Director of the Office of Policy Development, U.S. Department of Justice, transmitting, pursuant to law, the Department's annual report under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-3073. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on Deinstitutionalization Policy and Homelessness prepared by the National Institute of Mental Health; to the Committee on Labor and Human Resources.

EC-3074. A communication from the Secretary of Education, transmitting, pursuant to law, a document which has been transmitted to the Federal Register entitled "Intergovernmental Review of Department of Education Programs—Final Regulations"; to the Committee on Labor and Human Resources.

EC-3075. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled the "Emergency Community Services Homeless Grant Amendments of 1990"; to the Committee on Labor and Human Resources.

EC-3076. A communication from the Secretary of Health and Human Services, transmitting pursuant to law, a report entitled "Clinical Laboratory Improvement Amendments of 1988 Studies" prepared by the Centers for Disease Control; to the Committee on Labor and Human Resources.

EC-3077. A communication from the Architect of the Capitol, transmitting, pursuant to law, a report of all expenditures during the period October 1, 1989, through March 30, 1990, from moneys appropriated to the Architect of the Capitol; to the Committee on Appropriations.

EC-3078. A communication from the President of the United States, transmitting, pursuant to law, a determination to continue in effect the waiver of certain provisions of the Trade Act with respect to the Czech and Slovak Federal Republic; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with amendments:

S. 2203. A bill to settle certain claims of the Zuni Indian Tribe, and for other purposes (Rept. No. 101-306).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN:

S. 2708. A bill to authorize a study of the fishery resources of the Great Lakes, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BOSCHWITZ:

S. 2709. A bill to amend the Internal Revenue Code of 1986 to provide that certain expenses of travel, meals, and lodging of members of the National Guard or reserve units of the Armed Forces will be allowable as deductions in computing adjusted gross income; to the Committee on Finance.

By Mr. DASCHLE (for himself and Mr. PRESSLER):

S. 2210. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota Pumping Division, Pick-Sloan Missouri Basin Program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LOTT:

S. 2711. A bill to amend the Internal Revenue Code of 1986 that provide that certain deductions of members of the National Guard or reserve units of the Armed Forces will be allowable in computing adjusted gross income; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate Resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD (for himself and Mr. STEVENS):

S. Res. 294. A resolution to authorize payment of a claim settlement on behalf of a former Congressional employee in the case of Ronald V. Dellums, et al. v. James M. Powell, et al; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN:

S. 2708. A bill to authorize a study of the fishery resources of the Great Lakes, and for other purposes; to the

Committee on Environment and Public Works.

GREAT LAKES FISH AND WILDLIFE RESTORATION ACT

● Mr. MOYNIHAN. Mr. President, I rise today to introduce the Great Lakes Fish and Wildlife Restoration Act of 1990. If enacted this bill would protect and enhance the fisheries of the Great Lakes.

The 35 million people living around the Great Lakes have placed this fragile ecosystem in danger. As with many such sensitive ecosystems, it is only in decline that we take necessary action. And so we act today. It is not too late. But let us not delay further.

Mr. President, the bill I introduce would authorize the Director of the U.S. Fish and Wildlife Service to undertake a comprehensive assessment of the existing Great Lakes fishery, implement projects necessary to restore and enhance the Great Lakes fishery, establish a lower Great Lakes Fishery Assistance office to service the unique biological and physical needs of Lakes Erie and Ontario, and provide a Great Lakes Coordination Office for all fish and wildlife activities across the Great Lakes Basin. In order to carry out these activities the bill would authorize $10 million annually for 5 years to the Director of the Fish and Wildlife Service. The bill also provides $1.5 million annually to both the Environmental Protection Agency and the Army Corps of Engineers to undertake cooperative projects with the Fish and Wildlife Service within the Great Lakes Basin.

The resources of the Great Lakes support recreational fisheries used by more than 5 million people annually, and the commercial fisheries provide approximately 9,000 jobs. Together, these fisheries generate economic activity worth more than $4.4 billion. When considered against the benefits derived, the amount we propose to spend to protect the fisheries must be seen as modest.

Our good friend and colleague Representative HENRY J. NOWAK, has introduced a companion bill in the House of Representatives. I look forward to working with him on this most important issue.

Mr. President, I hope my colleagues can support this bill, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Great Lakes Fish and Wildlife Restoration Act of 1990".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) As the human population of the Great Lakes System has expanded to over 35,000,000 people, great demands have been placed on the lakes for use for boating and other recreation, navigation, municipal and industrial water supply, waste disposal, power production, and other purposes. These growing and often conflicting demands exert pressure on the fish and wildlife resources of the Great Lakes System, including in the form of contaminants, invasion by nonindigenous species, habitat degradation and destruction, legal and illegal fishery resource harvest levels, and sea lamprey predation.

(2) The fishery resources of the Great Lakes support recreational fisheries enjoyed by more than 5,000,000 people annually and commercial fisheries providing approximately 9,000 jobs. Together, these fisheries generate economic activity worth more than $4,400,000,000 annually to the United States.

(3) The availability of a suitable forage base is essential to lake trout, walleye, yellow perch, and other recreational and commercially valuable fishery resources of the Great Lakes System. Protecting and restoring productive fish habitat, including by protecting water quality, is essential to the successful recovery of Great Lakes System fishery resources.

(4) The Great Lakes System contains important breeding and migration habitat for all types of migratory birds. Many migratory bird species dependent on deteriorating Great Lakes System habitat have suffered serious population declines in recent years.

(5) Over 80 percent of the original wetlands in the Great Lakes System have been destroyed and such losses continue at a rate of 20,000 acres annually.

(6) Contaminant burdens in the fish and wildlife resources of the Great Lakes System are substantial and the impacts of those contaminants on the life functions of important fish and wildlife resources are poorly understood. Concern over the effects of those contaminants on human health have resulted in numerous public health advisories recommending restricted or no consumption of Great Lakes fish.

(7) The lower Great Lakes are uniquely different from the other Great Lakes biologically, physically, and in the degree of human use and shoreline development, and special fishery resource assessments and management activities are necessary to respond effectively to these special circumstances.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to carry out a comprehensive study of the status, and the assessment, management, and restoration needs, of the fishery resources of the Great Lakes System;

(2) to carry out activities to implement recommendations resulting from that study, and

(3) to provide assistance to the States and other interested persons to encourage cooperative conservation, restoration and management of the fish and wildlife resources of the Great Lakes System.

SEC. 4. DEFINITIONS.

In this Act—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "Director" means the Director of the United States Fish and Wildlife Service;

(3) the term "fish stock" means—

(A) a taxonomically distinct species or subspecies of fish; or

(B) any other aggregation of fish that are geographically, ecologically, behaviorally, or otherwise limited from breeding with individuals from other groups of fish and are capable of management as a unit;

(4) each of the terms "Great Lakes" and "Great Lakes System" has the meaning that term has in section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268);

(5) the term "lower Great Lakes region" means the region in which is located that portion of the Great Lakes System which is downstream from the confluence of the Saint Clair River and Lake Huron near Port Huron, Michigan;

(6) the term "nonindigenous species" means a species of plant or animal that did not occur in the Great Lakes System before European colonization of North America;

(7) the term "Secretary" means the Secretary of the Army; and

(8) the term "State Director" means the head of the agency, department, board, commission, or other governmental entity of each of the States of New York, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, and the Commonwealth of Pennsylvania which is responsible for the management and conservation of the fish and wildlife resources of that State.

SEC. 5. GREAT LAKES FISHERY RESOURCES RESTORATION STUDY.

(a) IN GENERAL.—The Director, in consultation with the Secretary, the Administrator, State directors, Indian tribes, and appropriate Canadian Government entities, shall conduct a comprehensive study of the status of, and the assessment, management, and restoration needs of, the fishery resources of the Great Lakes. The Director shall complete the study by October 1, 1993.

(b) CONTENT OF STUDY.—A study under this section shall include, but not be limited to—

(1) identifying and describing the component drainages of the Great Lakes System (including the drainage for each of the Great Lakes), analyzing how the characteristics and current or planned land and water uses of those drainages have affected, and can be expected to affect in the future, the fishery resources and fish habitats of the Great Lakes System;

(2) analyzing historical fishery resource data for the Great Lakes System;

(3) evaluating the adequacy, effectiveness, and consistency of current Great Lakes interagency fisheries management plans and Federal and State water quality programs, with respect to their effects on Great Lakes fishery resources;

(4) analyzing the impacts of, and management control alternatives for, recently introduced nonindigenous species, including the zebra mussel, the river ruffe, and the spiny water flea;

(5) identifying the causes of past and continuing declines of the fishery resources of the Great Lakes System and the impediments to restoring those resources;

(6) developing recommendations regarding—

(A) an action plan to analyze the effects of contaminant levels on fishery resources;

(B) an action plan for the restoration and enhancement of depleted, nationally significant fish stocks, including lake trout, yellow perch, lake sturgeon, walleye, forage fish, and Atlantic salmon;

(C) planning and technical assistance that should be provided to the States and Indian tribes to assist their restoration efforts;

(D) mitigation measures to restore and enhance fishery resources adversely affected by past Federal (including federally assisted or approved) water resource development projects;

(E) increasing United States Fish and Wildlife Service involvement in and coordination with the International Joint Commission and the Great Lakes Fishery Commission regarding fishery resources management;

(F) research projects and data gathering initiatives regarding population trends of fish stocks, including population abundance and structure, interspecific competition, survival rates, and behavioral patterns;

(G) important fisheries habitat and other areas that should be protected, restored, or enhanced for the benefit of Great Lakes fishery resources;

(H) how private conservation organizations, recreational and commercial fishing interests, the aquaculture industry, and the general public could contribute to the implementation of the recommendations and to fishery resource restoration and enhancement activities undertaken pursuant to this Act; and

(I) appropriate contributions that should be made by States and other non-Federal entities to the cost of activities undertaken to implement the recommendations, including a description of—

(i) the activities that shall be cost-shared;

(ii) the entities or individuals which shall share the costs of those activities;

(iii) the proportion of appropriate project and activity costs that shall be borne by non-Federal interests; and

(iv) how the entities or individuals who share costs should finance their contribution.

SEC. 6. IMPLEMENTING ACTIVITIES.

(a) IN GENERAL.—The Director shall carry out such activities as may be appropriate to implement recommendations developed under the study under section 5.

(b) MEMORANDUM OF UNDERSTANDING.—To ensure the coordinated implementation of the study recommendations, the Director shall enter into a memorandum of understanding with the Secretary and the Administrator regarding their respective responsibilities for activities under this section. The Director shall invite the State directors and other interested parties to become active participants in the implementation of the memorandum of understanding.

(c) COST SHARING.—

(1) IN GENERAL.—As a condition of conducting any activity under this section, the Director shall require appropriate non-Federal interest to contribute to the cost of such activity in accordance with recommendations developed under section 5(b)(6).

(2) FEDERAL SHARE.—The total amount contributed by the Federal Government for any activity under this section shall not exceed 80 percent of the total cost of that activity.

(3) IN-KIND CONTRIBUTIONS.—In addition to cash outlays and payments, the Director may apply in-kind contributions of property or personnel services by non-Federal interests for activities under this section for purposes of the non-Federal share of the cost of those activities.

(d) RELATIONSHIP TO EXISTING REQUIREMENTS.—The Director shall carry out activities under this section in accordance with the goals of the Great Lakes Water Quality Agreement of 1978, as revised in 1987, and consistent with the jurisdictional authorities of the State directors over Great Lakes fishery resources.

SEC. 7. GOALS OF UNITED STATES FISH AND WILDLIFE SERVICE PROGRAMS RELATED TO GREAT LAKES FISHERY RESOURCES.

In administering programs of the United States Fish and Wildlife Service related to the Great Lakes, the Director shall seek to achieve the following goals:

(1) Restoring and maintaining self-sustaining fishery resource populations.

(2) Minimizing the impacts of contaminants on fishery and wildlife resources.

(3) Protecting, maintaining, and, where degraded and destroyed, restoring fish and wildlife habitat, including the enhancement and creation of wetlands that result in a net gain in the amount of those habitats.

(4) Stopping illegal activities adversely impacting fishery and wildlife resources.

(5) Restoring threatened and endangered species to viable, self-sustaining levels.

(6) Protecting, managing, and conserving migratory birds.

SEC. 8. ESTABLISHMENT OF OFFICES.

(a) GREAT LAKES COORDINATION OFFICE.—The Director shall establish a centrally located facility for the coordination of all United States Fish and Wildlife Service activities in the Great Lakes System, to be known as the "Great Lakes Coordination Office". The functional responsibilities of the Great Lakes Coordination Office shall include intra- and interagency coordination, information distribution, and public awareness outreach. The Great Lakes Coordination Office shall include all administrative and technical support necessary to carry out its responsibilities.

(b) LOWER GREAT LAKES FISHERIES ASSISTANCE OFFICE.—The Director shall establish an office with necessary administrative and technical support services for the implementation of fishery restoration and enhancement projects in the lower Great Lakes, to be known as the "Lower Great Lakes Fisheries Assistance Office". The office shall be centrally located in the lower Great Lakes region so as to facilitate fisheries restoration and enhancement activities relating to Lakes Erie and Ontario.

SEC. 9. REPORTS.

(a) ANNUAL REPORTS.—Not later than 1 year after the date of the enactment of this Act and annually thereafter, the Director shall submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Director of the Great Lakes National Program Office in the Environmental Protection Agency. Each such report shall describe—

(1) the progress and findings of the studies conducted under section 5, including recommendations of implementing activities, where appropriate, that would contribute to the restoration or improvement of one or more fish stocks of the Great Lakes System; and

(2) the status of activities undertaken pursuant to the implementation of those recommendations; and

(3) activities undertaken to accomplish the goals stated in section 7.

(b) FINAL REPORT.—Not later than October 1, 1995, the Director shall submit a final report to the Committees referred to in subsection (a), describing—

(1) the findings, conclusions, and final recommendations of the study conducted under section 5; and

(2) the results of all activities under section 6.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) UNITED STATES FISH AND WILDLIFE SERVICE.—There are authorized to be appropriated to the Director—

(1) for conducting a study under section 5 and carrying out activities under section 6, not more than $4,000,000 for each of the fiscal years 1991 through 1995;

(2) to establish and operate the Great Lakes Coordination Office under section 8(a), not more than $4,000,000 for each of the fiscal years 1991 through 1995; and

(3) to establish and operate the Lower Great Lakes Fisheries Assistance Office under section 8(b), not more than $2,000,000 for each of the fiscal years 1991 through 1995.

(b) ENVIRONMENTAL PROTECTION AENCY.—There are authorized to be appropriated to the Administrator to carry out this Act not more than $1,500,000 for each of the fiscal years 1991 through 1995.

(c) DEPARTMENT OF ARMY.—There are authorized to be appropriated to the Secretary to carry out this Act not more than $1,500,000 for each of the fiscal years 1991 through 1995.●

By Mr. BOSCHWITZ:

S. 2709. A bill to amend the Internal Revenue Code of 1986 to provide that certain expenses of travel, meals, and lodging of members of the National Guard or reserve units of the Armed Forces will be allowable as deductions in computing adjusted gross income; to the Committee on Finance.

DEDUCTIBILITY OF CERTAIN TRAVEL EXPENSES OF NATIONAL GUARD OR RESERVE UNITS

● Mr. BOSCHWITZ. Mr. President, I rise today to introduce legislation that will return a benefit to members of our National Guard and Reserves—one that they enjoyed for many years, and deserve to have again.

Mr. President, we have all witnessed some tremendous changes in the world in recent months. The crumbling of the Communist bloc will allow millions of people to live in peace and freedom. These changes will also allow us to safely downscale our active duty military forces. In this time of tight budget constraints, the savings we can make in defense spending will help our economy. However, many threats to American national security remains, and we must not decrease our military preparedness and capabilities hastily or irresponsibly. Fortunately there is a way to cut active duty forces, save money, and maintain our military strength. We can do this by giving a greater role in our defense to the National Guard and Reserves.

The citizen soldiers in the Guard and Reserves comprise a strong, well-trained, and cost-effective element of our Armed Forces. While our active duty forces shrink, we must not neglect the Guard and Reserves. On the contrary, we must rely more heavily on them, and we must encourage young people to join the Guard and

Reserves and those already in the Guard and Reserves to stay in.

A recent IRS ruling puts a greater financial burden on members of the Guard and Reserves, and thus discourages participation. This ruling, which took effect on January 1, 1990, removes the tax deduction for members of the Guard and Reserves for travel and other expenses incurred in the performance of their military duties.

This increased expense for members of the Guard and Reserves is a move in the wrong direction, at a time when our Nation will be counting on them more than ever. Many guardsmen and reservists must travel great distances to join their units. They now must pay these expenses themselves. This new ruling amounts to a penalty for those who choose to serve our country.

The legislation I am introducing reverses this ruling, and allows members of the Guard and Reserves to deduct reasonable expenses of travel, meals and lodging incurred while away from home in connection with the performance of military duties.

Mr. President, this is the least we can do for these patriotic men and women who serve in our Nation's defense, often with little compensation. In times of need our Nation has called upon members of the Guard and Reserves, and they have responded every time with courage and bravery. This is another one of those times. While we place more of the responsibility for our Nation's defense on the Guard and Reserves, we should support its members by lessening the financial burden that comes with serving their country.●

By Mr. DASCHLE (for himself and Mr. PRESSLER):

S. 2710. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota Pumping Division, Pick-Sloan Missouri Basin Program, and for other purposes; to the Committee on Energy and Natural Resources.

AUTHORIZATION OF CERTAIN WATER PROJECTS

● Mr. DASCHLE. Mr. President, I rise today with my colleague from South Dakota, Senator PRESSLER, to introduce the revised version of the Lake Andes-Wagner/Marty II irrigation project in South Dakota. This bill supersedes S. 202, also introduced by Senator PRESSLER and myself. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2710

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,

SECTION 1. AUTHORIZATION OF THE LAKE ANDES-WAGNER UNIT AND THE MARTY II UNIT, SOUTH DAKOTA.

The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") acting through the Bureau of Reclamation (hereinafter in this Act referred to as "Reclamation") is authorized to construct, operate, and maintain the Lake Andes-Wagner Unit and the Marty II unit, South Dakota, as Units of the South Dakota Pumping Division, Pick-Sloan Missouri Basin Program. The Units shall be integrated physically and financially with other Federal works constructed under the Pick-Sloan Missouri Basin Program.

SEC. 2. CONDITIONS.

(a) LAKE ANDES-WAGNER UNIT.—The Lake Andes-Wagner Unit shall be constructed, operated, and maintained to irrigate not more than approximately 45,000 acres substantially as provided in the Lake Andes-Wagner Unit Planning Report/Final Environmental Impact Statement filed September 17, 1985, supplemented as provided in section 4 of this Act. The Lake Andes-Wagner Unit shall include on-farm pumps, irrigation sprinkler systems, and other on-farm facilities necessary for the irrigation of not to exceed approximately 1,700 acres of Indian-owned lands. The use of electric power and energy required to operate the facilities for the irrigation of such Indian-owned lands and to provide pressurization for such Indian-owned lands shall be considered to be a project use.

(b) MARTY II UNIT.—The Marty II Unit shall include a river pump, irrigation distribution system, booster pumps, irrigation sprinkler systems, farm and project drains, electrical distribution facilities, and the pressurization to irrigate not more than approximately 3,000 acres of Indian-owned land in the Yankton-Sioux Indian Reservation, substantially as provided in the Marty II Unit Planning Report-Final Environmental Impact Statement referred to in section 4 of this Act.

(c) REPAYMENT OF CONSTRUCTION COSTS.—The construction costs of the Lake Andes-Wagner Unit allocated to irrigation (both those assigned for return by the water users and those assigned for return from power revenues of the Pick-Sloan Misouri Basin Program) shall be repaid no later than 40 years following the development period. Repayment of the construction costs of the Marty II Unit allocated to irrigation shall be governed by the Act of July 1, 1932 (47 Stat. 564 Chapter 369; U.S.C. 386a).

(d) INDIAN-OWNED LANDS.—Indian-owned lands, or interests therein, required for the Lake Andes-Wagner Unit or the Marty II Unit may, as an alternative to their acquisition pursuant to existing authority under the Federal reclamation law, be acquired by exchange for lands or interests therein of equal or greater value which are owned by the United States and administered by the Secretary or which may be acquired for that purpose by the Secretary.

(e) AGRICULTURE PROGRAMS.—For purposes of participation of lands in the Lake Andes-Wagner Unit and the Marty II Unit in programs covered by title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) the crop acreage base determined under section 504 of such Act (7 U.S.C. 1464) and the program payment yield determined under section 506 of such Act (7 U.S.C. 1466) shall be the crop acreage base and program payment yield established for the crop year immediately preceding the crop year in which the development period for each Unit is initiated. For any successor programs established for crop years subsequent to 1990, the acreage and yield on which any program payments are based shall be determined without taking into consideration any increase in acreage or yield resulting from the construction and operation of the Units.

(f) RURAL WATER SUPPLY.—Facilities constructed pursuant to section 1 of this Act may be utilized for purposes of rural (including municipal and industrial) water supplies pursuant to agreements entered into between the Secretary and any entity operating a rural water supply system serving the area. Such agreements shall be satisfactory to the Secretary and may include provisions for inclusion of capacity, improvements, modifications, additions and enlargements, subject to cost sharing of construction costs allocable to rural water supply as provided in paragraphs (2) and (3) of section 4(a) of the Mni Wiconi Project Act of 1988 (P.L. 100-516). Such agreements shall include provisons requiring the contracting entity to bear an appropriate share of operation and maintenance (including expenses of administration) and replacement costs with respect to facilities jointly used and all such costs in the case of facilities when devoted solely to service to the contracting entity: *Provided*, That power used for service, other than during the summer electrical season of the Western Area Power Administration, to a contracting entity under this section shall not constitute a project use. Neither construction nor operation, maintenance and replacement costs allocable to irrigation may be increased as a result of any agreement made under this subsection. No agreement shall be made under this subsection without the approval of the Lake Andes-Wagner Irrigation District or of the Yankton Sioux tribe, as the case may be, not unless the Secretary finds that it will not impair the efficiency of the Lake Andes-Wagner Unit or the Marty II Unit for irrigation purposes, not shall any such agreement be made until the requirements of the National Environmental Policy Act of 1969 have been met. Section 5 of the Mni Wiconi Project Act of 1988 shall apply to all agreements made under this subsection. Mitigation for fish and wildlife losses, if any, incurred as a result of any agreement made under this subsection shall be on an acre-for-acre basis based on ecological equivalencies, concurrent with construction, if any, under the agreement.

(g) MITIGATION OF FISH AND WILDLIFE LOSSES.—Mitigation of fish and wildlife lossess incurred as a result of the construction and operation of the facilities authorized by section 1 of this Act shall be concurrent with construction of the Unit involved and shall be on an acre-for-acre basis, based on ecological equivalency. In addition to the fish and wildlife enhancement to be provided by the fish rearing pond of the Lake Andes Unit, other facilities of that Unit may be utilized to provide fish and wildlife benefits beyond the mitigation required to the extent that such benefits may be provided without increasing costs of construction, operation, maintenance of replacement allocable to irrigation or impairing the efficiency of that Unit for irrigation purposes.

SEC. 3. DEMONSTRATION PROGRAM.

(a) DIRECTION.—The Secretary, acting pursuant to existing authority under the Federal reclamation laws, shall, through Reclamation, and with the assistance and cooperation of the Oversight Committee consisting of representatives of the Bureau of

Indian Affairs, the Environmental Protection Agency, the Fish and Wildlife Service, the Geological Survey, the South Dakota Departments of Game, Fish and Parks and Water and Natural Resources, the Yankton Sioux Tribe, the Lake Andes-Wagner Water Systems, Inc. and Reclamation, carry out a demonstration program (hereinafter in this Act the "Demonstration Program") in substantial accordance with the "Lake Andes-Wagner-Marty II Demonstration Program Plan of Study," dated May 1990, a copy of which is on file with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(b) OBJECTIVES.—The objectives of the Demonstration Program shall include—

(1) the development of accurate and definitive means of quantifying projected irrigation and drainage requirements, and providing reliable estimates of drainage return flow quality and quantity, with respect to glacial till and other soils found in the specific areas to be served with irrigation water by the Lake Andes-Wagner Unit and the Marty II Unit and which may also have application to the irrigation and drainage of similar soils found in other areas of the United States;

(2) the development of irrigation best management practices for the purpose of improving the efficiency of water use and developing and demonstrating management techniques and technologies for glacial till soils which will prevent or otherwise ameliorate the degradation by irrigation practices of water quality;

(3) the investigation and demonstration of the potential for development and enhancement of wetlands and fish and wildlife within and adjacent to the service areas of the Lake Andes-Wagner Unit and the Marty II Unit through the application of water, and other management practices;

(4) the investigation and demonstration of the suitability of glacial till soils for crop production under irrigation giving preference to crops that are not eligible for assistance under programs covered by title V of the Agricultural Act of 1949 (7 U.S.C. 1462 et seq.) and by any successor programs established for crop years subsequent to 1990.

(c) AGREEMENTS WITH PARTICIPATING LANDOWNERS.—Study sites shall be obtained through leases from landowners who voluntarily agree to participate in the Demonstration Program under the following conditions:

(1) Rentals paid under a lease shall be based on the fair rental market value prevailing for dry land farming of lands of similar quantity and quality plus a payment representing reasonable compensation for inconveniences to be encountered by the lessor;

(2) All water, delivery systems, pivot systems and drains will be supplied by Reclamation;

(3) Reclamation will operate and maintain the irrigation system;

(4) Reclamation will supply all seed, fertilizers and pesticides and will make standardized equipment available;

(5) Reclamation will determine crop rotations and cultural practices;

(6) Reclamation shall have unrestricted access to leased lands;

(7) Reclamation, at its option, may contract with the lessor and/or custom operators to accomplish agricultural work, which work shall be performed as prescribed by Reclamation;

(8) No grazing may be performed on a study site;

(9) Crops grown shall be the property of the United States;

(10) At the conclusion of the lease, the lands involved will, to the extent practicable, be restored by Reclamation to their pre-leased condition at no expense to the lessor.

(d) SALE OF CROPS.—Reclamation shall offer crops grown under the Demonstration Program for sale to the highest bidder under terms and conditions to be prescribed by Reclamation. Any crops not sold shall be disposed of as Reclamation determines to be appropriate: *Provided,* That no crop may be given away to any for-profit entity or farm operator. All receipts from crop sales shall be covered into the Treasury to the credit of the fund from which appropriations for the conduct of the Demonstration Program are derived.

(e) PROTECTION OF ASCS BASE.—The land from each ownership in a study site shall be established by the Secretary as a separate farm. Each such studysite farm will, during the demonstration phase of the Demonstration Program, annually receive planted and considered planting credit equal to the crop acreage base established for the farm by use of crop land ratios when it became a separate farm without regard to the acreage actually planted on the farm: *Provided,* That the establishment of such study site farms shall not entitle the Secretary to participate in farm programs or to build program base.

(f) REPORTS.—(1) The Secretary shall periodically, but not less often than once a year, report to the Committee on Interior and Insular Affairs of the House of Representatives, to the Committee on Energy and Natural Resources of the Senate and to the Governor of South Dakota concerning the activities undertaken pursuant to this section. The Secretary's reports and other information and data developed pursuant to this section shall be available to the public without charge.

(2) Each Demonstration Program report, including the report referred to in clause (C) of this paragraph, shall evaluate data covering the results of the Demonstration Program as carried out on the six study sites during the period covered by the report together with data developed under the wetlands enhancement aspect during that period. At the conclusion of the fifth full irrigation season, the demonstration phase of the Demonstration Program shall terminate and the Secretary shall proceed promptly thereafter:

(A) To remove temporary facilities and equipment and to restore the study sites as nearly as practicable to their pre-lease condition: *Provided,* That the Secretary may transfer the pumping plant and/or distribution lines to public agencies for uses other than commercial irrigation;

(B) To otherwise wind up the Demonstration Program; and

(C) To prepare a concluding report and recommendations covering the entire demonstration phase, which report shall be transmitted by the Secretary to the Congress and to the Governor of South Dakota not later than April 1 of the calendar year following the calendar year in which the demonstration phase of the Demonstration Program terminates. The Secretary's concluding report, together with other information and data developed in the course of the Demonstration Program, shall be available to the public without charge.

(g) TREATMENT OF COSTS.—Costs of the Demonstration Program funded by Congressional appropriations shall be accounted for pursuant to the Act of October 29, 1971 (P.L. 92-149, 85 Stat. 416). Costs incurred by the State of South Dakota and any agencies thereof arising out of consultation and participation in the Demonstration Program shall not be reimbursed by the United States.

(h) FUNDING FOR FEDERAL AGENCIES.—Funding to cover expenses of the Federal agencies participating in the Demonstration Program shall be included in the budget submittals for Reclamation and Reclamation, out of the funds appropriated for the Demonstration Program, shall transfer to the other Federal agencies funds appropriated for their expenses.

SEC. 4. PLANNING REPORTS/ENVIRONMENTAL IMPACT STATEMENTS.

(a) On the basis of the concluding report and recommendations of the Demonstration Progam provided for in section 3:

(1) Reclamation, using the alternative benefit evaluation procedures employed in formulating the Lake Andes-Wagner Unit Planning Report/Final Environmental Impact Statement filed September 17, 1985, shall, in accordance with applicable Interior Department and Council on Environmental Quality procedures, prepare and file with the Environmental Protection Agency both a draft and a final supplement thereto.

(2) Reclamation, utilizing alternative benefit evaluation procedures, shall, in accordance with applicable Interior Department and Council on Environmental Quality procedures, complete and file both a draft and a final Planning Report/Environmental Impact Statement with the Environmental Protection Agency covering the Marty II Unit.

(3) The final reports described in paragraphs (1) and (2) shall be transmitted to the Congress simultaneously with their filing with the Environmental Protection Agency.

(b) Each report described in paragraphs (1) and (2) shall include a detailed plan providing for the prevention, correction or mitigation of adverse water quality conditions attributable to agricultural drainage water originating from lands to be irrigated by the Unit to which the report pertains and shall be accompanied by a finding by the Secretary that the Unit to which the report pertains can be constructed, operated and maintained so as to comply with applicable water quality standards.

(c) The construction of a Unit may not be undertaken until the final report pertaining to that Unit has lain before the Congress for not less than 90 days and the Congress has appropriated funds for the initiation of construction.

SEC. 5. INDIAN EMPLOYMENT.

In carrying out sections 1, 2 and 3 of this Act, preference shall be given to the employment of members of the Yankton-Sioux Tribe who can perform the work required regardless of age (subject to existing laws and regulations), sex, or religion, and to the extent feasible in connection with the efficient performance of such functions training and employment opportunities shall be provided members of the Yankton-Sioux Tribe regardless of age (subject to existing laws and regulations), sex, or religion who are not fully qualified to perform such functions.

SEC. 6. FEDERAL RECLAMATION LAWS GOVERN.

This Act is a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts supplemental thereto

and amendatory thereof). The Federal reclamation laws shall govern all functions undertaken pursuant to this Act, except as otherwise provided in this Act.

SEC. 7. COST SHARING.

(a) IN GENERAL.—The Proposal dated September 29, 1987, supplemented October 30, 1987 (on file with the Committee on Interior and Insular Affairs of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate), pursuant to which the State of South Dakota (hereafter in this section referred to as the "State") and the Lake Andes-Wagner Irrigation District (hereafter in this section referred to as the "District") would provide funding for certain costs of the Lake Andes-Wagner Unit, and the District would also assume certain responsibilities with respect thereto, is approved subject to the provisions of subsection (b) of this section. The Secretary shall promptly enter into negotiations with the State and the District to conclude an agreement between the United States, the State, and the District implementing the proposal.

(b) TERMS AND CONDITIONS.—The agreement shall include provisions for —

(1) the establishment and capitalization of the non-Federal fund, including, subject to the Secretary's approval, investment policies and selection of the administering financial institution, and including also provisions dealing with withdrawals of moneys in the fund for construction purposes;

(2) the District to administer the design and construction, which shall be subject to the approval of the Secretary, of the distribution and drainage systems for the Lake Andes/Wagner Unit;

(3) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the ring dike, not exceeding $3,500,000, the construction cost, if any, of such dike in excess of that amount being the responsibility of the United States but any such excess cost remains reimbursable, subject to the condition that construction of the ring dike shall not commence earlier than the sixth year of full operation; and

(4) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the Unit's closed drainage system, not exceeding $36,000,000, the construction cost, if any, of the closed drainage system in excess of that amount being the responsibility of the United States but any such excess cost remains reimbursable, subject to the conditions that—

(A) construction of the closed drainage system shall commence not earlier than the sixth year of full operation of the Unit and shall continue over a period of thirty-five years as required by the Secretary subject to such modifications in the commencement date and the construction period as the Secretary determines to be required on the basis of physical conditions; and

(B) the District, in addition to such annual assessments as may be required to meet its expenses (including operation and maintenance costs and any annual repayment installments to the United States) shall, commencing three years after construction of the Unit (other than drainage facilities) has been completed, levee assessments annually of not less than $1.00 per irrigable acre calculated to provide moneys sufficient, together with other moneys in the fund, including anticipated accruals, referred to in paragraph (1), to finance not to exceed $36,000,000 of the construction costs of the closed drainage system.

(C) In the event the detailed plan for the Lake Andes-Wagner Unit referred to in subsection (b) of section 4 reduces the irrigated acreage of the Lake Andes/Wagner Unit to less than 45,000, the District's maximum obligation hereunder shall be reduced in the ratio that the reduction in acreage bears to 45,000.

(c) ANNUAL BUDGET REPORTS.—(1) Subject to the provisions of paragraph (2) of this subsection, the Secretary shall request that there be included in the annual budget documents submitted by the President to Congress funds permitting completion of construction of the Lake Andes-Wagner Unit (other than the ring dike and closed drainage features) over a period of six years beginning no later than the fiscal year that commences in the second calendar year following the calendar year in which the Supplemental Planning Report/Final Environmental Impact Statement referred to in paragraph 1 of subsection (a) of section 4 of this Act is transmitted to the Congress.

(2) In the event of a delay in construction occasioned by an act of God, or of the public enemy, or any major catastrophe or other unforseen and unavoidable cause of a similar nature, appropriate extensions of time shall be afforded the District in the making of assessments to finance construction of the closed drainage system.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) LAKE ANDES-WAGNER UNIT.—There are authorized to be appropriated—

(1) $165,000,000 (October 1989 price levels) for construction of the Lake Andes-Wagner Unit (other than the facilities described in the second sentence of subsection (a) of section 2 of this Act) less the non-federal contributions as provided in paragraphs (3) and (4) of subsection (b) of section 7 of this Act; and

(2) $1,350,000 (October 1989 price levels) for construction of the facilities described in the second sentence of subsection (a) of section 2 of this Act, which amounts include costs of the Lake Andes-Wagner Irrigation District in administering design and construction of the irrigation distribution and drainage systems.

(b) MARTY II UNIT.—There are authorized to be appropriated $21,000,000 (January 1989 price levels) for construction by the Bureau of Reclamation in consultation with the Bureau of Indian Affairs of the Marty II Unit.

(c) DEMONSTRATION PROGRAM.—There are authorized to be appropriated such amounts as may be necessary to carry out the Demonstration Program.

(d) INDEXING ADJUSTMENTS.—(1) The amounts authorized to be appropriated by subsections (a) and (b) of this section shall be plus or minus such amounts, if any, as may be required by engineering cost indexes applicable to the type of construction involved.

(e) OPERATION AND MAINTANANCE.—There are authorized to be appropriated such sums as may be necessary for the operation and maintenance of each Unit.

SEC. 9. INDIAN WATER RIGHTS.

Nothing in this Act shall be construed as affecting any water rights or claims thereto of the Yankton-Sioux Tribe.●

ADDITIONAL COSPONSORS

S. 110

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 110, a bill to revise and extend the programs of assistance under title X of the Public Health Service Act.

S. 120

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 120, a bill to amend the Public Health Service Act to reauthorize adolescent family life demonstration projects, and for other purposes.

S. 416

At the request of Mr. DOMENICI, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from Texas [Mr. GRAMM] were added as cosponsors of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost of living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 513

At the request of Ms. MIKULSKI, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 513, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend certain retirement provisions of such chapters which are applicable to law enforcement officers to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service.

S. 563

At the request of Mr. GRAHAM, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 563, a bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive retired pay concurrently with disability compensation after a reduction in the amount of retired pay.

S. 865

At the request of Mr. METZENBAUM, the names of the Senator from Texas [Mr. BENTSEN] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 865, a bill to amend the Sherman Act regarding retail competition.

S. 1067

At the request of Mr. GORE, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1067, a bill to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing.

S. 1384

At the request of Mr. DASCHLE, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1384, a bill to amend title XVIII of the Social Security Act to

provide direct reimbursement under part B of Medicare for nurse practitioner or clinical nurse specialist services that are provided in rural areas.

S. 1511

At the request of Mr. PRYOR, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1570

At the request of Mr. PRYOR, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1570, a bill to amend the Social Security Act to partially deregulate the collection of fees for the representation of claimant in administrative proceedings.

S. 1571

At the request of Mr. PRYOR, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1571, a bill to amend the Social Security Act to establish in the Social Security Administration the Office of Chief Administrative Law Judge, and for other purposes.

S. 1651

At the request of Mr. MCCAIN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1651, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States Organization.

S. 1703

At the request of Mr. BOSCHWITZ, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1703, a bill to amend title 38, United States Code, to permit Department of Veterans Affairs medical centers to retain a portion of the amounts collected from third parties as reimbursement for the cost of health care and services furnished by such medical centers.

S. 1815

At the request of Mr. BOSCHWITZ, the names of the Senator from Louisiana [Mr. BREAUX] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1815, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer Social Security taxes on cash tips.

S. 1911

At the request of Mr. DODD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1911, a bill to provide assistance in the development of new or improved programs to help younger individuals through grants to the States for community planning, services, and training; to establish within the Department of Health and Human Services an operating agency to be designated as the Administration on Children, Youth, and Families; to provide for a White House Conference on Young Americans; and for other purposes.

S. 1912

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1912, a bill to protect the reproductive rights of women, and for other purposes.

S. 1942

At the request of Mr. ROCKEFELLER, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1942, a bill to provide for home and community care as optional State-wide service, and for other purposes.

S. 1946

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1946, a bill to amend various provisions of law to ensure that services related to abortion are made available in the same manner as are all other pregnancy-related services under federally funded programs.

S. 2021

At the request of Mr. DOLE, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2021, a bill to amend title 11, United States Code, to ensure that the bankruptcy laws are not used to prevent restitution to, or recovery of, failed financial institutions.

S. 2032

At the request of Mr. COHEN, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Georgia [Mr. NUNN], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 2032, a bill to amend the Internal Revenue Code of 1986 to provide for a credit for health insurance expenses.

S. 2111

At the request of Mr. SIMON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2111, a bill designating the month of May as "Asian/Pacific American Heritage Month."

S. 2112

At the request of Mr. METZENBAUM, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2112, a bill to amend the National Labor Relations Act to prevent discrimination based on participation in labor disputes.

S. 2158

At the request of Mr. PRYOR, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2158, a bill to direct the Secretary of Health and Human Services to promulgate regulations to require that an individual telephoning the Social Security Administration has the option of accessing a Social Security Administration representative in a field office in the geographical area of such individual, and for other purposes.

S. 2164

At the request of Mr. SIMON, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2164, a bill to prevent potential abuses of electronic monitoring in the workplace.

S. 2198

At the request of Mr. BRADLEY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 2198, a bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid Program.

S. 2246

At the request of Mr. BRADLEY, the names of the Senator from Wisconsin [Mr. KOHL], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 2246, a bill to amend title XVIII of the Social Security Act to provide improved Medicare home health benefits, and for other purposes.

S. 2247

At the request of Mr. GRAHAM, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2247, a bill to establish the Florida Keys National Marine Sanctuary in the State of Florida and for other purposes.

S. 2307

At the request of Mr. RIEGLE, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2307, a bill to require the Secretary of Health and Human Services to provide intensive outreach and other services and protections to homeless individuals.

S. 2319

At the request of Mr. GARN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2442

At the request of Mr. SIMON, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 2442, a bill to amend the Occupational Safety and Health Act of 1970 to expand the rights of victims of occupational safety

and health hazards, and for other purposes.

S. 2548

At the request of Mr. METZENBAUM, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2548, a bill to amend the Fair Labor Standards Act of 1938 to increase penalties for employers who violate the child labor provisions of such act, and for other purposes.

S. 2611

At the request of Mr. HARKIN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2611, a bill to authorize assistance to the Washington Center for Internships and Academic Seminars.

S. 2653

At the request of Mr. BURNS, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2653, a bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

S. 2663

At the request of Mr. MCCAIN, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from California [Mr. WILSON] were added as cosponsors of S. 2663, a bill to provide increased and special benefits to individuals involuntarily separated from the Armed Forces, and for other purposes.

SENATE JOINT RESOLUTION 256

At the request of Mr. SIMON, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Florida [Mr. GRAHAM], the Senator from Ohio [Mr. METZENBAUM], the Senator from Indiana [Mr. LUGAR], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of Senate Joint Resolution 256, a joint resolution to designate the week of October 7, 1990, through October 13, 1990, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 274

At the request of Mr. LAUTENBERG, the names of the Senator from Georgia [Mr. NUNN], the Senator from Illinois [Mr. SIMON], the Senator from Utah [Mr. HATCH], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 274, a joint resolution to designate the week beginning June 10, 1990 as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 279

At the request of Mr. SPECTER, the names of the Senator from Idaho [Mr. SYMMS] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 279, a joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 282

At the request of Mr. WILSON, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Oregon [Mr. HATFIELD], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Joint Resolution 282, a joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child."

SENATE JOINT RESOLUTION 283

At the request of Mr. CRANSTON, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Utah [Mr. HATCH], the Senator from Washington [Mr. ADAMS], the Senator from Louisiana [Mr. BREAUX], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 283, a joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park.

SENATE JOINT RESOLUTION 289

At the request of Mr. SIMON, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Washington [Mr. ADAMS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Maryland [Mr. SARBANES], the Senator from Virginia [Mr. ROBB], the Senator from Alabama [Mr. SHELBY], the Senator from New York [Mr. MOYNIHAN], the Senator from Tennessee [Mr. SASSER], the Senator from New York [Mr. D'AMATO], the Senator from Indiana [Mr. LUGAR], the Senator from Maine [Mr. MITCHELL], the Senator from Florida [Mr. MACK], the Senator from Arkansas [Mr. BUMPERS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Wisconsin [Mr. KOHL], the Senator from Virginia [Mr. WARNER], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Hawaii [Mr. AKAKA], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Joint Resolution 289, a joint resolution to designate October 1990 as "Polish American Heritage Month."

SENATE JOINT RESOLUTION 292

At the request of Mr. PELL, the name of the Senator from Ohio [Mr. METZENBUAM] was added as a cosponsor of Senate Joint Resolution 292, a joint resolution to designate the year 1991 as the "Year of the Lifetime Reader."

SENATE JOINT RESOLUTION 293

At the request of Mr. RIEGLE, the names of the Senator from Connecticut [Mr. DODD] and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 293, a joint resolution to designate November 6, 1990, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 297

At the request of Mr. SIMON, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of Senate Joint Resolution 297, a joint resolution designating September 1990 as "National Craft Month."

SENATE JOINT RESOLUTION 306

At the request of Mr. SIMON, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 306, a joint resolution to designate the period commencing October 21, 1990, and ending October 27, 1990, as "National Humanities Week."

SENATE JOINT RESOLUTION 311

At the request of Mr. INOUYE, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 311, a joint resolution to designate the month of November 1990, as "National American Indian and Alaska Native Heritage Month."

SENATE JOINT RESOLUTION 312

At the request of Mr. ROBB, the names of the Senator from Virginia [Mr. WARNER], the Senator from Georgia [Mr. NUNN], the Senator from North Dakota [Mr. CONRAD], the Senator from Connecticut [Mr. DODD], the Senator from Texas [Mr. BENTSEN], the Senator from Alaska [Mr. STEVENS], the Senator from Idaho [Mr. MCCLURE], the Senator from Louisiana [Mr. BREAUX], the Senator from Illinois [Mr. DIXON], the Senator from Alabama [Mr. SHELBY], the Senator from California [Mr. WILSON], the Senator from North Dakota [Mr. BURDICK], the Senator from Alabama [Mr. HEFLIN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Pennsylvania [Mr. SPECTER], the Senator from South Dakota [Mr. PRESSLER], the Senator from Rhode Island [Mr. PELL], the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. MOYNIHAN], the Senator from Michigan [Mr. LEVIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Carolina [Mr. THURMOND], the Senator from Hawaii [Mr. AKAKA], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Iowa [Mr. GRASSLEY], the Senator from Tennessee [Mr. SASSER], the Senator from New Jersey [Mr. BRADLEY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Tennessee [Mr. GORE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Massachusetts [Mr. KERRY], the Senator from Washington [Mr. ADAMS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Min-

nesota [Mr. BOSCHWITZ], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Wisconsin [Mr. KASTEN], the Senator from North Carolina [Mr. HELMS], the Senator from North Carolina [Mr. SANFORD], the Senator from Ohio [Mr. GLENN], the Senator from Arizona [Mr. DECONCINI], the Senator from Washington [Mr. GORTON], the Senator from Wisconsin [Mr. KOHL], the Senator from Indiana [Mr. COATS], the Senator from New York [Mr. D'AMATO], the Senator from Colorado [Mr. WIRTH], the Senator from Ohio [Mr. METZENBAUM], the Senator from Oregon [Mr. HATFIELD], the Senator from Oklahoma [Mr. BOREN], the Senator from Utah [Mr. GARN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 312, a joint resolution designating the week of November 12, 1990, through November 18, 1990, as "National Critical Care Awareness Week."

SENATE JOINT RESOLUTION 314

At the request of Mr. HEINZ, the names of the Senator from Idaho [Mr. SYMMS], the Senator from Washington [Mr. GORTON], the Senator from Tennessee [Mr. SASSER], the Senator from Hawaii [Mr. INOUYE], the Senator from Arizona [Mr. DECONCINI], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 314, a joint resolution to commemorate the 50th anniversary of the National Federation of the Blind.

SENATE JOINT RESOLUTION 320

At the request of Mr. LAUTENBERG, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from South Carolina [Mr. THURMOND], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of Senate Joint Resolution 320, a joint resolution designating July 2, 1990, as "National Literacy Day."

SENATE JOINT RESOLUTION 326

At the request of Mr. D'AMATO, the names of the Senator from Ohio [Mr. GLENN], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 326, a joint resolution to designate December 21, 1990, as a "Day of Observance for the Victims of Terrorism."

SENATE JOINT RESOLUTION 328

At the request of Mr. SPECTER, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Maryland [Mr. SARBANES], the Senator from Hawaii [Mr. INOUYE], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 328, a joint resolution designating October 1990 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 329

At the request of Mr. DECONCINI, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Ohio [Mr. GLENN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Joint Resolution 329, a joint resolution to designate the week of June 17, 1990 through June 23, 1990 as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-1933," and to commemorate the Ukrainian famine of 1932-1933 and the policies of Russification to suppress Ukrainian identity.

SENATE JOINT RESOLUTION 332

At the request of Mr. DOLE, the names of the Senator from Alabama [Mr. HEFLIN], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 332, a joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. HATFIELD, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Concurrent Resolution 91, a concurrent resolution expressing the sense of the Congress with respect to achieving common security in the world by reducing reliance on the military and redirecting resources toward overcoming hunger and poverty and meeting basic human needs.

SENATE CONCURRENT RESOLUTION 95

At the request of Mr. SIMON, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Concurrent Resolution 95, a concurrent resolution concerning the consultations of nations at the conference on the reunification of Germany.

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. MITCHELL, his name was added as a cosponsor of Senate Concurrent Resolution 126, a concurrent resolution calling for a United States policy of promoting the continuation, for a minimum of an additional 10 years, of the International Whaling Commission's moratorium on the commercial killing of whales, and otherwise expressing the sense of the Congress with respect to conserving and protecting the world's whale population.

At the request of Mr. PELL, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Concurrent Resolution 126, supra.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. KENNEDY, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of Congress that Greyhound Lines, Inc., and the Amalgamated Transit Union should pursue meaningful negotiations under the auspices of the Federal Mediation and Conciliation Service and the Secretary of Labor to resolve their dispute and restore vital transportation services to American communities.

SENATE CONCURRENT RESOLUTION 137

At the request of Mr. BOSCHWITZ, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Concurrent Resolution 137, a concurrent resolution to express the sense of Congress that the 1990 Nuclear Non-Proliferation Treaty [NPT] Review Conference should reaffirm the support of the parties for the objectives of the NPT, in particular preventing the spread of nuclear weapons to additional countries.

SENATE RESOLUTION 231

At the request of Mr. BRADLEY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of Senate Resolution 231, a resolution urging the submission of the Convention on the Rights of the Child to the Senate for its advice and consent to ratification.

SENATE RESOLUTION 294—RELATIVE TO THE SETTLEMENT OF A CERTAIN CASE

Mr. FORD (for himself and Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 294

Whereas Civil Action No. 71-271, captioned Ronald V. Dellums, et al. v. James M. Powell, et al., was filed on November 11, 1971, in the United States District Court for the District of Columbia against the then Chief of the United States Capitol Police and others;

Whereas that court on July 3, 1980, after a jury verdict in January 1975 was affirmed in part by the United States Court of Appeals for the District of Columbia Circuit on August 4, 1977 and certiorari was denied by the Supreme Court on July 3, 1978, entered for plaintiffs a judgment which was paid out of the District of Columbia Appropriations settlement fund;

Whereas that court also, on February 20, 1980, on remand from the 1977 appellate decision and consideration of new defenses, had left intact a reversal order for another trial on the as yet unresolved issue, which action was upheld by the Court of Appeals on July 24, 1981, thereby opening the matter to settlement negotiations;

Whereas in the interests of bringing this protracted, 19-year litigation to a conclusion and obviating the need for a second trial that would take a great toll on all parties involved, the Senate has been asked to share evenly with the House of Representatives a $60,000 payment on behalf of former Chief Powell;

Whereas Chief Powell, in his service to the Senate and during the course of events

that gave rise to the court action against him, believed he was acting in good faith and within the scope of his authority as an employee of the Congress charged with maintaining security and orderliness within the United States Capitol buildings and grounds; and

Whereas in the unique circumstances of this case it would further the cause of justice and human considerations for the Senate to accept responsibility for paying the negotiated settlement that would relieve James M. Powell of the burden of all related claims against him as Chief of the United States Capitol Police; Now, therefore, be it

Resolved, That the Committee on Rules and Administration is authorized to make payment from the contingent fund of the Senate in the amount of $30,000, constituting total satisfaction of all remaining claims against James M. Powell associated with the case of Ronald v. Dellums, et al. v. James M. Powell, et al.

AMENDMENTS SUBMITTED

CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

CRANSTON AMENDMENT NO. 1969

(Ordered to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death; and for other purposes, as follows:

On page 1, in the matter following line 3, redesignate sections 105 and 106 as sections 103 and 104 and strike the items for sections 102, 103, and 104 and insert the following:

"102. Mandatory life imprisonment without possibility of release.".

On page 3, strike line 5 and all that follows through page 24, line 14, and insert the following:

SEC. 102. MANDATORY LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE.

(a) AIRCRAFT AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended to read as follows:

"§ 34. Penalty when death results

"Whoever is convicted of any crime prohibited by this chapter that has resulted in the death of any person, shall, in addition to any punishment imposed for the crime itself, be punished by mandatory life imprisonment without possibility of release.".

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking "death or by imprisonment for any term of years or for life" and inserting "mandatory life imprisonment without possibility of release.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking ", shall be subject to imprisonment for any term of years, or the death penalty or to life imprisonment as provided in section 34 of this title" and inserting "punished by mandatory life imprisonment without possibility of release.".

(2) Section 844(f) of title 18, United States Code, is amended by striking "subject to imprisonment for any term of years, or the death penalty or to life imprisonment as provided in section 34 of this title" and inserting "punished by mandatory life imprisonment without possibility of release.".

(3) Section 844(i) of title 18, United States Code, is amended by striking "subject to imprisonment for any term of years, or the death penalty or to life imprisonment as provided in section 34 of this title" and inserting "punished by mandatory life imprisonment without possibility of release.".

(d) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life" and inserting ", where death results, a fine of not more than $1,000,000 and mandatory life imprisonment without possibility of release";

(e) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by mandatory life imprisonment without possibility of release;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "sentenced to imprisonment for life" and inserting "punished by mandatory life imprisonment without possibility of release".

(f) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by mandatory life imprisonment without possibility of release".

(g) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by mandatory life imprisonment without possibility of release".

(h) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended to read as follows:

"Whoever is convicted of any crime prohibited by this section that has resulted in the death of any person, shall, in addition to any punishment imposed for the crime itself, be punished by mandatory life imprisonment without possibility of release.".

(i) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by mandatory life imprisonment without possibility of release, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(j) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking "be subject also to the death penalty or to imprisonment for life, if the jury shall in its discretion so direct, or, in the case of a plea of guilty, if the court in its discretion shall so order" and inserting ", shall, in addition to any punishment imposed for the crime itself, be punished by mandatory life imprisonment without possibility of release.".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by mandatory life imprisonment without possibility of release and shall be fined not more than $250,000".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "shall be imprisoned not less than ten years, or punished by death if the verdict of the jury shall so direct" and inserting "shall, if the death of any person results, be punished by mandatory life imprisonment without possibility of release".

(m) FEDERAL AVIATION ACT OF 1958.—(1) Section 902 of the Federal Aviation Act of 1958 (42 U.S.C. 1472) is amended—

(A) in subsection (i)(1)(B) by striking "by death or by imprisonment for life" and inserting "by mandatory life imprisonment without possibility of release"; and

(B) in subsection (n)(1)(B) by striking "by death or by imprisonment for life" and inserting "by mandatory life imprisonment without possibility of release".

(2) Section 903 of the Federal Aviation Act of 1958 (42 U.S.C. 1473) is amended by striking subsection (c).

(n) CONTROLLED SUBSTANCES ACT.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) in subsection (e)(1) (A) and (B) by striking "life imprisonment, or may be sentenced to death" and inserting "mandatory life imprisonment without possibility of release"; and

(2) by striking subsection (g) through (r).

On page 24, line 15, strike "105" and insert "103".

On page 24, line 20, strike "106" and insert "104".

On page 25, lines 4 and 5, strike "death or by life imprisonment without the possibility of parole" and insert "mandatory life imprisonment without possibility of release".

On page 34, after line 21 insert the following:

SEC. 105. PAYMENT OF RESTITUTION.

Section 3663 of title 18, United States Code, is amended by adding at the end thereof the following:

"(i) The court may order a defendant who is sentenced to life imprisonment to pay restitution.".

GRAHAM (AND OTHERS) AMENDMENT NO. 1970

(Ordered to lie on the table.)

Mr. GRAHAM (for himself, Mr. DIXON, Mr. WIRTH, and Mr. KERREY) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

Add at the appropriate place the following:

SECTION 1. ESTABLISHMENT OF FINANCIAL SERVICES CRIME DIVISION.

(a) There is established within the Department of Justice, the Financial Services Crime Division.

SEC. 2. ASSISTANT ATTORNEY GENERAL FOR FINANCIAL SERVICES CRIME.

(a) ASSISTANT ATTORNEY GENERAL.—There shall be at the head of the Financial Services Crime Division established by this title, as Assistant Attorney General of the De-

partment of Justice for the Financial Services Crime Division, who shall—

(1) be appointed by the President, by and with the advise and consent of the Senate;

(2) report directly to the Attorney General of the United States;

(3) ensure that all investigations and prosecutions are coordinated within the Department of Justice to provide the greatest use of civil proceedings and forfeitures to attack the financial resources of those who have committed fraud or engaged in other criminal activity in or against the financial services industry.

(4) ensure that all investigations and prosecutions are coordinated within the Department of Justice to ensure that adequate resources are made available in connection with criminal investigations and prosecution of fraud and other criminal activity in the financial services industry.

(b) COMPENSATION.—(1) Section 5315 of title 5, United States Code, is amended by striking out:

"Assistant Attorneys General (10)."

and inserting in lieu thereof:

"Assistant Attorneys General (11)."

(2) The Assistant Attorney General of the Financial Services Crime Division shall be paid at the basic pay payable for level IV of the Executive Schedule.

SEC. 3. DEPUTY ASSISTANT ATTORNEY GENERAL.

(a) ESTABLISHMENT.—There is established the position of Deputy Assistant Attorney General of the Financial Services Crime Division, who shall report directly and be responsible to the Assistant Attorney General of the Financial Services Crime Division.

(b) COMPENSATION.—The Deputy Assistant Attorney General of the Financial Services Crime Division shall be paid at the rate of basic pay payable for level V of the Executive Schedule.

SEC. 4. ADMINISTRATIVE OFFICE OF THE DIVISION; PERSONNEL.

There shall be established within the Financial Services Crime Division such sections, offices and personnel as the Attorney General shall deem appropriate to maintain or increase the level of enforcement activities in the area of fraud and other criminal activity in and against the financial services industry.

SEC. 5. COORDINATION AND ENHANCEMENT OF FIELD ACTIVITIES.

(a) STRIKE FORCES.—The Attorney General shall establish such number of field offices as shall be necessary to carry out the purposes of this act. All such field offices of the Division shall be known as the Financial Services Crime Strike Forces.

(b) COORDINATION WITH AGENCIES.—In investigating and prosecuting crime in the financial services industry, the Division shall coordinate its activities with appropriate officials of the Federal Bureau of Investigation, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Office of Comptroller of the Currency, the Federal Reserve Board and the Securities Exchange Commission.

SEC. 6 REPORTS.

The Division shall compile and collect data concerning the nature and quantity of investigations, prosecutions, and enforcement proceedings in progress; the nature and quantity of such matters closed, settled or litigated to conclusion; and the outcomes achieved, including fines and penalties levied, prison sentences imposed and damages recovered. The Division shall make the raw data collected available to any Committee of Congress or congressional agency. In addition, the Division shall analyze and report to the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee of the United States Congress semiannually on this data, and its own coordination activities with the agencies identified in section 5(b) above. Such report shall identify with respect to the Division and the agencies identified above:

(i) the institutions in which evidence of significant fraud or insider abuse has been detected;

(ii) the Federal administrative enforcement actions brought against parties;

(iii) the claims for monetary damages or other relief sought, and any settlements of judgments against parties;

(iv) indictments, guilty pleas or verdicts obtained against parties; and

(v) the resources allocated in pursuit of such claims, actions, settlements, indictments or verdicts.

SEC. 7. APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as shall be necessary to carry out the purposes of this Act.

INOUYE AMENDMENT NO. 1971

(Ordered to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert:

"§. 3598. Nonapplication in certain portions of Indian Country

"Notwithstanding sections 1152 and 1153, the provisions of this chapter (other than this section) shall apply with respect to an offense of murder in the first degree that is committed by an Indian, or against an Indian, in any portion of Indian country (within the meaning of section 1151) only if the governing body of the Indian tribe that has jurisdiction over such portion of Indian country elects, by no later than the date that is 1 year after the of enactment of the Federal Death Penalty Act of 1989, to have the other provisions of this chapter apply with respect to such offenses.".

BIDEN AMENDMENT NOS. 1972 THROUGH 1974

(Ordered to lie on the table.)

Mr. BIDEN submitted three amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1972

At the appropriate place in the bill, add the following:

SECTION . RAILROAD POLICE AUTHORITY.

A railroad police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of any State shall, in accordance with regulations issued by the Secretary of Transportation, be authorized to enforce the laws of any jurisdiction in which the rail carrier owns property, for the purpose of protecting—

(1) the employees, passengers, or patrons of the rail carrier;

(2) the property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possesson of the rail carrier; and

(4) personnel, equipment, and materials moving via railroad that are vital to the national defense,

to the extent of the authority of a police officer properly certified or commissioned under the laws of that jurisdiction.

AMENDMENT No. 1973

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be im-

posed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or

the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and in-

serting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 301. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and

(2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 402. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 303. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 304. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 305. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 306. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 307. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005-07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 308. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 309. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 310. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 311. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 312. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

AMENDMENT NO. 1974

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1989".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.

"3591. Sentence of death.

"3592. Factors to be considered in determining whether a sentence of death is justified.

"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the pun-

ishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—EXCLUSIONARY RULE

SEC. 301. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE III—INTERNATIONAL MONEY LAUNDERING

SEC. 401. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and annually thereafter for 3 years, the Secre-

tary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

(b) ADVISORY GROUP ON REPORTING REQUIREMENTS.—Not later than 90 days after the effective date of this section, the Secretary shall establish an Advisory Group on Reports on Monetary Instruments Transactions consisting of representatives of the Department of the Treasury and of financial institutions and other persons subject to the reporting requirements referred to in paragraphs (1) and (2) of subsection (a). The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports referred to in subsections (a) (1) and (2) have been used for the purposes described in subsection (a)(4);

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used for the purposes described in subsection (a)(4); and

(3) receives advice on the manner in which the reporting requirements referred to in subsections (a) (1) and (2) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

SEC. 402. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 403. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State and the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 404. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 405. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 406. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 407. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005-07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 408. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following:

", or for a refusal to do business with that customer after having made such disclosure".

SEC. 409. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 410. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 411. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 412. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

WIRTH AMENDMENT NO. 1975

(Ordered to lie on the table.)

Mr. WIRTH submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the end of the bill, add the following:

SEC. FULL FUNDING OF INVESTIGATION AND PROSECUTION OF FINANCIAL INSTITUTION CIRMES.

(a) FINDINGS.—The Senate finds that—

(1) fraud and other criminal activity contributed significantly to the savings and loan industry's losses and will cost taxpayers billion of dollars;

(2) Attorney General Richard Thronburgh recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of savings and loan failures can be attributed to criminal activity by the institution's officers and management;

(3) officials at the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions the corporation has seized "have been victimized by serious criminal activity";

(4) investigating and prosecuting criminal activity related to the savings and loan crisis will help send an important message of "never again" to those involved in the financial industry;

(5) the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 authorized $75,000,000 annually for 3 years to investigate and prosecute financial institution crimes;

(6) the President requested only $50,000,000 of that authorization on behalf of the Department of Justice for the current fiscal year;

(7) Federal Bureau of Investigation and United States Attorneys' offices requested 224 more special agent positions, 113 more assistant United States attorney positions, and 142 more support staff positions than the agencies received as a result of the $50,000,000 in new funding;

(8) the Federal Bureau of Investigation has received more than 20,000 referrals involving fraud in the financial service industry that the Bureau has been unable to examine, more than 1,000 of which are major cases that involve losses of more than $100,000;

(9) as of February 1990, the Bureau also had more than 7,000 pending bank fraud and embezzlement cases, some 3,000 of which were major cases;

(10) more than 900 pending cases and more than 200 unaddressed eferrals involve losses greater than $1,000,000;

(11) regulators will examine and close more insolvent institutions, and the Department of Justice will receive thousands more referrals of possible criminal activity related to savings and loan failures, increasing the workload for Federal investigators and prosecutors;

(12) the passage of time makes investigation more difficult and expiring statutes of limitation could allow serious crimes to go unpunished if investigation and prosecution is delayed; and

(13) the current level of resources devoted to investigating and prosecuting fraud and criminal activity within the financial services industry is inadequate to address the crimes that contributed to the losses of savings and loan associations.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President should, at a minimum, seek the full $75,000,000 authorized for the Department of Justice for fiscal years 1991 and 1992 to pursue the investigation and prosecution of financial institution crimes; and

(2) the President should allocate additional resources as necessary to ensure that criminal activity that contributed to losses to the Federal deposit insurance funds is investigated and prosecutied to the fullest practicable extent.

HATFIELD AMENDMENT NO. 1976

(Ordered to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

On page 1, in the matter following line 3, strike the item for section 103 and insert the following:

"Sec. 103. Mandatory life imprisonment without possibility of release.".

On page 21, strike line 1 and all that follows through page 24, line 9, and insert the following:

SEC. 103. MANDATORY LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE

(a) AIRCRAFT AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended to read as follows:

"§ 34. Penalty when death results

"Whoever is convicted of any crime prohibited by this chapter that has resulted in the death of any person, shall, in addition to any punishment imposed for the crime itself, be punished by mandatory life imprisonment without possibility of release.".

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking "death or by imprisonment for any term of years or for life" and inserting "mandatory life imprisonment without possibility of release.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking ", shall be subject to imprisonment for any term of years, or the the death penalty or to life imprisonment as provided in section 34 of this title" and inserting "punished by mandatory life imprisonment without possibility of release.".

(2) Section 844(f) of title 18, United States Code, is amended by striking "subject to imprisonment for any term of years, or the the death penalty or to life imprisonment as provided in section 34 of this title" and inserting "punished by mandatory life imprisonment without possibility of release.".

(3) Section 844(i) of title 18, United States Code, is amended by striking "subject to imprisonment for any term of years, or the the death penalty or to life imprisonment as provided in section 34 of this title" and inserting "punished by mandatory life imprisonment without possibility of release.".

(d) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life" and inserting ", where death results, a fine of not more than $1,000,000 and mandatory life imprisonment without possibility of release";

(e) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by mandatory life imprisonment without possibility of release;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "sentenced to imprisonment for life" and inserting "punished by mandatory life imprisonment without possibility of release".

(f) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by mandatory life imprisonment without possibility of release".

(g) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by mandatory life imprisonment without possibility of release".

(h) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended to read as follows:

"Whoever is convicted of any crime prohibited by this section that has resulted in the death of any person, shall, in addition to any punishment imposed for the crime itself, be punished by mandatory life imprisonment without possibility of release.".

(i) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by mandatory life imprisonment without possibility of release, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(j) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking "be subject also to the death

penalty or to imprisonment for life, if the jury shall in its discretion so direct, or, in the case of a plea of guilty, if the court in its discretion shall so order" and inserting ", shall, in addition to any punishment imposed for the crime itself, be punished by mandatory life imprisonment without possibility of release.".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by mandatory life imprisonment without possibility of release and shall be fined not more than $250,000".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "shall be imprisoned not less than ten years, or punished by death if the verdict of the jury shall so direct" and inserting "shall, if the death of any person results, be punished by mandatory life imprisonment without possibility of release".

On page 25, lines 4 and 5, strike "death or by life imprisonment without the possibility of parole" and insert "mandatory life imprisonment without possibility of release".

GORTON (AND OTHERS) AMENDMENT NO. 1977

(Ordered to lie on the table.)

Mr. GORTON (for himself, Mr. HATFIELD, Mr. ADAMS, Mr. HATCH, Mr. D'AMATO, Mr. MCCAIN, Mr. COATS, and Mr. BURNS) proposed an amendment to the bill S. 1970, supra, as follows:

At the appropriate place in the bill, insert the following:

"None of the other provisions in this Act shall take effect unless the following is enacted:"

SEC. . PRECURSOR CHEMICALS.

(a) EXPANDED LIST OF PRECURSOR CHEMICALS.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended by striking subparagraphs (A) through (L) and inserting the following:

"(A) Anthranilic acid.
"(B) Benzyl cyanide.
"(C) Chloroephedrine.
"(D) Chloropseudoephedrine.
"(E) D-lysergic acid.
"(F) Ephedrine.
"(G) Ergonovine maleate.
"(H) Ergotamine tartrate.
"(I) Ethylamine.
"(J) Hydriodic acid.
"(K) Isosafrole.
"(L) Methylamine.
"(M) N-acetylanthranilic acid.
"(N) N-ethylephedrine.
"(O) N-ethylpseudoephedrine.
"(P) N-methylephedrine.
"(Q) N-methylpseudoephedrine.
"(R) Norpseudoephedrine.
"(S) Phenylacetic acid.
"(T) Phenylpropanolamine.
"(U) Phenyl-2-propanone.
"(V) Piperidine.
"(W) Piperonal.
"(X) Propionic anhydride.
"(Y) Pseudoephedrine.
"(Z) Safrole.
"(AA) Thionylchloride.
"(BB) Any salt, optical isomer, or salt of an optical isomer of the foregoing chemicals.".

(b) CONFORMING REPEAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended—

(1) by striking subparagraph (E); and

(2) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G).

(c) ELIMINATION OF THRESHOLD REQUIREMENT FOR PRECURSOR CHEMICALS.—Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A) is amended—

(1) by inserting "any amount of a listed precursor chemical, or" before "a threshold amount, including a cumulative threshold amount for"; and

(2) by striking "listed chemical" the first place such term appears and inserting "listed essential chemical".

(d) REPORTS OF REGULATED TRANSACTIONS.—Section 310(b)(1) of the Controlled Substances Act (21 U.S.C. 830(b)(1)) is amended—

(1) by inserting "any quantity of a listed precursor chemical," after "involving"; and

(2) by striking "a listed chemical" and inserting "a listed essential chemical".

(e) PROVISION TO STATES OF INFORMATION RELATING TO REGULATED TRANSACTIONS.—Section 310(c)(3) of the Controlled Substances Act (21 U.S.C 830(c)(3)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) cooperate with the authorities of each State by providing information relating to regulated transactions in listed precursor chemicals and anticipated regulated transactions (including impending interstate deliveries) in such chemicals that might be useful in the enforcement of State laws relating to precursor chemicals, controlled substances, and other illegal drugs.".

(f) LICENSING.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended by adding at the end thereof the following new subsection:

"(d)(1) It shall be unlawful for a person to—

"(A) engage in a regulated transaction involving a listed precursor chemical; or

"(B) manufacture, distribute, import, or export a listed precursor chemical,

without a license required under this subsection.

"(2)(A) The Attorney General shall by rule establish a licensing program for regulated persons and regulated transactions involving listed precursor chemicals under which licenses will be required in circumstances in which the Attorney General determines that requiring licensing will contribute to the achievement of the purposes of this section and to criminal drug law enforcement in general. The Attorney General need not require a regulated person who maintains a record of all regulated transactions or reports all regulated transactions in accordance with this section to be licensed under this subsection.

"(B) The licensing program described in subparagraph (A) shall require a license application to be made in such form as the Attorney General shall prescribe and may provide for the denial, revocation, or suspension of a license for cause, after opportunity for a hearing on the record.

"(3) Whoever violates paragraph (1) shall be fined under title 18, United States Code, or imprisoned not more than 4 years, or both.

"(4) The Attorney General shall by inspection or otherwise provide for the audit and control of listed precursor chemical inventories of persons possessing a license under this subsection.".

(g) APPLICATION OF SECTION.—Section 310 of the Controlled Substances Act (21 U.S.C. 830), as amended by subsection (f), is amended by adding at the end thereof the following new subsection:

"(e) This section does not apply to a transaction or other activity involving a listed chemical contained in a drug that is lawfully marketed or distributed under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

(h) MANAGEMENT OF LISTED CHEMICALS.—(1) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921-6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(1) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(2) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.

"(3)(A) A violation of paragraph (1) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for a violation of paragraph (1) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (1).".

(2) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

SPECTER AMENDMENT NOS. 1978 AND 1979

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the bill S. 1970, as follows:

AMENDMENT No. 1978

At the appropriate place, insert the following:

SEC. . GRANT FOR THE ESTABLISHMENT OF DRUG COURT DIVISIONS.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Health and Human Services, is authorized to make grants to State and local governments for the purpose of establishing, as demonstration projects, narcotics divisions within their judicial systems with exclusive jurisdiction over cases in which the most serious charge involves narcotics.

(b) FUNCTION OF NARCOTICS DIVISION.—Each narcotics division funded under subsection (a) shall include—

(1) an independent, professional court administrator;

(2) an individual judge calendar system;

(3) mandatory, on-site drug treatment;

(4) screening of every arrestee to determine drug-dependency;

(5) mandatory treatement for—

(A) consenting first time, drug-dependent, nonviolent offenders;

(B) nonviolent, drug-dependent offenders who are charged with crimes not subjecting them to mandatory sentences;

(C) treatable drug-dependent probationers;

(D) drug-dependent defendants on bail;

(E) all treatable drug-dependent defendants convicted and sentenced to a term of incarceration; and

(6) a program that employs alternative sentencing methods, such as electronic monitoring, home detention, community service, intensive-supervision probation, or random drug testing, for appropriate defendants.

(c) SUFFICIENT FUNDING.—Each narcotics division funded under subsection (a) shall receive funding sufficient for a project to demonstrate—

(1) implementation and operation of enhanced data processing systems and innovative administrative practices for a separate division for narcotics cases;

(2) implementation and operation of rehabilitation and drug-treatment programs; and

(3) implementation and operation of alternative sentencing programs.

(d) STATE AND LOCAL GOVERNMENT APPLICATIONS.—To request funding under this section, the chief executive officer of a State or local government shall submit an application within 60 days after the Attorney General has promulgated regulations under this section, and for each subsequent year, within 60 days after the date that appropriations for this part are enacted, in such form as the Attorney General may require.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000,000 annually to carry out this section.

(f) TERMINATION OF AUTHORIZATION.—The authorization for appropriations established by subsection (e) shall terminate no later than three years after enactment of this section.

AMENDMENT No. 1979

At the appropriate place, insert the following:

SEC. . GRANT FOR THE ESTABLISHMENT OF A DEMONSTRATION PROJECT ESTABLISHING A COURT FOR NARCOTICS OFFENDERS IN PHILADELPHIA, PENNSYLVANIA.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated up to $5,000,000.00 annually to fund, as a demonstration project, a drug cases division of the Court of Common Pleas in Philadelphia, Pennsylvania in acccordance with the provisions of this Section.

(b) FUNCTION OF DRUG CASES DIVISION.—The drug cases division of the Court of Common Pleas of Philadelphia to be funded under subsection (a) shall include—

(1) an independent, professional court administrator;

(2) an individual judge calendar system;

(3) mandatory, on-site drug treatment;

(4) screening of every arrestee to determine drug-dependency;

(5) mandatory treatment for—

(A) consenting first time, drug-dependent, nonviolent offenders;

(B) nonviolent, drug-dependent offenders who are charged with crimes not subjecting them to mandatory sentences;

(C) treatable drug-dependent probationers;

(D) drug-dependent defendants on bail;

(E) all treatable drug-dependent defendants convicted and sentenced to a term of incarceration; and

(6) a program that employs alternative sentencing methods, such as electronic monitoring, home detention, community service, intensive-supervision probation, or random drug testing, for appropriate defendants.

(c) USE OF FUNDING.—The funds for the drug cases division of the Court of Common Pleas of Philadelphia provided for under subsection (a) shall be used to demonstrate—

(1) implementation and operation of enhanced data processing systems and innovative administrative practices for a separate division for drug cases;

(2) implementation and operation of rehabilitation and drug-treatment programs; and

(3) implementation and operation of alternative sentencing programs.

(d) APPLICATION FOR FUNDS.—To receive the funds authorized under this Section, the Court of Common Pleas of Philadelphia shall certify to Congress that a drug cases division of the court has been authorized by the Commonwealth of Pennsylvania, and shall concurrently request an appropriation in a specific amount.

(e) REPORTS TO CONGRESS.—The Administrator of the drug cases division of the Court of Common Pleas for Philadelphia shall report annually to the Judiciary Committees of both Houses of Congress on the operations of the drug cases division.

(f) TERMINATION OF AUTHORIZATION.—The authorization for appropriations established in subsection (a) shall terminate no later than three years after enactment of this section, and earlier if the Court of Common Pleas of Philadelphia terminates the operation of the drug cases division.

METZENBAUM AMENDMENT NO. 1980

(Ordered to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . BAN ON SALE OF MAGAZINES AND BELTS HOLDING GREATER THAN 15 ROUNDS OF AMMUNITION.

(a) BAN.—Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(s)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive or possess a large-capacity detachable magazine or large-capacity ammunition belt, which can be employed by a semiautomatic firearm.

(2) This subsection does not apply with respect to—

(A) any transfer, importation, transporting, shipping or receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof; or

(B) any transfer, transporting, shipping, receiving or possession of such magazine or ammunition belt that was lawfully possessed before the date of this subsection, except that no federally licensed firearms dealer shall transfer such magazine or ammunition belt."

(3) For purposes of this subsection—

"(A) The term 'large-capacity magazine' means a box, drum or other container which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or a magazine which can be readily converted into a large-capacity magazine. Such term shall not include any magazine that has been permanently modified so that it will not hold more than fifteen rounds of ammunition.

"(B) The term 'large-capacity ammunition belt' means a belt or strip which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or an ammunition belt which can be readily converted into a large-capacity ammunition belt. Such term shall not include any ammunition belt that has been permanently modified so that it will not hold more than fifteen rounds of ammunition."

(b) PENALTY SECTION.—Section 924 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(1) Whoever violates the provisions of this Act relating to large capacity detachable magazines and ammunition belts shall be fined not more than ten thousand dollars, imprisoned not more than two years, or both.".

DECONCINI AMENDMENT NOS. 1981 THROUGH 1983

(Ordered to lie on the table.)

Mr. DECONCINI submitted three amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1981

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such as assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship or deliver an assualt weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent."

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' mean any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 14. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

§ "931. Additional assault weapons

"The Secretary, in consulation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons,"; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firarm which is moving as, or is a part of , or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act. (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as condition of supervised release, that the defendant refrain from possessing a firearm and if the defendant is in actual possession of a firearm, as that term is defined section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendmnents made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 38 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 Years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 1982

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form

4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request of a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent."

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 14. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the additional or deletion of firearms to be designated as assault weapons."; and

(2) in the table of section by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 15. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 16. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substance Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act. (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 39 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of secton 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

AMENDMENT NO. 1983

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such as assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection, who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons.

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 40 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

LOTT AMENDMENT NOS. 1984 THROUGH 1986

(Ordered to lie on the table.)

Mr. LOTT submitted three amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1984

At the appropriate place in the bill, insert the following new section:

None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) IN GENERAL.—(1) It is policy of the Federal Government that convicted prisoners confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved, shall be dictated by appropriate security considerations and by the health of the prisoner involved. Such labor may include, but not be limited to—

(A) local public works projects and infrastructure repair;

(B) construction of new prisons and other detention facilities;

(C) prison industries; and

(D) other appropriate labor.

(2) It is the policy of the Federal Government that States and local governments have the same authority to require all convicted prisoners to work.

(b) PRISONERS SHALL WORK.—Medical certification of 100 percent disability, security considerations, or disciplinary action shall be the only excuse to remove a Federal prisoner from labor participation.

(c) USE OF FORMS.—(1) Subject to paragraph (2), any funds generated by labor conducted pursuant to this section shall be deposited in a separate fund in the Treasury of the United States for use by the Attorney General for payment of prison construction and operating expenses or for payment of compensation judgments. Notwithstanding any other law, such funds shall be available without appropriation.

SEC. . REPEAL OF CONSTRAINTS ON PRISON INDUSTRIES.

(a) SUMMERS-ASHURST ACT.—(1) Chapter 85 of part 1 of title 18, United States Code, is repealed.

(2) The table of chapters for part 1 of title 18, United States Code, is amended by striking the item for chapter 85 and inserting the following:

"[85. Repealed.]".

(3) The repeal made by this subsection shall not affect the performance to completion of the pilot projects authorized by section 1761(c) of title 18, United States Code, prior to enactment of this Act.

(b) FEDERAL PRISON INDUSTRIES.—(1) Section 4122(a) of title 18, United States Code, is amended to read as follows:

"(a) Federal Prison Industries shall determine in what manner and to what extent industrial operations shall be carried on in Federal penal and correctional institutions for the production of commodities for consumption in such institutions or for sale to governmental departments and agencies and to the public.".

(2) The first paragraph of section 4124 of title 18, United States Coede, is amended to read as follows:

"The several Federal departments and agencies and all other Government insitutions of the United States may purchase such products of the industries authorized by this chapter as meet their requirements and may be available.".

(3) The second sentence of section 4126(f) of title 18, United States Code, is amended to read as follows: "To the extent that the amount of such funds is excess to the needs of the corporation for such purposes, such funds may be transferred to the Attorney General for the construction or acquisition of penal and correctional institutions, including camps described in section 4125.".

(c) WALSH-HEALY ACT.—Subsection (d) of the first section of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (41 U.S.C. 35(d)), is amended—

(1) by striking "and no convict labor"; and

(2) by striking ", except that this section, or any law or Executive order contrasting similar prohibitions against purchase of goods by the Federal Government, shall not apply to convict labor which satisfies the conditions of section 1761(c) of title 18, United States Code".

(d) LEGISLATIVE RECOMMENDATIONS.—The Attorney General shall submit to Congress a report making recommendations for legislation to—

(1) ensure that private businesses and labor do not suffer unfair consequences from the amendments made in subsections (a), (b), and (c); and

(2) encourage greater private sector participation in prison industries and create incentives for cooperative arrangements between private businesses and prisons providing for such participation.

SEC. . EMPLOYMENT OF PRISONERS.

(a) IN GENERAL.—The Attorney General may enter into contracts with private busi-

nesses for the use of inmate skills that may be of commerical use to such businesses.

(b) USE OF FEES AND PAYMENTS.—A portion of the fees and payments collected for the use of inmate skills under contracts entered into pursuant to subsection (a) shall be deposited in the fund described in section (c)(1).

(c) SECURITY REQUIREMENT.—In the case of contracts described in subsection (a) in which the provision of inmate skills would require prisoners to leave the prison—

(1) prisoners shall be permitted to travel directly to a work site and to remain at the work site during the work day and shall be returned directly to prison at the end of each work day; and

(2) only prisoners with no history of violent criminal activity and who are able to meet strict security standards to insure that they pose no threat to the public, shall be eligible to participate.

AMENDMENT NO. 1985

At the appropriate place in the bill, insert the following new section:

None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted prisoners confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved. Such labor may include, but not be limited to—

(A) local public works projects and infrastructure repair;

(B) construction of new prisons and other detention facilities;

(C) prison industries; and

(D) other appropriate labor.

(2) It is the policy of the Federal Government that States and local governments have the same authority to require all convicted prisoners to work.

(b) PRISONERS SHALL WORK.—Medical certification of 100 percent disability, security considerations, or disciplinary action shall be the only excuse to remove a Federal prisoner from labor participation.

(c) USE OF FUNDS.—(1) Subject to paragraph (2), any funds generated by labor conducted pursuant to this section shall be deposited in a separate fund in the Treasury of the United States for use by the Attorney General for payment of prison construction and operating expenses or for payment of compensation judgments. Notwithstanding any other law, such funds shall be available without appropriation.

SEC. . EXPANSION OF THE PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM.

SEC. 609K. (a) Section 1761(c) of Title 18, United States Code, is amended by striking out "twenty" and inserting in lieu thereof "50 state and 5 federal".

SEC. . EMPLOYMENT OF PRISONERS.

(a) IN GENERAL.—The Attorney General may enter into contracts with private businesses for the use of inmate skills that may be of commercial use to such businesses.

(b) USE OF FEES AND PAYMENTS.—A portion of the fees and payments collected for the use of inmate skills under contracts entered into pursuant to subsection (a) shall be deposited in the fund described in section (c)(1).

(c) SECURITY REQUIREMENT.—In the case of contracts described in subsection (a) in which the provision of inmate skills would require prisoners to leave the prison—

(1) prisoners shall be permitted to travel directly to a work site and to remain at the work site during the work day and shall be returned directly to prison at the end of each work day; and

(2) only prisoners with no history of violent criminal activity and who are able to meet strict security standards to insure that they pose no threat to the public, shall be eligible to participate.

AMENDMENT NO. 1986

At the appropriate place in the bill, insert the following new section:

None of the other provisions in this Act shall take effect unless the following is enacted:

SEC. . MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted prisoners confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved. Such labor may include, but not be limited to—

(A) local public works projects and infrastructure repair;

(B) construction of new prisons and other detention facilities;

(C) prison industries; and

(D) other appropriate labor.

(2) It is the policy of the Federal Government that States and local governments have the same authority to require all convicted prisoners to work.

(b) PRISONERS SHALL WORK.—Medical certification of 100 percent disability, security considerations, or disciplinary action shall be the only excuse to remove a Federal prisoner from labor participation.

(c) USE OF FUNDS.—(1) Subject to paragraph (2), any funds generated by labor conducted pursuant to this section shall be deposited in a separate fund in the Treasury of the United States for use by the Attorney General for payment of prison construction and operating expenses or for payment of compensation judgments. Notwithstanding any other law, such funds shall be available without appropriation.

SEC. . EMPLOYMENT OF PRISONERS.

(a) IN GENERAL.—The Attorney General may enter into contracts with private businesses for the use of inmate skills that may be of commercial use to such businesses.

(b) USE OF FEES AND PAYMENTS.—A portion of the fees and payments collected for the use of inmate skills under contracts entered into pursuant to subsection (a) shall be deposited in the fund described in section (c)(1).

(c) SECURITY REQUIREMENT.—In the case of contracts described in subsection (a) in which the provision of inmate skills would require prisoners to leave the prison—

(1) prisoners shall be permitted to travel directly to a work site and to remain at the work site during the work day and shall be returned directly to prison at the end of each work day;

(2) only prisoners with no history of violent criminal activity and who are able to meet strict security standards to insure that they pose no threat to the public, shall be eligible to participate.

BIDEN AMENDMENT NOS. 1987 THROUGH 1990

(Ordered to lie on the table.)

Mr. BIDEN submitted four amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT NO. 1987

On page 16, strike lines 23 through page 17, line 1, and insert the following: "of death is justified, the court may sentence the defendant to death. Otherwise, the court shall".

AMENDMENT NO. 1988

Strike everything from page 13, line 18 through line 22 and insert the following: "present during the trial. Any other information relevant to an aggravating factor may be presented by the attorney for the government subject to the Federal Rules of Evidence governing admission of evidence of criminal trails, except that information may be".

AMENDMENT NO. 1989

On page 18, strike lines 7 through 10, and insert the following:

"it shall affirm the sentence unless the terms of subsection (2) require a reversal or a remand.

(2) Whenever the court of appeals finds that (A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor, (B) the admissible evidence adduced does not support the special finding of the existence of the required aggravating factor, or (C) any other substantive or procedural legal error requires reversal of the sentence of death, the court shall remand the case for reconsideration under section 3593 or impose a sentence other than death. In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

AMENDMENT NO. 1990

On page 20, line 13 strike the quotation marks and insert the following:

SEC. 3598. APPOINTMENT OF COUNSEL.

"(a) Notwithstanding any other provision of law—

"in every criminal action brought in a court of the United States in which a defendant is charged with a crime with respect to which a sentence of death is sought, a defendant who is or becomes financially unable to obtain adequate representation shall be entitled to appointment of counsel at trial, and upon direct appeal of the judgment and sentence entered at trial, in accordance with the provisions of this section.

"(b) If the appointment is made before judgment, at least one attorney so appointed must have been admitted to practice in the court in which the prosecution is to be tried for not less than five years, and must have had not less than three years experience in the actural trial of felony prosecutions in that court.

"(c) If the appointment is made after the judgement, at least one attorney so appointed must have been admitted to practice in the court of appeals for not less than five years, and must have had not less than three years experience in the handling of appeals in that court in felony cases.

"(d) With respect to paragraphs (b) and (c), the court, for good cause, may appoint another attorney whose background, knowledge, or experience would otherwise enable him or her to properly represent the de-

fendant, with due consideration to the seriousness of the possible penalty and to the unique and complex nature of the litigation.

"(e) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefore, under paragraph (f). Upon a finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment for such services munc pro tunc.

"(f) Notwithstanding the rates in maximum limits generally applicable to criminal cases and any other provison of law to the contrary, the court shall fix the compensation to be paid to attorneys appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (e), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this section.

SPECTER AMENDMENT NOS. 1991 AND 1992

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the bill S. 1970, supra; as follows:

AMENDMENT No. 1991

At the appropriate place in the bill, add the following:

SEC. 01. CONDITION FOR REPORTING BY STATES IN ORDER TO BE ELIGIBLE TO RECEIVE FEDERAL ANTI-DRUG FUNDS.

(a) IN GENERAL.—Notwithstanding any other law, beginning on the date that is 1 year after the date of enactment of this Act, a State shall not be eligible to receive any grant, contract, award, or other assistance paid for with Federal anti-drug funds unless it meets the requirements of subsection (b).

(b) REPORT.—A State that desires to establish eligibility to receive the Federal assistance described in subsection (a) shall submit a report to the Attorney General and the Secretary of Health and Human Services on the costs of providing to all prisoners who need and desire it—

(A) training in a marketable job skill and basic literacy; and

(B) treatment and rehabilitation for drug addiction.

(2) A report described in paragraph (1) shall include—

(A) a description of the manner in which Federal anti-drug funding to the State is being used to provide drug treatment and rehabilitation and training in basic literacy and marketable job skills to prisoners sentenced under the law of the State;

(B) a detailed description of the drug treatment and rehabilitation and programs and the literacy and job training programs that the State currently provides for inmates;

(C) a description of the specific eligibility requirements for inmate participation in the State's drug treatment and rehabilitation programs and literacy and job training programs;

(D) a description of the characteristics and components of the State's drug treatment and rehabilitation programs and literacy and job training programs;

(E) a statement of the number of inmates currently served by the State in its drug treatment and rehabilitation programs and literacy and job training programs.

(F) an analysis of the cost-effectiveness of the State's drug treatment and rehabilitation programs and literacy and job training programs for inmates;

(G) an analysis of the effectiveness of existing procedures in the State's drug treatment and rehabilitation programs for matching patients in prisons with appropriate treatment;

(H) an evaluation of patients' performance while in drug treatment;

(I) a statement of the number of inmates who are in need of drug treatment who are not currently receiving treatment;

(J) an estimate of the number of inmates who will be receiving treatment, and of the number of inmates who will be in need of but not receiving treatment, in the years 1995 and 2000;

(K) an analysis of the effectiveness of existing procedures in the State's job training and literacy programs for matching inmates with appropriate training;

(L) an evaluation of inmates' performance while in literacy and job training programs;

(M) a statement of the number of inmates who are in need of basic literacy and job training who are not currently receiving training;

(N) an estimate of the number of inmates who will be receiving training, and of the number of inmates who will be in need of but not receiving training, in the years 1995 and 2000;

(O) a statement of the number of inmates who, after receiving drug treatment, have been provided literacy and job training; and

(P) a comparison of recidivism rates for inmates who have participated in the State's drug treatment and rehabilitation programs and literacy and job training programs with those for inmates who have not.

(c) REGULATIONS.—(1) Not later than 180 days after the date of enactment of this Act, the Director of the Office of Treatment Improvement and the Director of the National Institute of Corrections, shall, after consultation with the Correctional Literacy and Vocational Skills Advisory Council established by subsection (d) and the Correctional Drug Treatment Advisory Committee established by subsection (e), promulgate regulations to carry out this Act.

(2) The regulations promulgated pursuant to paragraph (1) shall include—

(A) a definition of the term "marketable job skill and basic literacy"; and

(B) a definition of the term "treatment and rehabilitation for drug addiction".

(d) ADVISORY COUNCIL.—(1) There is established the Correctional Literacy and Vocational Skills Advisory Council (referred to as the "Council").

(2) The Council shall be composed of—

(A) the Director of the National Institute of Corrections, who shall serve as its chairman;

(B) the Assistant Secretary of Education for Vocational and Adult Education;

(C) the Assistant Secretary of Labor for Employment Training and Administration; and

(D) representatives of the American Correctional Association, the American Jail Association, the Association of State and Federal Directors of Correctional Education, and the Correctional Education Association.

(3) It shall be the duty of the Council to advise the National Institute of Corrections in formulating the regulations described in subsection (c)(2)(A).

(e) ADVISORY COMMITTEE.—(1) There is established the Correctional Drug Treatment Advisory Committee (referred to as the "Committee").

(2) The Committee shall be composed of—

(A) the Director of the Office of Treatment Improvement, who shall serve as chairman;

(B) the Director of the National Institute of Drug Abuse;

(C) the Director of the National Institute of Corrections; and

(D) representatives of the American Correctional Association, the American Jail Association, and the National Association of State Alcohol and Drug Abuse Directors.

(3) It shall be the duty of the Committee to advise the Office of Treatment Improvement in formulating the regulations described in subsection (c)(2)(B).

(f) NO CAUSE OF ACTION.—Nothing in this Act shall be construed to create any cause of action, defense, or claim of right of any other kind in favor of a State prisoner.

AMENDMENT No. 1992

At the appropriate place in the bill, insert the following:

1. Any person who negligently releases into the environment any pollutant or contaminant which release such person knows or reasonably should have known could place another person in imminent danger of death or serious bodily injury, placing another person in imminent danger of death or serious bodily injury, shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per day for each violation, or by imprisonment for not more than one year, or by both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

(a) It shall be an affirmative defense to a prosecution that the conduct charged was in full conformance with a federal permit or applicable statute authorizing the release under the circumstances as charged. The defendant must establish such affirmative defense under this paragraph by a preponderance of the evidence.

(b) As used in this "pollutant or contaminant" shall mean

(1) any substance designated pursuant to section 9602 of title 42;

(2) any substance designated pursuant to section 1321(b)(2)(A) of title 33;

(3) any element, compound mixture, solution, or substance designated pursuant to section 9602 of title 42;

(4) any hazardous waste having the characteristics identified under or listed pursuant to section 6921 of title 42;

(5) any pollutant referenced in section 1362(6) of title 33;

(6) any hazardous air pollutant listed under section 7412 of title 42;

(7) any imminently hazardous chemical substance of mixture with respect to which the Administrator has taken action pursuant to section 2606 of title 15;

(8) any material referenced in section 136 (f) and (u) of title 7;

and any other material which, when released into the environment, presents or may present an imminent and substantial endangerment to human health.

2. Whoever, with reckless disregard for the risk that another person will be placed in danger of death or serious bodily injury or under circumstances manifesting extreme indifference to such risk, releases into the environment any pollutant or contaminant, place a person in danger of death or serious bodily injury, shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per day for each violation, or by imprisonment for not more than five years, or by both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

(a) It shall be an affirmative defense to a prosecution that the conduct charged was in full accordance with a federal permit or applicable statute authorizing the release under the circumstances as charged. The defendant must establish such affirmative defense under this paragraph by a preponderance of the evidence.

(b) As used in this "pollutant or contaminant" shall mean

(1) any substance designated pursuant to section 9601 of title 42;

(2) any substance designated pursuant to section1321 (b)(2)(A) of title 33;

(3) any element, compound, mixture, solution, or substance designated pursuant to section 9602 of title 42;

(4) any hazardous waste having the characteristics identified under or listed pursuant to section 6921 of title 42;

(5) any pollutant referenced in section 1362(6) of title 33;

(6) any hazardous air pollutant listed under section 7412 of title 42;

(7) any imminently hazardous chemical substance of mixture with respect to which the Administrator has taken action pursuant to section 2606 of title 15;

(8) any material referenced in section 136 (f) and (u) of title 7;

and any other material which, when released into the environment, presents or may present an imminent and substantial endangerment to human health.

GRAMM AMENDMENT NO. 1993

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

On page 46, strike line 15 and all that follows through page 53, line 5, and insert the following:

TITLE IV—USE OF FIREARMS IN CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES

SEC. 401. INCREASED MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.

Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) possesses a firearm that is a machinegun, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. If the death of a person results from the discharge of a firearm, with intent to kill another person, by a person during the commission of such a crime, the person who discharged the firearm shall be sentenced to death or life imprisonment without release. A person shall be subjected to the penalty of death under this subsection only if a hearing is held in accordance with section 408 of the Controlled Substances Act (21 U.S.C. 848). Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) This subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person.".

AIR TRAVEL RIGHTS FOR BLIND INDIVIDUALS ACT

BOND (AND DANFORTH) AMENDMENT NO. 1994

Mr. BOND (for himself and Mr. DANFORTH) proposed an amendment to the bill (S. 341) to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel, as follows:

At the appropriate place, insert the following:

CHILD RESTRAINT SYSTEMS ON COMMERCIAL AIRCRAFT

SEC. . (a) IN GENERAL.—Section 601 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421) is amended by adding at the end of the following new subsection:

"(g) CHILD RESTRAINT SYSTEMS.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall issue regulations requiring the use of child safety restraint systems approved by the Secretary on aircraft providing air transportation of passengers. Such regulations shall establish age or weight limits for children who are to use the systems.".

(b) CONFORMING AMENDMENT.—The table of contents contained in the first section of such Act is amended by inserting at the end of the matter relating to section 601 the following new item:

"(g) Child restraint systems.".

McCAIN (AND OTHERS) AMENDMENT NO. 1995

Mr. McCAIN (for himself, Mr. COATS, Mr. ARMSTRONG, Mr. HUMPHREY, Mr. DOLE, Mr. ROTH, Mr. MCCONNELL, Mr. BOND, Mr. BOSCHWITZ, Mr. KASTEN, Mr. HELMS, Mr. WARNER, Mr. MACK, Mr. LUGAR, Mr. DANFORTH, Mr. GORTON, Mr. GRAMM, Mr. NICKLES, Mr. SYMMS, Mr. WILSON, Mr. BURNS, Mr. GARN, Mr. GRASSLEY, Mr. LOTT, Mr. MURKOWSKI, Mr. SIMPSON, Mr. WALLOP, Mr. HATCH, Mr. CHAFEE, Mr. THURMOND, Mrs. KASSEBAUM, Mr. PRESSLER, Mr. EXON, and Mr. BOREN) proposed an amendment to the bill S. 341, supra, as follows:

At the appropriate place, insert the following:

SEC. . LEGISLATIVE LINE ITEM VETO ACT OF 1989.

(a) SHORT TITLE.—This section may be cited as the "Legislative Line Item Veto Act of 1989".

(b) ENHANCEMENT OF SPENDING CONTROL BY THE PRESIDENT.—The Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"PART A—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"GRANT OF AUTHORITY AND CONDITIONS

"SEC. 1101. (a) IN GENERAL.—Notwithstanding the provisions of part B of title X and subject to the provisions of part B of this title, the President may rescind all or part of any budget authority, if the President—

"(1) determines that—

"(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

"(B) such rescission will not impair any essential Government functions; and

"(C) such rescission will not harm the national interest; and

"(2)(A) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act or a joint resolution making continuing appropriations providing such budget authority; or

"(B) notifies the Congress of such rescission by special message accompanying the

submission of the President's budget to Congress and such rescissions have not been proposed previously for that fiscal year.

The President shall submit a separate rescission message for each appropriations bill under paragraph (2)(A).

"(b) RESCISSION EFFECTIVE UNLESS DISAPPROVED.—(1)(A) Any amount of budget authority rescinded under this title as set forth in a special message by the President shall be deemed canceled unless during the period described in subparagraph (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

"(B) The period referred to in subparagraph (A) is—

"(i) A Congressional review period of 20 calendar days of session under part B, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

"(ii) after the period provided in clause (i), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

"(iii) if the President vetoes the rescission disapproval bill during the period provided in clause (ii), an additional 5 calendar days of session after the date of the veto.

"(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message) shall run beginning after such first day.

"DEFINITIONS

"SEC. 1102. For purposes of this title the term 'rescission disapproval bill' means a bill or joint resolution which only disapproves a rescission of budget authority, in whole, rescinded in a special message transmitted by the President under section 1101.

"PART B—CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS

"PRESIDENTIAL SPECIAL MESSAGE

"SEC. 1111. Whenever the President rescinds any budget authority as provided in section 1101, the President shall transmit to both Houses of Congress a special message specifying—

"(1) the amount of budget authority rescinded;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(3) the reasons and justifications for the determination to rescind budget authority pursuant to section 1101(a)(1);

"(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

"(5) all facts, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

"TRANSMISSION OF MESSAGES; PUBLICATION

"SEC. 1112. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under sections 1101 and 1111 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

"(b) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under sections 1101 and 1111 shall be printed in the first issue of the Federal Register published after such transmittal.

"PROCEDURE IN SENATE

"SEC. 1113.(a) REFERRAL.—(1) Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

"(2) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

"(b) FLOOR CONSIDERATION IN THE SENATE.—

"(1) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(2) Debate in the Senate on any debatable motion or appeal in connection with such a bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

"(c) POINT OF ORDER.—(1) It shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission of budget authority transmitted by the President under section 1101.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

"(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.".

KASSEBAUM AMENDMENT NO. 2000

Mrs. KASSEBAUM proposed an amendment to the bill S. 341, supra, as follows:

At the end of the bill, add the following:

TITLE I—UNIFORM STANDARDS OF LIABILITY INVOLVING GENERAL AVIATION ACCIDENTS

SHORT TITLE

SEC. 101. This title may be cited as the "General Aviation Accident Liability Standards Act of 1990".

FINDINGS AND PURPOSE

SEC. 102. (a) The Congress finds that—

(1) transportation by air of passengers continues to comprise an increasingly important component of the Nation's overall transportation system;

(2) although the incidence of injuries to passengers in general aviation accidents has decreased, the number of a general aviation accident liability claims against general aviation aircraft manufacturers and the amount of damages sought in such claims is increasing at disproportionate rates, beyond any relationship to the quality of the aircraft manufactured and in use;

(3) the current system for determining liability and damages for compensating individuals injured in general aviation accidents is inadequate;

(4) competent general aviation manufacturers and component part manufacturers are ceasing or limiting production of general aviation aircraft or some models of such aircraft because of the increasing costs and unavailability of product liability insurance;

(5) the increase in the number of liability claims and the size of awards and settlements, and the excessive time and expense devoted to the resolution of such claims, impose a substantial economic burden on general aviation manufacturers and their dealers;

(6) the Federal Government has an interest in the general aviation accident liability system because the Federal Government has established a comprehensive system for regulating general aviation, including—

(A) establishing standards for design, construction, and certification of general aviation aircraft,

(B) establishing standards for maintenance of aircraft, licensing of repair facilities, and licensing of persons who may perform or approve maintenance, repairs, and inspections,

(C) establishing standards for training and licensing of pilots,

(D) establishing a comprehensive air control system,

(E) conducting investigations to determine the probable cause of aviation accidents and prevent future accidents, and

(F) conducting other activities necessary to assure a safe air transportation system;

and this Federal system is the exclusive legal authority for regulating aviation operations and safety;

(7) it is in the national interest to reduce unnecessary expenditures related to general aviation accident liability claims while providing more rapid and more efficient compensation for individuals harmed in general aviation accidents; and

(8) Federal action to reform the general aviation accident liability system will result in—

(A) the maintenance of airworthy general aviation aircraft; and

(B) a more rational general aviation accident liability system.

(b) It is the purpose of this title to establish standards for determining liability for harm arising out of general aviation accidents.

DEFINITIONS

SEC. 103. As used in this title, the term—

(1) "Administrator" means the Administrator of the Federal Aviation Administration;

(2) "claimant" means any person who brings a general aviation accident liability action subject to this title, and any person on whose behalf such an action is brought, including—

(A) the claimant's decedent; and

(B) the claimant's parent or guardian, if the action is brought through or on behalf of a minor or incompetent;

(3) "general aviation accident" means any accident which arises out of the operation of any general aviation aircraft and which results in harm;

(4) "general aviation aircraft" means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.) which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than twenty passengers, and which is not, at the time of the accident, engaged in scheduled passenger carrying operations as defined in regulations issued under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.);

(5) "general aviation manufacturer" means—

(A) the builder or manufacturer of the airframe of a general aviation aircraft;

(B) the manufacturer of the engine of a general aviation aircraft; and

(C) the manufacturer of any system, component, subassembly, or other part of a general aviation aircraft;

(6) "harm" means—

(A) property damage or bodily injury sustained by a person;

(B) death resulting from such bodily injury;

(C) pain and suffering which is caused by such bodily injury; and

(D) emotional harm (including bereavement and loss of affection, care, or society) which is caused by such bodily injury;

(7) "product" means a general aviation aircraft and any system, component, subassembly, or other part of a general aviation aircraft; and

(8) "property damage" means physical injury to tangible property, including loss of use of tangible property.

PREEMPTION; APPLICABILITY

SEC. 104. (a) This title supersedes any State law regarding recovery, under any legal theory, for harm arising out of a general aviation accident, to the extent that this title establishes a rule of law or procedure applicable to the claim.

(b) Nothing in this title shall be construed to supersede or to waive or affect any defense of sovereign immunity asserted by the United States or any State.

(c) Nothing in this title shall be construed to affect the liability of a manufacturer, owner, or operator of any aircraft that is not a general aviation aircraft, or a person who repairs, maintains, or provides any other support for any aircraft that is not a general aviation aircraft, for damages for harm arising out of the operation of an aircraft that is not a general aviation aircraft.

(d) No right of action for harm exists under this title if that right would be inconsistent with the provisions of any applicable workers' compensation law.

(e) The provisions of this title shall apply only to—

(1) any manufacturer, owner, or operator of any general aviation aircraft, and any person who repairs, maintains, or provides any other support for such an aircraft;

(2) any occupant of a general aviation aircraft at the time of a general aviation accident, and any person who brings an action for harm caused by such accident on behalf of such occupant; and

(3) any nonoccupant of a general aviation aircraft at the time of a general aviation accident, only if such nonoccupant is bringing an action for harm caused by such accident which arises out of the harm to an occupant of such aircraft at the time of such accident.

UNIFORM STANDARDS OF LIABILITY FOR GENERAL AVIATION ACCIDENTS

SEC. 105. (a) Any person claiming damages for harm arising out of a general aviation accident may bring an action against a party and may recover damages from such party, if such party was negligent and such negligence is a proximate cause of the claimant's harm.

(b)(1) Any person claiming damages for harm arising out of a general aviation accident may bring an action against a general aviation manufacturer of a product and may recover damages from such general aviation manufacturer if—

(A) the product, when it left the control of the manufacturer, was in a defective condition unreasonably dangerous for its intended purpose, according to engineering and manufacturing practices which were reasonably feasible;

(B) the defective condition is a proximate cause of the claimant's harm; and

(C) the general aviation aircraft was being used at the time of the accident for a purpose and in a manner for which it was designed and manufactured.

(2) Any person claiming damages for harm arising out of a general aviation accident may bring an action against a general aviation manufacturer of a product and may recover damages from such general aviation manufacturer if—

(A) at the time the product left the control of the manufacturer, the manufacturer—

(i) knew, or in the exercise of reasonable care should have known, about a danger connected with the product that caused the claimant's harm; and

(ii) failed to provide the warnings or instructions that a person exercising reasonable care would have provided with respect to the danger which caused the harm alleged by the claimant, unless such warnings or instructions, if provided, would not have materially affected the conduct of the user of the product; or

(B) after the product left the control of the general aviation manufacturer, the manufacturer—

(i) knew, or in the exercise of reasonable care should have known, about the danger which caused the claimant's harm; and

(ii) failed to take reasonable steps to provide warnings or instructions, after the manufacture of the product, which would have been provided by a person exercising reasonable care, unless such warnings or instructions, if provided, would not have materially affected the conduct of the product user;

and the failure to provide warnings or instructions described in subparagraph (A) or (B) of this paragraph is a proximate cause of the claimant's harm.

(3) Any person claiming damages for harm arising out of a general aviation accident may bring an action against a general aviation manufacturer of a product and may recover damages from such general aviation manufacturer if—

(A) the manufacturer made an express warranty with respect to the product;

(B) such warranty relates to that aspect of the product which caused the harm;

(C) the product failed to conform to such warranty; and

(D) the failure of the product to conform to such warranty is a proximate cause of the claimant's harm.

(c)(1) In an action governed by subsection (b) of this section, a general aviation manufacturer shall not be liable if such manufacturer proves, by a preponderance of the evidence, that—

(A) the defective condition could have been corrected by compliance with action described in an airworthiness directive issued by the Administrator or a service bulletin issued by the manufacturer of the product; and

(B) such directive or service bulletin was issued at a reasonable time before the date of the accident and after the product left the control of the general aviation manufacturer.

(2) In any action governed by subsection (b) of this section, evidence of compliance with standards, conditions or specifications established, adopted or approved by the Federal Aviation Administration shall be admissible with regard to whether the product was defective and unreasonably dangerous for its intended purpose.

COMPARATIVE RESPONSIBILITY

SEC. 106. (a) All actions for harm arising out of a general aviation accident shall be governed by the principles of comparative responsibility. Comparative responsibility attributed to the claimant's conduct shall not bar recovery in an action under this title, but shall reduce any damages awarded to the claimant in an amount proportionate to the responsibility of the claimant. The trier of fact shall determine comparative responsibility by making findings indicating the percentage of total responsibility for the claimant's harm attributable to the claimant, each defendant, each third-party defendant, and any other person not a party to the action.

(b) Except as provided in subsection (c) of this section, a defendant is severally but not jointly liable in any action for harm arising out of a general aviation accident, and the liability of any defendant in any such action shall be determined on the basis of such defendant's proportionate share of responsibility for the claimant's harm.

(c) In any action for harm arising out of a general aviation accident—

(1) a general aviation manufacturer who is the builder or manufacturer of the airframe of the general aviation aircraft involved is jointly and severally liable for harm caused by a defective system, component, subassembly, or other part of such aircraft that the manufacturer installed or certified as part of the original type design for such aircraft; and

(2) a general aviation manufacturer who is the manufacturer of a system or component of the general aviation aircraft involved is jointly and severally liable for damages caused by a defective subassembly or other part of such system or component.

(d) A general aviation manufacturer and any other person jointly liable under subsection (c) of this section shall have the right to bring an action for indemnity or contribution against any person with whom

they are jointly liable under subsection (c) of this section.

TIME LIMITATION ON LIABILITY

SEC. 107. (a) Except as provided in subsection (b) of this section, no civil action for harm arising out of a general aviation accident which is brought against a general aviation manufacturer may be brought for harm which is alleged to have been caused by an aircraft or a system, component, subassembly, or other part of an aircraft and which occurs more than—

(1) twenty years from—

(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such an aircraft; or

(2) with respect to any system, component, subassembly, or other part which replaced another product in, or which was added to, the aircraft, and which is alleged to have caused the claimant's harm, twenty years from the date of the replacement or addition.

(b) Subsection (a) of this section does not apply in the case of harm to a claimant which occurs after the period set forth in subsection (a) of this section if the general aviation manufacturer or the seller of the product that caused the claimant's harm gave an express warranty that the product would be suitable, for the purpose for which it was intended, for a longer period of time.

(c) Nothing in this section shall be construed to affect a person's duty to provide, after the sale or lease of an aircraft, to aircraft owners, and to repair facilities to which a license or certificate to perform repairs has been issued by the Administrator, additional or modified warnings or instructions regarding the use or maintenance of such aircraft or any system, component, or other part of such aircraft.

SUBSEQUENT REMEDIAL MEASURES

SEC. 108. In any general aviation accident liability action governed by this title, evidence of any measure taken after an event which, if taken previously, would have made the event less likely to occur is not admissible to provide liability. Such evidence is admissible to the extent permitted under rule 407 of the Federal Rules of Evidence.

ADMISSIBILITY OF CERTAIN EVIDENCE

SEC. 109. In an action governed by this title, evidence of Federal, State, or local income tax liability or any Social Security or other payroll tax liability attributable to past or future earnings, support, or profits and the present value of future earnings, support, or profits alleged to have been lost or diminished because of harm arising out of a general aviation accident is admissible regarding proof of the claimant's harm.

PUNITIVE DAMAGES

SEC. 110. (a) Punitive damages may be awarded in an action under this title for harm arising out of a general aviation accident only if the claimant establishes by clear and convincing evidence that the harm suffered was the direct result of conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by use of the general aviation aircraft involved.

(b) Evidence regarding the financial worth of a defendant or the defendant's profits or any other evidence relating solely to a claim for punitive damages under this title is not admissible unless the claimant establishes, before any such evidence is offered, that the claimant can present evidence that will establish prima facie proof of conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by use of the general aviation aircraft involved.

(c) In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages pursuant to the provisions of this title regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

TIME LIMITATION ON BRINGING ACTIONS

SEC. 111. (a) Any action for harm arising out of a general aviation accident shall be barred, notwithstanding any State law, unless—

(1) the complaint is filed within two years after the date on which the accident occurred which caused the claimant's harm; and

(2) the summons and complaint are properly served upon the defendant within one hundred and twenty days after the filing of such complaint, unless the party on whose behalf such service is required can show good cause why such service was not made within such one-hundred-and-twenty-day period.

Paragraph (2) of this subsection shall not apply to service of process in a foreign country pursuant to rule 4(i) of the Federal Rules of Civil Procedure or any similar State law.

SANCTIONS

SEC. 112. It is the intent of Congress that, with respect to any action governed by this title, the sanctions for violation of rule 11 of the Federal Rules of Civil Procedure, including orders to pay to the other party or parties the amount of their reasonable expenses, including a reasonable attorney's fee, be strictly enforced.

JURISDICTION

SEC. 113. (a) The district courts of the United States, concurrently with the State courts, shall have original jurisdiction, without regard to the amount in controversy, in all civil actions for harm arising out of a general aviation accident and in all actions for indemnity or contribution described in section 106(d) of this title.

(b) A civil action which is brought in a State court may be removed to the district court of the United States for the district embracing the place where the action is pending, without the consent of any other party and without regard to the amount in controversy, by any defendant against whom a claim in such action is asserted for harm arising out of a general aviation accident.

(c) In any case commenced in or removed to a district court of the United States under subsection (a) or (b) of this section, the court shall have jurisdiction to determine all claims under State law that arise out of the same general aviation accident, if a substantial question of fact is common to the claims under State law and to the Federal claim, defense, or counterclaim.

(d)(1) A civil action in which the district courts of the United States have jurisdiction under subsection (a) of this section may be brought only in a district in which—

(A) the accident giving rise to the claim occurred; or

(B) any plaintiff or defendant resides.

(2) In an action pending in a district court of the United States under paragraph (1) of this subsection, a district court may, on motion of any party or its own motion, transfer the action to any other district for the convenience of parties and witnesses in the interest of justice.

(3) For purposes of this subsection, a corporation shall be considered to be a resident of any State in which it is incorporated or licensed to do business or is doing business.

SEVERABILITY

SEC. 114. If any provision of this title or the application of the provision to any person or circumstance is held invalid, the remainder of this title and the application of the provision to any other person or circumstance shall not be affected by such invalidation.

EFFECTIVE DATE

SEC. 115. (a) This title shall apply to any civil action for harm arising out of a general aviation accident which is filed on or after the date of enactment of this title.

(b) If an action governed by this title is filed within one hundred and eighty days after the date of enactment of this title, liberal leave shall be given to a party to amend any pleading, motion, statement of jurisdiction or venue, or other matter to conform to the provisions of this title.

GORTON AMENDMENT NO. 2001

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill S. 341, supra, as follows:

Strike all after the enacting clause and substitute the following:

"That this Act may be cited as the "Air Travel Rights Act of 1990".

"SEC. 2. Section 404(c) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1374(c)) is amended by adding a subparagraph (3) at the end thereof as follows:

"'(3) An air carrier shall make available seating in the exit rows of air carrier aircraft in a safe and nondiscriminatory manner as follows: no person may be denied seating in such rows unless it is likely that such person would be unable to perform one or more of the following functions without assistance in the event of an emergency:

"'(1) Locate the emergency exit;

"'(2) Recognize the emergency exit opening mechanism;

"'(3) Comprehend the instructions for operating the emergency exit;

"'(4) Operate the emergency exit;

"'(5) Assess whether opening the emergency exit will increase the hazards to which passengers may be exposed;

"'(6) Follow oral directions and hand signals given by a crewmember;

"'(7) Stow or secure the emergency exit door so that it will not impede use of the exit;

"'(8) Assess the condition of an escape slide, activate the slide, and stabilize the slide after deployment to assist others in getting off the slide;

"'(9) Pass expeditiuosly through the emergency exit; and

"'(10) Assess, select, and follow a safe path away from the emergency exit.

"'In making any decision to deny seating under this subparagraph, an air carrier must first determine that it is unlikely that the person would be unable to perform a function unassisted because—

"'(1) The person lacks sufficient mobility, strength, or dexterity in both arms and hands, and both legs:

"'(i) To reach upward, sideways, and downward to the location of emergency exit and exit-slide operating mechanisms;

"'(ii) To grasp and push, pull, turn, or otherwise manipulate those mechanisms;

"'(iii) To push, shove, pull or otherwise open emergency exits;

"'(iv) To lift out, hold, deposit on nearby seats, or maneuver over the seatbacks to the next row objects the size and weight of over-wing window exit doors;

"'(v) To remove obstructions similar in size and weight to over-wing exit doors;

"'(vi) To reach the emergency exit expeditiously;

"'(vii) To maintain balance while moving obstructions;

"'(viii) To exit expeditiously;

"'(ix) To stabilize an escape slide after deployment; or

"'(x) To assist others in getting off an escape slide;

"'(2) The person is less than 15 years of age or lacks the capacity to perform one or more of the applicable functions listed above without the assistance of an adult companion, parent, or other relative;

"'(3) The person lacks the ability to read and understand instructions related to the emergency evacuation provided by the air carrier in printed, handwritten, or graphic form or the ability to understand oral crew commands in the English language;

"'(4) The person lacks sufficient visual capacity to perform one or more of the applicable functions listed above without the assistance of visual aids beyond contact lenses or eyeglasses;

"'(5) The person lacks sufficient aural capacity to hear and understand instructions shouted by flight attendants, without assistance beyond a hearing aid;

"'(6) The person lacks the ability adequately to impart information orally to other passengers; or

"'(7) The person has:

"'(i) A conditioning or responsibilities, such as caring for small children, that might prevent the person from performing one or more of the applicable functions listed above; or

"'(ii) A condition that might cause the person harm if he or she performs one or more of the applicable functions listed above.'"

CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

D'AMATO AMENDMENT NO. 2002

(Ordered to lie on the table.)

Mr. D'AMATO submitted an amendment intended to be proposed by him to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

At the end of the pending amendment add the following:

SECTION 1. PUBLIC SAFETY OFFICERS' DISABILITY BENEFITS.

(a) PAYMENT.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsections (c) and (d) by striking "(b)" each place it appears and inserting "(c)",

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively,

(3) by inserting after subsection (a) the following:

"(b) In any case in which the Bureau determines, under regulations issued pursuant to this part, that a public safety officer has become permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty, the Bureau shall pay a benefit of $100,000, adjusted in accordance with subsection (g), to such officer.", and

(4) by adding at the end thereof the following:

"(j)(1) No benefit is payable under this part with respect to the death of a public safety officer if a benefit is paid under this part with respect to the disability of such officer.

"(2) No benefit is payable under this part with respect to the disability of a public safety officer if a benefit is payable under this part with respect to the death of such public safety officer."

(b) LIMITATIONS.—Paragraphs (1), (2), (3), and (4) of section 1202 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) are each amended by inserting "or catastrophic injury" after "death".

(c) DEFINITION.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796c) is amended—

(1) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively, and

(2) by inserting before paragraph (2), as so redesignated, the following:

"(1) 'catastrophic injury' means consequences of an injury that permanently prevent an individual from performing any gainful work;".

SEC. 2. EFFECTIVE DATE.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this Act shall take effect on July 1, 1986.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to injuries occurring before the effective date of such amendments.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Wednesday, June 13, 1990, at 9:30 a.m., in SR-301, to hold a markup. The following legislation will be considered: An original bill to authorize appropriations for the Federal Election Commission for fiscal year 1991; an original resolution managing the official mail of the Senate; S. 2472, to establish a Senior Executive Service in the Library of Congress; S. 2539, to authorize the establishment of a Senior Executive Service of the Smithsonian Institution; S. 2540, to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building; S. 2636, to authorize the Board of Regents of the Smithsonian Institution to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport, and for other purposes; Senate Joint Resolution 302, providing for the reappointment of Anne L. Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution; Senate Joint Resolution 318, providing for the appointment of Ira Michael Heyman as a citizen regent of the Board of Regents of the Smithsonian Institution; House Concurrent Resolution 272, authorizing printing of the transcript of proceedings of the Committee on Post Office and Civil Service of the House of Representatives incident to presentation a portrait of the Honorable WILLIAM D. FORD; and an original resolution to authorize the purchase of 104,000 1991 U.S. Capitol Historical Society wall calendars for the use of the Senate.

The committee may also markup other legislative and administrative business items ready for consideration at time of meeting.

For further information regarding this markup, please contact Carole Blessington of the Rules Committee staff on 224-0278.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on oversight of U.S. progress under the Great Lakes Water Quality Agreement, on Wednesday, June 13, 1990, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, June 6, 1990, at 10 a.m. to conduct a hearing on the financial strength of the Federal Housing Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 6, at 2:30 p.m. to hold a hearing on Sino-American relations: one year after the massacre at Tiananmen Square.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WAYNE TAYLOR

● Mr. FORD. Mr. President, I would like to spend a few minutes today to honor Wayne Taylor, of Louisville, KY.

As many of you may already know, the U.S. Jaycees will be holding its national convention in Louisville next week. A number of individuals have given countless hours of their time and effort to ensure that Derbytown '90 will be a success, but one person has gone beyond the call of duty in his work on the convention. That one person is Wayne Taylor.

Since joining the Louisville Jaycees in April 1979, Wayne has held a number of leadership positions. Shortly after becoming a member of the local chapter, he acquired the nickname "Mr. Haunted House" for his work on the board of directors, where he served as both the director and vice president. Later, in 1983-84, Wayne was named acting president of the Louisville Jaycees.

In 1985, Wayne was selected to be a district director for the North Central Region of the Kentucky Jaycees and was recognized as the No. 1 district director for the entire Jaycee year. In 1985-86, he once again served the North Central Region of the Kentucky Jaycees as regional director and, subsequently, he was chosen membership vice president of the Kentucky Jaycees.

In addition to Wayne's existing responsibilities with the Louisville and Kentucky Jaycees, he was elected president of Derbytown '90 in July 1986 and has continued to serve, quite ably, I might add, in this capacity to date.

Wayne attended and graduated from Fairdale High School in Louisville in 1975 before attending the University of Louisville and attaining his associate degree in business. He has been honored as Kentucky Colonel recipient as well as Jaycee International Senator, #39991. He is currently the regional sales manager of the National Icee Corp. in Louisville where he resides with his wife, Teresa, and their two sons, Justin and Andrew.

Mr. President, I take my hat off to Wayne Taylor for a job well done.●

VISIT TO MINNESOTA BY SOVIET PRESIDENT MIKHAIL GORBACHEV

● Mr. DURENBERGER. Mr. President, hosting foreign dignitaries is rather routine in Washington, DC. Worldwide, this city has developed the reputation for fine food, outstanding entertainment, and culture and a security force which stands ready for just about any situation.

However, much like a family preparing for rich relatives to come for dinner, the people of Minnesota were scurrying in high speed to prepare for the 6-hour visit of Soviet President Mikhail Gorbachev.

The list of details was endless—security, scheduling, and transportation certainly ranked among the most important. Gov. Rudy Perpich and the people who initiated the invitation to the Soviet President went to great lengths to make the right kind of Minnesota impression on the visiting leader, his entourage and the international press on Sunday, June 3.

One impression that we did not want to make though, came through the use of billboard advertising and a local vodka distributor. It seems that for a 2-month period, this distributor had 23 billboards throughout the Twin City area picturing Gorbachev holding a bottle of the product, with the phrase "The party's over" in big bold letters.

Though none of us were partricularly proud of this eye-catching maneuver, many thought it creative and relatively harmless.

Until we got the news that Gorbachev was coming to town.

The vodka distributor, in his persistence to keep the billboards up, maintained that the Sovet leader would have the sense of humor to appreciate the advertising. Many others in the liquor community didn't however—enter one Jack Farrell of Haskells, Inc.

Haskell's is one of the area's best known wine merchants and has built a reputation of fine quality and superior service, not just in the selection of wine and liquor, but in menu planning and organization as well. Haskell's is a first class operation because Jack Farrell, its fearless leader, is a first class person.

Last weekend, Jack came out publicly calling for the removal of the billboards, citing them as disrespectful and an embarrassment to the entertainment industry. He made the point that if the billboards had featured an American leader or celebrity—unauthorized—promoting the product, the whole folly might last a minute before the lawyers took charge.

And, as the proud American, Minnesotan, and business leader that he is, Jack hoped that President Bush's likeness wouldn't be used in such a way, let alone that the advertising would remain visible during a Bush visit.

Lo and behold, late last week, the controversial billboards were removed, and replaced with something much more dignified. The company welcomed Gorbachev—in the Russian language and alphabet—and toasted his good health.

I have to believe that this would not have happened if Jack had not come out, respected as he is, proclaiming the impropriety of the advertising in light of the short notice we received of the Gorbachev visit.

Jack played an even greater role, however, in ensuring a most positive impression for the visiting leader. Governor Perpich asked him to assist in the luncheon menu planning, using this opportunity to expose Gorbachev and the distinguished guests to dishes and commodities of Minnesota origin.

I learned of the selections that Jack lined up, and, having recently had the chance to enjoy a very similar lunch hosted by Jack, I am most confident that the Soviet President enjoyed his stay and meal in Minnesota.

Our visiting guest enjoyed a Minnesota feast of pecan breaded walleye, veal with fresh-picked morel sauce, grown wild rice, and minted powermilk biscuits with a melange of Minnesota berries.

Weeks before Gorbachev came to visit, Minnesotans were sprucing and polishing, and planning creative efforts to attract the Soviet leader's eye, or the attention of the visiting, international press corps.

It has been over 30 years since Soviet President Khrushchev made his famous visit to our neighboring State of Iowa. I speak for all Minnesotans in expressing our pride in Gorbachev's decision to visit Minnesota, and do lunch.●

TIMMS FOWLER AWARDED CITATION FOR CONSERVATION CONTRIBUTIONS

● Mr. WIRTH. Mr. President, I would like to congratulate Timms Fowler, who recently received the Conservation Service Award of the Department of the Interior for his formidable and unselfish contributions to the development of the 128-mile Kokopelli's mountain bike trail. Over a 5-month period, Mr. Fowler donated more than 600 hours of his time to leading and organizing the undertaking. His efforts generated widespread support for a project which both promotes mountain biking ethics and respects important wilderness areas. I salute Timms Fowler for his dedication to the creative and conscientious development of our national public lands and ask that his citation be printed into the RECORD.

The citation follows:

CITATION FOR CONSERVATION SERVICE, TIMMS FOWLER

In recognition of his significant contributions to conservation through his leadership and coordination of the development of the 128-mile Kokopelli's Mountain Bike Trail.

Between January and May 1989, Timms Fowler volunteered over 600 hours of time providing leadership for the planning and construction of the Kokopelli's Mountain

Bike Trail from Grand Junction, Colorado, to Moab, Utah. Through his efforts, broad support was received from mountain bike riders, commercial interests, local, State, and national elected officials, Federal agencies, and the Hopi Tribe. The efforts were closely coordinated with the staff of four U.S. Congressional delegates; the Bureau of Land Management in Grand Junction, Colorado, and Moab, Utah; the USDA Forest Service and the National Park Service in Utah; and the City Councils, County Commissioners, Chambers of Commerce, and the Travel Councils in both Grand Junction and Moab; managers of four mountain bike shops; and state and national bicycling associations; State Level Recreation and Tourism Associations; and several private professional service businesses who donated various services. Extensive media coverage was gained from the Wasatch Front in Utah to the Front Range in Colorado, reaching a majority of the population of the two States. Kokopelli's Trail development provided a critical medium for development and promotion of mountain biking ethics for this fast growing sport, including protection of wilderness study areas and promoting appropriate recreational use of vast areas of public lands. Through the work of Mr. Fowler, the Bureau of Land Management has been given the opportunity to integrate the new and significant mountain biking sport with other multiple land uses in a very positive manner. For advancing conservation of the national public lands by providing leadership for the construction of the Kokopelli's Mountain Bike Trail, Timms Fowler is granted the Conservation Service Award of the Department of the Interior.

MANUEL LUJAN, Jr.,
Secretary of the Interior.

STATEMENT BY MICHEL CAMDESSUS

● Mr. SIMON. Mr. President, over our recess, I had the chance to read the remarks of Michel Camdessus, managing director of the International Monetary Fund to the Royal Institute of International Affairs and the Overseas Development Institute in London on April 19, 1990.

What my colleagues will find of particular interest are his comments about Poland.

Poland has shown tremendous courage, but Poland continues to need help.

The director says:

I am reasonably confident that the Polish program will succeed, provided the authorities persevere both with their structural reforms and with macroeconomic discipline, and provided the external support continues in adequate measure.

Obviously, I encourage the courageous leaders of Poland to continue their current endeavors. The text of the above-mentioned statement follows:

REMARKS BY MICHEL CAMDESSUS

"THE IMF'S ROLE IN PROMOTING ECONOMIC REFORM IN EASTERN EUROPE AND OTHER PLANNED ECONOMIES"

"Anyone desiring a quiet life had done badly to be born in the twentieth century." Trotsky wrote that, but he presumably did not have in mind the changes that we are witnessing today. Changes of such momentum and such scope, that they really amount to a new, but so far peaceful, revolution.

I use the word "revolution" because we are witnessing far-reaching changes not only in economic structures and political systems, but also in how people think, work and interact. But, and this also is characteristic of revolutions, we cannot tell, as yet, how far this momentum will take the world. An historical drama is now unfolding from day to day, sometimes in startling ways. Will it fulfill all its promise? This is far from certain. The risks are obvious. The process of reform could be derailed, or could run out of momentum, due to opposition from vested interests, from all those who would like to turn the clock back, or if the leadership falters, or if the needed support from the West comes too late or is insufficient. Today I shall limit my remarks to a few of the economic aspects, and the role that the IMF has started to play in helping the countries of Eastern Europe, and a few elsewhere, to adopt market-oriented economic reforms.

The spotlight plays today most brightly on Poland and other East European countries. But we should not forget that many developing countries in other parts of the globe are following a similar path. In Asia, one thinks of Viet Nam and Laos as countries with planned economies that have recently embarked seriously on far-reaching economic reforms, with striking initial success. In Africa there are several economies with elements of a central planning mechanism that have been introducing major systemic changes, such as Madasgascar, Algeria and Guinea. And in Latin America, also, there is now more widespread acceptance of the new thinking about economic policy and the proper role of government in a market-based system. So we are observing a global phenomenon, of which Eastern Europe offers the most vivid and far-reaching examples.

It is often said that we are entering uncharted waters: that the attempt to move from a centrally planned economy to a market economy is unprecedented. This is not quite true. We should not forget that some of these countries have been attempting reforms over many years; for example, in China since 1978, in Hungary in various ways since 1968, and in Poland since 1981. These earlier attempts at reform met, in general, with limited degrees of success. We have learned a lot from these experiences. Difficulties arose in Hungary, when the authorities adopted too gradual an approach, or tried to improve parts of the economic mechanism without being able to take into account the interconnected nature of economic systems. And difficulties occurred, of course in any country where the authorities failed to back up the reforms with macroeconomic discipline. It may also be that an economic system cannot really be reformed effectively in the absence of a reform of the political system such as we have seen in some of these countries in recent months.

What is new, is the willingness of some countries to introduce a comprehensive set of fundamental changes, often in a short period of time. Some of them—Poland and Yugoslavia are the most striking examples—aim at a complete transformation of their economic structures, at the same time as they are changing their system of government and experiencing free elections for the first time in many years. The scale and speed of the reforms are breathtaking. They will generate great opportunities, but they also carry great risks.

The IMF has a role to play in helping these countries, as they seek to change their economic structures, and at the same time cope with the immediate economic problems of high or repressed inflation and external imbalance, especially in those with a substantial external debt. This is because an important element of the Fund's business is to promote sound economic and financial policies in all its 152 member countries. They have all types of economic systems, from market economies to centrally planned ones, and every shade in between. In over forty years of work with its member countries, the IMF has amassed much experience of what policies work and what policies do not work, and why. We are trying to share this experience, as constructively as possible, as an essential element of our cooperation with these countries.

I can best explain the IMF's role in helping this process of reform under three very traditional headings, which encapsulate our action in all countries: policy advice, technical assistance, and financing.

1. Policy advice. The Fund has an ongoing policy dialogue with the planned economies that are members, through the regular Article IV consultations, in which we analyze the country's economic situation, evaluate its policies, discuss the options available to the authorities, and make recommendations.

This type of policy consultation can be especially important for a planned economy with a high degree of centralized decision-making that is introducing fundamental reforms. From our experience so far with the reforming countries, and with the rest of the membership, I would draw a few lessons.

Firstly, the attempts to find a "third way" intermediate between central planning and a market economy have not been successful. Partial reforms of this kind, which involved incorporating some aspects of market mechanisms without changing the basic nature of the central planning system, were tried in both Hungary and Poland, but failed. Both countries now accept the need for a more fundamental "root-and-branch" reshaping of their systems.

Secondly, if these countries wish to change the system fundamentally, it is probably a mistake to adopt a piecemeal approach, because all the elements of the economic system are related. It is desirable, if they want a market-oriented system to work effectively, to introduce most of the main elements in a comprehensive package, from the beginning, or as soon as possible thereafter. Consider this: if you want to introduce a market economy, at a minimum you will need a price system that sends the right signals to producers and consumers, to reflect relative scarcities, and encourage an efficient allocation of resources. This is basic, but it probably means that you should free prices as completely as possible. Merely adjusting a system of administered prices will not allow sufficient flexibility or create the right incentives, nor will it remove all the distortions, including the scope for corruption in the bidding for allocations of scarce materials that remain under administrative controls.

But if a free market system of price determination is introduced—supplemented with anti-monopoly regulations to encourage competition and prevent price abuses—it will also be necessary to move toward a freer system of wage determination. This will encourage greater wage differentiation

and create better work incentives. And, with a freer wage system, you will then need labor market policies that encourage mobility, and discourage the over-manning that has been such a prevalent source of inefficiency and low productivity in many of the planned countries. This will imply, in turn, giving up the high degree of job security that has been a customary feature in these countries. The work force has to accept the possibility of unemployment—that is, of open unemployment such as we know in the Western economies, rather than the hidden unemployment so typical in these economies. Next, with greater scope for market forces to guide the allocation and remuneration of productive resources, you have to allow more decentralized decision-making. Enterprise managers have to learn to be fully accountable for their decisions, in a system that permits both the rewards of success—that is, profits—and the consequences of failure—i.e. bankruptcy. And finally, these domestic elements of reform—as regards prices, wages, competition, and decision-making—will work best if the external system is simultaneously reformed to open up the economy to foreign competition and the benefits of fuller participation in the world trading system.

This is a big agenda! It suggests that a wide range of institutional and legal reforms will also be needed. For example, a network of financial intermediaries, and the whole range of legal and accounting rules that govern financial transactions between private citizens and between companies, will be needed. As a practical matter it is impossible to introduce all these changes overnight and it is important to design them carefully. Governments must make difficult decisions about the timing and coordination of reforms. But proper decision-making will develop more readily if most of the elements of a market-oriented system are put in place simultaneously.

We must realize that most of these countries will not be able to reform their systems as quickly as they would wish, and a phased approach will be inevitable. In such cases, it will be very desirable that careful thought be given to minimizing the drawbacks of partial reforms that I have touched on.

A third point is that economic reforms will only work well if they take place in an environment of strong financial discipline. This requires sound policies at the macro level—in other words a tight budget and a non-inflationary monetary policy. In addition, effective financial discipline must be introduced at each level—local government, the financial sector, and especially at the level of the individual firm. This probably means giving up some long-held habits—for example the tendency to subsidize or protect inefficient or ailing companies. We know all too well from some of the advanced industrial countries how hard it is to resist pressures for such subsidies—and yet how costly it is to society if governments give in to such pressures.

There is a particular danger at the outset, when reforms are introduced. This will inevitably unleash pent-up forces that are hard to predict, and that need to be dissipated by appropriate policies. Prices are the most vivid example. Typically the pre-reform price system will contain many administered prices, including prices for basic food items, housing, and fuel, that have been kept artificially low for social reasons. The low administered prices usually conceal a huge amount of repressed inflation—that is, excess money holdings and shortages of goods that are reflected in long queues, black markets and cumbersome barter arrangements. Also there may well be a substantial liquidity overhang in the economy: when prices are freed, and market forces start to produce a better structure of relative prices, this excess liquidity may produce an initial surge of price increases. This *can* be a relatively short-term phenomenon, and basically a one-time correction. But it can only be kept under control if measures are taken at the outset to mop up excess liquidity, for example by raising interest rates and selling state-owned assets to the public; and if then financial conditions are kept tight so as not to inject new excess liquidity, and if wage policy is effective. Otherwise inflation can snowball when the price controls are lifted, and a price-wage spiral can quickly get out of hand.

Fourthly, we really do not know how long it will take for the reforms to produce a supply response. Some of the structural policy changes will take a long time to produce their full results. Of course, there have been important exceptions: the structural reforms in China during the 1980s, for example, produced a rapid and vigorous supply response in agriculture and in parts of industry. But in most cases the supply response will take a while, so it is important to introduce these reforms early, and not too gradually.

My fifth point sums up the first four. It concerns the role of the State in a market economy. Do the countries wish to install a very laissez-faire form of government, or should they benefit from the long post-war experience of countries in Western Europe and North America? Simply put, I would suggest that governments that are introducing systemic reforms can increase their chances of success, if they aim at the following: firm *macroeconomic policies* that establish a framework of financial stability, and are conducive to steady, medium-term growth; *structural reforms* that establish an appropriately decentralized system of decision-making and responsibility, and an effective pattern of incentives—to work, to save, and to invest—and a *regulatory framework* to supervise and maintain the market infrastructure, and to decide delicate and complex distributional issues.

And, finally, and most essential for the transitional period, creation of the kind of *social safety net* that we use in the West to cushion the impact of unemployment by supporting and retraining the unemployed, and to alleviate the human cost of adjustment for the most vulnerable parts of the population. This stems from a sense of human and national solidarity. It is also part and parcel of a coherent strategy for transition to a new economic system. The stronger the safety net, the stronger will be the case for Governments to stand firm, in resisting pressures to maintain controlled prices for basic goods, or to postpone the liquidation of unviable enterprises.

The reforming countries cannot succeed on their own. They will require considerable help from abroad and a readiness on the part of the advanced industrial countries, in particular, to expand their trading links with Eastern Europe. The mobilization by the Western industrial countries of major financial packages for Poland and Hungary is an important example. To my mind, Europe will have an important role to play, and it will be important that the EC countries extend an open and generous welcome to their Eastern neighbors. Fortunately we have seen this from the beginning of the reform process last year, with the immediate willingness of Europe to assist in the creation of safety nets. As a matter of fact, there is broad recognition that Europe will be the stronger because of the closer links between West and East and that there will be mutual benefits from fostering these links.

2. Financing. The need for financial support comes immediately to mind, so far as the IMF itself is particularly concerned. It is quite appropriate that the IMF is extending financial assistance to some of the reforming countries, to support their programs, to help correct their severe economic imbalances, to contribute to a closer integration of their economies into the global trading and financial network, and finally to act as a catalyst for financing from other official and private sources. There may be a strong need for support at the outset of a reform program, due to the inevitable uncertainties, the disruptive immediate effects for the balance of payments of opening the economy, and the need to bolster the credibility of reforms. At present the Fund has stand-by arrangements with Poland, Hungary, and Yugoslavia, and it can be expected that in due course there will be requests for Fund assistance from others.

I can illustrate how the Fund's financial assistance can be used to promote reforms by reference to Poland, for whom the Fund recently approved a stand-by arrangement for SDR 545 million, directly, while also acting as catalyst for larger amounts of other international support. Burdened with $40 billion of convertible currency debt, Poland entered the last quarter of 1989 with an inflation rate of more than 30% per month, falling output, and a widening and unsustainable current account deficit. The economic situation was deteriorating rapidly.

The government that came into office in September has introduced, in very short order, a major economic package. Indeed, Poland may be a test case for the comprehensive approach to systemic reforms. These reforms have been accompanied by a courageous program that is tackling Poland's major macroeconomic imbalances—by stabilizing the economy quickly, to bring about a rapid deceleration of inflation, and to encourage an early supply response in order to eliminate shortages. The Polish program uses the exchange rate and wages as nominal anchors to brake the momentum of inflation; it aims to re-establish approximate balance in the government fiscal position, and to enforce tight monetary and credit discipline. At the same time, the authorities have introduced a major reform of the system, by freeing prices and the foreign exchange and trade system, as well as taking measures to reduce the institutional rigidities that have inhibited a greater market orientation. These include abolition of the central allocation of resources, measures to break up monopolies, extensive enterprise reforms, and progressive privatization of state owned enterprises.

There are, of course, serious risks in the Polish program—risks that are inherent in any attempt to implement major reforms while dealing with an immediate and severe economic crisis. But so far the results are encouraging. We had thought that the first three months would be crucial, particularly as regards inflation. If inflation had continued out of control, then other elements of the package would have been doomed. But prices have recently stabilized, after the expected initial spurt in January, when key

prices were freed. On this basis, I am reasonably confident that the Polish program will succeed, provided the authorities persevere both with their structural reforms and with macroeconomic discipline, and provided the external support continues in adequate measure.

In Yugoslavia the Fund is also supporting a comprehensive and bold program to stop inflation in its tracks, and to reform the economy over the medium term. The initial results are encouraging, as prices have stabilized. And in Hungary, the Fund is supporting, with a stand-by arrangement, an economic program that is somewhat less ambitious than in Poland, partly because the initial situation was better in some respects, than in Poland, and partly because of the impending elections. We are looking forward to working with the new Government of Hungary on a broader program, focused on structural reforms, that would complement and take further the present program's effort at restoring internal and external equilibrium.

3. Technical assistance. If I also lay particular emphasis on technical assistance—a dull term for an exciting concept—it is because the transformation of an economic system requires a revamping of the institutional and regulatory framework. It means creating whole new institutions. Think of what is implied—what is taken for granted in the Western economies—a network of banks and financial intermediaries, a regulatory framework that includes a monopolies commission, and social safety nets including unemployment insurance, job retraining schemes, and so on. A legal and accounting system that enables and promotes the proper functioning of all these institutions. A central bank with an appropriate degree of independence, that can operate a monetary policy in the way that is essential to the proper functioning of a market system and that can supervise the banking system. The list is almost endless.

It is tremendously hard to create these institutions, and to staff them with people with the necessary skills and attitudes. After all, none of the so-called advanced Western countries is very perfect in all these regards, even after decades of experience and development. So the Eastern countries are in great need of assistance, in creating and making operational these essential institutions.

In its limited field, the IMF is contributing all it can. I regard this technical assistance aspect of our work as important, because the reform systems can only work if the economic policy institutions operate effectively. Our technical assistance is focused primarily on ways to improve budgetary procedures and macroeconomic management, in particular by (a) training economic policy officials, both in the country and through courses in our IMF Institute; (b) improving the country's economic statistics; (c) helping to reform the tax system and tax administration, and to improve expenditure controls; and (d) helping to improve the functioning of the central bank and the financial system, including banking supervision, and the money and securities markets.

In Poland, for example, we are providing extensive technical assistance to the authorities as they prepare to introduce a VAT system and a broad-based personal income tax, as well as advice with respect to budgetary controls and tax administration. The Fund is also helping with the reform of the banking and financial sector, both by advice from the IMF staff itself and by coordinating a vast program of technical assistance involving several Western central banks. In effect, Poland is creating for itself a modern banking system, including a more independent Central Bank.

It is gratifying that so many countries, and so many institutions—the EC, the World Bank, the OECD, and others—are helping so generously in this essential work of creating modern institutions to sow the seeds of an enterprise culture.

In conclusion, the years immediately ahead will clearly be crucial for the countries that are introducing reforms. The longer term prospects for these countries are indeed attractive, as they will eventually enjoy the higher standards of living of the market economies. But the transition will involve a formidable departure, an abandonment of the apparent security—a false security, no doubt—of the command economies. Many will suffer in the process. Great leadership will be required to manage the transition, and to maintain a process of dialogue so that the population participates in, and supports, the long and hard transformation of the economy. There is much that the international community of nations can and should do, to soften the shock, and welcome these countries into a more complete participation in the world economic system. Everything must be done, by all of us, to make sure that they succeed.●

SPACE SEEDLINGS PLANTED AT ILLINOIS CAPITOL

● Mr. SIMON. Mr. President, last fall, I had the delightful opportunity to meet several bright young boys and girls from Morgan County. The young people were members of the Berea Ag 4-H Club. They told me of their plan to send the seeds of several kinds of flowers, including marigolds, nasturtiums, gloriosa daisies, four o'clocks, and bachelor's buttons, into space. I was particularly pleased to learn that marigolds, our late Senator Everett Dirksen's favorite flower, were part of the project.

In January, the first part of their plan took place. The seeds orbited the Earth 172 times on-board the space shuttle *Columbia*, staying in space 10 days and 21 hours.

The space seeds were planted in a greenhouse at the University of Illinois. The students have visited their space seedlings and have tried to see if differences in gravity, temperature, and radiation exposure affect the growth of these flowers. So far, no significant difference has been observed; the marigolds are doing fine.

Yesterday, June 5, the 4-H'ers took their transplanted, but well-traveled seeds and planted them at the State Capitol grounds in Springfield in a salute to the efforts of Illinois youth who are learning to live in a global society.

In turn, we should salute the efforts of these bright and ambitious young students. These boys and girls showed the curiosity and initiative that is so admirable among many students of today. Their efforts should be an example to all that there are no limits in our drive to expand our knowledge and put that knowledge to use for the benefit of all.●

HARMONIZING MARGINS: THE REGULATION OF MARGIN LEVELS IN STOCK INDEX FUTURES MARKETS

● Mr. SIMON. Mr. President, I have been doing quite a bit of reading recently on the whole question of the futures market and what should be done in view of the statements that have been made by Treasury Secretary Nicholas Brady and others.

The finest article that I have read yet that really goes in depth into this whole thing has been published in, of all places, the Cornell Law Review.

It was written by Dean Furbush and Annette Poulsen. Mr. Furbush is with the Office of Economic Analysis of the Securities and Exchange Commission, and Ms. Poulsen is with the Department of Finance at the University of Georgia.

I am grateful to both of them for their solid work.

They summarize their findings in the first part of the paper, as follows: First, the argument for raising futures margins must rest on their external effects in equity markets; margins have been adequate for the financial integrity of financial futures markets. Second, raising margins to discourage speculators from trading impairs markets liquidity. In October 1987, speculators maintained their unintentional role as providers of liquidity during the market crash by serving as net buyers of index futures. Third, raising margins to index arbitragers encourages the direct use of equity markets leading to wider price swings than occur under the current system. Fourth, no evidence supports the view that higher futures market performance margins would have dampened price movement during the stock market crash or, more generally, in day-to-day operations.

One point, "Margins in equity markets and futures markets are fundamentally different." That is one point that many seem to not understand. The stock market is basically a downpayment on a security purchase, creating credit obligations. I'd like to point out in this article:

> A margin in the futures market resembles the earnest money presented prior to purchase of a house, guaranteeing contract performance. In addition, unlike margins for equity markets, margins for futures contracts are "marked-to-market" daily, subtracting or adding any losses or profits earned on the contract from the margin account. If the margin account falls below the required maintenance margin, the investor must replenish the account.

I'd like to make another important point:

At the current level of margin debt, the importance of credit margin in equity markets is not a practical macroeconomic policy concern. The vast majority of securities are owned outright, either through borrowing from other sources or purchasing without credit. At the end of December 1988, margin debt was only 1.3 percent of the value of the stocks listed in the New York Stock Exchange.

Another note about the 1929 crash:

The crash was widely believed to have been caused by "excessive" speculation in stocks fueled by credit; it generated pressure to impose regulations to curb excesses of the market place. Theory and empirical evidence, however, minimizes the importance of margin-fueled speculation.

Let me just list a few other conclusions they make in their excellent article:

Since the role of margins in futures and equities markets are different, it is logical that different regulatory schemes with different margin criteria exist for futures and equities.

Minimum margin requirements are set by a margin committee comprised of members of the futures exchange. Futures commission merchants, analogous to brokers in equity markets, are free to set margins above the minimum—and they often do so. It is in their interest to find the margin level associated with the lowest risk-adjusted cost of futures contracts. If the margin is set too low and an investor defaults on the contract, a member of the margin committees must cover the default.

Even throughout the market crash period of October 1987, not one investor lost money due to default at either the Chicago Mercantile Exchange or the Chicago Board of Trade:

"[T]he futures clearing organizations collected all variation margin called for without default, despite daily price swings of unprecedented size. For example, the price of a single S&P 500 futures contract declined by $40,378 on October 19 and price moves of approximately $7000 per contract occurred on both October 20 and October 22. * * * As market volatility indicated the potential for one-day movements of unprecedented magnitude, the clearing organizations adjusted customer margin requirements to provide increased security."

The evidence presented here does not support a policy decision of higher margins in futures markets.

In conclusion, their article quotes a Prof. Merton Miller:

The issue of futures margins and the question of who sets them are more than just organizational details. There are delicate business trade-offs involved. In my view, taking the business decisions away from the private sector, where incentives are right, and transferring them to the public sector, where the incentives are wrong, will ultimately kill the futures industry.

Mr. President, I know this is a somewhat article, but I urge my colleagues who are interested in this field to take the time to read it, and I ask that it be printed in the RECORD.

The article follows:

HARMONIZING MARGINS: THE REGULATION OF MARGIN LEVELS IN STOCK INDEX FUTURES MARKETS

(Dean Furbush,* and Annette Poulsen +)

Since the October 1987 stock market crash, many commentators have recommended policy changes intended to prevent a recurrence. The Brady Commission, appointed by President Reagan, presented a comprehensive reform program that emphasized the recognition that stocks, stock index futures, and stock options are components of one market, not individual markets.[1] The Brady Report recommends that one agency coordinate regulatory issues across market segments, recommends that coordinated "circuit breakers" be installed to prevent market "meltdowns," and argues that margin levels for purchasing and holding securities should be made consistent across marketplaces to control speculation and financial leverage. The effect of "harmonizing" margins would be increased margins for stock futures and options contracts. In this article, we consider the rationale behind the harmonizing of margins and the effect of changing margin levels for stock index futures on both futures and equity markets.

Most observers consider margin levels for stock index futures sufficient to protect futures markets. The Brady Commission recognizes that the "market-to-market" that occurs every day in futures market removes most of the risk that investors would not be able to honor their contract obligations. Even during the unprecedented market movement of October 1987, no investor lost money on stock index futures due to default at either the Chicago Mercantile Exchange or the Chicagao Board of Trade.[2]

Criticism of low margins for stock index future contracts centers on the effect of low margins on the financial integrity of equities markets. Commentators argue that low futures margins allow investors to purchase billions of dollars worth of stock index futures in very short periods of time, and that those transactions "have repeatedly sent the stock market into violent gyrations. . . . [Stock index futures] have escalated the leverage and volatility of the entire stock market to unacceptable levels." [3]

Arguments for higher margin levels can be summarized by the following sequence of assertions: First, performance margins in futures markets are set without regard to their external effects in equities markets; second, low performance margins encourage trading by speculators and other informationless traders; third, the presence of these traders provides an illusion of liquidity, but during periods of emergency, results in higher price volatility in futures markets; fourth, the higher price volatility is transferred to equity markets by index arbitragers and spillover; and finally, liquidity in the equities markets is insufficient to handle the excessive order flow and price volatility.

In the following sections, we examine the merit of these arguments. In Section I we provide background on margin requirements for equity and futures securities, and in Section II we consider appropriate margin levels for safety in futures markets and the role of equity markets in shaping futures margins. In Section III we discuss the linkage between equity markets and futures markets and in Section IV we consider the direct effect of changes in S&P 500 futures margins on the volume and price volatility of these contracts.

Overall, this paper supports the following points: First, the argument for raising futures margins must rest on their external effects in equity markets; margins have been adequate for the financial integrity of financial futures markets. Second, raising margins to discourage speculators from trading impairs market liquidity. In October 1987, speculators maintained their unintentional role as providers of liquidity during the market crash by serving as net buyers of index futures. Third, raising margins to index arbitragers encourages the direct use of equity markets leading to wider price swings than occur under the current system. Fourth, no evidence supports the view that higher futures market performance margins would have dampened price movement during the stock market crash or, more generally, in day-to-day operations.

I

INSTITUTIONAL DEVELOPMENT

Margins in equity markets and futures markets are fundamentally different. A trade in the equities markets transfers ownership of a security from one party to another. A margin payment represents the down payment on the security purchase, similar to the downpayment on the acquisition of any good. On the other hand, the product sold in a futures market is a contract that obligates the buyer to purchase the asset from which it is derived some time in the future. No title changes hands with the transaction. A margin in the futures market resembles the earnest money presented prior to purchase of a house, guaranteeing contract performance. In addition, unlike margins for equity markets, margins of futures contracts are "marked-to-market" daily, subtracting or adding any losses or profits earned on the contract from the margin account. If the margin account falls below the required maintenance margin, the investor must replenish the account.

In 1934, Congress gave authority to the Federal Reserve Board to set margin levels in equities markets on the grounds that margins in equities transactions extend credit, and thus the margin level should be considered part of monetary and fiscal policy with direct macroeconomic effects.[4] But at the current level of margin debt, the importance of credit margins in equity markets is not a practical macroeconomic policy concern. The vast majority of securities are owned outright, either through borrowing from other sources or purchasing without credit. At the end of December 1988, margin debt was only 1.3 percent of the value of the stocks listed in the NYSE.[5]

A. Regulation of Margins on Equity Securities

Before 1934, despite earlier proposals for governmental regulation of credit in securities markets, the exchanges and individual brokers set margin requirements.[6] The NYSE first interceded in margin regulation in 1913 when it adopted a rule that said in part that margins that were not "proper and adequate" could be detrimental to the exchange.[7] After 1913, exchange members continued to set their own margin requirements but were subject to the proper and adequate rule. By 1922, margins were generally about 17 percent.[8] In June 1929, the NYSE imposed a 25 percent initial margin requirement to replace the proper and adequate rule, although individual brokers were commonly setting their own margins as

[1] Footnotes at end of article.

high as 50 percent by this time.[9] The President of the NYSE testified that in the spring and summer of 1929 brokers dramatically raised their margin requirements due to fear about the inflation in the market.[10]

The October 1929 crash, however, caused a dramatic change in the margins set by brokers and the exchanges. During October and November of 1929 as stock prices fell and margin calls could not be met, many brokers (and banks) lowered and even waived their margin requirements to mitigate the effects of additional margin calls. In 1931, the NYSE reduced its minimum margin requirement to 20 percent in an attempt to stem future price declines and margin calls.[11]

The 1929 crash provided the impetus for the federal regulation of margins contained in the 1934 Securities Exchange Act.[12] The crash was widely believed to have been caused by "excessive" speculation in stocks fueled by credit; it generated pressure to impose regulations to curb excesses of the market place. Theory and empirical evidence, however, minimizes the importance of margin-fueled speculation.[13] In addition, despite the lack of a uniform margin structure in 1929, margin requirements were sufficient to protect the integrity of the market—no bank became insolvent because of extension of securities credit, and only three broker/dealers could not meet their commitments.[14]

In any event, the crash motivated Congress to authorize the Federal Reserve Board to regulate initial and maintenance margins.[15] Section 7(a) of the 1934 Securities Exchange Act gives the Federal Reserve the power to set rules and regulations "with respect to the amount of credit that may be initially extended and subsequently maintained on any security (other than an exempted security)."[16] Sections 7(c) and 7(d) classify the persons covered by Federal Reserve margin regulations.[17] Section 7(c) makes it unlawful for any "member of a national securities exchange or any broker or dealer" to extend credit or maintain credit in contravention of the rules and regulation set forth by the Federal Reserve Board under 7(a).[18] Section 7(d) authorizes similar regulation for persons not covered under 7(c).[19]

Congressional testimony and later analysis suggests that three goals underlaid the Congressional regulation of margin requirements.[20] First, Congress wanted to limit credit financed speculation in securities, which allegedly drained funds from more productive investments. Second, the margin requirements were imposed to protect individual unsophisticated investors from toohighly leverage speculation in the stock market. Third, the margin requirements were to be used by the Federal Reserve Board to provide market stability.

Commentators have theoretically and empirically attacked these justifications for margin regulation, especially the first two.[21] Figlewski notes, for example, that a margin loan to purchase already issued stock does nothing more than facilitate the transfer of ownership of existing assets.[22] Thus, margin lending does not divert credit (and resources) from other productive uses. Further, Figlewski states that margin regulations are a very inefficient way to protect small investors from overextending themselves in speculation in stocks. Even ignoring the argument that individual investors should be free to make their own choices, Figlewski notes that across the board margin regulations do not discriminate among investors by their sophistication and ability to bear risk. Figlewski adds that the theoretical and empirical support for margin regulation to increase market stability is weak.

B. Present Federal Reserve Board Regulations

The Federal Reserve Board's application of its power to regulate margins is contained in Regulations T, U, G, and X.[23] Regulation T controls the extension of credit by brokers and dealers, and includes the initial margin required for various types of securities.[24] Under Regulation T, the required margin for a nonexempt security is 50 percent of its current market value.[25] Thus, a customer who wishes to purchase $10,000 in stocks must put up at least $5000 in cash or securities with a loan value of $5000. The regulation allows exchanges and brokers to set higher initial and maintenance margins.[26]

The exchanges have set margin requirements in addition to those in Regulation T. Most importantly, the exchanges have required maintenance margins. For example, NYSE Rule 431 requires that for long securities purchased on margin, the customer must maintain 25 percent of the current market value of the security in a margin account.[27] In addition, the NYSE members frequently have "house margin rules" that are higher than the regulations of the Federal Reserve Board or the NYSE.[28] Finally, the NYSE may impose special margin requirements on individual securities of generally in certain situations.[29]

Regulation U, adopted in 1936, applies to extensions of credit by banks,[30] and Regulation G, adopted in 1968, applies to extensions of credit by persons other than brokers, dealers, or banks.[31] While it is not required to do so, the Federal Reserve Board has set the same margin requirements for Regulations T, U, and G. Finally, to restrict borrowing at lower margin levels from unregulated foreign lenders, in 1971 the Federal Reserve Board adopted Regulation X. Regulation X, which applies to borrowers, requires all borrowers who trade securities in United States markets to comply with the margin requirements of Regulations T, U, and G.[32]

C. Regulation of Margins on Derivative Securities

Little direct federal regulation of margins on futures contracts exists.[33] While the Commodity Futures Trading Commission (CFTC) is authorized to regulate much of the structure of contract markets including approval of rules relating to margins, the CFTC is not authorized to set individual margin requirements. Specifically, the CFTC is statutorily required to approve all rules of a contract market, "except those rules relating to the setting of levels of margin."[34] The Federal Reserve Board has claimed that, at a minimum, margins on stock-related futures are subject to its jurisdiction, although the futures exchanges dispute this claim.[35]

Since the role of margins in futures and equities markets are different, it is logical that different regulatory schemes with different margin criteria exist for futures and equities.[36] As noted above, equity transactions change ownership of an asset while futures contracts commit the participants to buy or sell an asset at a specified time. In addition to initial margins set by the exchanges, the exchanges set performance or maintenance margins for future contracts, and futures positions are marked to market daily. If the margin account falls below the maintenance margin on any day, the investor must replenish the margin account or his position is closed.[37] In addition, each clearing member firm guarantees the contract of its customers.[38]

Minimum margin requirements are set by a margin committee comprised of members of the futures exchange. Futures commission merchants, analogous to brokers in equity markets, are free to set margins above the minimum—and they often do so. It is in their interest to find the margin level associated with the lowest risk-adjusted cost of futures contracts. If the margin is set too low and an investor defaults on the contract, a member of the margin committee must cover the default.[39]

Each futures exchange issues four margin requirements denominated in dollar amounts: initial and maintenance margins for market makers and institutions with hedged positions, and initial and maintenance margins for speculators, defined as investors with futures positions not offset by stock positions. Presently, an unhedged investor can be long or short about $140,000 of S&P 500 futures for an initial payment of $20,000. If the investor is long one S&P 500 futures contract and the remains unchanged, the position can be reversed at any time, and the $20,000 is returned. The reversal would occur automatically at the expiration of the contract if no action were taken. If the price falls, then the $20,000 is diminished by the amount of decrease in the entire contract. If the initial margin falls below the maintenance margin level ($4,000), the investor must pay to bring the margin back above the initial level. This adjustment, or "mark to the market," occurs daily. If funds are not received by 7:00 A.M. on the morning following the margin call, the position is closed.[40] From the standpoint of the exchange, the risk to be avoided is a one day price movement in either direction that is larger than the level of the maintenance margin. Thus, margins are set in an attempt to predict price volatility and support of credibility of the market.

TABLE 1.—S&P 500 STOCK INDEX FUTURES MARGIN REQUIREMENTS

[Chicago Mercantile Exchange]

Date		Margin levels			
		Speculator		Hedger/Market maker	
From	To	Initial	Maintenance	Initial	Maintenance
04/21/82	10/25/82	$6,000	$2,500	$2,500	$1,500
10/25/82	01/30/87	6,000	2,500	3,000	2,500
01/30/87	10/19/87	10,000	5,000	5,000	5,000
10/19/87	10/22/87	10,000	7,500	7,500	7,500
10/22/87	10/28/87	15,000	10,000	10,000	10,000
10/28/87	10/29/87	20,000	12,500	12,500	12,500
10/29/87	12/18/87	20,000	15,000	15,000	15,000
12/18/87	03/08/88	15,000	10,000	10,000	10,000
03/08/88	09/22/88	18,000	10,000	10,000	10,000
09/22/88		20,000	4,000	4,000	4,000

Source: Chicago Mercantile Exchange.

Table 1 shows the margin requirements issued by the Chicago Mercantile Exchange from the first sale of S&P 500 futures contracts on April 21, 1982 through September 1988. Changes have been infrequent, with none between October 1982 and January 1987. Part of the cost of entering into a futures contract depends on the initial margin as a percent of the value of the contract. Figure 1 illustrates the initial margin paid by speculators, as a percent of the value of

the S&P 500 futures contract from April 1982 through November 1988.[41] The long decrease in the margin level as a percent of contract value from 1982 to January 1987 is due to the increase in the level of the S&P 500 futures contract. The initial margin for speculators shown in Figure 1 has received the most attention and is the most relevant for testing the effect of margins on price volatility. But the maintenance margin is more relevant with respect to the risk borne by the exchange members, because it is the level that must be maintained to guard against adverse price movement.

II

APPROPRIATE MARGIN LEVELS FOR STOCK INDEX FUTURES

A. Financial Integrity of Futures Markets

The primary role of margins in futures markets is to ensure that investors perform on the contracts to which they are committed, thus protecting futures commission merchants from their customers' losses and maintaining investor confidence in futures markets. For contract performance, optimal margin levels should be determined by: (1) the volatility of the futures price, (2) the length of the "grace period" that the customer has to meet a margin call, and (3) the correlation among price movements of all positions held by the trader.[42] Margin levels of 100 percent would completely protect futures commission merchants from default risk, but high margin levels also could mean less participation in futures markets with a corresponding reduction in liquidity, a consideration discussed in the following sections.

The price volatility of futures contracts is an important determinant of appropriate margin levels because volatility determines the probability that the price will move enough that the investor's initial margin deposit will be insufficient and that he will face a margin call. The length of the margin grace period, the time the trader has to meet his margin call, is important because further price movements against the trader could result in depletion of the margin account before the grace period ends. Offsetting positions are relevant because other holdings can reduce the overall riskiness of the investor's position.

These considerations are consistent with the existing lower margins for stock-index futures contracts compared to equity contracts. The Interim Report of the Working Group on Financial Markets notes:

[T]he prudential maintenance margin percentages required for carrying an individual stock should be significantly higher than the percentage margin required for a futures contract on a stock index. This conclusion follows from the facts that stock indexes have a smaller percentage price variability than do individual stocks and the payment period for margins in the futures market is shorter than the period for stocks.[43]

The price volatility of a stock index such as the S&P 500 futures contract is significantly lower than the volatility of any individual stock, and the daily marking to market that occurs at the CME and other exchanges that trade stock index futures shortens the grace period for making margin calls compared to those for equity securities. In addition, futures exchanges explicitly consider the correlation between traders' holdings and distinguishing between hedgers and speculators: hedgers who, by definition, have holdings that are negatively correlated with their futures position, often are granted margin requirements lower than those of speculators.

TABLE 2.—PRICE VOLATILITY AND MARGIN LEVELS

[Initial Margins for speculators at the CME]

Time period	Price volatility [1]	Margin coverage ratio [2]
1982	0.026	4.97
1983	0.013	6.33
1984	0.014	5.96
1985	0.013	6.03
1986	0.020	2.81
1987	0.032	3.75
Jan. 1988 to May 1988	0.020	6.24
Jan. 1987 to Sept. 1987	0.019	3.77
Oct. 1987	0.154	0.93
Nov. 1987 to May 1988	0.024	5.77
April 1982 to May 1988	0.020	5.03

[1] Daily coefficient of variation over one month, averaged over each month.
[2] Ratio of the initial margin for speculators to the daily standard deviation of contract value over one month, average over each month.

Table 2 reports margin coverage ratios, a measure of the level of protection provided by margins, over several periods for the S&P 500 futures contract. The statistic essentially adjusts the stated margin level by the price volatility of the contract. The margin coverage ratio, equal to the initial margin level for speculators divided by the daily standard deviation of the price change of the contract averaged over each month, is analogous to a t-statistic. For example, a margin coverage ratio of 2 means that, assuming futures prices approximate a normal distribution, there is a 2.5 percent chance that a none-day price change will exceed the initial margin level for speculators. A margin coverage ratio of 3.5 implies a daily default probability of 0.02 percent.[44]

Since the crash, the margin coverage ratio indicates a higher level of protection than for any year since 1985, despite higher volatility immediately following the crash. The average margin coverage ratio at the CME for the S&P 500 futures index from April 1982 (when the contract began trading) through May 1988 is 5.03. Since October 1987, the average margin coverage ratio is 5.77. During October 1987, the margin coverage ratio was only 0.943, reflecting the price volatility of that period.

Three considerations should be kept in mind when discussing the margin coverage ratio: (1) the default probabilities overestimate risk because they only include funds in the margin account, not other funds available to investors for margin calls; (2) the exchanges can make intra-day margin calls and raise margins in response to changes in price volatility; and (3) the default danger of any given margin level must be weighed against the costs of higher margins during normal trading.

The futures exchanges generally use past market conditions and price volatility to estimate appropriate margin levels. Breeden examines margin levels for eleven commodities at the Chicago Board of Trade (CBT) from 1977 to 1982 and finds that exchange policy outperforms more sophisticated models.[45] Empirically, margin policy has been satisfactory with respect to the financial integrity and efficiency of the futures markets, a consensus with which most observers agree.[46] Even throughout the market crash period of October 1987, not one investor lost money due to default at either the CME or the CBT:

"[T]he futures cleaning organizations collected all variation margin called for without default, despite daily price swings of unprecedented size. For example, the price of a single S&P 500 futures contract declined by $40,378 on October 19 and price moves of approximately $7000 over contract occurred on both October 20 and October 22. . . . As market volatility indicated the potential for one-day price movements of unprecedented magnitude, the clearing organizations adjusted customer margin requirements to provide increased security.[47]"

B. Appropriate Futures Margins From the Viewpoint of the Equity Markets

Since the introduction of the S&P 500 futures contract in 1982, its popularity and that of similar index derivative products has increased tremendously. A large portion of traders in these contracts, especially institutions, use the instruments in connection with stock market transactions. Index futures and options allow easy investment in overall market behavior as compared to purchasing a similar portfolio of stocks. Index futures and options can be used to hedge against market declines. In addition, the simultaneous trading of two related products leads to the development of active index arbitrage.[48]

The Katzenbach Report identifies four reasons why traders prefer to make their transactions in the futures markets.[49] First, brokerage fees are substantially lower in futures markets, ranging between 5 and 10 percent of the costs in equity markets for similar transactions. Second, index futures and options transactions are quicker and easier to implement as opposed to trading a basket of stocks. Third, index trades generally have less price impact due to the market structure of futures and options markets. Fourth, lower margin levels for futures contracts allow increased leverage.

Most of the official policy statements following the market decline in October 1987 advocated increases in margins on stock index futures contracts.[50] While the studies recognized the importance of stock index futures for hedging and securities market investment, several studies expressed concern over excessive leverage used for investing in these products. The Brady Commission, the SEC's Division of Market Regulation and the New York Stock Exchange's Katzenbach Report all argued that margins on stock index futures contracts should be increased. Implicit in this recommendation is that excessive speculation in futures markets can result in feedback effects in the stock market, driving equity prices away from their true value. No report, however, defines the concept of excessive speculation.

The argument for government intervention to raise the level of margins on stock index futures presumes that these margin levels have an external effect on the futures markets. The external effect occurs because index arbitrage links cash prices and futures prices. If low futures markets margins cause high price volatility in both markets, then placing authority to set margins for both markets in one regulatory body accounts for the impact of margins in both markets and provides a framework for raising futures margins. Before such a change is made, the theory and evidence supporting it must be examined closely. The following sections begin that examination by first considering the impact of futures markets on cash markets. Then we consider the impact of changing futures margins on futures markets.

III

THE ASSOCIATION BETWEEN THE FUTURES AND CASH MARKET

A. Prices are Linked by Index Arbitrage

Equity and futures markets respond to the same underlying economic factors; index arbitrage links the two markets. When the S&P 500 futures price moves away from its "fair value" with respect to the S&P 500 cash index, arbitragers transact in both markets, keeping the markets in equilibrium. The index arbitrager acts as a messenger carrying price movement that occurs in one market to the other market. If informationless speculation dominates futures markets, the link can result in incorrect messages being sent to the equity market by index arbitragers.

The price of a futures contract equals the price of the underlying index at the expiration of the futures contract. In equilibrium, the cash (equity) price equals the futures prices except for differences in carrying costs until the expiration of the contract.[51] The carrying cost of the cash index equals the risk-adjusted rate of return on the best alternative use of the invested capital, minus the dividend rate of the stocks. The carrying cost of the futures index is close to zero. In equilibrium, the cash price is lower than the futures price because it is more expensive to hold the cash index than the futures index. The difference between the futures price and the actual cash price in equilibrium is referred to as the basis.

Index arbitrage occurs when the futures price rises above (falls below) its fair value relation to stock prices. This "basis error" prompts the purchase (sale) of the stocks in an index and the sale (purchase) of the futures contract based on the index. Index arbitrage returns stock and futures prices to their fair value relation.[52] Because stock prices must equal futures prices at the expiration of the futures contract, an open arbitrage position can be reversed at expiration with a certain relation between the prices. This certainty gives the characteristics of buying a Treasury Bill to an arbitrage position holding the underlying stocks and the futures contract.

For example, suppose an investor opens a long arbitrage position, buying the underlying stocks and selling one futures contract. Assume that the cash price of the underlying equity securities is 250 index points and the futures contract price is 262.50 index points, the dividend rate is 5 percent, and the interest rate is 10 percent. When the position is opened the arbitrager purchases the stock for $250.00 (paying the full $250 rather than purchasing on margin) and sells the futures contract for $262.50. If the futures margin was zero, the futures transactions would be costless.[53] At the expiration, the stock and the futures contract have the same price by definition. Thus, at settlement, the investor would gain the initial difference between the cash and futures price—$12.50.[54] Between the open and the expiration, assumed for simplicity to be one year, the arbitrager receives another $12.50 from the dividends on the stock (5 percent times $250) for a total gain of $25.00, a 10 percent return on the initial investment of $250 used to open the position. This equals the gain that would have been possible investing in Treasury bills at 10 percent. A short arbitrage position can be constructed that also guarantees a certain return.

Any time futures contracts rise above (fall below) their fair value relation to stock prices, an interest rate above the risk-free rate can be secured by opening a long (short) arbitrage position.[55] Such an arbitrage position will tend to move the markets back to equilibrium. A long (short) position entails buying (selling) stock and selling (buying) futures so stock prices rise (fall) and futures prices fall (rise), moving them toward fair value.[56]

In the absence of transaction costs, a minuscule basis error would trigger index arbitrage. In practice, transaction costs create a range around the fair value of the futures price within which index arbitrage is not triggered. If transaction costs are high, small price changes will not trigger index arbitrage. Significant price changes, however, will trigger large amounts of index arbitrage and price changes will be more abrupt than if transaction costs were low. Lower transaction costs suggest better linkage between the markets and more frequent, though smoother, price movements.[57] Transaction costs are present due to margin requirements, the bid-ask spread, the uptick rule, uncertainty due to variation in interest rates and dividend rates, and uncertainty resulting from the arbitrager's ability to transact in both markets simultaneously.[58]

B. Evidence on the Price Link

The theoretical arbitrage relation discussed above links futures prices to cash prices. Many researchers have examined the strength of that link. Stoll and Whaley identify characteristics of cash and futures prices that would occur if the S&P 500 cash and futures prices were perfect substitutes.[59] We discuss a modified version of these characteristics: (1) the futures price would always be at its equilibrium value relative to the cash price; (2) the volatility of cash and futures prices would be identical; (3) the contemporaneous correlation between futures and cash prices would be high and each noncontemporaneous correlation would be zero; and (4) the level of serial correlation between the cash and futures market would be identical. Evidence concerning these characteristics is briefly reviewed below.

1. Futures and Cash Prices in Equilibrium Relation

For the first few months after the genesis of the S&P 500 futures contract in April 1982, futures prices were significantly below their expected equilibrium value. Cornell and French explored this anomaly and attributed the futures discount to a tax timing benefit that only accrued to holders of stock.[60] The futures prices discount disappeared, however, late in 1982. Subsequent research by Figlewski, with the benefit of hindsight and additional data, attributed the initial discount to institutional inertia and unfamiliarity with the new security.[61] Later work by Stoll and Whaley and by MacKinlay and Ramaswamy found that the futures prices approximates the equilibrium price, as traditionally modeled.[62] Specifically, MacKinlay and Ramaswamy found that basis error increases with the time until expiration and that its path is serially correlated due to the trading activity of arbitragers.

2. Volatility of Cash and Futures Prices

MacKinlay and Ramaswamy examined cash and futures prices from April 1982 through June 1987 and found that futures prices volatility generally exceeds that of the S&P 500 cash index.[63] Much of the higher measured futures volatility is due to nonsynchronous trading among some of the S&P 500 stocks, but even after accounting for nonsynchronous trading, some difference remains. This volatility may be due to the different trading systems employed in the cash and futures markets.

3. Contemporaneous Correlation of Cash and Future Prices

Contemporaneous rates of return in the cash and futures markets are highly correlated. Stoll and Whaley find the contemporaneous correlation to have been stable at about 0.55 throughout the 1980s, and Kawaller, Koch, and Koch find a significant contemporaneous relationship for the vast majority of the days tested in 1984 and 1985.[64] Both studies also test for noncontemporaneous correlation between the prices, finding that futures prices lead cash prices by five to forty-five minutes, but that cash prices do not lead futures prices. The futures market is frequently called the "price discovery" market for this reason.

4. Serial Correlation in Cash and Futures Prices

A basic characteristic of an efficient market is that you cannot learn about the expected return in the next period from any previous returns. Zero serial correlation in both markets would be associated with both markets being efficient. They might be linked but not efficient, in which case both price series would exhibit identical nonzero autocorrelation. MacKinlay and Ramasawamy, and Stoll and Whaley find slight negative first order autocorrelation in the futures index that can be attributed to prices bouncing between the bid and ask price. Stoll and Whaley find positive autocorrelation in the equity index for lags of up to fifteen minutes from 1982 through August 1984. Since then, however, positive autocorrelation persists for only five minute lags. They suggest that the reduction is probably due to diminished nonsynchronous trading and higher volume. These results are verified in MacKinlay and Ramaswamy. Kleidon examines autocorrelation prior to, and following the October 1987 market crash.[65] He finds no autocorrelation in either price series before the crash but significant autocorrelation in the cash market following the crash.

In sum, the S&P 500 futures prices are clearly linked with the cash index prices. There are, however, minor weaknesses in the linkage: nonsynchronous trading leads the S&P 500 cash index to be an inaccurate measurement of the underlying stocks; the cost of carry model that is usually employed does not properly account for the true equilibrium futurs price; and there are actually inefficiencies that continue to furnish opportunities for substantial arbitrage profits. Because of the strength of the basic iinkage, trading policy in each market that affects prices in that market will have external effects in the other market; if lower future margins increase futures price volatility then some (but not all) of the increase in volatility will spill into the cash market.

Harris provides a direct test of the impact of stock index futures trading on prices of S&P 500 stocks.[66] He finds that after 1983, stock price returns for S&P 500 stocks have higher standard deviations than those of similar stocks that are not components of derivative securities, though the increase is not large enough to be economically significant. These results are consistent with the hypothesis that trading in futures markets slightly increases volatility in the underlying equity securities. Harris points out, however, that many other factors changed in the recent period that could also contribute to the increase in volatility.

IV

THE IMPACT OF FUTURES MARGINS ON FUTURES TRADING

A. Costs of Futures Margins

In determining investment strategy, investors consider all possible investments, limited by their net worth and borrowing capabilities, and choose optimal portfolios that balance expected risks and returns of each asset. The optimal level of futures contracts in any given portfolio is a directs function of the associated costs. If margin authorities raise the cost of holding futures contracts, then it is expected that investors would decrease their futures positions.

Most commentators argue that increasing margin levels increases the cost of transactions in futures markets by raising the capital necessary to take a futures position.[67] For the most part, retail customers post their margin deposits in cash. Larger customers may be able to post the margin in interest-bearing Treasury bills already in their portfolios. However, even in these cases, higher margins increase the costs of futures trading because the Treasury bills no longer can be used to satisfy liquidity needs.[68]

Commentators often ignore the fact that increasing margin requirements in futures markets may also affect costs of trading futures contracts in an indirect manner. Indirect costs include execution cost of futures market transactions. If higher margins result in fewer futures transactions, the liquidity of the futures market is probably reduced.[69] The increased trading, both speculative and hedging, resulting from low futures margins allows prices to adjust rapidly to new information, producing more efficient pricing. Large volume also ensures that every buyer or seller will generally find it easier to match with the other side of the contract, resulting in lower bid-ask spreads.

Another possible drawback of using the level of margins in stock-index futures markets as a policy instrument to rescue excessive speculation is that it may not have the expected impact. For example, Hartzmark argues that margin policy is unpredictable even under the following extreme assumptions: government regulators can identify whether traders are speculators or hedgers; prices are rising and will continue to do so (a price bubble); and naive speculators are responsible for this price bubble.[70] Government regulators may raise margins for speculators in an attempt to drive speculators from the market, allowing futures prices to return to the correct values. However, if risk is an inferior good—the speculator's income elasticity with respect to risk is negative—the cost effect of increased margins may actually increase speculator demand for futures contracts.

Figlewski argues further that increasing transaction cost tends to eliminate investors with the lowest profit expectation.[71] Those traders who expect to make only a very small profit on any trade will leave the market, leaving only those traders and with expectations of much larger returns. Thus, the price in the futures market will be determined by those who have relatively extreme opinions. He argues that this is unlikely to improve the stability or efficiency of futures markets.

Hartzmark develops a formal model that illustrates the uncertain impact of changing margin levels on futures trading. The model illustrates two important points. First, the model verifies Figlewsi's suggestion that those traders with price expections closest to the currently quoted market price will be the first to exit the market when margin requirements are increased. This leaves only those traders with price expectations that diverge most from the market price as participants in the futures market. A market composed of only those traders with extreme price expectations would probably be less stable. Second, those traders who already have the highest margin costs will react the most to a margin increase. An individual trader's margin cost is a function of his expected borrowing rate and the uncertain liquidity cost if he is required to liquidate his futures position. Hartzmark suggests, however, that it is impossible to predict whether speculators or hedgers have higher margin costs.

A policy goal of higher margin levels is to reduce the volatility of the market price of any futures contract. Even if regulatory authorities were able to establish margin levels that intially encourage the highest variance traders to leave the market, can it be certain that the result will be less variance in pricing of futures contracts? Hartzmark argues that it is impossible to predict the overall impact on volatility since low variance traders may be earning their profits from high variance traders. As profit opportunities disappear, low variance traders also may leave the market and the change in the number of traders in each group and in the full market may result in even more price variance. Therefore, Hartzmark's model predicts that the impact of margin levels on volatility is uncertain.

In the real world, where margin authorities cannot accurately identify investors whose trading has the largest impact on the volatility of contract prices, margin policy is an imprecise tool to change the activity of a particular player in the market. In the following section, we empirically consider the impact of changing margin levels for the S&P stock-index futures on the volume of contracts traded. We then consider the impact of changing margin levels on the price volatility of the S&P 500 futures contract.

B. Evidence on the Effects of Margins on Futures Volume

Hartzmark's model has served several hypotheses that can be tested empirically. First, his model as modeled predicts that margin increases should result in fewer open contracts. Hartzmark tests for this relation by measuring the number of open contracts and the volume of futures transactions before and after margin changes. Second, his model predicts that higher cost traders should leave the market when margin levels increase. Hartzmark considers the mix of traders around margin changes in an attempt to identify which traders are the higher cost traders. Third, the model predicts that the impact of margin changes on price volatility is indeterminate. Hartzmark tests whether there is an empirical regulatory margins and price volatility.

Using evidence from four futures markets (wheat, feeder cattle, pork bellies, and U.S. Treasury bonds), Hartzmark finds that open interest and trade volume do respond inversely to changes in margin levels. He finds, however, no systematic effect of margin changes on the mix of traders (*i.e.*, speculators versus hedgers) in the markets. In similar work, Tomek's examination of 212 changes in margin requirements of eight commodities over the period 1970 through 1982 finds no evidence of a consistent pattern between margin levels and volume of trading.[72]

TABLE 3.—RATIO OF S&P 500 CONTRACTS TO THOUSANDS OF SHARES TRADED ON THE NYSE, BEFORE AND AFTER CHANGES IN MARGIN REQUIREMENTS ON INDICATED DAYS

Date	Before	After	t-statistic [1]	Direction of margin change
Outside of October 1987 [2]:				
Oct. 25, 1982	13192	13837	−1.78	+
Jan. 30, 1987	91624	85630	1.08	+
Dec. 18, 1987	64988	33069	4.06	−
Mar. 8, 1988	50373	49618	0.12	+
Sep. 22, 1988	51412	37227	2.78	−
During October 1987 [2]:				
Oct. 19, 1987	96764	50157	3.77	+
Oct. 22, 1987	98559	40064	4.65	+
Oct. 28, 1987	86213	41386	2.90	+
Oct. 29, 1987	82179	42894	2.41	+
Oct. 19 to 29, 1987	96764	41386	4.65	+
Outside of October 1987 [3]:				
Oct. 25, 1982	0.13	0.15	−1.62	+
Jan. 30, 1987	0.48	0.46	0.21	+
Dec. 18, 1987	0.32	0.19	2.95	−
Mar. 8, 1988	0.26	0.30	−1.74	+
Sep. 22, 1988	0.29	0.21	3.15	−
During October 1987 [3]:				
Oct. 19, 1987	0.46	0.18	4.60	+
Oct. 22, 1987	0.41	0.18	3.69	+
Oct. 28, 1987	0.32	0.22	1.04	+
Oct. 29, 1987	0.30	0.23	0.33	+
Oct. 19 29, 1987	0.46	0.22	4.40	+

[1] The t-statistics are from Wilcoxon rank sum tests.
[2] Panel A: Average volume of S&P 500 contracts.
[3] Panel B: Average volume of S&P 500 contracts divided by volume on NYSE (thousands of shares).

We use Hartzmark's methodology to determine the impact of margin changes on the volume of traded contracts of the S&P 500 futures contract. Since April 1982, the CME has changed the required margin level nine times, with four changes occurring between October 19 and October 29, 1987. All but two of these changes have increased the necessary margin level. We compare the mean volume of contracts in all S&P 500 contracts for fifteen days prior to the change in the margin to the mean volume fifteen days following the change. Because futures trading is highly correlated with the volume of shares traded on the NYSE, we also compare S&P 500 futures volume divided by volume of shares (in thousands) traded on the NYSE. This standardization corrects for changes in volume for seasonal or other reasons not specific to the futures markets. The standardization is especially appropriate during October 1987, when volume was unusually high.

Table 3 shows the average volume (Panel A) and average standardized volume (Panel B) before and after the nine margin changes as well as for one additional event period that brackets the "crash" period, from October 19 through October 29. In the noncrash period, three of the five average volume measures and four of the five standardized average volume measures changed in the direction contradictory to prediction when required margin levels were altered. In fact, the only changes in average volume (and average standardized volume) that are significantly different from zero at the 95 percent confidence level are decreases in volume when margin levels are decreased (on December 18, 1987 and September 22, 1988).[73]

During the crash period in October, margin levels for the S&P 500 index futures

contract were increased on four days. In every case, the average volume (and average standardized volume) of S&P 500 contracts declined following the margin increase, and also declined in the fifteen days following our "crash" window (October 19 through October 29) as opposed to the fifteen days before it. However, throughout this period, futures contracts were trading at discounts from their "fair value" and the NYSE DOT system (which enhances inter-market trading) was closed by the NYSE until November 9. These factors diminish the substitutability of futures for equities and lower the volume of the derivative product. Given the importance of these factors, it is very difficult to interpret the results from this period.

C. Futures Margins and Price Volatility

Two variants exist to the view that speculators increase price volatility: speculators, at all times, exacerbate price swings; and during normal periods speculators enhance liquidity, but only temporarily and in a way that cannnot be depended on during emergencies. This section discusses the nature of price volatility and market liquidity, and the effect of speculators on these variables.

Price volatility, usually measured as the standard deviation of prices, provides a proxy for risk. Other things equal, stable prices are beneficial and investors will pay to eliminate the risk of a loss. The payment is observed as a positive association between risk and rate of return.[74] But prices do change, and their adjustment to reflect "underlying values" is one of the hallmarks of an efficient market. The tradeoff between price stability and price efficiency is at the core of the financial market policy debate. Regulators may prefer stability but also must recognize that price change to reflect changes in underlying values.[75] A price that is moving slowly toward a new equilibrium is no more at its underlying value than one that overshoots and returns to the new equilibrium.

Black argues that two forces act on observed prices: news and noise.[76] When trading that is based on dramatic, new information (news) results in substantial price changes, those price changes will indicate substantial volatility, though the market may be able to handle large volumes of trade at the revised price. The news has caused homogeneity of investor perceptions.[77] When traders with similar perceptions dominate the market, prices will be more volatile since all traders change their valuations simultaneously.

With the additions of noise traders, volatility can be decreased because differing valuations provide depth to the market, while the noise they generate increases the incentive for the entry of news traders. Black and Bernstein both argue that noise traders are necessary for liquid markets, though the existence of noise decreases the efficiency of the price mechanism.[78] Noise traders tend to drive prices away from fundamental values inducing the entry of information traders who bring prices back. Thus, a tradeoff exists between liquidity and efficiency, and more liquid markets result from increased numbers of noise traders in the market.

This analysis raises doubts as to the advisability of raising transactions costs for noise traders (speculators) because their trading can increase the liquidity of markets. The argument can be extended to all traders. The thinner market implied by fewer traders and trades leads to higher volatility and lower measured liquidity regardless of the type of trader.[79] As noted above, Hartzmark argues that even if regulators are able to force the highest variance traders from the market, it is not certain what effect that would have on overall volatility. As some noise traders leave the market, news traders who profited from them may also leave.[80] In fact, Hartzmark found no evidence of a relationship between margin levels and volatility.[81]

TABLE 4.—SPECULATOR POSITIONS DURING THE MARKET BREAK

[S&P 500 Futures at the CME]

Date	Net speculator positions [1] (contracts)	Net position as percent of volume	Percent change in S&P 500 futures closing price
Oct. 16, 1987	+2,826	2.1	−5.4
Oct. 19, 1987	+8,807	5.4	−28.6
Oct. 20, 1987	−6,252	4.9	+7.3
Oct. 21, 1987	−11,646	12.7	+19.4
Oct. 22, 1987	−2,832	4.9	−5.3

[1] Based on Chicago Mercantile Exchange, "Preliminary Report of the Committee of Inquiry to Examine the Events Surrounding October 19, 1987," Photocopied, at Table 5.

Some express the concern that though speculators provide increased liquidity on ordinary trading days, they may leave the market during volatile periods. However, as reported in Table 4, on October 16, and October 19, when futures prices fell, speculators were net buyers, and on October 20 and 21, when futures prices rose, speculators were net sellers. Only on October 22 was the net speculator position in the same direction as the movement of the market. Therefore, during the October stock market crash, the role of futures market speculators was to dampen price swings and add liquidity to the market. On October 19, the net position of speculators accounted for 8,807 S&P 500 contracts, or 5.4 percent of total S&P 500 futures index volume.

We test the effect of changes in margin levels on S&P 500 futures prices volatility using methodology similar to that used by Hartzmark.[82] Price volatility measures were obtained for 15 days on either side of the change in margin level. Margin changes are effective at the close on the date given so the "before" test period includes the event date and the 14 days prior and the "after" test period includes the 15 days following the event date. The mean of each volatility measure before the margin change was compared to the mean following the margin change. The event dates used were for changes in the initial margin level applicable to speculators, because the conjectured link between margin levels and price volatility depends on the role of speculators. Since the inception of the S&P 500 futures contract there have been five changes to this margin level. Unfortunately for our testing purposes, only two of the changes occurred outside of October 1987. We also compare the pre-crash period with the post-crash period.

Our measure of inter-day volatility is the square of the daily percent change in closing price (PCS), computed in the following manner:

$$PCS=[\log(P_t)-(\log(P_{t-1})]^2$$

Our measure of intra-day volatility, derived by Garman and Klass,[83] uses the open, high, low, and closing prices (OHLC). Because it uses more daily information than the close-to-close estimate, it is a more efficient volatility estimator. It is computed in the following manner:

$$OHLC=.0511\,(u-d)^2-0.019[c(u+d)-2ud]-0.383c^2,$$

where:

u=log (High Price)—log (Open Price),
d=log (Low Price)—log (Open Price), and
c=log (Close Price)—log (Open Price).

TABLE 5.—MEAN OF PRICE VOLATILITY MEASURES BEFORE AND AFTER CHANGES IN MARGIN LEVELS ($\times 10^4$)

[Standard deviations in parentheses]

Date	Price change squared [1]			OHLC volatility index [2]			Margin change
	Before	After	t-stat [3]	Before	After	t-stat [3]	
Jan. 30, 1987	1.65	0.99	0.58	2.04	1.14	0.66	+
	(2.31)	(1.15)		(3.63)	(0.75)		
Oct. 22, 1987	106.31	13.56	0.12	55.42	9.82	−1.12	+
	(285.68)	(20.81)		(113.44)	(9.55)		
Oct. 28, 1987	112.10	7.55	1.49	61.60	4.05	1.91	+
	(284.24)	(10.51)		(110.92)	(3.70)		
Dec. 18, 1987	3.85	8.25	0.08	2.58	2.55	1.99	−
	(5.00)	(19.02)		(1.15)	(4.15)		
Mar. 08, 1988	0.73	1.49	0.08	1.01	0.76	0.58	+
	(0.95)	(2.34)		(0.95)	(0.44)		
Oct. 22, 1987	106.31	7.55	0.62	55.42	4.05	−0.37	+
Oct. 29, 1987	(285.68)	(10.51)		(113.44)	(3.70)		

[1] Inter-day volatility = $[\log(P_t)-\log(P_{t-1})]^2$.
[2] Intra-day volatility = $0.511(u-d)^2-0.019[c(u-d)-2ud]-0.383c^2$ where u=log (high P)—log (open P), d=log (low P)—log(open P) and c= log (close P)—log (open P).
[3] The t-statistics are from Wilcoxon rank sum test.

As shown in Table 5, the tests used here do not support the hypothesis that volatility is affected by changes in margin levels. There was only one statistically significant difference in the means of either volatility estimator in any of the six events tested. For each of the six events, however, at least one of the volatility estimators changed in the hypothesized direction, and in four of the cases both did so. Because of the small sample size and the fact that the underlying distribution of the OHLC estimator is unknown, the Wilcoxon rank sum test, which is used to determine the significance of the difference in means, is necessarily weak. The fact that all of the margin changes except those on December 18, 1987 and March 8, 1988 were in response to large price movements compounds this weakness.

CONCLUSION

Many commentators have recommended policy changes with respect to our financial markets to prevent a recurrence of the October 1987 crash. One suggestion has been to increase margin levels for stock index futures products. It is argued that low margins for purchasing stock index future contracts encourage speculation in these products, with negative repercussions on equity markets. In this paper we considered the economic rationale and evidence for this argument.

The evidence presented here does not support a policy decision of higher margins in futures markets. Though margins do impose costs on traders, the effect of margin changes on volume is difficult to measure and there is no evidence of a systematic relation between different margin levels and the proportion of trading by speculators. Even if low margins encourage speculative trading, there is no empirical support for the view that speculators raise price volatility, and theoretical reasoning supports the view that speculators provide liquidity to markets. Recent evidence, although limited, suggests that higher margins for stock index futures are not associated with lower price volatility in futures markets.

Even if there were evidence of excessive speculation in futures markets due to low margins, a final consideration must be who should set margin levels to control this speculation. Though this point is not the focus of this paper, it is an important policy consideration. Perhaps futures and equity exchanges should be allowed to determine the appropriate margin levels without government intervention, contracting with each other to internalize any cross-market effects. Professor Merton Miller argues:

"The issue of futures margins and the question of who sets them are more than just organizational details. There are delicate business trade-offs involved. In my view, taking these business decisions away from the private sector, where incentives are right, and transferring them to the public sector, where the incentives are wrong, will ultimately kill the futures industry.[84]"●

FOOTNOTES

* Office of Economic Analysis, Securities and Exchange Commission. The Securities and Exchange Commission as a matter of policy, disclaims responsibility for any private publication or statement by any of its employees. The views expressed here are those of the author and do not necessarily reflect the views of the Commission or the author's colleagues on the Staff of the Commission.

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[1] *See* PRESIDENTIAL TASK FORCE ON MARKET MECHANISMS REPORT OF THE PRESIDENTIAL TASK FORCE ON MARKET MECHANISMS (1988). Because Nicholas Brady was the chairman of the Task Force, it is generally called the "Brady Commission" and its report, the "Brady Report."

[2] *See* DIVISION OF TRADING AND MARKETS, COMMODITIES FUTURES TRADING COMMISSION, FOLLOW-UP REPORT ON FINANCIAL OVERSIGHT OF STOCK INDEX FUTURES DURING OCTOBER 1987 at 66 (1988) [hereinafter FOLLOW UP REPORT].

[3] *See Calming the Markets*, Washington Post July 25, 1988 at A11, col. 1 (quoting John Shad, Chairman of the Securities and Exchange Commission from 1981 through June 1987).

[4] *See* Brenner, *Margin Authority: No Reason for a Change*. 1 J. FUTURES MARKETS 487 (1981).

[5] NEW YORK STOCK EXCHANGE FACTBOOK 1989 at 25, 57 (1989).

[6] *See* BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, A REVIEW AND EVALUATION OF FEDERAL MARGIN REGULATIONS, 44–50, 85–91 (1984) [hereinafter FEDERAL RESERVE REPORT]. The FEDERAL RESERVE REPORT states that serious proposals for governmental regulation of credit began after a panic in 1907. The first federal regulation of credit for equity securities was contained in the 1913 Federal Reserve Act and applied to banks. In addition to the FEDERAL RESERVE REPORT, the discussion of the history and present regulation of equities margins is derived from L. LOSS, FUNDAMENTALS OF SECURITIES REGULATION 652–73 (1988); T. HAZEN, THE LAW OF SECURITIES REGULATION 10.11 (1985).

[7] FEDERAL RESERVE REPORT, *supra* note 6, at 45.

[8] *Id.* at 45.

[9] *Id.* at 86–87.

[10] *Id.* at 88.

[11] *See id.* at 89–90. In June 1931, the NYSE lowered its initial margin requirement to 20 percent. Starting in September 1933, the NYSE set minimum maintenance margins, which replaced the brokers' discretion in when to make a margin call.

[12] 15 U.S.C. §§ 78a–78kk (1982).

[13] For a discussion see FEDERAL RESERVE REPORT *supra* note 6, at 157.

[14] *Id.* at 90.

[15] 15 U.S.C. § 78g(a) (1982).

[16] *Id. See also* L. Loss, *supra* note 6, at 652 n.50 (noting that the SEC, not the Federal Reserve Board, defines exempted security).

[17] 15 U.S.C. § 78g(b)–(c) (1982).

[18] *Id.* at § 78g(c).

[19] *Id.* at § 78g(d).

[20] For discussions of the alleged goals for Congressional regulation of margins see L. Loss *supra* note 6, at 652–53; Figlewski, *Margins and Market Integrity: Margin Setting for Stock Index Futures and Options*, 4 J. FUTURES MARKETS 385 (1984): Luckett, *On the Effectiveness of the Federal Reserve's Margin Requirement*. 37 J. Pot. Econ. 158 (1966).

[21] *See* FEDERAL RESERVE REPORT, *supra* note 6 (concluding that the case for governmental regulation of margins for the first two reasons was very weak, and that the case for governmental regulation of margins to increase stability was not overwhelming on either side); L. Loss, *supra* note 6, at 654 (stating that the Federal Reserve Board actions have concentrated on the third motivation for regulation).

[22] *See* Figlewski, *supra* note 20, at 385.

[23] *See* 12 C.F.R. §§ 220.1–.130 (Regulation T); 221.1–.123 (Regulation U); 207.1–.112 (Regulation G); 224.1–.3 (Regulation X) (1989). The enforcement of the margin rules is handled by the SEC. L. Loss, *supra* note 6, at 665.

[24] 12 C.F.R. § 220.1–.130 (1989). The Federal Reserve Board never has used its statutory authority to set maintenance margins. See T. HAZEN, *supra* note 6, at 288.

[25] 12 C.F.R. § 220.18(a). Regulation T, which also sets margin requirements for exempted securities (margin required to the creditor in good faith), short sales of nonexempted securities (generally 150 percent of the current market value), short sales of exempted securities (100 percent of current market value plus margin required by creditor), nonmargin, nonexempted securities or long position in any option (100 percent of current market value), and several other securities including certain types of options, is discussed later. 12 C.F.R. § 220.18(b)–(f) (1959).

The Federal Reserve Board has changed its initial margin requirement numerous times since 1934. Historically, the Federal Reserve Board initial margin requirements have been (effective date, rate): 10/15/34, 45%; 2/1/36, 55%; 11/1/37, 40%; 2/5/45, 50%; 7/5/45, 75%; 1/21/46, 100%; 2/1/47, 75%; 3/30/49, 50%; 1/17/51, 75%; 2/20/53, 50%; 1/4/55, 70%; 4/23/55, 70%; 1/16/58, 50%; 8/5/58, 70%; 10/16/58, 90%; 7/28/60, 70%; 7/10/62, 50%; 11/6/63, 70%; 6/8/68, 80%; 5/6/70, 65%; 12/6/71, 55%; 11/24/72, 65%; 1/3/74, 50%. NEW YORK STOCK EXCHANGE FACTBOOK 1988, at 58 [hereinafter NYSE FACTBOOK 1988]. Since 1981, the NYSE Factbooks have incorrectly reported the 1962 margin level as 90%.

[26] 12 C.F.R. § 220.5 (1989).

[27] NYSE Rule 431(c)(1) (1989).

[28] NYSE FACTBOOK 1988, *supra* note 25, at 57.

[29] *See* NYSE Rule 431(b)(3) (1989). For example the NYSE FACTBOOK 1988, *supra* note 25, at 58 reports that on November 2, 1987 the NYSE and other exchanges increased margin option requirements for index stock options.

[30] 12 C.F.R. § 221.1–.123 (1989).

[31] 12 C.F.R. § 207.1–.112 (1989).

[32] 12 C.F.R. § 224.1–.3 (1989).

[33] We do not discuss the Federal regulatory scheme for options on margins. Suffice to say it is a complicated system of overlapping jurisdictions of the Federal Reserve Board, the SEC, and the CFTC. *See* FEDERAL RESERVE REPORT, *supra* note 6, at 50–57 for discussion of margin regulation for options; Figlewski, *supra* note 20, at 405–09.

[34] 7 U.S.C. § 7a(12) (1982).

[35] *See* FEDERAL RESERVE REPORT, *supra* note 6, at 4.

[36] The FEDERAL RESERVE REPORT traces the history of futures margins in the United States. The present system with margins set by the futures exchanges was in place by the 1930s. Congress has specifically rejected federally set margins for futures contracts. *Id.* at 56.

[37] Individual brokerage firms frequently require higher margins from their customers. *Id.* at 61.

[38] For a more complete discussion of margin requirements for future contracts, see *id.* at 57–64.

[39] See Figlewski, *supra* note 20, at 391–99 for a discussion of the incentives of exchange members in setting margins.

[40] On October 19, 1987, there were two intra-day margin calls, with a one hour grace period, as well as the normal mark to market at close, with a grace period until 7:00 A.M. the following morning.

[41] The closing price on the futures contract for the S&P at the CME was used except for occasional days within the time series when the closing price was unavailable. In those cases the settle price was used. The settle price was also used after March 1, 1988.

[42] See F. EDWARDS & S. NEFTCI, EXTREME MOVEMENTS IN FUTURES PRICES: IMPLICATIONS FOR SETTING MARGINS (CSFM Working Paper Series No. 138, 1986) and Figlewski, *supra* note 20, at 385–416 for discussion of appropriate margin levels for protection of integrity of futures markets.

[43] *See* Interim Report of the Working Group on Financial Markets [hereinafter Interim Report]. (The Working Group consisted of George Gould, Under Secretary for Finance, Department of the Treasury; Wendy Gramm, Chairman. CFTC; Alan Greenspan, Chairman, Board of Governors of the Federal Reserve System; and David Ruder, Chairman, SEC.)

[44] See D. BREEDEN, FUTURES MARGINS AS PREDICTORS OF PRICE VOLATILITY (CSFM Working Paper No. 115, 1985) for discussion of margin coverage ratios. Breeden notes that futures returns have been found to have "fatter-tailed" distributions than normal, and thus the margin coverage ratio may underestimate the true probabilities of extreme moves. *Id.* at 12.

[45] *See id.* at 6–11.

[46] *See, e.g.*, INTERIM REPORT, *supra* note 43, at 5; FOLLOW-UP REPORT, *supra* note 2, at 65.

[47] *See* Follow-Up Report, *supra* note 2, at 65.

[48] *See* N. KATZENBACH, AN OVERVIEW OF PROGRAM TRADING AND ITS IMPACT ON CURRENT MARKET PRACTICES 10 (1987) (commissioned by the New York Stock Exchange) for discussion of trading strategies such as portfolio insurance and index arbitrage.

[49] *See id.* at 8.

[50] Not all official responses have been for higher margins in futures contracts. The INTERIM REPORT, *supra* note 43, at 5, states that they are against raising futures margins on stock index contracts beyond "prudential" margins, though Chairman Ruder dissented from this point. The FOLLOW-UP

REPORT, *supra* note 2, at 3, rejects higher performance margins in futures markets.

[51] The relationship has been documented by many researchers. *See e.g.,* Figlewski, *supra* note 20, at 385: Kawaller, Koch & Koch, *the Temporal Price Relationship between S&P 500 Futures and the S&P 500 Index,* 42 J. FIN. 1309 (1987).

[52] Most index arbitrage positions are opened by one of the major broker-dealers, either for their own account or for the account of a customer. Often the beneficiary already owns a large stock portfolio so an arbitrage sell program (selling stock and buying futures) can take place without regard to the uptick rule. A typical transaction may involve a value-weighted basket of just under 500 of the S&P 500 stocks with a value of about $10 million, and about 60 futures contracts. In the popular press, the term index arbitrage, which accounts for the majority of trading in lists of stocks, is often used interchangeably with program trading.

[53] If the futures margin is posted in Treasury bills, as commonly occurs, the opportunity cost of margins approaches zero.

[54] Note that the price of the futures contract will not necessarily be $250.00 nor will the equity necessarily be worth $262.50. It is certain, however, that the futures contract will be worth the same amount as the equity, implying a $12.50 gain.

[55] If the prices move toward equality faster than does their fair value relation the same profit can be secured in a shorter time period, securing a higher adjusted interest rate.

[56] For evidence of these relationships and the price effect of arbitrage transactions, see Furbush, *Program Trading and Price Movement: Evidence From the October 1987 Market Crash,* 18 FIN. MGMT. 68 (1989).

[57] For discussions of this point see M. MILLER, FINANCIAL INNOVATIONS AND MARKET VOLATILITY 9 (University of Chicago, Graduate School of Business Working Paper, 1987); Grossman, *An Analysis of the Implications for Stock and Futures Price Volatility of Program Trading and Dynamic Hedging Strategies,* 61 J. BUS. 275, 291 (1988).

[58] Kawaller, *A Note: Debunking the Myth of the Risk-Free Return,* 7 J. FUTURES MARKETS 327 (1987) discusses the role of transaction costs.

[59] *See* H. STOLL & R. WHALEY, THE DYNAMICS OF STOCK INDEX AND STOCK INDEX FUTURES PRICES (Fuqua School of Business, Duke University Working Paper, 1988).

[60] *See* Cornell & French, *Taxes and the Pricing of Stock Index Futures,* 38 J. FIN. 675 (1983).

[61] *See* Figlewski, *Hedging Performance and Basis Risk in Stock Index Futures,* 39 J. FIN. 657, 669 (1984); Figlewski, *Explaining the Early Discounts on Stock Index Futures: The Case for Disequilibrium,* 40 FIN. ANALYSIS J. 43, 46 (1984).

[62] *See* H. STOLL & R. WHALEY, *supra* note 59; C. MACKINLAY & RAMASWAMY, INDEX-FUTURES ARBITRAGE AND THE BEHAVIOR OF STOCK INDEX FUTURES PRICES (The Wharton School Working Paper, 1988).

[63] C. MACKINLAY & K. RAMASWAMY, *supra* note 62.

[64] *See* Kawaller, Koch & Koch, *supra* note 51: H. STOLL & R. WHALEY, *supra* note 59.

[65] A. KLEIDON, ARBITRAGE, NON-TRADING, AND STALE PRICES: OCTOBER 1987 (Graduate School of Business, Stanford University Working Paper, 1988).

[66] *See* Harris, *S&P 500 Cash Stock Price Volatilities.* J. FIN. (forthcoming Dec. 1989).

[67] Telser, Figlewski, and Tomek maintain that changing margin levels alter transaction costs in futures markets. Telser, *Margins and Futures Contracts,* 1 J. FUTURES MARKETS 225 (1981); TELSER & YAMEY, *Speculation and Margins,* 73 J. POL. ECON. 656 (1965); FIGLEWSKI, *Margins and Market Integrity: Margin Setting for Stock Index Futures and Options,* 4 J. FUTURES MARKETS 385 (1984); Tomek, *Margins on Futures Contracts: Their Economic Roles and Regulation* in FUTURES MARKETS: REGULATION ISSUES 143 (A. Peck ed. 1985). *Cf.* Black, *The Pricing of Commodity Contracts,* 3 J. FIN. ECON. 167, 169 (1976) and Dusak, *Futures Trading and Investor Returns: An Investigation of Commodity Market Risk Premiums.* 81 J. POL. ECON. 1387, 1391 (1973) disagree with this position. Black argus that the cost of the margin is zero because the contract is marked to market every day. Thus, the contract is essentially rewritten daily. However, Black's position does not consider the opportunity cost of the initial margin. Dusak argues that the liability of any futures contract is the full value of the contract not simply the margin. Thus, investment decisions would depend on the full liability, not just the margin level.

[68] *See* Telser, *supra* note 67, at 235.

[69] *See* Figlewski, *supra* note 20, at 393; Kahl, Rutz, & Sinquefield, *The Economics of Performance Margins in Futures Markets,* 5 J. FUTURES MARKETS 103 (1985).

[70] *See* Hartzmark, *The Effects of Changing Margin Levels on Futures Market Activity, the Composition of Traders in the Market and Price Performance,* 59 J. BUS. 146, 167-79 (1986).

[71] *See* Figlewski, *supra* note 20, at 393.

[72] *See* Tomek, *supra* note 67.

[73] Significance tests are performed using Wilcoxon rank sum tests. These tests are used when the underlying distribution of the random variable is unknown.

[74] For a thorough study of risk and return, see R. IBBOTSON & R. SINQUEFIELD, STOCKS, BONDS, BILLS AND INFLATION: THE PAST AND THE FUTURE (1982).

[75] For a discussion of this, see F. EDWARDS, DOES FUTURES TRADING INCREASE STOCK MARKET VOLATILITY? 3 (Columbia University Working Paper, 1987).

[76] *See* Black, *Noise,* 41 J. FIN. 529 (1986).

[77] *See* Telser, *supra* note 67, at 237.

[78] *See* Bernstein, *Liquidity, Stock Markets, and Market Makers,* 16 FIN. MGMT. 54, 55 (1987) and Black, *supra* note 76, at 529.

[79] *See* Telser, *supra* note 23, at 241.

[80] *See* Tomek, *supra* note 67, at 183.

[81] *See* Hartzman, *supra* note 70, at 175.

[82] *Id.*

[83] *See* Garman & Klass, *On the Estimation of Security Price Volatilities from Historical Data,* 53 J. BUS. 67 (1980).

[84] *See* Merton Miller, quoted in *After the Crash: Linkage Between Stocks and Futures,* 12 REC. 29, 58 (1988).

EXECUTIVE SESSION

NOMINATION OF JAMES S. HALPERN, TO BE A JUDGE OF THE U.S. TAX COURT

Mr. MITCHELL. I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar No. 798, James S. Halpern, to be a judge of the U.S. Tax Court.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, and that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

THE JUDICIARY

James S. Halpern, of the District of Columbia, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

AUTHORIZING PAYMENT OF CLAIM SETTLEMENT—SENATE RESOLUTION 294

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 294, a resolution regarding a case settlement submitted earlier today by Senators Ford and Stevens.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 294), to authorize payment of a claim settlement on behalf of a former Congressional employee in the case of Ronald V. Dellums, et al. versus James M. Powell, et al.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. FORD. Mr. President, the distinguished Senator from Alaska [Mr. STEVENS] and I, as chairman and ranking minority member of the Committee on Rules and Administration, have today submitted a resolution to provide for payment by the Senate of one-half a negotiated settlement of a claim against former Chief of the U.S. Capitol Police, James M. Powell. We are doing so not in our capacity as administrators of the contingent fund, from which the payment would be made, but rather in keeping with our oversight authority related to police matters under the jurisdiction of the Sergeant at Arms.

The $30,000 disbursement that would be authorized by the resolution represents the Senate portion of a litigation settlement, an equal share of which has already been agreed to by the House of Representatives. It was requested by the Capitol Police Board to bring to an end the 19-year lawsuit, Ronald V. Dellums, et al. versus James M. Powell, et al., that begin with the arrests of anti-Vietnam war demonstrators on the Capitol steps back in May 1971. The result would be to avoid a further trial on and thereby dismiss a final remaining issue of malicious prosecution in exchange for payments to class action plaintiffs ranging from $50 to approximately $3,000 each.

There are compelling practical and policy reasons for the Senate's doing this, Mr. President. While it would be very easy to say the underlying events took place entirely on the House side of the Capitol; that Chief Powell was on the House payroll at the time; that the lawsuit was, after all, initiated under the auspices of a House Member—and that, therefore, it is a matter strictly for the House of Representatives to decide, we have to keep in mind that the Capitol Police—and their Chief—are charged with the security and orderliness of both institutions. Unless there is a conclusive showing that they were acting outside their authority or in bad faith, it serves the best interest of morale and cohesiveness for this joint unit to

know that they are not just paid by, but backed by both bodies.

Having made that point, it is not our intention with this resolution to pass judgment on the merits of the claim or to in any way indicate our agreement or disagreement with what has transpired in the lawsuit over these past many years. We advised all of the members of the Committee on Rules and Administration by letter more than 2 weeks ago of this proposed settlement and invited Members to comment or register objections by May 14. No Member has advised us of any objection. Although the members of the Committee on Rules and Administration have not raised objections to this proposed settlement, the Senator from Alaska and I want to make it clear that we do not consider this any sort of precedent for the Senate's accepting responsibility for personal judgments. This is an absolutely unique situation of evaluating both the institutional concerns, the human factors, and the cause of justice and simply saying enough is enough; it is time for us to assist in placing a very long and difficult episode firmly and finally behind all its participants.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 294) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 294

Whereas Civil Action No. 71-2271, captioned Ronald V. Dellums, et al. v. James M. Powell, et al., was filed on November 11, 1971 in the United States District Court for the District of Columbia against the then Chief of the United States Capitol Police and others;

Whereas that court on July 3, 1980, after a jury verdict in January 1975 was affirmed in part by the United States Court of Appeals for the District of Columbia Circuit on August 4, 1977 and certiorari was denied by the Supreme Court on July 3, 1978, entered for plaintiffs a judgment which was paid out of the District of Columbia Appropriations settlement fund;

Whereas that court also, on February 20, 1980, on remand from the 1977 appellate decision and consideration of new defenses, had left intact a reversal order for another trial on the as yet unresolved issue, which action was upheld by the Court of Appeals on July 24, 1981, thereby opening the matter to settlement negotiations;

Whereas in the interests of bringing this protracted, 19-year litigation to a conclusion and obviating the need for a second trial that would take a great toll on all parties involved, the Senate has been asked to share evenly with the House of Representatives a $60,000 payment on behalf of former Chief Powell;

Whereas Chief Powell, in his service to the Senate and during the course of events that gave rise to the court action against him, believed he was acting in good faith and within the scope of his authority as an employee of the Congress charged with maintaining security and orderliness within the United States Capitol buildings and grounds; and

Whereas in the unique circumstances of this case it would further the cause of justice and human considerations for the Senate to accept responsibility for paying the negotiated settlement that would relieve James M. Powell of the burden of all related claims against him as Chief of the United States Capitol Police; Now, therefore, be it

Resolved, That the Committee on Rules and Administration is authorized to make payment from the contingent fund of the Senate in the amount of $30,000, constituting total satisfaction of all remaining claims against James M. Powell associated with the case of Ronald V. Dellums, et al. v. James M. Powell, et al.

Mr. MITCHELL. I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SWAP AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 542, S. 396, regarding swap agreements.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 396) to amend title II of the United States Code, the bankruptcy code, regarding swap agreements.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause, and insert in lieu thereof the following:

That section 101 of title 11, United States Code, is amended by—

(1) inserting in paragraph (24) "as defined in section 761(8) of this title, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract made," after "transfer of a commodity," and inserting ", including, but not limited to, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any combination thereof or option thereon" after "entered into" at the end of the same paragraph;

(2) striking out "commodities" in paragraph (25) and inserting in lieu thereof "a commodity, as defined in section 761(8) of this title, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade";

(3) redesignating paragraphs (49) through (51) and any references to such paragraphs as paragraphs (55) through (57);

(4) inserting between paragraph (52) and (55) as redesignated herein, the following:

"(53) 'swap agreement' means an agreement, including terms and conditions incorporated by reference therein, which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate option purchased, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option purchased or any other similar agreement or combination thereof (including any option to enter into any of the foregoing), and a master agreement for any of the foregoing together with all supplements shall be considered one swap agreement;

"(54) 'swap participant' means an entity that, on any day before the date of the filing of the petition, has an outstanding swap agreement with the debtor;";

(5) redesignating paragraphs (46) through (48) and any reference to such paragraphs as paragraphs (50) throught (52); .

(6) redesignating paragraphs (34) through (45), and any reference to such paragraphs as paragraphs (37) through (48);

(7) inserting between paragraphs (48) and (50) as redesignated herein, the following—

"(49) 'settlement payment' means, for purposes of the forward contract provisions of this title, a preliminary settlement payment, a partial settlement payment, an interm settlement payment, a settlement payment on account, a final settlement payment, a net settlement payment, or any other similar payment commonly used in the forward contract trade;";

(8) redesignating paragraphs (32) and (33) and any reference to such paragraphs as paragraphs (33) and (34);

(9) redesignating paragraph (53) and any reference to such paragraph as paragraph (36);

(10) inserting between paragraphs (34) and (36) as redesignated herein, the following:

"(35) 'margin payment' means, for purposes of the forward contract provisions of this title, payment or deposit of cash, a security or other property, that is commonly known in the forward contract trade as original margin, initial margin, maintenance margin, or variation margin, including market to market payments or variation payments;"; and

(11) redesignating paragraph (52) and any reference to such paragraph as paragraph (32).

SEC. 2. Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (6) by—

(A) striking out "section 741(5) or 761(15)" and inserting in lieu thereof "section 101(35), 741(5), or 761(15)"; and

(B) striking out "section 741(8)" and inserting in lieu thereof "section 101(49) or 741(8)"; and

(2) striking out "or" at the end of paragraph (12);

(3) striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or"; and

(4) inserting at the end thereof the following:

"(14) under subsection (a) of this section, of the setoff by a swap participant, of any mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment due from the debtor under or in connection with swap agreements against any payment due to the debtor from the swap participant under or in connection with the swap agreements or against cash, securities, or other property of the debtor held by or due from such swap

participant to guarantee, secure or settle swap agreements.".

SEC. 3. Section 546 of title 11, United States Code, is amended—

(1) in subsection (e) by—

(A) striking out "section 741(5) or 761(15)" and inserting in lieu thereof "section 101(35), 741(5) or 761(15)"; and

(B) striking out "section 741(8)" and inserting in lieu thereof "section 101(49) or 741(8)"; and

(2) by adding at the end thereof the following:

"(g) Notwithstanding sections 544, 545, 547, 548(a)(2), and 548(b) of this title, the trustee may not avoid a transfer under a swap agreement, made by or to a swap participant, in connection with a swap agreement and that is made before the commencement of the case, except under sections 548(a)(1) of this title.".

SEC. 4. Section 548 of title 11, United States Code, is amended—

(1) in subsection (d)(2) by—

(A) striking out "and" at the end of subparagraph (B);

(B) striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) adding at the end thereof the following:

"(D) a swap participant that receives a transfer in connection with a swap agreement, as defined in section 101(53) of this title, takes for value to the extent of such transfer."; and

(2) in subsection (d)(2)(B) by—

(A) striking out "section 741(5) or 761(15)" and inserting in lieu thereof "section 101(35), 741(5), or 761(15)"; and

(B) striking out "section 741(8)" and inserting in lieu thereof "section 101(49) or 741(8)".

SEC. 5. Section 553(b)(1) of title 11, United States Code, is amended by inserting "362(b)(14)," after "362(b)(7),".

SEC. 6. Section 556 of title 11, United States Code, is amended by striking out the period at the end of the last sentence of the section and adding at the end of that sentence "and a right, whether or not evidenced in writing, arising under common law, under law merchant or by reason of normal business practice.".

SEC. 7. Subchapter III of chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following:

§ 560. Contractual right to terminate a swap agreement.

"The exercise of any contractual rights of a swap participant to cause the termination of a swap agreement because of a condition of the kind specified in section 365(e)(1) of this title or to set off or net out any termination values or payment amounts arising under or in connection with one or more swap agreements shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court or administrative agency in any proceeding under this title. As used in this section, the term 'contractual right' includes a right, whether or not evidenced in writing, arising under common law, under law merchant or by reason of normal business practice.".

● Mr. DECONCINI. Mr. President, I rise today in support of passage of S. 396, legislation reported by the Judiciary Committee, which will amend the Bankruptcy Code with respect to the treatment of swap agreements and forward contracts, two important segments of our financial markets. The bill will provide certainty for swap transactions in the case of a default in bankruptcy and will make technical changes to the forward contract provisions already a part of the Bankruptcy Code. Swap agreements and forward contracts play an important role in international commerce and this legislation will help American businesses compete effectively in these markets.

Since 1978, Congress has seen the need to provide protection for certain financial instruments from the automatic stay provisions of the Bankruptcy Code. These include securities contracts, commodities contracts, forward contracts and repurchase agreements. In each case the potential for disruption in the financial markets justified the creation of an exclusion for these contracts from the usual powers of a bankruptcy trustee.

A strong need exists to grant similiar protection to a new and important financial transaction, the swap agreement. Interest rate and currency swap agreements are financial management tools used by corporations and financial institutions to minimize their exposure to adverse changes in interest and currency exchange rates. A typical interest rate swap agreement provides for one party to make periodic payments based on a fixed rate of interest while the other pays on a floating rate.

Aside from the necessity to exempt swap agreements from the automatic stay provisions, it also was determined that certain technical changes needed to be made with respect to the forward contract provisions. Forward contracts already have the relief this bill extends to swap agreements but problems with the interpretation of the definition of forward contracts existed. Experts in the financial markets agreed and this legislation is the result.

Three principal concerns of the swaps market are addressed by this bill. First, it provides that the automatic stay provision contained in section 362 of the Bankruptcy Code will not bar the termination of a swap agreement, the netting or offsetting exposures nor the liquidation and use of collateral to satisfy claims of swap participants.

Second, this legislation will ensure that swap participants will not be subject to the risk that a trustee could try to "cherry pick" by assuming certain favorable transactions under section 365 of the code while rejecting other less favorable ones. The ability of swap participants to offset or net out termination values or payment amounts in connection with one or more swap agreements is expressly protected under the bill. Further, the bill makes clear that a master agreement together with all its supplements is considered a single swap agreement and even in situations where a swap participant decides not to terminate, a trustee cannot exercise its powers under section 365 with respect to less than the entire swap master agreement.

Third, the legislation amends section 546 of the Bankruptcy Code to protect a swap participant against a trustee's avoiding power for payments and other transfers under a sway agreement that are made in connection with a swap agreement. This provision also is intended to protect normal transfers of collateral made in connection with a swap agreement.

The effect of the swap provisions will be to provide certainty for swap transactions and thereby stabilize domestic markets by allowing the terms of the swap agreement to apply notwithstanding the bankruptcy filing. Parties to the swap agreement can close out all their transaction immediately and do not have to keep transactions open and unhedged during the bankruptcy proceedings.

With respect to the provisions on forward contracts, the legislation does not create a new statutory scheme. Instead, it seeks to cure existing ambiguities in the definition of forward contacts to clarify the types of covered transactions. This is intended to remove significant uncertainties in the forward contract market and give effect to Congress' original intent in enacting the forward contract provisions.

I would like to thank the swap and forward contracts industry, especially the International Swap Dealers Association, for all their technical help in drafting this legislation. This is complicated subject matter and their help was invaluable. I would also like to thank my colleague and an original cosponsor of this legislation, Senator GRASSLEY, for his fine efforts in moving this legislation forward.

In order to expedite the passage of this legislation, I would like to pass my bill and then proceed to pass the House bill, H.R. 4612, which is in substance identical to S. 396. H.R. 4612 passed the House of Representatives on May 15, 1990, and satisfies the same needs as the Senate bill.●

Mr. GRASSLEY. Mr. President, I am pleased that the Senate is considering S. 396, a bill introduced by Senator DECONCINI and myself, to protect the contractual rights of parties to interest rate and currency swap agreements, and forward contracts.

Swap agreements are used by numerous financial institutions to manage their exposure to interest rate and currency exchange risks. Typically, these agreements provide for one party to make payments based on a floating rate while the other pays on a fixed rate. This allows a thrift, for example, which has fixed rate mortgages as assets, to hedge against a rise in the

cost of its floating rate deposit liabilities. Both the Federal Home Loan Bank Board, and the FSLIC, among others, have encouraged thrifts to utilize swaps to reduce interest rate exposure. This makes especially good sense at a time when thrifts are under severe financial pressure.

The swap market is experiencing sharp growth. Yet swap dealers and other participants in this market are concerned about uncertainty over the treatment of swaps under the Bankruptcy Code, when one party to a swap files for protection under the code. This bill addresses this uncertainty.

The bill would add provisions addressing the contractual rights of swap participants to terminate and liquidate their obligations on a timely basis should one participant file for bankruptcy. This amendment would go a long way toward ensuring that the failure of a participant will not unduly disrupt an extremely important financial market. The bill follows an approach that was adopted as fair and reasonable in 1982 for securities, futures and commodities contracts, and in 1984 for repurchase agreements. The approach followed in each case, and in S. 396, is to minimize risk and dislocation to financial markets after a bankruptcy.

The bankruptcy of a swap market participant could cause significant market disruption. This arises from the risk that an outstanding swap transaction would be held open during the bankruptcy, despite contractual provisions for its termination. Also, there is the risk that a defaulting party or a trustee in bankruptcy could assume favorable swap transactions and reject unfavorable ones—so-called cherry picking—even though the swap contract calls for liquidation of these obligations by netting. The exposure created by these risks takes on special significance in a volatile market.

Senate bill 396 resolves these concerns by taking the same approach followed for securities contacts, forward contracts and repurchase agreements. The bill ensures that, upon a bankruptcy filing by one party, the other party can close out all existing swap transactions with the bankrupt party without having to keep the transaction open under the code. The bill also ensures that all transactions between two parties can be netted out, as provided for in the swap agreement, to determine a single net termination value. Finally, it protects ordinary swap payments against exposure to preference avoidance actions during the bankruptcy proceeding.

The forward contract amendments, which I offered at a subcommittee markup, would accomplish the following:

First, the proposed amendments would eliminate the current uncertainty concerning the types of commodities that may be the subject of forward contracts by making clear that any commodity that is subject to the Federal Commodity Exchange Act, or that is similar thereto and the subject of dealing in the forward contract trade, is eligible for this purpose.

Second, the amendments would correct the ambiguity that now exists regarding the types of transactions that qualify as forward contracts by specifying certain types of contracts that do so qualify, including commodity repurchase transactions, commodity options, etc.

Third, the amendments would define two terms that are used in the forward contract provisions; that is, margin payment and settlement payment), but not now defined by the Code for this purpose. The proposed definitions are virtually identical to definitions the Code uses for other similar purposes and are needed to ensure the proper operation of the provisions in which the terms are used.

Fourth, the amendments would change section 556 of the code, the forward contract liquidation provision, to eliminate an inconsistency between it and other existing and proposed Code liquidation provisions. Failure to enact this change could result in an unintended and unfortunate narrowing of the forward contract liquidation provision.

Mr. President, this is an exceedingly complex area of commercial law and bankruptcy. I am pleased that the Senate and House are both acting on legislation in a timely way, and I commend Senator DECONCINI for his leadership.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 396, as amended) was passed.

The title was amended so as to read: "A bill to amend title 11 of the United States Code, the Bankruptcy Code, regarding swap agreements and forward contracts."

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

SWAP AGREEMENTS AND FORWARD CONTRACTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 557, H.R. 4612, regarding swap agreements.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4612) to amend title 11 of the United States Code regarding swap agreements and forward contracts.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to the consideration of the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4612) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COLORADO RIVER WILD AND SCENIC RIVER ADDITION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 558, S. 1719, a bill designating a portion of the Colorado River as a component of the Wild and Scenic River System.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1719) to designate a segment of the Colorado River in the Westwater Canyon, Utah, as a component of the National Wild and Scenic Rivers System.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to the consideration of the bill, which has been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause, and insert in lieu there of the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Colorado River Wild and Scenic River Addition Act of 1990".

SEC. 2. SEGMENTS OF THE COLORADO RIVER TO BE ADDED AS COMPONENTS OF THE WILD AND SCENIC RIVERS SYSTEM

Section 3(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraph:

"( ) COLORADO RIVER, UTAH.—(A) The segment within Westwater Canyon from the point where the river crosses the northern

boundaries of sections 22 and 23 of township 20 south, range 25 east, to the point where the river crosses the western boundary of section 24 of township 21 south, range 24 east, as a wild river, to be administered by the Secretary of the Interior.

"(B) The segment within Cataract Canyon from the north boundary of Canyonlands National Park downstream to the southern boundary, as a wild river, to be administered by the Secretary of the Interior.".

SEC. 3. TREATMENT OF MINERAL MATERIALS ON PUBLIC LANDS.

(a) Section 4 of the Act entitled "An Act to amend the Act of July 31, 1947 (61 Stat. 1681), and the mining laws to provide for multiple use of the surface of the same tracts of public lands, and for other purposes", approved July 23, 1955 (69 Stat. 368, 30 U.S.C. 612), is amended—

(1) in subsection (b) by—

(A) striking "vegetative" and inserting in lieu thereof, "vegetative and mineral material"; and

(B) inserting after the second proviso the following: "*Provided further,* That if at any time the locator requires more mineral material for his mining operations than is available to him from the claim after disposition of mineral material therefrom by the United States subsequent to the location of the claim, he shall be entitled, free of charge, to be supplied with mineral material for such requirements from the nearest mineral material site administered by the disposing agency which contains mineral material substantially equivalent to that estimated by the disposing agency to have been disposed of from the claim subject to reasonable rules and regulations for the protection of nonmineral resource values including environmental values:"; and

(2) in subsection (c) by striking "vegetative" and inserting in lieu thereof, "vegetative and mineral material".

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1719) as amended, was passed.

The title was amended so as to read: "A bill to designate segments of the Colorado River in Utah within Westwater and Cararact Canyons as components of the Wild and Scenic Rivers System, and for other purposes."

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENROLLMENT OF CERTAIN INDIVIDUALS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 559, S. 666, a bill to enroll 20 individuals under the Alaska Native Claims Settlement Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 666) to enroll twenty individuals under the Alaska Native Claims Settlement Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to the consideration of the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to enroll the following named individuals as Natives under the Alaska Native Claims Settlement Act (Public Law 92-203): Marilyn Jean (Warren) Sanchez, Theresa A. (Warren) Forbes, Linda (Graham) Raymond, Carol (Graham) Kistler, Debra (Sellers) Page, Glenn Sellers, David P. Schmalzried, Odman H. Schmalzried, Carol Guzialek, Corbin Kooly, Charmaine I. (Warren) Forbes, John A. Warren, Jr., Phillip Graham, Sharon (Graham) Skinner, Wanda (Sellers) Clancy, Georgia A. (Schmalzried) Flood, Rhonda S. (Schmalzried) Koski, Paula (Guzialek) Smith, Pamela Kooly, and Darrell Kooly. Each individual is entitled to receive one hundred shares of stock in Cook Inlet Region, Inc., and such other benefits as the board of Directors of that corporation may approve. No individual enrolled pursuant to this Act shall be entitled to share in any dividends or Alaska Native Claims Settlement Act distributions made by the United States or Cook Inlet Region, Inc., prior to the individual's enrollment. Enrollment of these individuals shall not alter the entitlement to or distribution of land to Cook Inlet Region, Inc., under the terms of the Alaska Native Claims Settlement Act.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 666), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MAINE WILDERNESS ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 561, S. 2205, a bill to designate certain lands in Maine as wilderness.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2205) to designate certain lands in the State of Maine as wilderness.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to the consideration of the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Maine Wilderness Act of 1990".

SEC. 2. DESIGNATION OF WILDERNESS AREAS.

In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), certain lands in the White Mountain National Forest, in the State of Maine—

(1) which comprise approximately twelve thousand acres, as generally depicted on a map entitled "Caribou-Speckled Mountain Wilderness—Proposed", dated January 1987; and

(2) which shall be known as the Caribou-Speckled Mountain Wilderness, are hereby designated wilderness, and, therefore, as components of the National Wilderness Preservation System.

SEC. 3. MAPS AND DESCRIPTIONS.

As soon as practicable after enactment of this act, the Secretary of Agriculture shall file a map and a legal description of the wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. The map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such map and description may be made by the Secretary. The map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 4. ADMINISTRATION OF WILDERNESS.

Subject to valid existing rights, the wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

SEC. 5. WILDERNESS REVIEW CONCERNS.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) The Congress has made its own review and examination of National Forest System roadless areas in the Maine section of the White Mountain National Forest and of the environmental impacts associated with alternative allocations of such areas.

(b) DETERMINATION.—On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in the State of Maine; such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Maine;

(2) with respect to the National Forest System lands in the State of Maine which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the state of Maine reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976; Provided, that such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Maine are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Maine for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) REVISION.—As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) APPLICATION OF SECTION.—The provisions of this section shall also apply to National Forest System roadless lands in the State of Maine which are less than 5,000 acres in size.

SEC. 6. PROHIBITION ON BUFFER ZONES.

Congress does not intend that the designation of a wilderness area in the State of Maine lead to the creation of protective perimeters or buffer zones around the wilderness area. The fact that nonwilderness activities or uses can be seen or heard from within the wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 7. CONTROL OF FIRE, INSECTS, AND DISEASES.

As provided in section 4(d)(1) of the Wilderness Act, such measures may be taken within wilderness areas designated by this Act as may be necessary in the control of fire, insects, and diseases, subject to applicable laws and such additional reasonable conditions as the Secretary deems desirable.

SEC. 8. STATE FISH AND WILDLIFE AUTHORITY.

As provided in section 4(d)(7) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Maine with respect to wildlife and fish in the national forests in Maine.

Mr. MITCHELL. Mr. President, I strongly urge my colleagues to support passage today of S. 2205, the Maine Wilderness Act of 1990. This legislation comes before the Senate having been considered and favorably reported by the Committee on Agriculture, Nutrition and Forestry.

I want to express my appreciation to Senator LEAHY and Senator LUGAR, the chairman ranking member of the full committee and Senator FOWLER and Senator BOND, the chairman and ranking member of the Subcommittee on Conservation and Forestry respectively, for their cooperation and assistance in bringing this legislation to this point.

Mr. President, S. 2205 will designate approximately 12,000 acres in the Caribou-Speckled portion of the White Mountain National Forest in Maine as wilderness. In addition, S. 2205 releases approximately 4,000 acres of roadless area in the Maine portion of the forest not designated as wilderness for such uses as are determined appropriate through the forest's land management planning process.

This area, one of the last large undeveloped tracts of land in Maine, contains no roads, has not seen any logging for many years, contains a wide variety of wildlife and plant species, and many spectacular views and opportunities for solitude and relative isolation from the intrusions of modern life.

Enactment of this legislation will add approximately 12,000 acres to the 102,000 acres already designated as wilderness to the White Mountain National Forest.

It would also add to the 5,000 acres in the Moosehorn National Wildlife Refuge that are federally designated as wilderness in Maine. In addition, 36,000 acres in the Allagash Wilderness Waterway are managed as wilderness.

S. 2205 was introduced by the Maine delegation on February 28, 1990, after an extended process of public discussion, study, evaluation, deliberation, negotiation, and compromise involving the Forest Service, the delegation, and a variety of interested parties including the timber products industry, conservation groups, State and local governments, snowmobilers, and regional planning agencies.

To give some perspective of that process, Mr. President, the Caribou-Speckled roadless area includes a zone identified as a "wilderness resource" in the Evans Notch Unit Plan/EIS that was released in 1977. The area was not recommended for wilderness designation, however, but was managed for backpacking, showshoeing and other dispersed uses.

The issue of wilderness designation for Caribou-Speckled next arose in 1983, when the Maine delegation asked representatives of industry, State, conservation and recreation interests to serve on an ad hoc committee to recommend possible wilderness designation for the area.

That committee conducted its work while the Forest Service was in the process of conducting its development of the forest's 10-year land and resource management plan.

In the fall of 1984, the Forest Service, in a draft management plan recommended that approximately 12,000 of the 16,000 acres in Caribou-Speckled be studied by Congress for possible wilderness designation and that the remaining approximately 4,000 acres be released for multiple use.

The Forest Service's final land and resource management plan, released in 1986, made some modifications to the originally proposed wilderness area boundaries, but the recommendation to designate approximately 12,000 acres as wilderness and release approximately 4,000 acres for multiple use remained the same.

Mr. President, S. 2205 as introduced and reported by the Agriculture Committee embodies the recommendation made by the Forest Service in the land and resource management plan for the White Mountain National Forest.

As such, it represents a compromise that the Maine congressional delegation believes balances the many, sometimes competing, interests this Nation places on its national forest. If no action is taken, the entire 16,000 acres will remain managed by the Forest

Service so as to retain its wilderness character.

There would be no access to the area's timber by local wood-using industries. There would be no permanent protection of the area as wilderness. The issue would remain unresolved.

Mr. President, the committee's report filed with S. 2205 discusses the background of this issue, the legislation and the committee's intent for the management of the future management of the area in sufficient detail so that I need not repeat them in this statement.

Mr. President, I'm pleased to note that I am joined today, as I have been in every step of this process, by my distinguished colleague BILL COHEN. With passage today of S. 2205 by the Senate we move closer to concluding the debate over wilderness designation for Caribou-Speckled.

Again, let me express my gratitude to the leadership of the Committee on Agriculture, Nutrition, and Forestry that has considered and reported out this legislation.

Mr. COHEN. Mr. President, I thank my colleagues for their support of S. 2205, the Maine Wilderness Act. In passing this legislation, we will finally resolve an issue which has been under discussion for many years in Maine. I believe that S. 2205 is a fair resolution of this issue, one that allows for the many users of our national forests to continue to have access to the resources they desire, whether they be recreational or commercial. It is my intent that this bill represent the final resolution of the wilderness question in the Maine section of the White Mountain National Forest. A significant amount of work has gone into this issue on the part of many individuals and organizations, and I believe the Maine delegation has created a bill that fairly addresses all concerns.

This legislation, which is supported by the entire Maine congressional delegation, incorporates the recommendations of both the U.S. Forest Service and the Maine Ad Hoc Wilderness Committee with regard to the disposition of the 16,000 acre roadless area in the Caribou-Speckled Mountain region of the White Mountain National Forest. Under the bill's provisions, approximately 12,000 acres are designated as wilderness and approximately 4,000 acres are released for multiple use, according to the provisions of the 1986 forest plan for the White Mountain National Forest. That plan calls for a number of non-wilderness uses in the 4,000 acre area, including timber harvesting. Timber sales are scheduled to occur in the area in the next few years, and once this bill is enacted, the Forest Service will move ahead with that portion of the plan.

This legislation is needed in order to end uncertainty over the future management of the entire 16,000 acre roadless area that was reviewed by the U.S. Forest Service during the development of the forest plan, and that has been managed as wilderness since the Forest Service issued its recommendations in 1986. If the delegation did not act on the 12,000-acre recommendation, the remaining 4,000-acre area would remain off-limits to timber harvesting and other nonwilderness uses for an indefinite period of time.

As I stated earlier, S. 2205 is based not only on the Forest Service's Forest Plan recommendations, but also on the recommendation of the Maine Ad Hoc Wilderness Committee, established by the Maine congressional delegation in 1983. The committee consisted of representatives of the forest products industry, environmental groups, local and State government, snowmobilers and others. In 1984, the committee voted in favor of the Forest Service's preferred alternative, which was the designation of the 12,000 acre wilderness area and the release of the remaining 4,000 acres to nonwilderness uses.

In 1986, the Forest Service issued its Final Plan for the White Mountain Forest, which included the 12,000 acre wilderness recommendation. Extensive public comment was received by the Service, and significant support for the wilderness designation was evident at that time. In addition, the delegation held a public hearing in Bethel, Maine, in November 1987, at which time further public comment was solicited.

After reviewing this matter for some time, the delegation has agreed, after reviewing the circumstances in this section of the forest, that the resolution of this matter as proposed is in the best interests of Maine citizens.

Designation of the 12,000-acre Caribou-Speckled wilderness will preserve a relatively undeveloped parcel of forestland for future generations. While portions of the area were harvested at one time or another, harvesting has not occurred in over 20 years, and what did occur before then was very selective. What remains, then, is a large, fairly mature hardwood forest that is not found elsewhere in the state.

Maine has few large areas of public land suited to the wilderness experience—Baxter State Park and the Moose- horn National Wildlife Refuge are among the few that have been set aside for this purpose. The creation of the Caribou-Speckled wilderness area will add another dimension to this experience, since it differs from the type of forest found in the other areas.

In addition to being a mature hardwood forest, the Caribou-Speckled Forest also boasts two mountain peaks a few miles apart. To the west, hikers can view the majestic peaks of Mount Washington and other mountains in the White Mountain range. Views in other directions provide a panorama of western Maine's foothills and rolling mountains. There are few preserves of this kind in Maine, and certainly none of this size.

The other component of our bill, the release of the remaining 4,000 acres, provides the means for the forest products industries and other nonwilderness users to have access to forest resources. Timber sales are scheduled in this area in the near future, and this will allow for adequate timber supply levels for the local forest products industries that depend on the forest for much of their timber supply.

Overall, this compromise should bring about the most balanced use of the national forest in Maine. Those who desire to hike and camp in the forest in relative solitude will have that opportunity, but the tradition of access to public timber by forest-dependent industries in Maine will also continue.

This is a fair, balanced bill, and I thank my colleagues for their support. I also want to thank Senator FOWLER, Senator LEAHY, and Senator LUGAR, and their staffs, for their assistance in moving this bill through the committee and to the Senate floor. I hope it will be taken up by the House of Representatives in the near future so that Maine's small portion of national forest can remain accessible to all users.

WHITE MOUNTAIN NATIONAL FOREST

Mr. COHEN. Mr. President, I would like to discuss the intent of this legislation with the chairman and ranking member of the Agriculture Committee.

It is my intent, which is shared by Senator MITCHELL, that this legislation, S. 2205, represents a resolution of the wilderness review issue in the Maine section of the White Mountain National Forest within this planning cycle. We would expect the Forest Service to proceed to manage those lands referenced in section 5 of the bill according to the forest plan. That plan calls for timber sales and other activities that are not consistent with wilderness designation, and we would expect that the Forest Service proceed to implement that portion of the plan following enactment of this legislation.

Mr. MITCHELL. I concur with Senator COHEN's statement and point out that this issue has been under discussion and review in Maine for at least 12 years. In an attempt to balance the competing uses of the national forests, and to meet the needs of all Maine residents, the Maine delegation has crafted a bill that creates a wilderness area of approximately 12,000 acres in the Maine section of the White Mountain National Forest and releases the remaining roadless areas of approxi-

mately 4,000 acres to multiple use. As Senator COHEN has previously stated, this will include timber harvesting, as called for in the land and resource management plan for the White Mountain National Forest.

Mr. LEAHY. I certainly agree with the statements of both Maine Senators and would add that the committee's report on S. 2205 expresses the committee's belief that this legislation represents a balanced bill that meets the needs of all users of the forest. Of course, any timber sales or similar activities in the national forest, including released areas, must comply with provisions of the National Forest Management Act and any other applicable laws.

Mr. LUGAR. I concur with the Senator from Vermont and commend the Maine delegation for crafting an excellent bill that addresses all competing uses of the forest and put to an end the uncertainty that now surrounds this roadless area in Maine.

Mr. COHEN. I thank the chairman and the ranking member for that clarification and appreciate their assistance in getting this bill passed.

Mr. MITCHELL. I also want to thank Senators LEAHY and LUGAR for helping us to clarify this matter and for their hard work in ensuring passage of S. 2205.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2205), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATION OF CALIFORNIA NATIONAL HISTORIC TRAIL AND PONY EXPRESS NATIONAL HISTORIC TRAIL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 564, H.R. 1109, the Pony Express and California Trails bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1109) to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to the consideration of the bill which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 1109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding the following new paragraphs at the end thereof:

["( )The**]** *"(18) The* California National Historic Trail, a route of approximately five thousand seven hundred miles, including all routes and cutoffs, extending from Independence and Saint Joseph, Missouri, and Council Bluffs, Iowa, to various points in California and Oregon, as generally described in the report of the Department of the Interior prepared pursuant to subsection (b) of this section entitled 'California and Pony Express Trails, Eligibility/Feasibility Study/Environmental Assessment' and dated September 1987. A map generally depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the United States for the California National Historic Trail except with the consent of the owner **[**thereof.**]** *thereof: Provided, That within the States of Utah and Wyoming, no lands or interests therein may be acquired by the United States for the California National Historic Trail except with the consent of the owner thereof.*

["( )The**]** *"(19) The* Pony Express National Historic Trail, a route of approximately one thousand nine hundred miles, including the original route and subsequent route changes, extending from Saint Joseph, Missouri, to Sacramento, California, as generally described in the report of the Department of the Interior prepared pursuant to subsection (b) of this section entitled 'California and Pony Express Trails, Eligibility/Feasibility Study/Environmental Assessment', and dated September 1987. A map generally depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the United States for the Pony Express National Historic Trail except with the consent of the owner **[**thereof.".**]** *thereof: Provided, That within the States of Utah and Wyoming, no lands or interests therein may be acquired by the United States for the Pony Express National Historic Trail except with the consent of the owner thereof.".*

[SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

[Section 10(c)(2) of the National Trails System Act (16 U.S.C. 1249(e)(2)) is amended by striking the first sentence and inserting: "Except as otherwise provided in this Act, there is authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by section 5(a).".**]**

Mr. EXON. Mr. President, I rise to support passage of the Pony Express and California Trails bill.

The Pony Express Trail played an important part in our Nation's history. It exemplified the grit and determination of a growing country. That grit and determination made the West what it is today.

Nebraska's history is intimately tied to the Pony Express Trail and it is a history well worth remembering. Nebraska boasts two Pony Express relay stations. Located near Fairbury and Gothenburg, NE, these stations bring life to an exciting time in our Nation's past.

I urge the passage of this legislation and encourage traveling Americans to take time to explore the Pony Express Trail and visit communities like Fairbury and Gothenburg.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 1109), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING THE SECRETARY OF VETERANS AFFAIRS TO TAKE CERTAIN ACTIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2700, a bill dealing with the reorganization of VA health service regional field offices, introduced by Senator CRANSTON and others on May 25.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2700) to authorize the Secretary of Veterans Affairs to proceed with the pro-

posed administrative reorganization of the regional field offices of the Veterans Health Services and Research Administration of the Department of Veterans Affairs, not withstanding the notice-and-wait provisions in section 210(b) of title 38, United States Code.

The PRESIDING OFFICER. There being no objection, the Senate will proceed to the consideration of the bill.

The bill (S. 2700) was considered, ordered to a third reading, was read the third time, and passed, as follows:

S. 2700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Veterans Affairs may proceed with the administrative reorganization described in subsection (b) of this Act without regard to section 210(b) of title 38, United States Code.

(b) The administrative reorganization referred to in subsection (a) is the reorganization of the regional field offices of the Veterans Health Services and Research Administration of the Department of Veterans Affairs as that reorganization and related activity are described in (1) letters dated January 22, 1990, and the detailed plan and justification enclosed therewith, submitted by the Secretary to the Committees on Veterans' Affairs of the Senate and the House of Representatives pursuant to such section 210(b), and (2) letters dated April 17, 1990, submitted in supplementation thereof by the Secretary to such Committees.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF CONFEREES—S. 1630

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate receives a message from the House on S. 1630, the clean air bill, that the Senate be deemed to have disagreed to the House amendment, agreed to the request for a conference with the House on the disagreeing votres of the two Houses, and that the following Senators be considered as having been appointed as conferees.

The PRESIDING OFFICER. The clerk will report the list.

The assistant legislative clerk read as follows:

From the Committee on Environment and Public Works: Senators BURDICK, MOYNIHAN, MITCHELL, BAUCUS, CHAFEE, SIMPSON, and DURENBERGER.

From the Committee on Finance for matters within their jurisdiction: Senators BENTSEN, MOYNIHAN, BAUCUS, MITCHELL, PACKWOOD, CHAFEE, and DURENBERGER.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

RECESS UNTIL 10 A.M.; MORNING BUSINESS; CLOTURE VOTE AT 10:30 A.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m. on Thursday, June 7; that following the time for the two leaders there be a period for morning business not to extend beyond 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each; that at 10:30 a.m. on tomorrow, Thursday, the Senate proceed to vote on the motion to invoke cloture on S. 1970, the crime bill; that the mandatory live quorum be waived, and that any second-degree amendments to S. 1970 may be filed by tomorrow morning until 10:30 a.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 8:56 p.m., recessed until Thursday, June 7, 1990, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 6, 1990:

DEPARTMENT OF JUSTICE

HUGH KENNETH HILL, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S REPUBLIC OF BULGARIA.

DEPARTMENT OF JUSTICE

JOHN W. RALEY, JR., OF OKLAHOMA, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF OKLAHOMA FOR THE TERM OF FOUR YEARS VICE ROGER HILFIGER, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. BILLY M. THOMAS, xxx-xx-xxxx, U.S. ARMY.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. JOSEPH P. HOAR, xxx-xx-xxxx, USMC.

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

LT. GEN. CARL E. MUNDY, JR., xxx-xx-xxxx, USMC.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICER IDENTIFIED WITH AN ASTERISK IS ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

ARMY

To be lieutenant colonel

THOMAS D. CHALLENDAR, xxx-xx-xxxx
HARRY E. MEISELL, xxx-xx-xxxx
DAVID G. SMITH, xxx-xx-xxxx

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

JANICE A. PHELAN, xxx-xx-xxxx

ARMY

To be major

JOE T. COLEMAN, xxx-xx-xxxx
*WILBUR E. LINTON, xxx-xx-xxxx

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICER IDENTIFIED WITH AN ASTERISK IS ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

MEDICAL CORPS

To be lieutenant colonel

ALBERT D. CAIN, xxx-xx-xxxx
*MICHAEL A. NOCE, xxx-xx-xxxx

To be major

HERBERT G. ALEXANDER, JR., xxx-xx-xxxx
WILLIAM A. PEARCE, xxx-xx-xxxx

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF LIEUTENANT COMMANDER AS INDICATED, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 628, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be lieutenant commander

BRADLEY A. BAILEY
DONALD E. DAVIES, JR.
BILLY J. HYNUM
MICHAEL C. MCAULEY
WILLIAM J. MILLS. JR.

CONFIRMATION

Executive nomination confirmed by the Senate June 6, 1990:

THE JUDICIARY

JAMES S. HALPERN, OF THE DISTRICT OF COLUMBIA, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM EXPIRING 15 YEARS AFTER HE TAKES OFFICE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Wednesday, June 6, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Remind us each day, O loving God, that we are all part of Your creation, that each person, from every nation or land, from all human faith or creed, from each task or position, has been created by the power of Your mighty hand. As we share together in gratitude for this gift of life, make us more aware of our common responsibility to see Your heavenly kingdom in all its glory, and then, as it is Your will, to live together in freedom and in peace. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BURTON of Indiana. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 272, nays 104, answered "present" 1, not voting 55, as follows:

[Roll No. 147]

YEAS—272

Ackerman	Bosco	Condit
Alexander	Boucher	Conte
Anderson	Brennan	Conyers
Andrews	Brooks	Cooper
Annunzio	Broomfield	Costello
Applegate	Browder	Coyne
Archer	Bruce	DeFazio
Aspin	Bryant	Derrick
Atkins	Byron	Dorgan (ND)
AuCoin	Campbell (CO)	Downey
Barnard	Cardin	Durbin
Bartlett	Carper	Dwyer
Bateman	Carr	Dymally
Beilenson	Chapman	Dyson
Bennett	Clarke	Early
Bevill	Clement	Eckart
Bilbray	Clinger	Edwards (CA)
Boggs	Coleman (TX)	Edwards (OK)
Bonior	Collins	Emerson
Borski	Combest	Engel
English	Lloyd	Rose
Erdreich	Long	Rostenkowski
Evans	Luken, Thomas	Rowland (CT)
Fascell	Manton	Rowland (GA)
Feighan	Markey	Roybal
Fish	Martinez	Russo
Flake	Matsui	Sabo
Foglietta	Mavroules	Saiki
Frank	Mazzoli	Sangmeister
Frost	McCloskey	Sarpalius
Gallo	McCollum	Sawyer
Gaydos	McCrery	Saxton
Gejdenson	McCurdy	Scheuer
Gephardt	McDermott	Schneider
Geren	McEwen	Schulze
Gibbons	McHugh	Schumer
Gillmor	McMillan (NC)	Serrano
Gilman	McMillen (MD)	Sharp
Glickman	McNulty	Shaw
Gonzalez	Mineta	Shumway
Gordon	Moakley	Shuster
Gradison	Mollohan	Sisisky
Grant	Montgomery	Skaggs
Gray	Morella	Skeen
Green	Morrison (CT)	Skelton
Gunderson	Morrison (WA)	Slaughter (NY)
Hall (OH)	Mrazek	Smith (IA)
Hall (TX)	Murtha	Smith (NE)
Hamilton	Myers	Smith (NJ)
Hammerschmidt	Nagle	Smith (VT)
Hansen	Natcher	Snowe
Harris	Neal (MA)	Spence
Hatcher	Neal (NC)	Spratt
Hayes (IL)	Nielson	Staggers
Hayes (LA)	Nowak	Stallings
Hefner	Oakar	Stark
Hertel	Oberstar	Stenholm
Hoagland	Obey	Stokes
Hochbrueckner	Olin	Studds
Horton	Ortiz	Swift
Houghton	Owens (NY)	Synar
Hoyer	Owens (UT)	Tallon
Hubbard	Packard	Tanner
Huckaby	Pallone	Tauzin
Hughes	Panetta	Taylor
Hutto	Parker	Thomas (GA)
Jenkins	Patterson	Torres
Johnson (CT)	Payne (NJ)	Torricelli
Johnson (SD)	Payne (VA)	Towns
Jones (GA)	Pease	Traficant
Jones (NC)	Pelosi	Udall
Jontz	Penny	Unsoeld
Kanjorski	Perkins	Valentine
Kasich	Petri	Vander Jagt
Kastenmeier	Pickett	Vento
Kennedy	Pickle	Visclosky
Kennelly	Porter	Volkmer
Kildee	Poshard	Walsh
Kleczka	Price	Watkins
Kolter	Pursell	Waxman
Kostmayer	Quillen	Weldon
LaFalce	Rahall	Wheat
Lancaster	Rangel	Whitten
Lantos	Ravenel	Williams
Laughlin	Ray	Wolpe
Lehman (FL)	Regula	Wyden
Lent	Rhodes	Wylie
Levin (MI)	Rinaldo	Yates
Levine (CA)	Ritter	Yatron
Lewis (GA)	Robinson	Young (FL)
Livingston	Rohrabacher	

NAYS—104

Armey	Burton	DeLay
Baker	Callahan	DeWine
Ballenger	Campbell (CA)	Dickinson
Barton	Chandler	Dornan (CA)
Bentley	Clay	Douglas
Bereuter	Coble	Dreier
Bilirakis	Coleman (MO)	Duncan
Bliley	Coughlin	Fawell
Boehlert	Courter	Frenzel
Brown (CO)	Craig	Gingrich
Buechner	Crane	Goodling
Bunning	Dannemeyer	Goss
Grandy	Madigan	Sikorski
Hancock	Marlenee	Slaughter (VA)
Hastert	Martin (IL)	Smith (TX)
Hawkins	Martin (NY)	Smith, Denny (OR)
Hefley	McCandless	Smith, Robert (NH)
Henry	McGrath	Smith, Robert (OR)
Herger	Meyers	Solomon
Hiler	Michel	Stangeland
Holloway	Miller (OH)	Stearns
Hopkins	Miller (WA)	Stump
Hunter	Molinari	Sundquist
Hyde	Moorhead	Tauke
Inhofe	Murphy	Thomas (CA)
Ireland	Parris	Thomas (WY)
Jacobs	Paxon	Upton
James	Ridge	Vucanovich
Kolbe	Roberts	Walker
Kyl	Rogers	Weber
Lagomarsino	Ros-Lehtinen	Whittaker
Leach (IA)	Roukema	Wolf
Lewis (FL)	Schaefer	
Lightfoot	Schroeder	
Lukens, Donald	Sensenbrenner	
Machtley	Shays	

ANSWERED "PRESENT"—1

Oxley

NOT VOTING—55

Anthony	Flippo	Pashayan
Bates	Ford (MI)	Richardson
Berman	Ford (TN)	Roe
Boxer	Gallegly	Roth
Brown (CA)	Gekas	Savage
Bustamante	Guarini	Schiff
Cox	Johnston	Schuette
Crockett	Kaptur	Slattery
Darden	Leath (TX)	Smith (FL)
Davis	Lehman (CA)	Solarz
de la Garza	Lewis (CA)	Traxler
Dellums	Lipinski	Walgren
Dicks	Lowery (CA)	Washington
Dingell	Lowey (NY)	Weiss
Dixon	McDade	Wilson
Donnelly	Mfume	Wise
Espy	Miller (CA)	Young (AK)
Fazio	Moody	
Fields	Nelson	

□ 1023

Mr. BEREUTER changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Virginia [Mr. PICKETT] will please come forward and lead the House in the Pledge of Allegiance.

Mr. PICKETT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

TOM FOLEY'S FIRST ANNIVERSARY AS SPEAKER OF THE U.S. HOUSE

(Mr. GEPHARDT asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, it was just 1 year ago today that Congressman THOMAS S. FOLEY was elected to serve as the 49th Speaker of the House of Representatives.

He has ably represented the State of Washington's Fifth District since 1965.

But to the American people, he represents more—the finest tradition of public service, healing leadership, and the belief that, beyond rhetoric, Government must address the problems facing the United States and produce results that make a real difference in the lives of all of our people.

Under Speaker FOLEY's leadership, the House has fought for working families, taken great strides in protecting the global environment, worked to transmit the finest of America's values both at home and abroad, and fought for fiscal responsibility and national strength.

In his excellent closing address urging passage of the 1991 budget resolution, Speaker FOLEY asked us to rise to the occasion so that America could "march—not drift—into the next century [which] like this century, we have an obligation to give the name 'America'—American in background, American in principle, American in achievement."

No one could explain the mission of public service in the United States with greater clarity. And no one could lead this institution with more grace and effective leadership than our Speaker, the Honorable THOMAS S. FOLEY.

Mr. Speaker, on behalf of all of our colleagues in the House, we wish you a very happy anniversary.

□ 1030

STOP ARMS SHIPMENTS TO EUROPE

(Mr. PICKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKETT. Mr. Speaker, while negotiators in Vienna for NATO and the Warsaw Pact Nations move toward an agreement on Conventional Forces in Europe [CFE], the United States continues to ship its newest and most modern tanks, troop carriers, artillery, and helicopters to Europe. Why?

Why do we want this equipment in Europe when there will not be enough American forces there to maintain and operate it, and much of it will probably have to be destroyed once it gets there in order to comply with the CFE treaty.

This policy does not make any sense. It will cost U.S. taxpayers billions of dollars unnecessarily. Many of the production lines for this equipment are being terminated. That equipment should stay right here on American soil, under American control, to meet American needs.

INTRODUCTION OF THE BANKRUPTCY ANTIFRAUD ACT OF 1990

(Mr. ROWLAND of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND of Connecticut. Mr. Speaker, last week the Supreme Court dealt a lethal blow to the bankruptcy code and to our States' ability to impose restitution obligations on criminals as part of their penal rehabilitation. Today, I am introducing legislation to restore the integrity of the code and State penal authority.

In the case of the Pennsylvania Department of Public Welfare versus Edward and Debora Davenport, the court permitted the Davenports, who had been convicted of defrauding the State welfare system, to avoid their restitution obligation by filing for bankruptcy.

In 1986, the Supreme Court decided a similar case in Kelly versus Robinson. I was very familiar with that case, in which a Connecticut woman was convicted of welfare fraud and sought bankruptcy protection under chapter 7. Before the court, I introduced legislation. Fortunately, the Supreme Court agreed.

In the Davenport ruling, the court determined that such obligations are dischargeable by convicted criminals filing under chapter 13.

Mr. Speaker, I am today introducing legislation to close this loophole. Let us restore integrity to the bankruptcy code and to State criminal proceedings. I ask the Members to support the Bankruptcy Antifraud Act of 1990.

TIME TO STAND UP FOR VICTIMS' RIGHTS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in West Virginia a heart-broken parent tried to take the law into her own hands. Pearl Abraham took a .38 caliber pistol from her purse and fired at Stuart Elliott on trial for having murdered her daughter and then raping her 10-year old granddaughter. She is now charged with attempted murder, and she simply said that she expects no justice.

I would point out to the Members of Congress that America has 20,000 murders a year. America's families are mourning their loved ones every single day in record numbers, and Congress just seems to tolerate it. I think it is time to start protecting victims' rights and innocent people, not just standing up for criminals' rights. America is tired of the killing fields that their families are subject to.

Mr. Speaker, my bill, H.R. 2102, would address those issues, and there are other similar bills in this House. I recommend that Congress start looking after the welfare of the American people, not just the bums on the street.

DEMOCRATIC BUDGET FIGURES SEEN AS TOO HIGH

(Mr. GINGRICH asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I think it is a very grave mistake for the Democratic leadership to bring a resolution to the floor tomorrow which would set discretionary spending at a ridiculously high level. We are in the middle of a budget summit. The purpose of the summit is to reach an agreement on spending.

The fact is that for us to allow the Appropriations Committee to spend $30 billion above the President's budget and then think we are going to come back here and try to cut that spending is absurd. I would hope that every Member who is committed to a successful summit will vote for a substitute which Mr. MICHEL intends to make in order which would direct the summiteers to propose the appropriation levels by June 28, to set a standard so that the summit on a bipartisan basis can get the budget under control.

Mr. Speaker, it is a major mistake for the Democratic leadership to bring a ridiculously high number to this floor tomorrow and pretend they are doing anything about the budget.

THE WALL STREET JOURNAL AND FEDERAL DEPOSIT INSURANCE

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, in a May 24 editorial entitled "The History of a Blank Check," the Wall Street Journal blames much of the savings and loan bailout problem on the fact that in 1980 Congress increased to $100,000 the insurance on deposits in banks, savings and loans and credit unions.

Mr. Speaker, that editorial is good news to my ears, and I am sure good news to three other Members of this body. We were the only Members of the House still serving now, who were among 13 total Members of the House who voted against the conference report which increased the deposit insurance ceiling to $100,000. The other three Members of this Chamber who voted with me on that historic day

were the gentleman from Georgia, Mr. JENKINS, the gentleman from Indiana, Mr. MYERS, and the gentleman from Texas, Mr. PICKLE.

Mr. Speaker, not only did I vote against the conference report when it reached the House floor, but I was a member of the conference committee that wrote that legislation. I was so disgusted with the work product of the conference committee that I refused to sign the conference report.

I am glad to see that the Wall Street Journal is now recognizing what happened in March 1980 as one of the principal causes of the savings and loan scandal. Perhaps if that important newspaper had taken such a strong stand 10 years ago, we might have gotten more than 13 votes against a bad bill.

INTRODUCTION OF LEGISLATION ALLOWING EARLY WITHDRAWAL OF IRA FUNDS FOR FIRST-TIME HOME PURCHASE

(Mr. EDWARDS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Oklahoma. Mr. Speaker, the decline in the rate of home ownership during the 1980's presents the country with one of its greatest challenges for the 1990's: Developing new, innovative ways to help families meet the higher cost of home ownership.

An excellent way to give first-time home buyers the extra financial boost they need is to allow them to withdraw individual retirement account [IRA] funds early, without penalty, for use toward meeting down payment obligations. I support legislation to allow a person to use his or her own IRA funds for a first home purchase. Unfortunately, the most alarming drop in home ownership is among the 25 to 34 age group, the very group that is least likely to have substantial IRA funds to be able to draw from.

Therefore, today I am introducing legislation to allow parents and grandparents to withdraw IRA funds early, without penalty, if the funds are used toward the downpayment of a house for a child or a grandchild. Parents with grown children, and grandparents, often are secure in their own homes, and have surplus retirement funds built up in IRA's. This legislation would allow them to use part of that surplus to help a struggling child or grandchild make a first-home purchase.

I urge my colleagues to support this legislation.

MEETING THE CHALLENGE IN EASTERN EUROPE

(Mr. AUCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AUCOIN. Mr. Speaker, today, if we are willing to seize it, we have the best opportunity of the year to bolster both the American economy and the economies of the emerging democracies of Central Europe. The Export Facilitation Act of 1990 is the perfect combination of these two goals.

Let's face it: The United States is in an absurd predicament. The administration is only prepared to allow the free trade of high tech goods that are either obsolete or no longer made in the United States.

This anachronistic situation handcuffs America's competitive muscle in the face of global competition. It leaves us unprepared to assist in the development of democracy and free enterprise in Central Europe—and it cripples the modern industrial base we need for our own economic and military security in the 21st century.

Mr. Speaker, the Export Facilitation Act steps up to reforming this situation and meeting the challenges of the world we live in. I urge my colleagues to vote for this legislation and for the AuCoin-Frenzel amendment which furthers these goals.

□ 1040

THE CONGRESSIONAL OINK-OINKS ARE AT IT AGAIN

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, when the budget summit started, it was supposedly agreed that everything was on the table. The Democrats immediately interpreted that agreement as meaning that taxes would be discussed. Now we find that one thing, evidently, is not negotiable: spending.

Why do I say that? Because a resolution will come to the floor this week which seeks to allow spending without responsibility. The resolution breaks faith with the summit process. It would allow the Committee on Appropriations to spend at a level of $30 billion above the President's budget request in the area of discretionary domestic accounts.

To say that everything is on the table in the budget summit, and then approve a spending process that ignores the summit, is destructively irresponsible. Having just given us a bloated supplemental appropriations bill, the congressional oink-oinks are at it again. Now it is at the expense of the budget summit itself.

LINKAGE AND THE UNITED STATES-SOVIET UNION TRADE AGREEMENT

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute.)

Mrs. KENNELLY. Mr. Speaker, last week we had a marvelous summit between the Soviet Union and the United States of America. A number of treaties were signed, including a trade treaty. Nuclear and chemical weapons continue to be reduced. Our own President, President George Bush, went out of his way to do everything possible to accommodate President Gorbachev, certainly hoping that Mr. Gorbachev's standing would improve back in the Soviet Union.

However, Mr. Speaker, today we are back to business. Government has to go on and weigh some of the things which have happened.

The trade agreement is contingent on legislation that would have immigration possibilities for everyone who wants to leave the Soviet Union. This is very important, especially to Russian Jews who know there is rising anti-Semitism in the Soviet Union. President Bush made it very clear there is linkage between trade and that legislation, and that goes without saying.

However, Mr. Speaker, I would like to say that some of us feel there is also linkage between Lithuania and the trade agreement. We are disappointed that the Soviets put off the passage of this legislation, but we certainly hope that President Gorbachev uses his time to negotiate further with Lithuania and lifts the embargo.

BACK TO THE FUTURE

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, with all this talk this summer about the movie, "Back to the Future Part III", I want to bring to the attention of my colleagues here in the House a simple solution to a lot of our current problems. As my colleagues know, "back to the future" means jumping back to our past.

Mr. Speaker, I submit that we could solve a lot of our problems today that deal with crime, drugs, and high divorce rates and educational standards by simply going back in our past and seeing how we solved our problems then. For example, regarding crime and drugs, we had community involvement, and everybody in the neighborhood caring. Regarding family problems, we had less emphasis on the sexual and more emphasis on ideals and the spiritual. In education, we had more discipline and accountability in the classroom.

Mr. Speaker, we can solve our problems today by taking an inventory of our past.

ONE YEAR ANNIVERSARY OF TIANANMEN SQUARE MASSACRE

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, on June 4, the entire world commemorated the brutal massacre in Tiananmen Square, and what did the administration do to acknowledge that occasion?

Mr. Speaker, last week the administration supported a $300 million World Bank forestry loan to China for basic human needs reasons.

To characterize this loan for forestry as a basic human needs loan is an attempt to turn the basic human needs provision in the International Financial Institutions Act into a loophole through which the President can continue his policy of conciliation with the ruthless regime in Beijing.

In addition, Mr. Speaker, at the same time the President sent over most-favored-nation status to China without any conditions for a change in attitudes toward human rights in China, the President on the anniversary, on the anniversary of the Tiananmen Square massacre, issued a very weak statement on human rights in China which amounted to 50 lashes with a wet noodle.

Congress must take the opportunity of this anniversary to reexamine the overall United States policy toward China and evaluate its results. I think we will see that the administration's policy of conciliation has not produced any significant results, and gestures of goodwill have not been reciprocated. This is hardly the basis on which to give Deng Xiaoping a $300 million 1-year anniversary present for the massacre in Tiananmen Square.

IMPOSE STANDARDS ON THE NATIONAL ENDOWMENT FOR THE ARTS

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, a battle is being conducted by members of the arts community and by some Members of this body to oppose the imposition of standards on the National Endowment for the Arts, standards that would prevent tax dollars from being channeled into obscene, indecent, and sacrilegious art. The American people do not want their tax dollars going to pornographic or sacrilegious art in any form.

Because their position is out of sync with the morals and values of the American people, the opponents of standards have been going through enough acrobatics to qualify for a job with Ringling Brothers. The latest twist and turn is a proposal that we only authorize the NEA for 1 year instead of 5 years.

I can assure all of those concerned that, whether it is 1 year or 5 years, there will be a vote on standards as to whether or not Federal dollars should be channeled to obscene and indecent art or art that attacks someone's religion. There will be a vote on this issue, whether it is a 1-year authorization or a 5-year authorization, and the American people will be watching that vote.

DRIFT NETTERS SAILING THROUGH LOOPHOLES IN INTERNATIONAL LAW POINTS UP NEED FOR US TO LEAD PUSH FOR GLOBAL BAN

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, the Soviet Union takes enforcement of its fishery resource laws very seriously—so seriously that it has just seized a fleet of 10 Japanese drift net vessels that were flying the North Korean flag. The crime: pirating salmon on the high seas.

This latest incident, while appalling, should come as no surprise—the drift net season has begun. This pirate fishery remains too easy and too profitable.

Fleets of drift net vessels will continue to sail through the loopholes in our monitoring agreements and they will sail right through the United Nations ban in 1992, unless we fight administration inertia, and press forward with drift net ban legislation that directs the U.S. Secretary of State to lead to international fight against drift netters. It is unseemly for America to be outdone by the Soviet Union on environmental enforcement.

WANTED: INDEPENDENT COUNSEL TO INVESTIGATE THE SAVINGS AND LOAN DISASTER

(Mr. SMITH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Vermont. Mr. Speaker, let us get down to basics. The savings and loan scandal has taken on monstrous proportions. My constituents are outraged the scandal was allowed to happen and I share in that anger.

We need an independent counsel to investigate how the leaders of our Federal Government—whether through neglect or greed—allowed the flight-by-night hucksters and scam artists who operated hundreds of thrifts to write this sad chapter in American history.

A year ago, this Congress approved a savings and loan bailout bill. We had no choice if we wanted to protect the life savings of millions of Americans and stop the hemorrhaging of our Nation's thrifts. We had no idea at the time that we were making such a small downpayment.

Last week, when we all were in our home States, I heard from dozens of Vermonters who were livid—livid—at the savings and loans scandal that continues to unfold: $89 billion, $132 billion, $325 billion. Even for this city the numbers are staggering.

Fiscal disasters of such proportions do not happen overnight. Vermonters want to know how their Federal Government could have allowed this to happen. I'm willing to bet most Americans share that sentiment.

It's possible that some Members of Congress would prefer to sweep this whole mess under the rug. But that won't work. We're talking about a fiasco that could cost every man, woman and child in this Nation up to $2,000.

Think how many young children, homeless Americans and ailing seniors we could care for with that money, how many schools we could improve, how many miles of rutted roads we could pave.

Congress cannot turn its back on this affair, which is why we need an independent counsel to investigate the role of legislative and executive branch officials—former and present—who may have had a hand in this tragedy.

Today I am introducing a sense-of-the-Congress resolution asking the President to instruct the Attorney General to seek the appointment of an independent counsel. It is the correct step for us if we want to be responsive to our constituents. They have entrusted us with their government.

In my 18 months as a Congressman, I have heard from many colleagues angry with cost overruns on faulty weapons systems at the Pentagon, and from colleagues furious about questionable arts exhibits funded by the NEA.

But if you are really concerned about accountability, ladies and gentlemen, the savings and loan disaster is the greatest financial fiasco of our time.

Let us have a bipartisan commitment to find out how this Government allowed it to happen. Please support my call for an independent counsel.

□ 1050

TRIBUTE TO THE LATE DOCTOR ROBERT NOYCE

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, this last Sunday in Austin, TX, Dr. Robert Noyce, chief executive officer of Sema-

tech, the semiconductor consortium of our country, died of a heart attack.

Dr. Noyce was an inventor of the integrated circuit and is recognized generally throughout the country as probably the leading proponent of the electronic and semiconductor industry in the United States.

Services will be held in Austin this Saturday morning, and this evening our colleague, the gentleman from California [Mr. MINETA] and others will hold a special order to pay our respects to this giant and this genius who has been the leading proponent of the semiconductor industry in the United States today.

INTRODUCTION OF RESOLUTION IN SUPPORT OF THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I rise today to solicit my colleagues' support for House Concurrent Resolution 331, a resolution which I recently introduced calling for the maximum participation by the Organization for Economic Cooperation and Development [OECD] in assisting the transition of Eastern European countries to free market democracies. The OECD, an international organization to which most European and Western-style democracies belong, has a proud 30-year history of advising market-oriented democracies on economic and social policy, and has played a key role in helping countries adapt their economies to market forces. Since 1980, the OECD has increasingly focused its efforts on restructuring economies to make markets work better.

The OECD's committee structure brings together experts from national governments which could give Eastern European countries a forum with their Western counterparts to discuss, and examine ways to reform their complex economic and social problems. Few other organizations have the knowledge and expertise to offer advice on such a wide range of issues, from technology to taxation, and from education to the environment. Moreover, no other international organization has OECD's proven track record in providing such technical expertise.

House Concurrent Resolution 331 would call on the President to seek to ensure the maximum assistance of OECD in facilitating the transition of Eastern European countries to free market democracies. This would be done by creating the basic statistics for the economic and social measurement of key areas, such as private sector production, trade, investment, output, and employment; by ensuring an effective exchange of people who have experience in the theory, policy, and practice of managing market-based economies; and by coordinating the advice of high-level nongovernmental experts capable of providing impartial, policy-sensitive advice on policy implementation and reform.

I encourage my colleagues to join me in this effort to smooth the transition to free markets in Eastern Europe by cosponsoring this resolution.

TRIBUTE TO THE LATE DR. ROBERT NOYCE

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, I, too, want to observe along with my colleague, the gentleman from Texas [Mr. PICKLE] the passing of Robert Noyce, the inventor of the integrated circuit, and the president of Sematech, and one of the last of a breed of entrepreneurial businesspersons who made a difference in this country.

In a growing, complex and technologically oriented world, Mr. Noyce believed that it was the responsibility of all of us to make sure that the United States had an educated work force to compete with the Japanese and the Germans in the marketplace of the future.

After being successful in business, he worked with others in Sematech to try to make sure that the United States retained its position in the marketplace in computer technology.

We will miss this giant of American industry, this innovator, this man of science. He was a great American.

NO PENSIONS FOR CONGRESSIONAL FELONS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, banning honoraria and tightening ethics guidelines were two positive steps we took last session to rebuild public faith in the credibility of our institution. I call upon my colleagues today to step up the pace of ethics reform by enacting additional legislation to enable us to police ourselves more effectively.

Currently, a Member of Congress convicted of a felony may continue to receive a Federal pension, funded in part by the American taxpayer.

It is unconscionable that an elected official be permitted to draw a publicly funded pension after violating the very law he or she took an oath to uphold.

In March, I introduced legislation, H.R. 4292, to deny a Member of Congress convicted of a felony the publicly funded portion of his annuity. I ask my colleagues today to join me in cosponsoring this bill.

Enactment of this legislation will ensure that the American taxpayer only funds the retirement benefits of those public officials who have earned the public's trust.

Mr. Speaker, the intent of this bill is straightforward—it is simply a promise to hold ourselves accountable for our actions before the people we serve.

URGING COSPONSORSHIP OF JOINT RESOLUTION DISAPPROVING MFN FOR CHINA

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I would like to apprise our colleagues of a new emigration-related restriction instituted by the Chinese Government since the Tiananmen Square massacre.

Two reports must be prepared by those Chinese wishing to receive a passport. These reports describe the passport applicant's performance during the events of Tiananmen Square and—according to Chinese who have been through this process—are expected to be confessional in nature in order to be credible.

In other words, the authorities do not believe you unless you confess that you supported the pro-Democracy movement. And, if you do that, you sure will not get your passport out of China. On the contrary, the Chinese police are using this new procedure to apprehend any and all pro-Democracy supporters who have not yet been interrogated, tortured or imprisoned.

By granting MFN to China, America mistakenly conveys its tacit approval of such deplorable and Jackson-Vanik-inconsistent emigration restrictions. I urge you to cosponsor House Joint Resolution 586, a motion disapproving the President's support for MFN for China.

INTRODUCTION OF RESOLUTION TO AWARD CONGRESSIONAL MEDAL OF HONOR TO S. SGT. RUBIN RIVERS

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, today I am introducing a resolution to award a fellow Oklahoman with a much deserved Congressional Medal of Honor for his heroic actions during World War II. The efforts of S. Sgt. Rubin Rivers were brought to my attention by one of my constituents who had the pleasure of being acquainted with this brave American.

Staff Sergeant Rivers committed acts of bravery above and beyond the

call of duty during a tank battle that occurred in the Alsace-Lorraine region of France. On the first day of the battle, his leg was torn apart by shrapnel from an antitank mine, he fought on for his country. His commanding officer and the company medic urged that he evacuate for medical attention, but Rivers thought only of his fellow soldiers, who would surely need his support.

Staff Sergeant Rivers took control of his tank again early the next morning, helping to turn back another round of advancing German tanks. The next day, his tank was once again hit—this time with a final, fatal blow. In all, Rivers fought for 2 long days and nights while in dire need of emergency attention.

Staff Sergeant Rivers situation is unique for another reason: 1.25 million African-Americans and 23,000 native Americans served during World War II. According to the Medal of Honor Historical Society, during World War II, 470 Congressional Medals of Honor were awarded—not one went to an African-American, and only 2 went to native Americans. Staff Sergeant Rivers was a member of Company A, 761st Tank Battalion, an all African-American battalion. Rivers was part native American and part African-American, and lived in Tecumseh, OK. My wish is that he be granted the commendation he justly deserves.

If anyone is interested in becoming a cosponsor of this resolution, please contact my office—Greg Wilson at 225-2211.

EXPORT FACILITATION ACT OF 1990

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 403 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 403

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendment made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Foreign Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, by titles instead of by sections, each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. No amendment to said substitute, except pro forma amendments for the purpose of debate, shall be in order except those printed in the Congressional Record at least one legislative day prior to its consideration. At the conclusion of consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1100

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 403 is the rule providing for the consideration of H.R. 4653, the Export Facilitation Act of 1990.

This is an open rule providing for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs.

The rule makes in order the amendment in the nature of a substitute recommended by the Committee on Foreign Affairs now printed in the bill as an original bill for the purposes of amendment under the 5-minute rule. The substitute shall be open to amendment by title; each title shall be considered as read.

Further, the rule waives all points of order against the substitute for failure to comply with the provisions of clause 7 of rule XVI, which prohibits nongermane amendments.

No amendment to the substitute, except pro forma amendments for the purpose of debate, shall be in order except those printed in the CONGRESSIONAL RECORD at least 1 day prior to its consideration.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, in response to the recent events in Eastern Europe, the Foreign Affairs Committee unanimously approved H.R. 4653, the bill for which the Rules Committee has recommended this rule. H.R. 4653 will relax Government restrictions on the export of badly needed U.S. goods and services, and will also improve the efficiency of our export control system.

The success of the democratic movements in Eastern Europe depends on economic development and strong ties to the West. Providing badly needed Western technology will help rebuild their economies, while fostering communication and business links to western nations. As the committee report for H.R. 4653 points out, with the proper safeguards, the United States should be willing to sell Eastern Europe such technology not in spite of our national interest, but because of it.

Specifically, the bill is designed to foster U.S. competitiveness by improving the efficiency of the export control system and promoting government accountability and due process. By adopting these provisions, we can save an estimated $9.3 billion in lost sales and administrative costs annually. This will be a step forward in addressing our merchandise trade deficit, which was $108 billion last year, 95 percent of which was attributable to the manufacturing sector.

This bill will enable the United States to take advantage of new market opportunities abroad, which will create new manufacturing jobs at home. The importance of manufacturing in creating wealth and providing jobs is indisputable. Particularly after a decade of neglect and trade imbalances, efforts to revitalize our domestic manufacturing sector are imperative. The changes in Eastern Europe provide a unique opportunity for our most competitive industries to increase exports of computer technology, telecommunications and other manufactured goods.

The benefits to our economic competitiveness account for H.R. 4653's support by a diversity of organizations including the U.S. Chamber of Commerce, the AFL-CIO, the National Association of Manufacturers, the U.S. Council for International Business, the American Association of Exporters and Importers, and the Business Roundtable.

Mr. Speaker, this is essentially an open rule which will allow full and fair debate on the provisions of this important bill. Both the majority and minority members of the Foreign Affairs Committee requested the publication requirement because of the technical nature of many sections of the bill. Publication in advance allows Members to fully analyze the effects the amendments would have on the bill's complex and sensitive provisions.

I ask my colleagues to support the rule so that we may proceed with consideration of the merits of this important legislation.

Mr. Speaker, in response to the recent events in Eastern Europe, the Foreign Affairs Committee unanimously approved H.R. 4653, the bill for which the Rules Committee has recommended this rule. H.R. 4653, the Export Facilitation Act, will relax Government restrictions on the export of badly needed U.S. goods and services, and will also improve the efficiency of our export control system.

The changes in Eastern Europe have raised questions regarding the need for strict limitations on the export of Western technology to the Eastern bloc. In the past, these restrictions were understandable, particularly for technologies which would contribute to the military development of these countries.

However, times are changing. The success of the democratic movements in Eastern Europe depends on economic development and strong ties to the West. Providing badly needed Western technology will help rebuild their economies, while fostering communication and business links to Western nations. As the committee report for H.R. 4653 points out, with the proper safeguards, the United States should be willing to sell Eastern Europe such technology not in spite of our national interest, but because of it.

Specifically, the bill will:

Ease controls on exports to Eastern Europe, and to a lesser extent the Soviet Union. In order to be eligible for the reduced export controls, the East European country must meet certain criteria, such as not posing a significant military risk to the United States, nor having policies adverse to the security interests of the United States. The level of decontrol, furthermore, is based upon, and would be in keeping with, current export policies for United States exports to the Peoples' Republic of China [PRC].

The bill will also eliminate controls on exports to our closest allies. Specifically, this applies to licenses currently required for exports to those foreign nations which participate with the U.S. in controlling exports through the Coordinating Committee for Multilateral Export Controls [Cocom]. Currently, the United States is the only nation which imposes such reexport controls on other Cocom member countries.

Other provisions will clarify the respective roles of the Department of Commerce and the Department of Defense for export licensing in order to help reduce the bureaucratic backlog in issuing licenses.

It will remove all items from the commodity control list unless reinstated with justification. This includes such things as 20-year-old machine tools which are no longer even sold domestically.

Finally, the bill will increase the penalties for willful violations of export controls.

The bill is designed to foster U.S. competitiveness by improving the efficiency of the export control system and promoting government accountability and due process. By adopting these provisions, we can save an estimated $9.3 billion in lost sales and administrative costs annually. This will be a step forward in addressing our merchandise trade deficit, which was $108 billion last year, 95 percent of which was attributable to the manufacturing sector.

This bill will enable the United States to take advantage of new market opportunities abroad, which will create new manufacturing jobs at home. The importance of manufacturing in creating wealth and providing jobs is indisputable. Particularly after a decade of neglect and trade imbalances, efforts to revitalize our domestic manufacturing sector are imperative. The changes in Eastern Europe provide a unique opportunity for our most competitive industries to increase exports of computer technology, telecommunications, and other manufactured goods.

The benefits to our economic competitiveness account for H.R. 4653's support by a diversity of organizations including the U.S. Chamber of Commerce, the AFL-CIO, the National Association of Manufacturers, the U.S. Council for International Business, the American Association of Exporters and Importers, and the Business Roundtable.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, the rule which we are considering today has only one restriction, it requires the preprinting of amendments. While I understand the reasons for this provision, I would have preferred that the rule be completely open.

Other than the preprinting requirement, I feel that this is a fair rule for consideration of H.R. 4653.

I would like to commend Chairman FASCELL of the Foreign Affairs Committee, Congressman ROTH and Congressman GEJDENSON for their efforts on this bill. The direction that H.R. 4653 takes U.S. export controls is basically a good one.

Today, the State Department is beginning 2 days of sensitive negotiations with our allies to liberalize export controls. The success of these negotiations is vital to the national security interests of the United States and its allies. I believe we should try to speak in a single voice with the administration on this important issue.

I am aware that members of other committees, especially the Armed Services and Intelligence Committees, have some concerns with this legislation. It is my hope that, because of the importance of the subject of export controls, and its implications for trade and national security, the bill can be amended to meet their concerns.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say that I join the gentlewoman from New York in urging support of this open rule. I would have preferred that the rule not require the preprinting of amendments; but House Resolution 403 is otherwise a fully open rule, and I certainly urge its support.

The rule is quite simple and straightforward, as the gentlewoman from New York has indicated, and so there is no need for me to repeat an explanation of the rule itself.

I would like to spend the remainder of my time making some comments about the bill that the rule deals with.

Mr. Speaker, I very much regret that the bill is coming up at all, and especially at this particular time because of two concerns that I have. First, H.R. 4653 should have been subject to a sequential referral to both the Committee on Armed Services and the Select Committee on Intelligence, two very, very important committees of this House.

I realize a bill which is entitled "Export Facilitation Act" seems at first glance to be rather harmless, but the truth of the matter is that this bill substantially rewrites existing export policies, rewrites export policies that the President of the United States ought to be setting, and it does so in a manner that suggests an attempt to preempt multilateral negotiations.

Mr. Speaker, this bill is fraught with implications for the internal management and decisionmaking process in the executive branch, particularly involving the Secretary of Defense. For that reason alone, the Committee on Armed Services should have been given a sequential referral; yet no reason has been given why it was not.

H.R. 4653 also has significant implications for national security policy, something that should always concern every Member of this House. Yet, this issue has not been adequately explored, and at the very least the Select Committee on Intelligence should have been briefed on this issue.

I understand that those Members who did avail themselves of an intelligence briefing on the implications of this bill found such a briefing to be a sobering experience. I would advise all Members to avail themselves of that briefing.

My second reason for believing this bill should not be on the floor today concerns something I alluded to a moment ago, the preemption of the multilateral negotiations. Right now, at this moment, a team of U.S. negotiators is meeting in Paris with our allies who are members of the so-called Coordinating Committee on Multilateral Export Controls, Cocom. The Cocom negotiations which began today are aimed at developing a new multilateral policy on exports to Eastern Europe and other countries. But along comes Congress in yet another clumsy attempt to write the agenda for our negotiators. We are not negotiators.

There are provisions in this bill that would make it virtually impossible for American diplomats to conduct Cocom negotiations with any degree of confidentiality and flexibility.

I am convinced the administration is seeking a policy in Cocom that many Members will be able to support in this House on both sides of the aisle. The administration is not unsympathetic to American exporters and to the concerns that have been expressed here in this Congress; the Members all know that. They know that this President certainly sticks up for business and industry and jobs in America, so we can count on his support.

But I have to warn my colleagues that the President will veto this bill if it is passed in its present form, and please keep in mind as the amendment process takes place under the open rule later today.

In its present form, the bill is probably unconstitutional. It most certainly would be subject to a challenge in the courts, and we do not need that. We have other important things to be doing here.

I regret that the bill is coming before us at all. It is as ill-conceived as it is ill-timed. But at least we have an open rule, Mr. Speaker, and I thank the chairman, the gentleman from Florida [Mr. FASCELL], for requesting one, as well as the Committee on Rules for writing one.

It may just be that, with a little luck, the Cocom negotiations will be completed before this piece of impertinent legislation has a chance to get on the books. That is our only hope.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I would like to engage my friend, the gentleman from New York, just for a moment. We have here the House rules and manual. At the beginning of that is the Constitution.

□ 1110

Section 8 of the Constitution begins something like this: "This Congress shall have the power." Then it continues to say "to regulate commerce with foreign nations, and among the several States, and within the Indian tribes. * * *" We are not dealing with the several States or Indian tribes today, but this bill does deal with commerce with foreign nations, and so I think that when the gentleman questions the constitutionality he ought to go to the heart of the Constitution to see with whom the Constitution trusted the power to deal with issues of commerce, because they knew a long time ago that if we left it to the folks downtown they will take a lot of things into consideration, but they will not take the economic security of this Nation into consideration.

I would say to the gentleman from New York that I had the briefings from the folks in the securities field. They filled my office. They spent an immense amount of time making sure that it was not bugged. They spent a small amount of time talking about some issues of secrecy, but most of the time they were concerned with the bureaucracy and how the bureaucracy was divided, and that is what we are trying to correct here.

The fighting in the bureaucracy has crippled our economy, and that is the heart of the matter here today.

So I want to say to my friend that I would be happy in a different forum to talk about the secrecy issues, but there are none. This bill more than adequately defends America's national security and those kinds of issues. On the jurisdiction issue, with previous appearances of this bill on the floor of the House the committees the gentleman mentioned did not have jurisdiction on this particular bill. On the issues that we are dealing with here today, both in the mid-1980's and in the early 1980s when the gentleman was a colleague on the Foreign Affairs Committee and we moved this bill through the Congress, the other committees did not have jurisdiction.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from New York if he would like to respond.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman very much indeed for yielding so that I will not have to yield myself time. I would just say that I have great respect for the gentleman, and he and I did serve on the committee for many years, and although we are sometimes at either end of the philosophical spectrum, I still have great respect for him.

Let me just say I agree with the gentleman in part of what he said because I too will be offering some amendments later on dealing with the People's Republic of China as it deals with commerce. I fully accept the gentleman's explanation.

But what I am talking about, and I will read from the administration's statement of administration policy, if I might, it says: "Dictates internal Executive Branch procedures and decision processes, including setting a time limit on presidential resolution of inter-agency disputes."

Mr. GEJDENSON. If I can reclaim my time for 1 minute, then I will give the gentleman additional time, but it is important that he stop.

The SPEAKER pro tempore (Mr. GLICKMAN). The time of the gentleman from Connecticut [Mr. GEJDENSON] has expired.

Mr. SOLOMON. Mr. Speaker, I yield myself 3 minutes, and I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I thank the gentleman.

If I were to send the gentleman to the New York State Motor Vehicle Department, and it took 2½ years for the Motor Vehicle Department to decide which line the gentleman stood in, he might recognize that it is time to not let those agencies decide on the time limits and who does what, but somebody else has got to come in and rescue them and the American economy from them.

It has taken 2½ years, in one instance, just for the Department of State and the Department of Commerce to decide who was supposed to look at a license, never mind issuing one. At the same time, our competitors, the Germans and the Japanese, do it in 4 days.

Mr. SOLOMON. I will reclaim the time from the gentleman, whatever time he had left. Let me just finish reading the administration's statement because it says: "Such provisions are inconsistent with the Constitution's grant of authority to the President to manage the internal operations of the Executive Branch."

Yes, the gentleman makes good points. But let me just read a headline to the gentleman, and I do not know whether he can see it from here, but it is something that he ought to be interested in.

Mr. GEJDENSON. I am supposed to get glasses, but I do not have them yet.

Mr. SOLOMON. He of all people ought to be interested in this. The headline states: "The world's most dangerous man. With billions to spend and help from the U.S., the Soviet Union and Europe, Saddam Hussein is amassing a truly terrifying arsenal."

Iran, Iraq, Syria, gentlemen, think about that as we debate this bill and debate these amendments.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to my good friend, the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding. I think the gentleman has made some excellent points, and I think particularly has made the right point in focusing on the national security aspect of this problem.

This is a terrible bill from the perspective of those young men and women who serve in the Armed Forces and are in very vulnerable positions. This bill is fraught with problems, and I hope we have a chance to go through them. But I am looking at the supercomputer indexing, for example.

If we made a quantum leap in supercomputers, that is going to put everything, including top of the line CRAY's out on the shelf for anybody to purchase.

The gentleman from Connecticut [Mr. GEJDENSON], has made a good point. It is true that West Germany has a quick check-off, and part of their quick check-off resulted in them allowing some of their companies to produce poison gas for Mr. Qadhafi, for which they were highly embarrassed.

Mr. GEJDENSON. Mr. Speaker, if the gentleman will yield for 1 minute, he is incorrect in his statement.

Mr. HUNTER. Let me go through my position.

Mr. GEJDENSON. I just want the gentleman to know that he is incorrect.

Mr. SOLOMON. I control the time, and I have to let the gentleman from California finish first.

Mr. HUNTER. Mr. Speaker, let me go through the distribution lists. One thing we want to be able to do is to track down the uses of certain technology.

When we give a general distribution license it is very difficult to track down where that particular technology went, because we have distributors putting stuff out to the four winds in China, in the Soviet Union, and in reality it makes it very, very difficult to monitor the use of that particular technology.

Trade shows. In the Toshiba case it was shown very clearly that trade shows are highly abused. You bring in a system that you cannot sell to somebody because it may be militarily critical technology, and you take it to a trade show, you put it on a bench, according to some of the people who blew the whistle on Toshiba, you put it on a bench and the KGB comes through and borrows it for 2 weeks during the trade show. They then return it pursuant to the Gejdenson bill because we still have title to it, and you remove it after the trade show has ended, so you have complied with all of the requirements that we have put on them. And then the KGB or other intelligence agencies for some of our adversaries have acquired the technology that goes into that particular system without violating U.S. trade laws. The trade shows absolutely open the door for massive abuse.

Telecommunications. Telecommunications is also going to severely limit our ability to know what the heck is going on in this fast-moving Europe. I would just remind my colleagues that indeed we did find a few missiles in East Germany that had not been destroyed, and part of our ability to find things like that is through our intelligence networks.

We have right now the top people in the administration going on a case-by-case basis through the telecommunications, array of telecommunications trying to discover what they can send safely that will not accure to the detriment of national security, and what they cannot send safely. This blanket approach of telecommunications is highly damaging to the United States.

So I just want to thank my friend, the gentleman from New York [Mr. SOLOMON], for pointing out that this indeed is a stampede. It is a stampede that is ill timed, because this is something that needs to be deliberately analyzed at great length by people in the administration who know precisely what they are doing. And we also need to give a few chips to our people who are negotiating with our Cocom partners.

Again I thank the gentleman for yielding.

Mr. SOLOMON. I thank the gentleman for the profound statements he has made. He talks right to the point.

Let me just also commend the gentleman from Connecticut [Mr. GEJDENSON], because I know he did get the briefing. It was a sobering briefing, and I just wish that every Member could take the time to do that.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I would like to correct two misimpressions that my friend has on the bill.

First, the distribution licenses are not simply granted. The bill only allows the administration to grant them if the administration sees fit, so we are simply giving authority to the administration to make that decision.

On supercomputers, the gentleman is factually incorrect in that on supercomputers, we do not take away the licensing. They are still licensed, and we are only dealing with Cocom countries where the security on the bottom 25 percent is reduced. It is not a deregulation situation. It has nothing to do with the Iraqs and the Irans of the world. It deals with England and some of our closest allies.

□ 1120

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the ranking member of the subcommittee of the Committee on Foreign Affairs, the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. I appreciate my friend from New York yielding the time to me.

It is often said on the floor, like a cliche, that "I have no greater respect for the gentleman" from New York or the gentleman from California, but those gentlemen know I truly mean it.

This is a good bill. There is nothing wrong with this legislation.

If you are concerned about America's future and you are concerned about our grandchildren who are going to have to wear the uniform that we wore at some point, then this is a bill you will want to vote for, because this bill is going to keep America competitive and it is going to keep America militarily strong.

The agencies that complain to us and say that Congress is getting involved in the nitty-gritty and it's inappropriate for Congress to get so involved. Well, we passed a bill in August, the trade bill of 1988, the agencies were mandated to set forth the definition of a supercomputer. We have been waiting for 2 years. The agencies have not complied, that is why Congress was compelled to get involved.

There is one other person who is most interested in this legislation, and that is the man occupying the White House.

I know behind the scenes he is cheering us on, hoping we pass this legislation, because he cannot get the agencies to work in unison.

Basically, that is the bottom line in our struggle within our Government to update our export laws.

We do not want a 1-year extension. We want to move forward with this legislation, and bring our laws into conformity with today's world.

The other day, we had President Roh of Korea meet with President Gorbachev of the U.S.S.R. in our own country. My friends, the products that the Soviets and the Eastern Europeans can buy within the boundries of legislation, we are passing here today, are the same products that they can buy from the Koreans.

Now, you mean to tell me that President Roh is not going to sell technology to Gorbachev or that the Koreans are not going to sell it to Eastern Europe?

The Japanese, the Taiwanese, the Koreans are all standing in line competing for these markets. But who is at the end of the line? It is John Q. American, because of our outmoded laws.

Basically, what this legislation is going to do is it is going to bring us into the 1990's and into the 21st century. And I think that is what we all want. And I think that is why this legislation is beneficial and that is why the rule we have under consideration is good.

I again thank my friend, the gentleman from New York [Mr. SOLOMON] for yielding. I attended the Rules Committee hearing. There is no one who understands the legislation better than he does, because he read the fine print, and for that I respect him a great deal. I thank the gentleman for giving me the time.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GLICKMAN). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 403 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4653.

The Chair designates the gentleman from Washington [Mr. SWIFT] as chairman of the Committee of the Whole and requests the gentlewoman

from New York [Ms. SLAUGHTER] to assume the chair temporarily.

□ 1124

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes with Ms. SLAUGHTER of New York, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Madam Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. I thank the gentleman for yielding.

Madam Chairman, I want to express my appreciation to the gentleman from Connecticut, the chairman of the subcommittee, Mr. GEJDENSON, the ranking member of the full committee, Mr. BROOMFIELD, and the gentleman from Wisconsin [Mr. ROTH], who is the ranking member of the subcommittee, for expeditiously bringing this bill to the floor.

This is a very important measure. I trust that everybody can support it. I know that there is not unanimity of opinion with regard to the timing or the substance of this legislation. But let me say that this is not a new matter, but has been considered over a long number of years.

As you will recall, the last time we amended these laws, it took us 3 years to get the subject matter through the Congress and eventually to the President of the United States. This is the first effort to revise and update those laws, Madam Chairman, since the entire change in relations between the two superpowers and the remarkable changes which have taken place in Eastern Europe.

The problems for American business, unfortunately, have not changed, and it is on their behalf and for the country that we seek this legislation.

With respect to the two most contentious issues that will arise, they are both legitimate issues. One is security. No leader in his right mind is going to endanger the security of this country for business, economic, social, or any other reasons. So security is first and foremost in every Member's mind.

The question of what security is and what can be done without endangering security is a judgment factor. This judgment involves many people in the administration, in Defense, in Commerce, and in the State Department. The judgments with respect to what can be done, therefore, under this law will not be lightly made. Furthermore, they will be subject always to public scrutiny. We have total transparency with respect to this matter.

Now let me address the other question, that is, the issue of timing.

We all know that because of the changing conditions in Europe and between the superpowers, Cocom, the organization of allies who meet to determine what can be safely sold, and transferred, is negotiating changes that will be made. The United States is a member of that organization. So we will have a voice of what can be sold, what can be transferred in terms of arms, equipment, et cetera.

But those negotiations may take some time. The changes are phenomenal. Trade, however, I want to remind my colleagues, will not stop. Trade will not wait for us to make up our minds, nor will trade stop simply because Cocom is in negotiation to try to arrive at a consensus with respect to how the allies and the United States should deal with the problem.

□ 1130

Consider this: For all the time that we are talking about, despite our best efforts for security, yes, there have been some lapses. There is no way that I know of that simply, by legislation, we are going to provide a security net that will protect every single instance. I think that is impossible. I think it is naive to think it is possible.

Finally, American business. Businessmen all over the world, and particularly in Western Europe, are looking at Eastern Europe and the Soviet Union. Despite all the problems—economic, political, social, instability, debt, just name it—they are all looking, and they are picking the plums, if there are any plums, because they are looking not at today, but down the road to 5 or 10 years. Any company worth its salt is going to be looking at both, at making a secure investment, and at seeding an investment so that down the road it can collect on its investment.

What is happening is that American business is getting beat over the head. Not only because the competition is out there and financing is difficult—that is another problem—but because in trying to meet the requirements in the United States with regard to what may be sold, we sometimes catch our own people in a box from which it is impossible to escape. In making a determination as to whether or not a product is within or without the definition under these laws, at the present time it has taken as long as 2½ years for a businessman to get a decision from his own government as to whether or not what he is doing is proper.

That is ridiculous. If the law is not clear, if the rules are not clear, if the administrative people who have the responsibility for settling these problems cannot do it, then it is our job to clarify the rules and regulations and the law so that an American who is anxious to compete and help his country to reduce the trade deficit and to help our economy can go abroad and seek new markets and make money for his stockholders, can do so. It is our responsibility, and this administration's responsibility, to do everything that we properly can within the purview of national security to make that possible.

Now, do not tell me that widgets involve national security. Do not tell me that a personal computer should be on the prohibited list. We know that there are some gray areas that we can instantly clarify. There are others which will be more difficult such as those which have a dual use. If put our creativity to the test, and we want to shut the door, any item or product could have a military use. We cannot use that as a standard. The standard has to be common sense.

So, as far as time is concerned, we are not going to make law tonight. It took Members 3 years last time to get this legislation enacted. Those who are worried that in some way we will undercut the negotiations at Cocom, ought not to be unduly concerned. Our negotiators are going to follow the instructions of the administration. They are not about to follow the instructions of a bill just beginning to make its way through the Congress. They will wait until the bill becomes law.

Therefore, we need not have any fear about undercutting the position of our Cocom negotiators in Paris this weekend. They will take care of the U.S. negotiation position.

We need to proceed with the clarification of the law as rapidly as possible. If an agreement is reached at Cocom between now and before this bill becomes law, we can accept whatever our negotiators agree to under the instructions of the administration that we think is proper.

For all those reasons, I urge my colleagues not to drag this debate out. This bill came out of the subcommittee unanimously. It is a great bipartisan effort. It came out of the full committee the same way. I know people have serious concerns. They are entitled to be heard and the issues should be discussed. But I would hope at the end of the day we could move this bill forward.

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to commend my good friend Chairman FASCELL, Congressman ROTH, and Congressman GEJDENSON for their efforts on this bill. The direction that H.R. 4653 takes U.S. export controls is basically a good one, although some problems remain in the bill.

This legislation is perhaps the most complex issue that comes before the Foreign Affairs Committee this year. When I first came to Congress it was very easy to set export controls. We knew who the enemy was—the Communists—and if there were a product we wanted to keep out of their hands, chances are that we were the only country that knew how to make it.

However, the world has changed dramatically in the past few years. The Iron Curtain came down in Eastern Europe and it's beginning to seem that, if the United States wants to control certain exports, we are the only country that feels that way.

Today, the State Department is beginning 2 days of sensitive negotiations with our allies to liberalize export controls. The success of these negotiations is vital to the national security interests of the United States and its allies. I believe we should try to speak in a single voice with the administration on this important issue.

I understand from discussions with the administration late last week, that the United States proposal to Cocom makes many of the provisions in this bill obsolete. If that is true, I fear that we may send a confused signal to our allies.

I am aware that some Members have concerns with portions of this legislation that may go too far. It is my hope that, because of the importance of the subject of export controls, and its implications for trade and national security, the bill can be amended to meet their concerns. In addition, I have confidence that we can work with the Senate in conference to fashion a bill that the President can sign.

I would caution, however, that we cannot be too careful in this process. Mistakes made as a result of this legislation are difficult to fix. Whether it is because of machine tools sold to the Soviets for submarines, cannons, and nuclear weapons sold to Iraq, poison gas equipment sold to Libya, or explosives to Abu Nidal, we must maintain export controls to ensure our national security.

Mr. GEJDENSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 4653, which amends the Export Administration Act, received bipartisan support and was approved by the Committee on Foreign Affairs without opposition. Twelve out of the 13 members of the Subcommittee on International Economic Policy and Trade are original cosponsors of the legislation. Members from both sides of the aisle have not simply cooperated on this bill, they have actively participated and contributed extensively to its provisions. This bill represents over 1 year of intensive work by the subcommittee, and I would just like to take one moment to compliment the minority and the majority staff for a great job, especially on our subcommittee. The cooperation and the effort of these young people has really made this bill what it is today. The subcommittee, which during that time held six hearings, five of which the administration participated in, has brought forward a product that I am particularly proud of.

I would like to especially express my appreciation to the ranking minority member, the gentleman from Wisconsin [Mr. ROTH], who I have had the privilege of working with in the time I have been chairman of this committee. Mr. ROTH has not only put in time and energy, he has also been reasonable and accommodating, and has made positive contributions to this bill. Of course, I would like to compliment the gentleman from Michigan [Mr. BROOMFIELD] and the gentleman from Florida [Mr. FASCELL], whose experience and leadership on this committee has been invaluable. These gentlemen have helped Members fashion a better piece of legislation through their efforts. Indeed, all the members of the subcommittee have done an outstanding job.

As originally conceived after World War II, the intent of the Export Administration Act was to deprive the East bloc of technology, technology that would contribute to our national security.

□1140

The dramatic events of Eastern Europe compel us to question this basic premise on which the export controls were established.

It is now in the interest of the United States to advance technology in the countries of Eastern Europe. It is in our interest to have them develop economically, for that is what sustains and furthers their democracies. Open communication with the West will help them remain free of Soviet control, and with proper safeguards, we should be willing to sell them such technology, not in spite of our national security interests, but because of our national security interests.

Czechoslovakia is a prime example. This is a country which was overrun by the Nazis at the beginning of World War II, crushed by the Soviets, and raped of their industry at the end of World War II. As these brave Czechs turn to us now to sell them the technology that would help them rebuild their nation, that some would argue we should turn them down.

In addition to easing export controls to Eastern Europe and to a lesser extent to the Soviet Union, this bill's major focus is to limit the bureaucratic wrangling, infighting, and the inefficiencies which leave American workers and corporations at a disadvantage. The longstanding feuds between the Departments of Commerce, State, and Defense have created a three-headed monster that maintains a stranglehold on American industry. The estimates are that between $10 and $50 billion a year in export sales are lost.

Let us take a look at the statistics. In the Wall Street Journal of May 30, they published the statistics on high technology sales to Eastern Europe in 1987. The United States, $65 million; Japan, with an economy half our size, $235 million; West Germany, $447 million; Italy, $74 million—$10 million more than the United States; and the United Kingdom, sold more than twice what the United States sold into Eastern Europe.

The choice for us is whether we will have an economy left to defend the Western World. In one case it took an exporter 2½ years just to be told which agency would review his license. That is 2½ years. Imagine being at the motor vehicle department and being sent from line to another for 2½ years before you even got to submit your application. How many customers would wait 2½ years to have a product made available to them?

While the administration has certain ideas for relaxing export controls, it has offered no proposal to kill the three-headed monster nor eliminate this bureaucratic infighting. The administration opposes every single provision of this bill, saying that the system works. Try and tell that to American exporters. Try and tell that to workers laid off from defense industries trying to find a peace dividend and finding the doors to high technology factories being closed because the bureaucrats would not let them get out there and sell. I guess the administration believes that 2½ years is fast enough, that the agencies move quickly enough, and that their cooperation is good enough and that we need not prod them further.

Licenses that take 120 days in the United States take 4 days in Germany and Japan. And for my friends who argue that they make mistakes over there, strangling American industry does not make Germany or Japan provide better security or better controls on technology. The United States is going to be offering a proposal to the international body at Cocom that would reduce export controls.

The administration's proposal today is better than what we have seen before, but it falls short in critical areas. In telecommunications and in computers, H.R. 4653 would require

more extensive reforms for these items which are essential to the economic development of the United States and of Eastern Europe.

We today have the insane situation that if our laboratories in Los Alamos bought a supercomputer from the Bulgarians, it would be illegal to sell that computer back to the Bulgarians and downright next to impossible to sell it to most of our allies. The administration would hurt the United States where we are most competitive, at the high end of technology.

The opportunities out there today are astounding. A year ago it would have been beyond our wildest dreams that we would have sent troops to defend the people of Poland, Hungary, and Czechoslovakia. We have spent hundreds of billions of dollars for the defense of Western Europe. There is nothing that makes Western Europe and the United States more secure than prosperous democracies in Czechoslovakia, Hungary, Poland, and the rest of Eastern Europe.

I hope that in 3 or 4 years we do not have to look back at this time and say that if we had only taken advantage of this market, America would have an economy strong enough to lead the world. My parents fled the Soviet Union in 1946. We came to this country because of the freedom and opportunity it provided, and also because it was a light in the world that led the nations of this globe. But today we find we are crippling our economy. Maybe the wisest review of this most recent summit was that we are becoming less relevant and we are therefore less able to lead. The world is turning more to Germany and Japan with their economic might to lead the Western World.

As an American, that is unacceptable. America needs to be the leading nation in the world. We are the Nation that has led the fight for freedom for so long, and we ought not give it up by crippling our economy and turning it over to the Japanese, the Koreans, the Germans, and others. The statistics are not simply numbers. They are jobs for Americans and an American economy.

Mr. ROTH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to begin by mentioning a few of our colleagues: For example, the gentleman from Michigan [Mr. BROOMFIELD], the ranking member of our Committee on Foreign Affairs, who has given me a great deal of advice and counsel, and I want him to know that I appreciate that very much.

The gentleman from Florida [Mr. FASCELL] gave an excellent dissertation here this morning. I wish that in my prepared remarks I could do half as well as he did in his off-the-cuff remarks.

I must say that in working with the gentleman from Connecticut [Mr. GEJDENSON], I find that he has demonstrated the unique sharpness of mind that is able to deliniate the fine points of this comprehensive legislation. This is one of the most complicated pieces of legislation we are ever going to debate here on the floor of Congress, and thanks to our staff and others, we were able to craft a piece of legislation that we can heartily endorse, and I hope that other people can join us in that endeavor.

This bill is a product of a thoughtful bipartisan effort to bring our export control policies up to date and into the 1990's and prepare us for the 21st century. All Members have had the opportunity to express their views on the reforms that we bring here today.

Our Nation's export control policies are the result of an evolutionary policy. Since the Export Act of 1949, the United States has maintained controls on certain export for national security and foreign policy reasons. The ensuing 41 years of legislative wrangling and administrative turf battles have left us with a system plagued by incoherent agendas and competing Cabinet agencies. Instead, what we should have is coherent policy and competing exporters. Above all, our policies must be right for the times.

During the last decade I was one of the most outspoken advocates for a strong compact between government and business to deny strategic technologies to the Soviet Union and to the Soviet bloc, and there are many people in Congress who still feel strongly about that position today.

□ 1150

I am very proud of that record. I think that we pursued the right policies for that time in world history. Those policies not only made perestroika possible, they made perestroika a necessity.

The export control policies of the 1980's were right for the times in protecting American interests during that era. The policies we make today must be every bit as right for the protection of our interests in the 1990's.

Today, America must face the new challenges and seize new opportunities.

American strength and security are increasingly interwoven and our ability to compete in this arena is extremely crucial. Economic growth will not occur, jobs won't be created, our industrial base will not be preserved, and new technologies won't be developed in the United States unless we free American business to compete in international trade; our markets are internationalized.

Maintaining superpower status in the 1990's means being able to compete economically with Japan, a newly reunified Germany and the Europe newly restructured by EC 92.

The 12 countries of the EC represent 323 million consumers and a 4.1 trillion dollar economy. Currently, we export 75 billion dollars' worth of U.S. goods and almost 2 million jobs are dependent on those exports. We can and must do better than this in the future if we are to remain a world economic power.

Our economic and military security also depends on establishing lasting economic ties with the new democracies of Eastern Europe. We should reach out to the 73 million people of Poland, Czechoslovakia, Hungary, and Bulgaria.

These are powerful, emerging economies, and we must secure a toehold on these economies, and we must do it now. These countries are laying the foundation for their future economic success, and we should be there as this foundation is being lain. As my colleagues know, last year West Germans alone did 2½ billion dollars' worth of exports with Hungary. We did half a billion dollar's worth. They did five times as much as we did.

Mr. Chairman, we cannot continue in this direction and expect to remain strong. This bill recognizes the realities of this new world.

The reforms contained in our bill allow easier access for our exporters to the new markets of Eastern Europe. We codify many of the proposals that the administration has made to the international body Cocom. We attempted to reduce the amount of bureaucratic infighting. Lastly, and most importantly, we cut down the amount of regulation and red tape that American exporters will face.

Mr. Chairman, in 1988 the Commerce Department processed 97,902 export licenses. By eliminating some 27,000 licenses we required in 1988 for exports to our Cocom partners, our bill will reduce the number of licenses required by 38 percent.

Mr. Chairman, cutting our bureaucracy inefficiency and overregulation will make our Nation more competitive, more prosperous and more secure as we prepare to enter the 21st century.

I thank my colleagues on both sides of the aisle for their participation and support of this bipartisan effort.

Mr. GEJDENSON. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Chairman, this bill is the least we can do. The administration is just today going to Cocom with a proposal for liberalizing export controls. This is after years of foot-dragging on loosening up trade with our allies. Now President Bush would have us go slow on improving trade relations with the nations of Eastern Europe, as if the

events of the last year had not taken place and had no significance.

He would have us send a higher level of technology to China than to Eastern Europe. This simply does not make sense. Instead, it underscores the administration's indifference to the health of our exporting sector.

President Bush would raise the level of exportable technology on supercomputers to one that is now old enough to be on display at the Smithsonian. The computers he would now be willing to allow into Eastern Europe have been available on the street in Prague since the early 1970's.

The administration would continue to allow the State Department, not the Commerce Department, to take the lead in directing our export trade. Experience has shown that this has had the effect of strangling our exporting sector.

What is the real message here? Do nothing. Wait for us, the administration is saying, to do the negotiating, we're working on it. Well, we have waited too long already, United States exporters have been seriously hurt competitively by there own Government, not a foreign one. As a Congress we must resist laying all the blame for our enormous trade deficit on foreign protectionism. As Pogo said, "We have met the enemy and he is us." We have the ability today to make long overdue changes in our own export controls. It is the very least we can do.

Mr. ROTH. Mr. Chairman, I yield 3½ minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I rise in strong support for H.R. 4653, the Export Facilitation Act of 1990. This is a good bill. A long overdue bill. A bill we should pass.

Mr. Chairman, last week we witnessed the first post cold war summit. We have seen democracy spring up across Eastern Europe. We watched the Berlin Wall collapse, we cheered Solidarity's rise to power in Poland, we applauded Czechoslovakia's velvet revolution and we held our breath in horror as we watched the secret police try and hold on to power in Romania. From Eastern Europe to Central America to Nepal and Mongolia, the tide of democracy is rising.

This bill, Mr. Chairman, is the first post cold war effort by Congress to reform our export control regime. The Export Administration Act was designed to stop the flow of sensitive military technologies to our adversaries. That law has worked well. Today, it is in desperate need of reform.

U.S. exporters are suffering because our regulations have been more strict than those of our Western allies. If we want to compete on a level playing field for new markets for high technology goods, our rules and regulations must be consistent with those of France, West Germany, England, or Japan. The National Academy of Sciences reported that our tighter regulations—regulations which make our exporters less competitive—cost our economy $9 billion a year.

Our rules and regulations need to make sense. Today for example, an American exporter may sell several Mackintosh Plus and IBM PCAT computers to Poland without having to procure an export license. But if that exporter wants to take the software to Poland and allow these decontrolled computers to share information off the same database, he needs a license. Ladies and gentlemen, this networking software is not overly sophisticated and is not a security risk. We use similar programs in our offices right here on Capitol Hill.

Our competitors say "Don't buy American, their rules are too complex, their restrictions are too tight and their bureaucracy is too slow."

The Export Administration Act and the thousands of pages of regulations may be the most complicated law we have on the books. It needs to be simplified and modernized. This bill does just that.

H.R. 4653 makes five important changes in the Export Administration Act. First, we address the changes taking place in Eastern Europe. Earlier this year, I introduced H.R. 4192, the Eastern European Economic Cooperation and Political Freedom Act. I am pleased that we have incorporated many key points from that bill into H.R. 4653. We are proposing a post cold war export regime for Eastern Europe. We recognize that the countries of Eastern Europe are moving toward democracy, and the challenge is to be able to respond with greater flexibility. Under an amendment I offered, the President will certify which countries no longer pose a military threat to us or our allies. And, he will certify which countries can assure us that technology with military applications is not going to be diverted. If a country passes these two tests, then we will reward them with improved access to our technology.

Second, Mr. Chairman, we move to limit bureaucratic infighting. Bureaucratic infighting which only hurts our exporters. We need to move to one-stop shopping for companies exporting high technology products. Our exporters and our ability to compete in international markets has been hurt by overzealous bureaucrats in the Departments of Defense, Energy, and State. We distinguish between duel use items controlled by the Department of Commerce under this act and munitions controlled by the Department of State under the Arms Export Control Act. This bill provides a process for resolving disputes.

The committee included provisions from H.R. 4192 which make it easier for our exporters to get information from our Government. While we all pick on the IRS, at least they publish their rules and regulations. At least you can look up a decision. Unfortunately, we do not publish these Export Administration decisions. Our exporters should not have to play hide-and-seek with our bureaucracy. By opening the regulations, we help our small- and mid-sized exporters better understand what they can export.

Third, Mr. Chairman, we need to work to regain our leadership at Cocom. Today, the United States is the only country that imposes reexport controls on its Cocom allies. We have been slower and more resistant to reforming Cocom's approach to export controls. Our bill makes Cocom a license free zone. We propose elimination of export and reexport controls for Cocom and other cooperating countries. We require the United States to make a positive proposal to our Cocom allies to decontrol goods below the China green line. The committee also adopted an amendment I offered which would harmonize our regulations with those of our Cocom allies.

Fourth, we propose that we stop controlling the export of products and components that have no bearing on our national security. This bill sunsets all items on the control list unless they are reinstated with justification and requires a continuing process for review of the list.

Fifth, we move in this bill to promote accountability. Almost 3 years ago, the Congress passed the Omnibus Trade Act. Buried in that 1125 page bill was an amendment I offered to decontrol medical equipment. We gave the Department of Commerce 6 months to implement the provision. Well, Mr. Chairman, I hate to say it, but that amendment still has not been implemented and my medical equipment exporters can't do a thing about it. True, they report that Commerce is more accommodating, but they still need to get licenses. This bill would allow them to go to court and force the Department of Commerce to implement the law. Right now, they can only wait.

Part of the solution to our trade deficit is to help our exporters. This bill will help our exporters. This bill will help reduce our trade deficit, perhaps by as much as $9 billion. That's good news for our companies and for our economy.

Mr. Chairman, a few minutes ago, I told the House what our exporters are hearing. If we pass this bill. If we get it through conference, if we hold the line, then our exporters will be able to say "our rules are not too complex, our restrictions are not too tight and our bureaucracy is not too slow."

□ 1200

Mr. GEJDENSON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Oregon [Mr. WYDEN], who has been of great assistance on this bill.

Mr. WYDEN. Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, first of all, I want to commend the committee chairman, the gentleman from Connecticut [Mr. GEJDENSON] who I think has done a tremendous job in moving this legislation forward. What his legislation does is acknowledge that the world has changed. Today it is basically possible to line up a pickup truck where the Berlin Wall used to be, throw some computers in the back seat, drive them literally into the new world, and those computers can be out across Europe in a matter of hours. So I think it is extremely important that we rewrite our export laws to bring them in line with the times. I think it is particularly important that that be done in the telecommunications area.

Now, we have just learned that unfortunately the administration has chosen to bar our telephone companies from being able to sell a fiber optic system to the Soviet Union. I think this is particularly distressing, because communications is exactly the area that we should be moving into. That is how you promote democracy. That is how you end up making the kinds of changes in the Soviet bloc that George Bush has been encouraging.

I am going to be offering an amendment to the telecommunications section because I think it is through modern communications that we promote the ideas and aspirations of democracy.

I will also be offering an amendment later today with respect to our policy involving Germany. It is very important that as far as new contracts in the export field are concerned that the Germans live within the Cocom rules. It is important that they not go off and in effect develop their own trading system free lance, and I will be offering that amendment later on in the course of this debate.

Mr. Chairman, I urge my colleagues on both sides of the aisle to support the bill of the gentleman from Connecticut [Mr. GEJDENSON].

The gentleman from Wisconsin [Mr. ROTH] as well, has done an excellent job of making this bipartisan. This is a bill that reflects that fact that the world has changed and if we do not tap these markets overseas, my colleagues, make no mistake about it, countries that do not belong to Cocom are going to be right there. We saw, for example, with respect to the telephone companies, the Koreans are ready to sell these phone systems to the Soviet Union. So it is not a question of whether or not these systems are going to be set up overseas. It is a question of what countries are going to get this trade, and the new markets, and the new jobs.

Mr. ROTH. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, this is a good bill. It is not ill-conceived. It has been well-thought out. It does not undermine security. It does not hurt negotiations. It helps United States industries. It shrinks our trade deficit. It opens up markets in areas of the world never opened before. It creates jobs, lots of them. It has a multiplication of opportunity.

Most importantly, it lets American ingenuity go to work again.

There are two issues on the negative side as far as this bill is concerned. One is security. The other relates to negotiations. The problem I see here is that we have a "here-we-go-again" bureaucracy, a group of self-styled experts, who preach to those people in the practical real world life. They tell us what is best. I would submit that these people who are making trade decisions, are in fact the people who not only criticize the bill itself, but have never held a job in industry nor do they know the technologies. This is contrasted to a few of us who have got a bit of our skin in this process.

Let me talk about the security issue for just a minute and use an example—fiber optics. It is very difficult to tap fiber optics but in can be done. We can make "nontappable" fiber optics, but these materials are not part of the process of Cocom. Once you do tap fiber optics, it is very difficult to detect. Most communications, go by microwave or by satellite.

Most recently, U.S. West and Cable and Wireless in the United Kingdom, as mentioned in the Washington Post this morning, were turned down on a license to be able to supply a cable stretching from Western Europe to Japan, and going through the Soviet Union. The issue was security.

But security should not be an issue. It is in this context a non problem. The real issue is in terms of electronics. A light wave must be converted back to electrons, then be juiced up, and go back into light form. There is the possibility of tapping. The weak point in the whole system is the repeater technology, the electronics. But that in a broader sense is not the problem. We are talking about commercial versus highly nationalized security issues here. We will not prevent the Soviet Union from getting the technology. The Russians can get it from Alcatel, they can get it from Germany, they can get it from South Korea. The only hurt will be to us. It will prevent the United States from getting the business, hence the jobs.

Now to the issue of negotiations, 98 percent of our licenses are west to west trade, allies, commercial licenses.

Frankly, this bill should strengthen not weaken the hands of those people who are watching the possibility of Cocom collapsing. What this bill will signal is that we are practical individuals. We are concerned about timing. Timing is everything and delays have crippled United States industry. The bill will permit our negotiations to talk about short circuiting, streamlining the process. It will give an open avenue for negotiators from all countries to look at the United States as being someone up to date and concerned about modern technology and its use in nonsecurity terms.

Mr. Chairman, I submit this is a good bill. It could be strengthened, but it makes sense in its present form. I support it fully.

Mr. GEJDENSON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I rise in enthusiastic support of this bill and congratulate all my colleagues who are leading this effort.

Mr. Chairman, I rise to express my support for H.R. 4653, the Export Administration Amendments of 1990. I would like to thank both Subcommittee Chairman SAM GEJDENSON and ranking minority member Mr. TOBY ROTH for their work in getting this bill to the floor.

Mr. Chairman, the events in Europe and the Soviet Union over the past year have brought dramatic changes not only in terms of national security and military strategies, but also in terms of international trade. The United States can now begin to look at the Eastern European nations as trading partners as well as allies. As a representative from Silicon Valley, I have a special interest in making certain U.S. companies, in particular high-technology enterprises, have an opportunity to play a significant role in the economic development of this region.

I am pleased the Foreign Affairs Committee has taken the lead in seeing that our export control laws adapt to the developments of the past year. While the Bush administration has dragged its feet in working with our Cocom partners to relax export controls, Congress, in considering this bill, is demonstrating its strong interest in making certain American businesses have the opportunity to take advantage of emerging markets in Eastern Europe.

H.R. 4653 recognizes that a new balance must be struck between our national security requirements and our trade needs. The bill allows for expedited consideration of exports to Eastern Europe which fall below the China "green line," and allows those products above the green line to receive favorable consideration, provided they are used for civilian purposes and there are adequate safeguards to prevent diversion of the products to third countries. Thus, the bill does not call for the

abolition of export controls; it merely brings them into line with today's international realities.

The American high technology community is often frustrated by the excessive and outdated export restrictions placed on their products. This frustration is understandable when we see that our Cocom partners have less cumbersome export control enforcement procedures than the United States. Therefore, businesses from these countries have a competitive advantage over American businesses which have to deal with an unpredictable license approval process.

By passing H.R. 4653, the House can demonstrate its desire for American businesses to compete on an even footing with our allies for access to the Eastern European market. This bill has the overwhelming support of the high tech community, organized labor unions, as well as the U.S. Chamber of Commerce. Clearly, this is a bill with benefits for every part of our economy and which will help determine our future trade performance. I urge my colleagues to help insure the United States' place in the new international marketplace by voting for H.R. 4653.

Mr. GEJDENSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. GIBBONS], who has been of great assistance on this matter, not just in this session of Congress, but throughout his many years of service to the people of Florida.

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for his kind remarks.

I want to say that when I first became deeply interested in this matter of trade, I had not focused upon the Export Administration process, but as I went overseas and talked to American salesmen over there and asked them what their most serious problem was in selling the products, almost unanimously they mentioned the Export Administration Act.

This is a tough act to administer. It is a tough act to craft, and the Foreign Affairs Committee has done an excellent job not only in this particular process that is going on today, but in the past in trying to correct these problems and make them more administratable; but the administration in carrying out the acts of Congress, Congress having control over Export Administration under the Constitution, has had a difficult time deciding what products to regulate. Frankly, they always erred on the side of superconservancy. They have always regulated far more products than they ever needed to; so American products were looked at from an overseas point of view, from the point of view of foreign customers, as always the most difficult to get.

Without exaggerating, salesman after salesman would tell me that our foreign competitors walk around with Export Administration licenses in their pockets from their foreign countries, but our process takes years.

Now, this does not just apply to Russia or to Eastern Europe. It applies to all world trade. It is amazing to me that we have done as well as we have. It is a tribute to our salespeople abroad that we have done as well as we have, when you consider the very tough process that we have had for getting licenses to export from this country.

I want to commend the Foreign Affairs Committee again and its fine staff for having tackled a very difficult problem, done a very fine and workmanlike job.

This legislation when enacted will not hurt the national security of this country.

□ 1210

It will improve the administration of our national security laws. It will also help us be more competitive in our world trade.

I urge the adoption of this proposal, and I would urge those to be very cautious who would amend this proposal. Stick with the committee. They have considered all of the worthwhile alternatives, and let us get this legislation adopted and into conference where we can finally work out the final remaining differences that we have.

Mr. ROTH. Mr. Chairman, I yield 30 seconds to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I have been unavoidably involved in a Banking Subcommittee hearing today where I am the ranking minority member and the hearings cover my proposed legislation. Therefore, despite being an active participant in the subcommittee which presents H.R. 4653, this Member has been thus far unable to participate in this general debate and will be restricted in participating for the next hour. Nevertheless, I want to make it clear that I rise in strong support of the legislation. I will clarify the reasons why I think it is essential that we pass this legislation in the course of the debate on the amendments that are forthcoming.

I also want to say that I heard most of the comments of the gentleman from New York [Mr. HOUGHTON], and I think that he presented very well the strong case for reauthorization of the Export Administration Act by the passage of H.R. 4653. I strongly commend his comments to all of our colleagues in the House.

Mr. Chairman, I thank the gentleman from California and other colleagues for permitting me to jump the line on him to be recognized so that I can return to the hearing mentioned, and I thank the distinguished gentleman from Wisconsin [Mr. ROTH] for yielding me this time.

Mr. ROTH. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I want to recognize the hard work that everybody has put in on this particular bill, and I know that they are dedicated to the idea that this is not going to jeopardize national security or Western security.

Let me just say I think they are absolutely wrong. Let me start out by conceding this bill will make money for American businessmen. There is no doubt about that. It is going to make money. There has always been a tension or a conflict between the idea of making money, those people who need to sell overseas to make dollars, to make profits, to get jobs, a lot of things which are very desirable, and the requirement and the necessity of our keeping national security strong and protecting the lives of the young men and women of America's armed forces who may see some of that technology coming back at them.

The biggest myth in the world is that this technology does not come back at us. We have seen the Exocet missile coming from a country, France, which is part of Cocom, coming back striking American ships, killing Americans, wounding Americans. We have seen Silkworm missiles being given to Iran by China. We have seen the Toshiba machines silencing Soviet submarines. We have seen the Bryant grinder sold for ostensibly civilian uses to the Soviet Union being used to accurize their SS-18 missiles now aimed at the United States.

We know that we lose something when we open the door too wide. The whole question is: how wide should the door be open?

Let me suggest to the Members that the administration is negotiating with our allies right now on how wide the door should be open, and we are making grave mistakes, grave mistakes that will result in some dead Americans in a conflict by doing as much as we are doing in this bill without going slow and without letting the administrative carefully pick its way through this minefield.

For those people who say that, well, if we do not sell, Great Britain is going to sell, France is going to sell, we have to sell, or we are going to be left out, let me just quote the Washington Post article that appeared today: "West Denies Fiber Optics To Soviets."

Many fiber optics which, according to our experts, would go under the Gejdenson bill are being vetoed, according to this article, by the United States and by Great Britain, and Great Britain wants to sell also. Why are they vetoing it? Because they are worried about national security.

Please get the briefing on S. 405 before voting today.

Mr. LEVINE of California. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I am happy to yield to the gentleman from California.

Mr. LEVINE of California. Mr. Chairman, I would like to say to the gentleman, first of all, that I commend him for his leadership on so many of these issues, particularly the issues with regard to the Toshiba situation and the inadequate sanctions that we were able to impose in response to that outrage.

I would simply suggest to the gentleman that the Toshiba situation, which he was and has been such a forceful and effective leader on, pinpoints the need for legislation such as this, because with this legislation we still would not have been able to alter the attitude of the leaders of Toshiba. Toshiba would have still been in the situation to do what it did. We needed to do what the gentleman wanted to do in response to Toshiba.

I would respectfully suggest that to then link that to trying to alter this legislation with, I think, a very well-intended intent, mixes apples and oranges and does not get to the result the gentleman is seeking.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for some of his kind comments.

Let me just say that it is right on point that under this legislation I am assured by Reg Bartholomew, Under Secretary of State for Science, Technology, and Security Assistance, that the Gejdenson bill would allow free transfer to the Soviet Union of five axes milling machines such as some of the Toshiba machines that we complained about. So Toshiba machines under Gejdenson could go to the U.S.S.R. according to Bartholomew.

Mr. ROTH. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. GEJDENSON. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, we do need a bill, and I want to commend the gentleman from Connecticut [Mr. GEJDENSON] and the gentleman from Wisconsin [Mr. ROTH] and those on the committee who worked hard on this bill, but we do not need this bill in its present form and we surely do not need it today.

Some of the worst things this body has done have been done in haste. I think of the deregulation of the savings and loans and the banks and raising the Federal guarantee for deposits to $100,000. We hurried those things through. We were very happy about it, and we are now repenting at our leisure.

This bill is a rope salesman's dream. We do need to update and reform our export control processes. They are anachronistic. They are inefficient. But why today? The very hour that our negotiators are meeting in Paris negotiating liberalizing reforms, we are here in this Congress rushing ahead seeking be the cutting edge on the trade issues and undercutting the very negotiators who are over there trying to do a job. Why do we not wait and see what they come up with?

I also suggest to the Members that there are serious intelligence and military aspects to what we are doing. This bill ought to have been sequentially referred to Armed Services, to the intelligence committees, but this is on one fast track, so fast it whistled through the Committee on Foreign Affairs. I confess I was ill-prepared to discuss it. We were in a small crowded room, and it sailed through.

Let me suggest to the Members that section 109 totally undercuts our sovereignty. It yields to a consensus group, the International Munitions List, decisions that are immensely important.

This consigns very sensitive decisions on what is a munition to a consensus group that is over in Europe.

The Cocom only looks to the Soviet and East bloc nations. But our list considers Iraq. Our list considers Libya.

Let me say that we do have a headache with our export processes, but this bill proposes to cure it by decapitation.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, the gentleman is simply incorrect, I would say, on decapitation, and I will add this: Cocom is process where we work with out allies. The present process harms American industry.

Mr. HYDE. Mr. Chairman, reclaiming my time, I agree, the present process is wrong. I agree with the gentleman.

Mr. GEJDENSON. If the gentleman will yield further, the gentleman from California [Mr. HUNTER] asserted that somehow the bill does something different. We do the same thing on machine tools that the administration has agreed to at Cocom.

Mr. HYDE. Munitions are somewhat different than machine tools.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, this is a very important point that the gentleman from Connecticut [Mr. GEJDENSON] has brought up.

As I understand, in discussing this with Brent Scowcroft and others, in fact the five axes milling machines that Toshiba sold to the Stalingrad shipyard would be allowed under Gejdenson. They made a point of cutting that particular application out under the administration's proposals that are going forward.

□ 1220

So you do not sell Toshiba machine tools under the administration.

Mr. GEJDENSON. The gentleman is incorrect again.

Mr. HYDE. Mr. Chairman, recapturing my time, the sad thing is we cannot debate on this floor the intelligence aspects of this bill. We would have to debate them in the Committee on Intelligence in executive session. We did not get that chance. Nor did the Committee on Armed Services. That is extremely unfortunate.

The CHAIRMAN. The Chair will announce that the gentleman from Wisconsin [Mr. ROTH] has 8 minutes remaining, and the gentleman from Connecticut [Mr. GEJDENSON] has 2½ minutes remaining.

Mr. ROTH. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Chairman, I oppose H.R. 4653, the Export Facilitation Act of 1990. It is just bad legislation, badly timed.

H.R. 4653 got to be bad legislation because the Foreign Affairs Committee, in reporting out the bill, chose not to consult with either the Armed Services or Intelligence Committees, both of which have strong interests in how the flow of U.S. technology abroad is regulated.

As a result, H.R. 4653 opens a gaping hole through which sensitive and dual use technology could be exported and ultimately diverted for purposes which work to the West's military disadvantage.

I share the view of one writer who recently termed H.R. 4653 the "Soviet Military Relief Act" because the legislation makes it so easy for third parties to get the critical United States technologies they so desperately want to modernize their own military capabilities.

H.R. 4653 would alter the current review process, thereby giving the Department of Commerce centralized authority over the review of export license applications.

DOD would review only items: Overtly headed to the Soviet Union; headed to Eastern European countries that Commerce and State determine are still in the Soviet orbit; or headed to destinations where Commerce determines the product will be overtly used for militarily purposes.

In essence, H.R. 4653 reverses our past emphasis in export control. H.R. 4653 says that trade and economic considerations, not national security, will drive our export controls on sensitive, militarily applicable technologies.

As very recent history clearly demonstrates, when trade and economic considerations have prevailed in the export policies of other nations:

The Soviet Union got the sophisticated machine tools needed to manu-

facture extremely quiet submarine propellers.

Libya got a chemical weapons plant it still calls a pharmaceutical factory.

Iraq almost got drilling equipment that also would have served as long-range artillery for chemical weapons.

The United States ought not to be in such a rush to make the same mistake.

We need to find a better balance between encouraging legitimate exports while protecting our national security interests. H.R. 4653 does not strike any such balance.

There is one more reason I oppose H.R. 4653: Consideration of this bill today is timed for political reasons to embarrass the Bush administration.

The leadership's rush to bring this legislation to the floor is a political move that could undermine U.S. negotiations that start today in Paris with our allies at a high level meeting of the Cocom, the Coordinating Committee on Multilateral Controls.

Why else would legislation dealing with such an important issue be put on the fast track?

H.R. 4653 is bad legislation. I ask you to vote "No" on final passage.

Mr. GEJDENSON. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise today in strong support of the Export Facilitation Act of 1990. I wish to especially commend the gentleman from Connecticut, Chairman GEJDENSON, and the ranking Republican, Mr. ROTH, in the leadership and dedication in formulating this legislation and bringing this bill to the floor.

As a Representative from Silicon Valley, I am fully aware of the need to tailor United States export control policy to reflect the political climate in the Soviet Union and Eastern Europe. The competitive position of U.S. industry—especially the U.S. high-technology industry—will depend on our ability to adapt export policy to a quickly changing world.

The future of U.S. industry also depends on our ability to streamline a problematic U.S. export control policy.

The current export control system has become a model of inefficiency and bureaucratic wrangling for high-technology exporters. Jurisdiction by both the Departments of Commerce and Defense over some commodities has produced illogical decisionmaking—some bank cards are considered munitions with possible military applications.

Export license approvals for U.S. manufacturers take as long as 120 days. This timelag is unacceptable in high-technology industries that can witness the next generation of technology in as little as 6 months.

By forcing evaluation of each item to be placed in the commodity control list, the Export Facilitation Act ensures that controls will not be applied arbitrarily, and guarantees that the list will be updated frequently.

By distinguishing between dual-use items and munitions, the act will limit bureaucratic disputes and simplify the decisionmaking process. By providing for indexing procedures, the act also recognizes the rapid advancement of high-technology exports.

The Export Facilitation Act of 1990 will liberalize the system of export controls but still will allow for sufficient protection of U.S. national security. It recognizes the need to rebuild the Eastern European countries to help ensure their successful transition to democracy.

Mr. Chairman, the democratization of Eastern Europe will present new opportunities to every industrial sector. Our export control policy must go far enough to ensure U.S. industry a competitive position in the world market. The Export Facilitation Act of 1990 will give U.S. industry the chance to go toe to toe with challenges in a fair fight.

Mr. ROTH. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Chairman, I rise along with the gentleman from California [Mr. MCCANDLESS] to engage the gentleman from Connecticut [Mr. GEJDENSON] and the gentleman from Wisconsin [Mr. ROTH] in a colloquy.

Mr. Chairman, as you know I am concerned that, since the decision of the U.S. Court of Appeals for the Ninth Circuit in *Spawr Optical Research, Inc.* v. *United States,* 864 F. 2d 1467 (1988), there is no longer a clear nationwide rule governing the burden of proof the U.S. Government must prove in criminal prosecutions under the Export Administration Act. I understand that you have included an amendment in H.R. 4653 which will make it completely clear that the U.S. Government is required by law to prove that the commodity that was exported was, in fact, listed by the Secretary of Commerce on the commodity control list at the time of export. Is that correct?

Mr. GEJDENSON. Yes. As we stated at page 17 of the House report on H.R. 4653:

> The committee believes that it is for the Government to prove that the item exported was on the commodity control list at the time of export.

Mr. HORTON. Mr. Chairman, am I correct that the Export Administration Act requires the Government to prove beyond a reasonable doubt that:

First, the commodity in question has, in fact, been listed by the Secretary of the commodity control list—thus creating the legal requirement to obtain a validated license prior to export;

Second, the commodity was exported without obtaining such a license; and

Third, that the exporter intended to export the commodity?

Mr. GEJDENSON. Yes. That is a correct statement of what the act requires. This amendment is intended to clarify what the Export Administration Act has required since its original enactment.

Mr. HORTON. Mr. Chairman, I would ask the ranking member, the gentleman from Wisconsin [Mr. ROTH], if he agrees with those responses?

Mr. ROTH. Mr. Chairman, I agree with the gentleman from Connecticut [Mr. GEJDENSON].

Mr. MCCANDLESS. Mr. Chairman, will the gentleman from New York [Mr. HORTON] yield?

Mr. HORTON. I yield to the gentleman from California.

Mr. MCCANDLESS. The individuals mentioned by the gentleman from New York, the Spawrs, are constituents of mine, and I have closely followed their cases.

The legislation before us will serve to clarify a number of issues, including whether or not the Government is required to prove that a exported commodity was in fact listed by the Secretary of Commerce on the commodity control list at the time it was exported.

It is my understanding that it was Congress' intent to require such proof, but the Ninth Circuit Court of Appeals ruled to the contrary in Spawr Optical Research versus United States.

My question is this. Is the chairman satisfied that H.R. 4653 will make it clear that it was Congress' intent at the time the Export Administration Act was enacted, and that it remains Congress' intent that, in prosecutions under the act, the Government is required to prove that an exported commodity was on the commodity control list at the time it was exported?

Mr. GEJDENSON. Yes. The committee report on H.R. 4653 makes it explicitly clear that it was and is Congress' intent to require the Government to provide in criminal prosecutions under the act, that the commodity in question was in fact listed on the commodity control list. If a commodity was not listed, it would not be a crime under the act to export it without a license.

Mr. GEPHARDT. Mr. Chairman, I would like first to commend Chairman SAM GEJDENSON for his outstanding work in crafting this important legislation. Under his leadership, the House will take a major step forward to help American workers and companies compete in the global marketplace of the 1990's.

This legislation recognizes that we have entered a brand new world. A great competition has begun for exports to the free markets now emerging around the world. Unless we throw off old ways of thinking rooted in Cold War mentality, we risk being left behind.

In this new global competition, American jobs and exports are already on the line. Every day, there are new reports of American high-technology exporters who are losing contracts due to outdated security restrictions. A conservative estimate of lost exports is $9 billion a year, which translates into a quarter of a million jobs.

Without jeopardizing our national security, this bill releases American exporters from many of the handcuffs forged at the height of the Cold War. It goes a long way toward making our export policies consistent with those of our foreign competitors, accelerating the approval process for high-technology exports, and acknowledging the moves toward democracy in Eastern Europe this past year.

It is inconceivable to me, for example, that the Bush administraton allows more high-technology exports to the repressive Communist regime in China than it does to the emerging democracies in Poland, Czechoslovakia, and Hungary combined.

Over time, as democracy implants itself firmly in Eastern Europe, and the Soviets back away from coercion in Lithuania and codify liberal emigration policies, I believe we may be able to go even further. We must act now to advance democracy, pluralism, and free markets in Eastern Europe and the Soviet Union. Not just because it is good for them. But because it is also good for us.

Mr. GALLO. Mr. Chairman, the balance of power in the world is visibly shifting from one of military competition to one of economic competition. H.R. 4653 removes a number of the barriers to economic competition that are strangling U.S. export opportunities and decreasing our ability to compete for new and expanded markets around the world.

Clearly, we must remain vigilant in our own defense to ensure that sophisticated military technology does not fall into the hands of individuals or nations intent on our destruction. I have been assured by the sponsors of this legislation that further efforts will be made to clarify provisions of this bill to protect our right to stop third party sales of technology with established military applications, as we have done successfully on a number of occasions.

However, the U.S. ability to control technology unilaterally is undergoing significant change. Except for the most sophisticated technology, which we still control, the question is not whether we will sell this equipment, but who will these countries buy from if we refuse to sell?

When firms in the United States and Japan are competing to sell the same piece of equipment overseas, and it takes 3 days for the Japanese company to gain its Government's approval for the sale and it takes 3 months or more for the same approval from the United States Government, it is easy to see who will get the contract.

H.R. 4653 reauthorizes the Export Administration Act [EAA] for 1 year and includes important changes to existing law which are designed to increase exports to our allies and to the emerging democracies in Eastern Europe.

The Export Administration Act controls exports of strategically important technology to nations which might use them for military or other purposes at odds with U.S. national interests.

It also governs United States relations with Cocom—an export control organization that consists of NATO countries, as well as Japan and Australia. Cocom is meeting this week to review a U.S. proposal for modernization of international technology controls.

Multilateral agreements will provide a long-term solution to the problem of technology transfers and we must encourage expedited negotiations in this area.

But, we also must recognize that the international marketplace is the force that is driving this process and if the United States continues to delay, we are going to be overrun by the marketplace.

We must move expeditiously to keep our Nation on a level playing field in a very competitive world.

This bill amends the EAA to streamline the export control process, allow advanced technology exports to Eastern Europe and to streamline Government decisionmaking on these issues, giving the Department of Commerce a greater role in this process.

U.S. export control system is inefficient and bureaucratic. This legislation would improve its efficiency, promote democracy and free enterprise in Eastern Europe by supplying needed technology and goods and make Federal agencies more accountable for their actions and responsibilities.

But, Mr. Chairman, we must recognize that further delays in our efforts to strike the proper balance will not control the distribution of technology, when this technology is available from other sources.

Mr. FRENZEL. Mr. Chairman, I rise in strong support of H.R. 4653, the Export Facilitation Act. This legislation makes some very positive changes in our export control laws to enable the United States to adjust to the progress we have seen in Central and Eastern Europe. It also gives the administration a policy to pursue at Cocom at a time when we are risking the very existence of that alliance due to our recalcitrance to supporting the kind of reforms sought by our Cocom allies.

Despite my support, H.R. 4653 does not go as far as I would like. In fact, Congressman AuCoin and I introduced a bill that would have gone much further. Yet, in our judgement, it still would not have harmed our national security. Our bill would have made one department of the executive branch, Commerce, responsible for all of our export control policies, including our negotiations at Cocom. It would have gone much further in the areas of decontrol of re-export licenses, review by other agencies, decontrol of telecommunications licenses, limiting unnecessary, duplicative review by other agencies, and it would have had one control list.

The Gejdenson-Roth bill, even though it falls short of what I believe is prudent, considering the progress that has been made by the emerging democracies, as well as the U.S.S.R., was carefully drawn as a compromise between those, like me, who wanted more liberalization in our export control policies and those who still believe we should move forward very deliberately. I applaud the sections of the bill related to the Cocom free zone, supercomputer exports, license decontrol to the green line for Eastern Europe and the U.S.S.R. and facilitation of certain licenses above the green line for Eastern Europe. Significant reform has also been made in the area of telecommunications decontrol, removal of dual-use items from the munitions list, sunset along with justification for every item which must remain on the control list, an indexing system for the control list, a Commerce representative at Cocom, limitation of reveiw by the Defense Department, and self-execution of the act to avoid any delays in implementation of the bill.

Mr. Chairman, I am disappointed that the administration could not get its act together to support anything more than a 1-year extension of the current act. While there are some elements of the administration which would support the kind of progress we are debating today, I believe that most of the opposition stems from the administration's belief that it is pursuing the kind of reforms needed to update the system right now at the ongoing Cocom negotiations.

While I applaud the administration's proposal, I do not believe it goes as fas as reform sought by some of our Cocom allies, and I know it does not go far enough for me. An excellent example is the administration's notice of intent to deny the U.S.-West consortium's sale of a fiber optic cable network across the Soviet Union.

Even though this civilian telecommunications line has very limited opportunities for surveillance, the people in our Government who want to overhear every telephone conversation for every purpose have decided to go to the mat to oppose this sale without any good evidence that what they are selling is true. They have managed to convince our ally, the United Kingdom, to join in our opposition to this sale. Unfortunately, there are still many other hungry allies eager to pick up what we have discarded. I would remind my colleagues that this is a civilian network that would no doubt further the progress toward democracy in the U.S.S.R. by allowing its citizens to communicate more freely inside and outside the country.

The cold warriors should worry about the separate military network which this sale does not affect. That's where our surveillance should concentrate. If the administration cannot even support very basic infrastructure improvement needs in controlled countries, we are are in double trouble. Needed development will slow, and we will lose markets to competitors. This only heightens my enthusiasm for passage of a bill which defines an export control policy that is based on realism rather than cold war mentality that still survives in the intelligence community.

The Gejdenson-Roth bill would place the United States in far greater harmony with our allies. But, if the Cocom negotiations fail, and the United States refuses to grant some of the reforms that are necessary, we will not only harm the very existence of the Cocom agreement, but we will find ourselves faced with continuation of the same kind of unilateral controls with which we are currently straddled.

We all know how much unilateral controls have affected the competitiveness of United States companies. We know the thousands of sales we have lost while our Cocom allies

have gleefully cleaned up after us. By supporting H.R. 4653 without weakening amendments, we can get away from this kind of shoot-ourselves-in-the-foot mentality.

Mr. Chairman, I have published several amendments in the RECORD which are designed to strengthen the bill. While it is still uncertain which ones will actually be introduced, I believe that all of them would be very positive improvements to the bill and have no affect on our national security interests.

One of them would modify the section of the act which relates to DOD review. This was language contained in the AuCoin-Frenzel export control bill of 1986. In that bill, which is certainly out of date considering progress made in Eastern Europe in the past year, we specified that Commerce would seek interagency review when it—DOC—determined that such review would provide expertise not available at Commerce.

That change conforms to recommendations made by the National Academy of Science at that time which discussed how duplicative interagency review and unneeded export controls was costing our exporters $9-plus billion in sales each year for no added protection of our national security. Commerce well knows that it needs the review of DOD, State and others on certain licenses. It will always seek that review, but it should not be forced to obtain outside review. H.R. 4653 makes improvements in this area, but it still would require DOD review at fairly low levels of technology to the U.S.S.R. and the East bloc.

I have another amendment related to section 10(g) of the act which would clarify which licenses DOD is eligible to review.

Another amendment I may offer would amend the national security authority in the act to remove reference to consultation by the Defense Department. We would be left with language which would require Commerce to consult with such other agencies as considered appropriate. There is no need to single out DOD over any other agency that can offer specific expertise.

Another amendment I have coauthored and strongly support is one by Mr. AUCOIN which would define "favorable consideration" which is used to facilitate exports above the green line in section 107 of the bill. Currently there is some confusion in the administration regarding that definition. I may add a further amendment to restrict DOD review to licenses above that level, which would be a positive change.

Other positive amendments would include transfer of DTSA to the Under Secretary of Acquisitions rather than policy, or to assign it to the Secretary of Defense. Another amendment to make all re-export controls other than to controlled countries contingent to an agreement at Cocom that such controls will be multilaterally controlled. An amendment by Congressman ENGEL related to indexing of controls is also very positive.

Mr. Chairman, the time has come for the United States to develop a policy that will aid U.S. exporters make sales that will improve infrastructures of the emerging democracies. If we are not there, someone else will be, that is certain. H.R. 4653 is the best vehicle we have to update our outmoded export control laws, yet to protect our important national security interests.

Mr. LAGOMARSINO. Mr. Chairman, the dramatic changes in Eastern Europe during the past 10 months have sharpened the debate over how much control there needs to be on strategic goods and technology.

In 1979, in my capacity as ranking Republican on the Subcommittee on International Economic Policy and Trade, I was very much involved in what ultimately became the Export Administration Act of 1979. That legislation served as the basis since for administering United States exports to the Soviet Union and Eastern bloc nations.

It was in 1979 also that the United States was confronted with a monolithic Soviet empire that seemed intent on reinforcing the Brezhnev doctrine of protecting any nation within its sphere of influence. That doctrine served to protect, among others, Ethiopia, Angola, and Grenada, and led to support for the Sandinistas in Nicaragua and the ultimate Soviet protection, the invasion of Afghanistan.

With that type of competitive political climate between the two superpowers, it should not be surprising that I argued strongly then for strict controls on those types of strategic goods and technology which, if diverted to military use, could enhance Soviet offensive weapons capability.

Now, 11 years later, the world is a different place, with democracy coming to Eastern Europe and significant changes within the Soviet Union making it appear that a military or nuclear confrontation between the United States and the Soviets is becoming increasingly remote. Certainly the glow of good feelings following the summit between Presidents Bush and Gorbachev contribute to the assessment that perhaps the cold war may well be over. That may be premature, but it conveys the sense of how far we have come in the past year.

Because of the unquestioned improvement in relations between the Soviet Union and the United States, it makes it more difficult to determine precisely how much strategic technology we can export to the Soviet bloc without threatening our own security. Presumably, the military threat is being reduced, and therefore, our military budget can be reduced. But, there is no agreement on how much, and there is still the danger of going too far too quickly. The same applies to the export of strategic goods and technology.

Our allies in Western Europe and Japan have been several steps ahead of us in exporting strategic technology to the Eastern bloc, sometimes to our dismay and sometimes even to our strategic disadvantage. The example of Toshiba selling advance machine tool technology to the Soviets for upgrading their submarines is a case in point, and only this week another illegal diversion by Toshiba, this time to China, was reported.

There is no question our allies, who are the biggest competitors in the high technology exports field, will seek every advantage in trying to increase their sales to Eastern Europe and the Soviet Union. Considering the seriousness of our ongoing trade deficit, the United States should not leave the field open to our competitors. We have to come up with a reasonable policy that gives greater certainty to U.S. exporters without threatening our national security interests by allowing exports that could be easily diverted to military use.

I am not entirely comfortable with the policy represented by H.R. 4653, the Export Facilitation Act of 1990, because I believe in some areas it goes farther in allowing strategic exports than there is evidence suggesting it is prudent. I believe that making no distinction between Eastern European Nations and the Soviet Union attributes to the U.S.S.R. a greater degree of reform and adherence to democracy than it has actually achieved. Change in Eastern Europe is probably irreversible. I am not confident that is also the case in the Soviet Union. There are still sufficiently strong reactionary elements among the Soviet military to instigate a reversal if those elements perceive their power and prerogatives may be unduly threatened.

In a rapidly changing world, I am not sure H.R. 4653 provides the President with sufficient flexibility to adjust export policy to the Nation's strategic interests. It also unilaterally legislates control policy changes that more appropriately should be negotiated through Cocom, the organization of nations exporting strategic goods and technology. If we don't proceed carefully in preserving the functioning of Cocom, we could unwittingly end up causing its disintegration and ultimately the collapse of any controls at all on strategic exports to the Soviet Union. I don't believe we're ready for that eventuality.

On the other hand, a 1-year renewal of the current Export Administration Act may not go far enough in allowing U.S. companies to compete equally with our Cocom partners. Since it is unclear how far we should go right now, I am inclined to support the administration's request that, as an interim measure, we pass a simple 1-year extension. The real solution, I believe, is somewhere in between, but since that alternative is not available to us, a 1-year extension would be wise. That is also taking into account the administration's commitment to negotiate seriously and comprehensively with our Cocom partners to expand the areas of strategic trade with Eastern Europe and the Soviet Union. It is appropriate that we not inhibit the President's flexibility in this very sensitive area of diplomatic negotiations.

I seek for the United States changes that preserve and enhance America's competitive position in our trade in strategic goods and technology while, at the same time, protect our national security interests. I am hopeful that by the time we have concluded our deliberations on this measure in this body, I will be able to support final passage of the bill.

Mr. DICKS. Mr. Chairman, I want to express my support for H.R. 4563, the Export Facilitation Act of 1990. I extend my compliments to the gentleman from Connecticut, Mr. GEJDENSON, for his work in bringing this legislation to the floor.

This bill strikes a clear balance, responding to the critical need to streamline our process for approving high technology exports, so that U.S. firms can remain competitive in the world market. At the same time it retains necessary safeguards to assure that our national security is not undermined.

I have just returned with a congressional delegation that visited two of the emerging democracies of Eastern Europe, Hungary, and Czechoslovakia. The discussions we had with officials in Prague and Budapest hammered home the point that they can not succeed in their efforts to establish themselves as stable, prosperous, market democracies without access to the technology that increasingly drives advanced economies. Computer technologies are particularly important in this regard.

This bill sets as a starting point for considering export licenses to the emerging democracies of Eastern Europe the criteria currently applied to the People's Republic of China. In order to be eligible for more favorable consideration, a country would have to be judged to have policies that are not adverse to the interests of the United States or another Cocom country. It may not pose a significant military threat to the United States. The country must have adequate safeguards in place to protect against diversion of equipment and technology, and made commitments to enforce such safeguards.

Exports destined for eligible Eastern European countries will be limited to goods and technology for civilian uses. The Department of Defense will retain input into licensing decisions involving exports to the Soviet Union or to Eastern European countries that have not instituted these credible safeguards.

There is always some risk in the export of any advanced technology. But there is a far greater risk—an enemy identified by Presidents Bush and Gorbachev at the just completed summit. It is the risk of instability and uncertainty, which will result if we do not work with those nations struggling to reverse the 40 years of stagnation in Eastern Europe. It is this very economic development that provides the best prospect for these nations to end their dependence on the Soviet Union.

I hope that we do not miss the opportunity before us. I am convinced that this legislation represents an important and essential step forward.

Mr. DREIER of California. Mr. Chairman, I am very concerned about the dangers of nuclear proliferation. To that end I am deeply alarmed to see the the committee draft of H.R. 4653. It would allow supercomputers to be exported anywhere in the world as long as their capacity is 25-percent below that of the most powerful supercomputer available on the U.S. market. Such computers would still be able to do the sophisticated calculations necessary for nuclear weapons and ballistic missile research.

The amendment I had proposed would have limited the export of supercomputers to countries which do not comply with nuclear nonproliferation treaties. Supercomputers will allow any nation with even the most limited resources to attain a nuclear capability. According to our own Department of Energy: "the design of a nuclear device is made most complicated by the difficulties involved in testing. Supercomputers provide the necessary tool to simulate these processes."

Further they say, "the use of high speed computers is the cornerstone of nuclear weapons design programs." Clearly we cannot allow those powerful tools to be exported anywhere in the world, regardless of a country's past record and future intentions in the area of nuclear weapons and ballistic missile development.

Supercomputers can powerfully aid countries like India, Brazil, and Iraq which are developing or refining their research on hydrogen bombs or long-range missiles. India and Brazil violate all five of the Commerce Department's criteria for importation of supercomputers. My amendment took into account technological advances, as well as the nature and implications of the strategic threat posed to the United States by foreign acquisition of such computers. My amendment also considered a country's agreement to international nuclear inspections, data from our intelligence agencies on a country's nuclear capabilities and intentions, and a country's past record of illegal transfer of high technology equipment.

I want to make it clear that I am concerned with countries such as Brazil, Iraq, and other nations suspected of pursuing nuclear weapons capabilities. My amendment should not be interpreted as to be directed at any of our NATO or major non-NATO allies, such as Japan, Australia, or Israel.

Competitiveness in the international marketplace is important. But in our desire to increase our exports, we also have an obligation to adhere to our long-standing and successful nuclear non-proliferation policies. Contrary to what some might believe, supercomputers are not widely available on the global market. The United States should not lead the way toward supercomputer proliferation. We must base our export controls on the capabilities, policies, and intentions of other countries in this sensitive area.

Because of the late hour, I will not offer my amendment, but I do want to alert my colleagues that wihout modifications similar to my draft, I do not believe that this bill will ever be signed by the President. National security, as well as that of our allies, is simply too important.

Mr. WOLPE. Mr. Chairman, I rise in support of the Export Facilitation Act and would like to commend the gentleman from Connecticut [Mr. GEJDENSON] for his diligence in crafting this bill.

There is one issue which, I believe, bears special comment. This reauthorization bill includes a 1-year extension of the 7(D) provision of the Export Administration Act, the provision governing the export of Alaska North Slope crude. This is an issue with which I have long been concerned and my colleague, Representative SNOWE, and I have introduced legislation to indefinitely extend the 7(D) clause.

Under the 7(D) provision, the President must find, and Congress must concur, that it is in the national and consumer interest to export Alaskan crude oil. Since the restrictions were first established in 1973, there has not been one instance in which anyone has demonstrated that a consumer or national interest would be served by exporting Alaskan oil. To the contrary, every aspect of the American economy which depends on, or is affected by, petroleum has benefitted from keeping Alaskan crude available for domestic consumption.

According to a January 1990 report by the American Petroleum Institute, American dependence on imported oil rose to 46 percent of 1989 demand, which is the highest percentage in more than 10 years. In 1973 and 1979, OPEC took advantage of the West's import dependence to raise prices substantially. The Middle East continues to be a major supplier for the United States and instability there could have profound implications for United States national energy security.

Finally, Mr. Chairman, it is equally as important to note that permitting the export of Alaskan oil would lead to the premature scrapping of the independent domestic tanker fleet. This development would weaken national security by forcing the United States to rely more heavily on a foreign tanker fleet unable to cover United States emergency shipping requirements. Additionally, it would jeopardize the jobs of countless individuals in the maritime and related ship-supply industries.

Again, I would like to express my support for the extension of the 7(D) provision. It makes good sense in terms of national security and preserving our indigenous maritime trade. It is a strong affirmation of our Nation's commitment to a more energy secure future.

I urge the support of my colleagues for this important legislation.

Mr. MATSUI. I rise today to thank the gentleman from Connecticut, [Mr. GEJDENSON, for bringing this excellent piece of legislation to the floor. The Export Facilitation Act of 1990, not only brings many of our laws governing the export of American goods into conformity with the dramatic changes which have swept through Eastern Europe, but also streamlines the entire exporting process. It is an important piece of legislation, and I am pleased to be able to cast my vote in support of the bill.

During the past 45 years, our export policy has focused on prohibiting our technology from reaching Eastern bloc countries. The events of the last 12 months have eclipsed our previous policies, and high technology companies, public policy experts, and academicians agree that it is now in our national interest to assist these Eastern Europe countries develop viable, productive economies. Today we are presented with the question of whether we will agree to these changes. We should answer with a resounding "yes".

The legislation has a number of critical provisions which go beyond our efforts to respond to the changes in Eastern Europe. The legislation reduces our own bureaucratic red tape while assuring that we maintain the effectiveness of the Coordinating Committee [Cocom]. The bill will create a license-free zone within Cocom, so that there would be no permission required to export to Cocom countries. In addition, licenses would not be required for re-exports from Cocom countries. The United States stands alone in requiring these licenses, and they are actually detrimental to our national interests.

The legislation further authorizes the administration to require licenses for exports to countries which was not properly enforcing export controls. The administration could continue to maintain a list of unreliable end users to whom exports could not be made with a license. The bill before us today also contains provisions specifically designed to improve the licensing process for exports of supercom-

puters and telecommunications equipment. Lastly, the legislation contains important provisions which improve enforcement activities by increasing penalties, enhancing investigative powers, and allowing for judicial review.

Mr. Chairman, the passage of this legislation today will send a very clear signal to our allies and trading partners that Congress is sincere in its desire for responsible Cocom reforms, that we are sincere about removing outdated restrictions that prevent our exporters from competing in many foreign markets. I strongly urge my colleagues to support this important legislation.

Mr. DREIER of California. Mr. Chairman, my amendment, which I was planning to offer, was simple. It would have allowed for a cutoff of exports to any country which publicly threatened to use nuclear weapons against another nation. It would have exempted only medicine and medical supplies.

The timing for this amendment was important. Pakistan and India are on the verge of another war over the Kashmir region. Recent news articles have suggested that one or the other of the countries have been preparing nuclear weapons.

For its part, Pakistan has publicly said they will not use these weapons.

In this time of glasnost and peace in the world, we as a nation have a responsibility to do whatever we can to stop the possibility of war in this important region. It is especially important that we discourage the use of nuclear war. Not only would millions be killed, the use of such weapons today could encourage other nations to follow the same path down the road.

More than 15 nations are believed to be in the process of developing nuclear weapons. Libyan leader Mu'ammar Qadhafi stated earlier this year that if he had a nuclear missile in 1986, he would have launched it against New York.

We cannot afford to forgo any deterent to such a war. I have contacted the Pakistani Embassy, and have been told that they support this amendment. The Indian Embassy has not objected to this draft. As a result, I was hoping to be able to offer Members an opportunity to speak out on this important issue. Unfortunately, some opposed the amendment because they disagree with my premise. As a result of this, as well as the late hour, I am withdrawing the amendment at this time, but will revisit this issue at a future date.

Thank you.

Ms. PELOSI. Mr. Chairman, I rise in support of the Levine amendment to extend the current export restrictions of California crude oil. The current law that protects production and use of California crude oil in this country is critically important to my State of California and the Nation for many reasons: energy security, preservation of American jobs, maintenance of fair prices for consumers, and holding the line on our country's international trade deficit.

I would like to emphasize to my colleagues the equally dangerous impact that the lifting of current oil export restrictions will have on our scarce natural resources. California oil exports will surely increase tanker traffic along the California coast and increase the likelihood of another catastrophic oilspill. We all remember the devastating effects of the *American Trader* spill in Huntington Beach, CA, and the *Exxon Valdez* spill in Prince William Sound, AK.

In addition to increasing our dependence on foreign oil, California crude oil exports will create an artificial demand for the development of environmentally hazardous energy sources. It will also encourage the exploitation of oil reserves in delicate coastal areas, such as the Alaska National Wildlife Refuge and off the coast of California.

I ask my colleagues, why are we encouraging the increased export of California oil, which could be used here in the United States, when we are already concerned about overreliance on imports? It just does not make economic or environmental sence.

Mr. ROTH. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. GEJDENSON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

□ 1230

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment, and each title is considered as read.

No amendment to said substitute, except pro forma amendments for the purpose of debate, shall be in order except those amendments printed in the CONGRESSIONAL RECORD on or before Tuesday, June 5, 1990.

The Clerk will designate title I.

The text of title I is as follows:

H.R. 4653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EXPORT ADMINISTRATION ACT OF 1979

SEC. 101. SHORT TITLE.

This title may be cited as the "Export Facilitation Act of 1990".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there has been an extraordinary movement toward democracy and free markets in the countries of Eastern Europe;

(2) it is in the national security and economic interest of the United States to solidify the changes that have taken place and to promote additional progress;

(3) advanced technology that is committed to civilian purposes will facilitate the economic development of those countries of Eastern Europe, and broaden lines of communication with western countries;

(4) those countries of Eastern Europe that are committed to and capable of protecting against improper diversion should receive the technology that will help foster democracy and free market economies;

(5) by requiring licenses for exports to its closest allies, the United States spends a disproportionate amount of its limited resources on controlling exports to friendly countries;

(6) the export control system has been unable or unwilling to reduce the number of items controlled for national security purposes; and

(7) the export control system is mired in bureaucratic redundancy and inefficiency.

(b) PURPOSES.—It is the purpose of this Act—

(1) to improve the efficiency of the export control system of the United States;

(2) to promote democracy and free enterprise in Eastern Europe by allowing for the export of goods and technology that will facilitate or assist in the economic development of Eastern Europe; and

(3) to make Federal agencies that administer export controls accountable for their actions, and afford due process to those subject to such controls.

SEC. 103. REFERENCE TO THE EXPORT ADMINISTRATION ACT OF 1979.

Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following).

SEC. 104. GENERAL PROVISIONS.

(a) TYPES OF LICENSES.—Section 4(a)(2) (50 U.S.C. App. 2403(a)(2)) is amended—

(1) in subparagraph (A)—

(A) in the first sentence by striking "in countries" and all that follows through "China"; and

(B) in the second sentence by striking "controlled countries" and inserting "an unauthorized use or consignee"; and

(2) in subparagraph (B) in the first sentence by striking "are located in countries other than controlled countries (except the People's Republic of China),".

(b) CONTROL LIST.—Section 4(b) (30 U.S.C. 2403(b)) is amended by adding at the end the following: "Not later than 6 months after the date of the enactment of the Export Facilitation Act of 1990, the Secretary shall modify each item on the control list as necessary to specify with particularity the performance and other identifying characteristics of any technical data that is subject to export controls under section 5, export controls under section 6, or export controls pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.".

SEC. 105. EXPORTS TO COCOM.

(a) EXPORTS TO AND FROM COCOM.—Section 5(b)(2) (50 U.S.C. App. 2404(b)(2)) is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), as of September 30, 1991, no authority or permission may be required under this section for the export or reexport of goods or technology to, or the reexport of goods or technology from, a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k)(1).

"(B)(i) The Secretary may require authority or permission to export or reexport goods or technology, which are otherwise eligible for export or reexport under subparagraph (A), to such unreliable end users as the Secretary may specify by regulation.

"(ii) If the Secretary, in consultation with the Secretary of State, determines that a country referred to in subparagraph (A) is engaging in a pattern and practice of noncompliance with the agreement of the Coordinating Committee or other applicable agreement, the Secretary shall, during the period in which that determination is in effect, and to the extent determined by the Secretary, require authority or permission

to export or reexport goods or technology to that country, and to reexport goods or technology from that country. Any such determination shall not take effect until 30 days after the Secretary notifies the Coordinating Committee of the determination and requests the cooperation of the Coordinating Committee in imposing comparable export controls. The Secretary shall review each determination made under this clause at least once in each 1-year period for the purpose of determining whether the country involved continues to engage in a pattern and practice of noncompliance with the applicable agreement.

"(iii) The provisions of section 10(o) shall apply to exports for which licenses may be required under this subparagraph.".

(b) CONFORMING AMENDMENTS.—Section 5(a) (50 U.S.C. App. 2404(a)) is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(3) in paragraph (5), as so redesignated, by striking "paragraphs (4) and (5)" and inserting "paragraph (4)".

SEC. 106. REEXPORTS AND SUPERCOMPUTER EXPORTS.

(a) REEXPORTS OF TECHNOLOGY.—Section 5(a)(4) (as redesignated by section 105(b) of this Act) is amended—

(1) in subparagraph (A) by striking "(B)" and inserting "(C)";

(2) in subparagraph (B)—

(A) by redesignating such subparagraph as subparagraph (C); and

(B) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(3) by inserting after subparagraph (A) the following:

"(B) Except as provided in subparagraph (C), no authority or permission may be required under this section to reexport technology subject to the jurisdiction of the United States from any country when the technology to be reexported is incorporated in other technology and—

"(i) the value of the technology subject to the jurisdiction of the United States that is incorporated in that other technology and, at the time of the reexport, would, if exported from the United States, require a validated license, is 25 percent or less of the total value of that other technology; or

"(ii) the export to a controlled country of the technology subject to the jurisdiction of the United States would require only notification of the participating governments of the Coordinating Committee.".

(b) SUPERCOMPUTER EXPORTS AND REEXPORTS.—Section 5(a) (50 U.S.C. 2404(a)), as amended by section 105(b) of this Act, is further amended by adding at the end the following:

"(6)(A) With respect to the definition of 'supercomputer' under paragraph (5), the Secretary shall, not later than 6 months after the date of the enactment of this paragraph, publish in the Federal Register a performance-based indexing system in order to ensure that such definition and all controls and security safeguard procedures on supercomputer exports and reexports are commensurate with technological advances in the supercomputer industry. Such indexing system shall be based upon a provision that for destinations other than in countries which maintain export controls cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k)(1), or other than in controlled countries, no security safeguard procedures may be required in connection with any export or reexport of a supercomputer with a theoretical peak performance at or below approximately 25 percent of the theoretical peak performance of the average of the two most powerful supercomputers currently available commercially in the United States or elsewhere.

"(B) Before publishing the performance-based indexing system under subparagraph (A), the Secretary shall seek the views of the appropriate technical advisory committees and other interested parties. Not later than 2 weeks after publication of such system in the Federal Register, the Secretary shall submit a written report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the United States Senate, that includes—

"(i) the text of the Federal Register notice,

"(ii) a summary of the views expressed by the technical advisory committees and other interested parties with respect to the performance-based indexing system, and

"(iii) a description of how the performance-based indexing system addresses the views of the technical advisory committees and other interested parties.

"(C) For purposes of this paragraph, the term 'security safeguard procedures' means procedures that are required by the Department of Commerce, as a condition of an authorization to export or reexport a supercomputer, primarily to restrict access to and resale of such supercomputer.".

SEC. 107. EXPORTS TO EASTERN EUROPEAN AND OTHER COUNTRIES.

(a) EXPORTS.—Section 5(b) (50 U.S.C. App. 2404(b)) is amended by adding at the end the following new paragraphs:

"(4)(A) Not later than 90 days after the date of the enactment of this paragraph, the Secretary of State shall, subject to subparagraph (C), seek the approval of the Coordinating Committee of at least the following:

"(i) That no authority or permission may be required to export goods or technology described in subparagraph (B) to any country.

"(ii) That there shall be favorable consideration of any license application to export goods and technology at a technical level exceeding the technical level of goods or technology described in subparagraph (B), for civil end uses (based on the criteria set forth in subparagraph (F)), to any country in Eastern Europe that was a controlled country as of January 1, 1990, that meets the criteria set forth in subparagraph (D), and that has in effect, and has made commitments to enforce, safeguards no less restrictive than those set forth in subparagraph (E).

"(B) Goods or technology referred to in subparagraph (A) (i) and (ii) are goods or technology the export of which to the People's Republic of China on the date of the enactment of the Export Enhancement Act of 1988, would require only notification of the participating governments of the Coordinating Committee.

"(C)(i) Notwithstanding any other provision of this Act, the Secretary shall, within 60 days after the date of the enactment of this paragraph, determine whether the goods or technology for which no authority or permission to export would be required under subparagraph (A)(i) are, in the civilian sectors described in clause (ii), at a sufficiently high technical level to promote the economic development of those countries of Eastern Europe described in subparagraph (A)(ii) while protecting the national security of the United States. In determining the effect on the national security of the United States of an increase in such technical level, the Secretary shall consult with the Secretary of Defense. If the Secretary determines that the technical level is not sufficiently high, the Secretary shall determine the appropriate new technical levels for goods or technology in those sectors determined by the Secretary. Not later than 90 days after the date of the enactment of this paragraph, the Secretary shall report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on any determination of new technical levels under the preceding sentence, including what these technical levels are. The Secretary of State shall modify the proposal to the Coordinating Committee under subparagraph (A) so that favorable consideration under subparagraph (A)(ii) shall apply to goods or technology exceeding such new technical levels in those sectors, and no authority or permission would be required to export to any country goods or technology below such technical levels in those sectors.

"(ii) The civilian sectors referred to in clause (i) are the following: agriculture, banking, transportation, health care, broadcasting, telecommunications, education, retailing, environmental protection, and energy. The Secretary may identify other such sectors on the basis that they are important to economic development, enhancement of democracy, or free enterprise in those countries of Eastern Europe described in subparagraph (A)(ii).

"(D) The criteria referred to in subparagraph (A)(ii) to be met by a country are the following:

"(i) The country's policies are not adverse to the security interests of the United States or other country participating in the Coordinating Committee.

"(ii) The country does not pose a significant military risk to the United States or other country participating in the Coordinating Committee.

"(iii) The country does not pose an unreasonable threat of—

"(I) diversion of the goods or technology exported from the United States or other country participating in the Coordinating Committee to an unauthorized use or consignee; or

"(II) unauthorized reexport of the goods or technology to a controlled country.

"(E) The safeguards in a country that are referred to in subparagraph (A)(ii) with respect to favorable consideration of export licenses, are the following:

"(i) End users in that country, and the government of that country, will allow on-site verification of the use and condition of the goods and technology exported pursuant to the export license, to the extent required by criteria issued by the government of the country of origin of the goods or technology or of the country from which the goods or technology was received.

"(ii) The government of the country will impose and enforce controls to protect against the reexport, without the prior written approval of the country from which the goods or technology are exported pursuant to the export license, to controlled countries of the goods or technology.

"(iii) The government of the country will impose and enforce controls to prevent the transfer of the goods or technology involved to an unauthorized use or consignee.

"(F) A determination under subparagraph (A)(ii) of whether goods or technology are for a civil end use shall be based on the following criteria:

"(i) Whether the civil application of the goods or technology is well established in countries other than controlled countries.

"(ii) Whether the goods or technology proposed for export are reasonable in quantity and quality for the proposed end use.

"(iii) Whether the government of the country in which the end use will occur has provided to the government of the country from which the proposed export is originating assurances that the proposed export will be used only for the stated end use.

"(iv) The risk of diversion to an unauthorized use or consignee and whether such diversion can be verified by any of the following means:

"(I) Inherent functional limitations of the goods or technology.

"(II) The extent to which the goods or technology can be used only for the proposed end use.

"(III) Allowance of random onsite inspections.

"(IV) Adequacy of computer use logs and software access controls.

"(V) Participation by countries other than controlled countries in the management or application of the goods or technology.

"(v) Whether the stated end use is civil.

"(G) In order to be eligible to export goods or technology under subparagraph (A)(ii), in those cases required by the Secretary, an exporter shall agree, as one of the terms and conditions of the license, to monitor the end use and condition of those exports. Not later than 60 days after the date of the enactment of this paragraph, the Secretary shall publish guidelines describing in detail those cases in which the Secretary may require such monitoring.

"(H) Upon the approval by the Coordinating Committee of the proposal of the United States under subparagraph (A), together with any modifications thereto by the Coordinating Committee, the Secretary of State, in consultation with the Secretary, shall initiate negotiations with those countries meeting the criteria set forth in subparagraph (D) as modified and approved by the Coordinating Committee to conclude bilateral agreements providing for the implementation of the safeguards described in subparagraph (E) as modified and approved by the Coordinating Committee.

"(I) Not later than 30 days after the date on which the Coordinating Committee approves the proposal made by the United States under subparagraph (A), as modified by the Coordinating Committee, the Secretary shall publish—

"(i) those changes in the goods and technology subject to controls, and the changes in those controls, made pursuant to the proposal; and

"(ii) a list of those countries in Eastern Europe that meet the criteria and safeguards set forth in subparagraphs (D) and (E), as so modified.

"(5) Before the effective date established by the Coordinating Committee for implementing the proposal made by the United States under paragraph (4)(A), as modified by the Coordinating Committee, the Secretary shall publish those changes in the regulations issued under this Act that are necessary to implement such proposal, including those changes in goods and technology referred to in paragraph (4)(I)(i) and the countries in Eastern Europe referred to paragraph (4)(I)(ii).

"(6)(A) Not later than the effective date established by the Coordinating Committee for implementing the proposal made by the United States under paragraph (4)(A), as modified by the Coordinating Committee, the Secretary shall—

"(i) cease to require authority or permission to export any goods or technology for which the Coordinating Committee has ceased to require authority or permission to export under such proposal; and

"(ii) implement favorable consideration of export license applications described in paragraph (4)(A)(ii), as modified by the Coordinating Committee.

When this subparagraph takes effect, subsection (b)(3) shall no longer apply, except to the extent that the Coordinating Committee imposes the requirements of such subsection with respect to a country.

"(B) Any determination under paragraph (4)(F) shall be made by the Secretary.

"(C) Notwithstanding any other provision of this Act, the Secretary shall develop and employ procedures that will ensure that, within 30 days after the date on which any export license application is submitted—

"(i) for favorable consideration under paragraph (4)(A)(ii), either the license application, if it qualifies for such favorable consideration, will be submitted to the Coordinating Committee for approval, or the license applicant will be informed why the application does not qualify for such favorable consideration, or

"(ii) for exports which require a license but do not require the approval of the Coordinating Committee, action on the license by the United States is completed.

"(7) The President shall, not later than 6 months after the date of the enactment of this paragraph, and not later than the end of each 6-month period thereafter, submit a written report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate in which—

"(A) the President certifies the progress of each country in Eastern Europe with respect to the criteria described in paragraph (4)(D) and the safeguards described in paragraph (4)(E), and

"(B) the President describes the measures taken to implement the policy set forth in subparagraph (A) of section 3(15).

"(8) Subject to the review of the Coordinating Committee when required, export license applications for exports or reexports to the Soviet Union may be approved only for goods or technology for civil uses. Such approval shall be based on the following criteria:

"(A) Whether the civil application of the goods or technology is well established in countries other than controlled countries.

"(B) Whether the goods or technology proposed for export or reexport are reasonable in quantity and quality for the proposed end use.

"(C) Whether the goods or technology proposed for export or reexport are critical elements of Soviet or United States military systems and have direct and immediate application in such systems.

"(D) The risk of diversion to an unauthorized use or consignee and whether such diversion can be verified by any of the following means:

"(i) Inherent functional limitations of the goods or technology.

"(ii) The extent to which the goods or technology can be used only for the proposed end use.

"(iii) Allowance of random onsite inspections.

"(iv) Adequacy of computer use logs and software access controls.

"(v) Participation by countries other than controlled countries in the management or application of the goods or technology.

"(E) Whether the Government of the Soviet Union has provided to the United States Government assurances that the proposed export will be used only for the end use stated in the export license application.

"(F) Whether the stated end use is civil.".

(b) STATEMENT OF POLICY.—Section 3 (50 U.S.C. App. 2402) is amended by striking paragraph (15) and inserting the following:

"(15) It is the policy of the United States—

"(A) to actively consider and to approve general exceptions, on behalf of United States exporters, to the Industrial List portion of the International Control List of the group known as the Coordinating Committee, to support identical exceptions for exporters from other countries participating in the Coordinating Committee, and to support democracy, free enterprise, and civilian economic development in Eastern Europe and the Soviet Union; and

"(B) to provide specific guidelines to United States exporters, through the publication of regulations, public notices, and advisory opinions, with respect to goods, sectors, and end users eligible for general exceptions referred to in subparagraph (A), and to fully and promptly notify United States exporters of all agreements and decisions adopted by the Coordinating Committee with respect to such exceptions.".

SEC. 108. TELECOMMUNICATIONS EQUIPMENT.

Section 5(b) (50 U.S.C. App. 2404(b)), as amended by section 107 of this Act, is further amended by adding at the end the following:

"(9)(A) In addition to the requirements of paragraphs (4), (6), and (8), the Secretary of State shall include in the proposal to the Coordinating Committee under paragraph (4) the following:

"(i) That exports of telecommunications equipment for civil end use to any country, other than a country for which no authority or permission to export may be required under paragraph (2), require not more than notification of the Coordinating Committee.

"(ii) That exports of telecommunications technology for civil end use to any country, other than a country for which no authority or permission to export may be required under paragraph (2) or a controlled country that is not eligible for favorable consideration under paragraph (4)(A)(ii), require not more than notification of the Coordinating Committee.

"(B) For purposes of the proposal under subparagraph (A)—

"(i) the term 'telecommunications equipment' includes—

"(I) telephone switching systems and stored program controlled communications switching systems, including related features and components that provide services and management of telecommunications networks;

"(II) telecommunications transmission, measuring, or test equipment, and related components;

"(III) microwave, light wave, and other radio relay, transmitting, or test equipment, and related components and accessories;

"(IV) telecommunications cables and components, including optical fibers and optical cables;

"(V) equipment containing frequency synthesizers when used in land-based mobile communications systems; and

"(VI) equipment described in any of subclauses (I) through (V), or any other tele-

communications equipment, that contains lasers; and

"(ii) the term 'telecommunications technology' means technology related to telecommunications equipment.".

SEC. 109. COMMODITY JURISDICTION.

Section 5(c) (50 U.S.C. App. 2404(c)) is amended by adding at the end the following new paragraph:

"(8)(A) Notwithstanding any other provision of law, no item may be included on both the control list and the United States Munitions List.

"(B) Notwithstanding any other provision of law—

"(i) an item agreed for control on the International Munitions List of the group known as the Coordinating Committee shall be subject to control under the Arms Export Control Act and not under this Act; and

"(ii) except as provided in subparagraph (C), an item not agreed for control on the International Munitions List of the group known as the Coordinating Committee shall be subject to control under this Act and not under the Arms Export Control Act.

"(C) An item not on the International Munitions List may remain subject to control under the Arms Export Control Act, and a new or newly designed item that is not on the International Munitions List may become subject to control under the Arms Export Control Act—

"(i) for a period of 9 months after the date of the enactment of this paragraph (in the case of items remaining subject to such control) or 9 months after the date on which the item becomes subject to such control (in the case of a new or newly designed item), but only if—

"(I) the item is an item described in subparagraph (D); and

"(II) the United States, within that 9-month period, proposes to the Coordinating Committee that the item be added to the International Munitions List; and

"(ii) for an additional 9-month period but only if negotiations in the Coordinating Committee to add the item to the International Munitions List are continuing.

"(D) An item referred to in subparagraph (C)(i)(I) is an item that—

"(i) is specially designed, developed, configured, adapted, or modified for military or intelligence application;

"(ii) does not have identifiable civil applications; and

"(iii) is not a component the performance capacity and function of which are essentially equivalent to those used for civil applications.

"(E)(i)(I) Within 3 months after the date of the enactment of this paragraph, the Secretary shall publish the control list and the Secretary of State shall publish the United States Munitions List, with all revisions that have been made in accordance with this paragraph.

"(II) Within 3 months after the date of the enactment of this paragraph, the Secretary of State shall publish in a separate list those items remaining subject to control under the Arms Export Control Act under subparagraph (C).

"(ii) Should either the Secretary or the Secretary of State fail to publish a revised list in accordance with clause (i)(I), there shall be excluded from the list of the Secretary that did not so publish a revised list, any item included on the list of the Secretary that did so publish a revised list.

"(iii) Should an item be included on both lists published under clause (i)(I), should an item appearing on the list of one Secretary under clause (i)(I) be considered by the other Secretary to be under the jurisdiction of that other Secretary, or should the Secretary disagree with the inclusion of an item on the list published under clause (i)(II), the 2 Secretaries shall use the procedure set forth in subparagraph (G) with respect to that item. The Secretary objecting to a particular item shall initiate such procedure, except that the 2 Secretaries shall attempt to resolve the dispute for a period of 2 months before the procedure is initiated.

"(F) With respect to any item described in subparagraph (D) which has not been placed on the International Munitions List pursuant to a proposal of the United States under subparagraph (C), the Secretary of State, in consultation with the Secretary, may identify such item for control under section 6 of this Act if the President makes the determinations required by section 6(b)(1). The provisions of the third and fourth sentences of section 6(l) shall not apply to export controls imposed pursuant to this subparagraph.

"(G)(i) Whenever the Secretary or the Secretary of State receives a request to determine whether an item is subject to control under this Act or the Arms Export Control Act, or whenever either Secretary makes such a determination on such Secretary's own initiative, the Secretary or Secretary of State, as the case may be, shall, within 3 days after receiving such request, or upon making an initial determination on such Secretary's own initiative, refer to the other Secretary a copy of the request or determination, and any information relevant to the request or determination.

"(ii) Within 7 days after a request or determination is referred under clause (i), the Secretary receiving the referral shall transmit in writing to the other Secretary his or her position regarding whether the item in question is subject to control under this Act or the Arms Export Control Act.

"(iii) In the event of a disagreement under this subparagraph between the 2 Secretaries with respect to an item, the 2 Secretaries shall, within 10 days after the transmittal in writing under clause (ii), provide the President with all relevant information in support of their respective positions. The President shall, within 10 days after receiving the transmittal under the preceding sentence, notify the 2 Secretaries of his determination with respect to the item involved. The Secretary of the department that has been given jurisdiction of the item under the President's determination shall, within 5 days after receiving notice from the President under the preceding sentence, notify any person who requested the determination under clause (i), of the jurisdiction of the item.

"(iv) In the event that either the Secretary or the Secretary of State does not comply with the procedures prescribed in this subparagraph, the Secretary that did not so comply shall be deemed to concur with the other Secretary on the matter involved.".

SEC. 110. SUNSET OF CONTROL LIST.

Section 5(c) (50 U.S.C. App. 2404(c)), as amended by section 109 of this Act, is further amended by adding at the end the following new paragraph:

"(9)(A) Notwithstanding any other provision of this section, as of September 30, 1992, all controls under this section on the export of goods and technology to any country other than a controlled country are terminated, and all such goods or technology, to the extent of such export controls, are removed from the list established pursuant to this subsection. The Secretary may determine that a good or technology shall be subject to export controls under this section, and reinstate the good or technology on the list, on the basis of the policy set forth in section 3(2)(A). In determining whether a good or technology would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States, the Secretary shall consult with the Secretary of Defense.

"(B) A good or technology may not be made subject to export controls under this section and reinstated on the control list under subparagraph (A) unless the Secretary first makes a separate determination under subparagraph (A) with respect to the good or technology and publishes that determination in the Federal Register.

"(C) Not later than November 1, 1992, the Secretary of State shall submit a proposal to the group known as the Coordinating Committee to remove from the International Lists for export to controlled countries all goods or technology no longer on the control list under subparagraphs (A) and (B) for other than controlled countries.

"(D) Not later than 30 days after the date on which the Coordinating Committee approves the proposal made by the United States under subparagraph (C), as modified by the Coordinating Committee, the Secretary shall publish those changes in the goods and technology subject to controls, and the changes in those controls, made pursuant to the proposal, as so modified.

"(E) Before the effective date established by the Coordinating Committee for implementing the proposal made by the United States under subparagraph (C), as modified by the Coordinating Committee, the Secretary shall publish those changes in the regulations issued under this Act that are necessary to implement such proposal, as so modified.

"(F) Not later than the effective date established by the Coordinating Committee for implementing the proposal made by the United States under subparagraph (C), as modified by the Coordinating Committee, the Secretary shall cease to require authority or permission to export any goods or technology for which the Coordinating Committee has ceased to require authority or permission to export under such proposal, as so modified.

"(G)(i) Not later than October 1, 1994, and not later than the end of each 2-year period occurring thereafter, the Secretary shall identify those goods or technology that have been subject to controls under this section for a period of 2 years or more, and shall publish in the Federal Register a list of the goods or technology so identified.

"(ii) The Secretary of State shall propose to the Coordinating Committee to remove from the International Lists each of the goods or technology identified under clause (i) except for any good or technology that the Secretary determines, in consultation with the Secretary of Defense, would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States. The Secretary shall make a separate determination for each such good or technology, and shall publish each such determination in the Federal Register.".

SEC. 111. UNILATERAL CONTROLS; EXPORT LICENSES.

(a) UNILATERAL CONTROLS.—Section 5(c)(6) (50 U.S.C. App. 2404(e)(6)) is amended by adding at the end the following:

"(C) For purposes of this paragraph, an export control shall be considered to be unilaterally maintained by the United States if it is a restriction, condition, or interpretation imposed by the Secretary upon any goods or technology, or upon any license application for the export of such goods or technology, that is not imposed or implemented in similar circumstances by other participating governments of the Coordinating Committee.

"(D) The Secretary shall seek to ensure that no new unilateral controls are created.".

(b) TRADE SHOWS.—Section 5(e) (50 U.S.C. App. 2404(e)) is amended by adding at the end the following new paragraph:

"(7) Any application for a license for the export to a controlled country of any good on which export controls are in effect under this section, without regard to the technical specifications of the good, for the purpose of demonstration, or exhibition at a trade show, shall carry a presumption of approval if—

"(A) the United States exporter retains title to the good during the entire period in which the good is in the controlled country; and

"(B) the exporter removes the good from the controlled country no later than at the conclusion of the trade show.".

(c) EXPORTS OF RELATED TECHNICAL DATA.—Section 5(e) (50 U.S.C. 2404(e)), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

"(8)(A) Any general or validated license authorizing the export of any goods or technology shall also authorize the export of operation technical data related to such goods or technology, whether or not such data is specifically referenced in the license or license application.

"(B) For purposes of this paragraph, the term 'operation technical data' includes—

"(i) original and updated manuals, instructions, bulletins, notices, blueprints, or software concerning the assembly, installation, maintenance, repair, or operation of goods or technology;

"(ii) training and training materials; and

"(iii) other similar data which is provided, in accordance with established business practice, to permit the safe and efficient use of goods or technology for their intended purpose.".

SEC. 112. INDEXING PROCEDURES.

Section 5(g) (50 U.S.C. App. 2404(g)) is amended to read as follows:

"(g) INDEXING.—(1) In order to ensure that requirements for validated licenses and other licenses authorizing multiple exports are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, the Secretary shall, not later than 6 months after the date of the enactment of the Export Facilitation Act of 1990, issue regulations that establish, in accordance with paragraph (2), indexing procedures which provide for automatic increases in the performance levels of goods or technology described in paragraph (2)(A) that are subject to any such licensing requirement. Such indexing procedures shall be based upon the following criteria: commercial use applications, increasing high end performance levels, and other criteria appropriate for determining the national security obsolescence of the goods or technology. Goods or technology which no longer meet the performance levels increased pursuant to such procedures shall be removed from the list established under subsection (c) unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other department or agency of the United States objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list. The Secretary shall also consider, where appropriate, eliminating site visitation requirements for goods and technology which are removed from the list unless objections described in this paragraph are raised.

"(2)(A) In carrying out this subsection, the Secretary shall direct the technical advisory committees appointed under subsection (h) to establish indexing procedures for goods or technology—

"(i) which are eligible for export under a distribution license,

"(ii) below which exports to the People's Republic of China require only notification of the governments participating in the group known as the Coordinating Committee, and

"(iii) below which no authority or permission to export may be required under subsection (b)(3) or (b)(6).

Each technical advisory committee shall generally give priority to establishing such indexing procedures first for goods or technology for which the greatest number of validated licenses were issued under this Act during the most recent fiscal year for which such information is available. The technical advisory committees shall submit the indexing procedures as they are established to the Secretary, who shall determine within 45 days after each submission whether to accept the procedures and incorporate them in the regulations issued under paragraph (1) or to refer the procedures back to the appropriate technical advisory committee for further consideration.

"(B) In any case in which the Secretary receives a request which—

"(i) is to revise the indexing procedures established under subparagraph (A) for any goods eligible for export under a distribution license, and

"(ii) is made by an exporter of such goods, representatives of an industry which produces such goods, or a technical advisory committee established under subsection (h) of this section,

the Secretary shall, in consultation with the appropriate technical advisory committee and other appropriate Government agencies, act upon such request during the next quarterly review of the list conducted under subsection (c)(3).".

SEC. 113. NEGOTIATIONS WITH OTHER COUNTRIES; UNITED STATES POSITION WITH COCOM; COMMERCE DEPARTMENT REPRESENTATIVE.

(a) IN GENERAL.—Section 5(k) (50 U.S.C. App. 2404(k)) is amended—

(1) by inserting "(1)" after "(k)"; and

(2) by adding at the end the following:

"(2) The Secretary shall undertake a review of, and report to the Congress not later than 6 months after the date of the enactment of this paragraph on, the goods and technology available from newly industrialized countries to determine if such goods and technology are of such sophistication that they warrant multilateral export controls. If the Secretary determines that such multilateral controls are warranted, the Secretary of State shall propose to the Coordinating Committee to initiate negotiations with such newly industrialized countries to reach agreements with them under paragraph (1) or to obtain their participation in the Coordinating Committee.

"(3) Whenever—

"(A) the Secretary is authorized to make a decision or determination under this Act that affects exports from the United States to controlled countries,

"(B) such determination is final except that the approval of the Coordinating Committee is required, and

"(C) the Secretary makes such a determination,

the Secretary of State shall, within 7 days after receiving that determination from the Secretary, submit to the Coordinating Committee a United States proposal that would have the effect of applying that determination to exports to controlled countries.

"(4) The Secretary, or an officer or employee of the Department of Commerce designated by the Secretary, shall be a member of the permanent United States delegation to the Coordinating Committee, and the Secretary or the Secretary's designee shall, whenever the Secretary so determines, be represented at negotiations with other countries that involve this Act.".

(b) TECHNICAL AMENDMENT.—Section 5(i) (50 U.S.C. App. 2404(i)) is amended by striking paragraph (11).

SEC. 114. NOTIFICATION OF COCOM ACTIONS.

Section 5 (50 U.S.C. App. 2404) is amended by adding at the end the following new subsection:

"(r) PUBLICATION OF COCOM ACTIONS.—(1) Within 90 days after the date of the enactment of this subsection, the Secretary shall publish the full text of the 3 International Lists of the Coordinating Committee, together with all notes and understandings concerning such lists that are agreed to by the Coordinating Committee. The Secretary shall update the publication under the preceding sentence at least once in each 1-year period occurring thereafter.

"(2) The Secretary shall publish—

"(A) the full text of any agreements of the Coordinating Committee affecting the International Lists, together with all notes, understandings, and other aspects of such agreements, all revisions to such texts, and the proposals of the United States to revise the International Lists that are submitted to the Coordinating Committee before negotiations on these proposals begin (except for classified information contained in the justification for such proposals),

"(B) subject to the limitations set forth in section 12(c), decisions on requests for general exceptions to the Industrial List portion of the International Lists of the Coordinating Committee, and

"(C) other decisions made by the Coordinating Committee, to the maximum extent possible.

Such publication shall be made within 30 days after the agreements are reached, negotiations on the proposals begin, or the decisions are made, as the case may be. The publication of a particular matter need not be made under subparagraph (A) or (C) to the extent that the Secretary makes a written finding to the Congress that to publish that matter would be contrary to national or international security, or would be inconsistent with the obligations of the United States to the Coordinating Committee.".

SEC. 115. REVIEW OF LICENSES.

Section 10(g) (50 U.S.C. App. 2409(g)) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(1) In addition to any other provision of this Act that provides for the Secretary to consult with the Secretary of Defense, the Secretary shall consult with the Secretary of Defense in reviewing export license applications for the following exports of goods or technology controlled under this Act:

"(A) Any proposed export of goods or technology to the Soviet Union, except for exports which require only notification of the participating governments of the Coordinating Committee.

"(B) Any proposed export of goods or technology to countries in Eastern Europe which do not qualify for favorable consideration under section 5(b)(4)(A)(ii) as determined by the Coordinating Committee, except for exports which require only notification of the participating governments of the Coordinating Committee.

"(C) Any proposed export of goods or technology for end uses in controlled countries other than civil end uses. Whether or not end uses are other than civil end uses shall be determined by the Secretary on the basis of the criteria set forth in section 5(b)(4)(F).".

(2) Paragraph (2) is amended—

(A) by striking the first 2 sentences and inserting the following: "Whenever a license or other authority is requested for any proposed export described in paragraph (1), the Secretary shall notify the Secretary of Defense of such request, and the Secretary may not issue any license or other authority pursuant to such request before the expiration of the period within which the President may disapprove such export.";

(B) in subparagraph (A) by striking "any request for the export of the goods or technology involved to the particular country" and inserting "the request"; and

(C) by adding at the end the following: "The Secretary of Defense may waive consideration of any proposed export under paragraph (1), in which case the requirements of this subsection with respect to such proposed export shall not apply.".

SEC. 116. PENALTIES.

(a) CRIMINAL PENALTIES.—Section 11(b) (50 U.S.C. App. 2410(b)) is amended in paragraphs (1) and (2)—

(1) by striking "five times" each place it appears and inserting "10 times";

(2) by striking "$1,000,000" each place it appears and inserting "$2,000,000";

(3) by striking "$250,000" each place it appears and inserting "$500,000"; and

(4) by striking "5 years" and inserting "10 years".

(b) ACTIONS TO RECOVER PENALTIES.—Section 11(f) (50 U.S.C. App. 2410(f)) is amended by adding at the end the following: "A civil action authorized by this subsection for the recovery of a penalty imposed for a violation may be prosecuted only if the action is commenced within 5 years after the violation is committed.".

(c) ADMINISTRATIVE SANCTIONS.—Section 11 is amended by adding at the end the following:

"(j) LIMITATION ON ADMINISTRATIVE SANCTIONS.—An administrative sanction (including any civil penalty or any suspension or revocation of authority to export) for a violation under this Act may not be imposed unless the administrative proceeding seeking such sanction is commenced within 5 years after the violation is committed.".

SEC. 117. ENFORCEMENT AUTHORITY.

(a) ACTIVITIES OUTSIDE THE UNITED STATES.—Section 12(a)(1) (50 U.S.C. App. 2411(a)(1)) is amended in the last sentence by striking "of section 8".

(b) INVESTIGATIVE OPERATIONS.—Section 12(a) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8)(A) With respect to any undercover investigative operation conducted by the Office of Export Enforcement of the Department of Commerce (hereinafter in this paragraph referred to as 'OEE') necessary for the detection and prosecution of violations of this Act—

"(i) sums made available for export enforcement under this Act may be used to purchase property, buildings, and other facilities, and to lease space within the United States, without regard to sections 1341 and 3324 of title 31, United States Code, the third undesignated paragraph under the heading 'MISCELLANEOUS' of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), subsections (a) and (c) of section 304, and section 305, of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a) and (c) and 255);

"(ii) sums made available for export enforcement under this Act may be used to establish or to acquire proprietary corporations or business entities as part of an OEE undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31, United States Code;

"(iii) sums made available for export enforcement under this Act and the proceeds from OEE undercover operations may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

"(iv) the proceeds from OEE undercover operations may be used to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code;

if the Director of OEE (or an officer or employee designated by the Director) certifies, in writing, that any action authorized by clause (i), (ii), (iii), or (iv) is necessary for the conduct of the undercover operation.

"(B) If a corporation or business entity established or acquired as part of an OEE undercover operation with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, OEE shall report the circumstances to the Secretary and the Comptroller General, as much in advance of such disposition as the Director of OEE or his or her designee determines is practicable. The proceeds of the liquidation, sale, or other disposition, after obligations incurred by the corporation ro business enterprise are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(C) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under this paragraph are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(D)(i) The Director of OEE shall conduct a detailed financial audit of each undercover investigative operation which is closed and shall submit the results of the audit in writing to the Secretary. Not later than 180 days after an OEE undercover operation is closed, the Director of OEE shall submit to the Congress a report on the results of the audit.

"(ii) The Director of OEE shall also submit as part of the annual report submitted by the Secretary under section 14 a report to the Congress specifying—

"(I) the number of OEE undercover investigative operations pending as of the end of the period for which such report is submitted;

"(II) the number of OEE undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted; and

"(III) the number of OEE undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

"(E) For purposes of subparagraph (D)—

"(i) the term 'closed' refers to the earliest point in time at which all criminal proceedings (other than appeals) are concluded, or covert activities are concluded, whichever occurs later;

"(ii) the terms 'undercover investigative operation' and 'undercover operation' mean any undercover investigative operation conducted by OEE—

"(I) in which the gross receipts (excluding interest earned) exceed $50,000, or expenditures (other than expenditures for salaries of employees) exceed $150,000, and

"(II) which is exempt from section 3302 or 9102 of title 31, United States Code,

except that subclauses (I) and (II) shall not apply with respect to the report to the Congress required by clause (ii) of subparagraph (D); and

"(iii) the term 'employees' means employees, as defined in section 2105 of title 5, United States Code, of the Department of Commerce.".

SEC. 118. JUDICIAL REVIEW.

(a) JUDICIAL REVIEW.—(1) Section 13(a) (50 U.S.C. App. 2412(a)) is amended to read as follows:

"(a) APPLICABILITY.—

"(1) EXEMPTIONS FROM ADMINISTRATIVE PROCEDURE.—Except as provided in section 11(c)(2) and subsection (c) of this section, sections 551 and 553 through 559 of title 5, United States Code, do not apply to the functions exercised under this Act.

"(2) JUDICIAL REVIEW.—(A) Subject to subparagraphs (B) and (C) and to subsection (c), judicial review of actions under this Act shall be pursuant to chapter 7 of title 5, United States Code.

"(B) Any discretionary determination of whether a good or technology should or should not be on the control list shall not be subject to judicial review.

"(C) An action to obtain judicial review under this subsection may be brought in the appropriate United States district court.".

(2) Section 13(c)(1) (50 U.S.C. App. 2412(c)(1)) is amended by striking "556 and" and inserting "554, 556, and".

(3) Section 13(e) (50 U.S.C. App. 2412(e)) is amended by striking the fourth sentence.

(b) TECHNICAL AMENDMENTS.—Section 10 (50 U.S.C. App. 2409) is amended—

(1) in subsection (f) by striking paragraph (4); and

(2) in subsection (j)—

(A) by striking "(1)"; and

(B) by striking paragraphs (2) and (3).

SEC. 119. ACT SELF-EXECUTING.

Section 15 (50 U.S.C. App. 2414) is amended by adding at the end the following new subsection:

"(d) ACT SELF-EXECUTING.—The provisions of this Act shall be self-executing and shall be in effect whether or not implementing regulations are issued by the agency or department with authority or responsibility to do so.".

SEC. 120. AUTHORIZATION OF APPROPRIATIONS.

Section 18(b) (50 U.S.C. App. 2417(b)) is amended to read as follows:

"(b) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

"(1) $46,707,000 for the fiscal year 1991, of which $150,000 shall be available only for the representation of the Secretary or the Secretary's designee at the Coordinating Committee under section 5(k)(4); and

"(2) such additional amounts for the fiscal year 1991 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.".

SEC. 121. EXTENSION OF THE ACT.

Section 20 (50 U.S.C. App. 2419) is amended by striking "1990" and inserting "1991".

SEC. 122. TECHNICAL AMENDMENTS.

(a) SECTION 5.—Section 5(f) (50 U.S.C. App. 2404(f)) is amended—

(1) in paragraph (2)(A) by striking "(k)" and inserting "(k)(1)"; and

(2) in paragraph (10) by striking "subsections (f) and" and inserting "subsection".

(b) SECTION 11A.—Section 11A(k)(3) (50 U.S.C. App. 2410A(k)(3)) is amended—

(1) by striking "(3)" and inserting "(2)"; and

(2) by striking "paragraph (2)" and inserting "paragraph (1)".

(c) SECTION 16.—Section 16 (50 U.S.C. App. 2415) is amended by striking "As used" and inserting "Except as otherwise provided, as used".

SEC. 123. RECIPROCITY IN FOREIGN INVESTMENT.

It is the sense of the Congress that the President shall insist on reciprocity on the question of foreign investment.

AMENDMENT OFFERED BY MR. MAVROULES

Mr. MAVROULES. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. MAVROULES: Page 38, line 10, strike "in reviewing" and insert "for the purpose of enabling the Secretary of Defense to review".

Page 38, line 4, insert "(a) REVIEW OF LICENSES.—" before "Section".

Page 39, insert the following after line 22:

(b) REVIEW AND ANALYSIS BY GAO.—

(1) REVIEW AND ANALYSIS.—The Comptroller General shall conduct a review of the impact of the changes in procedures made by the amendment made by subsection (a) on the export license approval process and on the national security, and shall analyze the overall efficiency of the export license approval process under the Export Administration Act of 1979. For purposes of such review and analysis, the Secretary of Commerce shall make available to the Comptroller General and the Secretary of Defense, upon the Comptroller General's request, information on any license application approved or disapproved after the date of the enactment of this Act for the export of goods or technology on which export controls are in effect under section 5 of that Act. The Comptroller General and the Secretary of Defense shall not discuss any information regarding individual license applications.

(2) COMMENTS BY DEPARTMENTS OF DEFENSE AND COMMERCE.—The Comptroller General shall ensure that the Secretary of Defense and the Secretary of Commerce have the information necessary for them to make informed comments with respect to the review and analysis under paragraph (1). The Comptroller General shall review any concerns raised by the Secretaries of Defense and Commerce with respect to the review and analysis under paragraph (1) and shall assess the validity of those concerns in the report to Congress submitted under paragraph (3). The Secretary of Defense shall make available to the Comptroller General all information pertinent to export licensing decisions with respect to any such concerns raised by that Secretary.

(3) REPORT TO CONGRESS.—The Comptroller General shall, not later than December 31, 1991, submit a report to the Congress on the review and analysis conducted under this subsection. The Comptroller General shall also submit to the Congress an interim report on such review and analysis before the Congress begins consideration in 1991 of legislation to reauthorize the Export Administration Act of 1979.

Page 28, line 6, add the following after the period: "The procedures set forth in paragraph (2) of this subsection shall apply to adding goods of technology to the control list that were not removed from the control list under the first sentence of this subparagraph.".

Mr. MAVROULES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MAVROULES. Mr. Chairman, my amendment comes out of a review of the Gejdenson bill that I had the staff of the Armed Services Committee perform. I offer the amendment on my own, however. The committee has not met or taken a position on the Gejdenson bill. For myself, I am satisfied with the manner in which the role of the Defense Department is framed in the Gejdenson bill. My amendment provides clarifying language in two places. The key part of my amendment provides an avenue for GAO to review the new and diminished role given the Defense Department and an avenue for the Defense Department to air any grievances or problems it finds with its new role. My amendment gives the GAO access to any and all license applications so it can analyze the impact of the changes brought about by the Gejdenson bill. My amendment also provides for the GAO to make license data available to the Defense Department in order to take advantage of DOD's expertise in the national security area and to evaluate problems DOD may see.

I'd like to make one final point. This bill before us came down the pike very, very quickly. The bill was not sequentially referred to the Armed Services Committee, although the Parliamentarian's Office has told my staff it should have been. Many Members of my committee are unhappy that we did not have time to more thoroughly review the bill before us. I hope that in the future we have sequential referral and sufficient time to do a full and formal committee review.

Personally, I think the result would have been the same this year. As I said earlier, I personally feel the Gejdenson bill does no damage to the proper role of the Defense Department in dealing with legitimate national security considerations. But I share the discomfort of other Members of the Armed Services Committee that we didn't have the options afforded by sequential referral.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, once against the gentleman from Massachusetts has I think made a good product even better, and it is a pleasure as always to deal with the gentleman from Massachusetts. His insight and responsible efforts are always appreciated, and the committee, at least on this side, supports his amendment.

Mr. MAVROULES. I thank the gentleman.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, we on our side have studied this amendment. We find no major concern with it and we are willing to go along with the amendment.

Mr. MAVROULES. I appreciate the cooperation and the statements made by both gentlemen.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MAVROULES].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WYDEN

Mr. WYDEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is this an amendment that was noticed in the RECORD?

Mr. WYDEN. It was, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. WYDEN: Page 48, insert the following after line 11:

SEC. 124. POLICY REGARDING GERMANY.

In light of the impending reunification of Germany, the Congress recognizes the importance of the removal of East Germany from the proscribed destination list of the Coordinating Committee (commonly known as "COCOM"). While United States and international law recognize the sanctity of pre-existing contracts, any new contractual obligations between a united Germany and the Soviet Union or other proscribed desti-

nations should comply with the rules and restrictions of COCOM. The Congress urges the executive branch to seek the approval of COCOM for assurances that its rules and restrictions will apply to these new contractual relationships.

Mr. WYDEN. Mr. Chairman, I am going to be very brief with respect to this amendment. But I think this amendment is an important one because the trading relationship that our country and Cocom nations have with a reunified Germany is going to be of enormous importance in world markets.

East Germany, as our colleagues know, is the most technologically advanced of the Warsaw Pact nations, and it traditionally has been a prime supplier of technology items to the Soviet Union. West Germany, on the other hand, is one of the most technologically advanced nations in the world. So when West Germany and East Germany unite, they will have the capacity to literally dominate Europe in world markets as a technological power.

What my amendment does is to recognize the importance of the impending reunification of Germany, and reiterate the need to make sure that East Germany in the future is removed from the proscribed destination list of Cocom.

My amendment does two other things. It recognizes the sanctity of preexisting contracts under international law, but does say that any new contractual obligations between a reunified Germany and the Soviet Union would have to comply with Cocom.

I have discussed this amendment with the chairman of the subcommittee who has been extremely helpful, and my friend and colleague, the gentleman from Michigan [Mr. BROOMFIELD] has also been very helpful. I just think it is important that a reunified Germany, a economic power that will grow in stature, work within the Cocom framework of the future.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I yield to my friend, the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I want to associate myself with the remarks of my friend from Oregon in support of this amendment.

This amendment looks forward to the day when Germany is a united country and a member of the Western Alliance.

East Germany should anticipate joining with Western Europe in a way that addresses their security interests, as well as those of the United States. This amendment calls on Cocom to prepare for this, and I think it is appropriate.

Mr. WYDEN. I thank my colleague for his support.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I yield to the chairman of the subcommittee.

Mr. GEJDENSON. Mr. Chairman, the gentleman from Oregon makes an excellent addition to the bill. Germany has a trading activity in high-tech items that is six to seven times as large as America's trade with the East bloc, and his amendment is an important amendment, and this side supports it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. WYDEN].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Chairman, I offer amendments en bloc to H.R. 4653 that have been printed in the RECORD, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. GEJDENSON: Page 8, lines 7 and 8, strike "this paragraph" and insert "the Export Facilitation Act of 1990".

Page 8, line 17, strike "or" and insert "and".

Page 9, lines 8 and 9, strike "United States".

Page 11, line 1, strike the comma after "1988".

Page 15, line 20, strike "meeting the criteria set forth in subparagraph (D) as modified and approved by the Coordinating Committee" and insert "eligible for favorable consideration under subparagraph (A)(ii), in accordance with the modifications of the Coordinating Committee,".

Page 16, line 6, insert "export" and "subject to".

Page 16, strike lines 8 through 10 and insert the following:

"(ii) a list of those countries in Eastern Europe that are eligible for favorable consideration under subparagraph (A)(ii), in accordance with the modifications of the Coordinating Committee."

Page 20, line 8, strike "Control List" and insert "Lists".

Page 21, lines 10 through 12, strike ", other than a country for which no authority or permission to export may be required under paragraph (2),".

Page 21, lines 15 through 17, strike "a country for which no authority or permission to export may be required under paragraph (2) or ".

Page 21, insert the following after line 20: "Clauses (i) and (ii) apply only to exports of goods or technology for which authority or permission to export may be required under this section and to exports to countries for which such authority or permission may be required.".

Page 22, line 17, strike "and" after the semicolon.

Page 22, line 20, strike the 2 periods and the closed quotation marks and insert "; and".

Page 22, insert the following after line 20:

"(iii) whether or not a use is a civil end use shall be based on the criteria set forth in paragraph (4)(F).".

Page 23, line 3, insert ", as provided in this paragraph" after "List".

Page 25, line 7, strike "list" and insert "jurisdiction".

Page 28, line 23, insert "export" after "subject to".

Page 28, line 25, strike ", as so modified".

Page 29, lines 6 and 14, strike ", as so modified".

Page 31, line 12, strike "(a)" and insert "(b) of this section".

Page 41, line 15, strike "sums" and insert "funds".

Page 41, line 24, insert "and" after "22),".

Page 42, lines 3 and 10, strike "sums" and insert "funds".

Page 43, line 3, strike "over" and insert "more than".

Page 43, line 9, strike "ro" and insert "or".

Page 30, line 4, strike "The" and all that follows through "Register." on line 6 and insert the following: "The exception in the preceding sentence shall not apply to a good or technology unless the Secretary makes a separate determination under the preceding sentence for such good or technology and publishes that determination in the Federal Register.".

Page 33, lines 9 and 10, strike "unless objections described in this paragraph are raised".

Page 22, line 22, insert "(a) COMMODITY JURISDICTION.—" before "Section".

Page 27, insert the following after line 12:

(b) TREATMENT OF MUNITIONS LIST FOR PURPOSES OF CERTAIN STATUTES.—

(1) IN GENERAL.—Notwithstanding the amendment made by subsection (a), references in the following provisions of law of the United States Munitions List or items on the United States Munitions List, or to the Arms Export Control Act shall, after the enactment of this act, be deemed to refer to the United States Munitions List, or the Arms Export Control Act, as in effect on May 1, 1990:

(A) Section 40 of the Arms Export Control Act (22 U.S.C. 2780).

(B) Section 902(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991.

(C) Section 317 of the Comprehensive Anti-Apartheid Act of 1986.

(2) SUNSET PROVISION.—The provisions of this subsection shall terminate on September 30, 1992.

Page 68, add the following after line 25:

TITLE III—EXPORT PROMOTION

SEC. 301. UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

(a) MINISTER-COUNSELORS.—Section 2301(d)(1) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(d)(1)) is amended in the first sentence by striking "8" and inserting "12".

(b) REPORT ON TRAINING.—The Secretary of Commerce shall, not later than 6 months after the date of the enactment of this Act, submit to the Congress a report on the adequacy of the training of officers and employees of the United States and Foreign Commercial Service in the following areas: writing of commercial reports, language skills, cultural awareness, and public speaking.

(c) COMMERCIAL SERVICE OFFICERS AND MULTILATERAL DEVELOPMENT BANKS.—Section 2302 of the Export Enhancement Act of 1988 (15 U.S.C. 4722) is amended—

(1) in subsection (b)(3)—

(A) by striking "and to permit" and inserting "to permit"; and

(B) by inserting before the period the following: ", and to provide them with assistance in completing such documents"; and

(2) in subsection (c) by striking "and the African Development Fund" and inserting "the African Development Fund, and the European Bank for Reconstruction and Development (subject to the enactment of legislation authorizing participation by the United States in that bank)".

(d) INCREASE IN COMMERCIAL SERVICE OFFICERS IN CERTAIN COUNTRIES.—The Secretary of Commerce shall increase the number of Commercial Service Officers, in each of the 5 countries with which the United States had the greatest trade deficit in calendar year 1989 (as reflected in the merchandise trade figures reported by the Department of Commerce), by 2 over the number of such officers assigned to each of such countries in fiscal year 1989.

SEC. 302. COUNTRY REPORTS ON TRADE PRACTICES.

Section 2202 of the Export Enhancement Act of 1988 (15 U.S.C. 4711) is amended—

(1) in the first sentence—

(A) by inserting "(a) ANNUAL REPORTS.—" before "The"; and

(B) by striking "January" and inserting "May"; and

(2) by adding at the end the following:

"(b) ASSESSMENT OF FREE TRADE STATUS.—The Secretary of State shall include in each report under subsection (a) an assessment of the free trade status of each foreign country included in the report. In making such assessment, the Secretary shall take into account, in addition to the factors set forth in paragraphs (1) through (8) of subsection, the following:

"(1) Any other action, policy, or act, whether formal or informal, of the government of the country, or of the industrial, commercial, or investment sectors within the country (if the action, policy, or act of the sector is tolerated by the government), that has a trade distorting effect.

"(2) All other factors the Secretary considers relevant.

"(c) ANNUAL RANKING OF FOREIGN COUNTRIES ACCORDING TO TRADE POSTURE.—The Secretary of State on the basis of the free-trade status assessments made under subsection (b) and such other information that the Secretary considers relevant, shall annually rank in one of the following categories each foreign country for which such an assessment is made:

"(1) Category A: The foreign country accords to United States goods and services market access that is substantially reciprocal to the market access that the United States accords to the goods and services of that country.

"(2) Category B: The foreign country, although not currently according to United States goods and services market access that is substantially reciprocal to that accorded by the United States to the goods and services of that country, is taking, or can be expected to take, actions that will result in substantial reciprocity being achieved within a reasonable time.

"(3) Category C: The foreign country is not eligible for ranking in category A or B.".

SEC. 303. QUALIFICATIONS FOR MARKET DEVELOPMENT COOPERATIVE PROGRAM.

Section 2303(c)(2) of the Export Enhancement Act of 1988 (15 U.S.C. 4723) is amended by striking "and computer data bases" and methods of distribution of goods and services".

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

"There are authorized to be appropriated to the Department of Commerce to carry out export promotion programs $173,600,000 for the fiscal year 1991".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1990.

Mr. GEJDENSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Chairman, I yield briefly to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, I rise in strong support of this bill. I think it is an extremely timely piece of legislation and is important for our country's future competitiveness and our ability to compete overseas.

I wanted to cite just very quickly a recent report that came across my desk as well as others' from the Deutsche Bank of Germany and from the economic department entitled "A Special on Eastern Europe," wherein they are discussing the potential economic stimulus of having Eastern Europe become a part of an integrated European economy. I want to quote just two sentences, if I may.

This report says:

Such an economic stimulus is welcome at a time when the United States may enter a period of slower growth and restructuring of its domestic economy. During such a phase, everybody, including the USA, should be pleased that Europe stands ready to pick up the slack and move the world economic machine forward, just as the United States has done for the past decade.

Mr. Chairman, I for one am not pleased to see that Europe is poised to step in and pick up the slack and take advantage of the potential markets in Eastern Europe. I believe it is time that the United States make the investment, that it is time that the United States make corrections and changes in the laws on Cocom and be prepared not only to make the investment here but to make the investment overseas to expand our access to those vital markets.

I appreciate the work of the subcommittee and the full committee in bringing forward this important piece of legislation.

Mr. GEJDENSON. I thank the gentleman for his comments and insight. It is clear that we would be remiss if we did not take advantage of an opportunity.

Mr. Chairman, the amendment before us is a technical amendment. It makes no substantive changes to the act.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to my colleague, the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, we have looked at this amendment. This makes technical, conforming, and clarifying changes, and we on our side of the aisle are in favor of these changes and this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Connecticut [Mr. GEJDENSON].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. ROTH

Mr. ROTH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROTH: Page 47, line 7, strike "$46,707,000" and insert "$28,959,340".

Mr. ROTH. Mr. Chairman, this amendment to section 120 of the act would simply reduce the level of spending authorization from $46,707,000 to $28,959,340 for fiscal year 1991. This reflects a 38-percent spending reduction.

As we all know, one of the chief objectives of this bill is to reduce the amount of regulation and bureaucracy that our exporters face. In section 105 of the act alone, we reduced the number of licenses that Commerce would have to process by more than 27,500, or some 38 percent. This reduction in licensing requirements only pertains to U.S. exports to the Cocom countries.

Since we have reduced licensing requirements in many other sections of the act, the burdens on the Commerce Department will be reduced even further when all is said and done. I am afraid, however, that the spending authorization section of the bill doesn't currently reflect these new realities.

When we reduce the amount of work that an agency has to do we ought to be able to reduce the amount of money we spend.

Mr. Chairman, there is nothing more dangerous than Government bureaucrats with nothing to do. A vote for my amendment will be a vote for fiscal responsibility and for a streamlined bureaucracy to match our streamlined export controls.

Mr. Chairman, I ask all my colleagues to vote for this amendment.

Mr. GEJDENSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just say that I understand the frustration of my friend, the gentleman from Wisconsin [Mr. ROTH]. I think he is right that hopefully there will come a day that we can make a sizable cut.

Mr. Chairman, as we have all heard in committee, some 27,500 licenses were to countries like England and France. Of that, something like 4 percent or less were rejected.

Therefore, Mr. Chairman, I reluctantly oppose my friend's amendment for today.

Mr. AUCOIN. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. I thank the gentleman for yielding.

Mr. Chairman, I also rise in opposition to the amendment of the gentleman.

The gentleman says that there is nothing worse than bureaucracy. I think that is right except if we have a bureaucracy that is so overloaded with paperwork that it cannot produce in a timely fashion the export licenses from American producers who have sales lined up abroad but who cannot land those sales because some bureaucrat in Washington has a pile of paperwork on his desk and cannot process them quickly enough.

So the Japanese win the sales instead.

Mr. Chairman, I think my colleagues ought to reflect on the fact that it typically takes in the United States today 120 days for approval of an export license whereas in Japan it takes 4. If anyone here is surprised at America's competitiveness slip vis-a-vis Japan and other industrialized nations all one needs to do is to take a look at the logjam, the Rube Goldberg kind of scheme we have got in export licensing and the interminable delays, to understand why America is slipping behind.

Here is where money is needed for streamlined expeditious processing of export licenses.

The Roth amendment which would reduce the authorization runs exactly in the wrong direction, it decreases America's competitiveness and should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. ROTH].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROTH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 117, noes 291, not voting 24, as follows:

[Roll No. 148]

AYES—117

Archer	Condit	Fawell
Armey	Cooper	Fields
Baker	Coughlin	Gekas
Ballenger	Courter	Gillmor
Barton	Cox	Gingrich
Bennett	Craig	Goodling
Bereuter	Crane	Goss
Bilirakis	Dannemeyer	Gradison
Bliley	Davis	Grandy
Broomfield	DeLay	Grant
Brown (CO)	DeWine	Gunderson
Buechner	Dickinson	Hammerschmidt
Bunning	Dornan (CA)	Hancock
Burton	Douglas	Hansen
Callahan	Dreier	Hayes (LA)
Clinger	Duncan	Hefley
Coble	Dyson	Herger
Hiler	Molinari	Skeen
Holloway	Moorhead	Slaughter (VA)
Hunter	Murphy	Smith (NE)
Inhofe	Myers	Smith (TX)
Ireland	Nielson	Smith, Denny (OR)
Jacobs	Oxley	Smith, Robert (NH)
James	Packard	Smith, Robert (OR)
Kanjorski	Parris	Solomon
Kasich	Paxon	Stearns
Kolbe	Petri	Stump
Kyl	Pursell	Tauzin
Lagomarsino	Rhodes	Thomas (WY)
Leach (IA)	Ritter	Upton
Lewis (FL)	Robinson	Vander Jagt
Lightfoot	Rohrabacher	Vucanovich
Madigan	Roth	Walker
Marlenee	Schaefer	Whittaker
Martin (NY)	Schuette	Williams
McCandless	Schulze	Wylie
McCollum	Sensenbrenner	Young (AK)
McCrery	Shaw	
McEwen	Shumway	
Meyers	Shuster	

NOES—291

Ackerman	Fish	Long
Alexander	Flake	Lowey (NY)
Anderson	Foglietta	Luken, Thomas
Andrews	Ford (MI)	Lukens, Donald
Annunzio	Frank	Machtley
Applegate	Frenzel	Manton
Aspin	Frost	Markey
Atkins	Gallo	Martin (IL)
AuCoin	Gaydos	Matsui
Barnard	Gejdenson	Mavroules
Bartlett	Gephardt	Mazzoli
Bateman	Geren	McCloskey
Beilenson	Gibbons	McCurdy
Bentley	Gilman	McDermott
Berman	Glickman	McGrath
Bevill	Gonzalez	McHugh
Bilbray	Gordon	McMillan (NC)
Boehlert	Gray	McMillen (MD)
Boggs	Green	McNulty
Bonior	Guarini	Mfume
Borski	Hall (OH)	Michel
Bosco	Hall (TX)	Miller (OH)
Boucher	Hamilton	Miller (WA)
Brennan	Harris	Mineta
Brooks	Hastert	Moakley
Browder	Hatcher	Mollohan
Brown (CA)	Hawkins	Montgomery
Bruce	Hayes (IL)	Morella
Bryant	Hefner	Morrison (CT)
Bustamante	Henry	Morrison (WA)
Byron	Hertel	Mrazek
Campbell (CA)	Hoagland	Murtha
Campbell (CO)	Hochbrueckner	Nagle
Cardin	Hopkins	Natcher
Carper	Horton	Neal (MA)
Carr	Houghton	Neal (NC)
Chandler	Hoyer	Nowak
Chapman	Hubbard	Oakar
Clarke	Huckaby	Oberstar
Clay	Hughes	Obey
Clement	Hutto	Olin
Coleman (MO)	Hyde	Ortiz
Coleman (TX)	Jenkins	Owens (NY)
Collins	Johnson (CT)	Owens (UT)
Combest	Johnson (SD)	Pallone
Conte	Johnston	Panetta
Conyers	Jones (GA)	Parker
Costello	Jones (NC)	Pashayan
Coyne	Jontz	Patterson
Crockett	Kaptur	Payne (NJ)
Darden	Kastenmeier	Payne (VA)
DeFazio	Kennedy	Pease
Derrick	Kennelly	Pelosi
Dicks	Kildee	Penny
Dingell	Kleczka	Perkins
Dixon	Kolter	Pickett
Dorgan (ND)	Kostmayer	Pickle
Downey	LaFalce	Porter
Durbin	Lancaster	Poshard
Dwyer	Lantos	Price
Dymally	Laughlin	Quillen
Early	Leath (TX)	Rahall
Eckart	Lehman (FL)	Rangel
Emerson	Lent	Ravenel
Engel	Levin (MI)	Ray
English	Levine (CA)	Regula
Erdreich	Lewis (GA)	Richardson
Evans	Lipinski	Ridge
Fascell	Livingston	Rinaldo
Feighan	Lloyd	Roberts
Roe	Skelton	Towns
Rogers	Slaughter (NY)	Traficant
Ros-Lehtinen	Smith (FL)	Traxler
Rose	Smith (IA)	Udall
Rostenkowski	Smith (NJ)	Unsoeld
Roukema	Smith (VT)	Valentine
Rowland (CT)	Snowe	Vento
Rowland (GA)	Solarz	Visclosky
Roybal	Spence	Volkmer
Russo	Spratt	Walgren
Sabo	Staggers	Walsh
Saiki	Stallings	Washington
Sangmeister	Stangeland	Watkins
Sarpalius	Stark	Waxman
Savage	Stenholm	Weber
Sawyer	Stokes	Weiss
Saxton	Studds	Weldon
Scheuer	Sundquist	Wheat
Schneider	Swift	Whitten
Schroeder	Tallon	Wilson
Schumer	Tanner	Wise
Serrano	Tauke	Wolf
Sharp	Taylor	Wolpe
Shays	Thomas (CA)	Wyden
Sikorski	Thomas (GA)	Yates
Sisisky	Torres	Yatron
Skaggs	Torricelli	Young (FL)

NOT VOTING—24

Anthony	Espy	Martinez
Bates	Fazio	McDade
Boxer	Flippo	Miller (CA)
de la Garza	Ford (TN)	Moody
Dellums	Gallegly	Nelson
Donnelly	Lehman (CA)	Schiff
Edwards (CA)	Lewis (CA)	Slattery
Edwards (OK)	Lowery (CA)	Synar

□ 1307

The Clerk announced the following pair:

On this vote:

Mr. Lowery of California for, with Mr. Nelson of Florida, against.

Mr. EMERSON changed his vote from "aye" to "no."

Mr. PARRIS and Mr. DREIER of California changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DURBIN

Mr. DURBIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will inquire, is the amendment printed in the RECORD?

Mr. DURBIN. Yes, it is, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DURBIN: Page 48, insert the following after line 11:

SEC. 124. EXPORTS TO THE SOVIET UNION.

No exports to the Soviet Union otherwise permitted by virtue of the amendments made by this title may be made until the President certifies to the Congress that the Soviet Union is not imposing any economic sanctions on Lithuania and has entered into negotiations with the elected government of Lithuania for the purpose of restoring the independence of Lithuania.

MODIFICATION OF AMENDMENT OFFERED BY MR. DURBIN

Mr. DURBIN. Mr. Chairman, prior to speaking to this amendment, I ask unanimous consent to modify the amendment with language which I have also filed at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

In lieu of the language of the amendment, insert the following:

Page 48, insert the following after line 11:

SEC. 124. EXPORTS TO THE SOVIET UNION.

No exports to the Soviet Union otherwise permitted by virtue of the amendments made by this title may be made until the President certifies to the Congress that the Soviet Union has entered into serious negotiations with the elected government of Lithuania for the purpose of allowing the self-determination of Lithuania and is conducting such negotiations without economic coercion.

The CHAIRMAN. Is there objection to the modification?

There was no objection.

The CHAIRMAN. The modification is accepted.

The gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes in support of his amendment, as modified.

□ 1310

Mr. DURBIN. Mr. Chairman, a celebration of peace and hope began in the United States last week with the arrival of Mr. Gorbachev from the Soviet Union. It has swept across the United States like a warm sunshine after a cold night. In the District of Columbia, in Minnesota and in California cheering crowds, praying for peace and praising Mr. Gorbachev and President Bush for the significant progress they have made. But a real peace effort depends on truth. And the truth which confronts us in our euphoria tells us that, although the Soviet Union is moving towards peace and openness, the Soviet Union has not quite reached that point.

Mr. Chairman, as we celebrate this new feeling, let us not forget the people of Lithuania. As we cheer the progress between the Soviet Union and the United States, let us not abandon the aspirations of the Lithuanian people who want the same freedom that we enjoy.

As we cheered Mr. Gorbachev here in our Nation's Capital, in the capital of Lithuania it was an entirely diffenent scene. In hospital rooms tiny infants are in their beds waiting for vital medicine to arrive. The medicine is not there, Mr. Chairman, because of the blockade that has been imposed upon Lithuania by the Soviet Union.

That blockade has cost the Lithuanian people dearly. There are serious shortages of syringes, scapels, sutures, medicines, antibiotics, oxygen for people in hospitals, and the basic necessities of life, gas and oil, chemicals for agriculture. These are being denied by Mr. Gorbachev to Lithuania in an effort to try in some way to stop their aspirations toward independence.

The bill which we have before us today, Mr. Chairman, is an important step forward toward normalizing relations with the Soviet Union. I applaud the gentleman from Connecticut [Mr. GEJDENSON] and the chairman of the committee, the gentleman from Florida [Mr. FASCELL] as well as the gentleman from Michigan [Mr. BROOMFIELD] for their efforts. But the amendment, which I bring to the House floor today with the cosponsorship of the gentleman from Michigan [Mr. BROOMFIELD], my friend, is an effort to impose some reality into the situation, to say that, as we move toward a normal relatinship and a peaceful relationship, let us also address in honest terms the problems which face us, those issues which still divide us.

Mr. Chairman, this amendment suggestst that, if we are going to open the door to the Soviet Union for economic progress with our assistance, that we also not forget the hopes of the people of Lithuania. It says that the President and the President alone shall have the authority to certify that negotiations have started between the Soviet Union and Lithuania, serious negotiations moving towards self-determination, and it also says, and significantly, that the Soviet Union cannot, cannot, impose economic coercion on Lithuania while these negotiations take place.

This, I think, is a statement of the basic principles our country stands for. It is a statement of the same principles on human rights which we have stood for in South Africa and around the world. If we are going to extend the helping hand of the American people, in the name of human rights let us move the Soviet Union closer to a just relationship with Lithuania.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I rise in support of the amendment of the gentleman from Illinois [Mr. DURBIN] and the gentleman from Michigan [Mr. BROOMFIELD].

The Helsinki Commission which I cochair, just held a hearing 2 weeks ago at which Prime Minister, Prunskiene testified. I received a letter from her just last week indicating that the economic blockade is "exacting a terrible toll" against a "most innocent people."

I think this is absolutely an appropriate amendment. It is the kind of message that we ought to be sending to the Soviet Union. Yes, we want to cooperate, but we do not want to cooperate to the extent that we abandon long-held principles and a strong advocacy of human rights. The March 11 declaration of the Lithuanian Government represents an effort to regain de facto what the United States believes Lithuania has never lost de jure. I congratulate and thank the gentleman from Illinois [Mr. DURBIN] for his amendment.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I would like to commend the gentleman from Illinois [Mr. DURBIN]. We are two of the Members of Congress with some Lithuanian descent, but this is not limited to people of Lithuanian descent who are concerned about the right of the Lithuanians. We understand that it is important to improve relations with the Soviet Union because the Lithuanians are better off now, clearly than when they were under the thumb of Brezhnev, but also we want to make the Soviets understand that the direction things must go in is for Lithuanian freedom.

So, Mr. Chairman, on this side we accept the amendment of the gentleman from Illinois [Mr. DURBIN] and commend him for his effort.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I want to compliment the gentleman from Illinois [Mr. DUBIN] on this amendment.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. DURBIN] has expired.

(By unanimous consent, Mr. DURBIN was allowed to proceed for 5 additional minutes.)

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, we are all pleased with the contacts the President has made with the leadership of the Soviet Union, but I think this amendment gives the incentive to the Soviet Union to demonstrate in more than a symbolic way their interest in supporting Baltic independence. Our country has affirmed Baltic independence for more than 50 years. It is ludicrous to me that at a time when people in Lithuania, March 11, when they freely elected their Lithuanian parliament, restored their country's independence, that we have always recognized that we would speak out for the human rights of the Lithuanians and, frankly, other Baltic countries, and so I want to compliment the gentleman from Illinois [Mr. DURBIN].

Mr. Chairman, I support the amendment. As a nation of free men and women, we cannot forget our own quest for freedom and our abiding commitment as the leader of the world in freedom, as the role model of the world for freedom, the freedom and independence of others.

But with regard to the Durbin amendment it would provide an incentive for the Soviet Union to reverse its policy toward Lithuania.

Under this amendment, trade with the Soviet Union would not be liberalized until the President certifies:

First, that the Soviet Union is not imposing economic sanctions on Lithuania; and

Second, that the Soviet Union has entered into negotiations with the Lithuanian Government.

For 50 years, the United States has affirmed support Baltic independence, with the dream that some day their nightmare of foreign occupation would end.

On March 11, the freely elected Lithuanian Parliament restored their country's independence.

It is imperative that our country play a positive role in supporting the Lithuanian independence movement.

As a nation of free men and women, we cannot forget our own origins and our abiding commitment to freedom and independence.

We must support the Lithuanian people.

Mr. DURBIN. Mr. Chairman, I appreciate the support of the gentlewoman from Ohio [Ms. OAKAR].

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I just want to commend the gentleman from Illinois [Mr. DURBIN] for his amendment.

As the gentleman knows, I have an amendment that would prohibit any United States exports to the Soviet Union that would modernize the Soviet industry as long as the Soviet Union continues to withhold oil and gas shipments and impose other forms of economic warfare on Lithuania. I am not going to offer my amendment because, basically, the amendment of the gentleman from Illinois [Mr. DURBIN] would do just that, along with other things.

Mr. Chairman, I really do commend the gentleman from Illinois [Mr. DURBIN]. It is a good message to send to the Soviet Union, and I thank the gentleman.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I am happy to be a cosponsor of this amendment offered by my friend and colleague from Illinois [Mr. DURBIN].

I am also sure many Americans were impressed during President Gorbachev's recent visit to this country. They saw no shoe banging at the United Nations. No ranting about "We will bury you." They saw him greet their fellow Americans on the street. What they saw was a reasonable, rational, friendly Soviet leader.

I am sure that many Americans were persuaded by his appeals for aid to help the Soviet economy. It's part of the American spirit to help a neighbor in trouble. So when he stuck out his hand for American support, I am sure that there were plenty of people ready to provide it.

There was just one problem with this whole scene. While the Soviet President put out one hand in requesting aid from the United States, the other hand was wrapped tightly around the neck of tiny Lithuania.

This reminds me of the parable of the unmerciful servant—the one who begs his master to give him time to pay back his debts. Yet, the servant himself later refuses to show any mercy to those who owe him money.

The Soviets are dying for access to American goods and technology. Yet the Soviets are denying the Lithuanians access to the very lifeblood of their own economy.

Nearly 200,000 Lithuanians are now out of work because of Soviet economic warfare against them. There is little adequate heating for hospital wards and emergency rooms. Raw materials are being denied to Lithuanian factories.

This amendment simply tells President Gorbachev that what's good for the Soviet Union is also good for tiny Lithuania.

This amendment is also very much in the tradition of the foreign policy we have professed for more than 40 years. America has consistently maintained that the forcible incorporation of the Baltic nations into the Soviet Union was illegal and that we would never recognize it.

By voting for this amendment, this House will show other nations that it stands by its commitments and that it will never lose its willingness to stand up for freedom and democracy around the world.

I urge my colleagues to support it.

□ 1320

Mr. DURBIN. Mr. Chairman, I thank the gentleman from Michigan, and I commend him. He is an excellent ally and I am happy to have his support on this important amendment.

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. Mr. Chairman, I thank the gentleman from Illinois for yielding to me, and I thank the gentleman from Michigan. They do us all a favor by allowing us to speak out for freedom in Lithuania, the gentleman from Illinois [Mr. DURBIN] and all the others who have joined with the gentleman today. It is the right message at the right time, in the right place and for the right reason, and it makes us all proud to support it.

Mr. DURBIN. Mr. Chairman, I thank my colleague, the gentlewoman from Illinois.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, I thank my colleague for offering this amendment today. He does himself, his family and more importantly, his forebears, very proud that today on the floor of the House of Representatives of the United States of America he bespeaks for people so far away their best hopes and wishes and aspirations that his family brought to this country.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. ECKART, and by unanimous consent, Mr. DURBIN was allowed to proceed for 3 additional minutes.)

Mr. ECKART. Mr. Chairman, if the gentleman will continue to yield, he does his family and the wisdom and spirit that he came to this Congress with so very proud. I am delighted to join our colleagues on the other side of the aisle who acknowledge, as we did in the summit this weekend, that these are not partisan issues, that the best hopes and dreams of all our families who came to this country are living and breathing in the Baltics and that we are not free unless they are free as well, so I applaud my colleague. I support his Republican allies, and I thank the gentleman for raising this issue at this time.

Mr. DURBIN. Mr. Chairman, I thank my colleague, the gentleman from Ohio.

Mr. RUSSO. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to my colleague, the gentleman from Illinois.

Mr. RUSSO. Mr. Chairman, today marks the 50th day of the economic blockade of Lithuania by the Soviet Union. While living under the Soviet's command economy for the past 50 years, Lithuania has been forced to accept frequent shortages. Over the last 50 days, however, the Lithuanian people have been living close to subsistence levels. Almost 200,000 people have been fired or forced to take early summer vacations due to reduced factory hours. In addition, public transportation and emergency medical transport have been cut back. This forced economic strangulation, however, had not dampened the flame of freedom burning in the hearts of the Lithuanian people.

Over 40 years ago the United States decided not to recognize the Soviet Union's annexation of Lithuania. Instead the United States made a commitment to the ideals of freedom and democracy, a commitment to an independent Lithuania. Now as Lithuanians fight for the basic right of self-determination, it is our duty as leaders of the free world to support their valiant struggle. This amendment is the least we can do. We cannot support

easing export restrictions to the Soviet Union while the Soviet Union is practicing economic warfare on Lithuania. Douglas MacArthur said that "no man is entitled to the blessing of freedom unless he be vigilant in its preservation." It is time for the United States to be vigilant.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman from Illinois for yielding to me, and I commend him and commend the gentleman from Michigan [Mr. BROOMFIELD] for offering this amendment.

I rise saying that as a person who wants to expand trade dramatically with the Soviet Union whenever it is in our national interest to do so; however, there is a point, there is a line to be drawn when it comes to foreign policy and export policy where the United States must stand by its principles. The infamous Molotov-Ribbentrop pact took the independence and many of the freedoms away from the people of the three Baltic nations. That is a proper place, therefore, for us to ask President Gorbachev to draw the line. It is inappropriate for him to ask that the Lithuanians suspend or withdraw their declaration of independence. We need to stand with them. We have always refused to recognize the legitimacy of the takeover of these three nations under the Molotov-Ribbentrop pact.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(At the request of Mr. BEREUTER, and by unanimous consent, Mr. DURBIN was allowed to proceed for 1 additional minute.)

Mr. BEREUTER. Mr. Chairman, if the gentleman will yield further, therefore I think it is appropriate that we pass this resolution, not only with a strong vote, but with a unanimous vote, and I commend the gentleman for his initiative, and thank the gentleman for yielding to me.

Mr. DURBIN. Mr. Chairman, I thank the gentleman.

Mrs. BENTLEY. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Chairman, I, too, want to join in commending the gentleman from Illinois and the gentleman from Michigan for this amendment.

The gentleman from California [Mr. DREIER] and I had an amendment that we were going to introduce that would have precluded the export of any technology relating to drilling, extraction or refining of petroleum products and natural gas to the Soviet Union until they withdrew their hold on the Baltic States. So we will not introduce that, but we will join with the gentleman on his very excellent amendment.

Mr. DURBIN. Mr. Chairman, I thank the gentlewoman from Maryland.

Mr. DREIER of California. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Chairman, I thank my friend, the gentleman from Illinois, for yielding to me.

I am very pleased to join with the distinguished ranking member of the full committee, the gentleman from Michigan [Mr. BROOMFIELD] and the gentleman from Illinois [Mr. DURBIN] in cosponsoring this very important amendment which addresses a concern which has come to the forefront with the onset of the dramatic changes that we have seen and the summit taking place. It is very clear to me that this amendment is very much in order and I am very pleased to join in cosponsoring it.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(At the request of Mr. DREIER of California, and by unanimous consent, Mr. DURBIN was allowed to proceed for 3 additional minutes.)

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I want to congratulate the gentleman from Illinois and the gentleman from Michigan on bringing this amendment before us. It does speak to all those things that we are most deeply concerned about in this rapidly changing world. It is not possible for the United States and the Soviet Union to become the kind of friends and trading partners in the future if the Soviet Union uses economic power against her neighbors in a way that is brutal, deeply unfair, and avoids the very negotiating process that is at the heart of peace and the heart of a developing new political process in the Soviet Union.

Lithuania has clearly expressed her willingness to negotiate. Our President has stood for negotiations between Lithuania and the Soviet Union and it is of the utmost importance that we stand firmly against the use of economic sanctions to brutally oppress Lithuania instead of the negotiating process that we all know can lead to resolution, ultimately to independence for Lithuania, and ultimately for peaceful and prosperous relationships between the United States and the Soviet Union, and I thank the gentleman from Illinois for yielding to me.

Mr. DURBIN. Mr. Chairman, I thank the gentlewoman.

Mr. SARPALIUS. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Texas.

Mr. SARPALIUS. Mr. Chairman, I, too, as a Member of this body who has a Lithuanian name and had the privilege of going to Lithuania with the distinguished author of this amendment, I commend the gentleman on his efforts, and I hope that the Members of this body will remember the fact that one of the reasons the Lithuanians have been seeking independence is because of their heritage and their history. At the end of World War II when the Soviets took over the country of Lithuania, anybody who admitted publicly that they had a belief in their God or anybody who had any education or training, they were executed. They killed one-third of their population. At one time they murdered 380,000 people in one execution. So I think it is important that this body must do whatever we can to help that small country, which has no army, no way of defending themselves or protecting themselves, but we must do our part to help that country in their pursuit of independence and freedom.

Mr. Chairman, I commend the gentleman from Illinois for his efforts in that cause.

Mr. DURBIN. Mr. Chairman, I thank the gentleman from Texas.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman from Illinois for yielding to me, and I want to commend him for this very appropriate amendment, because it is absolutely right that this body should work a point of leverage to move the Soviets toward a better position with respect to Lithuania.

Let me just say with respect to the gentleman who just spoke and sat down that an important part of making sure that Lithuania is not oppressed by the Soviets is the ability to continue for them to have a crude and open telecommunications system, and I am referring to the Soviet Union, where when they give an order to execute somebody we know about it, because we can see it.

I think it would be absolutely wrong to vote for this and yet not to vote against the striking of the telecommunications section that would give the Soviet Union a closed communication system where executions and tortures and punishments and economic sanctions can be ordered without the west knowing what happens.

Mr. DURBIN. Mr. Chairman, I thank the gentleman from California.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(By unanimous consent, Mr. DURBIN was allowed to proceed for 5 additional minutes.)

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from California.

□ 1330

Mr. COX. Mr. Chairman, I would like to join with the rest of my colleagues in commending the gentleman from Illinois [Mr. DURBIN] as well as our ranking member, the gentleman from Michigan, [Mr. BROOMFIELD], for offering this most important amendment.

Mr. Chairman, I had the privilege of traveling to Lithuania with the gentleman from Texas [Mr. SARPALIUS], the gentleman from Illinois [Mr. DURBIN], the gentleman from Washington [Mr. MILLER], and meeting with President Landsbergis, and meeting with the people of Lithuania at the time of their elections when they reaffirmed their independence from the Soviet Union.

I was interested to watch as President Gorbachev in the White House conducting his joint news conference with President Bush asked that the Lithuanian question be decided on the basis of the Soviet Constitution. The Soviet Constitution guarantees the right of all Union republics to secede without qualification. Lithuania ought not to be governed by that constitution in the first instance, because it is the fruit of the illegal Hitler-Stalin pact, but accepting President Gorbachev's argument, each Union republic has the right to secede.

What the Kremlin has now done is pass a statute, not a constitutional amendment, attempting post facto to abridge that right. The Lithuanian people acted in good faith in accordance even with Soviet procedures. They are now being put to perhaps a 5- or 7-year procedure designated to frustrate what is rightfully theirs.

It is most important that the United States withhold benefits, not impose punitive sanctions against the Soviet Union, but withhold future benefits in order to encourage the Soviet Union to live by the rule of law. That will benefit not only the people of Lithuania but the people of all the Baltic republics and, indeed, all the nations of the world.

I am delighted to support the amendment.

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I am happy to yield to the gentleman from Washington.

Mr. MILLER of Washington. Mr. Chairman, I want to add my support to the amendment proposed by the gentleman from Illinois and the gentleman from Michigan.

We are, in this world today, always trying to balance concerns for trade and cooperation with concern for human rights, and I think that is what this amendment does. It sends a message to the world that, yes, we want increased trade; yes, we want cooperation with the Soviet Union; but we have not forgotten, and we will not forget, the people of Lithuania, and it sends the message that we stand with the people of Lithuania in their quest for freedom and independence.

Mr. DURBIN. Mr. Chairman, I thank my colleague from Washington.

Let me say, in conclusion, that this short debate which we have engaged in has been very interesting.

My colleague from Michigan has been an excellent cosponsor of this amendment. The people who have stepped forward to speak on behalf of the amendment have come from every corner of this Nation, from every point on the political spectrum.

We have said clearly that we want to see an era of peace and hope with the Soviet Union. We want to see Mr. Gorbachev succeed in bringing openness and restructuring to the Soviet Union, but not at the expense of the people of Lithuania.

The cold war continues. The Iron Curtain is still present when it comes to the Baltic republics of Estonia, Latvia, and Lithuania.

In this amendment, we make it clear that, if we are going to move forward to peace between the superpower nations, we must also move forward to peace on the Baltic. Our vision of a peaceful world is a world where Lithuanians and other freedom-loving people shove in our dream.

AMENDMENT OFFERED BY MR. LEVINE OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. DURBIN, AS MODIFIED

Mr. LEVINE of California. Mr. Chairman, I offer an amendment to the amendment as modified.

The Clerk read as follows:

Amendment offered by Mr. LEVINE of California to the amendment as modified offered by Mr. DURBIN:

Insert "(a) EXPORTS.—" before the first sentence.

Add the following at the end of the amendment.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that no reports to the Soviet Union otherwise permitted by virtue of the amendments made by this title should be made if the Soviet Union takes action to restrict the emigration of Jews from the Soviet Union.

Mr. LEVINE of California. Mr. Chairman, I rise to offer an amendment to the substitute amendment as read.

First of all, I would like to commend my friend, the gentleman from Illinois [Mr. DURBIN], and my friend, the gentleman from Michigan [Mr. BROOMFIELD], for their fine work and leadership with regard to this amendment. I think the debate that we have seen on the floor demonstrates the unanimity of view in this House with regard to this issue.

I wanted to add the language and offer the language that was just read, Mr. Chairman, for some urgent reasons that occurred in the course of the past several days.

We are all aware of the very productive summit that occurred and the fact that the results of the summit were extremely encouraging in a range of areas. I strongly support increased United States-Soviet trade and I know I am joined by my colleagues in wanting to see Mr. Gorbachev's politics of glasnost and perestroika succeed. Despite this encouragement at the summit, Mr. Chairman, at a Washington press conference this past Sunday, Soviet President Gorbachev issued an ominous threat to Soviet Jews and one which needs to be responded to as urgently as possible, and this is the first legislative opportunity to do that in the United States Congress.

The Soviet President suggested that the Soviet Government may curtail the issuance of emigration visas for Soviet Jews unless the Government of Israel prevents Soviet emigres from settling in the occupied territories. In making this threat, Mr. Chairman, the President of the Soviet Union has played into the hands of radical Arab leaders who have sought to create an atmosphere of belligerence and of hysteria and of extraordinary misrepresentation in the Arab world and beyond over the issue of the emigration of Jews to Israel.

This is not an issue of where Jews are settling in Israel. Less than one-half of 1 percent of Soviet Jews who have emigrated to Israel have, in fact, chosen to settle in the West Bank or in Gaza. The fact is, and I trust that the President of the Soviet Union well understands this fact, the Government of Israel has no policy of encouraging Soviet emigres to settle in the West Bank. The Government of Israel has repeated that time and time again and has made it very, very clear that there simply is no Israeli Government policy of encouraging Soviet Jews to settle in the West Bank and Gaza.

Let us be clear. The Arab campaign that is being mounted internationally against Soviet Jewish emigration is directed against all Soviet Jewish emigration to Israel, and the fact of the matter is that this outrageous, pernicious campaign is altogether too reminiscent of a very similar Arab campaign that was too successfully waged some 50 years ago at a time when Jews in danger throughout Europe were prevented from moving to Palestine when their lives were in mortal danger.

If the United States did not take the lead as we have done now over the course of the past 20 years to do everything we can to encourage this flow of

emigration and results that were at all similar to those of the 1930's and 1940's in any way were to occur, the United States, I believe, would find to its eternal regret that inaction.

Mr. Chairman, I believe the U.S. Congress will want to go on record today in this sense-of-Congress amendment to this amendment opposing any restrictions on the emigration of Soviet Jews and underscoring the support for the policy of allowing Soviet Jews to emigrate to Israel.

Mr. Gorbachev's statement heightens the danger for Soviet Jews who are trapped between growing anti-Semitism in the Soviet Union and the Arab campaign to block them from going to Israel. I hope that we will go on record overwhelmingly on this floor at this time suggesting to Mr. Gorbachev that he not implement the threat that he put on the table last Sunday and that the emigration of Soviet Jewry continue to expand as it has in the course of the past several months. We welcome that expansion. We want to see it continue. We do not want this campaign led by radical Arab leaders through misrepresentation to have the untoward effects that they would like it to have.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SOLOMON. Mr. Chairman, I wholeheartedly support the statement of the gentleman from California, and I support his amendment to the amendment.

My parliamentary inquiry is that we have a Member, the gentleman from Pennsylvania [Mr. RITTER], who would like to have the opportunity to offer an amendment to the amendment to be offered by the gentleman from Indiana [Mr. BURTON] on Cuba, and the Ritter amendment would deal with Afghanistan along the same basis that the gentleman from California has been speaking.

I just question: what is the parliamentary procedure for the recognition of the amendment of the gentleman from California [Mr. LEVINE] and whether or not it would be in order at the appropriate time for the gentleman from Pennsylvania [Mr. RITTER] to offer his amendment to the amendment based on the same scenario?

The CHAIRMAN. The pending situation has no bearing on what might be the situation to what the Chair cannot anticipate, that could develop subsequently on another amendment.

Mr. SOLOMON. Mr. Chairman, I have a further parliamentary inquiry.

Mr. Chairman, on what basis is the gentleman from California [Mr. LEVINE] allowed to offer his amendment to the amendment? And, again, I do not question the basis of his amendment, because I support it. But I do not see it in the rule. That is why I was asking.

The CHAIRMAN. The rule does not prevent amendments to the amendment, and no point of order with regard to its germaneness was raised in a timely fashion.

Mr. SOLOMON. Mr. Chairman, I would just like to say that I would not raise a point of order against the amendment. It is a good amendment. I hope that we would receive the same courtesy when the gentleman from Pennsylvania [Mr. RITTER] offers his later on today.

I thank the Chair.

□ 1340

(At the request of Mr. DREIER and by unanimous consent, Mr. LEVINE of California was allowed to proceed for 3 additional minutes.)

Mr. LEVINE of California. Mr. Chairman, I yield to the gentleman from Nebraska [Mr. BEREUTER] for a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. BEREUTER. Mr. Chairman, I would address my parliamentary inquiry to the Chair in this fashion: is it still timely to object or to raise reservations under the point of nongermaneness to the amendment?

The CHAIRMAN. The Chair would respond in this fashion: it is too late. That point of order would have to have come prior to the time the gentleman from California [Mr. LEVINE] was recognized to debate his amendment.

Mr. BEREUTER. I thank the Chair for his ruling. If the gentleman from California [Mr. LEVINE] would yield further for purposes of debate, I must say I have some concern about the amendment of the gentleman from two points of view. One is the line of amendments that will follow, to which we may object if we do it in a timely fashion, I understand, but we are unlikely to object. I just wonder how much this will unravel and what it is going to do to the basic intent of the Durbin amendment.

The second thing, I am a bit concerned that we send a false message to the government of Israel. It has been I think the consensus at least that we want to do nothing to encourage the settlement of Soviet emigrants on the West Bank. As I understand it, that is the basis of the reservations at least enunciated by the Soviet Union.

Mr. LEVINE of California. Mr. Chairman, I would be happy to respond to both points. On the first one, I am not familiar with the substance of the amendments the gentleman is referring to. Obviously, that will be something that will have to be reviewed with the leadership of the committee. I would say I submitted my amendment to the committee leadership and was advised they supported my amendment before I offered it.

With regard to the substantive point that the gentleman from Nebraska [Mr. BEREUTER] raises, and I say this to my friend, one of the points that I am trying to emphasize in the course of this debate is that the Government of Israel has made it clear repeatedly that it has no policy of encouraging these emigres to settle on the West Bank and Gaza, and in fact less than one-half of 1 percent of them have done so.

To imply that in fact there is a policy or a practice of substantial numbers of Soviet Jewish emigres settling in the West Bank and Gaza does a great injustice to what is occurring on the ground. These Soviet Jews are settling in overwhelming numbers, all but negligible numbers, in pre-1967 Israel, and in the city of Jerusalem.

The fact is that when the President of the Soviet Union makes the statement that he does, perhaps without intending to do so, this submits a message that there is a perception that there is a government policy in Israel to settle these Jews in the West Bank and Gaza, and that is not the case. That is contrary to the Israeli policy, it is contrary to what is occurring. When the President of the United States and the Secretary of State made clear, as I compliment them for having done, that it continues to be American policy to encourage the unfettered immigration of Soviet Jews, as has been American policy now consistently, this is a message that the leadership of the Soviet Union must hear as well.

This is not designed to be a message at all encouraging immigration in the West Bank and Gaza.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield for a further clarification?

The CHAIRMAN. The time of the gentleman from California [Mr. LEVINE] has again expired.

(By unanimous consent, Mr. LEVINE of California was allowed to proceed for two additional minutes.)

Mr. LEVINE of California. I would be happy to yield to my friend from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I appreciate the comments of the gentleman. His comments are not inconsistent with my own thinking. I think it is substantially less than 1 percent of the Soviet emigrants ending up on the West Bank. I am hoping there is no encouragement on the part of the Israeli Government. I know of no reason to think there is.

I would just ask the gentleman from California [Mr. LEVINE] if he would point out that certainly by offering his amendment, he does nothing to indicate that this body is in support of the settlement of Soviet emigrants on the West Bank.

Mr. LEVINE of California. Mr. Chairman, I think that is a fair point. This amendment is not designed to encourage such settlement.

Mr. BEREUTER. If the gentleman would yield further, I appreciate the gentleman's reassurance. I expected it. I appreciate the effort of the gentleman, and I certainly support his amendment to the Durbin amendment in that respect.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I am happy to yield to my friend, the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I want to compliment the gentleman from California [Mr. LEVINE] on his amendment. For nearly two decades the question of the free right of emigration from the Soviet Union for Soviet Jews has been virtually a consensus issue in this Congress. What the gentleman from California [Mr. LEVINE] is doing is ensuring at this moment of extraordinary change and in altering our trade and technology policies with the Soviet Union that we not lose sight of that objective.

I believe the gentleman from Nebraska [Mr. BEREUTER] has raised a legitimate point that needed to be clarified, that indeed we are also not changing American policy with regard to our views on the settlement of people in the occupied territories. We are not.

What we seek here is consistency, and that is the absolute right of Soviet Jews to leave the Soviet Union, and maintaining that policy, that that view, this commitment to that basic human right, will be reflected in the future in our trade and our technology and our arms policies, our sense of confidence in dealing with the Soviet Union certainly in the future, as we did in the past.

The amendment of the gentleman from California [Mr. LEVINE] will be remembered as we remember Jackson-Vanik, as a turning point in a total view of our relationship with the Soviet Union. I compliment the gentleman on his amendment.

The CHAIRMAN. The time of the gentleman from California [Mr. LEVINE] has again expired.

(By unanimous consent, Mr. LEVINE of California was allowed to proceed for 15 additional seconds.)

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman from New Jersey [Mr. TORRICELLI]. I wish to thank the Chairman, the minority leadership, and the gentleman from Illinois [Mr. DURBIN] for their leadership on these issues.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I have no desire to unnecessarily prolong these festivities. I realize that I am again playing the role of the onion in the petunia patch, and that this amendment is going to pass because of strongly held feeling about the rights of Lithuanians and the rights of Jews in Russia.

Mr. Chairman, I have no objection to the motivation of those who are promoting these fine amendments. We are going to find, however, that there will be amendments concerning Cuba, there will be amendments concerning Afghanistan, and there will be others concerning China. I cannot imagine why we have not included Latvia and Estonia. I am sure we will have other amendments for Azerbaijan and other Soviet republics. We may even have one that will prevent any untoward action by Quebec separatists in Canada.

These amendments, while noble in spirit and motivation, ignore the point that why we are passing this bill is to enhance the ability of the U.S. companies to do business in parts of the world where those opportunities have been denied to them previously.

This is not a foreign aid bill. This is not a goodie bill. We are not withholding goodies until somebody does what we want.

There are no goodies here, except for American companies who seize the opportunities.

This bill is a part of an expending U.S. policy to give us better ability to trade with people that we had less confidence in yesterday, and we have a little more confidence in today.

These kinds of amendments are wonderful. They really belong in a different context, however, perhaps in a foreign aid bill or perhaps in a House resolution. By the time we have passed this bill we will have loaded it down with enough restrictions so that it will not do what the authors intended it to do when they put it together.

The sponsors' intention was not to give any goodies to anybody, but to provide a way that U.S. manufacturers, producers, and sellers could do business in areas where they could not do it before, or at least could not do it easily.

Mr. Chairman, I wish that we would not entangle these commercial bills with other areas of obvious and profound importance to Members. I cannot prevent it, but at least I do not have to be a part of it. This should be a bill to make trade easier for Americans. Additional trade restrictions should be handled in another vehicle.

Mr. Chairman, I thank the Members for their indulgence, and I yield back the balance of my time.

Mr. WOLPE. Mr. Chairman, I rise in support of the amendment offered by my colleague, Mr. DURBIN, and want to thank him for bringing this important issue to the floor.

Since the establishment of the independent Lithuanian Republic, events in Lithuania have been unfolding rapidly. The Soviet leadership in Moscow has imposed economic sanctions and talks between the two parties have not yet yielded any concrete results. In light of these developments, it is critical that the United States clearly speak out in favor of self-determination for the Lithuanian people. Unfortunately, it seems as though we will have no such clarity from the White House. Just 2 weeks ago, President Bush indicated that he would find it very difficult to extend trade concessions to the Soviets until further improvements were brought about in the Baltic States. Yet, this week, at the end of the dramatic summit, the President's linkage was suddenly dropped. Sadly, this sends a confusing and disjointed message to the courageous people of Lithuania who are struggling on behalf of democracy and the right of self-determination.

The amendment which we have before us today allows Congress, once again, to affirm its support for the Lithunanian democracy movement. It would prohibit any easing of export restrictions to the Soviet Union until the President certifies that the Soviet Government is not imposing economic sanctions on the Lithuanian people and that it has entered into serious negotiations with the elected Government of Lithuania on the issue of self-determination. This is a very simple but much needed amendment which should signal to Moscow, the firm insistence of the American Congress that the Lithuanian crisis be resolved through peaceful means and by negotiations between the two parties.

Once again, I thank the gentleman for bringing this amendment to the House floor and urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. LEVINE] to the amendment, as modified, offered by the gentleman from Illinois [Mr. DURBIN].

The amendment to the amendment, as modified, was agreed to.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Illinois [Mr. DURBIN], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote.

The recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 390, noes 24, not voting 18, as follows:

[Roll No. 149]

AYES—390

Ackerman	Bentley	Bruce
Alexander	Bereuter	Buechner
Anderson	Berman	Bunning
Andrews	Bevill	Burton
Annunzio	Bilbray	Bustamante
Anthony	Bilirakis	Byron
Applegate	Bliley	Callahan
Archer	Boehlert	Campbell (CO)
Armey	Boggs	Cardin
Atkins	Bonior	Carper
AuCoin	Borski	Carr
Baker	Bosco	Chandler
Ballenger	Boucher	Chapman
Barnard	Brennan	Clarke
Bartlett	Brooks	Clay
Barton	Broomfield	Clement
Bateman	Browder	Clinger
Beilenson	Brown (CA)	Coble
Bennett	Brown (CO)	Coleman (MO)

Coleman (TX)	Hubbard	Owens (NY)
Collins	Huckaby	Owens (UT)
Combest	Hughes	Oxley
Condit	Hunter	Packard
Conte	Hutto	Pallone
Conyers	Hyde	Panetta
Cooper	Inhofe	Parker
Costello	Ireland	Parris
Coughlin	Jacobs	Pashayan
Courter	James	Patterson
Cox	Jenkins	Paxon
Coyne	Johnson (CT)	Payne (NJ)
Craig	Johnson (SD)	Payne (VA)
Crane	Johnston	Pease
Dannemeyer	Jones (GA)	Pelosi
Darden	Jones (NC)	Penny
Davis	Jontz	Perkins
DeFazio	Kanjorski	Pickett
DeLay	Kaptur	Pickle
Derrick	Kasich	Porter
DeWine	Kennedy	Poshard
Dickinson	Kennelly	Price
Dicks	Kildee	Pursell
Dingell	Kleczka	Quillen
Dixon	Kolbe	Rangel
Donnelly	Kolter	Ravenel
Dorgan (ND)	Kostmayer	Ray
Dornan (CA)	Kyl	Regula
Douglas	LaFalce	Rhodes
Dreier	Lagomarsino	Richardson
Duncan	Lancaster	Ridge
Durbin	Lantos	Rinaldo
Dwyer	Laughlin	Ritter
Dyson	Leach (IA)	Roberts
Early	Leath (TX)	Robinson
Eckart	Lehman (FL)	Roe
Emerson	Lent	Rogers
Engel	Levin (MI)	Rohrabacher
English	Levine (CA)	Ros-Lehtinen
Erdreich	Lewis (FL)	Rose
Evans	Lewis (GA)	Rostenkowski
Fascell	Lightfoot	Roth
Fawell	Lipinski	Roukema
Feighan	Livingston	Rowland (CT)
Fields	Lloyd	Rowland (GA)
Fish	Long	Roybal
Flake	Lowey (NY)	Russo
Foglietta	Luken, Thomas	Sabo
Ford (MI)	Lukens, Donald	Saiki
Ford (TN)	Machtley	Sangmeister
Frank	Madigan	Sarpalius
Frost	Manton	Sawyer
Gallo	Markey	Saxton
Gaydos	Martin (IL)	Schaefer
Gejdenson	Martin (NY)	Scheuer
Gekas	Martinez	Schneider
Gephardt	Matsui	Schroeder
Geren	Mavroules	Schuette
Gibbons	McCandless	Schulze
Gillmor	McCloskey	Schumer
Gilman	McCollum	Sensenbrenner
Gingrich	McCrery	Serrano
Glickman	McCurdy	Sharp
Goodling	McDermott	Shaw
Gordon	McEwen	Shays
Goss	McGrath	Shumway
Gradison	McMillan (NC)	Shuster
Grandy	McMillen (MD)	Sikorski
Grant	McNulty	Sisisky
Gray	Meyers	Skaggs
Green	Mfume	Skeen
Guarini	Michel	Skelton
Gunderson	Miller (OH)	Slaughter (NY)
Hall (OH)	Miller (WA)	Slaughter (VA)
Hall (TX)	Mineta	Smith (FL)
Hancock	Moakley	Smith (NE)
Hansen	Molinari	Smith (NJ)
Harris	Mollohan	Smith (TX)
Hastert	Moorhead	Smith (VT)
Hatcher	Morella	Smith, Denny (OR)
Hawkins	Morrison (CT)	Smith, Robert (NH)
Hayes (IL)	Morrison (WA)	Smith, Robert (OR)
Hayes (LA)	Mrazek	Snowe
Hefley	Murphy	Solarz
Hefner	Murtha	Solomon
Henry	Myers	Spence
Herger	Nagle	Spratt
Hertel	Natcher	Staggers
Hiler	Neal (MA)	Stallings
Hoagland	Neal (NC)	Stangeland
Hochbrueckner	Nielson	Stark
Holloway	Nowak	Stearns
Hopkins	Oakar	Stokes
Horton	Oberstar	Studds
Houghton	Olin	Stump
Hoyer	Ortiz	Sundquist
		Swift
		Synar
		Tanner
		Tauke
		Tauzin
		Taylor
		Thomas (CA)
		Thomas (GA)
		Thomas (WY)
		Torres
		Torricelli
		Towns
		Traficant
		Traxler
		Udall
		Unsoeld
		Upton
		Valentine
		Vander Jagt
		Vento
		Visclosky
		Volkmer
		Vucanovich
		Walgren
		Walker
		Walsh
		Washington
		Watkins
		Waxman
		Weber
		Weldon
		Wheat
		Whittaker
		Whitten
		Williams
		Wilson
		Wise
		Wolf
		Wolpe
		Wyden
		Wylie
		Yates
		Yatron
		Young (AK)
		Young (FL)

NOES—24

Aspin	Gonzalez	Obey
Bryant	Hamilton	Petri
Campbell (CA)	Hammerschmidt	Rahall
Crockett	Kastenmeier	Savage
Downey	Marlenee	Smith (IA)
Dymally	Mazzoli	Stenholm
Edwards (CA)	McHugh	Tallon
Frenzel	Montgomery	Weiss

NOT VOTING—18

Bates	Fazio	McDade
Boxer	Flippo	Miller (CA)
de la Garza	Gallegly	Moody
Dellums	Lehman (CA)	Nelson
Edwards (OK)	Lewis (CA)	Schiff
Espy	Lowery (CA)	Slattery

□ 1410

Messrs. CAMPBELL of California, BRYANT, EDWARDS of California, DYMALLY, WEISS, and RAHALL changed their votes from "aye" to "no."

Mr. MOORHEAD changed his vote from "no" to "aye."

So the amendment, as modified, as amended, was agreed to.

The result of the vote was announced as above recorded.

□ 1410

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 48, insert the following after line 11:

SEC. 124. EXPORT OF SATELLITES FOR LAUNCH BY PEOPLE'S REPUBLIC OF CHINA.

Notwithstanding any other provision of law, no satellite of United States origin that is intended for launch from a launch vehicle owned by the People's Republic of China may be exported from the United States.

Mr. SOLOMON. Mr. Chairman, I will be as brief as I can, but I do want to take time to explain this amendment so that we send the message to the People's Republic of China of how this Congress feels.

Let me begin, Mr. Chairman, by addressing the granting of distribution and comprehensive operations licenses for American exports being shipped to the People's Republic of China. Although the granting of such licenses of China is currently permitted by law, a serious look must be given as to whether they should be allowed to be granted in the future. First, allow me to explain what a distribution license is. It enables an exporter to obtain one license to cover a series of shipments to a broad range of distributors, instead of seeking individual validated licenses for each sale.

Now, Mr. Chairman, these have traditionally been used in Cocom countries where risks of diversions for unauthorized uses are considered to be lower than elsewhere.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, we plan to support the gentleman's amendment, at least in this section. Is the gentleman presently talking about the satellite amendment?

Mr. SOLOMON. No, the distribution license.

Mr. GEJDENSON. I believe the Clerk read the satellite amendment. I do not mind which one he takes first, but I suggest we coordinate this effort.

Mr. SOLOMON. Mr. Chairman, I would ask if they did not call up the first amendment, which was a distribution of licenses amendment, I would ask unanimous consent to bring up this amendment and withdraw the satellite amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Without objection, the first amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 4, strike lines 2 through 13 and insert the following:

"(a) TYPES OF LICENSES.—Section 4(a)(2) (50 U.S.C. App. 2403(a)(2)) is amended—

(1) in subparagraph (A) in the first sentence by striking ", except that" and all that follows through "China"; and

(2) in subparagraph (B) in the first sentence by striking "(except the People's Republic of China)"

Mr. SOLOMON. Mr. Chairman, now that we are in first amendment, let me continue by saying the probability of serious strategic diversions under such an authorization for the People's Republic of China is extremely significant. A comprehensive operations license, for example, can include the export of military critical technologies, which are otherwise controlled for national security reasons.

A glance at the daily newspapers or the nightly newscasts in the past few weeks about the rising tensions in the Middle East offers a solid example of where our technologies could be diverted to, once they are in China.

Early during the rules debate, I held up a headline that I have since had enlarged which says, "The World's Most Dangerous Man," and it goes on to say:

The world's most dangerous man with billions to spend and help from the U.S., the Soviets, and Europe, Saddam Hussein is amassing a truly terrifying arsenal.

I just call that to all Members' attention.

Let me say to my colleagues that the Chinese sold medium-range CSS-2 East Wind missiles to Saudi Arabia in 1988. These missiles have a range of 1,800 miles, and are capable of carrying chemicals or nuclear warheads into, of all other places, downtown Jerusalem. Who could afford to take such chances? News clippings I have read over the last few weeks have indicated increased marketing activities in the Middle Eastern countries of Syria, Iraq—the headline I just read—which we all know about and Libya, by the Chinese who promote the sales of more accurate ballistic missiles.

Mr. Chairman, the potential for mischief increases to intolerable proportions if sensitive technology falls into the hands of Mu'ammar Qadhafi, of Saddam Hussein, both of whom have been described at one time or another as, again, the most dangerous men in the world, now are on the route of China's arms salesmen.

Think about that, my colleagues. The continued granting of distribution and comprehensive operation licenses to the People's Republic of China, would only help the Chinese to take advantage of our generosity, by diverting sensitive technologies to the more volatile regions of the world. Why should they not? They need the hard currency to keep their oppressive regime in power.

Mr. Chairman, I wish to cite an editorial from the issue of the Chicago Sun-Times dated September 10, 1988. Although it was printed nearly 2 years ago, it bears particular relevance today. Let me take the time to read it.

Let us suppose you had befriended someone in ghetto who happened to be peddling drugs, and you said he had to give that up in order for this friendship to prosper. How would you react if the new friend said he couldn't because he was poor, and that selling drugs was the only way he made money?

Now, my colleagues, now substitute "the United States" for "yourself"; "China" for the "friend in the ghetto" and "arms" for "drugs." Now Members get the point.

Mr. Chairman, China is hooked on diverting sensitive technologies to the more volatile regions of the world and will increase its efforts to do so in the future as it struggles to increase its supply of hard currency, which gets worse and worse just like the Soviet Union every day. Our assistance in allowing fraud licenses for export to China permits the transfer of vital technologies to a nation which is hooked on diverting them elsewhere for the understandable addiction to hard currency.

Let me just wrap up by asking, are we going to nourish China's appetite for such dangerous aversions and prop up the oppressive Communist government while we do so? Or are we going to, once and for all, force an increasingly uncooperative and hardline totalitarian power to face the music and bend to the will of its people?

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I would like to compliment the gentleman on this amendment. I think that it is something that does deserve the support of both sides of the aisle. As usual, he is in the forefront of identifying these issues and bringing them to the attention of the House and the American people.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for his continuing support in this very important effort.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. Mr. Chairman, I yield to the gentleman from Connecticut.

Mr. GEJDENSON. This side believes it is an excellent amendment. No question that the Government in China has proven itself to be one of the most ruthless and brutal governments, and one that, without limit, seems to be increasing the technology of destruction around the world. I would commend and support the gentleman for his amendment.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for his leadership in this effort. I recall his testimony before his own subcommittee several weeks ago in which he cited many of the points that I have made here today. I commend him for it.

Mr. Chairman, I yield back the balance of my time.

□ 1420

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would say to the Members of the body after looking at the Solomon description of the amendment, I have a question I would address to the gentleman. It appears to me, if I may have the attention of the distinguished gentleman from New York, that he would eliminate the option the administration authority now has under current law to issue a general export distribution license with respect to the People's Republic of China.

So this is not a matter of the gentleman stopping a liberalization of a existing law; he is actually retracting or withdrawing some existing authority the President now has if the amendment succeeds. Is that correct?

Mr. SOLOMON. Mr. Chairman, if the gentleman will yield, yes, that is correct, but we do not actually hold it up, because what we are doing is holding up the fact that an exporter can obtain one license to cover a whole series of shipments to a broad range of distributors. They can still get the same thing, but the administration now would have a little elbow grease which they could use with them by offering it to them one at a time but approving it all on the same date. The same thing could be accomplished, but we are not just going to carte blanche give the Chinese everything they want.

Mr. BEREUTER. Mr. Chairman, it is my understanding, I would say to the gentleman, that the administration is not asking for a reduction in its flexibility or authority with respect to the issue of general export licenses to the People's Republic of China so I would ask the gentleman, does the administration support his amendment?

Mr. SOLOMON. Mr. Chairman, the administration does support the amendment which I will be offering on the subject of the Secretary of Defense in a few minutes. They have not given us an opinion on this, as they have not on much of the contents of the bill, and I am not sure exactly where they stand. However, substantially we are not taking away anything from them that they cannot continue to do. They would just have to do it with a little more negotiation with the Chinese people, and I personally do not think they would be opposed to it in the long run.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for his explanation. I am always reluctant to oppose the distinguished gentleman on what he proposes, but it occurs to me while this is certainly not the time to liberalize our trade laws with respect to the People's Republic of China, neither is this the time necessarily to cut back on what the President's authority is with respect to exports to the People's Republic of China.

So, Mr. Chairman, reluctantly I add my voice in opposition to the gentleman's amendment, because I really think it is not a matter of the gentleman allowing a provision in the bill which liberalizes trade in this bill. That is not the case at all. It is a matter of the gentleman's wanting to withdraw current and I emphasize the word current authority from the administration with respect to the People's Republic of China. I think the President has the opportunity to exercise his judgment as to whether or not general distribution licenses are appropriate under current law, and he should retain that opportunity. So I speak in opposition to the gentleman's amendment and urge my colleagues without much hope for prevailing in the current emotional climate rebuilding from the tragedy in the People's Republic of China last year.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KYL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 352, noes 62, not voting 18, as follows:

[Roll No. 150]

AYES—352

Ackerman	Douglas	Johnson (SD)
Anderson	Downey	Johnston
Andrews	Dreier	Jones (GA)
Annunzio	Duncan	Jones (NC)
Anthony	Durbin	Jontz
Applegate	Dwyer	Kanjorski
Atkins	Dyson	Kaptur
Ballenger	Early	Kasich
Barnard	Eckart	Kennedy
Barton	Edwards (CA)	Kildee
Bateman	Edwards (OK)	Kleczka
Bennett	Emerson	Kolbe
Bentley	Engel	Kolter
Berman	English	Kostmayer
Bevill	Erdreich	Kyl
Bilbray	Evans	LaFalce
Bilirakis	Fascell	Lagomarsino
Bliley	Fawell	Lancaster
Boehlert	Feighan	Lantos
Boggs	Fish	Laughlin
Bonior	Flake	Leach (IA)
Borski	Foglietta	Lent
Bosco	Ford (MI)	Levin (MI)
Boucher	Ford (TN)	Levine (CA)
Brennan	Frost	Lewis (FL)
Brooks	Gallo	Lewis (GA)
Broomfield	Gaydos	Lightfoot
Browder	Gejdenson	Lipinski
Brown (CA)	Gekas	Livingston
Brown (CO)	Gephardt	Lloyd
Bruce	Geren	Long
Bryant	Gibbons	Lowey (NY)
Buechner	Gillmor	Luken, Thomas
Bunning	Gilman	Lukens, Donald
Burton	Gingrich	Machtley
Bustamante	Gonzalez	Madigan
Byron	Goodling	Manton
Callahan	Gordon	Markey
Campbell (CO)	Goss	Martin (IL)
Cardin	Gradison	Martin (NY)
Carper	Grandy	Matsui
Carr	Grant	Mavroules
Chapman	Gray	Mazzoli
Clarke	Green	McCandless
Clay	Guarini	McCloskey
Clement	Gunderson	McCollum
Clinger	Hall (OH)	McCurdy
Coble	Hancock	McEwen
Coleman (MO)	Harris	McGrath
Coleman (TX)	Hastert	McHugh
Collins	Hatcher	McMillan (NC)
Combest	Hayes (IL)	McMillen (MD)
Condit	Hayes (LA)	McNulty
Conte	Hefley	Meyers
Conyers	Hefner	Mfume
Cooper	Henry	Michel
Costello	Herger	Miller (OH)
Coughlin	Hertel	Miller (WA)
Courter	Hiler	Mineta
Cox	Hoagland	Moakley
Craig	Hochbrueckner	Molinari
Crane	Holloway	Mollohan
Dannemeyer	Hopkins	Moorhead
Darden	Horton	Morella
Davis	Hoyer	Morrison (CT)
DeFazio	Hubbard	Mrazek
Derrick	Hughes	Murphy
DeWine	Hunter	Murtha
Dickinson	Hutto	Nagle
Dicks	Hyde	Natcher
Dingell	Inhofe	Neal (MA)
Dixon	Ireland	Neal (NC)
Donnelly	Jacobs	Nielson
Dorgan (ND)	James	Nowak
Dornan (CA)	Jenkins	Oakar
Oberstar	Sangmeister	Studds
Olin	Sawyer	Stump
Ortiz	Saxton	Sundquist
Owens (NY)	Schaefer	Swift
Owens (UT)	Scheuer	Synar
Oxley	Schiff	Tanner
Packard	Schneider	Tauke
Pallone	Schroeder	Taylor
Panetta	Schuette	Thomas (GA)
Parker	Schulze	Thomas (WY)
Parris	Schumer	Torres
Pashayan	Sensenbrenner	Towns
Patterson	Serrano	Traficant
Paxon	Shaw	Traxler
Payne (NJ)	Shumway	Unsoeld
Payne (VA)	Shuster	Upton
Pelosi	Sikorski	Vander Jagt
Perkins	Sisisky	Vento
Porter	Skaggs	Visclosky
Poshard	Skeen	Volkmer
Price	Skelton	Vucanovich
Pursell	Slaughter (VA)	Walgren
Quillen	Smith (FL)	Walker
Rahall	Smith (NE)	Walsh
Rangel	Smith (NJ)	Washington
Ravenel	Smith (TX)	Watkins
Ray	Smith (VT)	Waxman
Rhodes	Smith, Denny (OR)	Weiss
Richardson		Weldon
Ridge	Smith, Robert (NH)	Wheat
Rinaldo		Whittaker
Ritter	Smith, Robert (OR)	Whitten
Robinson		Williams
Rohrabacher	Snowe	Wilson
Ros-Lehtinen	Solarz	Wise
Rose	Solomon	Wolf
Roth	Spence	Wolpe
Roukema	Spratt	Wylie
Rowland (CT)	Staggers	Yates
Rowland (GA)	Stallings	Yatron
Roybal	Stangeland	Young (AK)
Russo	Stark	Young (FL)
Sabo	Stearns	
Saiki	Stokes	

NOES—62

Alexander	Hammerschmidt	Pickle
Archer	Hansen	Regula
Armey	Hawkins	Roberts
Aspin	Houghton	Roe
AuCoin	Huckaby	Rogers
Baker	Johnson (CT)	Rostenkowski
Bartlett	Kastenmeier	Sarpalius
Beilenson	Kennelly	Savage
Bereuter	Lehman (FL)	Sharp
Campbell (CA)	Marlenee	Shays
Chandler	Martinez	Slaughter (NY)
Coyne	McCrery	Smith (IA)
Crockett	McDermott	Stenholm
DeLay	Montgomery	Tallon
Dymally	Morrison (WA)	Tauzin
Fields	Myers	Thomas (CA)
Frank	Obey	Torricelli
Frenzel	Pease	Valentine
Glickman	Penny	Weber
Hall (TX)	Petri	Wyden
Hamilton	Pickett	

NOT VOTING—18

Bates	Flippo	McDade
Boxer	Gallegly	Miller (CA)
de la Garza	Leath (TX)	Moody
Dellums	Lehman (CA)	Nelson
Espy	Lewis (CA)	Slattery
Fazio	Lowery (CA)	Udall

□ 1442

Messrs. WYDEN, PEASE, HAWKINS, PICKLE, THOMAS of California, McCRERY, and BARTLETT changed their vote from "aye" to "no."

Mr. JOHNSON of South Dakota and Mr. PAYNE of New Jersey changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 48, insert the following after line 11:

SEC. 124. EXPORT OF SATELLITES FOR LAUNCH BY PEOPLE'S REPUBLIC OF CHINA.

Notwithstanding any other provision of law, no satellite of United States origin that is intended for launch from a launch vehicle owned by the People's Republic of China may be exported from the United States.

Mr. SOLOMON. Let me begin, Mr. Chairman, by addressing an issue which was first raised in this body nearly 2 years ago, namely the sale of American satellites which are intended to be launched on Chinese rockets.

Two years ago, I introduced an amendment on this floor to a foreign aid authorization bill which would have prohibited such sales from taking place. At the time, no one knew that the Chinese Government would give the orders to massacre hundreds of innocent students and other civilians in Tiananmen Square. At the time of the debate, no one knew that the Chinese Government would continue to persecute and execute participants in the popular democratic demonstrations right up until this very day.

The difference between that debate on an autumn day 2 years ago, and the one being engaged in at present, is that we do know just how hard-lined the Chinese Government has become, no question.

Following the massacre 1 year ago this month, the President sought to draw on his personal friendships with the Chinese leadership to improve the situation of economic reform and human rights in China. This was laudable in its farsightedness and we commend him for it. Unfortunately, however, the personal appeals have had little visible effect, as we all know. In fact, China today is a better reflection of the hard-lined days of Mao than of the forward-looking reform times which characterized most of the 1980's.

Some would say that the current Chinese leadership is ready to fall and that we should stand back and watch, or else our actions may only strengthen those very same leaders who remain in charge today.

I say this is nonsense. If the Chinese leadership is so weak, a message of disapproval from the United States Congress will send a strong signal to the democratic movement in China, some of which are right downstairs in this building today, that we sympathize with them and are willing to act to make life a little bit more difficult on their oppressors.

Mr. Chairman, this message must be sent. We cannot allow the oppressive Chinese regime to laugh behind our backs while we patiently wait for them to reform. They are turning back the clock in their land to the days of Mao.

One blatant area where the Chinese nonmarket economic system has fostered an unfair trade imbalance with our Nation, and posed a threat to our national security with respect to the transfer of critical military technology, is the Chinese expendable launch vehicle industry, with which you are all familiar.

The Chinese have been offering to launch American satellites on their boosters at prices ranging from 50 to 70 percent below the prices charged by their American and European competitors.

Healthy competition? This is impossible when their prices are a product of their nonmarket system; a system which does not accurately reflect the costs of the services being provided; a system which has cost thousands of jobs in our aerospace industry. Even the most competitive companies in the industry at this time are unable to match the unrealistic prices being offered by the Chinese. Free trade does not apply here. Such trade cannot occur when the value placed on a good or service does not reflect its actual cost, only that of slave labor.

Mr. Chairman, besides the unfair trade imbalance in this situation, there are national security concerns. Those individuals who participate and assist in launching a satellite require vital data about the launch in order to make the launch a success, vital information. Such a data transfer becomes a dangerous prospect when satellites carrying technologically sensitive information are launched by parties who would not otherwise be able to secure such technology.

Mr. Chairman, both these considerations make even more painful the continued refusal of the Chinese leadership to relax the hard-lined suppression of its people. The President, with far-sighted intentions, has tried to use personal diplomacy to achieve positive results with the Chinese. Unfortunately, 1 year has passed since the blood of innocent Chinese students was shed on the streets of Beijing and China still refuses to stop stepping on the dignity of its people.

□ 1450

Mr. Speaker, we need to send this message. Presently there are three satellites that are en route to China. Those contracts can be lived up to; but for the future, let us send the message that we and the American people are not going to underwrite this kind of persecution of decent human beings in China.

I urge support of the amendment.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I plan to support the gentleman's amendment. I do have an amendment to offer which is at the desk which will technically correct some mistakes in the previous amendment.

Mr. SOLOMON. Would the gentleman explain those amendments?

Mr. GEJDENSON. Basically, what happened in drafting the amendment, it went beyond the gentleman's goal and affected more than China. We want to make sure the Members of the House have their wishes completed. So the additional technical corrections will focus it where the gentleman had intended.

Mr. SOLOMON. And only of the People's Republic of China?

Mr. GEJDENSON. Only on the People's Republic of China.

Mr. SOLOMON. Mr. Chairman, the gentleman makes a lot of sense. I had intended that my amendment apply only to the People's Republic of China, and I certainly would accept the amendment.

AMENDMENT OFFERED BY MR. GEJDENSON TO THE AMENDMENT OFFERED BY MR. SOLOMON

Mr. GEJDENSON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. GEJDENSON to the amendment offered by Mr. SOLOMON: Add the following at the end of the amendment:

SEC. 125. TYPES OF LICENSES.

Section 4(a)(2) (50 U.S.C. App. 2403(a)(2)) is amended—

(1) in subparagraph (A)—

(A) in the first sentence by striking "controlled countries" and inserting "the People's Republic of China", and

(B) in the second sentence by striking "controlled countries" and inserting "an unauthorized use or consignee"; and

(2) in subparagraph (B) in the first sentence by striking "controlled countries" and inserting "the People's Republic of China".

Mr. GEJDENSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Chairman, unless there is further debate, I think both sides agree, and I would just ask that the amendment be accepted.

PARLIAMENTARY INQUIRY

Mr. BEREUTER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BEREUTER. Is this the amendment to the Solomon amendment that we are about to vote on?

The CHAIRMAN. We are about to vote on the Gejdenson amendment to the Solomon amendment.

Mr. BEREUTER. I thank the Chair.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON] to the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment to the amendment was agreed to.

Mr. BEREUTER. Mr. Chairman, I rise in support of the Solomon amendment.

Mr. Chairman, I am rising in support of the Solomon amendment despite my general disagreement with what he is doing in through his amendments—withdrawing export options that the President now has with respect to the PRC.

I would like to explain that decision. I certainly do not think we ought to be liberalizing trade with the People's Republic of China, but I do not think it is a good idea to be restricting or withdrawing current authority that the President now has with respect to the PRC. Those new trade sanctions are, I believe, going to change the tragic undemocratic action of the current leadership of the People's Republic of China.

I do think it is good to rely on President Bush's judgment about what is best for long-term Chinese-American relationships.

Nevertheless, I support the gentleman's amendment for another reason. The gentleman from New York [Mr. SOLOMON] and I were in Beijing less than 2 years ago, and we heard assurances that the Chinese were not shipping missile technology and missiles themselves to parts of the Middle East that had caused us a great deal of concern. The policy of the United States Government, of course, was that we did not want to see the export of these Chinese missiles to the warning notice of the Gulf region, and we had assurances that that would not happen. But yet, I think, the gentleman and I, if I am not misspeaking, had some doubts about whether or not we were receiving the straight information and whether or not missile technology and missiles were indeed being transferred at that time and in the future, to hostile nations or unfriendly nations or participants in the Iran-Iraq war. I still have those concerns.

I think by exporting satellites today for launch by PRC missiles we are enhancing the capability of their missile program in the PRC at a time when they are still possibly, shipping missiles and missiles technology around the world and contributing to the proliferation of those weapons among countries engaging in terrorism and international violence.

I think, for that reason, it is appropriate to withdraw the current arrangements we have for exporting United States satellites to the PRC. Therefore, for this reason, I rise in support of the gentleman's amendment, despite the fact that this particular amendment is contrary to the general direction I think we should be

going with respect to new sanctions against the PRC.

Mr. McMILLEN of Maryland. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the amendment offered by my friend and colleague from the State of New York. Mr. SOLOMON and I have persistently questioned the administration's logic in permitting the export of American satellites for launch on the Chinese Longmarch booster rocket. In December of last year, President Bush invoked a clause in the Munitions Control Act that permitted him to exempt satellite exports to China. At that time, President Bush cited national security considerations in his decision to allow the issuance of these export licenses.

Mr. Chairman, I continue my opposition to the administration's policy to subvert the intent of the Munitions Control Act. We definitely do not need to reward the Chinese Government for their conduct by continuing with this cooperative export agreement. Instead, we should use every resource at our disposal to coerce the Chinese Government into a greater respect for personal liberties and freedom.

During debate on this issue in earlier Congresses, the value of this satellite export deal to the future of Sino-American relations was viewed as superseding any security or economic concerns. Now, on the 1-year anniversary of the Tiananmen Square incident, we need to reassess the wisdom of this arrangement. By making an exemption for the export of these satellites, we risk weakening the effectiveness of the other sanctions that President Bush has chosen. We cannot permit this to happen, since we as a nation must be resolute in our support of the cause of freedom and liberty, even in the context of a Communist society such as China.

This is also an appropriate opportunity for us to examine some of the other ramifications of the Longmarch agreement between the Chinese and the Americans. Simply put, canceling the contract will translate into more business, and more jobs, for the domestic commercial launch sector.

This logic is based on the difficulty our commercial launch business will have in competing against a state-subsidized launch service like the Longmarch. At the minimum, this is inconsistent with American science policy.

We need to consider that the kind of reliance on subsidized foreign launch capabilities that the Longmarch deal represents may irreparably weaken our country's own expendable launch vehicle [ELV] efforts. At minimum, this is inconsistent with American science policy.

Mr. Chairman, I feel that these arguments are compelling—for these reasons, I invite my colleagues to join me in voting for Mr. SOLOMON's amendment. Congress needs to take a leadership position on this delicate, but nevertheless critical, foreign policy matter.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 393, noes 15, answered "present" 1, not voting 23, as follows:

[Roll No. 151]

AYES—393

Ackerman	Costello	Hall (OH)
Alexander	Coughlin	Hall (TX)
Anderson	Courter	Hamilton
Andrews	Cox	Hancock
Annunzio	Coyne	Hansen
Anthony	Craig	Harris
Applegate	Crane	Hastert
Archer	Dannemeyer	Hatcher
Armey	Darden	Hawkins
Aspin	Davis	Hayes (IL)
Atkins	DeFazio	Hayes (LA)
AuCoin	DeLay	Hefley
Baker	Derrick	Hefner
Ballenger	DeWine	Henry
Barnard	Dickinson	Herger
Bartlett	Dicks	Hertel
Barton	Dixon	Hiler
Bateman	Donnelly	Hoagland
Beilenson	Dorgan (ND)	Hochbrueckner
Bennett	Dornan (CA)	Holloway
Bentley	Douglas	Hopkins
Bereuter	Downey	Horton
Berman	Dreier	Hoyer
Bevill	Duncan	Hubbard
Bilbray	Durbin	Huckaby
Bilirakis	Dwyer	Hughes
Bliley	Dyson	Hunter
Boehlert	Early	Hutto
Boggs	Eckart	Hyde
Bonior	Edwards (CA)	Inhofe
Borski	Edwards (OK)	Ireland
Bosco	Emerson	Jacobs
Boucher	Engel	James
Brennan	English	Jenkins
Brooks	Erdreich	Johnson (CT)
Broomfield	Evans	Johnston
Browder	Fascell	Jones (GA)
Brown (CA)	Fawell	Jones (NC)
Brown (CO)	Feighan	Jontz
Bruce	Fields	Kanjorski
Bryant	Fish	Kaptur
Buechner	Flake	Kasich
Bunning	Foglietta	Kastenmeier
Burton	Ford (MI)	Kennedy
Bustamante	Ford (TN)	Kennelly
Byron	Frank	Kildee
Callahan	Frost	Kleczka
Campbell (CO)	Gallo	Kolbe
Cardin	Gaydos	Kolter
Carper	Gejdenson	Kostmayer
Carr	Gekas	Kyl
Chandler	Gephardt	LaFalce
Chapman	Geren	Lagomarsino
Clarke	Gibbons	Lancaster
Clay	Gillmor	Lantos
Clement	Gilman	Laughlin
Clinger	Gingrich	Leach (IA)
Coble	Glickman	Lehman (FL)
Coleman (MO)	Goodling	Lent
Coleman (TX)	Gordon	Levin (MI)
Collins	Goss	Levine (CA)
Combest	Gradison	Lewis (FL)
Condit	Grandy	Lewis (GA)
Conte	Grant	Lightfoot
Conyers	Guarini	Lipinski
Cooper	Gunderson	Livingston
Lloyd	Payne (NJ)	Smith (VT)
Long	Payne (VA)	Smith, Denny (OR)
Lowey (NY)	Pelosi	Smith, Robert (NH)
Luken, Thomas	Penny	Smith, Robert (OR)
Lukens, Donald	Perkins	Snowe
Machtley	Pickle	Solarz
Madigan	Porter	Solomon
Manton	Poshard	Spence
Markey	Price	Spratt
Marlenee	Pursell	Staggers
Martin (IL)	Quillen	Stallings
Martin (NY)	Rahall	Stangeland
Martinez	Rangel	Stark
Matsui	Ravenel	Stearns
Mazzoli	Ray	Stenholm
McCandless	Regula	Stokes
McCollum	Rhodes	Studds
McCrery	Richardson	Stump
McCurdy	Ridge	Sundquist
McDermott	Rinaldo	Swift
McEwen	Ritter	Synar
McGrath	Roberts	Tanner
McHugh	Roe	Tauke
McMillan (NC)	Rogers	Tauzin
McMillen (MD)	Rohrabacher	Taylor
McNulty	Ros-Lehtinen	Thomas (CA)
Meyers	Rose	Thomas (GA)
Mfume	Rostenkowski	Thomas (WY)
Michel	Roth	Torres
Miller (OH)	Roukema	Torricelli
Miller (WA)	Rowland (CT)	Towns
Mineta	Rowland (GA)	Traficant
Moakley	Roybal	Traxler
Molinari	Russo	Udall
Mollohan	Sabo	Unsoeld
Montgomery	Saiki	Upton
Moorhead	Sangmeister	Valentine
Morella	Sarpalius	Vento
Morrison (CT)	Sawyer	Visclosky
Morrison (WA)	Saxton	Volkmer
Mrazek	Schaefer	Vucanovich
Murphy	Scheuer	Walgren
Murtha	Schiff	Walker
Myers	Schneider	Walsh
Nagle	Schroeder	Watkins
Natcher	Schuette	Waxman
Neal (MA)	Schulze	Weber
Neal (NC)	Schumer	Weiss
Nielson	Sensenbrenner	Weldon
Nowak	Serrano	Wheat
Oakar	Sharp	Whittaker
Oberstar	Shaw	Whitten
Obey	Shays	Williams
Olin	Shumway	Wilson
Ortiz	Shuster	Wise
Owens (NY)	Sikorski	Wolf
Owens (UT)	Sisisky	Wolpe
Oxley	Skaggs	Wyden
Packard	Skeen	Wylie
Pallone	Skelton	Yates
Panetta	Slaughter (NY)	Yatron
Parker	Slaughter (VA)	Young (AK)
Parris	Smith (FL)	Young (FL)
Pashayan	Smith (NE)	
Patterson	Smith (NJ)	
Paxon	Smith (TX)	

NOES—15

Campbell (CA)	Green	Pickett
Crockett	Hammerschmidt	Robinson
Dingell	Houghton	Savage
Dymally	Pease	Smith (IA)
Frenzel	Petri	Tallon

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—23

Bates	Gray	McDade
Boxer	Johnson (SD)	Miller (CA)
de la Garza	Leath (TX)	Moody
Dellums	Lehman (CA)	Nelson
Espy	Lewis (CA)	Slattery
Fazio	Lowery (CA)	Vander Jagt
Flippo	Mavroules	Washington
Gallegly	McCloskey	

□ 1517

Messrs. LIPINSKI, VOLKMER, and SHAYS changed their vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. AUCOIN

Mr. AUCOIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is this the amendment as printed in the RECORD.

Mr. AUCOIN. It is, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. AUCOIN: Page 10, line 18, strike "to any country" and all that follows through "and that" on line 21 and insert the following:

"(I) any country in Eastern Europe that was a controlled country as of January 1, 1990, and that meets the criteria set forth in subparagraph (D), or

"(II) Poland, Hungary, Czechoslovakia, and any other country that becomes eligible for assistance under the Support for East European Democracy (SEED) Act of 1989, if such country".

Page 12, line 14, strike "of Eastern Europe described in" and insert "described in subclauses (I) and (II) of".

Page 12, line 16, strike "(A)(ii)" and insert "(A)(ii)(I)".

Page 15, line 21, insert after "Committee" the following: ", and with those countries described in subparagraph (A)(ii)(II).".

Page 16, strike lines 8 through 10 and insert the following:

"(ii) a list of those countries eligible for favorable consideration under subparagraph (A)(ii), pursuant to the proposal."

Page 16, insert the following after line 10:

"(J) For purposes of this paragraph, the term 'favorable consideration' means a procedure for the review of export license applications in which—

"(i) each government participating in the Coordinating Committee may review any such application for not more than 30 calendar days and may not make its approval of such application conditioned on any technical modifications in the proposed export, and

"(ii) the Coordinating Committee may deny any such application only if reliable evidence has been presented to the Committee demonstrating that the item proposed for export is destined for an unauthorized, non-civilian end use or end user.".

Page 18, line 8, insert "(other than a country referred to in paragraph (4)(A)(ii)(II)" after "Europe".

Page 18, line 9, strike "and" and insert, ", and the progress of each country in Eastern Europe with respect to".

Mr. AUCOIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. AUCOIN. Mr. Chairman, I offer this amendment along with my friend and colleague, the gentleman from Minnesota [Mr. FRENZEL], the ranking Republican on the Trade Subcommittee of the Ways and Means Committee. It is an amendment that enhances the goals of the Export Facilitation Act by clarifying the provisions of the bill which ease control on Western exports to certain Central European countries.

The bill, I think as the Members know, sets out three sets of tests that must be met before exports from Cocom countries in central Europe can receive favorable consideration on export licensing treatment. One of those tests is that no country can receive favorable consideration if that country represents a significant military threat to the United States.

Our amendment would simply state that Poland, Hungary, and Czechoslovakia do not represent such a threat and, therefore, are exempt from that test.

There is a good reason for this, Mr. Chairman. It is obvious that none of those three countries do represent a military threat to the United States of America. These three countries have made remarkable strides, as the Members know, toward democracy. It has been a thrilling thing I think for Americans across the country to observe.

□ 1520

Poland and Hungary, Mr. Chairman, are already eligible for United States foreign aid under the support for the East European Democracy Act passed by the Congress late last year.

The second act for support for East European democracy is coming before the Congress and to be marked up within a matter of weeks and will extend that same aid to Czechoslovakia.

If in the eyes of Congress, Mr. Chairman, these countries are worthy recipients of United States foreign aid, direct taxpayer support, and I think they are, then I think it only makes sense to let American industry and their workers do business with them to improve the productivity of those American businesses as well as the economy of these brave countries who have stood up and taken the step to pluralize and democratize their societies.

I think we can do that by adopting the AuCoin-Frenzel amendment and at the same time we can by doing so, by improving business with these countries, not only improve their economies and their chances of letting democracy succeed, but also hasten the day when they will not need foreign assistance, to stand on their own and to thrive on their own.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I yield to the chairman of the subcommittee, the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to commend both the gentleman from Minnesota [Mr. FRENZEL] and the gentleman from Oregon [Mr. AUCOIN] for an excellent amendment. These two gentlemen have worked for some time to strengthen American trade and American competitiveness.

The great irony is while we sit here with obstacles for American corporations and workers to benefit from the changes in Eastern Europe, the Japanese are in each country with $1 billion worth of tied aid.

There they are saying, "We will buy our way into these countries."

These countries respect America for what they have done for freedom around the world, they want to do business with us, and we ought to be consistent with Seed-1 and Seed-2.

Again, I think the gentleman from Oregon [Mr. AUCOIN] and the gentleman from Minnesota [Mr. FRENZEL] have an excellent amendment. I hope we can adopt it.

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I yield to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think the AuCoin amendment is an excellent one. In particular it gives us a chance to take a responsible step for the emerging democracies.

Mr. Chairman, I urge my colleagues to support the amendment.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I yield to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I simply want to congratulate the gentleman from Oregon and assure the House of what we are trying to do here, to facilitate trade with countries which all of us have already voted to send foreign aid to and which we are trying to improve. Obviously they are not the kinds of countries that are going to be a significant military threat to the United States, and that is the only provision of the law that we are changing. We are saying that they are not a significant military threat and we avoid some of the red tape that is included therein.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. AUCOIN] has expired.

(On request of Mr. FRENZEL and by unanimous consent, Mr. AUCOIN was allowed to proceed for 2 additional minutes.)

Mr. AUCOIN. I continue to yield to the gentleman from Minnesota.

Mr. FRENZEL. There is a second provision dealing with this that amplifies or rather clarifies and describes the term "favorable condition" or "favorable consideration." I think Members will find that that is not a controversial provision either.

I believe all Members of this House want to accelerate our relationships

and enhance our trade relationships with these three gallant countries that we are trying to help along the road to democracy and freedom.

Mr. Chairman, I am grateful again to the gentleman from Oregon for offering this amendment and hope that it is promptly passed.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I would be pleased to yield to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman on his effort here. I am fully supportive of what he is doing. I think it is important, as well.

My only question would be why Yugoslavia was not included on the list. I understand that may be because of the human rights problems in Kosovo.

I would like to raise a question therefore for the gentleman from Oregon [Mr. AuCOIN] or for the chairman of the subcommittee, the gentleman from Connecticut [Mr. GEJDENSON].

My understanding would be that Yugoslavia could, in effect, be added to this list effectively by the President if he chose to, and I wonder if that is correct. Second, would the passage of the Seed-2 Act in its current form, the authorizing bill which includes Yugoslavia, provide that authority to the President?

Mr. GEJDENSON. Mr. Chairman, would the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the President presently, I believe, has the discretion. I think under the Seed-2 he would have additional authority to do so.

Mr. BEREUTER. What would it now take in the absence of Yugoslavia being specifically mentioned for the President to extend the same benefits the gentleman is extending right now to the other three countries?

The CHAIRMAN. The time of the gentleman from Oregon [Mr. AuCOIN] has expired.

(By unanimous consent, Mr. AuCOIN was allowed to proceed for 1 additional minute.)

Mr. AuCOIN. Mr. Chairman, in response to the gentleman from Nebraska who by the way asks a good question, Yugoslavia could be included in two ways. The President could make a determination. The other way would be that in the passage of the Seed-2 legislation it could, of course, be possible to include Yugoslavia as a seed country and therefore under the terms of this amendment would be included.

Mr. BEREUTER. If the gentleman will yield further, I appreciate his clarification. I think this will be a good incentive for the Yugoslavian government to try to deal effectively and humanely with the human rights problem in Kosovo.

Mr. AuCOIN. That is precisely the intention of this amendment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, some of us were just in Hungary within the last few days. They have made a conscious decision at the present time to stay as a part of the Warsaw Pact.

I am just wondering how the gentleman's amendment deals with that reality insofar as some of these countries are going to remain a part of the Warsaw Pact.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. AuCOIN] has again expired.

(On request of Mr. WALKER and by unanimous consent, Mr. AuCOIN was allowed to proceed for 2 additional minutes.)

Mr. AuCOIN. In response to the gentleman, I would call his attention to the bill which spells out a series of tests that the President shall apply in proceeding under the authorities laid out in this act. One of those tests is whether a country represents a significant military threat to the United States. I do not happen to believe that Hungary represents a significant military threat to the United States. I do not know if the gentleman does or not.

The President could make that determination.

Mr. WALKER. Further, I would not contend that they do either, except that they themselves admitted that because of their continued ties to the Warsaw Pact, that we would probably need to institute some bilateral relationships with them to assure that technology transfer questions that might arise would not be a problem.

I am assuming there is room within the gentleman's amendment for those kinds of bilateral relationships to be established to give the appropriate assurances that we would need, is that correct?

Mr. AuCOIN. That is correct. I would say to the gentleman from Pennsylvania that two other tests are applied in each of these instances. There are two additional tests that have to be met. One is a guarantee of civilian end use and adequate apparatus to assure the United States that those guarantees will be lived up to the satisfaction of the United States.

□ 1530

The second is an apparatus that will safeguard against diversion to military technologies or to control countries. Those are tests that are not touched by this amendment whatsoever.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. AuCOIN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there was—ayes 409, noes 0, not voting 23, as follows:

[Roll No. 152]

AYES—409

Ackerman	Crane	Harris
Alexander	Dannemeyer	Hastert
Anderson	Darden	Hatcher
Andrews	Davis	Hawkins
Annunzio	DeFazio	Hayes (IL)
Anthony	DeLay	Hayes (LA)
Applegate	Derrick	Hefley
Archer	DeWine	Hefner
Armey	Dickinson	Henry
Aspin	Dicks	Herger
Atkins	Dingell	Hertel
AuCoin	Dixon	Hiler
Baker	Donnelly	Hoagland
Ballenger	Dorgan (ND)	Hochbrueckner
Barnard	Dornan (CA)	Holloway
Bartlett	Douglas	Hopkins
Barton	Downey	Horton
Bateman	Dreier	Houghton
Beilenson	Duncan	Hoyer
Bennett	Durbin	Hubbard
Bentley	Dwyer	Huckaby
Bereuter	Dymally	Hughes
Berman	Dyson	Hunter
Bevill	Early	Hutto
Bilbray	Eckart	Hyde
Bilirakis	Edwards (CA)	Inhofe
Bliley	Edwards (OK)	Ireland
Boehlert	Emerson	Jacobs
Boggs	Engel	James
Bonior	English	Jenkins
Borski	Erdreich	Johnson (CT)
Bosco	Evans	Johnson (SD)
Boucher	Fascell	Johnston
Brennan	Fawell	Jones (GA)
Brooks	Feighan	Jones (NC)
Broomfield	Fields	Jontz
Browder	Fish	Kanjorski
Brown (CA)	Flake	Kaptur
Brown (CO)	Foglietta	Kasich
Bruce	Ford (MI)	Kastenmeier
Bryant	Ford (TN)	Kennedy
Buechner	Frank	Kennelly
Bunning	Frenzel	Kildee
Burton	Frost	Kleczka
Bustamante	Gallegly	Kolbe
Byron	Gallo	Kolter
Callahan	Gaydos	Kostmayer
Campbell (CA)	Gejdenson	Kyl
Campbell (CO)	Gekas	LaFalce
Cardin	Gephardt	Lagomarsino
Carper	Geren	Lancaster
Carr	Gibbons	Lantos
Chandler	Gillmor	Laughlin
Chapman	Gilman	Leach (IA)
Clarke	Gingrich	Leath (TX)
Clay	Glickman	Lehman (FL)
Clement	Gonzalez	Lent
Clinger	Goodling	Levin (MI)
Coble	Gordon	Levine (CA)
Coleman (MO)	Goss	Lewis (FL)
Coleman (TX)	Gradison	Lewis (GA)
Collins	Grandy	Lightfoot
Combest	Grant	Lipinski
Condit	Gray	Livingston
Conte	Green	Lloyd
Conyers	Guarini	Long
Cooper	Gunderson	Lowey (NY)
Costello	Hall (OH)	Luken, Thomas
Coughlin	Hall (TX)	Lukens, Donald
Courter	Hamilton	Machtley
Cox	Hammerschmidt	Madigan
Coyne	Hancock	Manton
Craig	Hansen	Markey

Martin (IL)	Porter	Smith, Robert (NH)
Martinez	Poshard	Smith, Robert (OR)
Matsui	Price	Snowe
Mavroules	Pursell	Solarz
Mazzoli	Quillen	Solomon
McCandless	Rahall	Spence
McCloskey	Rangel	Spratt
McCollum	Ravenel	Staggers
McCrery	Ray	Stallings
McCurdy	Regula	Stangeland
McDermott	Rhodes	Stark
McEwen	Richardson	Stearns
McGrath	Ridge	Stenholm
McHugh	Rinaldo	Stokes
McMillan (NC)	Ritter	Studds
McMillen (MD)	Roberts	Stump
McNulty	Robinson	Sundquist
Meyers	Roe	Swift
Mfume	Rogers	Synar
Michel	Rohrabacher	Tallon
Miller (OH)	Ros-Lehtinen	Tanner
Miller (WA)	Rose	Tauke
Mineta	Rostenkowski	Tauzin
Moakley	Roth	Taylor
Molinari	Roukema	Thomas (CA)
Mollohan	Rowland (CT)	Thomas (GA)
Montgomery	Rowland (GA)	Thomas (WY)
Moorhead	Russo	Torres
Morrison (CT)	Sabo	Torricelli
Morrison (WA)	Saiki	Towns
Mrazek	Sangmeister	Traficant
Murphy	Sarpalius	Traxler
Murtha	Savage	Udall
Myers	Sawyer	Unsoeld
Nagle	Saxton	Upton
Natcher	Schaefer	Vander Jagt
Neal (MA)	Scheuer	Vento
Neal (NC)	Schiff	Visclosky
Nielson	Schneider	Volkmer
Nowak	Schroeder	Vucanovich
Oakar	Schuette	Walgren
Oberstar	Schulze	Walker
Obey	Schumer	Walsh
Olin	Sensenbrenner	Watkins
Ortiz	Serrano	Waxman
Owens (NY)	Sharp	Weber
Owens (UT)	Shaw	Weiss
Oxley	Shays	Weldon
Packard	Shumway	Wheat
Pallone	Shuster	Whittaker
Panetta	Sikorski	Whitten
Parker	Sisisky	Wilson
Parris	Skaggs	Wise
Pashayan	Skeen	Wolf
Patterson	Skelton	Wolpe
Paxon	Slaughter (NY)	Wyden
Payne (NJ)	Slaughter (VA)	Wylie
Payne (VA)	Smith (FL)	Yates
Pease	Smith (IA)	Yatron
Pelosi	Smith (NE)	Young (AK)
Penny	Smith (NJ)	Young (FL)
Perkins	Smith (TX)	
Petri	Smith (VT)	
Pickett	Smith, Denny (OR)	
Pickle		

NOES—0

NOT VOTING—23

Bates	Lehman (CA)	Morella
Boxer	Lewis (CA)	Nelson
Crockett	Lowery (CA)	Roybal
de la Garza	Marlenee	Slattery
Dellums	Martin (NY)	Valentine
Espy	McDade	Washington
Fazio	Miller (CA)	Williams
Flippo	Moody	

□ 1550

Mr. SHAYS changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HYDE: Page 22 strike line 21 and all that follows through page 27, line 12 and insert the following:

SEC. 109. COMMODITY JURISDICTION.

(a) ITEMS ELIGIBLE FOR DESIGNATION AS MUNITIONS LIST ITEM.—Section 38(a) of the Arms Export Control Act (22 U.S.C. 2778(a)) is amended—

(1) in the second sentence of paragraph (1) by inserting ", subject to paragraph (2) of this subsection," after "section";

(2) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (1) the following:

"(2) An item (including a component of any such item) may be designated as a Munitions List item for purposes of this section only if it is specially designed, developed, configured, adapted, or modified for military or intelligence application. An item may not be so designated if—

"(A) it has identifiable civil applications, or

"(B) is a component the performance capacity and function of which are essentially equivalent to those used for civil applications,

unless the President determines that control of that item under this section is in the national security interests of the United States.

"(3) For purposes of paragraph (2), the term 'civil application' means a use other than military or intelligence use.

"(4) An item designated as a Munitions List item for purposes of this section shall not be subject to export controls under the Export Administration Act of 1979;".

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the President shall submit to the Congress a report on implementation of the amendment made by subsection (a)(3). This report shall include—

(1) a comparison of the United States Munitions List as it exists on the date on which such report is submitted with that list as it existed on the date of enactment of this Act—

(A) specifying how many items have been removed from that list and how many items have been added to that list as a result of the amendment made by subsection (a)(3), and

(B) listing the items removed and the items added;

(2) a comparison of the items on the United States Munitions List as of the date on which such report is submitted with the International Munitions List maintained by the Coordinating Committee (commonly known as "Cocom";) and

(3) a discussion of whether items that are no longer on the United States Munitions List as a result of the amendment made by subsection (a)(3) are being controlled under the Export Administration Act of 1979.

(c) CONFORMING AMENDMENTS.—(1) Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended as follows:

(A) Subsection (a)(1) is amended—

(i) by striking "defense articles and defense services" each place it appears and inserting "Munitions List Items"; and

(ii) by striking "such articles and services" each place it appears and inserting "such items"

(B) Subsection (a)(3) is amended—

(i) by striking "defense article or defense service" and inserting "Munitions List item"; and

(ii) by striking "defense articles and defense services" and inserting "Munitions List items".

(C) Subsection (b)(1)(A) is amended by striking "defense articles or defense services" and inserting "Munitions List items".

(D) Subsection (e) is amended by striking "defense articles and defense services" each place it appears and inserting "Munitions List items".

(E) Subsection (h) is amended by striking "defense articles or defense services" and inserting "Munitions List items".

(2) Section 39(a)(2) of the Arms Export Control Act (22 U.S.C. 2779(a)(2)) is amended by striking "defense articles or defense services" and inserting "Munitions List items".

(3) Section 47 of the Arms Export Control Act (22 U.S.C. 2794) is amended—

(A) in paragraph (4) by striking ", Except as provided in paragraph (7) of this section.";

(B) in paragraph (6) by adding "and" after the semicolon;

(C) by striking paragraph (7); and

(D) by redesignating paragraph (8) as paragraph (7).

(4) Section 1 of the Arms Export Control Act (22 U.S.C. 2751) is amended in the seventh paragraph—

(A) by striking "defense articles and defense services";

(B) by inserting "defense articles and defense services" after "(1)"; and

(C) by inserting "Munitions List items" after "(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 6 months after the date of the enactment of this Act.

(d) TRANSITION RULE.—The amendments made by this section shall not affect licenses issued before the effective date of those amendments.

Mr. HYDE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Chair would ask the gentleman from Illinois if this is the amendment that was printed in the RECORD.

Mr. HYDE. Yes, Mr. Chairman, it is.

Mr. HYDE. Mr. Chairman, my amendment is really a substitute for section 109 of the bill under consideration which, for purposes of convenience, I will refer to as the Gejdenson bill, although Gejdenson-Roth, I think, is perhaps more appropriate. But section 109 has two very serious flaws.

First of all, Mr. Chairman, it creates an extremely complicated, even Byzantine, dispute resolution mechanism.

Mr. Chairman, I have it over here on two easels for those of my colleagues who want to see what simplicity does not look like, and this is a flow chart of how to resolve a dispute under this new bill that is supposed to simplify disputes as to whether a commodity belongs on the United States munitions list, the international munitions list, or on either list. I submit to my colleagues that this is burdensome, it is bureaucracy gone berserk and is

much too complex to be considered as an improvement over the admittedly inefficient system we have now.

The other very serious flaw that section 109 brings to us is that it creates a United States munitions list which is no longer under U.S. control. It will result in decontrol of many, many items which we in our wisdom see fit to put on our munitions list, and the munitions list is that list which we do not export, which we do control, and the list ought to be prepared by our people to serve our foreign policy interests, our national security interests, not be determined by the Cocom list, which is a consensus document and which has, as its sole focal point, East bloc countries and the Soviet Union.

Back in this country we have other concerns. We are worried about Iraq. We are worried about Lebanon. We are worried about Libya. We are worried about South Africa. We have a whole world of concerns that our munitions list ought to be addressed to and relate to.

Cocom's munitions list has absolute tunnel vision. It only concerns itself with the Soviet Union and its bloc. Therefore, it is woefully inadequate for the world today.

Mr. Chairman, let me suggest to my colleagues that, if we have to merge our list and have it conform to the international munitions list or Cocom's list, here are a few of the items, and, by the way, this is very narrowly drawn to exclude a lot of things that, in my judgment and in the judgment of many other people, have serious military and intelligence consequences. Let me give my colleagues four or five examples of things that we would have to decontrol if we have to conform our munitions list with the international munitions list.

U.S. capacitators destined for Iraq is one item. I know there is an argument over that, but nobody on this side or that side can tell me that they would not be free, be decontrolled, if this bill becomes law. It is not on the international list, on the Cocom list, but it is on our list.

Naval nuclear propulsion plants; do we want to ship those to the Soviet Union or to Libya?

Photo cathode fiberoptics? Now, my colleagues may say that fiberoptics is no problem.

We cannot discuss on this floor these intelligence consequences, we cannot even advert to them, of some of the sensitive things we are going to free up and conduct a bazaar for the world to come and get. Mr. Chairman, it may have cost us billions to develop, but we are going to ship them around the world because commerce must be served.

Night vision components? Why not sell them to anybody?

Laser electronic optical equipment? I am suggesting to my colleagues that this is not the place for us to quickly decide which commodities we want to control.

Mr. Chairman, the decision ought to be left to us, not to some bureaucracy over in Paris.

Let me suggest to my colleagues that my amendment, removes the requirement that our munitions list be identical with the Cocom list. But it accepts the definition of the gentleman from Connecticut [Mr. GEJDENSON] of a munition. He has drafted, I think, a very good, modern, up to date and narrow definition of a munition and which, if we accept it, will exclude a lot of things that are now controlled.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has expired.

(By unanimous consent, Mr. HYDE was allowed to proceed for 5 additional minutes.)

Mr. HYDE. So, Mr. Chairman, in accepting the new and narrow definition of the gentleman from Connecticut [Mr. GEJDENSON] of amunition we are automatically excluding from our list a lot of items that deserve to be excluded. But the one addition that I make is I provide the President of the United States with the authority, if in our national security interest he so determines that a commodity shall be controlled.

So, I take the definition of the gentleman from Connecticut [Mr. GEJDENSON], thereby excluding a lot of items from control. I do not require our list to match Cocom's list because our interests are different than Cocom's. Their's is a lowest common denominator list. Ours looks to our national interests as the primary criteria. But I give the President of the United States authority to determine, if he desires, that an item shall be controlled.

Mr. Chairman, it will be argued, "What difference then, than what we have now? We have a bureaucratic maze, inefficiency. Nothing gets done. Prolonged, interminable negotiations. What improvement are you making, Mr. HYDE?"

Mr. Chairman, I suggest to my colleagues that there is a system, a new system, for resolving disputes, not as Balzacian or Kafkaesque, to use two literary allusions as the gentleman from Connecticut [Mr. GEJDENSON] did, but much more sensible than is being implemented now by the State Department.

A brand new commodity jurisdiction procedure; give it a chance. Give it a chance.

But the other thing is in giving the President the authority to control something, not Cocom, one may say, "What's the difference?"

I say this: I would rather have our President, or his designee, whether it be Commerce, Defense or State, making a decision in our national interests than Cocom over in Paris, which has not our national interests at stake.

So, my colleagues, my amendment is modest. It strikes 109. It accepts the definition of the gentleman from Connecticut [Mr. GEJDENSON] of a munition, but it gives the President the last word on putting something on the control list or not. And it removes the dispute resolution system, which is very complicated, and it gives the State Department's new commodity jurisidiction procedure a chance to work.

□ 1600

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I want to rise in support of the gentleman's amendment, but I want to make even more of a macro point in this discussion.

I know that we are rushing headlong now into permitting our business to sell overseas technology that heretofore we considered to be too sensitive. It was just this last week that I read that very frightening article about the spread of technology into the hands of Saddam Husayn in Iraq, who is literally threatening the survival of Israel.

Mr. HYDE. May I tell the gentleman that Iraq is a free nation under the Cocom list and nothing on that list is controlled to Iraq.

Mr. KASICH. The thing that is hard for me to understand is how the Congress can move down the road of permitting the export of technology that can be used not only to destroy us, but also to destroy many of our allies.

Mr. HYDE. Well, if the gentleman will permit me to respond for a minute, if we are interested in peace in the Middle East and not having an arms bazaar selling all sorts of chemical weapons and ballistic missiles and warheads, it would seem to me that you want to give our President the last word on controlling some of the stuff that we or other Cocom countries can sell and we can export.

Mr. KASICH. Mr. Chairman, if the gentleman will continue to yield, this year there is going to be a fight in the Armed Services Committee about how much money we are going to spend on the SDI, the strategic defense initiative, to protect us against a Third World threat, the spread of ballistic missile technology, and here we are potentially passing this sensitive technology on to the countries who we fear could use them against us, which then puts us in the position of being forced to spend billions of dollars to develop a defense against a technology that we gave to people who threaten our survival. Is that basically what we are talking about here?

Mr. HYDE. Yes. The gentleman makes an excellent point.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Connecticut, who deserves great credit for his new definition of ammunition.

Mr. GEJDENSON. Mr. Chairman, I thank the gentleman for yielding to me. I was going to take my own time, but I will say that if the gentleman properly represents my present flowchart on the two easels, it would take easels that ran from Washington's picture past Lafeyette and around this Chamber for 2½ years to figure out the present system.

Mr. HYDE. The gentleman is quite right.

Mr. GEJDENSON. What the gentleman does is to gut the amendment. It guts the bill. The gentleman's intention is to destroy the bill. The gentleman ought to be forthright and not simply give me praise, which I appreciate, but the reality is that we go back to that 2½-year line waiting for the various agencies to finish their fight.

Mr. HYDE. Well, I disagree radically with my friend. I do not want to gut the bill. I think the bill has many useful aspects, although its timeliness is a matter of real concern to me while our negotiators are negotiating over in Paris, and I think the gentleman's definition of a munition is helpful; but I do not want Cocom making decisions that affect our national security.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. HYDE. Mr. Chairman, first of all, I want to preface my remarks by saying that we need change desperately and I think that this bill has prodded people who needed prodding for many years. I agree with the gentleman. Our export control process is a mess and we have to do something.

But my quesiton is, what are we doing? Are we doing the right thing or are we jeopardizing some very serious considerations that have not been adequately treated here?

I ask my friend, does he not want a final determination on a sensitive commodity to be made by an American in our national interests, or does the gentleman want to yield that to a board of bureaucrats over in Paris?

All I say is give the President, taking the gentleman's definition, give the President the last word and he will make up his mind. This is a new President. There is a new system of resolving commodity disputes and jurisdiction, and give it a chance to work.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield further?

Mr. HYDE. I yield to my friend, the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I would say the gentleman misses one fundamental point that the gentleman from Wisconsin [Mr. ROTH] and I, the gentleman from Nebraska [Mr. BEREUTER] and others who worked on in this bill, and that is in the day-to-day operation of government it is not the President who makes the decision. It is the bureaucrats, and unless we set a flow chart for the bureaucrats to operate by, they will continue the battle of the bureaucracies.

Mr. HYDE. Recapturing my time, does the gentleman not want our bureaucrats, or does the gentleman prefer their bureaucrats? Bureaucrats at Cocom are no different, only they may not speak English and they may not have the same perspective that we have, because we are looking at Syria and we are looking at Lebanon and Libya and they are looking at the Soviet Union.

Mr. GEJDENSON. Mr. Chairman, if the gentleman will yield further, our bill does provide for that. It just provides for it in categories where the appropriate decision is made. If it is a foreign policy control, then we have the Secretry of State do it as a foreign policy control. If it is a munitions, Mr. BERMAN is in support of my bill.

Mr. HYDE. Mr. BERMAN will tell you how ineffective foreign policy controls are on sensitive commodities, as he has told me.

Mr. GEJDENSON. I will tell the gentleman that Mr. BERMAN supports our position and opposes the gentleman's amendment.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

At the request of Mr. FRENZEL, and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

I yield to my friend, the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding. I would like to draw the attention of the gentleman and Members in the Chamber to a letter that was sent to the Speaker today on this very issue, and it is signed by the Secretary of Defense, the Secretary of Commerce, and the Secretary of State. It is interesting that they have all come together on the basic point that I would like to quote to the gentleman:

> The bill also imprudently lowers export controls on supercomputers and telecommunications systems, and undermines the President's ability to decide unilaterally to control exports to unstable regions such as the Middle East by equating the U.S. Munitions List with the Cocom International Munitions List. These provisions raise significant national security concerns. National security and foreign policy concerns are paramount under current practice and should remain so.

Let me say to my friends and colleagues who have been listening, this is a very important point. They drag the Secretary of State back to a position where he could sign this letter, along with the Secretary of Defense and the Secretary of Commerce, because this is an extremely important point.

Let me go back to the final consideration that we should consider that has not been lobbied in this city for many months, and that is the men and women of our Armed Forces who may meet these munitions coming back at them.

Interestingly in this debate, supporting my friend, the gentleman from Illinois, are the Veterans of Foreign Wars, 2.1 million veterans who say they are strongly against this bill and especially against these export liberalizations, and the Reserve Officers Association of the United States.

Mr. HYDE. Let me say to my friend, there is no effective concern for our national security in this bill. The only possible restraint is that of our foreign policy controls which are weak and time consuming, which will never to the job. All I am saying is let us redefine a munition to exclude a lot of things that are now controlled, but give our President the last word, and that is not too much to ask in these very interesting times.

The Middle East is no concern of Cocom. It ought to be a concern of ours.

The CHAIRMAN. The Committee will rise informally in order that the Chair may receive a message.

PERSONAL EXPLANATION

Mr. SYNAR. Mr. Speaker, today I was unable to be present for recall vote No. 148, an amendment to H.R. 4653 offered by my colleague Mr. ROTH of Wisconsin. Had I been present, I would have voted "nay" on the amendment.

PERSONAL EXPLANATION

Ms. SLAUGHTER of New York. Mr. Speaker, on rollcall No. 150, I inadvertently cast my vote as "no," and I had intended to vote "yes."

Mr. Speaker, I ask unanimous consent that my explanation may appear immediately after rollcall vote No. 150 in the permanent RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. DONNELLY) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

EXPORT FACILITATION ACT OF 1990

The Committee resumed its sitting.

The CHAIRMAN pro tempore (Mr. McDERMOTT). The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I rise in opposition to the amendment. Let me correct a misstatement.

The section that we are discussing does not decontrol supercomputers. What it does with supercomputers is that at the lowest level——

Mr. HUNTER. Mr. Chairman, if the gentleman will yield, the reason I include supercomputers is because they were part of the same sentence. I did not want to break up the sentence.

Mr. GEJDENSON. Mr. Chairman, I thank the gentleman.

Supercomputers are not decontrolled, simply the bottom end of the line are made available to Western countries like England and France; but let me go to the heart of the problem with the proposal of the gentleman from Illinois [Mr. HYDE].

□ 1610

What the gentleman from Illinois [Mr. HYDE] does is says, "Yes, we will use new definitions." But before you get to look at those new definitions, you have to stand in line for 2½ years, because that is how long it takes the bureaucracy to get around to looking at your case. So, first, you are going to go to the Commerce Department, and we are not making this up, because we have cases where this has happened. The Commerce Department says, "Well, no, I do not think it is us, Mr. Exporter. We know your customer is going to be there forever, and before we take a look at this, we think you need to go to the State Department." So the company runs over to the State Department, and they are there for a little while, and the State Department says, "No, you need to go back to Commerce." They go to Commerce. They say, "No, you have to go back to State." We never get the flowchart if we accept the Hyde amendment.

What happens is the bureaucracy buries American industry.

There is a difference between a howitzer and a bank card, but not if we accept the Hyde amendment. If we accept the Hyde amendment, and if an English company wanted to buy bank cards from the United States, under the proposal of the gentleman from Illinois [Mr. HYDE], we might be back to, "You have to get a background check on all 50,000 customers of that bank." It just does not work. It is unworkable. It has not worked to date.

The people on this committee take national security seriously. What we have seen is the gravest danger to national security is the continued fight between these three agencies. There is no way a President of the United States, this one or any other President of the United States, is going to get down there every day and ask the Secretary of State and the Secretary of Commerce and the Secretary of Defense if they are happy with the license. They are not going to walk in and say, "Mr. President, we have got a license to export a product. What do you think?" What is going to happen is it is going to end up buried in that dungeon of bureaucracy, and America will end up the loser for it.

Our national security will be threatened by sending us back into the Dark Ages.

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Oregon.

Mr. WYDEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman from Connecticut is making some excellent points.

I read on lines 1, 2, and 3 of page 2 of the Hyde amendment where it says essentially that the President can make decisions with respect to munitions on what is based, and I quote here, "the national security interests of the United States."

We are all for the national security obviously, but nowhere is the national security interest defined. This language would be vaguer and more incomprehensible than anything that is current law, and I just have to say I am very fond of the gentleman from Illinois, but I think the gentleman from Connecticut is absolutely right. I urge my colleagues to vote against the amendment.

They ought to look at the top of page 2, because that brings more vagueness to this area than anything that currently exists under today's statutes.

Mr. JOHNSTON of Florida. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Florida.

Mr. JOHNSTON of Florida. Mr. Chairman, just briefly, I come from Palm Beach County, FL.

If one goes from north to south in Palm Beach County, they start out with Pratt & Whitney, Motorola, IBM, Centramatic, Siemens, and Harris. Eighty-five percent of the products made in my county are subject to foreign competition.

I can go right down the row here with the gentleman from Illinios [Mr. HYDE], starting with the gentleman from Minnesota [Mr. FRENZEL], who was briefed by the State Department, after which the gentleman from Minnesota [Mr. FRENZEL] said, "You have now come into the early 1970's, and we hope before the end of this century you come into the early 1990's."

The gentleman from Nebraska [Mr. BEREUTER] pointed out in committee that there is a fight between Commerce right now and the State Department over giving simple passports for Members of Congress to go to the Eastern European countries.

The gentleman from Wisconsin [Mr. ROTH] pointed out the turf fighting between these three agencies. People say there is a new administration. We have not seen anything in this new administration, particularly in the State Department, which will bring it into the 20th century, much less facing the 21st century.

There are provisions in this thing, and as the chairman said, we are just as much concerned with national defense and national security as anybody, but today we are fighting the Third World.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has expired.

(By unanimous consent, Mr. GEJDENSON was allowed to proceed for 5 additional minutes.)

Mr. JOHNSON of Florida. Mr. Chairman, will the gentleman yield further?

Mr. GEJDENSON. I am happy to yield to the gentleman from Florida.

Mr. JOHNSTON of Florida. Mr. Chairman, there are sufficient safeguards in this bill to protect the United States, but it is about time we brought us into the 20th century. We are getting eaten alive. The enemy is us. It is not the Japanese and Germans, and it is simply because of the bureaucracy.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Florida.

Mr. BILBRAY. Mr. Chairman, 2 years ago I served on the Committee on Foreign Affairs on the Trade Subcommittee. Many of us sat there and heard testimony day after day of what was happening to American businesses trying to compete abroad.

A product like seismographic instruments that were supposed to be sold to Romania, the Department of Commerce had declared had no strategic benefit as far as national defense was concerned, and yet months and months and years and years went by and these instruments were not cleared even though they were cleared by the Department of Commerce, and were not cleared by the Department of Defense.

We know that Motorola cellular phones were ordered by the People's

Republic of China. After 18 months they still had not been delivered because the Department of Defense had not cleared them. It took pressure from our committee to finally get some clerk over in the Department of Defense to let it go.

They had computers that were sold to East Germany, not supercomputers, not the supercomputers that could handle or help their national defense, but computers were sold to the East Germans and then parts broke down in these particular items. What happened at that point is they ordered the parts from the company to replace those parts. And what happened was, when the East Germans wanted to replace parts that had broken down in the computers, they had to go back through the whole process, and the company had to get clearance to sell the replacement parts, and that was the same part that had broken down within the computer. It took months and months.

The American company was then deemed by the East German Government as an unreliable supplier and was taken off their list.

The Japanese, the Germans, the French, the English—all were willing, able, and did continue to supply these foreign countries with articles that we were tied up in the Department of Defense with. We knew that these clerks in the Department of Defense, basically, had more staff than the Department of Commerce, and basically felt that if they did not act on the application, the application would probably go away, and then if by mistake they had sent something out that harmed our national security, they could not get in trouble.

We found that our people in this country, our suppliers of these types of goods, were being hurt across the world, and American businesses were losing billions of dollars a year in the competitive market, and because of this reason, we were losing hundreds of thousands of American jobs.

I feel that the time has come that anyone who looks at this situation very carefully realizes we cannot continue to do business as usual. We have to move forward and get to American business and give them the help they need to sell products that are available.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Illinois.

Mr. Chairman, I would like to point out to my friends that the business of the credit card was decontrolled in August 1989, so that agreement is really a little out of date, I might point out.

Mr. GEJDENSON. Mr. Chairman, reclaiming my time, only for limited purposes. It still can be, if the gentleman's amendment were to pass, considered a munition.

Mr. HYDE. If the gentleman will yield further, if the President wants to, then he must have a reason if he elevates it to that dignity.

Mr. GEJDENSON. Reclaiming my time, if the President starts making decisions on bank cards, we are all in trouble.

Mr. HYDE. I agree with the gentleman. It was decontrolled in August 1989, and I would point out to the gentleman on his dispute resolution process, the Soviet military attache could start this thing going, because a private person can request that an item be put on one list or the other, and it would trigger this whole thing ending up with the President making a decision. That is how loose it is.

The national security interest, I would say to the gentleman, and I think it was the gentleman from Oregon [Mr. WYDEN] who thought that phrase was vague, read the Constitution. Due process, that is vague, too. Those are works of art. National security interests are understood and with some flexibility for the President.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has again expired.

(By unanimous consent, at the request of Mr. HYDE, Mr. GEJDENSON was allowed to proceed for 2 additional minutes.)

Mr. HYDE. Mr. Chairman, will the gentleman yield further?

Mr. GEJDENSON. I am happy to yield to the gentleman from Illinois.

□ 1620

Mr. HYDE. As to the 2-year wait and the long bureaucratic maze, or a 3-year wait, I would point out on January 8 of this year the State Department created the Center for Defense Trade in the Bureau of Political Military Affairs, replacing the Office of Munitions Control. The new Center for Defense Trade received a commitment of significant new resources at a time of major budget cutbacks. The Department of State allocated an additional $1.5 million in fiscal 1990 to the Defense Trade Center. They are adding a minimum of 23 new full-time employees and expanding the office by 70 percent. There are new full-time people coming in. There are part-time people coming in. And they are under Project Accelerate.

In Project Accelerate the near term is to eliminate the backlog that had accumulated. In the 7 weeks from January to March of this year, DTC issued 11,675 licenses, representing a rate of issuance 64 percent greater than the average last year.

So the problems are being addressed, and we are, as I said before, curing a headache by decapitation.

Mr. GEJDENSON. Mr. Chairman, I yield to the gentleman from New York [Mr. HOUGHTON], who has been a great help on the committee, not simply as another excellent member of the subcommittee, but because of his own particular background in industry. He brings to us actual experience of fighting some of these problems and technical understanding of some of the issues like fiber optics, which are terribly complex. We really appreciate the great work the gentleman has done with us.

Mr. HOUGHTON. Mr. Chairman, I thank the gentleman from Connecticut. I think the thing that bothers me most is here we are intellectualizing about an issue which is hurting American business and is stultifying American jobs, and there is no security issue involved.

Let me just give a case in point. One of the gentlemen earlier indicated a paragraph in a letter by Secretaries Cheney, Mosbacher, and Baker. It said this: "The bill imprudently lowers export controls on supercomputers and telecommunications systems."

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The time of the gentleman from Connecticut [Mr. GEJDENSON] has expired.

(At the request of Mr. FRENZEL and by unanimous consent, Mr. GEJDENSON was allowed to proceed for 5 additional minutes.)

Mr. GEJDENSON. Mr. Chairman, I yield to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I submit that that is an opinion, not a fact. I cannot talk about supercomputers, but I can talk a bit knowledgeably about telecommunications. There is no problem here whatsoever. The problem is that we are going to have American businesses once again lined up and held hostage to the public policy considerations of the Secretary of State.

This gentleman is a fine individual. He has his own agenda. But it is not a commercial agenda. I submit this is wrong. Now is the time to change, and we ought to be at it.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the chairman of the committee, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, this amendment, as far as I am concerned, regardless of the intent of the amendment, simply reverses the entire bill. We are right back where we started and there is no point in even considering the matter further, because not only does it eliminate the dispute resolving mechanism, there is no time limit. You have unilateral determination. You abolish the international list.

Now, I am for the United States retaining the right to determine what is in its own national interests, beyond

the international list. But if we are going to do that, for goodness' sake, let us at least put a time limit like 30 days on the resolution within our own Government so that the businessman knows what he is doing, and not broaden the definition under the Hyde amendment so we are right back where we were when we started, and nobody knows what can be done safely.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, let us focus on the real issue. I have a great deal of respect for our friend, the gentleman from Illinois [Mr. HYDE], but this basically is a case of HYDE versus the U.S. Congress. Because what the gentleman from Illinois is saying basically is that the Congress should not get involved.

Now, to some extent I agree with that. But if Congress does not get involved, then nothing happens.

As far as the hands of the President being tied, the President's hands are not being tied. The President has all kinds of leeway. The President right now in Cocom in Paris is giving as much as this bill is going to give.

So we cannot go back to where we were. These arguments would have been great in 1970, maybe 1980, but not 1990. That is precisely the problem that we have got.

Had the administration and had the agencies been doing their job, gotten together, we would not have to have this legislation. It is precisely because they did not do their job that we have to do it.

For that reason I certainly hope that Members will reject this amendment, because this amendment will gut the bill.

Mr. Chairman, I want to make one more point, if I may. We are always going to have this problem, but I have the solution to it. If this House would establish a Department of Trade on the Cabinet footing, we would not have these problems. So long as you have seven different agencies, all working with trade, you are going to have this problem always.

So let us get on with it, pass this legislation, and then go on to pass the real legislation this country needs, which is the Department of Trade.

Mr. GEJDENSON. Mr. Chairman, I yield to the distinguished gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I agree with the distinguished chairman of the Committee on Foreign Affairs that we are getting at the heart of the bill. If you vote for the Hyde amendment, you may as well vote against the bill and simply extend the present role and tell American companies they cannot do business abroad. Our companies have played three-cushion snooker with State, Commerce, and Defense for too darn long. We have had this munitions list, which nobody understands and nobody can figure out. Under the current definitions a pair of shoelaces can be defined as munitions for the munitions list, because it is going to give somebody some military advantage.

Those days are over. This is not the cold war. This is a time of geopolitical change in Eastern Europe and in the U.S.S.R. as well. It is time for the United States to get in step and to help us, instead of worrying about shooting our exporters and manufacturers in the feet and allowing our trading partners to claim whatever business is over there.

This argumentation takes me back to when the gentleman's committee did not even have jurisdiction, when the Committee on Banking, Finance and Urban Affairs had jurisdiction over the Export Administration Act. These were the kinds of arguments we heard.

The Department of State accelerated their cases. Of course they have, because the gentleman from Connecticut [Mr. GEJDENSON] was holding hearings and threatening them with the bill. What other choice did they have. They moved some of the easy ones they had.

If you want to leave American business in handcuffs, go ahead. The National Academy of Science has said we denied ourselves 9.2 billion dollars' worth of exports in 1987, without any perceptible increase in national security.

This is not a national security matter, it is a matter of turf between State and Defense, and both of them should be out of the loop.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just want to say in response to my friend from St. Paul, that the gentleman talks about the cold war being over. I would address his attention to the Middle East, where there is a lot of shooting going on and a lot of people being killed. I would address his attention to Iraq, which is developing or had once tried to develop a nuclear capability, and, without breaching classified information, I would watch Iraq today very carefully. Also Syria.

This bill does nothing to protect our products, our commodities, our munitions, our sensitive technologies, from being sent to the Middle East and from coming back on our allies and on our friends.

The gentleman, I know, represents a place where they make some great computers. I can remember when Minneapolis Honeywell wanted to ship them over to China years ago. My friend was in the vanguard of those urging that our business come into its own and that we should facilitate this sale because jobs are at stake and our leadership in technology.

My only response is that there are times and places where that is not in our national interest, and I would rather our President make that judgment, rather than some bureaucrat in Cocom.

It is true that we have had a miserable history, but why burden the Bush administration with the errors of previous administrations? They are making a valiant effort today to solve these problems and they ought to be given a chance.

Mr. HUNTER. Mr. Chairman, reclaiming my time, I thank the gentleman from Illinois [Mr. HYDE] for his remarks. Let me just say to Members, nobody takes issue with the idea that if you do not have these measures in place that are proposed by the gentleman from Connecticut [Mr. GEJDENSON], it is going to cost profits. It is going to cost profits to our businessmen. We are not going to make as much money, and that is very clear. I think everyone will stipulate to that.

On the other hand, that is not necessarily the worst thing. The worst thing in the world, the worst thing you can do to those blue-collar workers carrying lunch buckets and depending on exports to other countries, is to make sure that they and their children who are in uniform around this world do not see American technology coming back at them in a very deadly way.

□ 1630

Let me go to the $9.2 billion that is being thrown up in lost sales because we cannot sell some of this sensitive technology. We sold the Bryant grinder to the Soviet Union in 1972. Where were the bureaucrats then? Why could we not have had enough bureaucrats to have stopped that sale?

Mr. GEJDENSON. If the gentleman will yield, that is under the present system. What we are trying to do is to make a system that works. The Defense Department deals with defense items, State deals with foreign policy and Commerce deals with the rest.

Mr. HUNTER. I take back my time, and I would just perceive that under the basis of the gentleman's argument then perhaps we should continue to deregulate the S&L's because the present system has caused all of the problem.

I would say in some cases regulation and bureaucracy is important, and in this case it is important, and if we have too much bureaucracy and it takes some extra time, and we spend some extra months, if we save American lives it is worth it.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I am happy to yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, what I am confused about is that in my understanding this bill is designed to facilitate greater exports of items that are involved in high technology.

In last week's Time magazine there is a big article about trying to chase West German companies down who have sold the technology to Iraq which Saddam Hussein says he is going to use to destroy half of Israel, and we cannot figure out how to stop these companies in West Germany from selling technology that can be used to suck the entire world into a world war in the Middle East, under a system now that the gentleman says slows down the ability to export. I mean, if there is anything we ought to be doing in this world right now it is to stop the export of technology to Third World countries that have the great potential to suck us into the middle of a nuclear war with the Soviet Union, or to have these people fighting with nuclear weapons themselves.

We ought to be slow about this, folks. I mean on your side of the aisle, Sam, defense experts are talking about the need to protect us against a Third World threat using ballistic missiles. Imagine Saddam Hussein with a long-range ballistic missile with the ability to launch it at New York City if they do not like our policy at the United Nations. Nobody is for stopping the export of technology that has no national security relation. The problem is that we are doing it consistently. We have trouble stopping our own companies, and the companies in Europe are just throwing high technology around the world.

Let me give one other example. The guy that was selling the cannon, the guy that was selling the cannon to Iraq, he worked in the United States, and we tried to put him out of business. What did he do? He moved over to Europe. And what did he do when he went to Europe? He had a vision that he wanted to develop this super cannon, and that is why he started to work with the Iraquis and give Saddam Hussein the technology he needed to develop this weapon of destruction.

We have just got to be careful about this thing, and I am afraid we are moving too fast and too far.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I think the gentleman misses the central point of the legislation.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The time of the gentleman from California [Mr. HUNTER] has expired.

(By unanimous consent Mr. HUNTER was allowed to proceed for 3 additional minutes.)

Mr. HUNTER. I continue to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, the central point of the legislation would make it more difficult to ship these things to Saddam Hussein. It gives the State Department foreign policy controls, which is how we deprive the Iraqs, the Irans and the Syrias of this world of this high technology.

What you do is if you take a look at present law we retain missile technology and chemical, and they are operated by the Commerce Department, and Defense and State say they have no problem with the Commerce Department carrying out missile technology and chemical weapons controls.

A tough battle that we are getting involved in is not one that is going to make the United States more able to retain sensitive technologies from these terrorist nations. The present bill as it stands gives clearer direction to the Secretary of State in those areas. It gives American industry freedom in the areas they needed. We put higher fences around the things that need to be controlled.

Is that not what we want to do? We do not want to just make speeches about this. We want to be able to control the things in the right way.

The Hyde amendment guts all of that.

Mr. HUNTER. I take back my time. Let me make one rebuttal to the gentleman from Connecticut.

In reading the statement of Dick Cheney, Bob Mosbacher, and Jim Baker, this bill "undermines the President's ability to decide unilaterally to control exports to unstable regions such as the Middle East by equating the U.S. Munitions List with the Cocom International Munitions List."

Let me just say to my friends, the people who are giving us these briefings from the National Security Agency, from Defense, these people are not nuts, they are not people who are trying to frustrate American business. They are people who have genuine national security interest, and it is the Commerce Department, State Department, and Defense Department that are asking that this bill be gutted.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I am happy to yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I talked to people from the National Security Council today who told me that this is a dangerous bill when it comes to the export of technology that can be used in weaponry in high-technology weaponry. That is what the National Security Council says.

The purpose of this bill is to facilitate the flow of more items overseas, and what I say is that one of the greatest dangers we face in the future are these Third World countries, these very poor countries being able to achieve a poor man's nuclear weapon, whether it is with ballistic missile technology, whether it is with chemical technology or who knows what. I mean, no one ever dreamt about inventing a big gun that could have the capability to shoot things like a big cannon, like Saddam Hussein is trying to do.

Mr. GEJDENSON. If the gentleman will yield, we do not change that. I will tell the gentleman again, we do not change that. Read the bill.

Mr. KASICH. The gentleman from California controls the time. The purpose of that bill is to facilitate the export of more items. The National Security Council, the Secretary of Defense all say this is bad.

If it is not bad, why would those in charge of national security say that the bill goes too far? This is not a partisan issue with me, but what I do not want to do, Sam, is I do not want to come to the floor in another 5 years and have to vote to spend $30 billion.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. HUNTER] has again expired.

(By unanimous consent, Mr. HUNTER, was allowed to proceed for 2 additional minutes.)

Mr. HUNTER. Mr. Chairman, I continue to yield to the gentleman from Ohio.

Mr. KASICH. If I may finish my thought, I do not want to come to the floor in 5 years and have to vote to deploy an SDI at the cost of $40 billion or $50 billion to protect our country against a guy like Saddam Hussein, who as we speak today, I have to tell you on both sides of the aisle people are exploring the possibility of a strategic defense, not to be used against the Soviet Union, not to be used against an attack from the Soviet Union, but to be used against an attack from a Third World country with ballistic missile technology.

I do not want to shoot ourselves in the foot, give them technology and then have to get in the business of protecting myself against the technology that I transferred to them.

I am not against what the gentleman is trying to do in terms of speeding up the process. But this process that gives the control of some of our export materials to people in France who we have no control over is a little bit silly, and we will pay for this. If this does not get cleaned up, we will end up paying for it, either in conflict or through a defense budget, and there is not a Republican on this side who wants to see a peace dividend more than me. But I do not want us to shoot ourselves in the foot, and I think that

is where we are moving on this kind of legislation.

Mr. HUNTER. I thank the gentleman for those comments.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, there are two points that I think need to be made in response to the discussion that has just taken place.

First of all, the charge is that if you in fact internationalize the U.S. munitions list, you create difficulties on the President's ability to move unilaterally on the flow of weapons and other kinds of commodities. That is true if it is the only tool that the President has, but it is not. He has foreign policy controls. In certain cases he can act immediately on IEPA.

The second point that needs to be raised, when we talk about the world's most dangerous man as he is characterized by some literature that I see on the desk over there, Mr. Hussein, of course we are all concerned about that. But better to internationalize the munitions list than to depend on just the U.S. list. What happens is we do not only have to stop it, but the West Germans have to stop the flow of missile technology to Iraq, and have to stop the flow of chemical ingredients to Libya. What better way to get the Germans and the Japanese and all of these members of Cocom to agree on limiting those kinds of exports.

If we fail to get that kind of constraint through the international munitions list, the President still has the fallback foreign policy controls or IEPA. So what we have attempted to do, among other things, besides simplifying the process, is to try to internationalize the kind of controls for Third World terroristic kinds of countries.

Again I thank the gentleman for yielding.

Mr. HUNTER. I thank the gentleman from Nebraska.

Mr. Chairman, let me just conclude by saying that businessmen who want to see this bill passed and who have done a lot of work on it do not want to buy shoelaces, they do not want to sell credit cards or sell shoelaces, they want to sell high technology, and the cost/benefit ratio to the United States when a horse gets out of the barn, that is when a Toshiba system is transferred, when a Bryant grinder is transferred is on the basis of 10,000 to 1, $10,000 that taxpayers have to pay in defense expenditures to make up, to offset that technology transfer for every dollar that comes in to American business.

□ 1640

This is a very, very critical area, and you cannot say that we want to go for two out of three. Sometimes it is important to have bureaucracy. This is one of those times. I urge everybody to support the Hyde amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Illinois, [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, you know, we would not belong to the United Nations if we did not have a veto. We want a veto over resolutions that attack friends of ours. We want that power. If we lost it, we would get out of the United Nations.

Does not the gentleman think it is useful to have a veto on what munitions would be saleable and decontrolled and available to the Third World and to the East bloc?

Mr. HUNTER. To the gentleman I say: Absolutely. Let me just say——

Mr. HYDE. Is the gentleman comfortable with Cocom's veto or would the gentleman like a veto in this country too?

Mr. HUNTER. I think the gentleman makes a great point.

In countries like France, they have entirely different relationships with other Middle East countries than we do.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Hyde amendment, as a member of the committee.

Mr. Chairman, in response to the last exchange, we still retain the veto for the President under foreign policy controls or IEEPA or both, and IEEPA controls are immediate.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the distinguished chairman of the full committee, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, not only does the President retain the veto, but Cocom does not have to agree to anything.

Mr. BEREUTER. The gentleman is correct.

Mr. Chairman, I appreciate the chairman's remarks.

Mr. Chairman, a lot has been said here. A lot needs to be said. This is a complicated area.

This chart does look Kafkaesque, but as somebody else pointed out a few minutes ago, if you took the current process on a timeline, it would wrap around the chamber. Approval of export licenses is sometimes a 2½-year process.

What the process is doing is strangling the American business community and our economic competitiveness.

One does not have to choose between business interests of the United States and the national security interests of the United States. That choice is not alway or even often necessary.

Charley Wilson once said what is good for General Motors is good for the United States. Well, he was wrong. The President has to have the discretion to withhold technology and exports in our own national interests.

As a member of the Committee on Foreign Affairs and a member of the Select Committee on Intelligence, committee assignments which I share with the gentleman from Illinois [Mr. HYDE], I come down in disagreement with his amendment because I do not think we are making sacrifices of our national security. What I do think we are doing is attempting to improve our ability for American exporters to export products and services that are not damaging in terms of our national security.

Now, once we had a two-ring circus between the Department of Commerce and the Department of Defense, and the American business community suffered. We were Perle-ized, a string of pearls.

Now we have a three-ring circus, essentially, with State, Commerce, and Defense. And we have to have some ready resolution, some timely resolution, of decisions about licensing and about export potential.

It is particularly important that we cut down the time to approve or disapprove export licenses today because in certain technologies, not even the high technology, the obsolescent shelf life of some of the products that we should be able to legitimately export is 6 months.

In fact, foreign purchasers are worried not only about the ultimate approval or timeliness of sales contracts with an American firm, they are also worried about servicing of American imports that they might buy, and they are worried about repairs, and they will opt oftentimes for West German or French firms because they know how complicated, how Kafkaesque our export license process really is in this country, and our economic security of this country is resultantly being damaged.

Now, in this country I am sorry to say that the past administration, the Reagan administration, and thereafter the current one, is damaged by the sad, sad record of our export licensing process. Oftentimes when Congress gave statutory directions to the executive branch on these export licensing issues, our directions were intentionally ignored or suffered from benign neglect. What the executive branch loves to forget about in this country, and at Cocom meetings in Paris, is that the Constitution of the United States says we in the Congress set foreign policy when it comes to one important item. What is that? International commerce or exports. The Congress of the

United States has the constitutional powers.

We delegate authority, with directions or conditions to our trade representative each time he or she goes to negotiate on trade matters. We set the trade agenda and rules here, constitutionally, if we care to do so.

Now, that grates on the executive branch, they do not like it. They call it, when we step in, micromanagement.

What is micromanagement is often in the eyes of the beholder.

Now, my colleagues, I assure you today that you do not have to make the choice between what is good for the country in a national security sense and good for the country in an economic sense. One of the problems we have about the munitions list today is that it doesn't just include things that go bang or explode. Today, the reason that the chairman of the subcommittee waved the bank card is because bank cards and other similar access cards contain an imposed semiconductor rather than magnetic tape and, therefore, they are on the munitions list.

There is a confusion regarding what is a munition and what a dual-use item is. This has resulted in other kinds of odd decisions.

Port-a-potties for spacecraft are now, incredibly, considered munitions while supercomputers that can be used to test nuclear weapons are and should be considered to be dual-use items. By making the international list the basis for the U.S. munitions list, this bill creates a degree of certainty for our exporters and belatedly jobs for our brothers. It limits interagency disputes. It sets some timelines when disputes must be settled. And it eliminates unilateral controls as under the dual-use list. But still the President has the opportunity to come in and stop the export of our technology under a variety of powers he has when he finds that essential to protect our national security or for our national interest.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The time of the gentleman from Nebraska [Mr. BEREUTER] has expired.

(By unanimous consent, Mr. BEREUTER was allowed to proceed for 4 additional minutes.)

Mr. BEREUTER. I thank my colleagues for their indulgence in granting me this time.

Now, the Hyde amendment would maintain the status quo of confusion, lengthy interagency disputes and odd decisions. These amendments, the Hyde amendment and several others that were put in the RECORD similar to it, would require the executive branch to do nothing really to correct the present situation.

We have a new actor now, State. We would like to take them at their word that they are really going to facilitate the process. But we have been promised things before.

Why is it that we were asked not to do something today? Because the United States negotiating team is in Paris in a small room in the United States Embassy in Paris with our Cocom partners. They are going to present the proposal that the United States has finally come up with on liberalizing East-West trade.

What happened in the meantime while this administration was preparing their very modest and inadequate initiative. Very unfortunately, we were stonewalled by the administration, not given the kind of information and interreactions that we wanted to have with administration office as members of the subcommittee and committee so that we could do our best job in drafting this reauthorization legislation.

But we did the best job with the information and resource we had.

I really think that what is happening today in Paris is irrelevant. The United States will make its presentation. It will be, I suspect, unanimously accepted, and they will say, "But that doesn't go far enough."

So, yes, we are going to get the view that, yes, they approve the change in U.S. export policy as far as it goes. But what do our Cocom partners want to do beyond the U.S. proposal?

Some of those things may be appropriate, and some may not be.

The State Department is calling bank cards munitions if they have a semiconductor rather than a magnetic strip. I said that before, but I think it is important, just to show you how broad and different a spectrum of items the munitions list now really covers.

If an item is not on the international munitions list, the United States can still control it. They can do it unilaterally by using foreign policy export controls or through other Presidential authority.

No one has been on the floor today to even explain why foreign policy export controls are not sufficient for the President to step in and stop exports that are contrary to our national interests. Sometimes we do not even want the subject or name of a particular technology to be on any list. The subjects of technology we want to stop from going abroad are sometimes, by definition or title, classified, sometimes at the highest possible level.

So there are times when we could not put items on the international munitions list. In that case the President will have to limit their exportation by foreign policy controls or IEEPA rather than putting them on the international munitions lists or otherwise discussing them with some or all of our Cocom partners.

The international munitions list is not the ultimate step, but it does simplify and dramatically shorten its export licensing process for American businesses. It sets some time limits on review and issuing of export licenses. It lets the exporters know that perhaps the 90 percent of things they want to export abroad which are approved by a Cocom list can be exported without going through the very sensitive and time-consuming convoluted, complex, frustrating licensing process that makes our exporters uncompetitive even if the license is ultimately approved, and the great majority are—probably after the foreign export competitors have made the sale.

Mr. AUCOIN. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman on a superb statement. I think he has described the situation that we are faced with with great clarity and with great ability.

I want to rise in opposition to the Hyde amendment.

□ 1650

Mr. BEREUTER. Mr. Chairman, I thank the distinguished gentleman for his kind remarks. I would conclude my remarks by saying if we want to make no change, if we want the status quo, if we want the seemingly interminable delays, if we want to effectively bar United States business from being competitive in East European and West European and other international markets generally, then vote for the Hyde amendment.

If Members want some changes, if Members want some changes that I think we can make without damaging the national security, then I think this legislation does exactly that. I am confident that it does.

The President still has other options. The President has foreign policy control and other powers to use to stop technology exports whenever he cares to use them. That is the method that is preferred. Vote "No" on the Hyde amendment.

Mr. KYL. Mr. Chairman, I move to strike the last word. It has been suggested that this is a macho thing between the President and the Congress, that the President has authority over security matters and the Congress over commerce, and therefore that we need to address this matter in that fashion. I do not think that that is the case at all.

It seems to me that we are forgetting what happened just last week when President Bush met with President Gorbachev, when almost all Members here were very delighted at the prospects not only of a more peaceful world but of greater cooperation between these two countries, co-

operation including in the area of commerce. There is not a Member in this room that does not want to see more commerce, not only worldwide commerce between the United States and the Eastern Bloc, but also with the Soviet Union. That is beside the point.

It seems to me we are forgetting who the President of the United States is. The President of the United States has asked Members not to support this legislation. He is negotiating, starting today, with our allies on the very subjects that we are trying to indicate to him today. Who is the President? It is George Bush, the very same President who was meeting with President Gorbachev and making great strides not only toward a more peaceful world, but a world in which our two countries are going to be engaging in a tremendous amount of economic intercourse in years to come. As a matter of fact, if everything goes according to plan, we are not even going to need a Cocom list in several years because our two countries are going to be at peace with each other.

Who is the Secretary of State? Who is the Secretary of Commerce? Who is the Secretary of Defense? These are not unreasonable men in the Bush administration. These are people who want to advance commerce. It is not as if we have some kind of a stone wall out there and we have to batter them with a battering ram, which is what this legislation is. The Hyde amendment is simply a reasonable approach that says, "Wait a minute, give the President some authority here." This is George Bush we are talking about, the very same George Bush that just got through meeting with President Gorbachev.

Now, we heard a lot of assurances here today, "Don't worry, the President will still have authority." I even heard the suggestion that the Secretary of Defense has no objection which, of course, is not the case. Let me read to Members from a letter that was dated on May 2, from the National Security Adviser, General Brent Scowcroft. Now, this is the administration's position. This is General Scowcroft. This is not some kind of a right-wing whacko nut, a cold war warrior, as a colleague said. "I am writing to advise you of the administration's strong opposition to the bill," and he goes on to refer to the specific subject, which is the subject of the Hyde amendment.

Since the United States' national security and foreign policy objectives may not always coincide with those of Cocom, the President must continue to retain discretion to determine the contents of the USML

the munitions list.

Moreover, other sections of the bill have the effecting of equating commercial aspects of a possible export with national security considerations. National security and foreign policy concerns are paramount under current practice and should remain so.

Now, that is the National Security Adviser. What I am about to say I think has particular relevance to some of the colleagues on the other side of the aisle. We have heard a lot about concerns with respect to Iran, Iraq, Libya, and countries like that. We are going to continue to have a problem with the Soviet Union. I do not think it is fair to say that the cold war is over, we do not have to worry about any technology going to the Soviet Union. We are going to be asked to spend hundreds of billions of dollars over the next several years to support the Defense Department, and much of that money is going to be spent on military equipment for the United States to protect Members from a potential threat from the Soviet Union. Do any Members believe the Soviet Union is going to attack? No. But, are we not going to spend hundreds of billions of dollars for the defense of this country over the next decade, defense primarily against the strength of the Soviet Union? The answer is yes, we will continue to spend that money, and we are going to have to spend a lot more of it if we have the kind of technology which is going to be transferred as a result of this bill.

The Hyde amendment simply says, "Wait a minute, what is the rush?" Who is the President? Let Members give George Bush the opportunity to make this decision. The amendment as the gentleman from Illinois [Mr. HYDE] pointed out, it is a reasonable amendment; it is not a killer amendment. Let Members give George Bush a chance, let Members not upset the negotiations that are going on now; and support the Hyde amendment.

Mr. HOUGHTON. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from New York.

Mr. HOUGHTON. As someone who has listened to the "Wait a minute, wait a minute" philosophy, I must say that the President has every bit of power that he needs. So do the Secretaries of State and Commerce and Defense. I have waited a minute, as a manufacturer of goods, for 35 years. It has always been the same argument, and the goods which have been on the list have not had anything to do with national security.

Mr. KYL. Mr. Chairman, if I could reclaim my time and respond to the gentleman with whom I have great respect, what has happened over the last 3 or 4 years is not what is about to happen. We just had a summit. We are opening up the barriers. We will have commerce. Things are changing. We cannot use what happened 4 or 5 years ago for what is going to happen over the course of the next year under this Bush administration.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from California.

Mr. HUNTER. This is an important point. If this was a discussion on arms control and we were unilaterally picking chips off the table, and the President was negotiating at that very time in Europe on arms controls, it would be unthinkable. That is precisely what we are doing.

A letter of June 6, signed once again by the Secretaries of Commerce and State and Defense I would like to read from.

(On request of Mr. KYL and by unanimous consent, Mr. HUNTER was allowed to proceed for 1 additional minute.)

Mr. HUNTER. They state,

At the Cocom high level meeting, the U.S. Government expects to earn allied endorsement of a major proposal that will dramatically liberalize Cocom, eliminating over one-third of the entries currently on the industrial list.

They are working this out right now.

The gentleman made a great point, all of the interests of the countries that make up Cocom, like France, which would not let Members overfly on a Libya strike, do not have the same interests that we have. They can be leveraged by some of the Middle East countries that we cannot be leveraged by. It is absolutely important that we have all the chips on the table, and we are taking chips away from the President right now by unilaterally forcing some of this stuff down his throat. I think the gentleman is absolutely right, and the Hyde amendment should be supported.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, we are not taking chips from the President. What we are saying is, instead of playing from this very high stack of red chips, he will have to deal with a particular problem by taking a blue chip.

Now, this administration suffers, unfortunately, credibility, because we have heard the promises about expediting the promises in interagency cooperation for so long that they do not have credibility. That is the sad fact.

(On request of Mr. HUNTER and by unanimous consent, Mr. KYL was allowed to proceed for 2 additional minutes.)

Mr. HUNTER. Mr. Chairman, I do not think that we can say when the Secretary of Commerce and Defense and State write Members and tell Members they are meeting in Paris, right now, doing this, that we cannot believe them, and we think it is all a hoax.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just wanted to respond to my dear friend, the gentleman from Nebraska [Mr. BEREUTER], and the rest of the Members who have been saying that foreign policy controls are the backup of this munitions list does not work.

Let me tell Members what is wrong with foreign policy controls, and parenthetically, I assume the gentleman from California [Mr. BERMAN] will be in with an amendment touching on the foreign policy controls because he is concerned that Iraq and some of these other countries will make out like a bandit under this bill, which they will.

However, nonetheless, let me just say several months to a year, timing implementation of controls; finding of foreign availability requires 6 months of negotiation. If unsuccessful, requires licensing or decontrol. New controls cannot be imposed when an existing contract is in place. Foreign policy controls do not extend to reexports when the original export of the item did not require an individual validated license. Must institution a separate foreign policy control for spare parts. The Secretary of Commerce, generally, has the final say, with the possible exception of terrorism issues.

□ 1700

So it is cumbersome. It is like the Byzantine-Gejdenson system, and I ask the Members not to rely on foreign policy controls to protect national security. I rely on the President, but somehow there are Members who do not seem to want to rely on him.

Mr. AuCOIN. Mr. Chairman, the Hyde amendment gutting section 109 of the Export Facilitation Act is another mistaken attempt to control the export of technologies that are already available around the world. Saddling American business with the current outdated system of export controls serves only to put us at a competitive disadvantage with the other industrialized countries. In a time when technology is diffuse and present everywhere in our lives, unilateral controls that add nothing to our national security is like damming half a river, it doesn't do you any good.

By maintaining the current system, the Hyde amendment would leave in place a Rube Goldberg arrangement that the National Academy of Sciences said had cost American business over $9 billion and 140,000 jobs in 1987. Bureaucratic turf battles have so gummed up the export license review process in this country that it typically takes a United States manufacturer 120 days for export license approval to Eastern Europe whereas Japan's Ministry of International Trade and Industry takes 4 days, and an average of 2 weeks in Western Europe. As any businessman will tell you, time is money and billions have been needlessly lost in the present system.

The bill before us, H.R. 4653, seeks to untangle this mess and streamline the export control system. It defines what items will be controlled by which agency and establishes a process to resolve jurisdictional disputes in a timely manner. If we are to give American business a fair shot at competing in the global marketplace, we need these reforms. I urge my colleagues to vote against the Hyde amendment.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The question is on the amendment offered by the gentleman from Illinois [Mr. HYDE].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. KYL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 136, noes 281, not voting 15, as follows:

[Roll No. 153]

AYES—136

Archer	Hall (OH)	Pickett
Armey	Hall (TX)	Porter
Baker	Hammerschmidt	Pursell
Ballenger	Hancock	Ravenel
Barton	Hansen	Ray
Bateman	Hastert	Rhodes
Bennett	Hefley	Rinaldo
Bentley	Herger	Ritter
Bilirakis	Hiler	Roberts
Bliley	Holloway	Rogers
Broomfield	Hopkins	Rohrabacher
Bunning	Hubbard	Rowland (CT)
Burton	Hunter	Saxton
Byron	Hutto	Schaefer
Callahan	Hyde	Scheuer
Clinger	Inhofe	Schuette
Coleman (MO)	Ireland	Schulze
Combest	James	Sensenbrenner
Condit	Kasich	Shumway
Coughlin	Kyl	Shuster
Courter	Lagomarsino	Sisisky
Cox	Lewis (FL)	Skeen
Craig	Lightfoot	Slaughter (VA)
Crane	Lipinski	Smith (NE)
Dannemeyer	Livingston	Smith (NJ)
Davis	Lukens, Donald	Smith (TX)
DeLay	Madigan	Smith, Robert (NH)
DeWine	Marlenee	
Dickinson	Martin (NY)	Solomon
Donnelly	Martinez	Spence
Dornan (CA)	McCandless	Stangeland
Douglas	McCollum	Stearns
Dreier	McCrery	Stump
Duncan	McEwen	Tallon
Edwards (OK)	Meyers	Taylor
Emerson	Michel	Upton
Fawell	Miller (OH)	Vucanovich
Fields	Molinari	Walker
Gallegly	Montgomery	Weldon
Gillmor	Moorhead	Whittaker
Gilman	Ortiz	Whitten
Gingrich	Oxley	Wilson
Goodling	Parker	Wolf
Goss	Parris	Young (AK)
Grant	Pashayan	Young (FL)
Gunderson	Paxon	

NOES—281

Ackerman	Bereuter	Brown (CA)
Alexander	Berman	Brown (CO)
Anderson	Bevill	Bruce
Andrews	Bilbray	Bryant
Annunzio	Boehlert	Buechner
Anthony	Boggs	Bustamante
Applegate	Bonior	Campbell (CA)
Aspin	Borski	Campbell (CO)
Atkins	Bosco	Cardin
AuCoin	Boucher	Carper
Barnard	Brennan	Carr
Bartlett	Brooks	Chandler
Beilenson	Browder	Chapman
Clarke	Kennedy	Robinson
Clay	Kennelly	Roe
Clement	Kildee	Ros-Lehtinen
Coble	Kleczka	Rose
Coleman (TX)	Kolbe	Rostenkowski
Collins	Kolter	Roth
Conte	Kostmayer	Roukema
Conyers	LaFalce	Rowland (GA)
Cooper	Lancaster	Roybal
Costello	Lantos	Russo
Coyne	Laughlin	Sabo
Darden	Leach (IA)	Saiki
DeFazio	Leath (TX)	Sangmeister
Derrick	Lehman (FL)	Sarpalius
Dicks	Lent	Savage
Dingell	Levin (MI)	Sawyer
Dixon	Levine (CA)	Schiff
Dorgan (ND)	Lewis (GA)	Schneider
Downey	Lloyd	Schroeder
Durbin	Long	Schumer
Dwyer	Lowey (NY)	Serrano
Dymally	Luken, Thomas	Sharp
Dyson	Machtley	Shaw
Early	Manton	Shays
Eckart	Markey	Sikorski
Edwards (CA)	Martin (IL)	Skaggs
Engel	Matsui	Skelton
English	Mavroules	Slaughter (NY)
Erdreich	Mazzoli	Smith (FL)
Evans	McCloskey	Smith (IA)
Fascell	McCurdy	Smith (VT)
Feighan	McDermott	Smith, Denny (OR)
Fish	McGrath	
Flake	McHugh	Smith, Robert (OR)
Foglietta	McMillan (NC)	
Ford (MI)	McMillen (MD)	Snowe
Ford (TN)	McNulty	Solarz
Frank	Mfume	Spratt
Frenzel	Miller (CA)	Staggers
Frost	Miller (WA)	Stallings
Gallo	Mineta	Stark
Gaydos	Moakley	Stenholm
Gejdenson	Mollohan	Stokes
Gekas	Morella	Studds
Gephardt	Morrison (CT)	Sundquist
Geren	Morrison (WA)	Swift
Gibbons	Mrazek	Synar
Glickman	Murphy	Tanner
Gonzalez	Murtha	Tauke
Gordon	Myers	Tauzin
Gradison	Nagle	Thomas (CA)
Grandy	Natcher	Thomas (GA)
Gray	Neal (MA)	Thomas (WY)
Green	Neal (NC)	Torres
Guarini	Nielson	Torricelli
Hamilton	Nowak	Towns
Harris	Oakar	Traficant
Hatcher	Oberstar	Traxler
Hawkins	Obey	Udall
Hayes (IL)	Olin	Unsoeld
Hayes (LA)	Owens (NY)	Valentine
Hefner	Owens (UT)	Vander Jagt
Henry	Packard	Vento
Hertel	Pallone	Visclosky
Hoagland	Panetta	Volkmer
Hochbrueckner	Patterson	Walgren
Horton	Payne (NJ)	Walsh
Houghton	Payne (VA)	Washington
Hoyer	Pease	Watkins
Huckaby	Pelosi	Waxman
Hughes	Penny	Weber
Jacobs	Perkins	Weiss
Jenkins	Petri	Wheat
Johnson (CT)	Pickle	Williams
Johnson (SD)	Poshard	Wise
Johnston	Price	Wolpe
Jones (GA)	Quillen	Wyden
Jones (NC)	Rahall	Wylie
Jontz	Rangel	Yates
Kanjorski	Regula	Yatron
Kaptur	Richardson	
Kastenmeier	Ridge	

NOT VOTING—15

Bates	Espy	Lowery (CA)
Boxer	Fazio	McDade
Crockett	Flippo	Moody
de la Garza	Lehman (CA)	Nelson
Dellums	Lewis (CA)	Slattery

□ 1721

Mr. WEBER changed his vote from "aye" to "no."

Messrs. DONALD E. "BUZ" LUKENS, GINGRICH, SCHEUER, and HANSEN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KOSTMAYER

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is this amendment listed in the RECORD?

Mr. KOSTMAYER. Yes, Mr. Chairman, this amendment is listed in the RECORD.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER: Page 41, insert the following after line 4 and redesignate the succeeding subsection accordingly:

"(b) FORFEITURE OF SEIZED ITEMS.—Section 12(a)(3) (50 U.S.C. App. 2411(a)(3)) is amended by adding at the end the following:

"(C) All goods or technology seized under this paragraph by authorized officers or employees of the Department of Commerce pursuant to a warrant, or pursuant to a search to which the person holding title to the goods or technology consented shall be forfeited to the United States. The provisions of law relating to—

"(i) the seizure, summary and judicial forfeiture, and condemnation of property for violation of customs laws.

"(ii) the disposition of such property or the proceeds from the sale thereof,

"(iii) the remission or mitigation of such forfeitures, and

"(iv) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subparagraph, insofar as applicable and not inconsistent with this Act; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this subparagraph by the Secretary or such officers and employees of the Department of Commerce as may be authorized or designated for that purpose by the Secretary, or, upon the request of the Secretary, by any other agency that has authority to manage and dispose of seized property.".

Mr. KOSTMAYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MODIFICATION TO AMENDMENT OFFERED BY MR. KOSTMAYER

Mr. KOSTMAYER. Mr. Chairman, I ask unanimous consent to modify the amendment as printed in the RECORD.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

In lieu of the language of the amendment, insert the following: Page 41, insert the following after line 4 and redesignate the succeeding subsection accordingly:

(b) FORFEITURE OF SEIZED ITEMS.—Section 12(a)(3) (50 U.S.C. App. 2411(a)(3)) is amended by adding at the end the following:

"(C) All goods or technology lawfully seized under this paragraph by authorized officers or employees of the Department of Commerce shall be forfeited to the United States. The provisions of law relating to—

"(i) the seizure, summary and judicial forfeiture, and condemnation of property for violation of custom laws,

"(ii) the disposition of such property or the proceeds from the sale thereof,

"(iii) the remission or mitigation of such forfeitures, and

"(iv) the compromise of claims

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subparagraph, insofar as applicable and not inconsistent with this Act; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this subparagraph by the Secretary or such officers and employees of the Department of Commerce as may be authorized or designated for that purpose by the Secretary, or, upon the request of the Secretary, by an other agency that has authority to manage and dispose of seized property.".

The CHAIRMAN. Is there objection to the modification?

There was no objection.

The CHAIRMAN. The modification is accepted.

The gentleman from Pennsylvania [Mr. KOSTMAYER] is recognized for 5 minutes in support of his amendment, as modified.

Mr. KOSTMAYER. Mr. Chairman, I can do this very briefly, and I thank the gentleman from California [Mr. HUNTER] for allowing me to take just a little bit less than 1 minute to explain this amendment.

Mr. Chairman, my amendment is straightforward. It has been cleared by the majority and the minority on the subcommittee and the full committee and by the Ways and Means Committee as well.

I have held this amendment until today just so that we could work out everyone's concerns. I think we have succeeded in doing so.

My amendment would give the Commerce Department the explicit authority to forfeit goods they have seized legally. That is all it does.

It does not create a new bureaucracy within the Department of Commerce to carry out these forfeitures. The Department of Commerce will simply use the existing offices and procedures of the Customs Service and the U.S. Marshalls.

This is a commonsense amendment, Mr. Chairman, and I urge its adoption.

The CHAIRMAN. Is there further discussion on the amendment? If not, the question is on the amendment, as modified, offered by the gentleman from Pennsylvania [Mr. KOSTMAYER].

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is this an amendment noticed in the RECORD?

Mr. HUNTER. It is, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. HUNTER: Page 21, strike line 1 and all that follows through page 22, line 20, and redesignate the succeeding sections in title I, and reference thereto, accordingly.

Mr. HUNTER. Mr. Chairman, let me read to the Members what this does. This amendment strikes section 108, which is known as the telecommunications section. Basically it strikes the section that does this, and I am quoting from the section:

(ii) That exports of telecommunications technology for civil end use to any country, other than a country for which no authority or permission to export may be required under paragraph (2) or a controlled country that is not eligible for favorable consideration under paragraph (4)(A)(ii), require not more than notification of the Coordinating Committee.

Mr. Chairman, that is a very, very important provision in this Gejdenson bill, because that is going to give to Western companies the right to sell sophisticated telecommunications equipment to the Soviet Union and to the Warsaw Pact.

Let me just say that telecommunications, I think we all realize, are a very vital aspect of national defense. They are every bit as important as a warhead, as a trigger, as a chemical weapon, as a machine, and as a satellite. Telecommunications are the key to the ability to kill people in modern warfare.

The problem with civilian-end use is simply this, and I appreciate the fact that the gentleman from Connecticut [Mr. GEJDENSON] and his committee have tried to distinguish between military use and civilian use. You cannot do it. A phone call from the KGB to execute people in Lithuania can be carried out through this proposed closed telecommunications system just as easily as a phone call from a grandmother to her grandchildren. You cannot differentiate the civilian use from the military use.

Now, we have made great strides with the Soviet Union in putting together a number of arms control agreements, human rights agreements, and immigration agreements. The Soviet Union and the Warsaw Pact have opened up. We have opened up the Iron Curtain. We have made it opaque, and we have a very open communications system right now.

We are proposing to sell them a sophisticated closed communications system, and that means that the eyes

of the United States and the rest of the free world cannot be on them. We cannot tell what is going on. We cannot monitor whether they are living up to their new desire or new stated desire to be a good citizen in this world.

If you really want to see this new path that the Soviet Union is taking to be a path that is successful, that ends up with a new rapport between the nations and a new civilization on the part of the Soviet Union, you had better darn well be able to monitor them, and you are not going to be able to do that with a sophisticated closed telecommunications system that closes the Iron Curtain.

Now, we have seen recently in our INF agreement, we have been distraught to see that SS-23 missiles in Germany all of a sudden came under our scrutiny, missiles that were supposed to be done away with. We called the attention of the Soviet Union to those missiles. We forced them to answer up. We have to make them answer up time and again on things that we see with respect to their behavior. We are not going to be able to do that with this closed sophisticated telecommunications system that we propose to send them.

So I would just say to my colleagues, the administration realizes that our businessmen want to sell and they are going through the task right now of negotiating with our allies what areas of telecommunications can be sold consistent with national security and what cannot.

I would ask Members to support this amendment, because giving a carte blanche to businesses to close down this opaque door that we have been looking through into the Soviet Union and the Warsaw Pact is going to wreak havoc with the agreement that we have made with the Soviet Union and with the progress of people who want to be free in that country.

Mr. Chairman, I would ask everybody to support this amendment.

□ 1730

Mr. HYDE. Mr. Chairman, I rise in support of the Hunter amendment.

Mr. Chairman, this section is one of the major reasons why this bill should have been referred to the Intelligence Committee sequentially and to the Committee on Armed Services, because there are military and intelligence aspects to telecommunications exports that are not dreamed of much less considered in this section 108.

As to the process, this section mandates the Secretary of State, in my judgment in an unconstitutional way, because Congress cannot tell the Secretary of State how to do his job, mandates the Secretary of State to negotiate with Cocom the decontrol of virtually all telecommunications equipment. I think the process is wrong, and I think the subject is wrong.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, again, this is a very important section. So we do not decontrol. It is licensed. we do not decontrol. I think it does not present to the people an accurate presentation of what the bill does to say it decontrols. It does not decontrol.

Mr. HYDE. Reclaiming my time, it requires negotiation to decontrol. Is that not correct?

Mr. GEJDENSON. If the gentleman will yield further, that only affects the low-level items below the China green line.

Mr. HYDE. Reclaiming my time, that is what we are doing, and I am suggesting that mandating the Secretary of State to negotiate with foreign personages is woefully unconstitutional. It is not within our power to do that.

But let me just read to the Members from the gentleman's report about which we cannot argue, and then we will argue.

His report says, and I quote, and listen to this, folks, for Orwellian language: "Telecommunications equipment that may make it more difficult for the United States to conduct surveillance does not contribute to the military potential of the Soviets or another country."

Did the Members hear that? Telecommunications, let us say fiber optics, that the other side gets that may make it tough for us to surveil them does not contribute to their military power. If we do not know their intentions much less their capabilities, I suggest they have an advantage.

I suggest to the Members that telecommunications equipment is very sensitive and at the core of our intelligence interests. It is a crying shame that in the rush to export everything that can be made by a factory in our country we go around the Intelligence Committee, we go around the Committee on Armed Services.

I know nobody is interested in this, and I do not hope I ever have to live to say, "I told you so." But we are decontrolling effectively by this bill telecommunications, and that means fiber optics, and we are crazy to hand this over to the Soviet Union. The Intelligence Committee should have looked at this.

Mr. Chairman, I am also telling the Members that anything that may make it difficult for us to surveil the opposition does contribute to their military strength, and to say it does not is nonsense. That is why the gentleman's amendment ought to be supported.

Mrs. BENTLEY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am happy to yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Chairman, we have been spending a lot of time and expressing a lot of concern about the people in Lithuania, for an example, right now. We have been concerned that they are taken care of.

My understanding is that if there was a fiber optic system in place, we would not be able to keep track of what is happening in Lithuania right now. They could kill, murder millions of people, and we would never know it, but in what we have in place now, we can keep track of what is going on.

Mr. HYDE. Mr. Chairman, the gentlewoman has said that. I have not. The gentlewoman gets very close to some difficult decisions, and I see the gentleman from New York approaching who is somewhat of an authority on fiber optics.

I can only say in anticipating of his depreciating the concerns I have made that there are many opinions on that, and his is one I give great weight to, but there are others I also give weight to.

If the gentlewoman from Maryland has more to say, I am always happy to listen to her.

Mr. HOUGHTON. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am very happy to yield to the gentleman from New York.

Mr. HOUGHTON. Mr. Chairman, I do have a couple of points to make.

A little bit of my skin is in the fiber optics business. As a matter of fact, the firm that I was associated with for many years invented fiber optics.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has expired.

(By unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. HYDE. Mr. Chairman, let me, before the gentleman takes more time, and he can get his own time and I want him to, but while I have him on his feet, today's Washington Post says, "West Denies Fiber Optics To Soviets. U.S. and Britain Bar Access to Technology."

It is my view that under section 108 of this bill we might not have that option, but in any event, would the gentleman say that it was a good decision by our country and by Great British to deny fiber optics to the Soviets? And would the gentleman like us to continue to have that power to do that?

Mr. HOUGHTON. Will the gentleman yield?

Mr. HYDE. I am happy to yield to the gentleman from New York.

Mr. HOUGHTON. Mr. Chairman, I would answer my friend from Illinois by saying I cannot make a decision whether it was a good or a bad decision. All I know is it was a technically

fallacious decision. It was a political decision and not a good technical decision.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, the gentleman is incorrect. I am not surprised that the gentleman has offered these amendments, because apparently somebody has given them a misprinted copy of the amendments.

Mr. HYDE. How about the report?

Mr. GEJDENSON. If the gentleman reads the reports——

Mr. HYDE. And I have.

Mr. GEJDENSON. And if he reads the amendments, it clearly would have left the administration in a position to deny the U.S. West proposal in the present bill, sir.

Mr. HYDE. The gentleman's report says that, "Telecommunications equipment that may make it more difficult for the United States to conduct surveillance does not contribute to the military potential of the Soviets." That is nonsense.

Wait a minute, this report goes on, "* * * even to the extent that surveillance may be somewhat more difficult, it is outweighed by the importance of facilitating communications, especially with the West, and thereby opening up Eastern Europe and the Soviet Union to Western ideas and business." Now we have it: business is more important than national security. That is the thrust of the gentleman's bill, and those who applaud it are welcome to take that position. I do not share it.

Mr. RICHARDSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to this amendment. This is the heart of the bill. This is a killer amendment.

Mr. Chairman, if this amendment passes, what we are doing is we are prohibiting telephones, fax machines from being exported to Eastern Europe and the Soviet Union.

Mr. Chairman, the cold war is over. President Bush has said so. Gorbachev has said so. We have to move on.

If this amendment passes and if this legislation is not approved, this strong section 108, what is going to happen is our own allies, our own friends, are going to get the business, and U.S. exports, U.S. jobs, U.S. technology is going to be lost.

I am a member of the Intelligence Committee. I have been fully briefed of the intelligence implications of section 108. There is no jeopardizing of national security in this provision.

Mr. Chairman, I feel, too, like the gentleman from New York [Mr. HOUGHTON], that it was purely a political decision that was made on the U.S. West issue. It was a political decision made that I think is unfortunate.

□ 1740

What we have right now is a situation where U.S. West could have proceeded with a fiber optic technology in the Soviet Union. The Soviets have a fiber optic technology. Admittedly, it is not as strong as ours.

Now what is going to happen is some of our other allies are going to get the business and it is going to be just like the Yamal project. Mr. Speaker, we remember that project, too. We have that decision of the U.S. Government to prohibit American participation in this pipeline project, which was nonetheless completed on schedule by our Cocom allies. As always, the loser was American industry, in this case the oil field equipment industry, which is just now beginning to recover from $1.7 billion lost in export sales, not to mention 46,000 jobs. This is going to have the same effect on the U.S. West decision.

Mr. Chairman, we have a situation here to pass a bill that is technologically sound, that is simply going to reflect present realities.

I think all Members have traveled in Eastern Europe recently. When you ask the Speaker of the House of the Polish Parliament or the Hungarian Parliament what more the United States can do to help, they do not say they want loans and credits and United States foreign assistance. They say we want a fax machine, we want telephones.

If we are to have an efficient system of agricultural exports by these countries in Eastern Europe, the way they are going to get through is by improving their telecommunications industry. Telecommunications, telephones, faxes, means democracy, the improvement of exchange of ideas with these countries that do not have this at all.

Mr. Chairman, this is a very, very important bill. If this amendment passes, it guts the entire legislation. It undercuts the foreign policy objectives of President Bush.

Mr. Chairman, I stand as a Member of the opposite party congratulating the President on the way he has handled the Soviet Union and our policies in Eastern Europe. We have a trade agreement with the Soviet Union. We have a viable foreign policy relationship right now. I think if this amendment passed, it would send a signal to those hardliners in the Soviet Union that Gorbachev, it does not mean anything if he wants to improve relations with us.

I think it is critically important that we reject this amendment, that we pass this bill, that we send a signal to American industry. And I have had letters from IBM, I have had letters from all kinds of American industry, saying that this is an important bill. This amendment is not a good amendment.

I regret the decision by the Bush administration on the U.S. West project, but that is done. If we pass this amendment, we are going to undercut our commercial policy, our export policy, and our foreign policy. I urge rejection of this amendment.

Mr. Chairman, I would like to express my strong support for section 108 of the Export Facilitation Act of 1990 (H.R. 4653) which provides for the decontrol of civilian telecommunications exports. No provision of this bill more fully expresses the desire of the American people to see democratic and economic reforms in East Europe and the Soviet Union succeed, while at the same time preserving the strength and leadership of a critical United States industry.

Telecommunications will play a vital role in making the democratic reforms in East Europe and the Soviet Union permanent. Indeed, the single common denominator among the democratic nations of the world is the ability of citizens freely to communicate with each other. Civilian telecommunications projects, which until now had been a very low priority for the repressive regimes that well understood this principle, is not only a worthy objective but our duty as true supporters of democracy. Repressive regimes depend on their ability to control and restrict the flow of ideas among their citizens. Telephones and facsimile machines are the weapons of democracy, permitting the free flow of ideas and information both domestically and internationally.

The need for a total renovation of the telecommunications infrastructures in East Europe and the Soviet Union is undisputed. Efficient telecommunications systems are the foundation upon which free market economies are built.

Recently, the press has reported that the development of stock and commodities markets in the East bloc has been hindered by the lack of communications infrastructures in these countries. For market economies to develop in the East bloc, the West must be willing to export the telecommunications technology necessary for these countries to build the infrastructure required to compete in the global marketplace of the 20th century. To date, however, the United States has been blocking the sale of telecommunications technology to the East bloc on the grounds that better telephone communications is a threat to U.S. national security. But as I have said, just the opposite is true—modern telecommuncations technology is necessary for the development of democratic societies and market economies. If the United States does indeed encourage democratic reform in the East bloc, it should eliminate or reduce controls on the export of telecommunications to the East bloc.

Such decontrol is also necessary if the United States is to preserve its leadership in the world telecommunications industry. Over the next decade, Eastern Europe and the Soviet Union will be among the world's largest markets for telecommunications products, technologies, and related services, with sales of over $12 billion per year. Unfortunately, current export controls, particularly with respect to technical data exports, prevent U.S. firms

from competing on the same playing field as their competitors because the U.S. applies much more restrictive regulations in this area than do our Cocom allies. Furthermore, the controls generally apply to the higher end of the technology spectrum, where the United States enjoys a competitive advantage. Our competitors feel free to use the more restrictive U.S. regulations as a negotiating ploy by touting their flexibility in this area vis-a-vis U.S. competitors. Some foreign companies have openly suggested that U.S. companies simply cannot deliver on projects for which they are bidding because of the greater restrictions on exports of information and services placed on the U.S. company by government.

Mr. Chairman, I am deeply concerned that the competition for the civilian telecommunications business in the Soviet Union and Eastern Europe will be over before it begins. As President Gorbachev made clear in his speech to U.S. business leaders in San Francisco this week, the companies that enter these markets now will dominate them for years to come. Whether U.S companies play a role in those markets will largely depend on the substance and speed of export control reform. This morning I was troubled to read of the Bush administration's decision to oppose the U.S. West trans-Soviet fiber optic project. I cannot help but be reminded of the decision by the U.S. Government several years ago to prohibit U.S. participation in the Yamal pipeline project, which nonetheless was completed on schedule by our Cocom allies. As always, the loser was U.S industry, in that case the oil field equipment industry, which is just now beginning to recover from the estimated $1.7 billion loss in export sales, not to mention the loss of 46,000 jobs, wrought by that decision. Can we afford to make the same mistake with our telecommunications industry?

Export decontrol decisions must always take into account legitimate national security concerns. There is no question that military organizations require sophisticated telecommunications technology. They also require food, but few would argue today that wheat sales to the Soviet Union threaten United States national security merely because that wheat feeds the Soviet military. Civilian telecommunications projects and technologies can be effectively safeguarded against diversion to military use. Several East European countries are actively implementing safeguards regimes to prevent such diversions and, contrary to Secretary Mosbacher's recent statements, even the Soviets have publicly professed several times that they would be willing to permit verification of civilian use for high-technology projects in the Soviet Union. It is indeed ironic that the United States Government is willing to enter into, and trust the Soviets will comply with, agreements regarding reductions in nuclear arms yet at the same time refuse to accept verification procedures I designed to prevent diversions of telephones to the Soviet military. In this context, I would note that members of the U.S. intelligence community have fully briefed me on this issue, and I remain convinced that civilian telecommunications equipment and technologies should be decontrolled as provided by H.R. 4653.

In sum, the decontrol of telecommunications products and technologies to Eastern Europe is the single most effective way of supporting democratic and economic reform in those countries. It also ensures that the U.S. telecommunications industry will no longer be hamstrung by overly restrictive U.S. regulations in their efforts to gain a share of one of the world's most significant telecommunications markets. Section 108 provides for a proactive rather than the reactive or, more accurately, retroactive approach to export controls from which this administration is apparently unable to wean itself. I urge you all to support this provision as well.

The administration's decision to deny an application by U.S. West to sell telecommunications equipment to the Soviet Union is symptomatic of a rigid, inflexible approach to high technology exports which ignores the realities of the world marektplace. Unless that approach changes, U.S. firms face the very risk of being left behind in the race to exploit new markets.

Any judgment on an application to export high technology goods and services obviously must include a balancing of all competing interests, including national security. I do not believe that our current review system seeks to achieve that kind of balance, and I do not believe that the administration's proposed modifications to that system represent a good faith effort to cure its deficiencies.

The Export Facilitation Act represents much needed fresh thinking on ways to balance these competing interests. The intent of this bill is not to ignore or give short shrift to national security concerns— some of which are real and should be addressed as this bill moves through Congress and as the administration is willing to sit down and address those issues. Rather, this bill correctly addresses procedural shortcomings and flaws which have served to frustrate commercial expansion into promising markets.

I urge the administration to take a more enlightened view of the shortcomings in current policies and procedures which gave rise to this legislation. It is not enough to object to the telecommunications and supercomputer provisions in this bill on the grounds of national security concerns, and then refuse to assist in the development of ways to meet those concerns. Those of us who serve on committees that deal with national security issues are mindful of their importance, but we are also aware that there are economic forces at work in the world that can effectively negate the effects of unrealistic U.S. policies on matters like international trade.

The final form of H.R. 4653 can be made better if the administration will work with us on it. But continued administration efforts which seek to ignore the inevitability of the acquisition of certain high technology systems by nations not now possessing them will not prevent the passage of the kind of badly needed reform embodied in this legislation.

COMPARISON OF PROVISIONS OF TELECOMMUNICATIONS

1. Administration's proposal to COCOM:

Relaxes controls on some cellular and some satellite ground station systems.

Regarding fiber optic technology, differentiates Soviet Union from Eastern Europe.

Permits export of fiber-optic equipment (up to 156 megabit capacity) to Eastern Europe only.

Apparently Administration is seeking international agreement not to allow export to Soviet Union of fiber-optic system of 140-megabit or greater capacity.

Administrative exception note (AEN)—national discretion on systems up to 45 megabit capacity.

2. Gjedenson bill (HR 4653):

Sets no ceilings on capacity.

Identifies no proscribed countries.

No differentiation of USSR from Eastern Europe.

3. U.S. West proposal:

Proposing fiber-optic system at 565 megabit level to Soviet Union.

Would be permitted under HR 4653.

Would not be permitted even under relaxed controls proposed by Administration.

U S WEST, INC.,
Washington, DC, June 4, 1990.

Re H.R. 4653: The Export Facilitation Act of 1990.

Hon. BILL RICHARDSON,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN RICHARDSON: U S West supports the Export Facilitation Act of 1990, H.R. 4653. The bill promotes U.S. competitiveness in high technology fields, and expecially in telecommunications, by allowing U.S. companies access to previously restricted civilian markets and streamlining the export control bureaucracy. At the same time, the bill preserves controls on those technologies that have truly military significance.

A key provision of the bill would decontrol civilian telecommunications equipment for all destinations. Without decontrol, U.S. exporters will remain uncompetitive in the critical new markets of Eastern Europe and the U.S.S.R.

U S West requests your support for H.R. 4653 when it is brought to the floor for vote. U S West also requests that any amendment intended weaken the provisions of the Export Facilitation Act be rejected.

Thank you for your consideration. Additional information on the trade development aspects of the bill is attached.

Sincerely,

KIM OBOZ.

H.R. 4653: THE EXPORT FACILITATION ACT OF 1990

The Export Facilitation Act of 1990, H.R. 4653, promotes U.S. competitiveness in high technology fields, and especially in telecommunications, by allowing U.S. companies access to previously restricted civilian markets and streamlining the export control bureaucracy. At the same time, the bill preserves controls on those technologies that have true military significance.

INCREASE TELECOMMUNICATION'S EXPORTS

A key provision of the bill would decontrol civilian telecommunications equipment for all destinations. Without decontrol, U.S. exporters will remain uncompetitive in the crucial new markets of Eastern Europe and the U.S.S.R. These countries have made telecommunications modernization their first priority. In 1990 alone, the Soviet Union will spend $10 billion on civilian telecommunications; between them, Czechoslovakia and Hungary will spend over $500 million. An additional $10 billion will be necessary over the next several years to upgrade Poland's antiquated phone system. H.R.

4653 will ease export restrictions on telecommunications goods and service, opening these markets to U.S. companies.

Our CoCom allies already dominate these markets and will increase their lead if the United States retains stringent controls on U.S. exports. Even before the "Revolution of 1989," the other CoCom nations enforced export control less stringently than the U.S. With Eastern Europe no longer a threat and the Soviet military threat declining, they are less likely than ever to abide by strict controls on civilian technology.

Opponents of the bill argue that these countries "don't need" modern systems, and should only be allowed to purchase outdated equipment. This U.S.-Imposed obsolescence will place additional burdens on countries already facing hard currency shortages and serious economic difficulties. It is particularly inappropriate in light of the fact that, in many cases, the funding for these telecommunications projects will come from scarce U.S. aid dollars.

REDUCE GOVERNMENT PROCESSING TIME

H.R. 4653 also addresses the bureaucratic inefficiency that hinders U.S. competitiveness by delaying U.S. exports, even to our allies. In high tech fields, product life cycles may be as short as 24 months. U.S. companies' export applications routinely get delayed for months within the export control bureaucracy. As a result, U.S. firms often lose the critical first to market advantage. H.R. 4653 will reduce delays and thus resolve a problem that the Administration has frequently acknowledged, but failed to correct.

NATIONAL SECURITY PROTECTED

Opponents of the bill have stated that it will impair U.S. national security, but offer few specifics. In fact, H.R. 4653 draws necessary distinctions between militarily significant exports and exports that will not endanger U.S. security. In the telecommunications area, only products used for civilian purposes are decontrolled. Given the Soviet's inability to reverse engineer sophisticated electronics, exports of even sophisticated telecommunications equipment will not provide the Soviets with an opportunity to develop military versions of civilian equipment. Because the bill retains stricter controls on transfers of technology than on transfers of products, higher technologies cannot be exported without U.S. Government approval, case by case.

For other types of goods, only those countries that do not present a military threat to the United States are eligible for favorable export control treatment. Those countries must still establish safeguards against diversion before they become eligible for favorable treatment. Further, decontrol only applies to exports for civilian use. Thus, the bill ties decontrol specifically to objective measures of how specific exports will affect United States security interests. H.R. 4653 provides a reasonable balance between economic and military interests, both of which should be weighed in calculating our long term national security.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 4, 1990.

DEAR COLLEAGUE: H.R. 4653 is scheduled for floor consideration on Wednesday. If you missed the Washington Post editorial on our export control laws, I hope you might take a few minutes to read it now. It hits the situation head on. Vote YES on H.R. 4653!

"EXPORTING HIGH TECHNOLOGY

"Computers are going to be essential to the job of drawing Eastern Europe into the worldwide networks of commerce and communications. The Eastern Europeans are going to need them for—among many other things—air transport, telephones and banks that meet Western standards. But selling big American computers to these recently Communist countries is restricted and often prohibited by the law that controls exports of high technology.

"That law expires in September. It needs to be drastically narrowed and reformed. The executive branch has been divided for years between the defense and security agencies on one side and the export promotion agencies on the other. The Bush administration has produced a compromise proposal that represents an improvement but—in one of the more glaring anomalies of these rules—would still leave much tighter restrictions on sales to Hungary and Poland than to China. The House Foreign Affairs Committee, with strong bipartisan support, has reported a bill that responds much more effectively to the current changes in the world.

"Those changes involve more than the Warsaw Pact countries. The export control law covers sales of advanced equipment to the United States' allies as well as to its adversaries. An American exporter needs to get a license—not always a quick or simple process—to ship certain kinds of equipment to a customer in, say, France. That's turning into a serious competitive handicap. American exporters report that Western European customers are beginning to avoid buying advanced technology from the United States because they don't want to risk being caught in the internal quarrels that frequently complicate and prolong the licensing process here in Washington.

"There's good reason to continue to keep certain technologies out of the hands of the Soviet Union, China and their friends. Most of these technologies are also available form other industrial democracies. So far they have worked together to control exports throuhg a jointly agreed list. But most of the Western Europeans consider that list to have become excessive and obsolete—and they are right. If the United States doesn't recognize new realities, and if it allows the present controls to become a barrier to helping Eastern Europe, the cooperative agreements are going to collapse. The House bill would prevent that. It is likely to come to the floor within a week or so, and it deserves support."

I also wanted to list a few supporters of the reforms in H.R. 4653:

Chamber of Commerce.
National Association of Manufacturers.
Emergency Committee for American Trade.
Computer and Communications Industry Association.
American Electronics Association.
AT&T.
American Business Conference.
Business Roundtable.
US Council for International Business.
AFL-CIO.
American Association of Exporters-Importers.
IBM.
Pro-Trade Group.
Electronic Industries Association.
UNISYS.
Digital.
Boeing.
Hewlitt-Packard.
Caterpillar, Inc.

AMO HOUGHTON,
Member of Congress.

AMERICAN ELECTRONICS ASSOCIATION,
Washington, DC, June 1, 1990.

MR. BILL RICHARDSON,
House of Representatives,
Washington, DC.

DEAR MR. RICHARDSON: We are writing in strong support of the Gejdenson/Roth bill (H.R. 4653), which reforms the Export Administration Act. While additional reforms are needed, this bill represents a solid compromise that will afford significant trade opportunities while maintaining necessary safeguards to our national security.

The U.S. export control regime is at a critical juncture. The system has not kept pace with the dramatic political changes of the past year and has historically been plagued by bureaucratic deadlock. Our allies strongly believe that the multilateral export control system must adapt to the dynamic technological, political, and stragetic landscape if it is to remain effective in controlling the transfer of strategic technologies to our adversaries. The U.S. must demonstrate its leadership by significantly reducing the control list and overhauling our system if we are to maintain an effective multilateral system. Unless changes are made to U.S. and multilateral export control policy, our allies will lose faith in the COCOM system, which would seriously undermine U.S. and NATO security interests.

Although the Administration's proposal to COCOM is a positive first step, it is no substitute for legislation. Successful reform will require legislative changes that could not be addressed in a proposal to COCOM.

Congress needs to send a strong political signal to the Administration of its support for economic and political reform in central and Eastern Europe and if its concern with ensuring the global competitiveness of our industry. H.R. 4653 helps do this by providing a foundations for necessary changes to the U.S. export control regime so that the American electronics industry can remain competitive and assist in the economic reforms underway in Europe.

Sincerely,

DICK IVERSON,
President and CEO.

JUNE 4, 1990.

DEAR CONGRESSMAN: The Emergency Committee for American Trade (ECAT) strongly urges your support of H.R. 4653, the Export Facilitation Act of 1990, which is shortly to be considered on the House floor.

The bill reauthorizes and, more importantly, updates our nation's export control system. The system is of vital importance to the members of ECAT who are the heads of 63 major U.S. firms that are among America's principal exporters and that have annual worldwide sales in excess of one trillion dollars and over five million employees.

Our export control law provides authority to the President to prohibit the export of items for reasons of national security, foreign policy, or domestic short supply. It must be updated periodically to keep abreast of the rapid evolution of products and technology that are available in the commercial marketplace. It is not uncommon, for example, for U.S. export controls to apply to products that are no longer in production.

Our allies also have export control laws. Over the years we have developed with our principal trading partners through an orga-

nization called the Coordinating Committee on Multilateral Export Controls (COCOM) an agreed list of items that members of COCOM will not ship to adversary nations.

A major and continuing competitive problem for U.S. exporters has been that the United States has had an additional unilateral list of export controlled items that is larger than the agreed COCOM list. The consequence has been that the additional items on the U.S. prohibited list can frequently be purchased by foreign customers from our competitors, thereby shutting U.S. exporters out of valuable commercial markets.

This problem will become even greater for U.S. firms by the move to a barrier-free internal market in the European Communities (EC) by 1992, thereby allowing European firms to sell without export control restrictions throughout the whole EC market. U.S. firms could, however, be left at a substantial disadvantage in EC markets to the extend that their products may remain subject to unilateral U.S. export controls. It must also be remembered that these controls have extraterritorial application so that the European subsidiaries of U.S. firms are covered by the U.S. export control law and regulations.

At the same time that the EC is moving toward an open internal market by 1992, the markets of Eastern European countries and the Soviet Union are being opened, and West and East Germany are being reunified. These momentous events will greatly influence the shape of the EC export control list.

It is thus of critical importance that consistent with the protection of national security interests, the United States export control list and the EC and COCOM export control lists be the same or as close as is possible. Otherwise, U.S. business could be frozen out of vital foreign markets to the extent that the U.S. export control list is longer than that of its principal competitors.

Because global economic competition is increasingly severe, U.S. national security will more and more be dependent on economic security, a factor that needs to be taken into account when considering the structure and administration of U.S. export control law.

H.R. 4653 effectively addresses the monumental changes underway in the European Communities as well as in Eastern Europe. Its enactment would streamline the U.S. export control system and enhance the ability of U.S. business to play a leading role in vital foreign markets in the 1990's.

The members of ECAT urge your support of H.R. 4653. It is of major importance to the national security of the United States and to the international competitiveness of U.S. firms.

Sincerely,

ALLEN F. JACOBSON,
Chairman, Emergency Committee for American Trade, and Chairman, 3M.

NORTHERN TELECOM, INC.,
Washington, DC, June 4, 1990.

Hon. BILL RICHARDSON,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN RICHARDSON: I am writing to urge your support for H.R. 4653, the Export Facilitation Act of 1990, (the Gejdenson/Roth bill), which is expected to be considered on the House Floor this week. The bill was approved unanimously by the Foreign Affairs Committee on May 3, 1990, and would make a number of changes in U.S. export control law that are essential to the present and future competitiveness of the U.S. high technology industries, including the telecommunications sector.

We recognize that the Gejdenson/Roth bill is a compromise effort, and that it does not go as far as we would like in certain areas. But, without doubt, it is a dramatic improvement over current export control law, and is significantly more helpful to U.S. high technology industries—and especially the telecommunications industry—than the package of export control proposals recently put forward by the Administration for consideration in COCOM. Undeniably, the Administration deserves praise for suggesting a broad set of proposals to liberalize trade with Eastern Europe and the Soviet Union, and especially for agreeing in principle to restructure the current control list around a much shorter "core list" of truly strategic goods and technology. But the Administration proposals still reveal a strong reluctance to make dramatic changes in these areas. This is especially true for telecommunicatins, despite the widespread recognition that modernization in this sector is absolutely essential to the prospects for economic and political transformation in these countries.

In reviewing your position on the Gejdenson/Roth bill, we believe it is vital for you to bear in mind that our COCOM allies are already significantly increasing their high technology trade with Eastern Europe and the Soviet Union, and will continue to do so regardless of what the United States does. The Gejdenson/Roth bill holds much greater promise for leveling this playing field than does the Administration package.

As a leading U.S. supplier of telecommunications equipment and technology, Northern Telecom would like to be in the vanguard of companies assisting in the modernization and democratization of Eastern Europe, and otherwise to be doing everything possible to maintain the international competitive position of the U.S. telecommunications industry. These countries (and others) are striving to modernize their telecommunications infrastructures whether U.S. companies are allowed to participate in the process or not. The Gejdenson/Roth bill, though not perfect from our perspective, nonetheless goes a long way towards loosening the competitive shackles on U.S. high technology companies, consistent with the practices and intentions of other industrialized nations.

For all these reasons, I would greatly appreciate your support for the Gejdenson/Roth bill, and opposition to any efforts to weaken it on the House Floor. We have attached a Fact Sheet of the key provisions of H.R. 4653 supported by Northern Telecom. I hope you will review it and consider our views on this most important legislation.

Sincerely,

PAUL J. MYER,
Vice President, Government Relations.

FACT SHEET ON H.R. 4653—THE EXPORT FACILITATION ACT OF 1990

H.R. 4653 is a bipartisan bill. This bill contains numerous provisions supported by Northern Telecom, including:

Eliminates licensing requirements for exports to and among COCOM and COCOM-cooperating (so-called "5(k)") countries;

Requires the U.S. to propose to COCOM that there be decontrol of all goods and technology that can currently be approved for export to China without multilateral review in COCOM;

Requires the U.S. to propose to COCOM that there be a presumption of licensing approval for more sophisticated goods and technology destined for civil end use in those East European countries that (i) do not have interests adverse to the U.S. and COCOM and (ii) have established adequate technology safeguards systems;

Requires the U.S. to propose to COCOM that all exports to Eastern Europe and the Soviet Union to telecommunications *equipment* for civil end use be approvable without multilateral review in COCOM.

Requires the U.S. to propose to COCOM that all exports to appropriate East European countries (as defined above) of telecommunications *technology* for civil end use be approvable without multilateral review by COCOM;

Requires that the continued control of each controlled good and technology be rejustified on national security grounds every two years;

Requires a presumption of licensing approval for exports to trade shows and exhibitions;

Requires publication of the international control lists that have been agreed to by COCOM (along with related notes and understandings); and,

Provides exporters with the long overdue right to obtain judicial review of Commerce Department export control licensing and rulemaking decisions where such decisions are not in accord with relevant export control law or regulations.

INTERNATIONAL BUSINESS MACHINES CORP.,
Albuquerque, NM, June 4, 1990.

Hon. BILL RICHARDSON,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN RICHARDSON: On behalf of IBM, I urge your support of H.R. 4653 when the House takes it up on June 6. This legislation, which reauthorizes the Export Administration Act, recognizes the changing nature of the world and the consequent need for the regulatory environment controlling U.S. exports to change with it.

The Foreign Affairs Committee has done an excellent job in crafting the legislation. In our view, the Committee has struck a careful balance between the economic imperative for the U.S. to expand its exports, and the national security interests in maintaining a framework for effective controls. This balance will permit U.S. firms operating overseas to compete more effectively, particularly in the high technology area.

H.R. 4653 is an important contribution to the U.S. competitiveness. It deserves your support.

Sincerely,

T.E. HOBBS,
Branch Manager.

INTEL,
June 5, 1990.

Re Renewal of the Export Administration Act.

Hon. BILL RICHARDSON,
Attn: Ramiro Prudencio.

Intel strongly supports the Gejdenson/Roth Bill (H.R. 4653), which reforms the Export Administration Act. As you are aware, the House is scheduled to vote on this bill on June 6, 1990.

H.R. 4653 codifies the Administration's proposal for CoCom and goes beyond it in a number of CoCom-related areas. It also reforms other aspects of the export control system which could not be addressed in the

context of a CoCom proposal. Consequently, the Administration's proposal, while a positive first step, is no substitute for legislation.

Intel especially supports H.R. 4653 provisions and amendments which:

Establish a license free-zone for all products shipped to and among CoCom and cooperating (5k) countries.

Harmonize licensing requirements, conditions and interpretations throughout CoCom countries.

Impose safeguards on non-CoCom/5k exports of supercomputers only on those machines which exceed 25% of top supercomputing performance.

Liberalize U.S. export controls vis-a-vis Eastern Europe.

We also believe the bill could be strengthened in connection with the timing of a CoCom license-free zone. The bill sets a late-1991 target date for implementation of the zone. This date will delay the ability of American firms like Intel to compete on a level playing field with CoCom allies. A far more realistic target date is December 31, 1990.

On balance, H.R. 4653 represents a very positive effort to bring the U.S. export control system in line with global economic and political realities. Your active support of the bill on Wednesday, June 6 will be greatly appreciated.

Should you require further elaboration of our position, please contact David Rose in our Washington, D.C. office at 429-2054.

Sincerely,

RICHARD D. BOUCHER,
Vice President, Corporate Programs.

HONEYWELL, INC.,
Washington, DC, June 5, 1990.

Hon. BILL RICHARDSON,
House of Representatives,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN RICHARDSON: The bill to reauthorize the Export Administration Act, H.R. 4653, is scheduled to be on the floor of the House on June 6th. I am writing to urge you to support this legislation as it was reported from the Foreign Affairs Committee.

For some time Honeywell has advocated that U.S. industrial competitiveness is an essential element of our national security. The proper balance between economic security and national security export controls is essential for U.S. companies to compete in the global marketplace. H.R. 4653 has several important provisions intended to improve this balance. These include:

By September 1991, establishment of a "license-free zone" for COCOM and countries that have been designated by the U.S. government to meet COCOM-like standards as required by Section 5(k) of the Export Administration Act.

Establishment of a commodity jurisdiction system to ensure that the same good or technology is not included on both the control list and the munitions list.

Authorization to make bulk licenses available for Eastern Europe and the USSR at the discretion of the Commerce Department.

Decontrol of all goods and technologies below the PRC green line.

We believe these provisions will strengthen the competitive position of U.S. business without weakening national security. Attempts to weaken the legislation through floor amendments should be opposed.

Sincerely,

PAMELA K. ERNEST.

Mr. HOUGHTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there are points of opinion and there are points of fact. In points of opinion you could say that it is a good idea or a bad idea to be able to enter into the world market and sell technically sensitive equipment. I happen to think it is a good idea. But you can argue that point.

You can also argue the point whether businessmen are greedy and are not patriotic, or whether there is no irreconcilability between being a good businessman and a patriot. I happen to believe in that latter conclusion.

Turning from opinions to facts there are three basic facts here.

First, optical cable, single mode fiber, which is used for long range transmission, is tappable. It is more difficult to tap optical fiber, glass fiber, than it is microwave, satellite, or copper wire, but it is tappable. That is fact No. 1.

Fact No. 2, is that it does not require U.S. technology or capability to tap fiber optic cable. There are four or five westernized countries what have that capability.

The third fact is that if we do not go into the telecommunications full bore then this business undertaking—and incidentally, I do not agree with the Hunter amendment—will be blunted and we will lose untold jobs, not just in terms of fiber optics, but in terms of transmission equipment, connectors, all sorts of related electronic gear.

Facts are facts. They are important to this discussion.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this issue has been considered quite seriously, both in the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce and also in the Committee on Science, Space, and Technology, particularly when it comes to this fiber optic line that the gentleman from New York [Mr. HOUGHTON] has spoken about. I would like to make a few observations.

First, who in the present makeup of the Soviet Union gets to tap into this broad band communication network? I mean, who? Is it the average citizen or is it the KGB? Is it the Soviet military using this to upgrade what we understand to be a not too capable current of system communicating across the 11 time zones of the Soviet Union? The bottom line is we do not know who gets to use the fiber optic line across the U.S.S.R given the present state of affairs there.

The other bottom line is there is still very substantial instability inside the Soviet Union. I think we all agree that the Soviet Union today is in a very unstable state.

So, I would come down somewhere in the middle between the two sides and say given the instability that reigns in the Soviet Union today, perhaps it is somewhat premature to open flood gates to the West's telecommunications technology.

I really think that the Cocom process as it has evolved, particularly in the recent decision between the United States and Britian to hold back on a fiber optic line spanning the Soviet Union, is still a good process. It has worked over the years.

The Soviet Union today is not yet a democracy. It is still armed to the teeth. And it is certainly unstable.

Why do we not just hold back? What is the rush, to press this legislation forward, particularly the section on telecommunications, essentially taking it out of the administration's hands? I do not see the need to rush. I think we need to wait until the dust settles a little bit before we go whole hog in helping the U.S.S.R. to build ultramodern telecommunications systems.

Perhaps in 6 months, a year maybe, we'll see irreversibility in the demilitarization process; we'll see democratization. We'll see the Soviets withdrawing military support for brutal regimes from Afghanistan to Vietnam to Ethiopia and Angola to Cuba.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. RITTER. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I think the gentleman from Pennsylvania [Mr. RITTER] has made some of the best points of this entire debate, of the many hours we have taken here. The statements that were made by my friend, the gentleman from New York [Mr. HOUGHTON], are his opinions. I stood there while the gentleman argued with some of the best experts in the United States. They think they are right. He thinks he is right.

I would advise any Member to get the briefing from the National Security Agency. Make up your own minds as to what is what.

The gentleman from Pennsylvania [Mr. RITTER] made some great points here.

The gentleman from New Mexico [Mr. RICHARDSON] got up and said they need fax machines, they need telephones, simple stuff. Let me just read to you what they are getting under this bill:

Telecommunications transmission, measuring, or test equipment, and related components; microwave, light wave, and other radio relay, transmitting, or test equipment, and related components and accessories; telecommunications cables and components, including optical fibers and optical cables; equipment containing frequency synthesiz-

ers when used in land-based mobile communications systems.

It does not sound like an old Ma Bell telephone to me. It sounds pretty darn complicated.

Mr. RITTER. Mr. Chairman, reclaiming my time for just a moment, as I understand it telephones and fax machines can be sold under present law. We do not need this bill to sell telephones and fax machines. Frankly, the United States is not even making telephones and fax machines in great volume any more. Most of those pieces of equipment are made in the Pacific Rim nations, Japan and Korea and Singapore.

Mr. HUNTER. Mr. Chairman, will the gentleman yield further?

Mr. RITTER. I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, this is important to IBM. I know that. IBM knows that. All of their workers and lobbyists know that, and every Member has been visited by them.

It is also important to the security of the United States, and the President would not have the National Security Agency giving briefings to Members if there were not some problems here. So please get those briefings.

Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. RITTER] for his excellent remarks.

□ 1750

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. RITTER. I yield to my colleague, the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I would ask the gentleman would he trust the President of the United States and his designee to make the determination as to whether or not we ought to sell these systems to the Soviets?

Mr. RITTER. Yes.

Mr. GEJDENSON. That is what the present bill does.

Mr. RITTER. The present bill; right, but not the present system.

Mr. GEJDENSON. The present bill says that the President of the United States through his representative at Cocom cannot only nix a high-technology fiber optic deal to the Soviet Union from the United States, the present bill says that he can stop even other countries if we have that agreement at Cocom.

Mr. RITTER. Mr. Chairman, I would reclaim my time.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. RITTER] has expired.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. BEREUTER asked and was given permission to revise and extend his remarks.)

Mr. BEREUTER. Mr. Chairman, the Hunter amendment is extraordinarily important and very detrimental to what we are trying to accomplish here in H.R. 4653.

I think it is essential to open up Eastern Europe and the Soviet Union's communications to many of the civilian communication capabilities we now have in the West, to help spread the concepts of democracy and free enterprise, and especially to facilitate, their necessary move to more market oriented economies. The legislation is essential to attract foreign investors and joint ventures by Americans and other interests.

The administration, I think, gives every impression of wanting to be able to sell only 1970 technology to Eastern Europe and the Soviet Union. That won't fly. Our export competitors will sell current telephone systems for example, to the Poles or Czechs. I may have been the first Member of Congress talked to by U.S. West on their prepared venture to build a fiber optic cable from Japan to Eastern Europe all the way across the Soviet Union. U.S. West is a company serving my part of the country. I am a member of the Permanent Select Committee on Intelligence, and perhaps that is why they came to me. I advised them to immediately check out national security concerns that would almost certainly be expressed.

Contrary to what some of my colleagues have concluded, looking at this U.S. West proposal very carefully, despite what might be in the best interests of U.S. West I concluded that the construction of the fiber optic cable from Japan to Eastern Europe is currently not in our national interest if we can stop or delay it from being built across the Soviet Union by any foreign firms. Therefore, for reasons that I cannot discuss here on this floor I have concluded that the decision the administration made, the decision that was apparently made by the Thatcher administration was at this moment the correct decision. The President had the opportunity to stop the U.S. West proposal under existing law and also if this legislation is enacted.

What is more important, however, is not that we are simply denying U.S. West the opportunity to build that fiber optic cable all the way across the Soviet Union. It is important that the cable not be built by another non-United States or non-British competitor at this time. And as Chairman GEJDENSON said a few minutes ago, we have yet retained under the proposed legislation the Presidents perogative to try to gain multilateral controls by all Cocom partners. That is far more effective. It does not do any good to deny to British or American firms the ability to build that fiber optic cable across the Soviet Union. If it is in our national interest that it not be built, and I believe that it is indeed not in our national interest to have it built, then we ought to hope and attempt to assure that it is not built by a competitor as well.

I am concerned that American firms that have the very best telephone technology today will not have the kind of cooperation and licensing approval by the U.S. Government necessary for our firms to be able to effectively compete in selling an up-to-date, current telephone system in Warsaw and to Prague. We are not going to have the necessary communications capabilities for our banking firms and other American businesses or joint enterprises to do business in those cities and nations.

These enhanced telecommunications systems which are desperately needed for our interests and important for Poland and for Czechoslovakia. Without this kind of telecommunication capability they will have great difficulty in moving substantially toward market-oriented economies.

There is no reason why we shouldn't be able to sell adequate, up-to-date American-built telephone systems by one of several American competitors. It is going to be a sad situation if we, by default through our export controls or our slow and complex export licensing process permit a West German, French, Dutch, or Japanese firm to go in and sell those particular communication systems when our products are best. As a matter of fact, if you visit Czechoslovakia today they point out that they need a modern telephone system. This is a priority for Czechoslovakia. They say they do not want to become an economic vassal to West Germany. They say they want to buy from an American firm. They indicate they believe it is best to diversify the sources of their imports, and they know that the United States has the best telecommunication systems.

Quite naturally they want to assure that if they buy an American-made system they will also have maintenance and service capabilities readily available without further licensing delays. And that is exactly what our legislation will assure. American firms will then be competitive.

Yet I believe under H.R. 4653 we retain all of the necessary controls for the President to block exports that are clearly contrary to our national interest. Therefore, I join my colleague, the gentleman from New Mexico [Mr. RICHARDSON], from the House Select Committee on Intelligence in their debate but reach a different conclusion—a conclusion on whether it is desirable to build that fiber optic cable across the Soviet Union. In this case I agree with the distinguished gentleman from Illinois [Mr. HYDE], the ranking minority member of the Intelligence Committee. I reach the same

conclusion he does, that it is not in our best interest to see the fiber optic cable to be built across the Soviet Union at this point. The President stopped U.S. West, and I believe he will also have the authority to stop it after the passage of this legislation as well.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Chairman, I think there is an important point to be made, and I think the chairman made a point following the gentleman from Pennsylvania's position that was made, and that is with respect to whether or not the United States can unilaterally refuse to sell our telecommunications systems even though we have made an agreement, a proposal and an agreement with Cocom that those systems can be given to any country with only notice given to the coordinating committee. In other words, if we take the fence down for Cocom, can we still put a fence up around the United States? Of course, the gentleman from Connecticut [Mr. GEJDENSON] got up and said yes, of course. President Bush can always say yes, we decided recently that maybe we should not do this after all, and we are going to hold our horse back. The problem is every other horse in Cocom, pursuant to our agreement in this negotiation, has been freed, and they are all out of the barn, and they are all over there making those sales of telecommunication systems. So essentially the whole rationale for the restricting process has been blown away.

I think it is important to make that point to the House. The proposal in the Gejdenson bill says that the Secretary of State shall include, shall, not permissive, in the proposal to the coordinating committee that exports of telecommunications equipment for civil end use to any country other than the country for which this authority or permission to export may be required under paragraph 2, requires no more than notification of the coordinating committee.

If that becomes the fence or the lack thereof in Cocom, it does not make any difference if we hold our horse back and keep our IBM from participating.

I thank the gentleman for his indulgence.

Mr. BEREUTER. I welcome the gentleman's comments.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. BEREUTER] has expired.

(By unanimous consent, Mr. BEREUTER was allowed to proceed for 30 additional seconds.)

Mr. BEREUTER. Mr. Chairman, one more point was raised by the gentleman from Illinois [Mr. HYDE], and I understand that others have raised this issue also. It relates to the constitutionality of the proposed legislative direction to the Secretary of State.

I would point out that the counsel to the Clerk has in a detailed opinion determined that the bill, especially this provision, is constitutional.

I think it is important to remember that the one area of foreign policy that we the Congress, have dominant constitutional responsibility is to regulate international commerce. I suspect that is why the conclusion is reached that indeed this direction to the Secretary of State is not an unconstitutional provision.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, this is a very difficult time for our country. We are in transition, as is Eastern Europe.

We have won the cold war, and it is quite clear now in retrospect that Mikhail Gorbachev understands, as we all understand, that Karl Marx was not smart enough to take on Adam Smith, Jesus Christ, Moses, and Thomas Jefferson simultaneously. After 72 years it was no contest. It is over. We won.

Gorbachev is coming and suing for peace. He goes to the Vatican and he asks the Pope to beg his indulgence and to be his friend. He comes to our country and meets with the chamber of commerce. He does a photo opportunity in front of the Riggs Bank. He asks for people from Wall Street to come and help him construct a stock exchange.

It seems to me that at a certain point in time we should accept our victory. We won, and it was not a Democratic victory or a Republican victory. The Congress was in Democratic control over those 45 years. The Presidency was 24 years Republican to 20 years Democrat. We won. America won. It is over.

Now we are asked, among other things, if we want to give the Hungarians, and the Czechoslovakians, and the Poles the ability to communicate with each other. I have been to Poland. Have you tried to make a phone call? I cannot even call the next room, much less Gdansk, or much less call someone and try to make a deal with them to get widgets to move between those cities. How in the world are these people going to be able to reform their economy unless and until we move in and cooperate with them?

Safeguards are built in. The protections are there. The President has the discretion.

If somebody asked us what the likelihood was if we let the Soviets build our Embassy in the Soviet Union in Moscow that they would turn it into Radio Shack, we would have said it would be about 100 percent, and the Soviets did buy it. There were more bugs in that one building than there are in Washington, DC in the middle of the summer.

Now we are asked if we want to participate in building a 3,000-mile telecommunications system with 10,000 Americans in their country for 10 years, building perhaps with the Japanese and Germans a telecommunications system, by the way, which the Soviets want to use for civilian use and will connect the East and the West, that is Western Europe with the East for business and civilian communications.

□ 1800

Meanwhile, the Soviets have, as we all know, a dedicated military intelligence network, as does the United States. The U.S. military does not make its sensitive calls over AT&T; we do not dial up C&P when we are making a big intelligence or military decision. America has a dedicated line, the Soviets have a dedicated line. The Soviets do not use their civilian lines for those purposes any more than we do. They have the same system we have off on the side.

Now do we want to put taps into the fiber optics system that they are asking us to build? Well, the Soviets might ask us not to tap it. But the opportunity might be there if some people in the CIA and the defense intelligence community want to take that opportunity.

But it seems to me that where communications experts are expecting that Eastern Europeans are going to spend upwards of $140 billion in upgrading their communications system in the 1990's, that we want a chunk of that. That is what we do best. To the extent that we are in, we control, we dictate.

Now I have had this defense briefing that has been talked about. I had the National Security Agency come in and give me this briefing. To be quite honest with you, I am not impressed at all. The Soviets still have a dedicated intelligence system, and we are not denied the ability to be able to tap this fiber optics system if we want. There is plenty of opportunity, and AMO HOUGHTON will give you the details and I can give you more details because I went into it at some length. There is plenty of opportunity to buy the system if you want to do it. I do not know if that should be our policy in this new era, but we are definitely not out of that ball game if people still want to be sleuthing around in that country wanting to take advantage of that.

But it seems to me that we have a stake in democracy, that we believe in communications, that we pay tribute

to what the fax machine did, that we understand that it was in the part of Romania that had television coming in from other countries, that it was in Lithuania and Estonia that had television coming in from democracies; it was at the edges of the countries that had telecommunications that could not be denied, that in fact started the revolution in each of these countries.

That is what we should be trying to encourage; that is what America is all about. We should be shouting the technological revolution from the rooftops, not trying to create a system where we can listen in to the whispers of the people in that country.

By bringing in telecommunications equipment, even fiber optics, there will be hundreds of thousands of calls going on simultaneously that will decmocratize their country further, bring capitalism to its shores and make it all the more likely that we telescope the timeframe that they adopt the cultural values that we in the West have in fact made the coin of the realm in this world.

I would hope that this bill, which is really actually quite modest and gives enormous Presidential authority, is accepted and the Hunter amendment is rejected.

Mrs. BENTLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened to the gentleman very carefully. He kept saying the cold war is over, the cold war is over. It seems to me just a little bit earlier today, on this very bill, that we passed an amendment which would prevent the sale of products to the Soviet Union because of what they are doing to the Baltic States.

Is the cold war over?

Mr. MARKEY. Mr. Chairman, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, the cold war as we know it is over. To the extent that we now have to go through careful negotiations on Lithuania, Jewish emigration, the amount of telecommunications equipment which we are going to be introducing into the various parts of the Eastern bloc, we are in a transition period, and I stated that.

But we are out of the cold war and into a new era. There is some very interesting recombinant political DNA going on in the world. We see that in amendments all day here; Democrats and Republicans realigning basically not over questions of whether we should move, but what the pace is that we move at in order to capture these opportunities. I do believe that the cold war is over and that we are in an entirely new phase.

Mr. HUNTER. Mr. Chairman, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, time and again we have Members supporting this legislation get up and talk about the need to have fax machines, the problem that their telephone from room to room did not work, and therefore they need this telecommunications bill.

Let me just suggest to my friend from Massachusetts that to talk to the adjoining room he probably does not need microwave, light wave, radio relay transmitting, telecommunications cables and components including optical fibers and optical cables, equipment containing frequency synthesizers to get than next room when used in land-based mobile communications systems. He probably does not need any of that, and he is missing the whole point.

The point is that the crude system of communications that the Soviets have now is open, and because it is open we can monitor whether they are becoming better citizens. That is a fact. And the fact is that giving them a modern closed system through which the KGB can say, "Execute these six people in Lithuania," does not help democracy. We are not talking about openness, we are talking about closing things down and closing that iron curtain that has become more opaque over the last few years.

Mr. RITTER. Mr. Chairman, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I have the greatest respect for my friend, the gentleman from Massachusetts. I think he makes an excellent chairman of the Subcommittee on Telecommunications and Finance and he does his homework. But I have to just comment on his conclusion, his very definitive conclusion that the cold war is over.

I think if you ask the average Afghan who was subjected to 5 billion dollars' worth of bombardment last year whether it is over, he or she might argue with you. If you ask the average Cuban whether or not the cold war is over, Cuba receiving 6 billion dollars' worth of Soviet assistance, which is to a large extent military, whether the cold war is over, he or she might argue with you.

I do not disagree with the gentleman that we have seen monumental changes and that Mikhail Gorbachev has helped to bring about some of those changes. But to go from there to the fact that it is over—Yogi Berra said it best, "It ain't over until it's over." It is still on in too many places, whether it is Afghanistan, Cuba, Southeast Asia, or Africa. The ball game 'ain't totally over yet."

Mr. MARKEY. Mr. Chairman, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. I thank the gentlewoman for yielding.

Mr. Chairman, my only point here is this: This is not carte blanche, this is not a blank check. It just seems to me, though, that this amendment places Walesa's Poland and Havel's Czechoslovakia on the same level as the butchers of Tiananmen Square. It just seems to me that that is fundamentally wrong, that there ought to be a higher standard of technology which we can now send into Poland, Czechoslovakia, and into Hungary than we can send into China.

I think the standard in the Hunter bill is too low. We should respect Walsea, we should respect Havel, we should respect the other leaders in Eastern Europe and give them a higher standard and reject the Hunter amendment.

Mr. KYL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let us be clear about what this section does. There has been a lot of conversation, but I am not sure we understand.

Section 108 requires, specifically, it "directs" the Secretary of State to negotiate with Cocom an agreement that exports of telecommunications equipment will be allowed to any country for civil end use. Telecommunications equipment is defined to not just include optical fibers, although that is one item, but optical cables, laser, telecommunications equipment, microwave and other radio relay transmitting or test equipment, telecommunications transmission, measuring or testing equipment.

This amendment would strike this particular provision. Aside from the constitutional questions which are involved with a provision which explicitly directs the Secretary of State to negotiate a specific proposal, the administration currently has full authority to decide what telecommunications equipment should be licensed or not.

This is a very important point: The White House has set forth a proposal on telecommunications equipment before Cocom. As a matter of fact, the suggestion that somehow or other these poor folks in Europe are having a hard time getting along without telephones is incorrect. They can get all the telephones they want to right now.

What we are talking about is the kind of high-technology equipment added to the system that they already have which could be used for military purposes.

I submit Congress should not become the licensing officer for this very high technology telecommunications or other type of technology. It goes without saying that such an agreement could vastly enhance the effectiveness and the reliability of the Soviet military command and the control and communications capabilities and, as such, it would represent a devastating blow to our security and our intelligence capabilities.

□ 1810

Mr. Chairman, there has been a suggestion here that this proposed amendment undercuts President Bush's foreign policy objectives. That is almost a direct quotation from the gentleman from New Mexico.

I submit because the administration does not agree with this proposal, because they already have a proposal for negotiating with Cocom, that it is a Gejdenson bill that undercuts the President's authority and his foreign policy. As a matter of fact, the administration, as we have said over and over again, opposes this bill, and simply urges a 1-year extension of the law because this bill is what undercuts their foreign policy objectives.

Finally, many of our negotiators have come back after negotiating with the Soviets saying, "You know, their main problem is that their military will not let them loosen up and agree with us on things on which they should agree with us. Their military has a very powerful control and has not forgotten World War II, and are hung up on the defense thing and will continue to protect their interests at all costs." The Soviet military will use this equipment. Let me repeat it: Does any Member believe that the Soviet military is not going to use this fiber optic, laser and other telecommunication equipment to the absolute extent possible? Of course they are going to use it. If they can use that equipment, it is going to require the United States to spend yet billions and billions of more dollars to protect against that potential threat of the Soviets. We cannot ignore it. We have to protect against it, and that is money that could be much better spent in many other areas.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Does the gentleman know how many sources the Soviets have for fiber optic cables around the globe?

Mr. KYL. If the Soviets have all the sources that they need, then that is just fine and dandy. There is only one problem. The National Security Adviser, representing this administration, says that they oppose this bill on national security grounds. The possibility of providing this high-technology equipment, including fiber optical and laser equipment, is precisely what they are speaking about.

Mr. GEJDENSON. Mr. Chairman, if the gentleman will continue to yield, does the gentleman know the Soviets manufacture their own fiber optics?

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from California.

Mr. HUNTER. The discipline in Cocom with respect to the very important items we are talking about that can be described on this floor, is excellent, and it is one of the few areas where there has been excellent discipline.

Let me say one last thing. This is not going to keep Lech Walesa from getting what he needs. This is not going to keep the deserving emerging captive nations from getting what they need. The President will have the discretion to pick and to choose, and the words "any nation" are the detrimental words and defective words in this provision because they make a carte blanche. They do open up a wide, wide area that is ultimately going to accrue to the detriment of American security interests.

Mr. KYL. Mr. Chairman, I thank the gentleman for his remarks, and make this point in closing. One of the reasons the administration opposes this bill is precisely because it does present national security problems—it is not true that the Soviets can get all of this stuff from other places, and therefore there is no problem.

As Brent Scowcroft, the National Security adviser on Foreign Policy said, national security concerns are paramount, under current practice, and should remain so. This is the reason he wrote that the administration is expressing its strong opposition to this bill.

This amendment, at least in one small measure, helps to correct a problem in the bill to satisfy the concerns General Scowcroft indicated, and that is why I believe our colleagues should support this amendment.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment. I will not take long. I would like to add to something that has been glossed over to which the gentleman from New York, I think, added a great deal by sticking to the facts and staying away from opinion, conjecture, fear, and so forth. The fact is that, if we adopt the amendment and strike out the language in the bill, the only people we will keep from doing anything is the American businessman. If we think there is anything on the list that will not be made available or is not already available, from Japan, Korea, the Soviet Union, Germany, or someplace else, we must be living in different worlds.

It seems to me if there is a national security reason, whatever that is—and the bill does not take that away from the President—he would have the same authority to turn down a request for a license on a fiber optic request such as was just turned down, after the bill passed as before the bill passes. I assume that the Congress will still be around, so those Members who are concerned about the fact that at the other end of the cable will be a Communist, will have ample opportunity to protect the country.

Mr. HOUGHTON. Mr. Chairman, I rise in opposition to the amendment, and I would like to reiterate and emphasize the point which the chairman, the gentleman from Florida [Mr. FASCELL] has mentioned. Let us as Members not get hung up on the cold war, whether it is on or off, or whether we may undercut President Bush's authority, we do not. What happens here from a commercial standpoint, when all is said and done, if the Hunter amendment passes, is that we have business as usual. The only people we hurt are the men and women in good, solid jobs, whether they be in the laboratories, or the development shops, or at the manufacturing plants, who produce a whole myriad of telecommunication equipment.

The technology about which we speak is not a security issue. It is available outside the United States, and it is available where people who not only want to compete with the United States in Third World countries but who want to compete with United States countries right here. American businesses are just as security conscious as anyone else, but they must operate in an international theater. This is going to hurt them. I think it will hurt our country.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. HOUGHTON. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding, and I respect my friend from New York greatly. I just think it is fair, though, for the House to know that the gentleman's assertions of fact which he truly believes in and may be true are directly contradicted by the assertions of the National Security Agency, and we engaged in a discussion in which they said, "You are wrong," and the gentleman said, "You are wrong."

Mr. HOUGHTON. I think I am right.

Mr. HUNTER. If the gentleman will continue to yield, I think it is important for the House to know we are all the world's greatest experts on our own opinions. The gentleman has greater control over the fact in his particular industry, but the United States disagrees with him on these base facts. Is that not true?

Mr. HOUGHTON. I am told that I cannot discuss what was available to me in that "particular room."

Mr. AUCOIN. Mr. Chairman, will the gentleman yield?

Mr. HOUGHTON. I yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman for yielding, and I want to associate myself with his excellent remarks. I think he has, in fact, as the gentleman from Florida [Mr. FASCELL] has indicated, contributed greatly to the debate today. He has been a voice for reason and some clarity in an otherwise easily confused debate.

The point he made when he indicated the passage of this amendment would only serve to hurt business needs to be expanded, I think. I believe we need to keep in mind, at a time when we are seeing our industrial strength challenged and overcome by industrial competitors like Japan and other strong economics who are competing with the United States in world markets to the extent we weaken American business competitiveness, we undermine our own national security. If any of these cold warriors on the floor today think this is simply a business special interest, the gentleman from New York is arguing in behalf of, they are very mistaken. We are talking about the industrial infrastructure of this country, the ability of our business and industrial structure to make profits, to be profitable, and produce the products that will keep the United States strong economically, and then to support and sustain a strong national security posture.

Mr. HOUGHTON. Mr. Chairman, I thank the gentleman for his remarks, and if I may add, I am not going to pose as a fiber optics or telecommunications expert.

All I can say is I have recently today, as I do almost every week, check on the most up-to-date technology. These are not solely my own opinions.

□ 1820

These are the opinions of scientists at the cutting edge of this field. Let me state again. This is not a security issue. There are things that are, but this is not one of them.

Mr. AUCOIN. Mr. Chairman, will the gentleman yield to me one more time?

Mr. HOUGHTON. Yes, I yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman's continuing to yield. I just wanted to add on to the point the gentleman and I have just made.

If we talk to veterans of World War II who fought in the Pacific, they will describe the valor of the Japanese soldiers that they fought and tell us that Japan did not lose the war in the Pacific because of an absence of valor on the part of the officers, the soldiers, and the sailors they fought in the Pacific, that they lost that war for reasons that Yamamoto understood going into the war which he expressed in his diaries that we can read today.

The CHAIRMAN. The time of the gentleman from New York [Mr. HOUGHTON] has expired.

(On request of Mr. AUCOIN, and by unanimous consent, Mr. HOUGHTON was allowed to proceed for 2 additional minutes.)

Mr. AUCOIN. Mr. Chairman, will the gentleman continue to yield to me?

Mr. HOUGHTON. I yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Chairman, Yamamoto said at the time when he was being ordered to send his forces as the commander into this mistaken war with the United States that it was a loser for Japan, and the reason was the superior industrial strength of the United States of America.

What my friends are trying to do today in these attacks on a bill that would simply cripple American business and allow business to flow to other countries instead weakens our economic base and takes away that strength that helped us win World War II. And I would just say to them that there is no way we can put an idea in a bottle and put a cork on it here in the United States when the technology is readily available elsewhere in the world and think that somehow we are serving American security. To the extent we weaken critical industrial sectors in the United States of America, we weaken our defenses and our economic security and our military security.

The CHAIRMAN. The time of the gentleman from New York [Mr. HOUGHTON] has again expired.

(On request of Mr. HYDE, and by unanimous consent, Mr. HOUGHTON was allowed to proceed for 2 additional minutes.)

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. HOUGHTON. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, the gentleman from New York [Mr. HOUGHTON] is a good friend, and I thank him for yielding.

Since the gentleman from Oregon has brought up the subject of the veterans of the United States armed forces, I thought it might be appropriate to say that I have a letter here from the commander in chief of the Veterans of Foreign Wars saying that 2.1 million members of the Veterans of Foreign Wars, who are maybe the people who do not have a lobbyist in every corner of Washington, DC, feel that this is not a good bill. These are the people who have paid the price largely of American technology coming back at us. They oppose this bill and all the amendments and all the provisions therein.

Mr. HOUGHTON. Mr. Chairman, if I may reclaim just a bit of my time, I respect the gentleman and the ladies who put their names on that particular piece of paper, but this is very technical stuff. On Broad Terms it is a subject easy to demagogue. It can be rationalized in a way so that we can feel there will be a great fright, a great security risk for the United States. All I am saying is that from a strictly technical standpoint, it is not.

Mr. HUNTER. And, Mr. Chairman, if the gentleman will yield further, the National Security Agency disagrees with the gentleman.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. HOUGHTON. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, if I may, I will make just a couple of brief comments.

My friend, the gentleman from Oregon, talked about our industrial superiority and quoted Admiral Yamamoto. I would say as someone who was there for the invasion of Lingayen Gulf in the Philippines that there was a thing called the fighting spirit of our Marines, our soldiers, and our sailors that is not measured in terms of scrap iron and ships and aircraft.

Mr. McCURDY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, many of us just recently returned from Eastern Europe, countries such as Czechoslovakia and Poland, where this debate was also being waged. As a member of the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Science, Space and Technology that have jurisdiction over many of these technologies, I am somewhat surprised by the arguments that have been proponded today.

Mr. Chairman, it is one thing to couch this debate in terms of military security, but it is clear that the Warsaw Pact today is defunct. The Warsaw Pact does not present the direct threat to NATO that it did a year ago.

Mr. Chairman, we need to shift the debate from one that focuses totally on military security to that of economic security as well. For the past decade we have been guilty of a fiscal profligacy through unrestrained spending and increasing the national debt. We have doubled the national debt through policies that have been fiscally irresponsible. We have weakened the ability of the United States to compete internationally.

At the very time when these markets are opening up, what are we doing? We are holding back again. We do not have the money to provide financial

assistance in any meaningful form to Poland, we do not have the money to give assistance to countries like Czechoslovakia. Mr. Chairman we won the hot war, World War II, and after that war we provided the Marshall plan to help rebuild Europe. We provided the basis for NATO. Fifty percent of our military budget for the last 40 years went to Europe, and just now, as we start to see the opportunities and the benefits being achieved with the resolve and the sacrifice that American taxpayers have made and that many Americans made with their lives, what do we do now? We pull back. We have been running a marathon, and now it is like quitting the race before we cross the finish line.

We have an opportunity that we have not had before, and we should take advantage of it. We ought to be concerned about American business. We ought to be concerned about whether or not our foreign aid achieved benefits for our taxpayers as well, and rather than taking a protectionist line time and time again, whether it is under the guise of a traditional protectionism or under a misguided statement of national security, I believe we do nothing but hurt the United States and the interests of the United States. Those are interests that I believe are paramount to the debate we have heard tonight on national security.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I believe we have all heard the arguments, and in light of the screams of pain from the assembled audience, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. HUNTER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 47, noes 365, not voting 20, as follows:

[Roll No. 154]

AYES—47

Bateman	Gilman	McEwen
Bennett	Goodling	Miller (OH)
Bentley	Goss	Molinari
Bilirakis	Grant	Ritter
Bunning	Hancock	Rohrabacher
Burton	Hefley	Ros-Lehtinen
Callahan	Herger	Shumway
Combest	Hunter	Smith, Robert (NH)
Cox	Hyde	
Crane	Inhofe	Solomon
Dannemeyer	Kyl	Spence
Davis	Lewis (FL)	Stearns
DeWine	Livingston	Stump
Dickinson	Martinez	Taylor
Duncan	McCandless	Vucanovich
Fawell	McCollum	Walker

NOES—365

Ackerman	Flake	Martin (NY)
Alexander	Foglietta	Matsui
Anderson	Ford (MI)	Mavroules
Andrews	Ford (TN)	Mazzoli
Annunzio	Frank	McCloskey
Anthony	Frenzel	McCrery
Applegate	Frost	McCurdy
Archer	Gallegly	McDermott
Armey	Gallo	McGrath
Aspin	Gaydos	McHugh
Atkins	Gejdenson	McMillan (NC)
AuCoin	Gekas	McMillen (MD)
Baker	Gephardt	McNulty
Ballenger	Geren	Meyers
Barnard	Gibbons	Mfume
Bartlett	Gillmor	Michel
Barton	Gingrich	Miller (CA)
Beilenson	Glickman	Miller (WA)
Bereuter	Gonzalez	Mineta
Berman	Gordon	Moakley
Bevill	Gradison	Mollohan
Bilbray	Grandy	Montgomery
Bliley	Gray	Moorhead
Boehlert	Green	Morella
Boggs	Guarini	Morrison (CT)
Bonior	Gunderson	Morrison (WA)
Borski	Hall (OH)	Mrazek
Bosco	Hall (TX)	Murphy
Boucher	Hamilton	Murtha
Brennan	Hammerschmidt	Myers
Brooks	Hansen	Nagle
Broomfield	Harris	Natcher
Browder	Hastert	Neal (MA)
Brown (CA)	Hatcher	Neal (NC)
Brown (CO)	Hayes (IL)	Nielson
Bruce	Hayes (LA)	Nowak
Bryant	Hefner	Oberstar
Buechner	Henry	Obey
Bustamante	Hertel	Olin
Byron	Hiler	Ortiz
Campbell (CA)	Hoagland	Owens (NY)
Campbell (CO)	Hochbrueckner	Owens (UT)
Cardin	Holloway	Oxley
Carper	Hopkins	Packard
Carr	Horton	Pallone
Chandler	Houghton	Panetta
Chapman	Hoyer	Parker
Clarke	Hubbard	Parris
Clay	Huckaby	Pashayan
Clement	Hughes	Patterson
Clinger	Ireland	Paxon
Coble	Jacobs	Payne (NJ)
Coleman (MO)	James	Payne (VA)
Coleman (TX)	Jenkins	Pease
Collins	Johnson (CT)	Pelosi
Condit	Johnson (SD)	Penny
Conte	Johnston	Perkins
Conyers	Jones (GA)	Petri
Cooper	Jones (NC)	Pickett
Costello	Jontz	Pickle
Coughlin	Kanjorski	Porter
Courter	Kaptur	Poshard
Coyne	Kasich	Price
Darden	Kastenmeier	Pursell
DeFazio	Kennedy	Quillen
DeLay	Kennelly	Rahall
Dellums	Kildee	Rangel
Derrick	Kleczka	Ravenel
Dicks	Kolbe	Ray
Dingell	Kolter	Regula
Dixon	Kostmayer	Rhodes
Donnelly	LaFalce	Richardson
Dorgan (ND)	Lagomarsino	Ridge
Dornan (CA)	Lancaster	Rinaldo
Douglas	Lantos	Roberts
Downey	Laughlin	Robinson
Dreier	Leach (IA)	Roe
Durbin	Lehman (FL)	Rogers
Dwyer	Lent	Rose
Dymally	Levin (MI)	Rostenkowski
Dyson	Levine (CA)	Roth
Early	Lewis (GA)	Roukema
Eckart	Lightfoot	Rowland (CT)
Edwards (CA)	Lipinski	Rowland (GA)
Edwards (OK)	Lloyd	Roybal
Emerson	Long	Russo
Engel	Lowey (NY)	Sabo
English	Luken, Thomas	Saiki
Erdreich	Machtley	Sangmeister
Evans	Madigan	Sarpalius
Fascell	Manton	Savage
Feighan	Markey	Sawyer
Fields	Marlenee	Saxton
Fish	Martin (IL)	Schaefer
Scheuer	Snowe	Vander Jagt
Schiff	Solarz	Vento
Schneider	Spratt	Visclosky
Schroeder	Staggers	Volkmer
Schuette	Stallings	Walgren
Schulze	Stangeland	Walsh
Schumer	Stark	Washington
Sensenbrenner	Stenholm	Watkins
Serrano	Stokes	Waxman
Sharp	Studds	Weber
Shaw	Sundquist	Weiss
Shays	Swift	Weldon
Shuster	Synar	Wheat
Sikorski	Tallon	Whittaker
Sisisky	Tanner	Whitten
Skaggs	Tauke	Williams
Skeen	Tauzin	Wilson
Skelton	Thomas (CA)	Wise
Slaughter (NY)	Thomas (GA)	Wolf
Slaughter (VA)	Thomas (WY)	Wolpe
Smith (FL)	Torres	Wyden
Smith (IA)	Torricelli	Wylie
Smith (NE)	Towns	Yates
Smith (NJ)	Traficant	Yatron
Smith (TX)	Traxler	Young (AK)
Smith (VT)	Udall	Young (FL)
Smith, Denny (OR)	Unsoeld	
	Upton	
Smith, Robert (OR)	Valentine	

NOT VOTING—20

Bates	Flippo	Lukens, Donald
Boxer	Hawkins	McDade
Craig	Hutto	Moody
Crockett	Leath (TX)	Nelson
de la Garza	Lehman (CA)	Oakar
Espy	Lewis (CA)	Slattery
Fazio	Lowery (CA)	

□ 1848

The Clerk announced the following pair:

On this vote:

Mr. Craig for, with Mr. Fazio against.

Messrs. SCHULZE, KASICH, DENNY SMITH of Oregon, and UPTON changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WYDEN

Mr. WYDEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Was the amendment printed in the RECORD?

Mr. WYDEN. It was, Mr. Chairman.

The CHAIRMAN. The clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. WYDEN: Page 21, strike line 23 and all that follows through page 22, line 20, and insert the following:

"(i) the term 'telecommunications equipment' includes—

"(I) telephone switching systems and stored program controlled communications switching systems, including related features and components that provide services and management of telecommunications networks.

"(II) telecommunications transmission equipment;

"(III) microwave, light wave, and other radio relay, transmitting, or test equipment, and related components and accessories;

"(IV) telecommunications cables and components, including optical fibers and optical cables;

"(V) equipment containing frequency synthesizers when used in land-based mobile communications systems;

"(VI) equipment described in any of subclauses (I) through (V), or any other telecommunications equipment, that contains lasers;

"(VII) computer hardware and application specific software which are related to any of the items described in clauses (I) through (VI) and are required for data communications; and

"(VIII) all spare parts components, and measuring or test equipment related to any of the items described in subclauses (I) through (VII);

"(ii) the term 'telecommunications technology' means technology related to telecommunications equipment;

"(iii) the term 'telecommunications networks' includes local area, intracity, intercity, and international telecommunications network; and

"(iv) the term 'telecommunications' means voice, video, and data communications over any public or private network or broadcasting system and services related to such communications.".

Mr. WYDEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. WYDEN Mr. Chairman, we have had a very lengthy discussion on telecommunications. Virtually everything has been said and virtually everyone has said it, so I want to be very brief.

What this amendment does is to simply clarify the language in the committee bill with respect to telecommunications. For example, it makes sure that once we have a telecommunications sale overseas that the overseas buyers can purchase the test and measurement equipment, for example, to actually install the system.

It is an amendment that clarifies what is in the bill. The amendment is backed by the American Electronics Association, the National Association of Manufacturers, and a wide variety of business groups. I believe the chairman of the subcommittee approves it.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I yield to the gentleman from Connecticut.

□ 1850

Mr. GEJDENSON. This is an excellent amendment. I think the gentleman from Oregon [Mr. WYDEN] makes a positive addition to the bill.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I am happy to yield to the gentleman from Nebraska, who has been very helpful.

Mr. BEREUTER. Mr. Chairman, this is a good amendment. When we are trying to be competitive on exporting our products, the concern is not just about the immediate delivery of the product, which is an important consideration. The matters go to testing, service manuals, to maintenance, to repairs and so on, and so the gentleman has filled a hole that has plagued and concerned our potential export customers. I commend him for it.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I am happy to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairmam. I believe that the Wyden amendment fulfills this particular section. Without the Wyden amendment, our companies will not have the opportunities that I think the drafters of section 108 intended.

I believe the gentleman has successfully completed the section. I endorse this amendment and hope that it is passed.

Mr. HOUGHTON. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I am happy to yield to the gentleman from New York.

Mr. HOUGHTON. Mr. Chairman, I would agree that the Wyden amendment makes a great deal of sense. If we want to make a sale, one has got to not only have the products but also the system. This completes the system. It is important to be able to do this when looking a foreign competitor in the eye. Without it, we do not have anything.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I am happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, this is a fairly complex provision to begin with. I just ask the gentleman to explain in a little bit of detail where this takes the bill beyond the present parameters.

Mr. WYDEN. Reclaiming my time, I would just tell the gentleman, as the chairman of the subcommittee said, and he supports it, this clarifies the telecommunications section of the bill. This really breaks no new ground. It clarifies the language in the bill, and the example I think that would be clearest to our colleagues is that under section 108 of the committee bill, our companies are going to be able to sell telecommunications systems and also sell the test and measurement equipment so it can be installed. I think this clarifies the bill. That is why the gentleman from Nebraska on the gentleman's [Mr. HUNTER'S] side, the gentleman from Minnesota, the gentleman from New York have been supportive of the legislation.

Mr. HUNTER. If the gentleman will yield further, that is what worries me. I can see my colleagues are determined to drive the Mack truck through the gap that we have created.

I have all the same problems, as the gentleman can understand, with this that I have with the provision in general.

Mr. WYDEN. Reclaiming my time, the gentleman, to his credit, is very candid. This is essentially a reverse image of the previous vote that we had, in my opinion. It is acceptable to the chairman [Mr. GEJDENSON], and I appreciate the candor of the gentleman from California [Mr. HUNTER].

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I am happy to yield to the gentleman from Arizona.

Mr. KYL. Mr. Chairman, essentially what this says, just to be very clear, the Secretary of State would be required or directed, rather, under the same circumstances as he is directed under the bill, the previous amendment having been defeated, to negotiate for this test equipment and related items as described in the gentleman's amendment? Is that correct?

Mr. WYDEN. I think that is a fair recitation, yes. What it does is clarify the section of the bill, and the testing equipment is a prime example, and as with the whole telecommunications section in the bill, it is, in effect, to put us on record as desirous of pursuing this through Cocom.

Mr. KYL. If the gentleman will yield for one more question, it clarifies by adding to the definition of telecommunications equipment the various testing items that the gentleman has described? Would that be an accurate way to describe it?

Mr. WYDEN. I would say it clarifies what is in the bill. Let me characterize it that way.

Mr. KYL. If the gentleman would yield further, if he had just said yes, I think I would have understood, but now I am a little bit more perplexed.

The bill itself directs that certain items be the subject of negotiation by the Secretary of State. Does this amendment add to those items of various test equipment and so on?

Mr. WYDEN. I believe it is inherent in what is in the bill; the testing and measurement equipment would be considered in those negotiations. All my amendment does is explicitly say that this would be the case.

Mr. Chairman, I rise to offer an amendment to section 8 of H.R. 4653, the Export Facilitation Act of 1990. My amendment seeks to clarify the legislation's definition of civilian telecommunications equipment to include certain key items not explicitly stated in the bill. This will help to ensure that United States telecommunications exporters can compete effectively against tough West European and Japanese competitors for the vast new telecommunications markets of Eastern Europe.

Before the Berlin Wall came down, debates over the Export Administration Act inevitably became confrontations between "Hawks" and "Doves": the "Hawks" were seen as prodefense and desirous of limiting exports to the Soviet bloc, while the "Doves" were seen as probusiness and anxious to enhance trade with the Soviet bloc. I think such distinctions are truly irrelevant today, and believe my amendment adequately addresses legitimate national security concerns, while simulta-

neously producing job opportunities for our citizens through expanded international trade.

Specifically, the amendment would:

Clarify that the bill's liberalized treatment for exports of civilian telecommunications equipment extends to all related and measurement equipment, spare parts and components. Because telecommunications products are generally sold as part of an overall system, restrictions on a single element can block a major sale.

Clarify the bill's definition of civilian telecommunications equipment to include related computer hardware and application specific software necessary for data communications. This will ensure that key civilian sectors, such as banking and transportation, can use public telecommunications networks for functions ranging from airline reservation systems to automated teller machines.

Clarify that the term "telecommunications networks" in the bill includes local area, intracity, intercity, and international telecommunications networks. Congress already has directed the administration, through the SEED Acts, to conduct feasibility studies for modern, national and international networks in Eastern Europe. The amendment would merely ensure that U.S. firms can supply the systems which the SEED Acts already have, in effect, endorsed.

Define civilian telecommunications to include not only voice, but also video and data through various forms of cable and airborne transmission. Eastern European customers are not likely to spend their limited hard currency on outdated, voice-only telecommunications systems. This definition will help ensure that U.S. exporters can sell the same types of civilian telecommunications products that their West European and Japanese competitors will sell.

My amendment is supported by the American Electronics Association, the National Association of Manufacturers, the Computer and Business Equipment Manufacturers Association, the Telecommunications Industry Association, and the High-Tech Coalition, representing leading U.S. exporting firms.

Mr. Chairman, H.R. 4653 is a strong bill that enhances U.S. technological competitiveness without sacrificing our national security. My amendment will simply help to ensure that the bill's liberalization of civilian telecommunications exports is fully implemented.

I urge my colleagues to support my amendment.

Mr. Chairman, in the interests of time, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. WYDEN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KYL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 348, noes 45, not voting 39, as follows:

[Roll No. 155]

AYES—348

Alexander	Frenzel	McCurdy
Anderson	Frost	McDermott
Andrews	Gallegly	McEwen
Annunzio	Gallo	McGrath
Anthony	Gaydos	McHugh
Applegate	Gejdenson	McMillan (NC)
Archer	Gephardt	McMillen (MD)
Armey	Geren	McNulty
Aspin	Gibbons	Meyers
Atkins	Gillmor	Mfume
AuCoin	Glickman	Miller (CA)
Baker	Gonzalez	Miller (WA)
Ballenger	Gordon	Mineta
Barnard	Gradison	Moakley
Bartlett	Grandy	Mollohan
Barton	Gray	Montgomery
Beilenson	Green	Moorhead
Bereuter	Guarini	Morella
Berman	Gunderson	Morrison (CT)
Bevill	Hall (OH)	Morrison (WA)
Bilbray	Hall (TX)	Mrazek
Bliley	Hamilton	Murphy
Boehlert	Hammerschmidt	Murtha
Boggs	Harris	Myers
Bonior	Hastert	Nagle
Borski	Hawkins	Natcher
Bosco	Hayes (IL)	Neal (MA)
Boucher	Hayes (LA)	Nielson
Brennan	Hefner	Nowak
Broomfield	Henry	Oberstar
Browder	Hertel	Obey
Brown (CA)	Hiler	Olin
Brown (CO)	Hoagland	Ortiz
Bruce	Hochbrueckner	Owens (NY)
Bryant	Holloway	Owens (UT)
Buechner	Hopkins	Oxley
Bustamante	Horton	Packard
Callahan	Houghton	Pallone
Campbell (CA)	Hoyer	Panetta
Campbell (CO)	Hubbard	Parker
Cardin	Huckaby	Parris
Carper	Hughes	Pashayan
Carr	Inhofe	Patterson
Chandler	Ireland	Paxon
Chapman	Jacobs	Payne (NJ)
Clarke	James	Payne (VA)
Clay	Jenkins	Pease
Clement	Johnson (CT)	Pelosi
Clinger	Johnson (SD)	Penny
Coble	Johnston	Perkins
Coleman (MO)	Jones (GA)	Petri
Coleman (TX)	Jones (NC)	Pickett
Collins	Jontz	Pickle
Condit	Kanjorski	Porter
Conte	Kaptur	Poshard
Cooper	Kasich	Price
Costello	Kastenmeier	Pursell
Coughlin	Kennedy	Rahall
Courter	Kennelly	Rangel
Coyne	Kildee	Ravenel
Darden	Kleczka	Ray
Davis	Kolbe	Regula
DeFazio	Kolter	Rhodes
DeLay	Kostmayer	Richardson
Dellums	LaFalce	Ridge
Derrick	Lagomarsino	Rinaldo
Dickinson	Lancaster	Roberts
Dicks	Lantos	Robinson
Dingell	Laughlin	Roe
Dixon	Leach (IA)	Rogers
Donnelly	Lent	Rose
Dorgan (ND)	Levin (MI)	Rostenkowski
Douglas	Levine (CA)	Roth
Dreier	Lewis (GA)	Roukema
Durbin	Lightfoot	Rowland (CT)
Dwyer	Lipinski	Rowland (GA)
Dymally	Lloyd	Roybal
Dyson	Long	Russo
Eckart	Lowey (NY)	Sabo
Edwards (CA)	Luken, Thomas	Saiki
Edwards (OK)	Machtley	Sangmeister
Emerson	Madigan	Sarpalius
Engel	Manton	Savage
English	Marlenee	Sawyer
Erdreich	Martin (IL)	Saxton
Evans	Martin (NY)	Schaefer
Fascell	Martinez	Scheuer
Feighan	Matsui	Schiff
Fish	Mavroules	Schneider
Flake	Mazzoli	Schroeder
Foglietta	McCloskey	Schuette
Ford (TN)	McCollum	Schulze
Frank	McCrery	Schumer
Sensenbrenner	Stallings	Vento
Sharp	Stangeland	Visclosky
Shays	Stark	Volkmer
Sikorski	Stenholm	Vucanovich
Sisisky	Stokes	Walgren
Skaggs	Studds	Walsh
Skeen	Sundquist	Washington
Skelton	Swift	Watkins
Slaughter (NY)	Synar	Waxman
Slaughter (VA)	Tallon	Weber
Smith (IA)	Tanner	Weiss
Smith (NE)	Tauke	Weldon
Smith (NJ)	Tauzin	Wheat
Smith (TX)	Thomas (CA)	Whittaker
Smith (VT)	Thomas (GA)	Whitten
Smith, Denny (OR)	Thomas (WY)	Wise
	Torres	Wolpe
Smith, Robert (OR)	Towns	Wyden
	Traficant	Wylie
Snowe	Traxler	Yates
Solarz	Udall	Yatron
Spence	Unsoeld	Young (AK)
Spratt	Upton	Young (FL)
Staggers	Vander Jagt	

NOES—45

Bateman	Gilman	Neal (NC)
Bennett	Goss	Quillen
Bentley	Grant	Ritter
Bilirakis	Hancock	Rohrabacher
Brooks	Hansen	Ros-Lehtinen
Bunning	Hefley	Shaw
Burton	Herger	Shumway
Combest	Hunter	Shuster
Cox	Hyde	Smith, Robert (NH)
Crane	Kyl	
Dannemeyer	Lewis (FL)	Solomon
DeWine	Livingston	Stearns
Dornan (CA)	McCandless	Stump
Duncan	Michel	Taylor
Fawell	Miller (OH)	
Gekas	Molinari	

NOT VOTING—39

Ackerman	Flippo	McDade
Bates	Ford (MI)	Moody
Boxer	Gingrich	Nelson
Byron	Goodling	Oakar
Conyers	Hatcher	Serrano
Craig	Hutto	Slattery
Crockett	Leath (TX)	Smith (FL)
de la Garza	Lehman (CA)	Torricelli
Downey	Lehman (FL)	Valentine
Early	Lewis (CA)	Walker
Espy	Lowery (CA)	Williams
Fazio	Lukens, Donald	Wilson
Fields	Markey	Wolf

□ 1915

The Clerk announced the following pair:

On this vote:

Mr. Fazio for, with Mr. Craig against.

Mr. HYDE changed his vote from "aye" to "no."

Mr. ROWLAND of Georgia changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BERMAN

Mr. BERMAN. Mr. Chairman, I offer an amendment which was printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. BERMAN: Page 38, insert the following after line 2 and redesignate the succeeding sections in title I, and references thereto, accordingly:

SEC. 115. FOREIGN POLICY CONTROLS.

(a) CRITERIA FOR IMPOSING CONTROLS.—Section 6(b) (50 U.S.C. App. 2405(b)) is amended—

(1) in paragraph (1) by striking "(1) Subject" and all that follows through "determines that" and inserting "In imposing, extending, or expanding export controls under

this section, the President shall consider whether";

(2) in subparagraph (A) by striking "cannot" and inserting "can";

(3) in subparagraph (C) by striking "not likely" and inserting "likely";

(4) in subparagraph (D) by striking, "does not exceed" and inserting "exceeds";

(5) by striking paragraph (2); and

(6) by redesignating subparagraphs (A) through (E) as paragraphs (1) through (5), respectively.

(b) FOREIGN AVAILABILITY.—Section 6(h) (509 U.S.C. App. 2405(h)) is amended—

(1) in paragraph (3)—

(A) by striking the second sentence; and

(B) in the third sentence by striking "the good or technology" and inserting "the goods or technology involved"; and

(2) by striking paragraph (4).

(c) CONFORMING AMENDMENTS.—Section 6 is amended—

(1) in subsections (c) and (d) by striking "(b)(1)" each place it appears and inserting "(b)"; and

(2) by amending subsection (f)(2)(B) to read as follows:

"(B) specifying the considerations of the President with respect to each of the criteria set forth in subsection (b), and any adverse foreign policy consequences of the controls;"

Mr. BERMAN. Mr. Chairman, the bill before us seeks to take a new approach with respect to the U.S. Munitions List by essentially limiting that list to the items which are accepted for the International Munitions List.

In response to questions about the logic of that approach, the chairman of the subcommittee and many people who support that approach have argued "Let us treat our munitions separately from other items which might have military capability, but also have other uses and deal with those through foreign policy controls." This amendment accepts that principle and clears up existing law on foreign policy controls to give the President the discretion to impose those controls after he has considered the likelihood of those controls to achieve foreign policy objectives, the question of foreign availability, the extent to which U.S. companies may be penalized, to consider all the appropriate factors.

Basically, this amendment, by revising some other criteria with respect to the imposition of foreign policy controls, provides a framework for the President to consider the many important considerations that one would expect an administration to consider before imposing controls on U.S. companies, such as foreign availability, such as economic cost to the company, such as the likelihood that the control will achieve the foreign policy objective. But it leaves the President with the discretion under the revised format to impose those controls after weighing those very appropriate considerations.

Essentially, the actions of the administration may not change as a result of this amendment, but its ability to operate consistent with the underlying law will be enhanced. If this amendment passes, the administration will not have to distort or misrepresent or continue goals and objectives in order to comply with the law. There will be a straightforward balance, we will have preserved Presidential authority to make a decision on whether or not to impose those controls.

□ 1920

I think it is a sensible amendment in the context of what we are doing in this bill, and I would ask the body to support it.

Mr. HYDE. Mr. Chairman, would the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think this is one of the most important amendments we are going to deal with today. I want to understand the gentleman. The gentleman is providing Presidential authority for something that the bill does not. Would the gentleman tell me what that is?

Mr. BERMAN. Well, this amendment does not change new provisions of the bill. It amends existing law. The gentleman read portions of existing law when he was talking about his earlier amendment and pointing out that that law constrains the President in ways which would, if he is going to adhere to the letter of the law, very much limit his ability to impose controls.

Let me give you the perfect example, if I may.

Four or five years ago it was clearly demonstrated that Iraq had used chemical weapons in its conflict with Iran. Several American manufacturers of potassium fluoride, components obviously which were going to be used in the manufacture of these chemical weapons, came to the administration and said, "We don't want to deliver these products that we are under contract to deliver. Impose those controls." The President ended up imposing those controls without doing any of the things that the law required him to do, by simply just asserting it. It is wrong to have a law that limits the President's flexibility to act in that situation.

Mr. HYDE. Oh, yes. Oh, I could not agree with the gentleman more. What the gentleman is saying is that the foreign policy controls which we have been told are more than adequate to protect our country—and we have been told that by no less than the chairman of the subcommittee, Mr. HOUGHTON of New York, Mr. FRENZEL, Mr. BEREUTER, Mr. FASCELL—that the foreign policy controls give the President enough power, enough authority to protect us from something that we really do not want to export.

Now the gentleman is saying that really is not quite true and we would rather give the President a little flexibility so Iraq, so Syria, so Libya does not get some of these things that this bill might facilitate.

Mr. Chairman, do I read the gentleman correctly?

Mr. BERMAN. Well, if I may be so audacious as to interpret the thinking of the chairman of the subcommittee on this question, I think the chairman was responding with respect to his bill. The chairman, for the reasons that the gentleman stated, supports this amendment because with this amendment the President will have the flexibility.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The time of the gentleman from California [Mr. BERMAN] has expired.

(Upon request of Mr. HYDE and by unanimous consent Mr. BERMAN was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. Essentially, this is the logic: All right, I know the gentleman has concerns about it, but we are going to take a different approach toward the munitions list. We are going to narrow that list to only include those items on the International Munitions List or those items we are able to convince our allies to put on that list.

Mr. HYDE. But we want the President to have the last word on something that otherwise might get to a country that is somewhat hostile, is that right?

Mr. BERMAN. I think the President should have the flexibility to impose those controls.

Mr. HYDE. I welcome the gentleman's amendment, and I am glad he is offering it so that it has a chance of being passed. Thank you.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California [Mr. BERMAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD?

Mr. HUNTER. Yes, Mr. Chairman, it is.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. HUNTER: Page 21, line 10, insert "(except the Soviet Union)" after "country".

Page 21, line 15, insert "(except the Soviet Union)" after "country".

Mr. HUNTER. Mr. Chairman, I realize that the hour is late and that many Members are determined to press the accelerator with our Mack truck in driving this technology to the

Soviet Union and to their allies, but I have an amendment that I think would answer the concerns of many who spoke during the last amendment that we offered with respect to telecommunications.

Very simply, this amendment allows you to sell to Hungary and to Czechoslovakia and to Poland telecommunications equipment, but does except the Soviet Union.

This amendment I think makes sense for those Members who would want to give to Czechoslovakia and to Hungary and the other newly freed captive nations the ability and access to acquire American telecommunications equipment but do not want to give that same equipment to the Soviet Union.

I think some very valid arguments apply, and I turn to the Washington Post story of today, "West denies fiber optics to Soviets. U.S. and Britain bar access to technology."

The point is made that there are national security concerns that have moved the leadership of the United States and Great Britain, their desire to increase trade notwithstanding, to bar telecommunications equipment to the Soviet Union. That is precisely what this does. Once again we have a broad array of agreements with the Soviets that we are anxious that they comply with. They have told us that they are going to be good citizens. We have questions with that statement in certain areas, witness the Lithuanian amendment that we voted on recently.

We want to hold their feet to the fire. Right now they have an open telecommunications system, an old telecommunications system. We do not want to give them a modern, closed system that will allow them to send military orders.

You cannot distinguish between civilian and military end use with respect to telecommunications. For all those people that love the newly freed captive nations and want them to have all the telecommunications equipment that they desire and can pay for, you can support this amendment.

This amendment simply prohibits the Soviet Union from having access to that equipment except for the negotiations that the President is involved in right now.

So he has a chance to move through these negotiations and to decide and pick and choose his places where he wants to give telecommunications to the Soviet Union, but they will not have carte blanche.

I think that makes sense.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to my friend, the gentleman from Arizona [Mr. KYL].

Mr. KYL. I thank the gentleman for yielding.

Mr. Chairman, I have two questions for the gentleman.

The first question is: Essentially, this amendment differs from the gentleman's prior amendment in one key respect. Everybody but the Soviet Union would be on the list of countries with which the Secretary of State would be required to negotiate a telecommunications agreement with Cocom, is that correct?

Mr. HUNTER. That is absolutely right.

Mr. KYL. So this would only keep the telecommunications equipment from the Soviet Union in the sense that the Secretary would not be required to negotiate such a contract.

Mr. HUNTER. That is right. All of those people who want to reward the newly released captive nations and give them telecommunications equipment will have their interests answered in this particular amendment.

Mr. KYL. My second question is this: The administration could negotiate an agreement with the Soviet Union, for example, after the matter of Lithuania is resolved; it would not be prohibited from negotiating an agreement or from negotiating with Cocom for the exchange of this telecommunications equipment under the gentleman's amendment, is that correct?

Mr. HUNTER. That is precisely right. The President right now and his experts are, in fact, talking with our allies about what telecommunications equipment we can prudently send to the Soviet Union.

Mr. KYL. So if I may understand the gentleman, if President Bush, for example, felt now was not exactly the right time, given the situation in Lithuania, to negotiate an agreement with the Soviet Union, he could wait until he believes that the situation with regard to Lithuania has been resolved to our satisfaction and then negotiate such an agreement with the Soviet Union, is that correct?

Mr. HUNTER. That is exactly right.

Mr. KYL. Whereas under this bill, the Secretary of State is "directed," that is the word in the bill, to begin these negotiations, is that correct?

Mr. HUNTER. He is directed to begin negotiations that would allow this telecommunications equipment to go to any country.

Mr. KYL. Including the Soviet Union.

Mr. HUNTER. Including the Soviet Union, simply with notice. This excludes the Soviet Union.

Mr. HOUGHTON. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from New York [Mr. HOUGHTON].

□ 1930

Mr. HOUGHTON. Mr. Chairman, it is my feeling that the President of the United States has the authority to take a look at any item of technical matter which will go out, which will be a threat to the security of the United States. He has that already.

No. 2, that the U.S. West and the cable wireless in the United Kingdom was really a political decision, not a technical decision.

The third point is this: I do not know how this amendment makes any sense in practice. How can we sell equipment to the Czechoslovakians, to the Hungarians, and to the Poles, and not have it in some way and in some form go to the Soviet Union?

Mr. HUNTER. Mr. Chairman, let me take the last question first because I think it goes right to the Chairman's bill.

We have a number of provisions in this bill that say there can be adequate safeguards with respect to Czechoslovakia, and there can be adequate safeguards with Hungary that will prevent the Soviet Union from not only getting telecommunications equipment, but all kinds of equipment we are proposing to sell them. The presumption is we can build a fence between the old Warsaw Pact nations, newly freed captive nations, and the Soviet Union. However, let me address the gentleman's first point, saying wait a minute, the President has the ability to hold up any sale unilaterally. Even if he does not like this opening in the fence around Cocom, he can say, "I want to build a fence around the United States, and I will not sell that."

Let me answer that that is an important point.

(By unanimous consent, Mr. HUNTER was allowed to proceed for 1 additional minute.)

Mr. HUNTER. The point is that the Chairman's bill directs the Secretary of State to negotiate with Cocom, an agreement whereby telecommunications equipment can be sold to any nation with only notice to Cocom. Now, what that means is that the President does that, or the Secretary of State does that, and we have France and Great Britain and the rest of the Cocom nations agree to sell communications equipment to the Soviet Union, in other words to take the fence down, and the United States two years from now says, "We unilaterally want to reserve to ourselves the right to keep our horse in the barn" and IBM, by gosh, will not make the sale, the other 15 horses are already out of the barn, and France and Great Britain and the rest of the Cocom nations are then selling, so we have defeated the real intent of the bill.

So the point is that it does not make any sense to say we have unilateral capability if we are going to start the negotiations, that opens the barn door for everybody else's systems to go.

(On the request of Mr. DREIER of California and by unanimous consent, Mr. HUNTER was allowed to proceed for 2 additional minutes.)

Mr. HUNTER. Mr. Chairman, I yield to the distinguished gentleman from California.

Mr. DREIER of California. Mr. Chairman, I thank my colleague, the gentleman from California [Mr. HUNTER] for yielding, and I would like to congratulate my friend for what appears to be a good and important amendment.

We are trying to do everything we possibly can to assist these emerging democracies in Poland, East Germany, Hungary, Czechoslovakia. Yes, we want to prevent that flow from going directly to the Soviet Union, but we have to recognize that unless we do what we can to assist these emerging democracies, they will take a retrograde step, and we certainly do not want to see that happen.

I congratulate my friend for his fine amendment.

Mr. HUNTER. Mr. Chairman, the gentleman makes an excellent point. We can use this as leverage in the Lithuanian situation. We do not have to give them carte blanche to sell everything to the Soviet Union. That is a great point, and I commend the gentleman for bringing it up.

Mr. GEJDENSON. Mr. Chairman, we basically debated this issue before. We rejected it. The Soviets have their own fiber optic cable. We ought to reject this amendment again.

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the chairman of the subcommittee has said it: We have had a vote on this, the amendment failed. We are now taking a small piece of it. The U.S.S.R., we hope, will be one of those emerging democracies. We also hope it will be a good customer.

This amendment should be defeated, just as its predecessor was.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The question is on the amendment offered by the gentleman from California [Mr. HUNTER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KYL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 78, noes 315, not voting 39, as follows:

[Roll No. 156]

AYES—78

Applegate	Burton	Davis
Barton	Callahan	DeWine
Bateman	Coble	Dickinson
Bennett	Combest	Dornan (CA)
Bentley	Condit	Douglas
Bilirakis	Cox	Dreier
Bliley	Crane	Duncan
Bunning	Dannemeyer	Edwards (OK)
Fawell	Kyl	Schuette
Gallegly	Lagomarsino	Shaw
Gekas	Lewis (FL)	Shumway
Gillmor	Lightfoot	Shuster
Gilman	Livingston	Slaughter (VA)
Gingrich	Lukens, Donald	Smith, Robert (NH)
Goodling	McCandless	Solomon
Goss	McCollum	Spence
Grant	McEwen	Stearns
Hammerschmidt	Meyers	Stump
Hancock	Miller (OH)	Taylor
Hansen	Molinari	Vucanovich
Hefley	Moorhead	Watkins
Herger	Parris	Weldon
Hunter	Ritter	Wolf
Hyde	Robinson	Young (FL)
Inhofe	Rohrabacher	
Ireland	Ros-Lehtinen	
Kasich	Rowland (CT)	

NOES—315

Alexander	Erdreich	Lewis (GA)
Anderson	Evans	Lipinski
Andrews	Fascell	Lloyd
Annunzio	Fazio	Long
Anthony	Feighan	Lowey (NY)
Archer	Fields	Luken, Thomas
Armey	Fish	Machtley
Aspin	Flake	Madigan
Atkins	Foglietta	Manton
AuCoin	Ford (TN)	Markey
Ballenger	Frank	Marlenee
Barnard	Frenzel	Martin (IL)
Bartlett	Frost	Martin (NY)
Beilenson	Gallo	Matsui
Bereuter	Gejdenson	Mavroules
Berman	Gephardt	Mazzoli
Bevill	Geren	McCloskey
Bilbray	Gibbons	McCurdy
Boehlert	Glickman	McDermott
Boggs	Gonzalez	McGrath
Bonior	Gordon	McHugh
Borski	Gradison	McMillan (NC)
Bosco	Grandy	McMillen (MD)
Boucher	Gray	McNulty
Brennan	Green	Mfume
Brooks	Guarini	Michel
Broomfield	Gunderson	Miller (CA)
Browder	Hall (OH)	Miller (WA)
Brown (CA)	Hall (TX)	Mineta
Brown (CO)	Hamilton	Moakley
Bruce	Harris	Mollohan
Bryant	Hastert	Montgomery
Buechner	Hayes (IL)	Morella
Bustamante	Hayes (LA)	Morrison (CT)
Campbell (CA)	Hefner	Morrison (WA)
Campbell (CO)	Henry	Mrazek
Cardin	Hertel	Murphy
Carper	Hiler	Murtha
Carr	Hoagland	Myers
Chandler	Hochbrueckner	Nagle
Chapman	Holloway	Natcher
Clarke	Hopkins	Neal (MA)
Clay	Horton	Neal (NC)
Clement	Houghton	Nielson
Clinger	Hoyer	Nowak
Coleman (MO)	Hubbard	Oberstar
Coleman (TX)	Hughes	Obey
Collins	Jacobs	Olin
Conte	James	Ortiz
Cooper	Jenkins	Owens (NY)
Costello	Johnson (CT)	Owens (UT)
Coughlin	Johnson (SD)	Oxley
Courter	Johnston	Packard
Coyne	Jones (GA)	Pallone
Darden	Jones (NC)	Panetta
DeFazio	Jontz	Parker
DeLay	Kanjorski	Pashayan
Dellums	Kaptur	Patterson
Derrick	Kastenmeier	Paxon
Dicks	Kennedy	Payne (NJ)
Dingell	Kennelly	Pease
Dixon	Kildee	Pelosi
Donnelly	Kleczka	Penny
Dorgan (ND)	Kolbe	Perkins
Downey	Kolter	Petri
Durbin	Kostmayer	Pickett
Dwyer	LaFalce	Pickle
Dymally	Lancaster	Porter
Dyson	Lantos	Poshard
Eckart	Laughlin	Price
Edwards (CA)	Leach (IA)	Pursell
Emerson	Lehman (FL)	Quillen
Engel	Levin (MI)	Rahall
English	Levine (CA)	Rangel
Ravenel	Sharp	Tauzin
Ray	Shays	Thomas (CA)
Regula	Sikorski	Thomas (GA)
Rhodes	Sisisky	Thomas (WY)
Richardson	Skaggs	Torres
Ridge	Skeen	Torricelli
Rinaldo	Skelton	Towns
Roberts	Slaughter (NY)	Traficant
Roe	Smith (FL)	Traxler
Rogers	Smith (IA)	Unsoeld
Rose	Smith (NE)	Upton
Rostenkowski	Smith (NJ)	Valentine
Roth	Smith (TX)	Vander Jagt
Roukema	Smith (VT)	Vento
Rowland (GA)	Smith, Robert (OR)	Visclosky
Roybal	Snowe	Volkmer
Russo	Solarz	Walgren
Sabo	Spratt	Walsh
Saiki	Staggers	Waxman
Sangmeister	Stallings	Weber
Sarpalius	Stangeland	Weiss
Savage	Stark	Wheat
Sawyer	Stenholm	Whittaker
Saxton	Stokes	Williams
Schaefer	Studds	Wise
Scheuer	Sundquist	Wolpe
Schiff	Swift	Wyden
Schneider	Synar	Wylie
Schroeder	Tallon	Yatron
Schumer	Tanner	Young (AK)
Sensenbrenner	Tauke	
Serrano		

NOT VOTING—39

Ackerman	Hatcher	Oakar
Baker	Hawkins	Payne (VA)
Bates	Huckaby	Schulze
Boxer	Hutto	Slattery
Byron	Leath (TX)	Smith, Denny (OR)
Conyers	Lehman (CA)	Udall
Craig	Lent	Walker
Crockett	Lewis (CA)	Washington
de la Garza	Lowery (CA)	Whitten
Early	Martinez	Wilson
Espy	McCrery	Yates
Flippo	McDade	
Ford (MI)	Moody	
Gaydos	Nelson	

□ 1955

The Clerk announced the following pair:

On this vote:

Mr. Craig for, with Mr. Gaydos against.

Mr. HILER changed his vote from "aye" to "no."

Messrs. DAVIS, APPLEGATE, and WATKINS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ENGEL

Mr. ENGEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. DOWNEY). Is the amendment printed in the RECORD?

Mr. ENGEL. Yes, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. ENGEL: Page 32, strike line 6 and all that follows through page 34, line 22, and insert the following:

SEC. 12. INDEXING PROCEDURES.

Section 5(g) (50 U.S.C. App. 2404(g)) is amended to read as follows:

"(g) INDEXING.—(1) In order to ensure that requirements for validated licenses and other licenses authorizing multiple exports are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, the Secretary shall, not later than 6 months after the date of the enactment of the Export Facilitation Act of 1990, issue regulations that establish,

in accordance with paragraph (2), indexing procedures which provide for automatic increases in the performance levels of goods or technology described in paragraph (2)(A) that are subject to any such licensing requirement. Such indexing procedures shall emphasize the technical specifications of goods or technology below which no authority or permission to export is required as compared to the most technologically advanced commercially available version of the same or equivalent goods or technology. Goods or technology which no longer meet the performance levels increased pursuant to such procedures shall be removed from the list established under subsection (c) unless—

"(A) the Secretary determines, at his or her own discretion, or on the basis of an objection of the head of any other executive department (as defined in section 101 of title 5, United States Code), that removal of the goods or technology from the list will permit exports that will be detrimental to the national security of the United States; and

"(B) the Secretary reports that determination in writing, together with a description of the specific anticipated impact on the national security of the United States, to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

The Secretary shall also consider, where appropriate, eliminating site visitation requirements for goods and technology which are removed from the list.

"(2)(A) In carrying out this subsection, the Secretary shall direct the technical advisory committees appointed under subsection (h) to recommend indexing procedures for goods or technology—

"(i) which are eligible for export under a distribution license,

"(ii) below which exports to the People's Republic of China require only notification of the governments participating in the group known as the Coordinating Committee, and

"(iii) below which no authority or permission to export may be required under subsection (b)(3) or (b)(6).

Each technical advisory committee shall generally give priority to recommending such indexing procedures first for goods or technology for which the greatest number of validated license applications were received under this Act during the most recent fiscal year for which such information is available. In recommending such indexing procedure in the case of computers, the technical advisory committees shall give initial consideration to establishing percentage based methods of indexing. The technical advisory committees shall submit their recommendations for indexing procedures, as they are made to the Secretary, who shall determine, within 30 days after each submission, or within 45 days after a submission in the event of an objection by the head of any other executive department, whether to accept the procedures and incorporate them in the regulations issued under paragraph (1) or to refer the procedures back to the appropriate technical advisory committee for further consideration.

"(B) In any case in which the Secretary receives a request which—

"(i) is to revise the indexing procedures established under subparaph (A) for any goods eligible for export under a distribution license, and

"(ii) is made by an exporter of such goods, representatives of an industry which produces such goods, or a technical advisory committee established under subsection (h) of this section.

the Secretary shall, in consultation with the appropriate technical advisory committee and other appropriate Government agencies, act upon such request during the next quarterly review of the list conducted under subsection (c)(3).".

Mr. ENGEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ENGEL. Mr. Chairman, it is of critical importance to our exporting community that we act here today to simplify and streamline our export control policy. Our current policy has reached a point where it is weakening our military security, by contributing to the decline in our economic strength and technological leadership. Timely action by us today is crucial to the future international competitiveness of U.S. industry.

The past 5 to 10 years have clearly demonstrated that the management of our export control system must be made more dynamic and more accountable. The bill I introduced on April 19, H.R. 4562, sought to direct the Secretary of Commerce to establish indexing procedures to automatically remove obsolete items from the Commodity Control List. I was pleased to see it receive bipartisan support at the full committee markup. Its inclusion in H.R. 4653 is a recognition of the importance the Foreign Affairs Committee placed on sending to the administration a strong message on the need to reform the export control process.

Today I am offering, in the form of an en bloc amendment, a number of changes designed to increase the technical integrity of the indexing process, and give to it a greater degree of regularity and predictability.

The crux of the indexing provisions in this legislation, as well as the amendment I offer today, recognize that it is difficult to legislatively mandate specific levels of decontrol. For this reason, the approach I took in drafting this amendment was to reaffirm the direction taken in my earlier effort: to instruct the Technical Advisory Committees to recommend indexing procedures based upon technical merits and marketplace realities. Our export control system must give greater weight to those two factors. To do differently is to perpetuate a system which will, without question, restrict U.S. companies from valuable new markets, and weaken our national security.

The specific changes of my en bloc amendment are:

First, to direct the Technical Advisory Committees to emphasize the technical differentials between controlled products and newer commercially available products when recommending indexing procedures to the Secretary of Commerce.

We cannot allow ourselves to be blinded to the realities of the global diffusion of high technology. We may not like it, but we have to live with it.

I hasten to add that this change does not remove the consideration of national security concerns from the establishment of indexing procedures. The Secretary of Commerce, as well as the Secretaries of State and Defense, retain the right to object to a Technical Advisory Committee recommendation if they feel U.S. national security would be placed in jeopardy.

Second, I have also clarified the mechanics of the interagency review process by specifying that the Secretary of Commerce has 30 days within which to rule on a Technical Advisory Committee recommendation, or 45 days if an objection is raised by the head of another executive department.

This change recognizes the importance of establishing a responsive and timely indexing system, a crucial requirement in today's rapidly evolving technological environment.

Third, an additional provision was also added to require that the Secretary of Commerce report, in writing, to the House Foreign Affairs Committee and the Senate Committee on Banking, Housing, and Urban Affairs when rejecting Technical Advisory Committee recommendations based upon national security reasons.

I felt this change was important to increase the accountability and transparency of the process. A concern I repeatedly heard from a good number of exporters was their frustration over not knowing what was the basis of decision affecting their ability to export. This provision is intended to shed more light on the export control process.

In conclusion, my amendment would improve the current language in the following ways:

First, it would better target emerging technologies for indexing. In many of these emerging areas the United States is a leader, and the establishing of indexing procedures in these areas is particularly important to our maintaining our competitive advantage.

Second, it would increase the accountability of the indexing process.

Third, it heightens the weight given to technical and commercial considerations, thereby creating a system more responsive to the demands of the technological and commercial arena.

Fourth, it does not adversely affect legitimate national security concerns.

The Departments of Commerce, State, and Defense all retain their ability to review and object to indexing recommendations on the basis of national security concerns. In any case, the President retains the ultimate authority in this legislation to impose foreign policy controls when and if the export of items not controlled would raise national security concerns.

We must act today to lift unwarranted restraints on the ability of U.S. companies to access valuable new markets. We must not impose unilateral export controls. We can no longer tolerate continual delays and uncertain interagency reviews.

I ask my colleagues to support these modifications, and I thank the distinguished gentleman from Connecticut [Mr. GEJDENSON] and the gentleman from Wisconsin [Mr. ROTH] for their support.

□ 2000

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, this side has reviewed the amendment. It is an amendment that makes sense and I would hope the House accepts it.

Mr. FRENZEL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I have the same opinion of the amendment as the distinguished subcommittee chairman, I think it is a great improvement to the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. ENGEL].

The question was taken; and the Chairman pro tempore [Mr. MCDERMOTT] announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. The Chair will count. More than 100 Members are present, a quorum.

RECORDED VOTE

The pending business is the demand of the gentleman from Indiana [Mr. BURTON] for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 388, noes 2, not voting 42, as follows:

[Roll No. 157]

AYES—388

Alexander	Ballenger	Bilirakis
Anderson	Barnard	Bliley
Andrews	Bartlett	Boehlert
Annunzio	Barton	Boggs
Anthony	Bateman	Bonior
Applegate	Beilenson	Borski
Archer	Bennett	Bosco
Armey	Bentley	Boucher
Aspin	Bereuter	Brennan
Atkins	Berman	Brooks
AuCoin	Bevill	Broomfield
Baker	Bilbray	Browder
Brown (CA)	Hall (TX)	Moakley
Brown (CO)	Hamilton	Molinari
Bruce	Hammerschmidt	Mollohan
Bryant	Hancock	Montgomery
Buechner	Hansen	Moorhead
Bunning	Harris	Morella
Burton	Hastert	Morrison (CT)
Bustamante	Hayes (IL)	Mrazek
Callahan	Hayes (LA)	Murtha
Campbell (CA)	Hefley	Myers
Campbell (CO)	Hefner	Nagle
Cardin	Henry	Natcher
Carper	Herger	Neal (MA)
Carr	Hertel	Neal (NC)
Chandler	Hiler	Nielson
Chapman	Hoagland	Nowak
Clarke	Hochbrueckner	Oberstar
Clement	Holloway	Obey
Clinger	Hopkins	Olin
Coble	Horton	Ortiz
Coleman (MO)	Houghton	Owens (NY)
Coleman (TX)	Hoyer	Owens (UT)
Collins	Hubbard	Oxley
Combest	Huckaby	Packard
Condit	Hughes	Pallone
Conte	Hunter	Panetta
Cooper	Hyde	Parker
Costello	Inhofe	Parris
Coughlin	Ireland	Pashayan
Courter	Jacobs	Patterson
Cox	James	Paxon
Coyne	Jenkins	Payne (NJ)
Crane	Johnson (CT)	Payne (VA)
Crockett	Johnson (SD)	Pease
Dannemeyer	Johnston	Pelosi
Darden	Jones (GA)	Penny
DeFazio	Jones (NC)	Perkins
DeLay	Jontz	Petri
Dellums	Kanjorski	Pickett
Derrick	Kaptur	Pickle
DeWine	Kasich	Porter
Dickinson	Kastenmeier	Poshard
Dicks	Kennedy	Price
Dingell	Kennelly	Pursell
Dixon	Kildee	Quillen
Donnelly	Kleczka	Rahall
Dornan (CA)	Kolbe	Ravenel
Douglas	Kostmayer	Ray
Downey	Kyl	Regula
Dreier	LaFalce	Rhodes
Duncan	Lagomarsino	Richardson
Durbin	Lancaster	Ridge
Dwyer	Lantos	Rinaldo
Dymally	Laughlin	Ritter
Dyson	Leach (IA)	Roberts
Eckart	Lehman (FL)	Robinson
Edwards (CA)	Levin (MI)	Roe
Edwards (OK)	Levine (CA)	Rogers
Emerson	Lewis (FL)	Rohrabacher
Engel	Lewis (GA)	Ros-Lehtinen
English	Lightfoot	Rose
Erdreich	Lipinski	Rostenkowski
Evans	Livingston	Roth
Fascell	Lloyd	Roukema
Fawell	Long	Rowland (CT)
Fazio	Lowey (NY)	Rowland (GA)
Feighan	Luken, Thomas	Roybal
Fields	Lukens, Donald	Russo
Fish	Machtley	Sabo
Flake	Madigan	Saiki
Foglietta	Markey	Sangmeister
Ford (TN)	Marlenee	Sarpalius
Frank	Martin (IL)	Savage
Frenzel	Martin (NY)	Sawyer
Frost	Matsui	Saxton
Gallegly	Mavroules	Schaefer
Gallo	Mazzoli	Scheuer
Gaydos	McCandless	Schiff
Gejdenson	McCloskey	Schneider
Gekas	McCollum	Schroeder
Gephardt	McCrery	Schuette
Geren	McCurdy	Schumer
Gibbons	McDermott	Sensenbrenner
Gilman	McEwen	Serrano
Glickman	McGrath	Sharp
Gonzalez	McHugh	Shaw
Goodling	McMillan (NC)	Shays
Gordon	McMillen (MD)	Shumway
Goss	McNulty	Shuster
Gradison	Meyers	Sikorski
Grandy	Mfume	Sisisky
Grant	Michel	Skaggs
Green	Miller (CA)	Skeen
Guarini	Miller (OH)	Skelton
Gunderson	Miller (WA)	Slaughter (NY)
Hall (OH)	Mineta	Slaughter (VA)
Smith (FL)	Stump	Visclosky
Smith (IA)	Sundquist	Volkmer
Smith (NE)	Swift	Vucanovich
Smith (NJ)	Synar	Walgren
Smith (TX)	Tallon	Walsh
Smith (VT)	Tanner	Watkins
Smith, Denny (OR)	Tauke	Waxman
	Tauzin	Weber
Smith, Robert (NH)	Taylor	Weiss
	Thomas (CA)	Weldon
Smith, Robert (OR)	Thomas (GA)	Wheat
	Thomas (WY)	Whittaker
Snowe	Torres	Williams
Solarz	Torricelli	Wise
Solomon	Towns	Wolf
Spence	Traficant	Wolpe
Spratt	Traxler	Wyden
Staggers	Udall	Wylie
Stallings	Unsoeld	Yatron
Stangeland	Upton	Young (AK)
Stearns	Valentine	Young (FL)
Stenholm	Vander Jagt	
Studds	Vento	

NOES—2

Dorgan (ND)	Stark

NOT VOTING—42

Ackerman	Gingrich	Moody
Bates	Gray	Morrison (WA)
Boxer	Hatcher	Murphy
Byron	Hawkins	Nelson
Clay	Hutto	Oakar
Conyers	Kolter	Rangel
Craig	Leath (TX)	Schulze
Davis	Lehman (CA)	Slattery
de la Garza	Lent	Stokes
Early	Lewis (CA)	Walker
Espy	Lowery (CA)	Washington
Flippo	Manton	Whitten
Ford (MI)	Martinez	Wilson
Gillmor	McDade	Yates

□ 2023

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. ROTH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have been on this bill for almost 10 hours, and I think it has been a long day. Members have made plans. Many are missing votes. I think it is unfair to them.

I would like to propose that we rise now, have no new amendments tomorrow, and set a time certain of 2 hours for the amendments to be debated and voted on tomorrow.

Mr. BURTON of Indiana. Mr. Chairman, I object.

Mr. SOLOMON. Mr. Chairman, will the gentleman from Wisconsin [Mr. ROTH] yield?

Mr. ROTH. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I would just say to the gentleman from Wisconsin [Mr. ROTH] that perhaps there is some way we could work out with both sides of the aisle where we could rise and take up this bill tomorrow with 2 hours of debate, limited to 2 hours. I for one have some amendments that if we do not get to, that would be fine. But at the end of 2 hours, we would rise on this bill and go to a final vote.

That would accommodate the gentleman from Pennsylvania [Mr. RITTER], who has an Afghanistanian amendment which was talked about earlier when the gentleman from Cali-

fornia [Mr. LEVINE] offered his, and it would also accommodate the gentleman from Indiana [Mr. BURTON] on his. The gentleman could go first tomorrow as far as our side is concerned, and I think we could then wrap this thing up within 2 hours and then take up the Amtrak bill. I do not think there would be any objection on this side of the aisle from our Republican leadership, and it would all depend on how Members feel on that side of the aisle.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, is the gentleman from New York [Mr. SOLOMON] suggesting there be 2 hours of debate tomorrow based on the amendments in the RECORD yesterday and no other amendments?

Mr. SOLOMON. If the gentleman would yield further, as I understand it there are two amendments which were filed earlier today. Under the rules those amendments if we were to rise would be in order tomorrow. There have been no other Republican amendments offered beyond those two. There would be no other Republican amendments offered tonight to be considered during that 2-hour period.

So we have a limited list of amendments over here that may or may not be offered tomorrow, and certainly, accommodating you with whatever ones you might have, we would be able to handle this well within the 2-hour period, perhaps even in an hour and a half.

Mr. BERMAN. Mr. Chairman, if the gentleman would yield further, if the proposal is that amendments not in the RECORD yesterday in accordance with the rule would be taken up tomorrow and a unanimous-consent request were made, I would object.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I think the problem here, so Members are not left in the dark, simply referring to where we are, some folks have added amendments today on the hope that we would be here tomorrow and then they could have a vote on these amendments tomorrow. The problem is that a number of Members on this side of the aisle took at good faith the open rule and posted no new amendments today.

Therefore, a number of Members, and the gentleman from California [Mr. BERMAN] happens to have stood up, but some others have said to me they feel it would be unfair if we made an agreement that would basically accept two new amendments from your side of the aisle, and Members here would have stuck to the open rule and the filing with 24 hours notice.

So I understand the desire of the gentleman from Indiana [Mr. BURTON] to have a modification of his amendment made in order, but that is not how it was designed. I have a hard time trying to convince Members to set up a special rule for the gentleman from Indiana [Mr. BURTON].

Mr. ROTH. Mr. Chairman, reclaiming my time, maybe what we could do, to respond to the gentleman from Connecticut [Mr. GEJDENSON], maybe we could take an equal number of amendments on each side. Certainly there is a way of working this out without staying here until 3 or 4 o'clock in the morning.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I would be happy to yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, we have not asked for any special privilege. We have filed these amendments in accordance with the rule. The gentleman from Connecticut [Mr. GEJDENSON] well knows that. The problem is Members on his side of the aisle did not choose to file amendments today, thinking we probably would not go over until tomorrow. They could have, but they did not choose to do so. We did it in accordance with the rule.

Now, my amendment, which we filed yesterday in accordance with the rule, was found to be flawed by the Parliamentarian. We did not think it was flawed, but he did, so it was ruled nongermane. So we came back with a corrected amendment in the hopes that tomorrow we would be on this bill and could bring our amendment up which was filed yesterday. The intent was the same all along, to just have this one amendment.

Mr. Chairman, I strongly object to the idea that we are asking for preferential treatment. We are asking for no preferential treatment.

Mr. ROTH. Mr. Chairman, I move that the committee do now rise, that there be no new amendments, and a time certain of 2 hours be allowed for debate tomorrow.

Mr. BURTON of Indiana. Mr. Chairman, I object.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). That is not a proper motion at this point.

Are there other amendments to title I?

□ 2020

AMENDMENT OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore [Mr. MCDERMOTT]. Is the amendment printed in the RECORD?

Mr. HUNTER. It has been, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. HUNTER: Page 10, line 12, insert "except the Soviet Union" after "country".

Page 10, line 18, insert "(except the Soviet Union)" after "Eastern Europe".

Page 12, line 5, insert "(except the Soviet Union)" after "country".

Page 16, line 7, insert ", except with respect to the Soviet Union" after "proposal".

Page 16, line 8, insert "(except the Soviet Union)" after "Europe".

Page 17, line 2, insert ", except for exports to the Soviet Union" after "proposal".

Page 17, line 5, insert ", except for exports to the Soviet Union" after "Committee".

Page 18, line 13, insert closed quotation marks after the period.

Page 18, strike line 14 and all that follows through page 19, line 23.

Page 21, line 5, strike "(9)" and insert "(8)".

Page 21, line 6, strike "(4), (6), and (8)" and insert "(4) and (6)".

Mr. HUNTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Mr. Chairman, I will try to make this explanation fairly brief.

Section 107 strongly liberalizes trade with Eastern Europe, including the Soviet Union. I quote in that section 107 that: "No authority or permission may be required to export goods or technology described in subparagraph (b) to any country."

What this means in that we are liberalizing to what is known as the China green line. The China green line is a lowered fence, a technology fence that allows us to stop certain things, or a raised technology fence that allows us to sell certain things to China that we would not otherwise sell to other places.

Under the Gejdenson bill the lowering of our standards or the new liberalization to the China green line would allow the same five axes Toshiba machine tools that we protested when they were sent to the Soviet Union, to the Stalingrad shipyard to quiet their submarines, would be allowed to be sent by American companies to that very same shipyard. I have reviewed the China green line in comparison to the Cocom machine tool parameters and the Cocom machine tool parameters allow nothing more than three axes, three linear axes machines tools. What my amendment does is says simply that you cannot sell Toshiba machine tools to the Soviet Union. You can sell them to China, you can sell them to Czechoslovakia or to other recently freed captive nations,

but you cannot sell Toshiba machine tools to the Soviet Union.

This is consistent with our foreign policy and it is consistent with votes that have gone on out from this House condemning the Toshiba Co. for selling these sophisticated machine tools to the Soviet Union, and I would move the amendment.

Mr. GEJDENSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will not take up the Member's time. This is another amendment that we simply feel ought to be defeated. It does not make the bill better; it makes it worse.

I hope my colleagues will stick around and maybe we can defeat this quickly.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California [Mr. HUNTER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 90, noes 304, not voting 38, as follows:

[Roll No. 158]

AYES—90

Archer	Grant	Moorhead
Baker	Hammerschmidt	Neal (NC)
Barton	Hancock	Parris
Bateman	Hansen	Paxon
Bennett	Hastert	Regula
Bentley	Hefley	Ritter
Bilirakis	Herger	Robinson
Bliley	Hiler	Rogers
Broomfield	Hopkins	Rohrabacher
Bunning	Hunter	Ros-Lehtinen
Burton	Hyde	Rowland (CT)
Callahan	Inhofe	Schuette
Coble	Ireland	Shaw
Combest	Kasich	Shumway
Cox	Kennelly	Shuster
Craig	Kyl	Slaughter (VA)
Crane	LaFalce	Smith, Robert (NH)
Dannemeyer	Lagomarsino	Smith, Robert (OR)
DeWine	Lewis (FL)	Solomon
Dickinson	Lightfoot	Spence
Dornan (CA)	Livingston	Stearns
Douglas	Lukens, Donald	Stump
Dreier	Marlenee	Vucanovich
Duncan	McCandless	Watkins
Edwards (OK)	McCollum	Weldon
Emerson	McCrery	Wolf
Fawell	McEwen	Young (AK)
Gallegly	McGrath	Young (FL)
Gekas	Meyers	
Gilman	Miller (OH)	
Goss	Molinari	

NOES—304

Ackerman	Berman	Buechner
Alexander	Bevill	Bustamante
Anderson	Bilbray	Campbell (CA)
Andrews	Boehlert	Campbell (CO)
Annunzio	Boggs	Cardin
Anthony	Bonior	Carper
Applegate	Borski	Carr
Armey	Bosco	Chandler
Aspin	Boucher	Chapman
Atkins	Brennan	Clarke
AuCoin	Brooks	Clay
Ballenger	Browder	Clement
Barnard	Brown (CA)	Clinger
Bartlett	Brown (CO)	Coleman (MO)
Beilenson	Bruce	Coleman (TX)
Bereuter	Bryant	Collins
Condit	Kolbe	Roberts
Conte	Kolter	Roe
Conyers	Kostmayer	Rose
Cooper	Lancaster	Rostenkowski
Costello	Lantos	Roth
Coughlin	Laughlin	Roukema
Courter	Leach (IA)	Rowland (GA)
Coyne	Lehman (FL)	Roybal
Darden	Lent	Russo
DeLay	Levin (MI)	Sabo
Dellums	Levine (CA)	Saiki
Derrick	Lewis (GA)	Sangmeister
Dicks	Lipinski	Sarpalius
Dingell	Lloyd	Savage
Donnelly	Long	Sawyer
Dorgan (ND)	Lowey (NY)	Saxton
Downey	Luken, Thomas	Schaefer
Durbin	Machtley	Scheuer
Dwyer	Madigan	Schiff
Dymally	Markey	Schneider
Dyson	Martin (IL)	Schroeder
Eckart	Martin (NY)	Schumer
Edwards (CA)	Matsui	Sensenbrenner
Engel	Mavroules	Serrano
English	Mazzoli	Sharp
Erdreich	McCloskey	Shays
Evans	McCurdy	Sikorski
Fascell	McDermott	Sisisky
Fazio	McHugh	Skaggs
Feighan	McMillan (NC)	Skeen
Fields	McMillen (MD)	Skelton
Fish	McNulty	Slaughter (NY)
Flake	Mfume	Smith (FL)
Foglietta	Michel	Smith (IA)
Ford (TN)	Miller (CA)	Smith (NE)
Frank	Miller (WA)	Smith (NJ)
Frenzel	Mineta	Smith (TX)
Frost	Moakley	Smith (VT)
Gallo	Mollohan	Smith, Denny (OR)
Gaydos	Montgomery	Snowe
Gejdenson	Morella	Solarz
Gephardt	Morrison (CT)	Spratt
Geren	Morrison (WA)	Staggers
Gibbons	Mrazek	Stallings
Glickman	Murphy	Stangeland
Gonzalez	Murtha	Stark
Gordon	Myers	Stenholm
Gradison	Nagle	Stokes
Grandy	Natcher	Studds
Gray	Neal (MA)	Sundquist
Green	Nielson	Swift
Guarini	Nowak	Synar
Gunderson	Oberstar	Tallon
Hall (OH)	Obey	Tanner
Hall (TX)	Olin	Tauke
Hamilton	Ortiz	Tauzin
Harris	Owens (NY)	Taylor
Hayes (IL)	Owens (UT)	Thomas (CA)
Hayes (LA)	Oxley	Thomas (GA)
Hefner	Packard	Thomas (WY)
Henry	Pallone	Torres
Hertel	Panetta	Torricelli
Hoagland	Parker	Traficant
Hochbrueckner	Pashayan	Traxler
Holloway	Patterson	Udall
Horton	Payne (NJ)	Unsoeld
Houghton	Payne (VA)	Upton
Hoyer	Pease	Valentine
Hubbard	Pelosi	Vander Jagt
Huckaby	Penny	Vento
Hughes	Perkins	Visclosky
Jacobs	Petri	Volkmer
James	Pickett	Walgren
Jenkins	Pickle	Walsh
Johnson (CT)	Porter	Weber
Johnson (SD)	Poshard	Weiss
Johnston	Price	Wheat
Jones (GA)	Pursell	Whittaker
Jones (NC)	Quillen	Williams
Jontz	Rahall	Wise
Kanjorski	Rangel	Wolpe
Kaptur	Ravenel	Wyden
Kastenmeier	Ray	Wylie
Kennedy	Rhodes	Yatron
Kildee	Ridge	
Kleczka	Rinaldo	

NOT VOTING—38

Bates	Dixon	Goodling
Boxer	Early	Hatcher
Byron	Espy	Hawkins
Crockett	Flippo	Hutto
Davis	Ford (MI)	Leath (TX)
de la Garza	Gillmor	Lehman (CA)
DeFazio	Gingrich	Lewis (CA)
Lowery (CA)	Oakar	Washington
Manton	Richardson	Waxman
Martinez	Schulze	Whitten
McDade	Slattery	Wilson
Moody	Towns	Yates
Nelson	Walker	

□ 2058

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 2100

Mr. GEJDENSON. Mr. Chairman, we have had discussions with the minority leader, and as a consequence, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HOYER) having assumed the chair, Mr. MCDERMOTT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute.)

Mr. GEJDENSON. Mr. Speaker, the House is not in order, and I want the Members of the House to understand what we are about to do. If we could have some order, Mr. Speaker, I want to explain what I understand is a good faith effort from the minority leader, and particularly I want to thank the gentleman from Wisconsin [Mr. ROTH], the leading minority member on my subcommittee, for coming forward with this proposal.

Mr. Speaker, I ask unanimous consent that—

First, when the Committee of the Whole resumes consideration of the bill on tomorrow, only the following amendments shall be eligible for consideration:

Mr. HUNTER, No. 12;

Mr. KYL, Nos. 1 and 2;

Mr. MARKEY, Nos. 1, 2, and 3; and

Mr. MILLER of Washington and Mr. LEVINE of California each with one amendment;

Second, that debate on all amendments and all amendments thereto be limited to 10 minutes;

Third, that the amendment of the gentleman from California [Mr. LEVINE] dealing with California oil be considered last; and

Fourth, that recorded votes on amendments be postponed until after debate on all amendments considered and votes be taken seriatim and voting time be reduced to 5 minutes after the first vote in this series.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. RITTER. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

Mr. WEBER. Mr. Speaker, reserving the right to object, I was not quite——

The SPEAKER pro tempore. The Chair recognized the gentleman. The Chair had propounded the question.

Mr. WEBER. Mr. Speaker, I am reserving the right to object to the gentleman's request.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. RITTER] has already objected, unless the gentleman withdraws his objection and reserves the right to object.

Mr. RITTER. I reserve the right to object, Mr. Speaker.

The SPEAKER pro tempore. The gentleman withdraws his objection and reserves the right to object.

Mr. RITTER. Mr. Speaker, I have reserved the right to object, and I will object, because I had an amendment that was——

Mr. GIBBONS. Mr. Speaker, regular order.

Mr. RITTER. All right, I will object.

The SPEAKER pro tempore. The House will be in order.

Mr. RITTER. I had an amendment, Mr. Speaker, which I hoped to offer which would have laid over until tomorrow, as would have other amendments that were accepted because they were subject today to a point of order. Now, I am sorry, Mr. Speaker, but I think this amendment is an extremely fair amendment. It is within the spirit of this legislation which seeks to put certain restrictions on this bill. Whether it be Lithuanians or Soviet Jews or Cubans, I believe the Afghan people have been——

Mr. GIBBONS. Regular order, Mr. Speaker.

The SPEAKER pro tempore. The Chair will ask the gentleman from Pennsylvania, does he——

Mr. RITTER. This was supposed to be an open rule, Mr. Speaker, so I guess——

The SPEAKER pro tempore. The gentleman is out of order. The Chair would advise the gentleman that regular order has been asked for, and the Chair asks the gentleman, does he object?

Mr. RITTER. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

EXPORT FACILITATION ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 403 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the further consideration of the bill, H.R. 4653.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979 and for other purposes, with Mr. MCDERMOTT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

□ 2004

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from California [Mr. HUNTER] had been disposed of and title I was open to amendment at any point.

For what purpose does the gentleman from Arizona [Mr. KYL] rise?

AMENDMENT OFFERED BY MR. KYL

Mr. KYL. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD?

Mr. KYL. Yes, it is, Mr. Chairman. The amendment relates to section 110.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. KYL: Page 27, strike line 13 and all that follows through page 30, line 6, and redesignate the succeeding sections in title I, and references thereto, accordingly.

Mr. KYL. Mr. Chairman, this is a very serious amendment. I had hoped to have it considered under more propitious circumstances. I hope that my colleagues can have a little empathy for me with the circumstances under which I am trying to present what I believe to be a very serious and important amendment.

Well over a week ago I made a request of the chairman of the Investigations Subcommittee of the Committee on Armed Services to hold hearings on this particular matter because there are a couple of provisions of concern in this bill.

Mr. Chairman, my amendment is not a last-minute amendment. It is not something that was cooked up to try to delay anything. It is an amendment to a very substantial section of the bill, and I believe it is one of the more serious amendments that we have dealt with tonight.

Under the bill, in order to deal with the problem of the delay in removing certain goods and technologies from the control list, there was an attempt to speed this effort by simply removing everything by what is called a sunset provision so that by September 30, 1992, the entire list of controlled goods and technologies would simply disappear from the list. After that the Secretary of Commerce would have 30 days to add items back on the list.

Mr. Chairman, let me start over. There has been a problem. The problem is that items which should have been removed from the list have not been removed from the list as quickly as they should have been.

To address that problem, the gentleman from Connecticut [Mr. GEJDENSON] developed a provision called the sunset provision which simply strikes them all. My amendment would strike the sunset provision because there is a——

Mr. GEJENDENSON. Mr. Chairman, will the gentleman yield?

Mr. KYL. Let me explain the amendment first.

Mr. Chairman, this amendment is an amendment in a very blunt way to do something which ought to be done quite surgically and which the administration is already proceeding to do. So this is not something we have to wait to do. It is occurring right now. The way the sunset provision works is that everything, all goods and technologies, not some but all, are absolutely wiped off the slate, by September 30, 1992. The Secretary of Commerce then has 30 days to add back items which in his opinion would make a significant contribution to the military potential of any other country.

Mr. WEBER. Mr. Chairman, will my colleague yield?

Mr. KYL. I am happy to yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Chairman, I rise as one Member who has not been intimately involved in this debate. All of us who are not on the committee but who care deeply about this bill, as do all of us, have been forced to vote tonight on a lot of issues that are very technical in nature. I understand that, and I am not criticizing either side. I am just saying that many of us are voting on matters that are much more technical than we came here expecting to vote on.

I wonder if the gentleman would be of a mind to allow us the opportunity, provided the leadership can work this out, to put the vote on this particular issue over until tomorrow so we can have some time to look at it and think it over and cast an informed vote.

□ 2110

Mr. KYL. In response to the gentleman——

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, it is my understanding that in an attempt to try to resolve the differences that we have, we will once again attempt to rise, and the minority leader, the gentleman from Illinois [Mr. MICHEL], will attempt to make a motion. I would hope that our side would show the kind of serious commitment to good legislative process that sometimes has been missing elsewhere, and I would now move the Committee do now rise.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Illinois.

Mr. MICHEL. I might ask him to in turn ask unanimous consent to withdraw his amendment with the full protection that he will be given that opportunity tomorrow.

Mr. KYL. Mr. Chairman, with the understanding that I will be given the opportunity to reoffer the amendment to section 110 tomorrow, I would ask unanimous consent to withdraw it this evening.

The CHAIRMAN pro tempore. (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. GEJDENSON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HOYER) having assumed the chair, Mr. MCDERMOTT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes, had come to no resolution thereon.

REQUEST FOR PROCEDURES FOR FURTHER CONSIDERATION OF H.R. 4653, EXPORT FACILITATION ACT OF 1990

Mr. MICHEL. Mr. Speaker, in keeping with what the distinguished subcommittee chairman, the gentleman from Connecticut [Mr. GEJDENSON], has indicated, I ask unanimous consent that when the Committee of the Whole resumes consideration of the bill on tomorrow, only the following amendments shall be eligible for consideration:

Mr. HUNTER, No. 12, Mr. KYL, Nos. 1 and 2; Mr. MARKEY, Nos. 1, 2, and 3, Mr. MILLER of Washington; and Mr. LEVINE of California. That debate on all amendments and all amendments thereto be limited to 10 minutes; that the amendment of the gentleman from California [Mr. LEVINE], dealing with California oil be considered last; that recorded votes on amendments be postponed until after debate on all amendments considered and votes be taken seriatim and voting time be reduced to 5 minutes after the first vote in this series.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. RUSSO. Mr. Speaker, I object.

Mr. GEJDENSON. Mr. Speaker, I move that we return to the Committee of the Whole House on the State of the Union.

THE EXPORT ADMINISTRATION ACT OF 1979

The SPEAKER pro tempore. Pursuant to House Resolution 403 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4653.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes, with Mr. MCDERMOTT [Chairman pro tempore] in the chair.

□ 2113

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, title I was open for amendment at any point.

AMENDMENT OFFERED BY MR. KYL

Mr. KYL. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is this amendment printed in the RECORD?

Mr. KYL. Yes, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. KYL: Page 27, strike line 13 and all that follows through page 30, line 6, and redesignate the succeeding sections in title I, and references thereto, accordingly.

Mr. KYL. Mr. Chairman, I will try to be very brief.

As I was saying earlier, in an effort to solve a real problem the bill of the gentleman from Connecticut [Mr. GEJDENSON] would sunset all controlled items on the list of goods and technology, and then the Secretary of Commerce would have to add them back, and he could only do that under the circumstance of, first of all, filing them with the Federal Register, publishing them in the Federal Register; and second, making a finding as to each one that they made a significant contribution to the military potential of any other country or combination of countries which have proved detrimental to the national security of the United States. Moreover, unlike the existing law, Mr. Chairman, this would remove the Secretary of Defense as one of the co-parties in making this determination.

POINT OF ORDER

Mr. KYL. Mr. Chairman, I have a point of order.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. KYL. Apparently the gentlemen on the other side objected, and they wanted to continue tonight. Perhaps they might be interested in the debate. I would ask that we have order in this House.

The CHAIRMAN pro tempore. The point of the gentleman from Arizona [Mr. KYL] is well taken. The Committee will be in order.

Mr. KYL. Mr. Chairman, there is no reason to be uncareful with our national security because the administration has already begun the process of decontrolling many of the items which we want to have decontrolled on the list.

As a matter of fact, in this letter of May 2 from Brent Scowcroft, the National Security Adviser, advising of the administration's opposition to the bill, he notes that on May 2 the President announced that the United States will recommend to Cocom the development by the end of 1990 of a new core list of goods and technologies that is far shorter and less restrictive than the present list, and he goes on to discuss the concept of core list. The concept of core list is to identify only the few items that make a particular technology unique and, therefore, protectable, and as a result would reduce by orders of magnitude the numbers of items that would have to be included upon the control list, and this particular technique, therefore, will permit us to reach the objective desired.

As I was saying, the administration has already begun the process as described by General Scowcroft to identify those core items which would be put on the list to be controlled, and the other items would be decontrolled.

Now there has been frustration with the speed at which decontrol has existed up till now. I would simply suggest to my colleagues that the method of sunsetting everything is not needed now. Yes, it got their attention obviously, and that is something, probably, that was desirable, but it is not needed now, and it has deleterious consequences.

For one thing, it takes the Secretary of Defense out of the loop. Today the Secretary of Commerce and the Secretary of Defense jointly make the decision for what items are reduced or eliminated from the list. Under the bill, however, the Secretary of Defense is removed as one of these coparties, and it becomes the obligation of the Secretary of Commerce now to do what? Not to make a judgment about commerce, but rather to make a judgment about national security because he cannot add an item back unless he certifies that it makes a significant contribution to the military potential of some other country or prove detrimental to the national security of the United States.

Now that does not make any sense, and I do not even believe that people who want to enhance the commerce by having greater technology made available for export want to see this kind of removal of national security considerations.

Mr. Chairman, what we have been hearing here is that we need a higher fence around a smaller group of items, but what the sunset provision does is to create a smaller group of items without the higher fence, and what I am simply providing for here is a way of waiting to see whether or not our objective will be achieved.

Here, Mr. Chairman, there is absolutely no loss from waiting because the sunset provision does not take effect until October 1992. So, we have an opportunity to wait to see whether or not the President's program is working. If it is not working, I will be among those to say that we should agree to some procedure to wipe the slate clean.

I believe the President, and I believe General Scowcroft, when they say that this new process will remove the items from the list that need to be removed and will leave on that list those that really do pose a danger for national security.

□ 2120

In this case it seems to me that as we shoot the messenger because we do not like the message, because some people do not like the fact that the Secretary of Defense has indicated a national security problem with certain items, we are going to take him totally out of the loop. That would be a wise thing to do.

For that reason, Mr. Chairman, I suggest that we simply strike the sunset provision.

There is one more aspect of this that is not wise, and that is that with respect to all countries, not just the controlled countries, all elements would be removed from the control list within 30 days after the sunset provision takes effect, the Secretary of Commerce would have had to add items to the list and anything not added as of that point is submitted to the Cocom countries as not being on the list.

Mr. GEJDENSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would say the gentleman is incorrect. On page 28 of the bill, lines 1 through 6, it explicitly includes the Secretary of Defense.

What the gentleman is trying to tell us is that it is too fast to review the control list by 1992. I think we see where the problem is coming from. If 2 years is too fast to act, then we are in serious trouble.

This is a bad amendment. It is an amendment that once again goes to the heart of what we are trying to do, strike a balance between the national security of the country and trying to do some rational decisions on what needs to be done for commerce. It is a bad amendment, and I would hope the House would reject it.

Mr. KYL. Mr. Chairman, will the gentleman yield for just one question?

Mr. GEJDENSON. I yield to the gentleman from Arizona.

Mr. KYL. Mr. Chairman, I thank the gentleman. I simply want to clarify something. I was very careful to say that the Secretary of Defense and the Secretary of Commerce today have the joint power to make the determination to remove, that the Secretary of Defense was not an equal partner in the bill.

Mr. GEJDENSON. Reclaiming my time, Mr. Chairman, the Secretary of Commerce presently has unilateral authority in this provision on items that are taken off the list that affect national security in the United States, the Secretary shall consult with the Secretary of Defense.

Additionally, the gentleman may not have been aware that we accepted the Mavroules amendment which again will review this whole situation.

I think the gentleman's amendment is not necessary. Two years is plenty of time. The Defense Department has plenty of voice in it.

Let us remember one thing. I do not care if it is this President or the previous Presidents, when the President sits down with this problem and he has got the Secretary of Defense, the Secretary of State, and the Secretary of Commerce, the Secretary of Commerce has a tough time getting his point across.

My chief of staff and I the other day were trying to recall Secretaries of Commerce and Secretaries of Defense and Secretaries of State. We had no problem remembering the Secretaries of State and the Secretaries of Defense. For the life of us, beyond Malcolm Baldrige, it is hard to remember who the Secretary of Commerce was in any administration, Democrat or Republican.

There is no problem with the Department of State and the Department of Defense input here. Two years is plenty of time. The gentleman's amendment ought to be rejected.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Arizona [Mr. KYL].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. KYL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. The Chair will count. More than 100 Members are present, a quorum.

The pending business is the demand of the gentleman from Arizona [Mr. KYL] for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore [Mr. MCDERMOTT]. Is the amendment printed in the RECORD?

Mr. HUNTER. Yes, it is Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. HUNTER: Page 2, strike line 3 and all that follows through page 48, line 11, and insert the following:

TITLE I—EXPORT ADMINISTRATION ACT OF 1979

SEC. 101. EXTENSION OF THE ACT.

Section 20 of the Export Administration Act of 1979 (50 U.S.C. App. 2419) is amended by striking "1990" and inserting "1991".

Mr. HUNTER [during the reading]. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Mr. Chairman, this is an amendment that goes to the heart of the request of the Secretary of Defense, Dick Cheney, and the Secretary of Commerce, whom the gentleman from Connecticut [Mr. GEJDENSON] will remember is Robert Mosbacher, and the Secretary of State, Jim Baker.

Very simply, they wrote the Speaker today objecting very strongly to this act.

I think one thing we have had is a pretty good discussion today about a number of limitations and the problems with this act, but let me go to a couple of them. One that I think has not been brought up is the fact that you have got a trade show provision that is going to allow companies to take items that are controlled by the Soviet Union to other places that are high technology in situations in which they can be reviewed by the KGB, by intelligence agencies, put back in the trade show and taken back and under the Gejdenson bill that is okay as long as you retain title to them. It is a way for technology to flow to our adversaries.

We have seen a number of the other problems we have. Toshiba class machine tools are now legalized for sale to the Stalingrad shipyard. That is OK this year. Everything is fine.

A number of other problems have been pointed out in this particular bill.

For Members who do not have this letter from the Secretary of Defense, the Secretary of Commerce and the Secretary of State, they point out that the administration is working right now with our allies on a major proposal to dramatically liberalize Cocom, eliminating over one-third of the entries currently on the industrial list. They are working to pare this list down, realizing that the world is changing, but they want to do that in

balance with national security interests.

I do not think what we are doing on this bill is helping, and frankly, I think we have really let the horse out of the barn. We have done a lot of things that would not have been done by the Secretary of Defense, would not have been allowed by the Secretary of State. They want us to allow them to have a few chips on the table to get some concessions from our trading allies. That includes France and other countries that are willing in some cases to give away a lot more than we are in terms of technology. They have asked us to do that. That is the reason we are offering this simple 1-year extension of the present Cocom Act.

I think in light of the fact that our administration is negotiating right now and asking for a little breathing space and asking us not to ram this down their throats, we should give them that opportunity. Every Member has had a chance to listen to the debate and to listen to the numerous problems that the Gejdenson bill presents to national security interests.

So Mr. Chairman, I would ask for an affirmative vote on this amendment, and will make copies of this letter from the Secretaries of Defense, Commerce, and State, available to all Members.

Mr. GEJDENSON. Mr. Chairman, I rise to oppose the amendment.

I would say it is not a surprise to me that the gentleman would add a year to a process that he seems to think works fine, when it takes 2½ years to decide which Department to go to.

It is a mistake to put this off for a year. The House has now voted a dozen times against gutting it. The gentleman has gone from little guts to complete guts. This wipes out the entire bill.

□ 2130

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, this would, in short, void everything that the committee has worked on for the last 10 hours, with all the decisions we have made, and go to the current contentious, complex, delayed system that has brought us a real economic problem in this country without really protecting crucial security interests of the country, because we are overreaching.

I urge my colleagues to reject the Hunter amendment.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I will reiterate what the gentleman from Nebraska said. This destroys all that we have been working for to try to improve opportunity for American products and American labor in these new markets and to try to improve the developing democracies of Central Europe. It would be a terrible mistake to approve this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. HUNTER].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is this an amendment that was printed in the RECORD?

Mr. MARKEY. Yes, it is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. MARKEY: Page 22, lines 8 and 9, strike "and related components and accessories" and insert "including communication satellite earth stations, and components and accessories related to such equipment".

Mr. MARKEY. Mr. Chairman, I apologize to my colleagues.

This amendment is one which we have worked out with the minority, with the gentleman from Wisconsin [Mr. ROTH].

It basically deals with satellite earth stations such as a satellite dish which we are familiar with in the backyards or on the tops of buildings in our country. As the Members know, satellite technology has become a vital link in delivering a broad range of telecomunications from plain old telephone service to the nightly news.

Satellites can play a vital role in the continued changes in Eastern Europe and the Soviet Union.

So what does this amendment do? It basically allows for the sale, the transfer, of satellite dishes. The key to this particular technology is that this is the single most easily intercepted means of communications. There is no hard wire. The signals are out in the atmosphere. Our intelligence community can pick up anything that is put out there using this type of technology. It is an industry which GTE, AT&T, Scientific Atlanta, Varian, all of these key companies, want to see passed here tonight, and it is my hope that with the acceptance of the minority that we can see it accepted unanimously.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MARKEY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is this an amendment that was printed in the RECORD?

Mr. MARKEY. Yes, it is Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. MARKEY: Page 10, line 26, after "date", insert "which is 60 days after the date".

Mr. MARKEY. Mr. Chairman, briefly in 1 minute, this amendment does not change the overall thrust of the bill and, in fact, merely affirms the intent of the committee to use the most up-to-date version of the PRC Green Line in setting the new control rules.

As the Members know, the bill as currently written uses the PRC Green Line that existed on the date of the enactment of the Export Enhancement Act of 1988. This amendment would codify the committee's intent as stipulated in its report, and I quote, "to include any changes in the line made within 60 days of the enactment of the Export Enhancement Act."

What this will do is to ensure that semiconductor technologies at the most basic level with no militarily applicable use can be transferred. It is an amendment which has the support of Motorola, of Varian, of 850 U.S. semiconductor manufacturers.

If we do not move here, Canon, Nikon, other companies across the world will move in to fill this vacuum at the very most basic level of semiconductor technology which has no military application.

I have cleared it with the minority, and I have their acceptance of it. I hope that the full House follows that lead.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MARKEY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KYL

Mr. KYL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is this amendment printed in the RECORD?

Mr. KYL. Yes, it is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. KYL: Page 32, insert the following after line 5 and redesignate succeeding sections, and references thereto, accordingly.

SEC. 112. FOREIGN AVAILABILITY.

Section 5(f) (50 U.S.C. App. 2404(f)) is amended—

(1) in paragraph (1)(A), in the second sentence, by inserting after "establish," the following: "and with the concurrence of the Secretary of Defense.";

(2) in paragraph (2)(A), in the second sentence by insering after "establish," the following: "and with the concurrence of the Secretary of Defense,";

(3) in paragraph (2)(B), in the first sentence, by inserting after "Secretary determines" the following:", with the concurrence of the Secretary of Defense,"; and

(4) in paragraph (3)(B), by striking the fourth sentence and inserting the following:

"The Secretary's determination of foreign availability requires the concurrence of the Secretary of Defense.".

Mr. KYL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. KYL. Mr. Chairman, I will be very brief on this amendment.

This is an amendment to the existing law, not to the Gejdenson bill. What it does is to reinsert that the Secretary of Defense is required to concur on questions of foreign availability.

Very precisely, what this means is that when there is a question about whether or not a particular good or technology is available by some other country as a result of which we are able to decontrol that particular good or technology to be sold by a U.S. manufacturer, when that issue arises today, the Secretary of Defense does not have a concurring role in the determination. He should have such a role. As a result, we request the simple phrase "the Secretary's determination of foreign availability requires the concurrence of the Secretary of Defense." That is as simple as it is. That is all it does. I think, under all the other circumstances since national security is very much at issue here, since we are simply asking for a determination of whether or not there is in fact the availability of these goods offered by some other country or manufacturer in some other country, it is not too much to ask for the Secretary of Defense to play a part in that decision making process.

Mr. Chairman, with that quick explanation, in view of the time, I would just urge my colleagues to support this amendment.

Mr. GEJDENSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is the three-headed monster. They spent 2½ years trying to decide whether a company went to State or Commerce. This is foreign availability. Here they did better. They took 3 years to follow the 1988 act, and the gentleman's amendment undoes what we did 2 years ago.

It is a bad amendment, and we ought to reject it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona [Mr. KYL].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KYL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. A quorum is present.

The pending business is the request of the gentleman from Arizona [Mr. KYL] for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

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AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is this an amendment noticed in the RECORD?

Mr. FRENZEL. Mr. Chairman, on page 12673 of the RECORD of June 5.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: Page 9, add the following after line 22:

(c) MULTILATERAL REEXPORT CONTROLS.—Section 5(a)(50 U.S.C. 2404(a)), as amended by section 105(b) of this Act and subsection (b) of this section, is further amended by adding at the end of the following:

"(7) No authority or permission may be required under this section to reexport any goods or technology subject to the jurisdiction of the United States to any country, other than a controlled country, unless all countries which maintain export controls cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k)(1) maintain and implement essentially congruent controls on reexports of such goods or technology to such countries.".

Mr. FRENZEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. Mr. Chairman, this amendment adds a new subsection that prohibits reexport controls to any country other than a controlled country, unless an agreement is obtained at Cocom to cooperatively impose such controls. The bill would eliminate reexport controls within Cocom, but would maintain controls for controlled countries.

This simply means that it would put some harmony into our system. If our trading partners and Cocom allies do not have similar restrictions, then the United States will not have those restrictions.

There is no point in tying the hands of our companies when the hands of the companies of our trading partners are not tied. It only seeks to put us on the same playing field as our Cocom allies.

Mr. Chairman, I believe the amendment is consistent with the intent of the bill, and I do not believe it to be controversial.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. FRENZEL].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—EXPORTS OF UNPROCESSED TIMBER

SEC. 201. SHORT TITLE.

This title may be cited as the "Domestic Timber Processing Allocation Act of 1990".

SEC. 202. RESTRICTIONS ON EXPORTS OF UNPROCESSED TIMBER ORIGINATING FROM FEDERAL LANDS.

(a) PROHIBITION ON EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM FEDERAL LANDS.—No person who acquires unprocessed timber originating from Federal lands west of the 100th meridian may export such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States.

(b) SURPLUS TIMBER.—The prohibition contained in subsection (a) shall not apply to specific quantities of grades and species of unprocessed timber originating from Federal lands which the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, determines, by rule, to be surplus to the needs of timber manufacturing facilities in the United States. Any such determination may, by rule, be withdrawn by such Secretary if the Secretary determines that the affected timber is no longer surplus to the needs of timber manufacturing facilities in the United States.

SEC. 203. LIMITATIONS ON THE SUBSTITUTION OF UNPROCESSED FEDERAL TIMBER FOR UNPROCESSED TIMBER EXPORTED FROM PRIVATE LANDS.

(a) DIRECT SUBSTITUTION.—Except as provided in subsection (c), no person may purchase directly from any department or agency of the United States unprocessed timber originating from Federal lands west of the 100th meridian to be used in substitution for exported unprocessed timber originating from private lands. Notwithstanding the preceding sentence—

(A) Federal timber purchased pursuant to a contract entered into between the purchaser and the appropriate Secretary before the date of the enactment of this Act shall be governed by the substitution restrictions in effect before such date of enactment;

(B) any person who operates under a Cooperative Sustained Yield Unit Agreement, and who has an historic export quota shall be limited to entering contracts under such a quota to a volume equal to not more than 66 percent of the person's historic export quota used during fiscal year 1989; and

(C) a person referred to in subparagraph (B) shall reduce the person's substitution volume by an equal amount each year such that no volume is substituted under such a quota in fiscal year 1995 or thereafter.

(b) INDIRECT SUBSTITUTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), no person may, on or after the date on which rules are adopted under paragraph (2), purchase from any other person unprocessed timber originating from Federal lands west of the 100th meridian if such person would be prohibited from purchasing such timber directly from a department or agency of the United States. The Secretary shall exempt from the prohibition contained in this paragraph, acquisitions of western red cedar which are domestically processed into finished products to be sold into domestic or international markets.

(2) EXCEPTION FOR PURPOSES OF EFFICIENT MARKET ALLOCATIONS.—The Secretary of Agri-

culture and the Secretary of the Interior shall, as soon as practicable but not later than 1 year after the date of the enactment of this Act, establish, by rule, after notice and an opportunity for hearing, a limit on the amount of unprocessed timber originating from Federal lands west of the 100th meridian which may be purchased by a person otherwise covered by the prohibition contained in paragraph (1). Such limit shall equal—

(A) the amount of such timber acquired by such person, based on the higher of the applicant's actual timber purchasing receipts or the appropriate Federal agency's records, during fiscal years 1988, 1989, and 1990, divided by 3, or

(B) 15 million board feet,

whichever is less, except that such limit shall not exceed such person's proportionate share, with respect to all persons covered under this paragraph, of 50 million board feet.

(3) TRANSFER OF RIGHTS.—Any person may sell, trade, or otherwise exchange with any other person the rights obtained under paragraph (2), except that such rights may not be sold, traded, or otherwise exchanged to persons already in possession of such rights obtained under paragraph (2).

(c) APPROVAL OF SOURCING AREA BOUNDARIES.—

(1) IN GENERAL.—The prohibitions contained in subsections (a) and (b) shall not apply with respect to the acquisition of unprocessed timber originating from Federal lands within a sourcing area boundary west of the 100th meridian approved by the Secretaries under this subsection by a person who, in the previous 24 months, has not exported unprocessed timber originating from private lands within the sourcing area boundaries.

(2) REQUIREMENTS FOR APPLICATION.—The Secretary of Agriculture and the Secretary of the Interior shall, not later than 6 months after the date of the enactment of this Act, each, by regulation, prescribe a procedure to be used by a person applying for an approval of sourcing area boundaries under paragraph (1). Such procedure shall require, at a minimum, the applicant to provide—

(A) information regarding the location of private lands from which such person has, within the previous year, harvested or otherwise acquired unprocessed timber which has been exported from the United States; and

(B) information regarding the location of each timber manufacturing facility owned or operated by such person within the proposed sourcing area boundaries at which the applicant proposes to process timber originating from Federal lands.

The prohibition contained in subsection (a) shall not apply to a person before the date which is 3 months after the promulgation of the regulations referred to in this paragraph. With respect to any person who submits an application in accordance with such regulations by the end of such 3-month period, the prohibition contained in subsection (a) shall not apply to such person before the date on which the appropriate Secretary approves or disapproves such application.

(3) GRANT OF APPROVAL.—For each applicant, the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, shall, on the record and after an opportunity for a hearing, not later than 3 months after receipt of the application for sourcing area boundaries, either approve or disapprove the application based on a determination of whether the timber manufacturing facilities at which the applicant desires to process timber originating from Federal lands are located in an area that is geographically and economically separate from any geographic area from which that person harvests for export any unprocessed timber originating from private lands. In making the determination referred to in this paragraph, the Secretary concerned shall consider equally the timber purchasing patterns, on private and Federal lands, of the applicant as well as other persons in the same local vicinity as the applicant, and the relative similarity of such purchasing patterns.

(4) DENIAL OF APPLICATION.—(A) Subject to subparagraph (B), notwithstanding any other provision of law, in the 12-month period after receiving disapproval of an application submitted pursuant to this subsection, the applicant may not purchase unprocessed timber originating from Federal lands in the area which is the subject of the application in an amount not to exceed 100 percent of the annual average of such person's purchases of unprocessed timber originating from Federal lands in the same area, based on purchases in the 3 full fiscal years immediately prior to submission of the application. In the subsequent 6-month period, such person may purchase not more than 25 percent of such annual average, after which time the prohibitions contained in subsection (a) shall fully apply.

(B) If a person referred to in subparagraph (A) certifies to the Secretary within 90 days after receiving disapproval of such application that such person shall, within 18 months after such disapproval, cease the export of timber from the geographic area defined by the Secretary, such person may continue to purchase unprocessed timber originating from Federal lands, without being subject to the restrictions of this paragraph.

(5) REVIEW OF DETERMINATIONS.—Determinations made under paragraph (3) shall be reviewed, in accordance with the procedures prescribed in this title, not less often than every 5 years.

SEC. 204. RESTRICTION ON EXPORTS OF UNPROCESSED TIMBER FROM STATE AND OTHER PUBLIC LANDS.

(a) ORDER TO PROHIBIT THE EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM STATE OR OTHER PUBLIC LANDS.—Except as provided in subsection (e), the Secretary of Commerce shall issue an order to prohibit the export from the United States of unprocessed timber originating from public lands, in the amounts specified in subsection (b).

(b) SCHEDULE FOR DETERMINATION TO PROHIBIT THE EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM STATE OR OTHER PUBLIC LANDS.—

(1) STATES WITH ANNUAL SALES OF 400,000,000 BOARD FEET OR LESS.—With respect to States with annual sales volumes of 400,000,000 board feet or less, the Secretary of Commerce shall issue the order to prohibit the export of unprocessed timber originating from public lands not later than 30 days after the date of the enactment of this Act.

(2) STATES WITH ANNUAL SALES OF GREATER THAN 400,000,000 BOARD FEET.—With respect to any State with an annual sales volume greater than 400,000,000 board feet, the following shall apply:

(A) The Secretary of Commerce shall issue the order referred to in subsection (a) not later than 30 days after the date of the enactment of this Act. Such order shall cover a period beginning 120 days after the issuance of such an order, or January 1, 1991, whichever is earlier, and shall extend to December 31, 1991. Such order shall prohibit the export of unprocessed timber from public lands of 75 percent of the annual sales volume in such State.

(B) For the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary of Commerce shall, after notice and an opportunity for a hearing, issue the order referred to in subsection (a) not later than September 30, 1991. Such order shall prohibit the export of at least 75 percent of such State's annual sales volume for this 2-year period, or more, pursuant to the determination under subsection (c).

(C) For the period beginning on January 1, 1994, and ending on December 31, 1995, the Secretary of Commerce shall, after notice and an opportunity for a hearing, issue the order referred to in subsection (a) not later than September 30, 1993. Such order shall prohibit the export of at least 75 percent of such State's annual sales volume for this 2-year period, or more, pursuant to the determination under subsection (c).

(D) For all periods on or after January 1, 1996, the Secretary of Commerce shall issue the order referred to in subsection (a) not later than September 30, 1995. Such order shall prohibit the export of the lesser of 400,000,000 board feet or the total annual sales volume.

(3) REPORT TO CONGRESS.—Not later than June 1, 1995, the Secretary of Commerce, in conjunction with the Secretaries of Agriculture and Interior, shall issue a report to the Congress on the effects of the reallocation of public lands timber resources to the domestic timber processing sector, the ability of the domestic timber processing sector to meet domestic demand for forest products, the volume of transshipment of timber originating from public lands across State borders, the effectiveness of rules issued and administered by States pursuant to this Act, and trends in growth and productivity in the domestic timber processing sector.

(c) BASIS FOR INCREASE IN VOLUME PROHIBITED FROM EXPORT.—The Secretary of Commerce may increase the amount of unprocessed timber to be prohibited from export above the minimum amount specified in subsection (b)(2) (B) and (C), based on a determination that domestic log supply is insufficient to meet domestic mill demand. In making this determination, the Secretary shall consider—

(1) the effects of log exports on the price of logs and the operating margins of domestic processors;

(2) whether the volume of public lands timber under contract has increased or decreased by an amount greater than 20 percent within the previous 12 months; and

(3) whether and to what extent restraints on exports of unprocessed timber from public lands enhance or diminish the competitive position of the timber industry west of the 100th meridian.

(d) ADMINISTRATIVE PROVISIONS.—

(1) DELAY OF SECRETARY'S ORDER.—In the event that any order of the Secretary under subsection (a) or its implementation is delayed for any reason, the amount of sales volume of unprocessed timber to be prohibited from exports shall not be less than that specified in subsection (b).

(2) ADMINISTRATION BY STATES.—Based upon the order of the Secretary under subsection (a), each State shall determine the species, grade, and geographic origin of unprocessed timber to be prohibited from export and shall administer such prohibitions consistent with the intent of this title and ensure that the species, grades, and geographic

origin of unprocessed timber prohibited from export is representative of the species, grades, and geographic origin of timber comprising such State's total sales program. The State is authorized to administer such restrictions and promulgate such rules as are necessary to ensure that the restrictions on export of unprocessed timber from public lands will increase domestic processing consistent with the intent of this title. The State is further authorized to cooperate with Federal and State agencies with appropriate jurisdiction to further the intent of this title.

(3) PRIOR CONTRACTS.—Nothing in this section shall apply to any contract for the purchase of unprocessed timber from any State (or political subdivision thereof) entered into before the effective date of a Secretary's order issued under subsection (a).

(4) WESTERN RED CEDAR.—Nothing in this section shall be construed to supersede the provisions of section 7(i) of the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)).

(e) PRESIDENTIAL AUTHORITY.—The President is authorized, after suitable notice and a public comment period of not less than 120 days, to suspend the provisions of this section if he finds them to be in violation of, or inconsistent with, international treaties or trade agreements to which the United States is a party.

(f) EFFECT OF PRIOR FEDERAL LAW.—No provision of Federal law which imposes requirements with respect to the generation of revenue from State timberlands and was enacted before the enactment of this Act shall be construed to invalidate, supersede, or otherwise affect any action of a State or political subdivision of a State pursuant to this Act.

SEC. 205. MONITORING AND ENFORCEMENT.

(a) MONITORING AND REPORTS.—In accordance with regulations issued under this section—

(1) each person who acquires, either directly or indirectly, unprocessed timber originating from Federal lands west of the 100th meridian shall report the disposition of such timber to the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, in such form as such Secretary may by rule prescribe; except that nothing in this paragraph shall be construed to hold any person responsible for the reporting of the disposition of any such timber held by subsequent persons; and

(2) each person who transfers to another person unprocessed timber originating from Federal lands west of the 100th meridian shall, before completing such transfer—

(A) provide to such other person a written notice, in such form as the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, may prescribe, which shall identify the Federal origin of such timber; and

(B) receive from such other person a written acknowledgment of such notice and a written agreement that such other person will comply with the requirements of this title, in such form as the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, may prescribe; and

(C) provide to the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, copies of all notices, acknowledgments, and agreements referred to in subparagraphs (A) and (B).

(b) REPORT TO CONGRESS.—Using the information gathered under subsection (a), the Secretaries of Agriculture and Interior shall, not later than June 1, 1995, submit to the Congress a report on the disposition of unprocessed timber harvested from Federal lands west of the 100th meridian, and recommendations concerning the practice of indirect substitution of such timber for exported timber harvested from private lands. Specifically, such report shall—

(1) analyze the effects of indirect substitution on market efficiency;

(2) analyze the effects of indirect substitution on domestic log supply;

(3) offer any recommendations that the Secretaries consider necessary for specific statutory or regulatory changes regarding indirect substitution;

(4) provide summaries of the data collected;

(5) analyze the effects of the provisions of section 203(b)(3); and

(6) provide such other information as the Secretaries consider appropriate.

(c) CIVIL PENALTIES FOR VIOLATION.—

(1) EXPORTS.—If the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, finds, on the record and after an opportunity for a hearing, that a person has knowingly and willfully exported unprocessed timber originating from Federal lands in violation of this title, such Secretary may assess against such person a civil penalty not to exceed $50,000, or 3 times the gross value of the unprocessed timber involved in the violation, whichever amount is greater.

(2) OTHER VIOLATIONS.—If the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, finds, on the record and after an opportunity for a hearing, that a person has violated any provision of this title or any regulation promulgated to carry out this title relating to lands which they administer (notwithstanding that such violation may not have caused the export of unprocessed Federal timber in violation of this title), the Secretary may—

(A) assess against such person a civil penalty not to exceed $50,000 if the Secretary determines that the violation was committed knowingly and willfully; or

(B) assess against such person a civil penalty not to exceed $25,000 if the Secretary determines that the person should have known that the action constituted a violation.

(3) PENALTIES NOT EXCLUSIVE; JUDICIAL REVIEW.—A penalty assessed under this subsection shall not be exclusive of any other penalty provided by law and shall be subject to review in an appropriate United States district court.

(c) ADMINISTRATIVE REMEDIES.—

(1) DEBARMENT.—The appropriate Federal department or agency may debar any person who violates this title, or any regulation or contract issued under this title, from entering into any contract for the purchase of unprocessed timber from Federal lands for a period of not more than 5 years.

(2) CANCELLATION OF CONTRACTS.—The appropriate Federal department or agency may cancel any contract entered into with a person found to have violated this title or regulations issued under this title.

SEC. 206. DEFINITIONS.

For purposes of this title:

(1) The term "Federal lands" means lands that are owned by the United States, but does not include any lands the title to which is—

(A) held in trust by the United States for the benefit of any Indian tribe or individual,

(B) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(C) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(2) The term "person" means any individual, partnership, corporation, association, or other legal entity and includes any subsidiary, subcontractor, parent company, or business affiliates where 1 affiliate controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

(3) The term "private lands" means lands held or owned by a person. Such term does not include Federal lands or public lands, or any lands the title to which is—

(A) held in trust by the United States for the benefit of any Indian tribe or individual,

(B) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(C) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(4) The term "public lands" means lands west of the 100th meridian in the contiguous 48 States, that are held or owned by a State or political subdivision thereof, or any other public agency. Such term does not include any lands the title to which is—

(A) held by the United States,

(B) held in trust by the United States for the benefit of any Indian tribe or individual,

(C) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(D) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(5)(A) The term "unprocessed timber" means—

(i) timber, except western red cedar, having a net scale content not less than 33⅓ percent of the gross volume, or the minimum piece specification set forth in the timber sale contract, in material meeting the peeler and sawmill log grade requirements published in the January 1, 1982, Official Log Scaling and Grading Rules used by the Log Scaling and Grading Bureaus;

(ii) cants to be subsequently remanufactured exceeding 8.75 inches in thickness;

(iii) cants of any thickness reassembled into logs; and

(iv) split or round bolts, except for aspen, or other roundwood not processed to standards and specifications suitable for end-product use.

(B) The term "unprocessed timber" does not include pulp (utility) grade logs and Douglas-fir special cull logs, fiber (utility grade) logs, unmerchantable salvage material, small thinnings removed from Federal lands for silvicultural purposes, other low value material for which there is limited domestic markets and which might otherwise not be processed into consumer products, or timber processed into any one of the following:

(i) lumber or construction timbers, regardless of size, sawn on four sides;

(ii) chips, pulp, or pulp products;

(iii) green veneer or plywood;

(iv) poles, posts, or piling cut or treated for use as such;

(v) cants cut for remanufacture, 8.75 inches in thickness or less; or

(vi) aspen bolts, not exceeding 4 feet in length.

SEC. 207. EFFECTIVE DATE.

Except as otherwise provided in this title, the provisions of this title take effect on the date of the enactment of this Act.

SEC. 208. REGULATIONS.

The Secretaries of Agriculture and Interior shall, in consultation, each prescribe new coordinated and consistent regulations to implement this title on lands which they administer. The Secretary of Commerce shall promulgate such rules and guidelines as may be necessary to carry out this title. Except as otherwise provided in this title, such regulations and guidelines shall be issued not later than 1 year after the date of the enactment of this Act.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 210. SAVINGS CLAUSE.

Nothing in this title, or regulations issued under this title shall be construed to abrogate or affect any timber sale contract entered into before the effective date of this title.

AMENDMENT OFFERED BY MR. MILLER OF WASHINGTON

Mr. MILLER of Washington. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is this an amendment noticed in the RECORD?

Mr. MILLER of Washington. It is, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Washington: Page 48, strike line 12 and all that follows through page 68, line 25, and insert the following:

TITLE II—EXPORTS OF UNPROCESSED TIMBER

SEC. 201. SHORT TITLE.

This title may be cited as the "Forest Resources Conservation and Shortage Relief Act of 1990".

SEC. 202. FINDINGS AND PURPOSES

(a) FINDINGS.—The Congress makes the following findings:

(1) Timber is essential to the United States.

(2) Forests, forest resources, and the forest environment are exhaustible natural resources that require efficient and effective conservation efforts.

(3) In the interest of conserving those resources, the United States has set aside millions of acres of otherwise harvestable timberland in the western United States, representing well over 100,000,000,000 board feet of otherwise harvestable timber.

(4) In recent years, administrative, statutory, or judicial action has been taken to set aside an increased amount of otherwise harvestable timberlands for conservation purposes.

(5) In the next few months and years, additional amounts of otherwise harvestable timberlands may be set aside for conservation purposes, pursuant to the Endangered Species Act of 1973, the National Forest Management Act of 1976, or other expected statutory, administrative, and judicial actions.

(6) There is evidence of a shortfall in the supply of unprocessed timber in the western United States.

(7) There is reason to believe that any shortfall which may already exist may worsen unless action is taken.

(8) In conjunction with the broad conservation actions expected in the next few months and years, conservation action is necessary with respect to exports of unprocessed timber.

(b) PURPOSES.—The purposes of this Act are—

(1) to promote the conservation of forest resources in conjunction with State and Federal resources management plans, and other actions or decisions, affecting the use of forest resources;

(2) to take action essential for the acquisition and distribution of forest resources or products in short supply in the western United States;

(3) to take action necessary, to meet the goals of Article XI 2.(a) of the General Agreement on Tariffs and Trade, to ensure sufficient supplies of certain forest resources or products which are essential to the United States;

(4) to continue and refine the existing Federal policy of restricting the export of unprocessed timber harvested from Federal lands in the western United States; and

(5) to effect measures aimed at meeting these objectives in conformity with the obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 203. RESTRICTIONS ON EXPORTS OF UNPROCESSED TIMBER ORIGINATING FROM FEDERAL LANDS.

(a) PROHIBITING ON EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM FEDERAL LANDS.—No person who acquires unprocessed timber originating room Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United States, or sell, trade, exchange, or otherwise convey such timber to any other person for the purpose of exporting such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States.

(b) SURPLUSES.—

(1) DETERMINATIONS BY SECRETARIES.—The prohibition contained in subsection (a) shall not apply to specific quantities of grades and species of unprocessed timber originating from Federal lands which the Secretary of Agriculture or the Secretary of the Interior determines to be surplus to domestic manufacturing needs.

(2) PROCEDURES.—Any determination under paragraph (1) shall be made in regulations issued in accordance with section 553 of title 5, United States Code. Any such determination shall be reviewed at least once in every 3-year period. The Secretary concerned shall publish notice of such review in the Federal Register, and shall give the public an opportunity to comment on such review.

SEC. 204. LIMITATIONS ON THE SUBSTITUTION OF UNPROCESSED FEDERAL TIMBER FOR UNPROCESSED TIMBER EXPORTED FROM PRIVATE LANDS.

(a) DIRECT SUBSTITUTION—(1) Except as provided in subsection (c), no person may purchase directly from any department or agency of the United States unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States if—

(A) such unprocessed timber is to be used in substitution for exported unprocessed timber originating from private lands; or

(B) such person has, during the preceding 24-month period, exported unprocessed timber originating from private lands.

(2) Notwithstanding paragraph (1)—

(A) Federal timber purchased pursuant to a contract entered into between the purchaser and the appropriate Secretary before the date on which regulations to carry out this subsection are issued under section 209 shall be governed by the substitution restrictions in effect before such date;

(B) in the 1-year period beginning on the effective date of this title, any person who operates under a Cooperative Sustained Yield Unit Agreement, and who has an historic export quota shall be limited to entering into contracts under such a quota to a volume equal to not more than 66 percent of the person's historic export quota used during fiscal year 1989;

(C) a person referred to in subparagaph (B) shall reduce the person's remaining substitution volume by an equal amount each year thereafter such that no volume is substituted under such a quota in fiscal year 1995 or thereafter; and

(D) the 24-month period referred to in paragraph (1)(B) shall not apply to any person who—

(i) before the enactment of this Act, has, under an historic export quota approved by the Secretary of Agriculture or the Secretary of the Interior, purchased unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States in substitution for exported unprocessed timber originating from private lands;

(ii) certifies to the appropriate Secretary, within 3 months after the date of the enactment of this Act, that the person will, within 6 months after such date of enactment, cease exporting unprocessed timber originating from private lands; and

(iii) ceases exports in accordance with such certification.

(b) INDIRECT SUBSTITUTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), no person may, beginning 21 days after the date of the enactment of this Act, purchase from any other person unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States if such person would be prohibited from purchasing such timber directly from a department or agency of the United States. Acquisitions of western red cedar which are domestically processed into finished products to be sold into domestic or international markets are exempt from the prohibition contained in this paragraph.

(2) EXCEPTIONS.—(A) The Secretary of Agriculture shall, as soon as practicable but not later than 9 months after the date of the enactment of this Act, establish, by rule, a limited amount of unprocessed timber originating from Federal lands described in subparagraph (B) which may be purchased by a person otherwise covered by the prohibition contained in paragraph (1). Such limit shall equal—

(i) the amount of such timber acquired by such person, based on the higher of the applicant's actual timber purchasing receipts or the appropriate Federal agency's records, during fiscal years 1988, 1989, and 1990, divided by 3, or

(ii) 15 million board feet,

whichever is less, except that such limit shall not exceed such person's proportionate share, with respect to all persons covered under this paragraph, of 50 million board feet.

(B) The Federal lands referred to in subparagraph (A) are Federal lands administered by the United States Forest Service Region 6 that are located north of the Columbia River from its mouth and east to its first intersection with the 119th meridian, and from that point north of the 46th parallel and east.

(C) Any person may sell, trade, or otherwise exchange with any other person the

rights obtained under subparagraph (A), except that such rights may not be sold, traded, or otherwise exchanged to persons already in possession of such rights obtained under subparagraph (A).

(D) Federal timber purchased from Federal lands described in subparagraph (B) pursuant to a contract entered into between the purchaser and the appropriate Secretary before the date on which regulations to carry out this subsection are issued under section 209 shall be governed by the substitution restrictions in effect before such date.

(c) APPROVAL OF SOURCING AREA BOUNDARIES.—

(1) IN GENERAL.—The prohibitions contained in subsections (a) and (b) shall not apply with respect to the acquisition of unprocessed timber originating from Federal lands within a sourcing area boundary west of the 100th meridian in the contiguous 48 States approved by the Secretaries under this subsection by a person who—

(A) in the previous 24 months, has not exported unprocessed timber originating from private lands within the sourcing area boundaries; and

(B) during the period in which such approval is in effect, does not export unprocessed timber originatng from private lands within the sourcing area boundaries.

The Secretaries may waive the 24-month requirement set forth in subparagraph (A) for any person who, within 3 months after the date of the enactment of this Act, certifies that, within 6 months after such date, such person will, for a period of not less than 3 years, cease exporting unprocessed timber originating from private lands within the sourcing area boundaries.

(2) REQUIREMENTS FOR APPLICATION.—The Secretary of Agriculture and the Secretary of the Interior shall, not later than 3 months after the date of the enactment of this Act, each prescribe a procedure to be used by a person applying for an approval of sourcing area boundaries under paragraph (1). Such procedure shall require, at a minimum, the applicant to provide—

(A) information regarding the location of private lands from which such person has, within the previous year, harvested or otherwise acquired unprocessed timber which has been exported from the United States; and

(B) information regarding the location of each timber manufacturing facility owned or operated by such person within the proposed sourcing area boundaries at which the applicant proposes to process timber originating from Federal lands.

The prohibition contained in subsection (a) shall not apply to a person before the date which is 1 month after the procedure referred to in this paragraph is prescribed. With respect to any person who submits an application in accordance with such procedure by the end of the time period set forth in the preceding sentence, the prohibition contained in subsection (a) shall not apply to such person before the date on which the appropriate Secretary approves or disapproves such application.

(3) GRANT OF APPROVAL.—For each applicant, the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, shall, on the record and after an opportunity for a hearing, not later than 4 months after receipt of the application for sourcing area boundaries, either approve or disapprove the application for sourcing area boundaries based on a determination of whether the timber manufacturing facilities at which the applicant desires to process timber originating from Federal lands are located in an area that is geographically and economically separate from any geographic area from which that person harvests for export any unprocessed timber originating from private lands. In making the determination referred to in this paragraph, the appropriate Secretary shall consider equally the timber purchasing patterns, on private and Federal lands, of the applicant as well as other persons in the same local vicinity as the applicant, and the relative similarity of such purchasing patterns.

(4) DENIAL OF APPLICATION.—(A) Subject to subparagraph (B), and notwithstanding any other provision of law, in the 9-month period after receiving disapproval of an application submitted pursuant to this subsection, the applicant may purchase unprocessed timber originating from Federal lands in the area which is the subject of the application in an amount not to exceed 75 percent of the annual average of such person's purchases of unprocessed timber originating from Federal lands in the same area during the 5 full fiscal years immediately prior to submission of the application. In the subsequent 6-month period, such person may purchase not more than 25 percent of such annual average, after which time the prohibitions contained in subsection (a) shall fully apply.

(B) If a person referred to in subparagraph (A) certifies to the Secretary, within 90 days after receiving disapproval of such application, that such person shall, within 15 months after such disapproval, cease the export of unprocessed timber originating from private lands from the geographic area determined by the Secretary, such person may continue to purchase unprocessed timber originating from Federal lands in the area which is the subject of the application, without being subject to the restrictions of subparagraph (A), except that such purchases during that 15-month period may not exceed 125 percent of the annual average of such person's purchases of unprocessed timber originating from Federal lands in the same area during the 5 full fiscal years immediately prior to submission of the application which was denied.

(C) Any person to whom subparagraph (B) applies may not, during the 15-month period after the person's application for sourcing area boundaries is denied, export unprocessed timber originating from private lands in such area determined by the Secretary in amounts that exceed 125 percent of the annual average of such person's exports of unprocessed timber from such private lands during the 5 full fiscal years immediately prior to submission of the application.

(5) REVIEW OF DETERMINATIONS.—Determinations made under paragraph (3) shall be reviewed, in accordance with the procedures prescribed in this title, not less often than every 5 years.

SEC. 205. RESTRICTION ON EXPORTS OF UNPROCESSED TIMBER FROM STATE AND OTHER PUBLIC LANDS.

(a) ORDER TO PROHIBIT THE EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM STATE OR OTHER PUBLIC LANDS.—Except as provided in subsection (e), the Secretary of Commerce shall issue orders to prohibit the export from the United States of unprocessed timber originating from public lands, in the amounts specified in subsection (b).

(b) SCHEDULE FOR DETERMINATION TO PROHIBIT THE EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM STATE OR OTHER PUBLIC LANDS.—

(1) STATES WITH ANNUAL SALES OF 400,000,000 BOARD FEET OR LESS.—With respect to States with annual sales volumes of 400,000,000 board feet or less, the Secretary of Commerce shall issue the order to prohibit the export of unprocessed timber originating from public lands not later than 21 days after the date of the enactment of this Act.

(2) STATES WITH ANNUAL SALES OF GREATER THAN 400,000,000 BOARD FEET.—With respect to any State with an annual sales volume greater than 400,000,000 board feet, the following shall apply:

(A) The Secretary of Commerce shall issue the order referred to in subsection (a) not later than 21 days after the date of the enactment of this Act. Such order shall cover a period beginning 120 days after the issuance of such an order, or January 1, 1991, whichever is earlier, and shall extend to December 31, 1991. Such order shall prohibit the export of 75 percent of the annual sales volume in such State of unprocessed timber from public lands.

(B) For the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary of Commerce shall, after notice and an opportunity for a hearing, issue the order referred to in subsection (a) not later than September 30, 1991. Such order shall prohibit the export of at least 75 percent of such State's annual sales volume for this 2-year period, or more, pursuant to a determination under subsection (c).

(C) For the period beginning on January 1, 1994, and ending on December 31, 1995, the Secretary of Commerce shall, after notice and an opportunity for a hearing, issue the order referred to in subsection (a) not later than September 30, 1993. Such order shall prohibit the export of at least 75 percent of such State's annual sales volume for this 2-year period, or more, pursuant to a determination under subsection (c).

(D) For the period beginning on January 1, 1996, the Secretary of Commerce shall issue the order referred to in subsection (a) not later than September 30, 1995. Such order shall prohibit the export of the lesser of 400,000,000 board feet or the total annual sales volume.

(3) REPORT TO CONGRESS.—Not later than June 1, 1995, the Secretary of Commerce, in conjunction with the Secretaries of Agriculture and Interior, shall issue a report to the Congress on the effects of the reallocation of public lands timber resources to the domestic timber processing sector, the ability of the domestic timber processing sector to meet domestic demand for forest products, the volume of transshipment of timber originating from public lands across State borders, the effectiveness of rules issued and administered by States pursuant to this title, and trends in growth and productivity in the domestic timber processing sector.

(c) BASIS FOR INCREASE IN VOLUME PROHIBITED FROM EXPORT.—The Secretary of Commerce may increase the amount of unprocessed timber to be prohibited from export above the minimum amount specified in subsection (b)(2) (B) and (C), based on a determination that the purposes of this Act have not been adequately met and that such an increase would further the purposes of this Act. In making this determination, the Secretary shall consider—

(1) actions or decisions taken, for the purpose of conserving or protecting exhaustible natural resources in the United States, which have affected the use or availability of forest products;

(2) whether the volume of timber from public lands that is under contract has increased or decreased by an amount greater than 20 percent within the previous 12 months; and

(3) the probable effects of unprocessed timber exports on the ability of timber mills to acquire unprocessed timber.

(d) ADMINISTRATIVE PROVISIONS.—

(1) DELAY OF SECRETARY'S ORDER.—In the event that any order of the Secretary under subsection (a) or its implementation is delayed for any reason, the amount of sales volume of unprocessed timber to be prohibited from exports shall not be less than that specified in subsection (b).

(2) ADMINISTRATION BY STATES.—Based upon the order of the Secretary under subsection (a), each State shall determine the species, grade, and geographic origin of unprocessed timber to be prohibited from export and shall administer such prohibitions consistent with the intent of this title and ensure that the species, grades, and geographic origin of unprocessed timber prohibited from export is representative of the species, grades, and geographic origin of timber comprising such State's total sales program. The State is authorized to cooperate with Federal and State agencies with appropriate jurisdiction to further the intent of this title.

(3) STATE REGULATIONS.—(A) Except for States with annual sales of 400,000,000 board feet or less upon the date of the enactment of this Act, the Governor of each State to which this Act applies, or such other State official as the Governor may designate, shall, within 120 days after the date of the enactment of this Act, issue regulations to carry out the purposes of this section, the promulgation of which shall be consistent with section 553 of title 5, United States Code. Such regulations in each State shall remain in effect until such time as the legislature of that State enacts such requirements as it deems appropriate to carry out this section. Before issuing such regulations, the Governor shall enter into formal consultation, concerning such regulations, with appropriate State officials and with a State Board of Natural Resources where such a board exists. When formulating regulations under this paragraph, the Governor shall take into account the intent of this Act to effect a net increase in domestic processing of timber harvested from public lands consistent with all orders issued by the Secretary of Commerce under subsection (a).

(B) The Governor of each State with annual sales of 400,000,000 board feet or less upon the date of the enactment of this Act, or such other State official as the Governor may designate, shall, within 120 days after the date of the enactment of this Act, issue regulations to carry out the purposes of this section. Until such regulations are issued in a State, the prohibitions contained in subsections (a) and (b) of section 204 shall apply to unprocessed timber originating from public lands in that State to the same extent as such prohibitions apply to unprocessed timber originating from Federal lands, except that the provisions of subsection (c) of such section shall not apply.

(4) PRIOR CONTRACTS.—Nothing in this section shall apply to any contract for the purchase of unprocessed timber from any State (or political subdivision thereof) entered into before the effective date of a Secretary's order issued under subsection (a).

(5) WESTERN RED CEDAR.—Nothing in this section shall be construed to supersede the provisions of section 7(i) of the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)).

(e) PRESIDENTIAL AUTHORITY.—The President is authorized, after suitable notice and a public comment period of not less than 120 days, to suspend the provisions of this section if a panel of experts has reported to the Contracting Parties to the General Agreement on Tariffs and Trade, or a ruling issued under the formal dispute settlement proceeding provided under any other trade agreement finds, that the provisions of this section are in violation of, or inconsistent with, United States obligations under that trade agreement.

(f) MODIFICATIONS OR REMOVAL OF STATE RESTRICTIONS.—Based upon a determination that it is in the national economic interest, the President may remove or modify the prohibition on exports from public lands in a State if that State petitions the President to remove or modify the prohibition.

(g) EFFECT OF PRIOR FEDERAL LAW.—No provision of Federal law which imposes requirements with respect to the generation of revenue from State timberlands and was enacted before the enactment of this Act shall be construed to invalidate, supersede, or otherwise affect any action of a State or political subdivision of a State pursuant to this title.

(h) SURPLUS TIMBER.—The prohibitions on exports contained in orders of the Secretary of Commerce issued under subsection (a) shall not apply to specific quantities of grades and species of unprocessed timber originating from public lands which the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, determines by rule, to be surplus to the needs, of timber manufacturing facilities in the United States. Any such determination may, by rule, be withdrawn by such Secretary if the Secretary determines that the affected timber is no longer surplus to the needs of timber manufacturing facilities in the United States.

(i) SUSPENSION OF PROHIBITIONS.—Notwithstanding any other provision of this section, beginning on January 1, 1998, and annually thereafter, if the President finds, upon review of the purposes and implementation of this Act, that the prohibitions on exports required by subsection (a) no longer promote the purposes of this Act, then the President may suspend such prohibitions, except that such suspension shall not take effect until 90 days after the President notifies the Congress of such finding.

(j) EXISTING AUTHORITY NOT AFFECTED.—Nothing in this Act shall be construed to limit the authority of the President or the United States Trade Representative to take action authorized by law to respond appropriately to any measures taken by a foreign government in connection with this Act.

SEC. 206. MONITORING AND ENFORCEMENT.

(a) MONITORING AND REPORTS.—In accordance with regulations issued under this section—

(1) each person who acquires, either directly or indirectly, unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States shall report the receipt and disposition of such timber to the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, in such form as such Secretary may by rule prescribe; except that nothing in this paragraph shall be construed to hold any person responsible for the reporting of the disposition of any such timber held by subsequent persons; and

(2) each person who transfers to another person unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States shall, before completing such transfer—

(A) provide to such other person a written notice, in such form as the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, may prescribe, which shall identify the Federal origin of such timber;

(B) receive from such other person a written acknowledgment of such notice and a written agreement that such other person will comply with the requirements of this title, in such form as the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, may prescribe; and

(C) provide to the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, copies of all notices, acknowledgments, and agreements referred to in subparagraphs (A) and (B).

(b) REPORT TO CONGRESS.—Using the information gathered under subsection (a), the Secretaries of Agriculture and Interior shall, not later than June 1, 1995, submit to the Congress a report on the disposition of unprocessed timber harvested from Federal lands west of the 100th meridian in the contiguous 48 States, and recommendations concerning the practice of indirect substitution of such timber for exported timber harvested from private lands. Specifically, such report shall—

(1) analyze the effects of indirect substitution on market efficiency;

(2) analyze the effects of indirect substitution on domestic log supply;

(3) offer any recommendations that the Secretaries consider necessary for specific statutory or regulatory changes regarding indirect substitution;

(4) provide summaries of the data collected;

(5) analyze the effects of the provisions of section 204(b)(3); and

(6) provide such other information as the Secretaries consider appropriate.

(c) CIVIL PENALTIES FOR VIOLATION.—

(1) EXPORT.—If the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, finds, on the record and after an opportunity for a hearing, that a person, with willful disregard for the prohibition contained in this title against exporting Federal timber, exported or caused to be exported unprocessed timber originating from Federal lands in violation of this title, such Secretary may assess against such person a civil penalty of not more than $500,000 for each violation, or 3 times the gross value of the unprocessed timber involved in the violation, whichever amount is greater.

(2) OTHER VIOLATIONS.—If the Secretary of Agriculture or the Secretary of the Interior, as may be appropriate, finds, on the record and after an opportunity for a hearing, that a person has violated any provision of this title or any regulation promulgated to carry out this title relating to lands which they administer (notwithstanding that such violation may not have caused the export of unprocessed Federal timber in violation of this title), the Secretary may—

(A) assess against such person a civil penalty of not more than $75,000 for each violation if the Secretary determines that the person committed such violation in disregard of such provision or regulation;

(B) assess against such person a civil penalty of not more than $50,000 for each violation if the Secretary determines that the

person should have known that the action constituted a violation; or

(C) assess against such person a civil penalty of not more than $500,000 if the Secretary determines that the person committed such violation willfully.

(3) PENALITIES NOT EXCLUSIVE; JUDICIAL REVIEW.—A penalty assessed under this subsection shall not be exclusive of any other penalty provided by law and shall be subject to review in an appropriate United States district court.

(d) ADMINISTRATIVE REMEDIES.—

(1) DEBARMENT.—The head of the appropriate Federal department or agency may debar any person who violates this title, or any regulation or contract issued under this title, from entering into any contract for the purchase of unprocessed timber from Federal lands for a period of not more than 5 years. Such person shall also be precluded from taking delivery of Federal timber purchased by another party for the period of debarment.

(2) CANCELLATION OF CONTRACTS.—The head of the appropriate Federal department or agency may cancel any contract entered into with a person found to have violated this title or regulations issued under this title.

(e) EXCEPTION.—Subsections (c) and (d) do not apply to violations of section 212.

SEC. 207. DEFINITIONS.

For purposes of this title:

(1) The term "acquire" means to come into possession of, wither directly or indirectly, through a sale, trade, exchange, or other transaction, and the term "acquisition" means the act of acquiring.

(2) The term "Federal lands" means lands that are owned by the United States, but does not include any lands the title to which is—

(A) held in trust by the United States for the benefit of any Indian tribe or individual,

(B) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(C) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(3) The term "person" means any individual, partnership, corporation, association, or other legal entity and includes any subsidiary, subcontractor, parent company, or business affiliates where 1 affiliate controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

(4) The term "private lands" means lands held or owned by a person. Such term does not include Federal lands or public lands, or any lands the title to which is—

(A) held in trust by the United States for the benefit of any Indian tribe or individual,

(B) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(C) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(5) The term "public lands" means lands west of the 100th meridian in the contiguous 48 States, that are held or owned by a State or political subdivision thereof, or any other public agency. Such term does not include any lands the title to which is—

(A) held by the United States;

(B) held in trust by the United States for the benefit of any Indian tribe or individual,

(C) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(D) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(6)(A) The term "unprocessed timber" means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use.

(B) The term "unprocessed timber" does not include timber processed into any one of the following:

(i) Lumber and construction timbers, except Western Red Cedar, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list grades, sawn on 4 sides, not intended for remanufacture.

(ii) Lumber, construction timbers, and cants for remanufacture, except Western Red Cedar, meeting current American Lumber Standards Grades of Pacific Lumber Inspection Bureau Export R or N list grades, sawn on 4 sides, not to exceed 12 inches in thickness.

(iii) Lumber, construction timbers, and cants for remanufacture, except Western Red Cedar, that do not meet the grades referred to in clause (i) and are sawn on 4 sides, with wane less than ¼ of any face, not exceeding 8¾ inches in thickness.

(iv) Chips, pulp, or pulp products.

(v) Veneer or plywood.

(vi) Poles, posts, or piling cut or treated with preservatives for use as such.

(vii) Shakes and Shingles.

(viii) Aspen and other pulpwood bolts, not exceeding 100 inches in length, exported for processing into pulp.

(ix) Pulp logs or cull logs processed at domestic pulp mills, domestic chip plants or other domestic operations for the purpose of conversion of the log into chips.

(7) The acquisition of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States to be used in "substitution" for exported unprocessed timber originating from private lands means acquiring unprocessed timber from such Federal lands and engaging in exporting, or selling for export, unprocessed timber originating from private lands within the same geographic and economic area.

SEC. 208. EFFECTIVE DATE.

Except as otherwise provided in this title, the provisions of this title take effect on the date of the enactment of this Act.

SEC. 209. REGULATIONS AND REVIEW.

(a) REGULATIONS.—The Secretaries of Agriculture and Interior shall, in consultation, each prescribe new coordinated and consistent regulations to implement this title on lands which they administer. The Secretary of Commerce shall promulgate such rules and guidelines as may be necessary to carry out this title. Except as otherwise provided in this title, such regulations and guidelines shall be issued not later than 9 months after the date of the enactment of this act.

(b) REVIEW.—The Secretaries of Agriculture and Interior shall, in consultation, review the definition of unprocessed timber under section 207(6) for purposes of this title and, not later than 2 years after the date of the enactment of this Act, submit to the Congress any recommendations they have with respect to such definition.

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 211. SAVINGS CLAUSE.

Nothing in this title, or regulations issued under this title shall be construed to abrogate or affect any timber sale contract entered into before the effective date of this title.

SEC. 212. EASTERN HARDWOODS STUDY.

(a) STUDY.—The Secretary of Commerce, in conjunction with the Secretary of Agriculture and the Secretary of the Interior, shall conduct a study of the export from the United States, during the 2-year period beginning on January 1, 1991, of unprocessed hardwood timber harvested from Federal lands or public lands east of the 100th meridan. In order to carry out the provisions of the section—

(1) the Secretary of Commerce shall require each person exporting such timber from the United States to declare, in addition to the information normally required in the Shipper's Export Declarations, the State in which the timber was grown and harvested; and

(2) the Secretary of Agriculture and the Secretary of the Interior shall ensure that all hardwood saw timber harvested from Federal lands east of the 100th meridian is marked in such a manner as to make it readily identifiable at all times before its manufacture, and shall take such steps as each Secretary considers appropriate to ensure that such markings are not altered or destroyed before manufacturing.

(b) REPORT TO CONGRESS.—Not later than April 1, 1993, the Secretary of Commerce shall submit to the Committees on Agriculture, Interior and Insular Affairs, and Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the volume and value of unprocessed timber grown and harvested from Federal lands or public lands east of the 100th meridian that is exported from the United States during the 2-year period beginning on January 1, 1991, the country to which such timber is exported, and the State in which such timber was grown and harvested.

SEC. 213. AUTHORITY OF EXPORT ADMINISTRATION ACT OF 1979.

Nothing in this Act shall be construed to—

(1) prejudice the outcome of pending or prospective petitions filed under, or

(2) warrant the exercise of the authority contained in,

section 7 of the Export Administration Act of 1979 with respect to the export of unprocessed timber.

Mr. MILLER of Washington (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

(Mr. MILLER of Washington asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Washington. Mr. Chairman, I offered title II as an amendment to H.R. 4653 on behalf of the combined House delegations from Washington and Oregon. Since we reported out this bill, the conferees on H.R. 1594, the Caribbean Basin Initiative have been working to resolve certain differences on log exports with the Senate. Because of uncertainty over the final status of the CBI, we would like to incorporate our agree-

ment into this bill. This amendment updates the original text of title II to reflect the language the conferees have agreed on.

Briefly, Mr. Chairman, there are several important improvements in this text. First, the new language includes language making the provision compatible with the general agreement on tariffs and trade. Second, the amendment includes a firm agreement with the Senate on major issues and almost all minor issues. Thus, we have a new text which is acceptable to the Senate, the administration and the House Members from Washington and Oregon to address the timber supply problems in our States.

On behalf of the House delegations from Washington and Oregon, I urge the House to accept this amendment.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Washington. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, this side has looked at the amendment. It is an excellent amendment. We accept the amendment.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Washington. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, we have looked at this amendment on our side. It is an excellent amendment, and we agree to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. MILLER].

The amendment was agreed to.

Mr. GEJDENSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have worked hard this evening. We are almost at the end. I thank the Members for their indulgence. These are heartfelt issues on both sides.

Mr. Chairman, we have one amendment left from the gentleman from California [Mr. LEVINE] that I believe several Members on the other side wanted to debate. We should give these Members the courtesy of listening to this last amendment.

Mr. Chairman, we certainly appreciate the efforts of the Members in the House. We have tried to accommodate everyone's time schedule and get them out early. That was not possible. Maybe this is a lesson for us, that if we hang in there long, enough, we can get our work done.

Mr. Chairman, we have an excellent product. This bill which has been before us now for some hours will make America more competitive at a time when Americans are losing jobs and defense cuts and we are looking for new industries. America is most competitive in high technology industries, and that is what this bill gives us an opportunity to do. It will give us an opportunity to move forward in this area.

AMENDMENT OFFERED BY MR. LEVINE OF CALIFORNIA

Mr. LEVINE of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is this an amendment noticed in the RECORD?

Mr. LEVINE of California. It was printed in the RECORD, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVINE of California: Page 68, add the following after line 25:

TITLE III—OIL EXPORTS

SEC. 301. EXPORTS OF DOMESTICALLY PRODUCED CRUDE OIL.

Section 7(d)(1) (50 U.S.C. App. 2406(d)(1)) is amended by inserting "or produced in California" after "section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652)".

Mr. LEVINE of California. Mr. Chairman, I join a number of my colleagues, Congressmen BILL EMERSON, HOWARD WOLPE, ENI FALEOMAVAEGA, HOWARD BERMAN, and THOMAS MCMILLEN, in offering an amendment which seeks to maintain the oil export status quo in California.

What it will do is block a Department of Commerce recommendation to administratively authorize the export of California crude, contrary to current national policy.

In the absence of the Commerce initiative this amendment would not be necessary.

Today oil exports are precluded through a web of laws which tightly control the circumstances under which crude could be exported.

Unfortunately, the Commerce Department now seeks to slide through this web and export 15,000 to 25,000 barrels per day.

In the spirit of what the current controls are intended to accomplish, my amendment would extend the EAA restrictions for Alaskan crude exports to crude oil produced in California.

Generally speaking, I have opposed trade restrictions.

However, there are times when a proposed export simply flies in the face of common sense. The export of California crude oil is one such proposal.

At a time when crude imports account for over 40 percent of American demand, to turn around and actually export part of our domestic supply, defies logic.

Every barrel of domestic crude, which we could use here, but instead decide to export, increases rather than decreases our reliance on foreign crude.

It makes no sense whatsoever to exacerbate this dependency.

And Mr. Chairman, exporting California crude would make for bad trade policy.

Such exports will provide no net benefit to our trade deficit, because every barrel we export will have to be directly offset by an imported barrel, and because the long-term impacts of these exports would result in a loss of domestic refining capacity.

We would then end up actually sending our own valued-added jobs overseas, as we find ourselves importing additional refined products along with crude oil.

Crude exports are also bad environmental policy. The unnecessary tanker trips from exports and the offsetting imports will mean added risk of new oilspills.

And while this is not the principal argument in this debate, to the extent that we exacerbate our dependency on foreign crude, we create an artificial demand for new oil development in sensitive areas such as the offshore.

Commerce even suggests that some of the lost resources could be indirectly replaced by increased offshore production, the spectre of which has been repeatedly rejected by Californians.

Finally, it is important to understand that the export of California crude will hurt domestic refiners. This can only translate to jobs lost and higher prices at the gas pump. Exporting California crude simply does not make sense.

Let me briefly examine the basis on which the Commerce Department made this recommendation, because its conclusions are fundamentally flawed.

First, its report justifies crude exports by asserting that there is an excess of California crude which is minimally processed, and is already being exported as what is known as residual fuel. This assertion conflicts with the overwhelming evidence to the contrary.

One cannot find surplus backing up in a refinery warehouse. Residual fuel is a byproduct of the normal refining process, not an end product unto itself. It's this byproduct which is being exported overseas or sold to ships as bunker fuel.

Second, the report ignores the fact that even there actually were a surplus in California, the Nation as a whole imports over 40 percent of its crude, and a potential market always exists in the Gulf States.

Indeed, the report acknowledges that two-thirds of the pipeline from California to the gulf remains unused and available, subject to market constraints, to move California crude to the gulf.

While the Commerce Department's assertions are flawed and the export policy will unnecessarily create numerous problems, let me say that there are well-meaning advocates, who support the exports because they are legitimately concerned about the plight of the independent producers in California.

I, too, sympathize with the California onshore independents, who are engaged in a David and Goliath struggle against the gigantic integrated oil conglomerates.

The onshore independents are faced with unfair pipeline and pricing practices. This, coupled with the decline in worldwide oil prices, has created a very difficult atmosphere in which to compete.

However, exporting a precious commodity—already in short supply—is not the solution to their plight. Such a policy would protect one segment of the industry, the producers, to the detriment of segment, the refiners.

In addition, the outcome for the independents is uncertain. There are no guarantees that the export licenses won't actually be granted to the integrated oil companies, instead of the independents.

And more importantly, the Commerce Department's own findings anticipate only marginal revenue increases for the independents, which in turn would result in only miniscule production increases.

Thus, the export of California crude is bad public policy, costing jobs, disrupting our crude supplies, and threatening our environment.

I urge my colleagues to reject the export of California crude oil and to support my amendment.

Mr. BROWN of California. Mr. Chairman will the gentleman yield?

Mr. LEVINE of California. I yield to the gentleman from Colorado.

□ 2150

Mr. BROWN of Colorado. Would the gentleman's thought be that you would then transport by ground transportation that product east, or what would you do with that surplus in California?

Mr. LEVINE of California. The information I have, and this is an essential part of the discussion, is that there is no surplus of this product in California. I can get into that in as much detail as the gentleman would like. But the fact is the information provided by the California State Energy Commission, whose appointees are George Deukmajian's appointees, refutes the assertion that there is a surplus in California, which is one of the underlying assertions upon which the Commerce Department makes its recommendation.

The California Energy Commission has extensive documentation, some of which I have here with me, and if the hour permits, and I would be happy to get into it, could help to demonstrate that there is in fact no surplus.

Mr. BROWN of Colorado. I appreciate the gentleman's comments. If it should develop that there is a surplus in the future, under the gentleman's amendment could it then be exported?

Mr. LEVINE of California. If there is a substantial unused capacity in the All American Pipeline, and the owners and operators of the All American Pipeline have assured the Foreign Affairs Committee in public testimony that this surplus, if it develops, could be transported to our gulf coast where it could be refined.

Mr. SHARP. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this would be a major mistake for the House of Representatives to adopt this amendment.

In the first place, all crude oil is not equal. This oil cannot be sent through any pipeline east. It cannot be sold anywhere in the world unless you allow it to be exported. It cannot be used in the State of California because of its very heavy nature and its sulfur content which violates the Clean Air Act. So what we have to do with it is sell it abroad if we have the opportunity.

It is grossly undervalued as a commodity around the world. In the United States it is selling for something like $11 a barrel, where all other crude in this country and around the world is selling for something like $19 or $20 a barrel. So do not think we are helping ourselves on the crude oil problem that we have by anything like this maneuver.

First recognize it will do nothing to help a consumer in the State of California, which is the only place it can be sold under the rules today. Their prices are set by the world market for gasoline. They import gasoline. That sets the market price, not the value or cost of this crude oil.

Second, this amendment will have no impact on refinery jobs in the State of California. They are tight on refinery capacity now. That is one of the problems they have out there. They are not going to lose refinery capacity because of any export that we might engage in of this product.

Third, if Members care about what economic impact this has, this favors the major international oil companies. It favors the big refineries. It works against the independent producers who are of some value to us for competitive reasons, and to American consumers. Those are the people who are going out of business now. They will be further going out of business unless we allow the Commerce Department to go forward.

Let me suggest, Mr. Chairman, this will also worsen our trade deficit. It adds to problems on the budget deficit, though it is probably not very significant on those grounds. But it will shut in American oil well production if we do not go forward.

Last, this committee says that it believes we ought to follow the international agreements we have made. This amendment violates our agreement with Canada. We have a trade agreement with them, a new free-trade agreement. This changes the status quo. It is the House of Representatives saying only Americans can buy this, the Canadians cannot, and it will be brought home to bear from our Canadian friends on many occasions hence.

Ladies and gentlemen, this is a big mistake. It is not good for our consumers, it is not good for our producers. It will be good for some big oil companies on the west coast of this country, but it will not do the job that its authors would like to see done.

Let us reject this approach. It is bad trade policy, it is bad energy policy, and it certainly is not good environmental policy.

Mr. WOLPE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the amendment that has been offered by the gentleman from California.

What this amendment does is imposes the same restrictions on exports of California crude as are currently applied to the Alaskan North Slope oil, and the same public policy debate that has occurred in this Congress over that issue is applicable to this particular subject.

The fact of the matter is that it makes no sense whatsoever for us to encourage the exportation of California crude. From the standpoint of energy security, at a time when crude oil imports have reached some 50 percent of domestic demand, to export domestic crude would be harmful to the effects of trying to reduce our dependence upon foreign sources of oil. It would set a precedent for expanded volume of exports, moreover, if it were allowed to go forward at this point.

The gentleman from Indiana suggested, if I understood this correctly, that somehow the sulfur content of the oil in question is not easily used by refineries within the California area. That is simply not true. We have received ample testimony in committee that this oil is in fact usable by refineries. The fact of the matter is should the replacement oil that would be used to offset the oil to be exported take the form of refined products, U.S. refining capacity would be affected, jobs would be lost. It would have a negative trade impact, not a positive trade impact.

If the California crude is exported it will have to be replaced by higher value foreign crude or refined products.

Finally, as far as the consumer effects of the amendment of the gentleman from California, the Commerce Department report concedes that the export of California crude would in fact increase consumer prices for refined petroleum products. That does not make sense from the standpoint of the consumer, and it makes little sense

for our country to become more dependent on foreign refining capacity.

I would urge support of the Levine amendment.

Mr. DYMALLY. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman, it is not easy for me to rise to oppose an amendment by the distinguished gentleman from California who has become one of the authorities on offshore drilling.

Let me state for the RECORD this issue has nothing to do with offshore drilling, and this is not an issue on which I speak on this floor, but it has come to me as one of two Members in California who served on the lands commission, which is the management agency for oil resources in California. The other Member, of course, is the former Lieutenant Governor of California, Mr. Anderson. I spent 4 years on this commission, and I learned a little bit about onshore and offshore oil.

What we are talking about here are mom and pop operations, oil heavy, thick crude, statistically insignificant when putting together the production of oil from California, and so what we have here is simply people in Kern County, Los Angeles County, who have these small wells, who will be faced with a situation where they cannot use the resource. It will be tapped. This oil is so thick that in order to export it across the intercontinental United States the pipelines must be heated, and it must be mixed with sweet thin oil for it to be exported.

So we are talking here about a heavy crude. We are not talking about offshore drilling. We are not talking about an ecological problem for California. We are talking about resources for the lands commission which goes into the general fund and helps schools in California, so one must keep in perspective what we are talking about. We are talking about mom and pop operations mainly in Kern and Los Angeles Counties. We are not talking about big oil. We are talking about single family ownership of these small oil companies, and it seems to me that if we are to help the California economy, if we are to help our own economy, the only thing we must do is to permit this oil to be exported because it cannot now be refined in California. The refineries do not have the capability in California. Neither do they want to refine this thick, very thick crude.

So I hope the Members will join with me and my colleagues in rejecting this amendment. I say to my friends I come to you as one of two members of the California delegation who has spent 4 years on this issue, visited offshore oil in Santa Barbara, Long Beach, visited on shore in Kern County, Los Angeles County, and know a little bit about this issue. This does not affect our national economy. It helps the California economy.

□ 2200

It is a mom-and-pop operation. This is not big oil. This is not offshore.

Mr. Chairman, I rise to oppose the amendment before us. The Secretary of Commerce's proposal to export very small amounts of heavy California crude oil has absolutely nothing to do with the contest of whether to drill for oil off California's coast, as the author would have us believe.

If anything Mr. Speaker, onshore exploration for low-value heavy crude to keep from abandoning the wells from which it comes should lessen any need for offshore oil.

I am not here today to argue offshore drilling one way or the other. As a matter of fact, years ago as a member of the California State Lands Commission, I was deeply involved in the question of offshore verses onshore oil production in California. I still conclude today that we must keep onshore wells producing for our national energy security, for the State of California and for the benefit of individual California consumers.

It makes no sense to allow onshore oil wells to be abandoned because the independent business person who operates them cannot economically sell the oil.

To introduce an amendment to the Export Administration Act that would force abandonment of this country's energy producing capability is wrong. What is also surprising, Mr. Speaker, is that this amendment would deprive the Secretary of his charter to administrate congressional intent on this matter. This amendment would legislatively override established administrative rule to induce closure of these heavy crude oil wells, depriving California of employment and depriving many Californians their living.

I ask for a "no" vote on the amendment and list below some reasons for rejecting this amendment.

First, to keep wells from being abandoned, it is necessary to find economic crude markets abroad.

Second, it is in the national interest to allow small business proprietors to get their product to market and to protect them—and the jobs they create—from a current cost/false market squeeze. They have asked for administrative assistance under existing law.

Third, this export issue is not a major export policy matter; it is within the Secretary's administrative authority to license export of insignificant amounts of crude on the world market in the interest of the economy and the commerce of the United States.

Fourth, Congress should not be a party to reversing existing administrative policy to help refiners and major oil companies sustain abnormal low oil prices which are uneconomic for some wells that produce California heavy crude important to America's future.

Fifth, "big oil" is itself now exporting 150,000 barrels per day of heavy crude as tanker bunker fuel but wants to prevent independent producers from legally exporting the same crude.

Sixth, due to the differences in gravity and makeup of California offshore and onshore heavy crude, offshore development will not be affected by the export of limited amounts of onshore heavy crude.

Seventh, the amendment improperly lumps export of very limited amounts of California crude with the general Alaskan oil export prohibition. The amendment should be subject to committee hearings.

Mr. EMERSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I will not take the 5 minutes. But as a midwesterner, Mr. Chairman, I want to raise a couple of points. I think that a policy allowing the export of domestic crude is ultimately going to lead to an adverse impact on midwestern consumers. Reducing crude supplies may artifically drive crude prices up and thus increase the price of gasoline and other refined products, and we are heavily dependent on other refined products.

Secondly, I think it would lead to a loss of jobs. Reduced crude supplies and higher crude prices would lead to lost refinery jobs.

In addition, if Alaskan crude becomes California's first line of defense against supply reductions, more crude will be tankered to the Gulf by way of foreign-flag vessels rather than from U.S. tankers from Alaska.

Thirdly, I think we are trading away jobs. If the long-term adverse economic impact of crude exports result in lost refining capacity, we will not only export more crude but also more refined products, essentially shipping value-added jobs abroad.

With that, Mr. Chairman, I want to urge my colleagues to vote "yes" on the amendment.

Mr. THOMAS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to present a few facts to the body, if we have a minute or two, to understand exactly what is occurring from an economic point of view.

There is a great deal of misconception about the oil business, and I thank my colleague from California [Mr. DYMALLY] for explaining the economics of it. This is a situation which people have to realize is one that will not produce oil. It is not being produced now in ever greater quantities. Why? Because people cannot afford to produce it.

There is no market for this heavy crude. You have to remember that California is impacted by over a million barrels a day required to come into California from the Alaskan North Slope.

In addition to that, if you listened to my colleague, the author of the amendment, he clearly told you that refined oil is being exported from California today. As a matter of fact, 10 times the amount per day as requested

by Commerce on this pilot program; that is right, 250,000 barrels a day of California oil is being exported. It is not crude oil. It is residual oil or bunker oil.

What is the difference between residual oil and crude oil? The lights are distilled from crude oil, very briefly, pulled off. It is, in essence, lightly processed crude oil. But because it is not crude oil, the only people who can export the 250,000 barrels today are the refiners.

The producers cannot ship any of their oil. They are not making money. They cannot sell their oil.

Guess what they do not do. They do not produce it, they go out of business.

Ninety percent of the oil wells drilled for exploratory purposes are drilled by independents. It is not the big multinational corporations that find the oil, it is the small independents who have shrunk by one-third over the last decade in my district because they do not have a market for their oil.

Why don't they have a market for their oil? Because this Congress said Alaskan crude has to go to the west coast, and it winds up in California.

Why don't they have a market for their oil? Because unfortunately, the oil they produce is heavy, it is very weighty, it is asphaltic, it is high in sulfur. The refineries do not have the capacity and do not want to refine it unless they mix it with light oil. It has an inability to be shipped out. It is simply there. It has no value, and it is not produced.

So all of the arguments that sound good on the surface, unless you understand the economics of oil in California, when examined, clearly reflect the position that the chairman of the Subcommittee on Fossil Fuels has indicated. This is a hoax; it will not create any greater situation than we have today and really what will happen, if there are 25,000 barrels of crude allowed to be exported, is that the title of the overall 250,000-some barrels will be changed, some of it will be producers', some of it will be refiners' instead of all of it being refiners'.

That is really the gist of this amendment. It is not national security, it is not dependence on foreign oil, it is simple economics in part created by what this Congress has done in the past.

This is a misguided amendment. I would urge my colleagues to vote "no."

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, is it a fact that this oil is not being produced now?

Mr. THOMAS of California. The oil that is being lamented about being lost in this process is not being produced today and it is not being produced in greater numbers because of the economics.

Mr. LAGOMARSINO. And as a matter of fact, the only way it could be produced is to build another refinery, which certainly is not going to happen in southern California.

Mr. THOMAS of California. It would require additional refineries and very high-technology refineries to deal with this particular commodity.

There have been some small ones built near the production over the last several years, but given the clean air bill that most of us supported, it is going to be exceedingly more difficult to build this special refinery capacity.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. I thank the gentleman for yielding.

Mr. Chairman, I also rise in opposition to this amendment.

Very briefly, as head of the Republican task force on energy and the environment, we have considered this in previous years, find it unacceptable. The subcommittee of the full Committee on Energy and Commerce on which I serve has seen fit not to support this amendment.

This is oil for which there is no other market. We could export it to the East, the Far East, where we actually have a trade imbalance.

The point was made it would only add to the prohibition that we have in place for Alaskan oil. That is actually an archaic law that we need to repeal, and hopefully at some point we will. This would only hurt the small independent oil producers in California.

For that reason, I think it should be opposed.

Mr. THOMAS of California. In conclusion, I want to underscore the fact that we are exporting California oil today, 10 time the amount that this amendment would prohibit. It is simply called residual oil or bunker oil rather than crude. The difference is very, very insignificant. This is a bad amendment, and I would urge its defeat.

Mr. TORRES. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment offered by my colleague from California [Mr. LEVINE] to retain current restrictions on exports of California crude oil. Allowing exports of California crude oil would be a step backward in protecting the environment. Exporting crude oil would result in increased traffic by foreign tankers needed for its transport. There would also be increased tanker traffic due to inbound shipments of petroleum needed to replace the exported domestic supply. This increase in tanker movement would expand the opportunity for tanker spills and the risk of environmental damage to our coastal areas.

The amendment offered by the gentleman from California would avoid the increase in environmental risk by maintaining the long-standing policy against exports of scarce domestic crude oil. The environmental damage caused by recent tanker spills, such as the Huntington Beach spill off the Coast of southern California, underscores the need to avoid unnecessary tanker shipments, especially by foreign vessels which do not meet U.S. safety standards.

In addition, the amendment will prevent exports of onshore California crude oil from increasing the need to develop offshore oil reserves in our environmentally sensitive coastal areas. Thus, the amendment will protect coastal communities from unnecessary pressure to expand offshore oil development.

Mr. Chairman, the report by the Commerce Department recommending the export of California crude oil makes no serious attempt to assess the environmental effects of such a policy change. This is a fundamental flaw in the report and recommendation. The amendment by the gentleman from California will assure that our coastal environment is not threatened by a misguided change in export policy.

□ 2210

Mr. TORRICELLI. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I will be brief. I do believe it is important to correct the record on a couple of factual inaccurate points that have been made, so that people can have these in mind before they cast their votes.

First of all, I would like to acknowledge again with the same respect that my good friend from California greatly afforded to me the respect that I have for him, just two brief points. One is, that according to the letter that I have today from a member of the California State Lands Commission, that my colleague, the gentleman from New Jersey [Mr. TORRICELLI] referred to, apparently the State lands commission has changed, and they currently support this as opposed to where they may have been at the time that my friend, the gentleman from California [Mr. DYMALLY] served on the Commission.

Second, there are significant offshore implications involved. I agree with my friend, the gentleman from California [Mr. DYMALLY], there are both supporters and opponents of off-

shore oil who support this amendment, but the fact is, we should look at the Department of Commerce report which specifically stated that some of the shortfall for the exported crude could be attained in a traditional drilling off the California Outer Continental Shelf if this amendment passes.

Third, the gentleman from California [Mr. THOMAS] and the gentleman from Indiana [Mr. SHARP] are incorrect on the issues of a surplus. The fact is there is no surplus being exported today. What refiners are exporting is residual fuel, and residual fuel is just that—it is residual, left over after the refining process is complete. There is no market in California for residual, and so the refiners export it, in some cases, and dump it on the export market.

The producers are asserting that whole barrels of crude are being exported as crude, and that assertion is simply a preposterous assertion. For the most part, Mr. Chairman, the refiners in California, and I should emphasize this, the refiners in California are specifically tooled to refine the very heavy crude oil we are talking about into the highly profitable transportation fuels. Why would they bypass this refining capacity? The only refiner who might engage in such a practice is the less sophisticated refiner, but they only account for under 10 percent of the residuals produced in California.

In fact, in conclusion, Mr. Chairman, according to the California Energy Commission, the other 90 percent is produced by very sophisticated refiners who refine a remarkable 72 percent of their crude as transportation fuels, and only produce 11 percent of their products as residual. No oil man would argue that 11 percent of their product mix could be anything but left over by-products.

I conclude with a quote:

With demand low, and large quantities of residual fuel produced as a by-product of the refining process, substantial quantities of fuel oil have become available for sale to foreign customers.

The facts that have been provided in opposition to this amendment are wrong, and the only way to help the industry is to hurt another. Leave the status quo.

Mr. LOWERY of California. Mr. Chairman, I want to express my strong support for the amendment offered by my colleague from California [Mr. LEVINE]. This amendment would extend current export restrictions on Alaskan crude oil to crude produced in California.

The Commerce Department's proposal to permit export of California crude oil does not make sense from an economic, national security or environmental point of view. From an economic stand point, our Nation already imports over 40 percent of its crude oil, any oil we export will have to be replaced by more imports. This may ultimately hurt domestic refiners, their workers and the American consumer.

In addition, export of domestic crude does nothing to enhance our energy self-sufficiency and national security. Those who advocate more domestic oil production, often by drilling off our coasts, say that our Nation needs to reduce its dependence on foreign oil. Yet, the export of domestic crude increases our need for foreign oil—thereby reducing our energy security. If we need more domestic oil, do not export our existing crude.

Finally, a cycle of exporting California crude oil and replacing it with foreign oil will increase tanker traffic and the possibility of oilspills along the Pacific coastline. It could also renew pressure to exploit reserves along the Outer Continental Shelf. The environmental risk is certainly not worth the short-term economic gain hoped for from domestic exports.

In sum, the export of California crude oil is not good energy policy. I urge the adoption of the Levine amendment.

Mr. TALLON. Mr. Chairman, I rise in support of the Levine amendment which imposes the same restrictions on the export of California crude oil as apply to the export of Alaska North Slope crude oil. This amendment would, in essense, require that prior to any export of this oil, the President must find and Congress must concur that an export of California crude would benefit the national interest and would also result in savings to U.S. refiners and consumers.

Recently the Department of Commerce recommended that up to 25,000 barrels per day of California heavy crude be exported despite the fact that there is a domestic market for this oil. Commerce concedes that exports would increase oil prices for West Coast consumers and refiners but it contends there is a more available and more profitable market for this oil in the Far East.

At a time when crude oil imports have reached 50 percent of domestic demand, exports of domestic crude make no sense whatsoever. Exports would also threaten our national energy security and increase our trade deficit. The importation of foreign replacement crude oil or petroleum products would also increase the volume of foreign flag shipments through U.S. ports. Of even greater significance, exports would also increase the pressure for off-shore drilling for crude. Clearly, the Levine amendment is in our best national interest. I urge your support for it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. LEVINE].

The question was taken; and on a division (demanded by Mr. LEVINE of California) there were—ayes 26, noes 83.

So the amendment was rejected.

The CHAIRMAN. Are there other amendments to the bill? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. SWIFT, Chairman of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes, pursuant to House Resolution 403, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. BURTON of Indiana. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BURTON of Indiana moves to recommit the bill, H.R. 4653, to the Committee on Foreign Affairs with instructions to report it back forthwith with the following amendment: Page 48, insert the following after line 11:

"SEC. 124. SOVIET MILITARY ASSISTANCE TO CUBA.

"No exports to the Soviet Union otherwise permitted by virtue of the amendments made by this title may be made until the President certifies to the Congress that the Soviet Union is not providing any military assistance to Cuba."

"SEC. 125. CONTINUED SOVIET MILITARY ASSISTANCE TO AFGHANISTAN.

"No exports to the Soviet Union otherwise permitted by virtue of the amendments made by this title may be made until the President certifies to the Congress that the Soviet Union is not continuing to provide military assistance to Afghanistan."

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Soviet empire appears to be collapsing. Therefore, we ought to be strong regarding terms of any trade concession or credits that they may need. They need the United States. They need America. Therefore, we must insist that the Soviets satisfy the United States on a few key issues, mainly with respect to human rights, and an end to military adventurism in the Third World.

□ 2220

One of the key concerns is Cuba, and the other is Afghanistan as far as the recommittal motion is concerned. Any facilitation of exports to the U.S.S.R. must be linked to the ending of military aid to Cuba and an end to the billions of dollars that the Soviet Union supplies to Afghanistan. This amendment would do just that.

Soviet military aid to Cuba ranges between $2 billion and $3 billion per year. Also $4 billion to $5 billion went into Afghanistan last year to kill innocent, men, women, and children. Most Soviet citizens are not even aware that this exists.

Cuba has become the largest military power in Latin America. Last year 6 Mig-29 Fulcrum fighters were delivered to Cuba, and the Soviet Union plans to send 30 more, Mr. Speaker.

The Cuban military has 300 T-62 tanks, 650 T-54 tanks, 1,400 major artillery pieces, 600 antitank guns, a 22,000-man air force, a 13,500-man navy, and a per capita military expenditure in that country of $160 for each man, woman, and child.

Mr. Speaker, until the Soviet Union concludes its shipments of military equipment to Cuba and to Afghanistan, causing problems and killing thousands and probably even millions of men, women, and children in those countries, then we ought to curtail our support or any support for the Soviet Union. This amendment is extremely important.

With that, Mr. Speaker, I yield to my colleague, the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me remind my colleagues that so far in this bill we have paid special attention to the people of Lithuania and to Jews seeking to emigrate from the U.S.S.R. We have made the benefits of this bill contingent on a lifting of the economic blockade of Lithuania and to the continued emigration of Soviet Jews. I firmly support those efforts. But I ask my colleagues, are the 15 million people of Afghanistan who continue to suffer death and destruction by virtue of 4 billion to 5 billion dollars worth of Soviet bombs and bullets and shells less worthy of special attention than Lithuanians or Soviet Jews? I think not.

Mr. Speaker, these poor Afghan people have suffered over 1 million killed over the past decade. Five million have been forced to flee. The Soviet war in Afghanistan continues apace, and every acquisition by the Soviet Union of high technology will only make it worse for the Afghan people.

Mr. Speaker, I urge my colleagues not to treat Cubans and Afghans by a lesser standard than Jews and Lithuanians, and I urge them to vote for the motion to recommit.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I rise in strong support of the recommital motion. I believe it is very important for us to recognize that Cuba and Afghanistan are the two largest recipients of assistance from the Soviets.

Ms. ROS-LEHTINEN. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentlewoman from Florida.

Ms. ROS-LEHTINEN. Mr. Speaker, there is very little doubt that Cuba's Communist regime has exported revolution and has participated in subversive acts throughout the world. Castro is only able to continue doing this with military assistance from the Soviet Union. The military assistance to Castro must stop.

The issue is clear. The question is not confusing. Are you in favor of continuing military assistance to a regime which exports revolution, which imprisons any and all individuals who speak out against its oppressive tactics? A regime which allows no free expression of ideas, which does not permit anyone to actively participate in the practice of religious faith?

Mr. Speaker, as we speak, the jails in Cuba are full of political prisoners who dared to speak out. Are you willing to speak out for those prisoners?

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The Chair will inform the gentleman that he cannot reserve any time. The time of the gentleman from Indiana [Mr. BURTON] has expired.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I rise in opposition to the motion to recommit.

The gentleman from Indiana would argue that we should not sell grain to the Soviets until every dispute with us is resolved. What we are dealing with here is a multinational activity of the Western nations in Cocom. This is another amendment to gut the bill. I urge the Members to reject the amendment.

Mr. VOLKMER. Mr. Speaker, if the gentleman will yield, this is really nothing but another grain embargo for Russia.

Mr. GEJDENSON. Mr. Speaker, it is similar to that, without any question.

Mr. Speaker, I urge the Members to vote against the motion to recommit.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—ayes 143, noes 252, not voting 37, as follows:

[Roll No. 159]

AYES—143

Applegate	Hefley	Roberts
Archer	Herger	Robinson
Armey	Hiler	Rogers
Baker	Holloway	Rohrabacher
Ballenger	Hopkins	Ros-Lehtinen
Barton	Hubbard	Roth
Bateman	Hunter	Rowland (CT)
Bennett	Hyde	Saiki
Bentley	Inhofe	Schaefer
Bilirakis	Ireland	Schiff
Bliley	James	Schuette
Brown (CO)	Kasich	Schulze
Bunning	Kolbe	Sensenbrenner
Burton	Kyl	Shaw
Callahan	Lagomarsino	Shumway
Coble	Lancaster	Sisisky
Coleman (MO)	Lent	Skeen
Combest	Lewis (CA)	Slaughter (VA)
Coughlin	Lewis (FL)	Smith (NJ)
Courter	Lightfoot	Smith (TX)
Cox	Livingston	Smith, Denny (OR)
Craig	Marlenee	Smith, Robert (NH)
Crane	Martin (IL)	Smith, Robert (OR)
Dannemeyer	Martin (NY)	Snowe
Davis	McCandless	Solomon
DeLay	McCollum	Spence
DeWine	McCrery	Stearns
Dickinson	McEwen	Stump
Dornan (CA)	McGrath	Sundquist
Douglas	McMillan (NC)	Tauzin
Dreier	Meyers	Taylor
Duncan	Michel	Thomas (CA)
Edwards (OK)	Miller (OH)	Thomas (WY)
Fawell	Molinari	Traficant
Fields	Moorhead	Upton
Gallegly	Myers	Vander Jagt
Gekas	Nielson	Vucanovich
Gibbons	Oxley	Walker
Gillmor	Packard	Walsh
Gilman	Parris	Weldon
Gingrich	Pashayan	Whittaker
Goodling	Paxon	Wolf
Goss	Porter	Wylie
Grant	Quillen	Young (AK)
Hall (TX)	Ravenel	Young (FL)
Hammerschmidt	Regula	
Hancock	Rhodes	
Hansen	Rinaldo	
Hastert	Ritter	

NOES—252

Ackerman	Bevill	Bustamante
Alexander	Bilbray	Byron
Anderson	Boehlert	Campbell (CA)
Andrews	Boggs	Cardin
Annunzio	Bonior	Carper
Anthony	Borski	Carr
Aspin	Bosco	Chandler
Atkins	Boucher	Chapman
AuCoin	Brennan	Clarke
Barnard	Brooks	Clay
Bartlett	Browder	Clement
Bates	Brown (CA)	Clinger
Beilenson	Bruce	Coleman (TX)
Bereuter	Bryant	Collins
Berman	Buechner	Condit

Conte	Jontz	Pickett
Cooper	Kanjorski	Pickle
Costello	Kaptur	Poshard
Coyne	Kastenmeier	Price
Darden	Kennedy	Rahall
DeFazio	Kennelly	Rangel
Dellums	Kildee	Ray
Derrick	Kleczka	Richardson
Dicks	Kolter	Ridge
Dingell	Kostmayer	Roe
Donnelly	LaFalce	Rose
Dorgan (ND)	Lantos	Rostenkowski
Downey	Laughlin	Roukema
Durbin	Leach (IA)	Rowland (GA)
Dwyer	Lehman (FL)	Roybal
Dymally	Levin (MI)	Russo
Dyson	Levine (CA)	Sabo
Early	Lewis (GA)	Sangmeister
Eckart	Lipinski	Sarpalius
Edwards (CA)	Lloyd	Savage
Emerson	Long	Sawyer
Engel	Lowey (NY)	Saxton
English	Luken, Thomas	Scheuer
Erdreich	Machtley	Schneider
Evans	Madigan	Schroeder
Fascell	Manton	Schumer
Fazio	Markey	Serrano
Feighan	Matsui	Sharp
Fish	Mavroules	Shays
Flake	Mazzoli	Sikorski
Foglietta	McCloskey	Skaggs
Ford (TN)	McCurdy	Skelton
Frank	McDermott	Slattery
Frenzel	McHugh	Slaughter (NY)
Frost	McMillen (MD)	Smith (FL)
Gallo	McNulty	Smith (IA)
Gaydos	Mfume	Smith (NE)
Gejdenson	Miller (CA)	Smith (VT)
Gephardt	Miller (WA)	Solarz
Geren	Mineta	Spratt
Glickman	Moakley	Staggers
Gonzalez	Mollohan	Stallings
Gordon	Montgomery	Stangeland
Gradison	Morella	Stenholm
Grandy	Morrison (CT)	Stokes
Gray	Morrison (WA)	Studds
Green	Murphy	Swift
Hamilton	Murtha	Synar
Harris	Nagle	Tallon
Hatcher	Natcher	Tanner
Hayes (IL)	Neal (MA)	Tauke
Hayes (LA)	Neal (NC)	Thomas (GA)
Hefner	Nowak	Torres
Henry	Oberstar	Torricelli
Hertel	Obey	Traxler
Hoagland	Olin	Unsoeld
Hochbrueckner	Ortiz	Valentine
Horton	Owens (NY)	Vento
Houghton	Owens (UT)	Visclosky
Hoyer	Pallone	Volkmer
Huckaby	Panetta	Walgren
Hughes	Parker	Waxman
Jacobs	Patterson	Weber
Jenkins	Payne (NJ)	Weiss
Johnson (CT)	Payne (VA)	Wheat
Johnson (SD)	Pease	Wise
Johnston	Penny	Wolpe
Jones (GA)	Perkins	Wyden
Jones (NC)	Petri	Yatron

NOT VOTING—37

Boxer	Hawkins	Pursell
Broomfield	Hutto	Shuster
Campbell (CO)	Leath (TX)	Stark
Conyers	Lehman (CA)	Towns
Crockett	Lowery (CA)	Udall
de la Garza	Lukens, Donald	Washington
Dixon	Martinez	Watkins
Espy	McDade	Whitten
Flippo	Moody	Williams
Ford (MI)	Mrazek	Wilson
Guarini	Nelson	Yates
Gunderson	Oakar	
Hall (OH)	Pelosi	

□ 2243

Mr. ARCHER and Mr. FIELDS changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the previous announcement of the Chair, this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 312, noes 86, not voting 34, as follows:

[Roll No. 160]

AYES—312

Ackerman	English	Lent
Alexander	Erdreich	Levin (MI)
Anderson	Evans	Levine (CA)
Andrews	Fascell	Lewis (GA)
Annunzio	Fazio	Lightfoot
Anthony	Feighan	Lipinski
Applegate	Fields	Lloyd
Archer	Fish	Long
Aspin	Flake	Lowey (NY)
Atkins	Foglietta	Luken, Thomas
AuCoin	Ford (TN)	Machtley
Barnard	Frank	Manton
Bartlett	Frenzel	Markey
Bates	Frost	Marlenee
Beilenson	Gallegly	Martin (IL)
Bereuter	Gallo	Matsui
Berman	Gaydos	Mavroules
Bevill	Gejdenson	Mazzoli
Bilbray	Gephardt	McCloskey
Boehlert	Geren	McCurdy
Boggs	Gibbons	McDermott
Bonior	Glickman	McGrath
Borski	Gonzalez	McHugh
Bosco	Goodling	McMillan (NC)
Boucher	Gordon	McMillen (MD)
Brennan	Goss	McNulty
Brooks	Gradison	Meyers
Browder	Grandy	Mfume
Brown (CA)	Gray	Miller (CA)
Brown (CO)	Green	Miller (WA)
Bruce	Hall (TX)	Mineta
Bryant	Hamilton	Moakley
Buechner	Harris	Molinari
Bustamante	Hastert	Mollohan
Byron	Hatcher	Montgomery
Callahan	Hayes (IL)	Morella
Campbell (CA)	Hayes (LA)	Morrison (CT)
Cardin	Hefner	Morrison (WA)
Carper	Henry	Mrazek
Carr	Hertel	Murphy
Chandler	Hoagland	Murtha
Chapman	Hochbrueckner	Nagle
Clarke	Horton	Natcher
Clay	Houghton	Neal (MA)
Clement	Hoyer	Neal (NC)
Coble	Hubbard	Nowak
Coleman (TX)	Huckaby	Oberstar
Collins	Hughes	Obey
Condit	Jacobs	Olin
Conte	Jenkins	Ortiz
Cooper	Johnson (CT)	Owens (NY)
Costello	Johnson (SD)	Owens (UT)
Coughlin	Johnston	Oxley
Courter	Jones (GA)	Packard
Coyne	Jones (NC)	Pallone
Darden	Jontz	Panetta
DeFazio	Kanjorski	Parker
Dellums	Kaptur	Parris
Derrick	Kastenmeier	Patterson
Dicks	Kennedy	Payne (NJ)
Dingell	Kennelly	Payne (VA)
Donnelly	Kildee	Pease
Dorgan (ND)	Kleczka	Penny
Downey	Kolbe	Perkins
Durbin	Kolter	Petri
Dwyer	Kostmayer	Pickle
Dymally	LaFalce	Porter
Dyson	Lagomarsino	Poshard
Early	Lancaster	Price
Eckart	Lantos	Quillen
Edwards (CA)	Laughlin	Rahall
Emerson	Leach (IA)	Rangel
Engel	Lehman (FL)	Ravenel
Ray	Shays	Tauke
Regula	Sikorski	Tauzin
Richardson	Sisisky	Thomas (CA)
Ridge	Skaggs	Thomas (GA)
Rinaldo	Skeen	Thomas (WY)
Roberts	Skelton	Torres
Roe	Slattery	Torricelli
Rogers	Slaughter (NY)	Traficant
Rose	Smith (FL)	Traxler
Rostenkowski	Smith (IA)	Unsoeld
Roth	Smith (NE)	Upton
Roukema	Smith (NJ)	Valentine
Rowland (CT)	Smith (TX)	Vander Jagt
Rowland (GA)	Smith (VT)	Vento
Roybal	Smith, Denny (OR)	Visclosky
Russo	Smith, Robert (OR)	Volkmer
Sabo	Snowe	Walgren
Saiki	Solarz	Walsh
Sangmeister	Spratt	Washington
Sarpalius	Staggers	Watkins
Sawyer	Stallings	Waxman
Saxton	Stangeland	Weber
Scheuer	Stenholm	Weiss
Schiff	Stokes	Weldon
Schneider	Studds	Wheat
Schroeder	Sundquist	Whittaker
Schuette	Swift	Wise
Schulze	Synar	Wolpe
Schumer	Tallon	Wyden
Sensenbrenner	Tanner	Wylie
Serrano		Yatron
Sharp		

NOES—86

Armey	Gillmor	Miller (OH)
Baker	Gilman	Moorhead
Ballenger	Gingrich	Myers
Barton	Grant	Nielson
Bateman	Hammerschmidt	Pashayan
Bennett	Hancock	Paxon
Bentley	Hansen	Pickett
Bilirakis	Hefley	Rhodes
Bliley	Herger	Ritter
Bunning	Hiler	Robinson
Burton	Holloway	Rohrabacher
Clinger	Hopkins	Ros-Lehtinen
Coleman (MO)	Hunter	Savage
Combest	Hyde	Schaefer
Cox	Inhofe	Shaw
Craig	Ireland	Shumway
Crane	James	Slaughter (VA)
Dannemeyer	Kasich	Smith, Robert (NH)
Davis	Kyl	Solomon
DeLay	Lewis (CA)	Spence
DeWine	Lewis (FL)	Stearns
Dickinson	Livingston	Stump
Dornan (CA)	Madigan	Taylor
Douglas	Martin (NY)	Vucanovich
Dreier	McCandless	Walker
Duncan	McCollum	Wolf
Edwards (OK)	McCrery	Young (AK)
Fawell	McEwen	Young (FL)
Gekas	Michel	

NOT VOTING—34

Boxer	Hall (OH)	Pelosi
Broomfield	Hawkins	Pursell
Campbell (CO)	Hutto	Shuster
Conyers	Leath (TX)	Stark
Crockett	Lehman (CA)	Towns
de la Garza	Lowery (CA)	Udall
Dixon	Lukens, Donald	Whitten
Espy	Martinez	Williams
Flippo	McDade	Wilson
Ford (MI)	Moody	Yates
Guarini	Nelson	
Gunderson	Oakar	

□ 2250

Mr. MARLENEE changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Mem-

bers may have 5 legislative days in which to revise and extend their remarks on H.R. 4653, the bill just passed.

The SPEAKER pro tempore (Mr. DURBIN). Is there objection to the request of the gentleman from Connecticut?

There is no objection.

AUTHORIZING THE CLERK TO MAKE TECHNICAL AND CONFORMING CHANGES TO H.R. 4653, EXPORT FACILITATION ACT OF 1990

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical and conforming changes in the engrossment of H.R. 4653, Export Facilitation Act of 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

PERSONAL EXPLANATION

Mr. GALLEGLY. Mr. Speaker, I was unable to be present today when the House voted on the Journal and amendments to the Export Facilitation Act of 1990. Had I been here, I would have voted: "nay" on approving the Journal (rollcall 147), "yea" on the Roth amendment (rollcall 148), "yea" on the Durbin amendment as amended (rollcall 149), "yea" on the first Solomon amendment (rollcall 150), and "yea" on the second Solomon amendment as amended (rollcall 151).

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 147, No. 149, No. 151, No. 152, No. 155, and No. 160; and "nay" on rollcall No. 150, No. 153, No. 154, No. 156, No. 157, No. 158, and No. 159.

PERSONAL EXPLANATION

Mr. GUARINI. Mr. Speaker, during roll call votes Nos. 159 and 160 on H.R. 4653, I was unavoidably detained. Had I been present I would have voted "no" on the motion to recommit, rollcall 159 and "yes" on final passage, rollcall 160. I ask unanimous consent that my statement appear in the RECORD immediately following those respective rollcalls on the Export Facilitation Act of 1990.

PERSONAL EXPLANATION

Mr. BROOMFIELD. Mr. Speaker, I was called away at the end of consideration of H.R. 4653, the Export Facilitation Act of 1990, and was unavailable to cast my votes on the motion to recommit and final passage. Had I been present, I would have voted "aye" on rollcall No. 159, in favor of the motion to recommit, and "aye" on rollcall No. 160, in favor of final passage on the bill.

EXPRESSION OF APPRECIATION FOR SUPPORT ON H.R. 4653

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, I would like to take one more moment, with the indulgence of the Members, to thank the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], for his great support and assistance throughout this process, as well as the gentleman from Michigan [Mr. BROOMFIELD], but particularly the gentleman from Wisconsin [Mr. ROTH] who worked with me throughout this entire process, and the gentleman from Nebraska [Mr. BEREUTER], two of the folks who were really there the whole time, and the gentleman from New York [Mr. HOUGHTON], and so many others on their side, the gentleman from California [Mr. MILLER] on our side, and all of the Members who were of such great help, and I again thank the Members for their indulgence.

REPORT TO CONGRESS ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries.

(For message, see proceedings of the Senate of today, Wednesday, June 6, 1990.)

REPUBLIC OF CHINA ART EXHIBITION

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. HORTON. Mr. Speaker, many of our colleagues returning from the Memorial Day recess were pleasantly surprised if their return included a stroll through the rotunda of the Cannon Building. The bare columns and walls of this room are filled with great works of Chinese art from the Republic of China.

The works are part of an extensive exhibition prepared especially for display in the House of Representatives. It is my great pleasure and privilege to cohost this week-long exhibition, together with the Republic of China's envoy to the United States, Mr. Mou-Shih Ding. The exhibition began this past Monday and will conclude this Friday, June 8.

This great exhibition is the product of artists from the Republic of China's Poets, Painters and Calligraphers' Association. We are indebted to this organization and to our longstanding friends in the government of the ROC for making this unprecedented exhibition available for us to enjoy.

Mr. Speaker, Chinese art is not confined to painting alone. Members viewing the exhibition will note that each painting is accompanied by its own poem. The poem was put on the painting by some of the world's most talented calligraphers. I would add that many of the works were commissioned especially for this exhibition.

As the cohost of the exhibition, it was my pleasure Monday, together with my colleagues BEN GILMAN from New York, and SONNY MONTGOMERY from Mississippi, the chairman of the House Veterans' Affairs Committee, who also served on this occasion as the representative of Speaker FOLEY, to unveil the exhibit and cohost a reception with Representative Ding in honor of the artists participating in the exhibit. Twenty of the artists traveled from the Republic of China solely for this occasion. Some of those artists are distinguished members of the Republic of China's legislature. These artists/legislators include Senator Whui-ing Chou, who also serves as president of the poets, painters and calligraphers, Senator Dah-Chyan Yang and Senator Hung-Sayuz Chang.

Mr. Speaker, indeed we are privileged and honored by this exhibition. It truly is representative of an art form that has evolved into one of the world's greatest. It symbolizes, too, the always close relationship our Nation has had with the Republic of China.

My hat goes off to the artists, to Representative Mou-Shih Ding, who served with me as cohost of the exhibition and reception, to the president of the Republic of China's Poets, Painters and Calligraphers' Association, and to the ROC's Government for making this exhibition possible.

I urge all Members and their staffs to take the time this week to view this outstanding and unprecedented display of Chinese art in our own rotunda of the Cannon House Office Building.

Mr. Speaker, at this point in the RCORD, I would like to add the remarks of Representative Ding given at the ceremony which opened the exhibition this past Monday.

REMARKS BY REPRESENTATIVE MOU-SHIH DING

Congressman Horton, Chairwoman Chou Whui-Ing, ladies and gentlemen:

It gives my wife and myself great pleasure in joining Congressman and Mrs. Horton in the ribbon-cutting ceremony prior to the reception this afternoon. I want to express to Congressman Horton my deep appreciation for sponsoring with me this reception honoring Chairwoman Chou Whui-Ing and the distinguished members of the Poets, Calligraphers and Painters' Association of the Re-

public of China who came to Washington especially to exhibit their invaluable artistic works. In fact, it is due to the Congressman's generous support and assistance that this exhibition could take place in the U.S. Congress.

I would like to thank also other distinguished U.S. lawmakers who are joining us on this happy occasion.

The Association's predecessor, Chia Chen Poetry, Calligraphy and Arts Galaxy was founded in 1964. It gathered more than 50 noted poets, calligraphers and painters in free China. Starting 1964 it had held many exhibitions. In 1979, an exhibition was held at the University of California at Berkeley, whose Art Center received from the Association 100 pieces of calligraphy and paintings. In 1985, this Association was formerly established and its membership increased to over 200. Ms. Chou was elected its first Chairwoman.

Chairwoman Chou and her distinguished colleagues have shown unusual talents in their respective fields. What they have written and painted are considered extremely valuable by both our countrymen and others who value Chinese art. Their joint efforts represent to a certain extent our rich cultural heritage. During the past twenty years, they have held exhibitions in many countries including Japan, Korea, India, France, and Saudi Arabia. In 1988 they also held exhibitions in New York and Los Angeles. They are especially honored to hold an exhibition in the U.S. Capitol.

For this reason, Congressman Horton deserves great credit for making possible the exhibition of our priceless paintings and calligraphy pieces in the Congress. I am sure they will help strengthen the cultural exchange and the firm bonds of friendship between our two peoples.

I would like to add that some members of the Association will demonstrate their marvelous skills by producing paintings and calligraphy in your presence later on. Congressman Horton and I wish to thank them in advance. And we also thank you for coming.

TOM FOLEY'S LEADERSHIP MAKES US ALL PROUD

The SPEAKER pro tempore (Mr. DURBIN). Under a previous order of the House, the gentleman from North Carolina [Mr. NEAL] is recognized for 5 minutes.

Mr. NEAL of North Carolina. Mr. Speaker, we all take great pride in the leadership that the very Honorable TOM FOLEY has provided for this House during the past year.

We salute you, sir, for giving us unity, confidence, and a renewed sense of purpose. You became Speaker of a divided House at a difficult time, but right from the start you have given us strong, fair, and evenhanded leadership. You have led us with the utmost integrity and ability.

You were just what we needed, Mr. Speaker. You have brought great honor to the House, and we are proud to serve with you. We are confident that in the years ahead you will lead this peoples' House to great accomplishment on behalf of all the American people.

Thank you, Mr. Speaker, for your outstanding service. I believe you will be remembered throughout history as one of the all-time great Speakers of the U.S. House of Representatives.

CHILDREN LOOK TO CONGRESS FOR ENVIRONMENTAL SOLUTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. HOCHBRUECKNER] is recognized for 5 minutes.

Mr. HOCHBRUECKNER. Mr. Speaker, I stand today before my colleagues surrounded by letters, pictures, diagrams, and other assorted forms of written correspondence sent to Congress by thousands of elementary schoolchildren who are concerned about a clean, safe environment. These letters were collected by Super-Science Red, a national educational magazine published by Scholastic, Inc., and supported in part by the National Science Foundation. Super Science Red sponsored this national write-a-letter-to-Congress project for children in honor of the 20th anniversary of Earth Day.

Mr. Speaker, I brought with me three of these letters which come from around the Nation, and I would like to read and submit these for the RECORD. First is a letter:

Dear U.S. Congress: I am in the third grade at Dewey School, and I am worried about the batteries that leak acid into the landfill, and it's dangerous. I want Congress to make a safe place for dead batteries. I also want Congress to help us find ways to recycle dead batteries. When I grow up, I don't want the world we live in to be all polluted with the dirty smog.

Signed, "Sincerely, Alex Tang," and he throws in a picture, "This" or "this," and the first "this" shows a large landfill, and the second "this," of course, shows a very tranquil meadow.

□ 2300

The second item I would like to submit says, "Dear People in Congress, help us find a way to recycle our old batteries. Your friend, Erin Mosness."

This shows a picture of people working together to recycle.

Third, another drawing and letter, "Dear People in Congress, help us find ways to throw away our batteries so people won't get sick. Your friend, Jill Bainter."

These letters, as thousands of other letters, come from children around our Nation. These thousands of messages depict the desire of our Nation's children to help contribute in a positive way toward one of their biggest concerns, stopping pollution and saving the environment.

What I believe is especially impressive about this collection is that it consists of correspondence, not just from a few isolated areas of our country, but from children all over the United States. Specifically, these letters and drawings demonstrate increasing concern among young people about disposal of used household batteries.

Children form one of the largest groups of household battery users. These particular children are frustrated that household batteries are not being recycled or reused, and they are asking Congress to investigate the issue.

Through the help of families, teachers, and through publications such as Super Science Red, children are learning more and more about our environment. At home and at school, young people contribute to many of today's conservation efforts. Children display these efforts through recycling paper, cans, and newspapers; through collecting used batteries for proper disposal; and through writing letters like these to their Representatives in Congress to urge attention to issue such as managing used household batteries.

Mr. Speaker, the organizers of Earth Day say you can make a difference. This collection of letters is evidence that the children of America care about our environment today and are willing to contribute to making the Earth a safer and cleaner place to live.

Mr. Speaker, over the next few days some of these letters will be passed on to you to enjoy. Please take some time to look them over. I am sure you will enjoy them as much as I have.

INTRODUCTION OF BILL ALLOWING GARNISHMENT OF FEDERAL PENSIONS

The SPEAKER pro tempore (Mr. DURBIN). Under a previous order of the House, the gentleman from Michigan [Mr. UPTON] is recognized for 5 minutes.

Mr. UPTON. Mr. Speaker, the principle of sovereign immunity is deeply ingrained in our system of government, and for the most part for good reason. But like many principles of law, it can have side effects that are undesired and undesirable. The legislation I am introducing today H.R. 4969 addressed such a situation.

When an individual retires from the Federal Government—and this includes Members of Congress—any unpaid debts that person may have accrued become untouchable. Because of sovereign immunity, State courts cannot order any assignment, levy, attachment, or garnishment of the pension income of these people, except for child support or alimony.

Now, why should we want to change this?

First, because it applies liberty without responsibility. Federal pensioners—including retired Members of Congress—are liberated by sovereign immunity from paying debts they may legitimately owe. This means that people whose salaries and pensions are paid for by the taxpayers cannot be

required to assume the responsibility of those debts. And yet they will still be accepting annuities funded by the taxpayers. Is this really a standard we want for Government servants?

Second, because service to the Federal Government is precisely that: service. All of us in the Federal Government are supposed to work for the benefit of the taxpayers. Because of this, we should accept compensation from the taxpayers by a higher standard than others do. It should be expected of us that we will pay our debts.

Third, that expectation should apply for the entire time that we accept taxpayers' compensation. No one should be able to retire from Congress or any other position in the Federal Government and in the process escape responsibility for their debts.

These are the reasons for the bill I am introducing today. This measure simply says that the pension income of a retired Federal employee—including a Member of Congress—will not be exempt from court-ordered garnishment proceedings for overdue debt.

We who work in the Federal Government should feel honored by the opportunity to serve. We should respond to that honor by a willingness to assume full responsibility for our debts, even after we retire.

The taxpayers of this country have a right to know that those of us whom they pay to serve will treat that income with a high standard of responsibility. It is an obligation from which none of us should be immune.

ANNIVERSARY OF THE FOUNDING OF THE ITALIAN REPUBLIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on June 2, the Italian people celebrated the 44th anniversary of the founding of the Republic of Italy. It was on this date in 1946, that the Italian people voted to end their constitutional monarchy and replace it with a political democracy.

One and a half years later, on January 1, 1948, the Italian Constitution was completed, and the people of Italy began successfully to rebuild their nation which was shattered by the devastating effects of World War II. With the aid of the Marshall Plan, and the great determination and commitment of the Italian people, the country has been transformed, and has returned to the cultural, political, and economic prominence it has long enjoyed previously in history.

The Italian Republic's relationship with the United States has been fostered and strengthened in the last 44 years, and Italy, as a sister member of the North Atlantic Treaty Organization, has remained a most stalwart and loyal ally.

The beautiful land of Italy, washed by the blue waves of the Mediterranean and cradled within the Alps, has boasted an advanced civilization for thousand upon thousands of years, and it may be truly said that Italy constitutes a mosaic of human history. She is a major source of Western culture—her legal system is a model for the West, her language is the tongue of music, and her Renaissance stands as one of mankind's greatest achievements.

Mr. Speaker, on the 44th anniversary of the birth of the Republic of Italy, I take this opportunity to extend my warmest best wishes to the people of Italy, and to my many friends of Italian descent living in the 11th Congressional District of Illinois which I am honored to represent, and throughout the United States. May the people of Italy continue in their important contribution to the culture and freedom of the West, to the vitality of democracy, and to the precious ideals of freedom.

DR. ROBERT N. NOYCE: THE EDISON OF THE INFORMATION AGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MINETA] is recognized for 60 minutes.

Mr. MINETA. Mr. Speaker, the fire of genius and passion for the future rests at the heart of the American Revolution.

Our great idealists of the 18th century—Thomas Paine, Thomas Jefferson, and James Madison—spread their revolution by printing press, broadside, and word of mouth.

Our great innovators of the 19th century—Samuel Morse, Alexander Graham Bell, and Thomas Edison—learned how to touch every corner of our Nation by telegraph, telephone, and recorded sound.

Today, we communicate at the speed of light by radio, television, and increasingly by computer. And Mr. Speaker, if there is any single individual to credit for this last chapter of the American Revolution, it is Dr. Robert N. Noyce.

Bob Noyce invented the computer chip—a microscopic slice of silicon crowded with circuits that once required a wall of vacuum tubes and a mountain of energy just to add 2 plus 2.

But Bob did more. His computer chips—semiconductors—became the brains of everything from pocket calculators to pacemakers, from automobiles to word processors.

He laid the foundation of California's Silicon Valley, building an electronics industry which today employs more Americans than our auto, steel, and aerospace industries combined.

In a phrase, Bob Noyce invented the Information Age.

Mr. Speaker, Bob Noyce died suddenly on Sunday, June 3, but his dreams must not. Making dreams a reality was Bob's life's work, and the genius he cultivated became an inspiration for our entire Nation.

I first met Bob in 1972, when I was mayor of San Jose. Our area was then still known as the valley of the heart's delight for its pruneyards and peach orchards.

But Silicon Valley soon made its way onto the maps of the world as the vanguard of the future, and with good reason. Some years later, Esquire magazine said this of Bob Noyce, our valley, and the new age we'd begun to build:

America is today in the midst of a great technological revolution. With the advent of the silicon chip, information processing, communications, and the national economy have been strikingly altered.

The new technology is changing how we live, how we work, how we think.

The revolution didn't just happen. It was engineered by a small number of people whose horizons were unlimited as the sky.

Collectively, they engineered Tomorrow. Foremost among them is Robert Noyce.

Very much so.

Throughout his life, Bob was a tinkerer.

As a boy in Iowa, he turned his bicycle into an early moped by strapping on an engine from a junked washing machine. In his spare time, he made nitroglycerin in his basement workshop. But it was his love of model airplanes which led to his interest in electronics.

Bob Noyce did not like to lose—and after several of his airplanes had flown off on their own, never to return, he was determined to do something about it.

Controlling the airplanes by radio seemed the logical thing to do, and so he did. He also tried to harness anything and everything that interested him, and he did this, too.

At Grinnell College, he sang madrigals, played the oboe, became a star diver on the swim team, and even became the leading man in a soap opera on WOI radio. He also majored in mathematics and physics—which eventually took him to and through a Ph.D. at the Massachusetts Institute of Technology.

The electronics industry Bob Noyce then joined in 1953 was, by today's standards, not much more sophisticated than the radio-controlled model airplanes Bob had flown as a boy.

Engineers had tired of the vacuum tube, had just begun to understand the transistor—and were daring to dream of the semiconductor.

By 1957, the future had lured Bob to a two-story warehouse on Charleston Avenue in Mountain View, CA. It was there, with his Fairchild Semiconductor company that Bob set out to conquer the world of electronic miniaturization.

If Sputnik I that year had provided the need for the United States to couple the transistor and the comput-

er, Bob Noyce and Fairchild would supply the linkage by 1959: the semiconductor.

The semiconductor made it possible to map out an entire electronical circuit on a silicon chip the size of a collar button. It would also make it possible for Americans to go to the Moon less than 10 years later.

At about that same time, Bob Noyce founded Intel—where he promptly began to lead the next revolution: the memory revolution—building a computer's memory onto semiconductor chips. And for Bob Noyce, the revolutions were endless—as were the honors he received.

He was awarded the National Medal of Science from President Carter in 1980; the National Medal of Technology from President Reagan in 1987.

He was chosen for the National Inventors Hall of Fame, and the U.S. Business Hall of Fame. But Bob's eye was always on the future—and by 1988, Bob was worried.

Bob saw the United States lead in technology slipping, and he wanted to stop the decline. To do this, he advocated a partnership—a joining of forces between Government and industry.

Bob didn't want Government to pick winners and losers. But he did want Government to seed the future and allow the many facets of our semiconductor industry to work together. That partnership became Sematech, and the vanguard of a preeminent U.S. high-techology industry for the 21st century.

Mr. Speaker, technology and the future of the United States are inexorably linked by the same genius and passion which founded our Nation. We are aware of our limitations, but we also have a good sense of when to push for the next breakthrough.

Bob Noyce had the same sense.

On March 29 of this year, Bob testified before a Senate subcommittee and said:

> The popular press will point out breakthroughs in technology * * * I would liken it more to climbing a mountain. When you take the last step, you can see what's on the other side. But if you didn't take the 5,000 steps before that, you never would have gotten to the top.
>
> Breakthroughs don't occur * * *. It is a series of small steps * * *.

Mr. Speaker, what were small steps to Bob Noyce were indeed breakthroughs for the rest of us. His surefootedness built the economic path on which we walk today, and upon which our children will walk in the future.

We are all the more healthy a Nation for his foresight and innovation, and all the more saddened by his passing.

I know that my colleagues will join with me in extending our condolences to Bob's family—and to his many friends, colleagues, and admirers here in the United States, and around the world.

Thank you very much.

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Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I am pleased to yield to our very fine colleague, the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding and commend him for taking this time to speak about the great contribution that Dr. Robert Noyce has made to our Nation.

Mr. Speaker, the entire electronics world is shocked and saddened by the great loss of Dr. Robert Noyce. Dr. Noyce has been a constituent of mine in Austin, TX, for the past 3 years. I knew him personally and had the highest regard for him as a scientist, an inventor, and as a person.

Dr. Noyce has served as the head of Sematech for the past 3 years. While he was reluctant to take this important position, he finally realized that he might be able to put the consortium on the right track. This unique government-industry consortium has gone a long way toward revitalizing the American chip-making industry. Dr. Noyce mapped out the path that Sematech will continue to follow in years to come.

While Dr. Noyce may be best known in Austin, TX, as the chairman of Sematech, he is best known nationally and internationally as the inventor of the integrated circuit or semiconductor chip. This technology is widely used today in products such as personal computers, pocket calculators, and microwave ovens. These products, unimaginable to many of us 20 years ago, are part of everyday life today.

I believe the name Robert Noyce will become as important to the electronics industry as Alexander Graham Bell is to the telephone and Thomas Edison is to electricity.

Dr. Robert Noyce was a kind, gentle leader. We have lost not only an international genius, but a great friend who will be missed by all who knew him and admired his work.

Dr. Noyce accepted the position of chief executive officer of Sematech because he felt the American chip industry was in grave peril. The United States had lost its leadership in the superconducting business. The very national security of our Nation could be in jeopardy. Dr. Noyce believed we had to pool our resources in America to even gain an equal footing with our foreign competitors. Sematech, to him, was an opportunity for American companies to form a consortium and find new ways to manufacture chips more efficiently, faster, and stronger. The 14 companies which compose Sematech today are proud of their work and our Federal Government is proud of the results being produced on a national basis. We are gradually regaining some of the leadership our Nation must exert in this vital electronic field.

But, Mr. Speaker, we have just begun to regain some of our previous leadership. We seem to be losing some of our resolve to go forth in joint ventures with the U.S. Government and industry. This administration seems to be hesitant in supporting research or proper joint ventures. This attitude of the administration—if it is so—will cause great embarrassment to the United States. This attitude must be reversed.

Dr. Bob Noyce believed so strongly in regaining our competitiveness that he left retirement to head up Sematech. His work has been invaluable. We must carry on his work. We face no more greater national challenge.

Mr. GEPHARDT. Mr. Speaker, today I would like to pay tribute to Dr. Robert N. Noyce, a man who contributed greatly to our country through his service in building one of our most important assets—the U.S. technological base. Dr. Noyce's continuous efforts in connection with the U.S. semiconductor industry and most recently as president and chief executive of Sematech are examples of his commitment to strengthening the U.S. electronics industry.

It was this sense of commitment, and his own regard for the importance of cooperation between U.S. companies in the semiconductor industry that assisted Dr. Noyce in making Sematech a reality. When no one else was up to the task of shepherding U.S. semiconductor and semiconductor equipment manufacturers toward making future generations of integrated circuits, Bob Noyce stepped forward.

Willingly, he led an effort to bring a promising scenario to life—the U.S. Government and industry working together toward common national and economic security goals. Today, we recognize that this success must be maintained and encouraged at Sematech as well as adopted by other cooperative efforts between government and industry in the future.

There is no doubt that Dr. Noyce's death has left a void for the U.S. electronics industry and for Sematech. This industry and this consortium have lost an innovative scientist, a creative engineer, and an ardent champion with Congress and the adminstration.

However, the U.S. electronics industry has not lost the spirit of what Bob Noyce stood for and accomplished for the U.S. economy. And, as we look at recent world events and the movement toward world peace, we cannot help but recognize that Bob Noyce prepared our country for greater commercialization of electronics.

I join with my colleagues in saluting Dr. Bob Noyce for his dedication and persistence in helping to reduce technological and trade barriers affecting the U.S. superiority in electronics. I urge those in industry and those in government to build upon the foundation Bob Noyce has left and to reestablish America's competitive strength in high-technology and other related industries.

Mr. ROE. Mr. Speaker, I rise today to join my colleagues in mourning the sudden and untimely passing of one of America's foremost physicists and engineers, Robert N. Noyce. I want to offer my deepest and heartfelt condolences to his widow Ann, his four children, and his 12 grandchildren.

Bob Noyce was not a household name in most American homes, yet his coinvention of the integrated circuit, with Jack Kilby, has created a legacy that will be hard to duplicate. His invention made possible the electronic age, by connecting transistors on a tiny silicon chip. The personal computer, the pocket calculator, programmable coffeemakers, microwave ovens, and computerized flight plans for planes are a fraction of the debt of gratitude we owe to this modest and reserved man. Despite his many talents and capabilities, and the magnitude of his achievements, he lived a life of relative obscurity.

He was born in Denmark, IA, the son of a Congregationalist minister. As a young boy, he tinkered with engines, model airplanes, and all kinds of gadgets. Growing up in Grinnell, IA, he once tried to hook up his bicycle to an old washing machine motor. A graduate of Grinnell College, where he majored in physics and mathematics, he went on to receive his doctorate from the Massachusetts Institute of Technology in 1953.

He was an adventurous and daring individual, an avid scuba diver, seaplane pilot, and skier. He once skied over a 25-foot cliff in the Rockies, because, in his words, "he decided to do it." It was no surprise that Bob Noyce started a new company, Fairchild Semiconductor, in 1957. The creation of his company inspired hundreds of other cogent and bright entrepreneurs, backed by what was to become known as venture capitalists, to form their own high-technology firms in the region of northern California that today is called Silicon Valley, the world's technological heartland and symbol of America's postwar economic dominance.

Mr. Speaker, Bob Noyce was one of the creators of Silicon Valley, pioneering one of America's great surges in industrial development. In many ways, he embodied the mind and spirit of the "Valley," where raw capitalism, adventurism, and the entrepreneurial vision still thrive. He took a bright idea, added to it his tremendous ambition, created an industrial revolution, and reaped the tremendous financial rewards of his labor. Yet despite his affluence, he shunned the limelight, never seeking fame or publicity.

Bob Noyce emerged as the spokesperson for the electronics industry long before others recognized the consequences of increased international competition. A decade ago, he was making frequent trips to Washington, speaking about such topics as closed markets for United States imports, attempts by Japanese firms to dump chips in the United States, and Japanese efforts to assist specific industries that made it difficult for United States firms to compete against them. He called for a stronger government role in tax, trade, and industrial policy, to help the embattled U.S. electronics industry.

In 1968, Mr. Noyce cofounded Intel Corp., which would become America's third-largest maker of semiconductor chips. At Intel, he engendered a spirit of egalitarianism, praising projects carried out by low-level engineers, eliminating special parking places for executives, and replacing offices with open cubicles. In 1988, he accepted the presidency of Sematech, a government-industry consortium created to help revitalize American chipmaking.

In 1980, Mr. Noyce received the National Medal of Science from President Carter, and in 1987, the National Medal of Technology from President Reagan. This year, he and Mr. Kilby received the Charles Stark Draper Award from President Bush.

Mr. Speaker, people respected Bob Noyce of his sharp mind, keen intellect, and impeccable knowledge of science and technology. His sudden passing is a tremendous loss to the American electronics industry, to the national economy, and to the American people. With his death, an era has ended. But it is only fitting that the next time you or my colleagues use a PC or a microwave oven you should remember that it was Bob Noyce who invented the technology that helped make that machine possible.

Mr. PANETTA. Mr. Speaker, I rise today to honor Robert N. Noyce, a man who devoted his life to the electronics industry. He believed that it was essential to U.S. economic and military security for the industry to regain its worldwide leadership in semiconductors and he was the person who helped make that a reality. His career spans 30 years and includes 16 patents for semiconductor devices, methods, and structures, and numerous awards and honors. The most well known result of this work was the invention of the integrated circuit which revolutioned the world of technology. His research made possible those products we cannot dream living without today, such as personal computers, pocket calculators, and microwave ovens.

Robert Noyce was instrumental in creating the $50 billion semiconductor industry and bringing it to the forefront of domestic policy. In 1968, he founded the Nation's third largest semiconductor producer, Intel Corp. In 1988 he was appointed chief executive and president of Sematech, the government-industry group set up to help the United States recover leadership in semiconductor manufacturing from the Japanese. Noyce was induced into the National Inventors Hall of Fame in 1983.

His achievements and accomplishments for the industry and this country are legendary. The technology he developed continues to impact our lives and will help serve as a foundation for future pioneers in this field.

Mr. VALENTINE. Mr. Speaker, I rise today to join my colleagues to pay tribute to one of the scientific giants of our times, Dr. Robert N. Noyce. We all mourn the death of this man who was the coinventor of the electronic integrated circuit, a device that has revolutionized the electronics industry and has contributed so much to the betterment of society.

Dr. Noyce, was a doer, an innovator, an inventor, a scientist, an engineer, a superb technical manager, an astute businessman, and most of all an inspirational leader. He was the epitome of the scientific strength in this country where we have had so many of our major scientific achievements accomplished by the single researcher or the small laboratory team.

Even at a young age, Bob Noyce demonstrated the innovative curiosity of a entepreneur who was not afraid of taking risks to find out why things worked or to try to make them work better. This curiousity led him to obtain his undergraduate degree in physics and mathematics at Grinnell College in Iowa and then go on to get his doctorate in physics from MIT. A few years after graduating from MIT, Dr. Noyce joined a select group of young engineers who teamed up with Nobel Prize winner, William Schockley, the inventor of the transistor, to form the first semiconductor company in California—the beginning of Silicon Valley. After a year, Bob decided to form his own company, Fairchild Semiconductor, which became one of the giants in the industry. In 1968, Dr. Noyce formed a second company, Intel, which was even more successful and became the third largest maker of semiconductors in the United States.

Even though he was the head of a large company, Dr. Noyce still continued to be involved in improving the semiconductor chip. As the chip reduced the size, weight, and cost of electronics equipment, he helped develop the process for building computer memories on a chip, which led to the computer on a chip. This, of course, further revolutionized the entire electronics industry.

As his prominence grew, Dr. Noyce emerged as an industry statesman. Long before many others recognized the consequences of growing international competition, he began to warn us here in Washington about the potential of closed markets for U.S. products and attempts by foreign firms to flood the marketplace with semiconductors to undercut our own industry. His foresight was accurate and we now have widespread concern as to how we are going to regain our global leadership in the vital semiconductor industry.

Dr. Noyce saw the industry that he helped build gradually being destroyed through inequitable international trade practices and the tremendous increase in the cost of development of the next generation semiconductor chip. To avert this, he helped form the government-industry consortium. Sematech, which was to provide collaborative, precompetitive R&D among several companies for the development of manufacturing processes and equipment that would be used for the next several generations of the semiconductor chip. Dr. Noyce thought the Sematech mission to be so important that he agreed to throw the full weight of his worldwide reputation, his superior management skills, and his keen technical mind into the Sematech cause and became its first CEO and president. In less than 2 years, Sematech has progressed from an idea to an operating entity comprised of 14 companies and is the premiere model in this country for the accomplishment of precompetitive R&D. It is tackling every aspect of the leading edge of semiconductor manufacturing technology development and has concrete plans for the transfer of that knowledge to U.S. industry. Under Dr. Noyce's leadership, Sematech is a prime example of how government and industry can work together for the common good. We in the Congress have the opportunity to perpetuate Dr. Noyce's work by ensuring that

Sematech has the resources to carry out its work over the next several years.

As the creator of California's Silicon Valley, Dr. Noyce was at the forefront of one of the Nation's great surges of industrial development. His work played a key role in the establishment of major research centers around the country such as the Research Triangle in North Carolina. His work helped put the personal computer in our homes, create new medical diagnostic equipment, put man in space, revolutionize worldwide telecommunications, and build the supercomputer.

Dr. Noyce was truly one of the giants of science in this country. His contributions to society are comparable to those of Thomas Edison, Alexander Graham Bell, and Guglielmo Marconi—to name a few. We will miss him—but we are fortunate to have the legacy that he leaves behind.

Mr. WALGREN. Mr. Speaker, I rise today to join my colleagues in tribute to an American hero. Bob Noyce was a pioneer at the frontiers of technology. His invention of the integrated circuit, or semiconductor as it is commonly known, changed every facet of American life. From computers and satellites to radios and wristwatches, every electronic device we depend upon is built with semiconductor chips. It is hard to imagine any aspect of modern life which has not been revolutionized by this invention. Dr. Erich Bloch, Director of the National Science Foundation, has called the semiconductor the key invention of the 20th century.

Bob Noyce embodied the best of our uniquely American way of life. He was an inventor, a scientist, an engineer, a daring entrepreneur, a skilled businessman, and in the last decade, a prophet and statesman.

He began his career in 1953 as a researcher for Philco Corp. In 1956, he joined William Shockley, one of the inventors of the transistor, to start a new company that would be the beginning of the fabled Silicon Valley. From there he went on to form two more semiconductor companies—Fairchild Semiconductor and Intel—both of which have been industry giants.

Never content to rest on his considerable laurels, Bob continued to work on ever more sophisticated devices, and was instrumental in building memory capability into the semiconductor chip. It is this ability to store and manipulate information rapidly which has made our Information Age possible.

In recent years, he turned his attention to the effects of growing international competition on our domestic semiconductor industry. It was in this capacity as industry spokesman and statesman that I came to know him. Long before others recognized the adverse consequences of markets closed to American products and attempts by foreign firms to flood our domestic market, Noyce's cogent arguments did much to convince congressional leaders that new thinking and new policies were necessary.

In response to the gradual decline of the American semiconductor industry, Noyce helped form Sematech, the consortium whose goal is to conduct collaborative R&D on the next generation of semiconductors. In the 2 years since its inception, Sematech has forged an innovative partnership between the Federal Government and private industry, and has become the model for dozens of other research consortia.

Sematech represents a revolution in the conduct of industrial research and development in this country, and is an important influence in the emergence of a new consensus on the positive role which the Government can play in making and keeping American industry competitive. The recent change in administration opposition to funding for precompetitive industrial R&D is due in no small part to Bob Noyce's efforts.

The Nation has sustained a great loss with the death of Robert Noyce. We in the Congress who knew him will miss his sharp mind, his gracious manner, and his insightful contributions to the public debate on one of the central issues of our time.

At every stage of his career he made remarkable contributions to his society. He has received many well-deserved tributes for his inventions. But his persistence in pointing out the need for a change in the relationship between government and industry, and his vision of what that new relationship could be, will prove to be one of his most lasting contributions to his country. We will miss his wisdom and his vision. America benefited greatly from his life and will be poorer with his passing.

Mr. AuCOIN. Mr. Speaker, I was a young college student when I first traveled through the Silicon Forest of Oregon, but then, it was a land of farms and small tree lots. The bus meandered past rolling strawberry fields and filbert orchards and through the communities which gained their identities more from the success of their high school football teams than from anything produced or manufactured.

Like most of us who settled there by reason of birth or choice, western Oregon is a place of special beauty, a quality which, in the hands of some, could be used as a battering ram against change. So it is perhaps the ultimate accomplishment of the pioneer who was Robert N. Noyce that the changes he brought to my part of Oregon are today—nearly 13 years after his arrival—so deeply and harmoniously integrated into the fabric of Oregon society.

So today, the land to which Robert Noyce made such a major contribution is now the Silicon Forest. Out in Hillsboro is the huge Intel plant—the company's Pacific Northwest anchor, providing jobs for several thousand Oregonians. Nearby, throughout the forest, are Intel spinoffs, the startup firms like Sequent and its 1,000 employees, brought to life by risktakers nurtured in the Noyce tradition, and by his example.

My colleagues from California have movingly described Bob's creation and nurturing of Intel, and the outstanding leadership he more recently brought to Sematech. What he perfected in the Silicon Valley, he transplanted into Oregon and before long, we too had come to marvel at a progression of Intel miracles.

The headlines in 1986, for instance, asked: "Can Intel's Computer Do Your Taxes in 1 Second?" And no one was surprised when the answer seemed to be yes. In 1987, the story became "Hot New Computer Chip Drives Intel's Comeback." And what a comeback it has been. And so it continues, to this day.

These were the first thoughts which crossed my mind during the terribly saddening moments last weekend when I first learned of Bob's death. He believed in Oregon, in the quality of our work force, and in the quality of our educational system. His foresight and imagination has helped Oregon to achieve a positive and permanent leadership role in high technology manufacturing. And he was a strong advocate for the Northwest's potential as a Pacific Rim trading leader, a potential which we are just now beginning to realize.

For all of this, we, in Oregon, are deeply grateful to Bob.

But I cannot close without adding that there was more, so much more, to the Bob Noyce we grew to know as a friend. I believe there is no one I have met, in an official capacity or otherwise, who better understood why so much of the research done through Pentagon accounts are robbing investments from the private sector. I have seldom met a more brilliant opponent to university involvement in SDI. No one was a more forceful critic of foreign dumping. And as a fascinating conversationalist, there was never any doubt about what he believed in, because I never once heard him pull a punch. Never

We will miss Bob Noyce.

Mr. EDWARDS of California. Mr. Speaker, I rise to mark, with sadness and regret, the death of Bob Noyce, a distinguished American, a human being with great vision, a person of many, many accomplishments which others will discuss today.

I personally was honored to know Bob Noyce. I feel enriched to have known him.

Bob was not an ideologue of any stripe. In fact, he wasn't partisan at all. He knew that, to accomplish any meaningful goal, all segments of government had to come together. He set about bringing them together, and he did it with a rare gentility. For, Bob was a truly gentle man, a gracious man.

He came to Washington to share his vision for America, never to ask for a handout. His message to us was about the interests of America, what the new era was all about, that we had better stay ahead of the competition, about the problems we faced overseas and how they would affect the quality of life in America if they were not addressed.

But Bob was never complaining. With crystal clarity, he was identifying the issues we had to come to grips with, and he was chock full of ideas on how to solve them.

Bob explained his concerns, his vision for America, in a gentle way, an articulate way. His thoughtful work was never harshly done. And, whenever he left Washington, I always felt he had done us a favor for coming.

Bob Noyce is going to be missed, but he always will be remembered. We are all richer because we knew him. Indeed, it is not an overstatement to say that the entire world, not just America, is a better place for having Bob Noyce in it.

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today in great sadness at the loss of Dr. Robert N. Noyce, who passed away last week. Along with many of my colleagues in Congress, I knew Dr. Noyce personally, and

held him in high regard for his work as the president and chief executive officer of Sematech.

Dr. Noyce's contribution to the field of electronics and advanced computer chip design was extraordinary. As one of the fathers of the integrated circuit, Dr. Noyce helped found today's semiconductor industry. In his leadership as the president of Sematech, Dr. Noyce pressed for further advances in semiconductor technology and manufacturing that could revolutionize this industry. As someone who worked for 25 years in aerospace engineering and now who serves on the House Armed Services Committee, I especially appreciated Dr. Noyce's effort to support and push for developments in U.S. semiconductor manufacturing. Dr. Noyce had a vision of the future, and shared my belief in promoting Federal support of x-ray lithography, a program to develop the next generation of advanced computer chips and restore the American edge to semiconductor manufacturing.

I will miss Dr. Noyce and his unparalleled efforts on behalf of Sematech and U.S. high technology. No one will be able to match Dr. Noyce's unique contributions to this dynamic field.

Mr. RITTER. Mr. Speaker, I rise in recognition of Bob Noyce, the pioneer in electronics who passed away this past Sunday. The American people have lost a great friend, a man for all seasons. I personally feel the loss and wish to extend my deepest sympathies to Bob's family.

Bob Noyce was a co-inventor of the semiconductor, which transformed electronics. Working separately in the late 1950's, Noyce and Jack S. Kilby invented the integrated circuit, which made rapid gains in computer power possible by putting the power of multiple transistors on a single chip. Without Bob Noyce's invention, the Information Age as we know it now would not have been possible. No less a respected scientist than Erich Bloch, Director of the National Science Foundation, has termed the invention of the microchip "the key invention of the 20th century."

Bob earned his Ph.D. in physics from the Massachusetts Institute of Technology in 1953, and became a researcher at the Philco Corp., later moving to the Shockley Semiconductor Laboratory. In 1957, he co-founded the Fairchild Semiconductor Corp., the inspiration for literally hundreds of entrepreneurial companies to follow in what came to be called the Silicon Valley, after the main ingredient of the infomation age. Today, with personal computers everywhere, the capability to fax around the world taken for granted, and sophisticated electronics products in many households, it is hard to imagine a world without them. The makers of these products owe their existence to Bob Noyce and the dedicated pioneers of Silicon Valley.

But it was not just revolutionary products that Bob Noyce and his contemporaries made possible. Who could have known, standing in the prune orchards near San Jose, that within a decade an entire industry would spring up in that region and give it a worldwide reputation for a tinkering, entrepreneurial, hard-driving character that is quintessentially American?

Bob Noyce had that kind of foresight. He was active and always looking for the next challenge, and he never lost his unquenchable desire to improve the status quo. In 1968, he and longtime associate Gordon E. Moore founded Intel Corp., which then became the Nation's third largest semiconductor producer. Owing largely to the efforts of companies such as Intel, the United States enjoyed dominance of the global semiconductor markets from the early 1960's through the mid-1970's. U.S. memory chips were considered reliable and in plentiful supply, and the industry was marked by strong competition among several U.S. producers.

By the early 1980's, Japanese semiconductor producers had captured the lead in global markets for memory chips. Noyce and others worked tirelessly to promote Sematech, the consortium whose primary goal is the creation of technologies aiming at the resuscitation of this vital industry. It was by no means an easy task; they had to convince skeptics that a large-scale joint effort was necessary.

Noyce's appointment as the president of Sematech gave the fledgling effort a measure of instant credibility. Noyce made rapid progress at Sematech, especially in convincing many of his colleagues to overcome the deep-rooted suspicion of competitors which characterizes the U.S. semiconductor industry. The ability of the U.S. semiconductor industry to compete in world markets is going to hinge in large part on the success or failure of Sematech, and Bob Noyce worked to make it a unified effort.

In February, Noyce and Kilby were presented the first Charles Stark Draper Award by President Bush. The Draper award for engineering achievement is sponsored by the National Academy of Engineering. The impact of the microchip is enormous; since Kilby and Noyce pioneered the chip, the information-processing capacity of a single chip has doubled about every 3 years. Noyce was also awarded the National Medal of Technology by President Reagan in 1987, and the National Medal of Science by President Carter in 1980.

It was during the debate over Sematech's creation that I met Bob Noyce. Since then, I have had the opportunity to discuss with him a wide range of issues which affect our Nation's competitiveness. He was engaging and gentlemanly, and as such was a forceful advocate for programs and policies that would benefit not only Sematech, but those companies reaching out to create new products and jobs in the United States. Bob had been doing this long before others recognized the need to do so. His emergence as an industry statesman began well before the consequences of growing international competition were known to a wider audience.

Bob Noyce had become Mr. Competitiveness, and he will be hard to replace. It is a measure of his impact on our society that there are even suggestions that Sematech will now perish. But we who were Bob Noyce's friends and colleagues in the battle to keep America on top will not allow this to happen.

Bob was a warm, wonderful human being who applied his humanity along with his genius to bettering the world around him. Those who knew him personally were enriched even more.

Now we need a concentrated effort in advanced technology across the board, and we will not fail because one strong voice is no longer with us. That is Bob Noyce's legacy to America.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore (Mr. DURBIN). Is there objection to the request of the gentleman from California?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DARDEN (at the request of Mr. GEPHARDT), for today until 11 a.m., on account of a death in the family.

Mr. HUTTO (at the request of Mr. GEPHARDT), for today after 5:30 p.m. and the balance of the week, on account of official business.

Ms. OAKAR (at the request of Mr. GEPHARDT), for today after 6 p.m. and the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes, on June 25, 26, 27, 28, and 29.

Mr. UPTON, for 5 minutes, today.

Mr. CAMPBELL of California, for 60 minutes, on June 7.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. SMITH of Florida, for 5 minutes, today.

Mr. ROE, for 5 minutes, today.

Mr. VALENTINE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. NEAL of North Carolina, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. INHOFE.

Mr. SCHUETTE.

Mr. SOLOMON.

Mr. SUNDQUIST.

Mr. ROWLAND of Connecticut.

Mr. BUECHNER.
Mrs. MORELLA in two instances.
Mr. DORNAN of California in two instances.
Mr. MICHEL.
Mr. DUNCAN.
Mr. GILMAN in three instances.
Mr. BEREUTER.
Mr. MCCOLLUM.
Mr. LAGOMARSINO.
Mr. GALLO.
Mr. GRANDY.
Ms. ROS-LEHTINEN in three instances.
Mr. CLINGER.
Mrs. JOHNSON of Connecticut.
Mr. STUMP.
Mr. ARMEY.
Mr. GALLEGLY.
Mr. BURTON of Indiana in two instances.
Mr. MCCANDLESS.
Mr. PORTER.
Mr. LOWERY of California.
(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)
Mr. LANTOS in three instances.
Mr. NEAL of Massachusetts in two instances.
Mr. HOYER.
Mr. FAUNTROY.
Mr. KILDEE.
Mr. OAKAR in three instances.
Mr. STARK.
Mr. TRAFICANT in four instances.
Mr. DYSON.
Mr. ECKART.
Mr. RAHALL in two instances.
Mr. PALLONE.
Mr. MCMILLEN of Maryland.
Mr. JACOBS.
Mr. KOSTMAYER.
Mr. HAMILTON.
Mr. MATSUI.
Mr. DOWNEY.
Mr. EDWARDS of California.
Mr. DINGELL.
Mr. TALLON in three instances.

ADJOURNMENT

Mr. MINETA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 11 o'clock and 22 minutes p.m.), the House adjourned until tomorrow, Thursday, June 7, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3321. A letter from the Architect of the Capitol, transmitting the report of expenditures of appropriations during the period October 1, 1989, through March 31, 1990, pursuant to 40 U.S.C. 162b; to the Committee on Appropriations.

3322. A letter from the Acting Secretary of the Army, transmitting a copy of the annual report of the U.S. Soldiers' and Airmen's Home for fiscal year 1988, pursuant to 24 U.S.C. 59, 60; to the Committee on Armed Services.

3323. A letter from the Acting Secretary of the Army, transmitting a copy of the third annual DOD Bicentennial of the United States Constitution report for the period January 1 through December 31, 1989; to the Committee on Armed Services.

3324. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-207, "District of Columbia Public School Nurse Assignment Act of 1987 Amendment Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3325. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-205, "Closing of a Public Alley in Square 832, S.O. 85-82, Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3326. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-208, "Child Support Guideline Amendment Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3327. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-209, "Office of Cable Television Personal Property Insurance Authorization Amendment Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3328. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-210, "District of Columbia Health Occupations Revision Act of 1985 Physician Assistants Amendment Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3329. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-206, "Closing of a Public Alley in Square 321, S.O. 88-33, Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3330. A letter from the Secretary of Health and Human Services, transmitting a copy of the interim report on the Native Hawaiian Revolving Loan Fund [NHRLF], pursuant to 42 U.S.C. 2991b-1; to the Committee on Education and Labor.

3331. A letter from the Secretary of Health and Human Services, transmitting the seventh biennial report on research into the effects of changes in the ozone in the stratosphere upon humans, pursuant to 42 U.S.C. 7454(e); to the Committee on Energy and Commerce.

3332. A letter from the Federal Co-Chairman, Appalachian Regional Commission, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31 1990; to the Committee on Government Operations.

3333. A letter from the Chairman, Federal Communications Commission, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3334. A letter from the Acting Chairman, Federal Maritime Commission, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3335. A letter from the Chairman, Federal Trade Commission, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3336. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the semiannual report of the inspector general for the period October 1, 1989 through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3337. A letter from the Chairman, National Labor Relations Board, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3338. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting the semiannual report of the inspector general for the period October 1, 1989, through March 31, 1990; to the Committee on Government Operations.

3339. A letter from the Administrator, Federal Aviation Administration, transmitting a report on the status of aircraft safety rulemaking procedures for the period January through April 1990, pursuant to 49 U.S.C. app. 1421 nt.; to the Committee on Public Works and Transportation.

3340. A letter from the Acting General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to provide comprehensive regulatory supervision over stocks and stock derivative instruments, to protect investors and assure the stability of the U.S. capital markets, to enhance innovation and competition in financial products, and for other purposes; jointly, to the Committee on Energy and Commerce and Agriculture.

3341. A letter from the Secretary of Health and Human Services, transmitting a copy of the 1989 annual report on Federal advisory committees established under section 1114(f) of the Social Security Act; jointly, to the Committee on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4053. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to provide for the remining of certain abandoned coal mine lands; with an amendment (Rept. 101-527). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL. Committee on Interior and Insular Affairs. S. 280. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System; with an amendment;

referred to the Committee on Merchant Marine and Fisheries for a period ending not later than June 7, 1990, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(n), rule X (Rept. 101-526, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. UPTON (for himself, Mr. ATKINS, and Mr. SMITH of Florida):

H.R. 4969. A bill to amend title 5, United States Code, to repeal the provisions which prevent annuity benefits under the Civil Service Retirement System or the Federal Employees' Retirement System from being garnished; to the Committee on Post Office and Civil Service.

By Mr. PURSELL:

H.R. 4970. A bill to repeal the Newspaper Preservation Act; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H.R. 4971. A bill to amend and extend certain laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CAMPBELL of California:

H.R. 4972. A bill to amend title II of the Social Security Act to eliminate work disincentives for individuals who are blind within the meaning of such act; to the Committee on Ways and Means.

By Mr. DAVIS (by request):

H.R. 4973. A bill to amend section 9308 of title 46, United States Code, by increasing the maximum civil penalty from $500, to $10,000; to the Committee on Merchant Marine and Fisheries.

By Mr. DOWNEY (for himself, Mrs. KENNELLY, Mr. GUARINI, Mrs. JOHNSON of Connecticut, Mr. MATSUI, Mr. MCGRATH, Mr. RANGEL, Mr. VANDER JAGT, Mr. MOODY, and Mr. CRANE):

H.R. 4974. A bill to amend the Internal Revenue Code of 1986 to clarify the exemption for student nurses from Social Security and unemployment taxes; to the Committee on Ways and Means.

By Mr. EDWARDS of Oklahoma:

H.R. 4975. A bill to amend the Internal Revenue Code of 1986 to exempt from the penalty tax on early withdrawals from individual retirement plans distributions used to acquire the first home of a child or grandchild of the beneficiary of the plan; to the Committee on Ways and Means.

By Mr. INHOFE (for himself, Mr. BORSKI, Mr. EDWARDS of Oklahoma, Mr. ROE, Ms. PELOSI, Mr. STOKES, Mr. MCCURDY, Mr. BLAZ, Mr. BOSCO, Ms. ROS-LEHTINEN, and Mr. WATKINS):

H.R. 4976. A bill to authorize the President to award the Medal of Honor posthumously to Ruben Rivers; to the Committee on Armed Services.

By Mr. KANJORSKI (for himself, Mr. ATKINS, Mr. BROWN of California, Mr. CAMPBELL of Colorado, Mr. CHAPMAN, Mr. GAYDOS, Mr. GONZALEZ, Mr. HAMILTON, Mr. MATSUI, Ms. OAKAR, Mr. RICHARDSON, Mrs. SAIKI, Mr. SAXTON, Mr. STARK, and Mr. TALLON):

H.R. 4977. A bill to amend title 5, United States Code, to assist Federal civilian employees who lose their jobs as a result of military base closures or realignments by enhancing job placement programs, extending health insurance benefits, providing job retraining, establishing supplemental severance allowances and supplemental wage allowances, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RAHALL:

H.R. 4978. A bill to provide for the preservation, restoration, and interpretation of the historical, cultural, and architectural values of the town of Bramwell, WV, for the educational and inspirational benefit of present and future generations; to the Committee on Interior and Insular Affairs.

H.R. 4979. A bill to amend chapters 83 and 84 of title 5, United States Code, to make applicable to mine safety and health inspectors certain provisions which are currently applicable to law enforcement officers; to the Committee on Post Office and Civil Service.

By Mr. RICHARDSON (for himself and Mr. ROYBAL):

H.R. 4980. A bill to amend the Public Health Service Act to establish certain programs with respect to the health of Hispanic individuals and other individuals who are members of minority groups, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ROWLAND of Connecticut:

H.R. 4981. A bill to amend title 11 of the United States Code to make nondischargeable any debt arising from a judgment or consent decree requiring an individual debtor to make restitution as a result of a violation of State law, and for other purposes; to the Committee on the Judiciary.

By Mr. SAWYER:

H.R. 4982. A bill to promote the study of mathematics and science in elementary and secondary schools, to provide training for mathematics and science teachers, and for other purposes; to the Committee on Education and Labor.

By Mr. KASICH (for himself and Mr. SIKORSKI):

H.R. 4983. A bill to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MICHEL (for himself, Mr. RAVENEL, Mr. GOODLING, Mr. GUNDERSON, Mr. GALLEGLY, Mr. WELDON, and Mr. BEREUTER):

H.R. 4984. A bill to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CLAY (for himself, Mr. FROST, Mr. GILLMOR, Ms. OAKAR, and Mr. WALSH):

H.J. Res. 587. Joint resolution committing to the private sector the responsibility for support of the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, and for other purposes; to the Committee on House Administration.

By Mr. SHAW:

H. Res. 406. Resolution to amend the Rules of the House of Representatives to limit the number of years a Member may serve on a particular committee; to the Committee on Rules.

By Mr. SMITH of Vermont (for himself, Mr. UPTON, Mr. BUECHNER, Mr. GRANDY, Mr. ARMEY, Mr. KYL, Mr. GOSS, Ms. MOLINARI, Mr. HYDE, Mr. GUNDERSON, Mr. NIELSON of Utah, Mr. FAWELL, Mr. GALLO, Mr. GOODLING, Mr. EMERSON, Mrs. MEYERS of Kansas, Mrs. SAIKI, Ms. SNOWE, Mr. TAUKE, Mr. DANNEMEYER, Mr. HASTERT, Ms. ROS-LEHTINEN, Mrs. BENTLEY, Mr. HOLLOWAY, Mrs. ROUKEMA, Mr. SANGMEISTER, Mr. SHUMWAY, Mr. RAVENEL, Mr. WEBER, Mr. DREIER of California, Mr. ROWLAND of Connecticut, Mr. MONTGOMERY, Mr. ROHRABACHER, Mr. CAMPBELL of California, Mr. BROWN of Colorado, Mr. PETRI, Mr. HORTON, Mr. CLINGER, Mr. DAVIS, Mr. WELDON, Mr. TRAFICANT, Mr. MARKEY, Mr. MOORHEAD, Mr. PARRIS, Mr. EDWARDS of California, Mr. TAUZIN, Mr. WALKER, Mr. BUNNING, Mr. HERGER, Mr. SMITH of New Hampshire, Mr. DOUGLAS, Mr. HANCOCK, Mr. DARDEN, Mr. JONES of Georgia, Mr. BUSTAMANTE, Mr. STAGGERS, Mr. THOMAS of Wyoming, Mr. WALSH, Mr. WHITTAKER, Mr. SOLOMON, Mr. ARCHER, Mr. SKEEN, Mr. YOUNG of Alaska, Mr. PACKARD, Mr. CARR, Mr. DICKINSON, Mr. MILLER of Washington, Mr. STUMP, Mr. BOEHLERT, Mr. GILMAN, Mr. TALLON, Mrs. BOGGS, Mr. LANCASTER, Mr. BALLENGER, Mr. HEFNER, Mr. GRAIG, Mr. BILBRAY, Mrs. MORELLA, Mr. HANSEN, Mr. DONALD E. LUKENS, Mr. HARRIS, Mr. COUGHLIN, Mr. JENKINS, Mrs. UNSOELD, Mr. HUNTER, Mr. PORTER, Mr. FRANK, Ms. SCHNEIDER, Mr. JOHNSON of South Dakota, Mr. PAXON, Mr. GINGRICH, Mr. STEARNS, Mrs. MARTIN of Illinois, and Mr. SHAYS):

H. Res. 407. Resolution that the House of Representatives urges the President to instruct the Attorney General to appoint an independent counsel to investigate the involvement of Government officials in the savings and loan scandal; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

411. By the SPEAKER: Memorial of the Assembly of the State Legislature of California, relative to Long Beach Naval Shipyard; to the Committee on Armed Services.

412. Also, memorial of the House of Delegates, Commonwealth of Virginia, relative to preserving and expanding the supply of affordable housing for low- and moderate-income households; to the Committee on Banking, Finance and Urban Affairs.

413. Also, memorial of House of Delegates, Commonwealth of Virginia, relative to requesting the Department of Labor to locate a coal mine worker's compensation processing office in Virginia's coal fields; to the Committee on Education and Labor.

414. Also, memorial of the State Senate of Hawaii, relative to a nationwide system of labeling uniformity in plastic material; to the Committee on Energy and Commerce.

415. Also, memorial of the State Senate of Hawaii, relative to a nationwide system of labeling uniformity in plastic material; to the Committee on Energy and Commerce.

416. Also, memorial of the State Senator of Hawaii, relative to requesting the Con-

gress to propose an amendment to the Constitution to limit the number of terms of service in the House and Senate of the United States; to the Committee on Energy and Commerce.

417. Also, memorial of the House of Delegates, Commonwealth of Virginia, relative to urging the Congress to mandate standards for diesel fuel emissions instead of methods to meet the standards; to the Committee on Energy and Commerce.

418. Also, memorial of the House of Delegates, Commonwealth of Virginia, relative to urging the Congress and the President of the United States to develop a national health plan; to the Committee on Energy and Commerce.

419. Also, memorial of the House of Representatives of Illinois, relative to urging the Department of Justice to re-examine its preliminary agreement with Manuel Noriega's attorneys and to deny the prisoner of war status to Manuel Noriega; to the Committee on the Judiciary.

420. Also, memorial of the House of Delegates, Commonwealth of Virginia, relative to urging the Congress to propose an amendment to the Constitution to prohibit the Federal taxation of income derived from State and local obligations; to the Committee on the Judiciary.

421. Also, memorial of the House of Delegates, Commonwealth of Virginia, relative to urging the Congress to propose an amendment to the Constitution that will enable three-fourths of the States to amend the Constitution subject to the congressional veto; to the Committee on the Judiciary.

422. Also, memorial of the State Senate of Hawaii, relative to urging support for the establishment of a compact between Pacific States and the Canadian Province of British Columbia to provide for future planning and protection of ocean resources which are of regional concern; to the Committee on Merchant Marine and Fisheries.

423. Also memorial of the House of Delegates, Commonwealth of Virginia, relative to urging the Congress to permit the States to set speed limits on certain toll roads; to the Committee of Public Works and Transportation.

424. Also, memorial of the House of Delegates, Commonwealth of Virginia, relative to transit services for handicapped persons; to the Committee on Public Works and Transportation.

425. Also memorial of the House of Delegates, Commonwealth of Virginia, relative to the release of funds under the Federal Public Works Act; to the Committee on Public Works and Transportation.

426. Also, a memorial of the House of Delegates, Commonwealth of Virginia, relative to urging the Congress to place strict limits on mass mailings by its members; jointly to the Committees on House Administration and Post Office and Civil Service.

427. Also, memorial of the House of Delegates, Commonwealth of Virginia, relative to low-level radioactive waste; jointly to the Committees on Interior and Insular Affairs and Energy and Commerce.

428. Also, memorial of the House of Delegates, Commonwealth of Virginia, relative to the Congress disregarding educational funds when determining eligibility for public assistance; jointly to the Committees on Ways and Means, Energy and Commerce, and Agriculture.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 6: Mr. GAYDOS.

H.R. 222: Mr. PRICE.

H.R. 496: Mr. MCHUGH, Mr. GILMAN, Ms. SCHNEIDER.

H.R. 747: Ms. SNOWE, Mr. GOSS, Mr. APPLEGATE, and Mr. SERRANO.

H.R. 933: Mr. LAFALCE and Mr. HALL of Texas.

H.R. 995: Mr. NIELSON of Utah.

H.R. 1068: Mr. TALLON.

H.R. 1095: Mr. COSTELLO, Mr. PEASE, and Mr. STARK.

H.R. 1180: Mr. WOLPE.

H.R. 1406: Ms. SNOWE.

H.R. 1530: Mr. DEFAZIO and Mr. FALEOMAVAEGA.

H.R. 1565: Mr. CONDIT.

H.R. 1693: Mr. MINETA and Mr. SAWYER.

H.R. 1699: Mr. LAUGHLIN, Mr. BONIOR, Mr. FAZIO, Mr. HILER, Mr. TORRICELLI, and Mr. DAVIS.

H.R. 1730: Mr. LIVINGSTON, Mr. PORTER, Mr. SCHUETTE, and Mr. ROHRABACHER.

H.R. 2098: Mr. PORTER, Mr. THOMAS of Wyoming, Mr. TAUKE, Ms. ROS-LEHTINEN, and Mr. COSTELLO.

H.R. 2121: Ms. PELOSI, Mr. DELLUMS, Mr. CLARKE, Mr. FLIPPO, Mr. DE LUGO, Mr. DICKINSON, Mr. FALEOMAVAEGA, Mr. ENGLISH, Mr. MAVROULES, Mr. HALL of Texas, Mr. BUECHNER, Mr. FEIGHAN, Mr. JOHNSTON of Florida, and Mr. MOLLOHAN.

H.R. 2268: Mr. JONTZ, Mr. COLEMAN of Missouri, and Mr. ECKART.

H.R. 2285: Mr. HARRIS and Mr. NIELSON of Utah.

H.R. 2319: Mr. KOSTMAYER, Mrs. PATTERSON, and Mr. MILLER of Ohio.

H.R. 2353: Mr. GORDON, Mr. SCHUETTE, Mr. LAGOMARSINO, and Mr. PASHAYAN.

H.R. 2380: Mr. LEWIS of Georgia and Mrs. BOXER.

H.R. 2418: Mr. OLIN.

H.R. 2460: Mr. LIPINSKI, Mr. BORSKI, and Mr. POSHARD.

H.R. 2870: Mr. ECKART, Ms. KAPTUR, Mr. WELDON, and Mr. TRAXLER.

H.R. 2902: Mr. BROWN of California and Mr. DYMALLY.

H.R. 3064: Mr. RINALDO, Mr. PORTER, Mr. STENHOLM, Mr. HASTERT, Mr. TALLON, Mr. LEWIS of Florida, Mr. THOMAS of Wyoming, and Mrs. VUCANOVICH.

H.R. 3123: Mr. HORTON and Mr. BUSTAMANTE.

H.R. 3154: Mr. WALSH, Mr. ATKINS, Mrs. BOGGS, Mr. LEWIS of Georgia, and Mr. HAMILTON.

H.R. 3267: Mr. LEVIN of Michigan.

H.R. 3270: Mr. HORTON, Mr. PAYNE of New Jersey, Mr. THOMAS of Wyoming, Mr. MCDADE, Mr. HEFNER, Mr. CLEMENT, Mr. BATEMAN, Mr. REGULA, Mr. FAZIO, Mr. MARTINEZ, Mrs. UNSOELD, Mr. ROTH, Mr. EARLY, Mr. KOLTER, Mr. DEWINE, Mr. FLIPPO, Mr. BUECHNER, Mr. PACKARD, and Mr. MARKEY.

H.R. 3333: Mr. FAUNTROY, Mr. PACKARD, Mr. DORNAN of California, Mr. LEWIS of Florida, and Mr. SLAUGHTER of Virginia.

H.R. 3389: Mr. BERMAN, Mr. MOODY, Mr. MFUME, and Mr. LEWIS of Florida.

H.R. 3401: Mr. LIVINGSTON and Mr. COOPER.

H.R. 3413: Mr. COOPER.

H.R. 3501: Mr. LANCASTER.

H.R. 3512: Mrs. PATTERSON.

H.R. 3533: Mr. RITTER.

H.R. 3643: Mr. FIELDS.

H.R. 3768: Mr. GEKAS.

H.R. 3776: Mr. LEWIS of Georgia, Mr. CARPER, and Mr. PANETTA.

H.R. 3859: Mr. KANJORSKI, Mr. MILLER of Washington, Mr. MADIGAN, Mr. SAVAGE, and Mr. STOKES.

H.R. 3863: Mr. LEVINE of California and Mr. FRANK.

H.R. 3880: Ms. MOLINARI, Mr. PERKINS, Mr. WILLIAMS, and Mr. BORSKI.

H.R. 3911: Mr. MAVROULES.

H.R. 3929: Mr. LANCASTER, Mr. LEWIS of Georgia, Mr. ECKART, Ms. SLAUGHTER of New York, Mr. ACKERMAN, and Mr. HUGHES.

H.R. 3930: Mr. HUGHES.

H.R. 3957: Mr. DICKS and Mr. MCDERMOTT.

H.R. 3992: Mr. MCDERMOTT.

H.R. 4026: Mrs. BENTLEY.

H.R. 4040: Mr. MARLENEE.

H.R. 4041: Mr. SOLOMON.

H.R. 4042: Mr. FRANK and Ms. SCHNEIDER.

H.R. 4075: Mr. HAWKINS, Mr. MINETA, Mr. ROWLAND of Connecticut, Mr. WASHINGTON, Mr. DORGAN of North Dakota, and Mr. FORD of Michigan.

H.R. 4080: Mr. WILLIAMS.

H.R. 4082: Mr. BORSKI.

H.R. 4118: Mr. COBLE.

H.R. 4138: Mrs. BENTLEY.

H.R. 4146: Mrs. BENTLEY.

H.R. 4219: Mr. JOHNSON of South Dakota, Mr. MILLER of California, Mr. RAVENEL, Mr. SCHEUER, Mr. JONTZ, and Mr. YATES.

H.R. 4274: Mr. KASTENMEIER.

H.R. 4330: Mr. ACKERMAN, Mr. BILBRAY, Mr. BUSTAMANTE, Mr. DICKS, Mr. DIXON, Mr. ESPY, Mr. FALEOMAVAEGA, Mr. FLAKE, Mr. FROST, Mr. KENNEDY, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. MOAKLEY, Mr. OBERSTAR, Mr. OWENS of Utah, Mr. PALLONE, Mr. RAVENEL, Mr. SCHEUER, Mr. SCHUMER, Ms. SLAUGHTER of New York, Mr. SMITH of Vermont, Mr. THOMAS of Georgia, Mr. TORRES, Mr. UDALL, Mr. WALGREN, Mr. WEISS, and Mr. WHEAT.

H.R. 4334: Mr. ATKINS.

H.R. 4367: Mr. HAYES of Louisiana, Mr. RAHALL, Mr. JONES of North Carolina, Mr. BRYANT, and Mr. MILLER of Washington.

H.R. 4411: Mr. LEWIS of Georgia.

H.R. 4424: Mr. HUTTO.

H.R. 4468: Mr. MARKEY.

H.R. 4481: Mr. KASTENMEIER, Mrs. VUCANOVICH, Mr. SHUMWAY, Mr. GEJDENSON, Mr. COLEMAN of Missouri, Mr. BOSCO, Mr. PERKINS and Mrs. BYRON.

H.R. 4482: Mrs. BYRON, Mr. CLINGER, Mr. KASTENMEIER, Mrs. MARTIN of Illinois, Mr. PERKINS, Mr. PARKER, and Mr. PAYNE of Virginia.

H.R. 4483: Mrs. VUCANOVICH, Mr. SOLOMON, Mr. MARTIN of New York, and Mr. MINETA.

H.R. 4488: Mr. INHOFE.

H.R. 4492: Mr. JOHNSON of South Dakota, Mr. WALGREN, Mr. NEAL of North Carolina, Mr. PANETTA, Mr. ENGEL, Mr. FLAKE, Mr. HUGHES, Mr. MURPHY, Mr. TALLON, Mr. COOPER, Mrs. SCHROEDER, Mr. EVANS, and Mr. FRANK.

H.R. 4494: Mr. TOWNS, Mr. FUSTER, Mr. JONES of Georgia, Mr. GRANT, Mr. RHODES, Mr. TALLON, Mr. MCCANDLESS, Mr. SCHUETTE, Mr. PAXON, Mr. HERGER, Mr. SMITH of Texas, Mr. SAXTON, Mr. MONTGOMERY, Mr. RAHALL, Mr. GILLMOR, Mr. JAMES, Mr. MCEWEN, Mr. JONES of North Carolina, Mr. ROTH, Mr. KASICH, Mr. SLAUGHTER of Virginia, and Mr. LEWIS of Florida.

H.R. 4512: Mr. ARCHER, Mr. VANDER JAGT, and Mr. FRENZEL.

H.R. 4518: Mr. WALSH.

H.R. 4549: Mr. CARDIN, Mr. DOWNEY, and Mr. SCHUMER.

H.R. 4565: Mr. WELDON, Mr. WOLPE, Mr. PALLONE, and Mr. HEFLEY.

H.R. 4574: Mr. LEWIS of Georgia and Mr. MOODY.

H.R. 4590: Mr. KOSTMAYER.

H.R. 4595: Mr. LEWIS of Georgia.

H.R. 4608: Mr. HYDE and Mr. GOSS.

H.R. 4617: Mr. MILLER of Washington, Mr. BERMAN, Mrs. MARTIN of Illinois, Mrs. MORELLA, Mr. RANGEL, Mr. MADIGAN, Mr. MILLER of California, Mr. TOWNS, Mr. NEAL of North Carolina, Mr. ECKART, and Mr. DELLUMS.

H.R. 4641: Mr. DWYER of New Jersey, Mr. PANETTA, and Mr. WILSON.

H.R. 4659: Mr. SABO, Mr. LANCASTER, and Ms. KAPTUR.

H.R. 4690: Ms. MOLINARI, Mr. PAYNE of New Jersey, Mr. CONTE, Mr. BARNARD, Mr. ROE, Mr. POSHARD, and Mr. GEREN of Texas.

H.R. 4704: Mr. ROE and Mr. DEFAZIO.

H.R. 4714: Mr. SMITH of Vermont, Mr. ATKINS, and Mr. CONDIT.

H.R. 4721: Mr. ROE and Mr. HORTON.

H.R. 4755: Mr. GRADISON, Mr. BOSCO, Mr. HORTON, Mr. GUNDERSON, Mr. PAXON, Mr. LEVINE of California, Mr. BATES, Ms. KAPTUR, Mr. FRANK, Mr. HILER, Ms. PELOSI, Mr. DYMALLY, Ms. SLAUGHTER of New York, and Mr. DWYER of New Jersey.

H.R. 4788: Mrs. MARTIN of Illinois, Ms. PELOSI, Mr. FRANK, Mr. MANTON, Mr. DORGAN of North Dakota, Mr. PORTER, Mr. FOGLIETTA, and Mr. ACKERMAN.

H.R. 4797: Mr. GAYDOS, Mr. RAHALL, Mr. HORTON, Mr. TOWNS, Mr. MORRISON of Connecticut, Mr. MCDERMOTT, Mr. ACKERMAN, Mr. FRANK, Mr. LANCASTER, Mr. LEWIS of Georgia, Mr. YATES, Mr. FORD of Michigan, and Ms. PELOSI.

H.R. 4831: Mr. BURTON of Indiana, Mr. TOWNS, Mr. DREIER of California, Mr. GRANDY, and Mr. JACOBS.

H.R. 4840: Mr. JOHNSON of South Dakota, Mr. BOUCHER, Mr. JONTZ, Mr. LEWIS of Georgia, Mr. SWIFT, Mr. FORD of Michigan, Mr. MARKEY, and Mr. KANJORSKI.

H.R. 4851: Mr. LEWIS of Florida and Mr. ROGERS.

H.R. 4868: Mr. FUSTER and Mr. RANGEL.

H.R. 4941: Mr. SMITH of Vermont, Mr. YOUNG of Alaska, and Mr. MURPHY.

H.J. Res. 246: Mr. SCHUETTE.

H.J. Res. 256: Mr. STOKES and Mr. SUNDQUIST.

H.J. Res. 268: Ms. MOLINARI and Mr. MACHTLEY.

H.J. Res. 431: Mr. MADIGAN, Mr. SHAW, Mr. COYNE, and Mr. COURTER.

H.J. Res. 481: Mr. POSHARD and Mr. SPENCE.

H.J. Res. 486: Mr. TANNER, Mr. DERRICK, Mr. SOLARZ, Mr. DORGAN of North Dakota, Mr. ARCHER, Mr. PANETTA, Mr. MARTIN of New York, and Mr. CLINGER.

H.J. Res. 493: Mr. BUECHNER, Mr. BEREUTER, Mr. LIGHTFOOT, Mr. HOAGLAND, Mr. DYMALLY, Mr. MATSUI, Mr. LANTOS, Mr. MILLER of Ohio, Mr. ROYBAL, Mr. COOPER, Mr. SARPALIUS, Mr. KOLTER, Mr. MURPHY, Mr. FISH, Mr. SCHIFF, Mr. MADIGAN, Mrs. KENNELLY, Mr. SOLOMON, Mr. BERMAN, Mr. BEVILL, Mr. ESPY Mr. BROWN of California, Mrs. MORELLA, Mrs. VUCANOVICH, Mrs. SAIKI, Ms. KAPTUR, Mr. MCGRATH, Mr. CLARKE, Mr. HOCHBRUECKNER, Mr. CARDIN, Mr. HUGHES, Mr. COSTELLO, Mr. STUMP, Mr. PORTER, Mrs. LOWEY of New York, Mr. BURTON of Indiana, Mr. FLIPPO, Mr. DENNY SMITH, Ms. SLAUGHTER of New York, Mr. IRELAND, Mr. FEIGHAN, Mr. LOWERY of California, Mr. ROHRABACHER, Mr. HOYER, Mr. SPENCE, Mr. CARPER, Mr. GREEN, Mr. DREIER of California, Mr. REGULA, Mr. HEFNER, Mr. HERGER, Mr. LEWIS of Florida, Mr. RAVENEL, Ms. PELOSI, Mr. MINETA, Mr. STOKES, Ms. ROS-LEHTINEN, Mrs. MEYERS of Kansas, Mr. HAMILTON, Mr. WYDEN, Mrs. COLLINS, Mr. ORTIZ, Mr. HALL of Ohio, Mr. BLAZ, and Mr. THOMAS of Wyoming.

H.J. Res. 516: Mr. BORSKI, Mr. ANDERSON, Mr. BRENNAN, Mr. FISH, Mr. GUNDERSON, Mr. CLEMENT, Mr. KOLTER, Mr. KASICH, Mr. MCCOLLUM, Mr. MATSUI, Mr. HANSEN, Mrs. MORELLA, Mr. FROST, Mrs. SAIKI, Mr. SAVAGE, Mr. SCHEUER, Mr. DENNY SMITH, Mr. STAGGERS, Mr. STENHOLM, Mr. TAUKE, Mr. PERKINS, Mr. MONTGOMERY, Mr. KENNEDY, Mr. PASHAYAN, Mr. KLECZKA, Mr. ANNUNZIO, Mr. BOSCO, Mr. DREIER of California, Mr. DURBIN, Mr. HOPKINS, Mr. JENKINS, Mr. JONTZ, Mr. LANTOS, Mr. LEVIN of Michigan, Mr. STOKES, Mr. MFUME, Mr. MILLER of Washington, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. ORTIZ, Mr. PICKLE, Mr. SHAYS, Mr. THOMAS of Georgia, Mr. WATKINS, Mr. SAWYER, Mr. HOLLOWAY, Mr. DONNELLY, Mr. DYMALLY, Mr. HUNTER, Mr. VENTO, Mr. NATCHER, Ms. SLAUGHER of New York, Mr. PANETTA, Mr. AUCOIN, Mr. CHAPMAN, Mr. HOYER, Mr. LEWIS of Georgia, Mr. LIGHTFOOT, Mr. NEAL of North Carolina, Mr. STUDDS, Mrs. LOWEY of New York, Mr. COUGHLIN, Mr. BARTLETT, Mr. BONIOR, Mr. CARPER, Mr. RAVENEL, Mr. YATRON, Mr. BERMAN, Mr. DARDEN, Mr. GILMAN, Mr. JONES of North Carolina, Mr. KOSTMAYER, Ms. PELOSI, Mr. ROYBAL, Mr. RUSSO, Mr. SCHUMER, Mr. TRAFICANT, Mr. STARK, Mr. FASCELL, Mr. DERRICK, Mr. SPRATT, Mr. HOCHBRUECKNER, Mr. RINALDO, and Mr. APPLEGATE.

H.J. Res. 519: Mr. HOCHBRUECKNER.

H.J. Res. 531: Mr. LEWIS of Georgia.

H. Con. Res. 276: Mr. HOAGLAND, Mr. SHAW, Mr. HATCHER, Mr. GRANDY, Mr. BLILEY, and Mrs. BENTLEY.

H. Con. Res. 291: Mr. LEACH of Iowa, Mr. BILBRAY, Mr. LEWIS of Georgia, Mr. LIVINGSTON, Mr. LEWIS of Florida, Mr. ECKART, Mr. CHAPMAN, Mr. DWYER of New Jersey, and Mr. BUSTAMANTE.

H. Con. Res. 293: Mr. MINETA, Mr. PORTER, and Mr. ACKERMAN.

H. Con. Res. 319: Mr. KASICH, Mr. LANCASTER, Mr. HERGER, Mr. SHAW, Mr. MCMILLEN of Maryland, and Mr. EMERSON.

H. Con. Res. 330: Mr. GALLO, Mr. MACHTLEY, Mr. SCHUETTE, Mr. DUNCAN, and Mrs. JOHNSON of Connecticut.

H. Res. 374: Mr. BURTON of Indiana, Mr. HYDE, and Mr. MARLENEE.

H. Res. 380: Mr. MACHTLEY, Mr. BLILEY, Mr. TALLON, and Mr. HUGHES.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

182. By the SPEAKER: Petition of the village of Burton, OH, relative to the Clean Air Act Amendments of 1990; to the Committee on Energy and Commerce.

183. Also, petition of the Board of County Commissioners of Suwannee County, FL, relative to an inequitable distribution of grant funds relative to the amount of Federal tax dollars paid by Florida taxpayers to the Federal Government; to the Committee on Government Operations.

184. Also, petition of the National Association of Retired Federal Employees, relative to their support of S. 434 and H.R. 1227; to the Committee on the Judiciary.

185. Also, petition of the County Council, Hilo, HI, relative to State and local income and property tax deductions; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as following:

H.R. 4653

By Mr. BURTON of Indiana:

—Page 48, insert the following after line 11:

"SEC. 124. SOVIET MILITARY ASSISTANCE TO CUBA.

"No exports to the Soviet Union otherwise permitted by virtue of the amendments made by this title may be made until the President certifies to the Congress that the Soviet Union is not providing any military assistance to Cuba."

By Mr. RITTER:

—Page 48, insert the following after line 11:

"SEC. 124. CONTINUED SOVIET MILITARY ASSISTANCE TO AFGHANISTAN.

"No exports to the Soviet Union otherwise permitted by virtue of the amendments made by this title may be made until the President certifies to the Congress that the Soviet Union is not continuing to provide military assistance to Afghanistan."

By Mr. DREIER of California:

—Page 48, insert the following after line 11:

SEC. 124. EXPORTS TO COUNTRIES THAT THREATEN THE USE OF NUCLEAR WEAPONS.

(a) SENSE OF CONGRESS REGARDING THE PROHIBITION ON EXPORTS.—No exports of goods, technology, or other information otherwise permitted by virtue of the amendments made by this title may be made to any country which publicly threatens to use nuclear weapons against any other country. The prohibition contained in the preceding sentence shall apply until the President determines that the country renounces any intention to use nuclear weapons at any time.

(b) EXCEPTION FROM PROHIBITION.—The prohibition contained in subsection (a) does not apply to goods or technology on which export controls may not be imposed under section 6(b) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(g)).

—Page 8, line 6, strike "shall" and all that follows through line 24 and insert the following: "shall, with the concurrence of the Secretary of Defense, publish in the Federal Register, not later than 6 months after the date of the enactment of the Export Enhancement Act of 1990, an indexing system which takes into account technological advances in supercomputer technology, as well as the nature and implications of the strategic threat posed to the United States by the foreign acquisition of such supercomputers. Approval of the export or reexport of a supercomputer to a country, not to include NATO or major non-NATO allies pursuant to § 1105(a)-(g) of Pub. L. 99-661 (22 U.S.C. 2767a), should also be judged on the following factors:

"(i) The stated end-use of the supercomputer.

"(ii) The significance for nuclear purposes of the supercomputer.

"(iii) The availability of the supercomputer from sources other than the United States.

"(iv) The types of assurances or guarantees against the use of the supercomputer for nuclear explosives purposes or nuclear proliferation.

"(v) The record of the country with respect to the nonproliferation of nuclear weapons based on factors such as—

"(I) the country's status as a party to the Treaty on the Non-Proliferation of Nuclear Weapons or the Treaty for the Prohibition of Nuclear Weapons in Latin America, and whether or not the country has met its obligations under those treaties, as determined by the President;

"(II) whether the country conducts all of its nuclear activities under International Atomic Energy Agency Safeguards or equivalent full scope safeguards;

"(III) whether there is an agreement for cooperation on the civil uses of atomic energy between the United States and the country;

"(IV) the country's public statements and policies concerning nuclear developments and nonproliferation;

"(V) the extent of cooperation with the United States in nonproliferation policy generally (such as the country's willingness to consult on international nonproliferation issues);

"(VI) intelligence data on a country's intentions and activities with respect to the use of nuclear energy and weapons; and

"(VII) the extent to which the country has diverted previously acquired high-technology equipment, data, or supplies which may be useful for nuclear explosive purposes to other countries in violation of any treaty or agreement to which the country is a party or in violation of other applicable law.

—Page 9, line 17, insert closed quotation marks and a period after the period.

—Page 9, strike lines 18 through 22.

EXTENSIONS OF REMARKS

HONORING HUGH B. ROBEY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. HOYER. Mr. Speaker, I rise today to honor Mr. Hugh B. "Reds" Robey, who is retiring after 40 years of service as Prince George's County Director of Parks and Recreation for the Maryland-National Capitol Park and Planning Commission.

Mr. Robey's leadership has guided the park system through substantial growth and increased services to the people of Maryland. Under Mr. Robey's direction, Maryland's parks have grown from a few acres to over 16,000 acres of parkland and a capital improvement budget of over $70 million.

In 1973, 1977, and 1984, the National Sports Foundation Inc., bestowed its coveted National Gold Medal Award upon the department for "outstanding achievement in park and recreation administration." In 1983, the department was further honored as the recipient of the foundation's Special Recreation Gold Medal Award in recognition of "outstanding community achievement for physically and mentally handicapped citizens." This distinction as a four-time national gold medalist is unparalleled by any other park and recreation department in the Nation.

Mr. Robey has made many significant contributions to the development of park and recreation facilities in Prince George's County. They include the Enterprise Gold Course, two ice rinks, indoor and outdoor swimming and fitness centers, the Prince George's Equestrian Center, the Fairland Athletic Complex, 35 community centers, Harmony Hall Regional Center, indoor tennis facilities, and two expansive regional parks.

Robey is a lifetime resident of Prince George's County. He is involved in many community organizations, serving on the Prince George's County Chamber of Commerce, Prince George's County Arts Council, Prince George's Travel Promotion Council and is a founding member and 5-year president of the Prince George's County Chapter of Ducks Unlimited.

The communities of Prince George's County have grown and prospered through Mr. Robey's many years of active involvement and dedication. The county is truly a better place because of the commitment made by Mr. Hugh B. Robey.

IN RECOGNITION OF DR. AMIR BARON

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it is with great pleasure that I rise today to salute an outstanding individual in my congressional district, who for 20 years, has shown dedicated service as an outstanding educator in the United States.

I am speaking of Dr. Amir Baron, director of education at the Lehrman Day School of Temple Emanu-El, who has recently received the Distinguished Jewish Educator Award of the World Zionist Organization. This award is one of the highest honors in Jewish education.

Dr. Baron has provided 14 years of dedicated leadership for Temple Emanu-El and its Lehrman Day School. In addition, Dr. Baron has provided leadership for numerous communitywide efforts benefiting south Florida Jewry and his native Israel.

Prior to joining the school, Dr. Baron was director of education for the Zionist Organization of America, headquartered in Long Island, NY. In 1970, the Israeli born Dr. Baron arrived in the United States as an exchange educator, and became an instructor of Hebrew and Judiaca at the College of Advanced Jewish Studies, in Pittsburgh, PA. Dr. Amir Baron has become one of our country's greatest ambassadors to the State of Israel.

Mr. Speaker, I appreciate this opportunity to present a brief profile of this most prominent educator, Dr. Amir Baron. Hundreds of students in the Lehrman Day School and Temple Emanu-El have benefited from Dr. Baron's devotion to the teaching of the Torah.

I wish him many more years of dedicated service to our community.

TRIBUTE TO JEWEL SPITZER ROSENBERG

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mrs. MORELLA. Mr. Speaker, I join today with her family and friends in extending my best wishes and heartiest congratulations to my constituent, Jewel Spitzer Rosenberg of Silver Spring, MD, on her 90th birthday. Throughout her life, Jewel has been a role model for the immigrant family and the modern woman.

Jewel, the daughter of Russian-Jewish immigrants, was born on a small farm in a remote part of Vermont where her parents had settled and established a small dairy farm. She and her eight brothers and sisters attended a one-room schoolhouse, where she was singled out as particularly bright and eager to learn. When the family moved south to Massachusetts, she attended a more modern school, and graduated from high school at age 15.

After her graduation from North Adams Normal School, she applied for a job with the Federal Government, and found herself at 18 years old moving to post-World War I Washington as a "yeomanette"—a clerk in the War Department. Jewel began the family's emigration to urban life, and soon sent for her brothers and sisters. After her marriage to Bernard Rosenberg, a French immigrant, she raised a family of two children while working, first for the Federal Government and later for the family business as the bookkeeper and a principal partner.

It was during this post-World War I period that Jewel's business capability and unusual energy fully blossomed. She assisted her husband and other family members in building a successful business, assumed a position of leadership in an investment club of 15 women, and simultaneously helped a friend to establish a thriving business in interior decorating by serving as a business adviser and bookkeeper. Because of her extensive business experience, she was asked by a group of prominent women to assist in developing a new business venture in Washington—a bank, to be run by and for women.

The Women's Bank of Washington, devoted to helping women secure loans to establish their own businesses, ushered in a new era for women, since, before the bank's establishment, it was difficult for women to get loans approved unless the applications were cosigned by a man. Jewel served as the bank's director until it was sold in the 1980's. When the Comptroller of the Currency questioned her ability to continue in that capacity for the sole reason that she was in her late seventies, a letter from one of her children convinced him that Jewel was indeed still vigorous and active.

Jewel Spitzer Rosenberg has been a role model for her children and grandchildren, and even her great-grandchildren. Her Yankee origins and Russian roots, added to her own skill and determination, have combined to make her a remarkable woman of wit, strength, and conviction. I am proud to represent her in the U.S. Congress, and join with the Rosenberg and Spitzer families, who will be gathering this Sunday to help her celebrate her 90th birthday, in saluting this woman for all seasons.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

THE CENTENNIAL OF TUXEDO

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. GILMAN. Mr. Speaker, this weekend the town of Tuxedo, NY, in Orange County, will be celebrating the 100th anniversary of its incorporation as a town. Appropriate ceremonies will be held to commemorate this milestone centennial celebration.

Although Tuxedo has been an incorporated town for only 100 years, the community dates back much further than that. Part of the town of Tuxedo was mined for its rich iron ore deposits as long ago as the Revolutionary War era. In fact, the famous chain which stretched across the Hudson River to prevent British warships from ascending that waterway to attack colonial communities was mined and forged in what is now the town of Tuxedo. That portion of the town was known then and ever since as Sterling Forest.

Residents started to refer to the area as Tuxedo during the early 1800's. Some historians contend that the name Tuxedo is an old American Indian word meaning "land of the bear." Other historians contend that it is merely a corruption of the words "duck" and "cedar". Most likely, the word was, indeed, an Indian phrase which the earliest settlers simplified into "duck cedar" for simplicity sake. In either case, this beautiful town certainly was rich in ducks, cedars, and bears until well into the 1800's.

In the years following our American Civil War, the wealthiest families in the Nation created the community of Tuxedo Park along Tuxedo Lake. These were the wealthy old New York families who needed a retreat to get away from city life without having to hobnob in Newport, RI, with the upstart new rich families such as the Vanderbuilts and the Rockefellers. By choosing Tuxedo Park as the site of their restricted community, they choose a location along the shores of Tuxedo Lake which to this day is known for its style, grace, and elegance.

Many great, influential persons spent their lives in Tuxedo Park. Members of the Roosevelt and the Delano family for many years resided there and looked down on their poor cousin from upriver, Franklin Delano Roosevelt, for the 12 years that he served as our President. In fact, President Roosevelt's cousin, the late Katherine St. George, represented my 22d Congressional District in this chamber for many years. She was the epitome of the typical resident of Tuxedo Park—devoted to helping others and to working for the benefit of our Nation without ever forgetting her sense of grace and charm.

Perhaps the most famous resident of all at Tuxedo Park was the late Emily Post. She recognized the need to explain the principles of etiquette to all Americans, while always underscoring that the purpose of good manners is to make life easier and more convenient for others. Emily Post, throughout her lifetime and long after her passing, was considered the ultimate social arbitor of proper behavior.

Another portion of the town of Tuxedo is the Hamlet of Arden. This historic old community is located on what was once the estate of E.H. Harriman, the railroad magnate. The Harriman family included the late E. Averell Harriman, who throughout his distinguished career as Ambassador, as a Cabinet officer, and as Governor of New York, served with the distinction and the grace which have become the hallmarks of Tuxedo, NY.

The name Tuxedo is familiar to all in this chamber as well as to all Americans due to the article of formal clothing which was invented there by Pierre Lorrilard in 1885. Tiring of the old tradition of dressing in tails for dinner, Mr. Lorrilard cut the tails off of his evening coat and a new line of clothing—the Tuxedo—was born. All of us associate wearing a Tuxedo with the outstanding events of our lives: the high school prom, the college graduation ceremonies, and our weddings. Thus, the lives of millions of people throughout the world are linked to this fine community in New York State on milestone occasions.

Many residents of my 22d Congressional District are confused regarding the upcoming centennial celebration. After all, the road signs greeting travellers about to enter the town of Tuxedo indicate that the town was established in 1889. In fact, this was indeed the year that the Board of Supervisors of Orange County approved separating what is now the town of Tuxedo from the town of Monroe. However, the first election of town officials and the first town board meeting were held during the spring of 1890. Accordingly, the State Historian's office has advised the town of Tuxedo that this year, not last, is the suitable time to celebrate the town's centennial.

And so, Mr. Speaker, we salute the more than 3,000 residents of the town of Tuxedo. In addition to residing in the aforementioned communities of Tuxedo Park—which has been an incorporated village since 1952—and the hamlets of Sterling Forest and Arden, the town of Tuxedo also consists of the hamlet of Tuxedo where the town hall, police department, and other governmental offices are located; the hamlet of Southfields which was originally the business and cultural center of the town upon its first incorporation; and the hamlet of Eagle Valley, one of the most beautiful locations in New York State.

Mr. Speaker, Town Supervisor Annette R. Dorozynski, her town board, and the other town officials have joined with the historical society, the fire departments, and with many other interested citizens of the community all of which have worked hard to organize truly memorable and appropriate centennial ceremonies. Accordingly, I invite all of our colleagues to join with me in wishing the town of Tuxedo a happy anniversary and our heartiest congratulations as they embark upon their second century.

PENNSYLVANIA NEWSPAPER WINS PULITZER

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. KOSTMAYER. Mr. Speaker, over the next 10 legislative days I will be entering into the CONGRESSIONAL RECORD 10 editorials written by Tom Hylton of the Pottstown Mercury in Pottstown, PA.

These editorials on the subject of farmland preservation won this year's Pulitzer Prize for editorial writing, and I commend them to my colleagues.

These editorials address what is, in my view, a most pressing problem in southeastern Pennsylvania.

The House Interior Committee's Subcommittee on General Oversight and Investigations, which I chair, is conducting a series of hearings in Washington and around the country entitled "The American Landscape in the 21st Century."

Throughout the eastern United States, open space and farmland is vanishing from those congested areas between Boston and Washington where it is most desperately needed.

These editorials speak to the tragic destruction of the American countryside and the efforts of a single community in southeastern Pennsylvania to slow it down just a bit.

[From the Pottstown Mercury, Feb. 27, 1989]

SWIFT, STRONG ACTION NEEDED TO PRESERVE OUR FARMLAND

There are 26 states east of the Mississippi River.

Many of these states are famous for agriculture—from the cotton plantations of Alabama to the orange groves of Florida, from the tobacco fields of North Carolina to the plains of Indiana and the great dairy farms on Wisconsin.

But the greatest center of agricultural production in the East is right outside our doorsteps.

Of the 1,566 counties in the East, Lancaster County is No. 1 in the total value of its agricultural products.

Chester County is No. 8.

Berks County is No. 22.

Agriculture is the most important industry in Pennsylvania, and the heart of Pennsylvania's agriculture is in the southeastern Pennsylvania.

But a great tragedy is unfolding before us. Our agricultural heritage—and our most vital industry—is being lost to uncontrolled development.

Thousands of acres of the finest farmland in the world are being squandered for rambling housing developments and strip malls.

And in the mad scramble for dollars, developers are destroying the very quality of life that has attracted new people and industry to our area in the first place.

In recent years, Chester County has been losing its farmland at the rate of four acres a day. That rate is now accelerating to 10 acres a day.

Since 1979, Chester County has lost 47,000 acres of farmland—an area more than five times larger than North Coventry Township.

Berks County is now losing about 5,000 acres of farmland a year. Since 1978, the county has lost more than 40,000 acres of land to development.

The creation of agricultural security districts is a step in the right direction—but it provides no guarantee that farms will be saved. Farmers can drop out of the districts and sell their land to developers at any time.

There is only one sure way to save farmland, and that is to buy the development rights.

Recently, the chairman of the Chester Agricultural Development Committee said the county should set a goal of preserving at least 50,000 acres of farmland by the year 2000.

He said it could cost $100 million just to save 20,000 acres by purchasing the development rights. He hoped another 30,000 acres could be saved through private efforts.

With each new farm that is developed, it becomes that much more difficult to save the remaining farms. Development feeds upon itself.

So far, the Chester and Berks County commissioners have been temporizing about the issue, hoping that some politically painless course of action will magically appear.

It won't.

If the farms are to be saved, the counties will have to spend money—lots of it—to buy the development rights.

It must be done if we are to save our environment, our biggest industry, and our irreplaceable quality of life.

There is no other way.

CHINESE STUDENT LEADER CHAI LING DISCUSSES THE MEANING OF TIANANMEN SQUARE MASSACRE ON THE ANNIVERSARY OF THE SUPPRESSION OF THE DEMOCRACY MOVEMENT IN CHINA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. LANTOS. Mr. Speaker, this week, we have marked in sadness the anniversary of the suppression of democracy in the People's Republic of China with the bloody Tiananmen Square massacre in Beijing. That brief flowering of democracy in totalitarian China was largely due to the efforts of students, the young generation of the Chinese people who sought a better life for themselves and their country.

Mr. Speaker, Chai Ling was the primary leader of the Chinese Students' Democracy Movement during the dramatic events 1 year ago in Tiananmen Square. She was the chair of the hunger strike committee which organized a freedom fast from May 13–20, 1989, in which thousands of Chinese participated.

During the brutal massacre of the peaceful prodemocracy demonstrators on June 3–4 of last year, Chai Ling remained in Tiananmen Square with Li Lu and her husband, Feng Cong De. After the bloodshed, Chai Ling led the survivors from the square at 4:45 a.m. on the morning of June 4. Following the military repression, Chai Ling and Feng Cong De fled from Beijing foir safety. After surviving some 10 months underground, they were able to escape China and arrived safely in the West.

Today under auspices of the Congressional Human Rights Caucus, Members had the opportunity to meet with Chai Ling and discuss her outlook on the future of human rights and democracy in China. She has been in the United States for the past week and will continue to speak and meet with groups throughout our country during the remainder of this month. During her stay, the Congressional Human Rights Foundation has been responsible for her agenda.

Mr. Speaker, on the anniversary of the Tiananmen Square massacre, Chai Ling delivered an excellent statement on the significance of the events of last year for the Chinese people and for the future of democracy in China. I ask that her statement be placed in the RECORD, and I urge my colleagues to give her remarks careful and thoughtful consideration.

SPEECH OF CHAI LING

THE MEANING OF TIANANMEN SQUARE

One year ago yesterday, the killing began in Tiananmen Square. The Massacre ended the peaceful demonstration that had lasted for over fifty days. For fifty days, we peacefully presented to our government our hopes and dreams for China. The Government responded with martial law, tear gas, bullets and tanks.

The major theme of the democracy movement last year was peace. The highest principle of peace is sacrifice. The people in China, indeed all over the world, were inspired by our belief in peace, and our willingness to make sacrifices for peace.

During the hunger strike, all of Beijing was full of the human spirit of peace and love which had never been felt in the forty year history of Communist China. That history has been dominated by hatred, and class struggle.

One year ago, when the tanks came into Tiananmen Square, the students were simply sitting there, facing the tanks peacefully. Outside the Square, thousands of people blocked the tanks with their bodies. Their weapons were not guns, but human dignity. But that is the most powerful weapon that people can have. That night, it took four to five hours for the tanks to move one hundred meters forward.

Wang Weilin, the 19 year old student, blocked the tanks on Changan Avenue with this love, the love for the lives of peaceful demonstrators in Tiananmen Square. That scene was captured by the photographers, and made known to the world.

There was also a scene that wasn't so well known. A young woman, a student from an university in Beijing, also tried to block the tanks from going into Tiananmen Square. She put one hand on her waist, and the other hand up in a stop sign in front of the tanks. But for her, the tanks did not stop. She was crushed. Her young blood forever is a stain on Tiananmen Square, and on our current government.

Why was she willing to die? Because in her heart she had the same beliefs as the peaceful demonstrators in Tiananmen Square. The power of love, the power of peace, the power of hope, ruled in Tiananmen Square those fifty days before the Massacre occurred. The people protected each other.

It would have been easy for the Chinese Government to arrest the unarmed students. They didn't need to kill us to stop the peaceful demonstration. They certainly didn't need the tanks and machine guns and other heavy weapons in order to kill us. The reason they were so brutal was because for forty years, the Chinese Communists party had systematically killed many innocent people. Their killing had made the leaders of the government live constantly in fear, fearful of the evils within their own souls. They feared the students' peaceful spirits, they feared the power of love, they feared most of all, the awakening of the people.

It is peace and love which the students had found within themselves in Tiananmen Square that awoke people all over China. By government counts, in 1989, there were demonstrations in 84 Chinese cities. The Spirit of Tiananmen Square has lit the Chinese people's desire for freedom and democracy.

Brutal force and terror can never win the hearts and minds of the people. After last June, the people have less fear of death, both physically and spiritually. This is true all over China. That is the reason I could escape successfully. People were no longer afraid to help me.

THE CURRENT SITUATION

Today, we see all over China passive resistance against the government. Since people no longer believe in the Government, it has lost its legitimacy. This resistance is very strong among workers and peasants. In the ten months of hiding, it was the ordinary Chinese people who helped me, sheltered me, fed me and helped me to escape.

In my journey, I discovered a great number of people were listening to VOA and the BBC. The people of China know the truth. They see the government without its skin. They see the evil, and feel the fear of the Chinese Communist Party leadership.

After the massacre in Tiananmen Square, the government of China can never be the same. During last year's democracy movement, the majority of government officials were sympathetic and supportive of the students and peaceful demonstrators. Now some of them are helping us to escape. These officials are just like us, eager for freedom and democracy.

And the society of China can never be the same. Today the underground resistance organizations are still alive. They are careful and waiting, but alive and determined.

Today is the day of sorrow. Thousands of mothers, teachers, and friends who lost their loved ones last June have been grieving for a year. There have been many tears, but the tears have not been in vain. The tears have become the seeds of change, the seeds of human rights, the seeds of freedom and democracy.

The Chinese Government didn't just want to kill the people in Tiananmen Square. They wanted to kill everything—the hope for freedom, the brave call for basic human rights, and the love deep in our hearts. But during my ten months of my escape, I saw that no one can kill hope. The hope for a free life, the hope for a better future, and the hope hidden deep in the hearts of every Chinese man and woman. I am determined to fight, to keep their hopes alive, and to see the day when our hopes become reality.

Today as I stand in freedom, under the protection of democratic governments, I plead to the people of the world that you must not forget those who gave up their lives for freedom and democracy. Please listen to the cries of China's prisons, and the voices of students, workers and peasants who are still deprived of basic human rights. I say to the people of America, please do not forget the people of China. Indeed, do not forget people everywhere who suffer at the hands of brutal governments. The economic well being of our society is important, but it can not be more important than the lives of our people. Let your voices of support be heard, for the road to freedom and democracy is long and difficult, and we must not give up so soon after so much blood had been shed.

And I say to the governments of the world, do not look at the Chinese people with old eyes, for the people of China have

been emboldened in their quest for freedom. The struggle for justice is deeply felt by the Chinese people. It is not imported from abroad. It is deeply rooted in our own culture and history. It is our political leaders who now resist this idea.

I am grateful to be in Washington, DC with all of you today. I appreciate all the support so many people have showed to me and to the Chinese people. But one day, I hope to return to my beloved China when it is free.

GOOD EASTER NEWS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. DORNAN of California. Mr. Speaker, though we have yet to consolidate our victory over communism in Eastern Europe, many are nonetheless debating what America's role should be in the post-cold war era. In that respect, I would like to submit the following column by William R. Hearst and commend it to my colleagues. Mr. Hearst quotes extensively from a brilliant editorial from Zurich's preeminent newspaper.

GOOD EASTER NEWS

"Seldom in its brief history as a world power has the United States had more grounds for satisfaction than it does today. The principles of its national existence and political nature—freedom, democracy, human rights—are spreading with explosive force even to places where they have been most deeply despised by governments and bureaucracies. . . .

"At this point, no one knows just where the turbulent upheavals in the Soviet empire will lead. But the task which America assumed after World War II, that of containing communist expansion and promoting democratic, pluralistic, market-oriented values, appears to be culminating now in historic triumph.

"What, then, is America's next task?

"There are some understandable arguments on the side of America's 'coming home.' The question is raised, for example, of whether it is worthy of a great power to trouble itself about the small details of history, once it has so splendidly fulfilled its over-arching mission of facilitating the breakthrough of democracy? Given all the domestic, social and economic challenges facing it, would it not make more sense to strengthen itself and prove itself at home?

"There is as yet little justification for isolationist idylls or triumphal cries about the end of history. One central reality in today's *Realpolitik* is that America remains a factor of magnitude, a superpower (perhaps, the only one deserving of the name at this point) with a definite place in the structure of the world.

"America's role today must be less a missionary one, as Reagan saw it, than that of a force for order, pacification and security. President Bush appears to have grasped this fact quite clearly. When there is great agitation on one side, it is surely better for the other side to remain calm and clear-headed. Bush may be just the sober, realistic-minded helmsman needed to steer America on its new course between the trumpets of the crusaders and the siren song of the isolationists. . . .

"What American policy cannot do is to resolve the internal tensions in Soviet reform policy or stake everything on Gorbachev's personal success.

"With respect to the latter, up to now Bush has been able to clearly differentiate between the historically legitimate desire for sovereignty of the Baltic states and the violent disorder in the Caucasus. For the moment, he cannot do more than urge the Kremlin to exercise the same discrimination.

"This makes American steps in the traditional realm of policy toward Western Europe all the more urgent.

"Bush's assurances that America intends to remain a European power and Washington's increasing inclination to regard the single European market of 1992 as an opportunity for intensified Atlantic cooperation, rather than as a threat to its own economy, reveal the present administration's priorities.

"Particularly under the impact of the moves toward unification of East and West Germany, Bush has filled the old American rhetoric about a unified Europe with concrete political content. The role of NATO is being reevaluated and the political component always inherent in it is to be given greater importance.

"As newly free Eastern European countries seek links to the economic power of Western Europe, and as the 'German question' in a new form moves to the center of all European thought about the future, Europe once more becomes central to American foreign policy.

"If, as it appears, America needs a new challenge, it may be found in strengthening of old ties so that they can be made ready to take on new partnerships. From these, new international structures may grow. For the foreseeable future, they are unthinkable without American participation."

NALC BRANCH 40 CENTENNIAL

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Ms. OAKAR. Mr. Speaker, branch 40 and Cleveland, OH have contributed a large share of the pages that have gone into the making of postal history. I am proud to announce the 100th anniversary of the William C. Doherty Branch 40 of the National Association of Letter Carriers on the 24th day of July 1990.

The real birth of branch 40 took place in a gas lit reception room of a private home on the morning of October 6, 1889. Eleven men who dared to oppose the sentiments of a restless and politically dominated system, were jeopardizing their jobs by forming the Cleveland Letter Carriers Association. A few months later, carrier F.S. Trafton went to a conference in Milwaukee and upon his return, carriers decided to apply for a charter.

The earliest and perhaps the greatest contribution was made by a postal employee and Clevelander William Briggs. He not only conceived the idea, in 1863, for inaugurating "home delivery service" but also designed the first letter box and carrier uniform.

From its infancy—with a handful of ambitious, heroic, dedicated men, under the leadership of John L. Green up to the present president, Jack N. Grab; vice president, Robert P. Harrigan; administrative vice president, Daniel Rupp; administrative vice president, James L. Perry; and hundreds of other officers and stewards—the association has been fortunate in having men with the executive ability, good judgement, high degree of honesty and the faculty to lead their members.

Branch 40 has come a long way from the original 11 men in 1890. They have been in the forefront of every struggle to improve working conditions and wages of not only the letter carrier, but of every postal and Federal employee in the country. They now boast a membership of 1,231 retirees, 102 life members, and 2,670 active carriers.

Mr. Speaker, I know that I speak for my colleagues, present and former, from northeast Ohio, when I say that we are proud to have the privilege to represent this dedicated group of public servants. We have worked closely in the past, and we will continue to work together toward the goals of branch 40 that we all share.

The achievements of branch 40 were gained through hard work and vision which makes this centennial year a proud achievement.

LIBRARIAN RUTH SHIRE TO RECEIVE YOUTH SERVICES AWARD

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mrs. LOWEY of New York. Mr. Speaker, on June 17, 1990, the membership of the Mount Vernon B'nai B'rith will honor Ruth Shire with their annual B'nai B'rith Youth Services Award. For 17 years, the group has chosen to receive this award an outstanding member of the community who has shown a strong commitment to helping our youth to receive this award. Ruth Shire is certainly well-deserving of this prestigious honor.

The library is the backbone of our Nation's educational system. Local public and school libraries offer resources and services to students, as well as "safe-havens"—places to go after school and on weekends that are nonthreatening and promote a positive self-image.

The House of Representatives, in approving the Library Services Act, has evidenced its strong understanding of the importance of libraries to our Nation's well-being.

Ruth Shire has, for many years, been involved in our library system. She has served as the head of the children's department of the Mount Vernon Public Library since 1986. She has also served as the children's librarian on the Mount Vernon Bookmobile, which travels to schools and neighborhoods throughout Mount Vernon, and with the Yonkers Public Library, bringing story hours and books to the children of inner city day care centers.

The value and influence of our libraries can never be overestimated. Mrs. Shire has shown an unceasing commitment to education and to literacy. She has served as a shining example of community service for the benefit of our

youth. Her involvement has given young people hope. Her activities have made the resources available for these young people to expand their horizons and broaden their opportunities. She is to be heartily congratulated for receiving this well-deserved honor from B'nai B'rith.

TRIBUTE TO THE WARREN-TRUMBULL COMMUNITY SERVICE AGENCY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Warren-Trumbull Community Service Agency [WTCSA] of my 17th Congressional District of Ohio, which celebrated its 25th anniversary on April 7, 1990. Since its formation, WTCSA has been devoted to breaking down the barriers of poverty and ignorance.

The WTCSA has been on the forefront of assisting members of our community in making a better life for themselves. WTCSA has been particularly active in the areas of welfare rights, minority health, and the homeless. The agency has a variety of departments, which include a youth department, a transportation department, a weatherization department, a client service department, an education department, and a nutrition department. All of these departments are devoted to enriching the lives of the citizens of our community.

The WTCSA takes great pride in the many programs and services that it offers. These include a youth assistance and guidance program modeled after the "Big Brother/Big Sister" approach. A weatherization program helps people decrease their home heating bills. The agency also offers a preemployment training program that is designed to assist people in their job search. These are just a few of the many programs that the WTCSA offers.

Mr. Speaker, I would like to take this opportunity to congratulate the WTCSA on their 25th anniversary. I would also like to commend the agency on the outstanding work they have done for our community. I am honored to have this exceptional organization in my district.

WEST POINT'S 1990 GRADUATING CLASS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. GILMAN. Mr. Speaker, on May 31, 1990, 895 outstanding young men and women were graduated by our Nation's Military Academy at West Point, NY. I was pleased and proud to be on hand as these sterling young citizens became a part of the defense forces of our Nation. I was moved again, as I am every year, by the solemn ceremony at West Point which carried forward the grand tradition of our U.S. Military Academy—a long gray line which soon will be 200 years old.

"Duty, honor, country" is the motto by which the West Point student lives, and by which he or she is prepared to die.

Mr. Speaker, I was especially proud of our four constituents who graduated as part of the 1990 class at West Point. Three of them—Sean M. Kilkenny of New City: Victor G. Garcia of Tappan; and Terence E. McLinskey of Pearl River—were selected by our 22d Congressional District Service Academy Review Board during the fall of 1985, and I was pleased to have nominated them for admission to West Point. A fourth student, Joseph N. Dejulius of Valley Cottage, was nominated at about the same time by our colleague in the other Chamber, the junior Senator from New York, Mr. D'AMATO.

The President had initially agreed to address the class of 1990 at West Point, but he was forced to cancel these plans due to the intervening scheduling of the summit conference with President Gorbachev. The President designated Gen. Colin L. Powell, our Chairman of the Joint Chiefs of Staff, to represent him at West Point's graduation.

The President could not have made a more appropriate choice. Having been commissioned in 1958—ROTC, city college of New York—General Powell throughout his long military career has come to personify the words: "Duty, honor, country."

Following the graduation ceremony, General Powell invited me to accompany him on a visit to our Reserve units at nearby Stewart Airport. His remarks upon the visit were extremely gracious and well received by the 105th Air National Guard.

Mr. Speaker, I would like to share General Powell's graduation speech with our colleagues by inserting it into the CONGRESSIONAL RECORD at this point:

REMARKS BY GEN. COLIN L. POWELL, CHAIRMAN OF THE JOINT CHIEFS OF STAFF

It's impossible for me to attend a commissioning ceremony without my thoughts drifting back to my own commissioning 32 years ago next week.

Although you and I are separated by more than a generation in age and an epoch in terms of the world you are entering compared to the one I did, I suspect the old 2d Lieutenant Powell's standing here and the new 2d Lieutenant Powell's sitting out there have more in common than you might expect.

First of all, an overwhelming sense of accomplishment in meeting the challenge that was set before us. The satisfaction of a work well done.

I'm sure there is also a feeling of excitement as you anticipate the future—leaving the world you have known here at West Point for the world you will discover in your first assignment.

We share the same pride of following in the footsteps of countless others who went before us and who dedicated their lives to preserving our nation's heritage.

And of course, we both share beaming parents and family smiling on with a mixture of pride, surprise, and in some cases outright disbelief.

And, finally, without question we share the intense desire for the speech to end and for the party to begin.

If our experiences on the day we received our commissions are similar, the world today is far different than when I began my military career. Let me take you back 32 years and tell you a little about the world I entered.

My first tour was overseas in Germany as a second lieutenant in charge of forty infantrymen guarding a place called the Fulda Gap, on the massively armed border between East and West Germany. The year was 1958.

NATO was less than a decade old, West Germany had been in the alliance less than three years. Two years earlier the Soviets had poured 200,000 troops and 4,000 tanks into Hungary to stamp out the dreams of the Hungarian people for freedom.

The Berlin Wall had not yet been built. One year earlier the Soviets had launched Sputnik, shattering our notions of intellectual superiority and ushering in a period of missile-rattling diplomacy on the part of Premier Khrushchev that culminated in the Cuban missile crisis.

One month after I arrived in Germany Premier Khrushchev announced that the Soviet Union was committed to putting an end not only to the Western presence in Berlin, but in all of Germany. None of us knew if war might be imminent. It was a troubled time.

And now, today, the world you inherit is quite different. It is a world fundamentally re-shaped by the revolution of 1989.

The Berlin Wall—symbol of oppression—is down and now being broken up by the East Germans to sell as souvenirs.

In Czechoslovakia, a playwright is now President.

In Poland, a shipyard worker has welded the idea of freedom onto the mast of the new Polish Republic.

The menacing Red Army I have watched for 32 years—designed to sweep westward—is retreating as the forces of democracy sweep eastward.

The prospect of a World War is no longer a fear. The world is still troubled, but the prospect of peace is now more than a dream.

And what of Fulda where I started? It's still there—waiting for one of you. But by the time you get there it may not be an armed border camp. It may well be a place inside a now unified Germany where you will be insuring the peace rather than deterring a war.

And when next I visit Fulda I'll reminisce with the German farmers who still bring hot coffee to young American lieutenants on cold winter days.

Our nation has won two great victories in my lifetime. One on the battlefield 45 years ago; the other without firing a single shot in combat.

In the first victory we defeated facism by the force of our arms; in the second we defeated communism by the strength of our arms. In both conflicts our democratic system of values made the difference.

At the end of the first confict, General Omar Bradley—who was to become the first Chairman of the Joint Chiefs of Staff—spoke from where I am speaking now. He looked back on the sacrifices and the bloodshed, the pain and the triumph.

He thought of D-Day when we began our mission of liberating Europe. And he said, ". . . this was not an army, not a navy, but a nation sailing to war. Our ships were filled with the achievements and hopes of the American people."

Today, I stand before you at the threshold of our second victory. In this second struggle we had no D-Days. There were no great naval battles, no invasions, no grand armies

sweeping across a continent devastated by tyranny.

But, in this second struggle we too were filled with the achievements and hopes of the American people. We too stood at the outposts of liberty. We too paid the price, we showed resolve, we showed the will of free people united, and we prevailed.

We Americans are a pragmatic people. When we set out to meet the Soviet challenge, our goal was not to achieve worldwide domination, but to make it clear to all that we would never acquiesce in the destruction of all that was dear to us and to our friends and our allies.

In this struggle, our institutions sustained us, our values nurtured us, and our armed forces protected us. In this struggle we were not alone. We were joined by allies who shared our belief that peace and security cannot be obtained at the expense of freedom.

In 1945, Clark Clifford, one of President Truman's closest advisors, wrote to the President telling him what needed to be done to meet the Soviet challenge. He said we had to make the Soviets change their minds. Instead of thinking that war was inevitable, we wanted them to join with us in settling our differences peacefully. Clifford's hope was that the Soviets would come around when, he said, "they realize that we are too strong to be defeated and too determined to be frightened."

Today, under President Gorbachev we see dramatic changes that bear out the wisdom of Clifford's advice.

Today, at this hour, President Gorbachev is in Washington meeting with President Bush to continue their efforts to fundamentally reshape our relations in the way we have prayed for, worked for and stood guard for.

Today, President Gorbachev is here because he has taken a measure of our strength, and the challenges facing his own people: a people striving to come to terms with their past, to reform their present, and to plan for their future.

Who among us even a year ago could have imagined that today the Soviets would be implementing controlled market policies or that in the Russian Republic an opposition leader would be voted in after a raucous election campaign with all the earthiness of a Chicago primary.

The way of the future is clearly democracy. Why? Because it works. That's why it is sweeping Eastern Europe. But it goes beyond Europe. It is light reaching into the darkest corners of oppression in the world. It works. It works because it frees the human mind and the human soul to reach their full potential.

And so we are at a watershed in our history. Strength, determination, resolve—all in service of our ideals. It is the coming together of American power and American purpose. It worked in 1945. It worked in the revolution of 1989. It works today and will work tomorrow. In our struggles we have learned a valuable lesson: in a democracy, power without purpose is morally unsustainable; purpose without power is militarily indefensible.

On the threshold of our first great victory, General Bradley looked to the future. He looked to a time when our citizen army would no longer be engaged in combat, but had to remain ready to defend our interests.

Bradley wanted a foundation stone of military strength to preserve and insure the peace. We know what happened to General Bradley's request. One year after our victory over aggression, our armed forces were a shell.

In the blind hope that they will not be needed again, let us not repeat the mistake of the past by dismantling our armed forces when danger seems to be gone. That will not serve the long-term interests of the United States or our friends throughout the world. We must maintain a strong defense to maintain a strong America.

The language of my generation—Cold War, confrontation, containment—is disappearing in the wake of revolutionary change. But, revolutions do not blot out history. Our task therefore is straightforward. We must recognize what has changed and what has not. We must identify what threats have receded and which have not. We must also remember what is constant, what endures.

The first enduring reality we must face is the Soviet Union itself. President Gorbachev has not embarked on his breathtaking revolution to relegate the Soviet Union to the status of a second ranked power. Nor should we expect him to. I believe he is as sincere in wanting to reform his country as he is in making sure it continues to play a dominant role in world affairs.

Gennady Gerasimov, the Soviet spokesman at their Ministry of Foreign Affairs, spoke recently to a group of American college graduates. He outlined a litany of Soviet failures, all in service to an ideology which he said just didn't work. It was a remarkable admission. But he ended his talk by saying, "But we haven't done everything wrong, there are some things we have done right." And what topped his list of Soviet successes? Nuclear weapons. Military power. He reminded his listeners, "We are a military superpower."

The Soviets are withdrawing their forces from Eastern Europe. But, they will still maintain the largest, most modern military force on the Eurasian landmass.

Neither will the Soviets dismantle their impressive and modern nuclear arsenal. Whatever the outcome of Mr. Gorbachev's revolution, one fact remains: the Soviet Union will still possess thousands of nuclear warheads that can destroy America in thirty minutes. We must never allow ourselves to be at a nuclear disadvantage.

The Soviet threat has receded. And that is good. But the Soviet Union is a country that has demonstrated throughout its history that it will pay the price to remain a great power. That is the enduring reality behind the Soviet revolution today. And so while we applaud the Soviet revolution, let us not lose sight of the enduring reality of Soviet military power.

There is a second enduring reality, one that lies across the ocean in Europe. We are and will remain an Atlantic power, tied to Europe politically, economically, militarily, and culturally. This is accepted on both sides of the Atlantic. Shared values brought the U.S. and Europe together for collective defense. Unlike the Soviet Union, we did not impose an ideology on clients. We shared a heritage with allies. That is why none of our allies and friends across the Atlantic wish us to disengage from the future evolution of Europe. And that is why we must remain in Europe.

A third enduring reality lies across that other great ocean, the Pacific. While we kept the peace in Europe for forty years we fought two bloody wars in Asia. When I was not defending collective security in Europe, I was fighting in Vietnam or standing guard in Korea. Today, few nations in Asia wish us ill-will. To the contrary, our presence is viewed as a bulwark of stability in an area of the globe inhabited by a third of humanity. We must not shrink from our Pacific responsibilities.

And finally, a fourth enduring reality; one that highlights not how far we have travelled in the course of history, but how much further still we have to go. War, fundamentalism, drugs, and terrorism are all still with us. They were not spawned by Communism's birth; they will not end with Communism's demise.

In the Middle East, regimes have scarred Isaiah's prophecy and are beating their swords into missiles. In Central America, we had to call upon our citizen army to overthrow a despot and return Panama to its people.

Sixty years ago a treaty was signed declaring war to be an illegal instrument of diplomacy. Fifty million casualties later we understand that good intentions and declarations alone will not suffice to ensure the peace. Ready armed forces are the answer for the crisis no one ever expects.

We will remain joined together with our friends and allies; united by the common bonds of values and interests. We will do what is required of us to support the peace. American power and American leadership are still essential. We are a superpower. We must lead as a superpower. We must retain the strength of a superpower.

A strong, trained, ready, and proud American Army is the key to our continuing superpower strength. An Army sure of its roots. An Army proud of its past. An Army unafraid of the challenges of the future. An Army that will be as needed in the future as it has been in the past. An Army to insure the peace and to protect the nation against risk and uncertainty.

An Army that will be smaller but with each passing year will be better. An American Army deserving of the very best soldiers and leaders the nation can provide.

What you are about to enter is the finest peacetime American Army we have ever had.

I want to strike a bargain with you. Let the old General Powell worry about the defense budgets, peace dividends, and geopolitical trends. The young Lieutenant Powell's, the one's out there today, you go and do what West Point second lieutenants have been doing since 1802—lead your soldiers. Keep them fit, and hardy, trained and ready. Keep them proud.

You and your soldiers are the guardians of the nation. You are the nation's life insurance. The American people understand this and appreciate your service and commitment. They know the world is still a place of turmoil and danger.

Two hundred years ago, as the Constitution was being debated, one of its drafters suggested a numerical limit of 2,000 troops on the U.S. Army. George Washington agreed, "An excellent idea—if only we can convince our collected enemies to maintain no more than an equivalent amount."

Did Washington have a keen appreciation of imminent danger to the fledgling republic? Or did he appreciate that the clash between good and evil, between conflicting interests or competing ideologies, makes it dangerous to impose limits so arbitrary as to deny the U.S. the wherewithal to defend itself and its values?

Washington understood what it took: sentinels at the outposts of liberty. The enemy is incidental. The sentinel—well-trained and ready—is not.

You and your soldiers will be those sentinels. You will be the ones on whose shoulders fall the responsibility for taking our Army, training it, nurturing it, preparing it for war, even as we seek the promise of an unprecedented peace.

Words like "leadership," "resolve" and "determination" are just words until they are brought to life by men and women who dedicate themselves to the profession of arms and the security and well-being of the nation. This is as true today as it was in 1802 when this Academy opened its doors for the first time.

General Bradley spoke of a nation sailing to war. We are a nation sailing toward peace—a peace that offers us more hope for security than at any time over the last half century. We will need our values to guide us, our elected officials to lead us, and our men and women in uniform to protect us.

And so as you leave here today, be strengthened by the 188 years of heritage that is now passed on to you by the "Long Gray Line." Remember the beauty and strength of this place and let it always be an inspiration to you. Remember the solid, gray granite of these walls and how these stones have stood against countless seasons, a symbol of America's strength around the crucible of her military leadership. And remember this simple charge—love your soldiers with all your heart and soul and mind and body. And selflessly serve your grateful nation.

Welcome. Congratulations. God bless you.

THE NATIONAL HOLOCAUST AWARENESS STUDENT ORGANIZATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I want to share with you information on the National Holocaust Awareness Student Organization, an outstanding group which initiates Holocaust awareness programs to inform students.

The National Holocaust Awareness Student Organization raises the consciousness of students by alerting them to the dangers of prejudice. Through the guidance of speakers and survivors, students will be exposed to the atrocities of the Holocaust and the implication of prejudice.

The National Holocaust Awareness Student Organization will communicate directly with the students so that they may become acutely aware of the intolerance, bigotry, and inhumanity that existed in the 1930's and 1940's and which continues to exist in the world today.

Nine months ago, in Miami, FL, Sam and Ben Rogatinsky, along with two other friends, formed the National Holocaust Awareness Student Organization to fight anti-Semitism. They started recruiting in the Hillel group on many campuses and now have over 400 members. Anyone is welcome to become a member, even though the organization was started with just students in mind.

Mr. Speaker, the efforts that these young people put forth in the National Holocaust Awarness Student Organization is extraordinary. I commend their courage and strength to realize the importance of educating and fostering and awareness of the horrors of the Holocaust. It is my hope that this organization will continue through generations to come. These young people strive to make the world a better place to live.

GARDNER, MASSACHUSETTS AARP COMMUNITY TRUST FUND

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. NEAL of Massachusetts. Mr. Speaker, today I pay tribute to a group of outstanding senior citizens in my district: the members of Chapter 3237 of the American Association of Retired Persons AARP of Gardner, MA. Recently the members of Gardner's association of retired persons epitomized the ideals of hometown commitment and community service by creating the Greater Gardner Community Trust Fund. Chapter 3237 is the first and only of more than 4000 AARP chapters nationally to have started this type of trust fund.

The AARP chapter members in Gardner, with an average age of 70 years old have set a new standard of concern for future generations that AARP chapters and other organizations in this and other communities the Nation are going to find difficult to duplicate. By raising $1,000 each year for the next 100 years, the local AARP predicts the trust fund will pay out over $1.9 million to the Greater Gardner area over the next one hundred years.

The senior citizens involved with this project have expressed concern not only for their neighbors in Gardner today, but for the generations of people who will reside in their community years and years from now. They have worked diligently to create a fund that they themselves will never benefit from.

Mr. Speaker, I salute the 867 members of the Gardner Chapter of the AARP on their effort to better the community in which many of them lived their entire lives. I applaud the efforts of all the members, including the trustees of the trust fund; John Hunt, chairman; Hugh Hunter, vice chairman; Rod Preliasco; Alice Pacocha; and Albert Landry. The members of chapter 3237 have demonstrated that they have a vision for the future not common to most people of this country. They have displayed a generosity for people whom they may never know because many of the beneficiaries of the trust fund are yet to be born.

I congratulate the members of chapter 3237 of the AARP of their commitment to their community. On behalf of the people of the Greater Gardner area in this and future generations, I thank them for all that they have done. If their endeavors with the fund are successful, I am sure they will have set a standard to be followed by many other organizations nationwide.

TRIBUTE TO DR. JOHN ALEXANDER

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, a deep cloud of sorrow has descended upon my community. One of our most accomplished and generous leaders died suddenly this past Sunday. Perplexed by God's wisdom in calling him to peace at this critical time, we wonder through our tears just how we will carry on without him.

John Alexander was born in 1919 in Nashville, TN to Dr. Royal C. Alexander and Esther Tildon Alexander. He spent his childhood in Orange, NJ and graduated from Lincoln University in Pennsylvania and Meharry Medical College in Nashville. Dr. Alexander served his internship in St. Louis, MO where he met and married Emily Louise Pierce. Upon completion of his studies, he returned to Orange and established a general practice.

Dr. Alexander was a hard working and loving leader to my community. Throughout his outstanding and distinguished career he provided for our daily needs in so many ways. As a physician he maintained an extensive private practice for over 45 years that provided basic health care to untold thousands of children. As a public health administrator, he developed the Children's Hospital of New Jersey where he served as chief of staff. As a scientist, he was the first to recognize the need for neonatal intensive care units to save critically ill newborns. He established the Nation's first intensive care unit for newborns at Babies Hospital in Newark. As an educator, he served as a member and president of the Orange Board of Education. His good work put an end to gerrymandering that created racially segregated school districts and brought about the construction of a new high school. As a political and community leader, he counseled and financially supported the first generation of black politicians in our area.

Dr. John Alexander is a large cornerstone in our community's foundation. His good works have allowed so many of us to realize our potential as human beings, to lift our heads up with dignity and claim our rightful place in a white dominated society and to point with pride to this great man as an example of what blacks can contribute to society. He was our trailblazer on so many uncharted paths. At this time we sing loud praise for the many legacies he left behind and pray that he joins God for the glorious rewards that he deserves.

A BILL TO MAKE APPLICABLE TO MINE SAFETY AND HEALTH INSPECTORS CERTAIN PROVISIONS WHICH ARE CURRENTLY APPLICABLE TO LAW ENFORCEMENT OFFICERS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. RAHALL. Mr. Speaker, I am today introducing a bill to make certain provisions that are currently applicable to law enforcement officers also applicable to mine safety and health inspectors, under chapters 83 and 84 of title 5 of the United States Code.

Under the provisions of my bill, mine safety and health inspectors, are defined as any person appointed as an authorized representative of the Secretary of Labor, as described in section 505 of the Federal Mine Safety and Health Act of 1977.

Mr. Speaker, in this body we hear and we read a lot about the adverse affects of job-related stress, and particularly we hear it about law enforcement officers. I know that what I here and read about that subject is true. We have only to look at the statistics on the loss of life among customs inspectors of border States, for example, to realize that they need our help. I have read the statistics on assaults and actual loss of life among DEA, FBI, and the U.S. Marshals Service; I have read similar statistics about those who serve with the Immigration and Naturalization Service, the Judicial Branch, the U.S. Postal Service, Departments of Justice and Interior—and yes, even our own Capitol Hill Police.

But what we haven't been reading about or hearing enough about is the effects of similar job-related stress on Mine Safety and Health Inspectors. The Mine Safety and Health Administration is responsible for ensuring the health and safety of half a million workers at approximately 20,000 mines and mineral processing plants in the United States. There are approximately 2,743 total employees who participate in a nationwide coal and noncoal mining inspection program, conducting mine accident investigations, providing technical assistance and training to employees and to employee and labor organizations. Of that total, there are 1,497 MSHA Inspectors, directly involved in the enforcement of mine safety and health laws, who work cooperatively with States through assistance and funding for mine health and safety activities.

Mr. Speaker I have been associated with coal mines, the miners who work them, and the inspectors who are responsible for the inspection of those mines for most of my life. Based on my years of experience and first-hand observation, MSHA employees who are empowered to investigate and shut down a mining operation should have their positions included on the list of those individuals with jobs of high physical and mental stress, and the Congress should give immediate thought to the high risk to public health and safety which could result should any one of these employees be impaired or become impaired due to job related stress.

Progressively stronger mine safety laws have been passed in every decade since the 1940's, culminating in the passage of the Federal Mine Safety and Health Act of 1977, bringing metal and nonmetal—noncoal—miners under the same general procedures.

The Mine Act requires that every underground mine be inspected four times a year, providing for mandatory training for all miners, with increased emphasis on protection of the miners' health, and created stringent inspection requirements for especially gassy mines. The act also improved the procedures for imposing civil penalties for violations, and provided for the actual closure of mines in cases of imminent danger or failure to correct violations within the time allowed.

MSHA is responsible for promulgating legally enforceable mine safety and health standards, which standards may require the existence of certain safety conditions, or the adoption or use of one or more practices, means, methods or processes reasonably necessary and appropriate to protect mine workers.

To ensure and enforce these standards, over 1,100 MSHA employees are designated as authorized representatives, or AR's, of the Secretary of Labor. The AR's include certain coal mine safety and health inspectors, specialists, and engineers.

These employees are responsible for conducting inspections in mines throughout the Nation to ensure that mine operators are in compliance with the Mine Act and with MSHA standards. All AR's enter the mine unannounced. They interview employee representatives and employers, and inspect the mine operation and equipment. Normally, a single AR must inspect the mine, and he alone must detect safety and health violations and hazards.

Every day the men and women who work in the more than 20,000 U.S. mining operations face a variety of unique dangers on the job. Explosive methane gas, unstable ground and roof, poisonous atmospheres, radiation and harmful dusts—are only a few of the hazards they encounter as part of their jobs.

If after inspecting a mine an AR determines that the hazards are of such nature as to warrant closure of the section of the mine, or to shut down that piece of machinery, that AR has full authority, along with the full responsibility, without approval of his or her supervisor, or without the need to seek injunctive relief in the courts, to order an immediate evacuation and shut down of the hazardous portion of the mine, or to issue an order preventing the use of dangerous equipment until the hazard is abated.

Needless to say, Mr. Speaker, there are both employees of mines, and their owners/operators who, regrettable as it may be, have a lot more on their minds than safety and health when it comes to shutting down a mine—and it concerns the job of the employee on which he depends for a living, and on the profit margin of the owner/operator. In other words, mine inspectors can be, have been, and continue to be in at-risk situations, not only from the safety and health hazards themselves, such as mine explosions from methane gas, roof cave-ins, and the like, but also from the cumulative effect of hostile employees who can't afford the loss of wages if a mine shuts down, and from operators who don't want to lose profits from coal that remains unmined and unsold when the source is shut down.

AR's then not only have duties requiring them to make immediate and independent professional judgments to identify potential life-threatening safety and health hazards in our Nation's mines, but must also exercise immediate and sound judgment in determining whether to close a mine. They must be always alert mentally, and physically capable of instant action, for example to detect a small crack in the mine roof which could come crushing down on the workers, as well as on the inspectors. They must be intensely aware of faulty electrical conditions which could cause a flash fire raging out of control in minutes. Ambient coal dust and moderate methane levels may in isolation not create an imminent danger—but AR's must make sure that those conditions are moderate, and not immediate dangers—or that the concurrent existence of those conditions will not cause a sudden violent, and nearly always fatal explosion. And if it happens, that AR, the trained and designated representative of the Department of Labor, that MSHA inspector, must live with the emotional agony, if he lives at all, of believing, whether it is true or not, that he was not alert enough to prevent the devastation that took human lives, and left children and families behind. That somehow, he was totally to blame.

That is job-related stress. And so we are able to see that if an AR is tired, stressed out, and getting older on the job, it is possible that they could one day be so impaired mentally, physically, and emotionally that they are not clear headed enough to make the critical, on-the-spot decision to shut down the mine.

Lives can, and do, hang in the balance—based upon whether an AR is alert, and has the physical and mental stamina to detect health and safety hazards, and to take appropriate action.

A representative of the MSHA inspectors sent me a copy of the physical they must pass in order to qualify and stay qualified for their jobs. His comment to me was:

"This is our physical. To pass it is hard at age 18; at age 55 it is impossible."

Much of an MSHA inspector's duties include regular, continuous and strenuous physical activity. Much of their time is spent walking, crouching, and standing; carrying heavy sampling and testing equipment for long periods of time—from 50 to 80 pounds of such equipment. They often must climb high ladders to examine shafts and other facilities; when coal seams are narrow and low, inspectors must stoop for much of a whole day in locations no more than 3 or 4 feet high, with much time spent on their knees, crawling for miles.

All this is done with the added stress of underground mine inspections which are performed in the dark, where it is wet, and often cold, in a stooped or cramped position most of the time. Combine that with the fact that these underground mine inspectors are often surrounded by noxious gases and fumes that are potentially explosive, that they are breathing coal dust, and are subject to electrical

fires and rock falls, and you should have a very realistic picture of job-related stress.

In fiscal year 1988, there were 111,944 citations issued in the coal mine industry, 6,559 closure orders, 792 imminent danger orders, and 68 percent of the citations were determined to be significant and substantial.

In metal and nonmetal mines, there were 44,799 citations issued, and 1,055 closure orders, 434 imminent danger orders and 36 percent of the citations were determined to be significant and substantial.

Between fiscal years 1985 and 1988, there were 701 fatalities and 114,556 injuries reported in our Nation's mining industry.

The AR—or the MSHA inspector finds him or herself in a potentially dangerous environment on a daily basis. If not alert and unimpaired by job-related stress, they are not only placing the miners in great danger, but also themselves.

Since 1943, there have been 9 AR's killed on the job, and from 1986 to 1989 there were 848 on-the-job injuries to MSHA inspectors.

Let me just repeat, Mr. Speaker, for my colleague's benefit: MSHA inspectors, in order to be certified and recertified as mine inspectors, must have the ability to crawl for up to 4 hours and to kneel continuously for up to 3 hours each day, while inhaling silica, asbestos, fumes, smoke or gas, solvents, radiant energy, electrical energy, while walking on slippery and uneven walking surfaces, carrying backpacks of equipment weighing up to 80 pounds, while working around dangerous moving objects such as loading vehicles and machinery.

The bill I have introduced today will allow MSHA inspectors the opportunity to retire voluntarily at age 50 with 20 years of service, based on the physical, mental, and emotional stress and strain of their jobs, jobs that for the most part consist of working underground, in the dark, in work places often no higher than 26 inches, standing or kneeling for hours in water, inhaling noxious death-causing fumes, gases and dust, with the potential that a roof will cave in or a violent explosion can occur at any given moment.

My bill, Mr. Speaker will provide early retirement rights for Federal mine inspectors due to the physical and mental stress related to their working conditions and the jobs they must perform on behalf of miners, themselves and the general public in keeping with safety and health standards.

I would like to leave my colleagues with another thought in regard to the real job-related stress experienced by mine safety and health inspectors, one that is a bit more graphic, but which will perhaps make my point.

Mine Inspectors are up against an enemy every bit as lethal, every bit as deadly, as the drug trafficker at our borders, armed with an AK-47, ready to use it against a customs inspector, or a DEA, FBI, or other law enforcement officer.

The difference is that mine inspectors are not armed with a similar weapon of defense against sudden death.

There is often no place to run in a dark underground mine, and if there were, the inspector may be trying to run while in a kneeling position that allows him at best to crawl toward safety.

We cannot arm them against the threat of death except to train them to use their knowledge, and their wits in times of danger.

There is no weapon they can fire, either as a first or a last resort, to save themselves. None whatever.

Mine Inspectors, like the miners they serve, live every working day in extreme danger of sudden death, and it is the young, the strong and the most alert who are able to keep fatalities to a minimum in that dangerous arena of mining. But like other stress-filled jobs, many inspectors grow weary and suffer the same stress-related job burnout as those involved in other high-risk positions of responsibility.

If any of my colleagues desire to cosponsor this early-out bill on behalf of Mine Safety and Health Inspectors, I urge them to call me at 225-3452.

THE LUBUMBASHI INCIDENT

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. BURTON of Indiana. Mr. Speaker, Zaire has recently embarked on a historic drive toward democracy. President Mobutu announced free, multiparty elections to be held within a year, in response to the popular will of the people of Zaire. There are those who, unfortunately, are determined to discredit President Mobutu at all costs. Some of these radical leftists, known as the "Rainbow Lobby", are virulently anti-Semitic. They have now taken to smearing their opponents. My distinguished colleague from California, Mr. DYMALLY has been singled out for specific criticism for his courageous support of Zaire and democratic reforms there. I want to note for the RECORD that, while I may differ from time to time with my good friend Mr. DYMALLY, I have the highest regard for him personally, and for his integrity. I absolutely resent this ugly vendetta against an honorable man.

In addition, Zaire has recently been subjected to a spate of innuendo and misinformation about events surrounding student unrest in Lubumbashi. Our State Department confirms one death in that unfortunate incident. However, wild press reports in Europe irresponsibly allege hundreds of deaths. None of these reports are based on hard evidence, but Zaire's reputation is being sullied needlessly.

Mr. Speaker, for the sake of accuracy, I would like to enter into the RECORD the official State Department position on the Lubumbashi incident.

[U.S. Department of State, Office of the Assistant Secretary/Spokesman, May 21, 1990]

ZAIRE/SITUATION IN LUBUMBASHI

Q. Do you have anything on reports of massacres at the University of Lubumbashi?

A. The evening of May 9-10 three students suspected of being government informers were attacked by other students at the University of Zaire at Lubumbashi. The evening of May 11-12, men in plain clothes entered the university, ransacked rooms and attacked students. One death has been confirmed. No subsequent incidents have been reported.

DR. HELLER NAMED UNIVERSITY OF MARYLAND DEAN

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mrs. MORELLA. Mr. Speaker, I am delighted to advise my colleagues that Dr. Barbara R. Heller, a constituent who served in my office last year as a legislative fellow, has been named dean of the University of Maryland School of Nursing.

Dr. Heller, a Rockville, MD resident, has more than 20 years of administrative experience at public and private institutions in Maryland, New York, and Pennsylvania. She has been professor and chairman of the department of education, administration and health policy in the nursing school.

Recognized for her work in developing a number of innovative projects at the school of nursing, Dr. Heller is credited with establishing the graduate level program of study in Nursing Informatics, the first of its kind in the world.

She is particularly concerned with sociopolitical trends and issues in health care delivery and has been a member of the Commission on Health of Montgomery County since 1987. Last year she held a Congressional Fellowship in Health Policy and Education in my office.

The school of nursing currently enrolls more than 1,000 students in programs at the University of Maryland at Baltimore, University of Maryland, Baltimore County, and statewide outreach sites.

Founded in 1889, the school has graduated more than 10,000 students during its first 100 years.

A nationally and internationally known nursing educator and scholar, Dr. Heller has authored numerous papers and publications that have significant implications for clinical practice, nursing education, informatics and gerontology. Dr. Heller's experience includes the development and direction of over $3 million in funded research and training grants.

Dr. Heller served as director of Research and Education for the Nursing Department of the Clinical Center at the National Institutes of Health while on intergovernmental personnel assignment in 1984. She also served as assistant dean of the College of Nursing at Villanova University from 1978 to 1981, and chairman of the Department of Nursing at the State University of New York at Farmingdale from 1968 to 1978.

Dr. Heller holds a B.S. in nursing from Boston University (1962), an M.S. in nursing from Adelphi University (1966), an Ed.M. (1971) and an Ed.D. in nursing (1973) from Teachers College, Columbia University.

Dr. Heller is the recipient of the Outstanding Young Women of America Award, the Outstanding Educator of America Award, the Alumni Award for Excellence from Boston University, and the Alumni Award for Nursing Practice from Teachers College, Columbia University. She was elected to the American Academy of Nursing in 1981.

Dr. Heller is married to Dr. Fredrick Walsh, chief administrative officer of Montgomery

College. They have five children and one grandchild.

I was honored to have an individual of Dr. Heller's stature serve on my staff, and, of course, am delighted that she has been named the next dean of the school of nursing.

THE PASSING OF ARCHIBALD ROOSEVELT, JR.

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Ms. OAKAR. Mr. Speaker, I was saddened by the recent passing of Archibald Roosevelt, Jr. Mr. Roosevelt lived a full life and spent 27 years as a public servant to our country. I include in the RECORD his obituary, which recently appeared in the Washington Post.

The article follows:

ARCHIBALD B. ROOSEVELT JR., RETIRED CIA OFFICER, DIES

(By J.Y. Smith)

Archibald B. Roosevelt Jr., 72 a retired intelligence officer who served as chief of the Central Intellgence Agency's stations in Istanbul, Madrid and London, died yesterday at this home in Washington. He had congestive heart failure.

A grandson of President Theodore Roosevelt and a soldier, scholar, linguist and authority on the Middle East, Mr. Roosevelt viewed his calling—and its faceless, anonymous half-world of nuance and seemingly random fact—with a hard-headed realism leavened by a kind of romanticism that that has echoes of an earlier time.

After retiring from the CIA in 1974, he became a vice president of Chase Manhattan Bank and director of international relations in its Washington office. Well known in Washington social circles in his own right, he was particularly active on the diplomatic circuit during the Reagan administration, when his wife, Selwa Showker "Lucky" Roosevelt, was chief of protocol at the State Department.

In 1988, he published a memoir called "For Lust of Knowing: Memoirs of an Intelligence Officer," in which he adhered so strictly to this oath to keep the CIA's secrets that he did not even identify the countries where he had served. And although he was happy to tell interviewers that they could figure it out from his entry in "Who's Who in America," he also was quick to explain that some Americans have forgotten what an oath is and that he would not break his even if the government told him to.

Instead, he gave his views on such questions as the nature of the CIA and why it attracted him, and on what intelligence officers should be and how they should see themselves in relation to their own country and the rest of the world.

"We in the CIA were always conscious of having a special mission, of being the reconaissance patrols of our government," he wrote. Despite such vicissitudes as the Bay of Pigs disaster in Cuba in 1961, he said, the agency kept its esprit de corps even though with the passage of time it "was no longer a band of pioneers, but an organization."

As for intelligence officers, Mr. Roosevelt said he thought of them in "the old-fashioned sense, perhaps best exemplifed in fiction by Kipling's British political officers in India."

His notion embodied a high ideal, indeed, for the intelligence officer "must be able to empathize with true believers of every stripe in order to understand and analyze them. * * *. He must, like Chairman Mao's guerrillas, be able to swim in foreign seas. But then he must be able to pull himself to shore, and look back calmly, objectively, on the waters that immersed him."

Most important, he said, the intelligence officer "must not only know whose side he is on, but have a deep conviction that he is on the right side. He should not imitate the cynical protagonists of John Le Carre's novels, essentially craftsmen who find their side no less by his own account, the product of a "conventional, Waspish, preppy world" and was destined for a conventional career on Wall Street. He managed to escape this fate, he said, because he "lived in another world of my imagination."

Archibald Bulloch Roosevelt Jr. was born in Boston on Feb. 18, 1918. He graduated from Groton School and then went to Harvard, where he graduated in the class of 1940. While an undergraduate, he was chosen as a Rhodes Scholar, but was not able to accept because of the outbreak of World War II in Europe. His first job was working for a newspaper in Seattle.

During the war, he became an Army intelligence officer. He accompanied U.S. troops in their landing in North Africa in 1942 and soon began to form views on the French colonial administration and the beginnings of Arab nationalism. Later in the war he was a military attaché in Iraq and Iran.

In 1947, he joined the Central Intelligence Group, the immediate forerunner of the CIA. From 1947 to 1949, he served in Beirut. On that and on all of his subsequent assignments abroad, he was listed in official registers as a State Department official.

From 1949 to 1951, he was in New York as head of the Near East section of the Voice of America. From 1951 to 1953, he was station chief in Istanbul. From 1953 to 1958, he had several jobs at CIA headquarters in Washington. In 1958, he was made CIA station chief in Spain. From 1962 to 1966 he held the same job in London. He finished his career in Washington.

Through it all he pursued an interest in languages. A Latin and Greek scholar when he was a boy, he had a speaking or reading knowledge of perhaps 20 languages, including French, Spanish, German, Russian, Arabic, Hebrew, Swahili and Uzbek.

Mr. Roosevelt's marriage to the former Katherine W. Tweed ended in divorce.

In addition to Selwa Roosevelt, to whom he was married for 40 years, survivors include a son by his first marriage, Tweed Roosevelt of Boston, and two grandchildren.

ONE YEAR AFTER THE MASSACRE AT TIANANMEN SQUARE—THE UNITED STATES MUST NOT EXTEND MFN TREATMENT TO CHINA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. LANTOS. Mr. Speaker, this week we mark the first anniversary of the bloody massacre at Tiananmen Square in Beijing. It is tragic and ironic that on the eve of the anniversary of that event, the administration announced that the President was extending most-favored-nation treatment for an additional year to products of the People's Republic of China. This incomprehensible decision flies in the face of decades of United States foreign policies on human rights, and it is totally inconsistent with the policies that we have pursued toward a number of other countries. It is a violation of our own principles, and it is as self-defeating as it is wrong.

Mr. Speaker, I would like to make a few remarks about the administration's short-sighted and contradictory policy toward the People's Republic of China on the occasion of this anniversary.

I hope my colleagues will forgive me if I begin my very brief comments far from China. But I think this has some relevance. I've had a long-standing interest in Albania, reaching back to my childhood. Albania was a very exciting place to me. As a boy, I read about Skanderbeg, the legendary hero of the Albanians, who detained the Turks for a number of years in their invasion of South and Central and Eastern Europe.

I have attempted for decades to go to Albania. As you know, since 1946 no American officals have visited there. Since coming to Congress, I have occasionally renewed an Albanian visa application, which was never turned down but also never granted. It was not even responded to, until about 10 days ago when I received a call indicating that I would now be welcome in Albania. The next day I was on a plane for the area, drove in from the Albanian region of Yugoslavia, the Kosovo, along the same route that Skanderbeg took in the 15th century. I spent 5 wonderful days in Albania.

I traveled through much of the country—it's a small country. During my stay, I met with the President of Albania, Mr. Ramiz Alia, who asked me to bring a message to President Bush suggesting the resumption of diplomatic relations between Albania and the United States. I expect to see our President in the near future to convey this message and to share with him and with the Secretary of State my impressions of Albania.

I mention this because one of the cliches about the current crumbling of the Communist empire in Central and Eastern Europe is that Albania is the exception, that Albania will try to retain its hermit-like existence with no contact with the United States and much of the West, because that way it can maintain its structure. That is apparently no longer true. Albania—as of 4 or 5 days ago—is ready to open up.

There are many, many things in Albania that I am sure will be changing and will need to change over the course of the next few years, and the more it opens up, the more I hope this change will be rapid. I welcome this development because, clearly, contact on many levels will contribute to the opening up of Albanian society. And if there is anything we here in the United States and the democratic world are committed to, it is the concept of the open society.

With respect to China, let me indicate that there is no one in the Congress who is more in favor of the most complete set of relationships with China. And there is no one in the Congress who has greater admiration for Chinese civilization, literature and art, and the

Chinese contributions to our collective wealth as a global community, than I do. It is clearly one of the great civilizations on this planet.

In recent weeks I have expressed myself forcefully against the administration's decision to continue most-favored-nation [MFN] treatment of Chinese trade with the United States. Much of the argument on this issue has really been irrelevant. No one favors severing relations with China. We have full diplomatic relations with China. I obviously favor continuing full diplomatic relations with China. I am in favor of the maximum amount of cultural and academic and educational contacts with China. Because all of these are clearly in the line of opening up what is still a very closed society.

What I believe, however, to be a matter of fundamental principle with respect to United States policy is that—in the wake of Tiananmen Square, in the wake of the most recent outrages both with respect to Western correspondents, in the wake of the arrest of Chinese citizens who with enormous courage tried to commemorate the bloodbath of a year ago—we must not lend legitimacy to a regime which has undermined its own legitimacy with policies that are preposterously stupid and unprincipled. It is obvious that the Chinese regime is desperately anxious to see MFN treatment continued.

Now, in wake of the tragedy of Tiananmen Square, the administration has really one of two options. First, they could take the option that many of us favor, namely the option that very clearly recognizes that doing business as usual is unacceptable. On the other hand, the administration could take the option that a conciliatory and friendly and cooperative approach might change the minds of the Chinese leadership, so that they will in fact loosen up, improve human rights conditions, and relegate the tragedy of Tiananmen Square into an isolated episode.

A year ago, rational arguments could have been made for either of these two options. In view of what has unfolded during the course of the last year, it is very difficult to find rational arguments for a policy of continued concilation with a repressive regime, whose human rights policy is worse today than at any time in the last decade except during the bloodbath of Tiananmen Square.

There are no nuances that will be registered in China. If MFN treatment continues, that fact will obliterate all the rhetoric that may surround it. It is the facts that dominate—the rhetoric will fade into insignificance. By granting most-favored-nation treatment to China, the United States will give—perhaps inadvertently—enormous legitimacy to a regime which is despised and detested by the vast majority of the urban, knowledgeable, informed Chinese citizens.

None of us knows precisely what preoccupies the people of China, and changes are overwhelming that they are preoccupied with their day to day lives, as are people everywhere throughout the globe. But I also think that there is little doubt in the minds of any of us in this room that the thinkers, the opinion makers, the opinion leaders—however suppressed they may be—are overwhelmingly concerned to see a greater degree of openness and respect for human rights.

I have thought through the various arguments that proponents of continued conciliation with China have tendered. These arguments are no longer valid.

The strategic argument for conciliation toward China has lost any weight that it might have had in the past. Quite frankly—given what is happening in United States-Soviet relations, particularly in the wake of the summit just concluded—I find it incomprehensible that these ritualistic incantations can continue without serious challenge. Previously, it was argued that China was a counterweight to an aggressive Soviet Union. The last thing that Mr. Gorbachev is thinking about in the spring of 1990 is aggression. From Boris Yeltsin to Lithuania, to the economic crisis permeating Soviet society, Mr. Gorbachev has plenty on his plate. I personally believe that any aggressive Soviet designs for the time being are not realistic in any strategic discussion of our foreign policy.

Second, the bulk of our imports from China are singularly nonessential consumer goods, ranging from toys to shoes. It is very difficult to argue that toys and shoes cannot be bought elswhere—conceivably even in the United States. It is true that, given the pathetic lack of cohesion on the part of the West and Japan in many such policy matters, it is perfectly possible that some Western European countries and Japan might fill some of the markets that we provided. This is unfortunate, but that is to be dealt with by bringing about a greater degree of cohesion among our Western allies and Japan, rather than saying that since others do it, we might as well do it ourselves.

Moreover, I am not sure that China will be able to find the markets for the vast quantity of toys and textiles and shoes that it is selling in the United States. They may find their exports plummeting—which I fully expect if MFN treatment is denied—which will put precisely the kind of pressure on the Beijing regime that denial of MFN treatment is designed to accomplish.

The final argument is that denying most-favored-nation treatment harms the very people we would most like to encourage and help. This is a very tricky argument, because it is always invoked when the a priori assumption is made that the MFN status should be continued, that sanctions should not be imposed. Whatever sanctions we use—and denial of MFN treatment is a sanction—the people who are against imposing sanctions always say that this will hurt the people.

The administration strongly advocated and imposed stringent sanctions against Nicaragua, although the people of Nicaragua were the ones who suffered. The Congress imposed sanctions on South Africa. Those of us who were in the vanguard of trying to impose those sanctions were not attempting to hurt the people, but to put pressure on the government. And clearly in these cases—in Nicaragua and in South Africa—the imposition of sanctions led to change.

Admittedly economic hardships, by definition, hurt people. The purpose of sanctions of whatever type is, invariably, to change governmental policy. I must say that I have difficulty understanding why an additional year of MFN privileges would make this increasingly suppressive and depressive regime become more open and democratic.

On the basis of the evidence that this regime is providing, its overwhelming preoccupation is to keep itself in power in order to continue its repressive policies. By providing the enormous economic benefits that MFN treatment offers China, I predict that this regime's life expectancy will be extended. This regime will be strengthened. This regime will gain legitimacy, and U.S. foreign policy will be adversely affected.

The final question which I would like to pose and answer is perhaps the fundamental question. If 2 years ago, someone had recommended that the United States line up with Nicolae Ceausescu and not with the democratic forces in Romania, if 2 years ago, someone has suggested that the United States line up in Czechoslovakia with the brutal dictator Milos Jakes and not with Vaclav Havel who was in prison at the time, if someone had suggested that throughout Central and Eastern Europe the proper policy course of action for the United States was to strengthen the regimes of oppression and suppression and dictatorship, rather than make a common cause with the democratic forces which have in the last year came to the fore, in retrospect those policies would have looked very foolish.

Mr. Speaker, at the risk of making a prediction, I predict that if the administration prevails and we line up with the forces of Dung Xiaoping and those people who masterminded the bloodbath at Tiananmen Square, it will not be many years before the consensus emerges that the United States—despite clear warnings, including ones made here in the Congress this week—has lined up on the wrong side, supported the wrong people, supported the wrong regime, supported the wrong cause.

Mr. Speaker, we will end up with an enormous long-term loss because the democratic forces that will come to power in China—and I am certain that they will come to power in China just as they have through Central and Eastern Europe during this past year—will long remember how the United States acted at this critical crossroads of history.

BLACK WOMEN'S POLITICAL CAUCUS HONORS TWO OUTSTANDING WOMEN

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mrs. LOWEY of New York. Mr. Speaker, in just a few days the Yonkers Chapter of the Westchester Black Women's Political Caucus will honor two extraordinary women. Each has, in her own way, committed herself to issues affecting women in Westchester and across the country.

Cheryl Brannan will receive the Champion of Women's Rights Award. As a sales planning manager for Xerox Corp., Ms. Brannan has focused her attention on urging corporate America to accept women in top management positions. She has worked hard to encourage women to set high goals in management for themselves, and to achieve them.

She has been particularly inspirational as a vocal advocate for other African-American women struggling against the barriers of racism and sexism. She has served in many positions of influence, including the Yonkers Planning Board, the County Executive's African-American Advisory Board, and as the official representative to Ngor, Senegal on behalf of the Westchester Black Women's Political Caucus.

Elizabeth Hemingway will receive the May Morgan Robinson Community Service Award. May Morgan Robinson was a remarkable woman of unceasing dedication to political activism and community service. She served as a role model in Westchester County for many years, until her death earlier this year. Following in May Robinson's tradition, Elizabeth Hemingway has an extraordinary record of service to the Westchester community, and she is well-deserving of this award. Whether as the president of the NAACP, the president of the Black Women's Political Caucus, the director for volunteer service at a State health facility, or as an active community leader, Ms. Hemingway has been an exemplary model of commitment and public service.

Mr. Speaker, I strongly admire these two outstanding women for the work they have done and the goals that they have worked to achieve. I am confident that they will continue to serve the Westchester community with the same vision and purpose that they have for so many years.

THOSE MEDDLING BISHOPS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. DORNAN of California. Mr. Speaker, all I can say is nice, nice, nicely done. There is such a creature as an honest liberal after all. I have been looking for one for years and it looks as if I may have found one in columnist Mark Shields. His column of May 1 concerning the right of Catholic bishops to hire a public relations firm to help spread the church's pro-life message is right on the mark; Mark is without peer on the responsible left. I commend it to all my colleagues and enter it into the RECORD.

[From the Washington Post, May 1, 1990]

THOSE MEDDLING BISHOPS

(By Mark Shields)

In 1886, Cardinal James Gibbons, whom President Theodore Roosevelt was later to honor as the nation's most respected and venerated citizen, was the Catholic archbishop of Baltimore. That year, Gibbons invited controversy by openly supporting the cause of transit workers who were striking against a 17-hour workday. The New York Times criticized Cardinal Gibbons for meddling in non-church affairs.

The nation's Catholic bishops have continued to meddle in non-church affairs. During the 1980s, the bishops blamed President Reagan's economic policies for mistreating the poor. They endorsed a nuclear freeze, and by most accounts were influential in limiting United States military aid to the Nicaraguan rebels. Today Rep. Henry Waxman (D-Calif.), the skillful chairman of the House subcommittee on health, praises the bishops' strong support for expanded Medicaid funding to help those suffering from AIDS. Waxman singles out for special credit on the issue Cardinal John O'Connor, the archbishop of New York, whom the California legislator with a 100 percent rating from the American Civil Liberties Union calls "a stalwart."

Until recently the meddling of the Catholic bishops had played to positive reviews from the secular left of American politics. Earlier, in spite of their acute church-state sensibilities, liberals had embraced the civil rights leadership of Martin Luther King Jr. In case anyone has forgotten, that was *the Reverend* Martin Luther King Jr., and he founded the Southern *Christian* Leadership Conference. One of King's closest colleagues then was the Rev. Andrew Young, and together they were completing a historic mission that had been begun in the 19th century by other meddling Protestant ministers of the Gospel who were called abolitionists.

But now it is May in Washington, and the problem is not so much the heat as it is the hypocrisy. The Catholic bishops, obviously upset by the success of the pro-choice groups, have retained Hill and Knowlton, Inc., the public relations giant and formerly President Ronald Reagan's pollster, to help design a campaign to persuade both Catholic and non-Catholics to support their pro-life position on abortion. And for this single transaction, the bishops have been publicly denounced as everything but moral lepers and ethical eunuchs.

Kate Michelman, exeuctive director of the National Abortion Rights Action League, accused the bishops of violating the doctrine of separation of church and state. "It's outrageous," she said, "that the Catholic Church, whose main mission is to minister to the needs of parishoners, is spending $5 million to try to impose their religious teachings through law on a pluralistic society."

First, such a definition of pluralism apparently excludes the voice of religion from those voices to be heard in a pluralistic society. Does not pluralism mean a free interplay and exchange of voices and values, including the values of the church? Religion, as Martin Luther King, Jr., taught, is "not the master or the servant of the state but rather the conscience of the state."

The bishops have been widely criticized for committing $5 million over five years to this project. Why not spend the money instead on the hungry and the homeless, it is asked. In 1988 Catholic Charities provided services to 2 million families and more than 7.8 million individuals. Those helped included the victims of violence and abuse, the out-of-work and people with AIDS. Resettlement, education, reunification, housing and health care benefited more than 243,000 individual refugees and immigrants. To shelter the homeless, to comfort the lonely, to feed the hungry and to provide other social services, Catholic Charities spent $850 million last year.

The contest up to now has been one-sided. The pro-life side has been on the defensive over the issues of rape and incest and generally in disarray. The pro-choice groups have shrewdly cast the abortion debate—after extreme polling and market testing—in terms of who is deciding rather than what is being decided.

The argument—keep the government out of a personal decision—is politically attractive as well as philosophically libertarian. Liberals who have long advocated an activist, energetic government seem unbothered that similar arguments have been used against laws requiring auto seat belts, outlawing the use of heroin and registering matchine guns. The 1973 *Roe v. Wade* decision, which pro-choice groups so ardently defended, involved just such intrusion.

As long as the Catholic bishops were "sentencing" Catholic politicians to hell (and shooting themselves in the foot politically), few pro-choice voices were critical. Now the bishops seek to persuade the electorate of the wisdom of their position. In our country, that is their right and may be theiir obligation. Meddling is as American as apple pie and baseball.

ARAFAT: THE ONLY RESPONSE CAN BE ACTION

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. KOSTMAYER. Mr. Speaker, it was with great horror that we received the news of the attempted terrorist attack in Israel on the morning of May 30. This attack was carried out by the Palestine Liberation Front, led by Mohammed Abbas, and was directed at the crowded beaches of Tel Aviv during the Jewish holiday of Shavuos. Fortunately, the Israeli Defense Forces were vigilant and arrived in time to prevent the bloodshed of innocent civilians.

Such attacks fuel the mistrust that sustains the conflict. It is now up to those who claim to represent the Palestinian people—Yasser Arafat and the PLO—to condemn and take action against Mohammed Abbas and the Palestine Liberation Front.

There is much criticism of Israel when acts of violence against Palestinians occur that have no connection to the Israeli Government. In such circumstances, Israel is said to be an obstacle to peace. Thus it was when an Israeli with a history of emotional problems went wild and shot and killed seven Palestinians on May 20, despite the fact that the individual was immediately arrested and despite the fact that Israeli President Herzog and Prime Minister Shamir strongly condemned the killings.

In contrast, the attack on Tel Aviv was a highly organized, well armed military effort directed against innocent civilians by an organization that is led by a member of the PLO executive council. Since 1988, when the Reagan administration accepted representations that the PLO had renounced terrorism and commenced a dialog with that organization, Arafat has given us a number of excuses which attempt to explain why he and his organization cannot be held responsible for terrorism incidents against Israelis. This time, there can be no excuses. The PLO cannot continue to talk peace if it is turning its back and winking at acts of war.

We are waiting.

TRIBUTE TO DR. HENRY S. ELLISON

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Dr. Henry Ellison who is retiring after over 30 years of medical service to the Youngstown area in my 17th Congressional District of Ohio.

Upon graduation from Howard University Medical School, Dr. Ellison began a long and illustrious career as a physician in Youngstown. Since then, he has received a steady stream of recognition and awards, including honorary membership in the Buckeye Elks Lodge, the teacher of the year award from the family practice residents at the Western Reserve Care System, and, most recently, the 1989 distinguished physician award of the Mahoning County Medical Society.

In earning all of these awards, Dr. Ellison has consistently shown a spirit of generosity and service to which all physicians should aspire. He is known particularly for giving his time and expertise for pre- and post-natal care in communities unable to afford most private care. At the distinguished physician award ceremony Dr. Kurt J. Wagner said of Dr. Ellison: "Day and night, he has devoted his efforts to the least affluent among us. He has given outstanding care to those women who often have the most difficulty obtaining access to good medical services. He has truly practiced in keeping with the highest principles of our profession."

Again, I would like to recognize and congratulate Dr. Henry S. Ellison for over 30 years of exemplary medical practice in the Youngstown area. I am proud and honored to represent such a fine citizen.

LIONS JOURNEY FOR SIGHT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. GILMAN. Mr. Speaker, of the many fine service organizations throughout our Nation which dedicate themselves to helping others, few are as determined and as effective in their efforts as are the Lions International and the Lionesses.

These organizations realize that one of God's greatest gifts to mankind is the gift of sight. Can we imagine, Mr. Speaker, what it must be like to live a life in darkness? Can we imagine a world of sightlessness in which we all must depend upon our other senses in order to exist?

Lions International has performed services above and beyond the call of duty which have not only helped our blind and sight-impaired neighbors, but have also raised significant funds for educational programs and medical research which help prevent blindness. The work of our Lions and Lionesses in conquering diabetes alone—our Nation's leading cause of blindness—is worthy of our applause.

Every June, the Lions Clubs of the town of Wallkill and the city of Middletown, in my congressional district, join with the local Lionesses Clubs to sponsor "The Lions Journey for Sight." This footrace raises funds not just to help the visually handicapped locally, but also to support further research into diabetes prevention and remission. The people of the mid-Hudson Valley of New York State are invariably generous in their support of this most worthwhile event, which accomplishes so much on behalf of those who need our assistance.

This year, the "Lions Journey for Sight" footrace will be held on Sunday, June 17. Mr. Speaker, I invite all of our colleagues to join in saluting the town of Wallkill Lions Club, the city of Middletown Lions Club, as well as the Lioness Clubs, and all of the fine local organizations within Lions International who do so much good work on behalf of our sightless.

TRIBUTE TO RETIRING SISTER EILEEN M. SHEA

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. NEAL of Massachusetts. Mr. Speaker, it is with pride today that I pay tribute to a very special person who is retiring from a career of community service as an educator in Springfield, MA. Sister Eileen M. Shea, a lifelong resident of the Springfield area, has served as principal in the Holy Cross School since first arriving at the school 1976. She has earned a special place in the hearts of all the students, teachers, and parents she has been associated with.

Sister Eileen is a native of the Springfield area, having attended Cathedral Grammar School and Cathedral High School. She entered the Sisters of Saint Joseph on September 15, 1953. Having graduated from Our Lady of the Elms College, Sister Eileen received her master's degree from Fitchburg State College. She's taught at the Annunciation School in Florence and the St. Thomas School in West Springfield.

In addition to being a teacher, Sister Eileen has worked as a principal at St. Michael's School, and eventually came to Holy Cross School, where she is retiring after serving as its principal for 14 years. In 1988, Sister Eileen was nominated Principal of the Year.

Sister Shea's parents, James J. Shea and Rita M. Kennedy Shea are both natives of Ireland. Her brother John J. Shea, and her sister Maureen Shea O'Connell are both residents of Springfield.

Sister Eileen is well known for her humble manner. Teachers describe her as gracious and caring. Parents say she listens intently to their concerns and provides firm but gentle direction to the students. It is not uncommon for her to visit students at home or in the hospital if they are ill. Sister Eileen knows the names of all her students and their parents and brothers and sisters.

Sister Eileen will be missed by the teachers and the parents, but mostly by the many students who have come to know her and love her. Students describe her as caring and sweet, and totally awesome. I would like to thank her for contributing her talents to improve the quality of education these children and so many others have been able to enjoy. She has truly made a difference in their lives. I wish Sister Eileen much health and happiness in her retirement.

HONORING ROSE KUSHNER

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Ms. OAKAR. Mr. Speaker, on May 18, 1990, the Oncology Nursing Society, a membership organization representing over 17,000 oncology nurses, unanimously approved a resolution recognizing the efforts of the late Rose Kushner in her struggle to bring care, comfort, and hope for a cure to victims of breast cancer. Last January, my friend, Rose Kushner, lost her own 14-year battle with this killer. However, right up to the last few days of her life she was regularly on the telephone to my office to monitor the progress of legislation affecting breast cancer patients. This is the kind of persistent, selfless fighter that Rose was, and I am proud to have known her both as a friend and a comrade-in-arms in the war against breast cancer.

Mr. Speaker, Rose was known not only for her legislative efforts. She was a member of the National Cancer Advisory Board under President Carter. She was a cofounder of the National Alliance of Breast Cancer Organizations [NABCO] and she took a direct interest in the individual cases of hundreds of women with breast cancer. It is therefore fitting and significant that the Oncology Nursing Society has chosen to recognize the work of Rose Kushner. No one in the medical profession knows better than these nurses, the trials that cancer victims and their families face. No one in the medical profession spends more time with cancer patients than oncology nurses. The oncology nurses have appropriately recognized the late Rose Kushner as a champion of breast cancer patients and I have attached the text of their resolution to honor her.

COMMEMORATIVE RESOLUTION RECOGNIZING ROSE R. KUSHNER

Whereas, the Oncology Nursing Society has as its goal the promotion of quality care; and

Whereas, Rose Kushner worked collaboratively with nurses to inform the public about optimal care for women with breast cancer from early detection through treatment; and

Whereas, Rose Kushner, using herself as an example, was a pioneer in the pursuit of establishing the two stage procedure for the diagnosis and treatment of breast cancer; and

Whereas, she left a legacy of her efforts through numerous publications and her membership on the National Cancer Advisory Board; and

Whereas, her death is mourned by the professional and lay communities, be it

Resolved, That the Oncology Nursing Society recognize Rose Kushner for her unceasing efforts to inform the public about

breast cancer and her promotion of the right for women to be an integral part of the decision-making process about their care.

BRAMWELL NATIONAL HISTORICAL PARK ACT OF 1990

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. RAHALL. Mr. Speaker, there is a growing interest in southern West Virginia to preserve some of the more outstanding physical vestiges that remain from our early mining days. During the late 19th century through the 1920's the coal mining history of southern West Virginia reflects a story of struggle, of human sacrifice and occurrences which have left their mark on the history of the Nation as a whole.

That was the age of the coal barons, company towns, payment by script, and the effort to unionize southern West Virginia's mines. As Lon Savage so adeptly put it in his book, Thunder in the Mountains: "They felt, rather than knew, their history. Their lore was bloody—they had been crushed and killed on their jobs and fired from them when they tried to organize a union that could articulate their needs. They had been evicted from their company homes and machine-gunned in their union tents. Periodically they had risen in fury."

Today, these old mining camps, company stores, tipples, and related structures form an integral part of our heritage, and salvaging them is important for both educational purposes and the potential regional economic benefits this type of historic preservation may hold.

In this regard, I have commenced the Southern West Virginia Coal Heritage Initiative. As part of this effort, it is my intention to seek the establishment of what I like to call the Colonial Williamsburg of coal towns. Toward this goal, today I am introducing the Bramwell National Historical Park Act of 1990.

Bramwell is renown for its turn-of-the-century coal baron-era mansions and coal camps as at Coopers and Freeman and is currently listed on the National Register of Historic Places. The people of Bramwell are extremely enthusiastic about the outstanding, and what I believe to be nationally significant, historical, cultural, and architectural values of their town and are interested in pursuing the establishment of a Bramwell National Historical Park.

It is, without any doubt, in the national interest to preserve the unique character of Bramwell and its environs. It is also extremely important that we take those actions which will enhance the preservation, restoration, and interpretation of the area.

NO PLACE TO GO BUT NORTH

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. KOSTMAYER. Mr. Speaker, it is a truism that our prosperity and our security are tied to the future prosperity and security of Mexico. Indeed, there is broad consensus among United States policymakers that heightened political and economic instability in Mexico could have dire consequences for the United States.

The Mexican Government is now struggling with political and economic reform and finding the going tough. Reform is often a hard sell, particularly when results are not immediately forthcoming or evident to the people. Reform is particularly difficult to the extent that unrelated factors cause living standards to actually fall.

In an article entitled "The Weight of Mexico," published recently in the New York Times, Flora Lewis takes note of Mexico's dramatic population growth and the strain that such growth puts on Mexico's increasingly scarce resources. Ms. Lewis recognizes that the United States has an important role to play in Mexico's political and economic development generally, but cautions that the United States must approach its neighbor to the south as a "sympathetic partner, not a neighborhood boss."

Ms. Lewis' article should give all Members of the House of Representatives occasion to pause and reflect on the benefits that a culturally sensitive family planning program provides to the people of Mexico. Upon their return from a recent visit to Mexico, a bipartisan group of nine Members of the House, including Majority Leader Gephardt, wrote to Mark L. Edelman, the then acting director of the Agency for International Development, regarding United States funded family planning efforts in Mexico. The letter stated that "we can think of no other activity in which United States support for Mexico produces returns of such significant mutual benefit as they do in family planning."

Mr. Speaker, Mexico's security and prosperity are critical to the United States. I urge all Members of the House to consider this fact, and I commend Flora Lewis' article to them.

THE WEIGHT OF MEXICO

(By Flora Lewis)

MEXICO CITY.—One local paper said 10 million people had come to the capital to see the Pope, who arrived Sunday. It's conceivable. Some Mexicans say the country's population is now 90 million. Nobody can be sure.

When I lived here in the 1950s, the population of the capital was 2.5 million, and of the country 25 million. The rate of growth approached the limit but nobody was particularly worried. The country's only demographer told me that development would soon bring a balance, and he cited the U.S. as proof that rising living standards brought a lowered birth rate.

Now at least the rate is dropping, but the population is still soaring, and standards are falling. Mexico will enter the 21st century with 100 million or more. Population is like a supertanker: it goes a long way before attempts to slow it take effect.

There have been huge efforts to expand education, health services, roads and such, but human misery is spreading much faster with the deluge of children, many abandoned.

The writer Carlos Fuentes, who refuses to live in Mexico City, has written a book called "Christopher Unborn," about a child whose birth date will coincide with the 500th anniversary of Columbus's discovery in 1492. He will breathe fecal dust because only a third of the city's sewage is treated, and have a high level of toxic lead in his blood, which can cause mental retardation.

Thirty-five years ago you could ride a horse through scattered villages in the valley or up the empty hillsides, with the majestic volcanos on the horizon as the guiding landmark. Now the volcanos have disappeared into the acrid, slurpy air.

These are the key problems underlying Mexican-U.S. relations. There's no place to go but north, and no matter how stringent the border controls, the human tide will overwhelm them unless this country becomes livable for more of its people.

According to an opposition politician, Mexico has to import 10 million tons of grain a year for survival, at $3 billion, consuming two-thirds of the value of its oil exports. Jesus Gonzalez Schmal, a moderate in the rightwing party PAN, argues that the country could feed itself again with proper agricultural policies and better cooperation with U.S. industry.

Like everybody else, he is indignant at the abduction for trial in the U.S. of a doctor charged with involvement in the torture-murder of an American drug enforcement agent here. But like many, he is worried about the drug traffic's impact on the society and says the doctor should have been arrested here and extradited.

Mexico is changing, with the rest of the world, but painfully, perhaps catastrophically slowly. President Carlos Salinas de Gortari is moving to liberalize the government-dominated economy and encourage investment. He is popular. But officials don't have much of an answer to the question why foreigners should have confidence to invest when Mexicans send their money abroad, more than enough to cover the whole debt.

The Pope's visit reflects some of the change. When he last came, 11 years ago, the Government refused a reception and he convoked a church conclave where he denounced liberation theology. This time President Salinas welcomed him formally at the airport, and the Pope's message was solidarity and social justice. But still nothing about population.

This country is another example of shifting perceptions about creating a society that offers its people a fair chance, and how much harder it is to repair the damage of bad government than to recognize it. The tendency to blame Yanqui imperialists is warning, but sensitivities about the weight and arrogance of gringo neighbors remain acute. The invasion of Panama reopened old wounds.

The U.S. cannot escape the fallout of Mexico's desperation. Neither can it intervene in the clumsy, shortsighted ways it has in Central America. The opposition leader on the left, Cuauhtemoc Cardenas, says the country has the resources and capacity to pull itself up if it had rule of law and honest government.

He is a nationalist who rejects U.S. hegemony, but he doesn't want to isolate Mexico or go for central planning. He hasn't quite got the message from Eastern Europe, but he does oppose authoritarian government and puts democracy first.

In this part of the world, it seems the U.S. hasn't quite got the message from Eastern Europe either. It's freedom, to be sure, but also out from under big brother. Mexico is in a bad way, too, and needs a sympathetic partner, not a neighborhood boss.

DOROTHY AND DONALD FLEISHAKER TO BE HONORED

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mrs. LOWEY of New York. Mr. Speaker, on June 10, 1990 the Genesis-Agudas Achim Synagogue will honor Dorothy and Donald Fleishaker at their annual dinner dance. I would like to join the congregation in paying tribute to the work of the Fleishakers.

Both Dorothy and Donald have been active participants in synagogue activities for many years. Donald has served as synagogue president, member of the board of trustees, and chairman of various committees. He has taken responsibility for arrangements on high holidays, and given up his free time to assist the Cantor in conducting services on many occasions. Dorothy has twice served as president of the sisterhood, and has spent many hours preserving the beauty of the synagogue.

Both Dorothy and Donald have also been actively involved outside the synagogue in community service as well. Dorothy is a life member of both Hadassah and the National Council of Jewish Women. She serves as the Westchester coordinator of "Reach for Recovery," an active adjunct of the American Cancer Society.

Donald has been active with the UJA-Federation for many years. He is a board member of the Hebrew Immigrant Aid Society and the Jewish Conference.

Dorothy and Donald have raised four children in the tradition of the Jewish faith, instilling in them a sense of responsibility and public service. Their commitment and dedication is inspirational and I wish to thank them and congratulate them for this well-deserved honor.

HOW CAN A COMMUNIST SOCIETY BECOME FREE?

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. SCHUETTE. Mr. Speaker, I rise before you today to recognize an outstanding student from my district, William D. Leahy. Mr. Leahy, a member of Northwood Institute's graduating class, won the prestigious Milton Friedman Essay Contest, triumphing over nearly 6,000 other competitors to capture first place and the $5,000 prize. Because of this accomplishment and because this is a time when freedom seems to be breaking out all over, I submit his essay, "How Can a Communist Society Become Free?" to the CONGRESSIONAL RECORD at this time. With great minds like William Leahy's putting their efforts to the question, budding democracies have a greater chance of reaching fruition.

Note: Northwood Institute senior William D. Leahy triumphed over nearly 6,000 other competitors to capture first place and $5,000 in the prestigious Milton Friedman Essay Contest. The award was made Friday, April 27, 1990 at the Faculty Club at Stanford University in Palo Alto, California. The Friedman Essay Contest prize is considered the penultimate undergraduate free enterprise economic recognition in this country. Mr. Leahy's essay is below:

HOW CAN A COMMUNIST SOCIETY BECOME FREE?

(William D. Leahy)

A discussion on communistic change requires an understanding of what communism is, why it will change, and how that change should take place. The essay you are about to read has been laid out in such fashion.

I. COMMUNIST CONTRADICTIONS

Communism is an economic system that pits the innate human desire for security against the innate human desire to live a free life. Through common ownership and control of all national resources, communism offers equal security from unemployment, poverty and market competitiveness. In return, communist citizens must give up their freedoms. Free speech, travel, wealth and career choices are all the communistic price for security.

Few members of a communist society are willing to accept all the drawbacks of communism. However, in the face of force, those who want to flex individual choices, considered excessive, will usually refrain from doing so. Communistic force takes the form of isolation, propaganda and criminal punishment.

Isolation and propaganda work hand in hand to control indirectly the communist society. Isolation leaves the citizens unaware of the pro-state propaganda being taught to them from childhood. The communist society is fooled into believing that ignorance allows a communist state to impose strict and wide-spread criminal punishment on those working against communist doctrine.

II. WHY THE MOVE TO FREEDOM?

Can a communist society carry on inevitably without change? No. Time wages a constant war of attrition that slowly educates the communist society on its failure to become a utopian state. Isolationism's failure is inevitable in a world of advanced electronics, international trade and travel.

Political/economic education, through the elimination of isolationism, unlocks communist control. As a communist society becomes aware of its failure, that communist society will begin to demand changes on a wide basis, especially as the distance between truth and propaganda widens. A "snowballing" of discontent builds until the state can no longer repress its citizens.

When a communist society has reached the point of wide-spread civil unrest, the days of communism become numbered. Changes must come soon, or civil unrest will turn into revolution. Every day in the news, we see announcements of historic changes to communistic structures in the Eastern Bloc Nations. The leaders there take the demand for freedom seriously, as civil unrest reaches fever pitch. Asian, African and Latin American communist nations all have experienced minor civil unrest, and while the need of change is lessened, it has not been eliminated.

III. POINTS TO FREEDOM

There are no clear time tables or guidelines to any process as complex as the evolution of a society's political/economic system. The following is a list of changes aimed at the transformation from a communist society to a free society. The level of freedom is secondary to the actual move toward freedom.

A. Elimination of Political, Social and Educational Controls

When the leaders of a communist society begin to convert their nation to a society of free individuals, those leaders must keep control on the speed of conversion. Political reforms should take the form of free political expression, which will allow for non-communist political movements. Sudden free elections will not allow the voters an opportunity to understand what or for whom they are voting.

Social reform can be implemented with much greater speed than political reform. Freedom to travel, associate and communicate are basic rights that will not cause political unrest, since few individuals would differ on their implementation.

Truthful education should be implemented immediately. The propaganda of the past should be replaced with the truth of the present. Such education will assist in the introduction of freedom, a system that likely was previously construed as evil and amoral.

As communism relaxes its controls, education on the subject of competitive survival will be introduced. Each demonstration for freedom is a philosophical expression of freedom; each reduction of actual control will be a sudden introduction to the realities of political/economic freedom.

B. Free Democratic Elections

While many "freedom loving Westerners" would like to see all forms of communism eliminated immediately, they forget that dramatic changes are difficult.

Free democratic elections must be introduced, but not with undue haste. A society, in the midst of dramatic revolutionary unrest, is not ready for elections. Elections should take place at a time of political calm, not at a time of chaos. A state of calm will allow voting citizens to comprehend what is best for themselves.

C. Introduction of Private Property

Private property is the basis of political/economic freedom. No individual is truly free unless that individual has ownership and control over property. A communist society, moving toward freedom, must return nationalized property to its citizens. A socialistic system of control over private property and small businesses would be the first logical movement toward private property. Such a move could be easily implemented, considering that few communist individuals ever actually considered personal belongings property of the state and fellow communists.

As a society moves closer to understanding and embracing capitalist ideals, greater amounts of privatization will follow. Complete privatization is an unlikely event considering that even long-time capitalistic nations, such as the United States, still maintain certain nationalized properties.

D. Elimination of Economic Controls

While a communistic society becomes familiar with political and social freedoms, economic freedoms will be demanded. The controlled economy must slowly introduce agricultural, industrial and financial freedoms. This will allow private industries to take hold and grow with the introduction of private property. The transformation from a controlled economy to a free economy must be gradual, but not impeding. Nationalized industries will still be needed for filling in what private industries cannot yet produce.

Local small businesses, farmers' markets, skilled labor, etc., should have their controls removed rapidly. Such entrepreneurial activity is unorganized and supportive to the economy. A lack of control will not lead to economic chaos. Instead, a dramatic increase in productivity should result from individuals who can directly enjoy the rewards of their productivity.

E. Introduction of a Sound Monetary System

As substantial political and social reforms take place, and stable economic activity takes hold, a new monetary system can be introduced to further economic advancement. As a society enters into capitalistic freedom, a gold/silver backed currency should be introduced. This will give society and foreign investors substantial confidence in the monetary system. This will also make the society's currency difficult to tamper with, and easily convertible in foreign markets.

When confidence in the society increases to the point where foreign investors feel confident that communistic attitudes will not return, a central bank monetary system can be introduced. Such a monetary system would be similar to that of the United States, in that currency is backed by the full-faith of the central government.

However, such a system would be a long way off for a country that is just now entering into freedom reform.

F. Introduction of International Trade and Investment

Nations have difficulty trading with other nations that have currencies that are not convertible, tariffs and quotas in place, and political/economic instability. As a society loosens its grip on political/economic controls and introduces a sound monetary system, foreign investors will become willing to transfer capital, technology and manpower to a formerly communistic nation.

Regular bilateral investment with a formerly communistic society will take time. At first, major trade and investment deals will set the pace, and then as time passes, such deals will become common. As traders and investors become at ease with the new political/economic system, trade and investment will flourish, allowing the people to realize standards of living not possible under totalitarianism.

IV. IN RETROSPECT

The world's dynamic political/economic history has been anything but peaceful. Confrontations and revolutions, based solely on political/economic differences, have littered history. These philosophical differences are little more than individuals imposing, or reacting to, political/economic controls.

Periods of historical peacefulness and economic growth are seen only in societies that respect an individual's right to make free choices. America's vast economic gains are a textbook example of such gains under a system of relative freedom of choice and law-and-order. It can be argued that America could further reduce its controls, but it cannot be argued that America's example has not made a lasting impact on the world's future.

If examples of economic gains within a free society did not exist as they do today, a communistic society would not likely transform itself toward freedom. America's early history allowed for a transformation from control to freedom, not from one form of control to another. The United States serves as a historical guide for many societies that today find themselves in a sad economic state of affairs.

SPINA BIFIDA ASSOCIATION OF SOUTHEAST FLORIDA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, there is a birth defect among our Nation's children which is the leading incapacitator of newborn infants and occurs in 1 out of every 1,000 live births nationwide. Spina Bifida is a defect in which the spinal column fails to close properly in the first few weeks of pregnancy.

In southeast Florida, a group of parents and volunteers decided to create their own chapter of the Spina Bifida Association.

The Spina Bifida Association of Southeast Florida, now in its ninth year, provides volunteer time and financial support to the families of children born with spina bifida, as well as increasing public awareness about the defect.

Fundraising is an integral part of the association and an effort that takes place all year long. Once a year, the Spina Bifida Association of Southeast Florida organizes a bowl-a-thon. Last year, children participated in a golf tournament and a game of stickball to continue to raise funds.

The Spina Bifida Association of Southeast Florida circulates a monthly newsletter to inform interested families of community events and information that concerns them. Also, scholarships are offered to individuals attending college or a trade school.

I would like to commend and thank all the individuals that have volunteered their time and support to the Spina Bifida Association of Southeast Florida and to Mr. James Mesler of Plantation, president of the association.

Mr. Speaker, if it was not for the loving support of these individuals, children with Spina Bifida would not have the opportunity to be part of the mainstream of life. I am proud to speak on behalf of this exceptional organization.

VISIT TO LATVIA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. BURTON of Indiana. Mr. Speaker, I recently read a truly inspiring story about a young American boy who was able to fulfill a dream in Latvia, a nation desperately struggling for its own freedom. For Members of Congress who do not believe that America is a tremendous symbol of freedom in Latvia, this story is a must.

[From the Indianapolis Star, Apr. 27, 1990]

FATHER RECALLS BRIEF, SHINING MEMORIES OF VISIT TO LATVIA

(By John Shaughnessy)

Bob Kleinops never expected either moment to happen, which made it all the more stunning and unforgettable when both events occurred the same day.

The moments took place in the Soviet Union, where Kleinops had taken two teams of Indianapolis youth hockey players on a recent tour.

That day, the 10- and 11-year-old youths were in Latvia—the Soviet republic from which Kleinops' parents had escaped from Communist rule in 1944, the Soviet republic that was beginning to press for a return to independence.

As the Indianapolis and Latvian teams stood on the ice waiting for the game to begin, The Star Spangled Banner was played, a song the Indianapolis youths regarded with greater appreciation the longer they were in the Soviet Union.

When the American national anthem was finished, the players expected to hear the Soviet national anthem. But the head of the Latvian hockey organization had the Latvian national anthem played instead—a decision that stunned and touched many people at the coliseum, even leading some of them to tears.

"To me, that was one of the most significant points of the whole trip," Kleinops says. "In a very peripheral way, we were brought into a much larger story—the struggle for freedom over there.

"You have to understand the intensity and emotion the Latvians felt in doing this. It was a risky undertaking on their part. I was told it was played in honor of our kids. I think the children realized where the people's hearts were at, as far as desiring to be independent. That was the neat thing about being there. America is a tremendous symbol of freedom over there. I think that's what gave the Latvians the nerve to literally go ahead and express it."

The second highlight came several hours later when the Indianapolis team of 11-year-olds skated onto the ice for their game.

Among the Indianapolis players was Kleinops' son, Kris. Kris knew he was playing at the same place where his grandfather had once starred as a young hockey player. And Kris wanted desperately to score a goal so he could share that experience with his grandfather when the group returned to Indianapolis.

"Just before the game, he quietly said a prayer that God would give him the opportunity to score a goal." Bob Kleinops says. "Then the puck came right to him and he fired the shot at the goal. It hit the defenseman, bounced off the defenseman at a funny angle and went between the legs of the goalie and into the goal. To his way of thinking, it was really God's intervention that permitted the goal to happen.

"For me, it was indescribable. I was caught off-guard; I didn't expect him to score. The game stopped and my son came up to me. He knew it was important to me and we kind of hugged out there on the ice. It was a very sentimental feeling. It was kind of an expression of love for two very important people—my son and my father.

And it was all tied in with our heritage and our love for the sport.

"It was just one of those neat moments that you put away and hold onto it as one of the high points of your life."

Returning to Indianapolis, Kris replayed his goal several times for his grandfather, John Kleinops.

"My father lit up," Bob Kleinops says. "He was very pleased. It was a real nice bridge between grandfather and grandson."

By the way, it was the only goal Kris scored during the two-week tour.

THE VISIT OF PRIME MINISTER MITSOTAKIS OF GREECE

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. OWENS of Utah. Mr. Speaker, yesterday, the Foreign Affairs Committee had the honor of hosting the recently elected Prime Minister of Greece, Constantine Mitsotakis. While his majority was narrowly achieved in the Greek Parliament, his new democracy party won the largest plurality of any country within the European Community. It is with a strong popular mandate that he leads Greece into a dramatically changing political and economic environment.

With Greece's strong support of the United Nations Cyprus settlement talks and its recent recognition of Israel, Prime Minister Mitsotakis has made great strides in promoting stability and peace in the region. Further, the initialing of a new defense cooperation agreement between Greece and the United States continues a long history of military cooperation; this, at a time when events in the Soviet Union and Eastern Europe are rapidly redefining our mutual security interests.

Though only in office a short time, Prime Minister Mitsotakis announced an austerity program to achieve financial stability in the coming years and adapt to the single EC market of 1992. His steps to reduce government spending, end State subsidies of utilities and private corporations, and to privatize ailing state industries demonstrate the vision and political leadership which will ensure Greece's economic success beyond 1992.

Mr. Speaker, in honor of the first visit by a Greek Prime Minister in 24 years, I would again like to welcome Constantine Mitsotakis, and extend to him the best wishes of the Congress and the American people.

C.R. SMITH—A MAN OF VISION

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. ARMEY. Mr. Speaker, the airline industry lost a giant a few weeks ago with the death of C.R. Smith, the founder and longtime president of American Airlines. He died on April 4 at the age of 90 after a long and full life of achievement.

C.R. Smith was truly a man of vision, who joined the airline industry at a time when it was often tough to see beyond the next paycheck. His vision helped guide American from a struggling puddle-jumper to become the largest airline outside the Soviet Union.

C.R. Smith was the last of the great American aviation pioneers, a list that included Patterson, Trippe, Woolman and Rickenbacker. With his qualities of leadership, he was nearly as influential in shaping the U.S. airline industry as he was in shaping American Airlines itself.

Mr. Smith's enterprising spirit, his flair for marketing innovation and his dedication to quality service helped transform a barnstormer's novelty into the mainstay of our global transportation system.

All of us should join in paying tribute to this man.

LITERACY VOLUNTEERS SERVING MOUNT VERNON FOR ALMOST 20 YEARS

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mrs. LOWEY of New York. Mr. Speaker, the Literacy Volunteers of Mount Vernon have worked diligently for many years to eliminate adult illiteracy in the city of Mount Vernon and neighboring communities, and I rise to pay tribute to them today.

Since its establishment in 1972 the Literacy Volunteers of Mount Vernon have trained 241 volunteer tutors and served 437 students. Their success rate is dramatic. Of the students tutored, 17 percent chose to go on to high school equivalency or college preparatory classes. Twenty-seven percent reached the highest level and were referred to adult basic education classes. Eight percent went into job-training programs. Fifteen percent were English-as-a-second-language students who gained the ability to communicate in English. And, very importantly, 32 percent were able to meet personal goals which enabled them to become more fully involved in our society.

The Department of Education estimates that 13 percent of Americans over age 20 are functionally illiterate. That means as many as 21 million Americans are plagued by the problem of illiteracy. It has been estimated that illiteracy costs our society $20 billion in direct expenditures and $100 billion in associated costs each year. The Mount Vernon volunteers are working to lessen those massive costs for all of us.

Those individuals who have volunteered their time and their energy to this important cause have helped their neighbors develop self-confidence and independence. The elimination of adult illiteracy is critical to the future of our Nation. It is the focus of legislation pending in the Congress which should be enacted to give our support to dedicated individuals like those of the Mount Vernon Literacy Volunteers. I want to express my deepest appreciation for all those who have worked so hard for so many years with the Literacy Volunteers of Mount Vernon.

BIRTHDAY GREETINGS TO HONORABLE PETER W. RODINO, JR.

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, one of the House's most distinguished former members and a cherished colleague and dear friend to so many of us will celebrate 81 outstanding years of life June 7, 1990. On my behalf and on behalf of the Members of this House who love him dearly and ask me about him daily, I wish to extend hearty birthday greetings to the Honorable Peter W. Rodino, Jr.

The superlative and unparalleled accomplishments of the Honorable Peter W. Rodino, Jr., during his 40-year tenure as a Member of the U.S. Congress are well known and documented. It is my honor to report that the distinctions of his new career may overshadow his Herculean contributions as a Congressman. His granddaughter, Carla Stanziale, just graduated from Fordham Law School. Let me say that I know just how she may feel following in the footsteps of such a distinguished constitutional scholar. In addition to carrying a full-time work load while practicing law with his son at the firm of Rodino & Rodino in East Hanover, NJ, Mr. Rodino teaches part time at my alma mater, Seton Hall University. Finally, he also serves on several boards as a consultant or director.

Happy birthday Mr. Rodino. Thank you for your kindness and sensitivity as I undertook my solemn responsibilities as a Congressman. Thank you for passing the baton for the 10th District with such unselfish dedication for the welfare of our constituents.

TRIBUTE TO HILDE C. LAYTON

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Mrs. Hilde Layton, a former resident of my 17th Congressional District of Ohio, who recently passed away after a long and productive life.

Hilde was born in Italy in 1912, and came to America via Ellis Island in 1922. In 1932, she opened a beauty shop, which she ran until 1986. After becoming naturalized in 1943, she served as a Salem, OH committee person for 45 years, receiving the "Salem's Most Outstanding Democrat of the Year" in 1981. She also ran for mayor of Salem in 1984. In 1986, Ohio Governor Richard Celeste honored her as one of Ohio's most outstanding naturalized citizens.

Hilde represents some of the best things about the American dream: a relatively poor immigrant who came to America and through hard work and perseverence made a name for herself. Her involvement in politics further

served to make her a model for others in the community.

Again, I would like to pay my respects to Mrs. Hilde C. Layton. I am proud to have been privileged enough to represent such a model citizen.

TRIBUTE TO STUART A. BERNSTEIN

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I would like to take this opportunity to congratulate Mr. Stuart A. Bernstein in receiving the Mitchell S. Cutler Achievement Award. This award was created in memory of Mr. Cutler's longstanding concern and service in community affairs.

Mr. Stuart A. Bernstein has certainly lived up to this standard. He is a great leader in the real estate and business community. This is clearly demonstrated by his leadership of the Bernstein Co. by successfully guiding them to a strong position in industry. Mr. Bernstein is also very active in community affairs as board member of the Weizman Institute of Science; Cochairman of the Washington Committee for the Endowment of the John F. Kennedy Center for the Performing Arts; and as a board member of the Anti-Defamation League of B'nai B'rith.

It is with great pleasure that I congratulate Stuart Bernstein for his years of dedicated community service. He has truly demonstrated the ability to achieve great goals in both business and community affairs.

PROMOTING THE CENSUS AMONG SENIOR CITIZENS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. DYMALLY. Mr. Speaker, it is my pleasure to bring to the attention of my colleagues in the House of Representatives one group's efforts to encourage participation in the 1990 census.

Realizing the importance of an accurate census on federally funded programs that help older Armeicans, the National Committee to Preserve Social Security and Medicare has launched a public service information campaign to inform its membership of the necessity of completing the census forms in a timely manner. The national committee is an effective grassroots lobbying organization representing over 5 million senior citizens nationwide.

Through public service announcements and op-ed pieces across the county, the national committee has sent the message that it is crucial for our senior citizens to stand up and be counted. The following opinion editorial, entitled "Seniors: Stand Up and Be Counted," was written by Martha A. McSteen, president of the National Committee to Preserve Social Security and Medicare.

As a member of the House Committee on Post Office and Civil Service, I commend and thank Martha McSteen and the national committee for joining our effort to get this message out to all Americans, particularly to our older Americans. It is through this cooperative spirit that we can assure an accurate and fair census.

"SENIORS: STAND UP AND BE COUNTED": AN OPINION BY MARTHA A. MCSTEEN, PRESIDENT, THE NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

We've all heard the old saying: "Stand up and be counted." This year, seniors need to take that old adage literally.

The early returns on the 1990 census are in—and, unfortunately, they're not encouraging. Though more than 63 million households have returned their completed questionnaires, millions of others have gone unanswered.

A lot of senior citizens and others simply shrug off the situation and say: "It's the government's problem." That may be true. But it's your problem and my problem, as well. Here are a couple of reasons why:

About $39 billion will be distributed to the states this year by the federal government to fund a variety of programs essential to older Americans. The money goes for senior centers, nutrition and health programs, in-home services, job training, housing programs, day care centers and other crucial programs. Your state's share of this money is determined by population figures obtained during the most recent census. Without an accurate census, your state could lose out on its rightful portion of this important money.

In addition, the census helps determine your state's representation in Congress. During next year's reapportionment, some states will lose seats in the House of Representatives, while other states will gain new ones—all based on the results of the 1990 census. Your state's voice in the House could be muted simply because some people couldn't take the time to complete their census questionnaire.

A number of folks feel that the forms are confusing and intimidating. I can understand this. But the people at the Census Bureau have a solution to this problem. If you call them toll-free at 1-800-999-1990, they'll walk you through the form over the telephone. Or, if you prefer, they'll send a census taker to your home to help you complete your form. And it won't cost you a penny.

As former acting commissioner of the Social Security Administration, I realized the importance of my role, not just as a leader, but as a participant. This holds true for the census as well—the more I learn about the census and its crucial role in improving the quality of life in America, the more convinced I become of the need to have an accurate census.

The National Committee to Preserve Social Security and Medicare is joining hundreds of organizations such as the Boy Scouts of America and the American League of Women Voters and corporations such as Citicorp and J.C. Penney to ask all Americans to complete their census questionnaire today.

Please take a few minutes to "Stand up and be counted." Don't be a no-show in the 1990 census.

WEBSTER GROVES LIONS CLUB MARKS 65 YEARS OF SERVICE TO THEIR COMMUNITY

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. GEPHARDT. Mr. Speaker, it is appropriate at this time to recognize an organization that has given generously and continuously to improve the quality of life in the St. Louis area. I am referring to the Lions Club of Webster Groves, MO, and the substantial impact the Lions Club members have had on the history of the area.

For 65 years, this Lions Club has contributed money for humanitarian projects locally, statewide, nationally, and internationally. The Webster Groves club is 1 of 39,412 Lions Clubs in 166 different countries and geographic areas. Internationally, the Lions Clubs are to be acknowledged and commended for the funding of a disaster relief and emergency fund program, the fostering of fellowship among people, and the serving of people less fortunate than themselves.

Locally, the Webster Groves Lions Club has been the driving force behind countless community projects such as an annual college scholarship fund, park and recreation improvements, the recent construction of a Webster Groves History Center, and much, much more. In total, the club has donated approximately $1 million to a wide-ranging list of community projects, civic improvements, and charitable needs during the organization's distinguished history.

In this day and age where the world seems to be everchanging, it is refreshing and encouraging to see the continuing commitment and conviction of an organization like the Webster Groves Lions Club. Our communities, our States, our Nation, and our world benefit from groups like the Lions Club because these tireless volunteers care enough to do something today about the problems and needs our society will face in the future.

CHEMICAL WEAPONS BAN A SIGNIFICANT BUSH ACHIEVEMENT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. PORTER. Mr. Speaker, the chemical weapons ban signed in Washington last weekend was the summit's most shining achievement. President Bush deserves the unqualified praise of everyone in this House and the Congress for completing what is a truly historic agreement.

While the media focused on the START negotiations, commercial agreement, and the grain pact, I believe the most important outcome of the Washington summit was that it marked the beginning of the end of chemical weapons.

The agreement commits both countries to destroy their chemical stocks. That will result

in the destruction of over 100 million tons of chemical weapons. The two countries will also end all production of new chemical weapons upon entry into force of the bilateral agreement without waiting for a multilateral ban to take effect. The Soviet Union and the United States agree to reduce their stocks of chemical weapons to 5,000 tons. Destruction would begin in 1992. One half would be destroyed by the end of the century, the rest by the year 2002. The agreement states that on-site inspections during and after the destruction process would be undertaken. The complete verification regime will be presented by the end of this year, and I urge the administration to ensure that these further arrangements guarantee a fully verifiable treaty.

Destruction technology will be shared so the Soviets can go forward with their destruction program. After signature and entry into force of the multilateral ban, both sides agree that they could reserve the right to maintain a 2-percent stockpile, 500 agent-tons, after continuing to destroy chemical stocks past the bilateral 80-percent level if all CW-capable states had not yet signed the chemical weapons convention.

Secretary Baker has rightly called this new chemical weapons ban "a trailblazing agreement." He is absolutely correct. The United States can go forward in a position of leadership and work to complete the multilateral ban now being negotiated in Geneva. We can also put to bed once and for all our unnecessary, ill-fated, budget-busting binary chemical weapons program.

President Bush has recently celebrated his 500th day as President of the United States. I believe one of his most crowning achievements to date is the chemical ban with the Soviet Union. It may not receive front page attention, but when the history of this era is written it will be seen as a highly significant arms control agreement.

ALESSANDRO MANZONI LODGE CELEBRATES 75TH ANNIVERSARY

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today to join the Westchester County community in celebrating the 75th anniversary of the Alessandro Manzoni Lodge. This lodge, No. 258, has 180 active members and is backed by the Order of Sons of Italy in America which was founded in 1905.

The lodge has played an important role in Mamaroneck and throughout Westchester County in encouraging individual involvement in community activities and public service. In addition, the lodge has worked diligently to promote a sense of cultural heritage among Italian-Americans in the Westchester community.

I want to thank the members of the Alessandro Manzoni Lodge for all of their hard work and community service, and congratulate them on their 75th anniversary.

CONGRESSIONAL INTERNSHIP COMPETITION WINNERS

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Ms. KAPTUR. Mr. Speaker, it is with great pleasure that I place on the official RECORD, excerpts from this year's winners of the Lyndon Baines Johnson Congressional Internship Competition. Applicants from my district for this respected internship were asked to describe "The Promise of Democracy in Eastern and Central Europe: Major Challenges Ahead." Papers were chosen for there originality, creativity in presenting views, writing style and clarity of expression, quality of research, and reference documentation. The Lyndon Baines Johnson Congressional Internship Competition has enabled numerous young men and women to experience firsthand the legislative branch of our Nation's Government. Each year college-aged students and teachers with a keen interest in social studies across our Nation are selected to participate in the day-to-day operation of a congressional office.

This year's first place winner, Jennifer Jenks wrote, "The Way That Is Very Much Longer". Ms. Jenks will join my staff on June 18, 1990, for 2 months. She is a student at the University of Cincinnati, majoring in political science and history and expects to graduate in June 1992.

Jennifer stated,

Like Frank Reed, the countries of Eastern and Central Europe are former hostages rediscovering freedom. Democracy is a concept to which they will have to be introduced gradually. In attempting to establish durable democratic institutions, the new leaders of these countries face a myriad of individual and country-specific obstacles. However, there are at least two critical challenges common to all: ethnic unrest and the introduction of market economy * * *.

There is a desperate and immediate need for progress, overly ambitious attempts to reestablish equilibrium in the economy could be dangerous. In order to prevent the spread of economic chaos and severe social unrest, it will be better to gradually combine an increased private and communal market with some government controls and protections. Czechoslovakian economist Ota Sik talks of a "third option" to capitalism or command economies: "The old directive plan must disappear and in its place should be introduced a macro-plan which would provide the framework for the long-term goals of the economy. These goals can be achieved with the help of an income policy, a policy of public spending, a monetary policy, all of which can be combined with the market mechanisms without actually limiting them.

The emerging democracies will likely involve more central planning similar to that in many Western countries, with the national government controlling such things as the telegraph, railroads, mining, public utilities and financial institutions. The stable, highly predictable way of life to which East Europeans have grown accustomed will give way to a lifestyle that will become increasingly precarious as the existing safety nets are gradually lowered. The price of food, housing and fuel will increase, and more people will be unemployed.

The Western countries, committed to the ideals of democracy, have more than just an opportunity to help these Eastern European countries adopt democractic systems; they have an ideaological obligation to foster liberal political values and to encourage democratic practices. To a large extent, the key to Western influence will lie in the use of economic leverage to promote economic changes which will in turn foster significant social and political progress. The West can help them develop strong economic bases, but investment, not handouts, is the answer. These countries need a long-term commitment, not just a quick-fix solution. Western governments can provide capital, low-interest loans, credit, and technological assistance.

No one knows the future of Eastern Europe, but many agree on one thing: the struggle for democracy will be a long and treacherous one. As Petre Roman, the new prime minister of Hungary, predicted, "From a democracy to a dictatorship, sometimes you need a day. From a dictatorship to a democracy, the way is very much longer."

This year's second place winner, Christopher H. Blanchard wrote, "A Renewed Marshall Plan and Participatory Planning for East Europe". Mr. Blanchard graduated from Miami University with a bachelor of arts in international studies in May 1987 and is currently a graduate student at the American University in the School of International Service.

Mr. Blanchard stated,

The transition from a centrally planned economy with an extensive welfare apparatus, to a Western style market economy could promote instability and bad choices for these countries. Most theorists in the West view this period as one of necessary discomfort and a vehicle to effect the greatest possible good. The quick transition period widens the gap between haves and have nots on a daily basis.

What these governments might consider is a transition period in which a working socialist program is implemented. The solution for the economic sphere could be found in a different kind of democratic planning, capable of expressing collective economic self-management, and thus compatible with the development of democratic political cultural and personal relations.

On the consumption side of the economy, consumer's councils could be formed at various levels—neighborhood, city, region and so on. To promote democratic decisionmaking that is socially responsible, outcomes would be decided by the people at the level most affected, but reviewed by councils at more inclusive levels. What sort of consumption decisions would arise? Individuals would have to choose between different kinds of relatively private goods and services while neighborhoods would ask for things like parks, schools and hospitals. Regions might request new transportation systems, housing centers, etc. The structure of layered councils would allow all concerned at each level to participate equally in the debates and voting on options. A similar arrangement could be used on the production side. Workers would propose outputs based on a comparison of capabilities and consumer demand.

This year's third place winner, Sherry Akers, wrote "The Promise of Democracy in Eastern

Europe" Ms. Akers is a student at Tulane University, majoring in political science and expects to graduate in June 1992.

Sherry stated,

Ambassador Jacques Andreani believes that the Soviet domination of Europe in the postwar years was highly unnatural. Europe was obliged to conform to a single model. Under the crust of ideology, the people of Eastern Europe kept alive a vivid memory of their national past and their national identify, remembering the clost relationship they had maintained over the centuries with the rest of Europe. Hence, Andreani is suggesting a resurgence of ideals; not a creation of new ones as implied by many scholars. He claims, "We can see an outline of the new system, but we can't yet see it in detail • • • all in all, it will bear little resemblance to the traditional Soviet-type political regime." Furthermore, he doesn't think that the new political systems of Soviet Russia and Eastern Europe will be truly democratic. There will simply be "elements" of democracy. Stephen White suspects that prospects for Soviet democratization are "open, changing and ambiguous". For example, a national poll discovered that 75 percent of public life was necessary. However, only 30 percent were actually willing to take an active part in such a process. There is popular support for political reform—but not necessarily if it appears to lead to economic hardship.

SPECIAL DAY FOR CHARLOTTESVILLE, VA

HON. D. FRENCH SLAUGHTER, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. SLAUGHTER of Virginia. Mr. Speaker, today is a special day for Charlottesville and for all of central Virginia. It is a day that a group of special Americans will be recognized for their contributions to American military history. Theirs were contributions of personal dedication, loyalty, sacrifice, and in some cases, life's blood, more than 70 years ago in what history books describe as the Great War—World War I.

Five American patriots will be recognized today by the Virginia Militaria Collectors' Association for their service in World War I. I have been told that this assemblage of five World War I veterans is the largest central Virginia gathering in recent memory. An estimated 90,000 Great War veterans survive across the Nation.

Luther Bell of the 92d Infantry is 94 and from Charlottesville; Hobert W. Clements of the 28th Infantry is 92 and from Charlottesville; David M. Cohan of the 2d "Indian Head Division," U.S. Marine Corps, is 94 and from Charlottesville; Carl G. Kruger of the 78th Infantry is 94 and from Palmyra; and Gleason Thoms of the 802P Infantry is 97 and from Faber. Each is an American patriot and each will participate in the Virginia Militaria Collectors' Association Program that will review the development of trench warfare in World War I.

The program will also detail the dramatic personal sacrifices made by the soldiers who fought in the many campaigns of the American Expeditionary Force in Europe. Saint Michael, Belleau Wood, Aisne, Aisne-Marne, and Meuse-Argonne are battles synonymous with courage and devotion to duty. The five veterans honored today lived by those same precepts: Courage and devotion to duty. As they share their reminiscences of combat service, I am reminded that patriotism and love of country are indeed alive and well in America.

I commend the association, and its president, Art Beltrone, of Keswick, VA, for organizing this program and the other bimonthly programs which are put together and sponsored for the Militaria Collectors and the general public. Many of these programs are videotaped by the association as a community service in anticipation of curriculum use by students in public school systems.

Today is indeed a special day in central Virginia. It is a day when all Americans will remember and understand that when their country called, these patriots responded and went over, and did not come back until it was over, "over there."

POW PRAYER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. LAGOMARSINO. Mr. Speaker, during the Memorial Day ceremony in Ventura, CA, in my district, Mr. Lloyd Vancil, an officer of the Vietnam Veterans of Ventura County, offered the following prayer for American prisoners of war and those still missing in action. As chairman of the House POW/MIA task force, I join with the long-suffering families of these missing men, their comrades-in-arms, and concerned citizens in seeking the fullest possible accounting of our POW/MIA's from World War II, Korea and Southeast Asia. I would like to share this prayer with my colleagues:

POW PRAYER

Father,

Your own son was a prisoner. Condemned, He died for us. Victorious, He returned to bring us the gift of life everlasting.

Comfort us now in our longing for the return of the Prisoners Of War and those Missing in Action.

Help us Father;

Inspire us to remove the obstacles.

Give courage to those who know the truth to speak out.

Grant wisdom to the negotiators, and compassion to the jailors.

Inspire the media to speak out as loudly as they have in the past.

Protect those who seek in secret and help them to succeed.

Show us the tools to do your will.

Guard and bless those in captivity, their families, and those who work for their release.

Let them all come home soon.

Thank you Father,

Amen.

A TRIBUTE TO JACK O. HAMPTON

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. DUNCAN. Mr. Speaker, I am pleased today to pay tribute to the Kiwanis Division Five Layman of the Year, Mr. Jack O. Hampton of East Knox County, who lives in my congressional district.

Mr. Jack Hampton was named 1990 Layman of the Year at a prayer breakfast on May 7, in Knoxville. He is an outstanding man in the community, and he has long served his fellowman.

This distinguished award is made on the basis of one's spiritual concern and love for others. Jack has a big heart that naturally inclines him to "do unto others as you would have them do unto you." His acts of kindness and unselfish service to others in the name of God are countless and often untold.

Mr. Speaker, we need more Jack Hamptons. Our children and youth are looking for examples to follow, too often choosing the wrong kinds of role models. If they would follow the example of Jack Hampton, our society would reap the benefits of kindness and care from their great service.

It is obvious to those who know him that Jack Hampton deserves this award. I commend him on his selfless devotion to mankind and on his being named 1990 Layman of the Year in the Division Five Kiwanis Clubs.

Mr. Speaker, I insert the accompanying article from the East Knox Area News in the RECORD:

[From the East Knox Area News, May 21, 1990]

JACK O. HAMPTON—DIVISION 5 LAYMAN OF THE YEAR

(By Joyce Pautler Thomas)

On May 7th the Eighth Annual Prayer Breakfast for Division 5 Tennessee-Kentucky District was held at the First Baptist Church in Knoxville. (Division 5 consists of 16 clubs with 907 members.) The program opened with a Welcome from Lt. Govenor Jon G. Roach, Bo Shafer led the singing of America, Frank Borbeck led the Pledge of Allegiance and Jerome M. Allen gave the Invocation. The program continued with the introduction of special guests, scripture reading and special music. President-Elect Dr. W.J. "Wil" Blechman of North Miami Beach, Florida, was featured speaker.

The Division 5 Layman of the Year Award was next on the program. The Selection Committee had reviewed the submitted nominations and narrowed their selection down to five members.

"In keeping with the First Object of Kiwanis International, To give primacy to the Human and Spiritual, rather than to the material values of life, the 1990 Layman of the Year Award is presented annually to the person selected from nominees submitted by Division Five Kiwanis Clubs."

"These nominations have been selected on the basis of their outstanding and dedicated spiritual aims service within and without the Kiwanis Family. They truly exemplify a spiritual concern and love expressed outwardly by unselfish devotion of their life's

blessings to improving the opportunities for happiness and perfection allowed us all."

Kentucky-Tennessee District Governor John W. Gorrell, from Lexington, Kentucky reviewed the accomplishments of the Kiwanian chosen as Layman of the Year. Dr. Blechman presented the Division Five, Kentucky-Tennessee District Kiwanis International Layman of the Year Award 1990 to Jack O. Hampton, a member of the Holston Kiwanis Club.

Jack is a friendly, considerate, religious individual who always has time for an encouraging word, a smile and a hand shake. He has been a dedicated member of Holston Kiwanis, with perfect attendance, for 16 years. He is presently Co-Chairman of the Head Start Project. Jack served three terms as president and received the "Distinguished Award" for all three terms. He also served three terms as Chairman of the Committee on Support of Spiritual Aims. In 1978, as President, he originated the Holston Annual Prayer Breakfast. His visits to hospitals and nursing homes are representative of Kiwanis and his local church. He served in the United States Navy as a Lieutenant in the Air Corps and as a veteran, he is a Life Member and Past Commander of the Disabled American Veterans Chapter 24. Jack is a member of the Sons of the Revolution, Tennessee Society, serving on the Americanism and Marshall Committee. He assisted in organizing youth football and coached Little League baseball in the Carter Community.

Much of Jack's time is given to the Huckleberry Springs United Methodist Church and the Knoxville District United Methodist Church. An average of 10-15 hours weekly are spent visiting the sick and home bound, at nursing homes and hospitals. A minimum of two weeks during the year are spent attending conferences, retreats and training sessions. Among his duties at the Huckleberry Springs United Methodist Church are teaching Adult Sunday School Class, Church Lay Leader, Certified Lay Speaker, Chairman of the Administrative Board, Chairman of the Board of Trustees, and Secretary/Treasurer of the United Methodist Men's Association. Jack also provides transportation for elderly people each Sunday to the Huckleberry Springs United Methodist Church.

His activities in the Knoxville District Methodist Church include filling the pulpit requests for laity speakers in the 61 churches and planning for the training of certified lay speakers. He is active as Past President of the United Methodist Men and Past President of the Layman's Association. He had attended annual conferences for 13 consecutive years and has been elected to attend, as a member-at-large, in June of 1990. He is presently serving the Districts as Associate Lay Leader, Local Lay Speaker Coordinator and Certified Lay Speaker. Jack is Treasurer of the United Methodist Men of Holston Conference; this Conference is made up of 12 Districts. He has an active leadership role in the National Congress of United Methodist Men which meets at Purdue University, West Lafayette, Indiana.

In January 1989, Jack retired after serving for 40 years with the United States Postal Service. Jack and his wife, Ruth reside in East Knox County; they have three children, Dawn, Dale and Dean. Their grandchildren are Seth and Christopher.

Jack Hampton is admired and respected by all who know him and we congratulate him on receiving the 1990 Layman of the Year Award.

TRIBUTE TO WLEN RADIO OF LENAWEE COUNTY, MI, ON ITS 25TH ANNIVERSARY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. DINGELL. Mr. Speaker, I rise today to pay tribute to WLEN Radio of Lenawee County, MI, on its 25th anniversary. Throughout its 25 years of service, WLEN has proven to be a vital communications link for my constituents in Lenawee County. A leader in Michigan radio, WLEN has served the Lenawee community by offering a wide variety of programming from news and sports to talk shows and music.

WLEN's longevity demonstrates its ability as a radio station to succeed in a medium that has become increasingly competitive over the years. The station has remained a distinguished leader in Michigan broadcasting through its commitment to innovative and quality programming.

The station's contributions to the community are unparalled. WLEN has been recognized and given awards by such groups as the March of Dimes, Lenawee United Way, and Muscular Dystrophy Association.

Mr. Speaker, the citizens of Lenawee County, MI, are fortunate to have a station such as WLEN. I urge my colleagues to join me in honoring WLEN on its 25th anniversary and to extend wishes and hopes that it enjoys continued success for another quarter century.

A WELL-DESERVED TRIBUTE TO SIDNEY SHLENKER

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. SUNDQUIST. Mr. Speaker, B'nai Brith recently selected Sidney L. Shlenker to receive its Distinguished Service Award for 1990. There is much I could say about this dynamic individual and his contributions to the Memphis area, but let me instead offer for the RECORD B'nai B'rith's own testimonial.

THE SIDNEY L. SHLENKER DISTINGUISHED ACHIEVEMENT AWARD SCROLL OF HONOR

It might be said that B'nai B'rith, our oldest homegrown service organization, has been a movement ahead of its time.

For, while striving to build a strong sense of Jewish identity among its members, it has also worked unceasingly to achieve for all mankind a world free of bigotry and hatred, a world committed to human rights and human values.

Among the most impressive of B'nai B'rith's accomplishments has been its creation of a wide network of youth services. B'nai B'rith regards its commitment to the young people of today as a legacy to the men and women of tomorrow.

B'nai B'rith is honored to present its 1990 Distinguished Achievement Award to Sidney L. Shlenker, former majority owner and chairman of the NBA's Denver Nuggets and a dedicated young leader in the Jewish world.

He sold the Nuggets franchise in November 1989, in order to devote his time and vast expertise to the Great American Pyramid—the planned sports arena, commercial and shopping complex which promises to be a major new attraction in Memphis, Tennessee. He is also overseeing the exciting plans for the redevelopment Memphis' Mud Island district.

Born in Monroe, Louisiana, he attended Tulane University, and worked first at the Houston National Bank, before beginning a highly successful career in the communications and entertainment industry.

For over three decades, Sidney Shlenker has created, produced, packaged and promoted a dazzling array of entertainment spectaculars in this country and abroad, including Broadway musicals, television specials, stadium concerts, heavy-weight championship fights, closed circuit television broadcasts, pay-per-view contests, and major league baseball, all in addition to professional basketball.

He is a founding partner and has a major interest in PACE Management Corporation, one of the largest and most respected entertainment companies in the nation. Under his guidance, PACE has grown from a start-up organization to one that owns theaters or amphitheaters in more than 30 cities. Its annual production of touring shows covers a market of some 200 cities.

While building PACE, Sidney Shlenker was appointed President and CEO of Houston's Astrodomain Corporation. In this capacity, he was responsible for the management and operations of Astroworld Hotels, the Astrohall convention Center, the 6,000 seat Astroarena theme park, the Astrodome stadium and the Houston Astros baseball team. His involvement in professional sports took a new turn in 1985 when he became majority owner of the Denver Nuggets franchise in the National Basketball Association. In his capacity as owner, he played a pivotal role in transforming Denver's McNichols Arena from an anonymous venue into a glittering showcase attraction.

Sidney Shlenker has been an unwavering supporter of Jewish service and philanthropy, and of the aspirations of young people. He has earned his reputation as one of the most dynamic young leaders in United Jewish Appeal fundraising. He sits on the board of Denver's National Jewish Hospital for Immunology and Research and Rose Hospital Foundation.

B'nai B'rith is pleased to present its 1990 Distinguished Achievement Award to this innovative and creative businessman and outstanding community leader, Sidney Shlenker.

TRIBUTE TO ELIZABETH GASQUE VAN EXUM

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. TALLON. Mr. Speaker, in November, South Carolina mourned the passing of the first women to represent the Palmetto State in the U.S. Congress. Mrs. Elizabeth Gasque Van Exum was elected in September 1938 to the seat left vacant when her husband, Congressman Allard Gasque passed away. She

won a special election in which she received over 5,200 votes compared to a combined total of 225 for two male Democratic opponents. Representative Gasque has spent 15 years as the wife of the popular Congressman Allard Gasque, who represented South Carolina's Sixth Congressional District. Her time in Washington as an elected representative was short however. Her term lasted just under 3 months, and she did not run for reelection in 1938. She did enjoy her days in Washington as a Congresswoman, however, maintaining her social contacts and throwing a birthday party in honor of President Roosevelt's birthday.

Although she moved back to South Carolina and later married her second husband, J.F. Van Exum, she was never cured of her case of Potomac fever, always calling Washington her natural home.

Mrs. Van Exum is fondly remembered by the family and friends as quick to smile and with an infectious laugh. She died last year at 103.

LITHUANIANS DESERVE TO HAVE AN INDEPENDENT COUNTRY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. MICHEL. Mr. Speaker, Czeslaw Milosz, awarded the Nobel Prize for literature in 1980, has written a thoughtful analysis of the crisis of Lithuanian freedom. I believe our colleagues will benefit from his insights in the history and the hopes of the Lithuanian people. As is so often the case, an artist has given us the kind of perspective on a geopolitical issue that a mere stateman could never dream of.

At this point I wish to insert in the RECORD, "For Vilnius," by Czeslaw Milosz, in the New Republic, June 18, 1990.

FOR VILNIUS

(By Czeslaw Milosz)

Perhaps I am entitled to add something to the present discussion on Lithuania. Its capital, Vilnius, or as it also has been called, Wilno, is the city of my adolescence and youth. After many decades, it is still the center of my internal geography. And I know by experience how may obstacles confront a writer who wants to talk about its architectural beauty, tragic history, and national imbroglios.

A northern city, yet predominantly baroque in its forty Roman Catholic churches, Wilno of the 1920s and 1930s preserved its traditions and its languages: it was Polish for the majority of the population, Yiddish for a significant minority. Lithuanians were few. Wilno then belonged to Poland, though independent Lithuania claimed the city as its historic capital and spoke of its Polish occupation. I went through high school and university in Polish; my family spoke that language since the sixteenth century. Still, my cousin, the French poet Oscar V. de L. Milosz, was, after World War I, the first diplomatic representative of independent Lithuania in Paris, and defended its right to Wilno at international forums.

The Lithuanians are an odd tribe: they are an example of a modern nation born out of philology. Their language has made a comback after surviving for centuries only among the peasantry. Archaic, closest to Sanskrit of the Indo-European linguistic family, Lithuanian, because of its conservative features, has been both a misfortune for its speakers and their protection against encroachments by their Slavic neighbors. The Lithuanians have proved their attachment to their tongue, and in doing so they have revealed a peculiar trait of their national character, a bullheaded stubbornness.

Today Vilnius is predominantly Lithuanian. Few traces remain of what was called the "Jerusalem of the North," a great center of Jewish learning. The Jewish population was wiped out by the Nazis. As for the Polish-speaking people, one example of a family I knew suffices: the father was deported by the Russians to Siberia, one son was executed by the Nazis, his brother and sister migrated to Poland after 1945. Many thousands emigrated to Poland rather than wait for deportation to the east. Some 100,000 Poles remained in Vilnius. The number of those in Lithuania today who declare themselves Polish is around 300,000, but there is a reason why their complaints of discrimination, to an extent justified, find little echo in Poland: Solidarity sympathizes with the Lithuanian independence movement, while the lack of enlightened leaders among the Lithuanian Poles makes them an ideal tool for Moscow against Lithuania. It is true that the three Polish language deputies to the Lithuanian diet, from Vilnius, voted for independence, but those from other regions remained aloof.

In the miraculous year 1989, I nearly believed in the beginning of a new era in international relations. Yet the memory of a certain event, incessantly vivid, cannot but induce me to skepticism today. On June 15, 1940, on a street in Vilnius, I heard the clanking of Soviet tanks entering the peaceful city to the frozen stupefaction of its inhabitants. The occupation of a neutral little country by a powerful neighbor was a blatant violation of international law. Nobody realized then that the tanks were implementing a secret clause in the Molotov-Ribbentrop pact of August 23, 1939, but the timing was perfect: France was falling and the Germans were entering Paris.

I have heard voices trying to justify the annexation of the Baltic states by invoking analogies in the imperial designs of other great powers. These people do not seem to know what they are talking about. The sunny June day of 1940 meant a descent into the abyss. Imagine the United States invaded and occupied, imagine 30 million citizens deported to labor camps in the frozen wastes of northern Canada near the polar circle. Such, more or less, was the proportion of losses in this small country of two-and-a-half million inhabitants. Had Lithuania presented Gorbachev with a bill for the years of slave labor by its nationals, and for the thousands who died in gulags or survived physically or mentally broken, the amount would exceed the fabulous sum that Gorbachev is demanding as a ransom for independence.

Let me state this bluntly: together with thousands of other Polish Lithuanians or Lithuanian Poles, I lost the country of my fathers, of my childhood and youth. Had I stayed there, I would probably have landed in a gulag. Had I bought my existence at the price of debasement, I would have had nothing to do there anyway, being a Polish language writer. I am in a position similar to that of a German who was forced to leave the land of his ancestors, because that land, after 1945, became a part of the Soviet Union, Poland, or Czechoslovakia. And I understand those Germans who cannot forget, for the magnetic needles of their hearts point eastward.

Thus I do not speak as a Lithuanian, but as a refugee. And yet I wish well the country of my birth, and I do not dream of changing borders in our part of Europe, as, unfortunately, do some Germans. In Poland I have found many people for whom the loss of their cities has been a permanent tragedy, but they realize that what is past belongs to the past, even if those cities, Wilno and Lvov, were more important for the Polish sensibility, in many respects, than Warsaw or Krakow.

Lithuanians deserve to have an independent country. For Fifty years they preserved an unflinching will to be free, and there is not the slightest doubt in my mind that sooner or later they will achieve this goal. They are a disciplined and unified people, familiar with democratic ways and the use of the popular vote. Like their neighbors, the Latvians and the Estonians, their cultural roots bring them closer to the Scandinavians than to the Slavs, and they would probably be economically helped by the family of Scandinavian nations.

The United States has never recognized the annexation of the Baltic states, and this brings honor to the American tradition of opposing European tyrannies. Today the foreign domination over the Balitc republics is a vestige of the ominous era we all would like to leave behind. If the American administration is now ready to compromise on this principle, even at the price of self-contradiction, we, of whatever nationality, who are not primarily concerned with the game of superpowers, should keep alive the sense of what is just. It is not rare that insisting on elementary justice is the most fruitful diplomatic policy.

Czeslaw Milosz won the Nobel Prize for literature in 1980.

IN HONOR OF RUTH KEARNEY

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to Mrs. Ruth Kearney on the occasion of her retirement.

Ruth Kearney has taught in the district of East Rutherford for 47 years. Forty years of her career have been dedicated to teaching first grade students and 7 years teaching second grade students all in Lincoln School in East Rutherford, NJ.

Ruth was a native resident of East Rutherford until 1952 when she moved to Lyndhurst, where she now resides. She went through the East Rutherford School System and graduated from East Rutherford High School. She also graduated from William Paterson College and attended Newark Teachers' College.

Ruth has participated in the Bergen County Teachers' Association mall displays and Sena-

tor BILL BRADLEY'S geography awarenes programs. She has also attended interesting and informative seminars at the New Jersey Teachers' Association conventions.

In 1985, the East Rutherford mayor and council and the board of education declared Ruth Kearney Week. A fellow teacher nominated Mrs. Kearney for this honor. She describes her with the following statement:

She has been a credit to the school system. She brings to our school system professionalism, dedication, intelligence, helpfulness, a caring attitude and much more.

Ruth was also a recipient of the Governor's Teacher Recognition Award in 1987. She is one of those special few who truly make a difference in our society.

Mr. Speaker, I am proud to join in paying tribute to this exceptional woman and extend my best wishes to her.

THE TIME IS NOW FOR NATIONAL HEALTH INSURANCE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. STARK. Mr. Speaker, we all know the statistics: The United States and South Africa are the only industrialized nations in the world without health insurance for all their citizens. Over 60 million Americans are without health insurance sometime during the year. Yet we spend more of our GNP on health than any other nation. For example, we spend about 11.2 percent of GNP on health yet one out of eight of our citizens is uninsured and reluctant to seek health care. Canada spends about 8.5 percent of its GNP on health and insures all of its citizens—and on average they live 18 months longer than we do. If our health care system were as effective as Canada's, we'd save $150 billion a year.

Yet when Members of Congress question the inefficiency and waste in the American health care system, they are criticized as unknowing and insensitive.

Therefore, it is helpful when a health professional, one who has toiled in the vineyards of health care, points out some of the absurdities and waste in our health care sector. Following is an article by William True, retired CEO of San Gabriel Valley Medical Center, California, which appeared in the San Francisco Chronicle of May 30, 1990.

Articles such as Mr. True's continue to convince me that for every $600 toilet seat that the military may have bought, Medicare has paid for a $600 bedpan. It is time the public started asking tougher questions about what it gets for this enormous expenditure of national treasure.

[From the San Francisco Chronicle, May 30, 1990]

THE TIME IS NOW FOR NATIONAL HEALTH INSURANCE

(By William True)

Americans are being suckered by a slick con act. We're set up by our memory and perception of the kindly and revered family doctor—and the health care industry is taking full advantage.

Oh, yes, there are still physicians who fit the honored image of the devoted professional with modest monetary goals. Unfortunately, such individuals are now the exception, and medical care is controlled by doctors and other health care providers seeking maximum profit.

The American Medical Association plays the lead role in this contact to convince us that the respected professional image has not dimmed, and that controlled fee-for-service medicine is still the "American way." It is becoming increasingly clear, however, that "fee for service" is an euphemism for "sock it to 'em."

Other health provider forces also oppose major changes in our failing health care system. Hospital executives and their governing boards and health insurers are prime players in a collective force working to convince us that the health care industry operates efficiently and in accord with our market-driven, free enterprise system.

GROWING NUMBER

Proof that our system is devastatingly deficient, however, mounts with each passing day. Americans without any health insurance are estimated at 37 million, and the number is growing. As a result, we rank low among industrialized nations on major health indicators such as life expectancy and infant mortality. At the same time, escalating health care costs absorb approximately 12 percent of our gross national product, a much larger proportion than that of any other developed country in the world.

The reason a highly productive nation such as the United States provides such a poor health care system is simple: We expect the health care industry to operate and respond to market factors as other industries do. It does not.

In a typical industry, as producers and products increase in relation to demand, the price comes down. But as the number of doctors increases, we do not see a drop in fees charged. Instead, there is an increase in the number of treatments and surgeries.

A normal business enterprise enlarges its plant and expands it product line when demand factors dictate. Hospitals, however, are constructed and expensive technology is added without regard to need.

Evidence of unneeded hospitals in urban areas is clear, with many operating at 50 percent to 60 percent occupancy rates, and some even lower. This waste is accompanied by a shortage of hospitals in underserved rural areas.

EXPENSIVE AND WASTEFUL

Each of the provider forces has an interest in retaining this expensive and wasteful system. Hospital executives see more and higher-paying jobs with more and bigger hospitals. For-profit hospital governing boards realize greater profits through increased facilities, and boards at the nonprofits enhance civic pride by expanding their community hospitals. Fee-for-service doctors make more money through ready access and excessive use of the high-tech capabilities of the many hospitals. And health insurers' profits rise along with the higher premiums called for by the increasing costs of the bloated system.

A national health insurance system with strong controls over costs and resource allocation is the only answer to our health care dilemma. Arguments that we can't afford it are wrong. Removing waste and abuse from the present system will more than cover the cost of care for the millions now without it.

So let's recognize the con act, turn off the con artists and move on to national health insurance.

IN MEMORY OF JOHN R. WILBANKS

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. BILBRAY. Mr. Speaker, it is with great sorrow that I rise today to pay tribute to an outstanding Las Vegan, John R. Wilbanks, who passed away on Saturday, June 2, 1990. He was 51 years old.

John Wilbanks, a longtime professor at the University of Nevada Las Vegas, will be remembered for his numerous and adventurous expeditions in the Antarctic.

He was born June 10, 1938, in Foreman, AR. John attended the New Mexico Institute of Mining and Technology where he received a bachelor's degree. Later, he earned his master's and Ph.D. degrees from Texas Technical University.

In 1971, John became an associate professor of geoscience at UNLV, where he is probably best known for his research projects conducted in the Antarctic. He went on five expeditions to the Antarctic during the 1960's and 1970's. In fact, Mount Wilbanks in Antarctica is named after John's 1969 expedition.

At UNLV, he was a popular professor who shared many stories with students about his experiences in one of the last uninhabited areas in the world. His exploration into one of the last frontiers to do research is truly representative of his adventuresome and passionate spirit.

John was also involved in a continuing education program for public schoolteachers that focused on enhancing their teaching skills in geoscience. He was dedicated to his area of study and was a prominent authority around the State and the country.

I extend my deep sympathies to his wife Dorothy, his children Holly and Randall, and to his entire family.

Mr. Speaker, the passing of John Wilbanks is a great loss to the Las Vegas community and all of Nevada. His contributions to science will be appreciated for generations to come. I thank my colleagues for this opportunity to pay tribute to this admirable man in the permanent history of this body. It is a great privilege.

THE 535 LADIES-IN-WAITING

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. JACOBS. Mr. Speaker, as one of the "535 ladies-in-waiting" I thought all of our colleagues should see the letter from the Taxpayers Union, written by Sid Taylor.

The letter follows:

NATIONAL TAXPAYERS UNION,
Washington, DC, May 22, 1990.

Lt. Gen. DANIEL O. GRAHAM, USA (Ret.),
Brig. Gen. ROBERT C. RICHARDSON, USAF (Ret.),
High Frontier, Arlington, VA.

GENTLEMEN: I enjoyed your briefings at the Army-Navy Club (17 May) on your proposal for a single-stage-to-orbit space ship. There is no doubt that you are exploring a New Frontier.

You apparently face a situation like Christopher Columbus of about 500 years ago who approached Queen Isabella for funds to explore or discover a New World. There is no doubt that a simplified, easier-to-launch and less costly space travel vehicle will open up a new world of orbital transportation. We've come a long way from the horse and carriage of 1890. Keep up the good work. What this country needs is more "simplifiers".

However, as a Space Age Christopher Columbus, you face a formidable challenge in the fact that our Royal Treasury at 15th and Pennsylvania Avenue (next to the White House) is empty. We now have a $3 trillion dollar national debt plus federal budget deficits in the $150 billion a year range. On top of all this, the INTEREST on our national debt is now around $180 billion a year. And I've not begun to recite the unfunded obligations (actuarial or contingent) that are "off-the-books" in our great American enterprise called USA Incorporated.

Our problem is that Queen Isabella (the White House) now has about 535 ladies-in-waiting (Congress) who get into the federal budget process. So, unlike Columbus, you face an even more complex challenge in getting your simplified Santa Maria into orbit.

Anyhow, I enjoyed your briefing and was impressed by the technical know-how of your associates. Your concept rang a bell with me as an old Air Force systemist—who has lectured and written on the need for System Simplification (SYSIM) in many of our billion dollar federal programs. Your SSTO idea is a classic example of what my managerial sermon is all about. This kind of thinking can save the American taxpayer—billions of dollars.

Taxfully,

SID TAYLOR,
Research Director (Systemist).

Attention: Mr. Sid Taylor.
High Frontier, "The organization that pioneered the idea behind the Strategic Defense Initiative."

You are cordially invited to an exclusive luncheon briefing on the single-stage-to-orbit: A revolution in space transportation, featuring Lt. Gen. D. Graham director of High Frontier, Steve Höeser, senior research scientist, Washington, DC, Max Hunter, aerospace engineer.

DEAR ——, ——. Next week the United States will take the first concrete steps toward the development of a craft that promises to revolutionize space transportation. At a top secret bidders conference on 16 May, the Pentagon's SDIO office will let $12 million worth of contracts to design a single-stage-to-orbit (SSTO) space ship. we have awaited this event for some time, Indeed, High Frontier has spent the past year working aggressively to bring the SSTO concept to fruition, Specifically, we have advocated the development of a vehicle called SSX.

In February of 1989 High Frontier Director Gen. Dan Graham presented the SSX concept to Vice President Dan Quayle. Today, with the Vice President's firm support, the SSX space ship is one of the most promising entries in the SSTO design competition. Analysis indicates that an SSX type vehicle could reduce a payload's cost-per-pound to orbit to around $50, about 1/100 of the cost for a payload aboard the space shuttle. As such the SSX wil provide affordable and reliable transportation to support SDI's deployment, the commercialization of space, and America's space exploration program.

In light of the SDIO's action, High Frontier has assembled a panel of experts on the SSTO concept who will brief and take questions from a select group of press professionals. A ten minute animated film of and newly published materials on SSX will be presented. We hope you can join us. Thursday, May 17th. 12:00 noon lunch. The Army-Navy Club's John Paul Jones Room. 17th & I Streets, NW., Washington DC.

Please R.S.V.P. to Scott McMahon or Bernice Coakley at 671-4111.

FACT SHEET-POINT PAPER SSX (SPACE-SHIP EXPERIMENTAL)

The SSX is being called the Iron Horse, the DC-3 of the space age. It's the taxpayer's delight—a notable achievement in reducing to under $100 the *Cost per pound* to space, compared to those systems we how see on the pad at the Cape, with a price tag between $5,000 and $10,000 for *each pound.*

The SSX is no dream! The Pentagon's SDIO office has allotted $12 million to develop a prototype by 1995.

The SSX will be the first ever vertical takeoff and landing (VTOL) spaceship. It will takeoff and land on rocket power.

The SSX is flexible. It can launch from and land almost anywhere. It is a *savable* spaceship it can abort fully intact at virtually any point in its flight it operates despite failures, instead of failing to operate.

Properly managed, three prototype SSX vehicles can be built and tested in five years at a cost under $450 million each.

The aerospace industry has created the lightweight materials and structures needed to build the SSX, in large part from National AeroSpace Plane (NASP) technology developments.

The SSX breakthrough will radically reduce the cost of Moon and Mars missions, the Mission to Planet Earth, the deployment of Phase I SDI, and space station *Freedom.* Indeed, we can have it all with no new taxes!

With SSX, commercial space ventures will finally burgeon. The American entrepreneurial spirit will be unleashed in space.

For more SSX information:

Lt. Gen. Daniel O. Graham, USA (Ret.) and Brig. Gen. Robert C. Richardson, USAF (Ret.), High Frontier, 2600 Shirlington Road, Suite 405, Arlington, VA 22206.

Maxwell Hunter, Space Guild, President & CEO, 3165 La Mesa Drive, San Carlos, CA 94070.

Steve Höeser, Space Systems Analyst, 5826 Apple Wood Lane, Burke, VA 22015.

A.O.(Del) Tischler, Propulsion Engineer, 8408 Magruder Mill Court, Bethesda, MD 20817.

IN SUPPORT OF THE DISADVANTAGED MINORITY HEALTH IMPROVEMENT ACT

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. FORD of Tennessee. Mr. Speaker, I am pleased to support the Disadvantaged Minority Health Improvement Act. I particularly urge my colleague to support the provisions contained in title II of the bill which call for continued and increased support for historically black health professions schools.

Mr. Speaker, these institutions have trained 40 percent of the Nation's black physicians and dentists, 50 percent of the Nation's black pharmacists, and 75 percent of the Nation's black veterinarians. Most of their graduates are working in the Nation's underserved rural and inner-city communities. These institutions have achieved great accomplishments and have overcome great obstacles to survive. The Federal Government has only recently committed to supporting these institutions.

Studies show that blacks and other disadvantaged minorities do not enjoy the same health status as other Americans. The 1985 HHS Secretary's task force report on black and minority health revealed that: Life expectancy of blacks is nearly 6 years less than whites; infant mortality among blacks occurs at a rate twice that of whites; and, blacks suffer disproportionately higher rates of cancer, cardio-vascular disease and stroke, chemical dependency, diabetes, homicide, and accidents.

A national center for health statistics shows that the life expectancy for blacks in this country actually declined between 1984 and 1987. Another study commissioned by the association of minority health professions schools revealed that: While blacks represent approximately 12 percent of the U.S. population, only two-thirds percent of physicians, dentists, pharmacists, and veterinarians are black; only a few health profession schools have more than 12 percent black enrollment; black health professionals are approximately twice as likely to serve in medically underserved areas than their white counterparts; and, without the contribution of historically black health professions schools, the shortage of service to the underserved communities would be more severe, and the health status gap much wider.

Mr. Speaker, I envision these institutions as playing a leading role, not only in the past but in the future, of our health care systems in the United States. I urge this Congress to give full consideration at the earliest possible date to the bill H.R. 3240 with special emphasis on maintaining the provisions contained in title II of the bill. That section of the bill provides for priority Federal funding to schools that have demonstrated success in the recruitment, enrollment, and graduation of underrepresented minority students and limiting debt incurred by minority students through adoption of scholarship and loan repayment subsidies.

Adopting such measures along with providing incentives for minorities to enter academic

medicine or medical research is responsive to the HHS Secretary's task force report.

I applaud my colleague, Mr. STOKES, who has worked to develop and move this essential legislation forward since the Congress first received the Secretary's report in 1985.

Mr. Speaker, this bill is a major step in addressing the health problems facing our minority populations. When we begin to address critical health needs of our most disadvantaged populations, we will have taken the first step toward improving the overall well-being of our society. For "wellness" is the first step in enabling the individual to reach their full potential. When each member of society has that ability, then America wins as a nation. Let us further this goal by supporting the institutions that have made significant steps toward addressing the health needs of America's neediest population.

HALF A CENTURY OF SERVICE TO THE PANAMA CANAL

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. DYSON. Mr. Speaker, I would like to take this opportunity to call attention to Capt. Earle H. Holder, who is retiring from the Panama Canal Commission after a half century of service.

Captain Holder's father, James Holder, came from Barbados in 1911 to work on the construction of the canal. James Holder retired in 1955 after 44 years of service in the Dredging Division. In 1940, Earle Holder started work on a labor gang at a wage of 13 cents per hour. He attempted to join the U.S. Army in World War II and was not permitted because of his citizenship. Instead, he worked his way through the ranks of canal employment. In 1978, he was promoted to pilot in training at the age of 54, completing his pilot's training in 1986. Captain Holder, like all Panama Canal pilots, is a member of the International Organization of Masters, Mates and Pilots Union, which has a long and proud history of involvement in ensuring that the canal operates smoothly, both prior to and since the Panama Canal Treaty.

Captain Holder played professional baseball as a pitcher in the Canal Zone League from 1948 to 1952. In 1949, he was offered a career opportunity with the Southwest Pacific League but decided instead to stay with the Panama Canal. During World War II in Panama he played with baseball stars such as Ken Layman of the Brooklyn Dodgers, Mickey Harris of the Red Sox and Terry Moore of the St. Louis Cardinals. His all time favorite team is the Detroit Tigers.

I wish Captain Holder a long and happy retirement and would like to at this point insert a letter of congratulations from myself and other past and present members of the Subcommittee on the Panama Canal.

COMMITTEE ON
MERCHANT MARINE AND FISHERIES,
Washington, DC, May 17, 1990.

Capt. EARLE H. HOLDER,
c/o Panama Canal Pilots Branch, International Organization of Masters, Mates and Pilots, Republic of Panama.

DEAR CAPTAIN HOLDER: As past and present members of the Subcommittee on Panama Canal of the House Committee on Merchant Marine and Fisheries, we would like to take this opportunity to congratulate you on your long and distinguished career with the Panama Canal.

I am sure that your father, who came from Barbados in 1911 to work on the construction of the Canal, would be proud to know that over the course of fifty years, his son has progressed from working on a labor gang in 1940 at a wage of 13 cents an hour to becoming a pilot in 1986. The job of a Panama Canal pilot calls for a high level of skill, motivation and professionalism. This professionalism and dedication to the job was particularly evident during the difficult years when you and your fellow pilots kept the Canal open and operating smoothly despite the political unrest in the Republic of Panama.

Again, we congratulate you for your fifty year career with the Panama Canal and we wish you and your wife a long and happy retirement.

With best wishes.

Sincerely,

Walter B. Jones, Billy Tauzin, Helen Delich Bentley, Jack Field, Norman D. Shumway, Bob Davis, Roy Dyson, Carroll Hubbard.

ACRV AND THE NEED FOR SPACE SAFETY

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. ANDREWS. Mr. Speaker, I rise today to express my support for a program which is absolutely vital to the continuation of our country's exploration of space—the assured crew return vehicle [ACRV]. The ACRV is a reliable, space-based vehicle—a lifeboat of sorts—which can safely deliver crewmembers back to Earth in the event of an emergency. Such emergency escape capabilities are critical to the establishment of the permanently manned space station currently scheduled for 1997.

I fear that once again, efforts are being made to eliminate funding for the ACRV program, and the prospect of this cut upsets me greatly. We must continue to fund this integral element of the space station *Freedom* project.

Opponents of ACRV say the price is too high. Yet, NASA has mandated that the ACRV program emphasize low-cost development options and proven reliable technologies. NASA's request for $16 million to begin phase B research keeps that requirement in mind. Those who argue against the system do so at the expense of giving crewmembers a viable return capability.

Critics seem to suggest that astronauts should have the "right stuff." In other words, they know the dangers of working in space and shouldn't be afraid to risk their lives in doing so. While this was the attitude in the early days of the Mercury program, our objectives and priorities have matured. There should be no excuse when it comes to protecting the lives of our astronauts to the best of our ability.

The need for a return capability has been demonstrated on at least two occasions by events on the Soviet Mir station. Both a propellant leak and a micrometeorite striking a window forced the station crew to flee into their Soyuz module until the extent of the damage was ascertained. Luckily, they were able to correct the problems they encountered in space, but what would have happened if the situations had been critical? What if there had been a leak of toxic fumes or a station depressurization?

We know that any operations in space carry with them a certain amount of risk, but why should we jeopardize the lives of our crewmembers when they need not be jeopardized? Crew return capability has always been a priority for NASA's manned space exploration activities. Skylab employed a similar vehicle during the 1970's, so there is nothing novel in this idea. A preventable accident or medical emergency resulting in loss of life aboard the space station would be a horrifying and shameful result or our negligence.

A preventable death in space would certainly be a tragedy. Not only that, it might also spell doom for the entire space industry. Can you imagine the implications such an accident would have on NASA's credibility in the eyes of the American public? The very existence of NASA would be threatened.

Mr. Speaker, the ACRV program is a reasonable, cost-effective way to keep our astronauts safe. In Houston, Johnson Space Center is working hard with local space technology companies to build a reasonable program for Congress to review. The risks to astronaut security and the integrity of America's space program as a whole are too great a cost to these efforts. I hope you will join me in support of assured crew return capability on this and future space missions.

INSURANCE FIRMS: PRIVILEGED CLASS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. EDWARDS of California. Mr. Speaker, as we know, the insurance industry—one of the largest and richest industries in America—is exempt from our antitrust laws. I believe this is an outrageous situation which, in the compelling interest of the consumers of this Nation, simply must be corrected.

Yesterday, the New York Times published an op-ed piece written by Ms. Linda Lipsen, legislative counsel for Consumers Union. Ms. Lipsen eloquently makes the consumer case for this change, and I commend her thoughtful article to all of our colleagues.

Pending before the House Judiciary Committee's Subcommittee on Economic and Commercial Law is a bill which would address this concern of consumers by bringing the insurance industry back under the Federal antitrust laws. Congressman BROOKS and I intro-

duced that bill, H.R. 1663, the Insurance Competitive Pricing Act of 1989.

H.R. 1663 simply says that insurers cannot engage in the four most egregious anticompetitive violations known under our antitrust laws—price-fixing, tying arrangements, territorial division, and monopolization. With the interest of consumers in mind, I invite the support of our colleagues for this modest proposal.

[From the New York Times, June 5, 1990]

INSURANCE FIRMS: PRIVILEGED CLASS

(By Linda Lipsen)

WASHINGTON.—If you discovered your neighborhood butcher was trying to fix the price of meat with other butchers, carve up the market and tell you you couldn't buy fancy cuts unless you bought soup bones, you'd call the authorities. But because of an antiquated law, the insurance industry has been given the privilege of rigging the market comparably.

This special treatment stems from the McCarran-Ferguson Act of 1945, which allows the insurance industry, unlike any other American industry, to escape the scrutiny of Federal anti-trust laws. This law is an Edsel.

Consumers pay a steep price for this special privilege, for, after food and shelter, insurance is the single largest annual consumer investment.

The exemption, which for 45 years has never been based on any sound public-policy principle, has created a marketplace hostile to consumers. When consumers pay more for car insurance than their cars are worth, something is very wrong with the marketplace. When nurse-midwives, day care centers, municipalities and others suddenly found in the '80's that they could not get insurance at any price, supposedly because of a law-suit crisis, something is very wrong.

Shopping around for a better price was a fruitless exercise for these interests. Often, they couldn't find any insurer willing to cover them. A healthy, competitive insurance market would not have produced such horror stories.

Over the years, many in Congress have tried to repeal the McCarran-Ferguson Act. Yet the insurance industry has always been able to throw its considerable weight around and prevent such efforts from taking hold. So politically powerful is the industry that in 1980 it succeeded in convincing Congress to bar the Federal Trade Commission from even studying the insurance business.

But consumers are blowing the whistle. When the issue of whether the industry should be allowed to fix prices was put to Texas voters in a March referendum, 90.6 percent said no. Californians rescinded the state antitrust exemption for the insurance industry when Proposition 103 was adopted in 1988. Last March, New Jersey subjected the auto insurance market to state antitrust scrutiny.

Congress is beginning to take heed. There is significant activity in the House Judiciary Committee on a bill sponsored by Jack Brooks, Democrat of Texas. It would hold the industry accountable for antitrust violations like price fixing, dividing markets, linking the sale of one product to another and monopolizing the market.

The industry is hanging on to its exemption with the fierceness that auto-makers once displayed in resisting airbags; but today in ads even Lee Iacocca extols the virtues of airbags. If Congress stands up to the insurance industry and passes the Brooks bill, consumers will be the beneficiaries.

PLEASE DON'T BURN MY FLAG

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. INHOFE. Mr. Speaker, it is my pleasure to share with my colleagues this inspirational theme about the Amercian flag. This composition, written by Mr. Ken Jeffries of Broken Arrow, OK, embodies the emotions that all Americans, not just those who fought for our country and for international freedom, should feel about our country's most sacred symbol—the American flag.

JULY 4, 1989.

DEAR AMERICA: As a boy of 14, I left my father's farm to fight for the freedom of all people, in the Union army. I marched across the southern states, scared, knowing I might never see my Mama again. I faced boys in battle no older than I was; old men, who really only wanted to grow cotton, yet took weapon in hand for a cause they thought was just. As our troops marched across Georgia, I found my final resting place, a lonely hill, far from my northern roots, where my bones still lie.

I died for a cause, a symbol—I died for Ol'Glory, the stars and stripes.

In World War I, I went to a far off land where men were trying to conquer the world, to take freedom from all men. No "doughboy" I met wanted to be in this hell-foresaken place, yet we had a choice; fight the war in Europe or fight the war in our precious country. No one wanted our families to suffer like those we saw in that war, so once again, we did what we had to do.

My remains are buried on a hillside, overlooking a quiet, peaceful, German village, surrounded by God's beauty. How I wish this place was in my homeland.

I died for Ol' Glory and what she represents.

A man named Adolph decided to build a super race, eliminate those in the world he did not like, and was joined in battle by the land of the rising sun.

We came in throngs to don a uniform representing our country, to take up arms, to insure freedom was there for those who desired it. We left our women to run the factories and provide the needs of the armies.

I am buried on an island, unknown to me before World War II and one which I could not pronounce, Iwo Jima.

I died for Ol' Glory, long may she wave.

The next call of duty came, once again, to a place where men wanted to be free, and other men wanted to take that freedom—South Korea—a country that once again we seldom had heard of, but we would defend. We all did understand one word in a common language—freedom.

Once again, we left loved ones, not knowing if we would ever see them again. There are those still alive, long forgotten, somewhere in communist jails as POW's most of the dead in this "police action" were returned to be buried in a family plot.

I rest in a rice field, with no market except the flag of my country within the jacket I wore as my plane plummeted into Mother Earth.

I died for Ol' Glory, that symbol of freedom, of God, of Country.

Viet Nam—"a war we couldn't win", some say—"a war we could have won in days" say others. It matters not. Once again, freedom was the cause and we fought to maintain freedom in the world. We fought in a country where human life was not important, where it seemed our leaders did not want to win, something none of us understood.

Thousands of us died in this God forsaken country, but for the many who returned to our precious free country, it was a continuing hell, scorned by those very countrymen who we died for, or worse, ignored. Again, there are many who did not die, and remain as prisoners and all but fogotten by those who should care.

I died in Viet Nam, for America's symbol, and my name is on "the wall."

I came home this time. I left my Mom and Dad dressed in Marine green. I returned dressed in red, white and blue.

I know none of this will be understood by those who would burn our country's flag—it will be understood by those who never see Ol' Glory flapping in the breeze, or see her leading a parade held high by young men who would never let her dip low, who see it neatly folded after being draped on the casket of a brave son who has gone on to be with the freedom fighters of the past, who smile when seeing a young child waving his tiny flag, knowing someday that child will be called upon to defend what that flag represents; yes, understood by those who never see these things with out chill bumps crawling across our skin, whose eyes fill with tears, no matter how manly we think we are. We grew up honoring that flag; drawing in our school books Nazi and kamikaze planes going down in flames, sent to their deaths by American pilots in planes emblazoned by the Stars and Stripes. We went to movie theaters where we learned of the latest war news and stood up and cheered at every victory. We are the ones, who even today, stand silently at attention when our flag is displayed and the Star-Spangled Banner is played before a sporting event on television, wondering why there is any movement in the crowd. We cheered and hugged at the end of World War II and thanked every Mother's son when he returned to try to pick up his life as he had left it.

Oh yes, this young country has made her share of mistakes. We haven't been working at this thing called freedom for long, but we will make it; and for those of you who would burn Ol' Glory, the symbol of right, look around at the rest of the world. In fact, I invite you to leave this great country of ours and take your view points elsewhere. Our country is the greatest, but perhaps it will take life in China, Russia, Cuba or a "free" Europe to see how great she is and to cause the "tears in your eyes" that I was talking about.

I died for Ol' Glory, the Red, White and Blue, to give you time to discover what that piece of cloth stands for.

Call me doughboy, call me flyboy, call me gyrene, dog-face or swabbie—it doesn't matter. I died for you.

And for those of you who fought for that piece of cloth, who have gone on before, rest assured there are those of us who will never forget; and if need be, pick up the arms of our fallen comrades to defend this country and all she stands for. Rest in peace, brothers and sisters. God bless you and God Bless America.

H.R. 1454—THE STUDENT RIGHT-TO-KNOW ACT

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. PERKINS. Mr. Speaker, I would like to take this opportunity to compliment the House concerning the decision to pass the Student Right-To-Know Act.

This legislation is designed to provide an expanded amount of important information to the students and their families as they face critical decisions concerning their choices in the field of higher education. The legislation takes a step forward for the consumers in the post-secondary marketplace. Information will now be available that will enable families to make smarter and more informed decisions.

We are in expensive times today and I feel that it is imperative that we not only become concerned about the services provided by the institutions but also the environment that they are providing the student. Is it a safe environment that promotes a commitment to excellence and completion of the goals set before the students? I support this legislation because of the many questions it will enable the parents to answer by supplying them the needed information.

I applaud Congressman GOODLING for his package of crime awareness provisions. This brings to light some basic statistics for all campuses pertaining to important issues of safety. Many have felt that this information was already available if asked for and we were all surprised to discover the difficulty surrounding the disclosure of the facts.

The original vehicle was the student-athlete right to know legislation and I congratulate Congressmen TOWNS and MCMILLEN for their persistence in pushing this issue before the committee. They saw a great potential for abuse in the system and much of the testimony bore out the fact that we do need to improve the communication system among the parent, student, athletic department, and institution.

I greatly appreciate Chairman WILLIAMS' assistance as well as his staff's excellent help in formulating the final version of my amendment to this legislation concerning the reporting of institution-wide graduation rates by July 1, 1992.

Since the acceptance of the amendment there has been some confusion about what it actually requires from the institutions concerning the reporting of graduation rates. The amendment has two distinct provisions and only one of them has an impact on the institutions.

The first portion of the amendment requires every postsecondary institution that receives title IV assistance to disclose to any and all prospective students the graduation rate of all full-time students enrolled in the institution by July 1, 1992. It is that simple and straight forward. This provision does not include hidden language that later required the reporting of graduation rates by program or particular school or anything else.

The second provision is a request to the Secretary of Education to provide additional information about this topic area. This request is made in anticipation of the upcoming reauthorization of the higher education authorization legislation in the next Congress.

In this second part I request that the Secretary, in cooperation with the various representatives of the higher education community, develop definitions and methodologies for the reporting of graduation rates by program; graduation rates by particular school or academic division; job placement rates; and the passage rates of State-required tests in various professions.

This information is being requested from the Secretary because I feel that they present the committee the most realistic alternatives if this issue is to be reviewed during the reauthorization. As I worked on this amendment I discovered the many problems and complications that could arise from any one of these requirements being put into law arbitrarily. I am unable to predict exactly what the Secretary will report back to the Congress and I do not have any particular expectation. I simply feel that the committee should be aware of the full range of options available and what questions surround any thought of implementing additional reporting requirements.

I am sensitive to the claims by the community that the Congress is simply overburdening the institutions with reporting requirements. I will be working with my chairman to fully explore this problem as we move ahead in the development of a sensible and cohesive reporting requirement package.

I appreciate the cooperation that was put forward by the minority members of our committee as well and I welcome the suggestions and input received concerning my amendment. By only requiring the reporting of the completion rates of the full-time students we avoided a potential problem with the part-time students. Congressman GOODLING's assistance was helpful in pointing this matter out.

Once again I congratulate the committee and the House for moving so expeditiously on this matter and look forward to working with the Department in exploring all of the issues involved.

NO ONE IS ABOVE THE LAW

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. BEREUTER. Mr. Speaker, we are struggling through a time when it seems as though too many public figures believe that laws and moral standards are for everyone else but not for them. A single individual's arrogance has eroded the sense of pride and decency that used to prevail in the Nation's Capital City. This Member commends to the attention of Members of the House the following editorial comment from the June 3, 1990, Editor of the Lincoln Journal-Star.

CHANGING BEHAVIOR IS HARD

Marion Barry, the District of Columbia's troubled mayor, goes on trial this week for the smoking of crack cocaine.

No need to qualify the indictment with the qualifying words, alleged. Barry recently told a Washington Post reporter that sure, he did just what the feds charge him with doing in January in the hotel room. But the mayor comes on strong, generally telegraphing that his defense will be a bristling assault on the prosecution for entrapment.

Even more important, the mayor contends he is the victim of a victimless crime, that what he did hurt no one else.

Shot through Barry's self-justification is an arrogance-tinted theme which has been followed by many another public or private high-roller who gets tripped up: Rules apply only to little people, not the rich, the powerful, the celebrated.

SALUTE TO BLIZZARD BOX PROGRAM

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. CLINGER. Mr. Speaker, it is with great pleasure that I rise today to salute the Blizzard Box Program of Clearfield County, PA, a recent award winner in the Department of Health and Human Services Administration on Aging 1990 Community Achievement Awards.

In a rural area with harsh weather and difficult terrain, managing an effective home-delivered meal program for senior citizens can be an extremely challenging task. The Blizzard Box Program has found a way to successfully complete that task.

In cooperation with John Draucker and the Clearfield Rotary Club and local Dairy Queen stores, John Kordish and many volunteers at the Clearfield County Area Agency on Aging distribute "Blizzard Boxes" in the fall of each year. These boxes are 1-year supply emergency food kits to be used by the elderly in the case that regular home delivery cannot be made.

This program, which was started in 1982, is partially funded by local businesspersons such as Gerald and Linda Hatcher and Dick and Shirley Lewis, Dairy Queen owners in Clearfield and DuBois. For one week a year, these storeowners donate to the program a portion of the profits generated from the sale of their ice cream treat known as "the Blizzard", hence the name of the service.

The Blizzard Box Program not only assists the senior citizens of Clearfield County, but involves and empowers them as well. They challenge each other to consume the most Blizzards, and regularly volunteer to pack and help deliver the boxes.

Congratulations to all those persons involved in the award-winning Blizzard Box Program. It is a pleasure to see such concern among my constituents, and an honor to witness the success of such a program.

TRIBUTE TO DR. EMERSON CLEVELAND WATSON, JR.

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. TALLON. Mr. Speaker, I am pleased to commend Dr. Emerson Cleveland Watson, Jr., for his years of commitment to the South Carolina Baptist Convention. Dr. Watson retired from his position of executive assistant to the executive secretary-treasury to the general board of the South Carolina Baptist Convention in June 1988 and has continued to serve the organization as general consultant. On June 28, he will retire from this position.

Dr. Watson learned early on from his family the importance of religion and values. His father was a farmer and an ordained deacon in the Baptist Church. Growing up in the Watson home was a happy life and Dr. Watson absorbed the love that his parents, siblings, and friends offered.

During his young years, Dr. Watson was heavily involved in his local church near Lumberton, NC. He was baptized in that church and taught Sunday school there from the time that he was 15 years old. Dr. Watson got his call to the ministry the summer before he was to enter college, and was licensed to preach by the Ingold Baptist Church in 1940.

Throughout his career, Dr. Watson has continued his religious studies in pastoral education, personnel management, counseling of the alcoholic, understanding of the rural church and others.

Dr. Watson's 50-year career in ministry has taken him from North Carolina to Kentucky to South Carolina. In every parish, he has brought his infectious enthusiasm and his quiet leadership. He has been respected and loved by every sector of his church community for his innate ability to identify with every possible segment of the church.

In his present position, Dr. Watson has provided assistance to the executive secretary-treasurer of the S.C. Baptist Convention in the planning and coordination of programs assigned to the general board staff, Christian life and public affairs issues, and in general oversight of convention organizational life. He has brought a unique insight to this position and all who have contact with him know him as a can-do type of person. No job is too big and no person or problem too small for him to tackle.

I commend Dr. Watson for his years of service to mankind, and send my best wishes and congratulations on his retirement. Enjoy it—you deserve it.

MARKING THE FIRST ANNIVERSARY OF THE TIANANMEN SQUARE MASSACRE

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. BUECHNER. Mr. Speaker, I rise today to mark the first anniversary of the Tiananmen Square massacre on June 4, 1989.

Unlike most anniversaries, which are happy occasions, we cannot celebrate this one. One year ago we were appalled by pictures of tanks rolling into Tiananmen Square, of the "people's" army shooting their own, and of the goddess of democracy being toppled.

On that fateful day in June, I was attending a human rights conference, and I found it ironic that as policymakers from around the world were discussing human rights, halfway around the globe, the human rights of the Chinese people were being brutally violated.

We commemorate this anniversary not only to remember those who shed their blood, but to remind ourselves of the cause for which they died. The Tiananmen protestors, many of whom were college students, came from various walks of life. Yet, they shared one common bond: they were all lovers of freedom yearning to escape the oppressive hand of tyranny.

These heroes expressed their desire for democratization months before the actual massacre, camping in the square, going on hunger strikes, and holding various rallies. Unfortunately, these peaceful events were undermined by the subsequent massacre. The students gave their lives for democracy—something which too many Americans take for granted.

The senseless massacre at Tiananmen Square brought to mind the words of Abraham Lincoln at the dedication of the Gettysburg Cemetery:

We cannot dedicate, we cannot consecrate, we cannot hallow this ground for those brave men, living and dead, who have fought and died and have dedicated it far above our puny power to add or detract.

Indeed, those who died a year ago in Tiananmen Square have given it meaning far beyond our power to add or detract from the measure of their sacrifice.

Although those who died are not physically here, their aspirations and purpose remain. This is evident by the recent student uprisings at Beijing University, despite the government's attempt to suppress any commemoration of the massacre.

As we mark the first anniversary of the Tiananmen massacre, I urge my colleagues to remember the cause for which these students died. The Chinese students wanted to make a difference and desired a change from oppression toward democracy. As policymakers we are in a position to make a difference and to cause change.

Mr. Speaker, I ask my colleagues that as they go about their duties, to remember the example of the Chinese students which serves as an inspiration to us all.

1990 FARM BILL ISSUES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 6, 1990, into the CONGRESSIONAL RECORD:

1990 FARM BILL ISSUES

In recent trips through the Ninth District, members of my staff and I have had a number of conversations with farmers about the upcoming 1990 farm bill, the basic legislation governing federal farm programs that is rewritten evey five years. In general, Ninth District farmers are relatively happy with current programs and market conditions. However, they believe that a number of issues facing agriculture need to be resolved for continued financial security.

Although the financial condition of agriculture has improved considerably since 1985, farmers recognize the fragility of their position. Many farmers know that a relatively small increase in interest rates or a decline in crop and livestock prices could place them in financial jeopardy. Most farmers would like to see modifications to the existing set of farm programs rather than radical changes.

One of their biggest concerns is that more stringent environmental controls could raise the cost of production. They fear that tight new restrictions on the use of pesticides and herbicides could make them uncompetitive in world markets unless other countries adopt similar controls. They favor incentives for alternative agriculture, and would like to see research into economically viable ways to farm with less chemicals.

A view that consistently comes out in meetings is the need to maintain our expenditures on agricultural research and extension, even if budget constraints dictate cuts for commodity programs. Farmers see these outlays as vital to maintaining the long-run competitive position of American agriculture. Technological change in agriculture has allowed less than two percent of the population to feed the nation and a significant portion of the world.

Farmers are less vocal about the need to retain current commodity programs. On the whole they support free trade and the removal of support programs, but would not favor such steps unless the rest of the world had to operate under comparable conditions.

Farmers are worried about the difficulty of entry into agriculture. Although there is support for government assistance to beginning farmers through the Farmers Home Administration (FmHA), it should only be for a fixed period of time and tightly supervised. A widespread concern in the farm community is the need for FmHA reform and greater diligence in collecting delinquent loans.

Most farmers accept the need for farm conservation programs. They support continuation of the Conservation Reserve Program, particularly for land planted in hardwoods. Many farmers believe that agriculture faces more stringent regulation in wetlands conversion than other uses of land, and argue that the "swampbuster" penalties should be adjusted to meet the magnitude of the offense. They note that if cross-compliance requirements become too onerous, farmers will opt out of the programs and there will be no government leverage over their practices.

One area of widespread agreement is the need for greater planting flexibility. For example, a number of farmers have indicated to me that the current set of rules causes them to plant more corn than they would like. Of the farmers responding to my recent farm bill questionnaire, 75% endorsed greater flexibility, even it if meant a reduction in their government payments.

Many farmers are concerned that current program requirements are preventing crop rotations that are helpful for weed control and soil conservation.

On several other issues a consensus is harder to find. District farmers seem to be split on the merits of setting up a new support program for soybeans. Despite general recognition of problems with the current $50,000 per farmer limit on government payments, there is no consensus on how to reform it. Some farmers would like to see it cut, others prefer to see better enforcement, while a smaller group argues for expansion. Farmers are also divided over crop insurance. Some favor reform while others would replace crop insurance with a permanent system of disaster assistance.

Many dairy producers want the current milk program preserved, but with smaller price differentials between regions to reduce the incentives to produce milk in other parts of the country. Tobacco growers are worried about the future of their program, but would be willing to see it ended if we stopped importing tobacco. They argue that as long as we continue to allow the sale of tobacco we might as well permit U.S. producers to reap some of the benefits rather than foreigners.

Farmers see ever increasing amounts of paperwork in dealing with the Department of Agriculture (USDA). As programs become more complicated and cross-compliance rules are strengthened, the burden of filling out forms becomes heavier. Farmers also see a lack of coordination between USDA and the Environmental Protection Agency (EPA). One suggestion was strengthening the awareness of agriculture's problems and capabilities by EPA officials.

In addition to their interest in farm programs, Ninth District farmers remain concerned about other trends in rural Indiana. They worry about the growing burden of state property taxes and the cuts in federal aid to communities. Farmers and their families have to travel increasing distances to schools, churches, and stores. A number of people mentioned the problem of concentration in the farm supply and marketing industries. There are far fewer implement dealers than just five years ago. The number of elevators has declined, and there are far fewer places to deliver livestock. Bank consolidation is also seen as having reduced rural access to credit.

As the debate over the farm bill continues it seems to me the guiding principle should be developing a system which encourages farming the land rather than farming the government programs. Farm programs need to be more market oriented. Farmers recognize that high government subsidies are difficult to sustain politically and are not good for the long-term health of agriculture. Increased flexibility, continued investments in research and extension, a level international playing field, and a modest safety net are the key components we should be striving for in the 1990 farm bill.

STUDENT NURSE FICA/FUTA EXEMPTION LEGISLATION

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. DOWNEY. Mr. Speaker, today I am introducing legislation to clarify provisions of the Internal Revenue Code of 1986 and the Social Security Act. These provisions, which parallel each other and which were first enacted in 1939, exempt wages earned by student nurses employed by hospitals or nurse training schools from payroll taxes under the Federal Insurance Contribution Act [FICA] and the Federal Unemployment Tax Act [FUTA]. For some time now, these exemptions have made it possible for nursing students who work part time in hospitals to retain a greater portion of their gross wages. Simultaneously, hospitals have realized savings that they have frequently been able to apply to other forms of financial aid for nursing students, a desirable objective in view of the Nation's current nursing shortage.

In recent years, however, the nursing student exemption has been administered inconsistently. While some Internal Revenue Service [IRS] district offices have continued to routinely grant the exemption, others have denied it to claimant hospitals based on increasingly stringent criteria concerning the definition of a student nurse, what constitutes part-time employment, and other issues. The IRS has attempted through revenue rulings, technical advice memoranda, and other pronouncements to adopt clarifying interpretations of the exemption statute, but these, too, have proven too vague to be applied consistently. Moreover, the IRS interpretations impose criteria that overly restrict, and even threaten to eliminate, the exemption.

The bill that I am introducing today has two purposes. First, it aims to restore the student nurse exemption to its originally intended scope and vitality. Second, it seeks to clarify the law through more easily applied and more objective definitions of the criteria that qualify a student nurse's services for exemption.

This bill establishes the following criteria:

First, the exempt wages will be those earned while the student is pursuing a full-time course of study, and is regularly atending classes, at a nurses' training school chartered or approved pursuant to State law. What constitutes "a full-time course of study" varies from one nursing program to another. Regulations issued by the Secretary of Health and Human Services under the Nurse Training Act of 1975 already acknowledge this in the definition of "a full-time (nursing) student" at 42 CFR Sec. 57.302, and this legislation is intended to do likewise.

Second, the service performed by the student nurse must normally be 20 hours or less per week. While occasional weeks of longer service would be permissible, frequent, or regular weekly service in excess of 20 hours would not.

Third, the student nurse's total exempt wages earned during the period of the tax year when school is in session must be less than 50 pecent of the average annual earnings of a full-time registered nurse employed as a staff or general duty nurse in the same geographic area. The latter figure would be determined based on the most current calendar year for which such data has been collected by the Secretary of Health and Human Services in the performance of the Secretary's data-collection responsibilities under the Health Professions Educational Assistance Act of 1976.

Fourth, the student nurse's service must either: First, fulfill a mandatory requirement of the student nurse's training school; second, qualify the student nurse for credit toward a nursing degree or nursing certificate; or third, fall within the class of services typically performed by a nursing student working in a hospital or nurses' training school. Student nurses typically perform a wide range of services in learning about hospital procedures and acquiring their nursing skills. This legislation would recognize the educational and developmental value of, among other things, positions in which student nurses are involved in patient care, ward administration, ancillary medical services—pharmacy, radiology, et cetera—and the like.

This legislation would be effective with respect to renumeration paid to student nurses on or after January 1, 1980. This will ensure that the above standards will be applied uniformly to currently pending exemption claims which have been filed in IRS district offices and which, in some instances, involve compensation going back to 1980.

Mr. Speaker, this legislation is designed to dispel the great confusion that now surrounds the student nurse FICA/FUTA exemption, in order to ensure equitable treatment of hospitals under the law, and in order to preserve a needed tool for easing the widely felt nursing shortage. I hope the Congress will share my concern about these needs.

TRIBUTE FOR NEGRO BASEBALL LEAGUE

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. LEWIS of Georgia. Mr. Speaker, it is with great pride that I bring to the attention of my colleagues a very special event. On June 12, 1990, the National Baseball Hall of Fame in Cooperstown, NY, will commemorate the treasured memories of the Negro Baseball League.

It is fitting and important that we here in Congress and the entire Nation recall the remarkable achievements of an unheralded group of African-American men, members of the Negro Baseball League. These were players with teams such as the Kansas City Monarchs, the New York Black Yankees, and the Baltimore Elite Giants. In the South, we had the Atlanta Black Crackers and the Birmingham Black Barons, to name but a few. Their daily triumphs were ignored by major newspapers of the Jim Crow era and their accomplishments have all but been overlooked in the annals of sports history. It cannot be denied, however, that the Negro Baseball League and the players that formed these teams made immeasurable contributions to America's favorite pastime, our national sport, baseball.

The old Negro leagues started in Kansas City, MO, in the early 1900's. Despite the hardships imposed by the Nation's rigid racial barriers, the Negro leagues managed not only to survive, but to flourish. Even the prevailing myth of white supremacy could not deny the

talents of these men. Author Robert Peterson, who chronicled the story of the leagues, perhaps summed it best with the title of his book, "Only the Ball Was White."

The league served as a showcase of talent and entertainment. The players were truly living legends. Many of the names of the great stars and teams live on and form an integral part of our cherished sports history. The legendary Satchel Paige was a pitcher whose name is still synonomous with excellence. The league's Josh Gibson was one of the game's greatest hitters. Willie Mays, Roy Campanella, and the homerun king of all time, Hank Aaron, are all legends of the Negro Baseball League.

The significance of the leagues went far beyond the world of sports. The men who formed these teams were pioneers in nurturing and fostering self-pride among African-Americans. These sports heroes have left a powerful legacy that has enriched American history.

I know that my colleagues will join me in sending these outstanding men our appreciation for their glorious accomplishments and the enduring memories.

NEW JERSEY PRIDE HONOR ROLL: LEE S. TRUMBULL, JR.

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. GALLO. Mr. Speaker, the duties of prosecutor require a thorough understanding of the law, well-developed organizational skills, and the ability to work closely with local law enforcement officials to administer the criminal justice system from investigation through prosecution.

Lee S. Trumbull, Jr., who has served as Morris County New Jersey's prosecutor since 1982, has been a hard-working example of what individuals can accomplish by melding these skills into a system for the effective administration of criminal justice.

During his tenure as county prosecutor, Lee Trumbull established new units within the office to specialize in certain areas of prosecution and enforcement, such as the crime victim and witness unit established in 1983, the missing persons unit, and the child abuse unit, both established in 1984.

Seeing narcotics abuse as one of the major threats to the county requiring diligent enforcement, Prosecutor Trumbull reinstated the Morris County Narcotic Task Force long before the State mandated the establishment of such groups to enhance county and municipal cooperative efforts, including training. As Assistant Morris County Prosecutor in the mid-1970's, he was instrumental in establishing the original Narcotic Task Force.

Under Lee Trumbull's leadership, the Morris County Prosecutor's Office actively pursued maximum possible enforcement of forfeiture laws allowing the use of money and property seized from drug dealers and users to continue the war on crime. In the 2-year period from March 1988, to March 1990, the Morris County Prosecutor's Office distributed more than $1.8 million in forfeited funds to local, country, and State law enforcement agencies.

Prosecutor Trumbull applied his earlier experience as assistant prosecutor in Hudson County and, later, in Morris County to the task of developing administrative procedures within the prosecutor's office that would enhance internal organization and establish faster lines of communication among county and local law enforcement agencies.

He took actions to computerize the records keeping system and the operations of all investigative units within the prosecutor's office and to assist local and county law enforcement agencies with computer and communications systems equipment. Prosecutor Trumbull promoted standardization of procedures among municipal law enforcement agencies, including issuance of a uniform evidence manual and coordinated the establishment of training programs in specialized areas of law enforcement.

These are significant accomplishments that have improved the quality of life and enhanced county efforts to protect the public's safety.

With his background and experience, Lee Trumbull could have a very successful legal practice in the more lucrative private sector, but he has chosen to apply his talents to service within the public sector and Morris County is a better place for his efforts.

Mr. Speaker. On May 11, Lee S. Trumbull's tenure as the Morris County Prosecutor came to a close. I ask my colleagues to recognize his contributions to the effective administration of criminal justice and to wish him well, with the hope that he will continue to apply his talents to public service.

WORLDWIDE DAY OF PRAYER FOR FREEDOM AND DEMOCRACY IN CUBA

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. McCOLLUM. Mr. Speaker, I would like to take this opportunity today to make my colleagues in the House aware of an upcoming event in which I hope that they will participate and in which I hope they will encourage their constituents and others to participate.

It is a great and tragic irony that, even as we begin to see the first faint flickers of hope for freedom and democracy throughout the world, on an island just 90 miles from our shores tyranny still reigns. People continue to suffer torture and deprivation in prison simply because they do not agree with their government. Others are taking what little they have and are boarding leaky boats to make an arduous journey in the hopes that they might land on friendly shores and begin a life of freedom and hope.

Yes, it is ironic indeed that while the words of Thomas Jefferson and Abraham Lincoln are spreading to the peoples of Eastern Europe, on an island less than 1 hour's plane ride from the shores where those words were first spoken they have been silenced in the name of a regime that, on grounds of practicing a scientific form of government, denies to its people those most basic and God given rights that are given to all human beings and that reaffirm their humanity.

In the name of those people, for the moment strangled into silence, but whose souls cry out for freedom and the hour of liberation, a day has been set aside to remember and to express the hope that they will one day know what it means to be free. A group of Cuban-Americans representing many faiths and many creeds have come together to set aside July 15 of this year as a Worldwide Day of Prayer for Freedom and Democracy in Cuba.

This group hopes to contact 50,000 congregations of different denominations around the world to get them to participate in this day of prayer. A day dedicated to the hope that the people of Cuba may come to live in peace and freedom, and a day to reaffirm that they have not been forgotten. Furthermore, this day will help increase the pressure on Fidel Castro by focusing the full weight of world public opinion against his government.

I ask my colleagues to participate in this day of solidarity with the people of Cuba and to urge them, when they go to their districts, to make their constituents aware of this opportunity to stand with Cuba as it strives to be free. I am certain that the people of America, ever generous in their concern for those who suffer under the heel of despotism, will want to have the chance, in their places of worship, to pray for the people of Cuba, and I hope that my colleagues will use their offices to help send a strong message of freedom and democracy to the Castro regime.

MONTGOMERY GI BILL RECEIVES WHITE HOUSE TRIBUTE

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. STUMP. Mr. Speaker, yesterday, it was my privilege to attend a White House Rose Garden ceremony which recognized 12 young men and women from each branch of military service chosen to represent the more than 1 million individuals who are now participating in the Montgomery GI bill.

I heard it said many times yesterday that, thanks to this Education Assistance Program which bears the name of Sonny Montgomery, our distinguished colleague from Mississippi, we now have the finest quality young men and women ever in our Armed Forces.

President Bush, who was among the first veterans to use the original GI bill, called the current program "an important component" in the success of America's All-Volunteer Force.

Defense Secretary Dick Cheney said that while the size of our Armed Forces may be reduced in the future, quality must remain the top priority. In his words, "The GI bill will help us do that."

But a strong military is only part of the story. This program is enabling hundreds of thousands of our citizens—who otherwise might not have been able to afford it—to attain higher education. In 2 years, it is projected that 10 percent of those enrolled in the Na-

tion's colleges will be GI bill participants. It's not just strengthening the military; it's strengthening America.

More than 250 people were present at the White House ceremony. However, some of the key people responsible for the enactment of the Montgomery GI bill were unable to attend. One of these, Gen. Max Thurman, Commander in Chief of the U.S. Southern Command, sent an especially eloquent letter, which I would like to share with my colleagues:

U.S. SOUTHERN COMMAND,
THE COMMANDER IN CHIEF,
APO Miami, June 3, 1990.

Hon. G.V. MONTGOMERY,
Rayburn House Office Building,
Washington, DC.

DEAR MR. MONTGOMERY: I regret that I am unable to attend the White House ceremony tomorrow recognizing the Montgomery GI Bill.

Your contributions in authoring this legislation and pushing it through the Congress in the face of reluctance and even outright opposition at high levels in the previous Administration are a tribute to your foresight, patriotism, perseverance, and legislative acumen.

I know you take great pride—justifiable pride—in the educational benefits created for our Nation's servicemen and servicewomen by your GI Bill. From my sequence of assignments as Chief of Army Recruiting, Deputy Chief of Staff for Personnel, Vice Chief of Staff, Commander of the Army's Training and Doctrine Command, and now as Commander-in-Chief, U.S. Southern Command, I have had a unique opportunity to observe the profound effort the Montgomery GI Bill has had on the quality of our soldiers. Most recently I was privileged to command U.S. military forces in Operation Just Cause in Panama. Quality men and women from all services made up this impressive force. Many of them were originally attracted to serve their country through the auspices of the Montgomery GI Bill. Their performance was humane, courageous—magnificent. I know you are proud of them.

On this occasion marking the participation of one million military personnel in the Montgomery GI Bill, I thank you personally for your support and friendship, and along with all the leaders of our military forces I salute you for your outstanding contributions to the readiness of our Armed Forces.

Respectfully,

M.R. THURMAN,
General, U.S. Army Commander-in-Chief.

TRIBUTE TO THE JOLIET WEST HIGH SCHOOL TRACK TEAM

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. SANGMEISTER. Mr. Speaker, it is with great pleasure that I rise today to honor members of the 1990 Joliet West High School track team Class AA State Champions and their coach, John Harr.

These men have been a great source of pride and inspiration to the students and the community at large throughout their victorious season.

The highly touted team won the State championship on May 26, after an exciting come-from-behind win in the final event, the 1,600-meter relay. It was the triumphant effort provided by the relay team of Terry Collins, Mike Richards, Richard Waters, and Darnell Jordan that won the race and gave the team enough total points to win the State championship.

Victory was achieved as a team effort, along with Coach Harr, now in the 28th year of his successful coaching career. In recognition of the team's accomplishments, I submit the State placers' names to the RECORD:

Four hundred-meter relay team, Terrence Johnson, Terry Collins, Tiahmo Draine, and Rich Waters; high jumper, Tony Marion; pole vaulter, Jon Foskett; high hurdler, Terry Collins; 800-meter relay team, Terrence Johnson, Rod Chandler, Tiahmo Draine, and Rich Waters; 400-meter, Darnell Jordan; 300-meter hurdles, Terry Collins; and the 1,600-meter relay team, Terry Collins, Mike Richards, Richard Waters, and Darnell Jordan.

Mr. Speaker, I applaud the efforts of the Joliet West State champs, along with Coach Harr and his assistants, and I wish the Tigers continued success in the future.

INTRODUCTION OF THE HISPANIC HEALTH PARITY ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. RICHARDSON. Mr. Speaker, I am pleased to introduce the Hispanic Health Parity Act today with my friend and colleague, Mr. EDWARD R. ROYBAL.

By the year 2000, Hispanics will be the largest and most youthful minority group in this country, comprising one in five working age persons. In fact, at current rates, the Hispanic population will increase by 39.7 million persons while the non-Hispanic white population will decrease by some 16 million persons between 1990 and 2080. These significant demographic trends compel us to eradicate the barriers to the Hispanic community's full participation in American society. More importantly, insuring Hispanic health parity will help guarantee the future prosperity of our Nation.

Despite their growing population, poverty and a continuing lack of access to basic human resources remain a persistent fact of life for millions of Hispanics. The median annual income for Hispanic families is $10,236 less than that for non-Hispanic families resulting in one in four (25.8 percent) Hispanic families living in poverty. Additionally, one in five (20 percent) Hispanics cannot read or write English contributing to a Hispanic high school dropout rate that is twice that of non-Hispanics. More importantly, one in four Hispanics (21.7 percent) has no health insurance of any sort—a rate that is almost three times that of non-Hispanic whites (7.7 percent).

Not surprisingly, lack of health insurance significantly restricts Hispanic access to our Nation's health care system. The 1986 Robert Wood Johnson Access to Health Care survey found a considerable deterioration in the health status of Hispanics. It found that one in three Hispanics (30.1 percent) has no regular source of health care, a rate that is almost twice that of non-Hispanic whites (16.3 percent). As a result, Hispanics are at a higher risk for certain illnesses than the non-Hispanic white population. Mexican Americans are twice as likely to have diabetes while the risk of AIDS is almost three times that of non-Hispanic whites. The result is delayed health care, prolonged illness, and a real loss to national productivity.

Compounding the lack of parity in access to health care is the lack of population parity in the health professions. While Hispanics represent 9.1 percent of the total population, they represent only 4 percent of physicians, and 2 percent of registered nurses. They are also dramatically underrepresented in the allied health professions. For example, Hispanics comprise only 3.4 percent of physician's assistants; 3.8 percent of health technicians' and 5.3 percent of health administrators and nutritionists. These numbers are expected to decline as physicians who came to the United States during the Cuban outflow of the fifties and sixties begin to retire.

Unfortunately, the Federal Government has done little to address these inequities. While our Federal Government should be leading the way toward health professions population parity, less than 1 percent of over 500 senior executives in the U.S. Department of Health and Human Services are Hispanic.

For these and other reasons, we are introducing the Hispanic Health Parity Act. The centerpiece of our legislation is the development of Hispanic Centers of Excellence in the Health Professions. Modeled after the Historically Black Colleges and Universities [HBCU's] which have been tremendously successful in training black students to excell and move into the health professions, our legislation will provide the Hispanic community with the infrastructure it so critically needs.

Historically Black Colleges and Universities have been at the forefront of both research, and training models which take into account the cultural and differential needs of black Americans. In so doing, these institutions have become essential and important resources for the black community while the professionals they train have become important role models for young black Americans.

In developing Hispanic Centers of Excellence in the Health Professions, we hope to emulate and replicate the success the HBCU's have achieved in the black community in our own Hispanic community. In short, the governing Hispanic community will never reach its full potential unless we provide an infrastructure designed for achievement.

A primary deterrent to achieving parity is one of finances. The cost of a medical school education is the most significant obstacle Hispanics encounter going into the medical field. The average cost for medical school is estimated at $14,995 per year for in-State students attending public institutions. Cost are even higher at private institutions where the average is $27,434 per year. Hispanic medical school applications, however, are four times as likely as non-Hispanic white applicants to have parents with incomes of $14,999 or less.

In other words, a large percentage of Hispanic medical school applicants come from families whose entire annual income is less than the cost of a year of medical school tuition. A 1982 study found that 47.5 percent of minority medical students who interrupted their studies reported financial difficulties as playing a role in their decision.

In a continuing effort to build minority institution infrastructure, and address the difficulties Hispanics, other minorities, and the disadvantaged face in financing a health professions education, our legislation provides $35 million in scholarships to Hispanic Centers of Excellence, Historically Black Colleges and Universities, and other institutions.

Our legislation also establishes a $20 million minority institution capital loan contribution program, and a $30 million scholarship program for Hispanics, other minorities, and disdavantaged students interested in the nursing field. Each of these assistance programs is carefully crafted to provide institutions training significant numbers of minority students with a tool to recruit and retain minority students interested in the health professions, yet preserve freedom of choice for minority and disadvantaged students who choose to attend institutions other than Hispanic Centers of Excellence or HBCU's.

An important component of the scholarship and loan programs is a requirement that institutions receiving funds establish mentor programs to assist minority health professions students in completing educational requirements. Institutions must also direct at least 25 percent of funds received to assist pre-health minority students in the completion of undergraduate degrees.

Many minority undergraduates must work 20 to 40 hours per week, often resulting in a lower grade point average and lowering their chance of admission to health professional schools, even if they succeed in completing their undergraduate degree. By providing assistance to undergraduates with an interest in health, many promising Hispanics and other minorities may finally have the opportunity to consider a health professions career.

Our legislation also insures that our existing health education and prevention programs are responsive to Hispanics and other minorities. Our current health education and prevention programs simply do not recognize and plan for the differential needs of the population. Hispanic and other minority communities suffer disproportionate incidences of cancer, diabetes, AIDS, low birth weight, and cardiovascular and cerebrovascular disease. Thus, in order to be effective, Hispanics need differential, and culturally and linguistically appropriate outreach and preventive health information.

More importantly, prevention is the most cost effective expenditure of health dollars because it reduces disease and treatment rates. For instance, a study of diabetic complications in Hispanic communities in Texas found that one out of every two cases of blindness, end stage renal disease and lower extremity amputations was preventable—a staggering economic and human cost. Yet, 40 percent of Mexican Americans, 45 percent of Puerto Ricans, and 63 percent of Cubans tested were unaware that they even had diabetes.

Our legislation also establishes specific objectives for Hispanic and other minority communities under the year 2000 health objectives. The year 2000 health objectives are important factors in determining the focus of health education and prevention programs in the out years, yet the Public Health Service's 1990 health objectives for the Nation failed to take into consideration Hispanic populations.

Finally, our legislation requires the Secretary to collect Hispanic health data as an ongoing effort of our national health data collections systems. Currently, basic health information such as national mortality rates, rates of cancer, and other major diseases are not enumerated or collected through our health data collection system. Without appropriate data collection on the Hispanic community, it is impossible to plan and deliver adequate health care to Hispanic communities.

JAMES G. COLLINS, ONE OF SARATOGA SPRINGS' OUTSTANDING CITIZENS, TO RETIRE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. SOLOMON. Mr. Speaker, I measure a man by how much he gives to his community. By that standard, James G. Collins of Saratoga Springs, NY, has been a giant.

Mr. Collins is retiring June 30 after 22 years of service as executive director of the Saratoga Springs Housing Authority, but his service to that agency is only one of the reasons James Collins is one of the finest men I have ever known.

The son of Michael and Mary Geary Collins, he attended St. Peter's Academy in Saratoga Springs and went on to graduate from Siena College and pursue graduate work at the State University of New York at Albany. His education was interrupted, however, by Army service during World War II, during which he went to Officer's Candidate School.

He worked for the Saratogian, a local newspaper, and for Espey Manufacturing & Electronics Corp. In 1965, Jim went to work for the Urban Renewal Agency of Saratoga Springs until 1968, when he took charge of the housing authority.

His biggest accomplishment during his tenure was renovating a vacant office and recreation building at Jefferson Terrace into a facility to house low-income handicapped individuals. For that, he was recognized in a ceremony here in Washington.

But that wasn't all. He was a member of the New York State Association of Houisng & Renewal Officials and served as State director from 1974 to 1976. He was past president and one of the founders of the Central New York Housing Authority. He was accredited as a professional housing manager by the National Association of Housing & Renewal Officials in 1977. And he was a member of the Public Housing Officials National Organization.

He still found time to serve 9 years on the board of the Senior Citizens Center. It was Jim who suggested a new center, and who then served as cochairman of the site and planning committee.

Jim was president of the St. Peter's Alumni Association for 18 years, president of the St. Clement's Holy Name Society, a charter member of the St. Clement's Parish Council, and a member of the committee for preserving parochial education in Saratoga Springs when the local parochial high school was scheduled to be closed. He is also director of the St. Peter's Athletic Association.

He is a past Grand Knight and past Faithful Navigator of the Knights of Columbus, Council 246, and past president of the Columbian Association. He also is a member of Saratoga Elks Lodge 161, BPOE. And finally, he has been a baseball coach for the Saratoga Minor and Pony Leagues.

Like most men who are active in their communities, Jim Collins is also a devoted family man. He and Joan, his wife for 39 years, have eight children, James, Anne, Justin, Michael, Mary Kate, Chris, Bridget, and Tara.

As you can see, Mr. Speaker, Jim Collins is an extraordinary man. In every sphere of activity, whether it be professional, church, or civic, Jim Collins was asked to lead. He always found time and the energy.

That is the reason he will be honored by his many friends on June 16.

Mr. Speaker, I ask you and the entire House of Representatives to join me in honoring him today. Please join me in saluting James G. Collins, an outsanding public servant, a pillar of his community, and a great American.

TRIBUTE TO ANTHONY F. BUTTAR

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Anthony Buttar, who recently completed his 30th year as a teacher, guidance counselor, and coach at John F. Kennedy High School in my 17th Congressional District of Ohio.

Anthony F. Buttar, upon graduation from John Carroll University in 1959, began teaching at Cardinal Mooney High School. In 1963, he joined the staff of John F. Kennedy High School, where he has served as a teacher, guidance counselor, basketball coach and, for the last 25 years, head track coach.

It is as the track coach that Mr. Buttar has made the greatest impact upon the lives of the students of Trumbull County. His excellent record, which includes over 10 nominations for Trumbull County coach of the year, and a steady stream of State qualifiers each and every year speaks for itself. It is the way that he cares personally about each and every student which sets Mr. Buttar apart. He made a practice of regularly contacting the local newspapers about his athletes so that they and their families would have the opportunity to see their names in the paper. Now, many years since their track days, his students still talk about how Mr. Buttar affected their lives. One goes so far as to say, "Had it not been for you, I know I probably would not have

gone to college * * * I cannot express my debt of gratitude to you for coaching me in track and life."

Again, I would like to take this opportunity to recognize and congratulate Anthony Buttar on completing his 30th year of teaching and coaching. As a role model and mentor, he has earned the respect and gratitude of his students and of the Trumbull community. I am deeply honored to represent such a fine citizen.

BANKRUPTCY CODE ABUSE

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. ROWLAND of Connecticut. Mr. Speaker, on Tuesday, May 29, 1990, the Supreme Court delivered its decision in the case of Pennsylvania Department of Public Welfare versus Edward and Debora Davenport (Davenport). I believe that the decision rendered—constituting restitution obligations as debts within the meaning of section 101(11) and therefore dischargeable under chapter 13 of the Bankruptcy Code—opens the floodgates of litigation by convicted individuals seeking to avoid their penal obligations by hiding behind the Bankruptcy Code.

The Supreme Court decision in Davenport overturns nearly a century of judicial intent not to intervene in the "long history of bankruptcy court deference to criminal judgments" and, as stated by Justices Blackmun and O'Connor in their dissenting opinion, establishes within the Bankruptcy Code a "shield to protect a criminal from punishment for this crime."

Mr. Speaker, almost 5 years ago I introduced legislation—H.R. 3742—to combat this kind of fraudulent abuse of the Bankruptcy Code. At that time, another case—Kelly, Connecticut Chief State's Attorney versus Carolyn Robinson (Kelly)—was on appeal to the Supreme Court. In that case, Carolyn Robinson, who had been convicted for larcency based on her wrongful receipt of welfare benefits from the Connecticut Department of Income Maintenance [DIM], filed for bankruptcy under Chapter 7 of the Bankruptcy Code and listed her restitution obligation to DIM as a debt. An initial discharge of debt was granted by the bankruptcy court largely due to the failure of the Connecticut Probation Office—the statutory collector of restitution payments—to file a timely objection to discharge. Upon receipt of the discharge, Carolyn Robinson ended restitution payments.

After the probation office informed her that it considered the restitution obligation nondischargeable, Carolyn Robinson sought a declaration of discharge from the bankruptcy court.

The court concluded that even if the restitution obligation was a debt subject to bankruptcy jurisdiction, it was automatically nondischargeable under Section 523(a)(7) of the Bankruptcy Code, which provides that a discharge in bankruptcy does not affect any debt that "is for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit, and is not compensation for actual pecuniary loss."

The court's decision was upheld by the district court, but was subsequently reversed by the Second Circuit Court of Appeals. This reversal was what led the case to the Supreme Court of the United States.

If H.R. 3742 had been the law of the land, the appeals court would not have been able to reverse the bankruptcy court's ruling. Fortunately, the Supreme Court determined on its own that the appeals courts' reasoning was not valid and reversed the decision. The Kelly decision, 1 year and 1 month after I introduced H.R. 3742, seemingly established the nondischargeability of restitution obligations to governmental units. That is until the recent Davenport decision.

The Davenport decision, delivered by Justice Marshall, affirmed the dischargeability of restitution obligations and was grounded primarily in the fact that Davenport's filed their bankruptcy petition under chapter 13 of the Bankruptcy Code and not chapter 7. The bankruptcy court itself had ruled the restitution obligation to be a dischargeable debt under chapter 13, mainly because chapter 13 does not include the "fines, penalties and forfeitures" provision included in chapter 7. The district court reversed the bankruptcy court's decision basing its argument on the dicta in the Kelly decision that "Congress did not intend to make criminal penalties 'debts' under the Code." The Second Circuit Court of Appeals reversed the district court's ruling and the case was appealed to the Supreme Court of the United States.

In order to preserve the integrity of the Bankruptcy Code and State penal codes, I am today introducing new legislation which, if approved and signed into law, would close the glaring loophole that has been created by the Supreme Court in the Davenport decision. The use of restitutional obligations by State government and other governmental units as an effective penal sanction is fundamentally undermined by the Davenport decision. Congress has never intended, does not intend and will never intend for the Bankruptcy Code to interfere in the penal goals of a State. By codifying the Supreme Court's Kelly decision and amending chapter 13, my legislation will restore the longstanding and essential judicial balance between Federal court jurisdiction and State criminal proceedings.

Mr. Speaker, I encourage all of my colleagues to join me in this effort to protect the Bankruptcy Code from becoming the playground and hiding place of criminals.

HONORING FATHER LUKEHART

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. ECKART. Mr. Speaker, I stand today to pay homage to an outstanding human being who has dedicated so much of his time and energy to make life better for others. Father Frederick Lukehart will be leaving St. Francis Cabrini Church in Conneaut, OH, after 14 years of dedicated service. This occasion gives me the opportunity to express my deepest gratitude for all of his many years of service to our community.

Father Lukehart's contributions have been full and of great importance to his parishioners and to the citizens of Conneaut. His great concern for children and the elderly have lead Father Lukehart to organize such associations as the Conneaut Youth Services. Father Lukehart has also been instrumental in the reviving of the Blessing of the Fleet and the founder of the Blessing of the Vines, both of which are located in Conneaut.

Father Lukehart has also participated in many other community organizations. Among these were his participation with the Knights of Columbus, the Rotary, and the Ashtabula Childrens Service League.

It is with great pleasure that I commend Father Lukehart for his many years of dedication to the community and to his parishioners. I wish him the best of luck with all of his future endeavors.

TRIBUTE TO CARL ELLIOTT

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. BEVILL. Mr. Speaker, I rise today to pay tribute to my good friend and my former congressman, Carl Elliott of Jasper. Carl recently was chosen from more than 5,000 nominees to become the first recipient of the John F. Kennedy Profile in Courage Award.

This award was created to recognize those in public life who demonstrate political courage during their career.

Carl served as a Congressman from Alabama from 1949 to 1965. He always stood up for what he believed in, even in the face of criticism. He never wavered from what he considered to be the right and just course of action and he certainly exemplified a very courageous politician.

Carl is remembered for writing the National Defense Education Act, which he and Sen. Lister Hill of Alabama passed in 1958. Carl can take credit for helping to educate more than 20 million Americans under that act.

He also passed the National Library Act, which helped provide for new libraries and bookmobiles nationwide.

It is very fitting that Carl Elliott should be honored with the John F. Kennedy Profile in Courage Award. I am so pleased to see him get this well-deserved recognition during his lifetime.

A TRIBUTE TO ROBERT C. BYRD SCHOLARSHIP RECIPIENTS

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. SCHUETTE. Mr. Speaker, I have the privilege today of commending a fine group of young individuals from my district who will receive Robert C. Byrd Scholarships this year. The scholarship is awarded to exemplary high school students who achieve outstanding grade point averages, high ACT or SAT col-

lege entrance test scores, and who are nominated to receive the scholarship award through their guidance or principal's office.

The recipients will be honored at a luncheon to be held in their honor at the Embers Restaurant in Mt. Pleasant, MI, on June 11, 1990. Of the 209 scholarships awarded in Michigan, the 11 students from my 10th Congressional District will receive scholarships, which are worth $1,500, to be applied toward their freshman year at a college or university of their choice. I am very proud of their hard work.

Mr. Speaker, we all recognize the importance of education. This scholarship recognizes outstanding students who are fine examples of what our education system should be. I hope my colleagues will join me today in congratulating the following students for their outstanding academic achievements: Matthew Birchmeier, New Lothrop High School; Daniel Held, Ovid-Elsie High School; Jeffrey Hogg, Owosso High School; Po Ju, Mt. Pleasant High School; Jason Kilgore, Reed City High School; Kevin Lade, St. Johns High School; Albert Lee, H.H. Dow High School; Kelly Nobis, Fowler High School; Nathan Shaw, Ogemaw Heights High School; Ann Shepler, Big Rapids High School; and Rodney Weston, DeWitt High School.

KILDEE HONORS PAGES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. KILDEE. Mr. Speaker, I would like to take this opportunity to express my personal gratitude to all of the pages who have served so diligently in the House of Representatives during the historic bicentennial Congress.

These dedicated and hard working young people will soon be leaving to complete their high school education. They are: Daniel Ackerman, Eric Adler, David Bernstein, Judson Bishop, Rochelle Boone, Jill Borten, Laura Brown, Rhonda Cargill, Chieh Cheung, Carolyn Collins, Katina Cummings, Deila Davis, Lisa DeGolier, Daniel Denning, Danielle Drumke, Megan Eng, Philip Furstenberg, Kirstin Gese, Kimberly Gooley, Tommi Gray, Genevieve Haines, Max Handelman, Heather Harrison, Scott Heid, Daniel Hill, Kendall Joyner, Kevin Keenan, Jeffrey Lowe, Diane Magen, Angela McLamore, Maureen McNally, Jeremiah Meagher, Michael Mendoza, Rajesh Menon, Charity Meyers, Carrie Miller, Kelynn Murrell, Phil Navallo, Daniel Packard, Tanya Palermo, Eliezer Perez, Teresa Perez, Robyn Reed, Kristi Remejes, Merrick Rohde, Laura Rothkopf, Elizabeth Russell, Tonya Sallee, Elizabeth Scales, Laurie Schmitz, Michael Shepard, David Shepardson, Donna Sherman, Chris Simmons, Harpreet Singh, Joe Bob Smith, Shelley Stinnett, Michael Sweeney, Erica Strong, Rebecca Taleghani, Sadat Trusty, Wendy Turnoff, Blair Walters, Erik Watson, Tracy Williams, and Amy Woodworth.

We all recognize the important role that congressional pages play in helping the House of Representatives operate. This group of young people, who come from all across our Nation, represent what is good about our country. To become a page these people have proven themselves to be academically qualified. They have ventured away from the security of their home and families to spend time in an unfamiliar city. Through this experience they have witnessed a new culture, made new friends, and learned the details of how our Government operates.

As we all know, the job of a congressional page is not an easy one. Along with being away from home, the pages must possess the maturity to balance competing demands for their time and energy. In addition, they must have the dedication to work long hours and the ability to interact with people at a personal level. I am sure they will consider this to be one of the most valuable and exciting experiences of their lives, and that with this experience they will all move ahead to lead successful and productive lives.

Mr. Speaker, as chairman of the Page Board, I ask my colleagues to join me in honoring this group of distinguished young Americans. They certainly will be missed.

MARILYN STEVENSON, RN, AMERICAN NURSES ASSOCIATION, SEARCH FOR EXCELLENCE AWARD

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. FAUNTROY. Mr. Speaker, in celebration of National Nurses Day, the American Nurses Association [ANA] conducts a search for excellence and recognizes an outstanding professional in each of the several States. We, in the District of Columbia are proud to claim this victory for our own Marilyn Stevenson, RN, St. Elizabeths Hospital.

Marilyn Stevenson is a member of the board of directors of the District of Columbia Nurses Association and chair of DCNA's collective bargaining unit at St. Elizabeths Hospital.

In announcing Stevenson as its search for excellence winner, DCNA wrote,

Her ability to take a complex subject and explain it in the most understandable terms has made her effective in teaching many types of learners. She uses creative teaching approaches and spends many extra hours helping students because of her belief that all learners can achieve. She is an expert in curriculum development, has coauthored several articles and is working on a research project on trust, self-esteem, and learning.

She is always willing to listen and help other nurses in her collective bargaining unit of some 300 nurses. She meets regularly with top level hospital administrators to discuss problems and practice issues.

Stevenson has played an important role in DCNA's campaign to bring attention to the erosion in the delivery of public health services to the disadvantaged. She has presented testimony, lobbied elected officials, given talks in the community and has frequently met with media representatives to be interviewed.

A grateful city salutes the depth of compassion and professionalism that is central to high quality nursing practice.

PRAISE FOR DR. JOHN A. GAZAWAY

HON. FRED GRANDY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. GRANDY. Mr. Speaker, On June 7, 1990, Dr. John A. Gazaway of Eagle Grove, IA, will be installed as the 69th president of the American Optometric Association. I would like to take a moment to praise Dr. Gazaway's selfless commitment to his community and profession, and congratulate him on achieving this honor.

Spanning nearly two decades of civic involvement, Dr. Gazaway has proudly served on the city council and has been past mayor of Eagle Grove. He is also a past president of the Eagle Grove Jaycees, chamber of commerce and Rotary Club and has served as master of the Bower Masonic Lodge.

Dr. Gazaway has also conveyed his leadership skills and personal commitment to his professional society, distinguishing himself as chairman of his local zone optometric society as well as being named to the board of directors of the Better Vision Institute and later, president of the North Central States Optometric Council, following his presidency of the Iowa Optometric Association. He has served his national association for nearly a decade and assuming the presidency of the 28,000 member AOA represents the pinnacle of achievement in Dr. Gazaway's professional career.

I am happy to join Dr. Gazaway's many friends and colleagues in congratulating him and wishing him every success for the coming year.

TRIBUTE TO ADELPHI CABLE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1990

Mr. PALLONE. Mr. Speaker, I rise today to pay tribute to Adelphi Cable Communications of Toms River, NJ.

Adelphi Cable, also known as Clear Cable TV, has scored a near sweep in this year's Associated Press of New Jersey Broadcast Journalism Awards. The contest recognizes outstanding journalistic accomplishments in a variety of media, including cable television news operations. The awards will be presented at a ceremony on June 9 at the Berkeley Carteret Hotel in Asbury, NJ.

In 1983, Adelphi Cable began one of the earliest experiments in local cable television news in the country. The experiment has been a tremendous success, spawning many similar cable news programs that provide in-depth coverage of important local issues that often escape the attention of national and regional broadcast media outlets. I can personally attest to the fine job that Adelphi Cable's daily news program, Newswatch 8, has done in covering the issues that affect the people of

Ocean County, NJ, including a number of issues that I have been involved with.

Among the awards that Adelphi earned were best news broadcast for Newswatch 8, which also won an honorable mention in the best feature category. Adelphi also received first place awards for public service, sports, election coverage, newswriting, production, and photography.

I congratulate all of the talented and hard-working people at Adelphi Cable for this well-deserved recognition.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 7, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 12

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense.
SD-192

9:30 a.m.
Armed Services
Defense Industry and Technology Subcommittee
To hold hearings on S. 2171, authorizing funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe personnel spending levels for fiscal year 1991, focusing on international defense trade and cooperation.
SR-232A

Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on proposed legislation authorizing funds for the National Oceanic and Atmospheric Administration's satellite programs.
SR-253

Governmental Affairs
To hold hearings on S. 1978, to establish the Department of Industry and Technology as an executive department, to establish the Interagency Export Enhancement Committee within the Office of the President, and to transfer the National Oceanic and Atmospheric Administration to the Environmental Protection Agency.
SD-342

Select on Ethics
To hold hearings on matters relating to the investigation involving Senator Durenberger.
SH-216

10:00 a.m.
Armed Services
Projection Forces and Regional Defense Subcommittee
To hold hearings on S. 2171, authorizing funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe personnel spending levels for fiscal year 1991, focusing on the state and capabilities of the U.S. Marine Corps.
SR-222

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Foreign Relations
To hold hearings on the U.S.-Soviet summit and the upcoming NATO summit.
SD-419

2:30 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for certain programs of the Department of the Interior and related agencies.
S-128, Capitol

JUNE 13

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2358, providing U.S. consumers the opportunity to enjoy the technological advancement in sound recording by use of digital audio tape recorders.
SR-253

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings to review U.S. progress in the implementation of the U.S.-Canada Great Lakes Water Quality Agreement.
SD-342

Rules and Administration
Business meeting, to consider proposed legislation authorizing funds for fiscal year 1991 for the Federal Election Commission, proposed legislation providing for the management of Senate official mail, proposed legislation authorizing the purchase of 1991 "We the People" calendars for the use of the Senate, and other pending calendar business.
SR-301

2:00 p.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 1884, to establish a Bureau of Recyclable Commodities within the Department of Commerce to promote the use of recycled materials derived from municipal refuse.
SR-253

Foreign Relations
Western Hemisphere and Peace Corps Affairs Subcommittee
To hold hearings on proposed U.S. military training for Peru.
S-116, Capitol

JUNE 14

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on proposed legislation authorizing funds for the National Oceanic and Atmospheric Administration's ocean and coastal programs.
SR-253

Governmental Affairs
To hold hearings on S. 1951, to promote interagency cooperation in the area of science, mathematics, and technology education.
SD-342

Veterans' Affairs
To hold hearings on title II and section 402 of S. 2100, relating to veterans physician pay and health issues, S. 1860, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war, S. 2455, to provide for recovery by the U.S. of the cost of medical care and services furnished for a nonservice-connected disability, S. 2456, to extend expiring laws authorizing the Department of Veterans Affairs to contract for needed care and to revise authority to furnish outpatient dental care, and other proposed legislation.
SR-418

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings to examine the Indian health service nurse shortage.
SR-485

JUNE 15

9:30 a.m.
Veterans' Affairs
To hold hearings on the nominations of Donald L. Ivers, of New Mexico, and Jonathan R. Steinberg, of Maryland, each to be an Associate Judge of the U.S. Court of Veterans Appeals.
SR-418

JUNE 19

9:30 a.m.
Veterans' Affairs
To hold hearings on the nominations of James W. Holsinger, Jr., of Virginia, to be Chief Medical Director, and Stephen A. Trodden, of Virginia, to be Inspector General, both of the Department of Veterans Affairs.
SR-418

10:00 a.m.
Foreign Relations
To hold hearings to review the results of the General Accounting Office study of Protocol 3 to Montreal Aviation Protocols (Ex. B, 95th Congress, 1st Session).
SD-419

Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 295, to prohibit the Supreme Court or any inferior court of the United States from ordering the laying or increasing of taxes, and S. 34, to revise the Federal judicial code to deny to inferior Federal courts jurisdiction to issue any remedy, order, writ, or other judicial decree requiring the Federal government or any State or local government

to impose any new tax or to increase any existing tax.
SD-226

10:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 2244, to prevent and control infestations of the coastal and inland waters of the United States by the zebra mussel and other nonindigenous aquatic nuiance species.
SD-406

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. military assistance.
SD-138

JUNE 20

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1974, to require new televisions to have built-in decoder circuitry designed to display closed-captioned television transmissions.
SR-253

JUNE 21

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings to review the effectiveness of the Program Fraud Civil Remedies Act.
SD-342

Rules and Administration
To hold hearings on S. Con. Res. 122, to establish an Albert Einstein Congressional Fellowship Program, and S. Res. 206, to establish a point of order against material that earmarks research moneys for designated institutions without competition.
SR-301

10:00 a.m.
Foreign Relations
Business meeting, to mark up Montreal Aviation Protocols (Ex. B, 95th Congress, 1st Session).
SD-419

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on S. 2451, to establish in the Department of the Interior a Trust Counsel for Indian Assets.
SR-485

JUNE 26

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for foreign assistance programs.
Room to be announced

2:00 p.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 1772, to prohibit State lotteries from misappropriating professional sports service marks.
SD-226

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for foreign assistance programs.
Room to be announced

JUNE 27

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings to examine the Federal Trade Commission's (FTC) international antitrust jurisdiction over foreign companies.
SR-253

JUNE 28

9:30 a.m.
Veterans' Affairs
Business meeting, to consider pending legislation relating to veterans compensation and health-care benefits.
SR-418

2:00 p.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
Western Hemisphere and Peace Corps Affairs Subcommittee
To hold joint hearings on proposed U.S. military training for Peru.
SD-419

JULY 11

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 2370, to revise Federal copyright law to apply the fair use doctrine to all copyrighted work, whether published or unpublished.
SD-226

JULY 12

9:30 a.m.
Select on Indian Affairs
To hold hearings to examine protective services for Indian children, focusing on alcohol and substance abuse programs.
SR-485

CANCELLATIONS

JUNE 12

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on eastern Europe.
SD-138

POSTPONEMENTS

JUNE 7

1:30 p.m.
Judiciary
Technology and the Law Subcommittee
To hold hearings on S. 2030, to protect the privacy of telephone users by permitting the use of certain devices on emergency assistance telephone lines of police and fire departments to provide caller identification when applicable.
SD-226

2:00 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings on S. 2171, authorizing funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe personnel spending levels for fiscal year 1991, focusing on the Strategic Defense Initiative.
SH-216

JUNE 22

2:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings to review the U.S.-Canada open border agreement, focusing on meat and poultry.
SR-332

HOUSE OF REPRESENTATIVES—*Thursday, June 7, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, for all those who labor to support this institution with grace and dignity and who devote their energies to the management of its affairs.

On this day we are mindful of the dedication of the pages who have served with distinction during this past year and we express our thanks for their good spirit. May Your blessing, O God, be with them in all the days to come and may Your benediction follow them both now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. FIELDS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FIELDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 283, nays 106, not voting 43, as follows:

[Roll No. 161]

YEAS—283

Ackerman	Boggs	Chapman
Alexander	Bonior	Clarke
Anderson	Borski	Clement
Andrews	Bosco	Clinger
Annunzio	Boucher	Coleman (TX)
Anthony	Brennan	Collins
Applegate	Brooks	Combest
Archer	Broomfield	Conte
Aspin	Browder	Cooper
Atkins	Brown (CA)	Costello
AuCoin	Brown (CO)	Courter
Barnard	Bruce	Coyne
Bartlett	Bryant	Darden
Bateman	Bustamante	Davis
Bates	Byron	de la Garza
Beilenson	Callahan	DeFazio
Bennett	Campbell (CO)	Dellums
Berman	Cardin	Derrick
Bevill	Carper	Dicks
Bilbray	Carr	Dingell
Dixon	LaFalce	Rostenkowski
Donnelly	Lancaster	Roth
Dorgan (ND)	Lantos	Rowland (CT)
Downey	Laughlin	Rowland (GA)
Durbin	Lehman (FL)	Russo
Dwyer	Lent	Sabo
Dymally	Levin (MI)	Saiki
Dyson	Lewis (GA)	Sangmeister
Early	Lipinski	Sarpalius
Eckart	Livingston	Savage
Edwards (CA)	Lloyd	Sawyer
Engel	Long	Scheuer
English	Lowey (NY)	Schiff
Erdreich	Luken, Thomas	Schneider
Evans	Manton	Schulze
Fascell	Markey	Schumer
Fazio	Martin (NY)	Serrano
Feighan	Matsui	Sharp
Fish	Mavroules	Shaw
Flake	Mazzoli	Shumway
Foglietta	McCurdy	Shuster
Ford (MI)	McDermott	Sisisky
Ford (TN)	McEwen	Skaggs
Frank	McHugh	Skeen
Frenzel	McMillen (MD)	Skelton
Frost	McNulty	Slattery
Gallo	Meyers	Slaughter (NY)
Gaydos	Michel	Smith (IA)
Gejdenson	Miller (CA)	Smith (NE)
Gephardt	Mineta	Smith (NJ)
Geren	Moakley	Smith (VT)
Gillmor	Mollohan	Smith, Denny (OR)
Gilman	Montgomery	Snowe
Glickman	Morella	Solarz
Gonzalez	Morrison (CT)	Spence
Gordon	Morrison (WA)	Spratt
Gradison	Mrazek	Staggers
Grant	Murtha	Stallings
Gray	Myers	Stark
Green	Nagle	Stenholm
Guarini	Natcher	Studds
Gunderson	Neal (MA)	Swift
Hall (TX)	Neal (NC)	Synar
Hamilton	Nowak	Tallon
Hammerschmidt	Oberstar	Tanner
Harris	Obey	Tauzin
Hatcher	Olin	Taylor
Hayes (IL)	Ortiz	Thomas (GA)
Hayes (LA)	Owens (NY)	Torricelli
Hefner	Packard	Towns
Hertel	Pallone	Traficant
Hoagland	Panetta	Traxler
Hochbrueckner	Parker	Unsoeld
Horton	Patterson	Valentine
Houghton	Payne (NJ)	Vander Jagt
Hoyer	Payne (VA)	Vento
Hubbard	Pease	Visclosky
Huckaby	Pelosi	Volkmer
Hughes	Penny	Walgren
Jenkins	Perkins	Walsh
Johnson (CT)	Petri	Watkins
Johnson (SD)	Pickett	Waxman
Johnston	Pickle	Weiss
Jones (GA)	Poshard	Weldon
Jones (NC)	Price	Wheat
Jontz	Pursell	Whitten
Kanjorski	Rahall	Wilson
Kaptur	Ravenel	Wise
Kasich	Ray	Wolpe
Kastenmeier	Richardson	Wyden
Kennedy	Rinaldo	Wylie
Kennelly	Ritter	Yates
Kildee	Robinson	Yatron
Kleczka	Roe	
Kostmayer	Rose	

NAYS—106

Armey	Buechner	Coughlin
Baker	Bunning	Dannemeyer
Ballenger	Burton	DeLay
Barton	Campbell (CA)	DeWine
Bentley	Chandler	Dickinson
Bereuter	Clay	Dornan (CA)
Bilirakis	Coble	Douglas
Bliley	Coleman (MO)	Dreier
Duncan	Lewis (FL)	Ros-Lehtinen
Edwards (OK)	Lightfoot	Roukema
Fawell	Lukens, Donald	Schaefer
Fields	Machtley	Schroeder
Gallegly	Madigan	Schuette
Gekas	McCandless	Sensenbrenner
Gingrich	McCollum	Shays
Goss	McDade	Sikorski
Grandy	McGrath	Slaughter (VA)
Hancock	McMillan (NC)	Smith (TX)
Hansen	Miller (OH)	Smith, Robert (NH)
Hastert	Miller (WA)	Smith, Robert (OR)
Hefley	Molinari	Solomon
Henry	Moorhead	Stangeland
Herger	Murphy	Stearns
Hiler	Nielson	Stump
Holloway	Oxley	Sundquist
Hopkins	Parris	Tauke
Hyde	Pashayan	Thomas (CA)
Inhofe	Paxon	Thomas (WY)
Ireland	Porter	Upton
Jacobs	Quillen	Vucanovich
James	Regula	Walker
Kolbe	Rhodes	Whittaker
Kyl	Ridge	Wolf
Lagomarsino	Roberts	Young (FL)
Leach (IA)	Rogers	
Lewis (CA)	Rohrabacher	

NOT VOTING—43

Boehlert	Hunter	Oakar
Boxer	Hutto	Owens (UT)
Condit	Kolter	Rangel
Conyers	Leath (TX)	Roybal
Cox	Lehman (CA)	Saxton
Craig	Levine (CA)	Smith (FL)
Crane	Lowery (CA)	Stokes
Crockett	Marlenee	Torres
Emerson	Martin (IL)	Udall
Espy	Martinez	Washington
Flippo	McCloskey	Weber
Gibbons	McCrery	Williams
Goodling	Mfume	Young (AK)
Hall (OH)	Moody	
Hawkins	Nelson	

□ 1023

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. JENKINS). The Chair recognizes the gentleman from Ohio [Mr. OXLEY] to lead the House in the Pledge of Allegiance.

Mr. OXLEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4612. An act to amend title 11 of the United States Code regarding swap agreements and forward contracts.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 933) "An act to establish a clear and comprehensive prohibition of discrimination on the basis of disability" and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. HARKIN, Mr. METZENBAUM, Mr. SIMON, Mr. HATCH, Mr. DURENBERGER, and Mr. JEFFORDS; Mr. HOLLINGS, Mr. INOUYE, and Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, solely for the consideration of issues within that committee's jurisdiction (telecommunications, commuter transit, and drug testing of transportation employees); to be the conferees on the part of the Senate, with instructions.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4498

Mr. STARK. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4498.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT OF RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4785, AIDS PREVENTION ACT OF 1990

Mr. WHEAT, from the Committee on Rules, submitted a privileged report (Rept. No. 101-528) on the resolution (H. Res. 408) providing for the consideration of the bill (H.R. 4785) to amend the Public Health Service Act to establish a program of grants to provide preventive health services with respect to acquired immune deficiency syndrome, and for other purposes, which was referred to the House Calendar and ordered to be printed.

INTRODUCING H.R. 4984, AMTRAK REAUTHORIZATION WITHOUT ICC PROVISION

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I should like to inform the Members of the letter that I received from the President, which reads as follows:

THE WHITE HOUSE,
Washington, DC, June 6, 1990.

Hon. BOB MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR MR. LEADER, I understand you are planning to introduce new legislation today to reauthorize Amtrak. I further understand that this new legislation would be identical to H.R. 2364, except that it would not include the Interstate Commerce Commission (ICC) regulatory provision.

I disapproved H.R. 2364 solely because of the ICC provision. The provision would have required, for the first time and for the railroad industry alone, government review and approval of acquisitions by entities that are not actual or potential competitors—including a carrier's own management or employees. Since there is already adequate authority to protect the public interest in railroad acquisitions, there is no justification for creating such a serious regulatory roadblock to financial restructuring of the railroad industry.

I would sign an Amtrak reauthorization identical to H.R. 2364, but without the ICC provision described above.

Sincerely,

GEORGE BUSH.

I just want to inform the membership that I have introduced this morning H.R. 4984, and would invite cosponsors of that legislation that would implement for all practical purposes what the President talks about in his letter. Then we would be in the position of having a reauthorization of the Amtrak bill that the President surely could sign, would obviously ask Members to vote to sustain the President's veto of the original legislation to support our substitute.

TERRORISM

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute.)

Mr. JOHNSTON of Florida. Mr. Speaker, what is terrorism? This administration does not seem to know. At a Foreign Affairs Committee hearing last month, the Assistant Secretary of State for Middle Eastern Affairs reinforced my view. Secretary Kelly stated that the administration has had a standing definition of terrorism on the books for 21 years. He described it as "premeditated, politically motivated violence directed against noncombatant, civilian targets by subnational groups or clandestine state agents in order to influence an audience."

Having just given this definition the Secretary then proceeded to disclaim it. He explained that the State Department had evaluated a number of violent incidents over the last year strictly on a case-by-case basis. So much for a standard definition. In a matter of minutes, committee members were completely confused. What was obvious was that the administration does not want to be held to a standard. It wants to contort policy to suit its view of the Middle East, regardless of the facts.

Last week, members of the Palestinian Liberation Front planned and executed a landing on a Tel Aviv Beach for the purpose of indiscriminately killing as many innocent civilians as possible. Tell me, Secretary Kelly, does this sound like a terrorist act?

□ 1030

PLO BREAKS PROMISE, RESUMES TERRORIST ATTACKS

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, all Americans should be outraged by the PLO's most recent, and most brazen attack on innocent Israeli citizens.

Americans know all too well the tragic results of terrorism for we have been frequent targets of terrorists ourselves.

In fact, the mastermind of the latest terrorist attack against Israel is Abul Abbas, the PLO leader and the very same madman responsible for Leon Klinghoffer's barbaric murder on the *Achille Lauro.*

The United States-PLO dialog is premised on the PLO's promise to abandon terrorism.

This latest attack is a blatant and clear-cut breach of these idle promises.

Our Nation's response must be an immediate suspension of any dialog with these PLO murderers.

Past protests about PLO terrorism have been inadequate—the only PLO action—more terrorism and more murder of innocent citizens.

Mr. Speaker, we cannot have it both ways.

We cannot say the PLO has lived up to its promises and at the same time witness on-going PLO terrorism.

This latest incident proves that at the very highest levels of the PLO, terrorism is the preferred action of choice every time.

Mr. Speaker, it is time for us to stand up to terrorists and drop any pretense that the PLO can be dealt with as anything more than the terrorists and murderers that they are.

LOOPHOLES IN THE LAW USED BY BOESKY AND OTHERS TO AVOID FULL RESTITUTION

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, two disturbing items in the newspaper recently caught my attention and inspired my remarks today. Both of these items involved felons who have managed to make a mockery out of repaying their debts to society. Ivan Boesky set up a $50 million fund to repay the victims of his securities fraud—half of the $100 million in penalties imposed in the 1986 settlement of his case. Mr. Boesky then took a $50 million tax deduction for this capital expenditure on his 1986 return. In other words, the American taxpayer helped pay for Mr. Boesky's crimes.

Equally outrageous is the recent Supreme Court ruling which held that a convicted felon can avoid paying restitution to victims by simply declaring bankruptcy. Surely, the Congress never intended to treat restitution as an unpaid credit card bill. As a former circuit court judge, I can say that this ruling seriously undermines the credibility of restitution as a form of punishment.

Mr. Speaker, I say to my colleagues that the remedy to these situations lie in our hands. The Federal tax and bankruptcy codes should not be used to subvert justice and protect felons from their lawful punishment. I hope that you will work with me to address these loopholes in the law.

DE KLERK TAKES POSITIVE STEPS TO END APARTHEID IN SOUTH AFRICA

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, today President de Klerk of South Africa lifted the state of emergency in that country except in Natal Province where 3,000 people have been killed in the last few years. He has made many changes in South Africa that have caused attacks on him from the radical right and the Communist left. He has said that the movement away from apartheid to democracy is irreversible.

Mr. Speaker, we continue to do business with the butchers in Red China and the repressers of the Baltic States, the Soviet Union. Is it not time that we at least showed some support for the positive steps toward democracy that President de Klerk is taking?

I believe that we should consider lifting some of the sanctions as a good-faith gesture to show the radical and the left in South Africa that we support the positive changes that President de Klerk is making. He is a man of courage who has risked his political life to bring about an end to apartheid and to bring true democracy to South Africa, and he deserves at the very least some support from the United States of America.

FOREIGN INVESTORS CONTINUE TO GOBBLE UP AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, last year, foreign investors bought over 1,000 American businesses worth more than $65 billion. From Rockefeller Center to even the super racehorse, Sunday Silence, America is gobbled up bit by bit, piece by piece, day by day, and I keep hearing the argument; "Don't worry, they are financing our debt."

Yes, they are financing our debt all right. When you buy something, you own it. When you own something, you have economic control. When you have economic control, you have political control.

Mr. Speaker, we, in America, are going to be renting our own land back. Maybe our Members will rise up when they are required to have a passport to serve in this Congress.

PROTECTING THE FREE PRESS

(Mr. PURSELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PURSELL. Mr. Speaker, yesterday, I introduced legislation calling for an end to newspaper joint operating agreements.

My bill—H.R. 4970—will repeal the Newspaper Preservation Act of 1970, which permits the formation of JOA's with the approval of the Attorney General.

I am convinced the JOA practice violates our first amendment guarantee of a free press. Intended to save failing newspapers, JOA applicants are put in the compromising position of being dependent on the Federal Government for their financial survival.

Nothing—and I repeat, nothing—could be farther from the intent of the first amendment in establishing a free press, a free press which is to serve as the watchdog over Government.

How can a newspaper, which submits its very existence to the review of the Justice Department, freely fulfill its watchdog role?

It's time we stop the Federal Government's practice of granting "sweetheart monopolies" to our nation's daily newspapers.

Mr. Speaker, at a time when other Nations are turning to democracy and a system of free markets, it only makes sense that we return to a free market system for the operation of one of our leading institutions, that of a free press.

THE CHALLENGE OF REBUILDING AMERICA

(Mr. WISE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, in 1980 Ronald Reagan spurred the Nation to an unprecedented military buildup, warning of windows of vulnerability. Ten years and $1.5 trillion later, George Bush and Mikhail Gorbachev declared that the cold war is over.

As this competition ends, now we must recognize the new competition and the new vulnerability threatening the economic well-being of American families. In the last 10 years the United States has gone from being the largest creditor nation to being the largest debtor nation. Twenty-eight percent of our roads and 40 percent of our bridges are substandard. The end of the cold war brings new challenges as thousands of American defense workers face the unemployment line. Over one-quarter of our high school children will drop out before graduation.

Yet some in the White House say that we cannot meet these challenges because, as they say, there is a budget deficit. They are telling us that a nation with a $5 trillion economy, a nation that spent $1 trillion-plus to win the cold war, cannot do the same to rebuild our Nation, rebuilding our infrastructure, preparing our children, and restructuring our economy.

Mr. Speaker, I say to the Members that it is time to rebuild America now.

A CALL TO STEP UP PROSECUTIONS ON THE THRIFT INDUSTRY FRAUD

(Mr. ROTH asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, the $500 billion savings and loan tragedy is a bitter pill for the America taxpayer. Three years ago I and others tried to get this House to act when it was a $10 billion problem, but too many Members of Congress listened to the sweet song of the fast-buck operators who had infiltrated the thrift industry.

It is unfair to hand a $2,000 bill to every man, woman and child in America when the crooks and the financial gunslingers who cause this problem are not being prosecuted. These con artists and crooks belong in jail, not on late night talk shows. The House deserves to know why there are 10,000 cases of fraud pending before the Justice Department but only 45 prosecutions.

Mr. Speaker, on behalf of the America people, we in Congress must insist on a major effort by our Justice Department to bring these people to justice.

THE BUSH ADMINISTRATION SHOULD CEASE NEGOTIATIONS WITH THE PLO

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, last week's aborted attack by Palestinian terrorists off the coast of Tel Aviv is another piece of evidence that the PLO has not totally renounced terrorism. The attack was launched by Abul

Abbas, leader of the Palestine Liberation Front, a radical offshoot of the PLO. Abul Abbas sits on the PLO executive committee and shares offices with Yasser Arafat. It's strange that Mr. Arafat who supposedly denounces terrorism has not denounced the actions of Abul Abbas.

The Bush administration should not let his refusal to condemn the attack go without a response from the United States.

I urge the President to suspend negotiations with the PLO until it becomes clear that Arafat has totally disassociated himself and the PLO from terrorism and those responsible for promoting it.

TERRORIST ATTACK ON ISRAEL ANSWERS DOUBTS ABOUT PLO

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, today I rise to condemn the involvement of the Palestine Liberation Organization in the attempted terrorist attack last week on Israeli citizens, beaches, and hotels. The attack confirms the absurdity of claims by the PLO that it is opposed to terrorism.

□ 1040

The attack was claimed by the Palestinian Liberation Front, and the PLF is a faction headed by Abu Abbas, but luckily the Israeli army foiled the attack. It is a chilling thought that these terrorists came so close to civilians who were enjoying a day at the beach, and many of those civilians were American citizens.

Mr. Speaker, I call on our Government now to discontinue any dialog with the PLO, as long as it carries out its intent of destroying Israel by terror while verbally claiming to do the opposite.

The evidence is clear. There have been nine incidents since PLO Chairman Yasser Arafat's so-called renunciation of violence in December 1988. I ask, "If the PLO is sincere, why didn't Arafat condemn this attack on the Israeli beaches and reaffirm his renunciation of violence?"

It is time for Secretary of State Baker to reexamine any further dealings with the PLO in light of this vicious attack.

CROOKS AND COINCIDENCES

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute.)

Mr. ANNUNZIO. Mr. Speaker, the looting of our Nation's savings and loan system will cost the taxpayers $500 billion. Yet only 47 people have been prosecuted in connection with savings and loan crimes. Why won't the Justice Department go after those responsible for this rape of the taxpayers?

Perhaps part of the answer is in one of those failed S&L's—Silverado Savings and Loan. This thrift went under 2 years ago, leaving the taxpayers a bill of $1 billion. No one has been indicted in connection with its failure.

Federal officials made five criminal referrals to the Justice Department in connection with Silverado, but nothing has happened. When I asked for the dates of these referrals, the Justice Department refused to allow their release.

Was it a coincidence that one of the directors of Silverado was Neil Bush, son of the President of the United States, and that the Justice Department has not moved on this case?

Neil Bush filed a form saying he had no conflicts of interest, and then got the board to approve $106 million in loans to his partners—all of which are in default.

Is it just a coincidence that he owed one of his partners $100,000 at the time, or that the partner has since forgiven the loan?

Mr. Speaker, the American people want answers, not coincidences. It is time to put the S&L crooks in jail.

JUSTICE DEPARTMENT SLOW-MOVING ON S&L PROSECUTIONS

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEYERS of Kansas. Mr. Speaker, why is the Justice Department not prosecuting financial institution crimes?

With passage of the thrift rescue bill last year, Congress authorized the Justice Department $65 million annually over 3 years to be used to track down and punish those responsible for savings and loan crimes. Congress even threw in an additional $10 million per year to help our Federal court system handle the expected increased caseload.

So where is the evidence that this money is being used? Where are the news accounts of corrupt savings and loan owners and executives being prosecuted and put in jail? Why are we hearing instead that FBI agents needed for the task will not be in place until August, that over 21,000 criminal complaints are still outstanding, and that little more than half of the U.S. attorneys needed have been hired?

Everyday, new estimates of the overall cost of the thrift bailout are given. We are now hearing forecasts as high as $500 billion!

This is an outrage. The American public both wants and deserves accountability for thrift fraud and abuse.

Today, I am writing to Attorney General Dick Thornburgh for answers to these very relevant questions. Taxpayers in my district and every other are entitled to an explanation.

MYRTLE BEACH AIR FORCE BASE CLOSING

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, Tuesday in Myrtle Beach, I attended a meeting required by law to provide local economic data for the Pentagon in determining whether or not to close the Myrtle Beach Air Force Base.

The Pentagon was represented by two contractors who willingly admitted that they know nothing about the base closing process and who were given no guidelines for the meeting.

These belt-way bandits did not take notes and did not record the meeting. So what kind of report can they make and how reliable can it be? There is absolutely no accountability in this process.

This is just another example of what a hoax this base closing process really is. The Pentagon goes through the motions, fattens up defense contractors, and then gets what it wants at the expense of the taxpayer.

INDEPENDENT COUNSEL NEEDED TO INVESTIGATE THE SAVINGS AND LOAN SCANDALS

(Mr. SMITH of Vermont asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Vermont. Mr. Speaker, yesterday I introduced a resolution urging the President to instruct the Attorney General to appoint a special counsel to investigate any possible wrongdoing by Government officials in connection with the savings and loan scandals.

In one day—less than 8 hours—93 of my colleagues signed on as original cosponsors of this resolution. These Democrats and Republicans, like me, understand the deep and profound anger of our constituents.

Americans are furious that a few members of the executive and legislative branches of Government ever allowed this fiasco to happen. The cost of the S&L bailout is hitting home and it's hitting home hard.

We owe Americans an explanation.

We need an independent counsel to ferret out any wrongdoing in the highest levels of Government. It is time to stop pointing fingers and get the facts.

I ask you again today: Let's find out how this Government allowed the S&L disaster to happen. Please support my call for an independent counsel.

PLO'S COMMITMENT TO TERRORISM REAFFIRMED

(Mrs. LOWEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, was there ever any real doubt about the PLO's commitment to terrorism and to the violent destruction of the State of Israel?

If there was, it was erased last week, when 16 armed terrorists attacked a crowded beach were 3,000 Israelis were enjoying their holiday. The aim of the mission, according to one of its perpetrators, was to bombard the Tel Aviv hotel district, "murder civilians, cleanse the hotel, and murder anyone we encountered." Fortunately, this attack was defeated by the Israeli defense forces.

Yasser Arafat claims that the PLO was not responsible for the raid because it was carried out by the Palestinian Liberation Front, a splinter group led by Abu Abbas, the notorious criminal responsible for the murder of Leon Klinghoffer aboard the *Achille Lauro*. This denial of responsibility is insignificant because he has not offered to condemn, renounce, or criticize the raid in any way.

The PLF is one of eight groups that make up the PLO and Abu Abbas is a member of the PLO executive committee. The PLO must be held responsible for the actions of its members, especially the actions of an executive committee member. These actions clearly show that the PLO is not interested in peace in the Middle East.

This failed attack, coupled with the refusal of Yasser Arafat to condemn it and take action against its perpetrators, demonstrates without any doubt that the current U.S.-PLO dialog is inappropriate. Now is the time for the Bush administration to treat terrorists as international criminals, not as negotiating partners. Now is the time to end this dialog and to stand firm against terrorism around the world.

CHAPTER 13 AND THE S&L SCANDAL

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, the Supreme Court of the United States last week handed down a most unfortunate decision. It ruled that people convicted of fraud, who were then ordered to pay restitution to restore the funds stolen, could go to chapter 13, declare bankruptcy, and, thereby, be discharged of the obligation to pay back the moneys ordered under restitution.

Can my colleagues imagine in this day and age, when even today our colleagues have been decrying the S&L scandal, to have the possibility of an S&L thief, a defrauder, ordered to pay restitution of millions of dollars, and then stepping to the next room and filing backruptcy under chapter 13, and then escaping responsibility?

Mr. Speaker, we have introduced legislation, and I ask the cosponsorship of my colleagues now in the Chamber and those who will come later so we can reverse this Supreme Court decision.

OUR ANTITERRORISM STAND HAS BECOME A JOKE

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, a week has gone by since there was an attempted terrorist massacre in Israel, masterminded by a senior member of the PLO, and still this administration can't bring itself to accept they've been getting duped by Yasser Arafat.

That is why we Members of Congress are coming to the floor today.

The administration cannot afford to keep making apologies for the PLO. There can be no more excuses.

Abu Abbas killed an American citizen, Leon Klinghoffer. He joked about it.

Yet we continue to negotiate with his organization.

Our antiterrorism stand has become a joke.

The PLO spent $3 million, sent 17 terrorists to massacre civilians on Israeli beaches, brags about it, and this administration, this administration keeps hoping that Arafat will say he is sorry.

The simple truth is the PLO is engaging us in diplomatic sweet talk, while plotting terrorism at the same time. Today we will introduce legislation saying enough, break off the dialog.

□ 1050

PLO'S CONTEMPT FOR PEACE PROCESS

(Mr. BROWN of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Colorado. Mr. Speaker, the terrorist attack against Israel last Wednesday is the latest example of the PLO's contempt for the peace process. Yasser Arafat must be held responsible for this despicable act committed by his friend and close associate who sits on the PLO's executive council.

The United States entered into a dialog with the PLO on the condition that it halt its terrorist activities. That condition has clearly been violated. The United States also made it clear that it expects the PLO leadership to condemn any terrorist activities and expel the perpetrators from the PLO. Arafat has denied any PLO involvement in the incident, and has thus far refused to condemn the act or expel mastermind Abu Abbas from the executive council.

The fact is that Arafat is duplicitous. The fact is that Arafat and the members of his organization are terrorists. He promised to renounce terrorism and recognize Israel in 1988, yet the PLO has continued on its terrorist rampage against Israel. In light of its continued terrorist activities, I believe the United States must reevaluate its entire relationship with the PLO. There is no reason for us to believe that the organization has changed.

AMTRAK VITAL FOR BUSINESS AND PLEASURE TRAFFIC

(Mr. POSHARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POSHARD. Mr. Speaker, I was very disappointed when President Bush vetoed the Amtrak Reauthorization and Improvement Act of 1990.

Amtrak is a vital link for business and pleasure through this country, and particularly in my home State of Illinois.

Amtrak service in my district helps students get to and from Southern Illinois University. Amtrak offers a lower cost business travel alternative, and generally enhances the local economy by providing jobs and a good measure of prestige. If you have ever tried to attract new business to an area that does not have a full complement of transportation services, you understand the importance of the Amtrak link to my district.

The people who must ride the rails and the communities that depend on Amtrak service are waiting for us to take action. This is a reasonable role for the Federal Government and one that we overwhelmingly supported when the issue came to us previously.

It is important to my district, my State, and the country as a whole.

Mr. Speaker, I am pleased to join my colleagues in strong support of this veto override today.

UNITED STATES SHOULD CEASE NEGOTIATIONS WITH PLO

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, I am both alarmed and outraged by the recent commando raid on the coast of Israel by the Palestine Liberation Front, a faction of the PLO, headed by Abul Abbas. We all remember Mr. Abbas; he mastermined the *Achille Lauro* hijack-

ing and was personally responsible for the brutal murder of Leon Klinghoffer. We also know that the United States has held talks with the PLO on the condition that such talks coincide with the cessation of terrorist activities by that organization.

Reports suggest that Mr. Arafat may not have the credibility within his organization to expel Abul Abbas or even condemn the actions of the PLF. As a member of the PLO's executive committee, Mr. Abbas commands his own constituency in that organization. According to PLO officials in Tunis, the PLO hierarchy is having a problem maintaining credibility with its more militant factions and has placed a higher premium on regaining unity with these factions than to preserving relations with the United States.

If this is true, and Mr. Arafat places a higher premium on maintaining relations with his terrorist factions than with the United States, then the United States has no choice but to condemn this action and cease negotiations with a resurgent terrorist PLO. This was one of the conditions spelled out by Ambassador Pelletreau in the December 1988 agreement that lunched the U.S.-PLO dialog. Otherwise, to maintain U.S. relations, Mr. Arafat must gather the support within his own organization to expel Mr. Abbas and the PLF from the PLO in order to make good on his pledge not to involve the PLO in terrorist activities.

The PLO must be held accountable, and it must join the world in condemning terrorism in any form. Until that time, Mr. Speaker, in order to maintain our own credibility, the United States has no alternative but to cease negotiations with the PLO.

NO NEGOTIATIONS WITH ARAFAT

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, today Mr. Arafat and the PLO stand exposed to the world naked as barefaced terrorists.

Now, Mr. Arafat has had many, many chances to prove that he is not a terrorist. He could have denounced past terrorist attacks. He has not.

He could have recommended that the Arabs cease their boycott of Israel, which is a warlike act. He has not.

He could have called for a halt to the constant stream of hate and bloodthirsty threats to Israel's very existence emanating from the Arab press, radio and television. He has not. In fact, he pours fuel on the fire by adding his own words of hate.

He could have recommended that the Arabs cease the absurd practice they have of every year trying to get Israel expelled from the United Nations. He has not.

He has in no way indicated that he is a serious player for peace. He is not a serious player for peace.

The whole process of negotiating with Mr. Arafat is a fraudulent one. It lacks internal integrity. It lacks constancy. We ought to terminate it, in the name of peace and justice.

PASS THE TRUTH IN GOVERNMENT EFFICIENCY REFORM ACT (TIGER)

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, Members of Congress have received thousands of cards and letters from Citizens Against Government Waste about the Financial Integrity Act Report which details $180 billion in waste in the Federal Government due to poor financial management. These letters put forth the question, Why hasn't anything been done about this report?

I would like to bring to your attention a bill that I introduced a good many months ago, 3 months, in fact, before the report came out, H.R. 3064, the Truth in Government Efficiency Reform Act, known as TIGER.

The Federal Government is the world's largest financial operation, and yet, they have a myriad of financial reporting forms and different accounting processes.

This legislation would establish an Under Secretary of the Treasury for Federal Financial Management and establish an agency chief financial officer.

Furthermore, the measure would require the development of systems that will provide complete, accurate and timely information, and will increase accountability through the process of true financial management plans and reports.

The American taxpayers deserve to know where their money is going.

So I would ask my colleagues to join with me once again in becoming a cosponsor of H.R. 3064.

URGING UNITED STATES AND SOVIET UNION TO CONTINUE PEACE PROCESS IN ETHIOPIA

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, I was heartened by the fact that Presidents Bush and Gorbachev discussed Ethiopia at the recent summit. Both Presidents vowed to step up their efforts to implement a cease-fire and to allow relief efforts to continue.

We must, however, keep up the pressure on the Ethiopian Government and insist that the United Nations play a strong coordinating role in that country.

The long-range solution to the hunger problems in Ethiopia is peace. There are, however, urgent problems that must be addressed now and we cannot wait for the conclusion of a long and difficult peace process before we act.

There will be a resolution considered early next week expressing the desire of Congress that diplomatic influence be continued and that urges the Soviets and the United States to use continued pressure to bring about a cease-fire in Ethiopia and to allow for the safe passage of international relief, but coordinated by the United Nations.

If necessary, we should also put economic pressure on the Ethiopian Government to agree to this cease-fire. Only in this manner can sufficient relief efforts take place to deliver food inland where it is desperately needed. It is imperative that the Ethiopians act quickly to implement a cease-fire and support these efforts. Millions of lives depend on it.

THE LATE ROGER ALLAN MOORE, FORMER GENERAL COUNSEL TO REPUBLICAN NATIONAL COMMITTEE

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, on June 4, 1990, the Republican Party lost one of its wisest pundits and the Republic lost one of its strongest advocates for representative government when Roger Allan Moore died at the Dana-Farber Cancer Institute in Boston. Roger was general counsel for the Republican National Committee for 8 years, and during that time he was the person upon whom I came to depend for advice and counsel about various election law and party rules issues.

When he advocated, as he always did, keeping our election laws and party rules simple and comprehensible, he did so from extensive campaign and convention experience, from careful judgment and from solid values, and he always did it with grace and wit.

Roger attended every Republican National Convention from 1948 and was a delegate to the Committee on Rules for most of those conventions. His campaign experience was highlighted by the 1956 Eisenhower campaign in which he was the executive director for the Massachusetts Citizens for Eisenhower, and by his acting as an adviser to President Reagan in his 1976, 1980, and 1984 campaigns.

One of his grandest accomplishments as general counsel to the Republican National Committee was creation of two bipartisan conferences with the Republican and Democratic National Committees and the Harvard University's Institute of Politics. While neither resolved the conflicts between the different approaches to party rules and election law, they were successful because they succeeded in getting everyone in the same room and in the same bar so that relationships were formed and lines of communications were opened.

Mr. Speaker, the Republic will miss his example of fulfilled civic obligation, and I will miss the valued council of this gentle man. I would like to extend my sympathy to his wife, Barbara, and their four children.

□ 1100

ADMINISTRATION MUST END DIALOG WITH PLO

(Mr. FRANK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANK. Mr. Speaker, the Bush administration continues to undermine that peace process in the Middle East which it says it supports.

The President made a terrible error when he injected uncertainty about the status of east Jerusalem in a gratuitous way a couple of months ago, but they are making a far greater mistake at the State Department and the White House by now ignoring the pattern of terrorism which persists in the PLO.

It was a full-fledged member in good standing of the PLO operation that launched a terrorist attack aimed at unarmed civilians in Israel recently. This was not some splinter group. It was part of the mainstream of the PLO. Not only has Mr. Arafat not sought to expel them, he refuses even to repudiate the attack.

An American Government which continues a dialog with the PLO which engages in terrorism has no credibility to encourage a peace process. I have been one who has urged the Israeli Government to participate in the peace process, but I have to understand the reluctance that is engendered in them when the administration, in effect, looks the other way at this terrorism.

The administration must end this dialog with the PLO if it hopes to be pushing for peace in the Middle East effectively.

IT IS TIME TO CUT DEADWOOD FROM THE BUDGET

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, the House today will vote to override or sustain the President's veto of the Amtrak bill. This vote will prove to all Americans whether or not Congress is serious about bringing down the budget deficit.

Private business can provide the transportation needs of America more efficiently and save the Federal Government money. The subsidies for Amtrak are going, up, up, up. Does that sound like an efficient operation to the Members?

There are people in this body who seem bent on taxing this country into a recession rather than cutting the deadwood from the Federal budget. I say it is time to cut the deadwood from the budget rather than soaking the American taxpayers for more and more money and driving our country into recession and depression.

I ask this body to join me in sustaining the President's veto.

TOWN MEETINGS SHOW NO. 1 CONCERN

(Mr. DURBIN asked and was given permission to address the House for 1 minute.)

Mr. DURBIN. Mr. Speaker, I have just completed a round to town meetings in my congressional district. The No. 1 issue the people are concerned about is the savings and loan crisis. The question that I am asked over and over is: "Why are not the wealthy executives who ripped off the savings and loans being prosecuted? Why is not Attorney General Thornburgh a thorn in the side of the savings and loan felons?"

Today we even hear the President's own Republican Party represented in this well coming forward restless over the inaction and incompetency of the Department of Justice. There is something rotten in the Department of Justice when it comes to the savings and loan crisis. If our Nation's chief prosecutor does not have the will or the skill to prosecute S&L criminals, then the President should give us an Attorney General who does.

ISSUE TODAY IS NOT ABOUT AMTRAK

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, as we enter the debate on the veto of the Amtrak legislation, I just want to set the record straight and encourage my colleagues to carry on this debate within the framework of President Bush's commitment.

President Bush has said flatly he will sign precisely the same Amtrak reauthorization except the interstate commerce provision. The interstate commerce provision has been described by the Transportation Reform Alliance as, "a provision that would impose new unprecedented regulation on the frieght railroad industry and undermine the ability of the industry to raise needed capital funds in the financial markets."

The issue today is very simple. It is not about Amtrak. It is about whether or not, in the spirit of perestroika, we want to cut our Government regulation, encourage private investment, and encourage entrepreneurship, or whether, in fact, we want to extend more bureaucracy and more government over the railroads.

I would find it highly ironic for any city which lavished praise on Gorbachev to now vote to override the veto.

IMPROVE AMTRAK FOR THE 21ST CENTURY

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, I just heard a fellow get up here and mention about the budget deficit and how bad it is because we are doing things like funding Amtrak and rules and regulations, that we should not be into this, that it should be the private sector.

But we have already seen that by deregulating the savings-and-loan industry, we see what happened to them. They went right down the tube. As to the costs, if we talk about budget deficits, that is going to be the biggest deficit in history of this country.

While Japan and France and England are moving ahead with mass transportation and rapid transportation, we are falling behind. The veto of Amtrak is nothing more than another regressive step by the Bush Administration. I know, he supposedly vetoed it because of some ICC provision that was in it, but President Bush and President Reagan for 8 years tried to kill Amtrak.

The people want the rails, so leave it alone, I would say to the President; better yet, let us improve it as we move into the 21st century to meet the mass movement of the mass of people.

UNITED STATES HAS SPECIAL RESPONSIBILITY TO HONG KONG

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, in 1997 the world's showcase of successful free enterprise, Hong Kong, will come under the domination of mainland China, the world's prime example of economic and people control by government.

The United States has a special responsibility toward Hong Kong's freedom and economic future. Yes, Great Britain has prime responsibility, but she cannot and will not fulfill it. The leadership devolves on the United States, and frankly, Mr. Speaker, we are not providing it.

To start with we should be working with China to encourage policies that will reassure the people of Hong Kong. Since Tiananmen Square the leaders in Beijing have been pursuing a paranoid, insane policy that is driving the people of entrepreneurial talent right out the door. They are voting with their feet, leaving in record numbers, as they assess a bleak future under Chinese rule.

To counter this outflow and give the people of Hong Kong the assurance they need to stay, the United States, along with other nations around the world, must provide a safety net. We must raise our emigration quota for Hong Kong dramatically and provide visas that can be exercised after 1997. With such assurance in hand that they can leave if they absolutely need to after the Chinese take over, the people of Hong Kong will stay. Without it, they will continue to leave. The Frank amendment, adopted in subcommittee, provides such a visa and deserves the support of the Congress and of the administration.

Hong Kong is of special significance in the world of economic freedom and the opportunity for a better life. The clock is ticking toward 1997. The United States must take the lead to protect its future, and make sure that when China absorbs it, it comes complete with people dedicated to human freedom and the rule of law and able to provide that shining example to all the people of China.

REJECT THE VETO

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, my colleagues have just heard my dear friend, the gentleman from Georgia [Mr. GINGRICH], make some comments with regard to the veto. I think it is important that certain facts be understood with regard to what is the real situation with Amtrak.

Leaving aside all questions other than the one question of regulation by the ICC of mergers, let me tell my colleagues why the veto should be overridden. All mergers and acquisitions by railroads of other railroad properties must be reviewed by the ICC. But acquisition by nonrailroad interests do not need to be.

Why should these acquisitions be reviewed? Very simply, for a number of reasons. First, to assure the adequacy of service; a community can be stripped of rail service if there is a merger or acquisition under these conditions and there is no place to complain. Second, to assure the protection of the interests of the taxpayers of the United States; many of these railroaders are enormous debtors to the Federal Government. If those railroads are taken over without the provision which is in this legislation, these debts to the taxpayers can be totally wiped out.

There are other reasons, but I urge my colleagues, for these and the other reasons, to reject the veto.

PLO MUST BE CHEERING THIS MORNING

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, we have heard a number of speeches here this morning about the attack of the PLO against Israel last week, and I join with my colleagues in condemning that attack upon the nation of Israel. All the world should condemn the terrorist acts of the PLO.

But there is a bit of disconnect here. Just yesterday in this House we voted to give high technology to the terrorist nations that provide the weaponry to the PLO. That is right. Yesterday we provided the PLO with incentives in this body by assuring that nations like Libya, Iraq, Iran, and others will be able to purchase high technology.

Those nations now already have the ability to make chemical weapons. They will now have enhanced ability to make chemcial weapons. Those nations already, in some cases, have the ability to launch rockets into space. They will now have enhanced ability to use those rockets against their neighbors.

I think that the act that this House took yesterday in helping to fund terrorist nations and to help them get high technology is something that the PLO must be cheering this morning.

□ 1110

DOING SOMETHING ABOUT PLO TERRORISM

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, in response to the gentleman who just spoke, I think he is all wet. That did not happen at all on that bill, and it is a shame that he would characterize it that way.

But in any event, many Members of this House have taken the floor today to talk about the PLO and attacks, and I intend to do something about it. Rhetoric is not enough in this, because the policy of this country is bad, bad, bad, and we will be complicit in murders unless we do something.

Therefore, I am filing a bill today which would cut off the dialog between the United States and the PLO because the PLO is engaged in terrorism, and if they renounced it they have not adhered to that renunciation.

But my bill would not disallow any talk. What it would do is one, remain in effect as a bar until the President certifies to Congress that the PLO, all its constituent organizations, the Executive Committee and all members of their leadership recognized Israel's right to exist, accept 242 and 338, and have renounced the use of terrorism, and that the President certifies that that remain for a minimum of 120 days before the certification.

That is reasonable. That is what we ask.

Abul Abbas said Arafat did not know about it, so I did not tell him and therefore he is not responsible. That is like Eichmann saying I did not tell Hitler about the last 5,000 I gassed so he is not responsible. We have to do something. This is the way to do it.

VETO OVERRIDE OF H.R. 2364

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, it is abundantly clear to this Member that our President was a victim of some very bad staff work when he vetoed the Amtrak Reauthorization Act. As sent to him, this was and is a good piece of legislation.

He says he has no objection to the Amtrak provisions. He has made it clear that there is no objection to the provisions of this bill which will, after 5 long years of work by this Member and others, establish finally the authority for the Northern Virginia Commuter Rail Project to begin operation.

It is not possible that this Congress can simply send him a new bill without the ICC provision. It is abundantly clear or should be with four committees of the House having jurisdiction in this matter that it would be virtually an impossibility to move a new bill to the White House with only 35 legislative days remaining in this session.

We simply have got to override this veto, and I strongly urge my colleagues to do so.

GUN CONTROL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, earlier this week it was my pleasure to take part in a press conference with Jim

and Sarah Brady. Jim, of course, was the former press secretary to President Reagan whose life was very nearly extinguished, and certainly put in great jeopardy bcause of a bullet from the gun of John Hinckley.

The press conference was to announce a national campaign to urge us, we in Congress, to adopt the Brady bill which has a 7-day national delay before certain handguns can be purchased. I voted for that with pride in 1988. I hope that it will come back before the House, and I hope that this House will adopt it on the second go-around.

I also would like to congratulate and thank Chairman JACK BROOKS who has now called up before our Judiciary Committee on next Tuesday a bill that would ban assault weapons, the type of weapon which in Louisville, KY, killed several people at the Standard Gravure Plant. I hope that our committee will report this bill favorably and send it to the House floor, and I would urge my colleagues to think carefully in behalf of that bill. I think it is a good bill which came out of our subcommittee, and it would make a contribution to making the streets of America safer.

APARTHEID

(Mr. GRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAY. Mr. Speaker, many of us can rejoice today because we have seen a slight glimmer of hope coming from the racist apartheid nation of South Africa.

However, we must be cautious. We ought to applaud President de Klerk for lifting the emergency restrictions which for the last few years have added further oppression to that already oppressive state by denying human rights basic to the people of that country. He should be supported in his efforts to being about reform, but let us not stop the pressure. Let us as a nation continue the policies of applying economic pressure until not only do we have the lifting of the ban against political groups, not only the freeing of Nelson Mandela, not only the lifting of the emergency restrictions, but all of the people of that society can participate in electing their government, they can travel where they want to travel and have equal rights before the law, and apartheid based on racism is no longer a reality.

That should be our policy.

OVERRIDE THE VETO ON THE AMTRAK REAUTHORIZATION AND IMPROVEMENT ACT OF 1990

(Mr. THOMAS A. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS A. LUKEN. Mr. Speaker, today the train is leaving the station, the train being the Amtrak trains running, and the people of this country are happy with that, and to continue the Amtrak trains running we must override the veto. This is part of a real transportation policy.

The budget has been mentioned from the other side. The costs of running Amtrak have been cut in half in the past few years. We are on the right track; there is no question about it.

Just 2 weeks ago we passed the President's bill in the name of the environment which will cost billions and billions of dollars every year. That is the clean air bill. This is an environmental bill. The highways, the congestion on the highways, the proliferation of highways and the congestion in our airlanes, these are all part of the American scene today, and if we are to have a real transportation policy we are going to have to keep the trains running, and the only way we can do it effectively is to pass this bipartisan bill and override the veto.

AMTRAK REAUTHORIZATION AND IMPROVEMENT ACT OF 1990—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. JENKINS). The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 2364) to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Ohio [Mr. THOMAS A. LUKEN] is recognized for 1 hour.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 30 minutes to the gentleman from Kansas [Mr. WHITTAKER] and I ask unanimous consent that he be permitted to yield blocks of time for the purpose of debate only.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. WHITTAKER. Mr. Speaker, I thank the gentleman for his generous offer of the time, which I accept, and I yield 20 minutes of my time to the gentleman from Michigan [Mr. UPTON] and I ask unanimous consent that he be allowed to yield blocks of time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. UPTON. Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, it is with deep regret that I rise to urge my colleagues to vote to pass this bill the President's veto notwithstanding. The only stated objection to this legislation is the ICC provision. It has been called a step back toward regulation. It has been called an assault on the Staggers Act. It has been called an antitakeover provision. I would respectfully suggest that none of these characterizations is accurate.

Mr. Speaker, I would like to address one of these points briefly. This is not an antitakeover provision. This gentleman believes that shareholders own publicly traded companies. I have not supported antitakeover legislation in the past and in voting for this legislation I am not doing anything to change that record. This provision is in my mind more closely related to a technical amendment—a loophole closer. This provision simply eliminates the anomaly in current law that requires ICC review if a nonrailroad wishes to acquire a few miles of track from a railroad, but requires no such review if the nonrailroad buys the entire company on the stock exchange.

I ask my colleagues, is it fair that CSX or Norfolk Southern could not buy a class I railroad without ICC review, but JOHN DINGELL and TOM LUKEN could? I don't think so.

Second, is it a step back toward reregulation or an assault on the Stagger Act? No, it is not. Members of this House know how dearly revered the Staggers Act is within the rail industry. One question needs to be answered—if this is a step back toward reregulation and an assault on the Staggers Act then why have we not heard a peep, much less howls, of protest from the American Association of Railroads in opportion to the provision. I would suggest it is because they take no position on the provision and because they do not consider it an assault on the Staggers Act.

It is a good provision, it levels the field and ensure that the same rules apply regardless who is buying and how they are buying—what some of us call fairness.

Mr. Speaker, this bipartisan legislation is an important part of our effort to strengthen a key component of our Nation's transportation system namely passenger rail service. Let's not forget what we will put at risk if we fail to pass this legislation.

Today, Amtrak spans the country with a 24,000-mile system that operates through 43 States and serves over 500 stations and 22 million passengers

annually. Importantly, Amtrak is providing this service in a more self-reliant matter. In fiscal year 1981, Amtrak relied on the Federal Government to provide more than half of its expenses. In fiscal year 1988 the share had dropped to 30 percent.

This positive trend will continue as environmental pressures cause our communities to rely more heavily on passenger rail transportation. This legislation correctly addresses the need to make rail transportation a more viable option by resolving an important liability question that has stalled the start up of commuter rail service in northern Virginia.

I wish there were some other realistic way to proceed, but there is not. If we fail to pass this bill we will see the baby thrown out with the bathwater. I regretfully urge my colleagues to vote to pass this legislation the President's veto notwithstanding.

□ 1120

Mr. WHITTAKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise with regret to support the overriding of the Presidential veto of this bill—regret that the President, based on what I can only take as erroneous advice, has chosen to jeopardize this much-needed and bipartisan legislation with a veto.

The veto message identified section 8 of this bill—dealing with the jurisdiction of the Interstate Commerce Commission over acquisitions of major railroads—as the sole basis for the veto. As one of the original cosponsors of the bill, H.R. 2513, containing virtually the exact language of the vetoed Amtrak bill on this point, I can state unequivocally that this bill poses no threat to the viability of the railroad industry and the Staggers Rail Act.

Let me review briefly the claims made in the veto message about this provision. First, let me address the current law governing acquisitions of railroads by so-called noncarriers, or companies not already in the railroad business. The administration asserts that current law is more than sufficient to protect shippers and the general public, because the ICC can review the issuance of securities by a rail carrier.

For starters, there may not even be such an issuance of securities by the railroad itself to one of these noncarrier acquisitions, depending upon how the transaction is structured. In addition, there is no guarantee that the ICC could examine a transaction in advance under its securities jurisdiction. And most important, the ICC itself testified before the Senate Commerce Committee on a bill virtually identical to section 8 that the Agency's jurisdiction over noncarrier acquisitions of railroads under current law is ambiguous, disputed, and incomplete. I think that succinctly answers the administration's claim that current law is more than sufficient to protect shippers and the public.

The second problem the administration sees with this ICC provision is that it would drive up the cost of capital and inhibit future restructuring of class I railroads. This is incorrect. As to the cost of capital and restructuring of existing class I railroads, this provision has no effect whatsoever. Why? Because it doesn't touch those kinds of transactions. If an existing carrier is in effect refinancing itself or changing its debt-equity mix, this section does not touch it. Similarly, if a railroad holding company and its various subsidiaries are being reorganized or restructured, this provision does not apply. In short, any financial or structural changes by an existing class I railroad under existing ownership and control are completely immune from this legislation.

Instead, this provision is focused solely on the situations where a company or individual with no prior role in the railroad industry is seeking control of one of the Nation's 14 largest railroads. Screening the bidders for fitness and then letting the stockholders decide the outcome of any takeover contest is hardly a major form of regulatory intervention.

What about concern expressed for the cost of capital? Under current law, if an existing railroad acquires or merges with another railroad, what is the ICC's role? First, the ICC picks the winner in the event of multiple bids—the market does not. Second, the ICC is by law given 31 months—almost 3 years—to decide the case. And finally, most displaced employees will receive 6 years of full pay as severance, again by Federal law.

What does the vetoed provision actually do? It tells the ICC to screen nonrailroad bidders for control of a major railroad for fitness, based on a public interest test that includes maintaining transportation service, not overburdening the railroad financially, protecting the Federal Government if it is a creditor, and considering the effect of the transaction on railroad employees. The ICC has 90 days to do this, rather than 31 months for railroad-to-railroad deals. Second, the ICC does not pick the winner of any takeover contest as in those other cases: the shareholders do. And finally, there is no mandatory labor protection payment, and certainly not the 6 years full pay required in railroad-to-railroad cases. So I frankly cannot comprehend how this provision is going to destroy the capital markets for the railroad industry.

Finally, we have been told by the administration that this provision would impose an unprecedented regulatory review requirement. How unprecedented is it? Current law requires that the ICC approve any acquisition of a rail line by any noncarrier from any railroad, regardless of size. So if I were a company not already engaged in the railroad business, and I purchased 5 miles of track from an existing railroad—big or small—I would have to get ICC approval to close the deal. But if I can line up enough money to take over one of the country's largest railroads in one purchase, I am effectively immune from ICC review, and certainly from any prescreening process. Now if eliminating this irrational distinction is unprecedented, then so be it.

Shakespeare tells us that it is "As well to create good precedents as to follow them." If this ICC provision is unprecedented, it is in its moderation and market-oriented approach to filling a gap in the current law.

Mr. Speaker, I reserve the balance of my time.

Mr. UPTON. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BARTON], a member of the committee.

Mr. BARTON of Texas. Mr. Speaker, I rise in support of the President's veto of H.R. 2364.

I would start off by commenting that we have a President who has an approval rating of somewhere between 70 and 80 percent. I would also point out that one of his predecessors, President Jimmy Carter, supported the deregulation of the railroad industry.

The bill that is before us today does in fact begin the reregulation of Class 1 railroads. President Bush, in vetoing H.R. 2364, is not against Amtrak. He has said that he would support an identical bill with identical funding levels, with the exception of removing the new regulatory requirement in section 8.

Let me read that paragraph, section 8(a)(1):

(a)(1) Acquisition of direct or indirect control of a class I rail carrier by a person that is not a carrier and does not directly or indirectly control, and is not directly or indirectly controlled by, a carrier may be carried out only with the approval and authorization of the Commission.

That is the paragraph that President Bush is vetoing. What this would do would be, for this one industry, for one class of this industry, the class I carriers, would require prior approval.

Congressman BLILEY, my good friend from Virginia, when he was supporting the override of the veto, said that the American Railroad Association has not supported the President's veto.

□ 1130

That is absolutely correct. Just think about that. They have a closed loop system now. If we institute this particular paragraph, we make it, if not impossible, much more difficult for a nonrailroad to come in and ac-

quire a railroad. We do not need to do that for any particular industry.

If Members believe in the free market, if Members believe in market economies, we should not put this paragraph in.

Mr. TAUKE. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Iowa for 30 seconds.

Mr. TAUKE. Mr. Speaker, the gentleman says this is reregulation of the railroads, which in my judgment is totally false. But beyond that suggestion, a free market transaction. But if we have a class I railroad, we will say Union Pacific wants to take over, and the same railroad that another outside entity wants to take over—the way the gentleman has it—the Union Pacific would have to jump through the hoops, but the outside entity would not. How is that for competition in the free market?

Mr. BARTON of Texas. Mr. Speaker, I would respond to my friend, the gentleman from Iowa, by saying that I think whether we are a railroad or a nonrailroad, to use the gentleman's term, we ought to have to jump through the same series of hoops. What this paragraph is doing is requiring an additional hoop for a nonrailroad.

Mr. TAUKE. If the gentleman will continue to yield, I beg to differ. This sets up the exact same procedure for Union Pacific and for the nonrailroad entity. It does not set up anything different.

Mr. BARTON of Texas. To sum up, I will point out that there are some railroads that are opposed to this provision. Burlington Northern is one of them. Also, the Union Pacific Railroad is one of the railroads that is opposed to this provision in the bill. I think this would set a terrible precedent. I think we are trying to fix something that is not broken. I think we should support our President.

I would urge all Members not to vote to override the President's veto.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, it was just 4 weeks ago that the House overwhelmingly voted in favor of this conference report. Three hundred and twenty-two Members of this body voted for the conference report, and the other body followed suit, and the bill was sent to the President. Why was this vote so lopsided? Amtrak now pays most of its own way, covering more than 75 percent of its cost, while receiving less than half the real Federal dollars it received a few years ago. Amtrak's revenue-to-cost ratio is better than any other national rail passenger system in the world.

We regularly pour billions of dollars into our congested and deteriorating highways, and our airports, while Amtrak must fight for its very survival every year. What is the matter with making Amtrak a first-class outfit? That is what we are trying to do.

President Bush's veto message on the Amtrak bill is much more than surprising. It is unbelievable. His veto message does not even mention his longtime animosity toward Amtrak and his opposition. In his written veto message, Mr. Bush gave only one reason, one purported reason, for vetoing it. He did not veto the bill because it allowed for ways to improve freight and passenger rail service in various parts of the country. He did not veto because of the cost saving it allows for Amtrak, and he did not veto it because it paves the way for commuter rail in northern Virginia. The only reason that he gave was because it includes the Interstate Commerce Commission provision which has been so adequately described before.

He states that the ICC provision would impose a new and unprecedented, unjustified regulatory review requirement for the railroad acquisition. That is poppycock. With all due respect, I think the President's men missed the mark. The ICC provision under Amtrak merely closes a loophole in the existing law.

For example, last week when a group of Wall Street investors attempted a hostile takeover of the C&N Chicago Northwestern Railroad, members of our committee then began to scrutinize the proposed transaction because of its tremendous public interest implications. We were worried about corporate raiders taking over, stripping a major railroad of assets, and selling the real estate and leaving it an empty shell. That would destroy major railroads, and it would destroy the industry in very short time. These major railroads, I might remind Members, own over 147,000 miles of track, and over 80 percent of all the tracks in the United States, and employ 231,000 people.

Have the railroads been objecting to this provision? Quite the contrary. The Association of American Railroads, which is funded primarily by these large railroads, takes no position. Amtrak wholeheartedly supports the bill. This Amtrak provision also would save $16 million by considering its own favorable employment data.

Finally, Mr. Speaker, I would not want Members to vote to sustain on a basis that an identical bill is likely to result and pass in short order. In fact, the obstacles to such legislation are formidable and numerous. Other committees will receive this sequential referral. Once this bill is unraveled, if it is sustained today, there will be monumental problems in stitching it back together. Endless delays will result at a minimum. Some are considering an end run, legislative end run, attaching it to an appropriations bill. However, if that does not work, if that is stopped, and it will be stopped, then we will have endless delays, we will have costs of equipment soaring, we will have contracts which have been negotiated which will be renegotiated.

Mr. Speaker, I thank the people who have contributed to this, including the gentleman from Michigan [Mr. DINGELL] and the gentleman from New York [Mr. LENT], who have done a tremendous job.

Mr. WHITTAKER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Speaker, some days I wonder why we are fighting a battle, because this one just does not make any sense. I do not know what in the world was in the minds of those down in the White House when they decided that they wanted to veto this legislation. However, I do know that the veto message itself misses the mark, and there seems to be a clear misunderstanding as to what the ICC provision does in this bill.

The bill itself is good. All Members seem to concur on that. The only argument seems to be over this provision. Well, what does the provision do? The provision simply requires that all purchases of class I railroads be treated the same and be treated equitably. We have 16 class I railroads out there. We do not have many instances in which they will be sold. However, if we do have a class I railroad that is going to go on the auction, all the parties who bid on it should be treated the same. The way it is structured now is if we have a class I railroad that goes on the auction block and another railroad bids, or tries to buy it, they have a jump through all the hoops at the ICC. But if an outside party who has never run a railroad buys it, they do not have to jump through the hoops. Now, how dumb is that from an equity standpoint?

Moreover, if we want to have the ICC look at any person, it should be the people who have never run a railroad before, to ensure that they know how to do it, because there are lots of businesses and communities that are dependent upon the operation of these railroads. We certainly want the ICC to review the fitness of outside bidders to operate the railroad. It seems to me that is a pretty common sense approach, and that is why it was not controversial in committee, not controversial in the House, not controversial in the Senate. It simply closes a loophole in the law which may never be exercised in the future. We just do not have that many sales of these railroads.

I think it is important to point out that the ICC, under this provision, would not pick the winner. The ICC does not pick the winner. That is up to the company stockholders, and it

would not in any way restrict corporate restructuring. To suggest, therefore, that this is somehow reregulation of the railroads is just mind-blowing, because that is so far from what the legislation actually does. I say to my colleages, this is a good measure, it is a good bill, and we should vote to override the veto.

Mr. UPTON. Mr. Speaker, I yield 3 minutes to the Republican whip, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I am fascinated, and I do want to commend my colleagues on both sides because they have sort of narrowed this down to a debate about what I think the veto is about, which is the ICC.

I want to put it in a slightly larger context. Subcommittees and committees study issues in enormous detail and become impassioned with detail. There are always good reasons to have a bias in favor of regulation. There are always good reasons to believe that an institution that is a century old is doing something that is extraordinarily important. However, I am fascinated that everywhere I go, when Americans interact with Hungarians, Poles, Czechoslovakians, Russians, Estonians, Latvians, and Lithuanians, we say to them that they have too much industrialized bureaucracy. They have to move towards a market economy. They have to create jobs in the free enterprise system. They have to become more like America.

Then we come to the topics we know well. I must say to my friend, the gentleman from Ohio [Mr. THOMAS A. LUKEN], to cite Amtrak supporting an Amtrak bill which gives Amtrak money is not necessarily a sign of any great virtue. I would suspect Amtrak will be willing to take the money, and will not object to a bill that gives them money. So some of the railroads' management would like to have a bureaucracy between them and a potential entrepreneurial does not surprise me a great deal.

□ 1140

Mr. Speaker, I represent an airport. We have been through a great deal of turmoil in the airline industry. Yet I would argue from the consumer standpoint, with the aggressiveness and the overall drive of deregulation, the estimate of the Brookings Institute, a liberal institution, is that it is $6 billion to $8 billion a year that we have saved the traveling public. There are grandmothers today who visit their grandchildren who can get a cheaper fare because of deregulation.

President Bush is committed to signing an Amtrak bill. He is committed to meeting the authorization of the committee, which for fiscal conservatives must give them some heartburn. He is committed to producing into law everything you want except one narrow thing, and the difference is simple. My friends who favor the Interstate Commerce Commission, which was a great invention of the 19th century and which was a perfect response to a railroad monopoly in a different era, start from the presumption that since the ICC is good, then why not extend it? The President, of course, has the opposite bias. The President's concern is to increase entrepreneurship, to increase capital investment, to increase the availability of investment in the railroad system, and that is why he has made this decision. It is a very narrowly crafted veto. It does not suggest any hostility to Amtrak. In fact, I would suggest that for this administration it is a substantial shift in its position to indicate its willingness to support an authorization of Amtrak.

So this is a very narrowly drawn issue, and I would just say that if all my colleagues who have been preaching peristroika and preaching free interprise and telling the Eastern Europeans and the Russians that they need to have more free market and less committed bureaucracy that if all those folks would vote the way they have been preaching, we would sustain this veto by a vote of about 400 to 15.

Mr. THOMAS A. LUKEN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Ohio [Mr. ECKART], a member of the subcommittee.

Mr. ECKART. Mr. Speaker, the previous speaker characterized this provision as an attempt to esconce in the law permanently a moribund agency. Well, the fact of the matter is that that is not the case.

The provision about which this fight is now being waged simply focuses on whether or not, when there is a hostile takeover attempt of a rail carrier in the United States by someone who has never been in the railroad business, is not now in the railroad business nor likely to be in the railroad business, will be subject to the same review by the ICC as another railroad buying a railroad, as a railroad buying a piece of a line or as a question of taking over trackage rights under joint ownership, all of which must be reviewed by the ICC now to make sure that our rail transportation network remains just that, a network.

If Members support the President's veto, what this means is that they are in favor of the ability of Wall Street raiders to come in and cherrypick railroad assets. If they support the President's veto, what it means is that they support the ability of foreign corporations to come here to the United States and cherrypick America's transportation assets. If they support the President's veto, it means they support the rights of those who do not play by the same rules in international competition and skew the rules in favor of Wall Street's takeover, get-rich-quick artists who come in and find those key pieces of the Nation's transportation system and auction them off to the highest bidder.

Mr. Speaker, that little loophole which will allow those who specialize in these foreign takeovers of America's assets to profit from that loophole's existence is now closed. I say to the Members, "Protect America's assets, avoid foreign takeovers, don't vote to override the veto."

Mr. WHITTAKER. Mr. Speaker, I yield the remaining time, 2 minutes, on our side to the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Speaker, I would like to ask the gentleman from Ohio [Mr. ECKART] if he would like to correct the last sentence of his statement when he said, "Don't vote to override the veto."

Mr. ECKART. Mr. Speaker, if the gentleman will yield, I appreciate my colleague's giving me that opportunity. In order to protect the Nation's railroads, we need to vote to override the President's veto. I appreciate having the ability to correct that statement in the RECORD.

Mr. MADIGAN. Mr. Speaker, I think we have been lulled here by the veto message into ignoring what this fight is really about. The President's budget did not contain any money for Amtrak. The President's budget last year did not contain any money for Amtrak. The budget summit is overshadowing everything we do here, and I do not think this ICC provision is what this fight is really about.

I think this fight is really about whether or not any taxpayers' money is going to be spent on any transportation system in the United States.

I have ridden on a 125-mile-an-hour train in Japan, I have ridden on 125-mile-an-hour train in England, there is a 186-mile-an-hour train in France, and yesterday I read about a 215-mile-an-hour train that is going to be running in Germany by this fall. I have read several stories about MAGLEV, the technology that is going to come in in Europe and in Japan that will provide 300-mile-an-hour trains. We are the only industrialized, advanced country that is not going into this kind of thing.

Now, if you fly almost every weekend as I do, maybe you get tired of sitting in an airplane at National Airport for an hour and half before you can take off, and maybe you get tired of circling for 30 minutes when you get to where you are going. When people say, "Well, that is all right, that is free enterprise, that is deregulation, and that is all those other things," we should remember that those airports were built with taxpayers' money. The air traffic control systems were installed with taxpayers' money, and the air traffic controllers are paid with

taxpayers' money, and the taxpayers ought to be allowed to put a little money into a rail transportation system.

Mr. UPTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, I think I can say that there has been no stronger supporter of Amtrak in this House than I have been over the years. As vice chairman of the Transportation Subcommittee of the Committee on Appropriations, I have fought my own administration year in and year out to provide funding for Amtrak because I believe in the Nation's passenger service.

Graham Claytor and his team in Amtrak have done an outstanding job of providing passenger service, of reducing the necessity for Government support of Amtrak, and of taking more and more of the operating revenue and applying it to Amrak and getting Amtrak closer to being a profitable operation.

There is no question about the fact that I will continue to support Amtrak and the funding for Amtrak, and that we will have support for Amtrak. But, Mr. Speaker, I am going to support the President's veto and vote to sustain the President's veto because we should not be getting back to reregulating the railroads, we should not be getting back to making things more complicated, and we should not be going directly in contrast, directly in the opposite direction from the direction we should be going in letting marketplace decide how we are going to operate. As every other nation in the world is trying to move in that direction, why should we be moving in the opposite direction and not let the marketplace decide how decisions should be made?

So, Mr. Speaker, I urge my colleagues to vote to sustain the President's veto. The President has promised—and this is a great step forward—that he will support an Amtrak authorization that excludes this one single provision. I hope that we can move expeditiously on that legislation.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, the President vetoed this bill on a technicality. The fact is that the President has never supported Amtrak. There is a lot more to this veto than meets the eye.

Let us look at the Nation's transportation system. The interstate system is in disrepair, and the administration will not spend the money that is set aside in the trust fund to keep it up. Greyhound is in bankruptcy as we decide this issue here today.

The railroad demand is on the rise. Graham Claytor told me that Amtrak turned away one passenger for every passenger it carried last year because it does not have adequate capacity.

□ 1150

The Secretary of Transportation, however, even in the face of those facts, only supports Amtrak in high-traffic corridors, which means to say he does not support a nationwide rail system at all, and the President vetoes this authorization over a technicality. The ICC currently reviews a situation in which a railroad is going to buy a portion of a railroad. This portion, that portion, a mile of track. And this just says, "If you're going to buy the whole railroad, the ICC should have the same authority it already has if you're going to buy the railroad by pieces." So, this is a technicality.

So the President says, "I will sign an Amtrak bill. Just send it down to me."

Mr. Speaker, I say, "Well, isn't that fine? He knows, because he can count the calendar as much, we have 35 days to get this bill out of four committees of the House."

It is true there is a great deal more than meets the eye to the President's veto of this bill. Unfortunately, as far as his support of Amtrak is concerned, there is a great deal less than meets the eye.

Mr. Speaker, I urge my colleagues to override this veto.

Mr. UPTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, today we hear that we must continue pouring $600 million and more into Amtrak and increasing regulation. We are told we must protect service in small communities. Well, if certain areas are going to be left without service because it is economical, they should take the bus rather than looking to the rest of Americans to subsidize their rides, especially at the expense of increasing the deficit.

Mr. Speaker, we are told that we have got to protect Federal debts from certain companies. Well, if a company owes the Federal Government so much money, why are we throwing good money after bad in order to continue a subsidy to that company?

We are told that the cost of Amtrak is going down. Well, then why is the subsidy going up?

This is an environmental bill we are told, yet during the debate on the floor we heard a colleague of ours from Colorado tell us of his pleas to Amtrak to quit flushing their toilets on the tracks through his State, pleas that were ignored.

Continued subsidy and increased regulation traps America into an old technology and an outdated system. It deters innovation and restructuring of an uneconomic and outdated system.

In the West people are moving in the private sector to develop new magnetic levitation technology. The first leg of this is about ready to be tried in a run between Las Vegas and southern California. That leg will stop at a new international airport, perhaps George Air Force Base, all of this done with private money.

Mr. Speaker, the public subsidy is preventing the innovation in our rail transportation that will take place because it is deterring economic investment in the private sector into Amtrak and into rail transportation in the East.

I say, "Sustain the President's veto. Look ahead. Don't look back."

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. MANTON]

Mr. MANTON. Mr. Speaker, I rise in strong support of the motion to override the President's veto of H.R. 2364, the Amtrak Reauthorization and Improvement Act of 1990.

Mr. Speaker, since 1971, Amtrak has provided affordable and reliable intercity and commuter rail service. Today, Amtrak serves more than 480 communities across the Nation, carries approximately 35 million passengers annually, and employs more than 22,000 railroad workers. Amtrak plays a particularly important role in the Northeast corridor. In fact, Amtrak carries more than twice the amount of passengers within the Northeast corridor than all airlines combined.

Despite the repeated efforts of the Reagan and Bush administrations to eliminate all Federal support for our Nation's passenger rail system, Amtrak's financial health has improved dramatically since 1981. Last year, Amtrak generated more than $1 billion in revenue compared to just $600 million in 1981. As a result, Amtrak's Federal subsidy has been reduced by 50 percent over the last decade. At the same time Amtrak has been cutting its subsidy, the railroad also set all-time records for ridership and passenger miles.

Mr. Speaker, if Amtrak is to continue this success, it must purchase new equipment to replace its current fleet of old passenger cars that are expensive to maintain and operate. Without new capital expenditures, Amtrak will be forced to reduce service and, as a result, lose revenue. H.R. 2364 would allow Amtrak to make the investments it needs to improve its efficiency, generate additional revenue, and reduce the need for Federal support.

Mr. Speaker, President Bush vetoed H.R. 2364 because of his objection to one small provision designed to protect communities, industries, and workers served by class I freight railroads.

Mr. Speaker, I am shocked that President Bush has vetoed the Amtrak

reauthorization bill because of the ICC provision. How could the President veto a measure that is designed to achieve his stated goal—reduce the need for Federal expenditures on Amtrak?

Mr. Speaker, according to the President's national transportation policy, our Nation's infrastructure is facing increased demand and burgeoning congestion. A strong, efficient passenger railroad system will relieve pressure on our clogged highways and crowded airways. Amtrak is on the right track. We should not allow the administration to derail it. I urge my colleagues to vote to override the President's veto of the Amtrak reauthorization measure.

Mr. UPTON. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, this is not a debate about Amtrak. In a way I wish it were. I think that we would have a much better railroad system in this country if we privatized the railroad system and had it run for profit. But this is not a debate about that.

The President has made a decision now. He is going to support an Amtrak reauthorization.

I wish we were debating whether or not Amtrak is operating efficiently or, as the gentleman from Ohio said, in an environmentally good manner.

Here is a railroad that is running across the country dumping its latrines onto the tracks in communities throughout the country. I do not think that is environmentally a very good idea, but it is happening out there.

But this is not a debate about that. We cannot have that debate here today because the President has indicated he is going to reauthorize Amtrak.

I think we ought to be debating the fact that we are spending $600 million of the taxpayers' money subsidizing folks who make $40,000 a year and more for their rides upon Amtrak. I think that would be a good beginning to look at in terms of the Nation, but that is not what we are discussing because the President has said now he will sign the Amtrak bill.

Mr. Speaker, what we are discussing is a provision in this bill that reconstitutes new powers for the ICC.

Now some of my colleagues have come to the floor and said, "Well, this simply makes the ICC the same for people who are nonrailroaders as people who are railroaders in terms of acquisition."

Well, Mr. Speaker, the point is that many people feel as though we ought to be phasing out the ICC, that it no longer serves the needs of the transportation industry. So, the folks who argue from that standpoint are suggesting that the ICC is a good thing, while ours are suggesting in the administration that perhaps the ICC should be phased out.

That is the problem here, that what this bill does is reconstitutes new powers for another agency that ought to be phased out, and some of the folks have come to the floor and suggested this is nothing more than a little bit of an additional power for the ICC going along with powers that they now have. They are wrong.

If my colleagues will read section 8 of H.R. 2364, they will find this language: The Commission may impose conditions governing the transaction, including the subordination of all or any portion of any new debt.

In other words, the Commission itself may impose conditions on the sale. This does interfere with the free market. This does interfere with private entrepreneurship. This is not something which is benign. It is very clear that this is new language aimed at giving the ICC the ability to get involved in the free market.

But the bill also goes on. It has language in it that the Commission must consider, and I quote, "The interest of the carrier employees affected by the proposed transaction."

Mr. Speaker, if my colleagues put those two things together, and it is clear that the new provisions authorize the ICC to impose labor production provisions comparable to those mandated elsewhere in the Interstate Commerce Act, that is completely unacceptable, it is something which should not be in this bill, and it is the reason why the President had every justification for vetoing it.

□ 1200

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BROOKS], the distinguished chairman of the Judiciary Committee.

Mr. BROOKS. Mr. Speaker, I rise in support of a vote to override the President's veto of H.R. 2364, the Amtrak Reauthorization and Improvement Act. In addition to authorizing appropriations for Amtrak through fiscal year 1992, the bill which the President, unfortunately, vetoed on May 24, addresses a number of other significant issues related to our Nation's railroad system. It was a good bill when it passed the House and Senate, and it should be enacted into law notwithstanding the President's veto.

There is one matter contained in H.R. 2364 which is of particular jurisdictional concern to the Committee on the Judiciary. Section 3 of the bill as passed provides a limitation on liability for commuter rail service from Virgina to the District of Columbia. This provision limits the liability of railroads for commuter operations on their tracks to the amount of insurance coverage carried by the commuter rail authority and also requires the authority to carry $200 million worth of coverage. Section 3 also provides that this limitation will go into effect only if an operating agreement is concluded between the commuter rail authority and the railroads whose tracks the authority would use.

Mr. Speaker, this is a prudent and carefully crafted provision which will allow badly needed commuter rail operations to go foward from the northern Virginia suburbs into our Nation's Capital. Although I am in support of enacting this provision, I seriously doubt that it will be possible, given the time constraints on the committees of jurisdiction and the Congress for the remainder of this session, to enact the liability limitation language separately if we should fail to override this veto. For this reason, as well as for the merits of H.R. 2364 as passed by the House and Senate, I would urge the vote to override the President's veto.

Mr. UPTON. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, for 10 years, at least that I know of, for at least 10 years the administration, both Reagan and Bush, opposed the Amtrak authorization bill mainly because of cost. There are still a number of us in the House who still do oppose the reauthorization because of cost.

I can remember the arguments and debate that we had in past years when we talked about the subsidy level per passenger. In the mid-eighties it was around $35 per passenger. The average subsidy per passenger back then was $35. The subsidy fare may have been lowered a little bit, but I know that the fare from my home town down to Chicago, which is realatively short distance, is only $23 round trip fare. In other words, the taxpayer is subsidizing every passenger who gets on that train by more than 50 percent.

I can remember the low passenger rates back in the mid-eighties when we were debating this. More than 200 stations in 1984 boarded fewer than 10 passengers a day, which represented 40 percent of the system, and 184 stations boarded between 10 and 50 passengers per day, again pretty low passenger per terminal numbers that did not justify in the view of a lot of us, set between $700 million and $800 million a year the amount that Amtrak received in each of those years.

Now, today what we have seen is this. We have seen a veto by the President, and he is not vetoing it based on the cost. To me that is a major move by the administration. Instead, he is vetoing it based on a regulatory provision with regard to the ICC, and I will insert into the RECORD the President's letter with respect to this, as follows:

THE WHITE HOUSE,
Washington, DC, June 6, 1990.

Hon. BOB MICHEL,
House of Representatives,
Washington, DC.

DEAR MR. LEADER: I understand you are planning to introduce new legislation today to reauthorize Amtrak. I further understand that this new legislation would be identical to H.R. 2364, except that it would not include the Interstate Commerce Commission (ICC) regulatory provision.

I disapproved H.R. 2364 solely because of the ICC provision. The provision would have required, for the first time and for the railroad industry alone, government review and approval of acquisitions by entities that are not actual or potential competitors—including a carrier's own management or employees. Since there is already adequate authority to protect the public interest in railroad acquisitions, there is no justification for creating such a serious regulatory roadblock to financial restructuring of the railroad industry.

I would sign an Amtrak reauthorization identical to H.R. 2364, but without the ICC provision described above.

Sincerely,

GEORGE BUSH.

The President has made a major change. In fact, last night I know that the Republican leader who will be speaking next will mention the fact that he introduced legislation that virtually took this entire bill that the President vetoed, with the exception of the ICC provision, and asked for its immediate consideration.

I think in that regard we should take the President in good faith. We should accept his change of condition from the last 10 years of the administration opposition, accept that and accept with good grace his change and his proposal with regard to the ICC.

Mr. CARPER. Mr. Speaker, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Delaware.

Mr. CARPER. Mr. Speaker, the only way we can say that a taxpayer subsidy per passenger is $35 is by saying that all the business tax deduction taken for travel for business purposes is also a burden on the taxpayers. If we do that per rail passenger, we find the subsidies are worse there.

Mr. UPTON. Well, I do not have time to respond to the gentleman.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. SHARP], the chairman of the Subcommittee on Energy and Power of the Committee on Energy and Commerce.

Mr. SHARP. Mr. Speaker, first of all, this issue of regulation is basically a phony. We are not talking about new regulation versus old regulation. We are talking about simply clarifying what we thought was the situation and in which the ICC Commissioners found themselves in disagreement over whether they technically had the right to carry out the responsibilities that Congress thought they had.

Mr. Speaker, there is very little regulation left in this transportation sector and that is not what this issue is really about. This is about the perspective on what we are going to do about transportation in this country.

One of our colleagues got up a moment ago and said, "Oh, private enterprise will take care of this." I certainly wish it would. The last time we tried that, we almost ended up with no passenger service in this country.

We do less than any other modern society. We are spending $300 million less a year out of the Federal Treasury. We have changed dramatically the nature of the subsidy in this system, so now it pays 75 percent of its cost on its own without taxpayer money. No other modern system in the world does anything like that record. The Canadians only cover 30 percent of their costs from the revenues of their system.

Mr. Speaker, it is extremely shortsighted for us to go along with a veto of this system or go along with the President and the past Presidents' recommendations of wiping out the Federal subsidies.

The issue is raised about magnetic levitation, suggesting that we had people in the private sector ready to go with this. This is not true.

It was the taxpayers of the United States who paid for the feasibility study that is about that project out there. It is the advocates of that project who are talking to the Committee on Energy and Commerce of the House and the Senate asking for Federal dollars. It is President Bush who in his budget in January came to the Congress and said that we have to have more Federal dollars for research and development of the technology of magnetic levitation. The private sector has not laid one mile of guide rail. I surely hope they will, but how long are we going to have to wait?

Mr. Speaker, let us go ahead and override this veto. Let us say that we are interested in the future of this country. It will save us on energy. It will save us on the environment. It will stop congestion.

Mr. UPTON. Mr. Speaker, for purposes of ending the debate on the opposition side, I yield 4 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I rise in opposition to the effort to override the President's veto.

The House never looks more ineffective than when it is engaged in one of its periodic exercises in futility. This attempt to override is such a futile exercise.

I expect the President's veto will ultimately be sustained. Whether it happens here or in the other body, that is what I see down the track, and since most of us, I suspect, realize that and recognize that, why do we not act responsibly now and avoid this long detour?

Stripped of all the rhetoric, the case before us is simple. The President is committed to an adequate passenger rail service. The distinguished gentleman from Michigan pointed out how differently this President looked at the whole matter than his predecessors, much as we admired and respected him.

There has been considerable movement on the part of this administration versus the previous one with respect to Amtrak, and compromises have been made; but his support does not and should not include support of an unrelated policy, the ICC regulation of the freight rail industry. If we really want to help the passenger rail industry, and if the bill before us is perfectly acceptable to the President, except for that ICC provision, what should we logically do? Logically, we should sign on to the identical Amtrak bill, minus the ICC provision that I have introduced this morning, and in the company of many of my colleagues who were eager to sign on to that particular provision. The President will sign such a bill.

□ 1210

The passenger rail industry will be happy. The public will certainly be happy. The President will be happy. You might even be happy.

We in this House, knowing we have at least done something rational and logical and effective, that ought to cause us to be happy and maybe somewhat surprised. That course of action seems to me to be so eminently wise and so responsible and so useful that I cannot think of why we should not adopt it unless, of course, some of us are less interested in the substance of the bill than in the political symbolism of an override.

Mr. Speaker, those of us of a certain age recall the question asked in that great old song, "Chattanooga Choo-Choo," "Can you afford to board the Chattanooga Choo-Choo?" Mr. Speaker, we cannot afford to board this override attempt. The price in wasted motion and time is too high. The vehicle is not going anyplace, and there is a better way to get where we really want to go.

Mr. Speaker, all we have to do is sidetrack this override attempt, get aboard the bill I have introduced along with many of my colleagues, and we will soon be there.

Mr. Speaker, I urge all of my colleagues to get on the right track and sustain the President's veto.

Mr. Speaker, I am including in the RECORD a letter from Secretary of Transportation, Samuel K. Skinner, concerning the Amtrak Reauthorization and Improvement Act of 1990:

THE SECRETARY OF TRANSPORTATION,
Washington, DC, June 6, 1990.

Hon. ROBERT MICHEL,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE MICHEL: I would like to advise you why the Department opposes H.R. 2364, the "Amtrak Reauthorization and Improvement Act of 1990", in its current form.

As you know, the President declined to sign H.R. 2364 because it contained a non-Amtrak provision that constituted an unprecedented new regulatory review requirement representing a step backward for the entire rail industry. As the President's veto message notes:

"This new regulatory burden would interfere with the ability of the Nation's largest freight railroads to obtain needed capital or to change existing capital structure. The provision would institute for the first time, and for the railroad industry alone, Government review and approval of acquisitions by entities that are not actual or potential competitors, including a carrier's own management or employees. This requirement is an unwarranted regulatory roadblock to financial restructuring of the railroad industry."

The provision is reregulatory, because it imposes a review and approval requirement where none existed before. While much is made of the fact that the Interstate Commerce Commission (Commission) has authority to review the transfer of a line segment to a non-carrier, the distinction is that a transfer contains the potential for a change in the actual pattern of service (change in frequency or interchange, for example). My review of the evidence and the systematic analysis that went into the National Transportation Policy convinced me that the Commission already has more than sufficient authority to ensure the public interest where new securities or the substitution of new management is the only issue.

Regarding the question of increased authorizations for Amtrak, the President has indicated that he would sign a bill similar to H.R. 2364, which would include the Amtrak authorization levels, but without the counterproductive new regulatory provision.

Sincerely,

SAMUEL K. SKINNER.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Speaker, I rise to urge my colleagues to override the President's veto of the Amtrak Reauthorization and Improvement Act.

Amtrak carries 35 million passengers annually and is a vital cog in our national transportation system—operating 220 trains a day to more than 480 communities in 45 States. Amtrak has shown steady financial improvement, increasing its share of the cost of operations to 69 percent in fiscal year 1989 and decreasing Federal financial responsibility—the best record in the world for national rail passenger service.

This legislation guarantees that the Interstate Commerce Commission [ICC] will review the acquisition of railroads to guarantee that they serve the public interest. Yet the President vetoed his authorization bill. Why? Because, and I quote, "H.R. 2364 contains an unprecedented new regulatory requirement and represents a step backward for the entire rail industry."

Unprecedented?

The ICC already has the authority under the Interstate Commerce Act to review the merger of two railroads or the acquisition of railroads by other railroads or parties which control other railroads. This applies even to one carrier trying to buy a mile of track from another carrier. Yet when a bunch of Wall Street takeover cowboys try to turn a quick buck on a hostile takeover of one of the 14 class I railroads that make up almost our entire national railroad system, there is no required review to determine whether this is in the public interest. Unfortunately, Federal abrogation of regulatory responsibility in the last 10 years is all too precedented.

The vetoed provision simply requires an expeidited review of an acquisition of a class I rail carrier by a nonrail carrier, to determine whether it will hurt the American consumers and communities access to adequate transportation or whether it will hurt the 235,000 American rail workers whose jobs depend on the vitality of the railroad.

In the Presdient's veto message he said he wants to create "a favorable environment for capital investment" and the rejuvenation of the railroad industry. What the President is doing is creating a favorable environment to turn the railroad industry into the junk bond industry. This ICC provision is good for American businesses, consumers, workers, cities, and towns. I urge an American override of the President's veto.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 1 minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, as we gather here today on this floor, over half of the oil coming to this country is imported. Our Nation's trade deficit exceeds $100 billion, the largest portion of which is imported oil. The quality of the air that we breathe in this Nation is of great concern to all of us. Our highways and bridges are deteriorating. Our highways are jammed. Air travel in this country is too often characterized by enormous delays. The only major bus company that we have in this country is Greyhound, and they are in bankruptcy.

If there was ever a situation that called for a national passenger rail service, we are in that situation. Amtrak is the answer.

Ten years ago less than half of the money used to run Amtrak came out of the farebox. Today 75 percent of the operating costs are paid by passengers riding those trains. Tax subsidies for Amtrak are down. On-time performance for Amtrak is up. Communities served are up. Passenger miles served are up.

We need to vote to override this veto.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, President Bush's budget never had any money for Amtrak.

This is not an override simple vote here today. This is a priority fight. The President had $20 billion in there for foreign aid, $120 billion to protect NATO countries, $1 billion to build B-2 bombers, but $600 million for American rail service, for rich and poor, young and old. And someone said we are subsidizing people who earn $40,000 a year.

Mr. Speaker, think about it. What else do we do for them? They get no student assistance, no other government types of loans.

Ladies and gentlemen, with their help, we provide a rail service for America, and if this President wants a thousand points of light, he has got to pay the electric bill, ladies and gentlemen.

One last thing I will say to the Members. We should expand Amtrak to build high-speed rail all over America. Instead of putting money all over the world, let us start investing money in America and the American people. A little subsidy for the guy and the woman making $40,000 a year is exactly what this country needs, ladies and gentlemen.

Mr. UPTON. Mr. Speaker, I yield the remainder of our time, 1 minute, to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, just let me take this minute to correct what I think is a misapprehension that is being perpetrated here.

The provision that was vetoed by the President and the reason he vetoed the bill was not just allowing a review by the ICC of railroad acquisitions, but it would allow the ICC to impose conditions, impose conditions on acquisitions in the rail industry. That is a far cry from a review.

The Republican leader has indicated that he has introduced legislation that would reauthorize Amtrak. The President has indicated he would sign that legislation. Let us not go about futility. Let us support a reauthorization of Amtrak, pure and simple, and let us sustain the President's veto.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield one-half minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I rise today in support of overriding the President's veto of H.R. 2364, the Amtrak Reauthorization and Improvement Act of 1990.

In what has become an annual ritual, the House voted overwhelmingly to continue Federal support for Amtrak only to have the administration attempt to stall this train by vetoing the authorization bill and providing no money for Amtrak in the administration's budget. At a time when the Federal Government regularly provides billions for highway and airport infrastructure projects and when we are significantly strengthening Federal air pollution laws, it just does not make sense to neglect the one form of transportation that takes the smallest toll on air quality.

But Amtrak is a long train with many cars and many supporters around the country who want to make sure it is a first-rate operation. With the support of Congress, Amtrak has made tremendous strides in improving service and profitability. Amtrak's ridership has grown consistently over the last decade allowing it to cover more than 75 percent of its own expenses. Amtrak now receives less than half the real Federal dollars that it received 10 years ago.

Now is not the time to pull the rug out from under Amtrak. Two weeks ago, we approved amendments to the Clean Air Act that seek to address this Nation's enormous air pollution problems. One of the reasons that compels us to strengthen our air pollution laws is the steep rise in vehicle miles traveled in this country. Regardless of what we do to strengthen the Clean Air Act, the air in cities like New York, Los Angeles, Washington, and elsewhere will not meet Federal standards if we do not get a handle on this explosion in vehicle miles traveled.

To increase ridership on Amtrak, we've got to continue to improve the quality and accessibility of the service. With adequate funding, Amtrak could purchase new equipment and even expand its current system. That is the direction we should be taking our national transportation policy.

Mr. Speaker, supporting our national rail passenger system in this way is the least we can do to encourage more Americans to ride the train. The provision in the bill that the President says prompted his veto will not add unreasonable redtape to railroad acquisitions but, instead, it will ensure that railroads are not sold off to provide capital for speculative ventures. If we are serious about cleaning up our air, and that we must be, then a vote to override the President's veto is a necessity.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield ½ minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, corporate buyouts, sellouts, leveraging, junk bonds, bankruptcies, fines and jail terms for the fiscal freewheelers, foreclosures for the many, huge profits for the few, and a lack of service for all of us. That is the hallmark of the 1980's.

But these are the 1990's. We should stop the corporate highjinks now by protecting America's railroad service.

Out my way in Montana, we do not understand it. We have got more buffalo than we need, and the trains are extinct. Help us, too.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. SLAUGHTER].

Mr. SLAUGHTER of Virginia. Mr. Speaker again I rise to urge my colleagues to join me today in voting to override the President's veto of H.R. 2364, the Amtrak Reauthorization and Improvement Act. As many of you are aware, the timely enactment of this legislation is essential if we are to allow the Virginia commuter rail to provide service into Washington, DC.

The Amtrak reauthorization bill which was presented to the President back in May included a provision that limits liability for punitive damages for the Virginia commuter rail.

The Virginia congressional delegation, with the support of the House Energy and Commerce Committee, has worked for over 1 year to resolve questions surrounding the liability issue to ensure that citizens of Virginia would have access to a commuter rail service which provides daily transportation into Washington, DC.

Although the President vetoed the reauthorization bill for reasons unrelated to the Virginia commuter rail project, this action could seriously delay the commencement of commuter rail service.

This service is desperately needed by thousands of Virginians who have chosen to work in and around our Nation's Capital, and the commuter rail is too important to be delayed.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield the balance of our time, 6 minutes, to the gentleman from Michigan [Mr. DINGELL], the chairman of the committee.

□ 1220

Mr. DINGELL. Mr. Speaker, we have finally narrowed the issues that are before us. The President has said that he does not object to the moneys in the bill nor to any of the other provisions, save one. The issue before us is not money, it is not the continuation of Amtrak, it is not any of the other provisions of the legislation, save one. That one provision is the provision which would permit the ICC to review the sale of a class I railroad to a nonrailroad entity. That is the only question.

The President has said this is offensive because it constitutes reregulation. That is not the fact. The hard fact is that for all the years that the Interstate Commerce Act was in place, everybody thought that the ICC had this power.

Now, what is this power brought to bear upon, and upon what occasion did it occur that this power was found not to exist in the ICC?

The ICC came to a conclusion that it did not have this power back when the sale or the potential sale or takeover of the Chicago Northwestern Railroad was at issue before that body. In that case the ICC was reviewing the possible sale of Chicago Northwestern to Japonica Partners. There are a number of issues and were a number of issues there. But the ICC was not able to come to the conclusion that it had the power to review that matter.

Now, what does this legislation give the ICC the power to review? It reviews whether the sale is in the public interest. That question will involve the scrutiny of three items. First, the effect of the proposed transaction on the adequacy of transportation to the public. If you have a grain elevator, an industry, or a small community which is entirely dependent upon one class I railroad, you have a great interest in seeing to it that the ICC make this review.

Second, the fixed charges that would result fron the transaction. This means they can look to see whether or not the taxpayers are going to have to confront the Federal bailout of a failed railroad because a bunch of hotshot investment jockeys are going to take over a railroad and so overleverage it that it is not going to be able to provide service or to remain in business. What it means is that you might lose a railroad that is serving your community if you are not willing to vote the ICC this authority. The provision also requires that the ICC consider the interests of the employees.

The last item that the ICC will review is whether or not the Federal Government's interests as a creditor of a debtor or railroad are protected. Class I railroads under legislation passed some 20 years ago now owe the Federal Government in excess of $155 million in loans and contingent liabilities.

Why is that important here? Because in the case of the sale of the Chicago Northwestern, the possibility was distinctly present, indeed the probability, that the interests of the Federal Government as creditor of that railroad could have been wiped out by the sale of that railroad without ICC review.

We sit and stand here, my colleagues, as protectors of the public purse and the public interest. We have some duty to see to it that these sales do not subject us either to being compelled to come forward and to bail out a failed railroad, or seeing a bunch of sharpshooting Wall Street debt jockeys wipe out a massive debt owed to

the Federal Government by a railroad which they take over.

The complaint is made, "we do not mind them reviewing it, but we object to their having the power to do anything about it." Clearly, if you want them to review it, it should make good sense to have them have the capacity to protect your communities against loss of rail service, to protect the employees against loss of jobs, and to see to it that the Federal Government's interests and debt are protected.

The ICC had an interesting thing to say about why they thought they should have the authority to go into this question, and they were talking specifically about the question of debt and leverage. They said this in connection with the Chicago Northwestern takeover, which is the reason for the legislation now before us:

The possibility that a combination of increased leverage, recession economics and a logjam in the formation of short-line operations might prompt cessation of service over otherwise operable properties, is the most serious risk posed by this transaction.

Then they went on to say:

In the past, loss of service on necessary properties, usually preceded by periods of deterioration, has led to the expenditures of public moneys for rehabilitation and return to rail usage.

I remind Members we spent some $7 billion of taxpayer money to restore the Penn Central Railroad to viability as Conrail. That is taxpayer money that was spent to prevent a shutdown of rail service and a massive economic collapse in the Northeastern quadrant of the United States.

Mr. Speaker, I urge my colleagues to override the veto.

Mr. Speaker, I insert the following chart for the RECORD:

RAILROAD REVITALIZATON AND REGULATORY REFORM ACT OF 1976, TITLE V—PRINCIPAL OUTSTANDING AS OF APR. 30, 1990

[In millions of dollars]

	Section 505	Section 511	Total
Beverly Royal Slope Port District	0.63		0.63
Boston & Maine Corp	25.82		25.82
Dakota, Minnesota & Eastern Railroad Co.	[1] 6.28		6.28
Delaware & Hudson Railway Co	[2] 4.39	75.60	[3] 79.99
Delta Transportation Co. [C&G]	.61	2.50	3.11
Heartland Rail Corp	4.19		4.19
Hooper Myron Corp	1.47		1.47
INRC, Inc., (Iowa Northern)	2.92		2.92
Missouri-Kansas-Texas Railroad Co. [UP]		21.58	21.58
New York, Susquehanna & Western Railway Corp	3.54		3.54
St. Louis Southwestern Railway Co. [SP]	52.08		52.08
SouthRail Corp	3.13		3.13
Total	105.06	99.68	[4] 204.74

[1] Amount drawn down to date—total of $1.81 million remains available under these agreements.

[2] Section 505 payments of principal and interest due since June 10, 1988, and aggregating $926,000 through April 30, 1990, were not remitted by D&H.

[3] Includes $12.4 million of section 511 and $63.2 million of section 211. The Northeast Rail Services Act of 1981 reduced this debt to contingency notes. On June 20, 1988, the D&H filed for bankruptcy which reinstated the debt, and interest began to accrue from the date of the filing at approximately 12 percent.

[4] Portfolio also includes 111,348 shares of payment-in-kind preferred stock of the Chicago and Northwestern Holdings Corp., with a liquidation preference of $25 per share.

Mr. SLATTERY. Mr. Speaker, I rise to urge my colleagues to override the President's veto of H.R. 2364, the Amtrak Reauthorization and Improvement Act of 1990. As a member of the conference committee which developed the final version of the measure before us today, I believe that the President's veto of this important legislation was misguided. The President's veto focused solely on a provision of the bill designed to close a loophole in current law, which today allows speculators having no railroad experience whatsoever to take over major railroads without any consideration of the public interest by the Interstate Commerce Commission.

This provision is not an attack on railroad deregulation, as it has been characterized by Transportation Secretary Skinner. I have opposed other efforts to roll back the Staggers Rail Act, which substantially deregulated the railroads 10 years ago, rescuing them from the brink of financial collapse. This provision of H.R. 2364 has absolutely nothing to do with railroad rate or service regulation. Currently, the ICC has authority to review the acquisition by a nonrailroad of as little as one mile of track. The ICC, however, has no authority to review the acquisition by a nonrailroad of an entire class one railroad carrier. The ICC also has current authority to review mergers between railroads. This exception does not make any sense. H.R. 2364 would correct this illogical anomoly of current law.

Mr. Speaker, this measure also includes several other provisions of vital importance to the provision of rail passenger service. This conference agreement is very similar to version of this bill passed by the House and includes virtually all of the provisions contained in the House passed bill. H.R. 2364 will authorize $630 million for Amtrak in fiscal year 1989, $656 million in 1990, $684 million in 1991 and $712 million in 1992.

Federal law will be amended to provide that no rail employee shall be subject to income tax laws of any State other than that of the employee's residence, ending multi-State taxation of railroad employees who work in more than one State. Commuter rail service in Virginia will be encouraged by a requirement that the public authority operating the commuter rail maintain at least $200 million in liability coverage. Other railroads involved in the proposed commuter rail may not be indemnified until they enter into an agreement with the commuter rail authority to participate in the operation or permit the operation to use the tracks. Finally, Amtrak will be treated as a publicly funded rail carrier under the Railroad Unemployment Insurance Act in 1989 and 1990, which will save Amtrak approximately $16 million by matching the contributions with the actual amount of unemployment and short-term sickness benefits paid by the fund to Amtrak employees.

Mr. Speaker, Amtrak is now recovering 75 percent of its costs with its own revenues—better than any passenger railroad system in the world and a substantial improvement over 1981's 48 percent. Revenues in fiscal year 1989 were $1.27 billion, double that of 9 years ago. Amtrak's Federal operating support has been reduced by 40 percent in constant dollars since 1981. Amtrak's management is committed to eliminating all Federal operating support by the year 2000.

This legislation authorizes badly needed funding for plant modernization and purchase of new equipment. Amtrak's assets are depreciating at a rate of more than $165 million per year, while the annual appropriation for capital over the last 5 years has averaged only $37 million.

Failing to reauthorize Amtrak at this time would simply discard the investment that this country has made in Amtrak over the past two decades and ignore the contributions Amtrak has made to abating the clean air problems with which we currently are wrestling in this body. In addition, terminating Amtrak would result in labor protection costs estimated at $2.5 billion.

Amtrak has 220 trains operating daily over a 24,000 mile route system. In fiscal year 1988, Amtrak transported more than 21.5 million passengers; more than 10 million of these passengers rode trains in Amtrak's Northeast corridor between Washington, DC, and Boston. Amtrak carries more than twice as many passengers between and among the Northeast corridor stations of New York City, Newark, Philadelphia, Wilmington, Baltimore, and Washington, DC, than all airlines combined. In Kansas, Amtrak serves 7 cities, and nearly 40,000 passengers annually. Amtrak also spent more than $4 million for goods and services in Kansas last year.

Mr. Speaker, I urge my colleagues to support this conference report, and to vote to override the President's veto of this measure.

Mr. BRENNAN. Mr. Speaker, I will vote to override President Bush's veto of H.R. 2364, the Amtrak Reauthorization and Improvement Act of 1990, and I urge my colleagues to do the same. This bill, which passed the House by an overwhelming vote of 322 to 93, provides the necessary funds to continue operation of America's largest, and most important, passenger rail system.

Veto of this bill endangers Amtrak, and endangers as well Maine's efforts to restore Portland-Boston passenger service. Because the Portland-Boston train will likely depend on some Amtrak funds, the President's veto places these plans in serious jeopardy.

President Bush says he vetoed H.R. 2364 because he objected to provisions of the bill giving the Interstate Commerce Commission authority to review takeovers of major railroads that might endanger continued rail service.

Giving the ICC authority to review railroad takeovers and buyouts serves the public interest, and is necessary to ensure continued operation of the 14 remaining class I railroads. The President's veto runs counter to common sense, and calls into question his commitment to continued funding of America's passenger rail system.

Mr. FAZIO. Mr. Speaker, I rise today to urge my colleagues to override the President's veto of H.R. 2364, the Amtrak Reauthorization and Improvement Act of 1990.

At a time when the Nation must focus on enhancing the transportation infrastructure, it only seems reasonable for us to continue to support a program that is making significant progress toward becoming self-sufficient,

while at the same time providing valuable transportation services to the entire country. Last year, total Amtrak ridership rose to nearly 39 million passengers and brought in record earnings of $1.27 billion. More importantly, Amtrak continues to improve its financial position each year. In fiscal year 1989, Amtrak was able to cover 72 percent of operating costs from its own sources, and continues to strive for the goal of 100 percent self-sufficiency by the year 2000. Dramatic progress has been made in this area since 1981 when Amtrak covered only 48 percent of its costs.

In his veto message, President Bush based his opposition to H.R. 2364 solely on the bill's provision expanding the Interstate Commerce Commission's ability to review acquisitions of railroads by nonrailroad entities. The ICC provision enjoyed bipartisan support in the Energy and Commerce Committee, in the full House, and in the House-Senate conference committee. The provision simply closes a loophole in current law by expanding the ICC's current ability to review acquisitions of railroad functions to include the review of an acquisition of a major railroad by a nonrailroad entity. This provision is completely consistent with existing ICC practices.

Mr. Speaker, we cannot afford to ignore the need to provide affordable and efficient rail service to the American public based on the administration's unfounded claims. I strongly urge my colleagues to support transportation, to support Amtrak, and to override the President's veto.

Mr. CAMPBELL of Colorado. Mr. Speaker, although today I will vote to override the President's veto of H.R. 2364, I wish to reemphasize my disapproval of Amtrak's policy of dumping untreated waste from its passenger cars continues unabated. When this legislation came before the House several weeks ago, I voiced my distress by voting against the bill. I now find myself in a difficult position, my constituents and myself can no longer accept Amtrak's refusal to deal with this problem, yet we realize rail transportation is essential to the rural West.

I wish to let Amtrak officials know that today I am supporting this legislation only in order to facilitate the current research Amtrak is conducting. As I have done in the past, I will be following this research extremely closely and will be holding Amtrak accountable for all of its actions.

Mr. BORSKI. Mr. Speaker, I rise today to urge my colleagues to support this effort to override the President's veto of H.R. 2364, the Amtrak Authorization and Improvement Act.

Mr. Speaker, the House passed H.R. 2364 by an overwhelming margin of 322 to 93. This bill has strong support in this body.

The President says he vetoed H.R. 2364 because he objected to one provision directing the Interstate Commerce Commission to conduct a review of any purchase of a major railroad by a nonrailroad entity. The President says he supports funding for Amtrak.

But the President's budget did not include any money for Amtrak in his budget proposal. He followed in the footsteps of his predecessor by zeroing out Amtrak funding. I think actions speak louder than words in this case.

The provision that the President objects to seems reasonable to me. We need to ensure that corporate raiders cannot buy a railroad only to turn around and disband the railroad and sell off its assets for a quick and easy profit.

However, we should be doing everything possible to encourage investment in a transportation resource like Amtrak, not discourage it.

Our highways and our airports are congested and deteriorating. Amtrak can help alleviate that congestion, and the pollution that comes with it.

Amtrak is the most efficient national rail passenger system in the world, despite the fact that we invest very little in Amtrak compared to what other countries commit to passenger rail.

Continued support of Amtrak can be the first step toward a coherent transportation policy. We also need to invest in mass transit and infrastructure. Millions of cars are creating thousands of traffic jams, spewing tons of pollution into the air. Reinvestment in America's mass transit and infrastructure can reduce the number of cars on the road, eliminate some of the traffic jams and cut down on the smog in our cities.

I will continue to work for a reinvestment in transportation in this country. Having said that, I believe that the President made a mistake in vetoing H.R. 2364 and I urge my colleagues to support the override.

Mr. HOUGHTON. Mr. Speaker, I am going to vote to sustain the President's veto. Let me give a bit of background.

I voted for the Amtrak bill originally. I will again. I believe in Amtrak. It is essential for the southern tier of New York. But the bill contains a non-Amtrak provision. This concerns me. That is why I will throw my weight behind a bill that does exactly what the Amtrak bill does—minus the ICC provision. H.R. 4984 eliminates the ICC from any merger review process between a railroad and a nonrailroad.

If the President's veto is overridden there will not be a chance to vote for this superior piece of legislation.

Why is it superior? Quite simply the ICC is a single vision, one industry review Commission. It knows railroads well. It does not and cannot know all industries in all countries throughout the world. It shouldn't have, it doesn't have this expertise.

If there is a danger of a bad takeover—that is, a good railroad with a quick buck artist who might be merging his or her conglomerate with a railroad solely for a financial play, the result being a crippling of railroad service—the ICC has the ability to step in already, and if it is a broader business issue, the Department of Justice and the Federal Trade Commission can intercede at anytime with stockholder prodding.

So despite the fact that I am not a fan of unfriendly takeovers—what's mine is mine and what's yours is mine too if I'm bigger—the ICC is not the unit to intercede. Other Government agencies can, should and will—if the reason is sufficient.

Mr. THOMAS A. LUKEN. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GIBBONS). The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 294, nays 123, not voting 15, as follows:

[Roll No. 162]

YEAS—294

Ackerman	Ford (MI)	Meyers
Alexander	Ford (TN)	Miller (CA)
Anderson	Frank	Miller (WA)
Andrews	Frost	Mineta
Annunzio	Gallo	Moakley
Anthony	Gaydos	Mollohan
Applegate	Gejdenson	Montgomery
Aspin	Gephardt	Morella
Atkins	Gibbons	Morrison (CT)
AuCoin	Gilman	Mrazek
Barnard	Glickman	Murphy
Bateman	Gonzalez	Murtha
Bates	Gordon	Myers
Beilenson	Grandy	Nagle
Bennett	Gray	Natcher
Bentley	Green	Neal (MA)
Berman	Guarini	Nowak
Bevill	Hall (OH)	Oberstar
Bilbray	Hamilton	Obey
Bliley	Harris	Olin
Boehlert	Hatcher	Ortiz
Boggs	Hayes (IL)	Owens (NY)
Bonior	Hayes (LA)	Pallone
Borski	Hefner	Panetta
Bosco	Hertel	Parker
Boucher	Hoagland	Parris
Brennan	Hochbrueckner	Pashayan
Brooks	Horton	Patterson
Browder	Hoyer	Payne (NJ)
Brown (CA)	Huckaby	Payne (VA)
Bruce	Hughes	Pease
Bryant	Jacobs	Pelosi
Bustamante	Jenkins	Penny
Byron	Johnson (CT)	Perkins
Callahan	Johnson (SD)	Petri
Campbell (CO)	Jones (GA)	Pickett
Cardin	Jones (NC)	Pickle
Carper	Jontz	Poshard
Carr	Kanjorski	Price
Chapman	Kaptur	Rahall
Clarke	Kastenmeier	Rangel
Clay	Kennedy	Ravenel
Clement	Kennelly	Ray
Collins	Kildee	Regula
Condit	Kleczka	Richardson
Conte	Kolter	Ridge
Conyers	Kostmayer	Rinaldo
Cooper	LaFalce	Roberts
Costello	Lagomarsino	Roe
Coyne	Lancaster	Rose
Crockett	Lantos	Rostenkowski
Darden	Laughlin	Roukema
Davis	Leach (IA)	Rowland (CT)
de la Garza	Lehman (FL)	Rowland (GA)
DeFazio	Lent	Roybal
Dellums	Levin (MI)	Russo
Derrick	Levine (CA)	Sabo
DeWine	Lewis (GA)	Sangmeister
Dicks	Lightfoot	Sarpalius
Dingell	Lipinski	Savage
Dixon	Lloyd	Sawyer
Donnelly	Long	Schaefer
Dorgan (ND)	Lowey (NY)	Scheuer
Downey	Luken, Thomas	Schneider
Durbin	Machtley	Schroeder
Dwyer	Madigan	Schumer
Dymally	Manton	Serrano
Dyson	Markey	Sharp
Early	Marlenee	Shays
Eckart	Martin (NY)	Shuster
Edwards (CA)	Martinez	Sikorski
Emerson	Matsui	Sisisky
Engel	Mavroules	Skaggs
Erdreich	Mazzoli	Skelton
Espy	McCloskey	Slattery
Evans	McDermott	Slaughter (NY)
Fascell	McGrath	Slaughter (VA)
Fazio	McHugh	Smith (FL)
Feighan	McMillan (NC)	Smith (IA)
Flake	McMillen (MD)	Smith (NJ)
Foglietta	McNulty	Smith (TX)

Smith (VT)	Tauke	Walsh
Smith, Robert (OR)	Tauzin	Washington
Snowe	Taylor	Waxman
Solarz	Thomas (CA)	Weiss
Solomon	Thomas (GA)	Weldon
Spratt	Torres	Wheat
Staggers	Torricelli	Whittaker
Stallings	Towns	Whitten
Stangeland	Traficant	Williams
Stark	Traxler	Wilson
Stenholm	Udall	Wise
Stokes	Unsoeld	Wolf
Studds	Valentine	Wolpe
Swift	Vander Jagt	Wyden
Synar	Vento	Yates
Tallon	Visclosky	Yatron
Tanner	Volkmer	
	Walgren	

NAYS—123

Archer	Goodling	Morrison (WA)
Armey	Goss	Neal (NC)
Baker	Gradison	Nielson
Ballenger	Grant	Oxley
Bartlett	Gunderson	Packard
Barton	Hall (TX)	Paxon
Bereuter	Hammerschmidt	Porter
Bilirakis	Hancock	Quillen
Broomfield	Hansen	Rhodes
Brown (CO)	Hastert	Ritter
Buechner	Hefley	Robinson
Bunning	Henry	Rogers
Burton	Herger	Rohrabacher
Campbell (CA)	Hiler	Ros-Lehtinen
Chandler	Holloway	Roth
Clinger	Hopkins	Saiki
Coble	Houghton	Schiff
Coleman (MO)	Hubbard	Schuette
Combest	Hunter	Schulze
Coughlin	Hyde	Sensenbrenner
Courter	Inhofe	Shaw
Cox	Ireland	Shumway
Craig	James	Skeen
Crane	Kasich	Smith (NE)
Dannemeyer	Kolbe	Smith, Denny (OR)
DeLay	Kyl	Smith, Robert (NH)
Dickinson	Lewis (CA)	Spence
Dornan (CA)	Lewis (FL)	Stearns
Douglas	Livingston	Stump
Dreier	Lowery (CA)	Sundquist
Duncan	Lukens, Donald	Thomas (WY)
Edwards (OK)	Martin (IL)	Upton
English	McCandless	Vucanovich
Fawell	McCollum	Walker
Fields	McCrery	Watkins
Fish	McCurdy	Weber
Frenzel	McDade	Wylie
Gallegly	McEwen	Young (AK)
Gekas	Michel	Young (FL)
Geren	Miller (OH)	
Gillmor	Molinari	
Gingrich	Moorhead	

NOT VOTING—15

Boxer	Johnston	Nelson
Coleman (TX)	Leath (TX)	Oakar
Flippo	Lehman (CA)	Owens (UT)
Hawkins	Mfume	Pursell
Hutto	Moody	Saxton

□ 1247

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to insert extraneous matter on the veto override.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcalls No. 161 and No. 162.

EXTENDING AUTHORIZATION OF APPROPRIATIONS FOR THE TAFT INSTITUTE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1939) to extend the authorization of appropriations for the Taft Institute, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR THE TAFT INSTITUTE

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 1373 of the Education Amendments of 1980 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1373. There are authorized to be appropriated to carry out this subpart—

"(1) $750,000 for fiscal year 1990;

"(2) $600,000 for fiscal year 1991;

"(3) $400,000 for fiscal year 1992; and

"(4) $200,000 for fiscal year 1993.

No funds are authorized to be appropriated to carry out this subpart for fiscal year 1994 or any succeeding fiscal year.".

TITLE II—EXTENSION OF SCHOOL DROPOUT DEMONSTRATION PROGRAM

SEC. 201. EXTENSION OF SCHOOL DROPOUT DEMONSTRATION PROGRAMS.

Section 6003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3243) is amended—

(1) by striking "There" and inserting the following: "(a) IN GENERAL.—Subject to subsection (b), there";

(2) by inserting "each of" before "the fiscal";

(3) by striking "year" and inserting "years";

(4) by inserting before the period the following: ", 1990, and 1991"; and

(5) by adding at the end the following new subsection:

"(b) No amounts are authorized to be appropriated under subsection (a) for any fiscal year in which assistance is made available to local educational agencies under part C of chapter 1 of title I.".

SEC. 202. AUTHORIZATION OF USE OF FUNDS FOR EVALUATION ACTIVITIES.

Subsection (a) of section 6004 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3244) is amended—

(1) by inserting after "the Secretary" the following: "shall first reserve not more than $1,500,000 for the purposes of evaluating programs carried out with assistance under this part. From the remaining amount, the Secretary"; and

(2) by striking "the amount appropriated" each place it appears after the first occurrence and inserting "such remaining amount".

SEC. 203. AUTHORIZATION OF REALLOTMENT OF CERTAIN FUNDS.

Paragraph (1) of section 6004(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3244(b)) is amended by striking "25 percent" and inserting "not less than 25 percent and not more than 50 percent".

SEC. 204. DEADLINE FOR EVALUATIONS.

Subsection (d) of section 6201 of the Elementary and Secondary Education Act of 1965 is amended by striking "at the end" and all that follows and inserting "not later than the expiration of the 6-month period following the end of the grant period.".

TITLE III—HIGHER EDUCATION

SEC. 301. ELIGIBILITY FOR EDUCATION PROGRAMS.

(a) HIGHER EDUCATION.—Section 484 of the Higher Education Act of 1965 is amended by adding a new subsection (k) at the end thereof:

"(k) STUDENTS ATTENDING INSTITUTIONS IN THE FREELY ASSOCIATED STATES AND ELIGIBILITY FOR TRIO PROGRAMS.—Notwithstanding any other provision of law, a student who meets the requirements of paragraph (a)(5) of this section or who is a resident of the freely associated states, and who attends a public or nonprofit institution of higher education located in any of the freely associated states rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 1, 2, or 4 of part A or part C of this title.

(b) TERRITORIAL TEACHER TRAINING ASSISTANCE PROGRAM.—Section 4502 of the Elementary and Secondary Education Act of 1965 is amended by striking "the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" each place it appears and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands, Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia".

(c) TECHNICAL AMENDMENT.—Section 1204(a) of the Higher Education Act of 1965 is amended by striking out "Trust Territories of the Pacific Islands, and the Northern Mariana Islands" and inserting "Commonwealth of the Northern Mariana Islands Palau, and, subject to the provisions of Public Law 99-239, the Federated States of Micronesia, and the Republic of the Marshall Islands.".

SEC. 302. DEFINITION.

Section 545 of the Higher Education Act is amended in paragraph (3) by striking "the Trust Territory of the Pacific Islands" and inserting in lieu thereof "the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau".

SEC. 303. TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE.

Section 1204 of the Higher Education Act of 1965 is amended by inserting at the end thereof the following new subsection (d):

"(d) Notwithstanding any other provision of law, an institution of higher education that is located in any of the freely associated states, rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 4 of part A of title IV of this Act.".

TITLE IV—ELEMENTARY AND SECONDARY EDUCATION

SEC. 401. TECHNICAL AMENDMENTS.

(a) ELEMENTARY AND SECONDARY EDUCATION.—The Elementary and Secondary Education Act of 1965 is amended—

(1) in sections 1005(a), 1006(a)(1)(A), 1291, 2004(a), and 4502 by striking "and the Trust Territory of the Pacific Islands" each place such term appears and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau";

(2) in sections 1404, 1405(a)(2)(A), 1405(a)(2)(B), and 1471(22) by striking "or the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, or Palau"; and

(3) in sections 1511(a)(1), 2104(a)(1), 5112(a)(1), and 5141(b)(6) by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau".

(b) ADULT EDUCATION ACT.—The Adult Education Act is amended—

(1) in sections 312(7) and 371(b)(7)(B)(i) by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau"; and

(2) in sections 313(b) and 361(a) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau".

(c) STAR SCHOOLS PROGRAM.—Section 907(8) of the Star Schools Program Assistance Act is amended by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau".

(d) EDUCATION OF THE HANDICAPPED.—The Education of the Handicapped Act is amended in—

(1) Section 602(a)(6) by striking "or the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, or Palau";

(2) Section 611(a)(2) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau"; and

(3) Section 611(e)(1) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau".

MOTION OFFERED BY MR. WILLIAMS

Mr. WILLIAMS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WILLIAMS moves to strike all after the enacting clause of S. 1939 and insert in lieu thereof the text of H.R. 3315 as passed by the House, as follows:

that section 1373 of the Education Amendments of 1980 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1373. There are authorized to be appropriated to carry out this subpart—

"(1) $750,000 for fiscal year 1990;

"(2) $500,000 for fiscal year 1991; and

"(3) $250,000 for fiscal year 1992.

No funds are authorized to be appropriated to carry out this subpart for fiscal year 1993 or any succeeding fiscal year.".

SEC. 2. It is the sense of the House of Representatives to reject any extraneous amendments not related to the subject of this bill.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1939

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent to insist upon the House amendment to S. 1939 and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

MOTION OFFERED BY MR. BARTLETT

Mr. BARTLETT. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. BARTLETT moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate bill, S. 1939, be instructed to disagree to any provision of the Senate bill not related to the subject matter of the first section of the House amendment.

The SPEAKER. The gentleman from Texas [Mr. BARTLETT] is recognized for 30 minutes.

□ 1250

Mr. BARTLETT. Mr. Speaker, the purpose of the motion is to instruct the conferees to accept in negotiations with the Senate only provisions which are related to the reauthorization of the Taft Institute.

In 1988, the Congress attempted to reauthorize this program and that attempt failed due to extraneous amendments costing over $66.35 million being added to the bill.

The Senate bill contains provisions relating to the expansion of eligibility to the Federated States of Micronesia and the Marshall Islands for assistance in Federal domestic education programs. I have a number of concerns regarding the appropriateness of this legislation at this time.

First, the Compact of Free Association was a carefully negotiated agreement between the United States and these former Trust Territories. They indicated their strong desire for self-determination and agreed to certain block grant payments which they would then use in a manner best suited for their local needs.

Second, I am concerned about the manner in which these provisions would be implemented. These former territories are now sovereign nations. According to the compact, the United States can not unilaterally renegotiate the provisions of the compact, but such provisions must be accepted by the people of Micronesia and the Marshall Islands respectively. I also am concerned that such matters as oversight responsibilities of the Department of Education for these programs operating in foreign countries be considered carefully.

Third, the entanglement and mandates of the Federal education laws with the government and people of Micronesia and the Marshall Islands may run in opposition to the original purpose of the compact. These programs may not be culturally or economically appropriate. The compact provides for payments to Micronesia and the Marshall Islands in lieu of these domestic programs and then allows them to decide how best to use the money according to their own local needs.

Based on these concerns, I am asking you to join me in support of this motion. I would note that the bill passed with bipartisan support in the Committee on Education and Labor and on the House floor. I support the reauthorization of the Taft Institute and I hope to see it reauthorized this year.

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, I appreciate the rationale and the logic behind the gentleman's motion to instruct the managers and the conferees. I have no opposition to the gentleman's motion and will support it.

The SPEAKER. The question is on the motion offered by the gentleman from Texas [Mr. BARTLETT].

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees, and without objection, the Chair reserves the right to appoint additional conferees: Messrs. HAWKINS, FORD of Michigan, WILLIAMS, GOODLING, and COLEMAN of Missouri.

There was no objection.

NATIONAL SCLERODERMA AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 516) to designate the week beginning June 10, 1990, as "National Scleroderma Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. LANCASTER). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so simply to acknowledge the good work of the gentleman from New Jersey [Mr.

HUGHES], who is the chief sponsor of this resolution, and I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I am joined by 218 of my colleagues in supporting House Joint Resolution 516, which designates the week beginning June 10, 1990, as "National Scleroderma Awareness Week." This resolution continues this successful effort for the third year in a row.

As many of you know, scleroderma literally means "hard skin." Those who suffer from this rare disease experience a thickening and hardening, or scarring, of the skin due to an overproduction of collagen, a protein manufactured by the connective tissues of the body. In the severest forms of scleroderma the hardening process may spread to the joints greatly reducing an individual's mobility and to the body organs causing functional impairment.

This chronic, and sometimes fatal disease affects approximately 300,000 people in the United States alone. This number is more than twice the number of active AIDS cases currently reported to the Center For Disease Control. Previously it was believed that scleroderma occurred predominantly in older women, however recent studies show an alarming increase in the rate of occurrence among all age groups including young children.

Although recent research has greatly increased the medical community's understanding of how scleroderma affects the body and has produced helpful treatments for scleroderma patients, much more needs to be done.

Since we can not appropriate unlimited public funds to put scleroderma research on the fast track, it is important that we pass House Joint Resolution 516 to ensure that the research continues. With the successful passage of this resolution, Congress will continue to contribute to those activities which will promote awareness and understanding of this rare disease and assist in raising funds for research and patient treatment programs.

Mr. Speaker, it is an important commemorative. I urge all my colleagues to support this commemorative.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 516

Whereas scleroderma is a disease in which connective tissue in the body becomes hardened and rigid, and might afflict any part of the body;

Whereas approximately three hundred thousand people in the United States suffer from scleroderma;

Whereas women are afflicted by scleroderma three times more often than men;

Whereas scleroderma is a chronic and often progressive illness that can result in death;

Whereas the symptoms of scleroderma vary greatly from person to person and can complicate and confuse diagnosis;

Whereas the cause and cure of scleroderma are unknown; and

Whereas scleroderma is an orphan disease and is considered to be understudied: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning June 10, 1990, is designated as "National Scleroderma Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask to proceed for 1 minute so that I might inquire of the distinguished majority leader the program for the balance of this day and the week, and prospects for next week.

Mr. Speaker, I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding. Obviously, today's business is finished.

On Monday, June 11, the House will meet at noon, but there will be no legislative business.

On Tuesday, June 12, the House will meet at noon to consider 11 bills on suspensions. Recorded votes on suspensions will be postponed until after debate on all suspensions.

H.R. 4088, Veterans Recruitment Authority Act of 1990;

H.R. 4390, providing for VA grants to assist medical schools in establishing new research centers;

H.R. 20, Federal Employees' Political Activities Act, concurring in the Senate amendment;

H.R. 2152, Inter-American Scientific Cooperation Act;

S.J. Res. 75, International Space Year;

H.R. 4887, catastrophic aircraft failure prevention;

H. Res. 384, expressing the sense of Congress regarding the urgent famine situation in Ethiopia;

H. Con. Res. 287, expressing the sense of Congress regarding whale protection;

H. Con. Res. 323, human rights in Nepal;

H. Con. Res. 325, Korean Mutual Defense Treaty; and

H.R. 4758, Rio Grande American Canal Extension Act.

On Wednesday, June 13, and Thursday, June 14, the House will meet at 10 o'clock first to consider:

H.R. 4785, to establish a program of grants to provide preventive health services with respect to Acquired Immune Deficiency Syndrome, as amended (modified open rule; 1 hour of debate);

H.R. 2567, reclamation project authorization (subject to a rule); and

S. 280, Niobrara River scenic designation (subject to a rule).

June 15, the House will not be in session.

Mr. MICHEL. Mr. Speaker, I thank the distinguished gentleman, and yield back the balance of my time.

ADJOURNMENT TO MONDAY, JUNE 11, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

□ 1300

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4641

Mr. SCHUETTE. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 4641.

The SPEAKER pro tempore (Mr. LANCASTER). Is there objection to the request of the gentleman from Michigan?

There was no objection.

FUNDS REQUESTED BY ADMINISTRATION FOR FOREIGN AID

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, the Bush administration is asking the Subcommittee on Foreign Operations, which I chair, of the Appropriations Committee to approve their appropriation request for the international financial institutions, in other words, the World Bank, the other regional development banks, and the new Eastern European Development Bank. They are asking us to approve very large appropriations to those institutions so that they will be able to lend large amounts of money to Third World countries and Eastern European countries.

To make the right judgments about what we ought to do with respect to those appropriations requests, we need to know what the administration's own estimates are of the repayment prospects of the specific countries involved. The Secretary of the Treasury made a commitment to our subcommittee to provide that information, but as recently as an hour ago the Treasury Department and the Office of Management and Budget were still resisting providing that information to the Congress. That is information the Congress has a duty to get on behalf of the taxpayers we represent. It is information which the administration has a duty to provide.

In my judgment, the international debt situation is a financial black hole which is rapidly approaching in seriousness the existing savings and loan scandal within our own country, and for the life of me I do not understand why the administration is insisting on its continued coverup of the information that our subcommittee has asked for as recently as an hour ago.

I have one simple question. Why should my subcommittee be expected to provide any aid whatsoever? Why should my subcommittee be expected to provide any appropriation whatsoever to meet the administration's requests for the International Bank and for the Eastern European Development Bank if the administration does not provide this very basic information?

Taxpayers have a right to know whether the administration has any expectation whatsoever that any of these moneys will be repaid by any of these countries, countries such as Egypt and Poland and a number of other countries.

Mr. Speaker, I for the life of me do not understand how the administration can have the unmitigated gall to expect our subcommittee to provide those appropriations without that very basic information which this branch of government has an absolute right to obtain.

TRIBUTE TO RICHARD HENRY ANDREWS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Mrs. KENNELLY] is recognized for 5 minutes.

Mrs. KENNELLY. Mr. Speaker, I rise today to pay tribute to one of the unsung war heroes of this century, Richard Henry Andrews. Richard Andrews courageously battled the occupation, at no time thinking of personal gain and never denying his American heritage.

As a volunteer with the United States Army Expeditionary Corps during World War I, Captain Andrews was a liaison officer to the French Army. While fighting at the front in 1917, he fell victim to the repeated use of chemical warfare and was caught in several gas assaults. Following a hospitalization for the effects of these assaults, Mr. Andrews was honorably discharged from the Army and though he was eligible for a disability pension, he refused, feeling that other men needed the money more than he did.

Although Mr. Andrews had left the Armed Forces, his service to his country and to the cause of freedom were far from over. Mr. Andrews returned to France during the Depression, joining the State Department and serving at the American Embassy in Paris as the technical attaché and assistant commercial attaché. Following several years at the Embassy, Mr. Andrews began a consulting business to various firms with engineering interests in Europe. However, as the inevitability of World War II approached, Mr. Andrews again threw himself into the conflict.

Mr. Andrews decided to abandon his consulting business and revive an antibombing device which he had experimented with toward the end of World War I. This system of protection was composed of both searchlights and twin antiaircraft guns, laid out in a checker pattern, and which could be switched on at specific times. Mr. Andrews had effectively detected that pilots could be blinded by the lights and would look for darkness to escape the fire of the antiaircraft guns. As a result the pilots would become disoriented and could lose sight of their targets.

Word of this invention spread fast, and through the interrogation of a French prisoner of war who had assisted Mr. Andrews, the German Army learned of his invention. In March 1941, several German officials, subordinate officers, and two generals arrived at his Paris apartment. At this meeting, Mr. Andrews was offered a job at the Todt Organization, dowries for his daughters, and $50,000 in gold for his invention. Never a man to compromise his country, his friends, or his morals, Mr. Andrews told the officers that he would need several days to gather all his information together, and that he would be in touch with them in a few days. Within minutes after the officers left, Mr. Andrews packed a bag, kissed his wife and children goodbye, and boarded a train south where he would join the underground.

In 1942, he joined the French Maquis where he managed to contact Allied forces in England and to offer his services. After finally getting information about the project to English officials, the invention was used for the first time in protecting Folkstone, England, where it was a welcomed success. He remained in France as a liaison with the resistance, providing a variety of services—services ranging from opening and destroying communications lines, to blocking mountain roads, and demolishing bridges in Massif Central, delaying entire German divisions en route to Normandy. Throughout this time the Germans intensified their hunt for Andrews, who had become known as "the man with the white linen hat." A reward of 50,000 francs was posted for his capture, and though his family was told many times he had been captured and killed, he never was.

Following the liberation Mr. Andrews was reunited with his family, and rejoined the U.S. Army as an engineer for the Engineer Corps in Paris. On November 29, 1967, Richard Andrews died in Washington, DC.

Mr. Speaker, Mr. Andrews should not only be remembered as a gentleman and an inventor, but as a man of courage and mettle, a man who never backed down in the face of danger and a man who wholeheartedly loved his family and his country. And perhaps most importantly, Richard Andrews should be remembered as a genuine American hero.

CHAIRMAN ANNUNZIO OPPOSES BANKS SELLING INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, as chairman of the House Banking Subcommittee on Financial Institutions, I am greatly disturbed by the recent events giving banks the power to sell insurance on a nationwide basis.

First, a Federal court decided that national banks have the power to sell insurance nationwide from branches located in small towns. The U.S. District Court for the District of Columbia let stand a 1986 order by the Comptroller of the Currency permitting national banks with offices in towns of 5,000 or fewer residents to market insurance products anywhere.

And last week, Delaware Gov. Michael Castle signed a law to allow banks chartered in the State to underwrite insurance by mail across the Nation. Out-of-State banks are moving rapidly to take advantage of the new law. According to news reports, Citibank of New York, which has subsidiary banks in Delaware, plans to open a 20-person insurance operation. Chase Manhattan Bank of New York, which has a credit card operation in Delaware, plans to add 20 employees. Thirty-eight other large banks could join Citibank and Chase because they have Delaware operations.

Chase Manhattan plans to transfer its Delaware subsidiary from a Federal to a State charter and will underwrite and sell homeowners and auto insurance, possibly in partnership with other insurance carriers, using direct mail, telemarketing, and advertising, according to the news reports. Citibank plans to establish a headquarters in Delaware for underwriting and agency purposes.

Have we learned nothing from the savings and loan disaster? That debacle could cost

the American taxpayers up to $500 billion. And it came about because the industry was deregulated and the S&L's were permitted to depart from their traditional roles of home mortgage lending to invest in more unstable areas.

Mr. Speaker, Congress has separated banking from the business of commerce, including the selling of insurance, since the establishment of the national bank system in 1864. That policy has been spelled out in the National Bank Act, first passed in 1864, in the Glass-Steagall Act of 1933, and in the Bank Holding Company Act which was enacted in 1956 and amended in 1970 and 1982. Congress has implemented this national policy to strictly limit the activities of national banks in order to protect the banks themselves, the general public and potential competitors. As one court has said:

National banks are denied the opportunity to earn a profit through investing in ventures unrelated to the business of banking not simply because they might unfairly compete in other industries, but because the pursuit of profit in other fields unrelated to banking could tempt bankers to make unwise or improvident decisions and thus could threaten the strength and stability Congress sought to instill in the banking industry.

The Delaware banking law allows banks chartered in the State after 1933 to engage in all aspects of the insurance business but must have the so-called firewalls—separate divisions or subsidiaries. Assets, liabilities, and records of the insurance units are to be kept separate from those of the bank. But I am concerned. Is this the crack in the dike? What happens when a State enacts a law that doesn't have the firewall safeguards? We must remember that the Federal Government guarantees deposits even in State banks if they are federally insured. Are the American taxpayers going to be stuck with another multibillion dollar bailout? I personally think that is asking too much of our citizens, their children, and their grandchildren.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2567, RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-529) on the resolution (H. Res. 409) providing for the consideration of the bill (H.R. 2567) to authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 280, NIOBRARA RIVER SCENIC RIVER DESIGNATION ACT OF 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-530) on the resolution (H. Res. 410) providing for the consideration of the bill (S. 280) to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT REGARDING PREPRINTING OF AMENDMENTS ON H.R. 2567, RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1990

Mr. MOAKLEY. Mr. Speaker, the Rules Committee has granted a rule to H.R. 2567, the Reclamation Projects Authorization and Adjustment Act of 1990, that would require amendments to be printed in the amendment section of the CONGRESSIONAL RECORD prior to their consideration.

The tentative schedule of the House would seem to indicate that, to ensure Members' rights to offer amendments under the comtemplated rule, they should have those amendments appear in the CONGRESSIONAL RECORD by Wednesday, June 13, 1990.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I have on many occasions taken this great privilege of addressing the House in what we call the privilege of special orders, and as I have recited before, I am very conversant with the history of this procedure and the reasons for it. Therefore, I have been very respectful of the privilege and have tried to keep it within the confines of the intended purposes, that is, enlarging upon the areas of discussions and issues that our deliberative body has pending before it, and nothing else.

I have always felt that it would be a transgression to abuse this privilege by substituting it for the stump, which I think we should all defer to election time, and preferably back home. I do not think this is the proper forum in order to politicize, and particularly on a partisan basis, the proceedings. I think I have adhered to that.

The other thing is that I have been a grateful beneficiary of this privilege since I came to the Congress 29 years ago. This was long before any thought was given to the fact that the proceedings would be televised and reported. And that, incidentally, I think, has been a great thing because I have always felt that there was a large gap between the activities that we conducted here, the discussions, and the debates or lack of debates, and what the constituents and the citizens throughout America were able to know about or would be able to form judgments about.

That was another era. The pace was slow-going at the time, and there was veritably little communication. But I had had the experience of having served 5 years in the State Senate of Texas and, before that, 3 years in the local legislative body known as the city council of the city of San Antonio. So I discovered that that situation generally exists all through this spectrum of representation, and it was very disturbing to work very hard and then meet the constituency and find out that there was very little awareness on their part. So I tried to bridge that gap by communicating to the fullest extent through newsletters and through weekly television and radio communications in both English and Spanish.

In our part of the country we are very, very fortunate in having the benefit of developing along the lines of a multiculture that is bilingual or even trilingual. Unfortunately, we have abandoned in our country many areas of what I consider to be great wealth and potential. The fact is that we have had great historical developments in our area, particularly after the 1848 revolutions in Europe, and we have seen great streams of German immigration, Polish immigration, and Czechoslovakian immigration that very few people realize have taken place in the State of Texas. In fact, as I have stated before, the first Polish settlement in the United States was not in the Midwest or any other place like that; it was 45 miles or so southeast of San Antonio in the community known even today as Pann Maria. And there used to be publications in the Polish language. There used to be German publications, that is, German language publications not only in San Antonio but in all the surrounding area.

□ 1310

Mr. Speaker, the architecture and the other styles of living associated with these great people are still there, visible to see, in our very historic part of Texas, and principally San Antonio and the surrounding environments.

The fact is it is for the reasons that I take the occasion to rise because I have taken stands, and this is the reason that I will justify my using of the special order privileges to my colleagues. Whether it was before, when we have the printed RECORD to address, or even after the coverage by the external media, my remarks are addressed to my colleagues for the record and always compelled to do so by what I consider to be the issues

that transcend the purely parochial responsibilities of representing a geographical area known as a congressional district. We all partake, as Members of this great body, all 435 of us, of a small part of the national entity, whether we want to or not.

Mr. Speaker, I have voted in ways that clearly show are a minority on some issues of recent days, and that is what I wanted to discuss because it is not a happy occasion to ever criticize a President. I have, though, even beginning with the one that I got to know best on a personal basis, and a gentleman that I had known since 1951, and that was President John F. Kennedy, and I was far more on an intimate basis with him than even a great fellow Texan and a neighbor, President Lyndon Johnson.

Mr. Speaker, this may seem strange, but it is true, and the fact is that there were issues that arose in which I did not go along with the administration recommendations. It is disturbing. All Presidents; I do not care who it is, all Presidents want to have compliant and, if possible, rubberstamp Congresses. But it has not been until lately that that has almost become a reality and a fact, and that in my opinion is dangerous, and it is directly contradictory to the basic constitutional form and operation of the government we have had and enjoyed and whose privileges have showered us with benefits, and such individuals, as myself, with the highest privileges possible of being selected in open elections to represent the constituents from the local, to the State, to the national level in the legislative process. I cannot think of a higher honor, of a greater privilege and trust than those positions.

So, I am sensitive, and that sensitivity has led me to be, for instance, one of the lone dissenters in what turned out to be the resolution calling for the 25th amendment. I still introduce legislation in an attempt to repeal the 25th amendment.

Now who bothers with the 25th amendment? But who is going to tell me that, when I took the floor in August of 1965, and was the only one given reason for voting no to that resolution that I would see the worst fears confirmed in my lifetime. I never dreamed of the extraordinary dangers inherent in that amendment.

What is the 25th amendment? Well, among other things it was passed because apparently it was felt that a great crisis has ensued after the death of President Kennedy and 03906 the assumption of the Presidency by Vice President Lyndon Johnson because Lyndon Johnson did not have a Vice President for 1 year, and then again the old ghost of the disability of President Woodrow Wilson for 2 years was brought up. But we know that we have the best of intentions, but then to conceive and write the legislation that is going to truly carry out those intentions is something else.

So, when my colleagues examine that, and I am going to call on my colleagues, if they have any willingness to do so and will listen to me with all the seriousness that I can muster, to review that 25th amendment and the potential, the potential, for great mischief, and, sure enough, when the crisis came and we had the sad situation with respect to the departure of a President, and then for the first time, as I had warned and feared, we ended up with an unelected President and not one, but two, unelected Vice Presidents unconversant with the transactions, and the utterances and the documentation that took place during those fateful months of deliberation at the Constitutional Convention in Philadelphia that ended up in our Constitution, and, if there is any one thing that those members of that Constitutional Convention feared the most, even those that were pulled apart in philosophy, it was that we would create an office that would be anything reminiscent of the kingly powers which they were so resisting. The king made wars, the intrigues of the old Roman senate, and then, in more recent times, the Republic of France preceding and following the invasion by the Hitler Wehrmacht.

So, Mr. Speaker, I was sensitive when I read the language and discovered here is what the law is, and the Congress has not passed any implementing legislation. Section 4 of that amendment says that, if the majority of the executive branch of the Government decides that the President is disabled and cannot carry out the functions of the Presidency for whatever reason, they should so report to the Senate and the House, and then the Vice President will become the acting President.

Well, what happened in 1974? We had the likes of Alexander Haig, a personality that I do not think American history has seen the likes of since Aaron Burr. In the words of James Madison, he said that that is what he feared, if this kind of an office was created where the bold and the ambitious, the bold and the ambitious, would be unfettered. And there is Mr. Alexander Haig and Mr. Henry Kissinger saying, "President Nixon, if you do not resign, we may have to invoke the 25th amendment."

Mr. Speaker, I think that is dangerous.

□ 1320

Mr. Speaker, our Nation in its first 10 years of nationhood, which really were the first and the second Continental Congress, they thought so little of this kind of an office that they did not even bother to have anything like it. There was no such thing as a President, or as they called it in the constitutional convention deliberations, a Chief Magistrate. They did not want to have anything to do with that which they were extricating themselves from, tyrannical, arbitrary, and capricious power.

This is why the most revolutionary words even to this day are the first words of the Preamble of our Constitution, where we read and I encourage every student in my district in the elementary schools and on up to memorize that because that is at the heart of the matter even today.

"We, the people of the United States, in order to form a more perfect union." We, the people, not the Congress, not the President, not anybody else but the people. Why? Because for the first time in this world then of oligarchs, kings who said that their power came from God, they were saying no, all power comes from the people. We have strayed away from that, so that when we end up with any possibility, and in fact the reality that we can have an unelected President and an unelected Vice President, I am telling you, we have a continuing sword pointed at the very heart of our democratic constitutional form of government.

Well, that was one. Then the other great thing that they feared, too, and from which they were escaping, the Founding Fathers of this great Nation, and that was king-made wars. Well, now we have twilight undeclared Presidential wars. They feared that more than anything else, and this is the reason why they placed in the Constitution the single exclusive power in the Congress only to declare war.

But what have we had lately? This is the reason I wanted to speak out in order to enlarge on what otherwise I would not have a chance to enlarge on during the limited debate that some of these resolutions that have been forthcoming in the House and in the respective committees have allowed. For instance, I was one of only three who criticized the Presidential order giving rise to the invasion of Panama on December 20, 1989. I still hold to that, and I gave the reasons; but it was overlooked, there were only three voices in the Congress against that, and there has been nothing subsequent to that.

I do not do this with any particular pleasure, for I respect President Bush. President Bush is an individual I have had the great privilege of knowing as a Member of this House, before that in Texas and since that in a very congenial, very respectful way; but I also realize that Presidents, and I have worked with seven different Presidents, and as I said before, I am also very, very sensitive to the fact that we are a coequal and a separate and an independent body, like the other two branches of the Government, the Ex-

ecutive, the Presidency and the judiciary; but for good reason the men who wrote the Constitution put the first article as the representative branch, the Congress, and the second article as the executive branch; but today we have got the thought loosened on our end.

I daresay that perhaps the overwhelming majority of the Members in or out of the Congress and citizens would say, if asked, that the President has more power, that he is omniscient, that he is of greater power and authority than either one of the other two branches. That simply is not true, and it is in direct proportion as we have strayed from that that we have gotten this country into what I consider to be perilous waters.

Let me show you why. In the first place, we had the sequela to World War II. Now, everybody assumes that World War II ended, but it has not. There is no peace treaty to World War II, but we since have had two real hot shooting wars, none declared by the Congress.

How could a system endure in any country, under any form of government except the most despotic, and even they have had their days of peril ending, when a situation arises where some will be compelled to serve and jeopardize life and limb and others will not.

I recall World War II vividly. I am old enough to retrieve those memories almost intact. There was a cause. Every American any one of us knew was forming lines to enlist. There was no such thing as having to have anybody out there being chased for draft dodging; but then came the sequela.

What happened to us? We ended up with a world in which in Europe we could not define. We went and fought that war and so did many other allied countries in order to defeat, destroy, and eliminate that tremendous military machine known as the Wehrmacht.

But what happened? No sooner was that done and accomplished and that machine conquered when less than 2 years later we were rearming not all, but part of that Germany over which we have jurisdiction.

But in what way and in what form? Well, because we had the London conference before that and even there as the war was waning, the conferences in Italy in which the decision was made to exclude the Soviets or the Russians while they were fighting.

Let me say by way of parenthesis that now is the time for us to recall that the Russians or the Soviets were an ally that made it possible for us to eventually defeat Hitler.

□ 1330

When the German invasion of Russia took place, there was such an assurance on the part of the invaders that they would meet little or anything that was not subject to being overcome and overwhelmed by way of the Russian resistance, but the Russians lost over 20 million people in that invasion.

It would be, if I would like to compare and bring it to our level of consciousness, as if the country of Guatemala, which is one skip over, invaded the United States, killed every citizen in the States of Texas, Oklahoma, Louisana, and New Mexico, and Arkansas to boot, and then with the help of external neighbors across the seas, we rolled the tide back and we split up Guatemala, and we said, "Never again," when all of a sudden, one of our erstwhile allies said, "Well, we are going to rearm this part."

Naturally everybody was reeling from a war that has cost 50 million lives, if we can imagine that, if the human mind could just imagine 50 million human beings who died in the course of World War II, and the Russians with over 20 million. Then when we look, and if anybody had cared to then, we could understand why the question of the division of Germany, and what was to be done become paramount. Unfortunately, it looks like the democracies like the old kings, Bourbon kings, learned little or learned nothing and forgot nothing.

The idea was that while we did have the situation of a divided and conquered Germany, we had a potential threat in a country whose government and whose threatened domination of some areas we were fearful of, so that there was never any agreement as to how a gradual and an inexorable development should be handled.

Just a little under a year ago, I took this well and I appealed to the President, and now mind you, this was in June, to do two things: To exert American leadership and call for a conference with our European allies as well as the Soviets, and exert American leadership about what would be the inevitable unification of Germany or reunification, whatever we want to call it.

Since 1966, I have gone to the well and spoken about the urgent need to have a realistic perception of that world, and that even though 1966 was still a year in which there were quite a number of citizens who remembered World War II, we were occupying Germany, and even though we had just changed that designation of occupation troops to defense, we were still occupation troops and still are today; that a real perception of that world would make us realize that we would have to plan, unlike the experience after World War I in which a draconian peace settlement was imposed on Germany compelling the Germans to do the only thing a virile, a dynamic people would eventually ever do, but the trouble with that is that whenever one holds a man down against his will for a long time, when they decide to let him up, the chances are that if they have not done it right, he is going to come out swinging.

What I am afaid of is that, given the lack of anticipation which I was calling for asking our leaders to reassert American leadership to bring about the initiation of some orderly process, to wit: A peace treaty conference, in the meanwhile, as long ago as 5 years ago when the German leader, Mr. Kohl, was seeking reelection, in two of the provinces he was confronted with demands that something be done about restoring the two provinces of Silesia and Pomerania, now in Poland, but which the German folk feel belongs to Germany. Mr. Kohl was able to appease them only by saying this, and mind you this was not reported in the American press, and it should have been, but it was not, and the only way he responded was by saying, "Look, be patient. We will in a few years be having, or in the near future, some peace treaty situations in which the issue of reunification, but mostly this question of the border." This is the reason why, after the tumbling of the wall last fall and then later in the year, Mr. Kohl was adamant about talking about that subject matter of the Oder-Neisse and the two provinces, that the middle Europe countries, from Poland to Czechoslovakia, shuddered, because we have got to remember that when the German invasion took place, Hitler himself was issuing pronunciamentos saying, "We have got to conquer these inferior people, and either make them a slave people that can work to what will benefit the greater German people or exterminate them." This is why the countries that today we describe, and I think erroneously to a certain extent, that we are misinterpreting what is happening there, and I think when we misinterpret and have misconceptions, we ultimately pay a price; in the meanwhile, there is no foresight.

The second recommendation I made to the President was that "Mr. President," and this was, mind you, a little less than a year ago, "please, while you do that, address our hemisphere. Be the first President since Kennedy and Franklin Roosevelt to take leadership. Call in these neighbors of ours. They have more relevance to us and will in the future than anybody else, and exert leadership and say, 'Hey, let us get together here.' Drop the malevolent and the mistaken and bankrupt policies of the Reagan administration which," my colleagues, those who are here that will remember, I used to inveigh against almost daily all during the time that the atrocities were taking place. That was in June, and, of course, I did not know that I would be listened to as I have not been, but

then I still felt that it was intensely important to the country I love that it have some leadership exerted in this respect.

In 1980, on April 1, the President was Jimmy Carter. He was not a Republican. I took the floor for the first time to discuss Latin America or Central America, even though, despite the fact that the OAS had named me an observer at the Santo Domingo elections in July 1966, and I never considered myself an expert just because my name happened to be what it is. I think that is a sad mistake we all make when we attribute certain factors just because of association of name or something else. But I knew that President Carter, when he announced that he was sending the first contingent of troops to El Salvador, was wrong. Oh, they were advisers.

But no sooner had they set foot in San Salvador when I had a constituent soldier calling his wife to call me to get ahold of him, which I did, to tell me the same thing I had been told in 1963, in May, by an airman that had just come back from what later we found out was Vietnam, who had been an adviser, but actually had been involved in activities that exposed him to bodily harm and death, but unarmed, and this soldier was telling me, "Look, every night I walk, and there's a bomb going off somewhere in this capital."

□ 1340

The other day the American Embassy was gunned down, but the Embassy is a fortress and they are now guarded. The Embassy employees are on hazardous duty pay. But we walk the street here unarmed because we are not permitted as advisers to carry arms. The only reason we have not been hit is because at this point the policy of those involved is to leave us alone. But the day will come when what will happen if we cannot defend ourselves?

I could not believe it. So I spoke out then. I tried to convey to the President, but apparently it was very difficult.

Then in September 1980, I had visitors, people who had worked as volunteers with various organizations, both private as well as the Peace Corps, in both the countries of El Salvador and Guatemala. What they reported was most disturbing.

The people from El Salvador said, look, before the end of this month you are going to have a coup, and the regime you have there now is going to be thrown out.

Well, that was Napoleon Duarte's, his first assumption of power. And sure enough, before October 1, he was out and was in exile in a South America country, and then later he came back.

Now, if we are going to deal on the basis of an ancient and absolutely misplaced outlook on what this new world is, then I can see nothing but further mischief and grave and serious predicaments for our country.

Let us look at the record. When the invasion of Panama took place, it was not because of a Communist takeover, but this had been the battle cry and everything else in El Salvador, in Guatemala, in Nicaragua. The President was telling us that the city of Harlingen, well inside the border there from the Mexican border, was a potential invasion point of the Sandinistas. That was so absurd I did not see how a President could publicly come out and instill fear or attempt to instill fear in the American people of a group that today has turned out to be toothless, friendless, even unsupported by their own constituency.

But some of us had reason to know that. I did not have to go to Nicaragua. I have not gone. I have not gone to El Salvador.

I remember in Southeast Asia how troops of my associates would say, "Hey, we are going to go out there and see what is going on. Come on with us." Some of them would put on Army fatigues and go over there.

Of course, all that did was take the time of the poor guys that were trying to figure out what they were doing there to escort them around, take them around.

And so what? What was the net result? What I think is going to be the net result with us in Central America and South America. I predicted in 1980, that we would be in jungles of Central and South America, just as we had been in Vietnam, for the same mistaken notions and misperceptions.

I hate to say this, but that is exactly what it has turned out to be. Here since 1981, when Secretary of State Haig, who drew the line in El Salvador, the smallest country there, we have put in excess of $7 billion, and we are no closer to any happier solution than we were then.

Why? Why is that? My own estimate and what I have said before is that the whole misperception has been that what has been happening in these countries have been moral earthquakes. The rebellion against Somoza was one that had been going on for years, but finally the Somoza regime, totally supported by us, we installed them and supported them 100 percent, had become so corrupt its own rottenness collapsed it.

In El Salvador you had this ongoing revolutionary struggle against those 14 families that have controlled since 1932. But now the world has shrunk. What was not perceived in 1932 is seen today on TV every day.

And what has been our role? Our role has been to be on the side of the oppressors, of the oppressor classes, of the rich, who have for 300 years exploited those people. Those masses of people who now and as of 20 years exceed a number, our own population, by some 70-75 million, are no longer that docile and complacent. They never really were, but they never have had a chance as they did finally erupt in an indigenous native revolution, not imposed by Russians, not imposed by Cubans, but coming out of the people themselves.

Now, either we get on the side of the people, or we continue to defend the interests of the oppressor class who is not going to endure, and will in turn eventually imperil our own safety and well-being. It will be tragic if history would show that in the name of securing our security we have in effect—in effect—eroded it.

So then with the events in Europe and the call for the withdrawal of troops, do we think that we will continue to indulge with the conviction that the Russians would withdraw? If they do, that will just expedite the day we will have to withdraw.

The cry is there already among the intellectuals and the leaders that are on the threshold of power in Europe and middle Europe. "We want no foreign troops."

Now, we have not addressed that, any more than we are South Korea. South Korea and North Korea have begun negotiations on what? Reunification. In the meanwhile, we have had street demonstrations, violent in nature, against American troops present in South Korea.

Now, why do we have almost 45,000 troops there? Why are we going to wait until we have what would appear to the American public as a tumbling of the wall, as something sudden, quick, which really had been in the making for years?

I say, Mr. President, let us anticipate and let us plan and consider mission accomplished in South Korea. South Korea now has over 650,000 defense forces, highly equipped, highly trained. They have a full fleet air force. South Korea has more defense capability and manpower and equipment than any of our NATO power associates, or most of them. So what are our 45,000 troops doing there?

If the will is to find some accommodation between the North and the South, we are not going to stop that. Then what are we going to do? Again react out of emergency?

I do not think so. I have always preached from the beginning on the city council anticipatory action. Not wait until you have got the hot potato. But if you are, well, let us have some pliers here with which we can at least get it out without getting burned.

We are not doing that. We are not doing that at all. Even budgetarily we are in a state of confusion.

□ 1350

Since 1964, I would get up here when the Appropriations Committee would come up with the defense bill. My great friend from Texas, may his soul rest in peace, George Mahon, was the chairman of the Appropriations Committee. He would get terribly upset with me because I would get up and I would say: "Would the gentleman yield? Can you tell me how much of this budget is for the defense of Europe?" And he would say, with great impatience, "Well, the gentleman knows full well, I have told him this many times, this isn't compartmentalized in the budget. It just isn't neatly here and there."

I said, "Well, I know that."

But then there was another gentleman from Florida who was the chairman of the Subcommittee on Military Appropriations and he was a little bit more patient. He would get up, and he would say, "I will yield to the gentleman here by saying that I have heard the gentleman's question and I think it is pertinent." And I said, "Well, the reason I am asking this question is that I think it is important for the basis of our overall defense strategy." And I would say, "Well now, I have reviewed the budget and I figure that at least 50 percent of this, all throughout the budget, summed up, would be for the defense of Europe." And he would say, "Well, the gentleman is in the ball park range."

That grew to the point of 60, almost 65 percent. When we developed a defense budget of $315 billion that we are taxing the taxpayers for, at least 60 percent of that was what was considered, and has been considered and continues to be for the defense of Europe.

But what Europe, was my question. The Europe of 1949? The Europe of 1950? That is gone forever. It is gone. What was that Europe, and that defense? We would be there in the mass land of West Germany to stop an overland invasion through Middle Europe of the Russian forces. I could not believe it, because we were totally and inaccurately evaluating both the thinking and the leadership of the Russian nation.

If the Russians were having the trouble they were then, and which are today common notice, they had problems with Hungary, Poland, and Czechoslovakia, why would they want to come overland through the middle of Germany? What, to take France?

We have to restore sanity somehow. We have reached perhaps maybe the point of no return, because in the meanwhile the rationality, the basis of which has led to this monstrous pile-up of atomic weaponary, where now it is too late, it is gone, it is like the poet Robert Frost said in his famous poem. Oh, it is King X now, though we used it in that holocaust. We now say King X, nobody shall, nobody else shall.

But it is too late. We now have much smaller countries of disparate climbs and social construction and government in possession of some of this weaponry. But at least now that we are reaching an approximation where it is advisable that there can be among the two major powers, and it is ironic at a time that they can approximate what they both have lost control of, what up to now has been their client states, that we would then resort to violence, and armed might, and abandon the process of law, international law.

This is what we have been doing. If anybody has been guilty of terrorism in Central America particularly, it has been, and I hate to say this but it is a fact, this is the way the external world looks at us, let us not kid ourselves. We bombed and mined the harbors of Nicaragua because we did not want the Sandinistas. We did not like them, and President Reagan said: "I am going to make them cry uncle."

They went to the World Court, the international tribunal for justice. They pled their case; we pled ours. The tribunal ruled against us, convicted us of what is tantamount to acts of terrorism, even defined a fine.

What did we do? We walked out of the very court that we helped to create to begin with at The Hague.

Then comes a Panama invasion. What is the legal basis for that invasion? Panama was a sovereign republic with whom in 1977, we sat down and signed a treaty.

We violated that treaty. Then we said, among other things, which is not a legal reason, it is political, that we want to bring democracy. So it was in our military base and on the premises of our military base that they swore in the present head of Panama.

What if the Russians did that? What would we say? We would laugh. We would say why it is so preposterous to say that you want democracy.

What has happened since then? We have had to be there and rule, and govern with our soldiers. They are still there. What happened in the process of the invastion? We committed acts which under the Nuremburg principle would be war crimes. We bombed with incendiaries the Chorrillo district, 100 percent black, constructed of flimsy wood which had been there since 1908, with the imported black workers from the Caribbean, Jamaica, and other places that we brought in there to help with the construction of the Panama Canal.

We do not know how many of those people were incinerated, but we do know that it was at least 10 times more than what our officials have wanted to report. That is wrong. Should we keep quiet because we do not want to offend? I think that is equally wrong.

For the first time the press was confined. In effect they were under detention, all of the press, not only the American, but the British, who complained bitterly, and the South American press, who complained bitterly and wrote big articles. They are not printed here. The American press did not report the nature, the extent of the damages and losses. There are hundreds of Panamanian children who are limbless, armless, blinded because of our invasion. Is that right? Of course it is not right.

What is the legal basis for then arresting and imprisoning the head of that sovereign state? He might be a moral monster, but he was the declared head by the Assembly of Panama as the head of that state. Even Hitler did not do that. He did not go into the Anschluss in Austria or Sudetenland and imprison of the Czechoslovakian head or the other in Austria and bring them in and imprison them and then say I am going to try them because they violated German law. He did not. We violated all of the basics of international law from time immemorial, plus the OAS, and at least three different sections of the law, and which OAS condemned the invasion overwhelmingly. The United Nations whose charter we signed, we violated that. The United Nations Assembly condemned our invasion. That never was really at all mentioned in our press.

But we cannot do that. The Founding Fathers and the Declaration of Independence said that because of their healthy respect for the opinion of mankind they were uttering these famous words. They were mindful of world opinion.

We think we can willy-nilly ignore it, and I want to remind my colleagues that sadly I am constrained to reluctantly and sadly agree with Noam Chomsky who said the greatest threat to world peace is our country, the greatest obstacle to world understanding and alliance is our country.

□ 1400

"What America needs is not dissent, it needs de-Nazification."

I am compelled to agree with that. I am forced to speak. It is not that I gain any pleasure out of it. But I think this is something that sooner or later is going to come.

In fact, it already has. Because now we have been asked to appropriate millions of dollars and it is put down as $350 million, $400 million for Panama, $300 million or so for Nicaragua.

Do we think that because we have had the occurrences that have happened in all those countries from El Salvador down to Panama, that we are going to stem and quieten and suffocate the revolutions in those countries,

coming up, emanating from the people? Not at all.

My colleagues, we will have problems because if we have detained and brought to this country and, in effect, have incommunicado the head of state of Panama, Noriega, is he a prisoner of war? Then we violated the Geneva Convention when we allowed our press and military to whoop up and take those mug shots of the man. That is prohibited by the Geneva Convention on Prisoners of War.

What do we care about that? What did we care about the diplomatic immunity in the office of the Papal representative? We invaded that, not physically, maybe, but this idea so incredible of blaring out hard rock day and night.

The point is that we have got to be respecters of the law just like we as legislators.

The first rule is that if we wish to enunciate law, we must be the first to respect and follow the law. And it is the same thing nationally with nationhoods.

We cannot have it both ways. When we point our fingers and say to the Russian leader on his recent visit, "Look, we will demand that you absolutely consider independence for Lithuania," et cetera, et cetera, "or we can hold you in judgment." Well, up to now the Russians have not moved troops in. They have not deposed the ruler. They have not brought him in for violating Russian law. They have not bombed entire communities, helpless communities like the Torrijo district. It happened to be an all-black district, because what we forget is the makeup of the society in Panama.

Noriega is negroid, he is partially black. The ruling 5 percent of the population is white, upper-class, and have had total control all along. And of course their interests are in consonance with ours. Why? Because they are the representatives of our business interests.

Panama built up the biggest foreign haven for money laundering, not necessarily drugs, since years ago.

For 10 years, I tell my colleagues, I served as chairman of the Subcommittee on International Finance, and I went into that. I was the first one to use the words "the Latin dollar market." Everybody was talking about the Eurodollar market. I said, "Hey, you ought to see what is building up there."

In Panama alone, they created a set of laws that matched and are probably more stringent than the Swiss laws on secret accounts. Thousands of our corporations have laundered money and escaped American taxes through Panama.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MFUME (at the request of Mr. GEPHARDT) for today on account of constituent business/funeral services.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. HOUGHTON) to revise and extend his remarks and include extraneous material:)

Mr. DELAY, for 60 minutes each day, on June 12, 13, 19, 20, 26, and 27.

(The following Members (at the request of Mr. ENGEL) to revise and extend their remarks and include extraneous material:)

Mr. OBEY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HOUGHTON) and to include extraneous matter:)

Mr. CAMPBELL of California.
Mr. CRANE in six instances.
Mr. BROOMFIELD in two instances.
Mr. LOWERY of California.
Mr. GALLEGLY.
Mr. DUNCAN.
Mr. MCCANDLESS.
Mr. PORTER.
Mr. CRAIG in two instances.
Ms. ROS-LEHTINEN in two instances.
Mr. GEKAS.

(The following Members (at the request of Mr. ENGEL) and to include extraneous matter:)

Mr. MCMILLEN of Maryland in two instances.
Mr. SKELTON.
Mr. GUARINI.
Mr. FAZIO.
Mr. KANJORSKI.
Mr. DORGAN of North Dakota.
Mr. LAFALCE.
Mr. KOSTMAYER.
Mr. SIKORSKI.
Mr. STOKES.
Mr. BONIOR.
Mr. SLATTERY in two instances.
Mr. RANGEL.
Mr. MINETA.
Mrs. KENNELLY.
Mr. CAMPBELL of Colorado.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until Monday, June 11, 1990, at 12 noon.)

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Consolidated reports and amended reports of various individuals and delegations traveling under an authorization from the Speaker concerning the foreign currencies and U.S. dollars used by them during the fourth quarter of calendar year 1988 and in the first, second, third, and fourth quarters of calendar year 1989, as well as miscellaneous reports filed with the Committee on House Administration and forwarded to the Clerk of the House concerning foreign currencies and U.S. dollars utilized by Interparliamentary Unions and other similar groups in calendar year 1989 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. KEITH JEWELL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND JAN. 18, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Keith Jewell	1/7	1/10	Hong Kong		597.00						597.00
	1/10	1/13	Thailand		471.00						471.00
	1/13	1/16	Turkey		423.00						423.00
	1/16	1/18	Spain		375.00						375.00
Military transportation							5,555.59				5,555.59
Total					1,866.00		5,555.59				7,421.59

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KEITH JEWELL, Apr. 30, 1989.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PRESIDENTIAL DELEGATION TO FRANCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 7 AND JUNE 13, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
H. Clay Swanzy	6/7	6/13	France	8,047.68	1,212.00		1,323.60				2,535.60
Michael C. Lewis	6/7	6/13	France	8,047.68	1,212.00		1,323.60				2,535.60
Total					2,424.00		2,647.20				5,071.20

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

H. CLAY SWANZY, June 26, 1989.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO NICARAGUA, HONDURAS AND COSTA RICA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 29 AND OCT. 2, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Byron L. Dorgan	9/29	9/29	Nicaragua								
	9/29	10/1	Honduras		294.00						294.00
	10/1	10/2	Costa Rica		164.00						164.00
U.S. military transportation							3,929.60				3,929.60
Hon. Richard J. Durbin	9/29	9/29	Nicaragua								
	9/29	10/1	Honduras		294.00						294.00
	10/1	10/2	Costa Rica		164.00						164.00
U.S. military transportation							3,929.60				3,929.60
Hon. Timothy J. Penny	9/29	9/29	Nicaragua								
	9/29	10/1	Honduras		294.00						294.00
	10/1	10/2	Costa Rica		164.00						164.00
U.S. military transportation							3,929.60				3,929.60
Hon. Gerald D. Kleczka	9/29	9/29	Nicaragua								
	9/29	10/1	Honduras		294.00						294.00
	10/1	10/2	Costa Rica		164.00						164.00
U.S. military transportation							3,929.60				3,929.60
Anthony Gambino	9/29	9/29	Nicaragua								
	9/29	10/1	Honduras		294.00						294.00
	10/1	10/2	Costa Rica		164.00						164.00
U.S. military transportation							3,929.60				3,929.60
Robert Jackson	9/29	9/29	Nicaragua								
	9/29	10/1	Honduras		294.00						294.00
	10/1	10/2	Costa Rica		164.00						164.00
U.S. military transportation							3,929.60				3,929.60
Douglas R.W. Norell	9/29	9/29	Nicaragua								
	9/29	10/1	Honduras		294.00						294.00
	10/1	10/2	Costa Rica		164.00						164.00
U.S. military transportation							3,929.60				3,929.60
Total					3,206.00		27,507.20				30,713.20

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BYRON L. DORGAN, Jan. 31, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. BRENT ROSENKRANZ, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 12 AND NOV. 20, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Brent Rosenkranz	11/12	11/14	Denmark		406.00		2,693.00		123.00		3,222.00
	11/14	11/20	Soviet Union		1,000.00						1,000.00
Total					1,406.00		2,693.00		123.00		4,222.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BRENT ROSENKRANZ, Apr. 20, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO IRELAND, NORTHERN IRELAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 6 AND JAN. 15, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Brian Donnelly	1/6	1/15	Ireland/Northern Ireland		2,141.00		6,959.31		455.46		9,555.77
Werner Brandt	1/6	1/15	Ireland/Northern Ireland		2,141.00		6,959.31		455.46		9,555.77
Kevin Peterson	1/6	1/15	Ireland/Northern Ireland		2,141.00		6,959.31		455.46		9,555.77
Total					6,432.00		20,877.93		1,366.38		28,667.31

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THAILAND, HONG KONG, TURKEY AND SPAIN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 8 AND JAN. 17, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Keith Jewell	1/7	1/10	Hong Kong		597.00						597.00
	1/10	1/13	Thailand		471.00						471.00
	1/13	1/16	Turkey		423.00						423.00
	1/16	1/18	Spain		375.00						375.00
Military transportation							7,059.20				7,059.20
Peter Robinson	1/7	1/10	Hong Kong		597.00						597.00
	1/10	1/13	Thailand		471.00						471.00
	1/13	1/16	Turkey		423.00						423.00
	1/16	1/18	Spain		375.00						375.00
Military transportation							3,191.12				3,191.12
Commercial transportation							960.00				960.00
Total					3,732.00		11,210.32				14,942.32

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

PETER ROBINSON, Apr. 30, 1989.
KEITH JEWELL, Apr. 30, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO BANGLADESH, INDIA, NEPAL, THAILAND, AND ENGLAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 6 AND JAN. 18, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Cindy Ball	1/6	1/7	Thailand		157.00						157.00
	1/7	1/10	Bangladesh		240.00						240.00
	1/10	1/12	India/Calcutta		117.00						117.00
	1/13	1/15	Nepal		112.50						112.50
	1/16	1/17	India/Delhi		100.00						100.00
	1/17	1/18	England		262.00						262.00
Greg DiMeglio	1/6	1/7	Thailand		157.00						157.00
	1/7	1/10	Bangladesh		240.00						240.00
	1/10	1/12	India/Calcutta		117.00						117.00
	1/13	1/15	Nepal		112.50						112.50
	1/16	1/17	India/Delhi		100.00						100.00
	1/17	1/18	England		262.00						262.00
Total					1,977.00						1,977.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MIKE SYNAR, Feb. 17, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO COSTA RICA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 5 AND FEB. 8, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Bob Livingston	2/5	2/7	Costa Rica	43,773.60	552.00					43,773.60	552.00
Hon. Ben Blaz	2/5	2/8	Costa Rica	43,773.60	552.00					43,773.60	552.00
Lisa Jordan	2/5	2/8	Costa Rica	43,773.60	552.00					43,773.60	552.00
Total					1,656.00						1,656.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES H. SCHEUER, Mar. 13, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO NORTH ATLANTIC ASSEMBLY IN PARIS, FRANCE AND BRUSSELS, BELGIUM, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 11 AND FEB. 16, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Peter Abbruzzese	2/11	2/14	France		651.00						
	2/14	2/16	Belgium		366.00						
Military transportation							3,133.36				4,150.36
Hon. Herbert Bateman	2/11	2/14	France		651.00						
	2/14	2/16	Belgium		366.00						
Military transportation							3,133.36				4,150.36
Hon. Douglas Bereuter	2/12	2/14	France		434.00						
	2/14	2/26	Belgium		366.00						
Military transportation							1,730.36				
Commercial transportation							1,340.00				3,870.36
Hon. Thomas Bliley	2/11	2/14	France		651.00						
	2/14	2/16	Belgium		366.00						
Military transportation							3,133.36				4,150.36
William Danvers	2/11	2/15	France		868.00						
	2/15	2/16	Belgium		186.00						
Military transportation							2,946.30				4,000.30
William Inglee	2/14	2/16	Belgium		366.00						
Military transportation							1,543.30				
Commercial transportation							1,084.00				2,993.30
Ronald Lasch	2/11	2/14	France		651.00						
	2/14	2/16	Belgium		366.00						
Military transportation							3,133.36				4,150.36
Nancy Mims	2/11	2/14	France		651.00						
	2/14	2/16	Belgium								
Military transportation							3,133.36				4,150.36
Susan Moos	2/11	2/14	France		651.00						
	2/14	2/16	Belgium		366.00						
Military transportation							3,133.36				4,150.36
Spencer Oliver	2/11	2/14	France		651.00						
	2/14	2/16	Belgium		366.00						
Military transportation							3,133.36				4,150.36
Hon. William Richardson	2/11	2/14	France		651.00						
	2/14	2/16	Belgium		366.00						
Military transportation							3,133.36				4,150.36
Hon. Charlie Rose	2/11	2/14	France		651.00						
Military transportation							1,403.00				
Arch Roberts	2/11	2/14	France		651.00						2,054.00
	2/14	2/16	Belgium		366.00						
Military transportation							3,133.36				4,150.36
Hon. Gerald Solomon	2/11	2/14	France		651.00						
	2/14	2/16	Belgium		366.00						
Military transportation							3,133.36				4,150.36
Josephine Weber	2/11	2/14	France		651.00						
	2/14	2/16	Belgium		366.00						4,150.36
Military transportation							3,133.36				
Total					14,058.00		44,513.92				58,571.92

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHARLIE ROSE,

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO TOKYO, JAPAN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 23 AND FEB. 26, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Thomas S. Foley	2/23	2/26	Japan		888.00		3,341.29				4,229.29
Hon. Patricia F. Saiki	2/23	2/26	Japan		888.00		3,341.29				4,229.29
Total					1,776.00		6,682.58				8,458.58

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

THOMAS S. FOLEY, May 16, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO QUITO, ECUADOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 1 AND MAR. 4, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Charles B. Rangel	3/1	3/4	Ecuador		375.00		34.00		34.00		443.00
Military transportation							5,380.00				5,380.00
Hon. Benjamin A. Gilman	3/1	3/4	Ecuador		375.00		34.00		34.00		443.00
Military transportation							5,380.00				5,380.00
Hon. Solomon Ortiz	3/1	3/4	Ecuador		375.00		34.00		34.00		443.00
Military transportation							5,380.00				5,380.00
Hon. James M. Inhofe	3/1	3/4	Ecuador		375.00		34.00		34.00		443.00
Military transportation							5,380.00				5,380.00
Edward H. Jurith	3/1	3/4	Ecuador		375.00		34.00		34.00		443.00
Military transportation							5,380.00				5,380.00
Elliott A. Brown	3/1	3/4	Ecuador		375.00		34.00		34.00		443.00
Military transportation							5,380.00				5,380.00
Rebecca L. Hedlund	3/1	3/4	Ecuador		375.00		34.00		34.00		443.00
Military transportation							5,380.00				5,380.00
Richard Baum	3/1	3/4	Ecuador		375.00		34.00		34.00		443.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO QUITO, ECUADOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 1 AND MAR. 4, 1989—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Military transportation							5,380.00				5,380.00
Rita Kardeman	3/1	3/4	Ecuador		375.00		34.00		34.00		443.00
Military transportation							5,380.00				5,380.00
Total					3,375.00		48,726.00				52,407.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHARLES B. RANGEL, Apr. 4, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. EDWARD NEWBERRY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 4 AND JAN. 12, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Edward J. Newberry	1/5	1/8	Sudan								0
	1/8	1/9	Ethiopia								0
	1/9	1/12	Kenya	8,451.95	459.00					8,451.95	459.00
Commercial air cost							3,739.00				3,739.00
Total					459.00		3,739.00				4,198.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

EDWARD J. NEWBERRY, Feb. 13, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. DONALD M. PAYNE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 10 AND JAN. 15, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Donald M. Payne	1/10	1/12	Zambia	4,809.26	488.25					4,809.26	488.25
	1/12	1/13	Malawi	340.00	133.00					340.00	133.00
	1/13	1/14	Zimbabwe	256.76	131.00					256.76	131.00
	1/14	1/15	Nigeria	1,161.00	135.00					1,161.00	135.00
Total					887.25						887.25

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DONALD M. PAYNE, Feb. 10, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. CHARLES RANGEL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 9 AND 15, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Charles B. Rangel	1/10	1/12	Zambia	4,809.26	488.25					4,809.26	488.25
	1/12	1/13	Malawi	340	133.00					340	133.00
	1/13	1/14	Zimbabwe	256.76	131.00					256.76	131.00
	1/14	1/15	Nigeria	1,161	135.00					1,161	135.00
Total					887.25						887.25

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHARLES B. RANGEL, Feb. 17, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. BRIAN FITZPATRICK, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 10 AND JAN. 16, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Brian Fitzpatrick	1/10	1/12	Zambia	4,809.26	488.25					4,809.26	488.25
	1/12	1/13	Malawi	340.00	133.00					340.00	133.00
	1/13	1/14	Zimbabwe	256.76	131.00					256.76	131.00
	1/14	1/15	Nigeria	1,161.00	135.00					1,161.00	135.00
Total					887.25						887.25

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BRIAN FITZPATRICK, Feb. 6, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DR. JAMES D. FORD, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 6 AND JAN. 17, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Dr. James D. Ford	1/6	1/12	France	8,100	1,350.00	233	38.83				
	1/12/	1/15	Sweden	4,695	750.00						
	1/15	1/17	Hungary	17,569.10	332.00						
Commercial transportation							4,447.40				
Total					2,432.00		4,486.23				6,918.23

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES D. FORD, Jan. 23, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. DAVID RAMAGE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 3 AND MAR. 4, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
David Ramage	3/3	3/4	Honduras		97.00		[3] 845.24				845.24
Total					97.00		845.24				942.24

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military (Army).

DAVID R. RAMAGE, Apr. 3, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO SAUDIA ARABIA, PAKISTAN, TURKEY AND GREECE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 23 AND APR. 1, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Beverly B. Byron, Hon. Lynn Martin, Hon. Barbara Kennelly, Hon. Elizabeth Patterson, Ms. Karen S. Heath, Mr. Peter M. Steffes, and Ms. Debra A. Law.	3/4	3/25	Saudi Arabia		94.50						94.50
	3/25	3/28	Pakistan		439.00						439.00
	3/28	3/31	Turkey		457.00						457.00
	3/31	4/1	Greece		125.00						125.00
Transportation via U.S. military aircraft							5,300.00			5,300.00	
Total					1,115.50		5,300.00				6,415.50

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BEVERLY B. BYRON, Apr. 19, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO BELGIUM, WEST GERMANY, FRANCE, AND ENGLAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 27 AND APR. 4, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Gloria F. Curry	3/27	3/28	Belgium	14,138	366.00		(3)				366.00
	3/29	3/31	West Germany	600.85	322.00		[4] 156.31		[5] 217.43		695.74
	3/31	4/2	France	2.764.58	434.00		[4] 61.86		[5] 56.96		552.82
	4/2	4/4	England	267.92	452.00		[4] 63.88		[5] 239.83		755.71
Jeanni Ferry	3/27	3/28	Belgium	14,138	366.00		(3)				366.00
	3/29	3/31	West Germany	600.85	322.00		[4] 156.31		[5] 217.43		695.74
	3/31	4/2	France	2.764.58	434.00		[4] 61.86		[5] 56.96		552.82
	4/2	4/4	England	267.92	452.00		[4] 63.88		[5]239.83		755.71
Total					3,148.00		564.10		1,028.44		4,740.54

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military transportation.
[4] Prorated share, ground transportation.
[5] Prorated share, miscellaneous expenses.

GLORIA CURRY, May 23, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PRESIDENTIAL DELEGATION TO FRANCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 7 AND JUNE 13, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
H. Clay Swanzy	6/7	6/13	France	8,047.68	1,186.97					8,047.68	1,186.97
Michael C. Lewis	6/7	6/13	France	8,047.68	1,186.97					8,047.68	1,186.97
Total					2,373.94						2,373.94

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

H. CLAY SWANZY, June 19, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO PARIS, FRANCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 17 AND JUNE 19, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Benjamin L. Cardin	6/17	6/19	France		404.00		10,262.00				10,666.00
Hon. Dennis E. Eckart	6/17	6/19	France		404.00		10,262.00				10,666.00
Total					808.00		20,524.00				21,332.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BENJAMIN L. CARDIN, Jan. 31, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. WERNER BRANDT, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 27 AND APR. 1, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Werner W. Brandt	3/27	4/1	Japan		1,480.00		2,537.00				4,017.00
Total					1,480.00		2,537.00				4,017.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

THOMAS S. FOLEY, May 16, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MRS. KIM MACK, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 24 AND APR. 1, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Kim Mack	3/24	3/27	Portugal		474.00						474.00
	3/27	3/30	Greece		432.00						432.00
	3/30	3/31	Cyprus		144.00						144.00
	3/31	4/1			125.00						125.00
Military transportation							3,481.00				3,481.00
Total					1,175.00		3,481.00				4,656.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KIM MACK, May 11, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. DONNALD K. ANDERSON, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 23 AND APR. 2, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Donnald K. Anderson	3/23	3/26	Morocco	5,995.60	709.00						709.00
	3/26	3/29	Hungary	18,891.50	332.00						332.00
	3/29	4/02	Germany	1,502.36	802.00						802.00
Military Transportation							6,594.84				6,594.84
Total					1,843.00		6,594.84				8,437.84

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DONNALD K. ANDERSON, Apr. 25, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. NANCY PANZKE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 22 AND APR. 2, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Nancy A. Panzke	3/23	3/26	Morocco	5,995.60	709.00					5,995.60	709.00
	3/26	3/29	Hungary	18,891.50	332.00					18,891.50	332.00
	3/29	4/02	West Germany	1,502.36	802.00					1,502.36	802.00
Military transportation							6,594.84				6,594.84
Total					1,843.00		6,594.84				8,437.84

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

NANCY A. PANZKE, Apr. 25, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. BALBEER K. SIHRA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 26 AND APR. 4, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Balbeer K. Sihra	3/26	3/29	Kenya		300.00						300.00
	3/29	4/2	Ethiopia		676.00						676.00
	4/2	4/4	Sudan		600.00						600.00
							5,459.00				5,459.00
Total					1,576.00		5,459.00				7,035.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BALBEER K. SIHRA, May 2, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. BILL ALEXANDER, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 3 AND APR. 5, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Bill Alexander	4/3	4/5	Guatemala		447.00		1,019.00				1,466.00
Total					447.00		1,019.00				1,466.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL ALEXANDER.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. ANN SCHONFIELD, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 24 AND APR. 7, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Ann Schonfield	3/24	3/25	West Germany		100.00		40.00		40.00		180.00
	3/25	3/29	Kenya		400.00				150.00		[3] 550.00
	3/29	4/1	Ethiopia		400.00				80.00		480.00
	4/4	4/4	Ethiopia								
	4/1	4/3	Sudan		500.00				100.00		600.00
	4/5	4/7	Israel		390.00						390.00
Total					1,790.00		40.00		370.00		2,200.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] U.S. Embassy-Nairobi has not yet sent a check for $200 unspent per diem.

Note: Returned $300 to U.S. Treasury via State Department, May 5, 1989.

ANN SCHONFIELD, May 5, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. THOMAS R. NIDES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 14 AND APR. 16, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Thomas R. Nides	4/14	4/16	Hungary		332.00		12,420.00		271.75		13,023.75
Total					332.00		12,420.00		271.75		13,023.75

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

THOMAS R. NIDES, Feb. 3, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. LOUISE M. SLAUGHTER, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 14 AND APR. 16, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Louise M. Slaughter	4/14	4/16	Hungary		332.00		[3]				332.00
Totals					332.00						332.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military travel costs not yet determined.

LOUISE M. SLAUGHTER, May 18, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. WILLIAM BINZEL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 1 AND MAY 8, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
William Binzel	5/2	5/8	People's Republic of China	3,653.30	984.00		2,054.00				3,038.00
Total					984.00		2,054.00				3,038.00

[1] Per deim constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is under enter amount expended.

WILLIAM BINZEL, Jurte 5, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. RAMIRO. E. PRUDENCIO, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 5, AND MAY 9 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Ramiro E. Prudencio	5/5	5/6	El Salvador	550	86.00						86.00
	5/6	5/8	Panama		232.00						232.00
	5/8	5/8	Nicaragua								
	5/8	5/9	Cuba		100.00						100.00
Total					418.00						418.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RAMIRO E. PRUDENCIO.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, CAPT. RICKEY L. STEPHENS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 20 AND MAY 26, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Rickey L. Stephens	5/20	5/26	England	700.25	[3] 1,130.00	1,883.25	[4] 3,039.00			2,584.50	4,169.00
Total					1,130.00		3,039.00				4,169.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Lodging, meals and local transportation.
[4] R/T commercial airline from Washington, DC, to England and return.

RICKEY L. STEPHENS, June 27, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. TOM REAGAN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 28 AND JUNE 3, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Tom Reagan	5/28	5/30	West Germany	1,037.92	520.00						520.00
	5/30	6/2	France	4,335.66	651.00						651.00
	6/2	6/3	Belgium	5,194.00	125.00						125.00
Military transportation							2,520.00				2,520.00
Total					1,296.00		2,520.00				3,816.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

TOM REAGAN, July 17, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. ANGELA MILAZZO, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 8 AND JUNE 13, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Angela Milazzo	6/8	6/13	France	6,706.40	1,010.00		1,899.00			6,706.40	2,909.00
Total					1,010.00		1,899.00				2,909.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ANGELA MILAZZO, July 12, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO EGYPT, ISRAEL, ITALY AND THE UNITED KINGDOM, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 29 AND JULY 9, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
William H. Gray III	6/30	7/2	Egypt	(3)	(3)				79.93	(3)	(3)
	7/2	7/4	Israel	(3)	(3)				81.98	(3)	(3)
	7/4	7/6	Italy	(3)	(3)				80.74	(3)	(3)
	7/6	7/8	United Kingdom	(3)	(3)				142.17	(3)	(3)
Transportation				(3)	(3)		6722.04			(3)	(3)
Lynn Martin	6/30	7/2	Egypt	(3)	(3)				79.93	(3)	(3)
	7/2	7/4	Israel	(3)	(3)				81.98	(3)	(3)
	7/4	7/6	Italy	(3)	(3)				80.74	(3)	(3)
	7/6	7/9	United Kingdom	(3)	(3)				142.17	(3)	(3)
Transportation				(3)	(3)		6722.04			(3)	(3)
Hon. William Clay	6/30	7/2	Egypt	(3)	(3)				79.93	(3)	(3)
	7/2	7/4	Israel	(3)	(3)				81.98	(3)	(3)
	7/4	7/6	Italy	(3)	(3)				80.74	(3)	(3)
	7/6	7/9	United Kingdom	(3)	(3)				142.17	(3)	(3)
Transportation				(3)	(3)		6722.04			(3)	(3)
Hon. Edolphus Towns	6/30	7/2	Egypt	(3)	(3)				79.93	(3)	(3)
	7/2	7/4	Israel	(3)	(3)				81.98	(3)	(3)
	7/4	7/6	Italy	(3)	(3)				80.74	(3)	(3)
	7/6	7/9	United Kingdom	(3)	(3)				142.17	(3)	(3)
Transportation				(3)	(3)		6722.04			(3)	(3)
Hon. Owen B. Pickett	6/30	7/2	Egypt	(3)	(3)				79.93	(3)	(3)
	7/2	7/4	Israel	(3)	(3)				81.98	(3)	(3)
	7/4	7/6	Italy	(3)	(3)				80.74	(3)	(3)
	7/6	7/9	United Kingdom	(3)	(3)				142.17	(3)	(3)
Transportation				(3)	(3)		6722.04			(3)	(3)
Hon. Michael McNulty	6/30	7/2	Egypt	(3)	(3)				79.93	(3)	(3)
	7/2	7/4	Israel	(3)	(3)				91.98	(3)	(3)
	7/4	7/6	Italy	(3)	(3)				80.74	(3)	(3)
	7/6	7/9	United Kingdom	(3)	(3)				142.17	(3)	(3)
Transportation				(3)	(3)		6722.04			(3)	(3)
Hon. Nita M. Lowey	6/30	7/2	Egypt	(3)	(3)				79.93	(3)	(3)
	7/2	7/4	Israel	(3)	(3)				81.98	(3)	(3)
	7/4	7/6	Italy	(3)	(3)				80.74	(3)	(3)
	7/6	7/9	United Kingdom	(3)	(3)				142.17	(3)	(3)
Transportation				(3)	(3)		6722.04			(3)	(3)
Hon. Steven G. Murphy	6/30	7/2	Egypt	(3)	(3)				79.93	(3)	(3)
	7/2	7/4	Israel	(3)	(3)				81.98	(3)	(3)
	7/4	7/6	Italy	(3)	(3)				80.74	(3)	(3)
	7/6	7/9	United Kingdom	(3)	(3)				142.17	(3)	(3)
Transportation				(3)	(3)		6722.04			(3)	(3)
Hon. Charles B. Rangel	6/30	7/2	Egypt	(3)	(3)				79.93	(3)	(3)
	7/2	7/4	Israel	(3)	(3)				81.98	(3)	(3)
	7/4	7/6	Italy	(3)	(3)				80.74	(3)	(3)
	7/6	7/9	United Kingdom	(3)	(3)				142.17	(3)	(3)
Transportation				(3)	(3)		6722.04			(3)	(3)
Hon. Norm Dicks	6/30	7/2	Egypt	(3)	(3)				79.93	(3)	(3)
	7/2	7/4	Israel	(3)	(3)				81.98	(3)	(3)
	7/4	7/6	Italy	(3)	(3)				80.74	(3)	(3)
	7/6	7/9	United Kingdom	(3)	(3)				142.17	(3)	(3)
Transportation				(3)	(3)		6722.04			(3)	(3)
Hon. Ted Weiss	6/30	7/2	Egypt	(3)	(3)				79.93	(3)	(3)
	7/2	7/4	Israel	(3)	(3)				81.98	(3)	(3)
	7/4	7/6	Italy	(3)	(3)				80.74	(3)	(3)
	7/6	7/9	United Kingdom	(3)	(3)				142.17	(3)	(3)
Transportation				(3)	(3)		6722.04			(3)	(3)
Hon. Beverly Byron	6/30	7/2	Egypt	(3)	(3)				79.93	(3)	(3)

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO EGYPT, ISRAEL, ITALY AND THE UNITED KINGDOM, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 29 AND JULY 9, 1989—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	7/2	7/4	Israel	([3])	([3])				81.98	([3])	([3])
	7/4	7/6	Italy	([3])	([3])				80.74	([3])	([3])
	7/6	7/9	United Kingdom	([3])	([3])				142.17	([3])	([3])
Transportation				([3])	([3])		6722.04			([3])	([3])
Hon. William Clinger	6/30	7/2	Egypt	([3])	([3])				79.93	([3])	([3])
	7/2	7/4	Israel	([3])	([3])				81.98	([3])	([3])
	7/4	7/6	Italy	([3])	([3])				80.74	([3])	([3])
	7/6	7/9	United Kingdom	([3])	([3])				142.17	([3])	([3])
Transportation				([3])	([3])		6722.04			([3])	([3])
Hon. Ronald D. Coleman	6/30	7/2	Egypt	([3])	([3])				79.93	([3])	([3])
	7/2	7/4	Israel	([3])	([3])				81.98	([3])	([3])
	7/4	7/6	Italy	([3])	([3])				80.74	([3])	([3])
	7/6	7/9	United Kingdom	([3])	([3])				142.17	([3])	([3])
Transportation				([3])	([3])		6722.04			([3])	([3])
Total				([3])	([3])		141,162.90		8,081.25	([3])	([3])

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Not yet available.

WILLIAM H. GRAY III, Aug. 8, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ETHIOPIA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 9 AND AUG. 20, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Alan Wheat	8/9	8/10	England	130.90	208.00					130.90	208.00
	8/10	8/14	Ethiopia	425.42	676.00					425.42	676.00
	8/14	8/14	Airfare from Ethiopia			602.27	957.00			602.27	957.00
	8/14	8/15	Lodging in England	106.61	169.40					106.61	169.40
	8/15	8/15	Airfare from England			347.39	552.00			347.39	552.00
	8/19	8/21	Airfare to and From Houston				257.00				257.00
	8/19	8/20	Lodging in Houston		128.66						128.66
Hon. Gary Ackerman	8/9	8/10	England	130.90	208.00					130.90	208.00
Jack Russ	8/9	8/10	England	130.90	208.00					130.90	208.00
	8/10	8/14	Ethiopia	425.42	676.00					425.42	676.00
Hon. Gary Ackerman	8/10	8/14	Ethiopia	425.42	676.00					425.42	676.00
Jack Russ	8/14	8/14	Airfare from Ethiopia			602.27	957.00			602.27	957.00
	8/14	8/14	Lodging in England	106.61	169.40					106.61	169.40
Hon. Gary Ackerman	8/14	8/15	Lodging in England	106.61	169.40					106.61	169.40
Jack Russ	8/15	8/15	Airfare from England			347.39	552.00			347.39	552.00
Hon. Gary Ackerman	8/15	8/15	Airfare from England			347.39	552.00			347.39	552.00
Total					3,288.86		3,827.00				7,115.86

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ALAN WHEAT, Feb. 13, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE PHILIPPINES, INDONESIA, SINGAPORE, THAILAND, AND PORTUGAL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 14 AND AUG. 27, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Donnald K. Anderson	8/14	8/17	Philippines	9,555.84	423.00						423.00
	8/17	8/19	Indonesia	561,215	316.00			67.12	27.92		343.92
	8/19	8/21	Singapore	352	280.00						280.00
	8/21	8/24	Thailand	12,926	501.00						501.00
	8/24	8/27	Portugal	82,620	510.00						510.00
Military transportation							9,521.69				9,521.69
Keith Jewell	8/14	8/17	Philippines	9,555.84	423.00						423.00
	8/17	8/19	Indonesia	561,215	316.00			67.12	27.92		343.92
	8/19	8/21	Singapore	352	280.00						280.00
	8/21	8/24	Thailand	12,926	501.00						501.00
	8/24	8/27		82,620	510.00						510.00
Military transportation							9,521.69				9,521.69
Ronald Lasch	8/14	8/17	Philippines	9,555.84	423.00						423.00
	8/17	8/19	Indonesia	561,215	316.00			67.12	27.92		343.92
	8/19	8/21	Singapore	352	280.00						280.00
	8/21	8/24	Thailand	12,926	501.00						501.00
	8/24	8/27	Portugal	82,620	510.00						510.00
Military transportation							9,521.69				9,521.69
Total					6,090.00.00		28,565.07		83.76		34,738.83

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DONALD K. ANDERSON.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. KEVIN F. PETERSON, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 30 AND JULY 12, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Kevin F. Peterson	6/30	7/12	Ireland, Northern Ireland		2,190.00		1,409.00				3,599.00
Total					2.190.00		1,409.00				3,599.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KEVIN F. PETERSON, July 25, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. ANGELA MILAZZO, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 6 AND AUG. 15, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Angela Milazzo	8/6	8/9	Korea	400,200	600.00					400,200	600.00
	8/9	8/13	Thailand	17,081	668.00					17,081	668.00
	8/13	8/15	Hong Kong	3,278.10	420.00					3,278.10	420.00
Military aircraft—cost per person							4,137.65				4,137.65
Total					1,688.00		4,137.65				5,825.65

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ANGELA MILAZZO, Sept. 19, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. H. MARTIN LANCASTER, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 8 AND AUG. 24, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. H. Martin Lancaster	8/20	8/24	Switzerland		832.00		4,443.00				5,275.00
Total					832.00	4,443.00					5,275.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

H. MARTIN LANCASTER, Sept. 11, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. CYNTHIA GILLESPIE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 21 AND AUG. 31, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Cynthia D. Gillespie	8/21	8/26	Germany		777.75						775.75
	8/22	8/22	United Kingdom								
	8/26	8/29	Italy		618.00						618.00
	8/29	8/31	Belgium		380.00						380.00
Commercial transportation							4,795.12				4,795.12
U.S. military transportation							1,824.81				1,824.81
Total					1,775.75		6,619.93				8,395.68

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CYNTHIA D. GILLESPIE, Oct. 31, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN, MR. RANDALL SCHEUNEMANN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 8 AND SEPT. 10, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Randall Scheunemann	9/8	9/9	Panama		206.00						206.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN, MR. RANDALL SCHEUNEMANN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 8 AND SEPT. 10, 1989—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	9/9	9/10	Nicaragua		206.00						
Total					206.00						206.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RANDALL SCHEUNEMANN, Oct. 9, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO NICARAGUA, HONDURAS AND COSTA RICA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 29 AND OCT. 2, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Byron L. Dorgan	9/29	9/29	Nicaragua								
	9/29	10/1	Honduras								
	10/1	10/2	Costa Rica								
U.S. military transportation							3,929.60				3,929.60
Hon. Richard J. Durbin	9/29	9/29	Nicaragua								
	9/29	10/1	Honduras								
	10/1	10/2	Costa Rica								
U.S. military transportation							3,929.60				3,929.60
Hon. Timothy J. Penny	9/29	9/29	Nicaragua								
	9/29	10/1	Honduras								
	10/1	10/2	Costa Rica								
U.S. military transportation							3,929.60				3,929.60
Hon. Gerald D. Kleczka	9/29	9/29	Nicaragua								
	9/29	10/1	Honduras								
	10/1	10/2	Costa Rica								
U.S. military transportation							3,929.60				3,929.60
Anthony Gambino	9/29	9/29	Nicaragua								
	9/29	10/1	Honduras								
	10/1	10/2	Costa Rica								
U.S. military transportation							3,929.60				3,929.60
Robert Jackson	9/29	9/29	Nicaragua								
	9/29	10/1	Honduras								
	10/1	10/2	Costa Rica								
U.S. military transportation							3,929.60.				3,929.60
Douglas R.W. Norell	9/29	9/29	Nicaragua								
	9/29	10/1	Honduras								
	10/1	10/2	Costa Rica								
U.S. military transportation							3,929.60				3,929.60
Total							27,507.20				27,507.20

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
Note.—Per diem and other expenditures not available at time of filing.

BYRON L. DORGAN, Nov. 1, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO CENTRAL AMERICA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 27 AND OCT 30, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. John J. Rhodes III											
	10/27	10/28	Panama		306.00						306.00
	10/28	10/29	Nicaragua								
	10/29	10/30	El Salvador		127.00						127.00
Hon. Eni F.H. Faleomavaega	10/27	10/28	Panama		306.00						306.00
	10/28	10/29	Nicaragua								
	10/29	10/30	El Salvador		127.00						127.00
Total					866.00						866.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN J. RHODES III, Jan. 24, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO PANAMA AND NICARAGUA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 9 AND NOV. 12, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Don Sundquist and Hon. Craig Thomas	11/9	11/10	Panama	NA	[3] 206.00		[4] 23,853.90				
	11/10	11/12	Nicaragua								
Total					412.00		23,853.90				24,265.90

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Per person.
[4] Total flying hours for Codel Sundquist 11.1. Cost per flying hour $2,149. Reflects total cost for air transportation.
Note: John Miller, MC and Steven Schiff, MC also participated in this Codel, but were authorized by the Committees on Foreign Affairs and Government Operations respectively.

DON SUNDQUIST.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO BERLIN, WEST GERMANY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN DEC. 7 AND DEC. 8, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Benjamin L. Cardin	12/7	12/8	West Germany		382.00		8,816.00				9,198.00
Hon. Mike Espy	12/7	12/8	West Germany		382.00		8,816.00				9,198.00
Hon. Martin Frost	12/7	12/8	West Germany		382.00		8,816.00				9,198.00
Hon. E. Clay Shaw	12/7	12/8	West Germany		382.00		8,816.00				9,198.00
Hon. Larry Smith	12/7	12/8	West Germany		382.00		8,816.00				9,198.00
Keith Jewell	12/7	12/8	West Germany		382.00		8,816.00				9,198.00
Karin E. Johanson	12/7	12/8	West Germany		382.00		8,816.00				9,198.00
Total					2,674.00		61,712.00				64,386.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BENJAMIN L. CARDIN, Jan. 30, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO EAST BERLIN, POLAND AND HUNGARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN DEC. 14 AND DEC. 20, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Visit to East Berlin, Poland and Hungary, Dec. 14–20, 1989:											
Hon. Beverly B. Byron	12/14	12/16	East Berlin		423.00						432.00
	12/16	12/18	Poland		292.00						292.00
	12/18	12/20	Hungary		138.00						138.00
Hon. Barbara B. Kennelly	12/14	12/16	East Berlin		423.00						423.00
	12/16	12/18	Poland		292.00						292.00
	12/18	12/20	Hungary		138.00						138.00
Hon. Lynn Martin	12/14	12/16	East Berlin		423.00						423.00
	12/16	12/18	Poland		292.00						292.00
	12/18	12/20	Hungary		138.00						138.00
Mr. Henry J. Schweiter	12/14	12/16	East Berlin		423.00						423.00
	12/16	12/18	Poland		292.00						292.00
	12/18	12/20	Hungary		138.00						138.00
Total					3,412.00						3,412.00

[1] Per diem constitutes lodging and means.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. curency is used, enter amount expended.

BEVERLY B. BYRON, Jan. 31, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. KEITH JEWELL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 3 AND NOV. 4, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Keith Jewell	11/3	11/4	Panama		66.00						66.00
	11/4	11/4	Nicaragua								
Military transportation							3,377.00				3,377.00
Total					66.00		3,377.00				3,443.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KEITH JEWELL, Nov. 9, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO JAMAICA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 2 AND NOV. 6, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Ray A. Boyum	11/2	11/6	Jamaica	4,066.08	688.00		[3]				688.00
Marcia Stein	11/2	11/6	Jamaica	4,066.08	688.00		[3]				688.00
Total					1,376.00						1,376.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military transportation cost unknown at this time.

RAY A. BOYUM, Nov. 15, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. KEITH MORRISON, U.S. HOUSE OF REPRESENTATIVES, EXPENDED

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Visit to West Berlin, Czechoslovakia, and Germany, Dec. 8–15, 1989:											
Mr. Keith Morrison	12/8	12/12	West Berlin		423.00						423.00
	12/12	12/14	Czechoslovakia		292.00						292.00
	12/14	12/15	Germany		138.00						138.00
Commercial transportation							2,109.00				2,109.00
Total					853.00		2,109.00				2,962.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KEITH MORRISON, Dec. 19, 1989.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3342. A letter from the Comptroller of the Department of Defense, transmitting a report of three violations involving the improper use of appropriations which occurred in the Department of the Army, pursuant to 31 U.S.C. 1341(a)(1)(A); to the Committee on Appropriations.

3343. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize appropriations of $2.5 million to complete the renovation of the Guam Memorial Hospital; to the Committee on Interior and Insular Affairs.

3344. A letter from the Assistant Secretary for Conservation and Renewable Energy, Department of Energy, transmitting the 14th annual report of activities of the Geothermal Energy Coordination and Management Project for fiscal year 1989, pursuant to 30 U.S.C. 1162(a); to the Committee on Science, Space, and Technology.

3345. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the proposed use of a total of $3,200,000 in fiscal year 1987 and fiscal year 1990 Construction of Facilities funds for the design and construction associated with widening 2.5 miles of the Kennedy Parkway on the Kennedy Space Center; to the Committee on Science, Space, and Technology.

3346. A letter from the Secretary of Energy, transmitting a report on the Department of Energy's activities on technology transfer which includes highlights of significant accomplishments of the Department over the last 180 days, pursuant to Public Law 101-189, sec. 3133(c) (103 Stat. 1677); jointly to the Committees on Armed Services and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHEAT. Committee on Rules. House Resolution 408. Resolution providing for consideration of H.R. 4785, a bill to amend the Public Health Service Act to establish a program of grants to provide preventive health services with respect to acquired immune deficiency syndrome, and for other purposes (Rept. 101-528). Referred to the House Calendar.

Mr. FROST. Committee on Rules. House Resolution 409. Resolution providing for the consideration of H.R. 2567, a bill to authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming (Rept. 101-529). Referred to the House Calendar.

Ms. SLAUGHTER of New York. Committee on Rules. House Resolution 410. Resolution providing for the consideration of S. 280, an act to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System (Rept. 101-530). Referred to the House Calendar.

Mr. ROE. Committee on Science, Space, and Technology. H.R. 2152. A bill to reinvigorate cooperation between the United States and Latin America in science and technology; with an amendment (Rept. 101-531). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE. Committee on Science, Space, and Technology. Senate Joint Resolution 75. Joint Resolution, relating to NASA and the International Space Year; with — amendments (Rept. 101-532, Pt. 1). Ordered to be printed.

Mr. MONTGOMERY. Committee on Veterans' Affairs. H.R. 4088. A bill to amend title 38, United States Code, with respect to veterans recruitment appointments; with an amendment (Rept. 101-533). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY. Committee on Veterans' Affairs. H.R. 4390. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make grants (in conjunction with the Secretary of Defense) for the establishment of research centers at qualifying medical schools to carry out medical research in areas of interest to the Department of Veterans Affairs (Rept. 101-534). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

S. 280. The Committee on Merchant Marine and Fisheries discharged from fur-

ther consideration of S. 280; S. 280 referred to the Committee on the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ROS-LEHTINEN (for herself, Mr. FASCELL, Mr. LEHMAN of Florida, and Mr. SMITH of Florida):

H.R. 4985. A bill to designate the Federal building located at 51 Southwest 1st Avenue in Miami, FL, as the "Claude Pepper Federal Building"; to the Committee on Public Works and Transportation.

By Mr. OBERSTAR (for himself, Mr. ANDERSON, Mr. HAMMERSCHMIDT, and Mr. CLINGER):

H.R. 4986. A bill to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1991 and 1992, to improve aviation safety and capacity, to reduce the surplus in the Airport and Airway Trust Fund, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. DORGAN of North Dakota:

H.R. 4987. A bill to encourage Indian economic development; jointly, to the Committees on Ways and Means and Interior and Insular Affairs.

By Mr. ENGLISH:

H.R. 4988. A bill to amend the Rural Electrification Act of 1936 to increase the per diem rate for members of the board of directors of the Rural Telephone Bank; to the Committee on Agriculture.

By Mr. HERTEL:

H.R. 4989. A bill to award a congressional gold medal to Jane Henson, the widow of Jim Henson; to the Committee on Banking, Finance and Urban Affairs.

By Mr. NEAL of North Carolina (for himself, Mr. ANNUNZIO, Mr. KENNEDY, Mrs. PATTERSON, Mr. KLECZKA, Mr. VENTO, Mr. BARNARD, Mr. SCHUMER, Mr. FRANK, Mr. MCDERMOTT, Mr. FLAKE, Ms. PELOSI, Mr. KANJORSKI, Mr. PRICE, Mr. CARPER, Mr. FAUNTROY, Mr. HUBBARD, Mr. ENGEL, Mr. ERDREICH, Mr. GONZALEZ, Mr. TORRES, Mr. HOAGLAND, Mr. LAFALCE, Mr. MORRISON of Connecticut, Mr. LEHMAN of California, Mr. NELSON of Florida, Mr. MFUME, Mr. MCMILLEN of Maryland, Mr. NEAL of Massachusetts, Mr. HILER, Mr. DWYER of New Jersey, Mrs. ROUKEMA, Ms. OAKAR, Mr. JOHNSTON of Florida, Mr. MCCANDLESS, Mr. DIXON, Mr. GEPHARDT):

H.R. 4990. A bill to require the Attorney General of the United States to promptly increase activity with respect to the criminal referrals involving savings associations which are pending before the Department of Justice, to require quarterly apperances by the Attorney General before committees of the Congress to report on progress being made in investigating and prosecuting cases involving fraud and embezzlement in savings associations, and for other purposes; jointly, to the Committees on the Judiciary and Banking, Finance and Urban Affairs.

By Mr. LAFALCE:

H.R. 4991. A bill to authorize the refinancing of certain small business debentures, and for other purposes; to the Committee on Small Business.

By Mr. MINETA:

H.R. 4992. A bill to amend the Public Health Service Act to establish programs regarding the health of individuals of Asian or Pacific Island ancestry, and for other purposes; to the Committee on Eenrgy and Commerce.

By Mr. RANGEL (for himself, Mr. ARCHER, Mr. VANDER JAGT, Mr. SCHULZE, Mr. FORD of Tennessee, Mr. GUARINI, Mrs. KENNELLY, Mr. COYNE, Mr. ANDREWS, Mr. THOMAS of California, Mr. MCGRATH, Mr. BROWN of Colorado, Mr. CHANDLER, Mr. SHAW, Mr. SUNDQUIST and Mrs. JOHNSON of Connecticut):

H.R. 4993. A bill to amend the Internal Revneue Code of 1986 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investments, and for other purposes; jointly, to the Committees on Ways and Means Banking, Finance and Urban Affairs, and the Judiciary.

By Ms. SLAUGHTER of New York (for herself, Mr. DOWNEY, and Mr. GAYDOS):

H.R. 4994. A bill to amend the Older Americans Act of 1965 to authorize additional appropriations for counseling older individuals regarding Medicare benefits and health insurance; to the Committee on Education and Labor.

By Mr. SMITH of Florida (for himself, Mr. SCHUMER, Mr. WEBER, Mr. FRANK, Mr. FROST, Mr. LANTOS, Mr. CARDIN, Mr. GILMAN, Mrs. LOWEY of New York, Mr. SCHEUER, Mr. LEHMAN of Florida, Mr. ENGEL, Mr. SISISKY, Mr. ROSE, Mr. BILBRAY, Mr. WYDEN, Mr. HOCHBRUECKNER, Mr. BURTON of Indiana, Mr. SIKORSKI, Ms. ROS-LEHTINEN, Mr. ACKERMAN, Mr. MANTON, Mr. DOUGLAS, Mr. LENT, Mr. CRAIG, Mr. MORRISON of Connecticut, Mr. SAXTON, Mr. FEIGHAN, and Mr. WEISS):

H.R. 4995. A bill to declare that further negotiations between the United States and the Palestine Liberation Organization are prohibited by section 1302 of Public Law 99-83 because the Palestine Liberation Organization has failed to adhere to its renunciation of the use of terrorism; to the Committee on Foreign Affairs.

By Mr. SWIFT (for himself and Mr. THOMAS of California):

H.R. 4996. A bill to authorize appropriations for the Federal Election Commission for fiscal year 1991; to the Committee on House Administration.

By Mr. TAUKE (for himself and Mr. DORGAN of North Dakota):

H.R. 4997. A bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer; to the Committee on Public Works and Transportation.

By Mr. HAYES of Illinois (for himself, Mr. ACKERMAN, Mr. BILBRAY, Mr. BUSTAMANTE, Mr. CLAY, Mr. CONYERS, Mr. DARDEN, Mr. DELLUMS, Mr. DIXON, Mr. DYMALLY, Mr. FALEOMAVAEGA, Mr. FLAKE, Mr. FORD of Tennessee, Mr. FUSTER, Mr. GORDON, Mr. HAWKINS, Mr. HOYER, Mr. JACOBS, Mr. KENNEDY, Mr. LEVIN of Michigan, Ms. LONG, Mr. BENNETT, Mrs. BOXER, Mr. CARR, Mrs. COLLINS, Mr. CROCKETT, Mr. DEFAZIO, Mr. DE LUGO, Mr. DURBIN, Mr. ESPY, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. FRANK, Mr. GONZALEZ, Mr. GRAY, Mr. HORTON, Mr. HUGHES, Mr. JONTZ, Mr. KILDEE, Mr. LEWIS of Georgia, Mr. THOMAS A. LUKEN, Mr. MANTON, Mr. MATSUI, Mr. MCDERMOTT, Mr. MCNULTY, Mr. MILLER of California, Mr. MRAZEK, Mr. NEAL of North Carolina, Mr. OBERSTAR, Mr. PALLONE, Mr. PAYNE of New Jersey, Mr. RANGEL, Mr. ROBINSON, Mr. ROWLAND of Connecticut, Mr. SKELTON, Mr. STALLINGS, Mr. TALLON, Mr. TRAXLER, Mr. WALSH, Mr. WHEAT, Mrs. MARTIN of Illinois, Mr. MAZZOLI, Mr. MCMILLEN of Maryland, Mr. MFUME, Mrs. MORELLA, Mr. NAGLE, Ms. OAKAR, Mr. OWENS of New York, Mrs. PATTERSON, Ms. PELOSI, Mr. RICHARDSON, Mr. ROE, Mr. SAVAGE, Ms. SLAUGHTER of New York, Mr. STOKES, Mr. TOWNS, Mrs. UNSOELD, Mr. WASHINGTON, and Mr. FROST):

H.J. Res. 588. Joint resolution designating the week in 1990 which coincides with the first visit of Nelson Mandela to the United States after his release from prison in South Africa as "South African Freedom Week"; to the Committee on Post Office and Civil Service.

By Mr. MINETA (for himself, Mr. CONTE, and Mr. WHITTEN):

H.J. Res. 589. Joint resolution to provide for the appointment of Ira Michael Heyman of California as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

By Mr. RANGEL:

H.J. Res. 590. Joint resolution to authorize and request the President to proclaim July 6, 1990, as Louis "Satchmo" Armstrong Day; a day to observe and commemorate the 90th anniversary of his birth; to the Committee on Post Office and Civil Service.

By Mr. SMITH of Florida (for himself, Mr. ACKERMAN, Mr. ANNUNZIO, Mr. BAKER, Mr. BALLENGER, Mrs. BENTLEY, Mr. BLILEY, Mr. BUECHNER, Mr. CHAPMAN, Mr. CLARKE, Mr. COLEMAN of Missouri, Mr. CROCKETT, Mr. DOWNEY, Mr. DWYER of New Jersey, Mr. EMERSON, Mr. FALEOMAVAEGA, Mr. FASCELL, Mr. FAUNTROY, Mr. GALLEGLY, Mr. HARRIS, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HORTON, Mr. HUTTO, Mr. HUGHES, Mr. HYDE, Mr. KLECZKA, Mr. LEHMAN of Florida, Mr. MCDADE, Mr. MCDERMOTT, Mr. MCGRATH, Mr. MCNULTY, Mr. MACHTLEY, Mrs. MARTIN of Illinois, Mr. MARTINEZ, Mr. MILLER of Washington, Mr. MURPHY, Ms. OAKAR, Ms. PELOSI, Mr. PICKETT, Mr. RANGEL, Mr. RAY, Mr. RITTER, Mr. ROE, Ms. SLAUGHTER of New York, Mr. DENNY SMITH, Mr. SPENCE, Mr. STUMP, Mr. TALLON, Mr. TORRICELLI, Mr. TOWNS, Mr. VALENTINE, Mr. WHITTAKER, and Mr. YATES):

H.J. Res. 591. Joint resolution designating the third Sunday of August of 1990 as "National Senior Citizens Day"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

429. By the SPEAKER: Memorial of the House of Representatives of the State of Hawaii, relative to urging support for the establishment of a compact between Pacific States and the Canadian Province of British Columbia to provide for future planning and protection of ocean resources which are of regional concern; to the Committee on Merchant Marine and Fisheries.

430. Also, memorial of the House of Representatives of the State of Hawaii, relative to a proposed veterans' hospital in Hawaii; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of April 3, 1990]

H.R. 3914: Mr. STEARNS.

[Submitted June 7, 1990]

H.R. 101: Mr. LEWIS of Georgia.

H.R. 118: Mr. HAMMERSCHMIDT.

H.R. 201: Mr. ROSE.

H.R. 303: Mr. LIGHTFOOT.

H.R. 463: Mr. HANCOCK.

H.R. 520: Mr. ROBINSON and Mr. JONTZ.

H.R. 521: Mr. ROBINSON, Mr. JONTZ, and Mrs. BYRON.

H.R. 522: Mr. ROBINSON, Mr. JONTZ, and Mrs. BYRON.

H.R. 523: Mr. ROBINSON, Mr. JONTZ, Mrs. BYRON, Mr. GEJDENSON, Mr. YATES, Mr. SAVAGE, and Mr. AUCOIN.

H.R. 673: Mr. SCHUETTE.

H.R. 1540: Mr. OBERSTAR and Mr. SCHEUER.

H.R. 1810: Ms. PELOSI and Mr. WALSH.

H.R. 2584: Mr. BILIRAKIS and Mr. SARPALIUS.

H.R. 3004: Mr. ROBINSON.

H.R. 3066: Mr. SAVAGE.

H.R. 3701: Mrs. MORELLA, Mr. HUTTO, and Mr. HORTON.

H.R. 3732: Mr. PARRIS, Mrs. SAIKI, and Mr. HOCHBRUECKNER.

H.R. 3768: Mr. COSTELLO.

H.R. 3785: Mr. CLINGER, Mr. GALLO, Mr. SCHUETTE, Mr. HOLLOWAY, Mr. DUNCAN, and Mr. BUSTAMANTE.

H.R. 3828: Mr. MARKEY.

H.R. 3914: Mr. BUNNING, Mr. MARLENEE, Mr. SCHEUER, and Mr. SCHAEFER.

H.R. 3922: Mr. HEFLEY.

H.R. 3957: Mr. DWYER of New Jersey.

H.R. 3977: Mr. STUDDS, Mr. HOCHBRUECKNER, Mr. RAVENEL, Ms. PELOSI, and Mr. TALLON.

H.R. 3986: Mr. BARNARD, Mr. SOLOMON, Mr. FROST, Mr. PARKER, Mr. MCDADE, Mr. DYMALLY, Mr. SCHUETTE, Mr. NEAL of North Carolina, Mrs. KENNELLY, Mr. DARDEN, Mr. MILLER of Ohio, Mr. KOSTMAYER, Mr. SAWYER, Mr. HASTERT, Mr. HAYES of Louisiana, Mr. KASICH, and Mr. NEAL of Massachusetts.

H.R. 3996: Mr. FUSTER, Mrs. JOHNSON of Connecticut, Mr. CRAIG, Mr. RANGEL, Mr. FROST, and Mr. ECKART.

H.R. 4088: Mr. MONTGOMERY, Mr. STUMP, Mr. APPLEGATE, Mr. HAMMERSCHMIDT, Mr. EVANS, Mr. WYLIE, Mr. STAGGERS, Mr. MCEWEN, Mr. ROWLAND of Georgia, Mr. BURTON of Indiana, Mr. STENHOLM, Mr. BILIRAKIS, Mr. HARRIS, Mr. RIDGE, Mr. KENNEDY, Mr. ROWLAND of Connecticut, Mrs. PATTERSON, Mr. SMITH of New Hampshire, Mr. JONTZ, Mr. JAMES, Mr. PAYNE of Virginia, Mr. STEARNS, Mr. MORRISON of Connecticut, Mr. PAXON, Mr. SANGMEISTER, Mr. PARKER, Mr. JONES of Georgia, Ms. LONG, Mr. GEREN, Mr. HOCHBRUECKNER, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, and Mr. RICHARDSON.

H.R. 4123: Mr. HOLLOWAY, Mr. ECKART, and Mr. MARKEY.

H.R. 4125: Mr. LANCASTER, Mr. NEAL of North Carolina, Mr. TOWNS, Mr. LEVINE of California, Mr. HUCKABY, Mr. MCMILLEN of Maryland, Mr. ECKART, Mr. ATKINS, and Mr. BUSTAMANTE.

H.R. 4213: Mr. SYNAR, Mr. DWYER of New Jersey, Mr. TOWNS, Mr. HUGHES, Mr. COLEMAN of Texas, Mr. MRAZEK, Mr. FOGLIETTA, Mr. SERRANO, Mr. TORRES, Mr. EDWARDS of California, Mr. EVANS, Mr. WHEAT, Mr. SCHEUER, Mr. FAZIO, Mr. VENTO, and Mr. STARK.

H.R. 4230: Mr. FROST.

H.R. 4250: Mr. COUGHLIN and Mr. GEKAS.

H.R. 4258: Mr. MRAZEK.

H.R. 4347: Mr. GOODLING.

H.R. 4390: Mr. MACHTLEY and Mr. DERRICK.

H.R. 4421: Mr. SMITH of Florida, Mr. KOSTMAYER, Mr. FROST, Mr. HUGHES, Mr. HYDE, and Mr. TOWNS.

H.R. 4475: Ms. KAPTUR, Mrs. JOHNSON of Connecticut, Mr. LEWIS of Georgia, Mr. HOLLOWAY, Mr. BEREUTER, Ms. SLAUGHTER of New York, Mr. BEVILL, Mr. NIELSON of Utah, Mr. COX, Mr. PRICE, Mrs. MARTIN of Illinois, Mrs. MORELLA, Mr. PALLONE, Ms. SCHNEIDER, Mr. ESPY, Mr. MINETA, Mr. MOLLOHAN, Mr. MARLENEE, Mr. HALL of Texas, Mr. HANCOCK, Mrs. LLOYD, Mr. WELDON, Mr. COOPER, Mr. LEATH of Texas, Mr. BOUCHER, Mr. CLEMENT, Mr. DICKINSON, Mr. LIGHTFOOT, Ms. ROS-LEHTINEN, and Mr. ROWLAND of Connecticut.

H.R. 4506: Mr. GREEN of New York, Mr. YATES, Mr. MOODY, and Mr. FEIGHAN.

H.R. 4516: Mr. MINETA, and Mr. TORRICELLI.

H.R. 4574: Mr. ENGEL.

H.R. 4661: Mr. PEASE.

H.R. 4711: Mr. BATES, Mr. BUSTAMANTE, Mr. SHAYS, Mr. BARTLETT, Mr. LIPINSKI, Mr. BATEMAN, Mr. ANTHONY, Mr. FAZIO, Mrs. BENTLEY, Mr. COUGHLIN, Mr. MILLER of California, Mr. ROE, and Mr. HORTON.

H.R. 4852: Mr. SPENCE and Mr. HUGHES.

H.R. 4866: Mr. DANNEMEYER, Mr. DORNAN of California, Mr. LEVINE of California, Mr. WALSH, Mr. SCHEUER, Mr. APPLEGATE, Mr. BRYANT, Mr. FRANK, and Mr. HORTON.

H.R. 4893: Mr. MCGRATH, Mr. BATES, Ms. PELOSI, and Mr. MORRISON of Connecticut.

H.R. 4894: Mr. NEAL of Massachusetts, Mr. FORD of Michigan, and Mr. MANTON.

H.R. 4931: Mr. VALENTINE and Mr. WEISS.

H.R. 4962: Mr. APPLEGATE, Mr. VISCLOSKY, Mr. SMITH of Florida, Mr. HUCKABY, Mr. FIELDS, Mr. DURBIN, Mr. MADIGAN, Mr. LEATH of Texas, Mr. HEFLEY, Mr. FALEOMAVAEGA, Mr. WALSH, Mr. RICHARDSON, Mr. LEWIS of Florida, and Mr. MINETA.

H.R. 4965: Mr. ROHRABACHER, Mr. JACOBS, Mr. PORTER, Mr. LEWIS of Georgia, Mr. DANNEMEYER, Mr. SYNAR, Mr. STOKES, Mr. WALGREN, Mr. OWENS of Utah, Mr. NIELSON of Utah, and Mrs. JOHNSON of Connecticut.

H.R. 4984: Mrs. SMITH of Nebraska, Mr. HENRY, Mr. GINGRICH, Mr. BURTON of Indiana, Mr. HAMMERSCHMIDT, Mr. CLINGER, Mr. CHANDLER, Mr. HOUGHTON, Mr. COUGHLIN, and Mr. MORRISON of Washington.

H.J. Res. 350: Ms. ROS-LEHTINEN.

H.J. Res. 409: Mr. BUSTAMANTE.

H.J. Res. 466: Mr. HUBBARD, Mr. OLIN, Mr. RICHARDSON, Mr. VOLKMER, Mr. VANDER JAGT, Mr. VENTO, Mr. THOMAS of Georgia, Mr. WISE, Mr. MCDERMOTT, Mr. BOSCO, Mr. KENNEDY, Mr. LIGHTFOOT, Ms. KAPTUR, Mr. DURBIN, Mr. BOEHLERT, Mr. BROOKS, Mr. LANCASTER, Mr. LEWIS of Florida, Mr. PACKARD, Mr. PRICE, Mr. SERRANO, Mr. TRAFICANT, Mr. ASPIN, Mr. BEVILL, Mr. BLAZ, Mr. BORSKI, Mr. BROWN of California, Mr. CALLAHAN, Mr. CLARKE, Mr. DAVIS, Mr. DE LUGO, Mr. FEIGHAN, Mr. COBLE, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. CONDIT, Mr. EDWARDS of Oklahoma, Mr. FORD of Michigan, Mr. GEPHARDT, Mr. SWIFT, Mr. SYNAR, Mr. TAUKE, Mr. TAUZIN, Mr. TAYLOR, Mr. THOMAS of Wyoming, Mr. THOMAS of California, Mrs. UNSOELD, Mr. VALENTINE, Mr. WALGREN, Mr. WALSH, Mr. WOLF, Mr. VISCLOSKY, Mr. WYDEN, Mr. SLATTERY, Mrs. PATTERSON, Mr. KANJORSKI, Mr. HUCKABY, Mr. HOAGLAND, Mr. GEJDENSON, Mr. EVANS, Mr. DYSON, Mr. DARDEN, Mr. CLEMENT, Mr. CHAPMAN, Mr. CAMPBELL of Colorado, Mr. BUSTAMANTE, Mr. BILBRAY, Mr. BROWDER, Mr. BRUCE, Mr. COSTELLO, Mr. DORGAN of North Dakota, Mr. JONES of Georgia, Mr. KLECZKA, Mr. SPRATT, Mr. STAGGERS, Mr. MCCOLLUM, Mr. BOUCHER, Mr. GRAY, Ms. OAKAR, Mr. ORTIZ, Mr. OWENS of Utah, Mr. PALLONE, Mr. PARKER, Mr. PASHAYAN, Mr. PAXON, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. PERKINS, Mr. PETRI, Mr. QUILLEN, Mr. REGULA, Mr. RHODES, Mr. RITTER, Mr. ROBERTS, Mr. ROE, Mr. ROGERS, Mr. ROHRABACHER, Mr. ROSE, Mr. ROTH, Mr. ROWLAND of Georgia, Mr. RUSSO, Mrs. SAIKI, Mr. SARPALIUS, Mr. SCHAEFER, Mr. SCHUETTE, Mr. SHUMWAY, Mr. SKEEN, Mr. SLAUGHTER of Virginia, Ms. SLAUGHTER of New York, Mr. SMITH of Texas, Mr. SMITH of New Hampshire, Mr. ROBERT F. SMITH, Mrs. SMITH of Nebraska, Mr. SOLARZ, Mr. SPENCE, Mr. STEARNS, Mr. STENHOLM, Mr. HAMMERSCHMIDT, Mr. HANSEN, Mr. HARRIS, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HEFLEY, Mr. HEFNER, Mr. HENRY, Mr. HERGER, Mr. HOPKINS, Mr. HORTON, Mr. HOUGHTON, Mr. HOYER, Mr. HUGHES, Mr. HYDE, Mr. JACOBS, Mr. JONTZ, Mr. KILDEE, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. LAUGHLIN, Mr. LEATH of Texas, Mr. LEVINE of California, Mr. LEWIS of California, Mr. LEWIS of Georgia, Ms. LONG, Mr. LOWERY of California, Mr. MCCANDLESS, Mr. MCCRERY, Mr. MCEWEN, Mr. MCHUGH, Mr. MCNULTY, Mr. MARLENEE, Mr. MATSUI, Mrs. MEYERS of Kansas, Mr. MORRISON of Washington, Mr. MYERS of Indiana, Mr. NEAL of Massachusetts, Mr. NIELSON of Utah, Mr. ANDERSON, Mr. ANTHONY, Mr. ATKINS, Mr. BARNARD, Mr. BARTLETT, Mr. BARTON of Texas, Mr. BATEMAN, Mrs. BENTLEY, Mr. BILIRAKIS, Mr. BLILEY, Mr. BONIOR, Mr. BROOMFIELD, Mr. BROWN of Colorado, Mr. BUECHNER, Mr. BUNNING, Mrs. BYRON, Mr. CARPER, Mr. CHANDLER, Mr. CLINGER, Mr. COOPER, Mr. CRANE, Mr. DEFAZIO, Mr. DELAY, Mr. DICKINSON, Mr. DICKS, Mr. DIXON, Mr. DORNAN of California, Mr. DOUGLAS, Mr. EMERSON, Mr. ENGLISH, Mr. ESPY, Mr. FAZIO, Mr. FRENZEL, Mr. FUSTER, Mr. GALLO, Mr. GORDON, Mr. GRANDY, Mr. GRANT, Mr. HALL of Texas, Mr. HALL of Ohio, Mr. HATCHER, Mr. JOHNSON of South Dakota, Mr. MARTINEZ, Mr. MOORHEAD, Mr. NAGLE, Mr. PICKLE, Mr. PURSELL, Mr. RAY, Mr. TALLON, Mr. ACKERMAN, Mr. ALEXANDER, Mr. FAWELL, Mr. GUNDERSON, Mr. JENKINS, Mrs. KENNELLY, Mr. MCCLOSKEY, Mr. MANTON, Mr. MONTGOMERY, Mr. NEAL of North Carolina, Mr. OBERSTAR, Mr. RIDGE, Mr. SHARP, Mr. SKAGGS, Mr. SMITH of Florida, Mr. UDALL, and Mr. WHEAT.

H.J. Res. 507: Mr. MATSUI, Mr. TOWNS, Mr. SYNAR, Mr. HAMILTON, Mr. SABO, Mr. FISH, Mr. PALLONE, Ms. PELOSI, Mr. ROBERTS, Mr. SARPALIUS, Mr. FEIGHAN, Mr. CLINGER, Mr. FRANK, Mr. LEWIS of Florida, Mr. JONES of North Carolina, Mr. SUND-

QUIST, Mr. SKELTON, Mr. TRAXLER, Mr. BUSTAMANTE, and Mr. MAVROULES.

H.J. Res. 512: Mr. BONIOR, Mr. PRICE, Mr. STOKES, Mr. SCHUETTE, Mr. NEAL of Massachusetts, Mr. DE LUGO, Mr. FEIGHAN, Mr. FLIPPO, Mr. FUSTER, Mr. GEREN, Mr. GONZALEZ, Mr. GORDON, Mr. HALL of Ohio, Mr. HATCHER, Mr. HAWKINS, Mr. HAYES of Louisiana, Mr. HERTEL, Mr. HOYER, Mr. LEVIN of Michigan, Mr. JONES of North Carolina, Mr. FALEOMAVAEGA, Mr. KASTENMEIER, Mr. KOLTER, Mr. THOMAS A. LUKEN, Mr. MCCLOSKEY, Mr. MANTON, Mr. MATSUI, Mr. MAVROULES, Mr. MACHTLEY, Mr. YOUNG of Alaska, Mr. DORGAN of North Dakota, Mr. FAUNTROY, Mr. JONTZ, Mr. ALEXANDER, Mr. ASPIN, Mr. COYNE, Mr. FOGLIETTA, Mr. JACOBS, Mr. GUARINI, Mr. HUCKABY, Mr. GEJDENSON, Mr. FORD of Michigan, Mrs. VUCANOVICH, Mr. CRAIG, and Ms. SLAUGHTER of New York.

H.J. Res. 516: Mr. BARNARD, Mr. WYLIE, Mr. BRUCE, Mr. BUECHNER, Mr. DORGAN of North Dakota, Mr. HAYES of Louisiana, Mr. RHODES, Mr. SERRANO, Mr. ECKART, Ms. LONG, Mr. BROOMFIELD, Mr. COBLE, Mr. CHANDLER, Ms. SNOWE, Mr. GRANDY, Mr. PAXON, Mr. TAYLOR, Mrs. MARTIN of Illinois, Mr. MAZZOLI, Mr. JONES of Georgia, Mr. ROWLAND of Georgia, Mr. ATKINS, Mr. BATEMAN, Mr. CROCKETT, Mr. DORNAN of California, Mr. EVANS, Mr. LAUGHLIN, Mr. TORRICELLI, Mr. SOLARZ, Mr. HAMMERSCHMIDT, Mr. HERTEL, Mr. LAFALCE, Mr. PARRIS, Mr. RITTER, Mr. SKEEN, Mr. RAY, Mr. SMITH of Florida, Mr. MADIGAN, Mr. MICHEL, Mrs. UNSOELD, Mr. LENT, Mr. PORTER, Mr. MORRISON of Washington, and Mr. PARKER.

H.J. Res. 543: Mr. ANDERSON, Mr. SABO, and Mr. GALLEGLY.

H.J. Res. 570: Mr. MADIGAN, Mr. TOWNS, Mr. PARRIS, Mr. TANNER, Mr. SMITH of New Jersey, and Mr. SMITH OF VERMONT.

H.J. Res. 586: Mr. DANNEMEYER, Mr. DORNAN of California, Mr. WALSH, Mr. SCHEUER, Mr. APPLEGATE, Mr. BRYANT, and Mr. HORTON.

H. Con. Res. 17: Ms. SNOWE.

H. Con. Res. 128: Mr. CONDIT.

H. Con. Res. 246: Mr. MINETA, Mr. WALSH, and Mr. TAUKE.

H. Con. Res. 287: Mr. BROWN of California, Mr. YATES, Mr. DERRICK, Mr. KLECZKA, Mr. BUSTAMANTE, and Mr. THOMAS A. LUKEN.

H. Con. Res. 300: Mr. THOMAS A. LUKEN, Mr. MURTHA, Mr. ESPY, Mr. FLIPPO, Mr. GAYDOS, Mr. HUGHES, Mr. HUTTO, Mr. JENKINS, Mr. WILSON, and Mr. LAFALCE.

H. Con. Res. 333: Mr. MACHTLEY, Mr. KLECZKA, Mrs. KENNELLY, Mr. GILMAN, Mr. ANDERSON, Mr. HUTTO, Mr. MARLENEE, Mr. STOKES, Mr. OBERSTAR, and Mr. FASCELL.

H. Res. 134: Mr. BUSTAMANTE.

H. Res. 176: Mr. SCHUETTE.

H. Res. 387: Mr. FAWELL.

H. Res. 390: Mr. BRYANT, Mr. PENNY, Mr. KANJORSKI, Mr. LANCASTER, Mr. COSTELLO, Mr. RAHALL, and Mr. LIPINSKI.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3498: Mr. STARK.

H.R. 4641: Mr. SCHUETTE.

SENATE—*Thursday, June 7, 1990*

(Legislative day of Wednesday, April 18, 1990)

The Senate met at 10 a.m. on the expiration of the recess, and was called to order by the Honorable RICHARD BRYAN, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

We remember with gratitude, this morning as we pray, Keenen Peck, a young man from the staff of Senator KOHL, who died Wednesday night unexpectedly. We thank You, God, for his life, and we commend him to Your loving care.

And God shall wipe away all the tears from their eyes; and there shall be no more death, neither sorrow, nor crying, neither shall there be any more pain: for the former things are passed away. And he that sat upon the throne said, Behold, I make all things new. * * *—Revelation 21:4, 5.

Gracious Father, as we celebrated President Eisenhower's 100th birthday in the House Chamber and four decades of military achievements on the east steps, we were reminded of the glorious hope toward which all creation looks.

Mine eyes have seen the glory of the coming of the Lord;
He is trampling out the vintage where the grapes of wrath are stored;
He hath loosed the fateful lightning of His terrible swift sword;
His truth is marching on.
In the beauty of the lilies, Christ was born across the sea,
With a glory in His bosom that transfigures you and me;
As He died to make men holy, let us live to make men free,
While God is marching on.
Glory! glory, hallelujah!
Glory! glory, hallelujah!
Glory! glory, hallelujah!
Our God is marching on.

(First and fourth stanzas, "Mine Eyes Have Seen the Glory," Julia W. Howe, 1862.)

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 7, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BRYAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF SENATOR KOHL

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin [Mr. KOHL] is recognized.

DEATH OF KEENEN PECK

Mr. KOHL. It is my sad duty, Mr. President, to inform the Senate this morning of the death of one of my most prized staff assistants, Mr. Keenen Peck. He died early Wednesday morning in his sleep. He was a very special person, intelligent and charming and a hard worker; industrious; as effective as you could expect to find from any person with whom you ever worked. I and all the people with whom I work in my office, and I am sure many, many people around the Senate and the Hill, are going to feel very sad as they hear me talk and find out that Keenen Peck is no longer with us.

We will have a memorial service sometime next week at a time and date to be determined, and I ask leave to absent myself from the Senate tomorrow in order to attend his funeral in Chicago.

I thank the Chair.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

KEENEN PECK

Mr. MITCHELL. Mr. President, I wish to extend my personal sympathy and that of all Senators to the family of Mr. Peck and to Senator KOHL and members of his office. Obviously, it is always difficult when a loved one dies. It is especially difficult when it occurs in the youth of life, especially a life which held so much promise as that of Mr. Peck's. We all join with Senator KOHL and staff in extending our deepest regrets to Mr. Peck's family.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning following the time for the two leaders, there will be a period for morning business not to extend beyond 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The vote on the motion to invoke cloture on the crime bill will occur at 10:30 this morning, with the required live quorum having been waived by consent. Any Senators who wish to file second-degree amendments to the crime bill may do so up to 10:30 this morning. Should cloture be invoked on the crime bill, the Senate will then remain on that measure until final disposition. In the event cloture is not invoked, the Senate will resume consideration of S. 341, the blind air passengers bill.

I understand that the House is expected to act early today on the President's veto message on H.R. 2364, the Amtrak authorization bill. If the House acts to override, as it is expected to do, it is my intention to bring that matter before the Senate as soon as it is available, which in all likelihood will be sometime during the day today.

Therefore, Mr. President, for the information of Senators, in summary, the cloture vote will occur at 10:30. Depending upon the outcome of that vote, the Senate will then either be on the crime bill or the Blind Air Passengers Act. During today's session, the Senate could consider the President's veto message on the Amtrak authorization bill. Rollcall votes are likely to occur today and a late night session with many votes is likely.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time

and I reserve all of the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LINE-ITEM VETO

Mr. LOTT. Mr. President, yesterday I was quite amused, really amused, at the debate on the line-item veto. Senator after Senator came in and expressed horror at the idea that the President of the United States would have the line-item veto, that, oh my goodness, there is no telling what he would do with it. He might even help get spending down a little bit.

Is it a solution to the budget deficit problem? Absolutely not. It has never been advocated that way. But as the President knows, most Governors have this authority. I would think that they do not abuse the authority of the line-item veto.

I remember also the fact that Presidents for 200 years, from Thomas Jefferson through Richard Nixon, had what was known as "impoundment." We start blaming the deficit on all kinds of things. Some of us would say it was the beginning of the Budget Impoundment Act of 1974, and that it has been downhill every day since.

Others would say it is the dastardly Gramm-Rudman-Hollings, that all these laws are not helping, but making things worse.

The problem is us. The enemy is us. The Congress needs to get its act together. I think we should give the President the line-item veto authority. I do not understand what the Congress is so afraid of. I realize that some future President, maybe some past Presidents, would have line-item vetoed something that I would like to have had in various bills. I have done that myself. I have had line items included. But you run that risk.

I really do not think Presidents would abuse that authority. I tell you this: I asked the Senators to check with their constituents and see what they have to say about the line-item veto. The next time you go to a civic club, you go to a farm bureau, go to a labor meeting, ask for a show of hands. Whether you are in South Carolina, Mississippi, wherever you are in this country, the people generally support this concept.

But the discussion naturally turns to the budget, and some of the problems with the budget. Various and sundry Senators here yesterday maintained that the President causes this problem, the President needs to lead, the President needs to solve this problem of the budget deficit.

Come on. Presidents did not have to submit budgets until a few years ago, and under a law—not under the Constitution. President Bush submitted a budget. The Congress kicked it out in the street, threw rocks at it, said forget that. Finally, the House passed an unbelievably irresponsible budget resolution. The Senate has not even acted. We are saying, "Come on Mr. President. We did not like the first one; give us another one."

What do you think the next one would be? The Congress would bash it again, because the President surely would not advocate more and more and more spending across the board on every front. The problem is here.

One perfect example, year after year Presidents unwisely say give us a supplemental, maybe $1 billion. What does Congress do? We give it to him, plus $3 billion. That is an example of what happens time after time after time.

The problem with the Federal budget deficit is the insatiable spending appetite by the Congress. I have heard this stuff for 10 years. I have been in budget negotiations; I was in the gang of 17. I know what happens. We get in there. Everybody first kind of dances around. Then they say, "Well, the solution is more taxes. That is what we need, more taxes."

Right now in budget negotiations, if you look at what they are really talking about, they are talking about taxes, they are talking about more cuts in defense. When you get through analyzing it, if the summiteers come up with $55 billion, I would be willing to wager that maybe $5 billion of it would be some reduction in actual spending—not very much though.

What is the problem with the budget deficit? We are projected next year to spend for the Federal Government, hear me now, $1.24 trillion. We are saying if we can find $55 billion in there, that we could reduce spending? I do not understand it. The problem is spending.

Always we say, give us more taxes. The record is clear. Every time we voted for more taxes, spending has gone up. It has gobbled up what we had in more revenue, plus some. This Member has been willing to vote for some of those things. I voted for TEFRA back in 1982 and 1983, and if I could take back one vote in the last 10 years, that is the one. I bought the deal.

I said if we are going to have all of these wonderful, lovely spending programs, many of which I support, we have to pay for them. I thought we had a deal. We were going to cut spending, raise some taxes. We got the taxes; we did not cut spending. I went along with it. I said we have to face this thing.

Frankly, my consistuency, which comes from the poorest State in the Nation, still believes we should have a balanced budget. What we need to do with the budget deficit is for this body to get started.

I tell you, if you look at what is in the budget resolution which the Senate has been talking about taking up right now, it is about a $17 billion increase over last year's spending level.

Mr. President, observing that no other Senators are presently seeking recognition, I ask unanimous consent that I be allowed to proceed for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. Mr. President, at a time when revenues are going up, estimated in this fiscal year to be $70 billion more than we had last year, with defense spending clearly being cut no telling how much—somewhere between $7 and $23 billion below what the President asked for—with those two lines occurring in the budget deficits, why in the world are we still going to have real significant increases in the deficit over the previous year? It makes no sense.

What is happening is we are spending additional revenue, we are spending the so-called peace dividend with more and more and bigger and bigger problems over the previous year. A lot of these programs are great programs. I acknowledged it time and time again. I think we need to spend more money on highways, on education, fighting drugs and the crime problem, which apparently this body does not want us to significantly debate and amend because we are trying and apparently are going to invoke cloture, when the Members of the Senate have over 200 amendments they want to offer on this important issue.

But no, no. We do not want to consider that. I say to my colleagues here this morning, fear not the line-item veto. It will not bite us. Quit pointing fingers at it. I have said this during the Presidencies of Republicans and

Democrats. Look at Jimmy Carter's budgets. Every one of them was a better budget than what the Congress passed, the Congress of his own party. The problem is here.

On this crime package, why in the world will we not allow Senators of both parties to step up and offer important, relevant, significant amendments on the most important issue facing this country today, crime, the criminal, the victims, society? I do not understand it.

But I do think, once again, that the problem is the Senate. Let us quit trying to put blame somewhere else.

Thank you, Mr. President.

Mr. GORTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

HONORING MR. EDWARD E. CARLSON

Mr. GORTON. Mr. President, for most of my distinguished colleagues who are not from the Pacific Northwest the mental image of my corner of the country is apt to be ill-defined. Perhaps the collective impression might include mountains, fir trees, and wide open spaces, all wrapped in the soft embrace of a gentle but constant rainfall.

But, Mr. President, and honored colleagues, were I to ask any of you to describe what you associate with Seattle specifically, your answer might well be more concrete. If you are like most Americans—indeed, like most people on Earth who are aware of Seattle at all—perhaps in your mind's eye now stands an image of our Space Needle, symbol of the 1962 World's Fair and of Seattle's coming of age.

But, as proud as we in Washington are of the Space Needle and its worldwide recognition, we have long known that the true symbol of the spirit of our region was the Space Needle's creator, Edward E. Carlson. Eddie died on April 3, 1990; we are greatly impoverished by his passing.

Eddie Carlson began life as a kid from the wrong side of the tracks whose first jobs were as a caddy and a bellboy. From that beginning, he became the creative and administrative genius behind the Seattle World's Fair; builder of the international chain of Westin hotels; the corporate savior of the financially embattled United Airlines. Yet, in eulogizing him, those of us who were privileged to know him and report after report in the media have concentrated on his open and friendly nature, his kindness, warmth, and generosity. His enormous accomplishments seem almost secondary to the man himself.

I have reflected on my own friendship with Eddie, and tried to think of how his private personality might have differed from his public image. The answer, perhaps more for Eddie than for anyone I have ever known, is that there was no difference. Eddie Carlson returned my phone calls long before I was a U.S. Senator. He treated me, and everyone, with respect and friendship, and inspired intense admiration from all whose lives he touched. Eddie Carlson as a friend was the same Eddie Carlson, the businessman and civic leader.

Those of us in the Northwest have lost a unique and beloved friend. Perhaps we will come to think of Eddie Carlson's Space Needle no longer as a symbol of the city of Seattle, but as a monument to the man who was himself its symbol.

On behalf of the Senate of the United States, I extend condolences to Nell Carlson, Eddie's wife of 53 years; to his son, Eugene Carlson; his daughter Jane Williams; and to the three grandchildren he left behind.

I ask unanimous consent to have printed in the RECORD an article from the Seattle Post-Intelligencer of Thursday, April 5, 1990. It gives a fuller account of the magnitude of our loss as a result of the death of Eddie Carlson.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Seattle Post-Intelligence, Apr. 5, 1990]

BELLBOY WHO ROSE TO TOP

(By Larry Werner)

Eddie Carlson was a former bellboy who punched the right buttons and rose to the top floor of success, with corporate power, civic respect and national honors.

But Carlson, 78, who died late Tuesday of cancer, was remembered yesterday by friends and family not so much for his galaxy of achievements but for his gentle caring manner. He never forgot the bellboys of the world and he didn't just "find" time for people. He made the time.

"Regardless of how high he went, he was always just a regular guy," said Kenny Hudson, a Westin Hotel bellman who began at the old Olympic 49 years ago. "He treated everybody just like they were regular workers, regular people, with respect."

Federal Appellate Judge Jerome Farris remembers many United Airlines flights, when Carlson was the top executive. When clerks and flight attendants would find that Farris was from Seattle, they'd ask if he knew Carlson.

"I'll never forget the warmth with which they inquired, the joy with which they remembered him," Farris said. "I'll bet there aren't many people who lead corporations who get to know their line workers that way."

Carlson was father of the 1962 Seattle World's Fair. He built a small string of regional hotels into the international Westin chain. And as chairman of United Airlines Co. in the 1970s, he led the financially battered airline back into black ink.

Edward E. Carlson, who shunned the formal in favor of "Eddie," was born in 1911 in Tacoma. Seventy-five years later, when Carlson was named to the U.S. Business Hall of Fame, he would tell Fortune magazine he had come "from a broken home on the wrong side of the tracks."

He was the oldest son of a Swedish father who worked as a streetcar motorman and of a mother whose family came from Eastern Canada. His parents, who had married as teen-agers, lived in quarrelsome poverty until they divorced. Carlson was then 14.

The family breakup thrust him into a series of part-time jobs to raise money to help support himself, mother and sister, and established what would become a lifetime pattern of hard work.

As a caddie at golf clubs in Seattle and Tacoma, Carlson was the poor boy who saw "impressive homes and . . . important business people who were in the news and who were nice to me."

As a first step toward becoming one of those important people, he enrolled at the University of Washington in 1928. Later caught up in business. Carlson never finished his university degree.

But he eventually did receive one of the university's highest honors—the degree of alumnus summa laude dignitatus." And as a regent, his constant concern was that the state's institutions of higher education receive adequate financial support.

To pay his tuition at the university, Carlson worked as a hotel bellboy and night clerk.

Three decades later, in 1960, he would become president of Western Hotels, when the company had 19 hotels, mostly in the Northwest. By 1970, Western International Hotels was a chain with 60 hotels in 13 countries.

But Carlson was just starting to turn the odds, along with a lot of heads, in the world of business.

At an age when many are planning for retirement, Carlson, at 59, undertook what became a legendary business turnaround.

The Western Hotel chain, though highly successful, had spent a lot of money to finance its rapid growth, and Carlson was concerned about a downturn. To stave it off, he negotiated a merger in 1970 between Western and UAL Inc., the holding company for the airline. (The hotel chain was renamed Westin in 1981.)

At the time, Carlson thought his principal role had ended. But just four months after the merger, UAL's new directors, unhappy with the performance of the previous chief executive officer, installed Carlson in his place.

Faced with recession, new competition and costs for a bulky fleet of jumbo planes, the airline had ended $46 million in the red in 1970, its worst loss ever to that time. Carlson knew virtually nothing about airlines. But he canceled United orders for more big planes, cut by one-sixth the airline's daily flights, and decentralized management to regional centers.

Within a year, the airline's red ink had dropped to $7 million and by 1974 it was reporting $86.3 million in profit on revenues of $2.2 billion.

The Carlson magic had reached a new pinnacle, but his ego never matched it.

"I had a big block of stock and they figured I'd work my fanny off to take care of that interest, which is pretty true," he told Fortune magazine, whose interview portrayed Carlson as "modestly resisting the notion that he saved United Airlines." However, the magazine added: "Let the facts speak for themselves."

The facts had spoken, as well, in another of Carlson's biggest life efforts—one any visitor, native or newcomer nearly always asso-

ciates with Seattle. It was the towering Space Needle of a city in love with a fair.

The 1962 Century 21 Exposition, attended by more than 9.6 million people from around the globe, was far more than a fair. It was the crowning accomplishment of a group of dreamers—Carlson among them—who wanted to put the city on the international map.

To Carlson, who was asked by Gov. Arthur B. Langlie to chair a committee to study the fair's feasibility, obstacles such as public skepticism, funding and lawsuits over land use were overshadowed by the visions.

Carlson put his hand to everything from hyping the fair across the country to seeking support from a joint session of the Legislature, for the creation of what is now the Pacific Science Center to soliciting financial support from business.

Perhaps no single success of the fair, which generated more than $10 million in admissions and ended in the black, inspired Carlson more than his brainchild, the Space Needle.

On May 26, 1961, when concrete began to pour into the 30-feet-deep excavation crisscrossed by 250 tons of reinforcing steel, Carlson could not help but cry a little. The fair had become one of his greatest accomplishments.

Buoyed by hope and enthusiasm, relentless in his drive, Carlson was always fond of saying that his was a story of the American way. Anyone who applied themselves could make it, even a poor kid from a broken home on the wrong side of the tracks.

UW President William Gerberding said Carlson "was powerful, not because he asserted himself in a domineering way, but just by force of character.

"He always asked questions about everything; he had this insatiable curiosity. He listened to people. He didn't have preconceived ideas, and when he took on an issue he surrounded it."

Carlson's son, Eugene, said his father was "an extremely organized guy. He was a born manager, and there was nothing helter-skelter about his approach to anything.

"I guess it's kind of a cliche to say he was an extraordinary family man, but he was. His family always came first. He didn't have a particularly happy family life as a child, and I think he vowed that it would be different for his children. He worked very hard at that."

The late Rabbi Raphael Levine noted in his 1985 book, "Profiles in Service," that Carlson "cares about people, and has managed to stay modest as well as friendly. He gratefully credits all with whom he has worked, and mentions luck as another factor in his success."

Carlson's career included managing the Rainier Club before World War II, serving as a lieutenant commander in the Navy during the war, and becoming assistant to the president of Western Hotels in 1946. He was a director of several banks and a half-dozen corporations, and also served on the boards of three hospitals and a number of social, cultural, philanthropic and other national organizations.

Carlson is survived by Nell, his wife of 53 years; son Eugene, a reporter for the Wall Street Journal; daughter Jane Williams, vice president of the Seattle Foundation; two grandsons and a granddaughter.

A memorial service will be conducted at 4 p.m. Saturday at St. Mark's Cathedral. The family suggests memorials to the Edward E. Carlson Endowment for Leadership at the UW.

Eugene Carlson described the endowment, established by his father last year, as a plan "to spark a new generation of civic leaders by exposing students to public service."

Mr. SYMMS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Idaho [Mr. SYMMS] is recognized.

A TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. SYMMS. Mr. President, I rise today to pay tribute to a colleague, sportsman, and fraternity brother, Senator QUENTIN BURDICK. June 28 marks Senator BURDICK's 30th year in the Senate, an event celebrated by only 35 other Senators in our Nation's history.

Senator BURDICK comes from a distinguished family which has represented North Dakota in the U.S. Congress for more than half the 100-year history of that State. When his father retired from 20 years of service in the U.S. House of Representatives in 1958, QUENTIN won that House seat. In 1960, he was elected to the Senate with the endorsement of the Democratic Non-Partisan League and he has sustained an impressive string of electoral victories since that time. Senator BURDICK has been instrumental in the success of the Democratic-NPL Party in North Dakota, which now controls the State's three congressional seats, as well as the State Senate and all but one statewide office.

It has been my privilege to serve with Senator BURDICK on the Senate Environment and Public Works Committee since I first came to this body in 1981. We both represent rural, Western States, and our constituents share many of the same interests relating to public works projects, including water resources and highways. As a result of these shared interests, we often find ourselves on the same side of the trenches. In 1987 Senator BURDICK became chairman of the Environment and Public Works Committee, providing excellent leadership to those of us who serve on the committee. I look forward to a continued good working relationship with my friend, the chairman, and I congratulate him on his remarkable tenure in this body.

TRIBUTE TO JEREMY BREAZEAL

Mr. SYMMS. Mr. President, I rise today to call support to a youngster from my State, Jeremy Breazeal. Jeremy, an eighth-grader from Lewiston, was one of 50 winners in the RespecTeen Speak For Yourself letter-writing contest. The letter-writing contest was part of the RespecTeen Speak For Yourself education program offered to social studies teachers nationwide in October 1989. The program encourages students to examine issues that affect their lives and teaches how they can play a role in government decisionmaking.

Jeremy set an example for other young people to follow by exercising his right to speak up and be heard. He wrote to Representative LARRY CRAIG on his concerns over current abortion issues. In his letter he did a fine job of defending his position on the controversial topic of "aborting by the pill." I ask unanimous consent that Jeremy's article be printed in the RECORD following my remarks, and I commend it to the attention of my colleagues.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LEWISTON ID, *February 1990.*

Representative LARRY CRAIG,
Longworth House Office, Washington, DC.

DEAR REPRESENTATIVE CRAIG: There are many issues which are of concern to people in today's world. One that I have been hearing a lot about and have developed an interest in is abortion. This issue concerns me because it is a life or death situation for an unborn baby.

A television poll was recently taken in Idaho asking the people whether they wanted our Legislative Branch to decide the issue or if the people themselves wanted to decide the morality and legality of abortion at the voting booths. The people of Idaho have said in an overwhelming majority to let us, the people of Idaho vote on it. I believe that if we were given the chance to vote, abortion, would be illegal here.

My opinion of the abortion issue is that it should be outlawed because I believe that life begins when the male cell, sperm, and the female cell, egg, are joined to form a zygote. I have no reference to back this information up, it is just my opinion. Not only do I think the operation form of abortion is wrong, but I also think the method used in France, swallowing 3 pills and getting a shot to abort the fetus, is also wrong.

Representative Craig, I pray that you would do everything in your power to keep the "abort by pill" method out of the United States and that you continue the fight against abortion.

Sincerely,

JEREMY W. BREAZEAL.

INAUGURATION OF PRESIDENT LEE TENG-HUI

Mr. SYMMS. Mr. President, I recently had the privilege of representing the President, along with Congressman JOHN PAUL HAMMERSCHMIDT, from Arkansas, and former Secretary of the Interior, Tom Kleppe, at the inauguration of President Lee Teng-hui in Taiwan. President Lee was elected by the National Assembly to the eighth presidential term of the Republic of China. While there, I had the privilege of attending President Lee's inaugural address, titled, "Opening a New Era for the Chinese People."

President Lee Teng-hui outlined in his address a multifaceted plan to guide the Republic of China toward achieving broader democratic institutions, continue their pursuit of human rights, actively invest more in social

welfare, and develop a comprehensive strategy to fulfill its international responsibilities.

The president confirmed his commitment to political democratization by calling for necessary revisions to portions of the Republic of China's Constitution, particularly matters concerning the parliamentary organs of the central government and the system of local government. Added to this commitment of democratic innovation, the president acknowledged the need for the institutionalization of party politics as well as implementing measures to ensure clean and fair elections. His call for fair competition among political parties and entrusting decisions to the will of the people clearly indicates his determination to bring greater plurality to the people of Taiwan.

President Lee declared as one of his highest priorities the need to ensure the well-being of the people. Social welfare innovations in the areas of public safety, living conditions, and care for the handicapped and aged will soon supplement existing institutions. He has also called for accelerated renovation of the judicial system, which will further strengthen these programs.

The Republic of China will continue its forty year record of continued growth of the economy and trade, as well as its successful pursuit of technological innovation and industrial upgrading. The United States has much to gain in a cooperative, mutually complementary relationship with the Republic of China, as history demonstrates.

As a member of the international community, the Republic of China has consistently recognized international standards of equality and reciprocity in its relationships with other countries. President Lee has promised they will continue to build upon these existing relationships by fulfilling their international trade responsibilities.

As the Republic of China undertakes the difficult task of strengthening their democratic form of government, we should encourage the progression of President Lee's bold proposals.

Mr. President, I believe it would be in the interest of all Senators to carefully read his inaugural address, and I ask unanimous consent that it be printed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OPENING A NEW ERA FOR THE CHINESE PEOPLE

(Inaugural Address, the Eighth President of the Republic of China, Lee Teng-hui, May 20, 1990)

My Dear Countrymen and Distinguished Guests: The eighth session of the National Assembly elected me, Lee Teng-hui, to the eighth presidential term of the Republic of China. Today I, together with Vice President Li Yuan-zu, will take my oath of office in accordance with the stipulations of our Constitution. The entire people have charged me with a solemn office. With such a heavy responsibility on my shoulders, I will naturally do my utmost to adhere to the terms of the presidential oath, devoting my full efforts to protecting the country and enhancing the welfare of the people.

A look at the current world situation reveals that we now find ourselves in a great era of rapid change. The pursuit of political democracy, economic liberalization, and world peace by all of humanity is now a raging, irresistible tide that will inevitably destroy the shackles of systems that refuse to change with the times and the stockades of closed, totalitarian ideologies. Accordingly, the international situation has progressed from antagonism to conciliation. We, the Chinese people, naturally cannot exclude ourselves from this massive tide. Rising up to take advantage of this opportunity and lay a comprehensive and lasting foundation for the future of the Chinese people is the common responsibility of the 1.2 billion Chinese at home and abroad. It is also the duty of the people on our bastion of national revival, civilian and military alike, to lead the way with great wisdom, determination, and solidarity, based on our many years of experience and achievements in implementing political democracy and an economy that benefits the people. Accepting the people's high expectations and trust in these extraordinary times, I feel the weight of my responsibility is multiplied many times over. I earnestly hope that all compatriots continue to offer your support and encouragement, so that over the coming six years of this presidential term, I can execute my duties to the fullest and fulfill the mission history has given us.

The Constitution of the Republic of China was drafted in accordance with the bequeathed teachings of our founding father, Dr. Sun Yat-sen. Its goal is to clearly delineate the distribution of power, and incorporate the strengths of China and the West to establish a sound democratic system. However, the process of drafting the Constitution involved many twists and turns and compromises. At the time it was first put into effect, the nation was embroiled in war and chaos. In view of these special circumstances, the Temporary Provisions Effective During the Period of Mobilization for the Suppression of the Communist Rebellion were enacted. For the past forty-some years, under the leadership of the late president Chiang Kai-shek and Chiang Ching-kuo, this painstakingly executed design has made an undeniable contribution to maintaining stability on our bastion of national revival, and creating the miracle of the "Taiwan experience." Nevertheless, with the changing domestic and international situation and the increasingly ardent desire of the people for democratic rule of law, the political environment of our bastion of national revival is not the same as in the past. Everybody now recognizes that normal development of a system of constitutional democracy is the only path to thoroughly implementing political democracy. Thus it is my hope that a termination of the Period of Mobilization for the Suppression of the Communist Rebellion can be declared, in accordance with the law, in the shortest possible period of time. Furthermore, based on the many years of experience we have accumulated in implementing our Constitution and on the needs arising from the current national environment, forward-looking and necessary revisions will be made to portions of the Constitution concerning such matters as the parliamentary organs of the central government, the system of local government, and government organization to provide the Chinese people with a legal code that is in accord with the trends of our times, and to establish a great model of political democracy for all times. This difficult task can not be achieved in a single leap. The government will, in full sincerity and a spirit of selflessness, solicit the suggestions of people of all walks of life and cautiously and actively work at this task, so that, with the participation and enouragement of the people, it can be completed within a period of two years.

Equally important as innovation in our system of constitutional government is the institutionalization of party politics. Fair competition among political parties and entrusting decisions to the will of the people are the best way to ensure thorough implementation of constitutional democracy. I have stressed on many occasions that we must invest our full efforts in building up our system and in cultivating a sound concept of the rule of law, so that all political activities can be carried out within the framework of the system, and operate according to the standards of the law. However, I also wish to emphasize that any responsible political proposition must have identification with the Republic of China as its premise, and the welfare of all the people as its basis. The government will accelerate renovation of the judicial system to solidify our foundation for the rule of law, make the civil service system sounder to raise administrative efficiency, and ensure clean elections so that outstanding members of society can achieve their goal of serving the people through a process of fair elections. If we proceed gradually, one step at a time, our system of party politics will naturally become sounder over time, our foundation of democracy will naturally become firmer, and the time when the country is well-governed and enjoys lasting stability will naturally be in sight.

We know that there is a mutually complementary and mutually reinforcing relationship between a prosperous economy and the development of political democracy. Because the Taiwan-Penghu-Kinmen-Matsu area has over the past forty years implemented a free economic system oriented toward enhancing the people's livelihood, it has a brilliant record of both rapid growth and equitable distribution of wealth. This fruit of the efforts of all the people has long been known throughout the world, and it has served to create a successful theory and model for all the developing countries of the world. Looking to the future, the government will, in addition to adhering to its set policies of liberalization and internationalization so as to maintain the continued growth of the economy and trade, design a comprehensive plan for the use and development of our land, accelerate state-of-the-art scientific and technological research and transfer, advance the upgrading of industry, improve the production structure of agriculture and fishery, open up markets for foreign trade, and strengthen international cooperation, so that through a concerted effort, our economic development can in the six years to come expand its scope and horizons in its march toward a new level of achievement.

We believe that ensuring the people's well-being is the most important task of all

development, and the fruits of all development should be enjoyed by all the people. In the process of economic development, the government should actively invest more in social welfare, and should, based on the particular circumstances of our country, learn from the experiences of more advanced countries and design a concrete program for the welfare of all the people, so that our citizens can live and work in safety and harmony, and the aged, weak, and handicapped can receive the care they need. At the same time, the government should also thoroughly implement ecological protection and prevention of public hazards, while improving traffic, public safety, and living environment conditions. In this way the people will not only have access to plentiful resources for their everyday life, but will also enjoy a rich and meaningful spiritual life, thus thoroughly realizing the ideals of prosperity and equitable distribution of wealth as prescribed in our Principle of the People's Well-Being.

We understand that culture and education are our nation's roots, and are the foundation of further national development. Any material or institutional development is destined to remain at a superficial level unless it is able to enrich our culture and raise our academic level. Through regional integration and cultural exchange, the overall development of the international community is gradually moving toward becoming an indivisible whole. This age of unprecedented vigorous development in our bastion of national revival is also the ideal time for making an objective review of our culture, and to choose and retain the best portions of it, and incorporate the strengths of other cultures where appropriate. We must begin with elementary school education, cultivating sound growth according to a plan, so as to set the minds and spirits of our people on the right track, mold their temperaments, and develop in them the life attitudes of placing a high value on ethics, being public-spirited and trustworthy, maintaining honor and discipline, and respecting the law. This will in turn promote the development of the Chinese cultural characteristic of being able to accommodate many diverse influences, thus making a valuable contribution to the well-being of mankind and world peace.

Fellow Countrymen, Distinguished Guests: Although development in the Republic of China over the past forty years has been restricted to the Taiwan-Penghu-Kinmen-Matsu area, all plans have been conceived with the future of all of China in mind. Taiwan and the mainland are indivisible parts of China's territory, and all Chinese are compatriots of the same flesh and blood. At this time when all of humanity longs for peace and is pursuing conciliation, all Chinese should work together to seek peaceful and democratic means to achieve our common goal of national reunification. In this time when the Communist countries of the world, including the Soviet Union, are declaring their renouncement of one-party dictatorship and the communist economic system, the Chinese Communists truly have no reason, and no strength, to continue to resist this trend over the long term. We sincerely hope that the Chinese Communists will become cognizant of the trends of the times, face up to the future, quicken their pace, and boldly march toward the goals of political democratization, economic liberalization, and social pluralization.

I would like at this point to earnestly declare that, if the Chinese Communist authorities can recognize the overall world trend and the common hope of all Chinese, implement political democracy and a free economic system, renounce the use of military force in the Taiwan Straits and not interfere with our development of foreign relations on the basis of a one-China policy, we would be willing, on a basis of equality, to establish channels of communication, and completely open up academic, cultural, economic, trade, scientific, and technological exchange, to lay a foundation of mutual respect, peace, and prosperity. We hope then, when objective conditions are ripe, we will be able to discuss the matter of our national reunification, based on the common will of the Chinese people on both sides of the Taiwan Straits.

Reunification, prosperity, and strength for China are the common hopes of all Chinese people. But in addition to the unshirkable responsibility borne by the people on both sides of the Taiwan Straits, overseas Chinese the world over, always loyal and patriotic, also play an important role. The government must expend its greatest efforts to assist overseas Chinese in their economic enterprises and in cultural and educational work. We have particular concern for our compatriots in Hong Kong and Macao, and hope that the Chinese Communist authorities will fully respect their rights to political and economic freedom. The government of the Republic of China will not pull out its organizations now based in that area, so as to help maintain the prosperity and stability of the Hong Kong-Macao area and the well-being of all Chinese people.

At the same time, I wish to reiterate that the Republic of China is an independent and sovereign nation. We express our utmost admiration to the friendly countries who have maintained formal diplomatic relations with us over the years, and we value these relations highly. We also hope to be able to strengthen and upgrade mutual cooperation with countries who would like to treat us with friendship on a foundation of substantive relations. As a member of the international community, the Republic of China has, on a basis of equality and reciprocity, long adhered to international standards, participated in international organizations, and worked to carry out its international responsibilities. We will work even more actively and pragmatically to expand our freedom of action in international activities, promote international cooperation, and contribute our efforts toward greater prosperity and peace for the world community. It is our hope that we can continue to expand bilateral exchanges with the United States on the current basis, so as to enhance our traditional friendship and mutual interests. We hope that Japan will make even more constructive contributions to the future of both Japan and the Republic of China with a view to the long term. And we hope that through close cooperation with neighboring countries in the Asian-Pacific region we can together advance economic development in the region, to usher in the early arrival of the Age of the Pacific.

Fellow Countrymen, Distinguished Guests: Over two thousand years ago, Chinese culture gave birth to the ideal of a great world commonwealth of peace and prosperity. The political, economic, and social systems and goals that it entails are in full accord with those implemented and sought by modern free and democratic nations. A goal of these many years of untiring effort of the government of the Republic of China is also to achieve a renaissance and enhanced development of Chinese culture. We sincerely hope that during this generation, we can establish a political model of democratic rule of law, to lay the foundation for a prosperous and equitable economic system and to create a peaceful, happy, trusting, and harmonious society. We want Chinese the world over to be able to raise their heads and be proud, and live with meaning and dignity. We wish to solemnly declare to all Chinese as well as to the whole world that beginning now we are prepared with incomparable confidence to open a great and brilliant new era for the entire Chinese people.

Thank you.

VOTE "NO" ON CLOTURE REGARDING CRIME BILL

Mr. SYMMS. Mr. President, I heard the comments of my colleague from Mississippi on a subject I want to comment on with respect to the upcoming cloture vote on the crime package.

Mr. President, I urge my colleagues to vote no on cloture. I think there is no issue more important to the American people than this crime package. But to preclude us from having a full-fledged debate and a full agenda of amendments, I think would be less than the appropriate way to handle the package. I think there is a serious problem in the bill with respect to the amendment that precludes law-abiding citizens from having certain firearms but will do nothing to stop the criminal element from having those firearms.

So I think that cloture would be premature. I intend to vote against cloture. I hope my colleagues will vote against cloture and that we can get on with this crime bill and have a full-fledged debate and allow our colleagues to have a chance to offer the amendments that they want to offer to this bill and have a full debate on the issues that are so important to the American people in each of our respective States.

I yield the floor.

VOTE "YES" ON CLOTURE REGARDING CRIME BILL

Mr. BIDEN. Mr. President, very shortly, in about 4 minutes, we are going to vote on the second cloture vote, and I do not think we should have any illusions about what it means. It is do or die for the President's crime package. The President sent a bill up here a year ago, and he said he wanted very badly for it to be considered. It contained at least four provisions which the Senate, up to that point, had chosen not to deal with in the package. Those were the death penalty and expansion of the death penalty, along the lines that the bill now has; second, a change in habeas corpus that would significantly reduce the number of times someone sitting on death row could appeal to

the courts to overturn or relook at their sentence on conviction. Third, the exclusionary rule deals with what evidence can and cannot be admitted in a trial, that evidence seized by police officers. Fourth, to deal with gun, assault weapons; the President had legislation relative to that.

I know my good friend from Mississippi, Senator LOTT, and others have come to the floor, as is their right, to speak about the reason to vote against cloture, so they can get their amendments up. They will be able to get those amendments up, Mr. President, on the vehicle that is usually the vehicle on which we would entertain these amendments. The drug legislation, which will be coming forward later in the year, is the appropriate vehicle for the vast majority of what we are going to be considering. We do it every year. But if we vote against cloture, the President's bill goes down. The President's bill goes down.

Keep in mind now where this all started a year ago. The President sent up a crime bill. We passed all the portions of the crime bill but four. The President spent the next 9 months saying that the Senate will not consider those four issues. So by unanimous consent, Republicans and Democrats alike said, "BIDEN, take that back to the Judiciary Committee and come out with a vehicle that has those four things in it: habeas corpus, death penalty, exclusionary rule, and guns, and give us a chance to vote on the President's proposal."

BIDEN introduced S. 1970, a crime bill. The Senator from South Carolina introduced S. 1971, essentially the bill submitted by the President. We are going to debate that now. But 330 amendments have been filed. I hope we will get on and give those 4 points an opportunity to live or die, as they say, legislatively.

I thank the Chair for this opportunity, and I yield the floor.

Mr. DURENBERGER. Mr. President, today I will vote against cloture on S. 1970, the omnibus crime bill. I do so because I oppose the death penalty.

My record and views on the death penalty are crystal clear and unchangeable: I oppose it in any form and in any circumstance. I have spent my 11 years in the Senate working against such measures, never voting for it or in any way to make this reprehensible punishment more likely.

Yet, Mr. President, that is what today's cloture vote would do. This vote would make the death penalty more likely because not only does the omnibus crime bill contain the death penalty for various crimes, but includes measures that make this ultimate penalty easier to carry out. To me this is not only bad policy but morally wrong. And, as I have done in the past I will vote against cloture today.

TRIBUTE TO DONALD C. BYERS

Mr. GRASSLEY. Mr. President, I rise today to pay recognition to Donald C. Byers of Newton, IA, who is about to retire after 37 years of service with the Maytag Corp.

Maytag is headquartered in Newton, IA, and has a well-deserved reputation for producing quality products. Equally important, however, is Maytag's reputation for quality people who are dedicated not only to their company, but to their community. Don Byers exemplifies this commitment and I am pleased to recognize his many accomplishments and achievements.

Mr. Byers began his career as an attorney for the Maytag Co. in 1953 and was elected secretary and general counsel in 1973. It is indeed a tribute to his skills and talents that he has served Maytag in many additional capacities: director of government affairs, chairman of its political action committee, and president of Heartland Rail Corp. Through his initiative, Heartland was formed to reinstitute rail service for Iowa shippers on the former east-west Rock Island line.

Mr. Byers has made numerous contributions to the business community in the State of Iowa through his distinguished service as chairman of the Iowa Association of Business and Industry and as a former chairman of the Iowa Industrial Commissioner's Advisory Committee. He has also served on special committees for the Iowa State Bar Association.

Mr. Byers has worked extensively with the Association of Home Appliance Manufacturers, having served as chairman of the association's government relations board and legal operations committee. In addition, he was instrumental in creating a risk retention insurance company that provides general and product liability insurance coverage for the appliance industry. He was recognized for his contributions at the association's annual meeting this spring.

Don's special interest is in the field of education. A 1951 graduate of Drake University Law School, he currently is chairman of the board of governors of the university. He also served as chairman of the Drake Law School's drive to raise funds for scholarships and various endowments and the university has honored him with its Distinguished Service Award. He has also received a Distinguished Service Award from Iowa Wesleyan College where he earned a B.A. degree in 1949. In 1985, he was appointed by Gov. Branstad to the F.I.N.E. Foundation Governing Board which is charged with improving the quality of education in Iowa.

In his local community, Mr. Byers served for 9 years on the Newton Community School Board and was elected president twice. Over the years he has headed campaigns to raise funds for school facilities, the most notable being one that raised $1.8 million to build the Newton High School Center for Performance. In 1981, the Newton Education Association presented him with its Friend of Education Award.

Active in community affairs, Mr. Byers is a past chairman of the community betterment committee of the Newton Chamber of Commerce. He is currently chairman of an environmental and community beautification group known as Project Awake. As a member of Newton's First United Methodist Church, he has taught church school and headed a long-range planning committee to raise funds for building renovations.

Mr. President, I have had the privilege of working with Don Byers for many years. He served as cochairman of my 1986 reelection campaign and on Senator DOLE's statewide Presidential campaign committee in 1988. The dedication that he applies to all his commitments are an inspiration to those around him.

Don's selfless devotion to his work and community is surpassed only by the importance he places on his family. He and his lovely wife, Dori, have four adult children and nine grandchildren

In recognition of his countless contributions to the State of Iowa, I want to congratulate Don Byers and convey to him best wishes for what will surely be an active retirement.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,909th day that Terry Anderson has been held in captivity in Beirut.

Mr. DOLE. Mr. President, do I have leader time reserved?

The PRESIDING OFFICER. Yes. The Republican leader is recognized. The time has been reserved for the minority leader and without objection he may proceed.

THE DANGER IS REAL

Mr. DOLE. Mr. President, I wanted to speak about a danger that I think is real. It is both tragic and ironic while the United States and the Soviet Union take major strides toward reducing the risk of nuclear war in Europe that India and Pakistan may be sliding toward a military conflict that could in a worse-case scenario produce an exchange of nuclear weapons.

This is not some idle worry. I have no intention of revealing any classified or sensitive information. But I will say this: The threat—both of war, and of nuclear war—is real. It is not too late to keep things from getting out of hand, but the tide is running in the

wrong direction, and time may be running out.

The immediate cause of the crisis in South Asia is the deteriorating situation in Kashmir where hundreds have already died. No one is free from blame for causing, and exacerbating, the current crisis.

Irresponsible and extreme elements in both India and Pakistan are fueling the flames of hatred and tension. Neither the Indian nor the Pakistani Government has yet undertaken any effective initiative to reduce tensions.

Of course, this is not just a matter for the two directly involved nations. A war between India and Pakistan will inevitably have impact on the United States, the Soviet Union, China, and all the nations of the region. A nuclear war would have Earth-shaking implications for every nation on Earth.

Mr. President, this is the business of us all.

The Soviet Union has a special relationship with India, and a special responsibility to use its influence in New Delhi to urge restraint on the Indian Government.

China is one of Pakistan's closest friends and is a major supplier of military equipment to Pakistan. It ought to be urging the Pakistani Government to show similar restraint.

And we have good relations with both governments, and perhaps a special opportunity to use our good offices to help find a way out of this crisis.

Mr. President, I commend to all Senators a column which appeared in today's New York Times, written by Leonard Spector of the Carnegie Endowment—which lays out and analyzes the basic facts surrounding this crisis.

And, in closing, Mr. President, I urge all Senators to give special attention to this potentially disastrous situation.

We all have an enormous stake in what happens in Kashmir, and a responsibility to do everything we can to insure that there is no war—and especially no nuclear war—between India and Pakistan.

Mr. President, I ask unanimous consent to have the New York Times article by Leonard Spector printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 7, 1990]

INDIA-PAKISTAN WAR: IT COULD BE NUCLEAR

(By Leonard S. Spector)

WASHINGTON.—If India and Pakistan go to war over Kashmir in the months ahead, it would be the first major military conflict in history between two states with ready access to nuclear arms. Though neither state is thought to have deployed nuclear weapons as yet, both could do so quickly, perhaps within weeks. India's force could number 40 to 60 weapons, deliverable on any of some 200 advanced aircraft. That's enough to wipe out Pakistan's major cities several times over.

Pakistan's nuclear force would be much smaller. It probably can make only 5 to 10 bombs and possesses only 40 to 50 first-class strike aircraft. Still, this is more than enough to cause a million casualties in India.

If war comes, much more will be at issue than the future of Kashmir, the predominantly Muslim Indian state whose status triggered India-Pakistan fighting in 1948 and 1965. Not only will the nuclear forces available to both sides open the possibility of untold civilian casualties, but Pakistan's survival could be at stake.

A leader of the militant Hindu B.J.P. Party—a part of Prime Minister V.P. Singh's parliamentary coalition in India—has declared, for example, that if war comes, "Pakistan will cease to exist." In contrast, the hostilities between Chinese and Soviet forces in the late 1960's—the only time two nuclear states actually clashed—were limited to skirmishes for control of a remote border area.

Indian talk of eliminating its rival obviously stirs deep anxieties in Pakistan, where memories of the third India-Pakistan war, in 1971, remain fresh. In that conflict, Indian intervention on behalf of Bengali separatists resulted in the dismemberment of Pakistan as it then existed, with East Pakistan becoming the independent state of Bangladesh.

It was in the aftermath of India's decisive victory that Zulfikar Ali Bhutto began the country's quest for nuclear arms. Mr. Bhutto's daughter, Benazir, is now Pakistan's Prime Minister.

Ms. Bhutto—who has strong support in the U.S.—is thought to be more cautious than the two men with whom she must, in practice, share power, Army Chief of Staff Mirza Aslam Beg and President Gulam Ishaq Khan. But even Ms. Bhutto has been outspoken in supporting Kashmir's self-determination, and she recently further fueled tensions with India by announcing that Pakistan would send $5 million to assist Muslim separatists in the disputed state.

If hostilities appeared imminent, Pakistani and Indian leaders would have little choice but to ready their nuclear forces. Fearing the worst from India and with a handful of weapons and top aircraft potentially available, Pakistani strategists would immediately try to protect the country's nuclear ace in the hole from pre-emptive attack. They inevitably would demand that nuclear devices be assembled, dispersed to several air bases and mounted on aircraft that could be kept on alert.

To avoid being placed at a disadvantage, India would also ready its weapons and do so in a way that others could easily observe. For example, it might send a large daytime convoy from an atomic research center to a major air base, assuming that it would be spotted by a U.S. intelligence satellite. Even if the crisis were to subside without a shot fired, the nuclear history of the subcontinent would be forever changed and nuclear ambitions elsewhere in the world would be greatly encouraged.

What if major hostilities do break out? Will deterrence work and prevent nuclear escalation? It might, but in the Iran-Iraq war, where both sides had potent nonnuclear weapons, deterrence failed. And Iraq continued to use chemical weapons against Iran even after Iran began using them in response. Moreover, each side attacked the other's cities with ballistic missiles even when it faced retaliation in kind.

Washington, which is friendly with both states, may hold the key to averting a crisis. It has already begun diplomatic efforts. Moscow is quietly helping, but could do more—by declaring, for example, that it will not countenance any Indian attempt to change the map of South Asia.

Despite Lithuania and other obvious preoccupations, the superpowers need to join hands to forestall a nuclear confrontation between their allies in South Asia. The post-cold-war world must not become a series of regional nuclear battlefields.

Mr. DOLE. Mr. President, I reserve the remainder of my leader time.

WATERLOO KIWANIS CLUB

Mr. GRASSLEY. Mr. President, the name Kiwanis is derived from an Indian phrase which roughly translates "to express one's self." This year, as the National Kiwanis Club recognizes its 75 years of organization, the Waterloo, IA, Kiwanis Club is enjoying its 70th year of utility and as a local service organization will continue to express its dedication to supporting and assisting in the growth of the Waterloo community.

The Waterloo Kiwanis Club lives and works under the motto, "We Build" to make Waterloo a better place in which to live. Composed of business and professional men and women who are motivated by a common desire to serve their community and fellowman, the Waterloo Kiwanis Club strives to achieve together what individuals cannot do alone. This humanitarian organization has rendered financial support to a variety of community organizations such as: the Big Brothers and Big Sisters, the new YMCA building program, the Hawkeye Regional Red Cross Blood Center, the juvenile court services and the Boy and Girl Scouts to name a few, to help ensure a safer, more productive community for everyone. The Waterloo Kiwanis Club has also played an active and important role in establishing the Goodwill Industries of Northeast Iowa, which provides services and develops talents to men and women who are disabled.

Congratulations and best wishes to the Waterloo Kiwanis Club and its 70 years of devoted work. Because of the continued service and the ability to accept challenges without the thought of personal gain, the Waterloo Kiwanis Club will continue to build a better and happier Waterloo.

GENERAL SERVICES ADMINISTRATION BUILDING PROSPECTUSES APPROVED BY THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BURDICK. Mr. President, the Senate Committee on Environment and Public Works has jurisdiction over the Public Buildings Program of the General Services Administration [GSA]. Under the Public Buildings

Act of 1959, the Administrator of General Services submits to the Public Works Committees of the House and Senate prospectuses describing in detail each proposed public building project, and the committees authorize projects by adopting resolutions approving the prospectuses.

Ten years ago the Senate Environment and Public Works Committee undertook a comprehensive overhaul of the public buildings authorization process. This effort resulted in reform legislation which required that the Public Buildings Program be authorized on an annual basis through legislation reported by the House and Senate Public Works Committees and acted upon by the Congress. The measure passed the Senate three times between 1980 and 1983 but was never enacted into law. Nevertheless, throughout the 1980's the Environment and Public Works Committee preferred to report to the Senate an annual bill authorizing GSA's Public Buildings Program.

The committee decided earlier this year to return to the practice of approving projects individually. There were several reasons for this change. The General Services Administration submits prospectuses to the committee throughout the year; authorizing projects individually will enable the committee to act on them in a more timely fashion. In addition, the Federal Buildings Fund [FBF] has experienced severe restraints in recent years. Needed construction projects have been deferred and the Federal Government has begun to rely increasingly on the rental of space to meet its facilities needs. Last year a task force of participants from the General Services Administration and the Office of Management and Budget identified 21 projects, with a combined cost of $3 billion, which must be constructed during the next few years. Although a lease-purchase method of acquisition was originally contemplated for these projects, the administration recently proposed acquiring them through direct Federal construction. In either case, the Senate Public Works Committee wishes to give especially close scrutiny to any program involving such a massive outlay of Federal funds. Finally, a significant number of leases will expire during the 1990's and will need to be renewed or replaced, at what is expected to be considerably greater expense. The committee intends to examine each such proposal carefully to assess its merit in comparison to other demands on the Federal buildings fund.

The ranking minority member of the committee and I have written to the majority leader to inform him of several public buildings projects recently approved by Environment and Public Works. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, May 8, 1990.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. MAJORITY LEADER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the Senate Committee on Environment and Public Works approved the following projects on April 25, 1990.

11(b) RESOLUTONS

Las Vegas, Nevada—Environmental Protection Agency.

New York State—Border Inspection Facilities.

SITE ACQUISITION AND DESIGN

Boston, Massachusetts—Federal Office Building-Courthouse.

LEASES

Jamaica, New York—U.S. Customs Service.

Crystal City, Virginia—Patent and Trademark Office.

NEW CONSTRUCTION PROJECTS

Menlo Park, California—Office-Laboratory Building.

Sacramento, California—John E. Moss Federal Building/U.S. Courthouse Extension.

Kansas City, Kansas—U.S. Courthouse.

Prince Georges County, Maryland—U.S. Courthouse.

Minneapolis, Minnesota—U.S. Courthouse.

Camden, New Jersey—Post Office and Courthouse Annex.

White Plains, New York—U.S. Courthouse.

Portland, Oregon—U.S. Courthouse Annex.

Wilkes-Barre, Pennsylvania—Social Security Administration Data Operations Center.

Alexandria, Virginia—U.S. Courthouse.

REPAIR AND ALTERATION PROJECTS

Calexico, California—New Border Station Facility.

Sacramento, California—John E. Moss, Federal Building/Courthouse.

San Diego, California—Federal Building/Courthouse.

San Francisco, California—Appraisers Building.

San Francisco, California—Customhouse.

Lakewood, Colorado—Denver Federal Center, Building 56.

Washington, DC Area—Elevators.

Washington, DC—Hubert H. Humphrey Building.

Washington, DC—Veterans Administration.

Atlanta, Georgia—Richard B. Russell Federal Building/Courthouse.

Chicago, Illinois—Customhouse, Phase 2.

Chicago, Illinois—Everett M. Dirksen Building, Phase 2.

Chicago, Illinois—Everett M. Dirksen Building, Sprinkler and Electric System.

Chicago, Illinois—Federal Building, 536 South Clark, Phase 2.

Indianapolis, Indiana—Federal Building/Courthouse.

St. Paul, Minnesota—Warren E. Burger Federal Building/Courthouse.

Newark, New Jersey—Peter W. Rodino, Jr., Federal Building.

Brooklyn, New York—Emanuel Cellar Federal Building/Courthouse, Phase 2.

New York, New York—Bowling Green Customhouse, Phase 1.

New York, New York—Jacob K. Javits Federal Building.

Rochester, New York—Kenneth B. Keating Federal Building.

Oklahoma City, Oklahoma—Post Office and Courthouse.

Philadelphia, Pennsylvania—Customhouse.

Pittsburgh, Pennsylvania—Post Office and Courthouse.

Nashville, Tennessee—Estes Kefauver Federal Building/Courthouse Annex.

Dallas, Texas—Federal Building Terminal Annex.

Ysleta, Texas—New Border Station Facility.

Arlington, Virginia—Pentagon, Phase 1.

Portsmouth, Virginia—Federal Building.

Seattle, Washington—Federal Building, 909 First Street.

Spokane, Washington—Federal Building/Post Office.

The original authorizing resolution is enclosed.

Sincerely,

QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works.

JOHN H. CHAFEE,
Ranking Minority Member, Committee on Environment and Public Works.

CONSTRUCTION OF NEW FEDERAL BUILDING SPACE IN MINNESOTA

Mr. DURENBERGER. Mr. President, today the Senate Committee on Environment and Public Works sends to the Senate a General Service Administration's facilities prospectus dealing with the construction of new Federal facilities in Minneapolis, MN.

The prospectus outlines the desperate need for new Federal facilities in Minneapolis and includes a proposal to renovate the current Federal building and construct a new building on Federal land—a parking lot—adjacent to the current building.

Mr. President, I am very pleased that GSA is taking these steps but the proposal outlined in the prospectus may not meet the long-term development needs of the city of Minneapolis. Accordingly, and at my request, GSA has begun negotiations with the city of Minneapolis and others concerned with this issue to see if an alternative site can be selected.

Thus, I want to make clear to the Senate and to GSA that it is the intent of the Environment and Public Works Committee that approval of the prospectus in no way inhibits GSA from seeking a more satisfactory site. Nor should the approval of the prospectus affect the negotiations between the GSA and the city of Minneapolis. The purpose of approving the prospectus is to authorize much-needed space for the U.S. Courts and Federal agencies in Minneapolis. Should these discussions result in the

submission of an amended prospectus, or a new prospectus, the committee will be happy to consider it. I ask the committee chairman, Senator BURDICK, if this is a correct understanding of the committee's intent?

Mr. BURDICK. Mr. President, the Senator from Minnesota is correct. It is not the committee's intent in authorizing this project to interfere with the on-going negotiations regarding new Federal facilities in Minneapolis. If a better arrangement is found, we would be happy to look at a new prospectus.

Mr. DURENBERGER. Mr. President, I thank the distinguished chairman for clarifying this point for me and appreciate the help he has given me on this issue. I would also like to ask the ranking member, if this is his understanding as well?

Mr. CHAFEE. Mr. President, I agree with the committee chairman. By approving the prospectus, it is not the committee's intention to interfere in the discussions currently taking place between GSA and the city regarding this construction project. The committee is aware of these negotiations and hopes that a project can be designed that will meet the concerns of all parties involved.

Mr. DURENBERGER. Mr. President, I thank the ranking member and appreciate his assistance in this matter. Does the Senator from New York and chairman, of the Subcommittee on Water Resources, Transportation, and Infrastructure, Senator MOYNIHAN, have any comments on this issue?

Mr. MOYNIHAN. Mr. President, I agree with the distinguished chairman and ranking member of our committee. In fact, I understand the Senator from Minnesota's concerns. The committee is always interested in finding better ways to meet the space needs of our Federal courts and is willing to consider a new prospectus, if that is appropriate.

Mr. DURENBERGER. Mr. President, I thank the Senator from New York for his words and appreciate his willingness to consider this matter.

LIFTING OF STATE OF EMERGENCY IN SOUTH AFRICA

Mr. KENNEDY. Mr. President, the lifting of the state of emergency in South Africa is a long overdue and important step which will help pave the way to end the brutal system of apartheid.

The actions by the Government of South Africa in recent months demonstrate that international economic sanctions are working. Meaningful progress toward dismantling apartheid is at last on the horizon—in part because of U.S. sanctions.

The end of the state of emergency is welcome, but apartheid is still in place. This is no time for the United States or any other nation to lift any sanctions. Retention of the current sanctions is the best guarantee that progress will continue toward the goal of a free and democratic South Africa.

NORTH BENNET STREET SCHOOL

Mr. KENNEDY. Mr. President, one of the most important postsecondary educational institutions in Massachusetts is the North Bennet Street School in Boston. This private, nonprofit school—which may well be the oldest vocational school in the United States—was incorporated more than a century ago as a settlement house. Initially the school offered education and job training to meet the needs of immigrants. Today, the school trains craftsmen for highly skilled work in a number of trades: cabinet and furniture making, bookbinding, carpentry, jewelry making and repair, piano technology, violin making and restoration, and locksmithing.

The North Bennet Street School utilizes an apprenticeship approach to education. Students study and train—sometimes for as long as 3 years—with master craftsmen. The results are impressive. Almost all graduates immediately find good jobs and the school has a waiting list for admission.

This school was recently featured in an article in New England magazine. I believe the article, entitled, "Artisan U," nicely captures the essence of this venerable institution. I would like to have this article reprinted in the RECORD because I believe it may be of interest to my colleagues, and so I ask unanimous consent.

At the same time, I wish to commend the school's director, Tim Williams, his able staff, the trustees, and especially the master craftsmen and teachers who make North Bennet Street such a special educational institution.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From New England Monthly, Apr. 1990]

ARTISAN U.

(By Alexandra Kennedy)

The first major project for students in the furniture-making program at the North Bennet Street School is the completion of a tool chest. Through the process, they learn the feel of wood, of cutting dovetail joints, and using a shaper, a cutoff saw, a thickness planer. At one workbench in the classroom is a cherry tool chest reminiscent of a Shaker herb cabinet; at another, a maghogany one that echoes the stock metal tool chests one might find in any basement. It's pretty typical of the place, a trade school that teaches traditional craftsmanship, to make something exquisite out of something utilitarian. The whine of a lathe filters in from the adjacent machine room. One man, bent over a Federal-style table, soaks strips of holly to make them flexible enough for inlay. Next to him a woman uses a chisel to carve ball-and-claw feet. Every inch of work space is covered with the day's pall of dust and wood curls. No one says much. Around here, concentration cannot be overrated.

Before the furniture-making students graduate, they will have spent 2,200 hours in these rooms trying to live up to the school's expectations. Some of the other programs at North Bennet Street—violin making, for instance—require even more time. Magnificent objects are created here. In the bookbinding shop, Beryl Markham's West with the Night is encased in swatches of green, brown, and blue leather, a plane's-eye view of the African landscape. In the jewelry classroom, a tiny silver western saddle is set with sapphires. Like the tool chests, each piece is startling proof of the unparalleled quality of the school's handmade crafts; they are so nearly perfect as to give the uninitiated the illusion that the work is easy.

The school's vocations are tempting to idealize: the quaintness of old-world skills, working with one's hands. Ah, to build a tool chest as a shrine to hand tools! But the mission is not an aesthetic one. Like any trade school, NBSS is a post-secondary institution that prepares people for the work force. "We're not doing this to produce the next Stradivarius," says Tim Williams, the executive director. "We're here to help people succeed." North Bennet Street, which is nonprofit, offers only commercially viable programs: cabinet and furniture making, bookbinding, carpentry, preservation carpentry, jewelry making and repair, piano technology, violin making and restoration, and locksmithing. Ninety percent of the graduates move right on to good jobs.

The school's greatest asset, the foresight of its administration, has been consistent for one hundred years. The executives and boards have recognized which programs work, and modified or dropped those that no longer fit the needs of the community. Its latest overhaul came when Tim Williams arrived in 1974. At the time, the school was really a social service agency that sponsored youth programs and taught crafts and trades, predominantly to disadvantaged adults. Williams, who had had a varied career that included time with the New York Urban Coalition, a similar job training and employment organization, recognized some basic and serious problems. The school was losing money, and the trade and crafts skills being taught were misdirected. Violin making, for example, a craft that takes three years, great dexterity, and a musical ability, was just not a realistic course offering for its handicapped clientele. In addition, the school was competing for government money with the neighborhood's other social service organization, The North End Union. After much debate, Williams and the school board decided to give up the social service focus, transferring over to their rival the $350,000 budget. North Bennet Street stuck with what it was doing best: training craftsmen for highly skilled work. By 1982 the school became accredited, qualifying its students for federal and state loans and scholarships.

The courses offered, the apprenticeship style of teaching, the determination to job train, and even the school's location are all the result of historical evolution. In 1885, the school began in its present site, a four-story brick building one block south of the Freedom Trail. (The school's facilities are by no stretch plush.) It was just one of many settlement houses in Boston. Italian, Irish, and Jewish immigrants unskilled in

urban occupations were sailing into Boston ports by the thousands, making the low-rent North End one of the most densely populated areas in the world. Quickly, the old guard got nervous about communicable diseases, crime, and social unrest. In the spirit of noblesse oblige, they took action, armed with mottoes such as "Elevation by contact" and "Not alms but a friend."

At the age of thirty-nine, Pauline Agassiz Shaw, daughter of a Harvard professor and stepdaughter of the founder of Radcliffe, came to the North Bennet Street Industrial School, as it was then called, to start a kindergarten and nursery school for immigrant children. She soon became the school's most avid partisan, generating educational philosophies still integrated today. Initially, her hope was that the children would take home new knowledge and good habits that would be picked up by their parents (she read students the story of a child who, by bringing home a lily, symbol of moral reform, completely rehabilitates her slovenly mother and drunken father). Shaw soon realized poverty was less the result of the short-comings of the immigrants than it was the product of unemployment. "Not gifts but employment" became a new rallying cry. She developed a modified version of the apprenticeship principle, in which one master worked directly with a group of students on works in progress (the resulting products, such as pottery, prints, and clothing, were sold by the school, while the students were paid a small wage). Over the next one hundred years, programs were added and subtracted as called for: job placement, "caddy camp" (in which boys were trained as caddies at golf resorts), summer camp, credit unions, play schools. For many years Shaw's successors continued her tradition of straddling the line between running a social service agency and a vocational school.

No one will ever hear a commercial on late-night television for North Bennet Street. Unlike many trade schools that appeal to the lost soul in search of change, NBSS chooses its one hundred and sixty students because they have already demonstrated some commitment to their field. Other than that, they are only required to have a high school diploma or its equivalent (locksmithing students must, in addition, produce a clean police record). Sitting side by side in a studio might be a woman and a man, the first a nineteen-year-old with a GED who entered preservation carpentry after a summer job at Sturbridge Village, and the second a fifty-year-old former bank manager who decided to enroll after renovating the barn behind his house. Some students from third-world countries attend because their own countries have a market for the craft, but lack the educational facilities. The more a student can prove his experience, the better chance he has of being accepted. One of the application questions is "What tools do you have?" Fifty percent of the applicants are put on a waiting list each year, usually with the admission director's advice to gain more experience. With tuition up to $7,500 a year, the school doesn't want to waste the time and money of someone who will never be more than a lobbyist.

North Bennet Street is not a design school. Teachers are not called professors, and classrooms are not studios. That's simply too highfalutin. Course work usually follows a demonstrate, then replicate tactic. A jewelry student makes a copper, brass, and silver floral basket, modeled, strangely enough, after the Cashmere Bouquet soap symbol. In so doing, he employs sawing, engraving, dapping, and soldering. What the instructor, Joe Calnan, will look for is the student's ability to handle each step. Should the student design, choosing to transform a flower sprig into a feather, that may well please Calnan. If he reads up on the history of mixed-metal jewelry, that's fine, too. But neither is the instructor's primary concern.

Most of the programs spend time on field trips to museums; some, like preservation carpentry, take-on-site projects in the Greater Boston area. During classroom time, teachers wander from workbench to workbench, answering questions, making suggestions. Most of them are soft-spoken, not given to classroom theatrics. They were hired because they know the craft, not because they can deliver a great lecture (indeed, very little of that goes on). Vic Swanson, who runs the locksmithing program, learned his trade from his older brother, who learned it from his father. After thirty years as a Harvard University locksmith (they employ seven full time), he came to NBSS. Lance Patterson, head of the cabinetmaking and furniture-making program, graduated from the school in 1979, worked on his own, and then came back to teach. Half the faculty are graduates.

The classes are small—from ten to twelve—and though the setup of the studios is informal, the schedule is not: hours are eight until two or three, a long time to spend sharpening plane irons or varnishing a cello. Often students stay to work on projects until the building is locked. It's not unusual to find a piano tech student in one of the rooms set aside for tuning, slumped over a Steinway, sound asleep. "Tuning," says the piano instructor Dave Betts, "is pure drudgery to learn—montonous, tedious, much harder than you think." The instructors have to push the students to make them thorough, fast, and diligent. If they aren't, they quit or flunk out. If they are, they graduate into satisfying work—and are often hired by an alum with his own company. That same sleepy student may one day make two hundred dollars a day tuning pianos—independent work that is not tedious once mastered. In addition, he'll restore valuable pianos.

When Roy Nielsen, the director of admissions, hears prospective students say in their interview, "I want to open my own little shop in the country," he gets a bit nervous. A true craftsman or tradesman, as he has learned, needs to be able to sustain his vision for a long time. A graduate of the violin-making school has made the requisite six violins, one cello, and one viola. But he does not go out into the world a master violin maker; he first takes a job repairing and restoring in a music shop. He'll need ten years more apprenticeship before he can even think of himself as a violin maker in the glorified sense of the term: ten years before he builds a violin that has an unblemished finish, near perfect pitch, and, finally, his own signature, the sign of a true artisan.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The period for transaction of morning business is now closed.

OMNIBUS CRIME BILL

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

The Senate resumed consideration of the bill.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. The hour of 10:30 a.m. having arrived, under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

George J. Mitchell, Charles S. Robb, J.R. Biden, Brock Adams, Christopher Dodd, Wyche Fowler, Al Gore, Edward M. Kennedy, Richard H. Bryan, Patrick Leahy, David Boren, Daniel P. Moynihan, Frank R. Lautenberg, Daniel K. Inouye, Jay Rockefeller, Herb Kohl, and Alan Cranston.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. By unanimous consent the quorum call has been waived.

VOTE

The ACTING PRESIDENT pro tempore. The question is, Is it the sense of the Senate that debate on S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD] and the Senator from Florida [Mr. GRAHAM] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Utah [Mr. GARN], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER (Mr. SHELBY). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 37, as follows:

[Rollcall Vote No. 112 Leg.]

YEAS—57

Adams	Ford	Mitchell
Akaka	Fowler	Moynihan
Bentsen	Glenn	Nunn
Biden	Gore	Packwood
Bingaman	Harkin	Pell
Boren	Hollings	Pryor
Bradley	Inouye	Riegle
Breaux	Jeffords	Robb
Bumpers	Johnston	Rockefeller
Burdick	Kassebaum	Rudman
Byrd	Kerrey	Sarbanes
Conrad	Kerry	Sasser
Cranston	Kohl	Simon
D'Amato	Lautenberg	Simpson
Daschle	Leahy	Specter
DeConcini	Levin	Stevens
Dixon	Lieberman	Thurmond
Dole	Metzenbaum	Warner
Exon	Mikulski	Wirth

NAYS—37

Baucus	Grassley	McClure
Bond	Hatch	McConnell
Boschwitz	Hatfield	Murkowski
Bryan	Heflin	Nickles
Burns	Heinz	Pressler
Coats	Helms	Reid
Cochran	Humphrey	Roth
Cohen	Kasten	Sanford
Danforth	Kennedy	Shelby
Domenici	Lott	Symms
Durenberger	Lugar	Wallop
Gorton	Mack	
Gramm	McCain	

NOT VOTING—6

Armstrong	Dodd	Graham
Chafee	Garn	Wilson

The PRESIDING OFFICER. On this vote the yeas are 57, the nays are 37. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Senator from Delaware.

Mr. BIDEN. Mr. President, everyone in the Chamber, everyone in the Senate, was on and has been on notice that we were going to bring up the President's crime bill for debate. We have been on notice of that for the better part of 8 months. The U.S. Senate, by unanimous-consent agreement and, if I recall correctly, at the urging of the Republican leadership and Democratic leadership in the Senate, agreed before we went out at Christmastime last year that we would bring up, this year, the second half of this Congress, a bill that contained the elements that the President badly wanted debated and resolved: The death penalty, habeas corpus reform, the exclusionary rule, and assault weapons.

Senator THURMOND introduced a piece of legislation way back in this year, maybe even the end of last year, S. 1971—a bill containing all of those provisions and, essentially, if not exactly, the provisions that the President wanted. I introduced S. 1970, containing those provisions and two others: Money laundering, changes in the money laundering law, and reorganization of the Justice Department.

We spent a great deal of time, Senator THURMOND and I, as all Members do in their areas of responsibility—I am not suggesting we did any more or less than anyone else—but we spent a great deal of time on this issue. We brought the issues the President wanted debated to the floor. But something funny happened on the way to the floor. The assault weapons legislation, the much stringent assault weapons legislation contained in S. 1970—supported by, written by, and promoted by the distinguished Senator from Arizona [Mr. DECONCINI]—was viewed at the end of last year and the beginning of this year by most of us on the floor as having little prospect of becoming law. But it passed. It did not become law, but it passed. And everything began to change then.

Up until the time that passed, Democrats and Republicans alike were saying JOE, Senator BIDEN, please, do not start adding drug legislation to this bill. Keep it clean. Keep it guns, habeas corpus death, exclusionary rule. Stick to that. And we did.

The majority leader indicated more than a week ago that—while the budget is in question, while the summit is going on, while there are major issues that need to be resolved before we leave—and that will not be in too many more months for this next election—he was not going to spend weeks and weeks and weeks. We had months and months and months notice that we had a chance to do something on the crime bill.

We spent last week and we debated the thorniest of the issues: guns, habeas corpus, and death—an extremely broad death penalty bill, increasing by 30 crimes for which people would now be eligible for death if convicted. I think this is—I may be mistaken, the Senator from South Carolina has been the leader on this for years—essentially the bill he has been fighting for, for over a decade.

The leader said before the first vote, we will take one more. And everyone, every newspaper, every Senator, every lobbyist in this town, knew that this was, to quote the headline from USA Today, "'Do-or-Die' Time for the Crime Bill." And it just died. I think it is a shame. Because, although there would have been at least 40 additional amendments that were germane to death, exclusionary, et cetera—at least 40 of the 330-some that had been filed—fewer than 60 of our colleagues, the required number——

Mr. HATCH. Will the Senator yield on that point?

Mr. BIDEN. I will yield in just a moment.

Fewer than 60 decided that it is time to get down to business about doing something about the things that we all talk so much about.

Keep in mind, Mr. President, that the Senator from Delaware has a bill called S. 1972 which provides for 1,000 new FBI agents and DEA agents and rehabilitation money and education money, and so forth, for the drug problem. But we all know that is there. We all know we are going to have to get to that eventually. But here we had the essence of what the President has been saying he wanted action on. It did not come out quite the way he wanted it on guns. It was very close to what he wanted on habeas corpus; almost exactly what he wanted on death. And we had not resolved the exclusionary rule yet.

Mr. HATCH. Will the Senator yield?

Mr. BIDEN. I yield for a question or——

Mr. HATCH. No; let me just make a point.

The Senator, it seems to me, is blaming this on the gun problem. Frankly, there were a number of people who were for the language in the bill on the gun problem, who voted as I understand it against cloture, as well as those who do not like the gun section.

The real reason cloture was not invoked was not because of the gun section. The real reason it was not was because there is a desire on the part of many Senators on the floor to do something that we have never been able fully to do before and that is, on a crime bill, bring up additional amendments that happen to apply to the criminal aspects of the bill.

I do not see why we have to give up the fight at this point. We have some decent provisions in this crime bill. Some people like the gun part, some do not. But that is kind of irrelevant.

I think we can narrow, with good faith, the total amendments, germane and nongermane, down to probably the same number that would have been available as germane amendments after cloture.

The real issue is not the gun issue. The issue is allowing Senators a chance, on the only crime bill they have had in years, to bring up important anticrime amendments that may not be germane because of the narrowness of the bill as it is drafted; that may be absolutely crucial to resolve criminal problems.

Mr. BIDEN. I will be delighted to yield for the Senator to speak. Is that a question? Because I will be happy to respond to the question. Otherwise, I would like to keep the floor.

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. HATCH. Let me put it in the form of a question.

Mr. BIDEN. I think I understand it. I will be happy to yield the floor in a moment. It is purely coincidental.

I have not had an opportunity to tally at this time. It happened only moments ago. But of the 37 people who voted against cloture last time, 32 also voted against the DeConcini amendment. I do not draw any firm conclusion from that.

Mr. MCCLURE. Will the Senator yield?

Mr. BIDEN. I will not yield at this moment. I will be happy to yield in a moment.

Maybe guns did not kill the death penalty. Who knows? I do not know. It is just kind of coincidental, though, that the NRA says they want to kill this bill because it contains guns. Coincidental. I suspect that 32 out of 37—at least last time; I have not tallied it this time—who voted against the gun provisions voted against cloture as well. And I respect that. I understand that. As a matter of conscience, there are a few Democrats, and I suspect one or two Republicans, who voted against this because of the death provisions in the bill. A much smaller number, but, nonetheless, it is a matter of conscience. I respect it. I understand it.

Let me speak to one other thing: This notion that if we just got a chance to entertain amendments relating to crime; we have not had a chance to do that, the statement was made.

I do not know where everyone else has been, but I have managed a crime bill and a drug bill every year I can think of for God knows how many years that have had amendment after amendment after amendment that range everywhere from death penalties to providing for aftercare and everything in between—providing for moneys to reorganize the Justice Department, change the forfeiture law, increase access for the police to certain information, increase money for the police, decrease money.

My Lord, I have not tallied it, but I suspect if we go back and look at the last 4 years and just count the bills I have managed on crime, at the end of every session we probably have had hundreds of amendments, hundreds of opportunities I keep saying to everybody we are going to have that same opportunity relative to drug legislation before the year is over, in all probability.

This was the President's crime bill. He defined the crime bill as habeas corpus, death and exclusionary rule, and guns: his definition, not mine. Everyone knows, before this year is over, BIDEN is going to get a chance to add his amendment for an additional 1,000 FBI agents; WIRTH is going to be able to add his amendment to provide more resources to crack down on S&L fraud; my colleagues on this side are going to get a chance to introduce their amendments to change the gun legislation, what was not germane. They are going to get an opportunity to put in money for and against rehabilitation. We all know that.

So it just seems to me we all knew that we were going to have a chance to have those tens, if not hundreds, of amendments considered in some form before we get out of here, and we all knew that this bill was localized to four incredibly controversial issues. I have been here 18 years. The distinguished senior Member from South Carolina, who is the ranking member of this committee, has been here much longer than I have. I cannot think of a time in the 18 years I have been here where we have taken these four incredibly controversial issues, agreed that we were going to deal with them and bring them to resolution in one piece of legislation, giving them a legitimate opportunity of being changed rather than what we have done the last 18 years: reform on habeas corpus gets attached to the debt limit; a reform on habeas corpus gets hooked onto the child welfare bill; or death penalty gets hooked onto the budget resolution; and they all end up getting stripped. We keep passing the death penalty but never as a death penalty bill. It keeps getting stripped when we go to conference.

Here we were, one bill, with the four most controversial issues in the criminal justice system, three of which were already resolved by this body with potential minor modifications, and we decided not to bring it to resolution.

I understand the argument. My colleagues say, "Gee, I would have been for cloture if I could have had my police corps bill on here," or "I would have been for cloture if I could have added more FBI agents," or "I would have been for cloture—." There are 330 such requests. Mr. President, do my colleagues know how we have been able to get all these large number of amendments on previous crime and drug bills finished? We stand on the floor, we come right up to the wire, we spend a week on it, and then the leadership says to whomever is managing the bill—and the last several times it has been me on this side, and others with keen interest like Senator NUNN and Senator GRAHAM and others—and the leadership says: "OK, can't you guys all go into a room and can't you go in and spend the next day, week, 2 weeks, and come out with a compromise?" That is how we have ended up doing it. Even in that circumstance, the Senate has not had the time to consider 330 amendments.

Mr. President, we have worked very hard on a very tough bill, broadening the death penalty beyond anything that has ever been passed by a vote of the U.S. Senate, broadening and changing the habeas corpus rule beyond anything that has ever been changed, and passing restrictions on semiautomatic assault weapons beyond anything that has ever been done, and we were ready to move to the exclusionary rule to resolve that.

And now it is down. Everybody knew. No one can say, "I did not know the vote was coming up; I did not have notice." No one can say, "I did not know what the outcome would be," because we announced ahead of time this thing was being brought down. Senator THURMOND and I will try again in one form or another. It is kind of sad that we got this far and could not get cloture, fell three votes short of cloture.

I thank my colleagues. I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I do not know why the bill is down. We have only had two cloture votes. We have two absentees out of four that I know would vote for cloture. The Democrats have two. Cloture is there. We are going to get cloture on the next try, if we want a crime bill. If we do not want a crime bill, then we do not have another cloture vote.

I must say, as I indicated last night, when you are in the minority around here, you have to take very opportunity you have to offer an amendment.

We do not set the agenda. We have had sort of a gag rule imposed on this bill. You could take up the exclusionary rule right now. Why not. You did not get cloture. The bill is still before us. Why not take up the exclusionary rule? Why not take up some of the amendments? I have looked at some of the amendments. I am going to put them in the RECORD.

These are all amendments that are going to deal with crime. When are you going to take up these amendments? Some other time. Oh, just put it off. We have been waiting for a year to get to this bill. We spent less time on this than we spent on the Hatch Act.

This is an important piece of legislation, much more important than the Hatch Act, on which we spent a portion of 7 days.

So cloture is in the bag, if you want a crime bill. In the meantime, why not let smoke of the Republicans and some of the Democrats offer amendments? Why not just have a debate and offer amendments? No, we want to invoke cloture so that certain amendments cannot be offered. The 60 that are germane, in most cases, are repetitive. There are probably not 10 or 15 amendments. And some, including some of mine, would modify the DeConcini amendment.

I voted against the DeConcini amendment; for cloture. I believe the Senator from South Carolina has pointed out we have a couple of important provisions here that ought to be preserved. But in the meantime, if we want a crime bill, the majority can have one; at least they can get cloture. I do not know whether it will pass the House or not.

As I count, you have 57 now with 6 absentees, and there are at least 3, maybe 4 votes, and maybe 1 or 2 more, that would vote for cloture the next time around. So it is up to the leadership whether or not they want a crime

bill. If they do not want a crime bill, we do not have another cloture vote.

But in the meantime, why not let the minority, Republicans in this instance, offer amendments? Why should we be denied an opportunity to offer amendments? We have people who would vote for cloture, I would say to the Senator from Delaware, if they could offer their amendments.

I think there are one or two on that side who would vote for cloture if they could offer amendments. Instead, we say we cannot do this. We are going to have cloture vote after cloture vote. After we take care of habeus corpus and tidy up the death penalty a little bit. That is all we are going to have on this bill.

In my view, that is not the way it should work. So I am going to ask to put in the RECORD the Republican and the Democratic amendments so people can take a look at them. I do not see any off-the-wall amendments. And those that are off the wall would not be adopted, in any event. They are all aimed at crime. That is what we talk about, crime.

So I urge my colleagues on the other side to try it again. This is a very important piece of legislation. I have asked the clerk to add up the number of hours we have spent on this bill as opposed to the Hatch Act. We are going to be surprised. We spent a lot more time on the Hatch Act; probably a lot of other meaningless legislation. This is important legislation. This is what the American people want us to do.

I would not give up after two tries. It seems to me that if the majority party wants a crime bill, it is within their grasp. If they do not want one, they can pull the bill down.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

REPUBLICAN AMENDMENTS TO S. 1970

Bond. Limits Federal mandates to State criminal justice systems unless funds are provided.

Bond. Requires Federal government to issue regulations for child safety seats on airliners.

Boschwitz (2). Declares a national drug and crime emergency, and establishes a 5-year mandatory minimum term for prison sentences.

Boschwitz. Re: food stamp trafficking.

Boschwitz. Re: food stamp criminal prosecution.

Boschwitz. Authorizes rewards for drug convictions.

Boschwitz. Authorizes rewards for information on drug dealers.

Boschwitz. Establishes minimum mandatory prison sentences for drug traffickers and violent criminals.

Boschwitz. Establishes mandatory work requirements for Federal prisoners.

Boschwitz (2). Mandatory fines, court cost payments, forfeiture, etc., for drug convictions.

Boschwitz. Drug testing upon post-conviction release.

Boschwitz. Increases penalties for kidnapping.

Boschwitz. Increases penalties for child kidnapping.

Boschwitz (2). Allocates grants to States with programs to revoke drivers' and pilots' licenses for drug convictions.

Boschwitz. Re: drug use in federal prisons.

Boschwitz. Establishes mandatory minimum fines and penalties for drug offenses.

Boschwitz. Establishes mandatory work for prisoners, and expands labor opportunities.

Boschwitz. Mandates minimum sentences for certain offenses involving victims younger than 18 years old.

Burns. Rewards for information leading to drug traffickers arrest.

Coats. Re: drug paraphernalia.

Coats. Treatment of juveniles in drug operations and under Armed Career Criminal Act.

Coats. Authorizes $20 million for state-run boot camps.

D'Amato. Establishes option for taxpayers to dedicate overpayments to war on drugs.

D'Amato. Armed forces assistance to civilian law enforcement agencies.

D'Amato. Transit employees drug testing.

D'Amato. Money-laundering.

D'Amato. Mandates Secretary of State to work with the World Federation of Therapeutic Communities to train drug treatment professionals.

D'Amato. Death penalty for drug kingpins; death penalty for drug felons when death results.

Danforth. Establishes grants for States to use videotapes during drunk driving arrests.

Dole. Guns: strike p. 46, line 15—p. 49, line 22, from bill.

Dole. Guns: strike p. 46, line 15—p. 49, line 17, from bill.

Dole. Guns: strike p. 46, line 15—p. 49, line 10, from bill.

Domenici. Study to establish a federal law enforcement technology center at an existing National Laboratory.

Domenici. Authorizes States to use federal funds from the Drug-Free Schools and Communities Act to develop model alternative schools for youth with drug abuse problems.

Domenici. Requires U.S. Marshals to identify communities that would benefit from private detention centers for federal prisoners.

Gorton. Regulation of precusor chemicals.

Gramm. Longer prison sentences for selling drugs to a minor.

Gramm. Mandatory minimum sentence for those who sell drugs to a minor.

Gramm. Enhanced sentences for drug traffickers.

Gramm. Death penalty for drug traffickers who employ a firearm and cause death.

Gramm. Deportation of aliens convicted of a violent crime; minimum mandatory sentences upon re-entry.

Grassley. Nominee conflict of interest standards.

Grassley. Victim impact statements in death penalty cases.

Hatch. (3). Insert firearms amendments.

Hatch. (3). Enhance firearms penalties.

Hatch. Authorization of a drug tip hotline.

Hatch. Adjustment of alien status for witnesses in drug cases.

Hatch. Trade treatment for certain drug-producing countries.

Hatch. Re: juror unanimity in death sentences.

Hatch. Prohibition of interstate transportation of firearms for drug activities.

Hatch. Unspecified.

Hatch. Authorization of aid for narcotics teams in high-intensity drug trafficking areas.

Hatch. Authorization of $60 million in grants for drug enforcement efforts.

Hatch. Authorization of funds for precusor chemical programs in foreign countries.

Hatfield. Change bill's death penalty provisions to life imprisonment without parole.

Hatfield. Public executions as the ultimate deterrent.

Heinz. EPIC claims against FDIC.

Heinz. Breach of Fidicuary duty statute, 12 U.S.C. 1821.

Heinz. Expedited procedures for claims against FDIC.

Heinz. Adding certain financial crimes to list of RICO offenses.

Heinz. Sense of the Senate to bring to justice the murderers of DEA agent Enrique Camarena.

Heinz. Sense of the Senate to prohibit the return to Mexico of the killers of DEA agent Enrique Camarena.

Heinz. Prohibits foreign aid/assistance to countries with senior officials involved in drug trafficking.

Humphrey. Re: violent students in schools.

Kasten. Illegal drug profits.

Lott. Witholding of prisoner benefits to cover cost of incarceration.

Lott. Decreases from 90 to 60 days the time to form Advisory Groups.

Lott. Mandatory work requirement for all prisoners.

Lott. International money laundering advisory group.

McClure. Prohibition of cultivation of controlled substances.

McClure. Commemorative medals for the centennial of Yosemite National Park.

McConnell. Requires local, State and Federal law enforcement agencies to report missing children to the National Crime Information Center of the DOJ.

McConnell. Permits sexual assault victims to bring civil action against pornographers.

McConnell. Federal law enforcement officers' Bill of Rights.

McConnell. Authorizes sanctions against foreign companies that do not cooperate with precusor chemical control efforts.

Nickles. Re: crime victims rights.

Nickles. Life imprisonment for rapists with AIDS.

Simpson (2). Definition of assualt weapons as converted from semiautomatic to automatic.

Simpson (2). Definition of assault weapons.

Specter. Authorizes $10 billion for the next 10 years for a National Violent Crime Program.

Specter. Requires colleges to disclose on-campus crime statistics.

Specter. Drug court: authorizes grants to States to establish judicial narcotics divisions.

Specter. Authorizes grants program for State prisoners (permits current grant programs under 42 U.S.C. 38(?)51).

Specter. States must report training and education programs for prisoners in order to receive Federal funding.

Specter. Re: federal police corps programs.

Specter (2). In order to receive Federal aid, States must provide prisoners with job skills and basic literacy education.

Specter. Police corps and law enforcement training and education.

Specter. Narcotics court demonstration project.

Specter. Criminal liability for pollution.

Specter. Clarification of Armed Career Criminal Act.

Specter. Death penalty for two-time convicted drug kingpins, or mandatory life sentence.

Specter (2). Writ of coram nobis by death row prisoners.

Specter. Sentencing Commission may provide for fines to cover costs of a prisoner's incarceration.

Specter. Cause of action in Federal court for damages resulting from torture or extrajudicial killing.

Specter. Establish a drug court division.

Specter. Establish demonstration court for narcotics offenders in Philadelphia.

Thurmond. Enhanced penalties for certain firearms violations.

Thurmond. Substitute to S. 1970.

Thurmond. Federal debt collection.

Thurmond. Germane substitute to S. 1970.

Thurmond. Re: undercover sting operations.

Thurmond. Drug testing upon post-conviction release.

Thurmond. Bankruptcy discharge prohibition for certain offenses.

Thurmond. Recognition of 82nd Airborne.

Thurmond. Strike exclusionary rule title from the bill.

Thurmond. Strike Organized Crime and Dangerous Drug Division title from bill.

Thurmond. Expansion of "good faith" exception to exclusionary rule.

Thurmond. Increases federal penalty for drunk driving if a child is present if the vehicle.

Wallop. Life imprisonment for three-time violent crime offenders.

Wilson. Judges not juries are to set sentences, with the exception for capital cases.

Wilson. Death penalty for civil rights violations.

DEMOCRATIC AMENDMENTS TO S. 1970

Adams (2). Abortion.

Akaka. Established methamphetamine education and prevention program.

Akaka. Enhances criminal penalties for methamphetamine use and distribution.

Akaka. National Institute on Drug Abuse shall research drug treatment for methamphetamine.

Akaka (2). Combination of the previous three.

Baucus. Establishes waiting period for the purchase of ephedrine.

Biden. Increases assistance grants for State and local law enforcement.

Biden. Authorizes $100 million for the establishment of a National Drug Intelligence Center.

Biden. State and local law enforcement assistance, firearms, rural drug enforcement, all drawn from S. 1972.

Biden. Interdiction amendment: military support, criminal aliens, drug intelligence.

Biden. Counter-narcotics technology assessment center.

Biden. Adds anabolic steroids to list of controlled substances.

Biden. Drunk driving bill.

Biden. Establishes a DOJ rural drug enforcement grant program.

Biden. Child victims bill; establishes child victims bill of rights, programs, etc.

Biden. Strikes money and reference to DOJ Organized Crime and Dangerous Drugs, but leaves $1.36 billion authorization.

Biden. Strikes strike force provisions and leaves DOJ authorization language.

Biden. Strikes remainder of strike force language (international prosecution teams).

Biden. Increases authorization for strike forces (Title VI) from $45 million to $1.37 billion.

Biden. Strikes references to "Dangerous Drugs Division" so that previous amendment applies to all of DOJ.

Biden. Sense of the Senate that $1.36 billion be spent in certain ways.

Biden. Increases authorizations for federal law enforcement and judicial assistance.

Biden. Civil enforcement: provides for eviction from places maintained for manufacturing, securing, etc., drugs.

Biden. Drug treatment, education, and prevention.

Biden. Forfeiture amendment: uses of DOJ forfeiture fund, foreign instrumentalities.

Biden. Drug emergency grant program.

Biden. Death penalty, exclusionary rule, money laundering, assault weapons.

Biden. Authorizes $100 million per year for DOJ anti-drug/anti-gang program.

Cranston. Blocking access to abortion clinics.

DeConcini. (6). Assault weapons provisions.

DeConcini. Firearms: technical amendment.

DeConcini. Strikes one provision in assault weapons title dealing with retention of copies of registration forms.

DeConcini. Increases pay and benefits for federal law enforcement officers.

DeConcini. Limits amount the DOJ can withhold for administrative expenses incurred in adoptive forfeiture cases.

DeConcini. Amends Customs Forfeiture Act to provide payment for overtime salaries, training and equipment of State and local law enforcement in assisting U.S. Customs Service.

Dodd. Expands services for treatment of parents and children who are drug abusers.

Graham. Law enforcement scholarships for current officers.

Graham. Study of racial and ethnic bias in criminal justice system.

Graham. Establishes DOJ Financial Services Crime Division.

Graham. Federal prison construction standards.

Graham. Deportation of convicted aliens who seek re-entry into the U.S.

Graham. Deportation of aliens who commit aggravated felonies.

Heflin. Equitable allocation of grant money under Crime Control and Safe Streets Acts.

Inouye. Indian exemption from the death penalty.

Kennedy. Money laundering.

Kennedy. Grants courts authority to impose sentences below mandatory minimum.

Kennedy. Clarifies definitions of "mixture or substance" under Controlled Substances Act.

Kennedy. Drug treatment, education and prevention package.

Kerry. Sense of Congress that treatment of demand is a goal of national drug strategy.

Kerry. Authorizes $1.2 billion for drug enforcement grants.

Kerry. Makes high intensity drug trafficking areas enterprise zones under the Housing Act.

Kerry. Mandates that seized assets of criminals shall first be used for their defense.

Kohl. Antitrust exemption to television networks for drug prevention campaigns.

Kohl. Prohibits the discharge of a firearm in a school zone.

Kohl. Drug abuse education, treatment, and prevention.

Kohl. Drug prevention and treatment for women in prison.

Kohl. Antitrust exemption to T.V. networks for drug prevention campaigns.

Lautenberg. Suspension of drivers' licenses for drug convictions.

Levin. Expands "school-yard" provision of Controlled Substances Act to include private playgrounds.

Lieberman. Grants authority to the Secret Service to investigate the S & L crisis.

Metzenbaum. OSHA: enhanced penalties.

Mikulski. Amends title 5, U.S.C., to expand list of federal law enforcement officers that receive retirement benefits to include certain IRS and Customs Service personnel.

Pryor. Prohibits disclosure of wiretaps contents.

Pryor. Rural drug enforcement—Drug Czar shall appoint a rural drug director (authorizes $20 million for grants).

Reid. Child victims' bill of rights.

Reid. Instructing DoD to give priority to prisons in transforming certain properties.

Shelby. Federal prison contracts give priority to State and local governments demonstrating ability to build facilities and care for prisoners.

Simon. Mandatory detention and drug testing.

Simon. Television violence—antitrust exemption.

Wirth. Establishes new division at DOJ for financial services prosecutions.

Wirth. Directs the Resolution Trust Corporation to transfer funds to DOJ to investigative S & L scandal.

Wirth. Policy to counter youth gang involvement in drugs.

Mr. MITCHELL. Mr. President, if there is one thing that is clear, Democrats want a crime bill. We did not just talk about wanting a crime bill. We voted for a crime bill, just this morning; 57 votes were cast for cloture. That would have guaranteed passage of a crime bill. Forty-six of those votes were Democrats; 11 were Republicans. Thirty-seven votes were cast against cloture. Failure of cloture meant no crime bill. Of those 37, 7 were Democrats, 30 were Republicans. So we can talk about wanting a crime bill, as we do often here, or we can vote for a crime bill or against a crime bill, as we just did.

So let there be no mistake or no misunderstanding as to where the cause lies for no crime bill.

Thirty Republicans voted against a crime bill, 11 voted for it. Forty-six Democrats voted for a crime bill, seven voted against it.

We are told that cloture is in the bag. That is what I was told yesterday. That is what I was told this morning. And as we have just seen, cloture was not in the bag, and cloture is not in the bag.

There are six Senators who were absent this morning. Of the six who were absent, three voted on the previous cloture vote, and they all voted against cloture. Three were not

present for the previous cloture vote, and we do not know how they would vote. Between the first and second vote, some Senators who voted no the first time voted yes the second time. Some Senators who voted yes the first time voted no the second time.

Cloture is not in the bag. There is no more assurance at this moment that we would get cloture on a third, fourth, fifth, sixth, seventh, or eighth cloture vote than there was between the first and second cloture vote.

Every Senator knew and understood that this vote was it. It was stated publicly. It was repeated publicly. It was stated over and over again. And 37 Senators voted against cloture. What is there to lead anyone to believe that if we say the next vote is it, anything is going to change? How many times do we have to say this vote is it before we can accept the result as final?

Now, I want to emphasize that cloture was filed reluctantly, after consultation with the Republican leader and the managers of the bill, because we faced the situation where there were nearly 300 amendments that were intended to be filed. I emphasize those were first-degree amendments. Each of them could have been subject to an unlimited number of second-degree amendments.

It was very clear that we either would get cloture and get a bill, or we would simply be here for an indefinite and indeterminant period of time with no possibility of ever getting a bill. The only way we could possibly have gotten action on this bill, the only way, I emphasize, is if cloture had been invoked. There is simply no other prospect.

Certainly, we could stand here today and debate other amendments. We could do it tomorrow and next week and next month. We could do it without limit. There is no question about the fact that if the Senate wanted to spend months and months debating endlessly hundreds and hundreds of amendments, it could do so. But, of course, that would mean two things. We would never get a bill here passed. We all know that. Second, we would do nothing else.

On the question of taking up other amendments, some have said, well, if my amendment were adopted, I would vote for cloture. True. But the possibility existed, indeed the almost certainty existed, that for every amendment that would be adopted, someone would be against cloture. And so we could go on an endless game of pick-up sticks, gaining one vote here and losing two here, gaining two votes here and losing three there, and spending more and more weeks.

I do not know how it could possibly have been made more clear than this vote was it, and those who wanted a crime bill should vote for cloture. And if you did not want a crime bill, the way to defeat the crime bill and to make certain that we did not get a crime bill was to vote against cloture. But now the Senate has spoken.

Even though 57 Senators voted for cloture and only 37 against, the motion is not agreed to. That may mystify the American people, who think we ought to operate by majority rule, but everyone here understands the rule; we must get 60 votes. Everyone understood that before the vote. Everybody should understand it after the vote.

I want to say that I commend and feel for the managers of the bill, both the present chairman of the Judiciary Committee, Senator BIDEN, and the former chairman of the Judiciary Committee, Senator THURMOND, who has devoted so much time and energy to this bill. I do not agree with either of them on every provision of the bill. I think they have done a tremendous job in getting this bill together and bringing it to this point. I know both of them supported and voted for cloture, and worked hard to get cloture along with the distinguished Republican leader and myself. But, unfortunately, it just was not to be.

I do not criticize anyone who voted against cloture. Each has his own reason. The Senator from Delaware is here.

I respect the fact that some have supported this because they wanted to offer amendments. That is certainly a valid reason if one chooses to assign that reason to one's actions. But, as we all know, the situation we faced last week was several hundred amendments pending, first-degree amendments, with an unlimited number of second-degree amendments and the possibility of, indeed, almost certainty of, a virtual endless debate, hundreds of amendments being offered, and almost certainty that there would not be a bill passed.

So I have the greatest respect for the distinguished Republican leader, my friend, but I must say I simply do not accept the argument that cloture is in the bag. That is what I was told yesterday and this morning. It obviously was not. I do not think there is any prospect that it would be on a third or fourth or fifth vote.

Of course, Mr. President, I will yield the floor. The distinguished Republican leader will respond if he wishes to do so.

Mr. DOLE. Mr. President, I am just advised by the Senator from Utah that he thinks we could shrink the number of amendments on each side. Again, I want to point out that on the Hatch Act, which, in my view, simply is a political effort by the other side, we spent 44 hours and 38 minutes. On the crime bill, which is important to the American people, Republican and Democrat, we spent 30 hours and 50 minutes so far.

So there is, it seems to me, plenty of time. And I can also say that two votes I am counting on the next time on this side. Senators WILSON and CHAFEE, voted for the DeConcini amendment. They are not here today. That would be up to 59, I think, and there are one or two other possibilities.

So I do not want to leave the impression that because the DeConcini amendment was adopted somehow nobody on this side will vote for cloture. The truth is we do not get to offer our amendments. That is why some will not vote for cloture.

A number of my colleagues have advanced the fact that, if there were a free and open debate, we could offer our amendments and have a vote. You would have more votes, or maybe not, on this side. Maybe it is in the other side's interest not to have votes.

I believe Senator HATCH, the Senator from Utah, had a good suggestion. If the majority leader is willing, we would try before we give up on this bill to see if we could not shrink the number of amendments and have some agreement between the managers, the Senator from South Carolina and the Senator from Delaware. We could have 25 amendments on a side, or something of that kind, or 10 amendments or 15 amendments, and proceed on that basis.

But I do not want to leave the impression, as the majority leader made a statement—he did not make a point, he made a statement—about we did not vote for cloture. Well, as I have said from the start, if we could offer our amendments, we would have many more votes for cloture. But, notwithstanding, the Republicans will furnish enough votes for cloture, in my view, on the next vote if they could produce one more vote on that side.

So it seems to me it is within the grasp, and I know the managers spent a lot of time on this bill. Senator THURMOND spent a lot of time—spent a lot of time on the habeas corpus provision, and he prevailed in a close vote. There was a close vote. There was a lot of time spent on the changes in the death penalty by both sides. I think we have a fair provision, and a fairly good consensus on it.

So I just urge the majority leader, obviously it is up to him, on whether or not to proceed. It has not been an unwillingness to cooperate on this side. We just cannot offer amendments. We just go from one cloture vote to the next. But even having said that, my view is that one more cloture vote would make a difference.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I just wanted to make one point for clarification. I respect everything the

Republican leader said. No one should be under the impression that a Senator cannot offer amendments if cloture is invoked. In fact, 330 amendments were filed under cloture. The only ones that can be taken up are amendments that are germane. The only right a Senator loses when cloture is invoked is the right to offer nongermane amendments, that is, amendments that are not germane to this bill.

So no one should be under the impression, the mistaken impression, that if cloture had been invoked Senators could not file amendments. They had already filed 330 amendments. I do not know how many were germane. Certainly, a large number of them were.

So every Senator had an ample opportunity under the rules, many availed themselves of that opportunity, to file amendments to the bill prior to the time of the cloture vote, and any such amendment which is germane, that is, relates to the subject matter of this bill, would have been in order to be considered.

Mr. HATCH. Mr. President, will the majority leader yield for a question?

Mr. MITCHELL. I will yield the floor.

Mr. HATCH. If I could just ask a question, is it not true that you are limited to 30 hours of debate and that almost anybody can file, call up, amendments post cloture?

Mr. MITCHELL. Yes.

Mr. HATCH. That is the problem. If I could just make this point: This bill is important. I think the reason cloture was not voted today was for a variety of reasons. Some people did not want to grant it because they have not had a chance to bring up both germane and nongermane amendments, all of which relate to criminal activity and crime bills. Some voted against cloture because they did not like the gun bill. I think that was a minority. Some on the other side voted against cloture because they did not like the capital punishment part of it.

Mr. MITCHELL. On both sides.

Mr. HATCH. Yes, on both sides. The fact is I think we have a solution. We do not have to go to cloture to narrow the amendments. I agree with the majority leader. When you see almost 300 amendments, that is very disconcerting and upsetting in this timeframe. On the other hand, this bill is every bit as important as any bill that we have brought this year, a number of which are extremely important. We spent a lot more time on them. We faced this on the clean air bill with literally hundreds of amendments. We narrowed them down gradually because of the force of the Senate rules and the force of the majority leader, and with the help of the minority leader.

What I am saying is why give up at this point? Why even vote for cloture? Why do not we both work to cut down the number of amendments that in good faith can be brought up here on the floor on both sides and make them equal? We will agree to time agreements. We will agree to 20 minutes equally divided on any amendment, if you would like, or, if we see one that needs particularly more time, we can make an adjustment, and we can get this matter over with in a matter of a few days. We will then have what will really be an important bill.

One other point: The distinguished chairman of the committee, for whom I have a lot of regard and affection, made the point that this is the President's crime bill. This is not the President's crime bill. The President asked us to address these issues. But he did not agree with every issue in this crime bill. He would like to see us try to amend some of those issues. We cannot do that all postcloture in the way I think the President would like it done. I think that is a fair offer. I think it does not take nearly the time. Even at this it will not take the time of a number other bills that may be as important, not in my eyes, but certainly no more important.

I think we could get this matter resolved. If we cannot narrow it down to the number of amendments to what there would have been post cloture, then I agree, the majority leader ought to pull this down. On our side—and that is the side that is apparently indicated as voting against cloture—if we cannot on our side, I do not blame the majority leader if he pulls it down.

The PRESIDING OFFICER. The majority leader retains the floor.

Mr. MITCHELL. I yield to the Senator from Delaware.

Mr. BIDEN. Mr. President, let me set a few things straight. One is we tried to do exactly what the Senator from Utah suggested when had one-third the number of amendments. We sat down, the Senator and I and the leadership staff on both sides, and said, "OK, let's see if we can narrow down these amendments." Every time we sat down, and we can put out some hot lines, every time we sat down to narrow down, it increased every single time. It did not narrow; it multiplied. It did not narrow.

Furthermore, with regard to this notion of if we only would give this some time, time seems to be the problem in this body. Every single time we said, all right, let us have some amendments relative to the President's bill or the issues the President wanted to debate, all of which are in this bill. Every one of them that he wants, from the President's perspective, are germane amendments.

Every one of them are germane. Everything that the President would want to do to change S. 1970, the legislation that is sitting before us, the death penalty bill I introduced, every one is germane to change it to the way the President wanted it.

Further, regarding this notion that the other side had not had a chance to offer the amendments, the amendments offered were all offered by the other side by and large, the vast majority of them, for the purpose of making S. 1970, the death penalty bill I introduced, the President's bill. Some of them succeeded; some of them failed. There was no gag rule, and we all knew from the beginning; let us have no mistake about this.

If we ever let this core bill get beyond the core bill, we would be here forever. Every single time—we had this discussion after the last cloture vote and we said, all right, let us see what we can narrow, and what have we narrowed? From 196 amendments to 330 amendments or something.

If the Senator from Utah is able to, and I would be delighted to talk to him about it later, maybe we can come back at this again. If he is able to narrow to 20 or 30 amendments on his side, fine, I will be part of that negotiation. I have no dog in that fight. Let him go to his side and say, all right, here is the totality of the amendments that we will introduce, that is it, and we are ready to agree to a unanimous-consent agreement, narrowed down to x number of amendments.

Mr. HATCH. Will the Senator yield?

Mr. MITCHELL. I have the floor, and I would like to comment in response.

Several Senators suggested to me precisely what the Senator from Utah suggested publicly, that we have a narrowed-down list of amendments on both sides. In each instance I have said to the Senator, will the Senator accept a narrowed-down list that does not include his amendment? And in each instance the Senator has said no.

In other words, the Senator is saying, I insist that my amendment be included in there, and let us exclude someone else's. With 330 amendments, Mr. President, it is obvious, there cannot be a crime bill unless cloture is invoked. That was obvious before this vote, and it is obvious now. The fact is that if we attempt to do it in any other way, it is not going to work.

Mr. McCLURE. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. McCLURE. I thank the Senator. I am very sympathetic to the problems the leadership has in scheduling legislation. I hope the Senators knows that. I have cooperated in every way I possibly can to help the leadership expedite the business of this Senate. I am afraid for many of us this conversation has been a kind of a closed circle. We have been outside of it, not in it, no matter how we have tried.

Many of us who voted against cloture, and I did, have never been permitted to be a part of this yet in the offering of amendments or even in the debate. I have been sitting here since the cloture vote trying to get recognition.

I can say at least one thing in response to the Senator from Delaware. I am against the DeConcini amendment. I am against the provision with respect to guns in this bill. That is not the reason I voted against cloture. This bill has been on the floor subject to amendment on 3 days that is all, 3 days. For many of us, believing that crime is a more important issue than that which would be devoted to 3 days of the Senate's time on amendments, we would like to have the opportunity to at least see some of these issues amended, amendments offered and debated.

The bill was on the floor on Monday, May 21 for debate only, no motions, no amendments. It was subject to debate and amendment on May 22, 23, and 24. No other time, none, has it been possible to offer an amendment or debate an amendment on the floor of this Senate on this bill. That is the reason that I and a number of others—I will not speak for anybody except myself—voted against cloture, because it is a more important issue than that.

With due respect to my friend from Delaware, it has nothing to do with the fact that I do not like the gun legislation on this bill. There are other issues. I am willing to accept the majority verdict on even those issues, even the gun legislation. But I do believe, with all the due respect to the difficulties of trying to make this place work, that 3 days of opportunity for amendment on this legislation is simply an inadequate attention by the Senate of the United States to a matter of overriding concern to the people of this country.

Mr. MITCHELL. I just want to say one thing to the Senator. I cannot count the number of times I have stood here and asked Senators to bring amendments to the floor. Senators say they have amendments and did not want to offer them. If there were 3 days, would the Senator come over and debate?

Mr. McCLURE. There was never, in those 3 days, a time when quorum calls delayed the Senate. Amendments were offered and debated fully during the 3 days.

Mr. HATCH. If the Senator would yield on that point, I think it has to be clarified, because the distinguished chairman said we met to narrow the amendments. We did not. We met to see how many there were. We never met to narrow them. I have to say that we were told throughout the process that if we got into a full-fledged amendment situation, that the majority leader said the tree was going to be full, whether that was right or wrong. If the tree was full, that means there could not be any amendments. That has gotten people on our side very upset. I agree with the Senator from Idaho.

That is literally the real concern over here; it is not the gun part of it. I think most people here realize that is what it was. There is a desire to see at least one more vote on it.

Mr. MITCHELL. If cloture had been invoked, I want to make clear, there could have been votes; there could have been an unlimited number of votes on the gun provision.

Mr. HATCH. Being limited to 30 hours has lots of limitations. We would have been limited to purely germane amendments, even though some of the nongermane amendments are very important anticrime amendments, and the amendments of the people on this side, as well as many on the other side, would be foreclosed.

The point I am making is that we have never really tried to narrow the amendments. We are now in a procedural posture where there is nothing else that this side can do on amendments, if they want to continue. We were told we could not bring up our amendments or the tree would be filled up. Whether that is true or not, that is what we were told.

All I am suggesting to the majority leader is this: I think that if he would continue, and if we really want to take a real crack at getting a crime bill out of the Senate, I believe that we can get on our side, in good faith, the amendments narrowed down to what would have been postcloture if cloture had been invoked. If we cannot, then I would not blame the majority leader in pulling this down, although under the circumstances, there still are legitimate gripes on this side. I would not blame the Senator, and I would not find any fault at all. I think this bill is that important. Whether it pleases me or not on all provisions, it is that important that with the limited time that has been given, we should not pull it down. If nothing else, we ought to go to at least one more cloture vote.

Mr. MITCHELL. Mr. President, I simply state that there was an opportunity to get the bill passed. We just had it this morning. All someone had to do was vote for cloture, and we would have had a crime bill. I think there is a certain irony in those who voted against cloture now saying we want a crime bill. That was the opportunity. That was the vote; that was not talk. That was a vote.

That was action. That is what we should have done. That is what I wanted to do. That is what the distinguished former chairman of the committee wanted to do, what the chairman wanted to do, and the Republican leader wanted to do.

Mr. McCLURE. Will the Senator yield on that point?

Mr. MITCHELL. Let me give the Senator from Illinois, who has been here several minutes, an opportunity.

The PRESIDING OFFICER. Does the majority yield for a question or yield the floor?

Mr. MITCHELL. I yield for a question.

Mr. DIXON. Mr. President, I asked the majority leader whether it is not a fact that the objections of those on the minority side cut both ways. This Senator stood up in our conference this Tuesday and suggested he had an amendment he very much wanted to offer along with his colleagues, the Senator from Florida and the Senator from Colorado, concerning the savings and loan scandal and setting up a financial strike force in the Department of Justice, which he thinks is desperately needed. There was a discussion in conference.

My amendment would not be germane, let me say, after cloture. I went back to my office and discussed on the telephone with the Senator from Florida and the Senator from Colorado my concerns, and met with my staff about my concerns.

What did I do, Mr. President? As a Member of the majority I decided that taking into consideration the importance of this bill I should vote for cloture. We are going to introduce a separate bill later, and we are going to introduce a Senate resolution on the things we are concerned about.

I think it is absolutely remarkable that, no matter how hard the majority leader tries to get a final vote on the most important crime package to come before the Senate in the decade I have been here, friends on the other side always find an excuse not to vote for it. They go out to the country every second year in an election and beat us to death talking about crime and trot out Willie Horton and all other kind of egregious things that happen in political campaigns. When they get an opportunity to vote against crime, for some reason they cannot do it.

How is the majority leader, may I ask you, Mr. President, ever going to get a vote that satisfies everyone with 337 amendments out there? My amendment will not even be allowed in the 30-hour time constraint after cloture, but I made my hard decision to vote for this crime package.

I might inform my colleagues on the other side that if they will go look at the record on most of the amendments to S. 1970, on which we have voted, I voted on the side of the amendment that was defeated, incidentally. This is not even the crime bill I exactly wanted. It is a whole lot better crime package than is on the books right now.

For those that go out and make the death penalty speeches, make the habeas corpus speeches, go out and say we ought to shorten the time for appeal in capital punishment cases and say we ought to stop using the street sweepers that kill little children in schoolyards—those speeches are wonderful; they really turn me on—but how about once in a while voting for a bill? It might come as some remarkable information for the people of this country that to do these things you have to pass legislation. That is what we are talking about.

You know I happen to be in the leadership. I do not like the fact that the majority leader made the decision that I had to make my choice. I made that choice. Every other one of the hundred Members can make the hard choice, decide whether you want your particular amendment you love so much or a decent crime package. There is not any way he is going to work out the 337 amendments.

I have been on this floor before managing, as deputy manager, SAM NUNN'S DOD authorization bill. You get 175 amendments and you slog and you slog, you work on weekends, no one shows up but you, and in the end everyone dies of exhaustion and says, my God, let us pass it. That is what happens. And that is what they know will happen here.

The majority leader, this poor guy who gets here before us in the morning and leaves after we are all back home at night in pajamas watching on television to see what time the poor devil gets to go home, is supposed to keep on standing here subject to this abuse.

There is a bill here. It is not my bill. I am not even a sponsor of the bill. It is a better bill than anything that is a possibility and someone who goes home and makes a crime speech ought to show up and vote for it.

I am prepared to vote for it. I voted for cloture both times I did not get my amendment. I am ready to vote for cloture another time.

If the majority leader cannot handle that, and he wants to go on to other business, I understand that as well, but I wish people would come over here once in a while and quit making all the speeches about what terrible shape the country is in. Sometimes you you have to vote for a bill.

I thank the majority leader for the time.

Mr. MITCHELL. Mr. President, do I still have the floor?

The PRESIDING OFFICER. The majority leader retains the floor.

Mr. MITCHELL. Mr. President, if we have all had a chance to say something, the distinguished former chairman of the committee, the now ranking member, former President pro tempore, has worked very diligently on this matter, so I am going to yield the floor so Senator THURMOND has the opportunity to address the Senate.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, it is rather difficult for me to get the floor because there has been so much talking.

I want to say this, first: The majority leader favored cloture. The Republican leader favored cloture. Both managers favored cloture.

I think we should have gotten cloture on this bill. The reason I say that is I think we could have acted much quicker and gotten cloture, and we could bring up germane amendments and could not bring up nongermane amendments, but the bill ought to be restricted to germane amendments anyway. On the other hand, this bill is so important I do not think it will stop right now. I think it is up to both sides to find some way to get together and pass a crime bill.

The murders committed in this country are just outrageous. The robberies committed in this country are too numerous. The rapes committed in this country are worse than they have ever been in the history of the country. Burglaries, all types of crimes have risen. We must in some way find a manner in which to pass this crime bill.

It is not a question now blaming the Republicans, or Democrats, or whatnot. For the good of the country we ought to get together somehow and pass a crime bill. I urge the majority leader and the Republican leader to get together and reach some agreement.

I think what we could do is this: Maybe each side could caucus, come up with 25 amendments, and reach a time limit and come back here and act on this crime bill. It is so important.

We have spent many days on other pieces of legislation. Someone mentioned the Hatch Act bill. The Hatch Act bill was interesting to some people. A lot of people were against it. But at any rate we stayed on it a long time. We have not been on the crime bill that long. I think we need to stay on this crime bill until we get it passed.

I urge the majority leader not to give up on this, either stay on it now or let us reach some agreement to limit these numbers of amendments and come back and pass a crime bill. The country is demanding a crime bill. The Congress ought to act and pass a crime bill. I hope we can get together.

As ranking member of the Judiciary Committee, I am willing to appoint someone on my side, and I am sure the chairman of the committee can appoint someone on his side, and we can limit these amendments maybe to 20 or 25 amendments and get action. Let us not give up.

The people want us to act. We are here to serve the people. We ought to act. We should not delay. I hope this can be worked out in some way.

Again, I urge the distinguished majority leader and the distinguished Republican leader to get together and see if we cannot reach an agreement, and bring a crime bill to the floor, and pass it.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I will not belabor the subject, but again for many of us who voted against cloture, it is the desire to operate a little more openly than we have been permitted to operate on this bill. With all due respects to the managers of the bill, there have been a lot of preconceptions of what could or could not be done with respect to the bill. I am not sure we really explored all the possibilities.

I fully support the statement just made by the Senator from South Carolina that we ought not to abandon the attempt at this stage. I will repeat what I said earlier. This bill has been on the floor for amendment on only 3 days. In those 3 days that we were on the floor on this bill I think we had either three or four or five amendments. I have not gone back and checked the RECORD. But those three or four or five amendments that were debated consumed over 23 hours of time. There has not been any opportunity on those 3 days to discuss anything more than those three or four or five debated amendments.

Against that backdrop many of us were very, very uncertain as to whether or not there would be any real attempt to deal with the other issues which are germane and some which are arguably germane, they deal with crime but not necessarily germane to this legislation, and there will be debates and arguments about that. But how could we deal with all of those issues or even several of those issues in a 30-hour time limit when we already spent over 23 hours on just three or four or five issues?

I believe that it is possible, and I hope that the managers of the bill on both sides of the aisle and others who are interested in this bill will attempt to negotiate both a limitation on the numbers of amendments, their identity if that is possible, and attempt to get limits on that that will fit within some reasonable time limit on the bill. My own guess is at this point that it is not impossible to get this bill disposed of within 30 hours without cloture but with unanimous consent.

Cloture is a draconian measure in this body and it is one of the things that the leadership has to try to use, to limit the time that is spent, but it is not the only way to limit the time that is spent.

When we went to the more restricted cloture process, we first went to 100 hours. Then we got tired of that and said it will only be 30 hours, but it will only be invoked upon very rare occasions. I think we knew when we got this strict postcloture regime, and particularly when it was limited to 30 hours, that cloture was going to be more difficult to achieve. But we begin now the process of starting cloture before we are even into the bill.

With respect to the 330 proposed amendments, I say to the Senator from Maine, the majority leader, for whom I have great respect, there were over 360 amendments pending or filed with respect to the Clean Air Act and yet the Clean Air Act got passed. And the Clean Air Act is a very, very important piece of legislation, I have no question about that. I think everybody in this body knows that if the Senator from Maine had not had that as a very high priority, it probably would not have gotten done. And I think everybody across this country has given me either credit or blame for the Clean Air Act depending upon their view of the merits of that act. But there were more than 360 amendments, more than have been identified here, and yet it got done.

As I say, after 3 days of debate on amendments, the process was closed. We were told at that point there will be no more time devoted to this bill unless it is under cloture. I submit that is not really the kind of effort that ought to be made to pass legislation that is as important as this.

I hope there is the opportunity to work out something. I hope the majority leader will not take this legislation down and will give us the opportunity to see if indeed there is something that can be done if there is reasonable opportunity for the amendment which I and many others do not think has been afforded it to this time.

Mr. MITCHELL. Mr. President, I respect the distinguished Senator from Idaho and I respect his comments. I will merely repeat that we had an opportunity to do something about the crime bill and that was the vote to pass the crime bill by invoking cloture.

It was stated publicly on the Senate floor, off the Senate floor, well in advance, that this is it. If someone wants a crime bill passed, the way to get a crime bill passed is to vote for cloture because that is the only way a crime bill is going to pass. And every Member of the Senate knows it.

Now Senators who voted against cloture, for whatever reason—and I respect that; every Senator has a right to do what they want to do—say, well, let us follow some other course.

The cloture vote was a tough vote. It was a tough vote for a lot of us. Never, since I have been in the Senate, have I voted for the death penalty. I have a deep conviction on it. This bill includes a death penalty. I voted for cloture. That was a tough vote for me. But I did so because I want a crime bill passed.

Now other Senators chose not to vote for cloture for their own reasons. They were free to do so. They did so and we did not get cloture. And so we do not get a crime bill.

But let us not have any misunderstanding about where the responsibility lies for not getting a crime bill. It lies in the cloture vote just held. That was stated clearly, publicly, and unmistakably beforehand. And if those Senators, for whatever reason—for which they are entitled to full respect—decided not to vote for cloture because they did not want to make that a tough vote for whatever reason, whatever issue, guns, death penalty, exclusionary rule, whatever their decision, that is their decision. But it is not the majority leader who is taking this bill down. It is the Senate which is taking this bill down and specifically the Senators who voted against cloture who have taken this bill down. That is where we stand now.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader has yielded the floor.

Mr. DECONCINI. Mr. President, I just want to support the majority leader's observation and his judgment here. He has taken a great deal of pain to work out a crime bill during the last 6 months almost, at different times waiting for everybody, waiting for other legislation, being sure that everybody was included, nobody would be left out of this. And now we are faced with it. As the majorty leader said, he even added another day on the second cloture vote.

But it was clear to everyone that, if this cloture vote was not passed, this bill was coming down because of those who do not want the crime bill, and I respect them. Some voted against cloture because they do not want the death penalty. I respect that. I disagree with it, but I respect it. Some voted against it because they do not want the gun restrictions, and I respect that.

But let us face the facts here. When you get a good, tough crime bill, it is not perfect for everybody and we know that. There are going to be things in that crime bill, if it passed, that I would like to see stronger perhaps. But the fact is that we cannot expect the majority leader to continue on more months or weeks than he has already put on the crime bill.

In essence, we have had this crime bill for 6 months, almost, before us here. We were supposed to have passed it last year, remember? It was supposed to be the last piece of legislation on the floor. Everybody wanted to get out and knew we had to pass the crime bill because it was important to this country, that we enhance some of the criminal penalties, that we do something about the death penalty, and habeas corpus, and other things, and we decided to put it off. Then the majority leader at the beginning of the year said that is what we are going to take up. So we were ready to take it up and people said, well, we need some more time and we have to work out some things. And we put it off again. That has happened two or three times and now we are faced with it. We are here, we are at the stage, and this is the time to perform.

If you want a crime bill, it is now. And there is a lot of legislation pending, as the majority leader already pointed out, the budget being just one crucial important part, not to mention the need for the appropriation bills that follow.

I do not know what anybody else can ask the majority leader to do than what he has done to try to pass a crime bill. He has voted for some things, and other things as others have voted for, that have been tough votes that he probably did not want to vote for.

But there are 57 of us that are committed to a crime bill here. Unfortunately, under the rules, that is not enough. So we are faced now with the possibility that we will not have a crime bill except as willy-nilly Senators want to attach it to a budget resolution or an appropriations bill or some other place.

I am sure we will have plenty of time to vote for these different issues. But we have to have some kind of order here to take up bills that deal with the subject matter. And here is exactly where we have been. We have had a couple of weeks on this crime bill. We have had a lot of debate. There has not been anybody cut off. Nobody said, "Hey, hurry up, get through with this bill."

But the time has come, when you can see it is stretching out, that you have to bring it to a head. That is what I think cloture is all about. Quite frankly, that is what I think leadership is all about. The majority leader has demonstrated that time and time again and he certainly is doing it now.

Mr. HATCH. Mr. President, I do not want to prolong this, but I do want to make these comments. I have nothing but the highest respect for the majority leader. I have nothing but appreciation for the pains and sufferings that he goes through on both sides of this floor. I know it is a difficult job. It is a thankless job in many ways. And I do not know of anybody I respect more as the majority leader than the current majority leader. I have a great personal affection for him and he knows that.

Now, having said all that, I believe that if it was up to the Senate whether we should take that bill down or

not, the Senate would vote not to do so at this time, especially if there is a good faith effort, for the first time by the way, on the Republican side to narrow the amendments at least on our side which would imply that the Democratic side narrow the amendments, too.

We have not had that opportunity since we started this debate. All that was asked was that people notify on the hotline the amendments that they had. We have to say that although we have had a number of days of debate, there was a pretty clear indication that we were not going to be able to bring up a significant number of amendments without having the tree tied up and people foreclosed from really having fair consideration of their amendments.

I can also say that there are a number on our side who probably will be accused of voting against cloture because of the DeConcini gun amendment, who could care less if the decision was made that we would not have a crime bill versus whether we defeat the gun measure.

I think it is true there are a lot of people on this side, including myself, who do not like that gun measure and who believe it is the wrong thing to do. On the other hand, the majority did speak on it and, as far as I am concerned, it is a bothersome thing to me, but the bill is an important bill and it is worthy of further consideration.

I also believe that of all the bills we have had this year, it is easy to list those we would call landmark bills. Certainly clean air fits in that category. But this bill has not had the consideration of clean air, and clean air at one time had hundreds of amendments. We were only able to get rid of those amendments when we got to a procedural position which is similar to this one where Members have to say: "Hey, we have to cut it down in order to get a bill."

I think we are at that position here and I believe we can cut down the amendments to get a bill. At least an effort ought to be made to do so. This is an important bill.

I have to admit it needs to be said this is not the President's bill. The President's bill would have been the Thurmond substitute which basically was prohibited from being brought up because of the way the debate went. Under certain circumstances it could be brought up, but only by foreclosing other opportunities.

If this bill passed in its present form, I would be tremendously pleased with the death penalty part. I would be tremendously pleased with the habeas corpus part. I would be displeased with the exclusionary rule part and, of course, naturally, with the DeConcini part.

The fact of the matter is there really has not been a fair chance to amend this bill, and even if we agree to cut back on amendments, even if we agree to that, there will not have been a fair chance to amend the bill.

But I think that is where we are and I think most people will admit that would be better than giving up what really is one of the most important bills of any year, let alone this year.

What I am suggesting is this. I personally believe that we, on this side, could cut down the total number of amendments to where we would not use the 30 hours that would have been used postcloture, if cloture had been invoked. I believe we can cut them down and agree to time agreements that would use considerably less hours than the 30 hours; in fact, considerably less hours than half the 30 hours, so we give an equal opportunity to the other side. I believe that could be done. I believe our minority leader believes that could be done. And I believe that would be in the best interests of this bill, because we would lose nothing.

Postcloture we had 30 hours more to go. We had something like 40 to 60 amendments there. I think we could cut this down to 20 amendments a side, and I think we could agree to a half-hour time limit for each amendment if we had to. That would be less than the 30 hours, and I think even the votes that would be required would be within the limits of 30 hours.

I think it is a real mistake to pull this bill down just because cloture has not been invoked. So what? That is not a good reason to bring it down. If we have a good faith effort—we do this all the time; we have hundreds of amendments filed on these bills and then when the pressure comes and the procedural situation arises—and perhaps that is what the majority leader is doing here, and I hope so—if the procedural situation arises, then people have to stop and they have to get rid of all the amendments that really should not be called up and they go to the salient, important amendments that should.

In this case, if we cut back to 20 amendments on this side, agree to a time agreement on each amendment and we were able to proceed and even go under the 30 hours that we would have undoubtedly had to go through had cloture been invoked, I do not see how anybody loses. The Senate wins. The people win. The bill would be passed. And it would have tremendous bipartisan support.

That is worth the effort. That is worth not throwing in the towel. This is a landmark piece of legislation. This is an important bill. I know that the distinguished chairman of the committee and the distinguished ranking member of the committee have worked years to get this bill to this particular point at this particular time. And they have not been alone. Some of us have been right there slogging in the trenches with them.

I think it would be an absolute tragedy to bring this bill down because, for a variety of reasons, including absentee Senators today who had to be gone, we could not get cloture today. I do not think we need cloture under these circumstances. I think it would be fair. I think we would go to quick votes. Yes, some of them might be difficult for one side or the other to vote on. But that is what we go through here. That is what this life is. It is not a bowl of cherries. We sometimes have to stand up and vote on tough issues.

So what if we do? We do it all the time. But to get a landmark piece of legislation like this through it is worth 6 weeks on this floor, not 5 days. Here we are offering just another day to get it through, or another full 24 hours to 30 hours, which we would have had to have done had cloture been invoked.

I think that can be done. I think it has to be done. If it is not done, then do not say that just because we did not get cloture, we cannot have a crime bill.

I also agree the majority leader sometimes has to say this is the end of it, but I do not think he should say it on this particular bill, as important as it is, with that particular type of good faith effort, if we can make it on both sides. I think we can do it and I have been known to be right on some of these procedural matters. I think we can do it. I think it is worth doing if in the end we get this bill.

I would like to have the gun thing in there, but if it is, it is.

If we can get a bill, then it would be a good thing.

Mr. President, I have said enough on this. I wanted to make these points. I want to commiserate with the majority leader but also encourage him to do this because I think Senators of good faith can get this matter resolved.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERREY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, we have had a good deal of discussion this morning in the aftermath of the failure to get cloture on the Biden-Thurmond crime bill. I have been speaking with Senator THURMOND, as you might expect, since both of us feel very strongly that we should have a bill. I think the distinguished former chairman of the committee is here, and I do not want to misspeak, so I hope he will listen to what I have to say, so I do not

characterize his position differently than is accurate.

We both are of a view that the only way we are really likely to get a bill is if we can enter into negotiation which very narrowly defines what we are ultimately going to vote on, so we can get up what we have worked on; that is, death penalty, habeas corpus; and there are provisions in the bill relating to money laundering that we can agree on, that we could work out a final amendment. And the only issue unresolved by us is whether or not we have one vote on the exclusionary rule; and I drop the reorganization of the Justice Department provisions in this legislation or we work out some compromise on that.

I want it to be known that I have discussed this with the majority leader. If we can end up with something along the lines suggested by the distinguished Senator from South Carolina [Mr. THURMOND], then I would be prepared to go that route, as would the majority leader. That is, to reiterate, that we would essentially pass what we have approved already, in addition to which we would have a vote on the exclusionary rule as proposed to be changed by the Senator from South Carolina, and potentially a vote on the reorganization of the Justice Department, or dropping that; but they would be essentially the only things we would do, and we would pass this bill, and then we could move on to debate other aspects of the criminal justice system.

So, I just want the ranking member to know that I have discussed this with the majority leader. He is prepared to accept that approach if that is the will of our Republican colleagues. I am prepared to accept it and propose it. I think it would be a very worthwhile way for us to move. It would avoid all the consternation that has been existing on this floor and may from this point on if we do come up with some reasonable resolution dealing with what is a good, good bill, a solid bill on the death penalty, a solid bill on habeas corpus, and a solid bill on other provisions.

So I ask my Republican colleague if that is essentially what he was proposing.

Mr. THURMOND. Mr. President, that is correct. I feel very strongly that we ought to pass a crime bill. We have gotten together on so many provisions here that I think we can reach an agreement on one or two other provisions and adopt this bill.

I thank the distinguished chairman of the committee for looking very favorably upon this arrangement. I think I can work it out.

Mr. BIDEN. With that in mind, as I have said, I have spoken to the majority leader and he has authorized me to accept that approach if that turns out to be the will of the leadership, in addition to Senator THURMOND, on the Republican side. He is convinced, as I am, that we should have a bill. This is a vehicle by which we can get a bill.

I am confident our staffs can literally in a matter of an hour or so bring to resolution all of the remaining issues in S. 1970 and agree on a unanimous consent approach as to what would be in order in terms of amendments to reorganization of the Justice Department, if we do not drop that, or a single amendment on changing the exclusionary rule as redrafted, and no more votes on anything. And then vote up or down on this crime bill. That is what the Senator from South Carolina wants. That is what I want. I am confident, as the leaders of the Judiciary Committee, we can provide such a vehicle for this body, and we would be prepared to vote on it relatively shortly. I think it is a good suggestion.

Mr. THURMOND. This is what I proposed to the able chairman of the Judiciary Committee. And when we get through—The Senator from Delaware has already talked to the majority leader—I would like for us to talk to the Republican leader and see if we can reach agreement on that.

Mr. BIDEN. I can say with certainty the majority leader is prepared to accept this. I have discussed it. I have pointed out the wisdom of the position proposed by the Senator from South Carolina. He has authorized me to say that is fine with him if the Republican leadership were to agree.

Mr. WIRTH. Mr. President, during a recent trip to Colorado, I met with State officials and members of the Colorado Association of Chiefs of Police, who expressed their concern about the existence and use of assault weapons among drug dealers and gang members in Colorado. This organization, as well as law enforcement officials from all over the State, enthusiastically support a prohibition of the sale of these weapons of war.

The provision in the crime package would prohibit the transfer, importation, receipt, or possession of nine assault weapons, except for those used by Federal, State, or local governments and those weapons lawfully possessed before enactment of this bill. New recordkeeping requirements would be established for the transfer of previously owned weapons. The proposal would also require a minimum 10-year prison sentence for anyone using or carrying an assault weapon during the commission of a crime of violence or a drug-trafficking crime.

I believe we need to tackle the problem of crime and drug trafficking head-on. There are no quick fixes and there are no easy solutions. We must have a clear strategy and fight this battle in a coordinated fashion using our resources wisely. Clearly no single legislative solution will end our war on drugs and violence in this Nation. However, I believe the comprehensive package of provisions in this bill form a strong base to fight this battle.

Mr. President, I ask unanimous consent that some of the letters I have received from law enforcement officers in Colorado be inserted for the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CITY AND COUNTY OF DENVER,
DEPARTMENT OF SAFETY,
Denver, CO, December 6, 1989.

Senator TIMOTHY E. WIRTH,
Denver, CO.

Dear Senator Wirth: Your letter dated November 27, 1989, concerning the Anti-Drug, Assault Weapon Limitation Act (S. 747), was received with great interest.

You are probably already aware of our new ordinance banning the possession and sale of assault weapons within the City and County of Denver. Our ordinance bans the possession and sale of the same weapons banned by S. 747.

The Denver Police Department participated in the drafting of the Denver ordinance and supported its passage because of our belief that it enhances the safety of both our officers and the citizens of Denver.

I testified before City Council that I believe Federal legislation is the best method of controlling these weapons. Our ordinance certainly will have an impact on sales within our city, but cannot address sales and possession outside our own jurisdiction.

The rights of gun owners were a consideration in drafting our weapons ordinance. We strongly believe that banning these weapons does not violate a citizen's right to own most weapons for recreation or self defense.

Act S. 747 is supported by the Colorado Chiefs of Police, the County Sheriff's Association, the I.A.C.P., F.O.P. and many other organizations. We would like to add our voice to that support, and ask you to support S. 747. If our department can be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

ARISTEDES W. ZAVARAS,
Chief of Police.

CITY OF FLORENCE,
POLICE DEPARTMENT,
Florence, CO, December 6, 1989.

TIMOTHY E. WIRTH,
Senator, Colorado Springs, CO.

DEAR SENATOR WIRTH: Thank you for your letter to me dated November 27, 1989 in which you requested my opinion concerning the Antidrug, Assault Weapons Limitation Act S. 747. I would like to state first of all that I am a NRA Police Firearms Instructor and also hold Certification as a Firearm Instructor by the State of Colorado Board of Peace Officer Standards and Training. I also consider myself to be a hunter and in fact I am also a Master Instructor for the Hunter Education Department of the Colorado Division of Wildlife.

I do not feel that the weapons identified in S. 747 are weapons that should be allowed to be owned by anyone other than the military or law enforcement agencies. I see no valid reason for anyone to own such dangerous weapons. Granted a gun in itself is not dangerous but neither is dynamite.

I would like to see stiffer penalties for persons convicted of any crime involving the

use of a firearm and especially such assault weapons as listed in S. 747.

Sincerely,

GUY E. ORAZEM,
Chief of Police.

CITY OF ARVADA,
Arvada, CO, December 2, 1989.

Hon. TIMOTHY E. WIRTH,
U.S. Senator, Russell Senate Building, Washington, DC.

DEAR SENATOR WIRTH: Thank you for your inquiry about Senate Bill 747, the Anti-Drug, Assault, Weapons, Limitation Act. I am firmly in favor of this bill and I believe that most of the Chiefs of Police in Colorado feel likewise.

This bill will not interfere with hunters, the right to self-defense, or the general right to keep and bear arms. It is a reasonable regulation of military type weapons that will make it somewhat more difficult for individual criminals, organized crimnal gangs, terrorists, fugitives from justice, and the deranged to acquire weapons with a tremendous fire power that assault weapons possess to harm the public's safety.

I urge to vote for Senate Bill 747. Please let me know if you have any questions or if I can help further.

Sincerely,

PATRICK C. AHLSTROM,
Chief of Police.

SAN JUAN COUNTY
SHERIFF'S DEPARTMENT,
Silverton, CO, December 7, 1989.

Senator TIMOTHY E. WIRTH,
U.S. Senate, Washington, DC.

DEAR SENATOR WIRTH: I thank you for the opportunity to respond on the issue of the Antidrug, Assault Weapons Limitation Act. I applaud your efforts in trying to gather as much information about the issue as possible before you make a decision.

I am not an anti-gun advocate. I am fully aware of the rights of citizens to bear arms. The question is not guns in general, but on assault weapons. These weapons have no other practical use than what they were designed for, assault on another person.

I whole-heartedly support this bill for several reasons. The assault weapons have now become the weapons of choice with the drug cartel, dealers and with mass murderers. They have been able to stay one step ahead of law enforcement who are, for the most part, not prepared or equipped to deal with these weapons. I have a great concern for my officers, for if they were to come bullet to bullet with these weapons, they wouldn't stand a chance.

The drug war has become just that, a war. A war that we are losing because we are outmanned and do not have the proper equipment. Unless we are ready to turn our country into a war zone like Colombia, which is in total chaos, we must show the drug dealers that we mean business. A ten year prison sentence for the use of an assault weapon during a drug-trafficking crime is fine but, it should rise to a proportionate sentence if death is caused.

Violent crimes are sometimes associated with drug usage, but not always. There is the mass murderer that randomly and for no apparent reason opens fire on school yards or some other public gathering. For this crime death is the only answer.

I support any effort that is being made to protect my officers, children and family. I am behind S. 747.

I thank you for this opportunity and trust you will make the right decision. Good luck.

Sincerely.

GREGORY G. LEITHAUSER,
Sheriff.

CITY OF FORT COLLINS,
Fort Collins, CO, December 5, 1989.

Senator TIMOTHY E. WIRTH,
U.S. Senate, Washington, DC.

DEAR SENATOR WIRTH: I strongly believe that S. 747, introduced by Senator DeConcini, is a reasonable approach to the assault weapon threat to our peace officers and the public at large in this country, and would support its passage in the Senate.

This bill prohibits the importation, domestic manufacture, and sale of new semi-automatic assault weapons as defined in the bill, without restricting the possession, transfer, and sale of assault weapons lawfully possessed before the act's passage.

We know our peace officers in this country are being confronted with criminals, including narcotics violators and other violent criminals who frequently arm themselves with assault-type semi-automatic weapons and misuse these weapons in the pursuit of their criminal activity. The continued use of these assault weapons has contributed to the rising numbers of murders of law enforcement officers and innocent civilian victims.

The latest Gallup poll conducted nationwide February 28 through March 2, 1989, of 1,000 adults, 18 and older, indicated that 72% favor federal legislation to outlaw assault weapons. These weapons are not "hunting" or "sport" weapons, but are manufactured as weapons of war for the sole purpose of inflicting serious bodily injury or death upon humans.

Based on all of the above information, Senator Wirth, I would encourage you to vote in support of the passage of S. 747.

Sincerely,

BRUCE D. GLASSCOCK,
Chief of Police.

TOWN OF COLLBRAN,
Collbran, CO, December 14, 1989.

Re S. 747.

Senator TIM E. WIRTH,
Grand Junction, CO.

DEAR SIR: Our little community sets among some of the best hunting locations in Colorado. Deer and elk hunters come here in hopes of bagging trophy game. Living in this community are numberous gun owners and sportsmen but I have not found one yet that insists he is in need of a fully automatic weapon. A true sportsman believes and states quite emphatically that it only takes one shell to down his prey.

We have heard the argument presented that you have the right to bear arms, the right to protect yourself and your family and the right to defend your family against invading armies. What are the odds in our lifetime a situation will arise that a Mac 10 machine pistol would be a useful tool defending against a burglar. The overspray of the weapon alone would cause 10 times the damage of the loss of goods.

Law enforcement officers don't carry such weapons because of the potential danger to innocent bystanders but criminals don't concern themselves with that. We feel possession alone shows a risk to society and a danger to human life, and if used in a threatening way should be penalized heavily.

I myself support the Antidrug, Assault Weapons Limitation Act (S. 747) and support your efforts to take automatic weapons off the streets. Law enforcement is hard enough without adding to its worries that at any time you could be out-gunned by a drug dealer holding a weapon that can fire 3,200 rounds per minute.

Sincerely,

DAVE MIKESELL,
Collbran Town Marshal.

ORDER FOR RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate stand in recess, subject to the call of the Chair.

The PRESIDING OFFICER (Mr. SIMON). Is there objection to the request?

Mr. WIRTH. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. Senator GRAHAM, Senator DIXON, and I had wanted to talk a little bit about the introduction of a bill relating to the savings and loan task force. Would that be appropriate to do at this point?

Mr. BIDEN. Mr. President, the leadership would not object to that with the stipulation that following their colloquy on whatever the issue is they wish to speak to the Senate would then go into recess subject to the call of the Chair. I so ask unanimous consent.

The PRESIDING OFFICER. Is there objection to that modified unanimous-consent request? Without objection, it is so ordered.

ESTABLISHING A FINANCIAL SERVICES CRIME DIVISION IN THE DEPARTMENT OF JUSTICE

Mr. GRAHAM. Mr. President, I request recognition for purposes of introducing a bill on behalf of myself, Senator DIXON, Senator WIRTH, Senator KERREY of Nebraska, Senator KERRY of Massachusetts, Senator SIMON, and Senator LEVIN.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. GRAHAM. Mr. President, the legislation that we have just referred will establish a Financial Services Crime Division in the Department of Justice. We are offering this bill as a separate matter now, also to alert the Senate that the essence of this legislation is also pending as one of the amendments to the current crime bill.

It will be our hope to be able to pursue this as part of the reorganization of the Department of Justice title within the crime bill or elsewhere within the crime bill; failing that, to pursue it as an individual matter pursuant to the legislation which we have just filed.

Mr. President, there is no financial scandal in the history of the United States of America which compares with the financial scandal that has now beset us as a result of the disastrous conditions within the savings and loan industry.

I have three editorials, or columns, which illuminate various aspects of this scandal. One of those is an article from the Chicago Tribune by Mr. Mike Royko on "Taxpayers Would Enjoy Paying To Put S&L Crooks in Jail." Another from the St. Petersburg Times, "Where Did All the Money Go?" And a third from Robert L. Steinback, Miami Herald, "Americans Pay the Price for Bad Loans."

I ask unanimous consent those be printed in the RECORD immediately upon conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. Mr. President, the S&L crisis is a book with many pages and nuances. One of the major chapters is the issue of illegality, fraud, deception, and abuse of trust, which has been such a significant part of the public outrage over this circumstance. That outrage has been aggravated by the fact that there has been virtually no action taken directed at those persons who have been such a direct cause and beneficiary of the abusive behavior.

In fact, the public outrage has been exacerbated by the casualness with which the issue of criminality is being dealt. That casualness reached an apex in recent days in testimony before the House Banking Committee offered by one of the directors of a failed S&L, Mr. Neil Bush.

Mr. Bush, in his testimony, discussed the extensive degree of self-dealing between directors of a savings and loan association and the individuals who borrowed money from the savings and loan association and also had financial dealings with those same directors. The loans from the savings and loan in the most part subsequently resulted in enormous losses to the savings and loan, which will now be enormous losses to the taxpayers.

In repsonse to the inquiries about how this issue should be dealt with as a matter of public policy, Mr. Bush stated as follows:

> To finger-point and look for crooks where there are none is not doing a service to this country, because we are facing a humongous problem.

I would certainly agree with the last phrase, "We are facing a humongous problem." I would take great deference with the statement it is inappropriate for us to try to determine who was the cause of this problem.

Mr. Bush goes on to say:

> I do not think every time there is a failure, you have to finger-point.

I assume the conclusion of that statement is that we should accept this as something that nature preordained, that it was beyond human control, that it is beyond human acceptance of responsibility. It is an application of, I guess, the sociological theory of criminal justice, that there is no such thing as personal responsibility; it is all society's fault, and therefore we should look elsewhere.

I reject that view. I believe in personal responsibility and accountability, particularly when people have accepted a position of public trust and honor, and have violated that trust and honor.

This situation is not limited to one group of trustees, one group of directors, or a particular institution. It is fraud on a massive scale. In March 1990, an FBI survey shows that there were 21,000—Mr. President, I repeat that number, 21,000—savings and loan fraud referrals which had been made to the Federal Bureau of Investigation which were "unaddressed."

"Unaddressed" does not necessarily mean they are being ignored, according to a representative of the Federal Bureau of Investigation. But it does mean that there has been substantially no action taken on those 21,000 fraud referrals. Assistant Attorney General Edward Dennis, Jr., before the Subcommittee on Crime of the House Banking Committee, stated that there were 1,298 cases before various U.S. attorneys which were currently listed as "inactive"; 1,012 of those cases related to losses of more than $100,000 to savings and loans, that is 1,012 referred cases to the FBI involving losses in excess of $100,000, which are currently inactive; 234 of those cases referred to the FBI, listed as inactive, contained losses of more than $1 million as a result of fraudulent activity.

We have had before the Senate for the past several days a crime bill. We are trying to identify people who have committed all nature of illegal activities. We are concerned about people who engage in drug transactions. We are concerned about people who engage in acts that endanger persons' property, particularly those that endanger the lives of our citizens. What does it say about our criminal justice system when we have 21,000 S&L fraud referrals sitting unaddressed; 234 cases which have a loss estimated at more than $1 million.

In testimony before the same House Crime Subcommittee, Mr. Dennis said that Justice had never sought more than $50 million in budget capacity to deal with this problem, even though that number, $50 million, was only enough to pay for half of the new FBI agents and prosecutors which the Justice field offices said would be needed to prosecute the S&L fraud.

That is an admission that the resources that are available are inadequate, and that the Department of Justice has never intended to seek funds that would be adequate to pursue the case to the extent that the number of potential malefactors would warrant.

In 1989, the FBI field agents requested 425 new agents to help investigate savings and loan complaints. The Bush administration approved half of that number. In 1989, U.S. attorneys requested 234 more lawyers to help prosecute S&L cases, but the Bush administration cut that fund increase by one-third. Before the crime subcommittee, Mr. Dennis conceded that if Congress were to boost bank fraud prosecution funds by another 50 percent, the Justice Department could use the money, and that it would be spent appropriately to investigate and prosecute serious cases.

In addition to the inadequate level of commitment, the lack of any sense of prosecutorial, investigatory zeal, the failure to request what has been admitted to be the adequate amount of resources necessary to pursue these cases, I am concerned about the way in which the Department of Justice has determined to pursue these cases. That is to place the responsibility on each of the U.S. attorneys' offices.

I have had some conversation with those U.S. attorneys, and the information which I have received has been that these are extremely complicated cases requiring special expertise, necessitating a diversion of existing investigatory and prosecutorial resources from the major crime demands which the offices faced before the S&L circumstance collapsed, and that the likelihood of effective prosecution through the system that has been suggested by the administration is slight to nil.

So, Mr. President, the legislation that has been introduced today by distinguished Members of the Senate, including the Presiding Officer, will provide for the establishment, within the Department of Justice, of the Financial Service Crime Division. That division, which will be headed by an assistant Attorney General, shall have the responsibility for assuring that all investigations and prosecutions are coordinated within the Department of Justice to provide the greatest possible use of civil proceedings and forfeitures to attack the financial resources of those who have committed fraud or engaged in other criminal activity in or against the finanical services industry. All investigations and prosecutions are to be coordinated within the Department of Justice to ensure adequate resources are made available in connection with criminal investigations and prosecutions of fraud and

other criminal activity in the financial services industry.

In a word, Mr. President, what we are proposing is to establish something very similar to what was effectively used several years ago relative to organized crime; that is, a specific unit within the Department of Justice charged with that responsibility and then the use of strike teams across the Nation of investigators and prosecutors with special training and expertise who will be able to build upon their past experience in order to most effectively ferret out those who have violated the public trust, both those within the industry, Mr. President, I might say, and those outside the industry who, with knowledge of a conspiratorial intent and purpose, engaged in activities which looted these institutions.

Evidence has been presented in the case involving Mr. Bush in the institution in which he served as a director that there was a pattern in which a developer seeking a loan would secure not only the amount requested for the particular project, but also additional funds. The commitment was that those funds, beyond what was required for the development, would be used to purchase instruments of the S&L itself. The effect of that transaction was to create a false impression as to the degree of financial solvency of the savings and loan institution, thus, to dampen the ardor of the regulators to move against that institution and to allow the institution to continue to live on to be plundered another day.

I believe that instances like that and other circumstances in which people outside the institution knowingly took advantage of the institution, profited by it, and contributed to the institution's demise and now this enormous cost to the American taxpayer, that they, too, should be subject to both criminal and civil investigation and the most aggressive prosecution that the facts would allow.

The legislation that we are introducing today will give us the means to do that, will give us a focus of national attention to deal with the criminal aspects of this horrendous problem and will assure the American people that we are not doing what Mr. Neil Bush had suggested, and that is, that we are saying that just because there has been a problem does not mean that you need to finger point and try to find the problem. Yes, there has been a problem. We need to face that fact. Yes, that problem has, to a significant degree, been the result of criminal, fraudulent activity and, yes, we have a responsibility to the American people to see that those who engaged in those activities are brought to the fullest degree of justice.

I thank the Chair, and I yield to my colleague and friend and cosponsor of this legislation, the Senator from Illinois.

EXHIBIT 1

[From the Chicago Tribune, May 29, 1990]

TAXPAYERS WOULD ENJOY PAYING TO PUT S&L CROOKS IN JAIL

(By Mike Royko)

Our Washington financial wizards are now guessing that it's going to cost us about $250 billion to clean up the savings and loan disaster. Or maybe it's $300 or $500 billion. Nobody is sure what the final loss will be because so many thrift institutions, as they are laughably called, are staggering and might go under at any moment, upping the tab.

This means that those of us who pay taxes will be digging deep for years. The losses might be so big that our kids could be paying after we're gone.

And we're not talking pocket change. It will probably be at least $1,000 from every man, woman and child in this country. But because not every man, woman and child pays taxes, it's going to cost those who do several thousand.

So we've been had. We've been fleeced. We've been taken. All we can do is pay and hope it doesn't happen again, right?

No, that isn't right. It's one thing to be fleeced. It's another to get nothing in return.

This isn't the first time we've been taken. But in most cases, we have some little thing to show for it.

If the Pentagon spends billions to develop a tank that can't make a left turn or an airplane that can't fly, we have some tanks that can't turn left and planes that don't fly. You never know—some day the Japanese might want to buy them as souvenirs.

When a federal agency spends money on scholarly studies to determine what percentage of urban pigeon droppings land on people's hats, the studies give a laugh or a moan. That's not much, but it's something.

So we should demand that we get some small token of appreciation for the hundreds of billions we're going to fork over because of the mismanagement, bumbling and outright theft that brought about the S&L scandal.

And that small token should be revenge. Vengeance is mine, sayeth the clobbered taxpayers. At least that's what this taxpayer sayeth.

Since the scandal began, we've heard all sorts of excuses. The sagging real estate market did it. Regulations did it. Deregulation did it. And it was nobody's fault.

Nobody's fault. That was the copout tossed at Congress this week by George Bush's son, who served on the board of a failed Colorado S&L. It was sort of like being hit by lightning, to hear him tell it. Of course, his S&L made goofy loans to some of his business associates. But what are friends for?

Nobody's fault? While Ronald Reagan napped and his administration opened the vault, the pin-stripe bandits rushed in and started stuffing their pockets. With mere strokes of their gold-tipped pens, they pulled off heists that made John Dillinger look like a hubcap thief.

So what are the federal lawmen doing about the biggest collective swindle in our history?

They're telling us that they would really like to track down all the thieves and bring them to justice, but they just don't have the manpower. They sigh and say there are so many suspected crooks, so much looting, so many bad paper trails to pursue, but so few to pursue them.

If that's the case, then to heck with it—spend a few billion more and hire enough sleuths to do the job. At this point, what's an extra billion or two if it will provide us with the satisfaction of seeing the cell doors slam shut on a few thousand big-time looters?

After all, we pay a fortune to people who eyeball our tax returns so they can haul us before auditors who say: "Aha, you don't have a receipt for this TV set you gave to the Salvation Army? Pay, you rascal."

So why not spend what it takes to haul every S&L dipper into court? Maybe they won't all be convicted, but at least they'll sweat, develop ulcers and have to resign from their country clubs to pay their legal fees.

Hire the needed lawyers, the accountants, the paperwork bloodhounds who can sniff out the scams. Drag the hustle-bucks before grand juries. Let us hear them tearfully plead with a judge for mercy because they are good family men, never got a moving violation and have a character reference from a U.S. senator.

Remember, Jesse James took a bullet in the back. Dillinger was sprayed with so much lead that mining stocks jumped three points.

But in their entire careers, our two most legendary bank robbers didn't steal enough to furnish the offices of some of the S&L swindlers.

This is no time to skimp. I'll pick up my share of the tab, but in return I want to hear the sweet, satisfying sound of those ulcers popping.

[From the St. Petersburg Times, May 30, 1990]

WHERE DID ALL THE MONEY GO?

The administration now admits that 1,000 more savings and loans are likely to fail, pushing the bailout cost as high as $130-billion. That's atop the $65-billion committed in 1988. Add what it will cost to borrow the money, and the total expense to the taxpayers and the industry should exceed $500-billion over 30 years. Even by Washington standards, that's big money. To put it in perspective, it's everyone's personal income taxes for an entire year.

Where did the money go? Often, it went to the buddies and business partners of the people running those savings and loans. Why worry whether they could pay it back? If worst came to worst, the government would cover the losses.

Among these private piggy banks was the Desperado—pardon us, Silverado—Banking, Savings and Loan Association of Denver, which became one of the $1-billion failures. Silverado has attacted more than usual interest because one of the directors who failed in their duty to keep it solvent was Neil Bush, the president's son. He voted to approve a $106-million loan, now in default, to a developer, William Walters, who had invested in Bush's oil business and whose own bank had lent $1.5-million to the business. He proposed a $900,000 line of credit—granted but never used—to another developer, Kenneth Good, who had also invested in the oil business and who earlier had lent Bush $100,000 that he would not have to repay unless he made money on it. Bush's defense? The Silverado loans weren't improper because he didn't stand to profit from them; never mind that his business

partners and benefactor did. A distinction without a difference.

Many thousands of such back-scratching deals—along, of course, with many thousands of cases of deliberate criminality—went into the making of history's costliest taxpayer bailout. It adds grievous insult to grievous injury to hear participants such as Neil Bush insinuate that the taxpayers should simply pay up, forgive and forget.

"To fingerpoint and look for crooks where there are none is not doing a service to this country because we are facing a humongous problem," he told the House Banking Committee last week. "I don't think every time there is a failure you have to fingerpoint.

Whether there were in fact no crooks at Silverado is a question that remains to be answered. Given the government's lackluster efforts to turn up prosecutable fraud in the S&L industry, the full story of Silverado—like the full story of many other S&Ls that went belly-up—may never be known. House Democrats make a cogent point in urging President Bush to spend more money on the criminal aspect of the scandal.

Neither prosecution nor civil suits will ever recover most of the money that was lost. That fact hardly argues, however, against making an effort. If words such as responsibility, principle, example and deterrence mean anything more than alphabet soup, those like Neil Bush who failed (at best) in their responsibility to guard the money should be compelled to pay back as much as they can.

Or should the taxpayers have to pay it all?

[From the Miami Herald, June 1, 1990]

AMERICANS PAY THE PRICE FOR BAD LOANS

(By Robert L. Steinback)

The American business continuum, circa 1990.

At one extreme: people like Otis Boston.

At the other extreme: people like Kenneth Good.

And in between are the likes of Neil Bush. Bush, the president's son, testified before a congressional committee last week and offered this priceless commentary on the scandalous collapse of the American savings and loan industry:

"To finger-point and to look for crooks where there are none is not a service to this country." The only clearer statement would have been to tell us, the public, to suck eggs.

Neil Bush, then a cherubic 30, was named to the board of Denver's Silverado Savings and Loan in 1985. Three years later, insider dealing, fraud and Bozo lending practices buried Silverado, sticking taxpayers with a potential $1 billion tab.

The bailout of Silverado and hundreds of mismanaged institutions like it will cost taxpayers up to a half trillion dollars—as much as $2,000 for every woman, man and child in this country. And Neil Bush, sporting a canary-eating grin and a suit probably worth more than my car, says we're doing a disservice to America by looking for crooks.

Well, forgive this unpatriotic gesture, Neil, but I must point one finger in particular at people like you who can somehow conclude that Kenneth Good is a good credit risk, while Liberty City bar owner Otis Boston is not.

Good—described by a former associate as a "a riverboat gamble, not a businessman"—borrowed $320 million to buy, among other things, the previously profitable Broward-based Gulfstream Land and Development Corp. in 1985.

About the same time, Boston, an MBA and 15-year Metro-Dade employee, was seeking a $35,000 loan to buy a bar and package store. Despite a good credit history, Boston said his bank of 20 years, a bank with a big downtown headquarters building, wouldn't even send him an application.

Boston later got his loan from another big Florida bank with the help of a sympathetic loan officer, but Boston had to put up his store and his paid-up house as collateral. The loan officer was so sharply criticized by his bosses for such loans that he soon resigned in disgust.

Neil Bush once voted to approve $100 million in loans from Silverado to Good, his buddy and business partner. But was Good a better risk than Boston?

Good, a real estate broker, borrowed money to build a hotel and office development in Dallas. The project fell apart before it broke ground.

Then he went to Denver, borrowed more money and acquired huge amounts of land hoping to cash in on the oil boom. But the boom busted, and the land was foreclosed.

Good then launched a hostile takeover of a Denver refinery company, with—of course—borrowed money. The deal died amid allegations that Good was buying inside information from a state official. Good beat the state ethics investigation that followed.

He was only warming up. Good moved to Florida and borrowed $38 million to buy a tract of West Coast land called Tampa Palms. Then came the Gulfstream purchase.

Throughout it all, Good lived the fast life, zipping around the country in the corporate jet, rubbing shoulders with the political elite, wearing babes on his arms like cuff links.

Boston, meanwhile, was keeping his payments current, mindful of his loan's collateral. "I've been married 25 years, and I'm not going to have my lady worried about where she's going to lay her head," he said.

Good's leveraged empire finally imploded, crushed by debt. Institutions like Silverado failed, in part, for lending to such crapshooters. We're holding the bag, and the bums who bankrolled such recklessness are grinning in our faces and calling us un-American.

Good, having ruined a perfectly good company, parachuted to safety. He is planing to become a New York commodities broker. Heaven help his future clients.

Boston's Lounge and Package Store, 6285 NW Seventh Ave., is still in business.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, I congratulate my friend, the distinguished senior Senator from Florida, for his excellent articulation of the important issue involved here. I am delighted to introduce today jointly with him and with the distinguished occupant of the chair, the Senator from Colorado, Senator WIRTH, a bill to address the inadequate level of prosecution of those who have committed fraud in the thrift industry.

Mr. President, I am pleased to welcome my colleague from Illinois, Senator SIMON, as an orginal cosponsor, and I am pleased to announce now that word has just come to me from our friend, the distinguished senior Senator from Tennessee, the chairman of the Budget Committee, Senator SASSER, that he would like to join as an original cosponsor. I ask unanimous consent, Mr. President, that he be included as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, as you know, you and the Senator from Florida and I had filed this bill as an amendment to S. 1970, the omnibus crime bill, which the Senate has just been considering. I guess it is unclear whether we will proceed with the crime bill, so we are introducing this amendment as a freestanding bill in order to ensure its consideration.

We are facing the greatest financial scandal in the history of this Nation. I say again, it makes the Teapot Dome scandal and Watergate look like small potatoes. It is three or four times the size of the Marshall plan in its cost to the American people. The efforts to date to bring these crooks to justice—these crooks, Mr. President, who have cost American taxpayers billions and billions of dollars—have been wholly insufficient. I say enough is enough. If the administration is unwilling to do the job right, then the Congress must find a way to prompt additional prosecutions.

Let me cite just a few statistics. My friend from Florida has already cited many of them. They will make your blood boil.

As of February of this year, the Federal Bureau of Investigation had 21,147 referrals involving possible financial fraud which were unaddressed. Think of it. Mr. President, I was in Macomb, IL, the county seat of McDonough County in my State, last week doing a townhall meeting. When I said there were 21,147 referrals involving financial fraud before the Government, a fine old farmer in the audience in his bib overalls said, "My God, that is more people than there are in Macomb."

More than 1,000 of these cases involve over $100,000—$100,000—and 234 of these complaints involve losses of over a million dollars. It is absolutely outrageous that this many complaints involving this much money are not being investigated.

As of March of last year, just think of it, over a year ago, Mr. President, the Justice Department then had over 2,300 cases that were unaddressed and another 6,000 were awaiting action, and half of these 8,300 cases involved losses of over $100,000.

Both the FBI and the U.S. attorneys offices around the country have requested more than twice the number of agents or prosecutors that have been allocated. I think that speaks eloquently of the recognition of the need, by the FBI and U.S. attorneys offices, of this legislation.

Two tools are needed to prosecute these criminals: An efficient structure and sufficient resources. This bill improves the structure and provides for greater accountability. This is a structure bill that will help Congress monitor what additional resources are needed.

(Mr. GRAHAM assumed the Chair.)

Mr. DIXON. We know today that insufficient resources have been allocated. I renew my call again, along with my friend from Colorado, who will shortly speak, to increase appropriations for thrift prosecutions. My friend in the chair said he was going to put in a column by Mike Royko, the distinguished columnist from the Chicago Tribune. We have put in two of those columns now. Mike Royko understands the thinking process of the people. He said that if we are talking about $150 billion in this scandal, the people of this country are more than happy to spend another $100 million to put the people in jail that are responsible for that scandal.

This strike force bill would establish a separate division and special local strike forces all over America within the Department of Justice to prosecute these financial crimes. Such a special division with local field offices is absolutely necessary for efficiency and accountability.

These fraud cases are intricate and complex. They require special investigative and prosecutorial skills. Having a specialized strike force would facilitate specialized training.

Second, a new Assistant Attorney General for Financial Services Crimes would head this division. He or she would be accountable for spearheading prosecution of these fraud cases. We would know to whom to point, Mr. President, and of whom to ask questions with regard to the Justice Department's efforts. We would know who is in charge.

This bill tells the Justice Department explicitly that the Congress wants it to maximize recoveries of losses. This bill will also cause the RTC and other agencies involved in civil litigation to coordinate with those involved in criminal prosecutions. Both are important to penalize wrongdoers and to recover their ill-gotten gains.

And fifth, the bill requires the strike force and the different agencies including the U.S. attorneys all over the country to report twice a year to the Congress on their progress. Forcing different offices to tell us how many cases they are investigating, how many they are prosecuting, how much money they are recovering, will let Congress know whether these cases are being addressed or left languishing because they are difficult to try, and whether adequate resources have been allocated.

Many government attorneys would prefer, of course, to prosecute cut and dried drug cases than to take on these terribly complicated, time consuming thrift prosecutions. By setting up a strike force, Mr. President, we can assure that these cases will be investigated and prosecuted. Specific people in the Justice Department are going to be accountable to us and to the public.

As a final point, I want to add that separately, with Senator WIRTH, I have been attempting to increase the appropriations given to the Department of Justice for hiring sufficient numbers of FBI agents and assistant U.S. attorneys. We filed an amendment to the crime bill in the form of a resolution which would call for full funding, and we are going to pursue that goal assiduously as well.

In conclusion, Mr. President, the American public has a right to arrive at the solution of this problem: First, with this bill to set up the kind of internal organization to do the job, and second, with the efforts of the Senator from Colorado and the Senator in the chair from Florida and this Senator and others to appropriate the additional extra money.

I want to conclude by saying that last month, Mr. President, I held a press conference in Chicago. I held it in an empty Federal courtroom in the Dirksen Federal Office Building. I want to the front of that room—and I want to say this for America generally—and I said to the people there and to the media that covered that event, this courtroom ought to be full. There ought to be a Federal judge sitting right there; there ought to be a Federal prosecutor sitting right there; there ought to be a Federal jury sitting in the box trying these cases, sending the criminals to jail—21,147 suspected cases, greater than the size of Macomb, the county seat of McDonough County, out there. They ought to go to jail.

Under the reasonably prudent man rule, all of those folks with deep pockets and some money to respond, they ought to be sued. We ought to recover that money before the taxpayers pay. We ought to take their houses and their automobiles and their yachts and their clubs in the country. That is the challenge before us, and we ought not to let one, single, solitary stone or itsy bitsy pebble go unturned until this job is done. I want the jails of America full of these thieves. I want every rich guy out there who stole money to give it back.

That is the job we need to do, and we need this bill. We need the necessary money to do that job. I expect—and I serve notice on my colleagues here—that the Senator in the chair, the distinguished Senator from Florida, the Senator who will next speak, the distinguished Senator from Colorado, and others along with this Senator, are going to continue to make this the issue of this Congress until such time as final actions take place that will bring these folks to the bar of justice and recover these funds. I urge my colleagues in time to support this legislation at the first opportunity.

Mr. WIRTH. Mr. President, let me read a letter that I received only today from a distinguished attorney in Chicago. I would like to bring this to the attention in particular of Senator DIXON, who just spoke. He wrote to me, with a copy to the distinguished senior Senator from Illinois. He said:

> When the United States Congress passed the Financial Institutions Reform, Recovery and Enforcement Act of 1989, it made a statement that criminal activity involving financial institutions would not be tolerated.

And that is what all of us members of the Banking Committee thought was going to happen; it would not be tolerated.

> While the act has received widespread publicity, mainly due to the takeover of troubled financial institutions, it does not appear that the good intentions have filtered down into action at the local level.

If there was ever an understatement, that is one. This attorney goes on to say.

> I believe that a powerful deterrent to financial institution crime is swift prosecution of offenders and publication of the results. I am currently involved in a number of matters where various of my financial institution clients have been the victims of a white collar crime and the prosecution of the case appears to be going no place. None of the crimes which I am following will have any effect on the stability of the victimized institutions. There is a strong and dangerous message sent to the business community when employees watch fellow workers steal from an institution with no apparent criminal consquences.

What kind of a precedent are we setting, Mr. President, if this administration continues to not go after people who have violated the law. As the distinguished senior Senator from Illinois just said, if they do not do it, we are going to continue to do it. We tried 3 weeks ago when we had before us the supposed dire emergency supplemental appropriations bill. That legislation included a vast amount of money for Panama and a vast amount of money for Nicaragua. Among the Panamanian share of the funds was $30 million to promote tourism.

It seemed to me, and to the distinguished senior Senator from Illinois and other Senators, that promotion of tourism in Panama for $30 million was not a particularly good allocation of the taxpayers' money, particularly when that is twice as much as we spend to promote tourism over the whole of the United States of America. So we offered an amendment to transfer that $30 million to promote tourism over to the Department of Justice to enforce the law and catch the crooks.

What did people want to do? Did they want to promote tourism in Panama or to catch crooks involved in the S&L crisis?

Well, some of our colleagues across the aisle raised a point of order against the amendment. We voted on that point of order and, unfortunately, we lost. We are going to continue to try. This is another effort, and it is imperative that we continue.

I want to applaud the distinguished senior Senator from Florida, and the distinguished senior Senator from Illinois; we are going to continue to try to get this administration to enforce the law.

Is this important? Are there criminal activities? You bet there are. The Attorney General himself said, Attorney General Thornburgh, that 25 to 30 percent of the failures in the S&L institutions can be attributed to criminal activity—25 to 30 percent attributed to criminal activity. The Attorney General said there is "an epidemic of fraud."

The General Accounting Office gave us some other numbers. They examined in great detail 26 thrift failures and found fraud and insider abuse in each one of them. The RTC looked at all of this and said 60 percent of the institutions seized, 60 percent of those that went belly up, were victimized by serious criminal activity.

Other data on this: not only is this caseload enormous, but Mr. Timothy Ryan, the new director of the Office of Thrift Supervision who very graciously came by and saw many of us after the vote on his nomination, informed me that bank and thrift regulators were sending to the Department of Justice 8,000 referrals each month regarding civil and criminal violations.

How fast does 8,000 a month add up? Pretty darned fast. There are now 80,000 cases pending—80,000, Mr. President. This was just told to me by Mr. Ryan.

Those numbers are absolutely astonishing and cannot be ignored. Yet, it seems to me, that they are being ignored.

What we attempted to do was to say to the administration, let us enforce the law. We authorized, for example, $75 million to do the job. The administration said we cannot spend all of that money.

What does that mean—we cannot spend all of that money? It means they are not listening to their own people. The FBI and U.S. attorneys' offices requested 224 more FBI agents, 113 more assistant U.S. attorney positions, and 142 more support staff positions than they received. This is what the FBI tells us over here, but the administration tells us we cannot spend the money.

We cannot spend the money, says the administration. We are going to continue to try. We are going to continue to try to get this administration to enforce the law, and to go after the criminals.

They are all over the place out there. The Attorney General tells us there is an epidemic of fraud. The RTC tells us 60 percent of the institutions are victimized by serious criminal activity. Timothy Ryan tells us there is a backlog of 80,000 cases. Yet the administration says we cannot spend the money. We have an obligation to get them to spend the money and to pursue these cases. It is absolutely preposterous that they not do so.

The whole purpose of this proposal, which I think is a very good piece of legislation, is to say not only are we going to enforce the law but we are going to get all of these experts together, the attorneys, the accountants, all the expertise needed to pursue these 80,000 cases, put these people in jail where they belong, and let the American taxpayer know that the job is being done. The American taxpayer is out there saying it is going to cost us at least a thousand dollars per person. What are you all doing about it? They are going to ask everybody in this body. What are you doing about it? What are we going to say—we cannot spend the money?

The FBI wants us to put on more FBI agents and more U.S. attorneys and more support personnel. Are we going to say we cannot spend the money? Are we going to listen to the administration or do the right thing? I hope we do the right thing. There is a little bit of déjà vu.

Let me run you through another example. When we went through the mad rush to deregulation in the early eighties, which occurred all over the place when the Reagan administration came to town and felt they had a mandate to deregulate everything. One of the things they did was to deregulate the thrift industry. The thrift industry was deregulated with what are obviously disastrous results.

They came in, tried also in 1982 to deregulate the securities industry. They came up to us. I at that point had the privilege of chairing the securities subcommittee in the House side, Mr. President. They came up to us and they said what we want to do is change the regulatory pattern of the Securities and Exchange Commission as well. What we want to do is cut the budget at the SEC because "We can do more with less." This was part of the mad rush to the bottom.

What happened on one side is that S&L deregulation got through the Congress. Fortunately, I thought, that sounds like a bad idea. I voted against that number. But it did get through the Congress. But the other side did not, Mr. President, the Securities and Exchange Commission effort to deregulate did not succeed. The Congress in its wisdom said to the administration no, we are not going to deregulate the securities industry.

We said no to the securities industry. Rather than deregulating the securities industry, in fact we beefed up regulation of the securities industry. We added significant funding and staff to the SEC. We gave them greater enforcement powers. We made them the kind of strong regulatory agency that should have been governing the S&L's.

Imagine where we would be today if the administration's request to deregulate the securities industry had gone through. The Congress in its wisdom said "No."

What are we going to do about this? We are going to continue to try. This rescue effort we are involved with—the distinguished Senator from Illinois cited the cost of the Marshall plan. This is greater than the Marshall plan—and Lockheed, and New York City, and Chrysler all bundled together.

What do we get for it? We are not getting anything more for it except repaying a lot of depositors which we have an obligation to do. We are not getting anything back for it. We are not building any automobiles like Chrysler, or aircraft like Lockheed, or supporting a great financial center like New York City, or rebuilding Europe like the Marshall plan. We are getting nothing back for this. At least what we ought to do is get people going to jail where they belong. We have to make sure that this administration gets the message that it is imperative to go out and start enforcing the law, and stop telling us as they did that they "cannot spend the money."

They have to hire the attorneys. They have to organize themselves into the kind of strike force recommended in this legislation.

I am proud to be a sponsor of this legislation, Mr. President. I will later on be offering a resolution calling upon the administration to request the full complement of funds to go ahead and hire the FBI agents, hire the accountants, and do the job that has to be done. I hope we do not have a point of order raised on that. I hope not. I hope our colleagues will understand the importance of going ahead, and moving on that kind of a resolution.

Mr. President, I ask unanimous consent as well that Senator BRYAN, Senator PELL, Senator RIEGLE, and Senator LEVIN be added as cosponsors of the legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, there is no single culprit responsible for the widespread losses experienced by savings and loans. Instead, the causes of the crisis are complex and varied. Deregulation of the industry, coupled

with weak or nonexistent supervision of federally insured S&L's was a major contributor to the losses. Other important factors include downturns in local and regional economies, and the significant increase in interest rates that occurred in the late 1970's and early 1980's.

But there is no question that fraud and insider abuse by S&L owners and management also contributed significantly to the problem we now face. Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the S&L industry and said that at least 25 to 30 percent of thrift failures can be attributed to criminal activity by S&L officers. Criminal activity played a lesser role in many more thrift failures and a General Accounting Office study examined 26 thrift failures and found activities at each insolvent institution that appeared to be fraud and insider abuse. In its work thus far, the Resolution Trust Corporation has estimated that 60 percent of the institutions it has seized have been victimized by serious criminal activity.

The FBI has received more than 20,000 referrals involving fraud in the financial services industry that the Bureau has been unable to examine, more than 1,000 of these are major cases that involve losses of more than $100,000. As of February, the Bureau also had about 7,000 active pending bank fraud and embezzlement cases, some 3,000 of which were major. More than 900 of the pending cases and more than 200 of the unaddressed referrals involve losses greater than $1 million.

Clearly the Department of Justice faces a large caseload and it is growing rapidly. Mr. Timothy Ryan, the new Director of the Office of Thrift Supervision, recently informed me that bank and thrift regulators were sending the Department of Justice 8,000 referrals per month regarding civil and criminal violations and that there were now 80,000 cases pending. These numbers are astounding and cannot be ignored.

Last year the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] authorized $75 million annually for 3 years to investigate and prosecute financial institution crimes. However, the administration requested only $50 million for the current fiscal year.

The $50 million provided for fiscal year 1990 was used to increase staff in FBI and U.S. attorneys' offices throughout the country. Unfortunately, the funding was inadequate. The personnel added with the $50 million do not meet the staffing needs identified in a recent FBI survey. In this survey, FBI and U.S. attorneys' offices requested 224 more FBI agents, 113 more assistant U.S. attorney positions, and 142 more support staff positions than the agencies received.

Several weeks ago I offered an amendment to the emergency appropriations legislation to provide additional resources for the Department of Justice in order to investigate and prosecute fraud and other criminal activity in the S&L industry. The amendment would have taken $30 million from Panama tourism development funding to provide an additional $19.1 million for staff and expenses at the FBI and U.S. attorneys' offices. Unfortunately, the amendment fell on a budget point of order.

I am more convinced than ever that we need to provide our law enforcement agencies with additional resources to investigate and prosecute criminal activity in the S&L industry that contributed to taxpayer losses. I will continue to pursue this goal and urge my colleagues to join me in this important effort.

Today, along with my colleagues Senators DIXON and GRAHAM, I am offering another proposal to support S&L-related enforcement efforts. This legislation calls for the creation of a Financial Services Crime Division within the Department of Justice.

This proposal would complement any additional resources we provide to the Department of Justice and represents an important first step. The Financial Services Crime Division will coordinate investigations and prosecutions within the Department of Justice. The division will be responsible solely for financial services crimes and will help focus the Government's efforts in this area. The division, and its leadership at the Assistant Attorney General level, will not have to divert its attention to other types of criminal activity.

The Financial Services Crime Division will work to ensure that adequate resources are made available to investigate and prosecute fraud and other criminal activities in the financial services industry. The division is also directed to seek the greatest use of civil proceedings and forfeitures to attack the financial resources of those who engaged in financial institution crimes and help the taxpayers recover as much of the losses as possible.

Under the proposal, the Attorney General is also directed to establish financial services crime strike forces to pursue criminal activity within the industry. Like the existing Dallas bank fraud task force, these strike forces would be able to focus on crimes within regions where the problems are particularly severe and where a concentrated effort can produce significant results.

In order to efficiently obtain needed information and support, the Financial Services Crime Division is directed to coordinate its activities with appropriate representatives of the Department of Justice, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, the Federal Reserve Board, and the Securities and Exchange Commission. Referrals from these agencies will be an important starting point for many investigations and prosecutions. The division may also wish to make use of the information and expertise that these agencies can provide.

Finally, the division will compile and collect data regarding investigations, prosecutions and enforcement actions related to the financial services industry. Semiannual reports would include an analysis of such data, the division's coordination activities with other agencies and the adequacy of the resources provided to pursue financial services crimes.

The savings and loan debacle is the largest financial crisis in the Nation's history. Illegal activity was widespread within the thrift industry and will cost taxpayers billions of dollars. Taxpayers rightfully expect the Federal Government to vigorously pursue individuals whose illegal activities contributed to the industry's losses. If we are serious about sending a message of never again to those involved in the financial industry, we must aggressively investigate and prosecute criminal activity related to the S&L crisis. We cannot let those in the financial services industry believe the Government will cover any loss—no matter how big—and then let the perpetrators go unpunished.

A Financial Services Crime Division will help us pursue criminal activity in the S&L industry more aggressively and efficiently. It would also help monitor and track progress in this area and give the effort a higher public profile, sending a clear message to the industry that those who violate the law and endanger the deposit insurance fund will be punished.

Mr. President, this is an important and valuable piece of legislation. The proposal will help us fulfill the commitment we made to the American people in FIRREA to target and prosecute criminal activity within the S&L industry. The American taxpayers deserve nothing less.

I urge my colleagues to join in supporting the legislation.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, first of all I would say I did not have the opportunity to hear all of the debate of my colleagues on the other side, at least indicating they have never heard of the S&L problem until recently. I think the record will reflect that some were around when it happened. But in any event we will address that later. I think my colleague from Missouri may have something to say on that.

Mr. KERRY. Mr. President, I am pleased to join Senators GRAHAM, WIRTH, and DIXON as an original cosponsor of legislation to establish a Financial Services Crime Division.

The Federal Bureau of Investigation defines financial crimes "as those schemes to defraud, embezzle, or misapply the money, funds, securities, or credit of individuals businesses, and/or financial institutions by manipulation, misrepresentation, falsification or deceit." Crimes that fall under this definition include savings and loan fraud and embezzlement, drug money laundering, bank bribery, tax evasion, wire fraud, bankruptcy fraud, interstate transportation of stolen property—securities and negotiable instruments—counterfeit State and corporate securities, copyright matters, trademark counterfeiting, and computer fraud and abuse.

It should come as not surprise that financial crime is on the rise in this country. However, I have been extremely concerned in recent months that the administration, despite its rhetoric, is not adequately focused on this issue. I am concerned that we have not committed the resources. I am concerned that we don't have the necessary law enforcement framework in place to investigate and to prosecute these crimes.

I am concerned, for example, that the Treasury Department is not devoting the necessary resources to the recently established Financial Crimes Enforcement Network. [FINCEN] is a multisource, antimoney laundering intelligence, analysis and targeting center. Yet, that agency will have only $15 million to provide broad-based data analysis to support money laundering and other criminal investigations including tax fraud.

I am also concerned that the Justice Department is being swamped by bank fraud and embezzlement cases. Consider that in those cases in which the loss to the insitution exceeds $100,000 have risen from a pending caseload of 1,825 at the end of 1983 to 3,446 at the end of 1988. This represents an 89 percent increase over that 5-year period.

I am particularly concerned that the Justice Department is not devoting the necessary resources to prosecute thrift fraud cases. Willim Seidman, chairman of the Resolution Trust Corporation, which oversees the Savings and Loan bailout, recently said that criminal fraud had been discovered in 605 of the institutions seized by the Government to date. And Attorney General Dick Thornburgh recently said that he believes fraud had caused as many as 30 percent of the thrifts to fail. The problem is massive.

However, as I pointed out in an editorial in the New York Times last Friday, the Assistant Attorney General, Edward Dennis testified before the Subcommittee on Narcotics and Terrorism that resources for fraud investigations were stretched thin. I cannot understand why the Justice Department has only requested $50 million to prosecute these cases, even through Congress has appropriated $75 million.

Mr. President, this bill will create a new division within the Department of Justice to be headed by an Assistant Attorney General, appointed by the President with the advice and consent of the Senate. This Assistant Attorney General will report directly to the Attorney General. More importantly, the new Assistant Attorney General will ensure that adequate resources are made available in connection with criminal investigations and fraud and other criminal activity in the financial services industry.

Mr. President, financial crimes are perhaps the most important segment of white-collar crime, and it is responsible for the loss of billions of dollars every year to government, businesses and taxpayers. With this bill we will take an important step to put white-collar criminals on notice that they are nothing more than common criminals and that the Government is serious about putting them in jail where they belong.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMTRAK REAUTHORIZATION AND IMPROVEMENT ACT—VETO

The PRESIDING OFFICER. The Senate will receive a message from the House of Representatives.

The following message from the House of Representatives was communicated to the Senate by Mr. Hays, one of its reading clerks:

The House of Representatives having proceeded to reconsider the bill (H.R. 2364) entitled "An Act to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask that I may speak for approximately 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

TO ESTABLISH A FINANCIAL SERVICES CRIME DIVISION IN THE DEPARTMENT OF JUSTICE

Mr. BOND. Mr. President, I rise to address a subject which has been under discussion here over the past few minutes, and I regret that I was not here today to listen to all of it. Since it is a measure about which I have had a great deal of interest and activity, I wanted to share some thoughts with my colleagues. In specific, the efforts of the Department of Justice to pursue criminal sanctions against those who have defrauded or misappropriated funds from the savings and loan industry.

As my banking colleagues will remember, I have, since my service on the Banking Committee, been one who has strongly pointed out the need for effective law enforcement to cure one part of this disaster to serve as an example for those who might be tempted to conduct such depredations in the future.

In 1989 in discussing FIRREA, I said that financial fraud is not a victimless white-collar crime, and that we cannot in good conscience accept burdens this bill puts on taxpayers, without actively pursuing every crook who stole from FSLIC, without the maximum criminal penalties and maximum recovery of ill-gotten gains, and without sending a strong signal that we want penalties which are tough and administered with strength against any fraud. Without these we will not have achieved our goals in the legislation.

I led the discussion and with my colleagues on the Banking Committee included tough penalties in our version of FIRREA. I was concerned with some of the reports I had heard about the conversations, and I may want to address specific provisions later on.

I think we ought to be pursuing, in a bipartisan manner, the problems which have come of this S&L crisis. When you have an $80 billion to $130 billion to a $300 billion problem, it takes a lot of teamwork to run up a debt like that.

I do not think it is our purpose here to say what the shortcomings were, whether they were regulatory shortcomings, administrative shortcomings, legislative shortcomings or interference, or abuses at the State level or within the industry. There will be plenty of time to discuss those concerns.

What I think is important to note that in FIRREA, we rescued depositors. Let us be clear when we are talking about the moneys involved, we are talking about the money that has to be paid out to protect the depositors, and in my State there are some 250,000 to 280,000 accounts that have been protected as a result of FIRREA.

Thus we must remember, we are not putting money into the pockets of owners of savings and loans. We are bailing out the depositors to make sure that we have been true to our commitments under the insured deposit system. Unfortunately, some continue to claim it is just owners. But the implications that we did that are wrong.

What we did was to change the system so in the future there would be tougher standards. And I think the most important thing that we overlooked in the past was to ensure that the owners of S&L's, the people who are the shareholders, put their money in at risk first so that money could not be taken out of the savings and loans without first coming out of the equity of the shareholders. That was done. Tougher capital standards were required in FIRREA. I believe when people have their own money at risk they will be the best and most effective watchdogs. Certainly it ought to come out of their pockets before it comes out of insured deposits.

In addition, a measure was adopted to provide additional resources for the Department of Justice to pursue criminal cases against those who had abused the deposit insurance system to put money in their own pockets. Last spring also I wrote to the Attorney General urging him to appoint a special S&L fraud czar. At the time he said he felt that the organizational mechanics were adequate. Since that time the Congress has acted. We did provide $50 million. That is a lot of money.

There is a great need to ensure that we move against those who have defrauded the system, stolen from institutions, and caused a burden which this Government is going to take some time to payoff. We did provide $50 million, and last week I asked the Attorney General when he met with us at lunch how they had used that money. He pointed out one thing that is significant to note and that is that they did not get the money until December.

That obviously will take some time to organize. When you have $50 million, you cannot spend it all at once. You have to hire people, you have to hire FBI agents, you have to hire Assistant Attorneys General. The Attorney General reported to me that they had with the dollars available hired some 200 additional FBI agents to put on the case. They had hired an additional 120 assistant U.S. attorneys to pursue financial fraud.

I think it is very important that the criminal and the civil proceedings be coordinated because we have in the Banking Committee heard evidence where the pursuit of civil remedies has interfered with the criminal cases and perhaps vice versa.

But the Attorney General did make the point that even before the additional dollars reached the coffers of the Department of Justice in fiscal year 1989 there were over 2,000 bank fraud and embezzlement convictions that included restitution orders of over $360 million.

In addition, there have been some significant criminal prosecutions with one executive of a Texas S&L, which has been in the papers because of some of his contacts here on Capitol Hill, getting a 30-year sentence.

I am not satisfied. I want to make sure that we are doing as good a job as possible with the dollars that are available. So on May 25 of this year I wrote to our chairman, Senator RIEGLE, and our ranking Republican Member, Senator GARN, to ask that they have oversight hearings.

In that letter I said I believe the Banking Committee ought to "explore whether the additional funding appropriated for the Department of Justice to carry out these prosecutions is sufficient and whether any further legislative changes are necessary to make the Justice Department's job easier."

In that letter I also said, "Congress must be an equal partner in these investigations, providing every necessary resource to ensure full prosecution, punishment, and restriction."

The PRESIDING OFFICER (Mr. LIEBERMAN). The time allocated to the Senator from Missouri has expired.

Mr. BOND. Mr. President, I will conclude in 30 seconds.

I have been advised informally that hearings will be held in late July. I assure my colleague on the other side of the aisle we are prepared to work with you in a bipartisan manner to assist the Department of Justice to carry out the prosecutions. I think we can do so in a constructive manner. I strongly resist any urges to make this a partisan matter because it is too important for the well-being of the country and future of financial institutions.

I thank the Chair and the majority leader for the time.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. What is the regular business?

AMTRAK REAUTHORIZATION AND IMPROVEMENT ACT—VETO

The Senate continued with the consideration of the message from the House.

The PRESIDING OFFICER. Under the regular order, the Chair now lays before the Senate the Presidential veto message on H.R. 2364, the Amtrak reauthorization bill, which the clerk will now read, and it will be spread upon the Journal.

The assistant legislative clerk read as follows:

To the House of Representatives:

I am returning herewith without my approval H.R. 2364, the "Amtrak Reauthorization and Improvement Act of 1990."

H.R. 2364 contains an unprecedented new regulatory review requirement and represents a step backward for the entire rail industry.

This new regulatory burden would interfere with the ability of the Nation's largest freight railroads to obtain needed capital or to change existing capital structure. The provision would institute for the first time, and for the railroad industry alone, Government review and approval of acquisitions by entities that are not actual or potential competitors, including a carrier's own management or employees. This requirement is an unwarranted regulatory roadblock to financial restructuring of the railroad industry.

There is already adequate authority to protect the public interest in acquisition situations. Acquisitions of railroads by other railroads are now closely scrutinized under existing law to prevent reductions in competition. Dispositions of rail line segments are also subject to scrutiny when appropriate. Any financing of an acquisition, whether or not by another carrier, that involves the issuance of securities or new obligations by the target carrier is subject to review as well. This review focuses on the acquisition's effect on the public interest and on the carrier's ability to provide service. Current law is therefore more than sufficient to protect shippers and the general public.

The rejuvenation of the rail industry since 1980 is due in large part to the Congress's decision to lift outdated and counterproductive Government oversight from the railroads. The result was the creation of a favorable environment for capital investment for the first time in decades. The new regulatory hurdle in H.R. 2364 would counter this progress by adding uncertainty to refinancing and by delaying the infusion of cash when it may be most needed. Further, this delay and uncertainty would likely drive up the railroad industry's cost of capital, which could ultimately jeopardize the industry's financial stability and endanger needed rail service. For no justifiable reason, the bill could inhibit the future flexibility of Class I freight railroads to use capital restructuring to adapt to ever-changing markets and economic circumstances.

Existing law is adequate to ensure protection of the public interest when railroad acquisitions are being proposed. Because H.R. 2364 would impose a new, unprecedented, and unjustified regulatory review requirement for railroad acquisitions, I am compelled to veto the bill.

GEORGE BUSH.

THE WHITE HOUSE, *May 24, 1990.*

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESTABLISHING A FINANCIAL SERVICES CRIME DIVISION IN THE DEPARTMENT OF JUSTICE

Mr. SIMON. Mr. President, I simply join and commend my colleague from Florida, Senator GRAHAM, for the bill he has introduced, of which I am pleased to be a cosponsor, that calls for more vigourous prosecution of the savings and loan situation. Senator GRAHAM, Senator WIRTH of Colorado, and my colleague, Senator DIXON of Illinois have been in the forefront of this, and I commend all of them for what they are doing.

The reality is that we have to be more vigorous. Two weeks ago the Attorney General was before our Judiciary Committee and my colleagues on the Judiciary Committee will recall that I pressed him for further action in this field.

There is an obvious imbalance in justice when someone steals $30 at a local service station and we go after that person vigorously, as we should, but if you steal $30 million we may not go after you. That just does not make sense. The American people are gradually understanding the massive injustice that is here. It is, as has been said on this floor here a couple times within the last hour, the largest financial scandal in the history of our country by far, and we have to do something about it.

Let me add one other point. This bill does not take care of this, but I hope my colleagues on the Banking Committee will take a look at this. This is the only form of insurance, the insurance that we have on savings and loans and banks and credit unions, where the extent of the risk is not reflected in the insurance rates. If, for example, I get a life insurance policy, I am 61 years old, and the Senator from Florida gets a life insurance policy, and he is infinitely younger than I am, obviously he will pay much less in life insurance. When my son turned 16, I can remember what happened to our car insurance, because the risk is greater. In every other form of insurance the greater the risk, the greater the payment. But for banks, savings and loans, and credit unions we say we are just going to charge you the same rate for insurance no matter what risk you take.

I think we ought to have a category A, where if you have prudent policies, we are going to charge you so much; if you have less prudent policies you are going to be in category B, and we will charge you greater; and if it goes beyond that you fall in category C, and you are going to really have to pay some high insurance rates.

There is no reason that we force imprudent bankers, savings and loan people, and credit union people to pay the same rate as those who are imprudent. I think we have to reexamine that portion of our Federal insurance laws.

But again, Mr. President, I commend my colleagues for their leadership on this. I am pleased to be a cosponsor. I hope we can start moving much more vigorously.

I would add one other point. I saw this in a letter to the editor from a professor whose name I do not recall at Georgia State University, and I heard this from a distinguished lawyer who is one of these people who is very innovative and creative from New York, Dr. Harvey Waxman, the only person I know who is both a neurosurgeon and a trial attorney. He has suggested that where we do not have the personnel—and this professor from Georgia State suggested the same—that, on some kind of a clearance basis, we would simply pass out these prosecutions to private attorneys with some requirements on confidentiality and everything, where they would get a percentage of the return for any fines that are levied so that we could get the job done.

Frankly, I do not know how practical that is, but I think it is something that ought to be examined. There has to be a way to pursue these abuses more vigorously than we are now pursuing them.

Mr. President, I am pleased to join my colleagues, Senators GRAHAM, DIXON, and WIRTH in sponsoring this critical legislation to create a strike force of Federal attorneys to prosecute savings and loan officers responsible for fraud and embezzlement cases.

This legislation establishes within the Department of Justice a new Financial Services Crime Division. Mr. President, we have a law enforcement crisis on our hands. This legislation sends the strongest possible message from Congress to the President, to the savings and loan industry, and to the American people. Investigation and prosecution of financial servcices fraud must be a top priority.

This legislation adds an 11th Assistant Attorney General to the Department of Justice to focus solely on financial services fraud. It gives the prevention and prosecution of this type of fraud the same high level of attention we place on antitrust, civil rights, tax, crime, and other matters. Under our legislation, this Assistant Attorney General reports directly to the Attorney General.

The resources this legislation puts behind prosecuting savings and loan fraud are amply justified. The FBI recently reported that it has 2,327 inactive cases involving savings and loan fraud and embezzlement cases. Of that number, 1,300 involved fraud of more than $100,000. The American people want that wrongdoing prosecuted to the fullest extent of the law. This legislation unleashes the Federal law enforcers on those individuals directly responsible for the still growing S&L crisis.

Mr. President, this is just the first step. More needs to be done at all levels to root out S&L crime and keep it from becoming an even greater economic disaster for the Nation. As a member of the Senate Judiciary Committee, I want to work closely with my colleague from Illinois and other senators in enacting this bill and other measures that I am working on to turn this situation around and to restore the faith of the American people in their financial and other institutions.

Mr. President, I see that the distinguished junior Senator from South Carolina—and I have a hard time believing he is still the junior Senator from South Carolina, but that is what he is—is on the floor, about to ask for the floor. So I will yield to him.

Mr. HOLLINGS. I thank my distinguished colleague from Illinois.

VITIATION OF ORDER TO RESCESS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order to go into recess at this time be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMTRAK REAUTHORIZATION AND IMPROVEMENT ACT—VETO

The Senate continued with the consideration of the message from the House.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the clerk lay before the Senate the veto override message of the distinguished President on H.R. 2364.

The PRESIDING OFFICER. The Chair advises the Senator from South Carolina that when he was off the floor the veto message was laid before the Senate and is now the pending business.

Mr. HOLLINGS. Mr. President, I want to urge my colleagues to join in voting to override the President's veto. Right to the heart of the matter, the President really expresses a concern about the Interstate Commerce Commission and a provision therein relative to that Commission which he has asserted is reregulatory.

Well, I can say categorically that is not the case when this provision is viewed in the context of the regula-

tion that currently exists for the real industry. The provision at issue today simply closes a loophole that exists in current law. The ICC currently has authority to review the acquisition of as little as 1 mile of a rail carrier by a nonrail carrier, but does not have any authority to consider the public interest if a noncarrier proposes to acquire an entire class I rail carrier.

This anomaly cannot be justified.

Mr. President, I am still not sure why the President chose to veto this measure. It is a good bill with strong support in both Houses. Earlier today, the House of Representatives voted 294-123 to override the President's veto.

The President, in his veto message, did not mention Amtrak at all. I am still skeptical that this is directly related to the fact that his fiscal year 1991 budget contained no funding for Amtrak. While the President has recently indicated that he would sign an Amtrak bill without the ICC provision, it is abundantly clear that getting another bill through this Congress is not as clear a prospect as some might have us believe. Just yesterday, I received a letter from the chairman of the House Energy and Commerce Committee, outlining the obstacles a new authorization bill faces—not the least of which is that the bill would likely be referred at some point to four committees in the House, whereas it was considered originally by only two.

A vote to sustain the President's veto could well move us toward the near-term elimination of Federal funding for Amtrak, as the President's budget has proposed. This would mean the end of nationwide passenger rail service. I know the citizens of my home State of South Carolina do not want to lose rail passenger service and I am certain most Americans nationwide would not want to lose this transportation alternative.

A vote to sustain the veto further ignores the considerable progress made by Amtrak in recent years. Appropriations for Amtrak have decreased from almost $900 million in 1981 to $613 million this fiscal year. Amtrak now meets 75 percent of its operating costs from its own resources.

Much concern has been raised about an Interstate Commerce Commission [ICC] jurisdiction provision in this legislation. The President has expressed the belief that this provision is reregulatory. That is clearly not the case when this provision is viewed in the context of the regulation that currently exists for the rail industry. And I feel confident in saying this since I was a critical vote in opposition to legislation in the last Congress that would have moved us back toward regulation. The provision at issue today simply closes a loophole that exists in current law. The ICC currently has authority to review the acquisition of as little as 1 mile of a rail carrier by a noncarrier, but does not have any authority to consider the public interest if a noncarrier proposes to acquire an entire class I rail carrier. This anomaly cannot be justified. Neither is there a logical reason to tie the hands of the ICC by requiring it to wait until after a sale has been consummated prior to attempting to recognize the legitimate public interest in preservation of service or line maintenance.

The Department of Transportation has taken the position that the Senate Commerce Committee hearing on noncarrier acquisitions developed no evidence that regulation was needed in this area. This overlooks the testimony on the record in support of legislation, including testimony from State officials whose citizens and economic development abilities would be the hardest hit by the failure of a carrier. Furthermore, the Department of Transportation declined the opportunity to testify before our committee on this issue. The Association of American Railroads similarly declined to testify and furthermore, has not taken a position on this provision.

Contrary to what some have asserted, the ICC did not take a position on the legislation when submitting testimony for the Senate hearing, although several suggestions by the ICC for improving the legislation were incorporated into the Amtrak bill. Former ICC Chairman Heather Gradison simply expressed her individual opposition to the enactment of legislation. This is in contrast with the current Chairman of the ICC, Ed Philbin, who, while not taking a position on legislation, has expressed the view that:

> It is understandable that the Congress would be concerned about railroad acquisitions by any entity, carrier or noncarrier, the financial structure of which cast into doubt the acquired railroad's future ability to continue adequate rail service and obtain capital to invest in equipment maintenance and modernization, in short, its ability to continue as a viable operating railroad.

The ICC jurisdiction provisions in H.R. 2364 are not designed to supplant private decisionmaking in rail acquisitions. Shareholders will continue to have the final determination as to who shall be allowed to acquire a carrier. Under the provisions of the Amtrak bill, the ICC would simply review, on a greatly expedited basis—within 105 days—proposals to acquire a class I carrier in order to ensure that minimum public interest criteria are satisfied. Given the barriers to entry that exist in the rail industry, unlike other transportation modes, and the enormous public consequences of a failure of any one of the Nation's 16 class I rail carriers, these modest provisions are warranted.

In light of these and other factors, I urge my colleagues support for an override of the President's veto of the Amtrak bill.

In this context, I now resolve myself into a friend of the court, so to speak, because our distinguished Senator from Nebraska, the chairman of our subcommittee, has held all the hearings, given the leadership on this particular bill when it passed this body, and has been in the vanguard of establishing sane and salutory rail service to all of America, has been working around the clock on this particular score. He is far more intimate to the issues involved.

I commend him for his leadership. The entire Senate is indebted to him. I will be standing by as he handles the measure.

I yield to the Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend and colleague, the chairman of the committee, who has been absolutely outstanding and resolute in his backing and support for Amtrak and all that Amtrak has done for America.

We are now, I believe, ready to debate formally on the override of the President's veto of the Amtrak reauthorization bill. I think that the issues are fairly clearly drawn. I hope that possibly we could arrange for some kind of time agreement so we could vote on this as early as possible.

I have no idea how much time might be necessary. But I would be prepared to suggest, as far as this side of the aisle is concerned, that we have 2 hours equally dividend, or 4 hours equally divided, or some such arrangement, so that we could have an opportunity to move ahead as expeditiously as possible with the very heavy schedule and workload in the U.S. Senate.

I would just like to inquire at this time as to whether or not there would be objection to reaching a time agreement with controlled time, so that we would have the best opportunity to move this bill ahead with some degree of dispatch.

Mr. President, I will phrase that question once again when the managers of the bill on the other side of the aisle are here. I do not see them at the present time. I assumed that they were present when I made the suggestion. They are not. I will make that request a little bit later.

Mr. President, I stand before you today to urge my colleagues to join me in support of continued rail service by overriding the Presidential veto of H.R. 2364, the Amtrak Reauthorization and Improvement Act of 1990. On May 1, the House and Senate conferees on H.R. 2364, overwhelmingly ratified the conference report. The House approved the conference report by a vote of 322 to 93. The Senate then approved the measure by unanimous consent on May 10. All of these positive efforts were thwarted, however,

by a Presidential veto on May 24. Earlier today, the House overrode the President's veto by a clear margin of 294 to 123. We cannot afford to allow our cause to end here. It is in the best interest of our towns, cities, and businesses across the Nation that this veto be overriden.

The administration's veto reflected its concern about a provision in the Amtrak conference report which would require that acquisitions of major rail carriers by noncarriers be reviewed by the Interstate Commerce Commission [ICC]. It is the Administration's belief that this represents an unprecedented form of regulation that oversteps the traditional boundaries of the ICC to review acquisitions that may diminish competition. Such overregulation, the administration argues, would burden the ICC with additional oversight responsibilities, impact the cost of capital and possibly endanger the financial stability of the railroad industry.

An editorial comment: Of all of the reasons that have ever been given for a veto of a measure by the President of the United States, I believe that the reasons publicly stated in the veto message are totally without foundation.

Yet, it is precisely this concern for the stability and integrity of the railway industry that inspired this new regulatory requirement, in the first place. Without such oversight by the ICC, there is no guarantee that hungry corporate entities would not compromise the health and well-being of the industry, all for the sake of short-term profit.

All we have to do, Mr. President, is look around us for the last few months and the last few years where we have seen time and time again corporate raiders or sometimes greenmailers who have seized control of a corporation, not to enhance that corporation, not to make money in that corporation, not to continue to provide what that entity has done for the public over a number of years, but strictly to make a few bucks.

I suggest to my colleagues that one of the finest pieces of this otherwise outstanding legislation is, indeed, exemplary from the standpoint of protecting basic railroad service in the United States of America.

To suggest that the ICC is only limited to the review of potential antitrust violations ignores the fact that the ICC is already authorized to review acquisitions of any portion of a railroad by any noncarrier. This means that if any noncarrier seeks to acquire as little as 1 mile of existing rail carrier, the proposed transaction would be subject to the jurisdiction of the ICC. That fact alone makes the reason for the veto hard to accept. Yet, if that same noncarrier is large enough to acquire the entire railroad, there is no clear authority for the ICC to review the transaction to ensure that adequate commitments to service and maintenance of the line are present. The ICC provision would merely serve to close a most glaring loophole by uniting this review power under the auspices of the ICC.

Let me restate that in a sentence or two. We presently have a law that allows the ICC to take a look at the purchase of 1 mile of track, but they cannot look to see whether the interest of the public is concerved when someone who is not in the railroad business wants to buy an entire line. I think on the face of it that makes no sense.

The provision at issue clearly gives the ICC clear authority to review these matters before problems arise. It mandates that this review take place on an expedited basis, within 90 days of publication in the Federal Register. In addition, it limits this authority to class I railroad carriers. There are currently only 16 of these very large carriers. If any one of these 16 were to fail due to ill-advised takeovers—and that is an ever-present worry—it would have a significant impact on the public and on Amtrak service which operates over the lines of these carriers.

This proposal not only serves to ensure adequate commitments to maintenance and preservation of the rail system, but also is sufficiently tailored so as not to give the ICC ultimate authority to select who shall purchase a class I carrier. The ICC is charged simply with reviewing proposals to ensure that minimum public interest criteria is satisfied. Any and all proposals which satisfy these criteria may gain approval, at which point the shareholders of the carrier are free to select the best offer, as in the ordinary course of business.

A testament to the logic and effectiveness of the proposal is that it has not been opposed by the ICC, nor is there any unified industry opposition that we know of. In fact, at the hearing on this measure last year, the ICC testimony did not take a position on this legislation, although the former chairman of the Commission expressed her personal opposition to additional legislation.

However, the current Chairman of the Commission was considerably more sympathetic to this proposition, and at his confirmation hearing held earlier this year, although he has not taken a formal position on the bill at this time, he has indicated that he would like to take a look at it and has not come out against it, as did the former Chairman.

Similarly, there has been no unified industry opposition to this proposition, again as far as we know. The Association of American Railroads does not have a position on this legislation and, despite the Department of Transportation's animosity toward this provision, they, too, declined to testify when the Commerce Committee held its hearings last year.

Most importantly, it is critical to realize that this provision is not reregulatory, particularly when it is viewed in light of the existing regulatory structure for the rail industry. In that context, the regulatory impact of this provision is minimal, at most, although the risks to the public are great if we do not override this veto and ensure that this loophole is closed.

The implication of this veto, however, is more far reaching than just the oversight authority of the ICC. It also has a profound effect upon the future of Amtrak. Regrettably, the administration's budget proposal for fiscal year 1991 would eliminate all funding for Amtrak and, therefore, essentially eliminate this national passenger system.

In vetoing H.R. 2364, the administration has again shown its opposition to the funding for Amtrak. That is nothing new to us on the Commerce Commission. We had essentially the same thing each and every year from the previous administration.

But the Congress has seen the wisdom for the continuation of this service, time and time again, notwithstanding the objections of the previous administration, and now this one.

I cannot accept the direction that this administration is continuing to take. The effect of eliminating Federal funding for Amtrak at this time would be to end nationwide passenger rail service. To do so would deny the considerable achievements of Amtrak, just as it would deny to the United States a form of transportation that is considered vital in virtually every industrialized nation.

Amtrak will celebrate its 20th anniversary this year. It was created 20 years ago to preserve a national rail passenger system. Since then, it has demonstrated a growing market for its energy-efficient, environmentally benign alternative, continuing to attract more and more people to ride on Amtrak and therefore to help meet the needs caused by the ever increasingly congested highways and certainly the crowded skies that we are dealing with, almost on a weekly basis.

Demand for Amtrak service continues to increase at a very rapid rate.

Amtrak also has become more and more efficient and is today covering a higher percentage of its own costs than any other rail passenger system in the world.

Let me repeat that. We talk about the subsidies to Amtrak but the subsidies to Amtrak are less than the subsidies that are given to any other rail passenger service railroad in the entire world. I think that is a success story that has not been told.

Amtrak now covers 75 percent of its costs, up from just 48 percent as recently as 1981. In contrast, Mr. President, the Canadian rail passenger system is covering less than 30 percent of its costs. In addition, Amtrak revenues for fiscal 1989 were $1.27 billion, double that of just 9 years ago. There is also an increasing public demand for Amtrak service.

Passengers traveled more distance on Amtrak last year than on all the other many private passenger railroads crossing this country in 1970, the year before Amtrak commenced its service.

The Amtrak Authorization and Improvement Act of 1990 would authorize the appropriation of critically needed capital funding for fiscal year 1991 and 1992. Appropriations at the levels included in the bill would enable Amtrak to order new long distance passenger cars, to modernize several antiquated maintenance facilities, and to replace locomotives that have worked double time to meet the demands of this Nation's rail passenger system.

Opponents of Amtrak argue that rail passenger service is unnecessary and it is outmoded. To the contrary, Amtrak serves critically important transportation needs, particularly in much of small town and rural America. At present, Amtrak serves roughly 500 communities, more than the major airlines combined totally.

In many areas nationwide, Amtrak is the only passenger service which operated during severe weather. Some 109 communities served by Amtrak have no air service. According to Amtrak, it serves 15 communities that lost their essential air service subsidy as of January 1st of this year, and air service to those communities likely will cease forever.

Currently, some 101 Amtrak-served communities have no direct intercity bus service. Seventy-nine of those communities do not even have connecting bus service to transportation hubs. Just this week, Greyhound, which has been mired in a debilitating bus strike, sought protection from its creditors under the Federal bankruptcy laws.

Let me repeat that, because I think it is important. Just this week, it could not be more timely, Greyhound, which has been mired in a bus strike, sought protection from its creditors under the Federal bankruptcy laws. This is an ominous sign for continued bus service, particularly for small cities and rural areas. This makes continued and stable railroad service all the more critical to our rural and moderate-income citizens, who deserve to have their basic transportation needs met.

Already, 31 Amtrak-served communities have neither air nor bus service. These facts, Mr. President, coupled with the Greyhound situation, should send a clear signal to the administration and to the Congress that there is no more important transportation legislation before the Congress than the continuation of Amtrak.

Additionally, some argued that Amtrak is primarily a northeast corridor operation. However, nearly half of Amtrak riders, three-fourths of its passenger miles, and two-thirds of its revenues, come from its noncorridor operations.

These are largely long-haul services, whose passengers are disproportionately poor and elderly travelers. Thirty percent of America's long-haul passengers have family incomes of under $20,000 annually, while 51 percent have incomes below $30,000 annually. Thirty-five percent of the long-haul passengers are 55 years of age and older, and 18 percent of long-haul passengers are 65 years of age and older.

In conclusion, Amtrak has made significant improvements in its performance in recent years, now covering 75 percent of its costs with its own revenue, a record superior to the performance of any other passenger railroad system in the whole world. Amtrak has further established a goal to eliminate the need for any—Mr. President, I emphasize "for any"—Federal funding support by the year 2000.

In light of this progress, I urge the support of the U.S. Senate for the continued advancement of our Nation's transportation network by a vote to override the veto of H.R. 2364, the Amtrak Reauthorization and Improvement Act of 1990.

Mr. President, there have been some statements made, some of them factual and some of them not, I suggest. Some of it is hearsay and some of it is Cloakroom talk. Some of it is what we hear, and we hear a lot of things, out in the halls of this building. One thing is clear. The administration, although they proposed not a single penny for an Amtrak authorization, has now indicated that the President would sign a piece of Amtrak legislation if we simply knocked out the ICC provision that I have addressed in some detail.

Such a bill was introduced by the minority leader in the House of Representatives shortly before the House overwhelmingly overrode the veto.

The theory here is that the President is not being picky, the President just wants this one part left out, and if we will rush something through and send it back to him, we will save the Amtrak passenger system.

That is not as easy as it might sound. I would like to read into the RECORD at this point a letter from Mr. JOHN DINGELL, the chairman of the Committee on Energy and Commerce, which has primary jurisdiction over this matter in the other body. It is dated June 6, 1990. It is addressed to the Honorable Ernest F. Hollings, Chairman of the Committee on Science, Commerce, and Transportation, United States Senate, Washington, D.C.

DEAR FRITZ: I understand that representatives of the Administration have indicated to various Senators that if the President's veto of the Amtrak reauthorization bill is sustained, the President would sign a new bill "similar to H.R. 2364" but without the Interstate Commerce Commission (ICC) provision to which he objected in his veto message. Although I am not quite sure what is meant by the word "similar," I am writing because I would not want Senators to make their decisions about the upcoming override vote on the assumption that consideration of even an identical bill is likely to ensue in the House. In fact, the obstacles to passage of such new legislation are legion.

As an initial matter, H.R. 2364 as considered by the House contained provisions in the jurisdiction of two House committees, the Committee on Energy and Commerce and the Committee on the Judiciary. The conference report on H.R. 2364 includes two Senate provisions of interest to two other House committees—Ways and Means with respect to a provision that will save Amtrak $16 million annually in rail unemployment taxes, and Public Works with respect to Senator Gorton's amendment to eliminate multiple states' withholding of income taxes from transportation workers.

In all likelihood, a new bill introduced in the House, even minus the ICC provision, would be referred initially to at least three and possibly as many as all four of these House committees. Without question, Judiciary, Ways and Means, and Public Works would all be given the opportunity to consider the measure either initially or sequentially. In the same vein, even if the Senate were to pass such a bill and send it to the House, that bill too would be referred to the relevant committees. In either case, a substantial amount of time would be consumed, and it is not evident that the bill would ever reach the floor.

I understand, as well, that Senator Warner has explored the possibility of attaching the Northern Virginia commuter rail provision in this legislation to an appropriations measure. As you know, the Rules of the House provide for points of order to be asserted against any such nongermane Senate amendments in an appropriations bill. While such points of order are often waived on minor matters, I do not think that would be the case here. Much as the House is sympathetic to the need for commuter rail service in Northern Virginia and has endeavored in H.R. 2364 to make such service a reality, a provision as imporant as this one, infringing significantly on the jurisdiction of two authorizing committees, would almost certainly result in a point of order being asserted.

In addition, the Northern Virginia Transportation Authority's (NVTA) rail car acquisition contract will result in substantially higher costs if a firm order is not placed by early August. Even if a point of order on an appropriations measure is waived, it is unlikely that any such measure will have been conferenced and signed into law by then. Move over, during the short period of time remaining before the August recess, almost all of our Committee's attention is likely to be consumed by the conference on H.R. 3030, the Clean Air Act Amendments of 1990. For this reason, too, it is doubtful that the House could meet the NVTA's August

deadline through consideration of a new bill.

I am concerned that some Senators might assume they can vote to sustain the veto here without doing real damage to Amtrak and the many parties that have vital interests in H.R. 2364. Given the shortness of time before adjournment, the pendency of other urgent business, and the many procedural obstacles to further House consideration of this matter, the scenario being painted by the Administration's representatives for further consideration of the Amtrak bill seems to me so unrealistically optimistic that it should not form the basis for a vote, one way or the other, on the veto override.

Carbon copies of that letter went to the Honorable GEORGE MITCHELL, ROBERT DOLE, JOHN DANFORTH, JAMES EXON, ROBERT KASTEN, SLADE GORTON, and JOHN WARNER.

Mr. President, the letter from the distinguished chairman of the Committee on Energy and Commerce in the House should send a very clear signal to any Member of the Senate that to attempt to justify not voting to override the veto of the President with the assurance that something else will come along to solve the problem would be a very, very dangerous course. I hope no Senator will rely on that eventuality as a way to justify a vote to sustain the President's veto.

Those are my opening comments. I will have additional comments and debate as the afternoon continues. I yield the floor.

Mr. PRYOR. Mr. President, parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. The pending business is the Senate's consideration of the President's veto message of the Amtrak reauthorization bill.

Mr. PRYOR. Mr. President, I ask unanimous consent that I may be permitted to speak out of order for not to exceed 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. How much time was requested?

The PRESIDING OFFICER. Ten minutes.

Mr. PRYOR. Not to exceed 10 minutes. Mr. President, let me inquire of my distinguished friend from Nebraska if there are other speakers than the distinguished Senator from Nebraska.

Mr. EXON. There are no other speakers but the leader of the bill on the other side was to return shortly, and I do not think he would want to wait too long. But I have no objection to 10 minutes.

Mr. PRYOR. Mr. President, I will assure my friend from Nebraska that immediately upon the arrival of the other distinguished managers who wish to speak on the legislation now before the Senate that I will conclude my remarks.

THE BUDGET PROBLEM

Mr. PRYOR. Mr. President, this morning in the Baltimore Sun dated June 7, I saw a story, which is the lead story.

Mr. President, I ask unanimous consent that this article be printed in its entirety immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRYOR. Mr. President, the headline on the story in the Baltimore Sun this morning says "U.S. conceals $100 billion in reserve funds." The subhead is "Pentagon, agencies can spend without OK from Congress."

Mr. President, I am going to read a few paragraphs from this story because I think it is very significant. It is significant especially because, as I speak this afternoon in the Senate Chamber, only a few feet from here, in the Mansfield Room S-207, it is my understanding that the budget summiteers and the negotiators, who are trying to achieve some reconciliation of our many problems with our deficit, are now meeting and discussing ways and means to meet the deadlines and the budgetary target.

In this situation that the Sun reported:

In one instance, the Air Force spent an extra $1 billion on B-1B bomber repairs without congressional authority.

Mr. President, this would imply that these leftover funds of the agencies of our Federal Government, not only the Department of Defense but also other agencies which I will name momentarily, basically can spend these leftover funds without congressional authority and beyond the congressional scope of seeing where these funds go.

Let me quote another paragraph, Mr. President:

To put it crudely, these are little more than "slush funds" with over $50 billion worth in the Pentagon alone," said Representative John D. Dingell, D-Mich., chairman of the House Energy and Commerce Subcommittee on Oversight and Investigations.

He charged that the Treasury Department was essentially being used to "launder" money to avoid congressional oversight.

Mr. President, if this is in fact a correct accusation, then what we have seen over a period of years is the Congress authorizing funds to be spent, the appropriating committees then appropriating the dollars to be spent subject to the authorization, and then if the funds were not spent, evidently in that fiscal year, the agencies come back and ask for an additional amount of money. All of those funds that were previously authorized and appropriated evidently are beyond congressional scrutiny, and can be used basically as a slush fund as Congressman DINGELL has alleged.

To further read in the article, Mr. President, Congressman JOHN CONYERS called the funds "a breeding ground for fraud."

Comptrollers for the Departments of Defense, Energy and Health and Human Services defended the use of the accounts as proper and legal but agreed that the amounts have become excessive and generally welcome legislative remedies to regulate them.

Mr. President, about 2 weeks ago, on the floor of the Senate, Senator ROTH of Delaware and Senator GRASSLEY of Iowa introduced S. 2699 which would force the agencies after authorization, after appropriation, and the fiscal year has passed, to basically give this money back to the General Treasury. Should the Roth-Grassley legislation become law this year, we can easily and readily see how these particular Federal agencies would be forced to give back this money to the General Treasury,

I might add, Mr. President, that only as recently as this morning Mr. Darman, the Director of OMB, said that we are going to need somewhere between $38 billion and up to $100 billion to avoid sequestration; in other words, to meet the targets of Gramm-Rudman-Hollings.

Mr. President, here is $100 billion. It is sitting out there. It has been authorized, appropriated, but unspent.

Take for example one of the smaller agencies of our Government, AID, the Agency for International Development. Their 1990 budget authority last year was $2.6 billion. In the so-called M account the slush fund account, authorized, appropriated but unspent and probably unobligated today sits $11 billion.

The Executive Office of the President, the White House, has a 1990 budget authority of, Mr. President, $272 million. In the M account, the slush fund is $4.3 billion sitting there doing nothing.

Mr. President, on this point, let me quote one of the staff members of Congressman DINGELL who is an investigator for the committee's panel and others familiar with the issue, "the money Congress appropriates every year is available to the Pentagon and to other agencies for a limited period of time. But when appropriations expire, the money does not necessarily return to the general fund of the U.S. Treasury."

Further, Mr. President, "Instead, the funds accumulate in two types of accounts held for each agency by the Treasury Department. In addition, an agency's legal authority to spend the money 'never goes away,'" according to Bruce Chafin of the committee which Mr. DINGELL chairs in the House of Representatives.

Mr. President, I quote in the final paragraph "Because few government audits have been done, investigators

would say only that the Pentagon now has more than $50 billion available in those special accounts, the Agency for International Development has more than $11 billion, the Department of Health and Human Services $4.4 billion," Mr. President, even "the Department of Energy with $325 million," in their particular slush fund.

Mr. President, this is an open money sack once again. It is, in my opinion, an invitation to corruption. It is an invitation to circumvent the budget process.

In addition, this $100 billion amounts to $400 for every man, woman, and child in the United States of America. Even if these agencies do not return this money to the Federal Treasury, Mr. President, then possibly, conceivably we could return it to the taxpayers—$400 per person in this country.

I strongly support the Roth-Grassley proposal. I would like to compliment the Baltimore Sun for being the paper that basically wrote this story. I certainly believe, Mr. President, that we have to act very quickly to remedy what I call an egregious situation.

Mr. President, I see the distinguished chairman of the Appropriations Committee, the Senator from West Virginia, on the floor at this time. At this time, I yield the floor.

[From the Baltimore Sun, June 7, 1990]

U.S. CONCEALS $100 BILLION IN RESERVE FUNDS

(By Richard H.P. Sia)

WASHINGTON.—The Defense Department, the White House and more than a dozen federal agencies have accumulated a largely hidden reserve in excess of $100 billion that could be used to offset future budget cuts and cover unauthorized expenditures, congressional investigators disclosed yesterday.

The agencies, which can draw on these funds without the knowledge and approval of Congress, could wreak havoc with current efforts to control government spending and reduce the budget deficit, investigators said.

In one instance, the Air Force spent an extra $1 billion on B-1B bomber repairs without congressional authority.

The disclosures, made during a hearing of two House committees, alarmed and angered Democrats and Repubicans alike, some of whom said they were caught unaware by the existence and size of the reserves.

Virtually all the lawmakers present expressed support for legislation that would either impose strict controls on the funds or eliminate them altogether.

"To put it crudely, these are little more than 'slush funds' with over $50 billion worth in the Pentagon alone," said Representative John D. Dingell, D-Mich., chairman of the House Energy and Commerce Subcommittee on Oversight and Investigations.

He charged that the Treasury Department was essentially being used to "launder" money to avoid congressional oversight.

Mr. Dingell, who chaired the hearing with Representative John D. Conyers, D-Mich., chairman of the House Government Operations Committee, had ordered staff investigators to look into the funds three months ago.

An audit by the General Accounting Office, which has also been under way, may take at least six more months to complete.

"We have an unbelievable accountability problem here," complained Representative Andy Ireland, R-Fla. "I don't think the American people, knowing about it, would put up with it in a minute. The fact that these funds can be [spent] makes a laughingstock out of the budget summit.

"The whole thing stinks," Mr. Ireland said.

Mr. Conyers called the funds a breeding ground for fraud."

Comptrollers for the Departments of Defense, Energy and Health and Human Services defended use of the accounts as proper and legal but agreed that the amounts have become excessive and generally welcomed legislative remedies to regulate them.

Elizabeth E. Smedley, Department of Energy comptroller, testified that her department favored measures to limit the size of the funds "to avoid even the appearance of a 'slush fund.' "

As described by Bruce F. Chafin, an investigator for Mr. Dingell's panel, and others familiar with the issue, the money Congress appropriates every year is available to the Pentagon and other agencies for a limited period of time. But when appropriations expire, the money does not necessarily return to the general fund of the U.S. Treasury.

Instead, the funds accumulate in two types of accounts held for each agency by the Treasury Department. In addition, an agency's legal authority to spend the money "never goes away," Mr. Chafin testified.

One type of account allows an agency to pay "old bills," such as those for items ordered in one year but delivered several years later.

The other involves appropriations that have lapsed but that may be used to cover unexpected expenses, as long as they are "within the scope of a pre-existing contract," Mr. Chafin said, citing the 1956 law that created the accounts.

"No one envisioned that these accounts would grow into a hundred-billion-dollar fund spread across the various federal agencies which could be drawn upon" at the sole discretion of the agencies, he said.

Mr. Chafin and others warned that the Pentagon, for instance, could use funds appropriated for one weapon to pay for another.

A year ago, the Air Force revealed that it spent an extra $1 billion to fix the electronic gear aboard the B-1B bomber—without congressional authorization—by drawing from expired appropriations, including some from C-5A transport plane purchases.

"It is easy to envision the Congress cutting back on the Pentagon budget but later finding that the military had tapped the . . . account to continue weapons systems after they had been terminated by the Congress," Mr. Dingell said.

Some lawmakers explained that the special accounts do not actually contain cash waiting to be spent but simply that they represent leftover or expired "budget authority."

"It is sort of like having a checking account with automatic overdraft protection, except the bills get paid by increasing the federal deficit," said Sen. William V. Roth Jr., R-Del., who introduced legislation two weeks ago to curtail use of the accounts.

Because few government audits have been done, investigators would say only that the Pentagon has more than $50 billion available in the special accounts, the Agency for International Development more than $11 billion, the Department of Health and Human Servcies $4.4 billion and the Department of Energy $325 million.

A partial accounting by the GAO showed that the "Executive Office of the President" contains at least $4.3 billion in one of two accounts, mainly unspent funds for development assistance and foreign military sales credits.

Mr. BYRD. Mr. President, I thank my friend. Mr. President, shortly there will be a number of the Members of the British Parliament who will be coming into the Chamber, and I would like to have the honor of presenting them to the Senate. For the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BRITISH-AMERICAN PARLIAMENTARY MEETINGS

Mr. BYRD. Mr. President, I was some time ago appointed by our distinguished majority leader to chair the American side of the British-American parliamentary meetings, which occur in London and Washington from time to time. Earlier, I have had the great pleasure of hosting a working luncheon for our visiting parliamentarians from Great Britain. As I have explained to our colleagues from across the Atlantic, Senators are very busy at work and, particularly at this time of the afternoon, they are usually at work elsewhere. There is presently a very important debate going on, which concerns the Presidential veto of the Amtrak legislation, and it is my understanding that there may be a rollcall vote thereon later today.

During our luncheon we were privileged to hear from some of our distinguished colleagues from both sides of the aisle: Senator LLOYD BENTSEN, Senator TED STEVENS, Senator SAM NUNN, Senator PAUL SARBANES, Senator JOHN HEINZ, Senator RICHARD LUGAR, and Senator JOHN WARNER. I am sure that I speak for our British colleagues when I say that we were all impressed by the things that those Senators had to say.

We are going to be spending the weekend in White Sulphur Springs, West Virginia, at the famous Greenbrier and, God willing, we hope that the weather will be excellent; and some of our colleagues on both sides of the aisle will be attending sessions there with our British friends, which

will continue the sessions that we have begun here today.

On Monday of next week our friends will go on to the State capitol at Charleston to meet with the Governor of the State of West Virginia, the Speaker of the House of Delegates and the President of the West Virginia Senate, so that they can get a little better impression of how the State government works in my State.

May I say to the Senate that Great Britain is the mother of parliaments, and as I have often threatened to do, someday I am going to take the floor here and spend a good bit of time talking about the development of the English Parliament, and what we in our country owe to the mother country; aside from the language and the law and the blood, we also owe a great deal to the mother country for the development of the very institution of which we are a part here.

So, it is with a great deal of humility and pride that I have asked the visiting Members of the British Parliament to visit this august Chamber at this time.

I say to our British colleagues, we have had radio and television broadcasting of Senate debates now for a few years, though not as many years as the House of Representatives has engaged in televising its debates. But we finally came to the conclusion, I and others, that the Senate was rapidly becoming an invisible force here in this country, with the House of Representatives broadcasting its debates, with the President able with the snap of his finger to summon around him the television and print media, and that it was time for the United States Senate to televise its debates as well. So we are very thankful to C-SPAN for its splendid work in carrying the Senate's debates.

We have noticed with great interest that the British House of Commons has, I believe, begun a trial period of televised debates. We have found it to be a good thing here.

There were many, like myself, who for a long time opposed the televising of the debates of the Senate. For a long time, I even opposed bringing in the microphones, because I did not think it was good for the Senate. But I found that it was indeed good for the Senate. The people have a right to know, and to see, what their elected representatives in the Senate are doing and saying on their behalf. We can even hear one another better, and we did not, as some of us feared, develop a situation in which Members would spend hours in playing to the galleries. We grew accustomed to the bright lights here and it has all worked out well. I think the speeches have been better and shorter since we have had television. I just say that, believing that our British friends will find that perhaps helpful, if not provocative, as they experiment with this great medium.

So now with great pleasure I present to the Senate the following Members of the British Parliament: On the Government side, the Right Honorable Peter Brooke, who is not here at the moment; he will join us this evening. Mr. Gregory Knight, Mr. Anthony Favell, Mr. Robert McCrindle, Mr. Michael Shersby; on the Opposition side, the Right Honorable Robert Sheldon, Mr. Frank Haynes, Mr. Roy Hughes, Mr. Mark O'Neill, Dr. Gavin Strang. We also have the Right Honorable Michael Jopling, who is the Honorary Secretary; Mrs. Auriol Moate, the Assistant Secretary; His Excellency Sir Anthony Acland, the Ambassador of the United Kingdom of Great Britain and Northern Ireland.

May I say that it is a great pleasure that I present our friends to the United States Senate, and we say welcome.

[Applause.]

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 4 minutes so that we might welcome our distinguished guests.

There being no objection, the Senate, at 3:09 p.m., recessed until 3:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. LIEBERMAN].

AMTRAK REAUTHORIZATION AND IMPROVEMENT ACT—VETO

The Senate continued with the consideration of the message from the House.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska [Mr. EXON.]

Mr. EXON. Mr. President, I ask for the yeas and nays on the override of the Presidential veto.

The PRESIDING OFFICER. The Chair states for the RECORD that the yeas and nays are required under the Constitution on the veto message and do not for that reason need to be ordered.

Mr. EXON. Mr. President, we are waiting for the floor manager of the veto override on the other side to come to the floor. This Senator has been here now for about an hour and a half.

I do not quite understand, with a matter of such priority and importance as this one, why we cannot even begin to engage in debate. But we do have other Members on this side of the aisle who are vitally concerned about this matter who wish to urge the override.

I ask if possible if the managers of the vote to sustain the veto could accommodate us, I would like to begin serious debate on this so that we can get to a vote.

We complain from time to time about the quality of the U.S. Senate and how poorly and slowly we move. Here we are on a Thursday, and every one likes to go out and go home.

I ask at this time formally of the majority leader to at least consider keeping the Senate in session as long as is necessary this evening, as long as is necessary on Friday, and possibly even on Saturday, unless we can begin to move on this bill.

As the Chair knows, when we opened debate on this, I suggested that we have some reasonable time limits so that we could get to the debate. I have not had an opportunity to have anyone on the floor on the other side to even raise an objection.

If I do not see some action sometime in the near future, I will attempt to get a time agreement even absent the other side, which we do not usually do, but this Senator is not about to spend all of this time, which is just as important as the time of any other Member of the U.S. Senate, on window dressing when we should be debating instead of delaying.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia [Mr. ROBB].

Mr. ROBB. Mr. President, I rise today to urge my colleagues to vote to override the President's veto of the Amtrak reauthorization bill. The House voted to do so this morning by a vote of 294 to 123, with overwhelming bipartisan support. I hope this body can do the same, notwithstanding the tremendous pressure many of our colleagues on the other side of the aisle have felt from the White House.

As many of my colleagues know, I have a parochial interest in this bill. Section 3 will resolve the one outstanding issue that stands between running commuter trains from Fredericksburg and Manassas into Union Station, and leaving them at the Virginia shoreline, unable to get into the District of Columbia. Running into the District, the Virginia Railway Express, is projected to eliminate an entire lane of traffic on I-95.

The President's veto threatens to derail not only the completion of the Virginia Railway Express, but to kill several other provisions in the bill of importance to other colleagues in this body.

Let us remember what this bill is about. H.R. 2364, authorizes funding for Amtrak through fiscal year 1992, making a commitment to much needed capital for the railroad and enabling it to purchase new cars and expand service around the country.

In the wake of the Senate's consideration of the clean air bill, an experience I think we all remember, support for alternative forms of transportation is appropriate. So, a vote to override

this veto is a vote for the environment and for expanded service by Amtrak and the Virginia Railway Express.

That is what this bill is about—railroads, rail service, and railway workers.

But what is the President's veto about?

The administration's rationale for vetoing this bill simply does not stand up to scrutiny.

Section 8 of the bill simply closes a loophole in current ICC jurisdiction. It would grant the Commission explicit authority to review acquisitions of class I railroads by individuals or entities that do not currently own or operate a railroad to ensure that the transaction is consistent with the public interest. The ICC is curently empowered to review every other conceivable acquisition of rail property by carriers and noncarriers alike.

I can see no reason why the Commission's power to review this kind of transaction should be of concern to the administration. The provision can have only limited applicability, since there are just 16 class I rail carriers.

But it strikes me as a reasonable means of ensuring that someone takes the public interest in continued operation of more than 140,000 miles of rail track into account. These railroads are: too important to commerce in this country, too important to too many communities and industries that depend upon them, to not have someone consider whether their sale or transfer is in the public interest.

I understand and respect the separation of powers between the executive and the legislature. I also understand the desire of my colleagues on the other side of the aisle to support the President when important policy considerations are at stake.

In this case, Amtrak's funding and the fate of an innovative local transportation initiative that will have no cost to the Government, are at stake. I can see no policy consideration of equal or greater importance on the side of the veto. I urge my colleagues to override this veto.

Mr. President, I thank the Chair and I yield the floor.

(Mr. DIXON assumed the chair.)

Mr. SIMON. Mr. President, I commend my colleague from Virginia for his remarks. I shall be very brief. I want to tell the majority leader and the Senator from Nebraska that I am going to be very brief here.

There are two reasons why we ought to be overriding the President's veto and changing the law.

No. 1, the excuse used by the President is a very, very flimsy excuse. We have deregulated ourselves into a mess in the savings and loan field. My distinguished senior colleague from Illinois and I were just up at a press conference with Senator GRAHAM, from Florida, and others talking about what we ought to be doing more vigorously. Let me tell you, if this particular language is not enacted into law, we are going to deregulate ourselves into a first-class mess in terms of railroad transportation in this country, because without this particular piece of legislation, any takeover group can move in without ICC approval, take over a railroad, dismember it, do whatever they want, and there is not a thing the Government of the United States can do about it. That just does not make sense. My hope is that we will override the veto.

The second thing that is wrong is without this passing and without that ICC approval, a railroad can, in order to block these takeovers, acquire all kinds of debt, and then they are not in a position, because of their debt-servicing, to take care of the railroad tracks, and it results in a less-productive society.

I ask unanimous consent, Mr. President, to have printed in the RECORD an article from Traffic World written by Ira Rosenfeld entitled "Holes in C&NW Buyout Blanket Sending Shivers Through Analysts."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Traffic World, Apr. 9, 1990]

HOLES IN C&NW BUY-OUT BLANKET SENDING SHIVERS THROUGH ANALYSTS

(By Ira Rosenfeld)

The figures are starting to roll in on last year's takeover of the Chicago & North Western railroad by Blackstone Capital Partners L.P. and some analysts are wondering just where this heavily leveraged deal is heading.

In its first quarter as a private company (the fourth quarter of 1989) parent Chicago and North Western Holdings Corp. reported a 15 percent decline in revenue, to 232.5 million from $247.6 million in the last quarter of 1988.

Fourth-quarter earnings before depreciation, interest and taxes were $49.7 million compared with $50.7 million in the fourth quarter last year. The quarterly earnings figure is also before a $6.2 million special charge for employee reduction costs.

Interest expense for the quarter was up $27.1 million over the same period in 1988, a reflection of the $1.3 billion debt load created by last year's leveraged buy-out.

The company said traffic volumes in the fourth quarter were affected by a decline in overall freight shipments, due in part to the sale of a 208-mile rail segment in Wisconsin, and to bad December weather in the Midwest. In addition, motor vehicle sales were down.

While the C&NW had $84.7 million in cash on hand and another $105 million in bank credit lines at the end of 1989, the company faces an operating cash shortfall of $70 million this year. This will be partially offset by a planned assets sale that the company hopes will bring in $30 million. Analysis, however, are skeptical about the railroad's long-term chances of survival.

"We conclude that the company has sufficient liquidity to survive the next three to four years but probably will not generate enough cash to cover principal payments and capital expenditures," said Jonathan Bernstein, financial analyst for Freeman Securities Co. Inc. in Jersey City, N.J.

Last summer, under the banner of the C&NW Acquisition Corp., Blackstone Capital Partners L.P. joined forces with the Union Pacific and the securities firm of Donaldson, Lufkin & Jenrette to outbid the New York investment group Japonica Partners to acquire the 6,200-mile C&NW. The price was steep, with the purchase of C&NW shares and the assumption of the railroad's debt combining for a $1.6 billion price tag.

The leveraged buy-out, the subject of concern both at the Interstate Commerce Commission and Congress, left the railroad with a debt load of approximately $1.3 billion, about twice what it was before the deal was completed.

"Some LBOs are well structured but in this instance it is safe to say they have some uphill walking to do," said Bernstein.

Most Analysis cite five major problem areas when discussing the C&NW's future strong rate competition; the cyclical auto and steel industries which account for 18 percent of the railroad's revenues: the fact that it has a high proportion of branch-line miles that causes traffic patterns of lighter density and shorter hauls; the railroad's labor relations problems; and the fact that Western Railroad Properties Inc., the C&NW strongest subsidiary, cannot serve as collateral for its parent company because it is subject to a previous mortgage.

The 160-mile WRPI, which transports 43 million tons of low-sulfur coal in unit trains from the southern Powder River Basin in Wyoming, is the crown jewel in the C&NW crown. The line operates between Riverton, Wyo., and Freemont, Neb., mostly under long-term contracts with utilities in the Southwest and Midwest.

WRPI had revenue of $142.4 million in 1989, up 10.2 percent over 1988. This represents 61 percent of total corporate revenue for the year.

"We doubt that the basic railroad is worth more than $700 million," a Freeman report concludes. "Given the priority of a $460 million term loan and $300 million in equipment leases, the bond holders have little asset protection in liquidation. While the C&NW remains a going concern it uses Western Railroad Properties' cash flow to help service debt," a Freeman report concludes.

The C&NW's problems with labor stem in part from Congress imposing a labor agreement that cut the C&NW's minimum crew size from four to three in 1988, eliminating a second brakeman. Although some trains still need the three men, the C&NW has moved via arbitration to cut other trains to a two-man crew.

The railroad originally estimated relevant severance costs (they were buying out union contracts to the tune of $50,000 a worker in 1988) at $26 million. In actuality, the costs have yet to be determined by the courts. In the interim, the C&NW has neglected to place anything into a reserve fund for the severance.

While analysts worry where the money to pay off this and other debt will come from, the wild card in the deck remains the Union Pacific and its interest in the C&NW's viability.

The Union Pacific Corp. anted $100 million up front in the Blackstone deal in exchange for non-voting shares of C&NW common stock and, more importantly, guarantees from the C&NW to invest $115 mil-

lion through 1992 to upgrade and maintain C&NW's east-west, main line. The line, which runs from Chicago to Council Bluffs, Iowa, and Freemont, Neb., is the principal route UP uses to move its freight trains between the West Coast and the Midwest.

The UP's interest in the route, and the need to satisfy its shippers, was pointed up when the UP took out a three-year option to purchase the parallel Iowa Interstate Railroad—before the C&NW buy-out deal. The UP has since let its option on the Iowa Interstate lapse.

Mr. SIMON. Finally, Mr. President, the world's largest economic power should not be a power without passenger rail service. For reasons I cannot comprehend, there are those out there who want to see the passenger rail service end. If we do not pass this legislation, we will end up with commuter service around big cities; we will end up with railroad passenger service from Washington, DC, to New York to Boston and maybe from San Francisco to Los Angeles.

But the demand is growing. Here is today's Washington Times talking about Amtrak ridership is up. And I will just cite a few areas where I am familiar. Amtrak service ridership is up 35 percent between Detroit and Chicago, up 43 percent between Carbondale and Chicago, 29 percent between St. Louis and Chicago, and 43 percent on the Chicago-Cincinnati-Washington-New York route. The American people are using this service. Amtrak is in better shape than it has been for years. Why do we want to say, "Let us just let it disappear, let it disintegrate," is beyond me.

This veto ought to be overridden. We ought to be standing up for the interest of the American people. And the simple, clear way to do it is to override this veto.

Mr. MITCHELL. Mr. President, we on the Democratic side have completed our presentation on this issue and are prepared to vote on this matter at any time. We are prepared to vote right now and would like to do so.

I hope that we can hear from our colleagues on the Republican side.

The PRESIDING OFFICER. May I say to the majority leader, the Chair is ready to put the question. Is there anyone here——

Mr. MITCHELL. Mr. President, I ask that the question not be put now because we want to give our colleagues the opportunity to be present and present their views. We would like to resolve this matter. But if there are arguments to be made, I hope they will be made so that we can proceed promptly, or at least in a reasonable time, to have this matter considered.

We await the presentation of any contrary point of view. The Senate has a great deal of business to conduct. We want to proceed and dispose of this matter with reasonable dispatch, not depriving anyone of the opportunity to have his or her say on the subject. So I hope, Mr. President, that we can hear from our colleagues shortly in this regard.

Mr. EXON. Mr. President, will the majority leader yield for a question or two?

Mr. MITCHELL. Yes.

Mr. EXON. Can the majority leader advise the Senator from Nebraska and maybe the Senate as to what is his planned order of business? Assuming we can maybe dispose of this matter by a vote by, say, 6 o'clock, do we have other business that we would go to at that time?

Mr. MITCHELL. The pending bill is the Blind Air Passengers Act, which we had hoped to complete action on yesterday but, like other matters before the Senate, is delayed by other measures. But that is what we would go back to.

Mr. EXON. And Friday, tomorrow?

Mr. MITCHELL. We would continue action on that. The chairman and ranking member of the Judiciary Committee are presently discussing the situation with respect to the crime bill. The distinguished Republican manager of that bill made a proposal which was accepted by myself and the chairman of the committee, Senator BIDEN, that would enable us to complete action on the crime bill in a very short time, perhaps today. But I do not know whether that is going to be acceptable to the Republican leadership, so we are waiting to hear on that as well.

Mr. EXON. Is it fair to assume that the majority leader would like to keep us in as late tomorrow, if necessary, if debate continues on the measure before us to override the veto?

Mr. MITCHELL. Yes. We simply have to complete action on this and other measures in the Senate. Unfortunately, what is occurring is what should take an hour takes a day, what should take a day takes a week, and, as a result, the progress is painfully slow. But it is my hope that we can complete action on this bill promptly. In any event, if there is to be debate, those who wish to debate should do so.

Mr. EXON. May I ask the majority leader, maybe he, as the majority leader, can make some suggestion as to time agreements on the matter before us? Earlier, when I started in, I posed the question, but there was no one on the other side of the aisle at that time to respond.

Would the leader like to propose a suggestion as to at least some type of time agreement on the matter before us?

Mr. MITCHELL. I would be pleased to accept any reasonable time agreement that the Senator may be able to negotiate with the Republican managers under whatever is reasonable in the circumstances.

The PRESIDING OFFICER. The Senator from Nebraska, the manager, is recognized.

UNANIMOUS-CONSENT REQUEST

Mr. EXON. Mr. President, I would like to ask at this time, so we might have an opportunity to move this along, I am going to propose 2 hours equally divided, maximum, with the time to be controlled by the managers on each side and then set a vote on the veto at no later than 6:30 p.m.

The PRESIDING OFFICER. Senators heard the request by the distinguished senior Senator from Nebraska, the manager. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, reserving the right to object, and I shall object. I would only like to suggest to the Senator that until we can make some inquiry, representing the minority side of the Senate, I would have to object if he made that request at this moment.

That does not in any way indicate that we cannot find some agreement on time. But I would have to have a little time to make that inquiry.

The PRESIDING OFFICER. Objection is heard by the Senator from Oregon.

Mr. EXON. I thank my friend and colleague. Let me say if we can expedite this a little bit, since we have been on the floor debating this, we would be glad to cut down our time, maybe a half-hour on this side, an hour on that, if we could do anything to move this along.

I thank my colleague for his consideration.

The PRESIDING OFFICER. Does the Senator from Nebraska suggest the absence of a quorum in these circumstances?

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The distinguished senior Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, various Members of the Senate have received a letter from the distinguished chairman of the House Committee on Energy and Commerce, JOHN DINGELL, an exceptionally able and very, very powerful Member of the House of Representatives. In his letter he says:

I understand that representatives of the administration have indicated to various Senators that if the President's veto of the Amtrak reauthorization bill is sustained, the President would sign a new bill "similar to H.R. 2364" but without the Interstate Commerce Commission provision to which he

objected in his veto message. Although I am not quite sure what is meant by the word "similar," I am writing because I would not want Senators to make their decisions about the upcoming override vote on the assumption that consideration of even an identical bill is likely to ensue in the House. In fact, the obstacles to passage of such new legislation are legion.

Mr. President, I have a very high regard for the chairman of our counterpart committee in the House. I must say that in my time in the Senate, I have never seen a letter quite like this. We have received veto messages from the President of the United States throughout history. I do not know that I have ever received a veto message from a chairman of the committee of the House of Representatives before. But I simply point out to the Senate that this threat to the Senate issued by Chairman DINGELL is a threat that, when examined, does not quite have the force behind it that one might imagine.

Even should the House of Representatives take the position that it insists on not passing any authorization bill for Amtrak, the fact of the matter is that Amtrak does not need an authorization bill to function. An appropriation does the trick. There have been many times in the past when agencies have operated literally for years—the Federal Trade Commission would be one example—without any authorization bill having been passed whatever.

So if the position of Chairman DINGELL is, if he does not dictate the terms of every provision in the legislation, then we are not going to have any Amtrak, which I take to be the meaning of this letter, the fact of the matter is that that is a totally empty threat.

Mr. President, this very minute Amtrak is operating, and this very minute, Amtrak is operating without an authorization. A number of times during the past 10 years, Amtrak has functioned without an authorization being in effect. It may not be a great way to do business. It may be undue power in the hands of an Appropriation Committee to do business that way, but be that as it may, the fact is that agencies are able to operate and Amtrak is today functioning without an authorization bill being on the books.

This letter is hardball, an attempt at hardball politics practiced by our friends in the House of Representatives, but when the hardball crosses the plate, it turns out to be a paper wad. There is nothing behind it. I know that there are those who have very strong feelings about this one provision that is in the conference report, one of nine provisions. It is the only sticking point. The President has indicated that he would support the legislation without this one provision in it. I understand that there are strong views about it.

The provision says that if a nonrailroad acquires a railroad, then the ICC should review the acquisition. Why, we might ask? Why should the Interstate Commerce Commission review the acquisition of a railroad by a nonrailroad? If a railroad is acquiring a railroad, then that presents certain questions relating to competition.

Maybe competition is going to be affected if there is a concentration of power, if there is a concentration of railroads. Maybe the ICC should review a railroad acquiring a railroad, as it now does, but there is no immediate reason that pops into mind indicating that the Interstate Commerce Commission should review the acquisition of a railroad by a nonrailroad. For example, the Senator from Nebraska is a nonrailroad. If the Senator from Nebraska were a person of means who was in the business of acquiring a railroad, it does not strike this Senator as being a matter of logical necessity that a regulatory agency should review this acquisition.

Mr. WARNER. Mr. President, at some point, will my friend and colleague yield for a question?

Mr. DANFORTH. Of course.

Mr. WARNER. Is this an appropriate time?

Mr. DANFORTH. Yes.

Mr. WARNER. Mr. President, I have listened to my colleague's very carefully prepared remarks on this point, but I am troubled by this reference to the paper wad. This paper wad is directed at about 1.5 million Virginians who, as we are here on this floor, are proceeding down Routes I-95 and I-66 into gridlock traffic situations and looking for the Congress of the United States working with the Government of our State to try to relieve this congestion. For several years, Members of the House and Members of the Senate—and now the effort is joined in by my distinguished colleague, Mr. ROBB, who spoke earlier, who is on the Commerce Committee and who has fostered this particular legislation—have worked for the commuter rail system. I urge my colleague to think about that provision in this bill which breaks the last obstacle against this commuter rail, the last obstacle after years of effort.

I earlier in this session endeavored to attach this commuter rail provision to a piece of legislation, and I now refer to page 2 of the letter that the distinguished Senator from Missouri was referring to, a letter dated June 6, 1990.

Mr. President, I ask unanimous consent that this letter in its entirety may be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. On the second page, the writer, Mr. DINGELL, says:

I understand, as well, that Senator Warner has explored the possibility of attaching the Northern Virginia commuter rail provision in this legislation to an appropriations measure. As you know, the rules of the House provide for points of order to be asserted against any such nongermane Senate amendments in an appropriations bill. While such points of order are often waived on minor matters, I do not think that would be the case here. Much as the House is sympathetic to the need for commuter rail service in Northern Virginia and has endeavored in H.R. 2364 to make such service a reality, a provision as important as this one, infringing significantly on the jurisdiction of two authorizing committees, would almost certainly result in a point of order being asserted.

In addition, the Northern Virginia Transportation Authority's [NVTA] rail car acquisition contract will result in substantially higher costs if a firm order is not placed by early August.

That is August, I say parenthetically, 1990. Continuing:

Even if a point of order on an appropritions measure is waived, it is unlikely that any such measure will have been conferenced and signed into law by then. Moreover, during the short period of time remaining before the August recess, almost all of our committee's attention is likely to be consumed by conference on H.R. 3030, the Clean Air Act Amendments of 1990. For this reason, too, it is doubtful that the House could meet the NVTA's deadline through consideration of a new bill.

Mr. President, with all due respect for my colleague from Missouri, that is not a paper wad in the Commonwealth of Virginia. My distinguished colleague and friend, Mr. ROBB, and I are faced with a situation where we have this one shot to at long last consumate a legislative effort undertaken by many on this side as well as in the House of Representatives.

It is for that reason, Mr. President, I associate myself with my distinguished colleague and others who are voting to override this measure.

Mr. DANFORTH. Mr. President, I very much sympathize with the position of the two Senators from Virginia. I can say that from the standpoint of the continuation of Amtrak and the ability of Amtrak to function throughout country, it is not very much of a paper wad in that regard because Amtrak is going to function on the basis of appropriations.

Now, it is true——

Mr. WARNER. Mr. President, I will accept that, but it is a mighty cannonball coming right at us.

Mr. DANFORTH. It is certainly true that Senator ROBB worked very hard to get this provision that relates specifically to Virginia in the legislation, and it is in the bill; there is no doubt about it. The President has indicated that he agrees with this provision. His only problem is the leveraged buyout provision.

It is also true that a bill has been introduced in the House incorporating all provisions of this legislation with the exception of leveraged buyout in it, and that a bill is going to be introduced in the Senate which will incorporate all provisions in it except for leveraged buyout. It is not true that this is a matter of great difficulty for the House of Representatives because it is legislation that word for word has been passed and in fact is now before us.

It is true that if the chairman of the Energy and Commerce Committee decides he wants to punish the two Senators from Virginia, he probably could do it. He could say that in order to punish you for not supporting the leveraged buyout provision, he is going to hurt Virginia in order to punish the Senators and the people of Virginia and the House delegation from Virginia, that he would raise a point of order on an appropriations bill.

I do not think that is going to happen because I do not think the House is going to allow Amtrak nationally to come to a halt, much less the provision of Virginia.

I understand high pressure tactics. I understand the desire of people to get their own way and to try to threaten, to try to hurt, in order to accomplish that. There is nothing new in that. I can understand the position of the two Senators from Virginia. I would probably take the same position myself.

But what I am saying is that the President of the United States has said that this one item in the bill, one of nine items in the bill, is something which he thinks is bad policy and he does not want to swallow it.

It is my view that if we are acting responsibly as legislators, what we should attempt to do is to pass the basic bill, take care of the issue that has been raised by the two Senators from Virginia, get it passed, and see what happens.

I can understand the concern the Senator has expressed. But my view is that this LBO provision does not belong in this bill. It was not considered by the full Senate. It was passed as a separate bill, reported out as a separate bill in the Commerce Committee, but it was not addressed by the Senate. It is still on the calendar. It was squeezed into this legislation in conference. It is strongly objected to by the President of the United States. It is just bad policy. It is just bad policy.

Mr. WARNER. Mr. President, I thank my distingushed colleague for allowing me to have this colloquy. I appreciate his representations that if he were in the position of the two Senators from Virginia, he would do much the same. I can assure the Senator the two Senators from Virginia, having once been privileged to serve in the Marine Corps, can take a lot of punishment but we cannot stand by and allow 1½ million Virginians to take punishment, and this is the saving grace. The two of us will fight here and stand like a stone wall.

Mr. President, I thank my distinguished colleague from Missouri.

Mr. DANFORTH. I would hope, though, in taking a longer view of the interests of the people of Virginia and the longer view of the interests of people of the country, the two Senators would not want to be in a position of just being beaten around the head by the chairman of the Energy and Commerce Committee of the House of Representatives.

Mr. WARNER. Mr. President, I do not wish to take up the time of the Senate, but again I think I have stated my case.

I want to say—and I think it is important and my distinguished colleague from Virginia [Mr. ROBB], would join me—that we have talked at length, in my case parenthetically, with the President, the Chief of Staff, Mr. Sununu, and all of them have tried their very best to accommodate the two Senators from Virginia. They recognize the dilemma not only the two Senators but Virginians are in and the importance of this issue. They assured us that if there were any way to work it out, we would receive the full cooperation of the President and the senior members of his staff.

Mr. DANFORTH. The Senator can certainly count on the ranking member of the Senate Commerce Committee. There is no controversy within the Senate or within the Congress. It is a matter of being held hostage.

Let us face it. The State of Virginia is being held hostage. The two Senators from Virginia are being held hostage. It is not a comfortable position in which to be. I understand that.

Mr. WARNER. I thank the Senator.

EXHIBIT 1

HOUSE OF REPRESENTATIVES, COMMITTEE ON ENERGY AND COMMERCE,

Washington, DC, June 6, 1990.

Hon. EARNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR FRITZ: I understand that representatives of the Administration have indicted to various Senators that if the President's veto of the Amtrak reauthorization bill is sustained, the President would sign a new bill "similar to H.R. 2364" but without the Interstate Commerce Commission (ICC) provision to which he objected in his veto message. Although I am not quite sure what is meant by the word "similar," I am writing because I would not want Senators to make their decisions about the upcoming override vote on the assumption that consideration of even an identical bill is likely to ensue in the House. In fact, the obstacles to passage of such new legislation are legion.

As an initial matter, H.R. 2364 as considered by the House contained provisions in the jurisdiction of two House committees, the Committee on Energy and Commerce and the Committee on the Judiciary. The conference report on H.R. 2364 includes two Senate provisions of interest to two other House committees—Ways and Means with respect to a provision that will save Amtrak $16 million annually in rail unemployment taxes, and Public Works with respect to Senator Gorton's amendment to eliminate multiple states' withholding of income taxes from transportation workers.

In all likelihood, a new bill introduced in the House, even minus the ICC provision, would be referred initially to at least three and possibly as many as all four of these House committees. Without question, Judiciary, Ways and Means, and Public Works would all be given the opportunity to consider the measure either initially or sequentially. In the same vein, even if the Senate were to pass such a bill and send it to the House, that bill too would be referred to the relevant committees. I either case, a substantial amount of time would be consumed, and it is not evident that the bill would ever reach the floor.

I understand, as well, that Senator Warner has explored the possibility of attaching the Northern Virginia commuter rail provision in this legislation to an appropriations measure. As you know, the Rules of the House provide for points of order to be asserted against any such nongermane Senate amendments in an appropriations bill. While such points of order are often waived on minor matters, I do not think that would be the case here. Much as the House is sympathetic to the need for commuter rail service in Northern Virginia and has endeavored in H.R. 2364 to make such service a reality, a provision as important as this one, infringing significantly on the jurisdiction of two authorizing committees, would almost certainly result in a point of order being asserted.

In addition, the Northern Virginia Transportaton Authority's (NVTA) rail car acquisition contract will result in substantially higher costs if a firm order is not placed by early August. Even if a point of order on an appropriations measure is waived, it is unlikely that any such measure will have been conferenced and signed into law by then. Moreover, during the short period of time remaining before the August recess, almost all of our Committee's attention is likely to be consumed by the conference on H.R. 3030, the Clean Air Act Amendments of 1990. For this reason, too, it is doubtful that the House could meet the NVTA's August deadline through consideration of a new bill.

I am concerned that some Senators might assume they can vote to sustain the veto here without doing real damage to Amtrak and the many parties that have vital interests in H.R. 2364. Given the shortness of time before adjournment, the pendency of other urgent business, and the many procedural obstacles to further House consideration of this matter, the scenario being painted by the Administration's representatives for further consideration of the Amtrak bill seems to me so unrealistically optimistic that it should not form the basis for a vote, one way or the other, on the veto override.

Sincerely,

JOHN D. DINGELL,
Chairman.

Mr. EXON. Mr. President, will the Senator yield?

Mr. DANFORTH. I am happy to yield.

Mr. EXON. Mr. President, we are again on Thursday coming up to Friday. I think before the Senator from Missouri got back on the floor there were certain discussions, and the majority leader posed the question. In order to get to a vote on this could we entertain a unanimous-consent agreement for half an hour on our side, an hour on the other side, for controlled time, and then arrange for a vote about 5:30.

Mr. DOLE. Next Wednesday.

Mr. EXON. Did the Republican leader say next Wednesday? We were thinking not about next Wednesday but sometime today. Is there some reason we should not vote today?

Mr. DANFORTH. I am not in the business of time agreements. I am just a humble Senator from Missouri. I leave it to the majority leader and the minority leader to work out time agreements.

I am satisfied with any time that can be worked out except that I do have a family obligation early next week. One of my kids is graduating from college. I am certainly going to be present for that. But other than that little problem, as far as I am concerned, any time.

Mr. EXON. Would the Senator like to vote tonight?

Mr. DANFORTH. As far as I am concerned, I will certainly be here. I am told on both sides of the aisle there is not necessarily everybody available. On a veto override, when you are counting each vote, I think everybody wants to be full strength.

So my suggestion would be, just the suggestion of one humble Senator from Missouri, that we find some time certain when we would be at full strength, say the middle of next week, and that we plan to take it up then. That would be by suggestion.

Mr. EXON. I think I can speak for the majority leader. Is the minority leader telling us that we just do not want a vote this week?

Mr. DOLE. No.

Mr. EXON. Is that what I am to unerstand from the remark of the Senator from Missouri?

The PRESIDING OFFICER. Is the Republican leader seeking recognition?

Mr. DOLE. No. The Senator from Nebraska has the floor. I say in response I think we have four, maybe by this time five absentees; one recovering from an operation, two at graduation exercises for their children, and they would like to be here to vote. They will not be here today. They will not be here tomorrow. So we are not going to vote today or tomorrow.

Mr. EXON. I thank the Senator.

The PRESIDING OFFICER. I believe the Senator from Missouri has the floor.

Mr. EXON. I thank him for yielding. I take it there is no way we can get a time agreement.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I would simply conclude my comments by saying that even if one were to assume that it was a good idea to have a regulatory agency review the acquisition of a railroad by a nonrailroad, I really wonder whether the Interstate Commerce Commission, as it is now set up, is in a position to do that.

The Interstate Commerce Commission really has a very illustrious history. If any citizen wants to see Government in its golden age, or at least kind of a museum to Government in its golden age, one place to go in Washington is to the Interstate Commerce Commission. It is a glorious public building. It has a marvelous hearing room, unlike anything that we have in the Senate.

Back in the good old days when transportation was regulated, the railroads and the truckers would arrive for hearings in the Interstate Commerce Commission, arrive probably on trains at Union Station, and go in their Pierce Arrows or whatever, over to the ICC. They would have their hearings. It was a splendid affair, for a regulated sector of the economy, in a hearing room that looks as though it was created as a stage set for God himself. It was the Interstate Commerce Commission, in the glory days of the Commission. But they are long since gone.

The Interstate Commerce Commission's jurisdiction has been so changed in an era of deregulation that that Commission is no longer a dominant factor in the governmental or economic scene in the United States.

The ICC is really a shadow of its former self—nice people over there. But if we were thinking of agencies that are skilled in making economic determinations relating to acquisitions and mergers, I am not sure that we would turn to the ICC as being a repository of that kind of skill and background, at least at this moment.

The proposal in this legislation is to at least partially return to those glory days of yesteryear of ICC regulatory power. I am wondering if in the foreseeable future the ICC would be in a position to fulfill that kind of a task, or at least to fulfill it very well.

So I do not myself believe that this is a subject matter that should be reviewed, and if it should be reviewed I do not think that the ICC is geared up to conduct that kind of review. I myself think that it would be viewed as at least something of a turning back of the clock from the Staggers Act where rail transportation was deregulated.

There are those who do not like the Staggers Act. There are those who believe that we would be better off if rail transportation were regulated again. But I am not one of those people because I am convinced that the Staggers Act was the salvation of the American railroads. Railroads in this country were literally going down the drain until the Staggers Act was passed. A lot of people criticized transportation deregulation. A lot of people, I am one, have criticized air deregulation. We have seen real problems in what has happened since we deregulated airlines. But the railroads and the airlines are two very different industries. I believe that the Staggers Act saved the railroads. I believe that to put the ICC back into the business of regulation, to administer to the ICC a kind of legislative Geritol, and prop it back onto its feet so that it could dodder to the forefront of regulation, would be a step back into the past. It would weaken the health of American railroads. So I do not think this is a good move, and I do not think that it is an agency that is prepared to take on this kind of move.

My guess, and I am not an economist, is that there are cases where the health of a railroad requires outside investment, that there are cases where communities are going to lose rail transportation, where a railroad is in a weakened condition, and the railroad cries out for some infusion of capital, that the economic health of a railroad depends on somebody stepping in and being able to buy the railroad.

And now the authors of this provision say, wait a second, hold the phone, do not do anything; we have another little barrier for you to cross. Come to Washington; go to the ICC and present your case. Let the ICC work its magic on this proposal that you have to save your railroad and, perhaps, to save your community. We have in Washington a large building. It is now understaffed by Federal employees, but we have an idea here in Congress to revitalize this bureaucracy, to put this governmental bureaucracy back on its feet. Do not go forward with this infusion of capital. Uncle Sam is on the way.

I do not think that it is sound. I do not think that it is in the best interests of rail transportation. I cannot believe that it is in the best interest of communities around this country. Furthermore, even if it were, this is an idea that has not exactly received the careful attention and analysis of the U.S. Senate.

There was a vote in the Senate Commerce Committee on a bill containing similar provisions that was introduced by Senator HARKIN, but the bill is still pending on the calendar of the Senate. So it was added before the Senate was able to direct its attention to it. It was added in conference.

The Senate has not worked its will on this provision. It was shoehorned into the legislation by the Conferees, without the participation of the Senate as a whole.

If we want to get into this business, I suggest, of regulatory review of acquisitions, if we want to get into this business, at the very least we should not begin the process with rail transportation; we should not begin with rail transportation, and we should not say that the place to start is with railroads. Maybe airlines, where if somebody was to acquire an airline and was not competent to run the airline, I suspect that planes would be falling. But I do not think the place to start this process is with railroads.

I believe that if we want to deal with the question of nonrailroad acquisitions of railroads, that the very least is that we should do it in the context of a larger policy of transportation mergers and acquisitions, and it should not be something that is suddenly tossed into an Amtrak authorization bill.

It is important to understand that this provision, one of nine provisions in the bill, is put into an Amtrak authorization bill. If you ask the ordinary person what is the subject matter of an Amtrak authorization bill, the normal citizen would say, "My guess is that the bill has to do with reauthorizing Amtrak."

Well, this provision, added in conference without consideration by the Senate, does not have anything to do with Amtrak, does not have anything at all to do with Amtrak. This has to do with people acquiring private sector railroads, not Amtrak. It does not belong in this bill.

Mr. President, my hope is that we will sustain the President's veto. My hope is that if we want to get into this business of reviewing capital infusions into the railroad industry, that we do so with a little more attention than to do it as a result of a conference report.

Senator HARKIN, when he introduced his bill, introduced it as separate legislation. That is the right idea. Deal with it as a separate legislation. It is on the calendar now. Let the majority leader call it up, and let us deal with it on the floor of the Senate. Let us have a debate. Let people be able to offer amendments as to the degree to which the Interstate Commerce Commission is to be restored to its previous days of glory. Let the Senate work its will on that.

This is what we are for in the Senate, the deliberative body. If we are going to turn the clock back on deregulation, let us do so, having debated it and thought about it, not just squeeze it into an extraneous piece of legislation.

Mr. President, I think the President of the United States is correct. I do not believe that this belongs in this bill. Amtrak is going to continue to function with or without this legislation.

With respect to the concerns of the Senators from Virginia, we are prepared to go forward, and we would instantaneously pass the bill without this LBO provision.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The distinguished majority leader.

Mr. MITCHELL. Madam President, as I understand the situation, the distinguished Republican leader stated a few moments ago that there would not be a vote on this measure this week. I inquire of the manager, is that correct.?

Mr. DANFORTH. I am sorry. I did not hear.

Mr. MITCHELL. I have been advised that while I was absent, in a colloquy between the Senator from Missouri and the Senator from Nebraska, it was publicly stated that the Republicans were not going to realize a vote to occur on this.

Mr. DANFORTH. I am not in the business of making that kind of representation. I was present when Senator EXON asked the question, and Senator DOLE said there would not be a vote this week because there are something like five Republican Senators who are out.

The suggestion was that we could have a time, say, next Wednesday, if that would be possible. My problem early next week is that I have one of my children graduating from college. I do not necessarily have to be there.

If everybody counts so carefully on these veto overrides, I think it would be helpful if we can have some time maybe in the middle of the week.

Mr. MITCHELL. Madam President, I say to the Members of the Senate, I think this dramatizes in a way that no words that I could otherwise speak the difficulty of accomplishing anything in the Senate.

Two years ago we adopted a practice of having the Senate in session 3 weeks out of a month, one of each 4 weeks not in session. Many Americans do not understand why it is that we do not work 4 weeks a month like they do. Now in the 3 weeks a month that we do work Senators do not want to have votes on Mondays and they do not want to have votes on Fridays.

We have 3 weeks of the month in which we work, and in those 3 weeks we have 3 days of the week in which the Senate can vote.

Throughout this period it has been stated in writing and publicly repeated that the 1 day on which the Senate would be in session into the evening and voting would be Thursdays. Now we have reached the situation where we cannot vote on a Thursday. I have the greatest respect for the Senators who are necessarily absent, and I understand the fact that Senators must on occasion be absent due to illiness, family graduation, or whatever reason. That is to be expected and it is to be tolerated. But it is intolerable that the Senate cannot function if one of a few Senators have something else to do on one of the 3 days of the week of the 3 weeks of the month that the Senate is supposed to be in session and working.

There are 100 Senators. Each one has good and valid and substantial reasons for being absent on occasion. And we must accept that. But we simply cannot accept a situation in which that requires the Senate not to function.

It seems to me that we must either consider that we will have to reconsider the whole practice of 3 weeks on and 1 week off, or we certainly will have to consider canceling a portion of the proposed August recess, because what is occurring now is what ordinarily takes 1 day takes a week, what should take an hour takes a day. The Senator himself just openly acknowledged there is nothing to debate on this issue but, because Senators are absent, we want to vote next Wednesday.

Obviously, there is nothing we can do. The Senator has it in his power. The Senator and the minority has it in their power to prevent a vote from occurring.

Mr. DANFORTH. Madam President, if the majority leader will yield, I do not really think that there is any desire on this side to thwart the functioning of the Senate. I think this is just a question of scheduling. It is not a question of delay at all. It is not a question of dragging feet or endless debate or not cooperating. I think that there is every desire to cooperate.

It is, I think, very common on veto override votes for both sides to want to count their votes very carefully. It just happens to be at this particular time of year, for reasons that are perfectly understandable, there are people who are absent, there are people at graduations. Senator DOLE said there are two on our side who are now attending graduations of kids. Senator CHAFEE has had an operation. He is due back next week.

I think that, if we could just lay this aside, the Senate could, I think, get a time agreement to take it up at some time certain and have half an hour of debate, maybe no debate at all next week and squeeze it right in.

Mr. MITCHELL. In the meantime, some Senator has a graduation next Wednesday.

Mr. DANFORTH. My suggestion would be to announce that the vote is going to take place on Wednesday—that, to me, would solve it—and ask unanimous consent to have it at a time certain.

Mr. MITCHELL. But that means that here we are in a situation where everything we attempt to bring up we are unable to proceed with, and I must say it is extremely, extremely difficult and discouraging under the circumstances.

I want to make clear I do not dispute the fact that Senators are necessarily absent. I accept that, certainly if a Senator is ill or goes to a child's graduation—I would criticize a Senator who did not go to his child's graduation; that is obviously very important. The question is, Is the Senate incapable of functioning and transacting business when such necessary absences occur? What is, and what is not, necessary? Something which is important to one Senator, which I might share, might be unimportant to another. How do we make such judgments? How do we ever proceed in any responsible manner?

Mr. DANFORTH. Madam President, I can say that I have never aspired to the office of majority leader. I cannot imagine a worse job than to try to organize this body. I think it would be just absolutely terrible.

As far as I am concerned, if we could have a live pair or something for this Senator—I might say Senator ROBB is going to be at the same commencement, the same situation exactly I am in next week—maybe we could work out something in that regard. I do not care. I am not trying to hold up the Senate at all. I very seldom do.

But I think you have a situation now where the people on this side would be very amenable to setting whatever time the Senator wants. But, as Senator DOLE says, we have too many people absent right now.

Mr. DOLE. Madam President, I say this now with some precedent. I recall being majority leader and people telling me there would not be any votes. I think there are times we have to protect Members on both sides. I am certain it has been done on that side this year and it has been done on this side. That is the responsibility of the leadership from time to time.

But in this case, there is not any urgency. The trains are going to go whether we do it today or a week from Wednesday. It is not something that has to be dealt with any time in the near future as far as I am concerned. We can go back to the Kassebaum amendment pending yesterday or back to the crime bill. We will be prepared to do that, and they will miss votes. We are not trying to protect them on votes. They will miss them.

But in this instance our President has an interest. He vetoed this bill. We have a particular responsibility to see if we cannot sustain the veto. Maybe we cannot. I do not know how many votes we have. Maybe we do not have enough. The President feels strongly about it, and I think we have a special responsibility on this side of the aisle, compared to the other side of the aisle, on an issue like this to make certain we can do the best we can

We cannot do the best we can with five absentees. They may all vote against you. I know—I think I know, but I do not know for certain.

We prefer not to frustrate the majority leader any more than we have to. But, in fact, I say we are going to meet at 5:30; we are having a caucus on the crime bill. We are trying to move it forward. We know the majority leader wants to do that. We have to keep the train moving, or maybe not in this case, but we have to keep moving, put it that way.

I wish I had better news for the majority leader, but we are going to meet at 5:30 on the crime bill and certainly are willing to go back to the Kassebaum amendment, and I understand there may be some way to compromise that. The Senator from Ohio, the Senator from Kansas, or the crime bill, since we are going to have a caucus on that, that probably would not be very helpful. There may be some other matter we might be able to take up. I do not know that it might be. We are not trying to protect missing votes.

I think this is a special case where the President of the United States has vetoed a bill and he is looking primarily to this side, although we hope we have votes on the other side, to sustain his position, and the Senator from Missouri has the responsibility as the ranking Republican on that committee to make that happen, or try to make that happen. Otherwise, I think the majority leader knows the Senator from Missouri seldom holds up the Senate.

Then he has this special problem that is further frustrating in a sense on next Tuesday. Is the Senator from Missouri speaking on Tuesday at the graduation?

Mr. DANFORTH. No, I am just going to be the proud papa next Tuesday.

Mr. DOLE. Well, in any event, I do not know what else we can do on this side. But if the majority leader has a suggestion, we will be happy to try to cooperate.

Mr. MITCHELL. I have some suggestions, but I think they are better left unsaid right at this moment. I yield the floor and perhaps will discuss it privately with the Republican leader.

Mr. ADAMS. Parliamentary inquiry. Are we on the veto override?

The PRESIDING OFFICER. The Senator is correct.

Mr. ADAMS. Madam President, I rise in support of overriding this Presidential veto of the Amtrak reauthorization bill.

Madam President, Congress has worked its will by previously passing this legislation and sending it to the President. Nevertheless, the President has seen fit with little logic and weak arguments, to arbitrarily overrule this legislative mandate.

The President states that we must be competitive, yet he ignores a crumbling Federal transportation infrastructure. This includes not only passenger trains but our roads, waterways, and airports.

Rather than presenting roadmaps to the 1990's, Mr. Bush has consistently presented roadmaps back to the horse and buggy days.

Madam President, Amtrak has been and will continue to be not only an integral part of our national infrastructure, but a part of our history, a part of our history that cannot and must not be ignored.

President Bush says that he cannot support this legislation because of certain restrictive administrative review requirements. To that I say, please Mr. Bush, do not hide behind such a weak excuse. Tell us where you really stand on the issue of adequate Federal support for a critical passenger service.

But then, Madam President, the answer is obvious. This is the fourth year in a row that this and the previous administration has recommended no appropriations for the Amtrak budget.

What this President is really saying to the American public is that despite the efficiencies implemented by my friend Graham Claytor, Chairman of the Board for Amtrak, who probably is the best railroad man in the United States, he, the President, sees no reason to serve the small towns and communities of America, and Washington State.

He is saying that communities in my State like White Salmon, Ephrata, Leavenworth, Pasco, Centralia, and Wenatchee do not deserve a clean, efficient, and workable passenger rail system.

This is particularly true, Madam President, when we look at the fact that the bus system in the United States is crumbling also, right at this moment, as I speak. Where will the people go that cannot drive? And there are a substantial portion of them in the United States—no bus, no train, no horse, no buggy.

As we all know, Amtrak serves more communities than all the airlines combined, and in many communities it serves, there is no alternative air service provided.

With this veto, this administration expresses its insensitivity and lack of care not only for those living in rural and small towns in Washington State, but for a substantial number of elderly and low-income families who use passenger rail as their primary means of long distance transportation. With

little discussion, this President is saying, I cut you off.

Madam President, what will also be irrecoverably hurt if this veto is not overridden, are the many commuter lines who rely on Amtrak support.

Amtrak helps subsidize State commuter rail operations throughout the Northeast corridor by providing the majority of the base costs for maintaining the line. This impacts over 70 million passengers in Maryland, Pennsylvania, New Jersey, and Massachusetts.

Why am I interested in this fact? Madam President, I am in discussions with people in my own State to study the feasibility of developing such a commuter line between Seattle and Tacoma, WA, on current Burlington Northern lines. Support from Amtrak will, of course, play an integral part in this equation.

Commuters in the Puget Sound region of my own State demand immediate relief to an overwhelming gridlock problem. Commuter trains may be part of that solution. I hope they are. However, an Amtrak Presidential veto hurts this effort.

Madam President, I want to conclude by speaking to an item on this bill that I originally initiated and is of critical importance to the truckers and railroad workers primarily living in the eastern part of my State.

These workers are the backbone of eastern Washington State industry, transporting agricultural goods and other freight throughout the country. They drive the trucks and operate the trains that carry the food for your meals and wood for your homes.

For many years, Washington State truck and railroad workers have been unfairly taxed by some of our neighboring States. Though not residing in those States, these workers are taxed for merely traveling through on the way to their final destinations.

Madam President, this inequity had to be stopped. That is why I proposed and Congress accepted a provision in this bill that prohibited what I saw to be a double taxation. I have been joined in this by the junior Senator from my State, Senator GORTON.

If for no other reason, Madam President, it is important we override this veto to provide what is only fair and equitable to an important segment of our working force in this country.

Madam President, this body must act decisively. We must tell the President that the Federal Government has a role to play in providing service to small town America. We must tell the President that commuter needs must be acknowledged and met. We must tell the President truck and railroad workers deserve a fair break.

Madam President, we in the Senate must override this veto.

Madam President, I am a former Secretary of Transportation of the United States. I remember this fight going back many, many years. Presidents have vetoed the Amtrak bill and Congress has consistently overridden it with the help of both Republicans and Democrats. They have overridden it because it is part of the transportation system of the United States and it has been part of the defense system of the United States, carrying many people and goods to many parts of our Nation.

I hope that the Senator from Nebraska is successful in his efforts to obtain a vote on this, to obtain a vote where we will override. I shall be joining him in voting to override this veto and establish Amtrak service once again in the United States on a firm basis.

I thank the Chair and I thank the manager of the bill for this time.

Mr. EXON. Madam President, I would like to respond to some of the comments and arguments made by my great friend and colleague from Missouri. I say that in all sincerity. Senator DANFORTH and I are working friends, close associates. I have a high regard for him both professionally and otherwise. He happens to be an ordained Episcopal minister and I am an Episcopalian.

We also have something else in common, even more binding I suggest than our religious faith, and that is that we are dedicated disciples of the St. Louis Cardinals. So whatever I say about the arguments that he has made, I only would point out that he is not only an ordained Episcopal minister, but he is also a graduate lawyer with some distinction. And I have often thought it places those of us who do not have that kind of training at a distinct disadvantage. Or, to put it another way, a combination of an ordained minister and a lawyer and a member of the bar association can oftentimes be a very dangerous mixture, especially when you get involved in debate.

I listened with great interest to the comments made by the Senator from Missouri. I would simply say that I think that he has blown all out of reasonable proportion the objections that he raised to the bill.

He took a great deal of time to explain the glories of the Interstate Commerce Commission of the past, and how people came in, probably by railroad, and went in high-priced automobiles over the ICC, where they had this room of grandeur. By implication, at least, he indicated the amendment that was primarily offered by Senator HARKIN, with which the President and Senator DANFORTH have taken keen exception, was going to reregulate the railroad industry. Simply said, that is nonsense. It is nonsense, if you looked at the provisions. It is nonsense to indicate that this was not considered by the Commerce Committee in the U.S. Senate.

In fact, the measure that is being attacked by the manager of the bill on the other side was a measure introduced on a strictly bipartisan basis. Not only was Senator HARKIN involved but he had, as cosponsors to this legislation that is now being attacked—unfairly, I might add, as reregulating the railroad—Senator PRESSLER, Senator SIMON, Senator GRASSLEY, and Senator DASCHLE; I think a typical bipartisan approach.

It is interesting to note, is it not, Madam President, that all of those Members of the U.S. Senate come from rural areas. Why are people from rural areas so much concerned about the one item that the President has seen fit to establish as his reason for the veto? Because we rely on transportation in rural America to get the products and fruits of our farmers and ranchers into the processing factories, then into the stores of the people all over the United States of America who enjoy the good life, I might add because of the profits and fruits of the labor of those people who work so very hard.

Therefore, rail transportation from the very beginning has been a heartbeat, a lifeline, a if you will, for the people that live in that area. Why are they suggesting this very minimal provision? Certainly it is not to reregulate the railroad industry, as has been advanced by the reasoning of the Senator from Missouri. No way.

All this amendment does is to provide some very minimal, and, Madam President, I emphasize the word minimal, protection to see to it that rural America, and Americans as a whole, are not taken advantage of by Wall Street speculators or greenmailers or corporate raiders to the disadvantage of the people of the United States.

This is a very minimal provision. Let me outline it again as I did in my opening comments. All this does is, with respect to a class I railroad, of which there are only 16 in the United States, provide for an expedited, minimum public interest review, if some nonrailroad entity or person wanted to buy one of these railroads. The Senator from Missouri used as an example, suppose that Senator EXON had the money and the inclination to buy a railroad, why should he be prevented from doing that?

Well, his example was not very good. First, I do not have the inclination, and certainly I do not have the money. But using that as an example, as it was used by the Senator from Missouri, what possible reason would Senator JIM EXON have in buying a railroad, something which I know nothing about? And why would I invest my time and money that I do not have,

but if I had it, into something that I do not know anything about?

If JIM EXON were to buy the Union Pacific Railroad, for example, I think one would wonder, why is he doing that? I have no experience in stock raiding, not being a stock raider, not being one who tries to manipulate things, not being a greenmailer. But I think if I were, it should raise some concern someplace as to why someone without any interest in railroads would suddenly want to buy one.

The Senator from Missouri seems to think that is the free enterprise system; things working as they should. If somebody wants to buy something in America, they do it. It is the free enterprise system at work.

When we talk about such things as railroads, especially the class I railroads, the big railroads, there has to be and there obviously is a minimum consideration for the people that would be adversely affected. Not only the workers that work on that railroad, but more importantly, I suggest, the service that that railroad provides in any area of the United States.

So I think it was not proper and I hope no one is influenced by the argument that Senators PRESSLER, SIMON, DASCHLE, GRASSLEY, and HARKIN were out to create a new Taj Mahal and reregulation of the railroad industry, as has been alleged.

Certainly that is not the case. I hope those Senators, before this debate comes to a conclusion, come to the floor and state that was not the reason. Nor would it be a result of this legislation if it were passed. Emphasizing again, Madam President, the interests of the community and the people suggest that the ICC simply take a look, if and when a class I railroad, of which there are only 16, if they were about to be purchased by a nonrailroad entity. The ICC can come in and take a look to see whether or not such a transaction could adversely affect the overall transportation system of the United States—certainly with regard to the areas where the railroad exists that might be purchased for reasons other than to be operating as a railroad.

Madam President, we have tried unsuccessfully to get a vote on this matter today. We have had several suggestions for time agreements, and it has not been possible to get those. The majority leader and the minority leader, have been over and talked on this matter. I have no problems with putting this matter off. I do not have any choice in it. We are not going to have a vote on it today. I did not set the time for the vote. As the chairman of the Surface Transportation Subcommittee I was asked to handle this override attempt by the chairman of the Commerce Committee and the majority leader, and I have been here discharging my duties.

I frankly feel quite optimistic, Madam President, if we could have this vote today, from the vote counting that I have done and the people I have talked to, I think we would have a reasonably good chance without any commitments, a reasonably good chance to override the veto of the President today. I hope we can hold those and override the veto next week, or next month, or next year, whenever we do get aroung to voting on this matter. I think it is a sad matter indeed when we find that we cannot carry on the functions of the U.S. Senate and work in a very timely fashion.

I suspect I cannot get this kind of commitment, though. I would leave any arrangements such as this up to the minority leader and majority leader. I believe as of right now, we could prevail in overriding the Presidential veto for all of the good reasons that have been explained here today. If we put this off until next week, I would hope, as a part of any unanimous-consent agreement, that we could get an agreement that the President nor any member of his cabinet would arm twist between now and next week or next month, whenever it is we get around to vote on this. But I suspect if for no other reason then it might be in the interests of the President and in the interests of trying to sustain his veto that this matter be put off as long as possible. That works to the disadvantage, Madam President, of those of us who firmly believe this veto should be overridden.

While I suspect if it is put off until next week, as it is likely to be, we will have to keep our vote counting, we will have to keep our contacts, we will have to keep close contact with those who have at least indicated a strong desire to override the Presidential veto notwithstanding the objection and the activities of the President of the United States and those under his direct charge who have been working full time to try to gather the small amount of votes that are necessary to sustain the veto.

With that, if there is no other Senator wishing to make any comment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, the pending business before the Senate is the veto of the Amtrak legislation by the President and the question before the Senate is should we override the veto.

Mr. President, I would like to lend my voice as the junior Senator from Maryland that we most assuredly do override the veto of the President because it is absolutely in our national interest to do so.

Mr. President, when I was a Member of the House of Representatives, for more than a decade I served on the Energy and Commerce Committee, and I was on the Railroad Committee. Now as a Senator I am on the Appropriations Committee and the Subcommittee on Transportation. The reason I am on that committee is because transportation is absolutely crucial to the economic development and the future of this country. Railroads are not a thing of the past. In fact, railroads are a means of transportation for the future.

When we take a look at how we can transport ourselves up and down the Northeast corridor, we already have congested airways. We have planes that do not necessarily land or take off on time. One needs only to try to take the shuttle into LaGuardia. It is like aeronautical cholesterol. The arteries and veins are clogged beyond belief and there is very little in the way of a bypass. However, Amtrak provides bypass surgery to get up and down this east coast corridor in a swift Metroliner.

I do not want to sound like an ad for Amtrak or Metro, but I can tell you we can leave Union Station and be in New York in 2½ short hours. I hope we would even think about how to do more rapid rail in order to go up and down the corridor in the way that our Japanese allies do with these bullet trains. It is important, if we are going to have commerce up and down this corridor and then into Boston and the New England States, to be able to have a reliable railroad transportation system. It is essential.

Also, Mr. President, as the Senator from Maryland, I worry about the commuters. In this country we worry about not only people having jobs but we want them to get to them on time and alive. The Amtrak rail system has provided much-needed commuter rail service back and forth between Baltimore and Washington. Our own dear colleague, Senator Joe BIDEN, does not want to live in Washington. He does not aspire to a Gucci lifestyle; he goes home every night. He rides Amtrak, as do many other Delaware people and as do many Marylanders.

Mr. President, when you ride the Amtrak—and I have done it—you see a lot of ordinary people who have a lot of ordinary Federal jobs who come to work out of Baltimore and other stations. They need that service to get here on time and get back home to Baltimore where you can buy a $65,000 house for $65,000, unlike in the Washington area where a $65,000

house goes for $320,000 when the market is down.

Now, we can provide housing, a qualified work force, but we have to be able to get them here, and we cannot do it just on roads. That is why Amtrak is absolutely important.

We subsidize every darned thing in this country. We have now reached a point where we have no-fault capitalism. America's private sector wants guarantees and subsidies for just about everything we do. If we are going to be in the subsidy business, why not subsidize those parts of our economy that then produce an even greater benefit, which is our transportation system. We subsidize highways and byways. Let us subsidize trains. We subsidize airports and airlines, pretty heftily, I might add, providing air traffic controllers and facilities and so on. Let us worry about the trains.

Let us worry about the trains. We have our precedents and we in Maryland have had our tussles with the Virginia people. Sometimes they take our oysters, and they claim credit for our crabs. But one thing we do know is over there in northern Virginia they need Amtrak to be able to get to work. So for those of us that are down the corridor, we are ready to settle our oyster wars and sports differences, and say certainly in the Northeast corridor we need Amtrak.

Let me close by saying I would like also, in addition to supporting the veto override, to support our majority leader's plea to keep the Senate trains running on time. I hope we can vote on this override tonight. There are many Senators who have compelling family needs and other responsibilities where they might not be here next week.

We are all here now. It is 10 after 5. We do not have to close up shop. We are not the New York Stock Exchange, though we trade in some pretty heavy-duty commodities. We could do this bill tonight. I hope we would heed the majority leader's plea. Let us vote on the legislation. Let the Senate work its will, and then keep not only Amtrak running but let us keep the Senate running.

Mr. President, I yield the remainder of my time. Though I have given this spirited speech, I note the absence of a quorum and ask you to call the roll.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

LIBERIAN FIGHTING

Mr. CRANSTON. Mr. President, as I speak, rebel troops in Liberia appear poised to launch a final offensive against the capital of Monrovia, where strongman President Samuel K. Doe still clings to power supported by several hundred well-trained soldiers. Despite the fact Doe finds himself in a desperate situation militarily, he apparently plans to try to hold on.

The civil war in Liberia has already cost hundreds, perhaps thousands, of lives. There are unconfirmed reports that rebel forces led by Charles Taylor's National Patriotic Front of Liberia have summarily executed hundreds of people from rival tribes.

But, Mr. President, lest people get the idea that the rebels are solely responsible for the ongoing massacre that is taking place, I commend to my colleagues a June 3, 1990, article by Washington Post correspondent Blaine Harden entitled "End of the Line for One of Africa's Worst Tyrants." Harden is currently "banned for life" from Liberia for his earlier dispatches from there.

Doe, Harden writes: "presided over a decade of secret executions and public cannibalism, rigged elections and raging egotism, mass minting of 'Doe dollars,' and the mass flight of financial institutions."

Liberia has long enjoyed a special relationship with the United States. Modern Liberia was founded in 1822 by freed United States slaves with the help of President James Monroe and financial assistance from the United States Congress. American firms are today the largest investors in Liberia.

As the Post's Harden notes:

> This relationship was never more special than under Doe. In the years 1980-85, Washington gave his government more than $500 million—more aid per capita than to any country in Africa, more aid than it saw fit to give Liberia in the entire 133 years between the country's founding and the night in 1980 when Doe's colleagues eviscerated then-President William Tolbert.
>
> For five years, the American taxpayer subsidized one-third of government spending under Doe. The Reagan administration said it spent this money to protect American interests in Liberia (radio transmitters and airport rights) and to smooth a transition from military rule to elective government.

Efforts toward a democratic government stalled in 1985, when Doe rigged the very Presidential election he promised would put an end to de factor rule. Like what happened the year earlier in Panama, where military-backed Nicolas Barletta won office in a rigged contest, Doe claimed the mantle of democratic legitimacy.

In neither contest, not in Panama, not in Liberia, was there ever the slightest doubt about the fraudulent nature of the elections. To the public denunciations were added the private reports of our own diplomatic corps. "Having watched the farce first hand in Liberia," Harden recalled, "a number of American diplomats there were outraged by their Government's acceptance of the fraud. 'It was one of those rare times when U.S. foreign policy could have made the difference,' said one senior diplomat who served in Monrovia during the election. 'We funded the election, we organized it, we supervised the voting, and then when Doe stole it, we didn't have the guts to tell him to get his ass out of the mansion.' "

Mr. President, there appears now to be an absence of any well-crafted policy by the administration on Liberia, as well as the failure to articulate a new policy now. It is true that, prodded by Congress, United States aid to Liberia has dropped significantly in the past 5 years, from $77.5 million in military and economic assistance in 1985 to $11.8 million this year. But there does not seem to be any effort at finding creative policy alternatives—options that will lead Liberia back to the road of democratic development.

Our long-time association with Doe and his henchmen certainly appears to limit our policy options today, just as our long-time link to Panama's Manuel Noriega finally brought us to the point of having to invade that nation. The use of elections as democratic window dressing on the part of the Reagan administration has come back to haunt us now. The folly of such a course is evident in our failure to move quickly and correctly to aid our real historic friend and ally, the people of Liberia.

I believe the United States still can play a constructive and activist role. First to help staunch the bloodshed; then to assist Liberian democrats reconstruct their country and the fabric of their society, a fragile cloth today rent as never before by tribal conflict.

Mr. President, there are legitimate questions that have been raised about the democratic credentials of rebel leader Taylor. Critics say—though he denies it—that his rebellion has received aid from the terrorist state of Libya. They point out that Taylor is a former Doe adviser who fled Liberia after being accused of embezzling hundreds of thousands of dollars from the government. And, until a few days ago, Taylor himself appeared none to anxious to call elections after his troops are victorious.

It was reported today that Taylor has outlined a future for Liberia that includes democratic elections, free enterprise, and a nonaligned foreign policy. It is also clear that he hopes to rely on continued financial support from the United States and other Western countries.

Mr. President, it is imperative that the administration give the current situation in Liberia the attention it deserves.

Today there are United States warships off the coast of Liberia, waiting to evacuate American nationals and others. Mr. President, it is essential that this situation be closely monitored. If it becomes necessary that United States troops be used to safeguard the lives of American citizens, all efforts must be made so that our soldiers do not become involved in the conflict.

Liberia's need for continued economic assistance offers the United States an appropriate level to ensure that democratic reforms are carried out, not just promised. It must be stressed to the government which is formed from the current crisis that reprisals and revenge against the vanquished are unacceptable. It must also be made clear that, despite United States policy errors in the past, good relations with the United States depend on the Liberian leadership announcing a reasonable electoral timetable, and then adhering to it.

I urge my colleagues to join me in expressing concern to the administration about this urgent problem.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent the Senate revert to morning business for a period not in excess of 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio.

BARBARA BUSH'S SPEECH AT WELLESLEY COLLEGE

Mr. METZENBAUM. Mr. President, on Friday, June 1, the First Lady, Barbara Bush, gave a commencement address at Wellesley College. I thought it was a good speech, a good address.

The speech embodied some sage and serious advice to the graduates about getting involved in the big ideas of our age, about the importance of human relationships, and the value of diversity in society.

But the speech also offered a lighthearted, yet profound, admonition to the graduates of Wellesley—that they should not allow the swirl of education, career, and service to obscure one of life's most important opportunities—the experience of joy. After all, life is meant to be fun.

I could not agree more, Mr. President, and, as a reflection of the First Lady's attitude toward her own life—one that entails enormous pressures and responsibilities—that she should emphasize the value of joy in human existence.

Washington is a hectic place where the human perspective is easily dwarfed by big events and powerful people.

We could all benefit from the advice and perspective offered by Mrs. Bush in her speech, when she said:

At the end of your life, you will never regret not having passed one more test, not winning one more verdict or not closing one more deal. You will regret time not spent with a husband, a friend, a child or a parent.

In her speech, Mrs. Bush encouraged young people to think big, beyond their own self-centered interests. She said:

I hope that many of you will consider making three very special choices. The first is to believe in something larger than yourself * * * to get involved in some of the big ideas of your time. I chose literacy * * * early on I made another choice which I hope you will make as well. Whether you are talking about education, career or service, you are talking about life * * * and life must have joy. It's supposed to be fun!

The third choice that must not be missed is to cherish your human connections: your relationships with friends and family * * * one thing will never change: fathers and mothers, if you have children * * * they must come first. You must read to your children, you must hug your children, you must love your children.

Mr. President, I particularly enjoyed the First Lady's speculation on the gender of the future occupant of the White House.

Somewhere out in this audience may even be someone who will one day follow in my footsteps, and preside over the White House as the President's spouse. I wish him well!

Mr. President, I like Barbara Bush. I respect Barbara Bush. And I think Americans stand just a little bit taller because of Barbara Bush.

Mr. President, I ask unanimous consent that the entire text of the First Lady's speech be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TEXT OF MRS. BUSH'S REMARKS AT WELLESLEY COLLEGE COMMENCEMENT, JUNE 1, 1990

Thank you very much. Thank you President Keohane, Mrs. Gorbachev, trustees, faculty, parents, Julie Porter, Christine Bicknell and, of course, the Class of 1990. I am thrilled to be with you today, and very excited, as I know you must all be, that Mrs. Gorbachev could join us. This is an exciting time in Washington, DC. But I am so glad to be here. I knew coming to Wellesley would be fun, but I never dreamed it would be this much fun.

More than ten years ago when I was invited here to talk about our experiences in the People's Republic of China, I was struck by both the natural beauty of your campus * * * and the spirit of this place.

Wellesley, you see, is not just a place * * * but an idea * * * an experiment in excellence in which diversity is not just tolerated, but is embraced.

The essence of this spirit was captured in a moving speech about tolerance given last year by the student body president of one of your sister colleges. She related the story by Robert Fulghum about a young pastor who, finding himself in charge of some very energetic children, hits upon a game called "Giants, Wizards and Dwarfs." "You have to decide now," the pastor instructed the children, "which you are * * * a giant, a wizard or a dwarf?" At that, a small girl tugging at his pants leg, asked "But where do the mermaids stand?"

The pastor told her there are no mermaids, and she says, "Oh yes there are," she said. "I am a mermaid."

Now this little girl knew what she was and she was not about to give up on either her identity or the game. She intended to take her place wherever mermaids fit into the scheme of things. Where do the mermaids stand * * * All those who are different, those who do not fit the boxes and the pigeonholes? "Answer that question," wrote Fulghum, "and you can build a school, a nation, or a whole world."

As that very wise young woman said * * * "Diversity * * * like anything worth having * * * requires effort." Effort to learn about and respect difference, to be compassionate with one another, to cherish our own identity * * * and to accept unconditionally the same in others.

You should all be very proud that this is the Wellesley spirit. Now I know your first choice today was Alice Walker, known for The Color Purple. And guess how I know?

Instead you got me—known for * * * the color of my hair! Alice Walker's book has a special resonance here. At Wellesley, each class is known by a special color * * * for four years the Class of '90 has worn the color purple. Today you meet on Severance Green to say goodbye to all of that * * * to begin a new and very personal journey * * * to search for your own true colors.

In the world that awaits you beyond the shores of Lake Waban, no one can say what your true colors will be. But this I do know: You have a first class education from a first class school. And so you need not, probably cannot, live a "paint-by-numbers" life. Decisions are not irrevocable. Choices do come back. As you set off from Wellesley, I hope that many of you will consider making three very special choices.

The first is to believe in something larger than yourself * * * To get involved in some of the big ideas of your time. I chose literacy because I honestly believe that if more people could read, write and comprehend, we would be that much closer to solving so many of the problems plaguing our society.

Early on I made another choice which I hope you will make as well. Whether you are talking about education, career or service, you are talking about life * * * and life must have joy. It's supposed to be fun!

One of the reasons I made the most important decision of my life * * * to marry George Bush * * * is because he made me laugh. It's true, sometimes we've laughed through our tears * * * but that shared laughter has been one of our strongest bonds. Find the joy in life, because as Ferris Bueller said on his day off * * * "Life moves pretty fast. Ya don't stop and look around once in a while, ya gonna miss it!"

I won't tell George that you applauded Ferris more than you applauded him!

The third choice that must not be missed is to cherish your human connections: your relationships with friends and family. For several years, you've had impressed upon

you the importance to your career of dedication and hard work. This is true, but as important as your obligations as a doctor, lawyer or business leader will be, you are a human being first and those human connections—with spouses, with children, with friends—are the most important investments you will ever make.

At the end of your life, you will never regret not having passed one more test, not winning one more verdict or not closing one more deal. You will regret time not spent with a husband, a friend, a child or a parent.

We are in a transitional period right now * * * fascinating and exhilarating times * * * learning to adjust to the changes and the choices we * * * men and women * * * are facing.

As an example, I remember what a friend said, on hearing her husband complain to his buddies that he had to babysit. Quickly setting him straight * * * my friend told her husband that when it's your own kids * * * it's not called babysitting!

Maybe we should adjust faster, maybe slower. But whatever the era * * * whatever the times, one thing will never change: Fathers and mothers, if you have children * * * they must come first. You must read to your children, you must hug your children, you must love your children.

Your success as a family * * * our success as a society * * * depends not on what happens at the White House, but on what happens inside your house.

For over 50 years, it was said that the winner of Wellesley's annual hoop race would be the first to get married. Now they say the winner will be the first to become a C.E.O. Both of those stereotypes show too little tolerance for those who want to know where the mermaids stand. So I want to offer you today a new legend: The winner of the hoop race will be the first to realize her dream * * * not society's dream * * * her own personal dream. Who knows? Somewhere out in this audience may even be someone who will one day follow in my footsteps, and preside over the White House as the president's spouse. I wish him well!

The controversy ends here. But our conversation is only beginning. And a worthwhile conversation it has been. So as you leave Wellesley today, take with you deep thanks for the courtesy and the honor you have shared with Mrs. Gorbachev and me. Thank you. God bless you. And may your future be worthy of your dreams.

AMTRAK REAUTHORIZATION AND IMPROVEMENT ACT—VETO

The Senate continued with consideration of the message from the House.

Mr. BRADLEY. Mr. President, Amtrak is important for New Jersey, and continued support of passenger rail in America is important for the Nation. Not only does Amtrak provide transportation links between New Jersey cities and other urban centers, it provides essential alternatives to travel by car for New Jersey commuters, and for people visiting Atlantic City.

The Senate recently passed far-reaching clean air legislation. New Jerseyans, like other Americans, are demanding that we take better care of the environment, and clean up the air that we breathe. Amtrak's commuter rail systems, which carried more than 14 million passengers nationwide in 1988, encourage nonautomobile commuting, thus reducing the number of cars on the road and reducing road congestion. Fewer cars on the road, and fewer traffic jams reduce air pollution. After working so hard to pass legislation to clean the air it would be ironic to abandon Federal funding of Amtrak, and thereby take a major step backwards toward poorer air quality.

Amtrak has been steadily improving its financial health, and steadily reducing its reliance on public support. Allowing public funding of Amtrak to lapse at this time would threaten an increasingly successful enterprise that provides needed services to millions of Americans. In 1988 69 percent of Amtrak's budget came not from Federal subsidies, but from Amtrak revenues. A decade ago, less than half of Amtrak's operating funds were raised by the railroad. Amtrak trains now carry an average of 189 passengers over each mile they travel, and total passenger miles on Amtrak trains have climbed almost 20 percent since 1981. More than 30 million passengers rode the rails with Amtrak in 1988. The passenger rail system is, and must continue to be an integral component of the economy and transportation network of the Nation, and of New Jersey.

Mr. GORTON. Mr. President, today the Senate is considering the President's veto of H.R. 2364, the Amtrak Reauthorization and Improvement Act of 1990. I will vote to sustain the President's veto of this bill.

Supporting the President's veto was a difficult decision for me to make. This bill contains a very important provision I coauthored which will provide for rail and motor carrier transportation workers who work in two or more States to pay State taxes only in their State of residence. Unfortunately, the bill also includes a provision which was added by the House that would require for the railroad industry alone, Government review and approval of acquisitions by nonrailroad competitors. This would be such poor public policy that the President was forced to veto the bill based upon this single provision.

Mr. President, I am hopeful that the President's veto will be sustained and that the Congress will simply strip the ICC provision and send back the remainder of the bill to the President. I have been personally assured in a letter dated June 5, 1990, from OMB Director Richard Darman, Chief of Staff John Sununu, and Secretary of Transportation Sam Skinner that the President will approve Amtrak legislation similar to H.R. 2364 once the ICC provision is removed. The letter states:

The President has indicated that he would sign a bill similar to H.R. 2364, which would include the Amtrak authorization levels, modified tax treatment of transportation employees, and provision for commuter rail service to northern Virginia.

Mr. President, I appreciate having the administration's assurance that the President will support the State taxation provision. Enactment of this provision will provide needed relief for Washington State's railroad and motor carrier workers.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARKIN). Without objection, it is so ordered.

THE OMNIBUS CRIME BILL

Mr. SIMPSON. Mr. President, while the negotiations go on with regard to the crime reform package—and I feel we have made some great strides—I think we can go forward to something. That is certainly our hope on our side, that we can move on. We all know the worth of what we are trying to do and get to a limitation of amendments. We think we can do that. Of course, that will be painful. Many people have had many amendments.

EXTENSION OF MORNING BUSINESS

Mr. SIMPSON. Mr. President, let me ask unanimous consent that we revert to the order of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUNDING FOR NEA

Mr. SIMPSON. Mr. President, again speaking about the criminal code, which is not before us, the pending business is the Amtrak veto measure, but in any event we hope that we can get to the things we all know we want to get to in the crime package. This would be the reform of the habeas corpus, which is in the bill; the issue of the death penalty, as amended by the Senate in working its will; issues of the exclusionary rule; issues of money laundering; the issue of Justice Department authorization. I think we can come to those things and move on with that measure next week. We will be working toward that end. Democrats and Republicans alike know the worth of having a criminal reform bill.

But the purpose here in morning business, Mr. President, while we await these things and a decision from the leadership as to the next items on the agenda and the schedule, I would like to speak on the subject which seems to be inspiring an overample supply of hysteria and histrionics and

high melodrama. The motivation for these wails and breast-poundings and plaintive laments, I am sorry to say, is nothing so critical as the plight of Lithuania, nor our staggering debt burden, nor even the criminal reform. No, the subject is the "opera bouffe" incredibly known as the reauthorization of funding for the National Endowment of the Arts.

Somehow, Mr. President, this matter of funding for the Arts Endowment has been elevated to a topic of considerable controversy. We know Washington—the occupant of the chair and those of us in the Chamber—and we know the media. We have had people down here on the floor before and out in the world crying "censorship" and "beware of the thought police" on the one hand, and on the other of being told that the NEA is somehow "anti-Christian." That is not my quotation. I suppose it would be antireligious all around and that all funding should be cut off entirely.

I think really all of that is inane. I really do. I think it is silly on both sides. I think we should at this time inject what I hope would be a small jolt of common sense into this impassioned and I think often irrational debate on this issue. We surely all now know of the events which lie at the heart of this imagined controversy.

They were a couple of exhibits which were funded—at least in part—with taxpayer money, provided via the National Endowment. There should not be any lingering debate over that issue. It was a bad mistake. The NEA has admiteed it was a mistake, we in the Congress said it was a mistake, and many of the public darn well feel that it was a mistake as well. I call it a mistake. These works by Mapplethorpe and Serrano were irrefutably obscene; the public paid in part for their display, and they were offended to discover that. Congress then looped $45,000 off of the NEA's $171 million budget—that is less than one-thirtieth of 1 percent—real chicken feed in the grand scheme—and declared that Federal funding will not be used to support displays which are obscene.

Here is the actual language which we used to do that: We prohibited the use of any appropriated funds "to promote, disseminate, or produce obscene materials, including but not limited to depictions of sadomasochism, homoeroticism, the exploitation of children, or individuals engaged in sex acts." In other words—if it does not even qualify for first amendment protection, it sure does not qualify for the Federal bucks.

Despite some of the shrill voices we have heard howling in protest in the wake of that decision, I believe it was an appropriate response. People who want to view that stuff all day—and I am not one of them—are, and should be, perfectly free to do so in any private or public setting. The restriction placed on Federal arts funding—no obscenity—is only that applied legally by the U.S. Supreme Court. And the public got their message across—that $3 trillion of Federal debt is bad enough for them without their Government spending more money on that stuff which offends them.

But enough of that. Today I wish to also speak about the zealots on the other side—those who have been urging a complete cutoff of all Federal funding for the arts endowment. The bloodletting we did last year isn't enough for them—the sharks smell the blood and the feeding frenzy has begun. By running full-page ads in our daily papers, playing fast and loose with the facts, they have sought to portray the NEA as some kind of Satanic conspiracy, hell-bent on destroying the foundations of all of Western civilization.

I am receiving calls from some constituents wanting to know just why we have set up this Endowment to do nothing but support obscenity and profanity. That is the way they are being portrayed. I am sorry to have to remind everyone of what the NEA really is—a worthwhile, vital, and necessary organization that has made a couple of bad mistakes. As others have. As HUD has. As Congress has. As Congressmen and Senators have. As I have. If cutting off all funding is the penalty for that, well, that is a standard which everyone in the Congress itself will fail to meet.

I say "a worthwhile, vital, and necessary organization," and I mean just that. There is not a Senator who serves here whose constituents have not been provided with exhibitions of art and culture which simply would not have been possible without Endowment support. In my own State of Wyoming, for example, our Buffalo Bill Historical Center in Cody draws valuable support from the arts endowment. The center has a wonderful Plains Indian Museum which houses a stunning collection of native American artifacts, artworks, and memorabilia which were given to Buffalo Bill Cody during his lifetime.

In addition, the center houses the entire collection of the Buffalo Bill Museum, which stands today as a tribute to the remarkable William F. "Buffalo Bill" Cody, that great scout of the West whose story has grown to almost mythical proportions. Materials which he collected while traveling with his Wild West Show—gifts from kings and queens of England, Italy, Bavaria, and all throughout Europe—are there at the museum for people to observe and admire, and some 250,000 people a year do so. That is larger than the admission at many huge metropolitan museums.

Also at the center is the Whitney Gallery of Western Arts which displays a magnificent collection—works by Charlie Russell, Frederic Remington, Albert Bierstadt, Thomas Moran, Harry Jackson, and so many more—who painted the old West as they saw it and preserved pieces of it for us to experience today. These are wonderful exhibits, every one of them, and although the vast bulk of the support is private, the NEA kicks in with their own support of the projects—$13,700 last year—not much to others, but to museums in rural areas, in places far removed from the markets of trade, a significant amount.

Our fine Art Museum at the University of Wyoming has also received a tremendous boost from the NEA. The $400,000 granted in fiscal year 1989 for the construction of a new art museum facility right there in Laramie represent the largest single slice of NEA funding for our State, and it was a very appropriate place to put it. That is another venerable and remarkable institution in Wyoming. Within a few more months it will house the Wyoming Heritage Center, a repository for the history of our State, and its wonderful university and its traditions and industries, its resourceful people and their pioneering spirit—a place where people will be able to go to get a vivid sense of the forces that have shaped our remarkable State. Soon it will certainly be a Wyoming institution in the other sense as well. The Grand Teton Music Festival in Jackson, WY, where the New York Philharmonic was in residence 2 weeks last year, and they do not do that ordinarily. We were so proud to have them there. I am proud to be associated with that, and it also receives a measure of support annually from the NEA—$16,000 in fiscal year 1989. And even within my own State the list goes on and on—12 grants last year alone, totaling $883,300.

The NEA has supported cultural activities and events in locales ranging from the largest American cities to the most remote of rural areas. A major cultural center currently enhances the lives of the residents of Bedford-Stuyvesant in New York City, thanks to the support the NEA has given to the Beford-Stuyvestant Restoration Corp. The cultural center there sponsors writers' workshops, poetry readings, literary events, and exhibits works by artists from all over the world. Recently, four poets from Leningrad have been invited to the center to lecture and present their works, an event which no doubt would be very unlikely to occur were it not for NEA support.

And in Alaska, we see the NEA bringing cultural entertainment to the fairly remote island communities of Ketchikan and Metlaktla. The experience of a circus is being brought to the children there, kids are getting to work with circus artists and learning performing techniques, and a little

circus history as well. I cannot imagine that the circus is going to come through there too often without some Federal support. Thanks to the NEA, it has.

One of the most endearing aspects of American history has to be the great diversity of cultures which existed in this Nation before the homogenizing influences of the mass media took place. I think that it is so very beneficial for our children to be familiar with the folk histories of their respective regions, and the NEA is helping to make that happen. The North Carolina Maritime Museum, one such center supported in part by the NEA, documents and presents traditional arts from the North Carolina coastal region. These and other exhibits throughout the entire land help to keep the memory of our various folk histories alive and vibrant.

So, really, there is no sensible reason for this one-sided and paranoid portrayal of NEA's activities. I say "sensible"—as there will always be the senseless reasons of fear, suspicion, and prejudice for this sort of thing. But it is all particularly inappropriate at this time, especially since some concrete steps have now been taken to ensure that the funding decisions of the endowment are supportive of the higher goals which we as a society are pursuing. We have an independent commission set up to study the NEA's peer panel review process. They met yesterday for the first time. And we have a very capable, trustworthy, sensitive, and accessible chairman in the person of one fine human being, John Frohnmayer. His wife Leah, too, adds a real touch of grace and civility to our Federal city. They both deserve a better welcome than they are getting. I can tell you that. I have not the slightest doubt whatever but that John Frohnmayer will do an outstanding job at the endowment, if we will just leave him alone long enough to do it. Let me read from a letter which I received from John Frohnmayer the other day. It says:

> I oppose obscenity unequivocally. Obscenity is the antithesis of art: it has no soul; it has no redeeming value; and it will not be funded under my administration.

That, in my mind, is a pretty concise and complete statement of what we can expect from our fine NEA Chairman, and as far as I am concerned it should close the issue. Not only have we already dealt with the obscenity question satisfactorily, but moreover all of this hand-wringing and hyperventilating has to be interfering with the ability of the endowment to do its job right. Ever since John Frohnmayer agreed to step into the hot seat this good and sincere man has had to respond to sordid attacks and vapid criticisms from every corner; and yet my own inquires—and I know yours, too—have been answered with such thoroughness and punctuality that I can only believe that tremendous energy and effort is being expended over there to deal with these constant, half-hysterical questions.

In my mind it is high time that we allow John Fohnmayer a graceful exit from the spotlight so that he can do the job he was appointed to do—and will do thank you very nicely—to the benefit of all of our constituents. Obviously we cannot control what others say and write about John Frohnmayer or the Endowment—but if we can only bring ourselves to forgo a thundering speech or two on this subject or a few gasps of rhetorical excess in the coming weeks and months I think we will be doing Mr. Frohnmayer, ourselves, and our constituents and the world of art, culture, and letters a remarkable favor. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

DESPITE PRESIDENT'S STEEL PROGRAM, SUBSIDIES CONTINUE

Mr. HEINZ. Mr. President, I would like to take a few moments of our colleagues' time to discuss some events that have transpired since the time early this year, March 31, to be precise, that the President implemented the steel voluntary restraint agreement program. As our colleagues will recall, the President decided to extend that program through March 31, 1992, and the major policy debate over steel was therefore temporarily concluded last year.

During what will amount to a 30-month transitional period, the President pledged to seek an international consensus on removing unfair trade practices in steel, thus allowing a return to a free and fair U.S. market for steel at the end of the transition period.

I take the floor today because I want to report that substantial obstacles to the achievement of this goal still remain and that a consensus on good behavior is far from imminent. In January of this year, the six leading American steel companies commissioned two independent analysis firms to evaluate the performance of some 21 nations and to do so with regard to their bilateral consensus agreements with the United States. Since many of the principles on which the President hopes to build an international consensus on steel are contained in these bilateral agreements, it would be most disconcerting to learn that most of the 21 are violating their pacts.

Yet disconcerting as it would be to learn that, that is precisely the message of the recently released report, "Steel at a Glance." It documents the violations of the various countries, some less flagrant than others, but all impediments to obtaining a worldwide accord. I would like to focus particularly on subsidies, since they are far and away the most widespread infraction and thus the largest obstacle to be overcome. I want to bring these infractions to the attention of the Senate in a series of statements, of which today's is the first.

My comments will highlight the use of subsidies in the international steel market and the problems this unfair practice causes for our domestic steel industry. Today's subsidy of the day comes from Brazil. The subsidization of steel production continues to run rampant in this country despite recent changes in economic policy. According to "Steel at a Glance":

> Acominas, a state-owned integrated mill, transferred a large part of its debt to government-owned Siderbras under a "financial reconstruction" agreement. Other operating companies reportedly have done the same, thereby improving their financial performance.

Furthermore, it turns out that Siderbras is itself being dissolved during President Collor's restructuring of the Government. Instead, the holding company's debt, totaling nearly $13 billion U.S. equivalent, will be administered by the Banco de Brazil under the auspices of the Economic Ministry. That means the Government will also take on the financial rescue packages offered by Siderbras to two other ailing state-owned mills, Cosipa and CSN. These packages will provide $400 million and $600 million, respectively.

These are conclusive examples that Brazil is continuing its subsidy practices notwithstanding its agreement with the United States. And these practices, directly affect the welfare of the U.S. industry and workers, for they help to keep inefficient producers in business by covering much of the Brazilian industry's operating costs and by adding to the problem of worldwide overcapacity. If this situation had been pursued under our law, I am confident that a subsidy would have been established.

The administration has not been good over the years at regularly reviewing trade agreements after they are reached to see if they are being properly implemented. That is why Senator BAUCUS and I and others have introduced the Trade Agreements Compliance Act—to create a regular process for periodic trade agreement review. It is apparent that we are going to have a number of major problems with compliance with these steel agreements, and I call on the administration and the U.S. Trade Representative in particular to increase efforts to eliminate such violations and to form an equitable and workable international consensus. The survival and competitiveness of the American steel industry depends on exactly that kind of vigilance by them.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I believe the pending business is the veto override; is that correct?

The PRESIDING OFFICER. We are in a period for morning business with Senators permitted to speak therein.

LONG-RANGE PROBLEMS

Mr. BUMPERS. Mr. President, I was just going to make a few comments. I understand we have Senators who are trying to reach a time agreement on the so-called blind air passenger bill to prohibit discrimination against blind persons riding on airplanes; the veto override; the CFTC versus SEC bill, whether or not SEC is going to regulate futures trading which is now regulated by the Commodities Futures Trading Commission. I do not know whether we are going to have any more votes tonight or not. I would guess not. But, then, I do not know. That is the majority leader's decision.

But, as I was sitting here, I was thinking, while those negotiations are going on, we seem to have a difficult time getting anything going. We could not pass the crime bill because we did not have 60 votes to close down a filibuster. And the crime bill, I thought, was very important. I would have thought the crime bill was as important to the people on the other side of the aisle as it was to the people on this side. But everybody could find something wrong. And there were a few people who were opposed to the death penalty and voted against cloture because they felt like that would be voting for the death penalty.

There was another group, I guess, who took strong exception to the elimination of the automatic assault weapons. It was a very close vote; the Senate voted 50 to 49 to ban nine automatic assault weapons. There are only about 750 weapons that would still be available for purchase. Every law enforcement organization in the United States strongly lobbied for that bill.

We have just returned from a recess and not very much has happened this week. I will tell my colleagues a couple of things that did happen. Three million new mouths were born on the planet, to be fed. One million acres of tropical rain forests were cleared. Think about those two issues alone and what they mean collectively. Think about the clearing of the tropical rain forests, and the impact it has on global warming. Think about the fact that we already have 5 million people on the planet. We add 100 million people a year and added 3 million just during our recess. Those two things work at cross purposes. The more people we have, the more pressure there is for slashing and using timber and wood to cook with or for energy and the more pressure there is to clear land to plant more food to feed those extra mouths. Robert Wright says that this planet can only sustain 1.2 billion people in perpetuity and we sailed past that figure before the turn of the century.

The truth of the matter is, one of the reasons we do not focus on these problems is that the red lights on the cameras have not focused on them. These long-range, colossal problems are very difficult to deal with because there is no political advantage. Nobody is going to get reelected because he is concerned about the population increase on the planet. Nobody is going to get reelected around here because he is concerned about the burning and the slashing of the tropical rain forests, which is so important to dealing with the global warming problem.

So, like today's deficit, like today's environmental concerns, we will wait until the crisis comes and then we will start trying to deal with it. But we will have lost so many years when we could have been dealing with it and mitigated the damage.

In my opinion, and this is just a philosophical view, all of these problems we are talking about are due to congestion and poverty. For example, and you do not have to be a rocket scientist to figure this one out, drug use among college graduates is declining. Drug use among people who make over $50,000 a year is declining. Drug use, especially in the inner cities, where poverty is pervasive, is soaring. That is not hard to figure out, is it? And consider what volatility and congestion have done to the crime rate. Last year there were 40 times more murders committed in the United States than in all of Western Europe and Japan combined, though they have 100 million more people than we have. There were more murders committed in Washington, DC, last year than in all of Western Europe and Japan.

We have postponed dealing with the deficit for several years now. We have these summiteers who are meeting just off the floor of the Senate every day. I do not know what kind of progress they are making.

It seems to me that the President certainly does not want to raise taxes. The Members of this body, on the other side of the aisle at least, are wearing buttons saying, "Keep the pledge." In other words, do not raise taxes. The Democrats are saying, "Be my guest."

Here are the numbers. Here are the real numbers, Mr. President. Not counting what it is going to take to bail out S&L's next year, but counting the trust funds which we use in the consolidated budget, the real deficit next year is about $285 billion. Add the S&L bailout, and the real deficit is $337 billion.

There is one thing that has been reported in the press. I think these meetings of summitteers are closed, so I am not revealing anything. I am telling you what I read in the Post and the Times. One of the things the summitteers are debating is whether or not we should try to reduce the deficit by $50 billon next year, or $60 billion. That is a legitimate debate, considering the fact that the economy in the first quarter, was growing at a rate of about 1.1 percent.

When you have an economy growing at 1.1 percent, you have to be very cautious, certainly, about any kind of a tax proposal. The economy is already headed south. The deficit is headed north. If you want to escalate the southward movement of the economy, just put a big tax on it.

But you think about this, Mr. President. We are talking about a real deficit of $335 billion, and yet we now find ourselves having postponed dealing with it during the really prosperous times of the last 9 years. Now the economy is stagnant, and you do not dare impose a tax increase on a stagnant economy.

You compound that problem with this: In Japan, interest rates have been going up. They are buying up American debentures. U.S. bonds and Treasury notes have been going down. They would just as soon buy their own debentures if their interest rate was as good there as it is here, and it is almost as good. You have to have a 2- or 3-point differential to attract the Japanese to our auction window on Tuesday mornings.

So you figure it out. We do not have anything like enough savings in this country to finance a $335 billion deficit.

The classic economic theory is that if the Government spends more than it takes in and there is not enough savings to make up the deficit, then the Government must start printing money. The inflation goes up, interest goes up, and the economy goes down. That is called stagflation.

The reason we have not experienced that in the last 9 years is because we have been helped by the Germans and the Japanese and the Middle Eastern countries, such as Saudi Arabia, who have been buying our notes, our debentures. That is all it amounts to.

So now you have all of these things coalescing. What you have coalescing

is the Japanese finding other markets that are more attractive, and they are not going to buy our bonds, at least to the extent they have in the past. You cannot raise taxes because you have a stagnant economy or one that is not growing very much. So it is a very difficult thing.

I feel sorry for the summiteers. But we are right to say that we have procrastinated too long.

You know the great Biblical story about Joseph telling the Pharaohs in Egypt:

> You are going to have 7 years of good weather, bountiful crops, and then you are going to have 7 years of famine and want. So I am your sage, your seer, and I am telling you: Save up your grain for this 7 years so you will be prepared for the 7 years of no rain.

It is a very simple little philosophy. I was taught as a child to save money for those rainy days, and I did it. I have had plenty of tough times in my life, but I always tried to have at least one hole I could get out of. I always had some money set aside somewhere, because that is what I was trained as a child to do.

What have we done? During the very most prosperous years of the history of this country, we not only did not raise taxes, we cut taxes; we doubled defense spending, and now we have a $3 trillion debt which represents about $14,000 for every man, woman, and child in America, as opposed to about $4,000 in 1981.

Mr. President, I remember when Jimmy Carter was President of the United States, and he and Ronald Reagan were opposing each other in 1980. I remember in September 1980, we thought the deficit was going to be $35 billion that year, the last year of Carter's term; $35 billion we thought it was going to be, and everybody was panicked.

I will never forget that September evening. Then-candidate Reagan looked into the lens of the camera and said:

> Mr. President, if you cannot balance the budget, move over and let me in, because I can.

So what was the theory? The theory was that if you cut taxes by 30 percent and just turned this vibrant economy loose, we would grow into a balanced budget and we could double the defense budget at the same time.

I have said this on the floor before, but it is worth repeating. An old man in my State, about 84 years old, when he heard candidate Reagan, said:

> What a dynamite idea. I wonder why nobody thought about that before?

We did it, and we are now $3 trillion in debt. My 11-month-old grandson now is going to be expected to pick up the tab, and he was not even invited to the party.

If the President is really serious about trying to deal with the deficit, he will get a lot of cooperation over here. But he must lead.

The President simply cannot state the magnitude of the problem.

I saw a story in the New York Times the other day which quoted President Bush as saying, in response to those who said, "Mr. President, first of all, tell us how you view the problem; what is the magnitude of the problem?"

The President said, "I cannot tell you that."

They said, "Why not?"

He said, "I am afraid it will scare Wall Street."

The guy on Wall Street said, "That statement scares me to death."

Incidentally, when it comes to Wall Street, I watched the last 2 or 3 weeks as the markets just soared over 2,900, headed for 3,000. It has been declining the last 2 or 3 days, and it is back down around the 2,900 range. I watch that market and I think they must know something I do not know. They are not looking at the same figures at which I am looking. Either that, or they are assuming that something is going to happen here, which I must say is a very risky assumption.

I tell my colleagues, we all have obligations, but the President has the chief obligation. You do not go out and run for President and say, "I want to lead this great Nation," and then when you get the job say, "I just want to tell you what the problems are. You guys over in Congress are going to have to solve them."

That will never work, Mr. President. You have 535 diverse men and women in Congress, and they can only get together on a problem of this magnitude under the leadership of the President.

Our political process is in some difficulty because of money, and we cannot agree on campaign finance reform. We cannot even set limits on how much people can spend in an election. Probably it is to my benefit as an incumbent not to have a limit. Incumbents can always raise more money than challengers—not always but most of the time they can. And people do not pay much attention to the political process in this Nation. What a travesty.

I have made lots of graduation speeches, Mr. President, over the last 3 weeks. I love doing that. The one thing that I really enjoy doing more than anything else is graduation speeches because it gives me an audience of young minds that are still in the molding state, both at the college and high school levels. I talk to them a lot about the Constitution and how the Constitution provides all these wonderful freedoms and rights, but it is not all take; there is a lot of give.

The give is to participate intelligently in the political process. I was most encouraged, Mr. President, to see in the paper this morning that the high schools of Milwaukee, in the Presiding Officer's beloved State, has a program for registering youngsters to vote when they are 18 years old. And they do more than just register them. They also teach them something about the political process and what it means when they sign their names on the registration forms.

It is like vaccinations. You can give a child one measles shot, but if you do not follow that up with another one, you are going to get measles. When my wife, Betty, was trying to immunize all the children in this country, the thing she hammered on more than anything else is the followup. Just to give children one shot on most diseases is not enough; you have to have a followup.

So it is with the political process and these youngsters. They have to understand that just registering is not anything in and of itself. Voting and participating, and voting and participating intelligently, is what is important.

I was in Leipzig, Germany, just before the East Germans voted. Actually, it was their election to kick the Communist Party out and form their own democracy. Those people were so rhapsodic about the right to vote, the first election in Leipzig in 60 years. Three days later, I think 93 percent of the people in East Germany voted. It is just like everything else. If you lose your health, you really appreciate it. You lose your freedoms, you really appreciate them. And the East Germans could hardly wait to get to the polls in that election, and 93 percent of them did.

I came home on Friday before their election on Sunday, picked up the Washington Post, and I saw where there had been an election in Texas for Governor the preceding Tuesday and 30 percent of Texans had voted in one of the most hotly contested gubernatorial races in their history. The day before yesterday in the State of California only 43 percent bothered to go vote in an election that was hotly contested, at least on the Democratic side. And the numbers keep going down. People keep tuning out of the political process.

In the story I read about the Texas election, several people were interviewed. One guy said, "I have got a job. I don't ever vote when things are going OK." Another one said, "Well, you know, those politicians are all crooked. I just don't want to be a party to it." Another one said, "I just don't ever vote." What on Earth is going on in this country, Mr. President?

To close, we had another kind of summit in this town between George Bush and Mikhail Gorbachev, and I thought it turned out pretty well. I thought President Bush acquitted himself very well. I thought he was

about as articulate and sensible as any President I have ever heard. I was very pleased with his conduct. I was especially pleased that he signed the trade agreement with the Soviet Union. It does not mean much. It is certainly not a solution to the economic problems of the Soviet Union. But it was a signal to the Soviet Union that we do, indeed, want to be trading partners with them; we want them to let up on emigration; we would like for them to codify their emigration laws so that people just do not do it on an ad hoc basis.

They have been allowing a lot of Jews to emigrate, and we applaud that, and we encourage them to continue. But what we encourage them to do more than anything else is to codify the law so that people know what they can do and what they cannot do. We take it for granted. You can go down and get a passport tomorrow and take off for Germany or Rangoon or wherever you want to go. The people of this country take for granted the right to travel, to go and come as they please. This was absolutely unheard of in the past in the Soviet Union and Eastern Europe, and certainly the right to leave permanently is unheard of without going through more red tape than anybody can ever stand.

So we signed some meaningful agreements, and the parameters of the START talks, in my opinion, favor the United States. As a matter of fact, I do not mind telling you, Mr. President, I am keenly disappointed that we started off in this country believing that the START I was going to cut nuclear warheads to 6,000 on both sides. As it turned out—and that will be a sermon for another day—those were just figures that were sort of, what shall I say, leading but also misleading because, under the terms of the treaty we have agreed to, the United States will wind up with about 10,000 warheads and the Soviets with not many less than that. So the truth is when we signed this agreement the other day over at the White House, it meant the United States will have almost as many warheads when they signed that treaty as they had when they started negotiating it. That is not making progress in eliminating nuclear warheads and the threat of nuclear war very fast.

Mr. President, I have not spoken on the floor in some time, but I felt, since there was nothing going on here, I would relieve myself of those few thoughts for whatever they may be worth.

I do not see any other Senator seeking recognition. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the veto message on H.R. 2364, an Amtrak authorization bill, be laid aside until 5 p.m., Tuesday, June 12; that at that time on Tuesday, there be 1 hour of debate equally divided and controlled in the usual form; that at 6 p.m. on Tuesday, the Senate proceed to vote without any intervening action or debate on passage of H.R. 2364, the objections of the President notwithstanding.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. DOLE. Mr. President, I have no objection. The only point I would make, and I know the majority leader tried to accommodate one of our Senators. We appreciate that. I guess if he is back at 6:15, within the area, we would be able to vote.

Mr. MITCHELL. If the Senator prefers, we will change it to 5:30 and 6:30, and 5:15 and 6:15. We are pleased to do that.

Mr. President, I modify my request to change the times form 5 p.m. to 5:15 p.m. and from 6 p.m. to 6:15 p.m. Otherwise, I renew my request.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening. We have been, as Senators know, those who were aware of our earlier discussion, unable to obtain a vote on the veto override until next Tuesday, and that has now been set for that time.

The pending business is the blind air passengers authorization bill, and I will be meeting later tonight with interested parties in an effort to determine the most appropriate course for handling of that bill. That will take some time this evening. Therefore, I think no purpose would be served by requiring Senators to remain in the Capitol. We will be in a position to announce tomorrow morning the course of action tomorrow with respect to that pending legislation.

Mr. DOLE. I will just indicate that they have met. We had one brief meeting, with no agreement, on the crime package. There was some interest in that, and I think it is instructive but not conclusive.

Mr. MITCHELL. The Senator is correct. For the informaiton of Senators, the Republican Senators had a caucus earlier this evening and just a few moments ago met with myself and the chairman of the Judiciary Committee to present a suggested course of action, which we have indicated we will review and take a look at.

Senator BIDEN will be meeting with his Republican counterparts to discuss further the suggested course of action, and no agreement has been reached, with no commitments on either side, other than a good-faith exploration of the issues.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCERNING THE ABSENCE OF SENATOR CHRISTOPHER J. DODD DURING THE WEEK OF JUNE 4

Mr. LIEBERMAN. Mr. President, I just wanted to take a couple of minutes to tell my colleagues why Senator DODD is not present and voting this week.

This week, Senator DODD has made visits to Romania and Czechoslovakia. During his 3-day visit to Romania, Senator DODD met Timisoara Bishop Laszlo Toekes, the Hungarian priest who started the December revolution that toppled Communist dictator Nicolae Ceausescu. He also met with President-elect Ion Ilieuscu, Premier Petre Roman and other government officials to urge them to adopt a constitution that restores democracy, guarantees freedom of speech and protects ethnic minorities.

As chairman of the Children's Subcommittee, Senator DODD also visited a pediatric AIDS ward and a state-run institution for abandoned children in Bucharest. He received assurances from government officials that a hospice for children with AIDS would be created.

Later in the week, Senator DODD joined a 58-member international delegation that will observe the June 8-9 parliamentary elections in Czechoslovakia. The observer group is jointly sponsored by the National Democratic Institute for International Affairs and the National Republican Institute for

International Affairs. The delegation includes Senator DODD and Senator JOHN MCCAIN, as well as a number of other legislators, political party leaders, election experts and writers from 12 countries in Europe, Asia, and the Western Hemisphere. The purpose of the mission is to demonstrate international support for democratic electoral processes and for the restoration of democracy in Czechoslovakia.

Mr. President, these are very exciting times in Eastern Europe and I look forward to Senator DODD's observations when he returns next Monday.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:53 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House having proceeded to reconsider the bill (H.R. 2364) to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 580. An act to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-atheletes at such institutions.

The message further announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1999. An act to amend the Higher Education Act of 1965 to clarify the administrative procedures of the National Commission on Responsibilities for Financing Post Secondary Education.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2372. An act to provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing;

H.R. 2690. An act to amend title 17, United States Code, to provide certain rights of attribution and integrity to authors of works of visual art; and

H.R. 4611. An act to amend the National Cooperative Research Act of 1984 to reduce the liability for joint ventures entered into for the purpose of producing a product, process, or service.

The message further announced that the House has agreed to the following resolution:

H. Res. 405. Resolution requesting the return of the bill H.R. 3656 to the House of Representatives.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4611. An act to amend the National Cooperative Research Act of 1984 to reduce the liability for joint ventures entered into for the purpose of producing a product, process, or service; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3079. A communication from the Public Printer of the United States, transmitting, pursuant to law, the semiannual management report on audits performed and the semiannual report of the Inspector General, Government Printing Office, for the 6-month period ended March 31, 1990; to the Committee on Governmental Affairs.

EC-3080. A communication from the Secretary of Education, transmitting, pursuant to law, the semiannual report of the Inspector General, Department of Education, for the 6-month period ended March 31, 1990; to the Committee on Governmental Affairs.

EC-3081. A communication from the Secretary of Energy, transmitting, pursuant to law, the semiannual report of the Inspector General, Department of Energy, for the 6-month period March 31, 1990; to the Committee on Governmental Affairs.

EC-3082. A communication from the Chairman of the Board of Directors of the Corporation for Public Broadcasting, transmitting, pursuant to law, the semiannual report of the Inspector General, Corporation for Public Broadcasting, for the 6-month period ended March 31, 1990; to the Committee on Governmental Affairs.

EC-3083. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the semiannual report of the Inspector General, Environmental Protection Agency, for the 6-month period ended March 31, 1990; to the Committee on Governmental Affairs.

EC-3084. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-204 adopted by the Council on May 15, 1990; to the Committee on Governmental Affairs.

EC-3085. A communication from the Executive Director of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the semiannual report of the Inspector General, Pension Benefit Guaranty Corporation for the 6-month period ended March 31, 1990; to the Committee on Governmental Affairs.

EC-3086. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the semiannual report of the Inspector General, Department of Agriculture, for the 6-month period ended March 31, 1990; to the Committee on Governmental Affairs.

EC-3087. A communication from the Director of the Administrative Office of the United States Courts, transmitting a draft of proposed legislation to amend title 28, United States Code, to make available sums in the Department of Justice Asset Forfeiture Fund for reimbursement of certain expenses incurred by the Judicial Branch in connection with adjudication of forfeitures and furnishing of home detention services and equipment; to the Comittee on the Judiciary.

EC-3088. A communication from the Secretary of Education, transmitting, pursuant to law, the annual statistical report of the National Center for Educational Statistics entitled "The Condition of Education"; to the Committee on Labor and Human Resources.

EC-3089. A communication from the Public Printer of the United States, transmitting, pursuant to law, notification of the termination of the Inspector General of the Government Printing Office; to the Committee on Rules and Administration.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-500. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Agriculture, Nutrition, and Forestry.

"HOUSE RESOLUTION No. 1356

"Whereas, The United States is considering whether or not to shift jurisdiction for the Federal Crop Insurance Program from state insurance agencies to the Federal Crop Insurance Corporation; and

"Whereas, This would have detrimental effects on Illinois farmers in regard to settlements, notices, cancellations and the regulation passed by the Illinois General Assembly regulating the notification of drought insurance applicants; and

"Whereas, Policy holders would be obliged to settle disputes in federal courts instead of through the State insurance department; and

"Whereas, A change in jursidiction would require the Federal Crop Insurance Corporation to duplicate services already offered by the private sector and would accrue costs which might lead to higher taxes or insurance premiums; and

"Whereas, The shift in jurisdiction would cost the State of Illinois approximately $2 million in revenue because of the loss of the premium tax; and

"Whereas, Federal control of the Crop Insurance Program would cost each state the ability to formulate policy which is tailored to the specific circumstances in that particular state; and

"Whereas, The proposed change puts at risk the excellent working relationship that now exists between the U.S. Department of Agriculture, the states, and private insurers and jeopardizes the great success of the existing Crop Insurance Program; therefore, be it

"Resolved, by the House of Representatives of the Eighty-Sixth General Assembly of the State of Illinois, that we urge the United States Congress to carefully consider the proposal by the United States Department of Agriculture to remove jurisdiction from the Illinois State Department of Insurance for the Federal Crop Insurance Program; and be it further

"Resolved, That suitable copies of this preamble and resolution be presented to the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and each member of the Illinois Congressional Delegation."

POM-501. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Banking, Housing, and Urban Affairs.

"HOUSE RESOLUTION No. 1624

"Whereas, savings and loan associations have provided services critical to the economic welfare of the State of Illinois by reinvesting savings of Illinois residents in the home loan mortgages, small business, college, and automobile loans and other investments essential to the vitality of urban and rural communities throughout Illinois; and

"Whereas, In 1989 there were 243 savings and loans in Illinois with total assets in excess of $60 billion, 20,000 employees, and combined net profits of $16 million—the sixth consecutive profitable year for the industry in Illinois; and

"Whereas, By March of 1990 Illinois savings and loans with more than $30 billion in assets or 50% of the total assets of all Illinois savings and loans had either been seized by the federal government for sale or liquidation (31 institutions with $7.6 billion in assets) or were threatened with imminent seizure and liquidation (55 institutions with $23.4 billion in assets); and

"Whereas, This substantial federal seizure of the Illinois savings and loan industry has been undertaken as a part of a federal restructuring of the savings and loan industry under the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA) that has substantially changed and increased the financial requirements for operating savings and loans; and

"Whereas, Nationally 402 institutions with $230 billion in assets in 40 states have been seized and between 600 and 1,000 additional savings institutions are threatened with seizure and liquidation; and

"Whereas, The federal seizure of savings and loans under FIRREA has resulted in rapidly escalating, unanticipated costs, the elimination of locally managed savings institutions, the loss of jobs and ultimately the loss of savings institutions in many urban and rural communities; and

"Whereas, Savings and loans seized by the federal government have lost $40 million per day, since January 1989; and

"Whereas, The General Accounting Office estimated on April 6, 1990, that the total cost of the FIRREA restructuring of the savings and loan industry is estimated to be between $325 billion and $500 billion—an increase of $68 billion over the GAO's 1989 estimates and an increase of at least $160 billion over the August 1989 estimates made by the President and Congress when FIRREA was enacted; and

"Whereas, As an alternative to federal seizure of savings and loans, the FIRREA legislation provides that open thrift assistance may be made available to help institutions meet FIRREA's new financial requirements, if the assistance would be less-costly than seizure and if the institutions—pre FIRREA—were well-managed and profitable; and

"Whereas, Many of the 55 Illinois institutions now threatened with seizure were profitable and well-managed before imposition of the new FIRREA standards; and

"Whereas, The preservation of such well-managed, profitable Illinois institutions through open thrift assistance may be beneficial to Illinois citizens, less destructive to local economies and less costly to the federal government than seizure; and

"Whereas, No open thrift assistance under FIRREA has been provided to any savings and loan in the United States even though L. William Seidman, chairman of the Resolution Trust Corporation (RTC), which manages seized savings and loans under FIRREA, has strongly endorsed open thrift assistance as a more cost-effective alternative than seizure; and

"Whereas, The State has a vital interest in the maintenance of a strong and stable savings and loan industry in Illinois and the availability of open thrift assistance may lessen significantly the cost to American tax payers of resolving the savings and loan crisis; therefore, be it

"Resolved by the House of Representatives of the Eighty-Sixth General Assembly of the State of Illinois, That the Senate respectfully urges the United States Congress and the RTC Oversight Board to adopt and implement an open thrift assistance program that will provide to savings and loans financial assistance necessary to meet the new FIRREA financial requirements, if such assistance is less costly than seizure of institutions that were well-managed and profitable prior to FIRREA: and be it further

"Resolved, That the Senate respectfully urges the Office of Thrift Supervision (OTS), the Federal Deposit Insurance Corporation (FDIC), the RTC Oversight Board and the RTC to provide Illinois institutions, threatened with seizure, with a reasonable opportunity to qualify for open thrift assistance before any such institutions are taken-over under the newly imposed FIRREA financial requirements; and be it further

"Resolved, That the Commissioner of Savings and Loans of the State of Illionis is directed to work diligently with the FDIC, the RTC and the OTS to ensure that Illinois State-chartered associations, which are under-capitalized solely due to the enactment of FIRREA, and which are otherwise well-managed, profitable and in regulatory compliance are given favorable consideration for the provisions of open thrift assistance; and be it further

"Resolved, That a suitable copy of this preamble and resolution be presented to be respectfully submitted to the President of the United States, the President of the Senate and Speaker of the House of the United States Congress, each member of the Illinois Congressional Delegation, the Chairman of the FDIC, Chairman of the OTS, the RTC Oversight Board, and the Commissioner of Savings and Loans of the State of Illinois."

POM-502. A resolution adopted by the Common Council of the Township of Gloucester; to the Committee on Finance.

POM-503. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Foreign Relations.

HOUSE RESOLUTION No. 1684

"Whereas, On March 11, 1990, the newly elected parliament of the Republic of Lithuania declared the restoration of the nation's independence after five decades of involuntary incorporation into the Union of Soviet Socialist Republics; and

"Whereas, Lithuania has been a vital and distinct culture within European civilization for centuries, and its democratic aspirations reached full fruition in the 1918 establishment of a free and independent nation-state; and

"Whereas, Freedom loving peoples throughout the world mourned the subjugation of Lithuania in the midst of World War II, and we now cheer the Republic's reassertion of autonomy and self-determination; and people have earned our admiration and respect, for their struggle to regain sovereignty has been characterized not by violence but by adherence to such democratic hallmarks as open debate and multiparty elections; and

"Whereas, The Lithuanian people are deserving of our unyielding support because their heroic struggle is threatened by the Soviet refusal to recognize their independence and the Soviet application of economic and military pressure; therefore be it

"Resolved, by the House of Representatives of the Eighty-Sixth General Assembly of the State of Illinois, That we congratulate the Republic of Lithuania upon its courageous and historic declaration of the restoration of independence and that we commend the brave spirit and peaceful methods of the Lithuanians to all those throughout the world who seek to cast off oppression and join the community of democratic nations; and be it further

"Resolved, That we urge the President of the United States to swiftly take those steps necessary to formalize diplomatic relations between the United States and the new Lithuanian government, to effectively express our country's great displeasure with the Soviet reaction to Lithuanian independence and to assist the Republic of Lithuania in rebuilding its democratic institutions and revitalizing its economy; and be it further

"Resolved, That suitable copies of this resolution be presented to the President of the United States and each member of the Illinois Congressional Delegation."

POM-504. A joint resolution adopted by the Legislature of the State of California to the Committee on Foreign Relations.

"ASSEMBLY JOINT RESOLUTION No. 89

"Whereas, The Soviet Union is currently undergoing substantial reform and is making efforts to allow greater freedom of expression, as part of glasnost; and

"Whereas, While glasnost offers much promise to the people of the Soviet Union, it also poses significant dangers to minority groups, particularly Jews, as hate groups are allowed to organize and grow; and

"Whereas, Pamyat, an extremist nationalist mass membership organization founded in 1980 seeks to eliminate the Soviet Jewry and to intimidate Soviet Jews through a widespread anti-Zionist campaign; and

"Whereas, Anti-Semitic violence, including vandalism of synagogues and Jewish

homes, the abduction of a Hebrew teacher, and the stabbing of an elderly Jewish woman, is spreading through the Soviet Union; and

"Whereas, Pamyat's membership numbers in the thousands and maintains chapters in many Soviet cities; and

"Whereas, Pamyat openly preaches hatred of the Jews through videocassettes, handbills, and messages of hate distributed throughout Russian portions of the Soviet Union; and

"Whereas, In 1989 there were more than 50 desecrations of Jewish cemeteries, and some 1,000 anti-Semitic rallies throughout the country; and

"Whereas, The Soviet government has tolerated and protected Pamyat, including granting permission to hold a rally in Red Square while prohibiting democracy groups from demonstrating at that location; and

"Whereas, Neither President Mikhail Gorbachev nor other high Soviet officials have repudiated Pamyat's blatant anti-Semitism; and

"Whereas, The Soviet Union has suspended direct flights from the Soviet Union to Israel as a direct result of pressure from the Arab world; and

"Whereas, A test of President Mikhail Gorbachev's commitment to human rights and reform will be whether he forcefully condemns and takes effective steps to stop the spread of anti-Semitism in the Soviet Union; and

"Whereas, Protection from anti-Semitism and the right of emigration are fundamental human rights; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California jointly, That the Legislature of the State of California respectfully memorializes President Gorbachev to publicly condemn Pamyat and all forms of anti-Semitism in the Soviet Union; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President of the United States, the Secretary of State, and the Congress of the United States, and all other federal officials to take all possible steps to ensure that the Soviet police provide full protection to Jews subject to attack by Pamyat sympathizers and arrest and prosecute all perpetrators of anti-Semitic violence; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President of the United States, the Secretary of State, and the Congress of the United States, and all other federal officials to insist that the United States withhold any waiver or repeal of the Jackson-Vanik trade restrictions against the Soviet Union until President Gorbachev resists Arab presssure and allows direct flights to Israel for all Soviet Jews who desire to emigrate to that nation; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President of the United States, the Secretary of State, and the Congress of the United States, and all other federal officials to take immediate steps to lift quota limitations on the emigration of Soviet Jews and other minority groups to the United States; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of State, to President Mikhail Gorbachev of the Soviet Union, and to each Senator and Representative from California in the Congress of the United States."

POM-505. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Governmental Affairs.

"SENATE JOINT RESOLUTION 90-13

"Whereas, Since the conflict in Vietnam ended, 2383 American servicemen, 41 of whom are Coloradoans, remain unaccounted for and are considered Missing in Action; and

"Whereas, Since that time there has been much controversy as to whether there are American servicemen being held in Southeast Asia and elsewhere as Prisoners of War; and

"Whereas, There have been reports from a variety of sources of living American servicemen in Southeast Asia, some of which have been as recent as 1989; and

"Whereas, The Final Interagency Report of the Reagan Administration on the POW/MIA issue in Southeast Asia has concluded that we must operate under the assumption that at least some of the missing could have survived and that all possible efforts be made to resolve their fate; and

"Whereas, The people of the state of Colorado desire that any information and records be released by all departments and agencies of the federal government that maintain such information and records; and

"Whereas, Disclosure of such information and records would allow a nation proud of its democratic heritage to no longer keep secret from itself those facts necessary to achieve longer overdue introspection and, thus, final catharsis with regard to World War II and the Korean and Vietnam conflicts; and

"Whereas, Congress is considering H.R. 3603, 101st Cong. 1st Sess. (1990), which deals with the release of information concerning United States personnel classified as prisoner of war or missing in action from World War II, the Korean conflict, and the Vietnam conflict; and

"Whereas, H.R. 3603 accomplishes disclosure while at the same time provides for necessary protections, first, by protecting national security through safeguarding information concerning sources, and second, by providing for the privacy of affected families; and

"Whereas, Those servicemen and their families merit the recognition and remembrance of the people for whom they served; now, therefore,

"Be It Resolved by the Senate of the Fifty-seventh General Assembly of the State of Colorado, the House of Representatives concurring herein:

"(1) That the Colorado General Assembly request Congress and President Bush to continue as a high national priority their efforts to resolve the fate of these American servicemen, and to make all efforts to pass and sign into law H.R. 3603.

"(2) That the Colorado general assembly request and urge the governor to issue annually a proclamation calling the attention of our people to those men and women who are considered missing in action or prisoners of war and recommending and enjoining their due observance of a week in commemoration of those servicemen, that the governor be requested to fly the POW/MIA flag on a daily basis on the state capitol grounds at the area designated for the Colorado tribute to veterans.

"(3) That the Colorado general assembly commends the Colorado department of military affairs for its commitment to the POW/MIA issue, and for flying the POW/MIA flag at its state headquarters and all armories throughout the state of Colorado.

"(4) That the Colorado general assembly commends the division of state nursing homes for its commitment to the POW/MIA issue, and for its commitment to fly the POW/MIA flag at all state/veterans nursing homes throughout the state of Colorado.

"(5) That the Colorado general assembly commends all elected officials, who have through their efforts provided the visibility on the POW/MIA issue, and encourages them to continue their efforts.

"(6) That the Colorado general assembly supports the goal of having a special memorial area within the state capitol to remember and recognize the prisoners of war and the missing in action by a special display in the state capitol, and requests the governor to support and concur in this goal with its completion by Memorial Day 1990.

"Be It Further Resolved, That copies of this Resolution be transmitted to the President of the Senate and the Speaker of the House of Represenatives of the Congress of the United States, to each member of Congress from the State of Colorado, to President Bush, and to Governor Roy Romer."

POM-506. A joint resolution adopted by the Legislature of the State of Tennessee; to the Committee on the Judiciary.

"HOUSE JOINT RESOLUTION No. 638

"Whereas, although the right of free expression is part of the foundation of the United States Constitution, very carefully drawn limits on expression in specific instances have long been recognized as legitimate means of maintaining public safety and decency, as well as orderliness and productive value of public debate; and

"Whereas, certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, and the rights of expression and sacred values of others; and

"Whereas, there are symbols of our national soul such as the Washington Monument, the United States Capitol Building, and memorials to our greatest leaders, which are the property of every American and are therefor worthy of protection from desecration and dishonor; and

"Whereas, In the War of 1812 the American Flag stood boldly against foreign invasion, symbolized the stand of a young and brave nation against the mighty world power of that day, and in its courageous resilience inspired our national anthem; and

"Whereas, in the Second World War, the American Flag was the banner that led the American battle against fascist imperialism from the depths of Pearl Harbor to the mountaintop of Iwo Jima, and from defeat in North Africa's Kasserine Pass to victory in the streets of Hitler's Germany; and

"Whereas, the American Flag symbolizes the ideas for which good and decent people fought in Vietnam, often at the expense of their lives or at the cost of cruel condemnation upon their return home; and

"Whereas, the American Flag was carried forth to the moon as a banner of goodwill, vision, and triumph on behalf of all mankind; and

"Whereas, the American Flag to this day is a most honorable and worthy banner of a nation which is thankful for its strengths and committed to curing its faults, and remains the destination of millions of immigrants attracted by the universal power of the American ideal; and

"Whereas, the law as interpreted by the United States Supreme Court no longer

records to the Stars and Stripes that reverence, respect, and dignity befitting the banner of that most noble experiment of a nation-state; and

"Whereas, it is only fitting that people everywhere should lend their voices to a forceful call for restoration to the Stars and Stripes of a proper under law and decency; now, therefore,

"Be it Resolved by the House of Representatives of the Ninety-Sixth General Assembly of the State of Tennessee, the Senate Concurring, That this General Assembly respectfully memorializes the Congress of the United States to propose an amendment of the United States Constitution, for ratification by the states, specifying that Congress and the states shall have the power to prohibit the physical desecration of the flag of the United States.

"Be it further Resolved, That copies of this resolution be transmitted to the Speaker of the United States House of Representatives, the Speaker of the United States Senate and all members of the congressional delegation from the State of Tennessee."

POM-507. A resolution adopted by the House of Representative of the State of Illinois; to the Committee on Labor and Human Resources.

"HOUSE RESOLUTION No. 1584

"Whereas, The Older American Act of 1965 was amended in 1987 to include a provision for calling a White House Conference on aging in 1991; and

"Whereas, According to the new provisions in the Act, the President of the United States is directed to call for the White House Conference on Aging, and it is to consist of representatives from all 50 States; and

"Whereas, State and local agencies in Illinois have begun calling for local forums for setting the agendas and selecting the delegates; therefore, be it

"Resolved, by the House of Representatives of the Eighty-Sixth General Assembly of the State of Illinois, That we respectfully ask President George Bush to call for the White House Conference on Aging for 1991 and that he set a date for that conference; and be it further

"Resolved, That a suitable copy of this preamble and resolution be presented to President Bush, the President of the Senate and the Speaker of the House of Representatives of the United States Congress, each member of the Illinois Congressional Delegation, the United Congress Commissioner on Aging and Director of the Illinois Department on Aging."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and and Natural Resources, with an amendment in the nature of a substitute:

S. 798: A bill to amend title V of the Act of December 19, 1980, designating the Chaco Culture Archaeological Protection Sites, and for other purposes (Rept. No. 101-307).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1756: A bill to provide for the preservation and interpretation of sites associated with Acadian culture in the State of Maine (Rept. No. 101-308).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2437: A bill to authorize the acquisition of certain lands in the State of Louisiana for inclusion in the Vicksburg National Military Park (Rept. No. 101-309).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2566: A bill to redesignate the Sunset Crater National Monument as the Sunset Crater Volcano National Monument (Rept. No. 101-310).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 76: A bill to amend the Wild and Scenic Rivers Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the wild and scenic rivers system (Rept. No. 101-311).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 3545: A bill to amend the Chesapeake and Ohio Canal Development Act to make certain changes relating to the Chesapeake and Ohio Canal National Historical Park Commission (Rept. No. 101-312).

H.R. 3834: A bill to amend the National Trails System Act to designate the route from Selma to Montgomery for study for potential addition to the national trails system (Rept. No. 101-313).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2181: A bill to authorize the National Aeronautics and Space Administration to purchase approximately 8 acres of land at the Fort Sumner Municipal Airport, De Baca County, New Mexico (Rept. No. 101-584). By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

H.R. 2514: a bill amending subschapter III of chapter 84 of title 5, United States Code.

By Mr. PELL, from the Committee on Foreign Relations, with an amendment:

S. 1941: a bill to implement the Obligations of the United States Under the Inter-American Convention on International Commercial Arbitration.

By Mr. PELL, from the Committee on Foreign Relations, with an amendment and an amendment to the title and an amended preamble:

S. Con. Res. 60: A concurrent resolution expressing the sense of the United States Senate that the Soviet Union should release the prison records on Raoul Wallenberg and account for his whereabouts.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 126: A concurrent resolution calling for a United States policy of promoting the continuation, for a minimum of an additional 10 years, of the International Whaling Commission's moratorium on the commercial killing of whales, and otherwise expressing the sense of the Congress with respect to conserving and protecting the world's whale population.

S. Con. Res. 137: A concurrent resolution to express the sense of Congress that the 1990 Nuclear Non-Proliferation Treaty (NPT) Review Conference should reaffirm the support of the parties for the objectives of the NPT, in particular preventing the spread of nuclear weapons to additional countries.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Malcolm S. Forbes, Jr., of New Jersey, to be a member of the Board for International Broadcasting for a term expiring April 28, 1992;

Norton Stevens, of New York, to be a member of the Board of Directors of the Inter-American Foundation for a term of 6 years;

Frank D. Yturria, of Texas, to be a member of the Board of Directors of the Inter-American Foundation for a term of 6 years;

E.U. Curtis Bohlen, of Maine, to be an Assistant Secretary of State for Oceans and International Environment and Scientific Affairs;

Paul C. Lambert, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ecuador.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Paul C. Lambert.

Post: Ambassador to the Republic of Ecuador.

Contributions, amount, date, and donee:

1. Self (see attached sheet).

2. Spouse, Mary L. Lambert (see attached sheet).

3. Children and spouses names, Jennifer L. Churchill, Daniel Churchill, P. Christopher Lambert (deceased), John C. Lambert, Mary W. Lambert (see attached sheet).

4. Parents names, both deceased.

5. Grandparents names, all deceased.

6. Brothers and spouses names, Joseph G. Lambert (see attached sheet).

7. Sisters and spouses names, none.

Paul C. Lambert and family—Federal political contributions

1985—PAUL C. LAMBERT

1/23/85—The Republican National Committee	$100
6/12/85—Friends of Senator D'Amato	100
9/3/85—D'Amato for Senate	47
10/18/85—The Fund for America's Future	2,500
10/15/85—D'Amato for Senate	100
11/26/85—People for DioGuardi	250

1985—JENNIFER LAMBERT

11/15/85—Senator Packwood of Oregon	50

1985—JOSEPH G. LAMBERT

Feb. 1985—Republican Party	100

1986—PAUL C. LAMBERT

4/7/86—The Fund for America's Future	1,000
6/19/86—People for Andy O'Rourke	1,000
7/29/86—People for O'Rourke	500
7/30/86—Friends of Andy O'Rourke	250
9/10/86—Congressman E. Zschau for U.S. Senate	100
9/12/86—People for O'Rourke	500
10/8/86—Republican National Committee	100

1987—PAUL C. LAMBERT (SEE LETTER)

1/15/87—Republican National Committee	100
3/17/87—Women's National Club Luncheon	150

4/1/87—George Bush for President...	1,000
7/28/87—Citizens for Pete Dawkins ..	1,000
8/26/87—Pete Dawkins for Senate	1,000
10/19/87—George Bush for President.....	500
11/20/87—People for DioGuardi	50
1987—MARY L. LAMBERT	
8/26/87—Pete Dawkins for Senate	1,000
1987—JOHN C. LAMBERT	
12/10/87—George Bush for President.....	1,000
1987—MARY W. LAMBERT	
12/10/87—George Bush for President.....	1,000
1988—PAUL C. LAMBERT	
1/29/88—Republican National Committee	100
3/30/88—Republican National Committee	150
4/15/88—Women's National Republican Club Luncheon.....	75
6/10/88—People for DioGuardi	50
6/15/88—Bob McMillan for U.S. Senate.....	1,000
6/17/88—Republican Presidential Trust.....	2,000
8/8/88—1988 Republican National Convention Gala	1,000
8/8/88—National Federation of Republican Women.....	100
8/31/88—Victory '88 Bush/Quayle	5,000
10/18/88—Challenge '88—Pete Dawkins	1,000
10/19/88—Republican National Committee.....	3,000
10/24/88—People for DioGuardi	50
11/16/88—Bob McMillan for U.S. Senate.....	100
1988—MARY L. LAMBERT	
6/7/88—Bob McMillan for U.S. Senate.....	1,000
9/13/88—Victory '88 Bush/Quayle	5,000
10/5/88—Pete Dawkins for U.S. Senate.....	1,000
1988—JOSEPH G. LAMBERT	
Apr. 1988—Tom Campbell for Congress Committee.....	100
May 1988—Tom Campbell for Congress Committee.....	500

BUSH /QUAYLE COMPLIANCE COMMITTEE.

Mr. PAUL C. LAMBERT,
Breed, Abbot & Morgan,
New York, NY.

DEAR MR. LAMBERT: I am writing in response to your inquiry concerning your contributions to the President's 1988 campaign. Our records indicate the moneys contributed by you are credited as follows:

$1000 contributed in April, 1987 was credited to the George Bush for President principal campaign committee for the primary election.

$500 contributed in November, 1987 credited to the George Bush for President Compliance Committee.

Contributions to the Primary are limited to $1000 per person, as is the case for the Compliance Committee. Our records indicate that you are not over your individual limit for either committee.

Please do not hesitate to conduct me if you have any other questions regarding your contributions, or if I can be of any further assistance.

Sincerely,

RITTA S. MOUSSEAU,
Comptroller.

Don Melvin Newman, of Indiana, for the rank of Minister during his tenure of service as the Representative of the United States of America on the Council of the International Civil Aviation Organization.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Don M. Newman.

Post: Minister to ICAO.

Contributions, amount, date, donee:

1. Self, $1,000, November 1989, President's Club; $1,000, 1988, Bush/Quayle.

2. Spouse, deceased.

3. Children and spouses names, Mr. and Mrs. T. Martin, Mr. and Mrs. J. Grieser, none.

4. Parents names, deceased.

5. Grandparents names, deceased.

6. Brothers and spouses names, Mr. and Mrs. R. Newman, none.

7. Sisters and spouses names, none.

Dane Farnsworth Smith, Jr., of New Mexico, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Dane F. Smith, Jr.

Post: Ambassador to Guinea.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, Judith A. Smith, none.

3. Children and spouses names, Jennifer L. Smith, Dane F. Smith III, Juanita C. Smith, none.

4. Parents names, Candace C. Smith, Dane F. Smith, deceased.

5. Grandparents names, deceased.

6. Brothers and spouses names, none.

7. Sisters and spouses names, Mary Candace Mize, Robert Mize, none.

Charles H. Thomas, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Hungary.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Charles H. Thomas.

Post: Ambassador to Hungary.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, John, Jennifer, Andrew, Stuart, and Catherine, none.

4. Parents names, Helen W. Cogswell, none.

5. Grandparents names, deceased.

6. Brothers and spouses names, Bruce R. Thomas, Katherine Irwin, none.

7. Sisters and spouses names, none.

Alan Philip Larson, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be the Representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Alan Philip Larson.

Post: USOECD Paris.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, Nathan, Lara, Philip, none.

4. Parents names, Philip H. Larson, Marilyn Y. Larson, none.

5. Grandparents names, deceased.

6. Brothers and spouses names, Gene N. Larson, $10 (between July-Sept. 1986, Terry Bransted), Sandra Larson, none.

7. Sisters and spouses names, none.

James Keough Bishop, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Somali Democratic Republic.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: James Keough Bishop.

Post: Ambassador to Somalia.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, Timothy, Lynn, Melanie, Rebecca, Anne-Marie, Elizabeth, none.

4. Parents names, James K. Bishop (Dorothy), $120, 1986, Republican Task Force; $150, 1986, Joseph Di Guardi.

5. Grandparents names, deceased.

6. Brothers and spouses names, John F. Bishop (Patricia), $50, 1988, Peter Dawkins; Thomas A. Bishop (Katherine), none.

7. Sisters and spouses names, none.

Steven E. Steiner, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as United States Representative to the Special Verification Commission.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Steven E. Steiner.

Post: U.S. Representative, Special Verification Commission.

Contributions, amount, date, and donee:

1. Self, none, except $1/year on Form 1040.

2. Spouse, Merle J. Steiner, none.

3. Children and spouses names, Laurie, Eric, Jeffrey, (all unmarried) none.

4. Parents names, Edward J. Steiner, Kay B. Steiner, $75,00, $25/year in 1988, 1989, 1990, womens campaign fund.

5. Grandparents names, all deceased.

6. Brothers and spouses names, Jack and Kristin Steiner, none.

7. Sisters and spouses names, Sally and Steven Posner, none.

Peter Jon de Vos, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Liberia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Peter Jon de Vos.

Post: Ambassador to Liberia.
Contributions, amount, date, donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which was printed in full in the CONGRESSIONAL RECORD of May 18, 1990, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. GLENN, from the Committee on Governmental Affairs:

Pamela Talkin, of New York, to be a Member of the Federal Labor Relations Authority for a term of 5 years expiring July 1, 1995.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself, Mr. DIXON, Mr. WIRTH, Mr. SASSER, Mr. PRYOR, Mr. BRADLEY, Mr. KERREY, Mr. KERRY, Mr. SIMON, Mr. LEVIN, Mr. BRYAN, Mr. PELL, and Mr. RIEGLE):

S. 2712. A bill to establish a Financial Services Crime Division in the Department of Justice; to the Committee on the Judiciary.

By Mr. GORTON:

S. 2713. A bill to preserve ancient forests, to assure a sustainable and predictable supply of timber harvest, and to enhance recreational opportunities in the national forests; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 2714. A bill to permit issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel the Solitaire; to the Committee on Commerce, Science, and Transportation.

By Mr. ROTH:

S. 2715. A bill to amend the International Organizations Immunities Act and title 28, United States Code, to restrict the jurisdictional immunity to which certain international organizations are entitled.

By Mr. CRANSTON (for himself and Mr. WILSON):

S. 2716. A bill to amend the Warren Act (Act of February 21, 1911, 43 U.S.C. 523 et seq.) to expand the purposes for which excess storage or carrying capacity in reclamation projects may be used, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BENTSEN:

S. Res. 295. Resolution relative to flood protection in the Trinity River Basin, Texas; to the Committee on Environment and Public Works.

By Mr. ROTH:

S. Res. 296. Resolution to express the sense of the Senate in support of Taiwan's membership in the General Agreement on Tariffs and Trade; to the Committee on Finance.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 297. Resolution to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs in The Matter of Provident Life and Accident Insurance Company; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself, Mr. DIXON, Mr. WIRTH, Mr. SASSER, Mr. PRYOR, Mr. BRADLEY, Mr. KERREY, Mr. KERRY, Mr. SIMON, Mr. LEVIN, Mr. BRYAN, Mr. PELL, Mr. RIEGLE, Mr. CONRAD, and Mr. HARKIN):

S. 2712. A bill to establish a Financial Services Crime Division in the Department of Justice; to the Committee on the Judiciary.

(The remarks of Senators and the text of the legislation appear earlier in today's RECORD.)

By Mr. GORTON:

S. 2713. A bill to preserve ancient forests, to assure a sustainable and predictable supply of timber harvest, and to enhance recreational opportunities in the national forests; to the Committee on Energy and Natural Resources.

PACIFIC NORTHWEST NATIONAL FOREST ACT

Mr. GORTON. Mr. President, I rise today to introduce legislation that will provide a stable, permanent, and sustainable timber harvest from Federal lands in the Pacific Northwest while at the same time enhancing protection of old growth forests and recreational opportunities.

Last week, I visited with the families and workers in timber communities across Washington State. People in Colville and Omak, Darrington and Morton, Longview, Aberdeen, and Shelton, share the same frustrations. Families in these communities have built a way of life based on providing America with the forest products it needs for affordable housing, for paper, and for a thousand other uses. That way of life is now threatened.

The Thomas committee recommends that 8.4 million acres of Northwest timberlands be set aside and placed off limits to timber harvesting to protect the northern spotted owl; 8.4 million acres is a land mass about the size of New Jersey, Connecticut, and Rhode Island combined. The proposed set-asides represent more than half of Washington's national forest lands, and are designed to expand the number of spotted owl pairs from 1,465 to 2,000.

The Thomas plan would reduce the Northwest's annual timber harvest by 2.4 billion board-feet. That is enough timber to build 160,000 single-family American homes this year, next year and every year. And if the set-asides are adopted, 35,000 Northwest men and women will lose their jobs. The Governor of Washington estimates that nearly 20,000 Washingtonians will be among these unfortunate individuals.

What do 35,000 jobs mean to timber-dependent communities in Washington and Oregon? Listen to this letter I received from Travis Davis, a junior high student from Stevenson, WA.

With no logs, the mills will shut down and people will lose their jobs and move away. I'll probably be able to graduate here. But, what about the kids behind me? Is it right to make them move? If they do move, the community will eventually die * * * there must be a way to open the woods and protect the owl.

In Portland OR, the President recently said, and the Northwest congressional delegation agrees, that we must find a balance that protects important environmental values and preserves a stable timber supply. This legislation provides that balance.

Specifically, this bill will permanently set-aside an adequate portion of Northwest Federal forest lands to provide an annual harvest level of more than 3.5 billion board-feet. These timberlands will still be subject to regulations requiring replanting, stream protection, and will be managed so that generations to come can enjoy the benefits of timber jobs and renewable, biodegradable forest products.

In addition, this bill will increase the amount of old-growth forest land that is forever preserved to 5.3 million acres. A great portion of that is prime spotted owl habitat. Specifically, the bill provides for the additional protection of 1.8 million acres of old growth.

Finally, this bill will enhance recreation opportunities for citizens in our national forests.

We can and will save the spotted owl from extinction and we can and must preserve a way of life that provides

thousands of Northwest families their jobs and America its valuable forest products. It is the working families of these communities who sent me to represent them in the U.S. Senate. I will not walk away from them now. I will stand by their side and fight for their future.

By Mr. ROTH:

S. 2715. A bill to amend the International Organizations Immunities Act and title 28, United States Code, to restrict the jurisdictional immunity to which certain international organizations are entitled; to the Committee on the Judiciary.

RESTRICTING JURISDICTIONAL IMMUNITY FOR CERTAIN INTERNATIONAL ORGANIZATIONS

● Mr. ROTH. Mr. President, pursuant to the International Organizations Act of 1945, international organizations were granted the same immunity from suit and judicial process enjoyed by foreign governments. At that time, foreign governments generally enjoyed absolute immunity from suit and judicial process.

During the years since 1945, the degree of foreign governments' immunity has changed from absolute to restrictive. As I understand it, the primary feature of restrictive immunity is that a foreign government would still be immune from judicial process for its governmental and sovereign acts, but not for its commercial acts. Even though the immunity enjoyed by foreign governments has changed, the 1945 law has not been changed and the listed international organizations retain absolute immunity.

I have been contacted by officials from a domestic corporation which held contracts from an international organization. In seeking redress for a perceived commercial wrong, this constituent corporation was informed that the organization enjoyed absolute immunity from every form of judicial process.

I believe that restrictive immunity as defined above is in the best interest of domestic corporations who deal with international organizations. For this reason I am introducing a bill to amend the International Organizations Immunities Act and title 28, United States Code, to restrict the jurisdictional immunity to which certain international organizations are entitled.

Mr. President, I ask that this bill be printed in the RECORD in full.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(b) of the International Organizations Immunities Act (22 U.S.C. 288a) is amended—

(1) by inserting "(1)" immediately after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) For purposes of this subsection, the phrase 'same immunity from suit and every form of judicial process as is enjoyed by foreign governments' means the same immunity to which foreign states are entitled under sections 1605 through 1607 of title 28, United States Code.".

(b) Section 1603(a) of title 28, United States Code, is amended by inserting before the period the following: "or any international organization which is currently designated pursuant to section 1 of the International Organizations Immunities Act (except to the extent that the President has withheld, withdrawn, or otherwise limited the immunities to which such organization may be entitled)".

(c) The amendments made by subsections (a) and (b) shall apply to legal actions brought or judicial process served after the enactment of this Act.●

By Mr. CRANSTON (for himself and Mr. WILSON):

S. 2716. A bill to amend the Warren Act (Act of February 21, 1911, 43 U.S.C. 523 et seq.) to expand the purposes for which excess storage or carrying capacity in reclamation projects may be used, and for other purposes; to the Committee on Energy and Natural Resources.

WARREN ACT AMENDMENTS

Mr. CRANSTON. Mr. President, on behalf of Senator WILSON and myself, I introduce for appropriate reference a bill to amend the Warren Act to expand the purposes for which excess storage or carrying capacity in reclamation projects may be used. The bill is a companion to H.R. 3554 which was introduced in the House by Congressmen BOB LAGOMARSINO and NORM MINETA and has been included in H.R. 2567 reported by the House Committee on Interior and Insular Affairs.

The Warren Act, passed in 1911, authorizes the storage or conveyance of non-Federal irrigation water in Federal facilities if there is excess capacity. The rationale for this authorization is both pragmatic and beneficial. In many reclamation project areas, the Federal Government has built delivery and impoundment facilities which have capacities in excess of that needed for reclamation project uses alone. Moreover, in most cases, these facilities have been constructed in the most desirable locations. Absent the Warren Act, Federal reclamation project contractors who also have nonfederal water rights would have to build separate storage and conveyance facilities for the nonreclamation water. The Warren Act eliminates the need to build duplicative facilities.

However, the Warren Act, as originally enacted, does not address the use of Federal reclamation facilities if the water is used for municipal, industrial, domestic, or fish and wildlife purposes. This was consistent with the major uses of reclamation water at the time the Warren Act was passed. The act now needs to be updated to enable the Secretary of the Interior to execute contracts for other common reclamation project purposes today.

This amendment is particularly important as California copes with its fourth year of drought. Across the State, water-short communities have been seeking ways to increase their water supplies, including importing water from other areas. In Santa Clara County, for example, the local water district wishes to use the Federal San Felipe project to import supplemental water to combat the drought. Although the district was able to purchase an emergency water supply from the California Department of Water Resources for drought relief, the Bureau of Reclamation denied use of the Federal facilities to convey the water because the Warren Act does not permit such use for municipal water supplies.

Similarly, in Santa Barbara County, there is considerable interest in enlarging the Cachuma project, a Federal facility, to store water delivered to the county by the State of California for municipal use. However, such use of the Cachuma project could not occur without amendments to the Warren Act.

The legislation I am introducing today would provide appropriate amendments to the Warren Act to allow the impoundment, storage, and conveyance of non-project water for municipal, industrial, domestic, and fish and wildlife purposes in Federal facilities. With these changes in law, local water agencies would have more flexibility in managing their precious water supplies both short- and long-term. The bill also modifies existing language in the Warren Act to ensure that the provisions of the Warren Act regarding lands which may benefit from the use of Federal facilities are consistent with current reclamation law and any future modifications to that law.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That the first sentence of the first section of the Act of February 21, 1911 (43 U.S.C. 523; commonly known as the "Warren Act"), is amended by—

(1) striking out "lands to be irrigated under any project" and inserting in lieu thereof "water users then entitled to the delivery of water from a Federal reclamation project";

(2) striking out "lands and entrymen under the project," and inserting in lieu thereof "users of the Federal reclamation project, including fish and wildlife purposes,"; and

(3) inserting "and other water agencies" after "irrigation districts"; and

(4) inserting before the final period ", municipal, industrial, domestic, or miscellaneous purposes, including fish and wildlife purposes".

Sec. 2. The first sentence of the second section of such Act (43 U.S.C. 524) is amended by—

(1) inserting "other water agencies," after "irrigation districts,"; and

(2) inserting "other water agencies" before "water users' associations,".

Sec. 3. The second proviso in sectioin 2 of such Act is amended by—

(1) inserting "for irrigation uses" after "furnished"; and

(2) striking out "one hundred and sixty acres" and inserting in lieu thereof "that landowner's ownership entitlement under Federal reclamation law".

ADDITIONAL COSPONSORS

S. 318

At the request of Mr. JOHNSTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 318, a bill to facilitate the national distribution and utilization of coal.

S. 416

At the request of Mr. DOMENICI, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost-of-living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 421

At the request of Mr. FORD, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 421, a bill to amend the Petroleum Marketing Practices Act.

S. 640

At the request of Mrs. KASSEBAUM, the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 640, a bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 980

At the request of Mr. MITCHELL, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 980, a bill to amend the Internal Revenue Code of 1986 to improve the effectiveness of the low-income housing credit.

S. 1511

At the request of Mr. PRYOR, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1772

At the request of Mr. DECONCINI, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 1772, a bill to amend the Lanham Trademark Act of 1946 to protect the service marks of professional sports organizations from misappropriation by State lotteries.

S. 1878

At the request of Mr. GRAHAM, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 1878, a bill to amend title XIX of the Social Security Act to allow for State matching payments through voluntary contributions and State taxes.

S. 2044

At the request of Mr. BIDEN, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes.

S. 2048

At the request of Mr. SARBANES, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2048, a bill to provide for cost-of-living adjustments in 1991 under certain Government retirement programs.

S. 2051

At the request of Mr. PRYOR, his name was added as a cosponsor of S. 2051, a bill to amend the Social Security Act to provide for more flexible billing arrangements in situations where physicians in the solo practice of medicine or in another group practice have arrangements with colleagues to "cover" their practice on an occasional basis.

S. 2234

At the request of Mr. DASCHLE, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2234, a bill to extend the price support program for wool and mohair.

S. 2241

At the request of Mr. GRAHAM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2241, a bill to provide scholarships to law enforcement personnel who seek further education.

S. 2312

At the request of Mr. SYMMS, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 2312, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures.

S. 2491

At the request of Mr. PRESSLER, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 2491, a bill to provide a minimum State share for certain housing programs.

S. 2561

At the request of Mr. GORTON, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2561, a bill to amend the Controlled Substances Act with respect to the regulation of precursor chemicals.

SENATE JOINT RESOLUTION 274

At the request of Mr. LAUTENBERG, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of Senate Joint Resolution 274, a joint resolution to designate the week beginning June 10, 1990 as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 276

At the request of Mr. LIEBERMAN, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 276, a joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 283

At the request of Mr. CRANSTON, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from New York [Mr. MOYNIHAN], the Senator from Rhode Island [Mr. PELL], the Senator from New Mexico [Mr. DOMENICI], the Senator from Colorado [Mr. WIRTH], the Senator from Nevada [Mr. REID], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 283, a joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park.

SENATE JOINT RESOLUTION 308

At the request of Mrs. KASSEBAUM, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 308, a joint resolution to designate the month of June 1990, as "National Huntington's Disease Awareness Month."

SENATE JOINT RESOLUTION 317

At the request of Mr. LAUTENBERG, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Washington [Mr. ADAMS], the Senator from Texas [Mr. BENTSEN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Maryland [Mr. SARBANES], the Senator from North Carolina [Mr. SANFORD], the Senator from Nevada [Mr. REID], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Indiana [Mr. LUGAR], the Senator from Tennessee [Mr. SASSER], the Senator from Wisconsin [Mr. KASTEN], the Senator from Indiana [Mr. COATS], the Senator from Alaska [Mr. MURKOWSKI], the

Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Utah [Mr. HATCH], the Senator from Maryland [Ms. MIKULSKI], the Senator from Massachusetts [Mr. KERRY], the Senator from Vermont [Mr. JEFFORDS], the Senator from Ohio [Mr. METZENBAUM], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Florida [Mr. GRAHAM], the Senator from Mississippi [Mr. COCHRAN], the Senator from Michigan [Mr. LEVIN], the Senator from Nebraska [Mr. EXON], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from South Dakota [Mr. DASCHLE], the Senator from Ohio [Mr. GLENN], and the Senator from Montana [Mr. BURNS] were added as cosponsors of Senate Joint Resolution 317, a joint resolution to designate the week of October 14, 1990, through October 20, 1990, as "National Radon Action Week."

SENATE JOINT RESOLUTION 326

At the request of Mr. D'AMATO, the names of the Senator from Pennsylvania [Mr. HEINZ] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 326, a joint resolution to designate December 21, 1990, as a "Day of Observance for the Victims of Terrorism."

SENATE CONCURRENT RESOLUTION 104

At the request of Mr. BIDEN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Concurrent Resolution 104, a concurrent resolution expressing the concern of the Congress regarding the Birmingham Six, and calling on the British Government to reopen their case.

SENATE CONCURRENT RESOLUTION 113

At the request of Mr. GLENN, the names of the Senator from Tennessee [Mr. GORE], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Concurrent Resolution 113, a concurrent resolution expressing the sense of the Congress on international nuclear sales to South Asia.

SENATE CONCURRENT RESOLUTION 134

At the request of Mr. HEINZ, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of Senate Concurrent Resolution 134, a concurrent resolution expressing the sense of Congress concerning a 1991 White House Conference on Aging.

AMENDMENT NO. 1741

At the request of Mr. GRAHAM, the name of the Senator from Arizona [Mr. MCCAIN] was added as cosponsor of amendment No. 1741 intended to be proposed to S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

SENATE RESOLUTION 295—RELATIVE TO FLOOD PROTECTION IN THE TRINITY RIVER BASIN, TX

Mr. BENTSEN submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 295

Resolved, That the Secretary of the Army is directed to conduct comprehensive, basinwide examinations and surveys to be made for flood protection, environmental enhancement, and other allied purposes for the Trinity River Basin, Texas, with specific attention to those areas suffering losses in the floods of 1990. These examinations and surveys shall not impede the on-going review authorized by resolution of the Committee on Environment and Public Works of the United States Senate dated April 22, 1988, for the Upper Trinity River Basin.

● Mr. BENTSEN. Mr. President, spring floods have devastated many areas of my State this year.

I recently went to Liberty, TX to get a firsthand look at the flood damage and saw a Trinity River that was about 30 feet high—6 feet above flood stage—and 5 to 6 miles wide. Normally, the river is 200 feet wide at this point.

Fifty-four Texas counties have been declared disaster areas so far. The Federal Emergency Management Agency has received some 5,000 requests for help. The Red Cross tells me that more than 1,300 homes along the lower basin have been damaged or destroyed by the flood. A lot of people won't be returning to their homes or businesses for some time yet and when they do go back many will find desolation.

Mr. President, any natural disaster is tragic but the lingering effects of floods like this one are unique. An earthquake lasts a few seconds, a tornado a few minutes, a hurricane a few hours but the Trinity River will be overflowing its banks for many weeks yet. The river is expected to remain several miles wide on into the summer as floodwaters impounded behind dams upstream are gradually released.

In a sense, we Texans were fortunate that the situation wasn't worse. It would have been, but for flood control facilities already in place along the Trinity River. The U.S. Army Corps of Engineers reports that while the spring floods were devastating, those existing facilities prevented much more damage and heartache.

Mr. President, the Corps estimates flooding along the Upper Trinity River Basin caused damages of as much as $300 million and says an additional $2 billion in damages was prevented by flood control measures already in place. The Corps is still working on estimates for the Middle and Lower Trinity River Basins.

It's good that we have flood protection along the Trinity River but we obviously need more.

Mr. President, this resolution is intended to help us identify flood control strategies to alleviate this hardship we have seen in Texas. Flood control projects already in place on the Trinity paid for themselves almost five times over during this year's flood. They have, in fact, paid for themselves some 10 times over since they are built.

This resolution authorizes a sum of $900,000 for completion of the study. The Trinity River Authority has expressed a willingness to be the local sponsor.

Anyone who has witnessed the personal tragedies resulting from this year's flooding in Texas will understand the urgent need for action on my proposal. I'll be pushing for swift approval.

Mr. President, I urge the Environment and Public Works Committee to move with dispatch in approving this resolution.●

SENATE RESOLUTION 296—RELATIVE TO TAIWAN'S MEMBERSHIP IN THE GENERAL AGREEMENT ON TARIFFS AND TRADE

Mr. ROTH submitted the following resolution; which was referred to the Committee on Finance

S. RES. 296

Whereas on January 1, 1990, the Government of Taiwan formally requested the Secretariat of the General Agreement on Tariffs and Trade (GATT) to initiate the procedure necessary for its accession to the GATT;

Whereas the Government of Taiwan has applied for membership in the GATT as a separate customs territory under GATT Article XXXIII under the name "The Customs Territory of Taiwan, Penghu, Kinmen and Matsu", to ensure that its application includes only those areas where the Government of Taiwan currently possesses full autonomy in the conduct of its external commercial relations;

Whereas Taiwan is a significant participant in the global economy, being the thirteenth largest trading entity and maintaining the second largest foreign exchange reserves in the world, and is one of the last major market-based economies that is noticeably absent from the GATT;

Whereas the United States and Taiwan maintain an important bilateral trading relationship, with Taiwan being the fifth largest trading partner of the United States and the United States being the second largest exporter to Taiwan;

Whereas Taiwan has made substantial progress in its economic development, and has taken steps to open up its economy, including lowering its average tariff rates, reducing its barriers to foreign investment, and increasing its protection of intellectual property rights;

Whereas the United States supports additional action by Taiwan to provide full open market access to United States goods and services and to ensure that United States intellectual property rights are fully enforced, and the need for Taiwan to continue to make progress in these and other areas is to

the mutual benefit of the United States and Taiwan;

Whereas the GATT is the premier multilateral body for regulating trade worldwide, and the United States and 96 other contracting parties of the GATT are in the final stages of the Uruguay Round of multilateral trade negotiations, which is the most ambitious effort ever undertaken by the GATT to expand, strengthen and revitalize multilateral trade rules and principles;

Whereas the successful conclusion of the Uruguay Round will establish multilateral and enforceable disciplines in key areas affecting the bilateral trade between the United States and Taiwan, including the areas of services, intellectual property rights, and agriculture;

Whereas Taiwan currently adheres to the guiding principles of the GATT on a de facto basis, is expressly committed to assuming greater international economic responsibility by its willingness to accede to the GATT as a developed economy, and has indicated its desire to join formally with other GATT contracting parties in implementing the final results of the Uruguay Round; and

Whereas Taiwan's memberhsip in the GATT will foster the further liberalization of Taiwan's economy along GATT lines, will serve as an exemplary model for other developing countries, will allow key United States-Taiwan trade issues to be addressed in the multilateral context, and will contribute to the overall strengthening of GATT rules of trade and of the GATT as an institution: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the accession of Taiwan to the GATT is in the best economic interest of the United States and of the world trading system as a whole and should be achieved prior to the end of the Uruguay Round; and

(2) the Government of the United States should fully support Taiwan's accession to the GATT by calling for the favorable and immediate consideration of Taiwan's request for contracting party status at the next GATT Council meeting, and by taking any additional steps deemed necessary to assure Taiwan's prompt membership in the GATT.

● Mr. ROTH. Mr. President, on January 1, 1990, Taiwan formally began the process of seeking membership in the General Agreement on Tariffs and Trade [GATT]. This is a positive development for the world economy, and I am pleased to introduce today a resolution calling for the United States to strongly support Taiwan's request for accession to the GATT.

Just glancing at some basic economic facts offers a compelling case for Taiwan's GATT membership. For example, Taiwan is the 13th largest trading entity worldwide. Bilaterally, Taiwan ranks as the United States' fifth largest trading partner, representing our ninth largest export market, and our fourth largest source of imports. We are also Taiwan's primary foreign investor and trading partner—over 22 percent of Taiwan's imports originate in the United States. Clearly, such an important U.S. trading partner and key participant in the world economy should be part of our multilateral system of trade rules and principles.

Over the past few years, Taiwan has made remarkable progress in its economic development and has become, in many respects, an economic powerhouse. Central to Taiwan's economic growth and development has been its government's recognition of the critical role foreign trade plays in moving Taiwan up the scales of development toward a fully industrialized and competitive economy. While emphasis has been placed primarily on establishing health export sectors, over the recent past, there has been newly focused attention on greater liberalization of the domestic market. This has been accomplished through a variety of measures, such as lowering average tariff rates, reducing barriers to foreign investment, and improving the amount of protection afforded to intellectual property rights.

Opening up Taiwan's market is critical to enhancing United States export competitiveness, and, in fact, many of the steps Taiwan has taken so far on market access have been closely related to United States-Taiwanese bilateral trade talks and negotiations. Taiwan still has a ways to go in achieving a fully open market and its membership in the GATT would undoubtedly serve as a strong and positive force in propelling Taiwan in this direction. Taiwan has recognized this, as well, as a fundamental reason for joining the GATT.

There should be no doubt in anyone's mind that Taiwan's membership in the GATT is in the best interests of the United States and the world economy. This would be significant to the GATT as an institution as it would bring into its ambit the last major market-based economy. The current Uruguay Round and its key goal of extending GATT rules to services, intellectual property rights, and agriculture—three areas where Taiwan's economy still remains relatively closed—further magnify the importance of Taiwan's accession to this critical multilateral trade body.

At issue here are commercial, not political concerns. National sovereignty is not, and should not be, a requirement or even a condition for joining the GATT. In fact, under article XXXIII, accession to the GATT can be premised on a government having "a separate customs territory possessing full autonomy in the conduct of its external commercial relations * * *." To ensure this is absolutely clear, Taiwan has applied to the GATT under the name "The Customs Territory of Taiwan, Penghu, Kinmen and Matsu."

It is high time we started paying greater attention to our commercial interests. Strongly supporting Taiwan's accession to the GATT would be a right step in that direction. Taiwan's GATT membership will foster a fully open economy along GATT lines, which will in turn lead to greater United States exports to Taiwan. Interjecting a serious dose of multilateralism to Taiwan's global trade responsibilities will only help improve United States-Taiwan trade relations.

In this regard, it should be noted that Taiwan has indicated that it would like to join the GATT as a developed economy. This will strongly benefit the GATT institutionally and all of its members economically in light of the fact that GATT rules provide sweeping GATT-rule exemptions for developing countries. Taiwan will be the first newly industrialized economy to adopt developed economic status under the GATT, which would set an exemplary precedent for other developing countries to follow.

The resolution I am introducing here today recognizes that Taiwan's accession to the GATT is in our national economic interest and in the best interest of the world trading system, and that it should be accomplished prior to the end of Uruguay Round. To this end, my resolution calls on our Government to fully support Taiwan's GATT membership by raising it at the next GATT council meeting and by taking any additional steps necessary to assuring favorable consideration of Taiwan's accession request. One such step would be, in my view, raising this matter with the G–7 countries at the upcoming July Economic Summit.

I urge all my Senate colleagues to support this resolution, which I believe will assist Taiwan in its positive and constructive quest for becoming a full-fledged member of the GATT.●

SENATE RESOLUTION 297—DIRECTING AN APPEARANCE BY THE SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 297

Whereas, in *In The Matter of Provident Life and Accident Insurance Company,* No. Civ. 1-90-219, pending in the United States District Court for the Eastern District of Tennessee, the investigatory power of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288*l*(a) (1988), the Senate may direct its counsel to appear as amicus curiae in the name of a subcommittee of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs in *In The Matter of Provident Life and Accident Insurance Company,*

and in any related litigation, to defend the investigatory power of the Subcommittee.

AMENDMENTS SUBMITTED

CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

WIRTH AMENDMENT NO. 2003

(Ordered to lie on the table.)

Mr. WIRTH submitted an amendment intended to be proposed by him to amendment No. 1975 intended to be proposed by him to the bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes, as follows:

In lieu of the matter proposed to be added, add the following:

SEC. . FULL FUNDING OF INVESTIGATION AND PROSECUTION OF FINANCIAL INSTITUTION CRIMES.

(a) FINDINGS.—The Senate finds that—

(1) fraud and other criminal activity contributed significantly to the savings and loan industry's losses and will cost taxpayers billions of dollars;

(2) Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of savings and loan failures can be attributed to criminal activity by the institution's officers and management;

(3) officials at the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions the corporation has seized "have been victimized by serious criminal activity";

(4) investigating and prosecuting criminal activity related to the savings and loan crisis will help send an important message of "never again" to those involved in the financial industry;

(5) the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 authorized $75,000,000 annually for 3 years to investigate and prosecute financial institution crimes;

(6) the President requested only $50,000,000 of that authorization on behalf of the Department of Justice for the current fiscal year;

(7) Federal Bureau of Investigation and United States Attorneys' offices requested 224 more special agent positions, 113 more assistant United States attorney positions, and 142 more support staff positions than the agencies received as a result of the $50,000,000 in new funding;

(8) the Federal Bureau of Investigation has received more than 20,000 referrals involving fraud in the financial services industry that the Bureau has been unable to examine, more than 1,000 of which are major cases that involve losses of more than $100,000;

(9) as of February 1990, the Bureau also had more than 7,000 pending bank fraud and embezzlement cases, some 3,000 of which were major cases;

(10) more than 900 pending cases and more than 200 unaddressed referrals involve losses greater than $1,000,000;

(11) regulators will examine and close more insolvent institutions, and the Department of Justice will receive thousands more referrals of possible criminal activity related to savings and loan failures, increasing the workload for Federal investigators and prosecutors;

(12) the passage of time makes investigation more difficult and expiring statutes of limitation could allow serious crimes to go unpunished if investigation and prosecution is delayed; and

(13) the current level of resources devoted to investigating and prosecuting fraud and criminal activity within the financial services industry is inadequate to address the crimes that contributed to the losses of savings and loan associations.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President should, at a minimum, seek the full $75,000,000 authorized for the Department of Justice for fiscal year 1991 to pursue the investigation and prosecution of financial institution crimes; and

(2) the President should allocate additional resources as necessary to ensure that criminal activity that contributed to losses to the Federal deposit insurance funds is investigated and prosecuted to the fullest practicable extent.

HATCH AMENDMENTS NOS. 2004 THROUGH 2008

(Ordered to lie on the table.)

Mr. HATCH submitted five amendments intended to be proposed by him to an amendment intended to be proposed to the bill S. 1970, supra, as follows:

AMENDMENT No. 2004

At the end, add the following:

"Notwithstanding any other provision, none of the provisions of this Act dealing with assault weapons shall become effective.".

AMENDMENT No. 2005

At the end, add the following:

Strike on page 46, line 15, through page 53, line 5, and insert in lieu thereof the following:

TITLE IV—FIREARMS AND RELATED AMENDMENTS

SEC. 401. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 10 or more than 20 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 20 years, fined under this title, or both.".

SEC. 402. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant refrain from possessing a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

AMENDMENT No. 2006

At the end add the following:

Strike on page 52, line 25, beginning with "be" through page 53, line 5, and insert in lieu thereof "not be effective.".

AMENDMENT No. 2007

At the end, add the following:

Strike on page 46, line 15, through page 53, line 5, and insert in lieu thereof the following:

TITLE IV—FIREARMS AND RELATED AMENDMENTS

SEC. 401. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g) and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 20 or more than 30 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 30 years, fined under this title, or both.".

SEC. 402. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

AMENDMENT No. 2008

At the end, add the following:

Strike on page 46, line 15, through page 53, line 5, and insert in lieu thereof the following:

TITLE IV—FIREARMS AND RELATED AMENDMENTS

SEC. 401. PENALTIES FOR IMPROPER TRANSFER, STEALING A FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(j) Whoever steals any firearm which is moving as, or is part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 15 or more than 30 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 30 years, fined under this title, or both.".

SEC. 402. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

KENNEDY AMENDMENT NO. 2009

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to amendment No. 1975 intended to be proposed by Mr. WIRTH to the bill S. 1970, supra, as follows:

In lieu of the matter proposed to be inserted by the amendment, insert the following:

(a) DEPORTATION OF ALIENS CONVICTED OF CRIMES OF VIOLENCE.—Section 241(a)(4) of the Immigration and Nationality Act is amended by striking the word "or" the last time it appears and inserting at the end the following: "or (C) is convicted of a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) and who has served any term of imprisonment imposed by a court of at least one year;"

(b) REENTRY OF DEPORTED ALIENS.—Pursuant to its authority under section 994(b) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1325) shall be assigned an offense level under chapter 2 of the sentencing guidelines that constitutes a meaningful deterrence to the commission of such offense.

SIMPSON (AND KENNEDY) AMENDMENT NO. 2010

(Ordered to lie on the table.)

Mr. SIMPSON (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by them to amendment No. 1755 intended to be proposed by Mr. HATCH to the bill S. 1970, supra, as follows:

In lieu of the matter proposed to be inserted by the amendment, insert the following:

"SEC. . SPECIAL VISAS.

"Chapter 2 of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by adding at the end the following new section:

"'SEC. 219. SPECIAL VISAS FOR NATIONAL SECURITY AND RELATED PURPOSES.

"'(a) NATIONAL SECURITY.—Subject to subsection (c), permanent residence may be granted to aliens who are determined eligible under section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) or under section 4 of the Atomic Weapons and Special Nuclear Materials Rewards Act (50 U.S.C. 47c).

"'(b) MAJOR CRIMINAL PROSECUTIONS AND INVESTIGATIONS.—If the Attorney General, The Director of the Federal Bureau of Investigation, and the Commissioner of the Immigration and Naturalization Service determine that the granting of permanent residence to a particular alien is essential to United States public safety or necessary to protect the life of an individual who has provided extraordinary cooperation to Federal law enforcement (including cooperation in the prosecution of drug kingpins), such permanent residence may be granted to such alien (and to such alien's immediate family), subject to subsection (c).

"'(c) LIMITATIONS.—(1) The number of aliens and members of their immediate families entering the United States under this section my not exceed 100 persons in any one fiscal year.

"'(2) Aliens granted benefits under this section may enter without regard to their admissibility under this Act, except that no alien may receive the benefits of this section if the Attorney General determines that such alien has committed an aggravated felony.

"'(3) The Attorney General shall terminate the benefits described in subseciton (b) at any time during the first three years after which an alien has been granted such benefits if the alien does not continue to provide the cooperation promised to federal law enforcement authorities.'".

AIR TRAVEL RIGHTS FOR BLIND INDIVIDUALS ACT

SPECTER AMENDMENTS NOS. 2011 AND 2012

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to amendment No. 2000 proposed by Mrs. KASSEBAUM to the bill (S. 341) to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel, as follows:

AMENDMENT No. 2011

SECTION 1. In section 107(a)(1), strike "twenty" and insert in its place "thirty-five".

SEC. 2. In section 107(a)(2), strike "twenty" and insert in its place "thirty-five".

SEC. 3. Strike section 112.

SEC. 4. Renumber section 113 as 112, section 114 as 113, and section 115 as 114.

AMENDMENT No. 2012

Section 1. Strike all beginning with section 107(a)(1) and insert the following:

(1) Thirty-five years from—

(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such an aircraft; or

(2) with respect to any system, component, subassembly, or other part which replaced another product in, or which was added to, the aircraft, and which is alleged to have caused the claimant's harm. Thirty-five years from the date of the replacement or addition.

(b) subsection (a) of this section does not apply in the case of harm to a claimant which occurs after the period set forth in subsection (a) of this section if the general aviation manufacturer or the seller of the product that caused the claimant's harm gave an express warranty that the product would be suitable, for the purpose for which it was intended, for a longer period of time.

(c) Nothing in this section shall be construed to affect a person's duty to provide, after the sale or lease of an aircraft, to air-

craft owners, and to repair facilities to which a license or certificate to perform repairs has been issued by the Administrator, additional or modified warnings or instructions regarding the use or maintenance of such aircraft or any system, component, or other part of such aircraft.

SUBSEQUENT REMEDICAL MEASURES

SEC. 108. In any general aviation accident liability action governed by this title, evidence of any measure taken after an event which, if taken previously, would have made the event less likely to occur is not admissible to provide liability. Such evidence is admissile to the extent permitted under rule 407 of the Federal Rules of Evidence.

ADMISSIBILITY OF CERTAIN EVIDENCE

SEC. 109. In an action governed by this title, evidence of Federal, State, or local income tax liability or any Social Security or other payroll tax liability attributable to past or future earnings, support, or profits and the present value of future earnings, support, or profits alleged to have been lost or diminished because of harm arising out of a general aviation accident is admissible regarding proof of the claimant's harm.

PUNITIVE DAMAGES

SEC. 110. (a) Punitive damages may be awarded in an action under this title for harm arising out of a general aviation accident only if the claimant establishes by clear and convincing evidence that the harm suffered was the direct result of conduct manifesting a conscious flagrant indifference to the safety of those persons who might be harmed by use of the general aviation aircraft involved.

(b) Evidence regarding the financial worth of a defendant or the defendant's profits or any other evidence relating solely to a claim for punitive damages under this title is not admissible unless the claimant establishes, before any such evidence is offered, that the claimant can present evidence that will establish prima facie proof of conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by use of the general aviation aircraft involved.

(c) In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages pursuant to the provisions of this title regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

TIME LIMITATION ON BRINGING ACTIONS

SEC. 111. (a) Any action for harm arising out of a general aviation accident shall be barred, notwithstanding any State law, unless—

(1) the complaint is filed within two years after the date on which the accident occurred which caused the claimant's harm; and

(2) the summons and complaint are properly served upon the defendant within one hundred and twenty days after the filing of such complaint, unless the party on whose behalf such service is required can show good cause why such service was not made within such one-hundred-and-twenty-day period.

Paragraph (2) of this subsection shall not apply to service of process in a foreign country pursuant to rule 4(1) of the Federal Rules of Civil Procedure or any similar State law.

JURISDICTION

SEC. 112. (a) The district courts of the United States, concurrently with the State courts, shall have original jurisdiction, without regard to the amount in controversy. In all civil actions for harm arising out of a general aviation accident and in all actions for indemnity or contribution described in section 106(d) of this title.

(b) A civil action which is brought in a State court may be removed to the district court of the United States for the district embracing the place where the action is pending, without the consent of any other party and without regard to the amount in controversy, by any defendant against whom a claim in such action is asserted for harm arising out of a general aviation accident.

(c) In any case commenced in or removed to a district court of the United States under subsection (a) or (b) of this section, the court shall have jurisdiction to determine all claims under State law that arise out of the same general aviation accident, if a substantial question of fact is common to the claims under State law and to the Federal claim, defense, or counterclaim.

(d)(1) A civil action in which the district courts of the United States have jurisdiction under subsection (a) of this section may be brought only in a district in which—

(A) the accident giving rise to the claim occurred; or

(B) any plaintiff or defendant resides.

(2) In an action pending in a district court of the United States under paragraph (1) of this subsection, a district court may, on motion of any party or its own motion, transfer the action to any other district for the convenience of parties and witnesses in the interest of justice.

(3) For purposes of this subsection, a corporation shall be considered to be a resident of any State in which it is incorporated or licensed to do business or is doing business.

SEVERABILITY

SEC. 113. If any provision of this title or the application of the provision to any person or circumstance is held invalid, the remainder of this title and the application of the provision to any other person or circumstance shall not be affected by such invalidation.

EFFECTIVE DATE

SEC. 114. (a) This title shall apply to any civil action for harm arising out of a general aviation accident which is filed on or after the date of enactment of this title,

(b) If an action governed by this title is filed within one hundred and eighty days after the date of enactment of this title, liberal leave shall be given to a party to amend any pleading, motion, statement of jurisdiction or venue, or other matter to conform to the provisions of this title.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 7, 1990, at 2 p.m. to receive testimony on the strategic defense initiative in review of S. 2171, the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, June 7, 1990, at 9:30 a.m., to hold a hearing on club membership of judicial nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, June 7, 1990, at 10 a.m. to conduct a hearing on the nomination of Joseph G. Schiff to be an Assistant Secretary of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TOXIC SUBSTANCES, ENVIRONMENTAL OVERSIGHT, RESEARCH AND DEVELOPMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 7, beginning at 3 p.m., to conduct a markup of S. 1893, to reauthorize the Asbestos School Hazard Abatement Act of 1984 [ASHAA].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. BIDEN. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on oversight of VA prosthetics and special-disabilities programs on Thursday, June 7, 1990, at 9:30 a.m. in SR-418.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 7, 1990, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate of June 7, 1990, at 10 a.m. to hold a hearing on S. 2411, the Textile Apparel and Footwear Trade Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on June 7, 1990, beginning at 9:30 a.m., in 485 Russell Senate Office Building, for a hearing on S. 2340, the Indian Children's Services and Family Violence Prevention Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 7, at 2:30 p.m. to hold an ambassadorial nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 7, at 10 a.m. to hold a business meeting to mark up the supplemental state authorization and to act on other pending business.

AGENDA

The Committee will consider and vote on the following business items:

I. LEGISLATION

(1) An original Committee bill to provide supplemental authorization of appropriations for fiscal year 1991 for the Department of State.

(2) S. Con. Res. 124, expressing the sense of the Congress regarding human rights violations against the Albanian ethnic minority in southern Yugoslavia.

(3) S. Con. Res. 60 (as amended), expressing the sense of the Senate that an impartial investigation of all alleged sightings of Raoul Wallenberg since 1947 be made.

(4) S. 1941 (with a technical amendment), to implement the obligations of the U.S. under the Inter-American Convention on International Commercial Arbitration.

(5) S. Con. Res. 126, calling for a continuation of the moratorium on commercial whaling until the year 2000.

(6) S. Res. 293, concerning Polish debt reduction.

(7) S. Con. Res. 137, expressing the sense of Congress that the 1990 Nuclear Non-Proliferation Treaty (NPT) Review Conference should reaffirm the support of the parties for the objectives of the NPT, in particular preventing the spread of nuclear weapons to additional countries.

II. NOMINATIONS

(1) Mr. Charles H. Thomas, of Maryland, to be Ambassador to the Republic of Hungary.

(2) Mr. Steven E. Steiner, of Maryland, for the rank of Ambassador during his tenure of service as U.S. Representative to the Special Verification Commission.

(3) Mr. E.U. Curtis Bohlen, of Maine, to be Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

(4) Mr. Paul C. Lambert, of New York, to be Ambassador to the Republic of Ecuador.

(5) Mr. Malcolm S. Forbes, Jr., of New Jersey, to be a Member of the Board for International Broadcasting, for a term expiring April 28, 1992. (Reappointment)

(6) Mr. Don M. Newman, of Indiana, for the rank of Minister during his tenure of service as U.S. Representative on the Council of the International Civil Aviation Organization.

(7) Mr. Freank D. Yturria, of Texas, to be a Member of the Board of Directors of the Inter-American Foundation for a term of six years. (New Position)

(8) Mr. Norton Stevens, of New York, to be a Member of the Board of Directors of the Inter-American Foundation for a term of six years. (New Position)

(9) Mr. Alan Philip Larson, of Virginia, to be the U.S. Representative to the Organization for Economic Cooperation and Development, with the rank of Ambassador.

(10) Mr. James Keough Bishop, of New York, to be Ambassador to the Somali Democratic Republic.

(11) Mr. Peter Jon de Vos, of Florida, to be Ambassador to the Republic of Liberia.

(12) Mr. Dane Farnsworth Smith, Jr., of New Mexico, to be Ambassador to the Republic of Guinea.

(13) Foreign Service Officers' promotion list, dated May 18, 1990, Mr. Emilio Iodice, et.al.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 7, 1990, at 10:30 a.m., room SR-253, to consider S. 1880, the Cable Television Consumer Protection Act of 1989 (Tom Cohen, Toni Cook).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, June 7, for a markup on the following legislative items: S. 1742, the Federal Information Resources Management Act; S. 2608, Inspector General Act amendment to clarify authority; S. 677, to amend the Arctic Research and Policy Act of 1984 to improve and clarify its provisions; H.R. 2514, Thrift Plan Technical Amendments Act of 1990; and S. 485, the White House Conference on Homelessness Act; and the nomination of Pamela Talkin, to be member of the Federal Labor Relations Authority.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMEMORATING THE FIRST ANNIVERSARY OF THE TIANANMEN SQUARE MASSACRE

● Mr. BUMPERS. Mr. President, Monday, June 4, marked the first anniversary of the Tiananmen Square massacre. It is a day that will endure in our collective conscience as a brutal reminder to all people that freedom is a gift to be cherished, not a thing to be ignored. For us, the images that the word freedom bring to mind are ingrained deeply in the American soul, creating broad mental landscapes which constitute the entire sum of the American experience.

But for the people of China, freedom is something that exists only as a dream, tangible without being real. It is desired by a people who innately understand its virtues, yet have not had the chance to experience firsthand the opportunities that freedom brings. What the people of China were denied that fateful day in Tiananmen Square was the fundamental right of self-determination; a moral absolute that is as clear and as true as anything I know. And it is because we are dealing with a moral absolute that I believe the United States has the obligation to let the world know that we have an unwavering commitment to those rights with which all people are endowed.

From Czechoslovakia to Mongolia, people all over the Communist world are asserting their right of self-determination, and in China that right has been violently quashed. People everywhere are saying they will no longer allow governments to treat them as an enemy, or support a government which they consider to be their enemy. It is a revolution that only a year ago was beyond anyone's wildest dreams. And yet, last spring, the people of China blazed a trail that would be followed by the rest of the Communist world.

I believe the United States should never be afraid to stand as a leader among nations whenever tyranny raises its ugly head. Sadly, I believe that President Bush has failed in his role as the leader of the worldwide freedom movement; a leader to whom those struggling for freedom turn. He has made feeble promises to the brave revolutionaries who dared to risk their lives for freedom, but he has rewarded China by restoring its most-favored-nation status. What kind of signal is being sent to the students and workers of China who rallied around Lady Liberty in Tiananmen Square only a year ago?

The Bush policy is fatally flawed because it refuses to see that China's gerontocracy will soon fade from this Earth, and will become only a painful

memory to all those who were forced to live under its oppressive rule. The youthful democratic revolutionaries on the other hand will continue to press for reform, and will ultimately become the leaders of their nation. I am convinced that the democratic movement in China will continue to look to America as an example of democracy in spite of the Bush administration's policy, and it is my belief that the democratic movement in that country will ultimately prevail.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $3.3 billion in budget authority, and over the budget resolution by $4.2 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $114.8 billion, $14.8 billion above the maximum deficit amount for 1990 of $100.0 billion.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, June 6, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1990 and is current through June 5, 1990. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 Concurrent Resolution on the Budget (H. Con. Res. 106). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated May 21, 1990, the President has signed into law the Dire Emergency Supplemental Appropriations Bill (P.L. 101-302). This action increased the current level estimate of budget authority and outlays.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer, Director).

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 101ST CONG., 2D SESS., AS OF JUNE 5, 1990

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 106	Current level +/− resolution
Budget authority	1,326.1	1,329.4	−3.3
Outlays	1,169.4	1,165.2	4.2
Revenues	1,060.3	1,065.5	−5.2
Debt subject to limit	3,063.9	3,122.7	−58.8
Direct loan obligations	19.1	19.3	−.2
Guaranteed loan commitments	115.1	107.3	7.8
Deficit	114.8	[2] 100.0	[3] 14.8

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 106. In addition, estimates are included of the direct spending effects for all entitlements or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with Sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] Maximum deficit amount [MDA] in accordance with section 3(7)(E) of the Congressional Budget Act, as amended.

[3] Current level plus or minus MDA.

THE CURRENT LEVEL REPORT, 101ST CONG., 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS JUNE 5, 1990

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			1,068,600
Permanent appropriations and trust funds	954,917	791,226	
Other legislation	639,255	638,374	566
Offsetting receipts	−237,825	−233,738	
Total enacted in previous sessions	1,356,347	1,195,862	1,069,166
II. Enacted this session:			
Dire emergency supplemental appropriations (Public Law 101-302)	2,293	666	
An act making technical amendments to title 5, United States Code (Public Law 101-303)		−1	
Total enacted this session	2,293	665	
III. Continuing resolution authority:			
IV. Conference agreements ratified by both Houses:			
Amtrak Reauthorization and Improvement Act (H.R. 2364)	−10		−10
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution:			
Salaries of judges	−8	1	
Payment of judicial officers' retirement fund	−4	−4	
Judicial survivors' annuities fund	−3	−3	
Fees and expenses of witnesses	−5		
Justice assistance	−4		
Fisherman's guaranty fund	1	1	
Administration of territories	−1		
Firefighting adjustments	−1,057	−192	
Federal unemployment benefits [FUBA]	5		
Advances to unemployment trust fund	(48)	(48)	
Special benefits	−24		
Black Lung disability trust fund	52	32	
Vaccine improvement program trust fund	7	7	
Federal payments to railroad retirement	1	1	
Retirement pay and medical benefits	−4		
Supplemental security income program	263	263	
Special benefits, disabled coal miners	21		
Grants to states for Medicaid	−907		
Payments to health care trust funds	(325)	(325)	
Family support payments to States	84	84	
Payments to states for AFDC work programs	15	15	
Payments to states for foster care	−83		
Health professions student loan insurance fund	−25	−7	
Guaranteed student loans		−175	
College housing and academic facilities loans	−3	−3	
Rehabilitation services	−79		
Payments to widows and heirs	(1)	(1)	
Reimbursement to the rural electrification fund	111	111	
Dairy indemnity program	(1)	(1)	
Conservation reserve program	720		
Special milk program	−2		
Food stamp program	−2,000		
Child nutrition programs	−74		
Federal crop insurance corporation fund	(1)		
Agriculture credit insurance fund	342		
Rural housing insurance fund	(1)		
Rural communication development fund	(1)		
Payments to the farm credit system financial assistance corporation	−2		
Coast Guard retired pay	−17		
Payment to civil service retirement	(84)	(84)	
Government payments for annuitants	−3	−2	
Readjustment benefits	−62		
Compensation	258	208	
Pensions	−62		
Burial benefits	−4		
Loan guaranty revolving fund	−7		
Disaster relief	−4,100	−883	
Total entitlement authority	−3,834	−371	
VI. Adjustment for economic and technical assumptions	−28,685	−26,763	−8,900
Total current level as of June 5, 1990	1,326,120	1,169,393	1,060,256
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution		4,193	
Under budget resolution	3,280		5,244

[1] Less than $500,000.

Notes.—Numbers may not add due to rounding. Amounts shown in parentheses are interfund transactions that do not add to totals.●

THE CONFLICT IN KASHMIR

● Mr. WILSON. Mr. President, recent tensions in the State of Jammu and Kashmir have once again brought India and Pakistan to the threshold of war. Riots have broken out, curfews have been imposed, and death tolls continue to mount on both sides. While the leaders of India and Pakistan have both indicated a desire to end the violence, peace in this region seems ever more remote.

The tiny State of Jammu and Kashmir, bounded on the west by Afghanistan and Pakistan, and on the east by China, remains the seat of a conflict regional in its dimensions but potentially international in scope. Since 1947, disputes over Jammu and Kashmir have already caused two wars between India and Pakistan. But another Indo-Pakistani battle could escalate into a world tragedy because both countries now possess lethal technological weapons.

It is highly unfortunate that this issue has rekindled animosities between two democratically elected governments in the strategic southern cone of Asia.

Continued violence and stalemate in Jammu and Kashmir can only undermine the stability of each nation—one trying to solve its own internal ethnic disputes, and the other struggling to move out from under the shadow of dictatorship.

Although recent history would discourage us from hoping for a peaceful resolution of Jammu and Kashmir problems, the United States cannot afford to sacrifice hope or consign the innocent civilians of this region to a fate of protracted war.

Our diplomats must seize upon the glimmers of hope that have emerged and try to transform them into enduring commitments between India and Pakistan.

Both sides have already stated that they do not want war if they can avoid it.

Both sides have already proposed democratic solutions for Jammu and Kashmir that while different in form, are similar in principle.

Both sides have already denounced extremists who would murder their way into power.

And most importantly, Mr. President, both sides have compelling interests in achieving a settlement of this crisis without taking up arms against each other.

America, in this case, must become the radical defender and ambassador of peace. Our moral and political responsibilities compel our Nation—which has assisted in fostering new experiments in self-determination all over the world—to do nothing less for the people of Jammu and Kashmir.●

TRIBUTE TO CITIZENS OF BURKE COUNTY, NC, ON ORGANIZING DRUG SUMMIT

● Mr. SANFORD. Mr. President, I rise today to recognize and applaud the efforts of the citizens of Burke County, NC, for organizing the drug summit being held tonight in the Morganton City Hall. During the course of this antidrug program, members of the education, human services, law enforcement, government, and business sectors will gather for a frank discussion on the drug problem in Burke County.

The young people of our Nation are those more vulnerable to the current drug epidemic that has touched, in some way, nearly every community in America. Each day offers a new challenge in our fight to discourage drug use among our youth. For this reason, the residents of Burke County acknowledge that it is up to the parents and the entire community to educate the children about the dangers of drugs and to take the time to offer guidance to those who are confronted with the temptation of drug use.

Those attending the drug summit tonight will hear the testimony of three Burke County citizens who deal daily with the drug crisis. Two of these residents offer their services to the youth of the community through counseling programs, while another is a University of North Carolina student who grew up in public housing and has witnessed the effects of drugs in the lives of those around her. The dialog between the residents and the witnesses will result in an honest assessment of the dangers of drug abuse. Emphasis will be placed on the need for parents and guardians to serve as role models for the youth. Role models should demonstrate by example that, despite the hardships that befall a person throughout life, people can and do find resolutions to their problems without turning to drugs.

What is happening tonight in Burke County, NC, is an excellent example of how community groups and families should be working together to fight back against drug abuse. This forum emphasizes that the family is at the very core of the solution to the drug problem, and that our children must have community role models to emulate and respect.

I commend the mayor of Morganton, Mr. Mel Cohen, and the mayor of Valdese, Mr. Jimmy Draughn, and all those who were instrumental in organizing the drug summit in Burke County. I support their efforts and I hope that many more such summits take place across North Carolina and across the Nation.●

TRIBUTE TO ESTHER LANDA

● Mr. HATCH. Mr. President, I wish to draw the attention of my colleagues and the Nation to the well-deserved tribute to one of my distinguished constituents, a septuagenarian who has not slowed down with age but rather has increased her pace and has become a rallying symbol for others to emulate. I refer to Esther Rosenblatt Landa, who, on Saturday, June 9, 1990, will be honored by her fellow citizens of all persuasions for her decades of service to her native State and Nation. Consistent with her range of human endeavor, the proceeds of this tribute to Mrs. Landa will benefit Salt Lake City's new Homeless Children's Foundation and the National Council of Jewish Women, the oldest national Jewish women's organization in America.

Esther R. Landa, a native Utahn, inspires all who have crossed her path and the multitude who have been galvanized by her agility to advance human welfare. Esther, as she is affectionately known to old and young throughout my State, is a powerhouse of energy, perseverance, and idealism. She never shies away from leadership positions, which stand as a testament to the courage and capacity of her loving, generous, and indomitable spirit.

From 1975 to 1979, Esther was the national president of the National Council of Jewish Women. She also served on the President's Committee for a National Agenda for the 1980's, the President's Advisory Committee on Women, and as a member of the U.S. delegation to the U.N. Mid-Decade Conference for Women in Copenhagen. Among others academic affiliations, Esther maintains membership on the advisory council of the University of Utah's School of Social Work. She was among the underwriters of one of the leading women's newspapers and networks and has received numerous rewards and citations from dozens of organizations across the Nation.

The Homeless Children's Foundation was recently founded in Salt Lake City by Marilyn Treshow, executive director; Susan Hill, project director; Wally Sandack, attorney; and Diane Bohling, Suzanne Smith, Kathleen Mallory-Byers serve as members of the board. The foundation provides an early childhood learning program for children living in poverty. The Homeless Children's Foundation provides much-needed day care/preschool for homeless children ages 3-5. The goal of the project is to show the importance of early intervention in promoting children's positive attitudes toward learning and to demonstrate Utahns' commitment to educational accessibility for all children.

With her late husband, Jerry Landa, Esther raised three children in Salt Lake City and is the grandmother of five grandchildren. Her daughter, Carol Landa, M.P.A., is now teaching in San Francisco, CA; her son, Howard, and daughter-in-law, Theresa Landa, retain the family lineage in Salt Lake City. Her daughter Terry with her husband Ray Vismantas reside in Highland Park, IL. Esther is fond of saying, "Jerry and I have strived all our lives to provide our children, grandchildren, and succeeding generations with a legacy of service that will endure and survive the vicissitudes of life."

I hope my colleagues and the Nation will join me in saluting this great American during the tribute being paid to her by her fellow citizens on Saturday, June 9, 1990, and wishing her many more years of humane entrepreneurship.●

HEALTH CARE FINANCE FLEXIBLE BILLING

● Mr. PRYOR. Mr. President, I am pleased to add my name to Senator HEFLIN's bill, S. 2051. This legislation provides for more flexible billing arrangements in situations where physicians have arrangements with col-

leagues to cover their practice on an occasional basis. The Health Care Financing Administration plans to strictly enforce "reassignment prohibition" which would require covering physicians to bill their colleagues' patients for any services rendered, unless the physician is the employer.

Mr. President, I applaud the efforts of the Health Care Financing Administration to monitor fraudulent practices of providers. I recognize that the law Health Care Financing Administration intends to enforce more strictly is a meausre to protect against fraudulent billing practices. Logic tells us that Medicare should not reimburse a physician for care not delivered by that physician. As chairman of the Senate Special Committee on Aging, I am deeply concerned about protecting the Medicare Program from fraud and abuse.

At the same time, I am concerned about attracting and keeping qualified health care providers in rural areas. In this case, I am particularly concerned about the impact the strict enforcement of reassignment prohibition may have on physicians practicing in rural areas. Many physicians in rural areas rely on a reciprocal call arrangement for needed time away from their practice.

We must ensure that we do not have overly burdensome regulations, while maintaining sufficient checks on fraudulent activities. It is with this in mind that I look forward to working with Senator HEFLIN, my colleagues and the Health Care Financing Administration to achieve this goal. Although there has been some discussion that the bill does not strike a perfect balance between prevention against fraud and flexibility for physicians, I believe it represents an important first step. I urge my colleagues to join us in this effort to strike this balance.●

COLUMBUS: COUNTDOWN 1992

Mr. D'AMATO. Mr. President, I rise today in order to offer my support for Columbus: Countdown 1992 which is a nonprofit education foundation.

I am sure that all are aware of the upcoming quincentennial of Christopher Columbus' voyage to the United States. Columbus' determination to overcome the many obstacles facing him allowed him to discover America. This in turn spurred the immigration that made our country the great place it is today.

Many festivities have been planned to honor this remarkable celebration. One such commemoration is a year long event sponsored by Columbus: Countdown 1992. The celebration is to begin October 1, 1991, and last through December 31, 1992. The official title of the event will be, "The Multi-Ethnic Legacy of Columbus: A Quincentenary Celebration." The activities planned range from lectures, to readings, special television showings, and art exhibits. Participants of this extraordinary event include the multiethnic community of New York City, embassies, foreign governments, and universities.

This proves to be a most memorable celebration and one which has been well-planned. It is my hope that this project will be very successful.●

SCOUTS, WITH HELP OF BUSINESS AND OTHERS, BUILD CAMPGROUND

● Mr. BAUCUS. Mr. President, I am pleased to tell the Senate about a project that exemplifies civic responsibility and occurred in my home State of Montana.

On August 11, 1989, 45 Varsity Scouts/Explorers met with 28 adult leaders at Kreis Pond, Ninemile Ranger District in the Lolo National Forest. By 4 that afternoon, they had constucted the following: A new $40,000 campground, complete with eight heavy plank picnic tables, fire circles, tent pads, barriered parking spurs, a picnic area, two restrooms, and a section of access road. In addition to those remarkable accomplishments, they built 1 mile of trail.

This project came about after 4 months of planning, involving nearly 100 teens and 50 adults. District Ranger Greg Munther worked closely with local Scout leaders in putting the project together. Chuck Spoon, program officer in charge of recreation at Lolo, was also very helpful.

The prefabrication work would not have been possible without the innovative partnership between the Boy Scouts of America and the Lolo National Forest. In addition, 45 businesses in the area donated supplies, equipment, building materials, services, money, and food for the crews. The Scouts raised money through washing cars and other projects to meet the costs of the planks and timber needed for the tables.

At the camp site, local contractors brought in a dozer-tractor, backhoes, dump trucks, a boom truck, and a flatbed trailer—along with operators to run them. The machinery helped a lot, but much of the project was accomplished through good old manual labor.

In addition to the benefits area residents will get from the facility, the project has accomplished an even more important goal: Fostering cooperation between teen groups and adults.

The opportunity to work side by side was beneficial for both the Scouts and the adults. I am sure both groups learned a great deal from each other and I hope they'll continue to work together.

I commend these Scouts, their leaders, and all others involved in this project for their excellent accomplishment. In particular, Ranger Munther, Officer Spoon, Mullan Trail District Chairman Jack W. Piippo, church organizer Wynn Hubrich, Varsity Scout Commissioner Lyle Gomm, and the Scout who organized the youth involved for his Eagle Scout project, Jason Piippo, all deserve our special thanks.

I hope this group inspires others who would like to contribute to public service.●

THE NUCLEAR NONPROLIFERATION TREATY IN THE 1990'S

● Mr. GLENN. Mr. President, I rise in support of a concurrent resolution (S. Con. Res. 137) submitted on June 5 by my colleague, Senator BOSCHWITZ, in recognition of the contributions that the Nuclear Non-proliferation Treaty [NPT] is making to U.S. national security interests and to world order. As we approach the opening of a major international conference to review this treaty, it is appropriate to assess these contributions.

Before commenting further, I first want to compliment Senator BOSCHWITZ for his sincere and long standing commitment to the goal of halting the global spread of nuclear weapons. Let no one doubt the level of bipartisan support that exists in this Congress for the NPT, an agreement that the preamble of this resolution rightfully declares "is the most widely adhered to and successful multilateral arms control treaty in history and is central to international security and stability."

NPT: A FOUNDATION, NOT A PANACEA

The NPT cannot be expected to eliminate forever the risk of nuclear proliferation. No treaty can enforce itself—a treaty is only as good as the support it has from its parties. Until nuclear weapons disappear from the face of the Earth, and probably even thereafter, there will always be the risk that additional nations will seek to obtain the bomb. There are risks today that even some existing treaty members might harbor ambitions to become nuclear weapon nations.

Here is how Adm. Thomas Brooks, the Director of Naval Intelligence, summarized this particular problem in unclassified testimony before the House Armed Services Committee's seapower subcommittee on March 14 of this year:

> Several Third World states, including Iraq and North Korea, have advanced nuclear weapon development programs. Libya's nuclear program has been focused on basic research * * * but Qadhafi clearly wants nuclear weapons. Iran, with an eye toward Iraq's well-advanced program, is seeking its own nuclear weapons capability * * *.

Yet having correctly diagnosed a serious potential problem relating to the future of the treaty, Admiral Brooks, in looking over the shady records of these four NPT parties, came to the following conclusion in his testimony:

Efforts to control proliferation—such as the Missile Technology Control Regime [MTCR] and various nuclear non-proliferation treaties—have been largely ineffective, and are likely to remain so.

There are few here who will take issue with Admiral Brooks' diagnosis of an important threat to the NPT system; but I hope that there are many here who will disagree with his conclusion that the NPT has been ineffective in accomplishing its stated objectives.

Would we all be better off it these four nations left the NPT? Would stability in the Middle East be enhanced if Iran, Iraq, and Libya refused to agree to open all of their nuclear facilities up to international inspection, as required by the NPT? Would our security interests and those of our allies in East Asia be served if North Korea broke off its safeguards negotiations with the International Atomic Energy Agency [IAEA], left the NPT, and pursued its nuclear program entirely free from international inspections? Is it somehow the fault of the treaty, or is it rather some weakness in the national policies of the individual nuclear weapon nations or other countries with advanced civilian nuclear industries, that is to blame for the lack of international action against possible violations of the treaty by these four nations?

The NPT provides only a foundation—a solid foundation—for sustained international efforts to halt nuclear proliferation. Being no guarantee against proliferation, it should not be criticized for the failures of the national policies of the treaty's would-be defenders.

Instead, the treaty should be praised for what it has accomplished. It has helped create a strong international norm against the acquisition of nuclear weapons and the expansion of existing stockpiles. It has served to promote international commerce and scientific inquiry involving the peaceful uses of atomic energy. It has served as a confidence builder in regions known for chronic instabilities. It provides a common framework of reference for judging progress toward reducing the global spread of nuclear weapons. Clearly, it does a lot, but it does not do everything, and no one should expect it to do so.

CHALLENGES AHEAD

No treaty can escape the effects of time and changing events. I see the biggest challenges to the NPT as technological, economic, and political.

Various nuclear technologies are now evolving—such as those involving large-scale uses of nuclear weapon materials for commercial uses—that will make it extremely difficult, if not impossible, for the IAEA to detect the loss, diversion or theft of several bombs' worth of nuclear material. Someday, production of such materials may be possible by virtually any nation and even some terrorist groups.

This technological challenge to the NPT will grow even worse if nations, including most especially our own, do not come up with greater funding for IAEA safeguard activities. If a race is on between the development of better safeguards technology on the one hand, and more efficient means of producing bomb-grade materials on the other, all NPT parties must work to ensure the victory of the former.

We had better be sure that safeguards technology keeps the edge over the technology for producing plutonium and highly enriched uranium. The NPT and is system of international safeguards will not survive on rhetorical support alone.

Economic pressures will also continue to threaten the NPT. The recent decisions by China, the Soviet Union, and France to offer nuclear reactors to both India and Pakistan without any requirement for either NPT membership or agreement to full-scope international safeguards almost certainly had their roots in domestic pressures for export markets and the old political practice of using nuclear technology as a sweetener for bilateral diplomatic objectives. The Soviet Union—the only one of these three nations that is an NPT party—has also offered nuclear reactors to North Korea and Iran, notwithstanding widespread international concerns about the nuclear weapon aspirations of these nations. Its recent offers of reactors to two non-NPT nations in South Asia, nations that may now be poised for yet another war, seems particularly hard to square with the lofty official support the Soviet Union normally gives to the NPT and the IAEA safeguards system.

My colleagues Senators BOSCHWITZ and PELL have joined me as original cosponsors of a concurrent resolution—Senate Concurrent Resolution 113, now before the Foreign Relations Committee—addressing these South Asian nuclear sales and placing the Congress fully on record in support of full-scope international safeguards and the key objectives of the NPT. I have asked that Senators GORE, BINGAMAN, BOREN, SIMON, and WIRTH be added as cosponsors of that resolution.

CONCLUSION

Yes, there are challenges ahead. Yes, there are continuing risks of nuclear proliferation.

But most importantly—yes, the Nuclear Non-Proliferation Treaty is serving our national security interests, and yes, international society as a whole is far better off with such a treaty than without it. It is a remarkable achievement indeed that 140 nations can come together and agree to commit themselves to an arms control accord so vital to their national security. The NPT is a remarkable treaty and it deserves our support today and for as long as it takes to realize its noble objectives.●

THE OLDER WORKERS BENEFIT PROTECTION ACT

● Mr. D'AMATO. Mr. President, last term in Ohio versus Betts, the Supreme Court upset 20 years of settled law by ruling that employers can discriminate against older workers in the benefits they provide, unless the older worker proves the benefit plan also discriminates in hiring, firing, and promotion.

The Betts decision is wrong and should be reversed. I am pleased to rise in support of S. 1511, the Older Workers Benefits Protection Act which will reverse the Supreme Court decision and restore equity to the workplace. Good faith and fair dealing in employment demand that a person's age not be the basis for different treatment.

Nearly 20 million strong, older workers are the backbone of the American work force, and are becoming ever more valuable. We must not allow discrimination to undermine the integrity of the workplace.

I urge my colleagues to join in supporting this measure.●

PALESTINIAN TERRORISTS INTERCEPTED

● Mr. BOND. Mr. President, last week armed Palestinian terrorists were intercepted by Israeli soldiers off the coast of Tel Aviv. There is absolutely no question regarding the intent of those terrorists—they were planning to slaughter Israeli civilians who were enjoying a day at the beach during the holiday of Shevuot.

Fortunately, the vigilance of Israel's defense forces thwarted what would otherwise have been a massacre and no civilians were harmed.

The Palestinian Liberation Front, a faction of the PLO whose leader sits on the PLO's executive committee, quickly took credit for the attack.

And what was the response of PLO leader Yasser Arafat to this outrageous attempt to kill innocent men, women, and children? Did he condemn this terrorist attack as he promised he would do last year when the United States began talks with him? Did he express outrage that a PLO group would take action to jeopardize efforts to reach a peace settlement? Did he condemn PLF leader Abul Abbas or expel him from the PLO?

No, Mr. President, he did none of these things. Instead, what we got from Arafat were excuses and inaction—exactly what we have seen after each PLO terrorist attack that has taken place in the 18 months since Arafat promised to stop terrorist attacks and condemn such attacks by others.

The action that our Government should take in response to this latest effort by Arafat to have it both ways is clear. We should immediately end our contacts with the PLO.

I have been greatly disturbed over the past 18 months as the State Department, time and again, found ways to avoid holding the PLO responsible for its failure to live up to its commitments so as to allow the talks to continue. I have to admit that disappointment came to a head when I saw the results of State's March report to Congress on PLO terrorist activities. The drafters of that report went through tremendous mental acrobatics to prove that PLO hadn't really broken their commitments of 18 months ago.

Well the time has come to stop making excuses for Mr. Arafat and the PLO, to call them what they are which is terrorists, and to end our attempt at diplomacy with them.

In addition, I believe we must pull our heads out of the sand and realize that even if we negotiate with Arafat, even if the Israelis negotiate with Arafat—he is not in a position to deliver on his promises. He has admitted that up front. He has said he cannot expel Abbas from the PLO leadership. He has said he cannot prevent groups such as the PLF from committing acts of terrorism. So what is to be gained by reaching an agreement with him? Israelis would still fear raids against their homes. Americans would still have to worry about being gunned down in an airport or blown up in flight.

In response to last week's attack, the State Department appears to be taking strong action. And though it is long overdue, I commend them for it. I urge President Bush and Secretary Baker to follow through on their tough stand and to pursue more promising ways of achieving peace in the Middle East.●

DIRECTING SENATE LEGAL COUNSEL TO TAKE CERTAIN ACTIONS

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Senator DOLE, I send to the desk a resolution to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs in a case pending in the U.S. District Court for the Eastern District of Tennessee, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 297) to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs in *In The Matter of Provident Life and Accident Insurance Company.*

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, over the past several months, the Permament Subcommittee on Investigations of the Committee on Governmental Affairs has been investigating compliance with provisions of Federal law, generally known as the Medicare Secondary Payer Program, which shift primary responsibility for the payment of certain medical expenses from Medicare to employer health plans. A number of Government agencies have identified this program as one that is particularly vulnerable to waste, fraud, and abuse.

In the course of its investigation, the subcommittee has been examining allegations that the failure of a number of insurance companies, including the Provident Life & Accident Insurance Co., to comply with their legal obligation to pay benefits as primary payers has resulted in sizeable overpayments by Medicare. As part of this inquiry, the subcommittee has subpoenaed documents from Provident and its employees, and has scheduled depositions. Provident has objected that one document which the subcommittee has subpoenaed is subject to the attorney-client privilege.

Last week, Provident petitioned the U.S. District Court for the Eastern District of Tennessee to enjoin one of its employees, the author of the document in question, from supplying a copy of it to the subcommittee in response to its subpoena to her. Petitioner also seeks to enjoin its employee from testifying before the subcommittee about matters subject to Provident's attorney-client privilege without permission by the court.

The question of the applicability to congressional investigations of common law evidentiary privileges, such as the attorney-client privilege, has been the subject of debate over the years. As a matter of actual experience, however, Senate committees have customarily honored the privilege where it has been validly asserted.

The important question of principle that is presented by Provident's legal action is whether the Senate or a court is the appropriate forum, at least prior to action by the Senate to initiate judicial enforcement of a subpoena, for determining whether the privilege has been properly invoked in response to a Senate subpoena. This resolution authorizes the Senate Legal Counsel to appear in this proceeding as amicus curiae on behalf of the subcommittee to assert the Senate's position that the Senate is the proper forum under the Constitution for making that determination, and that petitioner's anticipatory proceeding should be dismissed.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 297) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES 297

Whereas, in *In The Matter of Provident Life and Accident Insurance Company,* No. Civ. 1-90-219, pending in the United States District Court for the Eastern District of Tennessee, the investigatory power of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288l(a) (1988), the Senate may direct its counsel to appear as amicus curiae in the name of a subcommittee of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs in *In The Matter of Provident Life and Accident Insurance Company,* and in any related litigation, to defend the investigatory power of the Subcommittee.

Mr. MITCHEL. I move to reconsider the vote.

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INSTRUCTING THE SECRETARY OF THE SENATE TO RETURN H.R. 3656 TO THE HOUSE CLERK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 3656, a bill to improve the clearance and settlement of transactions in securities, and that the Secretary of the Senate return the bill to the House Clerk for corrections in its engrossment.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

RECESS UNTIL 10 A.M.; MORNING BUSINESS; RESUMPTION OF CONSIDERATION OF S. 341

Mr. MITCHELL. Mr. President, I ask unanimous consent that the

Senate, when it completes its business today, stand in recess until 10 a.m. tomorrow, Friday, June 8; that following the time for the two leaders there be a period for morning business, not to extend beyond 11 a.m., with Senators permitted to speak therein for 5 minutes each; and that at 11 a.m. the Senate resume consideration of S. 341, the blind air passengers bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished acting Republican leader has no further business, I ask unanimous consent that the Senate stand in recess as under the previous order.

There being no objection, the Senate, at 9 p.m., recessed until Friday, June 8, 1990, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 7, 1990:

DEPARTMENT OF STATE

AURELIA ERSKINE BRAZEAL, OF GEORGIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERATED STATES OF MICRONESIA.

ROY M. HUFFINGTON, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF AUSTRIA.

FREDERICK VREELAND, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNION OF BURMA (MYANMAR).

THE JUDICIARY

JOEL F. DUBINA, OF ALABAMA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT VICE ROBERT S. VANCE, DECEASED.

DEPARTMENT OF LABOR

WILLIAM ERIC ANDERSEN, OF TENNESSEE, TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR, VICE PAULA V. SMITH, RESIGNED.

NATIONAL COUNCIL ON DISABILITY

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL COUNCIL ON DISABILITY FOR THE TERMS INDICATED:

LARRY BROWN, JR., OF MARYLAND, FOR A TERM EXPIRING SEPTEMBER 17, 1992, VICE THERESA LENNON GARDNER, RESIGNED.

MICHAEL B. UNHJEM, OF NORTH DAKOTA, FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 17, 1990, VICE JUSTIN DART, RESIGNED.

MICHAEL B. UNHJEM, OF NORTH DAKOTA, FOR A TERM EXPIRING SEPTEMBER 17, 1993. (REAPPOINTMENT)

HELEN WILSHIRE WALSH, OF CONNECTICUT, FOR A TERM EXPIRING SEPTEMBER 17, 1990, VICE NANETTE FABRAY MACDOUGALL, TERM EXPIRED.

HELEN WILSHIRE WALSH, OF CONNECTICUT, FOR A TERM EXPIRING SEPTEMBER 17, 1993. (REAPPOINTMENT).

IN THE NAVY

THE FOLLOWING NAMED LIEUTENANT COMMANDERS OF THE RESERVE OF THE U. S. NAVY FOR PERMANANT PROMOTION TO THE GRADE OF COMMANDER IN THE LINE, IN THE COMPETITIVE CATEGORY AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE,SECTION 5912:

UNRESTRICTED LINE OFFICERS

To be commander

ARIEL ABRIAM
JEFFREY LYNN AIKEN
CHRIS LEONARD ALBERG
JOHNNY PATRICK ALBUS
DAVID ANDREW ALDRICH
GEORGE M. ALEXANDER
ROBERT A. ALTOBELLI
GARY WAYNE ANDERSEN
CHARLES W. ANDERSON
JAMES DAYTON ANDERSON
JAMES R. ANDERSON
KRISTIAN W. ANDERSON
ERIC ROBERT ANDRES
STEPHEN GERARD ANDRUSISIAN
MARK S. ANGELLOZ
EDWARD TARTLER ANTONY
ROBERT J. APRILL
HEBER CLARKE ASHBROOK, III
THOMAS BENNETT ATKINS
RANDAL JOSEPH AUGUST
THEODORE GEORGE AVGERINOS
DOUGLAS AMES BADER
JOSEPH LEE BAILEY, JR
EDWARD DAYTON BAIN
MARK ANDREW BALASKA
LEONARD DWIGHT BALES
ROBERT CHARLES BALLARD
GERARD THOMAS BANAHAN
JAMES KING BANGMA
ANTHONY J. BARATTA
PHILIP RICHARD BARLOW
JAMES ARDEN BARNETT, JR
THOMAS EDWARD BARTON
JOHN ROBERT BEEMER
GAYLA JEAN BERGREN
HOWARD P. BERNSTEIN
LINDA JEAN BESS
WILLIAM JOHN BEVIL, JR
PETER RICHARD BIBERACHER
RICHARD LYNN BIGELOW, JR
LARRY LEE BLAKESLEY
KEITH ALAN BOARDMAN
JAMES R. BOMA
EDWARD BRUCE BONCEK
GARRY JAMES BONELLI
JOHN HENRY BOUWMAN
ROBERT ELWOOD BRADY, JR
PATRICIA MCDONALD BRATTEN
STEVEN WARREN BROADBENT
R. J. BROTHERTON
CHRISTOPHER MAXWELL BROWN
PETER GIBSON BROWN
RODRIC FRANK BRUNNGRABER
LESLIE EARL BRYAN
CLAYTON JOSEPH BRYSON
JOSEPH STANLEY BUBAN
LAWRENCE DALE BUCKLER
TIMOTHY WAYNE BUESCHER
GARY DOUGLAS BUMGARNER
DENNIS MICHAEL BUNN
CARL D. BURCH
BRIAN P. BURGHGRAVE
PATRICK JOSEPH BURKE
WILLIAM JAMES BUSHAW
GEORGE K. BUSSE
HOYT CARL BUTLER
ROBERT MICHAEL CALLAHAN
BARRY LEE CAMPBELL
CHARLES INGALLS CAMPBELL, II
WILLIAM BRUCE CAMPBELL
GREGORY T. CANDY
POLLY M. CAPANSKY
NICHOLAS JOSEPH CAPRON
ROBERT JOHN CAREW
RICHARD PAUL CAREY
BRANT MICHAEL CARTER
WILLIAM EDWARD CASHMAN
CHRIS HAROLD CASTNER
JOHN FARLEY CATES, JR
RALPH PHILLIP CAVALIERI
KEVIN M. CHEATHAM
ALANSON TRIGG CHENAULT, IV
JOHN M. CHRISTMAN
MARK A. CLARK
WAYNE ERIC CLIBURN
ALEX YOUNG COBBLE
ROBERT LELAND COCHRAN
DWIGHT W. COLBURN
JOE THOMAS COLEMAN, JR
PHILLIP JAMES COMBEST
MICHAEL LOWELL COOK
ROBERT T. COOK
GEORGE J. COON
PHILIP PETER MELVIN COOPER
CYNTHIA DALE CORMAN
JOHN MARTIN COVERICK
TRAVIS STRIBLING CRAIG
DAVID EMANUEL CRISALLI
ROBERT GRAY CRISS
DAVID JOHN CRONK
KAREN THORNE DANIS
CHARLES EDWARD DAUGHERTY
JOEL THOMAS DAVES, IV
LEE R. DAVIS
WILLIAM DAVISON
FRANCIS EUGENE DEBONS
LOREN EDWARD DECKER, JR
BRIAN F. DELANEY
BRIAN BENEDICT DEVANE
JOHN STEPHEN DIACSUK
FRANK TAYLOR DILLON, III
THOMAS MICHAEL DLUGOLECKI
MARK A. DOERNHOEFER
KENNETH GEORGE DOMBART
JOSE LUIS DOMINGUEZ
ANTHONY JOHN DORSCH
DAVID MINTER DRAKE
TIMOTHY ROBERT DRING
DOUGLAS BRIAN DUKE
WILLIAM ARNOLD DUNAWAY
NANCY ELLEN DYER
DAVID PAUL EASTER
BRUCE PHILIP EATON
RAYMOND LEO ECKENRODE
HENRY FAIRCHILD EGAN
CHARLES RICHARD EISENMANN
STEPHEN L. ELLIS
THOMAS M. ELROD
YOLANDA EMERY
JAMES D. ENGELS
FORREST DAVID ERDIN
JOHN A. ERRIGO
FRANKLIN ANDRICH ERVIN
MARK GREGORY ESTES
DOUGLAS LEE EWEN
LARRY ALAN FELLOWS
JOYCE MARIE FERRIS
THOMAS NELSON FETHERSTON, II
JAMES FRANCIS FLEMING, JR
JACK WILCOX FLETT
WALTER NORWOOD FLIPPIN, III
EUGENE FORD, JR
RICHARD J. FRAINIER
THOMAS JOHN FREDERICK
GARY MICHAEL FREEMAN
MICHAEL IVAN FULCHER
WILLIAM FRANCIS FURDON, JR
LOUIS LEON FUSCO, JR
MILTON JAMES FUSSELMAN
WILLIAM VAN HORN GAMBLE
HAROLD WAYNE GANDY
ROBERT HARLEY GANZE
JAMES EDWARD GARRISON
JAMES ALLEN GIBSON
JAMES JOSEPH GILL
DAVID ROBERT GILLINGHAM
MICHAEL LAWRENCE GILROY
WILLIAM O. GLASS, JR
WILLIAM GEORGE GLENNEY, IV
KAREN ANNE GLICK
RICHARD MARIAN GLINIAK
RANDALL EDWARD GOFF
RONALD JOSEPH GOLLHOFER
TERENCE P. GORSKI
GEORGE RALPH GOSWICK
ALLEN WYNNE GRAHAM, JR
CHRISTOPHER PORTE GRAZEL
BRADLEY KEITH GREENWAY
CECELIA ANN GRILL
CARL HARRISON GRUENLER
RONALD JOSEPH GUIRRERI
BERNARD C. HAAS, JR
JOSEPH PATRICK HAGGERTY, III
EVELYN HALL
GARY N. HALL
LARRY HALL
ERNEST SPRIGGS HALTON
KEVIN DOUGLAS HAMMAR
KURT FREDERICK HANSEN
BRADLEY STEPHEN HARDI
DAVID MURRELL HARDING
DAVID THOMAS HARRELL
PETER WEBSTER HARRIS
RICHARD GRAYSON HARRIS
JEFFERSON LAWRENCE HART
ROBERT GEORGE HAST
GARY WILLIS HATHAWAY
CURTIS JAMES HAWKS
MICHAEL LEON HEINRICH
ROBERT MARK HELM
JAMES EDWARD HENCKEN
THOMAS JOSEPH HENNESSEY
GARY THEODORE HENTZ
HECTOR B. HERRERA
KENNETH S. HIBBELER
KATHRYN DIETZ HICHBORN
GEORGE ROBERT HICKS, JR
KENT RICHARD HIGGINBOTHAM
CARL C. HILL
STUART CHRISTIAN HINRICHS
MICHAEL LEE HODGES
CURTIS ALLAN HOFFMAN
RICHARD REED HOISINGTON
STEVEN HOLIBONICH
FREDERICK R. HOLLINGER
KENNETH ROGERS HOLMES
JOHN EWELL HOPE
HEYWARD CARITHERS HOSCH, III
DEWARD JOSEPH HOUCK, JR
WILLIAM SMITH HOWE, III
JOHN MARK HUBBS
RICHARD WALTER HYMES, JR
JOHN CARL IHLENBURG
FRANK ANTHONY INZIRILLO
CHRISTOPHER LLOYD IVES
WAYNE MICHAEL JAKUBOWSKI
ROBERT EDWARD JENKINS
LAWRENCE W. JERNIGAN, JR
STEVE WAYNE JOCHMANS
EDWARD KEITH JOHNSTON
CHARLES A. JONES
CHARLES WALLIS JONES
JON MICHAEL JONES
MICHAEL ALBERT JONES
ROBERT GROVE JONES
RICHARD EUGENE KANE
JIM KAPSALES
ALAN PHILIP KARBOUSKY
DAVID A. KARNESKY
GEORG ROBERT KAST
ROBERT LOUIS KATES
COLEMAN ANTHONY KAVANAGH
LLOYD DENSLOW KEIGWIN, JR
JOHN DANIEL KELLEY
ALAN MICHAEL KELLOGG
GERALD THOMAS KELLY
WILLIAM JESSE KEMP
JOHN WILLIS KENNEDY, JR
ROBERT LOUIS KENNY
PETER FREDERICK KLEIN, JR
WILLIAM HERBERT KNELLER
RANDALL WILLIAM KOCHANIK
KENT HARLAN KOCHSMEIER
DANIEL JOHN KOENIG
JOHN THEODORE KOHLER
DENNIS RAY KOZACEK
CRAIG EDWARD KRAUSS
WAYNE KEITH KRUGER
STEPHEN JOSEPH KUHAR
MICHAEL GERALD KUNZ
DEAN BRADLEY LAHREN
SCOTT READ LAIDLAW
WADE HAMPTON LAIL, III
HAROLD M. LAMB, JR
ALEXANDER DOANE LAMBERT
KARL WALTER LAMPE
ROBERT HARRY LANG, JR
JOHN J. LAUDER
ROBERT DADMUN LEARY
MICHAEL LEBLANC
MARK C. LEHR
TIMOTHY JAMES LENAHAN
BRUCE PHILLIP LEONARD
JOHN ROBERT LEWIS
MICHAEL RONALD LEWIS
JEAN MONICA LIBUTTI
JOHN WILLIAM LICHTSINN
JOSEPH A. LIGUORI
JAMES JOSEPH LILLIS, III
RONALD EDWARD LIS
THOMAS M. LITTLE
JAMES LANE LITTRELL
WILLIAM POYNTER LOEFFLER
CURTIS ALAN LOGE
JULIUS LAZAR LONGSHORE
JAMES M. LOVE
JAMES LESLIE LUDWIG
DAVID PAUL LUHTA
CHRISTOPHER HILL MADIGAN
ROBERT A. MANSFIELD
BARRY WAYNE MARTIN
ROBERT EMILE MASOERO
RICHARD DENNIS MASSEY
TED E. MASTENBROOK
DAVID LANOYETTE MAYO
ROBERT WAYNE MCBRIDE
WALTER SCOTT MCCABE
THOMAS FRANCIS MCCAFFERY
JOHN DONALD MCCAMY
JOSEPH E. MCCARTHY, JR
JAMES LINCOLN MCCRORY
ELIJAH L. MCDAVID, JR
RICHARD ALLEN MCFEE
MARY BERNADETTE BALDY MCGEE
JOSEPH CHARLES MCGOWAN, III
MICHAEL JOSEPH MCGRAW
DAVID T. MCHENRY
PATRICK ROBERT MCKIM
MARK BRYAN MCKINLEY
PETER DAVID MCLOUGHLIN
JONATHAN PATRICK MCMACK
JEFFRY LEE MCNAIR
PAUL DAVID MELTON
LUCIEN D. MEMMINGER
MICHAEL LEE MERCER
EDWIN W. MERGELE
LEE JOSEPH METCALF
STEPHEN METCALF
CHARLES ALAN MIHALKO
HOWARD GEORGE MILLER
MARK THOMSEN MILLER
ROBERT LOUIS MILLER, JR
STEVEN LESTER MILLER
DANIEL L. MILLIMAN
FRANK ALLEN MINICH
RANDOLPH HIDEO MIOTA
JAMES DENNIS MITCHELL
MICHAEL PORTER MITCHELL
ROBERT STAN MIZE
RICKY WILLIAM MOCCIA
RICHARD ANTHONY MODICA
RANDALL JAMES MOLLET
JAMES D. MOMAN, JR
CLIFTON W. MOORE, JR
RICHARD EUGENE MOORE
ERIC ERNST MORTON
KERRIE SMITH MOSER
JOSEPH MOTISI
LAWRENCE MICHA MUCZYNSKI
JAMES STEPHEN MURPHY
RAYMOND JOSEPH MURRAY, JR
SCOTT MICHAEL MURRAY
SAMUEL M. NAGLE
CHARLES EDWARD NANGLE
RICHARD HENRY NASH, III
JAMES ANTHONY NATTER
TIMOTHY JOSEPH NAVILLE
RANDY E. NEES
CHARLES W. NEIGHBORS
JOHN DONOVAN NELLIS, JR
RICHARD HALE NELSON
MARK STEVEN NESS
JOHN WILLIAM NEUMEISTER
MICHAEL FRANCIS

NEVINS
CHARLES NEWMAN
KIP WILSON NICELY
FREDERICK WILLIAM NICKEL
JOHN NICHOLAS NOLTE
CHARLES ANTHONY NUNEZ
STEVEN MICHAEL OBRIEN
GARY STEPHEN OCONNOR
KEVIN GIRARD ODONNELL
FRANCIS JOHN OKEEFE
JOHN CARL OLDFIELD
WILLIAM F. OLIVER
PETER NMN OLIVIERI
DAVID LEE OLNEY
SEAN P. ONEIL
CHARLES ALBERT ORBELL, III
JOHN C. ORR
FREDRICK PITNEY ORTLOFF
ISAIAH HUDSON OWENS, JR
CHARLES GUY PADDOCK
MICHAEL FRANKLIN PALES
JAMES ARTHUR TOLLEY PALMER
CARLTON DENNIS PARKER
DONALD STAFFORD PARKER
GEORGE RICHARD PARKS, JR
WILLIAM HOLLAND PAYNE
STEVEN CRAIG PEARSON
MICHAEL ALDEN PECK
EARL JOSEPH PEDERSEN
DAVID E. PENDLETON
WILLIAM CURT PERSINGER
JAMES A. PETERSEN
ROBERT RICHARD PETERSON
HENRY PHILLIPS
PERRY FRANCIS PICORIELLO
ROBERT CLARENCE PIERSON, III
DENNIS NEIL PILLINGER
THOMAS EDWARD PINNEY
GEORGE F. POELKER, II
MICHAEL GENE POLAK
BRADLEY PORLIER
CYRIL HENRY PRIKAZSKY
ORVILLE NMN PRINS
GEORGE DANIEL PUDDINGTON
JERALD RAY QUANDAHL
MICHAEL BEATY RABIDEAU
CHARLES LEROY RADER
MICHAEL PATRICK RAGOLE
ROYCE BERNIE RAINES, JR
KEVIN THEODORE RANDICH
RUSSELL TIMOTHY RATLIFF
DOUGLAS NEIL REECE
CHARLES ELTON RENNER
FRANK FLETCHER RENNIE, IV
WILLIAM C. REUTER, JR
MARY CATHERINE RHEDIN
ERNEST J. RICE
JAMES DEAN RICHARDSON
PHILIP WILLIAM RICHARDSON
JAMES WAKEMAN RIDER
FRANCIS RIDGELY H. RIGGS
JAMES MORRIS RIPLEY, JR
CHARLES ROGER ROBIE
ROBERT EMMET ROCHFORT, JR
SUSAN LINCH ROCKWELL
JOHN FREDERICK ROGGE, JR
MICHAEL CHRISTOPHER ROHMAN
STEVEN WAYNE ROHRSSEN
WILLIAM ASHLEY ROIG
JAMES FRANK RUBINO
FORREST EUGENE RUCK
WILLIAM WALTER RUST, III
STEPHEN DALE RUTTER
NICHOLAS SABALOS, JR
WILLIAM KIRKLIN SAINT, JR
PHILIP DEWEY SALADEN
MARK JOSEPH SALMEN
RICHARD JOHN SALMON
JOHN DONALDSON SAMPLE
JOHN BENJAMIN SANTINO
FRANCIS J. SANTORO
PAUL STEPHEN SANZO
GEORGE CLYDE SATTERFIELD
ROBERT DANIEL SCARBOROUGH
CRAIG ALLAN SCHEMEL
DOUGLAS ANTHONY SCHENK
WILLIAM JOSEPH SCHMITT, JR
KENT WALTER SCHULZ
JOHN AUGUST SCHUMACHER
JOHN DAVID SCHUMACHER
JIMMIE ALLEN SCHURTZ
CRAIG CHARLES SCOTT
WALTER COLE SCOTT
MARK E. SEAGO
RONALD DEAN SEIZERT
HORACE LABON SHEALY, JR
GREGORY J. SHEBEST
MICHAEL DAVID SHEERER
JAMES BERNARD SHELLEM
ROBERT SCOTT SHERLOCK
CHARLES PATRICK SHUSTER
KEITH ALEXANDER SIKORA
RICHARD LEROY SIMONS
GARY ALAN SIMONSEN
JOHN ORVILLE SINGLETON, JR
STEVEN RICHARD SISEL
MICHAEL EARL SKOW
WAYNE BREWER SLATER
MARTIN JAY SLOANE
FREDERICK M. SMITH
PETER GREIG SMITH
CHRISTOPHER R. SMYRNIOTIS
MICHAEL LODINGTON SOARES
CARLTON E. SODFRHOLM, JR
BRIAN H. SOLOMON
DANIEL GREGORY SOMERS
RICHARD JAY SONNENSCHEIN
CHARLES RANDALL SORENSEN
KENNETH FRANCIS SPAULDING
THOMAS EDWARD SPEERS, JR
SAMUEL DAVID STAINTON
MARVIN LEIGH STEIN
DONJA KAY STEPHENSON
JAMES BENNETT STERLING, III
ANDREW TOMPKINS STICH
KEVIN FRANCIS STONE
BRIAN J. STOREY
EDWARD JOSEPH STPIERRE
JOHN GORDON STRAND
THYRA LITA STRAPAC
RICHARD EDWARD STRUTNER
ALFRED EDWARD STUART
BRUCE EDWARD STUTSMAN
ANDREW MARK SULLIVAN
DON WALTER SWAILES
GAIL ANN SWALES
DALE EUGENE SWANSON
DAVID EUGENE SWEEDE
CHARLES CLEMENTS SWENSEN, JR
ERNEST EDWARD TABB
CHARLES LEROY TAGUE
JAMES WILLIAM TAHLER
RUSSELL EDWARD TANNER
ROBERT GEORGE TASTSIDES
MICHAEL ANTHONY TATONE
EDWARD JAMES TAYLOR
JOHN MARTIN TAYLOR
WILLIAM NIXSON TAYLOR, JR
THOMAS GERARD TESCH
EUGENE P. THEUS
CRAIG H. THOMAS
JEFFREY HILTON THOMAS
ROBERT BERNARD THOMAS
DAVID CRAIG THOMPSON
DANIEL BRUCE THORNHILL
BURT DANIEL THORP
MARK S. THORPE
JOHN JOSEPH TOMASELLI
LAWRENCE GILWORTH J. TRAYNOR
ROBERT GREGORY TREITZ
DAVID LELAND TROUTMAN
JODI ELIZABETH TRYON
JOHN STANTIAL TURNER
ROY EDWARD TUTTLE
RANDY L. UNGER
ARTHUR JEROME VANDERSCHAAF
CHARLES J. VARGO
JOSEPH ELMER VARGO, III
JEFFERY GENE VETTER
FERDINAND GUY VISINTAINER
ROBERT DEAN VONBERNUTH
JONATHAN ROWELL WADE
RICHARD STEPHEN WAGNER
KIM CHARLES WALDEN
MICHAEL DALE WALDROP
LEONARD PAUL WALES
JUDITH MARY WALKER
DAVID LEE WALSH
THOMAS LLOYD WALTERS
LINDA ELLEN WARGO
DONALD CAMERON WARREN, JR
PHILLIP W. WATSON
WILBERT JOHN WATSON
JOHN SCOTT WEBB
KENT STEVEN WEISS
ROBERT FRANCIS WEISS, JR
JEFFREY ALLAN WEST
MARK LEE WEST
GREGORY H. WESTERWICK
RONALD WAYNE WETMORE
EDWARD M. WHALON
STEPHEN W. WHELAN, JR
STEPHEN FRANCIS WHITE
MILTON BAILEY WHITFIELD
JAMES CORNELIUS WHITSETT
CLAYTON PEARCE WICK
DONALD MARTIN WILHELM
PHILLIP JAMES WILHELM
ALEXANDER BARRY WILLIAMS
DANIEL ROBERT WILLIAMS
FRED W. WILSON
CHARLES HARRIS WINSHIP, III
HENRY LEE WISE
JAMES T. WOJCIECHOWSKI
REX ROBERT WOLFE
ROBERT ROSWELL WOLFE
GEORGE R. WOODWARD
LUCY BURWELL YOUNG
MICHAEL P. ZALESKI
DARRYL SIMEON ZELENIAK
FRANK MICHAEL ZIMMERMAN
JOHN JANIS ZUDANS

UNRESTRICTED LINE OFFICERS (TAR)

To be commander

KEITH FIELDING AMACKER
PAUL ARTHUR ANDERSON
RICHARD A. ANDERSON
KEITH DEAN BAKER
THOMAS GEORGE BAUER
SCOTT ALLAN BEATON
ROBERT M. BLEDSOE
JOHN THOMAS BONDE
JOHN LEONARD BOWES
ROBERT F. COYLE III
GEORGE HENDON CURRIE
GREGORIO AURELIO DACOSTA
MARK W. DANIELSON
RALPH JEFFREY DEAN
MICHAEL STEVEN DONAHOE
DENNIS BROOKS DUMBAULD
MICHAEL VERNON EDWARDS
ROBERT WARREN FEIST
ROBERT J. FILLER
ALFRED DANIEL FORD
BRUCE E. FORSHAY
JOE LYNN FRAZIER
MARY FRANCES GLEASON
CRAIG CHARLES GROOM
WALTER ALFRED GUSTAFSON
LARRY ALBERT HAMEL
DAVID ALAN HANSELL
SCOTT J. HARPER
DAVID JAY HARRIS
JOHN GEORGE HOLZWORTH
JOHN EDDIE HUIE, JR
DAVID JOHN JACOBSON
MICHAEL LESTER JELINEK
VIRGINIA DALE JOOSTEN
MARK GREGORY KING
PATRICK JOHN KING
WILLIAM CHARLES KORTHALS
LESLIE JUNE PETERSON LANG
GUY BERNARD LEARY, III
JOSEPH FRANCIS LUDWIKOWSKI
BILLY RALPH MALONE
WILLIAM STANLEY MARLOWE, JR
CRAIG OWEN MCDONALD
WILLIAM KILLIAN MCINTIRE
MORGAN ASHLEY MERRITT
VAN EDWARD MOIR
BARRY LEON MORGAN
JOHN ALEXANDER MURPHY
RICHARD FREDER NATHANSON
HUGH AUGUSTINE OHARE
JOSEPH ARTHUR OTTUM
EDWIN D. OVERSTREET
DAN RAY PARKER
HARLEY HOWARD PETERSON
JAMES RAY PRIDGEN
DONALD BREWSTER RAMAGE
JONATHAN BARKLEY RED
DAVID BRUCE REDMAN
PAULETTE REICHERT
REYNALDO NMN RESENDEZ
JOHN DENNIS RIDLEY
JEFFREY LYNN SCHRAM
MICHAEL DONNELLY SHEPARD
GREGG JOHN SINGER
RICHARD LOWELL SMITH
RICHARD E. SOUTHWORTH
ALAN MARTIN STEVENSON
TIMOTHY FRANCIS STOESSEL
FREDERICK ANDREW SYCURO
JOHN WESLEY VAUGHT
JOHN WALTER WATT
JOHN D. WEBB
EDWARD BOYD WEISS
JOHN MADISON WERNER
STEVEN LYNN WETZEL
WILLIAM COLLINS WILKERSON
THOMAS PURSER WOOD, JR
PATTI A. YOUNG
SRETEN ZIVOVIC

ENGINEERING DUTY OFFICERS

To be commander

WILLIAM KEITH ANAWALT
LORAINE MARY BEYER
WILLIAM CHARLES BUSKIRK
GEORGE LEONARD CAVA
DOUGLAS HAMLIN COE
BYRON ELLINGTON COLEMAN, JR
GORDON ERNST WILLIAM CONRAD
TOM HAMILTON CRAWFORD, III
WILLIAM JAMES GLYNN
WALLACE CAMP GOODLOE
GERALD LAURENS GRIFFIN, JR
WILLIAM ARTHUR HENRICKSON
CHARLES ROBB KEENE
CHARLES FREDERICK KERCHNER
JOHN ANDREW JELLI MACGINNIS
MARTIN JOSEPH MAHON
GLEN SHERMAN NASH
MARINO JOHN NICCOLAI
JOSEPH P. OHARA, III
MICHAEL ALAN ONEAL
LESLIE EARL OTTINGER
JOSEPH LOUIS PAQUETTE
GREGORY R. POHL
JOEL TUORI SAXBERG
PETER WILLIAM SEBELIUS
MARC LOUIS SORENSEN
JAMES HENRY TULLEY, JR
EDWARD WILLIAM ULMER
NORMAN BRENT WHAM
PAUL HARRY WILKINS

AERONAUTICAL ENGINEERING DUTY OFFICERS (AERONAUTICAL ENGINEERING)

To be commander

JACK RUSSELL BATES
DAVID LEE BROWER
JOHN HENRY COOPER
ALLEN CARSTEN HANSEN
DAVID HUGH LEHMAN
ARNO ROBERT LIVINGSTON
ALFRED GEORGE PIRANIAN
HARRY LESLIE TREDENNICK

AERONAUTICAL ENGINEERING DUTY OFFICERS (AVIATION MAINTENANCE)

To be commander

TOMMY WAYNE ADAMS
ROBERT LINCOLN GOULD
SAMUEL DEWAIN HAMILTON
KEITH VINCENT KELLY, JR
RONALD JAMES KRIEL
DONALD JOSEPH SHUTT
JONATHAN JOEL STAEHLING

SPECIAL DUTY OFFICERS (MERCHANT MARINE)

To be commander

ROBERT CHARLES BALDWIN
JOHN JEFFERSON BAUCOM
STEVEN DALE BELL
ALFREDO MARI BITO
STEPHEN HENRY BROVARONE
RICHARD CARLTON BROWN
DAVID JOHN COLLINS
TIMOTHY JOHN DAYTON
CHARLES THOMAS ECKER, III
MARK RICHARD ESHER
DAVID B. FISHER
GLENN PAUL FORGUES
JAMES DAVID GATES
DALE RUSSELL HAUSERMANN, JR
TIMOTHY FRANCIS HAYES
FRED MALCOLM HICKS
ROBERT FRANCIS KELLY
LLOYD GEORGE LECAIN, JR
PETER WARREN MITCHELL
PATRICK A. MOLONEY
RICHARD JAMES ROCKWOOD
KENNETH WARD SHEETS, JR
ISMAIL SHEKEM
PRESTON FRESENIUS SHELTON

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be commander

THOMAS MICHAEL BLAIR
MARK SANDERS DEARBORN
MICHAEL DENNIS FRANCIS
STANLEY JOHN LEVANDUSKI
JAMES D. MARTIN, III
WILLIAM RUFUS MATHEWS, III
MARK LESLIE METCALF
ROBERT POHLMAN
THOMAS FRANKLIN PUMPHREY
DUANE VERNON RIGGE
KENNETH WYLIE ROBINSON
BRENT ELLIOT SIMMONS
CHARLES HENRY TILTON
WILLIAM HENRY VANDYKE

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be commander

MICHAEL ANTHONY ALFRED
THOMAS WILCOE ANDERSON
MICHAEL JOSEPH BARRETT
ROBERT WAYNE BARTON
WILLIAM GRANVILLE BECK
RICKY LANE BLACKWOOD
GREY EMERY BURKHART
CHARLES MORGAN BYRNE
DOUGLAS THORN CARDINAL
COLIN MONTGOMERY CLARK
LANNY DALE CLARK
MICHAEL B. CLAUDY
ROBERT NELSON CUBBERLEY
DENNIS DOUGLAS DEWULF
KEN RICHARD DOUGHERTY
ROBERT KEVIN DRIVER
THOMAS JOSEPH DZIEDZIC
SHERYLL LYNN ELSTON
MICHAEL VINCENT FEWELL
RODGER LEE FIELDS
ALAN JOHN FINK
MICHAEL PETER FINNEY
TERRENCE MICHAEL GAUTREAUX
JIM MING GREENLEE
EDWARD SQUIER HINCKLEY
STEVEN LAURENCE HULL
RAYMOND GEORGE KALLMAN
JACKSON DELBERT KELLEY
THOMAS F. KOEHL
WILLIAM JAMES LAMONT, JR
JAMES MURRAY LEVESON
ADRIAN D. LORENTSON
MICHAEL A. MALDOVAN
MICHAEL JOSEPH MANFREDI
ROBERT ALAN MCDONALD
WILLIAM HALE MINNECI
THOMAS PETER MITCHELL
MARK ALBERT MORISON
ROBIN LEE PARKS
LEONARD NORMAND RIVET
GEORGE JAMES ROARK, III
FRANK S. ROOT
PATRICK JAMES SAYNE
EDWARD ROBERT SCHENDT
JOHN RODGER SCHOONOVER
JAMES ANGELO SIDONI
STEVEN WARE SMITH
ANNA MAE STEINBERGER
THOMAS ORMAN SWIFT
LEANNA FORD TERRELL
THOMAS TURNBULL
TRAMMELL EDWARD VAUGHN
GREGG BRICKETT WHITE

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be commander

ROBERT LEE BISHOP, JR
ROBERT J. BRUNNER
JONATHAN WALTER BUCHANAN
BARBARA JEAN BURNS
PHILLIP STANLEY COGAN
THOMAS HOWARD DANIELS
DANIEL STUART DAYTON
GEORGE AUSTIN DRUMBOR
CHERYL DIANE DUFT
STEPHEN RANDALL FISCH
WILLIAM ALEXANDER GAY
ROBERT MICHAEL GERMINARO
LON JEFFERY HUFFMAN
ARTHUR SCOTT HULTS, III
KENNETH ALAN JARVIS
DAVID ANDREW JOHNSON
CHRISTINE ANNE KANTROWITZ
EDWARD FRANCIS KLECKA, III
GARY BYRON MOREY
FREDERICK ALLAN OLSON
MICHAEL LEE PANDZIK
RICHARD ARNOLD PHILLIPS
PETER VAN RENSSELAER RHEIN
WALTER WILLIAM SCHAFFER
DALE EDWARD SMITH
MICHAEL BUCHAN STAINBROOK
ROGER CLEVELAND STILL
WILLIAM THOMAS TUCKER
WALTER MARION URBAN, JR
JOHN EDGAR WALLER
JOSEPH BEEBE WILKINSON, JR
JOHN DODGE WYATT, III

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be commander

RONALD ERNEST JOHNSON
JOHN WILBUR RABY
MARK EVANS SCHULTZ
HARRY DEWAYNE SELSOR

WITHDRAWAL

Executive message received June 7, 1990, withdrawing from further Senate consideration the following nomination:

DEPARTMENT OF LABOR

DEBRA RUSSELL BOWLAND, OF LOUISIANA, TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR, VICE PAULA V. SMITH, RESIGNED, WHICH WAS SENT TO THE SENATE ON JUNE 8, 1989.

EXTENSIONS OF REMARKS

A SALUTE TO PARTICIPANTS IN THE JOBS FOR OHIO'S GRADUATES [JOG] PROGRAM

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. STOKES. Mr. Speaker, I am pleased to bring to the attention of my colleagues an exciting and very beneficial program which has proven successful in my congressional district and throughout the State of Ohio. The Jobs for Ohio's Graduates [JOG] Program operates in 14 Ohio cities. This unique school-to-work program assists high school seniors in developing valuable job skills. These skills include employment interviews, decisionmaking, public speaking, and telephone techniques. More importantly, the program instills in our youth the confidence, determination, and incentive that is necessary to enter the competitive job market.

JOG is the largest consistently applied youth employment program in the country. Recently, the Cleveland Regional Competitions for JOG were held. I am pleased to take this opportunity to commend and congratulate the schools and students who participated in the competitions. In particular, I want to congratulate Terrelle Howard, the State winner of the competition.

Mr. Speaker, it is good to know that the JOG program is enjoying tremendous success in the State of Ohio and throughout the Nation. It is a much needed and positive vehicle for our youth.

CLEVELAND REGIONAL COMPETITIONS FOR JOBS FOR OHIO'S GRADUATES

Cleveland Heights High School: Karen Bundy, Kathryen DeMoss, Brandon Edwards, Chavae Moon, Sean Patterson, and Lucretia Payne.

Shaw High School: Melina Exsentico, Markeisha Carmichael, Ladona Jackson, Donita Lovelace, Aaron Ross, and Bernard Wren.

Jane Addams Business Careers Center: Curtis Bloodworth, Hallye Gordon, Angela Kemp, Watenna Lauderdale, Fawn Rozar, and Janeen Sanders.

Health Careers High School: Jeffrey Dean, Oscalane Dickerson, Sonja Jones, Nicholas Parries, Janent Spivey, and Sheronda Williams.

Aviation High School: Terrelle Howard, Cedric Little, Jermaine McKee, Audrey Rice, June LaShonda Stone, and Robin Thomas.

GEORGIA WINS BICENTENNIAL COMPETITION

HON. BEN JONES

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. JONES of Georgia. Mr. Speaker, I rise today to commend 35 seniors and one extraordinary teacher from Clarkston High School in Clarkston, GA who recently competed in the National Bicentennial Competition on the Constitution and the Bill of Rights.

Rebecca Chambers is the kind of teacher who brings great honor to her profession. Besides the rigorous curriculum of advanced placement American Government, Ms. Chambers spent about 60 hours of class time teaching constitutional history and theory. The students should also be commended for spending over 100 hours outside of class reading and researching constitutional law. The students worked after school almost daily throughout March and April in preparation for the contest. Then, in what little spare time they had, they raised the money needed for the trip, almost $23,000.

The culmination of their efforts was a few weeks ago, when the competition took place here in Washington. Forty-three State teams participated and the team from Georgia won the Southeastern Regional Award, designating them No. 1 out of the 11 Southeastern teams. The students were given 10 minutes to impress the august panel of constitutional experts, and were judged on their understanding of history, their knowledge of constitutional applications, their ability to link answers to contemporary issues, and their ability to work as a team in concert.

Clarkston's success speaks well for the Georgia Department of Education, the Clarkston community which supported their efforts, and the school administrators who cultivated interest in this competition, but above all, this achievement reflects upon the excellence of Ms. Chambers and her students. These students have shown scholarship, dedication, and perseverance that sets a shining example for our State and will serve them well in all their future endeavors.

I congratulate them for their achievement and for reflecting so well upon their school and the Fourth District of Georgia.

CONFEDERATION OF CUBAN UNIVERSITY PROFESSIONALS IN EXILE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it is with great pleasure that I come before you today to recognize the contributions of a group of intellectuals who have been keeping the tradition of Cuban academia alive while in exile from their native island home.

The Confederation of Cuban University Professionals was an organization which existed in the Republic of Cuba to provide assistance and guidance to those of the professionals class.

After the Cuban Revolution, the group reformed in exile in Miami, FL, not only to continue their service to those professionals which had escaped Castro's tyranny, by helping them acquire the necessary licenses to practice their profession in the United States, but also to fight for the cause of Cuban liberty.

The confederation recently initiated a new board of directors: Engineer Ernestino Abreu, president; Dr. Ramón de la Cuesta, vice president; Architect Carlos I. Bertot, secretary; Engineer José Morcate, vice Secretary; Mr. Oscar Cedeño C.P.A., treasurer; Dr. Manuel Pérez Martínez, vice treasurer; Dr. Fernando Soto, director; Dr. Rolando Espinosa, director; Dr. Roberto Rodríguez, director.

Mr. Speaker, I applaud these men and the other members of the Confederation of Cuban University Professionals in their commitment to preserving the Cuban scholarly pursuits. It is my sincere hope that one day, in the near future, the chains of communism which have oppressed the people of Cuba will soon be broken. When that day comes, it will partly be due to the heroic efforts of organizations such as the Confederation of Cuban Professionals in Exile.

TROY SHEAFFER TO BE AWARDED THE EAGLE SCOUT AWARD

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. GEKAS. Mr. Speaker, I would like to draw the attention of my colleagues to a young man from my congressional district who will soon be awarded the Eagle Scout Award.

Troy Sheaffer is a resident of Selinsgrove, PA. For the past 7 years Scouting has been an integral part of his life. As a Cub Scout he earned the Arrow of Light, and the God and Family Award. As a Boy Scout he attended

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

summer camp each of the last 4 years. He was selected to participate in Brown Sea II leadership training and was part of the group at the National Boy Scout Jamboree at Fort A.P. Hill, VA, last summer. He will also join the contingent that is going to Philmont Scout Ranch in New Mexico this year.

Troy has been inducted into the Order of the Arrow. He has received the World Conservation Award, the 50-mile canoe patch, the Mile Swim Award, and the Historical Trails Award. He has earned a total of 44 merit badges, has camped out 90 nights, and has hiked over 120 of Pennsylvania's trails.

For his Eagle project, Troy has made additions and improvements to Major Anthony Selin Park in Selinsgrove. This project consisted of: assembling and placing five wooden benches around the park; construction of a playground with swing, sliding board, and monkey bars; laying out and constructing a volleyball court and horseshoe pits; and relocating numerous trees.

In addition to all the Scouting activity, Troy is very active in his church and school. He is treasurer of the Youth Group and a member of the Youth Choir. He has just finished his freshman year at Selinsgrove High School where he earned a J.V. letter in soccer and participated in the bowling and track teams as well as the chorus and band. Despite these extracurricular activities, Troy has still managed to achieve academically—he has been on the distinguished honor roll every semester.

This young man is an example of the Scouting spirit. His respect and appreciation of the outdoors and his thoughtfulness of others is the core of this spirit. It is a relief to know that people such as he will help shape this country's future, for Scouting fosters positive values, moral strength, confidence, and ambition.

I congratulate Troy Sheaffer and wish him well.

EXCLUDING THE DISABLED

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. CRANE. Mr. Speaker, in light of the recent passage of the Americans With Disabilities Act [ADA] it is of utmost importance to keep the real costs of such Government intervention in perspective. Programs aimed at helping the disabled have frequently proven to add to the burden of the disabled persons by introducing prohibitive costs of living. It is important not to let our judgment be clouded by good intentions. The fact is, benefits of the ADA may soon be negated by the increased costs of implementation; costs that are invariably passed on to the consumer including the disabled.

I would urge my colleagues to read the following article, "Excluding the Disabled," from the April 20, 1990, Wall Street Journal to assist in future consideration of aid to the disabled:

EXCLUDING THE DISABLED

Before Congress passes the sweeping Americans With Disabilities Act it might consider the unintended consequences of its most recent efforts to help the disabled. Amendments to the Fair Housing Law passed in 1988 mandated that all multifamily housing units built in this country from now on must be accessible to the handicapped. Several groups representing the disabled warn that the new rules are so expensive that many disabled people will be priced out of the housing market completely.

Congress didn't worry much about costs or defintions of "accessibility." Senator Paul Simon put the cost at "pennies a month," while Senator Tom Harkin assured that the amendments included only "low-cost or no-cost features." Then reality hit.

The Department of Housing and Urban Development, given the actual task of implementing the congressional edict, proposed guidelines in January. These require that every public area be accessible to the handicapped; that kitchens, bathrooms and doorways all be designed to handle wheelchairs; and that hilly sites be regraded and ramped for better access. The guidelines would add at least four inches to doorways, increasing the size of apartments by more than 5 percent. They would also require that all bathrooms be enlarged. Up to 90 percent of hilly housing sites must be regraded and fitted with long ramps.

Jack Powell, executive director of the Paralyzed Veterans of America, says he was shocked by the proposed guidelines. His group estimates the cost of the HUD rules at $900 million a year. He has an alternative. This past fall, a coalition of home builders and 13 disabled groups formed a task force to draft guidelines for accessibility that both sides could live with. They said, for example, that one accessible bathroom in each unit would be enough. HUD instead turned over drafting of the guidelines to a group of building inspectors.

Mr. Powell says the HUD proposals would cost twice the amount of his task force's recommendations—adding between $1,300 and $3,700 in costs for each walk-up apartment and from $3,200 to $4,300 for a high-rise unit. That comes to typical increases between 2 percent and 5 percent. Each $1,000 costs adds $10 a month in rent.

"That rent increase could be as big a barrier to the handicapped as a two-foot curb," says Michael Rose, a Maryland builder confined to a wheelchair. "Affordability is part of accessibility." He notes that the disabled tend to have lower incomes and are most in need of affordable housing.

But HUD officials say they are bound by Congress's vague command to make housing accessible without taking cost into account. White House officials say they will review the economic impact of the HUD regs but make no promises. Meanwhile, activists for the homeless have been strangely quiet on these new higher housing costs.

Congress and President Bush need to do some hard thinking about what benefits the disabled and what just placates the extreme activists. Just one provision in the Americans With Disabilities Act, that buses install lifts and toilets for the handicapped, will cost at least $200 million—more than the entire industry's annual profits. Many unprofitable routes likely will be dropped.

Affordability is key to accessibility. The disabled won't be helped if physical barriers are replaced by the economic barriers of excessive regulation.

A TRIBUTE TO SIDNEY J. BROWN

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I would like to take the opportunity to congratulate Mr. Sidney J. Brown for his efforts on behalf of Jewish education and accomplished career in the real estate industry.

Mr. Sidney J. Brown, a prominent real estate investor and lawyer, has supported numerous philanthropic organizations. He has served as an active leader of many charitable groups and committees throughout his professional life. For many years he has also been a leading contributor to such organizations such as the American Cancer Society, the Kennedy Center, the Hebrew University, and the American Israel Public Affairs Committee. He is currently serving as honorary president of the Hebrew Academy.

Therefore, it is with great pleasure that I pay special recognition to Mr. Sidney J. Brown. His service and generosity have enabled many organizations to achieve goals that would be otherwise unattainable. May he continue to inspire the best in all that he touches.

A GOOD EXAMPLE TO FOLLOW

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. POSHARD. Mr. Speaker, thousands of times a year, heroic acts that save lives are performed by people who are in the right place at the right time.

We do not really know how many because so often the good deeds go unreported. But each year the American Red Cross issues over 300 certificates to people who have used lifesaving techniques to rescue someone so they may live another day. Once in a great while, the Red Cross has a repeat winner. But when they heard of a man in my district even the Red Cross was pleasantly surprised.

Mr. Gary Boles is the circuit clerk in Marion County, IL. He taught school and coached sports for 17 years before taking on the form of public service he provides now at the courthouse.

Gary has been in the right place at the right time for three different people. Several years ago a women driving by his house had her pacemaker go out and her car went off the road. Gary was outside working and saw all of this happen. He reacted instinctively, and helped resuscitate the women and kept her from dying. Gary's father-in-law was also the beneficiary of emergency help when he choked on some food. The family called Gary, who had to come from about 3 miles away to help save his father-in-law's life. Gary gave him mouth-to-mouth resuscitation, and literally brought him back to life. Most recently, a visiting businessman was eating lunch in a restaurant where Gary just happened to be. This

gentleman also choked on some food, and as fate would have it, Gary was there to perform the Heimlick maneuver, and helped keep this visitor from suffocating.

Gary is modest about these accomplishments. Although his exploits have been reported in the local media he is not interested in gaining personal attention for these good deeds.

But he hopes his experience inspires even one more person to become trained in CPR and other lifesaving techniques.

Gary remembers demonstrations in the schools, where he taught, but would not describe his training as formal, and never really thought he would have to use what he had learned. But it sure came in handy for three different people.

The American Red Cross suggests there are some groups of people who should be especially familiar with these procedures because of their jobs or living environment.

All parents, especially those with young children, anyone who cares for children or does any babysitting, and anyone who takes care of someone elderly should have some basics and skills in life-saving techniques. This is also a good idea for someone who works in a large office or comes in contact with a lot of people while at work. Employers should think about haveingg one of every five persons trained in CPR in event of that emergency that no one wants to have happen but is impossible to predict.

The old line "Is there a doctor in the House?" works well in the movies, but in real life, we often depend on the Gary Boles of the world to see us through until professional help can arrive.

I salute Gary for his achievements, and hope his example will inspire others to learn the basics of these valuable techniques.

FREE TRANSIT FOR SOVIET JEWS

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. WOLPE. Mr. Speaker, the enormous goodwill at the United States-Soviet summit last week should not overshadow the disturbing comments President Gorbachev made at the final news conference at the White House. Citing intense criticism from Arab States, President Gorbachev said that further issuance of exit visas for Soviet Jews might be dependent on whether Israel prohibits the settlement of these emigrants in the occupied territories. Although there have been subsequent indications that the Soviet Government will not reduce the current rate of emigration, the fact remains that the Soviet legislation has still failed to codify any free emigration legislation—an assurance which was given to visiting Jewish leaders as far back as November 1989. If the doors to freedom can be shut at any time, for any reason, then Jews in the Soviet Union will always live under the specter of fear and persecution.

As you may recall, last March, under intense pressure from the PLO and Arab terrorist organizations, the Soviet Union and Hungary caved in to demands that the emigration of Soviet Jews to Israel be disrupted. Moscow has never consummated its agreement with Israel to provide direct air links to Tel Aviv. And the Hungarian flag carrier, Malev, suspended direct flights between Budapest and Tel Aviv. Only recently did the Hungarian airlines agree to resume the regular flights—and charter flights continue to be on hold.

I fear that there is something more ominous occurring here. The underside of perestroika in the Soviet Union has been a resurgence of very ugly and vicious anti-Semitism. The Jews of the Soviet Union are afraid, literally, of a new wave of pogroms. And in Eastern Europe, the underside of the push for democracy and freedom has been the emergence of a strain of nationalism that at times targets the Jewish communities of these countries for ostracism.

Because of our concern that these disturbing trends may portend further difficulties for Soviet emigrants, my good friend and colleague, Mr. SMITH of Florida and I proposed an amendment to support the emerging democracies bill for fiscal year 1991 which was adopted by the House Foreign Affairs Committee. The amendment itself is very simple: It provides permissive authority to the President to suspend or reduce aid authorized for Eastern European countries if such countries systematically impede the free transit of Soviet Jews to Israel. Further, it calls upon the President to engage in multilateral negotiations with these countries and our other Western allies to facilitate the most expeditious passage of Soviet Jews from the U.S.S.R.

Having said this, I would also like to commend the government of Poland which is acting in exemplary fashion. Prime Minister Mazowiecki has announced that Poland will give free transit to Soviet Jews and this is precisely the example we want all countries to follow.

Finally, there should be no confusing this issue—free transit for Soviet Jews—with the question of their settlement in the occupied territories. American policy should not endorse such settlements. We can, and should, deal with this question separately, as I am sure we will. But it would be shameful not to encourage the fulfillment of something all of us have been committed to for so long—freedom for Soviet Jewry—because of a collateral issue that affects barely 1 percent of those reaching Israel. None can contest the right of Soviet Jews to live in Israel. This amendment encourages that—no more and no less.

Again, it is my sincere hope that the authority under this amendment is never used. It is permissive authority—not mandatory. But the countries of Eastern Europe have to know that democracy and freedom are not born in capitulation to blackmail and that our financial and economic support for them can be conditioned accordingly.

HERBERT C. GODFREY, JR.

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. PACKARD. Mr. Speaker, on May 23, 1990, the American Association of Airport Executives and the American Institute of Aeronautics and Astronautics honored Mr. Herbert C. Godfrey, Jr. as the Jay Hollingsworth Speas Award recipient for this year. This award is presented annually to the person or persons whose work has significantly improved the compatibility of airports with the surrounding environment.

Mr. Godfrey was commended this year because of his unique contribution and leadership in the Greenbelt project at the Fort Lauderdale-Hollywood International Airport. His efforts led to the reduction of aircraft noise, conservation of natural resources, promotion of community development, and the improvement of the environmental quality of the airport.

Herbert C. Godfrey, Jr. joins the distinguished ranks of the following previous Jay Hollingsworth Speas Award recipients: Representatives NORM MINETA, former chairman of the House Aviation Subcommittee; Mickey McPike of Douglas Aircraft Co.; Robert Doyle of the planning firm Peat Marwick & Main; Paul Barkley, former chairman of the board and chief executive officer of PSA; Byron Miller, former vice president of PSA; Timothy D. Ward, former director of aviation, Robert Mueller Airport, Austin, TX; and John E. Wesler, director of aviation program development for Wyle Laboratories.

BUSH SHOULD END DIALOG WITH PLO

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. FRANK. Mr. Speaker, today I made remarks during the portion of the day set aside for 1-minute speeches urging President Bush to end the United States' dialogue with the PLO after the most recent incident of PLO approved terrorism. On Wednesday, the Boston Herald ran a strongly worded, cogent editorial on the same point.

The Herald editorial makes this important point with justified vigor and I ask that it be printed here.

EMPTY THREATS TO THE PLO

The campaign promise George Bush has broken most directly is the one he broke first.

In September 1988, Bush vowed: "As for the PLO, I will insist that unless the PLO . . . abandons terrorism and changes its covenant calling for Israel's destruction, the United States will not recognize or have any discussions with that organization. I will insist . . . because it is the right thing to do."

The PLO never met those conditions. It refuses to change its covenant, which declares Israel's creation "null and void" and calls for an "armed struggle" to abolish it.

And Chairman Yasser Arafat's grudging renunciation of terrorism in December 1988 has not stopped numerous terrorist infiltrations across Israel's border.

All the same, the Bush-Baker team's first foreign-policy step was to get the U.S. "dialogue" with the PLO started. The State Department has more than once cautioned Arafat and his deputy, Abu Iyad, that a resumption of PLO terrorism would mean an end to the dialogue. But it has never made good that warning—not even after State's own report to Congress last March conceded that at least nine terrorist attacks against Israel since December 1988 "involved constituent groups of the PLO."

One such group—Abu Abbas' Palestine National Front—mounted what was intended to be a spectacularly bloody massacre on May 30, when six armed speedboats made for Israel's crowded Mediterranean beaches. They were intercepted, fortunately, in the nick of time.

The Bush-Baker dialogue, we have argued before, is worse than dishonest, it is dangerous. By greeting each new act of terrorism with an unfulfilled threat to end the dialogue, the Americans merely signal that further attacks will be winked at, too. The result is a climate more, not less, hospitable to terrorism.

Following last week's near-atrocity—two years in the planning, Abu Abbas said—the State Department is making threats again: The PLO must condemn the Abu Abbas raid and expel those responsible or the dialogue will be halted. But Arafat and Abu Iyad no longer worry about State's idle warnings. "We are not responsible, as the PLO, for this operation," Arafat said, declining to so much as criticize Abu Abbas, let alone expel him from the PLO.

Americans know Abu Abbas as the evil mastermind behind the Achille Lauro hijacking, in which the elderly Leon Klinghoffer was shot dead in his wheelchair and thrown over the side of a cruise ship. ("Maybe he was trying to swim for it," Abu Abbas cracked.) But to Arafat & Co., Abu Abbas is a comrade in arms, an honored leader of the Palestine National Council (the PLO's "parliament"), and a member of its executive committee. Why would they turn against him? He, like they, is in the terrorism trade.

Unchastened, Abu Abbas threatened last week: "This operation is the beginning." Unlike Bush and Baker, he intends to keep his promise.

TRIBUTE TO HOGAR CREA INTERNATIONAL OF PENNSYLVANIA

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to Hogar Crea International of Pennsylvania on the occasion of its First Crusade of Faith and Hope and on the celebration of its ninth anniversary.

In 1968, Juan Jose Garcia Rios, who was then living in Puerto Rico, founded Hogar Crea, a re-education center for those addicted to drugs and alcohol. Mr. Rios, a former addict, saw a need of individuals with addictions to be given a second chance: an opportunity to restructure their life. He realized that many people become addicts because they lack a positive home environment that fosters discipline and self-respect. Juan Jose's desire to create such an environment drove him to create Hogar Crea, which in English means a center for the re-education of the addict. The literal translation of Hogar is home and Crea means to create, thus Hogar Crea International created a community-supported, nonprofit home that re-educates the addict in a therapeutic environment.

In 1976, Juan Jose organized a steering committee to open Hogar Crea's first center in the United States, in Bethlehem, PA. The Bethlehem center was opened and incorporated in 1981 and the name was changed to Hogar Crea International Inc. of Pennsylvania in April 1990 and is currently a women's center. In the Lehigh Valley, centers are currently operating in Allentown, Bethlehem, and Freemansburg. The contributions each center makes in its individual community is unmeasureable and Hogar Crea is beginning to branch outside the Lehigh Valley. Centers are currently operating in Lancaster and a steering committee is in place in Reading, with hopes of opening a facility by the end of 1990, in Jersey City, NJ and Hartford, CT. Hogar Crea operates centers in seven countries worldwide.

All of Hogar Crea's centers are directed and operated by ex-addicts and their concern for those who have a desire to change their lives, is real. Having lived the lifestyle of an addict, they understand the pressures faced by addicts and know what must be done to get back on the straight and narrow. In sharing the daily life routines of residents of Hogar Crea, the employees set an example for those hoping to break the vicious circle that is addiction. Hogar Crea graduates approximately 30 individuals per year and they enjoy a success rate of 92 percent.

Hogar Crea's First March of Faith and Hope will be the starting point to focus additional attention on the problem that exists in cities and small towns all across America. By working with officials of the cities of Allentown and Bethlehem, the State of Pennsylvania, representatives of the Government of Puerto Rico and local civic organizations, Hogar Crea will spread their message through the March of Faith and Hope—that it is possible to conquer the vise-like grip of drug dependency.

Mr. Speaker, I would like to recognize the community volunteers who donate their time to serve on Hogar Crea's steering committees as well as the core group of individuals responsible for Hogar Crea's success: Juan Jose Garcia Rios, president; Basilio Huerta, vice president; Anna Cessna, director, Bethlehem Center; Dantero Galindez, director, Allentown Center; and Stephen Thompson, director, Freemansburg Center.

I would also like to recognize Anita Amigos, the key motivator behind the steering committee at the Bethlehem Center, Martin Cotto, the executive treatment director of the U.S. centers and John Brenier, director of the Lancaster center.

I personally visited the Hogar Crea facilities in Puerto Rico where they are significant contributors to the well-being of their surrounding communities.

Mr. Speaker, my colleagues, please join me in congratulating Hogar Crea on the leadership in their fight against substance abuse.

AMERICANS WITH DISABILITIES ACT OF 1990—AUXILIARY AIDS AND SERVICES

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. OWENS of New York. Mr. Speaker, the ADA requires the provision of auxiliary aids and services in public accommodations, if providing them does not pose an undue burden on business operators.

Auxiliary aids and services can include alternate forms of written text, such as braille, large print, or readers, to assist persons with visual impairments. They can include features like telecommunications devices for the deaf [TDD's] or decoders, used by deaf TV viewers to be able to read captions available on closed-captioned TV shows, and qualified interpreters and assistive listening devices to assist persons with hearing impairments.

For example, it would be appropriate for a large hotel to maintain several TDD's and decoders for use by deaf patrons on demand. Also, it would be appropriate for museums which provide portable tape recorders for use during self-guiding tours, to add braille labels to the buttons on a portion of the tape recorders so that they would be usable by visually impaired persons.

CUBAN LAWYER DAY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, the eighth of June has traditionally been recognized in my native home of Cuba as Lawyer Day. It is a day in which people take time to appreciate those who have devoted their lives to the esteem profession of law.

The National College of Cuban Lawyers in Exile will hold a celebration to commemorate this day and the 50th anniversary of the promulgation of the Constitution of the Republic of Cuba of 1940. This Constitution, was considered the most advanced and progressive document of its day. It is the hope of the Cuban Lawyers in exile that this constitution will one day reign again as the supreme law of Cuba.

This organization should be commended for its long and honorable tradition of defending the rights of the individual and seeking the betterment of society. Among the people who should be commended for organizing this event are: Dr. Carlos Marquez Sterling Guiral, Dr. Santiago C. Rey Perna, Dr. Emilio Ochoa, Sr. Primitivo Rodriguez Rodriguez. Also to be commended is Father Ramon O'Farrill who will be given the invocation of this joyous event.

Mr. Speaker, I applaud these men and the other members of the National College of Cuban Lawyers in Exile for their commitment to preserving the honorable tradition of law and for the betterment of society. We all hope that their dream of freedom and justice will again be reality in Cuba.

CHANGE, PROGRESS, DANGER

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. CRANE. Mr. Speaker, in the wake of this past weekend's summit meeting between the two superpowers, I believe it is important not to lose perspective. Headlines over the weekend using adjectives such as "warmth," "understanding," and "confidence," are nice but we must not allow them to overcome our sense of good judgment. President Mikhail Gorbachev is presently in a situation in which he has been essentially forced to deal with and become a true friend of the United States. Gorbachev's predicament back home can only be described as bad and getting worse. Boris Yeltsin, Gorbachev's biggest rival, has been elected President of the Russian territory; the United States holds firm on a unified Germany joining NATO; and the state of the economy in the Soviet Union causes Gorbachev's popularity there to steadily decrease. These are just a few of the indicators that should be alerting American policy makers that Gorbachev's stability is deteriorating.

I commend President Bush and President Gorbachev on this past weekend's negotiations, but I would recommend that we not let ourselves get caught up in the euphoria. Being aware of the reality of the situation is our most important pursuit. I urge my colleagues to read the following article, "Change, Progress, Danger" from the 1990 Hillsdale Magazine. The article is especially enlightening because it is written by a gentleman with first hand knowledge and understanding of the Soviet citizen's point of view.

CHANGE, PROGRESS, DANGER

Dr. Alexandras Shtromas, who joined Hillsdale's faculty last fall as a professor of political science, was one of the Soviet Union's leading legal scholars, until leaving the USSR in 1973. While studying law at the University of Moscow, Shtromas became acquainted with a fellow student named Mikhail Gorbachev, whom he recalls as a young "peasant" in those days, and whose career he has followed closely ever since.

Shtromas is a man with a wide range of experiences in both his profession and his personal life (as noted in the accompanying article). He was an inmate in a Nazi concentration camp, an avid Marxist advocate, and a dissident Soviet writer, active in the underground samizdat press. His varied and turbulent background gives him a unqiue perspective on the changes taking place in the USSR, a perspective often at odds with the optimistic accounts of Soviet progress in the Western media. Shtromas offered his views recently in an exclusive interview with Hillsdale Magazine. (Editor's Note: With the swift movement of events in the Soviet Union, the reader should bear in mind that the comment presented here reflect developments through mid-January.)

Hillsdale Magazine: Dr. Shtromas, the past year we've seen exciting changes throughout the communist world. We've witnessed the opening of the Berlin Wall, the toppling of totalitarian regimes, and other changes which many of us thought would never happen. The Cold War seems to be over. Yet, you have said that we've now entering what may be the most dangerous period yet.

Shtromas: When resources in Soviet-dominated countries are exhausted, as they are now, the situation is volatile. The Soviet Union itself needs help. They realize that they have no way to feed their people, and the people who have lived under communist regimes have lost their illusions about what the system will do for them. The system and the bureaucrats are self-seeking, but the lies of the system won't work politically, now. I predict that the next stage of communism is force and violence against the people. There will be violence everywhere.

Are you saying we can expect to see a general repression? Will the Red Army be called out to reassert firm Communist Party control?

I think the violence will be very focused, very purposeful. They will not call out the army across the country, but rather will apply force selectively to quell disturbances and reassert authority in individual regions, as we have seen in Azerbaijan. Party leaders fear a military coup, and for good reason. The military is the best guarded prisoner of the party, and the most resentful. It is the only organization that is parallel to the party, yet, a party official is stationed with each commandant. The military would love to get rid to the party apparatus. Communism is running out of options, and the military knows it. The military is instinctively concerned about chaos, and if order breaks down, they might turn their guns of those who invited them in the first place.

Your observations about the Soviet military's attitude toward the Communist Party might be surprising to a lot of people. We tend to think of the USSR as a unified, monolithic power. Do you feel that people in the West are generally misinformed about the Soviets?

The West does not understand the communist system. Russia is not the Party, and the Party is not Russia. The Western media make Gorbachev and the system look so attractive, contrary to the facts. American television is full of trash, yet we take the words of the media at face value. The Soviet people are sick of communism. And Gorbachev is the leader of the system, not the people. We fail to make this distinction. Western commentators and politicians think the people love Gorbachev, and it's not true. The leaders in the Soviet system have no vision for Soviet society, which is totally anti-communist. The leadership works only for its own survival.

But with glasnost and perestroika, we have seen significant political changes within the Soviet Union and what would appear to be remarkable concessions of power made by the Communist Party.

The current "concessions" are mostly cosmetic, not really substantive. Gorbachev's policies now are aimed at making the system survive. If Gorbachev is successful in leading the American media into thinking that things are different now, he can finagle financial help from Western governments. So, much of what we are seeing is just a good public relations image. It's important to remember that, even in evaluating the changes taking place in other communist countries. Don't forget, for instance, that in Czechoslovakia, ten of the new 21-member ruling committee are communists. The prime minister is a communist, and communists still control the military and police.

Gorbachev has certainly built strong support in the West. Many companies, both here and in Europe, are eager to invest in the Soviet Union, and there is enormous political pressure on Western governments to provide help and encourage change inside the USSR.

We need to encourage real economic change, to offer the kind of guidance and assistance that helps get economics away from politics. But the West absolutely must not bail out communism, as it has already done many times in the century. If the West sends the economic aid the Communist Party wants, communism will just remain in place longer. The communist system is well-known for its flexibility. The historical pattern for the Soviets is to make concessions, to retreat, and then to launch a new attack. Lenin did this with the New Economic Policy in 1921, which was really capitalism. He kept the political power, and eliminated even the church, but allowed a limited amount of market economics, for a time. After Lenin's death, the attack against capitalism was mounted again under Stalin in 1929. Thus it has ever been. The communist system develops in cycles. The leaders introduce elements of liberalism, which produce some results, but the concessions do not undermine the system's infrastructure. The leaders reap the benefits of these superficial reforms, then launch another crusade against the enemies of the system. And this is the part of the cycle we are in now.

Even if the party views the changes as only a tactical retreat, it's clear that forces have been set in motion which threaten the stability of communist power in the USSR, and that threaten Gorbachev's personal position, as well.

What do you think we can expect to see on the Soviet political scene?

It is wrong to put our hopes on Gorbachev. He is lost, politically. Gorbachev is the head of the system, and if the system goes down while he is in power, he will go down with it. If, on the other hand, he uses force to stay on top, then he will fail as well, because force will fail. The only thing Gorbachev can do is prolong the system's collapse by bringing in money, so he projects the right image to the West, in order to receive the economic aid he needs to survive.

In 1977, I wrote a piece called "Strategy for Peace in a Changing World," in which I predicted the collapse of communism. One of my reasons for saying it would collapse was my experience with Soviet workers. When they can pocket a profit, they work like hell. Cab drivers, who on their own shifts hardly work at all because what they make is turned into the state, will bribe the garage that owns the cabs so they can keep the cars for a few extra hours. Then they work terrifically, because they make a good profit even after paying the bribe. There is a constant strike against the state. When they receive real money for work, instead of worthless rubles, they will really work.

In the next five years we may see communism disappear as a political system. That is if it's not bailed out. We are still in search of the best communist leader available, but bailing them out will only prolong the misery of the Russian people. It is preposterous to think, as some do, that the system

will collapse from the outside in. Only when we hear that the Kremlin has given up communism will we know things have changed, from Berlin to Vladivostock, and not before. The regime can survive despite the hatred of the people. It has done so repeatedly. But communism is not organic to Russia, and it is a political system in deep trouble.

Soviet domestic problems aside, what do you think are the prospects for US-USSR relations? Is the Cold War really over?

The Soviet military has no interest in attacking the United States, because they perceive the Americans as friendly. The problems are ideological. We have been fighting with the Soviets not over natural interests, but for the future world order. Will it be for liberal democracies or for communism? As countries, we are natural friends, and this was always the case. The American people and the Russian people are natural allies, going all the way back to the Crimean War, when the Americans supported the Russians against the British and the French. How else do you think you got Alaska, Northern California, Oregon and Washington? For helping Russia during that war. The Soviet military has Islamic fundamentalism to worry about, and we both have Asia to worry about—the Japanese and the Chinese.

If a new government formed in Moscow this year, what would it have to do to be successful?

Any government that followed the current Soviet regime would have to do three things: (1) Create a civil society separate from the state. The economy and the culture must not be under political control. The state must be the servant, not the master. (2) Accommodate all the internal nationalities and nations of the USSR. They must be given independence or autonomy in exchange for respect for Soviet national interests. (3) Produce reconciliation between the USSR and the West, including America.

The most important requirement is that any government, of any complexion, would have to be free of the Communist Party. It would have to have total democratic autonomy.

IN SUPPORT OF THE LEVINE AMENDMENT

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, today I rise in support of the Levine amendment which would extend the current export restrictions on Alaskan crude oil to crude produced in California. I do so because I believe this amendment will protect the Nation's energy security by maintaining the longstanding policy of preserving U.S. crude oil to meet domestic needs. This is vital since our dependence on foreign oil is roughly 40 percent of domestic demand and is expected to increase.

If exports of California crude are allowed, every barrel will necessarily be replaced by offsetting imports.

The threat to energy security would be particularly serious if the long-term adverse economic impact of exporting California crude oil hurt refiners to the extent that we lose refining capacity, and must then replace exports with imports of foreign refined products. Domestic refining capacity has already declined to a level of marginal adequacy to meet domestic needs, and we simply cannot allow further capacity to be lost.

Furthermore, without a viable domestic refining industry to process crude oil in the strategic petroleum reserve, this emergency supply would be useless in the event of a foreign supply interruption. The amendment by the gentleman from California will help protect our domestic refining base to ensure that we have the capacity to produce gasoline and other necessary products. I urge its adoption.

THE UNITED STATES-PALESTINE LIBERATION ORGANIZATION DIALOG

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. CRAIG. Mr. Speaker, again the Palestine Liberation Organization has shown that terrorism continues to be its weapon of choice. Last week's attack by the Palestine Liberation Front, a faction of the PLO, was the most flagrant disregard to date of the terms of the United States-Palestine Liberation Organization dialog.

According to newspaper reports, the administration has demanded Arafat denounce the attack on Israel and expel Mohammed Abbas from the PLO for his leadership in the terrorist act or face suspension of the dialog. I commend the administration for taking this position. Given the terms of the dialog, and Arafat's promise to abandon terrorism, I add my support to the administration's request, and strongly urge a firm stance against terrorism.

IRA MICHAEL HEYMAN, A SMITHSONIAN REGENT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. MINETA. Mr. Speaker, it is a great privilege for me to join today with my House colleagues who serve on the Smithsonian Institution's Board of Regents to introduce a House joint resolution for the appointment of Ira Michael Heyman of California as a Smithsonian Regent.

By the way of introduction, Mr. Heyman is the chancellor of the University of California, Berkeley. He has held that post for years, and will be retiring this month as chancellor and returning to teaching at University of California, Berkeley Law School and the department of city and regional planning.

Before becoming vice chancellor of University of California, Berkeley in 1974, Mr. Heyman held a series of law school teaching posts at Berkeley, Stanford, and Yale Universities, as well as serving as a professor of city and regional planning at the University of California, Berkeley since 1966. Mr. Heyman's career before academia included a U.S. Supreme Court clerkship for Chief Justice Earl Warren; clerking for the chief judge of the U.S. Court of Appeals for the Second Circuit, the Honorable Charles E. Clark; private legal practice; and serving as legislative assistant to a U.S. Senator, the Honorable Irving M. Ives. Suffice it to say, Mr. Heyman's honors, memberships and publications are too numerous to list.

In sum, Ira Michael Heyman is well suited to become a member of the Smithsonian's Board Of Regents. He will bring to the Board of Regents a wealth of hands-on experience in running a culturally, racially and ethnically diverse university with 6 museums, 10 exhibit areas, and numerous collections. In addition, his legal and political expertise will be a great asset to the Smithsonian, as will his personal experience with private development efforts and defining the evolving role for universities and museums in our rapidly changing world.

Because of his great qualifications and wealth of experience, I strongly urge my colleagues to support the joint resolution we are introducing today to name Ira Michael Heyman to the Board of Regents as a citizen regent for a 6-year term beginning on October 18, 1990.

On that date, the term of the Honorable A. Leon Higginbotham, Jr., will expire and Judge Higginbotham has indicated that his judicial duties will prevent him from accepting reappointment as a Regent. While the Board of Regents will miss Judge Higginbotham's wisdom and thoughtfulness greatly, I believe that Michael Heyman will be a fitting replacement for him on the Board.

REFINANCING OF CERTAIN SMALL BUSINESS DEBENTURES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. LaFALCE. Mr. Speaker, today I am introducing legislation which will assist some small businesses which are burdened with exorbitant interest rates on debentures guaranteed by the Small Business Administration.

The basic problem is that the affected small businesses want to refinance these loans but cannot do so due to the high prepayment penalties charged by the Government, prepayment penalties which exceed those charged by the private sector.

Certified development companies [CDC's] issue debentures, with an SBA guarantee, and use the proceeds to provide funds to small businesses for plant and equipment. Since Public Law 99–272, these debentures are now sold to private investors and are not a problem; however, those issued prior to this Public Law were guaranteed by SBA and sold to the Federal Financing Bank. Some of the debentures, issued in the early 1980's, bear interest at 13- to 15-percent rates and the small businesses would like to prepay; however, the Federal Financing Bank imposes exorbitant prepayment penalties, sometimes equal to 30 or 40 percent of the amount of the loan, and this effectively precludes prepayment.

For example, a California small business participated in the CDC Program in 1982 and borrowed $500,000 for 25 years at an interest rate of 14.6 percent. In order to prepay that loan, the Federal Financing Bank required payment of a penalty of $202,000 or 43 percent of the balance outstanding at the time of prepayment.

Another small business participated in the CDC Program in 1982 and borrowed $415,000 for 20 years at 15 percent interest. The loan is now paid down to slightly more than $370,000 and yet SBA has computed the prepayment penalty at an additional $108,000. This amounts to a penalty of 29 percent.

A similar problem affects another SBA program, the Specialized or Minority Enterprise Small Business Investment Company [MESBIC] Program, under which MESBIC issues debentures, which SBA holds in-house, and uses the proceeds to provide venture capital to socially or economically disadvantaged small businesses. Some of them also have interest rates in the 15-percent range. Although SBA permits prepayment of them without monetary penalty, it too extracts a severe penalty. If a MESBIC prepays, SBA will not purchase any new debentures from the MESBIC until the expiration of the original term of the prepaid debentures.

Mr. Speaker, the net result is the same as under the CDC Program.

A New York MESBIC, for example, was funded for $294,000 for 10 years in 1984 at an interest rate of 13.5 percent. The extra interest which will be paid by that during the next few years will be approximately $46,000 or almost 16 percent of the amount of the loan.

Mr. Speaker, I do not believe that these small businesses should be able to walk away from their obligations. However, I believe that we ought to be reasonable in the amount of a penalty we are going to charge them to prepay the loan.

The private sector today purchases the financings previously held by the Federal Financing Bank through the CDC Program. The program serves the same purpose, and the debentures are still guaranteed by SBA, but the difference is that these loans or debentures are sold to private investors rather than to the Federal Financing Bank. Each of these loans or debentures carries a provision to permit prepayment, upon the payment of a reasonable penalty. That penalty, if the loan is prepaid within 1 year from the date of issuance, is the equivalent of 1 year's interest. Should it be prepaid in later years, the amount of the penalty goes down and is completely eliminated if the remaining life of the loan is less than one-half.

And, as of this year, we have similarly converted MESBIC debentures to private sector financings with a Government guarantee.

Mr. Speaker, I believe we should not extract more of a penalty from those who do business with the Government than the private sector would require. Accordingly, my bill provides that any participant in the CDC or Certified Development Company Loan Program or a participant in the MESBIC of Minority Enterprise Small Business Investment Company Program may prepay the debentures providing they pay a penalty for this privilege. This penalty would be the equivalent of 1 year's interest payments, with a reduction being made for each year of the maturity of the loan which has already elapsed.

This would give small businesses the ability to restructure their debt servicing requirements and continue their role as job creators.

I urge my colleagues to support this measure.

The text of the bill follows:

H.R. 4991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assumbled,

PREPAYING, DEVELOPMENT COMPANY DEBENTURES

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 is amended by adding after section 506 the following new section:

"PREPAYING DEVELOPMENT COMPANY DEBENTURES

"SEC. 507. (a) For purposes of this section, the term 'issuer' means the issuer of a debenture which has been purchased by the Federal Financing Bank pursuant to section 503, and the term 'borrower' means the small business concern whose loan secures a debenture issued pursuant to such section.

"(b) The issuer of a debenture purchased by the Federal Financing Bank and guaranteed by the Small Business Administration under section 503 shall, at the election of the borrower, prepay such debenture by paying to the Federal Financing Bank prior to October 1, 1994, the unpaid principal balance and accrued interest due on the debenture at the coupon rate on the debenture: *Provided,* That—

"(1) the debenture is outstanding on the date of enactment, and neither the loan that secures the debenture nor the debenture is in default on the date of prepayment is made;

"(2) State or personal funds, including refinancing under the programs authorized by sections 504 and 505, are used to prepay the debenture;

"(3) the issuer certifies that the benefits, net of fees and expenses authorized herein, associated with prepayment of the debenture are entirely passed through to the borrower; and

"(4) the issuer pays to the Federal Financing Bank at the time of prepayment a penalty in an amount equal to the original principal amount of the debenture times the interest rate thereon times the number of years remaining to maturity divided by the number of years to maturity when originally issued, reduced by the amount of any fees paid pursuant to subsection (c): *Provided,* That the borrower shall pay the issuer the amount of the penalty plus the amount of any fees assessed pursuant to such subsection.

"(c) No fees or penalties other than those specified in this section may be imposed as a condition of such prepayment against the issuer, the borrower, or the Administration or any fund or account administered by the Administration. If a debenture is prepaid or refinanced other than through section 504, the issuer may require the borrower to pay a fee to the issuer in an amount equal to one percent of the unpaid principal balance of the debenture. If a debenture is refinanced with a guarantee pursuant to section 504, the issuer may require the borrower to pay a fee to the issuer in an amount equal to one-half of one percent of the unpaid principal balance of the debenture.

"(d) Debentures refinanced under section 504 shall be limited to $75,000,000 per year of the amounts otherwise authorized by the Small Business Act. Refinancing shall also be subject to all of the other provisions of section 504 and 505 and the rules and regulations of the Administration promulgated thereunder, including, but not limited to, payment of authorized expenses and commissions, fees or discounts to brokers and dealers in trust certificates issued pursuant to section 505: *Provided, however,* That the issuer shall be deemed to have waived any origination fee on the new debenture to which it otherwise would have been entitled.".

(b) NEW CREDIT AUTHORITY.—Any new credit authority provided for in this Act is subject to amounts provided for in advance in appropriations Acts.

(c) CLERICAL AMENDMENT.—The table of contents for title V of such Act is amended by adding at the end the following new Item:

"Sec. 506. Prepaying Development Company Debentures.".

SEC. 2. PREPAYING SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY DEBENTURES.

(a) IN GENERAL.—Title III of the Small Business Investment Act of 1958 is amended by adding after section 322 the following new section:

"PREPAYING SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY DEBENTURES

"SEC. 323. (a) Any small business investment company which is the issuer of a debenture purchased by the Administration under section 303(c) may elect to prepay the debenture by paying to the Administration prior to October 1, 1994, the unpaid principal balance and accrued interest: *Provided,* That:

"(1) the debenture is outstanding on the date of enactment and is not in default on the date the prepayment is made;

"(2) personal funds, including refinancing with proceeds of guaranteed debentures under section 303(d) of this Act, are used to prepay the debenture, except that if new guaranteed debenture proceeds are utilized, the length of time of the interest rate reduction authorized by such subsection (d) shall be reduced by the length of time the issuer received an interest rate reduction on the debenture being prepaid; and

"(3) the issuer pays to the Administration at the time of prepayment a penalty in an amount equal to the original principal amount of the debenture times the interest rate thereon times the number of years remaining to maturity divided by the number of years to maturity when originally issued.

"(c) No fees or penalties other then those specified in this section may be imposed as a condition of such prepayment against the issuer, the Administration or any fund or account administered by the Administration.

(b) CLERICAL AMENDMENT.—The table of contents of title III of such Act is amended by adding after the item relating to section 322 the following new item:

"Sec. 323. Prepaying specialized small business investment company debentures.".

SEC. 3. MISCELLANEOUS PROVISIONS.

(a) BORROWER'S OPTION.—The provisions of this Act are exercisable at the option of the borrower under section 1 or at the option of the small business investment company under section 2 and are in addition

to any prepayment options otherwise authorized by law.

(b) REGULATIONS.—within 60 days of the date of enactment of this Act, the Small Business Administration shall issue regulations to implement this Act to facilitate the prepayment of debentures pursuant to sections 1 and 2. The Small Business Administration shall ensure that such regulations—

(1) facilitate such prepayments of debentures, and the underlying loans if the debentures are prepaid pursuant to section 1;

(2) provide for full processing of each request for scheduling of prepayment under section 1 or prepayment under section 2 of this Act within 60 days after its submission to the Administration, unless the requested prepayment involves a refinancing of a debenture under section 503 of the Small Business Investment Act of 1958 and the amount would exceed the annual limitation specified in section 507(d) of such Act of 1958;

(3) except as specifically and directly provided herein, impose no restriction that increases the cost to issuers or borrowers of obtaining financing for prepayment under this Act, or delays the full processing of prepayment requests, or inhibits the ability of such issuers or borrowers to prepay under this Act; and

(4) preserve any prepayment options which issuers and borrowers, as defined herein, or small business investment companies have under other provisions of law.

DOLVIN ELEMENTARY SCHOOL RECEIVES HONOR

HON. BEN JONES

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. JONES of Georgia. Mr. Speaker, today, I rise to commend an outstanding school in Georgia's Fourth District, Dolvin Elementary School in Alpharetta, GA. Dolvin was recently selected by the U.S. Department of Education as a blue ribbon school.

Dolvin serves about 1,140 students from kindergarten through fifth grade. The 45 teachers and the administrators have created a stimulating academic environment, in which the students thrive. The school applied for and recieved a $14,000 science grant from GE/ELFUN, group funded by top management in GE who support and encourage further study of science in schools. This grant paid for student field trips, a school butterfly garden, terrariums and aquariums in each classroom, and a school sun dial. Dolvin's teachers enthusiastically used these new opportunities to demonstrate the wonder and importance of science.

Local civic and parent groups have volunteered over 5,000 hours during the last year, ensuring Dolvin's continuing success. Dolvin's students have benefited from Project Self Esteem, a program to promote positive self-concept. This program was created, written, and implemented by the local service league. The PTA, also very active at Dolvin, sponsors after school mini courses for enrichment in the arts, horseback, karate, and other subjects. These courses allow the students the opportunity to explore new activities and to discover their hidden talents.

Dolvin Elementary can teach us all some important lessons about how schools can succeed. The dedication and enthusiasm of Dolvin's talented teaching staff and administrators are the most important ingredients to success. Dolvin also draws much strength from the surrounding community, which has dedicated its time, energy, and ideas to the excellence of its neighborhood school. At Dolvin, teachers and administrators are involved in a collaborative effort to manage the school. Together, they craft the school's philosophy, design new academic and extracurricular programs, and implement those programs as a team.

Everyone involved with Dolvin has played a part in making the school the example of excellence that it is today.

CLIFTON A. MOORE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. PACKARD. Mr. Speaker, on June 1, 1990, the Airport Consultants Council announced the selection of Mr. Clifton A. Moore for its first Aviation Award of Excellence. This important recognition has been created to acknowledge the contribution of the person or persons whose vision and innovation has significantly enhanced airport development in the United States.

Mr. Moore has worked with the city of Los Angeles Department of Airports for 31 years and has been that department's executive director for 22 years. During his tenure Clifton A. Moore has been a strong proponent of intermodal and long-range transportation planning. Under his leadership the city of Los Angeles acquired 17,500 acres of land near Palmdale, CA, for the development of a major international airport to serve the United States. The Palmdale Airport has now been built and may handle up to 2 million passengers per year within the next decade.

In addition to the development of Palmdale Airport, Mr. Moore has earned the respect of the State of California for effectively managing several of southern California's most important transportation assets. Perhaps most importantly Clifton A. Moore is responsible for the operation of Los Angeles International Airport, which handles in excess of 40 million passengers and 1.7 billion pounds of cargo annually. He has gained the respect of the aviation industry and nearby communities as he has worked through the many controversies inherent in managing a large urban airport.

TRIBUTE TO NANCY ADAMS MOSSHAMMER NEUMAN

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. GEKAS. Mr. Speaker, I ask my colleagues to join me in honoring a woman who has served her community and her country over the past several decades.

Nancy Adams Mosshammer Neuman, of Lewisburg, PA, has served the League of Women Voters in varied capacities from 1967 until today. As she steps down as president of the League of Woman Voters of the United States, we may reflect upon an extensive list of accomplishments.

Nancy has been a vital part of her community, from her first days as president of the League of Women Voters of Lewisburg in 1976, through her dynamic leadership on some 20 committees in Pennsylvania. She has demonstrated her expertise and vision in a broad range of issues, most notably, of course, her activities with the judiciary. Time and again Nancy has been the choice of politicians and judges to enact justice, when necessary, on those who defend it. Her efforts in this and many areas have been invaluable to Pennsylvanians statewide.

Nancy Neumann is a dear friend, and I speak for the 17th District, the League of Women Voters, and all of Pennsylvania when I say thank you for your selfless dedication and untiring efforts throughout these many years. Your presence will be sorely missed at the league; I know I am sure to find you joyfully immersed in some new project in the near future.

TRIBUTE TO ALICIA SCHOELLHAMER

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. MINETA. Mr. Speaker, it is with great sorrow that I note the passing on June 4, 1990 of Alicia Schoellhamer. She was truly a gifted and generous person, known and loved throughout her community for her tireless charitable work and her devotion to bettering the lives of those around her, especially those in greatest need.

She was born Alicia Vitolo in New York City in 1920, the eldest of six children. Particularly during the Depression years, she knew economic hardship first-hand, but also knew the strength that strong family ties and close neighbors can bring.

In the early 1940's, when World War II uprooted so many in this country as people moved about for military training or assignments, she met in New York and married Jack Schoellhamer, a life-long Californian. After the war, California became her new home.

In 1958, they moved to Los Altos, CA, where they lived until 1979. It was during these years that I came to know Alicia and her family. She was a strong voice for the values in which she most believed: education, self-betterment, fairness and compassion toward others, and involvement in the public affairs of her community.

In 1979, she and her husband, after his many years of service to the U.S. Geological Survey, retired to a small farm near Watsonville, CA. Even in retirement she devoted a large amount of her time to community and charity work, most notably to the Watsonville

Volunteer Bureau, where she was a major part of efforts to feed and house the poor and, most recently, the large number of earthquake victims in the area. All this despite the fact that she was for the past 12 years waging her own personal battle against cancer.

Mr. Speaker, I join with her family and friends, and with all those with who she has worked and all those who have benefited from her work, in expressing my deepest admiration for her strength and vision and courage. I ask my colleagues to join me in extending our condolences to the Schoellhamer family. Alicia Schoellhamer endures as a model to us all.

A TRIBUTE TO WAYMAN PRESLEY

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. POSHARD. Mr. Speaker, I wish you could have known Wayman Presley. I'm certainly glad I did.

As my predecessor on this job, former Congressman Kenneth J. Gray said, "A giant has died." Yes, sadly, Wayman Presley has departed from this Earth, but he left behind a tremendous legacy of public service.

Anyone who spends any amount of time in southern Illinois soon learns about Wayman Presley. And since I was fortunate to meet him and get to know him on a more personal level, I consider myself among the luckier ones.

Mr. Presley was always dreaming about how to improve the quality of life in southern Illinois. But what set him apart was not just that he dreamed, but he dared to act, and carried through on his vision. That's what we'll remember about Wayman Presley. It's nice to imagine what might be done "if only"; but it's truly meaningful when imagination turns into reality and you succeed at completing the task at hand.

His philosophy on life; "Row your boat away from shore into the exciting unknown; too many people spend their entire lives near the safe, well-known but unexciting and crowded shoreline." In his distinguished career as a tour operator, Wayman Presley took thousands on that boat with him. And here closer to home, he helped provide a boatload of inspiration for thousands more.

If you couldn't like Wayman Presley, I don't see how you could like anyone. Of course, not everyone always agreed with him, but people who have the courage of their convictions are not always agreed with. But you had to like him, many loved him, admired him, and certainly now, miss him a great deal. I know I do.

But great men leave behind a legacy on which we can build, and from which we can draw wisdom and inspiration when those qualities are running in short supply. We are able to do that with Wayman Presley.

His family has lovingly prepared an obituary on the occasion of Mr. Presley's passing. I am proud and honored to enter it here in the CONGRESSIONAL RECORD, to help contribute to the lasting legacy he left for my area of southern Illinois, and the entire Nation.

WAYMAN PRESLEY DIES: BUILT BALD KNOB CROSS OF PEACE, JULY 15, 1896–MAY 19, 1990

Wayman Presley, southern Illinois humanitarian, humorist, business man and builder of the Cross of Peace died today in Carbondale, Illinois. He was 93.

Wayman Presley was honored by Ralph Edwards on the national network television show, "This Is Your Life," for the successful achievement of a boyhood dream: The Bald Knob Cross at Alto Pass, Illinois. The 111-foot cross was built on land he bought with an $11,000 loan that he promptly persuaded 110 people to donate $100 a piece to repay.

To raise money for construction of the $250,000.00 project, he raised pigs, giving piglets to Illinois farmers who in turn fattened and sold them and donated the proceeds to the Bald Knob Cross Construction Fund. This landmark has become a much loved site for non-denominational religious services and is visited annually by travelers from all over the world.

The State of Illinois first Man of the Year, listed in "Who's Who in America" and recipient of numerous honors and commendations was the son of a sharecropper. Born in a log cabin in Union County, near Makanda, Illinois, he called this location his "most favorite spot on earth." Makanda, he was fond of saying, "is located right behind the Presley Tours Office." Years of travel did not change his feelings.

Wayman Presley realized the opportunities available in providing people with interesting, safe and comfortable ways to travel. Thus Presley—one part showman, one part genius, one part world traveler and one part family man—combined his talents into Presley Tours. He built a family-operated travel operation with the opportunity to entertain, teach, fill a need and make a living for himself and for his family. His children and grandchildren still operate Presley Tours in the tradition established by Presley.

An animated and creative talker, Presley's talent was the vital catalyst in his life and in his business. "Waymanisms" and anecdotes have become a Southern Illinois/Presley Tour trademark. At the request of friends and clients he incorporated these stories into "The Adventures of a Traveling Country Boy." This book brought the Presley warmth and humor to all parts of the world.

Presley won early honors in school as an expert "cipherer"—adding large columns of figures quickly. He earned a teachers certificate from Southern Illinois Normal University (now Southern Illinois University-Carbondale).

After teaching for a year and following service in World War I in the Air Corps as an airplane rigger (on loan to the Royal Airforce), he returned to work as a salesman, restaurant counterman and a railway postal clerk.

Presley married Tressie Rowan in 1922, and as their children began to arrive, along with the need for additional income, he became an independent trucker selling produce to wholesalers as far away as St. Louis, Missouri, and Memphis, Tennessee.

At the height of the depression, Presley accepted a job as postmaster in Makanda. Gradually consolidating four mail routes into one, he became the area's only mail carrier on what was described as the most rugged mail route in Illinois. He retired from the Postal Service at the age of 62 to devote more time to his tour business.

Wayman Presley is survived by his wife Tressie Rowan Presley, his sons Robert and Donald, and daughter Myrna, and a sister Dartha Mae Davis. A son, Clyde, died in 1978; five grandchildren and nine great grandchildren also survive. Funeral services will be conducted in Cobden, Illinois at the Lutz & Rendleman Funeral Home.

NEW OFFICERS FOR LADIES AUXILIARY OF VFW POST 10212

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, on Saturday, June 9, the Ladies Auxiliary of the Veterans of Foreign Wars Post 10212 in Miami, FL, will conduct their installation ceremony for their newly elected officers. The ceremony will be held at the AMI Kendall Medical Regional Center Auditorium located at 11750 S.W. 40th Street at 2:30 p.m.

Those who will be inducted Saturday include Iris Martory as president, Caridad Beruvides as senior vice president, Josefina Cue as junior vice president, Miriam Molleda as treasurer, and Elda Torriente as secretary. Also being installed are Elcira Morales as chaplain, Linda Vazquez as conductress, Luisa Porras as guard, and Mercy Frases as patriotic instructor. The trustees of the ladies auxiliary are Agnes Gongora, Mercy Martinez, and Herminia Batille.

The Ladies Auxiliary of VFW Post 10212 has a long history of charitable work for veterans and the community. Their list of achievements is extensive and includes distributing Easter gifts for patients at the local Veterans' Administration hospital and hosting garage sales for future projects. They also provided assistance in the organization of a Memorial Day Parade which was held on May 28 in West Miami.

It is a pleasure to recognize these fine women who contribute so much of their time to the improvement of our community. By educating citizens and initiating public spirit, they represent the true colors of America.

GORBACHEV MUST KEEP EMIGRATION PROMISES

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. FRANK. Mr. Speaker, the National Conference on Soviet Jewry sent a cogent, well-reasoned and accurate telegram to President Gorbachev about his very disappointing remarks about Jewish emigration.

His threat to cut off Jewish emigration from the Soviet Union is a sad retreat from his own professed principles, and it should have been vigrously challenged by President Bush.

President Gorbachev must understand the negative implications of his remarks on emigration for United States-Soviet relations, and the telegram from the National Conference on Soviet Jewry makes this point well.

I ask that the telegram be printed here so that the Soviet leadership will understand that

it speaks for a large majority of the Members of Congress in its sentiments on this issue.

NATIONAL CONFERENCE ON SOVIET JEWRY,
New York, NY.

His Excellency MIKHAIL SETGEYEVICH GORBACHEV,
President of the Union of Soviet Socialist Republics, Consulate General of the Union of Soviet Socialist Republics, San Francisco, CA.

DEAR MR. PRESIDENT: As you prepare to depart from the United States, we extend best wishes for a safe trip home.

The National Conference on Soviet Jewry welcomed your visit to the United States as an opportunity to advance the cause of world peace and to provide for discussions of a wide array of issues, including those relating to Soviet Jewry. We have also welcomed the recent practices of the Soviet Government which have permitted increased Jewish emigration and greater opportunities for the development of Jewish religious and communal life. It is against this backdrop that the National Conference is prepared to support a Presidential recommendation of a waiver of the Jackson-Vanik amendment if the President has assurances of Soviet policy regarding Jewish emigration in four priority areas: a) Sustained high levels of emigration; b) Resolution of long-term refusenik cases; c) Resolution of strict limitation on "State Secrecy" as a ground for denial of emigration applications; and d) Resolution of the Poor Relative question.

The National Conference believes that you have it in your power and authority to ensure that Soviet practices and policies will permit the President to conclude that the time is ripe to recommend a Jackson-Vanik waiver, and we encourage you to work to these ends following your return to the U.S.S.R.

Mr. President, we are deeply concerned over the warnings, contained in your June 3 press conference, that Jewish emigration from the U.S.S.R. could be restricted if Israel does not provide a guarantee that Soviet Jews would not be resettled in the territories. Should the Soviet Government take such action, it would be in violation of its international commitments, including those flowing from the CSCE process, which makes the right to emigrate from one's country a basic human right. It would also represent an unacceptable bowing to outside pressure and is a false issue since only a miniscule number of Soviet Jews are setting in the territories of their own volition, and not as part of policies or practices of the Israel Government. Such action, if taken, would be cause for the National Conference, representing 47 national Jewish agencies and 300 Jewish communities around the country, to reconsider its stance on a Jackson-Vanik waiver and would clearly complicate prospects for congressional consideration of a Presidential recommendation of a Jackson-Vanik waiver. We trust that the Soviet authorities will avoid any hasty decisions and will weigh this issue carefully before acting.

Sincerely,

SHOSHANA S. CARDIN,
Chairman.
MARTIN A. WENICK,
Executive Director.

H.R. 4424, THE LANGUAGE OF GOVERNMENT ACT

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. CRAIG. Mr. Speaker, Winston Churchill once said, "The gift of a common tongue is a priceless inheritance and it may well some day become the foundation of a common citizenship." Not only is it a priceless gift, but the most fundamental basis for a democratic government. The pillars of American society, our freedoms, rights and the opportunities available in this Nation, revolve around the free flow of ideas. Communication Mr. Speaker, our common language, brings together the many nationalities that have arrived on our shores—it is "The foundation of a common citizenship."

Most Americans consider English the official language of the United States, but this is not the case. We recognize it by custom, but not by law. A number of States have passed legislation designating English as the official language of their State. However, this has yet to be done at the national level.

That is why I am here today in support of H.R. 4424, the Language of Government Act, introduced by my colleague Mr. EMERSON. Mr. Speaker, the goal of the bill may be simple, but it is also very important. It would establish the English language as the official language of the United States. The legislation creates "an affirmative obligation to preserve, protect, and enhance the role of English as the official language."

TELLING THE TRUTH

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. CRANE. Mr. Speaker, in an age of rising medical costs, many people have placed blame upon physicians for these soaring costs. In his article, "Telling the Truth," Timothy Norbeck sheds light on the true causes of increasing medical costs and suggests that U.S. physicians should no longer be used as a scapegoat. Medicare costs have far exceeded any original expectations, but this should not seem all that surprising considering our aging society, increasing access to facilities, expensive modern technology, inflation, and "a population with a penchant for self-abusive lifestyles." When looking for answers to why health care costs have increased, we must realize that the age group over 85 years old is the fastest growing segment in our society. Moreover, they are a segment which is estimated to increase by over 66 percent in the next 11 years. We also must consider that the American self-abusive lifestyle has taken its toll. A recent report estimates that approximately "80 percent of illnesses can be linked to smoking, alcohol consumption, illicit drug use, poor diet, obesity, and sexual promiscuity." I urge my fellow colleagues to give these factors the credence they deserve before they place sole blame upon physicians.

[From Private Practise, Feb. 1990]

TELLING THE TRUTH ABOUT RISING HEALTH-CARE COSTS

(by Timothy B. Norbeck)

Bureaucrats, businessmen and the media continue to blame physicians for the rising cost of medical care in the United States. It's time for somebody to tell the American people the truth.

Those of us who labor with and for physicians constantly are reminded of a quote from German poet and writer Johann Wolfgang von Goethe: "The truth requires constant repetition, because error is being preached about us all the time."

Rising health-care costs are a fact of life for all Americans, but they especially concern the corporate and governmental third-party payers who foot the bill for much of our medical care. Politicians, bureaucrats and businessmen—in their unending search for scapegoats—denigrate our health-care system in general and physicians in particular.

But the facts point elsewhere: to an aging society, increased access to care, costly new technology, inflation, and a population with a penchant for self-abusive lifestyles.

Congress created Medicare in 1965 in an effort to provide the elderly with universal access to health-care services. As with all governmental programs, actual expenses far exceeded original estimates. In 1966, federal soothsayers predicted that the program would cost $8.8 billion by 1990. The actual figure will be in the neighborhood of $95 billion.

The fact is, if the elderly have access to an effective health-care program, they will live longer and, hence, will need more medical care as they grow older and frailer. As a result, the cost of such a program will continue to rise. But rather than acknowledge this reality, some public servants prefer to blame physicians for the runaway cost of Medicare. Unfortunately, as Eugene McCarthy once suggested, "Anything repeated three times in Washington becomes fact."

Doctors are not to blame for Medicare's financial problems. Indeed, the rate of growth in expenditures for physicians' services has declined substantially in the past few years; Part B spending increased by only 5.4 percent from 1987 to 1988.

Of course, the overall cost of the Medicare program is escalating. Approximately 500,000 new enrollees are added every year, and the percentage of those who seek care rose 28 percent in the past 10 years. The total number of visits to physicians by patients over 65 increased 17 percent from 1983 to 1987. In addition, the 85-and-over population has expanded by almost a million in the past nine years. This is not bad news—indeed, it is a tribute to the quality of the medical care received by U.S. senior citizens.

When asked recently by a newsman what life was like in her day, a pert octogenarian snapped, "My dear boy, this is my day." And well it is; thanks to quality medical care and new technology, the 85-and-over group is the fastest-growing segment of our population—it is expected to expand from today's 2.9 million to 5 million in just 11 years. It is not surprising that the elderly account for approximately 36 percent of this nation's health-care costs despite comprising only 12 percent of the population. These numbers will continue to grow even if inflation

doesn't. Four-generation families, once the exception, now are the norm.

Nevertheless, captious critics continue to lambaste America's medical-care system because the U.S. "ranks 16th in the world in life expectancy and 17th in infant mortality." But it should come as no surprise that a huge, heterogeneous nation would rank so low in these categories. Indeed, U.S. infant-mortality rates are more a reflection of reporting mechanisms, teen pregnancies, intractable poverty, and drug and alcohol abuse than they are of the quality of our health-care system.

These same critics claim that U.S. health care is not superior to that in other countries. If this is true, perhaps they can explain why patients travel to the United States from all over the world to receive prompt, high-quality medical care.

It is true that life expectancy in the United States is below that in some other countries. However, this cannot be blamed on our health-care system; much of the fault lies with our affluent, self-abusive lifestyle. There is something to the Japanese proverb that "good medicine always has a bitter taste." Maybe that's why the stoic Japanese lead the world in longevity.

AN EARLY START

Our tendency toward self-abuse starts at an early age. For example, the President's Council on Physical Fitness and Sports reported that in its tests of children ages 5 through 8, 40 percent already showed risk of heart disease, while among 400 teenagers, only 36 percent passed a basic fitness test in the National Children and Youth Fitness Study. A Chrysler Fund/Amateur Athletic Union Physical Fitness program director concluded that American children are becoming more sedentary. Meanwhile, the Centers for Disease Control noted that the proportion of adults ages 18 through 65 participating in vigorous 20-minute exercise three times a week should be 60 percent; the actual figure is a paltry 8 percent.

According to the Senate Select Committee on Nutrition and Human Needs, six of the 10 leading causes of death in the United States are linked to diet. The committee concluded, "Americans are risking their health by eating too much fat, sugar, cholesterol and salt, and not enough fruit, vegetables and grain products."

Robert Blank, author of "rationing Medicine," says that approximately 80 percent of illnesses can be linked to smoking, alcohol consumption, illicit drug use, poor diet, obesity or sexual promiscuity. "Furthemore, 4 percent of the people in the United States account for 55 percent of all hospital costs," he adds. But government has paid little heed to the wise adage, "An ounce of prevention is worth a pound of cure." In fact, less than 1 percent of our national health-care bill goes for health education and promotion.

Paying more attention to prevention can have a huge effect on health-care costs. for instance, worried about the skyrocketing cost of premature births, Sunbeam Corp. established a mandatory prenatal course that slashed the average cost per baby by nearly 90 percent. The Quaker Oats Co. cut its employees' hospital costs by 58 percent with health education and a fitness program. Johnson & Johnson reported that after 25 percent of its employees stopped smoking, hospital costs plummeted 35 percent and absenteeism was reduced by 20 percent.

It is obvious that American business can save far more money on health care by following the examples of these companies than by questioning the judgment of physicians. For instance, the Kimberly-Clark Corp., which has a wellness program that includes fitness facilities and confidential counseling for substance abusers, also has employee health costs that are about half the national average in the paper industry. "Cure people's ills," goes an old Chinese saying, "and make them healthy for a day; teach them to stay well, and make them healthy for a lifetime."

Despite our sloppy personal habits and self-destructive lifestyles. Americans have a fierce desire to live as long as possible—the cost be damned. In a recent Louis Harris poll, 71 percent of the respondents opposed letting insurers set financial limits on life-saving medical treatments. And a survey of intensive-care unit patients in a Chicago hospital showed that a surprising number—some 70 percent—were willing to undergo intensive-care treatment again, regardless of the cost, to live for even just another month. Only 8 percent were unwilling to undergo such life-prolonging care.

This lust for life translates into a further strain on our health-care funding resources. Perhaps that partially explains why 25 percent to 35 percent of Medicare's funds are spent on 5 percent to 6 percent of enrollees who will die within a year. Indeed, it was reported recently in Business Week that on average, 85 percent of an individual's health-care expenses occur in the last two years of life. Physicians have little control over such expenses. Clearly, the American people want more money—not less—spent on their health care.

How good is that expensive technology that bureaucrats are so quick to criticize? Good enough to make productive taxpayers out of people who, a decade ago, would have been only names on tombstones. An extreme example is the New Jersey woman who received seven artificial joints: two shoulders, two hips, two knees and an ankle. Thanks to modern medicine, this real-life bionic woman danced at her daughters wedding. According to the National Center for Health Statistics, 556,000 shoulder, elbow, wrist, hip, knee, foot, toe and finger joints were replaced in the United States in 1987. Though the cost certainly was well worth it to the recipients of these operations and their families, it probably was unacceptable to the government and corporate rationers of medical care.

DOCTORS ON THE DEFENSIVE

Today, more than 80 percent of newborn babies weighing from 1.2 to 2.2 pounds survive; just 15 years ago, 70 percent of them died. But despite modern technology and physicians who are better trained and more highly skilled than ever before, malpractice suits continue to proliferate. Indeed, defensive medicine—a necessity to ward off such suits—adds $30 billion a year to the U.S. health-care tab. Part of this problem stems from the attitude that medicine should be able to accomplish anything. According to philsopher Leonard Peikoff, today's standard, in effect, demands of doctors omniscience and omnipotence, not simply responsible care.

As Robert Samuelson noted, "High-technology medicine is both the glory and the curse of our health-care system." Perhaps this paradox can be explained in the words of George Bernard Shaw: "We have not lost faith, but have transferred it from God to the medical profession." Flattering though that may be, physicians—unlike God—are not immune to prosecution.

Once referred to as the "flowers of our civilization" by Robert Louis Stevenson, physicians now fit Ambrose Bierce's description: "one upon whom we set our hopes when ill, and our dogs when well." Abuse is being heaped upon physicians by the media, government, business and unions. The third parties who finance our health-care system are unimpressed that their money is buying better access, better health and longer life. Their agendas begin and end at their own bottom lines.

There is no question that health-care costs are higher than they should be, and that they will continue to rise. But why blame doctors for this problem? Inflation has affected health care just as it has affected every other commodity. A 1986 dollar was worth only 22 cents when compared with its 1950 counterpart. If nothing else had changed, health-care costs would have quintupled due to inflation alone.

Another reason for rising health-care costs is that, for some people, access has become too easy. Former White House adviser William Roper, MD, maintains that most employer health plans encourage excessive use of medical services by providing first-dollar coverage. This insulates employees from the full impact of rising costs and destroys any incentive to use services economically.

Physicians' fees, a favorite target of physicians' critics, increased only 5 percent in 1989 and, for the seventh time in 10 years, won't even keep pace with the cost of living. According to *Medical Economics*, median practice net income was up just 1.2 percent in 1988, while inflation rose 4.4 percent. And it should be noted that physicians' services account for about 20 percent of all health-care expenditures, a proportion that has remained unchanged since 1950.

What else would anyone expect in America but rapidly rising health-care costs, with 3 million desperate drug abusers at large on our streets, 18 million alcohol abusers loose on our highways, 55 million tobacco abusers causing 1,000 costly, painful deaths every day, and nearly 1 million new cases of venereal disease adding to our society's existing burden every year? But that's not all. Waiting in the wings are growing crises involving long-term care, homelessness, Alzheimer's disease, and the uninsured and underinsured working poor, not to mention the burgeoning tragedy of a million or more men, women and children infected with the AIDS virus.

According to a study carried out by the Northwestern National Life Insurance Co., residents of Utah are healthier than those in any other state. They are ranked the lowest in overall disease, and they have the lowest incidence of cancer and the second lowest incidence of coronary heart disease and mortality. Utah residents also have the lowest prevalence of tobacco and alcohol consumption, and they rank second in physical exercise.

For too long, public officials have avoided offending voters with the simple truth: Our destructive lifestyles are one of the biggest problems with our health-care system. It is easier to ignore the truth and blame physicians and hospitals for rising health-care costs.

THE COURAGE TO TELL THE TRUTH

Who will be courageous enough to say that we must either spend more for the damage already done or pay the piper by rationing the quantity and reducing the quality of health care? Who will acknowledge

that the public's desire for more—not less—health-care is a legitimate goal for an affluent, generous and peace-loving people?

Who will tell the truth to the American people, that our health-care system is a huge, wholesome, vibrant sector of our economy, employing 8.5 million compassionate Americans at every skill level and in every city, town and hamlet?

It is true that our health-care costs are approaching 12 percent of our GNP, but these expenses are worth every dollar. That's why it's so important that our health-care system be protected from those in government and business who would gut our hospitals and medical centers and undermine the relationship between doctors and patients. What other sector of the economy is more deserving of public and private support than our health-care system?

AMERICANS WITH DISABILITIES ACT OF 1990

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. OWENS of New York. Mr. Speaker, on May 22, the House passed the Americans With Disabilities Act of 1990. Title I of the bill protects people with disabilities from employment discrimination on the basis of their disability. There is already a growing recognition among many in the business community as to the contributions that qualified people with disabilities can make to the performance of their enterprises.

The Human Resources Center, a nonprofit organization providing job training and placement services to people with disabilities, is located in Albertson, NY, not far from my congressional district in New York City. As a part of the outstanding work that it has done benefiting both people with disabilities and businesses, the Human Resources Center has recruited a membership of 130 businesses and labor organizations nationwide to participate in its industry-labor council, which I am submitting for inclusion in the RECORD. I think this list provides some sense for my colleagues in the Congress and the public at large of the large and growing degree of interest and sophistication on the part of many in the business community on the value of hiring qualified people with disabilities.

The Human Resources Center is the recipient of a Federal grant under the Projects With Industry Program [PWI] authorized under the Rehabilitation Act of 1973. The Subcommittee on Select Education, which I chair, has responsibility for that piece of legislation on the House side. Each PWI recipient designates a business advisory council [BAC] which, in conjunction with the grant recipient, implements the project to place and/or train people with disabilities in jobs and develop a network of other businesses interested in hiring people with disabilities. It is this dynamic partnership between the grant recipient and the business advisory council that is in large part responsible for the consistently outstanding evaluations the PWI Program has received from the Department of Education's Rehabilitation Services Administration. Business interest in and ownership of the program is high; businesses have a real role to play and derive a clear benefit. I am also submitting for the RECORD a list of the members of the business advisory council for the Human Resources Center. I want to congratulate Dave Engel of Bertan Associates and the members of the council for their forward thinking and positive actions in turning to this untapped source of qualified job applicants, the many people with disabilities in the New York City area who are only now beginning to have the opportunities to show what they can do in the work force. Their understanding of how to both meet the special needs of people with disabilities as well as recruit qualified new employees for their firms provides businesses who want to do likewise an invaluable source of expertise, information about available services, and point of contact from within the business community.

I want also to congratulate Edwin W. Martin, Ph.D., president and CEO of the Human Resources Center, Mr. Michael Pascucci, chairman of the Board, Roberta Housman, vice president, and the entire staff of the center. You are leaders in your field, and your exceptional efforts in planting seeds in this newly plowed American soil will offer a rich harvest to those who choose to learn from your example.

INDUSTRY-LABOR COUNCIL ON EMPLOYMENT AND DISABILITY

MEMBERSHIP ROSTER

Our Nation's leading corporations and labor unions are expressing their commitment to improving employment opportunities and the quality of life for persons with disabilities through membership in the Industry-Labor Council.

AFL-CIO.
AT&T Company.
Advanced Micro Devices, Inc.
Aetna Life & Casualty.
Alabama Power Company.
Aluminum Company of America [ALCOA].
Amalgamated Clothing & Textile Workers Union.
Amex Inc.
Amerada Hess Corporation.
American Airlines, Inc.
American Electric Power Service Corporation.
American Express Company.
American General Life Insurance Company.
AMOCO Corporation.
Anheuser-Busch Companies, Inc.
Apple Computer, Inc.
ARCO.
Automatic Data Processing, Inc.
BASF Corporation.
Backer Spielvogel Bates, Inc.
Baker Hughes Inc.
Becton Dickinson & Company.
Bell Atlantic Corporation.
Booz, Allen & Hamilton Inc.
Bristol-Myers Squibb Company.
CIBA-GEIGY Corporation.
CIGNA Corporatioan.
Caterpillar Inc.
Chase Manhattan Bank, N.A.
Cincinnati Bell Telephone Company.
Cincinnati Gas & Electric Company.
CITICORP.
CITICORP TTI.
Colgate Palmolive Company.
Combustion Engineering Inc.
Commonwealth Edison Company.
Communications Workers of America.
Consolidated Freightways, Inc.
Continental Corporation.
Deere & Company.
The Dime Savings Bank of New York.
DOW Chemical USA.
Dresser Industries, Inc.
Eastman Kodak Company.
Eaton Corporation.
Engelhard Corporation.
Everready Battery Company.
EXXON Company USA.
Federal Express Corporation.
FERMI National Accelerator Laboratory.
First Card Services, Inc.
Ford Motor Company.
General Electric Company.
General Motors Corporation.
The B.F. Goodrich Company .
The Goodyear Tire & Rubber Company.
Grumman Corporation.
H.J. Heinz Company.
Hoechst Celanese Corporation.
Holiday Corporation.
Honeywell Inc.
IBM Corporation.
ILC Data Device Corporation.
International Association of Machinists & Aerospace Workers.
International Brotherhood of Electrical Workers.
International Union of Operating Engineers.
Johnson & Johnson.
KGF Corporation.
Keebler Company.
Kellogg Company.
LTV Steel Company.
Lockheed Corporation.
Long Island Lighting Company.
McDonnell Douglas Corporation.
MERCK & Co., Inc.
Metropolitan Life Insurance Company.
Mobil Corporation.
Monsanto Company.
Morton International.
NCR Corporation.
Nabisco Brands Inc.
NALCO Chemical Company.
Nationwide Mutual Insurance Company.
New England Telephone & Telegraph Company.
New York City Central Labor Council.
New York Life Insurance Company.
New York Telephone Company.
North American Philips Corporation.
Northeast Utilities.
Northern States Power Company.
Northern Telecom Inc.
Northrop Corporation.
NYNEX Corporation.
Occidental Petroleum Corporation.
Oscar Mayer Foods Corporation.
PMI Food Equipment Group.
Perkin-Elmer Corporation.
Pfizer Inc.
Philip Morris, Inc.
Polaroid Corporation.
Port Authority of New York & New Jersey.
Potomac Electric Power Company.
The Prudential Insurance Company of America.
Quaker Oats Company.
RKO General, Inc.
Republic National Bank of New York.
Roadway Services, Inc.
Ryder System, Inc.
Sears, Roebuck & Co.
Smith Barney, Harris Upham & Co., Inc.
Sundstrand Corporation.
TRW Inc.
Texaco Inc.
Time, Inc.
The Travelers Companies.

Trump Taj Mahal.
Unisys Corporation.
Unun Life Insurance Company.
United Airlines, Inc.
United Auto Workers Union.
United Brotherhood of Carpenters & Joiners of America.
United Telecommunications, Inc.
Unocal Corporation.
Warner-Lambert Company.
Westinghouse Electric Corporation.
Xerox Corporation

INDUSTRY-LABOR COUNCIL ON EMPLOYMENT AND DISABILITY

Listed below are those corporations joining the Industry-Labor Council since January 27, 1990.

Burlington Industries, Inc., Greensboro, NC.
Citibank Delaware, New Castle, DE.
GenCorp, Fairlawn, OH.
Reliance Federal Savings Bank, Garden City, NY.
Tennessee Valley Authority, Knoxville, TN.
Thiokol Corporation, Ogden, UT.
Trans World Airlines, Inc., Kansas City, MO.

BUSINESS ADVISORY COUNCIL, HUMAN RESOURCES CENTER, PROJECTS WITH INDUSTRY STEERING COMMITTEE

Chairman: Dave Engel, Bertan Associates.
Mario Panzarella, Grumman Data Systems.
Charles Watkins, Norden Systems.
Mary Simpson, Algorex.
John Maxwell, PWI/HRC.
Roberta Housman, Human Resources Center.
Francine Tishman, Human Resources Center.
Nick Mukherjee, Human Resources Center.

Participating Companies

A.U.L. Company.
Administrators for the Professionals
Aetna Life & Casualty.
Algorex Corporation.
Amerada Hess Corporation.
American Express.
American Software Development.
American Technical Ceramics.
Amprobe Instruments.
Arkwin Industries.
AT&T.
Automatic Data Processing.
Axel Electronics.
Bankers Trust Company.
Bayside Federal Bank.
BBDO, New York.
Bertan Associates.
Bethpage Federal Credit Union.
Booths Memorial Medical Center.
Brookhaven National Laboratory.
Brooklyn Union Gas.
Cablevision.
Canon USA, Inc.
Chase Manhattan Bank.
Chemical Bank.
Cigna Insurance Company.
Citicorp.
CMP Publications.
Commission for the Blind and Visually Handicapped.
Con Edison.
Coopers & Lybrand.
Databit, Inc.
Del Laboratories.
Design Strategies Corporation.
Designatronics.
Dime Savings Bank of New York.
Doubleday & Co.
Dreyfus Corporation.
Dynasen Electronics.
Eastern States Bankcard Association.
Eaton, Ail Division.
EDO Corporation.
Elroy Enterprises.
Empire Blue Cross/Blue Shield.
Entenmann's Bakery.
European American Bank.
Federal Aviation Administration.
First Card Services.
Friendly's Ice Cream.
General Instruments.
Grumman Data Systems.
Hartman Systems.
Hayt, Hayt & Landau.
Hazeltine.
Henry Schein, Inc.
Hewlett-Packard.
Hoffman Industrial Products.
IBM Corporation.
ILC Data Device Corp.
INHILCO, Inc.
Internal Revenue Service.
ISI Systems.
Key Bank of Long Island.
Liberty Mutual Insurance Company.
LILCO.
Lockhead Data Communications.
Long Island Savings Bank.
Lumex, Inc.
Lundy Electronics.
M/A-COM Microwave Power Devices, Inc.
MAI Basic Four.
Manufacturers Hanover Trust Co.
Marine Midland Bank.
Marriott Corporation.
McGraw Hill Inc.
Mercy Hospital.
Merrill Lynch.
Metropolitan Life Insurance Co.
Micronics Technology.
Morgan Guaranty Trust.
Multiwire.
Nassau County Parks.
N.W. Ayer Company.
National Westminster Bank.
NEC America.
Newsday.
New York Passport Office.
Norden Systems.
Norton Associates, Inc.
North Hills Electronics.
NYNEX.
New York State Vocational and Educational Services for Individuals With Disabilities.
Oxford Resources.
Paine Webber.
Panasonic Corporation.
Paragon Securities.
Parker Hannifin Corporation.
Philip Morris.
Pickering & Company.
Pickwick Motor Inn.
P.M.I. Motion Technologies.
Port Authority New York & New Jersey.
Porta Systems Corp.
Prudential Property & Casualty Insurance Co.
Queens County Savings Bank.
Regional Education Center for Economic Development.
Reliance Federal Savings & Loan.
Republic National Bank of New York.
Sandata, Inc.
Shea & Gould.
Spectrum Health Care Solutions.
Tektronix.
The Depository Trust Co.
Thompson Industries.
Time-Life.
Trac-Line Software.
Travelers Insurance Co.
U.S. Custom Services.
U.S. Department of Education.
U.S. Office of Personnel.
U.S. Post Office.
Ultre.
Underwriters Laboratories.
United Parcel Service.
Unysis Corporation.
Ventarama Skylight Corporation.
Viacom Cablevision.
Wilhelm Technical Training and Consulting.
Winthrop University Hospital.

THE BELLEVUE LIONS CLUB

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. WOLPE. Mr. Speaker, I rise today to honor the Bellevue, MI, Lions Club on the occasion of its 50th anniversary. The Bellevue Lions Club has been an active service organization since June 18, 1940.

Throughout its long history, the club has contributed generously to a multitude of community projects that have been greatly admired by all the community's residents. It has developed a very special relationship with the Bellevue community schools which has culminated in several thousand dollars worth of scholarships each year to area students.

Mr. Speaker, the Bellevue Lions have answered the call of those in need many times throughout their 50-year history. I know my colleagues will want to join me in expressing gratitude to the Bellevue Lions Club for its many years of dedicated community service.

TRIBUTE TO THE BETHLEHEM CHAPTER OF THE AMERICAN BUSINESS WOMEN'S ASSOCIATION ON ITS 25TH ANNIVERSARY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. RITTER. Mr. Speaker, I rise to pay tribute to the Bethlehem, PA chapter of the American Business Women's Association [ABWA] on the occasion of their 25th anniversary.

The ABWA's mission statement is simple: To bring together businesswomen of diverse backgrounds and provide opportunities to help themselves and others grow personally and professionally through leadership, education, networking support and national recognition. The Bethlehem chapter has carried out its goals admirably. Started in 1965 with approximately 46 members, the chapter has grown to over 400 members and is continuing to grow in membership and in its impact in the Lehigh Valley's business community. The professionalism they encourage and the excitement they generate is felt both in the work place and the home.

I congratulate chapter President Dorothea G. Klotz on her success and I thank the mem-

bers of the Bethlehem chapter for their commitment to developing an agenda, team building and developing decisionmaking skills. Dorothea has guided the organization to its present statute as a viable organization within the business community and she has ensured the future viability of the local chapter.

I also wish to recognize Walter F. Williams, chairman, president and chief executive officer of the Bethlehem Steel Corp. Walt has been selected to receive the Bethlehem chapter of ABWA's Boss of the Year Award. Walt started with Bethlehem Steel after graduating from the University of Delaware in 1951. He moved through the ranks of the corporation as a management trainee in the fabricated steel construction division, went on to become a project engineer and construction supervisor and then was promoted to assistant vice president. Walt then moved on to become president, chief operating officer, chief executive officer ultimately, was elected chairman in 1986.

Walt's contributions to the community as an active local officer of the Boy Scouts of America is a testament to his understanding as a corporate leader of the importance of community service. His contribution to the city of Bethlehem does not stop at the Bethlehem Steel gate: his understanding of the needs of his employees is enhanced by his volunteer service in the community.

Mr. Speaker, my colleagues, please join me in congratulating the members of the Bethlehem chapter of the American Business Women's Association on their 25th anniversary and Walt Williams on his selection as boss of the year.

PRIME MINISTER MITSOTAKIS USHERS IN A NEW ERA IN UNITED STATES-GREEK RELATIONS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. BROOMFIELD. Mr. Speaker, I want to extend a warm welcome to the new Prime Minister of Greece, His Excellency Constantine Mitsotakis. I was honored to have a private meeting with the Prime Minister and congratulate him on his recent election victory. His commitment to rebuilding United States-Greek relations is a breath of fresh air. I firmly believe that his visit to the United States marks the beginning of a new and cooperative partnership between Athens and Washington.

His visit to the White House is a historic occasion. The last time a Greek leader came to Washington was 27 years ago. I regret to say that the longstanding ties that linked our two great nations were weakened in recent years. Unfortunately, the previous government resorted to anti-American rhetoric, boycotted NATO exercises, ignored United States requests for expanded cooperation in antiterrorism efforts, prolonged United States-Greek discussions on a defense agreement, and allowed socialist economics to seriously weaken the Greek economy.

I am pleased that the Prime Minister will deal with the United States as an old friend that respects Greece and values a close relationship between our two democracies. Disagreements among friends should be aired privately, not in the headlines of morning newspapers. I understand that the new Greek Government intends to participate fully in NATO activities and cooperate fully in combating terrorism. The Prime Minister will soon make a determination about the case of accused Palestinian terrorist Mohammed Rashid, whose extradition to the United States was approved by the Greek Supreme Court. The United States Government wants him to stand trial for an explosion aboard a Pan Am airliner over Hawaii in 1982 that killed a Japanese teenager and wounded many others. Terrorists must be treated as international criminals and punished to the fullest extent of the law.

The Prime Minister knows the tragedy of terrorist violence. He lost his son-in-law in an attack reportedly staged by "Revolutionary Organization 17 November," a Greek domestic terrorist group. Pavlos Bakoyannis, age 35 and a member of the Greek Parliament, was gunned down in Athens 9 months ago by members of November 17, the same organization that killed CIA Athens station chief Richard Welch in 1975. My heart goes out to the Mitsotakis family for their terrible loss and to the families of other victims of mindless terrorism.

The Prime Minister's government also recently concluded talks on the United States-Greek Defense Cooperation Agreement and initialed that important document, which permits United States air and naval bases to continue to operate for 8 more years in that country. Two United States bases in Greece, Hellenikon and Nea Makri, will soon be closed.

As the wave of free market economics sweeps through Eastern Europe and beyond, the new Greek Government is also turning its back on the failed promises of socialist economics that produced a crisis in that country. The Prime Minister has already introduced major economic policy changes that are designed to rehabilitate that country's lagging economy. I am confident that his new economic plan will succeed, and I wish him luck as he leads his nation into the united Europe of 1992 in the midst of a rapidly changing world.

The Prime Minister deserves our admiration for his recent decision to extend de jure recognition of the State of Israel. He is also committed to bringing about a resolution of the longstanding Cyprus problem, a dispute that has troubled me since the 1974 Turkish invasion and illegal occupation of the northern half of Cyprus by 35,000 soldiers. We all know that the key to peace on Cyprus is in Ankara. It is time for the administration to put the Cyprus problem on the front burner and tell Turkish officials that they must no longer remain indifferent to that tragic problem. As a first step, Turkey should remove half of its well-armed troops from that island.

I wish Prime Minister Mitsotakis godspeed as he improves Greece's image around the world, rebuilds his relationship with America, and addresses pressing issues at home. It is time to start a new page in America's relationship with the cradle of democracy.

THE COALITION AGAINST DRUGS: A NEW LEGISLATIVE STRATEGY

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVE

Thursday, June 7, 1990

Mr. FAUNTROY. Mr. Speaker, I want to bring to the attention of my colleagues a valuable strategy formulated by the Coalition Against Drugs. It will be of assistance to each of us as we work with the tough crisis that is confronting our Nation in the problems associated with substance abuse.

FROM THE COALITION AGAINST DRUGS: A NEW LEGISLATIVE STRATEGY

In order to win the battle against drug addiction and drug-based crime, we must recognize that the programs of the past and present, focused mainly on interdiction and punishment, have failed. This failure is grim, expensive, and total; as the expenditures increase, the disaster continues to widen and worsen. To a significant degree, this failure is a betrayal of the trust placed in the leaders of government to solve our most serious and immediate domestic problem.

From dialogues among hundreds of citizens, both lay and expert, comes a new approach, based on understanding of the problem and on many successful experiences in our communities. This new strategy will require legislation to implement it and to fully fund it, at the federal, state, and local levels.

We are convinced that effective elimination of drug addiction and the problems spawned by it, must be based on radical reduction of demand. This requires addressing two very different needs: (1) lifelong rehabilitation of existing addicts, and (2) prevention of the creation of new addicts. These needs require a major dedication of resources to programs of treatment and education.

PREVENTION REQUIRES A NEW APPROACH TO EDUCATION AGAINST DRUG USE

We must recognize that the most crucial single point in the life of every addict and his family is the first use of a drug. After that, the odds against rehabilitation are large. Our primary focus must therefore be on preventing each non-addict from reaching the point of first use.

Legislation at the state and local levels must mandate the development of graphic curricula (using materials and experiences of successful local projects) to provide a program of instruction and discussion for all public schools. This should be a permanent program for grades kindergarten through twelve, to provide all students, with strong psychological and factual armament against the myths and seductions of drug use. It should be scheduled within the regular school day, daily in all schools meeting an established criterion for high risk (for example, within one mile of a known drug market), and at least weekly in all other schools. Systematic training, with frequent updating, must be provided to all teachers in these programs.

In addition, programs must be developed—for inclusion in elementary, junior high, and high school curricula—that address values, self-esteem, academic preparation, and meaningful legitimate careers, with these

resources being devoted mainly to high-risk youth.

We must also bring an end to government promotion of an environment that induces drug use by the young. It is urgent that federal and state income tax laws be amended to limit the deductibility of business expenses for companies selling substances the sale of which to minors is prohibited: the cost of advertising to a general audience which includes minors should not be a deductible business expense. Zoning laws, mainly in the province of state legislatures, should be changed to prohibit the use of billboards to advertise substances the sale of which to minors is prohibited.

REHABILITATION REQUESTS A NEW APPROACH TO TREATMENT OF ADDICTS

Drug addiction is a contagious disease. Effective treatment requires recognition of the epidemic, and a comprehensive, well-managed approach to eradicating it. The era of voluntary rehabilitation is over. The only method with a convincing record of success is residential comprehensive treatment for a period of about a year. These successfuly rehabilitation regimens characteristically include medical treatment, and psychological, educational, occupational, personal management, and spiritual counseling. They remove the addict from the locus of his addiction, preferably at a centralized facility where needed resources can best be mobilized.

Legislation at the federal and state levels is needed to implement a five-part strategy for ending drug-based crime:

(1) A basic "1 + 5" formula which will apply to most convictions: For every conviction of a non-violent crime where the convict tested positive for drugs, the basic prescription should be one year in a secure rehabilitation center, followed by five years of supervised probation, with the court having authority to vary this for individual cases.

(2) For every conviction of a violent crime where the convict tested positive for drugs, the mandatory prescription should be one year in a secure rehabilitation center, followed by a return to court for sentencing. This sentence should generally include, as a minimum, five years of supervised probation.

(3) Courts should be encouraged to allow arrested individuals who test positive for drugs, considering the nature of the crime and the availability of resources, to undergo rehabilitation prior to trial. The individual would be housed at a secure rehabilitation center for a maximum period of one year, and then return to court for trial. Such persons could return to court at any earlier time for trial.

(4) Every individual who is addicted to drugs must have the right (contingent on availability) to enter a fee-free residential treatment center and remain for as long as the professional staff considers appropriate. (As facilities are developed, this right should be extended to individuals currently imprisoned.) Every individual who is not addicted but has a drug problem must have a right to fee-free nonresidential counseling and treatment.

(5) There should be no drugs in the prisons of America. Procedures must be mandated to end the free flow of drugs into prisons. Prisoners can and must be made drug-free by physically preventing the carrying of drugs into prisons and by isolating prisoners who test positive for drugs.

These steps will quickly begin to counteract the spread of drug use and the crime associated with it. In addition, the costs of new facilities and new programs will be substantially counterbalanced, not only by the decrease in prison population corresponding to placements of convicts in secure treatment centers, but also by the radical reduction in recidivism as the level of addition in the population is reduced. In addition, resources will be saved that are now being wasted on ineffective treatment modes. Further, the paralytic clogging of criminal courts will be immediately relieved by the adoption of these procedures.

We urge Congress, the Executive, and state and local leaders, to move quickly, that our people may be freed from the scourge that is on us.

OUR INFANT-MORTALITY RATE IS NOT AS BAD AS IT SEEMS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. CRANE. Mr. Speaker, many critics of the U.S. medical system have cited the infant-mortality rate in comparison to other industrialized countries as an indication that we should move toward socialized medicine. Dr. Harry Schwartz argues that we should reconsider our normal evaluation of this statistic in light of other more fruitful comparisons. A more practical comparison can be made with the Soviet Union, which, similar to the United States, "occupies nearly half a continent and has a diverse population of more than 250 million." Furthermore, more emphasis must be placed on the positive strides the medical profession has made in bringing down the infant mortality rate by over 66 percent in the last 23 years. I urge my colleagues to read and consider Dr. Schwartz' article, "Our Infant-Mortality Rate Is Not as Bad as It Seems."

[From Private Practice, October 1989]

OUR INFANT-MORTALITY RATE IS NOT AS BAD AS IT SEEMS

(By Harry Schwartz, Ph.D.)

Infant-mortality rates in the United States are not nearly as bad as some people would have us believe. In fact, we're much better off than the only country to which a useful comparison can be made.

Infant-mortality rates have been used innumerable times to smear the U.S. medical-care system. You know the argument: The United States is 18th—or 20th or 25th, depending on the source—in the world infant-mortality sweepstakes, proving to some that we should establish a system of socialized medicine or at least that American medicine needs a radical overhaul.

This argument always has struck me as one of the weakest in the intellectual armory of doctor bashers. Most of the nations glorified as doing better than us in infant mortality—Finland, Sweden, Norway and Holland, for example—have small homogeneous populations. How can you compare them with the United States, which occupies nearly half a continent and has a diverse population of more than 250 million?

Those who champion this argument against American medicine usually ignore the fact that U.S. infant-mortality rates have declined rapidly during the past generation. In 1965, 26 infants died for every 1,000 born in this country; by last year, the rate had been reduced to about 9.9 deaths per 1,000. A two-thirds decline in 23 years seems like an admirable record to me.

However, what bothers me most about this unwarranted attack on American medicine is that our infant-mortality rate is rarely compared with that of the Soviet Union, which, like the United States, is highly industrialized, occupies a vast land area and has a large and diverse population. Of course, the enemies of American medicine scrupulously avoid comparison on infant mortality between the United States and the Soviet Union.

Anyone who wants to compare American medicine with the Soviet Union's brand of socialized medicine should read an article that appeared in the Aug. 14 edition of The New York Times.

The piece was written by a Times correspondent who visited the Kara-Kalpak autonomous republic in Uzbekistan in Soviet Central Asia, the area with the unenviable distinction of having the highest infant-mortality rate in the Soviet Union last year: 60.1 deaths per 1,000 live births. This is almost three times higher than in the District of Columbia, which has the worst infant-mortality rate in the United States.

According to the Times, as a whole, Soviet Central Asia had the country's worst infant-mortality rate last year: 53.3 deaths per 1,000 births in Turkmenistan; 48.9 in Tadzhikistan; 43.3 in Uzbekistan; 36.8 in Kirghizia; and 29.2 in Kazakhstan. Since these areas also have the highest birth rates in the Soviet Union, their predominantly Moslem populations are growing rapidly in relation to the entire Soviet population.

In the Caucasus, on the western side of the Caspian Sea, the infant-mortality rates range from a high of 26.5 deaths per 1,000 live births in Azerbaidzhan, which has a predominantly Moslem population, to Armenia's 25.3 and Georgia's 21.9.

The lowest infant-mortality rates among Soviet republics are to be found in the Baltic States, which are among the most Western parts of the country both in location and culture. They also have been part of the Soviet Union for the shortest period of time, having been incorporated into the Union of Soviet Socialist Republics in 1945. In the Baltic States, the lowest infant-mortality rate is found in Latvia with 11 deaths per 1,000 births, followed by Lithuania with 11.5 and Estonia with 12.4. However, the Baltic States also have the lowest birth rates among Soviet republics.

The point is that even Soviet republics with relatively low infant-mortality problems have rates significantly higher than the United States average of 9.9 deaths per 1,000 live births.

Those who use the so-called disgraceful infant-mortality rate in this country as an argument for socialized medicine should study what socialized medicine has brought to the Soviet people.

THE CENTRAL EUROPEAN ENTERPRISE DEVELOPMENT ACT OF 1990

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. LAFALCE. Mr. Speaker, last January, I led a 13-member delegation to Central Europe to witness firsthand the democratic revolution

occurring there, and to assess how America could best help. All of us came back recognizing that Central Europe represents both a moral imperative and economic opportunity for the United States at this moment in history.

The political revolutions of 1989 are now being institutionalized through parliamentary and local elections during 1990. But as dramatic and heartwarming as political events continue to be, economic reality continues to be sobering: the hardest part is yet to come.

As we know, Poland is already embarked on a courageous course to decentralize its economy and bring market forces to bear as quickly as possible. But social costs in terms of unemployment and substantialy reduced purchasing power is already apparent, and the pain—at least over the short term—will be considerable.

Hungary and Czechoslovakia are taking a more cautious approach; but still the transformation is remarkable. And the success—or failure—of all these efforts may ultimately determine the scope and speed of the Soviet Union's economic restructuring.

Needless to say, the stakes are enormous—not only for the people of Central Europe, but also for the political and economic stability of the world.

For that reason, the Bush administration and the Congress have been working together over the past year to assist this process: Most favored-nation status has been conferred; trade restrictions have been moderated; Ex-im Bank and OPIC guarantees have been extended. And the Peace Corps is on the way. Of course, much, much more needs to be done. The House will soon consider the SEED II bill to expand assistance programs authorized last year, and I have introduced a Central European outreach initiative to promote increased U.S. trade to the region.

But today, as chairman of the Committee on Small Business, I am introducing legislation which is specifically targeted at building an enterprise culture in Poland, Hungary, and Czechoslovakia.

In meetings with dozens of political, academic, labor, and business leaders from these countries, one message was loud and clear—Central Europe's greatest need is for information and practical training in how a market economy functions. This basic economic infrastructure must accompany—if not precede—whatever trade and finance assistance may be forthcoming from industrialized countries.

After more than four decades of a centralized command economy which relied mostly on heavy industry, there is almost no experience in how to manage a decentralized, entrepreneurial system. The desire and will of the Polish, Hungarian, and Czechoslovakian people to become entrepreneurs is overwhelming; and the United States is best positioned to provide this specialized expertise.

When members of my delegation spoke to these people, it was not Japanese or German discipline and efficiency which was their model for a better life—it was the American entrepreneur, with the freedom to succeed—or risk failure—based on their own initiative. While our country is not now well positioned to provide private finance or public funds for major projects, we can still lead the way in helping to develop an enterprise economy.

Therefore, I am pleased to introduce legislation which would amend the Small Business Act and help to establish a series of enterprise development centers in Central Europe. These centers would draw upon the expertise and experience of similar programs developed in the United States through Small Business Development Centers [SBDC].

The SBDC Program was established by legislation enacted in 1980 to provide management and technical assistance to existing or potential small business owners in all 50 States. It is designed to utilize the expertise and talent of local universities and other educational institutions; and relies extensively upon the private sector to determine small business needs and to ensure that they are met. And over the past decade it has provided direct assistance to more than 650,000 American small business owners.

I believe that a similar network of centers to help provide basic information and hands-on technical assistance to emerging entrepreneurs would greatly complement the programs authorized by SEED I and SEED II.

My legislation would also establish an American Entrepreneurial Corps. This group would consist of volunteers who are expert in their field and who are willing to contribute their time to train entrepreneurs one-on-one in Central Europe.

I believe that this effort would be fully consistent with President Bush's call for greater private sector involvement in these countries—particularly from the Polish-American, the Hungarian-American, and Czechoslovakian-American communities throughout the United States.

Americans are interested in helping the courageous people of Central Europe to put the Communist nightmare of political repression and economic deprivation behind them. The American Enterpreneurial Corps would provide a framework for this volunteer spirit.

Mr. Speaker, the full text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Central European Enterprise Development Act of 1990".

SEC. 2. The Small Business Act is amended by adding the following new section:

"SEC. 24. (a) There is hereby established a Central European Small Business Enterprise Development Commission (hereinafter in this section referred to as the 'Commission'). The Commission shall be comprised of three members: the Administrator of the Small Business Administration or the Administrator's representative, a representative of the Association of American Universities, and a representative of the Association of Small Business Development Centers.

"(b) The Commission shall develop in Czechoslovakia, Poland and Hungary (hereinafter in this section referred to as 'designated Central European countries') a self-sustaining system at in-country educational institutions to provide small business owners the education and information they need to learn the principles and develop the management skills to start and sustain their businesses. In carrying out this program, the Commission shall—

"(1) determine the needs of small businesses in the designated Central European countries for management and technical assistance, including but not limited to, marketing, finance, business planning and development, international trade, technology transfer and health and environmental management;

"(2) evaluate the appropriateness and suitability of programs now existing at educational institutions in the United States which have been funded by the Small Business Administration as Small Business Development Centers which might be replicated in order to meet the needs of each of the designated Central European countries;

"(3) identify and assess the capability of at least two educational institutions in each such country to develop a Small Business Development Center type program to provide the assistance necessary to fill the needs determined pursuant to paragraph (1); and

"(4) formulate and arrange for the establishment of a three-year management and technical assistance demonstration program in the designated Central European countries.

"(c) The Commission shall have the following powers and duties—

"(1) to contract with one entity as a general contractor to study and make conclusions and recommendations on the items enumerated in paragraphs (1) through (3) of subsection (b);

"(2) to approve, disapprove or adopt in modified form the recommendations submitted to it pursuant to paragraphs (1) through (3) of subsection (b);

"(3) to contract with the same or a different entity to implement the program specified in paragraph (4) of such subsection; and

"(4) to form a separate corporate entity called the 'American Enterprise Corps' (hereinafter in this section referred to as the 'Corps').

"(A) The functions of the Corps shall be to—

"(i) recruit volunteers with substantial business expertise who are willing to contribute their services to provide a wide range of management and technical counseling to individual small businesses in the designated Central European countries;

"(ii) accept gifts of monies and other property to form a revolving fund;

"(iii) sponsor entrepreneurs from the designated Central European countries and pay their expenses for receiving training in the United States; and

"(iv) provide reimbursement to Corps' members for their actual expenses, including travel.

"(B) The Corps shall be composed of five members to be selected by the appropriate appointing officials within 90 days of the effective date of this Act as follows:

"(i) one member shall be appointed by the President of the United States;

"(ii) one member shall be appointed by the majority leader and one member shall be appointed by the minority leader of the Senate; and

"(iii) one member shall be appointed by the Speaker and one member shall be appointed by the minority leader of the House of Representatives.

"(C) Appointments shall be made from individuals who are specifically qualified to serve on the Corps by virtue of their education, training, and experience, particularly in the area of international trade, who have done business in or with at least one of the designated Central European countries.

"(D) Each member shall serve at the pleasure of the appointing official and shall serve without pay for such service. Members shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their functions in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

"(E) Three Members shall constitute a quorum for the transaction of business. Meetings shall be at the call of the Chairperson who shall be elected by the members of the Corps.

"(F) The Corps shall not have any authority to appoint staff, but upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Corps to assist in carrying out the Corps' functions under this section without regard to section 3341 of title 5 of the United States Code. The Administrator of the General Services Administration shall provide to the Corps, on a reimbursable basis, such administrative support services as the Corps may request.

"(d) In order to be eligible to participate, the educational institution in each designated Central European country shall—

"(1) agree to provide partial financial support for the program either directly or indirectly, during the second and third years of the demonstration program; and

"(2) agree to obtain private sector involvement in the delivery of assistance under the program.

"(e) Members of the Commission shall serve without pay, except they shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their functions in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

"(f) Two Commissioners shall constitute a quorum for the transaction of business. Meetings shall be at the call of the Chairperson who shall be elected by the Members of the Commission.

"(g) The Commission shall not have any authority to appoint staff, but upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist in carrying out the Commission's functions under this section without regard to section 3341 of title 5 of the United States Code. The Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(h) Except as otherwise prohibited by law, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this section. Upon the request of the Chairperson, the head of such department or agency promptly shall furnish such information to the Commission.

"(i) The Commission shall contract to complete the activities specified in paragraphs (1) through (3) of subsection (b) of this section by July 1, 1991, and shall contract for the performance of the activities specified in paragraph (4) of subsection (b), with commencement by September 1, 1991.

"(j) The Commission shall report to Congress not later than July 1, 1991, and annually thereafter, on the progress in carrying out the provisions of this section.

"(k) There are hereby authorized to be appropriated to the Small Business Administration the sum of $10,000,000 for each of fiscal years 1991, 1992 and 1993 to carry out the provisions of this Act. The Commission may transfer to the Corps not to exceed $1,000,000 per year to provide for the expenses of the Corps in carrying out its function as provided in subsection (c)(4) of this section. Such sums shall be disbursed by the Small Business Administration as requested by the Commission.".

Sec. 3. Any authority to enter contracts or other spending authority provided for in this Act is subject to amounts provided for in advance in appropriations Acts.

LIFE INSURANCE FOR THE LIVING

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. COYNE. Mr. Speaker, the current health care system makes it very difficult for many people to pay for needed medical care. The Pepper Commission report released in February revealed that there are no easy solutions to solving the financial problems associated with health care.

In view of this, I have asked the Congressional Research Service [CRS] to study the idea of providing predeath payment to policyholders that meet certain health-related conditions. I believe that this is a reasonable approach to helping individuals relieve some of the financial burdens they encounter when medically ill. I would ask that a summary of the CRS report "Life Insurance for the Living" be submitted to the RECORD for my colleagues' review.

[MEMORANDUM]

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, May 16, 1990.

To: The Honorable William J. Coyne, Attention: Coleman Conroy.

From: Jean Rosales, Economic Analyst, Economics Division.

Subject: Summary of Information on Accelerated Benefits Riders on Life Insurance Policies.

You requested a two-page memorandum providing information on and a brief analysis of the pros and cons of accelerated benefits life insurance policies, with a discussion of treatment of such policies under the U.S. Tax Code.

LIFE INSURANCE FOR THE LIVING [1]

Among the newest products offered by life insurance firms in the United States are products called, variously, "life insurance for the living," "living benefits," or "accelerated benefits." Like traditional insurance polices, accelerated benedits policies pay beneficiaries on the death of the insured. These policies, however, also provide for a pre-death payment to the policyholder if he or she meets certain health-related conditions.

There are two basic types of accelerated benefits policies: the "lump-sum distribution" type and the "long-term care" type. Under the first, the "lump sum distribution" type, the policyholder receives some percentage of the death benefit associated with the policy once he/she has met some qualifying condition. The most commonly included qualifying condition in lump-sum distribution accelerated benefits policies is the "dread diseases" trigger. If the policyholder is diagnosed as suffering from one of more of the diseases specified in the policy, he/she receives a lump sum distribution. The most commonly specified dread diseases are heart attack, stroke, cancer, and renal failure. Other diseases that have been specified less often include Alzheimer's disease, blindness, organ transplants, surgery performed as a result of coronary artery disease, Parkinson's disease, multiple sclerosis, AIDS, and AIDS-related conditions. Another condition that is often included as the trigger of a lump-sum distribution is diagnosis that the policyholder is facing imminent death or has contracted a terminal illness.

Under the other general type of accelerated benefits policy, the "long-term care" type, the insurer pays a fixed monthly sum for the expenses of a policyholder requiring nursing or other assistance because of a health problem. Most long-term care accelerated benefits policies cover care in a skilled nursing or intermediate care facility, with some insurers also covering stays in custodial care facilities. A small number of insurers also cover home convalescent or adult day care. Under most policies, the benefits begin when the policyholder can submit proof that he/she is confined to a facility covered by the policy and that the care has been certified by a physician as medically necessary.

Accelerated benefits policies offer the advantage of allowing a shift of financial goals, such as from protecting a family's income during the parents' earning years to protecting assets from catastrophic health or long-term care costs, that could make whole-life insurance policies more attractive. They may also provide more incentive (and more funds) for more reliance on private rather than government provision of such care. Many State regulators, however, are uneasy over the implied combination of life and health insurance, both because of the difficulties facing the underwriters and the possible problems for consumers. Some insurance companies are also hesitant about the underwriting difficulties, including inexperience, the possibility of induced demand for the insured care, and the effects of inflation.

The tax treatment of distributions of accelerated benefits is seen by the industry and by policymakers as an important consideration. Insurance has traditionally held a number of significant advantages under the income tax laws. Investment income credited to a life insurance policy is generally not taxed to either the insurance company or the policyholder. Benefits paid because of the death of the insured are usually not taxed. Medical benefits paid by accident and health insurance policies are also tax-free, and other benefits and distributions may be.

Because accelerated benefits are a relatively new phenomenon, their tax treatment is to some degree uncertain. Several bills have been introduced to assure tax benefits for such policies, and industry spokesmen

[1] This material is drawn from U.S. Library of Congress. Congressional Research Division. *Life Insurance for the Living*, by Jean K. Rosales and Jack Taylor. Washington, 1990. (CRS Report No. 90-141 E)

have called tax relief necessary. If accelerated benefits policies are seen as a part of the solution to long-term and catastrophic care problems, there seems no public policy reason for making the results so dependent on the terms of the contract. A category of tax-free distributions particularly designed to allow the use of life-insurance inside build-up to pay long-term and catastrophic care expenses would further this goal (and might even be relatively costless to the Federal Government, since most of the benefits would probably have been paid out as tax-free death benefits anyway).

On the other hand, life and health insurance are already heavily favored under the tax code as savings vehicles. Other financial intermediaries now consider themselves at a competitive disadvantage and would surely question the decision to encourage yet more saving in the form of insurance. It is difficult to think of a public reason why saving for future long-term care needs should be tax-free only if done through an insurance company.

Policy makers might be concerned over the decision to enhance the tax treatment of distributions if there are no limitations on the use of such funds. The promotional material distributed by certain insurers recently suggests that the policyholder could use the early distribution to pay for a trip to visit relatives around the country or for a long-desired trip around the world while the policyholder is still able to travel. Other companies have suggested that accelerated benefits policies could be used to provide partners in a company with the cash to buy out the share of a partner who suffers a dread disease. It is possible that Congress or the IRS might want to consider whether accelerated benefits that have no restrictions on their use are in keeping with Congress' intent when exempting life insurance benefit distributions from income taxes.

INTRODUCTION OF THE ENTERPRISE ZONE JOBS CREATION ACT OF 1990

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. RANGEL. Mr. Speaker, today I am joined by my colleagues, Mr. ARCHER, Mr. VANDER JAGT, Mr. SCHULZE, Mr. FORD of Tennessee, Mr. GUARINI, Mrs. KENNELLY, Mr. COYNE, Mr. ANDREWS, Mr. THOMAS of California, Mr. MCGRATH, Mr. BROWN of Colorado, Mr. CHANDLER, Mr. SHAW, Mr. SUNDQUIST, and Mrs. JOHNSON of Connecticut in introducing H.R. 4993, the Enterprise Zone Jobs-Creation Act of 1990. This bill represents the administration's enterprise zone proposal, drafted under the direction of our distinguished former colleague, Jack Kemp, the Secretary of Housing and Urban Development. Although this bill differs from H.R. 6, the enterprise zone legislation I introduced earlier this Congress, a bill cosponsored by over 200 Members, we are introducing this bill today because as the administration's statement about enterprise zones it represents an important step forward in the effort to see the concept become a reality.

I believe that we are all convinced that the Tax Code can when properly drafted be a useful tool in encouraging important economic and social goals. Sometimes these tax provisions encourage useful investment that drives the engine of our economy. Other times it encourages the provision of services for those less fortunate. Enterprise zones is a program that would both encourage useful investment and bring opportunity to those who have heretofore been outside the economic mainstream in both urban and rural areas. We know this because when implemented at the State level enterprise zones have proven even without additional Federal incentives that economic incentives and regulatory relief can spawn new life into some of the most stagnant areas of the Nation.

What enterprise zones do is to create opportunity. Opportunity for entrepreneurship, creative capitalism, and individual initiative. They are a weapon against the war on poverty and the failure to produce the opportunity for those mired in rural and urban poverty. What is most inviting about this effort is that it is done with a minimum of bureaucracy and a maximum of individual initiative and choice.

But, the choice is now ours. We must set as priority the creation of opportunity. Opportunity through tax incentives to bring out of poverty and despair and into the economic mainstream both rural and urban communities. Enterprise zones have proven they can bring good jobs, real wages, and economic opportunity to some of the most distressed areas with a minimum of government interference and a maximum of individual initiative. It is this dignity brought to those affected by the zone that is perhaps the most important impact that this program can have by the choice we make.

This legislation will depend on the development of small business to achieve its goals. Small businesses are the cornerstone of our economy. They generate two-thirds of all new jobs in the private sector. They also offer the greatest opportunity for someone to control his own destiny. The legislation is designed to enable a small business to raise sufficient capital to get off the ground and running and to lower the cost of operating the business.

I know that the inner city is replete with small businessmen and women often operating in a thriving underground economy. We ought to tap the talent of these people for a productive effort that will one day cement them to the mainstream of our economy.

I say that it is time that we opened the door for those who seek a way out of poverty and a path to economic independence. We can provide the type of tax incentives that will create opportunity merely for taking the initiative. Enterprise zones legislation can do so. I am proud of H.R. 6 and I am proud today to introduce this bill that the President and his very worthy Secretary of Housing and Urban Development have given their full support.

I hope that as the economic summit proceeds that there will be an understanding that Enterprise Zones should become a part of any package that we are asked to develop and endorse. I believe that even in this time of tight budgets, it will be an investment that will soon pay its way over many times.

A TRIBUTE TO WILLIAM "RED" RECTOR

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. DUNCAN. Mr. Speaker, I rise today to pay tribute to William "Red" Rector who passed away on May 31, 1990, at his home in Knoxville, TN.

Many people around the world knew Red through his music. He performed with most of the greatest bluegrass musicians. He even toured Europe every year.

However, I was fortunate enough to have known Red Rector all my life. He was a close personal friend and one of the finest men I have even known.

Mr. Speaker, Red Rector will be dearly missed by his family, his neighbors, and fans around the world. I share their grief in his passing.

I ask that the commemorative editorials which appeared in the Knoxville Journal and the Knoxville News-Sentinel be printed in the RECORD.

[From the Knoxville Journal]

"RED" NEVER WORE OUT HIS WELCOME AT HOME

It's hard to be a hometown hero.

The Bible says prophets are without honor at home.

Thomas Wolfe said you can't go there again.

Robert Frost said it's where you go when nobody else will have you.

William Eugene "Red" Rector, however, was an exception to the rule.

He came home every summer from his annual European tour and made the transition from celebrity abroad to neighbor down the street as easily as slipping into a comfortable old pair of shoes.

He was a good-natured, friendly man who blushed at the slightest compliment and never demanded and rarely received special privileges or attention back home, no matter how much he was honored abroad. When privileges came, he seemed a little embarrassed, even slightly amused.

Many of his North Knoxville neighbors likely didn't realize Rector was one of the world's premiere bluegrass musicians, that his quicksilver hands had earned him the reputation as the world fastest mandolin player—indeed, in the minds of many, the world's best mandolin player.

How many ways can you say he was the best?

Rector's old friend and boss Cas Walker remembers when he hit town in 1947, a carrot-topped, lightning-fingered 16-year-old who already had a wife and a national reputation as a musician.

"He was just a young fellow when I first met him, not over 16. It was kind of a joke about him getting married so early. And he started playing when he was 9 years old, back in Asheville."

Rector had been recruited by Charlie Monroe, brother to bluegrass king Bill Monroe, to come to Knoxville to play on Lowell Blanchard's Midday Merry-Go-Round.

With partner Fred Smith, he became half of the comedy duo, Red and Fred, and hired on with Walker's Farm and Home Hour a

few years later. Rector remained with the show even after he and Smith no longer performed together. He stayed until Walker went off the air in the early 80's.

"You just couldn't find one better than Red Rector," Walker said. "He was the best there was. Everybody felt the same way about it. He was just strictly a number one man—didn't smoke, drink, take no pill or nothing. He could do anything. He actually was the best."

The 88-year-old Walker, who has spent much of the last decade in nursing homes, says Rector always took the time to stay in touch.

"He come to see me better than any of them," Walker said.

Rector could play anything with strings and all kinds of music.

He worked as a side man for musicians as diverse as Chet Atkins and Vassar Clements, Stephane Grapelli and Django Reinhardt.

In an industry cheapened by flavor-of-the-month players who call themselves artists and whose greatest talents lie in self-promotion, Rector relied on his mandolin to do his talking.

And he went on with the business of making a living for his family.

"He never made the big money," Walker said. "But he was a good business man. And wasn't only a good man himself, he had a good family. His boys are all about 6 foot tall."

Rector, who turned 60 last December, died Thursday while cutting the grass at his home on Fairway Drive.

His friends and country music colleagues turned out for his funeral this weekend, and the sad mountain songs he loved filled the air when they put him into the ground.

He will be missed by music lovers around the world, and by his family and friends at home, where he never wore out his welcome.

[From the Knoxville News-Sentinel]

A MASTER MUSICIAN PASSES

News of a death in North Knoxville this past week has touched off a wave of mourning that saddens music lovers in Knoxville and around the world.

William "Red" Rector, 60 suffered a heart attack while he mowed the lawn of his home on Fairway Drive. By the time family and passerby got him to St. Mary's Medical Center, he was dead.

Rector, an internationally known bluegrass musician, was considered one of the finest mandolin players in the world.

A North Carolina native, Rector began playing guitar at age nine in Asheville. At 13, he switched to mandolin and within the year was heard on a British Broadcasting Company program that include folk legends Woody Guthrie and Burl Ives.

Teamed with Fred Smith as Red and Fred, Rector came to Knoxville to perform on WNOX radio's Mid-Day Merry-Go-Round and the Cas Walker Farm and Home Hour on both radio and television.

He played with most of the bluegrass greats, with Dolly Parton and with country stars as a sideman.

His fame grew throughout his career, which took him regularly on tours across the United States and to Europe.

For the people who met him, Rector's music was not his only positive quality. He was known as much for his good nature as for his musical talent.

Rector "always seemed to be happy, jolly, . . . I admired him because he was honest," said Bill Carlisle, a fellow veteran of the Mid-Day Merry-Go-Round and a Grand Ole Opry player.

At a performance, it was hard to believe Rector could coax the kind of sounds he did from mandolin strings. His stubby fingers seemed to roll across the fretboard, rather than playing specific chords.

When he played, Rector smiled warmly, acting like there was nothing to making the sweet music pouring from his instrument.

The heart attack that silenced Rector's mandolin has left music a little poorer, but his career as a music-maker has already enriched the world more than it can measure.

INDIAN DEVELOPMENT INVESTMENT ZONE ACT OF 1990—ATTRACTING NEW BUSINESS OPPORTUNITIES FOR NATIVE AMERICANS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, today I am introducing the Indian Development Investment Zone Act of 1990, legislation that will provide economic opportunities for native Americans who continue to suffer from a critical shortage of jobs in their communities.

Plagued by the same or greater economic troubles affecting many folks in rural America, native Americans struggle to find even an inkling of the prosperity and growth that most of the country has enjoyed over the past decade.

Many Indian reservations have been decimated by a combination of high unemployment rates reaching well over 50 percent and equally troubling poverty rates. There are people willing to work, but can't, simply because no jobs are available in or near their communities. Many people are forced to leave their homes to look for work in metropolitan areas. And that only compounds the problems of urban America.

I believe that the legislation that I've introduced will help to turn things around for our native Americans by fostering new business development on Indian reservations. Challenging and profitable new employment in distressed Indian communities should help to revive a reservation's local economy and provide tribal members with an opportunity to work near their homes.

My bill authorizes the Secretary of the Interior to designate development zones in certain impoverished Indian communities. Once development zones are designated, the employment-related tax incentives found in my bill are designed to attract new businesses and to retain old ones located within the designated development areas. The incentives include:

An employment tax credit of 10 percent for increased spending on qualifying wages.

An investment tax credit of 10 percent for certain depreciable real property used in a trade or business within a development investment zone.

Credit for wages paid to economically disadvantaged individuals working in development zones.

These targeted incentives for areas of highest unemployment and poverty will stimulate the kind of economic growth so desperately needed to improve the quality of life for native Americans. They will also help to shift Federal involvement from welfare to workfare.

I urge my colleagues to join me in cosponsoring the Indian Development Investment Zone Act of 1990, to assist tribes and tribal members to build a self-sufficient future.

SUMMARY OF THE ACT

DESIGNATION PROVISIONS FOR DEVELOPMENT INVESTMENT ZONES

Areas must be nominated by a tribal government for designation as an Indian development investment zone.

Final authority to designate nominated areas as development zones lies with the Secretary of the Interior.

Designations are based on the degree of poverty, unemployment and general distress.

Areas must be within the jurisdiction of tribal government and determined by the Interior to be an Indian area.

State and local governments must submit an inventory of the historic properties within a designated development zone.

The area must be located wholely within the jurisdiction of a tribal government.

Tribal commitments are also required, including reduced tax rates, streamlined governmental rquirements, local services and technical assistance.

FEDERAL INCOME TAX INCENTIVES

Credit of 10% for qualified increased employment expenditures.

Credit of 10% for new development investment zone construction property.

Credit for wages paid to economically-disadvantaged individuals located in Indian development zones.

OTHER PROVISIONS

The Foreign Trade Board shall consider any application to establish a foreign trade zone within a development zone on a priority basis.

Waiver or modification of Interior rules are permitted in certain circumstances in order to further job creation, community development and economic revitalization objectives of the zones.

A TRIBUTE TO TYSON WILLSON, JR. OF CARPINTERIA SCHOOL DISTRICT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to the outstanding and dedicated career of Tyson Willson, Jr., the principal of Carpinteria Junior High, who is retiring after a 35-year career in education, and who is admired as someone who motivated young people as a teacher, counselor, and principal.

Tyson will be honored for his service and impact on the community in the areas of education and civic service. He served his country during the Korean conflict and is now a retired Colonel in the U.S. Army Reserve. He graduated from University of California, Santa Barbara, where he received a B.A. before pursuing his M.A. in school administration at California Polytechnic State University at San Luis

Obispo. He began his service in the Carpinteria Unified School District as a teacher and counselor and graduated to become principal of Carpinteria Junior High. His educational career has been outstanding and he played a important role in the lives of the faculty, coworkers, parents, the community, and especially the students.

We also pay tribute to Tyson for other reasons—he and his wife, Betty are the parents of two grown sons, Scott and Tyler. He also lent his considerable talents to a wide variety of civic organizations. He chaired the committee to raise funds for the Boys' Club Gymnasium and serves on the board of directors. He is a past president and 10-year member of the Carpinteria/Summerland Fire Board. As a 28-year-member of the Carpinteria Lions Club, he has been president and frequently serves on the Lions Student Speaker Committee. In 1983, for his commitment and impact on educational and civic activities, he was named "Carpinterian of the Year." As a educator, he is dedicated to providing the best education system to foster the needs of our young people and ultimately, our needs as a nation.

It is a great privilege for me to express my admiration and respect for the leadership of Tyson Willson, Jr. He has enhanced, enriched, and improved the quality of education for each student. He is admired as someone who always takes the time to talk and spend time with everyone and who can find a way to solve even the most difficult of problems. I commend him for his achievements and good works and wish Tyson and his wife, Betty all the best in the future.

THE EXPORT FACILITATION ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. SYNAR. Mr. Speaker, I voted for H.R. 4653, the Export Facilitation Act. The bill eases current restrictions on exports to our allies in Western Europe, the emerging democracies in Eastern Europe, and the Soviet Union. I strongly support this bill not only because it will facilitate democracy and economic reforms in Eastern Europe but also because it will greatly benefit Oklahoma's high-technology companies. To address legitimate national security concerns, the bill is carefully crafted to ensure that the most sensitive technological advances are not freely exported.

The Export Facilitation Act will enable Oklahoma's high-technology firms, which employ thousands of people, to expand their export opportunities. Telecommunications firms will most likely benefit the most from this legislation. The Oklahoma Department of Commerce has identified telecommunications as a key industry and is working to expand the role of this industry in Oklahoma's economy. Under the new law, Oklahoma companies should be able to take advantage of the emerging democracies in Eastern Europe's desperate need for technology such as adequate telephone systems.

The world has changed. Eastern European countries have embraced democracy and free market economics. It is time for our high-technology export control laws to reflect this new reality.

I opposed the amendment offered by my colleague from California, Mr. LEVINE, which would prohibit the export of California crude oil. Certainly I can appreciate his concern that exporting California crude, as the Department of Commerce has recommended, might necessitate the United States importing a like amount. I understand his concern that such action might appear at odds with an overall policy designed to reduce United States reliance on foreign crude and products. Nevertheless, there may be legitimate reasons for approving some exports of California crude which have not been fully explored here today.

Moreover, I am not convinced the restriction imposed by the Levine amendment should be undertaken in a vacuum. The Department of Energy is now in the process of crafting a proposed national energy strategy, which is due out in just a few months. The issue of exporting U.S. crude oil or natural gas is only one of many that must be considered in the overall context of a national energy strategy. For instance, issues such as U.S. production and exports, the sources of our foreign supplies, OCS leasing, the state of our energy infrastructure, and evolving domestic and international energy markets are all integral to any long-term energy strategy. I feel strongly that a sound policy must consider these and many other energy-related issues in concert—not as isolated questions as the Levine amendment would do.

For the same reason, I would strongly urge the administration not to act hastily on any export authorization for California crude oil. Instead, I believe they should await the Department's long-term strategy to see how the export issue is addressed in that proposal, and to have the benefit of public and congressional reaction to it.

WHOSE TERROR TEAMS, MR. ARAFAT

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. SIKORSKI. Mr. Speaker, it has been over a week since the terrorist attack against Israeli civilians vacationing on the beaches of the Mediteranean—an attack planned by Abu Abbas, a member of the PLO Executive Committee. We can thank God that no innocent people were killed in this latest attack, but the potential for loss of life was extraordinary.

And what have we heard from Yasir Arafat?

Back in December 1988 we heard that he renounced all forms of terrorism. But after a West Bank citizen forced a bus off a cliff killing 16 people, Arafat proclaimed this terrorist as a martyr. And after terrorists attacked an Israeli tour bus on the way to Cairo killing nine, we heard the PLO blame Shamir.

So now where is Arafat?

Where is his renunciation?

Arafat has said "That the institution and official forces" of the PLO were not involved. But Abu Abbas is on the executive committee.

Khaled Hassan, another executive committee member for Fatah, Arafat's faction, has criticized the raid because it ignored Israeli radar capabilities.

Abu Iyad, Arafat's No. 2 man said "For our people now, they consider Abu Abbas a national hero."

Some renunciation.

Where is the condemnation?

Where is the expulsion of Abu Abbas that would disassociate Arafat from terrorism?

Where is the credibility of Arafat's words?

It appears the same place that U.S.-PLO dialog is—nowhere.

As Arafat shifts the diplomatic focus of the PLO to Iraq, the country that has threatened to use chemical warfare against half of Israel, I urge the President to disengage from this dangerous dialog. Iraq's Hussein has put out the welcome mat and Yasir Arafat is knocking at his door.

Additionally, I would like to enclose the following editorial from the New York Times which excellently summarizes the present situation in the Middle East.

WHOSE TERROR TEAMS, MR. ARAFAT?

It was not just another random raid by Arab zealots. The Palestinian terror teams intercepted by Israeli forces as they tried to land on civilian beaches Wednesday was part of a carefully planned, elaborately equipped attack. That blunt fact forces Yasir Arafat to make a fundamental choice: Take strong action against the responsible terrorist faction of his Palestine Liberation Organization or forfeit direct dialogue with the United States, thus his best chance to advance the Palestinian cause.

Although Mr. Arafat denies involvement in the raid, the Bush Administration has told Mr. Arafat that he must condemn Abul Abbas, who claims credit for dispatching the hit team, and expel him from the P.L.O. Executive Council. President Bush can do no less. The U.S. is pledged to cancel direct contacts with the P.L.O. if Mr. Arafat cannot keep his vow of December 1988 to forgo sponsorship of an association with terrorism.

The credibility of three parties is at stake. Mr. Bush has resisted recent Israeli charges that the P.L.O. remains in the terrorist business, arguing that the evidence is ambiguous. Now, unless Mr. Arafat completely disassociates himself from Abul Abbas, there can be no ambiguity. The President cannot let Mr. Arafat off the hook, and retain the confidence of Americans and Israelis who want Mr. Bush to press for peace talks.

Arab credibility is also on the line. The Abul Abbas spokesmen say the hit team was launched to avenge the killing of seven Palestinians on May 20 by an Israeli. But the killer was not an instrument of the Israeli Government. He is a deranged man whose act is condemned by all Israelis. For moderate Arab leaders to equate the two events is to damage their reputations and credibility.

These leaders have just lost the chance to do good by endorsing the Baghdad communiqué of the Arab summit meeting just ended. That communiqué unfairly blames Washington for failing to press Israel toward negotiations with Palestinians. It also crudely and wrongly condemns Israel's right to receive Jews form the Soviet Union.

If the moderates truly wished to advance the Palestinian cause, they would restrict their criticism to Israel's settling of immi-

grants in the occupied territories. Moderate Arabs will not help the cause by condoning terrorism in any fashion, or by standing silent. They can help by keeping all parties focused on the need for negotiations.

Here is where Israeli credibility is being tested as well. As soon as a new Israeli government is formed, Mr. Bush will have every reason to push it hard to deal with the realities of Palestinian nationalism and Palestinian rights.

But before anyone else's credibility can be tested, Yasir Arafat has to define himself by the way he responds to the terrorist raid. If he wants Palestinians to have a place at the negotiating table and a place in their own sun, he will have to choose the olive branch, and not the gun.

NATIONAL SAFE BOATING WEEK

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. JONES of North Carolina. Mr. Speaker, this is National Safe Boating Week. Congress designated this period to remind our citizens of the importance of safe boating practices, and to highlight the significance of recreational boating to our villages and towns.

With the summer months upon us, our thoughts turn to enjoying the great outdoors. For many Americans, boating is the preferred recreational activity. That is emphasized by the fact that the number of recreational boaters continues to increase every year. Boating fosters an appreciation for the delicacy of the aquatic environment. It reminds us that clean rivers, lakes, and coastal waters are valuable resources that we must protect for future generations of Americans.

For all the beauty of the water, we must learn to respect it as well. Perhaps the main goal of this week is to encourage all boaters to take certain precautions while enjoying boating. Every boater should be educated in safe operation of his vessel, the proper use of safety equipment, and administration of first aid techniques.

The Federal Government plays an extremely important role in the promotion of safe boating. The Federal Boating Program, funded through the Wallop-Breaux trust fund, has provided millions of dollars to the States for the support of boater education programs. The Coat Guard and the Coast Guard Auxiliary have provided life-saving assistance to an enormous number of boaters. Additionally, the selfless efforts of State boating officials, volunteers, and members of power squadrons, help assure that boating is a safe, fun-filled activity, rather than a life-threatening endeavor.

We can take pride in the fact that even as the number of recreational boaters increases each year, the number of yearly boating fatalities has continued to decrease. While all of the partners in safe boating must maintain and enhance our cooperation, boaters must remember that they are the ones who really make the difference. They must strive to make their sport safer this year than ever before.

While the safety of lives is uppermost in our minds this week, we cannot forget the significance of the recreational boating industry to our coastal towns. Boating supports thousands of businesses, from major boat manufacturers to marina operators to the local bait shop. A vast number of our communities thrive on the economic activity generated by boaters.

During this National Safe Boating Week, I am pleased to recognize boating for its recreational and economic significance. I hope that my colleagues will join me in encouraging our boating constituents to take advantage of the many training programs and to take those extra precautions—to take a minute and save a life.

SWEET TASTE OF VICTORY IN MURPHYSBORO, IL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. POSHARD. Mr. Speaker, I know the Texans and Carolinans around here believe they have good barbecue. And of course, my friend from the Memphis area lay claim to barbecue that's this side of wonderful.

But for real barbecue you are going to have to come to Murphysboro, IL, because that's where the trophies are from the Memphis in May barbecue cookoff.

The Apple City barbecue team not only won the overall grand prize but also claimed first place in the rib division. Quite an accomplishment considering the competition. But despite the reputation that other areas hold, southern Illinois has more than its fair share of fine barbecue, and from Cairo to Murphysboro to Vandalia you can find homemade favorites and secret recipies to make your mouth water.

I'm proud to congratulate the Apple City team, and wish them continued sucess with their concoction. I am already looking forward to the annual apple Festival in Murphysboro so I can taste this champion blend.

The team members are Mary Ann and Don Stanton, Sue and Mike Mills, Jim and Jean Tweedy, Pat and Aliene Burke, Mary Jane and Bob Williams, and Dale Pierson.

I will enter an article that appeared in the Southern Illinoisan newspaper when the team's victory was annouced so you can get the full "flavor' of this accomplishment.

BEST BARBECUE IN THE WORLD: MURPHYSBORO TEAM OF COOKS CAN RIGHTFULLY CLAIM THAT TITLE NOW

(By Phil Brinkman)

Victory as sweet as Southern Illinois apples came to the traveling barbecue team from Murphysboro as they won overall grand prize and first place in ribs during the international Memphis in May barbecue cookoff Saturday.

"We couldn't believe it!" Jean Tweedy hollered into a pay phone from Memphis Saturday night after her team won with its apple-juice based barbecue sauce.

Tweedy is a member of the now world-famous Apple City Barbecue of Murphysboro. Besides Tweedy, the team consists of her husband, Jim, Mike and Susie Mills, Pat and Ailene Burke, Don and Mary Ann Stanton and Dale Pierson.

The cookoff, which drew an estimated 300,000 people, is called the "biggest barbecue championship in the world," according to the Guiness World Book of Records.

The A-City team swept aside 179 contenders from throughout the U.S., France, England, Ireland and the Soviet Union to become this year's grand champions. The award carried with it a $5,000 prize.

About 100 supporters, including the ubiquitous Captain Applesauce himself, came by bus and car to cheer the team since their arrival at the riverside festival in Memphis on Wednesday. The cookoff was Saturday.

Though other teams cooked shoulders or whole hogs, Tweedy's team stuck to their specialty: ribs. Using a sauce made with apple juice and cooking the ribs over apple wood, the team beat out 53 other entries in the rib category before going on to win the grand prize.

"They (the judges) said they couldn't remember when anybody who entered in ribs won it, instead of whole hog," Tweedy said.

The teams scored points for appearance, taste and flavor. The apples, of course, came from Southern Illinois.

"It has a very faint apple flavor, but I wouldn't say it tastes applely," Tweedy said.

The team did not score in the only other contest they entered, the Anything But contest (that is, anything but pork); the judges apparently were not inspired by the group's eggrolls, eggdrop soup and shrimp.

Residents of Murphysboro will remember the crew as the one that started the annual barbecue championship in Murphysboro, which will be held this year in September for the third time.

The team is due back in town this afternoon around 1 p.m., and a "big to-do" is scheduled for 3 at the 17th Street Bar and Grill, owned by team member Mike Mills.

Like any cooking team, Tweedy hedged a little when asked what her secret ingredient was.

"We do use apple juice," she said But the real secret, she said, was "dedication and hard work."

TRIBUTE TO THE BANK OF GUAM

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. BLAZ. Mr. Speaker, in a time when banks are in trouble throughout our country, I rise to applaud the spectacular growth and success of the Bank of Guam, a locally chartered bank in Guam whose economic development has paralleled the political development of our island.

As you know, for so many years the people on Guam were not even able to elect their own Governor. Likewise, for so many years, the financial needs of the community in Guam were served only by branches of large banks headquartered in other parts of the country. We all know how frustrating it can be to deal with such branches. Certain decisions can't be made without the concurrence of superiors in other offices; managing personnel are transferred in and out, so they never really get to know the community; and only a small part of the spectrum of needs within the community are adequately served.

In 1972, Americans on Guam were finally allowed to exercise a basic right granted other Americans and for which the War of Independence was fought in 1776—the right of self-governance. For the first time, these Americans in the periphery of the republic were granted the basic right to elect their own Governor from among their community.

Just 1 year later, in 1973, two Guamanians founded the Bank of Guam in the spirit of entrepreneurship that has always propelled this nation forward. With just $1.5 million in capital and a mobile home as an office, Jesus Leon Guerrero and Jose Untalan started the first and still the only locally chartered bank on Guam. Messrs. Guerrero and Untalan acted to make available to the residents of Guam the same sort of banking opportunities enjoyed by other American communities. Their goal was uncomplicated: To establish a local bank that was sensitive and responsive to the needs of all the people of Guam. If this goals sounds familiar, it is because it is based upon the principle of community banking embedded in the foundation of banking history in America.

Americans on Guam responded to both developments with equal fervor. The election of the Governor of Guam has become the focus of ardent campaigning and a voter participation rate above 75 percent. Far from taking for granted their long-delayed right to vote, these proud Guamanians have exercised their right and actively encouraged others to do the same.

Likewise, the Bank of Guam has grown and expanded far beyond the expectations of many people back in 1973. From a mere $1.5 million capitalization and a staff of 13 employees, this local bank has grown by over 20 percent every year, so that they now have resources close to $500 million and a work force of over 500 employees. The bank moved quickly into a permanent headquarters building, but soon outgrew that. Just this year, the bank opened its new headquarters building, a 10-story jewel which commands a stunning view of the capital city of Agana.

The Bank of Guam has extended its reach beyond Agana, providing services throughout Guam and its neighboring islands. Its branches and automated teller machines serve residents throughout Guam and its mobile branch facility brings banking to those in Guam who cannot come to the bank. Elsewhere, the Bank of Guam has brought modern banking services to the residents of the Commonwealth of the Northern Mariana Islands in Saipan, Tinian, and Rota. The bank has also established branches in the nearby and newly independent island nations of the Republic of the Marshall Islands and the Federated States of Micronesia as well as the Republic of Belau.

Seventeen years old, this bank has grown from a brave dream facing banking behemoths to a powerful competitor in its own right. It has grown from a project to serve the needs of the community to a vibrant organization that serves the local and international banking needs of its customers. Its growth rate for resources will place it among the billion dollar institutions within the near future.

Much of the reason for this American success story in Guam is the drive and business acumen of Mr. Jesus S. Leon Guerrero, its president and chairman of the board since the founding of the bank. Through the years, Mr. Guerrero has carefully guided the bank through troublesome growing pains experienced by all corporations as well as the roller-coaster fluctuation of the local economy. All the while, he has kept the faith of the community in the Bank of Guam, allowing the bank to grow without forgetting to serve the needs of the community.

Mr. Guerrero's dymanic leadership has also provided opportunities for leadership for so many other residents of Guam. By working at one of the many branches of the Bank of Guam and rising through the ranks, many local residents have assumed managing positions in the bank or have developed business skills that they now use to benefit other business in the community. With Mr. Guerrero at the helm, the community has reaped benefits far exceeding the original investment in the bank.

It is significant that the Bank of Guam is the nearest American banking institution in Asia. With Hong Kong preparing to revert to mainland control and with the countries of Asia and the Pacific enjoying unparalleled economic growth, the Bank of Guam is poised in an ideal position to become one of the premiere banking institutions of the central and western Pacific.

But the Bank of Guam is more than a marvelous success story. It is a symbol of the "new Guam." This will be a Guam at once politically autonomous and economically self-sufficient. The success of the Bank of Guam represents the dedication and determination of a people who, despite all odds, have brought about this remarkable transformation.

Mr. Speaker, it is with great pleasure that I congratulate and salute Mr. Jesus Leon Guerrero and the Bank of Guam for their commitment and dedication to the people of Guam, and for their commitment and dedication to the people of Guam, and for their earnest and successful development of a modern and local bank that has contributed to the steady economic growth of Guam. The Bank of Guam is more than a Guam success story. It is an American success story and it is so because of the vision, dedication, and commitment of outstanding leaders such as Jesus Leon Guerrero who started as a bank clerk and ended up being the chairman of the board.

INTRODUCING A HOUSE JOINT RESOLUTION COMMEMORATING THE WEEK OF NELSON MANDELA'S UNITED STATES VISIT AS "SOUTH AFRICAN FREEDOM WEEK"

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. HAYES of Illinois. Mr. Speaker, on February 11, the World watched Nelson Mandela walk out of 27 years of captivity as a political prisoner. He is now back among his people with his dignity intact, and his resolve stronger than ever to see an end to the inhuman system of apartheid. He is not a bitter man for his incarceration. He is not seeking revenge and although he is now free from the prison walls that held him for those 27 years, he is by no means a free man. Until the bondage of apartheid is erased from South African society, Nelson Mandela and his 28 million brothers and sisters who make up the black majority in that country, will never enjoy true freedom.

The examples Nelson Mandela has set, both by his actions before being jailed, and now, after being released, are a testament to his unyielding commitment to freedom and democracy—values which Americans have cherished since the founding of this country over 200 years ago.

Mr. Speaker, these are indeed remarkable times. Democratic reforms are taking place in Eastern Europe almost on a daily basis. Arms control treaties are being put forth, not only by our country, but also by our cold war opponent, the U.S.S.R. Now we have a South African President opening opportunities for positive change in his country. We also have an African National Congress leader, expressing kind words for a South African President. These are indeed remarkable times, Mr. Speaker.

It is my hope that this Congress, the Representative body of the World's most progressive Democracy, will take time to officially recognize one of the World's foremost freedom fighters, Nelson Mandela. Just as we have welcomed freedom fighters in the past, including most recently Lech Walesa, it is only fitting that we do the same for one who champions the dreams and aspirations of 28 million of his brothers and sisters who long for true democracy.

In celebration of Mr. Mandela's visit, I am today introducing a resolution designating the week of his visit as "South African Freedom Week". It is my hope that all of my colleagues will join me in this salute to a true champion of democracy.

A CONGRESSIONAL SALUTE TO REV. JEEN SHOUNG PARK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a most respected spiritual and community leader in the South Bay area. Rev. Jeen Shoung Park will be honored by the Long Beach District of the United States Methodist Church [UMC] on June 10, 1990, for his many years of service to the Christian cause. This occasion gives me the opportunity to express my deepest appreciation for his many years of commitment and service to the South Bay community.

Since coming to the United States from Korea in 1955, Rev. Park has dedicated his life to spreading fellowship and goodwill. Shortly after coming to the United States, he attended Marion College in Marion, IN, and Christian Theological Seminary, a Disciple of Christ Seminary in Indianapolis. He was ordained a minister in the Disciples of Christ Church in 1962. After his ordination, he

served Christian churches in Iowa for 16 years, from 1962 to 1978. Later, after spending close to 4 years organizing the San Diego Korean United Methodist Church, he was appointed to his pastorate in Los Angeles. He has spent the past 5 years serving as superintendent of the Long Beach District of the UMC.

Reverend Park's work, and his message, have blessed thousands of lives in Long Beach and the surrounding area. In particular, he has dedicated himself to bridging the gap between the American and Korean societies through his Christian fellowship. His Korean heritage, characterized by hard work and determination, is reflected in his statement, "I think that the Koreans in this country should make some very good contributions to the American society. Koreans are a very religious people, a very productive people, and we need to make outstanding contributions to this country." I say to my colleagues today, Rev. Park has remained true to his words. There are few in the South Bay area that have given as much to the community as he has.

In addition, to his unending selflessness to God and the community, he is also the proud father of two daughters, Michelle and Christy, by his lovely wife Song Ja. It is not just Reverend Park to whom I pay tribute, it is to his entire family. It is my true feeling that behind every successful man, is a loving and supportive family. Therefore, in honor of Rev. Jeen Shoung Park, Song Ja, Michelle and Christy, my wife Lee, joins me in extending our heartfelt thanks and congratulations. We wish the Park family all the best in the years to come.

HIGHER EDUCATION IS THE PATH TO BETTER LIFE AND ACHIEVEMENT

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. DREIER. Mr. Speaker, I wish to commend to our colleagues an interesting article which appeared in Monday's Los Angeles Times. The distinguished chairman of the Public Works and Transportation Committee. The gentleman from California [Mr. ANDERSON] addressed the graduation at California State University at Long Beach. His observations are especially important in light of his over four decades in elective office. While he wan't around at the turn of the century, he has witnessed many of the changes to which he eloquently refers.

[From the Los Angeles (CA) Times, June 4, 1990]

COMMENCEMENT 1990—CAL STATE LONG BEACH

Cal State Long Beach held its 41st commencement with nine separate ceremonies on campus over a three-day period beginning last Wednesday. Degrees were conferred on 6,496 graduates, with 5,521 receiving bachelor's and 975 receiving master's degrees.

The Graduate Center for Public Policy and Administration held its commencement on Friday with U.S. Rep. Glenn M. Anderson (D-Harbor City) (UCLA, 1936), as its speaker. From his prepared text:

"Early in this century, only about 5 percent of our young people enrolled in institutions of higher education, and these were overwhelmingly of one race and one gender. Today about half of the generation between 18 and 25 are enrolled in colleges or universities. The majority of these are women—once largely excluded. A very substantial number are from minority groups. And whatever its shortcomings, and despite its critics, education, particularly higher education, remains the path to a better life and high achievement, particularly for those who are struggling to emerge from poverty and prejudice."

CATCHING THE CROOKS, SAVING TAXPAYER MONEY

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. NEAL of North Carolina. Mr. Speaker, the American public is outraged that crooks, con men, and hot money artists have stolen tens, maybe hundreds of billions of dollars from our savings and loan associations—largely because of a failure of supervision—and have been allowed to get away with it.

The public is almost equally outraged that most of these crooks are not being brought to justice. So am I. The Justice Department has been excruciatingly slow in pursuing and prosecuting most of these cases. Each day they dawdle, we lost opportunities for successful prosecutions and for actions that might recover at least some of the money that has been stolen or squandered. For the American taxpayer, this is adding insult to injury.

At last report, the Federal Bureau of Investigation had taken no action on more than 21,000 referrals and complaints alleging financial institution criminal misconduct, even though at least 234 of these cases are said to involve losses of $1 million or more.

Furthermore, the FBI has taken only minimal action on about 2,500 open investigations that it has placed in inactive status because of inadequate staff resources.

Hundreds of billions of dollars are at stake, and the taxpayers deserve to see action taken now.

Congress ordered plainly in the S&L bill last year that the crooks be pursued and prosecuted, and that money be recovered when possible. But under our Constitution, Congress has no authority to enforce the law. This is an important point. Congress is not allowed to hire even one person to enforce a law. We have to depend on the Justice Department for that. And it's quite clear that the job is not getting done.

Mr. Speaker, we know that the FBI and the Justice Department need more personnel and resources to work through this backlog. That's why Congress, in passing the Financial Institutions Reform, Recovery and Enforcement Act of 1989 [FIRREA] authorized $75 million for each of fiscal years 1990 through 1992 for S&L civil and criminal law enforcement.

To our astonishment, at budget time, the Attorney General requested only $50 million of the $75 million authorized.

Based on internal surveys of 59 FBI divisions and 93 U.S. attorneys offices in March 1989, the Justice Department knew that $50 million would only supply half of the resources needed to pursue these financial institution cases. But the Department withheld this information from Congress and sought only $50 million. This has been documented by the Government Operations Subcommittee on Commerce, Consumer, and Monetary Affairs, chaired by Congressman DOUG BARNARD. The subcommittee staff has done outstanding work on this issue.

The Attorney General approved only 47 percent of the additional agents the FBI said it needed for financial institution fraud cases. He approved only 51 percent of the additional assistant U.S. attorneys requested for this task. For fiscal 1991, he has proposed no increase in the number of criminal division attorneys or assistant U.S. attorneys and has asked for only minimal increases in FBI personnel for these matters.

A number of U.S. attorney's offices have received no new personnel to assist in prosecuting numerous cases involving losses of $100,000 or more.

For some reason, the Justice Department has not made a full commitment to this urgent task.

Mr. Speaker, this situation cannot continue. The American people must see some action taken to catch the crooks and to recover whatever funds can be retrieved.

Therefore, I am today introducing bipartisan legislation to require that the Justice Department speed up the investigation and prosecution of S&L crime and misconduct. Our bill would:

Require the Attorney General to take appropriate action to investigate and/or prosecute at least half of the pending 21,000 S&L misconduct referrals and more than 2,500 open investigations by the end of 1990—and all of these by the end of 1991;

Require the Attorney General to take appropriate action to recover, or obtain restitution for, amounts lost by S&L's as a result of fraud or embezzlement;

Require the Attorney General to appear quarterly before the House and Senate Banking Committees to report on the number and status of investigations, the number and disposition of prosecutions and civil actions, and the progress made in recovering these lost funds.

We are determined to see that these investigations and prosecutions are pursued vigorously until all S&L criminals are brought to justice.

We cannot afford to let these cases drag on month after month, year after year. The S&L cleanup requires an immediate, large-scale mobilization of law enforcement. If the Justice Department does not act soon, we may never be able to obtain prosecutions, convictions, and recovery of funds in many of these cases. The taxpayers deserve action now.

Mr. Speaker, I hope that this will be a thoroughly bipartisan effort. I am seeking the House leadership's support for this bill, and I hope that we can put it on a fast track to passage.

IN THE BEST INTERESTS OF OUR SENIOR CITIZENS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. GINGRICH. Mr. Speaker, I hope my colleagues read these two editorials that appeared in the Washington Post and the Wall Street Journal earlier this week. I feel it is time to release our senior citizens from the unfair earnings cap placed on them because they want to work after the age of 65. It is time that we brought H.R. 2460, the Older Americans' Freedom to Work Act to the floor for a vote and show our senior citizens that we care.

[From the Wall Street Journal, June 4, 1990]

STALKING ROSTY

The last time House Ways and Means Chairman Dan Rostenkowski tried to block a tax cut for the elderly—the catastrophic health-care tax repeal—a group of seniors besieged him inside his car in Chicago until he fled in his car.

Now, Rosty's committee has become the main obstacle to the repeal of one of the most unfair laws in the U.S. tax code, the earnings limit for Social Security recipients. Illinois Republican Dennis Hastert has 226 cosponsors for his bill to repeal this tax on people over age 65. A House majority is only 218. Yet Rosty, abetted by subcommittee Chairman Andy Jacobs of Indiana, won't even let the legislation come to the House floor for debate. Maybe Congress should consult the Supreme Soviet for a lesson in democracy.

The earnings limit amounts to a surtax on the working elderly. For every $3 earned by a retiree over a certain limit, he or she loses $1 in Social Security benefits. The limit in 1990 is $9,360 for seniors between age 65 and 69; it's $6,840 for seniors age 62 to 66 (who lose $1 in benefits for every $2 earned above the limit). The special tax expires at age 70.

This means in practice that retirees face an outrageously high marginal tax rate. A man in the 15% federal tax bracket who works at McDonald's can face a marginal rate of 55%. Since the earnings-limit tax also cuts his wife's Social Security benefits (even if she doesn't work), the marginal rate for the couple can reach 105%. And this doesn't count state and local taxes. The couple ends up paying the government for the privilege of working. As that Soviet emigre comedian likes to say, what a country!

It gets worse. The tax applies only to "earned" income, the sort that comes from working for a wage or salary. If income derives from interest or dividends, no Social Security benefit is lost. So the rich elderly can have a lower marginal tax rate than the average working stiff. Democrats used to care about such matters of "equity," but nowadays they'd rather be the tax collectors for the welfare state.

Rosty and his comrades are petrified that repeal might "cost" the Treasury revenue. In the static computer models of the Congressional Budget Office, repeal would "cost" $3.6 billion in the first year, and $26.2 billion over five years. This assumes repeal wouldn't change anyone's behavior. Former Treasury economists Aldona and Gary Robbins, who do consider behavior, have estimated that enough seniors would happily work more and that the federal government would gain revenue. Not surprisingly, labor-participation rates among the elderly are the lowest right around the income levels worst hit by the earnings-limit tax.

The earnings limit is an artifact of the Depression area, when the U.S. wanted seniors to retire so scarce jobs would open for younger people. But many parts of the U.S. now have a labor shortage. The skills and experience of the elderly are one of our most underutilized assets, and will become even more valuable as the Baby Boom generation retires. The punitive taxation of the earnings limit sends the message to seniors that their country doesn't want them to work, or that they are fools if they do. It's time for another run at Dan Rostenkowski's limousine.

[From the Washington Post, June 4, 1990]

UP AGAINST THE EARNINGS CAP: SOCIAL SECURITY TEST SEEN HAVING LITTLE IMPACT ON WORK DECISIONS

(By Spencer Rich)

For years many older workers and some organizations of the elderly have railed against limits on how much a Social Security beneficiary can earn from a job without a reduction in benefits.

Critics contend that the ceiling on earnings, which is actually a test of whether a person is retired and should receive retirement benefits, unfairly forces workers to retire when they prefer to keep working and need the money. The critics claim that millions of workers are ready, willing and able to continue fulltime work if the earnings limit is lifted.

"Because of the earnings test, seniors are being forced out of the work force and into the rocking chair," Rep. J. Dennis Hastert (R-Ill.) said recently. "All because of a Depression-era fossil no one has the courage to change."

Now, however, the latest issue of the Social Security Bulletin looks at all the studies and experiments to date and concludes that the notion of many millions of Americans waiting to work is a fantasy.

"Virtually all this research indicates that . . . eliminating the test would have a minor impact on the work activity of older Americans," writes Michael V. Leonesio of the division of economic research of the Social Security Administration.

Under the law, a worker age 65 through 69 can earn $9,360 a year from a job without losing benefits. For earnings above that, benefits are cut $1 for each $3 earned. For persons 62 through 64, the limit is lower, and there is no limit once a person reaches his or her 70th birthday. Income such as dividends and interest is not counted as part of earnings. About 750,000 affected people now earn more than the current limits.

Leonesio said various studies suggest that factors other than the earnings test are far more important in a person's decision about whether to retire.

These include whether the person has a liberal private pension and fairly high Social Security benefits, his or her health and physical capacity to continue working, job opportunities at a given moment, and whether it is necessary to stay home to care for an ill spouse.

And there are ways to mitigate the law's impact. For example, if a person chooses to work past 65, he or she can delay receipt of benefits and get a special permanent increase in benefits when they begin.

Moreover, if a beneficiary works and loses some benefits as a result, part of them may be recouped later because the added years of work may improve the basic earnings history on which subsequent benefits are recomputed.

"In sum, arguments that the retirement test substantially deters work by older persons are unsupported by credible evidence," Leonesio said.

The new report could influence an existing congressional dispute over the earnings limit. Senate Minority Leader Robert J. Dole (R-Kan.) and other Republican congressional leaders earlier this year held a news conference to press for repeal of the earnings limit, which would cost $25 billion over the next five years.

In the Senate, a more modest provision has been approved, based on a proposal by Sen. Lloyd Bentsen (D-Tex.), to raise the 65-69 earnings limit this year to $10,560.

In the House, a Ways and Means subcommittee has endorsed a smaller increase, to $10,200 next year.

Although Social Security Commissioner Gwendolyn S. King favors some liberalization of the earnings test, she said, "Any responsible change in the earnings test must recognize the seriousness of the current budget deficit and be structured in such a manner as to be revenue neutral and not jeopardize the long-term financial solvency of the Social Security program."

ENGLISH, THE TIE THAT BINDS

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. LOWERY of California. Mr. Speaker, the United States is proud of its melting-pot society. Cultural diversity and ethnic pride continue in this land of tolerance and democracy. We are a tapestry of multicolored threads that stretch from coast to coast. Each thread is important to the whole and should never be unraveled.

But we begin to wear away at those threads when we try to deny our commonality. First among the ties that bind the tapestry together is our Constitution and Declaration of Independence, with the resultant law of the land. And second, is our common language, English.

Science fiction envisions a time when we will communicate without language, mind to mind. But until that future vision becomes reality, it is imperative that we be able to communicate in any area of this Nation, at any time, with anyone.

Listening to the recent summit talks between Soviet President Mikhail Gorbachev and President Bush, I was struck by how difficult it is to listen to a speech when it must be interpreted. The flow is broken and the ideas seem disjointed because of the delivery.

Mr. Speaker, we welcome the flow of immigrants who have helped to make this country great. But they cannot participate fully in what this country has to offer unless they can communicate effectively.

A recent article in the San Diego Union honored a group of soldiers from World War II. These soldiers were the Navajo talkers who

spoke in a code that could not be broken by the enemy. We owe them a debt impossible to repay. Their ability to retain their native tongue helped us stymie the enemy. But their further value came in the fact that they could also speak English fluently.

By the same token, I feel that as a nation so involved in the world, Americans should learn to speak a foreign language.

I have added my name to H.R. 4424 to make English the official language of our country. I believe it is a necessary piece of legislation and I believe others in this Nation have come to that realization, most recently the State of Alabama.

BLIND WORKERS EMPOWERMENT ACT

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. CAMPBELL of California. Mr. Speaker, I rise today to amend a certain feature of our Social Security System—a feature that serves the ironic function of denying disability benefits to blind individuals who choose to work beyond a given, and quite modest level of income. I speak of the so-called cliff effect: That loss of all Social Security benefits—and possibly of Medicare coverage as well—for blind beneficiaries who earn even $1 above the amount of exempt earnings, presently capped at $9,360.

It should never be the intention of any benefits system to undermine, or as in this case, to utterly stifle the impetus or the ability of any of our citizens to work. The blind community in particular has consistently distinguished itself for the enormous and varied contributions it makes professionally. Blind individuals overcome a number of daunting challenges, both physical and social, to remain productive members of our work force. This fact alone compells us to ensure Social Security provisions that do nothing to compound the enormity of these challenges.

Specifically, my bill, the Blind Workers Empowerment Act exempts blind workers from the substantial gainful activity [SGA] criterion—that standard designating a level of income, which if exceeded, results in a complete loss of one's Social Security benefits. There are currently approximately 90,000 blind people on the Social Security disability insurance rolls, the majority of whom are over 50 years of age. As is the case with older workers aged 65 to 69—who suffer a similar, but less drastic reduction in benefits on income earned above a certain level, many of these blind persons are willing and able to work, to pay taxes, and to provide their experience and talents to employers. We should not permit the Social Security to perpetuate this economic barrier to productivity and employment.

Removing the earning limitations for blind individuals also makes a good deal of economic sense for the U.S. Treasury. For those who can return to the labor market, their earnings will benefit the economy through increased taxes paid and payments made to the Social Security and Medicare trust funds, through reduced transfer payments from entitlement programs, and through the general advantages of an increased worker participation. Additionally, the Social Security Administration will save by the elimination of administrative costs presently required to maintain an elaborate system needed to track the earnings of a blind worker, reach agreements on expenses necessary for work, and make the determinations of substantial gainful activity.

Mr. Speaker, this bill enjoys the unanimous support of the disability community. Among those groups who have lent their endorsement to my measure are: The National Industries for the Blind, the American Federation for the Blind, and the California Council of the Blind. It is my hope that many of my colleagues will join with this coalition in encouraging all citizens to participate fully in the professional life of our country.

SUPPORT THE SENIOR NUTRITION PROGRAM

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. BONIOR. Mr. Speaker, I rise today in support of the Senior Citizen Nutrition Program that seniors across the country rely on for more than 150 million meals a year.

I think all of my colleagues would agree there are few programs as effective as the Congregate Meals Program in our effort to secure a decent retirement for seniors. In my district, the Macomb County Senior Nutrition Program currently serves 1,700 seniors. However, two sites will be shut down if State and Federal funding shortfalls continue.

Seniors are threatened with hunger and isolation as underfunded nutrition sites are forced to close. We've got to begin today to restore support for this program and the seniors it serves. I am appalled that President Bush continues to propose to underfund the Senior Nutrition Program. We must support a substantial increase in funding if we want this program to continue nationwide.

Sites are threatened because Federal funding has failed to keep pace with inflation and the increasing demand for senior nutrition services. Meal providers have less money but must serve more people.

For several years, meal costs have risen dramatically. In 1989, meal prices rose by 2 cents to as much as 75 cents per meal. For average projects that serve 170,000 total meals, this meal cost increase alone represented over $15,000 per project.

Even now, seniors are waiting to get into nutrition centers. There are 2,000 people on Kentucky waiting lists, 4,000 on Michigan lists, and 16,000 on Maryland lists. In three States alone, that is 22,000 hungry seniors. Without new funding, the program will never be expanded to feed these seniors.

The Senior Nutrition Program allows senior citizens to meet regularly with friends to enjoy a freshly prepared meal which is both nutritious and satisfying. For some seniors, this is their only meal of the day. For others, it is their only time away from home. For all of them, it is important to their financial and physical well-being.

In 1965, Congress made a special commitment to senior citizens when it passed the Older Americans Act. Since then the act has grown to encompass many services for seniors, none more important than its nutrition programs. I urge my colleagues to join me in seeking an increase in funding for the Senior Nutrition Program.

EFFECT OF CLEAN AIR LEGISLATION ON RURAL AMERICA

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. SLATTERY. Mr. Speaker, the Clean Air Act Amendments of 1990, when finally approved, will be a long overdue step toward ensuring that all Americans breathe clean air. As a member of the Group of Nine, I have worked for several years to help break the legislative impass over new clean air legislation. I am extremely pleased that the House has approved a strong, sensible new air pollution control bill.

For the first time, Congress will approve controls on emissions of sulfur dioxide and oxides of nitrogen for the purpose of reducing acid rain. And, the bill approved by the House will rehabilitate the largely ineffective program of air toxic emission control that has been on the books since 1970.

Despite the heavy focus of previous legislation on controlling smog problems in urban areas, the need for this new, more prescriptive legislation is clear, 101 cities that have failed to attain the national ambient air quality standard [NAAQS] for ozone, and 44 cities continue to be in nonattainment status for carbon monoxide.

While I strongly support effective legislation to deal with smog problems in our cities, I must point out that many other areas of the country are already in compliance with the NAAQS.

I am concerned that the Environmental Protection Agency [EPA] will implement a number of the policy directives in the clean air act amendments through uniform, national rules. A uniform national approach will ease administration and enforcement but would also impose substantial and unnecessary costs on rural areas that are in attainment with air quality standards. While uniform standards may be an easy way out for regulators, I submit that the attendant costs placed on rural citizens would be too high.

During the process of writing the House bill, I worked to establish as a clear policy objective the differentiation of regulatory approaches between attainment and nonattainment regions of the country. To the maximum extent practicable, the EPA Administrator should regulate in attainment areas only when there is a significant air quality benefit. Such a policy would simply minimize unnecessary new regulatory costs on rural areas and other areas already in attainment.

I am pleased that the House-passed bill does include an important and unprecedented

first step in that direction. The Administrator would be required to distinguish between attainment and nonattainment areas in establishing a maximum gasoline reid vapor pressure during the high ozone season. In the rule that would be required by H.R. 3030, the Administrator could not set gasoline RVP below 9 pounds per square inch. in attainment areas. Compared with the 7.8-pound-per-square-inch standard that would be promulgated without this language for Kansas and other Southern States, the 9-pound per-square-inch standard will mean millions of dollars in savings for farmers, rural residents, and others living in attainment areas.

It is unfortunate that we were unable to agree on how to accomplish the broader objective. I hope that the Administrator will take this first step as a strong signal that solutions are to be sought that minimize unnecessary regulation on citizens that are not part of the problem.

I think I speak for all rural Americans in saying that we want every American to be able to enjoy clean air and that we are prepared to do our part where we can make a difference. Certainly this legislation has many provisions that will require rural America to make major investments to improve air quality. But let's make sure that the costs imposed on rural citizens are absolutely necessary to improve air quality.

My district, as is the case with all rural districts, is faced with a number of major challenges: A slowly recovering agricultural economy, a badly deteriorated infrastructure, and a lack of vital human services, including medical care. I don't want to see scarce resources misdirected away from these vital challenges through environmental regulations that do little or nothing to help improve environmental quality.

I would like to thank Chairman DINGELL, Mr. MADIGAN, Mr. SHARP, Mr. TAUKE, Mr. BRUCE, Mr. WHITTAKER, and other distinguished colleagues representing rural areas on both sides of the aisle who worked with me on this issue.

I would also like to express my appreciation for the efforts of a number of agricultural organizations that worked hard to raise this issue and joined me in searching for a reasonable solution—the American Farm Bureau Federation, the National Council of Farmer Cooperatives, the National Grange, the National Farmers Union, the National Milk Producers Federation, Farmland Industries, Inc., Cenex, Indiana Farm Bureau Cooperative Association, Inc., National Cooperative Refinery Association, Riceland Foods, Inc., Missouri Farmers Association [MFA] Oil Co., Southern States Cooperative, Inc., Growmark, Inc., Countrymark, Inc., and Agway, Inc.

I personally intend to continue to work with these organizations during the implementation of this legislation to encourage the EPA Administrator to be sensitive to need to differentiate between attainment and nonattainment areas whenever possible. A great deal is at stake for rural America.

PENNSYLVANIA NEWSPAPER WINS PULITZER

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. KOSTMAYER. Mr. Speaker, I am calling to your attention the second of 10 editorials written by Tom Hylton of the Pottstown Mercury in Pottstown, PA.

These editorials on the subject of farmland preservation won this year's Pulitzer Prize for editorial writing, and I commend them to my colleagues.

DENSELY POPULATED ENGLAND PRESERVES ITS COUNTRYSIDE—WE SHOULD TOO

Pictured below is the English city of Bath, founded by the Romans about 45 A.D., a few years after the death of Christ.

The city was already ancient in the days of King Arthur, and more than 1,000 years old when Richard the Lion Hearted returned from the Crusades.

Bath looks much the same today as it did when Richard Brinsley Sheridan made it the setting for his 1775 play, *The Rivals,* and Jane Austen devoted 19 chapters of her novel, *Northanger Abbey,* to it in 1818.

But the English have not only preserved the buildings. They have preserved the countryside around it. Bath has more people living in it—80,000—than Reading, Pennsylvania, yet the city is completely surrounded by open fields.

As soon as the city ends, the countryside begins. Most of England is like that.

That's because the English, as well as other Europeans, have learned to preserve and protect their most irreplaceable resource—their land.

England is more than twice as densely populated as Pennsylvania.

If the English allowed developers to gobble up woods and farmland for unplanned development as we do in Pennsylvania, their farms would have disappeared decades ago.

But the English have managed their land so wisely that Americans take vacations to their small island to enjoy unspoiled countryside.

As the world's leading exporter of food, the United States would love to see the English turn their country into another Delaware County—with wall-to-wall congestion—and buy their food from us.

But the Europeans, who went through a terrible famine after World War II, rightly believe that food security is a vital part of national security.

They also know that once a farm is turned into a housing development, it can never be replaced.

Despite a growing population, the English have preserved their rural society through determined and conscientious planning.

Shouldn't we be doing the same?

The sale of prime farmland to developers may produce huge profits for landowners and foster a booming economy, but at a dreadful price.

We are squandering our most precious resource—forsaking our heritage, ruining our environment, and crippling our biggest industry, which is agriculture—by allowing the developers to pave over the farms.

The English have shown that it is possible to accommodate growth without destroying the countryside.

It is a lesson we must learn soon—or it will be too late.

UNITED STATES-SOVIET CHEMICAL WEAPONS AGREEMENT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. PORTER. Mr. Speaker, at their recent Washington summit, President Bush and President Gorbachev signed a historical pact to eliminate their current stocks of chemical weapons and end all new production. This agreement represents an achievement of major proportions for President Bush who has championed chemical nonproliferation for over a decade. It also leads the way to real progress at the Geneva negotiations where over 40 nations try to agree on a multilateral chemical weapons nonproliferation accord. Such an accord would include a ban on the production and usage of chemical weapons.

One of the leaders in the Congress on the issue of chemical nonproliferation and the U.S. chemical weapons program is DANTE FASCELL, the chairman of the House Committee on Foreign Affairs. Over the years, Mr. FASCELL has shown great foresight and wisdom as he has attempted to craft our chemical weapons program in a way that would not stifle the prospects for a nonproliferation agreement. He also played a pivotal role in preventing the United States from proceeding with full-scale production of new binary chemical weapons that suffer from intractable technical difficulties and flawed logic and would not serve our national security interests.

Following the initiation of the agreement last week, Chairman FASCELL issued an excellent statement that I commend to all of the Members of the House.

SUPERPOWER AGREEMENT ENHANCES GLOBAL CHEMICAL DISARMAMENT

(By Representative DANTE B. FASCELL, June 1, 1990)

President Bush and President Gorbachev have just made a momentous decision on chemical arms control and disarmament. At the Washington Summit, they signed an agreement not only to begin destruction of their chemical weapons but also to immediately stop the production of these indiscriminate weapons.

This affirmation of long-standing bipartisan congressional efforts to stop chemical weapons production and use eliminates the inconsistencies and contradictions that plagued the Reagan administration's policy on chemical weapons. For the first time, Congress has effectively stopped the production and deployment of a major weapons system. Secretary of State Baker should be commended for obtaining a concurrent Soviet position at the Moscow ministerial last month.

Secretary Baker has accurately described the U.S. Soviet chemical weapons ban as "a trailblazing agreement." It gives the superpowers a unified stance on the critical issues of destruction and nonproduction. By establishing an unambiguous leadership role for both the United States and the Soviet Union at the multilateral chemical talks in

Geneva, it significantly enhances the likelihood of convincing other states to support a worldwide ban on the production and usage of chemical weapons.

This is an unprecedented and unique arms control agreement. It is unprecedented because it provides for U.S.-Soviet cooperation in destroying their respective chemical weapons stocks. It is unique because both superpowers agree to immediately stopping chemical weapons production thereby providing the best hope for a negotiated global ban.

As the superpowers lay down their chemical gauntlet together, they are challenging all countries to do the same. No more carping and sniping at the superpowers. No more grumbling about past U.S. hypocrisy of wanting to produce new binary chemical weapons while simultaneously expecting others to foreswear these weapons. The moment of truth has come when all nations must exert their political will and courage necessary to ban these inhumane weapons once and for all. Anything less is simply not acceptable.

It has been a long hard eight-year struggle for the House of Representatives to finally convince the executive branch of the foreign policy logic, arms control rationale, and good common sense of its position opposing the production of new binary chemical weapons.

It was simply foolish to spend billions on new chemical weapons that were:

Technically flawed and consistently failed DOD's own testing standards as documented by GAO; rejected by our European allies; demonstrated to have no practical military value; and morally repugnant to civilized mankind.

Contrary to persistent Pentagon contentious that binary chemical weapons would somehow add to U.S. security, the only thing they added to was the Federal deficit! Consequently, congressional action effectively stopped a new generation of chemical weapons from being produced and deployed.

This congressional action combined this week with a summit signature of a U.S.-Soviet agreement to halt chemical weapons production and to begin destruction stakes out a new credibility and leadership for the United States on this issue.

When Presidents Bush and Gorbachev laid down the chemical weapons gauntlet at the Washington Summit and signed a chemical arms control agreement, it was an historic arms control achievement. It will signal the greatest hope for the beginning of the end for chemical weapons.

This arms control achievement is a great confidence-building measure—both between the two superpowers and between the superpowers and the rest of the world. It represents a concrete example of superpower cooperation at its best. It represents a turning point because, now, other nations have no excuse for not joining the superpowers in ridding the world of all chemical weapons by the beginning of the 21st century.

A TRIBUTE TO MSGR. THOMAS FRANCIS MEAGHER

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the inspiring service of Msgr. Thomas Francis Meagher of Upland, CA. Monsignor Meagher will be honored in the coming days upon his retirement after 50 years of dedicated service to the church.

Monsignor Meagher was born during the early war years on June 20, 1915, the oldest of 11 children. Some years later, he was destined to begin his service as a priest in Manchester, England, as the guns of war thundered and German bombs were dropped upon the cities of England. The Irish priests ordained for San Diego Diocese and other dioceses in the United States were unable to secure transportation and thus Father Tom volunteered as an assistant and chaplain to Ancoats Hospital where he attended the casualties of Hitler's bombing raids. Because they were in short supply and desperately needed, he later became an Army chaplain.

Following the war years, Father Meagher began his U.S. ministry in San Antonio, TX. He then joined the San Diego Diocese for which he was ordained on June 9, 1940. Father Meagher enjoyed a temporary stay at St. George's in Ontario under the pastorship of Father Casey who hailed from the same seminary, St. Patrick's, Thurles. His first pastorate was Jacumba, the poorest and least endowed parish in the diocese. He then spent 2 years in Lake Elsinore before going to Rialto where he pastored before a loving congregation for 10 years. Seeking an environment conducive to contemplative rest and study, Father Meagher migrated to the Indian Mission of Yuma, AZ. He then moved to Sunnymead where he spent 10 years before being assigned to St. Anthony's in Upland. He began his service there on June 1, 1982.

Monsignor Meagher has often been overheard declaring, "I have had a great life, serving in many extensions of church ministry. I have found wonderful people wherever I have gone. The priesthood is the world's greatest calling, rendered outstandingly wonderful by being privileged to work for people, delightful and wonderful."

Mr. Speaker, I know the people of St. Anthony's and many others whose lives he has touched share in wishing Monsignor Meagher well in the coming years. I ask that you and my colleagues join me today in recognizing this wonderful, giving man who has truly blessed so many people. It is fitting that the House of Representatives pay tribute to him today.

JAMES M. COUGHLIN HIGH SCHOOL CELEBRATES 100TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. KANJORSKI. Mr. Speaker, I rise today to recognize James M. Coughlin High School of Wilkes-Barre, PA, on its 100th anniversary.

During its 100 years of existence, Coughlin High School has experienced a number a changes. Incorporated in 1890, the school originally occupied the third floor of a building on the corner of Washington and Union Streets in Wilkes-Barre, PA. It was known as Union Street High School.

In order to accommodate the demands of an expanding student enrollment, a new building was added in 1896. The students used an enclosed bridge to pass from one building to the other. Construction on a larger building to house the entire school began in 1909. In 1911, the school settled into its new facility.

In 1925, the school was dedicated in memory of James M. Coughlin who has served as superintendent of schools in Wilkes-Barre from 1890 to 1918. The school continued to grow and 30 years later, in 1954, the school was renovated and an annex constructed.

Over the past 100 years, Coughlin High School has granted diplomas to 28,000 students with the first class consisting of 10 graduates. Distinguished graduates of Coughlin High School include Adm. Harold R. Stark, class of 1898, commander of U.S. Naval Forces operating in European waters and Dorothy Andrews Kabis, U.S. Treasurer.

Currently, Coughlin High School's student body is comprised of students from the following seven municipalities: Bear Creek Township, Buck Township, Laflin Borough, Laurel Run Borough, Plains Township, Wilkes-Barre Township, and the city of Wilkes-Barre.

Mr. Speaker, it gives me great pleasure to congratulate the principal of James M. Coughlin High School, Mr. W.T. Schwab, its faculty, and students on this happy occasion. I hope that Coughlin High School has continued success in educating the young men and women of northeastern Pennsylvania to be the future leaders of the region and the Nation.

FRANCIS STEIN, AN OUTSTANDING COMMUNITY LEADER

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. FISH. Mr. Speaker, I take this opportunity to call to the attention of our colleagues an outstanding citizen who has been a leader to many and a great leader to the young men in his community.

Francis Stein is native of Washingtonville, NY. He continues to reside in the town of Blooming Grove, NY and is principal of an elementary school in Rockland County. He is married, has six children, and also three grandchildren.

As a boy, he walked the scouting trail through to the rank of Eagle Scout. An educator for more than 35 years, he returned to Boy Scouting 7 years ago as an adult leader and as Scout Master of Troop 416 for the past 3 years.

As a leader of boys he has taught values and commitment and inspired many boys to extend their efforts to advance and to succeed. His ability to relate with all types of boys is evident in the accomplishments of the boys whose lives he has touched. He has led the way for 20 Eagle Scouts, 4 of whom will receive their Eagle Awards in June 1990.

As an adult leader, Francis Stein became a member of the O.A., earned the Scout Mas-

ter's Key and was named Scout Master of the Year for the Minisink District in 1989. He earned the adult religious award for his faith. The values he has taught the boys of Washingtonville, as well as the adults who have worked with him, can be best summed up in the phrase that Troop 416 has adopted as its motto: "Share the Spirit."

Mr. Stein will be honored on Sunday, June 10, for his exceptional work in Scouting and the community.

Mr. Speaker, it is with distinct pleasure that I salute the achievements of Mr. Francis Stein and offer my best wishes to him in the future.

A SALUTE TO SONIA THOMPSON

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. GALLEGLY. Mr. Speaker, I rise today to pay tribute to Sonia Thompson, a very special woman who has devoted more than a decade of service to the preservation of our environment.

Her commitment and efforts have directly benefited all of us who have enjoyed the peace and solitude of the Santa Monica Mountains. Sonia served on the Comprehensive Planning Commission that defined the borders of the Santa Monica Mountains National Recreation Area in 1978. Later she became the first deputy director and budget officer of the Santa Monica Mountains Conservancy, which was established by the California Legislature in 1980 to acquire land and operate programs for park, recreation, and conservation purposes in the mountains.

Sonia also has been vitally instrumental in developing many of the conservancy's programs, procedures, and acquisitions. Her efforts to work with special groups such as hikers, equestrians, and mountain bikers have made their input part of the cooperative park-planning process.

Sonia Thompson has been a true and loyal friend of the Santa Monica Mountains. Because of Sonia's years of dedication, the Santa Monicas today provide thousands of acres of open space and natural beauty just minutes away from the homes and businesses of millions of residents of Los Angeles and Ventura Counties. In addition, Sonia has led the fight to secure funding for the Recreational Transit Program, which enables up to 25,000 people a year to enjoy the mountains.

Mr. Speaker, Sonia Thompson is an inspiration to us all. I'm certain my colleagues join me in saluting her tireless commitment to the preservation of our mountain resources, which will be treasured and enjoyed by generations to come.

CONGRATULATIONS TO ST. JOSEPH'S SCHOOL

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. MANTON. Mr. Speaker, I rise today to congratulate St. Joseph's Elementary School in Astoria, which was recently honored by the U.S. Department of Education with the Blue Ribbon Schools Award. This award is the top prize in the nationwide elementary school recognition program. St. Joseph's is the only school in New York City and one of only 221 schools nationwide to be so honored for academic excellence and community involvement.

Mr. Speaker, as a member of St. Joseph's graduating class of 1946, I have long been aware of the invaluable contributions that St. Joseph's makes to the Astoria community. At a time when many Americans are concerned about the quality of our Nation's educational system, it is imperative that we recognize and learn from schools like St. Joseph's which are succeeding in today's educational environment. I believe the shining record of St. Joseph's Elementary School should serve as a model for educators across the United States. In that regard, I would like to commend the New York Daily News article entitled, "Grade E for Excellent" which describes St. Joseph's formula for success to my colleagues attention and ask that it be included in the RECORD immediately following my remarks.

[From the New York Daily News, June 6, 1990]

GRADE IS 'E' FOR EXCELLENT—ST. JOSEPH'S OF ASTORIA WINS HONORS

(By John Garcia)

St. Joseph's School in Astoria is a little Catholic institution having a big effect on its community.

Besides teaching at a level of excellence recently praised by the U.S. Department of Education, St. Joseph's offers counseling to students and parents and recreation for everyone during its 14 daily hours of operation.

The end of the school day doesn't mean students leave the building at 28-46 44th St. for very long. Within 30 minutes after school lets out, many have returned—for ballet classes, student club meetings and other after-school activities.

In the afternoon, parents are trained to use computers so that they can work on reading and writing with their children. Classes are taught on parenting and parents are helped with job-hunting.

ON TARGET

"This is exactly what (Schools Chancellor Joseph) Fernandez is talking about when he mentions community-based education," said Herbert Stupp, the U.S. Department of Education's regional representative in the city.

Sister Virginia Anne, the principal of St. Joseph's, even has a network of "informants" who tell her what street corners the children should avoid because of drug sales there.

One visiting educator, who recommended the school be honored with a national Blue Ribbon Schools Award, said that St. Joseph's, "wrote the book on schools and community involvement."

"It makes sense that a community helps make a school what it is and *vice versa*," Sister Anne said. "We've been serving this community for over 100 years (108 to be exact) and we know what these people need."

St. Joseph's is the only school in New York City to win the Blue Ribbon Schools Award, the top prize in the nationwide Elementary School Recognition Program. New York State schools accounted for 18 of the 221 schools chosen around the country.

Schools chosen for national Blue Ribbons must meet achievement criteria in math and reading. St. Joseph's was rated by independent auditors from outside the city on parent and community support (very high rating), teacher environment and leadership.

But this year, special attention was given to geography education. This is where St. Joseph's might have had an unfair advantage.

Nestled quietly among houses built during the early part of the century, St. Joseph's has always served as the community center for a continuous stream of immigrants settling in Astoria. At the beginning of the century, they were mostly Italians and Irish. Now there are large numbers of Dominicans, Colombians and Koreans.

"We started out helping immigrants and we're still doing it," Sister Anne said.

Almost 30 nationalities are represented in St. Joseph's 531-member student body, though Italians still make up a large part (49%) of the school's registration. Many feel that it is this richness of cultures that has helped forge the school's complete educational system.

RACIAL DIVERSITY

"We celebrate racial diversity here and that helps the teachers, parents, and students inter-relate," Sister Anne said. Any tour of the school includes a stop at each class' "Family of the Week," which includes a picture and a few words on that family's customs and culture.

"Everyone in that class prays for that family," Sister Anne says proudly.

The school, which offers kindergarten through eighth grade, emphasizes two premises in its approach to teaching geography: people come from around the world and the world is a creation of God encompassing the people of God.

Masses at St. Joseph's Church located several blocks away at 26-46 44th St. are said in English, Spanish, and Italian.

OTHER AREAS

The system of community-based education seems to attract interest outside the little tight side streets of Astoria. Though a neighborhood school, St. Joseph's attracts students from throughout Queens, Brooklyn, Manhattan and Long Island.

Within one week of the announcement that the school had won a Blue Ribbon, word spread that the parents had made the right choice.

"This is your basic, neighborhood school, so people have a lot of pride around here," said alumna Mary Ann Stanko, whose three children also benefit from the school's education. "It seems that people are not concerned just about their kids, but about other kids in the school."

COMMEMORATING THE 100TH ANNIVERSARY OF THE MILTON POLICE DEPARTMENT

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. DONNELLY. Mr. Speaker, I rise today to pay tribute to the Milton Police Department, of Milton, MA, which will be celebrating its 100th anniversary on Sunday, June 10.

For the past 100 years, the members of the Milton Police Department have worked to protect the citizens of their community. These brave men and women daily risk their lives to insure that the people of Milton can live without fear, free from the threat of danger or violence.

The Milton Police Department will celebrate this special day with an open house at the Milton Police Station. Other area police departments will join the Milton Fire Department, ambulance companies and the Norfolk County Sheriffs Department in paying tribute to their colleagues.

The open house will feature demonstrations by the Department's K-9 and mounted units. Members of the Department will conduct fingerprinting of young children to improve identification of lost children. There will also be a number of displays, including a police helicopter, motorcycles, a police robot, and a number of antique police vehicles. In addition, the new Milton Police museum will be completed for the Open House, and the Department's history book "Pride in Blue" will be available.

Mr. Speaker, I am sure that my colleagues join me in honoring the members of the Milton Police Department, and I urge the people of Milton to visit the open house and pay tribute to these brave men and women.

ABSENCE ON AMTRAK VETO OVERRIDE

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. MFUME. Mr. Speaker, the vote to override the Presidential veto of H.R. 2364, the Amtrak Reauthorization Improvement Act of 1989, is to occur on June 7, 1990. This legislation has passed the House twice overwhelmingly and it is my hope that a veto override will previal.

Unfortunately, I have had to request a leave of absence for this date in order to attend funeral services for Commissioner Edward Tilghman of Baltimore, MD. Commissioner Tilghman recently succumbed to a long-time illness and will be severely missed by the entire Baltimore community.

Mr. Speaker, I wish to go on record in favor of a veto override of the Amtrak Reauthorization Improvement Act of 1989.

A SALUTE TO JOSEPH PENKALA

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Joseph Penkala, of Warren, RI, this year's recipient of the Congressman Ronald K. Machtley Academic and Leadership Excellence Award for Warren Public High School, in Warren, RI.

This award is presented to the student, chosen by Warren Public High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Joseph has clearly met these criteria by his participation on the student council throughout high school, as a representative in 9th and 10th grade and as president in 11th and 12th grade. In 10th, 11th, and 12th grades he competed on the math team and was selected as a Voice of Democracy Winner and a member of the National Honor Society. Other academic achievements include being a finalist in the Gardner Medal Contest in his sophomore and junior years, winning second place at the State level in the American Legion Oratorical Contest in his sophomore year, and being the recipient of the U.R.I. Book Award in his junior year. Along with all of these awards and responsibilities, Joseph volunteers for the American Heart Association and Catholic Charities Drive and is a member of the Community Drug Abuse Education Committee and the school department Equal Opportunity Task Force. He plans to attend West Point in the fall.

Joseph is truly one of Rhode Island's brightest students. I commend him for his outstanding achievements and wish him all the best in him future endeavors.

A SALUTE TO DR. H. FRANK COLLINS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. DYMALLY. Mr. Speaker, I rise today to salute Dr. H. Frank Collins, senior pastor of Calvary Baptist Church in Bellflower, CA, for his 7 years of spiritual leadership and community activity. Dr. Collins, the youngest of 12 children was born in a farming district of northwestern Alabama. In pursuit of an education, he attended schools in Alabama, Texas, Tennessee, Indiana, and Illinois. Dr. Collins holds doctorate degrees from Bob Jones University, California Graduate School of Theology, and Pacific Coast Baptist Bible College.

In July 1951, Dr. Collins was ordained, and pastored churches in Franklin, IN and Greenville, SC. He served as assistant to the president of Baptist Bible College of Springfield, MO, until he answered the call to be the pastor of Calvary Baptist Church of Bellflower, CA in June 1963. This congregation, under his guidance grew from less than 500 members to its present followers of approximately 3,000, and supports 52 missionaries worldwide. In addition to its missionary work, Calvary Baptist also supports three educational institutions, two of which honor Dr. Collins by naming dormitories—Collins Hall—as a testament to his good work and caring for his fellow men and women.

Prior to his ministry, Dr. Collins, a professional musician, enjoyed a career on radio and television, and continued in the media as a speaker on radio and television for a program "Meet In Time at Calvary", on Channel 9 in Los Angeles and heard on several radio stations in the Los Angeles area for over 15 years.

Dr. Collins married the former Bernice Scott of Indiana in 1946. She was a professional singer with the CBS Network and radio station WHAS of Louisville, KY. Of this happy union, two children, Sandra Gale Lapham of Bellflower, CA and David Scott Collins of Lubbock, TX were born.

Mr. Speaker, it is my distinct privilege and honor to ask you and my colleagues to join with me and my constituents in the 31st Congressional District of California, in acclaiming Dr. Collins, a leader in the community, a role model for us all, and an inspiration to the congregation at Calvary Baptist Church.

SALUTING THE FOURTH CONGRESSIONAL DISTRICT AWARDEES OF THE "THANKS TO TEACHERS" PROGRAM

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. FAZIO. Mr. Speaker, I would like to congratulate three teachers from the Fourth Congressional District of California, which I represent, who are being honored as part of the National Thanks to Teachers Program, a progam to honor our Nation's outstanding teachers. I was pleased to attend the Sacramento area kickoff for this program last February and would like to offer my best wishes on their selection as outstanding teachers.

One recipient, Jayne Marlink, is an English teacher at Highlands High School, in North Highlands, CA, with 13 years of teaching experience. She holds a B.A. in English and an M.A. in education/English language development from California State University, Sacramento.

A mentor teacher in writing and chair of the English department from 1986 to the present, Jayne is also producer of Writers in the Spotlight. She has also been honored with the Sacramento County Office of Education Exemplary Program Award in 1986 and supervised publishing of Multilingual Voices 1985, 1986, and 1987, which received honors by the National Council of Teachers of English. Among her professional activities are the National Writing Project Area 3 Writing Project.

A second winner from the Fourth Congressional District is Susan E. Laskey, a literature and history teacher for the eighth grade at Andrew Carnegie Middle School in Orangevale, CA. A 20-year teaching veteran, Susan holds a B.A. in social science from California State University, Sacramento.

Susan Laskey was one of 30 participants slated for the First Educator's Institute, sponsored by the Library of Congress in 1989, and through her initiative, the Library of Congress selected Carnegie to pilot the American Memory Project. Among her numerous other accomplishments, Susan is Model Technology School curriculum coordinator, mentor teacher, and was selected constitutional mentor by the Center for Law Related Education.

The third awardee from the Fourth Congressional District is Jim Carvalho, a fourth and fifth grade teacher at Orangevale Open School, in Orangevake, CA. A graduate of St. Patrick's College, Mountain View with a B.A. in philosophy and an M.A. in early childhood from San Jose State University, Jim has 11 years of teaching experience.

Again, I wish to offer my congratulations to these three outstanding teachers. Each deserves our acknowledgement and appreciation for the job they do in teaching our children and should be proud of this award.

ISRAELI CIVILIANS ATTACKED BY PLO GUERRILLAS

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. CARDIN. Mr. Speaker, on May 30, Israeli troops intercepted a Palestine Liberation Front attack on Israeli civilians. Two speed boats, filled with 16 guerrillas were launched from a ship which had sailed from Libya. Fortunately, they were detected and intercepted by Israeli forces. For over 2 years, this administration has justified its dialog with the Palestine Liberation Organization based partly on the principle that the PLO had disavowed the use of terrorism against Israel.

To claim, as Yasser Arafat has, that it is the result which determines whether an act is terrorist or not is absurd. There is no shadow of doubt that Abu Abbas, the notorious mastermind of the Achille Lauro hijacking that resulted in the heinous murder of Leon Klinghoffer, meant for innocent Israelis to be murdered by his operation.

Mr. Speaker, the PLO has been speaking with a forked tongue. While they try to sell to the United States in English that they have really changed, they continue to advocate violence against Israel and Arabic. The PLO wrongly thinks they need to convince the United States they are sincere. If the PLO hopes to play any constructive role in bringing peace to the Middle East, they must convince Israel and not the United States administration or the United States Congress they are willing to be constructive. The time has come for the administration to look hypocrisy in the face and to cease making a mockery of our foreign policy.

TRIBUTE TO NEW YORK UNIVERSITY

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. GREEN. Mr. Speaker, it gives me great pleasure to pay tribute to one of New York's finest institutions, New York University [NYU], an outstanding school part of which is located in my congressional district. This past Tuesday, June 5, the university inaugurated the pending construction of its new biomolecular medical research building in a special groundbreaking ceremony.

That building is NYU's largest financial commitment and is expected to bring in eminent research scientists to utilize what will be a state-of-the-art laboratory facility.

I ask my esteemed colleagues to join me in offering sincere congratulations to New York University. With the addition of the new biomolecular medical research building, I have every expectation that NYU will build on its past achievements and will continue to be a leader in the field of science and medicine.

THE REAL VICTIMS OF THE S&L SCANDAL

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. CAMPBELL of Colorado. Mr. Speaker, one of the true wonders of the S&L scandal is how difficult it has been for people to separate the good guys from the bad. To me, this should be the easiest part. It has always seemed to me that the crooks responsible for the bailout; the embezzlers, swindlers, overappraisers, and speculators, are the bad guys. On the other hand, I think it is pretty clear that the victims of this whole mess—the good guys—are the depositors.

Common sense would dictate, then, that in our efforts to address the thrift crisis we should seek to punish the swindlers while protecting the depositors.

If we look around us today, however, it is pretty clear that something has gone awry in our attempts to do this.

The Resolution Trust Corporation, the giant quasi-governmental agency designed to oversee the bailout, has hired hundreds of questionable former thrift industry employees to help with this task. In other words, the wolves are back watching the chicken coop.

And while the bad guys are being given well-paying desk jobs, what is being done for the victims of this crisis? Not much. The administration seems to be of the mind that insuring deposits is as much as it needs to do for taxpayers and depositors. While insuring deposits has at least prevented the bank runs that characterized the crippling financial insolvencies of the Great Depression, I believe that taxpayers deserve more.

After all, whether or not they had money in a S&L, taxpayers will be hit with a $2,000 per person bill for the cost of the bailout. The administration seems to have no qualms about collecting money to pay for the losses of the thrift industry, yet it seems reluctant to go after the people who stole the money in the first place.

The more I read about the lax pursuit of the crooks responsible for the thrift crisis, the more I can understand the frustration of the man who stood up in anger on television one day and cried, "Don't make the taxpayers pay for the bailout! Make the government pay!" If the administration chooses to forgive the crooks involved in the thrift crisis by not going after them, then the voting public will have no choice but to hold the Bush administration accountable.

I don't feel like spending the rest of my congressional days bickering about who is to blame for the thrift crisis, and I don't think the American people feel like listening to the debate. I, like they, want action, not more words. I never liked the bailout bill, and it is apparent that the American people don't either. We owe it to the taxpayers, however, to go after the people who are responsible for this mess. It is clear who the bad guys are, so I say to the Bush administration; let's go get them.

A CEAUSESCU LEGACY: WAREHOUSE FOR CHILDREN

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. AuCOIN. Mr. Speaker, for 6 months now, winds of change have swept aside tyrants and dictators and curtains of iron, and replaced them with the dream of democracy. Captive peoples are now beginning to taste the benefits of freedom and for the first time to make choices that will determine their own destiny.

These are thrilling changes and they create for us tremendous opportunities—political and economic and humanitarian—to participate in the birth of new democracies. But along side these changes, we are now coming to see some of the darkest, most tragic aspects of the discredited tyrannies coming to light.

One of the worst tragedies occurred in Romania, where thousands of orphaned and abandoned children are being held in dungeon-like institutions in conditions that are reminiscent of concentration camps.

During the evil dictatorship of Nicolae Ceausescu, Romanian women were required to have at least four babies—with no access to birth control.

Thousands of these unwanted children are still being held in asylums, in cages and unheated rooms, naked or wrapped in sheets. For a daily feeding they receive a slimy mixture of beans, corn, and rancid fat.

Recently I was able to assist in guaranteeing $4 million in emergency funding to begin helping these children. To ensure success, I organized a coalition of 60 House Members to push for aid, and with their support, $4 million was attached to the foreign aid bill that

passed both the House and Senate and was signed into law by President Bush on May 26.

I'm delighted at our success and thank the Members that signed on and supported this effort. Under the terms of the bill, the Agency for International Development [AID] will distribute the funds to UNICEF and the International Red Cross who will be responsible for the relief effort.

Today, the Washington Post, published an article that describes the living hell these children have been subjected to. I ask that it be printed in the RECORD. I am grateful that relief is on its way.

[From the Washington Post, June 7, 1990]

A CEAUSESCU LEGACY: WAREHOUSES FOR CHILDREN

(By Mary Battiata)

VIDELE, ROMANIA.—On the second floor of the state-run institution here, dazed toddlers lie or sit in iron cribs in closed, stuffy rooms. Their foreheads are speckled with flies and with scabs and bruises that come from banging their heads and mouths on crib rails. Some cry, but most are silent and appear bewildered behind their bars with the doomed air of laboratory animals.

Down the hall, other cribs hold smaller children, pale skeletons suffering from malnutrition and disease. Despite the heat of the day, several of the children are wrapped in dirty blankets. From one still bundle, only a bluish patch of scalp is visible. Asked if the child inside is alive, an orderly says, "Of course," and pulls back the cover. The tiny skeleton stirs, turns onto its side and groans.

This is one of Romania's homes for abandoned, malnourished and disabled children, one of the human warehouses filled by the policies of the late Romanian dictator Nicolae Ceausescu. It is called the Home for the Deficient and Unsalvageable. Thousands of families, forced by the state to produce babies, deposited infants in institutions like this.

Six months after the revolution that toppled Ceausescu, little has changed in these homes, despite the intervention of international relief organizations. Conservative estimates of foreign relief officials suggest that 15,000 children—and possibly as many as 30,000—are still living in conditions that one French doctor described as "something between Auschwitz and Kampuchea."

French, Dutch and Swiss medical organizations came across these homes in February while trying to trace Romania's infant AIDS epidemic. They were stunned.

"I had never seen anything like this—not even in the poorest countries in the world," said Guilhem Delmas, director of a medical team from the French relief organization Doctors of the World stationed in Bucharest. "It was unbelievable to me that such conditions could exist in Europe at the end of the 20th century."

International relief organizations working to compile a complete list of the orphanages and homes estimate that there are 350 to 500 of them. Romanian government statistics indicate that 15,000 children are housed in orphanages alone.

Delmas said there could be as many as 40,000 children in such facilities, if homes for the mentally handicapped are included. In one home, 40 percent of the children died last year of infectious disease and neglect, Delmas said.

The children are the legacy of a 1965 Ceausescu decree that forbade birth control or abortion and closely monitored pregnant and fertile women to see that the law was obeyed. Some of the children were injured during botched abortions or deliveries in Romanian hospitals. Most arrived because their families, faced with shortages of food and heat, felt unable to provide for them.

"Children were abandoned because mothers were forced to have children," said Dr. Gheorghe Jipa, director of Bucharest's Victor Babes hospital. "In our country, it was very frequent, because of the misery and bad living situation we were in. Even girls in the eighth grade were compelled to have a child when they became pregnant."

The home in the village of Videle, a 90-minute drive southwest from Bucharest, is not considered among the worst. Yet a staff assistant said matter-of-factly that "about 30" children, or nearly one-fourth of the total 135 child residents, die each year. The home's handful of orderlies have little or no medical training and scant knowledge about the causes of death.

"Sickness, agitation," suggested one.

Since discovering the homes, teams of doctors and international charities have been visiting them, delivering medicine and supplies and urging Romania's post-revolutionary government to help make improvements.

Romanian state televison showed pictures of one home, but otherwise the government has been slow to respond, Delmas and others said. There have been a few improvements, but mostly in homes nearest Bucharest, the ones visited by foreign television teams.

In many of the homes, leaky roofs still funnel rain water onto children's beds. Food is sometimes served by throwing it on the floor. Staffers hardly know their charges' names, much less their medical problems. Children are handcuffed to beds so tightly that the cuffs eat into their wrists, according to doctors. Those too small or unable to feed themselves often waste away because their nursing bottles, propped on piles of rags, slip away and there is no one to right them.

"They die of hunger, of very dirty environment, of nobody touching them and of never getting out of their beds," Delmas said.

They also die of AIDS. About 65 percent of Romania's 428 cases of infant acquired immune deficiency syndrome are abandoned children who went to hospitals from orphanages and state homes to be treated for severe malnutrition and were transfused with contaminated blood or hypodermic needles, according to the most recent Romanian government figures. Hepatitis B also is rampant.

The home at Videle contains both the malnourished and the handicapped. Once they arrive, children rarely see their families again.

"In the beginning, when they bring the child here, they have a hard time leaving it. But then they become accustomed to this, and they miss the child less and less," said Rodica Jancu, the home's director.

Once inside the system, it is almost impossible to get out. At the age of 3, abandoned children go through what Romanian officials call a "switching center"—a cursory examination that shuttles them off to homes for handicapped or to children's asylums where they may learn a task, such as basket-making. After that, there is virtually no diagnostic testing in the homes for the handicapped and little teaching or physical therapy.

"The only 'cure' is death, and that does not cure very quickly," said one doctor.

At Videle, children who have mild epilepsy or polio-splayed legs are put together with those who suffer severe autism. The blind or deaf sit in rooms all day with those who cannot control their bodily functions.

Valentin Kovacs, a friendly, mildly retarded 15-year-old boy, spends his days wandering the halls. He was curious and friendly with a visitor, following closely, and was fascinated by a pair of eyeglasses.

"I have shoes!" he explaimed, showing off a pair of moccasins donated by a Dutch charity. Asked what kind of things he likes to do, he thought for a moment and answered: "To sing, to count and to go back to my mother."

Vasilica Bogoju, 14, is "almost normal," staffers say. Her only obvious defect is physical: Her lower legs are badly twisted and cannot support her body, so she walks on her knees. She is shy but able to speak clearly, and the orderlies have become fond of her. They keep her fully clothed and have even given her a pair of earrings. They had hoped she would be allowed to go to a special school and learn basket-making.

But she was turned down. Why? "Her legs," said a nurse.

The Videle home received a shipment of clothes and toys from a Dutch charity in March. Yet about half the older children squatting in the dayroom recently were naked. Only a few pairs of shoes have been distributed, and those only last week. The toys are displayed in a closed room on the first floor where the children do not go.

"Oh, they destroy their clothes," an orderly said. "We would have to have a new set of clothes for each child each day."

The orderlies—there is one for every 60 children—are mostly older women from the village. They do not seem embarrassed by the conditions, but said they could use more help. There is one teacher, and the director said the home recently has tried to establish a kindergarten.

The state gives them 50 cents a day to feed the children. "What can you do with that?" asked one orderly standing in the stairwell as a boy ascended carrying a bucket of cold stew of tomatoes, water and bread heels.

For recreation, the children play on concrete floors in a bare room. At the sight of a visitor last week, a group burst into a loud chorus of the song that was the anthem of the revolution: "Ole, ole, ole! Ceausescu is no more!"

Foreign doctors working here are increasingly critical of the new Romanian government's inaction, while many Romanian officials chide foreign doctors as being alarmist. One foreign doctor said he was told to calm down because "things are surely worse in Ivory Coast."

Doctors with wide experience say, however, that Romania's system—with its combination of neglect, bureaucracy and haphazard medical care—is in a class by itself. Even in the poorest countries in Africa, they say, mentally and physically disabled children are not left alone in bare rooms for hours every day, deprived of the sound of human language or physical contact.

That kind of treatment, the doctors say, can be blamed on a totalitarian system that made a cult of physical labor and encouraged the idea that anyone unable to labor for the state was not quite human.

"As soon as someone here was considered unproductive—unable to work for the state—he was completely abandoned. It's something typically totalitarian," said Delmas. "To this day, in many hospitals

they don't understand why AIDS children should be kept clean, because in their minds these babies are going to die anyway."

In the beginning, foreign relief teams were patient with the Romanian government's halting steps. But while they once made allowances for the country's proverty and the aftereffects of Ceausescu's terror, they now are increasingly blunt in citing bureaucratic inertia and an erosion of compassion that may be Ceausescu's bleakest legacy.

Other critics note that while spending on the children's homes has increased only slightly, the new government, since January, has spent $440 million importing luxury electronic goods, such as color television sets and videocassette recorders.

Last week, frustrated by the lack of progress, a delegation of French doctors, the International Red Cross and the U.N. Children's Fund met with Romanian officials to demand more effort from the Health Ministry. Some have begun hinting they will pull their teams out of Romania unless the government makes a concerted effort to improve the situation.

When an earthquake struck Romania last week, it was lunchtime. On the top floor of the Videle home, orderlies spooning gray porridge into the mouths of some crib-bound toddlers dropped what they were doing and, with a visitor, raced down four flights of stairs and outside the cement-slab building. After the shaking stopped, the staff stayed outside, waiting for a feared aftershock, which they said could come in two or three hours.

At windows, the puzzled faces of children could be seen. From open windows came the wails of smaller children, raging at the interruption of their meal.

Asked whether it was important to get the children out before the aftershock hit and possibly damaged the building, staffers looked puzzled. They knew the history of the area, they said, and aftershocks are usually less strong.

"Besides, there are only eight of us and 135 children, so how would we get them out?" one orderly asked.

"Many of them don't have clothes, so if we brought them out we would be exposing them to other diseases," agreed Ion Iordache, a local man who became a bookkeeper at the home after the revolution.

"Don't wave them down here," he advised. "You will only scare them."

SUPPORT THE LANGUAGE OF GOVERNMENT ACT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. SKELTON. Mr. Speaker, I rise today to express my support for the Language of Government Act, a statute declaring English as the official language of the United States. I am an original cosponsor of this bill, H.R. 4424, introduced to the House of Representatives in March.

Many sound reasons for this statute exist, a few of which I would like to review briefly. First, for decades, English has been the de facto language of the United States. In recent years in the United States, 18 States have designated English as their official language. On June 5, voters in Alabama overwhelmingly approved a constitutional amendment that would make English the official language.

Second, as a nation of immigrants, the American population is comprised of peoples of all races, nationalities, and languages. All of these people can find a common means of communication in the English language.

Finally, by passing this legislation, we will create an affirmative obligation to preserve, protect, and enhance the role of English as the official language. Our Government will then be required to provide opportunities for those who do not speak English to learn the language.

I urge my colleages to join me in support of this important legislation.

RECOGNIZING THE CAPITOL CITY JUNIOR RIFLE CLUB ON ITS 15TH ANNIVERSARY

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. BRENNAN. Mr. Speaker, I rise today to recognize and commend the Capitol City Junior Rifle Club on its 15th anniversary. The club located in Augusta, ME, has been at the forefront of teaching youngsters the importance of firearms safety in hunting and target shooting. Another important aspect of the club's efforts with the young members has been a program used to cultivate good sportmanship—a quality needed in all facets of life.

One individual deserves special recognition on the club's 15th anniversary, and he is Julian Beale III. Mr. Beale is a nationally acclaimed expert in firearms and marksmanship, who has been tireless in his work with the young members of the club. At a time when our youth needs people to work with them to promote worthy efforts, like the teaching of good sportsmanship, Mr. Beale deserves our special appreciation.

As the Representative of Maine's First Congressional District, I join with my fellow Mainers in paying tribute to the Capitol City Junior Rifle Club on its 15th anniversary and wish it continued success.

THE 25TH ANNIVERSARY CELEBRATION OF PROJECT HEAD START

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, May 18, 1990 marked the 25th anniversary of President Lyndon B. Johnson's signing of the Executive order which began Project Head Start. Project Head Start began 25 years ago as an effort to help economically disadvantaged children achieve their full potential.

Head Start's unique approach to helping children by emphasizing strong parent involvement and comprehensive child development service delivery has withstood the test of time. Head Start has helped over 11 million children who enter school healthier and more ready to learn than they would have been without the program. In addition, there is a measurable benefit of this human investment. For every $1 spent on Head Start, there is a $6 return.

Nationally, Head Start serves 451,000 children. In the State of New Jersey, approximately 10,000 children are enrolled in Head Start. In my own district in Newark, NJ, members of the Newark Pre-School Council, Inc., have served over 50,000 children in Head Start programs. Many of the children have gone on to heights never imagined.

In honor of its 25 years of service, the Newark Pre-School Council is sponsoring a silver anniversary celebration. The celebration will take place on June 24, 1990 at the Terrace Ballroom at 3 p.m. I commend the Friends of Newark Pre-School Council, Inc., for their efforts in sponsoring this 25th anniversary celebration. I would also like to commend Mrs. Annette O'Flaherty, program chairman and Mrs. Rebecca Andrade, dinner chairman for organizing the event.

Mr. Speaker, I know my colleagues join me in praising the Newark Pre-School Council, Inc. for its 25 years of success.

COLA'S, THE BUDGET, AND H.R. 3914

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. McCANDLESS. Mr. Speaker, a large number of my constituents spent their working years in the service of the United States, as members of the military and the Federal civilian work force. As retirees, most of them strongly objected to the portion of the President's budget proposal which assumed no Cost of Living Adjustment [COLA] for military and Federal retirees in fiscal year 1991, and reduced COLA's in the future.

As I have in the past, I support full COLA's for military and Federal retirees.

On numerous occasions, I have pointed out that a budget resolution is nothing more than a set of numbers. While Congress is bound by those numbers, it is not bound by any assumption used to arrive at those numbers. Assumptions do not become law when a budget is adopted. Each assumption must be enacted into law in the regular legislative process, which is completely separate from the budget process and comes after the budget is in place.

In addition, during the budget debates, the House of Representatives does not vote on individual portions or assumptions in a budget. Each vote is for or against a complete budget proposal for funding the entire Federal Government. Consequently, in every budget proposal I have supported, there have been portions or assumptions of the overall budget which I opposed. Likewise, in every budget proposal I have voted against, there have been portions and assumptions that had my strong support. This is not the process that I would choose, but it is the process dictated by the Rules Committee and its membership of nine Democrats and only four Republicans.

Prior to the adoption of the budget resolution for fiscal year 1991 by the House on May 1, 1990, a number of my constituents contacted me and asked me to cosponsor legislation, H.R. 3914, which according to information they had received, would guarantee that COLA's for military and Federal retirees were included in the fiscal year 1991 budget. Although I support COLA's, I was reluctant to cosponsor H.R. 3914 for two reasons.

First, under the Budget Act of 1974 and the rules of the House of Representatives, H.R. 3914, although well intended, did not and could not guarantee that COLA's were included in the fiscal year 1991 budget. In fact, the rules of the House would not allow H.R. 3914 to even be considered until after the fiscal year 1991 budget resolution had been adopted. Because the effect of H.R. 3914 was widely misrepresented to the point of deceiving a large number of retirees, I was reluctant to cosponsor it.

My second reason was, because the budget process is complex, most people do not know that the House does not vote on individual portions or assumptions in a proposed budget. Many people are very surprised when I tell them that during the time I have served in Congress, there has not been a single time when the House has voted directly on the issue of COLAs during a budget debate. It is unfortunate that some groups and organizations have used votes on an entire budget proposal as a means of listing a Member of Congress for or against a specific assumption. Because there are literally thousands of assumptions in each budget proposal, such an interpretation generally is neither fair nor accurate. As there is only one vote—up or down—on each budget proposal, each proposal must be considered in its entirety, and not just on the basis of one or even a handful of assumptions.

Based on past experience with previous budget votes, many constituents would interpret cosponsorship of H.R. 3914 as a commitment to vote for any budget proposal that assumed a full COLA for Federal and military retirees. At the risk of repeating myself, I support full COLAs, but I cannot and will not vote for a horrible budget proposal just because it assumes a COLA. Examples of when I have voted against bad budget proposals are the last two fiscal years when Congress used a host of budget gimmicks, tricks, and other procedures to make the deficit look smaller than it really was. Well, "the chickens have come home to roost," and because of Congress' unwillingness in the last 2 years to confront the deficit, we have a budget crisis. We are facing a deficit of $150 billion for the current fiscal year when the Gramm-Rudman deficit target is $100 billion. The fiscal year 1991 budget resolution which passed the House on May 1, wasn't any better. Consequently, for reasons totally unrelated to COLAs, I voted against the budget resolution.

If I had cosponsored H.R. 3914 and then voted against a budget resolution which assumed a full COLA, I was very concerned that many constituents, who may not fully understand the budget process, would feel betrayed. That simply was not acceptable to me.

Having said that, allow me to outline where we are as of today in the budget process and the issue of COLAs. The House has passed a Budget Resolution which is currently pending in the Senate. That resolution assumed a full COLA for fiscal year 1991 and the following years. That assumption represents the position of an overwhelming majority in the House in support of full COLAs for Federal and military retirees.

Since the House has completed that part of the budget process, H.R. 3914 can now be considered, and because H.R. 3914 may expedite the process for the consideration and enactment of COLAs, I have cosponsored H.R. 3914.

Mr. Speaker, I understand and appreciate the strong sentiments behind this issue. It has been my practice during my 20 years in public office to listen to the concerns of my constituents, and in response, share my thoughts and position with them. It is my hope that my comments here will serve that purpose.

WILLIAM KAHN, FRIEND OF THE COMMUNITY AND AN EXAMPLE TO US ALL ON THE EVENT OF HIS RETIREMENT

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. BUECHNER. Mr. Speaker, it is indeed my pleasure to honor one of my constituents, William Kahn. Mr. Kahn is retiring July 1, 1990, as the executive vice president of the Jewish Federation of St. Louis. He is known worldwide as a phenomenal fundraiser for human services and a social advocate. His commitment to the elderly, the poor, the hungry, the sick, the needy, and minorities is well respected.

Bill had dedicated his life to bettering the lives of Jews in Israel, the Soviet Union, and across the world, including, of course, the St. Louis area. Bill has been an advocate for human rights for all peoples and has been at the forefont defending these rights.

Most recently, as the professional leader of the Jewish Federation in St. Louis, he is helping to coordinate the emergency Operation Exodus campaign to rescue Soviet Jews. I spoke at the May 6, 1990, rally on the ballfields of the Jewish Community Centers Association and was quite impressed with the devotion of the community to this issue.

Bill served as executive vice president of the St. Louis Jewish Community Centers Association [JCCA] from 1958 to 1978. Bill was instrumental in building the current beautiful complex in Creve Coeur that is now know as the I.E. Millstone Jewish Community Campus. It was Bill's vision and leadership that helped make this complex a reality.

Bill accepted an offer in 1978 as executive vice president of the Jewish Federation of Pittsburgh, his hometown area, and then went on to the prestigous position of executive vice president of the Federation of Jewish Philanthropies of New York in 1981.

Longing for the St. Louis community, Bill decided to move back to St. Louis in 1986. That year he became the executive vice president of the Jewish Federation of St. Louis where he has served since.

Since Bill's return to St. Louis, the Jewish Federation has been instrumental in expanding day care services and addressing the needs of disadvantaged Jews.

We in St. Louis are fortunate that although Bill is retiring, he is remaining in the St. Louis community and will continue his dedication to human services.

Thank you, Bill, for all your efforts and may your retirement be as successful and happy as your marvelous career.

ASIAN-PACIFIC AMERICAN HERITAGE MONTH

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. FALEOMAVAEGA. Mr. Speaker, I was privileged to have been able to attend a special ceremony this past Monday, May 7, 1990, at the White House where the President signed an official proclamation to proclaim this month as Asian-Pacific American Heritage Month, a special tribute to all Americans who are of Asian-Pacific heritage descent.

Mr. Speaker, I hope you will join hands in celebrating this historical event. As Asian-Pacific Americans, we have a key role to play in helping America maintain its world leadership into the Pacific century, otherwise known as the next American century.

The Federal Asian-Pacific American Council is an interagency group organized to provide a focus for Asian-Pacific American activities within the Federal Government. The council, through its interagency membership, is responsible for spearheading training awareness of the impact of Asian and Pacific cultures, work ethics, and behavior as related to employment in the Federal work force.

Over the past 5 years, the ability of the council to plan, coordinate, and implement successfully, ambitious activities—including the first 1986 national training conference and the 1987; 1989 recognition luncheons for Asian-Pacific Americans holding senior military, public health, civil, and Foreign Service executive positions—is attributed to: first, the enthusiasm and dedication of council members; and second, their overwhelming agency support. I can state with confidence that both are essential the council's continued success.

Asian-Pacific Americans bring to the national workplace a diversity of cultural perspectives and work ethics; however, they are often misinterpreted which results in barriers to communication, productivity, and advancement.

In an effort to overcome these barriers, I am proud to announce the council's sponsorship of the Third National Federal Asian-Pacific American Heritage Training Conference. The conference will be held in Bethesda, MD, May 30, through June 1, 1990.

Mr. Speaker, I would call upon my esteemed colleagues to commend the Federal Asian-Pacific American Council for their past accomplishments, their efforts to enhance educational and employment opportunities for

Asian-Pacific Americans, and to actively support their endeavors.

YASSER ARAFAT RENOUNCES TERRORISM

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. BRUCE. Mr. Speaker, terrorism has no place in today's world of negotiations and nonviolent change.

In December 1988, Palestinian Liberation Organization Chief, Yasser Arafat renounced terrorism and agreed that the use of terrorist tactics would violate the conditions of U.S.-PLO dialog.

However, on May 30, 16 Libyan-trained, Iraqi-supported, PLO terrorists targeted civilian areas of Tel Aviv and launched a merciless attack. In fact, the Iraqi-based Palestinian Liberation Front, a unit of the PLO which is closely associated with Yasser Arafat, formally took responsibility for the operation; an operation which, in the words of one of the terrorists, was intended to "kill as many civilians as possible."

Although Israeli coastal radar detected the oncoming assailants and swiftly intercepted the attack, Yasser Arafat remains ultimately responsible for the PLF's terrorist attempt. Here in the United States we have been expecting him to publicly condemn these brazen terrorist tactics and strictly discipline those directly involved.

Mr. Speaker, we've waited over a week now. Without Mr. Arafat's acknowledgement of this flagrant breach of the conditions for U.S.-PLO dialog, the United States has no choice but to review our policy of communicating with the PLO. Otherwise, how can we expect others to trust our commitment to anti-terrorist policy and successful peace talks?

END PLO DIALOG

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. WEBER. Mr. Speaker, last week's attempted assault by PLO terrorists against civilians and civilian installations in Israel clears up once and for all any remaining doubts that the Palestine Liberation Organization is still committed to a policy of terrorism and violence. The fact that this action was carried out during a religious holiday, in order to maximize the number of casualties, makes the crime all the more heinous.

The mastermind behind the attack, Abu Abbas, proudly claimed responsibility for it. Abbas, leader of the Palestine Liberation Front—a PLO faction—and a member of the PLO executive committee, is the same man who planned and executed the hijacking of the *Achille Lauro,* in which an elderly, handicapped American, Leon Klinghoffer, was savagely murdered and his body thrown into the sea. Yet, while Abbas was loudly proclaiming his latest handiwork, PLO Chairman Yasser Arafat, who promised in December 1988 to renounce terrorism, has remained silent. He has not condemned the attack, nor has he taken steps to expel Abbas from the executive committee. In the absence of these actions, Arafat has broken his promise once again and exposed his hypocrisy in claiming to seek a peaceful settlement in the Middle East.

Arafat's is not the only credibility at stake. The United States cannot press for peace talks while continuing to ignore the PLO's flagrant use of terrorism. The State Department cannot continue to excuse the violence perpetrated by the PLO and pretend that Arafat is unaware of it. It is exactly this kind of attitude that permits Arafat and the PLO to push the limits of U.S. indulgence to the point where an attack on innocent civilians is possible, without fear of repercussions from the United States.

This latest outrage is clearly the last straw and requires a change from our current policy toward the PLO. That's why I'm proud to be an original cosponsor of legislation that would end the dialog with the PLO established over a year ago. The United States cannot continue to maintain a dialog with the PLO as long as it continues to sponsor and condone terrorism. As long as Arafat refuses to condemn those associated with him who practice violence, the United States should refrain from doing business with him.

TERRORIST ACTIONS ENDANGER MIDDLE EAST PEACE DIALOG

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. PALLONE. Mr. Speaker, I was among the many skeptics in Congress and throughout the Nation when the State Department proclaimed in March that the Palestine Liberation Organization had adhered to its commitment to renounce terrorism and was worthy of continued participation in negotiations with the United States. It's no secret that the decision in 1988 to open a U.S.-PLO dialog sent shock waves throughout Israeli society, which has been so devastated by terrorist attacks from the PLO for more than 20 years. But our country's foreign policy makers were apparently so optimistic over Yasir Arafat's almost-recognition of Israel and his almost-renunciation of terrorism, that they gambled on taking the peace process in a new direction by opening a direct dialog.

What little hope remained about the reliability of the PLO as a partner in peace was shattered by last week's attempted attack by Palestinian guerillas on beaches near Tel Aviv. Fortunately the Israelis, who have not let their guard down, succeeded in neutralizing the attack.

Arafat could have done a great deal to enhance his credibility by condemning this attack in no uncertain terms, and taking action against the archterrorist who masterminded the action, Abul Abbas, head of the Palestine Liberation Front and a specialist in cowardly violence against unarmed civilians. In case anyone has forgotten, this is the same Abul Abbas who organized the *Achille Lauro* hijacking and the murder of Leon Klinghoffer. The PLF is, of course, part of the PLO coalition.

There are two possible conclusions we can draw about Yasir Arafat in reaction to last week's attack: Either he is not really sincere about transforming the PLO into an instrument for promoting peace in the Middle East, or that he is simply not in control of the many factions of the PLO. Whatever the case, the United States should immediately suspend its dialog with the PLO and not resume that dialog until American conditions are met. And in the meantime, we must continue to support Israel's security so that our ally can maintain its defenses against these kinds of attacks.

NATIONAL HEALTH INSURANCE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1990

Mr. CRANE. Mr. Speaker, proponents of a National Health Insurance Program similar to the programs in Canada and Great Britain, should read the following article, "National Health Insurance: It will Backfire On American Industry," from the April 1990 issue of Private Practice. The article, by Dr. John C. Goodman, analyzes the costs, in real terms, to American industry should such a plan be adopted. The statistics should prove beyond a shadow of a doubt the negative effects of implementation of such a program on American industry.

The article follows:

NATIONAL HEALTH INSURANCE: IT WOULD BACKFIRE ON AMERICAN INDUSTRY

What's going on in America's executive suites? Bethlehem Steel Corp. and General Electric Co. favor a national health-care plan. American Airlines endorses government-mandated health insurance. The auto industry is calling for full-blown national health insurance. Other businesses are hinting at similar ideas. The fundamental mistake being made by these "pro-free-enterprise" captains of industry is that they naively believe they can turn over the cost of their employee health plans to U.S. taxpayers. What corporate executives tend to forget is that they also pay taxes. And, under national health insurance, most large companies and their employees would pay more in health-related taxes than they currently pay for private health insurance.

Suppose the United States adopted a health-care plan similar to Canada's. Assuming that health-care expenses will not increase—an unrealistic assumption—the cost of government-provided health care for American workers would be about $388 billion, not including services for people covered by the Medicare and Medicaid programs. That means that the federal government would have to collect $388 billion in new taxes.

Some new tax revenue would be generated because deductions for private health insurance would be eliminated. For example, last year, General Motors Corp.—which has one of the most lavish health-insurance plans found anywhere—paid about $4,100 per worker for health care, all of it tax-deducti-

ble. With the need to buy private health insurance eradicated, GM might increase employee wages by $4,100. If the automaker did that, the federal government would collect as much as $1,763 per worker in additional income and payroll taxes. On the other hand, if GM tried to keep the $4,100 per worker as profit, the government would grab a good chunk of that amount in additional corporate income taxes.

Overall, the abolition of private health insurance would immediately cost American industry about $48.5 billion in new taxes. That leaves about $339.3 billion to be raised through a new national health-insurance tax.

Because the amount of money needed would be so large, national health insurance would almost certainly require a broad-based tax, such as a payroll, income or consumption tax. The payroll-tax rate, for example, would have to rise from its current level of 15 percent to at least 29 percent. The income-tax rate would have to increase by at least 14 percent, raising the highest rate from 33 to 47 percent. If national health insurance were funded by a consumption tax, the price of everything we buy would rise by 9 to 10 percent.

The burden of new taxes needed to pay for national health insurance would not be spread evenly across all sectors of the American economy. High-wage industries would pay above-average taxes, while low-wage industries would pay below-average taxes—even though all workers would get the same benefits.

To see what all this means for U.S. employers and their employees, Aldona and Gary Robbins recently completed an industry-by-industry calculation for the National Center for Policy Analysis. The results of the study should be shocking, especially for the auto industry, which would pay about $5,641 per employee in national health insurance payroll taxes. Add the loss of the current deduction for private health insurance and the total rises to $6,824 per autoworker. Since the industry now pays only $3,055 for private health insurance, national health insurance would more than double the cost of health care for U.S. automakers.

Not all industries would lose under national health insurance; indeed, some industries—including those that currently provide small health-insurance benefits and thus receive little tax subsidy for health insurance—actually would gain. Ironically, some of the industries that would benefit are in direct competition with manufacturing industries that are calling for a government health-care plan. Other things equal, for example, foreign auto dealerships would gain a substantial cost advantage over domestic auto producers.

Some people argue that health-care costs are making our products less competitive in the international marketplace. For example, it often is said that health-care costs are adding $700 to the price of every new U.S. automobile.

In fact, there is no evidence that health-care costs add to the price of a new car—or to the price of any other product. Health insurance simply is one element in the total compensation package received by autoworkers, a fringe benefit that is an alternative to the payment of additional wages. During the last two decades, fringe benefits for most American workers have grown steadily in real terms, while real wages have stagnated, reflected the preference of employees for non-taxed benefits over taxed wages.

National health insurance would affect our ability to compete because it involves more than the purchase of health care. It represents a redistribution of income among producers in different industries. On the whole, national health insurance would impose extra taxes on U.S. exporting industries and use the proceeds of those taxes to subsidize health care in the importing industries. In other words, national health insurance would increase the cost of our exported goods and lower marketing costs in the United States for our foreign competitors.

NCPA cost estimates are conservative because they assume that under national health insurance, health-care costs would not rise. In fact, the introduction of national health insurance in other countries always has led to a big surge in demand. Our own experience also suggests that government is a cause of—not a solution for—rising health-care costs:

Personal health-care expenditures as a percent of gross national product have grown at a 33-percent faster rate since Medicare came into existence.

Since the introduction of Medicare, 67 cents of each health-care dollar has been consumed by inflation.

Government projections have seriously underestimated the cost of new health-care programs.

Medicare's prospective payment system has been hailed as an effective way of controlling inpatient hospital costs. Since the PPS was established, however, Medicare outpatient expenditures have exploded.

The U.S. government, the nation's largest employer, has been ineffective in controlling its own health-insurance costs. Federal budget projections show federal health-insurance costs tripling between 1987 and 1991.

The federal government has been an ineffective hospital administrator. The average length of stay in Veterans Administration hospitals is twice as long for the same procedures as that in private hospitals.

WINNERS AND LOSERS UNDER NATIONAL HEALTH INSURANCE: SELECTED INDUSTRIES [1]

Industries that win	Initial change in cost per production worker	Decrease in total production costs	
		Amount	Percent
Retail trade (non-mfg.)	−$1,488	$25,989,408,000	5.26
Hotels and other lodging places	−1,387	2,007,543,800	4.85
Amusement and recreation services	−1,346	1,339,539,200	4.83
Personal services	−1,280	896,256,000	2.25
Apparel and other textile products (mfg.)	−1,161	1,081,703,700	4.16
Leather and leather products (mfg.)	−738	87,969,600	2.30
Banking	−670	852,508,000	.87
Credit agencies other than banks	−486	331,014,600	1.68
Textile mill products (mfg.)	−417	264,544,800	1.14
Auto repair services and garages	−411	305,619,600	.68

Industries that lose	Initial change in cost per production worker	Increase in total production costs	
		Amount	Percent
Motor vehicles and car bodies (mfg.) [2]	+$3,523	$951,914,600	4.11
Tires and inner tubes (mfg.) [3]	+3,242	211,378,400	6.18
Petroleum and coal products (mfg.)	+3,203	350,728,500	.90
Tobacco	+2,793	98,034,300	.55
Photographic equip. and supplies (mfg.)	+2,490	125,745,000	3.43
Telecommunications (non-mfg.)	+2,254	1,485,386,000	1.19
Primary metal industries (mfg.)	+2,007	1,215,238,500	2.89
Chemicals and allied products (mfg.)	+1,939	1,206,251,700	1.35
Mining (non-mfg.)	+1,901	977,114,000	.99
Computer and data processing services (non-mfg.) [3]	+1,609	949,149,100	3.85

[1] National health insurance tax burden minus health insurance benefits. The calculations presented here assume that the excess burden of national health insurance is borne by employers and that national health insurance is funded by a payroll tax. Similar calculations assuming that the full burden falls on workers produced similar results.

[2] Based on the contribution to gross national product in each industry. Industry GNP for 1987 was taken from the Survey of Current Business, July, 1988, Table 6.1, and adjusted to 1989 levels using the growth in overall GNP between 1987 and 1989.

[3] Indicates an estimated industry GNP using the share of that industry's production workers in that of the larger industry group. For example, motor vehicles and car bodies account for 40 percent of the larger industry group, motor vehicles and equipment.

Source: Aldona and Gary Robbins, "What a Canadian-Style Health Care System Would Cost U.S. Employers," NCPA Policy Report NO. 145, February 1990, National Center for Policy Analysis.

SENATE—*Friday, June 8, 1990*

(Legislative day of Wednesday, April 18, 1990)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. BRYAN].

The ACTING PRESIDENT pro tempore. The Reverend Richard C. Halverson, Jr., of Falls Church, VA, will lead us in prayer.

PRAYER

The Reverend Richard C. Halverson, Jr., Chesterbrook Presbyterian Church, Falls Church, VA, offered the following prayer:

It is a privilege to be here.

Let us pray:

Father in Heaven, I am making this prayer on behalf of everyone here regardless of their degree of spirituality. And I am asking You for the power to influence for good the most difficult mission field in the world, the mission field of ourselves.

Some here may consider themselves religious, many I am sure, do not feel worthy even to call on Your name. And we realize that often we are the worst enemy of ourselves and of You.

Yet how can we carry on a relationship, if we can't relate to ourselves? And how can we manage a family, if we can't rule ourselves? And how can we conduct our business, if we can't govern ourselves?

Grant us, therefore, the power of self-control. And teach us the secret of being at peace with ourselves. Knock on the door of many hearts here that we might open within, and invite You into the counsel of our innermost being. In Christ's name we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning following the time for the two leaders there will be a period for morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each. At 11 a.m., the Senate will resume consideration of S. 341, the blind air passengers bill.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not to exceed 5 minutes.

The Chair recognizes the Senator from Tennessee [Mr. GORE].

Mr. GORE. Mr. President, I ask unanimous consent that I be allowed to speak for an additional 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REPORT OF THE WORLD RESOURCES INSTITUTE

Mr. GORE. Mr. President, I would like to speak this morning about some of the trends in global environment that have been reported this morning in a just-released study from the World Resources Institute entitled "World Resources, 1990-91." Some of the new findings in areas such as global deforestation, greenhouse gas emissions, and degradation of water resources are truly astonishing and quite alarming. In my remarks this morning I will be drawing directly from the material that was issued by the World Resources Institute in conjunction with their new study.

First of all, I would like to address the subject of deforestation. Until now, the most authoritative estimate of annual deforestation in the tropics has been 28 million acres per year.

A lot of us have used a figure that is derived from 28 million acres per year when we say one acre of rain forest is being destroyed every second. Well, where does that number come from? It is based on an extensive assessment made 10 years ago by the United Nations Food and Agricultural Organization when it examined all of the national surveys and all of the literature and all of the reporting.

The report released this morning contains the new assessment which is, as I say, the first update in 10 years, and it shows that tropical rain forests are now vanishing at a rate not of 28 million acres per year, but 40 million to 50 million acres per year. In other words, instead of losing one acre of rain forest per second, the world is now losing one acre and a half of rain forest per second.

These new findings, which are conservative in their use of the basic numbers involved, are based on new land-based and satellite sensing studies showing that tropical deforestation rates are nearly 50 percent faster than the earlier estimates. It means that every year, instead of losing an acre of rain forest the size of the State of Tennessee, as I have been saying when using the old figures, the world is losing an area of rain forest each year the size of the State of Washington.

The latest figures show accelerated forest loss in Brazil, India, Indonesia, Myanmar—known to many of us by its older name, Burma—Thailand and Costa Rica. In 1987, when Brazilian Government policies caused the country to experience a peak year of deforestation, the rate of loss was as much as 80 percent higher than earlier estimates.

Mr. President, I would like to refer to this chart prepared on the basis of the study released by the World Resources Institute this morning.

The chart shows annual tropical deforestation in eight key countries. The eight countries are Vietnam, Costa Rica, Brazil, the Philippines, India, Indonesia, Thailand, and Myanmar.

The lefthand side of this chart shows the old estimate which was alarming enough, the one acre per second estimate. This is an illustration of how much tropical forest area was lost in these eight countries during the years 1981 through 1985. The right-hand side of the chart shows the dramatic increases according to this new updated study that shows the troubling, indeed shocking, acceleration in the rate of deforestation.

In Brazil, for example, from 1981 to 1985, the annual rate was this much, and the more recent estimate shows that it is now this much.

In fact, according to this new study, the total amount of carbon dioxide put into the atmosphere by Brazil during 1987 exceeded the total amount

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

of carbon dioxide put into the atmosphere by the United States of America.

The major cause of deforestation, according to World Resources Institute, is the permanent conversion of forest land to agriculture land, although logging practices, especially in Southeast Asia, and the demand for fuel wood, especially in Africa, are also serious factors. The problem has been exacerbated almost everywhere, it appears, by government policies as well as by population pressure, poverty, and a maldistribution of land and wealth and debt burdens which have forced many of these countries to accelerate the conversion of forest land to agriculture land in order to grow cash crops as a means of servicing their debt and earning hard currencies.

The pressures on tropical forests are expected to increase even more with the rapid population explosion in the developing world.

At the present time, Mr. President, deforestation is second only to the burning of fossil fuels as a source of atmospheric carbon dioxide, and it contributed not 20 percent of CO_2 emissions to the atmosphere—that is the figure which we have been using based on the old estimates—but now, based on the study of the year 1987, at least, the burning of forest land accounted for one-third of all the carbon dioxide put into the atmosphere worldwide. And nearly all carbon releases from deforestation occur in the tropics, where virtually all burning of forest land occurs.

Let me move to a second chart, which shows the emissions of greenhouse gases by country. According to this new study, the United States and the Soviet Union rank No. 1 and No. 2 in the world, in their contributions of greenhouse gases added to the atmosphere in 1987. This illustrates a point that I made earlier this week after the conclusion of the summit meeting when I said that I felt it was extraordinary that the leader of the United States and the leader of the Soviet Union could sit down for several days to talk about the most important issues in the world and, at least from the communique and the reports of their meetings, never even discuss the crisis confronting the global environment and the fact that our two countries are the principal contributors.

Let me move to this second chart and illustrate the contributions of greenhouse gases by country, taking 26 countries as examples. There is one feature of this chart I would like to underscore. The European Community is represented as a single entity, and when one aggregates the countries of the European Community, Europe ranks second to the United States as a source of greenhouse gas emissions. The United States is in first place with a billion metric tons of carbon dioxide equivalents emitted each year. That is the measure of greenhouse gas emissions most commonly used. Second is the European Community; third is the U.S.S.R.; fourth is Brazil; fifth is China; sixth and seventh, closely grouped together, are India and Japan. And then, although there are smaller figures overall from these other nations, taken as a group, they now represent a very large source of greenhouse gas emissions.

Mr. President, the role played by developing countries is now much larger than had been supposed prior to the completion of this study, according to the new index. This measures not only carbon dioxide, but also methane and chlorofluorocarbons. Each of the gases is weighted by its heat-trapping potential, and that explains the use of this term "carbon dioxide equivalents."

According to this index, as I said, the United States is in first place. The total amount added to the atmosphere in 1987 was 6.5 billion tons of carbon in the form of CO_2, methane, and chlorofluorocarbons—again, CO_2 equivalents. That compares to a figure of 2.4 billion tons just 30 years earlier, in 1957.

Consider that increase, Mr. President. Thirty years ago, it was 2.4 billion tons of carbon dioxide equivalents, and in 1987, the year featured in this study among others, it was 6.5 billion tons. In 30 years, from 2.4 to 6.5 billion tons each year.

Concentrations of methane have more than doubled since preindustrial times, and are growing at a rate of 1 percent annually.

Chlorofluorocarbon concentrations are, of course, growing the most rapidly, about 5 percent each year.

Until now, it had been widely believed that developing countries would soon and eventually become major contributors to global warming, because at least 90 percent of future population growth will be in the Third World. But one of the most unexpected findings in this study, that the data shows so clearly, is that developing countries are already major sources of greenhouse gases, clearly demonstrating the urgent need to address the problem as it occurs in the developing world.

I mentioned earlier that in 1987, Brazil was a larger source of CO_2 emissions than the United States, primarily because of the massive burning of forest lands in that year.

Let us look at these emissions on a per capita basis, because we are used to hearing that the United States has the highest per capita emission of greenhouse gases in the world. This study indicates that while our emissions on a per capita basis are indeed startlingly large, there is a surprising leader that has an even higher per capita emission of greenhouse gases than does the United States in this study, and that is the country of Laos, Mr. President, called officially the Lao People's Democratic Republic. That is because of forest burning.

Also, the No. 2 and 3 ranking go to Qatar and the United Arab Emirates, which comes about because of the flaring of natural gas and the huge energy consumption per capita in those countries with a surfeit of natural gas and oil.

Qatar has per capita greenhouse gas emissions of 9.7 tons each year per person, and the United Arab Emirates, 6.4 tons per person per year.

If you have ever seen this photograph taken by satellite, Mr. President, of the world at night, it shows the major cities, the outlines of the continents illuminated by the lights of cities. In the Middle East, in the oil-producing countries, there are these bright flares of light that dominate that part of the Earth's picture because of gas flaring. This practice really should be addressed as part of a comprehensive effort to deal with this problem.

Mr. President, before I conclude, let me address very briefly just one other important feature of this report which has not yet received the kind of attention I think it deserves. It has to do with water resources.

We have an abundance of water in the world, but it is maldistributed and it is not properly used and conserved. One famous example is the Aral Sea. It used to be the fourth largest inland body of water in the world. It is in Soviet Central Asia. Now 60 percent of the water is gone because of mismanagement of the water resources.

Saudi Arabia's remarkable success in increasing its agricultural production threatens to completely drain the country's underground water resources. And we are doing something similar to some of our underground aquifers.

Speaking on the Middle East for just a moment longer, according to a recent report by the Middle East Economic Digest, nonrenewable fossil groundwater resources in the Middle East will be completely exhausted within 17 years at the current rate of depletion. Talk about eating your seed corn—we are doing it too, but the problem is really pronounced there.

In Latin America, although most cities have abundant water resources, population growth is outstripping supplies. In Mexico City, the groundwater is being mined and depleted far more rapidly than it is being replenished. In Lima, Peru, tankers now come to port and bring drinking water for 2 million people on a regular basis. Twenty-five percent of the water consumed by Latin American cities is lost by leaks and breaks in the water system.

There is more here, and I commend the World Resources Institute report to you and to my colleagues for the additional information.

Let me just conclude by saying, Mr. President, whether the issue is this startling increase in the emissions of greenhouse gases or the startling increase reported today in the loss of tropical rain forests in the world, or whether the issue is the startling depletion of available water resources or the hole in the ozone layer or destruction of living species, all of these problems are symptoms of a deeper collision between industrial civilization as we are currently organizing and pursuing it and the ecological system of the Earth, which sustains life as we know it.

There are three causes: The population explosion, which can be managed without even talking about abortion or getting into the subject of abortion; the scientific and technological revolution, which magnifies our ability to do harm to the environment along with the good it brings us, and we need a Strategic Environment Initiative to develop new technologies to soften that impact; third, and most important, the way we think, the old pattern of thinking about our alleged privilege to exploit the Earth at our whim without any regard for the consequences to future generations and to the ecological system itself. This has to change, Mr. President.

The change will not come easily. It will not come only in the United States of America. But the change must come. This new study today illustrates the problem is getting much worse very rapidly. All the conditions that have led to it are also worsening so that the conflict, unless it is addressed boldly, will continue to worsen.

The United States should lead in helping to organize a worldwide response to this crisis. The President of the United States should lead within the United States. He is not doing so. I hope that he will. I hope that my colleagues will take the time to look at the additional material accompanying these remarks, which I now ask unanimous consent to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

According to the World Resources Institute, despite the seeming abundance of global water resources, some regions suffer chronic shortages while others are consuming and contaminating their supply of water at an alarming rate.

The Aral Sea, once the fourth largest inland body of water in the world, has lost 40 percent of its area and 67 percent of its volume. Excessive water withdrawals for agriculture are the cause. Due to the substantial water loss, the Aral's Sea's mineral content—including salt—has nearly tripled. The former maritime towns of Muinak and Aralsk have become dry lands and at least 75 percent of the animal species extinct.

Saudi Arabia's remarkable success in increasing its agricultural production threatens to drain the country's underground water resources. According to a report obtained by the Middle East Economic Digest, nonrenewable fossil groundwater will be exhausted by 2007 at the current rate of depletion.

Even though most Latin American cities have abundant water resources, population growth is outstripping available supplies of clean water. About 25 percent of the water consumed by Latin American cities is lost through leaks and breaks in the water system. What Mexico City loses alone would serve the needs of Rome.

A recent study for the United Nations by the Group of Experts on the Scientific Aspects of Marine Pollution [GESAMP] reported that coastal pollution is on the rise. Coastal areas are fast becoming the breeding grounds for bacteria and viruses that accumulate in shellfish and threaten bathers. A 1987 study by the United Nations Environment Programme identified microbacterial contamination of the coastal waters as a major concern.

What is responsible for the worldwide decline in water?

Population growth, the increasing demands for water—especially for agriculture which accounts for two thirds of all the freshwater withdrawn—and widespread inefficiency and mismanagement are the primary culprits reported by the World Resources Institute.

The world's population, currently 5.3 billion, is growing by a quarter of a million every day. Water use has stabilized in the industrialized world, where it is also the highest, but water use is growing in the developing world. Only about 4 percent of the population uses as much as 80–100 gallons per person per day, and two thirds of the population, concentrated in Asia and Africa, use less than 13 gallons per person per day.

In 10 years, domestic water use in Asia, for example, is expected to reach 40 gallons per person per day. The wastewater generated will exceed that generated today by the combined populations of Europe, North America, and South America.

Growing urbanization will cause an increased concentration of human wastes and other domestic sewage into nearby bodies of water, contaminating surface water quality and increasingly polluting coastal areas.

In many parts of the world, agricultural practices and runoff have also had a major impact on water quality. Irrigation is by far the greatest water user. New technology and the demand for greater agricultural productivity have led to an exponential increase in the use of fertilizers and pesticides. Runoff of these chemicals, particularly nitrogenous fertilizers, creates widespread and serious water quality problems. Ninety percent of all rivers in Europe show some evidence of nitrate pollution; worldwide, the water in 10 percent of all rivers is unfit for human consumption. In the United States, the drought-related water shortages in California have been exacerbated by agricultural overuse, salinization and water contamination from farm chemicals.

Mr. GORE. Thank you, Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa [Mr. GRASSLEY] is recognized.

CIRCLE OF POISON

Mr. GRASSLEY. Mr. President, we are all very concerned about what is going into the food that we eat. The Congress and Federal Government have gone to great lengths to protect consumers in our environment from unnecessary exposure to pesticide residues. We have also defined our laws concerning pesticide residues on imported foods. These foods must pass the same stringent standards as our domestically produced foods. But, we must act responsibly in our efforts to protect consumers. Our actions must not build trade barriers to the import of safe foods, as some of our foreign competitors have done in establishing unfounded health standards.

Legislation has been introduced in the Senate that would eliminate the export of U.S.-produced unregistered pesticides in an attempt to protect U.S. consumers from exposure to banned pesticide residues found in imported foods.

The answer to the increase in consumer protection, however, is not banning the export of unregistered pesticides, but, rather, is based upon increasing imported food monitoring to protect against food with residues of banned pesticides and with residues that exceed U.S. tolerances from entering our retail market.

In 1987, as well as 1988, the Food and Drug Administration analyzed more than 32,000 samples of domestic and imported commodities. This happens to be the greatest number of samples ever analyzed by the FDA. In almost 60 percent of those samples, there were no pesticide residues detected. Tolerances were exceeded in less than 1 percent of the samples.

This study, and others, suggest certain arguments for banning the export of certain chemicals are greatly exaggerated. It is important, from a competitive point of view, to eliminate the importation of food that is grown with chemicals that are unavailable to U.S. producers. It is important not only then, Mr. President, to protect the consumers, but it is unfair for American producers of food who, under our laws, are banned from using certain chemicals to have the unfair competition from foreign producers who are using those banned chemicals.

When health restrictions limit the usage of certain farm chemicals, these chemicals must not aid our competitors in our own markets. Congress has developed extensive guidelines for testing and reviewing all pesticides intended for domestic use. The EPA has used this guidance to create a system that ensures consumer safety and gives me confidence in the safety of our food supply.

Most unregistered pesticides exported from the United States are of two kinds: Research compounds, which, of

course, are closely guarded and carefully managed, or, in the second case, compounds that are virtually identical in composition and risk to registered pesticides.

Pesticides which have limited use generally for special crop production or random insect infestation, also called minor-use pesticides, are often not registered due to the cost of the procedure. This does not mean these pesticides are unsafe, but rather that the company feels it would not be able to recover cost of registration in the U.S. market sales.

We already have a backlog of registrations and reregistrations. It is not necessary to tax this program with registrations for pesticides used in the production of bananas, coffee, rubber, and tea or force the manufacturing company to pay for this process. In fact, many companies will shift their manufacturing and research and development to facilities overseas.

In most cases, exported pesticides are U.S.-registered, but when they are not, they have undergone extensive toxicity and human health effects testing. These products are typically registered in the importing countries.

Prohibiting exports of unregistered products would export U.S. jobs. If growers in other countries cannot buy American, they will buy other products from suppliers often outside the organized agri-chemical industry.

These suppliers do not always maintain the same standards of product safety required of legitimate manufacturers. The U.S. pesticide registration laws are based on the needs and demands of U.S. consumers. How can we determine the wants and the needs of other countries or of our trading partners? Can we impose our strict standards on countries that cannot feed their populations? Obviously, some in this Congress feel so, or, otherwise, this legislation would not have been introduced.

The admission of any pesticide to any country in the world is subject to that country's sovereign rights. They are under no obligation to admit any pesticides, let alone pesticides that are severely restricted or banned in the United States. A good example of differences between U.S. safety determinations and the needs of our foreign trading partners is a problem of malaria control in many foreign countries. Some chemicals banned in the United States, which would be illegal to export under this legislation, may be a valuable tool used in many developing nations to combat malaria.

In Sri Lanka, following the United States lead of halting DDT production, malaria returned in epidemic proportions to that country. There are other means of controlling malaria, but is it up to those of us in the U.S. Congress to decide how these countries should attach their problem? As a developed country, the United States has a responsibility to the less fortunate nations to help them conquer disease and malnourishment. We must not legislate how countries must accomplish these goals based upon our standards of living. The threats of disease and famine are a much bigger concern in these countries than the question of food safety, or at least we ought to leave it up to their own governments to make that determination.

I appreciate some members of the Senate Agriculture Committee bringing this up for debate. There is no disputing the need to be concerned about the safety of our food supplies. The issue affects not only consumers but farmers who depend on consumer confidence when selling their products. However, we cannot overlook the important economic and trade considerations that I have raised. As the Agriculture Committee proceeds with voting out the agriculture bill, I hope these issues will be reviewed more carefully than they have in the past and new solutions will be found. I think Senator LUGAR's approach is one of these very good alternatives.

I yield the floor.

THE OMNIBUS CRIME PACKAGE

Mr. GORTON. Mr. President, during the course of this week almost all of the RECORD voting work on the floor of the Senate has been directed at two attempts to invoke cloture with respect to the bill relating to crime and punishments. I voted against cloture on both of those occasions.

I am unhappy at having been required to do so but even more unhappy at the way in which that bill has been managed. This Senate, which evidently could afford to use 8 entire days on the Hatch Act, which is far from the top of the concerns of the American people, nonetheless has attempted through the actions of the majority leader to cut off debate on the single subject in which Americans are most interested, not only after a mere 3 days but after 3 days which were devoted to amendments proposed by the committee or by other members of the committee which dealt with the bill in the first instance.

In other words, Mr. President, other Senators have been imposed upon by what amounts to a gag rule, unable to offer amendments on any other relevant subject to this crime bill. It is for that reason, I submit, Mr. President, and not because of the retention in the bill of an assault weapons provision, that cloture has been unsuccessful to this point. It seems to me vital, it seems to me very much in the interests of the American people, the majority leader permit a debate more broad than the scope of this particular proposal before it is appropriate to invoke cloture. As and when we have had that opportunity, I will happily vote for cloture. Even though I voted on the losing side on the assault weapons provision, I will vote for this bill. I think it is good. I think it represents a step forward, but it does not represent the decisive step forward which we should have.

The leader of the Republican Party, the distinguished Senator from Kansas [Mr. DOLE] has made an offer to limit amendments to an even number on both sides. I earnestly hope that the majority leader and the majority party will accede to that request to allow a reasonable time for debate and a reasonable number of amendments after which, Mr. President, I am convinced there will be no difficulty in obtaining cloture and a final vote on a bill which is so important to the American people.

GENERAL AVIATION PRODUCT LIABILITY AMENDMENT

Mrs. KASSEBAUM. Mr. President, last night I knew the majority leader was considering a motion to table the pending amendment to S. 341. That pending amendment is my amendment on general aviation product liability. I have no objection to a motion to table my amendment. What I find troubling, Mr. President, is today there are so many Senators who are absent that I feel it would be certainly unfortunate to entertain a vote on a matter that many feel strongly about one way or the other. I am very happy to set aside my pending amendment and let other amendments come to the floor.

I met yesterday with representatives of the Trial Lawyers Association to see if there might be some means of finding a compromise. I certainly look forward to discussions with the Senator from Ohio [Mr. METZENBAUM] but I would be very disappointed if today we find, with many having left, that there would be an effort made to table the pending amendment.

I would just like to be on the record as expressing that thought in the hopes that we can work something out.

I yield the floor, Mr. President.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Idaho [Mr. SYMMS].

Mr. SYMMS. Mr. President, are we still in morning business? If so, how long will that be?

The ACTING PRESIDENT pro tempore. Morning business is in order until 11 o'clock.

Mr. SYMMS. Mr. President, I ask unanimous consent—I see no other Senators on the floor—that I might speak until 11 o'clock.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I thank the Chair.

"WHAT FREEDOM MEANS TO ME" ESSAY WINNERS

Mr. SYMMS. Mr. President, over the past year we have been witness to the most dramatic events in history, from elections in Nicaragua and Poland to independence in Eastern Europe from Soviet domination. It is clear to all who observe world affairs that freedom is on the rise while the days of the Communist dictators are numbered.

Certainly one of the darkest moments any society has had was when the Berlin Wall was built. This barrier became the symbol of the repressive policies of the Communist Soviet Union. However, late last year it became the symbol of freedom as the people it long confined were finally allowed to emigrate to the West. The wall, figuratively and literally, has begun to come down between the East and the West.

Mr. President, we have heard the promising stories of those finally allowed to taste the fruits of freedom for the first time, but what have been the thoughts of our own citizens who have never known the tyranny and oppression of communism. What were their feelings about this historic worldwide revolution?

We thought it would be interesting in my State to find out what the young people thought. So my office and I sponsored an essay contest among the schoolchildren of Idaho. The title was, "What Freedom Means to Me." It was open to all students in the State from kindergarten through the 12th grade. The four categories of the contest were kindergarten through the 4th grade, 5th through 6th, 7th through 9th, and 10th through 12th. The judges picked one winning essay from each of the categories.

I thought it was important, Mr. President, to hear from the future leaders in my home State of Idaho and their impressions about freedom for themselves and others around the world. Frankly, I was surprised at the participation that we had. Over 1,600 compositions were received in my office. After reading through several, I knew the judges had a very, very difficult task.

After a great deal of consideration by our judges, I am pleased to share with the Senate the four winning essays from the contest. Each of the winners received a plaque containing a piece of the Berlin Wall to be displayed in the student's school, and each will receive an embossed copy of his or her essay reprinted in the CONGRESSIONAL RECORD.

Mr. President, in the first category, the winning essay was from Lacy Ann Holm, an 8-year old, and third grader from Monteview, ID. Not only has Lacy won first place in her category for this contest, but I understand she recently won first place in her school's patriotism essay contest. Lacy titled her essay, "This Is My Country." It is very brief, Mr. President.

I will not read all of the essays that I have, but this one is very brief and it is well worth reading.

"This is My Country."

My country is free, beautiful and strong. Even though it is strong, it gives us personal freedoms.

Many people died so we could be free. This freedom has to be honored daily by love of law, flag and its people.

Some of the reasons I love my country are that we have freedom of choice. Freedom to me means that we can do whatever we want to do that is lawful. We are free to work at any kind of job we want. Free to think anything we want to think. We can say whatever we want. We can eat and sleep, to work and play, without being afraid.

One Nation under God, with freedom in God, to worship Him in our own special way.

I love my country!

Mr. President, in the second category, the winning essay came from Daniel Alban, 11 years old and a sixth grader at Nampa. While I was in Idaho last week, I had the opportunity to meet Daniel, his parents, his principal, and his teacher, and I made the award in person.

When I was there he expressed strong interest in attending one of the military academies, specifically the Air Force Academy. If he continues to work hard toward this goal, he can look forward to the day when he will be nominated. Daniel's essay entitled "Freedom Isn't Free" is a little longer.

It reads as follows:

FREEDOM ISN'T FREE

Driving through the states of the United States, you see "Welcome" signs at each and every border. Driving into parts of Eastern Europe you see "Warning: Border Zone: Passport Must be Shown" or "Warning: Entering Border Zone: Passport, Identification papers, Border Zone Permission papers and all necessary Leave papers will be checked."

That's the difference between Democracy and Communism: there are many others. The main reason: we have freedom, they do not. At any state border, the worst obstruction might be a winding river, but we are allowed to cross by the state(s) that built the bridge. In parts of Eastern Europe, there are walls, barbed-wire fences, border stations, armed border guards and many other terrifying obstacles.

However, there is hope. Some Communist countries are now working towards Democracy. A few of these are East Germany, Romania, and Bulgaria.

Unfortunately some are getting worse, e.g. China, where they are not allowed to smile in public (*Time* April 16, 1990). However, they not only smiled, but they laughed in defiance.

I favor and support all the efforts of these people, and I wish I could help them. It makes one feel somewhat helpless. It also makes me feel very fortunate, because I was born into freedom. I have accepted it as part of our society, and take it for granted.

When I think about it, I am very lucky I don't have to fight for my freedom or escape from a Communist country to get it. I am really grateful for freedom and my rights as a citizen of the United States of America. I don't want you to think that I think our government is perfect, because it isn't, but its getting better, and it's much better than most countries where I could have been born.

Most children don't realize how lucky we are to live in peace and freedom, with rights for everyone, even minorities. We don't persecute people because of their religion. We can speak and demonstrate freely without being arrested or executed. We can have public gatherings, and we can also travel freely. Why? Because our forefathers worked and died for our freedom; other free nations have had to do the same. Freedom isn't free.

It is very difficult to explain freedom with words, because it seems so simple, but yet so hard to grasp. There is one thing that I will always know about freedom. Until all the walls are torn down, until all the signs are removed, until all the passports and papers of leave are discarded, until all prejudice is forgotten, and until all dictators are no more, there will never be freedom as I want to know it.

That is from Daniel Alban, Central School, room 13, April 18, 1990, Nampa, ID.

Mr. President, I have two other essays I would like to mention. Leslie Shiozawa, age 15, is a ninth grader at Hawthorne Junior High in Pocatello, ID. She has written an excellent essay, but because of our limited time, I just want to read the opening and closing paragraphs:

I've watched the news. Everywhere it seems that people want something, something Americans have. The Germans have torn the Berlin Wall down. The iron curtain has fallen. Students have protested in China. Free elections have been held in Central America. Citizens have overthrown dictatorships. Anti-apartheid groups demand civil rights in South Africa. Lithuanians have declared political independence. This thing, this bold, cherished, magnificent dream is what these people die for.

She goes on to a very touching essay of two pages. Her closing paragraph I think is especially thoughtful.

Freedom is something small, because it is the absence of restraint. Freedom is something big, because it is my everyday life. Freedom is sacred and precious to me, because of my ancestral ties and family heritage. Freedom is special and individual, though it is shared by millions. This is what freedom means to me. Freedom is my greatest treasure. God bless America, land that I love.

Mr. President, I ask unanimous consent that Leslie's article be printed in the RECORD in its entirety.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

I've watched the news. Everywhere it seems that people want something, something Americans have. The Germans have torn the Berlin Wall down. The iron curtain

has fallen. Students have protested in China. Free elections have been held in Central America. Citizens have overthrown dictatorships. Anti-apartheid groups demand civil rights in South Africa. Lithuanians have declared political independence. This thing, this bold, cherished, magnificent dream is what these people die for. This thing we know we must have is freedom. This spirit of man and the need of truth within him is freedom.

But what is freedom to me? I have never, in fifteen years, fought in a war. I have never doubted that I am safe, that no soldiers will come in the night and take my father away. I have never worried that my mother would not be able to buy needed items at the stores.

To me, freedom is having my own room. Freedom is a telephone, a car, trust. And more—this magnificent liberty means that I can love and pray to my god. It is picking my own friends, no matter what color, religion, or race they are. Our history class writing to the newspaper about political issues and expressing our opinions without restraint is freedom. Not having to do my homework is freedom. But I do my homework for those rights and privileges that are allowed to me by obeying rules. I can go anywhere in this country, I can do anything I want, within the laws that are set down for acceptable behavior. I am exempt from cruel and unusual conditions. I am immune from totalitarian governmental authority. Freedom is being without restraints. I can choose to belong to any political group, or not at all. I exercise free choice, free will, free thought.

I have the right of enjoying all the privileges of citizenship. My ancestors at one time during their lives in America had their "citizenship" revoked. Actually, they never were allowed to apply for citizenship even though they had lived in America for more than five years, had sons serving in the U.S. Army, and were loyal citizens to this country. As I have learned about their lives during the second World War period, I have come to know how precious my citizenship is. 110,000 Americans of Japanese ancestory were evacuated because of the belief that they presented a "threat to the national security." However, there has never been one case of disloyalty or sabotage.

I feel my freedom is my greatest treasure. Old Glory is a source of pride. I feel strong when I say "* * * to the flag of the United States of America * * * one nation, under God, indivisible * * *." I almost appreciate the discrimination my grandparents have been delt, because it has made them strong, always struggling and working even harder in the American spirit. It has made them strong and directed them in taking part in this government.

This world turned upside down is the result of things hoped for. Maybe I could understand the people in exotic lands far away by understanding our American Constitution and Declaration of Independence written by immigrants. After all, these people resolve that they "are, and of right ought to be, free and independent." Our Declaration of Independence explains that the purpose of government is to protect basic rights, and people are forced to change government when it becomes tyrannical. A principle of the Constitution is that the people rule. We govern ourselves. This is tremendously powerful. We choose for ourselves.

I may know the truth to the fullest. I can know happenings in the government. I can express my opinions. I can read newspapers, assured that they have not been censored. I can choose to worship or not to worship. I can believe and pray and make offerings to the Deity I dictate by my own conscience. I may belong to groups and organizations. I can ask the authorities to make my grievances correct. I can say what I want, even if I do not agree with other political, religious, or moral ideas of others.

Freedom is something small, because it is the absence of restraint. Freedom is something big, because it is my everyday life. Freedom is sacred and precious to me, because of my ancestral ties and family heritage. Freedom is special and individual, though it is shared by millions. This is what freedom means to me. Freedom is my greatest treasure. God bless America, land that I love.

Mr. SYMMS. Mr. President, the final category was won by Kristine Jensen, a 16-year-old in the 11th grade who attends Highland High School, also in Pocatello. Her essay is two pages long. I ask unanimous consent that the entire essay be printed in the RECORD as though read.

There being no objection the material was ordered to be printed in the RECORD, as follows:

WHAT FREEDOM MEANS TO ME

The majestic bald eagle prepared to leave the cliff overhang. Silently, it spread its wings toward the sky, then swiftly brought them down with a powerful stroke. Grace and beauty became increasingly apparent with the gradual swell in speed. Across the blue sky sailed the eagle, proclaiming assurance to all who caught a glimpse of this noble creature. Slowly, the real bird became a speck in the distance.

One night, a man imprisoned this beautiful bird in a cage, fed it artificial food and gave it no room to fly. Imagine the eagle's despair, with no room to soar through the sky, no new cliffs to explore. It no longer knew freedom.

Then a sympathetic keeper left the cage unlocked with the door slightly open. The eagle was able to escape to his home. Never again would it leave the land it loved.

Now picture Romania, Hungary, East Germany, Czechoslovakia, and Poland as eagles. Once the people of these countries were imprisoned by communism, fed false information about democratic countries such as the United States, and rendered unable to explore new possibilities all over the world. But now freedom loving people from these countries have a chance to experience the wonderful sensation and reap the benefits of liberty and freedom. They can cnjoy a life of free travel, no censorship, new and endless possibilities for success—a life of freedom.

To me, freedom is a necessity of life. It is what helps me grow. Without freedom, I would not be able to learn from my mistakes or live up to my potential. It is the wind beneath my wings that lifts me to heights limited only by my dreams. I shall be eternally indebted to those brave people who fought for our country, those who gave their lives for future generations without thinking of themselves, those who, in the midst of furious war, ran to hold up the flag when it was falling. Because of these valiant people, America is free from all kinds of oppression and war.

I regret to say that I have taken my constitutional rights for granted on various occasions. As I have watched the changing World events in the past year, I have learned to value my freedom. I am free to go fishing, to go skiing, or to participate in other recreational activities; I can attend any church I want to; I can be educated in any school I choose, and I can choose my own occupation. Through freedom of speech, I can criticize the government without fear of being kidnapped and shot. As I vote in the next Presidential election, I will examine the issues and, by secret ballot, choose the person I feel is best qualified. A nation becomes powerful and great by everyone's opinions, not just those of one leader.

Freedom is fragile, and must not to be taken for granted. I value my freedom, and put my confidence in my leaders to maintain and support my freedom.

Mr. SYMMS. Just to read a couple of highlights from it:

The majestic bald eagle prepared to leave the cliff overhang. Silently, it spread its wings toward the sky, then swiftly brought them down with a powerful stroke. Grace and beauty became increasingly apparent with the gradual swell in speed. Across the blue sky sailed the eagle, proclaiming assurance to all who caught a glimpse of this noble creature.

Mr. President, in the end of her article, to summarize, she closes with this final sentence, which I think is considerably insightful.

Freedom is fragile and must not to be taken for granted. I value my freedom, and put my confidence in my leaders to maintain and support my freedom.

Mr. President, in closing I want to thank all 1,600 of the students in my State who entered this contest. As I said earlier, the judges had to make some very difficult decisions. Though there could be only four winners, I believe all entrants should be proud of their work.

I would like at this point to thank those judges who had the difficult job of judging these essays. Dr. Bruce Loebs, professor and chairman of the communications and theater department at Idaho State University; Louise Shadduck, an author from Coeur D'Alene, ID, who has served Idahoans in a variety of positions both in Idaho and Washington, DC; and Gene Stanford, the manager of the Center for the Study of Market Alternatives, a free market education research organization located in Caldwell, ID. I thank them for volunteering their time, and it was greatly appreciated by all who participated in the contest.

Mr. President, I would like to speak on another subject.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Idaho [Mr. SYMMS] is recognized.

Mr. SYMMS. I thank the Chair.

(The remarks of Mr. SYMMS pertaining to the introduction of S. 2717 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EXTENSION OF MORNING BUSINESS

Mr. SYMMS. Mr. President, I ask unanimous consent that morning business be extended until 11:15.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

The Senator from New York is recognized.

LETTER FROM KAZIMIERA PRUNSKIENE, PRIME MINISTER, REPUBLIC OF LITHUANIA

Mr. D'AMATO. Mr. President, this week I received a letter from a valiant lady, the Prime Minister of Lithuania, Prime Minister Kazimiera Prunskiene of Lithuania. It is dated June 5, 1990, and I will ask unanimous consent that the Prime Minister's letter be printed in the RECORD in its entirety following my remarks.

She says and outlines to the American people the terrible hardships that the Lithuanian people are undergoing. I wish to share with you and with my colleagues just some of the facts as she presented in this moving letter, which hopefully will wake some people up to the economic aggression and to the assaults on human rights and freedom that are taking place today by Mr. Gorbachev and his goons and thugs, the KGB and military, and the economic embargo that today has not only not diminished but has increased and in its intensity is something that has had terrible consequences on the people.

She says, "Thanks to you we were not totally forgotten while Mr. Gorbachev charmed the American public and many of its leaders."

How ironic that this is a man being hailed as man of peace, a man of compassion, a man who wants to give freedom, while he has an economic embargo that is bringing death and destruction to people who want nothing more than freedom and independence.

She said, "We need your help now more than ever."

By the way, Mr. President, this letter is dated June 5. It is this week, this past Wednesday.

"I need your support now more than ever." Talk about America, Americans who stand up and say to Gorbachev, "You want trade with us, you want economic concessions, you want to make the plight of your people better; then free from bondage and hostage and stop harassing people, stop the economic embargo upon the people who want nothing more than freedom but do not present any challenge to your authoritarian rule but who say let us live free, free from fear."

He received this award, the Four Freedoms, an award from former President Roosevelt. He talks about freedom of fear. What is he doing as far as freedom from want and hunger?

Let me tell you what the Prime Minister of Lithuania reports. She said:

The economic blockade has taken a terrible toll. As of Monday, 35 percent of Lithuania's industry, transportation and building enterprises were forced to halt their production. More than 44,000 workers have been laid off or forced to take unscheduled vacations. The hardships are going to increase dramatically in the coming weeks if the blockade is not lifted. We are in desperate need of fuel oil and gasoline to maintain the basic operations of food industry, health, and other social institutions.

The coming weeks are critical to our cause. Please continue to speak out again and again for Lithuania's right to reclaim its independence forever.

Mr. President, there are some who have said, "Senator, why do you do this? Why do you rock the boat?" Well, maybe it is rocking the boat to say look at what we are doing, and to say to Mr. Gorbachev that we are not going to do business as usual, that we expect there to be some normalcy in your policy as it relates to your own people, people who you claim to be part of the Soviet Union and yet people who you seek to crush by way of this economic aggression.

Mr. President, this is Tiananmen Square. It may not be by the use of guns, but when you deny people basic foodstuffs, oil, when you deny them the chemicals necessary to treat their water so that it can be pure, when baby food is not there, when medical supplies are in short supply, when people are dying, it is aggression.

Last week a trade agreement was signed between the Soviet Union and the United States. I happen to believe that that was wrong. I happen to believe that we should have said, "If you want that trade agreement, then stop your economic aggression against the people of Lithuania."

In light of these ongoing activities, I consider that agreement to be a travesty. After receiving this letter, I am more concerned and more convinced than ever that the United States and the Congress of the United States must block any attempt to reward the Soviets for their actions.

President Gorbachev charmed America on this trip, but it was just like an American politician wading into the crowds and taking questions and smiling for the camera. Unfortunately, his deeds do not match his rhetoric. It is time for this country to hold him to the same standards we are holding others to. We have to send him a message that says not one dime in trade or aid until Lithuania is free.

Mr. President, I ask unanimous consent that the full text of the Prime Minister's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LIETUVOS RESPUBLIKOS VYRIAUSYBE,
June 5, 1990.

Hon. ALFONSE D'AMATO,
U.S. Senate,
Washington, DC.

DEAR SENATOR D'AMATO: I want to take this opportunity to thank you on behalf of the people of Lithuania for your consistent and courageous support of our country's struggle for freedom.

Word has reached us of your eloquent and forceful speeches on Lithuania's independence last week during President Gorbachev's visit to the United States. You had the moral fortitude to continuously keep insisting that the issue of self-determination for the Baltic nations be a top priority of the summit agenda. Thanks to you we were not totally forgotten while Mr. Gorbachev charmed the American public and many of its leaders.

But we need your support now more than ever. Let me bring you up to date on the situation in Lithuania. The economic blockade has taken a terrible toll. As of Monday, 35 percent of Lithuania's industry, transportation and building enterprises were forced to halt their production. More than 44,000 workers have been laid off or forced to take unscheduled vacations. The hardships are going to increase dramatically in the coming weeks if the blockade is not lifted. We are in desperate need of fuel oil and gasoline to maintain the basic operations of food industry, health, and other social institutions.

The coming weeks are critical to our cause. Please continue to speak out again and again for Lithuania's right to reclaim its independence forever. Every time news of your words and actions reaches us, we are strengthened in our determination to continue on the rightful road we have taken. Your leadership in the U.S. Senate is vital to us and we are profoundly grateful for it.

President Landsbergis and I, the members of the Parliament, and all the citizens of Lithuania send you our warmest greetings and sincerest thanks.

Very truly yours,
KAZIMIERA PRUNSKIENE,
Prime Minister,
Republic of Lithuania.

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FISCAL YEAR 1990 DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT: VETERANS MEDICAL CARE

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I note that, on May 25, 1990, both the House and Senate passed, and the President signed, the conference report on H.R. 4404, the dire emergency supplemental appropriation for fiscal year 1990, now Public Law 101-302.

The original House-passed version of this measure contained a $50-million

supplemental appropriation for VA's Medical Care account to enable VA to increase by the end of fiscal year 1990 its medical-care staffing to 194,638 full-time equivalent employees, which is the level estimated in the fiscal year 1991 budget request (H.R. Rept. No. 101-434, page 21). I was very pleased that, in response to my urgent request and that of Senator DECONCINI, the Senate Committee on Appropriations and the full Senate increased that amount by $44 million, to a total of $94 million. In adding that amount, the Committee on Appropriations stated in its report on the bill (S. Rept. No. 101-272) that the increased level "reflects the need to address the VA's medical equipment backlog" and "will provide for approximately 272,000 additional outpatient visits in 1990." The full $94 million was retained in conference. The Joint Explanatory Statement accompanying the conference report specified "that at least $30 million of the amount provided is to be used to increase employment to the 194,638 level by the end of the fiscal year" and that "[t]he balance of up to $64 million is for additional medical equipment and supplies."

Mr. President, I would like to acknowledge and express my appreciation for the vital efforts of several of my colleagues who were instrumental in achieving this result.

First, I would like to thank and congratulate the Senator from Arizona, Mr. DECONCINI, a member of both the Appropriations Committee and the Committee on Veterans' Affairs, who joined with me in urging a substantial increase over the House add-on. I outlined the need for this increase in my statement on initial Senate passage on May 1 (CONGRESSIONAL RECORD, page S5436). I also wish to thank the Chair of the Appropriations Subcommittee on VA, HUD, and Independent Agencies, Ms. MIKULSKI, who, in this matter as always, demonstrated such concern for our Nation's veterans. Thanks also to, of course, to the distinguished chairman of the Appropriations Committee, Mr. BYRD, who included the $94 million level in the measure when he proposed it to the full committee. The cooperation of the ranking minority members of the Appropriations Committee, Mr. HATFIELD, and the subcommittee, Mr. GARN, also were important factors in obtaining final approval of the increase.

I also want to thank the key members of the House of Representatives—especially the distinguished chairmen of the VA-HUD Appropriations Subcommittee, Mr. TRAXLER, and the Committee on Veterans' Affairs, Mr. MONTGOMERY, for their leadership in initiating an increase for the VA Medical Care account in the absence of an administration request and for their willingness to accept the Senate's further increase. Special thanks also go to the two ranking minority members of these units, Mr. GREEN and Mr. STUMP.

Mr. President, although the $94 million appropriation was significantly less than the amount I had initially urged, it is a substantial, much needed amount that will help ease the VA health-care system's current fiscal crisis. I will continue to fight for adequate funding for veterans' health care and other benefits and services as we consider the fiscal year 1991 budget, and I look forward to working with my colleagues in both bodies on that effort.

A YOUNG CHILD'S PLEA FOR THE RELEASE OF HER FATHER, TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,910th day that Terry Anderson has been held in captivity in Beirut. We often see the hostages as isolated figures, lone captives waiting the hours, days, years of their incarceration bereft of family and friends. Yet they are not the only ones alone. For each hostage held there is a wife without her husband, a mother and father without their son, a daughter without her father. Yesterday marked the fifth birthday of Terry Anderson's daughter, Sulome. She has never seen him. He has never seen her. But the stories Sulome's mother tells her of him make her happy. One hopes that this young child will not grow up without her own stories of her father.

Mr. President, as we approach the celebration of Father's Day, I ask unanimous consent that Sulome Anderson's letter to her father and the accompanying article, which ran today on the Associated Press news wire, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

HOSTAGE'S DAUGHTER APPEALS FOR HIS RELEASE

(By Mohammed Salam)

BEIRUT, LEBANON.—The daughter of American hostage Terry Anderson pleaded with her father to come home in a letter published in Lebanese newspapers Thursday, her fifth birthday.

In the message addressed to "my darling daddy," Anderson's daughter Sulome wrote: "Tomorrow is my birthday. I will be five years old. I know you have never seen me. "I also have never seen you, but my mummy tells me everything about you and how you used to call me an active little baby," the letter said.

"I like listening to stories about you, they make me happy. Mummy says you will soon come to us. Please come home daddy," Sulome's letter said.

"I love you daddy. I pray for you and the others every night,' she concluded.

Sulome was born June 7, 1985, three months after her father was kidnapped. She lives in Nicosia, Cyprus with her mother.

The An-Nahar and four other dailies printed the original English text of the letter. Other newspapers printed it in Arabic.

Anderson, 42, chief Middle East correspondent for the Associated Press, was kidnapped March 16, 1985 by the pro-Iranian group Islamic Jihad. He is one of 16 Westerners, including six Americans, held hostage in Lebanon. Most are held by radical Shiite Moslem groups.

Hussein Musawi, a Shiite Moslem leader with ties to kidnap factions, said Thursday that if the West "especially the Americans, took a positive step toward our causes, that would be followed by similar steps (on our part)."

Musawi called specifically for the release of Arab prisoners from Israeli jails and said this was something the Americans and Israelis could accomplish.

He said the kidnappers' response to such a step by Washington would be "guaranteed by Syria and Iran."

Musawi heads Islamic Amal, a Shiite faction affiliated with the Iranian-backed Hezbollah, or Party of God. Hezbollah is the umbrella for extremist factions holding most of the hostages.

Musawi's statement to the communist Voice of the People radio station echoed a declaration by Iranian President Hashemi Rafsanjani on Wednesday.

Rafsanjani urged the United States to press for the release of Arabs held in Israeli jails and Shiite Moslem convicts in Kuwait in return for Iran's help in gaining the freedom of the Western captives.

Two American educators, Robert Polhill and Frank Reed, were released by their pro-Iranian kidnappers in Lebanon in April at Tehran's bidding. Iran said Washington should make a gesture in return.

An-Nahar and several other newspapers published an appeal from the International Committee of the Red Cross for the release of two of its employees, Elio Erriquez and Emanuel Christen.

"The ICRC, dismayed by the abduction that targeted two members of a purely humanitarian organization, demands their immediate release and requests help from those capable of doing so," the Arabic-language statement said.

Christen, 33, and Erriquez, 24, were kidnapped near the southern port city of Sidon on Oct. 6. No group has claimed responsibility.

The two worked for the Red Cross orthopedic center in Sidon, which provided people with artificial limbs.

A TRIBUTE TO QUENTIN BURDICK

Mr. ROCKEFELLER. Mr. President, it is with a great deal of pleasure that I ask my fellow colleagues to join me in congratulating a truly outstanding statesman and Member of this distinguished body, Senator QUENTIN BURDICK who celebrates his 30th year representing the fine State of North Dakota in the U.S. Senate.

To sum up in a statement such as this all of the accomplishments of this outstanding public servant would be impossible. He was, and is, a pioneer

and a champion in so many areas—agriculture, energy, rural development, labor, education, and aging. He has left a legacy of contributions in all of these areas, and continues to serve the public with energy, commitment, and strength.

In addition to all of his accomplishments in the Senate, the Nation and the people of North Dakota owe so much to this tireless worker. He has made a life-long commitment to public service, and we are all grateful for his leadership and hard work.

Senator BURDICK has served the U.S. Senate from June 28, 1960. Of the 1,792 distinguished Americans who have served as Members of the Senate, he is the 36th to reach the historic mark of 30 years of service in this body. I am so pleased to know and work with the distinguished senior Senator from North Dakota. I respect him enormously, and look forward to working side-by-side with him in the future.

CONCLUSION OF MORNING BUSINESS BUSINESS

The PRESIDING OFFICER. Morning business is closed.

AIR TRAVEL RIGHTS FOR BLIND INDIVIDUALS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 341, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 341) to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

The Senate resumed consideration of the bill.

Pending:

Kassebaum amendment No. 2000, to establish guidelines for Federal standards of liability for general aviation accidents.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I understand and appreciate the divergent interests which are and will be represented on the floor today. I support fully the rights of those Members who wish to offer amendments in regards to this matter, they have that right. However, I disagree with the necessity of raising these amendments at this time.

Of course, I oppose certain amendments and am opposed to the present amendment. We have previously discussed and voted on the line-item veto legislation. Currently pending is legislation regarding important tort reform legislation. I understand many other amendments including crime amendments are going to be offered to what could be a civil rights bill for the blind.

I am disturbed by the pending amendment, the general aviation product liability bill. This bill was recently reported out of the Judiciary Committee with a negative recommendation, and the Judiciary Committee report was only printed on Friday before we left for the Memorial Day recess.

While members of the Commerce and the Judiciary Committees are familiar to some degree with this bill, the clear majority of the membership of the Senate does not sit on these committees. The Members of the Senate must be given the opportunity to read, review, and study the suggestions of both committees before this issue is brought to a vote. So I consider it rather hasty action, and that hasty action can only lead to uninformed decisions and I feel poor lawmaking. They are very important, and I think they are best reserved for another day.

But nevertheless, we are debating this amendment at this time, and I ask unanimous consent that my remarks be printed together; that if there are any interruptions, or if I make more than one speech, it all appear in the RECORD as one speech and that my remarks regardless of interruptions or various other things be considered as one speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, this bill has some rather far-reaching consequences. Involved in these consequences is a statute of repose. A statute of repose means that after a period of time expires, regardless of how egregious negligence or wantoness or willfulness might be, you cannot recover. For example, if there is a statute of repose on a bridge that a contractor has built and the statute of limitations is 20 years, and all of a sudden the bridge collapses because of defective workmanship, poor quality of products, or poor architectural design, or whatever it would be, and people are killed in an automobile on top of the bridge, there is no way they can recover. It bars all recovery.

Bridges in the United States today are many, and we have seen on television where bridges have collapsed because of the faulty construction of those bridges, but to deny the people who are injured and killed the ability to bring civil lawsuits, as it our course of action in Western civilization and in America; to say to a young widow who has children who are 2, 3, and 4 years of age, that they cannot recover and she has to go on welfare in order to be able to raise her family, is to me horrible. The statute of repose that is put into this bill is a horrible approach toward the problems of general aviation.

General aviation is defined in this bill as being those airplanes where there are 20 or less passenger seats or passenger capacity. The same thing is true with a 20-year statute of repose.

If you are flying an airplane that is over 20 years of age and the wing comes off, under this bill you cannot recover from the manufacturer of that plane. Now, how many planes do we have in the United States today that are operating that are over 20 years of age? It is my information that the average plane in operation today is 23 years of age and that over half of the airplanes in operation are 20 years or older.

At the hearing in the Judiciary Committee, I asked the lawyer for the general aviation manufacturers, "Mr. Martin, some statistics would indicate that the average plane in operation today is 23 years of age and that over half of the airplanes in operation are 20 years old or older."

I went on to the question: "The opponents of the bill say that this bill has sleepers that are designed to unduly benefit the aviation industry, and point to a statute which would not allow any recovery where an airplane is 20 years of age, indicating that, if accidents occur in half of the airplanes today under this bill, no one would be able to recover regardless of the fault that might occur.

"Would you respond to this?

"Mr. Martin: First of all, it is not a sleeper. It is right there on the face of the bill. This is a statute of repose, as we call it, which cuts off rights to recover under certain theories."

Then he goes on, and he says this about my figures, he is the lawyer that is representing the general aviation manufacturers,

"I think that the figures that you give at about half of the airplanes are older than 20 years, half the airplanes flying out there flying are more than 20 years old, are essentially right."

Those figures would mean that if an airplane is faultily designed, faultily manufactured, and if you get in an airplane, you had better find out something about it as to how old it is. We have seen much about metal stress that has caused accidents on airplanes. We have seen all sorts of things that occur that cause accidents that are tied into the manufacture and design of the plane, and other aspects that went into the preparation in the consolidation and manufacture of airplanes.

I think we at least ought to have an amendment that says every airplane that is over 20 years ought to have emblazoned across its body "If you fly in

this airplane and are killed, your widow cannot recover."

Well, let us assume that we did have such a sign that was emblazoned and printed that said that. But consider also what might happen where a faultily manufactured general aviation plane, a smaller plane which has less than 20 passengers, is flying and the wing comes off, and it hits a 747. The 747 is hit, and it falls on Yankee Stadium with a group of spectators who are there watching a ball game. The statute of repose protects the manufacturer who made the faulty wing from lawsuits, from the passengers of the 747 airplane. You are not going to have emblazoned or printed across that 747 airplane "Your widow cannot recover if we run into and have an accident with a smaller plane that is 20 years of age."

What sort of warning would you give to the boilermaker who is sitting in Yankee Stadium viewing the Yankees play—maybe they might be playing someday the Washington Senators again—and the plane falls on them? The 20-year statute of repose protects all of them. The 747 is not at fault. You cannot successfully bring a lawsuit against them because they did not do anything except for the wing that fell off the general aviation aircraft because of the defective manufacturer, hit the underpinnings and the underside of the 747, and caused the accident. The person in Yankee Stadium cannot recover.

So all of these people, the 400 people in the 747, or whatever number it holds, and the people in Yankee Stadium who may be killed or injured in regards to it because of a 20-year statute of repose which is in here because the general aviation manufacturer, they say it is not a sleeper—but they want to be immune from suit.

Then they look back and they say what in the world did Congress do? They said they were trying to protect an industry that they said was having financial problems, and yet the figures and the statistics have shown that in 1989, according to the General Aviation Manufacturers Association, airplane shipments by U.S. manufacturers were up 26.7 percent.

There was a nice Republican Congressman from Mississippi by the name of Larkin Smith who was killed in a small plane accident. I do not know the circumstances of it.

Congressman Mickey Leland of Texas whom we all revered and admired so greatly was killed, according to my information that I have received, in a general aviation airplane.

I do not know how many Senators fly in these small airplanes. I do not do much but on occasion I have to. It gets right close down to home. If I get in one of those airplanes that are 20 years of age and older, and a wing comes off, or the fuselage breaks, am I going to tell my wife, "Honey, if you ever see me getting in an airplane without checking the age of it, you ought to bore me with the hollow horn," as we folks in our country used to say about cattle. But this bill has so many consequences. We in the Judiciary Committee considered this bill, and we had hearings on it.

We said in our own minds, if there ever was a one-sided bill that was designed to prevent almost any form of recovery, and when you get into all of the details and facts, rather than trying to amend it, it is so horrible that we just voted it out with a negative recommendation.

I understand the Commerce Committee, but the Commerce Committee has every sort of member, and that is as it should be. In the Judiciary they are primarily lawyers and judges, who look at the idea of recovery and who look at the western civilization concept of the fact that a person ought to be responsible for their actions; and if injuries occur, the ones that are injured should be able, under well-developed rules of common law, to be allowed to recover, rather than being put on welfare in some State, rather than having their right to have their life and dignity ruined, for their children to be educated.

We have believed in this concept, but rather than amend the bill, it is such a bill that has so many flaws in it, and it is so one-sided, that we felt like we ought to report this out negatively. We had only a 30-day period of time, and it expired. It may have been a little longer than 30 days, but the time expired, and we had to report it out, and it was reported out on the last day.

I am not real sure that the general aviation people, when they seriously consider all of this, that this bill is something that they want. Historically, the civil tort law of this country has been left to the States, and each of the States have designed their tort laws in the manner that they feel is best suited to the people of that State. I think that is a good concept.

You get into the Federal preemption, and what do you usually have? Business has been very, very cautious; they do not want a federalized workman's compensation law; they have opposed it. When I came to the Senate, that was a big issue. Really, when you get down to it, as a friend of mine back home said about these Federal cures—sometimes businesses seek Federal cures and they regret it. One of them said that every Federal cure he ever saw passed turned into a Federal plague for business. That is a concept that is there. But if you go to open up the tort law, the injury law, and take it away from the States, take it away from the lawmakers who are closest to the people, you are beginning to open the floodgates of what can occur in many, many different ways.

My State just went through a tort reform movement, and they adopted law. Some aspects of this bill liberalize our tort law. It creates comparative negligence. My State still has contributory negligence. There are other aspects of this that in some ways business in my State is divided about, and they are very, very scared of something like this amendment. You get the Federal preemption and then what develops? They see the incidents where the wing came off of the plane that hit the 747 and then landed in Yankee Stadium, and by one stroke of the pen they began to write remedial legislation.

I think if somebody told me that they really thought that business in this instance needed over the long-term when some of the businesses were advocating this Federal preemption, well, that is up to, of course, every business group as to whether or not they need to apply for a guardian. I think you first have to be declared non compos, and there is some feeling that there are certain areas of business that maybe could be declared non compos in the advocacy of the approach relative to the Federal preemption in the whole civil tort law. I am not going to express an opinion on that.

But this bill has numerous problems with it. I want to discuss them at some later time as we are debating this. By unanimous consent, by one special situation, it continues as long as we are in the process of debating this bill. I feel that the bill has many flaws in it. The hearing record has not, as I understand it, been printed yet. The report is now available, but the hearing record is not. It needs to be carefully reviewed, and we ought to review it, be knowledgeable about it, before we take a drastic step.

Mr. President, without losing my right to the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection?

Hearing none, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I rise in strong support of the amendment——

The PRESIDING OFFICER. If the Senator will withhold, under the previous order, the Senator from Alabama retains the floor.

Mr. HEFLIN. Without losing my right to the floor, I ask unanimous

consent that the Senator from Iowa be allowed to proceed with his remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I am addressing the issue before us.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I thank the Senator from Alabama for granting me permission to speak on this very important issue. I also want to compliment the Senator from Kansas [Mrs. KASSEBAUM] for raising this issue. She has been a long time leader in this area, and this is a very real problem.

This problem has to be solved from several different points of view, not only from the standpoint of the competitiveness of our industry but also from the standpont of helping solve some of the basic problems that face American society. And not only in this area of general aviation, but in too many areas there is an attitude that you can solve all of the problems facing our American society in the courts by suing someone. This sort of thought process has to come to an end.

Even though there are many ways of ending this way of thinking, the alternative dispute resolution, is one which I support. ADR is one of many ways and still some sort of limit on product liability is a very important aspect.

This is a very controversial issue. For the Senator from Kansas to be in the middle of this and fight so bravely in opposition to the plaintiff's bar is a very key role for her. It is also a very difficult role to be in and I compliment her for her efforts.

Mr. President, I rise in strong support of the amendment by the Senator from Kansas.

The General Aviation Accident Liability Standards Act, already favorably reported by the Commerce Committee, is a modest and fair approach to establishing uniform product liability standards for harm arising from general aviation accidents. It deserves the support of the Senate.

Manufacturers and aviation consumers alike identify product liability costs as the greatest single obstacle to the survival and success of the United States light aircraft industry, and to the continued safe operation of the active fleet. They agree that this is an appropriate Federal remedy to the problem.

In the present product liability environment, a general aviation manufacturer's liability can extend virtually forever. This has proven to be a big handicap to United States manufacturers as they are forced to defend lawsuits for airplanes that left their control as long as 40 years earlier, and that may have been altered, flown or maintained in ways not approved by the manufacturer or the Federal Aviation Administration.

The decade of the 1980's has been devastating to this important industry. Over that time, product liability costs borne by manufacturers were the prime contributor to a dramatic change in the industry. Paid claims and out-of-pocket defense costs increased ten-fold, resulting in a sharp increase in prices and an equally sharp decline in industry shipments to a record loss of 1,085 units in 1987—less than 10 percent of the 17,048 airplanes shipped in 1979.

This long and precipitous decline defied the historical relationship between real GNP and industry shipments. According to the Department of Transportation, the two had moved in tandem prior to 1980. Nevertheless, general aviation shipments plunged despite a period of growth in the United States economy and an excellent and ever-improving industry safety record. As a result of this depression, several plants were closed, entire product lines were discontinued, and about 65 percent of the manufacturing jobs were lost.

By establishing a uniform product liability standard for general aviation, this amendment would benefit the industry in the following ways.

First, it would remove much of the uncertainty in the current tort system by making clear the circumstances under which a party is liable. Second, it would set a reasonable time limit on a manufacturer's liability—20 years. Third, it's comparative responsibility provision would put a stop to the manufacturer with deep pockets being financially liable in circumstances where other defendants are not prepared to pay their portion of the court-determined damages. Fourth, it would limit punitive damage awards to cases where it can be shown by clear evidence that the harm was the direct result of a flagrant indifference to safety—a provision common in many State laws today. Fifth, it would remove disincentives for innovation. For years, product liability costs have eroded assets and resources—time, people, and money—that would have otherwise been spent on the advancement of aviation.

In my view, the amendment provides reasonable hope for the survival of an American industry that has been crippled by rising liability costs, without cutting off rights to injured parties. It is modest, fair, and justified. I urge my colleagues to adopt this amendment.

I yield the floor back to the Senator from Alabama.

The PRESIDING OFFICER. Under the previous order the Senator from Alabama retains the floor.

Mrs. KASSEBAUM. Mr. President, will the Senator from Alabama yield to me without losing his right to the floor to respond to some of the questions he raised in his opening comments?

Mr. HEFLIN. I am delighted to do so, without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I certainly appreciate that and wish to respond to a few of the questions that have been raised and have been raised many times during the course of the 5 or 6 years that we have been debating this.

I would also just like to add, before the Senator from Iowa [Mr. GRASSLEY] should leave the floor, that I very much appreciate his comments. One of the concerns that has been expressed regarding the statute proposed is it is 20 years in S. 640. It originally was 10 years. We extended it to 20 years.

I would like to explain, Mr. President, why I certainly believe that this does not deprive victims of a forum for redress in aviation accidents.

It is true that over 50 percent of the 210,000 active aircraft in the general aviation fleet are now more than 20 years old. But data from the National Transportation Safety Board indicates that the primary cause of 90 percent of general aviation fatal accidents is pilot error. The remaining 10 percent of fatal accidents have a variety of causes, including adverse weather, poor aircraft maintenance, air traffic control errors, and a few instances of design or manufacturing defects. S. 640, therefore, will allow injured parties to seek damages from the parties who cause an accident, including manufacturers. This is not something that is denied under this legislation.

Nothing tests the quality of an aircraft design or manufacture better than real world use over a long period of time. General aviation manufacturers contend that their aircraft, if properly maintained and inspected, can have almost unlimited life. As new aircraft model design or manufacturing defects are uncovered, manufacturers alert owners, prescribe remedies, and accept liability where it is appropriate. Almost all—over 95 percent—of these problems are uncovered in the first 8 years of a new aircraft model's life. S. 640 recognizes that after 20 years of real-world testing, an aircraft's original design and manufacture have been thoroughly proven, and they should not be considered in liability claims.

The material problems which surface in the latter years of an aircraft's life can be remedied with proper maintenance and inspection. S. 640 insures that manufacturers always retain their responsibility to inform owners of additional maintenance or inspections that may be required as an aircraft ages. If a manufacturer fails to comply with this responsibility, the company would be liable for subse-

quent accidents regardless of the aircraft's age.

Also, in S. 640, we take into account that with a part that might be replaced, the 20 years starts running again. So each time there is a replacement, it is an additional 20 years on any part that is added.

I know that one of the real concerns of the Senator from Alabama—and with the extensive legal and judicial background that he has I can certainly appreciate that—is that the general aviation product liability would infringe on States' rights.

S. 640 does indeed supersede and preempt State law with respect to general aviation tort cases. Yet, the Department of Justice has determined that the bill is "less favorable for nongovernmental defendants than the tort reform provisions already adopted in some States." In some cases, it would enhance plaintiff's rights.

Additionally the aviation industry is almost totally federally regulated—more than any other industry. And that is why I believe this particular situation in general aviation is unique and unique in how it would be applicable to the question of Federal preemption and tort reform. The Federal Government oversees every aspect of the industry from the design and manufacture of aircraft and component parts to Federal licensing of pilots and mechanics to the control of air traffic. Even accident investigation is spearheaded by a Federal authority. Yet, liability after an accident is decided based on laws which differ significantly from State to State. Such a federally regulated industry needs and deserves uniform liability standards.

Mr. President, I would just like to answer one other question that the Senator from Alabama posed when he said there was division within Alabama regarding this legislation, and that is true, of course, for most States. But I received a letter the other day from William Boettger, who had testified before the Judiciary Committee.

Mr. Boettger is president of Teledyne Continental Motors, Aircraft Products, in Mobile, AL.

Let me read the letter, if I may.

DEAR SENATOR KASSEBAUM: On March 9, 1990, I testified at Senator Heflin's hearing on the S. 640 bill that the impact of product liability costs has reduced the sale of engines to OEM's for new General Aviation aircraft by over 90%. Teledyne Continental Motors in Mobile, Alabama lost over 500 jobs as a result.

The activity we see developing now for production of light aircraft is in Eastern Europe, Western Europe and South America. It would be a real tragedy for the greed of our lawyer population to drive another American industry off shore.

Let me just say, I do not want to point fingers at the lawyers or at those who might question this, because I think there are logical reasons to have objections to this legislation that they could make. I do not believe, however, that, in light of the situation regarding the general aviation industry, any of those arguments hold up.

I have many other points that I could make and refute. I say to the Senator from Alabama that when he mentioned the case of a plane crashing into Yankee Stadium and people not being able to sue, he corrected that I believe later in his comments because, of course, there is a provision, which we amended to the original bill a couple of years ago, so that indeed anyone on the ground, not a passenger, not in the plane, would be able to sue. So clearly that is something taken care of because there was concern that that might cut off that forum.

I think there was one other issue that has always been brought up regarding this and that is that the Beech Bonanza V-tail, designed in the 1940's, is an example of where the aircraft manufacturer would have been excused from any liability. Two hundred of these aircraft fell apart in the air.

According to Beech Aircraft, 10,403 Bonanza V-tail airplanes were delivered between 1947 and 1982. The accidents in question are a compilation of occurrences over 35 years. The problems of the Bonanza V-tail stemmed from aerodynamic characteristics that were unknown when this high-performance airplane was designed. Only after an extended Beech/FAA program were the original deficiencies identified and corrected. The aircraft was improved as a result of this government-industry program, not lawsuits.

The 200 aircraft did not simply "fall apart" in the air. They were pulled apart by massive aerodynamic loads. Two additional points are worth noting. First, virtually all were involved in adverse weather conditions beyond the capability of the pilot to properly handle. And second, Bonanza owners were repeatedly sent safety communiques calling attention to the potential dangers and stressing safe operating procedures.

According to National Transportation Safety Board reports, most of the airplanes broke apart from the excessive speed on descent, often in unusual attitudes from pilots unable to cope with severe turbulence under "no visibility" conditions. The airplanes were certified to a prescribed Federal design specification, but the specification was not fully adequate for all foreseeable cases of aerodynamic loading that could act upon the V-tail. If properly handled in weather conditions within a pilot's capability, the airplanes, even before the Beech-designed and installed modification, were safe. The modification enhanced the margin of safety.

Today, according to the NTSB, the Bonanza V-tail is one of the safest single engine, retractable gear aircraft ever built. Also, it remains one of the most popular models among aircraft owners and pilots. The May 1990 edition of Flying magazine pictures a Beech Bonanza V-tail on its cover and features it in its cover story on the "Ten Best Affordable Used Airplanes."

I realize that much has been made about the recovery of the general aviation industry and that the cost of insurance really is not the question. It is true the industry has recovered, but it went to rock bottom. And the recovery figures are based on that rock bottom to which it has plunged.

I think, as I have spoken before, Mr. President, what troubles me that most is that we are eroding an industry which has always provided us with pilots, which has provide us with with a younger generation of people who understand and learn and care about flying and aviation. I think they should continue to have that opportunity.

I appreciate the patience of the Senator from Alabama for yielding to me. I have many other answers that I would like to make, but I have a feeling the majority leader would really like to carry on his business.

Again I appreciate the Senator from Alabama yielding to me.

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama retains the floor.

Mr. HEFLIN. May I inquire of the majority leader, does he desire to make a remark? I yield to him.

The PRESIDING OFFICER. The Chair recognizes the Senate majority leader.

THE SENATE SCHEDULE

Mr. MITCHELL. Mr. President, it is now evident that there will be no further progress on this bill today. The legislation, Blind Air Passengers Act, has unfortunately become tied up in extended debate on the pending amendment and I am advised that there are many other amendments waiting to be offered to the bill, many of which may also be nongermane.

This is the fourth bill that we attempted to complete action on during this week, without success. There were, as we all know, two cloture votes on the crime bill. Cloture was not invoked and that remains in abeyance.

We attempted to bring up the Tongass Forest bill. There was a threatened filibuster. As a consequence, taking that bill up was delayed until next Tuesday at the earliest, although we did obtain an agreement which hopefully will reduce the length of time required to act on the bill.

We brought up the Amtrak veto override. That, too, was delayed to next week because of attendance. The distinguished Republican leader has,

as is his right, of course, indicated that because several Senators were absent it would not be possible to vote on that this week. As we all know, any one Senator, and certainly any group of Senators, may prevent action by virtue of the Senate's rules which permit unlimited debate.

Accordingly, we have been unable to complete action on any of the four measures which we attempted to act on this week. I hope we are going to be able to move promptly on all of them in the near future. But, as I look down the road, I see that we have reached a point where most of the measures now awaiting action are themselves controversial and likely to provoke similar delays in handling.

We have to take up the budget resolution. The Banking Committee recently reported out comprehensive housing legislation, which I hope to be able to act on soon. As we know, the family leave and family planning bills are pending. The farm bill will soon be before us, a very important bill for many Members. I hope to act on the EPA Cabinet-level bill. There is pending civil rights legislation. We hope and expect to act on campaign finance reform in the near future. And, of course, all of that does not even contemplate the DOD reauthorization bill, which is always a lengthy, time-consuming measure, and the several appropriations bills which we will have to take up in a later legislative period.

I believe this has been a very productive session so far. The Senate has acted on a number of major measures: The clean air bill, the child care bill, the Americans With Disabilities Act, the oilspill liability legislation—a whole host of measures which have become law. Others, which are still in conference between the two Houses, already have marked this as a very productive session, which will require further and final action before we can call it a successful Congress.

But it seems to me clear, Mr. President, that given the manner in which events have developed, we are going to have to reconsider the Senate schedule and the manner in which we have conducted business in the past year and a half. Whether by design, coincidence or for a whole host of factors, we are just reaching a point where it is very, very difficult to move forward on any legislation. And as we get later in the year, closer to the end of the session, closer to the election, and the remaining bills increase in controversy, that will become even more difficult.

I have attempted to be as accommodating as possible to the individual requests of Senators regarding the scheduling of votes. To my memory, there has not been a single so-called procedural or bed-check vote. The number of votes has been down and there have been very few votes on Mondays or Fridays.

Unfortunately, one result of that accommodation has been to engender an even greater number of requests for accommodation. I am not one who believes that a Senator is working only when the Senator is on the Senate floor, debating legislation. Each of us here knows better. There are many important other duties to perform outside this Chamber: Hearings, committee markup of legislation, meetings with constituents here in Washington and, importantly, meeting with constituents in our home States. Those are all an important, indeed an essential part of every Senator's duties.

But, as we all know, those are preparations for or prelude to action on the Senate floor in the form of legislation. We meet with constituents to become informed of their views to enable us to act properly when we vote on legislation. We have hearings and markups to draft and develop legislation for consideration in the Senate. Those activities are not a substitute for, but are in connection with and preparation for, legislation which necessarily involves activity on the Senate floor.

I recognize that in the conduct of these various duties, Senators cannot always be present. But we simply cannot conduct the Senate's business in a manner which permits each Senator to be here only when he or she chooses and to expect that nothing will occur while he or she is absent. It is one thing for a Senator to attend to other duties. It is quite another thing for a Senator to attend to those duties and expect that nothing will happen in the Senate while he or she is not here.

I think today affords a good example of that. The Senate is in session today, is considering legislation. Senators were advised that rollcall votes were possible. And, yet, by last count, 27 Senators are not present today. It reached the point where the author and sponsor of the amendment, the distinguished Senator from Kansas, stated this morning that she did not want a vote on her amendment because so many Senators are not here.

So departure creates a self-fulfilling prophecy. People who simply leave hoping that there will not be votes, by their absence make it certain that there will not be votes.

Obviously, that circumstance cannot continue. We all have an obligation to conduct the public's business. It is what we were elected for and those of us in leadership have a special responsibility to see that the conduct of the Nation's business proceeds to the extent possible accommodating the convenience of Senators but, if that is not possible, ultimately it must be done even at the expense of inconvenience to Senators.

Accordingly, I want to advise all Senators that I will, in the next few days, be reconsidering the manner in which the Senate conducts business for the remainder of this year. And I invite all Senators who wish to do so, to advise me of their suggestions as to how best to proceed. For the benefit of Senators in making such recommendations, I will state that I am considering the following: curtailing the August recess; extending the anticipated adjournment date beyond that which is now planned; having regular votes on Mondays and Fridays; and, in order to do that, because the mere threat of votes as we have seen today does not mean anything any more, having procedural votes early in those days to, in effect, compel attendance unless Senators are prepared to miss votes in that regard; and to remove any limit on the length of sessions during the evenings during the week.

I have been pleased and gratified at the response by individual Senators as to the manner in which we have been able to proceed so far. It has been my desire and I hope to the extent possible under these difficult circumstances I have succeeded in meeting the expectations of Senators with respect to the so-called lifestyle in the Senate, but each of us recognizes that ultimately our responsibility is a public one, and that we must be in a position to do the Nation's business, and that all other considerations must ultimately give way to that overriding public responsibility.

I do not want to take any hasty, or precipitous, or ill-considered action or to overreact to the events of this week, because each week is not the same. We will, I think, very likely have a productive week next week, but I think it clear that some action must be taken and some rather dramatic changes made in the conduct of the Senate's business.

I have discussed this privately with the distinguished Republican leader, and with other Senators, and made remarks briefly alluding to this subject yesterday, but I wanted to take this opportunity to make it clear to Senators what I am reconsidering. I have had several Senators urge me this morning to make a motion to compel the attendance of Senators, those Senators who stayed here in the expectation that there might be votes and are now concerned that there will not be and they missed an opportunity to leave and make some other event.

I must say that I did consider that this morning and considered it for Monday as well. But I do not want to take any action without prior notice to Senators. I think if there is going to be a change in policy, it has to be the result of a careful, deliberative process with full notice to all Senators.

Accordingly, I will not do so, and there will not be any rollcall votes on today or Monday. But by my state-

ment today, Senators are on notice that such consideration is underway. I will make a decision and make an announcement next week following each Senator having the opportunity to advise me of their views and recommendations in this regard. It is my current view that some change is necessary, and the only question is the extent of change and what manner of change ought to occur.

I thank my colleagues for their consideration and the managers and those interested in the pending legislation.

SCHEDULE

Mr. MITCHELL. Mr. President, with respect to the situation for next week, I have discussed this with all concerned, and it appears to me on the pending legislation, reluctantly no choice remains but to file a cloture motion which would set up a cloture vote on this bill on early Tuesday morning. If cloture is obtained, I believe it would be possible to complete action on the bill in a relatively short period of time. If cloture is not obtained, why then we will have to discontinue action on this bill and proceed to something else. I regret that because I think while the blind air passenger bill does not affect a large number of Americans directly, it affects in a very real and important way a relatively small number and, in a broader sense, I think is a statement of our society.

Under the agreement entered into the past week, I have authority to proceed to the Tongass Forest bill no earlier than Tuesday. It is my present intention, and I have discussed this with the distinguished Republican leader, to proceed to that immediately following disposition of the pending bill, however this bill is disposed of.

Then, of course, under the other agreement entered into this week, we will vote on the veto override of the Amtrak legislation on Tuesday evening.

Thereafter, I hope we will be able to move to the budget resolution, and I hope we can do it in a way that accommodates the interest of all concerned, including the continuing budget summit. I have discussed that briefly this morning with the distinguished Republican leader, and we will be having further discussions in that regard. Then, of course, we expect to receive a report next week on the crime bill. We have all of these other matters to which I earlier referred which may be called up at any time thereafter.

Mr. President, I thank my colleagues for their attention. I will yield the floor. I note the presence of the distinguished Republican leader, and I want to afford him the opportunity to make any comment as he deems appropriate.

The PRESIDING OFFICER. The Senator from Alabama under the previous order has the floor.

Mr. HEFLIN. Mr. President, in view of the statement of the majority leader that there will be no votes today, I yield the floor but with the right still as to the continuation of the debate in the future that any remarks that I make later be printed in the RECORD as one speech and that I be allowed to speak at intervals and times with interruptions. I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Republican leader.

Mr. DOLE. I thank the Chair and the Senator from Alabama.

I have visited with the majority leader, as he has indicated. I think he has expressed the frustration of leadership. It is frustrating at times, but it is very rewarding sometimes.

I must say, I was sitting here thinking of all the things I tried to dream up when I was majority leader that might speed up the process. I think I tried them all, but none of them worked because this is a very unique institution.

The fact that we extend the days or reduce the recess does not mean we are going to do anything during that time. That sometimes has an adverse reaction or it backfires. I am pleased the majority leader indicated he has not made any determination yet and there might be opportunity for input. Maybe it is time we have the 100 Senators get together again and sit down and discuss what are very real problems.

I must say, having said that, there are some of these pieces of legislation we do not think ought to pass. We do not know why you are in a big hurry to bring up some of these turkeys. We have a different view with reference to some of the legislation. I think that is probably the view generally of the minority, whether it is a Democratic minority or, in this case, a Republican minority. The President of the United States has an agenda. We are more attuned to that agenda. He may have different views than the majority of the Congress on whatever the issue may be.

Again, we have to reserve our rights, even though it means an inconvenience to the leadership on both sides if we are opposed to certain legislation, as we will be to some of the items mentioned by the distinguished majority leader.

Plus, again, I think it generally falls on the minority because the majority can determine the agenda, and should. And they can prevent amendments, as they have done on the crime bill, for example, and maybe they should. We have no option then on the minority side other than to try to offer an amendment to everything that comes up. That leads to cloture and that leads to additional debate and additional time. It is a very difficult problem, certainly as the majority leader discussed and as the majority leader understands.

Having said that, it is my view that we should cooperate at every turn. I hope we have been able to do that in nearly every case. Sometimes you just cannot do it. Sometimes you have a majority on this side that indicates do not do that, that is not our view. Obviously, when that happens, the leadership certainly listens to our colleagues.

So I say to the majority leader, we will be happy to have input on what changes might be made and what impact they might have.

I will be visiting with the majority leader privately. But the Senator is absolutely correct. I think there are a number of absentees today. Some are, as the majority leader said, legitimate. They are all legitimate. They are back in their States working. And a lot of taxpayers think they are better off when we are there because we cannot do anything to them while we are home; while we are on the floor we might raise their taxes or do something they do not like and they will not hear about for years but we think is great.

I know the Senator from Iowa, who is here, wanted to be home. But Senators are visiting with constitutents. Others have children graduating or are involved in other activities. Two of our colleagues are all the way in Czechoslovakia doing very good work in monitoring elections. As the majority leader indicated, the fact that not all 100 of us here does not mean things are not happening and the fact 20-some are absent does not mean they are all at the beach somewhere. They are probably working. There may be one at the beach. Who knows?

In any event, we certainly will cooperate with the majority leader.

Having said that, would it be possible to have that first cloture vote after the policy luncheon, or does the Senator want to have that before noon?

Mr. MITCHELL. Mr. President, I suggest we discuss that privately and we will have an announcement on it later.

Mr. HOLLINGS. Mr. President, I have a one-line amendment to the Constitution, and it has been seriously presented. In fact, a majority of Senators have already voted in support of it. It simply states that Congress is hereby empowered to place limits on expenditures in Federal elections.

We all know of the distorted Buckley versus Valeo decision which equated free speech with political money, so that if we limit campaign expenditures we therefore are limiting free speech. This leads to gross distortions, and actually has limited free speech, because if my opponent has, let us say,

$100,000 and I have a couple of million dollars, I can effectively give him lockjaw. His family will wonder why he has not answered my charges, why he did not appear, why he is not on TV. They'll say to him, "Aren't you interested in getting elected?"

So, in essence, why Senators are not here on this Friday is because they are out working because they have to collect $10,000 or $11,000 a week in order to keep their seat in this body.

So that after Monday and Friday, I am glad when we get back in session; I can catch my breath. For example, last week I was in Charlotte, NC, in San Francisco, Denver, Chicago, New York. I kept moving constantly. So these weeks are by no means holidays; instead, we are hustling to allocate our time and effort to raise campaign money, which is outrageous.

It takes 20 percent of your time and mine. They calculate that, on average, a Senator must collect some $10,000 a week. And so we can get everybody back here, we can eliminate the $10,000 a week routine over the 6-year period, if we limit spending to so much per voter. That is what we intended back in 1973. Our Republican colleagues sponsored it along with us. President Nixon signed it into law. And under that measure I would be running a race in South Carolina at $600,000.

My South Carolina colleague, without any opposition, is raising $2 million this year because he does not want to risk an ambush at the last minute. We have learned in politics the art of making maximum use of the media, with television mixed with magazine articles, radio shorts, early morning radio for the farmer, particularly targeted programs for students coming out of the classroom in October. We have everything tailor-made, all in 20-second bites.

The distinguished former Senator, Dee Huddleston, of Kentucky, had a 25-point lead on the 1st of October. By November 4 he was voted out of the Senate. He got ambushed. So even though you have a good lead, even though you have a good record, even though you have all your friends saying do not worry and so on, you cannot rest comfortably. You are still out there hustling all the time, and that is why Senators are not here. They will not be here on Monday because you have to look ahead and say, well, yes, I must schedule a fundraiser Monday because I know I cannot be there these other times.

AIR TRAVEL RIGHTS FOR BLIND INDIVIDUALS ACT

The Senate continued with the consideration of the bill.

Mr. HOLLINGS. Mr. President, returning to the subject of aviation product liability, I have direct comments to make. We have heard this litany before, that yes, it is a problem but it is being well-handled by the States. This is, of course, the theme of this administration. The best government is the least government. But even better government is when the local folks make the decisions on these juries in product liability cases.

I saw a news article this morning where a minority, a young black man, working in the industry there in New Hampshire did not seem to get adequate training, and if he was not getting the training, he was not able to advance himself, and not being able to advance himself constituted discrimination, with a resulting loss of income. And in their zeal to ensure that this never occur again, the jury came in with some $3 million, but the Court in the State of New Hampshire cut it to $300,000.

I do not know whether this crowd has ever practiced law before, but they act like they are kings up here in the Congress, that the country cannot run without us.

The truth is that this country was organized on the principle of States' taking responsibility. We have federalism and under the Constitution we relegate the police power to the several States. Tort law has always been subject to the police power of the several States, whether it is an automobile accident, a malpractice case, an aviation accident or otherwise. All of those are within the jurisdiction of the States. And product liability is administered by the States. There have been over the past 10-year period, and particularly during the 6-year period that the Senator from Kansas has been on this issue, modifications to the point where they have been very, very responsive. At the end of last year, Beech Chairman Max E. Bleck, of the General Aviation Manufacturers Association, stated that "the average age of the 220,000 aircraft in the general aviation fleet is 21 years. One-quarter of the fleet is more than 30 years old.

According to Bleck, the light, single-engine aircraft was "overbuilt" *** (and) "Will not wear out in the lifetime of an owner—provided they are meticulously maintained and inspected."

But then, of course, it hinges on the maintenance and inspection and—

Bleck noted that any inspection program will not succeed "without the cooperation of the owners and operators and the FAA."

Then Cessna. We have had quotations about Cessna going broke, people not selling planes, Chicken-Little, "The sky is falling." Not at all. We will find out. They are making way more money.

Specifically, so people will understand, last year they increased their sales to a total of 1,535 planes, an increase of 26.7 percent. The dollar value of sales went up 40 percent. So here there is a problem. These fellows come here 6 years later with their 6-year-old talks. I can tell you now they are in business. I am going to tell you why they are in business after I quote these things here.

Cessna Chairman Meyer characterized a typical general aviation accident as one that "involves an aircraft * * * which is flown infrequently, is probably not hangared, receives minimal maintenance, contains antiquated equipment, and is flown by a low-time pilot.

I continue to quote, and this is from an article in Pilot Briefing, "Avionics for the 1990's and Beyond," dated June of last year quoting Mr. Meyer of Cessna, the chairman,

With tougher airworthiness requirements, implemented aggressively by the FAA, and with type-specific flight standards, I believe it is realistic to reduce the level of accidents by at least 50 percent. That reduction in accidents would reduce liability costs by at least 50 percent, a point at which production of new single-engine aircraft once again becomes economically feasible.

Last year it was becoming economically feasible. Why? Because we do not read these studies. Six years ago we had a GAO study of the entire matter. The GAO study and testimony—this is by John C. Finch, Senior Associate Director of General Government Division, the General Accounting Office, and the date is May 20,1986. This was back in 1986. I quote him. "Property casualty companies have used the pricing strategy"—this is when they said "Oh, my gosh, the prices are going to put us all out of business"—"have used the pricing strategy which sacrificed underwriting profit margins in order to generate cash for investment purposes. As a result of this strategy, the property casualty industry has made, depending upon whose estimates are used, $52 and $79 billion in net gains over the last 10 years.

Furthermore, like many other businesses, property casualty underwriting is subject to profitability cycles. While underwriting losses have mounted since 1980, estimated data for 1985 indicate that the underwriting cycle has turned and is now moving in a positive direction. Indeed, the industry itself is projecting substantial net gains over the next 5 years.

Indeed, here we are 5 years later with the net gains. This is the case.

To bring up this issue on my blind-access bill when I am trying to stop airlines' discrimination against the blind is a travesty. They know this. But they are playing the politics of the FAA, Chamber of Commerce, Industry Advisory Council, and so forth. I played with that group, I say respectfully, politics on labor law reform. So I know them intimately and respect them, and admire them. Unfortunately, they are all dressed up with no place to go. I wish they would come here and talk about spending—the Government spending—$300 billion more than we are taking in. We had them charged up a little while in

the early 1980's. In the Wall Street Journal, they were taking double-page ads with five former Secretaries of Defense and seven former Secretaries of Treasury saying "We have to do something about the deficits." That is when the deficit was going over $100 billion. Now we are spending over $300 billion.

But now they are worried about something that is being handled at the State level, and on an issue vital to the safety of you, me, and everybody in the traveling public. Don't know about these product liability situations? Have we not just heard?

(Mr. ROBB assumed the chair.)

Mr. HOLLINGS. I want everybody to understand the depth of feeling I have on this point.

I knew Scott Carpenter in the very early days of the Mercury program. They asked "Suspended up there 150 feet in the air, and you are getting ready to blast off, Mr. Carpenter, what is your feeling?" He said, "Look, you are on your backside, looking up and you are about to be blasted off into the air 100 miles up into the atmosphere, and you are going 21,000 miles an hour and below you are 22,000 parts made by the lowest bidder."

And remember the Challenger disaster.

What did the engineers say up there at the manufacturer? They said we were gathered in the room. This is the objections: cold weather; they knew about the O-ring, they knew about its contractions, and the leaks that were caused; they were working on it but they had not solved it. That is why the fellow up in Utah said "Do not fly." They tried to overrule him three times and he continued to say so. Now they gathered. The word is "Go." We were all worried. "There were 12 of us seated around," said the engineers, in the little room. There it went, the blast-off, and I said "There she goes." And John next to me, he said "Wonderful. Like a piece of cake." And then the explosion, and he said everybody in the room knew why.

They appointed the Rogers Commission to find out the cause and they never did because they were hell-bent to get that thing up in the sky.

Oh, no. Product liability.

Now we have it fixed, with the highest degree of care. I can tell you how they do it. The plaintiffs' lawyers even make a living because the insurance lawyers fix those things. They fix them. We already had an amendment about fixing things. You would think the pilots and the aircraft industry, would be interested in safety. The junior Senator from Missouri told us of coming on the airplane with his little child. He has been fighting it for 9 years.

He said, "I had my baby in a safety seat in the car. I ran up the gangway and put the safety seat on the plane, and they said, 'Get rid of the safety seat, and hold the baby in your lap.'"

So many a child has become a living projectile, killed because of that unsafe practice, because the airlines want to sell that seat. They do not want to put a safety seat for a little child there. So now we have to force feed an amendment.

In the *Iowa*, investigation they had Hartwig portrayed as an unstable fellow, under all kinds of pressures, suicidal, and now we find out it was a case of product liability. You can see how the Navy investigators could not be wrong. You know how the system works.

I hasten to note that I represented and organized insurance companies; I cleaned up the insurance mess as Governor in the State of South Carolina. Everybody will tell you that. This bill is not self-serving. There is balance and objectivity in what I say.

I can tell you that in 20-some years, the cases I tried had long since been investigated by the insurance adjustor. I talked about the laziness of insurance lawyers. They have these nice ties, and they are all dressed up, and they have adjustors doing the investigations.

Invariably, that plaintiff's lawyer is talking to the witnesses themselves, feeling the flesh, and understanding what they really know and what they do not know. They get out and they fix things. They have their own minds, and they are going to save money and everything else.

One of the last major cases I tried in the Federal court, incidentally, was not any runaway jury; it was totally sustained. But they had moved that the Sun was rising in the west. It was very, very interesting. It was a week-long trial, and I had to hide those pictures from the first day when they submitted them. I recognized it immediately, because I had been out on that site a dozen times, and I knew it by heart, and I knew by case.

When they said, "We have pictures," and they showed a narrow bridge, and they had the sun rising in the west, I just smiled to myself and told my partner to get lockjaw and do not mention that until the last witness gets on that stand.

I have seen this thing over the years, and I have seen the way they come around. They have tried their case on product liability in a similar fashion. They came here first, Mr. President, and they said that we are having a litigation explosion. We are busting out all over with product liability cases.

So we had a study by GAO and found out that over the period of 1981 to 1986 product liability cases, relating to the products they talked about, grew at an average rate of 4 percent as compared to 5 percent. The conclusion was that the increase was concentrated in the asbestos cases, and agent orange, and Dalkon shield.

Here is the report, "Product Liability, Extent of Explosion in Federal Court." They rejected the notion that there was an explosion.

Then they said we have an insurance crisis. And we found out that when interest rates dropped, investment income was dropping, the premiums went up, and it was—well, according to 13 attorneys general, this is a case of boycott and conspiring. So we have a bill in the Judiciary Committee to federalize insurance. There are several bills on the House side in the Judiciary to federalize insurance, take it away from the States and say if they want uniformity on these things, instead of an insurance commissioner, what we ought to have is federally supervised insurance.

Because I can tell you, having been the chairman of the Commerce Committee with the insurance jurisdiction, we have not been able to find out their cost. We have tried every way in the world. We subpoenaed them—they will not give us the records, or anything else like that—because we feel positively that the money is there.

And, of course, later on we found out that the insurance industry is in very good shape. Problems arose not from any explosion of product liability cases; it was because of the way they were doing business, closing down the hospitals in the State of West Virginia, and so on.

Florida went along with the insurance industry on everything they asked for, and instead of the rates going down, they went up in the State of Florida. There is a track record there they do not want to listen to.

"Product Liability in the Business Sector," a study by the Rand Corp.:

> My feeling is that the available evidence does not support the notion that product liability is crippling American business.

"Not by any manner or means," said the author of the study. "242 Risk Managers of the Major Corporations", that was another study by the conference board, and they found out it was less than 1 percent for two-thirds of the particular industries involved.

Product liability suits did not hurt business at all. In fact, now we know, as I have just cited, that this past year, their sales have increased 26.7 percent, and the dollar value zoomed some 40 percent. So they are in business. They will have the problem with the single-engine plane of the type that this particular Senator has flown in, and I know the Presiding Officer has.

But I tried my dead-level best to get a twin engine, and a pilot and copilot. But knock on wood, the Lord has been good. I have lost 11 pilots that have flown me at one time or other during my 40 years in public service.

Then came the testimony on product liability, to the effect that we are keeping products from getting onto the shelves in international trade. We find out that the forums there in the EEC are now adopting strict liability standards. In other words, they are following the American provision.

That gets us to the plaintiffs' lawyers. They are the ones in the vanguard, doing the work, maintaining the safety standards and the safe working conditions and the safe public walkways and passageways and buildings and streets in America. It has all been due to their dedication.

They talk about the lawyers. There are few lawyers downtown in product liability. Yet, there are too many lawyers doing the bidding of Japan. Japan has retained 100 firms at a cost of $113 million. I am saying this because the Senator from Iowa yesterday noted that the Japanese said we have too many lawyers and that that is why we could not compete. Half correct. We have too many American lawyers hired by the Japanese, to the point where you and I cannot put a bill in the Commerce Committee that the front office does not fill up with the bloomin' lawyers. They have thousands of lawyers at a cost of $113 million where we have only 535 in the people's Congress at a cost of $52 million. The Japanese are better represented in Washington than the people of America. So there, about lawyers. We know about them.

They are conspiring up in New York right now, while I am talking, on trade to keep up the affirmative action program to dump foreign goods. How did that happen? We had the Marshall Plan. Thank heavens it worked. The Pacific rim went capitalistic, all those countries out there, Japan, Taiwan, Korea, Hong Kong, Thailand, Indonesia. It worked. In the EEC capitalism and democracy are working, but it took our American national productivity, Yankee traders, and geniuses to go over and not only give them the technology, develop the technology and produce the technology, financing those endeavors. They were not bothered by us Senators with all our bills mandating clean air, clean water, unemployment insurance, minimum wage, safe working place, safer machinery, parental notice, plant closing notice, and right on down the list.

They say, "We do not have to worry about those Senators, what regulations they are going to enact. We have a guaranteed profit overseas here and we can dump it back in America. All we have to do is cry, free trade, free trade to the dummy politicians." So they organized the Trilateral Commission. They organized ECAT, the Emergency Committee Against Tariffs. They organized the Foreign Policy Association, and they preen and wax, erudite and holler, "Free trade, free trade, free trade." And what they are really saying is, "Dump it, dump it, dump it," as long as they can keep the largest richest market in the world open for dumping. Bear in mind that 40 percent of imports are U.S.-generated from U.S.-owned multinationals. So they say, "As long as we can maintain this conspiracy to dump, we will all make a fortune."

They had a witness day before yesterday to the effect that there are 10 million in China in gulags, slave laborers producing textiles. That was testimony before the Foreign Relations Committee.

Do you know what is the most productive competitive industry in America? Milliken last year won the Baldrige Award. According to the Office of Technology Assessment, in its study just reported, the most productive competitive industry in America is textiles. Like the man said years ago, "Fritz, I can compete with any company in Japan; I just cannot compete with the entire country of Japan." All of these countries have their governments on their side. The EEC is organizing and orchestrating their governments for EEC 1992, not to get free trade, but to gird themselves for the trade war in the Pacific Rim. You watch them.

Our American business leadership is not waiting on us. We cannot even get a Department of Commerce representative over there in Brussels. They fired Craig Fields for leading the way in competition in DARPA over in the Pentagon. They know what they are doing. As long as as they can continue to sell that "free trade" baloney, we will continue to go out of business.

Mr. Morita of Sony has stated that one of the big troubles is that America is not producing the products that they want to buy in Japan. That is passing strange. America produces a positive balance of trade vis-a-vis the EEC countries, for downtown Paris where they have all the styles, and downtown Rome and London—all of them modern, developed, industrialized countries that want American products to the tune of a positive balance of trade. But in Japan somehow we do not produce anything their people want.

So we can get away from the diversionary chatter about culture, lawyers, and not producing saleable products, and "get off the golf course." Likewise, don't blame product liability. I do not want a Federal law that preempts product liability, as this particular measure does.

I found, when we started on some of this thing 10 years ago, that the National Transportation Safety Board conspired with the insurance companies and would not give information to the victim's family, but would only give it to the insurance companies. We had to break that racket up. Man, you have to understand and know from whence you come in this particular debate.

This measure is extraneous to the task at hand of giving blind people access to airlines. We started to do this on the Americans With Disabilities Act. We deferred it because we were having the hearings, we were completing the reports. It was a singular thing, and the administration at that time had not changed their position. Now, however, they have peremptorily issued a rule.

We had the investigations in 1973, investigations in 1977, we had hearings, we put out the bill based on those hearings. But now the FAA, peremptorily, without any hearings or valid finding, they put out the rule against us.

Now they have raised the line-item veto issue. I got a call asking, "How long will you be here this afternoon? If you continue on this, I would like to raise the issue of Social Security after we get through with this, if we could." I did not know we were not going to have any votes. As the Senator from Kansas said, she does not want any vote at all on her own amendment today. We were prepared to vote. Now they want to raise the issue of Social Security. So they filibuster the crime bill, they filibuster the blind access bill, and it is an orchestrated movement to cause a parliamentary crisis and demean the Congress itself. That is what they are trying to do. They are working us into that spot where we will have a crunch, working day and night to get all the appropriations bills. And they will bellyache about the evils of continuing resolutions instead of 13 separate appropriations bills. They will prove their case. We will give them 30 pounds and 30,000 pages of a continuing resolution so the President can hold it up like President Reagan did and say, "Here is the kind of Congress I am having to deal with. I need a Constitution amendment. I need a line-item veto. I need this, I need that." He will say "You all better reelect me. I am protecting you from that bunch of fools and stupes over there who cannot get the work done and who give me something weighing 30 pounds and nobody can read yet they expect it signed by the next morning." And he will prove his own case.

It is very competitive is it not?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. LIEBERMAN pertaining to the introduction of S. 2721 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LIEBERMAN. Mr. President, seeing no one else on the floor at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, if we are not in morning business I ask unanimous consent to address the Senate as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE REAL ANIMAL WELFARE MOVEMENT

Mr. GRASSLEY. Mr. President, I want to speak on a very current issue that is of major concern to people in agriculture, as well as a variety of other people throughout the Nation. The issue that I speak of is the difference between what constitutes animal rights and what constitutes animal welfare.

While many people believe that animal rights and animal welfare are synonyms, there is a major difference that I hope everybody in this body understands. Animal rights advocates believe that animals have the same rights as humans, a concept called polymorphism. Animal welfarists, on the other hand, emphasize the humane care and ethical treatment of animals, instead of the rights of those animals. The goals may appear similar, but there is little comparison between the two.

This weekend, livestock producers throughout our great Nation will be watching, discussing, and sharing concerns about the animal rights rally that will take place here in this city just 48 hours from now. The response of these livestock producers will range from apathy to disbelief; from concern to outrage. Farmers recognize the seriousness of the accusations and the challenges they face. The threats are initiated by individuals who have been misled or lack a true understanding of modern animal management and production practices. This Senator contends that the modern, progressive, profit-oriented livestock producers of today are also our Nation's most committed and responsible animal welfarists.

Agricultural producers understand the needs of the animals that they raise better than anyone else. As professionals, farmers are required to manage nutrition systems, building climates, waste control, health, and all facets of animal husbandry. A farmer's economic livelihood is directly dependent upon the welfare of the animals under his care. Animals which are abused, or which are unhealthy, do not provide any economic return for the farmer. For this reason, producers must go to great lengths to ensure the proper health and the treatment of the animals under their care.

But a farmer's care of his livestock is not based upon just profits, but a genuine concern for the health and welfare of his animals.

These days it is often easy to be misled. Our citizens who are not involved in animal production probably know too little about this activity, and hence only know what they read or hear. Unfortunately most of this information focuses on specific cases and deals with exceptions rather than standard practice.

It is unfortunate to see these rare instances twisted, distorted, and replayed time and again to fit the needs of special interest groups bent on pursuing an agenda unrelated to the care of animals. Rarely do these groups acknowledge that we live in an imperfect world where exceptions to the rule exist. Incidents of abuse or mistreatment are exceptions, and are not condoned or tolerated by the vast, vast majority of livestock producers.

Some groups, however, would lead us to believe abuse and mistreatment are very common occurrences. This simply is not true. But, unfortunately, extremists condemn the entire agricultural industry for the acts of a few.

Recently there have been a number of break-in's, threats, and acts of vandalism committed against research facilities, farms, and other agricultural-related organizations. While many animal rights groups deny complicity in these events, they seldom are willing to condemn these acts of violence. So, is it fair for us to label all animal rights advocates as criminals based upon the acts of a few extremists? Well, obviously the answer is "no." It could not be any other way.

But, in the same vein, it is not fair to condemn the livestock industry and farmers in general for the unethical acts of the few. Livestock producers of today operate efficient systems of production. They provide balanced livestock feed rations that meet the dietary needs of these animals. They regulate temperature, humidity, air flow, and odors by maintaining proper ventilating systems. They maintain the health of their animals through the use of safe feed additives and properly administered vaccines.

Producers manage animal wastes to limit disease potential until the time that this waste can be properly disposed of. Finally and most importantly, our farmers provide a food product that helps to meet the demands of a hungry world.

Let us not be disillusioned by the emotional outcries of those who are not familiar with modern livestock management and production techniques. Rather, I hope each of us will commend and congratulate the livestock producers of America on a job well done.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

EXPORT OF TECHNOLOGY

Mr. HEINZ. Mr. President, as some of our colleagues may have noticed if they read the front of the business section of the Washington Post today, there has been a result of the Cocom high-level meeting in Paris that marks a tremendously interesting, valuable and farsighted turning point in the way we control our export of technology to Eastern Europe.

I can think of nothing more satisfying than to take the Senate floor today to announce what I believe to be is a great success for U.S. national security, as well as an enlightenment of our export control policy that will pay great dividends, not only to the beneficiaries of it, the new democracies of the countries of Eastern Europe, but the exporting community as well.

I would like to take a few minutes today to relate a little of the history of how that decision has been arrived at, the force that was played out in it and, most important, the key role that I believe Congress, and particularly this body, the Senate, has played in that success.

Specifically for the record, yesterday, Cocom, that is the 17-nation group that coordinates export control policies of NATO, Japan, and Australia, announced that it had agreed to a significant reduction of controls to the emerging democracies of Central and Eastern Europe. Those include what is currently the German Democratic Republic, Poland, Hungary, and Czechoslovakia. Each of those four countries

stand to benefit immediately from this historic agreement.

There is going to be, as a result, a very substantial liberalization of our controls over access to and the acquisition of technology. It will be particularly evident in critical technologies like machine tools, computers, and telecommunications. In the latter case, as a for instance, we will now permit the export of exactly the kind of sophisticated common channel switching equipment and other related technology that will permit these countries to move to a telephone system, important and basic as that is, out of what is in some of these countries 19th-century technologies, not only into the latter half of the 20th century, but even on the threshold of the 21st-century technology. These kinds of technology, in other words, are the most basic requirement for any kind of modern economy.

With respect to computers, we are now going to be able to export to Eastern Europe at a level substantially higher than what has been permitted to go to the People's Republic of China. That is as it should be.

For the last year, ever since these countries became democracies, we have been restricting the ability of our manufacturers to export technology for these countries to acquire technology to a level way below that of what we permitted all these years to the People's Republic of China, both before and after the Tiananmen massacre.

So this agreement allows the new democracies of Eastern and Central Europe to be treated not just the same as but, in virtually every case, better than we have been treating the People's Republic of China, as I say, both before and after Tiananmen Square.

The agreement also affirms what so many of us in the Senate have been saying since the political revolutions of 1989 rocked Eastern Europe, and that is, the cold war in these countries is over, and U.S. policies should reflect that fact.

I commend President Bush. I believe he was deeply and personally involved in this decision. I believe he had a lot of heads to crack in his administration—in fact, I know the did—in order to get the result, to stake out our position and to achieve our position in Cocom. So I salute him, not only for the vision he assuredly imposed on our negotiators and negotiations, but for the considerable amount of courage that he has demonstrated in taking these steps.

Mr. President, I wish to say a word about what this liberalization is going to do and how critical it will be in modernizing these Eastern European economies. That is of great interest to a number of us, because, Mr. President, as I suspect the Chair knows, because I invited him to come, I recently led a delegation of our colleagues to Eastern Europe. It included three members of the Banking Committee, Senator GARN, Senator BOND, and myself, and Senator CHAFEE, with whom I am privileged to serve on the Trade Subcommittee of the Finance Committee. We toured the four countries I mentioned earlier: GDR, Czechoslovakia, Poland, and Hungary.

The first thing we were impressed with was that these countries knew how to do a good deal more than pronounce the word "democracy." They not only intended to live with its pronouncement but to get rid of the trappings of the past, and we were impressed by the very rapid movement in each of these countries toward adopting what we would call Western values.

In a way, it is not surprising, because these countries never wanted to be Communist. They never wanted to be taken over in the aftermath of World War II. Czechoslovakia, Poland, Hungary, all these were revolutions, counterrevolutions, if you will, against communism, in Poland in 1956, in Czechoslovakia in 1968, only to be repressed, and therefore this has always been fertile ground for such Western values as freedom of speech, freedom of worship, freedom of religion, free elections, free enterprise. We were convinced, in sum, that this was not only fertile ground but the changes that have come about are, indeed, irreversible. These people have not found their roots. They have returned to their roots, and nobody is going to plow them up again.

But the other very profound impression we had was that these economies, as well as political movements, are, as economic entities, still very fragile. These new governments are going to face a variety of economic crises. It is not easy to move from central planning to no planning.

It is not easy to go from state ownership of every little grocery store and restaurant and, to the extent they have them, a little service business, dry cleaning establishment, all owned by the government, to privatization. It is not immediately apparent how you are going to get people who have not been able to buy very much to create capital markets with their savings so money will be available to privatize enterprises. Certainly no one is going to privatize these enterprises, just give them away.

So there is a considerable burden that these countries will face to achieve economic progress, achieve reorganization of their governments, and the bottom line is that there is a great deal that we in the West can do to help.

In order, what these countries first and foremost need is knowhow. We call it technical assistance. Second, they are going to need capital, not necessarily ours, but they are going to need resources, some of it as a matter of marshaling what they already have in their countries. Third, they are going to need the up-to-date technology to effectively and efficiently employ the knowhow on the one hand and the capital on the other. If all they have is knowhow and capital, they will not succeed, because their telephone system will not work, their banking system will not be able to electronically transfer deposits from one account to another.

One story I might relate about Hungary is that the Hungarians made a special point of emphasizing that of course it was Alexander Graham Bell who as an American invented the telephone, but it happened to be a Hungarian living in Hungary who invented the telephone exchange without which we would all still be talking on individual lines to individual people; we would have one line running from our office to our house and no place else. The irony is that while Hungary did develop the telephone switching device, it looks like they are all using the same ones they invented back in 1890 because they have not had access to anything more modern for the last 100 years.

We in Congress, Mr. President, have started a process to help. That is what the seed legislation of last year was all about. We are going to consider a "seed II" bill shortly. But as I say, the most useful form of Western assistance is going to come from what our private sector can offer in the way of assistance, in the way of investment, and in the way of technology. It is going to be in the format of direct investment and joint ventures. And so I want to emphasize that that investment, if it is going to be productive, and whether it comes from this country or other countries or within those countries inevitably depends on our permitting—our, the West, our, the United States, our, Cocom—access to the sophisticated technology needed; that is an absolute prerequisite to modernizing these creaky economies. And so yesterday's decision at Cocom opens the door to that opportunity.

To my mind, the deepest meaning of the Cocom agreement is that the so-called and very elusive level playing field has been achieved. By that, Mr. President, what I mean is that American firms, firms in our country, particularly those with the most advanced technologies, the ones I mentioned, telecommunications, computers, machine tools, at long last now will be able to compete without the bureaucracy, without the weight of a tremendous amount of unilateral restrictions imposed upon our Export Administration Act that had inhibited not only the acquisition of technology by Eastern Europeans but, most importantly,

at least to my view, our firms' ability to compete successfully in seeking markets for their products through at times very much desirable direct investment.

It was almost a year ago today that I wrote to both Secretary Baker at the Department of State and Secretary Mosbacher at Commerce urging that the administration adopt the position that, indeed, we did adopt within the last month. When we returned from Eastern Europe 6 weeks ago, I wrote the President a personal note urging both the administration and the President to really grasp, to understand there was an unprecedented opportunity for this country to lead and to assist in the permanent economic transformation of the emergent democracies of Eastern Europe through this access to Western technology and direct investment to promote free market mechanisms.

It is my belief that private direct investment and access to the advanced technologies that we are so often decreasingly the leader in is intimately linked, and that the agreement in Cocom yesterday is a loud affirmation of that relationship.

And in a letter that Senators GARN, CHAFEE, BOND, SANFORD, and I sent to the President, we urged precisely the kind of liberalization that has been agreed to.

I ask unanimous consent that the text of our letter dated May 24 be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, May 24, 1990.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: On May 2, you announced several important steps decontrolling exports of goods and technology to Eastern Europe and the Soviet Union. We are writing to urge you to take several additional steps as well.

Recently, a Senate delegation, including several of us, visited the German Democratic Republic of Poland, Hungary, and Czechoslovakia and could not help but note the prevalence of the word "democracy" in the region. The fledgling political parties included in their political platforms such Western values and principles as freedoms of speech, thought, worship, free elections, and the free enterprise system. The delegation returned convinced of the irreversibility of political and economic change in the region, as one country after another has shed its communist system in favor of a Western democratic model.

While these remarkable changes were made possible by Mikhail Gorbachev's new policies, they have not been matched by parallel change in the Soviet Union. For all that it means in concept, perestroika has so far brought little gain to Soviet citizens. Analyses of the Soviet economy show continued deterioration and enormous difficulties in climbing out of the hole created by seventy years of central planning and stifled individual initiative.

At the same time, Gorbachev's own political position remains precarious, and his economy hovers near collapse. A period of prolonged uncertainty and instability cannot be ruled out, and we clearly must continue to maintain our defense capability in light of that possibility.

We are also acutely aware that the fledgling democracies in Eastern Europe are on tenuous footing because of their difficult economic circumstances and are in danger of retreating from democratic institutions if economic reform fails. That is why it is particularly important to act quickly and decisively to ensure the success of the twin pillars of political democracy and economic pluralism.

Poland, Hungary, and Czechoslovakia all identified access to Western technology as a key element of their economic reform programs. We were therefore discouraged to learn from both our embassies and the many government and political leaders we met that U.S. export controls are a major impediment to U.S. firms wishing to do business in Eastern Europe. The Poles, Hungarians, Czechs and Slovaks all expressed their concern that we are conceding Eastern European markets to Germany in particular and the EC in general. Clearly, this outcome by default was not, they told us, either their preference or in their national interest. Nor is it in our economic or political interest.

This message has been reinforced since our return. U.S. firms have told us of the many Eastern European orders placed during a major international conference in Zurich for which U.S. firms could not effectively compete because they all contained controlled technologies, even though some of those technologies are widely available from non-COCOM sources. Despite assertions to the contrary, American technology is still preferred and competitive in the world market. Unfortunately, it is not consistently available, thanks to our control policy.

Right now we have an unprecedented opportunity to assist in the economic transformation of these countries by using Western technology and private direct investment to promote free market mechanisms. This will be a key to the success of political democracy in Eastern Europe. Your announcement on export decontrol is an important first step in that direction, but we are concerned that it may go too far with respect to the Soviet Union and not far enough with respect to Eastern Europe.

With respect to the latter, the Eastern European countries have tried to address U.S. national security concerns by adopting important confidence building measures to prevent diversion of critical technologies to the Soviet Union.

1. Poland, Hungary, and Czechoslovakia have indicated a willingness to negotiate trade, investment, and legal protection regimes to facilitate U.S. direct investments, including joint ventures. While of particular interest to U.S. investors, such protections are also an important part of any framework that safeguards technology.

2. Hungary and Czechoslovakia have negotiated the withdrawal of Soviet troops by June 30, 1991.

3. Poland, Hungary, and Czechoslovakia have announced their intention to lower their defense budgets, reduce troops strengths, and phase out their participation in the Council for Mutual Economic Assistance (Comecon).

4. Some countries in the region made clear to us their intentions to remove Soviet intelligence agents within their borders.

5. Poland, Hungary, and Czechoslovakia have made clear their willingness to negotiate technology security arrangements on our terms and to enact legislation to make their obligations statutory and to provide penalties for violators of U.S. laws as well as their own.

Your proposal of May 2 seeks to raise the threshold of permitted technology transfer for both the Soviet Union and Eastern Europe. With respect to the former, we believe that the absence of confidence building measures like those listed above warrants much greater differentiation than the modest level you suggest. With respect to the latter, we believe that the above steps and the absence of national security threat from these countries justifies a higher level of decontrol. We would recommend the following approach for Eastern European nations, with no change in current practice with respect to the Soviet Union.

1. Shift Poland, Hungary, Czechoslovakia, and the German Democratic Republic to Country Group T (Free World Countries) in the Commerce Department's regulations.

2. Following the negotiation of effective technology safeguards, decontrol to the China Greenline for Poland, Hungary, Czechoslovakia, and the GDR.

3. Extend favorable consideration treatment, i.e., presumption of approval by COCOM, for exports to Poland, Hungary, Czechoslovakia, and the GDR of items above the China Greenline.

4. Direct the National Security Council to fulfill the U.S. commitment made in January 1988, to develop a new "Core List"—a significantly streamlined U.S. control list that will serve as the model for negotiating a similar streamlining of the COCOM control list.

Your proposal of May 2 addresses streamlining but falls short with respect to decontrol to the China Greenline and favorable consideration above that level for the countries of Eastern Europe. We also fear that this limited opening to the new democracies will make achieving a consensus in COCOM more difficult and will retard our exporters in their effort to compete with their Western European counterparts. We recognize that your proposal may be only a first step, but we urge you to seize the opportunity to go further. Such steps are as much in our interest as they are in Eastern Europe's.

Sincerely,

JAKE GARN.
JOHN CHAFEE.
JOHN HEINZ.
CHRISTOPHER S. BOND.
TERRY SANFORD.

Mr. HEINZ. That is why I say, Mr. President, I urge our colleagues to take a look at our letter. That is why I say that the Cocom agreement reflects the wisdom of those in the Congress, and particularly in the Senate, who disagree with what at least in some parts of the administration was their early impulse to do two things. Or I should maybe say to not do much of anything, because there were a lot of people in the administration—they have been there for quite some time—who first took the position that nothing should change, or if it should change, not very much; second, that

coming from another corridor, whatever we would do in Eastern Europe, we must also do equally for the Soviet Union, irrespective of what is going on in the Soviet Union.

I am pleased to note that the principle of differentiation, of treating the democracies who have bitten the bullet differently from the Soviet Union—who is reluctant to come to grips with all the changes they would have to make to be like Eastern Europe—was adopted, and clearly adopted both by the administration and by Cocom.

The Soviet Union is going to benefit by this agreement. They are going to have access to more technology than they otherwise would have. That is because there is going to be decontrol of a number of items in technologies. So once an item is decontrolled, it is gone from anybody's ability to control it, and about one-third of the categories on the existing control list are going to be decontrolled by the end of this summer. There will be a smaller or control list that will be finished by the end of this year, which will represent what we really want to hold and hang onto.

But between those two groups, there will still be many very sensitive items controlled by Cocom, and thereby attesting, I might add, to the need for the continued existence of Cocom. These sensitive technologies—and they are in such fields as supercomputers, laser technologies, advanced telecommunications, navigation, and avionic systems, marine technology, propulsion systems, to name only a few, should not be made available to the Soviet Union under the agreement reached yesterday in Paris; and not only does the Cocom agreement of yesterday contemplate containing these technologies—away from the Soviets—but as far as this Senator is concerned, they will continue to do so as long as some of us in this and the other body remain vigilant, and I trust and hope we will.

Mr. President, in conclusion, I will be the first to grant the remarkable changes in Eastern Europe that I have discussed today have been made possible in no small measure by Gorbachev's measures and policies, but equally they have not been matched by the same kind of progress in the Soviet Union. So for all it means in concept, perestroika has so far brought little gain or little real change to the citizens within the Soviet Union, particularly where the economy of that country is concerned.

So I view this decision of yesterday as a historic moment, a historic moment in the tale of our U.S. national security policy, and in particular our export control system. The 17 nations that are members of Cocom deserve to be saluted for their very good work, and especially I wish to single out President Bush for his strong and farsighted leadership in taking this very bold position for advocating it in Cocom, and most importantly for achieving it as the result.

THE OMNIBUS CRIME BILL

Mr. HEINZ. Mr. President, the crime bill has been before this body since before the recess at the end of May.

We have had two cloture votes on the crime bill. I have, together with a sufficient number of my colleagues, voted against the imposition of cloture. I will continue to vote against the imposition of cloture until at least a reasonable number of crime-related amendments, that a number of us feel are urgent and relevant, are allowed to be disposed of under any kind of reasonable rule by the majority vote of our colleagues in the Senate.

For the better part of 3 weeks, the Senator from Pennsylvania has been trying to offer to this bill an amendment, on behalf of American taxpayers, to get tough with those people who have looted and stolen from savings and loan institutions.

The savings and loan crisis has not only blown a hole in the Federal Deposit Insurance System, but also has blown a multibillion-dollar hole in the pockets of American taxpayers. It is this Senator's view that the legislation we passed last year, FIRREA, only went halfway in terms of getting money back from the people who did the looting and stealing, namely the officers, directors, and others in charge of savings and loans.

According to the General Accounting Office, the cost of this financial disaster could reach the astronomical sum of $500 billion. That makes it the largest financial catastrophe in the history of this country, and probably of the world.

The American taxpayers, who have to ultimately stand behind the Federal Deposit Insurance System to the tune of up to $500 billion—thousands of dollars for every man, woman, and child in this country—are rightfully asking what is being done to get the money back and to punish those who caused this financial catastrophe?

The only honest response this Senator can give them is: Not nearly enough.

During consideration of FIRREA, which was written in the Banking Committee, on which the Senator now presiding and I both serve, I proposed four measures to ensure that the Resolution Trust Corporation and the Department of Justice received the tools they needed to prosecute and recover funds from the wrongdoers responsible for the S&L debacle.

First, I wanted to give the Resolution Trust Corporation a priority, on behalf of the taxpayer to get money back from the officers, directors, and others who caused losses at federally insured savings and loans.

Second, so that justice was not only done, but done swiftly, I proposed a fast-track litigation schedule to put cases for taxpayer recovery of these funds through the courts as fast as possible.

Third, I wanted to prevent those who caused losses at S&L's from getting protection in the bankruptcy courts; and sheltering a home, or a yacht.

Fourth, I wanted to enable prosecutors to bring criminal actions for bank fraud under the toughest law we have on our books, RICO, the Racketeering Influenced and Corrupt Organizations Act.

All four of those provisions received the overwhelming support of the Senate. They were included in the Senate version of FIRREA, S. 774. But I have to tell you, Mr. President, unfortunately, although we passed them, and we worked very hard for their adoption in the conference, they were rejected by the House of Representatives. Hence, they did not become law.

I will not go into, today, the politics of their rejection, In some cases it was a case of "NIH," not invented here.

In other cases it was simple, old-fashioned special-interest, garden variety politics. Some members of the private bar had decided it would be bad for business if some of these amendments were adopted. In other cases people said, "Well, we are in the midst of reforming RICO, we do not want to apply this law to anybody else at this time. Just give us a little time to work this out."

Well, in each of those instances, Mr. President, I have to tell you that I was not convinced. Time has shown that each of those reasons was insufficient. Here we are, and it is June, and there has been no movement on any RICO reform. It seems to me that the argument against using RICO to prosecute bank fraud is a hollow argument. We should make the decision to protect the American taxpayer and do all in our power to get the money back.

Let me say a word or two about these amendments. First, claims to recover funds by the Resolution Trust Corporation should go to the head of the line. The RTC and FDIC are currently conducting investigations of claims against officers, directors, attorneys, accountants, and others who are responsible for losses at more than 1,300 federally insured institutions. Those organizations have filed more than 350 such lawsuits for damages—in some cases up to as much as $1 billion.

The first measure in my package of amendments would put the Resolution Trust Corporation's claims to recover funds on behalf of the American taxpayer at the head of the line, in front

of claims by shareholders and other creditors. It is my view, that if I have to choose between taxpayers, and shareholders—who elect the boards of directors that milk these institutions or bleed them dry—it is the taxpayer that ought to be protected, not the shareholder. When it comes to digging into the pockets of those responsible for the S&L crisis, the taxpayer should have the right to reach in first.

When the Resolution Trust Corporation takes over an insolvent S&L, it will sue to recover losses from officers, directors, and others. But, today, shareholders and other creditors can race to the courthouse before the Resolution Trust Corporation gets there. They get a judgment against the crooks, and they wring their pockets dry; and when the RTC shows up, all that is left is an empty bag. If, under the best of circumstances, the race to the courthouse is a tie, the shareholders' claims will compete with the RTC for the limited amount of money that can be recovered. What this amendment does is to ensure that the taxpayers always win the race.

Let me say a word about the fast-track litigation amendment. As some in this Chamber may be well aware, it can take more than 3 years for the FDIC and the Resolution Trust Corporation to pursue its claims to recover funds against officers, directors, and others responsible for losses at insolvent institutions. This provision would direct the courts to give these cases expedited consideration and a priority on their dockets, consistent with the interest of justice. Not only are the taxpayers entitled to get their money back, but the principle here is that we should help get it back for them, as fast as possible.

The third provision, regarding bankruptcy, comes from our experience that the Federal Bankruptcy Code can be used as a shield to protect those who are responsible for losses at insolvent institutions. The RTC can spend years to get a judgment to recover funds, only to have that judgment discharged, that is, nullified, in bankruptcy. What this provision would do is to ensure that the officers and directors who were liable for these losses are not going to be protected by the bankruptcy court.

So if they have a $1 million home in which they are living comfortably, which would normally be protected by the bankruptcy laws, the result is that their home is going to be subject to judgment, and they may very well lose that million dollar investment, if they were guilty of negligence or fraud. The Bankruptcy Code's general policy is to forgive and forget, but the taxpayers who must pay a multibillion-dollar price tag for the S&L scandal should not have to forgive or forget.

Mr. President, the last provision in this package that I will discuss today is unleashing the RICO Act, the Racketeer-Influenced and Corrupt Organizations Act, against all forms of bank fraud. There have been some 1,200 referrals to the Justice Department with respect to alleged criminal activity at RTC-controlled thrifts, and many more expected, because the investigations of insolvent thrifts are just really beginning.

The RTC recently estimated about 60 percent of the thrifts in its case load have indeed been victimized by serious criminal activity. RICO is the most potent and feared weapon that we have in our Federal arsenal against crime.

Under current law there are nine Federal crimes involving bank fraud, and only one of these today could be prosecuted under RICO. This provision would enable Federal prosecutors to pursue all types of bank fraud under RICO. I do understand that proponents of RICO reform—and that is civil RICO reform—do not want to expand RICO, until that issue is resolved.

But if we wait, we are denying Federal prosecutors a potent weapon against fraud. The American taxpayer should not be put on hold.

Let me return to the reason for these remarks; namely, the crime bill.

Mr. President, we want to pass a crime bill. But if stealing hundreds of billions of dollars from American taxpayers is not a crime, I do not know what is. It is simply this Senator's view—and I am pleased that a number of our colleagues on both sides of the aisle feel this way—that the crime bill is an opportune time to demonstrate what we intend to do to those who have robbed and bled federally insured institutions dry. This Senator believes that it is vital that we have an opportunity to consider this kind of amendment. I intend to offer this amendment, or one substantially like it, and I hope and trust we will have an opportunity to do so. Otherwise I fear it will be very difficult to ever get a crime bill that does the job.

Mr. President, I thank my colleagues for their attention and I yield the floor.

The PRESIDING OFFICER. The majority leader.

AIR TRAVEL RIGHTS FOR BLIND INDIVIDUALS ACT

The Senate continued with the consideration of the bill.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion, having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 341, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

E.F. Hollings, Brock Adams, Robert C. Byrd, John D. Rockefeller, Tom Daschle, Alan Cranston, Richard Bryan, George J. Mitchell, Barbara A. Mikulski, Harry Reid, John Breaux, David Boren, Patrick Leahy, Joe Lieberman, Albert Gore, Jr., Edward M. Kennedy.

CLOTURE MOTION VOTE—S. 341

Mr. MITCHELL. Mr. President, I ask unanimous consent that the cloture vote on S. 341, blind air passengers bill, occur at 2:15 p.m. on the Tuesday, June 12; and that the mandatory live quorum be waived; and that if cloture is invoked the previous consent agreement on the Amtrak veto message remain in force.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF PAMELA TALKIN TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations, Calendar No. 811, Pamela Talkin, to be a member of the Federal Labor Relations Authority.

I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

FEDERAL LABOR RELATIONS AUTHORITY

Pamela Talkin, of New York, to be a member of the Federal Labor Relations Authority.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Banking, Housing, and Urban Affairs.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:39 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate.

H.J. Res. 516. Joint resolution to designate the week beginning June 10, 1990, as "National Scleroderma Awareness Week."

MEASURES REFERRED

The following joint resolution was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 516. Joint resolution to designate the week beginning June 10, 1990, as "National Scleroderma Awareness Week"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2372. An act to provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 2690. An act to amend title 17, United States Code, to provide certain rights of attribution and integrity to authors of works of visual art.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2104. A bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes (Rept. No. 101-315).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 566. A bill to authorize a new corporation to support State and local strategies for achieving more affordable housing, to increase homeownership, and for other purposes (Rept. No. 101-316).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 2014. A bill to direct the Secretary of Agriculture and the Secretary of the Interior to provide interpretation and visitor education regarding the rich cultural heritage of the Chama River Gateway Region of northern New Mexico (Rept. No. 101-317).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2059. A bill to establish the Weir Farm National Historic Site in the State of Connecticut (Rept. No. 101-318).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 2180. A bill to remove certain prohibitions to the licensing of a vessel for employment in the coastwise trade of the United States for the vessel *Arctic Sounder* (Rept. No. 101-319).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 2254. A bill to establish the Pecos National Historical Park in the State of New Mexico, and for other purposes (Rept. No. 101-320).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2286. A bill to require the Secretary of Transportation to lead and coordinate Federal efforts in the development of magnetic levitation transportation technology and foster implementation of a magnetic levitation transportation system (Rept. No. 101-321).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 2404. A bill to permit issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel the *Lady Rose Anne* (Rept. No. 101-322).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2430. A bill to amend the Zuni-Cibola National Historical Park Establishment Act of 1988 to enlarge the time in which the Secretary of the Interior may accept a leasehold interest for inclusion in the park (Rept. No. 101-323).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2498. A bill to authorize a certificate of documentation for the vessel *Sea Devil* (Rept. No. 101-324).

S. 2623. A bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States, Great Lakes trade, and fisheries for the vessel "Rose" (Rept. No. 101-325).

S. 2656. A bill to authorize a certificate of documentation for the vessel *Pumpkin* (Rept. No. 101-326).

S. 2660. A bill to authorize a certificate of documentation for the vessel *Bounty* (Rept. No. 101-327).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 2844. A bill to improve the ability of the Secretary of the Interior to properly manage certain resources of the National Park System (Rept. No. 101-328).

By Mr. PELL, from the Committee on Foreign Relations, with an amendment and with a preamble:

S. Res. 293. A resolution concerning Polish debt reduction.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 2717. A bill to authorize the construction of a monument in the District of Columbia to honor Thomas Paine, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HEFLIN (for himself and Mr. SHELBY):

S. 2718. A bill to provide for the use of assets in black lung benefit trusts for health care benefits for retired miners, and for other purposes; to the Committee on Finance.

By Mr. BOSCHWITZ (for himself, Mr. GORTON, Mr. GRASSLEY, and Mr. COATS):

S. 2719. A bill to provide for Housing Opportunity Zones; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SASSER (for himself, Mr. KENNEDY, Mr. DODD, Mr. SIMON, Mr. KERRY, Mr. RIEGLE, Mr. DASCHLE, Mr. ROCKEFELLER, and Mr. BREAUX):

S. 2720. A bill to encourage employee ownership of, and participation in, companies in the United States; to the Committee on Labor and Human Resources.

By Mr. LIEBERMAN:

S. 2721. A bill to amend title 18 of the United States Code to give the Secret Service jurisdiction to assist in investigating certain financial crimes arising from the savings and loan crisis; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WIRTH (for himself, Mr. RIEGLE, Mr. DIXON, Mr. GRAHAM, Mr. SASSER, Mr. LEVIN, and Mr. LIEBERMAN):

S. Res. 298. A resolution to express the sense of the Senate that efforts to investigate and prosecute financial institution crimes should be fully funded; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. DODD, and Mr. DURENBERGER):

S. Res. 299. A resolution to express the gratitude and admiration of the Senate to Eunice Kennedy Shriver for her contribution and achievement as Founder and Chairman of Special Olympics International; considered and agreed to.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 2717. A bill to authorize the construction of a monument in the District of Columbia to honor Thomas Paine, and for other purposes; to the Committee on Energy and Natural Resources.

THOMAS PAINE MONUMENT

Mr. SYMMS. Mr. President, I want to pay homage and tribute to a great man in our Nation's history, Thomas Paine. Today marks the anniversary of the death of Thomas Paine who stands in history as a revolutionary soldier, political pamphleteer, agitator, and deist author of the "Age of Reason." I want to see a monument to Thomas Paine erected here in our Nation's Capital. Thomas Paine is undoubtedly one of the greatest men in our Nation's history and I think it is a shame there has not been a monument dedicated to this great American.

I intend to introduce a bill today sponsored by myself, and Senator MCCLURE—and I welcome cosponsorship from other Members of the Senate—which would authorize construction of a monument to honor Thomas Paine in the District of Columbia.

He was born in Thetford, England, January 29, 1737. His father, Joseph Paine, was a poor Quaker corset maker who married an Anglican attorney's daughter. This was Frances, Thomas' mother. Thomas Paine was able to attend grammar school until he turned 13, when a lack of finances made it necessary for him to pursue a vocational trade. At the age of 19 he left home to serve as a privateer on the sailing ship *King of Prussia.*

Paine's accomplishments throughout his life are even more amazing because his formal education never went beyond the basics, in fact, the truth is that he never learned to write faultlessly grammatical English.

Thomas was a religious man. He heard a sermon on the redemption when he was 8 years old, which he claimed encouraged his antiestablishment attitudes later in his life. Paine was probably most heavily influenced by his view of aristocracy and the poverty of his youth. His upbringing was one of harsh poverty and, yet, it was probably this same upbringing that prepared him for the achievements and contributions he made to the history of the United States of America.

While still living in England, Paine was a corset maker, exciseman—a British officer who collected taxes and enforced tax laws, a schoolteacher, tobacconist, and grocer. He was married twice but remained childless throughout life. His first wife, Mary, died almost 1 year after they had been married. His second wife, Elizabeth, separated from him after 3 years of marriage.

Later in his life, Paine's adversaries would unjustly try to discredit him with his failed second marriage. Paine's job as an exciseman never did agree with him. He was fired twice as a tax collector, and the second time was one of the first times Paine is seen as an agitator and revolutionary author.

He wrote a brief for his fellow excisemen called "The Case of the Officers of Excise." By writing this, Thomas Paine was acting as a sort of labor representative in an effort to get the British Government to raise their wages. However, all this yielded for Thomas Paine was his unemployment.

During his stint as an exciseman, Paine had met and befriended Benjamin Franklin in England. After his second firing as an exciseman he left for Philadelphia with letters of recommendation from Franklin. Franklin called him an "ingenious, worthy young man."

Even though poverty had forced him to leave school at a young age, Paine made a point of becoming as self-educated as he could be. He spent whatever spare money and time he had on books, lectures, and scientific apparatus. He achieved a knowledge of current day events and sciences strictly through his own desire, hard work, and discipline. It was this learning that he acquired on his own, which showed him the foibles and shortcomings of society around him.

When Thomas Paine came to Philadelphia on the 30th of November 1774 he became what he would go down as in history, a journalist. He started out by writing a broad range of articles for a publication called Pennsylvania magazine. During this time, Paine was also a pioneer in the movement for the abolition of slavery. However, it was to be the famous writing, "Common Sense" which notarizes Paine as an important cog in the machinery of the American revolution.

"Common Sense" stands as one of the great writings of all time. It was first published in Philadelphia on January 10, 1776, as an anonymous pamphlet of 47 pages. It stresses that the people should immediately declare their independence, not as a solely symbolic or token measure, but as America fulfilling her moral obligation to the rest of the world.

Paine pointed out that the colonies must fall away eventually, and that in nature, a satellite is never larger than its primary planet; that a continent could not remain tied to an island. Paine urged that the colonies should free themselves immediately from the vicious monarchy they were under. He explained that if they did it while their society was young, uncorrupt, natural, and democratic they could alter human destiny by their example. How correct he was.

With these words Paine was the first publicist to discover America's mission. His political ideology contained both the beliefs of Jefferson and a knowledge of the need for a strong Federal union. Paine realized the dangers of an excess of State sovereignty and particularism. He emphasized these centralizing doctrines in "Common Sense" and a later pamphlet "Public Good." Though Benjamin Franklin and other great leaders of the time were close advisers to Paine, "Common Sense" was Paine's unique creation. It had incredible success for its time, with 500,000 copies selling in all. As he so often did, Paine gave most of the money he earned to the cause he was championing.

As time went on Paine became more famous for his writings in the colonies. After writing for a short while in the Pennsylvania Journal, he enlisted in the Army just as it was retreating across New Jersey. In December 1776, the enlistments of the Continental Army were expiring. The soldiers had known only retreat. The British were on the east side of the Delaware within striking distance of Philadelphia. And Paine wrote the first "Crisis" paper which the officers read to the soldiers. The soldiers did not leave their homes. The words galvanized them. They crossed the Delaware with Washington and inflicted an important defeat on the British and Hessians in New Jersey.

Mr. President, it is a significant fact that Thomas Paine, not only as a soldier, but as a publicist and writer, inspired the turnaround in that great victory that was so important to General Washington at that time.

I would like to quote Thomas Paine. Please try to hear past the leveling and trivializing effects of time and repetition to what would have sounded fresh 200 years ago.

> These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country; but he that stands it now, deserves the love and thanks of men and women. Tyranny, like hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph. What we obtain too cheap, we esteem too lightly; it is dearness only that gives everything its value.

Mr. President, those words inspired the soldiers of the Continental Army, kept them from deserting General Washington and later helped carry them on to victory.

Throughout the war Paine published 11 other additions to the "Crisis." The entire work shows Paine at his best as a political journalist and force behind the American revolutionary effort.

In April 1777, Thomas Paine was appointed by Congress as secretary to its Committee on Foreign Affairs. Though he served his position in Government diligently and with honor, Paine never lost his idealistic devotion to the spirit of a revolutionary cause.

In 1779, Paine was given an appointment as clerk of the Pennsylvania Assembly. He continued writing his "Crisis" articles and began a fund, out of his own meager salary, for the relief of Washington's army. In 1781 Thomas Paine accompanied John Laurens to Paris where they helped convince Louis XVI to provide the arms and money which paid for the victorious Franco-American Yorktown campaign. And, the success of Paine and Laurens, in a very real sense, sealed not only the fate of the Americans but also of Louis and Marie Antoinette.

After the war, the State of New York gave Paine a farm in New Rochelle where the Paine Association still maintains his farmhouse.

Paine published again in 1786 with "Dissertations on Government, the Affairs of the Bank, and Paper Money" in which he condemned paper money as legal tender.

In 1787 Paine went to England and saw one of his inventions, an iron bridge, built. While Paine was in England, the Bastille fell. Four rural French districts offered Paine seats in the Revolutionary National Convention. He had not sought the honor. It is remarkable because it means that his works in defense of freedom had traveled across the Atlantic, been translated into French, been found so compelling, not just by those who might be educated and live in the city, but by people in the rural districts, that they chose him to represent them. Of the four offered seats, he chose to accept the seat for the Pas de Calais district. On October 16, 1789, Paine wrote to Washington and said, "A share in two revolutions is living to some purpose."

In the spring of 1791, Paine published the first part of "The Rights of Man," which was a response to Edmund Burke's "Reflections on the French Revolution." Burke attacked the revolution, Paine defended it. But more importantly, in the second part of "The Rights of Man," Paine began to move from argument concerning the overthrow of oppressors to the ways in which to help the oppressed. Part 5 of the second book is actually a social welfare blueprint, well before its time. It is a remarkable document.

In the "Rights of Man" Paine says,

> Government exists to guarantee to the individual that portion of his natural rights of which unaided he could not ensure himself. These rights, with respect to which all men are equal, are liberty, property, security, and resistance to oppression. Only a republican form of government can be trusted to maintain these rights; and the republic must have a written constitution, including a bill of rights; manhood suffrage, executive orders chosen for short terms and subjected to rotation in office, a judiciary not beyond ultimate control by the people, a legislative body popularly elected at regular intervals, and a citizenry undivided by artificial distinctions of birth and rank, by religious intolerance, by shocking economic inequalities.

Mr. President, he was a very, very remarkable man, when you think about when those words were written.

Such a republic, he argued:

> Will be well and cheaply governed, or rather, little governed, for government is no farther necessary than to supply the few cases to which society and civilization are not conveniently competent.

On January 15, 1793, during Louis XVI's trial, Paine argued that while the monarchy should be destroyed the monarch should be spared; that for France to execute the man who had helped to make success in the American Revolution possible, would be for France to alienate its ally, America.

We tend to think of the execution of Louis XVI as a foregone conclusion. It may interest you to know that the vote taken at the Convention was 361 for death, 360 against.

For his efforts, Paine was condemned by the terror and languished in prison for 10 months where his health broke.

Between 1794 and 1796 Paine wrote "The Age of Reason." In this work he analyzes religion and theology using his fine tools of scholarship. He began this work while in prison in France.

Thomas Paine was born into a world of poverty and hardship, and yet his background allowed him to know what the less privileged were experiencing when he was in a position of power later in his life. That is why he was sensitive to those who were less off than he was. Paine was a self-confident man whose writings affected the very founding of the United States of America. In fact, he gave our Nation the name United States of America. He was a fiery, headstrong agitator who believed until his dying day in the rights of the individual and the basic glory of the common man.

Thomas Jefferson thought Paine's writing style resembled Benjamin Franklin's. Both men wrote in a simple and straightforward manner in a time when eloquence and excessive language were popular in written works. Paine's writing is moving in a contentious way, as he was always pleading a cause. Because of this, Paine's writings turn into arguments rather than expositions.

Paine's works are understandable, interesting, and irritating, which are the three components of a revolutionary author. His work, "Common Sense" gave the intellectual grounding for the positively unthinkable prospect of separating from the monarchy, and helped forge our Nation at a time when it did not even have a name.

Thomas Paine died in New York on June 8, 1809, and was buried on his farm in New Rochelle.

Ten years later William Cobbett dug up Paine's bones, took them to England and lost them. This is the end of the man who gave America independence its rationale; who inspired a torn, cold army on the brink of defeat; who in 1775 wrote to abolish slavery; who negotiated treaties with American Indians in Pennsylvania; who held the first post which later became known as Secretary of State; who obtained arms and money for the Yorktown campaign; who participated in two revolutions nearly losing his life in the second; who saw human dignity as a right not a charity.

His contribution to the founding and development of our country cannot be overstated. Great minds forged this Nation and Paine's was one of them. It is for this reason that Thomas Paine should be remembered with a monument to let us never forget this agitator of freedom.

Mr. President, I send a bill to the desk so it may be sent to the appropriate committee.

I yield the floor.

I thank the indulgence of my colleagues and the Chair.

By Mr. HEFLIN (for himself and Mr. SHELBY):

S. 2718. A bill to provide for the use of excess assets in black lung benefit trusts for health care benefits for retired miners, and for other purposes; to the Committee on Finance.

HEALTH CARE BENEFITS FOR RETIRED MINERS

● Mr. HEFLIN. Mr. President, I rise today to introduce, on behalf of myself and Senator SHELBY, legislation which will allow the excess assets in private black lung trust funds to be used to pay for the health benefits of retired miners. My bill would allow surplus funds which are otherwise idle, to be used to meet the rising health care costs of miners.

Under current law, miners with black lung disease may receive benefits under the black lung disability trust fund which is funded through excise taxes on mined coal. Since 1973, black lung benefits have also been paid directly by individual coal mine operators either through insurance, cash payments or through private trusts, established under section 501(c)(21) of the Internal Revenue Code. The operator may make contri-

butions to a section 501(c)(21) trust based on actuarially sound standards to cover contingent future liabilities. Although the Code allows operators to self-insure by making contributions to a section 501(c)(21) trust, this method of funding is not required. Operators may choose in the alternative to purchase insurance to cover the liabilities, or to pay their black lung liabilities out of general assets. An operator who establishes a section 501(c)(21) trust, however, provides a more secure fund from which black lung liabilities are to be paid.

Under current law, private black lung trusts, which are exempt from Federal income tax, can only be used to provide compensation for disability due to pneumoconiosis under the Black Lung Acts, to provide insurance to cover such disabilities, or to pay administrative and other incidental costs associated with the trust. These trust funds may also be invested in government securities, deposited in federally insured depository institutions, paid into the Federal black lung disability trust fund, or paid into the general fund of the U.S. Treasury. The trust must be irrevocable with no right or possibility of reversion to the coal mine operator.

My bill would amend section 501(c)(21) to allow the trustees of private black lung trust funds to make payments for sickness, accident, hospitalization and other medical expenses, administrative costs of retired miners, their spouses and dependents, or the payment of premiums for insurance covering such expenses when assets in the trust exceed liabilities. The trust funds could only be used for this purpose to the extent that the fair market value of such funds exceeds an amount equal to the present value of the liability. Whether a trust fund contains surplus assets will be determined by actuarial studies based upon the experience of the fund, and similar funds. The use of surplus funds would in no way alter the coal mine operator's continuing legal obligation to fund the trust and black lung benefits. The trust could never be depleted below the present value of the coal mine operator's liability. This bill would allow funds which are otherwise idle, to provide a much needed benefit to retired miners.

Unless a coal operator is allowed to use the trust surplus to meet health care costs of retired miners, an operator is penalized for providing this secure fund. If the operator had, instead, chosen to pay black lung liabilities out of its general assets—which would have resulted in a less secure fund since the operator might be insolvent when the future liabilities arise—the surplus would have been available for paying health care costs of retired miners. If an operator is insolvent and unable to satisfy its black lung liabilities, the liabilities are paid by the Federal black lung disability trust fund. Creating a "penalty" by not allowing the operators to use the surplus trust funds to pay health care costs for retired miners, in effect, discourages operators from creating a secure funding arrangement to satisfy future black lung liabilities. To avoid this result, operators should be permitted to use the surplus funds to meet health care costs of the retired miners.

Mr. President, this bill will also provide a tax revenue benefit to the U.S. Treasury since health care expenditures are deductions from taxable income. If the surplus assets from black lung trusts are used for health care payments for retired miners, each company's taxable income will increase by the amount of such health care benefits.

I urge my colleagues to support this bill.●

● Mr. SHELBY. Mr. President, I arise today to join with the senior Senator from Alabama in introducing legislation which will allow the excess assets in private black lung trust funds to be used to pay for the health benefits of retired miners.

In 1977, Congress passed the Black Lung Benefits Revenue Act. A provision in that important act added section 501(c)(21) to the Internal Revenue Code which allows coal mine operators to establish a trust to self-insure for liabilities under Federal and State black lung benefits laws. As in the case of employer contributions to qualified trusts for contingent pension plan liabilities, an operator's contributions to a 501(c)(21) trust are deductible in the tax year the contributions are made. In order to qualify under 501(c)(21) the trust must be created or organized exclusively for the following purposes:

First, to satisfy in whole or in part the operator's liabilities for black lung benefits arising from Federal or State statutes;

Second, to purchase insurance for the purpose of covering such liabilities in whole or in part; and

Third, to pay the administrative and incidental costs of the trust incurred in connection with the operation of the trust or the processing of black lung claims against the operator.

The trust funds may not be used for any other purposes except for certain investments, payment into the black lung disability trust fund, or payment into the General Fund of the Treasury. There is no right of reversion either of the corpus or of income to the coal mine operator.

Although the funding requirements for a 501(c)(21) trust are actuarially determined, it is possible for the trust to become significantly overfunded over a period of time. There are a number of experience-related factors which, over time, could cause changes in funding levels. These include population composition, mortality, benefit increases or decreases, incidences of disability, transfers, investment earnings, benefit payment changes, allocation of net surplus, and other adjustments. For example, in the mid- and late-1970's black lung incidence rates were relatively high and this was reflected in the actuarial assumptions for funding in future years. The standards for determining eligibility for black lung benefits became more stringent through the enactment of the Black Lung Amendments Act of 1981, which resulted in lower incidence rates. Therefore, although it is possible for the 501(c)(21) trust to be significantly overfunded, under current law the excess funds must remain in the trust.

The bill I am introducing today will amend section 501(c)(21) to allow coal operators with private black lung trust funds to use these excess trust funds to pay the health benefits of retired miners. The trust funds may only be used for this purpose to the extent that the fair market value of such funds exceeds an amount equal to the present value of the liability. Whether a trust fund contains surplus assets would be determined by actuarial studies based upon the experience of the fund. If it is actuarially determined that the funds in the trust exceed the liability, then only those excess funds may be used to pay for the health benefits of retired miners. Such payments to retired miners may be for sickness, accidents, hospitalization and other medical expenses and administrative costs of retired miners, their spouses, and dependents or to make payments on the premiums for insurance covering such expenses.

The use of the surplus funds to pay the medical benefits of retired miners would in no way alter the coal mine operator's continuing legal obligation to fund the trust and to pay black lung benefits. Those obligations will continue under current law. Also, the trust could never be depleted below the present value of the coal mine operator's liability.

A coal operator who establishes a 501(c)(21) trust provides a secure fund from which black lung liabilities are paid. The funds may not be withdrawn regardless of the financial condition of the coal operator. Therefore, even bankruptcy of the operator would not affect trust fund assets. Unless the operator is allowed to use the trust surplus to meet health care costs of retired miners, an operator is penalized for providing the secure fund. If an operator chooses to pay for the black lung liabilities out of its general assets, the surplus would be available for paying health care costs of retired miners. However, paying black lung liabilities out of general assets will

result in a less secure fund since the operator may be insolvent when future liabilities arise. By not allowing coal operators to pay health care costs of retired miners from the excess assets in the trust, this in effect discourages operators from creating the secure funding arrangement to satisfy future black lung liabilities. To avoid this result, operators should be permitted to use the surplus fund to meet health care costs for retired miners.

Mr. President, this bill will result in a tax revenue benefit to the Government since health care expenditures are currently deductible from taxable income. A coal operator that pays for health care costs of retired miners out of general assets receives a deduction for those payments. However, health care payments made to retired miners from the excess trust funds, may not be deducted.

I urge my colleagues to support this bill.●

By Mr. BOSCHWITZ (for himself, Mr. GORTON, Mr. GRASSLEY, and Mr. COATS):

S. 2719. A bill to provide for Housing Opportunity Zones; to the Committee on Banking, Housing, and Urban Affairs.

HOUSING OPPORTUNITY ZONES ACT OF 1990

● Mr. BOSCHWITZ. Mr. President, 10 years ago I introduced the Urban Jobs and Enterprise Zone Act of 1980. That measure, along with the House companion bill introduced by my good friend, then-Congressman Jack Kemp, was the seed from which the enterprise zone idea grew. While the Congress has been painfully slow to approve enterprise zone incentives at the Federal level, many State and local governments have shown remarkable enthusiasm for the notion that bringing down government barriers to entrepreneurship, and offering tax and regulatory incentives, can revitalize distressed areas. Thousands of new jobs have been created in our Nation's most economically hard-hit regions by enterprise zone programs in the States and localities.

Now, 10 years after we introduced the first enterprise zone legislation in Congress, the time has come to expand the scope of this idea to encompass the needs of low and moderate income Americans in the vitally important area of housing. Mr. President, I rise today to introduce legislation that will create 50 Housing Opportunity Zones.

We are all aware of the great difficulties facing many of America's cities and towns in the area of housing affordability for people with low and moderate incomes. Housing Opportunity Zones combine two necessary methods of attacking these problems: Enticements to State and local governments to bring down their barriers to affordable housing; and a strong set of Federal incentives to spur entrepreneurial activity in the housing sectors of America's most distressed areas.

Recent studies suggest that in some parts of the country as much as one-third or more of the price of a new home is attributable to regulatory restraints imposed by four or five layers of government. These regulations include exclusive zoning restrictions, overly complex building codes, regressive property taxes, rent controls, and other restraints. These restrictions add tens of thousands of dollars to the cost of housing and create disincentives that allow buildings to deteriorate.

Unfortunately, the bulk of the restraints on home construction and rehabilitation originate at the State and local level and cannot be reached by Federal agencies directly. That's where Housing Opportunity Zones come in. These zones are designed to put money into areas where the housing stock is deteriorating, yet local regulatory and tax barriers are stopping rehabilitation and new construction.

Cities and towns competing to be designated a Housing Opportunity Zone will be required to offer a plan to eliminate barriers to home construction and improvement. In addition to bringing down the barriers I mentioned, the applicants could also offer low priced land, vacant publicly-owned property, low-interest loans, and real estate tax abatements.

Once designated a Housing Opportunity Zone, the local incentives will be boosted by a series of Federal incentives. These would include rental rehabilitation grant bonuses, Community Development Block Grant benefits, targeted FHA insurance, and urban homesteading preferences.

I am convinced that improvements in housing quality and affordability will result from the freer markets in these zones. And providing better and more affordable housing opportunities to our Nation's low and moderate income people is what this legislation is all about. Housing Opportunity Zones provide a means for converting areas with large amounts of poor housing, limited homeownership, vacant land, and vacant, substandard housing, into areas with livable and affordable housing for people in need.

I would like to commend President Bush and Housing Secretary Jack Kemp for their efforts to promote Housing Opportunity Zones in their HOPE (Homeownership and Opportunity for People Everywhere) initiative. It is now up to the Congress to move the ball forward in this important area. I urge my colleagues on both sides of the aisle to join me in this legislation; and, I ask that Senators GORTON, GRASSLEY, and COATS be added as original cosponsors of this bill.●

By Mr. SASSER (for himself, Mr. KENNEDY, Mr. DODD, Mr. SIMON, Mr. KERRY, Mr. RIEGLE, Mr. DASCHLE, Mr. ROCKEFELLER, and Mr. BREAUX):

S. 2720. A bill to encourage employee ownership of, and participation in, companies in the United States; to the Committee on Labor and Human Resources.

EMPLOYEE OWNERSHIP AND PARTNERSHIP ACT

Mr. SASSER. Mr. President, I rise today to introduce S. 2720, the Employee Ownership and Participation Act of 1990.

This bill confronts head-on the fundamental economic challenge before us today—as a nation, we must increase productivity.

Now, we have the potential in this country to dramatically increase productivity. America's work force is skilled, and the work ethic of our citizens remains strong.

But to harness this potential, to convert this strong work ethic to productive gains in our economy, we must adapt our work places to fundamental changes in the world economy. Our companies must rethink the ways they organize people, and broaden the ways they reward employees for their skills.

A century ago, the industrial revolution transformed our economy from a labor intensive one into a capital intensive one. To maximize efficiency, top-down management and assembly-line mass production became the norm.

But today, the pace of technological innovation has made rigid, top-down management a prescription for stagnation.

Companies can no longer afford to rely exclusively on the knowledge of just those at the top of the corporate structure. Technology has created a knowledge explosion. There's simply too much to know—and no one knows the specifics of their job better than the employee.

The bill I'm introducing today will help companies learn how to channel worker knowledge to enhance company decisionmaking and productivity. That's what employee participation is all about.

This bill calls on the Secretary of Labor to establish an office of employee ownership and participation. This office would spread the word that employee ownership and participation works, and that it goes right to the bottom line.

The office would administer a small grant program to introduce companies to the benefits of employee-driven techniques and provide technical support for implementing them.

Companies from General Mills to Federal Express have reported productivity gains of up to 40 percent in sectors of their operations where employee participation has been instituted.

Participation is nothing more than everyday involvement by employee in decisions affecting their work. But it's also nothing less. It's not a suggestion box on the wall or an occasional lunch with the boss. It's daily feedback that can taken any number of forms, from participation groups to self-managed teams.

Simply granting workers more decision-making responsibility, however, is not enough. To ensure employees make the most of new responsibilities, it's important they be given a stake in the future success of their companies.

Employee ownership gives workers that stake.

A recent GAO study confirms that employee participation combined with employee ownership dramatically enhances corporate performance. The GAO found that employee owned firms that include worker participation experience on average 52 percent faster productivity growth.

While capitalism and democracy are winning throughout the world, we must not forget to tend our own garden, to widen the circle of ownership in this country. For the golden rule of capitalism is that capitalism works best with a broad base of capitalists.

In my judgment capital ownership in America is too concentrated today, and this is to the great disadvantage of most Americans. The most recent data indicates that the wealthiest 1 percent of our citizens own fully 61 percent of individually owned shares of stock, while the bottom 90 percent of Americans owns less than 10 percent.

Employee ownership is an extremely positive way to broaden the ownership of capital. And in combination with greater employee participation in company decisionmaking, the case for employee ownership is irresistibly compelling. Widespread adoption holds the promise of dramatically increased productivity on a national scale.

Indeed, several States already understand the power of this combination and have developed programs to encourage employee ownership and participation. Through education and outreach, these programs get the word out that employee ownership and participation works. They provide technical assistance to help move companies in this direction.

These programs have been extremely innovative, the New York Program has been developing an entire curriculum to teach employees and employers about participation. The Ohio Program, which is run out of Kent State University, has put together a network of employee owned companies to facilitate the transfer of successful techniques.

Michigan has a program that specializes in gainsharing. Gainsharing plans provide short-term rewards for productivity enhancements achieved through greater participation. When employee ownership is included to provide a long-term reward and a sense of property ownership, this in my judgment is ideal.

Massachusetts recently adopted an ambitious plan that also will serve as a model for other States.

Also, Oregon, Washington, Wisconsin, Montana, Connecticut, Utah, now Pennsylvania, all have innovative programs. California, Montana, West Virginia, Delaware, New Jersey, Maryland, Indiana, and Hawaii have shown strong interest.

There is considerable and growing momentum to establish a program in my home state of Tennessee.

Despite the proven benefits of employee participation and ownership, my colleagues may wonder why the adoption of these techniques hasn't been more widespread.

A recent cover story of business week—entitled "go team! The payoff from worker participation"—investigated this very question. Business week found that resistance often comes from both sides: management and labor.

Because participation means a larger decision-making role for employees, managers must give up some control and some resist this, even if it means squandering an opportunity for improved productivity. Employees often resist when the distrust of management runs deep.

And I must say, coming down from a decade-long binge of LBO's and takeovers that largely ignored employee interests, I don't blame employees for being skeptical at first.

I am convinced that Federal leadership is needed to cut a clean path through the hesitation and suspicion. The Employee Ownership and Participation Act of 1990 will provide that essential leadership.

This bill mandates the creation of a Federal office to facilitate and coordinate proactive employee programs in the States where fledgling programs exist, and to create new programs in the remaining States.

The ideal I think we must strive for is a democratic capitalism where our citizens are given more responsibility over their jobs and where employees have an ownership stake in their companies. As we approach this ideal, not only will we be a more productive society economically, but the lives of our citizens will be more meaningful and satisfying.

I urge my colleagues to support this effort.

By Mr. LIEBERMAN:

S. 2721. A bill to amend title 18 of the United States Code to give the Secret Service jurisdiction to assist in investigating certain financial crimes arising from the savings and loan crisis; to the Committee on Finance.

GIVING THE SECRET SERVICE JURISDICTION IN INVESTIGATING S&L CRIMES

Mr. LIEBERMAN. Mr. President, I rise to introduce a bill that would give the U.S. Secret Service authority to investigate fraud committed by savings and loan operators and other criminals in the financial services industry.

The savings and loan scandal is the crime of the century. I think it makes sense to get the Secret Service involved in finding out who caused it and making sure those who are to blame suffer. Savings and loan officers have literally mugged the American taxpayer, cheating him and her out of billions of dollars. But we risk letting them off the hook unless we commit the resources that are necessary to find out who committed the crimes and bring them to justice.

Mr. President, every man, women and child in this country will have to come up with more than $1,000 each to pay for the savings and loan scandal. The ultimate cost is going to be in the hundreds of billions of dollars. The Attorney General of the United States himself estimates that 25 to 30 percent of the savings and loan failures are actually attributable to criminal activity by thrift officers, not just to mistakes of judgment. Twenty-five to thirty percent of these hundreds of billions of dollars that you and I and everybody else in this country are going to have to pay is not the result of misjudgment, it is the result of criminal activity.

Those responsible for savings and loan fraud are common criminals, and they should be treated that way. The fact that they were officers of financial institutions in high-prestige jobs really makes their crimes all the more reprehensible.

We need as many sophisticated investigators as possible to uncover their sophisticated crimes. I think the Secret Service is just the group to help us in that effort.

Mr. President, the Federal Bureau of Investigation has been doing extraordinarily able work in investigating these savings and loan crimes, but the Bureau is truly overburdened with investigations. The backlog is understandably very, very large. In fact, the Bureau has been unable to initiate investigations of a large number of financial crimes, including over 1,000 cases that involve the loss of more than $100,000.

The Secret Service has a record in law enforcement of coordinating with the FBI in areas of common jurisdiction. This bill would give the Secret Service concurrent authority with the FBI to investigate savings and loan crimes. I am convinced that these two agencies can work together efficiently

to help us solve the savings and loan criminal cases.

I know that when most people think of the Secret Service, they think of the men with earpieces who surround the President of the United States in public appearances. But they are just the most visible portion of a large agency with significant experience in investigating financial crimes, such as counterfeiting, Government check forgery, and fraud related to the FDIC. In fact, 70 percent of Secret Service agents are assigned to criminal investigations, and their track record is an outstanding one. Let me just cite one example.

Eighteen months after the Secret Service was directed to address the problem of counterfeiting of credit card devices in 1984, industry losses were reduced from $200 million a year to $10 million a year. This is just the kind of track record that we want to bring to bear in the savings and loan crisis today.

I am pleased to say that I have consulted with officials at the Treasury Department and the Secret Service in preparing to introduce this legislation. The Secret Service has informed me that if this legislation is enacted, 100 agents can be made available immediately to begin investigating savings and loan fraud cases.

In other words, because of the critical importance of the savings and loan crisis, they would take 100 agents off other matters and put them into this top priority area immediately. A total of 300 agents would be made available as soon as possible. These are soldiers in a battle that all of America wants to see us win, and that is the battle against those individuals who, by their guile and deceit and criminal activity, have enriched themselves and will continue for years and years to come to force all of us in this country to pay and pay significantly. These are the people who put additional pressure on our already deficit-burdened economy as it tries to raise the money necessary to deal with the savings and loan problems.

So I would love to see these additional soldiers brought into this battle. I am convinced that they will help us find the culprits and force them to suffer in some small measure, just as all of us are going to suffer as a result of their deeds in the years ahead.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL AUTHORITY FOR THE SECRET SERVICE.

Section 3056(b)(1) of title 18, United States Code, is amended by—

(1) inserting "financial institutions, and the Resolution Trust Corporation, and concurrent with the authority of any other Federal law enforcement agency," and after "land bank associations,";

(2) inserting "215," after "213,";

(3) inserting "656," after "493,";

(4) inserting "1005," after "709,"; and

(5) inserting "1341, 1343, 1344, 1510," after "1014,".

SEC. 2. EFFECT OF AMENDMENTS.

The amendments made by this Act shall not alter the authority of any other Federal law enforcement agency.

ADDITIONAL COSPONSORS

S. 1299

At the request of Mr. SPECTER, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1299, a bill to establish a Police Corps program.

S. 1384

At the request of Mr. DASCHLE, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 1384, a bill to amend tile XVIII of the Social Security Act to provide direct reimbursement under part B of Medicare for nurse practitioner or clinical nurse specialist services that are provided in rural areas.

S. 1511

At the request of Mr. PRYOR, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1587

At the request of Mr. HELMS, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1587, a bill to amend the Internal Revenue Code of 1986 to provide for the designation on income tax forms of overpayments of tax and contributions to reward the return of a Vietnam POW/MIA.

S. 2244

At the request of Mr. GLENN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2244, a bill to prevent and control infestations of the coastal and inland waters of the United States by the zebra mussel, and other nonindigenous aquatic nuisance species.

S. 2283

At the request of Ms. MIKULSKI, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Washington [Mr. ADAMS], and the Senator from Florida [Mr. GRAHAM] were added as cosponsor of S. 2283, a bill to amend the Public Health Service Act to establish a program of grants for the prevention and control of breast and cervical cancer, and for other purposes.

S. 2415

At the request of Mr. DOMENICI, the names of the Senator from Idaho [Mr. SYMMS], the Senator from Iowa [Mr. HARKIN], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 2415, a bill to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Act of 1978.

S. 2675

At the request of Mr. KOHL, the names of the Senator from Montana [Mr. BURNS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Iowa [Mr. HARKIN], the Senator from Michigan [Mr. LEVIN], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 2675, a bill to amend title 13, United States Code, to provide for the enumeration in the census of members of the armed forces assigned outside of the United States, and for other purposes.

S. 2699

At the request of Mr. ROTH, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 2699, a bill to amend title 31 of the United States Code to restrict the use of appropriations amounts available for definite periods.

S. 2712

At the request of Mr. LIEBERMAN, his name was added as cosponsor of S. 2712, a bill to establish a Financial Services Crime Division in the Department of Justice.

SENATE JOINT RESOLUTION 195

At the request of Mr. CHAFEE, his name was added as a cosponsor of Senate Joint Resolution 195, a joint resolution proclaiming Christopher Columbus to be an honorary citizen of the United States.

SENATE JOINT RESOLUTION 263

At the request of Mr. HELMS, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

SENATE JOINT RESOLUTION 276

At the request of Mr. LIEBERMAN, the names of the Senator from Maine [Mr. COHEN] and the Senator from Idaho [Mr. MCCLURE] were added as cosponsors of Senate Joint Resolution 276, a joint resolution designating the week begining July 22, 1990, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 282

At the request of Mr. WILSON, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from

Montana [Mr. BURNS] were added as cosponsors of Senate Joint Resolution 282, a joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child."

SENATE JOINT RESOLUTION 293

At the request of Mr. RIEGLE, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Joint Resolution 293, a joint resolution to designate November 6, 1990, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 311

At the request of Mr. INOUYE, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 311, a joint resolution to designate the month of November 1990 as "National American Indian and Alaska Native Heritage Month."

SENATE JOINT RESOLUTION 312

At the request of Mr. ROBB, the names of the Senator from Idaho [Mr. SYMMS] and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 312, a joint resolution designating the week of November 12, 1990, through November 18, 1990, as "National Critical Care Awareness Week."

SENATE JOINT RESOLUTION 320

At the request of Mr. LAUTENBERG, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Florida [Mr. GRAHAM], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Senate Joint Resolution 320, a joint resolution designating July 2, 1990, as "National Literacy Day."

SENATE JOINT RESOLUTION 329

At the request of Mr. DECONCINI, the names of the Senator from Idaho [Mr. MCCLURE], the Senator from Maryland [Mr. SARBANES], the Senator from Washington [Mr. ADAMS], the Senator from New Jersey [Mr. BRADLEY], the Senator from Illinois [Mr. SIMON], the Senator from Indiana [Mr. COATS], the Senator from Wyoming [Mr. WALLOP], the Senator from Maryland [Ms. MIKULSKI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Joint Resolution 329, a joint resolution to designate the week of June 17, 1990 through June 23, 1990 as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-33," and to commemorate the Ukranian famine of 1932-33 and the policies of Russification to suppress Ukranian identity.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. KENNEDY, the names of the Senator from Illinois [Mr. DIXON] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of Congress that Greyhound Lines, Inc., and the Amalgamated Transit Union should pursue meaningful negotiations under the auspices of the Federal Mediation and Conciliation Service and the Secretary of Labor to resolve their dispute and restore vital transportation services to American communities.

SENATE RESOLUTION 298—RELATIVE TO THE PROSECUTION OF FINANCIAL INSTITUTIONS CRIME

Mr. WIRTH (for himself, Mr. RIEGLE, Mr. DIXON, Mr. GRAHAM, Mr. SASSER, Mr. LEVIN, and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 298

Whereas the savings and loan debacle is the largest financial crisis in our Nation's history;

Whereas fraud and other criminal activity contributed significantly to the savings and loan industry's losses and will cost taxpayers billions of dollars;

Whereas the Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of savings and loan failures can be attributed to criminal activity by the institution's officers and management;

Whereas officials at the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions the corporation has seized "have been victimized by serious criminal activity";

Whereas investigating and prosecuting criminal activity related to the savings and loan crisis will help send an important message of "never again" to those involved in the financial industry;

Whereas the Financial Institutions Reform, Recovery and Enforcement Act of 1989 authorized $75,000,000 annually for 3 years to investigate and prosecute financial institution crimes;

Whereas the President requested only $50,000,000 of that authorization on behalf of the Department of Justice for the current fiscal year;

Whereas the Federal Bureau of Investigation and United States Attorneys' offices requested 224 more special agent positions, 113 more assistant United States attorney positions, and 142 more support staff positions than the agencies received as a result of the $50,000,000 in new funding;

Whereas the Federal Bureau of Investigation has received more than 20,000 referrals involving fraud in the financial services industry that the Bureau has been unable to examine, more than 1,000 of which are major cases that involve losses of more than $100,000;

Whereas as of February 1990, the Bureau also had more than 7,000 pending bank fraud and embezzlement cases, some 3,000 of which were major cases;

Whereas more than 900 pending cases and more than 200 unaddressed referrals involve losses greater than $1,000,000;

Whereas regulators will examine and close more insolvent institutions, and the Department of Justice will receive thousands more referrals of possible criminal activity related to savings and loan failures, increasing the workload for Federal investigators and prosecutors;

Whereas the passage of time makes investigation more difficult and expiring statutes of limitation could allow serious crimes to go unpunished if investigation and prosecution is delayed; and

Whereas the current level of resources devoted to investigating and prosecuting fraud and criminal activity within the financial services industry is inadequate to address the crimes that contributed to the losses of savings and loan associations: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President should, at a minimum, see the full $75,000,000 authorized by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 for fiscal years 1991 and 1992 to pursue the investigation and prosecution of financial institution crimes; and

(2) the President should allocate additional resources as necessary to ensure that criminal activity that contributed to losses to the Federal deposit insurance funds is investigated and prosecuted to the fullest practicable extent.

● Mr. WIRTH. Mr. President, today, I am offering a resolution calling upon the President to seek the full $75 million authorized by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] to pursue the investigation and prosecution of financial institution crimes. The resolution also requests that the President allocate additional resources as necessary to ensure criminal activity that contributed to losses to the Federal deposit insurance funds is investigated and prosecuted to the fullest practicable extent.

The savings and loan debacle is the largest financial crisis in the Nation's history. Illegal activity was widespread within the thrift industry and will cost taxpayers billions of dollars. Taxpayers rightfully expect the Federal Government to vigorously pursue individuals whose illegal activities contributed to the industry's losses. If we are serious about sending a message of "never again" to those involved in the financial industry, we must aggressively investigate and prosecute criminal activity related to the S&L crisis. We cannot let those in the financial services industry believe the Government will cover any loss—no matter how big—and then let the perpetrators go unpunished.

Mr. President, the need for additional resources to send that message is well documented. There is no question that fraud and insider abuse by S&L owners and management contributed significantly to the problem we now face.

Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the S&L industry and said

that at least 25 to 30 percent of thrift failures can be attributed to criminal activity by S&L officers. Criminal activity played a lesser role in many more thrift failures and a General Accounting Office study examined 26 thrift failures and found activities at each insolvent institution that appeared to be fraud and insider abuse. In its work thus far, the Resolution Trust Corporation has estimated that about 60 percent of the institutions it has seized "have been victimized by serious criminal activity."

As a result of this fraud and abuse, Mr. President, the FBI and U.S. attorneys are facing a heavy workload. The FBI has received more than 20,000 referrals involving fraud in the financial services industry that the Bureau has been unable to examine. More than 1,000 of these cases are major that involve losses of more than $100,000. As of February, the Bureau also had about 7,000 active pending bank fraud and embezzlement cases, some 3,000 of which were major. More than 900 of the pending cases and more than 200 of the unaddressed referrals involve losses greater than $1 million.

Clearly the Department of Justice faces a large caseload and it is growing rapidly. Mr. Timothy Ryan, the new Director of the Office of Thrift Supervision, recently informed me that bank and thrift regulators were sending the Department of Justice 8,000 referrals per month regarding civil and criminal violations and that there were now 80,000 cases pending. These numbers are astounding and cannot be ignored.

Last year FIRREA authorized $75 million annually for 3 years to investigate and prosecute financial institution crimes. However, the administration requested only $50 million for the current fiscal year. The $50 million provided for fiscal year 1990 was used to increase staff in FBI and U.S. attorneys' offices throughout the country. Unfortunately, the funding was inadequate. The personnel added with the $50 million do not meet the staffing needs identified in a recent FBI survey. In this survey, FBI and U.S. attorneys' offices requested 224 more FBI agents, 113 more assistant U.S. attorney positions, and 142 more support staff positions than the agencies received.

I am convinced that we need to provide our law enforcement agencies with additional resources to investigate and prosecute criminal activity in the S&L industry that contributed to taxpayer losses. At a minimum, we must seek the full resources authorized by FIRREA. I will continue to pursue this goal.

My resolution would send an important message to the American people, the President and administration, and those involved in the financial services industry that fraud and other criminal activity involved in the savings and loan crisis must be vigorously investigated and prosecuted. The proposal will help us fulfill the commitment we made to the American people in FIRREA to target and prosecute criminal activity within the S&L industry. The American taxpayers deserve nothing less.

Mr. President, I am pleased that Senators DIXON, GRAHAM, RIEGLE, SASSER, LEVIN, and LIEBERMAN are original cosponsors of the resolution. I urge my colleagues to join us in this effort.●

SENATE RESOLUTION 229—EXPRESSING GRATITUDE TO EUNICE KENNEDY SHRIVER

Mr. MITCHELL (for himself, Mr. DOLE, Mr. DODD, and Mr. DURENBERGER) submitted the following resolution; which was considered and agreed to:

S. RES. 299

Whereas Eunice Kennedy Shriver, through the establishment of Special Olympics and her pioneering efforts on behalf of people with mental retardation, has united the world in understanding the great human potential in all people;

Whereas Eunice Kennedy Shriver, through her life work, has created a new consciousness that people with mental disabilities have the inalienable right to live, learn, work and play in an environment of equality, respect and acceptance;

Whereas Special Olympics—founded on the conviction that people with mental disabilities benefit physically, mentally, socially and spiritually from sports training and competition—has strengthened families, inspired volunteers and united the world community at large, through both participation and observation;

Whereas Special Olympics, through the universal medium of sport, encourages all its participants to recognize individual achievement by extending the limits of personal potential;

Whereas the Spirit of Special Olympics—skill, courage, sharing and joy—incorporates universal values which transcend all boundaries of geography, nationality, political philosophy, gender, age, race or religion;

Whereas Eunice Kennedy Shriver's energy, commitment and love have been the guiding spirit of the Special Olympics since she created it twenty-two years ago: Now, therefore, be it

Resolved, That the United States Senate, upon the announcement of her decision to step down as Chairman of Special Olympics International, expresses its admiration, support and gratitude to Eunice Kennedy Shriver for her dedicated efforts as a pioneer leader of sport and for her vision in blazing a trail of dignity, hope and respect for persons with mental disabilities throughout America and the world.

AMENDMENTS SUBMITTED

AIR TRAVEL RIGHTS FOR BLIND INDIVIDUALS ACT

GORTON AMENDMENT NO. 2013

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill (S. 341) to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel, as follows:

On page 2, strike lines 1-8 and insert in lieu thereof the following:

"That this Act may be cited as the "Air Travel Rights Act of 1990".

"SEC. 2. Section 404(c) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1374(c)) is amended by adding a subparagraph (3) at the end thereof as follows:

" '(3) An air carrier shall make available seating in the exit rows of air carrier aircraft in a safe and non-discriminatory manner as follows: no person may be denied seating in such rows unless it is likely that such person would be unable to perform one or more of the following functions without assistance in the event of an emergency:

" '(1) Locate the emergency exit;

" '(2) Recognize the emergency exit opening mechanism;

" '(3) Comprehend the instructions for operating the emergency exit;

" '(4) Operate the emergency exit;

" '(5) Assess whether opening the emergency exit will increase the hazards to which passengers may be exposed;

" '(6) Follow oral directions and hand signals given by a crewmember;

" '(7) Stow or secure the emergency exit door so that it will not impede use of the exit;

" '(8) Assess the condition of an escape slide, activate the slide, and stabilize the slide after deployment to assist others in getting off the slide;

" '(9) Pass expeditiously through the emergency exit; and

" '(10) Assess, select, and follow a safe path away from the emergency exit.

" 'In making any decision to deny seating under this subparagraph, an air carrier must first determine that it is unlikely that the person would be unable to perform a function unassisted because—

" '(1) The person lacks sufficient mobility, strength, or dexterity in both arms and hands, and both legs:

" '(i) To reach upward, sideways, and downward to the location of emergency exit and exit-slide operating mechanisms;

" '(ii) To grasp and push, pull, turn, or otherwise manipulate those mechanisms;

" '(iii) To push, shove, pull, or otherwise open emergency exits;

" '(iv) To lift out, hold, deposit on nearby seats, or maneuver over the seatbacks to the next row objects the size and weight of over-wing window exit doors;

" '(v) To remove obstructions similar in size and weight to over-wing exit doors;

" '(vi) To reach the emergency exit expeditiously;

" '(vii) To maintain balance while moving obstructions;

" '(viii) To exit expeditiously;

" '(ix) To stabilize an escape slide after deployment; or

"'(x) To assist others in getting off an escape slide;

"'(2) The person is less than 15 years of age or lacks the capacity to perform one or more of the applicable functions listed above without the assistance of an adult companion, parent, or other relative;

"'(3) The person lacks the ability to read and understand instructions related to the emergency evacuation provided by the air carrier in printed, handwritten, or graphic form or the ability to understand oral crew commands in the English language;

"'(4) The person lacks sufficient visual capacity to perform one or more of the applicable functions listed above without the assistance of visual aids beyond contact lenses or eyeglasses;

"'(5) The person lacks sufficient aural capacity to hear and understand instructions shouted by flight attendants, without assistance beyond a hearing aid;

"'(6) The person lacks the ability adequately to impart information orally to other passengers; or

"'(7) The person has:

"'(i) A conditioning or responsibilities, such as caring for small children, that might prevent the person from performing one or more of the applicable functions listed above; or

"'(ii) A condition that might cause the person harm if he or she performs one or more of the applicable functions listed above.'".

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources to receive testimony on S. 1765, the Mid-Dakota Rural Water System Act of 1989, and S. 2710, a bill to authorize the Secretary of the Interior to construct the Lake Andes-Wagner and Marty II Units in South Dakota.

The hearing will take place on June 19, 1990, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to subcommittee, SD-364, Washington, DC 20510.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224-2366.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on June 21, 1990, beginning at 2 p.m., in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 2680, a bill to provide for the relief of certain persons in Stone County, AR, deprived of property as a result of a 1973 dependent resurvey by the Bureau of Land Management.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, SD-364, Washington, DC 20510.

For further information regarding the hearing, please contact Tom Williams of the subcommittee staff at (202) 224-7145.

ADDITIONAL STATEMENTS

CHINA AND MFN

● Mr. RIEGLE. Mr. President, last year, on June 4, thousands of unarmed Chinese students were killed in the massacre at Tiananmen Square. This brutal act of repression of the human spirit by the Chinese Government has been indelibly eteched on the Chinese consicousness and will never be forgotten.

In the 12 months that have passed since Chinese troops fired on the pro-democracy demonstrators, events in China have not improved. The respected human rights organization Asia Watch reports that "anywhere between 10,000 and 30,000 people * * * remain behind bars on account of their pro-democracy activities last summer." There have also been 40 announced executions of demonstrators and possibly 70 more secret executions. In addition, torture has been widely used to extort confessions for crimes which protestors did not commit. Even Chinese students in America have been monitored and harassed, reportedly by Chinese officials.

In Eastern Europe, the revolutions of 1989 were remarkable because they represented a worldwide trend toward democracy. During 1989, only in China, did such a revolutionary event slow the pace of democratic change.

America must not encourage these negative developments which have enveloped China in the wake of the Tiananmen Square tragedy. Unfortunately, rather than promoting reconciliation between Chinese authorities and the Chinese people, the United States Government, through its actions, has emboldened the Chinese authorities to pursue their heavy-handed, inhumane policies.

Reversing a firm early stand, the Bush administration has made several concessions to China's authoritarian government. On two occasions last year, President Bush sent National Security Adviser Brent Scowcroft and Deputy Secretary of State Lawrence Eagleburger to meet with China's leaders—the same butchers of Beijing who ordered the massacre. Because the American people would not have supported such a mission while China's brave students were being jailed, the first trip was made in secret.

Furthermore, earlier this year, President Bush vetoed legislation which would have extended visas for Chinese students studying in America who felt threatened by returning to a post-Tiananmen Square China. Although in the face of severe criticism President Bush finally issued an executive order allowing Chinese students to remain in the United States, Beijing still thumbed its nose at our country by placing new restrictions on students seeking to study abroad.

The United States must not make any further concessions. We can, however, play a constructive role by continuing to make clear to China that any improvements in relations require that it demonstrate a respect for the fundamental rights and liberties of its citizens.

Still, the administration has decided to grant most favored nation trade advantages to the Chinese Government without any progress on its human rights record. This sends precisely the wrong message at the wrong time. Until China releases the thousands of political prisoners held in the wake of the Beijing massacre, we should not unconditionally grant MFN status. By renewing MFN, we are only empowering the hard-liners, such as Li Peng, by showing international support for their policies. And, even if we are concerned with the impact upon United States-Chinese relations, we must realize that granting MFN is an expression of tacit support for the failed policies of Beijing's which have cursed China with economic stagnation.

Any attempt to gain good will from China's octogenarian leaders by granting MFN is also bound to backfire. Because Li Peng and Deng Tsiao Ping have reached the twilight of their lives, any political benefit President Bush could possibly extract will necessarily be short lived.

America must recognize that by granting MFN, we are subjugating the lasting values of freedom and democracy to the financial expediency of the moment.

While I welcome the Chinese Government's recent release of about 300 prisoners, this improvement is primarily in appearance. It should not divert our attention from the thousands still held in prison or those tortured or killed for only their political views.

On Sunday, June 3, hundreds of people gathered at a rally in Detroit, MI, to remind the Nation of the events of 1 year ago and the continuing repressive policies of China. Although I was unable to attend this important event, I stand firmly behind those in Michigan and around the country who would like to see the United States take a firmer stand in our relations with China.

America must be staunch in its support for human rights in China. Only by reversing the failed policies of the Bush administration, can the United States be true to its values while helping the prodemocracy demonstrators still in jail.

Today, the situation in China may appear calm and orderly on the surface, but we know that the Chinese people are anything but calm. The memory of last year's tragedy is still vivid in the minds of millions of Chinese. While this notion of freedom and democracy burns within the hearts and minds of China's youth, true emancipation for China cannot be far.●

EARTH DAY

● Mr. JEFFORDS. Mr. President, during the recent celebration of the 20th anniversary of Earth Day, efforts were made throughout this Nation to heighten awareness of growing environmental problems facing this planet. From rallies to demonstration to community projects, people worked together to encourage recycling, pollution prevention, and other important initiatives needed to reverse degradation taking place on this Earth.

While people of all ages were involved in Earth Day activities, a striking number of children and young adults expressed recognition of the importance of this event and the need to work now to protect the Earth's resources for their future. I was truly impressed with the foresight of these students about the need for a unified effort to reverse trends and habits which cause harm to the evironment.

Toward that end, I would like to submit for the RECORD a resolution adopted by students at Lake Region Union High School in Orleans, VT. Their resolution outlines goals for Congress in regard to pollution prevention, education, enforcement, and preservation. Recognizing the implications of individual choice, the students call upon themselves to be better informed, to make intelligent choices and to participate in the decisionmaking process.

These students make up our future, and we must pay attention to their concerns about what this world will be like as they become adults, and what it will be like for their children. Unfortunately, we cannot change what we have done in the past, but we can begin efforts to correct the past damage to the environment and minimize any future damage in order to provide a better place to live when they are the leaders of this country. Mr. President, we must listen to students like those at Lake Region Union High School, for they are our future and will inherit the imprints we leave on the Earth.

The resolution follows:

EARTH DAY RESOLUTION: LAKE REGION UNION HIGH SCHOOL, ORLEANS, VT

We, the students and staff of Lake Region Union High School, recognize that we and all living beings depend upon the Earth. We must recognize that we share a common bond, and go beyond acting only for selfish or personal reasons. We must recognize the things that we are doing that are making the Earth uninhabitable, for people and for many species of life. We must accept responsbility for the actions that we take, and develop common principles that will shape our future in harmony with the Earth.

We call upon our representatives in the national government to: make concern for the maintenance and protection of our environment a first consideration when discussing legislation; call for the ban of all chemicals harmful to the environment, or mandate that provisions be developed and established for their safe disposal before they are able to be produced; demand strict enforcement of all environmental laws, requiring that pollutors bear the financial burden for necessary clean-up and face punitive damages; provide generous incentives for the research and development of recyclable materials and renewable sources of energy; and, increase our national investment in the preservation of wilderness areas.

We call upon ourselves to: recognize that our actions directly impact upon our neighbors, and the global community; choose to purchase recyclable and biodegradable products, and avoid those that are not; participate in school and community recycling programs, and encourage our friends to also participate; and, be willing to speak out when we see others who are spoiling our environment.

All people, and all living beings, have the right to a healthful environment. We recognize that it is our duty to protect this right, for ourselves and for future generations.●

NATIONAL AGRICULTURAL RESEARCH WEEK

● Mr. GLENN. Mr. President, I am very happy to be a cosponsor of Senate Joint Resolution 321, which would designate the week of August 19 through 25, 1990, as "National Agricultural Research Week."

Agricultural research has created an incredible diversity of improved crops that resist drought and disease. It has increased production of our agricultural commodities and given us new and better machinery to aid in everything from preplanting to post-harvest.

The trend in agricultural research is to find new ways to use the commodities we are now producing in abundance. My own bill, S. 1237, the "Degradable Commodity Plastics Procurement and Standards Act of 1989," promotes the use of one such new product—degradable plastics made from corn. In the future we will see the development of other alternative uses of agricultural commodities such as ethanol and soybean oil ink.

We have always relied on agricultural research to find ways to increase the volume of good that we produce. Now we are calling upon our research scientists to find ways to improve the safety and quality of the food we produce. Today, new methods in biotechnology are emerging as practical tools for development of plants and animals with improved nutrient content.

In our changing world, we have an increasing need to turn to agriculture to generate a sufficient, safe supply of food and fiber and at the same time carry out responsible stewardship of our natural resources. Agricultural researchers will have the lead in finding answers to environmental problems such as global warming and solid waste management. Research into alternative methods of agriculture will show farmers ways to limit use of agricultural chemicals, thereby reducing the potential for groundwater contamination while decreasing the cost of production.

Declaring a National Agricultural Research Week will reinforce the importance of agricultural research and enable us to celebrate the richness that the scientific community has given us.●

ENROUTE WITH AN "EDUCATION PRESIDENT": NOTES AND QUOTES

● Mr. SIMON. Mr. President, recently, Father John W. Donohue, S.J., an associate editor of American magazine, wrote an article in that publication about where we are in the field of education.

It is not encouraging reading, and I do not know of anyone who follows the American scene today, who believes that we are in the kind of shape we ought to be.

You do not have to agree with every point expressed by Father Donohue to recognize that his implied call for improved quality is one we ought to heed.

I ask that it be printed in the RECORD at this point.

The article follows:

[From American magazine, Apr. 7, 1990]

ENROUTE WITH AN "EDUCATION PRESIDENT": NOTES AND QUOTES

(By John W. Donohue)

Both saints and poets—Ignatius Loyola, for instance, and Robert Burns—have pointed out that it is a blessing to see ourselves as others see us. The Jan. 13 issue of the British Catholic weekly, The Tablet, provided U.S. readers with just such a discomforting grace. In a review of a book by two U.S. ecologists, The Tablet's Eastern European correspondent, Anatol Lieven, remarked

that these writers offer sensible suggestions for reforming American education so as to make it more aware of environmental threats like the greenhouse effect. Then Mr. Lieven tossed in a parenthetical observation of his own: "Whether the political institutions of the United States still possess enough coherence to carry out educational or any other major reforms seems, however, very doubtful."

Stung by a criticism they cannot quite dismiss, many Americans might concede that Mr. Lieven has a point, but President George Bush certainly would not. He is so sure the schools can be reformed that he has set a timetable for this revolution.

In his 1988 campaign speeches, Mr. Bush regularly said, "I do want to be the education President . . . to make us No. 1 in education all around the world." Two days before his inauguration, he assured a group of teachers visiting Washington that he still meant what he had said: "Education will be on my desk and on my mind right from the start every day." Perhaps it will, because the President's concern is utilitarian. He told several hundred business leaders meeting in Washington last June: "You know the bottom line: We can't have a world-class economy with second-class schools."

Some of the thoughts about education from the Presidential desk turned up in the Jan. 31 State of the Union Message: "By the year 2000, every child must start school ready to learn. The United States must increase the high school graduation rate to no less than 90 percent. And we are going to make sure our schools' diplomas mean something. In critical subjects, at the fourth, eighth and twelfth grades, we must assess our students' performance. By the year 2000, U.S. students must be the first in the world in math and science achievement."

The President conceded that these are "ambitious" goals, but he also seemed to think they are within reach. So did House Speaker Thomas S. Foley (D., Wash.) in the Democratic response to the Presidential message, although he did put it more cautiously: "We will set a national goal of making our schools once again the best in the world by the year 2000."

Not to be outdone in displays of groundless optimism, the governors of the 50 states in a statement issued during their February meeting endorsed Mr. Bush's schedule: "America's educational performance must be second to none in the 21st century. A new standard for an educated citizenry is required."

Sure enough. But setting goals is easy; what counts is attaining them. There are not many others who imagine that it is possible to accomplish in 10 years what the President, the Speaker and the governors so confidently intend. Put aside the undemonstrated and indemonstrable proposition that U.S. schools were once in some Golden Age the world's best. What is certain is that becoming first in math and science within the next 10 years as well as second to none in overall performance would be the academic equivalent of landing a spaceship on the moon. There is not enough time, not enough money and not enough national determination.

Not enough time. Two years ago, the International Association for the Evaluation of Educational Achievement reported the results of science tests given in 1986 to 200,000 of the best secondary school students in 24 industrialized nations. The young people from Hong Kong, Singapore and England were at the top of the list and the U.S. high school seniors at the bottom. This international report card, said William J. Bennett, who was U.S. Secretary of Education at that time, showed that U.S. students, compared with those of the other countries, were not only not improving, but doing worse: "They're in reverse and going downhill."

The outlook was not much brighter in the non-scientific humanities. The common schooling that is supposedly shared by all Americans requires much more than science and mathematics. For instance, since public schools do not include the study of religion in their curriculum, they should presumably want to take special care with the teaching of literature and history because these subjects, besides being of first importance themselves, can easily make room for some reflection on moral values. Yet here too U.S. teen-agers appear to be guided by the warning of Ecclesiastes: "In much wisdom there is much sorrow, and he who stores up knowledge stores up grief" (1:18).

Such at least is the dismal news from the National Assessment of Educational Progress (N.A.E.P.), a Federally funded project under the Education Department's umbrella. It was set up in 1969 for taking the academic temperature of the elementary and secondary school systems by nationwide testing in various subjects at regular intervals. The tests are administered under contracts by a nonpublic enterprise, the Educational Testing Service in Princeton, N.J., the white-collar industry that also brings college-bound students the Scholastic Aptitude Tests.

In 1986, two of these assessments measured the knowledge of history and literature possessed by a representative sample of 7,812 seventeen-year-olds in public and private schools. The non-exhilarating findings were twice reported in September 1987: briefly by Lynne V. Cheney, chairman of the National Endowment for the Humanities which had funded the survey, and at length by Diane Ravitch and Chester E. Finn Jr. in "What Do Our 17-Year-Olds Know?"

On the history portion of the test, the average score was 54.5 percent correct and on the literature portion, 51.8 percent correct. That means, as Professors Ravitch and Finn reminded anyone not paying attention, that if 60 percent is taken as a passing mark, the "average student" flunked both tests.

The press, aiming like the Fat Boy in "Pickwick Papers" to make the flesh creep, highlighted the more spectacular misses: 68 percent of those questioned could not situate the Civil War within the correct half-century, and about a third thought Columbus had discovered the New World after 1750. Eighty-four percent could not identify Dostoevsky as the author of "Crime and Punishment," and 67 percent could not say in what part of the United States the novels of William Faulkner are set.

Alongside the N.A.E.P. reports, there are cries of alarm from indignant representatives of special interest. For example, in an October 1987 speech to the Detroit Economic Club, David T. Kearns, chairman of the Xerox Corporation, said his company expects "100 percent defect-free parts" from its suppliers. Then he made an unflattering comparison that amounted to an indictment: "The public schools are the suppliers of our workforce, but they're suppliers with a 50-percent defect rate. A fourth of our kids drop out [that is, before finishing high school]; another fourth graduate barely able to read their own diplomas." The public schools, he added, are a "failed monopoly," and one result is that U.S. business and industry must each year hire one million workers "who can't read, write or count," and then spend $25 billion annually teaching these innocents those basic skills.

A little more than a year later, Paul A. Volcker, former chairman of the Federal Reserve, was complaining about the danger of economic illiteracy. He presided over a press conference called to announce the results of a survey sponsored in the spring of 1988 by the Joint Council on Economic Education. The 8,205 high school students who took a multiple-choice test dealing with basic economic concepts did so poorly that Mr. Volcker, who did say that he himself had not studied economics in high school, concluded: "The news is not good if you believe that a basic understanding of our economic system is important if this country is indeed to be effective in what everyone realizes is a period of global competition."

Not that the young are reassuringly conversant even with highly publicized global affairs. During "America's Kids: Why They Flunk," an ABC-TV documentary broadcast Oct. 3, 1988, a scandalized Barbara Walters reported that nearly all the 200 seventeen-year-olds surveyed a week earlier knew who Michael Jackson is, but less than half could identify the Ayatollah Khomeini. One youth was game enough, however, to venture the guess that this might be a Russian gymnast. Mention of Chernobyl drew a blank with two-thirds of those questioned, although someone thought it was Cher's full name.

Of course, not all professional educators are unnerved by these lurid fragments. Mary Hatwood Futrell, an effective publicist who was president of the National Education Association from 1983 to 1989, has argued that a 1989 N.A.E.P. report, "Crossroads in American Education," was actually bracing because it showed that "Virtually all 17-year-old students in U.S. schools can add, subtract, multiply, and divide using whole numbers. They know basic science facts and principles. They've mastered the rudiments of reading."

But for high school seniors, these are hardly dazzling accomplishments, and Mrs. Futrell herself conceded that the same report makes it clear that "our schools are failing to educate most students beyond the basics." Moreover, the N.A.E.P. continues to rattle the public schools establishment with bulletins of gloom. In January of this year, for instance, it reported that a 1988 survey of 100,000 students ranging in age from 9 to 17 showed these subjects doing little better on reading and writing tests than did an earlier group measured in 1971.

In announcing these findings, Secretary of Education Lauro F. Cavazos concluded that the reading and writing skills of U.S. children continue to be "dreadfully inadequate." Then he continued: "If anyone still doubts that it is time for change at an elemental, fundamental level, these data should be persuasive. I have said it repeatedly, our educational system must be restructured. We need a revolution in teaching and learning."

The system, however, includes more than 15,000 local school districts, some large and some small, some urban and some rural, some rich and some poor. If the revolution has not yet begun, there is no chance that most of these districts will have been turned around by the year 2000.

Not enough money. Mr. Cavazos did not say what Democrats and professional educators are constantly saying more or less bitterly: The school revolution will require spending much more money at all levels of government. Most of the cost of public schooling will continue to be borne by the states and localities, but critics charge that the Bush Administration's education budget for fiscal 1991 is altogether too stingy.

"You can't become the education President," said Speaker Foley, "with all the problems we face by proposing a meager 2-percent increase in the education budget. That's a fact. And for all the talk, that's exactly what the President proposes to do." Marc S. Tucker, head of a think tank called the National Center for Education and the Economy, underlined the fearful social reality that ought to create far greater anxiety than low test scores: "The math and science goal is critical, but reaching it with 20 percent of our kids living in poverty is ludicrous."

A 1958 Rockefeller Brothers Fund report calling for excellence in education and thereby catapulting that word into the vocabulary of college presidents nationwide, admitted in a realistic moment: "All of the problems of the schools lead us back sooner or later to one basic problem—financing." Mr. Bush, however, finds this neither an agreeable nor a credible proposition. He does not think money is either the principal question or the indispensable answer in school reform.

A year ago this month, in a speech before education officials gathered from eight states in a school gymnasium in Union Township, N.J., the President noted that he had asked Congress to increase by $441 million the $21.9 billion that Mr. Reagan had requested for education in the 1990 budget. Then combining moralizing with politics, he added: "A society that worships money—or sees money as a cure for all that ails it—is a society in peril. And we must do more than wish we had more to spend. Because the challenge of education reform suggests something more fundamental than money. We already spend $330 billion a year overall on education. That's more than we spend on defense."

That last sentence voiced one of Mr. Bush's favorite themes. In his speech to the governors at the education summit in Virginia last September, he claimed the United States "lavishes unsurpassed resources on schooling."

That claim was shredded by two economists, M. Edith Rasell and Lawrence Mishel, in an article for the Feb. 4 issue of The Washington Post. This was a summary of a report these researchers prepared for a nonpartisan organization, the Economic Policy Institute, in which they compared U.S. expenditures for education in 1985 with those of 15 other industrialized nations.

It is true, these specialists wrote, that U.S. spending on all levels of education from preschools to universities "amounted to 6.8 percent of national income in 1985, putting us in a three-way tie for second place among the 16 developed countries studied. By this measure it appears that only Sweden spends a larger share of national income on education; Canada and the Netherlands spend equivalent amounts."

But that comparison is misleading. The United States spends far more on higher education than other nations do because it has a larger percentage of college-age youth enrolled in some form of post-secondary schooling. It is this outlay that raises the total bill. But when it is a question of overall spending for public and private schooling from preprimary to Grade 12, the United States is tied for 12th place and drops to 14th place when expenditures are adjusted to reflect differences in enrollment rates.

Spokesmen for the Education Department promptly dismissed the Economic Policy Institute report as "bogus" and a mixing of "apples, oranges and moonbeams to produce an indigestible concoction." For his part, the President will certainly ignore an analysis that embarrasses his education policy. For instance, he uses the argument that the Federal Government cannot afford to spend more on schools to escape this political dilemma: how to maintain that he favors parental choice in education without at the same time proposing some constitutionally acceptable way of extending that choice to include private schools.

It is to the President's credit that he is not one of those politicians who conveniently forgets that in the United States there are two distinct but complementary school systems, the public and the non-public, each of which runs from the nursery class to the graduate seminar. Although the non-public system is small compared to the public, it is still impressively large in itself. In 1988-89, an estimated $196 billion was spent for the education of the nation's 46 million elementary and secondary school students, of whom about 11 percent were enrolled in nonpublic schools. The public schools employed two million teachers; the non-public, 400,000—more people than there are in the state of Wyoming.

George Bush spent five years at one of the best known New England prep schools, Philipps Academy in Andover, Mass. When he returned there last autumn for an academic convocation, he said: "I loved those years." Even now, he went on, Andover's "lessons of honesty, selflessness, faith in God—well, they enrich every day of our lives."

He is not much interested, though, in helping middle- and lower-income families provide similar enrichment for their children by enrolling them in a non-public school of their choice. Practically speaking, his view of private schooling is aristocratic: You can have it, if your parents can pay for it.

At the White House in March 1989, he met with 75 high school students, and when one of these asked if the President thought families sending their children to nonpublic schools should receive a tuition tax-break, Mr. Bush replied: "No, they shouldn't. I've been intrigued with the concept of tuition tax credits and some say, well, should that include parochial schools? And I've said, yes, but the problem again is that we can't afford to do that. So I think that everybody should support the public-school system and then, if on top of that your parents think that they want to shell out, in addition to the tax money, tuition money, that's their right and that should be respected. But I don't think they should get a break for that."

There is no likelihood, then, that the Administration is going to revise its thinking and greatly enlarge the education budget. It is even less likely that it is going to advocate even a modest tuition-tax credit and thereby risk provoking Representative Augustus F. Hawkins, the California Democrat who is the veteran chairman of the House Education and Labor Committee and an unyielding opponent of any plan for aiding families who choose private schools. And although Mr. Hawkins and his Congressional colleagues may give the President somewhat more than his education budget asks for, they will not call for any really substantial increases.

Neither will the states. As Michael de Courcy Hinds reported in a New York Times front-page story on March 4, more than half these states are facing revenue shortfalls and serious budgetary problems this year because the economy, as the carefully neutral phrase has it, is cooling down. In this chilly climate, most governors would not consider increasing state taxes, and they think the Administration has compounded their difficulties. The Democratic Governor of Connecticut, William A. O'Neill, told the Times reporter: "President Bush has said 'No new taxes' so often that people now honestly believe they can get all kind of services without paying for them."

Not enough determination. Since there is little use in lingering over the intractable question of funding, one might as well turn to Mr. Bush's observation that the challenge of educational reform implies something more fundamental than money. No doubt it does. For one thing, it raises the question of just what those critical subjects are to which the President alluded in his State of the Union speech, the ones that graduates must have mastered "to make sure our schools' diplomas mean something."

When he was Education Secretary, William Bennett answered that question by sketching the curricula of two ideal institutions that he called the James Madison Elementary School and the James Madison High School. For these imaginary places he outlined a stiff academic program in seven areas: English, Social Studies (history, geography and civics), Mathematics, Science, Foreign Language, Fine Arts and Physical Education/Health.

Mr. Bennett's recommendations usually created a racket in public school officialdom, but these blueprints were not controversial because most schools claim they are already teaching these subjects. Indeed, the governors of the states at their February meeting announced that by the year 2000 students will be expected to demonstrate, at the fourth, eighth and 12th grade levels a mastery of such disciplines as English, mathematics, science, history and geography.

If the governors took those measurements this year, however, they would find that although every sizable public school system offers all these subjects, it does not offer equal portions of them to every student. In large high schools, only those sauntering along the college preparatory track follow the full program that Mr. Bennett's dream school would prescribe for everyone.

As though this were not discouraging enough, Mr. Cavazos said at a news conference last May that approximately 3,600 young people drop out of school on an average class day. Moreover, if those National Assessments are reliable, many who do finish 12th grade have not learned as much as their elders would have hoped—although they may have learned as much as those elders themselves did.

Predictably enough, there is professional squabbling about the responsibility for this low state of academic affairs. According to a survey made last year by the Carnegie Foundation for the Advancement of Teaching, college faculties accuse the lower schools of sending them "inadequately prepared" students. A year earlier, however,

the same foundation polled 20,000 public school teachers across the country and learned that 90 percent of them blamed parents for not giving schools sufficient moral support.

Those teachers' complaints may be justified. There is no hard evidence that the U.S. public is much interested in a school revolution, even a limited one. In Britain a few years ago, Sir Rhodes Boyson, a Conservative M.P. with a background in education, said: "I would close any school where most of the children were not reading by the age of seven." In the United States, no school board would talk so roughly. Even mildly innovative steps, like denying a driver's license to high school students who are under 18 and not in good academic standing, have stirred outraged protests, and not just from aggrieved teen-agers.

Of course, hundreds of schemes for piecemeal reform have been proposed, although not widely adopted. There are, for example, proposals for giving teachers more control over schools or for luring businesses and industries into cosponsorship of experimental plans. There are suggestions for modest curricular increments. Two months ago, for instance, New York State's Education Commissioner, Thomas Sobol, announced rather vaguely that he intends to revise the history and social studies curricula in the state's public schools so as to give more attention to the "ethnic, cultural and linguistic differences" in the United States and specifically to the contributions of African Americans and Latin Americans.

There is also talk of instituting a national curriculum, a step Great Britain is currently taking. This would not mean surrendering the principle of local control of public schools, but only of asking these schools to follow a standardized curriculum and to measure the effectiveness of their teaching by administering standardized national tests. Last year, the annual poll of the public's attitudes toward public schools that the professional education fraternity, Phi Delta Kappa, sponsors found that impressive majorities of those questioned were in favor of these innovations.

A national curriculum is unlikely to be adopted, however, except on a voluntary basis, and to require it of all students might provoke riots. In any case, no polls have shown a public demand for transforming rather than simply adjusting the present school system. It could not be otherwise. Schools exist to pass on a people's way of life. They cannot change greatly until the society they reflect and serve is ready to change itself. So far there is no sign of any such national determination; there scarcely could be in a country of 250 million people.

What Gertrude Stein said about Picasso may apply here with melancholy precision: "To complicate things in a new way, that is easy, but to see things in a new way, that is really difficult, everything prevents one: habits, schools, daily life, reason, necessities of daily life, indolence, everything prevents one, in fact there are very few geniuses in the world."

Perhaps then there will be no major reforms in American life, politics and education until some geniuses appear who can inspire their fellow citizens without subjugating or mesmerizing them. Until that unlikely event, the doubt voiced by The Tablet's Mr. Lieven will probably remain unresolved.●

THE FIRST BAPTIST CHURCH OF BOSTON, MA

● Mr. KERRY. Mr. President, I rise in recognition of the First Baptist Church of Boston, MA, which is celebrating its 325th anniversary this year. The First Baptist Church, founded in 1665, was the third church of any kind in the Boston area.

The First Baptist Church has a distinguished history of perseverance in fighting for religious freedom and tolerance in the State of Massachusetts. It has lasted despite many bouts of intense persecution in its early years. The church was established in complete defiance of the Bay Colony laws. Once the church even found its doors nailed shut. Its parishioners suffered harassment, humiliation, long trials, imprisonment, and in some cases, premature death and exile. Among some of the more notable people who have attended Sunday services were President John Adams and Gen. Henry Knox. John Hancock, though not a Baptist, rented a pew in the church to hear the oratory of the church's pastors.

The ministry of this church was the first to establish a Baptist missionary society, a seminary for the training of Baptist ministers, and was believed to have started the first infant Sunday school. The First African-American Baptist Church in Boston was able to build its congregations from the many African-Americans baptized at the First Baptist Church.

This historic old church conducts many outreach programs and continues to play an active role in the lives of the people of Boston. We wish them the best in their continued service to their congregation and to the values which they exemplify as they embark on their 325th year of service.●

NAM: 15 YEARS LATER

● Mr. SIMON. Mr. President, I have been catching up on my reading and read the stories in Time magazine of April 30, 1990, regarding Vietnam. They are insightful and should cause some thoughtful reflection on our policy.

Insofar as the government of Vietnam is cooperative, on the question of those missing in action and prisoners of war and is showing greater sensitivity on the issue of human rights, we ought to be responding to Vietnam.

I know that our colleague from Arizona, Senator JOHN MCCAIN, who was a prisoner of war, feels very strongly on this and has provided leadership on this question.

For those who wish to gain more insights, I urge them to read the articles in Time magazine by Paul A. Witteman, Michael Duffy, William Stewart, and Stanley W. Cloud.

These articles should be helpful to American policymakers in deciding what we do in Vietnam and Cambodia. I ask that they be printed in the RECORD at this point.

The articles follow:

NAM—15 YEARS LATER

(By Paul A. Witteman)

Twenty-three years after the fact, Denny McClellan's recurring dream is still vivid. Once again he is 18, back on patrol ten miles northwest of Danang in the company of equally wary, heavily armed grunts of the 2nd Battalion, 7th Marines. His M-16 is loaded for Charlie, and a couple of grenades are within easy reach in his flak jacket. His field pack weighs 40 lbs., and the day is surpassingly hot. The lance corporal his buddies call "Red" is sweating heavily. His squad leader, not much older than McClellan, gives a hand signal, and the patrol moves off the road and down a narrow trail. Just the beginning of another very long day in the Republic of Vietnam. Says McClellan, now a 19-year veteran of the San Francisco police force: "I remember individual days there in perfect sequence like it was yesterday."

If not yesterday, last week. Or was it last month? Certainly it can't be 15 years since the U.S.-supported regime folded like a pup tent and the remaining American Marines executed what the tactical instructors at Quantico euphemistically called a "retrograde movement" from the roof of the fortress-like U.S. embassy annex. Today chickens run helter skelter through the American compound.

But the U.S. has not extracted itself from Vietnam. From the Deer Hunter and Platoon to Born on the Fouth of July, interpretations of the war continue to be big at the movies. Television has China Beach, the award-winning series about a rest and relaxation center in Danang. The London hit show Miss Saigon, a musical about a doomed romance between a Vietnamese bar girl and an American soldier, will be coming to Broadway next year with seats costing as much as $100. Bookstores are filled with memoirs, histories, reprints and novels. This spring Harper & Row even published The Vietnam Guidebook, with advice for travelers to places like Hué and My Lai, although the U.S. State Department places restrictions on such excursions. Courses on Vietnam are staples of college curriculums.

The war festers like a canker in the minds of many of the 2.7 million Vietnam veterans and the 750,000 Vietnamese who live in the U.S. The 3,600 members of National League of Families of American Prisoners and Missing in Southeast Asia still believe there may be loved ones locked in prisons hidden somewhere in the impenetrable Annamese Cordillera. What-might-have-been gnaws at some of the draft dodgers who fled to Canada or into the National Guard. Certainly the war prompted career choices for young men who joined the Peace Corps or enrolled in graduate school to stay out of the Army.

For the families of the 58,022 U.S. servicemen and-women who died in Indochina, the war continues as a dull ache, a pain shared by the kin of the millions of Vietnamese killed on both sides. For most other Americans, Vietnam is as much a mystery as it was 25 years ago, when apprehensive Marines in full battle gear first waded onto the beaches near Danang. But the mystery has long been stripped of its innocence and is shrouded instead in guilt and recrimination.

Some of the bafflement arises from a curious inability to come to terms with a failed policy, with America's greatest military defeat. But it is also due to the continuing attitude of the U.S. Government. Fifteen years after U.S. Ambassador Graham Martin slipped away in the predawn darkness of a collapsing Saigon, the U.S. has yet to establish diplomatic relations with the government of Vietnam. Washington continues to act as if Hanoi had sent its troops to invade Virginia instead of down the Ho Chi Minh Trail. Since 1975, the U.S. has imposed a trade embargo against Vietnam that has been more effective than the mining of Haiphong harbor ever was. It has helped keep Vietnam's badly managed economy on its knees, which in turn has encouraged a steady flow of refugees to Hong Kong and Malaysia.

Three Administrations in Washington have insisted that Vietnam meet several conditions before diplomatic or commercial relations can return to normal. All Vietnamese troops must be permanently withdrawn from Cambodia and a peaceful settlement must be reached in that ravaged land. The roughly 15,000 Amerasian children (now young adults, like many of the children of the MIAS) must be allowed to leave Vietnam if they wish, and political prisoners freed from reeducation camps. Questions about the remaining POW/MIAS should be resolved. So runs the checklist of U.S.-Vietnamese policy, as it has for much of the past decade. Hanoi insists that it has met the conditions. Although progress has been made on all of these issues, Washington is not yet satisfied.

Either way, a sizable number of Americans are saying the time has come for a different course of action. In a poll for Time/CNN by Yankelovich Clancy Shulman, 48% of those questioned said the U.S. should reestablish relations with Vietnam; 32% are opposed. Vietnam veterans seem to agree: of the 208 vets surveyed for Time/CNN at the Vietnam memorial, 44% said the U.S. should open an embassy in Hanoi.

"Of course we should establish relations," says Rob Pfeiffer, a high school counselor in Oakland, ME. "We're pretending Vietnam just doesn't exist." An official in the Maine chapter of Veterans for Peace, Pfeiffer says his fellow members support recognition as a means to gain more on-site information about the effects of Agent Orange. "Open it up," says McClellan. "If we established relations with China, why not with Vietnam?" Former antiwar activist Anne Weills, who created a furor in 1968 when she went to Hanoi with a delegation that brought back three American prisoners, comes to the same conclusion from a different perspective. "We owe Vietnam a great debt," says the Berkeley attorney. "Americans have a role to play in the reconstruction of Vietnam because we had such a large role in destroying it."

Weills' view is not widely shared: in the Time/CNN poll, 80% say the U.S. does not owe Vietnam anything. Nor is the push to establish full diplomatic relations generally embraced by the Vietnamese who escaped in 1975 or have fled in flimsy boats since then. "The U.S. should not normalize until the Vietnamese government guarantees human rights," says Phac X. Nguyen, advertising manager of a Vietnamese-language newspaper in San Jose. "They lowered people to the life of animals."

Antipathy toward the regime in Hanoi is highest in the ranks of South Vietnamese rangers and paratroopers, many of whom have settled in California. In a speech in San Jose early this month, former President Nguyen Van Thieu, now living in London, suggested that if political changes are not forthcoming in Hanoi, the refugees should be prepared to head home, shoulder weapons and seize control again.

The passion in the Vietnamese exile community is a puzzle to many Americans. That is no surprise to Phuong Dai Nguyen, a sophomore at the University of California, Berkeley, whose family fled Saigon in 1975: "The Americans don't know much about the Vietnamese." Yet the same has been true of the Vietnamese government's inability to fathom the importance to the U.S. of the POW/MIA issue. Fully 62% of those polled by Time-CNN-and 84% of Vietnam veterans—believe there are still MIAS alive in Vietnam.

"There is no logic to this," says Douglas Pike, a retired State Department analyst who assiduously read accounts of every reported MIA sighting but was never able to come up with verification by a second source. A resident of northern Vietnam, released after 13 years in re-education camps, is equally incredulous. "Americans? There are no Americans here. I never heard of any." The Vietnamese people long ago gave up looking for their own missing. Bodies decompose quickly in the subtropical climate. Although no U.S. official will say so publicly, the widespread conviction that there are no more live Americans.

Still, the National League of Families issues regular status reports of sightings on a hundred or so of the 2,303 men listed as missing in action or unaccounted for in Vietnam, Cambodia and Laos. Since a Japanese lieutenant hid on a Philippine island for 30 years after World War II before surfacing, anything is possible. But it is more likely that any Americans still in Vietnam remain there for conjugal reasons and have led retiring lives. Either that or the people sighted were really East Europeans or the now grown Amerasian offspring of former G.I.s.

Because issues surrounding the war are so emotionally charged even now, some people counsel continued caution in dealing with the government of Vietnam. "Any improvement has to be gradual," says Republican Senator John McCain of Arizona, who spent 5½ years in a North Vietnamese prison after his Navy attack bomber was shot down over Hanoi in 1967. "Below the surface, there is a very strong anti-Vietnamese feeling. When you get down to the V.F.W. halls, the American Legion halls, these people still have the feeling that the U.S. was damaged and humiliated in that conflict." Nonetheless, says McCain, who in the past has favored legislation for reopening ties to Vietnam, "it is in our interest, over time, to have an improvement in relations."

A similar assessment comes from a senior Bush Administration official who follows Vietnam closely. "I don't think having a society that is armed to the teeth and poor to boot is good for the region," the official says. "Our long-term interest is in the peace and stability of the Southeast Asian peninsula." For its part, the Vietnamese government sees the Soviet presence fading in the region and wants renewed American involvement as a counterweight to growing Chinese influence. Two years ago, Hanoi floated a proposal to let the U.S. military reoccupy its former bases in Cam Ranh Bay and Danang. This month, following reports that the Soviet navy was scaling back its forces in Cam Ranh Bay, the Vietnamese repeated the offer. The Vietnamese would benefit from the dollars flowing into their economy from the bases. The U.S. would regain the use of facilities that the Pentagon loudly bemoaned losing and in turn would gain invaluable leverage in the ongoing negotiations with the Philippine government over renewing the leases at Subic Bay and Clark air base. It could be what Pentagon planners call a "win-win" scenario.

Strategy aside, there is a more humane reason for recognition. American involvement in Indochina was more than just an exercise in global strategy. The desire to help people preserve their freedom and improve their lives was an important justification for committing U.S. soldiers to battle. The lingering pain of Vietnam is due, in part, to the realization that the idealism turned sour. For the half-million Vietnam vets suffering from post-traumatic-stress disorder and even for those who have adjusted well, a U.S. return to Vietnam might ameliorate the sense that America left a job unfinished. McClellan puts it this way: "Every time we walked down that road at the beginning of a patrol, we turned off. I've always wondered what was around the next bend. I want to go back before I get too old, and walk around that bend to see what's there. Then maybe I'll be able to put Vietnam to rest."

A War on Poverty

(By William Stewart)

HANOI.—The scence is far more grim than anything portrayed in the decrepit U.S. veterans hospital in Born on the Fourth of July. In a forgotten corner of Ha Bac province, about 40 miles from Hanio, 200 Vietnamese army veterans, many paralyzed from the waist down, eke out their lives in a primitive government shelter. Tucked away from the nation's gaze, they are among more than 10,000 severely wounded veterans from the four wars Vietnam has fought since 1945. An additional 300,000 disabled soldiers are scattered throughout Vietnam, doing the best they can without the help of the government. In wheelchairs, the ex-soldiers at Ha Bac move quietly among the low-slung buildings, a poignant and disturbing sight.

Like their American counterparts, the patients at Ha Bac are both proud and reticent, resigned to their wounds, sometimes angry, often confused. Says Vu Trung Hien, 43, paralyzed since 1968 by a shrapnel wound in the back sustained in Phuoc Long province: "I did my duty. But after I was wounded, I wondered if the war was right or wrong. It cost so much. I still wonder." His roommate, Hoang Dinh Trung, 39, was similarly disabled in 1972 in Quang Tri province during a B-52 raid. "I was only 18 when I was mobilized," he says. "Looking back to wartime, it was awful. Really awful. I'm afraid of any more wars." When told that many American veterans share his feelings, he says tentatively, almost shyly, "I'd like them to come see us, to see how we live."

The voices of disabled Vietnamese soldiers are only a small echo of the sometimes hopeful but often disenchanted and uncertain views voiced everywhere in Vietnam. Fifteen years after the fighting ended on April 30, 1975, the country remains impoverished and embittered. While it has been at peace since most Vietnamese troops left Cambodia last September, there is great discontent over living conditions and an annual per capita income of less than $200, far below that of South Vietnam in 1975. Last year 75,000 boat people set sail for the refu-

gee camps of Hong Kong and Southeast Asia, attempting to escape not so much an oppressive regime as grinding poverty. Free-market economic reforms begun in 1986 have sparked a revival in the cities, but they have yet to improve living standards in the countryside, where 80% of Vietnam's 65 million people still live.

The moves toward a market economy have been hobbled by Vietnam's economic and diplomatic isolation. Hanoi and Washington have long disagreed on how to restore relations, and the U.S. strengthened a 1975 trade embargo following Vietnam's 1978 invasion of Cambodia. Other industrial countries, including Japan, are waiting for a U.S. lead before committing themselves to major trade and investment. Meanwhile, the Soviet Union has served notice that it will drastically curtail the aid it has provided in the past, especially fertilizers, structural steel and critical oil supplies.

North and South were formally united in July 1976, but for all practical purposes Vietnam still consists of two countries. According to Nguyen Xuan Oanh, twice acting Prime Minister of South Vietnam and currently an economic adviser to Hanoi, the economic infrastructure in the South remains about 35 years ahead of that in the North, despite great efforts to bridge the gap. The differences are immediately apparent between Hanoi and Ho Chi Minh City, which is still called Saigon, even by local officials.

Hanoi, with a population of 3 million, has retained its architectural integrity as a once lovely French colonial capital. The city was scarcely damaged by U.S. bombs. But the roads and bridges are dilapidated and marred with potholes, and haphazardly repaired electrical lines have made firetraps of many public buildings. Although Vietnam has designated 1990 the "Year of Tourism," Hanoi hardly boasts a hotel worthy of the name.

Yet there is a liveliness about the city, an authenticity as a national capital that somehow always eluded Saigon. May 19 marks the 100th birthday of Ho Chi Minh, the man who fought the Japanese, the French, the Americans and his own countrymen to win an independent, unified nation. For the past month, Hanoi has played host to thousands of visitors, foreign and Vietnamese alike, as they paid homage to the frail man with a will of iron. The pilgrims move slowly past Ho's body lying on a glass-enclosed platform in the neo-Stalinist marble mausoleum, stopping only for a short, formal bow.

Outside, Hanoi's narrow tree-lined streets are filled with bicycles and pedicabs, for private cars are a rarity in the city. In the busy market area, customers crowed into a tiny but popular café that serves white coffee with a whipped raw egg to help ward off the pervasive dampness of the rainy season. Around the corner on Hang Gai Street, shoppers wander past privately owned clothing and novelty shops that are little more than window fronts. Nevertheless, they are the busiest stores in Hanoi. One of them is owned by Dao Thi Huan, 71, a retired government worker. For her, life is much better than it was even five years ago, though she feels that living standards are still low. The long war is a receding memory. "In the past I was angry, but not now," she says. "It's over. I gave up my anger." A few doors away sits Ngo Thanh Binh, 26. A university graduate with a degree in economics, Binh has been unable to find a job. To make ends meet, he works in his parents' shop selling jeans. "It's been very difficult for me to get a job as an economist." he says. "I need to know more English because our country is in an opening, developing stage. We need ever more openness."

The budding economic energy has spread even further north. Six thousand people a day cross the Chinese border at Dong Dang. Going into China, they take mostly local foodstuffs; returning, they bring Chinese machine tools and kitchenwares carried on their backs, the heavy packages balanced at either end of a bamboo pole. The goods are modern, but silhouetted against the sky, the endless stream of peasants, workers and merchants is a scene from timeless Asia.

A thousand miles to the south, Ho Chi Minh City basks in the hot sun at the end of the dry season. But the difference is more than a matter of weather. Roads are in better repair, and the streets are clogged with motor-scooter and automobile traffic. New hotels and fresh paint are everywhere as the city asserts its claim to be the home of Vietnam's indomitable entrepreneurial spirit.

Anchored in the Saigon River is the Saigon Floating Hotel, offering single rooms at $150 a night and a BLT sandwich—"Ho Chi Minh-style"—for $8.50. It is crowded with Hong Kong, Singaporean and European businessmen. On Dong Khoi Street, the Continental Palace Hotel has undergone a complete renovation. The famous "Continental shelf," once an open-air terrace where American journalists and government officials camped out, is now enclosed and air-conditioned. The Rex, formerly a U.S. Army billet, has reopened as a luxury hotel, and the Majestic, facing the Saigon River, has been spruced up. The hotels take only hard currency.

In the past year the city has encouraged the opening of "mini-hotels" for Vietnamese visitors. The managers are often enterprising city employees eager to make more money. Says Nguyen Cong Ai, vice chairman of the local People's Committee: "Our private economy is much stronger now. We are learning the lessons of the market. We want to cooperate with foreign cities, to be an open door for Vietnam." Metropolitan Saigon has a population of 3.9 million. The port itself and textile and garment manufacturing are the city's biggest industries.

The revival is attributable almost entirely to Vietnam's own *perestroika*, or *doi moi*, a program of radical economic "renovation" begun in 1986. Says Le Dang Doanh, a senior government economist and a principal architect of the program: "Vietnam does not consider Marxism to be holy dogma. We need to be creative." Only a few years ago, the state accounted for close to half of national income. Now it generates only 28% of national income, Doanh notes, while private enterprise makes up 40% and the remainder is a mixture of public and private ventures. The reforms include the abolition of subsidized prices and the reorganization and separation of commercial banks from government banks. The state has also adopted a favorable foreign-investment law and changed investment policy to assign top priority to food production.

Although all land is owned by the state, a revised contract system between farmers and government cooperatives gives individual farmers control of the land and production for 15 to 30 years. Farmers grow what they want and sell at the market price. Largely as a result, Vietnam has become the world's third biggest rice exporter, after Thailand and the U.S. The turnaround is remarkable, given the near famine conditions that existed in the spring of 1988 in parts of central and northern Vietnam. A further indication of improved conditions in the North is the sharp reduction in the numbers of boat people arriving in Hong Kong, down from almost 1,800 in March 1989 to 730 in the same month this year.

Meanwhile, the annual inflation rate has been cut from 700% in 1988 to 50%. The goal, says former Prime Minister Oanh, is to bring it down to about 12% to 15% by year's end. This has been done through tough austerity measures, part of a stabilization plan carried out in cooperation with the International Monetary Fund. The dong, Vietnam's currency, has stabilized at a black-market rate of about 5,000 to the dollar, not far from the official rate of 4,500. Still, in the past two years foreigners have invested only $850 million in Vietnam, most of that in offshore oil exploration.

Given these problems and challenges, it is not surprising that the Vietnamese leadership has been alarmed by the startling and rapid changes in Eastern Europe. But political reforms were emphatically rejected earlier this month in a closed session of the 8th plenum of Vietnam's Communist Party. While the plenum promised to revitalize the party's frayed relations with the people, it also fired an outspoken liberal member of the Politburo, Tran Xuan Bach. That leaves only one liberal in the 13-member ruling body, Foreign Minister Nguyen Co Thach.

To make up for losses in Soviet aid, China has reportedly offered to provide Vietnam with $2 billion in assistance. In return, Beijing is said to have demanded assurances that the Vietnamese will launch no Gorbachev-style political reforms.

Vietnam has seen no major public demonstrations for greater democracy, though there has been a lively debate in some of the state-controlled press and among academicians and trade unions. In part this may be because Hanoi has ruled with a lighter touch than Beijing. Says Tran Phuoc Duong, the American-educated rector of Can Tho University, deep in the Mekong Delta: "Something has happened. There has been a lot of internal relaxation. The pace of change has taken people by surprise."

Tran Bach Dang, a political adviser to General Secretary Nguyen Van Linh, told a group of foreign reporters that if pluralism were allowed tomorrow, there would be 200 political parties the next day. Notes a senior government official: "Factionalism has been the bane of our national existence. We are still two countries, though I fought to make it one."

The weight of Vietnamese history indicates that the official is right. Nevertheless, there is more to celebrate in Vietnam than the 100th birthday of Ho Chi Minh. Vietnamese in the North and South alike are beginning to hope their country can transcend its old divisions and enter a new age of prosperity. In Hanoi, Nguyen Van Su, 75, sits in front of his sewing machine in his own little shop. Says he: "I remember when Ho Chi Minh declared independence. We all liked it. Now the government is calling for reform. I like that too. It's the direction the whole world is moving in, isn't it?"

"It's Time to Heal the Wounds"

Vietnam's Foreign Minister, Nguyen Co Thach, spoke in Hanoi with Time's Washington bureau chief, Stanley W. Cloud. Excerpts:

Q. Is anything going on between Vietnam and the U.S. that we don't know about?

A. Up to now, we have met all the requirements of the U.S. [on MIAs, family reunification, human-rights abuses in the re-education camps]. But in the State Department there is no change. For example, I am not allowed to go beyond 25 miles of New York City when I am in the U.S. [retired General John] Vessey can come here and go everywhere. American Congressmen are free to go everywhere in Vietnam.

Q. Does the situation in Cambodia interfere with the normalization of relations between Vietnam and the U.S.?

A. The Cambodian problem serves only as a pretext. The greatest mistake of the U.S. is not the Vietnam War. It is this strategy of using Vietnam as a pawn in the relationship between China and the U.S. It would be much better if the U.S. considered Vietnam in terms of its intrinsic value.

Q. What would be the main benefit to the U.S. of normalization?

A. Why can the U.S. have good relations with the Soviet Union and China and not with small [Communist] countries? This is not good for the image of the U.S. in the Third World.

Normal relations between the U.S. and Vietnam could contribute to peace and cooperation in Southeast Asia and to maintaining the independence of this area vis-à-vis China.

Last but not least, it is time to heal the wounds of war. I don't mention the physical or the mental wounds, but the moral ones. As long as this state of abnormal relations drags on, the moral wounds will bleed. It is time to sit down and talk and play and have fun. Why only hostile attitudes? When I meet the people from the State Department, their faces never smile. It is a pity. We could help you have good health and good morale.

STILL A KILLING FIELD

(By Stanley W. Cloud)

In a spacious and sunny Washington office, an anonymous senior Administration official sits and discusses U.S. options in Indochina. "The simplest approach in Cambodia," he theorizes, "is to let the military situation play itself out."

On the other side of the globe, in a military ward of a hospital in the Cambodian town of Kampong Spoe, 25 miles southwest of Phnom Penh, a soldier named Neh Kon, 30, lies on a wooden pallet. He has lost both legs—one just above the knee, the other just below. The stumps are wrapped in fly-specked, blood-soaked bandages. Neh Kon's wife sits beside him, holding their young child. Two weeks earlier, on patrol in Khmer Rouge territory, Neh Kon stepped on a mine. "By the time we get peace," he says, "a lot of people won't have legs."

In another ward of the same hospital lies a civilian woodcutter named Top Sakhan, 44. He is the father of a boy, 10, and a girl, 7. A week before, Khmer Rouge guerrillas jumped him in a nearby forest. For no particular reason, they shot him in both legs with an AK-47 and left him lying there. "I called after them, 'Why don't you kill me?' " Top Sakhan says. "But they didn't answer." Doctors saved his right leg and amputated the left. "His life is finished," whispers the hospital administrator.

This is what is meant by letting the military situation "play itself out." Such cool foreign-policy analysis rarely takes into account the suffering of people like Neh Kon and Top Sakhan. Nowhere is this truer than in Cambodia, whose modern misfortune has been to act as buffer and bargaining chip to nations more powerful than itself. Like Blance DuBois, modern Cambodia has always depended for its survival on the kindness of strangers—and the strangers have not always been kind. While diplomats negotiated their shameful and shameless deals, Cambodians were paying a fearful price: hundreds of thousands died between 1970 and 1975, when Cambodia became a theater of the Vietnam War, a million or more (out of a population of 7 million) in the Khmer Rouge's ensuing four-year reign of terror.

The Vietnamese occupation of Phnom Penh in 1979 forced the Khmer Rouge from power and replaced them with a pro-Hanoi and pro-Soviet government currently headed by Prime Minister Hun Sen, 39, a poorly educated extraordinarily bright former Khmer Rouge officer who lost an eye during the 1970-75 Cambodian war. Since that government took office, the toll in the country has been markedly lower: a few dozen or so limbs and lives lost each week as the deposed Khmer Rouge and other Cambodian factions—each representing combinations of outside support—fight to regain power. Vietnam ostensibly withdrew the last of its 150,000 troops in September, but attempts to negotiate an end to this new war are stymied, and the violence has escalated.

Moreover, it is not true that Vietnam has completely left Cambodia. A well-informed intelligence source in Indochina acknowledges that several hundred Vietnamese military advisers are still attached to Hun Sen's army, as are two understrength Vietnamese regiments of about 1,000 troops each. Two Vietnamese-speaking soldiers in Cambodian uniforms were aboard a recent flight from Phnom Penh to the provincial capital of Seim Reap, and interviews with residents there confirmed that many Vietnamese-speaking troops are assigned to government units in the area.

But that is a far cry from the armored units that had been fighting in Cambodia. Even with a lingering Vietnamese presence, the Hun Sen government is basically on its own at last. Although the government's international isolation continues—only the Soviet Union, its allies and India confer full recognition—Hun Sen's record so far is pretty good. On the battlefield, government troops have rolled back most of the border-area gains made by rebel forces earlier this year. And despite rising public anger at official corruption, political and economic reforms on the Vietnamese model have had a dramatically positive effect.

Phnom Penh, once the loveliest capital in Southeast Asia, looks dusty and exhausted after years of war and atrocities, but it is beginning to regain some of its old spirit. Rice and other foodstuffs are fairly plentiful again in the large central market, as are Heineken beer, gold jewelry and Casio calculator. Prices tend to fluctuate with rumors of peace. But, says Le Hor, a proprietor at one of the market's stalls, "here we are relatively safe and don't think the Khmer rouge are dangerous." Then he adds, "I'm not sure they feel so confident in the [western] border areas."

The farther one gets from the capital, the more the picture darkens. A lack of proper irrigation machinery severely limits rice production. On Route 1, in the arid border area between Vietnam and the Mekong river, there is virtually no fighting, but poverty is so acute that beggars line the road and try to flag down the occasional passing car. The area just to the north is more prosperous, but government troops at checkpoint along Route 7 often demand money or cigarettes from travelers for permission to continue on a road that is in such disrepair as to be all but impassible anyway. To the south, west and northwest of Phnom Penh, reminders of the never ending war are abundant. Not long ago, a handful of adventuresome American tourists at the fabled Angkor Wat ruins in the nortwest were startled to see an army truck speed by, carrying wounded from the front in Oddar Meanchey province, a Khmer Rouge stronghold only about 35 miles away.

How does the U.S. Government fit into this mixed picture of revival and suffering? Unfortunately, in Cambodia now as in the past, the U.S. is part of the problem, not part of the solution. During the 1960s, American diplomats used to belittle the attempts by Cambodian leader Prince Norodom Sihanouk to keep his country out of the Vietnam War. They also criticized Sihanouk's enforced willingness to look the other way while North Vietnamese troops used his border areas as sanctuaries and staging grounds for attacks into South Vietnam. In 1969 the Nixon Administration began the secret U.S. bombing of the sanctuaries. Then in April 1970 it joined South Vietnam in an invasion to clean them out. Just before the assault, Sihanouk was overthrown by a pro-U.S. junta led by Prime Minister Lon Nol, and Cambodians were suddenly engulfed in war against North Vietnamese and their then allies the Khmer Rouge, while U.S. bombs rained from above.

Within two years, the Lon Nol forces were plainly losing. The Khmer Rouge captured Phnom Penh on April 17, 1975, two weeks before the fall of Saigon. Under the insanely radical policies of Communist Party Secretary Pol Pot, the new government began butchering its own citizens. The xenophobic Pol Pot also made territorial demands against Vietnam and ordered attacks on Vietnamese villages. Faced with all this, Hanoi invaded Cambodia and overthrew the Pol Pot regime on Jan. 7, 1979.

China's leaders, staunch backers of the Khmer Rouge, saw the invasion as an attempt to extend Vietnamese and Soviet "hegemony" over the rest of Indochina and thus box them in. Vowing to teach Hanoi "a lesson," they sent 85,000 troops across the border into Vietnam on Feb. 17, 1979. After ferocious fighting, the Chinese withdrew 16 days later, but it was unclear who had taught whom a lesson.

Meanwhile, the Carter Administration, determined to normalize relations with Beijing, denounced Vietnam's invasion but only tsk-tsked the China's (which National Security Adviser Zbigniew Brzesinski privately applauded). Most startling of all for an Administration that championed human rights, the State Department, in its anger at Vietnam, recognized the legitimacy of the Khmer Rouge's claim to Cambodia's U.N. seat.

That remains U.S. policy today. When the Khmer Rouge in 1982 allied with two less powerful, noncommunist rebel groups (one loyal to Sihanouk, the other led by aging Cambodian democrat Son Sann), Washington extended recognition to the umbrella organization. The U.S. also provided "nonlethal" aid to the noncommunist members of the coalition. The U.S. thus lies up with China and the Association of South East Asian Nations (led in this case by Thailand) against Vietnam and the Soviet Union.

The current U.S. position is based on what a senior Bush Administration official calls "three fairly simpleminded propositions": the demand for complete withdrawal of Vietnamese forces, opposition to the Khmer Rouge's return to power, and calls for free elections to determine a new government. The U.S. argues that Hun Sen's government is illegitimate because it was installed by force and because Hun Sen and his President, Heng Samrin, were Khmer Rouge officers who did not desert until Pol Pot began devouring his own followers. Yet Hun Sen's government, while still nominally communist, has shown no Khmer Rouge tendencies in eleven years and has significantly broadened its base to include representatives of virtually all political persuasions.

The problem with the U.S. position is that its various parts don't mix. How, for example, can Washington recognize the Khmer Rouge as legitimate, if tainted, participants in the political proces while also insisting that they must be prevented from returning to power? If Pol Pot and other top Khmer Rouge leaders are guilty of genocide, shouldn't they be excluded from all negotiations—and even be tried as criminals? How can the U.S. criticize the Khmer Rouge's record and yet reserve its bitterest invective for Vietnam's use of force to oust Pol Pot?

The illogic of the U.S. position has infected the entire peace process. No one wants the Khmer Rouge to return to power, but their military strength, many believe, makes them impossible to ignore. Various highly complex peace proposals have been offered by the governments of Australia and Thailand, and by the U.N. Security Council. Under some of these plans, the Khmer Rouge would even be permitted to serve in an interim coalition, pending elections. In all of them, Pol Pot's party has been given effective veto power—with predictably results. A peace conference in Jakarta earlier this year failed basically because of Khmer Rouge oppostion. Says Cambodia's Deputy Foreign Minister, Sok An: "If the international community continues to allow the Khmer Rouge to thwart the will of the conference, then we cannot have an agreement."

Is there no other way? Many think there is, including former Carter Administration Secretary of State Edmund Muskie. "It is time to change U.S. policy," said Muskie recently. He suggested direct contact between the U.S. and the Hun Sen governments, an end to Washington's "implicit" support for the Khmer Rouge, and separate verification of Vietnam's withdrawal as first steps toward a long-term political solution. This would shift the U.S. focus away from the rebel coalition that includes the Khmer Rouge and would require the U.S. to abandon its unyielding opposition to Hun Sen. As Muskie put it in a speech last December, "When we finally left Vietnam, we opened the way for the historic conflict between Vietnam and China to re-emerge. Vietnam went on to invade Cambodia, and China invaded Vietnam. In these conflcits, we took the side of China. Now that phase of their history, and of ours, is over. Or, at any rate, it will be over once we are prepared to let it be."

Conditions seem right for the kind of reassessment Muskie recommends. But would the Bush Administration be willing to risk political flak, particularly from the right, if it seemed to be moving toward normalization with Cambodia, let alone Vietnam? The answer to that question will go a long way toward determining whether the bones will continue piling up in Cambodia's killing fields.●

EXPORT CONTROLS

● Mr. KERRY. Mr. President, American exporters won a double-header yesterday in their efforts to modernize Cold War export controls. Late last evening, following nearly twelve hours of debate, the House of Representatives overwhelmingly adopted, 312 to 86, the Export Facilitation Act to modernize and streamline the United States and multilateral export control regimes. On the other side of the Atlantic, the U.S. delegation to the high level Cocom meeting in Paris unveiled a new proposal to liberalize restrictions on telecommunications shipments to Eastern Europe and the Soviet Union. Both events mean more jobs and more exports for the people of Massachusetts.

I am particularly pleased by the House action. In a series of votes, the House strongly endorsed all of the provisions contained in my export control reform bill, S. 2702. The legislation will eliminate tens of thousands of needless licenses which are presently required of exporters to ship items to our Cocom partners in Western Europe and in the Pacific. The bill will assure that our competitors for the growing world supercomputer, computer, telecommunications, and electronics markets can no longer point to unnecessary, unilateral U.S. restrictions as a reason for potential customers overseas to avoid U.S. manufacturers. The measure will help keep American companies from being left in the starting blocks because their Cocom counterparts do not impose onerous licensing requirements. By establishing a common set of rules for exports to Eastern Europe and the Soviet Union, United States exporters for the first time will be on equal footing with their competitors. This will enable my State's highly competitive high technology industry to devote itself to signing contracts abroad rather than to fighting the export control bureaucracy in Washington, DC.

Spurred by congressional interest in strengthening the competitive position of American exporters as well as in maintaining an effective multilateral export control regime, the administration's announcement at the Cocom high level meeting in Paris finally brings the proposal for telecommunications into line with earlier proposals for computers and machine tools. Together, these three sectors represent the lion's share of potential, nonagricultural United States exports to Eastern Europe and the Soviet Union. While I remain concerned about the minimalist approach reflected in the administration's Cocom proposals, I am hopeful that the talks this week will produce an agreement to move forward toward the type of export control regime outlined in my legislation.

This issue is critical to the economic well-being of many in the Commonwealth of Massachusetts. The current export control regime is estimated to directly cost Massachusetts between 6,000 and 24,000 in lost jobs and up to $1 billion in lost exports on an annual basis. The indirect cost in resultant loss of GNP could be two to three times more.

The Banking Committee will begin its deliberations on the Export Administration Act legislation later this month. I am committed to assuring that the Senate moves expeditiously along the path of export control reform outlined in S. 2702.●

FARMING, FREE MARKETS, AND PHILANTHROPY: FOUNDATION FOR THE DEVELOPMENT OF POLISH AGRICULTURE

● Mr. SIMON. Mr. President, all of us recognize that Poland is the very key to what happens in Eastern Europe.

What may not be quite as generally recognized is the key role that agriculture will play in the development there.

I am pleased about the contribution the Ford Foundation is making through the Foundation for the Development of Polish Agriculture.

I am also pleased that Norman Borlaug, who has contributed so much in the field of agriculture and developing nations, is playing a leadership role in the improvement of Polish agriculture.

Also, I am pleased to note that one of the people playing an important role in the Foundation for the Development of Polish Agriculture is Cindy Fithian, the daughter of my chief of staff, Floyd Fithian.

We have to do everything we can to be of assistance to them.

Recently, the Ford Foundation Letter carried an article titled, "Farming, Free Markets, and Philanthropy: Foundation for the Development of Polish Agriculture."

It is an excellent story that should inspire others and should inspire our own Government.

I ask that this article be printed in the RECORD at this point.

The article follows:

[From the Ford Foundation Letter, Spring 1990]

FARMING, FREE MARKETS, AND PHILANTHROPY: FOUNDATION FOR THE DEVELOPMENT OF POLISH AGRICULTURE

(By William Rust)

It is a cold, damp morning in January, and leafless apple trees line the road to the family farm of Tadeusz Wieteska, some ninety kilometers west of Warsaw. His stone and red brick barn is coverd by a corrugated metal roof. The windows of the building are moist from the warm breath of the hogs

and cattle inside. By Polish standards, it is a mid-sized farm of twelve hectares, or about thirty acres. The land is divided into five fields, where Wieteska grows wheat, barley, and potatoes—typical crops for Poland's predominantly light, sandy soils.

Also typical is his aging farm machinery. Wieteska, a rawboned young man dressed in worn blue denim and work boots, calls the gray brick building sheltering his tractor, grass harvester, and manure spreader a "museum." As if to emphasize the prevalence of outdated equipment in Poland, his cousin arrives at the farm on a fifty-year-old tractor.

There is, however, one new piece of equipment recently purchased by Wieteska—a gray four-ton trailer for farm transport. Attachable to locally produced tractors, the trailer has a bed that can hydraulically "tip" its contents. Such specialized equipment is rare among Poland's private farmers, who control about three-quarters of the country's agricultural land. In the postwar era, these farmers successfully resisted collectivization and produced about 80 percent of Poland's food—despite government policies that diverted machinery, fertilizer, and other agricultural goods and services to state-owned farms.

Wieteska and twenty-nine other private farmers were able to buy the tipping trailers because of the efforts of the Foundation for the Development of Polish Agriculture (FDPA), An international nonprofit organization based in Warsaw, FDPA seeks to strengthen private farming by investing Western capital in Polish agricultural projects. Any profits are either allocated for philanthropic activities or reinvested in other projects benefiting private farmers and, ultimately, the larger society.

The sale of the trailers was a typical venture for FDPA, which played both a direct commercial role in the deal and an indirect catalytic role in pulling together the program. In the summer of 1989 a comprehensive FDPA survey revealed that although growing numbers of private farmers were using tractors, there was a widespread need for tipping trailers. The foundation approached the Swiss embassy in Warsaw, which provided a grant of 200 million Polish zlotys (about $20,000) to finance the purchase of the trailers. FDPA also negotiated with the local factory producing the trailers, found thirty farmers to buy the vehicles, and collected their money. The entire transacton took twenty-one days.

A small-scale undertaking relative to the estimated 25,000 trailers needed nationwide, the venture is one part of a larger FDPA program to provide private farmers with machinery, crop-protection chemicals, and other agricultural production inputs. "Poland is full of young farmers who want to work," says Gregory A. Vaut, executive director of FDPA. "Their biggest problem is getting the equipment to do the job."

The foundation's commercial activities include a project to import high-protein swinefeed and export ham to the United States; a trading division to represent farmers in negotiations with Western importers of Polish fruit and vegetables; and a joint venture with a Dutch feed company that will enable private farmers to invest in Polish feed mills for the first time. FDPA is also coordinating a $60 million agricultural aid package donated to Poland by the twelve-nation European Community (E.C.).

"We want to engage in economic activities not only to generate resources, but also to show that Western business practices and market approaches can achieve positive development results," says Vaut, a forty-one-year-old agricultural economist who has worked as a Peace Corps volunteer in Africa and as an agribusiness executive with International Multifoods and Land O'Lakes. "We don't think our foundation can solve all the problems of agriculture in Poland, but we can show others who have more resources how to do the job better."

Complementing FDPA's revenue-generating ventures are a variety of training, research, and other philanthropic programs. In 1988 the Ford Foundation and the Rockefeller Brothers Fund made grants to help establish FDPA and support its philanthropic activities. In February 1990, FDPA received a $400,000 two-year supplement from the Ford Foundation for four projects:

Training for FDPA's twenty-person staff in banking, trading, and other business skills that have been in short supply since the 1930s, when Poland last had a market economy;

Seminars and training for private farmers on such topics as animal feeding and nutrition, herd management, and crop protection;

Collaborative activities with Polish agricultural research institutions, aimed both at strengthening FDPA's capacity to serve farmers and encouraging research on problems relevant to private agriculture; and

Efforts to help FDPA and private farmers address environmental aspects of Polish agriculture.

"In its two years of operation, FDPA has made a real contribution to private agriculture in Poland," says Paul Balaran, coordinator of the Ford Foundation's programs in the Soviet Union and Eastern Europe. "Working in a rapidly changing political and economic environment, FDPA has shown how voluntary philanthropic organizations can contribute to Poland's development."

The establishment of FDPA was the culmination of years of effort by Western foundations and indivduals responding to the declaration of martial law in Poland in December 1981. After the crackdown, the Ford Foundation and other philanthropies assisted Polish nationals in the United States and Western Europe who were unable to return to their homeland because of their association with the Solidarity trade union.

Another initiative, supported by the Rockefeller Brothers Fund and the Rockefeller Foundation, explored ways the U.S. private sector might directly aid the Polish people. Because of concerns about the adequacy of Polish food supplies and the country's farming, processing, and distribution capacity, this initiative focused on agriculture. In 1982 agricultural scientist Norman E. Borlaug, winner of the 1970 Nobel Peace Prize for his contribution to the "Green Revolution," led an international team of experts to Poland to assess the factors that constrained or encouraged growth in the country's food economy.

A traditionally agrarian country that was once the "bread basket" of Europe, Poland has a total land area of 31 million hectares, which is equivalent to the combined size of Illinois, Indiana, and Ohio. About 60 percent of the country is classified as agricultural land. Nearly one-half of Poland's 2.3 million private farms are very small—five hectares or less—and they produce little marketable agriculture. Surrounding the predominantly private farming sector are state-owned input, food-processing, and distribution industries.

Borlaug and his colleagues were generally optimistic about the potential of Polish agriculture to feed the people and contribute to export earnings. The country has impressive natural resources, and agreeable climate for farming, and a strong agricultural science base. The team concluded that the most serious constraint to increased agricultural production was "the highly inefficient central planning process," which distorted economic incentives at every point on the farmer-to-consumer food chain.

The report of the Borlaug mission was favorably received by the Polish authorities, who encouraged further exploration into ways of improving the country's agriculture. After six years of negotiations with the Polish government—an arduous process reflecting the poor state of U.S.-Polish relations during most of the 1980s—FDPA was established in 1988 under the Polish Law on Foundations. To ensure FDPA's independence, West European and U.S. citizens constituted 60 percent of the foundation's governing council. The remaining 40 percent were Poles not associated with the government.

Borlaug, who chairs FDPA's governing council, led a second team of agricultural and food-system experts to Poland in 1989. Their mission this time was to assess Polish agriculture in light of the country's profound economic and political changes. In August 1989 Solidarity's Tadeusz Mazowiecki became Poland's first non-Communist prime minister in more than forty years. And on Jan. 1, 1990, the new government instituted a radical program to transform the country's centrally planned economy in a market economy, a painful transition that includes removing price controls and slashing subsidies to consumers and industries.

The second Borlaug reprot made detailed recommendations to the Polish government and outlined an agenda for countries and organizations seeking to strengthen Polish agriculture. The report's summary judgment was that despite enormous problems, the prospects were good for improvements in Polish agriculture: "It is very likely that, given adequate opportunity and access to necessary inputs and efficient markets, Poland can match or exceed crop and livestock yields and production achieved in neighboring countries."

According to FDPA's Gregory Vaut, the sheer size of agriculture in Poland—about 40 percent of the population either farms or works in related industries—could create sufficient demand to drive the rest of the country's beleagured economy. "People focus on agriculture only as a source of food," he says. "But ultimately that is less important than the fact that it's the farmers who buy the equipment made in the steel mills. And it's the farmers who buy the radios and the refrigerators and the trucks and the other things manufactured by the industrial workers."

Because of the absence of national and international markets for Poland's manufacturing and service sectors, says Vaut, "Poland is going nowhere unless it starts getting agriculture going."

During the negotiations to establish FDPA, it was agreed that the foundation's establishment would require at least one workable income-generating project. A proposed venture to export apple juice concentrate was abandoned during the winter of 1987-88, when 70 percent of the country's apple trees froze. FDPA quickly shifted to a second project to import pig feed and export ham.

Poland produces virtually no high protein feed crops, such as soybeans, which are needed to stimulate meat production. To maximize pork production, pig feed must be "balanced" with precise amounts of digestible protein supplements that are combined with vitamins, minerals, and locally available feed ingredients such as rye and barley.

"In Poland today we are producing one hog on about 600 kilograms of feed," says FDPA program manager Miroslaw Sujka, who served in the Ministry of Agriculture before joining the foundation. "And if you balance the feed, you will need only 350 kilograms of feed. So instead of producing two hogs with the same volume of feed, you will produce three hogs."

Drawing on a $2.4 million line of credit from the Austrian bank, FDPA began in 1988 to import feed concentrates and supplements for sale to private farmers. The foundation also played an agricultural-extension role by educating farmers about the value of concentrated pig feed. By the end of 1989, FDPA had distributed more than 6,000 tons of this feed to some 5,000 private farmers. "For the first time in Poland," said Sujka, "an extension job done with private farmers was followed by inputs."

With the revenue from the sale of feed, FDPA purchased ham from the same farmers and exported the meat to the United States. In 1989 FDPA exported 1,100 tons of ham, worth about $3.4 million. With the proceeds of the ham sales, the foundation will repay the bank loan and reinvest the profits.

"Compared with the total national export of ham, this is a small project," says Sujka. "But in working with particular farmers and local managers and so on, we are learning more and more about agriculture from the producer's point of view, not the government's."

The success of the ham project, which has become self-supporting ahead of schedule, has led to a variety of other commercial and philanthropic activities. One of them is a joint venture with the Dutch feed company Hendrix International to establish a feed mill in eastern Poland. FDPA commissioned feasibility studies for the venture, sought out Hendrix and helped the company understand Polish agriculture, indentified local manufacturers of equipment to a minimize the investment of scarce convertible currency, and found farmers to invest zlotys in the project.

"We insisted that the farmers be allowed to have a substantial equity position in the company," says Vaut. "We are only going to take 10 percent equity, which is really almost symbolic. At some point, we'll just sell our shares to the farmers."

Another program financed in part by the ham project is a program to distribute machinery, crop-protection chemicals, and other agricultural production inputs directly to private farmers. Based on a network of FDPA farm-supply shops, the new system is intended to help replace the rapidly collapsing state system. "Many old institutions are just leaving behind empty warehouses," says FDPA program manager Krystyna Faltynowska. "And there, investing some money, we can open our own system."

Faltynowska, who formerly managed a district swine breeders and producers association and opened a farm-supply shop in northern Poland, helped put together the FDPA tipping-trailer venture. She has reinvested funds from the sale to buy fifty liquid manure tanks, which in turn will be sold to private farmers.

Faltynowska is also working on a program to import and distribute much needed medicine for animal parasites. Because of the volatile prices in Poland, where the inflation rate soared to 70 percent in January and slowed down in February and March, there is uncertainty whether farmers will buy the medicine. "We have to take a risk," says Faltynowska. "But without risk, there is no business."

Perhaps the most challenging task facing FDPA's distribution system and the organization as a whole is the $60 million E.C. agricultural aid package. The donation, which consists primarily of pesticides and other crop-protection chemicals, is aimed at putting agricultural inputs in the hands of private farmers in time for the spring 1990 planting season. Unlike earlier Western food donations to Poland, which helped urban consumers but hurt farmers, the E.C. donation is the first substantive Western assistance to Polish agriculture.

In addition to directly distributing 20 percent of the estimated 6,600 tons of crop-protection chemicals, FDPA has been asked by the Polish government to coordinate the planning and importing of the entire E.C. program. FDPA has helped identify the specific crop-protection chemicals needed, and reviewed logistical and technical details with the manufacturers.

The foundation's staff members acknowledge the difficulty of mounting such a large, complex program in time for the spring planting. Routinely putting in twelve-hour workdays, FDPA's predominantly Polish staff is approaching this task with a sense of mission. "We know that this is a challenge," says program manager Andrzej Trzeciakowski, who heads FDPA's trading division. "But I believe we can do it."

Implicit in the E.C. donation is another important challenge facing FDPA: managing its own growth. Over the last year, the staff of the foundation has grown from six people to twenty. And the more FDPA succeeds in its work, the more it attracts significant new programs from the Polish government, donor countries, and others interested in Pland's development. Says Gregory Vaut: "We simply can't chase every rainbow."

Formerly a private home, FDPA's offices are in a two-story building in Warsaw's Praga section, across the Vistula River from the central city. Although the setting is hardly rural, the two apple trees in FDPA's front yard are a fitting symbol for an organization serving the agricultural interests of the world's third largest producer of apples.

Below ground level is the foundation's Foreign Trade Office (FTO), where the wall decorations include packaging material for Polish rye bread and other FDPA exports. Established in 1989 to import and export feed, meat, and the other items previously controlled by the government, the FTO has three objectives: to offer private farmers an alternative to the state trading firms; to reduce transaction costs by cutting out expensive intermediaries and brokers; and to generate convertible currency to finance other projects.

One recently completed transaction was the export of more than sixty tons of Polish tomatoes to Austria. The price the FTO received was about 5 percent higher than the price received by the state trading companies exporting tomatoes to the same market. Says Trzeciakowski, whose academic training was in cattle breeding and milk production. "The importer in Vienna said that never in his experience with Poland had he traded with such a well organized, timely exporter."

A new FTO project is the planned export of skim-milk powder to French importers and processors of dairy products. The dairy sector is important to private farmers, who typically have herds of five or fewer cows and produce about 85 percent of the milk in Poland. Highly seasonal production, the lack of on-farm cooling equipment, and poor transportation and collection contribute to the low quantity and quality of Polish dairy products.

FDPA is working with ten Polish milk plants to help improve the quality of their dairy products and increase their export. The U.S. dairy company Land O'Lakes, which according to former employee Vaut is active in international development work, has agreed to provide technical assistance both to the plants and the farmers. Three FDPA staffers will coordinate the export of the processed milk as well as the technical assistance. "In so many things, that's the role we play," says Vaut. "It's really staffing other people's ideas and concepts and making them work for our famers."

The FTO, and the foundation as a whole, must cope with an economic infrastructure ill equipped to handle private financial transactions. The Polish banking system, for example, is primitive and checks can take a month or more to clear. Moreover, poor communications within Poland both complicate FDPA's operations and hinder the free flow of information about prices necessary for efficient markets.

A particular problem for FDPA's trading division is the lack of high-quality packaging in Poland. "We had to import cartons for the tomatoes because the ones we have here are too soft," says Trzeciakowski. "And if you pile them one on top of the other, those on the bottom break. And instead of fresh Polish tomatoes, you deliver tomato pulp."

More than fifty years have passed since Poland last had a market economy. Decades of central planning have stifled businesslike thinking, and the number of Poles qualified to organize, finance, and manage business enterprises is limited. "There is a general problem of lack of good management skills in Poland," says Miroslaw Sujka. "Decisions were made politically in the Polish Communist Party without analyzing costs and benefits. And if the decisions generated losses, they were subsidized."

FDPA is working to enhance the business skills of its staff members through brief internships with Western corporations and seminars in management. One staffer spent a week in the international division of an Austrian bank; another observed animal production on Dutch farms; and a third made a two-and-one-half-week visit to the United States to study the food-processing industry and food-distribution system.

Such experiences are "absolutely invaluable," according to Vaut. Telling a perhaps apocryphal story about Miroslaw Sujka, whose training is in veterinary medicine, Vaut says: "When I first met him and said, 'We have a problem,' he pulled out a thermometer. Now when I say, 'We have a problem,' he gets out a calculator."

Assistance from the Ford Foundation is enabling FDPA to expand its staff development program. The funds will cover travel expenses as well as pay for a small technical library with volumes on U.S. and West European contract law, international economic data, and management, finance, and accounting.

The recent Foundation grant is also supporting FDPA's training and technology

transfer seminars, which aim to help make private farming more efficient and profitable. The seminars are an outgrowth of FDPA's initial work with feed and chemical companies, which offered to have their technical people show farmers how to use the products. Organized in cooperation with farmers' associations and local institutions that work with farmers, the seminars typically include a technical presentation and a field visit. In 1989 there were twenty-three training seminars on such topics as swine nutrition and management, and crop protection in orchard management. Attendance at the seminars ranged from twenty-five to 200 private farmers and agricultural extension agents.

As part of the training program, FDPA arranges visits to Western farms, agricultural operations, and trade fairs for groups of "leader farmers," who are selected both for the high quality of their production and for the likelihood they will share what they learn with other farmers. "In the past," says Vaut, "these opportunities went to state farm directors, state bureaucrats, and nomenklatura."

Both Borlaug reports emphasized that the basic science underlying Polish agriculture is strong. The country's plant and animal researchers are well trained and backed by a vast research network of universities, agricultural institutes, and other scientific organizations. The result has been a number of highly successful genetic and breeding research programs for improved crop varieties and livestock.

Unfortunately, the genetic potential of many crops and livestock breeds has not been realized in production agriculture. Part of the problem has been a shortage of essential agricultural production inputs. In addition, agricultural research, education, and extension have been poorly coordinated. Thus, very little of the research relevant to private farming finds its way into the production process.

FDPA is working to develop closer links with Polish agricultural research institutes and to raise the priority of private agriculture on their research agendas. It is commissioning issue papers and research on subjects relevant to FDPA's activities; hiring experts from the institutes to serve as consultants to the foundation; and cooperating with research organizations to publish technical material suitable for use by farmers.

One institute that FDPA has already developed good relations with is the Potato Research Institute in Bonin. Established in 1966, the institute is participating in one of FDPA's most important initiatives: an international research project aimed at combating "late blight," which in some years destroys 40 percent of the Polish potato crop. The fungus is a particular threat to private farmers, who lack fungicides and sprayers.

FDPA is helping Polish researchers and agricultural extension personnel share information with counterparts in Mexico, where the fungus originated. In the United States, collaborating institutions are contributing advanced technology. The goal of the project is to facilitate the breeding of blight-resistant potato varieties. One spinoff from this project has been an exploration into establishing small-scale potato processing plants, owned jointly by FDPA and private farmers.

Polish agriculture has suffered greatly from environmental degradation. Because of the 1986 nuclear accident at Chernobyl, high radioactivity was evident in Polish milk products. In the coal-mining region of Silesia, there are high levels of heavy metals in root crops. And air pollution is apparently responsible for the destruction of vast forests in the Izerski and Snieznik mountains in southern Poland.

Agriculture is also a polluter in Poland, where rural water supplies have been contaminated by run-off from barnyards and fields. According to the second Borlaug report, "Poland faces a dilemma no unlike that confronting other food-deficit nations—the need to boost and improve output utilizing fertilizers and pesticides that, when utilized improperly, can have adverse effects on the environment."

There is a substantial body of Polish research associated with the trade-offs between agriculture and the environment. Because of increasing international interest in the country's environmental problems, FDPA is translating and distributing Polish technical articles and reports on agriculture and the environment. At the farm level, FDPA is developing programs to expand the use of sustainable technologies—for example, improved spraying techniques and better equipment—which reduce environmental damage and increase agricultural output. It is also working with a group of private farmers interested in exploring ways of producing and marketing chemical-free products.

FDPA is operating in an environment of unprecedented economic change in Poland. Even the most optimistic scenarios for transforming the country's economy include wrenching dislocations, at least for the short term. Within the agricutural sector, there will inevitably be a rough shakeout—both among large, inefficient state monopolies and among very small farms.

"The good news," says Vaut, "is that agricuture is something the West knows a lot about. We know how to work with agiculture better than we know how to fix steel mills, which require hundreds of millions of dollars of investments. Polish agriculture doesn't need hundreds of millions of dollars. It needs small amounts of money very narrowly targeted. And the philanthropic community is prepared to spend the management resources needed to do a lot of small things well."●

THE AMERICAN ELECTRONICS ASSOCIATION'S ETHICS PRACTICES PROGRAM

Mr. BINGAMAN. Mr. President, I would like to draw my colleagues' attention to a successful effort by the American Electronics Association to educate their member companies with defense business on corporate ethics programs. To date, 400 of their 700 companies with Government business have signed up to their "ethics practices" program.

The approach is consistent with the Packard Commission's recommendation that companies should implement strong self-governance programs. As the Packard Commission stated:

> The Commission believes that self-governance is the most promising mechanism to foster improved contract compliance.

AEA's program contains five major elements: First, development of a written code of conduct; second, commitments to communication of the code to all employees; third, training; fourth, implementation of mechanisms to detect and report violations; and fifth, company disciplinary action of violators.

Mr. President, I want to echo the sentiments of Defense Department Under Secretary for Acquisition John Betti who congratulated the AEA on its efforts, saying:

> * * * voluntary contractor self-governance programs remain the most promising mechanism to foster compliance with the high standards we expect of DOD suppliers. I commend AEA for the work it has done to foster the development and adoption of ethical codes of conduct by 450 of your member companies * * * Both the Defense Department and the defense industry have a responsibility for improving the ethical environment within the acquisition system. Working together, through programs such as the AEA Code of Ethics Practices, we can help each other meet the high standards the public expects.

As a member of the Senate Armed Services Committee and chairman of the Defense Industry and Technology Subcommittee, I believe that the effort begun by AEA is a positive step in the direction of improving the relationship between government and industry. It also demonstrates clear progress in restoring public confidence in our defense program.

Mr. President, I ask unanimous consent that the list of companies participating in the AEA's ethics practices program be included in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

AMERICAN ELECTRONICS ASSOCIATION ETHICS CODE AND SIGNATORY COMPANIES

Abbott Critical Care and Control Systems.
Accel Technologies, Inc.
AccSys Technology, Inc.
Acurex Corporation.
ADC Telecommunications, Inc.
ADC Kentrox.
Advanced Counter Measure Systems.
Advanced Systems Concepts, Inc.
Advantage Production Technology.
Aejin Systems Inc.
Aerojet.
Akashi Memories.
Alliance Telecommunications Corporation.
Alpha-Softech.
Amador Corporation.
Ambitech, Inc.
Amdahl Corporation.
American Telecorp. Inc.
American Nucleonics Corporation.
Amtech Corporation.
Analog Devices, Inc.
Andrew Corporation.
Andros Analyzers, Inc.
Anray Inc.
Aptec Computer Systems, Inc.
Aptek Technologies, Inc.
Arbiter Systems, Inc.
ARC Electronic Associates, Inc.
ARGOSystems, Inc.
Asante Technologies, Inc.
ASAT, Inc.
Ascor, Inc.
ATAC.
ATEQ Corporation.
ATT.

Avantek, Inc.
AVC Enterprises, Inc.
Avtech Corporation.
Ball Aerospace Systems Group.
Ball Aerospace Systems Group of Ball Corporation.
Ball Corporation.
Ball Corporation Efratom Division.
BancTec, Inc.
BDM International, Inc.
Beacon Laboratories, Inc.
Bendix Oceanics, Inc.
Berkeley Nucleonics Corporation.
Bertram Laboratories, Inc.
BIT.
Boeing Aerospace & Electronics-Irving Company.
Bolt Beranek and Newman Inc.
Brand Eng. Co.
Brooktree Corporation.
BTG, Inc.
BTU International, Inc.
Byte Images, Inc.
C.A.M. Graphics Co., Inc.
California Instruments Corporation.
Cencopp/Dover Electronics.
Cerprobe Corp.
Chorus Data Systems.
Chrysler Technologies Airborne Systems, Inc.
Codenoll Technology Corporation.
Coherent Thought Inc.
Coherent Thought Inc.
Comco, Inc.
CompuRoute, Inc.
Computer Identics Corporation.
Computer Products, Inc.
Computer Products, Tecnetics, Inc.
Computer Resource Management, Inc.
Computrac.
Condor Systems, Inc.
Conner Peripherals.
Contact International Corporation.
Corcom, Inc.
Creative Computer Solutions, Inc.
Creative Business Software.
Cristek Interconnects, Inc.
Critikon, Inc.
Crosspoint Technologies, Inc.
CSI Control Systems International, Inc.
Cubic Communications Inc.
Cummins Electronics.
Custom Engineered Materials, Inc.
Custom Software, Inc.
CXC Corporation.
Cyberdata Corporation.
Daico Industries, Inc.
Dalmo Victor Division General Instrument.
Data I/O Corporation.
Data Check Corporation.
Data Switch Corporation.
Datamatic, Inc.
Datametrics Corporation.
DataMyte Corporation.
DataTrak, Inc.
Datum, Inc.
Davox Corporation.
DB/Access, Inc.
DIALPRO of Los Angeles.
Digital Equipment Corporation.
Document Technologies, Inc.
Dowty Maritime Systems.
DSC Communications Corporation.
Dynaco West Corporation.
E-Comms. Inc.
Eldec Corporation.
Eldec Corporation.
Electro-Mech Co.
Electro-Numerics, Inc.
Electrodynamics, Inc.
Electrodynamics, Inc.
Electrohome USA (1989), Inc.
Electromagnetic Sciences, Inc.
Electronic Packaging Company.
Electronic Solutions.
Electrospace Systems, Inc.
Elpac Electronics, Inc.
Emerson & Stern Associates Inc.
Encore Professional, Inc.
Engineered Circuit Research Inc.
Esterline Angus Instrument Corporation.
Fail-Safe Technology Corporation.
Fairchild Data Corporation.
FEI Microwave, Inc.
First Pacific Networks.
FlowMole Corporation.
FMC Corporate Technology Center.
Force Computers, Inc.
Ford Aerospace Corporation.
Frame Technology Corporation.
Future Domain Corporation.
GCA Corporation.
Gemma Scientific, Inc.
General Semi Conductor.
Genisco Technology Corporation.
Genrad Inc.
Genus, Inc.
Goold Electronics Corporation.
Handar.
Harris Corporation.
Harris Corporation Computer Systems Division.
Hartman Associates.
Hawley & Associates.
Hazeltine Corporation.
HCL America, Inc.
Hei Inc.-Corporate Group.
Hendry Telephone Products.
Hewlett Packard Company-Greeley Storage Div.
Hewlett Packard Co.-San Diego.
Hewlett-Packard Company.
Hibbing Electronics Corporation.
HNC, Inc.
Hogan & Associates, Inc.
Honeywell Federal Systems, Inc.
Honeywell Federal Systems, Inc.
Hughes Aircraft Company.
IBM.
Icore.
II Morrow, Inc.
Imatron Inc.
Industrial Data Link Corporation.
Industrial Electronic Resources.
Inframetrics, Inc.
InframeTrics.
Inova Microelectronics Corporation.
Intecolor Corporation.
IntelliGentics, Inc.
Interactive Systems Inc.
Interfax, Inc.
Interfet Corporation.
International Computer Group.
Ion Implant Services.
IRT Corporation.
IVEX Corporation.
Janco Corporation.
Janco Corporation.
Kaiser Electroprecision.
Kaiser Electro-Optics.
Kaitek Media, Inc.
Kaman Instrumentation Corporation.
Kaman Sciences Corporation.
Korry Electronics, Co.
Kurta Corporation.
L'Garde, Inc.
Lambda Novatronics, Inc.
Lambda Electronics Inc.
LanQuest Group.
Laser Magnetic Storage International Co.
Laughlin-Wilt Group, Inc.
Leach Corporation.
Lear Astronics Corporation.
LectroMagnetics, Inc.
LeeMah DataCom Security Corporation.
Levpold & Stevens, Inc.
Liconix.
Linotype Company.
Litton Electron Divices Division.
Litton Industries, Inc.—Beverly Hills.
Litton Computer Services.
Litton Industries-Beverly Hills.
Lockheed Missile & Space Company, Inc.
Logic Modeling Systems, Inc.
Logical Services Inc.
Logicon, Inc.
Logicon, Inc.
Lohr Systems Solutions Corporation.
Loral Corporation.
Loral Randtron Systems.
Loral Electro-Optical System.
Loral Rolm Mil-Spec Computers.
InfraRed and Imaging Systems.
Loral Conic.
Lucas Zeta Inc.
M/A-Com Active Assemblies Division.
M&S Systems, Inc.
Magnanox Advanced Products Systems Co.
Magnanox Advanced Products and Systems Company.
ManTech International Corporation.
Mark Products, Inc.
Marks Polarized Corporation.
Marlow Industries, Inc.
Martin Marietta Corporation.
Master Systems.
Measurex Corporation.
Medilase, Inc.
MEMC Electronic.
Meta-Software, Inc.
Metratek, Inc.
Metrotech Corporation.
Micro Motion, Inc.
Microbar Systems, Inc.
Microelectronics & Computer Technology Corporation.
Microsource, Inc.
Microwave Solutions, Inc.
Microwave Applications Group.
Microwave Networks Inc.
Miltope Corporation.
Mimir Instruments, Inc.
Modular Computer Systems Inc.
Motion Analysis Corporation.
Motorola, Inc.
Motorola-GEG.
Mountain Computer, Inc.
Mountain Bay Tek., Inc.
Multi-Plate Circuits, Inc.
MUPAC
Mutron Corporation.
N/Hance Systems, Inc.
NBK Corporation.
Norian Corporation.
Norstan, Inc.
Northrop Corporation.
NovaStor Corporation.
Novell, Inc.
Novellus Systems, Inc.
Ocean Technology Inc.
OCRON, Inc.
Odetics.
Olin Mesa Corporation.
Omnico of Florida, Inc.
ON TARGET Associates.
ORCAD.
Output Technology Corporation.
P & H Laboratories.
Pace Enterprises.
Pacific Monolithics.
Pacific Scientific Company.
Pacific Electro Dynamics, Inc.
Pacific Manifest, Inc.
Palomar Technology International.
Pande Inc.
PCO, Inc.
Peninsula Engineering Group, Inc.
Penn Central Federal Systems Co.
Pentax Teknologies.

Phase 2 Automation.
Phoenix Integrated Circuits, Inc.
Pico Design Inc.
Pinnacle Systems Inc.
Plexus Software, Inc.
Poly-Scientific Division, Litton Industries.
Power Up Software Corporation.
Power-Sonic Corporation.
Precision Prototypes, Inc.
Preston Scientific.
Projectavision, Inc.
Pulizzi Engineering, Inc.
QTech.
Quadrant Technology, Inc.
Quality Systems Inc.
Quest Technologies Corporation.
Quintron.
Quintus Computer Systems, Inc.
R F Monolithics, Inc.
Racal Interlan.
Racon, Inc.
Radian Technology, Inc.
Raster Graphics, Inc.
Raytek.
Raytheon Company.
Research Inc.
RJS Inc.
Rockwell International Corporation.
Rosemount Analytical Inc.
Rosemount, Inc.
RS Associates.
Rudolph Research International.
S&EI Mfg.
Samsung Semiconductor Inc.
Satellink, Inc.
Scantron Corporation.
Schlage Electronics.
Schumacher—unit of Air Products & Chemicals, Inc.
Scientific Technologies, Inc.
SeaFab, Inc.
Seaquest Software, Inc.
Security Control Systems, Inc.
Selectone Corporation.
Semiconductor Systems-General Signal.
Semifab, Inc.
Sensor Control Corp.
Sensor Medics Corporation.
Sensormatic Electronics Corporation.
Silicon Valley Turnkey.
Silicon Graphics, Inc.
Softech, Inc.
Software Horizons.
Spectra Physics.
Spectra-Mat, Inc.
Spectragraphics Corporation.
Spectrix Corporation.
Spellman High Voltage.
Sputtered Films Inc.
Stanford Telecom.
Storage Technology Corporation.
Sundstrand Data Control, Inc.
Tandy Corporation.
Tecknit Inc.
Teledyne Systems Company.
Teledyne CME.
Telephoto Communications, Inc.
Tellabs, Inc.
Tellabs, Inc.
TelPlus Communications, Inc.
Teltone Corporation.
Texas Instruments.
The Titan Corporation.
The Perkin-Elmer Corporation.
The Galaxy Organization.
Therma-Wave, Inc.
Thoratec Laboratories Corporation.
Time Zero Corporation.
Trace Products.
Tri-L Associates Inc.
Trigem Corporation.
Trigon/Adcotech.
Trio-Tech International.
Triridge Corporation.
Ultrasystems Defense, Inc.
United Epitaxial Technologies, Inc.
United States Data Corporation.
Unitek Equipment Div. Weldmatic Corporation.
UTI Instruments Co.
UTL Corporation.
Valid Logic Systems, Inc.
Validyne Engineering Corporation.
Vantage Analysis Systems Inc.
Varian Associates.
Varian Associates Inc.
Varityper, Inc.
Vector Systems, Inc.
Viewlogic Systems, Inc.
Vitarel Microelectronics, Inc.
Vitel.
Vitesse Semiconductor.
Vitro Corporation.
Vitro Corporation.
Vitro Corporation.
VJB Business Management.
Voss Electronic.
West Coast Information Systems, Inc.
Western Fastener Company.
Western Microwave Inc.
Whittaker Electronic Systems
Wright Capacitors, Inc.
Xel Comm. Inc.
Xicor, Inc.
XRL, Inc.
Yasch, Co.
Zero Defects, Inc.
Zetaco, Inc.
Zygo Corporation.
Zymos.

RETIREMENT OF JERRY BURNETT

Mr. DURENBERGER. Mr. President, I rise today to pay tribute to Jerry Burnett, a constituent of mine who is retiring after 46 years of dedicated involvement with the International Association of Machinists. Jerry leaves behind him an outstanding career of service to his Nation, State, and community.

Jerry first joined the International Association of Machinists in 1944. His association with his union was interrupted by Uncle Sam's call during World War II, when he served overseas as a marine. After his discharge from the service, he returned home and became an active member of his union.

Jerry has a list a mile long of honors and areas of service to his fellow machinists, beginning with his service as vice president of his local lodge, 602C. He was chairman of Local 620C's bylaw committee, a member of the shop safety committee, and served as a member of the negotiating committee.

He was a delegate to the district lodge, the St. Cloud Central Body, the Minnesota State Federation of Labor, the Minnesota State Council of Machinists, and the Midwest States Council of Machinists.

Jerry served as secretary-treasurer of the St. Cloud Central Body, president of the St. Cloud Central Body, vice president of the Minnesota State Federation of Labor, and vice president of the Midwest States Council of Machinists. In 1953, Jerry was elected the business representative of District Lodge 165. In 1966, he was appointed as a grand lodge representative of the international in 1966. He served as chairman of the organizing committee of the St. Cloud Central Body.

But Jerry's career of distinguished service was not limited only to his work with the international. Jerry was selected as the voice of labor on countless community and State commissions. He was appointed by the Governor of Minnesota as a member of the manpower training commission, and later as a labor representative on the Governor's Indian Affairs Committee. He served as a member and as a president of the St. Cloud Equal Rights Commission. He was appointed by the mayor of St. Cloud to the Mayor's Tax Advisory Committee, and by district judges as a member of the St. Cloud Charter Commission. Later, he was the labor representative on the city of St. Cloud Centennial Committee, and the chair of the personnel committee of the St. Cloud Civil Defense Commission.

Jerry's exceptional abilities earned him numerous awards and honors. He received a scholarship to study foreign affairs and observe the U.N. General Assembly. He received a Recognition and Achievement Award for Civic and Social Advancement from the St. Cloud Chamber of Commerce.

Jerry has also been active in politics at all levels of government throughout his career. His closest brush with politics was in 1964, when he was a candidate for the Minnesota House of Representatives.

Mr. President, if I listed all the panels on which Jerry has served and all the distinctions that he has earned, there would be time for no other business in the U.S. Senate today. Let me just close by saying that I wish Jerry Burnett a happy, well-deserved retirement. I know that Jerry and his wife, Millie, have many great memories and friends, and will enjoy many more in the years to come.

THE WEST SHOULD DO MORE TO HELP EAST EUROPE

Mr. BINGAMAN. Mr. President, all of us applaud the efforts of those East European countries who are attempting to transform themselves into market-type economies. But those who are moving fastest toward that goal are likely to experience the greatest short-term transitional costs. Among the dangers they face is the loss of public confidence as unemployment and hardships increase during the period when governments reduce subsidies to inefficient enterprises and decontrol prices.

These and many other problems were explained in hearings I conducted in the Joint Economic Committee

on May 16, 1990. At that time, I made public a report prepared by the Central Intelligence Agency on the economies of Eastern Europe, and heard testimony from two outside experts, Jeffrey Sachs of Harvard University, and Charles Wolf of the Rand Corp.

The Washington Post recently ran an editorial commenting on the dilemma faced by the East European reformers, based on the testimony presented to the Joint Economic Committee. As the Post put it:

Deepening austerity risks public resistance and protest that can block these desperately necessary reforms.

The editorial asked the question, Is the West doing enough to help these new democracies, and it replied, not nearly enough.

In addition to their other difficulties, several of the East European countries, including Hungary and Poland, have large foreign debts, owed mostly to Western governments. The Western governments are urging the commercial banks to grant private debt relief to the Latin American countries, but have so far not applied the same principle to the government debt they hold in East Europe. Yet, as the editorial pointed out:

As an investment in democracy, debt relief promises to pay dividends.

I request unanimous consent that the editorial in the Washington Post, June 6, 1990, "Democratic but Poor," be inserted in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 6, 1990]

DEMOCRATIC BUT POOR

In Poland the standard of living fell throughout the 1980s. In some of the other Eastern European countries it may have risen slightly, but not enough to acquit their Communist government of the charge of incompetence. The sense of economic crisis has been a powerful force in the revolutions of the past year. The democrats now taking office know that to make their countries work better in the long term, they have to go ahead with reforms that will hurt in the short term.

The CIA recently offered the Joint Economic Committee its view of this process and came to the right point. Deepening austerity risks public resistance and protest that can block these desperately necessary reforms. In the immediate future, the CIA suggested, economies may well perform most badly in those countries—Poland, Hungary, Yugoslavia—that are pushing reform hardest.

Over this past year, the West has come to realize how far the reforms are going to have to go. The CIA study estimates that 40 percent of the firms in Poland and Yugoslavia will fail if direct state aid is cut off. Because of the severe housing shortages, workers can't easily leave the mill towns in search of new jobs elsewhere.

That raises once again the question: Is the West doing enough to help these new democracies? The answer is that the West has done some useful things, but not nearly enough so far.

Jeffrey Sachs of Harvard, who has been working as a consultant to the Polish and Yugoslav governments, offered the Joint Committee a short list of immediate needs. The Eastern Europeans need financial support for their currencies to enable them to open their markets and trade with the West. On that, the West and specifically the United States have given at least Poland valuable help. Eastern Europeans also urgently need technological help—not only in engineering and manufacturing but in design and marketing to enable them take advantage of their access to Western markets.

And then there are Eastern Europe's foreign debts, regarding which Mr. Sachs has been carrying on a crusade for some time. Through the Brady Plan, the rich countries have begun to provide a measure of debt relief to the poor countries—mostly in Latin America—that owe billions to the commercial banks. But the Brady Plan doesn't help the Eastern Europeans. Most of their debt is owed directly to the governments of the rich countries, which, as Mr. Sachs observes, have declined to apply to themselves the same rule of forgiveness that they are urging on the commercial banks. But as an investment in democracy, debt relief promises to pay dividends.

GLOBAL WARMING EFFORTS BEGUN IN MAINE

Mr. MITCHELL. Mr. President, a year ago there was an important conference held in Maine that encouraged people in Maine to think about what can be done locally to respond to the problem of global warming. Discussions were held on education, environment, ethics and values, population, security and governance, and technology.

This was not another meeting to discuss the problem of global warming. It was, instead, a conference to discuss what each of us can do to respond to the problem in our communities. The global warming problem is so overwhelming that it is necessary to bring the scale down to a more human level. Each of us is a contributor to the global warming problem. Each of us must become part of the solution. This message was effectively delivered by the participants of the Global Maine Conference.

Mr. President, I ask unanimous consent that a summary of the proceedings of the conference be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

REINVENTING THE WORLD AROUND US: A SUMMARY OF THE GLOBAL MAINE CONFERENCE, MAY 24 AND 25, 1989

(University of Southern Maine, Department of Community Programs, Department of Continuing Education for Business)

EXECUTIVE SUMMARY

Maine citizens are becoming increasingly aware of their connections to people and ecosystems around the world. The Global Maine Conference, sponsored by the University of Southern Maine—Departments of Community Programs and Continuing Education for Business in May 1989, was organized to explore how patterns of global change are influencing life in Maine. The conference was based on the premise that global economic and ecological crises are interrelated and that both strongly influence, and are influenced by, actions at the local level.

Keynote addresses at the conference were made by retired U.N. official and Ford Foundation scholar, Sir Brian Urquhart, and Clifford Lincoln, former Environmental Minister of Quebec. The conference was structured around six track areas—education; environment; ethics and values; population; security and governance; and technology. In each track, speakers and coordinators guided dialogue toward constructive strategies for individual and societal change.

Recommendations that emerged from each track were shared in a "town meeting"-style plenary session. Several themes appeared to characterize the wide array of track responses. Participants stressed the importance of redefining values at individual and societal levels; developing networking and bioregional approaches; promoting ecological and economic sustainability; acknowledging conflict and celebrating cultural diversity; and redefining education to become more participatory and life-long.

More than 150 citizens and representatives of education, government, business, non-profit organizations, and academia attended the conference. Participants recommended that the conference be followed by other activities and programs designed to further understanding of global issues and encourage constructive local action.

Conference goals:

To create an opportunity for people to share concerns and explore differences; to exchange ideas, and brainstorm creative actions to address the critical global issues facing Maine.

To provide timely information on global trends that are affecting Maine now or will do so within the next two decades.

To inspire people to take immediate action in their personal lives and to consider how our communities and broader society must be transformed.

To encourage people to share concerns and ideas with policy makers, business leaders, and educators on the priorities necessary for ecologically and economically sustainable social change.

To strengthen the momentum in Maine for fostering global interconnections in education, trade, technology, and environmental sustainability.

INTRODUCTION

Reinventing the world around us

It is time for all of us to decide that we've got to reinvent the world around us.—Clifford Lincoln, Keynote Speech, Global Maine Conference.

Although we live in what is often considered the most isolated "frontier" state of the Eastern seaboard, we in Maine have begun to acknowledge our ties—not only to neighboring states and provinces—but to nations and habitats around the globe.

In part, this recognition has been prompted by global economic changes and environmental crises that have had profound repercussions on Maine. State industries that began competing in the global marketplace several years ago (e.g., timber, shoe manufacturing) have lost hundreds of jobs. Record-breaking heat waves in 1988 dramatized the potential impact of "greenhouse warming" on our state's climate. Increased

global connections have begun changing Maine's economy and culture. More than 700 Maine companies now trade in the global marketplace, and increased travel and tourism bring us in contact with a growing number of foreigners. Numerous "sister city" and intercultural exchange programs have taken root, linking Maine communities to counterparts around the world.

The Global Maine Conference, sponsored by the University of Southern Maine—Departments of Community Programs and Continuing Education for Business in May 1989, was organized to explore the impact of global change patterns on life in Maine. It emerged out of a growing recognition that global economic and ecological crises are interrelated and that they strongly influence—and are influenced by—actions at the local level. No longer can we isolate our individual and collective actions in Maine from the global environmental destruction, economic inequities, and military build-ups that threaten our survival.

Having doubled since 1945, the world population now tops 5 billion and is expected to double again in the next 35 years. [Maine's population increased 13.4 percent between 1970 and 1980.]

Nations around the world currently spend $1 trillion on armaments. Two-thirds of this amount is spent by the U.S. and U.S.S.R. [Maine's largest private employer, Bath Iron Works, employs 10,000 Maine citizens in construction and repair of destroyers and other naval craft.]

The 20 percent of the world population that lives in western, developed nations produces, and consumes, 80 percent of the world's goods. [In a 2-mile stretch of roadway in Kittery, Maine, there are more than 70 outlet stores.]

These were but a few of the global statistics cited in the "vast complex of interconnected problems" outlined by keynote speakers Sir Brian Urquhart and Clifford Lincoln. Urquhart, a former United Nations official now with the Ford Foundation, described the complex as including "population, revolutionary technology; urbanization; poverty and social decay; communications . . .; geopolitical realignment; the conservation and equitable use of natural resources; the distribution of wealth; and a whole variety of resulting environmental problems."

Despite this daunting array of issues, the tone of the Global Maine conference was optimistic. Conference planners and participants chose to focus on the positive, challenging elements latent in crises. Both keynote speakers emphasized the unique choice between disaster and opportunity that confronts Maine. In the words of Clifford Lincoln, former Environmental Minister of Quebec:

. . . It is time to shake the inertia, to shake the pattern,
the stereotypes of the systems in place today . . .
We have to rebalance the economy and ecology
so that we build, an environmental economy of the future.

Brian Urquhart reiterated this positive challenge to reinvent the world around us, observing that the "nature of the problem leaves no room for defeatisms. The alternative is unthinkable."

Evolution of the Global Maine Conference

The future is now because if it is not, there will be no future.—Gro Harlem Brundtland, Prime Minister of Norway & Chair, World Commission on Environment & Development.

Responding to community interest in global issues, the University of Southern Maine (USM)—Department of Community Programs has offered several educational programs designed to enhance public awareness of global concerns. In May 1987, USM Community Programs sponsored a lecture in which *Christian Science Monitor* columnist Rushworth Kidder discussed his experience interviewing 22 global leaders about the issues that endanger human-kind. In March 1988, USM Community Programs sponsored "The World Game," an experiential global education game created by Buckminster Fuller. The positive response to these initial programs led to plans for a more comprehensive conference on global trends to be held in May 1989.

Representatives from the USM academic community, business, the legislature, and nonprofit organizations began meeting in June 1988 to design the Global Maine conference (for a complete list of conference sponsors, please see Appendix A). Planning Committee members wanted the conference to provide opportunities for creative discussion and information-sharing that would encourage participants to explore and understand the effects of global trends on their lives. The Committee agreed that the conference should be interactive in its orientation, encouraging participants to share ideas, develop strategies by consensus, and accept the challenges posed by global issues.

Conference goals:

To create an opportunity for people to share concerns and explore differences; to exchange ideas; and to brainstorm creative actions that address the critical global issues facing Maine.

To provide timely information on global trends that are affecting Maine now or will do so within the next two decades.

To inspire people to take immediate action in their personal lives and to consider how our communities and broader society must be transformed.

To encourage people to share concerns and ideas with policy-makers, business leaders, and educators on the priorities required for ecologically and economically sustainable social change.

To strengthen the momentum in Maine for fostering global interconnections in education, trade, technology, and environmental sustainability.

Conference participants:

More than 150 individuals from around Maine attended Global Maine Conference on May 24 and 25, 1989, in Portland. Of the 68 individuals who completed conference evaluation forms, 23 worked in education; 14 in business; 12 in non-profit service; 3 in government; 1 in medicine; and 1 in law. Four students attended and an additional 9 participants described their profession as "other" (including engineering, art, clergy, and retired).

Most of the conference participants who completed the evaluation forms felt that the conference was a visionary, constructive, and well-executed event. Respondents generally found track discussions thought-provoking and were inspired by the chance to engage in dialogue with a large group of people sharing their global concerns.

Participants felt that the conference provided a good opportunity to reassess choices and reaffirm individual commitment to make a difference. They demonstrated a strong interest that the work of the conference be continued, although no firm follow-up steps were agreed upon during the concluding plenary session (see Conclusion, Part 3).

Structure of the Global Maine Conference

The Planning Committee designed the conference process to involve participants in anticipating the future, discussing a broad spectrum of global issues, and developing agendas for personal action. The six tracks—education; environment; ethics and values; population; security and governance; and technology—were the major themes that Committee members perceived as critical to Maine. The choice of tracks was strongly influenced by the subject areas that columnist Rushworth Kidder used in his book, *An Agenda for the 21st Century* (see Appendix D): nuclear annihilation; north-south economic gap; global environment; education; morality; and population. Rather than being developed as a separate track, some major areas of change (e.g., economic) were discussed as an integral theme within the six selected tracks.

The interconnections between the tracks were clearly demonstrated during the conference. Each track topic became an integral theme in the other five tracks.

The Conference was designed so that every participant could attend a brief workshop in one track, but concentrate his/her energy in two longer sessions within another track. Each track had a coordinator (responsible for logistical organization) and at least one speaker. The speaker's role was to stimulate discussion, generate ideas, and provide resource information to track participants.

Part 2 of this report outlines the questions discussed in each track, and some of participants' strategies for change. Part 3 outlines the themes that united the different tracks and explores some of the implications that ideas from the conference might have for Maine, and the world beyond.

TRACK SUMMARIES

Education track

Establishing lasting peace is the work of education; all politics can do is keep us out of war.—Maria Montessori

Introduction:

In Maine, and throughout the country, we need to rethink what we want children learning and what role schools should hold in this educational process. As track speaker Pamela Wilson observed, "most schools continue to function on ideas and a curriculum that reflects the state of the world in the 1940s." To restructure our educational system will require effective, new teaching processes, and collaboration among people in education, government, and business.

Discussion questions:

How does one facilitate the education of global citizens that are informed, motivated, and empowered to participate?

How can our educational system better foster intellectual curiosity and joy in lifelong learning?

What new skills will be needed to—

celebrate cultural diversity?

compete in a global marketplace?

balance individual needs/consumption within a global context?

develop sufficient knowledge and skills to analyze complex global events and issues?

cope with career changes 5-8 times during a lifetime?

How can educational programs and policies foster links among schools and commu-

nities; teachers and community members; and business and schools?

Strategies:

Increase interdisciplinary education and education focused on basic life skills rather than traditional academic disciplines.

Empower students to teach themselves within the framework of traditional curricula (e.g., encourage active exercise of the democratic process in educational settings).

Teach students about the potential for entrepreneurship as a viable alternative to the corporate workforce.

Encourage community involvement and influence in schools through local and global studies (e.g., exchange programs, sister cities).

Provide better networking of information through increased use of telecommunications in education.

Improve instruction in group dynamic skills (e.g., consensus decision-making).

Encourage schools to experiment with restructuring (moving from the traditional factory model to one that reflects the educational needs of the next century).

Encourage business and governmental leaders to collaborate on local and global studies projects.

Environment track

Treat the earth well. It was not given to you by your parents, it was loaned to you by your children.—Kenyan Proverb

Introduction:

United States citizens represent only 5 percent of the world's population yet we consume 25-40 percent of its total resources. This level of resource consumption threatens the ecological health of our planet, not only in the loss of nature's "capital" but in the pollution it generates.

The Environment Track looked at the future of Maine in the context of a single global environmental problem, the global warming trend attributed to the widespread burning of fossil fuels and to deforestation (particularly in tropical regions). Exploring both adaptive and preventative strategies, the track discussed the potentially devastating impact that global warming could have on Maine's climate, coast (in the event of sea-level rise), vegetation, wildlife, and human society. Track participants concluded that the highest priority for changes should be education at all levels—personal, community-based, and governmental.

Discussion questions:

How to Maine citizens contribute to global ecological crises such as global warming, and deforestation?

How deeply are our damaging practices embedded in our value systems and ways of life?

What changes in perception, behavior, and policy are necessary in order to lessen our negative environmental impacts?

Can Maine, as a single state, serve as a model for natural resources stewardship that will affect national and international policies?

Strategies:

Individual:

Make informed consumer decisions based on the environmental impact of products and corporate practices.

Reduce personal energy consumption (e.g., transportation, heating, appliances).

Recycle in homes and offices.

Share strategies for "low-impact living" with friends/neighbors.

Identify, recruit, and support environmentally responsible politicians; encourage decision makers to support the measures listed below.

Community:

Ensure that candidates discuss environmental issues.

Give public recognition (e.g., awards) to individuals and institutions that demonstrate environmental leadership and responsibility.

Develop and distribute a consumer guidebook for selecting environmentally responsible businesses and products.

Government:

Improve energy efficiency in transportation, building codes, appliances.

Include the potential effects of global warming (e.g., sea-level rise) into comprehensive planning.

Ethics track

Where there is no vision, the people perish.—Proverbs 29, v. 18.

Introduction:

If we are to develop strategies for a Global Maine, they must be guided by visions and principles that reflect the values important to us. The Ethics Track discussed the need for a new social order based on shared power (a "co-operative community of equals"); interdependency of humans and the natural world; respect; ecological sustainability; and economic sufficiency. Track speakers outlined two attitudes that can define our relationship to the natural world and other species—one of domination (or "dominion over" in Biblical terms), the other of community (or friendship).

Participants concluded that our society values domination over community and utility over intrinsic worth (i.e., what you do versus who you are). These attitudes lead us to view people and nature as resources to be exploited. In order to create a new social and ecological order free of such exploitation, we will need to reassess our values.

Discussion questions:

Do we have the vision to balance competing interests (e.g., human dignity, ecological diversity, and economic wellbeing)?

What ethical norms should serve our policymaking?

How can we develop and express an appropriate ethical tenet for behavior in the present and future?

Strategies:

Individual:

Maintain a vision of a new social order and act as a model (e.g., treat co-workers as peers, support local markets).

Question materialism and make socially and environmentally responsible choices.

Restore ourselves in nature.

Education:

Create a working group whose mission would be to articulate an environmental ethic for Maine, educate people as to its importance, and inspire a commitment among people to reexamine their modes of living.

Use the media to articulate new values and equalize power.

Develop educational resources that will encourage students, consumers, and the general public to act upon their ethics.

Government:

Encourage international debt to be forgiven in exchange for land to be held in a conservation trust.

Place a cap on the amount of money spent on political campaigns.

Develop a "future cost index" for products and actions that will have a deleterious effect on the natural world.

Population Track

In the final analysis, the population issue is about human process and equity, not numbers alone.—Report of the World Commission on Environment and Development.

Introduction:

Maine's population of 1.2 million is growing at a significant rate, supplemented by waves of employment seekers from around the country and by refugees from around the world. In some of Maine's communities, seasonal visitors raise the town populations during the summer by 300-500 percent. The state's population is becoming older—on average—and more mobile. Unemployment is dropping, while the number of service sector jobs increases steadily. Track participants discussed how these patterns in population growth will influence affordable housing; efficient and environmentally sound public transportation; cultural diversity; sound land-use policy; and long-term planning as Maine becomes an increasingly global state over the next two decades.

Discussion questions:

How can we foster an acceptance of diversity and interdependence in our communities?

How can Maine balance the benefits provided by growth and change with the need to retain its cultural heritage and its social, environmental, and economic health? What type of jobs will maintain Maine's quality of life?

What will be the long-term environmental and economic impact of tourism and seasonal visitors?

How can local, state, and regional growth management plans be developed to balance natural resource protection with appropriate development?

Strategies:

Education/Communication:

Increase collaborative efforts between job providers (business and institutional) and our educational system (elementary through higher education, including retraining).

Appropriate money for early multicultural and foreign language education in schools and develop foreign "sister school" programs.

Increase communication between year-round and seasonal residents (e.g., through neighborhood gatherings, rescheduled town meetings).

Government:

Better encourage small business development (including worker-owned businesses and co-ops).

Provide financial and technical assistance for developing support systems that would facilitate integration of newcomers from different cultures into Maine communities.

Offer an incentive program for cooperative long-term tourism planning.

Encourage private nonprofit organizations to lobby decision-makers on pertinent population issues.

Security Track

* * * Who makes the first ploughshare?
The answer is always personal: I do.
It is always national: my country.
And then global: my planet.
—Colman McCarthy, "Involvements"

Introduction:

With domestic problems such as poverty, illiteracy, and environmental degradation becoming more severe, the old definition of security is being challenged. Trends within our society now threaten our safety and quality of life as much as military powers outside our borders. Rethinking our definition of security calls into question the vast sums of money currently being spent on weaponry. As track speaker Bob Edgar noted, "our defense policy could use its own dose of perestroika."

In a discussion of current threats to security, track participants felt the following factors were significant: declining quality and availability of education; a competitive ethic promoting individual gain over communal good; lack of long-term vision and planning; and economic reliance on military jobs. Balanced against these threats were strengths that track participants felt could foster a more meaningful security: a strong sense of place; a democratic tradition of leadership; a powerful and accessible Congressional delegation; new alliances among constituent groups; and sister-city and exchange programs.

Discussion questions:

Can we define a new vision of security and explore its implications for governance (the process by which such a vision would be translated into policy)?

How might informed citizens increase global security and influence policy decisions on national security through actions at the local level?

What legacy has the Cold War left on our budgetary priorities? How do military trends influence Maine's economy, environment, and society?

Strategies:

The track's new definition for security: Security, in an interdependent world, demands a global concept that moves beyond nationalism and militarism to international cooperation to assure common socio-economic development and justice; ecological integrity; civil and political rights; and freedom from war and violence for all peoples and nations.

Articulate and promote this new definition of security through dialogue with the general public (e.g., round-table discussions and public opinion surveys); with environmental, business, educational and social welfare organizations; with local elected and non-elected policy-makers; and with Maine's Congressional delegation.

Use media to publicize results of surveys, discussions, and dialogue.

Encourage economic impact studies of federal military spending on Maine's local communities and the economic conversion of military and polluting industries.

Promote the concept and potential benefits of economic conversion with political, community, and business leaders.

Encourage socially responsible investment and purchase of products from corporations with environmentally and socially responsible practices.

Encourage community cooperation and coalitions.

Encourage the study of global issues in formal and informal educational settings.

Foster sister-city and citizen exchange programs.

Technology track

The greatest crisis facing modern civilization is going to be how to transform information into structured knowledge—Carlos Fuentes

Introduction:

While always a great engine of social and economic change, technology—in Maine and elsewhere—has become increasingly complex. Information and communication technologies in particular (e.g., computers, modems, fax machines) are driving change, fostering more rapid and numerous communication links between Maine and other parts of the world. The Technology Track examined the potential impact of technology from two perspectives: the effect it has—or will have—on Maine's social, economic, and environmental fabric; and the actions that might be taken to guide its use.

Discussion questions:

How can technology facilitate life-long learning from all Maine citizens?

How can technology influence our capacities for international understanding?

How can existing and future technologies be used to promote economic development in Maine?

How can we better manage the impact of current and emerging technologies?

Can we use technology to protect and restore our natural environment here and abroad, and to mitigate the damage done by the misguided use of technology?

Strategies:

Support the increased use of information and communication technologies (e.g., interactive television) throughout Maine's educational system.

Establish telecommunication links between Maine schools and schools in other countries to promote international understanding and information exchange.

Promote the efforts of the Maine Science and Technology Commission to apply current and emerging technologies for economic development [not explicitly stated at conference].

Promote technological literacy at all levels of Maine's society, especially in students, teachers, legislators, business people, and public policy makers, through increased training and educational opportunities.

Establish a telecommunications network for Maine cities and towns to exchange information on growth management, environmental, planning, and educational issues.

Form a State Academy of Science and Engineering to serve as a resource for the State Legislature on technical issues.

CONCLUSION

If we believe in the power of the individual to change things, things will change.—Clifford Lincoln, keynote speech, Global Maine Conference.

During the "Town Meeting" Plenary Session that concluded the conference, several themes emerged, uniting the diverse array of strategies and track recommendations. These themes clearly demonstrated the interrelated nature of the six conference tracks and the common concerns shared by the 150 diverse participants. While time constraints prevented conference participants from developing specific actions to pursue, they felt that the following themes should underline any initiatives that emerge from the conference.

(1) Reexamine Attitudes and Values

Conference participants concluded that many of the state's (and planet's) problems are the product of existing value systems (i.e., ones that emphasize short-term goals over long-term, and materialism over spirituality). We need to reassess these values, and become more conscious of how our choices affect others. Several participants referred to Rene Dubos' admonition to "think globally, but act locally." While this reexamination of values must begin with the individual, participants felt that the societal value system must be transformed to better incorporate social and ecological justice. New societal values would be reflected in public policy changes and shifts in public spending.

(2) Support Bioregional Alliances

Participants felt that bioregionalism [the division of regions by natural characteristics and land masses—watersheds, vegetation, etc.—rather than by established political boundaries] should play a stronger role in Maine's planning and policy-making. Maine lies in the Gulf of Maine bioregion, which includes the lands and waters of Massachusetts, New Hampshire, Maine, New Brunswick, and Nova Scotia. Examples of existing bioregional initiatives include the Gulf of Maine Bioregional Congress (a gathering to celebrate bioregional action scheduled for August 1990) and the Gulf of Maine Initiative (an international effort to foster long-term management of the Gulf).

(3) Promote Ecological and Economic Sustainability

Many conference participants expressed a concern about the long-term impact of our present resource consumption. In the words of Sir Brian Urquhart, we must cease "using up the planet's ecological capital."

This could be achieved, participants felt, by adopting the notion of "sustainable development," which the World Commission on Environment and Development (see Appendix D) defined as development in which the meeting of present needs does not compromise the ability of future generations to meet their needs.

(4) Redefine Education

Education, conference participants felt, should become more participatory and be maintained throughout life. The abundance and complexity of information in our age provides an incentive for life-long learning, and new information and commercial technologies provide greater opportunities for extending education beyond the confines of traditional schools. Participants also underscored the need to promote multicultural education and the acceptance of cultural diversity.

(5) Networking and Conflict Resolution

Conference participants stressed the importance of forming alliances and coalitions, joining forces to work on common goals. To achieve this, individuals and groups will need to develop conflict resolution skills and become attentive to group dynamics and consensus decision-making. Networking among individuals and groups—particularly across distances—will be facilitated by the use of information technology.

(6) The Need for Immediate Action

While the tone of the conference was far from despairing, participants look towards the future of Maine—and the planet—with a deep sense of urgency. This urgency, participants concluded, must be channeled into immediate and constructive action—on individual, societal, and global levels.

It is no doubt impossible to live without
thought of the future;
Hope and vision can live nowhere else.
But the only possible guarantee of the
future
Is responsible behavior in the present.

—WENDELL BERRY
"The Unsettling of America"

HARVARD'S OUTSTANDING WOMEN'S LACROSSE TEAM—1990 NCAA CHAMPIONS

Mr. KENNEDY. Mr. President, next Monday, all of us in the Massachusetts congressional delegation will join in welcoming to Washington the Harvard women's lacrosse team, which last month crowned their outstanding undefeated and untied season by winning the NCAA championship. The Harvard team will be visiting the Capitol on Monday, and later that day,

President Bush will welcome them to the White House.

This national championship marks the first time in Ivy League history that a women's team has captured an NCAA title. Last year, the men's hockey team won Harvard's first NCAA title.

The championship lacrosse game was a dramatic come-from-behind victory. Harvard trailed 4 to 0 early in the game and was still down by two goals with only 10 minutes left. But Harvard rallied, and with less than 5 minutes to play, scored the game-winning goal in their 8 to 7 victory.

William J. Cleary, Jr., has done an excellent job as Harvard's athletic director. Carole Kleinfelder, who has coached the Harvard team for the past 12 years, has a brilliant record of 60 wins, 4 defeats, and 1 tie in Ivy League competition, and a record of 152-49-3 in her overall coaching career.

The team's magnificent season was highlighted by the outstanding efforts of individual players. Seniors Julia French, Charlotte Joslin and Maggie Vaughan were each named to the NCAA All-Tournament Team. Karen Everling and Sue Carls joined them in being selected as players on the All-America Team. Vaughan was a unanimous pick as Ivy League Player of the Year, and she was joined by eight other teammates—Joslin, Everling, French, Carls, Lynn Frangione, Sarah Leary, Julie Clifford, and Becky Gaffney on the All-Ivy League Team.

The team's impressive 15 to 0 record this season continues a Harvard tradition of excellence in women's lacrosse in recent years. The team has been undefeated in the Ivy League in the past 4 years, has won the league championship in 9 of the past 11 years, and was the runner-up to Penn State for the 1989 NCAA championship.

I commend the players, the coaches, and the many others who contributed to this year's impressive championship achievement. I ask unanimous consent that the names of the members of the team and staff involved in this remarkable season may be printed in the RECORD.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

HARVARD WOMEN'S LACROSSE TEAM 1990 NCAA CHAMPIONS

MEMBERS OF THE TEAM

Elizabeth Berkery, Susan M. Carls, Carroll N. Clark, Julie Clifford, Karen M. Everling, Lynn E. Frangione, Julia W. French, Becky A. Gaffney, Theresa Hackeling, Elizabeth C. Hansen, Charlotte R. Joslin, Janet Judge, Kimberly H. Landry, Sarah Leary, Lila S. Rifaat, Rachel L. Schultz, Tara A. Uhler, Lisa Van Landschoot, Anne Magee Vaughan, and Jennifer M. Walser.

William J. Cleary, Jr., Athletic Director.

Patricia H. Miller, Associate Athletic Director.

Carole Kleinfelder, Head Coach.

Andronike Janus, Assstant Coach.

Edith Mabrey, Assistant Coach.

Andrew J. Arends, Team Manager.

VISUAL ARTISTS RIGHTS ACT OF 1990

Mr. MITCHELL. Mr. President, I ask that H.R. 2690, a bill to provide certain rights of attribution and integrity to authors of works of visual art, be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 2690) to amend title 17, United States Code, to provide certain rights of attribution and integrity to authors of works of visual art.

Mr. MITCHELL. Mr. President, I ask that the bill be read a second time.

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will lay over a legislative day pending a second reading.

EXPRESSING THE SENATE'S GRATITUDE AND ADMIRATION TO EUNICE KENNEDY SHRIVER

Mr. MITCHELL. Mr. President, on behalf of myself, Senators DOLE, DODD, and DURENBERGER, I send to the desk a resolution expressing the Senate's gratitude and admiration to Eunice Kennedy Shriver as Chairman of the Special Olympics International, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 299) to express the gratitude and admiration of the Senate to Eunice Kennedy Shriver for her contribution and achievement as Founder and Chairman of Special Olympics International.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 299) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 299

Whereas Eunice Kennedy Shriver, through the establishment of Special Olympics and her pioneering efforts on behalf of people with mental retardation, has united the world in understanding the great human potential in all people;

Whereas Eunice Kennedy Shriver, through her life work, has created a new consciousness that people with mental disabilities have the inalienable right to live, learn, work and play in an environment of equality, respect and acceptance;

Whereas Special Olympics—founded on the conviction that people with mental disabilities benefit physically, mentally, socially and spiritually from sports training and competition—has strengthened families, inspired volunteers and united the world community at large, through both participation and observation;

Whereas Special Olympics, through the universal medium of sport, encourages all its participants to recognize individual achievement by extending the limits of personal potential;

Whereas the spirit of Special Olympics—skill, courage, sharing and joy—incorporates universal values which transcend all boundaries of geography, nationality, political philosophy, gender, age, race or religion;

Whereas Eunice Kennedy Shriver's energy, commitment and love have been the guiding spirit of the Special Olympics since she created it twenty-two years ago: Now, therefore, be it

Resolved, That the United States Senate, upon the announcement of her decision to step down as Chairman of Special Olympics International, expresses its admiration, support and gratitude to Eunice Kennedy Shriver for her dedicated efforts as a pioneer leader of sport and for her vision in blazing a trail of dignity, hope and respect for persons with mental disabilities throughout America and the world.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON THE CALENDAR—H.R. 2372

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 2372, a bill dealing with payments for injuries due to radiation from nuclear testing, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECORD TO REMAIN OPEN UNTIL 3:30 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the RECORD remain open today until 3:30 p.m. for the introduction of bills and statements and that the Senate committees may file reported Legislative and Executive Calendar business until 3:30 p.m. notwithstanding the adjournment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator DOLE be recognized to address the Senate; following his remarks, Senator KERREY be recognized to address the Senate; and following his remarks, the Senate stand in adjournment as under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The minority leader is recognized.

THE CRIME BILL

Mr. DOLE. Mr. President, I will just take 1 minute to indicate and underscore my hope we can come together on some agreement on amendments to a crime bill. We have had a number of sessions on our side, starting yesterday afternoon. We have now reduced the number of amendments to 12 plus 1 leadership amendment plus a number of others we think might be accepted. So it is a far cry from nearly 200 amendments we had on this side.

I commend my colleagues for giving up in many cases a number of amendments they had hoped to offer in an effort to get a good, solid crime package. I know there are Members on the other side—I think including the Presiding Officer—who might have an amendment they would like to add to the crime package. We are hoping we can each have an equal number of amendments and maybe each leader reserve one amendment. But then something might occur that may not have been anticipated. We might in the near future complete action on the crime package.

It seems to me this is a fair way to proceed, and I say again, as I did yesterday, one reason for not getting cloture is that Members on this side and on the other side, I guess, in some cases, have not been able to offer their amendments even though they were relevant to the crime bill. So it is my hope we can resolve our differences.

We are prepared to do it on this side of the aisle. We have reduced the number of amendments to 12 plus a leadership amendment plus some additional amendments we think may be accepted. If not, we can negotiate those and we will be happy to work with the majority leader and the chairman of the Judiciary Committee, Senator BIDEN.

I know Senator HATCH is on the floor now. We are going to have a meeting as soon as I complete this statement and discuss further any efforts we can make, anything we can do to cooperate with our colleagues on the other side to reach some agreement. We would like to complete action on this bill, if not next week, as quickly as we can, because there still needs to be action on the House side.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Nebraska is recognized.

DRUG POLICY

Mr. KERREY. Mr. President, in my reading this morning I came across an article in the New York Times headlined: "Aide to Bush Assails Cuomo on Drug Plans." Operating on a personal rule which tells me that misery loves company I read on.

I immediately discovered that the aide referenced in the headline was the President's National Drug Policy Director, Mr. William Bennett. I learned that Mr. Bennett had been invited by Republican State senators to speak to a joint session of the New York State Legislature.

According to Kevin Sack of the New York Times, Mr. Bennett said:

> New York had made progress in the war on drugs but needed to do better. He focused on law-enforcement issues, encouraging the legislators to override Mr. Cuomo's veto of the death penalty and to pass a bill that would strengthen the State's ability to seize property used in drug transactions. That bill is backed by Mr. Cuomo.

According to Mr. Sack, Mr. Bennett said little about drug treatment initiatives, which have "been the centerpiece of recent antidrug efforts by the Cuomo administration. This year's budget includes money to increase the State's capacity for drug treatment by more than 7,000 over the next few years—which would more than double the State's treatment capacity."

Mr. Bennett also did not provide any commitment of Federal help to build drug treatment campuses across the State. Like other Governors in America, Governor Cuomo has criticized the Federal Government for describing the need for such facilities, but providing no resources to build then.

After his speech, Mr. Bennett went to a press conference where he provided the real reason for making the trip to Albany: To attack the Governor of New York for remarks that he had made to the State's Democratic convention. I was tempted to write it off as politics as usual except for two things.

First, I did not like the tone of the attack. Mr. Bennett is supposed to be representing the President in the difficult effort to coordinate with States and local governments the development and implementation of sound antidrug policy. This personal political assault is a much different mission, one that would be more appropriate for the President himself or some other elected official.

It is understandable and appropriate when elected politicians argue with each other; that is expected. However, Mr. Bennett is not elected, yet. Rather, he has been appointed to work with States like New York which has some of this Nation's most serious drug problems.

Mr. President, it was reported that the White House did not disagree with anything said by Mr. Bennett. A senior White House official who works for John Sununu said:

> They don't have to and didn't clear their remarks through here, but we don't disassociate ourselves in any way from what was said.

I believe they should. Here is what America's drug czar said in a press conference after his speech.

He opened his conference by saying he was annoyed with the things that Governor Cuomo had told the State Democratic convention. He said:

> There's this notion out there that if he steps in, the sun will be blocked by a cloud, the earth will stop, the animals lent. Nobody is afraid of this guy. He's got a record to run on and the record on drugs, I have to tell you, is not what it should be. If Mr. Cuomo wants to wax Presidential, either cutely or otherwise, he needs to work gubernatorially first.

Understand that Mr. Bennett was not in New York campaigning for Mr. Pierre Rinfret, the Republican nominee for Governor. He was there to give a speech about U.S. drug policy. By the way, Mr. Rinfret has joined Mr. Bennett in championing the death penalty. In fact, he is such a single issue candidate that he was rebuked by Secretary Jack Kemp earlier in the week.

I do not believe Mr. Bennett is in an enviable position to be criticizing Governor Cuomo. Mr. Bennett is the man who declared at the beginning of his term that he intended to make the District of Columbia an example of what could be done. After failing to get anything done, Mr. Bennett chose instead to retreat behind statistics showing that Americans were using illegal drugs less, conveniently omitting the State and local efforts in helping to get this accomplished.

The second reason I bring Mr. Bennett's political remarks to the attention of my colleages is the substance of them. He was upset that Governor Cuomo had said that—

> The problem of drugs is not a State failure—it's a national failure. The Governor really needs to cut it out. I'm doing my job. He needs to worry about doing his job rather than bashing Washington. You've got Governors in this country, Republicans and Democrats, who are not spending most of their time complaining about Washington.

In fact, the Governors are almost unanimous in urging Washington to avoid more mandates which increase State responsibility without providing any resources to do the job. In health care, transportation, public safety, and law enforcement they have reached their limits.

In fact, the President of the United States has also identified the drug problem as a national problem. It is this belief which led to the creation of the position held by Mr. Bennett.

In fact, if Mr. Bennett's words about law enforcement mean anything he should back them up with action by spending more time in Washington fighting back the efforts of the National Rifle Association to stall the passage of a desperately needed crime bill. The amendment objected to by the NRA restricts the manufacture of assault weapons which the drug czar earlier stated should be done.

Mr. President, it is not out of line for President Bush to travel the country raising money for Republican candidates. His opposition to Democrats just because of their party affiliation is understandable and fair.

It is not out of line for Cabinet members to make political trips to support Republican candidates. We expect them to do such things.

However, in my view President Bush's Drug Policy Director crossed the line that separates acceptable political behavior which does not interfere with the development of drug policy from petulant, personal attacks that are counterproductive.

This is not the first time that Mr. Bennett has performed this way. Who can forget his memorable description of the work of the President and the 50 Governors who met in Charlottesville last year at the education summit. "Same old pap," he said, "and it resembles another word that rhymes with pap."

Mr. President, there is no better description of Mr. Bennett's performance in New York than to apply the words he used to describe the work of his boss.

ORDERS FOR TUESDAY—JUNE 12, 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday, June 11, it stand in recess until 9 a.m. Tuesday, June 12; that the time of the two leaders be reduced to 7½ minutes each; that following the time for two leaders there be a period for morning business not to extend beyond 9:20 a.m.; that at 9:20 a.m. the Senate proceed to the consideration of S. 1875, a bill to name the Virginia Smith Dam and Lake Recreation Area; that no floor amendments or motion be in order; that there be 10 minutes of debate under the control of Senator EXON; and that at 9:30 a.m. the Senate, without any intervening action or debate, proceed to adopt the committee substitute and vote on final passage of the bill. I further ask unanimous consent that the Senate stand in recess between the hours of 12:30 p.m. and 2:15 p.m. on Tuesday, June 12.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JUNE 11, 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate adjourns today it stand in adjournment until 1 p.m. on Monday, June 11; that when the Senate reconvenes on Monday, June 11, the Journal of the proceedings be deemed to be approved to date; that the call of the calendar be waived; that no motions or resolutions come over under the rule; and that the morning hour be deemed to have expired; I further ask unanimous consent that following the time for the two leaders there be a period for morning business with Senators permitted to speak therein, and that Senator RIEGLE be recognized in morning business for a period of up to 2 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators let me then briefly summarize the effect of these agreements with prior agreements on the schedule for next week.

There will be a rollcall vote at 9:30 a.m. on Tuesday on S. 1875. It is my intention then to proceed to the Tongass Forest bill and to consider that bill throughout the day until such time as it is disposed of. The Senate will recess from 12:30 to 2:15 p.m. in accordance with our regular practice to accommodate the party conferences. At 2:15 p.m. there will be a rollcall vote on the cloture motion on S. 341, the blind air passengers bill. Immediately following that rollcall vote the official photograph of the Senate will be taken, so Senators are urged to remain in the Chamber for that photograph. At 6:15 p.m. on Tuesday there will be a rollcall vote on the Amtrak veto override.

There may well be other votes throughout the day with respect to the Tongass bill, although it is my hope, and I have discussed this previously briefly with the Republican leader, that we can work out some stacking of votes so as not to interrupt the proceedings in the Senate Ethics Committee unduly during the day, if that will be possible on Tuesday.

We will be working with the managers and others in that regard to accommodate that concern if at all possible.

ADJOURNMENT UNTIL 1 P.M. MONDAY, JUNE 11, 1990

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until the hour of 1 p.m., Monday, June 11,

Thereupon, at 2:49 p.m., the Senate adjourned until Monday, June 11, 1990, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate June 8, 1990:

FEDERAL DEPOSIT INSURANCE CORPORATION

ANDREW C. HOVE, OF NEBRASKA, TO BE VICE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION. (NEW POSITION—PUBLIC LAW 101-73)

NATIONAL CONSUMER COOPERATIVE BANK

CONSTANCE HORNER, UNDER SECRETARY OF HEALTH AND HUMAN SERVICES, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK FOR A TERM OF 3 YEARS, VICE EWEN M. WILSON.

CONFIRMATION

Executive nomination confirmed by the Senate June 8, 1990:

FEDERAL LABOR RELATIONS AUTHORITY

PAMELA TALKIN, OF NEW YORK, TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF 5 YEARS EXPIRING JULY 1, 1995.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

WITHDRAWAL

Executive message received June 8, 1990, withdrawing from further Senate consideration the following nomination:

NATIONAL CONSUMER COOPERATIVE BANK

EWEN M. WILSON, AN ASSISTANT SECRETARY OF AGRICULTURE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK FOR A TERM OF 3 YEARS, WHICH WAS SENT TO THE SENATE ON JANUARY 3, 1989.